

Staff Recommendation  
November 30, 2017

**ALBANY BEACH RESTORATION AND PUBLIC ACCESS, PHASE 2**

17-033-01

Project Manager: Avra Heller

**RECOMMENDED ACTION:** Authorization for the disbursement of \$520,000 to the East Bay Regional Park District (EBRPD) to enhance and restore approximately 5.4 acres of sandy beach, vegetated dune, and wetland habitat, and construct 650 feet of San Francisco Bay Trail at Albany Beach, City of Albany, Alameda County.

**LOCATION:** City of Albany, Alameda County

**PROGRAM CATEGORY:** San Francisco Bay Area Conservancy

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**EXHIBITS**

Exhibit 1: [Project Location](#)

Exhibit 2: [Site Plans and Photos](#)

Exhibit 3: [Final EIR and Final Supplemental EIR, Summary of Table of Impacts, Mitigation, Monitoring, and Reporting Program](#)

Exhibit 4: [Project Letters](#)

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**RESOLUTION AND FINDINGS:**

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31160-31165 of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes the disbursement of \$520,000 (five hundred twenty thousand dollars) to the East Bay Regional Park District (EBRPD) to implement the Albany Beach Restoration and Public Access Project, in the City of Albany, subject to the following conditions:

1. Prior to disbursement of any funds, the EBRPD shall submit for the review and approval of the Executive Officer of the Conservancy:
  - a. a work program, including a budget and schedule,
  - b. the names of any contractors hired to complete the project, and
  - c. a sign plan for acknowledging Conservancy funding.

2. Prior to initiating construction of the project, the EBRPD shall provide written evidence to the Executive Officer of the Conservancy that all funding and permits and approvals necessary under applicable local, state, and federal laws and regulations to complete the project have been obtained.
3. In implementing the project the grantee shall comply with all mitigation measures as well as monitoring and reporting requirements for the project that are identified in the Final Environmental Impact Report Mitigation Monitoring and Reporting Program and the Supplemental Mitigation Monitoring and Reporting Program (pgs. 1140-1200 of Exhibit 3) approved by the EBRPD, attached to the accompanying staff recommendation as Exhibit 3, and in any permits, approvals or additional environmental documents required for the project.”

Staff further recommends that the Conservancy adopt the following findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed authorization is consistent with the purposes and objectives of Chapter 4.5 (Sections 31160-31165) of Division 21 of the Public Resources Code, regarding public access improvements to and around the San Francisco Bay.
2. The proposed authorization is consistent with the current Project Selection Criteria and Guidelines.
3. The Conservancy has independently reviewed and considered the *Final Environmental Impact Report Albany Beach Restoration and Public Access Project* (FEIR) certified by the EBRDP on November 20, 2012, the *Final Supplemental Environmental Impact Report Albany Beach Restoration and Public Access Project* (FSEIR), certified by EBRPD on June 2, 2015, and public comment to these documents, all of which are attached to the accompanying staff recommendation as Exhibit 3. The FEIR and FSEIR identify potentially significant effects of the project on biological resources, cultural resources, geology and soils, and hydrology and water quality. The Conservancy finds that the proposed project, as modified by incorporation of the mitigation measures identified in the FEIR and FSEIR, avoids, reduces or mitigates all of the possible significant environmental effects of the project, and that the proposed project will not have a significant effect on the environment.”

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### **PROJECT SUMMARY:**

Staff recommends the disbursement of up to \$520,000 to East Bay Regional Park District (EBRPD) to implement the Albany Beach Restoration and Public Access Project (project or proposed project). The proposed project will enhance and restore sandy beach, vegetated dune, and wetland habitat, construct rain gardens, install new restrooms and other public access features, and construct 650 feet of San Francisco Bay Trail at Albany Beach, in the City of Albany. Stabilizing the eroding beach, expanding dune habitat, establishing native dune

vegetation; and creating 11,7000 square feet of rain gardens, and expanded seasonal wetlands at the project site will improve water quality by intercepting and filtering urban runoff. The project will enhance public green space by creating habitat, and developing trails, picnic areas, restrooms, and parking on what is currently solely an asphalt parking lot along a highly urbanized segment of the San Francisco Bay Shoreline. Conservancy funding will be used for the enhancement and restoration components of the project.

