

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

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June 1, 2012

TO: Commissioners and Alternates
FROM: Steven Goldbeck, Acting Executive Director (415/352-3611, steveg@bcdc.ca.gov)
Ming Yeung (415/352-3616, mingy@bcdc.ca.gov)
SUBJECT: **Staff Recommendation on BCDC Permit Application No. 2012.001, 34th America's Cup Project, Various Locations Along the San Francisco Waterfront, City and County of San Francisco**
(For Commission consideration on June 7, 2012)

Recommendation Summary

The staff recommends that the Commission approve BCDC Permit Application No. 2012.001 to the America's Cup Event Authority, the Port of San Francisco and the City and County of San Francisco, which as conditioned, would authorize various temporary and permanent improvements at various locations along the San Francisco waterfront to allow the 34th America's Cup sailing races (AC34) to be held in San Francisco Bay in the summer and fall of 2012 and summer and fall of 2013.

The staff recommendation includes a number of conditions requiring public access areas and improvements both during and after the event, restrictions on public access closures and uses in these areas, fill removal (a requirement of the *San Francisco Waterfront Special Area Plan*), pile-driving, and a number of conditions requiring the use of construction best management practices to assure that construction of the project meets the requirements of the Commission's law and policies.

Staff Recommendation

The staff recommends that the Commission adopt the following resolution:

I. Authorization

- A. Subject to the conditions stated below, the permittees, the America's Cup Event Authority, the Port of San Francisco, and the City and County of San Francisco are hereby granted permission to do the following in the City and County of San Francisco:



Making San Francisco Bay Better

2012:**In the Bay:**

1. **2012 Race Course.** Temporarily use for approximately eight days between August 23 through August 26 and October 4 through October 7, 2012, an approximately two-square-mile area of the Central Bay (east of the Golden Gate Bridge, south of Alcatraz Island, west of Treasure Island, and in the vicinity of the northern San Francisco waterfront) as the primary regulated area for AC World Series racing, as generally shown on Exhibits A and B, and in accordance with the approval of the United States Coast Guard's (USCG) adoption of Special Local Regulations and temporary safety zones for the 2012 and 2013 AC34 regattas.

If the primary regulated area is unusable due to adverse north-south wind conditions or heavy fog, temporarily use during the racing dates above, an approximately three-square-mile "contingent regulated area" located east of Alcatraz Island and approximately 400 feet northwest of Treasure Island, as generally shown on Exhibit D, and in accordance with the approval of the USCG adoption of Special Local Regulations and temporary safety zones for the 2012 and 2013 AC34 regattas.

2. **Marina Green.** Construct, temporarily use and maintain from August to November 2012, an approximately 8,000-square-foot (0.18 acre, 500-foot by 16-foot) floating dock and 480-square-foot (six-foot by 80-foot) gangway secured with fourteen 18-inch-in-diameter steel piles, extending from the center of the Marina Green lawn; and twenty-eight 24-square-foot concrete block anchors to provide 14 moorings for AC45 (45-foot-long yacht) racing yachts within an approximately 178,324-square-foot (4.10 acre) area offshore of the Marina Green. Remove the floating dock, gangway, and piles and 24 of the 28 mooring concrete block anchors following the 2012 events (no later than November 30, 2012).
3. **Piers 30-32.** Within the Brannan Street Open Water Basin, south of Pier 32, construct, temporarily use and maintain from July to November 2012, an approximately 14,640-square-foot (0.34 acre, 915-foot by 16-foot) floating dock and 480-square-foot (six-foot by 80-foot) gangway secured with twenty-seven 18-inch-in-diameter steel piles along the south side of Pier 32 for race yachts and team operations, and, if completed in time and team bases are located at Piers 30-32, twenty-eight 25-square-foot concrete block anchors to provide 14 moorings for AC45 racing yachts within an approximately 351,716-square-foot (8.07 acre) portion of the Brannan Street Wharf Open Water Basin. Remove the floating dock, and gangway, and 16 of the 28 concrete block anchors following the 2012 events (and no later than November 2012).

Within the Brannan Street Wharf Open Water Basin, conduct new work dredging in an approximately 147,000-square-foot (3.375-acre) area to -10 feet mean-lower-low water (MLLW), plus one-foot overdredge depth allowance and up to a total of 13,500 cubic yards of sediment, and place the sediment at the SF-Deep Ocean Disposal site (SF-DODS) or alternative upland site.

4. **Pier 80.** Construct, temporarily use and maintain from August 1, 2012 to November 1, 2012, an approximately 12,000-square-foot (1,000-foot by 12-foot (0.28 acre)) floating dock and two 240-square-foot (forty-foot by six-foot) gangways, secured with twenty-six 18-inch-in-diameter steel piles.

If Piers 30-32 are not completed in time for use as the primary site for team bases in 2012 and Pier 80 becomes the primary team base location, install an additional twenty-eight 25-square-foot concrete block anchors to provide for 14 moorings for AC45 racing yachts within an approximately 266,969-square-foot (6.13 acre) area adjacent to the south face of Pier 80. If team bases are located at Piers 30-32,

construct and temporarily use and maintain only four 25-square-foot concrete block anchors. Remove the floating dock, gangway, and 24 of the 28 concrete block anchors following the 2012 events (and no later than November 30, 2012).

5. **Pier ½ Removal.** As required by Amendment 4-11 of the *San Francisco Waterfront Special Area Plan*, remove approximately 21,034 square feet (0.483 acres, 273 cubic yards) of fill at Pier ½ in the form of remnant piles and pile decking through vibratory extraction, followed by direct pull, and clamshell removal and cutting, as necessary.
6. **Pier 64.** As required by Amendment 4-11 of the *San Francisco Waterfront Special Area Plan*, remove approximately 14,454 square feet (0.332 acres) (18,790 cubic yards) of fill at Pier 64 including remnant piles and pile decking through vibratory extraction, followed by direct pull, and clamshell removal and cutting, as necessary. Construct an approximately 1,500-square-foot wooden platform at this location, supported by nine 12-inch-in-diameter wood piles, to create roosting and nesting habitat for Caspian terns.

Within the 100-foot Shoreline Band:

1. **Little Marina Green.** Construct, temporarily use and maintain from August 6 to September 4, 2012: (a) facilities for merchandising, sponsor displays, and concessions within an approximately 4,000-square-foot (0.092 acre) area at the northeast corner of Little Marina Green; (b) an approximately 8,500-square-foot (0.20 acre), 18-foot-high tent west of the San Francisco Yacht Club for a media and hospitality center; (c) bleacher seating for approximately 700 people within an approximately 28,170-square-foot (0.66 acre) area of the parking lot; and (d) an approximately 21,000-square-foot (0.48 acre) by 20-foot-high tent in the east St. Francis Yacht Club parking lot for private hospitality use.
2. **Marina Green.** To serve as the 2012 America's Cup Village, construct, temporarily use and maintain the following improvements, from August 6 to September 4, 2012: (a) an approximately 8,450-square-foot (0.19 acre), 16-foot-high tent (3,350-square-feet of which is in the Commission's jurisdiction) for a media broadcast center; (b) ticketed bleacher seating for up to 720 people (approximately 3,916 square feet and 15 feet high); and (c) merchandising, concessions and sponsor displays within a 825-square-foot area of the Marina Green north parking lot. Additional paid public hospitality, an event stage, beer and wine garden, exhibitions, restrooms, merchandising, concessions, sponsor displays, accreditation services, medical and security bases, and an event mobile command center are also proposed at Marina Green, outside the Commission's jurisdiction.
3. **Piers 27-29.** Construct, temporarily use and maintain for merchandising and promotion from July 1, 2012 to December 31, 2013, an approximately 5,000-square-foot tent structure along the Embarcadero where the Teatro Zinanni tents were previously located.
4. **Piers 19, 19½ and 23.** Temporarily use from July 1, 2012 to December 31, 2013, the existing Pier 23 cargo shed for various event staff, volunteer, broadcast and media support functions, and the Piers 19 and 19½ cargo shed for parking, storage, and other event support functions.
5. **Piers 30-32.** Temporarily use from July 20, 2012 to November 1, 2012, an approximately 12,189-square-foot (0.28 acre), southwest section of Piers 30-32 for up to 10 team bases, and construct, temporarily use and maintain during this period: (a) four, 40-foot shipping containers with 16-foot-high tent roofs for each team base installed; (b) an approximately 4,800-square-foot by 16-foot-high modular building for a sail loft and smaller modular buildings or shipping containers for team base support and storage; (c) a 200-foot-high mobile or tower crane along the south side of Pier 32 to lift racing yachts into and out of the Bay; and (d) an approximately

30,940-square-foot (0.71 acre) temporary public access corridor along the Pier 30-32 marginal wharf adjacent to the Embarcadero promenade and the southern edge of Pier 32.

6. **Pier 80.** Temporarily use from July 1, 2012 to April 1, 2014, approximately 670,000 square feet (15.38 acres) of Pier 80 as the team base for the Oracle racing team and as an ancillary location for race events, including the approximately 260,000-square-foot (5.97 acre) Pier 80 Shed A building for boat repairs, 186,000-square-foot area (13.72 acres) of the pier for team parking, and 6,400-square-foot area for boat washing; and construct, temporarily use and maintain an approximately 200-foot-high crane along the south side of Pier 80 to lift racing yachts into and out of the Bay.

If Piers 30-32 is unable to be completed in time, temporarily use Pier 80 as the primary location for up to 10 team bases, and construct, temporarily use and maintain from August 1, 2012 to November 1, 2012: (a) four 40-foot long shipping containers with 16-foot-high tent roofs for each team base needed; (b) an additional 200-foot-high crane; and (c) approximately 3,600-linear-feet of temporary security fencing around the team bases.

2013:

In the Bay:

1. **2013 Race Course.** Temporarily use for approximately 53 days between July 4 and September 22, 2013, an approximately 4.5-square-mile area of the Central Bay (east of the Golden Gate Bridge, to Alcatraz Island, west of Treasure Island, and to Pier 23 along the northern San Francisco waterfront) as the primary regulated area for the 2013 racing events, as generally shown on Exhibits A and C, and in accordance with the approval of the USCG adoption of Special Local Regulations and temporary safety zones for the 2012 and 2013 AC34 regattas.

If the primary regulated area is unusable due to adverse north-south wind conditions or heavy fog, temporarily use during the racing dates above an approximately three-square-mile "contingent regulated area" located east of Alcatraz Island and approximately 400 feet northwest of Treasure Island, as generally shown on Exhibit D, and in accordance with the approval of the USCG adoption of Special Local Regulations and temporary safety zones for the 2012 and 2013 AC34 regattas.

2. **Marina Green.** Temporarily use from May 1 to October 31, 2013, the eight 25-square-foot concrete block anchors installed in 2012, to moor up to four vessels offshore of the Marina Green.

By March 1, 2013, construct, use and permanently maintain an approximately 390-square-foot accessible low float and transfer system for disabled persons at the existing public non-motorized boat launch facility at the Marina West Basin to provide access for kayaks and other non-motorized small boats.

3. **Piers 27-29.** Construct, temporarily use and maintain from May 1 to October 31, 2013: (a) an approximately 9,000-square-foot (750-foot by 12-foot) floating dock and two, 240-square-foot gangways secured with twenty-three, 18-inch-in-diameter steel piles along the Pier 29 north apron for tender boats, race official boats, and spectator boats, with 50 helical anchors to provide bow anchor moorings; (b) an approximately 960-square-foot (80-foot by 12-foot) floating dock and 240-square-foot (six-foot by 40-foot) gangway, secured with three 18-inch-in-diameter steel piles at the east end of Pier 29 for small boat pick-up and drop-off; (c) an approximately 6,112-square-foot (0.14 acre, 382-foot by 16-foot) floating dock and 480-square-foot (80-foot by six-foot) gangway at the end of the Pier 27 south apron for AC72 racing yachts; and (d) an approximately 14,720-square-foot (0.34 acre, 920-foot by 16-foot) floating dock and 240-square-foot (40-foot by six-foot) gangway secured with fifty-five 18-inch-in-diameter steel piles along the remainder of the

Pier 27 south apron for spectator boat berthing within the Northeast Wharf Open Water Basin, with one hundred-twenty-four 25-square-foot concrete block anchors to provide bow anchor moorings.

4. **Pier 23.** Construct, temporarily use and maintain from May 1 to October 31, 2013: (a) an approximately 9,120-square-foot (760-foot by 12-foot, 0.21 acre) floating dock, a 480-square-foot (80-foot by six-foot) gangway, and a 240-square-foot (six-foot by 40-foot) gangway secured with twenty-one 18-inch-in-diameter steel piles along the Pier 23 north apron for an America's Cup boat museum, AC34 sponsor and spectator boats, and to provide public access, with six 25-square-foot concrete block anchors to provide bow anchor moorings; and (b) an approximately 4,800-square-foot (600-foot by eight foot, 0.11 acre) floating dock and two, 240 square feet (six foot by 40 foot) gangways, secured with sixteen 18-inch-in-diameter steel piles along the Pier 23 south apron for AC34 sponsor and spectator boats.
5. **Pier 19.** Repair, use and maintain the approximately 800-foot-long, 18-foot-wide south apron of Pier 19 for permanent public access and the possible temporary berthing of large spectator vessels by: (a) installing up to eighty 12-inch-in-diameter wood bearing piles; (b) installing one hundred forty-four 12-inch-in-diameter wood fender piles; (c) repairing rotted wood decking and stringers and asphalt surface; (d) repairing or maintaining the bull rail along the outside apron edge; (e) installing public access improvements including benches, signage, and trash receptacles; and (f) installing a security gate at the western end of the apron near the Embarcadero.
6. **Pier 9.** If there is demand and need for additional spectator boat berthing, within the Broadway Open Water Basin, south of Pier 9: (a) conduct new work dredging in an approximately 98,000-square-foot (2.250-acre) area to -9 feet mean lower low water (MLLW), plus one-foot overdredge depth allowance and in an approximately 72,000-square-foot area (1.653-acre) area to -11 feet MLLW, plus one-foot overdredge depth allowance, removing up to a total of 10,000 cubic yards of dredged sediment, and place the sediment at the SF-DODS or an approved alternative upland site; and (b) construct, temporarily use and maintain from May 1 to October 31, 2013, an approximately 6,600-square-foot (0.15 acre, 550-foot by 12-foot) floating dock and a 240-square-foot (40-foot by six-foot) gangway, secured with fifteen 18-inch-in-diameter steel piles along the Pier 9 south apron for spectator boat berthing.
7. **Pier 14 North.** If there is demand and need for additional spectator boat berthing in the open water area between Pier 2 and Pier 14: (a) conduct new work dredging of an approximately 99,000-square-foot (2-273-acre) area to -11 feet MLLW, plus one-foot overdredge depth allowance, removing up to 10,000 cubic yards of dredged sediment, and place the sediment at SF-DODS or an approved alternative upland site; and (b) construct, use and maintain temporarily from May 1 to October 31, 2013, an approximately 5,424-square-foot (452-foot by 12-foot) floating dock and 480-square-foot (80-foot by six-foot) gangway, secured with forty-four 18-inch-in-diameter steel piles, north of Pier 14 for spectator boat berthing.
8. **Pier 52.** By June 1, 2013, construct, use and permanently maintain an approximately 144-square-foot accessible low float at the existing public, non-motorized boat launch facility at Pier 52 to provide access for kayaks and other non-motorized small boats.
9. **Pier 80.** Re-install, use and maintain from May 1 to October 31, 2013, the approximately 12,000-square-foot (1,000-foot by 12-foot, 0.28 acre) floating dock and two 240-square-foot (forty-foot by six-foot) gangways used in 2012, and secured with the twenty-six 18-inch-in-diameter steel piles that were left in place for race yachts and team operations, and temporarily use from May 1 to October 31, 2013,

the twelve 25-square-foot concrete anchor blocks that were left in place from 2012 to provide six moorings for AC72 racing yachts within an approximately 290,955-square-foot (6.68 acre) area south of Pier 80.

Within the 100-foot Shoreline Band:

1. **Little Marina Green.** Re-install, use, and maintain from June 15 to October 31, 2013, the same uses and facilities authorized in 2012, including merchandising, tents and bench seating.

Install, use and maintain temporary sailboard storage from July 1 to October 31, 2013 in the form of one or more 8-foot by 16-foot storage containers within walking distance of Crissy Field East Beach, such as along Yacht Road, to enable board sailors to access Crissy Field East Beach by foot, bicycle, or public transportation during the 2013 AC34 races and events.

