San Francisco Bay Conservation and Development Commission
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May 29, 2015

TO: Commissioners and Alternates

FROM: Lawrence J. Goldzband, Executive Director (415/352-3653; larry.goldzband@bcdc.ca.gov)
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SUBJECT: **Staff Recommendation on Water Emergency Transportation Authority's (WETA) and City of Alameda's BCDC Permit Application No. 2014.002.00 for a Central Bay Ferry Operations and Maintenance Facility**
(For Commission consideration on June 4, 2015)

Recommendation Summary

The Commission staff recommends approval of BCDC Permit Application No. 2014.002.00, to the Water Emergency Transportation Authority ("WETA") and the City of Alameda ("City") for WETA's Central Bay Operations and Maintenance Facility ("CBOM") to service and maintain ferry operations in Central San Francisco Bay, which, as conditioned, authorizes various activities, including:

(1) Construction of berthing and mooring facilities for up to 12 vessels within an approximately 18,569-square-foot (0.42-acre) area in the Bay, including an 850-square-foot (0.02-acre) pile-supported gangway landing deck;

(2) Dredging approximately 47,100 cubic yards of sediment with disposal at a previously-authorized beneficial reuse site and/or at a site located outside of the Commission's jurisdiction;

(3) Removal of dilapidated pilings and docking facilities covering an approximately 20,220-square-foot (0.46-acre) area;

(4) Study the design and potentially construction of a replacement seal haul-out location to mitigate for the resulting loss of a haul-out location for harbor seals;

(5) Construction of a four-story, CBOM building with an approximately 6,750-square-foot footprint and an adjoining approximately 12,800-square-foot work-yard;

(6) Improvement of an approximately 16,138-square-foot area (0.38-acre) area of a public park located adjacent to the CBOM facility, 14,310 square feet of which is located within the shoreline band, including: the widening and resurfacing of bicycle and pedestrian trails, the installation of bike parking, informational kiosks, signage, a viewing terrace, benches, and landscaping; and

(7) Construction of a 15-foot-wide, 290-foot-long section of the San Francisco Bay Trail and associated amenities within an approximately 4,140-square-foot area along West Hornet Avenue, at the northern boundary of the CBOM facility.

Staff Recommendation

The staff recommends that the Commission adopt the following resolution:

I. Authorization

A. Subject to the conditions stated below, the permittees, the Water Emergency Transportation Authority and City of Alameda, are granted permission to do the following:

Location: In the Bay and within the 100-foot shoreline band, at a four-acre site located at West Hornet Avenue, between Ferry Point Road and Viking Street, in the City of Alameda, Alameda County.

Description: **In the Bay:**

1. Install, use, and maintain in-kind, within an approximately 18,569-square-foot (0.42-acre) area, berthing and mooring facilities for up to 12 vessels with the following features:

   a. Seven approximately 1,620-square-foot finger berthing floats covering an approximately 11,340-square-foot area;

b. An approximately 810-square-foot utility float connected to an approximately 4,500-square-foot central access float within an approximately 5,310-square-foot area;

c. An approximately eight-foot-wide, 720-square-foot cantilevered gangway connected to the berthing facilities;

d. Sixteen (16) steel dolphin piles ranging from 24- to 36-inches-diameter covering in total an approximately 82-square-foot area;

e. Twenty-four (24) steel guide piles (each 42-inches-diameter) covering in total an approximately 235-square-foot area; and

f. An approximately 850-square-foot section of a gangway landing deck supported by ten (10) 24-inch-diameter piles covering in total an approximately 32-square-foot area;

2. Dredge up to approximately 47,100 cubic yards of sediment in a single episode using a clamshell bucket from an approximately 242,240-square-foot area to a depth of -12 feet Mean Lower Low Water (MLLW), with a two-foot over-dredge allowance (to -14 feet MLLW), and dispose the material at a previously-authorized beneficial reuse site and/or at an authorized location outside of the Commission's jurisdiction;

3. Remove pilings and boat docking facilities covering an approximately 20,220-square-foot (0.46 acre) area and dispose of the material at an authorized upland location outside the Commission's jurisdiction; and

4. Repair, use, and maintain in-kind an approximately 2,800-square-foot section of a riprap shoreline, including the replacement of approximately 19 cubic yards of riprap material.

Within the 100-foot shoreline band:

1. Construct, use, and maintain in-kind a four-story, Central Bay Operations and Maintenance building with a maximum height of 70 feet and an approximate 6,750-square-foot footprint for ferry vessel maintenance, dispatch, and administration;

2. Install, use, and maintain in-kind an approximately 12,800-square-foot yard (0.29-acre), an approximately 1,200-square-foot out-building, covered storage areas, an approximately 50-square-foot section of a pile-supported gangway landing deck, and a ten-foot-high vertical picket-style fence surrounding the CBOM facility;

3. Improve, use, and maintain in-kind an approximately 14,310-square-foot area (0.32-acre) of a City of Alameda-owned park located east of the above-referenced CBOM facility, and install the following public access amenities:

    a. An approximately 2,572-square-foot, 16-foot-wide section of the San Francisco Bay Trail, consisting of a 12-foot-wide paved path and a 4-foot-wide decomposed granite shoulder;

    a. Bicycle parking for up to 10 bikes;

    b. An informational kiosk with directional, way-finding, and interpretative signage;

    c. An approximately 1,692-square-foot viewing terrace with a guardrail and a total of nine (9) back-to-back benches with two five-foot-wide paths totaling approximately 852 square feet connecting the viewing terrace to the adjacent San Francisco Bay Trail, and approximately 600 cubic yards of riprap material at an adjacent riprap shoreline revetment; and

    d. Landscaping within an approximately 5,402-square-foot area, including trees, shrubs, and groundcover.

4. Improve, use, and maintain in-kind, within an approximately 4,140-square-foot area, a 290-foot-long, 15-foot-wide segment of the San Francisco Bay Trail along West Hornet Avenue with associated landscaping, lighting, and a two-foot-wide buffer between the Bay Trail and the CBOM building;

5. Rehabilitate, use, and maintain in-kind a portion of an approximately 14,000-square-foot (0.32 acre) section of roadway at West Hornet Avenue, including a 26-foot-wide carriageway serving vehicles at the CBOM facility while accommodating bicycle circulation; and
6. Construct, use, and maintain in-kind, an approximately 300-foot-long retaining wall within an approximately 3,900-square-foot area.

B. **Permit Application Date.** This authority is generally pursuant to and limited by the permit application dated March 28, 2014, including all accompanying and subsequently submitted correspondence and exhibits, subject to the modifications required by conditions hereto.

C. **Deadlines for Commencement and Completion of Construction.**

1. **Work in the Bay and Within the 100-foot Shoreline Band.** Work authorized herein must commence prior to August 2, 2018 or this permit will lapse and become null and void. Such work, with the exception of the dredging as described below, must also be diligently pursued to completion and must be completed within five years of commencement, or by December 1, 2023, whichever is earlier, unless an extension of time is granted by amendment of the permit.
2. **Dredging.** The single episode of dredging authorized herein must commence prior to August 2, 2018, or this permit will lapse and become null and void. Such work must also be diligently pursued to completion within the work windows and time-frame, as described in Special Condition II.E of this permit, unless an extension of time is granted by amendment of the permit and in coordination with any necessary further review by and guidance from the inter-agency Dredged Material Management Office.
3. **Repairs and Maintenance.** On-going in-kind repair and maintenance of the facilities authorized herein is allowed as long as these facilities remain in place and for the uses described herein.

