

1 [Pier 70, Public Works Code - Street and Public Infrastructure Acceptance, Official Sidewalk
2 Widths and Street Grades, Sidewalk Maintenance for Certain Long-Term Lessees]

3 **Ordinance accepting irrevocable offers of public infrastructure associated with the**
4 **Pier 70 Project, 28-acre site Phase 1, including improvements located within portions of**
5 **20th, 21st, 22nd, Illinois, Louisiana, and Maryland Streets; dedicating this infrastructure**
6 **to public use; designating this public infrastructure for street and roadway purposes,**
7 **as applicable; accepting the public infrastructure for City maintenance and liability**
8 **purposes, subject to specified limitations; establishing official public right-of-way**
9 **widths and street grades; amending Ordinance No. 1061, entitled “Regulating the Width**
10 **of Sidewalks,” to establish official sidewalk width on 20th, 21st, 22nd, Louisiana, and**
11 **Maryland Streets; accepting a Public Works Order recommending various actions in**
12 **regard to the public infrastructure improvements; delegating limited authority to the**
13 **Public Works Director to accept specified infrastructure; amending the Public Works**
14 **Code to assign responsibility for sidewalk maintenance and liability from the Port of**
15 **San Francisco to its long-term lessees in the Pier 70 Special Use District; authorizing**
16 **official acts, as defined, in connection with this Ordinance; adopting findings under the**
17 **California Environmental Quality Act; and making findings of consistency with the**
18 **General Plan, and the eight priority policies of Planning Code, Section 101.1.**

19 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
20 **Additions to Codes** are in *single-underline italics Times New Roman font*.
21 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
22 **Board amendment additions** are in double-underlined Arial font.
23 **Board amendment deletions** are in ~~strikethrough Arial font~~.
24 **Asterisks (* * * *)** indicate the omission of unchanged Code
25 subsections or parts of tables.

24 Be it ordained by the People of the City and County of San Francisco:

1 Section 1. Background and Findings.

2 (a) This ordinance addresses the Board of Supervisors acceptance of and other official
3 acts for certain public infrastructure associated with the Pier 70 Project at the 28-acre site,
4 Phase 1 (“Project”). The Project area is generally bounded by 20th, 22nd, Maryland, and
5 Illinois Streets. The infrastructure accepted by this ordinance includes improvements located
6 within portions of 20th, 21st, 22nd, Illinois, Louisiana, and Maryland Streets and certain
7 utilities located outside of the public right-of-way on a Port of San Francisco street.

8 (b) California Statutes of 1968, Chapter 1333 (“Burton Act”) and San Francisco
9 Charter Section 4.114 and Appendix B empower the Port Commission to use, conduct,
10 operate, maintain, manage, regulate, and control the lands within Port Commission jurisdiction
11 subject to the public trust.

12 (c) The Project is subject to that certain Disposition and Development Agreement
13 between the City and County of San Francisco, acting by and through its Port Commission
14 (“Port”) and FC PIER 70, LLC, a Delaware limited liability company (“FC Pier 70” or
15 “Subdivider”), recorded in the Official Records of the City and County of San Francisco on
16 May 25, 2018 as Document No. 2018-K619435 approved by the Board of Supervisors through
17 the passage of Resolution No. 401-17, (as amended, “DDA”) and that certain Development
18 Agreement between the City and County of San Francisco (“City”) and FC Pier 70, which the
19 Board of Supervisors approved through Ordinance No. 224-17 (“Development Agreement”).

20 (d) On October 6, 2020, in Motion M20-147, the Board of Supervisors approved Final
21 Map No. 9585, which provides for an 18-lot subdivision with 306 residential condominium
22 units and 70 commercial condominium units. In the same motion, the Board of Supervisors
23 approved the Public Improvement Agreement associated with this Final Map and authorized
24 the Director of Public Works and the City Attorney to execute and file the Public Improvement
25

1 Agreement and conditionally accept the Offers of Improvements, subject to completion and
2 further Board of Supervisors action.