The Albany Beach waterfront is part of a former municipal landfill turned McLaughlin Eastshore State Park in 1998. The parks' 2002 General Plan identifies public access and habitat improvements for the Albany Beach area as a key management intent. Despite its high levels of human use by East Bay residents, Albany Beach contains some unique biological features that are sensitive to disturbance and pollutants. This includes seasonal wetlands, dune landforms which are rare along the East Bay shoreline, sandy shoreline, and off-shore eelgrass beds, which are sensitive to water quality impacts associated with pollutants in stormwater runoff.

Currently the project area receives non-point source polluted runoff from the adjoining watershed, both from paved portions of the project area, and a large paved area next to the project that is used to store materials and waste products associated with the adjacent Golden Gate Fields' race track operations. These two areas combined create a paved watershed area of 283,000 sq. ft. (6.5 acres). A typical six-hour 0.5 inch rainfall event results in a runoff volume of over 10,000 cubic feet of water, a portion of which consistently pools in the existing parking lot at depths of six to eight inches or more, and often remaining for several days after significant winter storm events. This perched untreated stormwater eventually dissipates into the site's shallow ground water table and into the Bay. The remainder of the runoff moves through existing seasonal wetlands, and is discharged to the beach and into the Bay. These wetlands are severely degraded due to human trampling and stormwater damage. As shown in Exhibit 2, this existing condition presents a significant barrier to public access during wet weather, and has significant non-point source pollution impacts on San Francisco Bay water quality and adjacent groundwater.

The project will be designed to treat stormwater and enhance habitat via approximately 5.4 acres of new rain garden drainage features, created wetlands, and enhanced dune and sandy beach habitats. To create and enhance these natural areas, the project will demolish and remove 65,600 sq. ft. of asphalt concrete (AC), and demolish in place (crush and then cover with sand and organic materials) 21,000 sq. ft. of AC. The new raingardens and enhanced wetlands will have a total combined area of 11,770 square feet, with a typical depth of three feet. The raingardens have been designed to provide sufficient storage and treatment capacity for about 27,500 cubic feet of stormwater runoff, nearly three times the volume generated in a typical 0.5-inch six-hour rainfall event. In addition, care will be taken to design and grade the site to reduce stormwater contact with paved areas, to afford the maximum opportunity for bio-treatment of runoff. To measure the success of these features EBRPD will sample water quality for specific runoff constituents including oil and grease from parking lots, and indicators of animal waste, both before and after project completion and instillation. See Exhibit 2 for site plan and project area schematic.

Strategically placed fencing will be installed to protect enhanced dune and wetland areas from trampling and wildlife disturbance, while guiding public access to non- sensitive areas. The restored and protected dune area will provide a rare glimpse of what historic dune vegetation

assemblages looked like along the East Bay shoreline. The project will treat polluted runoff from the parking lot and racetrack operations through organic fixation in engineered rain garden soil materials, and by natural sand filtration of percolating stormwater. The project is also designed to help arrest beach erosion and provide greater site resilience to sea level rise.

The natural restoration features in this project will serve to enhance the area's ecological functions, but will also serve to protect the project's new public infrastructure including 20 new parking spots, new vault restrooms, bicycle parking, low maintenance landscaping and improved access for non-motorized watercraft. Low growing shrubs and native grasses will be planted to retain open views of SF Bay. An existing eucalyptus grove will be maintained for safety and provide shade and shelter from the wind. Landscaping will be drought tolerant. Park amenities will be designed for durability to ensure low maintenance. The existing chemical outhouse will be replaced with a permanent vault toilet, reducing the number of sanitation truck trips to the park by 90%. This will significantly reduce sewer truck emissions, chemical effluent discharged into sanitary sewers and prolong the life of asphalt and street improvements at Buchanan Street and adjacent parking lot. Environmental education panels will be installed throughout the site, covering topics such as: stormwater runoff; pollutants and their treatment through wetlands and raingardens; beach, dune and seasonal wetland processes, functions, and values; sea level rise and coastal flooding; human impacts on natural systems, and measures to offset visitor impacts.

