

1 [Motion reversing the Planning Commission certification of the Final Supplemental
2 Environmental Impact Report for the San Francisco Cruise Terminal Mixed Use Project and
3 Brannan Street Wharf Project.]

4 **Motion reversing the Planning Commission certification of the Final Supplemental**
5 **Environmental Impact Report for a proposed mixed-use cruise terminal**
6 **facility/residential project, located on Piers 30-32 and Seawall Lot 330 and a public**
7 **open space project, in the location of Piers 34 and 36, in the Port of San Francisco, in**
8 **the City and County of San Francisco.**

9 WHEREAS, The Planning Department ("Department") determined that a supplement to
10 the Waterfront Land Use Plan Environmental Impact Report, Case No. 94.155E (State
11 Clearinghouse No. 94123007), certified in Planning Commission Resolution No. 14274
12 (January 19, 1997) ("Waterfront Plan FEIR") was required for the Cruise Terminal Mixed-Use
13 project at Piers 30-32 and Seawall Lot 330 and the Brannan Street Wharf Project at Piers 34
14 and 36 (collectively, the "Project") and provided public notice of that determination by
15 publication in a newspaper of general circulation on June 9, 2001; and

16 WHEREAS, On November 17, 2001, the Department published the Draft Supplemental
17 Environmental Impact Report for the Project ("DSEIR") and provided public notice in a
18 newspaper of general circulation and mailed notice of the availability of the DSEIR for public
19 review and comment and of the date and time of the Planning Commission ("Commission")
20 public hearing on the DSEIR; and

21 WHEREAS, Notices of availability of the DSEIR and of the date and time of the public
22 hearing were posted near the Project site on behalf of the Department on November 19, 2001;
23 and

24 WHEREAS, On November 17, 2001, copies of the DSEIR were mailed or otherwise
25 delivered to a list of persons requesting it, to those noted on the distribution list in the DSEIR,

1 to adjacent property owners, and to government agencies, the latter both directly and through
2 the State Clearinghouse; and

3 WHEREAS, A Notice of Completion was filed with the State Secretary of Resources via
4 the State Clearinghouse on November 19, 2002; and

5 WHEREAS, The Commission held a duly advertised public hearing on said DSEIR on
6 December 20, 2001, and received public comment on the DSEIR. The Department extended
7 the period for acceptance of written comments to January 16, 2002; and

8 WHEREAS, The Department prepared responses to comments on environmental
9 issues received at the public hearing and in writing during the 60-day public review period for
10 the DSEIR, prepared revisions to the text of the DSEIR in response to comments received or
11 based on additional information that became available during the public review period, and
12 corrected errors in the DSEIR. This material was presented in a "Draft Summary of
13 Comments and Responses," published on April 30, 2002, was distributed to the Commission
14 and to all parties who commented on the DSEIR, and was available to others upon request at
15 the Department office; and

16 WHEREAS, The Department prepared a Final Supplemental Environmental Impact
17 Report ("FSEIR"), consisting of the DSEIR, any consultations and comments received during
18 the review process, any additional information that became available, and the Summary of
19 Comments and Responses all as required by law. The FSEIR also relied upon and included
20 information from the Waterfront Plan FEIR. On May 9, 2002, the Commission reviewed and
21 considered the FSEIR and, by Motion No. 16404, found that, acting through the Department, it
22 had fulfilled all procedural requirements of the California Environmental Quality Act (Cal. Pub.
23 Res. Code Sections 21000 et seq., hereinafter "CEQA"), the State CEQA Guidelines (Cal.
24 Code Regs. Title 14, Sections 15000 et seq., ("CEQA Guidelines") and Chapter 31 of the San
25 Francisco Administrative Code ("Chapter 31"); that the information in the Summary of

1 Comments and Responses and any additional information that became available did not
2 require recirculation under CEQA Guidelines Section 15088.5; and the Commission certified
3 the FSEIR; and

4 WHEREAS, By letter to the Clerk of the Board of Supervisors dated May 28, 2002,
5 Bluewater Network filed a timely appeal of the Commission's FSEIR certification to the Board
6 of Supervisors pursuant to Administrative Code Section 31.16(a); and

7 WHEREAS, The Board of Supervisors held a duly-noticed public hearing on June 24,
8 2002, to consider the appeal of the FSEIR. The Board reviewed and considered the FSEIR
9 and the FSEIR files, heard testimony and received public comment and written
10 correspondence from the public and public agencies regarding the adequacy of the FSEIR;
11 and

12 WHEREAS, By Motion Nos. M02-99 and M02-94, on file with the Clerk of the Board of
13 Supervisors in File Nos. 020948 and 020949, which are hereby declared to be a part of this
14 motion as if set forth fully herein, the Board disapproved the certification of the FSEIR by the
15 Planning Commission and directed the Clerk to prepare findings. The Board, in Motion No.
16 M02-100, on file with the Clerk of the Board of Supervisors in File No. 021164, which is
17 hereby declared to be a part of this motion as if set forth fully herein, remanded the FSEIR to
18 the Commission and directed the Commission to revise the FSEIR as specified in Board
19 Motion No. M02-100; and

