OFFICE OF THE MAYOR
SAN FRANCISCO

LONDON N. BREED
MAYOR

August 11, 2022

The Honorable Samuel K. Feng
Presiding Judge, Superior Court of California, County of San Francisco
400 McAllister Street, Room 008
San Francisco, CA 94102-4512

Dear Judge Feng,

In accordance with Penal Code Sections 933 and 933.05, the following is in response to the 2021-2022 Civil Grand Jury Report, *"Buried Problems and a Buried Process: The Hunters Point Naval Shipyard in a Time of Climate Change,"* (Report). We would like to thank the members of the 2021-2022 Civil Grand Jury (CGJ) for their interest in the impact of climate change on groundwater rise and its potential effects at the Hunters Point Naval Shipyard (Shipyard). These topics are timely and important.

The health and safety of our residents, now and in the future, are of the highest priority to the City and County of San Francisco (City). While overall, we have differences with the Report's findings and recommendations, we respect the CGJ as an important vehicle for the public to be able to scrutinize and report on different aspects of the City's operations. Our approach will be to remain actively engaged with the U.S. Department of the Navy (Navy) and the state and federal regulators that provide oversight of the Shipyard's clean-up. The goal is to proactively ensure that all the actors responsible for the clean-up process are using remediation best practices so that the community's health is protected.

While there is an existing and robust process for community involvement and information sharing such as the upcoming Five-Year review, we can still make improvements to our City communications and engagement. We also understand that there are issues with trust, and we are committed to doing our part as a City to strengthen the community's confidence in the remediation process at the Shipyard.

For more than 20 years, the San Francisco Department of Public Health (SFDPH) and the Office of Community Infrastructure and Investment (OCII, formerly the San Francisco Redevelopment Agency), have worked closely with the various regulators that provide oversight of the Navy's cleanup through the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) process at the Shipyard. Specifically, the City reviews and comments on CERCLA documents throughout the process. In addition, under San Francisco Health Code Article 31, anyone proposing development at the Shipyard must submit documentation to SFDPH to demonstrate how the applicant would comply with the property's deed restrictions, covenants to restrict the use of the property, and Mitigation Measures imposed on the Shipyard development through the California Environmental Quality Act (CEQA). This framework of property controls and mitigations is designed to ensure the health and safety of the public and protect the environment.

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While we agree that the cleanup process is complex and often technical and that climate change will continue to affect San Francisco in many ways, overall, we disagree partially or wholly with many of the CGJ's findings and recommendations in the Report. The City believes the existing governance of the cleanup, with input from the City and state and federal environmental and health regulators, is the most robust and appropriate oversight framework. This regulatory structure is designed to identify emerging issues and incorporate them into future planning in a way that is proactive, actionable, and protective of human health and the environment.

The CERCLA process governing the cleanup is designed to be iterative, incorporate new findings, and identify future risks, such as sea level rise and associated groundwater rise, all with enough notice to make necessary changes to protect public health and the environment. Specifically, for the remaining Navy parcels at the Shipyard, the Navy is obligated to examine its proposed remediation strategies every five years (Five-Year Review). Prior clean-up activities are also subject to review every five years to ensure the remedies are still protective of human health in light of any new scientific standards or emerging risks such as potential rising sea and groundwater levels. This Five-Year Review requirement remains in place following the transfer of Shipyard property out of Navy ownership to OCII, providing another opportunity for evaluating potential impacts on health or the environment.

The City remains committed to working within, but also improving, the existing process to ensure the ongoing protection of the health and safety of the residents who live and work in the Shipyard and nearby, now and in the future. As it has done in the past, SFDPH will continue to consult with state and federal health agencies and other experts as needed to ensure that any potential effects of future sea level and groundwater level rise at the Shipyard on public health and the environment continue to be evaluated thoroughly. To that end, the City has already begun discussions with the Navy, and with the state and federal environmental and health regulators on these matters as part of the 2023 CERCLA Five-Year Review.

