APPENDIX H

RECORD OF DECISION

Record of Decision on the
Downtown San Francisco Ferry Terminal Expansion Project
San Francisco, California
By the Federal Transit Administration

Decision

The Federal Transit Administration (FTA) has determined that the requirements of the National Environmental Policy Act of 1969 (NEPA) and related federal environmental statutes, regulations, and executive orders have been satisfied for the Downtown San Francisco Ferry Terminal Expansion Project (the Project) in San Francisco, California.

This environmental Record of Decision (ROD) applies to the Action Alternative, described as the locally preferred alternative (LPA), evaluated in the *Downtown San Francisco Ferry Terminal Expansion Project Final Environmental Impact Statement/Environmental Impact Report* (Final EIS/EIR). The FTA served as the federal lead agency under NEPA, and the San Francisco Bay Area Water Emergency Transportation Authority (WETA) served as the local lead agency under the California Environmental Quality Act of 1970 (CEQA). In addition, the National Oceanic and Atmospheric Administration – National Marine Fisheries Service (NMFS) served as a cooperating agency under NEPA. Several agencies participated in the environmental review process as either responsible agencies under CEQA or participating agencies under NEPA, as detailed on the abstract page and described in Chapter 5.0 of the Final EIS/EIR.

WETA will seek financial assistance from FTA in carrying out the Project final design and construction. If FTA provides financial assistance for the final design or construction of the Project, FTA will require the Project to be designed and built as presented in the Final EIS/EIR and in the ROD. Any proposed change must be evaluated in accordance with 23 Code of Federal Regulations (CFR) Section 771.130, and must be approved by FTA before the agency requesting the change can proceed.

Background

The purpose of the Project is to support existing and future planned water transit services operated by WETA on San Francisco Bay, as detailed in WETA's *Implementation and Operations Plan* (IOP), and in accordance with regional and City and County of San Francisco policies that encourage transit use. Furthermore, the Project would support WETA and the Port of San Francisco's (Port's) emergency operation needs and water transit operations at the Downtown San Francisco Ferry Terminal (Ferry Terminal), located at the San Francisco Ferry Building (Ferry Building). The Project would enhance water transit passenger access and circulation, and create attractive public spaces for both water transit passengers and other users of the Ferry Building.

Planning for the Project

On April 7, 2011, FTA published, in the *Federal Register*, the Notice of Intent to prepare an EIS for this Project. The scoping process concluded on May 16, 2011. The Notice of Availability (NOA) of the Draft EIS/EIR was published in the *Federal Register* on June 7, 2013. In addition, on May 30, 2013, the NOA for the Project's Draft EIS/EIR was filed with the San Francisco County Clerk's Office, sent to the mailing list (i.e., government agencies, interested parties, and property owners and occupants within 500 feet of the project site), and posted at the project site. Copies of the Draft EIS/EIR, including the NOA, were also provided to the San Francisco Public Library and mailed to each of the Participating and Cooperating Agencies in the NEPA process (which also included Responsible Agencies as defined by

CEQA). The Draft EIS/EIR was circulated for public review and comment over a 60-day period that concluded on July 30, 2013.

After consideration of the comments received on the Draft EIS/EIR, FTA published, on April 8, 2014, a public notice of their intent to issue a single document that combines the Final EIS and ROD documents pursuant to 42 United States Code Section 4332a(b) (Public Law 112-141, 126 Stat. 405, Section 1319[b]).

Alternatives Considered

The Project builds on previous planning efforts and projects implemented by WETA and the Port. WETA adopted its IOP and Program EIR for the IOP in 2003, which planned for a systemwide expansion of water transit service in the Bay Area. The IOP identified new routes that would be developed over a 20-year period. These routes would connect downtown San Francisco with areas of the North, East, and South Bay. During the development of WETA's IOP, alternatives for regional water transit service were considered and are described in detail in the Program EIR for the IOP.

In the 1990s, the Port initiated a comprehensive land use planning process that identified near-term and long-term improvements that should be made to the Ferry Terminal. As a result, in 2003, the Port completed Phase I of the Downtown Ferry Terminal Project, which included the construction of Gates B and E. Phase I of the Downtown Ferry Terminal Project also identified long-term future projects and options to improve circulation, public spaces, and water transit operations at the Ferry Terminal. In 2010, WETA and the Port began working together to implement the remaining improvements identified for the Ferry Terminal (Phase II). In February 2010, WETA and the Port entered into a Memorandum of Understanding detailing the goals of the Project, and each agency's roles and responsibilities.

