San Francisco Bay Conservation and Development Commission
455 Golden Gate Avenue, Suite 10600, San Francisco, California 94102 tel 415 352 3600 fax 415 352 3606

May 22, 2015

Application Summary
(For Commission consideration on June 4, 2015)

Number: BCDC Permit Application No. 2014.002.00
Date Filed: April 29, 2015
90th Day: July 28, 2015
Staff Assigned: Erik Buehmann (415/352-3645 erik.buehmann@bcdc.ca.gov)

Summary

Applicants: Water Emergency Transportation Authority ("WETA") and City of Alameda ("City")

Location: In the Commission's Bay and the 100-foot shoreline band jurisdiction, at a four-acre site located at West Hornet Avenue, between Ferry Point Road and Viking Street, in the City of Alameda, Alameda County (Figure 1).

Figure 1. Proposed Project Site

Project: The proposed project site, formerly part of the Alameda Naval Air Station ("NAS") and now owned by the City of Alameda, is located east of the U.S. Maritime Administration (MARAD) facility and the federally-owned and -operated U.S.S. Hornet Museum. The western section of the project site is currently undeveloped and fenced, and the eastern section of the site is a City-owned public park with trail rights-of-way held by the East Bay Regional Park District (EBRPD). The 326-linear-foot shoreline at the CBOM site is protected by an approximately 5,515-square-foot riprap system with a wood and concrete retaining wall.

The proposed project involves the construction of a maintenance and operations facility to service and maintain WETA's ferry operations in the Central San Francisco Bay.

In the Commission's Bay jurisdiction, involves: the installation of berthing and mooring facilities for up to 12 vessels at an approximately 18,569-square-foot (0.42-acre) area, and a 900-square-foot (0.02-acre) pile-supported gangway deck; minor repairs to the existing shoreline protection system; and dredging approximately 47,000 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 (Exhibit 3).

Within the Commission's 100-foot shoreline band jurisdiction, the project involves the construction of a four-story, Central Bay Operations and Maintenance building ("CBOM") with a 6,750-square-foot footprint and a maximum height of 70 feet, and a 12,800-square-foot work-yard (Exhibit 4).

Also, within the Commission's 100-foot shoreline band jurisdiction, at an approximately 25,600-square-foot (0.58-acre) area of a public park located east of the proposed ferry maintenance facility, the project involves general park improvements, including improved bicycle and pedestrian trails, bike parking, informational kiosks, signage, a Bay viewing terrace with benches, and landscaping. In addition, the applicants propose to construct, an approximately

4,500-square-foot, a 15-foot-wide, 290-foot-long extension of the Bay Trail between West Hornet Avenue and the northern boundary of the ferry maintenance project site. A transparent fence is proposed to separate the public park area from the proposed CBOM facility.

To offset impacts of the proposed fill in the Bay, the applicants propose to remove dilapidated pilings and docking facilities, which are no longer used by boats, within an approximately 20,220-square-foot (0.46-acre) area near the project site. A small population of harbor seals currently use these pilings and docking facilities as a haul-out location. To mitigate the effects of removal on the harbor seals, the applicants propose to study and construct an alternative harbor seal haul-out facility. With the proposed removal of dilapidated pilings and docking facilities, the net increase in open Bay surface and volume would be approximately 1,651 square feet (0.037 acres).

Issues Raised: The Commission staff believes that the application raises three primary issues:
(1) whether the proposed fill for the project is consistent with the McAteer-Petris Act and the San Francisco Bay Plan (Bay Plan) policies on fill, including those on safety of fills, climate change, mitigation, and transportation;
(2) whether the proposed public access improvements would be consistent with the McAteer-Petris Act and the Bay Plan policies on public access, including those on climate change, and appearance, design, and scenic views; and
(3) whether the proposed project would be consistent with the Bay Plan policies on natural resources, including those on fish, other aquatic organisms, and wildlife, dredging, and water quality.

