

Source: Imagery provided by Roumel Butiong, Robin Chiang & Company, 2026

Berkeley Water Transportation Pier Ferry Project

Mitigation Monitoring and Reporting Program

prepared by

City of Berkeley
Parks, Recreation, & Waterfront Department
2180 Milvia Street, 3rd Floor
Berkeley, California 94704
Contact: Liza McNulty, PE

prepared with the assistance of

Rincon Consultants
66 Franklin Street, Suite 300
Oakland, California 94607

November 5, 2026

RINCON CONSULTANTS

Mitigation Monitoring and Reporting Program

CEQA requires that a reporting or monitoring program be adopted when mitigation measures are required to mitigate or avoid significant effects on the environment and are adopted and incorporated into the project (Public Resources Code 21081.6). This mitigation monitoring and reporting program (MMRP) is intended to track and ensure compliance with adopted mitigation measures during project implementation. To ensure that the mitigation measures are properly implemented, this MMRP identifies the timing and responsibility for implementing and monitoring implementation of each mitigation measure. Accordingly, for each mitigation measure, this MMRP identifies the action required, the timing and frequency for implementing the action, the entity that will implement the action, and the agency or department responsible for verifying compliance.

This page intentionally left blank.

Mitigation Measure/Condition of Approval	Action Required	Implementation Timing and Frequency	Implementing Entity	Agency Responsible for Compliance Verification	Compliance Verification (Initial, Date, Comments)
Aesthetics					
AES-1 Reduce Night Lighting During Construction of Facilities					
Night lighting for construction activities, staging areas and other areas used for construction shall be the minimum necessary to ensure safety and security for nighttime activities and operations. As part of planning and project implementation, the City or its contractor(s) shall ensure nighttime lighting used for construction is shielded and oriented downwards toward the work area(s) to reduce off-site light spill during nighttime construction activities. Lighting at the project site shall consist of light-emitting diode lights in all areas where nighttime construction activities will occur and be either motion-activated or use timers to ensure safety and security and reduce the impact of nighttime light pollution. Furthermore, all lighting would be designed in compliance with Illuminating Engineering Society (IES) and DarkSky recommendations. The City of Berkeley shall verify that this mitigation measure is included in the project's final construction specifications prior to the initiation of construction activities.	Incorporate all nighttime lighting requirements into final construction plans and specifications. Minimize night lighting used for activities related to construction and staging to the extent practicable while maintaining safety and security. Night lighting shall be shielded and directed downward toward work areas, shall utilize LED fixtures, shall be motion-activated or timer-controlled where feasible, and shall be designed consistent with IES and DarkSky recommendations.	Once prior to issuance of grading and/or construction permits, verify that DarkSky recommendations and nighttime lighting requirements are incorporated into final design, construction plans, and specifications. Periodically during construction, verify that nighttime lighting for construction is implemented consistent with Mitigation Measure AES-1.	City of Berkeley Contractor(s)	City of Berkeley Parks, Recreation, and Waterfront Department	
Air Quality					
AQ-1 Implement Construction Emissions Reduction Measures During Construction					
Prior to issuance of grading and construction permits, the City or its contractor(s) shall include the following measures on all construction plans, and these measures shall be implemented during construction: • All mobile off-road equipment (wheeled or tracked) greater than 50 horsepower used during construction activities shall meet the USEPA Tier 4 final standards. Tier 4 certification can be for the original equipment or equipment that is retrofitted to meet the Tier 4 final standards. • Alternative Fuel (natural gas, propane, electric, etc.) construction equipment shall be incorporated where available. These requirements shall be incorporated into the contract agreement with the construction contractor. A copy of the equipment's certification or model year specifications shall be available upon request for all equipment on-site. • Electricity shall be supplied to the site from the existing power grid to support the electric construction equipment. If connection to the grid is determined to be infeasible for portions of the project, a non-diesel fueled generator shall be used. • The project would comply with the CARB Air Toxics Control Measure that limits diesel powered equipment and vehicle idling to no more than five minutes at a location, and the CARB In-Use Off-Road Diesel Vehicle Regulation; compliance with these would minimize emissions of TACs during construction. In addition, the City shall require the proposed project to comply with the following current Bay Area Air District's basic control measures for reducing construction emissions of PM_{10}[1]: • All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. • All haul trucks transporting soil, sand, or other loose material off-site shall be covered. • All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. • All vehicle speeds on unpaved roads shall be limited to 15 mph. • All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. • Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.	Verify that all Mitigation Measure AQ-1 construction emissions reduction measures have been incorporated into final construction plans, specifications, and construction contracts. Implement required emissions reduction measures, equipment requirements, idling restrictions, and fugitive dust control measures throughout construction.	Once prior to issuance of grading and construction permits, verify the incorporation of construction emissions reduction measures. Periodically throughout construction, verify implementation of required emissions reduction measures.	City of Berkeley Contractor(s)	City of Berkeley Parks, Recreation, and Waterfront Department	

[1] Bay Area Air District. 2017. California Environmental Quality Act Air Quality Guidelines, Table 8-2. Available: https://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en (accessed October 2025).

Mitigation Measure/Condition of Approval	Action Required	Implementation Timing and Frequency	Implementing Entity	Agency Responsible for Compliance Verification	Compliance Verification (Initial, Date, Comments)
• All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. • Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.					
Biological Resources					
BIO-1(a) Implement Worker Environmental Awareness Program Prior to and During Construction					
Prior to initiation of all construction activities (including staging and mobilization), all personnel associated with project construction shall attend a Worker Environmental Awareness Program training, conducted by a City-approved qualified biologist, to aid workers in recognizing special-status biological resources that may occur in the project site. This training will include information about northwestern pond turtle, special-status fish, marine mammals, and nesting birds potentially occurring in the project site. The specifics of this program shall include identification of special-status species and habitats, a description of the regulatory status and general ecological characteristics of special-status resources, and review of the limits of construction and measures required to avoid and minimize impacts to biological resources within the work area. A fact sheet conveying this information shall also be prepared for distribution to all contractors, their employees, and other personnel involved with construction of the project. All employees shall sign a form provided by the trainer documenting they have attended the Worker Environmental Awareness Program and understand the information presented to them. The crew foreman shall be responsible for ensuring crew members adhere to the guidelines and restrictions designed to avoid impacts to special-status species.	Incorporate WEAP training requirements into final construction specifications. Retain a City-approved qualified biologist to prepare and conduct WEAP training for all construction personnel Maintain training attendance documentation and signed acknowledgement forms for provision to the City.	Once prior to construction, including staging and mobilization, retain a qualified biologist and verify completion of WEAP training. As needed throughout construction, conduct additional WEAP training for new personnel. Maintain and provide WEAP training attendance documentation shall occur prior to and throughout construction as applicable.	City of Berkeley Contractor(s), City-approved qualified biologist	City of Berkeley Parks, Recreation, and Waterfront Department	
BIO-1(b) Conduct Northwestern Pond Turtle Survey and Avoidance Prior to Construction					
No less than seven days prior to the start of any construction activities within 500 feet of Strawberry Creek (including staging and mobilization), a City-approved qualified biologist will conduct a preconstruction survey for northwestern pond turtle within suitable habitat on the project site as feasible. If any northwestern pond turtle are identified within the work area, they will be allowed to leave the work site on their own. CNDDB Field Survey Forms will be submitted to the CDFW for all special-status animal species observed. If any northwestern pond turtles are observed by construction personnel within or adjacent to (within 50 feet) the project site, all work within the vicinity of the observation will be halted and the City will contact CDFW immediately for guidance. Only a CDFW-approved biologist will capture and relocate wildlife. Construction personnel are not permitted to handle said animals. If northwestern pond turtles become federally listed at the time of construction, no individuals shall be handled without approval from USFWS. A report of all pre-construction survey efforts will be submitted to the City within 30 days of completion of the survey effort to document compliance. The report will include the dates, times, weather conditions, and personnel involved in the surveys and monitoring. The report will also include for each captured special-status animal, the Universal Transverse Mercator (UTM) coordinates and habitat descriptions of the capture and release sites (in UTM coordinates), the length of time between capture and release, and the general health of the individual(s). This measure may be modified or supplemented by permit conditions from applicable regulatory agencies.	Incorporate pre-construction survey requirements into final construction specifications. Retain a City-approved qualified biologist to conduct preconstruction surveys for northwestern pond turtle within suitable habitat for construction activities occurring within 500 feet of Strawberry Creek. Submit survey documentation and monitoring reports to the City to demonstrate compliance.	Once within seven days prior to initiation of construction activities within 500 feet of Strawberry Creek, complete preconstruction surveys for northwestern pond turtle. Periodically throughout construction, and upon observation of northwestern pond turtle, verify implementation of measures specified by Mitigation Measure BIO-1(b). Submit documentation within 30 days of survey completion.	City of Berkeley Contractor(s), City-approved qualified biologist	City of Berkeley Parks, Recreation, and Waterfront Department	

Mitigation Measure/Condition of Approval	Action Required	Implementation Timing and Frequency	Implementing Entity	Agency Responsible for Compliance Verification	Compliance Verification (Initial, Date, Comments)
BIO-1(c) Conduct Burrowing Owl and Nesting Bird Survey and Avoidance Prior to Construction					
Burrowing Owl Prior to project construction, a qualified biologist will conduct a habitat assessment to determine if potential habitat for burrowing owl is present in or near the project site. If potential habitat is present in or within 500 feet of the project site, a qualified biologist will conduct a pre-construction survey of the project site (plus a 500-foot buffer as access allows) for the presence of burrowing owl. The survey will be conducted no more than 14 days prior to ground disturbing activities and will conform to CDFW guidelines for burrowing owl Take Avoidance Surveys as described in Appendix D of the 2012 CDFW Staff Report on Burrowing Owl Mitigation.[2] A report of pre-construction survey efforts and results will be submitted to the City within 30 days of completion of the survey. The report will include the dates, times, weather conditions, and personnel involved in the survey. Depending on survey results, the report will also include observations of burrowing owl or potential burrows, and the location and habitat description of the observations. If burrowing owl, active burrows, or their sign (i.e., tracks or pellets) are not observed in the project site, no additional measures related to impact avoidance and minimization of the absent species are recommended. If burrowing owl, active burrows, or their sign are observed within the project site, CDFW will be notified and the following measures will be implemented: • A qualified biological monitor will be present during landside construction on the project site to document burrowing owl observations, burrow statuses, and require that construction activities do not negatively affect burrowing owl. The duration and frequency of monitoring will be determined at the discretion of the qualified biologist and a monitoring report detailing monitoring results will be submitted to the City within 30 days of the completion of project activities or breeding season (February 1 to August 31), if applicable. • The biological monitor will visually inspect any pipes, debris piles, culverts, or similar structures for burrowing owl before the material is moved, buried, or capped. Open holes and trenches within the project site will be inspected at the beginning and end of each landside construction workday and immediately prior to backfilling. At the end of each such workday, trenches and holes will be ramped so that any animals that may have become trapped in the trench or hole can climb out. The ramp may be constructed of dirt fill or wood planking or other suitable material at an angle no greater than 30-45 degrees. If a burrowing owl is trapped in a trench or hole, work will stop and the qualified biologist will be notified immediately. The burrowing owl will be allowed to escape unimpeded. • If active burrows are observed on the project site, a non-disturbance buffer will be established restricting all ground-disturbing activities from occurring within the buffer and a qualified biological monitor will be present at the initiation of project activities. The buffer will be established by a qualified biologist and range from 330 ft. to 1,500 ft. depending on project activity, line of sight, and local topography during the breeding season. During the non-breeding season (September 1 to January 31), the buffer will range from 165 ft. to 330 ft. The buffer will be demarcated using brightly colored flagging and may only be reduced at the discretion of a qualified biologist based on the factors listed above and potential use of sound and visual barriers (i.e., hay bales). Removal of the buffer will only occur if a qualified biologist determines burrowing owl are not present in the vicinity and any potential burrows are inactive. • If active burrow avoidance is infeasible during the non-breeding season or during the breeding season, where resident owls have not yet begun egg laying or incubation, or where the juveniles are foraging independently and capable of independent survival, the City in coordination with a qualified biologist will consult with CDFW to prepare, authorize, and implement a passive relocation program consistent with Appendix E of the 2012 CDFW Staff Report on Burrowing Owl Mitigation. • A habitat mitigation plan will be developed in coordination with the City and CDFW for loss of active burrowing owl burrow sites if implementation of a passive relocation plan is necessary and/or burrowing owl are documented to nest on site or within 500 feet of the project site. This would be based upon the portion of the project site that overlaps	Incorporate pre-construction survey requirements into final construction specifications. Retain a qualified biologist to conduct preconstruction surveys for burrowing owl and nesting birds, as applicable. Submit survey reports, monitoring documentation, avoidance buffer information, and any required habitat mitigation or passive relocation plans to the City for review and approval.	Once prior to initiation of applicable construction activities, complete burrowing owl and nesting bird surveys. Periodically throughout construction occurring during nesting season, where biological monitoring is required, and/or where burrowing owl habitat is present, verify implementation of avoidance and minimization measures.	City of Berkeley Contractor(s), Qualified biologist/biological monitor	City of Berkeley Parks, Recreation, and Waterfront Department	

[2] California Department of Fish and Game (CDFG). 2012. Staff Report on Burrowing Owl Mitigation. Department of Fish and Game. March 7, 2012. Available at: http://www.dfg.ca.gov/wildlife/nongame/docs/BUOWStaffReport.pdf2 (accessed July 2026).

Mitigation Measure/Condition of Approval	Action Required	Implementation Timing and Frequency	Implementing Entity	Agency Responsible for Compliance Verification	Compliance Verification (Initial, Date, Comments)
with the primary foraging area around the burrow site (approximately 500-foot buffer) to be replaced at a minimum 1:1 ratio. **Nesting Birds** Project construction activities, including but not limited to vegetation removal and ground disturbance that result in noise or disturbance affecting potential nesting bird habitat, should commence outside of the nesting season (February 1 through September 15), if feasible. If construction begins outside the nesting season, a nesting bird survey is not required. If ground disturbing project activities begin within the nesting season (February 1 through September 15), then no more than seven days prior to the initiation of project activities, a nesting bird pre-construction survey shall be conducted by a City-approved qualified biologist within the disturbance footprint, plus a 300-foot buffer for passerines and a 1,000-foot buffer for raptors. During construction within the nesting season, an additional focused survey shall be conducted prior to tree removal to identify active nests with the subject tree(s). If no active nests are observed, no further action would be required. Ground-disturbing project activities that are initiated outside of the nesting season may continue into the nesting season without requiring new nesting bird surveys. Pre-construction nesting bird surveys shall be conducted by a qualified biologist during the time of day when birds are most active and should be of sufficient duration to reliably conclude presence or absence of nesting birds on the project site and within the designated buffer. A report of the nesting bird surveys results shall be submitted to the City for review and approval prior to clearance for mobilizing equipment. If nests are found, their locations shall be flagged (if possible) and recorded with the use of a GPS unit. Avoidance buffers shall be established around active nests. Depending upon the species, suitable minimum buffers may be 50 feet for non-raptor species and 300 feet for raptor species, or as determined by the qualified biologist in consultation with CDFW based on species sensitivity, construction activities, and other factors. If active nests are present, all project work shall be conducted outside the established avoidance buffer zone from the nest until it is no longer active. No staging of large equipment shall occur within the avoidance buffer until the qualified biologist confirms that breeding/nesting is complete and all the young have fledged. If buffer zones are determined to be infeasible, a City-approved qualified biological monitor shall be on site to monitor project activities within the avoidance buffer zones to ensure active nests and nesting birds are not impacted. Nesting bird surveys are not required for project activities that occur between September 16 and January 31. A report of all survey results and any proposed avoidance buffers shall be submitted to the City for review and approval. This measure may be modified or supplemented by permit conditions from applicable regulatory agencies.					
BIO-1(d) Conduct Pile Driving Impact Avoidance to Fish and Marine Mammals Prior to and During Construction					
In-water work, including pile driving and dredging, shall be limited to the window of June 1 through November 30. The soft-start, ramp-up, exclusion-zone and sound attenuation procedures described below apply to pile-driving and pile-extraction activities. A "soft-start" technique will be used to allow fish and marine mammals to vacate the area before the pile driver reaches full power. For vibratory hammers, the contractor will initiate the driving for 15 seconds at reduced energy, followed by a 1-minute waiting period when there has been downtime of 30 minutes or more. This procedure shall be repeated two additional times before continuous driving is started. This procedure would also apply to vibratory pile extraction. For impact driving, an initial set of three strikes would be made by the hammer at 40 percent energy, followed by a 1-minute waiting period, then two subsequent three-strike sets before initiating continuous driving. Pile-driving activity shall not begin at any location if any marine mammal is observed within the applicable safe-zone distance for its hearing group, as defined for the specific pile-driving method (e.g., pile diameter, vibratory or impact installation, and number of piles installed per day). Safe-zone distances shall follow the most current NMFS-approved guidance and the Marine Mammal Monitoring Plan prepared pursuant to Mitigation Measure BIO-1(E). In all cases, a minimum exclusion distance of no less than 10 meters shall be maintained around the pile-driving location. If a marine mammal moves within the safe zone after pile driving has begun, the contractor shall implement the appropriate delay or shutdown as	Require that in-water construction activities such as pile driving and dredging occur only within the approved work window. Verify that required pile-driving avoidance and minimization measures are implemented, including soft-start procedures, ramp-up procedures, establishment of marine mammal exclusion zones, shutdown requirements, and use of hydroacoustic attenuation measures where feasible. Verify that construction activities are suspended and appropriate avoidance measures are implemented when marine mammals are observed within applicable exclusion or shutdown zones.	Prior to initiation of in-water construction activities, verify that work is scheduled within the approved in-water work window (between June 1 and November 30). Periodically during all pile-driving and pile-extraction activities, and continuously during pile-driving operations as applicable, verify implementation of actions required by Mitigation Measure BIO-1(d).	City of Berkeley and/or WETA Contractor(s)	City of Berkeley Parks, Recreation, and Waterfront Department	

Mitigation Measure/Condition of Approval	Action Required	Implementation Timing and Frequency	Implementing Entity	Agency Responsible for Compliance Verification	Compliance Verification (Initial, Date, Comments)
described in Mitigation Measure BIO-1(E). A sound curtain, or bubble curtain, shall be employed during impact pile driving to break up sound waves, as feasible. The sound curtain would consist of a perforated hose laid in a circle to release air bubbles around the pile and diesel impact hammer. Jetting methods using pressurized water and/or wood cushion block methods shall also be employed as feasible to minimize impacts. If the intensity of the pile-driving activity needs to be increased or a marine mammal is within the safe zone buffer for the activity, pile driving shall be "ramped-up", which is a slow increase in the intensity of pile-driving. At the start of pile-driving for each pile at all locations, the pile shall be struck once with the hammer and the second pile strike delayed long enough to permit adequate time for any marine mammals within the safe zone to leave the area prior to the start of sustained pile-driving activities. This measure, including the technique and the size of the safe zone, may be modified or supplemented by permit conditions from applicable regulatory agencies.					
BIO-1(e) Prepare Marine Mammal Monitoring Plan Prior to Construction and Implement Recommendations During Construction					
Prior to construction, the City shall prepare a Marine Mammal Monitoring Plan (MMMP) to avoid and minimize potential adverse impacts on marine mammals during pile driving and tug operations. The MMMP shall implement general guidelines set forth in the MMPA and incorporate the hydroacoustic modeling results developed for the project to define site-specific protection zones and avoid exposure of marine mammals to underwater sound levels exceeding the most up to date Level A (injury) thresholds identified by NOAA Fisheries. The MMMP shall include the following: • **Protection and Monitoring Zones:** Using the hydroacoustic modeling results, the MMMP shall define shutdown and disturbance zones for each marine mammal hearing group. These zones will be tailored to the pile type, size, and driving method and will correspond to the Level A and Level B effect distances developed for the project. The plan will describe how these protection zones will be verified and monitored in the field, integrating them with the soft-start and observation procedures described in Mitigation Measure BIO-1(d). • **Vessel Operation Protocols:** The MMMP shall include vessel-operation measures consistent with the MMPA. Construction vessels under power shall remain at least 300 feet from whales and 150 feet from dolphins, porpoises, seals, and sea lions. When marine mammals are encountered, vessel operators shall reduce speed to no-wake, shift to neutral, and allow the animals to pass safely before resuming operations. • **On-Site Monitoring and Response**: A qualified biologist shall be present on site, either observing from the pier or aboard a vessel, during all pile-driving and tug operations. The biologist shall document all marine-mammal observations, note behavioral responses, and immediately alert project personnel if a whale enters the modeled harassment distance or comes within 300 feet, or if any other marine mammal enters the modeled harassment distance or comes within 150 feet, whichever is greater. Upon such an observation, the contractor shall implement the appropriate delay or shutdown procedures identified in the MMMP. • **Adaptive Management and Coordination**: The MMMP shall outline communication and reporting protocols, including stop-work notification procedures and coordination with NMFS Protected Species Division. Results from daily monitoring will be used to assess the effectiveness of the protection zones and adjust them, if needed, in consultation with NMFS. • **Nighttime Pile Driving**: Nighttime pile driving shall be limited to situations where safety concerns or significant schedule delays require that pile driving started during daytime hours extend beyond typical work hours. For instances where nighttime pile driving is required, the MMMP shall include non-visual monitoring protocols, such as passive acoustic monitoring, thermal/infrared cameras, and night vision optics, as well as larger nighttime exclusion/shutdown zones, extended soft start procedures, and the most effective feasible hydroacoustic attenuation. This measure may be modified or supplemented by permit conditions from applicable regulatory agencies.	Verify that a Marine Mammal Monitoring Plan (MMMP) has been prepared and approved prior to initiation of construction. Verify that the MMMP includes protection and monitoring zones, vessel operation protocols, on-site biological monitoring, adaptive management procedures, communication and reporting protocols, and nighttime pile-driving monitoring procedures. Verify that qualified biological monitors are retained and that all MMMP requirements, including marine mammal observation, shutdown procedures, agency coordination, monitoring documentation, and nighttime monitoring measures, are implemented during pile-driving and tug operations.	Once prior to initiation of construction, verify preparation and approval of the MMMP. Continuously during all pile-driving and tug operations, verify implementation of all MMMP requirements. As needed during nighttime pile-driving activities, verify implementation of nighttime monitoring and avoidance measures identified in the MMMP.	City of Berkeley Contractor(s), Qualified biologist/biological monitor	City of Berkeley Parks, Recreation, and Waterfront Department	

