San Francisco Bay Conservation and Development Commission
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TO: Environmental Justice Commissioner Working Group Committee Members

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SUBJECT: **Background Material for Discussion of Mitigation and Environmental Justice at BCDC's Environmental Justice Commissioner Working Group meeting on December 6, 2018**

Background

On July 20, 2017, at the culmination of the commissioner workshop series on rising sea levels, the Commission voted to initiate a process to amend the San Francisco Bay Plan (Bay Plan) in order "to address social equity and environmental justice" by updating policies in certain sections of the Bay Plan, specifically:

- Shoreline Protection;
- Public Access;
- Mitigation; and/or
- Adding a new section on Social Equity and Environmental Justice.

Questions for the Working Group to Consider

1. Do you know of any other intersections of environmental justice and mitigation?
2. What can BCDC learn from other policy examples or recommendations? How could BCDC's existing policies be amended? Or are there new policies that could be created?
3. Can or should BCDC require mitigation for social impacts?
4. How can BCDC ensure more community involvement in all stages of mitigation projects?

Discussion Materials

On December 6, 2018, BCDC staff will lead a discussion on how to incorporate environmental justice and social equity into BCDC's Bay Plan mitigation policies. Staff requests that the working group review the following materials:

1. Mitigation findings and policies from the *San Francisco Bay Plan*
2. Excerpt from the 2002 BCDC Staff Report for Bay Plan Amendment on Mitigation
3. Examples of "social impact mitigation:"
    a. Excerpts from the Department of Toxic Substances Control's SB 673 Cumulative Impacts and Community Vulnerability Draft Regulatory Framework Concepts paper
    b. Excerpts from the City of San Francisco's Central SoMA Plan
    c. Excerpts from the Environmental and Community Investment Agreement between the City of Richmond and Chevron

1. **Mitigation findings and policies from the *San Francisco Bay Plan***

Findings

a. Mitigation for direct or indirect adverse effects on the environment, including to land, air, water, minerals, flora, fauna, and objects of historic or aesthetic significance, includes the following actions, taken in sequence: (1) avoiding the impact; (2) minimizing the impact; (3) repairing, rehabilitating, or restoring the impacted environment, and finally; (4) compensating for the impact by replacing or providing substitute resources, thus providing compensatory mitigation.

b. Compensatory mitigation consists of measures to offset unavoidable adverse impacts to the environment and may include: (1) restoring a resource where formerly located (e.g., restoration of tidal marsh from a diked former tidal marsh area); (2) creating a new resource in an area that does not currently or did not historically support that type of resource (e.g., the creation of a tidal marsh from an upland area); (3) enhancing the functions of an existing resource that is degraded in comparison to historic conditions (e.g., establishing native vegetation in an existing tidal marsh); and in some cases (4) preserving a resource through a legally enforceable mechanism (e.g., a deed restriction). Enhancement and preservation as sole mitigation measures do not compensate for lost area of a resource.

c. A compensatory mitigation program will increase the likelihood of mitigation success when the program includes project goals, performance standards, a monitoring plan based on the goals and performance standards to measure the success of the project, a contingency plan in the event of project failure, and provisions for the long-term (i.e., for the duration of the impacts of the project) maintenance, management and protection of the mitigation site. Success is also increased by the use of performance standards that include measures of both composition (e.g., percentage of vegetation cover, diversity of wildlife species) and function (e.g., wildlife nesting, nutrient retention, hydrologic functions). Reference sites (i.e., minimally impaired sites that are representative of the expected ecological conditions of a habitat of a particular type and region) can provide an important basis for comparison with mitigation sites.

d. Resource restoration provides, generally, an improved probability of greater ecological success than resource creation, since the proper substrate may still be present in an area that once supported a desired habitat type, seed sources may be on-site or nearby, and appropriate hydrological conditions may still exist or may be more easily restored. The potential for success of restoration and creation projects can be increased with the inclusion of transition zones (areas between two bordering habitats where plants and animals from both habitats are found) and buffers (areas established adjacent to a habitat to reduce the adverse impacts of surrounding land use and activities).

