

BOARD of SUPERVISORS



City Hall  
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San Francisco 94102-4689  
Tel. No. 554-5184  
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TDD/TTY No. 554-5227

## MEMORANDUM

### GOVERNMENT AUDIT AND OVERSIGHT COMMITTEE

#### SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor London Breed, Chair  
Government Audit and Oversight Committee

FROM: Erica Major, Committee Clerk

DATE: September 12, 2014

SUBJECT: **COMMITTEE REPORTS, BOARD MEETING**  
Tuesday, September 16, 2014

The following files should be presented as **COMMITTEE REPORTS** at the Board meeting, Tuesday, September 16, 2014. These items were acted upon at the Committee Meeting on September 11, 2014 at 11:00 a.m., by the votes indicated.

**Item No. 10**                      **File No. 140939**

Resolution responding to the Presiding Judge of the Superior Court on the findings and recommendations contained in the 2013-2014 Civil Grand Jury Report, entitled "The Port of San Francisco, Caught Between Public Trust and Private Dollars;" and urging the Mayor to cause the implementation of accepted findings and recommendations through his/her department heads and through the development of the annual budget.

AMENDED, AMENDMENT OF THE WHOLE BEARING THE SAME TITLE

Vote: Supervisor London Breed - Aye  
Supervisor Katy Tang - Aye  
Supervisor David Chiu - Aye

RECOMMENDED AS AMENDED AS A COMMITTEE REPORT

Vote: Supervisor London Breed - Aye  
Supervisor Katy Tang - Aye  
Supervisor David Chiu - Aye

**Item No. 11**

**File No. 140940**

Resolution responding to the Presiding Judge of the Superior Court on the findings and recommendations contained in the 2013-2014 Civil Grand Jury Report, entitled "Rising Sea Levels...At Our Doorstep;" and urging the Mayor to cause the implementation of accepted findings and recommendations through his/her department heads and through the development of the annual budget.

AMENDED, AMENDMENT OF THE WHOLE BEARING THE SAME TITLE

Vote: Supervisor London Breed - Aye  
Supervisor Katy Tang - Aye  
Supervisor David Chiu - Aye

RECOMMENDED AS AMENDED AS A COMMITTEE REPORT

Vote: Supervisor London Breed - Aye  
Supervisor Katy Tang - Aye  
Supervisor David Chiu - Aye

**Item No. 12**

**File No. 140941**

Resolution responding to the Presiding Judge of the Superior Court on the findings and recommendations contained in the 2013-2014 Civil Grand Jury Report, entitled "Ethics in the City: Promise, Practice or Pretense;" and urging the Mayor to cause the implementation of accepted findings and recommendations through his/her department heads and through the development of the annual budget.

AMENDED, AMENDMENT OF THE WHOLE BEARING THE SAME TITLE

Vote: Supervisor London Breed - Aye  
Supervisor Katy Tang - Aye  
Supervisor David Chiu - Aye

RECOMMENDED AS AMENDED AS A COMMITTEE REPORT

Vote: Supervisor London Breed - Aye  
Supervisor Katy Tang - Aye  
Supervisor David Chiu - Aye

cc: Board of Supervisors  
Angela Calvillo, Clerk of the Board  
Rick Caldeira, Legislative Deputy Director  
Jon Givner, Deputy City Attorney

File No. 140939

Committee Item No. 2

Board Item No. 10

### COMMITTEE/BOARD OF SUPERVISORS

#### AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight

Date September 11, 2014

Board of Supervisors Meeting

Date SEPTEMBER 16, 2014

#### CMTE BOARD

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

#### OTHER

(Use back side if additional space is needed)

- Clerk of the Board's Memo receipt of CGJ report to Board
- Mayor's Office response to the Civil Grand Jury (CGJ) report
- Municipal Transportation Agency's response to CGJ report
- Port's response to CGJ report
- Planning Department's response to the CGJ report
- Recreation and Parks Department's response to CGJ report
- Public Works' response to CGJ report
- Recreation and Parks' response to the CGJ report
- Clerk of the Board's 60-Day dept response receipt to the Board
- Committee Report Memo
- \_\_\_\_\_
- \_\_\_\_\_

Completed by: Erica Major Date September 5, 2014

Completed by: ERICA MAJOR Date SEPTEMBER 11, 2014

AMENDED IN COMMITTEE  
09/11/2014

FILE NO. 140939

RESOLUTION NO.

1 [Board Response - Civil Grand Jury Report - The Port of San Francisco, Caught Between  
2 Public Trust and Private Dollars]

3 **Resolution responding to the Presiding Judge of the Superior Court on the findings**  
4 **and recommendations contained in the 2013-2014 Civil Grand Jury Report, entitled**  
5 **“The Port of San Francisco, Caught Between Public Trust and Private Dollars;” and**  
6 **urging the Mayor to cause the implementation of accepted findings and**  
7 **recommendations through his/her department heads and through the development of**  
8 **the annual budget.**

9  
10 WHEREAS, Under California Penal Code, Section 933 et seq., the Board of  
11 Supervisors must respond, within 90 days of receipt, to the Presiding Judge of the Superior  
12 Court on the findings and recommendations contained in Civil Grand Jury Reports; and

13 WHEREAS, In accordance with California Penal Code, Section 933.05(c), if a finding or  
14 recommendation of the Civil Grand Jury addresses budgetary or personnel matters of a  
15 county agency or a department headed by an elected officer, the agency or department head  
16 and the Board of Supervisors shall respond if requested by the Civil Grand Jury, but the  
17 response of the Board of Supervisors shall address only budgetary or personnel matters over  
18 which it has some decision making authority; and

19 WHEREAS, The 2013-2014 Civil Grand Jury Report, entitled “The Port of San  
20 Francisco, Caught Between Public Trust and Private Dollars” is on file with the Clerk of the  
21 Board of Supervisors in File No. 140939, which is hereby declared to be a part of this  
22 resolution as if set forth fully herein; and

23 WHEREAS, The Civil Grand Jury has requested that the Board of Supervisors respond  
24 to Finding Nos. 1, 4, 6, 8, and 11, as well as Recommendation Nos. 1, 4b, 6, 8a, 8b, and 11  
25 contained in the subject Civil Grand Jury report; and

1           WHEREAS, Finding No. 1 states: "Recent activities at the Port have been strongly  
2 influenced by the Mayor's office. These included the promotion of the 8 Washington Street  
3 project, most aspects of the 34th America's Cup races, a "legacy project" at Pier 30-32, and  
4 an underutilized cruise ship terminal at Pier 27. The Port Commission readily gave approvals  
5 with minimal public input. All other commissions dealing with land use decisions, including  
6 Planning, Building Inspection, and Board of Permit Appeals, are not appointed solely by the  
7 mayor. Section 12 of the Burton Act specifies that all five Harbor Commissioners be appointed  
8 by the Mayor and confirmed by the Board;" and

9           WHEREAS, Finding No. 4 states: "The priority of the Port for development is to create  
10 an income stream for capital improvements rather than a determination of how best to  
11 enhance the quality of life for the residents of the City. Port revitalization has been enhanced  
12 in the past by adherence to the Waterfront Land Use Plan. Developments have provided local  
13 business opportunities, mixed housing where appropriate, stronger public transit options,  
14 maintenance of height and bulk limits, and preservation of view corridors. Some uses,  
15 however, both current and proposed, of Port land do not conform to the Waterfront Land Use  
16 Plan. Zoning and height limits have been changed by the Planning Department and the  
17 Mayor's Office. There is a lack of transparency in development proposals, particularly in  
18 regard to input from the Mayor's Office and active involvement of former Mayoral staff  
19 advocating on behalf of developers, giving rise to concerns that an agreement had been  
20 reached prior to public input;" and

21           WHEREAS, Finding No. 6 states: "When it becomes operational, the Cruise Ship  
22 Terminal at Pier 27 is projected to be severely underutilized. This is because federal law,  
23 namely the Passenger Vessel Services Act of 1886, prohibits foreign-flagged passenger ships  
24 from calling on two U.S. ports without an intervening foreign port. This Act greatly restricts the  
25 use of the newly built Cruise Ship Terminal. The Port estimates that the use of the terminal

1 would increase from the current 50 visits per year to 150 visits if the Passenger Vessel  
2 Services Act of 1886 were amended or the Port were granted an exemption for a pilot  
3 program. It is also estimated that there is between \$750,000 and \$1 million economic benefit  
4 to the City from each docking. This includes ship provisioning, tourism, berthing fees and  
5 tugboats;" and

6 WHEREAS, Finding No. 8 states: "The 34th America's Cup was a major monetary loss  
7 to the City's taxpayers to the tune of about \$6 million and a major loss to the Port of about  
8 \$5.5 million in unreimbursed Port expenditures. The City and the Port subsidized the  
9 America's Cup at taxpayers' expense. The City received no direct revenue from the 34th  
10 America's Cup event in the form of revenue sharing or venue rent. In negotiating event and/or  
11 development agreements at the waterfront, the City and Port does not seek to make a profit  
12 from the deal but is simply looking to recover its costs and break even;" and

13 WHEREAS, Finding No. 11 states: "Although State Law does not require voter  
14 approval for the issuance of Port IFD Bonds, voter approval yields greater public awareness  
15 of the costs of proposed Port developments;" and

16 WHEREAS, Recommendation No. 1 states: "The Port Commission should be  
17 restructured to reflect more public interest. The Jury recommends that the Board of  
18 Supervisors seek necessary changes in state law to allow a charter amendment to be  
19 submitted to the public for revision of the current five-member Port Commission appointed by  
20 the Mayor to a Port Commission with three mayoral appointees and two by the Board of  
21 Supervisors. We recommend that this change be put before the voters in 2015;" and

22 WHEREAS, Recommendation No. 4b states: "The Port should ensure that changes or  
23 variances to the existing Waterfront Land Use Plan or the City's General Plan should have  
24 extensive public input before implementation;" and

25

1           WHEREAS, Recommendation No. 6 states: "The City should immediately begin  
2 lobbying for modifications to the Passenger Vessel Services Act of 1886 to allow foreign  
3 flagged vessels easier access to the City as a pilot program. This lobbying effort should be in  
4 conjunction with other U.S. passenger port destinations including those in Alaska, Hawaii,  
5 Oregon, and Washington;" and

6           WHEREAS, Recommendation No. 8a states: "All major events at the Port, like the  
7 America's Cup, must be approved by the Port Commission and the Board of Supervisors;"  
8 and

9           WHEREAS, Recommendation No. 8b states: "Prior to approval, the City should  
10 require a validated cost proposal using fair market rental rates, revenue sharing with the Port,  
11 marquee billing for the City, full post-event accounting, and posting of all event financials on  
12 the Port website within one month after completion of the event. Said report shall include an  
13 itemization of: 1) The amount and source of all revenue generated by the event; 2) The  
14 amount, payor, and payee of each cost incurred for the event; and 3) The name of each event  
15 cancelled, if any, as a result of the approval of the event and the amount of revenue lost as a  
16 result of the cancellation;" and

17           WHEREAS, Recommendation No. 11 states: "The Jury recommends that the Port  
18 Commission work with the Board of Supervisors to place a referendum before the voters that  
19 asks for approval to issue IFD Bonds. Such a referendum should specifically state the total  
20 amount of bonded indebtedness that the Port seeks to incur through IFD Bonds, the specific  
21 sources of funds for IFD Bond repayment, and the length of time required to discharge any  
22 IFD Bond debt;" and

23           WHEREAS, In accordance with California Penal Code, Section 933.05(c), the Board of  
24 Supervisors must respond, within 90 days of receipt, to the Presiding Judge of the Superior  
25

1 Court on Finding Nos. 1, 4, 6, 8, and 11, as well as Recommendation Nos. 1, 4b, 6, 8a, 8b,  
2 and 11 contained in the subject Civil Grand Jury report; now, therefore, be it

3 RESOLVED, That the Board of Supervisors reports to the Presiding Judge of the  
4 Superior Court that the Board of Supervisors partially disagrees with Finding No. 1, for  
5 reasons as follows: The Board of Supervisors cannot speak to the specific level or nature of  
6 influence as it is not privy to all the interactions between the Mayor's Office and the Port,  
7 though the Mayor's Office does influence many activities at the Port and throughout the City. It  
8 is difficult to assess "minimal public input" but, based on available evidence, the Board  
9 believes the Port Commission has followed the same practices as every other City agency  
10 with respect to public comment, open meetings, etc. There are several other commissions  
11 that deal with land use decisions and are appointed by the Mayor, including: the Public  
12 Utilities Commission, Recreation and Park Commission, Airport Commission, Fire  
13 commission, and Municipal Transportation Agency Board. The Port like any other  
14 Commission did its due diligence in trying to obtain public comment; and, be it

15 FURTHER RESOLVED, That the Board of Supervisors reports that the Board of  
16 Supervisors partially disagrees with Finding No. 4, for reasons as follows: Creating  
17 developments that help fund capital improvements and enhancing quality of life are not  
18 mutually exclusive objectives. When done right, Port projects should do both. Local business  
19 opportunities, mixed housing and stronger public transit are all vital aspects of good  
20 development, and the Board encourages the Port to foster those. The Board of Supervisors  
21 agrees that nonconforming uses should be considered very carefully on a case-by-case basis  
22 with public involvement; and, be it

23 FURTHER RESOLVED, That the Board of Supervisors reports that the Board of  
24 Supervisors agrees with Finding No. 6, for the reason as follows: The Board cannot confirm  
25

1 those exact figures, but definitely agrees that, irrespective of the difficulty in achieving it, such  
2 an amendment to the Act would benefit the Port and the City; and, be it

3 FURTHER RESOLVED, That the Board of Supervisors reports that the Board of  
4 Supervisors partially disagrees with Finding No. 8, for reasons as follows: The City and the  
5 Port lost money on the 34<sup>th</sup> America's Cup, but San Francisco experienced a net economic  
6 benefit. The Board of Supervisors will defer to the Port and the Civil Grand Jury on the exact  
7 figures. The City's model for this event was speculative and dependent upon fundraising.  
8 There was known risk involved, and that risk was realized as the fundraising fell far short of  
9 goals. If the fundraising had succeeded as planned and the event's model had worked as  
10 hoped, the City's tax base would have netted revenue. So the objective was to make a profit,  
11 but the finding is correct that the objective was not realized. At the same time, 87% of Port  
12 funds went into infrastructure development and \$500 million of overall economic activity was  
13 generated; and, be it

14 FURTHER RESOLVED, That the Board of Supervisors reports that the Board of  
15 Supervisors partially disagrees with Finding No. 11, for reasons as follows: Voter approval  
16 would yield greater awareness, but is neither required by law nor necessary to ensure the  
17 taxpayers' interests are protected. Port Infrastructure Financing Districts (IFDs) are repaid via  
18 incremental tax generated from Port property and do not increase taxes on voters. Other City  
19 agencies successfully issue similar bonds without voter approval, such as Municipal  
20 Transportation Agency (MTA) revenue bonds. Bonds that do encumber taxpayers, such as  
21 General Obligation bonds, rightly require voter approval; and, be it

22 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation  
23 No. 1 will not be implemented, for reasons as follows: Such an effort is well beyond the Board  
24 of Supervisors' jurisdiction, requiring both State legislative change as well as San Francisco  
25 voter approval. San Francisco's state representatives are the more appropriate officials to

1 undertake this effort. Further, there is a process for how Port Commissioners are selected that  
2 goes through the Board of Supervisors; when the Mayor nominates a Commissioner, that  
3 nomination is subject to Board of Supervisors' approval and a public hearing is held by the  
4 Board's Rules Committee; and, be it

5 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation  
6 No. 4b has been implemented, for reasons as follows: As noted in the Port's response, "all  
7 Port development projects undergo a robust public review and vetting process;" and, be it

8 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation  
9 No. 6 will not be implemented, for reasons as follows: The Board of Supervisors is not the  
10 appropriate City body to spearhead such an effort; however, the Board of Supervisors  
11 encourages the Port to advocate and pursue any amendments to or exemptions from the  
12 Passenger Vessel Services Act (PVSA) that could benefit the Port and the City. The Board  
13 will support the Port in this effort however it can; and, be it

14 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation  
15 No. 8a has been implemented, for reasons as follows: "Major" is a subjective term, but if it is  
16 taken to mean an event similar to the 34<sup>th</sup> America's Cup, this recommendation has been  
17 implemented. As the Port's response notes, the America's Cup was extensively vetted and  
18 approved by both the Port Commission and the Board of Supervisors; and, be it

19 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation  
20 No. 8b has been implemented, for reasons as follows: The Port's response indicates that it  
21 has and will continue implementing this recommendation, which the Board of Supervisors fully  
22 supports; and, be it

23 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation  
24 No. 11 will not be implemented, for reasons as follows: The Board of Supervisors has placed  
25 significant restrictions on how the Port exercises IFD bonds, and it is via processes that

1 involve extensive public review. Voter approval would yield greater awareness, but is neither  
2 required by law nor necessary to ensure the taxpayers' interests are protected. Port IFDs are  
3 repaid via increment tax generated from Port property and do not increase taxes on voters.  
4 Other City agencies successfully issue similar bonds without voter approval, such as  
5 Municipal Transportation Agency revenue bonds. Bonds that do encumber taxpayers, such as  
6 General Obligation bonds, rightly require voter approval; and, be it

7           FURTHER RESOLVED, That the Board of Supervisors urges the Mayor to cause the  
8 implementation of the accepted findings and recommendations through his/her department  
9 heads and through the development of the annual budget.

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SUBMITTED 9.11.14

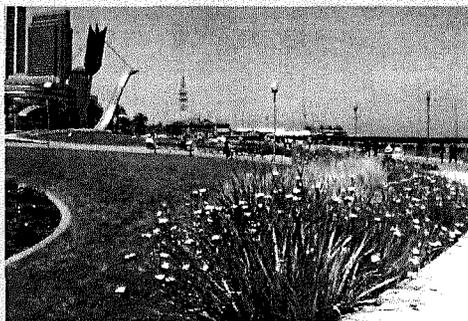
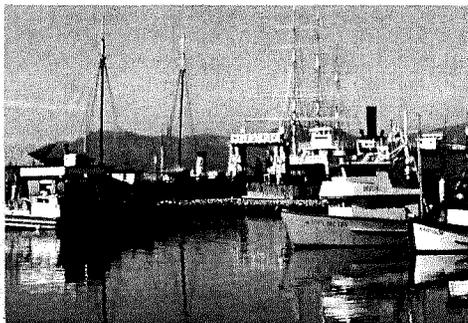
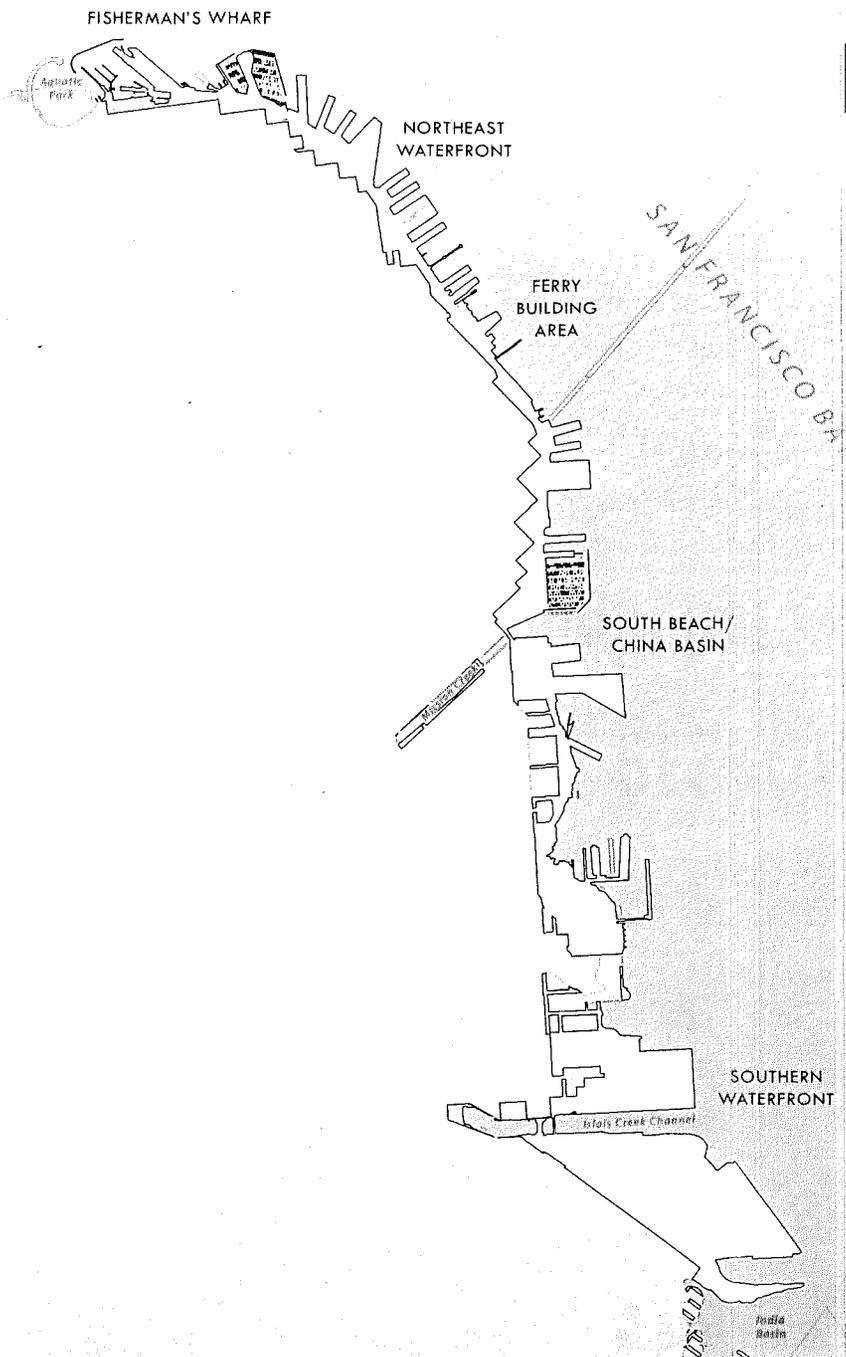


# PORT RESPONSE TO CIVIL GRAND JURY REPORT

## “Caught between Public Trust and Private Dollars”



# PORT OF SAN FRANCISCO

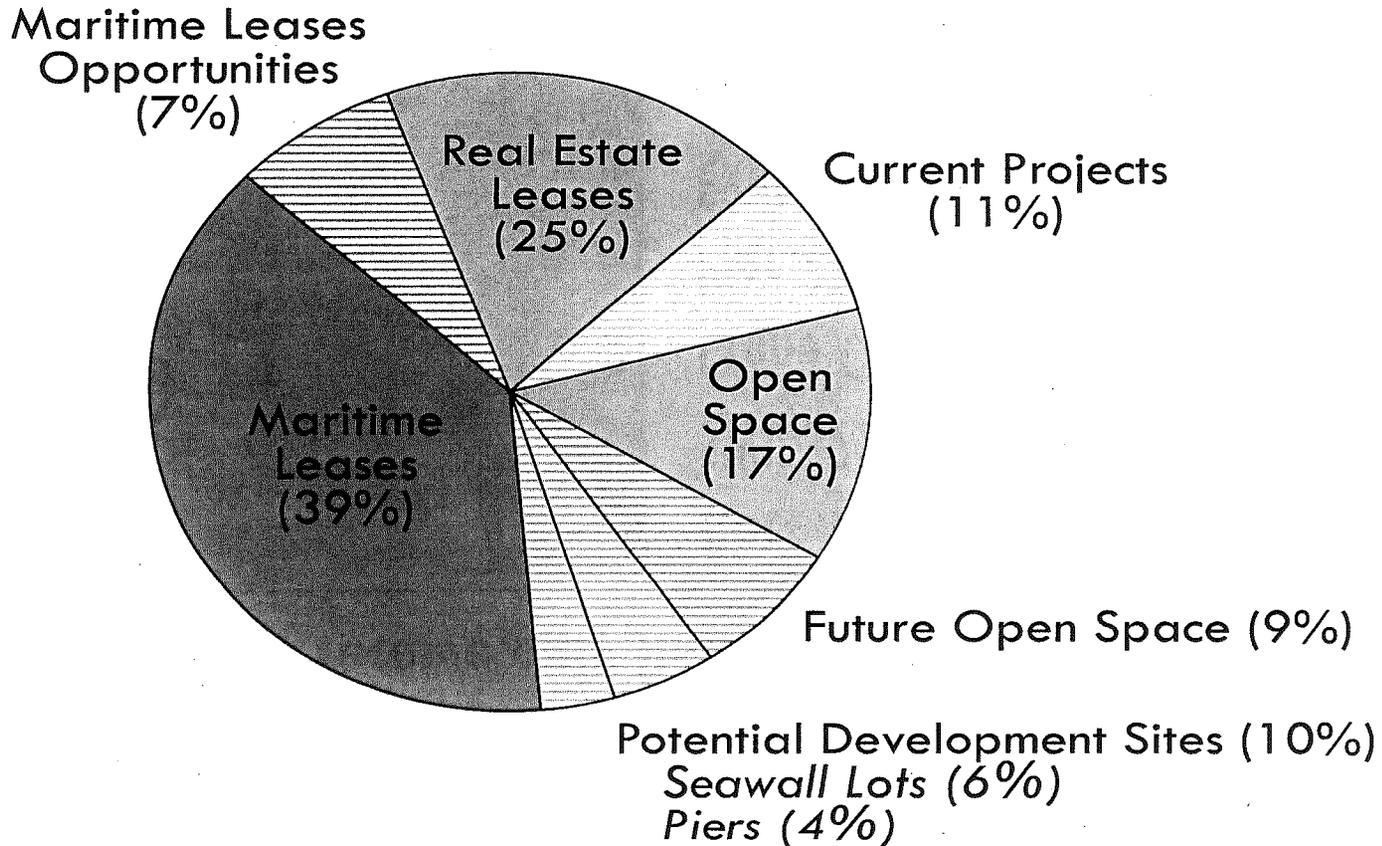


# Finding 2

Primarily a land bank and real estate management company.

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## LAND USES AS A PERCENTAGE OF PORT PROPERTY



# Finding 3

**Proposed projects receive only limited public input.**



- More than **400** public meetings for recent port projects
- **6** Advisory Groups
- **1,500** person mailing list

## **Recent Port Project Public Meetings**

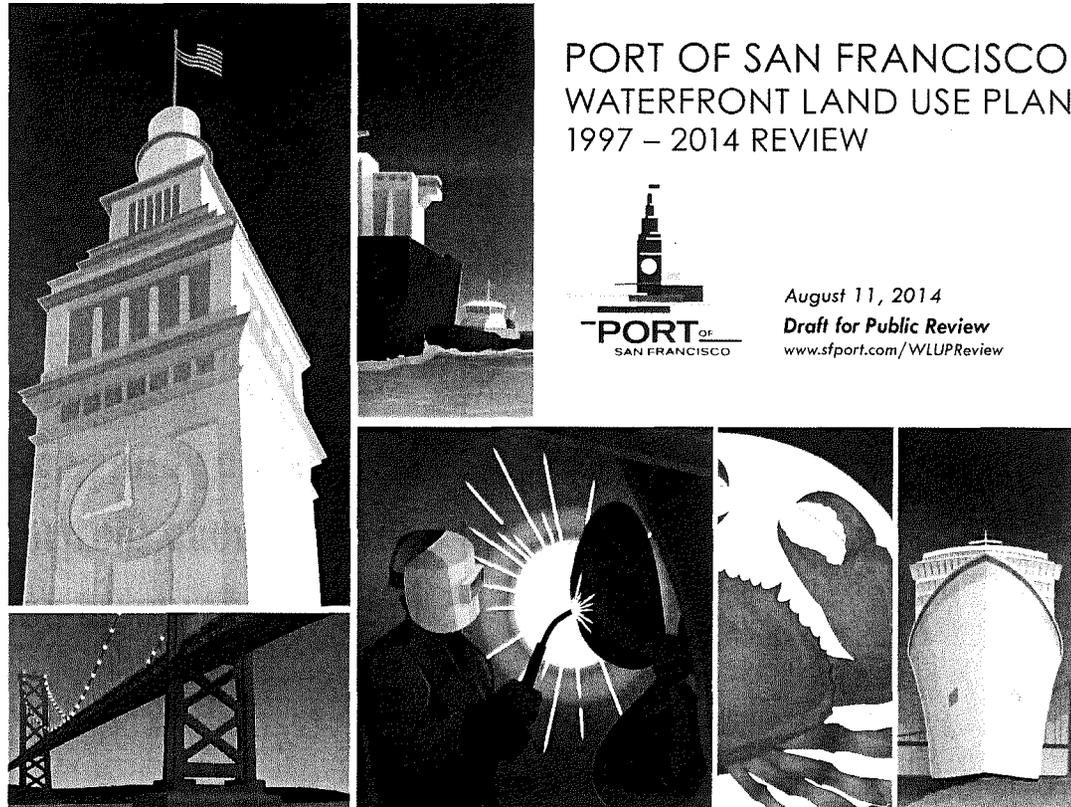
SWL 322-1 Affordable Housing	11
Crane Cove Park	40
Pier 27 Cruise Terminal	43
Exploratorium	50
Piers 30-32 (Warriors)	50
SWL 337 (Mission Bay)	50
SWL 351 (8 Washington)	82
Pier 70	<u>88</u>
<b>TOTAL</b>	<b>414</b>

# Finding 4a

**The Port should begin an assessment and update the Waterfront Land Use Plan.**

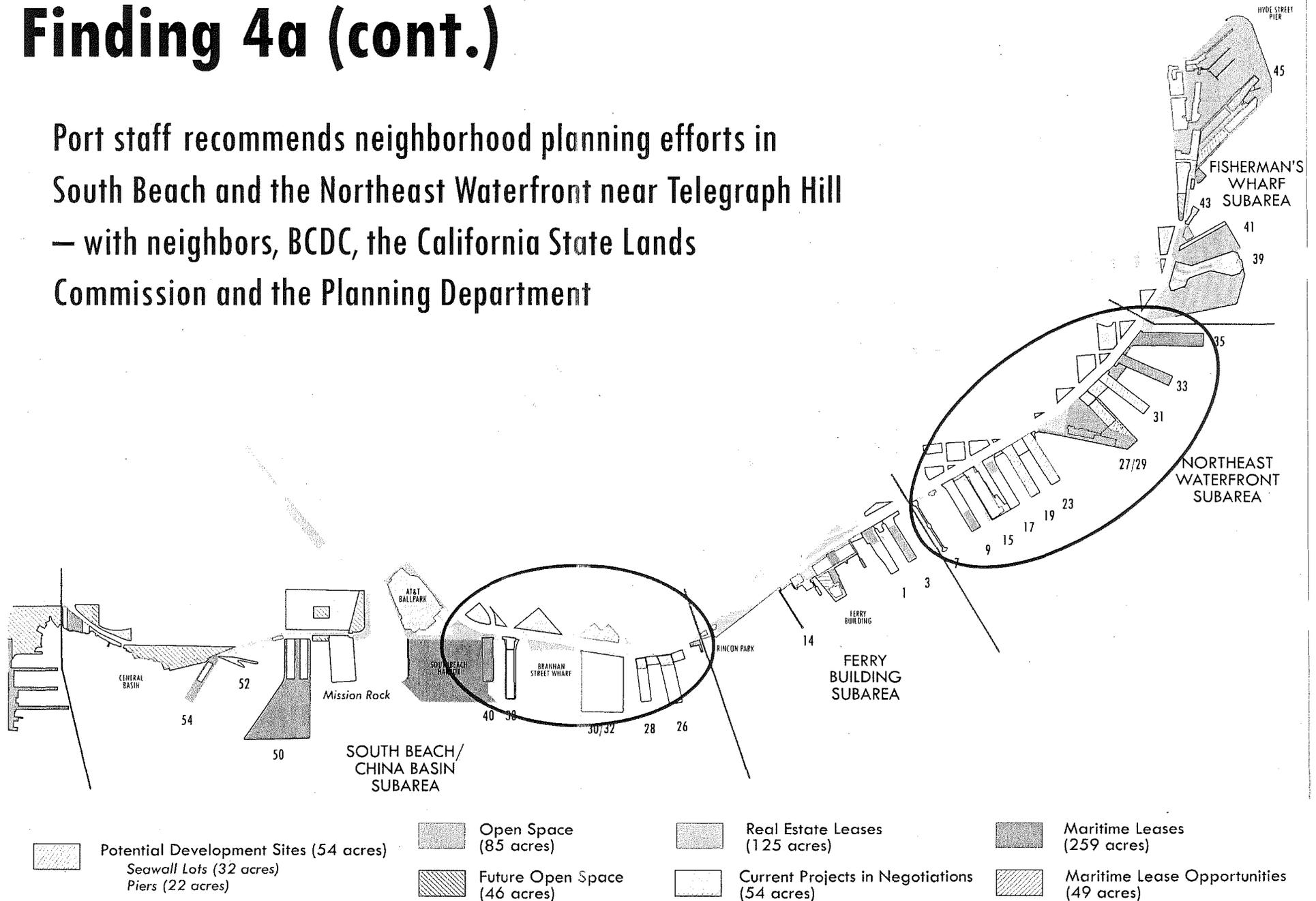
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Accepting public comment  
through November 30, 2014.