Mitigation Measure/Condition of Approval	Action Required	Implementation Timing and Frequency	Implementing Entity	Agency Responsible for Compliance Verification	Compliance Verification (Initial, Date, Comments)
BIO-1(f) Implement CDFW-Requested Measure for Crotch's Bumble Bee Prior to Construction					
A formal habitat assessment of the project site landside project disturbance areas shall be performed by a qualified biologist prior to initiating ground disturbing activities to determine if suitable nesting or foraging habitat is present within the project site. The assessment shall include: • Review of occurrence record data • Analysis of foraging, nesting, and overwintering resources • Documentation of plant species observed (including what is blooming at the time of the survey and percent cover) The locations of nesting resources, including rodent burrows, cavities, thatched grasses, brush, rock piles, fallen logs, and manmade structures, shall be mapped during the assessment. Areas adjacent (within 50 feet) to the project site shall also be considered, if accessible, to determine if there is suitable nesting or foraging habitat. If suitable nesting and foraging resources are detected during the habitat assessment, they will be avoided by a minimum 50-foot buffer, where possible. If avoidance is not possible, protocol-surveys following the CDFW *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species* (CDFW 2023) will be conducted to determine if Crotch's bumble bee is present within the project site. A minimum of three visits will be conducted during the colony active season (April – August) and will be spaced 2-4 weeks apart. Surveys will be conducted each year that construction activities occur within suitable nesting habitat, because bumble bees move their nests each year. If no Crotch's bumble bees are detected on the project site, no further mitigation actions will be required. If Crotch's bumble bees are detected, consultation with CDFW will be initiated to determine the most appropriate strategy to avoid impacts to bumble bees on the project site. If full take avoidance is not feasible, the City will apply to CDFW for take authorization under an Incidental Take Permit.	Retain a qualified biologist to conduct a habitat assessment for Crotch's bumble bee prior to ground-disturbing activities, including documentation of occurrence records, nesting and foraging resources, and plant communities. Require the establishment of avoidance buffers of a minimum of 50-feet where applicable and feasible. Where avoidance is not feasible, conduct protocol-level surveys in accordance with CDFW guidance. If Crotch's bumble bee is detected, complete CDFW consultation and verify that any resulting avoidance, minimization, or other measures required by CDFW have been implemented. Verify that habitat assessment and survey documentation has been submitted to the City.	Once prior to initiation of ground-disturbing activities, complete the habitat assessment and any required protocol surveys. Periodically throughout construction in the circumstances specified by Mitigation Measure BIO-1(f), verify implementation of applicable avoidance, minimization, monitoring, and consultation requirements. If Crotch's bumble bee is identified, verify completion of CDFW consultation and implementation of any resulting measures.	City of Berkeley Contractor(s), Qualified biologist	City of Berkeley Parks, Recreation, and Waterfront Department	
BIO-2 Implement Invasive Species Prevention During Construction					
The following practices shall be required for on-site construction activities: • Any in-water fill materials shall be new or not salvaged from areas outside of San Francisco Bay. • Any pumps or in-water construction equipment that may be needed during construction shall be cleaned and dried for at least 72 hours prior to being used on the project site. • Tug boats shall not discharge untreated ballast water from outside the San Francisco Bay. This measure may be modified or supplemented by permit conditions from applicable regulatory agencies.	Verify that invasive species prevention measures have been incorporated into construction specifications. Verify compliance with applicable regulatory requirements and permit conditions.	Once prior to initiation of in-water construction activities, verify incorporation of measures into specifications. Periodically throughout construction activities involving in-water work, verify implementation of measures.	City of Berkeley Contractor(s)	City of Berkeley Parks, Recreation, and Waterfront Department	
BIO-3 Avoid Net Loss of Jurisdictional Waters Prior to Operation					
The City shall avoid a net loss of jurisdictional waters due to project implementation by demolishing additional portions of the existing pier to offset net increase in fill and overwater cover. Removal of existing pier decking and associated piles shall be required at a minimum 1:1 ratio for net increase in fill and overwater cover impacts on tidal waters of the San Francisco Bay to achieve no net increase in Bay fill. Removal of existing structures shall be implemented prior to or concurrently with construction of the new pier. The City shall develop a plan documenting the existing pier footprint, the proposed pier footprint, and the required additional demolition needed to demonstrate that no net increase in Bay fill or overwater cover would occur. This plan shall be developed by a qualified regulatory specialist prior to project construction and submitted to the appropriate agencies for review and approval during permitting. This measure may be modified or supplemented by permit conditions from applicable regulatory agencies.	Verify that a no-net-loss plan has been prepared and approved. Verify that required demolition of existing pier structures has been completed and that no net increase in Bay fill or overwater cover would occur.	Once during permit review and prior to issuance of permits for in-water work, verify preparation and approval of no-net-loss plan. Periodically during demolition and construction activities, verify that required demolition is implemented to offset new fill and overwater cover. Upon completion of demolition activities, verify no net increase in Bay fill or overwater cover.	City of Berkeley Contractor(s), Qualified regulatory specialist	City of Berkeley Parks, Recreation, and Waterfront Department	

Mitigation Measure/Condition of Approval	Action Required	Implementation Timing and Frequency	Implementing Entity	Agency Responsible for Compliance Verification	Compliance Verification (Initial, Date, Comments)
Cultural Resources					
CR-1 Stop Work and Prepare and Implement a Data Recovery Plan if Unanticipated Archaeological Resources are Encountered During Construction.					
In the event that archaeological resources are unexpectedly encountered during ground-disturbing activities, work within 100 feet of the find shall halt and an archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for archaeology shall be contacted immediately to evaluate the resource.[3] If the resource is determined by the qualified archaeologist to be precontact, then a Native American representative shall also be contacted to participate in the evaluation of the resource. If the resource is identified in the waterside improvements area, then a qualified marine archaeologist shall assist in the treatment and evaluation of the resource. Any waterside discoveries that are removed from their submerged environment shall be kept fully submerged in a container of freshwater for storage until the archaeologist can examine the find. If the qualified archaeologist and/or Native American representative determines it to be appropriate, archaeological testing for CRHR eligibility shall be completed. If the resource proves to be eligible for the CRHR and significant impacts to the resource cannot be avoided by means of changes in the design of the project, a qualified archaeologist shall prepare a data recovery plan tailored to the physical nature and characteristics of the resource, pursuant to the requirements of the California Code of Regulations, CEQA Guidelines Section 15126.4(b)(3)(C). The data recovery plan shall identify data recovery excavation methods, measurable objectives, and data thresholds to reduce any significant impacts to cultural resources related to the resource. Pursuant to the data recovery plan, the qualified archaeologist and Native American representative, as appropriate, shall recover and document the scientifically consequential information that justifies the resource's significance. The City shall review and approve the data recovery plan and archaeological testing as appropriate, and the resulting documentation shall be submitted to the regional repository of the California Historical Resources Information System, pursuant to California Code of Regulations, CEQA Guidelines Section 15126.4(b)(3)(C).	If archaeological resources are encountered during construction, halt work within 100 feet of the find and retain a qualified archaeologist, Native American representative, and/or marine archaeologist, as appropriate, to evaluate the discovery. Where applicable, complete archaeological testing for CRHR eligibility. If a resource is determined eligible for the CRHR and impacts cannot be avoided, prepare a resource-specific data recovery plan for City review and approval and implement approved treatment measures. Submit required documentation to the California Historical Resources Information System upon completion of archaeological investigations and data recovery activities.	As needed upon discovery of a potential archaeological resource during construction, halt work and initiate discovery evaluation. Prior to resuming work in the discovery area, complete required treatment measures as needed. Periodically during implementation of any required treatment measures, verify compliance with approved procedures and requirements.	City of Berkeley and/or WETA Contractor(s), Qualified archaeologist, Native American representative, and/or qualified marine archaeologist, as applicable	City of Berkeley Parks, Recreation, and Waterfront Department	
Geology and Soils					
GEO-1 Implement Paleontological Worker Environmental Awareness Program During Construction					
Prior to the start of construction, a Qualified Professional Paleontologist, defined as a paleontologist who meets the Society of Vertebrate Paleontology standards, or his or her designee shall conduct a paleontological Worker Environmental Awareness Program training for all construction personnel participating in subsurface dredging regarding unanticipated discoveries and the procedures for notifying paleontological staff should fossils be discovered by construction staff. A training acknowledgment form shall be signed by all workers who receive the training, and a copy of the signed training acknowledgement form shall be retained by the project contractor and provided to the City.	Incorporate WEAP training requirements into final construction specifications. Retain a Qualified Professional Paleontologist to conduct WEAP training for construction personnel participating in subsurface dredging activities. Verify that training acknowledgement forms have been completed and provided to the City.	Once prior to initiation of dredging and other applicable subsurface construction activities, verify completion of paleontological WEAP training and receipt of training acknowledgement forms.	City of Berkeley and/or WETA Contractor(s), Qualified Professional Paleontologist or designee	City of Berkeley Parks, Recreation, and Waterfront Department	
GEO-2 Stop Work Upon Unanticipated Discovery of Paleontological Resources and Implement Recommendations During Construction					
The City shall require the following mitigation measure for dredging activities. If a potential fossil is discovered during dredging, construction activity within 50 feet of the find shall cease until the discovery is examined by a Qualified Professional Paleontologist as defined by the Society of Vertebrate Paleontology.[4] If the find is determined to be scientifically significant, the Qualified Professional Paleontologist shall direct all mitigation measures related to paleontological resources consistent with the SVP (2010) standards, which shall include fossil salvage, laboratory preparation, curation in a paleontological repository, and a paleontological monitoring report. Additionally, the Qualified Professional Paleontologist and City shall decide if full- or part-time monitoring shall be instated for further project-related dredging. A Qualified Professional Paleontologist, is defined by the SVP (2010) as an individual with: • A graduate degree in paleontology or geology, and/or a publication record in peer reviewed journals; and demonstrated competence in field techniques, preparation, identification, curation, and reporting in the state or geologic province in which the	If paleontological resources are encountered during dredging activities, work shall be halted within 50 feet of the discovery and a Qualified Professional Paleontologist shall evaluate the find. If the resource is determined to be scientifically significant, implement paleontological resource mitigation measures.	As needed upon discovery of potential paleontological resources during dredging activities, halt work and initiate discovery evaluation. Periodically during implementation of any required paleontological mitigation measures, verify compliance with applicable recommendations and requirements.	City of Berkeley and/or WETA Contractor(s), Qualified Professional Paleontologist	City of Berkeley Parks, Recreation, and Waterfront Department	

[3] National Park Service. 1983. Secretary of the Interior's Standards and Guidelines for Professional Qualifications in Archaeology and Historic Preservation. Available: https://www.nps.gov/articles/series.htm?id=62144687-B082-538A-A0174FFF26496394. (accessed February 2026)
[4] Society of Vertebrate Paleontology. 2010. Standard Procedures for the Assessment and Mitigation of Adverse Impacts to Paleontological Resources. Society of Vertebrate Paleontology Impact Mitigation Guidelines Revision Committee.

Mitigation Measure/Condition of Approval	Action Required	Implementation Timing and Frequency	Implementing Entity	Agency Responsible for Compliance Verification	Compliance Verification (Initial, Date, Comments)
project occurs. An advanced degree is less important than demonstrated competence and regional experience. • At least two full years professional experience as assistant to a Project Paleontologist with administration and project management experience; supported by a list of projects and referral contacts. • Proficiency in recognizing fossils in the field and determining their significance. • Expertise in local geology, stratigraphy, and biostratigraphy. • Experience collecting vertebrate fossils in the field.					
Hydrology and Water Quality					
HYD-1 Include and Implement Additional Best Management Practices in the SWPPP Prior to and During Pier Demolition					
In compliance with the requirements of the Construction Stormwater General Permit, prior to construction the construction contractor shall prepare a Stormwater Pollution Prevention Plan (SWPPP) and implement the SWPPP during construction. The SWPPP shall be submitted to the Berkeley Public Works Department and the State Water Resources Control Board (via the Stormwater Multiple Application and Report Tracking System [SMARTS]) for review and approval at least 60 days prior to start of construction. In addition to standard Erosion Control, Sediment Control, and Good Housekeeping Best Management Practices, the following Best Management Practices shall be included in the SWPPP and implemented during pier demolition: • Site washout areas shall be located at least 100 feet from a storm drain, open ditch or surface water and ensure that runoff flows from such activities do not enter receiving water bodies, unless otherwise approved by the RWQCB. • All re-fueling, cleaning, and maintenance of equipment shall occur at least 100 feet from storm drain, open ditch or surface water and/or within secondary containment, unless otherwise approved by the RWQCB. • Particular care shall be exercised to prevent foreign materials (e.g., construction scraps, wood preservatives, other chemicals and debris, etc.) from entering the San Francisco Bay during pier demolition. • If wood preservatives must be applied to cut-wood surfaces, the materials, whenever feasible, shall be treated at an onshore location to preclude the possibility of spills into State waters. • A containment boom shall be placed around all active portions of a construction site where wood scraps or other floatable debris could enter the water. • The containment boom and net shall be cleared daily or as often as necessary to prevent accumulation of debris. • Tarps and basins shall be used above deck to contain debris and materials. • Dipnets shall be on-site and can be used to retrieve debris if it accidentally falls into the water. • A 50-foot-long spill containment boom as well as absorbent pads shall be kept on-site and shall be deployed in the event that there is a release of fluids into the water. • Contractors shall make mandatory that work crews are carefully briefed on the importance of observing the appropriate precautions and reporting any accidental spills. This measure may be modified or supplemented by permit conditions from applicable regulatory agencies.	Verify that a SWPPP has been prepared and approved by the appropriate agencies. Verify that required erosion control, sediment control, good housekeeping measures, and project-specific BMPs for pier demolition have been incorporated into the SWPPP. Implement measures identified in the SWPPP during construction and demolition activities.	Once prior to initiation of construction and pier demolition activities, review and approve SWPPP. As needed throughout construction and demolition activities, verify implementation of SWPPP requirements.	City of Berkeley Contractor(s)	City of Berkeley Parks, Recreation, and Waterfront Department	
Noise					
NOI-1 Prepare and Implement Construction Noise Management Plan Prior to and During Construction					
Prior to the start of construction activities, a Construction Noise Management Plan shall be submitted to and approved by the City's Public Works Department. The Construction Noise Management Plan shall include the following: • Prior to the initiation of construction activities at the project site, the contractor shall install temporary noise barriers/blankets between the construction boundary and nearby sensitive receptors. The temporary barriers/blankets shall have a minimum height of 12 feet to block the line of sight between operating construction equipment and adjacent sensitive receptors. Barriers shall be constructed with a solid material that has a density	Prepare and submit a Construction Noise Management Plan to the City of Berkeley Public Works Department for approval. Implement noise reduction measures identified in the Construction Noise Management Plan during construction.	Once prior to initiation of construction activities, verify preparation and approval of Construction Noise Management Plan. Periodically throughout construction activities, verify	City of Berkeley Contractor(s), City-approved noise consultant, as needed	City of Berkeley Parks, Recreation, and Waterfront Department City of Berkeley Public Works Department	

Mitigation Measure/Condition of Approval	Action Required	Implementation Timing and Frequency	Implementing Entity	Agency Responsible for Compliance Verification	Compliance Verification (Initial, Date, Comments)
of at least one pound per square foot with no gaps from the ground to the top of the barrier and be lined on the construction side with acoustical blanket, curtain, or equivalent absorptive material rated STC 32 or higher. The temporary barriers/blankets shall be installed as follows: ○ For landside construction activities occurring near the pier entrance/public plaza, temporary noise barriers/blankets shall be installed around the construction boundaries between the construction work areas and the Skates on the Bay Restaurant and Horseshoe Park located to the north and Shorebird Park located to the east. ○ For construction activities occurring at/near the Seawall Drive parking lot, temporary noise barriers/blankets shall be installed between the construction boundary and Shorebird Park to the north. ○ For construction activities occurring along University Avenue, temporary noise barriers/blankets shall be installed between the construction work areas and the live-aboard boats in the Marina to the north and Shorebird Park and Adventure Playground to the south. • With approval of the project structural engineer, landside pile holes shall be pre-drilled to minimize the number of impacts necessary to seat the pile, where feasible. • Pile driving shall be scheduled to have the least impact on nearby live-aboards or houseboats. • Applicable pile-driving noise control devices shall be integrated to the extent feasible to conduct both landside and in-water pile driving. These may include, but are not limited to, shrouding the pile hammer point of impact, by placing resilient padding directly on top of the pile cap, and/or by reducing exhaust noise with a sound-absorbing muffler. • Alternatives to impact hammers, such as oscillating or rotating pile installation systems, shall be used where possible for landside pile driving. • At least 10 days prior to the start of construction activities, a sign shall be posted at the construction site, or other conspicuous location, that includes a telephone number, website and email for project information, and a procedure in which a construction manager shall respond to and investigate noise complaints and take corrective action, if necessary, in a timely manner. • At least 21 days prior to the start of construction activities, businesses and residents (including occupied live-aboard boats) within 500 feet of the project site shall be notified of the planned construction activities. The notification shall include a brief description of the project, the activities that would occur, the hours when construction would occur, and the overall duration of the construction period. The notification shall include the telephone numbers and email addresses of the City's and contractor's authorized representatives that are assigned to respond in the event of a noise complaint. • If a construction noise complaint is registered and if City code enforcement is not available to make noise measurements, the City shall retain a City-approved noise consultant to conduct noise measurements at the properties that registered the complaint. The noise measurements shall be conducted for a minimum of one hour. The consultant shall prepare a letter report for code enforcement summarizing the measurements, calculation data used in determining impacts, and potential measures to reduce noise levels to the maximum extent feasible. • Prior to the start of and for the duration of construction, the contractor shall properly maintain and tune all construction equipment in accordance with the manufacturer's recommendations to minimize noise emissions. • Prior to use of any construction equipment, the contractor shall fit all equipment with properly operating mufflers, air intake silencers, and engine shrouds no less effective than as originally equipped by the manufacturer. • Material hauling and deliveries shall be coordinated by the construction contractor to reduce the potential of trucks waiting to unload for protracted periods of time. • To the extent feasible, hydraulic equipment shall be used instead of pneumatic impact tools, and electric-powered equipment shall be used instead of diesel-powered equipment.		implementation of noise control measures.			

Mitigation Measure/Condition of Approval	Action Required	Implementation Timing and Frequency	Implementing Entity	Agency Responsible for Compliance Verification	Compliance Verification (Initial, Date, Comments)
• Stationary noise sources (e.g., generators) shall be located as far from sensitive receptors as practicable, and they shall be muffled and enclosed within temporary sheds, or insulation barriers with a minimum STC rating of 32. • The use of bells, whistles, alarms, and horns shall be restricted to safety warning purposes only. • Signs shall be posted at the job site entrance(s), within the on-site construction zones, and along queueing lanes (if any) to reinforce the prohibition of unnecessary engine idling. All other equipment shall be turned off if not in use for more than five minutes. The construction manager shall be responsible for enforcing this.					
Tribal Cultural Resources					
TCR-1 Conduct Cultural Resources Sensitivity Training Prior to Construction					
Prior to the start of any ground disturbing activities, including excavation on land and dredging in water, the City of Berkeley (City) or its contractor(s) shall provide all construction personnel conducting ground disturbing activities, with cultural resources sensitivity training. The training will be conducted in person, or via a video meeting, to be viewed by all construction personnel involved in ground disturbing activities prior to the start of construction. The training will be developed and conducted in coordination with locally affiliated California Native American Tribe(s) that have participated in consultation with the City for the project (referred to hereafter as "Consulting Tribes"). Cultural resources sensitivity training will include relevant information regarding sensitive tribal cultural resources, applicable regulations including consequences of violation, and protocols for unanticipated discoveries and avoidance. The training will emphasize the requirement of confidentiality and culturally appropriate treatment of any finds of significance to Native Americans.	Develop and conduct cultural resources sensitivity training in coordination with locally affiliated Consulting Tribes for all construction personnel involved in ground-disturbing activities. Verify that construction personnel have completed the required training prior to conducting ground-disturbing activities.	Once prior to initiation of ground-disturbing activities, verify completion of cultural resources sensitivity training for construction personnel. As needed throughout construction, verify training completion for new personnel.	City of Berkeley and/or WETA Contractor(s) Consulting Tribes	City of Berkeley Parks, Recreation, and Waterfront Department	
TCR-2 Provide Signage Acknowledging Native American History Prior to Operation					
Prior to operation, the City shall provide signage at the project site that acknowledges Native American history and importance of the area. Language and design for the signage shall be developed in consultation with Consulting Tribes, including the Muwekma Ohlone Tribe. The location of the signage shall be thoughtfully integrated into the project design and shall be respectful of Native American culture and values. Photographs of human remains shall not be depicted on the signage. The City or its contractor(s) shall incorporate the location and content of the signage prior to Final Design. Consulting Tribes shall be given the opportunity to comment on the signage prior to the Final Design being approved by the City.	Develop Native American history acknowledgement signage in coordination with Consulting Tribes. Provide Consulting Tribes with opportunity to comment on the signage prior to final design approval. Verify that the location and content of the signage are incorporated into final design plans and specifications.	Once during final design and prior to project operation, verify that signage has been developed with appropriate coordination and that signage is incorporated into final plans and specifications.	City of Berkeley Contractor(s) Consulting Tribes	City of Berkeley Parks, Recreation, and Waterfront Department	
TCR-3 Conduct Native American Monitoring During Construction					
Prior to the start of any ground disturbing activities, including excavation and grading on land not previously covered by fill and any dredging in water, the City or its contractor(s) shall retain a Native American monitor(s) from a Consulting Tribe(s) for purposes of construction monitoring. If multiple Consulting Tribes request to monitor, the City will establish a rotating schedule to include all tribes requesting monitoring. The City shall provide monitors with at least 48 hours' notice prior to the start of any ground disturbing activity that requires monitoring. Native American monitors shall observe project-related ground disturbing activities located in previously undisturbed areas (i.e., areas not consisting of fill) and provide daily monitoring logs to the City detailing construction observed and results at minimum (confidential information can be redacted at the monitor's discretion). Monitors shall have the authority to temporarily halt work in the event of discovery or a potential Tribal Cultural Resource. If suspected Tribal Cultural Resources are encountered at any point during ground disturbing activities, work within a 100-foot radius shall halt and the find shall be evaluated for significance as required by Mitigation Measure TCR-4. The 100-foot radius may be reduced or expanded as appropriate by the monitor if conditions, such as expanded boundaries or increased sensitivity, warrant the reduction or expansion. Native American monitoring may be reduced to spot-checking or eliminated at the discretion of the monitor, in coordination with the City, as warranted by conditions such as encountering fill soils, bedrock, or negative findings during the first 60 percent of grading. If monitoring is reduced to spot-checking, spot-checking shall occur, at minimum, when ground-disturbance moves to a new location within the project site and when ground disturbance	Retain Native American monitor(s) from the Consulting Tribe(s) and notify monitors prior to ground disturbance. Monitor ground disturbing activities located in previously undisturbed areas and complete daily monitoring logs to be provided to the City. If a potential Tribal Cultural Resource is encountered, temporarily halt work within an area determined by the monitor and City and implement Mitigation Measure TCR-4.	Once prior to initiation of ground-disturbing activities, verify that Native American monitor(s) have been retained. As needed throughout construction, provide monitor(s) with a minimum of 48 hours' notice prior to ground-disturbing activities requiring monitoring. As needed throughout construction, verify monitoring of applicable ground-disturbing activities and that daily monitoring logs are provided to the City.	City of Berkeley and/or WETA Contractor(s) Native American monitor(s) from Consulting Tribes	City of Berkeley Parks, Recreation, and Waterfront Department	

Mitigation Measure/Condition of Approval	Action Required	Implementation Timing and Frequency	Implementing Entity	Agency Responsible for Compliance Verification	Compliance Verification (Initial, Date, Comments)
will extend to depths not previously reached (unless those depths are within bedrock). Ground disturbing activities shall not be contingent on the presence or availability of a Native American monitor, and ground disturbing may proceed regardless of whether or not a monitor is present on site.					
TCR-4 Evaluate Discovered Tribal Cultural Resources and Implement Resulting Recommendations During Construction					
If suspected Tribal Cultural Resources are encountered at any point during ground disturbing activities, work within a 100-foot radius shall halt and Consulting Tribes shall evaluate the suspected resource for significance as a Tribal Cultural Resource. If the find is archaeological in nature, then the City or its contractor(s) shall also retain a qualified archaeologist to respond and evaluate significance as required by Mitigation Measure CR-1. The City shall review the significance evaluation of the Tribal Cultural Resource and determine whether the find meets the criteria in California PCR Section 21074. If a discovered Tribal Cultural Resource is determined by the City to meet the criteria in California PRC Section 21074, avoidance and preservation in place shall be the preferred method of mitigating impacts and the City shall first consider the measures in California PRC Section 21084.3(b) in consultation with Consulting Tribes. If significant impacts to the resource cannot be avoided via project redesign, then the City shall work with Consulting Tribes to develop other appropriate measures to mitigate impacts. This could include, but would not be limited to, data recovery, installation of a permanent plaque or mural to inform the public, interpretive and/or educational elements, and/or landscaping to include native plants. Work in the area may resume following the determination by the City and completion of any applicable measures mitigating impacts to the Tribal Cultural Resource, if any.	If a potential Tribal Cultural Resource is encountered, halt work within a 100-foot radius of the discovery for evaluation by the Consulting Tribe(s). If applicable, retain a qualified archaeologist to evaluate significance of the discovery as required by Mitigation Measure CR-1. Review the significance of the discovery pursuant to California PRC Section 21074 criteria. Develop and implement avoidance, preservation in place, treatment, or other mitigation measures developed in coordination with Consulting Tribes as appropriate prior to resumption of work.	As needed upon discovery of a suspected Tribal Cultural Resource during construction, halt work and initiate discovery evaluation. Prior to resuming work in the discovery area, verify completion of any required significance evaluation and implementation of applicable measures.	City of Berkeley and/or WETA Contractor(s), Qualified archaeologist, as applicable Consulting Tribes	City of Berkeley Parks, Recreation, and Waterfront Department	
TCR-5 Provide Respectful Treatment of Native American Human Remains Upon Unanticipated Discovery and Implement Recommendations During Construction					
In addition to adherence to the California Health and Safety Code Sections 7050.5, should human remains be identified during construction, no photographs shall be taken without express permission from the on-site Native American Monitor, and no invasive scientific testing shall be completed without consultation with the NAHC appointed Most Likely Descendent. Any bone that cannot be identified as faunal shall be treated as human remains until positively identified as being non-human by the coroner and/or a qualified archaeologist, as appropriate. The Most Likely Descendant shall provide recommendations for reburial, and human remains and associated funerary items shall be reburied by Tribal representatives in a location agreed upon between the Tribe and the City. Any reburial location shall be accessible to Tribal members in perpetuity, not be subject to further disturbance, and kept confidential.	If human remains are encountered during construction, verify compliance with applicable State regulations and consultation requirements. If human remains are encountered during construction, contact Native American monitor(s), the Most Likely Descendant, and other appropriate parties for guidance and recommendations. Implement recommendations regarding treatment and reburial of Native American human remains and associated funerary items.	As needed upon discovery of human remains during construction, verify compliance with applicable requirements and implementation of applicable recommendations.	City of Berkeley and/or WETA Contractor(s) Native American monitor(s) Most Likely Descendant Consulting Tribes, as applicable	City of Berkeley Parks, Recreation, and Waterfront Department	

This page intentionally left blank.

