

MEMORANDUM

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**TO: Board Members**

**FROM: Nina Rannells, Executive Director  
Kevin Connolly, Manager, Planning & Development  
Mike Gougherty, Senior Planner**

**SUBJECT: Certify the Environmental Impact Report for the Downtown San Francisco Ferry Terminal Expansion Project; Make Certain Findings of Fact; Adopt a Statement of Overriding Considerations; and Adopt a Mitigation Monitoring and Reporting Program**

**Recommendation**

Staff recommends that the Board:

- Certify the Environmental Impact Report for the Downtown San Francisco Ferry Terminal Expansion Project;
- Adopt a Mitigation Monitoring and Reporting Program;
- Make Certain Findings of Fact;
- Adopt a Statement of Overriding Considerations; and
- Approve the Project

**Background**

The Downtown San Francisco Ferry Terminal Expansion project is being developed by WETA to expand and improve facilities at the existing ferry terminal in downtown San Francisco. The project will include construction of up to three new ferry gates, landside pedestrian circulation improvements, installation of amenities such as weather-protected areas for queuing, and covering of the current “lagoon” area south of the Ferry Building for future use as a staging area for evacuees in the event of a major emergency. The new gates and amenities will support projects currently under development to provide new ferry service to Richmond, Berkeley, Treasure Island, and other locations, as well as efforts to enhance existing services.

The proposed expansion of the Downtown San Francisco Ferry Terminal builds on previous planning efforts and projects constructed by the Port of San Francisco (Port). In the 1990s, the Port initiated a comprehensive land use planning process for the Ferry Building area that resulted in significant improvements to the Ferry Building and the Embarcadero, as well implementation of the Downtown Ferry Terminal project. The first phase of the Downtown Ferry Terminal project was completed by the Port in 2003, and resulted in construction of Gates B and E, which are used by WETA today to support its Vallejo and Alameda ferry services. During development of Phase 1, the Port also evaluated alternatives and prepared plans for a second phase that would include construction of additional gates and serve as the basis for the proposed Downtown San Francisco Ferry Terminal Expansion project that WETA is undertaking.

In 2010, WETA entered into a Memorandum of Understanding (MOU) with the Port to establish a coordinated planning process for implementing design and environmental review of their respective projects in the Downtown San Francisco Ferry Building area. As set forth in the MOU, WETA assumes responsibility for developing the conceptual design and undertaking environmental review for landside and waterside improvements proposed as part of the Downtown San Francisco Ferry Terminal Expansion project. Design and environmental review for other projects in the Ferry Building area are to remain the responsibility of the Port. The MOU also establishes that funding and other responsibilities related to construction of the Downtown San Francisco Ferry Terminal Expansion project would be subject to a separate agreement following completion of the environmental review process.

### **Discussion**

Consistent with the MOU between WETA and the Port, WETA has assumed the lead agency role for approving the project under the California Environmental Quality Act (CEQA). In addition, because the Federal Transit Administration (FTA) would be providing federal funding, FTA is the lead agency under the National Environmental Policy Act (NEPA). WETA and FTA have prepared a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) that meets requirements of both NEPA and CEQA.

Because the project would also require other approvals that would be also subject to CEQA, several state and local agencies are also Responsible Agencies under CEQA for the project including the Port, the San Francisco Bay Conservation and Development Commission (BCDC) and the California State Lands Commission.

FTA's final approval, in the form of its Record of Decision, was published with the release of the Final EIS/EIR to the public on August 29, 2014. The Final EIS/EIR is included as **Exhibit A**. Upon certification of the EIR, WETA could move forward with project design and permitting activities to advance this project to construction in 2016.

### **Outreach and Coordination with the Public and Agencies**

Prior to the initiation of the environmental review process, WETA conducted a series of stakeholder interviews in late 2010 to inform interested parties about the project. Individual meetings were held with a wide variety of stakeholders in the project area, including nearby businesses, management and tenants of the Ferry Building, regulatory agencies, transit agencies, vessel crews and operators, and advocacy groups representing pedestrian, transit, bicycle, and historic preservation interests. Input obtained from each of the stakeholder groups was documented and considered in the development of the preliminary project design.

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. The agencies that participated include: National Oceanic and Atmospheric Administration – National Marine Fisheries Service (NMFS), U.S. Army Corps of Engineers, U.S. Coast Guard, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, California State Lands Commission, BCDC, Bay Area Air Quality Management District (BAAQMD), the Port, and San Francisco Bay Area Rapid Transit District (BART). An agency coordination meeting was held early in the environmental review process to gather input on each agency's areas of expertise and

concern. In addition, WETA staff worked closely with the San Francisco Planning Department and the San Francisco Municipal Transportation Agency (SFMTA) on the transportation and circulation analysis. These agencies were also provided with briefings and preliminary reviews at various development stages of the Draft and Final EIS/EIR.

WETA has continued its outreach efforts to involve stakeholders throughout development of the project. Staff has presented updates on the project to several organizations, including the Port of San Francisco's Northeastern Waterfront Advisory Group, Maritime Commerce Advisory Committee and Waterfront Design Advisory Committee, the San Francisco Historical Preservation Commission and the BCDC Design Review Board. Additionally, regular project updates have been posted to a project specific page on the WETA website.

