

File No. 240203

Committee Item No. 3

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation

Date: March 18, 2024

Board of Supervisors Meeting: _____

Date: _____

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 / DRAFT Mills Act Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

OTHER

- Port/Public Works Presentation – March 18, 2024
- DRAFT Encroachment Permit and Maintenance
Agrmt and Addendum
- PW Order No. 210239 – March 14, 2024
- Port Comm Reso Nos. 24-03, 24-04 – January 23, 2024
- Planning Letter GP Consistency and CEQA Findings
– January 25, 2024
- _____
- _____
- _____
- _____

Prepared by: John Carroll

Date: March 14, 2024

Prepared by: _____

Date: _____

Prepared by: _____

Date: _____

1 [Master Encroachment Permit - Pier 70]

2

3 **Resolution granting revocable permission to the Port of San Francisco to maintain**
4 **encroachments in the public right-of-way, including but not limited to custom paving**
5 **materials, bicycle racks, and a historic building frame structure; delegating authority to**
6 **the Public Works Director, in consultation with the Port of San Francisco, to assign**
7 **responsibility for sidewalk maintenance and liability to various entities; granting**
8 **revocable permission to FC Pier 70, LLC to maintain an excess conduit in the public**
9 **right-of-way within the Pier 70 Project, Phase 1; adopting environmental findings under**
10 **the California Environmental Quality Act; making findings of consistency with the**
11 **General Plan, and the eight priority policies of Planning Code, Section 101.1; and to**
12 **authorize the Director of Public Works to enter into amendments or modifications to**
13 **the Permit and associated Agreements that do not materially increase the obligations**
14 **or liabilities to the City and are necessary to effectuate the purposes of the Permit and**
15 **associated Agreements or this Resolution.**

16

17 WHEREAS, This Resolution addresses the Board of Supervisors approval for certain
18 improvements in the public right-of-way within the Pier 70 Project site to be maintained by the
19 City and County of San Francisco acting by and through its Port Commission ("Port") and by
20 FC PIER 70, LLC, a Delaware limited liability company ("FC Pier 70"), the master developer of
21 this Pier 70 Project; and

22 WHEREAS, The Pier 70 Project, at this 28-acre site, is generally bounded by the
23 northern edge of 20th Street, San Francisco Bay to the east, the southern edge of 22nd
24 Street, and the eastern edge of Illinois Street; and includes improvements at the intersections
25 of Illinois Street and both 20th and 22nd Streets ("Project"); and

1 WHEREAS, The improvements included within Phase 1 of the Project are located
2 within portions of 20th, 21st, 22nd, Illinois, Louisiana, and Maryland Streets (the “Phase 1
3 Streets”), as more specifically shown in the maps and diagrams on file with the Clerk of the
4 Board of Supervisors in File No. 240203; and

5 WHEREAS, This Resolution addresses approval of a Master Encroachment Permit
6 with two components, each with an associated encroachment agreement (collectively, the
7 “Permit”) as described below:

8 (1) Encroachment Agreement for Port to maintain improvements in the public
9 right-of-way for the entire Project site, including improvements constructed for Phase 1 of the
10 Project, and providing for potential Port assignment of sidewalk maintenance responsibility to
11 another entity or entities; and

12 (2) Major Encroachment Permit for FC Pier 70 to maintain an excess
13 telecommunications conduit in the joint trench in the Phase 1 Streets; and

14 WHEREAS, California Statutes of 1968, Chapter 1333 (“Burton Act”) and San
15 Francisco Charter, Section 4.114 and Appendix B empower the San Francisco Port
16 Commission to use, conduct, operate, maintain, manage, regulate, and control the lands
17 within Port Commission jurisdiction subject to the public trust; and

18 WHEREAS, This Project is subject to that certain Disposition and Development
19 Agreement between the Port and FC Pier 70, recorded in the Official Records of the City and
20 County of San Francisco on May 25, 2018, as Document No. 2018-K619435 and approved by
21 the Board of Supervisors through the passage of Resolution 401-17, (the “DDA”) and that
22 certain Development Agreement between the City and County of San Francisco (“City”) and
23 FC Pier 70, recorded in the Official Records of the City and County of San Francisco on
24 May 25, 2018, as Document No. 2018-K619432 and which the Board of Supervisors
25 approved through Ordinance No. 224-17 (“Development Agreement”); and

1 WHEREAS, The Development Agreement and DDA provide for FC Pier 70 to construct
2 street, utility, and other infrastructure that would be accepted by the City as public right-of-
3 ways and public infrastructure, pending Board of Supervisors acceptance, which is being
4 considered in companion legislation on file with the Clerk of the Board of Supervisors in File
5 No. 240087; and

6 WHEREAS, The Development Agreement and DDA also provide for FC Pier 70 to
7 construct improvements in the public right-of-way that will not be accepted by the City and
8 instead will be maintained as encroachments by Port or FC Pier 70; and

9 WHEREAS, The Project-wide improvements that the Port will maintain as
10 encroachments include: street and sidewalk paving materials; one historic “Building 15” frame
11 structure (Phase 1 only); custom bollards, bicycle racks, street furniture, and trash cans;
12 wayfinding and interpretive signs; sidewalk landscaping and irrigation; retaining walls; and
13 other improvements as specified in the DDA and other Development Agreement documents
14 (“Port Encroachments”); and

15 WHEREAS, The improvements constructed for Phase 1 of the Project in accordance
16 with Final Subdivision Map No. 9585, its Public Improvement Agreement (Pier 70 28-Acre Site
17 Project) dated September 15, 2020, and the Infrastructure Plan and Specifications shown in
18 Street Improvement Permit No. 19 IE-00245 as-built drawings (“Phase 1 SIP”) include the
19 Project-wide improvements mentioned above including the frame of Building 15, and other
20 improvements as specified in the Phase 1 SIP (“Port Phase 1 Encroachments”); and

21 WHEREAS, Pursuant to Public Works Code, Sections 786 et seq., the Port requested
22 permission to maintain the Port Encroachments, including the Port Phase 1 Encroachments,
23 in the public right-of-way for the life of a master encroachment permit to be issued pursuant to
24 Public Works Code, Sections 786 et seq., which permit is to be memorialized by an
25 Interdepartmental Master Encroachment Permit and Maintenance Agreement between Public

1 Works and the Port (“Port IMEP”), a draft of which is on file with the Clerk of the Board of
2 Supervisors in File No. 240203; and

3 WHEREAS, Phase 1 Streets will include wayfinding and interpretive signs at a later
4 time and will be annexed into the Port IMEP; and

5 WHEREAS, The Project improvements also include sidewalks on each of the streets
6 within the Project; and

7 WHEREAS, Pursuant to Public Works Code, Section 706, sidewalk maintenance is
8 generally the responsibility of the fronting property owner; and

9 WHEREAS, An amendment to Public Works Code, Section 706 et seq. is being
10 considered in companion legislation on file with the Clerk of the Board of Supervisors in File
11 No. 240087, which amendment would establish that a long-term lessee of Pier 70 Project
12 property is responsible for the sidewalk maintenance and liability otherwise held by the Port
13 as property owner with respect to the property subject to the long-term lease; and

14 WHEREAS, Pursuant to Public Works Code, Section 786(b), a Master Encroachment
15 Permit authorizes the shifting of the responsibility for sidewalk maintenance and liability from
16 the fronting property owners to the Permittee, or the Permittee’s agent or assignee, such as a
17 homeowners’ association (“HOA”), subject to Board of Supervisors approval; and

18 WHEREAS, Pursuant to Public Works Code, Section 786(b), Port requested
19 permission to allow for the assignment of such responsibility to FC Pier 70, an HOA, or other
20 entity in the future; and

21 WHEREAS, The Port IMEP will include a provision that would allow the Public Works
22 Director, in consultation with the Port, to assign or approve the assignment of sidewalk
23 responsibility and liability to FC Pier 70, an HOA, or other entity in the future; and

24 WHEREAS, Pursuant to Public Works Code, Sections 786 et seq., FC Pier 70
25 requested permission from Public Works to temporarily maintain an excess utility conduit in

1 the public right-of-way in the form of an individual Major Encroachment Permit as a part of this
2 Master Encroachment Permit (“Conduit MEP”); and

3 WHEREAS, In Public Works Order No. 210239, dated March 14, 2024, the Director
4 recommended that the Board of Supervisors approve the subject Permit and its draft
5 Encroachment Permit Agreements, which order and related documents are on file with the
6 Clerk of the Board of Supervisors in File No. 240203 and incorporated herein by reference;
7 and

8 WHEREAS, In the same Order, the Director determined under Public Works Code,
9 Section 786.7(f)(3) that the public right-of-way occupancy assessment fees for Port
10 Encroachments and Conduit MEP are waived because all the encroachments are a condition
11 of the DDA and Development Agreement; and

12 WHEREAS, On January 23, 2024, the Port Commission held a public hearing and
13 adopted Resolution Nos. 24-03 and 24-04 to take various actions and make
14 recommendations regarding the Board of Supervisors consideration of accepting Phase 1
15 public infrastructure and regarding the encroachments described above; and

16 WHEREAS, Copies of the Port Commission Resolutions are on file with the Clerk of
17 the Board of Supervisors in File No. 240203 and are incorporated herein by reference; and

18 WHEREAS, In a letter dated January 25, 2024 (the “Planning Department Letter”), the
19 Planning Department determined that the actions contemplated in this Resolution comply with
20 the California Environmental Quality Act (“CEQA”, California Public Resources Code,
21 Sections 21000 et seq.) and that the contemplated actions do not trigger the need for
22 subsequent environmental review (the “Environmental Findings”), which determination is on
23 file with the Clerk of the Board of Supervisors in File No. 240203 and is incorporated herein by
24 reference, and the Board affirms this determination; and