# Finding 4a (cont.)

Port staff recommends neighborhood planning efforts in South Beach and the Northeast Waterfront near Telegraph Hill — with neighbors, BCDC, the California State Lands Commission and the Planning Department



# **Written Port Responses to Other Findings**

- 6. Cruise Terminal and Passenger Services Vessel Act**
- 7. Alternative Financing for Piers 30-32**
- 8. 34<sup>th</sup> America's Cup**
- 9. Pier 70**
- 10. Seawall Lot 337 and Pier 48 Public Planning**
- 11. Formation of Infrastructure Financing Districts**

***Port staff appreciates the volunteer time and effort of the Civil Grand Jury and welcomes direction from the Board of Supervisors.***

## Major, Erica

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**From:** Board of Supervisors (BOS)  
**Sent:** Thursday, September 11, 2014 1:17 PM  
**To:** BOS-Supervisors; Major, Erica  
**Subject:** File 140939: FOR THE GOVERNMENT & OVERSIGHT COMMITTEE

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**From:** Barbara Austin [<mailto:bjfa4@aol.com>]  
**Sent:** Wednesday, September 10, 2014 12:31 PM  
**To:** Board of Supervisors (BOS)  
**Subject:** FOR THE GOVERNMENT & OVERSIGHT COMMITTEE

Supervisors Breed, Tang and Chui

I support and urge the committee to adopt the Grand Jury's recommendations that the Port Commission should consist of a mix of appointees representing the Mayor, Supervisors and Citizenry

Yours truly,  
B.Austin

Member, Board of Supervisor  
District 5



orig: COB,  
C. Comm clerk,  
City and County of San Francisco  
Lep Dep

**LONDON N. BREED**

September 2, 2014

TO: Angela Calvillo  
Clerk of the Board of Supervisors

RE: Government Audit and Oversight Committee  
COMMITTEE REPORT

Clerk of the Board Calvillo,

Pursuant to Board Rule 4.20, as Chair of the Government Audit and Oversight Committee, I have deemed the following matters to be of an urgent nature and request they be considered by the full Board on September 16, 2014, as Committee Reports:

**140939 Board Response - Civil Grand Jury - The Port of San Francisco: Caught Between Public Trust and Private Dollars**

Resolution responding to the Presiding Judge of the Superior Court on the findings and recommendations contained in the 2013-2014 Civil Grand Jury Report, entitled "The Port of San Francisco: Caught Between Public Trust and Private Dollars;" and urging the Mayor to cause the implementation of accepted findings and recommendations through his/her department heads and through the development of the annual budget.

**140940 Board Response - Civil Grand Jury - Rising Sea Levels...At Our Doorstep**

Resolution responding to the Presiding Judge of the Superior Court on the findings and recommendations contained in the 2013-2014 Civil Grand Jury Report, entitled "Rising Sea Levels...At Our Doorstep;" and urging the Mayor to cause the implementation of accepted findings and recommendations through his/her department heads and through the development of the annual budget.

**140941 Board Response - Civil Grand Jury - Ethics in the City: Promise, Practice or Pretense**

Resolution responding to the Presiding Judge of the Superior Court on the findings and recommendations contained in the 2013-2014 Civil Grand Jury Report, entitled "Ethics in the City: Promise, Practice or Pretense;" and urging the Mayor to cause the implementation of accepted findings and recommendations through his/her department heads and through the development of the annual budget.

These matters will be heard in the Government Audit and Oversight Committee on September 11, 2014, at 11 a.m.

A handwritten signature in black ink that reads "London Breed".

London Breed  
Supervisor District 5, City and County of San Francisco

BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 544-5227

DATE: August 22, 2014  
TO: Members of the Board of Supervisors  
FROM: Angela Calvillo, Clerk of the Board  
SUBJECT: 2013-2014 Civil Grand Jury Report "The Port of San Francisco: Caught Between Public Trust and Private Dollars"

We are in receipt of the following required responses to the San Francisco Civil Grand Jury report released June 24, 2014, entitled: **The Port of San Francisco, Caught Between Public Trust and Private Dollars**. Pursuant to California Penal Code, Sections 933 and 933.05, the City Departments shall respond to the report within 60 days of receipt, or no later than August 18, 2014.

For each finding the Department response shall:

- 1) agree with the finding; or
- 2) disagree with it, wholly or partially, and explain why.

As to each recommendation the Department shall report that:

- 1) the recommendation has been implemented, with a summary explanation; or
- 2) the recommendation has not been implemented but will be within a set timeframe as provided; or
- 3) the recommendation requires further analysis. The officer or agency head must define what additional study is needed. The Grand Jury expects a progress report within six months; or
- 4) the recommendation will not be implemented because it is not warranted or reasonable, with an explanation.

The Civil Grand Jury Report identified the following City Departments to submit responses (attached):

- San Francisco Municipal Transportation Agency  
(Received August 12, 2014, for Finding 5 and Recommendation 5)
- Office of the Mayor  
(Received August 15, 2014, for Findings 6 and 8 and Recommendations 1, 6, 8a, and 8b)
- Port of San Francisco  
(Received August 15, 2014, for Findings 1 through 11 and Recommendations 2a, 2b, 3, 4a, 4b, 5, 6, 7, 8a, 8b, 9a, 9b, 10, and 11)
- Planning Department  
(Received August 15, 2014, for Findings 3, 4, 9, and 10 and Recommendations 3, 4b, 9a, 9b, and 10)

- Recreation and Parks Department  
(Received August 18, 2014, for Finding 9 and Recommendations 9a and 9b)
- Department of Public Works  
(Received August 19, 2014, for Finding 9 and Recommendations 9a and 9b)

These departmental responses are being provided for your information, as received, and may not conform to the parameters stated in California Penal Code, Section 933.05 et seq. The Government Audit and Oversight Committee will consider the subject report, along with the responses, at an upcoming hearing and will prepare the Boards’ official response by Resolution for the full Board’s consideration.

C:

Honorable Cynthia Ming-mei Lee, Presiding Judge  
Elena Schmid, Foreperson, 2013-2014 San Francisco  
Civil Grand Jury  
Antonio Guerra, Mayor’s Office  
Roger Kim, Mayor’s Office  
Ben Rosenfield, Controller  
Asja Steeves, Controller  
Jon Givner, Deputy City Attorney  
Rick Caldeira, Legislative Deputy  
Severin Campbell, Budget and Legislative Analyst  
Matt Jaime, Budget and Legislative Analyst  
Monique Moyer, Port  
Elaine Forbes, Port

John Rahaim, Planning Department  
AnMarie Rodgers, Planning Department  
Aaron Starr, Planning Department  
Ed Reiskin, Municipal Transportation Agency  
Kate Breen, Municipal Transportation Agency  
Kathleen Sakelaris, Municipal Transportation Agency  
Mohammad Nuru, Department of Public Works  
Fuad Sweiss, Department of Public Works  
Frank Lee, Department of Public Works  
Phil Ginsburg, Recreation and Parks Department  
Sarah Ballard, Recreation and Parks Department



RECEIVED 8/27/2014 VIA EMAIL  
10:21 AM

Edwin M. Lee, Mayor  
Philip A. Ginsburg, General Manager

August 25, 2014

The Honorable Cynthia Ming-mei Lee  
Presiding Judge  
Superior Court of California, County of San Francisco  
400 McAllister Street  
San Francisco, CA 94102

Re: Response to Civil Grand Jury Reporting Regarding The Port of San Francisco

Dear Judge Lee:

On behalf of the Recreation and Parks Department of the City and County of San Francisco, please accept this response to the above-referenced Civil Grand Jury report's findings and recommendations.

#### FINDINGS

**Finding 9.** The Port does not have an official policy governing the process for proposed development projects. Many projects are moved ahead with minimal community input, often in the form of a quick review by the CAC and Planning Department then forwarded to the Board of Supervisors for final approval.

The Pier 70 Master Plan was developed with significant community outreach to both the general public and affected neighborhood associations. The Plan represents a balance of community needs and the requirement of the developer to obtain a reasonable return on investment.

**Response:** *We partially disagree with this finding. We agree that Pier 70 Master Plan was developed with significant community outreach to both the general public and affected neighborhoods, but disagree with the statement that many projects move ahead quickly with minimal community input, often in the form of a quick review by the CAC and Planning Department then forwarded to the Board of Supervisors for approval. The Waterfront Land Use Plan, adopted and implemented by the Port Commission, calls for an extensive public review process prior to the leasing and development of port property.*

**Recommendation 9a.** The Port should ensure ongoing community input be maintained until an acceptable compromise is reached on the final plans.

**Response:** *This recommendation should be implemented in that community input should be maintained. It is the responsibility of the appointed and elected decision makers to determine the project that best meets the public needs.*

**Recommendation 9b.** The Jury neither supports nor opposes the development of Pier 70 but we strongly endorse the extensive public outreach and community input as part of the design

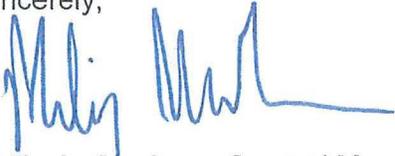


and development process of the Pier 70 Master Plan. We recommend that the Port follow this model as a template for all major developments on Port lands.

**Response:** *This recommendation will not be implemented for all projects.* This three-year public outreach and community input process was needed to address the numerous conditions specific for the 68 acre site of Pier 70. While every development opportunity must undergo thorough public review, the input process for Pier 70 may be excessive for most projects.

Thank you again for the opportunity to comment on this Civil Grand Jury report.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Philip A. Ginsburg', with a long horizontal line extending to the right.

Philip A. Ginsburg, General Manager  
San Francisco Recreation and Park Department



Edwin M. Lee, Mayor  
Mohammed Nuru, Director

RECEIVED  
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2014 AUG 19 PM 3:29

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Deputy Director for Design & Construction  
1 Dr. Carlton B. Goodlett Place, City Hall, Room 348  
San Francisco, CA 94102  
(415) 554-6940 ■ www.sfdpw.org



Fuad Swiss, Deputy Director and City Engineer

August 18, 2014

The Honorable Cynthia Ming-mei Lee  
Presiding Judge  
Superior Court of California, County of San Francisco  
400 McAllister Street  
San Francisco, CA 94102

**RE: 2013-2014 Civil Grand Jury Report, *The Port of San Francisco: Caught between Public Trust and Private Dollars.***

Dear Judge Lee:

On behalf of the City and County of San Francisco Department of Public Works, please accept this response to the above referenced Grand Jury report's findings and recommendations.

**FINDINGS:**

**Finding 9:**

The Port does not have an official policy governing the process for proposed development projects. Many projects are moved ahead with minimal community input, often in the form of a quick review by the CAC and Planning Department then forwarded to the Board of Supervisors for a final approval.

The Pier 70 Master Plan was developed with significant community outreach to both the general public and affected neighborhood associate. The Plan represents a balance of community and the requirement of the developer to obtain a reasonable return on investment.

**Recommendation 9a:**

The Port should ensure ongoing community input be maintained until an acceptable compromise is reached on the final plans.

**Response: Agree.** *The Department of Public Works agrees with this recommendation especially that community input usually generates comments and ideas that benefit projects and ensures that final plans reflect community needs and concerns. In general, the Department of Public Works follows a similar extensive outreach process for its projects.*



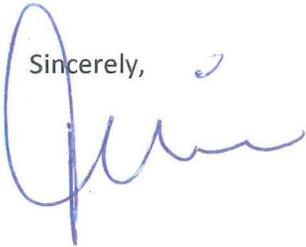
**Recommendation 9b:**

The Jury neither supports nor opposes the development of Pier 70 but we strongly endorse the extensive public outreach and community input as part of the design and development process of the Pier 70 Master Plan. We recommend that the Port follow this model as a template for all major developments on Port lands.

**Response: Agree.** *The Department of Public Works agrees with this recommendation. We work closely with the Port of San Francisco on many small and large projects and we collaborate on public outreach and coordination with all affected agencies. However, while every development opportunity must undergo thorough public review, not every project will require the steps that were conducted for the Pier 70 Preferred Master Plan.*

Thank you again for the opportunity to comment on this Civil Grand Jury report.

Sincerely,



Fuad Sweiss, PE, PLS  
City Engineer, Deputy Director of Public Works  
San Francisco Department of Public Works

cc. Antonio Guerra, Mayor's Office of Public Policy and Finance  
Erica Major, Assistant Committee Clerk, Board of Supervisors  
Monique Moyer, Director, Port of San Francisco  
Mohammed Nuru, Director, Department of Public Works







Edwin M. Lee, Mayor  
Philip A. Ginsburg, General Manager

August 18, 2014

The Honorable Cynthia Ming-mei Lee  
Presiding Judge  
Superior Court of California, County of San Francisco  
400 McAllister Street  
San Francisco, CA 94102

Re: Response to Civil Grand Jury Reporting Regarding The Port of San Francisco

Dear Judge Lee:

On behalf of the Recreation and Parks Department of the City and County of San Francisco, please accept this response to the above-referenced Civil Grand Jury report's findings and recommendations.

## FINDINGS

**Finding 9.** The Port does not have an official policy governing the process for proposed development projects. Many projects are moved ahead with minimal community input, often in the form of a quick review by the CAC and Planning Department then forwarded to the Board of Supervisors for final approval.

The Pier 70 Master Plan was developed with significant community outreach to both the general public and affected neighborhood associations. The Plan represents a balance of community needs and the requirement of the developer to obtain a reasonable return on investment.

**Response:** We agree that the Pier 70 Master Plan was developed with significant community outreach to both the general public and affected neighborhoods, but disagree with the statement that many projects move ahead quickly with minimal community input, often in the form of a quick review by the CAC and Planning Department then forwarded to the Board of Supervisors for approval. The Waterfront Land Use Plan, adopted and implemented by the Port Commission, calls for an extensive public review process prior to the leasing and development of port property.

**Recommendation 9a.** The Port should ensure ongoing community input be maintained until an acceptable compromise is reached on the final plans.

**Response:** The ongoing community input should be maintained, but it is the responsibility of the appointed and elected decision makers to determine the project that best meets the public needs.

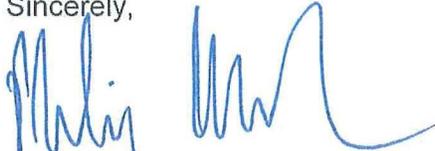
**Recommendation 9b.** The Jury neither supports nor opposes the development of Pier 70 but we strongly endorse the extensive public outreach and community input as part of the design and development process of the Pier 70 Master Plan. We recommend that the Port follow this model as a template for all major developments on Port lands.



**Response:** This three-year public outreach and community input process was needed to address the numerous conditions specific for the 68 acre site of Pier 70. While every development opportunity must undergo thorough public review, the input process for Pier 70 may be excessive for most projects.

Thank you again for the opportunity to comment on this Civil Grand Jury report.

Sincerely,

A handwritten signature in blue ink, appearing to read "Philip A. Ginsburg". The signature is fluid and cursive, with a prominent initial "P" and a long, sweeping tail.

Philip A. Ginsburg, General Manager  
San Francisco Recreation and Park Department



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BOARD OF SUPERVISORS  
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2014 AUG 18 AM 11:47

*SMB*

August 15, 2014

Honorable Cynthia Ming-mei Lee  
Presiding Judge  
Superior Court of California  
County of San Francisco  
Civic Center Courthouse  
400 McAllister Street, Room 008  
San Francisco, CA 94102-4512

RE: Response to June 2014 Civil Grand Jury Report, *The Port of San Francisco Caught Between Public Trust and Private Dollars*

Dear Judge Lee,

The Port of San Francisco is pleased to present its response to the Civil Grand Jury's June 2014 Report, *The Port of San Francisco Caught Between Public Trust and Private Dollars*. It is our understanding that, in addition to the Port's response, responses will be submitted separately by the Board of Supervisors, the San Francisco Planning Department, the San Francisco Municipal Transportation Agency and the Office of the Honorable Edwin Lee, Mayor of San Francisco.

The Port of San Francisco greatly appreciates the time and effort undertaken by the volunteer members of the Civil Grand Jury and their efforts to analyze the Port enterprise. The Port welcomes input and ideas that help us improve the waterfront for the public's benefit. We agree with the Civil Grand Jury that the Port succeeds most when it fosters strong public involvement in planning our projects. The Port has been engaging proactively with stakeholders since creation of our first community advisory group in 1918. The Port's Waterfront Land Use Plan is founded on the principle of public involvement, which Port staff pursues with each major development opportunity along the public's waterfront.

A prevailing theme within the Civil Grand Jury's report is that the Port "has not maintained the past level of outreach to the general public." As noted in the Port's response, the Port hosts 6 community advisory groups providing public input on projects and operations in both geographic regions of the waterfront as well as the entire maritime sector. The average timeline for a Port development project is 6-8 years. In the last 8 years, 400+ public meetings have been held by the Port or the Board of Supervisors in addition to meetings held by neighbors and other citywide organizations:

Crane Cove Park	40
Exploratorium at Pier 15	50
Pier 27 Cruise Terminal	43
Piers 30-32 Warriors Arena (terminated)	50
Pier 70	88
Seawall Lot 322-1 (affordable housing, just beginning)	11
Seawall Lot 351 (part of the 8 Washington proposal)	82
Seawall Lot 337 (Mission Rock Development)	<u>50</u>
TOTAL	414

All advisory committee meetings are public meetings. Notices are sent to 1,500 interested citizens who have requested to be informed of and follow these meetings. The mailing list grows each year demonstrating the high level of interest and opportunity for public dialogue. Additionally, the Port's projects are covered frequently by local news and social media sources. For example, there are thousands of entries on the web regarding the Golden State Warriors' proposed arena at Piers 30-32 and more than 100,000 entries regarding Seawall Lot 337 posted over the past years. While the public may not have participated in these conversations, there has been ample opportunity to do so. In fact, the decision by the Golden State Warriors to move the arena from Piers 30-32 directly resulted from the public input.

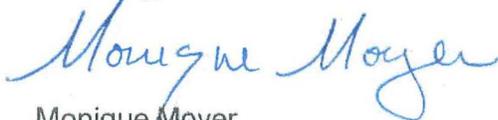
The Port appreciates that the Civil Grand Jury highlighted the many Port accomplishments over the past several decades, including the Ferry Building renovation, AT&T Park, the Exploratorium's new waterfront venue at Pier 15, the Pier 45 Fish Processing Center, and the more than twenty parks, plazas, open spaces and fishing piers that are now open to the public. In total, 123 projects have been implemented in the past 17 years pursuant to the Port's Waterfront Land Use Plan. All of these projects benefitted from strong public participation. And all of these projects continue to succeed due to strong public visitation and enjoyment.

The Port also welcomes the Civil Grand Jury's appreciation of the difficulty of funding waterfront improvements such as parks and protections against future sea level rise. Port staff particularly welcomes the call for increased maritime activity, as this is central to the Port's mission and heritage. In the past 5 years alone, the Port has made significant progress in improving our maritime assets, establishing two water taxi services, enhancing ship repair services and, after two decades, building and opening a new cruise terminal befitting of San Francisco's status as a world-class city.

Port staff thoughtfully reviewed each of the Civil Grand Jury's findings and recommendations. Attached hereto is the Port's response to those findings and recommendations. The Port has presented our responses in the same order as the Civil Grand Jury presented its report.

Thank you for your consideration of the Port of San Francisco's response. We look forward to any questions you may have or further conversations regarding the materials prepared either by the Civil Grand Jury or the respondents.

Sincerely,



Monique Moyer  
Executive Director

Attachment: Port of San Francisco Response Summary

cc: Honorable Mayor Edwin Lee  
Honorable Leslie Katz, President, Port Commission  
Honorable Willie Adams, Vice President, Port Commission  
Honorable Kimberly Brandon, Port Commission  
Honorable Mel Murphy, Port Commission  
Honorable Doreen Woo Ho, Port Commission  
Ben Rosenfield, Controller  
Angela Calvillo, Clerk of the Board of Supervisors  
Elena Schmid, Foreperson 2013-2014 Civil Grand Jury

**PORT OF SAN FRANCISCO RESPONSE MATRIX**

CG JURY FINDING	CG JURY RECOMMENDATIONS	PORT RESPONSE	PORT EXPLANATION
<p><b><u>Who is Making Decisions?</u></b></p> <p><b>Finding 1:</b> Recent activities at the Port have been strongly influenced by the Mayor’s office. These included the promotion of the 8 Washington Street project, most aspects of the 34th America’s Cup races, a “legacy project” at Pier 30-32, and an underutilized cruise ship terminal at Pier 27. The Port Commission readily gave approvals with minimal public input. All other commissions dealing with land use decisions, including Planning, Building Inspection, and Board of Permit Appeals, are not appointed solely by the mayor. Section 12 of the Burton Act specifies that all five Harbor Commissioners be appointed by the Mayor and confirmed by the Board.</p>	<p>The Port Commission should be restructured to reflect more public interest. The Jury recommends that the Board of Supervisors seek necessary changes in state law to allow a charter amendment to be submitted to the public for revision of the current five-member Port Commission appointed by the Mayor to a Port Commission with three mayoral appointees and two by the Board of Supervisors. We recommend that this change be put before the voters in 2015.</p>		<p><i>NOTE: The Civil Grand Jury directed response to this recommendation to the Board of Supervisors. Therefore, the Port has not provided a response in the adjacent column. However, the Port does provide the following information that did not appear to be included in the making of the Civil Grand Jury’s Finding.</i></p> <p><b>Finding 1:</b> The Port Commissioners are nominated by the Mayor AND their selections are vetted by the Board of Supervisors, first through a committee process, followed by a full Board hearing. The Board has the exclusive right to scrutinize the candidates for ALL Port Commission appointments and to accept or reject them. Such process ensures a broad number of citizens are able to evaluate the candidates’ qualifications and provide public comment to the Board of Supervisors.</p> <p>The Port Commission provides policy direction on a range of issues impacting the Port from leasing and contracting policies, budget and capital plan review and approval to historic rehabilitation and development terms. Their duties are similar to the City’s enterprise departments (Airport, Port &amp; SFPUC) as is their appointment process. The split appointment commissions referenced in Finding 1 (Planning, Building Inspection and the Board of Permit Appeals) have the commonality of being appeal bodies. While the Port Commission, like the Airport and SFPUC, does make land use decisions for its enterprise property, the Port Commission is</p>

**PORT OF SAN FRANCISCO RESPONSE MATRIX**

CG JURY FINDING	CG JURY RECOMMENDATIONS	PORT RESPONSE	PORT EXPLANATION
			<p>not an appeal body.</p> <p>The Port Commission is one of the most diverse commissions in the City and by far the most diverse governing body of any of the 85 public ports in the nation. Of the current 5 commissioners, in terms of the diversity of their ethnic/gender/sexual orientation, 3 commissioners are women, 2 are African American, 1 is Chinese and 1 is LGBT. In terms of their professional diversity, 2 are financial experts, 1 is an elected officer of the International Longshore &amp; Warehouse Union, 1 is a builder, 1 was formerly elected citywide to the Board of Supervisors, 1 represents the southeast sector of the City, and 1 represents the South of Market sector. In June 2014, 3 of the Commissioners were nominated by the Mayor for reappointment, appeared before the Rules Committee and were unanimously approved by the Board of Supervisors.</p> <p>Finally, the 1968 Burton Act establishes the mechanism by which the City must appoint Port Commissioners, which is mirrored in the City Charter. Changing the process for Port Commission appointments would require state legislation amending the Burton Act and a charter amendment.</p>
<p><b><u>Waterfront Land Use</u></b></p> <p><b>Finding 2:</b> The Port is primarily a land bank and real estate management company; only 25% of revenue is from maritime activities.</p>		<p><b>Disagree</b></p>	<p><b>Finding 2:</b> The Port has one of the most diverse maritime portfolios of any port on the West Coast. The Port’s facilities handle cargo, cruise ships, ship repair, ferries, excursions, fishing &amp; fish processing industries, boat and yacht harbors, harbor services</p>

**PORT OF SAN FRANCISCO RESPONSE MATRIX**

CG JURY FINDING	CG JURY RECOMMENDATIONS	PORT RESPONSE	PORT EXPLANATION
<p>Annual revenues of \$82 million are not sufficient to meet the needs for infrastructure repair. Today the Port has a policy of attempting to repair all existing piers and related structures</p>			<p>such as tug and barge, bar pilots, and historic vessels. The Port’s Pier 80 is the only breakbulk and project cargo facility in San Francisco Bay. The Port also manages Foreign Trade Zone No. 3 covering 7 Bay Area counties. Additionally, the Port is home to 85+ acres of open space and park lands.</p> <p>On a land basis, maritime use and open space/park activities account for 43% of the Port’s asset portfolio while commercial real estate accounts for 57%. Maritime operations typically require large, low density footprints and are limited to ground level. Port parks and open space areas also are limited to the ground level. By contrast commercial real estate operations are high density uses and can be implemented in multi-story facilities, such as the Ferry Building. As such, they generate a higher return per square foot than either maritime operations or parks and open space.</p> <p>Maritime activities often generate lower revenues than commercial real estate activities and logically would represent a smaller proportion of the Port’s overall revenues. Open space and park activities do not generate any income and therefore are not captured in the Port’s revenues. It is disingenuous to measure the Port’s value and contributions simply on a revenue basis. However, the Port agrees that Port facilities, especially Port berths, be utilized first for maritime purposes. To that end, the Port adopted its Maritime Industry Preservation Policy in 2011 which guides Port staff, tenants and developers in the importance of maintaining the Port’s long-held maritime assets for current and</p>



**PORT OF SAN FRANCISCO RESPONSE MATRIX**

CG JURY FINDING	CG JURY RECOMMENDATIONS	PORT RESPONSE	PORT EXPLANATION
	<p>Waterfront has great potential. The Port is actively pursuing growth in this area and should continue to improve infrastructure and search for new tenants.</p>		<p>blue collar employment is eroding. Port initiatives to install shore power and to expand the port dry-docks at Pier 70 have resulted in a 50% increase in revenue at our ship repair operation and hundreds of thousands of additional man-hours of employment since 2008.</p> <p>The Port currently handles approximately 1.4 million metric tons of import bulk aggregates annually at Pier 94. The Port is working to develop an adjacent bulk export terminal at Pier 96 for cargoes such as iron ore. Feasibility and engineering design studies are underway and the Port is upgrading cargo rail connectivity to the cargo terminals funded by a Federal Railway Administrative grant. This initiative could triple bulk cargo volumes at the Port with corresponding significant growth in maritime revenue. The Port is collaborating with Union Pacific Railroad to develop these and other rail-served cargo opportunities. This includes containerized bulk exports that could be loaded onto bulk vessels at the Pier 80 omni cargo terminal.</p> <p>The Port continues to handle break bulk (non-containerized) cargo and project cargoes at Pier 80 which are slowly rebounding after a prolonged slump brought on by the financial downturn.</p>
<p><b><u>Waterfront Land Use, con't</u></b></p> <p><b>Finding 3:</b> The waterfront is one of the most desirable areas in the City. Proposed projects receive only</p>		<p align="center"><b>Disagree</b></p>	<p><b>Finding 3:</b> The Port and the public have expended tremendous effort and investment to make this one of the most renowned waterfronts in the</p>

**PORT OF SAN FRANCISCO RESPONSE MATRIX**

CG JURY FINDING	CG JURY RECOMMENDATIONS	PORT RESPONSE	PORT EXPLANATION																		
<p>limited public input by Citizen Advisory Committees (CAC) whose members are selected by the Port. The Planning Department and Mayor's Office have a great deal of authority to influence the selection of development projects. Citizens at large are made aware of these projects only after the Port has published an RFP. The public is not made aware of possible alternate uses that may have been considered during the early stages of project planning.</p>			<p>world, while still operating as working port. The Port has sought public participation for almost 100 years beginning in 1918 when the Port established its first citizen's advisory committee. Today that has expanded to 6 advisory groups providing public input on projects and operations in (1) Fisherman's Wharf, (2) Northeast Waterfront &amp; Ferry Building, (3) Central Waterfront, (4) Southern Waterfront areas, and Portwide through the (5) Maritime Commerce Advisory Committee and (6) Waterfront Design Advisory Committee. A Piers 30-32 Citizens Advisory Committee existed until April 2014.</p> <p>In the last 8 years, 400+ public meetings have been held by the Port or the Board of Supervisors:</p> <table border="0"> <tr> <td>SWL 322-1</td> <td align="right">11</td> </tr> <tr> <td>Crane Cove Park</td> <td align="right">40</td> </tr> <tr> <td>Pier 27 Cruise Terminal</td> <td align="right">43</td> </tr> <tr> <td>Exploratorium</td> <td align="right">50</td> </tr> <tr> <td>Piers 30-32</td> <td align="right">50</td> </tr> <tr> <td>SWL 337</td> <td align="right">50</td> </tr> <tr> <td>SWL 351</td> <td align="right">82</td> </tr> <tr> <td>Pier 70</td> <td align="right">88</td> </tr> <tr> <td align="right"><b>TOTAL</b></td> <td align="right"><b>414</b></td> </tr> </table> <p>All advisory committee meetings are public meetings. Notices are sent to 1,500 interested citizens who have requested to be informed of and follow these meetings. This high level of interest and opportunity for public participation is in addition to public meetings held by the Port Commission, Planning Commission, BCDC and Board of Supervisors required for major Port</p>	SWL 322-1	11	Crane Cove Park	40	Pier 27 Cruise Terminal	43	Exploratorium	50	Piers 30-32	50	SWL 337	50	SWL 351	82	Pier 70	88	<b>TOTAL</b>	<b>414</b>
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**PORT OF SAN FRANCISCO RESPONSE MATRIX**

CG JURY FINDING	CG JURY RECOMMENDATIONS	PORT RESPONSE	PORT EXPLANATION
	<ul style="list-style-type: none"> <li>• <b>Recommendation 3:</b> Proposed variances from the Plan should receive increased public scrutiny prior to the issuance of an RFP.</li> </ul>	<p align="center"><b>Partially Agree</b></p>	<p>development projects and non-maritime leases. The Port carries out additional public outreach with neighborhood groups and other stakeholders through presentations, workshops, surveys and solicitation of comments through the Port website for major community planning projects, such as the Blue Greenway, Seawall Lot 337 and Pier 70.</p> <p>Development concepts for most Port sites are discussed in Port advisory committee and Port Commission meetings before the developer selection process. Projects that emerge as sole source opportunities approved by the Board of Supervisors (such as the Exploratorium and the International Museum of Women) also are subject to review and discussion at Port advisory committee and other public meetings. The Port hosted 50 public meetings on behalf of the Exploratorium project.</p> <p><b>Recommendation 3:</b> The Port agrees that projects that require an amendment to the Waterfront Land Use Plan need to be highlighted for public review. Furthermore, the Port actively engages the public in review of these variances. Where this is known before the Port solicits development partners, the Port does conduct public process to directly address this need. The pre-RFQ/P public planning efforts for Seawall Lot 337 and the Pier 70 Waterfront Site were designed specifically to engage public input and guidance to define the project objectives and priorities prior to soliciting development partners. Even in non-RFP situations, such as the Golden</p>