D. **Bay Fill.** The project will involve placing approximately 18,569 square feet (0.43 acre) of new fill for ferry berthing. Approximately 20,220 square feet of dilapidated pilings and boat docking facilities will be removed to make way for the new berthing facilities and to mitigate for the fill impacts. As a result, the net increase in open Bay surface will be approximately 1,651 square feet (0.037 acres).

E. **Public Access.** The project will provide public access improvements within an approximately 20,278-square-foot area (0.47 acre) (total), 18,450 of which is located within the Commission's 100-foot shoreline band jurisdiction. The improved access area includes a 16,138-square-foot area (0.38-acre) section of a

park owned and maintained by the City of Alameda, and a 4,140-square-foot (0.9-acre) area located along the northern boundary of the CBOM facility at West Hornet Avenue. Within the park area, the permittees will install landscaping, Bay Trail improvements, signage, bike parking, and a viewing terrace with bench seating. At West Hornet Avenue, the permittees will construct a Bay Trail extension with associated amenities.

II. Special Conditions

The authorization made herein shall be subject to the following special conditions, in addition to the standard conditions in Part IV:

A. Specific Plans and Plan Review

1. **Construction in Accord with Plans.** The project constructed pursuant to this permit shall generally conform with the plans entitled "WETA Central Bay Operations and Maintenance Facility," dated March 27, 2015 and prepared by KPFF Consulting Engineers and Roma Design Group, and all accompanying and subsequent correspondence and exhibits. These plans are generally reflected in Exhibits A, B, and C to this permit. Final plans for the construction of the structures and facilities authorized herein shall be submitted, reviewed and approved by or on behalf of the Commission, as described below. No changes to the design of the project shall be made without the prior written approval by or on behalf of the Commission.

2. **Plan Review**. No work authorized herein shall commence until final site plans, including plans for demolition, staging, construction, engineering, architectural, dredging, shoreline protection, and landscaping activities authorized herein, have been submitted, reviewed, and approved in writing by or on behalf of the Commission. Specific drawings and information required in such plans shall be discussed and determined in coordination with Commission staff prior to submittal. To save time, preliminary drawings should be submitted and reviewed prior to submittal of final drawings.

   The plans shall be accompanied by a letter requesting plan review and approval. At a minimum, plans shall include: the shoreline (Mean High Water or, where wetland vegetation is present, +5 feet above Mean Sea Level) and adjoining 100-foot shoreline band, property lines, the boundaries of areas to be reserved for public access, and the location, dimensions, and materials of all elements of the project authorized herein. All plan review shall be completed by or on behalf of the Commission within 45 days of staff receipt of plans.

   a. **Shoreline Revetment**. The revetment plans shall consist of diagrams and cross-sections that: (1) show and clearly label the MHW (or, if applicable, the inland edge of marsh vegetation up to +5 feet above MSL) referenced to NAVD88, the 100-foot shoreline band, property lines, grading limits,

and details showing the location, types, and dimensions of all materials to be used; (2) indicate the source of all materials to be used; and (3) identify who designed the shoreline protection improvements and their background in coastal engineering.

Riprap material shall be either quarry rock or specially cast or carefully selected concrete pieces free of reinforcing steel and other extraneous material and conform to quality requirements for specific gravity, absorption, and durability specified by the California Department of Transportation or the U. S. Army Corps of Engineers. The material shall be generally spheroid-shaped. The overall thickness of the slope protection shall be no more than three feet measured perpendicular to the slope. Use of dirt, small concrete rubble, concrete pieces with exposed rebar, large and odd-shaped pieces of concrete, and asphalt concrete as riprap is prohibited.

Riprap material shall be placed so that a permanent shoreline with a minimum amount of fill is established by means of an engineered slope not steeper than two (horizontal) to one (vertical) unless the revetment is keyed at the toe. The slope shall be created by the placement of a filter layer protected by riprap material of sufficient size to withstand wind and wave generated forces at the site. The revetment shall be constructed in a manner that approximately matches the grade at the adjacent properties to provide a gradual transition between these shoreline features, be integrated with adjacent shoreline protection and, at a later date, facilitate integration of these features.

3. **Plan Approval**. Plan approval or disapproval shall be based upon: (a) completeness and accuracy of the plans in showing features authorized herein; (b) consistency of the plans with the terms and conditions of this permit; (c) assurance that Bay fill does not exceed this authorization and all public access improvements authorized or required herein are reflected; (d) the appropriateness of the types of fill material and their manner of placement; (e) the preparation of the plans by professionals and their official stamp or certification of approval; and (f) assurance that appropriate provisions have been incorporated for safety in case of a seismic or flooding event.

4. **Conformity with Final Approved Plans**. Prior to commencement of any work authorized herein, the appropriate design professional(s) of record shall certify in writing that, through personal knowledge, the work covered by the authorization will be performed in accordance with the approved design criteria and in substantial conformance with the approved plans. All improvements constructed pursuant to this permit shall conform to the final

approved plans. No changes shall be made thereafter to any final plans without first obtaining written approval of the change(s) by or on behalf of the Commission.

5. **Discrepancies Between Approved Plans and Special Conditions**. In case of any discrepancy between final approved plans and special conditions of this authorization, the special condition shall prevail. The permittees are responsible for assuring that all plans accurately and fully reflect the special conditions of this authorization.

6. **Appeals of Plan Review Decisions**. Any plan approval, conditional plan approval, or plan denial may be appealed by the permittees to the Commission's Design Review Board ("DRB") or, if necessary, subsequently to the Commission. Such appeals must be submitted to the Commission's Executive Director within 30 days of the plan review action and must include the specific reasons for appeal. The DRB shall hold a public hearing and act on the appeal within 60 days of the receipt of the appeal. If subsequently appealed to the Commission, the Commission shall hold a public hearing and act on the appeal within 90 days of the receipt of the subsequent appeal.

B. **Public Access**

1. **Total Area.** The public access provided by the permittees shall total approximately 20,278 square feet (0.47 acres). The permittees shall make the improved area available to the public for unrestricted access for walking, bicycling, sitting, viewing, picnicking, and related purposes within six months of receipt of the Certificate of Occupancy for the CBOM facility. The public access shall consist of an approximately 16,138 square-foot (0.37 acre) improved area in a City park and an approximately 4,140-square-foot area located along West Hornet Avenue and adjacent to the north side of the CBOM facility, as generally shown on Exhibits A and B.

   All public access improvements required herein including, but not limited to, benches, lighting, signage, railings, and interpretive exhibits shall be subject to final plan review and approval pursuant to Special Condition II.A of this permit.