Finally, a 650-foot segment of the San Francisco Bay Trail has been integrated into the site design. The Bay Trail is playing an increasingly prominent role in recreation and transportation in the Bay Area as more people recognize its multiple benefits. The project promotes the physical and mental health and wellbeing of hundreds of thousands of Bay Area residents who enjoy bicycling, walking, jogging, skating and other outdoor pursuits. The project will benefit numerous disadvantaged communities along the east bay shoreline by closing the only gap in the 10 miles of the San Francisco Bay Trail running between Richmond and Emeryville. The project is accessible to public transportation, located less than one mile (a 7-minute bike ride) from the "Major AC Transit Stop" at Solano and San Pablo in Albany, and is two miles from the El Cerrito BART via an existing class 1 trail, the Ohlone Greenway.

Created in 1934, the EBRPD has been constructing, operating, and maintaining parks, trails and open space in the East Bay for over 80 years. The EBRPD has successfully completed over 25 acquisition, planning, park development and trail construction projects with Conservancy funding. EBRPD staff holds many years of combined project management, environmental restoration, planning, design, stewardship, and construction experience. Additionally, the District has a considerable number of experienced engineering staff and maintenance personnel ready to complete this project.

**Site Description:** Albany beach is situated within a highly urbanized segment of the East Bay shoreline with limited opportunities for large-scale restoration. After landfill operations ceased in 1983, the public adopted the area as an informal, undeveloped waterfront park characterized by ruderal vegetation, exposed landfill debris, creosote timbers and trash. As part of the State Park system and East Bay Regional Park District Shoreline unit, the park attracts users from all over the Bay area and State. EBRPD estimates on average more than 600 users visit this area every day. EBRPD owns the beach area in partnership with the State of California. With the purpose of implementing this restoration and trail project, the District acquired a 2.8-acre parcel

behind the existing beach. The project is located in a disadvantaged community with a median household income of \$42,061. This project is directly adjacent to the Conservancy funded segment of San Francisco Bay Trail that will run from Gilman Street to Buchanan Street. See Exhibit 1 for Project Location, and Exhibit 2 for Site Plans and Photos.

**Project History:** The Conservancy has been extensively involved in the creation of public parks, and public access, including the Bay Trail, as well as enhancing natural resources along this section of East Bay shoreline since the 1990's. The Conservancy, with EBRPD and the State Department of Parks and Recreation, funded the General Plan creating Eastshore State Park in 2001, which represented a culmination of over 20 years of regional activism to create a unified public space along the East Bay shoreline and prevent further development and fill. (The Park has since been named after Sylvia McLaughlin, one of the founders of Save San Francisco Bay Association, and long-time park advocate.) The Conservancy has also provided numerous grants to support the adjacent cities' efforts to improve trails, provide interpretive information, and create habitat. Conservancy funding supported the Albany Beach Restoration and Public Access Feasibility Study, in 2011, and at the February 2, 2017 Board Meeting, the Conservancy provided \$850,000 to support adjacent Phase 3 of this project – the San Francisco Bay Trail from Gilman to Buchanan. Finally, Albany Beach was conditionally (upon the planned improvements) designated as part of the San Francisco Bay Water Trail at the Water Trail's June 2, 2017 Implementation Meeting.

## PROJECT FINANCING

<b>Coastal Conservancy</b>	\$520,000
Cosco Busan DARP (USFWS)	\$1,300,000
Alameda County Transportation Commission 2018 CIP	\$664,000
East Bay Regional Park District	\$1,136,000
Bay Area Air Quality Management District	\$200,000
<b>Project Total</b>	<b>\$3,820,000</b>

The expected source of funding for this authorization is the fiscal year 2017/18 appropriation of the "Water Quality, Supply, and Infrastructure Improvement Act of 2014" (Proposition 1, Division 26.7 of the Water Code, §§ 79700 et seq.). Funds appropriated to the Conservancy derive from Chapter 6 (commencing with Section 79730) and may be used "for multi-benefit water quality, water supply, and watershed protection and restoration projects for the watersheds of the state." (Section 79731). Consistent with section, the proposed project provides multiple environmental benefits. By restoring and stabilizing the dune structures and installing 11,700 square feet of rain gardens and enhanced wetlands the project will help restore the water quality and health of the San Francisco Bay. These natural features will provide habitat for native plants and animal species, while reducing the localized flooding at the project site.

