

CALIFORNIA COASTAL COMMISSION

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**F19b**

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STAFF REPORT: REGULAR CALENDAR

Application No.: 4-15-2034

Applicant: City of Santa Barbara Waterfront Department

Agent: Karl Treiberg

Project Location: 31 W. Cabrillo Boulevard, City of Santa Barbara, Santa Barbara County (APN 033-120-018)

Project Description: Install an 80 foot long x 4 foot wide (320 sq. ft) Americans with Disabilities Act (ADA) compliant gangway including a 36 sq. ft concrete abutment to the existing concrete walkway, install new 310 sq. ft floating dock expansion to the existing dock to accommodate the proposed gangway, install a 277 foot long x 8 foot wide (2,218 sq. ft) ADA compliant wooden boardwalk over the sand at existing grade.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed development with seven **Special Conditions** regarding, (1) construction responsibilities and debris removal, (2) inspection and maintenance, (3) conformance with the requirements of other resource agencies, (4) assumption of risk, (5) public access, (6) construction timing and sensitive bird species, (7) no future shoreline protective devices.

The City of Santa Barbara Waterfront Department is proposing to install an ADA compliant gangway with concrete abutment, install a new floating dock expansion to the existing dock to accommodate the proposed gangway, and install an ADA compliant wooden boardwalk over the sand at existing grade.

The proposed gangway, abutment, dock expansion and wooden boardwalk are for the existing Sea Landing facility which is located southeast of Cabrillo Boulevard on the east side of the

Santa Barbara Harbor. Within the City of Santa Barbara's (City) certified Local Coastal Program (LCP), the coastal zone of the City is divided into nine components. The proposed project is located in Component 8, The Waterfront (from Leadbetter Beach to the east end of East Beach). The City has a certified Harbor Master Plan as part of the LCP to provide policy and guidance for development specifically within the Harbor

The Sea Landing facility is authorized by the Department of Homeland Security to load and unload passengers from cruise ships that anchor off the coast of Santa Barbara just outside of the harbor. When not being used for cruise ship passengers the Sea Landing provides charters for recreational diving and whale watching. Cruise ship passengers are ferried to and from shore in tenders (smaller boats used to support cruise ship operations) that pick up and drop off passengers at the Sea Landing facility dock. Pursuant to Department of Homeland Security regulations, the existing concrete walkway adjacent to the Sea Landing facility must be temporarily fenced off during the loading and offloading of cruise ship passengers. This temporary fencing of the walkway has negative impacts on public access in the area, as visitors to the area must walk on the sand around the perimeter of the fencing.

The Waterfront Department is proposing a permanent 277 foot long wooden walkway beginning northwest of the Sea Landing facility, extending 10 feet east onto the dry sand, and continuing southeast beyond the Sea Landing facility where it will connect back to the existing concrete walkway. The wooden walkway will be constructed at the same elevation of the dry sand and will be fully accessible and meeting ADA requirements. The wooden walkway will provide alternative access for the public visiting the harbor when the concrete walkway is temporarily fenced off, thus allowing cruise ships to continue using the Harbor, without interrupting public access. In addition the Waterfront Department is proposing to add an 80 foot ADA compliant gangway and 36 sq. ft concrete abutment to the Sea Landing facility as well as a 310 sq. ft dock extension of the existing dock to support the proposed gangway. The proposed gangway will improve access and circulation for passengers being loaded and offloaded at the Sea Landing facility.

The project will not require pilings, but the proposed dock extension is a permitted fill of coastal waters. The proposed abutment will be located seaward of the existing concrete walkway on the revetment, thus the abutment will not require any fill of coastal waters or occupy any part of the sandy beach.. Special Conditions One through Three and Special Conditions Five through Seven will ensure that the project will result in minimal environmental impacts to the Harbor coastal environment. Finally the proposed project will increase public access to this area of the Harbor.

Although the Commission has previously certified a Local Coastal Program (LCP) for the City of Santa Barbara, the proposed project is within lands granted to the City by the State of California. As such, the Commission has retained jurisdiction over the issuance of coastal development permits in this area. Thus the standard of review for this project is the Chapter Three policies of the Coastal Act, with applicable policies of the City of Santa Barbara LCP serving as guidance. As conditioned, the proposed project is consistent with all applicable Chapter Three policies of the Coastal Act and all applicable policies of the certified Harbor Master Plan.

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APPENDICES

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EXHIBITS

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| Exhibit 1. | <u>Overview Map</u> |
| Exhibit 2. | <u>Photo of Existing Concrete Walkway</u> |
| Exhibit 3. | <u>Project Plans</u> |
| Exhibit 4. | <u>Photo of Cruise Ship Passengers Using Concrete Walkway</u> |
| Exhibit 5. | <u>Proposed Gangway Plans</u> |
| Exhibit 6. | <u>Photo of Existing Gangway</u> |
| Exhibit 7. | <u>Photos of Proposed Wooden Walkway</u> |

I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve Coastal Development Permit Application No. 4-15-2034 pursuant to the staff recommendation.