e. Decisions regarding the type and location of compensatory mitigation involve tradeoffs that require a case-by-case analysis. A broad scientific approach to compensatory mitigation involves the location and design of mitigation sites based on a Bay-wide assessment to compensate for the adverse impacts of an authorized project while also contributing to the long-term ecological functioning of the entire Bay system. Appropriately sited and designed mitigation projects increase the likelihood of successful long-term habitat function of a site and its integration with adjacent habitats. The Baylands Ecosystem Habitat Goals report provides a regional vision of the types, amounts, and distribution of wetlands and related habitats that are needed to restore and sustain a healthy Bay ecosystem, and thus provides a tool in assessing the suitability of a proposed mitigation project.

f. Natural resource areas provide various benefits to human welfare, including climate regulation, flood protection, erosion control, and recreational and aesthetic benefits. Therefore, there may be social and economic effects on nearby communities as a result of impacts on existing resource areas and the siting and design of compensatory mitigation projects.

g. The required area and type of compensatory mitigation may vary depending on factors such as: the expected time delay between the impact and the functioning of the mitigation project; the relative quality of the mitigation and the impacted site; the type of mitigation (e.g., restoration, creation, enhancement); and the probability of success of the mitigation project.

h. Mitigation banking involves restoring or creating natural resources to produce mitigation "credits" which can be used to offset unavoidable adverse impacts to existing resources. A mitigation bank is a site where resources are restored, created, or enhanced expressly for the purpose of providing compensatory mitigation in advance of impacts associated with authorized projects. Mitigation banks may be established by individuals who anticipate needing to mitigate for future impacts, or by third parties who develop banks as a commercial venture to sell credits to permittees needing to provide compensatory mitigation. Among other benefits, mitigation banks provide the unique opportunity to address the cumulative effects of small fill projects that are too small to be mitigated individually. Provided mechanisms are in place to assure success, mitigation banking can provide a timely, convenient, cost effective and ecologically successful mitigation option.

i. Fee-based mitigation involves the submittal of a fee by the permittee in-lieu of requiring the permittee to undertake the creation, restoration, or enhancement of a specific mitigation site, or purchasing credits from a mitigation bank. The fee is generally submitted to a third party for implementation of an ongoing or future restoration-creation project. Provided mechanisms are in place to assure success, fee-based mitigation can also provide a timely, convenient, cost effective and ecologically successful mitigation option.

Policies

1. Projects should be designed to avoid adverse environmental impacts to Bay natural resources such as to water surface area, volume, or circulation and to plants, fish, other aquatic organisms and wildlife habitat, subtidal areas, or tidal marshes or tidal flats. Whenever adverse impacts cannot be avoided, they should be minimized to the greatest extent practicable. Finally, measures to compensate for unavoidable adverse impacts to the natural resources of the Bay should be required. Mitigation is not a substitute for meeting the other requirements of the McAteer-Petris Act.
2. Individual compensatory mitigation projects should be sited and designed within a Baywide ecological context, as close to the impact site as practicable, to: (1) compensate for the adverse impacts; (2) ensure a high likelihood of long-term ecological success; and (3) support the improved health of the Bay ecological system. Determination of the suitability of proposed mitigation locations should be guided in part by the information provided in the Baylands Ecosystem Habitat Goals report.
3. When determining the appropriate location and design of compensatory mitigation, the Commission should also consider potential effects on benefits provided to humans from Bay natural resources, including economic (e.g., flood protection, erosion control) and social (e.g., aesthetic benefits, recreational opportunities).
4. The amount and type of compensatory mitigation should be determined for each mitigation project based on a clearly identified rationale that includes an analysis of: the probability of success of the mitigation project; the expected time delay between the impact and the functioning of the mitigation site; and the type and quality of the ecological functions of the proposed mitigation site as compared to the impacted site.
5. To increase the potential for the ecological success and long-term sustainability of compensatory mitigation projects, resource restoration should be selected over creation where practicable, and transition zones and buffers should be included in mitigation projects where feasible and appropriate. In addition, mitigation site selection should consider site specific factors that will increase the likelihood of long-term ecological success, such as existing hydrological conditions, soil type, adjacent land uses, and connections to other habitats.
6. Mitigation should, to the extent practicable, be provided prior to, or concurrently with those parts of the project causing adverse impacts.