2. **Marina Green.** Re-install, use and maintain from June 15 to October 31, 2013, the same uses and facilities as authorized in 2012 with the following additions: (a) allow bleacher seating to increase to 7,743 square feet (0.18 acre) to accommodate 1,500 people; and (b) allow the hospitality tent to increase to 16,500 square feet (0.38 acres, 5,151 square feet of which is within the 100-foot shoreline band).
3. **Jefferson Street Redesign.** By June 1, 2013, construct, use and maintain the improvements described in the Fishermen's Wharf Public Realm Plan for the two-block section of Jefferson Street between Jones and Hyde Streets (as part of the Bay Trail), including converting Jefferson Street into two travel lanes (one in each direction) to calm traffic and to remove on-street parking to enable a widened sidewalk on the north side of Jefferson Street and enhanced bicycle access. If construction by June 1, 2013 is not possible, construct improvements following the 2013 AC34 race events.
4. **Pier 29½.** Temporarily use and maintain from March 1 to October 31, 2013, the existing cargo shed building for support uses such as parking, storage or retail and commercial services and visitor drop-off.
5. **Piers 27-29.** Conduct the following activities from March 1 to October 31, 2013 to allow the pier to serve as the temporary 2013 America's Cup Village: (a) use Phase 1 of the James R. Herman Cruise Terminal building for AC34 team and corporate hospitality, media and sponsor displays; (b) use approximately 80,000 square feet (1.84 acre) of the Pier 29 cargo shed for food concessions, exhibitions, sponsor displays, merchandising, and ticket sales, and the approximately 39,500-square-foot (0.93 acre) portion of the northeastern end of the shed for a "wing shed" to provide short-term storage of AC72 wing sails; (c) construct, use and maintain an approximately 20,000-square-foot (0.46 acre), 26-foot-high "foredeck club" located a minimum of 50 feet from the edge of the Piers 27-29 tip, (d) construct, use and maintain an approximately 3,000-square-foot stage and 30,000-square-foot (0.69 acre), 26-foot-high bleacher seating for up to 10,000 persons, within the "valley" between Piers 27 and 29; (e) use approximately 25,000 square feet (0.57 acre) of the valley for boat displays, exhibitions, sponsor displays, concessions, merchandising, restroom, tickets sales, first aid, and event administration; (f) construct, use and maintain an approximately 200-foot-high mobile crane at the southeast corner of Piers 27-29 to lift racing yachts in and out of the Bay; and (g) provide public access throughout the site, limited, as needed for public safety during operation of the crane.
6. **Pier 23.** Temporarily use from July 1, 2012 to October 31, 2013, the existing cargo shed building as an international broadcast and media center and approximately 4,500 square feet (0.10 acre) of the eastern end of the Pier 23 north apron for media operations. Construct, use and maintain public access improvements, including benches, signage and trash receptacles and provide public access along an

approximately 12,160-square-foot section (0.28 acre, 620 feet long by 15 feet average width) of the Pier 23 north apron during the event and along the entire Pier 23 north apron following the event.

7. **Piers 19 and 19½.** Temporarily use from March 31 to October 31, 2013, the existing cargo shed buildings for support services (parking, storage and other event support functions or a media broadcast center), as similarly used in 2012.
8. **Pier 80.** Temporarily use from March 1 to October 31, 2013, the same uses and facilities as authorized in 2012, including the use of the existing Shed A building with the following additions: (a) allow an additional 200-foot-high crane to be installed along the south side of Pier 80 to lift racing yachts in and out of the Bay.

After 2013 (Following AC34 Event):

In the Bay:

1. **Bayview Gateway.** Remove an approximately 12,500-square-foot (0.28 acre) pile-supported deteriorated wharf structure.

Within the 100-foot-Shoreline Band:

1. **Marina Green.** Replace approximately 15 benches along the Marina Green northern seawall and extend the 300-foot-long by 12-foot-wide bioswale/rain garden being constructed as part of the San Francisco Marina West Harbor Renovation project, another 900 feet to the east.
 2. **Pier 2.** By March 2015, remove the existing shed building at Pier 2 to improve Bay views and public access.
 3. **Bayview Gateway.** Construct, use and maintain the approximately 42,300-square-foot (0.97 acre) Bayview Gateway (a Blue Greenway open space project) for permanent public access, located along Islais Creek at Third Street and Cargo Way, including: (a) re-grading and re-contouring the approximately 42,300-square-foot site; (b) installing granite pavers, benches, picnic tables, fencing, a shade structure, art and interpretive elements; and (c) landscaping the site with native vegetation, nut trees, and a berry patch.
- B. This authority is generally pursuant to and limited by the application dated May 4, 2012, including all accompanying and subsequently submitted correspondence and exhibits, but subject to the modifications required by conditions hereto.
- C. Work authorized in this permit must commence prior to January 1, 2013, or this permit will lapse and become null and void. All work authorized must be diligently pursued to completion and must be completed within two years of commencement or by January 1, 2015, whichever is earlier, unless an extension of time is granted by amendment of the permit.
- D. The project involves placing a total of 102,768 square feet (2.36 acres) of temporary floating and pile-supported fill and 6,778 square feet (0.156 acres) and 1,621 cubic yards of temporary solid fill that would be removed following the event in 2013. The project would also result in the placement of approximately 2,211 square feet of permanent new fill (177 square feet of pile-supported new fill for the repair of the Pier 19 south apron, 1,500 square feet of pile-supported fill to create a nesting and roosting platform for Caspian terns at Pier 64, and a total of approximately 534 square feet of floating fill for the two new accessible kayak launches at Pier 52 and Marina Green). In addition, the removal of a pile-supported structure for the Bayview Gateway public access project would result in returning approximately 12,500 square feet (0.29 acre) of Bay to open water.

As required by Amendment 4-11 to the *San Francisco Waterfront Special Area Plan*, additional fill will be removed at Pier ½ and Pier 64, resulting in an additional 33,988 square feet (0.81 acre) of Bay open water.

In total, the project will increase the amount of temporary solid, pile-supported, and floating fill that would be in place until approximately November 2013, but would result in a net increase of approximately 45,777 square feet (1.05 acre) of Bay open water following the races.

Table 1. Temporary Fill Areas for the Project (in square feet)

Description	Type of Fill	To Be Removed	To Be Placed	Total Net Area
Block and Helical Anchors	Solid	0	6,778	6,778
Gangways to Floating Docks	Pile-Supported	0	5,280	5,280
Floating Docks	Floating	0	97,488	97,488
TOTAL TEMPORARY FILL		0	109,546	109,546

Table 2. Permanent Fill Areas for the Project (in square feet)

Description	Type of Fill	To Be Removed	To Be Placed	Total Net Area
Pier 64	Pile-Supported and Solid	(14,454)	1,500	(12,954)
Pier 19	Pile-Supported	0	177	177
Pier ½	Pile-Supported	(21,034)	0	(21,034)
Bayview Gateway	Pile-Supported	(12,500)	0	(12,500)
Marina Green and Pier 52 Floating Docks	Floating	0	534	534
TOTAL PERMANENT FILL		(47,988)	2,211	(45,777)

- E. The project will provide approximately 30,940-square-feet (0.71 acres) of temporary public access in 2012 and 442,638 square feet (10.16 acres) of temporary public access in 2013 during the event. After the event, the project will provide 80,784 square feet (1.85 acres) of new, permanent, long-term legacy public access (Piers 19 and 23 aprons, accessible floats, Bayview Gateway Open Space Area) and improvements to 19,200-square-feet (0.441 acres) of existing public areas (Jefferson Street redesign, the extension of the bioswale along the Marina Green seawall).

Temporary access in 2012 consists of a public access corridor on the Piers 30-32 venue site during the event. In 2013, public access will be provided on the venue sites at Piers 27-29 and Piers 30-32, and apron access on Pier 23 north, Pier 19 south, and, if used for spectator boat berthing, on Pier 9 south. In addition, two new parklets, one between Pier 9 and 15 and the other at Pier 24½, two new kayak floats at Marina Green and Pier 52, temporary sailboard storage at Crissy Field, and a temporary dedicated bike lane between Aquatic Park and Fort Mason will be provided. If completed in time for the event, two blocks of Jefferson Street will be redesigned for better pedestrian and bicycle access.

After completion of the 2013 event, the following public access areas will remain in place as permanent public access: apron access on Pier 23 north and Pier 19 south, kayak floats at Marina Green and Pier 52, and the improvements along the two blocks of Jefferson Street. In addition, the Bayview Gateway would be completed, as well as bench and bioswale improvements at Marina Green.

Table 3. Public Access Areas During AC34 Event

Public Access	Square Feet	Acres	Shoreline Length (miles)
2012			
Piers 30-32	30,940	0.710	0.2233
Sub Total	30,940	0.710	0.2233
2013			
Piers 27-29	386,254	8.867	0.3134
Pier 23	12,160	0.279	0.1174
Pier 19	14,400	0.331	0.1515
Pier 9	15,490	0.356	0.1400
Kayak Floats (Pier 52 and Marina Green)	534	0.012	0.0076
Parklets (between Pier 9 and 15, and at Pier 24½)	6,800	0.156	0.0417
Bike Lane near Aquatic Park	7,000	0.161	0.0947
Sub Total	442,638	10.162	0.8663
Total	473,578	10.872	1.0896

Table 4. Permanent Public Access Areas After AC34 Event

Public Access	Square Feet	Acres	Shoreline Length (miles)
Pier 23	23,550	0.541	0.1487
Pier 19	14,400	0.331	0.1515
Kayak Floats (Pier 52 and Marina Green)	534	0.012	0.0076
Bayview Gateway	42,300	0.971	0.0455
Total	80,784	1.855	0.3532

Table 5. Improved Areas After AC34 Event

Area	Square Feet	Acres	Shoreline Length (miles)
Marina Green	10,800	0.248	0.1705
Jefferson Street Redesign	8,400	0.193	0.2273
Total	19,200	0.441	0.3977

II. Special Conditions

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

A. Specific Plans and Plan Review

1. **Construction.** The final plans submitted pursuant to this condition shall generally conform to Exhibits E through S to this permit. Final plans for the construction of the structures authorized herein shall be prepared and submitted for Commission review as described below. No changes to the design of the project shall be made without the prior written approval of the Commission staff.
2. **Plan Review.** No work whatsoever shall be commenced pursuant to this authorization until final precise site, demolition, construction staging, engineering, architectural, grading, lighting, landscaping, public access, and best management practices plans and any other relevant criteria, specifications, and plan information for that portion of the work have been submitted to, reviewed, and approved in writing by

or on behalf of the Commission. The specific drawings and information required will be determined by the staff. To save time, preliminary drawings should be submitted and approved prior to final drawings.

- a. **Site, Architectural, and Public Access Plans.** Site, demolition, architectural, lighting and public access plans shall include and clearly label the shoreline (Mean High Water Line or the inland edge of marsh vegetation in marshlands), the line 100 feet inland of the line of the shoreline, property lines, Herb Caen Way, the boundaries of all areas to be reserved for public access purposes or that have been dedicated as public access spaces in past BCDC permits, details showing the location, types, dimensions, and materials to be used for all structures, irrigation, lighting, landscaping, drainage, seating, parking, signs, lighting, fences, paths, trash containers, utilities and other improvements. Construction staging plans shall ensure that there is always at least a 15-foot-wide, continuous public access pathway available along the Embarcadero promenade.
- b. **Engineering Plans.** Engineering plans shall include a complete set of construction drawings and specifications and design criteria. The design criteria shall be appropriate to the nature of the project, the use of any structures, soil and foundation conditions at the site, and potential earthquake-induced forces. Final plans shall be signed by the professionals of record and be accompanied by:
 - (1) Evidence that the design complies with all applicable codes; and
 - (2) Evidence that a thorough and independent review of the design details, calculations, and construction drawings has been made.
- c. **Preliminary and Final Plans.** Plans submitted shall be accompanied by a letter requesting plan approval, identifying the type of plans submitted, the portion of the project involved, and indicating whether the plans are final or preliminary. Approval or disapproval shall be based upon:
 - (1) Completeness and accuracy of the plans in showing the features required above, particularly the shoreline (Mean High Water, the inland edge of marsh vegetation or deck edge), property lines, and the line 100 feet inland of the shoreline, and any other criteria required by this authorization;
 - (2) Consistency with the terms and conditions of this authorization;
 - (3) The provision of the amount and quality of public access to and along the shoreline and in and through the project to the shoreline required by this authorization;
 - (4) Consistency with legal instruments reserving public access areas;
 - (5) Assuring that any fill in the Bay does not exceed this authorization;
 - (6) Consistency of the plans with the recommendations of the Design Review Board;
 - (7) Assuring that appropriate provisions have been incorporated for safety in case of seismic event;
 - (8) Assuring that the placement of fill in the Bay will avoid or minimize impacts to the Bay;
 - (9) Assuring that appropriate elevations have been met to prevent overtopping, flooding, and 100-year storm events in all public access areas; and
 - (10) Assuring that existing public access will not be impeded during construction to the maximum extent feasible.

Plan review shall be completed by or on behalf of the Commission within 45 days after receipt of the plans to be reviewed.

3. **Conformity with Final Approved Plans.** All work, improvements, and uses shall conform to the final approved plans. Prior to any use of the facilities authorized herein, the appropriate design professional(s) of record shall certify in writing that, through personal knowledge, the work covered by the authorization has been performed in accordance with the approved design criteria and in substantial conformance with the approved plans. No noticeable changes shall be made thereafter to any final plans or to the exterior of any constructed structure, outside fixture, lighting, landscaping, signage, landscaping, parking area, or shoreline protection work without first obtaining written approval of the change(s) by or on behalf of the Commission.
4. **Discrepancies between Approved Plans and Special Conditions.** In case of any discrepancy between final approved plans and Special Conditions of this authorization or legal instruments approved pursuant to this authorization, the Special Condition or the legal instrument shall prevail. The permittees are responsible for assuring that all plans accurately and fully reflect the Special Conditions of this authorization and any legal instruments submitted pursuant to this authorization.
5. **Appeals of Plan Review Decisions.** Any plan approval, conditional plan approval or plan denial may be appealed by the permittees or any other interested party to the Design Review Board or, if necessary, subsequently to the Commission. Such appeals must be submitted to the Executive Director within 30 days of the plan review action and must include the specific reasons for appeal. The Design Review Board shall hold a public hearing and act on the appeal within 60 days of the receipt of the appeal. If subsequently appealed to the Commission, the Commission shall hold a public hearing and act on the appeal within 90 days of the receipt of the subsequent appeal.

B. Public Access

1. **Plan Review.** All public access improvements including, but not limited to benches, lighting, signage, railings, restrooms and trash containers, shall be subject to final plan review approval pursuant to Special Condition II-A of this permit.
2. **Public Access Area During 2012 Event.** The approximately 30,940-square-foot (0.71 acre) public access area at Piers 30-32, as generally shown on Exhibits E and F, shall be made available exclusively to the public for unrestricted public access at any time when any portion of the site is being used as team bases during the 2012 America's Cup World Series events in August and October 2012, during the hours of 10 a.m. to 6 p.m., except in areas indicated on Exhibit F and as allowed by Special Condition II-B-4 ("**Managed Public Access Areas**").
3. **Public Access Areas and Improvements During 2013 Event.** The following public access areas and improvements totaling approximately 442,638 square feet (10.16 acres), as generally shown on Exhibit E, shall be made available exclusively to the public for unrestricted public access during the 2013 events, during the dates and times specified below, except in areas indicated on the exhibits and as allowed by Special Condition II-B-4 ("**Managed Public Access Areas**").
 - a. **Piers 27-29.** An approximately 386,254-square-foot area (8.87 acres) of Piers 27-29, as generally shown on Exhibit G, shall be open and available for public access when any portion of the site is being used for the 2013 events, generally from July 4 – September 22, 2013, at all times so the public can experience the America's Cup Village, the main center of entertainment, merchandising, berthing and public exhibits, and major spectator viewing area. Access to an approximately 70,690-square-foot area (1.62 acres) of the northern tip of Piers 27-29 may be restricted when the space is needed to assure public safety during crane operations to lift racing yachts in and out of the water, as allowed by Special Condition II-B-4.

