

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of the City of Los Angeles (Harbor Department) for an order authorizing an at-grade pedestrian crossing of the railroad right-of-way paralleling Harbor Blvd., at the intersection of O'Farrell St., located in the San Pedro community of Los Angeles.

Application 04-07-048  
(Filed July 30, 2004)

**O P I N I O N****Summary**

This decision grants the City of Los Angeles Harbor Department (Harbor Department) authority to construct an at-grade pedestrian-rail crossing over one track between Harbor Boulevard and the proposed waterfront pedestrian parkway. The proposed crossing (CPUC Crossing No. 121SY-4.90-CD) will be constructed at the location of the closed O'Farrell Street at-grade highway-rail crossing (CPUC Crossing No. BG-507.00) in the City of Los Angeles, Los Angeles County.

**Discussion**

The Harbor Department plans to construct a pedestrian area, referred to as the "Harbor Boulevard Pedestrian Parkway" (Parkway), along the waterfront on the east side of Harbor Boulevard and east of the tracks. As part of this project, the Harbor Department proposes to construct an at-grade pedestrian-rail

crossing to provide access between the business and residential area on the west side of Harbor Boulevard, and the Parkway east of the tracks.

In October 2000, as preparation for commencement of the Waterfront Red Car Line historical streetcar service, the Harbor Department submitted a request to the Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section (RCES) staff to modify six at-grade highway-rail crossings in the vicinity of Harbor Boulevard, pursuant to Commission General Order (GO) 88-A. Upon authorization by RCES staff in November 2000, the O'Farrell Street at-grade highway-rail crossing was closed to both pedestrian and vehicle traffic. The Harbor Department now proposes to open a pedestrian crossing at the same location as the previous vehicular crossing, but in an entirely different configuration.

Under the proposed project, the track and signals will be owned by the Harbor Department, and maintained by Pacific Harbor Line, Inc. (PHL), a corporation providing railroad switching, dispatching and maintenance services within the vicinity of the Ports of Los Angeles and Long Beach.

The Harbor Department operates the Waterfront Red Car Line historical streetcar service and PHL operates freight trains over this crossing. Historical streetcar and freight operations are operated on a temporally separated basis. Maximum speed in the vicinity of the crossing is 15 mph for the historical streetcar operation, and 10 mph for freight operation. There are currently between 42 and 54 daily streetcar movements through the crossing, during the hours of 10 a.m. and 6 p.m., four days a week. There are approximately 2 freight train movements through the crossing, after 7 p.m., five days a week.

The Harbor Department proposes to install two CPUC Standard No. 8 (flashing light signals, as defined in GO 75-C) warning devices and 3 ½-foot high

self-closing gates on the approaches to the pedestrian crossing. The Harbor Department will modify the Standard No. 8 warning devices by installing one CPUC Standard No. 1-D (pedestrian and bicycle railroad grade crossing sign, as defined in GO 75-C) sign, in lieu of the “RAILROAD CROSSING” (Crossbuck) sign, below each pair of flashing light signals facing the approaches to the crossing. The “Trolley Look Both Ways” (CA Code W82-1) sign will be installed on the rear of each Standard No. 8 (modified) warning device such that it is visible by pedestrians in the crossing area. The CA Code W82-1 sign will be mounted on each of the self-closing gates. This warning device is detailed in the application, and is shown in Appendix A attached to the Order. The proposed modifications to the Standard No. 8 warning devices are intended to allow pedestrians better visibility of the signs and flashing light signals.

The Harbor Department is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA, as amended in 1982), as stated in Public Resources Code Section 21000, et seq. On January 14, 2004, in compliance with CEQA, the Harbor Department filed the Notice of Determination with the County of Los Angeles, attached in Appendix B. It states that the project will not have a significant effect on the environment, but that mitigation measures were made a condition of project approval. A Mitigated Negative Declaration (MND) was prepared for the project.

