CITY COUNCIL AGENDA REPORT

Meeting Date: March 5, 2020

From: Clay Holstine, City Manager, Tom McMorrow, Interim City Attorney, and Michael Roush, General Counsel

Subject: Resolution Approving the First Amendment to Memorandum of Agreement (Baylands) and Approving an Addendum to the Baylands Final Environmental Impact Report and the Silicon Valley Clean Water Final Integrated EIR for the Wastewater Conveyance System and Treatment Plant Reliability Improvement Project

Recommendation

Adopt an Addendum to the Baylands Final Environmental Impact Report and Silicon Valley Clean Water Final Integrated EIR for the Wastewater Conveyance System and Treatment Plan Reliability Improvement Project and Approve the First Amendment to Memorandum of Agreement Concerning the Baylands

Background

In 2014, the City and the property owner of the what is commonly referred to as the Baylands entered into a Memorandum of Agreement ("MOA") that sets forth terms and conditions by which the property owner may continue its soil processing operation on a portion of the Baylands. For example, the MOA provides for certain limitations as to the height of the piles of soil that have been brought to the site for soil processing.

In 2018, the City Council certified the Baylands Final Environmental Impact Report ("Baylands Final EIR") and approved a General Plan amendment related to the Baylands to allow for a range of 1800—2200 dwelling units and up to 6.5 million square feet of new commercial development and 500,000 square feet of hotel development, subject to the City's approval of a Specific Plan consistent with the policies established in the General Plan amendment. The General Plan amendment contemplated the final closure of the landfill on the Baylands and the movement of soil within the site. The General Plan amendment was submitted to the voters in November 2018 and approved.

In connection with preparation of the Specific Plan, the property owner is processing a Remedial Action Plan ("RAP") and a Remedial Design and Implementation Plan ("RDIP") for a portion of the Baylands, designated as UPC-OU-SM and depicted generally on Attachment 1 (the "UPC-OU-SM Site").

Because the height limitation of the piles of soil have generally reached the maximum height permitted under the MOA, the City has prohibited the property owner from bringing any more soil to the Baylands until soil currently on the site has been off hauled and/or the City has

approved a grading plan concerning the distribution of the soil elsewhere on the Baylands, for example, relocating the soil from the east side to the west side.

Recently, the property owner has requested the City to permit it to be allowed to bring to the site 166,000 cubic yards of bay mud for the purpose of furthering the final closure of the landfill on the east side of the Baylands, in compliance with the requirements of the Regional Water Quality Control Board ("RWQCB"). The property owner has also requested the City to permit it to be allowed to relocate 200,000 cubic yards of soil on east side to the UPC OU-SM Site (the west side).

Another public agency, a joint powers agency called Silicon Valley Clean Water, certified a separate, final integrated environment impact report for the Wastewater Conveyance System and Treatment Plant Reliability Improvement Project, and then approved that Project which contemplates the export of 166,000 cubic yards of bay mud from that Project's gravity sewer pipeline construction site.

The use of imported bay mud on the east side of the Baylands and relocating 200,00 cubic yards of existing soil from the east side to the west side will further the efforts of final closure of the landfill as evaluated in the Baylands Final EIR and is consistent with the approved General Plan Amendment.

Attached is a resolution approving the First Amendment to the MOA. In general terms, it would permit 166,000 cubic yards of imported bay mud from the Silicon Valley Clean Water Project described above to be brought to the east side of the Baylands (to be used as a cap as part of the landfill closure) and would require 200,000 cubic yards of existing soil to be relocated from the east side of the Baylands to the west side (or hauled offsite to a location outside Brisbane). The resolution also approves an addendum to the Baylands Final EIR and the Silicon Valley Clean Water Final Integrated EIR (described above).

Discussion

The salient terms of the First Amendment are as follows:

1. Up to 166,000 cubic yards of bay mud may be brought to the east side of the Baylands.

2. Prior to importing bay mud to the Baylands and relocating soil from the east side of the Baylands to the west side (or exporting soil from the east side to an alternative location outside the City of Brisbane), the property owner must submit to the City Engineer a grading plan and a truck traffic plan. Such plans would address matters such as the timing of the import and relocation/export operations, the truck routes, the number of trucks, hours of operation, etc.

3. The bay mud will be tested using protocols approved by the City Engineer to ensure that the bay mud meets all the required standards of the RWQCB as a "cap" for landfill

closure and otherwise does not present a health or safety concern for the community. The bay mud will be tested regularly and randomly. Moreover, notwithstanding the testing of the bay mud, if it is later determined that some or all of the bay mud does not meet the required standards of the RWQCB as a cap for landfill closure or is otherwise a health or safety concern, the City Engineer will order the material to be removed immediately from the site. If the owner fails to do so, the owner is required to pay the City liquidated damages in the amount of $1000/day until the material is removed.

4. Within 180 days of the owner's receipt of an approved RAP and RDIP from the State Department of Toxic Substances Control ("DTSC") for the UPC-OU-SM Site, the owner must relocate 200,000 cubic yards of soil from the east side to the west side, and place that material in a manner approved in the RAP/RDIP in order to contain residual contamination. If the owner should fail to accomplish this task within the 180 day period, the owner must also pay liquidated damages to the City of $1000/day until the task is accomplished. (As mentioned above, the 200,000 cubic yards could also be relocated from the east side to a site not in Brisbane.)

5. Once the 200,000 cubic yards of soil has been moved from the east side, the City will establish (and the owner will comply with) revised height limitations for the remaining piles of soil on the east side.

6. The owner will pay the City the established truck hauling fees for the import of the bay mud to the east side and the relocation of soil from the east side to the west side (or to a site outside of Brisbane).

7. If, as a result of these activities, there are violations of the grading plan, the truck traffic plan or of other provisions of the Brisbane Municipal Code, the owner will pay the City $1000/day for each day there is a violation.

Environmental Determination

Because the environmental impacts associated with the relocation of 200,000 cubic yards of soil from east side of the Baylands were previously described and analyzed at a programmatic level in the Baylands EIR, an addendum to that EIR has been prepared pursuant to the California Environmental Quality Act Guidelines, Sections 15162 and 15164. In addition, because the environmental impacts associated with offsite hauling of 166,000 cubic yards of excavated soil from the Silicon Valley Clean Water Project gravity sewer construction site described above were previously described and analyzed in the Silicon Valley Clean Water Project's Integrated Final EIR, an addendum to that EIR has been prepared pursuant to the California Environmental Quality Act Guidelines, Sections 15162 and 15164.

Fiscal Impact

The City anticipates receiving $190,000 in truck hauling fees if all the cubic yards of material contemplated by this Amendment are brought to, and relocated from, the Baylands.

Attachments

1. UPC- OU-SM Site
2. First Amendment to the MOA
3. Resolution Approving the First Amendment to the MOA and Approving an Addendum to the Baylands Final EIR and to the Final Integrated EIR for the Silicon Valley Clear Water Project

Clay Holstine, City Manager	Tom McMorrow, Interim City Attorney	Michael Roush, Legal Counsel

BAY MUD IMPORT ADDENDUM

Figure 5

Remediation and Landfill Closure Locations

Attachment 2

FIRST AMENDMENT TO MEMORANDUM OF AGREEMENT

THIS FIRST AMENDMENT to the Memorandum of Agreement between the City of Brisbane ("City) and Sunquest Properties, Inc. ("Property Owner") is made _____, 2020.

Recitals

A. City and Property Owner entered into a Memorandum of Agreement ("MOA") that sets forth the terms and conditions by which the Property Owner may continue its Soil Processing operation on the Soil Processing Site
B. Capitalized terms used in this First Amendment have the same meaning as capitalized terms in the MOA.
C. The MOA provides for certain limitations as the height of the piles of soil that have been brought to the Soil Processing Site for Soil Processing.
D. Property Owner is processing a Remedial Action Plan ("RAP") and a Remedial Design and Implementation Plan ("RDIP") for a portion of Property Owner's property in Brisbane, designated as UPC-OU-SM and depicted generally on the attached Exhibit A (the "UPC-OU-SM Site").
E. Because the height limitation of the piles of soil have generally reached the maximum height permitted under the MOA, the City has prohibited the Property Owner from bringing any more soil to the Soil Processing Site until soil currently on the Soil Processing Site has been off hauled and/or the City has approved a grading plan concerning the distribution of the soil on Property Owner's property in Brisbane.
F. Property Owner has requested the City to permit it to be allowed to bring to the Soil Processing Site "Bay Mud" that, for purposes of this First Amendment shall mean, soil for the ultimate use as a low-hydraulic conductivity layer required in 27 California Code of Regulations, Section 21090 (a)(2) that, when placed on top of a foundation layer to a depth of not less that one foot, is capable of being compacted to attain a hydraulic conductivity of either 1 foot/year or less, for the purpose of furthering the final closure of the landfill on the Soil Processing Site, in compliance with the requirements of State Title 27 and the Regional Water Quality Control Board ("RWQCB").
G. Property Owner has also requested the City to permit it to be allowed to relocate up to 166,000 cubic yards of soil on the Soil Processing Site to the OU-SM Site.
H. City is willing to accommodate Property Owner's requests assuming certain conditions as set forth in this First Amendment are satisfied.
I. City has certified a program level Final Environmental Impact Report ("Final EIR") and has approved a General Plan Amendment for a residential and commercial project on Property Owner's property in Brisbane that includes the Soil Processing Site and the UPC-OU-SM Site, which project contemplates final closure of the landfill and movement of soils within the Sites.
J. Silicon Valley Clean Water certified a Final Integrated EIR and approved the Wastewater Conveyance System and Treatment Plant Reliability Improvement Project, which contemplates the export of up to 166,000 cubic yards of Bay Mud from that project's construction site.
K. The use of Bay Mud on the Soil Processing Site and the relocation of soil from the Soil Processing Site to the UPC-OU-SM Site will further the efforts of final closure of the landfill as evaluated in the Final EIR and is consistent with the approved General Plan Amendment.
L. The import of Bay Mud to the Soil Processing Site that fails to meet the required standards of the RWQCB as a cap for landfill closure if imported to the Soil Processing Site and allowed to remain on the Soil Processing Site would present a significant health hazard to the residents of the Brisbane but establishing how to calculate damages or the amount of damages if such Bay Mud were to remain on the Soil Processing Site is difficult.

M. Similarly, the continued presence of soil on the Soil Processing Site that is at or near the height limits set forth in the MOA causes dust and dirt particles throughout the Brisbane and surrounding communities and presents a visual blight. Permitting the Property Owner to import an additional 166,000 cubic yards of Bay Mud to the Soil Processing Site without a concomitant relocation of a similar amount of soil from the Soil Processing Site exacerbates the potential for a health hazard to Brisbane residents due to additional dust and dirt particles in Brisbane and adds to the visual blight.

N. In addition, Property Owner 's activities as described in this First Amendment could result in violations of provisions of the Brisbane Municipal Code.

O. The parties have discussed and otherwise reasonably endeavored to determine the fair compensation to the City if (a) the Property Owner fails either to remove timely Bay Mud from the Soil Processing Site once ordered to do so (as provided in Section 3 below) or to relocate/export soil from the Soil Processing Site within 180 days of the Property Owner's receipt of an RAP and RDIP from the State Department of Toxic Substances Control ("DTSC") (as provided in Section 4 below) or (b) Property Owner violates provisions of the Brisbane Municipal Code (as provided in Section 7 below)and have concluded that it is impractical or extremely difficult for the parties to foresee what the damages would be or how those damages would be calculated.

P. The parties nevertheless wish to embody in this First Amendment a liquidated damages provision in the event of the Property Owner's breach for the reasons in Recitals L, M and N.

Q. The City Council has considered and approved an Addendum to the Final EIR and an Addendum to the Silicon Valley Clean Water Project Integrated Final EIR concerning the activities described in this First Amendment.