We thank the CGJ and share their interest in the important topic of protecting human health and the environment. We appreciate the opportunity to provide this response and comment on the Report's findings and recommendations on behalf of all the City departments.

A detailed response from the Mayor's Office is attached.

Sincerely,

London Breed

London N. Breed
Mayor

Detailed Responses to Findings and Recommendations from FY 21-22 Civil Grand Jury, Report, "Buried Problems and a Buried Process: The Hunters Point Naval Shipyard in a Time of Climate Change" (CGJ Report).

Findings

F1: In the Hunters Point Shipyard, shallow groundwater rising with sea level rise and residual hazardous substances pose serious but poorly understood risks that should concern the City and County of San Francisco, the Navy, future developers, future property owners, and future residents.

Finding Response: Disagree Partially.

We appreciate that the CGJ has highlighted their concerns regarding the potential impacts of sea level rise (SLR) at the Hunters Point Shipyard (Shipyard) property. However, we disagree with CGJ's finding that risks are poorly understood by the Navy, the City, and the Regulatory Agencies (which include the US Environmental Protection Agency (USEPA), the Department of Toxics Substances Control (DTSC), and the San Francisco Bay Area Regional Water Quality Control Board (RWQCB)). We will work with the Navy and Regulatory Agencies to make sure the community is better informed regarding this important question and how it has been, is being, and will be addressed by the Navy as part of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) process at the Shipyard. We want to emphasize that potential SLR and groundwater rise are long-term concerns that the Navy, the Regulatory Agencies, and the City are tracking. The community is not being exposed to contaminated groundwater and there is no immediate threat of such a condition. We will actively engage with the Navy and Regulatory Agencies to review any new information that could impact the potential for shallow groundwater rising, and any related potential hazardous impact, and to present such information to the community.

The Shipyard area referenced in CGJ Report is under Navy ownership. As the lead agency under CERCLA, the Navy has the responsibility of investigating and cleaning up environmental contamination. Cleanup of the Shipyard includes oversight from the Regulatory Agencies. The Regulatory Agencies work together on the Shipyard under the terms of a Federal Facilities Agreement (FFA) dated 1992. The Regulatory Agencies oversee the cleanup of the Shipyard and evaluate the appropriateness of the proposed remedies.

The scope of environmental sampling and characterization at the Shipyard is extensive and thorough. For example, more than 14,000 groundwater samples have been analyzed across the Shipyard wherever prior activities may have resulted in releases of contaminants to the environment. Since 2004, groundwater at the Shipyard has been and continues to be monitored under the Navy's Basewide Groundwater Monitoring Program. This program is intended to support the management of contaminants in groundwater during the cleanup process. Under the program, the Navy monitors groundwater levels and groundwater quality (chemistry) at approximately 200 well locations across the Shipyard twice annually. The latest groundwater monitoring data and groundwater elevation maps are available in the 2020 Annual Groundwater Monitoring Report dated January 2022.

The Navy's cleanup remedies at the Shipyard (both completed and underway) consider SLR. The approved Navy remedial designs accounted for a potential 3-foot increase in sea level when establishing the crest elevations for each of the shoreline protection structures at Navy Parcels B-1, B-2, E, E-2 and IR-07. As an example of a shoreline protection structure already in place, the Parcel E-2 landfill remedy includes a concrete sea wall that will stand 12 feet above the current mean sea level.

Under the 2004 Conveyance Agreement, the Navy is required to provide a warranty and obtain the written concurrence from the Regulatory Agencies that sufficient remedial action (including groundwater remediation) has been taken to protect human health and the environment for the parcel's intended future use. Prior to the transfer, the San Francisco Department of Public Health (SFDPH), OCII, and their environmental consultants will review and comment on reports and analyses that support the Regulatory Agencies' concurrence. Therefore, cleanup will have been completed prior to redevelopment, future property ownership, or use of the land for residential purposes.