1 WHEREAS, The Planning Department also determined in its Letter that the actions
2 contemplated in this Resolution are consistent, on balance, with the City's General Plan, and
3 eight priority policies of Planning Code, Section 101.1; now, therefore, be it

4 RESOLVED, The Board of Supervisors affirms the Planning Department's CEQA
5 determination and adopts the Environmental Findings as its own; and, be it

6 FURTHER RESOLVED, That the Board finds that the Permit is consistent with the
7 General Plan, and the eight priority policies of Planning Code, Section 101.1 for the reasons
8 set forth in the Planning Department Letter; and, be it

9 FURTHER RESOLVED, The Board accepts the recommendations of the Public Works
10 Order No. 240203 and approves the Permit, including the Port IMEP and Conduit MEP, as set
11 forth below; and, be it

12 FURTHER RESOLVED, Pursuant to Public Works Code, Sections 786 et seq., the
13 Board hereby grants revocable, non-exclusive, and non-possessory permission to the Port to
14 occupy the public right-of-way for purposes of maintaining the Port Encroachments, including
15 the Port Phase 1 Encroachments, under the terms of the Port IMEP; and, be it

16 FURTHER RESOLVED, Pursuant to Public Works Code, Section 786(b), the Board
17 hereby delegates to the Public Works Director, in consultation with the Port, the authority
18 under the Port IMEP to assign or approve the assignment of sidewalk responsibility and
19 liability to FC Pier 70, an HOA, or other entity in the future; and, be it

20 FURTHER RESOLVED, Pursuant to Public Works Code, Sections 786 et seq., the
21 Board hereby grants revocable, non-exclusive, and non-possessory permission to FC Pier 70
22 to occupy existing joint trench in the public right-of-way for the Phase 1 streets for purposes of
23 maintaining an excess telecommunications conduit, under the terms of the Conduit MEP
24 portion of the Permit on a temporary basis; and, be it

1 FURTHER RESOLVED, The Permit for the encroachments shall not become effective
2 until each Permittee executes and acknowledges the Permit and delivers said Permit and all
3 required documents to Public Works; and, be it

4 FURTHER RESOLVED, Each Permittee, at its sole expense and as is necessary as a
5 result of this permit, shall make the following arrangements:

6 (1) To provide for the support and protection of facilities under the jurisdiction of
7 Public Works, the San Francisco Public Utilities Commission, the San Francisco Fire
8 Department, other City Departments, and public utility companies;

9 (2) To provide access to such facilities to allow said entities to construct,
10 reconstruct, maintain, operate, or repair such facilities as set forth in the Permit;

11 (3) To remove or relocate such facilities if installation of encroachments
12 requires said removal or relocation and to make all necessary arrangements with the owners
13 of such facilities, including payment for all their costs, should said removal or relocation be
14 required; and

15 (4) Each Permittee shall assume all costs for the maintenance and repair of the
16 encroachments pursuant to the Permit and no cost or obligation of any kind shall accrue to
17 Public Works by reason of this permission granted; and, be it

18 FURTHER RESOLVED, No structures shall be erected or constructed within the public
19 right-of-way except as specifically permitted herein; and, be it

20 FURTHER RESOLVED, The Board delegates to the Public Works Director the
21 authority to: 1) approve and, if required, record said Permit and associated Agreements on
22 substantially the same terms as the drafts on file with the Clerk of the Board in Board File
23 No. 240203 and incorporated herein by reference; 2) divide the Permit into separate master
24 encroachment permits, major encroachment permits, or individual street encroachment
25 permits; 3) approve contiguous and non-contiguous annexation of new areas of the project

1 site into the Permit; and 4) approve assignments of rights and obligations from the original
2 permittee to the permittee’s agent or assignee; and, be it

3 FURTHER RESOLVED, That the Board directs the Public Works Director to submit a
4 copy of the final Permit and Agreements within 30 days of final issuance or execution,
5 whichever last occurs, to the Clerk of the Board; and, be it

6 FURTHER RESOLVED, The Board also authorizes the Director of Public Works to
7 perform and exercise the City’s rights and obligations under the Permit and to enter into
8 amendments or modifications to the Permit and associated Agreements; and, be it

9 FURTHER RESOLVED, That such actions may include without limitation, those
10 amendments or modifications that the Public Works Director, in consultation with the City
11 Attorney, determines are in the best interest of the City, do not materially increase the
12 obligations or liabilities of the City or materially decrease the obligations of the Permittee or its
13 successors, are necessary or advisable to effectuate the purposes of the Permit or this
14 resolution with respect to the encroachments, and are in compliance with all applicable laws;
15 and, be it

16 FURTHER RESOLVED, The Board, under Public Works Code, Section 786.7,
17 acknowledges waiver of the public right-of-way occupancy assessment fee in accordance with
18 the DDA, Development Agreement, and the Public Works Director’s determination for the Port
19 IMEP and Conduit MEP.

20
21
22 n:\legana\as2024\1800030\01740177.docx



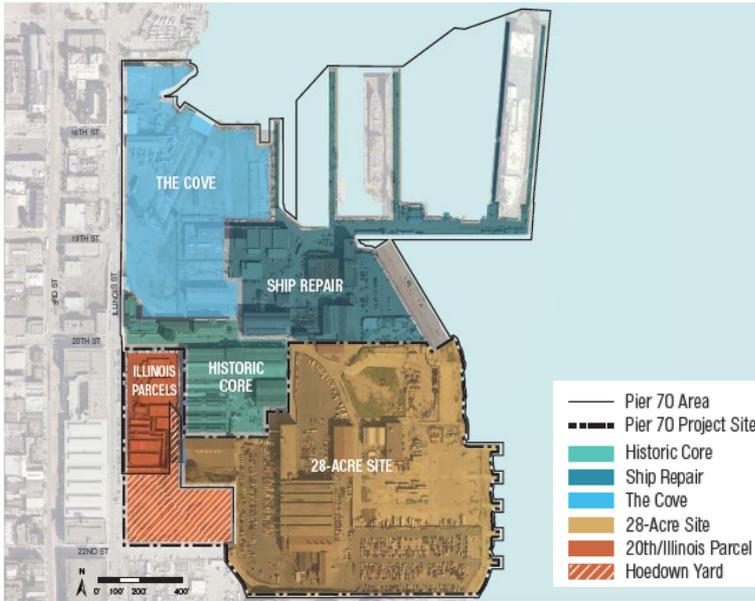
Pier 70

- 1) Infrastructure Acceptance Ordinance - File #240087
- 2) Encroachment Permit Resolution - File #240203

Board of Supervisors Land Use and Transportation Committee

March 18th 2024

Pier 70 Overview



Pier 70 Area

Corresponds to the 69-acre Pier 70 area, which includes the Cove, Ship Repair, the Historic Core, and the Pier 70 Project Site.

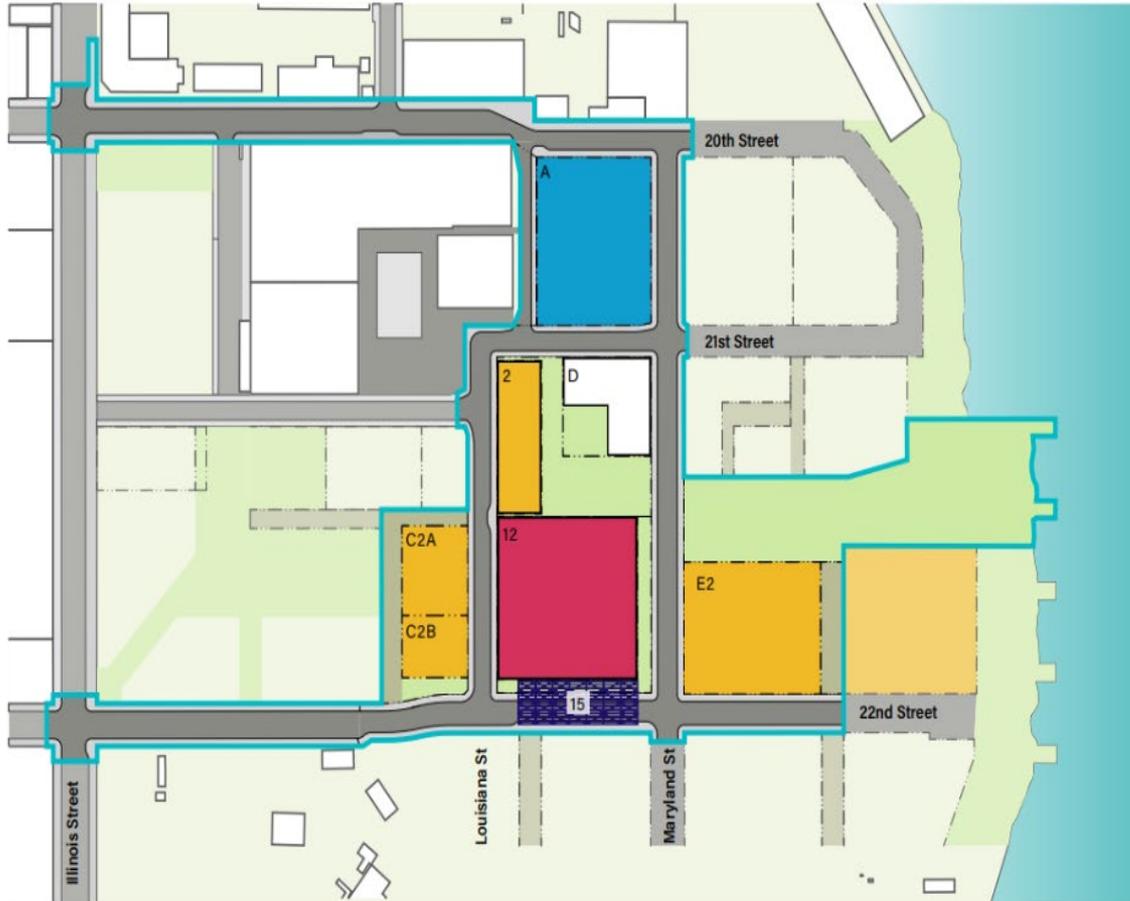


Pier 70 Project Site

A 35-acre Pier 70 development site at Full Build Out

- 3,000 residential units
- 1.75 million gsf commercial
- 9 acres open space
- 500,000 gsf retail, arts, light industrial