NOW, THEREFORE, the parties agree the MOA be amended to include the following provisions:

1. Prior to the Property Owner's commencing the import of Bay Mud to the Soil Processing Site (see section 2 below) and the relocation of soil from the Soil Processing Site to UPC-OU-SM (or the export of soil from the Soil Processing Site to an alternative location outside the City of Brisbane (see section 4 below), Property Owner shall submit to the City (a) a grading permit application under Chapter 15.01, Brisbane Municipal Code ("BMC) (which permit shall be exempt from Planning Commission approval as provided in Section 15.01.081, BMC) and (b) a truck traffic plan.
2. Subject to the City Engineer's approval of a grading permit and a truck traffic plan, which permit and plan will address Bay Mud import, soil relocation or export, and the timing of the import and relocation/export operations, for example, hours of operation, the number of truck trips per day and a methodology to determine such number, etc., , Property Owner may import up to 166,000 cubic yards of Bay Mud to the Soil Processing Site.
3. As the Bay Mud is brought to the Soil Processing Site, Property Owner shall test the Bay Mud using protocols approved by the City Engineer to ensure that the Bay Mud meets all the required standards of the State Title 27 and RWQCB as a "cap" for landfill closure and otherwise does not pose a threat to the public health and safety. Such protocols shall include, but not be limited to, the City Engineer's review of scheduled submission of ongoing testing of the Bay Mud, as well as the City Engineer's review of random testing of the Bay Mud. If as a result of the testing of the Bay Mud or otherwise,, if it is determined that some or all of the Bay Mud does not meet the required standards of the State Title 27 and RWQCB as a cap for landfill closure or otherwise presents a threat to the public health and safety, the City Engineer shall order the Property Owner to remove immediately the Bay Mud from the Soil Processing Site. If Property Owner fails to begin removing the Bay Mud from Soil Processing Site within 48 hours from its receipt of the City Engineer's order to do so and/or fails to remove the Bay Mud from the Soil

Processing Site within 20 days from the date of the City Engineer's order to do so, Property Owner shall pay liquidated damages to the City of $1000/day until the Bay Mud has been removed.

4. Within 180 days of the Property Owner's receipt of an approved RAP and RDIP from the State Department of Toxic Substances Control ("DTSC") for the UPC-OU-SM Site, Property Owner shall relocate 200,000 cubic yards of soil from the Soil Processing Site to the UPC-OU-SM Site, and place that material in a manner approved in the RAP/RDIP in order to contain residual contamination. If Property Owner fails to relocate 200,000 cubic yards of soil from the Soil Processing Site to the UPC- OU-SM Site within 180 days of Property Owner's receipt of an approved RAP and RPID from DTSC, Property Owner shall pay liquidated damages to the City of $1000/day until 200,000 cubic yards of soil has been relocated from the Soil Processing Site to the UPC-OU-SM Site. Property Owner may also satisfy the requirements of this Section 4 by relocating 200,000 cubic yards of soil from the Soil Processing Site to a City Engineer's approved alternative receiving site not within the City of Brisbane.
5. Once the Property Owner has relocated 200,000 cubic yards of soil from the Soil Processing Site to the UPC-OU-SM Site, the City shall establish, and Property Owner shall comply with, revised height limitations for the remaining piles of soil on the Soil Processing Site.
6. Property Owner shall pay the City the grading permit and truck haul permit impact fees established in the most current Master Fee Schedule for the import of the Bay Mud to the Soil Processing Site and the relocation of soil from the Soil Processing Site to the UPC-OU-SM Site or to an alternative receiving site.
7. If Property Owner violates any condition of the approved grading plan, the approved truck traffic plan or provisions of the Brisbane Municipal Code, Property Owner shall pay City as liquidated damages $1000/day for each day the Property Owner has violated either or both plans, or has violated provisions of the Brisbane Municipal Code.
8. With attorneys retained by the City, Property Owner shall indemnify, defend and hold harmless City, its officers, employees and agents, from and against all claims, demands, liabilities, actions, causes of action, losses, damages, cost and expenses, including reasonable attorney's fees, against the City, or any of its officers, employees or agents, arising out of this First Amendment or the MOA, including but not limited to legal challenges under the California Environmental Quality Act. Property Owner shall deposit funds with the City to cover the costs arising out of the matters described in this section 8.
9. Notwithstanding the liquidated damages provisions in this First Amendment, in the event of breach of this First Amendment or the MOA, City may exercise any and all rights in has in law and in equity, including specific performance of Property Owner's obligations under this First Amendment or the MOA.
10. This First Amendment may be amended only by a written instrument executed by the parties or their successors in interest
11. Any of the requirements of this First Amendment or the MOA may be expressly waived in writing by the parties but no waiver of any requirement of this Agreement shall, or shall be deemed, to extend or effect any other provision of this First Amendment or the MOA. The City's waiver of any breach of any term or condition of this First Amendment or the MOA shall not be deemed a waiver of any subsequent breach of the same or any other term or condition.
12. If any provision of this First Amendment or the MOA is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining portions of this First Amendment or the MOA shall not in any way be affected or impaired thereby.

13. In any action to enforce this First Amendment or the MOA, the prevailing party shall be entitled to all costs and expenses of suit, including reasonable attorneys' fees.
14. The obligations of this First Amendment and the MOA shall run with the land and be binding on the parties, their successors and assigns.
15. Notices, demands and communications between the parties shall be given by registered or certified mail, return receipt requested, or delivered by express delivery service, return receipt requested, or delivered personally, to the principal office of the parties as follows:
    City: City Manager, City of Brisbane, 50 Park Place, Brisbane, CA 94005
    Property Owner: Sunquest Properties, Inc. Greg Vilkin 150 Executive Park Blvd., Suite 4000 San Francisco, CA 94134
16. This First Amendment and MOA shall be governed by the laws of the State of California. Venue for any action to enforce or interpret this First Amendment or the MOA shall be in the Superior Court of the State of California, County of San Mateo.
17. This First Amendment contains the entire understanding between the parties with respect to the subject matter of this First Amendment and there are no representations, agreements or understandings, whether oral or written, between the parties relating to the subject matter of this First Amendment that are not fully expressed herein. The drafting and negotiating of this First Amendment have been participated in by each of the parties and/or their counsel and for all purposes this First Amendment shall be deemed to have been drafted jointly by both parties.
18. Except as provided in this First Amendment, the terms and conditions of the MOA are to continue in full force and effect.

IN WITNESS WHEREOF, the parties have executed this First Amendment the day and year first written above.

CITY OF BRISBANE

_____
Mayor

BAYLANDS DEVELOPMENT, INC.

By: Kevin Cullina
Vice President

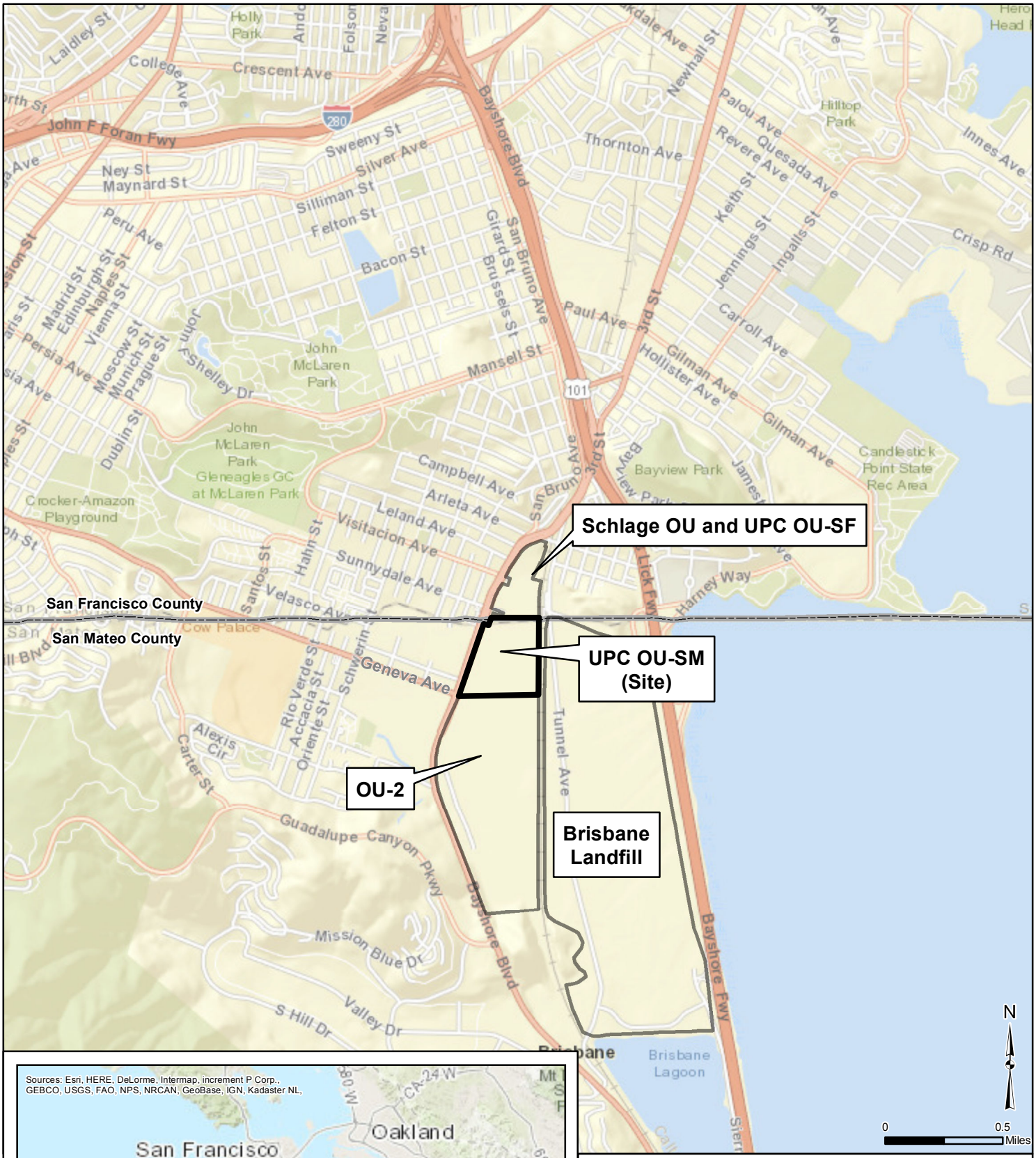
Attest:

Ingrid Padilla,
City Clerk

Approved as to form:

Thomas McMorrow
Interim City Attorney

Exhibit A



Site Location Map

UPC OU-SM
Brisbane, California

Geosyntec consultants

WG2245	April 2018

Figure 1

\\oakland-01\data\GIS\UPC\Brisbane\Project\2018_DataGapAnalysis\Figure01_SiteLocation_UPC_OU-SM_Brisbane.mxd 4/18/2018 11:08:08 AM

Attachment 3

CITY COUNCIL RESOLUTION NO. 2020-19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE APPROVING THE FIRST AMENDMENT TO THE MEMORANDUM OF AGREEMENT BETWEEN THE CITY AND THE PROPERTY OWNER (BAYLANDS) AND APPROVING AN ADDENDUM TO THE BAYLANDS FINAL ENVIRONMENTAL IMPACT REPORT AND THE SILICON VALLEY CLEAN WATER FINAL INTEGRATED EIR FOR THE WASTEWATER CONVEYANCE SYSTEM AND TREATMENT PLANT RELIABILITY IMPROVEMENT PROJECT

Whereas, In 2014, the City and the property owner of what is commonly referred to as the Baylands entered into a Memorandum of Agreement ("MOA") that sets forth terms and conditions by which the property owner may continue its soil processing operation on a portion of the Baylands; and

Whereas, in 2018, the City Council adopted findings demonstrating that the Baylands Final Program Environmental Impact Report ("Baylands Final EIR") has been prepared in accordance with the provisions of the California Environmental Quality Act and the City Council certified the Baylands Final EIR; and

Whereas, the City also approved a General Plan amendment related to the Baylands to allow for a range of 1800—2200 dwelling units and up to 6.5 million square feet of new commercial development and 500,000 square feet of hotel development, subject to the City's approval of a Specific Plan consistent with the policies established in the General Plan amendment; and

Whereas, the General Plan amendment contemplated the final closure of the landfill on the Baylands in accordance with Title 27, including the movement of soil within the site; and

Whereas, the General Plan amendment was submitted to the voters in November 2018 and approved; and

Whereas, in connection with preparation of a Specific Plan for the Baylands, the property owner is processing a Remedial Action Plan ("RAP") and a Remedial Design and Implementation Plan ("RDIP") for a portion of the Baylands, designated as UPC OU-SM (the " UPC OU-SM Site"); and

