

## ATTACHMENT A

### 34<sup>th</sup> AMERICA'S CUP PROJECT

#### CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS: FINDINGS OF FACT, EVALUATION OF MITIGATION MEASURES AND ALTERNATIVES, AND STATEMENT OF OVERRIDING CONSIDERATIONS

#### SAN FRANCISCO BOARD OF SUPERVISORS

In determining to approve the 34<sup>th</sup> America's Cup Project described in Section I, Project Description, below, (referred to here as the "Project") the San Francisco Board of Supervisors ("Board") makes and adopts the following findings of fact and decisions regarding the Project and Project objectives, significant impacts, mitigation measures and alternatives, and adopts the statement of overriding considerations, based on substantial evidence in the whole record of this proceeding and under the California Environmental Quality Act ("CEQA"), California Public Resources Code Sections 21000 *et seq.*, particularly Sections 21081 and 21081.5, the Guidelines for Implementation of CEQA ("CEQA Guidelines"), 14 California Code of Regulations Sections 15000 *et seq.*, particularly Sections 15091 through 15093, and Chapter 31 of the San Francisco Administrative Code. These findings comprise **Attachment A** to Board Resolution No. ("Board Resolution"), dated March 27, 2012. The Board adopts these findings as part of the Board Resolution and has incorporated these findings therein by reference.

This document is organized as follows:

**Section I** provides a description of the Project proposed for adoption, the environmental review process for the Project, the approval actions to be taken, and the location of records;

**Section II** identifies the impacts found not to be significant that do not require mitigation;

**Section III** identifies potentially significant impacts that can be avoided or reduced to less-than-significant levels through mitigation and describes the disposition of the mitigation measures;

**Section IV** identifies significant impacts that cannot be avoided or reduced to less-than-significant levels and describes any applicable mitigation measures as well as the disposition of the mitigation measures;

**Section V** evaluates the different Project alternatives and the economic, legal, social, technological, and other considerations that support approval of the Project and the rejection of the alternatives or elements of the alternatives analyzed; and

**Section VI** presents a statement of overriding considerations setting forth specific reasons in support of the Commission's actions and its rejection of the alternatives not incorporated into the Project.

The Project has evolved throughout the environmental review process and subsequent public review process. The environmental effects of this Project are analyzed in the 34<sup>th</sup> America's Cup & James R. Herman Cruise Terminal and Northeast Wharf Final Environmental Impact Report, Case No. 2010.0493E, certified by the San Francisco Planning Commission on December 15, 2011 ("Final EIR"), and upheld by the Board of Supervisors on January 24, 2012 after the Board held a public hearing to review an appeal of the Final EIR. On December 16,

2011, the San Francisco Port Commission approved Port Resolution Nos. 11-79 and 11-80 approving CEQA findings and an America's Cup Project that was essentially analyzed as the "Reduced Intensity AC34 and Long Term Development Sub-Alternative." Since then, following Board public hearings held on February 20 and February 28, 2012, the Project Sponsor made substantial modifications to the America's Cup Project, reducing the number of event venue sites, and eliminating long-term development sites. After review of these modifications, the Environmental Planning Division of the San Francisco Planning Department issued a Note to File regarding Changes to the Environmental Impact Report ("Note to File"), dated March 20, 2012. The Note to File describes the potential environmental effects of the proposed modifications compared to the impacts identified in the EIR, and demonstrates that the proposed modifications would not result in any new significant environmental impacts or a substantial increase in the severity of previously identified environmental effects and would not require any new mitigation measures. A Mitigation Monitoring and Reporting Program ("MMRP") containing the Final EIR mitigation measures that have been proposed for adoption in association with the modified Project is attached as **Attachments B-1 and B-2** to Board Resolution No. \_\_\_\_\_. The MMRP is required by CEQA Section 21081.6 and CEQA Guidelines Section 15091. The MMRP provides a table setting forth each mitigation measure listed in the Final EIR that is required to reduce or avoid a significant adverse impact. The MMRP also specifies the agency responsible for implementation of each measure and establishes monitoring actions and a monitoring schedule. The full text of the mitigation measures is set forth in the MMRP.

These findings are based upon substantial evidence in the entire record before the Board. The references set forth in these findings to certain pages or sections of the Draft Environmental Impact Report ("Draft EIR"), the Comments and Responses document, and the Final EIR are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these findings. The Draft EIR and the Comments and Responses document, together with any Errata Sheets, comprise the Final EIR.

## **I. APPROVAL OF THE PROJECT**

### **A. Project Description**

By this action, the Board approves the Project, which comprises physical improvements, entertainment and spectator programming, and event operations planned for the 34<sup>th</sup> America's Cup ("AC34"), affecting various sites along the San Francisco Bay waterfront on properties under the jurisdiction of the Port Commission, the City and County of San Francisco and the National Park Service, as described in further detail below. The improvements and activities that constitute the Project are fully addressed in the Final EIR, including updates and refinements described in the March 20, 2012 Note to File.

The following discussion starts with a brief overview of the AC34 events, and the AC34 Host and Venue Agreement, which establishes the basis for AC34 venue site improvements, obligations and responsibilities. Following that discussion, a description of the Project elements is presented.

#### *AC34 Race Events*

A series of AC34-related yacht races will be held in San Francisco Bay in summer-fall 2012 (America's Cup World Series, and vessel exhibition races) and in summer-fall 2013 (Louis Vuitton Cup, America's Cup Challenger Series; potential America's Cup Defender Selection Series; and the Match). In addition, a Youth America's Cup series will be concurrently held in 2012 and 2013, along with a number of other pre- and post-race events. As described in detail in the Final EIR and Note to File, the number and level of facilities required to accommodate 2012 activities will be less than that planned to accommodate 2013 because the number of races, duration of

events, and spectator levels in 2012 will be less than in 2013. These venues would encompass all aspects of AC34 facilities and services needed to support the events; the venues would include team bases and operations, support space, media operations, hospitality services, sponsored commercial space, and entertainment and spectator areas.

Two World Series events will occur in the San Francisco Bay in August and October 2012. Each World Series will run approximately one week, with about 6 race days in each series, along with other activity days (i.e., test and media days), and rest days. AC34 2013 will include the Louis Vuitton Cup, America's Cup Challenger Series (ACCS); potential America's Cup Defender Series (ACDS); and the Match. Racing will culminate with the Match series between the Defender and the Challenger (winner of the ACCS), a best of nine matches. The races will start on July 4, 2013 and run through September 24, 2013 (including reserve days). The total number of race days is dependent on the number of teams competing, and if an ACDS is held, it is expected there would be a total of approximately 45 race days and 40 non-racing days during that 3-month period.

The primary race area, within which race courses would be set, is generally defined along San Francisco's northern waterfront, based on discussions between the ACRM and U.S. Coast Guard, and ongoing outreach conducted by the Coast Guard. In 2012, the race area will be generally between Pier 27-29 and the Golden Gate Bridge, south of Alcatraz Island. In 2013, the race area will be slightly larger, extending a short distance under Golden Gate Bridge, and including waters north of Alcatraz Island. The size of the primary race area is subject to further refinement by the Coast Guard.

#### *34<sup>th</sup> America's Cup Host and Venue Agreement (Host Agreement)*

On December 14, 2010, the Board of Supervisors for the City and County of San Francisco (City) endorsed a 34th America's Cup Host and Venue Agreement (Host Agreement)<sup>1</sup> with the America's Cup Event Authority, LLC (Event Authority)<sup>2</sup> and America's Cup Organizing Committee (ACOC),<sup>3</sup> as the City's formal bid to host AC34. On December 31, 2010, the Golden Gate Yacht Club (GGYC) selected San Francisco as the host city for AC34. Hereafter, the City and Event Authority are referred to collectively as the "Project Sponsors" for AC34. The Project Sponsors for AC34 propose improvements and services at several facilities and locations, to support AC34.

In addition to the provisions for AC34, the Host Agreement provides the Event Authority with certain long-term development rights as a means for recovering the investment in infrastructure work (Authority Infrastructure Work) to improve the AC34 venue sites. Subject to various contingencies, the Host Agreement states that if the Event Authority invests at least \$55 million in venue infrastructure before the Match race, the City will enter into

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<sup>1</sup> 34th America's Cup Host and Venue Agreement among the City and County of San Francisco, the America's Cup Event Authority, LLC, and the San Francisco America's Cup Organizing Committee. For a copy, please go to: [http://www.oewd.org/Development\\_Projects-Americas\\_Cup.aspx](http://www.oewd.org/Development_Projects-Americas_Cup.aspx). The Golden Gate Yacht Club, which holds the America's Cup, delegated to the Event Authority the right to select the venue for AC34. Certain capitalized, event-related terms used in this document are defined in the Host Agreement.

<sup>2</sup> The Event Authority is responsible for organizing and managing AC34, as well as marketing AC34 and identifying potential partners.

<sup>3</sup> The ACOC is a nonprofit volunteer group of local civic leaders who are responsible for certain obligations under the Host Agreement, including assisting the Event Authority in selling event sponsorships.

Disposition and Development Agreements (DDAs) with the Event Authority, under which the City will agree to lease to the Authority Piers 30-32 for a term of 66 years, and Seawall Lot 330 for a term of 75 years and possible sale under certain circumstances. The Host Agreement includes a balancing process under which the Event Authority may obtain additional long-term leases for one or more of the short-term venues if the cost of the pre-Match Authority Infrastructure Work exceeds \$55 million. The Host Agreement also includes provisions that could lead to long-term use of Piers 19, 23, and 29 and the Open Water Basins at Piers 32-36 and/or Piers 14-22½ after conclusion of the AC34 race events, if the Event Authority undertakes further infrastructure investment. Any DDA or long-term lease would first require approval by the Port Commission, and review and approval by the City through the Board of Supervisors.

The Host Agreement directs that any such future long-term development plans are required to undergo separate environmental review to comply with CEQA, when site-specific development program details are proposed. The completion of such future CEQA review will be required to support any permits and regulatory approvals associated with the long-term development improvements. The Final EIR includes a conceptual analysis of potential development of all of the above-noted sites taking into consideration: (1) the Port of San Francisco Waterfront Land Use Plan; (2) public trust considerations including public access standards; (3) the San Francisco Planning Code and Zoning Map; and (4) consistency with the Secretary of Interior's Standards for Historic Rehabilitation.

The modifications to the Project that is approved authorize use of properties for AC34 event use only, and do not allow any sites for long-term development use, nor long-term marina development rights. This includes reductions in infrastructure investment by the Event Authority for the AC34 event. Instead the parties have agreed to pursue a more targeted set of infrastructure improvements for the AC34 events, and a delivery mechanism where the Port directly pays for and performs the work, or in certain circumstances reimburses the Event Authority in cash for infrastructure work it performs on Port property. Rather than executing and approving the DDAs originally contemplated in the Host Agreement, the parties will execute, and this Board will approve, a Lease Disposition Agreement for the venue sites. Furthermore, the number of AC34 event sites is reduced from the venue program that was approved by the Port Commission in Port Resolution No. 11-80 on December 16, 2011. As described in the Note to File, the modified Project consists of AC34 events on the following: 1) Sites under Port Commission jurisdiction: Pier 19, Pier 19½, Pier 23, Piers 27-29½, East Park Pier located between Pier 35 and Pier 39, Piers 30-32, and Pier 80, Piers 19-23 water area, Piers 23-27-Northeast Wharf Open Water Basin, Piers 29-31 water area, Agriculture Building to Pier 14 water area, portion of Piers 14-22-1/2-Rincon Point Open Water Basin, and Piers 32-36-Brannan Street Wharf Open Water Basin.<sup>4,5</sup>; (2) Other sites under City and County of San Francisco jurisdiction: Marina Green, San Francisco Civic Center, Union Square, and Justin Herman Plaza; 3) Sites under National Park Service jurisdiction: San Francisco Maritime National Historical Park ("SAFR"), including Aquatic Park and Municipal Pier; and Fort Mason and Alcatraz Island in the Golden Gate National Recreation Area ("GGNRA").

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<sup>4</sup> The Bay Conservation and Development Commissions (BCDC)'s San Francisco Waterfront Special Area Plan (Special Area Plan or SAP) designates a number of water areas within its jurisdiction as "Open Water Basins," which have defined permitted uses and are subject to specific requirements for maintaining these areas as focal points along the waterfront.

<sup>5</sup> The "seawall" refers to the foundation upon which the waterfront was constructed and consists of a linear embankment of stone, concrete, and wood. The "bulkhead wharf" consists of the pile-supported platform that runs parallel to the seawall between piers and upon which bulkhead buildings, pier entrances and other supporting structures are constructed. The seawall is integrated with the bulkhead wharf to form a continuous, unifying structure. Seawall lots are parcels that are landward of the city's historic seawall, west of the Embarcadero.

Piers 27-29 will be the site of one of the primary AC34 venues in 2013 - the America's Cup Village ("AC Village"). Pier 27 also is the site for development by the Port of the James R. Herman Cruise Terminal and Northeast Wharf Project ("Cruise Terminal Project"). The Cruise Terminal Project will be coordinated with the AC34 Project to allow the initial phase of the cruise terminal building to be constructed and used as part of the AC Village for the 2013 America's Cup race events. The remainder of the cruise terminal improvements will be built out after the conclusion of AC34.