The Commission is a responsible agency for this project under CEQA. CEQA requires that the Commission consider the environmental consequences of a project subject to its discretionary approval. In particular, to comply with CEQA, a responsible agency must consider the lead agency’s EIR or Negative Declaration prior to acting upon or approving the project (CEQA Guideline

Section 15050(b)). The specific activities that a responsible agency must conduct are contained in CEQA Guideline Section 15096.

The Commission reviewed and considered the lead agency's MND and found it adequate for our decision-making purposes. Safety, transportation, and noise are within the scope of the Commission's permitting process. The MND found that the environmental impacts related to safety, transportation, and noise were less than significant.

The MND did not identify noise impacts related to the proposed pedestrian-rail crossing. The MND asserts on page 3-57 that "activities associated with the use of the promenade facilities and other project components would not generate substantial levels of noise."

The MND found that the project would have a less-than-significant impact to transportation/traffic concerns. In addition, it asserts that safety would not be significantly impacted:

*Would the project substantially increase hazards because of a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?*

**Less than significant impact.** The project would be within an existing commercial and industrial area. The promenade component of the project would be adjacent to an existing north-south railroad track that runs parallel to and east of Harbor Boulevard. The Waterfront Red Car Line currently runs from the Cruise Terminal at Swinford Street, and 1.5 miles south to 22nd and Miner Streets. These tracks would separate Harbor Boulevard from the promenade. Pedestrian crossings at O'Farrell, First Street, or Fifth Street will remain to provide access to the promenade area. The

current configuration of the intersections at Swinford Street, First Street, and Fifth Street involves existing rail crossings with warning lights and crossing arms. Because of the existing safety systems, impacts are considered less than significant. No other design features of the project would result in a risk to vehicles or pedestrians. (Page 3-75. Los Angeles Harbor Department. *Waterfront Gateway Development Project Mitigated Negative Declaration*. November 2003.)

Although the MND does not specifically discuss the configuration of the proposed pedestrian crossing at O'Farrell Street, RCES staff worked with the Harbor Department to implement safety measures in the proposed design through incorporation of automatic warning devices and swing gates, among other items. Accordingly, with implementation of these safety measures we find that with respect to noise, transportation and safety, the project will not have a significant effect on the environment. Therefore, we adopt the MND for purposes of our approval.

RCES staff inspected the site of the proposed crossing. After reviewing the need for and the safety of the proposed crossing, RCES recommends that the Commission grant the Harbor Department's request.

The Application is in compliance with the Commission's filing requirements, including Rule 38 of Rules of Practice and Procedure, which relates to the construction of a public highway across a railroad.

### **Categorization and Need for Hearings**

In Resolution ALJ 176-3137, dated August 19, 2004, and published in the Commission Daily Calendar on August 20, 2004, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that

hearings were not necessary. Since no protests were filed, this preliminary determination remains correct. Given these developments, it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-3137.

### **Waiver of Comment Period**

As this is an uncontested matter in which the decision grants the relief requested, pursuant to Public Utilities Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

### **Assignment of Proceeding**

Richard Clark is the assigned Examiner in this proceeding.

### **Findings of Fact**

1. Notice of the Application was published in the Commission's Daily Calendar on August 6, 2004. There are no unresolved matters or protests; a public hearing is not necessary.
2. The Harbor Department requests authority, under Public Utilities Code Sections 1201-1205, to construct an at-grade pedestrian-rail crossing adjacent to the intersection of O'Farrell Street and Harbor Boulevard, over one track owned by the Harbor Department and maintained by PHL, at milepost 4.90 of a spur off the San Pedro Subdivision Westway Lead Track in the City of Los Angeles, Los Angeles County.
3. The design plans for the proposed pedestrian crossing and associated warning devices were included in the Application and are shown in Appendix A attached to the Order.
4. The at-grade pedestrian-rail crossing is necessary to provide a practical route between Harbor Boulevard and the planned pedestrian parkway / waterfront promenade east of the track.

