

February 20, 2018

File Number: 56RZ-257264

Via Electronic Mail and Hand Delivery

President Hillis
Members of the Planning Commission
San Francisco Planning Department
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Re: Supplement To Appeal of Preliminary/Final Mitigated Negative Declaration For Alcatraz Ferry Embarkation Project (Case No. 2017-000188ENV)

Dear President Hillis and Members of the Planning Commission

On behalf of the City of Sausalito (Sausalito), we provide the following additional comments and evidence to supplement Sausalito's appeal submitted on December 27, 2017 (Appeal) in advance of the Planning Commission's February 22, 2018 Appeal hearing.

SUMMARY OF CONCERNS

As explained in the Appeal, Sausalito's concerns regarding the Alcatraz Ferry Embarkation Project (Project) are limited to its authorization of new ferry service from Pier 31 ½ in San Francisco to Fort Baker, located adjacent to Sausalito, under contracts that may extend for fifty (50) years.

The Project purportedly analyzed in the proposed Final Mitigated Negative Declaration (FMND)¹ consists of: (1) a draft 30-year (plus two additional 10-year options, for a total of 50 years) "General Agreement" between the City and County of San Francisco, operating by and through the San Francisco Port Commission (Port) and the United States Department of the Interior, National Park Service (NPS) (Master Agreement); (2) a draft concession contract between NPS and the selected ferry concessioner (Concession Contract); and (3) a draft lease

¹ The San Francisco Planning Department (SF Planning) issued a Preliminary Mitigated Negative Declaration (PMND) on December 6, 2017. On February 15, 2018, SF Planning issued a revised, Draft Final Mitigated Negative Declaration, supported by SF Planning's Staff Report dated February 15, 2018.

between the Port and the selected ferry concessioner (Port Lease) (collectively referred to herein as the “Project Contracts”).²

The Planning Commission’s task and obligation under California’s Environmental Quality Act (CEQA) includes, among other things, to assess whether the proposed FMND accurately describes and adequately analyzes the proposed Project. Here, however, the Planning Commission cannot accomplish this task because the Project Contracts are not included in the Planning Staff’s materials regarding this item. This omission further renders it impossible for members of the public to meaningfully consider the adequacy of San Francisco’s environmental review regarding the Project’s potential impacts, in violation of CEQA’s mandatory information disclosure requirements.

Sausalito discovered since filing the Appeal that SF Planning never reviewed, much less analyzed the content of the Project Contracts during its environmental review of the Project and preparation of the FMND. On February 1, 2018, SF Planning responded to Sausalito’s request for an explanation regarding why no Project Contracts were produced in response to Sausalito’s Public Records Act Request (PRA) as follows:

The Planning Department only has the Environmental Application describing the project. Whatever Julie [Moore] provided from our files is all we have. **The agreement and contracts between NPS and the Port have nothing to do with our CEQA review**, therefore, we do not have copies of these.

(Attached **as Exhibit A** [emphasis added].) The flaw in this reasoning, of course, is that under CEQA, the “project” refers to the “underlying activity for which approval is being sought,” which in this case is the Project Contracts. (*City of Long Beach v. City of Los Angeles* (2018) 19 Cal. App. 5th 465, * 9 (Jan. 12, 2018).) It is impossible for SF Planning to assure the accuracy of the Project’s description, and therefore the adequacy of environmental review in the absence of the Project Contracts. This case vividly illustrates the consequences of conducting environmental review in a vacuum, without the benefit of the documents constituting the underlying activity for which approval is being sought.

As explained in greater detail below, the FMND is legally deficient largely because the “project description” does not accurately describe the actual Project as reflected in the Project Contracts. This inaccurate project description consequently distorts and invalidates virtually all of the FMND’s environmental analysis regarding Fort Baker ferry service. As examples:

- The FMND’s project description states: “[t]rips to Fort Baker would be limited to two per day and would occur on weekends only.” (FMND, p. 17.)

However, there is no limit on the frequency of ferry service to Fort Baker in any of the Project Contracts. To the contrary, the Concession Contract provides that passenger ferry service shall be determined by the Operating Plan that

² On January 31, 2018, NPS released its Prospectus for the Project containing the draft Project Contracts.

NPS may modify at its discretion. (Concession Contract, pp. 4-5.) The Draft Operating Plan similarly contains no limitation regarding the number of ferry trips to Fort Baker. Moreover, not addressed in the FMND, the Project Contracts additionally authorize unlimited charter ferry services to Fort Baker for conferences and other special events. (Concession Contract, p. 4, Draft Operating Plan, p. B-12.)

- The FMND's project description states that a "maximum" of 40,000 visitors per year would travel by ferries to Fort Baker. (FMND, p. 20.) SF Planning Staff's report dated February 15, 2018 for this hearing similarly states: "[a]s defined in the PMND project description, the Fort Baker ferry service would be limited to a maximum of 40,000 passengers annually." (Planning Staff Report, p. 14.) San Francisco's traffic consultant, Fehr and Peers (F&P), therefore analyzed the Project's potential transportation and circulation impacts premised on this alleged "limit" of 40,000 annual passengers. F&P's original report explained that this assumed maximum limit is "based on ferry service that would be limited to two trips day and occur only on weekends," and the "fact that Fort Baker, as a destination by itself, unlikely to draw enough visitors to justify regular service." (**Exhibit B**, p. 10.)

However, as explained above, the Project Contracts impose no limit on the amount of regular ferry service to Fort Baker, and further authorize unlimited ferry charter service to Fort Baker that was neither described nor analyzed in the FMND. Moreover, the revised FMND now concedes that Fort Baker ferry passengers are not drawn solely by the attractions at Fort Baker itself, but rather additionally by access to the Marin Headlands, other regional parks and Sausalito. (FMND, pp. 121-122.) The assumptions underlying F&P's less than significant impacts findings therefore are unsupported by substantial evidence.

- The FMND's project description states that ferry service to Fort Baker would be provided by a variety of vessels ranging from 125 to 350 passenger capacity. (FMND, p. 17) The FMND's analysis of the Project's impacts accordingly was premised on this assumed vessel size. (Staff Report, p. 14.)

However, the Draft Operating Plan provides that, at a minimum, the concessioner must provide a total of four (4) passenger vessels: two vessels with a minimum passenger capacity of 700 passengers each; and two vessels with a minimum passenger capacity of 500 persons each. (Draft Operating Plan, p. B-13.) The NPS' Prospectus publication entitled "Business Opportunity," includes this identical description of "Fleet Size and Minimum Vessel Requirements." (**Exhibit C**, p. 16.)

- In apparent recognition of the fact that the Project Contracts impose no limits on bicycles boarding ferries destined for Fort Baker, the FMND's project description was revised to clarify that "there are ***no plans*** to accommodate bicycles on the ferry boats." (FMND, p. 17. [emphasis added]) This revision,

however, reveals that the FMND's finding that the Project would cause no significant transportation and circulation impacts from bicycles is inaccurate and unsupported by substantial evidence. The FMND and F&P's report explain that the analysis of this potential impact was premised on the false assumption that "the proposed project would not generate any new bicycle trips at the Fort Baker site because ferry passengers will not be permitted to bring bicycles on board ferries from Pier 31 ½....." (FMND, p. 76; see also F&P report, **Exhibit B**, p. 53.)

It is entirely foreseeable that bicycles will be allowed to board ferries destined for Fort Baker during the 50-year life of the Project, particularly because of the Project's stated objective to improve "connectivity" to the Marin Headlands and nearby parklands (FMND, p. 121). Impacts from this potential use therefore must be analyzed.