After remediation is complete there may still be low levels of residual chemicals remaining in place below soil or under a hardscape cover. As part of the Navy's cleanup program and as a requirement of the CERCLA process, the Navy will conduct a review of prior cleanup actions where residual contamination is left in place to ensure the remedy remains protective of human health and the environment. As the sea level rises, any associated rise in groundwater presenting a risk to human health or the environment would require remedial activities under the law. The Navy is obligated every five years (Five-Year Review) to revisit and examine its prior clean-up activities to ensure the remedies are still protective of human health in consideration of any new science standards. This Five-Year Review requirement remains in place even following the transfer of Shipyard property out of Navy ownership to the OCII.

The Five-Year Reviews are submitted to the FFA signatories and the City for review and comment. Community input is also solicited as part of the Five-Year Review process. The latest review is the Fourth Five-Year Review dated July 2019. The next review will be completed in 2023 and is open to community input. In consideration of the CGJ Report, the City and the Regulatory Agencies will provide recommendations for the Navy's 2023 Five-Year Review to present information about risks for shoreline facilities, with a focus on the possibility of remobilizing contamination. The City and Regulatory Agencies will review the information to evaluate the long-term protectiveness of ongoing and future remedial actions. The City will request that upcoming community meetings be held by the Navy during the next Five-Year Review process to hear and respond to community questions related to potential SLR and groundwater rise at the Shipyard.

Following the transfer of property from the Navy, the second phase of development of the Shipyard (Phase 2) is subject to Mitigation Measures from the environmental review process under the California Environmental Quality Act (CEQA) pertaining to site hazards and hazardous materials. The future developer must demonstrate compliance with various CERCLA and property transfer and control documents. The developer must also submit to SFDPH an Unexpected Condition Response Plan (i.e., a requirement under San Francisco Health Code Article 31). As a requirement of the 2019 Risk Management Plan, which is one of the documents cited by the Mitigation Measures, any proposed building within 100 feet of a performance monitoring well will be subject to an

evaluation of potential vapor source and intrusion pathway. This evaluation shall be conducted whether the remediation performance monitoring well is within or outside any groundwater management area or area requiring institutional controls for vapors. This requirement, which is in addition to and outside of the CERCLA process, provides another opportunity to evaluate possible changes in vapor conditions (such as due to changes in groundwater levels due to future sea level rise).

Following the property transfer, the Phase 2 development must also comply with Mitigation Measures pertaining specifically to sea level rise. Future structures proposed for development will be setback from the shoreline and constructed such that extreme high tides in the Bay, plus a 5.5 feet SLR allowance (i.e., over 70 years of SLR) can be accommodated without flooding.

Areas immediately adjacent to the shoreline are proposed parkland and open space. Raising the edge such that extreme high tides and storm surges, including 2050 levels of sea level rise, are accommodated at the time of construction is proposed for these areas. For sea levels higher than what is initially accommodated, the project's SLR Adaptation Strategy will be implemented by coordinating with relevant stakeholders and using the project-specific funding mechanism (Geologic Hazard Abatement District, Community Facility District, or other similar public entity with funding responsibility) that will be established at the time of initial construction. This approach is consistent with San Francisco Bay Conservation and Development Commission (BCDC) policies described in the Bay Plan (i.e., accommodate a minimum of 1.9 feet of SLR [considering a baseline sea level measured in 2000] and adapt for higher amounts of SLR through the end of project life). Utility infrastructure will have design criteria similar to the open space along the shoreline and will function without adaptations until SLR approaches 1.9 feet compared to sea level measured in 2000, and adaptations will be implemented for higher amounts of SLR.

Based on these planned SLR accommodations, groundwater will be significantly lower than site grades in the new neighborhoods/district and will not "emerge" or result in ponding even when SLR reaches 5.5 feet as compared to the sea level in 2000. To comply with the RWQCB policies and permits to protect ecological uses of the Bay, development adaptations must ensure that different stormwater drainage patterns and groundwater levels, flow directions, or amounts do not exacerbate flooding or groundwater levels at adjacent properties, nor transport any contaminants into the San Francisco Bay (including into any adjacent wetlands). To prevent the occurrence of ponding in open space and shoreline adjacent areas during extreme high tides beyond 1.9 feet of SLR due to higher groundwater levels, adaptation strategies will be implemented before this occurs. In addition, the RWQCB may issue new guidance for proposed shoreline adaptation projects.