The Project encompasses all aspects of AC34 facilities and services needed to support the events, which are incorporated as part of the Project. The venues include team bases and operations, support space, media operations, hospitality services, sponsored commercial space, and entertainment and spectator areas. The number and/or use of venues planned for AC34 events in 2012 are different from that proposed in 2013 and are described in the Note to File. Below is a summary list of the uses by site included in the Project:

#### AC34 – 2012 Venues

- Marina Green (SFRPD) – Spectator viewing and AC Village, media center
- Marina Green West (SFRPD) – Spectator viewing, hospitality and exhibition
- Fort Mason (GGNRA/NPS) – Broadcast and media center, hospitality and exhibition
- San Francisco Maritime National Historical Park, including Aquatic Park (SAFR/NPS) – Upland video screens, spectator viewing and hospitality
- Alcatraz Island (GGNRA/NPS) – Private event special use, media operations
- Piers 43 and 45 (Port) - Small antenna for communications
- Piers 27-29 (Port) - Retail and exhibition space
- Piers 19, 19-1/2 and 23 (Port) - AC34 operations, support and media center
- Piers 30-32 (Port) – Team bases and team hospitality, and berthing
- Pier 80 (Port) – Team Bases (if no team bases at Pier 30-32, or if additional space is needed)
- Treasure Island (Treasure Island Development Authority) – Temporary helipad
- Justin Herman Plaza, Union Square, San Francisco Civic Center Plaza (City and SFRPD) – Live sites with outdoor television screens

#### AC34 2013 Venues

- Marina Green (San Francisco Recreation and Parks Department, "SFRPD") – Spectator viewing, hospitality and exhibition
- Marina Green West (SFRPD) – Spectator viewing, hospitality and exhibition
- Fort Mason (GGNRA/NPS) – Hospitality and exhibition space, and media operations
- San Francisco Maritime Historical Park, including Aquatic Park (SAFR/NPS) – Upland video screen, spectator viewing and hospitality
- Alcatraz Island (GGNRA/NPS) – Private event special use, media operations
- Piers 43 and 45 (Port) - Small antenna for communications
- East Park Piers between Piers 35 and 39 (Port) - Exhibition and hospitality
- Pier 27-29 and Northeast Wharf Open Water Basin (Port) – AC Village and vessel berthing
- Pier 19, 19-1/2, 23 and 29-1/2 (Port) – AC34 operations, media center, hospitality, and berthing
- Pier 9 and Broadway Open Water Basin (Port) – AC34 boat berthing
- Pier 14 North and Portion of Rincon Point Open Water Basin (Port) – AC34 boat berthing

- Pier 30-32 and Brannan Street Wharf Open Water Basin (Port) – Team bases and team hospitality and berthing
- Pier 80 (Port) – Ancillary team bases
- Treasure Island (Treasure Island Development Authority) – Temporary helipad
- Justin Herman Plaza, Union Square, San Francisco Civic Center Plaza (City and SFRPD) – Live Sites with outdoor television screens

The modified Project incorporates new information that updates or supplements certain aspects of the environmental setting, environmental analysis or mitigation measures previously presented in the Draft EIR project description, as described in the Final EIR and the Note to File. They include the following:

- Updated information on AC34 Implementation Plans – A summary of the Implementation Plans is provided below, which reflects refinements, and updated information that has been incorporated;
- Updates to potential fill removal sites associated with amendments to the BCDC San Francisco Waterfront Special Area Plan (SAP) for the AC34;
- Updated spectator and support boat estimates for AC34;
- Updated and augmented air quality analyses and mitigation measures for AC34;
- Certain AC34 operational modifications for the AC34 race events, including primary location of AC34 race area, and race schedule refinements;
- Certain AC34 project venue design modifications or reduced construction requirements at certain Port facilities, including Pier 80, Piers 30-32, Brannan Street Wharf Open Water Basin, Rincon Point Open Water Basin, Pier 14 North, Pier 9 South, Pier 19, Pier 19½, Pier 23, and Piers 27-29; and at other proposed spectator venues, including Marina Green, Fort Mason and Aquatic Park;
- Certain temporary public access improvements at Port facilities for the AC34 2013 events; and certain permanent post-AC34 event public access improvements on City and Port properties; and
- Certain changes in proposed amendments to the BCDC SAP for the AC34 project to increase public access and provide for additional public benefits such as fill removal.

### *Implementation Plans*

The Project includes approval of various Implementation Plans developed by the City, in consultation with the Event Authority. These Implementation Plans describe how specific aspects of the race events will be managed in 2012 and 2013. The services and operational strategies contained in the Implementation Plans will be implemented for the 2012 events and, based on experiences gained, may be refined and updated to incorporate lessons learned and improved practices for 2013 events. The following Implementation Plans, summarized below, have been informed by, and coordinated with, environmental impact and mitigation measures in the Final EIR, and are approved as part of the Project.

People Plan – The People Plan describes a safe, reliable and efficient traffic and transportation strategy to facilitate the movement of thousands of visitors on any day to and from the America's Cup events. It is oriented to minimize private automobile use and plans for expanded transportation access by multiple modes that connect visitors to AC34 events, as well as serve residents and workers in the affected areas who may not attend AC34 events. The People Plan includes provisions for temporary transit enhancements along the Embarcadero corridor, temporary transit service to certain AC34 venues, enhancements to regional transit systems, partial street closures

and support facilities to encourage pedestrian and bicycle access, and satellite parking locations with connections to public transit.

Parks Event Operations Plan - The Host Agreement states that as a further element of the People Plan, the City shall work with the Event Authority "to develop and implement a plan to secure certain of the on-shore spectator areas and the on-the-water spectator areas." The Parks Event Operations Plan focuses on the on-shore spectator venue sites and some secondary viewing areas, developed in consultation with the Event Authority and responsible jurisdictional authorities, including the NPS, California Department of Parks and Recreation, Presidio Trust, and San Francisco Recreation and Parks Department. Key considerations to be addressed in the Plan are crowd management, resource protection, safety, visitor comfort, visitor experience and post-event restoration. The Plan will direct cost-effective solutions and management functions address these issues, including description of roles and responsibilities of implementing entities. Certain aspects of the Parks Event Operations Plan are subject to further planning and environmental review under federal law in conjunction with the applicable federal land management agencies, and the plan will be updated accordingly when those reviews are complete.

Water and Air Traffic Plan - Consistent with the Host Agreement, the City developed a Water and Air Traffic Plan in consultation with the Event Authority and America's Cup Race Management and in cooperation with members of the Intergovernmental Task Force and/or other governmental authorities having relevant jurisdiction, particularly the United States Coast Guard and Federal Aviation Administration. The purpose of the Water and Air Traffic Plan is to provide guidelines for adequate and safe access to the race course area and provisions for use of the race course area by AC34-related water transportation, and boater information targeting boating operations that protect environmental and water quality of San Francisco Bay. The Water and Air Traffic Plan would include Special Local Regulations established by the U.S. Coast Guard to manage with on-going commercial operations on the Bay, including, but not limited to: cargo transport, commercial fishing, maintenance dredging, ferry boats, and cruise ships. The U. S. Coast Guard is currently developing those regulations, and the plan will be updated to reflect those regulations upon final adoption.

Zero Waste Plan - Consistent with the provisions of the Host Agreement, the Department of the Environment, in consultation with the Event Authority, the Port, GGNRA, and SAFR have developed a Zero Waste Plan (also referred to as the "Waste Management Plan") that sets forth recycling, composting and waste reduction measures to be implemented during the AC34 events, to meet or exceed the City's goals for landfill diversion. The Plan includes requirements for food and beverage vendors to use compostable and/or recyclable to-go food utensils and packaging, requirements for vendors to maintain adequate composting and recycling receptacles and service levels to meet demand for expected crowds, coordination with local recycling and composting collection firms to ensure adequate collection service, and prohibitions on the use of non-recyclable or non-compostable food service materials in event areas. In addition, the Zero Waste Plan includes procedures and specifications for portable restrooms and washing stations in public park and spectator areas.

Sustainability Plan: The Event Authority has developed an event Sustainability Plan, in consultation with the San Francisco Department of the Environment and other involved organizations. The Sustainability Plan is an overarching document covering event sustainability activities implemented by various organizations, including sustainability-related regulations required by the City and County of San Francisco, and onshore and offshore event sustainability activities, such as local employment, carbon emissions, waste, water, food, habitat protection and transport.

Team Base Operations Manual: The Event Authority, in consultation with the Port, will develop a Team Base Operations Manual that identifies all environmental and safety requirements, standards and best management practices that would be applicable to all proposed industrial-related practices at the team bases, including but not limited to boat fabrication and assembly, equipment and materials use and storage, and maintenance and cleaning activities. The Team Base Operations Manual would also contain a list of all applicable environmental and safety permits for AC34, including, but not limited to, those that may be required by the Regional Water Quality Control Board, Bay Area Air Quality Management District, and other jurisdictional agencies.

Public Safety Plan: The City has developed, in consultation with the Event Authority, a Public Safety Plan to address all reasonable safety and security measures (including emergency and rescue services) to protect the public, media, event related staff and competitors. The Public Safety Plan would include specific measures to ensure a high level of security within and around all elements of the event venues and within and around sensitive locations such as airports, rail, BART, and metro and bus stations.

Workforce Development Plan: As indicated in the Host Agreement, the Event Authority, in consultation with the City's Office of Economic and Workforce Development, has developed a local hiring plan consistent with Chapter 6.22 and Chapter 83 of the San Francisco Administrative Code. The Workforce Development Plan would include local hiring opportunities for San Francisco residents in certain required AC34-related infrastructure improvements, AC34 event staging, and other AC34 event-related activities.

Youth Involvement Plan: As indicated in the Host Agreement, the Event Authority has developed a Youth Involvement Plan in consultation with the Department of Children, Youth and Families. The plan would set forth the approach by which the Event Authority would incorporate and support sailing-related programs and activities, outreach, event internships, and other activities related to the event.

### *Port Tenant Relocation*

The Project requires the relocation of existing tenants currently leasing and occupying Port facilities that will be used for AC34 venues at Piers 30-32, Pier 19, Pier 19½, Pier 23, Piers 27-29 and Pier 29½, prior to the AC2012 event. Specific details regarding affected tenants and uses are described on pages 3-85 and 86 of the Final EIR. In support of these actions, the Port Commission approved a Tenant Relocation Plan, as required by state law, which sets forth relocation benefits available to those vacating facilities. The Board approved a new lease for Bauer Intelligent Transportation, which has relocated from Pier 27-29, on February 20, 2012.

### *BCDC Plan Amendments*

As part of the proposed AC34 project, the Port or the Event Authority has proposed amendments to the San Francisco Bay Conservation and Development Commission ("BCDC") Special Area Plan ("SAP", an element of the San Francisco Bay Plan). The proposed amendments are required to permit berthing on a temporary basis for AC34 events of large spectator yachts, race support vessels and smaller recreational boats within the following locations: 1) within the northern portion of the Rincon Point Open Water Basin (Piers 14- 22½); 2) Brannan Street Wharf Open Water Basin (Piers 32-36); 3) Broadway Open Water Basin (Piers 3-9); and 4) Northeast Wharf Open Water Basin (Piers 19-27). The proposed SAP amendments do not provide for any long-term berthing of large spectator yachts, or other vessels. The SAP amendments will include requirements to remove bay fill to compensate for the use of these Open Water Basins for berthing of AC34 boats, vessels and large spectator yachts. The Final EIR analyzes the following fill removal sites which are under review by BCDC: Pier ½, Pier 64, Islais Creek, Pier 98 Lash Terminal pier, Carmen's on China Basin Channel/Mission Creek.

## **B. Project Objectives**

The Project objectives are to:

- Establish San Francisco and San Francisco Bay's identity as a world-class venue for the sport of sailing and generate interest in the sport by hosting America's Cup World Series events in 2012 followed by successful America's Cup events in 2013

- Provide public viewing opportunities of the America's Cup and the America's Cup World Series live racing events at close range from various locations on the waterfront around Central San Francisco Bay to increase the general public's access to the event and expand the appeal of the sport of sailing to the general public
- Create a center of activity for the America's Cup and the America's Cup World Series by improving the existing resources of The Embarcadero and the San Francisco waterfront to establish a cohesive sense of place and identity for the AC34 participants (i.e., teams, event guests and staff, media personnel), visitors, and spectators of the events that enhance the landside viewing opportunities and provide adequate facilities for spectator vessels
- Provide infrastructure upgrades and other installations to improve existing facilities in consolidated areas for team base activities, spectator viewing, and entertainment venues, including the public piers along San Francisco's waterfront, for use during the America's Cup in 2013 and the America's Cup World Series in 2012, consistent with Port of San Francisco building code requirements and the Secretary of the Interior's Standards for the Treatment of Historic Properties (Secretary's Standards)
- Facilitate access to and from desired destinations based on smart transportation strategies presented in the America's Cup People Plan for the racing teams, event personnel, event sponsors, members of the media, and spectators, while satisfying the access needs of residents, workers, and visitors not associated with the races
- Emphasize natural resource stewardship by incorporating sustainability principles in the planning and management of all race events and operations, including zero waste strategies identified in the America's Cup Waste Management Plan
- Implement navigational and operational safety guidelines for race team, support, and spectator boat activities associated with the America's Cup and the America's Cup World Series that meet United States Coast Guard regulations, the America's Cup Protocol, and the safe limits of event boats and equipment; minimize conflicts with existing commercial maritime activities; and establish sustainable environmental practices and standards to help protect the ecological health of San Francisco Bay
- Encourage investment in infrastructure upgrades on Port property required to stage the America's Cup and the America's Cup World Series

## **C. Environmental Review**

### *Project Final EIR*

Pursuant to and in accordance with the requirements of Section 21094 of the Public Resources Code and Section 15152 of the CEQA Guidelines, the San Francisco Planning Department prepared a Final EIR for 34<sup>th</sup> America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Projects.

In accordance with Sections 15063 and 15082 of the CEQA Guidelines, the San Francisco Planning Department, as lead agency, published a Notice of Preparation ("NOP") on February 9, 2011, and conducted scoping meetings for the EIR on February 23 and 24, 2011. The NOP was circulated to local, state, and federal agencies and to other interested parties on February 9, 2011, initiating a public comment period that extended through March 11, 2011.

As indicated in the NOP, the EIR addressed the full range of environmental impacts of the Project. The NOP included a preliminary list of the potential environmental impacts. The NOP provided a general description of the Project, locations, and objectives (see Appendix NOP-1 in Volume 4 of the Final EIR for a copy of the NOP).

Pursuant to CEQA Guidelines Section 15083, the San Francisco Planning Department held two public scoping meetings on February 23, 2011 at the Port of San Francisco office at Pier 1, and on February 24, 2011 at San Francisco City Hall, both located in San Francisco. The purpose of the meetings was to present the proposed Project to the public and receive public input regarding the scope of the EIR analysis. Attendees were provided an opportunity to voice comments or concerns regarding potential effects of the Project.

The public scoping process and the comments received in response to the NOP yielded both written and oral comments. The comment letters, transcript of the scoping meeting, and reproductions of the comment cards are available for public review at the Environmental Planning Division of the San Francisco Planning Department, 1650 Mission Street, San Francisco, CA. The comments issued during the scoping meeting addressed concerns regarding land use, plans and policies, aesthetics, air quality, long term development, transportation, biological resources, cultural resources, hydrology and water quality, and cumulative impacts.

The San Francisco Planning Department then prepared the Draft EIR, which describes the Project and the environmental setting, identifies potential impacts, presents mitigation measures for impacts found to be significant or potentially significant, and evaluates Project alternatives. The Draft EIR analyzes the impacts associated with the Project, and identifies mitigation measures applicable to reduce impacts found to be significant or potentially significant. It also includes an analysis of four alternatives to the Project, including the No Project Alternative, a Reduced Berthing Alternative, an Open Ocean Alternative, and a Reduced Intensity Alternative. In assessing construction and operational impacts of the Project, the EIR also considers the combined effects of the Project with the James R. Herman Cruise Terminal and Northeast Wharf Project, and the contribution of Project impacts to cumulative impacts associated with the Project in combination with other past, present, and future actions with potential for impacts on the same resources.

Each environmental issue presented in the Draft EIR is analyzed with respect to significance criteria that are based on the San Francisco Planning Department Environmental Planning Division ("EP") guidance regarding the environmental effects to be considered significant. EP guidance is, in turn, based on CEQA Guidelines Appendix G, with some modifications.

On July 11, 2011, the Draft EIR was circulated to local, state, and federal agencies and to interested organizations and individuals for review and comment during a 45-day public review period, which closed on August 25, 2011. A public hearing was held by the Planning Commission on the Draft EIR to accept written or oral comments on August 11, 2011. During the public review period, the San Francisco Planning Department received 235 comment letters sent through the mail or email and 45 oral comments from speakers at the public hearings. A court reporter was present at the public hearing, transcribed the oral comments verbatim, and prepared a written transcript, which is provided in the Comments and Responses document, described below.