The foregoing examples reveal that the Planning Commission may not lawfully approve the FMND in its current form. (*City of Redlands v. County of San Bernardino* (2002) 96 Cal. App. 4th 398, 406 ["The negative declaration is inappropriate where the agency has failed either to provide an accurate project description or to gather information and undertake an adequate environmental analysis."].) At a minimum, the Planning Commission must impose additional mitigation measures on the Project in response to the foregoing potentially significant impacts, including without limitation, the following:

1. No bicycles shall be permitted on ferries departing from Pier 31 ½ arriving directly or indirectly at Fort Baker. Bicycles shall be permitted, however, on ferries departing at Fort Baker. The departing ferries shall have the capacity to accommodate up to 50 bicycles each.
2. For any ferry arriving in Fort Baker with [*to be provided by Sausalito's traffic engineer*] or more passengers, therefore creating the potential for significant traffic, circulation and public safety impacts in Sausalito from passengers subsequently traveling to Sausalito in private cars for hire, there shall be connecting shuttle service to Sausalito to meet demand. This connecting shuttle service departing from Fort Baker shall be available only for ferry-connecting passengers, and shall be free of charge for these passengers.³
3. For any connecting shuttle service provided from Fort Baker to Sausalito, return shuttle service shall be provided from downtown Sausalito to connect with ferries departing from

³ Sausalito has retained a traffic engineer to determine the appropriate threshold trigger for this mitigation measure. Sausalito's traffic engineer takes issue with F&P's methodology and findings, and has concluded that Fort Baker ferry service may cause several significant transportation and circulation impacts. Sausalito will submit this evidence in the administrative record, adding to the existing evidence supporting a fair argument that the Project may cause significant impacts, in the event that the Planning Commission denies this Appeal.

Fort Baker to San Francisco. These shuttles shall each have the capacity to transport a minimum of 20 bicycles.

4. Commencing with ferry service to Fort Baker, the National Park Service (NPS) shall provide Sausalito with quarterly reports regarding Fort Baker ferry ridership (in-bound and out-bound, including all passenger transport, charter ferries and/or other interpretative cruises), as well as ridership information, pedestrian and bicycles, regarding the connecting shuttle services (in-bound and out-bound).
5. In the event that shuttle/bus or other public transportation link is commenced from Fort Baker to Muir Woods, or any other destination, all such traffic shall be directed exclusively to the Alexander Avenue/101 Northbound on-ramp, and shall not travel through Sausalito.
6. If ferry service from Pier 31 ½ to Fort Baker exceeds 40,000 passengers for any calendar year, NPS and/or the Port of San Francisco (Port) shall fund a study, to be conducted and overseen by Sausalito, on the additional ferry service's potential transportation and/or public safety impact on Sausalito. Based on the findings of the study, NPS and/or the Port shall contribute their fair share to fund infrastructure and other improvements to mitigate impacts identified in the study caused by ferry service to Fort Baker.

SAUSALITO'S REQUEST

Sausalito's Appeal requested that San Francisco either prepare an Environmental Impact Report (EIR) to analyze the Project, or alternatively, sever the proposed Fort Baker ferry service from the Project. As an alternative, however, San Francisco may adopt additional mitigation measures to ensure that the Project's Fort Baker ferry service will have less than significant impacts.

As explained in the accompanying letter submitted by Sausalito Mayor Joan Cox, Sausalito is engaged in discussions with NPS regarding potential mitigation measures to be added to the Project to address the concerns addressed above and others. Sausalito therefore requests that the Planning Commission continue this hearing regarding the Appeal for at least 30 days. This extension would allow time for each of the public agencies and their respective engineers to work collaboratively to draft mitigation measures and employ other strategies designed to cure the FMND's current CEQA deficiencies and therefore resolve Sausalito's concerns. Alternatively, the Planning Commission may simply grant this Appeal and reject the proposed FMND for the Project.

THE OMISSION OF THE PROJECT CONTRACTS VIOLATES CEQA'S MANDATORY PUBLIC DISCLOSURE REQUIREMENTS

San Francisco's failure to disclose the Project Contracts to the public and include them with Planning Staff's materials regarding the Appeal violates CEQA's mandatory public disclosure and public participation requirements by thwarting both the Planning Commission's and the public's ability to meaningfully assess and/or modify the Project to minimize or avoid potentially significant environmental impacts.

"Public participation is an essential part of the CEQA process..." (*Concerned Citizens of Costa Mesa, Inc. v. 32nd District Agricultural Association* (1987) 42 Cal. 3d 929, 935.) "The 'privileged position' that members of the public hold in the CEQA process is based on a belief that citizens can make important contributions to environmental protection and on notions of democratic decision-making." (*Id.* at 936.) "CEQA compels an interactive process of assessment of environmental impacts and responsive project modification which must be genuine. It must be open to the public, premised upon a full and meaningful disclosure of the scope, purposes, and effect of a consistently described project, with flexibility to respond to unforeseen insights that emerge from the process." (*County of Inyo v. City of Los Angeles* (1984) 160 Cal. App. 3d 1178, 1185.) "In short, a project must be open for public discussion and subject to agency modification during the CEQA process. This process helps demonstrate to the public that the agency has in fact analyzed and considered the environmental implications of its action." (*Ibid.*, citing *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal. 3d 68, 86.)

The Planning Commission therefore may not lawfully approve the FMND without first providing both itself and members of the public sufficient notice and opportunity to review and consider the Project Contracts.

SAN FRANCISCO FAILED TO COMPLY WITH SPECIAL CONSULTATION REQUIREMENTS THAT APPLY TO THIS PROJECT OF STATEWIDE, REGIONAL, OR AREAWIDE SIGNIFICANCE

Sausalito demonstrated in the Appeal that San Francisco was required to consult with Sausalito in the same manner as a "responsible agency" because the Project is one of "Statewide, Regional or Areawide Significance," and because Sausalito is a public agency with transportation facilities within its jurisdiction which could be affected by the Project.

SF Planning contends in response that the Project has no such significance because the PMND determined that the Project would have less than significant impacts, and even if the Project had such significance, CEQA's consultation requirements for such projects apply only to the preparation of EIRs rather than negative declarations. (Staff Report, p. 4.) Both contentions, however, are incorrect.

First, contrary to SF Planning's claim, the PMND's finding that the Project's impacts would be less than significant is not relevant to the determination regarding whether a Project qualifies as one of Statewide, Regional or Areawide Significance. CEQA sets a lower threshold,

and defines such projects broadly to include those that “*substantially affect*,” among other things, sensitive wildlife habitats, bays and estuaries. Such is the case with the Project here.

Second, contrary to SF Planning’s claim, Public Resources Code section 21082.1 expressly imposes on lead agencies the procedural requirements applicable to projects of Statewide, Regional or Areawide Significance in connection with their preparation of EIRs or negative declarations. (Pub. Res. Code § 21082.1, subd. (c)(4)(C).) In fact, SF Planning’s interpretation is refuted by CEQA Guidelines section 15096(a) and (b), which explain that San Francisco was required to consult with Sausalito regarding this project of Statewide, Regional or Areawide Significance in part to assist in the determination regarding whether an EIR or negative declaration should be prepared.

Finally, SF Planning contends that it sent Sausalito a Notice of Availability of and Intent to Adopt a Negative Declaration on December 6, 2017. However, Sausalito has no record of receiving this notice.

THE REVISED FMND AND STAFF RESPONSE DO NOT CURE THE NUMEROUS CEQA DEFICIENCIES IDENTIFIED IN THE APPEAL

Sausalito hereby incorporates its Appeal letter dated December 27, 2017. Neither the revised FMND nor SF Planning Staff’s February 15, 2018 report cure the deficiencies identified therein. We further address select examples of these remaining deficiencies, without waiver of issues previously raised but not addressed again below.