Whereas, because the height limitation of the piles of soil within the former landfill have generally reached the maximum height permitted under the MOA, the City has prohibited the property owner from bringing any more soil to the Baylands until soil currently on the site has been off hauled and/or the City has approved a grading plan concerning the distribution of the soil elsewhere on the Baylands, for example, relocating the soil from the east side to the west side of the Baylands; and

Whereas, the property owner has requested the City to permit it to be allowed to bring to the site 166,000 cubic yards of bay mud for the purpose of furthering the final closure of the landfill on the east side of the Baylands, in compliance with the requirements of the State Title 27 and Regional Water Quality Control Board ("RWQCB") and relocate 200,000 cubic yards of existing soil from the east side of the Baylands to the OU-SM Site (the west side) (or hauled offsite to a location outside Brisbane); and

Whereas, another public agency, Silicon Valley Clean Water, has certified a separate, final integrated environment impact report for the Wastewater Conveyance System and Treatment Plant Reliability Improvement Project, and has approved that Project, which contemplates the export of 166,000 cubic yards of bay mud from that Project's gravity sewer pipeline construction site; and

Whereas, the use of imported bay mud on the east side of the Baylands and relocating 200,000 cubic yards of existing soil from the east side to the west side further the efforts of final closure of the landfill as evaluated in the Baylands Final EIR, and implement, and are consistent with, the approved General Plan Amendment; and

Whereas, environmental analysis and documentation undertaken for the activities described in the First Amendment to the MOA demonstrate that none of the conditions described in the CEQA Guidelines, Section 15164 calling for the preparation of a subsequent or supplemental EIR have occurred; and

Whereas, the City Council at its regular meeting on March 5, 2020, considered the First Amendment to the MOA and the Addendum to both the Baylands Final EIR and the Silicon Valley Clean Water Final Integrated EIR For The Wastewater Conveyance System And Treatment Plant Reliability Improvement Project, at which time any person interested in the matter was given the opportunity to be heard.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL THAT:

Section 1. The above recitals are true and correct and are incorporated herein by reference.

Section 2. The City Council approves the Addendum to the Baylands Final EIR and the Silicon Valley Clean Water Final Integrated EIR for the Wastewater Conveyance System and Treatment Plant Reliability Improvement Project, which Addendum is set forth in Exhibit 1 to this Resolution.

Section 3. The City Council approves the First Amendment to the Memorandum of Agreement set forth as Exhibit 2 to this Resolution and authorizes the Mayor to sign the document.

Section 4. This resolution shall take effect immediately upon its adoption.

_____

Terry O'Connell, Mayor

I hereby certify that the foregoing Resolution No. 2020-19 was duly and regularly adopted at a regular meeting of the Brisbane City Council on March 5, 2020 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____

Ingrid Padilla, City Clerk

PROJECT INFORMATION

1. Project Title:	Brisbane Baylands Bay Mud Import
2. Lead Agency:	City of Brisbane 50 Park Place Brisbane, CA 94005
3. Contact Person:	John Swiecki, Community Development Director (415) 508-2120 jswiecki@brisbaneca.org
4. Project Location (Soil Import):	City of Brisbane, Baylands Subarea. Bay mud is proposed to be transported to and stockpiled within the former Brisbane Landfill site within the eastern portion of the Baylands Subarea. Existing soil within the former landfill would subsequently be relocated to the western portion of the Baylands Subarea.
5. Project Location (Soil Export):	Cities of Redwood City and San Carlos. Gravity sewer construction site for the Silicon Valley Clean Water Wastewater Conveyance System and Treatment Plant Reliability Improvement Project from which bay mud will be hauled.
6. Project Sponsor:	Sunquest Properties, Inc.
7. Project Description:	Import bay mud excavated during construction of the Silicon Valley Clean Water Wastewater Conveyance System and Treatment Plant Reliability Improvement Project to the Brisbane Baylands (former landfill site), and relocate 200,000 cubic yards of existing soil from the former landfill site to the former rail yard site immediately to the west (remediation operable unit UPC-OU-SM).
8. Project Objective:	Facilitate Title 27 closure of the former Brisbane Landfill by importing bay mud that is suitable for the low hydraulic conductivity layer needed to cap the former landfill.
9. Discretionary Actions:	**City of Brisbane**: Amendment to the existing 2014 Memorandum of Agreement for soils processing within the Baylands.
10. Previous Environmental Reviews:	Brisbane Baylands Program EIR (SCH #2006022136) Silicon Valley Clean Water Final Integrated EIR for the Wastewater Conveyance System and Treatment Plant Reliability Improvement Project, CIP No. 6006 (State Clearinghouse #2016022055)

This page intentionally left blank.

EIR Addendum:

Brisbane Baylands Program EIR
and
Silicon Valley Wastewater Conveyance System and Treatment Plant Reliability Improvement EIR

1.0 INTRODUCTION

Sunquest Properties, Inc. (Sunquest) is proposing to amend an existing 2014 Memorandum of Agreement (MOA) with the City of Brisbane that sets forth terms and conditions for soils processing activities within the site of the former Brisbane Landfill. The proposed amendment to the MOA would permit the import of bay mud to a portion of the former landfill site along with relocation of 200,000 cubic yards of existing soil from the former landfill site within the eastern portion of the property known as the "Brisbane Baylands" to the western portion of the Baylands (former railyard).

Sunquest Properties desires to acquire the bay mud that will be excavated and hauled offsite as part of Silicon Valley Clean Water's Wastewater Conveyance System and Treatment Plant Reliability Improvement Project to facilitate closure of the former Brisbane Landfill in compliance with California Resources Code Title 27 and the requirements of the Regional Water Quality Control Board (RWQCB).

Among the 17 major improvements that comprise the Silicon Valley Clean Water Project is construction of a 15-foot diameter tunnel for a gravity sewer pipeline from the agency's wastewater treatment plant to the San Carlos Airport, a distance of 3.33 miles. The Environmental Impact Report (EIR) for the Silicon Valley Clean Water Project estimates that tunneling and construction of that pipeline will require excavation and offsite hauling of 166,000 cubic yards of bay mud. It is that bay mud that Sunquest proposes importing to the Baylands.

The proposed import of bay mud to the Brisbane Baylands requires a public agency (City of Brisbane) to undertake the discretionary action of amending the existing soil processing MOA. This discretionary action is subject to the requirements of the California Environmental Quality Act (CEQA). The proposed Bay Mud Import Project includes three distinct activities: (1) hauling of bay mud from the Silicon Valley Clean Water gravity sewer construction site to the former Brisbane Landfill site, (2) placement and stockpiling of the imported bay mud within the former landfill for later use in constructing a landfill cap, and (3) relocation of existing soil from the

former landfill site to the western portion of Baylands. Because the proposed bay mud import project involves activities that were previously addressed at a programmatic level in two different Environmental Impact Reports (EIRs): the City of Brisbane's Baylands Program EIR and Silicon Valley Clean Water's Wastewater Conveyance System and Treatment Plant Reliability Improvement EIR, this document serves as an Addendum to both of these certified Final EIRs.

2.0 APPLICABLE CEQA REQUIREMENTS FOR AN EIR ADDENDUM

The provisions of CEQA Guidelines §15162 and §15164 include guidance for the environmental review of projects addressed in an EIR following certification of the Final EIR. CEQA Guidelines §15162 identifies the following requirements for subsequent environmental review following certification of an EIR:

(a) When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

(1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

(2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

(3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:

(A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;

(B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;

(C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

(b) If changes to a project or its circumstances occur or new information becomes available after adoption of a negative declaration, the lead agency shall prepare a subsequent EIR if required under subdivision (a). Otherwise the lead agency shall determine whether to prepare a subsequent negative declaration, an addendum, or no further documentation.

CEQA Guidelines §15164 (a) states that the Lead Agency considering a project that was previously addressed in an EIR "shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in §15162 calling for preparation of a subsequent EIR have occurred." Should an addendum be determined to be required, the Lead Agency is required to provide a brief explanation of the decision not to prepare a subsequent EIR pursuant to §15162 that is supported by substantial evidence in the addendum, the lead agency's findings on the project, or elsewhere in the record. As is demonstrated in Section 4.0 of this Addendum, none of the conditions described in CEQA Guidelines §15162 calling for preparation of a subsequent EIR have occurred, and preparation of an addendum to the previously certified Brisbane Baylands Program EIR and the Silicon Valley Wastewater Conveyance System and Treatment Plant Reliability Improvement EIR is therefore required pursuant to CEQA Guidelines §15164.

2.1 DOCUMENTS REFERENCED

The following documents were used during preparation of this Addendum. All of the documents identified below are available for review at the City of Brisbane Community Development Department located at 50 Park Place, Brisbane, CA 94005. In addition, the Brisbane Baylands documents identified below can be found on the City of Brisbane website.

- The **Brisbane Baylands Program Environmental Impact Report**, which was originally prepared to address four Concept Plans for the development of the Baylands, provided the CEQA documentation required to support the City's approval of General Plan Amendment GP-1-18. The EIR also addresses Title 27 landfill closure and site grading at a programmatic level.
    - The Draft Brisbane Baylands Program EIR can be found on the City's website at: https://www.brisbaneca.org/baylands-deir
    - The Final Brisbane Baylands Program EIR can be found on the City's website at: https://www.brisbaneca.org/feir-documents

  - The City Council's findings for certification of the Brisbane Baylands Program EIR and approval of GP-1-18 can be found at: http://brisbaneca.org/sites/default/files/Reso201861CEQAFindingsAttach1.pdf

- The **Silicon Valley Clean Water Final Integrated EIR for the Wastewater Conveyance System and Treatment Plant Reliability Improvement Project, CIP No. 6006** addresses 17 major improvement and upgrade projects to SVCW's wastewater conveyance system and wastewater treatment plant, including offsite hauling of bay mud that will be excavated during excavation of a 3.3-mile long, 15-foot diameter tunnel for construction of a gravity sewer pipeline. The Silicon Valley Clean Water Final Integrated EIR and each of the above cited Brisbane Baylands documents can be found at:

City of Brisbane Community Development Department
50 Park Place
Brisbane, CA 94005

3.0 PROJECT DESCRIPTION

The Brisbane Baylands Bay Mud Import Project consists of a proposal by Sunquest Properties, Inc. to purchase and import excavated bay mud from the Silicon Valley Clean Water agency's Wastewater Conveyance System and Treatment Plant Reliability Improvement project to the site of the former Brisbane Landfill within the area known as the Brisbane Baylands to facilitate Title 27 closure of the landfill. The Project involves three distinct activities that have been previously addressed at a programmatic level in two certified Final EIRs.

- **Requested Discretionary Action**
  - **City of Brisbane**: amend an existing soils processing Memorandum of Agreement (MOA) with Sunquest Properties to permit the import of bay mud to the former landfill site within the eastern portion of the Baylands property, along with relocation of 200,000 cubic yards of existing soil to the western portion of the Baylands property.
- **Activities included in the Bay Mud Import Project**
  - Off-site hauling of an estimated 166,000 cubic yards of bay mud from the Clean Water project gravity sewer construction site former Brisbane Landfill site;
  - Placement and stockpiling of the bay mud within the former landfill site for use in construction of a landfill cap in compliance with Title 27; and
  - Relocation of 200,000 cubic yards of existing soil within the former landfill to the area immediately west of the former landfill site.
- **Previously Certified Environmental Impact Reports Addressing Project Activities**
  - **Final Brisbane Baylands Program Environmental Impact Report (State Clearinghouse #2006022136)**. The Brisbane City Council certified the Baylands Program EIR for development of 1,800 to 2,200 dwelling units and up to 6.5

million square feet of non-residential development with an additional 500,000 square feet of hotel use[1]. The Program EIR contemplated Title 27 closure of the former Brisbane Landfill, including placement of a low water conductivity cap on the landfill and substantial grading and movement of soil within the former landfill area for purposes of Title 27 landfill closure. The Program EIR also contemplated substantial grading and movement of soil from the former landfill within the eastern portion of the Baylands to the former railyard within the western portion of the Baylands to accommodate required remediation along with subsequent development of both portions of the Baylands.

