



## Legislation Text

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**File #:** 2020-0360, **Version:** 1

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**DATE:** November 10, 2020

**SUBJECT:**

**LOCKHEED MARTIN HARBOR ISLAND FACILITIES DEMOLITION AND SEDIMENT REMEDIATION PROJECT**

- A) PRESENTATION AND DIRECTION TO STAFF ON THE LOCKHEED MARTIN HARBOR ISLAND FACILITIES DEMOLITION AND SEDIMENT REMEDIATION PROJECT FINAL ENVIRONMENTAL IMPACT REPORT AND/OR COASTAL DEVELOPMENT PERMIT; AND/OR**
- B) ADOPT RESOLUTION CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE “LOCKHEED MARTIN HARBOR ISLAND FACILITIES DEMOLITION AND SEDIMENT REMEDIATION PROJECT,” ADOPTING MITIGATION MONITORING AND REPORTING PROGRAM, AND DIRECTING FILING OF THE NOTICE OF DETERMINATION; AND**
- C) ADOPT RESOLUTION ADOPTING FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE “LOCKHEED MARTIN HARBOR ISLAND FACILITIES DEMOLITION AND SEDIMENT REMEDIATION PROJECT”; AND**
- D) ADOPT RESOLUTION AUTHORIZING ISSUANCE OF A NON-APPEALABLE COASTAL DEVELOPMENT PERMIT TO LOCKHEED MARTIN CORPORATION FOR THE “LOCKHEED MARTIN HARBOR ISLAND FACILITIES DEMOLITION AND SEDIMENT REMEDIATION PROJECT”**

**EXECUTIVE SUMMARY:**

Lockheed Martin Corporation (Lockheed), as the project applicant and project proponent, proposes the demolition of the existing Lockheed Martin Marine Terminal Facilities (MTF) and the remediation of contaminated sediment in the Harbor Island East Basin of San Diego Bay located at 1160 Harbor Island Drive in the City of San Diego (Exhibit 1 of Attachment A) (Project). This includes demolition and removal of existing MTF infrastructure, including the pier, the marine railway, the Marine Terminal Building, and accessory buildings and sheds, and abatement of the effects of pollutants discharged to San Diego Bay within the Project area. The Project is required in order for Lockheed to: satisfy end of lease obligations with the District, comply with Cleanup and Abatement Order R9-2017-0021<sup>1</sup>, and comply with the Settlement Agreement between the District, General Dynamics Corporation, and Lockheed Martin Corporation (Settlement).

As the Lead Agency under the California Environmental Quality Act (CEQA), the District determined the Project required an Environmental Impact Report (EIR). A Draft EIR was prepared and circulated for public review and comment beginning on July 31, 2020 and ending September 14, 2020. During this review period, the District received five comment letters. The comment letters and responses to

all written comments received on the Draft EIR are included in the Final EIR. The Final EIR and Mitigation Monitoring and Reporting Program (MMRP) have been prepared in accordance with CEQA, the State CEQA Guidelines, and the District's Guidelines for Compliance with CEQA. The Final EIR and MMRP (as part of the Final EIR) were previously provided to the Board via a memorandum to the Board dated October 29, 2020.

CEQA requires the District to make written findings of fact for each significant environmental impact identified in the Final EIR and evaluate feasible project alternatives. The EIR analyzed three alternatives to the Project. However, despite implementation of all feasible mitigation measures, the Project was identified as having significant impacts which cannot be avoided or reduced to a level less than significant whether through mitigation measures or alternatives to the Project. Accordingly, a Statement of Overriding Considerations (SOC) is required (Attachment B). The SOC balances the specific environmental, planning, fiscal, and other benefits of the Project against the significant and unavoidable environmental impacts.