A. The FMND’s Project Description Is Inaccurate And Legally Deficient

As explained above and in Sausalito’s original Appeal letter, the FMND’s project description is deeply flawed and inaccurate in numerous respects. These inaccuracies likely derive from the fact that SF Planning has never reviewed the Project Contracts, and instead has relied exclusively on NPS’s description provided in its application materials. The FMND’s inaccurate project description renders the FMND legally inadequate. The court in *City of Redlands, supra*, 96 Cal. App. 4th at 404-406 explained:

An accurate and complete project description is necessary for intelligent evaluation of the potential environmental impacts of the agency’s action. Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal’s benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal...and weigh other alternatives in the balance.

The FMND’s project description is further deficient because it fails to describe and consider the project as a whole, including reasonably foreseeable expansion of the project to include transport connections to the Marin Headlands, Muir Woods and/or other NPS destinations. (CEQA Guidelines, § 15063(a).) SF Planning states in response that “CEQA provides that the PMND need not engage in speculative analysis of environmental

consequences for future unspecified development.” (Staff Report, p. 11.) That response, however, does not withstand legal scrutiny on this administrative record.

“The fair argument test requires the preparation of an EIR where there is substantial evidence that any aspect of the project, either individually or cumulatively, may cause a significant effect on the environment, regardless of whether the overall effect of the project is adverse or beneficial.” (*County of Sanitation Dist. No. 2 of Los Angeles County v. County of Kern* (2005) 127 Cal. App. 4th 1544, 1580; CEQA Guidelines, § 15063(b)(1).) “The finding of ‘significance’ of an environmental effect requires the evaluation of ‘direct physical changes in the environment [that] may be caused by the project and reasonably foreseeable indirect changes in the environment [that] may be caused by the project.’” (*Id.* at 1581, CEQA Guidelines, § 15064(d).)

“The test for the strength of the nexus between the project and in indirect physical change is whether ‘that change is a reasonably foreseeable impact [that] may be caused by the project.’” (*Ibid.*, citing CEQA Guidelines, § 15064(d)(3).) “Under the fair argument test, the inquiry into what is reasonably foreseeable depends on whether the administrative record contains enough evidence to show a reasonable possibility that a particular [activity] would [occur] in the future. (*Id.* at 1584.) Future direct or indirect project activities are not rendered speculative by virtue prediction. (*Id.* at 1586.) “Predicting the physical changes a project will bring about is an inescapable part of CEQA analysis.” (*Ibid.*, citing *Planning & Conservation League v. Department of Water Resources* (2000) 83 Cal. App. 4th 892, 919 [CEQA compels reasonable forecasting].) The CEQA Guidelines further provide that: “[d]rafting an EIR or preparing a negative declaration necessarily involves some degree of forecasting. While forecasting the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can.” (CEQA Guidelines, § 15144.)

Here, the administrative record contains more than sufficient evidence of a fair argument demonstrating the *possibility* that the Project may ultimately result in transport connections to Marin Headlands, Muir Woods and other NPS destinations.

- The 2011 Draft Final Alcatraz Ferry Embarkation and Education Site Feasibility Study (May 2011), states: “Given that visitation to Alcatraz Island is limited, the ferry embarkation site is more than just a transit stop....the Embarkation facility has the potential to be developed as a gateway to the GGNRA and the NPS as well as to Alcatraz Island. The offerings at the Embarkation Facility could be expanded in the future, and the Embarkation Facility itself could become a first-class, distinct experience for visitors to the GGNRA.” (**Exhibit D**, pp. 1-2-1-3.)

This same Study states that the Project objectives include: “...providing for the opportunity to connect to other parklands (such as Fort Baker, Fort Mason, and Muir Woods Monument.)” (*Id.*, p. 4-2.)

- On November 10, 2016, San Francisco’s CEQA consultant, Anchor QEA, LLC, submitted a memorandum to SF Planning providing the Project’s Description. The memo describes the purposes of the Project to include: “...provide a

connection to other Golden Gate National Recreation Area (GGNRA) parklands and orientation to the national park system in general.” This memo further states that the Project would provide “convenient transit connections to other GGNRA parklands, such as Fort Baker....” It further states that additional ferry services would “provide visitors the opportunity to visit other parks within the Bay, including the Fort Baker Pier, Angel Island, or other destinations in San Francisco Bay in the future.” (**Exhibit E**, pp. 1-3 and 6.)

- The revised FMND now concedes that the Project would increase visitors to Fort Baker, the Marin Headlands and “nearby parklands.” (FMND, p. 121.) The vague reference to “nearby parklands” is unexplained. Moreover, while SF Planning’s report asserts that Fort Baker ferry arriving passengers would access the Marin Headlands solely by connecting pedestrian trails (Staff Report, p. 15), no evidence is provided to support this conclusory assertion.

Beyond the foregoing evidence affirmatively demonstrating that future transit connections from Fort Baker to other NPS sites are reasonably foreseeable, neither the FMND nor Planning Staff’s response provide evidence of any effort by San Francisco, much less the legally required best efforts, to find out all it can from NPS regarding the foregoing reasonable possibilities. Moreover, Sausalito attempted to gather such evidence by submitting a Freedom of Information Act (FOIA) request to NPS. Unfortunately, however, Sausalito’s efforts to date have been stymied by NPS’ assertion of baseless objections to Sausalito’s FOIA request. (**Exhibits F and G**). NPS’ conduct thus provides an independent reason for the Planning Commission to continue this Appeal until such time as NPS complies with Sausalito’s FOIA request and San Francisco complies with its obligation to use its best efforts to find out all it can regarding future foreseeable Project changes.

Finally, the FMND’s description of the Project’s environmental setting is legally deficient for the reasons set forth in the Appeal. Revisions to the PMND reflected in the FMND reveal two additional defects. First, as noted above, the FMND and Planning Staff concede that Fort Baker arriving ferry passengers will visit the Marin Headlands. The FMND’s description of the project setting, however, provides no information regarding the Marin Headlands. No information is provided regarding the pedestrian trails allegedly linking the two parks (Staff Report, p. 15), including the location, length, condition, and route of such trails, and the extent to which such trails present potential traffic and/or public safety concerns because they require crossing of Alexander Avenue. This omission renders the FMND’s description of the Projects’ environmental setting inadequate as an informational document. Second, although F&P acknowledges in its supplemental traffic report that the Project may generate as many as 32 new private car trips to deliver passengers to and from Sausalito, the FMND’s description of the Project’s environmental setting provides no information regarding parking capacity and vehicle queuing/loading capacity at the Fort Baker pier. This omission impedes the ability of the Planning Commission and members of the public to meaningfully assess the Project’s potential traffic and circulation impacts, including the ability to devise mitigation measures and/or alternatives.

B. The FMND's Analysis of Traffic and Circulation Impacts Is Deficient

As explained above, F&P's original and supplemental analysis is premised on the FMND's flawed description of the Project as "limiting" Fort Baker ferry service to 40,000 annual passengers, based solely on two roundtrips on weekends only, with no bicycles allowed on board departing ferries. Consequently, F&P's findings of less than significant impacts are unsupported by substantial evidence.

Sausalito's retained traffic engineer has identified several additional inaccuracies and deficiencies in F&P's analysis and findings. For example, F&P's supplemental traffic analysis concludes that Fort Baker ferry service may generate as many as 32 new private vehicles delivering passengers to and from Sausalito. It further asserts, however, that vehicles returning to the ferry landing to return to San Francisco "would likely arrive over a more dispersed period of time prior to the ferry departure, such that vehicles would not arrive simultaneously, drivers would drop off passengers, and queues would not form." (F&P Supplemental Report, p. 6.) This bare assertion, however is unsupported by analysis, investigation or data. It further defies logic. Contrary to F&P's assertion, returning vehicles are in fact more likely to arrive simultaneously, just prior to the ferry's scheduled departure to San Francisco. Moreover, the FMND provides no information, much less analysis regarding parking capacity, queuing and loading capacity and adjacent street access conditions at the Fort Baker pier. A fair argument thus supports the possibility that Fort Baker ferry service may cause significant traffic and circulation impacts. This is one of several findings that will be further supported in a report prepared by Sausalito's traffic engineer that Sausalito will submit to San Francisco's Board of Supervisors should the Planning Commission deny this Appeal.

