



San Francisco Public Works
General – Director’s Office
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Public Works Order No: 210239

Recommending the acceptance of irrevocable offers of public improvements associated with the Pier 70 (Phase 1) Project, including improvements located within portions of 20th, 21st, 22nd, Illinois, Louisiana, and Maryland Streets and in certain Port of San Francisco streets; dedication of the public improvements for public use; designation of the public improvements for public right-of-way and roadway purposes, as specified; acceptance of certain Phase 1 Public Infrastructure for City maintenance and liability purposes, subject to specified limitations; establishment of official street grades, sidewalk, and public right-of-way widths; granting certain exceptions to the Subdivision Code and Subdivision Regulations; recommending delegation of authority for to the Public Works Director to accept specified infrastructure; recommending approval of a master encroachment permit.

Background and Findings

The Public Works Director (“Director”) acknowledges the following facts and makes the findings set forth below in support of the decisions and recommendations in this Order:

1. California Statutes of 1968, Chapter 1333 (the “Burton Act”) and San Francisco Charter Section 4.114 empower the San Francisco Port Commission to use, conduct, operate, maintain, manage, regulate, and control the lands within Port Commission jurisdiction subject to the public trust.
2. This Pier 70 Project is subject to that certain Disposition and Development Agreement between the City and County of San Francisco, acting by and through its Port Commission (“Port”) and FC PIER 70, LLC, a Delaware limited liability company (“FC Pier 70”), recorded in the Official Records of the City and County of San Francisco on May 25, 2018 as Document No. 2018-K619435 (“DDA”) approved by the Board of Supervisors through the passage of Resolution 401-17, and that certain Development Agreement between the City and County of San Francisco (“City”) and FC Pier 70 which the Board of Supervisors approved through Ordinance No. 224-17 (“Development Agreement”).
3. The Port and the State Lands Commission entered into that certain Compromise Title Settlement and Land Exchange Agreement for the Pier 70 Project, dated as of September 14, 2018 (Port Commission Resolution 17-44; Board of Supervisors Resolution No. 402-17; State Lands Commission item No. 77 (11/29/17) (“Exchange Agreement”). Pursuant to the Exchange Agreement, upon implementation of the trust exchange, all Trust Termination Lands (as defined therein) may be sold or leased free of the public trust and free of any use or alienation restrictions of the public trust or the Burton Act.

4. The Port and FC Pier 70 have entered into a Master Lease, dated as of May 2, 2018 (“Master Lease”), pursuant to which FC Pier 70 has leased the Premises as described therein. A Memorandum of Master Lease was recorded on May 25, 2018 as Document No. 2018-K619436 in the Official Records of the City and County of San Francisco. Pier 70 Phase 1 is the area generally bounded by 20th, 22nd, Maryland, and Illinois Streets (Phase 1). FC Pier 70 irrevocably offered the Public Infrastructure associated with Phase 1 of the Pier 70 Project to the City, as clarified and supplemented in its Amended and Restated Offer of Improvements, recorded in the Official Records of the City and County of San Francisco on January 25, 2024 as Document No. 2024009693 (the “Offer of Improvements”). Public Works, in Street Improvement Permit No. 19 IE-00245, dated March 13, 2019, approved construction of the improvements identified in the Offer of Improvements (collectively, “Phase 1 Public Infrastructure”). The Phase 1 Public Infrastructure is generally described as: public streets, sidewalks, shared public ways, bicycle lanes, landscaping, street furnishings, related amenities, traffic signal infrastructure (conduits, poles, electrical wires, cabinets, pullboxes, and traffic signal heads) including and traffic signal conduit located within a portion of Illinois Street outside of the Phase 1 area, roadway signage and striping; parking meters, fire alarm boxes; utility infrastructure including but not limited to, electrical power substructure infrastructure, stormwater, sewer, domestic water, recycled water and auxiliary water systems.
5. The Phase 1 Public Infrastructure includes SFPUC underground utilities (electrical power substructure infrastructure, stormwater, sewer, domestic water, recycled water and auxiliary water systems), and streetlights; Municipal Transportation Agency improvements (signage, and striping outside of the proposed public right-of-ways and specifically on Port jurisdictional property located on Louisiana Street between 20th and 21st Streets (collectively, the “City Improvements on Port Street”), more specifically described in Offer of Improvements.
6. The improvements constructed by FC Pier 70 for Phase 1 includes Port encroachments sited within proposed public right-of-way that will be owned and maintained by Port, generally described as a) Building 15 Structural Frame over 22nd Street, b) cobble stones and pavers on Maryland and 20th streets, c) bike racks, d) custom benches, e) customer waste receptacles f) bollards, g) retaining walls, h) landscaping and i) Wayfinding and interpretive signs (not yet constructed).
7. In Public Work Order No. 203654, the Director recommended that the Board of Supervisors approve Final Map No. 9585.
8. On October 6, 2020, the Board of Supervisors approved Final Map No. 9585, which provides for an 18-lot subdivision with 306 residential condominium units and 70 commercial condominium units in Motion M20-147. In the same motion, the Board of Supervisors approved the Public Improvement Agreement associated with this Final Map and authorized the Director of Public Works and the City Attorney to execute and file the Public Improvement Agreement, and conditionally accept the offers of improvements, subject to completion and further Board of Supervisors action.
9. On June 24, 2021, in Public Work Order No. 205012, the Director conditionally approved certain requests for exceptions and deferrals to the Subdivision Code and 2015 Subdivision Regulations.