- **Silicon Valley Clean Water Wastewater Conveyance System and Treatment Plant Reliability Improvement Project Integrated Final EIR (State Clearinghouse Number #2016022055**). The Clean Water EIR addresses 17 major improvement and upgrade projects to agency's wastewater conveyance system and wastewater treatment plant, including construction of a gravity pipeline that would require export of 166,000 cubic yards of bay mud.

3.1 PROJECT LOCATION

Figure 1 identifies the Project's regional location, including the location from which excavated bay mud will be hauled (see also **Figure 2**) and the location to which bay mud will be hauled, placed, and stockpiled (see also **Figure 3**).

The Clean Water project construction site where tunneling activities would excavate bay mud requiring offsite hauling is in the same general area as SVCW's existing conveyance and wastewater treatment system from the existing wastewater treatment plant adjacent to the north end of Bair Island to the San Carlos Airport, within the cities of Redwood City and San Carlos in southeastern San Mateo County.

The site to which bay mud is proposed to be imported is the portion of the former Brisbane Landfill previously used for soils processing, within the property commonly known as the "Brisbane Baylands" or "Baylands." The Baylands site is located within the City of Brisbane in the northeast corner of San Mateo County, and is bounded on the north by the City and County of San Francisco, on the east by the US 101 freeway, on the west and south by Bayshore Boulevard. Existing soils within the former landfill site are proposed to be moved from the former soils processing site within eastern portion of the Baylands to the western portion of the Baylands (former railyard) so that importing bay mud would not increase the amount of soil currently stockpiled within the former landfill site.

[1] The development permitted within the Baylands is described in General Plan Amendment GP-1-18, which was approved by the Brisbane City Council on July 19, 2018 and subsequently also approved by Brisbane voters as Measure JJ in November 2018.

This page intentionally left blank.

Figure 1

Regional Location

This page intentionally left blank.

Figure 2

Silicon Valley Clean Water
Gravity Sewer Project Location

This page intentionally left blank.

BAY MUD IMPORT ADDENDUM

Figure 3

Location of areas subject to the MOA amendment within the Former Brisbane Landfill

This page intentionally left blank.

3.2 BACKGROUND

a. Brisbane Baylands

Soils Processing Operations within the Former Brisbane Landfill Site

Following cessation of operations at the Brisbane Landfill in the 1960s, a soils processing operation was established on top of the former landfill in 1977. Commencing in 1990, the City approved and extended Interim Use Permits for soils processing activities including importing, screening, processing, and resale of topsoil and fill/sand materials, as well as for stockpiling of soils before, during and after processing, and hauling materials offsite. It is to this area that bay mud is proposed to be imported and from which existing soils are proposed to be relocated.

A Memorandum of Agreement (MOA) was approved by the City of Brisbane on May 5, 2014 permitting continued interim use of the site for soils processing pursuant to the terms and conditions specified in the MOA. Ongoing import and processing of soils within the former landfill area ceased in late 2017.

Figure 4 identifies the six operational areas that were being used at the time soils processing operations ceased. **Table A** indicates the peak heights of soils at that time, along with minimum and maximum permitted elevations within each operating area.

TABLE A
MAXIMUM PERMITTED STOCKPILE ELEVATIONS

Area	Peak 2017 Elevation (amsl)[1]	Maximum Permitted Elevation (amsl)
A	58	58
B	49	50
C	60	75
D	69	75
E	70	75
F	64	64
G	73	73

Source: Sunquest Properties, Inc., Professional Land Services.

Notes: Peak 2017 Elevation = the highest elevation at any point within an operating area
amsl = above mean sea level.

This page intentionally left blank.

BAY MUD IMPORT ADDENDUM

Figure 4

Operational Areas within the
Former Brisbane Landfill

This page intentionally left blank.

Final Closure of the former Brisbane Landfill in Compliance with Title 27

The Brisbane Landfill operated prior to establishment of modern waste disposal practices and operations ceased before formal regulatory design requirements for closure were established. Waste containment at the former Brisbane Landfill was consistent with the practices of the industry at the time, including placement of waste directly on native soils. Upon completion of disposal operations, refuse fill materials were covered with earth fill and other inert debris. Thus, waste disposal design features such as liners, segregation of waste into disposal cells, and leachate collection systems were not incorporated into the design of the landfill. In addition, the former landfill lacks a low permeability engineered landfill cap that is compliant with Section 20260 of Title 27 of the California Code of Regulations (CCR).

For regulatory purposes, the former landfill site is currently overseen by the Environmental Health Division of the San Mateo County Health Agency, which serves as the Local Enforcement Agency and, along with the California Department of Resources Recycling and Recovery (CalRecycle), enforces Title 27 regulations related to landfill closure, post-closure maintenance, and landfill gas monitoring and control. Additional oversight of the former landfill is provided by the California Regional Water Quality Control Board - San Francisco Bay Region (RWQCB). Groundwater/leachate and stormwater quality is monitored regularly at monitoring wells and outfall locations and reported to the RWQCB.

Bay mud, such as that proposed to be imported from the Silicon Valley Clean Water project, is a suitable soil for the required low hydraulic conductivity layer within an engineered landfill cap in compliance with Title 27 requirements.

Remediation of the Western Portion of the Baylands (former railyard)

The former railyard portion of the Baylands located immediately west of the former landfill across a Caltrain railroad right-of-way, was historically operated by the Southern Pacific Railroad for freight train activity into and out of San Francisco between 1914 and 1960. Contaminants known to be present in this area include volatile organic compounds (VOCs), metals, Bunker C oil (a fuel oil used for locomotives), and total petroleum hydrocarbon (TPH), a term used for any mixture of hydrocarbons found in crude oil.

For purposes of regulatory oversight pertaining to remediation of soil and groundwater contamination, the railyard is divided into two separate "Operable Units." The San Mateo Operable Unit (UPC-OU-SM), in the northern portion of the former railyard, is under the jurisdiction of the California Department of Toxic Substances Control (DTSC); Operable Unit 2 (OU-2), in the southern portion of the former railyard, is under the jurisdiction of the RWQCB **Figure 5** identifies the location of UPC-OU-SM and OU-2 in relation to the portion of the former landfill where bay mud is proposed to be stockpiled and from which existing soils are proposed to be relocated to UPC-OU-SM.

This page intentionally left blank.

BAY MUD IMPORT ADDENDUM

Figure 5

Remediation and Landfill Closure Locations

This page intentionally left blank.

Remedial Action Plans (RAPs) currently being reviewed for UPC-OU-SM and OU-2 by the Department of Toxic Substances Control and the RWQCB, respectively, include among other remediation technologies, capping with existing soils from the former landfill site. Capping of the former railyard site with existing soils from the former landfill site was addressed at a programmatic level in the Baylands Program EIR as part of grading for Title 27 landfill closure, site remediation, and subsequent development of the Baylands.

b. Silicon Valley Clean Water Wastewater Conveyance System and Treatment Plant Reliability Improvement Project

Silicon Valley Clean Water (SVCW) is a joint powers authority (JPA) that owns and operates a regional wastewater treatment plant at the eastern end of Redwood Shores Parkway, within Redwood City, and related wastewater pumping and transmission facilities in Belmont, San Carlos, and Menlo Park. JPA Member Agencies include the cities of Belmont, Redwood City, San Carlos, and the West Bay Sanitary District (which provides sanitary sewer collection services to the cities of Menlo Park, Portola Valley, and portions of Atherton, Woodside, East Palo Alto, and unincorporated areas of San Mateo County). The Silicon Valley Clean Water Conveyance and Treatment Reliability Improvements Project (Clean Water project) includes improvements and upgrades to portions of the SVCW's wastewater conveyance system and its wastewater treatment plant.

Among the 17 major components of the Clean Water project a new gravity sewer pipeline to replace an existing force main. The EIR prepared for the Silicon Valley Clean Water project estimates that 20,750 truck trips would be required to haul 166,000 cubic yards of excavated soil offsite (10,375 loaded truck trips leaving the construction site and 10,375 truck trips returning to the construction site.

3.3 BAY MUD IMPORT PROJECT ACTIVITIES

The proposed import of bay mud to the Brisbane Baylands from the Silicon Valley Clean Water Wastewater Conveyance System and Treatment Plant Reliability Improvement Project involves the following activities:

- Off-site hauling of bay mud from the Clean Water project gravity sewer pipeline construction site to the site of the former Brisbane Landfill;
- Placement of bay mud within the former landfill site to be used for subsequent construction of a landfill cap in compliance with Title 27 requirements; and
- Relocation of 200,000 cubic yards of existing soil within the former landfill site to the UPC-OU-SM operable unit within the former railyard area immediately to the west.

a. Offsite Hauling of Bay Mud

As part of the Silicon Valley Clean Water project, a new 3.33-mile long gravity sewer pipeline would be constructed between the Silicon Valley Clean Water wastewater treatment plant at the north end of Bair Island to the San Carlos Airport, within Redwood City and a portion of San Carlos (see **Figure 2**). The Clean Water project EIR estimates that 166,000 cubic yards of bay mud will need to be excavated and hauled offsite as part of pipeline construction.

Section 3.2.3.1 of the Clean Water project EIR identifies construction truck trips for different phases of gravity pipeline construction, indicating that 20,750 truck trips would be required to haul 166,000 cubic yards of excavated soil offsite (10,375 loaded truck trips leaving the construction site and 10,375 truck trips returning to the construction site).

Trucks hauling bay mud from the gravity flow pipeline construction site to the former Brisbane Landfill site as part of the Baylands Bay Mud Import project would travel the US 101 freeway to Brisbane. Because of the limited number of available routes between the freeway and the entrance of the former landfill site, it is anticipated that:

- Northbound trucks hauling bay mud to the former landfill would exit the freeway at Exit 429A, which connects directly to Harney Way, and travel along Tunnel Avenue and Beatty Avenue to the former landfill site.
- After delivering their loads, trucks would return to the southbound US 101 freeway via Beatty Avenue.

Per the proposed MOA amendment, specific haul routes within Brisbane to and from the freeway are subject to the City Engineer's review and approval of a truck traffic plan.

Sunquest Properties anticipates hauling of bay mud to the former landfill would occur Monday through Friday over an anticipated six- to twelve-month period with fewer than 100 trucks would enter or leave the former landfill site in any given 60-minute period. No truck trips associated with the import of bay mud are anticipated to occur during PM peak hours (4:00 PM to 6:00 PM).

Based on a 2017 analysis conducted by the City of Brisbane, it was determined that adequate roadway capacity existing for up to 150 trucks to enter the former landfill site in any given 60-minute period, and for up to 200 trucks could exit the former landfill site in any given 60-minute period.

Per the proposed MOA amendment, the permitted number of truck trips and hours for bay mud delivery will be subject to the Brisbane City Engineer's approval of a truck traffic plan.

Based on the construction impacts analysis of the Baylands Program EIR, it is anticipated that adequate space will be provided within the former landfill site such that trucks waiting to deliver loads would not be forced to queue on any public roadway.

b. Placement of Bay Mud within the Former Brisbane Landfill Site

Sunquest proposes to place Bay mud imported to the former landfill for use in Title 27 landfill cap construction in two stockpile locations (see **Figure 6**). An analysis undertaken in 2017 demonstrated that there is sufficient capacity to import additional soils to the landfill site without exceeding the maximum allowable elevations established in the MOA (see **Table B**). Thus, proposed bay mud import would comply with the maximum height limits currently set forth in the 2014 MOA.

TABLE B
STOCKPILE CAPACITY

Area	2017 Peak Elevation (amsl)[1]	Maximum Permitted Elevation (amsl)	Estimated Capacity from 2017 to Maximum Permitted Elevations
A	58	58	670,000 cu yds
B	49	50	--
C	60	75	85,250 cu yds
D	69	75	374,879 cu yds
E	70	75	[2]
F	64	64	--
G	73	73	--
TOTAL	--	--	**1,440,533 cu yds**

Source: *Site Operations Plan, Sunquest Properties, Inc. at the Brisbane* Baylands, Professional Land Services; Personal communication with Howard Pearce, Sunquest Properties, Inc.

Notes: 1. amsl = above mean sea level.