Ongoing monitoring and maintenance of the Shipyard cleanup remedies are required prior to and following completion of the Navy's cleanup program, in accordance with parcel-specific Operation and Maintenance (O&M) Plans. O&M inspections are required annually and are intended to confirm that the integrity of the remedy is maintained and to ensure that land use controls are implemented effectively to limit the exposure of future landowners or users of the property to potentially hazardous substances. A review of the integrity of the soil and hardscape durable covers and adequacy of site drainage is already included in the inspection process. Annual inspection reports are and will continue to be submitted to the FFA signatories for review and comment.

During the development process, the FFA signatories will perform additional inspections to verify compliance with the Risk Management Plan procedures and protocols. These inspections will be considered during the Five-Year Review process described above.

F2: The Federal Facility Agreement signatories have neglected to investigate how groundwater rise may lessen the effectiveness of the Navy's cleanup at the Hunters Point Shipyard Superfund site.

Finding Response: Disagree Wholly.

We appreciate that the CGJ has raised a concern regarding the effectiveness of the Navy's cleanup in relation to potential groundwater rise. However, as noted under response to F1, we disagree with CGJ's finding that risks are being neglected by the FFA signatories. The CERCLA process governing the cleanup is designed to be iterative, to incorporate new findings, and to identify future risks, such as sea level rise and potential groundwater rise. In cooperation with the FFA signatories, the Navy will evaluate the impacts of groundwater rise on existing and future conditions of residual contamination and remedies in their 2023 Five Year Report. We will work with the Navy and Regulatory Agencies to make sure the community is informed regarding this important question and how it has been, is being, and will be addressed by the Navy and the Regulatory Agencies as part of the CERCLA process.

As described under Response to F1, groundwater cleanup actions will be completed prior to the transfer and development of the Shipyard. Since 2004, groundwater at the Shipyard has been, is currently being, and will continue to be monitored under the Navy's Basewide Groundwater Monitoring Program. This program is intended to support the management of contaminants in groundwater during the cleanup process and includes an evaluation of groundwater elevations across the Shipyard. The RWQCB is requesting modifications to the Navy's Basewide Groundwater Monitoring Program in consideration of the CGJ Report.

The Navy is obligated every five years (Five-Year Review) to revisit and examine its prior clean-up activities to ensure the remedies are still protective of human health and the environment in light of any new science standards. In consideration of the CGJ Report, the City and the Regulatory Agencies will provide recommendations for the Navy's 2023 Five-Year Review to present information about risks for shoreline facilities, with a focus on the possibility of remobilizing contamination. The City and Regulatory Agencies will review the information to evaluate the long-term protectiveness of ongoing and future remedial actions. The City will request that the Navy hold community meetings during the next Five-Year Review process to hear and respond to community questions related to potential SLR and groundwater rise at the Shipyard.

F3: The process governing the cleanup at the Shipyard encompasses decisions and value judgments that matter to all San Franciscans, but the extremely technical nature of the process inhibits City leaders and citizens alike from understanding it, or even knowing what is at stake.

Finding Response: Disagree Partially.

We agree that the cleanup at the Shipyard encompasses decisions and value judgments that should matter to all San Franciscans. Even though we acknowledge the CERCLA process is technical in nature, we disagree partially with F3 because there are decades of understanding of the Shipyard cleanup by the City and the community. Also, there continues to be ample opportunities available for greater community understanding. City involvement is further described under response to F4. The City, Navy, and Regulatory Agencies strive to continuously improve effective education and communications regarding the Shipyard cleanup. This response describes existing resources and opportunities for engagement by the community.

There are many opportunities for the public to understand and receive updates regarding the status and significance of the cleanup activities. These opportunities include the Mayor's Hunters Point Shipyard Citizens Advisory Committee (CAC) and the Navy's Community Involvement Program (CIP).