Pursuant to the District's Coastal Development Permit (CDP) Regulations and the California Coastal Act, the issuance of a Non-Appealable CDP is required. As conditioned, the Project is consistent with the certified Port Master Plan (PMP). Staff recommends the Board adopt a resolution to certify the Final EIR, adopt the Findings of Fact and SOC, adopt the MMRP, and direct filing of the Notice of Determination (NOD). Staff further recommends the Board adopt a resolution authorizing the issuance of a Non-Appealable CDP.

### **RECOMMENDATION:**

Lockheed Martin Harbor Island Facilities Demolition and Sediment Remediation Project

- A) Presentation and Direction to Staff on The Lockheed Martin Harbor Island Facilities Demolition and Sediment Remediation Project Final Environmental Impact Report and/or Coastal Development Permit; and/or
- B) Adopt Resolution Certifying the Final Environmental Impact Report for the "Lockheed Martin Harbor Island Facilities Demolition and Sediment Remediation Project," Adopting Mitigation Monitoring and Reporting Program, and Directing Filing of The Notice of Determination; and
- C) Adopt Resolution Adopting Findings of Fact and Statement of Overriding Considerations for the "Lockheed Martin Harbor Island Facilities Demolition and Sediment Remediation Project"; and
- D) Adopt Resolution Authorizing Issuance of a Non-Appealable Coastal Development Permit to Lockheed Martin Corporation for the "Lockheed Martin Harbor Island Facilities Demolition and Sediment Remediation Project"

### **FISCAL IMPACT:**

The Board's actions will have no direct fiscal impact to the District's FY21 approved budget. Lockheed is responsible for all applicable construction costs associated with the demolition and remediation activities pursuant to existing lease obligations and the Settlement. Also, in accordance with BPC Policy No. 106, Cost Recovery User Fee Policy, Lockheed is subject to cost recovery fees for Project review, processing, and permitting.

### **COMPASS STRATEGIC GOALS:**

This agenda item supports the following Strategic Goal(s).

- A vibrant waterfront destination where residents and visitors converge.
- A Port with a healthy and sustainable bay and its environment.
- A Port with a comprehensive vision for Port land and water uses integrated to regional plans.
- A Port that is a safe place to visit, work and play.

## **DISCUSSION:**

### **Background**

The Lockheed MTF was constructed in 1966 and Lockheed subsequently operated a marine engineering facility at its MTF at 1160 Harbor Island Drive. Lockheed's operations and resulting environmental impacts have been the subject of numerous regulatory and judicial proceedings. Among other things, it has been established that Lockheed utilized a variety of processes and substances at its facilities known to cause harm to the environment and human health, including polychlorinated biphenyls (PCBs), metals, and other pollutant wastes. These substances used at the facility were deposited into San Diego Bay from the Lockheed MTF site. The lease between Lockheed and the District began in 1966 and is still active today (Clerk's Doc. No. 1885); however, onsite operations of the MTF ceased in July 2015.

The Regional Water Quality Control Board (RWQCB) issued Cleanup and Abatement Order R9-2017-0021(CAO) to Lockheed Martin in 2017. Furthermore, the District, General Dynamics Corporation, and Lockheed Martin Corporation entered into a Settlement (Clerk's Doc. No. 71907) to outline roles and responsibilities for the remediation and demolition efforts. Pursuant to Lockheed's end-of-lease and Settlement obligations, Lockheed is responsible for the demolition and removal of existing onsite infrastructure at the MTF, including the pier, the marine railway, the Marine Terminal Building, and accessory buildings and sheds and to abate the effects of pollutants discharged to San Diego Bay within the Project area (Exhibit 2 of Attachment A) pursuant to the CAO. The lease will be terminated upon the completion of the demolition and remediation of the site and no continued or new operations are proposed onsite.