Pier 70 Phase 1 - Overview



-  600 residential units
-  460,000 gsf commercial
-  3.4 acres open space
-  150,000 gsf retail, arts, light industrial
-  Phase 1 boundary

Pier 70 Phase 1 - Infrastructure

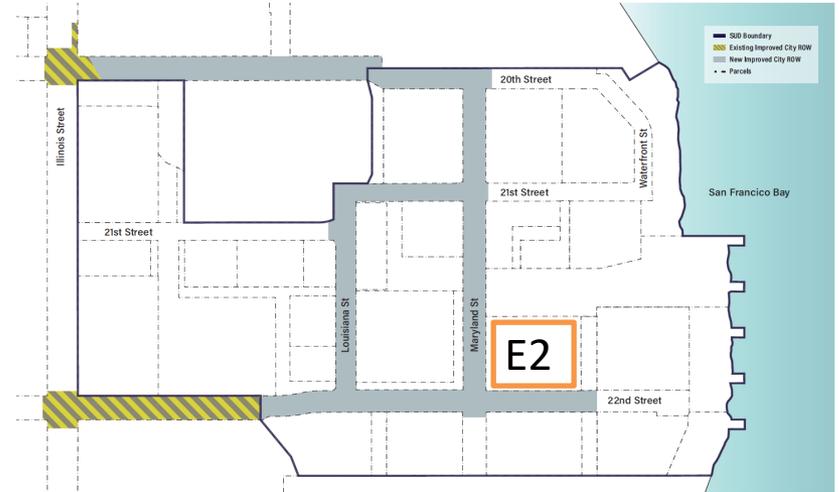
Infrastructure Acceptance Ordinance

– BOS File 24087

- Streets, sidewalks, curb ramps, sewer, water, streetlights, traffic signals, trees

City request:

- Accept Offers of Improvement
- Assume maintenance of public infrastructure improvements
- Declare Phase 1 public right-of-way (streets) open for public street and roadway use
- Establishing street widths and grades
- Delegation
 - Sidewalk Building E2



Attachment 1:
Pier 70 Phase 1 Area Map



Pier 70
Vicinity Map

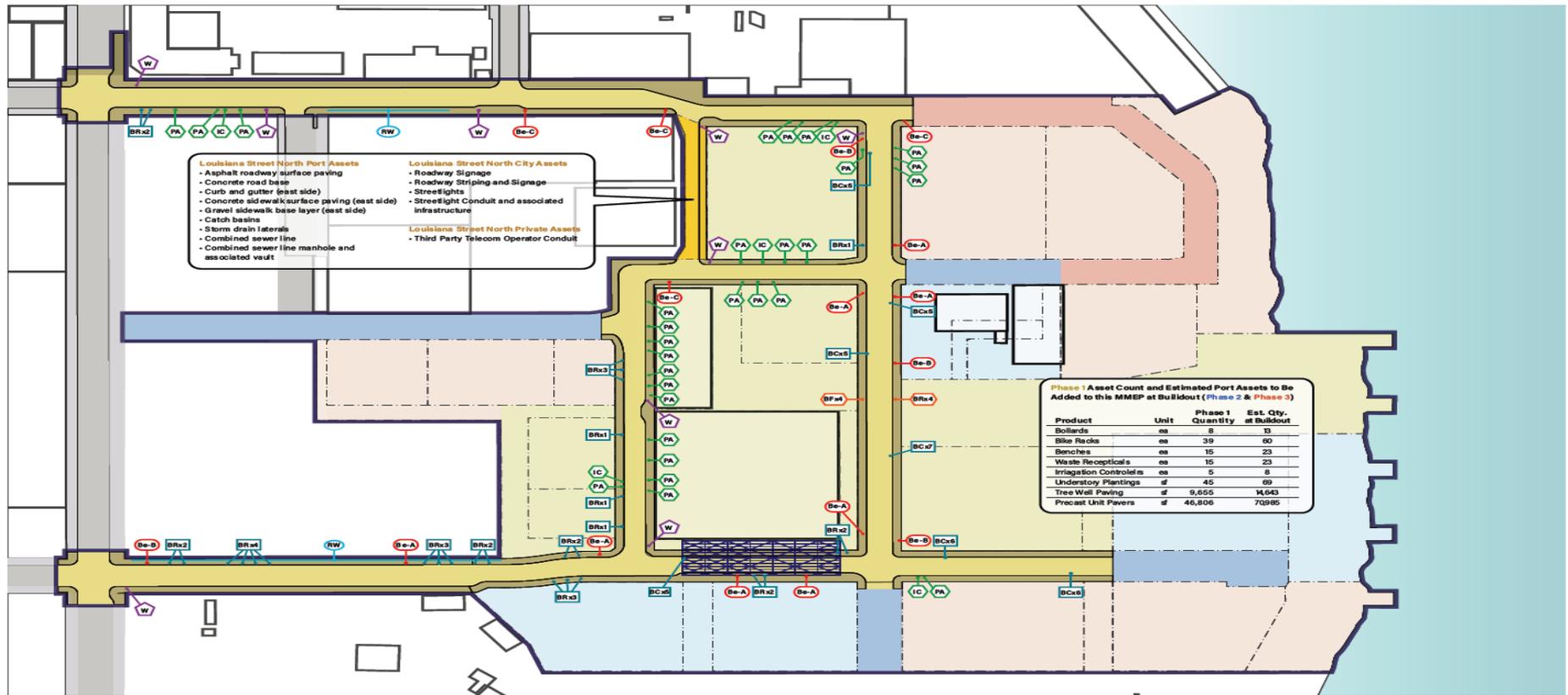
Encroachment Permits Resolution

- BOS File 240203

Interdepartmental Master Encroachment Permit (IMEP) - Port

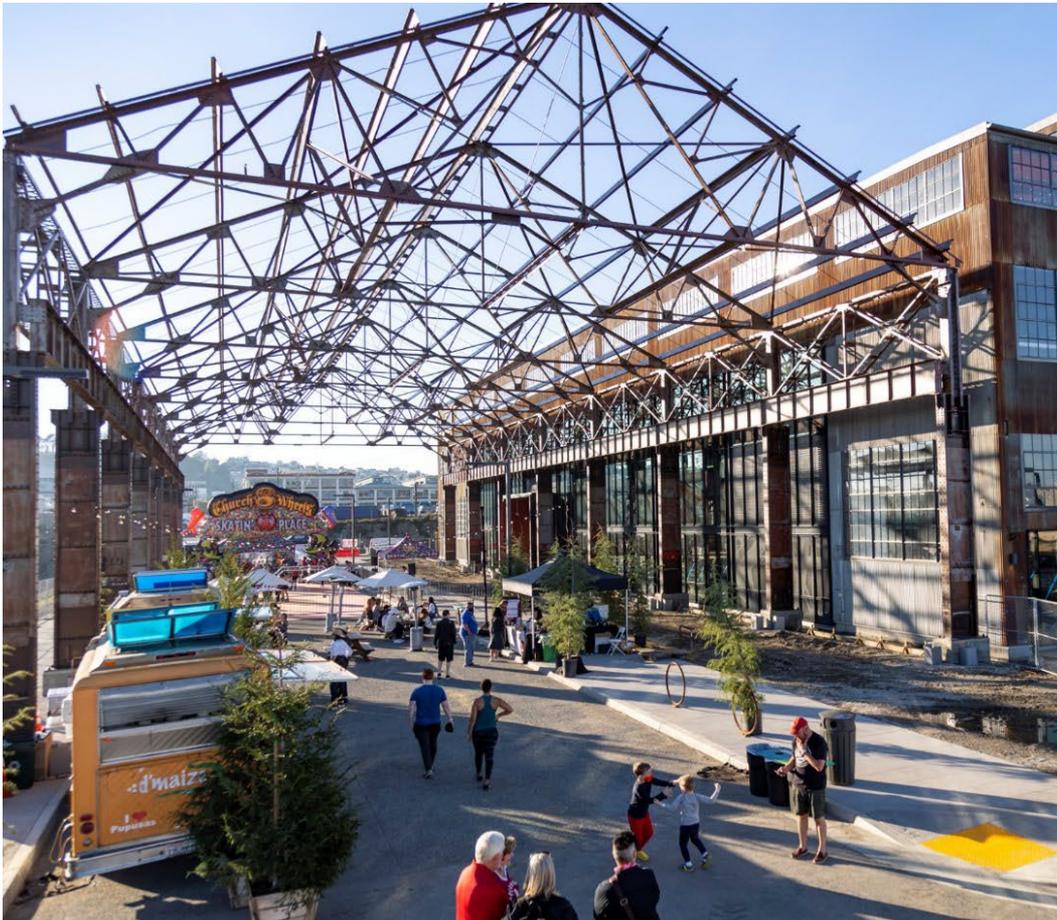
Major Encroachment Permit (MEP) – Third Party Communications conduits