- b. **Pier 23.** An approximately 9,270-square-foot (515-foot-long by 18-foot-wide) area of the Pier 23 north apron and 4,140-square-foot (345-foot-long by 12-foot-wide) area of the dock adjacent to the Pier 23 apron, as generally shown on Exhibit G, shall be open and available for public access when any portion of the site is being used for the 2013 events, generally from July 4 – September 22, 2013, 10 a.m. to 6 p.m. daily. Facilities and improvements along the Pier 23 apron shall include approximately 10 benches, five trash receptacles, lighting and bullrails, as generally shown on Exhibit Q.
- c. **Pier 19.** The approximately 14,400-square-foot (800-foot-long by 18-foot-wide) Pier 19 south apron, as generally shown on Exhibit G, shall be repaired and open and available for public access when any portion of the site is being used for the 2013 events, generally from July 4 – September 22, 2013, 10 a.m. to 6 p.m. daily except as provided for in Special Condition II-B-4. Improvements shall include approximately 10 benches, five trash receptacles, lighting and bullrails, as generally shown on Exhibit P.
- d. **Pier 9.** If the Broadway Open Water Basin adjacent to Pier 9 is used for the berthing of large spectator yachts, the approximately 15,490-square-foot (739-foot-long by 21-foot-wide) Pier 9 south apron, as generally shown on Exhibit H, shall be open and available for public access when the site is being used for the 2013 events, generally from July 4 – September 22, 2013, 9 a.m. to 7 p.m. daily.
- e. **Parklets.** An approximately 6,400-square-foot (0.15 acre) area of the marginal wharf between Piers 9 and 15, as generally shown on Exhibit I, and approximately 400-square-foot area near Pier 24½, as generally shown on Exhibit J, shall be open and available for public access from July 1 – October 31, 2013. Improvements shall include seating, tables, exhibits and other appropriate amenities within the Piers 9 and 15 parklet, and seating within the Pier 24½ parklet.
- f. **Kayak Launch Facilities.** By March 2013, install and make available for public access use, during and after the AC34 event: one, approximately 390-square-foot accessible low float at the Marina West Basin near Marina Green, as generally shown on Exhibit N, and one, approximately 144-square-foot accessible low float at the existing boat launch facility at Pier 52 as generally shown on Exhibit R.
- g. **Crissy Field Sailboard Storage.** From July 1 – October 31, 2013, provide temporary sailboard storage within suitable walking distance of Crissy Field East Beach to allow board sailors to access Crissy Field East Beach by foot, bicycle or public transportation during AC34 races and events.
- h. **Dedicated Bike Lane Near Aquatic Park.** From July 1 – October 31, 2013, an approximately 500-foot-long and 14-foot-wide area of Van Ness Avenue between Aquatic Park and Fort Mason, as generally shown on Exhibit K, shall be cleared of on-street parking, and painted and marked for use as a two-way dedicated bicycle lane. The design and materials of the bicycle lane shall be approved by the National Park Service prior to installation and the approved design and layout submitted to BCDC for approval.
- i. **Jefferson Street Redesign.** If the improvements can be completed in time for the 2013 events (by July 1, 2013), the City shall construct improvements described in the Fishermen's Wharf Public Realm Plan for the two-block, approximately 8,400-square-foot section of Jefferson Street between Jones and Hyde Streets, and as generally shown on Exhibit O, to improve the Bay Trail at this location, including transforming the one-way roadway into a two-way roadway to calm traffic, removing on-street parking to widen the sidewalk on the north side of Jefferson Street, and providing enhanced bicycle access.

4. **Permanent Public Access Areas and Improvements.** The following public access areas and improvements totaling approximately 80,784 square feet (1.85 acres), as generally shown on Exhibit L, shall be made available exclusively to the public for unrestricted public access after the AC34 events. All public access improvements including, but not limited to benches, lighting, signage, railings, and trash containers, shall be subject to final plan review approval pursuant to Special Condition II-A of this permit.
 - a. **Piers 19 and 23 Aprons.** After the conclusion of the AC34 events and no later than November 1, 2013, the entire 700-foot-long by 30-foot-wide Pier 23 north apron (21,000 square feet total) and 800-foot-long by 18-foot-wide Pier 19 south apron (14,400 square feet total) shall be open and available for permanent public access, generally from sunrise to one hour after sunset. Facilities and improvements installed for the AC34 events in Special Condition II-B-2, including benches, litter receptacles and bullrails shall remain in place.
 - b. **Kayak Launch Facilities.** After the conclusion of the AC34 events, the two accessible low floats installed at the Marina West Basin near Marina Green and at Pier 52 pursuant to Special Condition II-B-2, shall be open and available for permanent public access.
 - c. **Jefferson Street Redesign.** If improvements to the two-block section of Jefferson Street between Jones and Hyde Streets, as required in Section II-B-2 above, cannot be completed in time for the 2013 AC34 events, the City shall construct the improvements no later than July 1, 2014.
 - d. **Bayview Gateway.** By July 1, 2014, the Port shall complete the Bayview Gateway open space project and provide permanent public access to the approximately 42,300-square-foot (0.97 acre) area bordered by Third Street, Cargo Way, Illinois Street and Islais Creek, as generally shown on Exhibit S. Improvements shall include removing an approximately 12,500-square-foot (0.28 acre) pile-supported deteriorated wharf structure, re-grading and re-contouring the site, and installing granite pavers, benches, picnic tables, fencing, a shade structure, art and interpretive elements, and landscaping the site with native vegetation. Amendments to existing BCDC permits for this area (which may include Permit Nos. 1971.021, M2002.012, and M1995.053), shall be submitted to authorize the public access requirements for the site.
 - e. **Marina Green Improvements.** After the conclusion of the AC34 events and no later than July 1, 2014, the permittees shall replace and maintain approximately 15 benches along the Marina Green northern seawall and extend the 300-foot-long by 12-foot-wide bioswale being constructed as part of the San Francisco Marina West Harbor renovation project along the entire length of the Marina Green (approximately 900 feet to the east), as generally shown on Exhibit M.
5. **Managed Public Access Areas.** To accommodate AC34 operations and for public safety reasons only, public access may be temporarily restricted to an approximately 70,690-square-foot (0.62 acre) area of the northern tip of Piers 27-29 in 2013, portions of the Pier 19 south apron, and an approximately 13,020-square-foot area (0.30 acres) of Piers 30-32 in 2012, when these areas are needed for crane operations to lift racing yachts in and out of the water or to tend to support boats docked alongside. These areas may generally be closed to public access for approximately 20 minutes for each boat moved between the hours of 9:30 a.m. to 11:30 a.m. and 3:30 p.m. to 5:30 p.m. on race days. Closures during other times may be permitted for emergency boat repairs or other similar purposes if the public access closures of these areas are minimized to the maximum extent possible and shall re-open the areas to public access as soon as safety permits.

6. **Posting of Public Access Hours.** By July 1, 2013, signage with the hours that the public access areas will be open shall be posted in a visible location near the entrance areas of Piers 27-29, 23, 19, 9 and 30-32, subject to final plan review approval pursuant to Special Condition II-A.
7. **Permanent Guarantee of Public Access.** No later than six months after the conclusion of the AC34 events in 2013 or by June 1, 2014, whichever is earlier, the permittees shall, by instrument or instruments acceptable to counsel for the Commission, dedicate to a public agency or otherwise permanently guarantee such rights for the public to access the new permanent public access areas, totaling 80,784 square feet (1.85 acres), including apron access on Piers 23 and 19, the two kayak launches, and the Bayview Gateway open space. The instrument shall create rights in favor of the public for each public access area totaling 80,784 square feet, which shall commence no later than upon completion of construction of the public access improvements required by this authorization and prior to the use of any structures authorized herein. Such instrument shall be in a form that meets recordation requirements of the City and County of San Francisco and shall include a legal description of the property being restricted and a map that clearly shows the shoreline (Mean High Water Line or edge of seawall), the property being restricted for public access, the legal description of the property and of the area being restricted for public access, and other appropriate landmarks and topographic features of the site, such as the location and elevation of the top of bank or seawall, any significant elevation changes, and the location of the nearest public street and adjacent public access areas. Approval or disapproval of the instrument shall occur within 30 days after submittal for approval and shall be based on the following:
 - (a) Sufficiency of the instrument to create legally enforceable rights and duties to provide the public access area required by this authorization;
 - (b) Inclusion of an exhibit to the instrument that clearly shows the area to be reserved with a legally sufficient description of the boundaries of such area; and
 - (c) Sufficiency of the instrument to create legal rights in favor of the public for public access that will run with the land and be binding on any subsequent purchasers, licensees, and users.
8. **Recordation of the Public Access Instrument.** Within 30 days after approval of the instrument, the permittees shall record the instrument on all parcels affected by this permit and shall provide evidence of recording to the Commission. No changes shall be made to the instrument after approval without the express written consent by or on behalf of the Commission. The instrument shall create rights in favor of the public, which shall commence no later than the dates specified in this authorization and shall continue so long as any use or improvements authorized herein remain. Such improvements shall be fully consistent with the plans approved pursuant to Special Condition II-A of this authorization and substantially conform to Exhibits N, O, P, Q, R, and S.
9. **Maintenance.** The areas and improvements within the public access areas totaling 80,784-square-feet (1.85 acres) described above shall be permanently maintained by and at the expense of the permittees or their assignees. Such maintenance shall include, but is not limited to: repairs to all walking surfaces in order to maintain a smooth, durable and barrier free surface; replacement of any plant materials that die or become unkempt; repairs or replacement as needed of any public access amenities such as signs, benches, trash containers, and lights; periodic cleanup of litter and other materials deposited within the access areas; removal of any encroachments into the access areas; assurance that the public access signs remain in place and visible; and repairs to any public access areas or improvements that are damaged by future subsidence, uneven settlement, or flooding, or inundation

caused by sea level rise, including raising land elevations or redesigning public access features to protect and ensure the usability of the public access areas and improvements at all times. Within 30 days after notification by staff, the permittees shall correct any maintenance deficiency noted in a staff inspection of the site. The permittees shall obtain approval by or on behalf of the Commission of any maintenance that involves more than in-kind repair and replacement.

10. **Assignment.** The permittees shall transfer maintenance responsibility to a public agency or another party acceptable to the Commission at such time as the property transfers to a new party in interest but only provided that the transferee agrees in writing, acceptable to counsel for the Commission, to be bound by all terms and conditions of this permit.
 11. **Reasonable Rules and Restrictions.** The permittees may impose reasonable rules and restrictions for the use of the public access areas to correct particular problems that may arise. Such limitations, rules, and restrictions shall have first been approved by or on behalf of the Commission upon a finding that the proposed rules will not significantly affect the public nature of the area, will not unduly interfere with reasonable public use of the public access areas, and will tend to correct a specific problem that the permittees have both identified and substantiated. Rules may include restricting hours of use and delineating appropriate behavior.
- C. **Piers 30-32 in 2013.** Authorization for the use and final site layout of the temporary structures that may be placed at Piers 30-32 for team bases in 2013 will require an amendment to this permit, following further review and approval by or on behalf of the Commission. Any authorization of such use will require the permittees to provide the maximum feasible public access consistent with the final site layout and project. Such public access may include a continuous public access corridor through the site and along the pier's edge to allow viewing of the team bases and operations on Piers 30-32 and AC34 operations in the Brannan Street Wharf Open Water Basin, subject to operational and safety considerations.
 - D. **SAP Amendment Requirements.** By March 1, 2013, as required by Amendment 4-11 of the *San Francisco Waterfront Special Area Plan*, the permittees shall remove approximately 21,034 square feet (0.48 acres, 273 cubic yards) of the Pier ½ structure and improve the marginal wharf area with seating and trash receptacles. By December 1, 2014, the permittees shall remove approximately 14,454 square feet (0.33 acres, 18,790 cubic yards) of the remnant piles and pier structures at Pier 64. Removal shall be done pursuant to Special Condition II-N. By March 1, 2015, the permittees shall remove the building located at Pier 2 to improve Bay views and public access at this location.
 - E. **Race Schedule and Hours.** By August 1, 2012, the permittees shall post or provide information for posting on websites including iWindsurf.com, the America's Cup Event website, the Bay Area Water Trail site, and provide the Commission with the final race schedule for 2012. By December 1, 2012, the permittees shall post or provide information for posting on websites including iWindsurf.com, the America's Cup Event website, the Bay Area Water Trail site, provide the Commission with the final race schedule for 2013. These notices are intended to provide adequate information to allow recreational users of the Bay to anticipate when the race course areas in the Bay may be closed for a race event. If either schedule should change, the permittees shall immediately update or provide notice of the schedule to the social media sites, to provide sufficient notice of the new race date at least two weeks prior to a scheduled race day. Races may generally take place between 11 a.m. and 4 p.m. on any given race day, or as determined by the United States Coast Guard's (USCG) final Special Local Regulations (SLR) and is expected to end earlier on several of the race days. If races end earlier than 4 p.m., the permittees shall broadcast the early race ending time as soon as possible to enable recreational users to have reasonable access to the race course and provide information of the ending time to the USCG for possible announcement on the USCG's Notice to Mariners' Broadcast.

- F. **Treasure Island Access.** The City shall continue to use its best efforts to secure access at Treasure Island as an alternative launch location during the AC34 event and until July 1, 2014. By July 1, 2014, the City shall inform BCDC of the results of its efforts.
- G. **Vendor Management.** The permittees shall ensure that vendors, commercial enterprises, food service facilities and queues do not impede or diminish public access. Vendors shall be located only within designated vendor sites as shown on plans approved pursuant to Special Condition II-A, and vendors shall not be sited or located along the Embarcadero or in areas that conflict with the view corridors of BCDC Permit 1990.008. Vendor siting shall give priority to the efficient and comfortable pedestrian and bicycle circulation to, in, and through all public access areas including but not limited to along the Embarcadero and the Marina Green areas. Food and vendor service is subject to revocation by the Commission if it is determined that such service significantly impedes or diminishes public use and enjoyment of the public access areas.
- H. **Litter Control.** In accordance with the Waste Management Plan, the permittees shall prevent litter generated in waterfront areas associated with the event or use of the public access areas from entering the Bay by placing an adequate number of covered trash receptacles, regularly emptying trash containers to minimize trash overflows, collecting trash, and placing public notices. Covered trash receptacles shall be conveniently placed throughout, and widely available for public use and trash collection shall occur routinely.
- I. **Crowd Control Measures.** In areas that are physically constrained or where ingress or egress is limited, the permittees shall use all appropriate crowd control management measures in order to prevent closures of the area. Such measures may include ensuring that a steady flow of people pass through the area and do not stop, impede or prevent access through the area, and regulating the number of people that can pass through an area at a time. The permittees shall use its best efforts to avoid closures of areas and closures shall only occur if needed for public safety, as determined by the applicable public safety agency(ies) with jurisdiction in the affected area(s).
- J. **Event-Related Implementation Plans.** The permittees shall submit final copies of its adopted event-related implementation plans to the Commission staff, including the People Plan, Parks Event Operations Plan, Water and Air Traffic Plan, Waste Management Plan, Sustainability Plan, Team Base Operations Plan, and Public Safety Plan.
- K. **Barrier-Free Access.** The permittees shall ensure that all required public access areas, both temporary and permanent, are barrier-free and that accommodations for persons with disabilities have been incorporated in the event planning and in facilities planned for the event, including siting bleachers and bench seating in areas that allow for access but that do not impact public access areas.
- L. **Removal of Temporary Structures.** All temporary structures authorized by this permit, including temporary floating docks, gangways, moorings, tents, bleachers, concession stands, cranes and team base modular structures, shall remain in place only for the dates and times authorized in Special Condition I-A of this permit. All temporary structures shall be removed as soon as they are no longer needed and no later than December 31, 2013.
- M. **Pile Driving Restrictions**
1. **Pile Driving Method.** The permittees shall use a vibratory hammer to install all steel piles in the Bay to avoid potential impacts to fish species from elevated underwater sound pressure levels. If geotechnical studies indicate that an impact hammer is necessary due to unforeseen hard driving conditions, the permittees shall inform the Commission in writing that an impact hammer is needed. No piles greater than 18 inches shall be installed. The permittees shall have a NMFS-approved biological monitor present before and during pile driving with authority to halt pile driving if

marine mammals are observed within 500 meters of the project site, and to maintain sound levels below 90dBA in air when seals or sea lions are present. The permittees shall submit a copy of the NMFS-approved sound attenuation and monitoring plan to the Commission staff within 15 days of its approval and prior to conducting any pile-driving work.