F3 discounts the role of the CAC in connecting the City, Regulatory Agencies, and the Navy with the San Francisco community. It also discounts the Navy's robust CIP as described further below. The CAC consists of San Francisco community residents and business owners who are appointed by the Mayor to oversee the redevelopment process at the Shipyard. To date, in 2022, the CAC has held eight virtual meetings open to the public. In 2021, the CAC held seven virtual meetings open to the public. The CAC's Environmental and Reuse subcommittee hosts the Navy for regular clean-up updates and provides opportunities for community input. Regulatory Agencies also attend CAC meetings.

In addition, the CERCLA process requires community involvement by law. One such requirement is development of a Navy CIP that specifies the community relations activities that the Navy expects to undertake during cleanup. The CIP is based on community interviews and other relevant information and is also subject to review and input by the EPA, DTSC, and RWQCB. The Regulatory Agencies recently reviewed and provided comments on the latest draft CIP (2022) for additional improvement.

The CIP involves various local in-person and virtual community meetings, Navy-led bus tours, a Community Technical Advisor for radiological questions. In addition, the Navy's website includes Quarterly and Annual clean-up reports and many other detailed and high-level reports on the cleanup activities.

Since 2009, more than 2,000 members of the community have received information in person from Navy program representatives. Materials are also available by email, on the Navy's website at (www.bracpmo.navy.mil/hpns), at the San Francisco Public Library (https://sfpl.org/), and in periodic bulk mailings. In 2021, the Navy held fourteen community outreach events, including but not limited to presentations at the CAC meetings, various neighborhood association meetings, Shipyard Parcel A homeowner's association meetings, and Shipyard artists community meetings. Since 2017, the Navy has provided an expert in radiological health and safety as an independent technical advisor to the surrounding Bayview Hunters Point and the greater San Francisco community to answer questions. The independent technical advisor is available to answer questions by phone or email or to meet with community members virtually or in person. Navy program representatives lead bus tours, answer questions, provide cleanup program updates, and discuss

topics of interest. The EPA also has toll-free numbers for community involvement contacts for Superfund sites.

The Navy proposed a Draft CIP in 2022 that was circulated for comment and community input about the most effective ways to communicate with the public. In November 2021, to better understand the community's communication needs, the Navy distributed links to an electronic survey for the community to express their interests and outreach preferences. More than 20,000 community members were reached using multiple outreach methods. Surveys were available in English, Spanish, and Chinese. The Navy also held one-on-one interviews with community stakeholders to gain more in-depth insight into the most effective ways to share information with the community. A total of 316 people participated in the survey. The information gathered from the 2021 survey and interviews helped the Navy evaluate the effectiveness of its outreach. It also allowed for community feedback and suggestions for improvement.

The CERCLA process also requires steps for community input on cleanup documents. For example, a formal months-long opportunity for public comment is provided during the development of the Proposed Plan for cleanup actions. In addition to the publication of the draft Proposed Plan, a community meeting is held during the comment period; the meeting is noticed in local newspapers and staffed with a court reporter. All Proposed Plans are complete at the Shipyard and included significant community engagement. The Navy currently provides routine updates on the cleanup progress as discussed above. Another opportunity for public comment is provided during the Five-Year Review process, described above. During the most-recent Five-Year Review (2019), members of the San Francisco community were notified about the initiation of the Five-Year Review process by email, through a community meeting, and through notices published in local newspapers (San Francisco Chronicle and San Francisco Bay View). A similar process is anticipated during the 2023 Five-Year Review. In response to the CGJ Report, the City will request that upcoming community meetings be held by the Navy during the next Five-Year Review process to hear and respond to community questions related to potential SLR and groundwater rise at the Shipyard.

F4: Despite the enormous stakes of the process governing the Shipyard cleanup, there is little understanding of the process throughout the City, or even that the City can influence this process.

Finding Response: Disagree Wholly.