Pier 70 IMEP – Port Maintained Encroachments

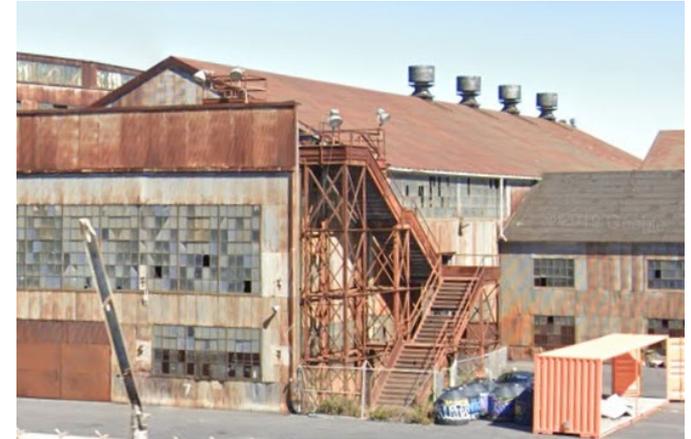


- Be-A Bench Type A
- Be-B Bench Type B
- Be-C Bench Type C
- BFx4 Fixed Bollards (4 Bollards)
- BRx4 Removable Bollards (4 Bollards)
- BRx3 Sidewalk Bike Racks (3 Racks)
- BCx6 In-Street Bike Corral with 6 Racks
- W Waste Receptacle (Trash/Recycling)
- PA Planting Area
- IC Irrigation Controller
- RW Retaining Wall
- B15 Building 15
- Louisiana Street (North Block)
- Phase 1
- Phase 1 ROW (Completed)
- Louisiana St. North (Port ROW)
- Phase 2
- Phase 2 ROW (Future)
- Phase 3
- Phase 3 ROW (Future)

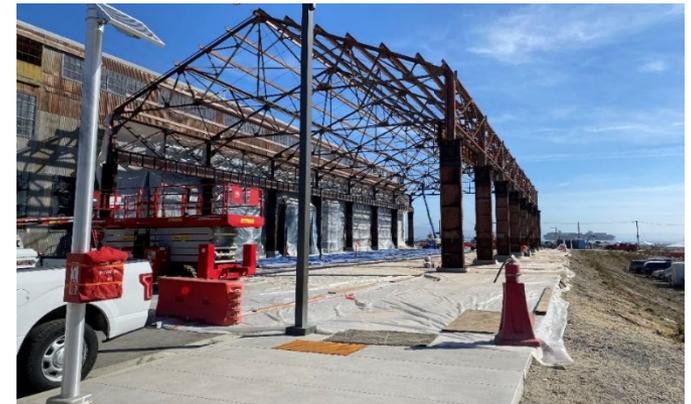
IMEP – Port Infrastructure – Building 15



Completion and Activation



Original Building 15



During Refurbishment

Pier 70 IMEP – Pavers & Cobble stones



Maryland Street Pavers

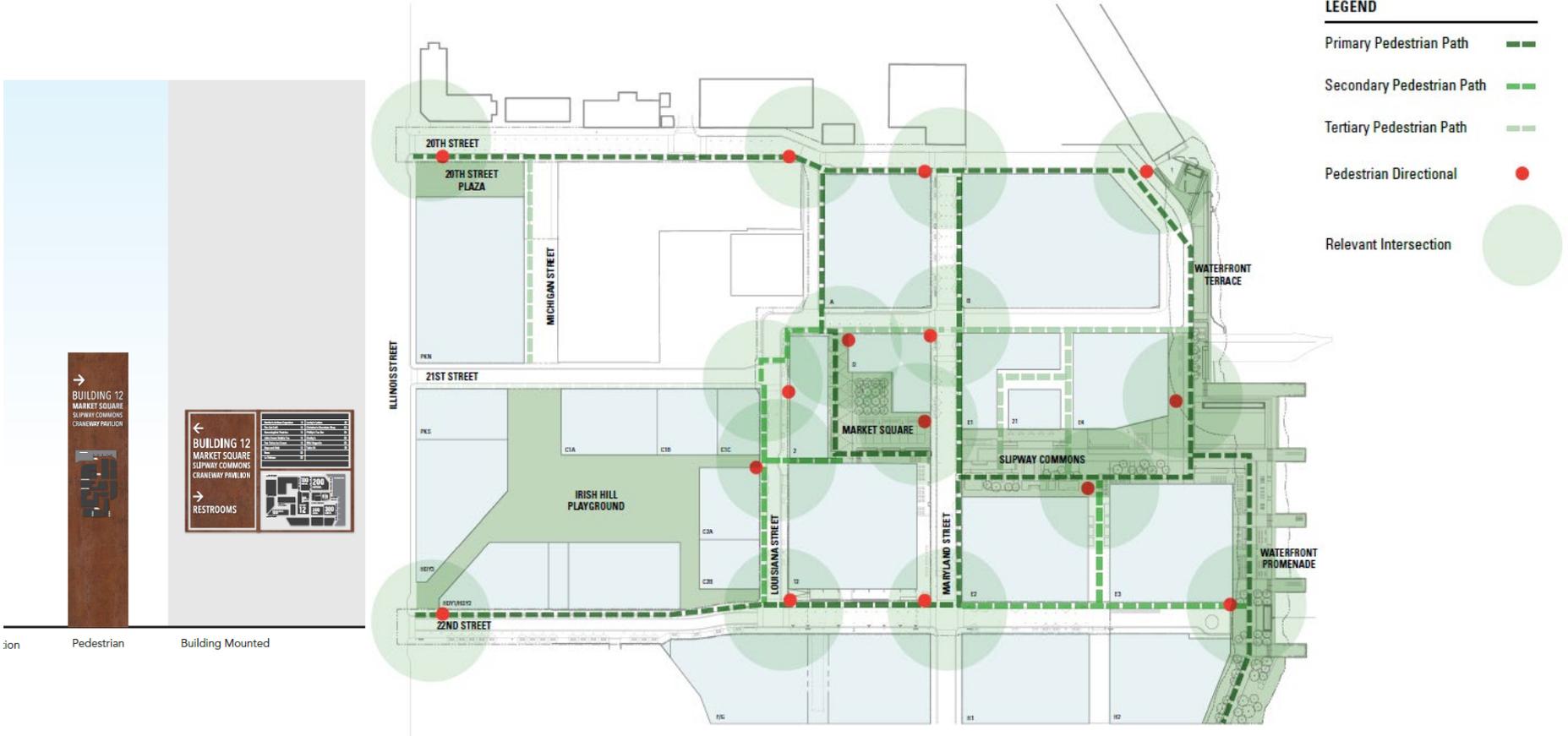
Cobble Stones – 20th Street

Pier 70 IMEP – Sidewalk Infrastructure



- Custom Sidewalk Furniture
 - Benches
 - Bollards
 - Bike rack
 - Landscaping
 - Trash cans

Pier 70 IMEP – Interpretive signage concept



Pier 70 - Summary

BOS File 240087 – Ordinance:

- Accept Offers of Improvement
- Assume maintenance of public infrastructure improvements
- Declare Phase 1 public right-of-way (streets) open for public street and roadway use
- Establishing street widths and grades
- Delegation to Public Work Director
 - Sidewalk Acceptance

BOS File 240203 – Resolution:

- Approval of Encroachment Permits

Project Contacts

City

- SFPW – Cathal.Hennessy@sfdpw.org
- SF Port – Christine.Maher@sfport.com

Development Partners

- FC Pier 70 – Tim.Bacon@Brookfieldpropertiesdevelopment.com



**INTERDEPARTMENTAL MASTER ENCROACHMENT PERMIT
AND MAINTENANCE AGREEMENT (PIER 70)**

1. PARTIES AND BACKGROUND

1.1 Parties. The City and County of San Francisco Public Works (the “**Department**” or “**Public Works**”) enters into this Encroachment and Maintenance Agreement (“**Agreement**”) with the Port of San Francisco (the “**Permittee**” or “**Port**”), on this date, February 27, 2024 for reference purposes only (“**Reference Date**”). The Interdepartmental Master Encroachment Permit collectively refers to the Department approved plan(s), street improvement permit(s), and other authorizations, and this Agreement, including its Attachments, Addenda, and accompanying documents (the “**Permit**” or “**IMEP**”). In this Agreement, “the **City**” refers to the City and County of San Francisco and all affiliated City agencies including, but not limited to, the Department, the San Francisco Public Utilities Commission (“**SFPUC**”), the San Francisco Fire Department (“**SFFD**”), the San Francisco Municipal Transportation Agency (“**SFMTA**”), and Port in its regulatory capacity, but not in Port’s proprietary capacity as landowner and Permittee. (Port and City are collectively, the “**Parties**”).

1.2 Background.

1.2A This Interdepartmental Master Encroachment Permit is approved by the Board of Supervisors of the City and County of San Francisco and issued to the Port of San Francisco, a department of the City and County of San Francisco under the authority of the Port Commission and pursuant to its trust obligations pursuant to the Burton Act. The terms of this Permit are based upon the identity and relationship of Public Works and the Port as constituent parts of the City and County of San Francisco, and as cooperative partners in exercising their respective responsibilities pursuant to the San Francisco Charter, Municipal Code, California Constitution, and other applicable laws. The Parties acknowledge and anticipate that the terms and conditions may differ for a Master Encroachment Permit issued to a different permittee, including pursuant to any assignee hereunder.