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on the grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is subject to the following special conditions:

1. Construction Responsibilities and Debris Removal

By acceptance of this permit, the applicant agrees to comply with the following construction-related requirements:

- A. No demolition or construction materials, equipment, debris, or waste shall be placed or stored in the water, or where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain or tidal erosion and dispersion;
- B. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;
- C. Machinery or construction materials not essential for project improvements will not be allowed at any time in the subtidal or intertidal zones;
- D. If turbid conditions are generated during construction, a silt curtain will be utilized to control turbidity;
- E. Floating booms will be used to contain debris discharged into coastal waters and any debris discharged will be removed as soon as possible but no later than the end of each day;
- F. Non buoyant debris discharged into coastal waters will be recovered by divers as soon as possible after loss;
- G. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
- H. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
- I. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;
- J. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;

- K. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems;
- L. The discharge of any hazardous materials into any receiving waters shall be prohibited;
- M. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible;
- N. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of construction-related materials, and to contain sediment or contaminants associated with construction activity, shall be implemented prior to the on-set of such activity;
- O. Any wood treatment used shall conform to the specifications of the American Wood Preservation Association for saltwater use. Wood treated with Creosote, CCA (Chromated Copper Arsenate), or ACA (Ammoniacal Copper Arsenate) is prohibited. No wood treated with ACZA (Ammoniacal Copper Zinc Arsenate) shall be used where it could come into direct contact with the water. All treated timber shall be free of chromium and arsenic; and
- P. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

2. Inspection and Maintenance Program

Throughout the life of the development approved by this permit, the permittee shall exercise due diligence in periodically inspecting (at least once per year) the facilities that are subject to this coastal development permit. The permittees shall immediately undertake any repairs necessary to maintain the structural integrity of the dock, gangway, and boardwalk and to ensure that debris does not enter the environment.

3. Conformance with the Requirements of Other Resource Agencies

The applicant shall comply with all permit requirements of, and mitigation measures required by, the California Department of Fish and Wildlife, State Water Resources Control Board, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and the marine environment. Any change in the approved project that may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations. If the Executive Director determines that a permit amendment is required, the change shall not be implemented until such an amendment is secured.

4. Assumption of Risk

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from storm waves, tsunamis, surges, and flooding; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

Prior to issuance of the Coastal Development Permit, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

5. Public Access along the Walkway

Construction of the proposed project shall not interfere with public access and use of the public walkways. Walkways shall be kept free of construction debris and staging materials. Any construction activities that require use of all or part of any public walkway shall not be carried out during the summer season (from Memorial Day through Labor Day), and the applicant shall ensure that safe public access around such construction is maintained at all times.

6. Construction Timing and Sensitive Bird Species Surveys

For any construction activities between February 15th and September 1st, the applicant shall retain the services of a qualified biologist or environmental resource specialist (hereinafter, "environmental resource specialist") to conduct sensitive bird species surveys and monitor project operations associated with all construction activities.

- A. The applicant shall ensure that the environmental resources specialist, with experience in conducting bird surveys, shall conduct bird surveys 30 calendar days prior to the listed activities to detect any active bird nests in all trees within 500 feet of the project site. A follow-up survey must be conducted 3 calendar days prior to the initiation of construction and nest surveys must continue on a monthly basis throughout the nesting season or until the project is completed, whichever comes first.
- B. If an active nest of any federally or state listed threatened or endangered species, species of special concern, or any species of raptor is found within 500 feet of construction activities, the applicant shall retain the services of an environmental resource specialist with experience in conducting bird and noise surveys, to monitor bird behavior and construction noise levels. The environmental resource specialist shall be present at all relevant construction meetings and during all significant construction activities (those with potential noise impacts) to ensure that nesting birds are not disturbed by construction related noise. The environmental resources specialist shall monitor birds

and noise every day at the beginning of the project and during all periods of significant construction activities. Construction activities may occur only if construction noise levels exceed a peak level of 65 dB at the nest site(s), sound mitigation measures such as sound shields, blankets around smaller equipment, mixing concrete batches off-site, and minimizing the use of back up alarms shall be employed. If these sound mitigation measures do not reduce noise levels, construction within 500 feet of the nesting trees/areas shall cease and shall not recommence until either new sound mitigation can be employed or nesting is complete.

- C. If an active nest of a federally or state-listed threatened or endangered species, bird species of special concern, or any species of raptor is found, the applicant shall notify the appropriate State and Federal agencies within 24 hours, and shall develop an appropriate action specific to each incident. The applicant shall notify the Executive Director in writing by facsimile or e-mail within 24 hours and consult the Executive Director regarding determinations of State and Federal agencies.