### **Historic Resource Eligibility**

The MTF is comprised of the Marine Terminal Building, the pier, the marine railway, accessory structures, and associated infrastructure. Because of the MTF's age (more than 50 years old), the MTF was evaluated as a potential historic resource during the CEQA process. It was determined that the MTF, inclusive of the Marine Terminal Building, the pier, and the marine railway, is eligible to be a historic resource due to the former uses on the site and their contributions to the San Diego maritime industry. The Marine Terminal Building was independently determined to be eligible as a historic resource because it was designed by an architect listed on the City of San Diego's list of master architects. Implementation of the RWQCB's CAO would cause the removal of the pier and marine railway in order to provide access to the contaminated sediment. Implementation of the project would cause the removal of the pier and marine railway, along with the Marine Terminal Building.

### **Proposed Project**

Lockheed proposes the demolition of landside and waterside components of the existing MTF and remediation of the waterside sediment in the surrounding East Harbor Island Basin. Project

construction will be completed in three phases: (1) landside demolition; (2) waterside demolition, dredging, and sediment remediation; and (3) post-remediation activities.

The first phase would include the demolition of landside structures including the Marine Terminal Building and associated infrastructure in accordance with the Lockheed Martin Marine Terminal Demolition Draft Work Plan. Existing utilities in the existing two-story, 5,500-square-foot building would be disconnected and removed, then the existing building would be demolished. After building demolition, the foundation would be removed, and the site would then be graded to match the existing elevation.

The second phase would include the waterside component of the Project, beginning with the waterside demolition. The Project would include demolition of the in-water, 165-foot-long pier and the 328-foot-long marine railway structure and support structures extending into the bay. Once the existing waterside facilities are demolished, waterside sediments with elevated contaminant levels would be dredged in an approximately 22,676-square-foot area (approximately 3,500 cubic yards). Once dredging is complete, the Project would place clean sand cover on up to 92,170 square feet of the site (approximately 4,500 cubic yards) within the East Harbor Island Basin.

The third phase would include returning the site to an unoccupied, undeveloped site. The existing asphalt and concrete paved areas would be removed. The existing shoreline riprap and the existing concrete spillways would remain. The retaining wall above the shoreline would remain and allow the site to be graded such that slopes would be shallow to minimize erosion and allow stormwater to be absorbed or directed to those spillways.

The existing mature trees would be left undisturbed. Non-invasive, drought-tolerant vegetation would be planted, and an irrigation system would be installed. There would be no further operations following the completion of construction activities.

It is anticipated that the Project would be completed in approximately five to six months, with Phase 1 occurring early 2021, Phase 2 occurring from September through November 2021, and Phase 3 beginning in November 2021. The in water construction window would be constrained by California least tern (*Sterna antillarum browni*) nesting and foraging season, which extends from mid-April to mid-September. Proposed work would take place within the District's jurisdiction.

## **Environmental Impact Report**

The "Lockheed Martin Harbor Island Facilities Demolition and Sediment Remediation Project" EIR (UPD #EIR-2018-033; SCH #2019100658) has been prepared in accordance with CEQA (Public Resources Code Section 21000 et seq.), the State CEQA Guidelines, and the District's CEQA Guidelines. The Final EIR reflects the modifications to the Draft EIR that may have resulted from comments received during the 45-day public review period for the Draft EIR or that were required for purposes of clarification. These modifications do not alter the conclusions of the environmental analysis such that new significant environmental impacts have been identified, nor do they constitute significant new information under State CEQA Guidelines Section 15088.5. The modifications are provided in an errata and within each chapter of the Draft EIR in strikeout/underline format. The Final EIR can be accessed on the District's website at:

<https://www.portofsandiego.org/public-records/port-updates/notices-disclosures/ceqa-documents>.