2. **Improvements.** The permittees shall construct the following public access improvements in compliance with the accessibility requirements of the California Building Code. Such improvements, as generally shown on Exhibits A and B, shall include:

   a. Within an approximately 20,278-square-foot City-owned park located east of the CBOM facility authorized herein:

      (1) An approximately 3,650-square-foot, 16-foot-wide segment of the San Francisco Bay Trail, consisting of a 12-foot-wide paved path and a 4-foot-wide decomposed granite shoulder;

(2) Bicycle parking for up to 10 bikes;

(3) An informational kiosk with directional, way-finding, and interpretative signage including bicycle/pedestrian paths in the immediate vicinity;

(4) An approximately 1,692-square-foot viewing terrace with a total of nine (9) back-to-back benches (providing up to 18 seats), a shoreline guardrail, and two five-foot-wide paths totaling approximately 852 square feet connecting the viewing terrace to the adjacent San Francisco Bay Trail;

(5) Landscaping within an approximately 6,087-square-foot area, including trees, shrubs, groundcover; and

(6) An approximately ten-foot-high transparent fence located between the ferry facility and the public access area located at the City-owned park.

b. Within an approximately 4,140-square-foot area located between West Hornet Avenue and the CBOM facility, a 15-foot-wide, 290-foot-long San Francisco Bay Trail extension with associated paving, landscaping and lighting, and a two-foot-wide landscaped buffer between the trail area and the adjacent CBOM building.

3. **Maintenance**. The areas and improvements within the 20,278-square-foot area (0.47 acres) public access area owned and maintained by the City of Alameda described above and the 4,140-square-foot public access area between West Hornet Avenue and the CBOM facility shall be permanently maintained by and at the expense of the City of Alameda or its assignees. Such maintenance shall include, but is not limited to: repairs to all path surfaces; replacement of any plant materials that die or become unkempt; repairs or replacement as needed of any public access amenities such as signs, benches, trash containers, and lights; periodic cleanup of litter and other materials deposited within the access areas; removal of any encroachments into the access areas; assurance that the public access signs remain in place and visible; and repairs to any public access areas or improvements that are damaged by future subsidence or uneven settlement, or flooding, or inundation caused by sea level rise, including raising land elevations or redesigning public access features to protect and ensure the usability of the public access areas and improvements at all times. The manicuring of landscaping at or adjacent to the fence in the park located adjacent to the CBOM facility shall be permanently maintained at the expense of WETA or its assignees to ensure views from the park of ferry maintenance facility activities. Within 30 days after notification by staff, the City of Alameda and/or

WETA shall correct any maintenance deficiency noted in a staff inspection of the site. The City and/or WETA shall obtain approval by or on behalf of the Commission of any maintenance that involves more than in-kind repair and replacement.

4. **Reasonable Rules and Restrictions.** The permittees may impose reasonable rules and restrictions for the use of the public access areas to correct particular problems that may arise. Such limitations, rules, and restrictions shall have first been approved by or on behalf of the Commission upon a finding that the proposed rules will not significantly affect the public nature of the area, will not unduly interfere with reasonable public use of the public access areas, and will tend to correct a specific problem that the permittees have both identified and substantiated. Rules may include restricting hours of use and delineating appropriate behavior.

C. **Fill Removal.** Prior to the construction of fill in the Bay authorized herein, the permittees shall remove approximately 20,220 square feet (0.46 acre) or more of dilapidated pilings and boat docking facilities in the vicinity of the project site, and dispose the material at an authorized site located outside of the Commission's jurisdiction. All pilings and docking facilities shall be removed to at least two feet below the mudline.

D. **Mitigation**

1. **Replacement of Harbor Seal Haul-Out—Study, Design, and Construction.** Prior to the removal of the dilapidated structures authorized in Section A.I.3 of this permit, WETA shall fund the study, design, and construction of a replacement harbor seal haul-out in the project vicinity. The study shall evaluate the viability of area replacement seal haul-out, and shall evaluate alternatives, such as improvements to a nearby existing seal haul-out site, moving an existing haul-out to an area nearby, and alternative mitigation if a replacement haul-out cannot be provided. If the study, determines that a replacement harbor seal haul-out could be provided, WETA/the City shall construct and/or ensure construction of a replacement seal haul-out in the vicinity of the ferry maintenance facility.

   No later than six months prior to the removal of dilapidated structures authorized in Section A.I.3, WETA shall submit to the Commission a status report on the study and design process, and the proposed replacement haul-out construction plan(s), or provide an alternative and comparable mitigation proposal if it is determined that a replacement seal haul-out would not be viable or feasible to construct. If through the study, it is determined that a replacement haul-out would provide viable habitat for the seals, no later than six months prior to the construction of such a haul-out structure, WETA shall seek review and approval by or on behalf of the Commission of construction plans, pursuant to Special Condition II.A., and, if necessary,

additional Commission authorization through a permit amendment or a new permit. Any haul-out replacement structure, or alternative mitigation measure, shall be constructed or provided pursuant to a schedule determined through the above-referenced study, or by August 2, 2018, whichever is earlier.

2. **California Least Tern Nesting Habitat Enhancement.** To mitigate for project impacts to approximately 0.46 acres of California least tern roosting habitat, the permittees shall coordinate with the U.S. Fish and Wildlife Service (USFWS) to provide and deliver sand to an approximately five-acre least tern colony at Alameda Point, in the City of Alameda, Alameda County, as described in the USFWS's Endangered Species Act (ESA) Biological Opinion dated March 6, 2013.

   At least 90 days prior to the delivery and use of sand at the above-referenced site, the permittees shall provide the Commission staff with a description of the proposed activity accompanied by a site plan and, if necessary, coordinate with staff to determine if a separate Commission action—possibly through a federal consistency determination as required under the Coastal Zone Management Act—would be necessary in which case the proposed activity shall not occur prior to Commission issuance of a determination or, if applicable, Commission permit. .

E. **Construction Measures to Protect Special-Listed Fish Species and Marine Mammals.** To minimize disturbance to special-status species (including the federally-threatened Central California Coast (CCC) steelhead and southern Distinct Population Segment (DPS) of the North American green sturgeon, and their designated critical habitat), the permittees shall conduct construction activities authorized herein in compliance with restrictions identified in the related NOAA Fisheries (NMFS) Endangered Species Act (ESA) Section 7 Biological Opinion and Incidental Take Statement and Magnuson-Stevens Fishery Conservation Management Act Essential Fish Habitat Consultation dated October 31, 2012, including: (1) restricting in-water work to July 31 through November 30; (2) using a bubble curtain to dampen in-water sound levels when driving piles with an impact hammer; (3) using a vibratory hammer for driving plastic piles; (4) implementing a spill prevention plan, a Stormwater Pollution Prevention Plan (SWPPP), and Best Management Practices (BMPs); (5) monitoring turbidity during dredging at a distance of approximately 500 feet; (6) implementing a hydro-acoustic monitoring and reporting plan to ensure in-water sound pressure levels from pile driving to not exceed those considered by NMFS; and (7) establishing a 500-foot buffer corridor to protect wildlife along the shoreline adjacent to the Alameda National Wildlife Refuge.

To minimize disturbance to harbor seals, a species listed under the Marine Mammal Protection Act, the permittees shall conduct construction activities authorized herein in compliance with restrictions identified in the NMFS Marine Mammal Protection Act Incidental Harassment Authorization dated February 10, 2015, including using noise attenuation measures to minimize acoustic impacts.

F. **Construction Measures to Protect California Least Tern**. To minimize disturbance to the federally-endangered California least tern, the permittees shall conduct construction activities authorized herein in compliance with restrictions identified in the related USFWS Endangered Species Act (ESA) Biological Opinion dated March 6, 2013, including: (1) providing training by a biologist for construction personnel working during the period that California least tern nest and roost at the Alameda Point colony; (2) limiting all construction activities to daylight hours; and 3) conducting pre-construction surveys for night roosts of California least tern.