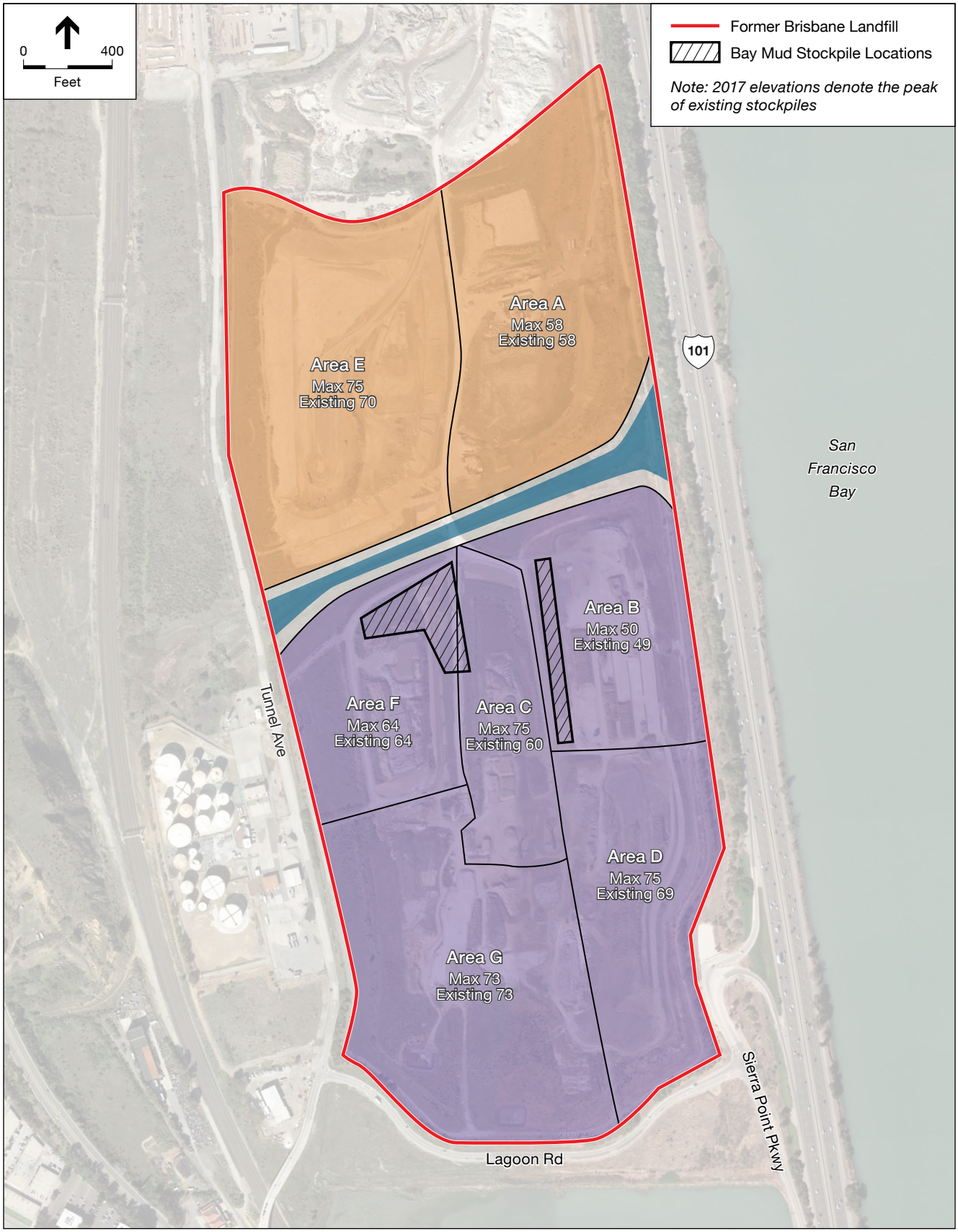
2. Export from Area E was not previously proposed and was not, therefore previously analyzed.

The MOA amendment provides for the final number and precise location of bay mud stockpiles, including staging areas for the unloading and testing of bay mud to be established in a grading permit to be approved by the Brisbane City Engineer.

Geotechnical specifications for soils in a landfill cap require an optimal moisture content as they are placed in the cap. Because the actual moisture content of truckloads of bay mud delivered to the Baylands could vary at the time they are stockpiled, it may be necessary to moisten stockpiles or allow them to dry. The moisture content of bay mud will therefore be measured, and water will be added to bay mud or it will be permitted to dry before stockpiling is

completed[2]. Once optimal moisture content is achieved, storm water protection will be provided and erosion/dust control best management practices (BMPs) will be implemented to maintain optimal moisture content and control silt runoff and dust generation.

[2] Because the actual moisture content of bay mud delivered to the former landfill cannot be known until is it actually delivered and tested at the site, the amount of water, if any, that may be needed to moisten bay mud stockpiles cannot be known at this time.



BAY MUD IMPORT ADDENDUM

Figure 6

Bay Mud Stockpile Locations

This page intentionally left blank.

c. Movement of Soil from the Former Brisbane Landfill to the UPC-OU-SM Remediation Site

Within 180 days of approval of a Remedial Action Plan (RAP) and Remedial Design and Implementation Plan (RDIP) by the California Department of Toxic Substances Control (DTSC) for the UP-OU-SM operable unit, the proposed MOA Amendment requires Sunquest to relocate 200,000 cubic yards of existing soil from the former landfill site to UPC-OU-SM, placing that material in a manner approved in the RAP and RDIP. The proposed MOA Amendment also permits Sunquest to relocate soil from the former landfill site to an alternative receiving site approved by the City Engineer outside of the City of Brisbane in lieu of moving that soil from the former landfill site to the UPC-OU-SM remediation site.

The MOA provides for a grading permit to be approved by the Brisbane City Engineer that would specify the precise location(s) and depth(s) for excavation of existing soils within the former landfill site that would be relocated to UPC-OU-SM. The grading permit would also define the precise location for testing and loading of soils prior to their relocation.

Truck haul routes for transport of soil from the former landfill area to the UPC-OU-SM remediation site will be subject to the City Engineer's approval of a truck traffic plan that will specify permitted routes, number of truck trips, and hours for loading, movement, and unloading of soils. The Baylands Program EIR described the truck route for relocation of soils from the former landfill area to the UPC-OU-SM site as Tunnel Avenue and Bayshore Boulevard.

Relocation of existing soils from the former landfill site to UPC-OU-SM is anticipated to involve approximately 25,000 truck trips over a 6-month period (12,500 total trips delivering soil and 12,500 trips returning to the former landfill), including up to 200 one-way truck trips Monday through Friday during a typical day (100 daily trips delivering soil and 100 daily trips returning to the former landfill). Sunquest Properties anticipates that approximately 50 trucks would leave and an additional 50 would enter the former landfill site in any given 60-minute period between 7:00 and 10:00 AM. In addition, approximately 20 trucks would leave and an additional 20 would enter the former landfill site in any given 60-minute period between 4:00 and 6:00 PM.

Per the proposed MOA amendment, the permitted number of truck trips and hours for bay mud delivery will be subject to the Brisbane City Engineer's approval of a truck traffic plan.

Based on the construction impacts analysis of the Baylands Program EIR, it is anticipated that adequate space will be provided within the former landfill site such that trucks waiting to deliver loads would not be forced to queue on any public roadway.

Soils moved from the former landfill would be placed within the locations, at the depths, and in the manner approved by the California Department of Toxic Substances Control in a Remedial Design Implementation Plan.

d. Soils Testing

Testing of Bay Mud Imported to the Former Landfill Site

The proposed MOA amendment requires the property owner to test the bay mud as it is brought to the former landfill site using protocols approved by the City Engineer to ensure that it meets all the required standards as a cap for a Title 27 landfill closure and would otherwise not pose a threat to public health and safety or the environment. Such protocols would grant authority to the City Engineer to review all test results and have soils independently tested by a qualified expert selected by the City Engineer.

The testing protocols for imported bay mud would be similar to the requirements of the existing approved Soil Management and Quality Assurance Program (SMQAP) for soils being processed within the former landfill site, which are summarized below.

The approved SMQAP includes provisions for the testing of soils generated by "special projects," which include soils generated by large excavation projects undertaken by a local, state, or federal agency (such as the Silicon Valley Clean Water project) that often do not have adequate area within the project's immediate construction site to store and test soil materials before they are hauled offsite. Protocols established in the approved SMQAP would require imported bay mud to undergo an Environmental Screening Process as well as on-site inspection of soils after it is delivered to the former landfill site. Materials deemed acceptable would be placed in stockpiles and any materials deemed unacceptable would be disposed of at an appropriate facility outside the City of Brisbane.

Environmental screening and visual inspections consistent with the approved SMQAP would be conducted by the property owner and a third party geotechnical consultant under contract to the property owner once bay mud is delivered to the former landfill site. The screening would include the provision of a specific information form describing the Clean Water project gravity sewer tunnel as the soil's source. The environmental screening would also document the chemical nature of the imported bay mud along with current and appropriate analytical data from a California Department of Health Services (DHS) Accredited Environmental Laboratory, characterizing the chemicals of potential concern in the soils and testing of imported materials

The approved SMQAP provides for laboratory analytical results to be screened using the RWQCB Environmental Screening Levels (ESLs). Under the direction of a California Registered Professional Engineer or Geologist, a Materials Regulation Specialist (MRS) would review all relevant information and determine if the imported bay mud would meet applicable acceptance

criteria. For each load of bay mud deemed acceptable by the MRS, a Soil Acceptance Letter would be issued to Sunquest confirming acceptance and stating any terms or conditions for such acceptance. Any bay mud with analytical results exceeding the ESLs would be rejected and hauled offsite for disposal at an approved facility outside of the City of Brisbane.

Testing of Existing Soils within the Former Landfill Site for Export to UPC-OU-SM

Before any existing soils within the former landfill site would be transported to UPC-OU-SM, they will be tested using protocols approved by the City Engineer to ensure that the relocation of such soils would not pose a hazard to public health or the environment.

Relocation of existing soils within the former landfill site to UPC-OU-SM would be required to comply with the approved provisions of the SMQAP for handling of export soil. Thus, export of soils that were previously screened and accepted for import into the former landfill site in compliance with the SMQAP would not be expected to be tested again prior to their export to UPC-OU-SM. It is also anticipated that soils from prior-accepted "Self-Certified Imported Materials" would be tested and compared to the RWQCB ESLs by a certified laboratory. The MRS would evaluate lab results and confirm the acceptability of soils for expert before relocation from the former landfill site. As would be the case for bay mud imported to the former landfill site, the Brisbane City Engineer would have the authority to review all test results and have soils independently tested by a qualified expert selected by the City Engineer prior to their relocation to UPC-OU-SM.

The existing MOA establishes minimum elevations to be maintained during excavation of soil within former landfill site that provide for a minimum of ten feet of cover over solid waste and ensure that waste materials within the former landfill and the soil that was previously placed over waste materials remain undisturbed. Excavation of existing soils within the former landfill for export to UPC-OU-SM would therefore be required to maintain the minimum elevations described in **Table C**. In addition, exiting stormwater quality regulations require that surface drainage patterns be maintained and BMPs be implemented to avoid erosion and control dust.

TABLE C
PROPOSED STOCKPILE ELEVATIONS

Area	Peak 2017 Elevation (amsl)[1]	Minimum Permitted Elevation[2] (amsl)	Maximum Permitted Elevation (amsl)
A	51	34	58
B	50	28	50
C	59	27	75
D	72	26	75
E	68	22	75
F	65	20	65
G	73	26	73

Source: *Sunquest Properties, Inc.*, Professional Land Services Personal communication with Howard Pearce, Sunquest Properties, Inc.

Notes: amsl = Above mean sea level.

Minimum permitted elevation = 10 feet above the highest elevation of municipal solid waste within the operating area.

4.0 ENVIRONMENTAL FINDINGS SUPPORTING PREPARATION OF AN EIR ADDENDUM

As documented below, activities associated with the proposed Brisbane Baylands Bay Mud Import have been previously addressed in certified Final EIRs and would not result in any of the conditions described in CEQA Guidelines §15162 calling for preparation of a subsequent EIR. Only the following minor revisions to the certified Brisbane Baylands Program EIR and the Silicon Valley Clean Water Wastewater Conveyance System and Treatment Plant Reliability Improvements Final Integrated EIR would be needed to address the proposed bay mud import project:

- Modify the project description of the Brisbane Baylands Program EIR to include import, placement, and stockpiling of bay mud required for landfill closure in compliance with Title 27.
- Modify the project description of the Silicon Valley Clean Water Wastewater Conveyance System and Treatment Plant Reliability Improvements Final Integrated EIR to identify the former Brisbane Landfill site as the destination for bay mud excavated during tunneling for the gravity sewer component of the Clean Water project.

