RICHARDSON’S BAY REGIONAL AGENCY
Board of Directors Meeting Notice
Thursday, August 12, 2021

Via Remote Zoom Meeting:
https://us06web.zoom.us/j/89723707189?pwd=N21K Md0aEd4QmZF WjBl aXozVVM4dz09

Webinar ID: 897 2370 7189
Webinar Passcode: 899921

Coronavirus (COVID-19) Advisory Notice: In compliance with local and state shelter-in-place orders, and as allowed by Executive Order N-29-20 (March 17, 2020), the Agency will not offer an in-person meeting location for the public to attend this meeting. Members of the public may offer public comment remotely from a safe location as described below. Members of the Board of Directors or staff may participate in this meeting electronically or via teleconference.

How to participate remotely: Comments may be emailed to chavel@marincounty.org in advance of the meeting; please write “Public Comment” in the subject line. Comments submitted at least one hour prior to the start of the meeting will be forwarded to the Board of Directors prior to the meeting start. Those received after this time will be shared with the Board members after the meeting.

The meeting will be available to the public through Zoom video conference. Those who do not have access to Zoom may access the meeting by calling one of the toll-free phone numbers below.

The Richardson’s Bay Regional Agency (RBRA) is inviting you to a scheduled Zoom meeting.
Topic: RBRA Board of Directors Meeting, Thursday, August 12, 2021
Time: August 12, 2021 - Open session to adjourn to closed session 4:30 PM Pacific Time (US and Canada)
Open session regular meeting 5:30 PM

Join Zoom Webinar:
https://us06web.zoom.us/j/89723707189?pwd=N21K Md0aEd4QmZF WjBl aXozVVM4dz09

Webinar ID: 897 2370 7189
Webinar Passcode: 899921
One tap mobile: (720) 707-2699 or (253) 215-8782
Find your local number: https://zoom.us/u/ayYK5Oc1j or https://us06web.zoom.us/u/kezyWoJ2kE

The RBRA encourages that comments be submitted in advance of the meeting. Those members of the public using the Zoom video conference function who wish to comment on an agenda item for public comment may write “I wish to comment” in the chat section of the remote meeting platform, or click on “raise hand” when that item is underway. Those members of the public attending by telephone who wish to comment should press *9 on their keypad. The Clerk will unmute the speakers one at a time at the appropriate time for public comment.

Any member of the public who needs special accommodations in advance of the public meeting to attend may email the Agency at chavel@marincounty.org, or phone (415) 971-3919, and we will use our best efforts to provide assistance. If assistance is needed during the meeting, you may email jmalcolm@marincounty.org, and best efforts will be made to provide such assistance.
RICHARDSON’S BAY REGIONAL AGENCY
Board of Directors Meeting Agenda
Thursday, August 12, 2021

Join Zoom Webinar:
https://us06web.zoom.us/j/89723707189?pwd=N21KMkd0aEd4QmZFWjBlaXozVVM4dz09

Webinar ID: 897 2370 7189            Password: 899921

PUBLIC COMMENT IS INVITED CONCERNING EACH AGENDIZED ITEM PURSUANT TO THE BROWN ACT.
PLease limit your comments to three (3) minutes.

Please see above meeting notice information about options to comment remotely in advance, during the
meeting via Zoom by writing “I wish to comment” in the chat feature, or via phone by typing *9 to raise
your hand. You will be recognized to speak at the appropriate time during the agenda items.

4:30 PM: CALL TO ORDER IN REMOTE OPEN SESSION – ROLL CALL

ADJOURN TO CLOSED SESSION:
1) CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
   Significant exposure to litigation pursuant to California Government Code § 54956.9(d)(2).
   Number of potential cases: One.

5:30 PM: RECONVENE IN REMOTE OPEN SESSION

1) Call to order and roll call.

2) Consent Agenda. The Consent Agenda reflects those agenda items with prior policy approval from the
   Board and/or are administrative matters. Unless any item is specifically removed by a member of the
   Board, staff, or public in attendance, the Consent Agenda will be adopted by one motion.
   a) Approve minutes of July 8, 2021.

3) Action Item: Presentation of the Final Draft Elgrass Protection Management Plan (EPMP) by Rebecca
   Schwartz Lesberg from Coastal Policy Solutions. Staff Recommendation: Receive report and take action
   to adopt final EPMP.

4) Action Item: Presentation of Proposed Settlement Agreement with the San Francisco Bay Conservation
   and Development Commission (BCDC). Staff Recommendation: Authorize the Board Chair to execute a
   settlement agreement between RBRA and BCDC to resolve pending enforcement action by BCDC against
   RBRA, pursuant to terms presented in the tentative agreement.

5) Open time for public expression. Members of the public are welcome to address the Board for up to three
   minutes per speaker on matters not on the agenda. Under the state Brown Act, Board members may not
   deliberate or take action on items not on the agenda, and generally only may listen.

6) Reports/comments: a) Staff report; b) Board Member matters.

7) Adjourn.

An agenda packet is available at the RBRA website rbra.ca.gov and at the Marin County Community Development Agency,
3501 Civic Center Dr. Room 308, San Rafael, CA 94903     (415) 971-3919    chavel@marincounty.org
4:30 PM: CALL TO ORDER IN REMOTE OPEN SESSION
MEMBERS PRESENT: Stephanie Moulton-Peters, Chair (Marin County), Steve Block, Vice Chair (Belvedere); Alice Fredericks (Tiburon), Jim Wickham (Mill Valley),
STAFF: Curtis Havel (Harbormaster); Jim Malcolm (Assistant Harbormaster), Jenna Brady (Legal Counsel)

ADJOURN TO REMOTE CLOSED SESSION:
1) CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
   Significant exposure to litigation pursuant to California Government Code § 54956.9(d)(2).
   Number of potential case(s): One.

5:30 PM: RECONVENE IN REMOTE OPEN SESSION

1. Call to order and roll call.
MEMBERS PRESENT: Steve Block (Belvedere); Stephanie Moulton-Peters (Marin County); Alice Fredericks (Tiburon)
MEMBERS ABSENT: Jim Wickham, Chair (Mill Valley)
STAFF: Curtis Havel (Harbormaster); Jim Malcolm (Assistant Harbormaster); Jenna Brady (Legal Counsel)

2. Consent Agenda
      No comment from public.
   M/S Fredericks/Block, to approve the Consent Agenda. Motion passed unanimously.

3. Informational Item: Presentation by the United States Coast Guard pertaining to jurisdictional relationships in Richardson’s Bay. Item to be rescheduled.
   M/S Fredericks/Block motion to continue both items 3 and 4 to a date uncertain. Motion passed unanimously.

4. Action Item: Presentation of the Final Draft Eelgrass Protection Management Plan (EPMP) by Rebecca Schwartz Lesberg from Coastal Policy Solutions. Item to be rescheduled.
   M/S Fredericks/Block motion to continue both items 3 and 4 to a date uncertain. Motion passed unanimously.

5. Open time for public expression.
Comments received from Robbie Powelson, Jeff Jacobs Chase, Daniel Francis Eggnik, Hassan Cross, Erinlee Fowler, Emilio Pineda, Eva Crysanthe, Dmitry Alter, Keven Kiffer.
6. Reports/comments.
Harbormaster Havel reported that 88 vessels are currently anchored in Richardson’s Bay. There are currently 20 vessels that arrived after August 2019. Outreach case managers with the Downtown Streets Teams have made considerable progress performing 26 VISPDAT (Vulnerability Index – Service Prioritization Decision Assistance Tool) interviews. The Sausalito Police Department has notified the RBRA that funding is available to potentially locate up to 2 vessels in marinas through the Safe Harbors Program. Staff will work with Ritter Center staff and local marinas to search for space available. Funding associated with the RBRA’s Safe and Seaworthy program will be used to purchase safety equipment such as fire extinguishers, flares and first aid kits. Since the last RBRA Board Meeting, 3 vessels have arrived in the anchorage. All the recently arrived vessels were posted with notices and informed of the rules for anchoring in Richardson’s Bay, including but not limited to the 72-hour limit. The skippers of these vessels are aware of the rules for anchoring in Richardson’s Bay, and staff will be working with the Marin County Sheriff’s Office to issue citations and potentially impound these vessels if they refuse to depart.

7. Adjournment.
The meeting was adjourned at 6:05pm
For the Richardson’s Bay Regional Agency Board of Directors Meeting of August 12, 2021

July 28, 2021

Board of Directors
Richardson Bay Regional Agency
3501 Civic Center Drive, Room 308
San Rafael, CA 94903-4157

Re: Final Richardson’s Bay Eelgrass Protection and Management Plan (EPMP)

Dear RBRA Board of Directors,

The primary goal of the EPMP is to establish boundaries for where anchoring can or cannot occur in Richardson’s Bay in order to protect eelgrass resources and prevent further damage to the bed from anchor scour. A draft Eelgrass Protection and Management Plan (EPMP) was presented to your Board at its April 8, 2021, Board Meeting for public review and comment and a Response to Comments Report was presented on June 10, 2021. At the June meeting, you provided direction for the finalization of the EPMP, which is provided today for your approval.