Project Description

Project Details: The co-applicants, Water Emergency Transportation Authority and City of Alameda, describe the project as follows:

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 elements:
    a. Seven approximately 1,620-square-foot finger berthing floats at 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 an approximate 82-square-foot area;
    e. Twenty-four (24) steel guide piles (each 42-inches-diameter) covering approximately 235 square feet; and
    f. An approximately 850-square-foot section of a gangway landing deck supported by ten (10) 24-inch-diameter piles covering approximately 32 square feet.
2. Dredge up to approximately 47,100 cubic yards of sediment using a clamshell bucket at 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 within approximately 20,220-square-foot area; and
4. Repair, use, and maintain in-kind an approximately 2,800-square-foot section of a riprap shoreline system, 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 WETA's vessel maintenance, dispatch, and administration;
2. Install, use, and maintain in-kind an approximately 12,800-square-foot yard, an approximately 1,200-square-foot outbuilding, covered storage areas, an approximately 50-square-foot section of a pile-supported gangway landing deck, and an ten-foot-high vertical picket-style fence;
3. Improve, use, and maintain in-kind an approximately 25,600-square-foot area of a City-owned park located east of the above-referenced WETA facility, and install the following public-serving amenities:
    a. An approximately 3,650-square-foot, 16-foot-wide San Francisco Bay Trail, consisting of a 12-foot-wide paved path with a 4-foot-wide decomposed granite shoulder;
    b. Bicycle parking for up to 10 bikes;
    c. An informational kiosk with directional, wayfinding, and interpretative signage;
    d. An approximately 1,650-square-foot viewing terrace with a total of 9 back-to-back benches with an approximately 1,000-square-foot, 5-foot-wide path connecting to the adjacent San Francisco Bay Trail, and approximately 600 cubic yards of riprap material at an adjacent riprap system; and
    e. Landscaping within an approximately 18,000-square-foot area, including trees, shrubs, groundcover, and stormwater management area(s).
4. Improve, use, and maintain in-kind, within an approximately 4,500-square-foot area, a 15-foot-wide extension of the San Francisco Bay Trail at West Hornet Avenue with associated landscaping, lighting, and a two-foot-wide buffer between the trail and the CBOM building;
5. Rehabilitate, use, and maintain in-kind an approximately 14,000-square-foot section of roadway at West Hornet Avenue, including a 26-foot-wide carriageway serving vehicles at the proposed ferry maintenance facility while accommodating bicycle circulation; and
6. Construct, use, and maintain, an approximately 300-foot-long retaining wall, within an approximately 3,900-square-foot area.

Bay Fill: The proposed project would involve the placement of approximately 18,569-square-feet of fill. Approximately 20,220 square feet of dilapidated pilings and boat docking facilities would be removed. As a result, the net increase in open Bay surface and volume would be approximately 1,651 square feet (0.037 acres).

Type of Fill (sq ft)	Removed (sq ft)	New (sq ft)	Net Fill (sq ft)
Solid	**20,220**	**349**	**-19,871**
Floating	**0**	**16,650**	**16,650**
Pile-Supported	**0**	**850**	**850**
Cantilevered	**0**	**720**	**720**
Total (sq ft)	**20,220**	**18,569**	**-1,651**

Public Access: The applicants propose to improve public access within an approximately 25,600-square-foot area located at an adjacent park owned by the City of Alameda. The proposed public access improvements would include replacing a 2,380-square-foot section of an existing trail with a 3,650-square-foot, 16-foot-wide section of the San Francisco Bay Trail, and the installation of an approximately 1,650-square-foot viewing terrace with benches (18 total). An approximately 1,000-square-foot pathway would connect the viewing terrace to the adjacent Bay Trail. The park area would include approximately 18,000 square feet of landscaping. In addition, within an approximately 4,500-square-foot area, the applicants propose to construct a 15-foot-wide, 290-foot-long extension of the Bay Trail along West Hornet Avenue at the northern boundary of the ferry maintenance project site. The Hornet Avenue access would include planters with trees and connect to the new park Bay Trail.

Proposed Public Access	SQ FT	Acres
Park Improvements	25,600	0.58
West Hornet Avenue Improvements	4,500	0.10
Total	30,100	0.69

Schedule and Cost: The co-applicants estimate that the proposed project would commence in Spring 2016, and that the total project cost is approximately $27,000,000.

Staff Analysis

A. **Issues Raised**: The Commission staff believes that the application raises three primary issues: (1) whether the proposed fill for the project is consistent with the McAteer-Petris Act and the San Francisco Bay Plan (Bay Plan) policies on fill, including those on safety of fills, climate change, mitigation, and transportation; (2) whether the proposed public access improvements would be consistent with the McAteer-Petris Act and the Bay Plan policies on public access, including those on climate change, and appearance, design, and scenic views; and (3) whether the proposed project would be consistent with the Bay Plan policies on natural resources, including those on fish, other aquatic organisms, and wildlife, dredging, and water quality.