2. **Herring Monitoring.** If pile driving occurs between December 1 and February 28 of any year, the permittees shall have an on-site biological monitor, as approved by the California Department of Fish and Game (DFG) for monitoring herring. If herring spawning is observed, pile driving shall cease until two weeks following the spawning event. The biological monitor shall survey the area prior to resuming work to ensure that further work does not impact spawning or newly hatched herring.
 3. **Marine Mammals.** If marine mammals are observed within 500 meters of the project site, pile driving shall cease and only resume once the mammals have completely exited the project site.
- N. **Pile Removal.** All piles to be removed under this permit shall be removed through vibratory extraction, followed by direct pull. For piles removed at Pier ½ and Pier 64, if piles break using vibratory extraction and direct pull method, the piles shall be removed using clamshell and cutting of the pile at least two feet below the mudline to ensure adequate navigational safety.
- O. **Pier 64 Caspian Tern Platform.** To minimize impacts to nesting Caspian terns at Pier 64, no work at Pier 64 shall be conducted during the Caspian tern nesting season between March 1st – August 31st if documented observations by qualified monitors indicate that no terns have established nests by April 30 of any year, then this restriction shall not apply during that year. If terns are observed nesting, and documented observations by qualified monitors indicate that the offspring of the year have fledged before August 31st, then work can be conducted in the vicinity of Pier 64 after fledging and before August 31st. The permittees shall develop a monitoring program, pursuant to Special Condition II-A, to determine whether nesting is occurring on the platform, the number of nests and estimates of the number of successful fledglings. The monitoring shall include visual observation and photo-documentation by qualified monitors prior to construction of the new platform (e.g., nesting season 2013 and 2014), and subsequently during nesting season one, three, and five years after construction of the new platforms. The permittees shall submit to the Commission a brief report by November 1st of each year that monitoring is conducted reporting on observations of the Caspian tern nesting. If the monitoring concludes that the Caspian terns are not significantly using the platform within five years following its construction, as determined by or on behalf of the Commission, the permittees shall remove the entire 1,500-square-foot platform and supporting pilings from the Bay.
- P. **Dredging**
1. **Three-Year Permit for Dredging.** The approximately 33,500 cubic yards or less of new dredging shall be completed within three years of the date of issuance of this permit. No further dredging is authorized.
 2. **Limits on Dredging.** This permit authorizes new dredging only within area(s) as shown on Exhibits T, U and V, to an authorized project depth of: (a) -9 feet MLLW at the Broadway Open Water Basin (Piers 7-9); (b) -11 feet MLLW at Pier 14 North; and (c) -10 feet MLLW at the Brannan Street Wharf Open Water Basin (Piers 32-36), all with a one-foot allowable over-dredge depth. No dredging in other areas is authorized.

3. **Dredging and Disposal Activity**

a. **Pre-Dredging and Disposal Report and Notice.** At least 45 days before the commencement of any dredging and disposal episode authorized herein, the permittees shall submit to the Commission's Executive Director:

- (1) A bathymetric map showing the location of all areas authorized to be dredged, the authorized depth including over-dredge depth based on MLLW, the volume of material proposed to be dredged, and the approximate date of project commencement. At least two (2) weeks prior to any dredging episode, the permittees shall notify the Commission staff of the commencement date by telephone or in writing. If the date of commencement changes, the permittees shall provide an updated schedule as soon as it is available.
- (2) A written statement to the Executive Director that contains: (1) the proposed disposal site and quantity of material to be disposed, and dates within which the disposal episode is proposed; (2) if applicable, a discussion as to how the volume proposed for disposal is consistent with in-Bay disposal allocations and disposal site limits; and (3) the results of chemical and biological testing of sediment proposed for disposal.

b. **Post-Dredging Requirements**

- (1) Within 30 days of completion of each dredging episode authorized by this permit, the permittees shall submit to the Commission a bathymetric map showing the actual area(s) and depths dredged including over-dredge depth based on MLLW, any dredging that occurred outside the area or below the depths authorized herein, and a written statement indicating the total volume of material dredged and disposed and the disposal location.
- (2) If a dredging episode stops for longer than six consecutive months, the permittees must submit, before the dredging episode has resumed, notification to the Commission that dredging will begin again. If a dredging episode is suspended for more than six months, the Commission may require the permittees to complete: (1) new sediment characterization; (2) a re-survey of the dredge area; and/or (3) a revised alternative disposal option analysis.

4. **Post-Dredging Testing of "Z-Layer".** In order to comply with the requirements of the LTMS Agencies' Programmatic Consultation on Essential Fish Habitat (EFH) Agreement with the National Marine Fisheries Service dated June 9, 2011, within 15 days of completing dredging at the Brannan Street Wharf Open Water Basin (Piers 32-36) and at Pier 14 North, the permittees shall collect a "Z-layer" sample at these locations to ensure that the newly exposed sediment does not contain levels of polycyclic aromatic hydrocarbons (PAHs) that would be harmful to managed or native fish species. The Z-layer is the top 6-inches of the post-dredge sediment surface.

Grab samples shall be taken using appropriate equipment, such as a Van Veen sediment sampler, within the Pier 14 dredging footprint and the southern portion of the Pier 32 dredging footprint. The samples shall be taken in the proximity of the previously sampled core locations shown in the sediment analysis report entitled "*Characterization of Port of San Francisco Piers 32-36, 28 South, 14 North and South, and 9 Sediments in Support of the 34th America's Cup: Dredge Materials Sampling and Analysis Report,*" dated February 2012 prepared by Pacific Ecorisk.

The sediment samples shall be tested for PAHs (Regional Monitoring Plan 25 compound list) and compared to the Programmatic EFH bioaccumulation trigger levels for PAHs to determine the need for subsequent bioaccumulation testing and

further work. Results of the grab-sample residual sediment analysis shall be submitted to the Dredged Material Management Office for review and a determination as to the need for bioaccumulation testing or any other follow-on analyses within two months of test completion.

5. **Seasonal Limitations.** Except as provided below, all dredging and disposal activities shall be confined to the work window, between June 1st and November 30th of any year, to minimize disturbance to the following special status species:

Species of Concern	Work Window	Agency
Salmonids	June 1 st -November 30 th	NOAA
Pacific Herring	March 1 st -November 30 th	DFG

NOAA – NOAA Fisheries DFG-California Department of Fish and Game

This work window between June 1st and November 30th is established by Tables F-1 and F-2 of Appendix F, “In-Bay Disposal and Dredging,” and Figures 3.2 and 3.3 of the Long-Term Management Strategy (LTMS) Management Plan (2001) as amended by U.S. Fish and Wildlife Service (FWS) on May 28, 2004. No work inconsistent with the time and location limits contained in these figures may be conducted without the approval of the Executive Director, provided that such approval may only be issued after: (1) consultation between the U.S. Army Corps of Engineers (USACE) and the FWS and/or NOAA has occurred; and (2) the Executive Director has determined that dredging and disposal outside of the work window is consistent with the Commission’s laws and policies.

To protect the herring fishery, no dredging shall occur between December 1st and March 1st of any year without the written approval of the Executive Director, provided that such approval may only be issued: (1) after the permittees’ representative requests from the California Department of Fish and Game (DFG) that they be allowed to dredge outside of the work window, discussions between the permittees’ representative and the DFG has occurred and the outcome of those discussions has been provided to the Commission staff; and (2) the Executive Director has determined that dredging and disposal outside of the work window is consistent with the Commission’s laws and policies.

6. **Longfin Smelt.** If, at any time during the life of this permit, any new laws, policies or regulations require measures to protect longfin smelt from potential adverse impacts of dredging, dredged material disposal, and/or beneficial reuse of dredged material, this permit shall become null and void unless the permittees agree to amend this authorization to comply with the new laws, policies, or regulations in a manner specified by or on behalf of the Commission. For example, if DFG requires an incidental take permit under the California Endangered Species Act, the permittees must obtain the DFG take permit, provide the take permit to the Commission and amend the Commission’s permit or the Commission’s permit will become null and void.
7. **Barge Overflow Sampling and Testing.** Results of any effluent water quality or other testing required by the California Regional Water Quality Control Board, San Francisco Bay Region shall be submitted in writing to Commission staff at the same time such testing is submitted to the Regional Board.
8. **Monitoring and Enforcement.** The permittees shall allow the Commission staff or representatives of other state or federal agencies to come aboard the dredge or barge associated with any dredging or disposal episode subject to reasonable safety and operational considerations and observe the operation(s) to ensure that these activities are consistent with pre-dredging reports required herein and other terms and conditions of this permit. Further, the Commission reserves the right to have post-dredging reports inspected by a reliable third party familiar with bathymetric

mapping in order to verify the contents of these reports. If a third party selected by or on behalf of the Commission indicates that a post-dredging report is inaccurate, the Commission reserves the right to require the permittees to submit a revised report that meets the conditions of this permit. If the Commission determines that the post-dredging report indicates that work has occurred beyond that authorized by this permit such violation may result in the initiation of enforcement action by or on behalf of the Commission.

9. **Long-Term Management Strategy Program.** If, at any time during the effective life of this permit, the Commission's laws, Bay Plan policies, or regulations are changed and are in effect regarding dredging, dredged material disposal, and beneficial reuse consistent with the multi-agency Long-Term Management Strategy Program (LTMS), this permit shall become null and void unless the permittees agree to amend this authorization to meet the new laws, policies, or regulations in a manner specified by or on behalf of the Commission.
- Q. **Incidental Harassment Authorization Approval.** No pile-driving shall commence until the permittees provides the Commission staff with an approved Incidental Harassment Authorization from NMFS for marine mammals and incorporates any required mitigation measures in its BCDC-approved construction plans.
- R. **Other Agency Approvals.** No in-water work shall commence until the permittees provides the Commission staff with all required and final approvals from relevant resource agencies, including, but not limited to, any issued biological opinion, a consistency determination or incidental take permit from the California Department of Fish and Game, U.S. Fish and Wildlife Service, and National Marine Fisheries Service, and modifies this authorization accordingly and as needed.
- S. **Mitigation Measures and Best Management Practices.** In order to minimize impacts to natural resources, the permittees shall implement the mitigation measures, best management practices and other conditions required by other federal, state, local or other regulatory agencies applicable. In addition, the following conditions apply:
1. **Creosote Treated Wood.** No pilings or other wood structures that have been pressure treated with creosote shall be used in any area subject to tidal action in the Bay or any certain waterway, in any salt pond, or in any managed wetland within the Commission's jurisdiction as part of the project authorized herein.
 2. **Construction Operations and Debris Removal.** All construction operations shall be performed to prevent construction materials from falling, washing or blowing into the Bay or drifting and becoming a navigation or pollution hazard. In the event that such material escapes or is placed in an area subject to tidal action of the Bay, the permittees shall immediately retrieve and remove such material at its expense. All construction debris shall be removed to an authorized location outside the jurisdiction of the Commission. In the event that any such material is placed in any area within the Commission's jurisdiction, the permittees, their assignees, or successors in interest, or the owners of the improvements, shall remove such material, at its expense, within ten days after it has been notified by the Executive Director of such placement.
 3. **Water Quality.** The permittees shall submit and implement post-construction storm-water best management practices (BMPs) pursuant to the Water Quality Certification issued by the Regional Water Quality Control Board (RWQCB). The permittees shall also submit and implement a Storm Water Pollution Prevention Plan (SWPPP), A Spill Prevention Control and Countermeasure Plan (SPCCP) and a Materials Management Disposal Plan (MMDP), which would apply to project construction phases.

- T. **In-Kind Repairs and Maintenance.** Any in-kind repairs and maintenance of structures or improvements inundated by Bay water shall only use construction material that is approved for use in San Francisco Bay. Construction shall only occur during current approved months during the year to avoid potential impacts to fish and wildlife. Commission staff should be contacted to confirm current restrictions. Repair and maintenance work shall be confined to existing structural footprints and shall not result in the enlargement of the existing pier, gangway or dock structures.
- U. **Recording.** The permittees shall record this permit or a notice specifically referring to this permit on all parcels affected by this permit with the City and County of San Francisco within 30 days after execution of the permit issued pursuant to this authorization and shall, within 30 days after recordation, provide a copy of the recorded permit to the Commission.
- V. **Certification of Contractor Review.** Prior to commencing any grading, demolition, or construction, the general contractor or contractors in charge of that portion of the work shall submit written certification that s/he has reviewed and understands the requirements of the permit and the final BCDC-approved plans, particularly as they pertain to any public access or open space required herein, or environmentally sensitive areas.
- W. **Abandonment.** If, at any time, the Commission determines that the improvements in the Bay authorized herein have been abandoned for a period of two years or more, or have deteriorated to the point that public health, safety or welfare is adversely affected, the Commission may require that the improvements be removed by the permittees, its assignee or successor in interest, or by the owner of the improvements, within 60 days or such other reasonable time as the Commission may direct.

III. Findings and Declarations

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

- A. **San Francisco Waterfront Special Area Plan.** The *San Francisco Waterfront Special Area Plan* (SAP), as amended in 2000, identifies four open water basins between Pier 35 and China Basin: (1) the Northeast Wharf Open Water Basin between Piers 19 and 27, including removal of a portion of the Pier 23 shed to improve Bay views; (2) the Broadway Open Water Basin between Piers 3 and 9; (3) the Rincon Point Open Water Basin from the southern end of the Agricultural Building and Downtown Ferry Terminal breakwater to Pier 22½; and (4) the Brannan Street Wharf Open Water Basin between Piers 32 and 38, including the removal of Piers 34 and 36. In accordance with the SAP, permitted uses within Open Water Basins include: (1) water-related recreation; (2) water transportation (e.g., ferries, water taxis, and excursion boats); (3) limited public access; and (4) at Pier 32 only: limited Bay-oriented commercial recreation and Bay-oriented public assembly.

On April 5, 2012, the Commission approved Amendment 4-11 to the SAP to accommodate temporary use of three of the four open water basins for the 34th America's Cup. The amended SAP allows: (1) temporary use of the Brannan Street Wharf Open Water Basin to moor team racing yachts and several large, private yachts; (2) temporary berthing of large, private yachts in the Broadway Open Water Basin; and (3) temporary berthing of a variety of vessels in the Northeast Wharf Open Water Basin. To offset the impacts associated with the temporary berthing of vessels within these open water basins, the amended SAP requires: (1) fill removal at Pier 64 and accelerated fill removal at Pier ½ (already required by the SAP) to provide for Bay views and improved Bay ecology; (2) accelerated removal of a building currently used as a restau-

rant on Pier 2 (already required by the SAP) to provide more public Bay views and public access along the Bay after the America's Cup; and (3) improved and increased access for water recreation at Pier 52. The Commission found that the public benefits provided by the America's Cup SAP amendment maintains the balance of public benefits on which the 2000 amendment to the SAP was based, and further recognized that "the America's Cup events will provide an opportunity for the Bay Area public, visitors and people from around the world to have a new experience of the Bay and provide them with an opportunity to discover or re-discover the San Francisco Waterfront and the Bay."

The following SAP policies apply to the project and include the April 2012, SAP amendments describing new public benefits and public access to balance the impacts of the temporary use of the open water basins for the America's Cup:

1. **Open Water Basin Policies.** The amended SAP permits the temporary use of the open water basins for the AC34 event and new temporary fill within the Open Water Basins to berth vessels between May 2013 and January 2014, except within the Brannan Street Wharf Open Water Basin, where fill may be placed in May 2012 and removed no later than January 2014. This policy allowing the temporary use of the open water basins for America Cup activities expires on June 30, 2014.

The Event Authority will place temporary fill for pilings, floating docks and moorings in the Brannan Street Wharf Open Water Basin by August of 2012, remove the floating docks and most of the moorings by November 30, 2012, and possibly re-install these uses for the 2013 event if the team bases are located at Pier 30-32 in 2013. The team base configuration and public access plan is subject to further review by BCDC and would be authorized through an amendment to any permit issued for the 34th America's Cup. Temporary fill for pilings, floating docks and moorings will also be placed within the Northeast Wharf Open Water Basin in May or June 2013, and removed shortly after the final match in October 2013. If needed for berthing of large spectator vessels, temporary fill for pilings, floating docks and moorings would also be placed within the Broadway Open Water Basin between May and October 2013. The proposed use of the open water basins and placement of temporary fill within the basins will be within the time limitations required in the SAP Open Water Basin policies, as amended. Special Condition II-L requires the removal of all temporary structures, including vessels within these areas, no later than December 2013.

2. **Open Water Area Policies.** The amended SAP accelerates the removal of Pier ½ to March 2013 as a public access, view and fill removal benefit for the public during the America's Cup event, and accelerates the removal of the restaurant at Pier 2 by March 2015, to improve Bay view and public access after the event.

The Port will implement both these requirements as part of the 34th America's Cup project consistent with these SAP policies, resulting in approximately 21,034 square feet (0.48 acres) of Bay fill removal. Special Condition II-D has been included in the permit to require this fill removal to occur within the timeframes required by the SAP.