## ***Project Objectives***

In accordance with Section 15124(b) of the CEQA Guidelines, the following objectives were identified for the Project:

- Remediate the project site through implementation and completion of the Remedial Action Plan as required under the San Diego Regional Water Quality Control Board Cleanup and Abatement Order No. R9-2017-0021.
- Restore the project site by removing the installations and improvements from the MTF premises in accordance with the Lockheed Martin Marine Terminal Demolition Draft Work Plan.
- Prevent the further release or threatened release of hazardous substances from historical uses on the project site.
- Fulfill and implement the end of the lease terms of the original lease agreement between the District and Lockheed Martin by remediating the project site, including the removal of the installations and improvements.
- Reduce public safety hazards by eliminating risk of fire, personal injury to trespassers, vandalism, and crime associated with an abandoned facility.
- Further the District's responsibility and fiduciary duty for administering its public trust lands consistent with the Public Trust and the Port Act, including promoting water-oriented uses that benefit the public.

## ***Notice of Preparation***

In accordance with CEQA, District staff determined that an EIR would be the appropriate document due to potential issues related to Cultural Resources, Biological Resources, and Hydrology and Water quality that would require further analyses as part of an EIR process.

On October 31, 2019, a Notice of Preparation (NOP) was published for a 30-day comment period. The purpose of an NOP is to solicit input from agencies and the public on the scope and content of the environmental information to be included in the EIR. The NOP included an Initial Study determining that a Draft EIR would be needed to evaluate potentially significant impacts to: Air Quality, Biological Resources, Cultural Resources, Greenhouse Gas Emissions (GHGs), Hazards and Hazardous Materials, Hydrology and Water Quality,; Noise, and Tribal Cultural Resources. On November 13, 2019, the District held a public Scoping Meeting to provide information and solicit comments on environmental issues that should be considered in the EIR. In response to the NOP, the District received three comment letters from the following agencies and individuals: Native American Heritage Commission recommending consultation with any interested California Native American tribes, Save Our Heritage Organization requesting an alternative to the demolition of the MTF, and Sunroad Enterprises and Sunroad Marina requesting a deeper final dredge depth.

## ***Draft EIR***

Subsequently, a Draft EIR (Clerk's Doc. No. 71840) was prepared for the Project and was circulated for a 45-day public review period, which began on July 31, 2020 and ended on September 14, 2020.● The Draft EIR found that the Project would result in "no impact" or a "less than significant" impact with no mitigation required for: Air Quality, GHGs, Hazards and Hazardous Materials, Hydrology and Water Quality, Noise, and Tribal Cultural Resources. Furthermore, the Draft EIR found that impacts to Biological Resources (direct and indirect effects on sensitive species and habitat) would be reduced to a less than significant impact with mitigation measures incorporated.

The Draft EIR also found that the Project would have a significant and unavoidable environmental impact on Cultural Resources because demolition of the MTF and the Marine Terminal Building would create a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5. Although the mitigation measures may lessen the significant and unavoidable impacts to Cultural Resources, adoption of the mitigation measures will not avoid the impacts resulting from demolition and a "Statement of Overriding Considerations" would be needed in order to approve the Project.

## ***Project Alternatives***

The State CEQA Guidelines require that an EIR present a range of reasonable alternatives that could meet a majority of the Project's base objectives, but that would avoid or substantially lessen one or more significant environmental impacts. While several project alternatives were initially considered, three were selected for analysis in this EIR. The alternatives considered but rejected included off-site relocation of the historic Marine Terminal Building structure. The relocation alternative was rejected because it failed to meet most of the basic project objectives, infeasibility, or an inability to avoid significant environmental impacts.

The EIR considered a No Project/No Remediation Alternative, a Remediation of Waterside Portions of Project Site Only Alternative, and a Reuse of Marine Terminal Building Alternative. Alternative 1 reduces all significant and unavoidable impacts and impacts mitigated to less than significant created by the implementation of the project to less than significant, requiring no mitigation because it does not allow for any demolition or in water construction to take place. However, Alternative 1 would result in increased impacts to Biological Resources and Water Quality because the in-water remediation would not occur. Alternative 2 is intended to reduce the project's significant and unavoidable impact to Cultural Resources to a level below significance because it does not allow for the Marine Terminal Building to be demolished. Alternative 3 is also intended to reduce the project's significant and unavoidable impact to Cultural Resources to a level below significance because it does not allow for the Marine Terminal Building to be demolished. These three alternatives are further described as follows:

- *Alternative 1 - No Project/No Remediation Alternative:* This alternative analyzed potential impacts that would occur if the demolition of existing marine railway, pier, Marine Terminal Building, and other associated structures did not occur and if the proposed remediation of the Harbor Island East Basin through the completion of the Draft Remedial Action Plan as required under the San Diego RWQCB Cleanup and Abatement Order No. R9-2017-0021 was not implemented. The EIR found that because Alternative 1 would entail no physical modification

of the existing Marine Terminal Building, it would reduce all significant and unavoidable impacts and impacts mitigated to less than significant created by the implementation of the project to less than significant, requiring no mitigation. However, Alternative 1 would result in increased impacts to Biological Resources and Water Quality because the in-water remediation would not occur. Additionally, Alternative 1 would not achieve any of the project objectives, including the implementation of RWQCB Cleanup and Abatement Order No. R9-2017-0021.

- *Alternative 2 - Remediation of Waterside Portions of Project Site Only:* This alternative analyzed potential impacts that would occur if the RWQCB Cleanup and Abatement Order No. R9-2017-0021 was implemented, including the demolition of the pier and marine railway, but the remainder of the MTF remained as it exists today. Demolition of the pier and marine railway is necessary to remediate the sediment under and adjacent to those structures.

The EIR found that the pier and marine railway constitute two of the three contributing elements to the MTF's eligibility as a historical resource. Although the removal of the pier and marine railway constitutes a significant adverse impact to contributing historic resources, the MTF would retain historic resource eligibility even if the waterside components are removed as it would retain its third contributing element, the Marine Terminal Building. Therefore, the Marine Terminal Building would remain eligible for listing. Implementation of Alternative 2 with the proposed Mitigation Measures CUL-1 and CUL-2 would result in a less than significant impact to the MTF. However, because this alternative does not require or propose any rehabilitation or reuse actions by the District, as would be the case under Alternative 3, this alternative has the potential to result in continued dilapidation of the Marine Terminal Building as its future use and timing for future use (inclusive of remediation and rehabilitation) would be uncertain. Additionally, Alternative 2 would not attain some of the project objectives and would not provide the District and the region with all of the environmental, planning, fiscal, and other benefits of the Project. Alternative 2 is intended to reduce the project's significant and unavoidable impact to Cultural Resources related to the landside demolition of the Marine Terminal Building to a level below significance.

- *Alternative 3 - Reuse of Marine Terminal Building:* This alternative analyzed potential impacts that would occur if the RWQCB Cleanup and Abatement Order No. R9-2017-0021 was implemented, including the demolition of the pier and marine railway, and that the Marine Terminal Building was restored and renovated to be available for use. Renovation activities would include the removal of asbestos containing material, lead-containing surfaces, and other potentially hazardous building materials. Reuse of the building would result in operational features not currently present for the Project, including generating vehicle trips and air emissions and introducing noise-generating facilities. The District has not been presented with any proposal for reuse of the Marine Terminal Building, and it would be speculative to assume a specific future use. The pier and marine railway constitute two of the three contributing elements of the MTF. Although the pier and marine railway are important components of the MTF's historic eligibility, the Marine Terminal Building would retain historic eligibility even if the waterside components are removed as required to access areas of contaminated sediment and implement the San Diego RWQCB's Cleanup and Abatement Order. Therefore, the Marine Terminal Building would remain eligible for listing. Implementation of Alternative 3 with the proposed Mitigation Measures CUL-1 and CUL-2 would result in a less than significant

impact to the MTF. Therefore, the Reuse of Marine Terminal Building Alternative is intended to reduce the project's significant and unavoidable impact to historic resources related to the landside demolition of the MTF.