7. When compensatory mitigation is necessary, a mitigation program should be reviewed and approved by or on behalf of the Commission as part of the project. Where appropriate, the mitigation program should describe the proposed design, construction and management of mitigation areas and include:
    a. Clear mitigation project goals;
    b. Clear and measurable performance standards for evaluating the success of the mitigation project, based on measures of both composition and function, and including the use of reference sites;
    c. A monitoring plan designed to identify potential problems early and determine appropriate remedial actions. Monitoring and reporting should be of adequate frequency and duration to measure specific performance standards and to assure long-term success of the stated goals of the mitigation project;
    d. A contingency plan to ensure the success of the mitigation project, or provide means to ensure alternative appropriate measures are implemented if the identified mitigation cannot be modified to achieve success. The Commission may require financial assurances, such as performance bonds or letters of credit, to cover the cost of mitigation actions based on the nature, extent and duration of the impact and/or the risk of the mitigation plan not achieving the mitigation goals; and
    e. Provisions for the long-term maintenance, management and protection of the mitigation site, such as a conservation easement, cash endowment, and transfer of title.
8. Mitigation programs should be coordinated with all affected local, state, and federal agencies having jurisdiction or mitigation expertise to ensure, to the maximum practicable extent, a single mitigation program that satisfies the policies of all the affected agencies.
9. If more than one mitigation program is proposed, the Commission should consider the cost of the alternatives in determining the appropriate program.
10. To encourage cost effective compensatory mitigation programs, especially to provide mitigation for small fill projects, the Commission may extend credit for certain fill removal and allow mitigation banking provided that any credit or resource bank is recognized pursuant to written agreement executed by the Commission. Mitigation bank agreements should include: (a) financial mechanisms to ensure success of the bank; (b) assignment of responsibility for the ecological success of the bank; (c) scientifically defensible methods for determining the timing and amount of credit withdrawals; and (d) provisions for long-term maintenance, management and protection of the bank site. Mitigation banking should only be considered when no mitigation is practicable on or proximate to the project site.

11. The Commission may allow fee-based mitigation when other compensatory mitigation measures are infeasible. Fee-based mitigation agreements should include: (a) identification of a specific project that the fees will be used for within a specified time frame; (b) provisions for accurate tracking of the use of funds; (c) assignment of responsibility for the ecological success of the mitigation project; (d) determination of fair and adequate fee rates that account for all financial aspects of the mitigation project, including costs of securing sites, construction costs, maintenance costs, and administrative costs; (e) compensation for time lags between the adverse impact and the mitigation; and (f) provisions for long-term maintenance, management and protection of the mitigation site.

2. **Excerpt from the 2002 BCDC Staff Report for the Bay Plan Amendment on Mitigation**

Definition of Mitigation. Under the most basic definition, to "mitigate" is to lessen the severity of any effect. For resource agencies, mitigation generally describes regulatory requirements to lessen or eliminate adverse environmental impacts. Most regulatory agencies define mitigation as a series of actions, generally taken in sequence, to mitigate adverse environmental impacts, specifically first avoiding the impact if possible, then minimizing the impact, and finally, for any unavoidable adverse impacts, provide compensation.

The California Environmental Quality Act (CEQA) Guidelines defines mitigation in more detail as including all of the following:[1]

(a) Avoiding the impact altogether by not taking a certain action or parts of an action.

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

(c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(e) Compensating for the impact by replacing or providing substitute resources or environments.