3. **Southern Waterfront and Central Basin Policies.** The amended SAP requires the improvement of the public boat launch at Pier 52 to make it usable for kayaks and non-motorized small boat users, and the removal of Pier 64 by March 2013, to provide additional fill removal benefits, as part of the America's Cup project.

As part of the 34th America's Cup project, the Port proposes to install an accessible low float at Pier 52 for kayaks and non-motorized small boat users, consistent with the SAP. Pier 64 is comprised of deteriorated remnant creosote-treated piles and pile-decking where currently a Caspian tern colony nests. The Port will remove Pier 64, resulting in an additional 14,454 square feet (0.33 acres) of Bay open water and re-construct a 1,500-square-foot platform for use by Caspian terns. The platform

will be located within the same footprint as the previous Pier 64 decking used by the Caspian terns. Because the work must be completed outside the Caspian tern nesting period of March 1 – August 1, the Port is unable to complete the work by March 2013 and still conduct all the work needed for the AC34 races in time. It proposes to begin work as soon as the nesting period is over in August 2013 (or earlier if either nests are not established in 2013 or are fledged before the end of August) and complete the work no later than December 1, 2014. Although this date is later than the required date in the SAP, according to the Port, the delay is necessary to ensure that work occurs only during work windows set to protect Caspian Terns and does not result in impacts to the Caspian tern nesting. Special Condition II-O has been included in the permit to ensure that work is done outside the Caspian tern nesting season, that a monitoring program is conducted to observe nesting, and to require the platform to be removed if nesting does not occur within five years to remove any unnecessary Bay fill. Special Condition II-D requires the fill at Pier 64 to be removed no later than December 1, 2014.

4. **Public Access Policies.** SAP Public Access Policy 11 states that, “the longevity of public access improvements required in permits issued pursuant to this plan should be commensurate with the longevity of the development improvements for which they are required.” Policy 1 states that, “[p]ublic access should be provided free of charge to the public, and should provide direct connections to the Bay, both physical and visual” and Policy 2 states that, “[p]ublic access should generally be accessible at any time; however, reasonable restrictions on public access may be approved to promote public safety and security.” Policy 10 provides criteria for the siting and design of public access areas on piers and states that “[o]n-pier public access areas should be located to take advantage of the Open Water Basins, views of the Bay and its shoreline, views back to the City, wind protection and solar access. They should incorporate unique and special amenities that draw the public to them, including cultural expression, (e.g., public art, event programming or unique views).”

The structures and improvements proposed for the 34th America’s Cup will be temporary and in place only for the duration of the events (with additional time needed for set-up and breakdown). The maximum length of time the improvements will be in place is approximately nine months (approximately three months in 2012 and six months in 2013). The only improvements that will result in permanent Bay fill and that will remain after the event would be public access and habitat improvements, including the repair of the Pier 19 south apron, the installation of new kayak launch floats at Marina Green and Pier 52, and the construction of a Caspian tern nesting and roosting platform at Pier 64 to provide habitat for the terns that currently use the deteriorated pilings that will be removed.

Temporary public access improvements include: (1) new public access areas during the America’s Cup events (30,940 square feet (0.71 acres) in 2012 on Piers 30-32, and 428,304 square feet (9.83 acres) in 2013 on Piers 27-29, Pier 23, Pier 19, and Pier 9); (2) two “parklets” along the Embarcadero Promenade (approximately 6,800 square feet); (3) two new kayak floats, one at Marina Green and the other at Pier 52 (approximately 534 square feet total); (4) temporary storage for boardsailing equipment near Crissy Field to enable board sailors to access Crissy Field East Beach by foot, bicycle, or public transportation during the AC34 races and events; and (5) an approximately 7,000-square-foot (0.17 acre) dedicated bike lane extending from Aquatic Park to Fort Mason along Van Ness Avenue during the 2013 events (Exhibits E-K, N-R). These temporary public access improvements are commensurate with the longevity of the temporary development improvements proposed for the 34th America’s Cup events, consistent with the requirements of SAP Public Access Policy 11. In 2013, Piers 30-32 will be used as the primary team base location and additional public access will be provided at the pier, commensurate with the final layout, pending further BCDC review and approval. In addition, pedestrian, bicycle and transit improvements as detailed in the America’s Cup

People Plan will facilitate the public's ability to access the Bay and shoreline during the AC34 events and provide additional benefits during the event.

Although the proposed development improvements will be temporary only, the City and the Port will also provide long-term public access improvements as part of the project. These include: (1) completion of a portion of the Jefferson Street redesign project and the Bayview Gateway; (2) permanent public access along the Pier 23 north apron and Pier 19 south apron; (3) the two accessible kayak floats one at Marina Green and one at Pier 52; and (4) additional site improvements at Marina Green, including bench replacement and construction of additional bioswales (Exhibits L-S). These permanent public access improvements provide benefits that exceed the longevity of the development improvements for which they are required, the standard in SAP Policy 11. The City and the Port are providing these permanent public access improvements in fulfillment of their commitment to ensure that hosting the America's Cup in San Francisco will leave a positive legacy of public improvements along the San Francisco waterfront and to offset and mitigate for the impacts on local residents that might result from the crowds drawn to the waterfront and the use of the Bay for AC34 events (See also, "**Public Access**" policy section below).

The majority of the America's Cup venue areas will be open to the general public free of charge. The events will provide a net increase of 22,849 square feet (0.52 acres) of free public access in 2012 and 428,919 square feet (9.85 acres) in 2013. According to the applicants, seating at the Marina Green (3,916 square feet in 2012 and 7,743 square feet in 2013) and the Marina Yacht Harbor (28,170 square feet) in both years and at Piers 27-29 (30,000 square feet) in 2013 will be open to the general public for a fee comparable to other major sports events. Bleacher seating for up to 1,420 people in 2012 and 12,920 people in 2013 is proposed at these venue sites and would be designed and sited to accommodate people with disabilities. Special Condition II-K has been included in the permit to ensure that all areas are designed and sited to be barrier-free. All of the event-related public access areas are designed to provide direct visual connections to the Bay to enable spectators to view the races. Physical access to the Bay for non-motorized small boats will be provided by the proposed improvements to public boat access facilities at Marina Green and at Pier 52. The proposed temporary board sailing storage facility near Crissy Field will also facilitate continued physical access to the Bay by board sailors during the 34th America's Cup events by allowing board sailors to get to the Bay on foot, by bike, or on public transportation when vehicular traffic drawn to the races will likely impede their ability to get to the Bay with their equipment.

Crowd control measures may be required during peak visitation periods for public safety reasons in areas such as the Marina Yacht Harbor spit where ingress and egress is physically constrained and at the public pier at Aquatic Park because of public safety concerns about overloading the pier. Special Condition II-I has been included in the permit to ensure that the permittees use all available crowd control measures available to prevent closures of these areas. The public access areas at the event venues will be open to the public generally throughout the day and during event times, consistent with public safety and security requirements. As included in Special Condition II-B-4, areas where public access will be managed are in the vicinity of the America's Cup boat-lift cranes on Piers 27-29 and Piers 30-32 while the cranes are operating (generally for a 20-minute period, within a two hour window in the morning and two hour window in the afternoon) and along the south apron of Pier 19 when needed to assist a support boat berthed alongside. As is the existing practice at other Port piers, nighttime closures of the public access areas on Pier 23, Pier 19, Pier 9, and Piers 30-32 will be provided for public safety and security. Piers 23, 19 and 30-32 will be generally open from 10 a.m. to 6 p.m. each day and closed at night for team base security and safety, and for event operations. Pier 9, which provides commanding views of the Bay and is sited

adjacent to the proposed parklet between Pier 9 and 15 will be opened longer, from 9 a.m. to 7 p.m. Marina Green and Piers 27-29 will remain open at all times and not fenced off from the public streets. Except for these necessary restrictions, the public access areas will be open to the public at all times. After the event, the permanent public access areas on Piers 23 and 19 will be open consistent with other Port public access apron areas, from sunrise to one hour after sunset.

Special Condition II-B-3 has been included in the permit to ensure that these areas are available and open to the public during these specified times, and that improvements at each of these sites are reviewed and approved subject to final plan review. In addition, Special Condition II-B-5 has been included to require the posting of the public access hours at designated pier aprons where hours may be limited for security concerns.

Unlike all other previous America's Cup races, the 34th America's Cup will be held in close proximity to the shoreline to enable shoreside spectators to view the races. Consequently, one of the main objectives of the project is to draw large numbers of the public to the Bay shoreline along the San Francisco waterfront to view the sailing races and events. As such, the on-pier public access areas are designed to take advantage of their proximity to the Bay and the open water basins and to provide views of the races and the team base operations at Piers 30-32. All of the on-pier public access areas will provide spectacular views of both the Bay and the City from areas that are not currently available to the public. In addition, the on-pier public access areas incorporate unique and special amenities, including event programming, an America's Cup Boat museum, food concessions, exhibitions, sponsor displays, merchandising, and entertainment to draw the public to these areas. In addition to these areas, two parklets will also add to the temporary access provided during the event. These parklets, one of which is currently occupied by parked vehicles (between Piers 9 and 14) provide outstanding viewing spots, for the races and of the Bay.

As conditioned, the Commission finds that the project would be consistent with the *San Francisco Waterfront Special Area Plan*.

- B. **Fill.** The Commission may allow fill only when it meets the requirements identified in Section 66605 of the McAteer-Petris Act, which states, in part, that: (a) fill "should be limited to water-oriented uses (such as water-oriented recreation or public assembly) or "minor fill for improving shoreline appearance and public access"; (b) fill in the Bay should be approved only when "no alternative upland location" is available; (c) fill should be "the minimum amount necessary to achieve the purpose of the fill"; (d) "the nature, location, and extent of any fill should be such that it will minimize harmful effects to the Bay area, such as, the reduction or impairment of the volume, surface area or circulation of water, water quality, fertility of marshes or fish or wildlife resources, or other conditions impacting the environment..."; and (e) "fill should be authorized when the applicant has such valid title to the properties in question that he or she may fill them in the manner and for the uses to be approved."
1. **Water-Oriented Use.** In 2000, the Bay Plan and the Waterfront SAP were amended to alter BCDC's policies on fill removal and permitted uses on piers between China Basin and Pier 35 by setting aside the McAteer-Petris Act requirement that uses on piers in these areas must be water-oriented so long as projects in these areas are consistent with the SAP and their use is consistent with the public trust. Although the SAP sets aside the water-oriented test requirement in this location, all of the project's proposed fill in the Bay would be for maritime and water-oriented uses, and for public access.

The project will result in only a minor amount (177 square feet) of permanent fill for the repair of the Pier 19 south apron to support maritime and public access uses, for water-oriented public access improvements at the Marina West Harbor Basin and

Pier 52 (kayak launches, 534 square feet), and for habitat improvement at Pier 64 (approximately 1,500 square feet for a Caspian tern nesting platform). Temporary fill for floating docks and moorings needed for AC34 race, support, sponsor, and spectator vessels, support a sailing race, a water-oriented use, and will be removed from the Bay shortly after the conclusion of the AC34 event.

2. **Alternative Upland Location.** All of the proposed fill in the Bay support maritime and public access uses along pier aprons, kayak launches, and floating docks and moorings needed for racing vessels, all uses that must be located on or directly adjacent to Bay waters. Thus, there is no alternative upland location for the project.
3. **Minimum Amount Necessary.** The project will result in a total of up to 109,546 square feet (2.35 acres) and 1,621 cubic yards of temporary Bay fill for floating docks, gangways, guide piles, and mooring anchors for AC34 event-related vessels that will be removed by November 2013. The project will result in a total of 177 square feet and 224 cubic yards of permanent Bay fill for the repair of the Pier 19 south apron, 534 square feet for the construction of two new floats for non-motorized vessels, and an additional 1,500 square feet of pile-supported fill for the construction of a replacement Caspian tern nesting platform at Pier 64. According to the applicants, these represent the minimum amount of fill necessary for these uses.
4. **Effects on Bay Resources** (See also discussion below on “**Natural Resources**”). The Bay Plan policies on water surface area and volume state that, “the surface area and volume of the Bay should be kept as large as possible in order to maximize active oxygen interchange, vigorous circulation, and effective tidal action” and that “water circulation in the Bay should be maintained, and improved as much as possible.” These policies also state that “any proposed fills, dikes or piers should be thoroughly evaluated to determine their effects on water circulation and then modified as necessary to improve circulation or at least to minimize any harmful effects.”

The majority of the fill will be temporary in nature and would be in place for no longer than nine months in areas that are not within tidal marsh or other biologically sensitive areas. Of the 2,211 square feet of permanent fill, 177 square feet at the Pier 19 south apron and 1,500 square feet to rebuild the Pier 64 Caspian tern nesting platform will be located within the footprint of the existing pier structures and would have minimal effect on existing Bay surface area, the circulation of Bay waters, and tidal marsh habitat. The remaining 534 square feet (for two launch floats) will be at existing marina and launch ramp sites. As such, the proposed fill will have minimal effect on existing Bay surface area, the circulation of Bay waters, and tidal marsh habitat.

5. **Valid Title.** The City of San Francisco has legal ownership of the area where the proposed work would occur.
6. **Safety of Fills/Sea Level Rise.** The Bay Plan policies on Safety of Fills state, in part, that “to prevent damage from flooding, structures on fill or near the shoreline should have adequate flood protection including consideration of future relative sea level rise as determined by competent engineers” and that “to minimize the potential hazard to Bay fill projects and bayside development from subsidence, all proposed developments should be sufficiently high above the highest estimated tide level for the expected life of the project...”

The AC34 event is a temporary event lasting only until the fall of 2013, and the majority of the improvements consist of docks that will rise with the tides. Therefore, the event and related temporary facilities will not be vulnerable to hazards related to future sea-level rise.

The proposed legacy public access improvements at the Marina West Basin, the Marina Green, Jefferson Street between Jones Street and Hyde Street, Pier 19, Pier 23, Third Street and Cargo Way, and Pier 52, and the Caspian tern nesting platform

at Pier 64, however, are located in areas that are subject to future sea-level rise. The San Francisco Port Building Code requires that the Port consider 100-year Base Flood Elevations (BFEs), as determined by the Federal Emergency Management Association (FEMA), when planning development projects along the waterfront. The 100-year BFE is defined by FEMA as the “flood elevation having a 1% chance of being exceeded in a given year.”

In order to better address the effects of sea-level rise on both existing and planned new facilities, the Port hired URS Corporation to prepare a sea-level rise inundation study identifying areas and facilities vulnerable to increased risk of flooding due to sea-level rise¹. The study area covers the portion of the San Francisco waterfront between the Municipal Pier at Aquatic Park to Bay Front Park, and shows the 100-year Still Water Level (SWL) and 100-year Total Water Level (TWL) in 2010, and the projected future SWL and TWL assuming 16 inches of sea-level rise by 2050 and 55 inches of sea-level rise by 2100. The 100-year SWL is defined as the flood level that has a 1% chance of occurring in any given year, and is equivalent to a FEMA Special Flood Hazard Area. The 100-year TWL is the sum of SWL and wind wave run-up.

The Port states that, “the Port of San Francisco is working with the City and County of San Francisco and other Bay Area agencies to strategize and plan for sea level rise” and “at this time, the Port has not identified a unified strategy to manage sea level rise and is reviewing new projects on a case by case basis.” As shown in Table 4, the Marina Green, Pier 19, Pier 23, and 3rd & Cargo sites will be subject to increased flooding and inundation by 2050, and all of the sites will be subject to inundation and flooding by 2100.

The deck elevation of the Caspian tern platform is designed to be above the 2050 SWL and TWL levels and would be constructed of materials that would be resistant to wave and flooding conditions. The non-motorized boat launch floats at the Marina West Basin and Pier 52 are floating docks and are therefore able to adapt to both daily tidal fluctuations as well as future sea-level rise.

While the Pier 23 north apron and the Pier 19 south apron will be subject to increased inundation and flooding by 2050 based on the projected TWL, the public access improvements on these pier aprons would be capable of tolerating periodic flooding. According to the Port, more comprehensive adaptation strategies, such as raising the elevations of the entire pier decks, are beyond the scope of the proposed minor repairs and improvements to provide public access on these piers. Even if considered in the context of major long-term development improvements, strategies for altering the physical elevation or structural design of Pier 19 or 23 would need to be balanced against historic preservation standards and requirements associated with managing and maintaining the Embarcadero National Register Historic District. Special Condition II-B-8 of the permit requires regular maintenance of the public access areas, including maintenance of the areas in the event that the area becomes flooded and unavailable for public access.