### **Overview of the CEQA Process**

The Draft EIS/EIR was released for public and agency review on May 31, 2013 by providing a copy to the State Clearinghouse (SCH 2011032066); circulating a Notice of Availability (NOA) of a Draft EIR to interested parties and to property owners and occupants within 500 feet of the project site; posting the NOA at the project site; filing the NOA with the San Francisco County Clerk's Office; publishing a Public Notice in the San Francisco Examiner; and making the document available for download on WETA's website. A public meeting was held to receive comments on the Draft EIS/EIR on June 25, 2013. The FTA also provided public notice of the availability of the Draft EIS/EIR in accordance with the FTA's NEPA regulations.

Thirteen members of the public or agency representatives submitted comments on the Draft EIS/EIR. Appendix F of the Final EIS/EIR contains the comments received and WETA's responses, as required by CEQA Guidelines Section 15088. Agencies that are either Cooperating or Participating Agencies (under NEPA) or Responsible Agencies (under CEQA) were provided a copy of the draft responses to comments for their review and input including: U.S. Environmental Protection Agency, NMFS, California State Lands Commission, BCDC, BAAQMD, BART, and the Port. In addition, WETA staff met individually with representatives of NMFS, BCDC, BART, and Equity Office Partners (the management organization for the Ferry Building) to discuss their comments and ensure that they would be adequately addressed in the Final EIS/EIR.

All comments received on the Draft EIS/EIR were considered, and where appropriate, updates and clarifications have been made to the description of the project and its anticipated impacts in the Final EIS/EIR. As described in detail in Appendix F of the Final EIS/EIR, Response to Comments, two changes were made that reduce the potential environmental effects of the project. First, all in-water construction activities will be scheduled to take place between June 1 and November 30, when sensitive life stages of several special-status fish species are unlikely to be present in the project area. Second, the weather protection canopy proposed for passenger queuing at Gate B is no longer being considered as a part of the project.

The Final EIS/EIR includes technical changes and clarifications that do not alter the conclusions of the Draft EIR. No new significant impacts have been identified for the proposed project and there is no substantial increase in the severity of identified impacts. Additionally, there are no substantial changes to the proposed project, or new circumstances resulting in increased environmental impacts.

The only potentially significant and unavoidable impacts that would result from implementation of the project, in the short or long term, would be transportation and circulation impacts relating to the project's addition of pedestrians at two area crosswalks. Feasible mitigation measures to reduce these potential impacts have been identified and are presented in the EIS/EIR. The mitigation measures require WETA to enter into an agreement with SFMTA to implement specific crosswalk or signal timing changes. However, because the SFMTA would need to examine the signal timing progression, pedestrian crossing time requirements, and plans for crosswalk widening in greater detail prior to implementation of the mitigation measures to determine if the impacts would be fully mitigated, these impacts would still be considered significant and adverse.

All other impacts identified for the project would be negligible, less than significant, or less than significant with the implementation of mitigation measures. Other alternatives to the project have been previously evaluated; however, these alternatives were found to not meet the project purpose and need, to not be feasible, to not be consistent with other plans, or to exceed projected funding available for the project.

Staff recommends that the Board certify the Final EIR for the Downtown San Francisco Ferry Terminal Expansion Project.

#### ***Mitigation Monitoring and Reporting Program***

Pursuant to CEQA Guidelines Section 15097, WETA has prepared a Mitigation Monitoring and Reporting Program for all measures required to minimize or avoid significant environmental impacts. The Program identifies responsible monitoring parties and monitoring milestones for each mitigation measure. By adopting the Program, WETA is committing to implementing the measures described. The Mitigation Monitoring and Reporting Program is provided in Appendix G of the Final EIS/EIR. The Final EIS/EIR is included as ***Exhibit A***.

Staff recommends that the Board adopt the Mitigation Monitoring and Reporting Program for the Downtown San Francisco Ferry Terminal Expansion Project.

#### ***Findings of Fact***

Pursuant to CEQA guidelines Section 15091, when a public agency approves a project for which an EIR has been certified which identifies potentially significant effects, the agency must make specific findings of fact for potentially significant effects. The EIR identified potentially significant impacts to transportation and circulation; land use and land use planning; parklands and recreation; air quality; noise and vibration; cultural and paleontological resources; biological resources; hazards and hazardous materials; and utilities. Findings related to these topics are described in detail in the Findings of Fact included in ***Exhibit B***.

Staff recommends that the Board adopt the Findings of Fact for the Downtown San Francisco Ferry Terminal Expansion Project.

#### ***Statement of Overriding Considerations***

Section 15092 of the CEQA Guidelines states that after consideration of an EIR, and in conjunction with the findings discussed above, the lead agency may decide whether or how to approve or carry out a project that may result in significant and unavoidable impacts on the environment. The lead agency may balance the economic, legal, social, technological, or other benefits, including region-wide environmental benefits, against the project's

unavoidable environmental effects. Section 15093 requires the lead agency to document and substantiate any such determination in a “statement of overriding considerations” as a part of the record.

While the project could have significant, unavoidable transportation and circulation impacts, as identified in the EIR, these impacts are outweighed by the benefits offered by the project as described in detail in the Statement of Overriding Considerations included in **Exhibit B**.

Staff recommends that the Board adopt the Statement of Overriding Considerations for the Downtown San Francisco Ferry Terminal Expansion Project

***Project Approval and Notice of Determination***

Staff recommends that the Board approve the Downtown San Francisco Ferry Terminal Expansion Project as described in the Final EIR. Approval of the project authorizes staff to prepare engineering and design plans, apply for permits and approvals, implement the Mitigation Measures described in the Mitigation Monitoring and Reporting Program, obtain funding, and take such other actions as may be appropriate to implement the Project, all in accordance with the phasing plan described in the Final EIR

Upon approval of the project and certification of the EIR, a Notice of Determination will be filed with the California Office of Planning and Research and the San Francisco County Clerk’s office within 5 days initiating a 30-day statute of limitations on court challenges to the approval of the Project under CEQA.