WETA considered alternative locations, designs for berthing facilities, and pedestrian circulation while developing the concept plan for the Project, as described in Section 2.7 of the EIS/EIR. During the initial planning of Phase II, WETA evaluated the number of new gates needed to support water transit service, as envisioned in Phase I. Based on the projected ridership and operations schedule, WETA identified a need for three new gates. Alternative locations were considered; however, they would require substantial improvements landside for passenger facilities and on the water to support ferry service, which would increase the potential for environmental impacts. Development and expansion of water transit service at the Ferry Terminal is consistent with the vision and plan of the City and County of San Francisco, as well as the Bay Conservation and Development Commission's (BCDC's) plans and policies for waterfront development. Alternative locations would not be consistent with the plans for the Ferry Terminal. Therefore, consideration of alternative locations would not meet the purpose and need for the Project, and were not carried forward in the Draft EIS/EIR.

The EIS/EIR evaluated two alternatives: the No Action Alternative and the Action Alternative.

No Action Alternative. The No Action Alternative maintains the existing Ferry Terminal gate configuration and circulation areas, including the function, uses, and design of public spaces in the project area. No new gates or additional boarding capacity would be provided to accommodate new WETA services or the expansion of existing WETA services as part of the No Action Alternative. Similarly, there would be no implementation of circulation and boarding improvements to respond to emergency planning requirements. Increases in passenger and water transit vessel arrivals that could be accommodated with the existing facilities at the Ferry Terminal would occur as a part of the No Action Alternative.

Action Alternative/Locally Preferred Alternative. The Action Alternative is the expansion and improvement of the Ferry Terminal at the Ferry Building, consistent with the IOP. The Action Alternative includes construction of three new gates and overwater berthing facilities, in addition to

supportive landside improvements, such as additional passenger waiting and queuing areas and circulation improvements.

Comments received on the Draft EIS/EIR were considered; where appropriate, updates and clarifications have been made to the description of the Project and its anticipated impacts in the Final EIS/EIR. Specifically, in response to comments, the weather protection canopy at Gate B was removed from the Action Alternative. The Action Alternative, as described in the Final EIS/EIR, is the LPA.

Description of the Project

The Project described as the Action Alternative in the Final EIS/EIR is the subject of this ROD. The Project includes demolition, removal, repair, and replacement of existing facilities, as well as construction of new facilities at the Ferry Terminal. The Ferry Terminal can generally be divided into the North Basin (areas north of the Ferry Plaza) and South Basin (areas south of the Ferry Plaza). The Project includes the following elements:

- Removal and replacement of portions of existing deck and pile construction and fendering;
- Construction of one new gate and access pier (Gate A) in the North Basin, and two new gates (Gates F and G) in the South Basin; and
- Improved passenger boarding areas, amenities, and circulation, including rebuilding a portion of the marginal wharf in the North Basin; extending the East Bayside Promenade along Gates E, F, and G; strengthening the South Apron of the Agriculture Building; creating the Embarcadero Plaza; and installing weather protection canopies for passenger queuing at Gates A, E, F and G.

Basis for Decision

The FTA has determined that the Project meets the Purpose and Need of the proposed action, as outlined in Chapter 4.0 of the Final EIS/EIR and discussed below.

Transit Service. The Project will accommodate the existing and future planned water transit service outlined in WETA's IOP for the San Francisco Bay Area by constructing three new gates, overwater berthing facilities, and supportive landslide improvements (such as additional passenger waiting and queuing areas, and circulation improvements). The addition of three new gates will accommodate an expansion of WETA services from 5,100 to 25,700 passengers per weekday by 2035; and an increase in AM peak-period WETA vessel arrivals from 14 to approximately 52 to 57, with approximately 181 total vessel arrivals per weekday. The improvements support WETA's IOP, and thereby will encourage a shift from automobiles to water transit use in the Bay Area. The expansion of water transit as an alternative mode of transportation supports the region's regional transportation plan (RTP) and land use plan, *Plan Bay Area*, as well as regional air quality goals.

Emergency Operations. Water transit provides a viable alternative for transportation when unexpected disruption renders other components of the regional transportation system inoperable. To the extent feasible, improvements will be constructed to withstand damage from flood, wind, or earthquakes, to ensure that the improved circulation areas (e.g., the new Embarcadero Plaza) would be available for emergency operations and evacuee queuing, if necessary. With the improvements in place, WETA will have the capacity to evacuate up to 9,000 passengers per hour from its five gates. In addition, in the North Basin, 12,000 square feet will be available for passenger staging. In the South Basin, 38,100 square feet will be available for emergency response and passenger staging.

