

VIA ELECTRONIC MAIL



September 2, 2016

Mr. Adam Politzer
City Manager
City of Sausalito
429 Litho Street
Sausalito, CA 94965

Re: Golden Gate Ferry: Sausalito Terminal Vessel Boarding Rehabilitation Project

Dear Mr. Politzer:

Thank you for the letter of August 22, 2016 from your City Attorney, acknowledging receipt of the Golden Gate Bridge, Highway and Transportation District's (District) letter of August 18, 2016. Our letter resubmitted plans for replacement of the Sausalito Ferry Landing. Yours requested additional time to allow the City's newly-engaged environmental consultant to review and complete a report. In response to your letter the District is hereby withdrawing its submittal and our request for the City's review within a 45-day period pursuant to Section 5.4 of the Lease. As such, the District requests that the City not take any action regarding the District's Project to replace the Sausalito Ferry Landing (Project).

The City's letter reviewed some of the history of this Project. Allow me to provide our historic perspective of the City's involvement with this Project.

District presentations to the City Council, beginning in 2008, informed the City of plans to replace the Sausalito Ferry Landing due to its serious disrepair. Further, staff advised Council that the renewed facility would need to comply with the requirements of the Americans with Disabilities Act.

The Council approved the proposed design at its meeting of May 3, 2011. The District then prepared and circulated a Mitigated Negative Declaration, upon which the City commented in a letter dated October 18, 2012. The District adopted the Mitigated Negative Declaration (MND) in December, 2012.

The District proceeded to design the facility in accordance with the Project cleared in the MND and was seeking final regulatory approval from the San Francisco Bay Conservation and Development Commission (BCDC) in October, 2014. Members of the Sausalito community, at that juncture, sought to block the approval, claiming that the District needed to seek the City's approval of the Project under the terms of the 1995 Lease. BCDC declined to act on the Project until the Lease issue was resolved.

The District and City agreed to engage in a process to allow the City to review the Project, and following a series of preliminary meetings, engaged in a public process within the 45-day

timeline provided for in the Lease for the City, as landlord, to provide or deny consent to the District's desired improvements. That process resulted in the May 5, 2015 City Council denial of consent to the Project.

Subsequently, a series of "stakeholder" meetings were held wherein representatives of the community and the District sought to reach agreement on the size and configuration of the terminal. Iterative changes to the Project, including design elements responsive to comments and requests by community members, were an integral part of that stakeholder process. Following this extensive process, the District resubmitted its plans on August 18, 2016. Those plans reflected cumulative changes discussed in the stakeholder process.

In response to our submittal, the City's August 22nd letter contains a lengthy discussion of the terms of the California Environmental Quality Act (CEQA) as they apply to "responsible agencies." That letter incorrectly asserts that the District submitted "new information." The City further requests a delay of consideration of the District's request in its letter, to allow a consultant to review this "new information" to help the City decide if it should reopen the CEQA process, should that review determine there are new environmental impacts that need to be addressed.

The information below is provided in response to the assertions in your letter regarding "new information" and "changed circumstances."

Justifications for Size of Float and Gangway

In the second full paragraph of Page 3 of your letter, you state that the District has asserted that the justification for the size of the float and gangway were "dictated by requirements under the Americans with Disabilities Act ("ADA") and current passenger use and therefore could not be reduced . . .", yet you contend that the District reduced both the length of the float and the width of the gangway.¹ As you will see below, the District has consistently stated that the size of the float and the length of the gangway are substantially mandated by ADA requirements to meet the required 1:12 slopes on the gangplanks from the vessels and the gangway to access the pier (although it has offered to reduce some minor clearances intended for maintenance access). At the same time, the District has consistently explained that its desire for a gangway with a 16 foot width is based on operational reasons, i.e. the smooth flow of passengers on and off the vessels, using the two eight-foot doorways. In the footnote below, I point you to multiple locations where these statements have been made to the City.²

¹ You later stated that this resulted in "unanswered questions and seemingly inconsistent information" which required the City to retain an engineering firm to peer review the District's information. [To date, we have not been provided with a copy of any report by COWI.]

² Among the statements regarding the operational benefit of the wider gangway, see the District's presentation at the March 11, 2015 joint meeting of the Planning Commission/Historic Landmarks Board, Slides 4, 20, 28-37; April 1, 2015 joint meeting of the Planning Commission/Historic Landmarks Board, Slides 4, 10, 14, 18-22, 26-27; and responses to question 51 from the March 11th meeting, and questions 2 and 5 from the April 1st meeting ("The replacement gangway . . . must have a clear width of 16 feet in order to optimize ferry operations and accommodate the projected number of passengers who will use the facility over its 30 to 40 year lifespan." In addition, in the District's formal submittal of March 24, 2015, on the third page, under "Project Purpose" the third topic is "Improve Operational Efficiencies."

It is concerning that, after the many meetings, presentations, illustrations and design submittals, there can still be such basic confusion on the part of the City as to these details.