1. **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 applicant 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."

   a. **Water-Oriented Use and Public Benefit**. The proposed fill would be used to maintain, berth, and moor WETA ferry vessels. A variety of activities would take place at the proposed 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. Although, the proposed facility is not planned for regular passenger loading, the berthing slips would 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. Therefore, ferry boat maintenance facilities are an implied water-oriented use. The project also includes a minor amount of riprap replacement and maintenance, a water-oriented use. Furthermore, the proposed project would 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.

b. **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 proposed uses and related fill.

c. **Minimum Amount Necessary.** The proposed project would 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 proposed 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 Americans with Disabilities Act ("ADA") requirements.

   The proposed project evolved over time to minimize the fill necessary to achieve the project purpose. When originally proposed in 2010, the project included a larger fixed concrete pier and approximately ten slips. To minimize fill, the applicants double-loaded the finger piers, bringing down the number to seven slips, and removed the concrete pier. Further, the applicants re-programmed the project by moving upland functions originally planned for the concrete pier in the Bay. In addition, the applicants removed a stormwater treatment basin cantilevered over the Bay, and instead would achieve this function at the upland area. Furthermore, the applicants propose to remove approximately 20,220 square feet of dilapidated docks and pilings resulting in an overall net decrease of Bay fill associated with the proposed project. The project includes a minor amount of riprap replacement and maintenance.

d. **Effects on Bay Resources.** The applicants anticipate that the project would 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, would increase and improve subtidal area and habitat in the project vicinity. As described in detail below, the applicants' proposal includes minimization and mitigation measures to reduce the project's potential harmful effects to the Bay.

e. **Valid Title**. The property proposed for development of ferry maintenance berthing and mooring facilities (and the area of proposed rip-rap repair), removal of dilapidated pilings and boat facilities, and dredging (discussed further below) is on state tidelands held in grant by the City of Alameda. WETA has obtained a lease with the City to construct and operate the CBOM facility.

f. **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." Further, the Bay Plan policies on Safety of Fill 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."

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 proposed project is a transportation facility and would serve as a critical infrastructure project designed with a 50-year service life. The applicants 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 (Exhibit 5). The applicant has also included the impacts of wind waves of up to four feet at the project site. Since the proposed project is not designed to function beyond mid-century, the applicants are not proposing an adaptive management plan to accommodate end-of-century projections of sea level rise.

g. **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 protection 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 and a small concrete retaining wall to protect the proposed project from erosion and flood protection. Furthermore, the retaining wall—proposed for construction within the Commission's 100-foot shoreline band jurisdiction—would provide further site protection from flooding, including from future sea level rise.

The Commission should determine whether the proposed project would be consistent with the McAteer-Petris Act and Bay Plan policies regarding fill, including policies on safety of fills, climate change, natural resources, and shoreline protection.

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

   a. **Maximum Feasible Public Access.** In assessing whether a project would provide maximum feasible public access consistent with the proposed 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 proposed public project would provide the maximum feasible public access consistent with the project, the Commission also evaluates whether the proposed 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 "would 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 applicants do not propose public access within the ferry maintenance facility, as the berthing area, CBOM, and associated maintenance yard would be fenced and closed to the general public to ensure secure and safe operational conditions. Further, according to the applicants, the site would operate full-time while the yard and associated working areas would handle various hazardous and flammable materials. Additionally, the project site would be subject to federal maritime security regulations administered by the U.S. Coast Guard (USCG). Although the facility would be restricted to the general public, a ten–foot-high, vertical picket-style fence is proposed within an improved park area to allow for viewing of ferry maintenance operations along the eastern boundary of the proposed WETA facility.