Access and Pedestrian Circulation. The construction of the circulation improvements (i.e., creation of the Gate A Access Pier, improvement to North Basin Marginal Wharf, extension of the East Bayside Promenade, improvement of the South Apron of the Agriculture Building, and creation of the Embarcadero Plaza) would provide improved passenger circulation at the Ferry Terminal. Passengers will have adequate queuing and waiting areas, which would avoid conflicts with other activities and uses at the Ferry Building. In addition to physical changes, the Project would include passenger wayfinding and information signage, providing clear information for passengers.

Public Involvement and Outreach

As described in Chapter 5.0 of the Final EIS/EIR, several types of public and agency participation have occurred as part of the design and environmental review process since 2010. From October through December 2010, prior to the initiation of the environmental review process, a series of stakeholder interviews were conducted by WETA and the design team. The purpose of this early outreach was to inform stakeholders about the Project, and obtain input relevant to the development of the preliminary design.

Initiating the environmental review process, WETA and FTA conducted a public and agency scoping process. Approximately a dozen members of the public and one agency staff representative attended the public and agency scoping meeting on April 26, 2011. On May 4, 2011, WETA held a separate meeting with the NMFS, who was unable to attend the agency scoping meeting.

Pursuant to 23 United States Code, Section 139, federal, state, and local agencies with jurisdiction over resources that could be affected by the Project, or that have technical expertise on an issue relevant to the Project, were formally invited to participate in the environmental review process as either cooperating or participating agencies in the NEPA process. The NMFS accepted FTA's request to serve as a cooperating agency pursuant to NEPA, and requested participation in the development of the EIS/EIR as it relates to the assessment of potential impacts and conservation measures for those fish species listed in the Endangered Species Act that are under the jurisdiction of the NMFS, and for Essential Fish Habitat under the Magnuson-Stevens Fishery Conservation and Management Act. Several agencies accepted FTA's request to serve as participating agencies. In addition, the Port, the BCDC, and the California State Lands Commission are responsible agencies under CEQA. An agency coordination meeting was held on December 8, 2011. Participating and cooperating agencies were also provided with briefings and preliminary reviews at various stages of the development of the Draft and Final EIS/EIR.

During the comment period on the Draft EIS/EIR, a public meeting was held on June 25, 2013, at the Port's Offices at Pier 1, to receive comments. Five members of the public and agency representatives attended the meeting. Thirteen members of the public or agency representatives provided comments on the Draft EIS/EIR, as detailed in Appendix F of the Final EIS/EIR.

In addition, WETA and FTA have coordinated informally with agencies having permitting authority over the Project throughout the environmental review process, such as the BCDC, California Department of Fish and Wildlife, and U.S. Army Corps of Engineers (Corps). WETA will continue coordination with these agencies during the permitting process.

Determinations and Findings

Section 106 of the National Historic Preservation Act

No archaeological resources were identified in the archaeological area of potential effect (APE) defined for the Project through inventory efforts. Several historic properties are present in the architectural APE. Two historic districts encompass or overlap in the architectural APE: the Port's Embarcadero Historic

District, and the Central Embarcadero Piers Historic District. In addition to contributing to one or both of these districts, three properties in the APE—the Ferry Building, Agriculture Building, and Pier 1—are also listed individually in the National Register of Historic Places (NRHP) and the California Register of Historical Resources. With incorporation of mitigation measures to avoid or minimize impacts, the character-defining historic features of the Ferry Building, Agriculture Building, and Pier 1 will not be compromised, and there would be no adverse effect to those historic properties—and there would also be no adverse effect to the contributing elements to the historic districts. Adverse impacts on historic properties from the replacement of fendering on Pier 1 would be avoided by conducting the replacement in accordance with the Secretary of Interior's Standards for Treatment of Historic Properties (36 CFR Part 68). Subsequent review of plans for rehabilitation will be coordinated with the State Historic Preservation Officer (SHPO), to ensure consistency with the Secretary of the Interior's Standards, and to avoid adverse effects. Similarly, the Final Design of weather protection canopies would be developed in consultation with the Port's Waterfront Design Advisory Committee and the San Francisco Historic Preservation Commission, and in accordance with the Secretary of Interior's Standards for Treatment of Historic Properties, to ensure that indirect adverse visual impacts on historic properties are avoided. Vibration impacts on historic properties during construction will be minimized through construction equipment selection, vibration monitoring, and corrective measures. Measures to avoid and minimize effects are described in Chapter 3.0 and Appendix G of the Final EIS/EIR.