The EPMP is the result of significant stakeholder engagement, policy review, and spatial analysis, and represents a feasible, implementable plan for protecting eelgrass in Richardson’s Bay. The document includes background information, a description of how the plan was developed, and a “Plan Elements” section that outlines the proposed Eelgrass Protection Zone/No Anchoring Area, wildlife and water quality monitoring, and recommendations for EPMP implementation.

The main differences between this final EPMP and the drafts shared on April 8 and July 2 are as follows:

- Finalization of the selected boundary for the Eelgrass Protection Zone – There were no spatial changes from Proposed Boundary A in the April 8 and July 2 drafts. Only the narrative was updated to reflect the selection of the proposed boundary.
- Inclusion of information related to anchorage carrying capacity, acreages, costs for implementation, the importance of connecting vulnerable individuals on the water with appropriate social services, and suggestions for expanded water quality monitoring.
- Removal of language related to potential future mooring and restoration programs – While nothing in the EPMP is inconsistent with future mooring and/or restoration efforts, these programs are not part of the implementation of the EPMP itself. Additionally, these programs were not evaluated as during the EPMP stakeholder engagement or spatial analysis and were therefore removed from the EPMP document. The RBRA may choose to move forward with restoration and/or mooring programs in the future as part of its efforts to manage the Richardson’s Bay anchorage and the area’s natural resources.

As a reminder, Phase 1 Implementation of the EPMP has already received funding from the California Ocean Protection Council. Phase 1 Implementation includes conducting baseline and ongoing wildlife monitoring, engaging in robust outreach and education efforts, and updating relevant rules and regulations over the next two years.

Coastal Policy Solutions: advancing conservation action that supports people and wildlife.
My recommendation is that at the August 12, 2021, RBRA Board meeting, you approve the final EPMP and direct staff to proceed with its implementation.

While I will not be able to be present at the August RBRA meeting due to my upcoming maternity leave, I have supplied RBRA staff with a recording of a presentation explaining this final EPMP.

Sincerely,

[Signature]

Rebecca Schwartz Lesberg
President
Coastal Policy Solutions
Richardson’s Bay
Eelgrass Protection and Management Plan

July 28, 2021
Prepared for:

Richardson’s Bay Regional Agency
c/o Marin County Community Development Agency
Planning Division
3501 Civic Center Drive, Room 308

Prepared by:

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Coastal Policy Solutions
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Suggested citation:
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Executive Summary

Richardson’s Bay, located north of the Golden Gate in Marin County, supports the second largest eelgrass bed in the San Francisco Bay Area. This eelgrass in turn supports tens of thousands of migratory waterbirds every year and is the preferred spawning location for over 90% of the Bay Area’s Pacific herring population. Despite its ecological importance, the eelgrass bed of Richardson’s Bay has been damaged by the anchors, chains, and other ground tackle of boats in the Richardson’s Bay anchorage. In July of 2020, Coastal Policy Solutions was retained by the Richardson’s Bay Regional Agency (RBRA) to develop the agency’s Eelgrass Protection and Management Plan (EPMP). The goal of the EPMP is to establish boundaries for where anchoring can or cannot occur in Richardson’s Bay in order to protect eelgrass resources and prevent further damage to the eelgrass bed from anchor scour. The development of the EPMP proceeded as follows:

- Fall 2020: Policy review and stakeholder engagement
- Winter 2021: Spatial analysis and draft plan development
- April 2021: Draft EPMP released, 30-day comment period opened
- June 2021: Response to Comments Report released, feedback received from RBRA Board of Directors for EPMP finalization
- July 2021: Final EPMP adopted by RBRA Board of Directors

The EPMP consists of three main sections: Introduction, EPMP Framework, and Plan Elements. The first two sections deal mainly with background information and EPMP development. The provisions of the plan, including the adopted boundary for the Eelgrass Protection Zone/No Anchoring Area, are included in the “Plan Elements” section of the document. The adopted boundary is depicted in Figure 11 on page 15 and demarcates an “Eelgrass Protection Zone/No Anchoring Area” northwest of a line extending from Channel/Day Marker Four along the navigation channel offshore of Sausalito to the southernmost tip of the Richardson’s Bay Audubon Sanctuary. This boundary will be codified into relevant regulations during the coming months. Also included in the Plan Elements section are recommendations for EPMP implementation, wildlife and water quality monitoring, and reference to possible future mooring and/or restoration programs not proposed in, but which are consistent with, the EPMP.

The development and implementation of the EPMP represents the fulfillment of policies contained in the RBRA’s June 2020 Transition Plan for the anchorage, which aims to protect the environment and public health, and support recreational use of the Bay, while reducing the number of occupied and/or abandoned vessels in the Bay. This EPMP was developed with the input of dozens of individual and organizational stakeholders and represents a feasible, cost effective program for protecting eelgrass in Richardson’s Bay now and for future generations.
Introduction

Background
Richardson’s Bay is managed by the Richardson’s Bay Regional Agency (RBRA), a local government agency serving Belvedere, Mill Valley, Tiburon, and unincorporated Southern Marin County, in coordination with the City of Sausalito (Figure 1). In June of 2020, the RBRA adopted a “Transition Plan” for the Richardson’s Bay anchorage, which aims to protect the environment and public health, and support recreational use of the Bay, while reducing the number of occupied and/or abandoned vessels in the Bay.

The Transition Plan explicitly affirms Richardson’s Bay as a temporary anchorage (i.e., an anchorage with enforceable time limits for a visiting vessel’s length of stay), and includes initiatives aimed at increasing the seaworthiness of vessels on the anchorage and connecting vulnerable individuals living on the water with safe housing alternatives. Of the five Policy Directions included in the Transition Plan, four speak directly to issues relating to vessel enforcement, seaworthiness, and occupied vessels. The fifth Policy Direction relates to the protection and restoration of the Bay’s vital eelgrass beds, and reads as follows:

5) Working with agencies, organizations, and other stakeholders, develop eelgrass protection measures and consider specific eelgrass restoration funding and projects.

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1 Available online: http://rbra.ca.gov/about-rbra/transition-plan/
The full text of Policy Direction Five establishes “the potential designation of up to four zones in Richardson’s Bay for varying levels of vessel usage and eelgrass restoration and protection,” including the establishment of areas in Richardson’s Bay “where vessels would not be authorized to anchor or moor.”

The Transition Plan was adopted by the RBRA board on June 11, 2020 and RBRA retained Coastal Policy Solutions that July to implement Policy Direction Five. It was identified that the best way to implement this Policy Direction would be to develop and implement an Eelgrass Protection and Management Plan (EPMP) using a spatial planning approach to manage natural resource conflict in Richardson’s Bay. The draft EPMP was delivered to the RBRA Board of Directors in April 2021 and a final EPMP was delivered to the Board in July 2021.

About Richardson’s Bay

Richardson’s Bay is a relatively shallow embayment covering approximately 1,270 hectares (3,138 acres) of mostly open water habitat in Marin County, California. The Bay is located approximately 1.3 km (0.8 miles) upstream (northeast) of San Francisco’s Golden Gate Bridge and includes areas under the jurisdictions of the Cities of Sausalito, Mill Valley, and Belvedere, as well as the Town of Tiburon and the County of Marin. Richardson’s Bay has a long history of human use, dating back to pre-European settlement of the Bay Area when the land was part of Coast Miwok tribal territory for at least 13,000 years².

Like much of the rest of California, the area ultimately came under Spanish, then Mexican, and finally United States rule through the 18th-19th centuries, with large ships anchoring in the Bay since at least the 1890s³. Through the late 19th and 20th centuries, the shoreline of Richardson’s Bay was extensively developed for commercial, residential, and maritime purposes. In addition to the floating homes in the marinas of Sausalito, many boaters continued to live on vessels in the anchorage of Richardson’s Bay. In response to the growing number of so-called “anchor out” vessels, as well as ongoing shoreline development pressure, local governments and the San Francisco Bay Conservation and Development Commission developed the “Richardson Bay Special Area Plan”.

Finalized in 1984, the plan’s goals were “protection of [the Bay’s] natural resources; use of the water for water-oriented purposes; restoration and enhancement of degraded tidal wetlands; and provision of public access to and along its shoreline.” To implement this plan and provide coordination amongst the several municipalities with jurisdiction over the Bay, the Richardson’s Bay Regional Agency was established in 1985 as a joint powers authority governing Richardson’s Bay. Despite direction in the Special Area Plan to enforce time limits on boats anchoring in Richardson’s Bay, the population of permanent liveaboards expanded from about 90 boats in the 1970s to over 240 boats in 2016⁴ with many boats experiencing disrepair and...

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abandonment. Though not the only thing impacting eelgrass in Richardson’s Bay (see the section on eelgrass below), these boats have directly removed up to 80 acres of eelgrass from the bay floor as of 2019 due to the scraping of anchors, chains, and other ground tackle⁵.


**Eelgrass in Richardson’s Bay**

Historically, the shoreline of Richardson’s Bay would likely have supported expansive native bayland habitats, including riparian areas, tidal marsh wetlands, mudflats, and, in subtidal areas, eelgrass beds. Though most of the Bay’s shoreline has been developed, and much of these habitats lost, the area remains a critical natural resource owing in large part to its remaining eelgrass bed. The Richardson’s Bay eelgrass bed varies in size but has averaged around 197 hectares (487 acres) between 2003 to 2014, with over 800 acres identified in 2019⁶.