G. **Dredging**

1. **Water Quality Approval.** At least 45 days prior to the commencement of any dredging episode authorized herein, the permittees shall submit to the Commission's Executive Director water quality certification, waste discharge requirements, or any other required approvals from the California Regional Water Quality Control Board, San Francisco Bay Region. Failure to obtain such certification prior to the commencement of any dredging episode shall terminate the Commission's authorization for that episode. The Executive Director may, upon review of the Regional Board approval, either:
(1) approve the dredging episode consistent with this authorization; or
(2) amend this authorization, as necessary, related to water quality issues.
Unless the permittees agree to amend this authorization in a manner specified by or on behalf of the Commission, this permit shall become null and void.

2. **Five-Year Permit for Dredging**. The single episode of approximately 47,100 cubic yards (cy) or less of new dredging authorized herein shall be completed within five years of the date of issuance of this permit. No further dredging is authorized.

3. **Limits on Dredging**. This permit authorizes new dredging only within the area shown on Exhibit C to an authorized depth of -12 feet Mean Lower Low Water (MLLW), with a two-foot over-dredge allowance (to -14 feet MLLW).

4. **Dredging and Beneficial Reuse or Disposal**

   a. **Beneficial Reuse or Disposal.** All material authorized to be dredged pursuant to this permit shall be taken to an authorized beneficial reuse location or to an authorized disposal site located outside of the Commission's jurisdiction. In the event that an alternative dredged material

disposal or reuse option at a location in the Commission's jurisdiction, which is not authorized for such use, is deemed appropriate for the project authorized herein, additional Commission review and action shall be sought by the permittees or other relevant parties.

b. **Pre- Dredging and Reuse and/or Disposal Report and Notice.** At least 45 days before the commencement of any dredging authorized herein, the permittees shall submit to the Commission's Executive Director a bathymetric map showing the location of all areas authorized to be dredged, the authorized depth including over-dredge depth based on MLLW, the volume of material proposed to be dredged, and the approximate date of project commencement.

   At least two (2) weeks prior to the scheduled date of commencement of any dredging episode, the permittees shall notify the Commission staff by telephone or in writing or, if the date of commencement changes, provide an updated schedule.

c. **Post-Dredging Requirements**

   (1) Within (30) days of completion of each dredging episode authorized by this permit, the permittees shall submit to the Commission a bathymetric map showing the actual area(s) and depths dredged including over-dredge depth based on MLLW, any dredging that occurred outside the area or below the depths authorized herein, and a written statement indicating the total volume of material dredged and reused or disposed and the location.

   (2) If a dredging episode stops for longer than six consecutive months, the permittees must submit, before the dredging episode has resumed, notification to the Commission that dredging will begin again. If a dredging episode is suspended for more than six months, the Commission may require the permittees to complete: (1) new sediment characterization, (2) a re-survey of the dredge area, and/or (3) a revised alternative disposal option analysis.

   (3) If the dredging episode continues longer than one year, whether dredging is continual throughout the year or is fragmented within the episode, the permittees must provide the Commission with the following dredging report: (1) the actual areas and the depth dredged based on MLLW, and any dredging that occurred outside the area dredged; (2) the actual volume of the material dredged; and (3) the volume and location of the material reused and/or disposed. The dredging report must be submitted no later than one year after the commencement of the episode, and must be submitted every six months thereafter throughout the life of the permit or until the episode is complete. The Commission may require additional sediment

characterization, bathymetric surveys, and/or alternative disposal analyses at the commencement of the next episode. Within 30 days of the completion of the episode, the permittees must submit a dredging report as described in Special Condition II.E.4.c.i.

5. **Seasonal Limitations.** All dredging and disposal activities shall be confined to the work window, between August 1 and November 30 of any year, to minimize disturbance to the following special-listed species: Pacific Herring, Central California Coast steelhead, North American green sturgeon, and California least tern.

   This work window is consistent with Tables F-1 and F-2 of Appendix F, "In-Bay Disposal and Dredging" and Figures 3.2 and 3.3 of the *Long-Term Management Strategy (LTMS) Management Plan 2001.* No work inconsistent with the time and location limits contained in these tables may be conducted without the approval of the Executive Director, provided that such approval may only be issued after: consultation between the U.S. Army Corps of Engineers and the USFWS and/or NOAA Fisheries has occurred; and the Executive Director has determined that dredging outside of the work window will be consistent with the Commission's laws and policies.

6. **Monitoring and Enforcement.** The permittees shall allow the Commission staff or representatives of other state or federal agencies to come aboard the dredge or barge associated with any dredging or disposal episode and observe the operation(s) to ensure that these activities are consistent with pre-dredging reports required herein and other terms and conditions of this permit. Further, the Commission reserves the right to have post-dredging reports inspected by a reliable third party familiar with bathymetric mapping in order to verify the contents of these reports. If a third party selected by or on behalf of the Commission indicates that a post-dredging report is inaccurate, the Commission reserves the right to require the permittees to submit a revised report that meets the conditions of this permit. If the Commission determines that the post-dredging report indicates that work has occurred beyond that authorized by this permit such violation may result in the initiation of enforcement action by or on behalf of the Commission.

H. **Water Quality Certification**. The permittees shall implement activities authorized herein in compliance with the requirements of water quality certification issued by the California Regional Water Quality Control Board, San Francisco Bay Region ("RWQCB") on March 13, 2014, including (1) restricting dredging to a work window between August 1 and November 30; (2) using pilings constructed only with inert materials to prevent leaching of toxic chemicals in the Bay; (3) removing temporary structures upon completion of construction to protect temporarily impacted subtidal areas.

III. Findings and Declarations

This authorization is given on the basis of the Commission's findings and declarations that the work authorized herein is consistent with the McAteer-Petris Act, the *San Francisco Bay Plan* (Bay Plan), the California Environmental Quality Act (CEQA), and the Commission's amended coastal zone management program for San Francisco Bay for the following reasons:

A. **Fill.** The Commission may allow fill only when it meets the requirements identified in Section 66605 of the McAteer-Petris Act, which state, in part, that: (a) fill "should be authorized only when public benefits from fill clearly exceed public detriment from the loss of the water areas" and "should be limited to water-oriented uses," or "minor fill for improving shoreline appearance"; (b) fill in the Bay should be approved only when "no alternative upland location" is available; (c) fill should be "the minimum amount necessary to achieve the purpose of the fill"; (d) "the nature, location, and extent of any fill should be such that it will minimize harmful effects to the Bay area, such as, the reduction or impairment of the volume, surface area or circulation of water, water quality, fertility of marshes or fish or wildlife resources, or other conditions impacting the environment…"; and (e) "fill should be authorized when the permittee has such valid title to the properties in question that he or she may fill them in the manner and for the uses to be approved."