(f) Compensatory mitigation may include several different methods for offsetting the area and functions impacted. The most common types of compensatory mitigation are generally described as follows:

- Creation -The formation of a new habitat in an area that does not currently or did not historically support that type of habitat (i.e., the creation of a wetland from an upland area);

[1] Title 14. California Code of Regulations. Chapter 3. Guidelines for Implementation of the California Environmental Quality Act. Section 15370

- Restoration- The re-establishment of a habitat where formerly located (i .e., restoring tidal action to a diked area);
- Enhancement - Improving the functions of an existing habitat (i.e., eradicating nonnative vegetation in an existing wetland); and
- Preservation - Long-term protection of a habitat through a formal, legally enforceable mechanism (i.e., a transfer of title or a deed restriction).

Commission Authority to Require Mitigation. The Commission has required mitigation for unavoidable adverse environmental impacts of projects as a condition of some permits since the early 1970s.[2] In 1985, the Commission revised the San Francisco Bay Plan (Bay Plan) to include policies on compensatory mitigation. The policies were adopted in an effort to reflect the Commission's past decisions regarding compensatory mitigation and to provide general policies for determining mitigation requirements. The Commission's authority to issue permits conditioned on mitigating adverse environmental impacts, and develop policy accordingly, is derived from the McAteer-Petris Act, the Bay Plan, the Suisun Marsh Act, and the Suisun Marsh Protection Plan, and is also informed by the California Environmental Quality Act (CEQA).

Anyone who wants to place fill, extract materials worth more than $20 or make a substantial change in use in any land, water or structure located within the Commission's jurisdiction must first obtain a Commission permit.[3] To approve a permit application and grant a permit, the Commission must find that a proposed project or activity that requires a permit is consistent with the McAteer-Petris Act and the Bay Plan.[4]

The broadest authority for requiring mitigation for fill, extraction of materials (e.g., dredging) or change in use projects is found in the McAteer-Petris Act in Government Code Section 66632(f), which states in part:

> *a permit shall be granted for a project if the Commission finds and declares that the project is ... of such a nature that it will be consistent with the provisions of this title [the McAteer-Petris Act] and with the provisions of the San Francisco Bay Plan then in effect ... . The Commission may grant a permit subject to reasonable terms and conditions including the uses of land or structures, intensity of uses, construction methods and methods for dredging or placing of fill.*

This authority exists in any situation where a proposed project would be inconsistent with one or more Bay Plan policies and can only be made consistent through the imposition of a reasonable term or condition. The Bay Plan contains a number of policies that might provide a basis for disapproving a proposed fill or dredging project or imposing a reasonable term or condition to make a proposed project consistent with the particular policy. For example, Bay Plan Tidal Marshes and Tidal Flats Policies 1 and 2 provide that any filling, diking or dredging projects should minimize and, if possible, avoid any harmful effects on tidal marshes and tidal

[2] San Francisco Bay Conservation and Development Commission. 1984. Staff Report on Fill Controls.
[3] Section 66632(a) of the McAteer-Petris Act (Cal. Govt. Code Section 66632(a)).
[4] Section 66632(f) of the McAteer-Petris Act (Cal. Govt. Code Section 66632(f)).

flats, and that projects that would substantially harm tidal marshes or tidal flats should be allowed only if the project would provide substantial public benefits, and there is no feasible alternative to the project. Thus, if a proposed project would substantially harm a tidal marsh or tidal flat, the Commission would have to deny the application unless the Commission could impose a reasonable condition that would eliminate or reduce as much as is reasonably feasible such an impact. Similarly, Bay Plan Dredging Policies 1 and 2(c) provide the dredging should be conducted in an environmentally sound manner and that dredging should be authorized only when important fisheries and Bay natural resources are protected through seasonal restrictions or through other appropriate measures.