The Comments and Responses document was published on December 1, 2011, and it included copies of all of the comments received on the Draft EIR as well as responses to those comments. The Comments and Responses document provided additional, updated information, and clarification on issues raised by commenters. In addition, Chapter 11 of the Comments and Responses document included the description and analysis of an AC34 Project Variant, and a Reduced Intensity Sub-Alternative. The modified Project as defined herein is analyzed in the "Reduced Intensity AC34 and Long-Term Development Sub-Alternative" in the Final EIR, and in

the Note to File. The modified Project includes reductions in the amount of construction; fewer spectator venues; updated, reduced estimates of spectator boats associated with AC34 events; and additional air quality mitigation measures that reduce but do not eliminate the extent of significant air quality impacts described in the Draft EIR. The Final EIR concluded that either the Reduced Intensity Alternative or the Reduced Intensity Sub-Alternative were considered the environmentally superior alternative. However, due to the reduction in number of event sites and the elimination of long-term development and marina sites, the Project, as modified and analyzed in the Note to File, is now the environmentally superior alternative.

The Planning Commission reviewed and considered the Final EIR, which includes the Draft EIR, the Comments and Responses document, and all of the supporting information. The Final EIR also analyzed the potential effects of the Project on achieving the 34<sup>th</sup> America's Cup objectives specified in the Final EIR. In certifying the Final EIR by its Motion No. 18514, the Planning Commission determined that the Final EIR does not add significant new information to the Draft EIR that would require recirculation of the EIR under CEQA because the Final EIR contains no information revealing: (1) any new significant environmental impact that would result from the Project or from a new mitigation measure proposed to be implemented; (2) any substantial increase in the severity of a previously identified environmental impact; (3) any feasible project alternative or mitigation measure considerably different from others previously analyzed that would clearly lessen the environmental impacts of the Project, but that was rejected by the Project's proponents; or (4) that the Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. This Board upheld the Planning Commission's certification of the Final EIR on January 24, 2012 by its Motion No. M12-011. As discussed in the Note to File, the modified Project further reduces the number of event venue sites and excludes long-term development sites, which would result in a further reduction of environmental effects, and a reduction in required mitigation measures included in the MMRP. The Board concurs with the determination of the Planning Commission and the Planning Department's conclusion that the Project as revised has been considered and reviewed in the Final EIR, as required by CEQA, for the reasons set forth in the Note to File dated March 20, 2012. The Final EIR fully analyzed the Project proposed for approval by the Board. No new impacts have been identified that have not been analyzed in the Final EIR.

#### **D. Environmental Analysis of the Modified Project**

As discussed, the modified Project is fully analyzed in the Final EIR in the Comments and Responses document, Chapter 11, (referred to there as the "Reduced Intensity AC 34 and Long Term Development Sub-Alternative") and the Note to File. These analyses concluded that the potential environmental effects of the Project are similar to or less than the environmental effects of the Draft EIR AC34 Project. The differences in the project elements and the impacts and mitigation measures between the Project and the Draft EIR AC34 Project are summarized below.

The Project elements that differ from those in the Draft EIR AC34 project would either result in the same impacts as for the Draft EIR AC34 Project or would reduce impacts as compared to the Draft EIR project. The Comments and Responses document, Chapter 11, Section 11.3.2, Environmental Effects of the AC34 Project Variant, Section 11.5.2, Environmental Effects of the Reduced Intensity AC 34 and Long Term Development Sub-Alternative, Table 11-8, Comparison of the Significant Environmental Impacts of the Draft EIR AC34 Project and the Reduced Intensity AC 34 and Long Term Development Sub-Alternative, and the Note to File provide a summary of how the impacts and mitigation measures of the modified Project compare to the Draft EIR AC34 Project. In addition, Chapter 12.13 presents an updated air quality impact analysis that includes address of new air quality mitigation measures that will reduce the severity of significant effects by reducing Project emissions, although not to a less than significant effect.

In summary, the Project would have the same impacts as the Draft EIR Project except for the following reductions. The modified Project would reduce impacts on Cultural Resources and would not require implementation of Mitigation Measure M-CP-1a. In addition, it would avoid direct impacts at Pier 26, Pier 28 and Seawall Lot 330 because these sites have been withdrawn as venues for the AC34 event (no temporary or permanent facilities proposed); and would avoid direct impacts at Fort Baker at Cavallo Point and Crissy Field because these sites have been withdrawn from the Project as primary spectator venues (no temporary facilities or programmed activities proposed). Furthermore, because it would not include any long term pier and marina development rights, the modified Project would avoid all long-term development impacts at Piers 19, 19-1/2 and 23, 29, 26, 28, 30-32, 54, Seawall Lot 330 and the Rincon Point and Brannan Street Wharf Open Water Basins.

## **E. Approval Actions**

### *San Francisco Planning Commission*

- Certification of the Final EIR

### *San Francisco Port Commission*

- Approval of the AC34 project, Lease Disposition Agreement for AC34 venues, including improvements to Port property, and venue leases on Port property; adoption of CEQA findings and a Mitigation Monitoring and Reporting Program for each project

### *San Francisco Recreation and Park Commission*

- Approval of special use permit for San Francisco Marina and Marina Green, Justin Herman Plaza, Union Square and Civic Center Plaza

### *San Francisco Board of Supervisors*

- Consideration of any appeals of the Planning Commission's certification of the Final EIR
- Adoption of CEQA findings and a Mitigation Monitoring and Reporting Program
- Approval of agreements, if any, between CCSF and Event Authority regarding responsibilities for implementing actions to stage the AC34 events
- Approval of the AC34 project, including the Lease Disposition Agreement for AC34 venues, and the 34th America's Cup Host and Venue Agreement
- Formation of Infrastructure Financing District

### *United States Coast Guard*

- Issue a Marine Event Permit. Captain of the Port (COTP) issues marine event permits for activities including regattas, fireworks displays, and other events held on the navigable waters of the United States. AC34 marine events, including sailing races and fireworks displays, will require a marine event permit from the COTP.
- Issue Special Local Regulation (SLR). The COTP is authorized to establish regulations in conjunction with the AC34 race area that are deemed necessary to ensure safety of life on the navigable waters. Such regulations will aim to facilitate public safety, vessel traffic safety, and protection of the environment on waters of the Bay. The SLR will be incorporated into the Code of Federal Regulations and would apply to the AC34 events.

***Federal Aviation Administration***

- Determination of flight area requirements

***United States Army Corps of Engineers***

- Rivers and Harbors Act, Section 10 permit to authorize structures in navigable waters of the U.S.
- Marine Protection, Research and Sanctuaries Act of 1972, Section 103

***United States Fish and Wildlife Service***

- Consultation under Section 7 of the Federal Endangered Species Act, in conjunction with the federal permits above and the National Park Service permit and the U.S. Army Corps of Engineers Section 10 permit

***National Marine Fisheries Service***

- Consultation under Section 7 of the Federal Endangered Species Act, in conjunction with federal permits
- Incidental Harassment Authorization under the Marine Mammal Protection Act (MMPA)

***National Historic Preservation Act Section 106 Compliance***

- State Historic Preservation Officer consultation, in conjunction with federal permits

***National Park Service***

- Permits to use GGNRA and SAFR lands, including Fort Mason, Aquatic Park, and Alcatraz
- Historic preservation consultation with the National Park Service, Golden Gate National Recreation Area in accordance with its Programmatic Agreement with the State Historic Preservation Office

***Presidio Trust***

- Any permits that may be required for necessary area closures within its jurisdiction in the Presidio

***San Francisco Bay Conservation and Development Commission***

- Approval of *San Francisco Bay Plan*, *San Francisco Waterfront Special Area Plan* amendments
- Approval of one or more Administrative and Major Permits for fill and uses in San Francisco Bay and the Bay shoreline

***California State Lands Commission***

- Consultation regarding use plan, dredging lease, and Public Trust determination

***California Regional Water Quality Control Board, San Francisco Bay Region***

- Section 401 Water Quality Certification and any associated Waste Discharge Requirements; Construction General Permit coverage and Industrial Stormwater Permit Coverage, as applicable

***California Department of Fish and Game***

- California Endangered Species Act Take Assessment and possible 2081 Incidental Take Permit

*Bay Area Air Quality Management District*

- Authority to Construct and Permit to Operate applicable facilities

**F. Content and Location of Record**

The record upon which all findings and determinations related to the Project are based includes the following:

- The Draft EIR and all documents referenced in or relied upon by the Final EIR (The references in these findings to the EIR or Final EIR include both the Draft EIR and the Comments and Responses document and any Errata Sheets, and Note to File.)
- All information (including written evidence and testimony) provided by City staff before the Planning Commission and the Board relating to the Final EIR, the Note to File, the Project, and the alternatives set forth in the Final EIR.
- All information (including written evidence and testimony) presented to the Board and the Planning Commission by the environmental consultant and sub-consultants who prepared the EIR or incorporated into reports presented to the Board.
- All information presented at any public hearing or workshop related to the Project and the EIR.
- The Mitigation Monitoring and Reporting Program.
- All other documents available to the Board, Port Commission, the Planning Commission, and the Planning Department and the public, comprising the administrative record pursuant to Public Resources Code Section 21167.6(e).

The Board has relied on all of the documents listed above in reaching its decision on the Project, even if not every document was formally presented to the Board. A copy of all letters regarding the Draft EIR received during the public review period, the administrative record, and background documentation for the Final EIR, including the Note to File, are available at the San Francisco Planning Department, 1650 Mission Street, San Francisco. **Linda Avery** is the Custodian of Records for the Planning Department. Materials concerning approval of the Project and adoption of these findings maintained at the Port of San Francisco, Pier 1, San Francisco, are available at their office. The Custodian of Records for the Port of San Francisco is Amy Quesada. All files have been available to the Board and the public for review in considering these findings and whether to approve the Project.

**G. Findings about Significant Environmental Impacts and Mitigation Measures**

The following Sections II, III and IV set forth the Board's findings about the Final EIR's determinations regarding significant environmental impacts and the mitigation measures proposed to address them. These findings provide the written analysis and conclusions of the Board regarding the environmental impacts of the Project and the mitigation measures included as part of the Final EIR and adopted by the Board as part of the Project. To avoid duplication and redundancy, and because the Board agrees with, and hereby adopts, the conclusions in the Final EIR and the Note to File, these findings will not repeat the analysis and conclusions in the Final EIR and Note to File, but instead incorporate them by reference in these findings and rely upon them as substantial evidence supporting these findings.

In making these findings, the Board has considered the opinions of City staff and experts, other agencies, and members of the public. The Board finds that the determination of significance thresholds is a judgment decision within the discretion of the Board and the City and County of San Francisco; the significance thresholds used in the EIR are supported by substantial evidence in the record, including the expert opinion of the EIR preparers and City staff; and the significance thresholds used in the EIR provide reasonable and appropriate means of assessing the significance of the adverse environmental effects of the Project. Thus, although, as a legal matter, the Board is not bound by the significance determinations in the EIR (see Public Resources Code, Section 21082.2(e)), the Board finds them persuasive and hereby adopts them as its own.

These findings do not attempt to describe the full analysis of each environmental impact contained in the Final EIR. Instead, a full explanation of these environmental findings and conclusions can be found in the Final EIR and Note to File, and these findings hereby incorporate by reference that discussion and analysis supporting the determination regarding the Project impacts and mitigation measures designed to address those impacts. In making these findings, the Board ratifies, adopts, and incorporates in these findings the determinations and conclusions of the Final EIR and Note to File relating to environmental impacts and mitigation measures, except to the extent any such determinations and conclusions are specifically and expressly modified by these findings.

As set forth below, the Board adopts and incorporates all of the mitigation measures set forth in the Final EIR for the Project and the attached MMRP to substantially lessen or avoid the potentially significant and significant impacts of the Project. Because the Project has changed, the Board is not adopting all of the mitigation measures proposed for the original Project analyzed in the EIR. More detail is provided below on those mitigation measures. None of the impacts or mitigation measures for the long term development rights are included in this Attachment A, since no long term development rights are being approved as part of the modified Project. The Board intends to adopt each of the mitigation measures proposed in the Final EIR for the modified AC34 Project to reduce or eliminate significant impacts resulting from the Project. Accordingly, in the event a mitigation measure recommended in the Final EIR for the AC34 Project, as modified, has inadvertently been omitted in these findings or the MMRP, such mitigation measure is hereby adopted and incorporated in the findings below by reference. In addition, in the event the language describing a mitigation measure set forth in these findings or the MMRP fails to accurately reflect the mitigation measures in the Final EIR for the Project due to a clerical error, the language of the policies and implementation measures as set forth in the Final EIR shall control. The impact numbers and mitigation measure numbers used in these findings reflect the information contained in the Final EIR.

In the Sections II, III and IV below, the same findings are made for a category of environmental impacts and mitigation measures. Rather than repeat the identical finding to address each and every significant effect and mitigation measure, the initial finding obviates the need for such repetition because in no instance is the Commission rejecting the conclusions of the Final EIR and Note to File or the mitigation measures recommended in the Final EIR and Note to File for the Project.

## **II. IMPACTS FOUND NOT TO BE SIGNIFICANT AND THUS DO NOT REQUIRE MITIGATION**

Under CEQA, no mitigation measures are required for impacts that are less than significant (Public Resources Code, Section 21002; CEQA Guidelines, Sections 15126.4 (a)(3), 15091). The Final EIR and Note to File identified impact areas found not to be significant for the entire AC34 Project and/or certain major Project components as well as areas for which the Project had no impact or beneficial effects. Based on the evidence in the whole record of this proceeding, the Board finds that the implementation of the AC34 Project will result in less-than-significant

impacts (or, where indicated, no impact) in the following areas and that these impact areas, therefore, do not require mitigation.

### **Project-Level Impacts**

#### **Land Use**

- **Impact LU-1:** Construction and operation of the America's Cup facilities and events in 2012 and 2013 would not physically divide an established community.
- **Impact LU-2:** Construction and operation of the America's Cup facilities and events would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.
- **Impact LU-3:** Construction and operation of the America's Cup facilities and events would not have a substantial adverse effect on the existing character of the project sites and vicinities.

#### **Aesthetics**

- **Impact AE-1:** Construction and operation of the AC34 facilities and events would not have a substantial adverse effect on a scenic vista
- **Impact AE-2:** Construction and operation of the America's Cup facilities and events would not affect scenic resources (vistas, roadways, and designated scenic areas) or the visual character of the project sites and surroundings
- **Impact AE-3:** Construction and operation of the America's Cup facilities and events would not substantially damage scenic resources or other features of the built environment that contribute to a scenic public setting.
- **Impact AE-4:** Construction and operation of the America's Cup facilities and events would not create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area.

#### **Population and Housing**

- **Impact PH-1:** Construction and operation of the America's Cup facilities and events would not induce substantial population growth in the area, either directly (for example, by constructing new homes) or indirectly (for example, by establishing substantial new employment opportunities that attract employees to an area or through extension of roads or other infrastructure).
- **Impact PH-2:** Construction and operation of the America's Cup facilities and events would not displace existing housing units or create substantial demand for additional housing.

#### **Cultural and Paleontological Resources**

- **Impact CP-3:** Construction and operation of the proposed AC34 project would not directly or indirectly destroy a unique paleontological resource or site or unique geological feature.