The attributes that make Richardson’s Bay attractive to boaters are also those that contribute to ideal habitat for California’s native eelgrass, *Zostera marina*. Shallow depths, regular tidal flushing, and relatively low turbidity have made Richardson’s Bay an eelgrass stronghold, even during periods of region-wide eelgrass decline. Eelgrass is critically important for the health of coastal estuaries as well as climate resilience for coastal communities. Eelgrass beds reduce coastal erosion, sequester carbon, reduce ocean acidification, and provide nursery habitat for commercially, recreationally, and ecologically important marine life (e.g., Pacific herring and Dungeness crab)⁷.

The bays and estuaries of California are a stronghold for eelgrass, even as the species experiences significant declines along the Pacific Coast and abroad (at global decline rates of up

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to 30,000 acres per year\(^8\). Just five bays support over 80% of our state’s remaining eelgrass\(^9\), with 50% found in San Francisco Bay alone\(^10\), and the Richardson’s Bay eelgrass bed is the second largest in the San Francisco Bay estuary. Beyond its size, the Richardson’s Bay eelgrass bed is also disproportionately important in supporting commercial and recreational fisheries – in the 2019/2020 Pacific herring season, for example, 90% of San Francisco Bay’s herring spawning biomass occurred in Richardson’s Bay\(^11\). Tens of thousands of migratory waterfowl and shorebirds rely on Richardson’s Bay eelgrass beds for feeding and resting during migration along the Pacific Flyway\(^12\). Without the eelgrass-herring ecosystem, species survival would be in jeopardy.

Despite its importance, eelgrass faces myriad threats, both locally and regionally. Human activity (e.g., dredging, boating, and anchoring) and climate change (sea level rise and warming ocean temperatures) are leading threats to eelgrass. This is coupled with limited restoration success, and a lack of both formal valuation and community understanding of its benefits\(^13\). In Richardson’s Bay, eelgrass is only able to survive in up to about 1.7 m (5.5 feet) of water\(^14\). Because of eelgrass’s narrow depth limits, coupled with Richardson’s Bay homogeneous bathymetry (i.e., the bay floor is relatively flat), just a few inches of sea level rise will likely drown out the deepest areas of the eelgrass bed. Therefore, improved management of the eelgrass bed is required as part of the area’s climate resilience and adaptation efforts.

Since January 2018, RBRA staff have removed more than 180 abandoned and derelict vessels from the Richardson’s Bay anchorage. This, coupled with active enforcement of the Bay’s 72-hour time limit for visiting vessels, has greatly reduced the impact of boats on eelgrass in Richardson’s Bay. However, more specific action is needed to actively protect of eelgrass in Richardson’s Bay. This is because existing regulations allow for boats to anchor almost

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\(^{9}\) National Fisheries, West Coast Region, National Oceanic and Atmospheric Administration, 2014. California Eelgrass Mitigation Policy and Implementing Guidelines.

\(^{10}\) Merkel & Associates (2009). San Francisco Bay Eelgrass Inventory: October - November 2009 (San Diego, CA).

\(^{11}\) California Department of Fish and Wildlife report to the Director’s Herring Advisory Committee Meeting (October 13, 2020)


\(^{13}\) Id.

anywhere in Richardson’s Bay (including in areas of eelgrass), with the exception of the Audubon Sanctuary in northern Richardson’s Bay, Sausalito’s Dunphy Park, and certain channels. As long as boats are in compliance with time limits and seaworthiness, there are currently no anchoring location restrictions to protect the Bay’s eelgrass beds.

Regulatory/Policy Context

Richardson’s Bay and its natural resources, including eelgrass, exists within an overlapping framework of laws, regulations, policies, and directives. While we do not intend to fully describe or unpack that framework here, several of these policies have significantly informed EPMP development and are described below.

- **McAteer-Petris Act** (enacted 1965, amended many times since) – This is the key legal provision under California state law to preserve San Francisco Bay from indiscriminate filling. Established the Bay Conservation and Development Commission (BCDC).

- **San Francisco Bay Plan** (adopted 1969, amended since) – Includes major policies and findings for the long term use of San Francisco Bay. Objectives: 1) Protect the Bay as a great natural resource for the benefit of present and future generations; and 2) Develop the Bay and its shoreline to their highest potential with a minimum of Bay filling. Several findings and policies are relevant here, including Subtidal Areas Policy #2: “Subtidal areas that are scarce in the Bay or have an abundance and diversity of fish, other aquatic organisms and wildlife (e.g., eelgrass beds, sandy deep water or underwater pinnacles) should be conserved.”

- **Richardson’s Bay Special Area Plan** (adopted 1985) – Adopted a common set of policies, findings, and regulatory controls for managing Richardson’s Bay. Several of these are relevant for the EPMP, including Aquatic and Wildlife Resources Policy #1: “Eelgrass beds, important to herring spawning and for production of detritus, should also receive maximum protection.”

- **California Eelgrass Mitigation Policy** (CEMP) and Implementing Policies (adopted 2014) – Established a National Marine Fisheries Service policy of “no net loss of eelgrass habitat function in California” and provided compensatory mitigation ratios for unavoidable loss of eelgrass habitat function. Note that this EPMP does not intend to serve as a Comprehensive Management Plan (CMP) as defined on page 17 of the CEMP, but may serve as a basis for future CMP efforts.

- **Recent direction from the BCDC Enforcement Committee** to “address eelgrass damage and restoration.”

- **RBRA Transition Plan** (adopted June 2020) – Policy Direction #5 states, “Working with agencies, organizations, and other stakeholders, develop eelgrass protection measures and consider specific eelgrass restoration funding and projects.”

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15 Available here: https://www.bcdc.ca.gov/plans/mcateer_petris.html
16 Available here: https://www.bcdc.ca.gov/plans/sfbay_plan.html
19 Described here: https://bcdc.ca.gov/enforcement/2021/20210324-ITEM-7-Richardson’s-Bay-Staff-Presentation-FINAL.pdf
EPMP Framework

Development of the EPMP

This EPMP was developed in three parts: policy review, stakeholder engagement, and spatial analysis/planning. During the policy review, relevant laws, regulations, policies, and directives were analyzed to identify appropriate actions for protecting and managing eelgrass in Richardson’s Bay (see Regulatory/Policy Context section above).

Following the policy review, stakeholder engagement was conducted during fall 2020 and winter 2021. Stakeholder engagement included the following:

- Five 1.5 hour facilitated listening sessions were held via Zoom, targeting environmental groups, scientists, elected officials, marina operators, resource/regulatory agencies, and Richardson’s Bay mariners. These sessions engaged 40+ participants representing 20+ organizations (Figure 4).

![Organizations Represented](image)

*Figure 4- Organizations represented during stakeholder engagement listening sessions.*

- During these sessions, participants were provided with an overview of the EPMP process and information about eelgrass, and were then taken through a series of facilitated questions addressing threats to eelgrass in Richardson’s Bay, key uses to consider during EPMP development, and time for additional thoughts/questions.

Despite repeated, targeted attempts to reach the community of individuals living on the water in Richardson’s Bay (Figure 5), none participated in the formal EPMP stakeholder engagement. Unfortunately, this community is notoriously hard to reach using virtual engagement strategies, and in-person outreach was severely limited due to the COVID-19 global pandemic. In efforts to engage mariners, links for participation were shared at three RBRA meetings, posted to social media, and shared directly with key members of the mariner community. Mariner-focused Zoom listening sessions were held on three separate occasions (two during the day, including during and after the free lunch provided by Sausalito Presbyterian Church, and one in the evening). Additionally, an email address was set up where people could email their thoughts directly to project consultants.
Fortunately, significant stakeholder feedback from the mariner community was generated during the 2018/2019 RBRA meetings held during the development of the Ecologically-based Mooring Feasibility Assessment and Planning Study as well as the Transition Plan. This feedback was reviewed during the EPMP development process.

Following the stakeholder engagement, spatial analysis was conducted and two preliminary proposed boundary areas were developed for an “Eelgrass Protection Zone/No Anchoring Area.” These two plans were included in a draft EPMP, which was presented to the public and the RBRA Board of Directors at their April 2021 RBRA Board meeting. Board and public feedback were received at that time and the Board commenced a 30 day comment period. Following the comment period, a Response to Comments Report was prepared and delivered to the public and the RBRA Board of Directors at their June 2021 RBRA Board meeting. At that meeting, the RBRA Board provided direction for EPMP finalization, including a preferred boundary for the Eelgrass Protection Zone/No Anchoring Area.

Summary of Stakeholder Feedback
A full presentation describing stakeholder feedback was presented to the RBRA Board of Directors during their monthly meeting on December 10, 2020. A recording of that meeting is available online at: [http://rbra.ca.gov/meeting-archives/](http://rbra.ca.gov/meeting-archives/). A summary of stakeholder feedback by theme is described below.