1.2B The City entered into a Development Agreement with FC Pier 70 LLC (“**Master Developer**”) dated as of May 2, 2018, and recorded in the City’s official records on May 25, 2018, as Instrument No. DOC-2018-K619432-00 (the “**DA**”), and Port entered into a Disposition and Development Agreement with Master Developer, dated as of May 2, 2018, and recorded in the City’s official records on May 25, 2018, as Instrument No. DOC-2018-K619435-00, as may be amended (the “**DDA**”).

1.2C The Port and Master Developer also entered into a Master Lease dated as of May 2, 2018, a memorandum of which was recorded in the Official Records on May 25, 2018 as Document No. 2018-K619436-00 (the “**Memorandum of Master Lease**”), as amended by that certain First Memorandum of Technical Corrections recorded in the Official Records on September 12, 2019 as Document No. 2019-K830531, and as further amended by that certain Second Memorandum of Technical Corrections dated as of January 15, 2020 and recorded in the

Official Records on January 16, 2020 as Document No. 2020-K891134 (as amended, the “**Master Lease**”).

1.2D Each of these agreements related to the development of a portion of the Port’s property, which includes the area subject to the Pier 70 Special Use District (SF Planning Code Section 249.79) (the “**SUD**”), which is generally bounded by 20th Street on the north, Illinois Street on the west, 22nd Street on the south, and the San Francisco Bay on the east. Pursuant to the DDA, Master Developer will construct throughout the SUD, roadways, utility and traffic facilities, and other appurtenances, which are intended to be accepted by the City.

1.2E The purpose of this Agreement is to authorize the construction, placement, maintenance and repair of the custom improvements that will be located within the public right-of-way from time to time. This Agreement delegates to the Public Works Director the authority to amend this Agreement from time to time as necessary to cover future custom improvements constructed pursuant to the DDA.

2. PERMIT INFORMATION

2.1 Interdepartmental Master Encroachment Permit (IMEP) Approval: Board of Supervisors Resolution No. [REDACTED] on file with the Clerk of the Board in File No. [REDACTED].

2.2 Description/Location of Property (See Attachment 1): The Pier 70 28-Acre Site Project Area, as described in Attachment 1 (the “**Project Area**”). The Pier 70 project is roughly bounded by the northern edge of the 20th Street right-of-way, San Francisco Bay to the east, the southern edge of the 22nd Street right-of-way, and the eastern edge of the Illinois Street right-of-way, and the intersections of Illinois Street and both 20th and 22nd Streets.

2.3 Description/Location of Full Project Area Subject to Permit (See Attachment 2, Global Diagram): Those portions of 20th, 21st, 22nd, Illinois, Louisiana (except between 20th and 21st Streets), Maryland, Michigan (except between 20th and 21st Streets), and Waterfront Streets within the boundaries described in Section 2.2, above.

2.4 Description of Proposed Improvements (See Attachment 2):

- (a) Cobblestones and pavers in streets, sidewalks, and crosswalks
- (b) Custom benches
- (c) Custom bike racks
- (d) Custom waste receptacles
- (e) Bollards
- (f) Wayfinding and interpretive signs
- (g) Building 15 Structural Frame
- (h) Sidewalk landscaping, irrigation, and tree well pavers unit pavers
- (i) Retaining walls

The term “**Improvements**” shall mean those improvements in the public right-of-way as described

in the attachments listed in Section 2.8, the Infrastructure Plan (DDA Exhibit B8), and, once issued, the street improvement permit or other permits for encroachments for each phase (“SIPs”), as those attachments and SIPs are amended and supplemented from time to time, including as Permit Area is annexed and as updated with “as-built” plans. Public Works will add Improvements owned by Port to the City’s GIS database.

2.5 Permit Type: Interdepartmental Master Encroachment Permit.

2.6 Master Developer

FC Pier 70, LLC, a Delaware limited liability

Brookfield Properties

Attn: _____

685 Market Street, Suite 500

San Francisco, California 94105

Re: Pier 70

2.7 Permittee

The Port of San Francisco

Attn: Elaine Forbes, Executive Director

Pier 1, The Embarcadero

San Francisco, CA 94111

2.7 Contact Information. The Permittee shall provide to Public Works, Bureau of Street Use and Mapping (“BSM”), SFMTA, 311 Service Division, and SFPUC the information for a minimum of two (2) contact persons with direct relation to or association with, or is in charge of or responsible for, the Permit. Permittee shall notify both Public Works’ Bureau of Street Use and Mapping and SFMTA within thirty (30) calendar days of any changes in the Permittee’s personnel structure, and submit the required contact information of the current and responsible contacts. If and when the City’s 311 Service Division (or successor public complaint system program) allows direct communications with the contact person(s) for the Permit, the Permittee shall participate in this program.

Contact Person Number 1

Last Name, First Name: _____ [Port to provide]

Title/Relationship to Owner: _____

Phone Numbers: _____

Email Addresses: _____

Mailing Address: _____

Office Address: _____

Contact Person Number 2

Last Name, First Name: _____ [Port to provide]

Title/Relationship to Owner: _____

Phone Numbers: _____

Email Addresses: _____

Mailing Address: _____
Office Address: _____

2.8 List of Attachments. The documents listed below are attached to or accompany this Permit, which will be amended or further supplemented with the documents identified in this Section 2.8 and Section 5 following annexations of Permit Areas into the Permit.

Attachment 1: Property Information. Map identifying the property.

Attachment 2: Global Area and Permit Area Documentation.

The “**Global Area**” refers to the full, project-wide area that will include Improvements subject to this Permit. The “**Global Area Documentation**” shall consist of the following:

- (a) Diagram showing the Global Area and generally describing the type and location of Improvements subject to this Permit for all phases of the project (“**Global Diagram**”).
- (b) A general description of the Improvements.

The “**Permit Area**” refers to areas that include constructed or installed Improvements subject to Permittee’s maintenance responsibility. The Permit Area shall refer to areas for which a Notice of Annexation has been approved by the Director, and if required pursuant to Section 6.1, has been recorded, which may include Improvements subject to maintenance responsibilities that have been assigned to a Home Owners’ Association or Master Owners’ Association (“**Owners’ Association**”),. As described in Section 6, subsequent Notices of Annexation shall establish specific Permit Areas and, if required, identify the fronting properties associated with the Permit Areas. The “**Permit Area Documentation**” shall consist of the following:

- (c) Written description of the area where the encroachment(s) exist and the boundaries.
- (d) A detailed description of the Improvements.
- (e) Diagram showing the Permit Area and identifying all Improvements in the Permit Area (“**Precise Diagram**”). The Precise Diagram shall be a separate document from the SIPs.

Attachment 3: Maintenance Documents

Attachment 3A: Maintenance Matrix. Table listing all Improvements in the Global Area and identifying the maintenance responsibility for them (“**Maintenance Matrix**”). The table shall include all physical treatments, facilities, and elements, whether standard or custom, to clarify responsibility. As used herein, the term “Maintenance Matrix” refers only to those portions of Attachment 3A addressing the Improvements subject to the Permit (i.e., Port encroachments on public right-of-way in Public Works jurisdiction); other portions of the document

are included for convenience only and are not incorporated by reference into this Agreement.

Attachment 3B: Maintenance Plan. A written document that contains a description of the means and methods to maintain the Improvements (the “**Maintenance Plan**”). For the Global Area, the description may be general. For the Permit Area, the description must be detailed. The Maintenance Plan shall identify the daily, weekly, monthly, and annual routine maintenance, repair and replacement tasks, as applicable (“**Permitted Activities**”), and any specialized equipment (in the event that the Improvements incorporate such specialized equipment) necessary for continued operation of the Improvements. For each category of the Permitted Activities, Permittee shall provide the regular (e.g. daily, weekly, etc.) estimated expenses, including labor hours, cost per hour, and materials needed for maintenance. In addition, Permittee shall provide a total estimated annual operating expense and include: regular maintenance expenses, replacement costs, costs for any specialized equipment (in the event that the Improvements incorporate such specialized equipment) necessary for continued operation of the Improvements, and the expected lifespan of any custom materials subject to regular use. The Maintenance Plan also shall identify whether a Community Benefit District, Business Improvement District, Community Facilities District or similar Special Tax-Based Entity (a “**Special Tax Entity**”) will expend monetary or staff resources on the Permit Area for maintenance or other activities, and documentation, to the Public Works Director’s reasonable satisfaction, that the monetary and/or staff resources are available and committed to perform the maintenance obligation.

Attachment 4: Operations Manual List. Permittee shall submit a document or manual describing how to operate any specialized equipment necessary for continued operation of the Improvements along with manufacturer’s instructions for operation and maintenance (“**O&M Manuals**”) and other pertinent information about the equipment. These documents are for Public Works file purposes and not attached to this Agreement; a list of the O&M Manuals will be attached to this Agreement. At the City Engineer’s discretion, the City Engineer may allow the Permittee to defer submission of the Operations Manuals and the list until completion of the Improvements in accordance with the SIPs.

Attachment 5: Notice of Assignment. See Section 16.

The City Engineer shall review and certify the description of the **Global Area and Permit Area** (Attachment 2), **Maintenance Matrix** and **Maintenance Plan** (Attachment 3), and **O&M Manuals** (Attachment 4),), and any necessary updates submitted with a Notice of Annexation. The Department shall not issue the permit until the City Engineer has completed the review and certified the required attachments.