#### **Transportation and Circulation**

- **Impact TR-13:** Implementation of the AC34 2012 events would have less than significant impacts at the signalized intersection of King/Fourth that would operate at LOS E under Existing plus AC34 2012 conditions, and unsignalized intersections of Jackson/Arguello and Pacific/Presidio where the worst approach would operate at LOS E or LOS F under Existing plus AC34 2012 conditions.
- **Impact TR-14:** Implementation of the AC34 2012 events would have less than significant impacts at 29 study intersections that would operate at LOS D or better under Existing plus AC34 2012 conditions.

- **Impact TR-28:** Implementation of the AC34 2012 events would have less than significant impacts on transit operations at secondary viewing areas.
- **Impact TR-29:** Implementation of the AC34 2012 events would not create potentially hazardous conditions for bicyclists or otherwise substantially interfere with bicycle accessibility to the project sites and adjoining areas.
- **Impact TR-30:** Implementation of the AC34 2012 events would not create potentially hazardous conditions for bicyclists or otherwise substantially interfere with bicycle accessibility at secondary viewing areas.
- **Impact TR-31:** Implementation of the AC34 2012 events would not result in substantial overcrowding on public sidewalks, create hazardous conditions for pedestrians, or otherwise interfere with pedestrian accessibility to the project site or adjoining areas.
- **Impact TR-32:** Implementation of the AC34 2012 events would not result in substantial overcrowding on public sidewalks, create hazardous conditions for pedestrians, or otherwise interfere with pedestrian accessibility at secondary viewing areas and Vicinity.
- **Impact TR-33:** Implementation of the AC34 2012 events would not result in a loading demand during the peak hour of loading activities that could not be accommodated within the proposed loading supply or within on-street loading zones.
- **Impact TR-34:** Implementation of the AC34 2012 events would not result in a significant emergency vehicle access impact.
- **Impact TR-35:** Implementation of the AC34 2012 events would not result in construction-related transportation impacts because of their temporary and limited duration.
- **Impact TR-36:** The AC34 2012 events would not result in significant transportation impacts in combination with ongoing and upcoming construction projects in the City and its vicinity.
- **Impact TR-56:** Implementation of the AC34 2013 events would have less than significant impacts at the two unsignalized intersections of Jackson/Arguello and Pacific/Presidio where the worst approach would operate at LOS E or LOS F under Existing plus AC34 2013 conditions.
- **Impact TR-57:** Implementation of the AC34 2013 events would have less than significant impacts at 24 study intersections that would operate at LOS D or better under Existing plus AC34 2013 conditions.
- **Impact TR-71:** Implementation of the AC34 2013 events would have less than significant impacts on transit operations at secondary viewing areas.
- **Impact TR-72:** Implementation of the AC34 2013 events would not create potentially hazardous conditions for bicyclists or otherwise substantially interfere with bicycle accessibility to the project site and adjoining areas.
- **Impact TR-73:** Implementation of the AC34 2013 events would not create potentially hazardous conditions for bicyclists or otherwise substantially interfere with bicycle accessibility at secondary viewing areas.
- **Impact TR-74:** Implementation of the AC34 2013 events would not result in substantial overcrowding on public sidewalks, create hazardous conditions for pedestrians, or otherwise interfere with pedestrian accessibility to the project site or adjoining areas.
- **Impact TR-75:** Implementation of the AC34 2013 events would not result in substantial overcrowding on public sidewalks, create hazardous conditions for pedestrians, or otherwise interfere with pedestrian accessibility at secondary viewing areas.
- **Impact TR-76:** Implementation of the AC34 2013 events would not result in a loading demand during the peak hour of loading activities that could not be accommodated within the proposed loading supply or within on-street loading zones.
- **Impact TR-77:** Implementation of the AC34 2013 events would not result in a significant emergency vehicle access impact.

- **Impact TR-78:** Implementation of the AC34 2013 events would not result in construction-related transportation impacts because of their temporary and limited duration.
- **Impact TR-79:** The AC34 2013 events would not result in significant transportation impacts in combination with ongoing and upcoming construction projects in the City and its vicinity

#### Air Quality

- **Impact AQ-1:** Construction of the America's Cup facilities would not result in localized construction dust-related air quality impacts.
- **Impact AQ-6:** Construction and operation of the America's Cup facilities would not conflict with or obstruct implementation of applicable air quality plans.
- **Impact AQ-7:** Construction and operation of the America's Cup facilities would not create objectionable odors affecting a substantial number of people.
- **Impact AQ-8:** Operation of the America's Cup facilities would not result in an increase in localized carbon monoxide concentrations in excess of state or federal standards.

#### Shadow

- **Impact SH-1:** Construction and operation of the AC34 facilities would not create new shadow in a manner that would substantially affect outdoor recreation facilities or other public areas.

#### Utilities and Service Systems

- **Impact UT-1:** Construction and operation of the America's Cup facilities and events would not increase wastewater generation to the extent that would exceed the treatment requirements of the Regional Water Quality Control Board.
- **Impact UT-2:** The America's Cup facilities and events would not require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities.
- **Impact UT-3:** The America's Cup facilities and events would require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which would not cause significant environmental effects.
- **Impact UT-4:** The City and County of San Francisco would have sufficient water supply available to serve the America's Cup facilities and events from existing entitlements and resources and would not require new or expanded water supply resources or entitlements.
- **Impact UT-5:** The America's Cup facilities and events would not result in a determination by the wastewater treatment providers that would serve the project that they have inadequate capacity to serve the project's projected demand in addition to the providers' existing commitments.
- **Impact UT-6:** The America's Cup facilities and events would be served by landfills with sufficient permitted capacity to accommodate the project's solid waste disposal needs.
- **Impact UT-7:** The America's Cup facilities and events would comply with federal, state, and local statutes and regulations related to solid waste.

#### Public Services

- **Impact PS-1:** Construction and operation of the America's Cup facilities and events would not result in substantial adverse physical impacts associated with the provision of or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for emergency medical services.
- **Impact PS-2:** Construction and operation of the America's Cup facilities and events would not result in substantial adverse physical impacts associated with the provision of or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts,

in order to maintain acceptable service ratios, response times, or other performance objectives for fire protection services.

- **Impact PS-3:** Construction and operation of the America's Cup facilities and events would not result in substantial adverse physical impacts associated with the provision of or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for law enforcement services.

#### **Biological Resources - Upland Biological Resources**

- **Impact BI-5:** The America's Cup facilities and events would not conflict with any applicable local policies or ordinances protecting upland biological resources.

#### **Geology and Soils**

- **Impact GE-1:** Construction and operation of the AC34 facilities and events would not expose people or structures to substantial adverse effects related to fault rupture.
- **Impact GE-4:** Construction and operation of the AC34 facilities would not result in substantial slope instability or expose people or structures to substantial adverse effects related to earthquake-induced landslides.
- **Impact GE-5:** Construction and operation of the AC34 facilities would not result in substantial erosion or loss of topsoil.

#### **Hydrology and Water Quality**

- **Impact HY-2:** Operation of the America's Cup facilities would not exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff.
- **Impact HY-3:** The America's Cup events and facilities would not place structures within a 100-year flood hazard area that would impede or redirect flood flows, and would not expose people to a significant risk involving flooding.
- **Impact HY-4:** The America's Cup events and facilities would not expose people or structures to a significant risk of loss, injury, or death involving inundation by seiche or tsunami.

#### **Hazards and Hazardous Materials**

- **Impact HZ-2:** Construction and operation of the America's Cup facilities and events would not create a significant hazard to the public or the environment as a result of a release of hazardous materials in soil, or location of project activities on a government list of hazardous materials sites.
- **Impact HZ-4:** The America's Cup events and facilities would not expose people or structures to a significant risk of loss, injury, or death involving fires, nor would it impair implementation of or physically interfere with and adopted emergency response plan or emergency evacuation plan.

#### **Minerals and Energy Resources**

- **Impact ME-1:** The America's Cup facilities and events would not encourage activities that would result in the use of large amounts of fuel, water, or energy, or use these in a wasteful manner.

#### **Agriculture and Forest Resources**

- **Impact AG-1:** Construction and operation of AC34 facilities and events would not (a) convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance; (b) conflict with existing zoning for agricultural use, or a Williamson Act contract; (c) conflict with existing zoning for or cause rezoning of forest land or timberland; (d) result in the loss of forest land or conversion of forest land to non-forest use;

or (e) involve other changes in the existing environment that, due to their location or nature, could result in conversion of Farmland to non-agricultural use or forest land to non-forest use.

### **Cumulative Impacts**

The Project would result in a less than considerable contribution to cumulative impacts for the following impacts:

#### **Land Use**

- **Impact C-LU:** The projects, in combination with other past, present, and reasonably foreseeable future projects, would not result in significant adverse cumulative land use impacts.

#### **Aesthetics**

- **Impact C-AE:** The projects, in combination with other past, present, and reasonably foreseeable future projects, would not result in significant adverse cumulative impacts on visual quality.

#### **Population and Housing**

- **Impact C-PH:** The projects, in combination with other past, present, and reasonably foreseeable future projects, would not result in significant adverse cumulative impacts on population and housing.

#### **Green House Gas**

- **Impact C-GG:** The proposed projects would not generate greenhouse gas emissions at levels that would result in a significant impact on the environment or conflict with any policy, plan, or regulation adopted for the purpose of reducing greenhouse gas emissions.

#### **Wind**

- **Impact C-WI:** The projects, in combination with other past, present, and reasonably foreseeable future projects, would not result in significant adverse cumulative wind impacts.

#### **Shadow**

- **Impact C-SH:** The projects, in combination with other past, present, and reasonably foreseeable future projects, would not result in significant adverse cumulative shadow impacts.

#### **Recreation**

- **Impact C-RE:** The projects, in combination with other past, present, and reasonably foreseeable future projects, would not result in significant adverse cumulative recreation impacts.

#### **Utilities and Service Systems**

- **Impact C-UT:** The proposed projects, combined with past, present, and reasonably foreseeable future projects, would not result in significant adverse cumulative impacts on utilities or service systems.

#### **Public Services**

- **Impact C-PS:** The projects, in combination with other past, present, and reasonably foreseeable future projects, would not result in significant adverse cumulative impacts on public services.

#### **Biological Resources - Upland Biological Resources**

- **Impact C-BIa:** The projects, in combination with other past, present, and reasonably foreseeable future projects, would not result in significant adverse cumulative impacts on upland biological resources.

#### **Geology and Soils**

- **Impact C-GE:** The projects, in combination with other past, present, and reasonably foreseeable future projects, would not result in significant adverse cumulative impacts related to geology and soils.

#### **Minerals and Energy Resources**

- **Impact C-ME:** The projects, in combination with other past, present, and reasonably foreseeable future projects, would not result in significant adverse cumulative impacts on mineral or energy resources.

#### **Agriculture and Forest Resources**

**Impact C-AG:** The projects, in combination with other past, present, and reasonably foreseeable future projects, would not result in significant adverse cumulative impacts on agricultural or forest resources.

As discussed in the Note to File, modifications that have been made to the Project include the elimination of long-term development rights for piers and upland facilities and new long term marinas in land or water areas under Port jurisdiction. Therefore the impacts analyzed in the Final EIR for the Reduced Intensity and Long-Term Development Sub-alternative, listed below, will no longer occur:

**Impact LT-LU:** Long-term development under the Host Agreement would not physically divide an established community or result in incompatible changes to land use character. However, long-term marina development in the Rincon Point and Brannan Street Wharf Open Water Basins would conflict with BCDC policies adopted for the purpose of mitigating environmental effects.

**Impact LT-AE:** Long-term development on Port properties would not result in impacts on visual quality.

**Impact LT-PH:** Future long-term development under the Host Agreement would not result in significant adverse population and housing impacts.

**Impact LT-CP-1:** Long-term development could result in redevelopment of existing Port properties at Piers 30-32, which could result in a significant impact to cultural resources.

**Impact LT-CP-2:** Long-term development could result in redevelopment of existing Port properties within the Embarcadero Historic District, which could result in a significant impact to cultural resources.

**Impact LT-TR:** Long-Term Development under the Host Agreement would result in significant traffic and transit impacts.

**Impact LT-NO:** Long-term development on Port properties could result in impacts on noise.

**Impact LT-AQ:** Long term development on Port properties under the Host Agreement could result in construction and operational air pollutant emissions.

**Impact LT-GG:** Long-term development on Port properties under the Host Agreement would not result in greenhouse gas emissions at levels that would result in a significant impact on the environment or conflict with any policy, plan, or regulation adopted for the purpose of reducing greenhouse gas emissions.

**Impact LT-WI:** Long-term development under the Host Agreement could alter wind in a manner that substantially affects public areas.

**Impact LT-SH:** Long-term development under the Host Agreement would not result in new structures with the potential to cast shadows on existing or proposed parks and open space in a manner that would have an adverse effect on the use of the open space.

**Impact LT-RE:** Future long-term development under the Host Agreement would not result in potential recreation impacts.

**Impact LT-UT:** Future long-term development under the Host Agreement would not result in substantial increased demand for utility services.

**Impact LT-PS:** Future long-term development under the Host Agreement would not result in impacts on public services.

**Impact LT-BIa:** Long-term development could result in impacts on upland biological resources.

**Impact LT-BIb:** Long-term development could result in impacts on marine biological resources.

**Impact LT-GE:** Future long-term development under the Host Agreement could result in adverse geology and soils impacts.

**Impact LT-HY:** Future long-term development under the Host Agreement could result in hydrology and water quality impacts.

**Impact LT-HZ:** Future long-term development under the Host Agreement could result in potential hazards and hazardous materials impacts.

**Impact LT-ME:** Future long-term development under the Host Agreement would not result in adverse impacts on mineral or energy resources.

**Impact LT-AG:** Long-term development would not result in impacts on agricultural or forest resources.

### **III. FINDINGS OF POTENTIALLY SIGNIFICANT IMPACTS THAT CAN BE AVOIDED OR REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL THROUGH MITIGATION AND THE DISPOSITION OF THE MITIGATION MEASURES**

CEQA requires agencies to adopt mitigation measures that would avoid or substantially lessen a project's identified significant impacts or potential significant impacts if such measures are feasible (unless mitigation to such levels is achieved through adoption of a project alternative). The findings in this Section III and in Section IV concern impacts and mitigation measures set forth in the Final EIR. These findings discuss mitigation measures as proposed in the EIR and recommended for adoption by the Board that can be implemented by the Project Sponsors. The mitigation measures proposed for adoption in this section are the same as the mitigation measures identified in the Final EIR for the Sub-Alternative, except for mitigation measures to address long-term development sites which have been eliminated from the Project and thus do not apply. The full explanation of the potentially significant environmental impacts is contained in Chapters 5 and 6 of the Final EIR, (and in text changes to Chapter 5 found in Chapter 13 of the Final EIR) and in the Note to File. The full text of the mitigation

measures is contained in the Final EIR in Chapter 5 with modifications indicated in Chapter 13 and in **Attachments B-1 and B-2, to Board Resolution, the Mitigation Monitoring and Reporting Program (MMRP)**. The MMRP also specifies the agency responsible for implementation of each measure, establishes monitoring actions and a monitoring schedule.