5. Public convenience, necessity, and safety require construction of the at-grade pedestrian-rail crossing.

6. Public safety requires that Commission Standard No. 8 (modified) warning devices, swing gates and supplementary signage, as shown in the plans attached to the application, be provided for both approaches to the crossing.

7. The Harbor Department is the lead agency for this project under CEQA, as amended.

8. The Harbor Department filed a Notice of Determination with the Los Angeles County Clerk on January 14, 2004.

9. The Commission is a responsible agency for this project, and has reviewed and considered the lead agency's MND.

10. Safety, transportation, and noise are within the scope of the Commission's permitting process.

11. The lead agency found that environmental impacts related to safety, transportation, and noise, were less than significant.

### **Conclusions of Law**

1. With respect to significant impacts to safety, transportation and noise, we find that with the safety measures recommended by staff, the project will not have a significant effect on the environment. Therefore we adopt the MND for purposes of our approval.

2. The Application is uncontested and a public hearing is not necessary.

3. The Application should be granted as set forth in the following order.

**ORDER****IT IS ORDERED** that:

1. The City of Los Angeles Harbor Department (Harbor Department) is authorized to construct an at-grade pedestrian-rail crossing over its track in the City of Los Angeles, Los Angeles County, at the location and substantially as described in and as shown by plans attached to the Application, and as shown by the plans in Appendix A attached to this order, to be identified as CPUC Crossing No. 121SY-4.90-CD.
2. The Harbor Department shall install two CPUC Standard No. 8 (flashing light signals, as defined in General Order (GO) 75-C) warning devices. The Harbor Department shall modify these warning devices by installing the CPUC Standard No. 1-D (pedestrian and bicycle railroad grade crossing sign, as defined in GO 75-C) sign below the flashing light signals, in lieu of each “RAILROAD CROSSING” (Crossbuck) sign.
3. The Harbor Department shall further modify the two CPUC Standard No. 8 warning devices by installing one “Trolley Look Both Ways” (CA Code W82-1) sign on the rear of each device, facing the pedestrian-rail crossing. The Harbor Department shall also install 3 ½-foot high self-closing gates on the approaches to each pedestrian crossing and shall install one CA Code W82-1 sign on each side of each self-closing gate.
4. Within 30 days after completion of the work under this order, the Harbor Department shall notify the Commission’s Consumer Protection and Safety Division - Rail Crossings Engineering Section in writing, by submitting a completed standard Commission Form G (Report of Changes at Highway Grade Crossings and Separations) of the completion of the authorized work.

5. This authorization shall expire if not exercised within two years unless time is extended or if the above conditions are not complied with. The Commission may revoke or modify authorization if public convenience, necessity, or safety so require.