**Theme 1: Threats to Richardson’s Bay to consider during EPMP development**

- Sea level rise and other impacts of climate change
- Public safety
- Damage from anchors, chains, and other ground tackle
- Marine debris
- Stormwater runoff/water quality
- Shading and other impacts from docks
- Loss of maritime culture (not just liveaboards), including herring/fishing culture
• Regulatory burdens on marina operators
• Natural fluctuation in eelgrass determining static boundaries
• Lack of awareness about importance of eelgrass to communities

Theme 2: Uses to consider during EPMP development
• Richardson’s Bay is an anchorage
• Recreation, especially non-motorized
• RB as a sailing destination for cruisers/visiting vessels
• Education
• Marinas
• Science/research
• Eelgrass restoration and bed migration with sea level rise
• Birds and wildlife
• Beneficial reuse of sediment/dredge material
• Opportunities for deeper water off Belvedere/Tiburon

Theme 3: Additional feedback
• Vessel enforcement will be key to success
• Partnerships important
• Should include monitoring on ecological scale (10 years+)
• Don’t make marina operation harder
• Keep zones as simple as possible (anchoring/no anchoring)
• Include an alternatives analysis
• Mooring program; safer, better for eelgrass; should be considered now rather than a separate planning process down the line; visitor-serving, revenue generating
• Need for spatial analysis, not just planning
• Need to consider social issues/impacts of EPMP implementation, especially with regards to people living on the anchorage

Spatial Analysis and Preliminary Proposed No Anchoring Areas
The spatial analysis used in development of this final EPMP consisted of two main parts: 1- GIS mapping and analysis of eelgrass distribution/ frequency of occurrence as well as the distribution of herring spawning events; 2- Development and consideration of two initial proposed boundaries for an “Eelgrass Protection Zone/No Anchoring Area”, including an estimate of each zone’s size (acreage) and carrying capacity for anchored vessels. The two aspects of spatial analysis are described more fully below.

1. Distribution of eelgrass and herring in Richardson’s Bay: To plan for and mediate natural resource conflict in Richardson’s Bay, the following data layers were analyzed and mapped using geographic information systems (GIS) mapping software:
• NOAA Nautical Chart #18649 – This navigational chart was used as the base layer for the spatial analysis so that any recommendations for zoning were based on how the space is being used by mariners on the water.
- Eelgrass Frequency Distribution (Figure 6) – Based on data collected in 2003, 2009, 2013, 2014, and 2019, this data layer exhibits the extent of eelgrass in Richardson’s Bay during the contributing years, regardless of cover class (i.e., percent cover or density). This provides insight about where eelgrass is most frequently occurring in Richardson’s Bay and provides a way to manage for the spatial variability of eelgrass across years. These data were provided by Merkel and Associates.

- Herring Spawning Occurrences (Figure 7) - Herring spawn deposition spatial data for the years 2013-2020 were mapped. This provides insight regarding how the eelgrass resources are being used by other species in the ecosystem to ensure that areas proposed for protection adequately encompass how the system functions. These data were provided by the California Department of Fish and Wildlife. (Note: mapping of waterbird use of Richardson’s Bay was not included due to the limited availability of robust, spatial explicit data but would be valuable for future adaptive management efforts if the data become available.)

- Combined eelgrass frequency distribution and herring spawning occurrences (Figure 8) – The same eelgrass and herring data layers as used in the individual analysis were combined to be viewed simultaneously to better understand combined spatial use of the Bay.

*Figure 6: Eelgrass frequency distribution in Richardson’s Bay (2003-2019) Data are derived from side-scan sonar surveys conducted by Merkel and Associates in years 2003, 2009, 2013, 2014, and 2019. The data layer exhibits the frequency with which eelgrass was identified during survey years, regardless of cover class (percent cover/density).
Figure 7: Herring spawning events, depositional data (2013-2020)
Each purple polygon represents one spawning event. Note: multiple spawning events occur during each year. Areas of darker purple indicate repeated spawning events.

Figure 8: Eelgrass and herring data layers combined.
2. **Preliminary Proposed No Anchoring Areas**: Based on the policy review, stakeholder engagement, and the eelgrass/herring spatial analysis, two initial “Eelgrass Protection Zone/No Anchoring Areas” were proposed in the draft EPMP.

- **Proposed Boundary A**: This boundary demarcates an “Eelgrass Protection Zone/No Anchoring Area” northwest of a line extending from Channel/Day Marker Four to the southernmost tip of the Richardson’s Bay Audubon Sanctuary, shown in the Image below as “Proposed Boundary A” (Figure 9).

![Image](image_url)

*Figure 9: Eelgrass Protection Zone/No Anchoring Area (Proposed Boundary A)*

To protect eelgrass in Richardson’s Bay from damage associated with anchor scour, an “Eelgrass Protection Zone/No Anchoring Area” is proposed. The proposed area extends northwest of a line running from Channel Marker Four in the south to the southern tip of the Audubon Sanctuary in the north (the orange hashed line in the figure above). This area would be off-limits for anchoring, but available for all other activities allowed in Richardson’s Bay (e.g., sailing, motoring, kayaking, etc.).

- **Proposed Boundary B**: An alternative boundary for the “Eelgrass Protection Zone/No Anchoring Area” was considered (Figure 10), which followed the six-foot contour shown on the nautical navigation chart for the area, shown below as “Proposed Boundary B”. 
Figure 10: Eelgrass Protection Zone/No Anchoring Area (Proposed Boundary B)

An alternate boundary for the Eelgrass Protection Zone/No Anchoring Area that followed the existing six-foot navigational contour was considered, depicted as the orange line in the image above. While this boundary more fully protected the full extent of eelgrass in Richardson’s Bay, with room for bed expansion, the enforcement of such a boundary was deemed infeasible and it provided too little area for anchoring.

- **Analysis of Proposed Boundaries:**
  - Because both boundaries prohibit anchoring in areas where anchoring and eelgrass have historically overlapped, both are consistent with the CEMP’s no-net-loss policy as described in the Regulatory/Policy Context section above, as well as eelgrass policies in other guiding documents.
  - By including the eelgrass along the shoreline of Belvedere, Proposed Boundary B explicitly places 100% of eelgrass within the No Anchoring Zone. However, this boundary would also disallow anchoring in significant portions of unvegetated bay-bottom without additional benefits to the eelgrass.
  - By using existing boundaries (Audubon Sanctuary) and existing channel markers (Day Marker Four), and creating one clear Eelgrass Protection Zone/No Anchoring Area, Proposed Boundary A is consistent with stakeholder feedback requesting fewer, simpler zones as compared to the draft zones described in the Transition Plan. Meanwhile, Proposed Boundary B is likely to be confusing for visiting mariners and difficult to communicate with on-the-water signage.
o Both proposals would only prohibit anchoring from occurring in the Elgrass Protection Zone/No Anchoring Area. All other activities currently supported in Richardson’s Bay (kayaking, sailing, motoring, fishing, etc.) would be unaffected by the proposed changes. However, all allowed activities would be required to avoid damaging the eelgrass below (i.e., avoiding propeller and/or keel dragging along the bay bottom).

o Neither proposal has foreseen consequences on local marinas and do not change regulations affecting their operations.

- **Acreages available for anchoring**: RBRA regulations currently identify an official “RBRA Anchoring Area” in Marin County waters where boats are permitted to anchor for up to 72 hours (shown as the salmon-colored rectangle in Figures 9 and 10). Anchoring in the City of Belvedere waters north and east of the RBRA Anchoring Area is allowed for a maximum of 10 hours. The table below shows acreages for both existing anchoring areas (RBRA and Belvedere), and the acreages of those areas under both proposed No Anchoring Zone boundaries.

<table>
<thead>
<tr>
<th>Existing area for anchoring (acres)</th>
<th>Proposed Boundary A (acres)</th>
<th>Proposed Boundary B (acres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>RBRA Anchoring Area</td>
<td>Belvedere Water</td>
<td>Total</td>
</tr>
<tr>
<td>262.7</td>
<td>464.6</td>
<td>727.2</td>
</tr>
<tr>
<td>Percent of existing:</td>
<td>34%</td>
<td>68%</td>
</tr>
</tbody>
</table>

- **Carrying Capacity**: The carrying capacity of an anchorage is difficult to estimate because there are many variables to consider, such as boater preference, distance to shore access, water depth, availability of pump-out services, and varying wind and current conditions, etc. However, a rough estimate of carrying capacity of the Richardson’s Bay anchorage under various scenarios was calculated as follows: The maximum number of vessels anchored in Richardson’s Bay was documented at approximately 240 boats in 2016. Assuming that figure approximates the maximum functional carrying capacity of the existing anchorage, the carrying capacities of the reduced-size anchorages can be approximated based on the percent reduction in space for anchoring.
  - Therefore, a very rough approximation of the anchorage’s carrying capacity is:
    - Existing anchorage: 240 boats
    - Proposed Boundary A: 56% of 240 = 134 boats
    - Proposed Boundary B: 33% of 240 = 79 boats

- As of the date of this writing, 15 vessels are enrolled in the RBRA’s Safe and Seaworthy Program. Either proposed scenario would provide ample accommodation for so-called “legacy” liveaboard vessels and visiting cruisers.
Plan Elements

Eelgrass Protection Zone/No Anchoring Area

In adopting this EPMP, the RBRA Board of Directors adopts and plans to implement an “Eelgrass Protection Zone/No Anchoring Area” consistent with “Proposed Boundary A” depicted in Figure 9 (page 12) and copied below for reference:

Figure 11: Eelgrass Protection Zone/No Anchoring Area (Proposed Boundary A)
To protect eelgrass in Richardson’s Bay from damage associated with anchor scour, an “Eelgrass Protection Zone/No Anchoring Area” is proposed. The proposed area extends northwest of a line running from Channel Marker Four in the south to the southern tip of the Audubon Sanctuary in the north (the orange hashed line in the figure above). This area would be off-limits for anchoring, but available for all other activities allowed in Richardson’s Bay (e.g., sailing, motoring, kayaking, etc.).