**PORT OF SAN FRANCISCO RESPONSE MATRIX**

CG JURY FINDING	CG JURY RECOMMENDATIONS	PORT RESPONSE	PORT EXPLANATION
			<p>State Warriors’ proposal for Piers 30-32 &amp; Seawall Lot 330, the public process made clear from the outset that such projects would require amendments to both the Port’s Waterfront Land Use Plan and to City zoning, in particular regarding project heights. Public comments and concerns regarding these amendment requirements received a high degree of public review and debate.</p>
<p><b><u>Waterfront Land Use, cont’d</u></b></p> <p><b>Finding 4:</b>                      The priority of the Port for development is to create an income stream for capital improvements rather than a determination of how best to enhance the quality of life for the residents of the City. Port revitalization has been enhanced in the past by adherence to the Waterfront Land Use Plan. Developments have provided local business opportunities, mixed housing where appropriate, stronger public transit options, maintenance of height and bulk limits, and preservation of view corridors. Some uses, however, both current and proposed, of Port land do not conform to the Waterfront Land Use Plan. Zoning and height limits have been changed by the Planning Department and the</p>		<p align="center"><b>Disagree</b></p>	<p><b>Finding 4:</b>                      The overarching priority of the Waterfront Land Use Plan, and therefore the Port, is to reunite San Francisco with its waterfront. The success of the Port and its partners in meeting this priority is clear: more than 24 million people visited the waterfront in 2013 for employment, transportation, education, exploration, entertainment, recreation or simply to engage passively with the Bay.</p> <p>In the past 17 years, since adoption of the Waterfront Land Use Plan, the Port has realized more than \$1.6 billion of investments from both public and private dollars. These investments have enhanced the quality of life for residents of the City and the greater Bay Area, as well as garnered the City even greater international acclaim. Specifically, the following improvements have been realized as a result of the Waterfront Land Use Plan and public input, creating more value to the citizens of San Francisco than at any other time in the past century:</p> <ul style="list-style-type: none"> <li>• More than 63 acres of waterfront open space, including 20 new parks</li> </ul>

**PORT OF SAN FRANCISCO RESPONSE MATRIX**

CG JURY FINDING	CG JURY RECOMMENDATIONS	PORT RESPONSE	PORT EXPLANATION
<p>Mayor’s Office. There is a lack of transparency in development proposals, particularly in regard to input from the Mayor’s Office and active involvement of former Mayoral staff advocating on behalf of developers, giving rise to concerns that an agreement had been reached prior to public input.</p>			<ul style="list-style-type: none"> <li>• 19 prized Port historic resources have been fully or partially rehabilitated consistent with federal or local historic standards, to meet modern seismic standards allowing the public to enter and enjoy these resources</li> <li>• 7 derelict piers and wharves have been removed from the Bay (removal of Pier 64 is in progress)</li> <li>• Up to 6.3 million square feet of new residential and commercial development and 22 new acres of waterfront open space are being planned jointly with the community for Seawall Lot 337 and Pier 70, to transform the Port’s central and southern waterfront</li> </ul> <p>The Waterfront Land Use Plan anticipated the need for public-private development partners to improve Port facilities in addition to public funds. The Port’s 10-Year Capital Plan has advanced a more sophisticated understanding of Port capital needs that now supports a strategic approach to improve Port facilities. While the Port does strive to pursue projects that do not have to be subsidized, there is no stated priority for development. The development projects the Port has pursued have been effective means to repair Port properties and deliver public benefits, as well as Port revenue. All major development projects, whether or not the Office of Economic &amp; Workforce Development has been involved, are thoroughly vetted in public meetings over many years before they may be approved by the Port Commission, Planning Commission, BCDC and Board of Supervisors. Multi-phase developments such as proposed for</p>

**PORT OF SAN FRANCISCO RESPONSE MATRIX**

CG JURY FINDING	CG JURY RECOMMENDATIONS	PORT RESPONSE	PORT EXPLANATION
	<ul style="list-style-type: none"> <li> <b>Recommendation 4a:</b>                      The Port should immediately begin an assessment and update of the Waterfront Land Use Plan, to be renamed the Waterfront Maritime and Land Use Plan to meet current and future requirements for Port development. This should be completed and adopted in a relatively short time span of one to two years.                 </li> </ul>	<p align="center"><b>Partially Agree</b></p>	<p>Seawall Lot 337 and Pier 70, undergo extra public planning process before soliciting development partners. In both cases, meetings were held to discuss the scale of adjacent development in Mission Bay and Dogpatch respectively and the potential for height increases. From the outset, the public knew that both of these projects would require amendments to the Waterfront Land Use Plan, City zoning and possible other Planning Commission controls. The Port’s planning and community engagement efforts are framed specifically to maximize transparency.</p> <p><b>Recommendation 4a:</b>                      While the successes are many, the Waterfront Land Use Plan is a living document that must strive to improve and adapt. On August 11, 2014, Port staff issued an initial report to the Port Commission and public that presents an assessment of projects, activities and public discourse over the 17 year life of the Waterfront Land Use Plan. It seeks to surface new ideas and concepts that might be woven into the Waterfront Land Use Plan. The Port staff analysis in this report grapples with the highest level set of issues, including uses of the port area, historic rehabilitation, open space, waterfront development, urban design, transportation, sea level rise and public process, including preliminary recommendations in each of these areas.</p> <p>These recommendations are offered to the public, the Port Commission, the Board of Supervisors and the Mayor in the spirit of keeping the Waterfront Land Use Plan as relevant today as it was when it</p>

**PORT OF SAN FRANCISCO RESPONSE MATRIX**

CG JURY FINDING	CG JURY RECOMMENDATIONS	PORT RESPONSE	PORT EXPLANATION
	<ul style="list-style-type: none"> <li> <b>Recommendation 4b:</b>                      The Port should ensure that changes or variances to the existing Waterfront Land Use Plan or the City’s General Plan should have extensive public input before implementation.                 </li> </ul>	<p align="center">Agree</p>	<p>was adopted, and responsive enough to successfully guide the next generation of waterfront improvements. The Port welcomes public comment on these recommendations through September 30, 2014; Port staff will finalize this report in October 2014 as the 2014 Waterfront Land Use Plan Review.</p> <p><b>Recommendation 4b:</b>                      As stated in responses to Recommendation 3 and Finding 4 above, and in responses to Recommendation 9b and Finding 10, below, all Port development projects undergo a robust public review and vetting process, particularly those that require amendments to the Waterfront Land Use Plan and City General Plan.</p>

**PORT OF SAN FRANCISCO RESPONSE MATRIX**

CG JURY FINDING	CG JURY RECOMMENDATIONS	PORT RESPONSE	PORT EXPLANATION
<p><b><u>Transportation</u></b></p> <p><b>Finding 5:</b> Further development along the waterfront will add new transportation requirements. Transportation along the waterfront does not meet current needs. Portions of the Embarcadero are closed during cruise ship arrivals and events at AT&amp;T Park. Emergency vehicles sometimes use the light rail right of way to circumvent traffic even when there is no major activity on the Embarcadero. San Francisco Municipal Transportation Agency master plan does not directly address development on Port lands.</p>		<p><b>Disagree</b></p>	<p><b>Finding 5:</b> Since 2002, the Port has worked in close coordination with the San Francisco Municipal Transportation Agency (SFMTA) and the San Francisco County Transportation Authority to improve transportation access to and along the waterfront, integrated with City and regional transportation planning and investments. An Embarcadero Transportation Task Force was created in 2002 to advance transportation analysis and improvements. Continued collaboration supported transportation planning for the 34<sup>th</sup> America’s Cup, as orchestrated by SFMTA in the America’s Cup People Plan. The experience and management capabilities gained through those efforts are now being applied to the Waterfront Transportation Assessment (Assessment). The Assessment coordinates transportation and land use planning and identifies transportation options that respond to current use and future growth conditions. The Assessment includes specific focus on planning transportation improvements for major Port development projects. The Port also is working with SFMTA to sponsor the Embarcadero Enhancement Project, to develop a concept design for a protected bikeway to improve pedestrian comfort, safety, and the public realm.</p> <p>With respect to congestion on The Embarcadero roadway by cruise ship calls, the Pier 27 James R. Herman Cruise Terminal will open in September 2014. One of the key objectives for locating the</p>

**PORT OF SAN FRANCISCO RESPONSE MATRIX**

CG JURY FINDING	CG JURY RECOMMENDATIONS	PORT RESPONSE	PORT EXPLANATION
	<ul style="list-style-type: none"> <li> <b>Recommendation 5:</b>                      SFMTA should incorporate current and future transit needs, taking into consideration not only increased capacity requirements from individual projects, but the cumulative effect of multiple projects added to existing passenger loads. SFMTA must address reliability and increased capacity that will be required for all modes of transportation, especially the T-Line and motor coach lines connecting to the Pier 70 site. The VETAG system should be maintained to operate at maximum efficiency.                 </li> </ul>	<p align="center"><b>Agree</b></p>	<p>project at Pier 27 is to create a Ground Transportation Area on the pier, to move ship support, passenger loading, bus, taxi and car parking off of The Embarcadero.</p> <p><b>Recommendation 5:</b>                      While this recommendation is not directed to the Port, the Port notes that the Port and SFMTA have partnered with extraordinarily close coordination and thoughtful planning over the last four years. The successes of this partnership are many and have been enjoyed by the 23 million people who visited the Port’s waterfront in 2013 alone. Without careful management by the SFMTA and the Port, the priority for reuniting San Francisco with its waterfront would not be realized. The efforts of this partnership with respect to the 34<sup>th</sup> America’s Cup and proposed development projects are well known. Additionally, the Port and SFMTA have partnered in addressing transportation issues in numerous locations, including at the Ferry Building, Fisherman’s Wharf, the James R. Herman Cruise Terminal and along Cargo Way, Terry Francois Blvd. and Illinois Street.</p>
<p><u><b>Cruise Ship Terminal</b></u></p> <p><b>Finding 6:</b>                      When it becomes operational, the Cruise Ship Terminal at Pier 27 is projected to be severely underutilized. This is because federal law, namely the Passenger Vessel Services Act of 1886, prohibits foreign-flagged</p>	<ul style="list-style-type: none"> <li> <b>Recommendation 6:</b>                      The City should immediately begin lobbying for modifications to the Passenger Vessel Services Act of 1886 to allow foreign-flagged vessels easier access to the City as a pilot program. This lobbying effort should be in                 </li> </ul>	<p align="center"><b>Partially Agree</b></p>	<p><b>Recommendation 6:</b>                      The Port was a founding member of the “Cruise America” coalition of U.S. West Coast Ports and other tourism interests who, in 1998, sought a legislative exception of the Passenger Vessel Services Act (PVSA). This effort gained support in Congress under the leadership of Senator John McCain (R-AZ), then chairman of the Commerce</p>

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CG JURY FINDING	CG JURY RECOMMENDATIONS	PORT RESPONSE	PORT EXPLANATION
<p>passenger ships from calling on two U.S. ports without an intervening foreign port. This Act greatly restricts the use of the newly built Cruise Ship Terminal. The Port estimates that the use of the terminal would increase from the current 50 visits per year to 150 visits if the Passenger Vessel Services Act of 1886 were amended or the Port were granted an exemption for a pilot program. It is also estimated that there is between \$750,000 and \$1 million economic benefit to the City from each docking. This includes ship provisioning, tourism, berthing fees and tugboats.</p>	<p>conjunction with other U.S. passenger port destinations including those in Alaska, Hawaii, Oregon, and Washington.</p>		<p>Science and Transportation Committee. Senator McCain led the legislative effort in congress by sponsoring the United States Cruise Tourism Act which would allow foreign oceangoing passenger ships to serve multiple destinations along U.S. Coasts while protecting U.S. based companies.</p> <p>This 1998 effort to modify the PVSA encountered fierce opposition from some segments of organized labor, including unions that represented employees of other Port maritime tenants. While theoretically an exception to the PVSA could provide additional work for land based maritime unions, other unions representing seafaring workers feared that granting exceptions or weakening the PVSA would irrefutably harm the nation’s shipbuilding and merchant marine industry. Ultimately the bill did not gain traction and the effort was shelved.</p> <p>Ironically, the cruise industry is not advocating any change to this law. Cruise lines, through their International Association, think that while a reformed PVSA might add some new U.S. ports to cruise itineraries, it would not be a significant amount, especially in light of the restrictions that likely would be attached.</p> <p>Rather than lead the charge to modify the PVSA, the Port believes a better strategy is to continue to monitor possible legislative developments for exemptions or modification of the PVSA and work through the American Association of Port Authorities (AAPA), the industry’s leading trade association, for any effort to alter current law.</p>

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			<p>AAPA’s members include every cruise port in Canada, Central and South America and the Caribbean. AAPA has openly supported legislation to permit non-U.S. flag cruise ships to operate on the U.S. coastwide trade where there is no large U.S. flag cruise ship in service. AAPA staff work regularly with members of Congress and monitor legislative efforts that impact the port industry. The Port actively serves on the AAPA Cruise committee and believes that it would be more effective to join a wider effort to gain possible legislative exception. This strategy will use the collective power of the U.S. cruise port industry, thus not singling out San Francisco. This strategy will likely ensue over a 2 year period.</p>
<p><b><u>Pier 30-32</u></b></p> <p><b>Finding 7:</b> Under the 2012 GSW proposal, the Port would not have received rent from the leasing of Pier 30-32 to GSW for the next 66 years. Property tax revenue associated with the IFD that was to be established would have been used to repay the IFD bond for the next 30 years.</p> <p>In contrast, if the Port simply sells Seawall Lot 330 to a third party for development, all of the property tax resulting from said development would go into the City’s General Fund.</p>		<p><b>Partially Agree</b></p>	<p><b>Finding 7:</b> The Port Waterfront Land Use Plan designates Piers 30-32 and Seawall Lot 330 as a mixed use development opportunity site, and allows maritime, commercial, public assembly and entertainment and public open space uses at Piers 30-32, but a sports facility would have required a Waterfront Land Use Plan amendment. The housing and hotel mixed uses proposed on Seawall Lot 330 by the Golden State Warriors (GSW) are allowed in the Waterfront Land Use Plan. The public process provides the public forum for considering whether the merits of a project support an amendment to the Waterfront Land Use Plan, which included for review and recommendation by the Piers 30-32 CAC. BCDC was conducting its own review to assess whether the GSW project would</p>

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CG JURY FINDING	CG JURY RECOMMENDATIONS	PORT RESPONSE	PORT EXPLANATION
<p>Furthermore, the Warriors’ arena project conformed neither to the guidelines set forth in the SF Waterfront Special Area Plan (issued by BCDC) nor to the Waterfront Land Use Plan.</p>	<ul style="list-style-type: none"> <li>• <b>Recommendation 7:</b> The Port should consider alternatives to fund the cost of rehabilitating Piers 30-32. The sale of Seawall Lot 330 could supply a large portion of \$68 M needed to strengthen the substructure for light use. The Jury recommends that the Port actively investigate alternative light uses for Piers 30-32. In addition to general park usage, sports fields for soccer, tennis, basketball, or other sports could be provided.</li> </ul> <p>Temporary venues for entertainment companies such as Teatro ZinZanni, Cirque de Soleil, and Cavalia would also not require an extensive substructure. Although not light use, the Port might also consider placement of a major marine research institute to fully utilize the unique characteristics of this site.</p>	<p align="center">Agree</p>	<p>have required an amendment to the San Francisco Waterfront Special Area Plan. The GSW proposal for Piers 30-32 was abandoned before BCDC had completed that review and before the CAC reached any recommendation.</p> <p><b>Recommendation 7:</b> The structures atop Piers 30-32 were destroyed by fire in 1984. Since that time, the Port has continued to analyze alternatives to rehabilitate Piers 30-32, including both public and private investments. The Golden State Warriors proposal represented the 6<sup>th</sup> proposed rehabilitation since the 1980s.</p> <p>Subsequent to the decision of the GSW not to pursue Piers 30-32, Port staff has analyzed alternatives such as general park usage, sports fields, cruise berthing, etc. Such analysis is published more completely in an August 7, 2014 Memorandum to the Port Commission. Any permanent change in use resulting in an increase in the volume of public users must consider major rehabilitation including a seismic upgrade. The total cost of a substructure rehabilitation including seismic strengthening will depend on the type and size of these improvements and is expected to be around \$100 million.</p> <p>Temporary uses or events lasting 180 days or less are acceptable. However, they must consider structural load limits currently in place.</p> <p>The construction of a major marine research institute will likely trigger a major rehabilitation</p>



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	<p>the America's Cup, must be approved by the Port Commission and the Board of Supervisors.</p> <p><b>• Recommendation 8b:</b> Prior to approval, the City should require a validated cost proposal using fair market rental rates, revenue sharing with the Port, marquee billing for the City, full post-event accounting, and</p>	<p align="center">Agree</p>	<p>America's Cup, are approved by the Port Commission and the Board of Supervisors. The Port Commission held 39 separate hearings to publicly review, comment and vote on the activities of the 34<sup>th</sup> America's Cup from March 2009 through September 2013. This included 16 informational presentations and 23 approval requests submitted for Port Commission consideration and action.</p> <p>Similarly, the Board of Supervisors also held 31 hearings to publicly review, comment and vote on activities of the 34<sup>th</sup> America's Cup from April 2010 through October 2013. The hearings pertained to activities of the 34<sup>th</sup> America's Cup including, but not limited to, the (1) Host and Venue Agreement, (2) Final Environmental Impact Report and Mitigation Monitoring and Reporting Program, (3) MOU with the Port, (4) America's Cup Workforce Development Plan, (5) budget appropriation ordinances, and (6) Lease Disposition Agreement. Of these 31 hearings, 16 were hearings before the full Board of Supervisors and 15 were committee hearings including 12 before the Budget and Finance Committee and subject to review and report by the Budget Analyst to the Board of Supervisors.</p> <p><b>Recommendation 8b:</b> The analysis that Port staff provided to the Board of Supervisors for its initial approval of America's Cup agreements was intended to provide a detailed quantitative and qualitative analysis of the prospective regatta as was known at the time. Port staff briefed the Port Commission on an ongoing</p>

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CG JURY FINDING	CG JURY RECOMMENDATIONS	PORT RESPONSE	PORT EXPLANATION
	<p>posting of all event financials on the Port website within one month after completion of the event. Said report shall include an itemization of:</p> <ul style="list-style-type: none"> <li>○ The amount and source of all revenue generated by the event.</li> <li>○ The amount, payor, and payee of each cost incurred for the event.</li> <li>○ The name of each event cancelled, if any, as a result of the approval of the event and the amount of revenue lost as a result of the cancellation.</li> </ul>		<p>basis as more facts of the regatta and the projected outcomes were known. In responding to future unique waterfront opportunities the public and the Port Commission should expect a thorough analysis of the opportunity and the expected impact on public use and enjoyment of the waterfront as well as operating and capital costs.</p> <p>With respect to marquee billing, the City and Port required the America’s Cup Event Authority to optimize the association of the City with the Event, recognizing the value and global reach of Event media coverage. The Port aggressively asserted its rights to accelerate part of the Cruise Terminal project schedule so that the “Port of San Francisco” sign atop it was installed prior to the start of racing and thus captured in international broadcasts that aired repeatedly in 130 countries world-wide. Physical signage in camera shots is the most valuable form of advertising, as superimposed digital imagery must be removed prior to rebroadcast in most countries.</p>
<p><b><u>Pier 70</u></b></p> <p><b>Finding 9:</b> The Port does not have an official policy governing the process for proposed development projects. Many projects are moved ahead with minimal community input, often in the form of a quick review by the CAC and Planning Department then forwarded to the Board of Supervisors for final</p>		<p align="center"><b>Partially Disagree</b></p>	<p><b>Finding 9:</b> The Port DOES have an official policy for proposed development projects. The Waterfront Land Use Plan, adopted and implemented by the Port Commission, calls for an extensive public review process prior to the leasing and development of port property. The Port has established advisory committees in each waterfront subarea to hold public meetings and provide regular public forums for the review process. Over the 17 year period the</p>

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CG JURY FINDING	CG JURY RECOMMENDATIONS	PORT RESPONSE	PORT EXPLANATION
<p>approval.</p> <p>The Pier 70 Master Plan was developed with significant community outreach to both the general public and affected neighborhood associations. The Plan represents a balance of community needs and the requirement of the developer to obtain a reasonable return on investment.</p>	<ul style="list-style-type: none"> <li><b>Recommendation 9a:</b> The Port should ensure ongoing community input be maintained until an acceptable compromise is reached on the final plans.</li> </ul>	<p align="center">Agree</p>	<p>Waterfront Land Use Plan has been implemented, Port staff has always worked closely with the affected communities and key stakeholders. During this time, a handful of unsolicited proposals have been made to the Port, such as the Exploratorium project, and Port staff has worked to incorporate them into the public review process outlined in the Waterfront Land Use Plan. In the case of the Exploratorium, this resulted in 50 public meetings on the project. Often such proposals have an early Board of Supervisors hearing to address appropriateness of the project and sole source waivers. While occasionally projects commence at different starting points along the process continuum, all projects ultimately adhere to the process prior to final project adoption.</p> <p><b>Recommendation 9a:</b> The Port and its developer will continue to solicit public input until final adoption of the project by the Port Commission and the Board of Supervisors. The Port will continue to solicit feedback from the public through meetings of the Central Waterfront Advisory Group, as well as through items before the Port Commission, the Planning Commission, BCDC and ultimately the Board of Supervisors. The developer has implemented an extensive community outreach program since development rights were awarded in April 2011. Additionally, the developer has placed a measure before the San Francisco electorate for the November 2014 election seeking public approval of its proposed project heights.</p>

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CG JURY FINDING	CG JURY RECOMMENDATIONS	PORT RESPONSE	PORT EXPLANATION
	<ul style="list-style-type: none"> <li> <b>Recommendation 9b:</b>                      The Jury neither supports nor opposes the development of Pier 70 but we strongly endorse the extensive public outreach and community input as part of the design and development process of the Pier 70 Master Plan. We recommend that the Port follow this model as a template for all major developments on Port lands.                 </li> </ul>	<p>Agree</p>	<p><b>Recommendation 9b:</b>                      The Port Commission established the development parameters for the Waterfront Site, authorized a developer qualifications solicitation process, and on August 30, 2010, the Port issued the Pier 70 Waterfront Site Request for Qualifications.</p> <p>On April 17, 2011, after a public hearing the Port Commission awarded development rights to the waterfront site to Forest City. That action, awarding the development opportunity to Forest City, began a process of defining a project for the Waterfront Site and the development concepts envisioned in the Master Plan and the RFQ. After selection Forest City began an extensive community outreach program.</p> <p>This extra level of planning work was required to address numerous conditions specific to Pier 70, to determine whether there was a viable economic strategy that had community support to save its historic resources and allow sufficient development capacity to pay for new infrastructure, environmental improvement and new public open space, while maintaining compatibility with continued ship repair operations. Single phase development sites, such as those that have been improved to date in the northern half of the waterfront, are more straight-forward development opportunities. While every development opportunity must undergo thorough public review, not every project will require the steps that were conducted for the Pier 70 Preferred Master Plan.</p>

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			<p>Pier 70 is a shining example of the process. The complexity and scope of issues that needed to be addressed for this 68 acre site dictated the need to spend substantial Port funds for a consultant team to assist the development of the Pier 70 Preferred Master Plan.</p> <p>The Port initiated the community planning process to develop a Pier 70 master plan in late 2006. The effort required economic, historic, urban design, and engineering consultant analysis. The three-year public planning process was extensive, involving 7 Port Commission hearings, Central Waterfront Advisory Committee policy discussions and over 70 public workshops and community presentations to incorporate insights and comments from the City’s diverse stakeholders. The Port staff worked with a consultant team to address the complexities of adaptive reuse and infill development at Pier 70. The historic consultant researched Pier 70’s historic buildings and prepared the report to nominate the Union Iron Works Historic District at Pier 70 for listing on the National Register of Historic Places. In addition, the Port worked closely with sister City agencies, as well as key state and federal agencies with jurisdiction over development within Pier 70.</p>
<p><b><u>Mission Rock</u></b></p> <p><b>Finding 10:</b> Although the development of Pier 48 and Seawall Lot 337, also known as Mission Rock, began in 2007, there has been insufficient</p>		<p align="center"><b>Disagree</b></p>	<p><b>Finding 10:</b> This project has been the subject of more than 50 public meetings during the past 7½ years.</p> <p>The Port has engaged in an extensive and robust</p>

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CG JURY FINDING	CG JURY RECOMMENDATIONS	PORT RESPONSE	PORT EXPLANATION
<p>information and involvement for community groups, neighborhood and merchants' associations, and residents potentially affected by this project.</p>			<p>public process in planning the Seawall Lot 337 and Pier 48 sites. This process began in January 2007 and is still ongoing, 7½ years later. This process included: 1) an 18-month planning phase in which Port staff and Commissioners directly solicited planning and use ideas from neighbors and stakeholders; 2) an 8-month RFQ phase when the Port solicited development concepts and engaged in public review and dialogue about the submittals; 3) a 13-month RFP phase when the Port received development proposals and solicited public comments; and 4) a 5-year project predevelopment phase which is still ongoing and includes public input through outreach to neighborhood groups, regular updates to the Port's advisory groups, as well as public hearings at the Port Commission and Board of Supervisors.</p> <p>This process has utilized many innovative techniques to solicit public input including: 1) direct involvement of Port Commission members in the community planning process, 2) a prominent and representative public Advisory Panel, 3) a 2-step solicitation process that included numerous public meetings with recordation of public comments, and 4) graphic recordation of comments from the public. This process has resulted in a stable development proposal that still responds to public input from the 2007 planning process. The public outreach conducted for this project is described in more detail below.</p> <p><i>SWL 337 Planning Process Overview</i> •The Port Commission established a Committee of two</p>

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CG JURY FINDING	CG JURY RECOMMENDATIONS	PORT RESPONSE	PORT EXPLANATION
			<p>Commissioners to convene a series of public meetings to address the planning and development of SWL 337. This Committee presided over 7 public workshops during 2007. The full Port Commission held 2 additional public hearings prior to the Port Commission’s authorization to issue an RFQ.</p> <p><i>RFQ &amp; RFP Process</i> • In October 2007, the San Francisco Port Commission initiated a two-phase developer solicitation process for SWL 337. The Port Commission also created a public advisory panel, to lead public review of the developer submittals, and make recommendations for consideration and action by the Commission. The SWL 337 Advisory Panel consisted of City and community stakeholders, with knowledge and expertise in economic development, environmental protection, urban and architectural design, neighborhood and citywide policy and community interests. The Port also created a space on its website where the public could provide comments on the solicitations.</p> <p>Four development teams responded to the first-phase Request for Qualifications (RFQ), which included a request for draft development concepts for the SWL 337 site. The 4 respondents presented their development qualifications and development concepts at the February 26, 2008 Port Commission meeting, and at an all-day public workshop on March 1, 2008. These meetings were widely noticed and structured to engage a high level of public review and comment, and direct dialog with the development teams. The Port also received</p>

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			<p>comments from the public via the Port’s website, letters, and the Port’s Central Waterfront Advisory Group. All public comments were shared with the SWL 337 Advisory Panel and available to the public. The Port Commission held 2 additional Commission meetings to hear from the Advisory Panel and the public before teams were selected by the Commission to respond to the second-phase Request for Proposals (RFP).</p> <p>At the February 10, 2009 Port Commission meeting, the 2 short-listed developers presented their development concepts for the project. The SWL 337 Advisory Panel took the lead in evaluating and making recommendations to the Port Commission regarding the responsiveness of the developers’ proposals. The Port received and considered substantial public comment including at the February 10, 2009 Port Commission meeting, March 11, 2009 Central Waterfront Advisory Group (CWAG) meeting, and the March 18, 2009 public workshop on the developer’s proposal. In addition, many written comments were received and considered through the Port’s web page. Summary of all public comments were included in the record for the Port Commission consideration when awarding the development opportunity to Mission Rock.</p> <p><i>Project Predevelopment Process</i> • Since selection of the Mission Rock development team Port staff has collaborated with the developer on public outreach efforts. The Port, City and the developer have visited the following community groups with</p>

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CG JURY FINDING	CG JURY RECOMMENDATIONS	PORT RESPONSE	PORT EXPLANATION
	<ul style="list-style-type: none"> <li><b>Recommendation 10:</b> The Jury recommends increased publicity and outreach so that an</li> </ul>	<p align="center"><b>Agree</b></p>	<p>detailed Project briefings:</p> <ol style="list-style-type: none"> <li>1. Maritime Commerce Advisory Committee</li> <li>2. Central Waterfront Advisory Group</li> <li>3. Mission Bay Community Advisory Group</li> <li>4. Southeast Waterfront Advisory Council</li> <li>5. Bay Conservation and Development Commission (staff)</li> <li>6. State Lands Commission (staff)</li> <li>7. Chamber of Commerce</li> <li>8. Bayview Builders</li> <li>9. Rincon/South Beach Neighborhood Group</li> <li>10. Potrero Boosters</li> <li>11. SF Housing Action Coalition Endorsement Committee</li> <li>12. SF Bike Coalition (informal)</li> <li>13. SPUR (informal)</li> <li>14. San Francisco Parks Alliance</li> <li>15. Individual neighbors and business owners</li> <li>16. SPUR formal lunchtime session as part of Port portfolio series</li> <li>17. SPUR Project Review Committee</li> </ol> <p>In addition to these presentations and meetings, the Project team held a well-attended public design workshop and multiple open house meetings with members of the community to discuss proposed land use including review of several bulk and site massing alternatives. This outreach effort is a productive, ongoing process that has helped shape the Project over time.</p> <p><b>Recommendation 10:</b> The Port, City and the Mission Rock developer will continue an ongoing, robust public outreach</p>

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	<p>acceptable compromise can be reached on the scope of this development.</p>		<p>program to advisory and regulatory bodies and to community groups, neighborhood and merchants' associations, and residents potentially affected by this project. Additionally, the Port Commission and the Board of Supervisors will continue to hold public hearings on this project which can be viewed on SFgovTV at any time. Port staff will continue to publish staff memorandums regarding this project which are available to the public through the Port Commission secretary or on the Port's website at <a href="http://sfport.com/index.aspx?page=25">http://sfport.com/index.aspx?page=25</a>. This project will also undergo environmental review per CEQA, which is a robust process open to the public. This project will also be submitted to the San Francisco electorate to review the project's proposed building heights. The Port further expects that many media organizations also will continue to cover this project for the benefit of the public.</p>
<p><b><u>Financing of Capital Improvements</u></b></p> <p><b>Finding 11:</b> Although State Law does not require voter approval for the issuance of Port IFD Bonds, voter approval yields greater public awareness of the costs of proposed Port developments.</p>		<p><b>Disagree</b></p>	<p><b>Finding 11:</b> State Law allows the formation of Infrastructure Financing Districts on Port property to enable funding of new infrastructure and the uniquely high costs of developing the waterfront. Property tax increment financing is a standard form of publicly financing for publicly-owned improvements. In most states that use this form of financing, voter approval is not required, because IFDs <u>do not increase taxes</u>. Instead, they leverage planned private investment in order to produce higher property taxes without increasing tax rates.</p>

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CG JURY FINDING	CG JURY RECOMMENDATIONS	PORT RESPONSE	PORT EXPLANATION
	<ul style="list-style-type: none"> <li><b>Recommendation 11:</b> The Jury recommends that the Port Commission work with the Board of Supervisors to place a referendum before the voters that asks for approval to issue IFD Bonds. Such a referendum should specifically state the total amount of bonded indebtedness that the Port seeks to incur through IFD</li> </ul>	<p align="center"><b>Disagree</b></p>	<p>IFDs on Port property can fund improvements to address sea level rise, to remediate historic contamination of Port property, to install piles and fix the seawall, and to rehabilitate historic resources. Pursuant to the adopted Board of Supervisors policy for Port property, the Board may form IFDs on Port property to address capital needs identified in the Port's 10-Year Capital Plan, which is developed through the City's formal capital planning process – itself a very public process. Port IFDs are repaid through new property tax increment generated from Port property. In most cases, without the use of IFD tax increment, many areas of the Port are too expensive to redevelop and thus no new taxes would be generated.</p> <p>Major planned Port development at Seawall Lot 337 and Pier 70 already faces a requirement for a public vote to establish required heights. Since IFDs cannot be formed until after CEQA is complete, the Civil Grand Jury's recommendation would essentially require two major public votes for these projects, separated by many years.</p> <p><b>Recommendation 11:</b> As described above, under the Board of Supervisors' policy enabling the Port to create an IFD tax increment district, expenditures are restricted to infrastructure improvements that have been approved in the Port's 10-Year Capital Plan and have CEQA clearance. These processes, independently, include lengthy, thorough public review. Further, since IFDs cannot be formed until after CEQA is complete, this recommendation</p>

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	<p>Bonds, the specific sources of funds for IFD Bond repayment, and the length of time required to discharge any IFD Bond debt.</p>		<p>would essentially require two major public votes for these projects, separated by many years.</p> <p>IFD tax increment generated by these projects that is not required to pay for new public infrastructure to support these neighborhoods is likely to be an important source of funding to address the Port's seawall and projected sea level rise – again without raising taxes.</p> <p>Where taxpayers are being asked to pay for improvements to Port property through financing vehicles such as General Obligation Bonds – to pay for parks, as an example – Port staff agrees that voter approval is the right (and legally required) approach.</p>



# SAN FRANCISCO PLANNING DEPARTMENT

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August 14, 2014

Honorable Cynthia Ming-mei Lee  
Presiding Judge  
Civil Grand Jury  
400 McAllister Street, Dept. 205  
San Francisco, CA 94102

Re: Response to Civil Grand Jury Report Regarding The Port of San Francisco

Honorable Judge Cynthia Ming-mei Lee:

The San Francisco Planning Department is in receipt of the Civil Grand Jury's report in June entitled "The Port of San Francisco, Caught Between Public Trust and Private Dollars." The Planning Department has reviewed the report and provides this response to the report's findings and recommendations as required. The Planning Department appreciates the time and effort that went into the production of this report and respectfully requests that the Grand Jury accept this letter in response.