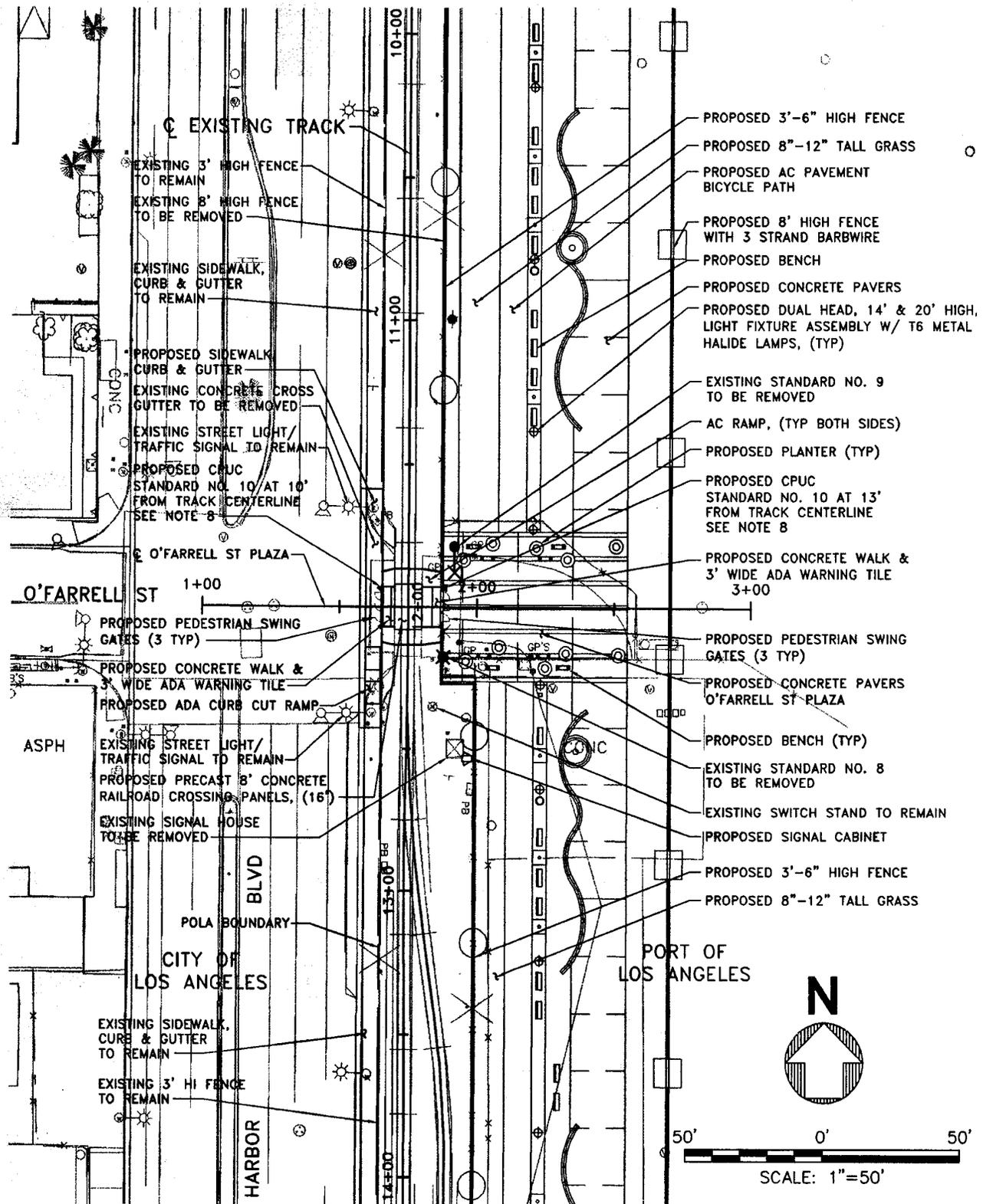
6. The Application is granted as set forth above.

7. Application 04-07-048 is closed.

This order becomes effective 30 days from today.

Dated \_\_\_\_\_, at San Francisco, California.