CEQA Findings and Statement of Overriding Considerations

for the

City of Berkeley Water Transportation Pier Ferry Project Environmental Impact Report

pursuant to CEQA Guidelines Sections 15091 and 15093 and Public Resources Code Section 21081

The Environmental Impact Report (EIR) prepared by the City of Berkeley (City) for the Berkeley Water Transportation Pier Ferry Project ("the project") consists of the February 2026 Draft EIR and the October 2026 Final EIR including Responses to Comments on the Draft EIR. The EIR identifies significant environmental impacts that would result from implementation of the project. The City finds that the adoption of mitigation measures identified in the EIR as part of project approval will reduce all but the following significant environmental impacts to levels that are less than significant:

- Project-level and cumulative temporary construction noise impacts and associated land use/ planning and recreation impacts related to construction noise.
- Cumulatively considerable contribution to a significant cumulative operational roadway noise impact on University Avenue between Seawall Drive and Marina Boulevard, and associated land use/ planning and recreation impacts related to operational roadway noise.

No feasible mitigation measures have been identified to reduce these impacts to a less-than-significant level; therefore, the impacts will remain significant and unavoidable impacts of the project. Construction noise levels would exceed applicable thresholds even with implementation of identified feasible mitigation measures. For those impacts, mitigation measures have been identified and will be adopted and incorporated into the project, but will not reduce impacts to a less-than-significant level. Therefore, these impacts will remain significant and unavoidable impacts of the project. These findings contain a statement of overriding considerations in Section 6, below, that explains why the benefits of the proposed project outweigh these temporary unavoidable adverse environmental effects and are, therefore, acceptable.

As required by the California Environmental Quality Act, Public Resources Code Section 21000 *et seq*. (CEQA) and the State CEQA Guidelines, California Code of Regulations, Title 14, Section 15000 *et seq*. (CEQA Guidelines), the City, in addition to adopting these CEQA Findings and Statement of Overriding Considerations, also adopts a Mitigation Monitoring and Reporting Program (MMRP) for the project. In adopting the MMRP, the City finds that it meets the requirements of Public Resources Code Section 21081.6 by providing for the implementation and monitoring of measures intended to mitigate potentially significant environmental effects of the project.

In accordance with CEQA and the CEQA Guidelines, the City adopts these findings as part of the project approval. Pursuant to Public Resources Code Section 21082.1(c)(3), the City also finds that the Final EIR reflects the City's independent judgment as the lead agency for the project.

TABLE OF CONTENTS

SECTION 1: INTRODUCTION 1
STATUTORY REQUIREMENTS FOR FINDINGS 1
SECTION 2: PROJECT DESCRIPTION: BERKELEY WATER TRANSPORTATION PIER FERRY PROJECT 1
2.1 PROJECT DESCRIPTION 1
2.2 PROJECT OBJECTIVES 2
SECTION 3: ENVIRONMENTAL REVIEW PROCESS 3
SECTION 4: FINDINGS 3
4.1 SIGNIFICANT EFFECTS THAT CANNOT BE MITIGATED TO A LESS-THAN-SIGNIFICANT LEVEL 4
4.2 EFFECTS DETERMINED TO BE MITIGATED TO LESS-THAN-SIGNIFICANT LEVELS 7
4.3 EFFECTS DETERMINED TO BE LESS THAN SIGNIFICANT OR NOT SIGNIFICANT 24
4.4 CUMULATIVE IMPACTS 28
4.5 GROWTH INDUCING IMPACTS 29
SECTION 5: FEASIBILITY OF PROJECT ALTERNATIVES 30
5.1 PROJECT ALTERNATIVES 30
5.2 ENVIRONMENTALLY SUPERIOR ALTERNATIVE 35
SECTION 6: STATEMENT OF OVERRIDING CONSIDERATIONS 36
SECTION 7: INCORPORATION BY REFERENCE 40
SECTION 8: RECIRCULATION NOT REQUIRED 40
SECTION 9: RECORD OF PROCEEDINGS 40
SECTION 10: SUMMARY 40

SECTION 1: INTRODUCTION

Statutory Requirements for Findings

CEQA Guidelines § 15091 states that:

> (a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
>
> (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
>
> (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
>
> (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

In short, CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to avoid or mitigate significant environmental effects (impacts) that will otherwise occur with implementation of the project. Mitigation measures or project alternatives are not required, however, where they are infeasible or where modifying the project or adopting mitigation is within the responsibility and jurisdiction of another agency.[1]

For significant impacts that cannot be mitigated to a less-than-significant level, the public agency is required to find that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.[2] CEQA Guidelines §15093(a) states that:

> If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered 'acceptable.'"

SECTION 2: PROJECT DESCRIPTION: BERKELEY WATER TRANSPORTATION PIER FERRY PROJECT

This section provides a brief description of the project and lists the objectives of the proposed project.

2.1 Project Description

The Berkeley Pier was closed in July 2015 due to visually observed structural problems on the underside of the concrete decking and pilings. The proposed project aims to revitalize the Berkeley Waterfront by developing a new dual-purpose pier and ancillary uses that support both public recreation and zero-emission public ferry service. Specifically, the project would include the following components:

- Demolish portions of the closed pier;
- Construct a new 1,080-foot-long public pier at the same location as the closed pier with pedestrian access and recreational amenities;
- Construct a new 400-foot-long breakwater perpendicular to and connected to the new pier, providing pedestrian access and recreational amenities;

1 CEQA Guidelines Section 15091(a)(2) and (3).

2 Public Resources Code Section 21081(b).

- Provide recreational amenities on the pier and breakwater for walking, sightseeing, and fishing, including interpretive and educational signs, benches, shade canopy, seats, and a fish cleaning station;
- Provide ferry infrastructure including but not limited to universal charging and boarding float(s), landing(s), gangway(s), and security entrance;
- One-time dredging along the existing 100-foot wide United States Army Corps of Engineers federal navigation channel that parallels the closed pier, as well as at a turning basin at the ferry landing(s);
- Construct a new public plaza with stormwater treatment and amenities such as a public restroom, public seating, bicycle lanes, public bicycle parking, and landscaping;
- Implement improvements to University Avenue, including repaving and restriping between the round-about intersection with Marina Boulevard and the intersection with Seawall Drive, stormwater treatment and a new raised bicycle track, passenger drop off zone, and public bus infrastructure, including the relocation of an existing AC Transit bus stop, installation of new bus passenger loading islands, and dedicated bus loading and unloading facilities; Implement improvements to Seawall Drive, including re-alignment, repaving, stormwater treatment, and restriping;
- Develop a portion of the planned Bay Trail Extension, south of the pier and along Seawall Drive;
- Renovate the parking lot off Seawall Drive with new pavement, surfacing, striping, lighting, stormwater treatment, and replacement of existing stormwater outfalls;
- Repair 300 feet of a stretch of shoreline located on the eastern side Seawall Peninsula, just north of the 199 Seawall Drive structure in the form of rock rip rap slope protection;
- Provide new landscaping as well as tree removal and replacement;
- Provide new way-finding signage and replacement lighting;
- Install new electric infrastructure to charge ferry vessels;
- Install new water connections for a restroom and hose bibs;
- Install new wastewater connections for a restroom; and
- Operate new zero-emission electric passenger ferry service, connecting the Berkeley ferry terminal to San Francisco.

In addition to the project components listed above, the City is considering adding solar panels to the renovated parking lot as an optional improvement. The City is in the process of deciding whether this feature will be incorporated into the project. The potential environmental impact from installing solar panels is analyzed in the EIR. The EIR also analyzes alternatives to the project as described in SECTION 5:, below.

2.2 Project Objectives

Pursuant to *CEQA Guidelines* Section 15124(b), the EIR project description must include "[a] statement of objectives sought by the proposed project… The statement of objectives should include the underlying purpose of the project." The Berkeley Water Transportation Pier Ferry Project is intended to achieve the following project objectives:

- Enhance public access and recreational opportunities at the Berkeley Waterfront that:
  - Develop or enhance public pier facilities at the City of Berkeley Waterfront.
  - Provide sufficient public access and recreational opportunities at the Berkeley Waterfront that meet regional needs, consistent with BCDC Bay Plan Policies maximizing access to the Bay.
  - Minimize environmental impacts by considering existing infrastructure and sea level rise projections.
  - Encourage the use of public transit, bicycle, and other forms of active transportation and sustainable travel to access the site.

- Provide efficient and environmentally friendly zero emission public ferry service between Berkeley and San Francisco that:
  - Improves regional connectivity and resiliency with enhanced public transportation choices for East Bay residents, including for accessing jobs in San Francisco and other locations along the Bay for commerce and recreational purposes, and to address existing deficiencies in the Transbay transportation network.
  - Reduces the use of single-occupancy vehicles for Transbay trips, thereby reducing greenhouse gas and air quality emissions and decreasing congestion on the regional roadway system, consistent with regional and Statewide goals.
  - Provides travel times and costs that are competitive with other Transbay modes of travel.
  - Provides public transit facilities that are compatible with operations and recreational activities at the Berkeley Waterfront.
  - Provides navigable conditions for safe and efficient operation of ferry vessels.
  - Provides options for emergency response and transportation services in case of an emergency, such as natural or human-caused event that disables roads, other transit, bridges, and/or tunnels.

SECTION 3: ENVIRONMENTAL REVIEW PROCESS

Pursuant to the California Environmental Quality Act (CEQA), lead agencies are required to consult with public agencies having jurisdiction over a proposed project and to provide the general public with an opportunity to comment on the Draft EIR.

On April 18, 2025, the City of Berkeley issued a Notice of Preparation (NOP) for a 31-day comment period until May 19, 2025, to receive input on the scope and content of the EIR and help identify the types of impacts that could result from the project as well as potential areas of controversy. The NOP was filed with the County Clerk, published in a local newspaper, and mailed to public agencies (including the State Clearinghouse), organizations, and individuals considered likely to be interested in the project and its potential impacts. The City received written responses to the NOP regarding the scope and content of the EIR. The City also held an EIR scoping meeting May 5, 2025, at which 12 members of the public provided verbal comments. In addition to the verbal comments received during the EIR scoping meeting, the City received written scoping comment letters from 6 agencies, 3 Native American Tribes, 7 organizations, and 17 individuals in response to the NOP during the public review period.

The Draft EIR was made available for public review and comment on February 27, 2026. The Notice of Availability of a Draft EIR was posted with the Alameda County Clerk, filed with the State Clearinghouse for distribution to State agencies, published in a local newspaper, and mailed to local agencies and interested organizations. A Notice of Completion was also filed with the State Clearinghouse. The Draft EIR and an announcement of its availability were posted electronically on the City's website. The original public review and comment period was established as a 45-day review period, ending on April 13, 2026. On April 1, 2026, the City issued a revised Notice of Availability, notified the State Clearinghouse and project distribution list, and extended the public review and comment period by an additional 15 days. As a result, the Draft EIR was circulated for a total of 60 days, and the public comment period closed on April 28, 2026. The City received 102 written comment letters on the Draft EIR. The City also held a Draft EIR public meeting on March 16, 2026, to receive public comments on the environmental analysis during which 23 individual persons provided verbal comments on the Draft EIR.

SECTION 4: FINDINGS

These findings summarize the environmental determinations of the EIR about project impacts before and after mitigation, and do not attempt to repeat the full analysis of each environmental impact contained in the EIR. Instead, these findings provide a summary description of and basis for impacts in the EIR, describe the applicable mitigation measures identified in the EIR, and state the City’s findings and rationale regarding the significance of impacts with the implementation of identified mitigation measures. A full explanation of these

environmental findings and conclusions can be found in the EIR, and these findings hereby incorporate by reference the discussion and analysis in the EIR supporting the EIR's determinations regarding mitigation measures and the project's impacts.

4.1 SIGNIFICANT EFFECTS THAT CANNOT BE MITIGATED TO A LESS-THAN-SIGNIFICANT LEVEL

The Draft EIR identifies the following significant and unavoidable adverse project-level impacts associated with the approval of the project, some of which can be reduced, although not to a less-than-significant level, through implementation of mitigation measures identified in the Final EIR (Public Resources Code § 21081(a)(1)). To the extent that these mitigation measures will not mitigate or avoid all significant effects on the environment, it is hereby determined that any remaining significant and unavoidable adverse impacts are acceptable for the reasons specified in SECTION 6:, below (Public Resources Code § 21081(a)(3)). The findings in this section are based on the Draft EIR, the discussion and analysis in which is hereby incorporated in full by this reference.

The Draft EIR also identified significant and unavoidable cumulative impacts, which are addressed in Section 4.4.

4.1.1 Noise

Impact NOI-1: Operational Impacts: Mobile and stationary operational noise impacts would be less than significant. Construction Impacts: Most project construction noise impacts would be less than significant with mitigation; however, construction noise levels at Shorebird Park and some live-aboard boats, including for demolition and daytime and nighttime pile installation, would still exceed City thresholds and, thus, overall construction noise impacts would be significant and unavoidable.

> *Mitigation Measure NOI-1*: ***Prepare and Implement Construction Noise Management Plan Prior to and During Construction****. Prior to the start of construction activities, a Construction Noise Management Plan shall be submitted to and approved by the City's Public Works Department. The Construction Noise Management Plan shall include the following:*
>
> - *Prior to the initiation of construction activities at the project site, the contractor shall install temporary noise barriers/blankets between the construction boundary and nearby sensitive receptors. The temporary barriers/blankets shall have a minimum height of 12 feet to block the line of sight between operating construction equipment and adjacent sensitive receptors. Barriers shall be constructed with a solid material that has a density of at least one pound per square foot with no gaps from the ground to the top of the barrier and be lined on the construction side with acoustical blanket, curtain, or equivalent absorptive material rated STC 32 or higher. The temporary barriers/blankets shall be installed as follows:*
>   - *For landside construction activities occurring near the pier entrance/public plaza, temporary noise barriers/blankets shall be installed around the construction boundaries between the construction work areas and the Skates on the Bay Restaurant and Horseshoe Park located to the north and Shorebird Park located to the east.*
>   - *For construction activities occurring at/near the Seawall Drive parking lot, temporary noise barriers/blankets shall be installed between the construction boundary and Shorebird Park to the north.*
>   - *For construction activities occurring along University Avenue, temporary noise barriers/blankets shall be installed between the construction work areas and the live-aboard boats in the Marina to the north and Shorebird Park and Adventure Playground to the south.*
> - *With approval of the project structural engineer, landside pile holes shall be pre-drilled to minimize the number of impacts necessary to seat the pile, where feasible.*
> - *Pile driving shall be scheduled to have the least impact on nearby live-aboards or houseboats.*

- *Applicable pile driving noise control devices shall be integrated to the extent feasible to conduct both landside and in-water pile driving. These may include, but are not limited to, shrouding the pile hammer point of impact, by placing resilient padding directly on top of the pile cap, and/or by reducing exhaust noise with a sound-absorbing muffler.*
- *Alternatives to impact hammers, such as oscillating or rotating pile installation systems, shall be used where possible for landside pile driving.*
- *At least 10 days prior to the start of construction activities, a sign shall be posted at the construction site, or other conspicuous location, that includes a telephone number, website and email for project information, and a procedure in which a construction manager shall respond to and investigate noise complaints and take corrective action, if necessary, in a timely manner.*
- *At least 21 days prior to the start of construction activities, businesses and residents (including occupied live-aboard boats) within 500 feet of the project site shall be notified of the planned construction activities. The notification shall include a brief description of the project, the activities that would occur, the hours when construction would occur, and the overall duration of the construction period. The notification shall include the telephone numbers and email addresses of the City's and contractor's authorized representatives that are assigned to respond in the event of a noise complaint.*
- *If a construction noise complaint is registered and if City code enforcement is not available to make noise measurements, the City shall retain a City-approved noise consultant to conduct noise measurements at the properties that registered the complaint. The noise measurements shall be conducted for a minimum of one hour. The consultant shall prepare a letter report for code enforcement summarizing the measurements, calculation data used in determining impacts, and potential measures to reduce noise levels to the maximum extent feasible.*
- *Prior to the start of and for the duration of construction, the contractor shall properly maintain and tune all construction equipment in accordance with the manufacturer's recommendations to minimize noise emissions.*
- *Prior to use of any construction equipment, the contractor shall fit all equipment with properly operating mufflers, air intake silencers, and engine shrouds no less effective than as originally equipped by the manufacturer.*
- *Material hauling and deliveries shall be coordinated by the construction contractor to reduce the potential of trucks waiting to unload for protracted periods of time.*
- *To the extent feasible, hydraulic equipment shall be used instead of pneumatic impact tools, and electric-powered equipment shall be used instead of diesel-powered equipment.*
- *Stationary noise sources (e.g., generators) shall be located as far from sensitive receptors as practicable, and they shall be muffled and enclosed within temporary sheds, or insulation barriers with a minimum STC rating of 32.*
- *The use of bells, whistles, alarms, and horns shall be restricted to safety warning purposes only.*
- *Signs shall be posted at the job site entrance(s), within the on-site construction zones, and along queueing lanes (if any) to reinforce the prohibition of unnecessary engine idling. All other equipment shall be turned off if not in use for more than five minutes. The construction manager shall be responsible for enforcing this.*

Finding: The City finds that implementation of Mitigation Measure NOI-1, which is hereby adopted and incorporated into the project, would reduce construction noise impacts to the maximum extent feasible. However, even with implementation of this mitigation measure, construction noise impacts would remain significant and unavoidable. Specifically, daytime pile-driving activities and nighttime pile-driving activities would continue to exceed applicable City noise standards at nearby sensitive receptors. No additional feasible mitigation measures have been identified that would reduce these pile-driving impacts to a less-than-significant level. The City further finds that although this impact would be significant and unavoidable, the temporary impact is acceptable when weighed against the overriding social, economic, and other considerations set forth in the Statement of Overriding Considerations (see SECTION 6: of this document).

Facts in Support of Finding: Implementation of Mitigation Measure NOI-1 would reduce construction noise levels through the use of temporary noise barriers, pile-driving noise attenuation measures, equipment controls, construction notifications, and other feasible construction noise reduction measures. However, due to the nature of pile-driving activities required for construction of the pier and ferry facilities, noise levels would nonetheless temporarily exceed applicable City standards at nearby sensitive receptors, including Shorebird Park and live-aboard boats within the Marina, during both daytime and nighttime construction. No additional feasible mitigation measures have been identified that would reduce construction noise levels to a less-than-significant level. Therefore, construction noise impacts associated with pile-driving would remain significant and unavoidable.

4.1.2 Land Use and Planning

Impact LU-2: Construction of the proposed project would not be consistent with policies related to noise in the Berkeley Municipal Code, and impacts would be significant and unavoidable.

Mitigation Measure NOI-1: ***Prepare and Implement Construction Noise Management Plan Prior to and During Construction.*** *Refer to Impact NOI-1 in Section 4.1.1 of these Findings.*

Finding: The City finds that implementation of Mitigation Measure NOI-1, which is hereby adopted and incorporated into the project, would reduce construction noise impacts to the maximum extent feasible. However, temporary construction noise impacts would remain significant and unavoidable with respect to consistency with applicable land use plans, policies, and regulations. Specifically, construction noise impacts would not be consistent with the noise standards established in the Berkeley Municipal Code. While implementation of other mitigation measures identified in the Draft EIR would also be required for Impact LU-2 and are addressed elsewhere in Section 4.2, EFFECTS DETERMINED TO BE MITIGATED TO LESS-THAN-SIGNIFICANT LEVELS, of these Findings, Mitigation Measure NOI-1 is the mitigation measure relevant to the residual land use and planning impact associated with construction noise. No additional feasible mitigation measures have been identified that would reduce this impact to a less-than-significant level. The City further finds that although this impact would be significant and unavoidable, the temporary impact is acceptable when weighed against the overriding social, economic, and other considerations set forth in the Statement of Overriding Considerations (see SECTION 6: of this document).

Facts in Support of Finding: The Draft EIR concluded that the proposed project would be generally consistent with applicable regional and local plans, including the Berkeley General Plan, Berkeley Marina Master Plan, Bay Area Clean Air Plan, Plan Bay Area 2050, Berkeley Climate Action Plan, Berkeley Local Hazard Mitigation Plan, Berkeley Measure L, and the BCDC San Francisco Bay Plan. However, as discussed in Section 3.10, *Noise*, of the Draft EIR, daytime and nighttime pile-driving activities would nonetheless temporarily exceed applicable noise standards in the Berkeley Municipal Code even with implementation of Mitigation Measure NOI-1. Because the project would remain inconsistent with a regulation adopted for the purpose of avoiding or mitigating an environmental effect, construction noise and related land use compatibility impacts would remain significant and unavoidable.

4.1.3 Recreation

Impact REC-2: The project includes the construction of recreational facilities, the potential environmental impacts of which are identified and evaluated throughout this Environmental Impact Report. This impact would be significant and unavoidable.