   Instead of providing public access at the WETA facility site, the applicants propose to improve a City park located at the neighboring site and provide an enhanced public sidewalk along West Hornet Avenue, at the northern CBOM facility boundary. Within a 25,600-square-foot area at City-owned and operated park (with trail rights-

of-way held by the East Bay Regional Park District (EBRPD)), the applicants would convert a 10-foot-wide San Francisco Bay Trail currently running along the shoreline and terminating at the eastern boundary of the park, into a wider and longer realigned Bay Trail, extending it to and along West Hornet Avenue. Since the park is operated by the City, the City would maintain the park improvements. Among other things, the proposed trail improvement would make for a better connection from the project site to adjacent public areas/trails/pathways at the nearby U.S.S. Hornet Museum site and future public access areas through the MARAD site to the Seaplane Lagoon (Exhibit 2). As proposed, an approximately 2,380-square-foot section of a shoreline trail would be replaced with an approximately 3,650-square-foot, 145-foot-long, 16-foot-wide trail, which would be a part of the Bay Trail.

In addition, within the proposed improved park area, the applicants would construct a five-foot-wide path from the Bay Trail connecting to a proposed 1,650-square-foot terrace for viewing the Bay and shoreline. The viewing terrace includes nine back-to-back benches, providing a total of 18 seats facing both bayward and toward the park. Proposed directional and interpretive signs would also be provided, which describe the route of the Bay Trail, including through the adjacent MARAD and U.S.S. Hornet sites and the unique environmental and scenic qualities of the waterfront setting in the vicinity of the proposed project.

Approximately 18,000 square feet of the park area located between the realigned Bay Trail and the ferry maintenance project site would be improved to include low-level landscaped irrigation allowing “windows” and public viewing areas of the proposed adjacent CBOM maintenance yard. As proposed, interpretative signage within the park area would describe the proposed adjacent ferry maintenance activities.

In addition, the applicants propose to construct an approximately 15-foot-wide, 290-foot-long extension of the Bay Trail along West Hornet Avenue at the northern boundary of the proposed ferry maintenance project site. This proposed trail improvement would include a landscaped area located adjacent to and north of the CBOM building. This proposed Bay Trail extension would lead to the adjacent the U.S.S. Hornet and MARAD sites (Exhibit 2). Proposed signage within the improved Bay Trail area would indicate the route for pedestrians and bicyclists.

The project applicants provided sea level rise projections showing the impact over time at the park, which is situated at the same elevation as the project improvements (Exhibit 6). The park’s elevation ensures that it would remain above projected rising sea levels at mid-century, consistent with the life of the WETA CBOM project. To protect the viewing terrace from erosion associated with flooding and sea level rise, additional riprap would be placed at an existing revetment.

The public access proposed is similar to public access required in similarly proposed—and ultimately 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 proposed 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 proposed 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.

c. **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 would block public views of the shoreline from West Hornet Avenue, the proposed viewing terrace within the adjacent enhanced public park would provide a destination for viewing the Central Bay. In addition, the transparent fencing separating the park from the proposed ferry maintenance facility and park landscaping are designed to provide views of the working waterfront activities at the ferry facility.

The Commission should determine whether the proposed project would be consistent with the Bay Plan policies regarding public access and appearance, design, and scenic views.

3. **Natural Resources Policies**

a. **Fish, Other Aquatic Organisms and Wildlife.** The Bay Plan Map 5, Policy 4 identifies the project vicinity as one where a harbor seal haul-out and pupping site allows "seals [to] rest, give birth and nurse their young" and, further, which 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 would result in the “taking” of any plant, fish or Not authorize projects that would 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 applicant 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 proposed project, including proposed project 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 turbidity monitoring for the proposed dredging. The applicants propose to enhance California least tern nesting habitat by providing sand at a tern nesting colony at Alameda Point located west of the proposed project site.

The National Marine Fisheries Service (NMFS) issued a biological opinion on October 31, 2012 concluding that the proposed project, including the dredging activity, would 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.

A small population of harbor seals (*Phoca vitulina*) occasionally use dilapidated pilings and docking facilities located adjacent to the site as a haul-out. This is not the only location that harbor seals use as a haul-out in the area. The western tip of Breakwater Island is a popular haul-out to the east of the project site. On February 10, 2015, NMFS issued an Incidental Harrassment Authorization (IHA) under the Marine Mammal Protection Act for the harassment of harbor seals and California sea lions from project impacts, including restrictions on vibratory pile driving and

pile removal. NMFS recommended several measures for minimizing and monitoring project impacts, yet did not recommend mitigation for the removal of the dilapidated structures used as a seal haul-out.