The proposed “Eelgrass Protection Zone/No Anchoring Area” would reduce the size of the official RBRA Anchorage Area by approximately two-thirds. The Protection Zone would also include (and, therefore, prohibit anchoring in) approximately one third of the Richardson’s Bay waters within the City of Belvedere’s jurisdiction. City of Belvedere waters outside of the Protection Zone would retain time limits according to Belvedere regulations (currently 10 hours).

In making these changes to areas available for anchoring in Richardson’s Bay, it would limit the number of boats the anchorage could support at any one time. However, the following factors were taken into consideration when developing this proposal:
- The proposed “Eelgrass Protection Zone/No Anchoring Area” aligns closely with the five foot mean lower-low water (MLLW) contour in Richardson’s Bay, meaning most of the area is five feet deep or less during low tide. Many cruising/visiting vessels, especially sailboats with keels, are unlikely to choose to anchor in such shallow water.
- The majority of vessels currently enrolled in RBRA’s Safe and Seaworth Program are located outside of this proposed “Eelgrass Protection Zone/No Anchoring Area.”
- Boats currently anchored in Richardson’s Bay could be anchored more closely together than is seen under current conditions, so the functional carrying capacity of the official Anchorage Area is likely to still meet demand for a 72-hour anchorage.

**Monitoring and adaptive management**

The following monitoring and adaptive management actions are proposed, pending the availability of funding:

- **Annual monitoring:** Aerial (UAV or similar) photography and GIS analysis of the anchorage area to quantify anchor scour damage and/or recovery of eelgrass for ten years or until at least 80% of the damage has been recovered (whichever occurs later). After 80% recovery, discontinue annual aerial photography monitoring.
- **Tri-annual (every three years) monitoring:** Bathymetric mapping of Richardson’s Bay using sidescan sonar or equivalent technology to document eelgrass density and spatial extent of the bed, to be continued until the damage from anchor scour is been at least 80% recovered. After 80% recovery, decrease to mapping once every five years as part of an ongoing monitoring program.
- **Water quality monitoring:** Expand water quality monitoring efforts in Richardson’s Bay with a focus on evaluating impacts from storm runoff and sewage outflow events. Engage with municipalities surrounding Richardson’s Bay to identify collaborative solutions to municipal water issues potentially impacting the bay. Continue working with the Regional Water Quality Control Board to conduct at least twice-yearly water quality testing and reporting.
- **Five-year adaptive management review:** Every five years, compare changes in the eelgrass bed with the area of the “Eelgrass Protection Zone/No Anchoring Area.” Consider amending the Protection Zone if it no longer serves the intended needs. For example, if eelgrass has migrated northward in the Bay (which may occur with sea level rise) and the deeper portions of the Protection Zone no longer contain eelgrass, consider shifting the Protection Zone accordingly and increasing areas open for anchoring. Alternatively, if the bed has expanded and the Protection Zone no longer encompasses at least 90% of the eelgrass bed, consider expanding the Protection Zone and reducing anchoring area accordingly.

**Implementation**

- **Cost:**
  - The costs associated with implementation of the EPMP include personnel time to update relevant regulations to codify the adopted Eelgrass Protection Zone/No Anchoring Area boundary, education and outreach to communicate the changes,
wildlife and water quality monitoring, and hard costs associated with installation of new and updated signage (on and off the water).

- In 2021, RBRA was awarded a Proposition 68 Coastal Resilience Grant from the Ocean Protection Council funding all these activities exclusive of water quality monitoring and installation of updated signage. RBRA staff will continue to seek grant funding for expanded water quality monitoring, and the installation of updated signage is likely to be funded with existing RBRA operational budget but may also be the focus of future grant-making endeavors.

- It is not expected that implementation of the EPMP will require an increase in RBRA member agency contributions.

- **Social Considerations:** Implementation of the EPMP should be mindful of the social impacts of changes to water uses in Richardson’s Bay, particularly as it relates to vulnerable individuals living on the anchorage. RBRA should continue, and where possible expand, efforts to connect these individuals with supportive services.

- **Other Considerations:**
  - **Signage** – New and updated signage will be required in order to communicate the boundaries of the Eelgrass Protection Zone/No Anchoring Area. In addition to signage at relevant locations along the Sausalito shoreline (installed in collaboration with the City of Sausalito and other landowners), RBRA should consider the importance of updated signage on the water. Specifically, the installation of a hard piling or marker at the southern tip of the Richardson Bay Audubon Sanctuary, marked appropriately for visibility from Day Marker Four, should be considered.
  
  - **Shore access** – As part of EPMP implementation efforts, as well as efforts to implement the full suite of policy directives included in the June 2020 Transition Plan, RBRA should consider efforts to engage with shoreline municipalities and stakeholders to expand shore access. This should include working with marina operators to allow guest dock dinghy access for visiting cruisers and other appropriate user groups in Richardson’s Bay, in accordance with marina rules and regulations.
Acknowledgements

The author would like to thank the numerous stakeholders who engaged with the efforts to develop this EPMP. This document, and the plan it outlines, would not have been possible without the dedicated individuals that spent time reviewing and providing input at all stages of the process.

Special thanks are due to the following individuals and organizations:

- Curtis Havel, RBRA Agency Harbormaster
- James Malcolm, RBRA Assistant Harbormaster
- Beth Pollard, Consultant to RBRA
- Stephanie Moulton-Peters, RBRA Board of Directors (Chair)
- Jim Wickham, RBRA Board of Directors
- Alice Fredericks, RBRA Board of Directors
- Steve Block, RBRA Board of Directors
- Kate Sears, former RBRA Board member
- Paige Fernandez, Richardson’s Bay Audubon Center and Sanctuary
- Casey Arndt, Richardson’s Bay Audubon Center and Sanctuary
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- Keith Merkel, Merkel and Associates
- Andrew Weltz, CA Department of Fish and Wildlife
- Adrienne Klein, Bay Conservation and Development Commission

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STAFF REPORT

For the meeting of: August 12, 2021

To: Richardson’s Bay Regional Agency (RBRA) Board of Directors
From: Curtis Havel, Harbor Master; Beth Pollard, Project Consultant
Subject: Proposed RBRA/BCDC Settlement Agreement

STAFF RECOMMENDATION
Authorize the Board Chair to execute a settlement agreement between the Richardson’s Bay Regional Agency (RBRA) and the Bay Conservation & Development Commission (BCDC) to resolve pending enforcement action by BCDC against BRBA, pursuant to terms presented in the attached tentative agreement.

INTRODUCTION
The attached draft agreement between RBRA and the San Francisco Bay Conservation and Development Commission (BCDC) would resolve BCDC’s threatened enforcement action against RBRA concerning anchored vessels and associated alleged impacts to eelgrass and other environmental concerns. The proposed agreement is the result of discussions between RBRA staff and BCDC beginning in 2019.

Although the agreement includes provisions that go beyond those in RBRA’s Transition Plan, notably with respect to timelines for the departure/removal of occupied vessels and eelgrass measures, as a state regulatory authority BCDC has called for more definitive timelines - including the removal of all vessels within 5 years. Staff has sought to balance these interests in the context of housing challenges and homelessness regionally and statewide with as humane an approach as possible toward the most vulnerable residents on the water while also considering the importance of eelgrass in the bay. Staff recommends approval of the proposed agreement after many months of negotiation as more favorable relative to BCDC’s threatened enforcement action.

BACKGROUND
The RBRA was established in 1985 as a joint powers agency by Marin County and the cities of Sausalito, Tiburon, Belvedere and Mill Valley in order to protect the unique environmental and recreational resources of Richardson Bay through implementation of a Special Area Plan and the regulation and appropriate enhancement of the bay’s use pursuant to that plan. The City of Sausalito withdrew from the RBRA in 2017.

The RBRA adopted rules and regulations in 1987 that, in part, established 72-hour time limits for anchoring in Richardson’s Bay. For decades, since before the adoption of the Special Area Plan, Richardson’s Bay has been used by mariners as a location to anchor their vessels – sometimes
temporarily and sometimes for extended stays. While the number of vessels anchored in Richardson’s Bay increased significantly after the Great Recession of 2008, using the anchorage beyond temporary time limits is inconsistent with the San Francisco Bay Plan, the Richardson Bay Special Area Plan, and the Marin County Code, as well as RBRA’s rules and regulations for anchoring in bay waters.

In 2019, the California State Auditor issued a report regarding BCDC’s responsibility to protect the San Francisco Bay – including a backlog of enforcement cases. In response, BCDC increased enforcement staff and identified Richardson’s Bay as an enforcement priority.

Beginning in February 2019, the BCDC Enforcement Committee and RBRA held several discussions on improving the management of vessels in Richardson’s Bay. In December 2019, BCDC transmitted a letter to RBRA setting forth the actions that BCDC staff expected RBRA to undertake, including the removal of most vessels (e.g. marine debris, unoccupied, or unregistered) and preparation of a plan with timelines to transition remaining vessels off the water and resolve associated alleged damage to the natural habitat in Richardson’s Bay.