3 (e) In conjunction with Final Map No. 9585, FC Pier 70 irrevocably offered the public
4 infrastructure associated with Phase 1 of the Pier 70 Project to the City and the Port, as
5 clarified and supplemented in its Amended and Restated Offer of Improvements, recorded in
6 the Official Records of the City and County of San Francisco on January 25, 2024 as
7 Document No. 2024009693 (the “Offer of Improvements”). Public Works, in Street
8 Improvement Permit No. 19 IE-00245, dated March 13, 2019, approved construction of the
9 improvements identified in the Offer of Improvements for acceptance by the City (collectively,
10 “Phase 1 Public Infrastructure”) as well as improvements for acceptance by the Port. The
11 Phase 1 Public Infrastructure includes improvements located within portions of 20th, 21st,
12 22nd, Louisiana, and Maryland Streets (collectively, the “Streets”) and the traffic signal
13 conduit located within a portion of Illinois Street. Certain assets included in the Offer of
14 Improvements and Street Improvement Permit are assets owned by the Port that are not
15 being accepted pursuant to this legislation, including any encroachments and the roadway
16 and sidewalk of Louisiana Street between 20th and 21st Streets. As used in this legislation
17 “Phase 1 Public Infrastructure” excludes these Port assets. The Phase 1 Public Infrastructure
18 also includes San Francisco Public Utilities Commission (“SFPUC”) infrastructure (including
19 electrical power substructure; stormwater, sewer, domestic water, recycled water, and
20 auxiliary water systems; and streetlights) and specific Municipal Transportation Agency
21 improvements (including signage and striping) on Port jurisdictional property outside of the
22 proposed City public right-of-ways, specifically, on and in Louisiana Street between 20th and
23 21st Streets (collectively, the “City Improvements on Port Street”), more specifically described
24 in the Offer of Improvements.

1 (f) Public Works inspected the Phase 1 Public Infrastructure, and the City Engineer
2 issued of a series of conditional Notices of Completion for public improvements beginning on
3 March 4, 2022 finding that the Infrastructure was complete in accordance with the
4 Improvement Plans and Specifications shown in Street Improvement Permit No. 19 IE-00245
5 prepared by BKF Engineers, entitled “Pier 70 - Phase 1,” as modified by Instructional Bulletins
6 #1 through #13, and all City codes, regulations, and standards governing the Phase 1 Public
7 Infrastructure. As part of the Notices of Completion, the City Engineer also determined that
8 the Phase 1 Public Infrastructure is ready for its intended use.

9 (g) In order to provide immediate reliability and adequate operational performance for
10 its high voltage Bay Corridor Distribution and Transmission project that serves the Southeast
11 portion of the City including Pier 70, the SFPUC, with the consent of FC Pier 70, has
12 performed certain work on the joint trench in 20th Street between Illinois and Michigan Streets
13 in advance of the Board of Supervisors action to accept the Phase 1 Public Infrastructure.
14 Public Works recommends that the Board of Supervisors retroactively accept this joint trench
15 and related work to address the critical connection that was necessary for electrical reliability
16 and allow the City to assume responsibility for this SFPUC work in advance of passage of this
17 ordinance by the Board of Supervisors.

18 (h) In companion legislation, the Board of Supervisors will consider Port and private
19 encroachments on the Streets under Public Works Code Sections 786 et seq. The
20 maintenance of Port encroachments would be governed by an Intergovernmental Master
21 Encroachment Permit (the “IMEP”). The private encroachments are for FC Pier 70 to
22 maintain its excess conduit in a joint trench, maintenance of which would be governed by a
23 major encroachment permit. The IMEP also would authorize FC Pier 70, a Homeowners
24 Association, or other entity to assume sidewalk maintenance and liability responsibility on
25 behalf of owners, subject to approval of the Public Works Director (the “PW Director”) in

1 conjunction with the Port. The companion legislation is on file with the Clerk of the Board of
2 Supervisors in File No. 240203 and is incorporated herein by reference.

3 (i) In Public Works Order 210239, dated March 14, 2024 (the "PW Order"), the PW
4 Director and City Engineer recommend to the Board of Supervisors that it accept the Offer of
5 Improvements for the Phase 1 Public Infrastructure, which includes the City Improvements on
6 Port Street, and accept such Infrastructure for public use; designate such Infrastructure for
7 street and roadway purposes, as applicable; and accept it for City maintenance and liability
8 purposes, subject to certain exceptions. The PW Director and City Engineer recommend that
9 acceptance of the Phase 1 Public Infrastructure for maintenance and liability purposes be
10 subject to the following conditions: (1) the portions of streets being accepted for street and
11 roadway purposes are from back of sidewalk to back of sidewalk, unless specified otherwise
12 or as shown on the Plans and Specifications for the Phase 1 Public Infrastructure; (2)
13 acceptance of the Phase 1 Public Infrastructure for City maintenance and liability purposes is
14 from back of curb to back of curb, unless specified otherwise, and sidewalk maintenance is
15 the responsibility of the adjacent property owner(s) or encroachment permittee(s) in
16 accordance with the Public Works Code; (3) encroachments that are or will be permitted
17 (including Port encroachments and private encroachments on the Streets), not permitted, or
18 both, are excluded from acceptance; (4) the acceptance of the Streets does not obviate,
19 amend, alter, or in any way affect existing maintenance agreements between the City and
20 parties to such agreements; and (5) Subdivider's conditional assignment of all warranties and
21 guaranties to the City related to the construction of the Phase 1 Public Infrastructure and their
22 warranty obligations under Street Improvement Permit No. 19 IE-00245. The PW Order is on
23 file with the Clerk of the Board of Supervisors in File No. 240087 and is incorporated herein by
24 reference.