***Fiscal Impact***

There is no direct fiscal impact as a result of this action.

\*\*\*END\*\*\*

Enclosures:

1. Exhibit A – Downtown San Francisco Ferry Terminal Expansion Project Final EIR, Appendix G of the Final EIR contains the Mitigation Monitoring and Reporting Program.
2. Exhibit B – Findings of Fact and Statement of Overriding Considerations

**EXHIBIT A**

**Final EIS/EIR for Downtown San Francisco Ferry Terminal Expansion Project**

Document is available for download from [www.sanfranciscobayferry.com](http://www.sanfranciscobayferry.com) or for review at WETA Administrative Office located at Pier 9, Suite 111, The Embarcadero, San Francisco, CA 94111

# **Findings of Fact and Statement of Overriding Considerations**

## **Downtown San Francisco Ferry Terminal Expansion Project**



**San Francisco Bay Area Water Emergency Transportation Authority**

**September 2014**







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## LIST OF ACRONYMS AND ABBREVIATIONS

BAAQMD	Bay Area Air Quality Management District
Bay Plan	San Francisco Bay Plan
BCDC	Bay Conservation and Development Commission
CCR	California Code of Regulations
CEQA	California Environmental Quality Act
CRHR	California Register of Historic Resources
EIR	Environmental Impact Report
EIS	Environmental Impact Statement
Ferry Building	San Francisco Ferry Building
Ferry Terminal	Downtown San Francisco Ferry Terminal
FTA	Federal Transit Administration
IOP	Implementation and Operations Plan
NEPA	National Environmental Policy Act
NO <sub>x</sub>	oxides of nitrogen
NRHP	National Register of Historic Places
PM <sub>10</sub>	particulate matter less than 10 µm in diameter
PM <sub>2.5</sub>	particulate matter less than 2.5 µm in diameter
Port	Port of San Francisco
PRC	Public Resources Code
ROG	reactive organic gas
SFMTA	San Francisco Municipal Transportation Agency
WETA	Water Emergency Transportation Authority

## 1.0 INTRODUCTION

The San Francisco Bay Area Water Emergency Transportation Authority (WETA) is proposing to expand berthing capacity at the Downtown San Francisco Ferry Terminal (Ferry Terminal), located at the San Francisco Ferry Building (Ferry Building), to support existing and future planned water transit services operated by WETA and WETA's emergency operations, as detailed in WETA's Implementation and Operations Plan (IOP) (WETA, 2003a). WETA previously certified the Final Program Environmental Impact Report (EIR) regarding the IOP (WETA, 2003b). The Downtown San Francisco Ferry Terminal Expansion Project (or project) includes construction of three new gates and overwater berthing facilities, in addition to supportive landside improvements, such as additional passenger waiting and queuing areas, circulation improvements, and other water transit-related amenities. WETA and the Federal Transit Administration (FTA) prepared an Environmental Impact Statement (EIS)/EIR to address the environmental effects of the proposed Ferry Terminal improvements. These agencies prepared the EIS/EIR in accordance with the National Environmental Policy Act (NEPA) of 1969, 42 United States Code Section 4321 et seq.; the Council on Environmental Quality regulations for implementing NEPA, 40 Code of Federal Regulations, Parts 1500-1508; the California Environmental Quality Act (CEQA) of 1970, California Public Resources Code (PRC), Section 21000 et seq., as amended; the Guidelines for Implementation of CEQA, Title 14, California Code of Regulations (CCR), Section 15000 et seq.; and FTA guidelines. The FTA is the NEPA lead agency, and WETA is the CEQA lead agency.

These findings, as well as the accompanying Statement of Overriding Considerations, have been prepared in accordance with CEQA and the CEQA Guidelines. The purpose of these findings is to satisfy the requirements of Sections 15090, 15091, 15092, 15093, and 15097 of the CEQA Guidelines, in connection with the approval actions proposed by WETA as part of the project. In compliance with NEPA, the Notice of Availability of both the FTA's Record of Decision and the Final EIS was published on September 5, 2014.

## 2.0 BACKGROUND

The Ferry Terminal is in the northeastern section of San Francisco, California, situated at the foot of Market Street at The Embarcadero. The project area encompasses property managed in the public trust by the Port of San Francisco (Port) from the south side of Pier 1 to the north side of Pier 14, and from the Embarcadero Promenade to San Francisco Bay. The project area includes the Ferry Building, the Ferry Plaza, the Agriculture Building, and Pier 2. The project area includes existing water transit facilities (Gates B, C, D, and E), a variety of commercial uses (retail, dining, and office), and public open spaces.

The purpose of the project is to support existing and future planned water transit services operated by WETA on San Francisco Bay, as established by WETA in its IOP, and in accordance with City and County of San Francisco and regional policies that encourage transit use. Furthermore, to support WETA and the Port's emergency operation needs, the project will address deficiencies in the transportation network that impede water transit operations, passenger access, and passenger circulation at the Ferry Terminal.