While we acknowledge that the Shipyard cleanup process carries enormous stakes for San Franciscans, we disagree with this finding because the City has been actively engaged and involved in the Shipyard cleanup analysis and efforts for decades. There are approximately 30 years of understanding of the Shipyard cleanup by SFDPH, and several of our responses, including this one, explain the manner in which the City is engaged in and influences the cleanup process, and ensures that the community is involved. A cornerstone of the 2004 Conveyance Agreement is the collaborative partnership it forms between the Navy, the Office of Community Investment and Infrastructure (OCII), and the City on issues related to the cleanup of the Shipyard. While the Navy must retain final legal and financial responsibility for the cleanup under federal law, the Conveyance Agreement requires the Navy to work closely with the City and OCII in finding appropriate

solutions to remediation problems by including them earlier and more often in the Navy's decision-making processes.

SFDPH, OCII's technical consultants, and the City Attorney's Office review and comment on Navy documents that are also submitted to the Regulatory Agencies. SFDPH has been involved in the CERCLA cleanup process since 1993. SFDPH's longstanding involvement provides continuity in understanding the long history of cleanup documents and decisions as the local City health and safety representative. SFDPH attends monthly environmental meetings with the Navy, EPA, DTSC, and RWQCB to review current cleanup work. SFDPH and OCII's technical consultant also attend as-needed technical team meetings. SFDPH provides critical reviews and comments on a variety of CERCLA cleanup documents. Since 2010, the SFDPH has reviewed over 350 cleanup reports.

The City (through SFDPH and the City Attorney's Office) and OCII also will play a significant role at the time of the transfer of Shipyard parcels from the Navy to OCII. Prior to the transfer, SFDPH and the OCII's technical consultant will review the Navy Finding of Suitability to Transfer (FOST) documents. SFDPH assists in the update of the Risk Management Plan prepared for future development, and updates to O&M Plans as needed. The City assists in the preparation of Deeds and Covenants Restricting Use of Property, and land surveys. In the future at the next transfer, OCII will present recommendations to the CAC and OCII Commission related to the transfer of parcels. The OCII Commission must provide concurrence with and formally accept the land transfer.

After the land is transferred to OCII, SFDPH will continue to be involved by verifying that any permits are compliant with clean-up decision documents through their Health Code Article 31 oversight. Specifically, prior to obtaining any grading, excavation, site, building, or other permits involving subsurface disturbance, a developer shall submit documentation acceptable to SFDPH that the work will be undertaken in compliance with all notices, restrictions, and requirements imposed pursuant to CERCLA documents such as Record of Decision (ROD), FOST, O&M Plan, Risk Management Plan and any other clean up restrictions.

F5: The City and County of San Francisco is poorly prepared to discover new information pertinent to the Shipyard cleanup, to proactively look for risks and problems overlooked or under-prioritized by the Federal Facility Agreement signatories, or to develop responses to new information or problems.

Finding Response: Disagree Wholly.

We disagree with this finding and several of our responses, including this one, explain all the ways in which the City (through SFDPH and working with OCII, the CAC, public meetings, and active engagement by the City's technical consultants) reviews new information or problems and ensures that the community is involved. The City, through the SFDPH and the City Attorney's Office and working with OCII, reviews, and comments on CERCLA documents throughout the Shipyard cleanup process.

In addition to the City's ongoing review of and involvement in the Navy's cleanup process, the City participates in the Five-Year Review Process.

Ongoing monitoring and maintenance of the Shipyard cleanup remedies are also required prior to and following the completion of the Navy's cleanup program, in accordance with parcel-specific O&M Plans. O&M requirements have informed and will continue to inform the Five-Year Review process. O&M inspections are required annually and are intended to confirm that the integrity of the remedy is maintained and to ensure that land use controls are implemented effectively to limit the exposure of future landowners or users of the property to potentially hazardous substances.

F6: No proactive mechanism exists for the City and County of San Francisco to articulate its interests and concerns about the cleanup for the Federal Facility Agreement signatories, nor does a mechanism exist for the City to monitor progress towards obtaining satisfactory responses to such interests and concerns from the signatories. (NOTE: for some reason this finding is one for the BOS to respond to, but not for the Mayor)

Finding Response: Disagree Wholly.