1 (j) In the PW Order, the PW Director and City Engineer also recommend establishment
2 of official public right-of-way widths, sidewalk widths, and street grades on portions of the
3 Streets in accordance with draft Map A-17-222 and Drawing Q-20-1194, both dated February
4 27, 2024. Further, the PW Director and City Engineer recommend that the Board of
5 Supervisors amend Ordinance No. 1061 on official sidewalk widths in accordance with
6 Drawing Q-20-1194. The draft Map and Drawing referenced above are on file with the Clerk
7 of the Board of Supervisors in File No. 240087 and are incorporated herein by reference.

8 (k) The PW Order also includes a diagram showing the location of the Streets that are
9 designated for City acceptance of maintenance and liability in this legislation. The diagram
10 showing these Streets encompasses portions of 20th Street adjacent to Illinois Street and
11 portions of 22nd Street from Illinois Street eastbound approximately 500 feet that the Board of
12 Supervisors dedicated as public right-of-way but were subject to Public Works Code Sections
13 400 et seq. (unaccepted streets) because they did not meet City standards. As part of the
14 Phase 1 Public Infrastructure, this previously dedicated public right-of-way has been improved
15 to City standard and now is ready for acceptance for purposes of City maintenance and
16 liability. A separate diagram shows the City Improvements on Port Street where the
17 improvements but not the street are designated for City acceptance of maintenance and
18 liability.

19 (l) In the PW Order, the PW Director and City Engineer also recommend that the
20 Board of Supervisors retroactively accept for maintenance and liability purposes the joint
21 trench and work related to the Bay Corridor Distribution and Transmission project in a portion
22 of 20th Street between Illinois and Michigan Streets for the reasons specified above.

23 (m) In PW Order No. 205012, dated June 24, 2021, the PW Director approved
24 deferring acceptance of a one-foot wide strip of sidewalk along a portion of Maryland and
25 22nd Streets (“Deferred Infrastructure”). The PW Director and City Engineer recommend that

1 the Board of Supervisors delegate the authority to the PW Director, in consultation with
2 applicable City agencies, to approve and accept the Deferred Infrastructure once it is
3 complete to the satisfaction of the PW Director.

4 (n) On January 23, 2024, the Port Commission held a public hearing and adopted
5 Resolution Nos. 24-03 and 24-04 to take various actions and make recommendations
6 regarding the Board of Supervisors consideration of accepting Phase 1 Public Infrastructure
7 for City maintenance and liability and the Port and private encroachments described above.
8 Copies of the Port Commission Resolutions are on file with the Clerk of the Board of
9 Supervisors in File No. 240087 and are incorporated herein by reference.

10
11 Section 2. Environmental and Land Use Findings.

12 (a) In a letter dated January 25, 2024, the Planning Department determined that the
13 actions contemplated in this ordinance comply with the California Environmental Quality Act
14 (California Public Resources Code Sections 21000 et seq.) and that the contemplated actions
15 are within the scope of the prior environmental review and do not trigger the need for
16 subsequent environmental review. Said determination is on file with the Clerk of the Board of
17 Supervisors in File No. 240087 and is incorporated herein by reference. The Board affirms
18 this determination.

19 (b) In this same letter, the Planning Department determined that the actions
20 contemplated in this ordinance are within the scope of the prior General Plan determination
21 and are consistent, on balance, with the City's General Plan and eight priority policies of
22 Planning Code Section 101.1. The Board adopts this determination as its own.

23
24 Section 3. Public Works and Port Commission Actions.

1 (a) The Board of Supervisors has reviewed and approves PW Order No. 210239,
2 including the City Engineer’s certification and PW Director’s recommendations, as referenced
3 in Section 1 of this ordinance, concerning the acceptance of Phase 1 Public Infrastructure,
4 and other actions set forth in the PW Order.