Finally, F&P's supplemental traffic report contends that even if traffic from the Fort Baker ferry service were to increase congestion in Sausalito, it would not be considered a significant impact because the City of San Francisco does not use traffic congestion as a metric for assessing transportation impacts. (F&P Supplemental Report, p. 7.) However, San Francisco's policy reflects conditions unique to San Francisco (FMND, p. 65), and thus has no relevance nor application to the Project's potential traffic and circulation impacts on Sausalito. Moreover, even if San Francisco's transportation impacts policy had any application to Sausalito, it is well settled that a public agency may not rely on an adopted threshold of significance as a shield designed to avoid consideration of evidence presented supporting a fair argument that a certain impact may be significant notwithstanding the applicable threshold of significance. (*Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal. App. 4th 98, 111-114.)

C. The FMND's Inaccurate Project Description Invalidates Virtually All Of The FMND's Analysis Regarding Fort Baker Ferry Service

As explained in the Appeal, several of the PMND's findings of less than significant impacts are premised on an inaccurate description of the Project, and therefore are unsupported by substantial evidence. The revised FMND and Planning Staff's report do not cure these deficiencies. Moreover, additional information obtained since the Appeal reveals additional deficiencies in the FMND. We address two such examples.

1. The MND Conceals Significant Construction Noise Impacts Previously Identified By NPS in the FEIS

Table 76 of the FEIS prepared by NPS, copied below, summarized the Project’s construction noise impacts on sensitive receptors at Fort Baker. This Table reveals that at the Recreational Use Area along the Fort Baker pier, construction noise would exceed the applicable FTA Daytime Noise Criterion of 100 dBA, reaching a maximum of 108 dBA.

TABLE 76. CONSTRUCTION NOISE FROM FORT BAKER LIMITED FERRY SERVICE

Receptor	Recreational Use Area	USCG Station	Bay Area Discovery Museum
Applicable FTA Daytime Construction Noise Criterion (dBA)	100	100	100
Distance from Outer Boundary of Alternative Site (feet)	0	600	1,150
Existing Noise Level without Project (dBA, L _{dn})	55	55	55
L _{max} Contribution from Construction (dBA)	108	36	0
Predicted Noise Level with Construction (dBA, L _{dn})	108	55	55
Exceeds Applicable FTA Criteria?	Yes	No	No

SF Planning commenced its analysis of this potential impact based on the FEIS, but then modified those findings to support the decision to prepare a negative declaration rather than an EIR. For example, SF Planning and its environmental consultants held a meeting on January 11, 2017 to discuss the CEQA analysis for the Project. The notes from the meeting show that San Francisco’s proposed approach to noise impacts was to “review the analysis presented in the EIS to determine whether additional analyses are required for CEQA.”

SF Planning accordingly followed the noise approach used in the FEIS, even structuring its impact summary tables in the same way. However, in contrast to the FEIS, the PMND and FMND delete any discussion of the Project’s construction noise impacts on the Recreational Use Area. Table 19 (Construction Noise At Fort Baker), copied below, deletes the Recreational Use Area column without any explanation.

**TABLE 19
 CONSTRUCTION NOISE AT FORT BAKER**

Affected Receptor	USCG Station	Bay Area Discovery Museum
Distance from Outer Boundary of Receptor to Outer Boundary of Site (feet)	600	1,150
Existing Daytime Background Noise Level without Project (dBA, L _{eq})	55	55
During Pile Driving		
Predicted Maximum (L _{max}) Construction Noise Level (dBA)	79.7	74.0
Predicted Average Construction Noise Level (dBA, L _{dn})	72.8	67.1
Noise Ordinance Threshold	N/A	

Affected Receptor	USCG Station	Bay Area Discovery Museum
Exceeds Threshold?	No	No
During Loudest Non-Pile-Driving Phase (Site Demolition)		
Predicted Maximum (L _{max}) Construction Noise Level (dBA)	68	62.3
Predicted Average Construction Noise Level (dBA, L _{dn})	62.7	57.1
Noise Ordinance Threshold	Work restricted to daytime hours	
Exceeds Threshold?	No	No

dBA: decibels, A-weighted
 L_{ac}: average day/night equivalent sound level
 L_{eq}: equivalent continuous sound level
 L_{max}: maximum sound level
 SFPD/PW: San Francisco Department of Public Works
 USCG: U.S. Coast Guard

(FMND, p. 87.)⁴

Moreover, the FMND’s modeling shows that construction noise impacts at Fort Baker would be even greater than was predicted in the FEIS. For example, while the FEIS predicted maximum construction noise levels of 55 dBA at the USCG Station and Bay Area Discovery Museum, the FMND reveals they would be 72.8 and 67.1 dBA, respectively, during pile driving.

⁴ Notably, the column identifying “Recreational Use Area” impacts was selectively deleted solely from Table 19, addressing Construction Noise Impacts. This column is reintroduced in Table 20, identifying Operational Noise Impacts, where inclusion of this analysis does not disclose that the Project will exceed the threshold of significance.

This indicates that the significant construction noise impact on the Recreational Use Area will be even greater than disclosed in the FEIS. (Table 19, FEIS, p. 87.)

Table 19 further summarizes the Project's potential construction noise impacts separately as to "Pile Driving," and "Non-Pile Driving." As to the former, the FMND asserts that no threshold of significance applies. (See Table 19 [stating Noise Ordinance Threshold "N/A"].) That approach, however, is unlawful because while a lead agency has discretion to choose an appropriate threshold of significance, it cannot refuse to apply any threshold whatsoever. Here, as shown in the FEIS, Fort Baker is a federal property, and the FTA noise standards should be applied. In fact, the FMND applies the FTA noise standards in the next section analyzing operational noise impacts. (See Table 20, FMND, pp. 87-88.)

As to "Non-Pile Driving" construction noise, Table 19 purports to rely on the County of Marin's Noise Ordinance limiting construction to daytime activities. (See FMND, p. 81.) The FMND contends that by complying with that ordinance, "Non-Pile Driving" construction noise is less than significant. (See Table 19 [stating "Noise Ordinance Threshold" – "Work restricted to daytime hours."] However, compliance with a local noise ordinance does not ensure that a project's CEQA impacts are less than significant. (See *Keep Our Mountains Quiet v. County of Santa Clara* (2015) 236 Cal.App.4th 714, 733 ["compliance with [local noise] ordinance does not foreclose the possibility of significant noise impacts."].)

In summary, the FEIS itself provides substantial evidence of a fair argument that Fort Baker ferry construction noise will have significant impacts on nearby sensitive receptors, thus triggering the requirement to prepare an EIR. It is apparent, however, that the FMND suppresses this information by excluding the data revealed in the FEIS demonstrating this significant impact. Under CEQA, "stubborn problems" must not be "swept under the rug" as this destroys "the integrity of the process." (*Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 940.)⁵

2. New Information Reveals Additional Recreation Impacts Not Addressed In The FMND

As noted above, the revised FMND now states that the Project would increase visitors to the Marin Headlands and "nearby parklands," but that impacts to these parks would be less than significant. However, this conclusory assertion is unsupported by analysis or supporting evidence. The FMND provides no information regarding these parks. No estimates are provided regarding how many new visitors will visit these parks because of the Project, and by what means. No information is provided regarding the threshold of significance the FMND applied to assess such impacts. Nor is any evidence provided demonstrating how Project

⁵ As an additional and independent legal deficiency, the FMND provides no analysis of potential noise impacts resulting from construction of the Project's pedestrian pathway, notwithstanding the fact that this pathway extends substantially closer to sensitive receptors than the Fort Baker pier.

impacts fall below this threshold. The FMND therefore is legally inadequate as an informational document.