On June 11, 2020 RBRA adopted the 2020 Transition Plan for Richardson’s Bay after months of information gathering and analysis, stakeholder engagement, and consideration of the challenges for the bay habitat, vessel occupants, and other affected interests. The Transition Plan is intended to provide an orderly process for conforming the bay to the uses specified in the Special Area plan by preventing the arrival of additional anchor outs, taking measures to ensure protection of the bay’s ecology, encouraging improved safety and environmental responsibility, and allowing the anchor-out community to decline over time through attrition.

Although BCDC viewed the Transition Plan as a good first step, BCDC claims more definitive actions are required and, in particular, has called for all vessels to be removed within 5 years with concrete achievement milestones along the way.

**DISCUSSION**

Staff has sought to balance complex public health and safety interests with the plan’s requirements regarding the anchorage and habitat protection – as well as with public health and legal constraints that all public agencies face in addressing solutions impacting persons without housing. In light of many of the anchorage’s current occupants, including a significant vulnerable community, staff recommends exploring housing options with partner agencies to help facilitate a transition of residents from unsafe conditions on the water to land-based housing as humanely as possible. While the transition of current anchorage inhabitants cannot be conditioned upon the availability of permanent housing, RBRA will coordinate closely with the Marin County Department of Health and Human Services and community partners to seek state and federal funding resources to connect vessel occupants with housing options.

Staff believes the proposed agreement provides as much flexibility as is possible in negotiation with BCDC to determine how this will be accomplished, while considering what is best for vessel occupants in the context of solutions to homelessness and housing challenges statewide.
RECENT INITIATIVES AND OUTCOMES
RBRA has made substantial progress in the past 24 months, including adoption of the Transition Plan; hiring a full-time Assistant Harbor Master; obtaining significantly increased vessel abatement grant funds; developing an Eelgrass Protection and Management Plan; coordinating housing outreach and social services; and visibly reducing the vessel census on the water to 86 vessels from over 200. While the number of vessels on the water has been more than halved, resolving the status of the remaining vessels will be more challenging as most remaining vessels are occupied.

Due to pandemic conditions, outreach on the water was severely curtailed during 2020, which created a significant delay in the ability to connect people living on the water with housing and shelter. Since the Spring of 2021, however, a County-supported outreach team has been conducting outreach in Richardson’s Bay twice weekly and is making progress connecting residents to potential housing and services systems.

KEY ITEMS IN AGREEMENT
The proposed agreement sets out enforcement milestones that RBRA must meet and environmental recovery and protection actions it must undertake. In return, BCDC will not take enforcement action against the RBRA or its constituent members. In addition to monthly, quarterly, and annual reporting, key action items are summarized below:

A. VESSEL DEPARTURE/REMOVAL - ALL VESSELS DEPART/REMOVED BY OCTOBER 2026
The following milestones will require enforcement such as regular patrols, law enforcement support, and possible civil legal actions. Vessel occupants will be notified about the timelines and encouraged to remove their vessels on their own accord, and to connect with outreach assistance as needed. Staff will develop a proposed bifurcated enforcement strategy, ensuring additional/new arrivals are compliant with time limits per RBRA rules and regulations as a temporary anchorage, while allowing focus on a phased approach regarding vessels already on the anchorage consistent with the agreement milestones below with outreach, housing and supportive services options.

1. October 15, 2021 - removal of all unoccupied marine debris and their ground tackle/moorings (most have already been removed)
2. December 2021 - no new vessels in Eelgrass Protection Zone (see (B) below)
3. October 15, 2023
   a. All vessels that arrived after August 2019 must be removed (est. 19 vessels)
   b. All floating homes removed (4 total)
4. October 15, 2024 - occupied vessels that did not enroll in Safe & Seaworthy Program removed (est. 49 vessels)
5. October 15, 2024 - all vessels removed from Eelgrass Protection Zone
6. October 15, 2026 - occupied vessels that did enroll in Safe & Seaworthy Program removed (est. 14 vessels)
7. After October 15, 2026 - Richardson’s Bay is a short-term anchorage for safe and seaworthy vessels
B. EELGRASS PROTECTION AND MANAGEMENT PLAN (EPMP) AND ADAPTIVE MANAGEMENT PLAN

1. **December 15, 2021** - RBRA to adopt EPMP establishing anchoring zone and Eelgrass Protection/no-anchoring zone
2. **60 days after adoption of EPMP** - RBRA to petition for no-anchoring zone from federal agencies
3. **2022** - RBRA to initiate active eelgrass recovery studies
4. **2021/2023** - If subtidal habitat damage is caused by vessels relocated from the Eelgrass Protection Zone to the anchoring zone before the ten-year adaptive management plan for eelgrass recovery is implemented, RBRA will take necessary measures to halt the damage and restore habitat conditions within a reasonable timeframe as determined by qualified scientists selected by RBRA
5. **December 15, 2022** - RBRA to install approximately 15-20 temporary moorings in anchoring zone for temporary vessel relocation from Eelgrass Protection Zone
6. **December 15, 2023**
   a. Finalize no-anchoring zone and update ordinances to reflect zone
   b. Develop ten-year adaptive management plan and begin implementing

FINANCIAL IMPACT

RBRA has increased its budget substantially in recent years, including funding for vessel abatement and comprehensive eelgrass studies. Member Agencies have demonstrated their commitment and resolve by steadily increasing annual contributions from a FY 2016-17 budget of $289,100 to a FY 2021-22 budget of $586,169 (a 103% increase over five years), in addition to substantial grant awards relating to vessel abatement and eelgrass study.

Going forward, presuming the Board approves the settlement agreement, staff foresees additional expenses in the years ahead that may be, though without certainty, substantially mitigated with non-local grant and other funding opportunities. Staff would return to the Board in an implementation phase with a new Transition Plan 2.0 Plan including next steps regarding:

- **Enforcement efforts** to ensure additional/new arrivals are compliant with time limits per RBRA rules and regulations as a temporary anchorage;
- **Eelgrass recovery/protection efforts**, for which we are informed that grant resources are available given the importance of eelgrass ecologically; and
- **Housing and related supportive services efforts**. While adequate non-local funds cannot be guaranteed, efforts with Health and Human Services and other community partners have more likelihood of success in the years ahead given the significant state and federal funding resources committed to address homelessness as a statewide priority.

While there remains some risk that the RBRA and its constituent agencies will be subject to additional expense if such resources are not forthcoming, staff believes there is potentially much greater risk associated with BCDC’s threatened enforcement action absent an agreement.
CONCLUSION
The path forward will not be easy. However, the proposed agreement avoids an uncertain and potentially much more costly BCDC enforcement action that would afford RBRA less flexibility in implementation. It also advances significant environmental protection while acknowledging the range and limits of RBRA’s authority and responsibilities and the needs of the anchor-out community. Further, while it contains specific provisions beyond the policy direction descriptions in RBRA’s Transition Plan, it is not inconsistent with the Plan’s vision, principles, and policies.

NEXT STEPS
Following settlement agreement execution by RBRA and BCDC, staff would return to the Board with a proposed Transition Plan 2.0 to guide the efforts ahead with a clear, disciplined, but humane program to meet the requirements set forth in the agreement. The Board may wish to consider creating an Ad Hoc Vessel Enforcement Subcommittee and an Ad Hoc Housing/Supportive Services Subcommittee to ensure alignment of board policy with staff implementation efforts going forward.

The FY 2021-22 budget includes a $50,000 contingency to augment RBRA revenues and spending capacity in coming year to help initiate implementation efforts. Staff would need to return to the Board for authority to transfer the contingency for any approved spending purpose.

Absent an agreement, BCDC has indicated that it intends to commence enforcement actions against RBRA and its member agencies later this month or in September.
Agreement between the Richardson’s Bay Regional Agency (RBRA) and the San Francisco Bay Conservation and Development Commission (BCDC)

This Agreement is made and entered into by and between the San Francisco Bay Conservation and Development Commission (BCDC or Commission) and the Richardson’s Bay Regional Agency (RBRA). The parties to this Agreement are referred to herein individually as “Party” and collectively as “Parties.”