7. No Future Shoreline Protective Device for Structures

- A. By acceptance of this permit, the applicant agrees, on behalf of itself and all successors and assignees, that no new shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to this coastal development permit and any other future improvements in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, sea level rise, or any other coastal hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assignees, any rights to construct such devices or to repair/augment existing shoreline protective devices for the purpose of protecting the development approved pursuant to this coastal development permit that may exist under Public Resources Code Section 30235 or any analogous provision of the City of Santa Barbara LCP.
- B. By acceptance of this permit, the applicant further agrees, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this permit if any government agency has ordered that the structures are not to be used due to any of the hazards identified above, or if the State Lands Commission requires the structure to be removed in the event that they encroach on to State Tidelands. In the event that portions of the development fall to the beach or into the marine environment before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a Coastal Development Permit.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION AND BACKGROUND

The Santa Barbara Harbor (Harbor) is an important small boat harbor serving the south coast of Santa Barbara County, as well as the areas further south. The Harbor is the only sheltered harbor

along a 127 mile stretch of coast between Port San Luis to the north and the Ventura Marina to the south. The harbor and waterfront is the home base of the local commercial fishing fleet and the U.S. Coast Guard and provides a variety of commercial and recreational resources. Common recreational uses within the harbor area include fishing, boating, jet skiing, bike riding, walking, sunbathing, kayaking, swimming, surfing, photography and bird watching. The harbor includes more than 1,133 slips and associated facilities, including seven pump out facilities and recycling and hazardous waste facilities.

The Harbor is located south of the City of Santa Barbara and is bounded by Leadbetter Beach to the west and Sterns Wharf to the east. The proposed project is for the Sea Landing facility located on the east side of the Santa Barbara Harbor adjacent to the public launch ramp ([Exhibit 1](#)). The Sea Landing facility provides charter dive boat services and whale watching. Currently, there is only one 30 foot long access gangway to the Sea Landing docks for visitors. This existing gangway is not in compliance with Americans with Disabilities Act (ADA) standards and does not provide sufficient circulation for passengers arriving to and departing from the Sea Landing facility.

In addition, the existing Sea Landing facility is authorized by the Department of Homeland Security to load and offload passengers for the cruise ships that visit Santa Barbara and anchor outside of the harbor. For safety reasons the Sea Landing facility is temporarily fenced off from the general public during the loading and offloading of cruise ship passengers. There is an existing concrete walkway that extends southeast from W. Cabrillo Boulevard, past the Sea Landing facility, to the beach and ends at an existing rock groin ([Exhibit 2](#)). This walkway is an important coastal accessway for visitors to the area. During the times that the Sea Landing facility is temporarily fenced off the section of this walkway adjacent to the facility is unusable by the public and visitors are forced to walk on the beach, around the Sea Landing facility.

The proposed project involves the installation of an 80 foot long by 4 foot wide ADA compliant gangway including a 36 sq. ft. concrete abutment to the existing concrete walkway, installation of a new 310 sq. ft. floating dock expansion to the existing dock to accommodate the proposed gangway, and installation of a 277 foot long by 8 foot wide ADA compliant wooden boardwalk over the sand at existing grade ([Exhibit 3](#)). The proposed 80 foot long gangway will improve access and circulation for visitors to the Sea Landing facility and the wooden boardwalk will improve access for visitors to the harbor during periods when the Sea Landing facility is temporarily fenced off to load and offload cruise ship passengers.

B. RECREATION AND ACCESS

Section 30210 of the Coastal Act states:

In carrying out the requirements of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be proved for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rock coastal beaches to the first line of terrestrial vegetation.

Section 30212 of the Coastal Act states (in part):

a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects...

Section 30214 of the Coastal Act states (in part):

a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case include, but not limited to, the following:

- 1. Topographic and geologic site characteristics.*
- 2. The capacity of the site to sustain use and at what level of intensity.*
- 3. The appropriateness of limiting public access to the right to pass and repass...*

Section 30220 of the Coastal Act states:

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Policy ACC-2 and subsequent proposed actions of the City of Santa Barbara certified Harbor Master Plan state:

Policy ACC-2: Public access from the nearest public roadway to the shoreline and along the coast shall be provided.

Action ACC-2.4: Consider relocation of the Beachway near the boat launch ramp so that it does not bisect the parking lot and consider overall improvements to pedestrian access in that area.

Coastal Act Sections 30210, 30211, 30212, and 30214 mandate that maximum access and recreational opportunities shall be provided, consistent with public safety and the protection of coastal resources and that new development shall not interfere with public access. Section 30220 of the Coastal Act requires that coastal areas suited for coastal recreational activities that cannot be provided at inland water areas be protected. Finally, Policy ACC-2 and proposed action ACC-2.4 of the certified Harbor Master Plan state that public access along the coast shall be provided and that overall improvements to pedestrian access shall be considered.

During the loading and offloading of cruise ship passengers the section of walkway adjacent to the Sea Landing facility is temporarily fenced off in accordance with Department of Homeland Security protocols. Pursuant to Coastal Act Section 30214 the public access policies of the Coastal Act must be implemented in a manner that considers the capacity of a site to sustain use and also the appropriateness of limiting access. As such, in this case the Sea Landing facility temporarily limiting public access along the walkway is necessary to ensure the safety of the

cruise ship passengers ([Exhibit 2](#)). Additionally the walkway is only sufficiently wide enough for two lines of people at a time, passengers being offloaded from the cruise ships and passengers being loaded onto the cruise ships. Currently there is not sufficient space to accommodate the two lines for cruise ship passengers as well as a third lane for the public within the existing walkway ([Exhibit 4](#)).