Section 79732(a) identifies the specific funding purposes of Chapter 6, of which the following pertain to this project: protect and restore aquatic, wetland and migratory bird ecosystems including fish and wildlife corridors (subsection (a)(4)); protect and restore rural and urban watershed health to improve watershed storage capacity, and stormwater resource management (subsection (a)(9)); protect and restore coastal watersheds (subsection (a)(10)); reduce pollution or contamination of coastal waters, and protect or restore natural system functions that contribute to water supply, water quality, or flood management (subsection (a)(11)).

The proposed project was selected through the 7th-round competitive grant process under the Conservancy's *Proposition 1 Grant Program Guidelines* adopted in June 2015 ("Prop 1 Guidelines"). The proposed project meets each of the evaluation criteria in the Proposition 1 Guidelines as described in further detail in this "Project Financing" section, the "Project Summary" section and in the "Consistency with Conservancy's Project Selection Criteria & Guidelines" section of this report.

The project has a 6.5:1 match to Conservancy funding. \$1,300,000 for this project is coming from the Cosco Busan Damage Assessment and Restoration Plan (DARP), mitigation funding for the 2007 oil spill. East Bay Regional Park District is contributing \$1,136,000 of their own voter-approved funding from Measure WW and Measure CC. \$664,000 of Alameda County Transportation 2018 Comprehensive Investment Plan (CIP) funds, and finally a \$200,000 match from the Bay Area Air Quality Management District's Bike Facilities Grant.

#### **CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:**

The proposed project is consistent with Chapter 4.5 of Division 21, Sections 31160-31165 of the PRC regarding the San Francisco Bay Area Conservancy Program. The project is located in Alameda County, one of the nine San Francisco Bay Area counties as required by Section 31162.

Under Section 31162(a), the Conservancy may award grants that will "improve public access to, within, and around the bay, coast, ridgetops, and urban open spaces, ... through completion . . . of regional bay, coast, water, and ridge trail systems . . . which are part of a regional trail system and are consistent with locally and regionally adopted master plans and general plans". The proposed trail extension is part of the Bay Trail and will enhance bay access by pedestrians, bicyclists, and others as recommended by the San Francisco Bay Conservation and Development Commission's *San Francisco Bay Plan* (as amended 2002), and the Association of Bay Area Governments' *The Bay Trail Plan* (1989). Construction of the trail will not adversely impact agricultural operations, environmentally sensitive areas or wildlife.

Under §31162(b), the Conservancy may "protect, restore, and enhance natural habitats and connecting corridors, watersheds, scenic areas, and other open-space resources of regional importance." As discussed above, the project will provide important habitat links along the shoreline as well as providing an important segment of the bay trail between Emeryville and Richmond.

Under §31162(d), the Conservancy may "promote, assist, and enhance projects that provide open space and natural areas that are accessible to urban populations for recreational and educational purposes." In addition to restoring coastal habitats, restoring wetlands and improving water quality, this San Francisco Bay Trail segment trail will make a natural area, the San Francisco Bay, more accessible to the nearby urban population consistent with section 31162(d).

The proposed project also satisfies each of the five criteria for determining project priority under Section 31163(c) in the following respects: (1) the project is supported by relevant adopted local or regional plans as discussed above; (2) the project serves a regional constituency because it enhances Albany Beach and the Bay Trail, which serve the residents of the Bay Area and numerous visitors to this locale, as discussed above; (3) the project will be implemented in a timely manner; (4) the project provides the opportunity for EPRPD to effectively leverage federal funds to complete adjacent improvements which may be lost if the project is not quickly implemented; (5) matching funds from the grantee and others have been approved.

**CONSISTENCY WITH CONSERVANCY'S 2013 STRATEGIC PLAN  
GOAL(S) & OBJECTIVE(S), AS REVISED JUNE 25, 2015:**

Consistent with **Goal 11, Objective B**, the project will protect wildlife habitat, scenic areas, and other open-space resources of regional significance.

Consistent with **Goal 11, Objective D**, the project will expand seasonal wetlands and dunes and enhance their ecological function.

Consistent with **Goal 11, Objective F**, the project will enhance watershed functions as the enhanced dune and rain garden structures will reduce non-point source pollutant discharge from the watershed to the San Francisco Bay and ground water. The project will help to arrest beach erosion and provide greater resiliency to sea level rise while enhancing multiple benefits of the beach for water quality, public access and habitat value.