Therefore, preparation of an addendum to the previously certified Silicon Valley Clean Water Final Integrated EIR for the Wastewater Conveyance System and Treatment Plant Reliability Improvement Project, CIP No. 6006 (State Clearinghouse #2016022055) and the Brisbane Baylands Program EIR (State Clearinghouse #2006022136) is required pursuant to CEQA Guidelines §15164.

4.1 FINDINGS FOR THE OFFSITE HAULING OF BAY MUD FROM THE CLEAN WATER PROJECT GRAVITY SEWER PIPELINE CONSTRUCTION SITE

The Wastewater Conveyance System and Treatment Plant Reliability Improvement Project is made up of 17 components, each consisting of specific improvements and upgrades to portions of Silicon Valley Clean Water's conveyance system and wastewater treatment plant. Among these components is an 11-foot inside diameter gravity sewer pipeline to be installed using boring machine methods that would create a 15-foot diameter tunnel, running 3.33 miles from the wastewater treatment plant adjacent north end of Bair Island to the San Carlos Airport.

The Final Integrated EIR for the Clean Water project states that construction of the gravity sewer pipeline would require excavation and offsite hauling of 166,000 cubic yards of bay mud. The physical environmental effects of excavation and offsite hauling of this soil are addressed in the analysis of gravity sewer pipeline construction impacts throughout the Clean Water project EIR.

The proposed bay mud import project involves the hauling of excavated soils from Silicon Valley Clean Water's gravity sewer pipeline construction site to the former Brisbane Landfill site and would have no effect on any of the construction characteristics discussed in the Clean Water EIR. Because offsite haul trucks would stage and leave the construction site in the same locations addressed in the Clean Water EIR, the proposed Brisbane Bay Mud Import Project would result the same impacts associated with offsite hauling of excavated soils from the gravity sewer pipeline as were analyzed in the Silicon Valley Clean Water Final Integrated EIR. The less than significant impacts identified in the Final Integrated EIR would remain less than significant, and the significant unavoidable impacts disclosed in that EIR would not be substantially more severe for the following reasons.

- Because the proposed bay mud import project involves the offsite hauling of excavated soils and would not affect the physical location or characteristics of any gravity sewer pipeline construction activity, there would be no change to the physical size or location of truck staging areas from that analyzed in the Final Integrated EIR. Therefore:
    - There would be no visible difference at the gravity sewer construction site as the result of the proposed bay mud import project. Aesthetic resources impacts would therefore be the same as those disclosed in the Final Integrated EIR.
    - Because there would be no difference in any of the biological or cultural resources impacts that might be affected from those analyzed and disclosed in the Final Integrated EIR.
    - Construction activities would occur in the same locations and to the same extent; be subject to the same hazardous materials, seismic, and geologic risks; and be required to implement the same best management practices and geotechnical requirements as was analyzed in the Final Integrated EIR. Impacts related to

hazards and hazardous materials and geology and seismicity would therefore remain unchanged from the analyses and significance conclusions set forth in the Final Integrated EIR.

- Construction activities would occur in the same manner and would be subject to the same drainage requirements to avoid erosion addressed in the Final Integrated EIR. Impacts related to hydrology and water quality would therefore remain unchanged from the analyses and significance conclusions set forth in the Final Integrated EIR.

- Subsequent to certification of the Clean Water Project EIR and the Baylands Program EIR, California CEQA Guidelines were revised to add §15064.3, paragraph (a) of which states that "a project's effect on automobile delay shall not constitute an environmental impact. In addition, for informational purposes:

  - Because the proposed bay mud import project would not affect the amount of soil that would be hauled offsite -- estimated in the Final Integrated EIR to be 166,000 cubic yards, the number of truck trips needed to haul excavated soils from the gravity sewer pipeline construction site would not exceed the 20,750 truck trips analyzed in the Final Integrated EIR (10,375 loaded truck trips leaving the gravity pipeline construction site and 10,375 empty truck trips returning to the construction site).

    Because the proposed bay mud import project would not affect any construction operations, the number of truck trips required for offsite hauling of excavated soils from the gravity sewer construction site on a daily or hourly basis would be unaffected.

    - Based on (1) the limited number of truck trips that would be generated by construction activities associated with each of the 17 Clean Water project components through the duration of all construction, (2) use of specified truck routes to and from the wastewater treatment plant, and (3) limiting truck hauling to the designated construction period (Monday through Saturday from 7:00 a.m. to 7:00 p.m.), the Final Integrated EIR concluded that construction-related traffic impacts would be less than significant.

    - The proposed offsite hauling of excavated soils to the Brisbane Baylands would (1) have the same limited number of truck trips and would not affect daily or hourly truck traffic generation, (2) be of limited duration (6-12 months), and (3) comply with the construction hours specified in the Final Integrated EIR.

- Construction-related air quality and greenhouse gas emissions, noise and vibration, and energy resources impacts associated with the offsite hauling of excavated soils would be consistent with the impacts disclosed in the Final Integrated EIR for gravity sewer pipeline construction.

  - Haul routes between the gravity sewer pipeline construction site and the former Brisbane Landfill would use only the routes specified in the Integrated Final EIR when hauling from the vicinity of Silicon Valley Clean Water's wastewater treatment plant, and would otherwise use non-residential and arterial roadways and the 101 freeway.
  - Truck miles travelled that would be associated with hauling excavated soils from the gravity sewer construction site to the Baylands is consistent with the number and distance of truck trips analyzed in the Final Integrated EIR. Thus, mobile source emissions associated with offsite hauling of excavated soils from the gravity sewer construction site would be consistent with the impacts disclosed in the Final Integrated EIR.

- Because hauling of excavated soil to the former Brisbane Landfill would have no effect on the location or activities associated with gravity sewer pipeline construction:
  - Air quality and greenhouse gas emissions, noise and vibration generation, and energy consumption impacts resulting from onsite construction activities would be the same as analyzed and disclosed in the Final Integrated EIR.
  - The determination of the Integrated Final EIR that the Clean Water Project and its various components would not divide an existing community would not change.
  - The consistency of the gravity sewer pipeline component of the Clean Water Project with applicable land use regulations would be unaffected.
  - No displacement of housing or people would occur due to gravity sewer pipeline construction and offsite hauling of excavated soils to the former Brisbane Landfill site.
  - There would be no effect on construction impacts associated with the gravity sewer pipeline in relation to public services, as well as utilities and service systems.
  - No physical modifications to area parks or recreational facilities, nor would any increase in population that might generate increased demand for parks or recreational facilities result.
- The physical environmental effects of the proposed bay mud import project would be limited to those associated with hauling of bay mud during pipeline construction. The bay mud import project would therefore not have any operations impacts associated with Silicon Valley Clean Water Project.
- Because no agricultural or forestry resources exist within or adjacent to the gravity sewer construction site and hauling of bay mud would occur on public streets and highways, no agricultural and forestry resource impacts would result.

- Because no mineral resource or locally-important mineral resource recovery sites exist within or adjacent to the gravity sewer construction site and hauling of bay mud would occur on public streets and highways, no mineral resource impacts would result.

Conclusion

Because the location and characteristics of construction activities associated with the gravity sewer pipeline component of the Clean Water project would not change as the result of the proposed bay mud import project, the analyses and conclusions of the Final Integrated EIR would be unaffected. Thus, the proposed import of bay mud from the gravity sewer pipeline construction site to the former Brisbane Landfill site **would not** involve any:

- Substantial changes in the project for which the Silicon Valley Clean Water Wastewater Conveyance System and Treatment Plant Reliability Improvement EIR was prepared that would require major revisions of the certified Final Integrated EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- Substantial changes with respect to the circumstances under which the project for which the Silicon Valley Clean Water EIR was prepared would be undertaken that would require major revisions of the certified Final Integrated EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Final Integrated EIR was certified that shows:
    - The project for which the Silicon Valley Clean Water EIR was prepared would have one or more significant effects not discussed in that EIR;
    - Significant effects previously examined would be substantially more severe than was previously disclosed in the Silicon Valley Clean Water EIR;
    - Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project for which the Silicon Valley Clean Water EIR was prepared, but the project proponents decline to adopt the mitigation measure or alternative; or
    - Mitigation measures or alternatives which are considerably different from those analyzed in the Silicon Valley Clean Water EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

The proposed Brisbane Baylands Bay Mud Import Project would require only one minor revision to the certified Final Integrated EIR for the Silicon Valley Clean Water Wastewater

Conveyance System and Treatment Plant Reliability Improvement Project: identification of the former landfill site within the Brisbane Baylands as the destination for soils excavated during tunneling and construction of the gravity sewer pipeline component of the Clean Water project.

4.2 PLACEMENT AND STOCKPILING OF BAY MUD IMPORTED TO THE FORMER LANDFILL SITE

As noted above, the former Brisbane Landfill operated prior to establishment of modern waste disposal practices and operations ceased before formal regulatory design requirements for landfill closure were established. Upon completion of disposal operations in the 1960s, refuse fill materials in the landfill were covered with soil and inert debris. Thus, the former landfill lacks a low permeability engineered landfill cap that is compliant with Section 20260 of Title 27 of the California Code of Regulations.

The Brisbane Baylands Program EIR includes in its project description a set of actions described in Section 20260 of Title 27 of the California Code of Regulations that would be taken to achieve closure of the former Brisbane Landfill and to minimize or eliminate risk to human health and the environment. As a result, the Program EIR included "installation of the final cover system over the entire landfill (or another design as approved by RWQCB and San Mateo County)" among the construction activities that were addressed at a programmatic level for each development scenario that was analyzed throughout the EIR.

To meet Title 27 requirements, the Infrastructure Plan for the Brisbane Baylands[3] prepared as part of the Brisbane Baylands Specific Plan analyzed in the Program EIR noted that the required low hydraulic conductivity layer within the Baylands' landfill cap could be constructed of materials such as a minimum 1-foot deep compacted clay layer[4], high-density polyethylene, an approved geo-membrane liner, or a geosynthetic clay liner. The Infrastructure Plan also noted that the "final material chosen for the low hydraulic conductivity layer would depend on the availability/cost of the different materials." The Program EIR did not therefore identify the specific materials that would be used to construct the low hydraulic conductivity layer needed to cap the landfill in accordance with Title 27 requirements.

A properly compacted layer of bay mud would meet Title 27 hydraulic conductivity requirements and would therefore be a suitable material for construction of the required low hydraulic conductivity layer needed to cap the landfill. Because of its availability due to construction of the gravity sewer component of the Silicon Valley Clean Water project, Sunquest

3 BKF Engineers, *Infrastructure Plan for the Brisbane Baylands*, February 2011.

4 Bay mud, such as that underlying the Baylands and that which will be excavated and imported from the Silicon Valley Clean Water project, would be a suitable material for construction of a minimum 1-foot deep compacted clay layer that would comply with Title 27 requirements for a low hydraulic conductivity layer to cap the former landfill.

desires to use bay mud rather than the other materials described above to cap the former landfill. Thus, the bay mud proposed to be imported to the Baylands from the Silicon Valley Clean Water project would reduce or eliminate the need to excavate bay mud present in soils underneath the Baylands or to construct a synthetic liner for the required low hydraulic conductivity layer to cap the landfill.

Placement and stockpiling of bay mud excavated from the gravity sewer pipeline component of the Silicon Valley Clean Water project for use in landfill cap construction would result in the same impacts associated with site grading and construction as were analyzed in the Baylands Program EIR. The less than significant impacts identified in the Program EIR would remain less than significant, and the significant unavoidable impacts disclosed in that EIR would not be substantially more severe for the following reasons.