The proposed wooden walkway is designed and intended to be retained permanently (although it will be constructed such that it could be removed in the future should it no longer be needed) and will provide an alternate accessway for the public during periods when the existing concrete walkway is temporarily fenced off. The proposed wooden walkway will be constructed 10 feet east of the Sea Landing facility, beginning approximately 180 feet northwest of the facility and ending approximately 100 feet southeast of the facility. The walkway will be at the same elevation as the existing sand and is designed to be fully accessible and meeting ADA requirements. The wooden walkway will also be available when the existing walkway is not fenced off to provide additional access opportunities to the public visiting the Harbor. The proposed wooden walkway will provide alternate access to this area of the Harbor and the beach consistent with public safety requirements and Coastal Act Sections 30210, 30211, 30212 and 30214 and Policy ACC-2 and Action ACC-2.4 of the Harbor Master Plan.

As stated earlier, the proposed wooden walkway will be constructed approximately 10 feet east of the existing concrete walkway on the sandy beach. A private company currently has an agreement with the Santa Barbara Waterfront Department to store canoes and kayaks in this area of the sandy beach available for visitors of the Harbor to rent. The proposed walkway will require the relocation of the canoes and kayaks to an area just east of their current location. The relocation of these canoes and kayaks will not have an impact on visitors to the beach. Additionally, by relocating the canoes and kayaks the proposed project has maintained the use of water-oriented recreational activities consistent with Coastal Act Section 30220.

The proposed project also includes the installation of an 80 foot long by 4 foot wide gangway and 36 sq. ft concrete abutment to extend from the Sea Landing facility to the existing dock. A 310 sq. ft floating dock expansion will be added to the existing dock to accommodate the proposed gangway ([Exhibit 5](#)). The Sea Landing facility currently has one 40 foot gangway beginning on the seaward side of the building and extends southeast where it connects with the existing dock ([Exhibit 6](#)). This shorter 40 foot gangway does not meet the federal and state requirements for ADA accessible design. In addition the single gangway does not provide sufficient access and circulation for cruise ship passengers resulting in crowding and delays along the existing concrete walkway. The proposed 80 foot gangway is designed in compliance with federal and state ADA requirements and will provide an additional route for passengers passing through the Sea Landing facility, thus increasing access and circulation consistent with Coastal Act Sections 30210 and 30214 and Action ACC-2.4 of the Harbor Master Plan.

Lastly, the staging of construction materials and equipment as well as the placement of construction debris has the potential to inhibit access, specifically along the existing concrete walkway. Therefore, [Special Condition Five](#) requires the applicant to keep walkways free of staging materials and construction debris. Additionally, closure of the public walkway along the project site could also adversely impact public access. In order to minimize such impacts, the

Commission finds it necessary to require the applicant to ensure that any construction activities that require the use of all or part of any public walkway are not carried out during the summer season (from Memorial Day through Labor Day) and that safe public access around such construction is maintained at all times. This is a requirement of [Special Condition Five](#). Therefore, as conditioned and because of the reasons stated above, the proposed project is consistent with Coastal Act Sections 30210, 30211, 30212, 30214, and 30220 and the City of Santa Barbara certified Harbor Master Plan Policy ACC-2 and proposed action ACC-2.4.

C. COASTAL AND MARINE RESOURCES/WATER QUALITY

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, steams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encourage waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30232 of the Coastal Act states:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

Section 30233 of the Coastal Act states (in part):

- a) *The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:*
- 3) *In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural*

pilings for public recreational piers that provide public access and recreational opportunities.

Policy MAR-1 and the subsequent proposed actions of the City of Santa Barbara certified Harbor Master Plan state:

Policy MAR-1: Marine resources shall be maintained, enhanced, and, where feasible, restored.

Action MAR-1.1: Continue to monitor water quality and enforce water quality protection rules and regulations.

Section 30230 of the Coastal Act states that uses of the marine environment should be carried out in such a way as to sustain the biological productivity of coastal waters. Section 30231 of the Coastal Act mandates that marine resources and coastal water quality shall be maintained and where feasible restored. Section 30232 of the Coastal Act requires that protection against spillage of hazardous substances in to the marine environment relating to any new development be provided. Section 30233 limits development in open coastal waters to boating facilities that provide public access and recreational opportunities. Policy MAR-1 and proposed actions MAR-1.1 require that marine resources and water quality are protected.

Santa Barbara Harbor is identified in the City's certified Harbor Master Plan as a sensitive habitat area. Construction activities associated with the proposed project may have the potential to cause temporary disturbances to organisms inhabiting the water, sandy beach, and trees adjacent to the Sea Landing facility. Several state or federal-listed species are known to use portions of the Harbor, at least on a seasonal basis. Western Snowy Plovers regularly utilize the harbor sand spit during winter, California Brown Pelicans are yearly residents and forage and roost within the harbor and on the sand spit, California Least Terns utilize the Harbor after their breeding season during the months of July and August, California Sea Lions rest on buoys and other man-made structures just offshore from the Harbor, and Harbor Seals have been occasionally observed feeding within the Harbor.

The harbor contains soft bottom, hard substrate, and water column habitats. The frequent dredging in the harbor pursuant to Coastal Development Permit (CDP) 4-10-066 and shading of large areas by vessels and docks has limited the abundance and types of species present. Mats of red algae are present on the bottom in parts of the Harbor. The proposed 310 sq. ft dock extension is the only part of the proposed project that has the potential to directly impact the Harbor marine environment. Pursuant to Coastal Act Section 30233(a)(3) the 310 sq. ft of fill from the proposed dock extension is permitted because it is an expansion of boating facilities that provide access and recreational opportunities.