Mitigation Measure NOI-1: ***Prepare and Implement Construction Noise Management Plan Prior to and During Construction.*** *Refer to Impact NOI-1 in Section 4.1.1 of these Findings.*

Finding: The City finds that implementation of Mitigation Measure NOI-1, which is hereby adopted and incorporated into the project, would reduce construction noise impacts to the maximum extent feasible. However, temporary construction noise associated with construction of the proposed recreational facilities would remain significant and unavoidable. Specifically, construction noise would exceed noise thresholds established in the Berkeley Municipal Code. Implementation of other mitigation measures

identified in the Draft EIR would also be required for Impact REC-2, which are addressed in Section 4.2, EFFECTS DETERMINED TO BE MITIGATED TO LESS-THAN-SIGNIFICANT LEVELS of these Findings as appropriate. However, Mitigation Measure NOI-1 is the mitigation measure relevant to the residual recreation impact because construction noise associated with construction of the proposed recreational facilities would nonetheless temporarily exceed applicable City noise standards even with implementation of Mitigation Measure NOI-1. No additional feasible mitigation measures have been identified that would reduce this impact to a less-than-significant level. The City further finds that although this impact would be significant and unavoidable, the temporary impact is acceptable when weighed against the overriding social, economic, and other considerations set forth in the Statement of Overriding Considerations (see SECTION 6: of this document).

Facts in Support of Finding: Construction of the recreational facilities included in the project would result in a significant and unavoidable temporary impact related to construction noise. Implementation of project Mitigation Measure NOI-1 would reduce this impact but not to a level of less-than-significant. As discussed in Section 3.10, *Noise*, of the Draft EIR, construction of the pier and breakwater would require pile-driving activities that would continue to exceed applicable City noise standards even with implementation of Mitigation Measure NOI-1. Because construction noise impacts would remain significant and unavoidable, the physical impact on the environment associated with construction of the proposed recreational facilities would also remain significant and unavoidable.

4.2 EFFECTS DETERMINED TO BE MITIGATED TO LESS-THAN-SIGNIFICANT LEVELS

The Draft EIR identified certain potentially significant effects that could result from the project. However, the City finds for each of the significant or potentially significant impacts identified in this section (Section 4.2) that, based upon substantial evidence in the record, changes or alterations have been required or incorporated into the project which avoid or substantially lessen the significant effects as identified in the Final EIR (CEQA Guidelines Section 15091) and, thus, that adoption of the mitigation measures set forth below will reduce these significant or potentially significant effects to less-than-significant levels. These measures will be required of the project as part of the City review and approval process where applicable.

4.2.1 Aesthetics

Impact AES-4. Construction lighting from the proposed project would affect nearby houseboat residents or occupants. This impact would be less than significant with mitigation. Operation of the Proposed project would result in sources of light and glare from overhead light fixtures and safety and wayfinding lighting. However, operational levels of light and glare would be minor, similar to existing conditions, and all lighting associated with the project would be designed with DarkSky approved fixtures, resulting in a less than significant impact during operations.

Mitigation Measure AES-1: ***Reduce Night Lighting During Construction of Facilities****. Night lighting for construction activities, staging areas and other areas used for construction shall be the minimum necessary to ensure safety and security for nighttime activities and operations. As part of planning and project implementation, the City or its contractor(s) shall ensure nighttime lighting used for construction is shielded and oriented downwards toward the work area(s) to reduce off-site light spill during nighttime construction activities. Lighting at the project site shall consist of light-emitting diode lights in all areas where nighttime construction activities will occur and be either motion-activated or use timers to ensure safety and security and reduce the impact of nighttime light pollution. Furthermore, all lighting would be designed in compliance with Illuminating Engineering Society (IES) and DarkSky recommendations. The City of Berkeley shall verify that this mitigation measure is included in the project's final construction specifications prior to the initiation of construction activities.*

Finding: The City finds that implementation of Mitigation Measure AES-1, which is hereby adopted and incorporated into the project, would avoid or substantially reduce the significant environmental effect identified in the Final EIR to a less-than-significant level.

Facts in Support of Finding: Implementation of Mitigation Measure AES-1 would require nighttime construction lighting to be limited to the minimum necessary for safety and security, shielded and directed downward and inward toward work areas, and designed consistent with IES and DarkSky recommendations. Therefore, impacts related to light and glare would be reduced to a less-than-significant level with implementation of Mitigation Measure AES-1.

4.2.2 Air Quality

Impact AQ-2. The project would result in a cumulatively considerable net increase of criteria pollutants (specifically NOx) for which the project region is in non-attainment under an applicable federal or state air quality standard, prior to mitigation. With implementation of Mitigation, NOx would be reduced to below regulatory thresholds. Impacts would be less than significant with mitigation.

Mitigation Measure AQ-1: ***Implement Construction Emissions Reduction Measures During Construction****. Prior to issuance of grading and construction permits, the City or its contractor(s) shall include the following measures on all construction plans, and these measures shall be implemented during construction:*

- *All mobile off-road equipment (wheeled or tracked) greater than 50 horsepower used during construction activities shall meet the USEPA Tier 4 final standards. Tier 4 certification can be for the original equipment or equipment that is retrofitted to meet the Tier 4 final standards.*
- *Alternative Fuel (natural gas, propane, electric, etc.) construction equipment shall be incorporated where available. These requirements shall be incorporated into the contract agreement with the construction contractor. A copy of the equipment's certification or model year specifications shall be available upon request for all equipment on-site.*
- *Electricity shall be supplied to the site from the existing power grid to support the electric construction equipment. If connection to the grid is determined to be infeasible for portions of the project, a non-diesel fueled generator shall be used.*
- *The project would comply with the CARB Air Toxics Control Measure that limits diesel powered equipment and vehicle idling to no more than five minutes at a location, and the CARB In-Use Off-Road Diesel Vehicle Regulation; compliance with these would minimize emissions of TACs during construction.*

In addition, the City shall require the proposed project to comply with the following current Bay Area Air District's basic control measures for reducing construction emissions of PM_{10}[3] :

- *All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.*
- *All haul trucks transporting soil, sand, or other loose material off-site shall be covered.*
- *All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.*
- *All vehicle speeds on unpaved roads shall be limited to 15 mph.*
- *All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.*
- *Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.*
- *All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.*

[3] Bay Area Air District. 2017. California Environmental Quality Act Air Quality Guidelines, Table 8-2. Available: https://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en (accessed October 2025).

- *Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.*

Finding: The City finds that implementation of Mitigation Measure AQ-1, which is hereby adopted and incorporated into the project, would avoid or substantially reduce the significant environmental effect identified in the Final EIR to a less-than-significant level.

Facts in Support of Finding: Implementation of Mitigation Measure AQ-1 would require the use of Tier 4 Final or alternatively fueled construction equipment, compliance with CARB idling requirements, and implementation of Bay Area Air District construction dust-control measures. Without mitigation, project construction would exceed the Bay Area Air District threshold for NOX emissions. However, implementation of Mitigation Measure AQ-1 would reduce NOX emissions below applicable Bay Area Air District significance thresholds. Therefore, impacts related to construction criteria air pollutant emissions would be less than significant with implementation of Mitigation Measure AQ-1.

Impact AQ-3. The project would not increase carbon monoxide concentrations such that it would create carbon monoxide hotspots, and construction of the project would not result in emissions of TACs sufficient to exceed applicable health risk criteria with implementation of mitigation. Impacts would be less than significant with mitigation.

Mitigation Measure AQ-1: ***Implement Construction Emissions Reduction Measures During Construction.*** *Refer to Impact AQ-2 above.*

Finding: The City finds that implementation of Mitigation Measure AQ-1, which is hereby adopted and incorporated into the project, would avoid or substantially reduce the significant environmental effect identified in the Final EIR to a less-than-significant level.

Facts in Support of Finding: Implementation of Mitigation Measure AQ-1 would require the use of Tier 4 Final or alternatively fueled construction equipment, compliance with CARB idling requirements, and other construction emissions reduction measures that would minimize emissions of toxic air contaminants during construction. With implementation of Mitigation Measure AQ-1, construction-related health risks related to exposure of sensitive receptors to TACs would not exceed applicable significance thresholds. In addition, project-related roadway vehicle volumes would not increase roadway vehicle volumes at affected intersections to levels associated with carbon monoxide hotspots, and therefore operational carbon monoxide hotspot impacts would be less than significant without mitigation. Therefore, with implementation of Mitigation Measure AQ-1 to reduce construction-related toxic air contaminant health risks, the project would not expose sensitive receptors to substantial pollutant concentrations, including toxic air contaminant emissions and carbon monoxide hotspots, and impacts would be less than significant with mitigation.

4.2.3 Biological Resources

Impact BIO-1: Construction of the project would result in direct or indirect impacts to special-status species or their associated habitats including impacts to migratory bird nest sites. Impacts would be less than significant with mitigation.

Crotch's bumblebee has a low likelihood to be present in undeveloped portions of the project site. Based on the low likelihood for this species to occur, the low quality of habitat in the project site, and the distance from the known occurrence of this species, potential impacts to Crotch's bumblebee are less than significant. Nonetheless, the City would implement Mitigation Measure 1(f), as recommended by CDFW. Implementation of this mitigation, however, does not change the conclusion that impacts to this species is less than significant without mitigation.

Mitigation Measure BIO-1(a): ***Implement Worker Environmental Awareness Program Prior to and During Construction.*** *Prior to initiation of all construction activities (including staging and mobilization), all personnel associated with project construction shall attend a Worker Environmental Awareness Program training, conducted by a City-approved qualified biologist, to aid workers in recognizing special-*

status biological resources that may occur in the project area. This training will include information about northwestern pond turtle, special-status fish, marine mammals, and nesting birds potentially occurring in the project site.

The specifics of this program shall include identification of special-status species and habitats, a description of the regulatory status and general ecological characteristics of special-status resources, and review of the limits of construction and measures required to avoid and minimize impacts to biological resources within the work area. A fact sheet conveying this information shall also be prepared for distribution to all contractors, their employees, and other personnel involved with construction of the project. All employees shall sign a form provided by the trainer documenting they have attended the Worker Environmental Awareness Program and understand the information presented to them. The crew foreman shall be responsible for ensuring crew members adhere to the guidelines and restrictions designed to avoid impacts to special-status species.

Mitigation Measure BIO-1(b): ***Conduct Northwestern Pond Turtle Survey and Avoidance Prior to Construction.*** *No less than seven days prior to the start of any construction activities within 500 feet of Strawberry Creek (including staging and mobilization), a City-approved qualified biologist will conduct a preconstruction survey for northwestern pond turtle within suitable habitat on the project site as feasible. If any northwestern pond turtle are identified within the work area, they will be allowed to leave the work site on their own. CNDDB Field Survey Forms will be submitted to the CDFW for all special-status animal species observed.*

If any northwestern pond turtles are observed by construction personnel within or adjacent to (within 50 feet) the project site, all work within the vicinity of the observation will be halted and the City will contact CDFW immediately for guidance. Only a CDFW-approved biologist will capture and relocate wildlife. Construction personnel are not permitted to handle said animals. If northwestern pond turtles become federally listed at the time of construction, no individuals shall be handled without approval from USFWS.

A report of all pre-construction survey efforts will be submitted to the City within 30 days of completion of the survey effort to document compliance. The report will include the dates, times, weather conditions, and personnel involved in the surveys and monitoring. The report will also include for each captured special-status animal, the Universal Transverse Mercator (UTM) coordinates and habitat descriptions of the capture and release sites (in UTM coordinates), the length of time between capture and release, and the general health of the individual(s).

This measure may be modified or supplemented by permit conditions from applicable regulatory agencies.

Mitigation Measure BIO-1(c): ***Conduct Burrowing Owl and Nesting Bird Survey and Avoidance Prior to Construction.***

Burrowing Owl

Prior to project construction, a qualified biologist will conduct a habitat assessment to determine if potential habitat for burrowing owl is present in or near the project site. If potential habitat is present in or within 500 feet of the project site, a qualified biologist will conduct a pre-construction survey of the project area (plus a 500-foot buffer as access allows) for the presence of burrowing owl. The survey will be conducted no more than 14 days prior to ground disturbing activities and will conform to CDFW guidelines for burrowing owl Take Avoidance Surveys as described in Appendix D of the 2012 CDFW Staff Report on Burrowing Owl Mitigation.[4] A report of pre-construction survey efforts and results will be submitted to the City within 30 days of completion of the survey. The report will include the dates, times, weather conditions, and personnel involved in the survey. Depending on survey results, the report will also include observations of burrowing owl or potential burrows, and the location and habitat description of the observations. If burrowing owl, active burrows, or their sign (i.e., tracks or pellets) are not observed in the project area, no additional measures related to impact avoidance and minimization of the absent

[4] California Department of Fish and Game (CDFG). 2012. Staff Report on Burrowing Owl Mitigation. Department of Fish and Game. March 7, 2012. Available at: http://www.dfg.ca.gov/wildlife/nongame/docs/BUOWStaffReport.pdf2 (accessed July 2026).

species are recommended. If burrowing owl, active burrows, or their sign are observed within the project site, CDFW will be notified and the following measures will be implemented:

- *A qualified biological monitor will be present during landside construction on the project site to document burrowing owl observations, burrow statuses, and require that construction activities do not negatively affect burrowing owl. The duration and frequency of monitoring will be determined at the discretion of the qualified biologist and a monitoring report detailing monitoring results will be submitted to the City within 30 days of the completion of project activities or breeding season (February 1 to August 31), if applicable.*
- *The biological monitor will visually inspect any pipes, debris piles, culverts, or similar structures for burrowing owl before the material is moved, buried, or capped. Open holes and trenches within the project site will be inspected at the beginning and end of each landside construction workday and immediately prior to backfilling. At the end of each such workday, trenches and holes will be ramped so that any animals that may have become trapped in the trench or hole can climb out. The ramp may be constructed of dirt fill or wood planking or other suitable material at an angle no greater than 30-45 degrees. If a burrowing owl is trapped in a trench or hole, work will stop and the qualified biologist will be notified immediately. The burrowing owl will be allowed to escape unimpeded.*
- *If active burrows are observed on the project site, a non-disturbance buffer will be established restricting all ground-disturbing activities from occurring within the buffer and a qualified biological monitor will be present at the initiation of project activities. The buffer will be established by a qualified biologist and range from 330 ft. to 1,500 ft. depending on project activity, line of sight, and local topography during the breeding season. During the non-breeding season (September 1 to January 31), the buffer will range from 165 ft. to 330 ft. The buffer will be demarcated using brightly colored flagging and may only be reduced at the discretion of a qualified biologist based on the factors listed above and potential use of sound and visual barriers (i.e., hay bales). Removal of the buffer will only occur if a qualified biologist determines burrowing owl are not present in the vicinity and any potential burrows are inactive.*
- *If active burrow avoidance is infeasible during the non-breeding season or during the breeding season, where resident owls have not yet begun egg laying or incubation, or where the juveniles are foraging independently and capable of independent survival, the City in coordination with a qualified biologist will consult with CDFW to prepare, authorize, and implement a passive relocation program consistent with Appendix E of the 2012 CDFW Staff Report on Burrowing Owl Mitigation.*
- *A habitat mitigation plan will be developed in coordination with the City and CDFW for loss of active burrowing owl burrow sites if implementation of a passive relocation plan is necessary and/or burrowing owl are documented to nest on site or within 500 feet of the project site. This would be based upon the portion of the project site that overlaps with the primary foraging area around the burrow site (approximately 500-foot buffer) to be replaced at a minimum 1:1 ratio.*

Nesting Birds

Project construction activities, including but not limited to vegetation removal and ground disturbance that result in noise or disturbance affecting potential nesting bird habitat, should commence outside of the nesting season (February 1 through September 15), if feasible. If construction begins outside the nesting season, a nesting bird survey is not required.

If ground disturbing project activities begin within the nesting season (February 1 through September 15), then no more than seven days prior to the initiation of project activities, a nesting bird pre-construction survey shall be conducted by a City-approved qualified biologist within the disturbance footprint, plus a 300-foot buffer for passerines and a 1,000-foot buffer for raptors. During construction within the nesting season, an additional focused survey shall be conducted prior to tree removal to identify active nests with the subject tree(s). If no active nests are observed, no further action would be required. Ground-disturbing project activities that are initiated outside of the nesting season may continue into the nesting season without requiring new nesting bird surveys.

Pre-construction nesting bird surveys shall be conducted by a qualified biologist during the time of day when birds are most active and should be of sufficient duration to reliably conclude presence or absence of nesting birds on the project site and within the designated buffer. A report of the nesting bird surveys results shall be submitted to the City for review and approval prior to clearance for mobilizing equipment. If nests are found, their locations shall be flagged (if possible) and recorded with the use of a GPS unit. Avoidance buffers shall be established around active nests. Depending upon the species, suitable minimum buffers may be 50 feet for non-raptor species and 300 feet for raptor species, or as determined by the qualified biologist in consultation with CDFW based on species sensitivity, construction activities, and other factors.

If active nests are present, all project work shall be conducted outside the established avoidance buffer zone from the nest until it is no longer active. No staging of large equipment shall occur within the avoidance buffer until the qualified biologist confirms that breeding/nesting is complete and all the young have fledged. If buffer zones are determined to be infeasible, a City-approved qualified biological monitor shall be on site to monitor project activities within the avoidance buffer zones to ensure active nests and nesting birds are not impacted. Nesting bird surveys are not required for project activities that occur between September 16 and January 31. A report of all survey results and any proposed avoidance buffers shall be submitted to the City for review and approval.

This measure may be modified or supplemented by permit conditions from applicable regulatory agencies.

Mitigation Measure BIO-1(d): ***Conduct Pile Driving Impact Avoidance to Fish and Marine Mammals Prior to and During Construction.*** *In-water work, including pile driving and dredging, shall be limited to the window of June 1 through November 30. The soft-start, ramp-up, exclusion-zone and sound attenuation procedures described below apply to pile-driving and pile-extraction activities. A "soft start" technique will be used to allow fish and marine mammals to vacate the area before the pile driver reaches full power. For vibratory hammers, the contractor will initiate the driving for 15 seconds at reduced energy, followed by a 1-minute waiting period when there has been downtime of 30 minutes or more. This procedure shall be repeated two additional times before continuous driving is started. This procedure would also apply to vibratory pile extraction. For impact driving, an initial set of three strikes would be made by the hammer at 40 percent energy, followed by a 1-minute waiting period, then two subsequent three-strike sets before initiating continuous driving. Pile-driving activity shall not begin at any location if any marine mammal is observed within the applicable safe-zone distance for its hearing group, as defined for the specific pile-driving method (e.g., pile diameter, vibratory or impact installation, and number of piles installed per day). Safe-zone distances shall follow the most current NMFS-approved guidance and the Marine Mammal Monitoring Plan prepared pursuant to Mitigation Measure BIO-1(E). In all cases, a minimum exclusion distance of no less than 10 meters shall be maintained around the pile-driving location. If a marine mammal moves within the safe zone after pile driving has begun, the contractor shall implement the appropriate delay or shutdown as described in Mitigation Measure BIO-1(E). A sound curtain, or bubble curtain, shall be employed during impact pile driving to break up sound waves, as feasible. The sound curtain would consist of a perforated hose laid in a circle to release air bubbles around the pile and diesel impact hammer. Jetting methods using pressurized water and/or wood cushion block methods shall also be employed as feasible to minimize impacts.*

If the intensity of the pile-driving activity needs to be increased or a marine mammal is within the safe zone buffer for the activity, pile-driving shall be "ramped-up", which is a slow increase in the intensity of pile-driving. At the start of pile-driving for each pile at all locations, the pile shall be struck once with the hammer and the second pile strike delayed long enough to permit adequate time for any marine mammals within the safe zone to leave the area prior to the start of sustained pile-driving activities.

This measure, including the technique and the size of the safe zone, may be modified or supplemented by permit conditions from applicable regulatory agencies.

Mitigation Measure BIO-1(e): ***Prepare Marine Mammal Monitoring Plan Prior to Construction and Implement Recommendations During Construction.*** *Prior to construction, the City shall prepare a Marine Mammal Monitoring Plan (MMMP) to avoid and minimize potential adverse impacts on marine*

mammals during pile driving and tug operations. The MMMP shall implement general guidelines set forth in the MMPA and incorporate the hydroacoustic modeling results developed for the project to define site-specific protection zones and avoid exposure of marine mammals to underwater sound levels exceeding the most up to date Level A (injury) thresholds identified by NOAA Fisheries. The MMMP shall include the following:

- ***Protection and Monitoring Zones**: Using the hydroacoustic modeling results, the MMMP shall define shutdown and disturbance zones for each marine mammal hearing group. These zones will be tailored to the pile type, size, and driving method and will correspond to the Level A and Level B effect distances developed for the project. The plan will describe how these protection zones will be verified and monitored in the field, integrating them with the soft-start and observation procedures described in Mitigation Measure BIO-1(d).*
- ***Vessel Operation Protocols**: The MMMP shall include vessel-operation measures consistent with the MMPA. Construction vessels under power shall remain at least 300 feet from whales and 150 feet from dolphins, porpoises, seals, and sea lions. When marine mammals are encountered, vessel operators shall reduce speed to no-wake, shift to neutral, and allow the animals to pass safely before resuming operations.*
- ***On-Site Monitoring and Response**: A qualified biologist shall be present on site, either observing from the pier or aboard a vessel, during all pile-driving and tug operations. The biologist shall document all marine-mammal observations, note behavioral responses, and immediately alert project personnel if a whale enters the modeled harassment distance or comes within 300 feet, or if any other marine mammal enters the modeled harassment distance or comes within 150 feet, whichever is greater. Upon such an observation, the contractor shall implement the appropriate delay or shutdown procedures identified in the MMMP.*
- ***Adaptive Management and Coordination**: The MMMP shall outline communication and reporting protocols, including stop-work notification procedures and coordination with NMFS Protected Species Division. Results from daily monitoring will be used to assess the effectiveness of the protection zones and adjust them, if needed, in consultation with NMFS.*
- ***Nighttime Pile Driving**: Nighttime pile driving shall be limited to situations where safety concerns or significant schedule delays require that pile driving started during daytime hours extend beyond typical work hours. For instances where nighttime pile driving is required, the MMMP shall include non-visual monitoring protocols, such as passive acoustic monitoring, thermal/infrared cameras, and night vision optics, as well as larger nighttime exclusion/shutdown zones, extended soft start procedures, and the most effective feasible hydroacoustic attenuation.*

This measure may be modified or supplemented by permit conditions from applicable regulatory agencies.

Mitigation Measure BIO-1(f): ***Implement CDFW-Requested Measure for Crotch's Bumble Bee Prior to Construction.***[5] *A formal habitat assessment of the project site landside project disturbance areas shall be performed by a qualified biologist prior to initiating ground disturbing activities to determine if suitable nesting or foraging habitat is present within the project site. The assessment shall include:*

- *Review of occurrence record data*
- *Analysis of foraging, nesting, and overwintering resources*

[5] During the Draft EIR public review period, CDFW requested implementation of additional measures related to Crotch's bumble bee, a State candidate endangered species. As discussed in Draft EIR Section 3.3, *Biological Resources*, the project site contains limited, low-quality habitat for Crotch's bumble bee and the species has a low potential to occur within the project site, and accordingly, as further discussed in Chapter 2, *Responses to Comments*, and clarified in Chapter 3, *Errata*, of the Final EIR, impacts to Crotch's bumble bee were determined to be less than significant without mitigation. In response to CDFW's comment, the City added Mitigation Measure BIO-1(f) to the Final EIR and Mitigation Monitoring and Reporting Program to provide for habitat assessment, preconstruction surveys, and CDFW consultation if the species is detected. However, Mitigation Measure BIO-1(f) is not required to reduce a significant environmental impact, and its addition to the Final EIR or implementation thereafter does not alter the significance conclusion that impacts to Crotch's bumble bee would be less than significant without mitigation. Accordingly, Mitigation Measure BIO-1(f) is not relied upon as the basis for this finding.