20 WHEREAS, The Commission has revised the FSEIR in accordance with the Board's
21 Motion No. M02-100. These revisions are included in the Revisions to the Final Supplemental
22 Environmental Impact Report (Revisions to the FSEIR), published and made available to the
23 Planning Commission and the public on October 11, 2002, and on file with the Clerk of the
24 Board of Supervisors in File No. 022021 , which is hereby declared to be a part of this motion
25 as if set forth fully herein; and

1 WHEREAS, The Planning Commission held a duly-noticed public hearing on
2 November 21, 2002 to consider certification of the FSEIR as revised. The Planning
3 Commission reviewed and considered the FSEIR, including the Revisions to the FSEIR, and
4 the FSEIR files, heard testimony and received public comment and written correspondence
5 from the public and public agencies regarding the adequacy of the FSEIR; and

6 WHEREAS, By Motion No.16480, on file with the Clerk of the Board of Supervisors in
7 File No. , which is hereby declared to be a part of this motion as if set forth fully herein,
8 the Planning Commission made findings and certified the completion the FSEIR in compliance
9 with CEQA, the CEQA Guidelines, and Chapter 31; and

10 WHEREAS, By letter to the Clerk of the Board of Supervisors dated December 11,
11 2002, San Franciscans for a Healthy Waterfront filed a timely appeal of the Commission's
12 FSEIR certification to the Board of Supervisors pursuant to Administrative Code Section
13 31.16(a); and

14 WHEREAS, The Board of Supervisors held a duly-noticed public hearing on January
15 13, 2003, to consider the appeal of the Planning Commission's certification of the FSEIR; and

16 WHEREAS, The FSEIR as revised does not add significant new information to the FSEIR or
17 change the conclusions reached in the FSEIR; the revisions clarify and add additional
18 information concerning water and air quality impacts and mitigation related thereto, anti-
19 fouling paints, and whale strikes, and revise and strengthen water and air quality mitigation
20 measures. The revisions do not alter but add support to the FSEIR's conclusions. The Board
21 affirms the Planning Commission determination in Motion No. 16480 that recirculation of the
22 FSEIR and its revisions is not required because the FSEIR revisions do not identify any of the
23 following:

- 24 • A new significant environmental impact resulting from the project or from a new
25 mitigation measure proposed to be implemented;

- 1 • A substantial increase in the severity of an environmental impact unless
2 mitigation measures are adopted to reduce the impact;
- 3 • A feasible project alternative or mitigation measure considerably different from
4 others previously analyzed clearly lessening the significant environmental
5 impacts of the project, but the project proponents decline to adopt it;
- 6 • The draft EIR was so fundamentally and basically inadequate and conclusory in
7 nature that meaningful public review and comment were precluded; and

8 WHEREAS, The Revisions to the FSEIR do not identify new significant environmental
9 impacts or substantially more severe environmental impacts from the Project or from a new
10 mitigation measure, and do not identify any new feasible alternatives to the Project that are
11 considerably different from those previously analyzed. The document does include revised
12 mitigation measures; however, they are not considerably different from others previously
13 analyzed, rather they strengthen the mitigation measures from those that were previously
14 analyzed. Moreover, the project sponsors have agreed to all of the revisions to the mitigation
15 measures. There is also no evidence that the FSEIR was fundamentally flawed. To the
16 contrary, on June 24, 2002, the Board of Supervisors found the FSEIR adequate in all
17 respects except the limited areas mentioned in its Motion No. MO2-100 remanding the FSEIR
18 to the Commission; and

19 WHEREAS, The Project FSEIR files, the Waterfront Plan FEIR, and all
20 correspondence and other documents have been made available for review by the Board,
21 Commission and the public. These files are available for public review by appointment at the
22 Department offices at 1660 Mission Street, and are part of the record before the Board; and

23 WHEREAS, The private project sponsors and the staff of the Port of San Francisco
24 have indicated that the current preferred alternative for the San Francisco Cruise Terminal
25

1 Mixed-Use Project is Alternative 5, the Reduced Building Height Alternative described in the
2 FSEIR; and

3 WHEREAS, the Board reviewed and considered the FSEIR as revised and all
4 correspondence, documents, and testimony concerning the adequacy of said FSEIR that
5 have been presented to the Board, and hereby does find that the contents of said FSEIR and
6 the procedures through which it was prepared, publicized and reviewed comply with the
7 provisions of CEQA, the CEQA Guidelines and Chapter 31 of the San Francisco
8 Administrative Code; now therefore be it

9 MOVED, That the Board of Supervisors hereby REVERSES THE PLANNING
10 COMMISSION CERTIFICATION OF THE FSEIR.

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