1. **Water-Oriented Use and Public Benefit**. The fill associated with the project authorized herein will be used to maintain, and berth ferry vessels. A variety of activities will take place at the facility including: the refueling of ferries, vessel bilge and sewer pump-out and fluid replenishment, repair and replacement of vessel equipment, trash disposal, cleaning and painting of vessels, and the storage and replenishment of ferry concessionary items. The facility is not planned for regular passenger loading, yet the berthing slips will be capable of loading and unloading passengers in the event of an emergency. Although ferry maintenance is not specifically defined in the McAteer-Petris Act or Bay Plan as a water-oriented use, the Bay Plan Transportation Finding h. states, in part, that "[t]he Bay represents an important resource for ferry transportation" and, in order to optimize the utility and feasibility of ferry facilities, they should be located on or near the water. Because maintenance of ferry vessels is an essential piece of ferry operations, ferry boat maintenance facilities can be characterized a water-oriented use. Furthermore, the project will consolidate ferry maintenance and operation facilities for the Central Bay, providing more efficient system-wide operations in a centralized location, thus providing a public benefit that clearly exceeds the detriment from the loss of water areas from fill authorized herein. The project also includes a minor amount of shoreline protection work, specifically riprap replacement and maintenance, a type of "water-oriented" activity.

2. **Alternative Upland Location.** The ferry berthing and mooring facilities must be located in the Bay to serve their intended function and, thus, there is no alternative upland location for the uses and related fill.

3. **Minimum Amount Necessary.** The project will allow overnight berthing and mooring of up to 12 vessels at seven slips, and facilitate maintenance and service of these vessels, thereby supporting WETA's ferry service in the Central Bay. The 850-square-foot, pile-supported gangway landing deck is required to provide support for the gangway, and is designed to have an 1:12 slope to comply with the Americans with Disabilities Act ("ADA") requirements.

   The project evolved over time to minimize the fill necessary to achieve its purpose. When originally proposed in 2010, the project included a larger fixed concrete pier and approximately ten slips. To minimize fill, the permittees worked to reduce fill by double-loading the finger piers, reducing berths to seven slips, and removing the concrete pier. Further, the permittees reprogrammed the project by moving functions originally planned for the concrete pier in the Bay to an upland location. In addition, the permittees removed a cantilevered stormwater treatment basin over the Bay, and have designed a stormwater treatment facility that will be located entirely on upland outside of the Commission's jurisdiction. The project includes a minor amount of riprap replacement and maintenance.

   To ensure that the project results in an overall net decrease of Bay fill, Special Condition II.A requires review and approval by or on behalf of the Commission of final project plans, including fill quantities, and Special Condition II.C requires the permittees to remove approximately 20,220 square feet of dilapidated docks and pilings that currently occupy a portion of the site.

4. **Effects on Bay Resources.** The project will result in minimal permanent impacts from fill on tidal and subtidal resources. The removal of approximately 20,220 square feet of dilapidated docks and pilings, some of which are coated in creosote, will increase and enhance subtidal areas, and improve Bay water quality. As described in detail below, the project includes construction measures and mitigation to minimize and offset the project's potential harmful impacts on Bay resources.

5. **Valid Title**. The property underlying the locations of the ferry maintenance berthing and mooring facilities (and the area of riprap repair), the removal of dilapidated pilings and boat facilities, and dredging (discussed further below), is state tidelands held in grant by the City of Alameda. WETA obtained a lease from the City of Alameda to construct and operate the CBOM facility.

6. **Safety of Fills and Climate Change.** The McAteer-Petris act requires "[t]hat public safety, and welfare require that fill be constructed in accordance with sound safety standards." The Bay Plan policies on Safety of Fills state, in part,

that "[a]dequate measures should be provided to prevent damage from sea level rise and storm activity that may occur on fill or near the shoreline over the expected life of a project…. New projects on fill or near the shoreline should…be built so the bottom floor level of structures will be above a 100-year flood elevation that takes future sea level rise into account for the expected life of the project."

Further, the Bay Plan Climate Change Policy 3 states: "[w]hen planning shoreline areas or designing larger shoreline projects a risk assessment should be prepared by a qualified engineer and should be based on the estimated 100-year flood elevation that takes into account the best estimates of future sea level rise…." Climate Change Policy 7 identifies specific types of projects that are deemed to have regional benefits, advance regional goals, and that should be encouraged, if their regional benefits and their advancement of regional goals outweigh the risk from flooding. Further, Policy 7 identifies one of those projects as a "transportation facility or other critical infrastructure that is necessary…to serve planned development." The Bay Plan Climate Change Policy 6 identifies several regional goals including, "[a]dvanc[ing] regional public safety and economic prosperity by protecting…infrastructure that is crucial to public health or the region's economy...."

The project is a transportation facility and will serve as a critical infrastructure project with a 50-year service life. The permittees designed the project, including the pile-supported gangway landing deck, to be resilient to a 100-year storm event at a conservative estimate of approximately 24 inches of sea level rise by mid-century. The permittees also analyzed the impacts of wind waves of up to four feet at the project site. The project is designed to be resilient to mid-century of sea level rise. Since the project is not designed to function beyond mid-century, the permittees did not include an adaptive management plan to accommodate end-of-century projections of sea level rise.

7. **Shoreline Protection.** Shoreline Protection Policy 1 states, "[n]ew shoreline protection projects and the maintenance or reconstruction of existing projects and uses should be authorized if: (a) the project is necessary to provide flood or erosion protection for (i) existing development, use or infrastructure, or (ii) proposed development, use or infrastructure that is consistent with other Bay Plan policies; (b) the type of the protective structure is appropriate for the project site, the uses to be protected, and the erosion and flooding conditions at the site; (c) the project is properly engineered to provide erosion control and flood protection for the expected life of the project based on a 100-year flood event that takes future sea level rise into account; (d) the project is properly designed and constructed to prevent significant impediments to physical and visual public access; and (e) the protection is integrated with current or planned adjacent shoreline protec-

tion measures. Professionals knowledgeable of the Commission's concerns, such as civil engineers experienced in coastal processes, should participate in the design."

The project includes a minor amount of riprap repair and maintenance in the Bay to protect the project site from erosion and to provide flood protection. (A retaining wall, which will be constructed within the Commission's 100-foot shoreline band jurisdiction, will provide additional site protection from flooding, including from future sea level rise.) An additional amount of riprap will be installed above an existing riprap revetment adjacent to the park in order to protect a public access viewing terrace from future sea level rise and provide shoreline stabilization. Special Condition II.A.2.a requires plan review for riprap placement and provides standards to ensure the riprap is consistent with the Bay Plan policies on shoreline protection.

For these reasons, the Commission finds that the project, as conditioned, is consistent with the McAteer-Petris Act and relevant Bay Plan policies on fill, safety of fills, shoreline protection and climate change.

B. **Public Access and Appearance, Design, and Scenic Views**

1. **Maximum Feasible Public Access.** In assessing whether a project will provide maximum feasible public access consistent with the authorized activity, the Commission relies on the McAteer-Petris Act, Bay Plan policies, previous requirements of similar projects, and on relevant court decisions. In assessing whether a public project will provide the maximum feasible public access consistent with the project, the Commission also evaluates whether the access is reasonable given the scope of the project.

   Section 66602 of the McAteer-Petris Act states, in part, that "…existing public access to the shoreline and waters of the…[Bay] is inadequate and that maximum feasible public access, consistent with a proposed project, should be provided." In addition, the Bay Plan policies on public access state, in part, that "a proposed fill project should increase public access to the Bay to the maximum extent feasible…" and that "access to and along the waterfront should be provided by walkways, trails, or other appropriate means and connect to the nearest public thoroughfare where convenient parking or public transportation may be available." These policies also state, in part, that when on-site access "will be clearly inconsistent with the project because of public safety considerations or significant use conflicts….[i]n lieu access at another location preferably near the project should be provided." The Bay Plan policies on public access include policies related to sea level rise. Public Access Policy 7 states, in part: "[a]ny public access provided as a condition of development should either be required to remain viable in the event of future sea level rise or flooding, or equivalent access consistent with the project should be provided nearby."