Recitals

WHEREAS, the McAteer-Petris Act (Act), Government Code Sections 66600 through 66666, established the San Francisco Bay Conservation and Development Commission as the state agency charged with planning for the long-term use of the Bay; and

WHEREAS, pursuant to the Act, BCDC adopted the San Francisco Bay Plan, which has been amended from time to time consistent with the Act, and which establishes a policy that live-aboard boats should be allowed only in marinas and only if certain other requirements are met; and

WHEREAS, in April of 1984, BCDC, working with a steering committee composed of representatives of the local jurisdictions, finalized the Richardson Bay Special Area Plan to guide actions more precisely in Richardson Bay; and

WHEREAS, the Richardson Bay Special Area Plan includes the following policies regarding residential vessels and floating structures:

(1) Vessels and floating structures used for residential purposes (i.e., houseboats and live-aboards) should be allowed only in recreational or houseboat marina berths when consistent with and in compliance with local codes, Commission policies, and public trust needs;

(2) All anchor-outs should be removed from Richardson Bay; and

(3) A limited number of live-aboards and houseboats should be permitted in existing or new recreational boat marinas provided (a) they are necessarily incidental to the recreational boating use; and (b) they are in compliance with the applicable local government codes, including parking requirements; Bay Commission policies; and policies of the Special Area Plan; and

WHEREAS, despite these policies, anchor-outs, houseboats, and floating homes have remained on Richardson Bay outside of marinas; and

WHEREAS, following adoption of the Richardson Bay Special Area Plan, RBRA was formed in 1985 to locally and jointly manage the waters of Richardson Bay; and

WHEREAS, RBRA was formed as a Joint Powers Agency and is comprised of: County of Marin, City of Mill Valley, Town of Tiburon, and City of Belvedere; and
WHEREAS, from time to time beginning with its formation, RBRA has removed vessels from the anchorage, but the number of vessels increased from 98 in 2008 to a high of 215 in 2014 and decreasing after that; and

WHEREAS, on February 21, 2019, the BCDC Enforcement Committee held a policy briefing and discussion on the local efforts to improve the management of vessels moored in Richardson Bay at which there were presentations on the pertinent State law and policies, from RBRA and from California Audubon on the adverse impacts to eelgrass caused by anchor outs; and

WHEREAS, in July 2019, RBRA’s Board of Directors adopted Ordinance 19-1 updating anchoring and enforcement requirements for vessels on Richardson Bay; and

WHEREAS, in September and November 2019, the BCDC Enforcement Committee received a second and third briefing on the Richardson Bay matter directing staff to direct RBRA to develop and implement a management plan to address ongoing anchorage management issues; and

WHEREAS, on December 3, 2019, BCDC transmitted a letter to RBRA setting forth actions BCDC staff expected to be undertaken to address the vessels anchored in RBRA waters including: Initiation of all appropriate actions to remove from RBRA waters all marine debris, unoccupied vessels, unregistered vessels, and vessels occupied by persons who are not able to control the vessels during storm events or vessels that are endangering or threatening to endanger others; Preparation of a plan with timelines to transition all other vessels off the water within a reasonable period; Preparation of a plan for how RBRA will address and resolve the damage to natural habitat in Richardson Bay; and Monthly reporting to BCDC on the status of implementing these actions; and

WHEREAS, on June 11, 2020, RBRA’s Board of Directors adopted Resolution Number 05-20, A Transition Plan for the Richardson’s Bay Regional Agency Anchorage with a vision, goal, principles, and policy direction for the anchorage. The plan affirms a vision for the bay as a temporary anchorage, while providing a pathway for certain pre-existing eligible vessels that are determined by RBRA to be safe & seaworthy to remain for limited durations of time; and

WHEREAS, in 2020, the BCDC Enforcement Committee received briefings on Richardson Bay. The Committee directed BCDC staff to direct RBRA to implement its anchorage management plan including terms regarding vessel influx management, removal of noncompliant vessels within 5 years, a commitment to cooperate in a regional solution, implementation of eelgrass subtidal habitat restoration and monitoring, ongoing community enrichment and engagement measures, and progress reporting; and

WHEREAS, RBRA retained the environmental consulting firm Coastal Policy Solutions, who with the involvement of stakeholders and other interested parties, drafted an Eelgrass Protection and Management Plan (EPMP); and
WHEREAS, since 2014, RBRA efforts have reduced the number of vessels on Richardson’s Bay to 88 as of the date of this Agreement; and

WHEREAS, the parties enter into this Agreement for the sole purpose of setting forth RBRA’s and BCDC’s agreed-upon next steps for the transition of vessels and environmental efforts on Richardson Bay and does not constitute an admission by RBRA that any of its past acts or omissions were inconsistent with the Bay Plan or the Richardson Bay Special Area Plan, violated the Act or any other law, or otherwise constituted wrongdoing;

NOW, THEREFORE, the RBRA and BCDC do agree as follows:

1. **COVID-19 Pandemic Considerations.** The parties understand that COVID-19 pandemic emergency shelter-in-place restrictions may be in place during this Agreement. RBRA shall not be required to take any action that conflicts with the guidance or orders from federal, state, or local officials. If such guidance or orders prohibit the removal of vessels as required by this Agreement, RBRA may seek extensions of time for vessel removal required in this Agreement.

2. **Richardson Bay Special Area Plan Compliance.** RBRA agrees to comply with and implement the Richardson Bay Special Area Plan (SAP) and the ordinances RBRA has issued pursuant to the SAP, as they may be amended from time to time.

3. **Eelgrass Habitat Protection.** RBRA will finalize its Draft Eelgrass Protection and Management Plan (EPMP) by December 15, 2021, and submit a copy to BCDC. If RBRA selects a boundary for the Eelgrass Protection Zone that is less protective of eelgrass than the alternatives presented in the RBRA’s Draft EPMP then BCDC will consider the new boundary and inform RBRA if this Agreement must be amended to prevent the need for further BCDC oversight. Within 60 days of finalizing the EPMP, RBRA shall petition for any federal administrative action necessary to implement the EPMP’s anchoring zone and Eelgrass Protection Zone/no-anchoring zone. BCDC agrees to provide letters of support for federal administrative actions consistent with the draft EPMP. RBRA will complete the administrative actions, including updating RBRA’s Ordinances for consistency, by December 15, 2023, subject to extensions of time for circumstances beyond its control. Vessels will be removed from the Eelgrass Protection Zone as soon as possible, but moving boats can be done in phases based on consultation with experts selected by RBRA who are well versed in the California Eelgrass Mitigation Policy and its Implementing Guidelines (hereinafter, “CEMP”) and its periodic updates. In any event, no vessels will anchor in the Eelgrass Protection Zone after October 15, 2024.

4. **Eelgrass Habitat Restoration.** During 2022, RBRA will initiate active eelgrass restoration studies within the Eelgrass Protection Zone comparing restoration scenarios such as: (1) Passive (no intervention) restoration of scour pits; (2) Restoring the bay bottom grade of scour pits by adding clean dredged sediment without planting eelgrass; (3) Planting
eelgrass in scour pits without first restoring the bay bottom grace of scour pits; and (4) Planting eelgrass in scour pits after restoring the bay bottom grade of scour pits by adding clean dredged sediment. RBRA will report its findings to BCDC.

RBRA will develop a ten-year adaptive management plan for eelgrass restoration in Richardson Bay, and submit a copy to BCDC. RBRA will begin implementing this plan by December 15, 2023. The ten-year adaptive management plan will be consistent with the Bay Plan and the Richardson Bay Special Area Plan; incorporate the best available science on eelgrass habitat restoration & the CEMP and its periodic updates; and the results of RBRA’s restoration study scenarios as they are obtained. Restoration work will be done in a phased approach pursuant to the ten-year adaptive management plan. RBRA agrees to pursue grants and other funding to implement the adaptive management plan. RBRA shall implement the ten-year adaptive management plan in a timely manner, notwithstanding any funding shortfalls.

5. **Restoration Collaboration.** BCDC and RBRA agree to collaborate on the reuse of dredged materials from Schoonmaker Point Marina or other local dredging projects for use in eelgrass restoration in Richardson Bay, subject to the Dredged Material Management Office (DMMO) determination that the dredged materials are clean and suitable for this purpose.

6. **Temporary Use of Moorings.** By December 15, 2022, RBRA will install in its anchoring zone (outside of its Eelgrass Protection Zone) approximately 15 to 20 moorings such as those described in RBRA’s Ecologically-based Mooring Feasibility Assessment and Planning Study. RBRA will use these moorings temporarily for vessels that relocate from the Eelgrass Protection Zone, vessels that are enrolled in the Safe and Seaworthy program, and other temporary uses as the moorings are installed. RBRA will monitor the moorings to evaluate their effectiveness at protecting subtidal resources and securing vessels. RBRA will report its findings on mooring effectiveness and mooring removal to BCDC. If RBRA wishes to retain these mooring after October 15, 2026, it must apply for and obtain a permit from BCDC. Prior to that date, this Agreement is sufficient authorization for RBRA’s installation of these moorings; BCDC agrees that it will not pursue any enforcement action claiming or imposing any further permit or other authorization requirement related to such installation.

7. **Prevention of Future Subtidal Habitat Damage.** RBRA shall prevent future subtidal habitat damage by identifying and undertaking all necessary and proper measures to ensure (1) that no new vessels anchor in the Eelgrass Protection Zone after December 15, 2021; and (2) that only seaworthy vessels, as defined in RBRA’s Transition Plan and with standard removable marine anchoring equipment, are allowed to anchor in the anchoring zone after October 15, 2026. If subtidal habitat damage is caused by vessels relocated from the Eelgrass Protection Zone to the anchoring zone before the ten-year adaptive management plan for eelgrass restoration is implemented, RBRA will take necessary measures to halt the damage and restore habitat conditions within a
reasonable timeframe as determined by qualified scientists selected by RBRA. Subtidal habitat damage that occurs after the ten-year adaptive management plan is implemented will be restored pursuant to the provisions of the ten-year adaptive management plan, and/or the Bay Plan and SAP, as applicable.

