

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

October 25, 2017

U.S. Department of the Interior
National Park Service
Golden Gate National Recreation Area
Fort Mason
San Francisco, California 94123

ATTENTION: Cicely Muldoon

SUBJECT: Consistency Determination No. C2017.005.00

Ladies and Gentlemen:

On September 15, 2017, the National Park Service submitted a conceptual proposal for the Alcatraz Embarkation Site project, in the City and County of San Francisco, and at Fort Baker, in Marin County, and requested that the Commission concur that the proposed project is consistent with its Amended Coastal Zone Management Program for San Francisco Bay. The Commission concurs with the determination of the NPS that the above-referenced project, in concept-only, is consistent with the Commission's Amended Management Program for San Francisco Bay. *As this is Phase 1 in a phased consistency determination process, before any work can occur on this project, the NPS and project partners will need to submit one or more subsequent consistency determinations in addition to obtaining any necessary permits.*

The Commission's Letter of Agreement for the subject consistency determination is attached. If you should have any questions regarding the attached Letter of Agreement or need any further assistance, please contact Ethan Lavine of my staff at 415/352-3618 or ethan.lavine@bcdcc.ca.gov.

Sincerely,



MARC A. ZEPPELLO

Chief Counsel

Enc.

MAZ/EL/ra

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

LETTER OF AGREEMENT FOR CONSISTENCY DETERMINATION NO. C2017.005.00

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I. Agreement

A. The San Francisco Bay Conservation and Development Commission (Commission) concurs with the determination of the National Park Service (NPS) that the following project, in-concept only, is consistent to the maximum extent practicable with the Commission's federally approved Coastal Zone Management Plan:

Location: Within the coastal zone as defined in the federal Coastal Zone Management Act (CZMA), at the Port of San Francisco Piers 31, 31 ½, and 33, at The Embarcadero, in the City and County of San Francisco, and at the federally-owned Fort Baker area within the Golden Gate National Recreation Area, adjacent to the City of Sausalito, Marin County.

Description: At Piers 31, 31 ½, and 33:

To renovate piers and an associated wharf facility in order to expand ferry service to NPS's Alcatraz Island, establish limited ferry service to Fort Baker, and facilitate other interpretive Bay cruises: (a) remove existing ferry service facilities; (b) repair the Pier 31 ½ marginal wharf; (c) install berthing facilities for three vessels, including gangways, floats, guide piles, and fender piles; (d) install passenger-serving facilities at Pier 31½, including ferry and ticket queuing areas covered by free-standing structures, interpretive exhibits, seating, and related infrastructure; (e) renovate the Piers 31 and 33 shed and bulkhead buildings to provide restrooms, operational storage, parking, food and beverage service, and retail space; and (f) conduct on-going, in-kind maintenance of these facilities.

At Fort Baker:

To establish ferry service and construct associated facilities: (a) repair a concrete pier; (b) install berthing facilities for one vessel, including a gangway, float, guide piles, and fender piles; (c) install a covered waiting

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area and interpretive exhibit located adjacent to the pier; (d) construct a pedestrian pathway connecting the pier to a nearby lodge and museum; and (e) conduct on-going, in-kind maintenance of these facilities.

B. Phased Consistency Determination and Conceptual Project. The conceptual project that is determined to be consistent to the maximum extent practicable with the Commission's federally authorized coastal management program is described in the NPS's request dated September 15, 2017 for the "Alcatraz Ferry Embarkation Project — San Francisco Pier 31 ½ and Fort Baker Pier Upgrades," and in materials submitted on May 23, 2017 describing the portion of the project located at Fort Baker, in Marin County, and on August 21, 2017 describing the portion of the project located at Piers 31, 31 ½, and 33 in the City and County of San Francisco.

This Letter of Agreement is given based on the information submitted by or on behalf of the NPS in its letter dated September 15, 2017—received in the Commission's office on September 18, 2017—including all exhibits and subsequent correspondence. The Commission's concurrence is for a conceptual project identified in the information provided by the NPS, and is for a phased consistency determination. Before any construction commences on the project, the NPS shall submit one or more subsequent consistency determinations.

C. Consistency Concurrence Expiration Date. The subject consistency determination is for the project at the concept level only. No work details were provided in the consistency determination and, for this reason, there is no commencement or expiration date for the project described herein.