The Suisun Marsh Preservation Act (Marsh Act) similarly requires a permit for any activity that constitutes a marsh development.[5] To approve an application for a marsh development, the Commission must find that the proposed project would be consistent with the provisions of the Marsh Act and the Suisun Marsh Protection Plan (Marsh Plan), or with the provisions of the Suisun Marsh Local Protection Program. Also, similarly, the Marsh Plan and the Local Protection Program contain policies intended to protect a variety of marsh resources and would provide the basis for denying an application if the proposed project would be inconsistent with one or more of the policies. In addition, Section 29520 of the Marsh Act states that except as expressly provided in the Marsh Act, the Commission shall use the procedures set forth in the McAteer-Petris Act for the submission, review and issuance of a marsh development permit by the Commission. Thus, the Commission is also authorized by the Marsh Act to impose reasonable terms and conditions when acting on an application for a marsh development permit to make the proposed project consistent with the Marsh Act and Marsh Plan or the Local Protection Program.

Further support for requiring mitigation specifically for Bay fill is found in the McAteer-Petris Act in Government Code Section 66605(a) which states in part: " ... further filling of San Francisco Bay ... should be authorized only when public benefits from fill clearly exceed public detriments from the loss of water areas ... "

Support of the Commission's authority to require mitigation for Bay fill can also be found in Government Code Section 66605(d) which states in part:

> ... the nature, location and extent of any fill should be such that it will minimize harmful effects to the bay area, such as, the reduction or impairment of the volume, surface area, or circulation of water, water quality, fertility of marshes or fish and wildlife resources, or other conditions impacting the environment, as defined in Section 21060.5 of the Public Resources Code.

Section 21060.5 of the Public Resources Code defines "environment" as "the physical conditions which exist within the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance."

In addition, Commission authority for requiring avoidance and minimization prior to compensation (as in the mitigation sequencing approach described above) can be found in the McAteer-Petris Act, Section 66605 (b, c, d) which states in part that "fill in the bay ... should be

[5] Suisun Marsh Preservation Act Section 29114(a) and Section 29500.

authorized only when no alternative upland location is available for such purpose" (avoidance), and that "the water area authorized to be filled should be the minimum necessary ... " and "the nature, location and extent of any fill should be such that it will minimize harmful effects to the Bay area" (minimization).

When determining if the public benefits outweigh the public detriments and imposing reasonable conditions, the Commission must also consider relevant court decisions concerning its ability to condition permits. Two cases that are particularly applicable are Nollan v. California Coastal Commission, 483 U.S. 825 (1987), and Dolan v. City of Tigard, 512 U.S. 374 (1994).

In the Nollan case, the United States Supreme Court ruled that there must be an "essential nexus" between the interest being protected and the permit condition (or mitigation measure) imposed. In other words, there must be a definite correlation between the impact and the required mitigation. In the Dolan case, the Supreme Court added a second element to the ability of a state to condition permits. Under what is known as the "Dolan test" a condition or a mitigation measure must also be "roughly proportional" to the project's individualized impact. No precise mathematical calculation is required, but the required mitigation must be related both in nature and extent to the impact of the proposed project. In addition, the court stated that the burden of proof of rough proportionality is on the agency, meaning that agencies must carefully document the magnitude of the impact and the expected result of the mitigation.

Finally, although CEQA does not provide independent authority for agencies to require mitigation, the CEQA Guidelines do provide guidance regarding agencies' authority to require mitigation, whether acting as the lead agency or as a responsible agency. Specifically, the Guidelines state in part:[6]

> (a) A lead agency for a project has the authority to require feasible changes in any or all activities involved in the project in order to substantially lessen or avoid significant effects on the environment ....
>
> (b) ... the Responsible Agency may require changes in a project to lessen or avoid only the effects, either direct or indirect, of that part of the project which the agency will be called on to carry out or approve.

In conclusion, Commission authority to require mitigation as a condition of project approval is derived from the McAteer-Petris Act, San Francisco Bay Plan, the Suisun Marsh Act, and the Suisun Marsh Protection Plan, and is also informed by the California Environmental Quality Act.