This Board recognizes that some of the mitigation measures as explained below are partially within the jurisdiction of other agencies, including the U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, California Department of Fish and Game, San Francisco Bay Regional Water Quality Control Board, Bay Area Air Quality Management District, Marin County, and San Francisco Planning Department. The Board urges these agencies to assist in implementing these mitigation measures, and finds that these agencies can and should participate in implementing these mitigation measures.

For purposes of these findings, significant project impacts have been organized into two categories: project impacts and cumulative impacts. The Board adopts all of the mitigation measures proposed for the modified Project, which exclude measures to address long-term development. The Board finds that all of the mitigation measures are appropriate and feasible and that changes or alterations will be required in, or incorporated into, the modified Project that mitigate or avoid the significant environmental effects as identified in the Final EIR. Based on the analysis contained in the Final EIR, other considerations in the record, and the standards of significance, the Board finds that implementation of all of the proposed mitigation measures will reduce the potentially significant impacts discussed in this Section III to a *less-than-significant* level.

### **Project-Level Impacts**

#### **Cultural and Paleontological Resources**

- **Impact CP-1:** Construction and operation of the proposed AC34 project could cause a substantial adverse change in the significance of a historic resource.
  - *Mitigation Measure M-CP-1b: Protection of Historic Resources due to Indirect Damage*
  - *Mitigation Measure M-CP-1c: Protection of Historic Resources due to Direct Damage*
  - *Mitigation Measure M-CP-1d: Protection of the Northeast Waterfront Historic District from Teatro Zinzanni Relocation*
  - *Mitigation Measure M-NO-3: Pre-Construction Assessment to Minimize Structural Pile-Driving Vibration Impacts on Adjacent Historic Buildings and Structures and Vibration Monitoring*
- **Impact CP-2:** Construction and operation of the proposed AC34 project could cause a substantial adverse change in the significance of an archeological resource, including shipwrecks.
  - *Mitigation Measure M-CP-2: Inadvertent Discovery of Archeological Resources or Shipwrecks*
- **Impact CP-4:** Construction and operation of the proposed AC34 project could disturb any human remains, including those interred outside of formal cemeteries.
  - *Mitigation Measure M-CP-4: Inadvertent Discovery of Human Remains*

#### **Noise**

- **Impact NO-1:** Construction of the America's Cup facilities could result in exposure of persons to or generation of noise levels in excess of standards established in the *San Francisco General Plan* or San Francisco Noise Ordinance or result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.
  - *Mitigation Measure M-NO-1a: Noise Controls During Construction*
  - *Mitigation Measure M-NO-1b: Pile Driving Noise-Reducing Techniques and Muffling Devices*

- *Mitigation Measure M\_BI-11a: Impact Hammer Pile Driving Noise Reduction for Protection of Fish*
- **Impact NO-3:** Construction and operation of the America's Cup facilities could result in exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels.
  - *Mitigation Measure M-NO-3: Pre-Construction Assessment to Minimize Structural Pile-Driving Vibration Impacts on Adjacent Historic Buildings and Structures and Vibration Monitoring*
  - *Mitigation Measure M\_BI-11a: Impact Hammer Pile Driving Noise Reduction for Protection of Fish*

#### Wind

- **Impact WI-1:** Construction and operation of the AC34 facilities and events could alter wind in a manner that substantially affects public areas.
  - *Mitigation Measure M-WI-1: Warning Signs and/or Limiting Access on the Eastern Aprons of Piers 27-29 During Hazardous Wind Events.*

#### Recreation

- **Impact RE-1:** The America's Cup facilities and events could increase the use of parks and recreational facilities such that substantial physical deterioration of the facilities could occur or otherwise result in physical degradation of existing recreational resources.
  - *Mitigation Measure M-RE-1: Protection of Recreational Resources.*

#### Biological Resources – Upland Biological Resources

- **Impact BI-1:** The America's Cup facilities and events could have a substantial adverse effect, either directly or through habitat modifications, on upland species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.
  - *Mitigation Measure M-BI-1a: Protecting Sensitive Areas for Mission Blue Butterfly*
  - *Mitigation Measure M-BI-1b: Protecting Listed and Other Special Status Plant Areas*
  - *Mitigation Measure M-BI-1c: Protecting the Crissy Beach Wildlife Protection Area (WPA)*
  - *Mitigation Measure M-BI-1d: Protecting Offshore Portion of the Wildlife Protection Area (WPA)*
  - *Mitigation Measure M-BI-1e: Restrictions on Fireworks and Night Lighting*
- **Impact BI-2:** The America's Cup facilities and events could have a substantial adverse effect on riparian habitat or other sensitive natural upland community identified in local or regional plans, policies, or regulations.
  - *Mitigation Measure M-BI-2: Signage at Sensitive Natural Community Areas; "No Spectator" Zone on Yerba Buena Island*
  - *Mitigation Measure M-BI-1b: Protecting Listed and Other Special Status Plant Areas*
  - *Mitigation Measure M-BI-1c: Protecting the Crissy Beach Wildlife Protection Area (WPA)*
- **Impact BI-3:** The America's Cup facilities and events could have a substantial adverse effect on federally protected wetlands or navigable waters.
  - *Mitigation Measure M-BI-3: Signage at Wetland Sites*
- **Impact BI-4:** The America's Cup facilities and events could interfere with the movement of native upland wildlife species or with established native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites.
  - *Mitigation Measure M-BI-4a: Restrictions on Spectator Craft within Race Course Boundaries*
  - *Mitigation Measure M-BI-4b: Offshore Buffers for Breeding Birds and Snowy Plover*

- *Mitigation Measure M-BI-4c: Protection for Breeding Birds on Piers and Associated Structures*
- *Mitigation Measure M-BI-4d: Protection for Bat Roosts on Piers and Associated Structures*
- *Mitigation Measure M-BI-4e: Protection for Colonial Breeding Birds on Alcatraz*

### **Biological Resources – Marine Resources**

- **Impact BI-11:** The America's Cup facilities and events could have a substantial adverse effect, either directly or through habitat modifications, on marine or estuarine species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations or by the California Department of Fish and Game, U.S. Fish and Wildlife Service, or National Marine Fisheries Service.
  - *Mitigation Measure M-BI-11a: Impact Hammer Pile Driving Noise Reduction for Protection of Fish*
  - *Mitigation Measure M-BI-11b: Pile Driving Noise Reduction for Protection of Marine Mammals*
  - *Mitigation Measure M-BI-11c: Floating Dock Night Lighting*
- **Impact BI-12:** The America's Cup facilities and events could have a substantial adverse effect on sensitive marine or estuarine natural communities identified in local or regional plans, policies, or regulations.
  - *Mitigation Measure M-BI-12: Visiting Mariners Information*
- **Impact BI-13:** The America's Cup facilities and events could have a substantial adverse effect on eelgrass beds, federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.
  - *Mitigation Measure M-BI-12: Visiting Mariners Information*
- **Impact BI-14:** The America's Cup facilities and events could interfere with the movement of native marine or estuarine wildlife species or with established native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites.
  - *Mitigation Measure M-BI-14: Restrictions on Low-Flying Aircraft*
  - *Mitigation Measure M-BI-11a: Impact Hammer Pile Driving Noise Reduction for Protection of Fish*
  - *Mitigation Measure M-BI-11b: Pile Driving Noise Reduction for Protection of Marine Mammals*
  - *Mitigation Measure M-BI-11c: Floating Dock Night Lighting*
  - *Mitigation Measure M-BI-12: Visiting Mariners Information*
- **Impact BI-15:** The America's Cup facilities and events could conflict with applicable local policies or ordinances protecting marine or estuarine biological resources.
  - *Mitigation Measure M-BI-11a: Floating Dock Night Lighting*
  - *Mitigation Measure M-BI-11b: Impact Hammer Pile Driving Noise Reduction for Protection of Fish*
  - *Mitigation Measure M-BI-11c: Pile Driving Noise Reduction for Protection of Marine Mammals*
  - *Mitigation Measure M-BI-12: Visiting Mariners Information*
  - *Mitigation Measure M-BI-14: Restrictions on Low-Flying Aircraft*
- **Impact BI-16:** The America's Cup facilities and events could conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan for marine or estuarine resources.
  - *Mitigation Measure M-BI-16: Invasive Marine Species Control*
  - *Mitigation Measure M-BI-12: Visiting Mariners Information*

### **Geology and Soils**

- **Impact GE-2:** Construction and operation of the AC34 facilities and events could expose people or structures to substantial adverse effects related to groundshaking.
  - *Mitigation Measure M-GE-2: Site-Specific Geotechnical Investigation*
- **Impact GE-3:** Construction and operation of the AC34 facilities and events could expose people or structures to substantial adverse effects related to liquefaction, lateral displacement, or earthquake-induced settlement.
  - *Mitigation Measure M-GE-2: Site-Specific Geotechnical Investigation*
- **Impact GE-6:** The AC34 activities could occur on structures that are unstable, or that could become unstable as a result of the project.
  - *Mitigation Measure M-GE-6: Signage and Restricted Access at Structurally Unsound Viewing Locations*

### Hydrology and Water Quality

- **Impact HY-1:** Construction and operation of the America's Cup (2012 and 2013) facilities and events could violate water quality standards or waste discharge requirements or otherwise substantially degrade water quality.
  - *Mitigation Measure M-HY-1: Water Quality Best Management Practices*
  - *Mitigation Measure M-BI-12: Visiting Mariners Information*
  - *Mitigation Measure M-BI-16: Invasive Marine Species Control at Port Facilities*

### Hazards and Hazardous Materials

- **Impact HZ-1:** Construction and operation of the America's Cup facilities and events could have a substantial adverse effect related to the routine transport, use, or disposal of hazardous materials.
  - *Mitigation Measure M-BI-12: Visiting Mariners Information*
- **Impact HZ-3:** Construction and operation of the America's Cup facilities and events could create a significant hazard to the public or the environment as a result of a release of hazardous building materials in structures that would be demolished and creosote-treated pilings and structures that would be removed.
  - *Mitigation Measure M-HZ-3: Removal of Hazardous Building Materials*

### Cumulative Impacts

The Project would make a considerable contribution to cumulative impacts, which could be reduced to a *less-than-significant* level with the implementation of Project mitigation measures for the following impacts.

### Cultural and Paleontological Resources

- **Impact C-CP:** The AC34 and Cruise Terminal projects, in combination with other past, present and foreseeable future projects, could have a cumulatively considerable effect on cultural resources.
  - *Mitigation Measure M-CP-1b: Protection of Historical Resources due to Indirect Damage*
  - *Mitigation Measure M-CP-1c: Protection of Historical Resources due to Direct Damage*
  - *Mitigation Measure M-CP-1d: Protection of the Northeast Waterfront Historic District from Teatro Zinzanni Relocation*
  - *Mitigation Measure M-NO-3: Pre-Construction Assessment to Minimize Structural Pile-Driving Vibration Impacts on Adjacent Historic Buildings and Structures and Vibration Monitoring*
  - *Mitigation Measure M-CP-2: Inadvertent Discovery of Archeological Resources or Shipwrecks*
  - *Mitigation Measure M-CP-4: Inadvertent Discovery of Human Remains*

## Noise

- **Impact C-NO:** The AC34 project, in combination with other past, present, and reasonably foreseeable future projects, would not result in significant adverse cumulative impacts on noise.
  - *Mitigation Measure M-NO-1a: Noise Controls During Construction*
  - *Mitigation Measure M-NO-1b: Pile Driving Noise-Reducing Techniques and Muffling Devices*
  - *Mitigation Measure M-NO-3: Pre-Construction Assessment to Minimize Structural Pile-Driving Vibration Impacts on Adjacent Historic Buildings and Structures and Vibration Monitoring*

## Biological Resources – Marine Resources

- **Impact C-BIb:** The project, in combination with other past, present, and reasonably foreseeable future projects, could result in significant adverse cumulative impacts on marine and estuarine biological resources.
  - *Mitigation Measure M-BI-11a: Impact Hammer Pile Driving Noise Reduction for Protection of Fish*
  - *Mitigation Measure M-BI-11b: Pile Driving Noise Reduction for Protection of Marine Mammals*
  - *Mitigation Measure M-BI-11c: Floating Dock Night Lighting*
  - *Mitigation Measure M-BI-12: Visiting Mariners Information*
  - *Mitigation Measure M-BI-14: Restrictions on Low-Flying Aircraft*
  - *Mitigation Measure M-BI-16: Invasive Marine Species Control*

## Hydrology and Water Quality

- **Impact C-HY:** The project, in combination with other past, present, and reasonably foreseeable future projects, could result in significant adverse cumulative hydrology or water quality impacts
  - *Mitigation Measure M-HY-1: Water Quality Best Management Practices*

## Hazards and Hazardous Materials

- **Impact C-HZ:** The project, in combination with other past, present, and reasonably foreseeable future projects, could result in significant adverse cumulative hazards and hazardous materials impacts.
  - *Mitigation Measure M-HZ-3: Removal of Hazardous Building Materials Practices*

## IV. SIGNIFICANT IMPACTS THAT CANNOT BE AVOIDED OR REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL

Based on substantial evidence in the whole record of these proceedings, the Board finds that, where feasible, changes or alterations have been required, or incorporated into, the Project to reduce the significant environmental impacts as identified in the Final EIR. Furthermore, since certification of the Final EIR, the Project has been further modified to reduce the number of America's Cup event sites, and to eliminate long-term development of sites and marinas in Port jurisdiction. The environmental effects of these modifications to the Project have been analyzed in the Note to File. The Board finds that the mitigation measures in the Final EIR for the modified Project and described below are appropriate, and that changes have been required in, or incorporated into, the Project that, pursuant to Public Resources Code Section 21002 and CEQA Guidelines Section 15091, may substantially lessen, but do not avoid (i.e., reduce to less than significant levels), the potentially significant environmental effect associated with implementation of the Project. The Board adopts all of the mitigation measures proposed in the Final EIR that are relevant to the Project (as described in the Note to File) and set forth in the **MMRP**, attached hereto as **Attachments B-1 and B-2 to Board Resolution No. \_\_\_\_**. The Commission further finds, however, for the impacts listed below, despite the implementation of all identified feasible mitigation measures, the effects remain significant and unavoidable. Based on the analysis contained within the Final EIR, other considerations in the record, and the standards of significance, the Board finds that because some aspects of the Project could cause potentially significant impacts for which feasible mitigation

measures are not available to reduce the impact to a less-than-significant level, the impacts are **significant and unavoidable**. For a detailed explanation of the lack of feasible mitigation measures for the following impacts and of the reasons why certain mitigation measures, although technologically feasible, may be subject to uncertainty, including funding-related uncertainty, please see the relevant discussion within the Final EIR.

The Board determines that the following significant impacts on the environment, as reflected in the Final EIR, are unavoidable, but under Public Resources Code Section 21081(a)(3) and (b), and CEQA Guidelines 15091(a)(3), 15092(b)(2)(B), and 15093, the Board determines that the impacts are acceptable due to the overriding considerations described in Section VII below. This finding is supported by substantial evidence in the record of this proceeding.