Pursuant to Section 106 of the National Historic Preservation Act, the FTA concluded that this undertaking will have no effect on archaeological resources, and no adverse effect on historic architectural resources or historic properties. The SHPO concurred with this determination on April 15, 2013 (refer to Appendix D of the Final EIS/EIR).

Air Quality Conformity

The Project satisfies the U.S. Environmental Protection Agency's (USEPA's) air quality conformity requirements under 40 CFR Part 93, as documented in Section 3.6 of the Final EIS/EIR. The Project is included in the RTP, *Plan Bay Area*, and therefore was included in the regional emission analysis completed by the Metropolitan Transportation Commission (MTC) for the RTP. MTC adopted an updated RTP, a Regional Transportation Implementation Plan (TIP), and a Final Conformity Analysis for the RTP and TIP in July 2013. Both the RTP and TIP were found to conform to the State Implementation Plan (SIP) by the Federal Highway Administration and FTA on August 12, 2013. The Final Conformity Analysis found that the RTP and TIP, and therefore the individual projects contained in the plans, will have air quality impacts consistent with those identified in the SIP for achieving the national ambient air quality standards.

The Project is not considered a project of air quality concern as defined in USEPA's Transportation Conformity Guidance; therefore, a hotspot analysis for particulate matter 2.5 micrometers in diameter or less is not required to demonstrate conformity.

Section 4(f) Findings

There are nine park and recreation areas in the vicinity of the project area, and five historic resources. The Project will not result in the direct use, temporary occupancy, or constructive use of any park or recreation property protected under Section 4(f).

In regard to historic resources protected under Section 4(f), the Project will not result in a use of the Ferry Building or Agricultural Building. The Project could replace the wood fendering and remove wood piles at Pier 1, which would result in a direct use of Pier 1. With the implementation of avoidance and minimization measures described in Chapter 3.0 and Appendix G of the Final EIS/EIR, the Project would

have no adverse effect on Pier 1 or the Port Embarcadero Historic District and the Central Embarcadero Piers Historic District. Therefore, in accordance with 23 CFR Section 774.5, FTA has determined that the Project would have a *de minimis* impact to these historic resources. On April 15, 2013, the SHPO concurred with the determination of effect pursuant to Section 106 of the National Historic Preservation Act.

Endangered Species Act

The project area provides potential habitat for three federally threatened or endangered species:

- Steelhead (*Oncorhynchus mykiss*), referred to as steelhead, consisting of the following Distinct Population Segments (DPSs):
  - Central California Coast (CCC) steelhead (federally listed as threatened).
  - Central Valley (CV) steelhead (federally listed as threatened).

- Chinook salmon (*O. tshawytscha*), consisting of the following Evolutionarily Significant Units:
  - Sacramento River winter-run Chinook salmon (federally listed as endangered).
  - CV spring-run Chinook salmon (federally listed as threatened).

- Green sturgeon (*Acipenser medirostris*) southern DPS (federally listed as threatened).

In addition, critical habitat designated for CCC steelhead, Sacramento River winter-run Chinook salmon, and green sturgeon falls within the action area.

In-water construction activities, including pile-driving and dredging, have the potential to directly affect these species and their habitat. In addition, the placement of new structures will modify critical habitat.

FTA has determined that if pile-driving and dredging activities occur during the proposed work window between June 1 and November 30, the Project may affect, but is not likely to adversely affect, steelhead and Chinook salmon. It was also determined that pile-driving and dredging activities for the Project, regardless of timing, are likely to adversely affect green sturgeon. With regard to designated critical habitat in the action area, FTA has determined that the Project does not appreciably diminish the value of designated critical habitat for steelhead, Sacramento River winter-run Chinook salmon, or green sturgeon. Therefore, the Project may affect, but is not likely to adversely modify, the capability of designated critical habitat for these species to support the survival and recovery of the species.