[6] Title 14. California Code of Regulations. Chapter 3. Guidelines for Implementation of the California Environmental Quality Act. Article 3. Section 15041.

3. **Examples of "social impact mitigation"**

a. **Excerpts from the Department of Toxic Substances Control (DTSC)'s SB 673 Cumulative Impacts and Community Vulnerability Draft Regulatory Framework Concepts paper.**

Context: DTSC, a department of the California Environmental Protection Agency, is tasked with administering the Hazardous Waste Facility Permitting Program established under Chapter 6.5 of California Health and Safety Code, and Resource Conservation and Recovery Act (RCRA) authorization. SB 673 (2015) aimed to improve DTSC's permitting process by including additional criteria to address community concerns, including considering criteria for vulnerable populations, cumulative impacts, and setback distances from locations for sensitive receptors, such as schools, daycare centers, and hospitals. Meaningful public participation and best available science are important to the development of cumulative impact standards and policy considerations for issuance of a hazardous waste facility permit. DTSC recently released a draft concepts paper on their regulatory framework pursuant to SB 673. Below is an excerpt from the draft paper.

Element 5: Mitigation and Monitoring

These draft framework concepts include potential requirements for mitigation of cumulative impacts, taking community vulnerability into consideration, and for monitoring of pollutants. Under the draft framework concepts, the Department could develop, through a public process, a clearinghouse of approved community mitigation projects to reduce the cumulative environmental and health impacts on the community or to enhance community resiliency for facilities that have been placed on the Tier 1 or Tier 2 Pathway.

Tier 1 Action Pathway: Mitigation, Monitoring, and Community Engagement

This pathway could require the following approaches in addition to the Tier 1 community engagement and outreach approaches listed earlier:

- Hold public meetings on community monitoring and mitigation priorities;
- Propose, as part of its permit application and subject to public comment and the Department's approval, to implement community mitigation projects from an approved list for pollution hazard reduction and cost;
- Achieve reasonable further progress in implementing the mitigation project as defined by a schedule in the permit, but no less expeditiously than as defined in the regulation;
- Maintain records and submit reports demonstrating the successful implementation of the project;
- Implement a community monitoring network (including a network implemented pursuant to AB 617, or another similar program), subject to approval by the Department in consultation with other state and local environmental agencies with applicable jurisdiction (e.g., a Regional Water Quality Control Board or local Air Pollution Control/Air Quality Management District); and

- Report monitoring data to the Department and the community on a schedule specified in the permit.

If the application is for a new hazardous waste facility, the Department could require a buffer zone or setback distance from sensitive receptors.

Tier 2 Action Pathway: Mitigation *or* Monitoring and Community Engagement
This pathway could require one of two approaches in addition to the Tier 2 community engagement and outreach approaches listed earlier. Under the first, the applicant would:

- Implement a mitigation strategy;
- Hold public meetings on community monitoring and mitigation priorities every other year;
- Propose, as part of its permit application and subject to public comment and the Department's approval, to implement mitigation measures from an approved list;
- Achieve reasonable further progress implementing the mitigation projects as defined by a schedule in the permit but no less expeditiously than as defined in the regulation; and
- Maintain records and submit reports demonstrating the successful implementation of the mitigation measures.

If the application is for a new hazardous waste facility, the Department could require a buffer zone or setback distance from sensitive receptors.

Under the second approach, the applicant would:

- Implement a monitoring strategy:
- Implement a community monitoring network, subject to public comment and approval by the Department in consultation with other state and local environmental agencies with applicable jurisdiction (e.g. a Regional Water Quality Control Board or local Air Quality Management District); and
- Report monitoring data to the Department and the community on a schedule specified in the permit.