- *Documentation of plant species observed (including what is blooming at the time of the survey and percent cover)*

The locations of nesting resources, including rodent burrows, cavities, thatched grasses, brush, rock piles, fallen logs, and manmade structures, shall be mapped during the assessment. Areas adjacent (within 50 feet) to the project site shall also be considered, if accessible, to determine if there is suitable nesting or foraging habitat.

If suitable nesting and foraging resources are detected during the habitat assessment, they will be avoided by a minimum 50-foot buffer, where possible. If avoidance is not possible, protocol-surveys following the CDFW Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species (CDFW 2023) will be conducted to determine if Crotch's bumble bee is present within the project site. A minimum of three visits will be conducted during the colony active season (April – August) and will be spaced 2-4 weeks apart. Surveys will be conducted each year that construction activities occur within suitable nesting habitat because bumble bees move their nests each year. If no Crotch's bumble bees are detected on the project site, no further mitigation actions will be required. If Crotch's bumble bees are detected, consultation with CDFW will be initiated to determine the most appropriate strategy to avoid impacts to bumble bees on the project site. If full take avoidance is not feasible, the City will apply to CDFW for take authorization under an Incidental Take Permit.

Mitigation Measure HYD-1: ***Include and Implement Additional Best Management Practices in the SWPPP Prior to and During Pier Demolition.*** *Refer to Impact HYD-1 in Section 4.2.6 of these Findings.*

Mitigation Measure AES-1: ***Reduce Night Lighting During Construction of Facilities.*** *Refer to Impact AES-4 in Section 4.2.1 of these Findings.*

Finding: The City finds that implementation of Mitigation Measures BIO-1(a) through BIO-1(e), HYD-1, and AES-1, which are hereby adopted and incorporated into the project, would avoid or substantially reduce the significant environmental effect identified in the Final EIR to a less-than-significant level.

Facts in Support of Finding: Implementation of Mitigation Measures BIO-1(a) through BIO-1(e) would require a Worker Environmental Awareness Program; preconstruction surveys, avoidance measures, monitoring, and agency coordination for northwestern pond turtle, burrowing owl, nesting birds, and marine mammals; and implementation of a Marine Mammal Monitoring Plan and pile-driving avoidance measures. In addition, Mitigation Measure HYD-1 would reduce water quality impacts during in-water construction work and Mitigation Measure AES-1 would reduce construction lighting effects on biological resources. These measures would avoid or minimize impacts to special-status species and their habitats during construction and operation of the project. Therefore, impacts to special-status species and other biological resources would be less than significant with mitigation.

Impact BIO-2: Construction of the project would have a substantial adverse effect on sensitive natural communities identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service. Impacts would be less than significant with mitigation incorporated.

Mitigation Measure BIO-1(a): ***Implement Worker Environmental Awareness Program Prior to and During Construction.*** *Refer to Impact BIO-1 above.*

Mitigation Measure BIO-2: ***Implement Invasive Species Prevention During Construction.*** *The following practices shall be required for on-site construction activities:*

- *Any in-water fill materials shall be new or not salvaged from areas outside of San Francisco Bay.*
- *Any pumps or in-water construction equipment that may be needed during construction shall be cleaned and dried for at least 72 hours prior to being used on the project site.*
- *Tug boats shall not discharge untreated ballast water from outside the San Francisco Bay.*

This measure may be modified or supplemented by permit conditions from applicable regulatory agencies.

Mitigation Measure HYD-1: ***Include and Implement Additional Best Management Practices in the SWPPP Prior to and During Pier Demolition.*** *Refer to Impact HYD-1 in Section 4.2.6 of these Findings.*

Finding: The City finds that implementation of Mitigation Measures BIO-1(a), HYD-1, and AES-1, which are hereby adopted and incorporated into the project, would avoid or substantially reduce the significant environmental effect identified in the Final EIR to a level below the applicable threshold of significance.

Facts in Support of Finding: Implementation of Mitigation Measure BIO-1(a) would provide worker environmental awareness training regarding sensitive biological resources, Mitigation Measure BIO-2 would require invasive species prevention measures during construction, and Mitigation Measure HYD-1 would require implementation of additional water quality protection measures during in-water work. These measures would avoid or minimize impacts to Essential Fish Habitat, Habitat Areas of Particular Concern, critical habitat, and other sensitive marine habitats by reducing the potential for water quality degradation and the introduction or spread of invasive species during construction. Therefore, impacts to sensitive natural communities would be less than significant with mitigation.

Impact BIO-3: Construction and operation of the project would have a substantial adverse effect on state- or federally protected wetlands or Waters. Impacts would be less than significant with mitigation incorporated.

Mitigation Measure BIO-3: ***Avoid Net Loss of Jurisdictional Waters Prior to Operation.*** *The City shall avoid a net loss of jurisdictional waters due to project implementation by demolishing additional portions of the existing pier to offset net increase in fill and overwater cover. Removal of existing pier decking and associated piles shall be required at a minimum 1:1 ratio for net increase in fill and overwater cover impacts on tidal waters of the San Francisco Bay, to achieve no net increase in Bay fill. Removal of existing structures shall be implemented prior to or concurrently with construction of the new pier.*

The City shall develop a plan documenting the existing pier footprint, the proposed pier footprint, and the required additional demolition needed to demonstrate that no net increase in Bay fill or overwater cover would occur. This plan shall be developed by a qualified regulatory specialist prior to project construction and submitted to the appropriate agencies for review and approval during permitting.

This measure may be modified or supplemented by permit conditions from applicable regulatory agencies.

Mitigation Measure HYD-1: ***Include and Implement Additional Best Management Practices in the SWPPP Prior to and During Pier Demolition.*** *Refer to Impact HYD-1 in Section 4.2.6 of these Findings.*

Finding: The City finds that implementation of Mitigation Measures BIO-3 and HYD-1, which are hereby adopted and incorporated into the project, would avoid or substantially reduce the significant environmental effect identified in the Final EIR to a less than significant level.

Facts in Support of Finding: Implementation of Mitigation Measure BIO-3 would require demolition of additional portions of the existing pier to offset net increase in fill and overwater cover associated with the project, resulting in no net increase in Bay fill or overwater cover within jurisdictional waters. Mitigation Measure HYD-1 would require implementation of additional water quality protection measures during in-water construction activities. In addition, the project would be subject to permitting and approval by the U.S. Army Corps of Engineers, Regional Water Quality Control Board, and San Francisco Bay Conservation and Development Commission, which will include avoidance, minimization and mitigation requirements to achieve no net loss of jurisdictional waters. Implementation of Mitigation Measures BIO-3, HYD-1, and any additional permitting requirements would avoid or minimize impacts to jurisdictional waters and would ensure that no net loss of jurisdictional waters would occur. Therefore, impacts to State and federally protected waters would be less than significant with mitigation.

Impact BIO-5: Construction and operation of the project would be subject to the City's policies and ordinances protecting biological resources, including protected trees, and therefore would not conflict with them. Regarding consistency with policies in the BCDC Bay Plan related to protecting biological resources, impacts would be less than significant with mitigation.

Mitigation Measure BIO-1(a): ***Implement Worker Environmental Awareness Program Prior to and During Construction.*** *Refer to Impact BIO-1 above.*

Mitigation Measure BIO-1(b): ***Conduct Northwestern Pond Turtle Survey and Avoidance Prior to Construction.*** *Refer to Impact BIO-1 above.*

Mitigation Measure BIO-1(c): ***Conduct Burrowing Owl and Nesting Bird Survey and Avoidance Prior to Construction.*** *Refer to Impact BIO-1 above.*

Mitigation Measure BIO-1(d): ***Conduct Pile Driving Impact Avoidance to Fish and Marine Mammals Prior to and During Construction.*** *Refer to Impact BIO-1 above.*

Mitigation Measure BIO-1(e): ***Prepare Marine Mammal Monitoring Plan Prior to Construction and Implement Recommendations During Construction.*** *Refer to Impact BIO-1 above.*

Mitigation Measure BIO-2: ***Implement Invasive Species Prevention During Construction.*** *Refer to Impact BIO-2 above.*

Mitigation Measure BIO-3: ***Avoid Net Loss of Jurisdictional Waters Prior to Operation.*** *Refer to Impact BIO-3 above.*

Mitigation Measure AES-1: ***Reduce Night Lighting During Construction of Facilities.*** *Refer to Impact AES-4 in Section 4.2.1 of these Findings.*

Mitigation Measure HYD-1: ***Include and Implement Additional Best Management Practices in the SWPPP Prior to and During Pier Demolition.*** *Refer to Impact HYD-1 in Section 4.2.6 of these Findings.*

Finding: The City finds that implementation of Mitigation Measures BIO-1(a) through BIO-1(e), BIO-2, BIO-3, AES-1, and HYD-1, which are hereby adopted and incorporated into the project, would avoid or substantially reduce the significant environmental effect identified in the Final EIR to a less than significant level.

Facts in Support of Finding: The project would be required to comply with applicable local regulations and BCDC Bay Plan policies protecting biological resources, including the City's tree protection requirements. Implementation of Mitigation Measures BIO-1(a) through BIO-1(e), BIO-2, BIO-3, AES-1, and HYD-1 would require surveys, avoidance and minimization measures, biological monitoring, invasive species prevention, protection of jurisdictional waters, water quality protection measures, and limitations on construction lighting that could affect biological resources. These measures would ensure consistency with applicable local policies and ordinances protecting biological resources. Therefore, impacts related to conflicts with local policies or ordinances protecting biological resources would be less than significant with mitigation.

4.2.4 Cultural Resources

Impact CR-2: The proposed land and water disturbances during construction would adversely affect unidentified archaeological resources. This impact would be less than significant with mitigation for potential unknown archaeological resources.

Mitigation Measure CR-1: ***Stop Work and Prepare and Implement a Data Recovery Plan if Unanticipated Archaeological Resources are Encountered During Construction.*** *In the event that archaeological resources are unexpectedly encountered during ground-disturbing activities, work within 100 feet of the find shall halt and an archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for archaeology shall be contacted immediately to evaluate the resource.2 If the resource is determined by the qualified archaeologist to be precontact, then a Native American representative shall also be contacted to participate in the evaluation of the resource. If the resource is identified in the waterside improvements area, then a qualified marine archaeologist shall assist in the*

treatment and evaluation of the resource. Any waterside discoveries that are removed from their submerged environment shall be kept fully submerged in a container of freshwater for storage until the archaeologist can examine the find. If the qualified archaeologist and/or Native American representative determines it to be appropriate, archaeological testing for CRHR eligibility shall be completed. If the resource proves to be eligible for the CRHR and significant impacts to the resource cannot be avoided by means of changes in the design of the project, a qualified archaeologist shall prepare a data recovery plan tailored to the physical nature and characteristics of the resource, pursuant to the requirements of the California Code of Regulations, CEQA Guidelines Section 15126.4(b)(3)(C). The data recovery plan shall identify data recovery excavation methods, measurable objectives, and data thresholds to reduce any significant impacts to cultural resources related to the resource. Pursuant to the data recovery plan, the qualified archaeologist and Native American representative, as appropriate, shall recover and document the scientifically consequential information that justifies the resource's significance. The City shall review and approve the data recovery plan and archaeological testing as appropriate, and the resulting documentation shall be submitted to the regional repository of the California Historical Resources Information System, pursuant to California Code of Regulations, CEQA Guidelines Section 15126.4(b)(3)(C).

Finding: The City finds that implementation of Mitigation Measure CR-1, which is hereby adopted and incorporated into the project, would avoid or substantially reduce the significant environmental effect identified in the Final EIR to a less than significant level.

Facts in Support of Finding: Implementation of Mitigation Measure CR-1 would require work stoppage if archaeological resources are discovered, evaluation by a qualified archaeologist, participation by a Native American representative and/or qualified marine archaeologist where appropriate, archaeological testing for CRHR eligibility when warranted, and preparation and implementation of a resource-specific data recovery plan if an eligible archaeological resource cannot be avoided. Therefore, impacts related to archaeological resources would be less than significant with mitigation.

4.2.5 Geology and Soils

Impact GEO-7: Construction activities such as dredging have the potential to impact paleontological resources. Impacts would be less than significant with mitigation incorporated.

Mitigation Measure GEO-1: ***Implement Paleontological Worker Environmental Awareness Program During Construction.*** *Prior to the start of construction, a Qualified Professional Paleontologist, defined as a paleontologist who meets the Society of Vertebrate Paleontology standards, or his or her designee shall conduct a paleontological Worker Environmental Awareness Program training for all construction personnel participating in subsurface dredging regarding unanticipated discoveries and the procedures for notifying paleontological staff should fossils be discovered by construction staff. A training acknowledgment form shall be signed by all workers who receive the training, and a copy of the signed training acknowledgement form shall be retained by the project contractor and provided to the City.*

Mitigation Measure GEO-2: ***Stop Work Upon Unanticipated Discovery of Paleontological Resources and Implement Recommendations During Construction.*** *The City shall require the following mitigation measure for dredging activities. If a potential fossil is discovered during dredging, construction activity within 50 feet of the find shall cease until the discovery is examined by a Qualified Professional Paleontologist as defined by the Society of Vertebrate Paleontology.[6] If the find is determined to be scientifically significant, the Qualified Professional Paleontologist shall direct all mitigation measures related to paleontological resources consistent with the SVP (2010) standards, which shall include fossil salvage, laboratory preparation, curation in a paleontological repository, and a paleontological monitoring report. Additionally, the Qualified Professional Paleontologist and City shall decide if full- or part-time monitoring shall be instated for further project-related dredging. A Qualified Professional Paleontologist, is defined by the SVP (2010) as an individual with:*

[6] Society of Vertebrate Paleontology. 2010. Standard Procedures for the Assessment and Mitigation of Adverse Impacts to Paleontological Resources. Society of Vertebrate Paleontology Impact Mitigation Guidelines Revision Committee.

- *A graduate degree in paleontology or geology, and/or a publication record in peer reviewed journals; and demonstrated competence in field techniques, preparation, identification, curation, and reporting in the state or geologic province in which the project occurs. An advanced degree is less important than demonstrated competence and regional experience.*
- *At least two full years professional experience as assistant to a Project Paleontologist with administration and project management experience; supported by a list of projects and referral contacts.*
- *Proficiency in recognizing fossils in the field and determining their significance.*
- *Expertise in local geology, stratigraphy, and biostratigraphy.*
- *Experience collecting vertebrate fossils in the field.*

Finding: The City finds that implementation of Mitigation Measures GEO-1 and GEO-2, set forth above, which are hereby adopted and incorporated into the project, would avoid or substantially reduce the significant environmental effect identified in the Final EIR to a less-than-significant level.

Facts in Support of Finding: Implementation of Mitigation Measure GEO-1 would ensure construction staff are trained to identify paleontological resources, and Mitigation Measure GEO-2 would ensure that construction work would stop if a paleontological resource is discovered and procedures are in place that would be followed to avoid destruction of paleontological resources. Therefore, impacts would be less than significant with mitigation.

4.2.6 Hydrology and Water Quality

Impact HYD-1: Due to the focused and limited construction elements and short duration of project construction, the proposed project would not substantially degrade surface or groundwater quality, contribute meaningfully to existing water quality impairments, or result in exceedances of applicable water quality objectives or waste discharge requirements. Water quality impacts related to pier demolition would be less than significant with mitigation.

Mitigation Measure HYD-1: ***Include and Implement Additional Best Management Practices in the SWPPP Prior to and During Pier Demolition.*** *In compliance with the requirements of the Construction Stormwater General Permit, prior to construction the construction contractor shall prepare a Stormwater Pollution Prevention Plan (SWPPP) and implement the SWPPP during construction. The SWPPP shall be submitted to the Berkeley Public Works Department and the State Water Resources Control Board (via the Stormwater Multiple Application and Report Tracking System [SMARTS]) for review and approval at least 60 days prior to start of construction. In addition to standard Erosion Control, Sediment Control, and Good Housekeeping Best Management Practices, the following Best Management Practices shall be included in the SWPPP and implemented during pier demolition:*

- *Site washout areas shall be located at least 100 feet from a storm drain, open ditch or surface water and ensure that runoff flows from such activities do not enter receiving water bodies, unless otherwise approved by the RWQCB.*
- *All re-fueling, cleaning, and maintenance of equipment shall occur at least 100 feet from storm drain, open ditch or surface water and/or within secondary containment, unless otherwise approved by the RWQCB.*
- *Particular care shall be exercised to prevent foreign materials (e.g., construction scraps, wood preservatives, other chemicals and debris, etc.) from entering the San Francisco Bay during pier demolition.*
- *If wood preservatives must be applied to cut-wood surfaces, the materials, whenever feasible, shall be treated at an onshore location to preclude the possibility of spills into State waters.*
- *A containment boom shall be placed around all active portions of a construction site where wood scraps or other floatable debris could enter the water.*
- *The containment boom and net shall be cleared daily or as often as necessary to prevent accumulation of debris.*

- *Tarps and basins shall be used above deck to contain debris and materials.*
- *Dipnets shall be on-site and can be used to retrieve debris if it accidentally falls into the water.*
- *A 50-foot-long spill containment boom as well as absorbent pads shall be kept on-site and shall be deployed in the event that there is a release of fluids into the water.*
- *Contractors shall make mandatory that work crews are carefully briefed on the importance of observing the appropriate precautions and reporting any accidental spills.*

This measure may be modified or supplemented by permit conditions from applicable regulatory agencies.

Finding: The City finds that implementation of Mitigation Measure HYD-1, set forth above, which is hereby adopted and incorporated into the project, would avoid or substantially reduce the significant environmental effect identified in the Final EIR to a less than significant level.

Facts in Support of Finding: Construction activities associated with dredging, pier demolition, pile installation, and other in-water work could temporarily affect water quality through sediment disturbance, turbidity, or the accidental release of debris and pollutants. Mitigation Measure HYD-1 would require preparation and implementation of a Stormwater Pollution Prevention Plan and additional project-specific best management practices in accordance with the SWRCB Stormwater Construction General Permit, including debris containment, spill prevention and response measures, equipment maintenance requirements, and protection of Bay waters during demolition activities. Project construction would also be required to comply with the conditions of a Regional Water Quality Control Board Section 401 Water Quality Certification for work within the San Francisco Bay, which would include water quality protection measures intended to help protect water quality during construction activities in surface waters and reduce the potential for construction to result in water quality exceedances or impair beneficial uses. Compliance with applicable permit requirements and implementation of Mitigation Measure HYD-1 would avoid or minimize water quality impacts and reduce impacts to a less-than-significant level.

4.2.7 Land Use and Planning

Impact LU-2: Operation and construction of the proposed project would be consistent with the goals and policies of the Berkeley General Plan, Bay Area Clean Air Plan, ABAG/MTC Plan Bay Area 2050, Berkeley Marina Master Plan, Berkeley Local Hazard Mitigation Plan, Berkeley Climate Action Plan, and Berkeley Measure L, and impacts would be less than significant. Operation and construction of the proposed project would be consistent with the goals and policies of the BCDC San Francisco Bay Plan with implementation of mitigation.

Mitigation Measure AES-1: ***Reduce Night Lighting During Construction of Facilities.*** *Refer to Impact AES-4 in Section 4.2.1 of these Findings.*

Mitigation Measure AQ-1: ***Implement Construction Emissions Reduction Measures During Construction.*** *Refer to Impact AQ-2 in Section 4.2.2 of these Findings.*

Mitigation Measure BIO-1(a): ***Implement Worker Environmental Awareness Program Prior to and During Construction.*** *Refer to Impact BIO-1 in Section 4.2.3 of these Findings.*

Mitigation Measure BIO-1(b): ***Conduct Northwestern Pond Turtle Survey and Avoidance Prior to Construction.*** *Refer to Impact BIO-1 in Section 4.2.3 of these Findings.*

Mitigation Measure BIO-1(c): ***Conduct Burrowing Owl and Nesting Bird Survey and Avoidance Prior to Construction.*** *Refer to Impact BIO-1 in Section 4.2.3 of these Findings.*

Mitigation Measure BIO-1(d): ***Conduct Pile Driving Impact Avoidance to Fish and Marine Mammals Prior to and During Construction.*** *Refer to Impact BIO-1 in Section 4.2.3 of these Findings.*

Mitigation Measure BIO-1(e): ***Prepare Marine Mammal Monitoring Plan Prior to Construction and Implement Recommendations During Construction.*** *Refer to Impact BIO-1 in Section 4.2.3 of these Findings.*

*Mitigation Measure BIO-2: **Implement Invasive Species Prevention During Construction.** Refer to Impact BIO-2 in Section 4.2.3 of these Findings.*

*Mitigation Measure BIO-3: **Avoid Net Loss of Jurisdictional Waters Prior to Operation.** Refer to Impact BIO-3 in Section 4.2.3 of these Findings.*

*Mitigation Measure HYD-1: **Implement Construction Emissions Reduction Measures During Construction.** Refer to Impact HYD-1 in Section 4.2.6 of these Findings.*

Finding: The City finds that implementation of Mitigation Measures AES-1, AQ-1, BIO-1(a) through BIO-1(e), BIO-2, BIO-3, and HYD-1, which are hereby adopted and incorporated into the project, would avoid or substantially reduce the potentially significant environmental effects relevant to consistency with the BCDC San Francisco Bay Plan to a less-than-significant level. Specifically, these mitigation measures would reduce impacts to biological resources, jurisdictional waters, and water quality that could otherwise result in inconsistencies with applicable Bay Plan policies. While Impact LU-2 also includes a significant and unavoidable construction noise component that analyzed in Section 3.10, *Noise* of the EIR and further discussed in Section 4.1, SIGNIFICANT EFFECTS THAT CANNOT BE MITIGATED TO A LESS-THAN-SIGNIFICANT LEVEL, the mitigation measures identified above are the mitigation measures relevant to the less-than-significant-with-mitigation land use and planning impacts associated with Bay Plan consistency.

Facts in Support of Finding: The Draft EIR concluded that the proposed project would be generally consistent with applicable regional and local plans, including the Berkeley General Plan, Berkeley Marina Master Plan, Bay Area Clean Air Plan, Plan Bay Area 2050, Berkeley Climate Action Plan, Berkeley Local Hazard Mitigation Plan, Berkeley Measure L, and the BCDC San Francisco Bay Plan. As discussed in Draft EIR Section 3.9, *Land Use and Planning*, implementation of Mitigation Measures BIO-1(a) through BIO-1(e), BIO-2, BIO-3, and HYD-1 would avoid, minimize, or compensate for impacts to Bay natural resources, including special-status species, aquatic habitat, jurisdictional waters, invasive species, and water quality. Mitigation Measures AES-1 and AQ-1 would further reduce potentially significant construction-related effects addressed by applicable plans and policies. With implementation of these mitigation measures, the proposed project would be consistent with applicable policies of the BCDC San Francisco Bay Plan and related land use and planning impacts would be less-than-significant-with-mitigation. The remaining significant and unavoidable noise impact associated with construction noise exceeding Berkeley Municipal Code standards is addressed separately in Section 4.1 of this document.

4.2.8 Recreation

Impact REC-2: The project includes the construction of recreational facilities, the potential environmental impacts of which are identified and evaluated throughout this Environmental Impact Report. Potential environmental impacts related to aesthetics, air quality, biological resources, cultural resources, hydrology and water quality, and tribal cultural resources would be less than significant with incorporation of mitigation.