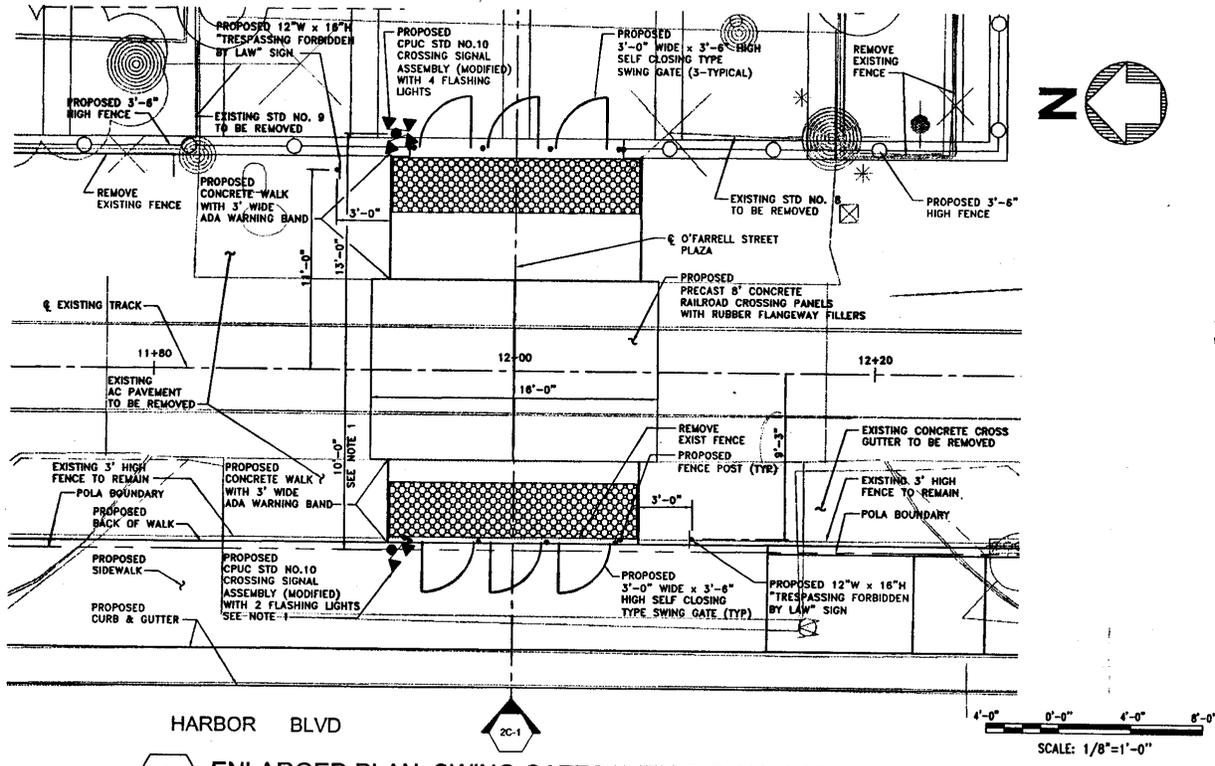
APPENDIX A-1: PLANS



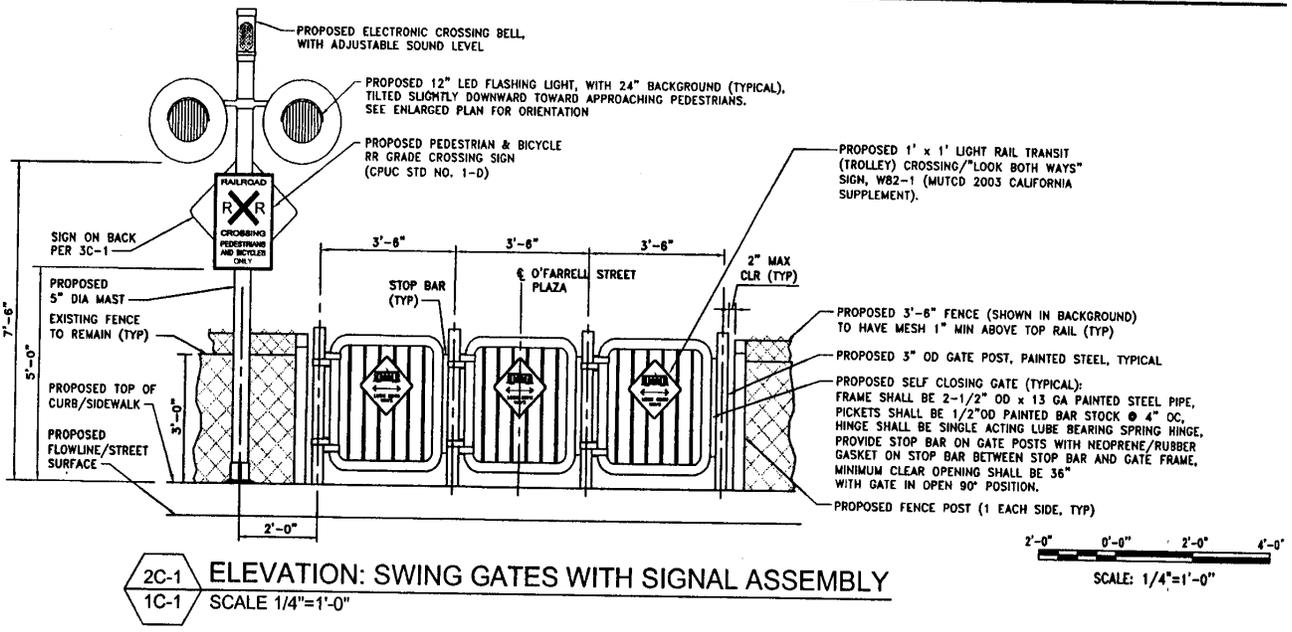
PLAN - O'FARRELL STREET PEDESTRIAN CROSSING