3. EFFECTIVE DATE; REVOCABLE, NON-EXCLUSIVE PERMIT; RECORDATION

(a) Following Board of Supervisors approval and confirmation the Department has received all required permit documents and fees, the Department shall issue the approved Permit and provide written notice of issuance of the Permit. The date this Maintenance Agreement is finally executed shall be the “**Effective Date.**”

(b) The privilege given to Permittee under this Agreement is revocable in accordance with this Agreement, personal, non-exclusive, non-possessory, and effective only insofar as the rights of City in the public right-of-way (“**PROW**”) are concerned. This Permit does not grant any rights to construct or install Improvements in the Permit Area; construction and installation of the Improvements will be authorized under a separate street improvement permit or street excavation permit issued by the Public Works, and the Port, as applicable, for such work.

Without limiting any other rights that Permittee may have as the underlying fee owner of the Permit Area or pursuant to that certain Jurisdiction and Maintenance Memorandum of Understanding, among the Parties, dated for reference purposes as of March 5, 2024 (the “**Jurisdictional MOU**”), commencing on the Effective Date, Permittee shall be authorized to enter upon and use the PROW for the purpose of maintaining, repairing and replacing the Improvements within the Permit Area(s) subject to the terms, conditions, and restrictions set forth herein.

(c) The Director may require this Permit to be recorded in accordance with Sections 6.1 and 16.2.

4. MONITORING AND MAINTENANCE RESPONSIBILITIES

4.1 The Permittee’s maintenance responsibility generally shall be limited to the Improvements in the Permit Area, and its immediate vicinity, including any sidewalk damage directly related to the Improvements or Permitted Activities. Permittee acknowledges its responsibility to maintain and monitor the Permit Area and its Improvements according to a “**Maintenance Monitoring and Reporting Program,**” document performance of the maintenance activities as described herein, and retain documentary evidence of the maintenance activities (the “**Maintenance Report**”) for a minimum of three (3) years. Within ten (10) days from the date of the Public Works Director’s written request for maintenance information, the Permittee shall provide proof that the maintenance activities have been performed.

If Port assigns the maintenance obligations herein to another person pursuant to Section 16.1 (the “**Maintenance Assignee**”), or assigns this Agreement, in whole or in part, to another person pursuant to Section 16.2 (the “**Non-Port Permittee**”) (collectively, “**Assignee**”), the Assignee shall: 1) on a regular quarterly basis, document the general condition of the entire Permit Area and all elements with date stamped digital images in JPEG format, or other video or picture imaging acceptable to the Public Works Director, and 2) maintain a written and image log of all non-routine maintenance issues, including, but not limited to: defects, damages, defacing, complaints, and repairs performed on Permit elements and the Permit Area. The regular monitoring images and/or video shall be taken from all angles necessary to show the entirety of

the Permit Area and all Improvements. The images for the logged maintenance issues and repairs shall clearly show the location and detail of the damaged or defaced element or area, and its repair and restoration. Permittee shall maintain all files and provide them in a format and media consistent with current standards for data retention and transfer, such as a USB flash drive with connective capability to a commonly available personal computer. In the event Port assigns only the maintenance responsibility to a Maintenance Assignee in accordance with Section 16.1, the Maintenance Assignee shall be responsible for compliance with this Section 4 and Port as Permittee will provide all records upon request of the Department, in accordance with City standard reporting processes. For any time period during which Port as Permittee has not assigned maintenance responsibility to a Maintenance Assignee, representatives from Port and Public Works shall meet and confer to determine a mutually agreeable documentation and reporting protocol.

The Maintenance Report, at a minimum, shall include the following information: date and time of maintenance; description and type of encroachment element requiring repair, resolution, or restoration and method used to repair, resolve, or restore it; time and duration to repair, resolve, or restore such element; company (and contact information for the company) that performed the repair, resolution, or restoration.

4.2 Sidewalk Maintenance.

Permittee acknowledges that, pursuant to Public Works Code Section 706, as amended from time to time (“**Section 706**”), the owner or long-term tenant, as applicable, of property fronting the sidewalks in the PROW (each a “**Fronting Property Owner**”) shall be responsible for sidewalk maintenance, exclusive of the Improvements subject to this Permit.

In accordance with Public Works Code Section 786, pursuant to Board of Supervisors Resolution No. [REDACTED], the Board of Supervisors authorized the Director of Public Works, subject to approval of the Port, to assign some or all of a Fronting Property Owner’s obligations under Section 706 to an agent or assignee such as an Owners’ Association. Where the Fronting Property Owner will no longer be responsible for the maintenance of sidewalks fronting its property, a new or modified Permit or Maintenance Agreement will be required, unless otherwise addressed by Section 706. Where the Port retains its maintenance responsibilities pursuant to Section 706, such maintenance may be undertaken by an assignee, as documented via a Notice of Assignment to a Maintenance Assignee pursuant to Section 16.1.

If it is unclear whether sidewalk maintenance is the responsibility of Permittee or the responsibility of a Fronting Property Owner, agent, assignee, or Owners’ Association who is not the Permittee under Public Works Code Section 706 or 786, the Department shall determine which party or parties are responsible. If the situation so warrants, the Department may assign responsibility for sidewalk maintenance to one or more parties.

5. CONDITIONS OF ENTRY AND USE

By entering into this Agreement, Permittee acknowledges its responsibility to comply with all requirements for maintenance of the Improvements as specified in this Agreement, Public Works Code Section 786 et seq., Article 2.4 of the Public Works Code (“**Excavation in the Public Right-of-Way**”), and as directed by the Public Works Director. Permittee shall comply and cause its agents to comply, with each of the following requirements in its performance of the Permitted Activities.

5.1 Permits, Permissions, and Approvals

5.1A Requirement to Obtain all Regulatory Permits and Approvals.

Permittee and Master Developer shall obtain all permits, licenses, and approvals of applicable regulatory agencies (“**Regulatory Permits**”) required to commence and complete construction of the Improvements in the PROW and performance of the Permitted Activities, and that all such Regulatory Permits shall be delivered to the Department. Permittee recognizes and agrees that City’s approval of the Permit and this Agreement for purposes of performance of the Permitted Activities shall not be deemed to constitute the grant of any or all other Regulatory Permits needed for the Permitted Activities, and nothing herein shall limit Permittee’s obligation to obtain all such Regulatory Permits, at Permittee’s sole cost.

Permittee shall obtain from other parties any further permission necessary to perform its activities under the Permit and this Agreement arising due to any other existing rights affecting the PROW.

5.1B Subsequent Excavation within Permit Area. When maintenance of the Improvements requires excavation as described in Article 2.4 of the Public Works Code, or prevents public access through the Permit Area, or obstructs the movement of vehicles or bicycles where allowed by law, Permittee shall apply for applicable permits from the Department and any other affected City agencies. Permittee or agent of Permittee shall comply with all excavation permit bonding and security requirements that the Department deems necessary when performing or causing to be performed any excavations or occupancies within the Permit Area.

5.1C Additional Approvals. Further permission from the Department may be required prior to Permittee’s performance of work within the Permit Area including, but not limited to, the restoration of a temporarily restored trench, removal and replacement of a tree or other landscaping, or repair of damaged or uplifted sidewalk or other paving material. This Agreement does not limit, prevent, or restrict the Department from approving and issuing permits for the Permit Area including, but not limited to, occupancy, encroachment, and excavation permits. The Department shall include as a condition in all subsequent permits issued in the Permit Area that any subsequent permittee notify and coordinate with the Permittee prior to occupying, encroaching, or excavating within the Permit Area.

5.2 Exercise of Due Care

During any entry on the Permit Area to perform any of the Permitted Activities, Permittee shall, at all times and at its sole cost, perform the Permitted Activities in a manner that maintains

the Permit Area in a good, clean, safe, secure, sanitary, and attractive condition. Permittee shall use due care at all times to avoid any damage or harm to the Permit Area or any Improvements or property located thereon or adjacent to, and to take such soil and resource conservation and protection measures within the Permit Area as are required by applicable laws and as City may reasonably request in writing, including but not limited to compliance with the Risk Management Plan for Pier 70 (Treadwell & Rollo, 7/25/13) as amended and as interpreted by regulatory agencies with jurisdiction. Permittee shall not perform any excavation work without City's, or Port's, if applicable, prior written approval. Under no circumstances shall Permittee knowingly or intentionally damage, harm, or take any rare, threatened, or endangered species on or about the Permit Area. While on the Permit Area to perform the Permitted Activities, Permittee shall use commercially reasonable efforts to prevent and suppress fires on and adjacent to the Permit Area attributable to such entry.

5.3 Cooperation with City Personnel and Agencies, and Fronting Property Owners

Permittee shall work closely with City personnel to avoid unreasonable disruption (even if temporary) of access to the Improvements and property in, under, on or about the Permit Area and City and public uses of the Permit Area. Permittee shall perform work in accordance with the Permit and this Agreement. Permittee also shall perform work pursuant to one or more Street Improvement Permits or General Excavation Permits and in accordance with Public Improvement Agreements associated with each phase of development if either or both are applicable.

Permittee shall provide advance notice and work closely with Master Developer and each Fronting Property Owner of property fronting the applicable portion of the Permit Area on which Permitted Activities are occurring.

5.4 Permittee's Maintenance and Liability Responsibilities

5.4A Permittee's Maintenance and Liability.

(a) Permittee acknowledges its maintenance and liability responsibility for the Improvements (including, but not limited to, materials, elements, fixtures, etc.) in accordance with the Permit and this Agreement, including all Attachments and Addenda, and all applicable City permits, ordinary wear and tear excepted. Permittee agrees to maintain said Improvements as constructed pursuant to the SIPs, as reasonably determined by the Public Works Director, and in accordance with any other applicable City permits or authorizations. Permittee shall reimburse the Department for any work performed by the Department as a result of the Permittee's failure to comply with the maintenance and restoration terms as specified in this Agreement under Section 9. Permittee is wholly responsible for any Improvements installed in the Permit Area that are subject to this Permit's terms and for the quality of the work performed in the Permit Area under this Agreement. Except as set forth in Sections 5.4A(b) and (c), Permittee is liable for all claims directly related to the Improvements and any condition caused by Permittee's performed work. Neither the issuance of any permit nor the inspection, nor the repair, nor the suggestion, nor the approval, nor the acquiescence of any person affiliated with the City shall excuse the Permittee from such responsibility or liability.