The benches and bio-swale improvements at the Marina Green, the Jefferson Street public realm improvements, and the Bayview Gateway will be subject to increased flooding based on the projected 2050 TWL and/or 2100 SWL. However, the improvements proposed at these sites would be resistant to the effects of periodic flooding and inundation.

¹ Sea Level Rise and Adaptation Study – Coastal Inundation Report, URS Corporation, June 2011.

Table 6: Existing and Projected Sea Levels at Project Sites

Site	Base Elevation	2010 SWL	2010 TWL	2050 SWL	2050 TWL	2100 SWL	2100 TWL
Marina Green	10.5	9.2	--	10.5	--	13.8	--
Marina West Basin	NA	9.2	--	10.5	--	13.8	--
Jefferson Street	11.2	9.2	9.2	10.5	10.5	13.8	13.8
Pier 19	12.4	9.2	12.0	10.5	13.3	13.8	16.6
Pier 23	12.1	9.2	12.2	10.5	13.5	13.8	16.9
Pier 52	NA	9.2	12.3	10.5	13.6	13.8	17.3
Pier 64	24	9.2	12.3	10.5	13.7	13.8	17.3
3 rd & Cargo	9.6	9.2	--	10.5	--	13.8	--

All elevations shown are in feet referenced to the NAVD88 datum.

The portion of Jefferson Street between Jones Street and Hyde Street is behind a series of breakwaters, piers and a seawall and is therefore not subject to wave run-up. As such, the SWL and TWL are the same elevation at this location.

Because the Marina Green, Marina West Basin, and 3rd & Cargo sites are outside of the Port Sea-Level Rise study area, TWL data are not available for these sites.

For all the foregoing reasons, the Commission finds that the project is consistent with its law and policies regarding Bay fill.

C. Public Access

1. **Maximum Feasible Public Access.** Section 66602 of the McAteer-Petris Act states, in part, that "...existing public access to the shoreline and waters of the...[Bay] is inadequate and that maximum feasible public access, consistent with a proposed project, should be provided." In addition, the Bay Plan policies on public access state, in part, that "a proposed fill project should increase public access to the Bay to the maximum extent feasible..." and that "access to and along the waterfront should be provided by walkways, trails, or other appropriate means and connect to the nearest public thoroughfare where convenient parking or public transportation may be available." (See also, discussion in "**San Francisco Waterfront Special Area Plan**" section above).

Landside Impacts and Public Access. The AC34 event is a temporary water-oriented public sporting event designed to attract large numbers of visitors to the Bay and shoreline. According to the FEIR, the event is expected to draw up to 135,000 spectators to San Francisco on a weekend peak in 2012 and up to 234,000 spectators on a weekend peak in 2013. San Francisco routinely accommodates large crowds for events; some examples of these events are summarized below:

Event Name	Attendance	Number of Days	Attendance per Day
Fleet Week	1,200,000	6	n/a ¹
LGBT Pride Parade	750,000	2	375,000
Chinese New Year Parade	400,000	1	400,000
Carnival	400,000	2	200,000
Folsom Street Fair	350,000	2	175,000
Cherry Blossom Festival	200,000	4	50,000
T Mobile Bike Race	115,000	1	115,000
Chinatown Autumn Moon Festival	100,000	2	50,000
Asian Heritage Celebration	90,000	1	90,000
St. Patrick's Day Parade	85,000	1	85,000
Sunday Streets (highest visitation)	80,000	1	80,000
Castro Street Fair	62,000	1	62,000
The Dyke March	50,000	1	50,000
Giants Game (average)	45,000	1	45,000
Dragon Boat Festival	45,000	2	22,500

Source: San Francisco Grants for the Arts and California Cultural Database Project.

¹ Fleet Week lasts for 6 or 7 days, although the majority of attendance, assumed to be around 80%, occurs over two weekend days when the Blue Angels perform the airshow.

The City and Port will implement a multi-faceted public access program to support the events, including substantial pedestrian, bicycle, and transit services, satellite parking, signage, restrooms, seating, trash collection, food service and concessions, and emergency services designed to enhance and support public access to and along the shoreline for the events. In addition, temporary public access on venue sites, and permanent legacy public access improvements that will provide long-term public benefits after the conclusion of 34th America's Cup are proposed (as discussed above). Event-related implementation plans to support public access and people movement during both the 2012 and 2013 AC34 events include:

- A People Plan, describing a safe, reliable, and efficient traffic and transportation scheme for the event;
- A Parks Event Operations Plan, focusing on on-shore spectator venue sites and secondary viewing areas;
- A Water and Air Traffic Plan, to provide guidelines for adequate and safe access to the race course area and other boating information;
- A Zero Waste Plan, that sets forth recycling, composting and waste reduction measures to be implemented during the AC34 event;
- A Sustainability Plan, covering event sustainability activities;
- A Team Base Operations Plan, identifying environmental and safety standards and requirements and best management practices at the team bases;
- A Public Safety Plan, to address all reasonable safety and security measures to protect the public, media, event related staff and competitors;
- A Workforce Development Plan, a local hiring plan consistent with Chapter 6.22 and Chapter 83 of the San Francisco Administrative Code; and
- A Youth Involvement Plan, a plan to incorporate and support sailing-related programs and activities, outreach, event internships, and other youth activities related to the event.

The goal of these numerous plans are to ensure a safe, environmentally sustainable, successful and engaging event for all members of the public, even with increased numbers of people drawn to the AC34 events. Special Condition II-J requires the permittees to submit copies of these final plans for review by the Commission staff.

The project will result in increased public access and use of the shoreline and the Bay, consistent with the policies and objectives of the McAteer-Petris Act and the Commission's Bay Plan. However, the anticipated increase in public use of the San Francisco waterfront and the Bay may conflict with other public uses such as walking, running, cycling, or rollerblading along Herb Caen Way and the Marina Green, and swimming, rowing, kayaking, sailing or boardsailing in areas of the Bay needed for racing or spectator boats. While conflicts between different public access uses of the shoreline and the Bay cannot be entirely eliminated, the applicants have worked closely with the different user groups throughout the public review process to minimize and mitigate such conflicts to the maximum extent feasible. The resulting project changes and refinements include: (1) the elimination of use of National Park Service lands, including Crissy Field and the placement of a video barge in Aquatic Park; (2) the water area offshore of Crissy Field will be reserved for the exclusive use of non-motorized small boats (e.g., kayaks) and swimmers; (3) new accessible non-motorized small boat launch facilities to accommodate persons with disabilities will be installed at the Marina West Basin Harbor and at Pier 52; and (4) the Jefferson Street Redesign and the Bayview Gateway project will be implemented.

All event structures and facilities will be located outside of BCDC-required dedicated public access areas and would be setback from the Bay Trail, pursuant to the recommendations of the Commission's Design Review Board and the Port's Waterfront Design Advisory Committee. These structures will be subject to final plan review approval by the Commission staff, pursuant to Special Condition II-A, to ensure that these requirements are met. The project will occupy areas of Little Marina Green (near the St. Francis and San Francisco Yacht Clubs) and the Marina Green for tents, bleacher seating and other event structures. These areas are not BCDC-required dedicated public access areas but are areas that are currently open and available to the public and consist of a mix of lawn areas, paved pathways, and parking areas. In 2012, approximately 8,091 square feet (0.19 acres) of the Marina Green that is within the Commission's 100-foot shoreline band jurisdiction would be occupied by structures and in 2013, approximately 13,719 square feet (0.31 acres) would be occupied. Based on the feedback from the Commission's Design Review Board, tents, bleachers, and other structures in these locations have been clustered and sited to preserve views from Marina Boulevard, to facilitate movement through and around these areas, and to minimize impacts to public access.

As discussed above under the "**San Francisco Waterfront Special Area Plan**" section, to offset the temporary loss of these areas occupied by event-related structures, the project will provide 30,940 square feet (0.71 acres) of new temporary free public access in 2012 and 442,638 square feet (10.16 acres) in 2013.

The temporary access areas and the additional 473,578 square feet (10.87 acres) that will be made available during the event were specifically designed and chosen to provide a variety of public access opportunities along the waterfront, both for event participants and for other users. At the specific venue sites, such as Marina Green, Piers 27-29, and Piers 30-32, public access will be provided (or structures sited) to allow the general public direct access to the event activities and for up-close and personal opportunities to view racing yachts and participate in the events. Bleacher tickets will be moderately priced at rates to allow the general public the opportunity to view the races from these locations. Public access will also be provided along pier aprons at Piers 19, 23 and potentially 9, to provide additional areas for passive viewing, walking, or sitting, both during the event and after the event. While these areas may be busier during race times (generally from 11 a.m. to 4 p.m.), these areas will be open and available for a longer period throughout the day (from 10 a.m. to 6 p.m. on Piers 23 and 19 and 9 a.m. to 7 p.m. on Pier 9) to allow the general public the opportunity to be near the Bay when there are fewer crowds and outside the event times. This provides a variety of public access opportunities, apart from

viewing the AC34 event. Two parklets will also be provided and have been designed to provide relief from the busy Embarcadero corridor during race events and to provide areas to rest and enjoy views of the Bay. Two new kayak floats will provide additional recreational boating opportunities for non-motorized small boats, both during and after the event. Both the parklets and the kayak floats have been sited throughout the waterfront to evenly distribute the public access benefits along the waterfront and to provide a variety of public access experiences both to areas that may be more populated during the event, and to areas expected to be less populated during the event. Temporary sailboard storage will also be provided near the Crissy Field East Beach to enable board sailors to access the beach by foot, bicycle, or public transportation during the AC34 races and events if the area is otherwise busy or occupied by event participants and vehicles. The storage is proposed along Yacht Road, near Crissy Field East Beach, and would be managed by the City.

These temporary public access areas, when added to the other existing public access sites along the waterfront, including the new Pier 43 Promenade and the Brannan Street Wharf, will provide a string of public access areas and benefits along the waterfront to accommodate and mitigate for the increased use of existing public access areas during the event.

To assure that the permittees manage vendors and other uses along the Embarcadero to protect the public's use of public shoreline spaces, Special Condition II-G has been included in the permit to require the permittees to manage vendors to ensure that any temporary structures or uses along the waterfront do not block or impede bicycle or pedestrian circulation in public areas such as Herb Caen Way and Marina Green, nor block view corridors required in BCDC Permit 1990.008.

In addition to the temporary public access areas, the permanent public access being provided – apron access on Piers 19 and 23, the Jefferson Street Redesign, the Bayview Gateway, two kayak launches (floats at Marina Green and Pier 52), and improvements at Marina Green will leave a positive legacy for City residents temporarily impacted by the event.

Water Access and Impacts. The United States Coast Guard (USCG) is responsible for ensuring navigational safety in the Bay and to establish special local regulations and safety zones, and issue a marine event permit, as necessary, for any event that could introduce certain safety hazards on navigable waters. On January 19, 2012, the USCG published a Notice of Proposed Rulemaking to adopt temporary Special Local Regulation (SLR) and temporary safety zones for the 2012 and 2013 races. According to the Environmental Assessment for the SLR, the purpose for taking this action is to establish the regulations under which the AC34 event can be conducted while maintaining a safe and accessible waterway, the smooth flow of maritime commerce during the event, and avoiding or mitigating environmental impacts caused by the event.

The proposed SLR for 2012 would establish a primary regulated area for the AC World Series. The 2012 primary regulated area would be an approximately 2-square-mile area of the Central Bay east of the Golden Gate Bridge, south of Alcatraz Island, west of Treasure Island, and in the vicinity of the northern San Francisco waterfront (see Exhibits A and B). In 2013, the primary regulated area would be an approximately 4.5-square-mile area encompassing the 2012 primary regulated area but extending out to Alcatraz Island and down to Pier 23 (see Exhibits A and C). In both 2012 and 2013, the USCG would close the eastbound and westbound San Francisco Bay traffic lanes to vessels greater than 100 gross tons during race periods, but the deep water shipping channel and commercial access to all ports would remain open at all times.

The proposed SLR establishes a contingent regulated area in the event that the primary regulated area is unusable for racing due to adverse north-south wind conditions or heavy fog (see Exhibit D). This area is located east of Alcatraz Island and approximately 400 feet northwest of Treasure Island. The contingent regulated area would only be used under unusual wind or fog conditions and is not expected to be needed more than one or two race days if at all. The contingent regulated area extends into the deep water shipping channel, but racing would not be allowed in this area at times that would interfere with commercial shipping schedules.

The actual racecourse on any given day would be set within smaller portions of the USCG-approved regulated area based on the prevailing wind and other conditions on that day. The race courses would be established by the America's Cup Race Management (ACRM) and marked by ACRM-flagged marker vessels. Vessels that need to transit through the race area such as dredges accessing the Alcatraz disposal site, commercial ferries, and fishing vessels may be allowed entry into the race area with USCG permission. Movement within marinas, pier spaces, and facilities along the San Francisco waterfront would not be regulated or restricted under the proposed SLR.

Individual races would be completed within 45 minutes to 1 hour, with up to four races occurring on race days, initially programmed for the hours of approximately 12 p.m. to 5 p.m. During each race and for a period before and after, restrictions on maritime traffic and airspace within the applicable USCG regulated area would be required. At the conclusion of each day of racing, ACRM and/or the USCG will announce the completion of the day's racing and will reopen the regulated area for all users.

The proposed SLR would also include an area extending approximately 300 to 600 feet from the shore along Crissy Field reserved for swimmers, rowers, kayakers, board sailors and other non-motorized small craft. This area would be closed during race periods to motorized vessels and all other vessels over 20 feet in length to reduce potential impacts on the shoreline of Crissy field, ensure safe access for swimmers, rowers, kayakers and board sailors, and reduce viewing obstructions for spectators on the shoreline. The proposed SLR would prohibit anchoring or loitering along the San Francisco waterfront east of the non-motorized vessel area, extending to the Municipal Pier at Aquatic Park to protect public safety and prevent spectator vessel congestion south of the race area. The SLR would also prohibit all vessels within 300 feet of Alcatraz Island and the Crissy Field Wildlife Protection Area to avoid potential impacts on shorebirds. In addition, the SLR for 2013 would provide an approximately 200-foot-wide transit zone to allow safe transit of vessels needing to access pier space and facilities along the San Francisco waterfront (see Exhibit C).

The USCG received approximately 77 comments on the proposed SLR during the public comment period, which ended April 30, 2012. The comments ranged from concerns about potential impacts on shipping and ferry route traffic, safety concerns, environmental and natural resource issues, and recreational impacts. The majority of the comments were submitted by individuals representing board sailing interests or concerns. The USCG plans to publish its final SLR and issue a Marine Event Permit for the event following certification of the final Environmental Assessment for the project, estimated to occur in July 2012. The USCG will submit for the Commission's review, a request for Consistency Determination for the proposed SLR and the Marine Event Permit, for concurrence that the proposed federal action and project is consistent with the Commission's laws and policies, under its Coastal Zone Management Act (CZMA) authority. This is anticipated to

occur in late June 2012. The Commission staff is anticipating processing this consistency determination administratively unless the SLR changes significantly from that described in this authorization.

To address the boardsailors' comments and the comments received regarding recreational access and navigational safety on San Francisco Bay, the following mitigation measures were suggested: (1) sailboard storage within walking distance of Crissy Field East Beach to allow boardsailors to access Crissy Field as quickly as possible using other means of transportation than by automobiles, when the area may be crowded with event users; (2) posting on websites including iWindsurf.com, the America's Cup Event website, and the Bay Area Water Trail website, the final race schedule for 2012 and 2013 prior to a scheduled race date, to allow recreational users of the Bay to anticipate when the race course may be closed to recreational use during a race event; (3) closing the race course earlier than the 5 p.m. suggested time; and (4) on days that the race course is cleared earlier than 5 p.m., announcing the early race course closure time on the Notice to Mariners Broadcast, prior to the closure time. The boardsailing community has also expressed a desire for the City to improve the boat launch area at the finger pier on the northeast tip of Treasure Island as an alternative launch location. This site is currently accessible to board sailors year round and long term plans to develop Treasure Island include improved launch facilities in this area as described in the Design for Development and Parks and Open Space Plan. However, the small craft launch and adjacent parking lot will remain in the exclusive jurisdiction of the U.S. Navy until its transfer to the City and County of San Francisco in 2016 at the earliest. The Navy's Base Realignment and Closure Office has rejected any in-water construction or facility improvement plans within this active remediation site as they prepare it for transfer. The City and the Navy are continuing to explore options that would improve temporary recreational access to the existing launch during the 2013 events (for example, temporary removal of gates, fencing or other barriers to access) while allowing for remediation work to continue on schedule. Special Condition II-F requires the City to continue to use its best efforts to see if this access can be achieved for the event or after the event and to report on its efforts.