In reviewing the Grand Jury Report, the Planning Department has been asked to respond to three findings and four recommendations. Attached to this letter is an item-by-item response to the specific findings and recommendations of the Civil Grand Jury Report that were directed at the Planning Department.

Sincerely,

A handwritten signature in black ink, appearing to read "John S. Rahaim".

John S. Rahaim,  
Director of Planning

Cc: San Francisco Planning Commission

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**CITY AND COUNTY OF SAN FRANCISCO  
PLANNING DEPARTMENT**

**RESPONSES TO CIVIL GRAND JURY REPORT FINDINGS AND  
RECOMMENDATIONS**

**FINDING**

FINDING 3. The waterfront is one of the most desirable areas in the City. Proposed projects receive only limited public input by Citizen Advisory Committees (CAC) whose members are selected by the Port. The Planning Department and Mayor's Office have a great deal of authority to influence the selection of development projects. Citizens at large are made aware of these projects only after the Port has published an RFP. The public is not made aware of possible alternate uses that may have been considered during the early stages of project planning.

*DEPARTMENT RESPONSE: We disagree in part with Finding #3. We agree that the waterfront is of critical importance to the City of San Francisco. We disagree that public input is limited and only includes members of the CAC. The Port provides public notification and the CAC's meetings follow all requirements, including the Brown Act, for public meetings.*

*Opportunities for early public input are provided through venues beyond the CAC, including during the Planning Department's CEQA review process. During CEQA, facts and data are gathered to improve understanding of a project's potential impacts on land, water, air, noise, historic resources, living creatures, aesthetics, and resources both cultural and natural. It is during this review that multiple iterations of the project are explored and vetted for public consideration through highly prescriptive and process-oriented regulations such that every public comment is considered and given a written response.*

**RECOMMENDATION**

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## FINDING

FINDING 4. The priority of the Port for development is to create an income stream for capital improvements rather than a determination of how best to enhance the quality of life for the residents of the City. Port revitalization has been enhanced in the past by adherence to the Waterfront Land Use Plan. Developments have provided local business opportunities, mixed housing where appropriate, stronger public transit options, maintenance of height and bulk limits, and preservation of view corridors. Some uses, however, both current and proposed, of Port land do not conform to the Waterfront Land Use Plan. Zoning and height limits have been changed by the Planning Department and the Mayor's Office. There is a lack of transparency in development proposals, particularly in regard to input from the Mayor's Office and active involvement of former Mayoral staff advocating on behalf of developers, giving rise to concerns that an agreement had been reached prior to public input.

*DEPARTMENT RESPONSE: We disagree that zoning and height limits are changed by the Planning Department and the Mayor's Office. Current law requires that a zoning and height changes be subject to neighborhood notification and public hearings at the Planning Commission, Board Land Use Committee, and full Board of Supervisors, with additional hearings required in certain circumstances at the Historic Preservation, Port Commission, Waterfront Design Advisory Committee and other bodies. Ultimately, the Board of Supervisors and the Mayor give approval to any zoning changes including height limits. These hearings and resultant decisions are preceded by substantial technical and policy analyses by City staff, tested by public scrutiny.*

## RECOMMENDATION

RECOMMENDATION 4b. The Port should ensure that changes or variances to the existing Waterfront Land Use Plan or the City's General Plan should have extensive public input before implementation.

*DEPARTMENT RESPONSE: This recommendation is already implemented. The current planning construct incorporates careful professional staff and other review of many issues to balance multiple public benefit and policy objectives, including land use density and compatibility, historic preservation, transportation, public open space, urban form and architectural design. This multi-layered review grew in response to articulated public values and the City's changing economic needs and design goals over the years and is tailored to the issues and needs raised by a particular project. The multiple public hearings provide ample opportunity for public input to shape development projects.*

*Any change to the City's General Plan fall under the responsibility of the Planning Commission. Under existing law and practice the Commission demands that professional planning feed data and analysis to the Commission in a transparent and public process that provides holistic assessment of the proposed change and*

*its potential effect on the City. Beginning with CEQA review, facts and data are gathered to improve understanding of a project's potential impacts on land, water, air, noise, historic resources, living creatures, aesthetics, and resources both cultural and natural. Next, the Planning Department provides an interpretation of the data; evaluating the project against the City's adopted policies. This professional analysis provides additional information for members of the public to respond to and evaluate for themselves whether the project meets planning goals and ensures that decisions are rooted both in adopted policies and contemporary best practices. Finally, local law requires multiple hearings with associated public noticing before public boards, commissions, and committees to make transparent the professional analysis so that the public may test both the underlying data and the conclusions. At each hearing, the general public and advocates can directly address decision-makers with their concerns and opinions. Fully-informed decision makers then can seek to mold the project that not only meets City laws and policies but also leverages public benefits to best meet the adopted vision for the waterfront.*

## **FINDING**

FINDING 9. The Port does not have an official policy governing the process for proposed development projects. Many projects are moved ahead with minimal community input, often in the form of a quick review by the CAC and Planning Department then forwarded to the Board of Supervisors for final approval. The Pier 70 Master Plan was developed with significant community outreach to both the general public and affected neighborhood associations. The Plan represents a balance of community needs and the requirement of the developer to obtain a reasonable return on investment.

*DEPARTMENT RESPONSE: We agree with part of this finding. We agree that the Pier 70 Master Plan was developed with significant community outreach. We disagree with the statement that many projects move ahead with minimal community input, often in the form of a quick review by the CAC and Planning Department then forwarded to the Board of Supervisors for final approval. The Planning Commission takes its responsibilities seriously. The Commission can and does disprove and substantially amend proposals in response to input, as does the Board of Supervisors.*

FINDING 10. Although the development of Pier 48 and Seawall Lot 337, also known as Mission Rock, began in 2007, there has been insufficient information and involvement for community groups, neighborhood and merchants' associations, and residents potentially affected by this project.

*DEPARTMENT RESPONSE: Again, we disagree with the statement that many projects move ahead with minimal community input. The Planning Department agrees with the Port's statement that all development projects undergo a robust public review and vetting process.*

## RECOMMENDATIONS

RECOMMENDATION 9a. The Port should ensure ongoing community input be maintained until an acceptable compromise is reached on the final plans.

*DEPARTMENT RESPONSE: This recommendation should be implemented in that ongoing community input should be maintained. This recommendation should not be implemented in that it is the responsibility of the various duly appointed and elected decision makers to determine the project that best meets public needs.*

RECOMMENDATION 9b. The Jury neither supports nor opposes the development of Pier 70 but we strongly endorse the extensive public outreach and community input as part of the design and development process of the Pier 70 Master Plan. We recommend that the Port follow this model as a template for all major developments on Port lands.

*DEPARTMENT RESPONSE: This recommendation will not be implemented for all projects. This three-year process was appropriate for the large, 68 acre site of Pier 70 but may be excessive for most projects.*

RECOMMENDATION 10 The Jury recommends increased publicity and outreach so that an acceptable compromise can be reached on the scope of this development.

*DEPARTMENT RESPONSE: Agree. This recommendation will be implemented. The Planning Department would like to reinforce the Port's stated commitment to a continuing, robust public outreach program. This project is not complete and the public can expect further outreach to community groups, neighborhood and merchants' associations, and residents potentially affected by this project. Required public hearings (as described earlier in our response) will also occur for this project as will our complete CEQA review. Each of these steps includes public review and comment as well as responses from the appropriate staff and final action by decision makers.*



# SAN FRANCISCO PLANNING DEPARTMENT

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August 14, 2014

Honorable Cynthia Ming-mei Lee  
Presiding Judge  
Civil Grand Jury  
400 McAllister Street, Dept. 205  
San Francisco, CA 94102

Re: Response to Civil Grand Jury Report Regarding The Port of San Francisco

Honorable Judge Cynthia Ming-mei Lee:

The San Francisco Planning Department is in receipt of the Civil Grand Jury's report in June entitled "The Port of San Francisco, Caught Between Public Trust and Private Dollars." The Planning Department has reviewed the report and provides this response to the report's findings and recommendations as required. The Planning Department appreciates the time and effort that went into the production of this report and respectfully requests that the Grand Jury accept this letter in response.

In reviewing the Grand Jury Report, the Planning Department has been asked to respond to three findings and four recommendations. Attached to this letter is an item-by-item response to the specific findings and recommendations of the Civil Grand Jury Report that were directed at the Planning Department.

Sincerely,

A handwritten signature in black ink, appearing to read "John S. Rahaim", written over a horizontal line.

John S. Rahaim,  
Director of Planning

Cc: San Francisco Planning Commission

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

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**415.558.6378**

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**CITY AND COUNTY OF SAN FRANCISCO  
PLANNING DEPARTMENT**

**RESPONSES TO CIVIL GRAND JURY REPORT FINDINGS AND  
RECOMMENDATIONS**

**FINDING**

FINDING 3. The waterfront is one of the most desirable areas in the City. Proposed projects receive only limited public input by Citizen Advisory Committees (CAC) whose members are selected by the Port. The Planning Department and Mayor's Office have a great deal of authority to influence the selection of development projects. Citizens at large are made aware of these projects only after the Port has published an RFP. The public is not made aware of possible alternate uses that may have been considered during the early stages of project planning.

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August 18, 2014

The Honorable Cynthia Ming-mei Lee  
Presiding Judge  
Superior Court of California, County of San Francisco  
400 McAllister Street  
San Francisco, CA 94102

Dear Judge Lee:

Pursuant to Penal Code sections 933 and 933.05, the following is in reply to the 2013-2014 Civil Grand Jury report, *The Port of San Francisco: Caught Between Public Trust and Private Dollars*. We would like to thank the members of the Civil Grand Jury for their interest in the operations and future of the Port of San Francisco.

The Port of San Francisco is the City's "front door." Our waterfront has served gold miners, soldiers, immigrants, and cargoes that established the City as a major port and trading center. Today, the Port supports the City's image as a diverse, cosmopolitan center and international gateway. The Embarcadero, AT&T Park, the Exploratorium, and the Ferry Building are popular destinations for locals and tourists alike.

New investment in the waterfront is amongst my highest priorities. The planned developments at Pier 70 and Mission Rock are opportunities to create vibrant, new neighborhood destinations. I am proud of the Port's ability to rehabilitate maritime facilities and protect open space while at the same time nurturing new residential and commercial uses.

Officially, the Mayor's Office is not required to respond to the first finding and recommendation on decision-makers at the Port. However, the Jury states that "recent activities at the Port have been strongly influenced by the Mayor's office. These included the promotion of the 8 Washington Street project, most aspects of the 34th America's Cup races, a 'legacy project' at Pier 30-32, and an underutilized cruise ship terminal at Pier 27. The Port Commission readily gave approvals with minimal public input."

As stated in the voter approved City Charter, the Mayor is the "chief executive officer" and has responsibility for the "general administration and oversight of all departments and governmental units in the executive branch of the City and County," (San Francisco Charter Article III, Sec. 3.100.) All departments fall under the Mayor's purview, including the administration of the Port of San Francisco. The Charter makes no distinction between Enterprise and General Fund Departments.

Nonetheless, development and new events must be approved by numerous other stakeholders. The Port Commission and the Board of Supervisors are independent bodies. Public input, City process, and media scrutiny ensure that all proposals are thoroughly scrutinized and vetted. The framework proposals for the America's Cup, 8 Washington, and the proposed arena at Piers 30-32 were all eventually approved by the Board of Supervisors after a vigorous public debate.

Recommendation 1 reads: "The Port Commission should be restructured to reflect more public interest. The Jury recommends that the Board of Supervisors seek necessary changes in state law to allow a charter

amendment to be submitted to the public for revision of the current five-member Port Commission appointed by the Mayor to a Port Commission with three mayoral appointees and two by the Board of Supervisors. We recommend that this change be put before the voters in 2015.”

This recommendation is unnecessary and there appears to be no perceivable benefit. First, the Board of Supervisors already approves Mayoral appointments to the Port Commission. If they so choose, a Supervisor has the ability to vote against any Port Commission appointment. Second, state law would need to be revised for voters to even consider this recommendation. Such an effort would be an unproductive use of City lobbying efforts in Sacramento.

**The Mayor’s Office response to the Civil Grand Jury’s findings and recommendations is as follows:**

### **Cruise Ship Terminal**

#### **Finding 6:**

When it becomes operational, the Cruise Ship Terminal at Pier 27 is projected to be severely underutilized. This is because federal law, namely the Passenger Vessel Services Act of 1886, prohibits foreign-flagged passenger ships from calling on two U.S. ports without an intervening foreign port. This Act greatly restricts the use of the newly built Cruise Ship Terminal. The Port estimates that the use of the terminal would increase from the current 50 visits per year to 150 visit if the Passenger Vessel Services Act of 1886 were amended or the Port were granted an exemption for a pilot program. It is also estimated that there is between \$750,000 and \$1 million economic benefit to the City from each docking. This includes ship provisioning, tourism, berthing fees and tugboats.

Response: *Agree in part, disagree in part.*

#### **Recommendation 6:**

The City should immediately begin lobbying for modifications to the Passenger Vessel Services Act of 1886 to allow foreign flagged vessels easier access to the City as a pilot program. This lobbying effort should be in conjunction with other U.S. passenger port destinations including those in Alaska, Hawaii, Oregon, and Washington.

Response: *Recommendation will not be implemented, not warranted.* Senator John McCain’s 1998 legislation to allow foreign oceangoing passenger ships to serve multiple destinations along U.S. coasts was unsuccessful due to opposition from organized labor. Seafaring unions feared that weakening the Passenger Vessel Services Act (PVSA) would harm the nation’s shipbuilding and merchant marine industry.

Rather than lead the charge to modify the PVSA, the Port believes a better strategy is to continue to monitor possible legislative developments for possible exemptions or modification of the PVSA and work through the American Association of Port Authorities (AAPA), the industry’s leading trade association, for any effort to alter current law. AAPA’s members include every cruise port in Canada, Central and South America and the Caribbean. AAPA has supported legislation to permit non-U.S. flag cruise ships to operate where there is no large U.S. flag cruise ship in service.

### **America’s Cup**

#### **Finding 8:**

The 34th America’s Cup was a major monetary loss to the City’s taxpayers to the tune of about \$6 million and a major loss to the Port of about \$5.5 million in unreimbursed Port expenditures. The City and the Port

subsidized the America's Cup at taxpayers' expense. The City received no direct revenue from the 34th America's Cup event in the form of revenue sharing or venue rent. In negotiating event and/or development agreements at the waterfront, the City and Port does not seek to make a profit from the deal but is simply looking to recover its costs and break even.

Response: *Agree* in that the event operated at a net loss when tax revenue and fundraising did not meet expenses.

The Host and Venue Agreement approved unanimously by the Port Commission and the Board of Supervisors set forth a financial structure whereby the City and Port costs would be paid through a combination of event-related tax revenues and philanthropic fundraising carried out by the San Francisco America's Cup Organizing Committee, a private nonprofit organization. The funding that the approving bodies expected to receive from these sources was intended to satisfy the revenue sharing and venue rent obligations from more typical waterfront events.

While these sources did not satisfy the full range of costs incurred, they did reduce the loss to the City. The combined expenditures from the City and the Port spurred over \$500 million of economic activity in the City, which was a key objective when the City pursued the host bid in 2010 (a time when the economy was still recovering from the recent recession).

*Disagree in part* to the assertion that the City and the Port only seeks to recover costs and break even when negotiating event and development agreements.

**Recommendation 8a:**

All major events at the Port, like the America's Cup, must be approved by the Port Commission and the Board of Supervisors.

Response: *Recommendation already implemented.* The Port Commission held hearings to publicly review, comment, and vote on the activities of the 34th America's Cup that took place on or affected Port property. From March 2009 through September 2013, the Port Commission heard 39 separate items regarding activities of the 34th America's Cup, including 16 informational presentations and 23 approval requests submitted for Port Commission consideration and action.

Similarly, the Board of Supervisors also held hearings to publicly review, comment and vote on activities of the 34th America's Cup. From April 2010 through October 2013, the Board of Supervisors held 31 hearings regarding activities of the 34th America's Cup including, but not limited to, (1) the Host and Venue Agreement, (2) Final Environmental Impact Report and Mitigation Monitoring and Reporting Program, (3) Memorandum of Understanding with the Port, (4) America's Cup Workforce Development Plan, (5) budget appropriation ordinances, and (6) Lease Disposition Agreement. Of these 31 hearings, 16 were hearings before the full Board of Supervisors and 15 were committee hearings including 12 before the Budget and Finance Committee and subject to review and report by the Budget Analyst to the Board of Supervisors.

Finally, the Board of Supervisors voted unanimously to approve the entire transaction three separate times: once in approving the Host and Venue Agreement in December 2010, once to approve the project after the completion of CEQA in March 2012, and again in September 2012 when the security arrangements that were first approved had to be restructured.

**Recommendation 8b:**

Prior to approval, the City should require a validated cost proposal using fair market rental rates, revenue sharing with the Port, marquee billing for the City, full post-event accounting, and posting of all event financials on the Port website within one month after completion of the event. Said report shall include an itemization of:

- The amount and source of all revenue generated by the event.
- The amount, payor, and payee of each cost incurred for the event.
- The name of each event cancelled, if any, as a result of the approval of the event and the amount of revenue lost as a result of the cancellation.

Response: *Recommendation already implemented in part.* When responding to future unique waterfront opportunities the Port Commission, Board of Supervisors, and members of the public should expect a thorough analysis of the opportunity and the expected impact on public use and enjoyment of the waterfront as well as operating and capital costs.

During the initial approval of America's Cup agreements, the Board of Supervisors was provided a detailed quantitative and qualitative analysis of the prospective regatta as was known at the time by City staff. The America's Cup Organizing Committee engaged an outside economics firm to validate assumptions related to event-related tax revenues. Port staff briefed the Port Commission on an ongoing basis as more facts of the regatta and the projected outcomes were known.

Furthermore, the Board of Supervisors Budget and Legislative Analyst performed a detailed analysis of the event costs before the approvals in 2010 and 2012. Both of these estimates proved to be well in excess of the costs that were actually incurred.

San Francisco received "marquee billing" while hosting the America's Cup. The host agreement specifically noted the City's desire for San Francisco exposure. The official logo included the words "San Francisco." Most dramatically, the television broadcast of the event spectacularly showcased the City's waterfront venue to an international audience.

When all America's Cup costs were accounted for after the event, City staff provided another detailed presentation to the Board of Supervisors and the Budget and Legislative Analyst issued another report.

The recommendation to post online all event financials one month after the event *will not be implemented*. For example, one month after the America's Cup was not enough time to complete "event financials" as the permits for the event required a number of post-event remediations and improvements

Thank you again for the opportunity to comment on this Civil Grand Jury report.

Sincerely,



Edwin M. Lee  
Mayor



**SFMTA**  
Municipal  
Transportation  
Agency

Edwin M. ... Mayor

Tom Nolan, *Chairman*  
Gwyneth Borden, *Director*  
Jerry Lee, *Director*  
Cristina Rubke, *Director*

Cheryl Brinkman, *Vice-Chairman*  
Malcolm Heinicke, *Director*  
Joél Ramos, *Director*

Edward D. Reiskin, *Director of Transportation*

**August 12, 2014**

**The Honorable Cynthia Ming-mei Lee**  
**Presiding Judge, Superior Court of California, County of San Francisco**  
**400 McAllister Street**  
**San Francisco, CA 94102**

***Subject: SFMTA response to Civil Grand Jury Report "The Port of San Francisco Caught Between Public Trust and Private Dollars," dated June 2014***

**Dear Judge Lee:**

Please find enclosed for your review the San Francisco Municipal Transportation Agency's response to the above named Civil Grand Jury Report. We appreciate the time and effort of the Civil Grand Jury in researching and issuing this report.

The SFMTA has long been engaged in waterfront transportation planning. In 2011-2012, the SFMTA led more than 250 meetings and workshops on waterfront transportation needs and future planning in preparation for the America's Cup. This process was followed by the initiation of the Waterfront Transportation Assessment (the "Assessment") in 2012, in which the SFMTA led multiple city departments, the Port and regional transportation agencies in an extensive, transparent and on-going, community-based process that identifies transportation strategies based on technical and community feedback to improve transportation services along the waterfront as the area develops.

We are concerned that there is no reference to the Assessment or to SFMTA's detailed discussion with members of the Civil Grand Jury on February 25, 2014. A tremendous amount of transportation planning has occurred throughout the waterfront transportation network since the Assessment was launched in 2012.

We sincerely hope that our attached response will provide clarification to the Civil Grand Jury regarding the SFMTA's and the Port's cooperative efforts in addressing transportation along the waterfront in a time of growth and change. Additional information and documentation about the Waterfront Transportation Assessment can be found on SFMTA's website at <http://www.sfmta.com/projects-planning/projects/waterfront-transportation-assessment-0>.

If you have any questions or require further information please call me at 701.4720 or Peter Albert, Manager of SFMTA Urban Planning Initiatives, at 701-4328.

Sincerely,

A handwritten signature in black ink, appearing to read "E. Reiskin", written over a white background.

**Edward D. Reiskin**  
**Director of Transportation**

Enclosure

cc: Monique Moyer, Executive Director, Port of San Francisco

**Finding 5:**

Further development along the waterfront will add new transportation requirements. Transportation along the waterfront does not meet current needs. Portions of the Embarcadero are closed during cruise ship arrivals and events at AT&T Park. Emergency vehicles sometimes use the light rail right of way to circumvent traffic even when there is no major activity on the Embarcadero. San Francisco Municipal Transportation Agency master plan does not directly address development on Port lands.

**Wholly Disagree:** While SFMTA acknowledges that future growth along the waterfront will add new demands on the transportation network, SFMTA wholly disagrees with the statements that transportation along the waterfront does not meet current needs and that SFMTA is not addressing development on Port lands.

While the waterfront transportation network does at times experience service challenges, especially during the AM and PM peak periods, the SFMTA meets that challenge every day by serving thousands of trips by transit, bicycle, pedestrian, paratransit, taxi and auto. In planning for all local transportation modes and parking throughout the waterfront transportation network, within a very dense urban environment that has limited capacity on its streets, SFMTA transportation planners must strive to be as efficient and resourceful in the use of space as possible, resulting in coordinating actions such as allowing emergency vehicles to use the exclusive transit right of ways on the Embarcadero, redirecting traffic around cruise ship arrivals, or adding supplemental Muni services during large events.

With regard to the statement “San Francisco Municipal Transportation Agency master plan does not directly address development on Port lands,” it is important to note that SFMTA does not, per se, maintain a “master plan” for the San Francisco transportation network. As standard practice, the Agency works internally with Agency divisions, and externally with city departments, the Port, regional transportation agencies (e.g. BART, Caltrain, WETA), and community stakeholders to coordinate their transportation plans with planned growth throughout the city. These include the *San Francisco General Plan*, the *San Francisco Countywide Transportation Plan*, and the *Waterfront Land Use Plan*, maintained respectively by the San Francisco Planning Department, the San Francisco County Transportation Authority and the Port. With regard to coordinating transportation planning with development on Port lands, over the past two years, the SFMTA has been working directly with the Port, other public agencies (e.g., Planning, Office of Economic and Workforce Development, Office of Community Infrastructure and Investment, BART, Caltrain, WETA), project sponsors and community stakeholders on the Waterfront Transportation Assessment (the “Assessment”) to identify needs and develop concepts for transportation improvements that specifically focus on areas of future development on Port properties, including Seawall Lot 337 and Pier 70. Phase 1 of the Assessment was completed in late 2013, and resulted in several dozen transportation strategies that may be enlisted to supplement current services, to advance planned services, and/or to support the transportation demands of future developments on both city and Port properties. The referenced transportation strategies are located at:

[http://www.sfmta.com/sites/default/files/projects/131107\\_Posted%20DRAFT\\_Matrix%20wNarrative.pdf](http://www.sfmta.com/sites/default/files/projects/131107_Posted%20DRAFT_Matrix%20wNarrative.pdf)

Phase 2 of the *Waterfront Transportation Assessment* will take shape as Port property development proposals are refined over the next several years, and will help to move

“transportation strategies” into “transportation solutions” that will accompany those projects.

More information can be found at the Waterfront Transportation Assessment website:  
<http://www.sfmta.com/projects-planning/projects/waterfront-transportation-assessment-0>.

**Recommendation 5:**

SFMTA should incorporate current and future transit needs, taking into consideration not only increased capacity requirements from individual projects, but the cumulative effect of multiple projects added to existing passenger loads. SFMTA must address reliability and increased capacity that will be required for all modes of transportation, especially the T-Line and motor coach lines connecting to the Pier 70 site. The VETAG system should be maintained to operate at maximum efficiency.

**Recommendation Implemented:** All SFMTA transportation planning is premised on current and future transportation needs in San Francisco for all modes.

The Waterfront Transportation Assessment (the “Assessment”) was scoped to evaluate the current and planned transportation network (the transportation “pipeline”) in the face of cumulative future development through 2040. The guiding principles of the Assessment have been “capacity, safety, reliability and flexibility,” and were established by SFMTA in coordination with the Port, other city departments and regional transit providers, with oversight by community stakeholders.

The Assessment was structured around three major development proposals on Port properties: the Warriors Arena at Piers 30-32 and SWL 330 (now relocated to non-Port property in Mission Bay), SWL 337 - the Giants Mission Rock, and Pier 70 (Forest City). The SFMTA and the Waterfront Transportation Assessment have worked closely with the Port, Environmental Planning and OEWD to ensure that project transportation management plans were being conceived of in a framework of the comprehensive waterfront transportation network, along with growth anticipated through 2040. In light of the status of these major proposals, this work must be on-going to inform, and be informed, by the development proposals as they advance. Though no longer on Port property, the Warriors Arena in Mission Bay is the most active project that will impact the waterfront transportation network, and SFMTA continues to closely track and coordinate its transportation plans.

The Waterfront Transportation Assessment is anticipated to continue into early 2015, and will not only help the city and SFMTA in evaluating, prioritizing, planning and funding for transportation investments along key waterfront corridors such as Third Street, and it will also help to inform improvements related to development proposals along the waterfront, on both city and Port-owned properties, such as Pier 70, as their own transportation plans are developed and/or mitigations identified.

In addition to the Waterfront Transportation Assessment, the following are several of many examples of major transportation capacity and service improvements that are currently under way and that will increase safety, capacity, reliability and flexibility for all modes:

- “Muni Forward”, SFMTA’s multi-year short range plan to expand and improve service, which includes a 12% service increase, transit-only lanes, a complete replacement of

## SFMTA Response to Civil Court and Jury Transportation Findings & Recommendations

Muni's rail and bus fleet, and engineering tools such as VETAG (signal priority) to allow for better management and transit priority throughout the city;

- The 2014 SFMTA Fleet Management Plan, which details the addition of 40 LRVs to the Muni system (including the T Third) by 2021, 424 40' and 60' motor coaches, and 100 trolley coaches by 2018;
- Central Subway, which is served by the T Third and is anticipated to carry 65,000 riders by 2030;
- 16th Street Multimodal Corridor, which will extend the Muni Rapid Network 22-Fillmore to Mission Bay along separated, transit-only lanes.
- Embarcadero Enhancement Project that will include a recommended design for the Embarcadero Bikeway to be completed by Fall 2015.

BOARD of SUPERVISORS



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TDD/TTY No. 554-5227

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## MEMORANDUM

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Date: June 24, 2014  
To: Honorable Members, Board of Supervisors  
From: *AC* Angela Calvillo, Clerk of the Board  
Subject: 2013-2014 CIVIL GRAND JURY REPORT

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We are in receipt of the San Francisco Civil Grand Jury report released Thursday, June 19, 2014, entitled: **The Port of San Francisco, Caught Between Public Trust and Private Dollars** (attached).

Pursuant to California Penal Code, Sections 933 and 933.05, the Board must:

1. Respond to the report within 90 days of receipt, or no later than September 17, 2014.
2. For each finding:
  - agree with the finding or
  - disagree with the finding, wholly or partially, and explain why.
3. For each recommendation indicate:
  - that the recommendation has been implemented and a summary of how it was implemented;
  - that the recommendation has not been, but will be, implemented in the future, with a timeframe for implementation;
  - that the recommendation requires further analysis, with an explanation of the scope of the analysis and timeframe of no more than six months; or
  - that the recommendation will not be implemented because it is not warranted or reasonable, with an explanation.

Pursuant to San Francisco Administrative Code, Section 2.10, in coordination with the Committee Chair, the Clerk will schedule a public hearing before the Government Audit and Oversight Committee to allow the Board the necessary time to review and formally respond to the findings and recommendations.

The Budget and Legislative Analyst will prepare a resolution, outlining the findings and recommendations for the Committee's consideration, to be heard at the same time as the hearing on the report.

#### Attachment

- c: Honorable Cynthia Ming-mei Lee, Presiding Judge (w/o attachment)
- Mayor's Office
- Ben Rosenfield, Controller
- Jon Givner, Deputy City Attorney (w/o attachment)
- Rick Caldeira, Legislative Deputy Director
- Debra Newman, Office of the Budget and Legislative Analyst
- Severin Campbell, Office of the Budget and Legislative Analyst
- Asja Steeves, Civil Grand Jury Coordinator
- Elena Schmid, Foreperson, San Francisco Civil Grand Jury (w/o attachment)

# The Port of San Francisco

Caught Between Public Trust and Private Dollars

June 2014



City and County of San Francisco  
Civil Grand Jury 2013-2014

City Hall  
1 Dr. Carlton B. Goodlett Pl, San Francisco, CA 94102  
Phone 415-554-6630

MEMBERS OF THE 2013-2014  
CIVIL GRAND JURY  
CITY AND COUNTY OF SAN FRANCISCO

Elena Schmid, Foreperson  
Robert van Ravenswaay, Foreperson Pro Tem  
Thomas Duda, Recording Secretary  
Maryta Piazza, Corresponding Secretary

Larry Bush  
Hans Carter  
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Charles Head  
David Hoiem  
Joseph Kelly  
Mazel Looney  
Claudia O'Callaghan  
Ernestine Patterson  
Michael Skahill

## THE CIVIL GRAND JURY

The Civil Grand Jury is a government oversight panel of volunteers who serve for one year. It makes findings and recommendations resulting from its investigations.