Failure to Disclose Underlying Growth Projections

Later, that same paragraph states that the District did not “fully disclose its underlying passenger growth projections nor any engineering calculations demonstrating how the District's growth projections necessitate the size of the proposed float and gangway in the March 2016 plans” You later claim that District (purportedly for the first time) explained that the float includes a 16-foot walkway that is not mandated by ADA, but by the District's operational desire to match the width of the 8-foot vessel doors. In the next paragraph, you state that “[t]he District also first disclosed that the size of the proposed float and gangway is dictated by the District's desire to have the operational ability in the future to unload and load a total of 920 passengers.” [Emphasis added.] You further state that these passenger counts represent 85% of the District's assumed maximum passenger use in the year 2029, based on an annual growth rate of 4%, commencing in 2014. You go on to state that this purported reliance on 2014 numbers as a baseline “obviously is information that was not known, and could not have been known at the time the District adopted the MND in 2012.”

There are multiple failures of both fact and logic in the analysis and statements in your letter. First, the District has consistently stated that the justification for the size of the replacement facilities is both accessibility and operational requirements. The governing requirements for the length and width of the float, and the length of the gangway, are to meet the ADA requirement of 1:12 slopes. (In addition, there were some minor clearances to allow for crew access to work areas around the ADA-mandated facilities, which the District reduced in a good faith effort to minimize, to the extent possible, these dimensions.)

Second, as made clear on numerous occasions, the width of the gangway is needed for operational purposes. This is not “new information.” As early as the initial public meeting on March 11, 2015, the District has explained its growth projections:

Response to question 6 from March 11, 2015 meeting: “The facility has been designed to accommodate a projected 4% per year growth in numbers of passengers through year 2020.”

Responses to questions 2, 5, 10 and 12 from April 1, 2015 meeting discuss precisely the same growth projections that your letter cites as “new information” based on 2014 ridership data.

These 2015 responses reference ridership numbers from 2005 to 2009 to support the projections. It appears that the purported “new information” is nothing more than an updated response to a question first posed in 2015 that could very easily have been posed by the City as a comment to the 2012 MND.

While we find it necessary to point out the degree to which the City's letter mischaracterizes the timing and content of the information submitted by the District, the more important point is that

this information has nothing to do with the continued adequacy of the MND or the presence of asserted “new information” that is relevant under CEQA regarding environmental impacts.

The design of the Project was shown in the 2012 MND. It has only been reduced—at the request of the City. If there were questions regarding the reasons for that design or the assumptions underlying it, these could easily have been submitted with the City's comments in 2012, or served as the basis for a challenge to that document. The fact that the District, in responding to the City's questions, may have provided additional or updated information to justify that design does not change the fact that the size of the Terminal was fully disclosed in 2012 and has not increased, but has in fact been reduced.

Your letter states in the first full paragraph on page 4, that the District has provided information regarding the 2014 ridership levels that show that “the District's passenger assumptions underlying the current plans exponentially exceed actual, existing use” and that the numbers of bicycles has increased between 2012 and 2014. Your letter then states that bicycle use significantly declined from 2014 to 2015, but expresses concern that such numbers may increase in the future. It should be noted that none of these numbers, high or low, impacts the proposed Project, since it has not been constructed yet.

The District has attempted to explain to the community why it might want to have a gangway of sufficient width to allow orderly boarding of its vessels, both now and for the useful life of the facility. The fact that it used a projection of a 4% growth in ridership to justify the width is not evidence of an environmental impact, it is simply an explanation for the District's reasons for wanting to keep the width of the facility that was cleared in the 2012 document.

Finally, your letter claims that certain statements in the District's August 11, 2016 communication have “revealed for the first time” that a motivation behind the size of the facility is a desire by the District to increase ferry ridership “to reduce traffic along the 101 corridor.” Again, this is claimed to be “new information,” “inconsistent” with the MND and therefore is something that can serve as a basis to re-evaluate the project under CEQA.

Besides being factually incorrect (note the third paragraph of the District's March 24, 2015 submittal)³ this claim seems to indicate that a party can attribute a different motivation to a project and that this “secret motivation” can then serve as “new information” to justify reopening to additional CEQA review the dimensions of a project that were clearly stated in the original document.

The District has stated clearly, from the institution of its ferry and bus operations over 40 years ago, that the purpose of those services is to reduce the amount of vehicle traffic on the Golden

³ From the District's March 24, 2015 submittal: “The improvements will allow Golden Gate Ferry to continue providing quality public transit across the San Francisco Bay and ease congestion on Highway 101 by reducing the number of motor vehicles traveling between the North Bay counties and San Francisco. The increased use of public transportation decreases the region’s dependence upon automobile transportation, thereby reducing the region’s overall fossil fuel usage and associated emissions and improving the environmental sustainability of transportation in the region.”

Gate Bridge and the Highway 101 corridor. This is nothing new, nor a different motivation for this Project.

This Project is a regional project, and the State Legislature has clearly stated that the City has no land use authority over it. The City's only basis to consider the Project is due to the terms of the 1995 Lease. By means of that Lease, it appears that the City is attempting to control the size and operations of this regional transportation facility.

As stated above the District hereby withdraws its request for the City to consent, under the terms of the 1995 Lease, to the plans for the replacement landing, and further withdraws any request to utilize City property and asks the City to take no further action on the Project.

As the District is seeking no discretionary action by the City, the City is no longer a responsible agency under the terms of CEQA and should halt any environmental review process.

Please contact me at (415) 923-2203 if you wish to discuss this matter further.

Sincerely,



Denis J. Mulligan
General Manager

cc: Mary Wagner, City Attorney
Danny Castro, Director, Community Development