The USCG recently received revised information from AC34 regarding their planned race format and schedule for the 2013 events (LVC, Youth AC, AC34) that indicates the probable impact to both commercial and recreational users will be less than previously described in the USCG's proposed rulemaking, which was made available for public review and comment. AC34's information is still tentative and is not expected to become firm until the actual number of contenders is known after August 2012. The USCG's preliminary review of this information indicates that although slightly more race days (53-55 days instead of 46 days) may be required during the same race period (July 4 – September 24, 2013), racing would normally occur from between 11 a.m. and 4 p.m. and would normally conclude earlier in the afternoon than previously expected, typically by 3 p.m. or earlier, and no later than 4 pm on only a few race days.

AC34's revised information is still preliminary, and will ultimately be included in its application to the USCG for a marine event permit in 2013. However, the changed race time of between 11 a.m. and 4 p.m. has been included in the BCDC authorization. In total, USCG believes the changes proposed by AC34 will increase scheduling flexibility and decrease impact for all users of the Bay during the race period. In particular, the earlier ending times will essentially address the majority of concerns expressed by board sailors. USCG believes that AC34 can effectively communicate that information to BCDC and the maritime public well in advance of the 2013 events to satisfy all concerns.

Special Condition II-E has been included in the permit to address the possible changes to the race schedule and to require that the final schedule be posted on social media sites and be updated as necessary (no later than two weeks prior to a scheduled race date) so that public users can be informed of when races might end prior to 5 p.m. and plan accordingly. In addition, Special Condition II-B-3(g) requires the permittees to provide sailboard storage within reasonable walking distance from Crissy Field East Beach to allow boardsailors the opportunity to access the site using other modes of transportation other than by automobile. The Commission staff will also be reviewing the Consistency Determination submitted by the USCG on their final SLR to ensure that on-water access concerns have been addressed.

According to the applicants, with these and the other improvements described above, the project as proposed would provide a reasonable and equitable balance between the needs of existing users of the shoreline and the Bay and the needs of the public wishing to access the shoreline and the Bay to view the 34th America's Cup.

2. **Barrier Free Access.** The Bay Plan policies state that public access improvements "should permit barrier free access for the physically handicapped to the maximum extent."

All proposed public access areas would provide barrier free access. Two new accessible floats would be provided at Marina Green and at Pier 52, to allow easy access into and out of the Bay for non-motorized small boats at these locations.

Special Condition II-K requires that all public areas be barrier free and that structures and seating be made available to persons with disabilities. All structures will be subject to final plan review approval pursuant to Special Condition II-A to ensure that these requirements are met.

3. **Appearance, Design, and Scenic Views.** The Bay Plan policies on appearance, design, and scenic views state, in part, that "...maximum efforts should be made to provide, enhance, or preserve views of the Bay and shoreline, especially from public areas, from the Bay itself, and from the opposite shore" and that "local government should be encouraged to eliminate inappropriate shoreline uses and poor quality shoreline conditions."

The project was reviewed by the Commission's Design Review Board (DRB) and the Port's Waterfront Design Advisory Committee on four separate occasions and refined in several meetings with the Commission staff. The DRB recommended that structures be adequately set back from the Bay Trail and that structures be clustered together in order to preserve views to the Bay. The DRB also expressed that the temporary event structures present a unique design opportunity and that these structures should be designed to be "bold and imaginative."

Based on the feedback from the DRB and the Commission staff, the applicants have located the temporary structures in areas to minimize visual impacts to the Bay. For instance, at Marina Green, larger structures have been sited strategically with smaller concession uses tucked behind these larger structures to maintain a view corridor from Marina Boulevard out to the Bay. The structures at Piers 27-29 (such as the Foredeck Club at the tip of Piers 27-29) were also re-oriented or pulled back from the pier's edge to maintain a public access corridor along the Bay edge and to maximize views of the Bay from the pier deck. The final layout for all of the proposed temporary structures will be subject to final plan review approval pursuant to Special Condition II-A to ensure that they are consistent with the DRB's recommendations and the Commission's policies on Appearance, Design and Scenic Views. In addition, Special Condition II-G has been included to ensure that vendors are not located in areas that would block view corridors required in BCDC Permit 1990.008.

As conditioned, the Commission finds that the proposed project is consistent with the Bay Plan policies regarding public access and appearance, design and scenic views.

D. Natural Resources Policies

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

The Final Environmental Impact Report (FEIR) for the project, which was certified by the City and County of San Francisco on January 24, 2012, found that impacts to threatened, endangered or protected species, either directly or through habitat modifications would be less than significant with mitigation. There are no known eelgrass beds or other scarce or biologically significant habitats that occur within the project footprint that would be affected by the project. According to the applicants, the predominant seafloor habitat in the project area is unconsolidated soft sediment composed of a combination of mud/silt/clay, sand and pebble/cobble, with varying amounts of intermixed shell fragments. The concrete, wood, and composite pier and wharf pilings provide intertidal and subtidal habitat for marine biota including barnacles, hybrid bay mussel, green algae, and the native *Olympia* oyster.

The project involves some pile driving to repair piers and aprons to construct temporary docking facilities. Pile driving can generate underwater sound pressure waves that can result in damage to soft tissues, such as gas bladders or eyes (barotraumas), and/or harassment of fish and marine mammals such that they alter swimming, sleeping, or foraging behavior or abandon temporarily forage habitat. As such, installation of piles for the temporary floating docks and for the repair of the Pier 19 south apron could have adverse impacts on fish and marine mammals.

On November 16, 2006, the U.S. Army Corps of Engineers (USACE) published “Proposed Procedures for Permitting Projects that will Not Adversely Affect Selected Listed Species in California” (USACE Proposed Procedures) addressing eight categories of activities regularly permitted by the USACE, including pile driving. According to the USACE Proposed Procedures, the type and intensity of the sounds produced during pile driving depends on a variety of factors, including but not limited to, the type and size of the pile, the firmness of the substrate into which the pile is being driven, the depth of the water, and the type and size of the pile-driving hammer. Wood and concrete piles produce lower sound pressures than steel piles of similar size. Vibratory hammers produce lower intensity sounds than impact hammers. The USACE Proposed Procedures provide that steel, wood, and concrete piles of any size and in any number may be installed using a vibratory hammer year round in San Francisco Bay. The procedures also determine that an impact hammer may be used to install wood piles of any size year round.

On February 14, 2007 and NOAA’s National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS) provided a programmatic consultation under the Federal Endangered Species Act (ESA) concurring with the USACE’s determination that the eight categories of activities described in the USACE Proposed Procedures are not likely to adversely affect ESA listed species or critical habitat. On December 21, 2007, NMFS provided a programmatic consultation under the Magnuson-Stevens Fishery Conservation Management Act concurring with the

USACE's determination in the USACE Proposed Procedures that sufficient information is available to develop Essential Fish Habitat Conservation Recommendations that will address reasonably foreseeable adverse impacts to EFH.

Biological Assessments (BA) were prepared for the California Department Fish and Game (CDFG), the USFWS and NMFS, for the 34th America's Cup project. The Biological Assessments include mitigation measures and BMPs for pile-driving that are consistent with the USACE Proposed Procedures. Accordingly, the applicants propose to install the proposed 18-inch steel piles for the temporary floating docks with a vibratory hammer. Only the wooden piles for the repair of the Pier 19 south apron would be driven with an impact driver. The applicants also propose to implement a NMFS-approved sound attenuation monitoring plan, to have a NMFS-approved biological monitor present before and during pile driving, to halt pile driving if marine mammals are observed within 500 meters of the project site, and to maintain air sound levels below 90 dBA when seals or sea lions are present. These mitigation measures have been incorporated in the permit as Special Condition II-M.

The Biological Assessment for CDFG concluded that due in large part to the project location in an area generally devoid of sensitive habitat, and with implementation of the identified avoidance and minimization measures, the project would not cause a take of any state listed species.

The Biological Assessment for USFWS identifies potential effects on longfin smelt from noise related to pile driving. The longfin smelt is a State-listed endangered species and is currently under consideration as a special status species by the USFWS. The BA concluded that with implementation of the pile-driving impact avoidance measures discussed above, the project was not likely to adversely affect the longfin smelt.

The Biological Assessment for NMFS identified four ESA-listed species and critical habitats that may be affected by the 34th America's Cup, including green sturgeon, Central California Coast steelhead, California Central Valley steelhead, and Central Valley Chinook salmon. It also identified critical habitat for green sturgeon, Central California Coast steelhead, California Central Valley steelhead, Central Valley Chinook salmon, and Sacramento River winter-run Chinook salmon and essential fish habitat for 20 species of commercially important fish and sharks managed under three federal fisheries management plans. The BA concludes that the avoidance and minimization measures discussed above for pile driving will ensure that pile-driving noise remains below levels known to result in acute barotraumas and limit the extent of impacts, but that the proposed pile driving activities can be expected to result in minimal, short term loss of access to foraging habitat as fish avoid the affected area during pile driving activities.

The NMFS BA also states that no marine mammals listed as endangered or threatened under the federal Endangered Species Act, nor as having depleted populations under the Marine Mammal Protection Act (MMPA), occur within San Francisco Bay and that potential effects of the proposed project on marine mammals will be addressed in an Incidental Harassment Authorization (IHA) permit under the MMPA as discussed below.

On January 19, 2012, the applicants submitted an IHA permit application to NMFS for the 34th America's Cup. The IHA permit application evaluates the potential effects of the 34th America's Cup on the Pacific harbor seals, California sea lions, elephant seals and harbor porpoises. As stated in the IHA permit application, pile driving for the temporary floating docks and repair of the Pier 19 south apron is likely to result in temporary disturbance or "Level B" harassment of Pacific harbor seals, California sea lions, elephant seals and harbor porpoises. "Level B"

harassment is defined as behavioral harassment and is below the threshold for physical injury (“Level A”). The applicants have requested authorization from NMFS for incidental take by “Level B” harassment due to pile driving during a maximum of 59 days for: two harbor seals per each pile driving day, one California sea lion per each pile driving day, one harbor porpoise per each pile driving day, and two elephant seals (to be extremely conservative the applicants are requesting take for elephant seals based on recent occasional sightings). An incidental harassment authorization would be obtained from NMFS within 60 days of the date that the pile-driving activities would occur. Special Condition II-Q requires the applicants to provide the Commission with an approved IHA permit prior to conducting any work with potential impacts on marine mammals.

Dredging is expected to result in the temporary loss of foraging habitat for some fish and marine mammal species, cause short-term and localized increased water turbidity and exposure to sediment-affiliated organic and inorganic contaminants from resuspended sediments, and fish entrainment.

Dredging of Bay sediments by clamshell dredging equipment has the potential to entrain (directly remove) fish, benthic infauna, and mobile epibenthic (on the sediment surface) invertebrates, such as Dungeness crab. Clamshell dredging has the lowest occurrence of fish and mobile invertebrate entrainment, since these animals are generally capable of sensing the pressure wave that precedes the clamshell bucket traveling through the water column, can actively avoid the bucket, and generally avoid the active dredging site because of increased seafloor turbidity and noise. The LTMS for the Placement of Dredged Materials in San Francisco Bay Region evaluated the potential entrainment of special-status and sensitive fish and invertebrate species by in-Bay dredging activities. To prevent and minimize entrainment of fish and invertebrates, the LTMS BMPs for Bay-Delta dredging include environmental work windows, reduced in-Bay disposal, and limits on overflow of entrained water. Special Condition II-P requires dredging to be conducted with a clamshell dredge, to employ offshore disposal or beneficial reuse of the sediment at an approved site, to restrict overflow, and to be conducted within the environmental work windows in accordance with the LTMS. In addition, to comply with the requirements of the U.S. Environmental Protection Agency’s and Corps’ Programmatic Consultation on Essential Fish Habitat (EFH) Agreement with the National Marine Fisheries Service dated June 9, 2011, Special Condition II-P-4 requires the permittees to conduct “Z-layer” testing, following dredging at Pier 32 and Pier 14. Additional follow-up requirements may be needed depending on the test results.

This authorization also would allow the construction of a 1,500 square foot Caspian tern nesting platform on pile-supported fill near Pier 64. The platform is intended to replace the nesting habitat currently provided by remnant pilings and piers that are required to be removed in compliance with the Special Area Plan fill removal requirements. Section 66605 of the McAtter-Petris Act allows the Commission to authorize some fill for wildlife refuges and the Bay Plan’s Fish, Other Aquatic Organisms and Wildlife policies state that “specific habitats that are needed to conserve, increase or prevent the extinction of any native species...or any species that provides substantial public benefits, should be protected....”

The Commission finds that the relatively minor amount of Bay fill for the Caspian tern nesting platform, a pile-supported structure with little impact on Bay volume or water circulation, is consistent with the Commission’s law and wildlife policies.

2. **Water Quality Policies.** The Bay Plan policies on Water Quality state, in part that “Bay water pollution should be prevented to the greatest extent feasible. The Bay’s tidal marshes, tidal flats, and water surface area and volume should be conserved and, whenever possible, restored and increased to protect and improve water quality.” The policies also state that “[w]ater quality in all parts of the Bay should

be maintained at a level that will support and promote the beneficial uses of the Bay as identified in the San Francisco Bay Regional Water Quality Control Board's (RWQCB) Basin Plan and should be protected from all harmful or potentially harmful pollutants." The policies, recommendations, decisions, advice, and authority of the State Water Resources Control Board and the Regional Water Quality Control Board should be the basis for carrying out the Commission's water quality responsibilities." Finally, the Bay Plan policies on Water Quality state that "new projects should be sited, designed, constructed, and maintained to prevent or, if prevention is infeasible, to minimize the discharge of pollutants into the Bay by: (a) controlling pollutant sources at the project site; (b) using construction materials that contain nonpolluting materials; and (c) applying appropriate, accepted, and effective best management practices; especially where water dispersion is poor and near shellfish beds and other significant biotic resources."

The FEIR for the project found that with mitigation measures requiring implementation of best management practices related to equipment fueling and materials storage and handling, and a spill prevention control and countermeasure plan, the impact of the project on water quality would be reduced to less than significant.

The project is required to be undertaken in accordance with the State Water Resources Control Board General Construction Permit, which requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). The SWPPP includes project-specific water quality protection best management practices (BMPs) designed to prevent pollutants from contacting stormwater and to keep all products of erosion from moving offsite into receiving waters. The SWPPP will identify pollutant sources within the construction area and recommend site-specific BMPs regarding control of sediments in runoff and storage and use of hazardous materials to prevent discharge of pollutants into stormwater. Routine inspection of all BMPs is required under the General Construction Permit.

On February 13, 2012, the RWQCB issued a Conditional Water Quality Certification (WQC) for the 34th America's Cup, in accordance with Section 401 of the federal Clean Water Act. The WQC requires the applicants to prepare several plans including a Spill Prevention Control and Countermeasure Plan (SPCCP) and Materials Management Disposal Plan (MMDP) that include BMPs that address how the project would prevent and clean up accidental discharges of debris into the Bay and handle and dispose of waste materials. The materials management program is required to include measures to prevent any debris from falling into the Bay during construction to the maximum extent practicable. Such measures include mooring barges in a position to capture and contain debris generated during substructure or in-water work, storing all hazardous materials in upland storage trailers, and covering construction materials every night and during any rainfall events. In the event that debris does reach the Bay, personnel in workboats within the work area would be required to immediately retrieve the debris for proper handling and disposal. These measures will be identified in the SWPPP. In addition, the applicants are required to prepare an Invasive Species Control Plan (ISCP) that addresses protocols for preventing the introduction of new invasive species to the Bay.

The RWQCB found that because the project is water dependent, the impacts could not be avoided entirely but that the applicants have minimized impacts to the maximum extent practicable and impacts would be further minimized with implementation of the required mitigation measures and reporting requirements in the WQC.

On May 21, 2012, the RWQCB issued an amended WQC to reflect changes to the overall project (including dredging amounts), the mitigation proposal, and stormwater control plan for Piers 30-32. The revised WQC reflects these changes and

particularly requires a reduced mitigation package for fill removal (because of reduced fill placement) and additional information regarding the water and sewer utilities proposed at Piers 30-32.