Consistent with **Goal 12, Objective B**, the project will provide new recreational facilities including ADA parking and restrooms at the beach area, a picnic area, and improved non-motorized watercraft launch area.

Consistent with **Goal 12, Objective E**, the project adds 650 linear feet of the San Francisco Bay Trail, completing the final piece of a 10-mile stretch between the City of Emeryville and the City of Richmond.

Consistent with **Goal 12, Objective L**, the project expands opportunities for barrier free access to a natural area (dunes, beach and east bay shoreline).

**CONSISTENCY WITH CONSERVANCY'S  
PROJECT SELECTION CRITERIA & GUIDELINES:**

The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines, last updated on October 2, 2014, in the following respects:

**Required Criteria**

1. **Promotion of the Conservancy's statutory programs and purposes:** See the "Consistency with Conservancy's Enabling Legislation" section above.
2. **Consistency with purposes of the funding source:** See the "Project Financing" section above.

**3. Promotion and implementation of state plans and policies:**

- a. The proposed project is consistent with the *California Water Action Plan's* Restoration and Resilience goal, in that the project furthers Action 4 to “protect and restore important ecosystems,” by restoring coastal wetlands. The project is also part of the Bay Area IRWMP and supports that plan’s Goal 3: to “protect and improve watershed health, function and bay water quality,” and Goal 5: to “create, protect, enhance and maintain environmental resources and habitats.”
  - b. The proposed project supports two of the five “pillars” of the *California at 50 Million: The Environmental Goals and Policy Report*, namely 1: to “steward and protect natural...landscapes” and 2: to “incorporate climate change into all planning and investment.” The project restores wetlands in a high value habitat area and incorporates sea level rise and climate change into the design and implementation of the project.
  - c. This multi-benefit restoration and public access project promotes three of the “cross-sector” themes of the *CA Climate Adaptation Strategy/Safeguarding California: Reducing Climate Risk Plan: Biodiversity & Habitat, Ocean and Coastal Ecosystems and Resources and Public Health*. In addition to restoring coastal habitats, restoring wetlands and improving water quality, the site is located in a disadvantaged community and will serve as an important location for the community to enjoy healthful recreation and access to nature.
  - d. The proposed project serves to promote and implement the *San Francisco Bay Trail Plan*, which was prepared by ABAG pursuant to Senate Bill 100 in 1987. The plan for the Bay Trail proposes development of a regional hiking and bicycling trail around the perimeter of San Francisco and San Pablo Bays.
  - e. *The East Bay Regional Park District (EBRPD) Master Plan* defines the core mission of EBRPD to preserve a rich heritage of natural and cultural resources and provide open space, parks, trails, safe and healthful recreation and environmental education. The Albany Beach project is consistent with the EBRPD mission and vision in that it enhances valuable wetlands and dune habitat, and improves public access to the shoreline.
  - f. Project will implement improvements consistent with the *Eastshore State Park General Plan*, including shoreline reconstruction, habitat enhancement, and trail improvements along the shoreline.
4. **Support of the public:** This project has received broad public support, including support from District 9 State Senator Nancy Skinner, 15<sup>th</sup> Assembly District Assemblymember Tony Thurmond; Alameda County Supervisor Carson, and the San Francisco Bay Area Water Trail. See “Project Letters,” Exhibit 4.
  5. **Location:** The project is located in Alameda County, which is one of the nine Bay Area counties served by the San Francisco Bay Area Conservancy Program.
  6. **Need:** The Conservancy’s funding provides the final piece of the budget and allows the project to move forward.

7. **Greater-than-local interest:** The habitat restoration and natural stormwater filtration features of this project will directly improve water quality in the San Francisco Bay. Additionally this project will expand all-season access to the San Francisco Bay Trail, and complete the last piece of a 10-mile stretch from Emeryville to Richmond. The San Francisco Bay Trail is a regional, nine-county trail network that will be approximately 500-miles long when completed. This authorization will help further the completion of the trail, of which approximately 350 miles have been completed to-date.
8. **Sea level rise vulnerability:** The dune expansion area has been designed to arrest beach erosion and provide greater resiliency to sea level rise. The beach and dune system has been carefully studied and modeled by coastal engineers to develop an approach to arrest erosion and ensure the beach and dunes will persist with sea level rise and climate change. The enhanced beach and dune system are being designed for resiliency with respect to the increased erosive forces and potential changes to the sediment supply and transport system that may occur with future sea level rise. This is being accomplished both by nourishing (increasing the volume of sand on the beach) and by replacing some of the beach sand with a coarser, less erosive grain size that will be more likely to stay in place in light of regular tidal forces and wave erosion at the beach. This material will be “toed in” by excavating and replacing the existing beach sand to a depth of two-three feet with the coarser sand, and raising the elevation of the beach to 11 feet NAD88, to counter-balance the beach erosion that has been experienced over the last several years and provide additional beach sand to withstand future erosion.