Please refer to responses to F4 and F5.

Recommendations

R1: By September 1st, 2022, the Mayor and/or the City Administrator should direct the Office of Resilience and Capital Planning, in collaboration with the Department of Public Health, to commission and manage an independent, third-party study of Hunters Point Shipyard to predict the future shallow groundwater surface, groundwater flows, and potential interactions of groundwater with hazardous materials and planned modifications to the site under multiple sea level rise scenarios.

Recommendation Response: Will not be implemented because it is not warranted or reasonable.

As stated in response to F1, the City is proposing a review of the potential for shallow groundwater to rise and potential hazardous impact to be more thoroughly analyzed and presented to the community by the Navy and the Regulatory Agencies as part of the CERCLA process. However, we disagree with the recommendation that the City commission a third-party study.

The underlying issues raised by R1 (i.e., potential interactions of groundwater with hazardous materials) will continue to be analyzed under the CERCLA clean-up process. The City and the Regulatory Agencies will provide recommendations for the Navy's 2023 Five-Year Review to present information about risks for shoreline facilities, with a focus on the possibility of remobilizing contamination.

The upcoming 2023 Five-Year Review will be reviewed and approved by the Regulatory Agencies, incorporating the past Navy analyses as described in our responses to Findings. Navy remedies will be changed to incorporate the results of this 2023 Five-Year Review, if needed. As described in response to F4, SFDPH, OCII technical consultants, and the City Attorney's Office review and comment on the Five-Year Review. Through our peer review of the Five-Year Review and in consideration of CGJ's concerns, we will provide a focused review of the potential for SLR, groundwater rise, and interactions of groundwater with hazardous materials. The community will also be invited to review and comment on the Five-Year Review.

R2: The Mayor and the Board of Supervisors should collaborate to provide funding for the study recommended in R1, in the Fiscal Year 22-23 budget, or by October 1st, 2022.

Recommendation Response: Will not be implemented because it is not warranted or reasonable.

Please see R1. R2 will not be implemented because further study is the responsibility of the Navy and FFA signatories.

R4: By October 1st, 2022, the Mayor should direct the Department of Public Health to support the Cleanup Oversight Committee in its due diligence function by providing explanatory materials and briefings about cleanup governance documents and the discourse among Federal Facility Agreement signatories, as well as additional materials at the request of the Committee.

Recommendation Response: Will not be implemented because it is not warranted or reasonable.

Proactive mechanisms already exist for the City to articulate its concerns about Navy cleanup activities and to monitor progress toward obtaining satisfactory responses. Modifications to the current process are not warranted.

The City and SFDPH remain committed to working within existing mechanisms in order to ensure the ongoing protection of the health and safety of the people who live and work adjacent to the Navy-owned Shipyard. As it has done in the past, SFDPH will continue to consult with the Regulatory Agencies and other experts as needed. Using these resources, SFDPH will verify that public health continues to be central to any issues in the future from potential SLR and groundwater level rise at the Shipyard.

R5: By October 1st, 2022, the Mayor and the Board of Supervisors should collaborate to ensure that funding is available to generate the material specified in R4, in the Fiscal Year 22-23 budget or by September 1st, 2022, and in future budgets.

Recommendation Response: Will not be implemented because it is not warranted or reasonable.

SFDPH and OCII, and their technical consultants, will continue to participate in the Shipyard clean-up process in accordance with the Conveyance Agreement. The recommendation in R5 to create and fund a new Hunters Point Shipyard Cleanup Oversight Committee is unnecessary since multiple layers of oversight already exist in the form of other committees and processes overseen by the Regulatory Agencies. In addition, there is a dedicated CAC, including a CAC Environmental and Reuse Subcommittee, that monitors the cleanup efforts by the Navy and has been doing so since 1993.