In 2035, the Ferry Terminal is projected to serve approximately 32,000 water transit passengers, an approximate increase of 300 percent over current ridership. WETA's 2035 ridership is expected to be approximately 25,000 passengers per weekday. The increase in ridership will be from expansion of existing services (i.e., Oakland, Alameda, and Vallejo); implementation of new routes that have already been approved (i.e., Treasure Island); and the development of new water transit routes (i.e., Berkeley, Hercules, Richmond, Martinez, Antioch, and Redwood City). The projected ridership increases cannot be adequately accommodated at the Ferry Terminal because of the following current infrastructure, circulation, and operating deficiencies:

- Insufficient number of gates and berthing facilities to accommodate new water transit service;
- Inadequate waiting and circulation area for passengers; and
- Lack of clearly designated pedestrian connectivity linkages.

Increases in regional water transit support Bay Area air quality goals and the region's regional transportation and land use plan, *Plan Bay Area*, by encouraging a shift from vehicle to water transit usage.

Water transit also provides a viable alternative for transporting people around the region when unexpected and long-term disruption renders others components of the regional transportation system inoperable. WETA will provide emergency transportation services in the event of a disaster. The limited availability of berthing facilities and lack of available staging areas to assemble, queue, and board crowds of evacuees inhibit WETA's emergency response capabilities at the Ferry Terminal.

### **3.0 ALTERNATIVES CONSIDERED**

The project supports regional transit mobility in the region and *Plan Bay Area*, and is included in *Plan Bay Area* and its EIR, which considered a variety of regional mobility alternatives. The proposed project also builds on other previous planning efforts and projects implemented by WETA and the Port, as summarized below.

WETA adopted its IOP and Program EIR for the IOP in 2003, which established a program for systemwide expansion of water transit service in the Bay Area. The IOP identified new routes that would be developed over a 20-year period. The new routes will 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 addition, 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 that would continue 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. The project, as described in the EIS/EIR, was developed by WETA and the FTA in close coordination with the Port.

The EIS/EIR summarizes the alternatives evaluated in the IOP and the Program EIR for the IOP, and alternatives considered previously by WETA and the Port. The EIS/EIR evaluates two project alternatives: the No Project Alternative and the Proposed Project.

#### **3.1 NO PROJECT ALTERNATIVE**

The No Project 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 Project 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 Project Alternative.

### **3.2 PROPOSED PROJECT**

The proposed project is the expansion and improvement of the Ferry Terminal at the Ferry Building, to accommodate the full expansion of water transit service that was described in the IOP. To accommodate the full expansion of water transit service, the project 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. The new facilities will be designed to withstand damage from flood, wind, or earthquakes so that the gates and circulation areas will be available for emergency operations and evacuee queuing, if necessary.

Details of the proposed project improvements, including construction and operations, are described in Chapter 2.0 of the EIS/EIR.

### **3.3 EVALUATION OF ALTERNATIVES**

The comments received on the Draft EIS/EIR were considered; where appropriate, updates and clarifications have been incorporated into the Final EIR. The proposed project, as described in the Final EIS/EIR, is the project that will be carried forward for project approval after certification of the Final EIS/EIR.

Although the No Project Alternative would not result in any physical impacts to the environment, it would not meet the purpose and need of the project; and over the long term, it would not improve alternative transportation and emergency operations in the Bay Area. The No Project Alternative would not accommodate the projected increases in transbay water transit trips that would help alleviate congestion over the Bay Bridge and through the Bay Area Rapid Transit Transbay Tube. Furthermore, the No Project Alternative would not address WETA and the Port's emergency operation needs. In addition, the No Project Alternative would be inconsistent with several of the plans and policies adopted for the Ferry Terminal area that encourage an expansion in water transit services, and improvements to public access and open space. Therefore, the No Project Alternative would not be considered an environmentally preferred/superior alternative.

### **4.0 CEQA FINDINGS OF FACT**

California PRC Section 21002 provides that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such project." Section 21002 further states that the procedures required by CEQA "are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects."

CEQA, PRC Section 21000 et seq., requires a lead agency to make written findings of project effects whenever the lead agency decides to approve a project for which an EIR has been certified (PRC Section 21081). Regarding these findings, Section 15091 of the state CEQA Guidelines (CCR Title 14) states, in part:

(a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

(1) Changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

The “changes or alterations” referred to in the CEQA Guidelines may be mitigation measures, alternatives to the project, or changes to the project by the project proponent. CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environmental impacts that would otherwise occur. WETA made multiple environmental commitments during the project planning and conceptual design stages to reduce adverse effects from the project. These measures are incorporated into the project description, along with industry-standard best management practices, which will be used to reduce potential impacts during construction and demolition.

These findings do not describe the full analysis of each environmental impact contained in the EIS/EIR. A more detailed explanation of these environmental findings and conclusions can be found in the EIS/EIR, and these findings hereby incorporate by reference the discussion and analysis in the EIS/EIR and the administrative record as a whole supporting WETA’s determinations regarding the impacts of the project. Materials related to the project, including the EIS/EIR and other documents that constitute the record upon which these findings have been made are available from WETA, Pier 9, Suite 111, The Embarcadero San Francisco, CA 94111, (415) 291-3777.

For all impacts identified as less than significant in the EIS/EIR, WETA confirms the impact determination of less than significant, based on the evidence and analysis provided in the EIS/EIR, and other evidence in the administrative record. Therefore, these impacts are not discussed in these findings.

The EIS/EIR identified potentially significant impacts to transportation and circulation; land use and land use planning; parklands and recreation; air quality; noise and vibration; cultural and paleontological resources; biological resources; hazards and hazardous materials; and utilities. Findings related to these topics are described below, presented in the order they appear in the EIS/EIR. Mitigation measures have been identified that will reduce most of the potentially significant impacts to less-than-significant levels. As required by Section 15091(d) of the CEQA Guidelines, WETA has committed to implementing these measures as described in detail in the Mitigation Monitoring and Reporting Program for the project.