Eelgrass

Eelgrass (*Zostera marina*) is an aquatic plant consisting of tough cellulose leaves which grows in dense beds in shallow, subtidal or intertidal unconsolidated sediments. Eelgrass is considered worthy of protection because it functions as important habitat and foraging area for a variety of fish and other wildlife, according to the Southern California Eelgrass Mitigation Policy (SCEMP) adopted by the National Marine Fisheries Service (NMFS), the U.S. Fish and Wildlife

Service (USFWS), and the California Department of Fish and Wildlife (CDFW). For instance, eelgrass beds provide areas for fish egg laying, juvenile fish rearing, and waterfowl foraging. Sensitive species, such as the California least tern, a federally listed endangered species, utilize eelgrass beds as foraging grounds.

The proposed dock extension has the potential to directly impact any eelgrass which may be present in the project area. The dock extension berthed above these eelgrass beds could reduce the light available to eelgrass by shading portions of the ocean floor. Because there is an existing dock at the Sea Landing facility it is not expected that any eelgrass would be located in the project vicinity. Previously issued CDP 4-14-0651 to replace the end tie docks at marinas within the Harbor included a survey for eelgrass conducted in October of 2013 which confirmed no presence of any eelgrass within those areas of the harbor. Additionally previously issued CDP 4-07-124 for another marina project in the harbor conducted in 2008 did not identify any eelgrass. Lastly, biological studies conducted as part of the dredging activities for CDP 4-10-066 have found that eelgrass has not historically existed within the Harbor.

Caulerpa taxifolia

The Commission further finds that construction activities within marine environments could disturb and cause the spread of the non-native and invasive plant species *Caulerpa taxifolia*. *C. taxifolia* is a tropical green marine alga that spreads asexually from fragments and creates a dense monoculture displacing native plant and animal species. Because of toxins in its tissues, *C. taxifolia* is not eaten by herbivores in areas where it has invaded. The infestation of *C. taxifolia* has had serious negative economic and social consequences because of impacts to tourism, recreational diving, and commercial fishing in places such as the Mediterranean.¹ Because of the grave risk to native habitats, in 1999 *C. taxifolia* was designated a prohibited species in the United States under the Federal Noxious Weed Act. In addition, in September 2001, the Governor signed into law AB 1334 which made it illegal in California for any person

¹ References:

Meinesz, A. (Translated by D. Simberloff) 1999. Killer Algae. University of Chicago Press

Chisholm, J.R.M., M. Marchioretta, and J.M. Jaubert. Effect of low water temperature on metabolism and growth of a subtropical strain of *Caulerpa taxifolia* (Chlorophyta). *Marine Ecology Progress Series* 201:189-198

Ceccherelli, G. and F. Cinelli. 1999. The role of vegetative fragmentation in dispersal of the invasive alga *Caulerpa taxifolia* in the Mediterranean. *Marine Ecology Progress Series* 182:299-303

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Belsher, T. and A. Meinesz. 1995. Deep-water dispersal of the tropical alga *Caulerpa taxifolia* introduced into the Mediterranean. *Aquatic Botany* 51:163-169.

to sell, possess, import, transport, transfer, release alive in the state, or give away without consideration various *Caulerpa* species.

In June 2000, *C. taxifolia* was discovered in Aqua Hedionda Lagoon in San Diego County, and in August of that year an infestation was discovered in Huntington Harbor in Orange County. Genetic studies show that this is the same clone as that released in the Mediterranean. Other infestations are likely. Although a tropical species, *C. taxifolia* has been shown to tolerate water temperatures down to at least 50°F. Although warmer southern California habitats are most vulnerable, until better information is available, it must be assumed that the whole California coast is at risk. All shallow marine habitats could be impacted.

In response to the threat that *C. taxifolia* poses to California's marine environment, the Southern California Caulerpa Action Team, SCCAT, was established to respond quickly and effectively to the discovery of *C. taxifolia* infestations in Southern California. The group consists of representatives from several States, federal, local and private entities. The goal of SCCAT is to completely eradicate all *C. taxifolia* infestations.

Previously issued CDP 4-10-066 which includes annual dredging of the Harbor was approved by the Commission in March of 2011 and is permitted for a period of 10 years. The area of the proposed dock extension is included as part of the annual Harbor dredging. Special Condition 10 of CDP 4-10-066 requires surveys for *C. taxifolia* prior to the commencement of annual dredging activities and to date no *C. taxifolia* has been identified. As such, no *C. taxifolia* is expected in the area of the proposed dock expansion.

Construction Impacts

Construction for the proposed project will be located over the waters of the Harbor and on the dry sand. Construction of the proposed 80 foot gangway, concrete abutment, and dock expansion is expected to take 10 days while construction of the proposed wooden walkway is expected to take 5 days. The proposed gangway will be assembled at an offsite facility, shipped to the site, lifted into place by a land based crane or excavator and attached permanently to the concrete abutment. The proposed dock extension will be assembled at an offsite facility, shipped to the site, placed in the water at the boat launch ramp adjacent to the project site, and floated into place. The project does not anticipate the use of a construction barge for the proposed dock extension. Construction of any kind, adjacent to or in coastal waters, has the potential to adversely impact marine resources and water quality through the introduction of pollutants associated with construction.

Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain, surf, or wind would result in adverse impacts upon the marine environment which would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. In addition the use of machinery in coastal waters not designed for such use may result in the release of lubricants or oils that are toxic to marine life. Sediment discharged into waters may cause turbidity, which can shade and reduce the productivity of foraging avian and marine species by interfering with their ability to see food in the water column. In order to avoid adverse construction-related impacts upon marine resources, [Special](#)

[Condition One](#) outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris.

Marine resources and water quality can also be adversely affected by the use of toxic chemicals used to treat wood products that come into contact with the water. The toxic chemicals can leach out of treated wood and poison marine organisms. Some wood treatments can be used if the wood does not come into contact with the water. The deck of the proposed dock extension will be wood framing over plastic floatation units. No piles are proposed for the dock extension. Additional plastic floatation units will be added to the existing dock to support the weight of the proposed gangway. Therefore, [Special Condition One](#) requires that any wood treatment used shall conform with the specifications of the American Wood Preservation Association for saltwater use. Wood treated with Creosote, CCA (Chromated Copper Arsenate), or ACA (Ammoniacal Copper Arsenate) is prohibited, and all treated timber shall be free of chromium and arsenic. No wood treated with ACZA (Ammoniacal Copper Zinc Arsenate) shall be used where it could come into direct contact with the water.

Further, [Special Condition One](#) requires that the applicant disposes of all construction debris at an appropriate location. This condition requires the applicant to incorporate silt curtains and/or floating booms when necessary to control turbidity and debris discharge. Divers shall remove any non-floatable debris not contained in such structures that sink to the ocean bottom as soon as possible. [Special Condition Two](#) requires that the permittee inspect the facilities that are subject to this coastal development permit at least once a year. The permittee shall immediately undertake any repairs necessary to maintain the structure integrity of the gangway, dock extension, abutment, and wooden walkway and to ensure that debris does not enter the environment. In addition, [Special Condition Three](#) is required to ensure that the permittee complies with all permit requirements and mitigation measures of the California Department of Fish and Wildlife, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment. Any change in the approved project which may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

Avian Species

Construction equipment and noise generated from the proposed project has the potential to impact nearby bird nesting and roosting habitat. Several state or federal-listed species are known to use portions of the Harbor, at least on a seasonal basis. Western Snowy Plovers regularly utilize the harbor and sand spit during winter, California Brown Pelicans are yearly residents and forage and roost within the Harbor and on the sand spit, and California Least Terns utilize the Harbor after their breeding season during the months of July and August. Least Terns and Snowy Plovers have been observed foraging on West Beach, within the area of the proposed wooden walkway. Finally, there are rows of Palm Trees lining the existing walkway that could be used for nesting or roosting by birds in the proximity of the project site.

To minimize potential adverse effects to surrounding avian habitat due to the unintentional disturbance from construction equipment and activity, including noise, [Special Condition Six](#)

requires the applicant to retain the services of a qualified biologist or environmental resource specialist to conduct bird species surveys and monitor project operations associated with construction activities that will take place between February 15th and September 1st. [Special Condition Six](#) also requires bird surveys to be conducted 30 calendar days prior to the listed activities to detect any active bird nests in any habitat within 500 feet of the project site and requires a follow-up survey to be conducted 3 calendar days prior to the initiation of construction. Further, nest surveys must continue on a monthly basis throughout the nesting season or until the project is completed, whichever comes first. If an active nest of any federally or state listed threatened or endangered species, species of special concern, or any species of raptor is found within 500 feet of construction activities, the applicant shall be required to retain the services of a biologist or environmental resource specialist with experience conducting bird and noise surveys, to monitor bird behavior and construction noise levels. The biologist or environmental resource specialist is required to monitor birds and noise every day at the beginning of the project and during all periods of significant construction activities. Construction activities may occur only if construction noise levels are at or below a peak of 65 dB at the nest site(s). If construction noise exceeds a peak level of 65 dB at the nest site(s), sound mitigation measures such as sound shields, blankets around smaller equipment, mixing concrete batches off-site, use of mufflers, and minimizing the use of back-up alarms shall be employed. If these sound mitigation measures do not reduce noise levels, construction within 500 feet of the nesting habitat shall cease and may not recommence until either new sound mitigation can be employed or until nesting is complete. Additionally, [Special Condition Six](#) requires the applicant to notify the appropriate State and Federal Agencies within 24 hours, including the Executive Director, of the discovery of an active nest of a federally or state-listed threatened or endangered species, bird species of special concern, or any species of raptor, and take action to mitigate further disturbance specific to each agency's requirements.

Therefore, only as conditioned by [Special Condition One](#) (construction requirements), [Special Condition Two](#) (inspection and maintenance), [Special Condition Three](#) (requirements of other resource agencies), and [Special Condition 6](#) (construction timing and monitoring of avian species) does the Commission find the proposed project consistent with Sections 30230, 30231, 30232, and 30233 and City of Santa Barbara Harbor Master Plan Policy MAR-1 and action MAR-1.1 regarding the protection of water quality and coastal habitats.