II. Special Conditions

If the NPS does not agree with the following conditions or fails to incorporate them into the project, it shall notify the Commission immediately of its refusal to agree or to incorporate the conditions into the project and the conditional concurrence shall be converted into an objection by the Commission. The NPS shall also immediately notify the Commission if the NPS determines to go forward with the project despite such an objection.

A. Future Consistency Requests. The project described herein is for Phase 1 in concept only. The NPS shall submit future request(s) for consistency concurrence to the Commission to allow for its thorough consideration of the full and complete project. A request for consistency concurrence shall be submitted by the NPS for future planning, siting, and design phase(s) subject to the NPS' discretion prior to project commencement and construction.

B. Additional Project Information. For the Commission to be able to evaluate and concur that future consistency determinations on the subject conceptual project would be consistent with its Amended Management Program for San Francisco Bay, the NPS shall provide proposed (and ultimately final) project details regarding, but not limited to:

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1. Site design and programmatic details, including construction drawings, for all project elements within the two project areas;
2. Public access improvements and program(s), including design features of public access areas and public access operation, management, and maintenance plans of the NPS and/or other project sponsors;
3. Area and volume of the Bay affected by all proposed fill improvements, and mitigation and/or construction minimization measures to avoid and protect Bay resources; and
4. A risk assessment identifying potential flooding risks, including based on best estimates of future sea level rise, and analysis of the project's ability to address impacts that will arise during the life of the project.

III. Findings and Declarations

This consistency concurrence is given on the basis of the findings and declarations that the conceptual project as described in the NPS's September 15, 2017 request is consistent to the maximum extent practicable with the McAteer-Petris Act, the San Francisco Bay Plan, the San Francisco Waterfront Special Area Plan, and the Commission's Amended Coastal Zone Management Program for the San Francisco Bay for the following reasons:

A. **Phased Consistency Determination.** Because the NPS has not submitted plans of adequate detail for construction of any project element described herein and has requested a consistency determination for the project at a concept level, this consistency concurrence is limited to finding that the described conceptual project is consistent to the maximum extent practicable with the Commission's Amended Management Program for San Francisco Bay. As thorough and complete plans are developed for the project, the NPS will submit one or more subsequent consistency determinations for the project demonstrating that implementation would continue to be consistent to the maximum extent practicable with the management program.

B. **General Consistency with the Commission's Amended Management Program.** At Pier 31½ and Fort Baker, the project involves the replacement or installation of berthing facilities, the repair of a marginal wharf at Pier 31½, the removal and replacement of ferry service facilities at Pier 31 ½, the reuse of the Piers 31 and 33 bulkhead and shed buildings for ferry service, the development of public access amenities, and maintenance of these improvements. To date, NPS has provided conceptual plans for the project.

As described in-concept, a minor amount of fill will be placed in the Bay to expand berthing facilities at Pier 31 ½ and create a berth for one vessel at Fort Baker. The Commission may allow fill in the Bay when it meets the requirements identified in Section 66605 of the McAteer-Petris Act, which states in part, that: (a) the public benefits from fill must clearly exceed the public detriment from the loss of water areas, and the fill should be limited to water-oriented uses or minor fill for improving shoreline appearance and public access; (b) no alternative upland location is available; (c) the fill

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authorized should be the minimum necessary to achieve the purpose of the fill; (d) the fill should minimize harmful effects to the Bay including the water volume, circulation, fish and wildlife resources, and marsh fertility; and (e) the fill should be authorized when the applicant has valid title to the properties in question. The installation of berthing facilities for a ferry service is a water-oriented use for which no alternative upland location is available. When detailed plans are submitted for the Commission's future review, the precise fill quantities will be known and evaluated further, as required by the Special Conditions. However, the conceptual plans indicate a design that will result in the minimum necessary amount of fill to achieve the project's purpose. The conceptual project includes construction and operational measures to avoid or minimize the potential for adverse effects to aquatic resources. For example, prior to commencing construction, the NPS will consult with appropriate local, state, and federal agencies and secure all required permits and approvals. Further, the project contains mitigation measures that require work to comply with all required resource agency permit conditions, including any required work windows. Measures are included to avoid adverse effects to marine mammals and aquatic organisms, including monitoring for marine mammals, restrictions on activities that will generate excessive noise, and other measures to minimize impacts during construction. The construction of facilities is anticipated to be undertaken by the NPS' partners, including the Port of San Francisco, which controls the property at Piers 31, 31 ½, and 33, and will require a BCDC permit. The federal government controls the area in Horseshoe Bay where fill will be placed at Fort Baker Pier. Based on NPS's concept-level design, the fill associated with the project is consistent to the maximum extent practicable with the Commission's law and policies on Bay fill.