(b) The City acknowledges that while the Permittee retains the primary responsibility for all construction, installation, maintenance and repair activities, certain limited or supplemental maintenance and repair activities may be performed or financed by a Community Benefit District, Business Improvement District, Community Facilities District or similar Special Tax-Based Entity (the “**Special Tax Entity**”) rather than the Permittee. Special Tax Entity activities, if any, shall be set forth in an Attachment and added to this Agreement. Notwithstanding the foregoing, the Department shall hold the Permittee responsible for compliance with all provisions of the Permit and this Agreement without regard to whether the violation occurred through an act, omission, negligence, or willful misconduct of the Permittee or the Special Tax Entity. Only if Permittee can demonstrate to the satisfaction of the Public Works Director that the Special Tax Entity is solely responsible for the act, omission, negligence, or willful misconduct and the Public Works Director makes a written finding to this effect, shall the Public Works Director act directly against only the Special Tax Entity. Under such circumstances, the Permittee shall not be responsible and liable hereunder for the act, omission, negligence, or willful misconduct that the Public Works Director identifies in writing, and no Uncured Default (as hereinafter defined) shall be deemed by Public Works to have occurred by the Permittee, as a result of the Special Tax Entity’s acts, omissions, negligence or willful misconduct. In the event that the Special Tax Entity should cease to exist or that the Special Tax Entity’s maintenance and repair responsibilities are changed, then Permittee shall be responsible or assume responsibility for all activities that are no longer the responsibility of or being performed by the Special Tax Entity.

(c) In the event that the Public Works Director agrees to maintain one or more of the Improvements pursuant to Section 5.9B of this Agreement, Permittee shall not be responsible for the quality of maintenance or restoration work performed, nor liable for the resulting consequences of City work.

5.4B Abatement of Unsafe, Hazardous, Damaged, or Blighted Conditions.

Permittee acknowledges its maintenance responsibility to abate any unsafe, hazardous, damaged, or blighted conditions. Following receipt of a notice by the Department of an unsafe, damaged, or blighted condition, Permittee shall immediately respond to the notice and restore the site to the condition specified on the SIPs within thirty (30) calendar days, unless the Department specifies a shorter or longer compliance period based on the nature of the condition or the problems associated with it; provided, however, to the extent that such restoration cannot be completed using commercially reasonable efforts within such thirty (30) calendar day period or other period specified by the Department, then such period shall be extended provided that the Permittee has commenced and is diligently pursuing such restoration. In addition, Permittee acknowledges its responsibility to abate any hazardous conditions as a direct or indirect result of the Improvement (e.g., slip, trip, and fall hazards), promptly upon receipt of notice from the Department. For unsafe or hazardous conditions, the Permittee shall immediately place or cause to be placed temporary measures to protect the public. Failure to promptly respond to an unsafe or hazardous condition or to restore the site within the time specified in the Department’s notice may result in the Department’s performing the temporary repair or restoration in order to protect the public health, safety, and welfare. Permittee shall reimburse the Department for any such temporary repair or restoration. Failure to abate the problem also may result in the Department’s issuance of a Correction Notice, Notice of Violation, and/or request for reimbursement fees to the Department

for departmental and other City services necessary to abate the condition in accordance with Section 9. Any temporary repair or restoration does not relieve Permittee of its obligation to maintain and restore the Improvements to the standards described in Section 5.4A.

5.4C Permittee Contact Information, Signage. Upon the Department’s determination that the Permittee has completed the Improvements in accordance with the SIPs, Permittee shall post a sign(s) within the Permit Area, in conformity with any applicable signage program for the Permittee’s property and in a location approved by the Department, that provides a telephone number and other Permittee contact information so that members of the public can contact the Permittee to report maintenance issues, problems, or any other complaints about the Permit.

5.4D Custom Elements. The Permittee has elected to install materials, facilities, fixtures, or features that do not meet the City’s criteria for standard construction, operation, maintenance, and repair (“**Custom Elements**”) and the City has approved such Custom Elements. The Permittee: (i) acknowledges its responsibility for the operation, maintenance, repair, and replacement of the Custom Elements as constructed per the SIPs, (ii) shall separately meter any service utility required to operate the Custom Elements, and (iii) shall be responsible for providing such utility service at Permittee’s own cost. As an exception, if the Custom Elements are facilities such as street lights and they are installed in locations identified by the City as standard streetlight locations, the City may elect to power the streetlights and not require a separate meter. As between the City and Port, so long as Permittee is Port, Port is responsible for any claims related to Port’s or its Maintenance Assignee’s operation, maintenance, repair, and replacement of Custom Elements. If Port assigns maintenance responsibilities to a Maintenance Assignee or assigns this Agreement, in whole or in part, to a “Non-Port Permittee” pursuant to Section 16, Assignee shall indemnify and hold Port and City harmless against any claims related to Assignee’s operation, maintenance, repair, and replacement of Custom Elements. This Section 5.4D does not apply to those custom streetlights accepted by SFPUC as a variant as they are not encroachments subject to this Permit.

5.5 [RESERVED]

5.6 Annual Certification of Insurance

Upon receipt of a written request by the Department, but no more than annually, any Assignee of the Port’s responsibilities under this Permit shall submit written evidence to the Department indicating that the requirements of Section 8 (Insurance) and Section 10 (Maintenance Fund and Security) have been satisfied. So long as Port is Permittee, Port shall have no obligations under this Section 5.6.

5.7 Damage to and Cleanliness and Restoration of Permit Area and City Owned or Controlled Property

Permittee, at all times, shall maintain the Improvements within the Permit Area in a clean and orderly manner to the reasonable satisfaction of the Public Works Director. Following any

construction activities or other activities on the Permit Area, Permittee shall remove all debris and any excess dirt from the Permit Area and Improvements.

If any portion of the Permit Area, any City-owned or controlled property located adjacent to the Permit Area, including other PROW or private property in the vicinity of the Permit Area, is damaged by any of the activities conducted by Permittee hereunder, Permittee shall immediately, at its sole cost, repair any and all such damage and restore the Permit Area or affected property to its previous condition to the satisfaction of the Public Works Director.

5.8 Excavation or Temporary Encroachment within the Permit Area

Permittee acknowledges its maintenance responsibility following any excavation or temporary encroachment of any portion or portions of the Permit Area as described below.

5.8A Excavation by City or UCP Holders. After providing public notice according to Article 2.4 of the Public Works Code, any City Agency or Public Utility may excavate within the PROW, which may include portions of the Permit Area. A “City Agency” shall include, but not be limited to, the SFPUC, SFMTA, and any City authorized contractor or agent, or their sub-contractor. “Public Utility” shall include any company or entity currently holding a valid Utility Conditions Permit (“UCP”) or a valid franchise with the City or the California Public Utilities Commission. Permittee acknowledges that it will provide and not obstruct access to any utilities and facilities owned and operated by any City Agency or a Public Utility at any time within the Permit Area for maintenance, repair, and/or replacement.

Emergency work. In the case of an emergency, a City Agency or Public Utility need not notify the Permittee of emergency work until after the emergency situation has been abated, at which point the Department will strive to cooperate with affected City departments to provide written notice to the Permittee concerning the emergency work.

In the performance of any excavation in the Permit Area by a City Agency or Public Utility, it shall be the responsibility of the Permittee to coordinate with the City Agency or Public Utility and restore the site to the condition specified on the SIPs, provided, however, the excavator shall implement commercially reasonable precautions to protect the Permit Area and any Improvements located within the Permit Area from injury or damage during the excavation or future work. Following excavation by a City Agency or a Public Utility, (a) in the case where there are Custom Elements, the excavator shall only be obligated to backfill and patch the site to a safe condition, unless Permittee requests the City Agency or Public Utility to restore the site to the City standard elected by Permittee, in which case, where feasible, the City Agency or Public Utility will restore the site to the City standard elected by Permittee; (b) in the case where there are only City standard materials, the excavator shall be obligated to backfill the site to a safe condition, and where feasible, restore the site to City standards. The City Agency or Public Utility shall not replace Custom Elements or Improvements that the City Agency or Public Utility may remove or damage in connection with such excavation or site access. Permittee shall be responsible and bear all costs for the restoration of all disturbed Custom Elements and the other Improvements that are not restored by a City Agency or Public Utility to the condition as specified on the SIPs.

In the case where the excavated portion of the Permit Area consists of only City standard materials, the City Agency or Public Utility shall complete its restoration work as prescribed in the Public Works Code Article 2.4 and supplemental Director's Orders, following the completion of the excavation or temporary encroachment.

In the case where the excavated portion of the Permit Area consists partially or fully of custom materials, the Permittee shall restore or cause to be restored the Improvements in the excavated portions of the Permit Area to the condition specified on the design for the Improvements within the duration of the permit, after the issuance of any permits required by the City; provided, however, to the extent that such restoration cannot be completed using commercially reasonable efforts within the permit duration, then the permittee shall submit a permit extension request as required under the Public Works Code, the Department shall extend such period provided that the Permittee has commenced and is diligently pursuing such restoration.

The Permittee shall not seek or pursue compensation from a City Agency or a Public Utility for Permittee's coordination of work or the inability to use the Permit Area for the duration of excavation or occupancy.