### **Project-Level Impacts**

#### **Transportation and Circulation**

- **Impact TR-1 through Impact TR-12:** Implementation of the AC34 2012 events would result in significant impacts at 12 signalized and unsignalized intersections that would operate at LOS E or LOS F under Existing plus AC34 2012 conditions. Intersections include:
  - Embarcadero/Beach
  - Embarcadero/Howard
  - King/Third
  - Lombard/Divisadero
  - Lombard/Fillmore
  - Bay/Laguna
  - Bay/Van Ness
  - Bush/Van Ness
  - Pine/Van Ness
  - Lombard/Van Ness
  - Lincoln/25<sup>th</sup>
  - Lombard/Lyon
  - *Mitigation Measure M-TR-1a -d: People Plan Specific Provisions*
- **Impact TR-15:** Implementation of the AC34 2012 events would result in significant impacts at other signalized and unsignalized intersections in the project area within San Francisco in addition to impacts identified at the study intersections.
  - *Mitigation Measure M-TR-1a-d: People Plan Specific Provisions*
- **Impact TR-16:** Implementation of the AC34 2012 events would result in significant impacts on traffic operations at secondary viewing areas outside of San Francisco.
  - *Mitigation Measure M-TR-1a-d: People Plan Specific Provisions*
- **Impact TR-17:** Implementation of the AC34 2012 events would exceed the available transit capacity of Muni lines.
  - *Mitigation Measure M-TR-17: Additional Muni Transit Service*
  - *Mitigation Measure M-TR-1b: Transit Operating Plan*

Because these mitigation measures would require additional transit capacity and funding for these mitigation measures has not been identified, implementation remains uncertain and thus this impact remains significant and unavoidable.

- **Impact TR-18:** Implementation of the AC34 2012 events would exceed the available transit capacity of PresidiGo shuttle service.
  - *Mitigation Measure M-TR-18: Additional PresidiGo Shuttle Service*

This mitigation measure would require additional transit capacity, which must be approved by a non-City entity, and funding for this mitigation measure has not been identified. Therefore, implementation remains uncertain and thus this impact remains significant and unavoidable. The Board believes that the agency with responsibility for implementing this mitigation measure can and should implement this measure.

- **Impact TR-19:** Implementation of the AC34 2012 events would exceed the available transit capacity of AC Transit lines.
  - *Mitigation Measure M-TR-19: Additional AC Transit Capacity*

This mitigation measure would require additional transit capacity, which must be approved by a non-City entity, and funding for this mitigation measure has not been identified. Therefore, implementation remains uncertain and thus this impact remains significant and unavoidable. The Board believes that the agency with responsibility for implementing this mitigation measure can and should implement this measure.

- **Impact TR-20:** Implementation of the AC34 2012 events would exceed the available transit capacity of BART lines.
  - *Mitigation Measure M-TR-20: Additional BART Transit Service*

This mitigation measure would require additional transit capacity, which must be approved by a non-City entity, and funding for this mitigation measure has not been identified. Therefore, implementation remains uncertain and thus this impact remains significant and unavoidable. The Board believes that the agency with responsibility for implementing this mitigation measure can and should implement this measure.

- **Impact TR-21:** Implementation of the AC34 2012 events would exceed the available transit capacity of WETA ferry lines.
  - *Mitigation Measure M-TR-21: Additional WETA Transit Service*

This mitigation measure would require additional transit capacity, which must be approved by a non-City entity, and funding for this mitigation measure has not been identified. Therefore, implementation remains uncertain and thus this impact remains significant and unavoidable. The Board believes that the agency with responsibility for implementing this mitigation measure can and should implement this measure.

- **Impact TR-22:** Implementation of the AC34 2012 events would exceed the available transit capacity of Golden Gate Transit bus and ferry lines.
  - *Mitigation Measure M-TR-22: Additional Golden Gate Transit Service*

This mitigation measure would require additional transit capacity, which must be approved by a non-City entity, and funding for this mitigation measure has not been identified. Therefore, implementation remains uncertain and thus this impact remains significant and unavoidable. The Board believes that the agency with responsibility for implementing this mitigation measure can and should implement this measure.

- **Impact TR-23:** Implementation of the AC34 2012 events would exceed the available transit capacity of Blue & Gold ferry lines.
  - *Mitigation Measure M-TR-23: Additional Blue & Gold Transit Service*

This mitigation measure would require additional transit capacity, which must be approved by a non-City entity, and funding for this mitigation measure has not been identified. Therefore, implementation remains uncertain and thus this impact remains significant and unavoidable. The Board believes that the agency with responsibility for implementing this mitigation measure can and should implement this measure.

- **Impact TR-24:** Implementation of the AC34 2012 events would exceed the available transit capacity of Caltrain service.
  - *Mitigation Measure M-TR-24: Additional Caltrain Transit Service*

This mitigation measure would require additional transit capacity, which must be approved by a non-City entity, and funding for this mitigation measure has not been identified. Therefore, implementation remains uncertain and thus this impact remains significant and unavoidable. The Board believes that the agency with responsibility for implementing this mitigation measure can and should implement this measure.

- **Impact TR-25:** Implementation of the AC34 2012 events would exceed the available transit capacity of SamTrans lines.
  - *Mitigation Measure M-TR-25: Additional SamTrans Transit Service*

This mitigation measure would require additional transit capacity, which must be approved by a non-City entity, and funding for this mitigation measure has not been identified. Therefore, implementation remains uncertain and thus this impact remains significant and unavoidable. The Board believes that the agency with responsibility for implementing this mitigation measure can and should implement this measure.

- **Impact TR-26:** Implementation of the AC34 2012 events would have a potentially significant impact on transit operations related to additional congestion resulting from the project.
  - *Mitigation Measure M-TR-26a: Barricade to Protect Transit Lanes*
  - *Mitigation Measure M-TR-26b: Traffic Control Officers at Key Intersections*
- **Impact TR-27:** Implementation of the AC34 2012 events would disrupt regular scheduled ferry operations.
  - *Mitigation Measure M-TR-1: People Plan Specific Provisions*
- **Impact TR-37:** The AC34 2012 events would result in potentially significant impacts to the transportation network in combination with other special events occurring simultaneously in San Francisco.
  - *Mitigation Measure M-TR-1: People Plan Specific Provisions*
- **Impact TR-38 – Impact TR-55:** Implementation of the AC34 2013 events would result in significant impacts at 18 individual signalized and unsignalized intersections that would operate at LOS E or LOS F under Existing plus AC34 2013 conditions. Intersections include:

- Embarcadero/Beach
- Embarcadero/Broadway
- Embarcadero/Howard

- Embarcadero/Folsom
- Embarcadero/Harrison
- Embarcadero/ Bryant
- Fremont/Folsom
- King/Third
- King/Fourth
- Lombard/Divisadero
- Lombard/ Fillmore
- Bay/Laguna
- Bay/Van Ness
- Bush/Van Ness
- Pine/Van Ness
- Lombard/Van Ness
- Lincoln/25<sup>th</sup>
- Lombard/Lyon

- *Mitigation Measure M-TR-1: People Plan Specific Provisions*

- **Impact TR-58:** Implementation of the AC34 2013 events would result in significant impacts at other signalized and unsignalized intersections in the project area within San Francisco in addition to impacts identified at the 44 study intersections.
  - *Mitigation Measure M-TR-1: People Plan Specific Provisions*
- **Impact TR-59:** Implementation of the AC34 2013 events would result in significant impacts on traffic operations at secondary viewing areas outside of San Francisco.
  - *Mitigation Measure M-TR-1: People Plan Specific Provisions*
- **Impact TR-60:** Implementation of the AC34 2013 events would exceed the available transit capacity of Muni lines.
  - *Mitigation Measure M-TR-1b: Transit Operating Plan*
  - *Mitigation Measure M-TR-17: Additional Muni Transit Service*

Because these mitigation measures would require additional transit capacity and funding for these mitigation measures has not been identified, implementation remains uncertain and thus this impact remains significant and unavoidable.

- **Impact TR-61:** Implementation of the AC34 2013 events would exceed the available transit capacity of PresidiGo.
  - *Mitigation Measure M-TR-18: Additional PresidiGo Capacity*

This mitigation measure would require additional transit capacity, which must be approved by a non-City entity, and funding for this mitigation measure has not been identified. Therefore, implementation remains uncertain and thus this impact remains significant and unavoidable. The Board believes that the agency with responsibility for implementing this mitigation measure can and should implement this measure.

- **Impact TR-62:** Implementation of the AC34 2013 events would exceed the available transit capacity of AC Transit lines.
  - *Mitigation Measure M-TR-19: Additional AC Transit Capacity*

This mitigation measure would require additional transit capacity, which must be approved by a non-City entity, and funding for this mitigation measure has not been identified. Therefore, implementation remains uncertain and thus this impact remains significant and unavoidable. The Board believes that the agency with responsibility for implementing this mitigation measure can and should implement this measure.

- **Impact TR-63:** Implementation of the AC34 2013 events would exceed the available transit capacity of BART lines.
  - *Mitigation Measure M-TR-20: Additional BART Transit Service*

This mitigation measure would require additional transit capacity, which must be approved by a non-City entity, and funding for this mitigation measure has not been identified. Therefore, implementation remains uncertain and thus this impact remains significant and unavoidable. The Board believes that the agency with responsibility for implementing this mitigation measure can and should implement this measure.

- **Impact TR-64:** Implementation of the AC34 2013 events would exceed the available transit capacity of WETA ferry lines.
  - *Mitigation Measure M-TR-21: Additional WETA Transit Service*

This mitigation measure would require additional transit capacity, which must be approved by a non-City entity, and funding for this mitigation measure has not been identified. Therefore, implementation remains uncertain and thus this impact remains significant and unavoidable. The Board believes that the agency with responsibility for implementing this mitigation measure can and should implement this measure.

- **Impact TR-65:** Implementation of the AC34 2013 events would exceed the available transit capacity of Golden Gate Transit bus and ferry lines.
  - *Mitigation Measure M-TR-22: Additional Golden Gate Transit Service*

This mitigation measure would require additional transit capacity, which must be approved by a non-City entity, and funding for this mitigation measure has not been identified. Therefore, implementation remains uncertain and thus this impact remains significant and unavoidable. The Board believes that the agency with responsibility for implementing this mitigation measure can and should implement this measure.

- **Impact TR-66:** Implementation of the AC34 2013 events would exceed the available transit capacity of Blue & Gold ferry lines
  - *Mitigation Measure M-TR-23: Additional Blue & Gold Transit Service*

This mitigation measure would require additional transit capacity, which must be approved by a non-City entity, and funding for this mitigation measure has not been identified. Therefore, implementation remains uncertain and thus this impact remains significant and unavoidable. The Board believes that the agency with responsibility for implementing this mitigation measure can and should implement this measure.

- **Impact TR-67:** Implementation of the AC34 2013 events would exceed the available transit capacity of Caltrain service.
  - *Mitigation Measure M-TR-24: Additional Caltrain Transit Service*

This mitigation measure would require additional transit capacity, which must be approved by a non-City entity, and funding for this mitigation measure has not been identified. Therefore, implementation remains uncertain

and thus this impact remains significant and unavoidable. The Board believes that the agency with responsibility for implementing this mitigation measure can and should implement this measure.

- **Impact TR-68:** Implementation of the AC34 2013 events would exceed the available transit capacity of SamTrans lines.
  - *Mitigation Measure M-TR-25: Additional SamTrans Transit Service*

This mitigation measure would require additional transit capacity, which must be approved by a non-City entity, and funding for this mitigation measure has not been identified. Therefore, implementation remains uncertain and thus this impact remains significant and unavoidable. The Board believes that the agency with responsibility for implementing this mitigation measure can and should implement this measure.

- **Impact TR-69:** Implementation of the AC34 2013 events would have a potentially significant impact on transit operations related to additional congestion generated by the Project.
  - *Mitigation Measure M-TR-1: People Plan Specific Provisions*
  - *Mitigation Measure M-TR-26a: Barricade to Protect Transit Lanes*
  - *Mitigation Measure M-TR-26b: Traffic Control Officers at Key Intersections*
- **Impact TR-70:** Implementation of the AC34 2013 events would disrupt regular ferry operations.
  - *Mitigation Measure M-TR-1: People Plan Specific Provisions*
  - *Mitigation Measure M-TR-1d: Public Information Program*
- **Impact TR-80:** The AC34 2013 events would result in potentially significant impacts to the transportation network in combination with other special events occurring simultaneously in San Francisco.
  - *Mitigation Measure M-TR-1: People Plan Specific Provisions*

#### Noise

- **Impact NO-2:** Operation of the America's Cup events and facilities would result in exposure of persons to or generation of noise levels in excess of standards established in the *San Francisco General Plan* or San Francisco Noise Ordinance.
  - *Mitigation Measure M-NO-2a: Selection, Shielding or Acoustical Enclosures for Generators at Piers 27-29 and Marina Green and Use of Electrical Service at Piers 27-29*
  - *Mitigation Measure M-NO-2b: Noise Control Plan for Entertainment Venues*
- **Impact NO-4:** Operation of the America's Cup facilities would result in a temporary and periodic increase in ambient noise levels in the project vicinity above levels existing without the project associated with increased traffic levels on weekends.
  - *Mitigation Measure M-TR-1: People Plan Specific Provisions*

#### Air Quality

- **Impact AQ-2:** Construction of the America's Cup facilities would result in emission of criteria pollutants and precursors that would violate an air quality standard or contribute substantially to an existing or projected air quality violation.
  - *Mitigation Measure M-AQ-2a: Construction Vehicle Emissions Minimization*
  - *Mitigation Measure M-AQ-2b: Off-Road Construction Equipment*
  - *Mitigation Measure M-AQ-2c: Off-Road Construction Equipment - Electricity Use*
  - *Mitigation Measure M-AQ-2d: Off-Road Construction Equipment - Best Management Practices (BMPs)*

- *Mitigation Measure M-AQ-2e: Off-Road Construction Equipment - Engine Standards for Harbor Craft Used in Construction*
- *Mitigation Measure M-AQ-2f: Fuels for Off-Road Construction Equipment*
- **Impact AQ-3:** Construction of the America's Cup facilities would expose sensitive receptors to substantial concentrations of toxic air contaminants or respirable particulate matter (PM2.5).
  - *Mitigation Measure M-AQ-2a: Construction Vehicle Emissions Minimization*
  - *Mitigation Measure M-AQ-2b: Off-Road Construction Equipment*
  - *Mitigation Measure M-AQ-2c: Off-Road Construction Equipment - Electricity Use*
  - *Mitigation Measure M-AQ-2d: Off-Road Construction Equipment - Best Management Practices (BMPs)*
  - *Mitigation Measure M-AQ-2e: Off-Road Construction Equipment - Engine Standards for Harbor Craft Used in Construction*
  - *Mitigation Measure M-AQ-2f: Fuels for Off-Road Construction Equipment*
- **Impact AQ-4:** Operations of the America's Cup facilities would violate an air quality standard or contribute substantially to an existing or projected air quality violation.
  - *Mitigation Measure M-AQ-4a: Emission Controls for Race-Sponsored Spectator and Support Vessels*
  - *Mitigation Measure M-AQ-4b: Temporary Shoreside Power for Large Private Yachts at Pier 27*
  - *Mitigation Measure M-AQ-4c: Alternative Low-Emissions Fuels for Large Private Yachts and Race-Sponsored Vessels*
  - *Mitigation Measure M-AQ-4d: Return Pier 27 to the Port Within One Month after Completion of the Match for Reconnection of Shoreside Power*
  - *Mitigation Measure 4e: Long-term Shoreside Power at Pier 70*
- **Impact AQ-5:** Operation of the America's Cup facilities would expose sensitive receptors to substantial concentrations of toxic air contaminants or respirable particulate matter (PM2.5).
  - *Mitigation Measure M-AQ-4: Emission Controls for Race-Sponsored Spectator and Support Vessels*
  - *Mitigation Measure M-AQ-5: Clean Sources for Temporary Power at Venues*

## **Cumulative Impacts**

### **Air Quality**

- **Impact C-AQ-1:** The proposed AC34 project, in combination with other past, present, and reasonably foreseeable future projects, would result in significant adverse cumulative impacts on air quality.
  - *Mitigation Measure M-AQ-2a: Construction Vehicle Emissions Minimization*
  - *Mitigation Measure M-AQ-2b: Off-Road Construction Equipment Mitigation*
  - *Mitigation Measure M-AQ-2c: Off-Road Construction Equipment - Electricity Use*
  - *Mitigation Measure M-AQ-2d: Off-Road Construction Equipment - Best Management Practices*
  - *Mitigation Measure M-AQ-2e: Off-Road Construction Equipment - Engine Standards for Harbor Craft Used in Construction*
  - *Mitigation Measure M-AQ-2f: Fuels for Off-Road Construction Equipment*
  - *Mitigation Measure M-AQ-4a: Emission Controls for Race-Sponsored Spectator and Support Vessels*
  - *Mitigation Measure M-AQ-4b: Temporary Shoreside Power for Large Private Yachts at Pier 27*
  - *Mitigation Measure M-AQ-4c: Alternative Low-Emissions Fuels for Large, Private Yachts and Race-Sponsored Vessels*
  - *Mitigation Measure M-AQ-4d: Return Pier 27 to the Port Within One Month after Completion of the Match for Reconnection of Shoreside Power*
  - *Mitigation Measure M-AQ-4e: Long-term Shoreside Power at Pier 70*

- *Mitigation Measure M-AQ-5: Clean Sources for Temporary Power at Venues*

**Mitigation Measures that are no Longer Applicable.**

The following significant impacts and associated mitigation measures proposed in the Final EIR are no longer applicable to the modified Project because the long-term development rights are no longer included in the modified Project.