#### **4.1 TRANSPORTATION AND CIRCULATION**

##### ***Impact 3.2-3: Potential Impacts to Pedestrian Facilities in Existing Conditions***

##### ***Impact 3.2-8: Potential Cumulative Impacts to Pedestrian Facilities in Future (2035) Conditions***

The proposed facility improvements will accommodate an increase in vessel traffic, which will therefore increase the number of WETA passengers arriving to and departing from the Ferry Terminal. The majority of passengers will arrive at and depart from the Ferry Terminal by walking. The analysis indicates that increases in pedestrian circulation associated with the project under Existing Conditions and Future (2035) Conditions will result in substantial overcrowding for three study area crosswalks: The Embarcadero Midblock at the Ferry Building Southbound and Northbound; and The Embarcadero and Market Street Southbound.

**Findings:** With respect to the above-identified impacts, WETA hereby makes findings (a)(1) and (a)(2), as stated in the state CEQA Guidelines Section 15091, and as required by PRC Section 21081.

**Facts Supporting the Findings:**

- For The Embarcadero Midblock at the Ferry Building Southbound and Northbound (No. 15A/15B) intersection, modifying the pedestrian crosswalk timing will improve pedestrian flow without resulting in a drop in the intersection's level of service. Changes to the crosswalk timing are under the responsibility and jurisdiction of the San Francisco Municipal Transportation Agency (SFMTA). WETA has discussed these changes with the SFMTA, and SFMTA has not objected to entering into an agreement to implement changes to crosswalk timing. WETA and SFMTA will enter into an agreement to implement the changes to the crosswalk timing, as described in Mitigation Measure TRANS-1.
- For The Embarcadero and Market Street Southbound (No. 17) intersection, widening the crosswalk to 72 feet will improve pedestrian flow. Changes to the crosswalk widths and curbs are responsibility and jurisdiction of the SFMTA. WETA has discussed these changes with the SFMTA, and SFMTA has not objected to entering into an agreement to implement changes to the crosswalk. WETA and SFMTA will enter into an agreement to implement the changes to the crosswalk, as described in Mitigation Measure TRANS-2.
- Implementation of these measures could reduce the potential impacts at these crosswalks to a less-than-significant level. To the extent that SFMTA and WETA are unable to agree on the terms of the agreement to implement these measures, impacts are considered significant.
- As explained in the Statement of Overriding Considerations (Section 5.0), the environmental, economic, social, and regionwide environmental benefits of the project outweigh the potential for this unavoidable environmental risk.

## 4.2 LAND USE AND LAND USE PLANNING

### ***Impact 3.3-2: Conflict with Applicable BCDC Plans and Policies***

The project is in the Bay Conservation and Development Commission's (BCDC's) jurisdiction, and is subject to plans and policies adopted by BCDC to avoid or mitigate environmental effects. BCDC will review the project for consistency with the applicable plans and policies prior to issuing permits and approvals for the proposed project. The project is consistent with BCDC plans and policies, including those related to the placement of fill in San Francisco Bay, transportation, the Public Trust, and the San Francisco Bay Area Seaport Plan. Pursuant to BCDC policy, fill removal consistent with the San Francisco Bay Plan (Bay Plan) and Special Area Plan is required to be offset with the new fill in San Francisco Bay created by the proposed project.

**Findings:** With respect to the above-identified impact, WETA hereby makes finding (a)(1), as stated in the state CEQA Guidelines Section 15091, and as required by PRC Section 21081.

**Facts Supporting the Finding:**

- The project includes the placement of approximately 40,000 square feet of net new fill in San Francisco Bay for the construction of pier deck and berthing structures for the three new gates.
- Mitigation Measure LU-1 requires that WETA remove fill elsewhere in San Francisco Bay. The fill amount and location will be determined in coordination with BCDC during the Major Permit and

Design Review process for project. The amount of fill removed will be no more than the amount of new fill created by the project.

- With the implementation of Mitigation Measure LU-1, the impact will be less than significant.

#### 4.3 PARKLANDS AND RECREATION

##### ***Impact 3.4-2: Conflict with Recreation and Public Access Plans***

The project is in BCDC's jurisdiction, and is subject to plans and policies adopted by BCDC to avoid or mitigate environmental effects. BCDC will review the project for consistency with the applicable plans and policies prior to issuing permits and approvals for the proposed project. The project is consistent with BCDC plans and policies, including those related recreation and public access. Pursuant to BCDC policy, WETA is required to develop a detailed public access plan during the permitting phase of the project, to demonstrate that the project is consistent with the Bay Plan.

**Findings:** With respect to the above-identified impact, WETA hereby makes finding (a)(1), as stated in the state CEQA Guidelines Section 15091, and as required by PRC Section 21081.

##### **Facts Supporting the Findings:**

- The project includes improvements to the project area that will improve circulation for WETA water transit passengers, and will provide general public access and additional public spaces in the project area. These public access improvements (e.g., new public access areas and improvements such as seatwalls, planters, benches, lighting, and railings) are included to address BCDC's plans and policies.
- To confirm WETA's commitment to providing public access improvements in the project area, Mitigation Measure REC-1 requires that WETA develop a Public Access Plan in coordination with BCDC during the Major Permit and Design Review process for project.
- With the implementation of Mitigation Measure REC-1, the impact will be less than significant.