10. On or about March 15, 2024, the City departments, including the Port, agreed to a Jurisdictional Memorandum of Understanding. The MOU sets out the framework for the maintenance and permitting of the Improvements in the Pier 70 project site, outlines the procedures for implementing such framework, and provides for access to Improvements by the City departments and third parties.
11. The Port Commission scheduled a hearing on January 23, 2024 to take various actions in regard to the Board of Supervisors consideration of accepting Phase 1 Public Infrastructure for City maintenance and liability and the Port Commission may rely in this Order as the basis for some its findings.
12. A Director's Hearing was duly noticed and held on February 14, 2024 to address items discussed below.
13. In this Order, the Director recommends the Board of Supervisors accept the Phase 1 Public Infrastructure, as specified in greater detail below.

A. Retroactive Acceptance of Joint Trench

1. In order to provide immediate reliability and adequate operational performance for its high voltage Bay Corridor Distribution and Transmission ("BCTD") Project that serves the Southeast portion of the City including Pier 70, the SFPUC, with the consent of FC Pier 70, intends to perform certain work on the joint trench in 20th Street in advance of the Board of Supervisors action to accept the Phase 1 Public Infrastructure.
2. This work involves SFPUC accessing the new joint trench on the south sidewalk of 20th Street between Michigan and Illinois Streets to install new conduits and connections to a 12KV interrupter vault located in the adjacent parking lot, and upon completing of this work, SFPUC restoration of the trenches and sidewalk consistent with Pier 70 contract specifications.
3. To expedite this critical work for electrical reliability and allow the City to assume responsibility for this SFPUC work to in advance of the Board of Supervisors action, Public Works recommends that the Board retroactively accept for maintenance and liability purposes the joint trench in this section of 20th Street and related work on trench and sidewalk restoration beginning February 12, 2024.

B. Exception for Excess Telecommunications Conduit and Major Encroachment Permit

1. On January 8, 2024 and December 7, 2023 FC Pier 70 submitted letters requesting an exception from the Subdivision Code to defer providing third-party Communication Services to occupy and own the telecommunications conduits.
2. The FC Pier 70 letters document their outreach efforts to and negotiations with various service providers, and FC Pier 70's attempts to satisfy the intent of Subdivision Code Section 1336(c).
3. Despite FC Pier 70's good faith effort to find Communication Services providers, no provider has committed to occupying the excess conduit in the Phase 1 Public Infrastructure joint trench.

4. The Director recommends an exception regarding Subdivision Code Section 1336(c) and makes the findings in support of the recommendation in Section I.A. below.