#### **Additional Criteria**

9. **Urgency:** EBRPD hopes to go to bid for this project along with the Conservancy’s previously funded San Francisco Bay Trail, Gilman to Buchanan project, in January 2018. Conservancy support would close the project’s final funding gap and ensure its completion in a timely fashion.
11. **Leverage:** See the “Project Financing” section above.
13. **Innovation:** Innovative features of this project include the use of the latest 2D/3D coastal engineering analysis techniques in the design of the dune and beach restoration, which will help ensure that sand transport does not conflict with the safety of the Bay Trail. Another innovative feature is the conversion of a paved parking area back to dune habitat, and the use of localized runoff to support enhanced wetland hydrology. This segment of Bay Trail will be one of the first new major projects that use the new Bay Trail design Guidelines and Tool Box that EBRPD consultants Patrick Miller (2M) developed with Questa Engineering Corporation assistance.
14. **Readiness:** EBRPD is ready to complete the proposed project, and has staff and experience necessary to implement the project successfully.
15. **Realization of prior Conservancy goals:** “See “Project History” above.”
16. **Return to Conservancy:** See the “Project Financing” section above.
19. **Minimization of greenhouse gas emissions:** Consistent with the finding in the environmental impact report for the proposed project, the EBRPD will implement Best Available Control Technologies (BACTs) during construction of the proposed project, in

order to reduce greenhouse gas emissions from construction equipment. BACTs will include the following:

- Contractors will be required to use construction equipment rated by the US EPA as having Tier 3 or higher exhaust emission limits for equipment over 50 horsepower.
- Construction contractors will limit nonessential idling of construction equipment to no more than five consecutive minutes.
- Contractors will ensure that all construction equipment is properly serviced and maintained in designated staging areas and will keep all equipment within the staging areas to the manufacturer's standards to reduce operational emissions. A list of construction equipment by type and model year will be maintained by the construction contractor onsite.

### **CONSISTENCY WITH SAN FRANCISCO BAY PLAN:**

The proposed project is consistent with the Water Quality Policy 1 contained in Part III, and Public Access Policies 9 and 10 contained in Part IV, Development of the Bay and Shoreline: Findings and Policies, of the San Francisco Bay Plan as amended by the San Francisco Bay Conservation and Development Commission (BCDC) in October 2011.

**Water Quality Policy No. 1:** "Bay water pollution should be prevented to the greatest extent feasible. The Bay's tidal marshes, tidal flats, and water surface area and volume should be conserved and, whenever possible, restored and increased to protect and improve water quality." The proposed project's expansion of the native dune system and seasonal wetlands in order to intercept and treat urban runoff is directly in line with this policy.

**Public Access Policy No. 9:** "Access to and along the waterfront should be provided by walkways, trails or other appropriate means and connect to the nearest public thoroughfare where convenient parking or public transportation may be available. Diverse and interesting public access experiences should be provided which would encourage users to remain in the designated access areas to avoid or minimize potential adverse effects on wildlife and their habitat" (pg. 69). Consistent with Public Access Policy No. 9, the proposed project will provide a walkway along the waterfront (the City of Albany shoreline), and will provide a diverse and interesting public access experience (a shoreline trail adjacent to San Francisco Bay, designated non-motorized watercraft launches, picnic areas, and more) that will encourage users to remain in designated public access areas that avoid or minimize adverse effects on wildlife and their habitat.