D. VISUAL RESOURCES

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Policy VIS-2 and the subsequent proposed action of the City of Santa Barbara certified Harbor Master Plan state (in part):

Policy VIS-2: ...Retain the existing Coastal Marine architectural theme for the wharf.

Action VIS-2.1: Develop design guidelines for the Harbor and Wharf areas. The guidelines shall include:

...

b) Maintain and create variety of architectural character within the Waterfront through the use of architectural style, building massing, detailing, color, landscaping and signage to preserve the vitality of the area...

Coastal Act Section 30251 requires the protection of the visual qualities of coastal areas while City of Santa Barbara certified Harbor Master Plan Policy VIS-2 and action VIS-2.1 maintain that new development be consistent with the existing Coastal Marine architectural style of the Harbor. During the loading and offloading of cruise ship passengers temporary fencing is erected along the walkway that runs adjacent to the Sea Landing facility ([Exhibit 4](#)). This fencing is necessary to separate cruise ship passengers from the general public pursuant to Department of Homeland Security Protocols. The temporary fencing is not consistent with the architectural style of the Harbor and has the effect of impeding coastal views of the Harbor area. However, because cruise ships visit the harbor for approximately 35 days per year and because the fencing is confined to a relatively small area of the Harbor its visual impacts are temporary and not significant. There are no expected visual impacts for the proposed gangway and dock extension.

The proposed wooden walkway will improve public access during periods when the temporary fencing is erected as well as provide additional access opportunities to the Harbor. The proposed wooden walkway was designed consistent with other wooden walkways in coastal areas, specifically Santa Monica ([Exhibit 7](#)). This is consistent with the existing Coastal Marine architectural style of the Harbor. Additionally, because the walkway will be wooden and constructed at the same level as the existing sand it will blend in with the beach landscape and have minimal impacts on the visual qualities of the area. As such, the proposed wooden walkway is consistent with Coastal Act Section 30251 and City of Santa Barbara certified Harbor Master Plan Policy VIS-2 and action VIS-2.1.

E. HAZARDS

Section 30253 of the Coastal Act states (in part):

New development shall do all of the following:

...

b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or

surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The project is located within the inner portion of the Santa Barbara Harbor. The Harbor is a protected water area and is therefore not regularly subject to potentially damaging wave action. However, winter storm conditions can generate waves within the inner portions of the Santa Barbara Harbor which could cause damage to boating support facilities, including the gangway and dock of the Sea Landing facility. Additionally, winter storm conditions and wave action could lead to erosion of the sand supporting the proposed wooden walkway. Therefore, [Special Condition Four](#) requires the applicant to waive any claim of liability against the Commission for damage to life or property that may occur as a result of the permitted development. The applicant's assumption of risk will demonstrate that the applicant is aware of and appreciates the nature of the hazards which exist on the site and which may adversely affect the stability or safety of the proposed development.

Finally, Coastal Act Section 30253 mandates that new development shall not require the construction of protective devices that would substantially alter natural landforms. While there is an existing revetment located on the seaward site of the Sea Landing facility and the Sand Spit jetty is currently protecting the Harbor to the east, there is not a protective device along the shore of West Beach immediately adjacent to the Sea Landing facility. Winter storm conditions and wave action could lead to erosion of the sand in this area and could affect the proposed development. The construction of a shoreline protective device in the future to protect the proposed development would have significant adverse impacts on shoreline processes and public access. As such, the development may only be approved if it does not now and will not in the future require any shoreline protective device to assure stability. As proposed, the walkway will be constructed of wood planks. While the walkway is proposed to be retained permanently, it will be constructed such that it could be removed easily in the future should it no longer be needed or if it is affected by coastal hazards. No shoreline protection is necessary to assure stability. The Commission finds it necessary to require [Special Condition Seven](#) which prohibits the permittee from constructing new shoreline protection device(s) to protect the development authorized by this CDP and requires the permittee to remove the development authorized by this CDP if any government agency has ordered the structure not to be used if it damaged by any coastal hazards in the future.

Therefore, for the reasons discussed above, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Section 30253.

F. LOCAL COASTAL PROGRAM

Although the proposed project is located within the City of Santa Barbara which has a certified Local Coastal Program, the project itself is within the Commission's area of retained coastal development permit jurisdiction; thus, a coastal development permit is required from the Commission for the proposed project. The Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act. The City of Santa Barbara certified LCP is advisory in nature and may provide guidance. The Commission certified the City of Santa Barbara LCP in 1986. Later, in 1996, the Commission certified a Harbor Master Plan for

the harbor as part of the LCP. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified LCP for the area.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to any public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed in detail above, the proposed project, as conditioned, is consistent with the policies of the Coastal Act. Feasible mitigation measures, which will minimize all adverse environmental effects, have been required as special conditions. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A