5 (b) The Board of Supervisors has reviewed, acknowledges, and approves the
6 actions of the Port Commission in its Resolution Nos. 24-03 and 24-04 in regard to the Phase
7 1 Public Infrastructure, as well as the private encroachments and those Port encroachments
8 that the Port will own and assume responsibility for maintenance and liability.

9
10 Section 4. Acceptance of Public Infrastructure and Assumption of Maintenance and
11 Liability Responsibilities.

12 (a) Pursuant to California Streets and Highways Code Section 1806 and San
13 Francisco Administrative Code Sections 1.51 et seq., and PW Order No. 210239, the Board of
14 Supervisors hereby accepts the Offer of Improvements (excluding the roadway and sidewalk
15 of Louisiana Street between 20th and 21st Streets and other Port assets) and dedicates the
16 Phase 1 Public Infrastructure for public use, including the City Improvements on Port Street.

17 (b) The Board of Supervisors hereby designates the Streets for street and roadway
18 purposes, excluding the roadway and sidewalk of Louisiana Street between 20th and 21st
19 Streets.

20 (c) The Board of Supervisors hereby accepts the Phase 1 Public Infrastructure,
21 including the City Improvements on Port Street, for City maintenance and liability purposes,
22 subject to the conditions listed in Section 4(d) below.

23 (d) The Phase 1 Public Infrastructure accepted and designated pursuant to Section
24 4(a) through (c) above is subject to the following conditions:

1 (1) The portions of streets being accepted for street and roadway purposes are
2 constructed from back of sidewalk to back of sidewalk, unless specified otherwise or as
3 shown on the permit materials for the Phase 1 Public Infrastructure.

4 (2) Acceptance of the Phase 1 Public Infrastructure for City maintenance and
5 liability purposes (with the exception of the City Improvements on Port Street) is from back of
6 curb to back of curb, unless specified otherwise, and sidewalk maintenance is the
7 responsibility of adjacent property owners or encroachment permittees in accordance with the
8 Public Works Code.

9 (3) Encroachments that are or will be permitted (including Port encroachments
10 and private encroachments on the Streets), not permitted, or both, are excluded from
11 acceptance.

12 (4) Acceptance of maintenance and liability for the joint trench in 20th Street
13 between Michigan and Illinois Streets and related work on trench and sidewalk restoration as
14 part of the Bay Corridor Distribution and Transmission project is retroactive such that it is
15 effective February 12, 2024.

16 (5) The acceptance of the Phase 1 Public Infrastructure does not obviate,
17 amend, alter, or in any way affect existing maintenance agreements between the City and
18 parties to such agreements.

19 (6) Subdivider's conditional assignment of all warranties and guaranties to the
20 City related to the construction of the Phase 1 Public Infrastructure and their warranty
21 obligations.

22
23 Section 5. Establishment of Public Right-of-Way Widths, Sidewalk Widths, and Street
24 Grades.

1 (a) In accordance with the PW Order, the Board of Supervisors hereby establishes the
2 official public right-of-way widths for portions of 20th, 21st, 22nd, Louisiana (excluding the
3 portion between 20th and 21st Streets), and Maryland Streets as shown on Public Works draft
4 Map A-17-222 and Drawing Q-20-1194.

5 (b) In accordance with the PW Order, Board of Supervisors Ordinance No. 1061,
6 entitled "Regulating the Width of Sidewalks," a copy of which is in the Clerk of the Board of
7 Supervisors Book of General Ordinances, in effect May 11, 1910, is hereby amended by
8 adding thereto a new section to read as follows:

9 Section 1643. The width of sidewalks on portions of 20th, 21st, 22nd, Louisiana, and Maryland
10 Streets shall be modified as shown on the Public Works Drawing Q-20-1194.

11 (c) The sidewalk widths established pursuant to Section 5(b) above for 20th, 21st,
12 22nd, Louisiana, and Maryland Streets do not obviate, amend, alter, or in any other way affect
13 the maintenance obligations of the adjacent property owners or encroachment permittees as
14 set forth in the Public Works Code.

15 (d) Notwithstanding California Streets and Highways Code Sections 8000 et seq., the
16 Board of Supervisors, in accordance with San Francisco Administrative Code Sections 1.51 et
17 seq., chooses to follow its own procedures for the establishment of street grades. The Board
18 of Supervisors hereby establishes the street grades for portions of 20th, 21st, 22nd,
19 Louisiana, and Maryland Streets as set forth in Public Works Drawing Q-20-1194.

20 (e) The Board of Supervisors hereby directs Public Works to revise the Official Public
21 Right-of-Way, Sidewalk Width, and Street Grade maps in accordance with this ordinance.