- The placement and stockpiling of bay mud imported to the former landfill site would have no effect on the aesthetic resources analyses and conclusions of the Program EIR.
    - As demonstrated in **Table B**, above, sufficient capacity exists for the placement and stockpiling of 166,000 cubic yards of bay mud in compliance with approved maximum stockpile elevations.
    - Because the placement and stockpiling of bay mud would be a temporary condition prior to Title 27 landfill closure, the proposed bay mud import project will not affect any final grades for future development of the former landfill site.
    - Placement and stockpiling of bay mud imported to the former landfill site would be required to occur during daytime hours so that nighttime lighting of work areas would not be necessary.
    - Placement and stockpiling of bay mud would not involve construction of any structures with reflective surfaces. The amount of reflective surface area that would be associated with haul trucks and other equipment use to deliver and stockpile bay mud would be small and mobile, avoiding the potential for a significant glare impact.
- Subsequent to certification of the Clean Water Project EIR and the Baylands Program EIR, California CEQA Guidelines were revised to add §15064.3, paragraph (a) of which states that "a project's effect on automobile delay shall not constitute an environmental impact. In addition, for informational purposes:
    - Activities associated with placement and stockpiling of bay mud to facilitate Title 27 landfill closure would not involve on-road truck traffic other than that analyzed above in relation to the export of bay mud from the Clean Water Project gravity sewer construction site.
    - Because the amount of bay mud imported to the Baylands would be much less than the amount of soil involved in grading of the entire Baylands site for Title 27 landfill closure, remediation, and development, traffic associated with employee

travel and equipment and materials deliveries would be less than was analyzed for site construction throughout the Baylands in the Final Program EIR.

- While the bay mud project would generate temporary air pollutant and greenhouse gas emissions, generate noise, and consume energy as the result of unloading haul trucks and moving soils into stockpiles, bay mud import project-related impacts would not change the analyses and conclusions of the Program EIR.
    - Placement and stockpiling of an estimated 166,000 cubic yards of bay mud soils represents only about 3.3 percent of the 5.0 million cubic yards of soil to be excavated and stockpiled during site remediation, landfill closure, and site grading that was analyzed in the Final Program EIR;
    - Placement and stockpiling of bay mud until such time as it is needed for construction of the landfill cap would involve very short distance movement of 166,000 cubic yards of soil within the former landfill area, whereas the site grading that was analyzed in the Final Program EIR included excavation of 5.0 million cubic yards of soil within the former landfill area, construction of the landfill cap, and relocation of approximately 3,730,000 cubic yards of soil, consisting of:
        - Approximately 2,600,000 cubic yards of excavated soil to be moved to the former railyard area; and
        - Approximately 1,130,000 cubic yards of excavated soil to be exported from the Baylands.
    - The proposed bay mud project would require fewer and smaller pieces of construction equipment at any given time than would the grading activities analyzed in the Program EIR.
        - The bay mud project would involve unloading one haul truck at a time simultaneously with small bulldozers moving bay mud to stockpile locations; whereas
        - The Program EIR contemplated that grading for Baylands development would involve simultaneous excavation and loading of haul trucks within the former landfill area, unloading of haul trucks within the former railyard, and large-scale movement of soils by heavier duty earth-moving equipment.
    - Stockpiling of bay mud soils until such time as they are needed for construction of the landfill cap would be required to comply with Air Quality and Dust Management Plan requirements approved by the Brisbane City Engineer, including implementation of BMPs to avoid dust generation.
    - The number of daily truck loads and levels of onsite activity associated with the import of bay mud to facilitate Title 27 landfill closure would be no greater than

daily traffic and activities that was associated with previous ongoing onsite soils processing.

- Placement and stockpiling of bay mud within the former landfill area will use existing access routes and soils processing and stockpile areas that do not contain sensitive biological or cultural resources. Therefore, placement and stockpiling of bay mud within the former landfill area would have no effect on the analyses and conclusions of the Program EIR in relation to biological or cultural resources.
- Once it is delivered to the Baylands, bay mud soils imported from the Silicon Valley Clean Water Project would be screened and tested to ensure that only those soils determined to be both free of contamination and suitable for use in capping the former landfill in compliance with Title 27 are stockpiled within the former landfill. The proposed MOA amendment requires that any bay mud that cannot be used as a cap for landfill closure or would otherwise present a threat to the public health and safety is to be immediately removed from the site and hauled to an appropriate offsite location.
- Bay mud imported to the Baylands will be required to be stockpiled in a manner approved by the City Engineer that would provide appropriate drainage to avoid downstream flooding and implement best management practices to avoid erosion.
- Bay mud imported to the Baylands would not be used as a base for the construction of structures designed for human occupancy until such time as it is used for construction of a low hydraulic conductivity layer within the landfill cap in compliance with Title 27 regulations. Construction of such a landfill cap was contemplated in the Program EIR and would be subject to oversight from the RWQCB and the Environmental Health Division of the San Mateo County Health Agency in relation to compliance with Title 27 compliance. Construction of the landfill cap would also be subject to oversight from the City of Brisbane in relation to compliance with California Building Code and the safety of future development atop the former landfill following construction of the Title 27 landfill cap.
- Because placement and stockpiling of bay mud to facilitate Title 27 landfill closure would in the same location as existing stockpiles of soil that are proposed to be used when grading for Title 27 landfill closure, site remediation, and subsequent Baylands development:
    - The determination of the Program EIR that grading, construction, and the uses of the Baylands permitted by GP-1-18 and Measure JJ would not divide an existing community would not change.
    - The determinations of consistency of GP-1-18 and Measure JJ; with applicable land use regulations would not change.
    - No displacement of housing or people would occur due to placement and stockpiling of bay mud to facilitate Title 27 landfill closure.

- Impacts related to parks and recreational facilities were analyzed in the Program EIR, which determined that demand for parks and recreational facilities would result from development of residential uses within the Baylands and to a lesser degree from development of non-residential uses, rather than from construction activities. Placement and stockpiling of imported bay mud would not result in any physical modifications to Brisbane area parks or recreational facilities, nor would it cause any population increase that would generate a demand for parks or recreational facilities. As a result, the placement and stockpiling of bay mud would have no impact in relation to parks and recreational facilities.
- Daily levels of activity related to the placement and stockpiling of imported bay mud would be substantially less than the daily levels of construction activity analyzed in the Final Program EIR and would also not be undertaken concurrent with grading activities required for Title 27 landfill closure, site remediation, and development of the Baylands. Thus, the daily demand for public services, energy[5], and other utilities would be no greater than was analyzed for Baylands construction activities in the Final Program EIR.
- Impacts related to utilities and services, including water and wastewater utilities, drainage facilities, and solid waste management resulting from the placement and stockpiling of imported bay mud would be far less than those of the grading and construction activities analyzed in the Program EIR.
    - As noted above, daily activities associated with placement and stockpiling of 166,000 bay mud would substantially less than the daily construction activities for which impacts are disclosed in the Final Program EIR. Water consumption, wastewater generation, and solid waste generation associated with placement and stockpiling of 166,000 cubic yards of bay mud would be far less than would be associated with the 5.0 million yards of soil excavation and movement of approximately 3,730,000 cubic yards of soil from the former landfill area to the westerly portion of the Baylands and offsite export analyzed in the Program EIR for Title 27 landfill closure, site remediation and Baylands development.
    - While it might be necessary to moisten imported bay mud or allow it to dry at the time it is stockpiled[6], watering of stockpiles should be a one-time operation since stormwater protection will be provided and dust control best management practices would be implemented to maintain optimal moisture content and control silt runoff and dust generation once optimal moisture content is achieved. By comparison, Program EIR Mitigation Measure 4.B-1 requires all soil

[5] Because formal closure of the former Brisbane Landfill in compliance with Title 27 is required and not optional, Program EIR concluded that the energy consumed returning the Baylands to a safe and healthy condition would not be wasteful.

[6] Because the actual moisture content of bay mud delivered to the former landfill cannot be known until is it actually delivered and tested at the site, the amount of water, if any, that may be needed to moisten bay mud stockpiles cannot be known at this time

surfaces that are exposed during grading operations (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads), which encompasses an area far larger than the proposed bay mud stockpiles, to be watered two times per day throughout grading and Title 27 landfill closure, site remediation and subsequent Baylands development.

- Because (1) the temporary placement of bay mud will be confined to a small portion of the former landfill site as shown in **Figure 6**, and (2) placement and stockpiling of bay mud will be required to implement best management practices and meet the City Engineer's requirements to provide appropriate drainage to prevent downstream flooding, the presence of bay mud within the former landfill site would not result in any significant impacts related to drainage facilities.

Conclusion

As demonstrated above, placement and stockpiling of bay mud imported from the Clean Water Project to the site of the former Brisbane landfill **would not** involve any:

- Substantial changes in the project for which the Baylands Final Program EIR was prepared that would require major revisions of the certified EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects associated with the placement and storage of bay mud needed for a low hydraulic conductivity layer to cap the landfill prior to initiating actual construction of the landfill cap in compliance with Title 27;
- Substantial changes with respect to the circumstances under which the project for which the Baylands Final Program EIR was prepared would be undertaken that would require major revisions of the certified Final EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Final EIR was certified for approval of General Plan Amendment GP-1-18 that shows:
    - The project for which the Baylands Final Program EIR was prepared would have one or more significant effects not discussed in that EIR;
    - Significant effects previously examined will be substantially more severe than shown in the Baylands Final Program EIR;
    - Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project for which the Baylands Final Program EIR was prepared, but the project proponents decline to adopt the mitigation measure or alternative; or

- Mitigation measures or alternatives which are considerably different from those analyzed in the Baylands Final Program EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

The proposed bay mud import project would require only a minor revision to the certified Brisbane Baylands Program EIR project description to add import and temporary stockpiling of 166,000 cubic yards of bay mud imported from the gravity sewer pipeline component of the Silicon Valley Clean Water Project to the former Brisbane Landfill site prior to its use in capping the landfill in compliance with Title 27 requirements.

4.3 MOVEMENT OF SOIL FROM THE FORMER LANDFILL SITE TO THE UPC-OU-SM REMEDIATION OPERABLE UNIT WITHIN THE BAYLANDS

Subsequent to the placement and stockpiling of 166,000 cubic yards of bay mud excavated from the Silicon Valley Clean Water gravity sewer construction site within the Baylands, 200,000 cubic yards of existing soil within the former landfill site would be relocated to the UPC-OU-SM remediation site within the northwestern portion of the Baylands (former railyard). Movement of this soil from the former landfill area to UPC-OU-SM, would require 12,500 one-way truck trips (25,000 total trips).

Movement of existing soil stockpiled within the eastern, former landfill portion of the Baylands to the operable units for site remediation (UPC-OU-SM and OU-2) in the western portion of the Baylands was previously addressed in the Program EIR certified for the approval of Baylands development reflected in General Plan Amendment GP-1-18 and Measure JJ. Thus, the proposed relocation of 200,000 cubic yards of existing soil within the former landfill site to operable unit UPC-OU-SM has previously been addressed in a certified Environmental Impact Report and thereby constitutes a later activity within the scope of the project described in the Baylands Program EIR.

- The Program EIR's project description estimated that as much as approximately 4,475,000 to 5,000,000 cubic yards of soils within the former landfill area would be excavated and moved within the Baylands as part of Title 27 landfill closure, site remediation, and development of the Baylands.
- The analysis of construction impacts undertaken in the Program EIR included relocating approximately 3,730,000 cubic yards of soil from the former landfill area described in that EIR as:
    - Approximately 2,600,000 cubic yards being relocated to the UPC-OU-SM and OU-2 remediation operable units within the former railyard area; and
    - Approximately 1,130,000 cubic yards of soil being exported to offsite locations from the Baylands.

- The Program EIR identified the following options for transporting soil from the former landfill area to the former railyard area:
    - Transport via truck on Tunnel Avenue and Bayshore Boulevard, which would require a total of approximately 173,400 two-way truck trips (346,800 total trips);
    - Use of a conveyor belt system over the Caltrain right-of-way, which would require review and approval by Caltrain; or
    - A combination of both of these options.
- The Program EIR analyzed the physical environmental effects of site grading, including the soil movement described above that was required for construction of:
    - A Title 27 compliant landfill cap;
    - Remediation of operable units UPC-OU-SM and OU-2; and
    - Development of 1,800 to 2,200 dwelling units and up to 6.5 million square feet of non-residential development with an additional 500,000 square feet of hotel use.
- The bay mud project provides for moving a small portion (approximately 6.4 percent) of the approximately 2,600,000 cubic yards of soil that the Program EIR analyzed being relocated from the former landfill portion of the Baylands to the remediation operable units within the former railyard area.
    - The particular 200,000 cubic yards of soil that would be moved from the former railyard to the UPC-OU-SM operable unit.