D. The FMND Fails To Adequately Analyze And Mitigate Potential Hazards, Pollutants and Water Quality Impacts

Sausalito explained in its Appeal that the PMND's reliance on compliance with various regulatory requirements and permits to mitigate potential impacts is insufficient because none are imposed as enforceable mitigation measures. Planning Staff responds that mitigation measures are not required where compliance with necessary permits and enforceable regulations is mandatory and will include specific measures designed to mitigate impacts. (Staff Report, p. 24.) Not so. The Project's required compliance with regulatory requirements should be analyzed in the FMND so that the decision makers and members of the public can assess whether compliance adequately mitigates the Project's potential environmental impacts. Moreover, each such regulatory requirement must further be identified as an enforceable mitigation measure, rather than merely as "part of the project." Compression of the analysis of the project's description and necessary mitigation measures into a single issue violates CEQA. (*Lotus v. Department of Transportation* (2014) 223 Cal. App. 4th 645, 656.)

Additionally, the Project's regulatory compliance requirements identified by the Planning Staff largely pertain to Project construction, and therefore do not fully address Sausalito's stated concerns regarding potentially significant impacts resulting from Fort Baker ferry service operations. (Staff Report, p. 24.) Moreover, the FMND and the Staff Report fail to adequately respond to Sausalito's observations that the PMND's reliance on "future plans" to be "developed" to mitigate the Project's potential impacts contravenes CEQA's prohibition of deferred mitigation. The Staff Report simply asserts that the FMND "fully adheres" to CEQA's requirements pertaining to deferred mitigation without addressing the specific examples of unlawful deferred mitigation identified in the Appeal.

CONCLUSION

As explained in Sausalito's Appeal and the accompanying letter submitted by Sausalito Mayor Joan Cox, Sausalito is a proponent and great supporter of regional planning solutions. However, the reduction of impacts on San Francisco and the Golden Gate Bridge cannot result in increased congestion and overcrowding in Sausalito.

Sausalito encourages the Planning Commission to continue the hearing on this Appeal to allow time for this Commission and members of the public to review and comprehend the actual Project as set forth in the Project Contacts. A continuance would additionally allow time for the agencies to work cooperatively in drafting mitigation measures and considering other strategies designed to lessen and avoid potentially significant impacts from Fort Baker ferry construction and operations.

Sausalito welcomes the opportunity to work collaboratively with NPS and San Francisco.

Very truly yours,



Arthur J. Friedman
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

SMRH:485499734.1

cc: Brian Aviles – National Parks Conservancy
Catherine Barner – Golden Gate National Parks Conservancy
Diane Oshima – Port of San Francisco
Julie Moore – SF Planning Department, Staff Contact

EXHIBIT A

Arthur Friedman

From: CPC-RecordRequest <CPC-RecordRequest@sfgov.org>
Sent: Monday, February 5, 2018 11:30 AM
To: Alex Merritt; CPC-RecordRequest
Cc: Arthur Friedman; Mary Wagner
Subject: RE: IMMEDIATE DISCLOSURE REQUEST: Public Records for the Alcatraz Ferry Embarkation Project, Case No. 2017-000188ENV

Alex,
Please see respond below.

Records Requests

San Francisco Planning Department
1650 Mission Street, Suite 400 San Francisco, CA 94103
Main: 415.558.6378 | www.sfplanning.org
[San Francisco Property Information Map](#)

From: Alex Merritt [mailto:amerritt@sheppardmullin.com]
Sent: Friday, February 02, 2018 2:08 PM
To: CPC-RecordRequest
Cc: Arthur Friedman; Mary Wagner
Subject: RE: IMMEDIATE DISCLOSURE REQUEST: Public Records for the Alcatraz Ferry Embarkation Project, Case No. 2017-000188ENV

Just following up on this. When can we expect a response?

Thank you,
Alex

Alexander L. Merritt
415.774.2976 | direct
415.403.6089 | direct fax
amerritt@sheppardmullin.com | [Bio](#)

SheppardMullin

Sheppard Mullin Richter & Hampton LLP
Four Embarcadero Center, 17th Floor
San Francisco, CA 94111-4109
415.434.9100 | main
www.sheppardmullin.com

From: Alex Merritt
Sent: Thursday, February 1, 2018 9:47 AM
To: 'CPC-RecordRequest' <CPC-RecordRequest@sfgov.org>
Cc: Arthur Friedman <afriedman@sheppardmullin.com>; Mary Wagner <MWagner@sausalito.gov>
Subject: RE: IMMEDIATE DISCLOSURE REQUEST: Public Records for the Alcatraz Ferry Embarkation Project, Case No. 2017-000188ENV

Thank you for producing these records. We believe, however, that the production is incomplete. The deficiencies include, without limitation:

- Request 1 seeks all agreements constituting the Project, including the long-term agreement between the Port and NPS, all proposed concession contracts, and all contracts related to ferry service. Because these agreements are part of the Project that is being evaluated in the MND, we believe Planning must have copies of these agreements. Can you please explain why they were not produced, or why Planning does not have them?
-The Planning Department only has the Environmental Evaluation Application describing the project. Whatever Julie provided from our files is all we have. The agreement and contracts between NPS and the Port have nothing to do with our CEQA review, therefore, we do not have copies of these.
- Request 9 seeks a copy of the City's PowerPoint presentation from the January 22, 2018 meeting to the BCDC Design Review Board and Port's Waterfront Design Advisory Committee. I personally attended that meeting and know that the PowerPoint presentation exists. Can you please explain why it was not produced?
-The Planning Department did not produce any PowerPoint presentation nor did we attend BCDC Design Review Board and Port's Waterfront Design Advisory Committee meeting. Therefore, we do not have this PowerPoint presentation.
- The email production entitled "SGeorge Emails Alcatraz Pier 31.5" is missing the attachments. Can you please re-produce these emails with all attachments.
The emails and attachments could be accessed via this link: <https://files.acrobat.com/a/preview/f596da14-b76f-4600-8624-ad27af216cb3>

Alexander L. Merritt
415.774.2976 | direct
415.403.6089 | direct fax
amerritt@sheppardmullin.com | [Bio](#)

SheppardMullin

Sheppard Mullin Richter & Hampton LLP
Four Embarcadero Center, 17th Floor
San Francisco, CA 94111-4109
415.434.9100 | main
www.sheppardmullin.com

From: CPC-RecordRequest [<mailto:CPC-RecordRequest@sfgov.org>]
Sent: Wednesday, January 31, 2018 4:42 PM
To: Alex Merritt <amerritt@sheppardmullin.com>; CPC-RecordRequest <CPC-RecordRequest@sfgov.org>
Cc: Arthur Friedman <afriedman@sheppardmullin.com>; Mary Wagner <MWagner@sausalito.gov>
Subject: RE: IMMEDIATE DISCLOSURE REQUEST: Public Records for the Alcatraz Ferry Embarkation Project, Case No. 2017-000188ENV

Mr. Merritt,

The complete record was produced including the second request.