SCALE 1"=50'

**APPENDIX A-2: PLANS**

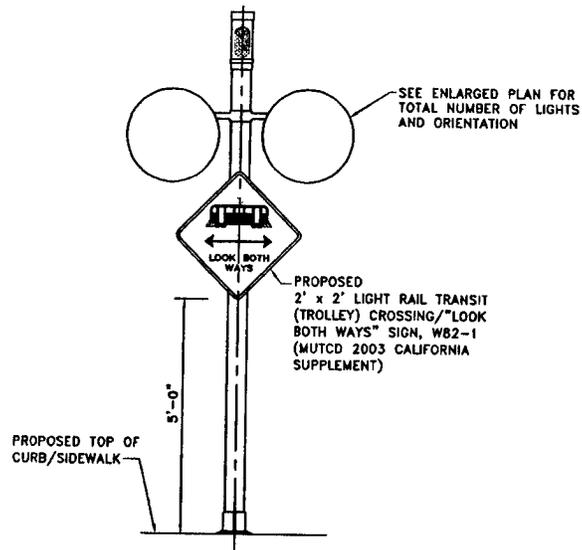


**1C-1 ENLARGED PLAN: SWING GATES WITH SIGNAL ASSEMBLY**  
 C-1 SCALE 1/8"=1'-0"



**2C-1 ELEVATION: SWING GATES WITH SIGNAL ASSEMBLY**  
 1C-1 SCALE 1/4"=1'-0"