To further minimize impacts to harbor seals, WETA and the City entered into a Memorandum of Understanding that requires payment of up to $100,000 to plan, design, and construct an alternative seal haul-out at a location to be determined at a later date. The applicants formed a community working group, including an expert on harbor seals, to advise on the feasibility of an alternative haul-out and to identify potential locations. The installation of an alternative haul-out would likely require a separate permit from the Commission.

b. **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 would 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.

c. **Dredging.** The Bay Plan policies on dredging state, in part, "[d]redging should be authorized when the Commission can find: (a) the applicant 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 would 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 would 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 would 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 proposed project involves dredging up to approximately 47,100 cubic yards of sediment using a clamshell bucket at an approximately 242,240-square-foot area to a depth of -12 Mean Lower Low Water (MLLW) with two-foot over-dredge allowance (up to -14 MLLW) at state tidelands held by the City of Alameda.

The Dredged Material Management Office (DMMO), comprised of representatives of the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, BCDC, the RWQCB, the State Lands Commission, and the state and federal wildlife agencies, reviewed sediment test results for the proposed project and concluded, on July 26, 2012, that disposal would be appropriate at the San Francisco Deep Ocean Disposal Site (SF-DODS) or at a beneficial reuse site, such as Winter Island, Montezuma Wetlands, Cullinan Ranch, or the South Bay Salt Ponds. Based on the DMMO recommendations, the applicants propose to dispose of the dredged sediment either at SF-DODS or at an authorized beneficial reuse site.

The Commission should determine whether the project is consistent with its laws and policies regarding natural resources, including fish and wildlife, mitigation, water quality, and dredging.

B. **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) and, thus, the ECRB did not review the proposed project.

2. **Design Review Board.** Bay Plan Public Access Policy 12 states, "The Design Review Board should advise the Commission regarding the adequacy of the public access proposed." The Design Review Board (DRB) reviewed the proposed project on January 6, 2014. The DRB concluded that the proposed park improvements would provide a natural viewing area for ferry maintenance activity and that the proposed CBOM building would provide a natural terminus and orientation element to the Bay. The DRB encouraged the appli-

cants to provide a fence that would not inhibit public views of the Bay and to the ferry maintenance activities. The applicants designed the fencing and landscaping to provide views of the ferry maintenance activity and redesigned some of the landscaping associated with the West Hornet Avenue sidewalk in response to the DRB comments.

C. **Environmental Review.** WETA, as lead agency for the project, certified a Mitigated Negative Declaration for the project on June 2, 2011, The Initial Study/Mitigated Negative Declaration identified potentially significant impacts associated with the project including 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. Mitigation measures identified in the document and included in the project would reduce all potential impacts to a less-than-significant level.

On June 7, 2011, WETA filed a Notice of Determination advising the State Clearinghouse and Alameda County Clerk that the WETA Board had approved the project and adopted a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the project on June 2, 2011. On May 30, 2013, the Federal Transit Administration determined that the project qualified for a categorical exclusion pursuant to NEPA, 23 C.F.R. Part 771.118(d), which provides for FTA categorical exclusions.

D. **Relevant Portions of the McAteer-Petris Act**

1. Section 66602
2. Section 66605
3. Section 66632

E. **Relevant Portions of the Special Area Plans, Seaport Plan, etc.**

F. **Relevant Portions of the San Francisco Bay Plan**

1. *San Francisco Bay Plan* Policies on Fish, Other Aquatic Organisms, and Wildlife
2. *San Francisco Bay Plan* Policies on Water Quality
3. *San Francisco Bay Plan* Policies on Transportation
4. *San Francisco Bay Plan* Policies on Safety of Fill
5. *San Francisco Bay Plan* Policies on Public Access
6. *San Francisco Bay Plan* Policies on Appearance, Design and Scenic Views
7. *San Francisco Bay Plan* Policies on Shoreline Protection
8. *San Francisco Bay Plan* Policies on Mitigation
9. *San Francisco Bay Plan* Policies on Climate Change

Exhibits

Exhibit 1: Site photos and rendering

Exhibit 2: Site Context

Exhibit 3: Overall Development Plan

Exhibit 4: Landside Development Plan

Exhibit 5: Sea Level Rise Section – CBOM Facility

Exhibit 6: Sea Level Rise Section – City Park