Records Requests

San Francisco Planning Department
1650 Mission Street, Suite 400 San Francisco, CA 94103
Main: 415.558.6378 | www.sfplanning.org
[San Francisco Property Information Map](#)

From: Alex Merritt [<mailto:amerritt@sheppardmullin.com>]
Sent: Wednesday, January 31, 2018 9:30 AM
To: CPC-RecordRequest

EXHIBIT B



December 4, 2017

Sherie George
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

**Subject: Alcatraz Embarkation Facility – Pier 31-1/2 Circulation Study
(2017-000188ENV) – Final**

This letter report presents a study of transportation-related effects and impacts of the proposed Alcatraz Embarkation Facility and Visitors Center Expansion ("Proposed Project") located at Pier 31-½ on the Embarcadero in San Francisco.

Multiple factors led to a decision to enhance and expand the Alcatraz embarkation facilities. According to the Park Service, the public areas are entirely outdoors and the site has a temporary visual character that is inappropriate for a National Park. Additionally, visitor demand is expected to grow in line with a general growth in tourism in San Francisco, and while the current facility could accommodate this growth, the Proposed Project would provide a more comfortable experience for visitors.

This letter presents a description and assessment of existing transportation conditions at the project site including the travel patterns of site visitors and National Park Service (NPS) employees. This is followed by an assessment of travel demand due to the Proposed Project expansion. Then, proposed pick-up/drop-off loading facilities and other transportation-related elements of the Proposed Project are assessed for potential impacts. The report culminates in a set of recommended improvements.

PROJECT DESCRIPTION

PIER 31 ½

Alcatraz Island, a National Historic Landmark, is part of and managed by the Golden Gate National Recreation Area (GGNRA), a National Park Service (NPS or Park Service) unit that includes numerous park facilities within the San Francisco Bay Area, including Fort Mason, Fort Baker, Crissy Field,



FORT BAKER

Figure 5 shows the concept plan for the proposed improvements at Fort Baker. The construction necessary to establish ferry service at Fort Baker would primarily involve upgrades to the existing concrete pier, which was constructed for military purposes in the late 1930s. The pier, an extension of Moore Road, is located at the mouth of Horseshoe Bay at the southern tip of the Fort Baker site. In addition to structural upgrades, water and lighting utilities would be extended and rerouted to the pier. Finally, a new pedestrian pathway would be constructed to connect Cavallo Point Lodge and the Bay Area Discovery Museum with the pier. The proposed path would require updating existing pedestrian infrastructure on the pier and the path between Cavallo Point Lodge and the Discovery Museum, as well as constructing an entirely new path, measuring approximately one-quarter mile, between the Discovery Museum and pier. These upgrades would include adding ADA-compliant ramps to the Murray Circle sidewalk where it intersects the access road between Murray Circle and McReynolds Road just north of East Road.

It is anticipated that roughly 40,000 visitors per year would travel to Fort Baker from Pier 31½ under the Proposed Project. This estimate is based on ferry service that would be limited to two trips per day and occur only on weekends; a variety of operational and physical constraints, including limited existing parking at Fort Baker; existing congestion in and around Sausalito; and the fact that Fort Baker, as a destination by itself, is unlikely to draw enough visitors to justify regular service. No new parking would be provided at the site to accommodate ferry passengers. There would also be no ticket sales at Fort Baker, and no shuttle service would be provided to serve ferry passengers.

Cars would still be able to access Moore Road, which connects Center Road with the pier, and the existing parking near the pier would not be removed. There would be no alterations to parking anywhere at Fort Baker. Ferry operations would utilize a small portion of the pier on weekends, the majority of which would remain open for recreational uses including fishing and sightseeing.

Construction is anticipated to begin at Fort Baker in 2023. See full description in **Appendix A**.



the Proposed Project's impacts on bicycle conditions would be **less than significant**. Although the Proposed Project would have less-than-significant bicycle impacts, the NPS should consider Improvement Measure TR-4 to provide additional bike parking.

Fort Baker

The Proposed Project will not generate any new bicycle trips at the Fort Baker site, since ferry passengers will not be permitted to bring a bicycle on-board and rental bicycles are not available at the site. The new pedestrian pathway would potentially separate pedestrians from bicyclists, reducing the likelihood for conflicts. The Project would not create potentially hazardous conditions for cyclists nor interfere with bicycle accessibility in the area. Therefore, the impacts would be **less than significant**.

PARKING IMPACTS

Pier 31 ½

On-Site Parking

Under the Proposed Project, off-street parking for staff would be relocated into the interior of the Pier 31 shed building. Eight tandem parking spaces and three ADA accessible spaces would be provided. The ADA accessible spaces would be available to staff as well as visitors. Eight unrestricted spaces is a reduction from the current staff parking supply and would not accommodate the staff parking demand observed during the June 2017 site visit. During the mid-day period, 12 staff vehicles were parked in the on-site lot. The unmet staff parking demand would either move to off-site lots or shift to another mode of travel. This change does not create a substantial parking deficit and in the event that these staff continue to drive, their parking needs could be accommodated by the observed supply in nearby lots.

Off-Site Parking

As shown in **Table 7**, the Proposed Project would increase parking demand by approximately eight spaces during the peak utilization period (12:00PM – 3:00PM). The 2013 EIS found that there are 1,125 off-street and 690 on-street parking spots within one-quarter mile of Pier 31 ½. During the peak utilization period parking was, on average 80 percent occupied. Spot checks performed by Fehr & Peers in June 2017 of on-street and off-street parking showed that parking conditions have not substantially changed since the 2013 analysis. Given parking supply and observed utilization

EXHIBIT C

Category	Projected Range (2019)
Average Transportation Revenue per Angel Island Hop Passenger (excludes Alcatraz-Angel Island leg revenue)	\$22.50 – \$24.50
Park Cruise Ridership	80,000 – 90,000
Average Park Cruise Revenue per Passenger	\$30.50 – \$32.50
Number of Charter Trips Provided	20 – 40
Average Revenue per Charter Trip	\$20,000 – \$40,000
Average Food & Beverage Expenditure per Alcatraz/Angel Island Passenger	\$0.75 – \$0.85
Average Food & Beverage Expenditure per Park Cruise Passenger	\$0.75 – \$0.85
Total Projected Revenue	\$44,000,000 - \$52,000,000

Source: National Park Service

The Service's ridership projections for the Alcatraz and Angel Island ferry reflect the Alcatraz visitation limits imposed by the Service, discussed previously. Given these limits, the maximum number of visitors the Concessioner may transport to Alcatraz Island by passenger ferry annually is approximately 1.8 million, and the maximum number of Park Cruise passengers annually is 90,000. The Service plans to enforce the visitation limits presented in this Business Opportunity during the term of the Draft Contract. Therefore, as part of financial projections, Offerors must not project ridership exceeding visitation limits described herein.

The Alcatraz and Angel Island Hop Ferry projected revenue range presented in Exhibit 9 do not include Alcatraz Audio Tour fees, FLREA Expanded Amenity Fee, Behind-the-Scenes tour, or any Angel Island fees that do not contribute to the Concessioner's revenue.

FLEET SIZE AND MINIMUM VESSEL REQUIREMENTS

The Concessioner must provide and use a minimum of four passenger ferry vessels to provide the Required Services under the Draft Contract. The vessels must have the following minimum passenger capacities in order to provide for a comfortable, high quality visitor experience and also to ensure adequate capacity for return trips:

- Vessel 1: 700 passengers
- Vessel 2: 700 passengers
- Vessel 3: 500 passengers
- Vessel 4: 500 passengers

In addition, the Concessioner must use vessels that conform to the vessel minimum requirements described in detail in the Draft Contract Section 8(E)(2) and (3) and in Exhibit B (Operating Plan) Section 5(G) *Minimum Vessel Requirements*. The minimum vessel requirements require, among other things, the Concessioner to use EPA-certified Tier 3 propulsion and auxiliary engines within 36 months (1,096 days) following the effective date of the Draft Contract. The Concessioner may use additional vessels, as approved by the Service, as long as they conform to requirements specified in the Draft Contract and Exhibit B (Operating Plan).