If the application is for a new hazardous waste facility, the Department could require a buffer zone or setback distance from sensitive receptors of [N2 distance, smaller than N1].

b. **Excerpts from the City of San Francisco's Central SoMa Plan**

Context: The desire for a Central SoMa Plan (Plan) began during the Eastern Neighborhoods planning process. In 2008 the City adopted the Eastern Neighborhoods Plan, including new land use controls and proposed community improvements for the eastern part of the South of Market neighborhood (SoMa), as well as the Central Waterfront, Mission, and Showplace Square/Potrero Hill neighborhoods. At that time, the City determined that the development potential of the surrounding area, coupled with the improved transit provided by the Central Subway, necessitated a separate,

focused planning process that took into account the city's growth needs and City and regional environmental goals. Below is an excerpt on the community benefits package from the Central SoMa Plan.

CENTRAL SOMA PUBLIC BENEFITS PACKAGE

“Public benefits” are goods and services that 1) support the community’s wellbeing, 2) are not typically provided voluntarily by the private sector (or at least not in sufficient quantity or quality) and that 3) require public funding or subsidy (such as by development) to create and maintain. Common types of public benefits include affordable housing, parks, and transit service.

The Central SoMa Plan is expected to generate up to $2 billion in public benefits to serve the neighborhood over the life of the Plan.[1] Without it, the neighborhood could receive approximately $300 million in public benefits. The Plan therefore provides the potential for a 667 percent increase in public benefits for Central SoMa.

This $2 billion would be derived exclusively from new development allowing for approximately 5,000 market-rate housing units and approximately 40,000 new jobs. The benefits would be delivered through one or more of the following three mechanisms: 1) direct provision of the benefit (such as “on-site” affordable housing), 2) one-time impact fees (such as the Transit Sustainability Fee), and 3) through on-going taxation (through a Mello-Roos Community Facilities District).

Table 1 describes the expected sources of funding for public benefits from new development. The amount of benefits required from new development is located in the Requirements for New Development document.

Table 1

SOURCES OF PUBLIC BENEFITS FUNDING

SOURCE	AMOUNT	PERCENT OF TOTAL	PUBLIC BENEFIT CATEGORY	MECHANISM
Below-Market Rate Housing Program[1]	$600M	29%	Affordable Housing	Direct provision or one-time fee
Mello-Roos Community Facilities District Tax[2]	$350M	17%	Transit, Complete Streets, Parks and Recreation Environmental Sustainability, and Cultural Preservation	Annual tax
Eastern Neighborhoods Infrastructure Impact Fee[3]	$250M	12%	Transit, Complete Streets, Parks and Recreation, and Schools and Child Care	One-time fee
Jobs-Housing Linkage Fee[4]	$210M	10%	Affordable Housing	One-time fee
Transportation Sustainability Fee[5]	$210M	10%	Transit and Complete Streets	One-time fee
PDR Requirement	$180M	9%	PDR	Direct provision
Central SoMa Fee[6]	$90M	4%	Affordable Housing	One-time fee
POPOS Requirement	$80M	4%	Parks and Recreation	Direct provision
School Fee[7]	$20M	1%	Schools and Childcare	One-time fee
Community Services Fee[8]	$20M	1%	Community Services	One-time fee
Transferable Development Rights[9]	$20M	1%	Cultural Preservation	One-time transaction
Childcare Fee[10]	$10M	1%	Schools and Child care	One-time fee
Sustainability Requirements	$10M	1%	Environmental Sustainability and Resilience	Direct provision
Total	**$2,050M**	**100%**		

1 The Below-Market Rate (BMR) Housing Program is an existing program requiring market rate housing development to provide affordable housing (see Planning Code Section 415). The existing requirements established by 2016's Proposition C are proposed to be adjusted based on the increase in development capacity derived from the Central SoMa Plan. Any fees collected will be directed to the Mayor's Office of Housing and Community Development. Note that the current rates are subject to change by the Board of Supervisors based on the analysis conducted to help implement Proposition C.

2 A CFD is a taxing mechanism to fund public benefits. The Central SoMa CFD would be a new tax that would need to be approved by vote by the owners of the affected properties. The amount reflected here presumes the City issues bonds against the revenue stream that would carry out at least 55 years.