The cleanup process at the Shipyard is implemented pursuant to CERCLA and includes oversight of the Navy by the Regulatory Agencies. The CERCLA process includes documentation at each step of the process that explains what, how, and where the Navy will conduct its cleanup activities. The Regulatory Agencies, SFDPH, OCII technical consultants, and the City Attorney's Office, have provided comments on these documents for decades and the Navy revises its plans based on those comments. Any new and emerging issues are incorporated into the Navy's cleanup process. SLR has been incorporated into the design of the Navy remedies using the technical information that was available at the time of remedy design. The potential for rising groundwater levels will be looked at more closely during the next Five-Year Review. See response to R1 for discussion for the upcoming 2023 Five-Year Review.

The Navy and the Regulatory Agencies are obligated under CERCLA to conduct community involvement activities, which they have done for nearly 30 years. The Navy holds regular meetings where they update the community on their cleanup efforts. The Regulatory Agencies attend those meetings and provide updates on their oversight of the Navy. The Navy's outreach strategies are adjusted periodically and are described in their CIP. The latest update was drafted in 2022. The Navy and Regulatory Agencies provide updates to individual and neighborhood community groups. The Navy has regularly incorporated community comments into their CERCLA process in addition to their obligations for formal comment periods on certain decision documents.

The Navy is obligated through a Conveyance Agreement between the Navy and OCII to collaborate on sharing information and updates on the status of the cleanup and transfer of land at the Shipyard. This collaboration has included frequent, at least monthly meetings between the Navy, OCII, and SFDPH. In addition, the Regulatory Agencies are obligated to opine in writing that the parcels are safe prior to being transferred to OCII. In addition, OCII is under no obligation to accept any parcel that the Navy and or the Regulatory Agencies have deemed ready for transfer if the City and/or OCII determines there are unresolved issues, i.e., rising and untreated contaminated groundwater, if it exists.

Once a parcel is turned over to OCII, which has a Disposition and Development Agreement (DDA) in place with the developer of the Shipyard (FivePoint), all City permitting processes, with their multiple layers of review and oversight, would verify that everything that is built complies with the safeguards of the Building and Health Codes. This includes special provisions in Health Code Article 31 that can verify that any restrictions on the property are properly implemented. In addition, the DTSC can enforce any ongoing obligations that the Navy may still retain. This includes addressing any new or emerging issues like rising groundwater.

R6: From October 1st, 2022 and going forward, whenever there are outstanding questions and requests to the Federal Facility Agreement signatories, and especially during the lead-up to major cleanup document releases, a member of the management chain overseeing the Hunters Point Shipyard Program in the Department of Public Health should appear before the Shipyard Cleanup Oversight Committee at regular intervals to report on discussions with the Federal Facility Agreement signatories.

Recommendation Response: Will not be implemented because it is not warranted or reasonable.

Proactive mechanisms already exist for the City to articulate its concerns about Navy cleanup activities and to monitor progress toward obtaining satisfactory responses. Please see response to R1.

SFDPH remains committed to working within existing mechanisms in order to ensure the ongoing protection of the health and safety of the people who live and work adjacent to the Navy-owned Shipyard. As it has done in the past, SFDPH will continue to consult with the Regulatory Agencies and other experts as needed. Using these resources, SFDPH will ensure that public health continues to be central to any issues in the future from SLR and groundwater level rise at the Shipyard.

As described in response to F3, the CERCLA process also includes steps for community input on major cleanup documents. For example, a formal months-long opportunity for public comment is provided during the development of the Proposed Plan for cleanup actions. In addition to the publication of the draft Proposed Plan, a community meeting is held during the comment period which is noticed in local newspapers and staffed with a court reporter. All Proposed Plans are complete at the Shipyard and included significant community engagement. The Navy currently provides routine updates on the cleanup progress as discussed above. As described in R1, another opportunity for public comment is provided during the Five-Year Review process.

R7: By March 1st, 2023, the Hunters Point Shipyard Cleanup Oversight Committee should prepare a report on its recommended requests for the Federal Facility Agreement signatories based on the groundwater study recommended in R1, and deliver that report to the Board of Supervisors, the Mayor, and the Department of Public Health.

Recommendation Response: Will not be implemented because it is not warranted or reasonable.

Please see responses to R5 and R6.