**APPENDIX A-3: PLANS**



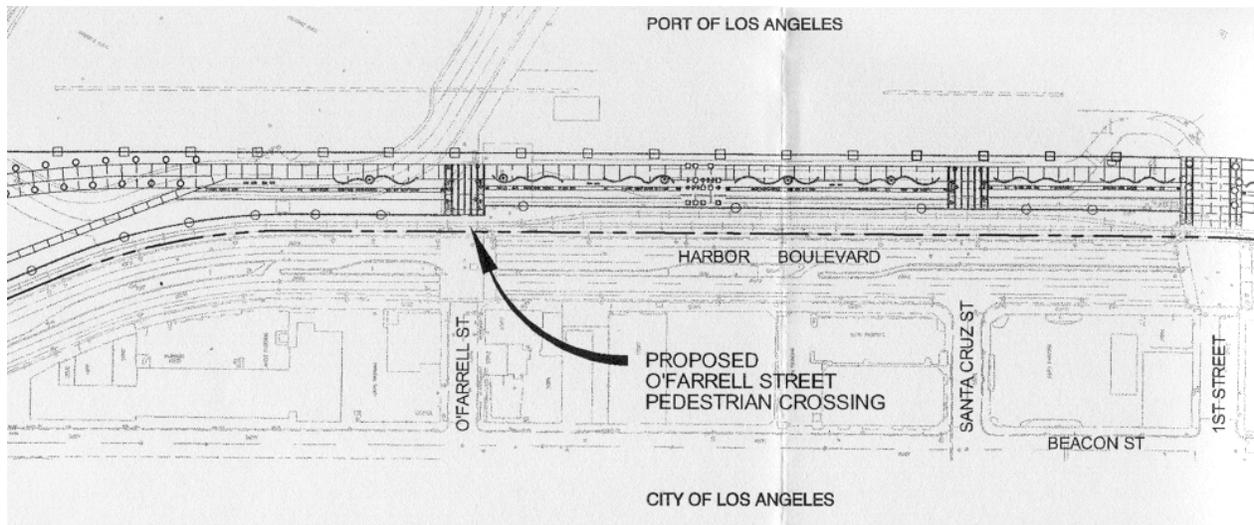
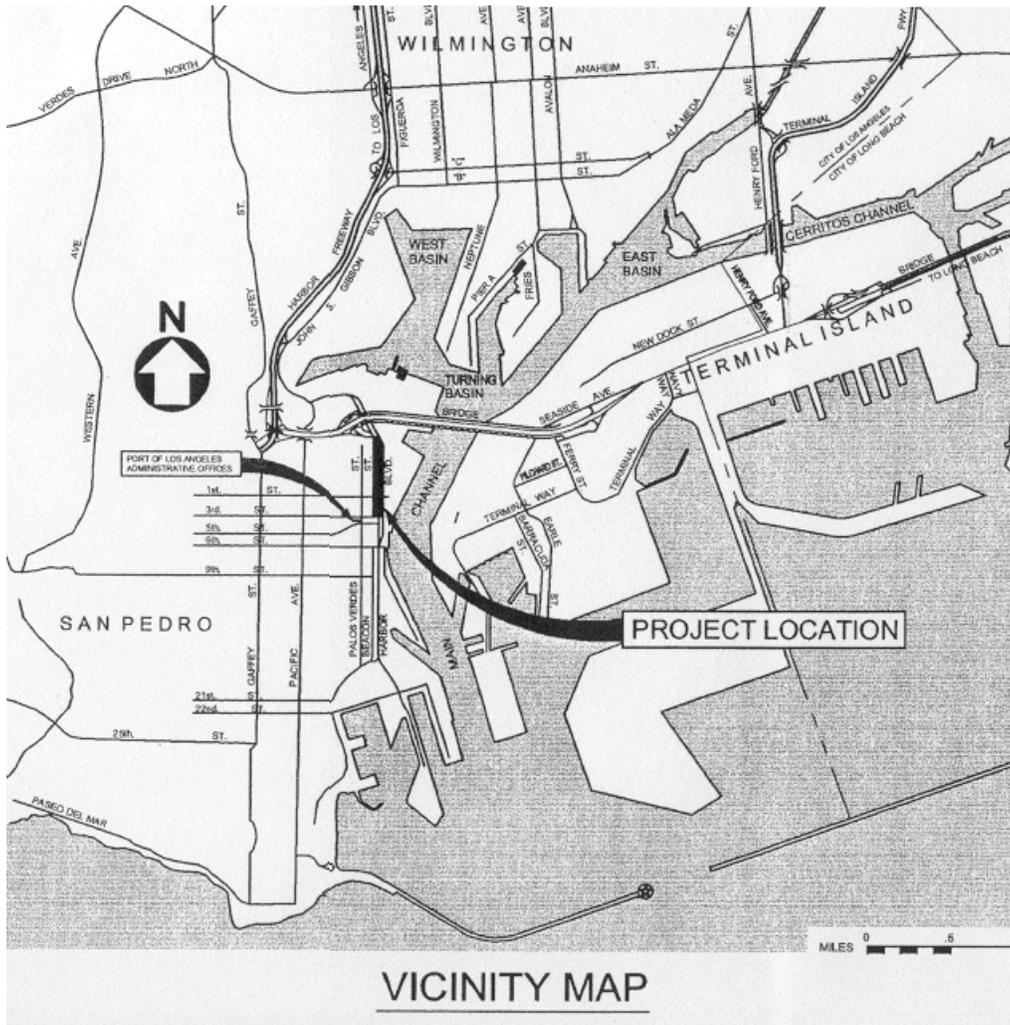
BACK OF SIGNAL ASSEMBLY

3C-1  
2C-1

ELEVATION: DETAIL

SCALE 1/4"=1'-0"