### ***Final EIR***

The Final EIR reflects the modifications to the Draft EIR that may have resulted from comments received during the 45-day public review for the Draft EIR or that were required for purposes of clarification. These modifications do not alter the conclusions of the environmental analysis such that new significant environmental impacts have been identified, nor do they constitute significant new information under State CEQA Guidelines Section 15088.5. The modifications are provided in an errata and within each chapter of the Draft EIR and are shown in strikeout/underline format. These revisions are more fully described in the Final EIR, and include: 1) updates to the project description; 2) updates to the cumulative project list; 3) updates to a cited California Department of Fish and Wildlife (CDFW) statutes and biological resources technical report; and 4) clarifications to the alternatives section.

Comment letters on the Draft EIR were received during a minimum 45-day public review period from July 31, 2020 through September 14, 2020. Five comment letters were received from the following agencies and private organizations: CDFW, Save our Heritage Organization, Lockheed, General Dynamics, and Sunroad Enterprises and Sunroad Marina. The comment letters consisted of the following: discussed information related to cultural resources, provided clarification to CDFW statutes cited in the document, requested an expansion of scope of the project, and provided support for the project. The additional information contained in the District's responses to the comments received clarifies and further substantiates the conclusions contained in the Draft EIR. None of the comments received constituted or resulted in significant new information requiring recirculation of the Draft EIR under CEQA Guidelines Section 15088.5.

Similarly, the changes contained in the Final EIR are minor and do not constitute significant new information or a change in the Draft EIR's conclusion. The Final EIR document was prepared to ensure the accuracy and completeness of the environmental analysis. The Final EIR was provided to the Board for its review via a Board Memo dated October 29, 2020. The Final EIR can be accessed on the District's website at:

<https://www.portofsandiego.org/public-records/port-updates/notices-disclosures/ceqa-documents>

Staff recommends that the Board adopt a resolution certifying the Final EIR, and direct staff to file a Notice of Determination.

### ***Mitigation Monitoring and Reporting Program***

As concluded by the Draft EIR and the Final EIR, the Project would result in significant impacts on Biological Resources and Cultural Resources. Impacts to biological resources can be mitigated to below a level of significance with the implementation of the mitigation measures outlined in the Final EIR's MMRP; however, impacts to Cultural Resources, remain significant and unavoidable. Project mitigation measures include the following:

#### **Biological Resources Mitigation Measures**



- Preconstruction California Least Tern Surveys
- Marine Mammal and Sea Turtle Construction Monitoring
- Construction Vessel Speed Limits
- Preconstruction Raptor and General Avian Nest Surveys
- Preconstruction and Postconstruction Eelgrass Surveys
- Eelgrass Mitigation
- Avoidance of Eelgrass Due to Anchored Barges, Boat Navigation, and Propeller Wash

#### Cultural Resources Mitigation Measures

- Historic American Buildings Survey Level 2 Documentation
- Historical Interpretive Exhibit

All mitigation measures have been prepared in compliance with CEQA Guidelines Section 15097. The MMRP (Exhibit 1 to Attachment B) identifies the required mitigation measures, the party responsible for carrying them out, and a monitoring and reporting mechanism. Compliance with the MMRP contained in the Final EIR is included as a condition of the Non-Appealable CDP for the Project.

Staff recommends the Board adopt the MMRP.

#### ***Findings of Fact and Statement of Overriding Considerations***

CEQA requires the Board to adopt written Findings of Fact for all significant project impacts identified in the Final EIR (CEQA Guidelines Section 15091) including impacts that are considered less than significant after mitigation and impacts that are considered significant and unavoidable. Because the direct impacts on cultural resources were found to be significant even after the adoption of all feasible mitigation measures, the Board must adopt findings regarding the feasibility of any alternatives that could avoid or substantially reduce the significant and unavoidable impacts. The significant and unavoidable impacts also require the Board to adopt an SOC identifying that the District has balanced the specific environmental risks in determining whether to approve the Project.