3 The Eastern Neighborhoods Infrastructure Impact Fee is an existing fee on both residential and non-residential development (see Planning Code Section 423). It only applies to projects within the Eastern Neighborhoods, and can only be spent within the Eastern Neighborhoods. The fee is disseminated between different types of public benefits, based on its source: fees from residential development are apportioned 47.5% to parks and recreation, 31% to complete streets, 10% to transit, 6.5% to child care, and 5% to administrating the fees; fees from non-residential development are apportioned 53% to transit, 34% to complete streets, 6% to parks and recreation, 2% to child care, and 5% to administering the fees.

4 The Jobs-Housing Linkage Fee is an existing fee on non-residential development that is dedicated to affordable housing (see Planning Code Section 413).

5 The Transportation Sustainability Fee (TSF) is an existing fee on both residential and non-residential development (see Planning Code Section 411A). Ninety five percent of this fee is dedicated to transit, and three percent to complete streets, with the remainder to administration.

6 The Central SoMa Fee is a new impact fee proposed for new development in Central SoMa. It is proposed to be dedicated to affordable housing.

7 The School Impact Fee is an existing fee that supports capital investment in new and existing schools (see State Education Code Section 17620).
8 The Community Services Fee is a new impact fee proposed by for new development in Central SoMa. It is proposed to be dedicated to building community services.
9 Transferable Development Rights is an existing concept that enables certain historically important buildings to sell their unused development rights to other development (see Planning Code Section 128).
10 The Child Care Fee is an existing impact fee on both residential and non-residential development (see Planning Code Section 414).

c. Excerpts from the Environmental and Community Investment Agreement between the City of Richmond and Chevron

Context: In 2014, the City of Richmond and Chevron agreed to an Environmental and Community Investment Agreement (ECIA), which will provide $90 million dollars to the Richmond community over the next ten years. This includes investments in community programs, competitive community grants, community-based greenhouse gas reduction programs and a photovoltaic solar farm. Below is an excerpt detailing the various funding categories in the ECIA.

CHEVRON FUNDING CATEGORIES

The City shall use the Annual Funding Amount to fund projects and programs in the following general categories.

A. Community Programs

The Annual Funding Amount not designated for the Community-Based Greenhouse Gas Reduction Programs shall be used to fund the following Community Programs.

The City on an annual basis shall track the progress of and issue a report describing the Community Programs funded under this paragraph, their outcomes and contributions to the City for each year in which funds under this Agreement are expended.

B. Scholarship Program - Total Expenditure: $35,000,000.

C. Programs relating to Skills, Job Training and Readiness, and Job Transition Training - Total expenditure: $6,000,000.

D. Public Safety Programs - Total expenditure: $2,000,000.

E. Free Internet Access - Total Expenditure: $1,000,000.

F. Competitive Grant Program - Total expenditure: $6,000,000.

Chevron shall provide to the City $6,000,000 over the first seven years of annual payments to fund community programs and non-profits focused on communities, youth and youth sports programs.

G. Community-Based Greenhouse Gas Reduction Programs

Consistent with the commitment and mandated mitigation measure in the environmental impact report (EIR) prepared for the Richmond Refinery Modernization Project, funding for the Community-Based Greenhouse Gas Reduction Programs (GHG Program) shall be $3,000,000 per

year for ten (10) years, with total funding not to exceed $30,000,000, to support the types of GHG Programs identified in Chapter 4.8- Greenhouse Gases of the EIR, and to be selected and implemented in the manner provided in that chapter, including but not limited to the following:

(1) Electric City and Easy Go - Total expenditure: $18,000,000.

(2) Climate Action Plan - Total expenditure: $1,000,000.

(3) Urban Forestry - Total expenditure: $2,000,000.

(4) Transportation and Transit Programs - Total Expenditure: $2,750,000.

(5) Roof-top Solar, Energy Retrofit, City of Richmond Zoning Ordinance Update and Additional Programs - Total Expenditure: $6,250,000.