**Impact LT-CP-1 and Impact LT-CP-2:** Long-term development could result in redevelopment of existing Port properties at Piers 30-32, which could result in a significant impact to cultural resources. Long-term development could result in redevelopment of existing Port properties within the Embarcadero Historic District, which could result in a significant impact to cultural resources.

- *Mitigation Measure M-LT-CP: Long-term Development Measures for Cultural Resources*

**Impact LT-TR:** Long-Term Development under the Host Agreement would result in significant traffic and transit impacts.

- *Mitigation Measure M-LT-TR: Transportation Mitigation Measures for Long-Term Development*

**Impact LT-NO:** Long-term development on Port properties could result in impacts on noise.

- *Mitigation Measure M-LT-NOa: Mitigation of Noise from Long-term Development on Port Properties*
- *Mitigation Measure M-LT-NOb: Mitigation of Interior and Exterior Noise from New Residential Development of Seawall Lot 330*

**Impact LT-AQ:** Long term development on Port properties under the Host Agreement could result in construction and operational air pollutant emissions.

- *Mitigation Measure M-LT-AQ: Fugure Long-term Development Air Quality Mitigation*

**Impact LT-BIa:** Long-term development could result in impacts on upland biological resources.

- *Mitigation Measure M-LT-BIa: Long-term Development Mitigation for Upland Biological Resources*

**Impact LT-BIb:** Long-term development could result in impacts on marine biological resources.

- *Mitigation Measure M-LT-BIb: Long-term Development Mitigation for Marine Biological Resources*

**Impact LT-GE:** Future long-term development under the Host Agreement could result in adverse geology and soils impacts.

- *Mitigation Measure M-LT-GE: Mitigation of Geological and Soils Impacts from Long-term Development on Port Properties*

**Impact LT-HY:** Future long-term development under the Host Agreement could result in hydrology and water quality impacts.

- *Mitigation Measure M-LT-HY: Water Quality Best Management Practices*

**Impact LT-HZ:** Future long-term development under the Host Agreement could result in potential hazards and hazardous materials impacts.

- *Mitigation Measure M-LT-HZ: Mitigation of Hazards and Materials Impacts from Long-term Development on Port Properties*

**V. EVALUATION OF PROJECT ALTERNATIVES**

This section describes alternatives to the Project and the reasons for approving the Project and for rejecting the alternatives. This section also outlines the Project's purposes and provides a context for understanding the reasons for selecting or rejecting alternatives. CEQA mandates that an EIR evaluate a reasonable range of alternatives to the Project or the Project location that generally reduce or avoid potentially significant impacts of the Project. CEQA requires that every EIR also evaluate a "No Project" alternative. Alternatives provide a basis of comparison to the Draft EIR project in terms of their significant impacts and their ability to meet project objectives. This comparative analysis is used to consider reasonable, potentially feasible options for minimizing environmental consequences of the Project. As noted previously, the Project is comprised of the Reduced Intensity AC34 and Long-Term Development Sub-Alternative in Chapter 11 of the Final EIR, which has subsequently been further modified since Final EIR certification, to reduce the number of AC34 event sites, and eliminate long-term development rights entirely, including long-term marina development. The reduced environmental effects of the modified Project have been analyzed in the Note to File.

The alternatives identified and analyzed in Chapter 7 of the EIR are applicable to the modified AC34 project because the modifications to the AC34 Project would not affect the alternatives analysis presented in the EIR. As described in the Note to File, the modified Project would not cause new significant impacts nor would it result in the substantial increase in the severity of previously identified significant impacts. In many cases, the modified Project would reduce the severity of previously identified impacts. However, similar to the project described and analyzed in the Final EIR, the modified Project would result in significant environmental impacts, including several significant and unavoidable impacts. Thus, as required by CEQA, the Final EIR identifies and analyzes a reasonable range of alternatives that would feasibly attain most of the Project's basic objectives but would avoid or substantially lessen identified significant adverse impacts of the Project. The four alternatives identified and analyzed in Chapter 7 of the Final EIR would also essentially serve as alternatives to the modified Project as well. The No Project Alternative would be the same as presented in Chapter 7. However, the long-term development component of the other alternatives would no longer apply, since this component has been eliminated from the modified Project and all impacts associated with the long-term development potential under the Host Agreement have been avoided. The remaining components of the Open Ocean Alternative, the Reduced Intensity AC34 and Long-Term Development Alternative, and the Reduced Spectator Berthing Alternative would provide a reasonable range of feasible alternatives to the modified Project. Based on the analysis presented in Chapters 7 and 11 of the EIR and the discussion provided in the Note to File, the modified Project would now be considered the environmentally superior alternative.

## **A. Reasons for Selection of the Project**

The Project, consisting of the components as set forth and analyzed in the Final EIR and Note to File, directly contributes to achievement of the objectives for the 34<sup>th</sup> America's Cup as follows:

- Establish San Francisco and San Francisco Bay's identity as a world-class venue for the sport of sailing and generate interest in the sport by hosting America's Cup World Series events in 2012 followed by successful America's Cup events in 2013
- Provide public viewing opportunities of the America's Cup and the America's Cup World Series live racing events at close range from various locations on the waterfront around Central San Francisco Bay to increase the general public's access to the event and expand the appeal of the sport of sailing to the general public
- Create a center of activity for the America's Cup and the America's Cup World Series by improving the existing resources of The Embarcadero and the San Francisco waterfront to establish a cohesive sense of

place and identity for the AC34 participants (i.e., teams, event guests and staff, media personnel), visitors, and spectators of the events that enhance the landside viewing opportunities and provide adequate facilities for spectator vessels

- Provide infrastructure upgrades and other installations to improve existing facilities in consolidated areas for team base activities, spectator viewing, and entertainment venues, including the public piers along San Francisco's waterfront, for use during the America's Cup in 2013 and the America's Cup World Series in 2012, consistent with Port of San Francisco Building Code requirements and the *Secretary of the Interior's Standards for the Treatment of Historic Properties (Secretary's Standards)*
- Facilitate access to and from desired destinations based on smart transportation strategies presented in the America's Cup People Plan for the racing teams, event personnel, event sponsors, members of the media, and spectators, while satisfying the access needs of residents, workers, and visitors not associated with the races
- Emphasize natural resource stewardship by incorporating sustainability principles in the planning and management of all race events and operations, including zero waste strategies identified in the America's Cup Zero Waste Plan
- Implement navigational and operational safety guidelines for race team, support, and spectator boat activities associated with the America's Cup and the America's Cup World Series that meet United States Coast Guard regulations, the America's Cup Protocol, and the safe limits of event boats and equipment; minimize conflicts with existing commercial maritime activities; and establish sustainable environmental practices and standards to help protect the ecological health of San Francisco Bay

Completion of the Project will enable the City and Port to achieve the benefits and objectives of hosting the America's Cup race events in San Francisco. The Project provides for a variety of waterfront locations that will support the full range of AC34 team needs, and programmed spectator, entertainment, hospitality and operations requirements of this major international competition, showcased on the San Francisco Bay. Conducting the races close to San Francisco's shoreline enables the general public the opportunity to directly experience the excitement of the races, and to learn about the sport of sailing. The site venues and operations have been planned to incorporate and advance sustainability, in the construction, operation, and education of the general public. For example, major capital improvements at Pier 27-29 and Pier 30-32 to support AC34 events would not be for a single purpose; they also would advance later planned improvements after the conclusion of AC34 for the James R. Herman Cruise Terminal and Northeast Wharf Plaza at Pier 27, if approved separately by the Port Commission, and sustained use of Pier 30-32 for special events and a back-up berth for cruise ships and other large vessels. San Francisco venues are readily accessible by multiple transportation modes, which will be programmed and promoted through the People Plan, with an emphasis on use of alternative transportation modes to avoid private automobiles and their associated environmental effects. The Zero Waste Plan will not only organize and implement systems that maximize waste reduction and recycling, it will provide an important public education experience to set new environmental sustainability standards for other major sporting and entertainment attractions. San Francisco is fortunate to have a beautiful waterfront that is almost entirely under public ownership by City, State or Federal governments, and thus an extraordinary opportunity to host a truly water-oriented event that is open for the public to enjoy.

## **B. Alternatives Rejected and Reasons for Rejection**

The Board rejects the Alternatives set forth in the Final EIR and listed below because the Board finds that there is substantial evidence, including evidence of economic, legal, social, technological, and other considerations described in this Section in addition to those described in Section VII below under CEQA Guidelines 15091(a)(3),

that make infeasible such Alternatives. In making these determinations, the Board is aware that CEQA defines "feasibility" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, legal, and technological factors." The Board is also aware that under CEQA case law the concept of "feasibility" encompasses (i) the question of whether a particular alternative promotes the underlying goals and objectives of a project and (ii) the question of whether an alternative is "desirable" from a policy standpoint to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and technological factors.

Four alternatives are analyzed in the Final EIR: 1) No Project Alternative, 2) Open Ocean Alternative, 3) Reduced Intensity AC34 and Long-Term Development Alternative; and 4) Reduced Spectator Berthing Alternative. In addition, a Reduced Intensity Sub-Alternative was analyzed in Chapter 11 of the Final EIR. These are summarized below, along with the discussion of the reasons they are rejected.

### **Alternative 1: No Project Alternative**

The AC34 No Project Alternative assumes that San Francisco would not serve as the host city for the AC34 events. There would be no viewing construction of temporary installations or permanent improvements at any of the project sites, no events in 2012 or 2013, no tenant displacement due to the AC34 events, no amendments to the BCDC *San Francisco Waterfront Special Area Plan*, and no future long-term development and associated landside and waterside improvements on Port properties as provided for under the Host Agreement. While this alternative would avoid all environmental impacts associated with construction and operation of the proposed AC34 project, relative to both the AC34 events and the future long-term development rights, it would meet none of the project objectives. Furthermore, the capital improvements that result at Pier 27-29 and Pier 30-32, and repairs of many of the Port's facilities required to host AC34 would aid in the maintenance and advancement of maritime uses, particularly those aged piers that are included in the Embarcadero Historic District. For these reasons, the No Project Alternative is rejected.

### **Alternative 2: Open Ocean Alternative**

The Open Ocean Alternative assumes that San Francisco would host the AC34 events as it would for the Project, but with the AC34 race series held in the open waters of the Pacific Ocean instead of within San Francisco Bay. The Open Ocean Alternative would achieve some of the AC34 project objectives. San Francisco would be the America's Cup host city for the 2012 and 2013 race events; pier facilities would still be improved to support team bases, race support operations, the AC Village, and the AC34 Live Sites with large television screens. The construction and associated operation of these improvements would generate impacts that would be similar to or greater than those of the Project, and all associated mitigation measures identified would still be required. However, with races held away from the shore in the open ocean, there would be no spectator viewing from Crissy Field, Marina Green in 2013 (although it still would be the site of the AC Village in 2012), Fort Mason, SAFR/Aquatic Park, or secondary viewing sites analyzed in the Final EIR. Thus, the Open Ocean Alternative would avoid impacts at these primary and secondary viewing areas, including impacts on recreational resources, upland biological resources, historic resources, and transportation and circulation. However, because the race area would be located in the open ocean, this alternative could result in greater impacts on whales.

While the Open Ocean Alternative would enable San Francisco to function as the America's Cup Host City, the preclusion of public viewing of the races from the shoreline directly contradicts key project objectives that were determinants in the selection of San Francisco as the host city. The Event Authority has described San Francisco Bay

as a natural amphitheater for the public to directly view and experience the races. Holding races in the open ocean means that only those with the means to access boats and vessels that can manage ocean currents and conditions would be able to directly view the races. The concept of holding the races in a location that affords land-based viewing for a broad-based spectator group is a defining characteristic of AC34 that departs from past America's Cup competitions.

This alternative also would create conflicts with the type of race boats proposed to be used in the races. Under the Deed of Trust, GGYC has established race boat specifications for the AC45 and AC72 catamaran race boats that are specifically designed for the wind conditions and currents of San Francisco Bay. The designs of these race boats are not suitable for racing in the open water of the Pacific Ocean. To address safety concerns under this alternative, teams would be required to completely redesign the race boats.

While the benefits of this alternative would avoid impacts on recreational resources, biological resources, historic resources, and transportation and circulation primarily associated with the elimination of primary and secondary viewing areas in San Francisco and southern Marin County, the Final EIR concludes that these AC34 impacts would not be significant with the implementation of mitigation measures and supporting AC34 Implementation Plans that will be required as part of the Project. San Francisco is considered the perfect setting to present the races for viewing and enjoyment of the general public and seasoned sailors alike. This is not only because of the Bay's natural beauty and allure, but because the City possesses an urbanized, public waterfront that is improved to accommodate high volumes of visitors. In light of the above considerations, the Open Ocean Alternative is rejected.