Reports of the Civil Grand Jury do not identify individuals by name. Disclosure of information about individuals interviewed by the jury is prohibited. California Penal Code, Section 929

## STATE LAW REQUIREMENT California Penal Code, section 933.05

Each published report includes a list of those public entities that are required to respond to the Presiding Judge of the Superior Court within 60- to 90 days, as specified.

A copy must be sent to the Board of Supervisors. All responses are made available to the public.

For each finding the response must:

- 1) agree with the finding, or
- 2) disagree with it, wholly or partially, and explain why.

As to each recommendation the responding party must report that:

- 1) the recommendation has been implemented, with a summary explanation; or
- 2) the recommendation has not been implemented but will be within a set timeframe as provided; or
- 3) the recommendation requires further analysis. The officer or agency head must define what additional study is needed. The Grand Jury expects a progress report within six months; or
- 4) the recommendation will not be implemented because it is not warranted or reasonable, with an explanation.

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## ISSUE

The Port of San Francisco is facing daunting challenges to fulfill Public Trust obligations. The Port's piers, all of which were built over a hundred years ago, are deteriorating and many capital improvements have been deferred for decades. The recent trend of the Port has been to negotiate selling or encumbering precious Port property and signing agreements for the City to forego tax benefits in exchange for massive funding from private developers.

The Jury investigated whether there are other options for the use and development of Port property that better meets the desires and needs of the City's residents. Of equal concern is whether there is sufficient public input in determining the best ways to meet Public Trust requirements.

## SUMMARY

In response to a citizen's complaint regarding politically connected developers seeking to override the Waterfront Land Use Plan for profit, the Jury investigated Port operations and how decisions are made.

### **A New Waterfront Maritime and Land Use Plan**

The time has come to revisit the nearly two-decades-old Waterfront Land Use Plan, adding additional focus on maritime roles and ensuring that the public is fully engaged in the process of setting guidelines for the Port's future.

### **Change Driven by Political Agendas**

The Jury has found that the Port is making substantive progress in some areas, but is hamstrung by operational burdens placed by other City entities, primarily the Planning Department and the Mayor's office. Over the past years, the Port also has not maintained the past level of outreach to the general public, instead relying more heavily on the City's officials to guide decisions.

### **A New Port Commission**

An important element in ensuring that the Port's future and its planning is the product of greater public input, the Jury recommends a charter amendment to change the appointment of Port Commissioners. The current system authorizes the mayor to make all five appointments as required per Section 12 of the Burton Act<sup>1</sup>. Mayoral appointments do not involve a public application process or consideration of any candidate not named by the mayor. It is recommended that the Board of Supervisors make two Port Commission appointments and the Mayor make three. Appointments made by the Board of Supervisors undergo a more public process of applications, hearings and votes before taking office. Candidates also are required to publicly disclose their financial interests in advance of Board consideration, allowing for a review of potential conflicts of interest. This process is unique to Board of Supervisor appointments. Each of these features allows for greater citizen involvement and discussion of the Port's future. This system of sharing authority in critical land use and economic decisions fits the city's current approach of dividing appointments between the Mayor and the Board for the

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<sup>1</sup> The Burton Act, Reflecting All Amendments Through May 1994, p.11, [http://sfport.com/ftp/uploadedfiles/about\\_us/divisions/planning\\_development/projects/Burton%20Act.pdf](http://sfport.com/ftp/uploadedfiles/about_us/divisions/planning_development/projects/Burton%20Act.pdf)

Planning Commission, the Board of Permit Appeals, and the Building Inspection Commissions, among others.

### **A “Pig in a Poke”**

In 1968, the citizens of San Francisco received a valuable asset. The Burton Act transferred 7.5 miles of San Francisco Bay waterfront property and piers held by the State of California to the City of San Francisco. However, like many gifts, there were obligations attached. The infrastructure was deteriorating, the historic structures were crumbling, and the primary source of revenue, cargo movement, had been steadily decreasing since WWII.

At the time of the transfer, no economic analysis was done on costs to be incurred by the City and Port or the State’s role in meeting those costs. A proposal by Leo McCarthy, representing San Francisco in the California State Assembly, sought state underwriting for the San Francisco port bond costs, but failed to gain approval.

Now, 46 years later, very little has changed except that the cost of rehabilitation of the aging infrastructure has ballooned to \$1.59 billion while oversight and restrictions on development have increased.

### **Maritime’s Role Can Be Increased**

The Jury has noted that, in fiscal year 2012/13, only 6% of the Port’s revenue came from cargo services with another 2% from “Other Maritime.” Most revenue (85%) comes from commercial and industrial, parking, fishing, cruise, harbor services, and ship repair. The remaining 7% is classified as “Other.”<sup>2</sup>

### **Current Challenges**

Visitor and commuter traffic along the Waterfront create gridlock, necessitating improved transit solutions. The cumulative effect of multiple projects requires close cooperation with SFMTA and the Planning Department.

Projects that change the landscape of the Waterfront have also presented challenges to measured growth. This report looks at how some developments have had insufficient public input.

### **Notable Accomplishments**

The Jury would be remiss if we did not acknowledge that the Port, although operating in a very difficult environment of budgetary constraints, regulatory oversight, and political influence, has in many instances successfully carried out its mission and greatly enhanced the area of its jurisdiction. This is not meant to be a comprehensive list but simply an illustration of the many projects that merit praise.

- Primarily a real estate and land bank, the Port is responsible for monitoring about 550 Port agreements (i.e. leases, licenses, parking permits, etc.) with 394 tenants. These agreements range from month-to-month terms for a sidewalk kiosk renting kayaks to 66-year leases for cargo and ship repair facilities. All businesses operating on Port property have some form of rental agreement, which in addition to a fixed rate may include

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<sup>2</sup> Port Commission, “Independent Auditor’s Report, Management’s Discussion and Analysis and Financial Statements For the Years Ended June 30, 2013 and 2012”

revenue sharing. The Real Estate Division is doing an excellent job managing the various lease terms and finding new tenants.

- The Ferry Building is the heart of the waterfront. Formerly simply a somewhat rundown building that commuters passed through to walk to downtown, it is now a vibrant destination in itself. Expansion of the terminal from Pier 2 to Pier 14 will increase capacity beyond the current 130 daily ferry visits.
- The Exploratorium relocation from the Palace of Fine Arts to Pier 15 is a welcome addition to the waterfront. The Bay Observatory Gallery focuses on the geography, history, and ecology of the San Francisco Bay region.
- Pier 45 houses the largest commercial fish processing facility on the West Coast, keeping the fishing industry active at Fisherman's Wharf.
- AT&T Park is recognized as the finest baseball park in the Major Leagues. As of September 2013, the park has hosted a record-breaking streak of 240 consecutive sellout games.<sup>3</sup> The venue also hosts live performances and free simulcasts of the San Francisco Opera.
- Steamboat Point and Delancey Street add much needed affordable and supportive housing to San Francisco residents.
- Anchor Brewing, in business in San Francisco since 1896, is expanding its operations to Pier 48 to take advantage of water transport for its raw materials and waste products.
- The Illinois Street multi-modal bridge and the recently approved Quint Street spur are essential to the Port's objective of increasing rail access for cargo movement in the Southern Waterfront.
- The Port has developed or planned over twenty parks, plazas, open space, and fishing piers as well as links to the Bay Trail.<sup>4</sup>

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<sup>3</sup> San Jose Mercury News, September 23, 2013, [http://www.mercurynews.com/giants/ci\\_24158014/san-francisco-giants-ghostly-sellout-streak-still-intact](http://www.mercurynews.com/giants/ci_24158014/san-francisco-giants-ghostly-sellout-streak-still-intact)

<sup>4</sup> Port of San Francisco, Parks and Open Space, <http://www.sfport.com/index.aspx?page=60>

## BACKGROUND

The Port's jurisdiction consists of 7.5 miles along the bay waterfront running from the Hyde Street pier in the northern waterfront down to India Basin in the southern part. Prior to 1968, this waterfront area was controlled and operated by the State of California. In 1968, the control and management of this waterfront area was transferred to the Port via the Burton Act, AB2649, in trust for the people of California. The Port owns and manages about 39 piers, 43 inland seawall lots, 80 substructures, and 245 commercial and industrial buildings. Seawall lots are tidelands that were filled and cut off from the waterfront by the construction of a seawall in the late 19<sup>th</sup> and early 20<sup>th</sup> centuries, now occupied by the Embarcadero roadway. Most of the seawall lots are primarily used for parking.

“As part of the transfer agreement, the port acquired \$53 million dollars of bonded indebtedness and a requirement to spend \$100 million dollars on shipping and cargo-handling improvements. This requirement, later reduced to \$25 million, forced the port to look to commercial developments to generate the income that would pay for these improvements. Many proposals were hotly contested. What made this such a predicament were layers of regulation on the one hand and lack of a clear planning vision on the other. Use of port land is subject to restrictions by numerous agencies, including the State Lands Commission (the port owns its land in trust for the people of California), the Bay Conservation and Development Commission (BCDC), and the City Planning Department. The result has been a de facto ban on office and housing development on port property, which other ports around the world tend to have encouraged. The complexity of permit processing and inter-agency coordination has undermined even non-controversial proposals—primarily projects that involve maritime or maritime-related uses.”<sup>5</sup>

The Port is like a city unto itself with numerous departments. For example, the Port has its own real estate, accounting, planning and development, and legal departments.<sup>6</sup> Under the terms of the transfer from the State, San Francisco was required to create a Port Commission and to receive approvals from various state agencies such as the State Lands Commission and the regional Bay Conservation and Development Commission. There are now eighteen regulatory agencies, from Federal to City level, that have some degree of oversight ensuring that provisions focused on maritime use are honored. The Port Commission is comprised of five members appointed by the Mayor and confirmed by the Board of Supervisors. Commissioners serve a four-year term.

In 1955 the City's waterfront was the focus of a “citizen revolt” when a double-decker freeway was announced that would run along the waterfront, effectively cutting the City off with a concrete wall. It opened in 1959. Another freeway expansion across San Francisco drew 200,000 people in 1964 to protest, dooming further expansion of freeways including on the waterfront.

During this era, developers proposed a series of high-rise towers along the waterfront, beginning

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<sup>5</sup> Jasper Rubin, “The Decline of the Port”, November 1, 1999, pub. SPUR  
<http://www.spur.org/publications/article/1999-11-01/decline-port>

<sup>6</sup> The legal department has five city attorneys assigned to the Port and the planning and development department handles large development projects in conjunction with the Port appointed Citizens Advisory Committees (CACs). The Port has its own set of separate codes: a building code, electrical code, mechanical code, plumbing code, and procedures code.

with Fontana Towers approved in 1960 and built in 1963 and 1965 standing 18 stories tall at the edge of Aquatic Park. Other proposals included a 50-story office high-rise on the waterfront. The further implementation of plans for a waterfront of high rises was thwarted by a vote of the Board of Supervisors following a lobbying effort led by Casper Weinberger, a Russian Hill resident (later to be a member of President Reagan's cabinet). The Board adopted a height limit of 40 feet along the waterfront, with buildings behind stepped down to avoid blocking off the waterfront and reflecting the topography of the hills.

In the following decades, San Francisco's maritime shipping declined in its importance. Larger ships needed better access afforded by increased dredging, which they found in Oakland. The shift from bulk cargo to container shipping reshaped transportation needs, including requiring a rail system that could allow transit for double-stacked containers. The Port's rail tunnel from the Southern Waterfront does not have sufficient vertical clearance for double-stacked containers. Changes in US Navy vessels also made San Francisco of secondary importance. Instead, ship repair and drydock, the fishing industry, recreation and some remaining bulk cargo maintain a lessened maritime shipping role.

Developers saw potential for profit in the repurposing of Port structures and construction on Port lands.

San Francisco then sought and obtained approval to amend the definition of "maritime use" to mean activities that increased public activity on the waterfront. With this amended definition, San Francisco narrowly approved Pier 39 in 1979 as a destination for activities ranging from restaurants to themed activities. Fisherman's Wharf retained its critical function for fish processing and sales, but the land facing the wharves was not under Port authority and became a haven for discount t-shirts, souvenirs and tourist entertainment. Long-established San Francisco businesses and icons like the Buena Vista Cafe and Ghirardelli Chocolate took a back seat.

Over the next three-plus decades, San Francisco's waterfront emerged as a major destination for both City residents and tourists. The northern waterfront, anchored by Fisherman's Wharf, is connected with an historic streetcar F line to the renovated Ferry Building, a nationally renowned home for locally grown and produced Bay Area foods. A restored waterfront continues south to the new San Francisco Giants ballpark and the new South Beach neighborhood. The development of Seawall Lot 337, now currently a parking lot for the San Francisco Giants, is in planning stages for commercial and residential use. Further to the south Pier 70 is well along in the approval process for development of commercial, residential and open space. A bond measure paid for creation of a new waterfront park and a major pedestrian pier into the Bay allowing visitors and residents to take in the panorama of the City's waterfront.

### **Recent Changes**

The waterfront has gone through massive changes since the demolition of the Embarcadero Freeway in 1991.

- The conversion of the Ferry Building from a disembarkation point for ferry passengers to a destination for all residents
- Construction of the Giant's ballpark, initially included in the Waterfront Land Use Plan
- Construction of the largest fish processing facility on the West Coast at Pier 45
- The addition of the historic streetcar F-Line from Upper Market to Fisherman's Wharf
- Affordable housing at Delancey Street and Steamboat Point

- Construction of South Beach Harbor
- Relocation of the Exploratorium
- Cruise ship terminal at Pier 27

Not all changes have been positive.

- Cargo movement in the Southern Waterfront has suffered a massive decline over the last ten years
- Capital improvements made at Piers 80 and 94-96 to increase freight container handling embraced outmoded technology and are virtually unused today
- The Embarcadero roadway has become severely congested, hampering the movement of transit, emergency, and private vehicles

### **Recent Proposals**

There have been attempts in the immediate past for developments or projects that would enhance the City and the Port. Three listed below have been notable failures.

#### America's Cup

- Planning by the Port and the Mayor's Office for the America's Cup failed to include agreements that protected the City's interests and failed to maximize the benefits that the City might have achieved. The usual agreement for sharing revenue from the proceeds of use of Port facilities was not included in the agreement.
- A new cruise ship terminal, built at considerable Port cost, was made available with no return to the City even though the America's Cup sponsors promoted concerts and viewing suites that potentially resulted in large profits for the sponsors and nothing to the Port.
- The Port and the City lost a combined \$11.5M on the event.

#### Proposed Golden State Warriors Arena

Although no longer planned for construction on Piers 30-32, the trajectory of the proposal merits attention.

- Attempted fast-tracking of the approval process by the Mayor's Office to have a "legacy project"
- Very little outreach to community members and neighborhood groups that would have been affected
- Increased traffic flow and transit needs on the Embarcadero were glossed over
- Hiring former mayoral staffers to facilitate the approval process, leading to the impression that the public role was secondary to the Mayor's interest.

#### 8 Washington Street

- Strongly pushed for approval by the Mayor's office, including testimonials in TV commercials by the Mayor.
- Substantial contributions were made to non-profit organizations by the developer. These organizations subsequently endorsed the project.
- Defeated in two ballot measures by a 2:1 margin

## **Funding Options**

Most recently, the Port and the Mayor's office have been overly reliant on funds from major real estate developers. In return for a capital infusion, the developer receives long-term leases and tax benefits, as well as all the profit from the proposed development. The Port benefits from mitigation of its liability for rehabilitation. The Port and the City receive no revenue for decades.

This model for development is compatible with the priorities of the City and the Port.<sup>7</sup> Developmental benefits derived include affordable housing, small industry, historic reconstruction and open space.

Alternatively, there are many other potential sources of funds.

- General Obligation Bonds require 2/3 voter approval. Recreation and Park bond funds are being used to develop Crane Cove Park and a GO bond was passed to improve Pier 22 ½, used by the fireboats.
- Revenue Bonds are currently used, most recently a \$30M bond for development of the Cruise Ship Terminal. Use is limited by the ability of the Port to generate revenue
- Federal Funding has recently been approved for extension of freight rail service on Quint Street and in 2005 Federal transportation funds were used to build a bridge on Illinois Street for vehicle and rail access to Pier 80.
- Infrastructure Finance Districts (IFDs) can be formed to issue bonds and divert future tax revenue for up to 30 years to pay for capital improvements.<sup>8</sup>
- Additional tenant uses such as Teatro ZinZanni, Cirque de Soleil, Cavalia, San Francisco Opera simulcasts, concerts, and other entertainment venues could be placed on vacant piers. These tenants would not require permanent construction.

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<sup>7</sup> As an enterprise department, the Port is expected to be self-supporting but not necessarily turn a profit.

<sup>8</sup> See appendix p.51

## DISCUSSION

### **Who is Making Decisions?**

San Francisco voters, through a series of ballot measures, have established policies and limits on waterfront development and changes. In 1988, voters approved a measure to homeport the USS Missouri in San Francisco with accompanying support from City funds. However, in a few short years, the USS Missouri was decommissioned resulting in the end of that plan. In 1989, voters rejected a measure to build a baseball ballpark on the Waterfront. San Francisco voters in 1996 also approved a ballpark on the waterfront that did not involve City funds, a football stadium that partially replaced a waterfront state park, and a measure allowing the Port Commission to issue revenue bonds without voter approval. Voters also prohibited filling in the Bay in order to add 100 acres to San Francisco International Airport. In related matters, voters approved bond measures to add parks and recreation at the waterfront, improve streets and light rail transportation on the waterfront through issuance of bonds, and funding for a cruise ship terminal.

#### ▪ The Mayor's Office

- A number of mayors have made it a priority to ensure that the City's waterfront remain accessible to people of all income levels, with Mayor Feinstein supporting the Delancey Street housing and jobs center for 500 residents, the Steamboat Point affordable housing complex with 108 one, two and three-bedroom apartments at 800 Embarcadero just north of AT&T Park and a focus on businesses that have strong San Francisco roots. Mayor Agnos, with a close 6-5 vote by the Board, won approval to tear down the Embarcadero Freeway, rejecting Caltrans plans to retrofit and replace the structure. The result was to create renewed economic investment and public access.
- Recent activities at the Port have been closely guided and monitored by the Mayor's office. The 34<sup>th</sup> America's Cup event which garnered a net loss to the City of \$5 million, the attempt to have a "legacy project" on piers 30-32, the proposal to build a luxury high-rise condominium development at 8 Washington Street and the rushed construction of an underutilized cruise ship terminal at Pier 27 are examples of influence by the Mayor's office, with support from the Planning Department.

#### ▪ The Port Commission

- The Port Commission consists of five members appointed by the Mayor, subject to approval by the Board of Supervisors.
- All other commissions dealing with land use decisions, including Planning, Building Inspection, and Board of Permit Appeals are not appointed solely by the Mayor and consequently may be more responsive to public input.

#### ▪ Public Forums

- "In San Francisco, successful outcomes are founded on open dialog and diverse partnerships with the many people, organizations and agencies that share a deep interest in improving the Port waterfront for the public. The Port has set up

several Community Advisory Groups made up of community stakeholders for all areas along the waterfront. The Advisory Groups meet regularly, which also provides a public forum for interested citizens to participate.”<sup>9</sup>

- These forums have had mixed success in reaching a consensus of opinion regarding some developments. For major projects requiring zoning changes and exceptions to the Waterfront Land Use Plan there are notable examples of extensive and lengthy community outreach and approval (Pier 70 and AT&T Park) and other examples of meeting minimum requirements (Golden State Warriors, Mission Rock).
- Citizens Advisory Committees (CACs) are also appointed by the Port but are specific to a particular project.

▪ **Public Trust**

- The Port was conveyed to the City of San Francisco with the mandate to operate under the ancient Public Trust doctrine, thereby assuring its use for the benefit of all people.
- “The primary doctrine governing all activities at the Port is the preservation of the public trust. The origins of the public trust doctrine are traceable to Roman law concepts of common property. Under Roman law, the air, the rivers, the sea and the seashore were incapable of private ownership; they were dedicated to the use of the public.”<sup>10</sup> The formulation of this doctrine in the Justinian Code in 530 C.E.<sup>11</sup> has withstood the test of time. Its inclusion in the Magna Carta and English Common Law, confirmed by the U.S. Supreme Court in 1892<sup>12</sup> has been often challenged but never overturned.

**Waterfront Land Use Plan**<sup>13</sup>

The Waterfront Land Use Plan provides guidance and priorities for the Port. It defines acceptable and non-acceptable uses and provides general plans for improvements and development of the various sections along the waterfront. Seven goals are stated in Chapter 2:

- 1) “A Working Waterfront. Port lands should continue to be reserved to meet the current and future needs of cargo shipping, fishing, passenger cruises, ship repair, ferries and excursion boats, recreational boating and other water-dependent activities.
- 2) A Revitalized Port. New investment should stimulate the revitalization of the waterfront, providing new jobs, revenues, public amenities and other benefits to the Port, the City and the State.
- 3) A Diversity of Activities and People. Port lands should host a diverse and exciting array of maritime, commercial, entertainment, civic, open space, recreation and other waterfront activities for all San Franciscans and visitors to enjoy.

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<sup>9</sup> Community Advisory Groups, <http://www.sfport.com/index.aspx?page=198>

<sup>10</sup> Institutes of Justinian 2.1.1., The Public Trust Doctrine, California State Lands Commission, [http://www.slc.ca.gov/policy\\_statements/public\\_trust/public\\_trust\\_doctrine.pdf](http://www.slc.ca.gov/policy_statements/public_trust/public_trust_doctrine.pdf)

<sup>11</sup> “By the law of nature these things are common to mankind – the air, running water, the sea, and consequently the shores of the sea. No one, therefore, is forbidden to approach the seashore, provided that he respects habitations, monuments, and buildings which are not, like the sea, subject only to the law of nations.” - See more at:

<http://onthecommons.org/public-trust-doctrine-venerable-and-besieged#sthash.a6T7RbId.dpuf>

<sup>12</sup> Illinois Central Railroad v. Illinois, 146 U.S. 387 (1892). - See more at: <http://onthecommons.org/public-trust-doctrine-venerable-and-besieged#sthash.a6T7RbId.dpuf>

<sup>13</sup> Waterfront Land Use Plan, <http://www.sfport.com/index.aspx?page=199>

- 4) Access Along the Waterfront. A network of parks, plazas, walkways, open spaces and integrated transportation improvements should improve access to and enhance the enjoyment and appreciation of the Bay environment.
- 5) An Evolving Waterfront, Mindful of Its Past and Future. Improvements should respect and enhance the waterfront's historic character, while also creating new opportunities for San Franciscans to integrate Port activities into their daily lives.
- 6) Urban Design Worthy of the Waterfront Setting. The design of new developments should be of exemplary quality and should highlight visual and physical access to and from the Bay, while respecting the waterfront's rich historic context and the character of neighboring development.
- 7) Economic Access Which Reflects the Diversity of San Francisco. The economic opportunities created by commercial uses should be made accessible to persons of both sexes and from a representative variety of ethnic and cultural backgrounds so that those persons receiving these economic opportunities reflect the diversity of the City of San Francisco.”<sup>14</sup>

- Voter Approval

- In 1990 voters approved a requirement to establish a waterfront land use policy that specifically banned hotels on portions of Port property and also reiterated height limits. The Port Commission adopted the Waterfront Land Use Plan in 1997 following an extensive public outreach and consultation process that involved representatives appointed by the mayor, the Board of Supervisors, community groups and others.
- In 2001, San Francisco voters enacted a charter requirement mandating voter approval of any landfill of 100 acres or more, including defining established piers as landfill.
- In 2004 the Plan was republished as amended by the Port Commission and the Planning Department.

- Revised Waterfront Maritime and Land Use Plan

- The existing Plan has served the Port and the public well during the past 17 years but is now falling short of current needs.
- A revised plan should remain flexible enough to adapt to future unknown requirements while still attempting to forecast future opportunities.
- Maritime use, especially in the Southern Waterfront needs to be emphasized.
- Transportation along the waterfront needs to be addressed.
- Rising Sea Levels needs to be addressed.
- Air quality needs to be addressed.
- Housing, both market rate and affordable, needs to be addressed.
- Integration with other City departments (i.e. Dept. of Public Works, Public Utilities Commission, Planning Dept., Mayor’s Office, San Francisco Municipal Transit Agency, Recreation and Parks) needs to be addressed.
- Connection with City residents through community organizations, neighborhood associations, trade organizations, advocacy groups, conservation organizations, educational institutions, etc. should be included

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<sup>14</sup> Waterfront Land Use Plan, Overall Goals / Highlights, <http://www.sfport.com/index.aspx?page=200>

- A committee to revise the existing Waterfront Land Use Plan could include members of the above-mentioned groups as well as appointees by the Port, the Mayor and the Board of Supervisors.

### **Port Operations and Priorities**

The Port's total operating revenues for the fiscal year ending June 30, 2013 were \$81,512,000. Only about 25% of the Port's total operating revenue comes from maritime operations. The remaining 75% is derived mainly from real estate rental income from Port property leased to private and public entities, parking meters, ticket revenue, and parking stall rentals.<sup>15</sup>

There are currently about 550 Port agreements (i.e. leases, licenses, parking permits, etc.) with 394 tenants. The reason the agreements exceed the number of tenants is because some tenants have multiple agreements. Most of the leases are smaller industrial type leases (e.g. storage, warehousing, etc.). There are currently about 184 month-to-month leases.

The Port Commission must approve all lease terms longer than five years. The Board of Supervisors must approve any lease that generates annual rent of \$1 million or more or with a term of more than ten years. The City's Administrative Code section 23.23 states that any City lease that is expected to produce more than \$2,500 per month in revenue is subject to competitive bidding unless it's impractical or impossible to do so. It also provides that it is the City's policy that any lease awarded without following the competitive bidding procedures be in an amount not less than the fair market value of the leased property. The Port does not do competitive bidding unless the proposed leased area is a unique situation. For example, restaurant and parking lot spaces are almost always offered for competitive bidding and usually have longer-term leases (five to ten or more years).

Certain City agencies are designated "enterprise agencies." An enterprise agency is a City department that is supposed to be self-supporting from revenue generated from its own business activities (e.g. rental income from leased property, airport landing fees, user fees) and is not supposed to receive money from the City's general fund. Examples of City enterprise agencies are the San Francisco Airport and the San Francisco Public Utilities Commission. The Port of San Francisco considers itself to be an enterprise agency, but it does receive money from the general fund in the form of reimbursements for expenses and in the form of lease payments from other City agencies. For example, as is explained in more detail below, the Port received about \$4 million in reimbursement from the general fund for expenditures it incurred relating to the hosting of the 34th America's Cup event.<sup>16</sup> Additionally, the City rents out space to various other City agencies (like the MTA, the Department of Elections, the Department of Real Estate, the Department of Public Works, etc.) and receives rent from them, which comes from the general fund.

- Transportation

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<sup>15</sup> Based on the Port's Independent Auditor's Report done by MGO Certified Public Accountants for the years ended June 30, 2013 and 2012, which reports the following Port revenue amounts for the fiscal year ended June 30, 2013: total operating revenues of \$81.512 million of which \$43.266 million was derived from commercial and industrial real estate rental income and \$17.774 million from parking fees

<sup>16</sup> "Board of Supervisors Budget and Legislative Analyst, Policy Analysis Report," February 10, 2014, <http://www.sfbos.org/Modules/ShowDocument.aspx?documentid=47894>

- The current transportation system of light rail and vehicular traffic is inadequate. The Embarcadero has been closed to traffic entirely in order to accommodate special needs such as cruise ship passengers arriving or departing. Other events along the waterfront may also result in lengthy backups. Of greater concern, there are times when emergency service vehicles cannot use the roadbed but must instead drive on the light rail tracks.
  - The City’s transportation plans so far have not provided a solution, and its planning for increased traffic resulting from new development would not resolve the current situation but would only attempt to mitigate additional transportation needs. It is critically important that any waterfront future development place heavy emphasis on transportation needs in practice as well as in theory. Adding additional parking, for example, assures additional roadway traffic.
- MUNI T-Third St. Line
    - To more fully serve the needs of the waterfront, SFMTA (San Francisco Municipal Transportation Authority) inaugurated limited weekend service along the T-Third Light Rail Muni Metro Line on January 13, 2007.<sup>17</sup> The T-Third provides essential service to Port properties south of the Ferry Building and links proposed development project areas at Mission Rock and Pier 70 to Port lands north of Mission Creek.
    - In contrast to the 15-Third Bus that the T-Third replaced, which operated in mixed traffic along city streets, the T-Third has “a nearly exclusive right of way...distinguished by its artistic paving and raised white curbs.”<sup>18</sup> Intended as an enhancement to the Third Street route, “...the exclusive track way is a separate lane just for the LRVs [Light Rail Vehicles] that allow them to operate without interference from other traffic.”
    - The planning called for new traffic signals to incorporate a “signal prioritization/pre-emption system” that is designed to speed travel times and minimize delays along its route. At the time that it opened, the T-Third Metro right of way permitted vehicle traffic to make signalized left turns across its parallel, northbound and southbound rails at 31 intersections.<sup>19</sup> Signaling systems along T-line Third Street corridor identify approaching Muni Light Rail Vehicles (LRVs) with an electronic system known as VETAG. As a T-line LRV approaches a signal priority-equipped intersection, an electronic signal between a sensor on the LRV and a sensor embedded in the pavement below identifies the LRV to the traffic signal computer. Depending on the configuration of the traffic signal’s computer program, the LRV can either receive priority (if the traffic signal being approached is green it stays green) or preemption (the approached signal automatically turns green for the LRV).

<sup>17</sup>“Mayor Gavin Newsom Announces Third Street Light Rail to Begin Service January 13,”

*States News Service*, May 2, 2007. Retrieved via LexisNexis, January 12, 2014. [Hereafter cited as “Newsom Announces.”]

<sup>18</sup> “Discover the T-Third,” *SFMTA*, [http://www.sfmta.com/cms/mroutes/documents/T3-Manual\\_v6na.pdf](http://www.sfmta.com/cms/mroutes/documents/T3-Manual_v6na.pdf). Retrieved via the *Internet Archive WayBack Machine*, January 12, 2014.

<sup>19</sup> On time performance data for the 15-Third Bus, T-Third Metro, and published timetables for each.

- Muni admits that poor maintenance has limited the effectiveness of the VETAG system along Third Street, slowing T-Line LRVs from moving at their optimal pace. The T sputters along at a pace that is slower than the 15-Third Bus that it replaced.<sup>20</sup> Presently, Muni contends that all maintenance problems with VETAG are resolved and that the agency is considering a plan to implement signal preemption at “key” intersections. In light of the T-Line’s slow travel times relative to the retired 15-Third bus, any effort to speed travel along the Third Street corridor is a necessary step toward providing service that can support future development.

It remains to be seen whether this system can now be implemented as planned as well as expanded to carry more passengers.

- Maritime Use

Maritime use at the Port goes well beyond what takes place on ships and boats. There are many land uses authorized by the Waterfront Land Use Plan for activities directly supporting maritime activities.

“Maritime land uses include but are not limited to:

- Maritime cargo handling and storage facilities;
- Ship repair facilities;
- Fish processing facilities;
- Marinas and boat launch ramps;
- Ferryboat terminals;
- Cruise ship terminals;
- Excursion and charter boat facilities and terminals;
- Ship berthing facilities
- Maritime construction and maritime supply facilities;
- Marine equipment and supply facilities
- Cargo shipping;
- Ship repair;
- Fishing industry;
- Recreational boating and water use;
- Ferry and excursion boats and water taxis;
- Passenger cruise ships;
- Historic ships;
- Maritime support services;
- Maritime offices;
- Port-priority uses”<sup>21</sup>

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<sup>20</sup> Source: On time performance data for the 15-Third Bus, T-Third Metro, and published timetables for each.