22
23 Section 6. Delegation to Approve and Accept Deferred Infrastructure.

24 In regard to the Deferred Infrastructure, the Board of Supervisors hereby delegates the
25 authority to the PW Director, in consultation with applicable City agencies, to approve and

1 accept the finalized Deferred Infrastructure once it is complete to the satisfaction of the PW
2 Director.

3
4 Section 7. Article 15 of the Public Works Code is hereby amended by revising Section
5 706 and adding Section 706.10, to read as follows:

6 **SEC. 706. OWNERS OF FRONTAGE RESPONSIBLE FOR REPAIR – LIABILITY**
7 **FOR UNSAFE CONDITIONS.**

8 (a) It shall be the duty of the owners of lots or portions of lots immediately adjacent
9 to any portion of a public street, avenue, alley, lane, court, or place to maintain the sidewalks
10 and sidewalk area, including any parking strip, parkway, automobile runway, and curb,
11 fronting or adjacent to their property in good repair and condition. This duty shall include
12 removal of any unpermitted structure, including but not limited to unpermitted public pay
13 telephones installed in the sidewalk adjacent to the property. Any person who suffers injury or
14 property damage as a legal result of the failure of the owner to so maintain the sidewalks and
15 sidewalk areas shall have a cause of action for such injury or property damage against such
16 property owner. The City and County of San Francisco shall have a cause of action for
17 indemnity against such property owner for any damages it may be required to pay as
18 satisfaction of any judgment or settlement of any claim that results from injury to persons or
19 property as a legal result of the failure of the owner to maintain the sidewalks and sidewalk
20 areas in accordance with this subsection (a). Failure of the owner to maintain the sidewalks
21 and sidewalk areas as set forth in this subsection (a) also shall constitute a public nuisance.
22 For the purposes of the Port of San Francisco property within the Pier 70 Special Use District, the
23 definition of the term “owner” as used in Sections 706 through 706.9 is set forth in Section 706.10.

24 * * * *

1 **SEC. 706.10. PIER 70 LESSEES RESPONSIBLE FOR SIDEWALK MAINTENANCE AND**
2 **LIABILITY.**

3 *(a) In the Pier 70 Special Use District established by Planning Code Section 249.79, the term*
4 *“owner” as used in Sections 706 through 706.9 shall mean, as applicable, either: (i) the fee owner of*
5 *lots or portions of lots immediately adjacent to any portion of a public street, avenue, alley, lane, court,*
6 *or place to maintain the sidewalks and sidewalk area, including any parking strip, parkway,*
7 *automobile runway, and curb, fronting or adjacent to their property (as applicable, the “Pier 70*
8 *Adjacent Lot(s)”); or (ii) the lessee of a Pier 70 Adjacent Lot under a Pier 70 Long-Term Lease during*
9 *the term of the applicable Pier 70 Long-Term Lease. For purposes of Section 706.10(a), the term*
10 *“Pier 70 Long-Term Lease” shall mean a recorded lease between the Port of San Francisco as lessor*
11 *and the applicable lessee that has a lease term of 35 years or more, including any Pier 70 Long-Term*
12 *Lease with a lease term of 35 years or more that began prior to the effective date of the ordinance in*
13 *Clerk of the Board of Supervisors File No. 240087. During the term of the applicable Pier 70 Long-*
14 *Term Lease for any Pier 70 Adjacent Lot, the Port of San Francisco shall not be characterized as the*
15 *fee owner under this Section 706.10.*

16 *(b) The Directors of the Port of San Francisco and Department of Public Works shall*
17 *establish procedures to implement this Section 706.10.*

18
19 Section 8. Authorization for Implementation.

20 The Mayor, Clerk of the Board of Supervisors, Executive Director of the Port, and PW
21 Director are hereby authorized and directed to take any and all actions which they or the City
22 Attorney may deem necessary or advisable in order to effectuate the purpose and intent of
23 this ordinance, including, but not limited to, approving any amended offers of improvements
24 based on as-built conditions. and filing of the ordinance, A-17 Map, and Q-20 Drawing in the
25 Official Records of the City and County of San Francisco.

1 Section 9. Effective Date.

2 This ordinance shall become effective 30 days after enactment. Enactment occurs
3 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not
4 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the
5 Mayor's veto of the ordinance.

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7 APPROVED AS TO FORM:
8 DAVID CHIU, City Attorney

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9 By: /s/ JOHN D. MALAMUT
10 JOHN D. MALAMUT
Deputy City Attorney

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