*Mitigation Measure AES-1: **Reduce Night Lighting During Construction of Facilities.** Refer to Impact AES-4 in Section 4.2.1 of these Findings.*

*Mitigation Measure AQ-1: **Implement Construction Emissions Reduction Measures During Construction.** Refer to Impact AQ-2 in Section 4.2.2 of these Findings.*

*Mitigation Measure BIO-1(a): **Implement Worker Environmental Awareness Program Prior to and During Construction.** Refer to Impact BIO-1 in Section 4.2.3 of these Findings.*

*Mitigation Measure BIO-1(b): **Conduct Northwestern Pond Turtle Survey and Avoidance Prior to Construction.** Refer to Impact BIO-1 in Section 4.2.3 of these Findings.*

*Mitigation Measure BIO-1(c): **Conduct Burrowing Owl and Nesting Bird Survey and Avoidance Prior to Construction.** Refer to Impact BIO-1 in Section 4.2.3 of these Findings.*

Mitigation Measure BIO-1(d): ***Conduct Pile Driving Impact Avoidance to Fish and Marine Mammals Prior to and During Construction.*** *Refer to Impact BIO-1 in Section 4.2.3 of these Findings.*

Mitigation Measure BIO-1(e): ***Prepare Marine Mammal Monitoring Plan Prior to Construction and Implement Recommendations During Construction.*** *Refer to Impact BIO-1 in Section 4.2.3 of these Findings.*

Mitigation Measure BIO-2: ***Implement Invasive Species Prevention During Construction.*** *Refer to Impact BIO-2 in Section 4.2.3 of these Findings.*

Mitigation Measure BIO-3: ***Avoid Net Loss of Jurisdictional Waters Prior to Operation.*** *Refer to Impact BIO-3 in Section 4.2.3 of these Findings.*

Mitigation Measure CR-1: ***Stop Work and Prepare and Implement a Data Recovery Plan if Unanticipated Archaeological Resources are Encountered During Construction.*** *Refer to Impact CR-2 in Section 4.2.4 of these Findings.*

Mitigation Measure HYD-1: ***Implement Construction Emissions Reduction Measures During Construction.*** *Refer to Impact HYD-1 in Section 4.2.6 of these Findings.*

Mitigation Measure TCR-1: ***Conduct Cultural Resources Sensitivity Training Prior to Construction.*** *Refer to Impact TCR -1 in Section 4.2.9 of these Findings.*

Mitigation Measure TCR-2: ***Provide Signage Acknowledging Native American History Prior to Operation.*** *Refer to Impact TCR -1 in Section 4.2.9 of these Findings.*

Mitigation Measure TCR-3: ***Conduct Native American Monitoring During Construction.*** *Refer to Impact TCR -1 in Section 4.2.9 of these Findings.*

Mitigation Measure TCR-4: ***Evaluate Discovered Tribal Cultural Resources and Implement Resulting Recommendations During Construction.*** *Refer to Impact TCR -1 in Section 4.2.9 of these Findings.*

Mitigation Measure TCR-5: ***Provide Respectful Treatment of Native American Human Remains Upon Unanticipated Discovery and Implement Recommendations During Construction.*** *Refer to Impact TCR -1 in Section 4.2.9 of these Findings.*

Finding: The City finds that implementation of Mitigation Measures AES-1, AQ-1, BIO-1(a) through BIO-1(e), BIO-2, BIO-3, CR-1, HYD-1, and TCR-1 through TCR-5, which are hereby adopted and incorporated into the project, would avoid or substantially reduce the potentially significant environmental effects associated with construction and operation of the proposed recreational facilities to less-than-significant levels with respect to aesthetics, air quality, biological resources, cultural resources, hydrology and water quality, and tribal cultural resources. While Impact REC-2 also includes a significant and unavoidable construction noise component that is analyzed in Section 3.10, *Noise* of the EIR and further discussed in Section 4.1, SIGNIFICANT EFFECTS THAT CANNOT BE MITIGATED TO A LESS-THAN-SIGNIFICANT LEVEL, the mitigation measures identified above are the mitigation measures relevant to the less-than-significant-with-mitigation environmental impacts associated with construction of the proposed recreational facilities.

Facts in Support of Finding: As discussed in Section 3.11, *Recreation*, construction of the proposed recreational facilities, including the pier, breakwater, public plaza, cycle track, Bay Trail Extension, and associated recreational amenities, could result in potentially significant environmental effects related to aesthetics, air quality, biological resources, cultural resources, hydrology and water quality, and tribal cultural resources. Implementation of Mitigation Measure AES-1 would reduce lighting impacts; Mitigation Measure AQ-1 would reduce construction-related air quality impacts; Mitigation Measures BIO-1(a) through BIO-1(e), BIO-2, and BIO-3 would reduce impacts to biological resources and jurisdictional waters; Mitigation Measure CR-1 would address potential impacts to archaeological resources; Mitigation Measure HYD-1 would protect water quality; and Mitigation Measures TCR-1 through TCR-5 would reduce impacts to tribal cultural resources. With implementation of these mitigation measures, the environmental impacts associated with construction and operation of the proposed recreational facilities would be reduced to less-than-significant levels. The remaining significant and unavoidable noise impact

associated with construction of recreational facilities is addressed separately in Section 4.1 of this document.

4.2.9 Tribal Cultural Resources

Impact TCR-1: The proposed disturbances due to construction on the non-fill ground and seabed would adversely affect Tribal Cultural Resources. With adherence to mitigation measures agreed upon through AB 52 consultation, impacts to tribal cultural resources would be less than significant with mitigation.

*Mitigation Measure TCR-1: **Conduct Cultural Resources Sensitivity Training Prior to Construction.** Prior to the start of any ground disturbing activities, including excavation on land and dredging in water, the City of Berkeley (City) or its contractor(s) shall provide all construction personnel conducting ground disturbing activities, with cultural resources sensitivity training. The training will be conducted in person, or via a video meeting, to be viewed by all construction personnel involved in ground disturbing activities prior to the start of construction. The training will be developed and conducted in coordination with locally affiliated California Native American Tribe(s) that have participated in consultation with the City for the project (referred to hereafter as "Consulting Tribes"). Cultural resources sensitivity training will include relevant information regarding sensitive tribal cultural resources, applicable regulations including consequences of violation, and protocols for unanticipated discoveries and avoidance. The training will emphasize the requirement of confidentiality and culturally appropriate treatment of any finds of significance to Native Americans.*

*Mitigation Measure TCR-2: **Provide Signage Acknowledging Native American History Prior to Operation.** Prior to operation, the City shall provide signage at the project site that acknowledges Native American history and importance of the area. Language and design for the signage shall be developed in consultation with Consulting Tribes, including the Muwekma Ohlone Tribe. The location of the signage shall be thoughtfully integrated into the project design and shall be respectful of Native American culture and values. Photographs of human remains shall not be depicted on the signage. The City or its contractor(s) shall incorporate the location and content of the signage prior to Final Design. Consulting Tribes shall be given the opportunity to comment on the signage prior to the Final Design being approved by the City.*

*Mitigation Measure TCR-3: **Conduct Native American Monitoring During Construction.** Prior to the start of any ground disturbing activities, including excavation and grading on land not previously covered by fill and any dredging in water, the City or its contractor(s) shall retain a Native American monitor(s) from a Consulting Tribe(s) for purposes of construction monitoring. If multiple Consulting Tribes request to monitor, the City will establish a rotating schedule to include all tribes requesting monitoring. The City shall provide monitors with at least 48 hours' notice prior to the start of any ground disturbing activity that requires monitoring. Native American monitors shall observe project-related ground disturbing activities located in previously undisturbed areas (i.e., areas not consisting of fill) and provide daily monitoring logs to the City detailing construction observed and results at minimum (confidential information can be redacted at the monitor's discretion). Monitors shall have the authority to temporarily halt work in the event of discovery or a potential Tribal Cultural Resource.*

If suspected Tribal Cultural Resources are encountered at any point during ground disturbing activities, work within a 100-foot radius shall halt and the find shall be evaluated for significance as required by Mitigation Measure TCR-4. The 100-foot radius may be reduced or expanded as appropriate by the monitor if conditions, such as expanded boundaries or increased sensitivity, warrant the reduction or expansion. Native American monitoring may be reduced to spot-checking or eliminated at the discretion of the monitor, in coordination with the City, as warranted by conditions such as encountering fill soils, bedrock, or negative findings during the first 60 percent of grading. If monitoring is reduced to spot-checking, spot-checking shall occur, at minimum, when ground-disturbance moves to a new location within the project site and when ground disturbance will extend to depths not previously reached (unless those depths are within bedrock). Ground disturbing activities shall not be contingent on the presence or availability of a Native American monitor, and ground disturbing may proceed regardless of whether or not a monitor is present on site.

*Mitigation Measure TCR-4: **Evaluate Discovered Tribal Cultural Resources and Implement Resulting Recommendations During Construction.** If suspected Tribal Cultural Resources are encountered at any point during ground disturbing activities, work within a 100-foot radius shall halt and Consulting Tribes shall evaluate the suspected resource for significance as a Tribal Cultural Resource. If the find is archaeological in nature, then the City or its contractor(s) shall also retain a qualified archaeologist to respond and evaluate significance as required by Mitigation Measure CUL-1. The City shall review the significance evaluation of the Tribal Cultural Resource and determine whether the find meets the criteria in California PCR Section 21074. If a discovered Tribal Cultural Resource is determined by the City to meet the criteria in California PRC Section 21074, avoidance and preservation in place shall be the preferred method of mitigating impacts and the City shall first consider the measures in California PRC Section 21084.3(b) in consultation with Consulting Tribes. If significant impacts to the resource cannot be avoided via project redesign, then the City shall work with Consulting Tribes to develop other appropriate measures to mitigate impacts. This could include, but would not be limited to, data recovery, installation of a permanent plaque or mural to inform the public, interpretive and/or educational elements, and/or landscaping to include native plants. Work in the area may resume following the determination by the City and completion of any applicable measures mitigating impacts to the Tribal Cultural Resource, if any.*

*Mitigation Measure TCR-5: **Provide Respectful Treatment of Native American Human Remains Upon Unanticipated Discovery and Implement Recommendations During Construction.** In addition to adherence to the California Health and Safety Code Sections 7050.5, should human remains be identified during construction, no photographs shall be taken without express permission from the on-site Native American Monitor, and no invasive scientific testing shall be completed without consultation with the NAHC appointed Most Likely Descendent. Any bone that cannot be identified as faunal shall be treated as human remains until positively identified as being non-human by the coroner and/or a qualified archaeologist, as appropriate. The Most Likely Descendant shall provide recommendations for reburial, and human remains and associated funerary items shall be reburied by Tribal representatives in a location agreed upon between the Tribe and the City. Any reburial location shall be accessible to Tribal members in perpetuity, not be subject to further disturbance, and kept confidential.*

Finding: The City finds that implementation of Mitigation Measures TCR-1 through TCR-5, set forth above, which are hereby adopted and incorporated into the project, would avoid or substantially reduce the significant environmental effect identified in the Final EIR to a less-than-significant level.

Facts in Support of Finding: Mitigation Measures TCR-1 through TCR-5, developed through consultation conducted pursuant to Assembly Bill 52, would require cultural resources sensitivity training, Native American monitoring of construction activities in designated areas, evaluation and treatment of any discovered tribal cultural resources, interpretive signage acknowledging Native American history, and procedures for the respectful treatment of Native American human remains. Implementation of these measures would avoid or minimize impacts to tribal cultural resources and reduce impacts to a less-than-significant level.

4.2.10 Utilities and Service Systems

Impact UTIL-1: Construction of the proposed project would require utility service and connections for water supply, wastewater conveyance, and stormwater conveyance, as well as telecommunications and electricity. Existing utility systems for water, wastewater, stormwater, electric power, and telecommunications facilities in Berkeley have sufficient capacity to serve the Project. Adequate wastewater capacity exists to serve the Project's projected demand in addition to the provider's existing commitments. Utility connections from the proposed project would result in less than significant impacts on air quality, biological resources, cultural resources, noise, and tribal cultural resources, after mitigation. Impacts would be less than significant with mitigation.

*Mitigation Measure AQ-1: **Implement Construction Emissions Reduction Measures During Construction**. Refer to Impact AQ-2 in Section 4.2.2 of these Findings.*

*Mitigation Measure BIO-1(a): **Implement Worker Environmental Awareness Program Prior to and During Construction**. Refer to Impact BIO-1 in Section 4.2.3 of these Findings.*

Mitigation Measure BIO-1(b): ***Conduct Northwestern Pond Turtle Survey and Avoidance Prior to Construction****. Refer to Impact BIO-1 in Section 4.2.3 of these Findings.*

Mitigation Measure BIO-1(c): ***Conduct Burrowing Owl and Nesting Bird Survey and Avoidance Prior to Construction****. Refer to Impact BIO-1 in Section 4.2.3 of these Findings.*

Mitigation Measure BIO-2: ***Implement Invasive Species Prevention During Construction****. Refer to Impact BIO-2 in Section 4.2.3 of these Findings.*

Mitigation Measure CR-1: ***Stop Work and Prepare and Implement a Data Recovery Plan if Unanticipated Archaeological Resources are Encountered During Construction****. Refer to Impact CR-1 in Section 4.2.4 of these Findings.*

Mitigation Measure NOI-1: ***Prepare and Implement Construction Noise Management Plan Prior to and During Construction****. Refer to Impact NOI-1 in Section 4.1.1 of these Findings.*

Mitigation Measure TCR-1: ***Conduct Cultural Resources Sensitivity Training Prior to Construction****. Refer to Impact TCR-1 in Section 4.2.9 of these Findings.*

Mitigation Measure TCR-2: ***Provide Signage Acknowledging Native American History Prior to Operation****. Refer to Impact TCR-2 in Section 4.2.9 of these Findings.*

Mitigation Measure TCR-3: ***Conduct Native American Monitoring During Construction****. Refer to Impact TCR-3 in Section 4.2.9 of these Findings.*

Mitigation Measure TCR-4: ***Evaluate Discovered Tribal Cultural Resources and Implement Resulting Recommendations During Construction****. Refer to Impact TCR-4 in Section 4.2.9 of these Findings.*

Mitigation Measure TCR-5: ***Provide Respectful Treatment of Native American Human Remains Upon Unanticipated Discovery and Implement Recommendations During Construction****. Refer to Impact TCR-5 in Section 4.2.9 of these Findings.*

Finding: The City finds that implementation of Mitigation Measures AQ-1, BIO-1(a) through BIO-1(c), BIO-2, CR-1, NOI-1, and TCR-1 through TCR-5, which are hereby adopted and incorporated into the project, would avoid or substantially reduce the significant environmental effect identified in the Final EIR to a less-than-significant level.

Facts in Support of Finding: Construction of utility connections and related infrastructure has the potential to result in temporary impacts associated with air quality, biological resources, cultural resources, noise, and tribal cultural resources. Mitigation Measures AQ-1, BIO-1(a) through BIO-1(c), BIO-2, CR-1, NOI-1, and TCR-1 through TCR-5 would require construction emissions controls, biological resource protection measures, cultural and tribal resource protection measures, and construction noise reduction measures. In addition, the EIR concluded that existing water, wastewater, stormwater, electrical, and telecommunications systems have sufficient capacity to serve the project and that adequate wastewater treatment capacity exists to accommodate projected demand. Therefore, impacts associated with utility connections and service infrastructure would be reduced to a less-than-significant level with mitigation.

4.3 EFFECTS DETERMINED TO BE LESS THAN SIGNIFICANT OR NOT SIGNIFICANT

The City finds that, based upon substantial evidence in the record, as discussed below, the following impacts associated with the project are not significant or are less than significant. The Draft EIR identifies the following as less than significant impacts or as having no impact. Mitigation to further reduce less than significant impacts is not required by CEQA. The findings in this section are based on the Draft EIR, the discussion and analysis in which is hereby incorporated in full by this reference.

4.3.1 Aesthetics

Impact AES-1. The proposed project would have a relatively low profile compared to scenic views and vistas in the vicinity, and compliance with policies of the Berkeley General Plan, Berkeley Marina Master Plan, and

San Francisco Bay Plan would protect scenic vistas to ensure that development of the project would not adversely affect public views. This impact would be less than significant.

Impact AES-2. The proposed project would not be located within, or visible from, a designated State scenic highway. The project would not result in damage to scenic resources including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway. No impact would occur.

Impact AES-3. The proposed project would not conflict with applicable zoning and other regulations governing scenic quality, and would be subject to design review. The existing visual character of the area would be altered by the introduction of modernized infrastructure, but not degraded. The proposed project would be implemented in accordance with the requirements of the Berkeley General Plan, Berkeley Marina Master Plan, Berkeley Municipal Code, and the San Francisco Bay Plan. Therefore, impacts would be less than significant.

4.3.2 Agricultural and Forest Resources

There are no agricultural lands, including Important Farmlands; Williamson Act lands; or areas zoned for agricultural use, forestry land, or timberland on the project site or adjacent to the project site. Therefore, no construction or operational impacts related to loss of agricultural lands or timberland, conversion of such lands to non-agricultural or non-forestry use, or consistency with Williamson Act contracts or zoning would occur.

4.3.3 Air Quality

Impact AQ-1. The project would not conflict with or obstruct the implementation of the applicable air quality plan. Impacts would be less than significant.

Impact AQ-4. The project would not generate odors adversely affecting a substantial number of people during construction or operation. Impacts would be less than significant.

4.3.4 Biological Resources

Impact BIO-4. The project would not substantially impede wildlife movement areas or native wildlife nursery sites. Impacts would be less than significant.

Impact BIO-6. The project would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. There would be no impact.

4.3.5 Cultural Resources

Impact CR-1. The proposed project would not cause a substantial adverse change in the significance of a historical resource, and no impact would occur.

Impact CR-3. The proposed land and water disturbances during construction could adversely affect unidentified human remains. This impact would be less than significant with required adherence to existing regulations.

4.3.6 Geology and Soils

Impact GEO-1. The proposed project would not directly or indirectly cause potential substantial adverse effects including the risk of loss, injury, or death involving rupture of a known earthquake fault as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map as it is not located within an Alquist-Priolo Earthquake fault zone. No impact would occur.

Impact GEO-2. The proposed project would not directly or indirectly cause potential substantial adverse effects including the risk of loss, injury, or death involving strong seismic ground shaking. Impacts would be less than significant.

Impact GEO-3. The proposed project is located within a liquefaction zone. However, compliance with engineering recommendations would reduce potential impacts related to liquefaction to less than significant.

Impact GEO-4. The project would not result in substantial erosion or the loss of topsoil, and impacts would be less than significant.

Impact GEO-5. The landside project components of the proposed project would potentially be located within expansive soils. Compliance with the California Building Code and Geotechnical Report recommendations would result in impacts that are less than significant.

Impact GEO-6. The proposed project would occur within an urbanized site that is currently served by existing sanitation infrastructure. The proposed project would not include septic systems or alternative wastewater disposal systems. No impact would occur.

4.3.7 Greenhouse Gas (GHG) Emissions and Energy

Impact GHG-1. The proposed project would generate temporary construction-related increases in GHG emissions but would result in a long-term overall decrease in GHG emissions. The proposed project would not conflict with the Bay Area Air District 2022 CEQA GHG Guidelines nor State, regional, or local GHG reduction plans. This impact would be less than significant.

Impact GHG-2. The proposed project would not result in wasteful or unnecessary energy consumption during project construction and operation, and impacts would be less than significant.

Impact GHG-3. The proposed project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. Therefore, impacts would be less than significant.

4.3.8 Hazards and Hazardous Materials

Impact HAZ-1. Construction and Operation of the project could result in an increase in the overall routine transport, use, and disposal of hazardous materials in Berkeley. Nonetheless, required compliance with applicable regulations related to hazardous materials would minimize the risk of releases and exposure to these materials. Impacts would be less than significant.

Impact HAZ-2. The project site is not located within 0.25 mile of an existing or proposed school. The proposed project would, therefore, have no impact related to emitting hazardous emissions or handling hazardous or acutely hazardous materials, substances, or waste within 0.25 mile of an existing or proposed school.

Impact HAZ-3. The proposed project would not be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. As a result, the proposed project would not create a significant hazard to the public or the environment from being located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. No impact would occur.

Impact HAZ-4. The proposed project would not be located within an airport land use plan or within two miles of a public airport or public use airport, and would not result in a safety hazard or excessive noise related to airport operation for people residing or working in the project area. No impact would occur.

Impact HAZ-5. The proposed project would not result in physical changes that could interfere with or impair emergency response or evacuation. Therefore, the project would not result in interference with these types of adopted plans. this impact would be less than significant.

Impact HAZ-6. The project is not within or near a wildland area. The proposed project would not expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires. Impacts would be less than significant.

4.3.9 Hydrology and Water Quality

Impact HYD-2. Project construction would require localized dewatering but would not substantially decrease groundwater supplies or interfere with groundwater recharge. The project would decrease impervious area and enhance infiltration and localized recharge but would not conflict with the sustainable management of the groundwater basin. Impacts would be less than significant.

Impact HYD-3. Project construction would temporarily disturb soils and increase the potential for erosion, siltation, and contaminant release, and suspend sediments in San Francisco Bay. The project would place a new pier and breakwater within a flood hazard area. However, with compliance with existing regulations and implementation of required BMPs, impacts related to erosion, siltation, runoff, and flooding would be less than significant.

Impact HYD-4. Project construction in tidal and coastal flood areas could temporarily increase the risk of inundation and pollutant release. operation would also occur within the 100-year floodplain and tsunami inundation zone. However, with climate-adaptive design elevations, watertight storage, battery safety systems, and implementation of required BMPs, impacts related to pollutant release or water quality degradation due to flooding, tsunami, or seiche would be less than significant.

Impact HYD-5. Project construction could result in temporary, localized resuspension of sediments and short-term increases in turbidity. These effects would be limited in duration and extent and would not result in long-term degradation of water quality. The project would remain consistent with SFBRWQCB Basin Plan objectives and beneficial uses, as well as the goals of the East Bay Subbasin Groundwater Sustainability Plan. Therefore, impacts related to sediment resuspension and turbidity would be less than significant.

4.3.10 Land Use and Planning

Impact LU-1. The proposed project would not physically divide an established community and no impact would occur.

4.3.11 Mineral Resources

The project site is not designated as a significant mineral resources zone and is not delineated in any local plan as a locally important mineral resource recovery site. Therefore, no construction or operational impacts related to loss of availability of mineral resources would occur.

4.3.12 Noise

Impact NOI-2. Construction activities associated with the proposed project would generate temporary levels of groundborne vibration in the project area; however, vibration levels would not exceed applicable thresholds at nearby sensitive receptors and construction vibration impacts would be less than significant. The project would not generate substantial levels of vibration during operation; therefore, operational vibration impacts would be less than significant.

Impact NOI-3. The project site is not located within the noise contours of an airport land use plan or within two miles of a public or public use airport. Therefore, people residing and working in the project area would not be exposed to excessive airport-related noise, and no airport activity noise impact would occur.

4.3.13 Population and Housing

The proposed project would not induce substantial unplanned population growth and would not displace substantial numbers of existing people or housing. Therefore, impacts related to population growth and housing displacement would be less than significant.

4.3.14 Public Services

The proposed project would not generate demand for new or physically altered fire protection, police protection, school, library, or other governmental facilities that could result in significant environmental impacts. Therefore, impacts related to public services would be less than significant.

4.3.15 Recreation

Impact REC-1. The Project will create a net increase in recreational facilities that do not currently exist in the form of a restored pier, new Bay Trail, and a new dedicated cycle track. The project would not induce population growth but would increase the number of visitors to the Berkeley Waterfront area that may increase the use of on-site and nearby existing recreational facilities. However, given that the project would provide

additional recreational opportunities and facilities, impacts related to a substantial physical deterioration of existing recreational facilities and substantial adverse physical impacts on the environment from the need of a new park would be less than significant.