<sup>21</sup> “Waterfront Land Use Plan”, Section 61.3. Added by Proposition H, 11/6/90; amended by Ord. 7-98, App. 1/16/98



*Italian  
Fishing Boats  
at  
Fisherman's  
Wharf c.  
1915<sup>22</sup>*

▪ Northern Waterfront

- Piers 45 to 48 are designated as the Embarcadero Historic District, extending from Aquatic Park to China Basin. Much maritime activity occurs in this part of the Port. The Northern Waterfront contains Fisherman's Wharf, historic ships, fishing and fish processing, cruise and excursion facilities, marina, and recreational boating.
- Historic ships are located at Pier 45 Hyde Street Pier. Adjacent to Pier 45 is Fisherman's Wharf, home to commercial fishing, sport, and charter boat fleets. Pier 45 houses the West Coast's largest concentration of commercial fish processors and distributors.
- In addition to retail, Pier 39 also provides berthing for fishing, sport and charter boats. Excursion boats are berthed at Pier 41 and Pier 33. A new berth has been built at Pier 19 for entertainment (sailing ships, cocktail cruises, etc.) but there is no interest for its use at present.

▪ Cruise Ship Terminal

"The cruise industry alone generates approximately \$30 million annually in direct economic impacts, supports 400 jobs in the City, and generates approximately \$900,000 in annual revenues to the City's General Fund."<sup>23</sup>

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<sup>22</sup> Panama-Pacific International Exposition Popular Information, Italian Fishing Boats c. 1915  
[http://www.books-about-california.com/Images/PPIE\\_Popular\\_Information/Italian\\_Fishing\\_Boats.jpg](http://www.books-about-california.com/Images/PPIE_Popular_Information/Italian_Fishing_Boats.jpg)

<sup>23</sup> Caltrans Freight Planning Fact Sheet 7/12,  
[http://dot.ca.gov/hq/tpp/offices/ogm/ships/Fact\\_Sheets/Port\\_of\\_San\\_Francisco\\_Fact\\_Sheet\\_073012.pdf](http://dot.ca.gov/hq/tpp/offices/ogm/ships/Fact_Sheets/Port_of_San_Francisco_Fact_Sheet_073012.pdf)

A new Cruise Ship Terminal is under construction at Pier 27. Upon completion it is projected to handle 40 to 80 calls per year. Plans to increase utilization of the Port's new Cruise Ship Terminal need to be formulated. It is now operating at a fraction of its capacity because of the federal Passenger Vessel Services Act of 1886, which requires foreign flagged vessels traveling from one U.S. port to stop at a foreign port before a subsequent stop at a U.S. port.

Consequently, there are very few ships docking here, resulting in a substantial loss of potential revenue to the Port. Instead, the major revenue from this location comes from its use as a parking lot. Pier 35, the former cruise terminal will be used for backup. South of Pier 35 are excursion, tug and tow facilities, and San Francisco Bar Pilots at Pier 9.

- Central Waterfront

The Central Waterfront has ferry terminals, the Ferry Building, Exploratorium, Bay Pilots, tugboats, and the Port of SF main office.

- Ferry Building

3,000,000 passengers per year use the piers at the Ferry Building. Ferry service provides minimal revenue to the Port, but is sufficient to pay for the operational costs. Ferry operations are an important part of the public service provided by the Port and are integral to the Water Emergency Transportation Authority (WETA) in the event of a major disaster. Facilities will be expanded to Pier 14. Fireboats are located at Pier 22 ½.

- South Beach/China Basin

South Beach Harbor is a recreational boating and docking facility located between AT&T Park and Pier 40. Originally developed by the San Francisco Redevelopment Agency in 1984, it was taken over by the Port in 2012 after the dissolution of state redevelopment agencies. It contains 700 slips and South Beach Park. Pier 48 will house a new Anchor Steam Brewery. This is considered a maritime use because the brewery will use barges to transport raw materials and waste to and from. AT&T Park also has a ferry terminal.

- Southern Waterfront

The Southern Waterfront is home to maritime industrial uses. BAE operates a ship repair yard at Pier 70, where there are two drydocks owned by the Port and leased to BAE. The shipyard provides union jobs to 250 to 1500 workers daily, depending on the workload. The port is soliciting interest from qualified respondents for developing and operating a bulk marine cargo-handling terminal at Pier 96, considered an ideal location for transshipping iron ore.

- Cargo Services

The Port has the ability to increase its cargo services in the Southern Waterfront. Pier 80 and 94/96 each have three deep-water berths with cranes capable of working both break bulk and containers for off-loading to the on-dock rail lines. There is a combined 145 acres of paved cargo staging area, 550,000 square feet of which is covered storage.

“A recent economic benefits study highlights the value of maintaining and expanding industrial uses on Port property. The report<sup>4</sup> estimated that Port industrial and maritime tenants generated over \$785 million in annual economic activity in San Francisco, and employed roughly 2,400 workers (2011 data).”<sup>24</sup>

Cargo traffic has been steadily decreasing over the years. In 2004 there were 224 cargo vessel calls, down to 95 in 2005 and only 39 in 2013.<sup>25</sup> The Port is soliciting interest from qualified respondents for developing and operating a bulk marine cargo-handling terminal at its underutilized Pier 96. The Port would like to see iron ore transshipped from there.

In the mid-to-late 1960s, containerization took hold as the principal means of moving freight. The Port reacted to this trend by building the break-bulk Army Street Terminal (Pier 80) and a LASH terminal (Pier 98); both were outmoded technologies even as they were being constructed. Although it is prudent for the Port to solicit more break-bulk cargo in order to maximize current use, the Jury hopes that there is a greater effort to forecast possible future uses of the Port’s deep-water berths and other maritime facilities.

- Infrastructure and Historic Resources

The Port of San Francisco faces serious financial challenges for capital improvements. At the time of transfer to the City in 1968, the Port already faced a deficit for infrastructure repair and maintenance. Under the terms of the Public Trust, all revenue created by the Port is reserved exclusively for its own use. The Port currently receives payments from the General Fund for leases of Port property, and a general obligation bond has been approved for rebuilding Pier 22 ½ for the use of fireboats. Recreation and Park bond monies have been designated for open space improvements at Pier 70.

In efforts to meet infrastructure needs as determined by the Port, various developments are under discussion that would advance funds for repairs to be repaid through Port forgiveness of routine financial obligations such as rent payments, real estate transfer taxes, and other revenues that typically are paid to the Port. The issue of the Port’s infrastructure needs as measured against citizen priorities such as open space, recreational spaces, or revenue from more standard leases have not always been properly considered.

### **Proposed Developments and Activities**

It is significant to note that the projects outlined for Pier 30-32, Mission Rock, and Pier 70 all require zoning changes and exemptions to the Waterfront Land Use Plan. This commonality is indicative of demands from other City departments, requirements for a high return on investment from the developers, and overriding of the Waterfront Land Use plan.

- Pier 30-32

The Port’s piers, all of which were built over a hundred years ago, are deteriorating and capital improvements have been deferred over the years.<sup>26</sup> For example, Pier 30-32, which is located between the San Francisco-Oakland Bay Bridge and the AT&T baseball park, has a remaining

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<sup>24</sup> Ten-Year Capital Plan FY 2015-2024 Update, Port of San Francisco

<sup>25</sup> Port of San Francisco, “Cargo Statistics”, <http://www.sfport.com/index.aspx?page=164>

<sup>26</sup> See Port of San Francisco 2014-2023 Ten-Year Capital Plan.

useful life of about ten years, as do most of the other piers. Pier 30-32 is about 900 feet long and 12.5 acres in area and is located on the east side of the Embarcadero at Bryant Street; it is currently used mainly for short-term parking. Since Pier 30-32 has a natural deepwater berth along its east face, (1350 feet in length) it is also occasionally used as a tertiary berth for cruise ships and other deep draft vessels. Seawall Lot 330 is located across the street from Pier 30-32 on the west side of the Embarcadero between Beale and Bryant Streets; it is approximately 2.3 acres of undeveloped land currently used for short-term parking.

GSW Arena LLC is an affiliate of the entity that owns the Golden State Warriors, a basketball team in the National Basketball Association. GSW Arena LLC (GSW) had proposed a multi-use development at Pier 30-32 and Seawall Lot 330. GSW's proposed development project included the following: construction of a new basketball arena on Pier 30-32 with seating for approximately 17,000 to 19,000 persons; rehabilitation of Pier 30-32 to support said arena; and the sale by the Port to GSW of Seawall Lot 330 for construction of residential, hotel, and/or retail uses and accessory parking. In addition to sports events, GSW had indicated its intent to use this arena for more than 150 events such as concerts every year. According to Port documents, in order to support the arena and related structures and address rising sea levels, the cost to rehabilitate Pier 30-32 for the Warriors' arena would have been substantially higher than the cost to simply rehabilitate and preserve the pier.<sup>27</sup>

When the GSW proposal was made in 2012, the construction cost estimate for rebuilding and strengthening Pier 30-32 so that it could support the arena structure was \$120 million. A third party estimate for the cost of rehabilitating Pier 30-32 to bear the weight of the arena structure was about \$171 million.<sup>28</sup> The Port's "Ten-Year Capital Plan FY 2015-2024 Update" estimates the cost to be \$165 million.<sup>29</sup> The Jury was informed during its investigation that it could have been as high as \$180 million. In contrast, according to Port documents, the approximate cost to simply rehabilitate and preserve the pier is estimated by the Port to be \$68 million; the approximate cost to simply remove the pier altogether is estimated by the Port to be \$45 million.<sup>30</sup>

Under the 2012 GSW proposal, the Port would have been obligated to reimburse GSW for the cost of rehabilitating Pier 30-32 to support the Warriors' arena, which at that time was estimated to be \$120 million. Under the proposal, GSW would have been entitled to a 13% annual return on said reimbursement amount of \$120 million. Payment by the Port of the \$120 million rehabilitation cost would have come from the following three sources:

- A purchase credit of \$30.4 million from the sale of Seawall Lot 330 to GSW (the fair market value of Seawall Lot 330 was estimated several years ago to be \$30.4 million but is most likely higher now);
- A long term lease of Pier 30-32 to GSW with annual rent credits for the next 66 years, which meant that the Port would have received no rent for the lease of Pier 30-32 for the next 66 years (the estimated annual rent for Pier 30-32 once improved was valued at \$1.97 million a few years ago);

<sup>27</sup> See page 7 of "Memorandum from Monique Moyer to the Port Commission dated 3/18/2013"

<sup>28</sup> Based on a third party cost construction estimate dated 1/22/2014 prepared by M Lee Corporation

<sup>29</sup> See page 33 of the Port of San Francisco Ten-Year Capital Plan FY 2015-2024 Update

<sup>30</sup> See page 7 of "Memorandum from Monique Moyer to the Port Commission dated 3/18/2013" and "Port of San Francisco 2014-2023 10 Year Capital" cited on page 7 of said Memorandum; see link <http://www.sfport.com/modules/showdocument.aspx?documentid=5640>)

- Establishment of an Infrastructure Financing District on Pier 30-32 and Seawall Lot 330 under which a \$60 million 30 year bond would have been issued and then repaid with General Fund property tax revenue for the next 30 years.

The above-described GSW proposal is apparently off the table. It was reported in late April of this year that the Warriors have purchased land in the Mission Bay area to construct their basketball arena and no longer have plans to use Pier 30-32 for any development. The City and Port are apparently no longer in negotiations with GSW to use Pier 30-32 for any GSW development. The reason for inclusion of this proposal in this report is to provide the public with a fuller and more detailed understanding of the Port's negotiations and financial trade-offs it would have accepted under the terms as outlined.

The Port is prohibited by state law from selling any of its piers but it is not prohibited per se from selling certain seawall lots, including Seawall Lot 330, under certain Public Trust conditions.<sup>31</sup> The Port's Waterfront Land Use Plan, initially adopted by the Port Commission in 1997, specifies acceptable Public Trust uses for the piers like museums, restaurants, parking, and recreational enterprises, but it does not identify a professional sports arena, like the GSW's proposed arena, as an acceptable use of Pier 30-32.<sup>32</sup> Also, the City's zoning laws currently limit any development on the piers, including Pier 30-32, to a 40-foot height limit.<sup>33</sup> Hence, amendments to both the Waterfront Land Use Plan and the City's zoning laws would have been necessary before final approval of any such GSW arena project.

Finally, the SF Waterfront Special Area Plan issued by the Bay Conservation Development Commission provides that improvements along the Port waterfront area should have "design policies that promote low-scale development and preserve Bay views."<sup>34</sup> The plan also states that large piers like Pier 30-32 and Piers 27-29, if redeveloped as a large pier, should have the following:

- (1) "A higher proportion of their area devoted to public access and open space than Finger Piers;
- (2) "[p]ublic access provided should consist of:
  - Perimeter access
  - Significant park(s)/plaza(s) on the pier perimeter
  - Additional areas, e.g., small parks or plazas integrated into the perimeter access
  - Significant view corridors to the Bay from points on the pier which by their location have more of a relationship to the water than to the project
  - The Bayside History Walk (on Pier 29); and
- (3) "Public open spaces within the interior of large piers that do not provide physical or visual proximity to the Bay should not be included in the determination of maximum feasible public access to be provided on the pier."<sup>35</sup>

Amendment of the BCDC SF Waterfront Special Area Plan requires 2/3 voter approval of the

<sup>31</sup> See e.g. AB 1389 (2001), Senate Bill 815 (2007), and AB 418 (2011)

<sup>32</sup> See Port's Waterfront Land Use Plan, Chapter 4, South Beach/China Basin Acceptable Land Use Table (1,2,3,4)

<sup>33</sup> See The Zoning Map of the City and County of San Francisco established by sections 105 and 106 of the City's Planning Code, Height & Bulk District Maps, Map HT01

<sup>34</sup> BCDC SF Waterfront Special Area Plan, page 19

<sup>35</sup> BCDC SF Waterfront Special Area Plan, page 34

BCDC 27 commissioners (i.e. 18 votes).<sup>36</sup>

- America's Cup

The America's Cup is an international sailing competition held every few years. In 2012/2013, the Port and City hosted the 34<sup>th</sup> America's Cup event at the waterfront. The event consisted of a series of sailing races. In its Annual Report for Fiscal Year Ended June 30, 2012, the Port estimated that hosting the America's Cup would result in an aggregate \$3.2 million rent loss to the Port during the occurrence of the event.

The City ended up spending approximately \$20.5 million from the general fund for the event, which included about \$4 million of reimbursement to the Port for Port expenditures and lost rent resulting from the event. To help defray some of that cost, the City received about \$8.7 million in private fundraising and about \$5.8 million in tax revenue, leaving a net loss to taxpayers for the event of about \$6 million.<sup>37, 38</sup> The sources of the tax revenue were transient occupancy taxes (hotel tax) of about \$2.35 million, sales taxes of about \$1.16 million, payroll taxes of about \$1.27 million, and parking taxes of about \$1 million.

In addition to the loss to the City's general fund, the Port spent from its own operating revenue about \$2.5 million in operating costs (e.g. legal fees, tenant relocation costs, marketing, etc.), and about \$3 million in capital expenditures (e.g. dredging, relocation of power lines, etc.). The Port derived no long-term benefit. None of these Port expenditures were reimbursed by the City's general fund.

The total loss to the City and Port for the event amounted to about \$11.5 million (\$6 million from the general fund plus \$5.5 million in unreimbursed Port expenditures). Neither the City nor the Port received any revenue sharing or venue rent from the event. The Port allowed the use of its piers for the staging of the America's Cup rent free. The City via a Memorandum of Understanding between the City and the Port agreed to reimburse the Port for this loss of rent. The Port was reimbursed \$2 million from the general fund.<sup>39</sup> The City should clarify when an event hosted by the City needs approval by the Board of Supervisors or when it requires a simple event permit only.

- Pier 70

Pier 70 is in the Central Waterfront and is bounded by Mariposa Street, Illinois Street, 22<sup>nd</sup> Street, and the San Francisco Bay. In addition to Pier 70 the site includes Pier 68 and part of Seawall Lot 349. It comprises approximately 28 acres containing a mix of heavy commercial and

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<sup>36</sup> BCDC San Francisco Bay Plan requires the affirmative vote of two-thirds of the members of the Commission to amend the Bay Plan and special area plans, like the SF Waterfront Special Area Plan, are subject to the same procedures for public notice, hearing, and voting as other amendments or changes in the Bay Plan.

<sup>37</sup> See San Francisco Budget and Legislative Analyst's Office report entitled "Analysis of the Impact of the 34<sup>th</sup> America's Cup to the City"

<http://www.sfbos.org/Modules/ShowDocument.aspx?documentid=47894>

<sup>38</sup> For a fiscal impact analysis, also see The Bay Area Council Institute December, 2013 report

"The Economic Impact of the 34<sup>th</sup> America's Cup in San Francisco"

<http://www.bayareacouncil.org/press-releases/bay-area-council-economic-institute-releases-americas-cup-economic-impact-study/>

<sup>39</sup> See San Francisco Budget and Legislative Analyst's Office report entitled "Analysis of the Impact of the 34<sup>th</sup> America's Cup to the City" <http://www.sfbos.org/Modules/ShowDocument.aspx?documentid=47894>

light industrial buildings. Current commercial activities include warehousing, contractor and construction storage and until June 2013, the City's impound facility for towed cars.

In the City's early days, the Pier 70 area became the location of activities that required isolated sites on the outskirts of the downtown area, such as gunpowder manufacturing. As the area became established as a center for industrial operations and shipping in the 1850's, the serpentine hillsides were blasted away to create street corridors for landside movement along the Bay, and piers were extended over the water. This area offered excellent accessibility by ship to relatively deep offshore waters in the Bay and commercial routes in the Pacific Ocean.<sup>40</sup>

The Port acquired portions of the waterfront site and the rest of Pier 70 from the State, the federal government, and private parties. Portions of Pier 70 are historic uplands that were never submerged tidelands subject to the Public Trust, and several parcels have been in and out of private and federal ownership, creating a patchwork of parcels subject to Public Trust restrictions.<sup>41</sup> The inland areas of the site not subject to Public Trust controls were originally part of the serpentine cliffs surrounding the area, not tidelands that have been filled. This portion is eligible for residential use. Existing historic buildings provide a ready-made footprint for commercial and industrial use. The Pier 70 site is eligible for listing in the National Register of Historic Places as an Historic District for its national significance in the area of maritime industry, beginning with the initial construction of the Union Iron Works Machine Shop (1885-1886) and closing at the end of World War II. Within Pier 70, 44 historic resources have been identified as eligible for listing in the National Register of Historic Places. About half of these structures have been condemned for structural or environmental reasons, and all are rapidly deteriorating, which threatens their historic integrity.<sup>42</sup>

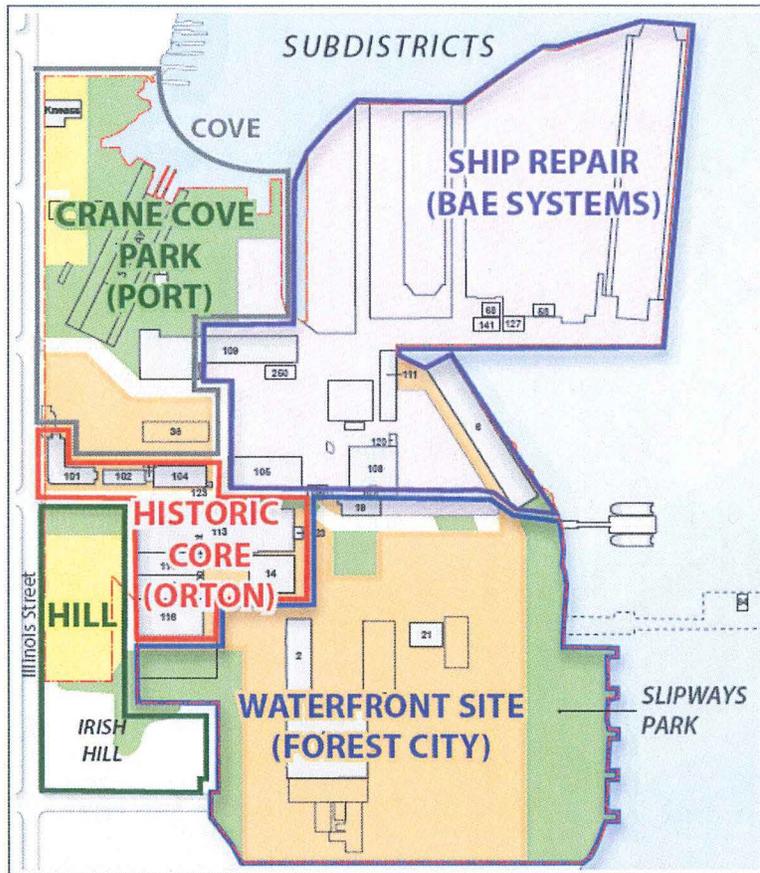
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<sup>40</sup> "Pier 70 Preferred Master Plan", Chapter 1, April 2010,  
[http://sfport.com/ftp/uploadedfiles/about\\_us/divisions/planning\\_development/southern\\_waterfront/pier70masterplan\\_intro-overview.pdf](http://sfport.com/ftp/uploadedfiles/about_us/divisions/planning_development/southern_waterfront/pier70masterplan_intro-overview.pdf)

<sup>41</sup> File No. 130495 Committee Item No. 11 - Board of Supervisors, June 5 2013  
[http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/committees/materials/bf060513\\_130495.pdf](http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/committees/materials/bf060513_130495.pdf)

<sup>42</sup> "Pier 70 Preferred Master Plan", Chapter 1, April 2010,  
[http://sfport.com/ftp/uploadedfiles/about\\_us/divisions/planning\\_development/southern\\_waterfront/pier70masterplan\\_intro-overview.pdf](http://sfport.com/ftp/uploadedfiles/about_us/divisions/planning_development/southern_waterfront/pier70masterplan_intro-overview.pdf)

To support the Pier 70 planning effort, the Port retained a team of consultants with technical expertise in the fields of historic preservation, land use economics, urban planning and design,<sup>43</sup> environmental analysis, engineering, and cost estimation. In addition, the Port worked through a collaborative process with federal, state, and regional government agencies, other departments



Pier 70 Sub Areas Project Map<sup>44</sup>

within the City family, and the public. Strong government partnerships have enabled the Port to produce a Plan that is informed by key regulatory considerations and that enjoys strong public consensus.

Special attention has been given to ship repair industry needs. The Port has worked closely with BAE San Francisco Ship Repair (BAE), a subsidiary of BAE Systems, the Port's ship repair operator, as it develops its own complementary facility plan. This will ensure adequate space and operational latitude for compatible co-existence of ongoing ship repair operations, historic preservation, and new

development at Pier 70. The Pier 70 Plan is premised on continuing ship repair at the site consistent with the Port's mission. In coordination with the Port, BAE prepared a long-term plan for the Pier 70 ship repair operations to integrate strategic needs of the shipyard with this Plan. Continuing this historic industry is itself recognized as part of Pier 70's historic preservation strategy. By maintaining the original business that created Pier 70, the Port preserves the authentic maritime heritage that is the foundation of Pier 70 Historic District.

In the summer of 2005, the Port and Mayor Gavin Newsom partnered with San Francisco Planning and Urban Research (SPUR) and EDAW, a local land use planning firm, to prepare a "Concept Vision Plan" for Pier 70. The Concept Vision Plan was developed through many community forums and workshops and reflected significant community interest in the future of the area. It set forth principles of historic preservation, sustainability, and integration with the surrounding neighborhoods, and called for continued ship repair, a marina, office space, a public market, arts, and a series of open spaces. Many of the ideas and possibilities revealed in that

<sup>43</sup> Port of San Francisco, Land Use & Environment » Projects » Pier 70 Area, Pier 70 Implementation, September 2012, <http://www.sfport.com/index.aspx?page=2130>

<sup>44</sup> Pier 70 Implementation, Port of San Francisco. <http://www.sfport.com/index.aspx?page=2130>

Concept Vision Plan received enthusiastic responses from government and community stakeholders alike and have influenced the development of this Plan. The uses envisioned for the site include biotechnology, medical office/support, general office and corporate campuses, retail/service commercial, exhibition/museum, waterfront commercial/production/distribution/repair, open space, water recreation and residential. Interviews conducted with representatives of the developers and documents provided by the Port indicate that there has been extensive community input into the project and that the process will continue until plans have been finalized and approved. All indications point to a high degree of support both from City departments and concerned citizens.

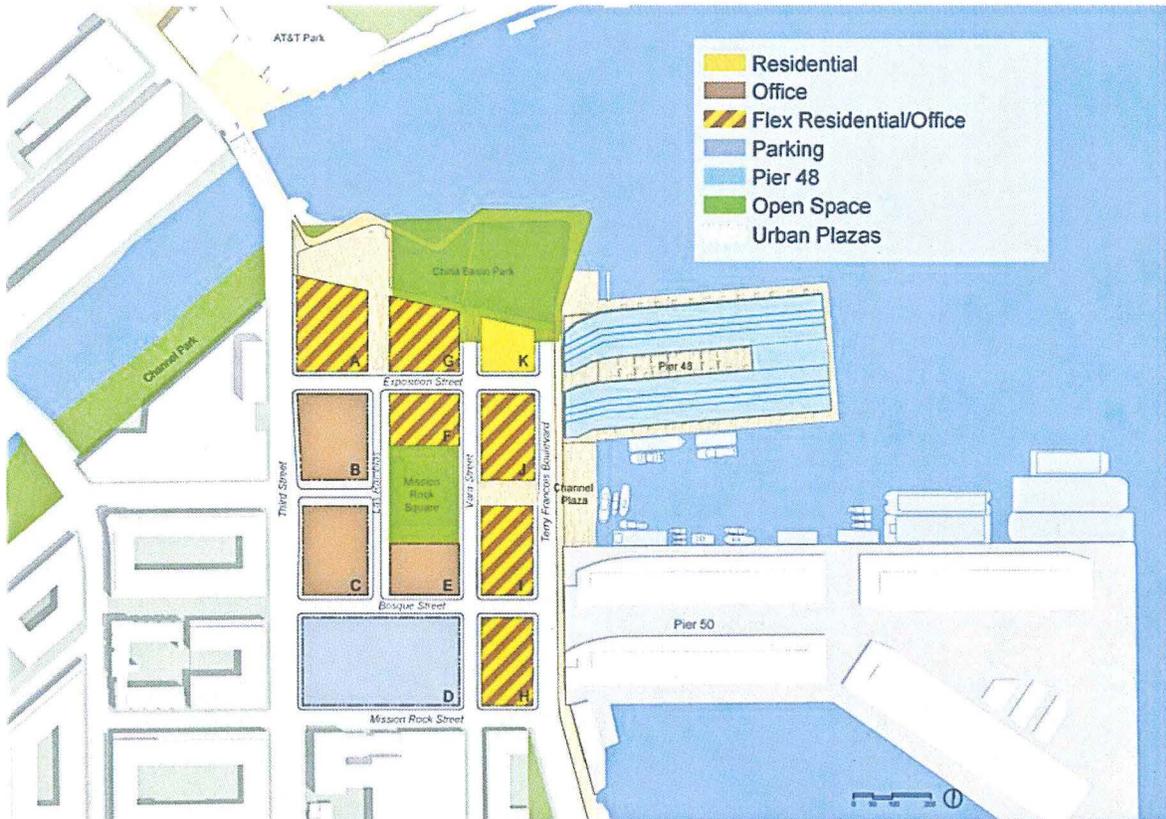
Two commercial developers have been selected through RFPs (Request for Proposal) and have entered exclusive negotiating agreements with the City. Orton Development Inc has been granted rights to restore and develop the historic site and Forest City has the right to develop the mixed-use component. BAE Systems (ship repair) will continue its operations. Crane Cove Park will be developed by the Recreation and Parks Department of San Francisco in conjunction with Forest City.

The development proposed for this site by Forest City has four main components: Crane Cove Park, restoration of three historic buildings, development of a mixed-use (commercial and residential) area and continued operation of the BAE Systems ship repair yard. Restoration of eight historic structures by Orton Development in the core area has already begun and occupancy is scheduled for 2014.

- Mission Rock

Seawall Lot 337 is in current use as a parking lot for AT&T Park. The San Francisco Giants are proposing to develop this property to include offices, residences, retail, parking, open space, and a new Anchor Steam Brewery on Pier 48. (Pier 48 is the southernmost pier in the Embarcadero Historic District. Anchor Steam Brewery is anticipating construction for their waterfront facility to begin in 2014.)

“The Port of San Francisco has been engaged in the planning process for SWL 337 and Pier 48 for many years, with the Mission Rock team joining these efforts in 2008. Below is a brief outline of the progress to date, and our plans for the future.



*Mission Rock Proposed Development Diagram<sup>45</sup>*

**2007**

Senate Bill 815 passed by California Legislature, allowing for development of Seawall Lot 337, among others, by lifting the Public Trust for a certain period of time.

**2007**

Port commences an intensive planning process and community input gathering regarding the future of SWL337.

**2008**

San Francisco Giants team responds to Port's Request for Developer Qualifications/Concepts.

**2009**

San Francisco Giants team responds to Port's Request for Developer Proposals, and is awarded the development rights to SWL 337 and Pier 48.

**2010**

Port and Gaints [sic] team sign an Exclusive Negotiation Agreement

**March 2011**

Giants submit Revised Proposal Concept

<sup>45</sup> Seawall Lot 337 (SWL 337) & Pier 48, March 12, 2013 Port Commission Meeting, <http://www.sfport.com/modules/showdocument.aspx?documentid=5629>

## **March 2012**

Giants submit Revised Proposal Submission

## **Expected Winter 2013**

Term Sheet Endorsement by Port Commission and Board of Supervisors

## **Looking Ahead**

Entitlements / EIR and Design for Development Documents to commence after endorsement of the Term Sheet by the Board of Supervisors

## **2015 - 2020**

Construction of infrastructure, public resources, residential buildings, office buildings, and community amenities<sup>46</sup>

It should be noted that, although this proposed project is adhering relatively close to the timeline above (Term Sheet endorsement by the Board of Supervisors in May, 2013<sup>47</sup>), there has been very little publicity and public outreach. This is of particular concern because the project involves 650-1000 new housing units, several high-rise buildings requiring zoning changes, and a 2,690 space parking lot.<sup>48</sup>

### **Financing of Capital Improvements**

Although revenue from leases, parking, other City entities, and docking fees etc. is sufficient to pay for the day-to-day operating and maintenance costs, there is very little left over for capital improvements and rehabilitation of historic structures. There is a difficult balance between acquiring a large infusion of cash from private developers and maintaining the Public Trust. The developer has to be willing to take years to plan a project and receive approvals from the myriad regulatory bodies governing Port activities. The Port has to meet obligations provided by the Waterfront Land Use Plan, City requirements for open space, housing, and transportation while securing zoning and height limit changes from the Planning Department.

- Infrastructure Finance Districts<sup>49</sup>

In recent years, the use of Infrastructure Finance Districts (IFDs) have been proposed to increase opportunities for major investment from private sources. This normally involves a long-term lease or sale of Port property to the developer. Attached to this property transfer is a credit of equal amount, the net cost to the developer being \$0. Additionally, property tax is credited back to the developer to further help offset development costs. Income from the newly built development will also go to the developer. The City can also issue bonds to help fund infrastructure such as open space or other recreational facilities.