The Bay Plan policies on transportation state that "transportation projects on the Bay shoreline…should include pedestrian and bicycle paths that will either be a part of the Bay Trail or connect the Bay Trail with other regional and community trails. Transportation projects should be designed to maintain and enhance visual and physical access to the Bay and along the Bay shoreline."

The permittees will not provide public access within the ferry maintenance facility, as the berthing area, CBOM, and associated maintenance yard will be fenced and closed to the general public to ensure secure and safe operational conditions. Further, according to the permittees, the site will operate full-time with the yard and other working areas handling various hazardous and flammable materials. Additionally, the project site will be subject to federal maritime security regulations administered by the U.S. Coast Guard (USCG).

Instead of providing public access within the CBOM facility, pursuant to Special Condition II.B, the permittees will improve a portion of a park located at the neighboring site and a public sidewalk area along West Hornet Avenue along the northern CBOM facility boundary. The City of Alameda will maintain the park improvements, as required in Special Condition II.B. The CBOM facility will be restricted to general public access, but, as required in Special Condition II.B.2.a.vi, a ten–foot-high transparent fence will be constructed at the eastern boundary of the facility allowing the public to view ferry maintenance operations at the adjacent public park.

Within a 20,278-square-foot (0.47 acre) area, within a park, the permittees will convert a 10-foot-wide Bay Trail currently running along the shoreline and terminating at the park's eastern boundary into a wider and longer realigned Bay Trail, extending to and along West Hornet Avenue. An approximately 2,380-square-foot section of a trail will be replaced with an approximately 3,650-square-foot, 145-foot-long, 16-foot-wide trail, and be a part of the Bay Trail. Within the improved park area, the permittees will also construct two five-foot-wide paths from the Bay Trail connected to a 1,692-square-foot viewing terrace with benches. Approximately 5,402 square feet of the park area located between the realigned Bay Trail and the ferry maintenance facility site will be improved to include low-level irrigated landscaping allowing "windows" and public viewing areas of the proposed adjacent CBOM maintenance yard. Directional and interpretive signs will also be provided, describing the adjacent ferry facility activities, the Bay Trail, adjacent sites of interest, and the unique environmental and scenic qualities of the waterfront setting in the project vicinity.

In addition, the permittees will construct an approximately 15-foot-wide, 290-foot-long extension of the Bay Trail along West Hornet Avenue along the northern boundary of the ferry facility. This trail improvement will include a landscaped area located adjacent to and north of the CBOM building.

Overall, the trail improvements will improve the existing and future connections of the project site to adjacent public areas and trails associated with the U.S.S. Hornet Museum and the MARAD facility.

The permittees provided sea level rise projections showing sea level rise's impacts over time at the park, which is situated at the same elevation as the adjacent ferry facility. The park's elevation ensures that it will remain above projected rising sea levels at mid-century, consistent with the life of the project. To protect the viewing terrace from erosion associated with flooding and sea level rise, additional riprap will be placed at an existing revetment.

Special Condition II.B.3 requires that the permittees maintain the public access in the event that the public access becomes damaged by future subsidence or uneven settlement, flooding, or inundation caused by sea level rise to ensure the usability of the public access areas and improvements at all times.

The public access required by this permit is similar to public access required in similarly permitted Commission-authorized projects. For the Commission-permitted WETA and San Mateo County Harbor District South San Francisco Ferry Terminal, the permittees proposed and constructed an approximately 14,000-square-foot fill project (solid, floating, and pile-supported), which is similar in size to the fill associated with the ferry maintenance project at Alameda Point. The South San Francisco Ferry Terminal project included a 3,000-square-foot public access viewing terrace along the shoreline and a 2,300-square-foot area on the ferry pier intended to remain open for public access during ferry operational hours. The Alameda Point project is similar in that it provides views of the Bay from the viewing terrace and provides an improved Bay Trail connection along the shoreline and to adjacent areas, which are expected to accommodate greater numbers of visitors as redevelopment of the area continues.

2. **Appearance, Design, and Scenic Views.** The Bay Plan policies on Appearance, Design, and Scenic Views (Policy 2) state, in part: "[a]ll Bayfront development should be designed to enhance the pleasure of the user or viewer of the Bay. Maximum efforts should be made to provide, enhance, or preserve views of the Bay and shoreline, especially from public areas, from the Bay itself, and from the opposite shore."

Although the 70-foot-tall building will block public views of the shoreline from West Hornet Avenue, the viewing terrace within the adjacent enhanced public park, required in Special Condition II.B.2.a.iv, will provide a destination for viewing the Central Bay. In addition, the transparent fencing separating the park from the proposed ferry maintenance facility, required in Special Condition II.B.2.a.vi, and associated park landscaping are designed to provide views of the working waterfront activities at the ferry facility.

The Commission finds that, as conditioned, the public access is the maximum feasible consistent with the project, is reasonable considering the scope of the project, and is consistent with the Commission's laws and policies on public access and appearance, design, and scenic views.

C. **Natural Resource Policies**

1. **Fish, Other Aquatic Organisms and Wildlife.** The Bay Plan Map 5, Policy 4 identifies the project vicinity as a location of a harbor seal haul-out and pupping site allowing "seals [to] rest, give birth and nurse their young" and, states that the haul-out should be protected. "[Also, p]rojects should be allowed only if protective of harbor seals and other sensitive wildlife."

   The Bay Plan policies on fish, other aquatic organisms and wildlife state, in part, that "the Commission should consult with the California Department of Fish and Game and the U.S. Fish and Wildlife Service or the National Marine Fisheries Service whenever a proposed project may adversely affect an endangered or threatened plant, fish, other aquatic organism or wildlife species…and give appropriate consideration of (their) recommendations in order to avoid possible adverse impacts of a proposed project on fish, other aquatic organisms and wildlife habitat."

   Furthermore, the Bay Plan policies state that the Commission may "not authorize projects that will result in the "taking" of any plant, fish, other aquatic organism or wildlife species listed as endangered or threatened pursuant to the state or federal endangered species acts, or the federal Marine Mammal Protection Act, or species that are candidates for listing under the California Endangered Species Act, unless the project permittees has obtained the appropriate "take" authorization from the U.S. Fish and Wildlife Service, National Marine Fisheries Service or the California Department of Fish and Game…"

   Bay Plan Mitigation Policy 1 states, in part: "[p]rojects should be designed to avoid adverse environmental impacts to Bay natural resources such as to water surface area, volume, or circulation and to plants, fish, other aquatic organisms and wildlife habitat, subtidal areas, or tidal marshes or tidal flats. Whenever adverse impacts cannot be avoided, they should be minimized to the greatest extent practicable. Finally, measures to compensate for unavoidable adverse impacts to the natural resources of the Bay should be

required." Mitigation Policy 2 states: "[i]ndividual compensatory mitigation projects should be sited and designed within a Bay-wide ecological context, as close to the impact site as practicable." Mitigation Policy 6 provides that "[m]itigation should, to the extent practicable, be provided prior to, or concurrently with those parts of the project causing adverse impacts."