8. **Housing.** BCDC supports RBRA’s efforts to continue to connect vessels’ occupants with outreach agencies and organizations for assistance with finding shelter and encourages expansion of shelter and housing opportunities. BCDC commits to considering (1) proposals to increase the percentage of affordable marina slips available for vessels described in this agreement or their occupants for temporary discrete time periods; and (2) minor permit applications to build affordable live-aboard slips at existing Richardson Bay marinas. RBRA will provide quarterly reports to BCDC to include non-confidential information received from outreach agencies, organizations and local entities that RBRA is collaborating with related to shelter and housing opportunities and the status of housing efforts as it relates to removing all vessels described in this agreement and their occupants from Richardson Bay by October 15, 2026.

9. **Management of Vessels Arriving on the Richardson Bay Anchorage After August 2019.** All illegally anchored vessels on Richardson Bay that arrive after August 2019 will be removed along with their ground tackle no later than October 15, 2023. RBRA shall undertake reasonable efforts to prevent continued importation of derelict vessels into Richardson Bay for permanent anchorage. These efforts shall include, if warranted, legal actions against individuals involved in this activity. RBRA shall report these efforts to BCDC on a monthly basis. As of the date of the signing of this agreement there were approximately 20 vessels in this category.

10. **Management of Vessels on the Anchorage Before August 2019.** All illegally anchored vessels present on the anchorage before August 2019 will be removed from the anchorage no later than October 15, 2026 as outlined below. As of the date of the signing of this agreement, there were approximately 68 vessels in this category.

a. **Unoccupied Marine Debris and Other Vessels.** All unoccupied marine debris vessels and their ground tackle/moorings will be removed by October 15, 2021.

b. **Floating Homes.** No later than October 15, 2023, the floating homes located offshore from the Waldo Point Harbor houseboat marina and all associated ground tackle/moorings will be removed from Richardson Bay and either legally disposed of or relocated to a legal berth at an authorized houseboat marina in accordance with all applicable local, state and federal laws.

c. **Occupied Vessels without Safe and Seaworthy Status.** Occupied vessels that failed to enroll in the Safe and Seaworthy Program shall be subject to immediate removal with their ground tackle/moorings and all vessels shall be removed no later than October 15, 2024.
d. **Occupied Vessels with Safe and Seaworthy Status.** The occupied vessels that enrolled in the Safe and Seaworthy Program and are maintained in a seaworthy condition shall be removed no later than October 15, 2026. Vessels and their ground tackle/moorings enrolled in the Safe and Seaworthy Program that are not maintained in a seaworthy condition shall be subject to immediate removal.

11. **Ground Tackle/Moorings.** Removal of ground tackle/moorings will be consistent with the CEMP and its periodic updates, as well as area-specific research as to what ground tackle will be removed, when it will be removed, and how it will be removed.

12. **Extensions of Time for Vessel Removal.** The RBRA and BCDC agree that so long as the overall rate of vessel removal remains consistent with the rate specified in this agreement, RBRA may elect, after consultation and approval from BCDC, to delay, to a date not to exceed October 15, 2026, removing specific vessels or individuals from the anchorage when additional services or resources are necessary to protect the health and safety of vessel occupants. Otherwise, the time periods set forth above for removal of occupied vessels shall be extended only for good cause. For purposes of this agreement, good cause may include (1) local, state, or federal orders related to pandemics or emergencies that preclude RBRA from implementing this agreement; (2) the issuance of any court order precluding the RBRA from complying with the terms of this agreement; and (3) any other factor outside RBRA’s control that RBRA and BCDC agree could not have been reasonably foreseen at the time this agreement was signed.

13. **Commitment to Cooperation in Actions that Promote a Regional Solution to Issues Surrounding Unauthorized Vessels in Richardson Bay.** The RBRA shall:

   a. Participate in regional efforts to address unauthorized vessels and identify housing alternatives for occupants of anchor-out vessels.

   b. Continue to connect persons living on vessels with outreach agencies and organizations that provide assistance with finding upland housing.

   c. Encourage expansion of housing opportunities consistent with the policies laid out in the RBRA’s Transition Plan.

14. **Waiver.** The failure of a Party to insist upon strict adherence to any term of this Agreement on any occasion shall not be considered a waiver nor shall it deprive such party of the right to insist upon strict adherence to that term or any other term of this Agreement. Any waiver must be in writing signed by the waiving Party.

15. **Reporting Requirements.** In addition to any reporting requirement specified above, RBRA will provide the following reports to BCDC:
a. **Monthly reports**, provided to BCDC staff by the 12th of each month, discussing:
   i. **Vessel metrics.** The number, type, category, and condition of registered and unregistered vessels entering, leaving, and currently anchoring in Richardson Bay; the number of anchoring permits RBRA has issued and any permits not adhered to; the number of moorings installed and their use; the amount of ground tackle/moorings removed or left behind and how this complies with CEMP; and the number of vessels removed or moved pursuant to this agreement by category.
   ii. **Eelgrass metrics.** Progress and results from restoration studies in the Eelgrass Protection Zone; progress on completing and implementing the 10-year adaptive management plan and how it meets the minimum requirements of the CEMP (including goals, performance standards, monitoring performance milestones, and contingency plans); findings on effectiveness of temporary moorings and their removal; new subtidal habitat damage and the RBRA’s response.
   iii. **Housing metrics.** No monthly reporting requirements.
   iv. **Governance metrics.** BCDC’s long term expectation is that the anchorage will be available to seaworthy, self-propelled vessels subject to periodic inspection. As the RBRA works towards meeting this long-term expectation the following information will be included in its governance metrics. Progress implementing the no-anchoring zone; the number of illegal anchor outs in the no-anchoring zone and in Richardson Bay; Efforts to reduce the number of illegal anchor-outs and their effectiveness; The number of vessels attempting to anchor in the no-anchoring zone; RBRA’s cooperative efforts to address illegal anchor-outs and eelgrass restoration; Any changes in RBRA membership, staffing, or funding; any water quality monitoring results; Any debris and flotsam clean-up data; and any anticipated requests for extension of time.

b. **Quarterly reports**, provided to BCDC’s Enforcement Committee. RBRA staff commits to attend the Committee meeting and address any questions regarding the reporting. Quarterly reports will discuss all the above reporting requirements, and:
   i. **Vessel metrics.** RBRA’s efforts to prevent importation of derelict vessels into Richardson Bay; whether RBRA is on pace to meet the obligations of this agreement.
   ii. **Eelgrass metrics.** RBRA’s acquisition of restoration funds and how RBRA will address projected budget surplus and/or deficits; progress on the beneficial reuse of dredged materials; effectiveness of eelgrass restoration planning and implementation.
   iii. **Housing metrics.** As described in Section 8.
   iv. **Governance metrics.** As above.
c. **Annual Reports**, provided to the BCDC Commission. RBRA staff commits to attend the Commission meeting and address any questions regarding the reporting. The annual report will summarize the results of the monthly and quarterly reports, and RBRA’s progress towards implementing this agreement by the October 15, 2026 deadline for the removal of all illegally anchored vessels.

16. **Reservation of Rights.** The Executive Director and the Commission reserve the right to take appropriate enforcement action in the event of any failure by the RBRA to comply with the terms of this Agreement. No less than 30 days prior to issuing a Violation Report regarding compliance with this Agreement, BCDC will give written notice to the RBRA or, as appropriate, Marin County or the other member agencies, of such failure under the Agreement and the Parties will meet informally in an effort to resolve the issue without the necessity of commencing a formal enforcement action.

17. **Authority.** Each Party has the full and complete authority to execute this Agreement as set forth below. The Parties further warrant and represent that the individuals executing and delivering this Agreement have the full and complete authority and capacity to execute this Agreement.

18. **Mutual Release.** Execution and delivery of this Agreement and implementation of the terms herein constitutes a full and complete satisfaction of all claims and demands by BCDC against RBRA related to the failure to prevent Bay fill through permanent houseboats and anchor-out vessels through October 15, 2026. BCDC hereby agrees not to pursue additional enforcement related to this failure through October 15, 2026.

19. **No Admission of Liability.** This Agreement does not constitute an admission by RBRA of any violation of federal, state, or local law, ordinance or regulation or of any violation of RBRA’s policies, procedures or ordinances, or of any liability or wrongdoing whatsoever. Neither this Agreement nor anything in this Agreement shall be construed to be or shall be admissible in any proceeding as evidence of liability or wrongdoing by RBRA. Nothing in this agreement constitutes mitigation required because of RBRA acts or omissions. BCDC agrees to provide letters of support for any grant applications RBRA submits to fund activities specified in this Agreement stating that this Agreement does not constitute legally required mitigation for RBRA’s acts or omissions. This Agreement may be introduced, however, in any proceeding to enforce the Agreement.

20. **Governing Law.** This Agreement shall be governed by, interpreted, and construed in accordance with the laws of the State of California.

21. **Effective Date.** This Agreement is effective on the date it is signed by the representatives authorized to sign for the Parties.
Richardson’s Bay Regional Agency

San Francisco Bay Conservation
And Development Commission

Stephanie Mouton-Peters, Board Chair

Lawrence J. Goldzband, Executive Director

Attachments:

• Transition Plan for the Richardson’s Bay Regional Agency Anchorage
• Ecologically-based Mooring Feasibility Assessment and Planning Study by Merkel & Associates
• Draft Eelgrass Protection and Management Plan
• Photo image of each floating home and aerial image of their locations
• Current California Eelgrass Mitigation Policy and its Implementing Guidelines