Historic pilings along the waterfront are typically constructed of wood that has been treated with creosote or reinforced concrete. The proposed removal of creosote-treated piles at Pier 19, Pier ½ and Pier 64 could result in the resuspension of hydrocarbon contaminated sediments. However, the water quality and ecological benefits resulting from the permanent removal of creosote-treated pilings from the Bay are generally considered to outweigh the short-term impacts related to removal. Special Condition II-N of the permit requires the permittees to remove all piles in their entirety whenever possible and if piles break, to cut them at least two feet below the mudline to ensure navigational safety. In addition, the applicants will implement BMPs consistent with the recommendations of the San Francisco Bay Subtidal Habitat Goals Report during pile removal at Pier 64 and Pier ½ to minimize impacts on water quality and aquatic resources. The project will result in a net decrease of Bay fill of approximately 45,777 square feet (1.05 acre), with the removal of Pier ½, Pier 64, and a pile-supported structure for the 3rd and Cargo project, that will improve water circulation and increase open water in the Bay, both of which can be expected to improve Bay water quality.

As conditioned, the Commission finds that the project is consistent with its laws and policies regarding natural resources.

- E. **Dredging.** Policies 1 and 2 of the Bay Plan policies on dredging state that, “dredging and dredged material disposal should be conducted in an environmentally and economically sound manner” and that “dredging should be authorized when the Commission can find: (a) the applicant has demonstrated that the dredging is needed to serve a water-oriented use or other important public purpose...; (b) the materials to be dredged meet the water quality requirements of the RWQCB; (c) important fisheries and Bay natural resources would be protected through seasonal restrictions established by the California Department of Fish and Game, the U.S. Fish and Wildlife Service and/or NMFS...; (d) the siting and design of the project will result in the minimum dredging volume necessary for the project; and (e) the materials would be disposed of in accordance with Policy 3.” Policy 3 states, “Dredged materials should, if feasible, be reused or disposed outside the Bay and certain waterways.... [D]redged material should not be disposed in the Bay and certain waterways unless disposal outside these areas is infeasible and the Commission finds: (a) the volume to be disposed is consistent with applicable dredger disposal allocations and disposal site limits adopted by the Commission by regulation; (b) disposal would be at a site designated by the Commission; (c) the quality of the material disposed of is consistent with the advice of the RWQCB and the inter-agency Dredged Material Management Office (DMMO); and (d) the period of disposal is consistent with the advice of the California Department of Fish and Game, the U.S. Fish and Wildlife Service and/or NMFS.”

Dredging is proposed in three locations along the San Francisco waterfront as part of the project. Within the Brannan Street Wharf Open Water Basin, south of Pier 32, an approximately 147,000-square-foot area will be dredged to a depth of -10 feet MLLW plus a one-foot overdredge allowance to accommodate the mooring of AC45 and AC72 racing yachts using the team bases at Piers 30-32 (Exhibit V). Dredging in this location will result in approximately 13,500 cubic yards of material and would commence in October 2012, after the 2012 World Series races, and be completed by November 30, 2012, within the LTMS work windows. If there is a demand for the berthing of spectator vessels for the 2013 event, two additional areas would be dredged in June 2013 to accommodate these vessels – a 98,000-square-foot area within the Broadway Open Water Basin south of Pier 9 to a depth of -9 feet MLLW plus a one-foot overdredge allowance, and a 99,000-square-foot area north of Pier 14 to a depth of -11 feet MLLW plus a one-foot overdredge allowance (Exhibits T and U). Dredging would result in

approximately 10,000 cubic yards of material at each location (totaling 20,000 cubic yards) and would commence only if there is a demand for berthing, to be determined by March 2013. The applicants propose to dispose of all dredged material at the SF-Deep Ocean Disposal Site. Commission staff has encouraged that material be beneficially re-used at a restoration site. The LTMS agencies determined that this project is new work dredging as it was last dredged in the early 1980s for a different project purpose and different applicant. Further, in the approximately 30 years, the fine sediments at this site would be consolidated and not as loosely packed as maintenance material. The dredging would be for a water-oriented use, i.e. for the mooring of vessels for the AC34 sailing event, and is the minimum amount necessary to safely accommodate the drafts of the vessels to be moored in these locations.

The RWQCB, in conjunction with the DMMO, reviewed two reports characterizing the suitability of dredged sediments for aquatic disposal in San Francisco Bay: *Sediment Characterization Sampling and Analysis Plan (SAP) for Port of San Francisco Piers 9 and 14 North and 14 South in Support of the 34th America's Cup*, dated October 14, 2011, and *Characterization of Port of San Francisco Piers 32-36, 28 South, 14 North and South, and 9; Sediments in Support of the 34th America's Cup: Dredge Materials Sampling and Analysis Results*, dated February 2012. On February 29, 2012, the DMMO determined that the sediment was suitable for disposal at the San Francisco Deep Ocean disposal site. The sampling analysis results provided data on the sediment quality for each of the three proposed berthing areas. The dredge areas proposed at Pier 32 and Pier 14 have elevated levels of polycyclic aromatic hydrocarbons, specifically in the entirety of Pier 14 and in the southern portion of the dredge footprint at Pier 32. The sediment proposed to be dredged at Pier 9 is comparable to the ambient conditions in San Francisco Bay. Due to the elevated levels of PAHs, NOAA Fisheries has recommended as part of their Essential Fish Habitat consultation that a "Z-layer" sample be collected after the dredging has occurred at Pier 14 (DU6R) and Pier 32 (DU3) to ensure the newly exposed sediment does not contain levels of PAHs that would be harmful to managed or native fish species. In the event that high levels of PAH are identified in the Z-layer, additional work may be required. Special Condition II-P-4 has been included in the permit to require the "Z-layer" testing to be conducted within 15 days of dredging completion within these two water areas. Additional requirements may be necessary depending on the testing results.

On February 13, 2012 and as amended on May 21, 2012, the RWQCB issued a water quality certification for the project based on this determination. Currently the project proponents are proposing disposal at SFDODS, outside of the Commission's jurisdiction. However, the USACE and the USEPA are currently reviewing the alternative disposal site analysis and may determine that the sediment should be beneficially reused at an authorized beneficial reuse site.

As discussed above in the "**Natural Resources Policies**" section, because the dredging will occur within the LTMS work windows of June 1st and November 30th, the project would not likely adversely affect listed species or designated critical habitat.

As conditioned, the Commission finds that the proposed dredging is consistent with the Bay Plan's dredging policies.

F. Review Boards

1. **Design Review Board.** The Commission's Design Review Board (Board) and the Port's Waterfront Design Advisory Committee (Committee) jointly reviewed the proposed 34th America's Cup Racing Event at four meetings that occurred on September 12, 2011, November 7, 2011, December 5, 2011, and January 9, 2012.

At the first meeting held on September 12, 2011, the Board and Committee received a preliminary briefing that provided an overview of the proposed racing event including venue sites and activities related to the event. At this meeting, the Board expressed concern regarding how transportation would be handled and whether

public access would be limited in some areas. They emphasized the importance of leaving a positive legacy of improved public access along the shoreline. Members of the public expressed concern about potential Embarcadero closures and the impact this would have on the Ferry Building and Farmer's Market located there. Other members of the public expressed concern about the use to the Rincon Point Open Water Basin and underlined the importance of public access to the Bay and its shoreline. A representative from the Association of Bay Area Governments Bay Trail Project proposed that existing gaps in the Bay Trail along the San Francisco shoreline be completed as a part of the event. The Board requested that the project sponsors return to explain in more detail where proposed uses and improvements would occur in 2012 and 2013, where public access would be either enhanced or limited and what legacy public access projects would be completed.

At the second meeting held on November 7, 2011, the project sponsors presented the proposed racing event in more detail including information regarding where new temporary public access would be provided during the event as well as what permanent public access projects would be completed following the event. Members of the public expressed concern regarding a number of issues including: the use of the Bay for racing would limit the ability of board sailors to recreate upon the Bay; the use of Aquatic Park for a video barge would hinder the use of this area by swimmers and pose a danger to them; persons with disabilities should be adequately accommodated during the event; and the importance of keeping the Bay Trail open and available for public use at all times during the event. A representative for the San Francisco Bay Area Water Trail from the California Coastal Conservancy described the water trail and the opportunity to improve proposed San Francisco sites by providing boat storage or improving accessibility for persons with disabilities. A representative from the Bay Trail Project presented a list of trail gaps that are yet to be completed in San Francisco and emphasized the importance of completing these in conjunction with the event.

Following the project sponsor's presentation and the public comment period, the Board asked that additional information be provided, including: where spectator boats would be located and whether they would block views from the shoreline; spectator estimates for peak race days and a comparison to other large events such as July 4th and Fleet Week; the number of people that would be accommodated by the bleachers; how NPS lands, including Fort Baker, Crissy Field, Fort Mason and Aquatic Park, would be used; how vehicular traffic and pedestrians would be handled along the Embarcadero; proposed signage and lighting at venue sites; cross sections and more site planning details to describe use and design of venue sites; having jurisdiction lines and landmarks on site plans; and more detailed design proposals for the public access improvements proposed.

The Board recommended: (1) keeping the Bay Trail open at all times and setting structures back from it to provide an adequate buffer; (2) clustering structures together in order to preserve views to the Bay and to minimize the footprint and impacts at each site; (3) completing Bay Trail gaps, such as Jefferson Street and Vista Point, as a part of the legacy public access improvements; (4) providing access to the Bay for non-motorized small boats during the event and providing improvements for their use following the event; (5) pulling back structures proposed at Marina Green to provide a 60-foot-wide band along the shoreline; (6) evaluating moving the video barge from Aquatic Park to address swimmers' concerns and improving existing restrooms here rather than adding more portable toilets; (7) widening public access area at the tip of Piers 27-29 to 50 feet; and (8) providing public access along northern edge of Piers 30-32.

At the third meeting held on December 5, 2011, the project sponsors provided an information briefing to specifically address the questions the Board had raised concerning the project's impacts and proposed mitigation measures, including spectator estimates, the City's proposed People Plan, the United States Coast Guard's Marine Vessel Traffic Management Plan and to discuss lessons learned from other America's Cup World Series sailing events. The Board asked many clarifying questions at this meeting to better understand the proposed event and its impacts.

At the fourth meeting held on January 9, 2012, the project sponsors highlighted changes to the proposed event following the Board's previous review and also presented the proposed temporary and legacy public access improvement projects. At this meeting, the public expressed strong support for the public access being provided, including the importance of completing Bay Trail gaps and improving access to the Bay for non-motorized small boats. Also, a number of people expressed concern that there be adequate accommodations for persons with disabilities including transit, open lines of sight from bleachers and wheel chair access throughout the venue sites. Some members of the public expressed concern and some expressed support for the proposed video barge at Aquatic Park, and many expressed overall support for the racing event and its potential to introduce sailing to more people in the region.

The Board shared recommendations and feedback following the public comment period. Several Board members stated the importance of providing ample access for disabled persons and preparing a disability access plan for the event. Divided opinions regarding the video barge were expressed. Several stated that the proposed 25-foot-width for public access at the tip of Piers 27-29 was too narrow and similarly that adequate public access width should be provided along the shoreline at Marina Green. Some stated that the temporary event structures present a unique design opportunity and that these structures should be designed to be "bold and imaginative." A few suggested that video screens be placed throughout the city in neighborhood parks so that many more residents could enjoy viewing the races from these inland locations. Many Board members were pleased to see how the structures at the venue sites had been further clustered to preserve views and minimize impacts. The Board was glad to see that private tents and structures had been pulled out of required BCDC public access areas.

Over the course of these four Board reviews, the project sponsor provided much information and detail regarding the proposed racing event and responded to Board comments by revising the proposed venue sites in many areas. The project sponsors have worked with, and will continue to work with, Commission staff to develop final site plans for the event as well as plans for the temporary and legacy public access improvements. These final plans are subject to plan review approval pursuant to this permit.

2. **Engineering Criteria Review Board.** Based on the minor amount of Bay fill proposed, the work was not reviewed by the Commission's Engineering Criteria Review Board (ECRB).
- G. **Environmental Review.** The City and County of San Francisco, the lead agency for the 34th America's Cup project, prepared, circulated, and, on January 24, 2012, certified a Final Environmental Impact Report pursuant to the California Environmental Quality Act (CEQA) for the both the 34th America's Cup and the James R. Herman Cruise Terminal projects.

- H. **Conclusion.** For all the above reasons, the Commission finds, declares, and certifies that, subject to the Special Conditions stated herein, the project authorized herein is consistent with the McAteer-Petris Act, the *San Francisco Bay Plan*, the *San Francisco Waterfront Special Area Plan*, the Commission's Regulations, the California Environmental Quality Act, and the Commission's Amended Management Program for the San Francisco Bay segment of the California coastal zone.

IV. Standard Conditions

- A. **Permit Execution.** This permit shall not take effect unless the permittees execute the original of this permit and return it to the Commission within ten days after the date of the issuance of the permit. No work shall be done until the acknowledgment is duly executed and returned to the Commission.
- B. **Notice of Completion.** The attached Notice of Completion and Declaration of Compliance form shall be returned to the Commission within 30 days following completion of the work.
- C. **Permit Assignment.** The rights, duties, and obligations contained in this permit are assignable. When the permittees transfer any interest in any property either on which the activity is authorized to occur or which is necessary to achieve full compliance of one or more conditions to this permit, the permittees/transferors and the transferees shall execute and submit to the Commission a permit assignment form acceptable to the Executive Director. An assignment shall not be effective until the assignee executes and the Executive Director receives an acknowledgment that the assignee has read and understands the permit and agrees to be bound by the terms and conditions of the permit, and the assignee is accepted by the Executive Director as being reasonably capable of complying with the terms and conditions of the permit.
- D. **Permit Runs With the Land.** Unless otherwise provided in this permit, the terms and conditions of this permit shall bind all future owners and future possessors of any legal interest in the land and shall run with the land.
- E. **Other Government Approvals.** All required permissions from governmental bodies must be obtained before the commencement of work; these bodies include, but are not limited to, the U. S. Army Corps of Engineers, the State Lands Commission, the Regional Water Quality Control Board, and the city or county in which the work is to be performed, whenever any of these may be required. This permit does not relieve the permittees of any obligations imposed by State or Federal law, either statutory or otherwise.
- F. **Built Project must be Consistent with Application.** Work must be performed in the precise manner and at the precise locations indicated in your application, as such may have been modified by the terms of the permit and any plans approved in writing by or on behalf of the Commission.
- G. **Life of Authorization.** Unless otherwise provided in this permit, all the terms and conditions of this permit shall remain effective for so long as the permit remains in effect or for so long as any use or construction authorized by this permit exists, whichever is longer.
- H. **Commission Jurisdiction.** Any area subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission under either the McAteer-Petris Act or the Suisun Marsh Preservation Act at the time the permit is granted or thereafter shall remain subject to that jurisdiction notwithstanding the placement of any fill or the implementation of any substantial change in use authorized by this permit. Any area not subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission that becomes, as a result of any work or project authorized in this permit, subject to tidal action shall become subject to the Commission's "bay" jurisdiction.

- I. **Changes to the Commission's Jurisdiction as a Result of Natural Processes.** This permit reflects the location of the shoreline of San Francisco Bay when the permit was issued. Over time, erosion, avulsion, accretion, subsidence, relative sea level change, and other factors may change the location of the shoreline, which may, in turn, change the extent of the Commission's regulatory jurisdiction. Therefore, the issuance of this permit does not guarantee that the Commission's jurisdiction will not change in the future.
- J. **Violation of Permit May Lead to Permit Revocation.** Except as otherwise noted, violation of any of the terms of this permit shall be grounds for revocation. The Commission may revoke any permit for such violation after a public hearing held on reasonable notice to the permittees or its assignee if the permit has been effectively assigned. If the permit is revoked, the Commission may determine, if it deems appropriate, that all or part of any fill or structure placed pursuant to this permit shall be removed by the permittees or its assignee if the permit has been assigned.
- K. **Should Permit Conditions Be Found to be Illegal or Unenforceable.** Unless the Commission directs otherwise, this permit shall become null and void if any term, standard condition, or special condition of this permit shall be found illegal or unenforceable through the application of statute, administrative ruling, or court determination. If this permit becomes null and void, any fill or structures placed in reliance on this permit shall be subject to removal by the permittees or their assignees if the permit has been assigned to the extent that the Commission determines that such removal is appropriate. Any uses authorized shall be terminated to the extent that the Commission determines that such uses should be terminated.
- L. **Permission to Conduct Site Visit.** The permittees shall grant permission to any member of the Commission's staff to conduct a site visit at the subject property during and after construction to verify that the project is being and has been constructed in compliance with the authorization and conditions contained herein. Site visits may occur during business hours without prior notice and after business hours with 24-hour notice.