Substantive File Documents

Letter from City of Santa Barbara Waterfront Department, dated February 5, 2016; City of Santa Barbara Waterfront Department Sea Landing Gangway and Wooden Walkway Project Description, dated January 2016; Memorandum from Moffatt & Nichol, dated January 8, 2016; 4-09-063 (City of Santa Barbara Waterfront Department); 4-09-064 (City of Santa Barbara Waterfront Department); 4-10-037 (City of Santa Barbara Waterfront Department); 4-10-066 (City of Santa Barbara Waterfront Department); 4-14-0651 (City of Santa Barbara Waterfront Department)



Santa Barbara

Sterns Wharf

Project Location

Leadbetter Beach

Exhibit 1
CDP 4-15-2034
Santa Barbara Waterfront Department
Overview Map

Google earth

© 2016 Google
Image © 2016 TerraMetrics



3000 ft



Exhibit 2
CDP 4-15-2034
Santa Barbara Waterfront Department
Photo of Existing Concrete Walkway

Proposed Wooden Walkway

Proposed 80' Gangway

Existing Concrete Walkway

Proposed Dock Extension

CONCEPTUAL LAYOUT

SCALE: 1"=20'

- NOTES:**
- BATHYMETRIC AND TOPOGRAPHIC DATA IS BASED ON DATA RECEIVED FROM CITY OF SANTA BARBARA DATED APRIL 30, 2015.
 - BATHYMETRIC AND TOPOGRAPHIC DATA IS BASED ON NOAA STATION ID 9411340, SANTA BARBARA HARBOR, AND IS PROVIDED FOR INFORMATION ONLY.
 - BATHYMETRIC AND TOPOGRAPHIC DATA IS REFERENCED TO MLLW VERTICAL DATUM.
 - IMPROVEMENTS ARE LIMITED TO ONLY THOSE ITEMS DESCRIBED WITHIN THE PROJECT LIMITS.

LEGEND:

- EXIST. SEA LANDING FLOATING DOCK
- PROP. FLOATING DOCK EXTENSION FOR GANGWAY LANDING
- PROP. ADA ACCESS GANGWAY
- PROJECT LIMITS

PROJECT STATISTICS

APR: 033-190-002

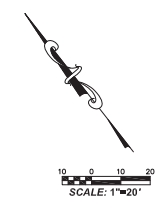
ZONE: HC/SD-3

LOCATION: 34° 24' 43" LATITUDE
119° 41' 18" LONGITUDE

PROPERTY OWNER: CITY OF SANTA BARBARA
WATERFRONT DEPARTMENT
132-A HARBOR WAY
SANTA BARBARA, CA 93109

- SCOPE OF WORK**
- INSTALL NEW GANGWAY.
 - INSTALL AT-GRADE WOODEN BOARDWALK.

| CONCEPTUAL LAYOUT OVERALL SUMMARY | | | |
|-----------------------------------|-----------|--------------|-----------|
| ITEM | EXISTING | NEW PROPOSED | TOTAL |
| FLOATING DOCK AREA | 4,380 FT² | 310 FT² | 4,690 FT² |
| ADA GANGWAY AREA | - | 320 FT² | 320 FT² |



MOFFATT & NICHOL

PUBLIC WORKS DEPARTMENT
ENGINEERING DIVISION

APPROVED: _____ DATE: _____

CITY ENGINEER: _____ ORIGINAL SIGNED DATE: _____

DESIGN: _____ CHECKED: _____

DATE: _____

30 % DRAFT

REVISIONS:

SEA LANDING PASSENGER ACCESS IMPROVEMENTS

CONCEPTUAL LAYOUT

PBW. NO. _____

BID NO. _____ SHT. DES. _____

Exhibit 3 CDP 4-15-2034 Santa Barbara Waterfront Department Project Plans



Exhibit 4
CDP 4-15-2034
Santa Barbara Waterfront Department
Photo of Cruise Ship Passengers Using
Concrete Walkway

Exhibit 5
CDP 4-15-2034
Santa Barbara Waterfront Department
Proposed Gangway Plans



Exhibit 6
CDP 4-15-2034
Santa Barbara Waterfront Department
Photo of Existing Gangway



LOOKING SOUTHEAST
FROM LAUNCH RAMP



LOOKING SOUTHEAST
FROM LAUNCH RAMP



LOOKING SOUTHEAST
FROM LAUNCH RAMP



LOOKING NORTH
FROM ROCK GROIN



CRUISE SHIP SETUP



CRUISE SHIP SETUP



CRUISE SHIP SETUP
WITH TEMPORARY SIDEWALK



NEW GANGWAY LOCATION
FROM ROCK GROIN



TEMPORARY SIDEWALK
CITY OF SANTA MONICA



TEMPORARY SIDEWALK
CITY OF SANTA MONICA



TEMPORARY SIDEWALK
CITY OF SANTA MONICA



TEMPORARY SIDEWALK
CITY OF SANTA MONICA



TEMPORARY SIDEWALK
CITY OF SANTA MONICA

301 W. CABRILLO BLVD.
SEA LANDING GANGWAY & TEMPORARY SIDEWALK

CITY OF SANTA BARBARA
WATERFRONT DEPARTMENT FACILITIES DIVISION

SCALE: 1/8" = 1'-0"
PROJECT: 15-0000

DATE: 10-1-2014

Exhibit 7
CDP 4-15-2034
Santa Barbara Waterfront Department
Photos of Proposed Wooden Walkway