C. Delegation of Authority to Director to Accept a One-Foot Wide Strip of Deferred Paving

1. In Public Work Order No. 205012, the Director conditionally approved a request to defer installation of the required paving stones for a one-foot wide strip of sidewalk along a portion of Maryland and 22nd Streets (“Deferred Infrastructure”). That order set forth the conditions for approval of the deferral. The Deferred Infrastructure is to be completed after the building on the adjacent lot is constructed.
2. The sidewalks along this portion of Maryland and 22nd Streets are otherwise completed. The one-foot strip has been filled in with an interim paving surface acceptable to the Director.
3. The Director recommends that the Board delegate authority to the Director, in consultation with applicable City agencies, to approve and accept the Deferred Infrastructure once it is complete to the satisfaction of the Director.

D. Master Encroachment Permit for Multiple Encroachments and Permittees

D-I. Permit for Port Encroachments on Public Right-of-Way and Assignment of Sidewalk Maintenance Responsibility to for FC Pier 70 and/or Home Owners Association

1. The Director recommends approval of an Interdepartmental Master Encroachment Permit (“IMEP”) with two components: permitting certain encroachments to be maintained by Port or its assignee (2-6, 14 below) and allowing assignment of sidewalk maintenance responsibility to another entity (8-14 below).
2. Pursuant to the Development Agreement and DDA, FC Pier 70 has agreed to install certain custom improvements and other encroachments in the public right-of-way for each phase of the development. These custom improvements are to include materials, facilities, fixtures, or features, that diverge from the City’s criteria for standard construction, operation, maintenance, and/or repair. The encroachments are generally described as: a) Building 15 frame; b) cobblestone and paving stone surfaces; c) bike racks; d) custom benches; e) customer waste receptacles; f) bollards; g) retaining walls; h) landscaping and i) Way-finding and interpretive signs.
3. FC Pier 70 installed, with Port’s permission, certain custom improvements and other encroachments in the public right-of-way as part of the Phase 1 Public Infrastructure. The Phase 1 encroachments are generally described as: a) Building 15 Structural Frame over 22nd Street, b) cobble stones and pavers on Maryland and 20th streets, c) bike racks, d) custom benches, e) customer waste receptacles f) bollards, g) retaining walls, h) landscaping and i) wayfinding and interpretive signs (not yet constructed).
4. The Director recommends that these custom improvements be permitted to remain in the public right-of-way as encroachments pursuant to an IMEP approved under Public Works Code Sections 786 *et seq.*, which will be one part of the Project-wide Master Encroachment Permit for Board of Supervisors consideration. The Director recommends that the Board of

Supervisors approve a IMEP for the Pier 70 project site Port encroachments, including the Phase 1 custom improvements, as further specified in Section IV.A. and IV.D. below.

5. Public Works inspected the Phase 1 Public Infrastructure and encroachments described above, and the City Engineer, issued a conditional Notice of Completion for public improvements in 22nd street on March 4, 2022 from Illinois Street to 500 feet easterly and a conditional Notice of Completion on November 23, 2022 for the remainder of the Phase 1 Public Infrastructure and permitted encroachments (subject to approval), including the City Improvements on Port Street, and Port Improvements in public right-of-ways (pending acceptance) (collectively, "NOCs") determining said improvements to be complete in accordance with the Improvement Plans and Specifications shown in Street Improvement Permit No. 19 IE-00245 prepared by BKF Engineers, entitled "Pier 70 - Phase 1," as modified by Instructional Bulletins #1 through #13, and all City codes, regulations, and standards governing the Phase 1 Public Infrastructure and permitted encroachments. In doing so, the City Engineer also determined that the Phase 1 Public Infrastructure and permitted encroachments are ready for their intended use.
6. Pursuant to Public Works Code sections 786.7, a public right-of-way occupancy assessment fee shall not be charged because the encroachments were constructed as a condition of the Development Agreement and DDA and because the Port is a local governmental agency, commission, or department.
7. Pursuant to the Development Agreement and DDA, FC Pier 70 has agreed to construct sidewalks in the public right-of-way for the development.
8. Under Public Works Code Sections 786 et seq., the Board of Supervisors may authorize a master street encroachment permittee or the permittee's agent or assignee, such as a homeowners' association, to comply with the terms of the Public Works Code Section 706 sidewalk maintenance responsibility in lieu of the fronting property owner.
9. The Port is currently the fronting property owner for all sidewalks in the Pier 70 project site.
10. Port and FC Pier 70 have requested that the sidewalk maintenance responsibility be undertaken by FC Pier 70 in the near-term, then by the Home Owners Association or Master Owners Association (collectively, "Owners' Association") whose members consist of Fronting Property Owners (FPO) within the Project area, once established.
11. The City, Port, and FC Pier 70 are evaluating the most efficient and effective mechanism for sidewalk maintenance responsibility to be allocated. The Director recommends that the Board delegate authority to the Director to allow, through the IMEP, assignment or the approval of assignment for some or all of the sidewalk responsibility. Under the IMEP, sidewalk maintenance responsibility may be assigned to a new private fronting property owner, who may in turn assign the responsibility to an Owners' Association.
12. Amendments to Public Works Code Section 706 have been proposed that would treat the Port's long term-lessees (35 years or more) of property at Pier 70 to be treated as owners for purposes of sidewalk maintenance and liability. The IMEP would allow such lessees to assign sidewalk maintenance responsibility to an Owners' Association.