4.3.16 Transportation

Impact TRA-1. The proposed project would not conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities. This impact would be less than significant.

Impact TRA-2. The proposed project would not conflict or be inconsistent with *CEQA Guidelines* Section 15064.3, subdivision (b), and the project would contribute to a net reduction in roadway vehicle-based VMT. No impact would occur.

Impact TRA-3. The proposed project would not substantially increase roadway hazards because of a geometric design feature or incompatible use. Impacts would be less than significant.

Impact TRA-4. Implementation of the proposed project would not have the potential to result in inadequate emergency access. No Impact would occur.

4.3.17 Utilities and Service Systems

Impact UTIL-2. The proposed project would have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years. This impact would be less than significant.

Impact UTIL-3. The proposed project would not generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure. The project would not impair the attainment of solid waste reduction goals and would comply with federal, State, and local statutes and regulations related to solid waste. Impacts would be less than significant.

4.3.18 Wildfire

The project site is not located in or near a State Responsibility Area or a Very High Fire Hazard Severity Zone. Therefore, no construction or operational impacts related to exacerbating wildfire risk within or near such designated land areas would occur.

4.4 CUMULATIVE IMPACTS

An EIR is required to discuss the cumulative impacts of a project when the project's incremental effect is cumulatively considerable. CEQA Guidelines §15130(a). "Cumulatively considerable" means that the incremental effects of the project are significant when viewed in connection with the effects of past projects, other current projects, and probable future projects. CEQA Guidelines § 15065(a)(3); Pub. Resources Code § 21083(b)(2). The cumulative impacts of the project, in combination with reasonably foreseeable probable future projects, are analyzed throughout Chapter 3, *Environmental Impact Analysis*, of the Draft EIR. The findings in this section are based on the Draft EIR, the discussion and analysis in which is hereby incorporated in full by this reference.

The City finds that the proposed project would result in cumulatively considerable contributions to significant cumulative impacts related to Noise, Land Use and Planning, and Recreation.

As discussed in Section 3.10, *Noise*, of the Draft EIR, construction of the proposed project would require demolition of portions of the existing Berkeley Pier, dredging, pile installation, and construction of new waterside and landside facilities. Construction activities, particularly waterside pile driving and limited nighttime construction activities, would generate noise levels that exceed applicable City thresholds at nearby sensitive receptors. Although Mitigation Measure NOI-1 would require implementation of a Construction Noise Management Plan and a variety of feasible noise-reduction measures, some construction noise impacts would remain significant and unavoidable. In addition, multiple cumulative projects are planned within the Berkeley Waterfront area, several of which are located within 1,000 feet of the project site and could generate

construction noise during overlapping construction periods. Concurrent construction of these projects could increase noise levels experienced by nearby sensitive receptors, including live-aboard boats and recreational users. The Draft EIR also concludes that cumulative operational mobile noise associated with increased roadway vehicle volumes on portions of University Avenue could exceed applicable significance thresholds. Accordingly, cumulative noise impacts would be significant and unavoidable, and the project's contribution would be cumulatively considerable.

With respect to cumulative construction noise, Mitigation Measure NOI-1 has been adopted and incorporated into the project and will substantially lessen the project's contribution to this cumulative impact, but will not reduce it to a less-than-significant level. With respect to cumulative operational roadway noise, the City finds that no feasible mitigation has been identified to reduce the project's contribution to a less-than-significant level. Construction of a soundwall along this segment of University Avenue would introduce new environmental impacts, change the character of adjacent parks, and conflict with General Plan Policy OS-12, which directs that land adjacent to parks be sensitively developed so that safe access is maintained and views are not significantly reduced. A soundwall is therefore infeasible. As discussed in Section 5, none of the alternatives analyzed in the EIR would avoid this impact while meeting the basic project objectives. This significant and unavoidable cumulative impact is acceptable for the reasons set forth in the Statement of Overriding Considerations in Section 6.

As discussed in Section 3.9, *Land Use and Planning*, of the Draft EIR, the proposed project would generally be consistent with the Berkeley General Plan, Berkeley Marina Master Plan, Plan Bay Area 2050, Bay Area Clean Air Plan, Climate Action Plan, Berkeley Local Hazard Mitigation Plan, Measure L, and the policies of the San Francisco Bay Plan with implementation of mitigation measures. However, the Draft EIR concludes that cumulative construction noise and cumulative operational mobile noise impacts would result in inconsistencies with Berkeley Municipal Code noise standards adopted for the purpose of avoiding environmental effects. Because cumulative noise impacts would remain significant and unavoidable, cumulative land use and planning impacts would also remain significant and unavoidable, and the project's contribution would be cumulatively considerable. Because these cumulative impacts result from the same underlying cumulative noise impacts, no additional feasible mitigation is available beyond that described above, and the City's finding with respect to cumulative noise applies equally to this impact.

As discussed in Section 3.11, *Recreation*, of the Draft EIR, the proposed project would provide substantial recreational benefits through construction of a new public pier, breakwater, public plaza, Bay Trail improvements, cycle track, and related public access amenities. The Draft EIR concludes that cumulative growth would not create a deficiency in park acreage or require construction of additional recreational facilities to maintain service standards. However, cumulative impacts associated with the construction and operation of recreational facilities are addressed through the environmental analyses contained throughout the Draft EIR. Because cumulative construction-related noise and cumulative operational mobile noise impacts would remain significant and unavoidable, cumulative recreation impacts would also remain significant and unavoidable. Accordingly, the project's contribution to cumulative recreation impacts would be cumulatively considerable. Because these cumulative impacts result from the same underlying cumulative noise impacts, no additional feasible mitigation is available beyond that described above, and the City's finding with respect to cumulative noise applies equally to this impact.

The City finds that cumulative impacts related to Air Quality and Geology and Soils would be less than significant with implementation of mitigation measures and compliance with applicable regulations. As discussed in Sections 3.2, *Air Quality*; and 3.5, *Geology and Soils*, of the Draft EIR, the proposed project's incremental contribution to cumulative impacts in these resource areas would not be cumulatively considerable because identified mitigation measures and regulatory requirements would reduce impacts to a less-than-significant level. Accordingly, cumulative impacts in these resource areas would be less than significant with mitigation incorporated. The City further finds that cumulative impacts associated with all other environmental resource topics analyzed in the Draft EIR would be less than significant or would not result in a cumulatively considerable contribution to a significant cumulative impact. Accordingly, no significant unavoidable cumulative impacts have been identified for those resource areas.

4.5 GROWTH INDUCING IMPACTS

An EIR is required to discuss growth inducing impacts, which consist of the ways in which the project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. *CEQA Guidelines* § 15126.2(e); Public Resources Code § 21100(b)(5). Direct growth inducement would result, for example, if a project involves the construction of substantial new housing that would support increased population in a community or establishes substantial new permanent employment opportunities. This additional population could, in turn, increase demands for public utilities, public services, roads, and other infrastructure. Indirect growth inducement would result if a project stimulates economic activity that requires physical development or removes an obstacle to growth and development (e.g., increasing infrastructure capacity that would enable new or additional development). It must not be assumed that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment (*CEQA Guidelines* § 15126.2(e)).

Section 4, *Other CEQA Required Sections*, of the Draft EIR analyzes the growth inducing impacts of the project; the discussion and analysis in which is hereby incorporated in full by this reference.

The proposed project would replace the closed Berkeley Pier with a new publicly accessible pier, breakwater, and ferry terminal that would support zero-emission ferry service between Berkeley and San Francisco while improving recreational access to the Berkeley Waterfront. The project would not include residential, commercial, office, or industrial development and would not directly generate population growth or substantial new employment opportunities. The project would also not alter the planned location, distribution, density, or growth rate of population in Berkeley or the surrounding region. Rather, the project would provide a new transportation option and recreational amenities that are consistent with regional and local planning assumptions, including those reflected in Plan Bay Area 2050 and the City's land use planning framework. Accordingly, the project would not directly or indirectly induce substantial unplanned population or employment growth.

Although certain transportation projects can indirectly induce growth by providing substantial new capacity that removes constraints on future development, the proposed project is not capacity-enhancing. Rather, the proposed ferry service, bicycle facilities, pedestrian improvements, and transit enhancements are intended to serve existing transportation demand, improve regional connectivity, and provide an environmentally friendly alternative to single-occupancy vehicle travel between the East Bay and San Francisco. The project would not extend transportation or utility infrastructure into undeveloped areas, increase infrastructure capacity beyond what is needed to serve the project, or otherwise enable new development that could not occur under existing conditions. Future development in the Berkeley Waterfront area would continue to require separate discretionary approvals from the City and would be governed by applicable planning documents, including the Berkeley General Plan and future Waterfront planning efforts. Any growth that may occur in the vicinity of the project site would therefore be planned, independently reviewed, and subject to its own environmental analysis, rather than induced by the Berkeley Water Transportation Pier Ferry Project.

Therefore, the City finds that the project would not induce substantial unplanned population growth and would not remove an obstacle to growth that could result in significant environmental effects beyond those analyzed in the Draft EIR.

SECTION 5: FEASIBILITY OF PROJECT ALTERNATIVES

5.1 Project Alternatives

The Draft EIR analyzed four EIR alternatives, examining the environmental impacts and feasibility of each EIR alternative, as well as the ability of the EIR alternatives to meet project objectives. The project objectives are listed in Chapter 2, *Project Description,* of the Draft EIR; the potentially significant environmental effects of the project, including feasible mitigation measures identified to avoid these impacts, are analyzed throughout Chapter 3, *Environmental Impact Analysis,* of the Draft EIR; and the alternatives are described in detail in Chapter 5, *Alternatives,* of the Draft EIR. Comparative information regarding the EIR alternatives, including their distinguishing features and relative environmental impacts, is provided in Draft EIR Table 5-1, *Alternatives*

Summary (Draft EIR page 5-3), and Table 5-2, *Summary of Alternatives' Impacts and Comparison to Proposed Project* (Draft EIR page 5-29). Brief summaries of the alternatives are provided below. A brief discussion of the Environmentally Superior Alternative follows the summaries of the alternatives. The findings in this section are based on the Draft EIR, the discussion and analysis in which is hereby incorporated in full by this reference.

Based on the project objectives and anticipated environmental consequences, and pursuant to *CEQA Guidelines* Section 15126.6, the following EIR alternatives were selected for environmental analysis:

- **Alternative 1: No Project Alternative.** CEQA requires analysis of a No Project Alternative. *CEQA Guidelines* § 15126.6(e)(2). Under Alternative 1, none of the improvements associated with the proposed project would occur and the current uses would remain. The deteriorated pier would remain closed, no new ferry service from Berkeley would be established, vehicle trips across the Bay would continue at their current rate, no new public plaza would be installed, none of the improvements along University Avenue or Seawall Drive would be installed, and the Seawall Drive East Parking lot would remain in its current condition. Alternative 1 would result in avoided construction impacts compared to the proposed project but would generate greater long-term impacts to aesthetics due to the lack of improvements, as well as to air quality, greenhouse gas emissions, transportation, and land use and planning due to the lack of circulation improvements and fewer reductions in criteria pollutants as a result of continued reliance on single-occupancy vehicle travel. In addition, Alternative 1 would not fulfill any of the project objectives.
- **Alternative 2: Shortened Breakwater Alternative.** Alternative 2 would retain all components of the proposed project, with a reduced-length breakwater. Construction of a shortened breakwater would result in a decrease to construction-related impacts compared to the proposed project and would maintain similar operational impacts to that of the proposed project while fulfilling most project objectives, though with somewhat reduced public access.
- **Alternative 3: Shortened Pier Alternative.** Alternative 3 would implement the proposed project as planned but would reduce the length of the pier such that it would not extend beyond the breakwater. A shortened pier would result in reductions to construction impacts compared to the proposed project while maintaining ferry service, and operational impacts would remain similar to the proposed project. However, public access and recreational opportunities would be limited, and therefore, Alternative 3 would meet the project objectives to a lesser extent than the proposed project**.**
- **Alternative 4: Reduced Landside Facilities Alternative.** Alternative 4 would involve the construction of the full pier and breakwater but would eliminate landside improvements such as the public plaza, cycle track, Bay Trail Extension, parking lot upgrades, and bus facilities. Minimal landside construction would still be required under Alternative 4 to complete and ensure emergency access to the proposed Pier including the Pier Abutment itself (including deep soil mixing to create a seismically stable landing for the abutment) and retaining wall and fill in the area to create vehicle and accessible connections between the existing sidewalk/Seawall Drive and the new pier. Several construction-related impacts would be reduced compared to the proposed project as a result, however, impacts to air quality, greenhouse gas emissions, and transportation would increase long-term due to fewer multimodal access opportunities and continued reliance on single-occupancy vehicle travel to access the new pier. In addition, Alternative 4 would provide substantially fewer public access opportunities and recreational benefits and, therefore, would not fulfill all project objectives.

The City hereby concludes that the Final EIR sets forth a reasonable range of EIR alternatives to the Berkeley Water Transportation Pier Ferry Project that address the significant environmental impacts of constructing and operating the project, so as to foster informed public participation and informed decision making. The City finds that the alternatives identified and described in the Final EIR were considered and further finds the No Project Alternative (EIR Alternative 1), the Shortened Pier Alternative (EIR Alternative 3), and the Reduced Landside Facilities Alternative (EIR Alternative 4) infeasible for the specific economic, social, or other considerations set forth below pursuant to Public Resources Code section 21081(b). The City further finds that the Shortened Breakwater Alternative EIR (Alternative 2) is feasible and would reduce certain construction-related environmental impacts compared to the proposed project while still achieving most of the basic project objectives, and is, therefore, adopted.

5.1.1 EIR Alternative 1 - No Project Alternative

Under the No Project Alternative (Alternative 1), none of the improvements associated with the Berkeley Water Transportation Pier Ferry Project would be implemented. The existing Berkeley Pier would remain closed and continue to deteriorate, no new ferry service would be established between Berkeley and San Francisco, no public plaza, Bay Trail Extension, cycle track, bus improvements, or parking lot improvements would be constructed. Existing transportation patterns, including transbay automobile travel, would continue under existing conditions.

Findings: This alternative would result in reduced impacts with respect to biological resources, cultural resources, geology and soils, hydrology and water quality, noise, tribal cultural resources, and utilities and service systems because it would avoid construction-related environmental impacts. However, impacts relating to aesthetics, air quality, greenhouse gas emissions and energy, land use and planning, and transportation would be greater than under the selected project because Alternative 1 would not provide the long-term benefits associated with zero-emission ferry service, reductions in vehicle miles traveled, improved multimodal transportation infrastructure, or revitalization of the Berkeley Waterfront. In addition, Alternative 1 would not eliminate the existing deterioration of the Berkeley Pier or provide the climate resilience, emergency response, recreational, and regional connectivity benefits associated with the project. Specifically, Alternative 1 would not replace the existing Berkeley Pier with a new seismically safe structure designed to meet Risk Category IV (Essential Facility) standards, account for projected sea level rise and improve emergency response capabilities. Nor would Alternative 1 repair an actively eroding section of shoreline or remove outdated infrastructure that may contain hazardous materials such as creosote-treated pier piles. Furthermore, Alternative 1 would not fulfill either of the project's basic objectives because it would neither enhance public access and recreational opportunities at the Berkeley Waterfront nor provide efficient and environmentally friendly zero-emission ferry service between Berkeley and San Francisco (see Section 5.5, *No Project Alternative*, of the Draft EIR). Accordingly, Alternative 1 would also forego the economic benefits associated with ferry service revenue, enhanced regional connectivity facilitating improved access to educational and employment opportunities throughout the Bay Area, and increased opportunities for recreation and tourism at the Waterfront.

The City finds that Alternative 1 is infeasible for social, economic, and environmental reasons. The No Project Alternative would eliminate the environmental impacts associated with project construction, but would also forego the substantial long-term public benefits associated with restoring public access to the Berkeley Waterfront, providing zero-emission ferry service, improving multimodal transportation connections, enhancing recreational opportunities, supporting regional mobility, increasing transportation resiliency, and reducing reliance on single-occupancy vehicle travel. In addition, Alternative 1 would allow the Berkeley Pier to remain closed and continue to deteriorate, thereby denying the public recreational, educational, transportation, and access benefits that the project is intended to provide. Furthermore, because the No Project Alternative would forego the project's anticipated benefits related to regional mobility and increased Waterfront visitation, it would also forego the associated economic benefits of improved access between Berkeley and San Francisco, increased visitation to the Berkeley Waterfront and nearby businesses, and enhanced access to existing jobs, commerce, and recreational destinations throughout the Bay Area. The City finds that these lost public benefits would not be socially or economically acceptable and that Alternative 1 would not advance the environmental benefits associated with reduced vehicle miles traveled, reduced greenhouse gas emissions, and expanded sustainable transportation opportunities. Therefore, consistent with CEQA Guidelines Section 15091(a)(3), the City finds that specific social, economic, and environmental considerations make Alternative 1 infeasible.

Alternative 1 is hereby rejected because it would not meet the project objectives and, consistent with CEQA Guidelines Section 15091(a)(3), specific social, economic, and environmental considerations make Alternative 1 infeasible.

5.1.2 EIR Alternative 2 – Shortened Breakwater Alternative

Alternative 2 would implement the project substantially as proposed, but with a shortened breakwater of approximately 300 feet rather than the 400-foot breakwater evaluated as part of the proposed project. The purpose of the breakwater is to provide a safe harbor for ferry operations while also providing public access

and recreational opportunities. Under Alternative 2, all other major project components, including the ferry service, public pier, public plaza, Bay Trail Extension, cycle track, parking lot improvements, and multimodal transportation facilities, would be constructed as proposed.

Findings: This alternative would result in reduced impacts with respect to air quality, biological resources, greenhouse gas emissions, hydrology and water quality, and noise because the shortened breakwater would reduce construction intensity, Bay fill, and pile installation requirements. Impacts related to aesthetics, cultural resources, geology and soils, hazards and hazardous materials, land use and planning, recreation, transportation, tribal cultural resources, and utilities and service systems would generally remain similar to those of the proposed project. However, Alternative 2 would not eliminate any of the significant and unavoidable impacts identified for the project. Accordingly, significant and unavoidable impacts related to construction noise, as well as related land use and planning and recreational impacts, would remain (refer to Section 5.6, *Alternative 2: Shortened Breakwater Alternative*, of the Draft EIR).

The City finds that Alternative 2 is technologically feasible. The Coastal Study prepared for the project evaluated 250-foot, 300-foot, and 400-foot breakwater configurations and concluded that a 300-foot breakwater would provide sufficient sheltering for ferry operations, minimize wave exposure at the berths, and achieve nearly the same reduction in operational downtime as the 400-foot configuration.[7] The Coastal Study specifically concludes that increasing the breakwater from 300 feet to 400 feet would provide only marginal improvements in wave disturbance and operational downtime and supports the selection of the 300-foot breakwater as the recommended design option (refer to Coastal Study, Executive Summary, pages 5 through 7).[8] Additionally, the City finds that Alternative 2 is economically feasible because the reduction in breakwater length would require less construction and accordingly fewer materials, less Bay fill, and fewer piles than the proposed project, thereby reducing construction costs while still achieving the primary operational purpose of the breakwater. As described above, Alternative 2 would also result in reduced construction-related impacts to air quality, biological resources, greenhouse gas emissions, hydrology and water quality, and noise due to the reduction in construction intensity and Bay fill. However, Alternative 2 would not eliminate any of the significant and unavoidable impacts identified for the project, and accordingly, significant and unavoidable impacts for construction noise, as well as related land use and planning and recreational impacts, would remain (refer to Section 5.5, *Alternative 2: Shortened Breakwater Alternative*, of the Draft EIR). Nevertheless, the City finds that Alternative 2 is environmentally feasible due to the reduction in construction-related and Bay fill impacts. The City further finds that Alternative 2 is socially feasible. Although the shortened breakwater would slightly reduce public access and recreational opportunities compared to the proposed project, the primary purpose of the breakwater is to provide a safe harbor for ferry vessels, while improved public access is a secondary benefit (refer to pages 5-9 and 5-10 of the Draft EIR). The evidence in the record demonstrates the social feasibility of a reduction in the proposed breakwater length, because a 300-foot breakwater can achieve the safe harbor function while still providing substantial public access and recreational opportunities. The City accordingly finds that the modest reduction in public access associated with a shorter breakwater is acceptable considering the reduction in environmental impacts, reduced construction intensity, and reduced cost associated with Alternative 2.

Alternative 2 is hereby identified as the preferred alternative and the proposed Project, and the City further finds that, consistent with CEQA Guidelines Section 15091 (a)(1), changes or alterations have been made in preferred Alternative 2 which substantially lessen significant construction-related environmental effects, including those associated with air quality, biological resources, greenhouse gas emissions, hydrology and water quality, and noise, as identified in the final EIR. Alternative 2 would meet the primary purpose and most of the basic project objectives of the project by providing efficient and environmentally friendly zero emission ferry service and enhanced public access and recreational opportunities. However, due to the shortened

[7] COWI. 2025. Berkeley Water Transportation Pier Ferry Project Coastal Study. Prepared for City of Berkeley. December. https://berkeleypierferryproject.com/wp-content/uploads/2026/02/COWI_2025_Coastal-Study.pdf (accessed August 2026).

[8] COWI. 2025. Berkeley Water Transportation Pier Ferry Project Coastal Study. Prepared for City of Berkeley. December. https://berkeleypierferryproject.com/wp-content/uploads/2026/02/COWI_2025_Coastal-Study.pdf (accessed August 2026).

breakwater, Alternative 2 would provide slightly less public access and fewer recreational opportunities, and would therefore meet the project objectives to a slightly lesser extent than the project evaluated in the Draft EIR.

5.1.3 EIR Alternative 3 – Shortened Pier Alternative

Alternative 3 would implement the proposed project as planned, but would reduce the length of the pier from approximately 1,080 feet to approximately 675 feet. Under this alternative, the pier would terminate at the point where the pier and breakwater intersect and would not extend beyond the breakwater. Ferry service, the breakwater, and landside improvements would remain substantially the same as under the approved project.

Findings: This alternative would result in reduced impacts with respect to air quality, biological resources, greenhouse gas emissions and energy, hydrology and water quality, and noise due to the reduction in the length of the pier and associated reduction in construction duration, Bay fill, and pile installation requirements. Impacts related to aesthetics, cultural resources, geology and soils, hazards and hazardous materials, land use and planning, recreation, transportation, tribal cultural resources, and utilities and service systems would generally remain similar to those of the approved project. However, Alternative 3 would not eliminate any of the significant and unavoidable impacts identified for the approved project. Significant and unavoidable impacts related to construction noise, recreation, and land use and planning would remain because pile driving and other construction activities would still occur under Alternative 3 (refer to Section 5.7, *Alternative 3: Shortened Pier Alternative*, of the Draft EIR).

Although Alternative 3 would result in a slight reduction of construction-related impacts compared to the proposed project, the City finds that Alternative 3 is socially infeasible. A primary purpose of the project is to restore the Berkeley Pier as an important recreational and public access feature of the Berkeley Waterfront (refer to Section 2.3, *Project Objectives*, of the Draft EIR). Unlike the breakwater, whose primary function is to provide a safe harbor for ferry operations, the portion of the pier extending beyond the breakwater is intended primarily to provide enhanced public access and recreational opportunities. As described in the Draft EIR, reducing the length of the pier by approximately 405 feet would diminish public access to the Bay and reduce the recreational benefits provided to the Berkeley community and the region (refer to page 5-19 of the Draft EIR). Accordingly, Alternative 3 would fulfill most project objectives by providing ferry service and some enhanced public access and recreational opportunities, however it would do so to a substantially lesser extent compared to the proposed project and Alternative 2. Furthermore, while Alternative 3 would slightly reduce certain temporary construction-related impacts, it would not eliminate any of the project's significant and unavoidable impacts, and the limited reduction in temporary impacts does not justify the corresponding reduction in the long-term public access and recreational benefits that a longer pier would provide. Therefore, the City finds that the reduction in public access and recreational opportunity associated with Alternative 3 would not be socially beneficial when weighed against the limited environmental benefit provided by the alternative.