#### 4.4 AIR QUALITY

##### ***Impact 3.6-4: Construction-Related Emissions of ROG, NO<sub>x</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub> that Could Exceed Applicable Air Quality Standards***

##### ***Impact 3.6-5: Expose Sensitive Receptors to Substantial Construction-Related Pollutant Concentrations***

The project's unmitigated construction-related emissions of oxides of nitrogen (NO<sub>x</sub>) could exceed Bay Area Air Quality Management District (BAAQMD) standards. The project's construction emissions could also result in pollutant concentrations that exceed BAAQMD's significance thresholds for exposure of sensitive receptors.

**Findings:** With respect to the above-identified impacts, WETA hereby makes finding (a)(1), as stated in the state CEQA Guidelines Section 15091, and as required by PRC Section 21081.

##### **Facts Supporting the Findings:**

- Mitigation Measure AQ-1 requires that WETA schedule construction activities so that construction of the North Basin and South Basin improvements do not overlap.



- Mitigation Measure AQ-2 requires that, during construction, WETA implement a variety of BAAQMD-recommended best management practices— such as reducing idling times and use of lower emission-generating equipment—to reduce exhaust emissions.
- Implementation of Mitigation Measures AQ-1 and AQ-2 will reduce the project’s construction emissions below BAAQMD’s thresholds for construction emissions and exposure of sensitive receptors to substantial pollutant concentrations. Therefore, the impacts will be less than significant.

#### 4.5 NOISE AND VIBRATION

##### ***Impact 3.7-2: Potential Impact of Construction and Demolition Equipment other than Impact Tools on Adjacent Noise-Sensitive Land Uses***

##### ***Impact 3.7-3: Potential Impact of Pile Driving During Project Construction on Adjacent Noise-Sensitive Land Uses***

Project construction will comply with the City and County of San Francisco Construction Noise Ordinance (Section 2907); however, noise from both general construction activities and pile driving has the potential to exceed FTA construction noise criteria, and could adversely impact noise-sensitive land uses in the project vicinity.

**Findings:** With respect to the above-identified impacts, WETA hereby makes finding (a)(1), as stated in the state CEQA Guidelines Section 15091, and as required by PRC Section 21081.

##### **Facts Supporting the Findings:**

- Mitigation Measure NOISE-1 requires WETA to notify noise-sensitive receivers in the vicinity of project construction activities.
- Mitigation Measure NOISE-2 requires that smaller and quieter equipment be used within 15 feet of the Agriculture Building during times when the building is occupied.
- Mitigation Measure NOISE-3 requires that WETA implement measures for pile driving that will minimize noise impacts to noise-sensitive receivers.
- Implementation of Mitigation Measures NOISE-1, NOISE-2, and NOISE-3 will reduce construction noise levels, and impacts will be less than significant.

##### ***Impact 3.7-4: Vibration from Project Construction that Could Result in Human Annoyance***

##### ***Impact 3.7-5: Damage to Structures Caused by Vibration from Project Construction***

Vibration from construction activities, including pile driving, could adversely affect the residential uses at the Hotel Vitale, causing annoyance. Project construction activities could also produce vibration that could exceed thresholds designed to protect the seawall, the Ferry Building, the Ferry Plaza, the Agriculture Building, and Pier 1 from structural damage.

**Findings:** With respect to the above-identified impacts, WETA hereby makes finding (a)(1), as stated in the state CEQA Guidelines Section 15091, and as required by PRC Section 21081.

### **Facts Supporting the Findings:**

- Mitigation Measure NOISE-1 requires WETA to notify sensitive receivers in the vicinity of project construction activities.
- Mitigation Measure NOISE-3 requires that WETA implement measures for pile driving that will minimize vibration impacts to sensitive receivers and structures in the project vicinity.
- Mitigation Measure NOISE-4 requires that general construction measures be implemented to reduce vibration from construction activities.
- Implementation of Mitigation Measures NOISE-1, NOISE-3, and NOISE-4 will reduce construction vibration levels, and impacts will be less than significant.

## **4.6 CULTURAL AND PALEONTOLOGICAL RESOURCES**

### ***Impact 3.8-1: Substantial Adverse Change to NRHP and/or CRHR Listed, or Eligible to Be Listed, or Unique Archaeological Resources***

### ***Impact 3.8-2: Disturbance of Human Remains, Including those Interred Outside of a Formal Cemetery***

There are no known archeological resources or human remains in the project area of potential effect. However, the inadvertent discovery of archaeological materials or human remains during project activities could result in a potential project impact.

**Findings:** With respect to the above-identified impacts, WETA hereby makes finding (a)(1), as stated in the state CEQA Guidelines Section 15091, and as required by PRC Section 21081.

### **Facts Supporting the Findings:**

- Mitigation Measures CUL-1 and CUL-2 describe the procedures that WETA will follow in the event that archaeological materials or human remains are inadvertently exposed during construction. These procedures will ensure that archaeological materials or human remains are adequately identified, protected from further damage, evaluated, and preserved, as necessary.
- Implementation of Mitigation Measures CUL-1 and CUL-2 will reduce potential construction impacts, and impacts will be less than significant.

### ***Impact 3.8-3: Cause a Direct Adverse Effect or Impact to Historic Properties or Resources***

Pier 1 is individually listed on the National Register of Historic Places, and contributes to two historic districts. The existing fendering along the southern edge of Pier 1 is original to the building, and contributes to the significance of the building. Should it be determined that the fendering along Pier 1 requires replacement, the project could directly affect historic properties or resources.