13. Any sidewalk maintenance responsibility allocated to an Owners' Association also will be included in the Conditions, Covenants, and Restrictions (CC&Rs) for the subject property and will be binding on the Owners' Association and its successors.
14. The Director recommends that the Board of Supervisors delegate to the Director authority to approve contiguous and non-contiguous annexation of new areas of the project site into the IMEP and assignments of rights and obligations from the original permittee to the permittee's agent or assignee. The Director also recommends that the Board of Supervisors delegate to the Director the ability to divide the IMEP into separate master permits or individual street encroachment permits.

D-II. Permit for Excess Conduits in Joint Trench for FC Pier 70

1. As described in Section B above, and pursuant to the Development Agreement, FC Pier 70 has installed and owns a communication conduits which is not yet occupied by a communications utility. As a condition of the exception recommended herein, FC Pier 70 must continue to pursue a utility to occupy the conduits.
2. As a second component of the Master Encroachment Permit, Director recommends that the Board of Supervisors grant to FC Pier 70 a major encroachment permit to occupy the Phase 1 Public Infrastructure joint trench with the excess but vacant conduits until such a time that FC Pier 70 transfers the conduit to a third-party utility.
3. Pursuant to Public Works Code section 786.7, a public right-of-way occupancy assessment fee shall not be charged because the conduits was constructed as a condition of the Development Agreement and DDA.

E. Street and City Utility Acceptance Findings

1. Public Works inspected the Phase 1 Public Infrastructure, and the City Engineer, issued the NOCs, determining said improvements to be complete in accordance with the Improvement Plans and Specifications shown in Street Improvement Permit No. 19 IE-00245, and all City codes, regulations, and standards governing the Phase 1 Public Infrastructure. In doing so, the City Engineer also determined that the Phase 1 Public Infrastructure is ready for its intended use. This Order also contains additional information in the form of diagrams and maps that show the extent of the streets recommended for City acceptance of maintenance and liability (and which portions were previously dedicated but unaccepted City streets – Public Works Code Article 9 streets) and areas where City utilities, located outside of these streets on Port property, are recommended for City acceptance of maintenance and liability.
2. On September 25, 2020, SFPUC and FC Pier 70 entered into to a Water and Sewer Facility License to allow SFPUC to operate the low-pressure water line, reclaimed water line, high pressure water main, and combined sewer force main in 20th Street, and low pressure water facilities within Phase 1 project area necessary to serve existing customers in the broader Pier 70 area. The license agreement shall terminate upon Board of Supervisor's Acceptance of the Public Infrastructure.
3. The Director recommends and the City Engineer certifies to the Board of Supervisors that the Phase 1 Public Infrastructure, including the City Improvements on Port Street, as shown in

Street Improvement Permit Nos. 19IE-00245 (Phase 1), as modified by Instructional Bulletins #1 through #13, be accepted for public use. The Director also recommends that the Board of Supervisors accept said Phase 1 Public Infrastructure, including the City Improvements on a Port Street, for City maintenance and liability purposes in accordance with Streets and Highways Code Sections 1806 and San Francisco Administrative Code 1.51 *et seq.* and subject to the exceptions specified herein.