Alternative 3 is hereby rejected because it would not eliminate any of the significant and unavoidable impacts of the proposed project and, consistent with CEQA Guidelines Section 15091(a)(3), specific social and environmental considerations make Alternative 3 infeasible.

5.1.4 EIR Alternative 4 – Reduced Landside Facilities Alternative.

Alternative 4 would implement the waterside components of the project, including the pier, breakwater, and ferry infrastructure, but would eliminate landside improvements such as the public plaza, cycle track, Bay Trail Extension, parking lot upgrades, electric vehicle charging facilities, and bus facilities. Limited landside construction would still occur to provide utility connections, emergency vehicle access, the pier abutment, retaining walls, and other infrastructure necessary to support operation of the pier and ferry facilities.

Findings: This alternative would result in reduced impacts with respect to aesthetics, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, noise, recreation, tribal cultural resources, and utilities and service systems due to the reduced landside footprint and corresponding reduction in landside construction activities. However, Alternative 4 could result in greater impacts related to air quality, greenhouse gas emissions and energy, land use and planning, and

transportation because it would eliminate multimodal transportation improvements, electric vehicle charging facilities, and active transportation amenities that support reductions in vehicle miles traveled and greenhouse gas emissions. The Draft EIR concludes that significant and unavoidable impacts related to construction noise, recreation, and land use and planning would remain under Alternative 4, because pile driving and other waterside construction activities would still occur. Therefore, Alternative 4 would not eliminate any of the project's significant and unavoidable impacts (refer to Section 5.8, *Alternative 4: Reduced Landside Facilities Alternative*, of the Draft EIR).

The City finds that Alternative 4 is infeasible for social and environmental reasons. Although Alternative 4 would reduce certain temporary construction-related impacts, it would do so by eliminating important public recreational amenities and multimodal transportation improvements that are fundamental components of the project. Specifically, Alternative 4 would eliminate the Bay Trail Extension, public plaza, cycle track, bus facilities, parking lot improvements, and electric vehicle charging facilities that are intended to improve public access, recreation, bicycle and pedestrian connectivity, transit access, and sustainable transportation opportunities at the Berkeley Waterfront. As described in the Draft EIR, these facilities are important components of the project's objectives to enhance public access and recreational opportunities and to encourage public transit, bicycle, and other active transportation modes. Alternative 4 would therefore fulfill the project's objectives to a much lesser extent than the approved project (refer to page 5-25 of the Draft EIR). Furthermore, the elimination of these facilities would not be consistent with broader City and regional multimodal transportation goals described in Draft EIR Section 3.9, *Land Use and Planning*, including policies encouraging bicycle, pedestrian, and transit access to the Berkeley Waterfront. While Alternative 4 would reduce certain temporary construction-related impacts, it would not eliminate any of the project's significant and unavoidable impacts, and the limited reduction in temporary impacts does not justify the corresponding loss of long-term transportation, recreation, sustainability, and public access benefits associated with the approved project. Therefore, the City finds that the reduction in facilities and associated public benefits under Alternative 4 would not be socially acceptable when weighed against the limited environmental benefits provided by the alternative.

Alternative 4 is hereby rejected because it would not eliminate any of the significant and unavoidable impacts of the proposed project and, consistent with CEQA Guidelines Section 15091(a)(3), specific social and environmental considerations make Alternative 4 infeasible.

5.2 Environmentally Superior Alternative

Section 15126.6(e)(2) of the CEQA Guidelines requires that an environmentally superior alternative be identified from among the alternatives evaluated in the EIR. In accordance with *CEQA Guidelines* Section 15126.6(e)(2), if the environmentally superior alternative is the No Project alternative, the EIR shall also identify an environmentally superior alternative from among the other alternatives.

The No Project Alternative would avoid most construction-related environmental impacts associated with the project. However, the No Project Alternative would not achieve any of the project's basic objectives because it would neither enhance public access and recreational opportunities at the Berkeley Waterfront nor provide efficient and environmentally friendly zero-emission ferry service between Berkeley and San Francisco. Therefore, the No Project Alternative is not identified as the environmentally superior alternative.

Among the action alternatives evaluated in the Draft EIR, Alternative 4, the Reduced Landside Facilities Alternative, is identified as the environmentally superior alternative. As discussed in Section 5.10.2, *Identification of Environmentally Superior Alternative*, of the Draft EIR, Alternative 4 would reduce a greater number of construction-related impacts than the proposed project and the other action alternatives, including impacts related to aesthetics, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, noise, recreation, tribal cultural resources, and utilities and service systems due to the reduced extent of landside construction. However, Alternative 4 would achieve the project's objectives to a substantially lesser extent than Alternative 2 because it would eliminate key project elements, including the public plaza, cycle track, Bay Trail Extension, bus facilities, parking lot improvements, and electric vehicle charging facilities. The Draft EIR concludes that Alternative 4 could also result in greater long-term impacts related to air quality, greenhouse gas emissions, land use and planning, and transportation

due to reduced multimodal access opportunities and a potential reduction in the use of ferry service. In addition, Alternative 4 would not eliminate any of the significant and unavoidable impacts identified for the project (refer to pages 5-29 through 5-31 of the Draft EIR).

Although EIR Alternative 4 is identified as the environmentally superior alternative, the City finds that EIR Alternative 2, the Shortened Breakwater Alternative, is the preferred alternative and the proposed project (see Section 5.1.2, above), because it reduces construction-related environmental impacts associated with Bay fill, pile installation, and construction intensity while continuing to achieve the project's objectives to a greater extent than the other analyzed alternatives. Specifically, EIR Alternative 2 would provide substantially greater public access, recreational, multimodal transportation, sustainability, and public benefit improvements than EIR Alternative 4 while still reducing environmental impacts relative to the proposed project. Accordingly, while Alternative 4 is identified as the environmentally superior alternative, the City finds that EIR Alternative 2 represents the superior balance of environmental protection and achievement of project objectives and is, therefore, the preferred alternative and the proposed Project.

SECTION 6: STATEMENT OF OVERRIDING CONSIDERATIONS

CEQA requires the decision-making agency to balance the benefits of a project against its significant unavoidable impacts when determining whether to approve a project. If the benefits of the project outweigh its unavoidable adverse environmental effects, those effects may be considered acceptable. CEQA requires the agency to state in writing the specific reasons for considering a project’s significant and unavoidable impacts to be acceptable. Those reasons must be based on substantial evidence in the Final EIR or elsewhere in the administrative record. *CEQA Guidelines* §15093(b); see also Public Resources Code Section 21081(b).

As set forth above, the City has found that the proposed project will result in project-level and cumulative significant adverse environmental impacts related primarily to construction noise associated with waterside pile driving and nighttime construction activities, and a cumulatively considerable contribution to a significant cumulative operational roadway noise impact on University Avenue between Seawall Drive and Marina Boulevard. As discussed in Draft EIR Sections 3.9, *Land Use and Planning*, 3.10, Noise, 3.11, *Recreation*, and 4.1, *Significant Environmental Effects that Cannot Be Avoided*, the project's significant and unavoidable Land Use and Planning and Recreation impacts are not independent physical environmental effects, but instead result from the same underlying significant and unavoidable construction noise impacts (refer to Impact LU-2, Impact REC-2, and Draft EIR page 4-1). Similarly, the cumulative Land Use and Planning and Recreation impacts are attributable to the project’s cumulatively considerable contribution to cumulative construction and operational noise impacts. These significant impacts cannot be avoided following adoption, incorporation into the project, and implementation of mitigation measures described in the EIR. The City has also considered the range of alternatives analyzed in Draft EIR Chapter 5. As discussed in SECTION 5: of this document, the City has identified the Shortened Breakwater Alternative (EIR Alternative 2) as the preferred alternative and the proposed Project, because it would reduce certain environmental impacts related to Bay fill and the intensity of construction activities, while still being technologically and socially feasible. However, significant and unavoidable project-level and cumulative impacts related to construction noise and by extension land use and planning and recreation would remain.

As required by CEQA Guidelines §15093(b) and Public Resources Code Section 21081(b), the City has balanced the economic, legal, social, technological or other benefits of the proposed project, including region-wide or Statewide environmental benefits, against its significant and unavoidable environmental impacts, the finds that the benefits of the proposed project outweigh its unavoidable adverse environmental effects, and that the adverse environmental effects are therefore acceptable.

In its balancing of the benefits associated with the project against its significant and unavoidable environmental impacts, the City considered the duration of benefits and certain impacts. Specifically, the City considered that the significant and unavoidable impacts associated with project construction would be temporary (up to an estimated 80 to 90 days), would cease after construction of the project is completed, and would be limited to

only some project construction activities (i.e., waterside construction activities involving pile driving, including the demolition and pile-installation phases).

In addition, for the significant and unavoidable cumulative impact related to operational noise from increased roadway vehicles, the City considered the severity of the impact. The EIR found that when roadway vehicle volumes from the proposed project and another cumulative project (the Draft Waterfront Specific Plan) are combined, there is an increase in noise levels of 5.5 dBA Community Noise Equivalent Level (CNEL) (without consideration of proposed project Transportation Demand Management [TDM]) and 5.4 dBA CNEL (when accounting for proposed project TDM) along the stretch of University Avenue between Seawall Drive and Marina Boulevard. This noise level would be greater than the threshold of 5 dBA CNEL (page 3.10-18 of the Draft EIR, subheading *Mobile Operational Noise* identifies the applicability of this threshold). In making its decision, the City considered that the cumulative impact is only 0.4 dBA CNEL above the threshold. The City also considered the contribution of noise from the proposed project, compared to the contribution of noise from the Waterfront Specific Plan. The increase in noise without the project [i.e., considering only the Waterfront Specific Plan contribution] is estimated to be 4.5 dBA CNEL, whereas the increase in noise due to only the proposed project is estimated to be 0.9 to 1.0 dBA CNEL. Furthermore, the City also considered the conservative nature of the analysis presented in the EIR. The analysis presented in the EIR represents the conservative scenario of implementing the maximum development potential of the Draft Waterfront Specific Plan. There is the potential that the cumulative development scenario may be lower as the Draft Waterfront Specific Plan proposed details are refined. The Draft Waterfront Specific Plan has not been adopted by the Berkeley City Council, and the associated development scenario that is adopted by the Berkeley City Council may be lower than what is presented in the EIR.

The City also considered that the benefits associated with the project would provide long-term benefits (i.e., the lifetime of pier and ferry service is estimated at a minimum of 50 years) that would far exceed the duration of construction activities that could result in significant and unavoidable impacts.

The following statement identifies the reasons why, in the City's judgment, specific benefits of the project outweigh the significant and unavoidable effects. The substantial evidence supporting the benefits of the project can be found in the preceding sections of these Findings, in the project itself, and in the record of proceedings as defined in SECTION 9:, below. The City further finds that each of the project benefits discussed below is a separate and independent basis for these findings. The reasons set forth below are based on the Final EIR and other information in the administrative record.

The City further finds that these significant and unavoidable impacts are outweighed by the benefits of the project, each of which, independently of the others, constitutes overriding consideration warranting approval of the project. Those benefits, and additional considerations related to this finding, are as follows:

- Recreational Benefits
  - The project will restore public recreational access to the Berkeley Waterfront and San Francisco Bay by replacing the deteriorated Berkeley Municipal Pier, which has been closed to the public since 2015, with a new publicly accessible pier and breakwater that will provide opportunities for walking, sightseeing, fishing, environmental education, and shoreline access for current and future generations. The project has a design life of 50 years, meaning that the City of Berkeley would benefit from this important recreational amenity for at least 50 years.
  - The project will substantially enhance recreational opportunities at the Berkeley Waterfront through construction of a new pier, breakwater, public plaza, Bay Trail extension, bicycle facilities, interpretive signage, seating areas, fish-cleaning stations, landscaping, and accompanying public amenities that expand access to and support enjoyment of the Bay.
  - The project will implement a portion of the planned Bay Trail Extension along Seawall Drive and directly support the recreational goals of the San Francisco Bay Trail and the MTC Bay Trail Gap

Closure Implementation Plan.[9] The Draft EIR identifies the Berkeley Waterfront gap as Segment ID 4151, which is designated as a Tier 1 (Higher Priority and Lower Cost) project and ranked third among Tier 1 Bay Trail gap-closure segments[10] (refer to Draft EIR Page 3.11-11). By constructing a portion of this planned trail segment and improving bicycle and pedestrian access to the Waterfront, the project will help advance the long-term regional goal of completing a continuous shoreline trail around San Francisco Bay and improving public access to the Bay.

- The project will replace the existing deteriorated pier entrance area with a new ADA-accessible public recreational plaza containing seating, landscaping, bicycle facilities, interpretive signage, and a public restroom. The plaza is intended to function as a new, publicly accessible recreational space and may accommodate future public events, educational programming, recreational activities, and other community gatherings and public uses that promote community engagement and improve public enjoyment of the Berkeley Waterfront (refer to Draft EIR Section 2.5.2, *Landside*).
- The project will advance longstanding City and regional recreational goals and policies relating to waterfront access, recreation, multimodal transportation, and enhancement of the Berkeley Waterfront area as established by the adopted plans and policies such as the BCDC Bay Plan, ABAG/MTC Plan Bay Area 2050, the Berkeley General Plan, the Berkeley Waterfront Master Plan, the Berkeley Marina Master Plan (refer to Draft EIR Section 3.9, *Land Use and Planning*, Impact LU-2).

- Transportation Benefits

  - The project will provide new ferry service connecting Berkeley with San Francisco, improving regional transportation connectivity and resilience for East Bay residents, workers, students, and visitors. The Water Emergency Transportation Authority (WETA) Berkeley Ferry Service Business Plan identifies the Berkeley ferry service as a long-planned component of the regional ferry network which will provide approximately 1,910 average weekday ferry trips during the first year of service and approximately 2,110 weekday trips by 2040, and concludes that the proposed ferry service would expand regional mobility options, support existing and future activities at the Berkeley Waterfront, and provide a meaningful new transbay transportation connection (refer to Section 1 of the Business Plan).[11]
  - The project will improve transportation access to existing employment, education, housing, services, and recreational opportunities throughout the Bay Area by providing a reliable and accessible transbay transit option that strengthens regional mobility and will facilitate access between East Bay communities and major employment centers, including higher-paying job centers located in San Francisco. As described in the WETA Berkeley Ferry Service Business Plan, West Berkeley is an area with relatively limited regional transit access and reduced accessibility to jobs compared to other areas within Berkeley and the broader region. Within the region, areas such as San Francisco and San Mateo Counties have a greater number of jobs which provide average salaries approximately 21 percent higher than comparable jobs in Alameda County. Implementation of the proposed ferry service would provide East Bay residents with a new connection to higher-paying job centers across the Bay while also improving access to jobs, educational opportunities, and destinations within Berkeley, and would therefore expand access to economic opportunities for West Berkeley residents as well as the broader region (refer to Section 6 of the WETA Business Plan).[12]

[9] MTC. 2024. Bay Trail Gap Closure Implementation Plan. Available: https://mtc.ca.gov/sites/default/files/documents/2024 08/BTGCIP_Report_08_27_2024.pdf (accessed October 2025).

[10] MTC. 2024. Bay Trail Gap Closure Implementation Plan Prioritization 2024. Available: https://experience.arcgis.com/experience/817c5f3b503848deb44e83d337285fd6/#data_s=id%3AdataSource_2-1926f97382d-layer 15%3A4 (accessed October 2025).

[11] WETA. 2022. WETA Berkeley Ferry Service Business Plan, Version 1.0. March 17, 2022. Available: https://d262kwcyxl71on.cloudfront.net/wp-content/uploads/20240926061356/Item-8A-Berkeley-Ferry-Service-Business-Plan.pdf (accessed: August 2026).

[12] WETA. 2022. WETA Berkeley Ferry Service Business Plan, Version 1.0. March 17, 2022. Available: https://d262kwcyxl71on.cloudfront.net/wp-content/uploads/20240926061356/Item-8A-Berkeley-Ferry-Service-Business-Plan.pdf (accessed: August 2026).

- The project will help reduce reliance on single-occupancy vehicle travel by providing a high-quality public transit transportation alternative to automobile transbay travel, thereby reducing regional vehicle miles traveled (VMT), roadway congestion, and associated environmental impacts. As discussed in Draft EIR Section 3.12, *Transportation*, the project would provide new ferry connection between Berkeley and San Francisco that would replace longer automobile commute trips with shorter trips to the Berkeley Waterfront. The project would also implement multimodal access improvements, including a raised cycle track along University Avenue, Bay Trail improvements, bicycle lockers and racks, improved bus facilities, pedestrian improvements, electric vehicle charging stations, and transportation demand management measures designed to encourage the use of transit and active transportation rather than single-occupancy vehicles. By reducing automobile travel demand and supporting shifts to other travel modes through implementation of these proposed project components, the project would result in a net decrease in VMT and associated environmental impacts (refer to Impact GHG-1, Impact TRA-1, and Impact TRA-2). For further discussion of VMT and associated environmental impacts, refer to the discussion below regarding Sustainability Benefits.
- The project will enhance regional emergency transportation preparedness and resilience. WETA has a legislative mandate to operate and coordinate emergency water transit when regional transportation systems are disrupted due to disaster or other events.[13] The new pier is designed as an essential facility to support emergency water transportation services in the event that natural disasters or other emergencies disrupt existing transportation infrastructure, thereby expanding WETA's ability to provide emergency transportation for first responders, disaster service workers, and the general public (refer to Draft EIR Section 2.8, *Emergency Operation Options*).

- Sustainability (Including region-wide or Statewide environmental benefits)
  - The project will advance State, regional, and local sustainability goals through operation of zero-emission electric ferry vessels, installation of ferry charging infrastructure, provision of electric vehicle charging facilities for Waterfront visitors, and implementation of multimodal transportation improvements that encourage transit use and bicycle and pedestrian travel.
  - The project will result in long-term greenhouse gas emissions reductions, including an annual net reduction of 2,368 metric tons of carbon dioxide equivalent emissions, and support California's transition to a low-carbon, sustainable transportation system through mode shift from automobile travel to electric ferry service. The Greenhouse Gas Analysis Memorandum prepared for the project's SB 149 Infrastructure Project Application[14] further concludes that the project would remain net-negative for greenhouse gas emissions even after accounting for all construction and operational emissions, resulting in a net reduction of approximately 22,435 metric tons of carbon dioxide equivalent emissions over the evaluated 30-year analysis period and thereby providing a long-term regional climate benefit consistent with the goals and policies of adopted greenhouse gas reduction plans (refer to Draft EIR Section 3.6, *Greenhouse Gas Emissions and Energy*, and Draft EIR Appendix B, *Air Quality and Greenhouse Gas Emissions Information*).
  - The project incorporates substantial climate adaptation and coastal resilience measures, including design features that account for and protect against projected sea level rise, physical shoreline protection improvements, resilient infrastructure, adaptable water transportation facilities, and long-term protection of public access to the waterfront.

- Social Benefits
  - The project incorporates social investments in bicycle and pedestrian infrastructure, including a new raised cycle track along University Avenue, Bay Trail improvements, bicycle parking facilities, and enhanced pedestrian areas and transit connections, accompanied by ADA-accessible facilities,

[13] WETA. 2024. Emergency Response. Available: https://sanfranciscobayferry.com/emergency-response/ (accessed September 2025)

[14] Berkeley, City of. 2026. Final SB 149 Infrastructure Project Application. Prepared for California Governor's Office of Land Use and Climate Innovation. June 25, 2026.

improved lighting and wayfinding, and design features to reduce conflicts among transportation modes, thereby improving the safety and accessibility of multimodal travel and active recreational opportunities.

- The project will generate social and economic benefits through construction expenditures, increased visitation to the Berkeley Waterfront, support for existing local businesses, increased access to recreation, education, and employment opportunities, and enhancement of the Waterfront as a regional destination.
- The project represents a substantial social public investment with respect to recreation, public access, sustainable transportation, and climate resilience infrastructure that will provide long-term benefits at the local, regional, and Statewide level.

On balance, the City finds that there are specific economic, legal, social, technological, or other benefits of the Berkeley Water Transportation Pier Ferry Project that serve to override and outweigh the significant unavoidable effects of the project. Therefore, pursuant to *CEQA Guidelines* Section 15093(b), the City finds that these significant adverse environmental effects are considered acceptable.

SECTION 7: INCORPORATION BY REFERENCE

These findings incorporate the text of the Final Environmental Impact Report for the Berkeley Water Transportation Pier Ferry Project by reference and in its entirety. Without limitation, this incorporation is intended to elaborate on the scope and nature of mitigation measures, the basis for determining the significance of impacts, the comparative analysis of alternatives, the determination of the environmentally superior alternative, and the reasons for approving the project in spite of the potential for associated significant and unavoidable adverse impacts.

The City also incorporates by reference the Final Program Environmental Impact Report for the Expansion of Ferry Transit Service in the San Francisco Bay Area (State Clearinghouse No. 2001112048), certified by the WETA Board of Directors in June 2003. The WETA Program EIR evaluated expansion of ferry service throughout the San Francisco Bay Area, including ferry service between Berkeley and San Francisco, and analyzed environmental topics including dredging, navigation, wake effects, water resources, biological resources, air quality, land use, aesthetics, cultural resources, geology, noise, transportation, energy, and growth-inducing impacts. The environmental setting information, environmental analyses, and mitigation measures contained in the WETA Program EIR, including mitigation measures adopted by WETA for ferry operations and ferry service expansion, are incorporated by reference into these findings to the extent relevant to the proposed project. As described in Section 1.1.3 of the Berkeley Water Transportation Pier Ferry Project EIR, the relevant portions of the WETA Program EIR are summarized and incorporated into the environmental analysis contained in Section 3.3, *Biological Resources*, and Section 3.7, *Hazards and Hazardous Materials*, and are part of the evidentiary basis supporting these findings.

SECTION 8: RECIRCULATION NOT REQUIRED

No significant new information was added to the Draft EIR or the Final EIR as a result of the public review and comment process. The Final EIR responds to comments, and clarifies, amplifies, and makes insignificant modifications to the Draft EIR. It does not identify any new significant effects on the environment or a substantial increase in the severity of an environmental impact requiring major revisions to the Draft EIR. Similarly, the revised project would not result in new or substantially more severe significant impacts than disclosed previously in the Draft EIR. Therefore, recirculation of the EIR is not required.

SECTION 9: RECORD OF PROCEEDINGS

Various documents and other materials related to the project constitute the record of proceedings upon which the City bases its findings and decisions contained herein. The record of proceedings is available for public review online on the following website: https://berkeleypierferryproject.com/.

SECTION 10: SUMMARY

A. Based on the foregoing Findings and the information contained in the record, the City has made one or more of the following Findings with respect to each of the significant effects of the project:
   1. Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effects identified in the EIR.
   2. Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other public agency.
   3. Specific economic, legal, social, technological, or other considerations, make infeasible the mitigation measures or alternatives identified in the EIR that would otherwise avoid or substantially lessen the identified significant environmental effects of the project.

B. Based on the foregoing Findings and the information contained in the record, the City determines that:
   1. Significant effects on the environment that would occur due to the approval of the project have been eliminated or substantially lessened where feasible.
   2. Remaining significant effects on the environment found to be unavoidable are acceptable due to the factors described in the Statement of Overriding Considerations in SECTION 6:, above.