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<sup>46</sup> Schedule from "Mission Rock", <http://www.missionrock.org/schedule.php>

<sup>47</sup> "Term Sheet Between the City and County of San Francisco, Acting by and through the San Francisco Port Commission and Seawall Lot 337 Associates, LLC"  
<http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/resolutions13/r0142-13.pdf>

<sup>48</sup> Mission Rock Design + Development Revised Proposal, March 2012,  
<http://www.sfport.com/ftp/uploadedfiles/MissionRockMarch12RevProposalDesign.pdf>

<sup>49</sup> Proposed Policy for Use of IFD on Port Property, included in its entirety in Board of Supervisors Resolution 123-13, adopted 4/13/13. See appendix p 51 for full text, <http://onesanfrancisco.org/wp-content/uploads/Agenda-Item-5-Port-Proposed-IFD-Policy-memo.pdf>

All revenue from an IFD can only be used for capital improvements, not operating expenses. The development that did not exist before will create new open space, housing, and businesses. The Port removes a liability (rotting infrastructure) from its books. The lease or property that was lost to the developer, although valuable, was not bringing any revenue.

According to the *Port of San Francisco 2014-2023 Ten-Year Capital Plan*, the Port seeks half a billion dollars (\$500 M) from the issuance of IFD bonds, or nearly 50% of its ten-year capital improvement budget. Under State Law, the Port of San Francisco is exempt from the requirement that it seek voter approval for the creation of an IFD District and the issuance of IFD Bonds.<sup>50</sup> Resolution 123-13 approved by the Board of Supervisors on April 23, 2013, expressly permits "Potential property annexations to the Port IFD of non-Port property adjacent to Port property"<sup>51</sup> with Board of Supervisors approval. This ordinance allows potential inclusion of, for example, the Golden State Warriors' Arena in a Port IFD even though it is no longer proposed for construction on Port property.

▪ Other Funding Sources

Many other funding sources are available to the Port and have been or are currently in use.

- General Obligation bonds—issued by the City and repaid from the General Fund. There is an outstanding bond for improvement to the fireboat Pier 22 ½. GO bonds require voter approval unless issued by an IFD.
- Port revenue bonds—issued by the Port but debt service limited by operating funds, now funding the Cruise Ship Terminal.
- Federal transportation funding—used to improve rail access in the Southern Waterfront for cargo movement. The Illinois Street multi-modal bridge over Islais Creek was built with mostly federal funds, and the Port has just received \$2.97 million for completion of a rail spur on Quint Street that will tie into the Southern Pacific line.<sup>52</sup>
- Park and Recreation bond funds have been approved for development of Crane Cove Park at Pier 70.

▪ Other Development Options

- Piers can be developed for open space uses such as soccer, tennis, basketball or other sports fields as well as general park usage.
- Many events and venues would require minimum reinforcement of existing piers because structures needed would be lightweight. These could be for entertainment, such as Teatro ZinZanni, Cirque de Soleil, and Cavalia.
- Other enterprises requiring minimal construction costs could be a flower market, space for antique, craft, and food truck fairs, or other events featuring local restaurants, vintners, and breweries.

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<sup>50</sup> Jensen, Randall, "Brown OKs Law to Let San Francisco Create Tax District," *The Bond Buyer*, September 29, 2011

<sup>51</sup> Resolution adopting Guidelines for the Establishment and Use of an Infrastructure Financing District with Project Areas on Land Under the Jurisdiction of the San Francisco Port Commission. See appendix p. 51

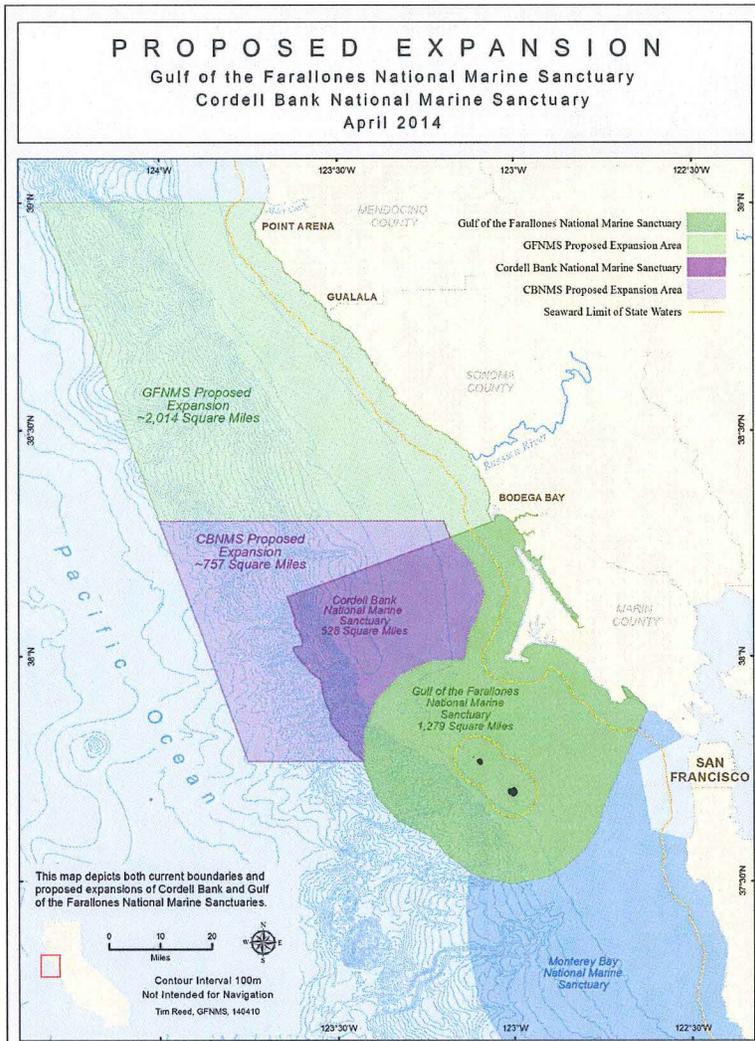
<http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/resolutions13/r0123-13.pdf>

<sup>52</sup> Port Commission Memorandum April 18, 2014

<http://www.sfport.com/modules/showdocument.aspx?documentid=7919>

- A Marine Research Institute

Pier 30-32 has had no fewer than five proposed projects, all of which have failed due to a variety of reasons. The Jury would like to suggest another possible use for this 13-acre parcel, which includes a 1350-foot-long deepwater berth that never requires dredging. All previous proposals



NOAA Map of Proposed Expansion<sup>53</sup>

included maritime use as mandated by the Waterfront Land Use Plan, BCDC, State Land Use Commission and other regulatory agencies. These proposals met the maritime use requirement inasmuch as they would attract visitors to the waterfront, but they were not oriented primarily around the bay and ocean environment.

Another option for Pier 30-32 may open several sources of funding that, to our knowledge, have never been considered. Our suggestion is to investigate the possibility of building a Marine Research Institute on the pier. The project lead could be an educational institution such as Woods Hole Oceanographic Institution or Scripps Institute of Oceanography (UC San Diego), a conservation group such as Cousteau Society, Greenpeace, or Ocean Conservancy, or even government based groups such

as National Oceanic and Atmospheric Administration (NOAA) or United Nations Educational, Scientific and Cultural Organization (UNESCO).

With close proximity to the Gulf of the Farallones, Cordell Bank, and Monterey Bay National Marine Sanctuaries to the west and the Sacramento-San Joaquin Delta to the east, a San Francisco Bay location presents a unique opportunity for marine and estuary study. The Cordell Bank and Gulf of the Farallones Sanctuaries today cover about 1800 square miles, but the proposed addition by NOAA will add an additional 2,000 square miles extending north.

<sup>53</sup>Proposed Cordell Bank & Gulf of the Farallones Expansion, [http://farallones.noaa.gov/manage/expansion\\_cbgf.html](http://farallones.noaa.gov/manage/expansion_cbgf.html)

Funding could be derived not only from the sources mentioned above, but it may be possible to get donations from charitable foundations, such as Ford Foundation or Paul Getty Trust, and supplement large contributions by forming a coalition of the dozens of smaller advocacy and conservation groups—a form of crowd-funding on a large scale.<sup>54</sup>

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<sup>54</sup>Link to various research facilities and vessels, <http://www.seasky.org/links/sealink06.html#Research%20Vessels>

## FINDINGS AND RECOMMENDATIONS

### Who is Making Decisions?

#### **Finding 1:**

Recent activities at the Port have been strongly influenced by the Mayor's office. These included the promotion of the 8 Washington Street project, most aspects of the 34<sup>th</sup> America's Cup races, a "legacy project" at Pier 30-32, and an underutilized cruise ship terminal at Pier 27. The Port Commission readily gave approvals with minimal public input. All other commissions dealing with land use decisions, including Planning, Building Inspection, and Board of Permit Appeals, are not appointed solely by the mayor. Section 12 of the Burton Act specifies that all five Harbor Commissioners be appointed by the Mayor and confirmed by the Board.

- Recommendation 1:

The Port Commission should be restructured to reflect more public interest. The Jury recommends that the Board of Supervisors seek necessary changes in state law to allow a charter amendment to be submitted to the public for revision of the current five-member Port Commission appointed by the Mayor to a Port Commission with three mayoral appointees and two by the Board of Supervisors. We recommend that this change be put before the voters in 2015.

### Waterfront Land Use

#### **Finding 2:**

The Port is primarily a land bank and real estate management company; only 25% of revenue is from maritime activities. Annual revenues of \$82 million are not sufficient to meet the needs for infrastructure repair. Today the Port has a policy of attempting to repair all existing piers and related structures.

- Recommendation 2a:

Costs and benefits to repair and maintain these piers should be evaluated and weighed against the cost and benefits of not doing so. It may be possible that the sacrifice of some piers will reduce maintenance costs, thereby freeing monies for repair of more significant structures and create more open space.

- Recommendation 2b:

Other sources of revenue should be expanded. Maritime and industrial use in the Southern Waterfront has great potential. The Port is actively pursuing growth in this area and should continue to improve infrastructure and search for new tenants.

#### **Finding 3:**

The waterfront is one of the most desirable areas in the City. Proposed projects receive only limited public input by Citizen Advisory Committees (CAC) whose members are selected by the Port. The Planning Department and Mayor's Office have a great deal of authority to influence the selection of development projects. Citizens at large are made aware of these projects only after the Port has published an RFP. The public is not made aware of possible alternate uses that

may have been considered during the early stages of project planning.

- Recommendation 3:

Proposed variances from the Plan should receive increased public scrutiny prior to the issuance of an RFP.

**Finding 4:**

The priority of the Port for development is to create an income stream for capital improvements rather than a determination of how best to enhance the quality of life for the residents of the City. Port revitalization has been enhanced in the past by adherence to the Waterfront Land Use Plan. Developments have provided local business opportunities, mixed housing where appropriate, stronger public transit options, maintenance of height and bulk limits, and preservation of view corridors. Some uses, however, both current and proposed, of Port land do not conform to the Waterfront Land Use Plan. Zoning and height limits have been changed by the Planning Department and the Mayor's Office. There is a lack of transparency in development proposals, particularly in regard to input from the Mayor's Office and active involvement of former Mayoral staff advocating on behalf of developers, giving rise to concerns that an agreement had been reached prior to public input.

- Recommendation 4a:

The Port should immediately begin an assessment and update of the Waterfront Land Use Plan, to be renamed the Waterfront Maritime and Land Use Plan to meet current and future requirements for Port development. This should be completed and adopted in a relatively short time span of one to two years.

- Recommendation 4b

The Port should ensure that changes or variances to the existing Waterfront Land Use Plan or the City's General Plan should have extensive public input before implementation.

Transportation

**Finding 5:**

Further development along the waterfront will add new transportation requirements. Transportation along the waterfront does not meet current needs. Portions of the Embarcadero are closed during cruise ship arrivals and events at AT&T Park. Emergency vehicles sometimes use the light rail right of way to circumvent traffic even when there is no major activity on the Embarcadero. San Francisco Municipal Transportation Agency master plan does not directly address development on Port lands.

- Recommendation 5:

SFMTA should incorporate current and future transit needs, taking into consideration not only increased capacity requirements from individual projects, but the cumulative effect of multiple projects added to existing passenger loads. SFMTA must address reliability and increased capacity that will be required for all modes of transportation, especially the T-Line and motor coach lines connecting to the Pier 70 site. The VETAG system should be maintained to operate at maximum efficiency.

## Cruise Ship Terminal

### **Finding 6:**

When it becomes operational, the Cruise Ship Terminal at Pier 27 is projected to be severely underutilized. This is because federal law, namely the Passenger Vessel Services Act of 1886, prohibits foreign-flagged passenger ships from calling on two U.S. ports without an intervening foreign port. This Act greatly restricts the use of the newly built Cruise Ship Terminal. The Port estimates that the use of the terminal would increase from the current 50 visits per year to 150 visits if the Passenger Vessel Services Act of 1886 were amended or the Port were granted an exemption for a pilot program. It is also estimated that there is between \$750,000 and \$1 million economic benefit to the City from each docking. This includes ship provisioning, tourism, berthing fees and tugboats.

- **Recommendation 6:**

The City should immediately begin lobbying for modifications to the Passenger Vessel Services Act of 1886 to allow foreign-flagged vessels easier access to the City as a pilot program. This lobbying effort should be in conjunction with other U.S. passenger port destinations including those in Alaska, Hawaii, Oregon, and Washington.

## Pier 30-32

### **Finding 7:**

Under the 2012 GSW proposal, the Port would not have received rent from the leasing of Pier 30-32 to GSW for the next 66 years. Property tax revenue associated with the IFD that was to be established would have been used to repay the IFD bond for the next 30 years.

In contrast, if the Port simply sells Seawall Lot 330 to a third party for development, all of the property tax resulting from said development would go into the City's General Fund.

Furthermore, the Warriors' arena project conformed neither to the guidelines set forth in the SF Waterfront Special Area Plan (issued by BCDC) nor to the Waterfront Land Use Plan.

- **Recommendation 7:**

The Port should consider alternatives to fund the cost of rehabilitating Piers 30-32. The sale of Seawall Lot 330 could supply a large portion of \$68 M needed to strengthen the substructure for light use. The Jury recommends that the Port actively investigate alternative light uses for Piers 30-32. In addition to general park usage, sports fields for soccer, tennis, basketball, or other sports could be provided. Temporary venues for entertainment companies such as Teatro ZinZanni, Cirque de Soleil, and Cavalia would also not require an extensive substructure. Although not light use, the Port might also consider placement of a major marine research institute to fully utilize the unique characteristics of this site.

## America's Cup

### **Finding 8:**

The 34th America's Cup was a major monetary loss to the City's taxpayers to the tune of about \$6 million and a major loss to the Port of about \$5.5 million in unreimbursed Port expenditures. The City and the Port subsidized the America's Cup at taxpayers' expense. The City received no direct revenue from the 34th America's Cup event in the form of revenue sharing or venue rent. In negotiating event and/or development agreements at the waterfront, the City and Port do not seek to make a profit from the deal but is simply looking to recover its costs and break even.

- Recommendation 8a:

All major events at the Port, like the America's Cup, must be approved by the Port Commission and the Board of Supervisors.

- Recommendation 8b:

Prior to approval, the City should require a validated cost proposal using fair market rental rates, revenue sharing with the Port, marquee billing for the City, full post-event accounting, and posting of all event financials on the Port website within one month after completion of the event. Said report shall include an itemization of:

- The amount and source of all revenue generated by the event.
- The amount, payor, and payee of each cost incurred for the event.
- The name of each event cancelled, if any, as a result of the approval of the event and the amount of revenue lost as a result of the cancellation.

## Pier 70

### **Finding 9:**

The Port does not have an official policy governing the process for proposed development projects. Many projects are moved ahead with minimal community input, often in the form of a quick review by the CAC and Planning Department then forwarded to the Board of Supervisors for final approval.

The Pier 70 Master Plan was developed with significant community outreach to both the general public and affected neighborhood associations. The Plan represents a balance of community needs and the requirement of the developer to obtain a reasonable return on investment.

- Recommendation 9a:

The Port should ensure ongoing community input be maintained until an acceptable compromise is reached on the final plans.

- Recommendation 9b:

The Jury neither supports nor opposes the development of Pier 70 but we strongly endorse the extensive public outreach and community input as part of the design and development process of

the Pier 70 Master Plan. We recommend that the Port follow this model as a template for all major developments on Port lands.

### Mission Rock

#### **Finding 10:**

Although the development of Pier 48 and Seawall Lot 337, also known as Mission Rock, began in 2007, there has been insufficient information and involvement for community groups, neighborhood and merchants' associations, and residents potentially affected by this project.

- Recommendation 10:

The Jury recommends increased publicity and outreach so that an acceptable compromise can be reached on the scope of this development.

### Financing of Capital Improvements

#### **Finding 11:**

Although State Law does not require voter approval for the issuance of Port IFD Bonds, voter approval yields greater public awareness of the costs of proposed Port developments.

- Recommendation 11:

The Jury recommends that the Port Commission work with the Board of Supervisors to place a referendum before the voters that asks for approval to issue IFD Bonds. Such a referendum should specifically state the total amount of bonded indebtedness that the Port seeks to incur through IFD Bonds, the specific sources of funds for IFD Bond repayment, and the length of time required to discharge any IFD Bond debt.

## RESPONSE MATRIX

FINDINGS	RECOMMENDATIONS	RESPONSE REQUIRED
<p><u>Who is Making Decisions?</u></p> <p><b>Finding 1:</b> Recent activities at the Port have been strongly influenced by the Mayor’s office. These included the promotion of the 8 Washington Street project, most aspects of the 34<sup>th</sup> America’s Cup races, a “legacy project” at Pier 30-32, and an underutilized cruise ship terminal at Pier 27. The Port Commission readily gave approvals with minimal public input. All other commissions dealing with land use decisions, including Planning, Building Inspection, and Board of Permit Appeals, are not appointed solely by the mayor. Section 12 of the Burton Act specifies that all five Harbor Commissioners be appointed by the Mayor and confirmed by the Board.</p>	<p>The Port Commission should be restructured to reflect more public interest. The Jury recommends that the Board of Supervisors seek necessary changes in state law to allow a charter amendment to be submitted to the public for revision of the current five-member Port Commission appointed by the Mayor to a Port Commission with three mayoral appointees and two by the Board of Supervisors. We recommend that this change be put before the voters in 2015.</p>	<p>Board of Supervisors</p>
<p><u>Waterfront Land Use</u></p> <p><b>Finding 2:</b> The Port is primarily a land bank and real estate management company; only 25% of revenue is from maritime activities. Annual revenues of \$82 million are not sufficient to meet the needs for infrastructure repair. Today the Port has a policy of attempting to repair all existing piers and related structures</p>	<ul style="list-style-type: none"> <li>▪ Recommendation 2a: Costs and benefits to repair and maintain these piers should be evaluated and weighed against the cost and benefits of not doing so. It may be possible that the sacrifice of some piers will reduce maintenance costs, thereby freeing monies for repair of more significant structures and create more open space.</li> <li>▪ Recommendation 2b: Other sources of revenue should be expanded. Maritime and industrial use in the Southern Waterfront has great potential. The Port is actively pursuing growth in this area and should</li> </ul>	<p>Port of San Francisco</p>



FINDINGS	RECOMMENDATIONS	RESPONSE REQUIRED
<p><u>Transportation</u></p> <p><b>Finding 5:</b> Further development along the waterfront will add new transportation requirements. Transportation along the waterfront does not meet current needs. Portions of the Embarcadero are closed during cruise ship arrivals and events at AT&amp;T Park. Emergency vehicles sometimes use the light rail right of way to circumvent traffic even when there is no major activity on the Embarcadero. San Francisco Municipal Transportation Agency master plan does not directly address development on Port lands.</p>	<ul style="list-style-type: none"> <li>▪ Recommendation 5: SFMTA should incorporate current and future transit needs, taking into consideration not only increased capacity requirements from individual projects, but the cumulative effect of multiple projects added to existing passenger loads. SFMTA must address reliability and increased capacity that will be required for all modes of transportation, especially the T-Line and motor coach lines connecting to the Pier 70 site. The VETAG system should be maintained to operate at maximum efficiency.</li> </ul>	<p>Port of San Francisco</p> <p>San Francisco Municipal Transportation Authority</p>
<p><u>Cruise Ship Terminal</u></p> <p><b>Finding 6:</b> When it becomes operational, the Cruise Ship Terminal at Pier 27 is projected to be severely underutilized. This is because federal law, namely the Passenger Vessel Services Act of 1886, prohibits foreign-flagged passenger ships from calling on two U.S. ports without an intervening foreign port. This Act greatly restricts the use of the newly built Cruise Ship Terminal. The Port estimates that the use of the terminal would increase from the current 50 visits per year to 150 visits if the Passenger Vessel Services Act of 1886 were amended or the Port were granted an exemption for a pilot program. It is also estimated that there is between \$750,000 and \$1 million economic benefit to the City from each docking. This includes ship provisioning, tourism, berthing fees and tugboats.</p>	<ul style="list-style-type: none"> <li>▪ Recommendation 6: The City should immediately begin lobbying for modifications to the Passenger Vessel Services Act of 1886 to allow foreign-flagged vessels easier access to the City as a pilot program. This lobbying effort should be in conjunction with other U.S. passenger port destinations including those in Alaska, Hawaii, Oregon, and Washington.</li> </ul>	<p>Port of San Francisco</p> <p>Mayor</p> <p>Board of Supervisors</p>
<p><u>Pier 30-32</u></p> <p><b>Finding 7:</b> Under the 2012 GSW proposal, the Port would not have received rent from the leasing of Pier 30-32 to GSW for</p>	<ul style="list-style-type: none"> <li>▪ Recommendation 7: The Port should consider alternatives to fund the cost of rehabilitating Piers 30-32. The sale of Seawall Lot 330 could supply a large portion of \$68 M needed to strengthen the</li> </ul>	<p>Port of San Francisco</p>

FINDINGS	RECOMMENDATIONS	RESPONSE REQUIRED
<p>the next 66 years. Property tax revenue associated with the IFD that was to be established would have been used to repay the IFD bond for the next 30 years.</p> <p>In contrast, if the Port simply sells Seawall Lot 330 to a third party for development, all of the property tax resulting from said development would go into the City's General Fund.</p> <p>Furthermore, the Warriors' arena project conformed neither to the guidelines set forth in the SF Waterfront Special Area Plan (issued by BCDC) nor to the Waterfront Land Use Plan.</p>	<p>substructure for light use. The Jury recommends that the Port actively investigate alternative light uses for Piers 30-32. In addition to general park usage, sports fields for soccer, tennis, basketball, or other sports could be provided.</p> <p>Temporary venues for entertainment companies such as Teatro ZinZanni, Cirque de Soleil, and Cavalia would also not require an extensive substructure. Although not light use, the Port might also consider placement of a major marine research institute to fully utilize the unique characteristics of this site.</p>	
<p><u>America's Cup</u></p> <p><b>Finding 8:</b> The 34th America's Cup was a major monetary loss to the City's taxpayers to the tune of about \$6 million and a major loss to the Port of about \$5.5 million in unreimbursed Port expenditures. The City and the Port subsidized the America's Cup at taxpayers' expense. The City received no direct revenue from the 34th America's Cup event in the form of revenue sharing or venue rent. In negotiating event and/or development agreements at the waterfront, the City and Port does not seek to make a profit from the deal but is simply looking to recover its costs and break even.</p>	<ul style="list-style-type: none"> <li>▪ Recommendation 8a: All major events at the Port, like the America's Cup, must be approved by the Port Commission and the Board of Supervisors.</li> <li>▪ Recommendation 8b: Prior to approval, the City should require a validated cost proposal using fair market rental rates, revenue sharing with the Port, marquee billing for the City, full post-event accounting, and posting of all event financials on the Port website within one month after completion of the event. Said report shall include an itemization of: <ul style="list-style-type: none"> <li>○ The amount and source of all revenue generated by the event.</li> <li>○ The amount, payor, and payee of each cost incurred for the event.</li> <li>○ The name of each event cancelled, if any, as a result of the approval of the event and the amount of revenue lost as a result of the cancellation.</li> </ul> </li> </ul>	<p>Port of San Francisco</p> <p>Board of Supervisors</p> <p>Mayor</p>

FINDINGS	RECOMMENDATIONS	RESPONSE REQUIRED
<p><u>Pier 70</u></p> <p><b>Finding 9:</b> The Port does not have an official policy governing the process for proposed development projects. Many projects are moved ahead with minimal community input, often in the form of a quick review by the CAC and Planning Department then forwarded to the Board of Supervisors for final approval.</p> <p>The Pier 70 Master Plan was developed with significant community outreach to both the general public and affected neighborhood associations. The Plan represents a balance of community needs and the requirement of the developer to obtain a reasonable return on investment.</p>	<ul style="list-style-type: none"> <li>▪ Recommendation 9a: The Port should ensure ongoing community input be maintained until an acceptable compromise is reached on the final plans.</li> <li>▪ Recommendation 9b: The Jury neither supports nor opposes the development of Pier 70 but we strongly endorse the extensive public outreach and community input as part of the design and development process of the Pier 70 Master Plan. We recommend that the Port follow this model as a template for all major developments on Port lands.</li> </ul>	<p>Port of San Francisco</p> <p>Planning Department</p> <p>Department of Public Works</p> <p>Recreation and Parks Department</p>
<p><u>Mission Rock</u></p> <p><b>Finding 10:</b> Although the development of Pier 48 and Seawall Lot 337, also known as Mission Rock, began in 2007, there has been insufficient information and involvement for community groups, neighborhood and merchants' associations, and residents potentially affected by this project.</p>	<ul style="list-style-type: none"> <li>▪ Recommendation 10: The Jury recommends increased publicity and outreach so that an acceptable compromise can be reached on the scope of this development.</li> </ul>	<p>Port of San Francisco</p> <p>Planning Department</p>
<p><u>Financing of Capital Improvements</u></p> <p><b>Finding 11:</b> Although State Law does not require voter approval for the issuance of Port IFD Bonds, voter approval yields greater public awareness of the costs of proposed Port developments.</p>	<ul style="list-style-type: none"> <li>▪ Recommendation 11: The Jury recommends that the Port Commission work with the Board of Supervisors to place a referendum before the voters that asks for approval to issue IFD Bonds. Such a referendum should specifically state the total amount of bonded indebtedness that the Port seeks to incur through IFD Bonds, the specific sources of funds for IFD Bond repayment, and the length of time required to discharge any IFD Bond debt.</li> </ul>	<p>Port of San Francisco</p> <p>Board of Supervisors</p>

## METHODOLOGY

The San Francisco Civil Grand Jury's investigation of the Port of San Francisco was conducted spanning a period of six months. We interviewed twenty-four individuals representing many City departments, including the Port of San Francisco, the Office of the Mayor, San Francisco Municipal Transit Agency, Planning Department, Recreation and Parks and Board of Supervisors. In addition, individuals and representatives of other entities were interviewed, including neighborhood associations, trade unions, BCDC, ABAG, Forest City, Orton Development, and other experts in the history and finances of the Port of San Francisco.

The Jury reviewed more than 175 documents, reports, web pages, and minutes. Port facilities and sites currently being considered for development were inspected. The Jury learned that some plans propose changes that potentially impact the waterfront decades into the future as a result of agreements that can extend as long as 50 to 66 years.

The Port is a complex entity and does not readily lend itself to an in-depth study within the time constraints of the term of this year's Civil Grand Jury. There are many operational and financial aspects that are beyond the scope of this report. Our biggest challenge was to analyze the massive amount of information we acquired and then to focus our efforts on those areas that would have the greatest impact for the citizens of San Francisco, whom we represent.

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## GLOSSARY

ABAG—Association of Bay Area Governments

BCDC—Bay Conservation and Development Commission – California state agency that is dedicated to the protection and enhancement of San Francisco Bay and to the encouragement of the Bay's responsible use

CAC—Citizens Advisory Committee, appointed by the Port of San Francisco for evaluation and recommendation pertaining to specific projects

Break-bulk cargo – cargo that is not containerized

Burton Act—AB2649 transferred responsibilities for the Harbor of San Francisco from the State of California to the City and County of San Francisco in 1968

LASH—Lighter Aboard Ship. Containerized freight is lifted from a deep-water ship and placed on a shallow water transport (“lighter”) to be moved closer to shore for offloading to land.

IFD—Infrastructure Financing District is created to pay for public works. IFDs can divert property tax increment revenues and issue bonds for up to 30 years to finance highways, transit, water systems, sewer projects, flood control, childcare facilities, libraries, parks, and solid waste facilities. IFDs can only pay for capital improvements, not maintenance, repairs, operating costs, and services.

LRV—light rail vehicle

Public Trust—Dating from Roman law, the concept that the air, the rivers, the sea and the seashore were incapable of private ownership; they were dedicated to the use of the public. The State of California Public Doctrine states that tide and submerged lands are unique and that the state holds them in trust for the people.

RFP—Request For Proposal is issued when a project is approved. Developers respond by submitting a proposal to the controlling entity.

Seawall Lot—property owned by the Port inland from the seawall

SFMTA—San Francisco Municipal Transportation Authority

Term Sheet—After an RFP is accepted, the Term Sheet defines the responsibilities of the various parties in the development process. Term Sheets are non-binding.

VETAG—a signaling system for LRVs which identifies oncoming transit vehicles in order to prioritize traffic signals for the purpose of reducing travel time

## APPENDICES

### Ten-Year Capital Plan, 2015-2024

Memorandum to the Port Commission from Monique Moyer, Executive Director Port of San Francisco:

**“DIRECTOR’S RECOMMENDATION:** Approve Attached Resolution

This memorandum presents the update to the Port of San Francisco’s Ten-Year Capital Plan for Fiscal Year 2015-2024 (Capital Plan). The Capital Plan provides the public with reporting on the Port’s capital strategy, including a comprehensive inventory of the Port’s facilities, current conditions and capital needs, and available and projected capital resources over the next ten years. It is an important reference document that supports and guides capital expenditure and investment decisions by the Port Commission and staff.”<sup>55</sup>

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<sup>55</sup> Executive Summary, <http://www.sfport.com/modules/showdocument.aspx?documentid=7314>, full text available at <http://www.sf-port.org/modules/showdocument.aspx?documentid=7887>

## Key Project Sites Map



## Waterfront Design and Access

### City Connection Areas

The Waterfront Design & Access goals will have the greatest opportunity to be fully realized in the "City Connection Areas"--important places where the City and the waterfront converge and where reunification of the City and the waterfront is most likely to occur. Each of these areas possesses one or more of the following features:

**Open Space**

A significant existing or future public waterfront open space;

**Unique Character**

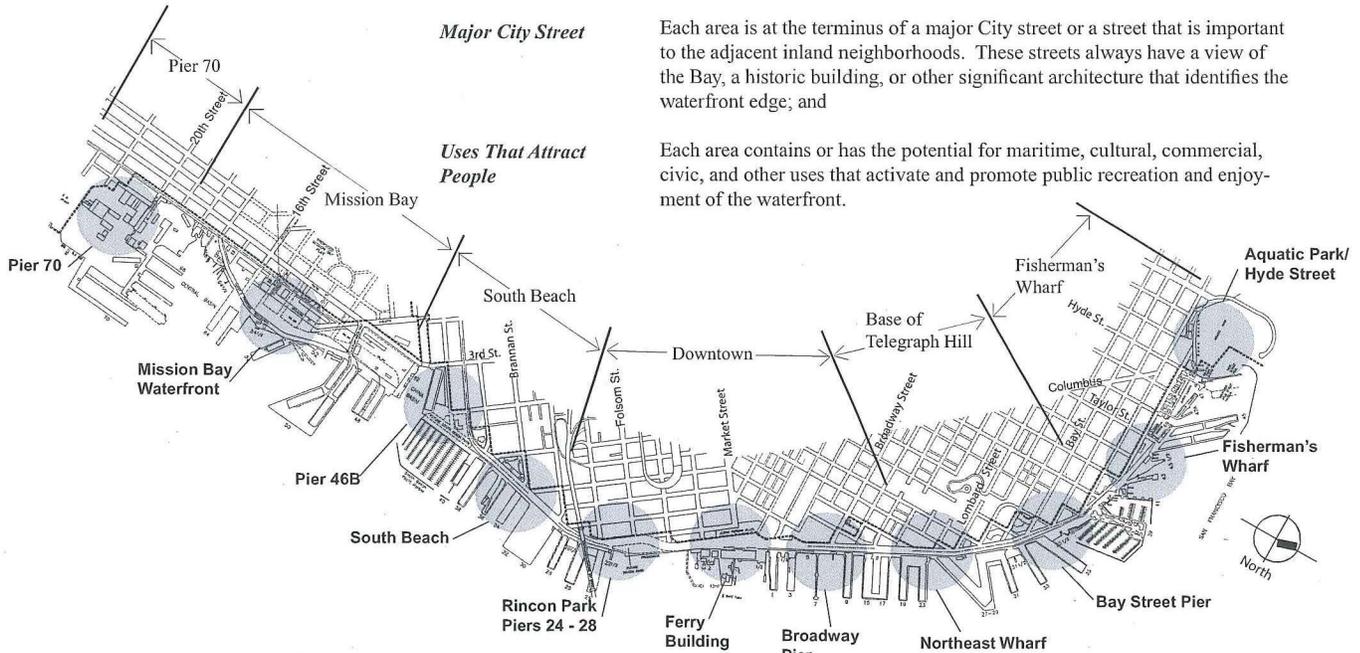
An architectural or maritime character of improvements that is unique to that area of the waterfront and adjacent neighborhood;

**Major City Street**

Each area is at the terminus of a major City street or a street that is important to the adjacent inland neighborhoods. These streets always have a view of the Bay, a historic building, or other significant architecture that identifies the waterfront edge; and

**Uses That Attract People**

Each area contains or has the potential for maritime, cultural, commercial, civic, and other uses that activate and promote public recreation and enjoyment of the waterfront.