The U.S. Fish and Wildlife Service (USFWS) issued a biological opinion ("B.O.") for the project, including dredging (discussed below), on March 6, 2013. The B.O. identified potential project effects to the federally-listed endangered California least tern and recommended conservation measures, including: conducting pre-construction surveys to determine night-time roosts, restricting in-water work window between July 31 to November 30 of any calendar year, and monitoring turbidity of dredging activities. The B.O. states that the project will permanently impact approximately 0.46 acres of California least tern roosting habitat, and recommends mitigating this impact by spreading sand across five acres of California least tern nesting habitat at Alameda Point, close to the site of impact. Special Condition II.D.2 of this permit requires that the permittees coordinate with USFWS to implement this recommendation in the BO to provide and deliver sand for use at an approximately five-acre least tern nesting colony at Alameda Point. In addition, Special Condition II.G of the permit requires compliance with the USFWS B.O., including the monitoring of California least tern impacts.

The National Marine Fisheries Service (NMFS) issued a biological opinion on October 31, 2012 concluding that the project, including the dredging activity, will not likely adversely modify or destroy critical habitat for the listed Central California Coast steelhead and North American green sturgeon. NMFS recommended construction minimization measures, including turbidity monitoring and using bubble-curtains during pile-driving, which is required—among other construction impact minimization measures—in Special Condition II.F of this permit.

A small population of harbor seals (*Phoca vitulina*) occasionally use dilapidated pilings and docking facilities within the project site as a haul-out area. This authorization authorizes the removal of the former docking facilities. The western tip of Breakwater Island located east of the project site is also a popular harbor seal haul-out site. On February 10, 2015, NMFS issued an Incidental Harrassment Authorization ("IHA") under the Marine Mammal Protection Act for the harassment of harbor seals from this project impact, including construction minimization measures including on vibratory pile driving and pile removal. The permittees are required, pursuant to Special Condition II.E of this permit, to comply with NMFS' recommended measures for minimizing and monitoring project impacts.

The IHA did not recommend mitigation for the removal of the dilapidated structures presently used as a seal haul-out. However, to address community concerns, WETA and the City entered into a Memorandum of Understanding to contribute $100,000.00 for the purpose of studying, designing, and constructing a replacement haul-out in the vicinity of the project site. To this end, the permittees have formed a working advisory group, which includes a harbor seal expert, to assess the feasibility of identifying and developing a replacement haul-out location. Special Condition II.D.1 of this permit requires the permittees to fund the study, and design and construct a replacement haul-out location. The condition requires the study to include an alternative mitigation plan in the event the study determines a replacement haul-out would be inviable or infeasible. The condition requires the permittees to report on the results of the study, and the permittees are required to seek further input and/or authorization by the Commission for any construction of an alternative seal haul-out.

2. **Water Quality Policies.** The Bay Plan policies on water quality state, in part that "Bay water pollution should be prevented to the greatest extent feasible. The Bay's tidal marshes, tidal flats, and water surface area and volume should be conserved and, whenever possible, restored and increased to protect and improve water quality." The policies further state that "[w]ater quality in all parts of the Bay should be maintained at a level that will support and promote the beneficial uses of the Bay as identified in the San Francisco Bay Regional Water Quality Control Board's (RWQCB) Basin Plan and should be protected from all harmful or potentially harmful pollutants." The policies, recommendations, decisions, advice, and authority of the State Water Resources Control Board and the Regional Board should be the basis for carrying out the Commission's water quality responsibilities." Finally, the Bay Plan policies on Water Quality state that "new projects should be sited, designed, constructed, and maintained to prevent or, if prevention is infeasible, to minimize the discharge of pollutants into the Bay by:
(a) controlling pollutant sources at the project site; (b) using construction materials that contain nonpolluting materials; and (c) applying appropriate, accepted, and effective best management practices; especially where water dispersion is poor and near shellfish beds and other significant biotic resources."

   The Regional Water Quality Control Board issued a water quality certification on March 13, 2014, including for the proposed dredging. The certification requires that dredging occur between August 1 through November 30 for any given year to protect the special-listed/protected species including Pacific herring, Central California Coast steelhead, and California least tern. Special Condition II.E requires compliance will all terms and conditions of the Regional Water Quality Control Board's certification.

3. **Dredging.** The Bay Plan policies on dredging state, in part, "Dredging should be authorized when the Commission can find: (a) the permittees has demonstrated that the dredging is needed to serve a water-oriented use or other important public purpose, such as navigational safety; (b) the materials to be dredged meet the water quality requirements of the San Francisco Bay Regional Water Quality Control Board; (c) important fisheries and Bay natural resources will be protected through seasonal restrictions established by the California Department of Fish and Game, the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service, or through other appropriate measures; (d) the siting and design of the project will result in the minimum dredging volume necessary for the project; and (e) the materials will be disposed of in accordance with Policy 3."

   The Bay Plan Dredging Policy 3 states, "Dredged materials should, if feasible, be reused or disposed outside the Bay and certain waterways. Except when reused in an approved fill project, dredged material should not be disposed in the Bay and certain waterways unless disposal outside these areas is infeasible and the Commission finds: (a) the volume to be disposed is consistent with applicable dredger disposal allocations and disposal site limits adopted by the Commission by regulation; (b) disposal will be at a site designated by the Commission; (c) the quality of the material disposed of is consistent with the advice of the San Francisco Bay Regional Water Quality Control Board and the inter-agency Dredged Material Management Office (DMMO); and d) the period of disposal is consistent with the advice of the California Department of Fish and Game, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service."

   The project involves new dredging up to approximately 47,100 cubic yards of sediment across an approximately 242,240-square-foot area. The DMMO, comprised of representatives of the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, BCDC, RWQCB, State Lands Commission, and the state and federal wildlife agencies, reviewed testing results of dredged sediment from the project and concluded, on July 26, 2012, that disposal at the San Francisco Deep Ocean Disposal Site (SF-DODS) or various beneficial reuse sites (e.g., Winter Island, Montezuma Wetlands, Cullinan Ranch, or South Bay Salt Ponds) is appropriate for the project authorized herein. Based on the DMMO recommendation, the permittees will dispose the dredged sediment at either SF-DODS or an authorized beneficial reuse site. Special Condition II.H requires, among other things, the permittees report specific dredging activity information to the Commission's Executive Director and comply with monitoring and environmental work windows—required or recommended by the RWQCB, USFWS, and NMFS—including limiting activity to the period between August 1 and November 30.

For these reasons, the Commission finds that the project, as conditioned, is consistent with the McAteer-Petris Act and relevant Bay Plan policies on fish, other aquatic organisms, and wildlife, mitigation, water quality, and dredging.

D. **Review Boards**

1. **Engineering Criteria Review Board.** The Commission's Staff Engineer determined that the project raised no substantial seismic safety issues for the Commission's Engineering Criteria Review Board (ECRB) to consider and, thus, the ECRB did not review the project.

2. **Design Review Board.** Bay Plan Public Access Policy 12 states, "The Design Review Board [DRB] should advise the Commission regarding the adequacy of the public access proposed." The Commission's DRB reviewed the project on January 6, 2014 and concluded that the park improvements required herein will provide a viewing area of the ferry maintenance site. The Board also found that the CBOM building will provide a natural terminus and orientation element for those visiting the Bay and shoreline. The DRB advised the permittees to provide a fence that will not inhibit public views of the Bay and adjacent ferry maintenance activities. In response, the permittees designed a transparent fence to separate the park from the maintenance facility and landscaping that allows for a view of the ferry facility. The permittees also redesigned landscaping associated with the West Hornet Avenue sidewalk to provide improved pedestrian and bicycle circulation and to improve the safety of trail users.