Conclusion

The relocation of 200,000 cubic yards of existing soils within the former landfill area to the UPC-OU-SM operable unit is a subset of the much larger movement of existing soil within the former landfill area needing to be relocated to the two remediation operable units within the former railyard portion of the Baylands during grading and construction for Title 27 landfill closure, site remediation, and Baylands development. The movement of as much as 2,600,000 cubic yards of soil from the former landfill area to remediation operable units UPC-OU-SM and OU-2 was contemplated and previously analyzed in the Baylands Program EIR's evaluation of grading and construction impacts. The proposed relocation of 200,000 cubic yards of existing soils within the former landfill area to the UPC-OU-SM operable unit is therefore within the scope of the project described in the Program EIR. Per the provisions of CEQA Guidelines §15168 (c)(5), no further environmental documentation beyond the findings presented above are required.

Exhibit 2

FIRST AMENDMENT TO MEMORANDUM OF AGREEMENT

THIS FIRST AMENDMENT to the Memorandum of Agreement between the City of Brisbane ("City) and Sunquest Properties, Inc. ("Property Owner") is made _____, 2020.

Recitals

A. City and Property Owner entered into a Memorandum of Agreement ("MOA") that sets forth the terms and conditions by which the Property Owner may continue its Soil Processing operation on the Soil Processing Site
B. Capitalized terms used in this First Amendment have the same meaning as capitalized terms in the MOA.
C. The MOA provides for certain limitations as the height of the piles of soil that have been brought to the Soil Processing Site for Soil Processing.
D. Property Owner is processing a Remedial Action Plan ("RAP") and a Remedial Design and Implementation Plan ("RDIP") for a portion of Property Owner's property in Brisbane, designated as UPC-OU-SM and depicted generally on the attached Exhibit A (the "UPC-OU-SM Site").
E. Because the height limitation of the piles of soil have generally reached the maximum height permitted under the MOA, the City has prohibited the Property Owner from bringing any more soil to the Soil Processing Site until soil currently on the Soil Processing Site has been off hauled and/or the City has approved a grading plan concerning the distribution of the soil on Property Owner's property in Brisbane.
F. Property Owner has requested the City to permit it to be allowed to bring to the Soil Processing Site "Bay Mud" that, for purposes of this First Amendment shall mean, soil for the ultimate use as a low-hydraulic conductivity layer required in 27 California Code of Regulations, Section 21090 (a)(2) that, when placed on top of a foundation layer to a depth of not less that one foot, is capable of being compacted to attain a hydraulic conductivity of either 1 foot/year or less, for the purpose of furthering the final closure of the landfill on the Soil Processing Site, in compliance with the requirements of State Title 27 and the Regional Water Quality Control Board ("RWQCB").
G. Property Owner has also requested the City to permit it to be allowed to relocate up to 166,000 cubic yards of soil on the Soil Processing Site to the OU-SM Site.
H. City is willing to accommodate Property Owner's requests assuming certain conditions as set forth in this First Amendment are satisfied.
I. City has certified a program level Final Environmental Impact Report ("Final EIR") and has approved a General Plan Amendment for a residential and commercial project on Property Owner's property in Brisbane that includes the Soil Processing Site and the UPC-OU-SM Site, which project contemplates final closure of the landfill and movement of soils within the Sites.
J. Silicon Valley Clean Water certified a Final Integrated EIR and approved the Wastewater Conveyance System and Treatment Plant Reliability Improvement Project, which contemplates the export of up to 166,000 cubic yards of Bay Mud from that project's construction site.
K. The use of Bay Mud on the Soil Processing Site and the relocation of soil from the Soil Processing Site to the UPC-OU-SM Site will further the efforts of final closure of the landfill as evaluated in the Final EIR and is consistent with the approved General Plan Amendment.
L. The import of Bay Mud to the Soil Processing Site that fails to meet the required standards of the RWQCB as a cap for landfill closure if imported to the Soil Processing Site and allowed to remain on the Soil Processing Site would present a significant health hazard to the residents of the Brisbane but establishing how to calculate damages or the amount of damages if such Bay Mud were to remain on the Soil Processing Site is difficult.

M. Similarly, the continued presence of soil on the Soil Processing Site that is at or near the height limits set forth in the MOA causes dust and dirt particles throughout the Brisbane and surrounding communities and presents a visual blight. Permitting the Property Owner to import an additional 166,000 cubic yards of Bay Mud to the Soil Processing Site without a concomitant relocation of a similar amount of soil from the Soil Processing Site exacerbates the potential for a health hazard to Brisbane residents due to additional dust and dirt particles in Brisbane and adds to the visual blight.

N. In addition, Property Owner 's activities as described in this First Amendment could result in violations of provisions of the Brisbane Municipal Code.

O. The parties have discussed and otherwise reasonably endeavored to determine the fair compensation to the City if (a) the Property Owner fails either to remove timely Bay Mud from the Soil Processing Site once ordered to do so (as provided in Section 3 below) or to relocate/export soil from the Soil Processing Site within 180 days of the Property Owner's receipt of an RAP and RDIP from the State Department of Toxic Substances Control ("DTSC") (as provided in Section 4 below) or (b) Property Owner violates provisions of the Brisbane Municipal Code (as provided in Section 7 below)and have concluded that it is impractical or extremely difficult for the parties to foresee what the damages would be or how those damages would be calculated.

P. The parties nevertheless wish to embody in this First Amendment a liquidated damages provision in the event of the Property Owner's breach for the reasons in Recitals L, M and N.

Q. The City Council has considered and approved an Addendum to the Final EIR and an Addendum to the Silicon Valley Clean Water Project Integrated Final EIR concerning the activities described in this First Amendment.

NOW, THEREFORE, the parties agree the MOA be amended to include the following provisions:

1. Prior to the Property Owner's commencing the import of Bay Mud to the Soil Processing Site (see section 2 below) and the relocation of soil from the Soil Processing Site to UPC-OU-SM (or the export of soil from the Soil Processing Site to an alternative location outside the City of Brisbane (see section 4 below), Property Owner shall submit to the City (a) a grading permit application under Chapter 15.01, Brisbane Municipal Code ("BMC) (which permit shall be exempt from Planning Commission approval as provided in Section 15.01.081, BMC) and (b) a truck traffic plan.
2. Subject to the City Engineer's approval of a grading permit and a truck traffic plan, which permit and plan will address Bay Mud import, soil relocation or export, and the timing of the import and relocation/export operations, for example, hours of operation, the number of truck trips per day and a methodology to determine such number, etc., , Property Owner may import up to 166,000 cubic yards of Bay Mud to the Soil Processing Site.
3. As the Bay Mud is brought to the Soil Processing Site, Property Owner shall test the Bay Mud using protocols approved by the City Engineer to ensure that the Bay Mud meets all the required standards of the State Title 27 and RWQCB as a "cap" for landfill closure and otherwise does not pose a threat to the public health and safety. Such protocols shall include, but not be limited to, the City Engineer's review of scheduled submission of ongoing testing of the Bay Mud, as well as the City Engineer's review of random testing of the Bay Mud. If as a result of the testing of the Bay Mud or otherwise,, if it is determined that some or all of the Bay Mud does not meet the required standards of the State Title 27 and RWQCB as a cap for landfill closure or otherwise presents a threat to the public health and safety, the City Engineer shall order the Property Owner to remove immediately the Bay Mud from the Soil Processing Site. If Property Owner fails to begin removing the Bay Mud from Soil Processing Site within 48 hours from its receipt of the City Engineer's order to do so and/or fails to remove the Bay Mud from the Soil

Processing Site within 20 days from the date of the City Engineer's order to do so, Property Owner shall pay liquidated damages to the City of $1000/day until the Bay Mud has been removed.

4. Within 180 days of the Property Owner's receipt of an approved RAP and RDIP from the State Department of Toxic Substances Control ("DTSC") for the UPC-OU-SM Site, Property Owner shall relocate 200,000 cubic yards of soil from the Soil Processing Site to the UPC-OU-SM Site, and place that material in a manner approved in the RAP/RDIP in order to contain residual contamination. If Property Owner fails to relocate 200,000 cubic yards of soil from the Soil Processing Site to the UPC- OU-SM Site within 180 days of Property Owner's receipt of an approved RAP and RPID from DTSC, Property Owner shall pay liquidated damages to the City of $1000/day until 200,000 cubic yards of soil has been relocated from the Soil Processing Site to the UPC-OU-SM Site. Property Owner may also satisfy the requirements of this Section 4 by relocating 200,000 cubic yards of soil from the Soil Processing Site to a City Engineer's approved alternative receiving site not within the City of Brisbane.
5. Once the Property Owner has relocated 200,000 cubic yards of soil from the Soil Processing Site to the UPC-OU-SM Site, the City shall establish, and Property Owner shall comply with, revised height limitations for the remaining piles of soil on the Soil Processing Site.
6. Property Owner shall pay the City the grading permit and truck haul permit impact fees established in the most current Master Fee Schedule for the import of the Bay Mud to the Soil Processing Site and the relocation of soil from the Soil Processing Site to the UPC-OU-SM Site or to an alternative receiving site.
7. If Property Owner violates any condition of the approved grading plan, the approved truck traffic plan or provisions of the Brisbane Municipal Code, Property Owner shall pay City as liquidated damages $1000/day for each day the Property Owner has violated either or both plans, or has violated provisions of the Brisbane Municipal Code.
8. With attorneys retained by the City, Property Owner shall indemnify, defend and hold harmless City, its officers, employees and agents, from and against all claims, demands, liabilities, actions, causes of action, losses, damages, cost and expenses, including reasonable attorney's fees, against the City, or any of its officers, employees or agents, arising out of this First Amendment or the MOA, including but not limited to legal challenges under the California Environmental Quality Act. Property Owner shall deposit funds with the City to cover the costs arising out of the matters described in this section 8.
9. Notwithstanding the liquidated damages provisions in this First Amendment, in the event of breach of this First Amendment or the MOA, City may exercise any and all rights in has in law and in equity, including specific performance of Property Owner's obligations under this First Amendment or the MOA.
10. This First Amendment may be amended only by a written instrument executed by the parties or their successors in interest
11. Any of the requirements of this First Amendment or the MOA may be expressly waived in writing by the parties but no waiver of any requirement of this Agreement shall, or shall be deemed, to extend or effect any other provision of this First Amendment or the MOA. The City's waiver of any breach of any term or condition of this First Amendment or the MOA shall not be deemed a waiver of any subsequent breach of the same or any other term or condition.
12. If any provision of this First Amendment or the MOA is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining portions of this First Amendment or the MOA shall not in any way be affected or impaired thereby.

13. In any action to enforce this First Amendment or the MOA, the prevailing party shall be entitled to all costs and expenses of suit, including reasonable attorneys' fees.
14. The obligations of this First Amendment and the MOA shall run with the land and be binding on the parties, their successors and assigns.
15. Notices, demands and communications between the parties shall be given by registered or certified mail, return receipt requested, or delivered by express delivery service, return receipt requested, or delivered personally, to the principal office of the parties as follows:
    City: City Manager, City of Brisbane, 50 Park Place, Brisbane, CA 94005
    Property Owner: Sunquest Properties, Inc. Greg Vilkin 150 Executive Park Blvd., Suite 4000 San Francisco, CA 94134
16. This First Amendment and MOA shall be governed by the laws of the State of California. Venue for any action to enforce or interpret this First Amendment or the MOA shall be in the Superior Court of the State of California, County of San Mateo.
17. This First Amendment contains the entire understanding between the parties with respect to the subject matter of this First Amendment and there are no representations, agreements or understandings, whether oral or written, between the parties relating to the subject matter of this First Amendment that are not fully expressed herein. The drafting and negotiating of this First Amendment have been participated in by each of the parties and/or their counsel and for all purposes this First Amendment shall be deemed to have been drafted jointly by both parties.
18. Except as provided in this First Amendment, the terms and conditions of the MOA are to continue in full force and effect.

IN WITNESS WHEREOF, the parties have executed this First Amendment the day and year first written above.

CITY OF BRISBANE

_____
Mayor

BAYLANDS DEVELOPMENT, INC.

By: Kevin Cullina
Vice President

Attest:

Ingrid Padilla,
City Clerk

Approved as to form:

Thomas McMorrow
Interim City Attorney