**Findings:** With respect to the above-identified impact, WETA hereby makes finding (a)(1), as stated in the state CEQA Guidelines Section 15091, and as required by PRC Section 21081.

### **Facts Supporting the Findings:**

- During the Final Design of the project, the existing fendering along the southern edge of Pier 1 will be inspected to determine whether replacement is necessary.

- Mitigation Measures CUL-3 and CUL-4 require application of measures during construction to avoid inadvertent damage; implementation of a response and repair plan, should any inadvertent damage occur during construction; and replacement of the fendering along Pier 1, in a manner consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Properties, Standards for Rehabilitation*.
- Implementation of Mitigation Measures CUL-3 and CUL-4 will reduce direct impacts to historic properties or resources, and impacts will be less than significant.

**Impact 3.8-4: Adverse Effects to Unidentified Significant Paleontological Resources**

There are no known paleontological resources in the project area. However, the area is considered sensitive for paleontological resources. The inadvertent discovery of paleontological resources during project activities could result in a potential project impact.

**Findings:** With respect to the above-identified impact, WETA hereby makes finding (a)(1), as stated in the state CEQA Guidelines Section 15091, and as required by PRC Section 21081.

**Facts Supporting the Findings:**

- Mitigation Measure CUL-5 requires WETA to stop construction if a paleontological resource is discovered during construction, so the discovery can be evaluated and so actions to document or salvage the resource can be completed, as necessary.
- Implementation of Mitigation Measure CUL-5 will reduce potential impacts to unknown potentially significant paleontological resources, and impacts will be less than significant.

**Impact 3.8-5: Potential Indirect Effects of Visual or Noise and Vibration Elements on Historic Properties or Resources**

The introduction of new visual elements to the project area, which contains buildings individually listed on the National Register of Historic Places and the California Register of Historic Resources and two overlapping historic districts, has the potential to indirectly affect the historic properties. Specifically, there is the potential for the design of the project's weather protection canopies to affect the adjacent historic properties in the project area. In addition, vibration from project construction has the potential to exceed vibration thresholds for potential structural damage, and could affect the historic properties in the project area.

**Findings:** With respect to the above-identified impact, WETA hereby makes finding (a)(1), as stated in the state CEQA Guidelines Section 15091, and as required by PRC Section 21081.

**Facts Supporting the Findings:**

- Mitigation Measure CUL-6 requires that WETA consult with the Port's Waterfront Design Advisory Committee and the San Francisco Historic Preservation Commission, to ensure that the weather protection canopies are designed consistent with the *Secretary of Interior's Standards for the Treatment of Historic Properties, Standards for Rehabilitation*.
- With implementation of Mitigation Measure CUL-6, indirect adverse visual effects from the Final Design of the weather protection canopy element of the proposed project will be avoided.
- Potential indirect effects from vibration will be avoided by implementing Mitigation Measures NOISE-3 and NOISE-4 (described above under *Noise and Vibration*).

## 4.7 BIOLOGICAL RESOURCES

### ***Impact 3.9-1: Potential Adverse Effects of Maintenance Dredging on Special-Status or Commercially Valuable Marine Species***

### ***Impact 3.9-4: Potential Adverse Effect on Special-Status or Commercially Valuable Marine Species from Dredging Activities during Construction***

The project's dredging during construction and ongoing maintenance dredging activities have the potential to impact special-status and commercially valuable marine species, including their habitat.

**Findings:** With respect to the above-identified impacts, WETA hereby makes finding (a)(1), as stated in the state CEQA Guidelines Section 15091, and as required by PRC Section 21081.

#### **Facts Supporting the Findings:**

- WETA has committed to conducting all in-water construction activities (including dredging) between June 1 and November 30, when the sensitive life stages of steelhead, salmonids, and Pacific herring are unlikely to be present in the project vicinity.
- To reduce the impacts on special-status and commercially valuable marine species from dredging, Mitigation Measure BIO-1 includes measures such as requiring the use of the smallest feasible dredge head for mechanical dredging to reduce the likelihood of entrainment.
- With implementation of Mitigation Measure BIO-1, the impacts of dredging on special-status and commercially valuable marine species will be reduced, and will be less than significant.

### ***Impact 3.9-2: Potential Adverse Effects of Permanent Fill in San Francisco Bay on Benthic Habitat and Marine Species***

The proposed project will result in a net increase of 345 square feet (0.008 acre) of fill in bottom habitat in the North and South Basins. In addition, the project will result in a net increase in shaded and floating fill. Although the impacts from new fill will be small, because the project area provides critical habitat for endangered and threatened fish species and Essential Fish Habitat for a variety of other fish, the project's impacts could be adverse.

**Findings:** With respect to the above-identified impacts, WETA hereby makes finding (a)(1), as stated in the state CEQA Guidelines Section 15091, and as required by PRC Section 21081.

#### **Facts Supporting the Findings:**

- WETA has committed to Mitigation Measure LU-1, which requires removal of fill elsewhere in San Francisco Bay to offset new fill created by the project.
- With implementation of Mitigation Measure LU-1, the impacts of permanent fill on aquatic species and habitat will be reduced, and will be less than significant.

### ***Impact 3.9-5: Potential Adverse Effects to Special-Status Fish and Marine Mammals from Underwater Sound Generated During Pile Driving***

Underwater sound and acoustic pressure resulting from pile driving could affect aquatic resources (e.g., fish and marine mammals) by causing behavioral avoidance of the construction area and/or injury to sensitive species.