Measures to avoid and minimize impacts to special-status species are described in Chapter 3.0 and Appendix G of the Final EIS/EIR. NMFS concurred with FTA's determination, and issued their Biological Opinion and Incidental Take Statement on June 30, 2014, concluding that the Project is not likely to jeopardize the continued existence of threatened CCC steelhead, threatened CV steelhead, threatened CV spring-run Chinook salmon, endangered Sacramento River winter-run Chinook salmon, and threatened southern DPS green sturgeon. In addition, NMFS concluded that the Project is not likely to adversely modify or destroy critical habitat in Central San Francisco Bay for CCC steelhead, Sacramento River winter-run Chinook salmon, and southern DPS green sturgeon.

Clean Water Act and Rivers and Harbors Act

The Project involves activities regulated by Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. WETA will apply for a Clean Water Act Section 404/Section 10 permit from the Corps for dredging and the placement of new structures (i.e., fill) in navigable waters.

Dredging and disposal of dredged materials will be conducted in cooperation with the San Francisco Dredged Material Management Office (DMMO), to comply with the requirements of the Dredging – Dredge Material Reuse/Disposal permit that would be issued by Corps. Requirements will include development of a sampling plan, sediment characterization, a sediment removal plan, and disposal in accordance with the Long-Term Management Strategy for San Francisco Bay to ensure beneficial reuse, as appropriate. Based on the results of the sediment analysis, the alternatives for placement of dredged materials will be evaluated, including disposal at the San Francisco Deep Ocean Disposal Site, disposal at an upland facility, or beneficial reuse. Selection of the disposal site would be reviewed and approved by the DMMO.

The proposed fill required by the Project is consistent with the Public Trust Doctrine; provides public access to San Francisco Bay; supports the development of water-related uses; and improves public transportation in the region, providing public benefit.

In addition, the Project will be designed in accordance with the Port's Stormwater Management Program, which meets the requirements of Section 402 of the Clean Water Act. The improvements will be designed to drain predominantly west, and runoff would be conveyed to a stormwater treatment system, such as a media or sand filter or a landscaped stormwater bioretention planter. In compliance with the Port's Stormwater Management Program, WETA will develop a stormwater control plan for the new facilities.

Executive Order 11988: Floodplain Management

The Project has been designed to address potential flooding and sea-level rise through onsite stormwater management and design of structures to provide sufficient freeboard above 100-year stormwater levels. The new gates would be built at 13 to 13.5 feet above mean lower low water, which will provide 3.8 to 4.3 feet of freeboard above a 100-year storm, or 2.5 to 3 feet freeboard above a 100-year storm, with anticipated sea-level rise of 16 inches by 2050. Elevations of the new decks will provide at least 1.7 feet of freeboard above the 100-year storm with anticipated sea-level rise. The Project will be constructed to comply with both the Port's Building Code (which establishes 100-year flood event design parameters) and BCDC's policies regarding sea-level rise. The Project would not increase risk of flooding, and will not result in structures incompatible with the floodplain; therefore, the Project would be consistent with Executive Order 11988.

Executive Order 12898: Environmental Justice

The analysis determined that there are no minority or low-income populations within a quarter mile of the project site, but that there are minority or low-income populations between a quarter mile and a half mile of the project site. Several minority populations and one low-income population (which was also a minority population) were identified in the vicinity of Broadway between Front and Battery, near the intersection of Main and Harrison streets, and along Harrison Street between First and Fremont streets.

With the exception of Transportation and Circulation Impacts 3.2-3 and 3.2-8 (in the Final EIS/EIR), environmental impacts would not be adverse after the implementation of mitigation measures. As described in Section 3.2, Transportation and Circulation (in the Final EIS/EIR), pedestrian traffic congestion at three crosswalks along The Embarcadero would remain adverse after the implementation of mitigation. These impacts would affect pedestrians along The Embarcadero, which is broadly used by Bay Area residents and visitors, and would not disproportionately impact minority or low-income populations in the project area. Therefore, it was determined that the Project would not result in disproportionately high and adverse effects to minority or low-income populations.

Measures that Mitigate the Adverse Effects of the Project

Measures to mitigate the effects of the Project were considered during planning and development, in coordination with interested parties. The mitigation commitments are described in the Mitigation Monitoring and Reporting Program to ensure fulfillment of all environmental and related commitments in the Final EIS/EIR (see Appendix G). Any change in such mitigation from the description in the Final EIS/EIR will require a review in accordance with 23 CFR Section 771.130, and must be approved by FTA.

Leslie T. Rogers
Regional Administrator
Federal Transit Administration, Region IX

AUG 22 2014

Date