**Public Access Policy No. 11:** "Federal, state, regional and local jurisdictions, special districts and the Commission [BCDC] should cooperate to provide appropriately sited, designed and managed public access, especially to link the entire series of shoreline parks, regional trail systems (such as the San Francisco Bay Trail) and existing public access areas to the extent feasible without additional Bay filling and without significant adverse effects on Bay natural resources" (pg. 69). Closing gaps between existing public access areas is a high priority for BCDC and the Conservancy. The proposed project is consistent with this policy in that it will implement an appropriately designed Bay trail project that will provide public access and will link up with an existing Bay Trail segment in a shoreline park area without additional Bay fill and without significant adverse effects on Bay natural resources.

## COMPLIANCE WITH CEQA:

In order to comply with the California Environmental Quality Act (CEQA), EBRPD certified the *Final Environmental Impact Report Albany Beach Restoration and Public Access Project* (Final EIR), and approved the proposed project, on November 20, 2012. Following the Final EIR's certification, Sustainability, Parks, Recycling and Wildlife Defense Fund (SPRAWLDEF) filed litigation challenging the FEIR and the approvals made for the Project. In response, the Draft Supplemental EIR (DSEIR) was prepared to comply with the Alameda County Superior Court's May 14, 2014 Final Statement of Decision in the SPRAWLDEF litigation. EBRPD subsequently certified the *Final Supplemental Environmental Impact Report Albany Beach Restoration and Public Access Project* (Final SEIR) to address the impacts of increased dog use at the site and reapproved the proposed project on March 15, 2016. (See Exhibit 3.)

The Final EIR and Final SEIR (collectively "EIR") cover three phases of the Albany Beach Restoration and Public Access Project, of which the proposed project is Phase 2. No significant and unavoidable impacts were found through the environmental review process. However, the EIR indicates that the proposed project could have potentially significant effects on the environment in the areas of biological resources, cultural resources, geology and soils, and water quality. These potential effects on biological resources, cultural resources, geology and soils, and water quality will be reduced to a less than significant level by the incorporation into the project of the mitigation measures discussed below. These mitigation measures are also summarized in the attached Mitigation Monitoring, and Reporting Program and the Supplemental Mitigation Monitoring and Reporting Program.

## Significant Effects Reduced to *Less than Significant Level* by Mitigation

### *Biological Resources*

Construction of the Bay Trail could impact/disturb burrowing owls, a special status wildlife species, and other birds protected by the Migratory Bird Treaty Act; California least terns, a special status avian species; marine mammals including harbor seals, California sea lion, and southern sea otters, and special status wildlife species protected by the Marine Mammal Protection Act. To reduce these potential effects on biological resources to less than significant, the following mitigation measures will be implemented:

- Pre-construction nesting surveys will be conducted by a qualified biologist within 14 days of the onset of disturbance to nesting habitats. If nests are found, they will be flagged and a buffer area will be established to ensure construction will not have a substantial adverse effect on nesting birds protected by the Migratory Bird Treaty Act. No work will be conducted within the established buffer area until young are independent of the nest.
- A Spill Control and Countermeasures Plan will be prepared and implemented to prevent spills and exposure of people, wildlife and sensitive resources to contaminants. The plan will provide for use of a containment boom to prevent spread of any toxic materials that may be released into Bay waters during demolition, debris removal and construction of the rock riprap.

- A biological monitor will be present during subtidal and tidal zone work activities. If a marine mammal is spotted within 500 feet of the construction area, the work will stop until the mammal(s) have left the area.
- The Contractor shall implement a Stormwater Management and Erosion Control Plan to prevent stormwater pollution and siltation from reaching the Bay. Measures shall include but are not limited to: covering stockpiled material prior to rain events, and providing equipment and staff as required to repair and/or implement erosion/sediment control measures.

### ***Cultural Resources***

Construction of the Bay Trail may impact the following cultural resources: “wild art,” an existing (and potentially historic) concrete wall structure, intact historic features, Native American cultural artifacts, fossils and unique geological features, and undiscovered human remains. Conservancy staff provided notification to affected tribes on September 14, 2017 and no responses were received.