**Findings:** With respect to the above-identified impact, WETA hereby makes finding (a)(1), as stated in the state CEQA Guidelines Section 15091, and as required by PRC Section 21081.

**Facts Supporting the Findings:**

- WETA has committed to conducting all in-water construction activities between June 1 and November 30, when the sensitive life stages of steelhead, salmonids, and Pacific herring are unlikely to be present in the project vicinity.
- Mitigation Measure BIO-1 will reduce the construction noise impacts by requiring measures such as the use of bubble curtains during driving of steel piles.
- Mitigation Measure BIO-2 requires that hydroacoustic and biological monitoring for fish and marine mammals be conducted during construction, and that, if underwater sound levels exceed the threshold in this analysis, corrective measures be implemented in coordination with the National Marine Fisheries Service and California Department of Fish and Wildlife.
- Implementation of Mitigation Measures BIO-1 and BIO-2 will minimize the effect of project construction noise on fish and marine mammals (i.e., avoidance behavior, fleeing responses, temporary hearing impairment, or the temporary cessation of feeding), and impacts will be less than significant.

#### **4.8 HAZARDS AND HAZARDOUS MATERIALS**

***Impact 3.12-5: Upset and Accidents Involving Hazardous Materials Use and Storage During Construction Activities***

***Impact 3.12-6: Demolition, Transport, and Disposal of Structures and Dredge Material Containing Hazardous Materials***

Hazardous materials (e.g., diesel fuel, hydraulic oil, lubricants, paints, or other hazardous materials) will be transported and used on site for construction activities. In addition, construction vehicles and equipment will be used on site that could accidentally release hazardous materials, such as oils, grease, or fuels. Demolition activities will require the removal and potential temporary storage of piles that have been treated with creosote, or that contain other potentially hazardous substances. In addition, dredging of potentially contaminated sediment will be required during construction. Accidental releases of hazardous materials could result in adverse health effects to construction workers, the public, and the environment.

**Findings:** With respect to the above-identified impacts, WETA hereby makes finding (a)(1), as stated in the state CEQA Guidelines Section 15091, and as required by PRC Section 21081.

**Facts Supporting the Findings:**

- Mitigation Measure HAZ-1 requires that WETA prepare a Hazardous Materials Management Plan for site construction and demolition activities. The Hazardous Materials Management Plan will govern the onsite management of hazardous materials, including spill prevention as well as plans and procedures for offsite transport and disposal.
- Implementation of Mitigation Measure HAZ-1 will reduce the potential for accidental releases and exposure, and impacts will be less than significant.

## 4.9 UTILITIES

### **Impact 3.15-6: Potential to Adversely Impact Existing Underground Utilities During Construction Activities**

Utilities for water, wastewater, and telecommunication are located underground along The Embarcadero; the exact locations and depths of utility lines are not known. Project construction could disrupt or damage underground utilities in the project area.

**Findings:** With respect to the above-identified impact, WETA hereby makes finding (a)(1), as stated in the state CEQA Guidelines Section 15091, and as required by PRC Section 21081.

#### **Facts Supporting the Findings:**

- Mitigation Measure UTIL-1 requires WETA to consult with public utility providers, prior to construction, regarding the location and depth of utility lines.
- Implementation of Mitigation Measure UTIL-1 will reduce this potential impact, and impacts will be less than significant.

## 5.0 STATEMENT OF OVERRIDING CONSIDERATIONS

Section 15092 of the CEQA Guidelines states that after consideration of an EIR, and in conjunction with the Section 15091 findings identified above, the lead agency may decide whether or how to approve or carry out the project. The lead agency may balance the economic, legal, social, technological, or other benefits, including regionwide environmental benefits, against the project's unavoidable environmental effects. Section 15093 requires the lead agency to document and substantiate any such determination in a "statement of overriding considerations" as a part of the record.

WETA recognizes that the project could have significant, unavoidable transportation and circulation impacts, as identified in the EIS/EIR. WETA finds that these impacts are outweighed by the benefits offered by the project; specifically, the project will provide the following benefits:

- The improvements will accommodate an increase in water transit service, implement WETA's IOP, and encourage a shift from vehicle to water transit use in the Bay Area, consistent with the *Plan Bay Area*.
- The expansion of water transit as an alternative mode of transportation supports the region's regional transportation and land use plan, *Plan Bay Area*, as well as regional and state air quality and greenhouse gas emission reduction goals.
- The project will improve and remove constraints to passenger circulation at the Ferry Terminal, ensuring that WETA's passengers have adequate areas in which to queue while waiting to board their vessel, without causing congestion and use conflicts with other activities in the project area.
- The improvements will all be constructed to withstand damage from flood, wind, or earthquakes, to ensure that the improved circulation areas (e.g., the new Embarcadero Plaza) will be available for emergency operations and evacuee queuing, if necessary. With the project improvements in place, WETA will have the capacity to evacuate up to 9,000 passengers per hour from its five gates.

## **6.0 REFERENCES**

WETA (Water Emergency Transportation Authority), 2003a. San Francisco Bay Area Water Transit Authority, a Strategy to Improve Public Transit with an Environmentally Friendly Ferry System – Final Implementation and Operations Plan. July. Available online at: <http://sanfranciscobayferry.com/weta/publications>.

WETA (Water Emergency Transportation Authority), 2003b. San Francisco Bay Area Water Transit Authority, Final Program Environmental Impact Report – Expansion of Ferry Service in the San Francisco Bay Area. June. Available online at: <http://sanfranciscobayferry.com/weta/publications>.