As noted above, the Final EIR incorporates mitigation measures that lessen potential Biological Resource impacts to a less than significant level. With respect to Cultural Resources, even with the implementation of feasible mitigation, impacts would remain significant and unavoidable.

Two alternatives - Alternative 2 and Alternative 3 - proposed retaining the Marine Terminal Building, which would reduce the significant and unavoidable Cultural Resources impact related to demolition of a historic resource to a less than significant level. However, the Findings of Fact conclude that these alternatives are infeasible based upon policy and economic considerations.

- Alternative 1 - No Project/No Remediation Alternative: Under Alternative 1, the proposed remediation of the MTF and completion of the Draft Remedial Action Plan as required under the San Diego RWQCB Cleanup and Abatement Order No. R9-2017-0021 would not be implemented, nor would the end of the lease terms of the original lease agreement between the District and Lockheed Martin would not be honored. Relative to the proposed project, Alternative 1 would avoid impacts related to cultural resources, however, it would result in greater impacts on biological resources,

hazards and hazardous materials, and hydrology and water quality. Moreover, Alternative 1 would not achieve any of the project objectives and would preclude obtaining the benefits of the project.

- **Alternative 2 - Remediation of Waterside Portions of Project Site Only Alternative:** Alternative 2 would not meet Project Objectives 2 and 3 because it would not remove all installations and improvements on the project site and would not prevent the further release or threatened release of hazardous substances on the project site. In addition, this alternative would not meet Project Objective 4 because it would not fulfill and implement the end of the lease terms of the original lease agreement between the District and Lockheed Martin, which require the site to be returned to its original state. This alternative would not meet Project Objective 5 because it would permit the existing Marine Terminal Building to remain vacant and unoccupied, which poses a potential public safety hazard due to the high potential for trespassing and vandalism (based on previous instances). Under Alternative 2, the District would retain responsibility for ongoing maintenance of the existing building, which includes costs that would accrue to the District for an unforeseen time period. Also, because Alternative 2 would result in retention of the Marine Terminal Building, any future user of the building would have to remediate (hazardous substances) and rehabilitate the property consistent with the Secretary of the Interior's historical standards, which (1) imposes additional costs on a future tenant and (2) constrains options for future use by limiting future uses of the project site by preventing potential lessees (tenants) from exploring opportunities for use that would require destruction or substantial modification of the building. Finally, a vacant building would not meet Project Objective 6 and the District's statutory and common law responsibilities with respect to the Public Trust.

- **Alternative 3 - Reuse of Marine Terminal Building:** Alternative 3 would not meet Project Objectives 2 and 4 because it would not remove all installations and improvements on the project site and would not fulfill and implement the end of the lease terms of the original lease agreement between the District and Lockheed Martin, which require the site to be returned to its original state. Although Alternative 3 would avoid or substantially lessen the potentially significant impacts to cultural resources, this alternative is infeasible because (1) it would not attain Project Objectives 2 and 4 and (2) would require the District to undertake significant responsibilities and incur liabilities that are inconsistent with the District's responsibilities under the public trust and outside of the scope of expertise of the District and, therefore, would not provide the District and the region with all of the benefits of the project, and, thus, would be undesirable from a policy standpoint. Additionally, as with Alternative 2, above, the Reuse of Marine Terminal Building Alternative and retention of the Marine Terminal Building may preclude or impact implementation of the District's vision for the project site, as outlined in the PMPU.

Staff recommends the Board adopt the Findings of Fact.

Staff also recommends the Board find that, pursuant to CEQA Guidelines Section 15093, the benefits of the Project, including but not limited to the specific environmental, planning, fiscal, and other benefits outweigh its significant adverse environmental impacts and therefore, such impacts are considered acceptable.

Staff recommends the District adopt the SOC.