E. **Environmental Review.** Pursuant to the California Environmental Quality Act (CEQA), WETA, as lead agency, prepared an Initial Study/ Mitigated Negative Declaration (MND) for the project authorized herein. The mitigated Negative Declaration identified potentially significant impacts associated with the project, including impacts to aesthetics, air quality, biological resources, greenhouse gas emissions, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, noise, transportation/traffic, and mandatory findings of significance. To reduce potential identified impacts to a less-than-significant level, the project authorized herein incorporated mitigation measures identified in the MND.

On May 30, 2013, the Federal Transit Administration (FTA) determined that the project authorized herein qualified for a categorical exclusion pursuant to NEPA, 23 C.F.R. Part 771.118(d), which provides for FTA categorical exclusions. On June 2, 2011, WETA certified the Mitigated Negative Declaration (MND).

In June 2012, WETA filed a Notice of Determination advising the State Clearinghouse and Alameda County Clerk that the WETA Board approved the project and, on June 2, 2011, adopted the MND and Mitigation Monitoring and Reporting Program for the authorized project.

IV. Standard Conditions

A. **Permit Execution**. This permit shall not take effect unless the permittees execute the original of this permit and return it to the Commission within ten days after the date of the issuance of the permit. No work shall be done until the acknowledgment is duly executed and returned to the Commission.

B. **Recording**. The permittees shall record this permit (or a notice specifically referring to this permit) on all parcels affected by this permit with the County of Alameda within 30 days after execution of this permit and, within 30 days after recordation, provide a copy of the recorded permit to the Commission.

C. **Certification of Contractor Review.** Prior to commencing any grading, demolition, or construction, the general contractor or contractors in charge of that portion of the work shall submit written certification that s/he has reviewed and understands the requirements of the permit and the final BCDC-approved plans, particularly as they pertain to any public access or open space required herein, or environmentally sensitive areas.

D. **Notice of Completion**. The attached Notice of Completion and Declaration of Compliance form shall be returned to the Commission within 30 days following completion of the work.

E. **Permit Assignment**. The rights, duties, and obligations contained in this permit are assignable. When the permittees transfer any interest in any property either on which the activity is authorized to occur or which is necessary to achieve full compliance of one or more conditions to this permit, the permittees/transferors and the transferees shall execute and submit to the Commission a permit assignment form acceptable to the Executive Director. An assignment shall not be effective until the assignees execute and the Executive Director receives an acknowledgment that the assignees have read and understand the permit and agree to be bound by the terms and conditions of the permit, and the assignees are accepted by the Executive Director as being reasonably capable of complying with the terms and conditions of the permit.

F. **Permit Runs With the Land**. Unless otherwise provided in this permit, the terms and conditions of this permit shall bind all future owners and future possessors of any legal interest in the land and shall run with the land.

G. **Other Government Approvals**. All required permissions from governmental bodies must be obtained before the commencement of work; these bodies include, but are not limited to, the U. S. Army Corps of Engineers, the State Lands Commission, the Regional Water Quality Control Board, and the city or county in which the work is to be performed, whenever any of these may be required. This permit does not relieve the permittees of any obligations imposed by State or Federal law, either statutory or otherwise.

H. **Built Project must be Consistent with Application**. Work must be performed in the precise manner and at the precise locations indicated in your application, as such may have been modified by the terms of the permit and any plans approved in writing by or on behalf of the Commission.

I. **Life of Authorization**. Unless otherwise provided in this permit, all the terms and conditions of this permit shall remain effective for so long as the permit remains in effect or for so long as any use or construction authorized by this permit exists, whichever is longer.

J. **Commission Jurisdiction**. Any area subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission under either the McAteer-Petris Act or the Suisun Marsh Preservation Act at the time the permit is granted or thereafter shall remain subject to that jurisdiction notwithstanding the placement of any fill or the implementation of any substantial change in use authorized by this permit. Any area not subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission that becomes, as a result of any work or project authorized in this permit, subject to tidal action shall become subject to the Commission's "bay" jurisdiction.

K. **Changes to the Commission's Jurisdiction as a Result of Natural Processes**. This permit reflects the location of the shoreline of San Francisco Bay when the permit was issued. Over time, erosion, avulsion, accretion, subsidence, relative sea level change, and other factors may change the location of the shoreline, which may, in turn, change the extent of the Commission's regulatory jurisdiction. Therefore, the issuance of this permit does not guarantee that the Commission's jurisdiction will not change in the future.

L. **Violation of Permit May Lead to Permit Revocation**. Except as otherwise noted, violation of any of the terms of this permit shall be grounds for revocation. The Commission may revoke any permit for such violation after a public hearing held on reasonable notice to the permittees or their assignees if the permit has been effectively assigned. If the permit is revoked, the Commission may determine, if it deems appropriate, that all or part of any fill or structure placed pursuant to this permit shall be removed by the permittees or their assignees if the permit has been assigned.

M. **Should Permit Conditions Be Found to be Illegal or Unenforceable**. Unless the Commission directs otherwise, this permit shall become null and void if any term, standard condition, or special condition of this permit shall be found illegal or unenforceable through the application of statute, administrative ruling, or court determination. If this permit becomes null and void, any fill or structures placed in reliance on this permit shall be subject to

removal by the permittees or their assignees if the permit has been assigned to the extent that the Commission determines that such removal is appropriate. Any uses authorized shall be terminated to the extent that the Commission determines that such uses should be terminated.

N. **Permission to Conduct Site Visit**. The permittees shall grant permission to any member of the Commission's staff to conduct a site visit at the subject property during and after construction to verify that the project is being and has been constructed in compliance with the authorization and conditions contained herein. Site visits may occur during business hours without prior notice and after business hours with 24-hour notice.

O. **Abandonment**. If, at any time, the Commission determines that the improvements in the Bay authorized herein have been abandoned for a period of two years or more, or have deteriorated to the point that public health, safety or welfare is adversely affected, the Commission may require that the improvements be removed by the permittees, its assignees or successors in interest, or by the owner of the improvements, within 60 days or such other reasonable time as the Commission may direct.

P. **Best Management Practices**

1. **Debris Removal.** All construction debris shall be removed to an authorized location outside the jurisdiction of the Commission. In the event that any such material is placed in any area within the Commission's jurisdiction, the permittees, its assigns, or successors in interest, or the owner of the improvements, shall remove such material, at their expense, within ten days after they have been notified by the Executive Director of such placement.

2. **Construction Operations.** All construction operations shall be performed to prevent construction materials from falling, washing or blowing into the Bay. In the event that such material escapes or is placed in an area subject to tidal action of the Bay, the permittees shall immediately retrieve and remove such material at its expense.

Q. **In-Kind Repairs and Maintenance.** Any in-kind repair and maintenance work authorized herein shall not result in an enlargement of the authorized structural footprint and shall only involve construction materials approved for use in San Francisco Bay. Work shall occur during periods designated to avoid impacts to fish and wildlife. The permittees shall contact Commission staff to confirm current restricted periods for construction.