RENT PAID TO PORT OF SAN FRANCISCO

The Lease between the Port and the Concessioner describes the percentage rent and additional rent the Concessioner will pay directly to the Port for use of the San Francisco Embarkation Site throughout the term of the Draft Contract. Exhibit 10 summarizes this information.

EXHIBIT D

DRAFT

FINAL ALCATRAZ FERRY EMBARKATION AND EDUCATION SITE FEASIBILITY STUDY

May 2011



NPS PMIS GOGA 77160
Document No. 641/107703

Prepared for
National
Park Service
U.S. Department
of Interior

Prepared by

URS

Criterion 1d. Site minimizes travel time to Alcatraz Island to less than 15 minutes (critical).

Criterion 1e. Site offers opportunity for incorporating sustainability (value-added).

Criterion 1f. Site has adequate space to support operational activities (storage, deliveries, staff, etc.) (5,500 square feet is critical; 10,900 square feet is value-added).

Criterion 1g. Site ensures availability of administrative parking spaces within one block (five spaces is critical; ten spaces is value-added).

Objective 2. Allow for development of an immediately identifiable, distinct, first-class NPS visitor welcome area. This includes a site that allows a clearly defined sense of arrival, the setting of which is in keeping with a National Park site and an authentic Alcatraz Island experience; a site that ensures that NPS can define all aspects of the visitor experience, from pre-arrival to departure; a site that allows NPS the flexibility to modify and define interpretive materials, indoor and outdoor space, signage, and other features of the site; and a site that accommodates emerging technologies, growth, and visitor needs without unnecessary delays in approvals.

Criterion 2a. Building permit is provided with long-term lease of a non-NPS site that supports permanent installation of exhibits and facilities as deemed necessary by NPS (critical).

Criterion 2b. Facilities dedicated to NPS sole use for the Embarkation Facility (critical).

Criterion 2c. The NPS would have the ability to make required improvements to the exterior of assigned space to create highly visible and identifiable NPS/Alcatraz Island iconic architectural elements (critical).

Criterion 2d. Immediately adjacent uses (current and planned) are compatible with the NPS mission and desired visitor experience (critical).

Criterion 2e. View of Alcatraz Island desirable (a) from Embarkation Facility and (b) immediately after dispatch (value-added).

Objective 3. Provide adequate visitor support space and facilities to offer a comfortable, fully accessible, and welcoming experience, including a portal to the GGNRA that begins to connect visitors waiting for a ferry or visiting the site to the stories of Alcatraz Island, GGNRA, NPS, and the natural and cultural history of the San Francisco Bay Area, while accommodating visitor flow to and through the site without confusion.

Criterion 3a. Adequate space to present desired programming (as detailed in the Space Planning Model¹), including the ability to develop indoor, covered, and weather-protected space as well as outdoor space (critical and value-added).

Criterion 3b. Other events or nearby land use and related pedestrians or vehicles do not unduly confuse or impede Alcatraz Island visitors (value-added).

Criterion 3c. Capacity for a third berth that could connect visitors to other destinations (value-added).

Objective 4. Ensure convenient alternative access to the Alcatraz Island departure site through a variety of transportation modes, while providing for the opportunity to connect to other parklands (such as Fort Baker, Fort Mason, and Muir Woods National Monument).

¹ The Space Planning Model is described in Section 4.2 and Appendix A. Based on a variety of factors, the model presents the critical and value-added square footage that would be required at each site in order to satisfy NPS goals and objectives for the Embarkation Facility.

EXHIBIT E

operations are used to offset rent for the concessioner's pier leased from the Port, which reduces the amount available for improvements on Alcatraz Island or at other GGNRA parklands.

The Alcatraz ferry embarkation site and associated facilities should serve as a gateway to GGNRA, reflecting the Park Service's identity and providing a quality experience for visitors.

Under the current scenario, the condition of the existing embarkation site reduces the quality of the visitor experience. The existing embarkation site is on property that the concessioner has leased from the Port and is outside of GGNRA boundaries. Nevertheless, that embarkation site is the beginning and end point of the transportation services provided to the visiting public, and therefore is an integral part of the visitor services provided under the concession contract. Consequently, the Park Service has an interest in reviewing elements of the embarkation site facilities for purposes of considering their impact on the interpretation of GGNRA to the visiting public (including visitor appreciation and understanding of the resource). These elements include, for example, signs, logos, colors, or other means of demarcating the existing site as the Park Service's official Alcatraz Island departure location. Lack of formal authority, in combination with changing adjacent commercial uses and developments, hinders the Park Service's ability to create a clear sense of identity and quality visitor support services at the Alcatraz ferry embarkation site.

The Alcatraz ferry embarkation site should provide the space, circulation, and interpretive materials to appropriately and effectively orient visitors to Alcatraz Island and GGNRA. NPS policy is to provide public access and opportunities for all to enjoy and to learn about park resources. In its current configuration, space is unavailable at Pier 31½ to provide appropriate interpretive exhibits or an orientation to Alcatraz Island and GGNRA for visitors prior to departing for the island. These interpretive and orientation opportunities are also key for visitors wishing to visit Alcatraz Island but unable to secure reservations. The visitor facility does not currently provide a genuine park portal to GGNRA, and as such, many visitors or aspiring visitors to Alcatraz Island are unaware of the other recreational and educational opportunities provided by GGNRA.

The Alcatraz ferry embarkation site may provide a valuable opportunity for cross-bay ferry service to other GGNRA parklands. Convenient transit connections to other GGNRA parklands, such as Fort Baker, are currently unavailable from the existing ferry embarkation site. NPS policy promotes alternative transportation access that is energy conserving, convenient, and that provides multiple travel options for visitors. Increasing numbers of park visitors choose to use transit, do not have an automobile, and perceive travel by ferry as an enjoyable experience. The potential to add another (third) berth and promote additional special-event services to the ferry embarkation site would further enhance this opportunity.

Project Description

The Project retains the current Alcatraz ferry embarkation site at Pier 31½ and proposes improvements to the existing facility. It would use the historic Pier 31 north and south bulkhead

EXHIBIT F

January 23, 2018

VIA E-MAIL AND FEDEX

Charis Wilson
FOIA Officer
P.O. Box 25287
12795 W. Alameda Parkway
Denver, CO 80225
npsfoia@nps.gov

Re: FOIA Request for the Alcatraz Ferry Embarkation Project

Dear Ms. Wilson:

Pursuant to the Freedom of Information Act,¹ I am writing to request copies of the following public records relating to the Alcatraz Ferry Embarkation Project (Project) proposed by the National Park Service (NPS) within the Golden Gate National Recreation Area in California:

1. All agreements constituting the proposed Project, including without limitation the proposed long-term agreement between NPS and the Port of San Francisco (Port), and all proposed concession contracts relating to Project, including contracts relating to ferry services to be provided as part of the Project.
2. All documents and communications relating to NPS' analysis of potential environmental impacts resulting from the Project's proposal to establish limited ferry service between Pier 31 ½ and the existing Fort Baker pier.
3. All documents and communications relating to NPS' analysis of potential environmental impacts resulting from the Project's proposal to provide interpretive cruises around San Francisco Bay.
4. All documents and communications relating to any existing or future plans, or potential or proposed projects, relating to improvements to the existing Fort Baker pier.
5. All documents and communications relating to any existing or future plans, or potential or proposed projects, relating to ferry service to Fort Baker.

¹ 5 U.S.C. § 552.