To reduce the potential effects on cultural resources to less than significant, the following mitigation measures will be implemented:

- “The shoreline area has provided a source for community artistic expression since the late 1960’s. The material used in this wild art includes discarded items, imported materials such as paint, as well as material found on site, such as concrete rubble and scrap metal. Some of the artistic elements are transient, subject to painting, discard or salvage, and other art is more durable and has unique characteristics that beach visitors are familiar with, such as the driftwood “Spinner” and “Throne” on the Beach, and the “Rubik’s Cube” (FEIR, Existing Conditions – *Visual Character*) Wild art pieces that are durable, can be physically moved, contain unique features, and pose no health or safety risks, will be relocated.
- Work will be halted within 50 feet of any intact historic features, Native American cultural objects, fossils and possible unique geological features, discovered during construction, until the features have been inspected and evaluated by a qualified archaeologist, geologist, or paleontologist (as appropriate to cultural resource in question). The relevant expert will, in accordance with *EBRPD Guidelines for Protecting Parkland Archaeological Sites*, identify and evaluate the significance of the discovery and develop recommendations for treatment to ensure any impacts to the cultural resource are less than significant.
- If human remains are discovered during construction, work within 100 feet of the discovery will be halted until a qualified archaeologist evaluates the discovery and makes recommendations for treatment to ensure any impacts to the cultural resource are less than significant. In addition, a discovery of human remains will be reported to the County Coroner. If the Coroner determines the remains to be Native American, the Native American Heritage Commission will be contacted to assign a Most Likely Descendant to provide recommendations for the proper treatment of the remains taking into account the possibility of multiple human remains; and EBRPD will comply with Public Resources

Code section 5097.98 and the Native American Graves Protection and Repatriation Act, if applicable.

### ***Geology and Soils***

It is likely that during the design lifetime of the proposed project, the project site will be subject to strong seismic ground shaking and potential liquefaction and landslides that would damage structures and expose users to risk. Another risk is that earthwork, ground disturbance, soil cut and fill, and increased park visitors, including those accompanied by dogs, will lead to increased soil and dune erosion and siltation into the Bay. To reduce these potential effects on geology and soils to less than significant, the following mitigation measures will be implemented:

- EBRPD will comply with a design level geotechnical report that provides design recommendations to protect people and structures from ground shaking, liquefaction, landslides, earthquakes, substantial soil erosion or loss of topsoil, and unstable soils.
- EBRPD will complete an Erosion Control and Revegetation Plan, as well as a Storm Water Pollution Prevention Plan (SWPPP). These will include winterization, dust control, wind and water erosion control; erosion, siltation and stormwater runoff and pollution control measures conforming to the Association of Bay Area Government Manual of Standards for Erosion and Sediment Control Measures and the California Stormwater Quality Association Stormwater Best Management Practice Handbook Portal: Construction. The Erosion Control Plan will describe the “Best Management Practices” (BMPs) to be used during and following construction to control pollution and sedimentation resulting from both storm and construction water runoff. Performance standards to be included in the SWPPP, include the following minimum standards:
  1. there cannot be an increase in Bay Water Turbidity above background levels by more than 10%.
  2. there cannot be pH levels in stormwater runoff from disturbed or stabilized areas of less than 6.5 or more than 8.5.
  3. there cannot be salinity in stormwater runoff from disturbed or stabilized areas of an amount large enough to have an appreciable impact on the salinity of San Francisco Bay.
- Fencing must be established around the enhanced dune and wetland area to prevent access and resultant erosion by park users and pets. This would prevent erosion of the restored sandy dune complex due to use by park visitors.

### ***Hydrology and Water Quality***

During construction, the proposed project could potentially violate water quality standards or waste discharge requirements if sediment-laden runoff from disturbed work areas enters San Francisco Bay and increases turbidity or if fuel or other construction chemicals are accidentally spilled or leaked into the water. To reduce these potential effects to less than significant, the following mitigation measures will be implemented:

1. Detailed plans for temporary construction-related erosion control will be incorporated in the project plans. Construction plans will specify all appropriate erosion and sediment control measures.
2. EBRPD will prepare a SWPPP that will include BMPs to prevent or minimize stormwater pollution during construction activities, and post construction.

Conservancy staff has independently reviewed the EIR and public comment to environmental documents, as provided in Exhibit 3. Staff recommends that the Conservancy, as a responsible agency, find that there is no substantial evidence that the project, as designed and mitigated, will have a significant effect on the environment. EBRPD adopted the Mitigation Monitoring and Reporting Program (MMRP) for the Final EIR on November 20, 2012, and an additional MMRP for the Supplemental EIR on June 2, 2015. Staff will file a Notice of Determination upon approval of the project.