4. The official public right-of-way widths for the applicable portions of and sidewalk widths established as shown on Drawing Q-20-1194 and does not obviate, amend, alter, or in any other way affect the maintenance obligations of the adjacent property owners as set forth in the Public Works Code or as set forth in any agreement or permit regarding maintenance obligations. The Director recommends that the Board of Supervisors approve legislation to set the official width of sidewalks and rights-of-way in the Pier 70 project area.
5. Map No. A-17-222 shows the right-of-ways, and applicable portion thereof, being offered for dedication, and acceptance.
6. In a letter dated January 25, 2024, the Planning Department affirmed that the Pier 70 Project and Acceptance of the Phase 1 Public Infrastructure required as a condition of Project approval are, on balance, consistent with the General Plan and Planning Code Section 101.1, that environmental review for the contemplated actions was adequately addressed in the Environmental Impact Report certified by the City, and that the contemplated actions do not trigger the need for subsequent environmental review pursuant the California Environmental Quality Act.

NOW THEREFORE BE IT ORDERED THAT,

I – Subdivision Code Exception Approval for Excess Conduit

A. The Director grants an exception regarding Subdivision Code Section 1336(c) and makes the following findings in support of the recommendation. These findings are made pursuant to the 2015 Subdivision Regulations, which define and govern exceptions by reference to Subdivision Code Section 1712:

1. The application of certain provisions of this Code or the Subdivision Regulations would result in practical difficulties or unnecessary hardships affecting the property inconsistent with the general purpose and intent of the Project Document and City Regulations. FC Pier 70 made a good faith effort to find a communication services provider to occupy and own the conduit. Despite these efforts, no provider has committed to occupying the excess conduit in the Phase 1 Public Infrastructure joint trench. FC Pier 70 has constructed the required conduit and, due to circumstances outside of its control with respect to current economic conditions and the actions of third-party service providers, was unable to secure providers to occupy and own the conduit. In the interim, FC Pier 70 has, secured adequate Communications Services for the project site, to be provided by a wireless service provider. The general purpose and intent of the requirements is to ensure that Communication Services are available to occupants of the development. Because FC Pier 70 has met this purpose through a different type of provider

and cannot control the economic circumstances or actions of third-parties, applying the requirement of Subdivision Code Section 1336(c) would result in practical difficulties and unnecessary hardships.

2. Granting the exception and deferral will not be materially detrimental to the public welfare or injurious to other property in the area in which said property is situated. FC Pier 70 has secured adequate interim Communications Services, therefore there is no detriment to the occupants of the development. There is no additional risk to the public due to the conduit remaining vacant for a longer period of time.
3. Granting the exception and deferral will not be contrary to the Project Documents or City Regulations and will not violate the Subdivision Map Act. FC Pier 70 constructed the conduit as required by the Project Documents and in conformance with the required plans and specifications established by the Project Documents. Because the conduit has been constructed pursuant to Project Documents, the exception and deferral related to the conduit is not inconsistent with Project Documents. The Subdivision Code, which requires Communications Services under Section 1336(c), also allows exceptions to the Code with Public Works Director approval. This exception was processed pursuant to the requirements of the Subdivision Code and Subdivision Regulations. This exception defers compliance with a City requirement, not a requirement of the state Subdivision Map Act.
4. It is not necessary to modify the standards and requirements of this Code and the Subdivision Regulations to assure conformity to and achievement of the standards and goals of the applicable Project Documents. FC Pier 70 must continue to make good faith efforts to meet the Subdivision Code requirement.
5. The Director has determined, after holding a public hearing, that this application for exception should be granted.