**APPENDIX A-4: PLANS**



**APPENDIX B: NOTICE OF DETERMINATION**

COUNTY CLERK'S USE

CITY OF LOS ANGELES  
CALIFORNIA ENVIRONMENTAL QUALITY ACT

CITY CLERK'S USE

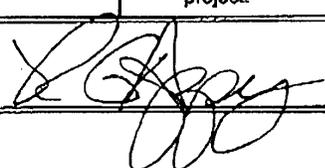
**NOTICE OF DETERMINATION**

(Article V, Section 7; Article VI, Section 11  
City CEQA Guidelines)

**ORIGINAL FILED**

JAN 14 2004

**LOS ANGELES, COUNTY CLERK**

<p>Public Resources Code Section 21152(a) requires local agencies to submit this form to the County Clerk. The filling of the notice starts a 30-day statute of limitations on court challenges to the approval of the project pursuant to Public Resources Code Section 21167. Failure to file the notice results in the statute of limitations being extended to 180 days.</p>		
<p>LEAD CITY AGENCY AND ADDRESS (Bldg, Street, City, State) Los Angeles Harbor Department - Environmental Management Division 425 S. Palms Verdes St.</p>		<p>COUNCIL DISTRICT 15th</p>
<p>PROJECT TITLE (INCLUDING ITS COMMON NAME, IF ANY) L.A. Harbor Department Waterfront Gateway Development Project</p>		<p>CASE NO. 030728-130</p>
<p>PROJECT DESCRIPTION AND LOCATION B93, Harbor Blvd from 5th St. The proposed project involves the development of a public pedestrian promenade, an entry plaza, str and pedestrian enhancements, and street intersection improvements. The proposed project area is gen</p>		
<p>CONTACT PERSON Jan Green</p>	<p>STATE CLEARING HOUSE NUMBER 2003111081</p>	<p>TELEPHONE NUMBER (310) 732-3675</p>
<p>This is to advise that on <u>01/14/2004</u> the <u>Board of Harbor Commissioners</u> of the City of Los Angeles has approved the above described project and has made the following determinations:</p>		
<p><b>SIGNIFICANT EFFECT</b></p>	<p><input type="checkbox"/> Project will have a significant effect on the environment. <input checked="" type="checkbox"/> Project will <b>not</b> have a significant effect on the environment.</p>	
<p><b>MITIGATION MEASURES</b></p>	<p><input checked="" type="checkbox"/> Mitigation measures were made a condition of project approval. <input type="checkbox"/> Mitigation measures were <b>not</b> made a condition of project approval.</p>	
<p><b>OVERRIDING CONSIDERATION</b></p>	<p><input type="checkbox"/> Statement of Overriding Considerations was adopted. <input type="checkbox"/> Statement of Overriding Considerations was <b>not</b> adopted. <input checked="" type="checkbox"/> Statement of Overriding Considerations was <b>not</b> required.</p>	
<p><b>ENVIRONMENTAL IMPACT REPORT</b></p>	<p><input type="checkbox"/> An Environment Impact Report was prepared for project and may be examined at the Office of the City Clerk.* <input checked="" type="checkbox"/> An Environment Impact Report was <b>not</b> prepared for the project.</p>	
<p><b>NEGATIVE DECLARATION</b></p>	<p><input checked="" type="checkbox"/> A Negative Declaration or Conditional Negative Declaration was prepared for the project and may be examined at the Office of the City Clerk.* <input type="checkbox"/> A Negative Declaration or Conditional Negative Declaration was <b>not</b> prepared for the project.</p>	
<p>SIGNATURE Ralph G. Appy</p> 	<p>TITLE Director of Environmental Management</p>	<p>DATE OF PREPARATION 01/14/2004</p>
<p>DISTRIBUTION: Part 1 - County Clerk Part 2 - City Clerk Part 3 - Agency Record Part 4 - Resp. State Agency (if Any)</p>		<p>* OFFICE OF THE CITY CLERK Room 995, City Hall 200 N. Main Street Los Angeles, California 90012</p>