### **Alternative 3: Reduced Intensity AC34 and Long-Term Development Alternative**

The Reduced Intensity AC34 and Long-Term Development Alternative would differ from the Project in that (1) it would include only the AC34 events in 2013, and (2) it includes long-term development rights (although at a reduced level from that in the Draft EIR project). It also proposed that long-term marina development would be relocated from the Rincon Point Open Water Basin to South Beach and/or Mission Bay. This alternative was included for analysis because it would reduce environmental impacts from 2012 construction and operation as well as impacts associated with the long-term development rights as compared to the impacts associated with the Draft EIR project. This alternative would partially achieve the project objectives but would not achieve any of the objectives related to the 2012 events. All of the construction and operational impacts associated with the 2012 events would be completely avoided, but most of these same impacts would occur for the 2013 events. The severity of impacts identified for long-term development options on Port property under the Host Agreement would be avoided or reduced relative to the Draft EIR project, but would be greater than the modified Project now proposed for approval because the modified Project does not include any long-term development rights on piers or for new marinas.

The elimination of the 2012 World Series races is a major detriment to the objectives of AC34. While the race competitions in 2012 do not influence outcomes of the Louis Vuitton or Match Cup races in 2013, they are very important for the following key reasons. Given the race boat specifications of AC34 which establish a single, first-of-its-kind design for the AC45 race boats oriented to the sailing conditions of San Francisco Bay rather than open ocean, the AC34 2012 races provide an important testing ground for participating race teams. Their experience will affect their decisions as to whether they will compete for the America's Cup. The AC45's provide teams with a trial for racing catamaran-style race boats, to build and perfect team performance. This is important because the 2013 races will require a high level of experience to optimize the performance of a larger version of these race

boats, the AC72. To not provide a means by which teams can practice and compete prior to the America's Cup qualifying and Match races would work against the core purpose of the America's Cup, to determine the fastest and most expert sailing team in the world. Additionally, the economic and social benefits of bringing visitors and City residents to a civic event along the waterfront in 2012 would be lost. While the 2012 events will be of limited duration, the ability for local residents, businesses and workers to connect with the America's Cup events will provide opportunities not only for direct benefits but also for a more durable set of economic benefits as the City and its partners build toward the main events in 2013.

In addition, the 2012 race events also provide City, Regional, State and Federal agencies and the Event Authority and AC Race Management the opportunity to conduct a "test-run" of the planned management strategies, Implementation Plans, and required mitigation measures. Based on the experience in 2012, it is their intention to incorporate refinements and updates, as necessary, to ensure the AC34 2013 race events are well-managed and supported by the various transportation, parks, waste management and other resource protections to produce enjoyable and successful events that also preserve quality of life and non-AC34 public enjoyment of the waterfront. As described in the Final EIR, all of the impacts of the 2012 race events would fall below significance levels, with implementation of the required mitigation measures, except for transportation impacts in the event that full funding for the services described in the 2012 transportation mitigation measures is not provided.

This alternative includes long-term development which, while half the amount of development assumed in the Draft EIR project, would result in greater impacts than the modified Project which does not allow any long-term development. While the modified Project would allow America's Cup events in both 2012 and 2013 and the associated environmental effects, the lack of long-term development avoids significant unavoidable impacts that would be generated by this alternative. For the reasons described above, the Reduced Intensity AC34 and Long-term Development Alternative is rejected.

### **Reduced Intensity AC34 and Long-Term Development Sub-Alternative**

The EIR Comments and Responses included the addition of a "Reduced Intensity AC34 and Long-Term Development Sub-Alternative" (the "Sub-Alternative"), presented in Chapter 11 of the Final EIR. The AC34 Sub-Alternative refines the Reduced Intensity AC34 and Long-Term Development Alternative as originally described and analyzed the Draft EIR and addressed above.

The intent of the Draft EIR Reduced Intensity Alternative was to develop a different approach to a comprehensive reduction in impacts associated with the AC34 events and facilities as well as the long-term development rights. Under the AC34 Sub-Alternative, instead of proposing the elimination of the 2012 events, the scenario for the AC34 events and facilities would be the same as that described above for the AC34 Project Variant, which would reduce the severity of both construction and operational impacts identified for the Draft EIR AC34 project for the race events.

With respect to long-term development, the AC34 Sub-Alternative assumes the same theoretical development program for Piers 30-32, Seawall Lot 330, and Piers 26, 28 and Pier 29 as assumed for the Draft EIR project, but would eliminate all development at Piers 19, 19½, and 23. The Sub-Alternative would also direct the locations of future long-term marina uses to different areas than the Draft EIR project, to be more compatible with the BCDC San Francisco Bay Plan and the BCDC SAP. A large vessel marina, serving up to 30 vessels from 50 – 200 feet in length, could be permitted in the water area around Piers 30-32, using the water basin between Piers 28-30 and a

portion of the Brannan Street Wharf Open Water Basin, preserving views from the Brannan Street Wharf. A small craft marina that could accommodate up to 425 berths ranging between 25 – 50 feet in length could be permitted at Pier 54 and the surrounding water area to the north and east. On balance, the impacts associated with the AC34 Sub-Alternative and the Draft EIR Reduced Intensity Alternative would be similar, and the Final EIR found that either would be considered the environmentally superior alternative.

The AC34 events proposed in this Sub-Alternative are similar to those included in the modified Project, although spectator venues at Crissy Field, Crissy Field East, and Fort Baker Pier at Cavallo Point would not occur, and AC34 venues do not include Piers 26 and 28, and Seawall Lot 330 are not included. In addition, the modified Project does not include any provision for long-term development on piers, land or for new marinas and, as such, the Sub-Alternative would generate significant and unavoidable environmental effects that would be avoided by the modified Project. Thus, the modified Project is environmentally superior to this Sub-Alternative. For this reason, the Board rejects the Sub-Alternative.

#### **Alternative 4: Reduced Spectator Berthing Alternative**

The Reduced Spectator Berthing Alternative would differ from the Draft EIR project in that the Rincon Point Open Water Basin (Piers 14-22½) would not be considered for use as a temporary berthing facility or for long-term development of a permanent marina. Instead, partial replacement berthing capacity for private spectator boats in 2013 would be provided at Pier 9 in the Broadway Open Water Basin (Piers 3 and 9) and at various other existing locations along Port properties. With respect to long-term marina development rights, pursuant to the Host Agreement, the Event Authority and City could negotiate a new location for this use, that has room for expanded marina capacity and that meet BCDC's Bay Plan recreation policies for marina siting. This alternative was selected for analysis because it would reduce environmental impacts identified at the Rincon Point Open Water Basin and because BCDC, a responsible and permitting agency for AC34, requested an alternative that would reduce conflicts with the *San Francisco Waterfront Special Area Plan*.

The Reduced Spectator Berthing Alternative would only partially meet the objective of providing adequate facilities for spectator vessels. The Reduced Spectator Berthing Alternative would avoid impacts associated with in-water construction at the Rincon Point Open Water Basin, although those same impacts, including impacts on marine biological resources, would occur at the Broadway Open Water Basin at a reduced scale. Impacts associated with long-term development rights under the Host Agreement would be the same as for the proposed project, except that significant, unavoidable land use impacts associated with construction and operation of a long-term marina at the Rincon Point Open Water Basin would either be avoided or relocated to the vicinity of an alternate marina, such as South Beach or Mission Bay.

As discussed and analyzed in the Draft EIR, under the Host Agreement approved by the Board of Supervisors in December 2011, any dredging and short-term use of the Rincon Point Open Water Basin for AC34 event berthing triggered long-term marina development rights within this Open Water Basin. Use of the Open Water Basins on a short-term basis for berthing associated with the AC34 events was determined to be a significant effect that would be reduced to an insignificant level through implementation of specified mitigation measures described in the Draft EIR. However, long-term marina development within an Open Water Basin designated in BCDC's adopted plans was determined to be a significant unavoidable impact, and was the issue that led to the inclusion of this Alternative 4 in the Draft EIR. As described above and in the Note to File, the modified Project does not provide for any long-term development rights, including long-term marina development, and thus would not

generate an unavoidable significant impact. The modified Project does include temporary berthing within the Brannan Street Open Water Basin and the northern portion of the Rincon Point Open Water Basin during the AC34 events, which would result in significant impacts that would be reduced to a less-than-significant level with implementation of mitigation measures described in the Draft EIR. As a result, this Alternative 4 is rejected, because the Board is approving a modified Project that avoids significant impacts associated with AC34 vessel berthing in Open Water Basins.

## VI. STATEMENT OF OVERRIDING CONSIDERATIONS

Pursuant to CEQA section 21081 and CEQA Guideline Section 15093, the Board hereby finds, after consideration of the Final EIR and the evidence in the record, that each of the specific overriding economic, legal, social, technological and other benefits of the modified Project as set forth below independently and collectively outweighs these significant and unavoidable impacts, and is an overriding consideration warranting approval of the Project. Any one of the reasons for approval cited below is sufficient to justify approval of the Project. Thus, even if a court were to conclude that not every reason is supported by substantial evidence, the Commission will stand by its determination that each individual reason is sufficient. The substantial evidence supporting the various benefits can be found in the preceding findings, which are incorporated by reference into this Section, and in the documents found in the Record of Proceedings, as defined in Section I.

On the basis of the above findings and the substantial evidence in the whole record of this proceeding, the Board specifically finds that there are significant benefits of the Project to support approval of the Project in spite of the unavoidable significant impacts, and therefore makes this Statement of Overriding Considerations. The Board further finds that, as part of the process of obtaining Project approval, all significant effects on the environment from implementation of the Project have been eliminated or substantially lessened where feasible. All mitigation measures proposed in the EIR for the Project are adopted as part of this approval action. Approval of the Project does not result in any new or more severe impacts than those that would result from adoption of the Draft EIR AC34 Project. Furthermore, the Board has determined that any remaining significant effects on the environment found to be unavoidable are acceptable due to the following specific overriding economic, technical, legal, social and other considerations.

The Project will have the following benefits:

- The Project will establish San Francisco Bay's identity as a world-class venue for the sport of sailing and generate interest in the sport in 2012 and 2013.
- The Project will increase permanent public access to the waterfront by providing public viewing opportunities of the America's Cup live racing events at close range from various locations on the waterfront around Central San Francisco Bay, some of which are not currently publicly-accessible.
- Under the Host and Venue Agreement, the Authority will provide infrastructure and structural upgrades to Port facilities consistent with Port of San Francisco Building Code requirements and the *Secretary of the Interior's Standards for the Treatment of Historic Properties*.
- In hosting AC34, San Francisco can take advantage of an urban waterfront that is publicly-owned to provide planned programs and operations for a unique water-oriented attraction that can be directly

experienced and enjoyed by the general public, and which showcases the Bay Area's greatest natural treasure, San Francisco Bay. Most of the waterfront is improved and oriented to accommodate high volumes of visitors.

- The inclusion of Live Sites in Justin Herman Plaza, Union Square and Civic Center Plaza, taking advantage of advances in media technology to experience the races through large screen televisions, provides upland spectator viewing benefits which help relieve demands that otherwise would concentrate along the waterfront.
- The international attraction of the races will generate major economic benefits to the San Francisco and Bay Area tourism and hospitality industry, which also will produce other secondary and multiplier effects that benefit the Bay Area economy.
- The AC34 Implementation Plans are the products of proactive, integrated planning and coordination through intergovernmental partnerships and with local, regional, state and federal regulatory agencies that have responsibility for implementing and/or managing aspects of AC34. The Implementation Plans also have been developed to complement the requirements and performance standards set forth in the Final EIR mitigation measures that are required to be implemented as part of carrying out the Project. As such, the Implementation Plans are essential for providing an organized focus on key components of AC34 programs and operations, which provide transparency, accountability and a new model for the City in managing complex, multi-faceted projects.
- One consistent theme of the Implementation Plans is environmental sustainability. Whether through provision of enhanced resources, targeted information and communication strategies, protection of specified resources, or tailored, integrated management strategies coordinated between multiple entities, the Implementation Plans have been developed to approach these tasks to minimize AC34's environmental impacts and carbon footprint. As reflected in the description of the Implementation Plan above in Section I, the Plans incorporate adaptive management strategies intended to scale responses and resources to the demands of the event, to the maximum extent possible. In this way, the preparations for AC34 and its management under the Implementation Plans will showcase how major international sporting events can be proactively managed, and set a standard for environmental sustainability.
- The inclusion of the 2012 World Series races as a precursor to the 2013 races provide City, Regional, State and Federal agencies and the Event Authority and AC Race Management the opportunity to conduct a "test-run" of the planned management strategies, Implementation Plans, and required mitigation measures. Based on the experience in 2012, these strategies will be updated to incorporate refinements, as necessary, to further ensure the AC34 2013 race events are well-managed and create enjoyable and successful events that also preserve quality of life and non-AC34 public enjoyment of the waterfront.

Environmental sustainability principles also apply to the planning and staging of major capital improvements to the Port's piers. The planned improvements for Pier 27 not only ready the site to support the AC Village in 2013, they also carry out an initial phase of construction that will advance development of the James R. Herman Cruise Terminal and Northeast Wharf Plaza. Contrary to instances where major capital improvements have been made for past Olympics or other major events and expositions where there was not a clear purpose for use of facilities after the event, the City and Event Authority have coordinated an approach where one phased construction process can serve both AC34 and a core maritime function and public access policy objective of the Port. Similarly, for Pier 30-32, the

substructure and deck repairs completed to support AC34 will improve a facility that is designated as a major development opportunity site in the Port's Waterfront Land Use Plan, will preserve an important berth for cruise ships and other large vessels, and maintain a location that supports special events.

The Project includes many refinements and new mitigation measures added in the Final EIR that substantially reduce the amount and severity of construction and operational air emission impacts below those presented in the Draft EIR. As discussed in detailed in Chapter 12.13, Air Quality Responses to Comments in the Final EIR, the Event Authority and AC Race Management have agreed to purchase race support boats with the cleanest burning engines available; require several clean construction equipment and operations, and low-sulfur fuel mitigation measures; and utilize temporary shoreside power for large spectator yachts at Pier 27. Together, these would reduce three of the four criteria pollutants regulated by the Bay Area Air Quality Management District below significance thresholds and thus reflects a substantial reduction below levels presented in the Draft EIR. Furthermore, the Project includes approval of a new mitigation measure to install shoreside power capability at the Pier 70 drydock shipyard; and accelerate the return of Pier 27 to the Port after AC34 to enable completion of cruise terminal construction and reinstatement of Pier 27 shoreside power facility for the 2014 cruise season. The Pier 70 shoreside power facility would offset vessel emissions generated by AC34 and cruise ship calls to San Francisco during the period when the Pier 27 shoreside power facility is temporarily decommissioned, and reduce the severity of significant air quality impacts. The Pier 70 shoreside power facility will enable cruise ships, cargo and maritime vessels to be powered by the City's power grid while being repaired at the Port's drydock.

While projections of economic benefits may vary according to the ultimate profile of the events (e.g. number of racing teams, spectator volume) the attraction of the events themselves will result in economic and employment benefits for the City and the surrounding Bay area vicinity. These opportunities will occur in a variety of sectors, from construction to event management to other visitor-serving enterprises. Together this will represent a needed economic stimulus at a time when the local economy continues its effort to move past the effects of the recent downturn.

Having considered these benefits, including the benefits discussed in Section I above, the Board finds that the benefits of the modified AC34 Project outweigh the unavoidable adverse environmental effects, and that the adverse environmental effects are therefore acceptable.