The conceptual project includes public access improvements at Piers 31, 31 ½, and 33 and at Fort Baker. The design includes a large public plaza, including sculptural seating elements, that provide a direct physical and visual connection from the Embarcadero and Herb Caen Way to the platform edge at Pier 31 ½. This represents a significant improvement over current conditions where passenger queuing and canopy structures impede views of the Bay and limit access to the water's edge at the marginal wharf. The new passenger cover structures on the marginal wharf will be low-scale in order to preserve views, and their siting behind the bulkhead buildings maintains the visual dominance of the historic bulkheads along the waterfront. The design of these structures will minimize shading of the on-pier public access areas while designing for the weather by providing cover from the elements for passengers as they wait to embark on their ferry. Finally, the design provides enhanced interpretation of the historical and cultural attributes of the site, and provides public restrooms and other needed public amenities. At Fort Baker, the concept design includes a pedestrian pathway and a small covered waiting area on the shoreline that will both include interpretive signs and displays. Only a small portion of the repaired pier is to be used for ferry operations, leaving the remainder of the improved pier available for fishing and sightseeing. The conceptual design indicates that the project, including access elements, will be designed to accommodate and be resilient to future sea level rise. The public access facilities at both locations are planned but not yet fully designed and, as required by the Special Conditions, will be the subject of one or more future consistency determinations to be submitted to the Commission by the NPS in this phased consistency approach. The conceptual design for Piers 31, 31 ½, and 33 is therefore

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consistent to the maximum extent practicable with the Commission's laws and policies on public access, including the geographic-specific policies of the San Francisco Waterfront Special Area Plan, in that the design concept provides significant public access improvements, expands access to and along the waterfront including at the platform edge, and enhances visual access to the Bay from the Embarcadero.

For all of the above reasons, the project, subject to the Special Conditions stated herein, is determined to be consistent with the San Francisco Bay Plan, the San Francisco Waterfront Special Area Plan, the McAteer-Petris Act, the Commission's Regulations, and the Commission's Amended Management Program for the San Francisco Bay segment of the California Coastal Zone. This determination is limited to the concept project, which represents Phase 1 of a phased federal consistency review. The Commission will review one or more future phases when submitted by the NPS and prior to any construction associated with the project to determine if it concurs that the development project or other activity continues to be consistent to the maximum extent practicable with the management program on the basis of the additional detail and project information provided at that time.

C. Environmental Review. Pursuant to the National Environmental Policy Act (NEPA), a Final Environmental Impact Statement (FEIS) was published in January 2017 describing the project and its potential impacts. A Record of Decision (ROD) was not issued at the time of the NPS' request for Commission concurrence with its determination.

D. Commission Review and Comment. The Commission, pursuant to the Coastal Zone Management Act of 1972, as amended (16 USC Section 1451), and the implementing federal regulations in 15 CFR Part 930, is required to review federal projects within San Francisco Bay and agree or disagree with the federal agency's determination that the project is consistent with the Commission's Amended Coastal Zone Management Program for San Francisco Bay. The subject Letter of Agreement constitutes such review and comment.

E. Listing. Pursuant to Regulation Section 10620, the project described herein was included in the Commission's Administrative Listing for a public meeting held on October 19, 2017. Phase 1 of this phased consistency determination generally involves routine repairs, reconstruction, replacement, removal and maintenance that do not involve any substantial enlargement or change in use, as defined in the Commission's Regulations Sections 10601(a)(6) and 10601(b)(5) and, therefore, are characterized as "minor repairs or improvements" for which an administrative consistency concurrence can be made. Future phases of the project will be reviewed independently to determine if the work and activity considered constitutes "minor repairs or improvements."

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Executed in San Francisco, California, on behalf of the San Francisco Bay Conservation and Development Commission on the date first above written.

LAWRENCE J. GOLDZBAND

Executive Director

San Francisco Bay Conservation and
Development Commission

By:



MARC A. ZEPPELLO

Chief Counsel

MAZ/EL/ra

cc: U. S. Army Corps of Engineers, Regulatory Section
San Francisco Bay Regional Water Quality Control Board, Certification Section
U.S. Environmental Protection Agency, Compliance and Enforcement Section
City and County of San Francisco, Planning Department