SheppardMullin

Charis Wilson
January 23, 2018
Page 2

6. All documents and communications relating to any existing or future plans, or potential or proposed projects, relating to transporting or facilitating the transportation of persons from Fort Baker to the Marin Headlands.
7. All documents and communications relating to any existing or future plans, or potential or proposed projects, relating to transporting or facilitating the transportation of persons from Fort Baker to Muir Woods.
8. A copy of the PowerPoint presentation that the Port, NPS, and/or the Golden Gate National Parks Conservancy presented at the January 22, 2018 joint meeting of the Bay Conservation and Development Commission's Design Review Board and the Port's Waterfront Design Advisory Committee.
9. All documents and communications related to the Project's proposed "Queue 2."
10. All documents and communications related to the Project's proposed interpretive exhibit regarding "GGNRA Trailhead Info."
11. All documents and communications related to the Project's proposed signage at Queue 2 regarding "GGNRA Destinations."

If possible, we would prefer to receive electronic copies of these records via email. We agree to pay any fees associated with this request up to \$250.00. If fees will exceed this amount, please contact me for authorization before proceeding with this request.

Thank you in advance for your prompt attention to this matter. If you have any questions, please email me at afriedman@sheppardmullin.com.

Very truly yours,



Arthur J. Friedman
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

EXHIBIT G



United States Department of the Interior

NATIONAL PARK SERVICE
Golden Gate National Recreation Area
Fort Mason, San Francisco, CA 94123

IN REPLY REFER TO:
9.C (GOGA-CP)
NPS-2018-00372

January 30, 2018

Mr. Arthur J. Friedman
Via email: afriedman@sheppardmullin.com
Sheppard, Mullin, Richter & Hampton LLP
Four Embarcadero Center, 17th Floor
San Francisco, California 94111-4109

Dear Mr. Friedman:

We are writing to acknowledge your Freedom of Information Act (FOIA) request, dated January 23, 2018, and have assigned it control number NPS-2018-00372. Please cite this number in any future communications regarding your request. Please note this request has not been perfected as we require additional information from you.

You requested documents "*relating to the Alcatraz Ferry Embarkation Project (Project) proposed by the National Park Service (NPS) within the Golden Gate National Recreation Area in California, including:*

- 1. All agreements constituting the proposed Project, including without limitation the proposed long-term agreement between NPS and the Port of San Francisco (Port), and all proposed concession contracts relating to Project, including contracts relating to ferry services to be provided as part of the Project.*
- 2. All documents and communications relating to NPS' analysis of potential environmental impacts resulting from the Project's proposal to establish limited ferry service between Pier 31 ½ and the existing Fort Baker pier.*
- 3. All documents and communications relating to NPS' analysis of potential environmental impacts resulting from the Project's proposal to provide interpretive cruises around San Francisco Bay.*
- 4. All documents and communications relating to any existing or future plans, or potential or proposed projects, relating to improvements to the existing Fort Baker pier.*
- 5. All documents and communications relating to any existing or future plans, or potential or proposed projects, relating to ferry service to Fort Baker.*
- 6. All documents and communications relating to any existing or future plans, or potential or proposed projects, relating to transporting or facilitating the transportation of persons from Fort Baker to the Marin Headlands.*
- 7. All documents and communications relating to any existing or future plans, or potential or proposed projects, relating to transporting or facilitating the transportation of persons from Fort Baker to Muir Woods.*
- 8. A copy of the PowerPoint presentation that the Port, NPS, and/or the Golden Gate National Parks Conservancy presented at the January 22, 2018 joint meeting of the Bay Conservation and Development Commission's Design Review Board and the Port's Waterfront Design Advisory*

Committee.

9. *All documents and communications related to the Project's proposed "Queue 2."*
10. *All documents and communications related to the Project's proposed interpretive exhibit regarding "GGNRA Trailhead Info."*
11. *All documents and communications related to the Project's proposed signage at Queue 2 regarding "GGNRA Destinations."*

The FOIA requires that requests describe the records sought with sufficient detail to allow an agency employee familiar with the subject area of the request to locate the records with a reasonable amount of effort. **Your request does not adequately describe the records sought; therefore, we are unable to process it at this time.** If you wish to pursue your request, please provide additional details, such as:

- Date range parameters,
- Key search terms,
- A list of record custodians and/or,
- Limiting the search to electronic records

According to our regulations, if we do not receive your written response clarifying what records you are looking for within 20 workdays from the date of this letter, we will presume that you are no longer interested in pursuing your request, we will not be able to comply with your request, and we will close our file on it. See 43 C.F.R. § 2.5(d).

Fee categories are determined by requester type, of which there are three: commercial use; educational institutions, noncommercial scientific institutions, and representatives of the news media; and other-use requesters. Our regulations require that your FOIA request contain sufficient information for us to determine your proper fee category. **Your request does not fulfill this requirement because you did not specify whom this request is for. We therefore are unable to process your request at this time.** If you wish to pursue your request, please provide us additional information so that we may determine your fee category. According to our regulations, if we do not receive your written response clarifying these points within 20 workdays from the date of this letter, we will presume that you are no longer interested in pursuing your request, we will not be able to comply with your request, and we will close our file on it. See 43 C.F.R. § 2.6(c).

We use Multitrack Processing to process FOIA requests. The Simple track is for requests that can be processed in one to five workdays. The Normal track is for requests that can be processed in six to twenty workdays. The Complex track is for requests that can be processed in twenty-one to sixty workdays. The Exceptional/Voluminous track is for requests requiring more than sixty workdays for processing. The Expedited track is for requests that have been granted expedited processing. Within each track, requests are processed on a first-in, first-out basis. There are currently 13 open FOIA requests ahead of yours, one of which is Exceptional/Voluminous.

As stated, we will not begin processing your request until we receive further information from you. We believe that your request falls into the Exceptional/Voluminous processing track. You may narrow the scope of your request to obtain quicker processing in your currently assigned track or move the request into a faster track (which may have the effect of reducing the cost of

processing your request). If you have any questions about this, please contact us.

You may appeal this response to the Department's FOIA/Privacy Act Appeals Officer. If you choose to appeal, the FOIA/Privacy Act Appeals Officer must receive your FOIA appeal **no later than 90 workdays** from the date of this letter. Appeals arriving or delivered after 5 p.m. Eastern Time, Monday through Friday, will be deemed received on the next workday.

Your appeal must be made in writing. You may submit your appeal and accompanying materials to the FOIA/Privacy Act Appeals Officer by mail, courier service, fax, or email. All communications concerning your appeal should be clearly marked with the words: "FREEDOM OF INFORMATION APPEAL." You must include an explanation of why you believe the NPS's response is in error. You must also include with your appeal copies of all correspondence between you and NPS concerning your FOIA request, including your original FOIA request and NPS's response. Failure to include with your appeal all correspondence between you and NPS will result in the Department's rejection of your appeal, unless the FOIA/Privacy Act Appeals Officer determines (in the FOIA/Privacy Act Appeals Officer's sole discretion) that good cause exists to accept the defective appeal.

Please include your name and daytime telephone number (or the name and telephone number of an appropriate contact), email address and fax number (if available) in case the FOIA/Privacy Act Appeals Officer needs additional information or clarification of your appeal.

DOI FOIA/Privacy Act Appeals Office Contact Information
Department of the Interior
Office of the Solicitor
1849 C Street, N.W. MS-6556 MIB
Washington, DC 20240

Attn: FOIA/Privacy Act Appeals Office

Telephone: (202) 208-5339
Fax: (202) 208-6677
Email: FOIA.Appeals@sol.doi.gov

If you have questions about your request, please contact Liz Gill, Planning and Communications Assistant for GGNRA, at (415) 561-7402.

Sincerely,



Dana Polk
Acting Director of Communications and External Affairs

cc: Nancy Hori, Regional FOIA Officer, NPS Pacific West Region