B. The conditions under which the exception is granted are as follows:

1. FC Pier 70 must obtain a major encroachment permit (the "Conduit MEP") from the City to maintain excess and vacant conduit.
2. FC Pier 70 must continue to pursue Communications Services providers for the conduits. Within 30 days of identifying a provider to occupy the conduits, FC Pier 70 shall contact Public Works and the Port in writing to address transfer of ownership and encroachment permit modification. When the new provider obtains a Utility Conditions Permit from Public Works to occupy the conduits, the Conduit MEP shall terminate and be null and void. FC Pier 70 shall assist Public Works and the Port in completing all requirements associated with ownership transfer and permit termination. Additional conditions regarding termination of this temporary major encroachment permit, such as changes in property ownership or a term of years and conditions for extending that term, are contained in the Conduit MEP.
3. FC Pier 70 shall abide by City Standard Specifications Section 00 73 20 and 00 73 21 (effective 2021) and all updates to said specifications for utility relocation and support and work around.
4. The Conduit MEP shall be recorded against FC Pier 70 property specified in the Conduit MEP.

II – Acceptance of Infrastructure

- A. The Director recommends that the Board of Supervisors approve the legislation to accept the Offer of Improvements for the Phase 1 Public Infrastructure and dedication of the public infrastructure for public use for Phase 1, subject to the exceptions identified below. Hereinafter, the Director's recommendation also includes the City Engineer's certification of actions under the City Engineer's authority.
- B. The Director approves all of the following documents either attached hereto or referenced herein:
1. Amended and Restated Offers of Improvements for the Phase 1 Public Infrastructure, including minimal street extensions needed to complete intersection improvements that were not part of the original Offers associated with the Phase 1 Final Map.
 2. Form of Ordinance to accept the Phase 1 Public Infrastructure.
 3. Official Street Dedication Map No. A-17-222.
- C. The Director further recommends that the Board of Supervisors, approve the legislation to dedicate the Phase 1 Public Infrastructure to public use, accept it for City maintenance and liability purposes, and in regard to the street areas, designate it as open public right-of-way for street and roadway purposes subject to the following:
1. The portions of streets being designated as open public right-of-way for street and roadway purposes are from back of sidewalk to back of sidewalk, unless specified otherwise or as shown on the Plans and Specifications for the Phase 1 Public Infrastructure.
 2. Acceptance of the Phase 1 Public Infrastructure for City maintenance and liability purposes is from back of curb to back of curb, unless specified otherwise, and sidewalk maintenance is the responsibility of the adjacent property owners in accordance with the Public Works Code.
 3. Encroachments that are or will be permitted (including but not limited to the Port encroachments and the FC Pier 70 conduit), not permitted, or both, are excluded from acceptance.
 4. The Board retroactively accept maintenance and liability for the joint trench in 20th Street between Michigan and Illinois Streets and related work on trench and sidewalk restoration as part of the BCTD beginning February 12, 2024.
 5. City Improvements on a Port Street, which are City utilities outside of the PROW, are recommended for acceptance, dedication for public use, and acceptance for maintenance and liability purposes. Paragraphs 1 and 2 above are not applicable.
 6. The acceptance of the streets does not obviate, amend, alter, or in any way affect existing maintenance agreements between the City and parties to such agreements.
 7. Conditional assignment by FC Pier 70 of all warranties and guaranties to the City related to the construction of the Phase 1 and its warranty obligations under Street Improvement Permit Nos. 19IE-00245, as modified by Instructional Bulletins #1 through #13.

D. Right-of-Way Widths, Sidewalk Widths, and Street Grades

1. The Director approves the attached Official Sidewalk Width and Street Grades Drawing No. Q-20-1194.
2. The Director further recommends that the Board of Supervisors approve the legislation to set the public right-of-way widths for portions of 20th, 21st, 22nd, Louisiana, and Maryland Streets as set forth in Public Works Map A-17-222 and Drawings Q-20-1194.
3. The Director further recommends that the Board of Supervisors approve the legislation to amend Board of Supervisors Ordinance No. 1061, entitled "Regulating the Width of Sidewalks," a copy of which is in the Clerk of the Board of Supervisors Book of General Ordinances, in effect May 11, 1910, by adding thereto a new section to read as follows:

Section [1643]. The width of sidewalks on portions of Streets shall be modified as shown on the Public Works Drawing Q-20-1194, dated 02/27/24

4. The Director further recommends that the Board of Supervisors approve the legislation to set the street grades for portions of 20th, 21st, 22nd, Louisiana, and Maryland Streets as set forth in Public Works Drawings Q-20-1194.
5. The Director further recommends that the Board of Supervisors direct Public Works to revise the Official Public Right-of-Way, Sidewalk Width, and Street Grade maps in accordance with the legislation.