The City Connection Areas are located at regular, five to ten minute walking intervals along the waterfront. Together, they establish a comprehensive network of individual places from Aquatic Park to Pier 70 where public access and open space, view and historic preservation objectives will be applied to new developments. Some of the areas are already well established such as Fisherman's Wharf. Others are identified in the Waterfront Plan as

"Mixed Use Opportunity Areas" where the development of new open spaces and/or public access, maritime activities, and commercial uses is targeted. Port properties south of Pier 70 are largely developed or reserved for container terminals which preclude their redevelopment as City Connection Areas.

<b>Aquatic Park/Hyde Street</b>	This area includes those portions of the swimming and rowing club docks and Bay waters which are within Port jurisdiction on the east side of Aquatic Park, the San Francisco Maritime National Historical Park at the Hyde Street Pier, and the new Hyde Street fishing harbor. Along with the Fisherman's Wharf Historic Walking Tour completed in 2001, these facilities will continue to enhance the maritime, historic and recreational character of Fisherman's Wharf.
<b>Fisherman's Wharf</b>	The Wharf exhibits a unique mix of fishing and visitor-oriented uses, and an eclectic built form. Expanded fishing industry operations, harbor facilities, ferry operations, and public open space on Seawall Lots 300 and 301 will complement existing visitor attractions and draw City residents to the area.
<b>Bay Street Pier</b>	This area will provide an important connection to the City where Bay Street meets the historic bulkhead buildings along The Embarcadero. Piers 31-35 and Seawall Lot 314 form a development opportunity area which, together with East Wharf Park, will provide a gateway to Fisherman's Wharf from the Northeast Waterfront.
<b>Northeast Wharf</b>	A new waterfront open space will be located at Pier 27, and include removal of a portion of the pier shed. It will provide a connection to the waterfront and views of Treasure Island for residents, workers and visitors to the base of Telegraph Hill area.
<b>Broadway Pier</b>	Pier 9 is a prime maritime site and Seawall Lots 322-I, 323 and 324 are prime sites for infill development. New uses should take advantage of the major public access amenities at Pier 7 and provide a focal point for the area where Broadway meets The Embarcadero.
<b>Ferry Building</b>	The Ferry Building is the focal point of the area. This historic landmark building and its environs will be restored as a regional transportation hub with public and commercial uses, a grand boulevard and new public plaza. Views from Herb Caen Way to the Bay will be enhanced.
<b>Rincon Park &amp; Piers</b>	Rincon Park will provide a new downtown open space with spectacular Bay views. The Park will be enhanced by the removal of dilapidated Pier 24 and development of new maritime and commercial recreation uses on Piers 26 and 28. Pier development will include new public access with views of the Bay Bridge and the City skyline.
<b>South Beach &amp; Pier 46B</b>	The South Beach area, which includes the new Giants ballpark, has undergone a transition from industrial uses to mixed residential and commercial uses. Piers 34 and 36 will be removed to create "Brannan Street Wharf," a major public open space to serve local residents and businesses, and ballpark visitors. This open space will also serve future maritime and commercial recreation uses on adjacent Piers 30-32.
<b>Mission Bay Waterfront</b>	This area's unique character is derived from an active mix of maritime uses along the shoreline ranging from cargo operations to recreational boating. Waterfront public access improvements will include new waterfront walkways along Terry Francois Boulevard and China Basin Channel with maritime and City views.
<b>Pier 70</b>	Located adjacent to the Port's ship repair yard in the heart of the industrial waterfront, this area includes historic Union Iron Works buildings (Buildings 101, 102, 104 and 113-114) which should be preserved and adaptively reused.

## Waterfront Land Use Plan, 2004 Amendments<sup>56</sup>

<sup>56</sup> Waterfront Design & Access, [www.sf-port.org/ftp/uploadedfiles/about\\_us/divisions/planning\\_development/WDesAcc.pdf](http://www.sf-port.org/ftp/uploadedfiles/about_us/divisions/planning_development/WDesAcc.pdf), see pp 16-17

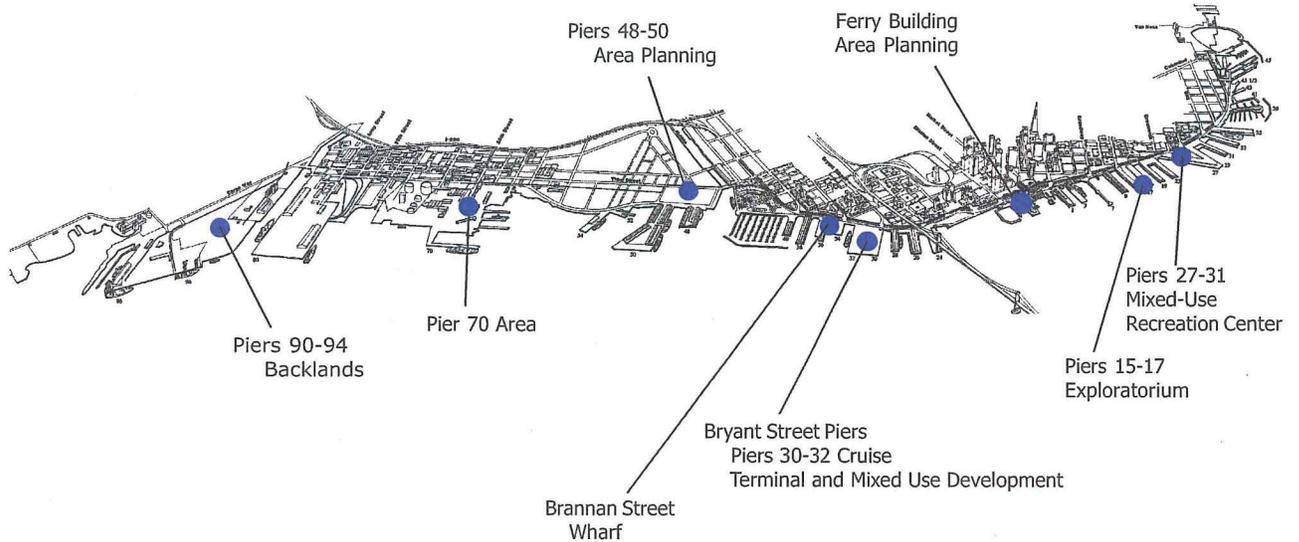


## Major Waterfront Projects Map

### Port of San Francisco

#### Appendix A: Major Waterfront Projects

RFQ for Real Estate Economics and Other Consulting Services



Go\Ping&Dev Project Status\Full Port Monthly Map

## Proposed Policy for Use of IFD on Port Property

### Overview

The Port and the Office of Economic and Workforce Development are collaborating on three major proposed waterfront projects: the GSW Arena LLC multi-purpose entertainment facility on Piers 30-32 and Seawall Lot 330; the Seawall Lot 337 Associates, LLC proposal for 2,500,000 sf of mixed use development on Seawall Lot 337; and the Forest City Development California, Inc. proposal for over 2,500,000 sf of mixed use development at the 25 acre Pier 70 waterfront site. The Port is also pursuing a mixed use development of the historic 20<sup>th</sup> Street buildings at Pier 70 with Orton Development, Inc.

Each of these projects is expected to generate significant growth in possessory interest tax and to require public finance proceeds to fund infrastructure to make the proposed projects financially feasible. Each project sponsor is seeking Port Commission and Board of Supervisors approval of a term sheet and a finding of fiscal feasibility within the next year in order to commence environmental review pursuant to the San Francisco Administrative Code.

City staff believes that it is critical to establish a policy framework for the use of infrastructure financing district (“IFD” or “district”) proceeds on Port property in advance of consideration of the subject term sheets so that project considerations do not drive (but rather inform) the City’s policy deliberations regarding IFD as a tool to enable development of Port property. It is also important to discuss financing strategies. Notably, the credit quality of IFD bonds is not tested.

It is very likely that credit enhancements through a pledge of special taxes levied under the Mello-Roos Community Facilities Act of 1982 (“Mello-Roos Act”) (see footnote 2 below) would significantly reduce the costs.

This memo includes the following:

#### **PORT OF SAN FRANCISCO**

**TEL 415 274 0400 TTY 415 274 0587 Pier 1, The Embarcadero**

*Port IFD Policy Page 2 of 5*

- A brief overview of the *nexus analysis* that the City, in consultation with the Port, conducted in 2004 (and refreshed in 2008), which examines tax revenues generated on Port property compared to the cost of City services provided on Port property; and
- 
- A summary of the proposed IFD policy on Port property, including proposed uses and potential debt strategies.

### Nexus Analysis

Pursuant to the Charter and the Burton Act, the Port maintains a Harbor Fund to fund Port operations. The basic purpose of the 2004 nexus analysis, and the follow-up 2008

study, was to examine the total applicable taxes (including property taxes, business taxes, sales taxes, etc.) generated from businesses and other revenues along Port property (such as parking ticket citations) and the cost of City services (Police, Fire, etc.) to serve business and the public along Port property. The study established that taxes generated from Port property are sufficient to pay for a baseline level of services.

The principle underlying the study is that the General Fund should not subsidize the Port, and that the Harbor Fund should not pay for City services unless taxes generated from Port property are not sufficient to fund those services. The Port pays for services that it opts to procure above a base level of services in its annual budget. For instance, the Port pays for additional police services in the Fisherman's Wharf area and often procures services from the Department of Public Works.

This principle should extend to waterfront development in that an IFD should be structured to ensure a fair allocation of costs and benefits between the City and the Port, which should be reassessed through the appropriations process over the life of the IFD. (Note: Following bond issuance, the allocation of tax increment to the IFD should be sufficient to pay debt service on bonds and replenish a debt service reserve fund).

### **Proposed IFD Policy**

The Port proposes to form an IFD along the entirety of Port property (the "Port IFD"); within the Port IFD, the Port would establish "project areas" (also referred to as "waterfront districts") encompassing each project site, but would only establish a project area when the related development is approved by the Board of Supervisors.<sup>57</sup>

Consistent with IFD law applicable to the proposed Port IFD, proposed uses of the Port IFD proceeds include:

- Repairs and upgrades to piers, docks and wharves and the Port's seawall
- Installation of piles, both to support piers and to support buildings where soil is subject to liquefaction
- Parks and shoreline improvements, where the Port has been unable to identify General Obligation bond funding to fund new parks

<sup>1</sup> The proposed policy assumes the Port will form only one IFD -- the Port IFD -- and that the Port will form project areas within the Port IFD. If the Port decides instead to form more than one IFD, then all references in the policy to a waterfront district should be read as references to an IFD.

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<sup>57</sup> The proposed policy assumes the Port will form only one IFD -- the Port IFD -- and that the Port will form project areas within the Port IFD. If the Port decides instead to form more than one IFD, then all references in the policy to a waterfront district should be read as references to an IFD.

- Utility infrastructure, including utility requirements to comply with water quality standards imposed by the Regional Water Quality Control Board
- Streets and sidewalks
- Seismic upgrades and improvements to the City’s seawall and other measures to address sea level rise
- Environmental remediation
- Historic rehabilitation
- Improvements to Port maritime facilities
- 

The Port proposes the following minimum criteria regarding the formation of IFD project areas (sometimes called “waterfront districts”) on Port property:

1. **Port land.** Consistent with the IFD law, the Port IFD may initially be formed only with Port land.
2. **Annexing Non-Port Land.** If an owner of non-Port land petitions to add adjacent property to a waterfront district in accordance with the IFD law, the City will consider on a case-by-case basis whether to annex such property and to what extent tax increment generated in the non-Port land but not used for waterfront district infrastructure should be subject to the City IFD Guidelines.
3. **CEQA.** Although the City may initially form the Port IFD to include all of the Port land, neither the Port IFD nor any project-specific project area will be authorized to use property tax increment until the City has completed environmental review of the proposed development project and any proposed public facilities to be financed with property tax increment from the project area.
4. **Priority of Improvements.** Waterfront districts must finance improvements that are consistent with the IFD law, the Port’s then-applicable Waterfront Land Use Plan, the Public Trust (if constructed on trust property), and the Port’s 10-Year Capital Plan.
5. **Economic Benefit.** The infrastructure financing plan (“IFP”) will include a projection for each project area/waterfront district of the amount of total revenue that the City’s General Fund is projected to receive as a result of the proposed development project and the number of jobs and other economic development benefits the waterfront district is projected to produce, similar to the type of analysis that City staff and consultants perform to comply with Chapter 29 of the Administrative Code to determine that projects requiring public funding are fiscally feasible and responsible.
6. **State and City matching contributions.** In those cases where the IFD Law authorizes the allocation of the State’s share of property tax increment to a waterfront district in proportion to the City’s allocation of tax increment to the waterfront district, the City will allocate to the waterfront district the amount of tax increment that will maximize the amount of the State’s tax increment that is available to fund eligible projects in the waterfront district.

7. **Amount of increment allocated.** The waterfront districts will fund eligible waterfront improvements necessary for each proposed development project in an amount up to \$0.65 per property tax dollar, or, where permitted by State law, up to \$0.90 per property tax dollar, until the costs of required infrastructure are fully paid or reimbursed. The allocation should be sufficient to enable the Port to (a) obtain fair market rent for Port leases, and (b) enable proposed development projects to attract private equity. No increment will be used to pay a developer's return. The Board of Supervisors in its discretion may allocate additional increment to other waterfront projects that require funding. Increment will be disbursed to the project area to fund (a) debt service and debt service coverage for bonds issued under

*Port IFD Policy Page 4 of 5*

the Mello-Roos Act ("Community Facilities District Bonds" or "CFD Bonds") or IFD bonds, and/or (b) eligible costs on a pay-as-you-go basis.<sup>58</sup>

8. **Excess increment.** Tax increment not required to fund eligible project-specific infrastructure will be allocated to the City's General Fund or to improvements to the City's seawall and measures to protect against sea level rise.

9. **Port Annual Capital Program.** If the Port issues Port revenue bonds<sup>59</sup> repaid by tax increment revenue generated in one or more waterfront districts, to further the purposes of Port Commission Resolution No. 12-22, adopting the Port's Policy for Funding Capital Budget Expenditures, the Port will annually invest in its annual Capital Program any tax increment revenue allocated to the waterfront district for the purpose of providing debt service coverage on Port revenue bond debt payable from tax increment.

10. **Funding for Infrastructure Maintenance.** Tax increment will be allocated to the Port IFD from a waterfront district only when the Port has identified a source of funding for the maintenance of any infrastructure to be financed. This source could be in the form of: (a) private financing mechanisms, such as a homeowners' association assessment; (b) a supplemental special tax (such as a community facilities district formed under the Mello- Roos Act) or assessment district (such as a community benefit district); or (c) the Port's maintenance budget or other allocation of the Port Harbor Fund.

### **Infrastructure Finance Plan Review and Approval**

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<sup>58</sup> For example, one vehicle for efficiently leveraging tax increment to finance public infrastructure would involve (i) formation of a community facilities district ("CFD") under the Mello-Roos Act and an IFD project area -- the boundaries of which are coterminous with the boundaries of the private development -- prior to construction of the public infrastructure, (ii) issuance of CFD bonds early in the development cycle, i.e., prior to generation of significant tax increment that can be allocated to the IFD, (iii) application of special taxes levied in the CFD to pay debt service as long as tax increment is not available and (iv) use of tax increment, when available, to pay debt service on the bonds, which allows a reduction in the amount of special taxes levied for that purpose

<sup>59</sup> City staff currently assumes that the preferred method for debt issuance would be a CFD bond repaid with IFD proceeds.

By Resolution 110-12, the Board of Supervisors stated its intention to form the Port IFD – “City and County of San Francisco Infrastructure Financing District No. 2 (Port of San Francisco). Resolution 110-12 contemplates distinct *project areas/waterfront districts* for each major project along the waterfront (such as Pier 70) and also contemplates that additional project areas will be added from time to time.

City staff will develop an Infrastructure Finance Plan (“IFP”) for the Port IFD, which will include a separate “IFP appendix” for each project area. Each IFP appendix will describe the sources and uses of funding for the project area. City staff recommends the following process for review and approval of each IFP appendix:

1. The Port, in consultation with other City agencies including but not limited to the Department of Public Works and the San Francisco Public Utilities Commission, will review and comment on horizontal infrastructure proposals from each project developer and obtain third-party cost estimates for such horizontal infrastructure;

*Port IFD Policy Page 5 of 5*

2. Companion transaction documents will include mechanisms to ensure a fair price for subject infrastructure work and to protect the City from cost overruns, such as bidding requirements or guaranteed maximum price contracts; and
3. Each IFP appendix will be subject to review by and a recommendation from the Capital Planning Committee to the Board of Supervisors prior to its vote on whether to adopt the IFP appendix.

### **Strategic Criteria**

- **Use IFDs where other Port moneys are insufficient.** Waterfront districts should be used to construct public facilities when the Port does not otherwise have sufficient funds to finance the improvements.
- **Use IFDs strategically to leverage non-City resources.** Waterfront districts should be used as a tool to leverage additional regional, state and federal funds. For example, IFDs may prove instrumental in securing matching federal or state dollars for transportation projects.
- **Continue the “best-practices” citizen participation procedures used to help City agencies prioritize implementation of public facilities funded by a waterfront district.** This could be achieved through regular and special presentations to the Port’s advisory groups and engaging regularly with other local municipal citizens advisory committees and stakeholder groups.
- **The Port, the Mayor’s Budget Office and the Controller will periodically conduct a nexus study, at five year intervals.** The nexus analysis will examine whether the cost of City services exceeds or is less than the total City general taxes and other revenues the City collects from Port property. The Mayor, the Board of Supervisors and the Port Commission may adjust the funding from the Port’s Harbor Fund to pay for these services in the Port’s annual budget.

## Major, Erica

---

**From:** Major, Erica  
**Sent:** Wednesday, August 27, 2014 10:21 AM  
**To:** Kimura, Ryan (REC)  
**Subject:** RE: Updated RPD Response to Port CGJ

Greetings:

The Clerk of the Board is in receipt of your updated response. You may find updates to File No. 140791 at the link below:

(COMPANION)

<https://sfgov.legistar.com/LegislationDetail.aspx?ID=1830500&GUID=DF97E300-E894-46DE-BA0C-139BA3D06292&Options=ID|Text|&Search=140791>

## Erica Major

Assistant Committee Clerk

Board of Supervisors

1 Dr. Carlton B. Goodlett Place, City Hall, Room 244 San Francisco, CA 94102

Phone: (415) 554-4441 | Fax: (415) 554-5163

---

**From:** Kimura, Ryan (REC)  
**Sent:** Wednesday, August 27, 2014 10:15 AM  
**To:** Major, Erica; Steeves, Asja (CON)  
**Cc:** Ballard, Sarah (REC); Ginsburg, Phil (REC)  
**Subject:** Updated RPD Response to Port CGJ

Attached please find the updated RPD response to the Port Civil Grand Jury Findings.

Regards,  
Ryan Kimura

## Ryan Kimura

Volunteer and Outreach Coordinator

San Francisco Recreation and Park Department | City & County of San Francisco  
McLaren Lodge in Golden Gate Park | 501 Stanyan Street | San Francisco, CA | 94117

(415) 831-2787 | [ryan.kimura@sfgov.org](mailto:ryan.kimura@sfgov.org)



Visit us at [sfrecpark.org](http://sfrecpark.org)

Like us on [Facebook](#)

Follow us on [Twitter](#)

Watch us on [sfRecParkTV](#)

Sign up for our [e-News](#)

(COMPANION FILE)  
140791

**Major, Erica**

---

**From:** Major, Erica  
**Sent:** Tuesday, August 12, 2014 9:11 AM  
**To:** Guerra, Antonio; Wheaton, Nicole (MYR); Moyer, Monique (PRT); Rahaim, John (CPC); Nuru, Mohammed (DPW); Ginsburg, Phil (REC); 'ed.reiskin@sfmta.com'  
**Cc:** Forbes, Elaine (PRT); Rodgers, AnMarie (CPC); Starr, Aaron (CPC); Martinsen, Janet (MTA); Breen, Kate (MTA); Lee, Frank W; Ballard, Sarah (REC); 'dillon.auyoung@sfgov.org'; Sakelaris, Kathleen (MTA)  
**Subject:** Response Reminder - Civil Grand Jury Report - The Port of San Francisco: Caught Between Public Trust and Private Dollars  
**Attachments:** REPORT - Port Public Trust Private Dollars.pdf  
**Categories:** 140791

Greetings All:

I'm following up on the email sent below requesting a copy of your Civil Grand Jury response for "The Port of San Francisco: Caught Between Public Trust and Private Dollars". To date we haven't received a response for your department to be included with the Board's legislative file. *Please submit your required response by August 18, 2014, via email or hand deliver a copy to the Clerk of the Board (City Hall, Room 244), Attn: Government Audit and Oversight Clerk.*

We anticipate the Board holding a committee hearing sometime in September and will update you as the date approaches. As a reminder, a representative from your department will be required to attend the Committee hearing to present your department's response and answer questions raised. *Please submit the name of the department representative who will be handling this matter and attending the hearing.*

Please feel free to contact me if you have any questions.

**Erica Major**

**Assistant Committee Clerk**  
Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244 San Francisco, CA 94102  
Phone: (415) 554-4441 | Fax: (415) 554-5163

---

**From:** Miller, Alisa  
**Sent:** Tuesday, June 24, 2014 4:57 PM  
**To:** Guerra, Antonio; Elliott, Jason (MYR); Moyer, Monique (PRT); Rahaim, John (CPC); 'ed.reiskin@sfmta.com'; Nuru, Mohammed (DPW); Ginsburg, Phil (REC)  
**Cc:** Forbes, Elaine (PRT); Rodgers, AnMarie (CPC); Starr, Aaron (CPC); 'Martinsen, Janet'; Breen, Kate (MTA); Auyoung, Dillon; Lee, Frank (DPW); Ballard, Sarah (REC)  
**Subject:** Civil Grand Jury Report: The Port of San Francisco

Hello all,

Within 60 days your department is required to respond to the 2013-2014 Civil Grand Jury Report, entitled "The Port of San Francisco, Caught Between Public Trust and Private Dollars" (attached).

Please make sure to email/deliver a copy of your department's response to the Office of the Clerk of the Board, Attn: Government Audit and Oversight Clerk, no later than August 18, 2014 (the date department responses are due to the Presiding Judge of the Civil Grand Jury). Your response will be included in the Board of Supervisors legislative file for their consideration at the GAO Committee hearing on this matter.

A representative from your department will be required to attend the Committee hearing to present your department's response and answer questions raised. Please submit the name of the department representative who will be handling this matter and attending the hearing.

If you have any questions, please don't hesitate to call or email me. Thank you.

*Alisa Miller*

Assistant Clerk

San Francisco Board of Supervisors

1 Dr. Carlton B. Goodlett Place, Room 244

San Francisco, CA 94102

415.554.4447 direct | 415.554.5163 fax

[alisa.miller@sfgov.org](mailto:alisa.miller@sfgov.org)

Click [HERE](#) to complete a Board of Supervisors Customer Service Satisfaction form.

~~~~~

**Disclosures:** *Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted.*

*Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.*

Miller, Alisa

140791

**From:** Miller, Alisa  
**Sent:** Tuesday, June 24, 2014 4:50 PM  
**To:** BOS-Supervisors  
**Cc:** BOS-Legislative Aides; Calvillo, Angela (BOS); Caldeira, Rick (BOS); Elliott, Jason (MYR); Jones, Jermain (MYR); Givner, Jon (CAT); Newman, Debra (BUD); Campbell, Severin (BUD); Steeves, Asja (CON)  
**Subject:** Civil Grand Jury Report: "The Port of San Francisco"  
**Attachments:** COB to BOS Memo and Report 06.24.14.pdf

Supervisors,

As you may know, the 2013-2014 Civil Grand Jury released their report, entitled "**The Port of San Francisco, Caught Between Public Trust and Private Dollars.**" Attached please find the Clerk of the Board's official transmittal to you, with an explanation of next steps pursuant to the California Penal Code.

A hearing will be held at the Government Audit and Oversight Committee within the next 90 days in order to formulate the Board's official response to the findings and recommendations.

*Alisa Miller*

Assistant Clerk  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102  
415.554.4447 direct | 415.554.5163 fax  
[alisa.miller@sfgov.org](mailto:alisa.miller@sfgov.org)

Click [HERE](#) to complete a Board of Supervisors Customer Service Satisfaction form.

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Miller, Alisa

140791

**From:** Miller, Alisa  
**Sent:** Tuesday, June 24, 2014 4:57 PM  
**To:** Guerra, Antonio; Elliott, Jason (MYR); Moyer, Monique (PRT); Rahaim, John (CPC); 'ed.reiskin@sfmta.com'; Nuru, Mohammed (DPW); Ginsburg, Phil (REC)  
**Cc:** Forbes, Elaine (PRT); Rodgers, AnMarie (CPC); Starr, Aaron (CPC); 'Martinsen, Janet'; Breen, Kate (MTA); Auyoung, Dillon; Lee, Frank (DPW); Ballard, Sarah (REC)  
**Subject:** Civil Grand Jury Report: The Port of San Francisco  
**Attachments:** REPORT - Port Public Trust Private Dollars.pdf

Hello all,

Within 60 days your department is required to respond to the 2013-2014 Civil Grand Jury Report, entitled "The Port of San Francisco, Caught Between Public Trust and Private Dollars" (attached).

Please make sure to email/deliver a copy of your department's response to the Office of the Clerk of the Board, Attn: Government Audit and Oversight Clerk, no later than August 18, 2014 (the date department responses are due to the Presiding Judge of the Civil Grand Jury). Your response will be included in the Board of Supervisors legislative file for their consideration at the GAO Committee hearing on this matter.

A representative from your department will be required to attend the Committee hearing to present your department's response and answer questions raised. Please submit the name of the department representative who will be handling this matter and attending the hearing.

If you have any questions, please don't hesitate to call or email me. Thank you.

*Alisa Miller*

Assistant Clerk  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102  
415.554.4447 direct | 415.554.5163 fax  
[alisa.miller@sfgov.org](mailto:alisa.miller@sfgov.org)

Click [HERE](#) to complete a Board of Supervisors Customer Service Satisfaction form.

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# SAN FRANCISCO PLANNING DEPARTMENT

file 140791

August 14, 2014

Honorable Cynthia Ming-mei Lee  
Presiding Judge  
Civil Grand Jury  
400 McAllister Street, Dept. 205  
San Francisco, CA 94102

Re: Response to Civil Grand Jury Report Regarding The Port of San Francisco

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

Honorable Judge Cynthia Ming-mei Lee:

The San Francisco Planning Department is in receipt of the Civil Grand Jury's report in June entitled "The Port of San Francisco, Caught Between Public Trust and Private Dollars." The Planning Department has reviewed the report and provides this response to the report's findings and recommendations as required. The Planning Department appreciates the time and effort that went into the production of this report and respectfully requests that the Grand Jury accept this letter in response.

In reviewing the Grand Jury Report, the Planning Department has been asked to respond to three findings and four recommendations. Attached to this letter is an item-by-item response to the specific findings and recommendations of the Civil Grand Jury Report that were directed at the Planning Department.

Sincerely,

John S. Rahaim,  
Director of Planning

Cc: San Francisco Planning Commission

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2014 AUG 15 PM 4:42  
AL

SEE UPDATED VERSION

## FINDING

FINDING 4. The priority of the Port for development is to create an income stream for capital improvements rather than a determination of how best to enhance the quality of life for the residents of the City. Port revitalization has been enhanced in the past by adherence to the Waterfront Land Use Plan. Developments have provided local business opportunities, mixed housing where appropriate, stronger public transit options, maintenance of height and bulk limits, and preservation of view corridors. Some uses, however, both current and proposed, of Port land do not conform to the Waterfront Land Use Plan. Zoning and height limits have been changed by the Planning Department and the Mayor's Office. There is a lack of transparency in development proposals, particularly in regard to input from the Mayor's Office and active involvement of former Mayoral staff advocating on behalf of developers, giving rise to concerns that an agreement had been reached prior to public input.

*DEPARTMENT RESPONSE: We disagree that zoning and height limits are changed by the Planning Department and the Mayor's Office. Current law requires that a zoning and height changes be subject to neighborhood notification and public hearings at the Planning Commission, Board Land Use Committee, and full Board of Supervisors, with additional hearings required in certain circumstances at the Historic Preservation, Port Commission, Waterfront Design Advisory Committee and other bodies. Ultimately, the Board of Supervisors and the Mayor give approval to any zoning changes including height limits. These hearings and resultant decisions are preceded by substantial technical and policy analyses by City staff, tested by public scrutiny.*

## RECOMMENDATION

RECOMMENDATION 4b. The Port should ensure that changes or variances to the existing Waterfront Land Use Plan or the City's General Plan should have extensive public input before implementation.

*DEPARTMENT RESPONSE: This recommendation is already implemented. The current planning construct incorporates careful professional staff and other review of many issues to balance multiple public benefit and policy objectives, including land use density and compatibility, historic preservation, transportation, public open space, urban form and architectural design. This multi-layered review grew in response to articulated public values and the City's changing economic needs and design goals over the years and is tailored to the issues and needs raised by a particular project. The multiple public hearings provide ample opportunity for public input to shape development projects.*

*Any change to the City's General Plan fall under the responsibility of the Planning Commission. Under existing law and practice the Commission demands that professional planning feed data and analysis to the Commission in a transparent and public process that provides holistic assessment of the proposed change and*

*appointed and elected decision makers to determine the project that best meets public needs.*

RECOMMENDATION 9b. The Jury neither supports nor opposes the development of Pier 70 but we strongly endorse the extensive public outreach and community input as part of the design and development process of the Pier 70 Master Plan. We recommend that the Port follow this model as a template for all major developments on Port lands.

*DEPARTMENT RESPONSE: This recommendation will not be implemented for all projects. This three-year process was appropriate for the large, 68 acre site of Pier 70 but may be excessive for most projects.*

# Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp  
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [ ] inquires"
- 5. City Attorney request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Reactivate File No. [ ]
- 10. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission       Youth Commission       Ethics Commission
- Planning Commission       Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.**

**Sponsor(s):**

Clerk of the Board

**Subject:**

Board Response - Civil Grand Jury - The Port of San Francisco: Caught Between Public Trust and Private Dollars

**The text is listed below or attached:**

Resolution responding to the Presiding Judge of the Superior Court on the findings and recommendations contained in the 2013-2014 Civil Grand Jury Report, entitled "The Port of San Francisco: Caught Between Public Trust and Private Dollars;" and urging the Mayor to cause the implementation of accepted findings and recommendations through his/her department heads and through the development of the annual budget.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only:

140939