## **Coastal Analysis/Coastal Development Permit**

The proposed Board actions would enable Lockheed to implement the Project described above, which is located wholly within the District's coastal permitting jurisdiction. The Project is located within the East Harbor Island and East Basin Industrial Subareas of Planning District 2, Harbor Island/Lindbergh Field, which is delineated on Precise Plan Map Figure 10 of the certified PMP. The PMP land and water use designations within the limits of these portions of the Project are Industrial Business Park, Specialized Berthing, Boat Navigation Corridor, and Recreational Boat Berthing.

The Project conforms to the certified PMP because the Project involves the demolition of existing facilities and remediation of contaminated sediment, as well as related equipment staging and dredge handling activities, consistent with the existing certified land and water use designations. The Project as set forth in the Settlement and Draft Remedial Action Plan (DRAP) if implemented pursuant to the conditions imposed by the CDP would result in a vacant site.

The Project is located between the sea (as defined in the California Coastal Act) and the first inland continuous public road paralleling the sea. The Project is fully consistent with Public Resources Code Sections 30604(c), 30210-30224, and all applicable California Coastal Act policies. The Project would not affect or otherwise interfere with public access or recreational opportunities, including boat navigation, if performed in accordance with the DRAP and pursuant to the conditions imposed by the CDP. The Project therefore conforms to the planned land and water use designations and Precise Plan text and is thus consistent with the certified PMP. Based on this finding, a CDP may be issued.

In accordance with the California Coastal Act and the District's CDP Regulations, the Project is considered "Non-Appealable" because it does not qualify as an "Excluded," "Appealable," or "Emergency" development. A copy of the Draft Non-Appealable CDP is provided as Attachment A to this Agenda Sheet. Special conditions are incorporated into the CDP to ensure compliance with the Settlement, Cleanup and Abatement Order No. R9-2017-0021, and applicable mitigation measures, as required by the MMRP included in the Final EIR prepared for the Project.

## **Next Steps**

If the Board certifies the Final EIR, adopts the MMRP and the Findings of Fact and SOC, and authorizes issuance of the CDP for the Project, Lockheed will need to obtain other approvals before commencing construction, including permits from the RWQCB and Army Corps of Engineers.

## **General Counsel's Comments:**

The General Counsel's Office has reviewed the agenda sheet and attachments, as presented to it, and approves them as to form and legality.

## **Environmental Review:**

The proposed Board action completes the CEQA process for the Project.

In addition, the proposed Board actions would facilitate enhancements of public facilities and uses. The actions comply with Section 87(a)(1) and (6) of the Port Act, which allows for the establishment, improvement, and conduct of a harbor, and for the construction, reconstruction, repair, maintenance, and operation of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient, for the promotion and accommodation of commerce and navigation, and for the establishment, improvement, and conduct

of small boat harbors, marinas, aquatic playgrounds, and similar recreational facilities, and for the construction, reconstruction, repair, maintenance, and operation of all works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of any of those uses, including, but not limited to, snack bars, cafes, restaurants, motels, launching ramps, and hoists, storage sheds, boat repair facilities with cranes and marine ways, administration buildings, public restrooms, bait and tackle shops, chandleries, boat sales establishments, service stations and fuel docks, yacht club buildings, parking areas, roadways, pedestrian ways, and landscaped areas. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed Board action is consistent with the Public Trust Doctrine.

### **Equal Opportunity Program:**

Not applicable.

### **PREPARED BY:**

Juliette Orozco  
Associate Planner, Development Services

### **Attachment(s):**

Attachment A: Draft CDP

Attachment B: Findings of Fact and Statement of Overriding Considerations

<sup>1</sup>A copy of Cleanup and Abatement Order R9-2015-0018 is available on the RWQCB's website at [https://documents.geotracker.waterboards.ca.gov/regulators/deliverable\\_documents/8943440318/TOW%20Basin-Lockheed%20CAO.pdf](https://documents.geotracker.waterboards.ca.gov/regulators/deliverable_documents/8943440318/TOW%20Basin-Lockheed%20CAO.pdf) and is herein incorporated by reference.