F. The Director also recommends in regard to the City Improvements on a Port Street that the Board of Supervisors dedicate these components of the Phase 1 Public Infrastructure to public use and accept them for City maintenance and liability.

G. The Director also recommends that the Board amend Public Works Code Section 706 regarding fronting property owner responsibility for sidewalk maintenance and liability to assign these responsibilities to the Port's long-term lessees (35 years or more) in the Pier 70 Special Use District, as defined in Planning Code Section 249.79.

III – Delegated Authority for the Director to Accept Deferred Infrastructure

A. The Director recommends that the Board delegate authority to the Director, in consultation with applicable City agencies, to approve and accept the Deferred Infrastructure once it is complete to the satisfaction of the Director.

IV – Master Encroachment Permit

A. Interdepartmental Master Encroachment Permit ("IMEP"): Port Improvements and Sidewalk Maintenance

The Director recommends that the Board of Supervisors approve one component of the Master Encroachment Permit to permit the Port to maintain in the right-of-way the custom improvements and other encroachments as more specifically described in said permit for the Pier 70 project sitewide (all phases), and specifically for the encroachments constructed for Phase 1 (IMEP) Permit 24ME-00009. The permitted encroachments are generally described as: as a) Building 15 Structural

Frame over 22nd Street, b) cobble stones and pavers on Maryland and 20th streets, c) bike racks, d) custom benches, e) customer waste receptacles f) bollards, g) retaining walls, h) landscaping and i) wayfinding and interpretive signs (not yet constructed). The IMEP is subject to the terms and conditions specified in that permit.

The Director recommends that as part of the IMEP the Board of Supervisors delegate to the Director the authority to allow assignment to FC Pier 70, or an Owners' Association once established, to comply with the terms of Public Works Code Section 706 in lieu of the fronting property owner, provided the Port also approves such assignment and subject to the condition that if allocated to an Owners' Association, the maintenance responsibility must be included in the Conditions, Covenants, and Restrictions (CC&Rs) as a binding requirement on the Owners' Association and its successors.

B. FC Pier 70 Excess Conduits (Conduit Major Encroachment Permit "Conduit MEP")

The Director recommends that the Board of Supervisors approve a second component of the Master Encroachment Permit to authorize Major Encroachment Permit 24ME-00006 (the Conduit MEP) to permit FC Pier 70 to occupy the Phase 1 Public Infrastructure joint trench with the excess but vacant conduits until such a time that FC Pier 70 transfers the conduits to a third-party utility. The Conduit MEP is subject to the terms and conditions specified in that permit.

D. General Provisions for Master Encroachment Permit

1. The Director recommends that the Board of Supervisors delegate to the Director the ability to divide the Master Encroachment Permit into separate major permits, master permits, or individual street encroachment permits.
2. The Director recommends that the Board of Supervisors delegate to the Director authority to approve contiguous and non-contiguous annexation of new areas of the project site into the Master Encroachment Permit.
3. The Director recommends that the Board of Supervisors delegate to the Director authority to approve assignments of rights and obligations from the original permittee to the permittee's agent or assignee.
4. The Director recommends that the Board of Supervisors approve the permits described above subject to the Permit, Maintenance Agreement, CC&Rs, or other such document ensuring maintenance of the encroachments as may be required by Public Works, being approved by the Director and, if required by the Director, recorded in the County Recorder's Office.
5. The Director recommends that the Permit shall not be effective until the Permittee executes and acknowledges the Permit and delivers said permit and all required documents and fees to Public Works.

X DocuSigned by:
Denny Phan

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Acting ITF Manager

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X DocuSigned by:
Carla Short

Short, Carla
Director of Public Works