5.8B Excavation by Private Parties. Following any excavation of any portion or portions of the Permit Area by a private party (e.g., contractor, property owner, or resident), it shall be the responsibility of the private party and the Permittee to coordinate the restoration of the site and the private party shall bear all the cost of restoration; provided, however, that in all events the private party shall be required to restore the excavated portion or portions of the Permit Area to the condition specified on the SIPs within the duration of the excavation permit, after completion of the excavation or temporary encroachment, provided, however, to the extent that such restoration cannot be completed using commercially reasonable efforts within the excavation permit duration, then the permittee shall submit a permit extension request as required under the Public Work Code, Department shall extend such period provided that the private party has commenced and is diligently pursuing such restoration. If the private party fails to perform such restoration, then the Permittee should notify the Department of such failure in writing and allow any Departmental corrective procedures to conclude prior to pursuing any and all claims against such private party related thereto should the Permittee have such third-party rights. The City, through its separate permit process with that private party, shall require that private party to bear all the costs of restoration and cooperate with the Permittee on how the restoration is performed and how any costs that the Permittee assumes for work performed (time and materials) are reimbursed. The Permittee shall only seek or pursue compensation from the private party for work performed (time and materials) and shall not seek or request compensation for coordination or the inability to use the Permit Area for the duration of excavation or occupancy, provided that Permittee is provided with access to Permittee's property. Nothing in this Section 5.8B modifies the obligations set forth in Section 5.4A.

5.8C Temporary Encroachments for Entities Other Than Permittee.

In the case of temporary encroachments, which may include the temporary occupancy of portions of the Permit Area or the temporary relocation of Improvements (elements or fixtures) from the Permit Area, Permittee shall work collaboratively with the entity that will be

temporarily encroaching the Permit Area (“**Temporary Encroacher**”) to coordinate the temporary removal and storage of the Improvements from the affected portion of the Permit Area, when necessary. It shall be the responsibility of the Temporary Encroacher to protect in-place any undisturbed portion of the Permit Area.

Where the Temporary Encroacher is a private party, the private party shall be responsible for any costs for removal, storage, and maintenance of the Improvements, and restoration associated with restoration of the Permit Areas. The obligation to coordinate and restore under this section shall be a condition of the City permit issued to the Temporary Encroacher. If the Temporary Encroacher fails to coordinate with Permittee and compensate the Permittee or restore the Permit Area, then the Permittee should notify the Department of such failure in writing.

The Permittee may only seek or pursue compensation from the Temporary Encroacher for costs incurred (time and materials) to temporarily relocate and replace Improvements, and shall not seek or request compensation for coordination or the inability to use the Permit Area for the duration of the Temporary Encroacher’s occupancy.

Where the Temporary Encroacher is a City Agency or a Public Utility, Permittee shall be responsible for any costs for removal, storage, maintenance, and restoration associated with the Improvements and any associated areas within the Permit Area, and the City Agency or Public Utility, as applicable, shall be responsible for restoration of any standard City features or Improvements. The City Agency or the Public Utility or its contractors shall not be responsible for Permittee’s temporary removal and storage costs.

The Permittee shall be responsible for ensuring the Permit Area has been restored within thirty (30) calendar days following the completion of the temporary encroachment; provided, however, to the extent that such restoration cannot be completed using commercially reasonable efforts within such thirty (30) calendar day period, then such period shall be extended provided that the Permittee has commenced and is diligently pursuing such restoration.

5.8D Additional Time to Complete Site Restoration Where Future Work Is Anticipated

Prior to the Permittee’s undertaking of any restoration of the applicable portion of the Permit Area to the conditions specified in the Improvement Plans, the Permittee and the City shall confer as to whether any party (e.g., any City Agency, Public Utility, or private party) intends to perform any future work (e.g., any excavation or temporary encroachment) that would be likely to damage, disrupt, disturb or interfere with any restoration of the Permit Area. If such future work is anticipated within six (6) months following completion of any then proposed excavation or temporary encroachment, then the Permittee’s deadline for restoring the site shall be automatically extended. The Permittee may submit to the Department a written request for an extension to the restoration deadline if future work is anticipated to commence more than six (6) months from the completion of the prior excavation and temporary encroachment. Department may condition approval of such request on Permittee’s temporary repair to an adequate interim condition. If the restoration deadline is extended as set forth above, then the Permittee shall be obligated to complete the restoration within the timeframes specified in this Agreement.

5.9 Permit Revocation; Termination; Modification of Agreement

5.9A Permit Revocation or Termination

Permittee acknowledges and agrees that the obligations of the Permittee or Permittee's successor(s) in interest to perform the Permitted Activities shall continue for the term of the Permit. The City reserves the right to revoke the Permit under the procedures set forth in the Public Works Code Sections 786 et seq. and, if applicable, as specified in the Board of Supervisors' or the Public Works Director's approval of the Permit.

A termination or revocation of the Permit under the procedures set forth in Public Works Code Sections 786 et seq. shall result in an automatic termination of this Agreement as to the affected portion of the Permit Area, and all of Permittee's responsibilities and obligations hereunder shall terminate, unless otherwise provided for in this Agreement. The City may partially terminate or revoke the Permit as to those portions of the Permit Area subject to default and the City may elect to allow the Permit to remain effective as to all portions of the Permit Area that are not subject to default.

If the Permit is terminated by Permittee or revoked or terminated by City (each an **"IMEP Termination Event"**) with respect to a portion or portions of the Permit Area, Permittee shall convert the Improvements therein to a condition specified by City for a standard PROW or as the Public Works Director deems appropriate under the circumstances at Permittee's sole cost (the **"Right-of-Way Conversion"**) by (i) applying for, and providing the materials necessary to obtain, a street improvement permit or other authorization from City for the performance of such conversion work; (ii) performing such conversion work pursuant to the terms and conditions of such street improvement permit or other City authorization; and (iii) warranting that the conversion work will meet the standards required by a Public Works street improvement permit for a duration not less than one (1) year from the date Public Works confirms that the work is complete, subject to any extension that the Public Works Director may grant in the Public Works Director's discretion.

The obligation of Permittee or Permittee's successor in interest to remove the Improvements and restore the PROW to a condition satisfactory to the Public Works Director shall survive the revocation, expiration, or termination of this Permit. Upon completion of the Right-of-Way Conversion, and subject to Section 5.9B, Permittee shall have no further obligations under the Permit for the portion of the Permit Area subject to the completed Right-of-Way Conversion and to the extent the Public Works Director has agreed to terminate the Permittee's obligations in regard to all or a portion of the Right-of-Way Conversion, except as to any applicable warranty.

The City and any and all City subdivisions or agencies shall be released from any responsibility to maintain the existence of Improvements and shall not be required to preserve or maintain the Improvements in any capacity following the termination or revocation of the Permit unless the Department, in its discretion and in accordance with this Agreement, agrees to an alternative procedure.

5.9B Modification or Termination of the Agreement

(a) Following the approval of the Notice of Annexation, and recordation in the Official Records if required pursuant to Section 6.1, this Agreement shall continue and remain in full force and effect at all times in perpetuity except if the City elects to terminate Permittee's maintenance obligations pursuant to this Section 5.9 and provides written notice to the address provided in Section 2.7. Under such circumstances, this Agreement shall terminate at the time specified in such written notice with exception to those terms as specified in this Agreement that apply to any remaining Permit obligations. If this Permit or the Notice of Annexation was recorded, City shall record evidence of any such termination in the Official Records.

(b) At any time during the term of the Permit, Permittee may request to amend the scope of such Permitted Activities or, subject to compliance with Section 5.9A, to decrease the Permit Area or scope of Improvements subject to the Permit, through a written amendment to this Agreement. The Public Works Director, in the Director's sole discretion, may approve, approve with conditions, or deny the requested amendment. If the Public Works Director approves an amendment, both Parties shall execute the approved amendment and arrange for its recordation, if it amends a recorded Permit or Notice of Annexation. Further, Permittee and Public Works Director may, but are not required to, execute a written modification of this Agreement to provide for the Department's maintenance of a portion or all of the Improvements as described in the Permit Area Documentation. In the event of such modification of this Agreement, the Department may require Permittee to pay the Department for the cost of maintaining specified Improvements as described in the Maintenance Plan (defined in Section 2.8). The Public Works Director's written modification shall, among other relevant terms, identify the specific portion of the Improvements that the Department shall maintain and the terms of Permittee's payments.

(c) In addition, Permittee and City may mutually elect to modify Permittee's obligation to perform the Right-of-Way Conversion described in Section 5.9.A including any modification necessary to address any Improvements that cannot be modified or replaced with a PROW improvement built according to the City's standard specifications. Any such modification may include, but not be limited to, Permittee's agreement to convert, at its sole cost, specified Improvements to a PROW improvement built according to the City's standard specifications while leaving other specified Improvements in their as-is condition, with Permittee assuming a continuing obligation to pay for City's costs to maintain and replace such remaining Improvements. In addition, any such modification may address any applicable City requirements for maintenance security payment obligations and City's acquisition of specialized equipment needed to perform the maintenance work, however, no such specialized equipment shall be required for Improvements built to City standards. If City and the Permittee mutually agree to any modification to the Right-of-Way Conversion that results in Permittee assuming such a maintenance payment obligation, Permittee shall execute and acknowledge, and City shall have the right to approve and to record in the Official Records of San Francisco County, an amendment to this Agreement, if recorded, that details such payment obligation.

5.10 Green Maintenance Requirements

In performing any Permitted Activities that require cleaning materials or tools, Permittee, to the extent commercially reasonable, shall use cleaning materials or tools selected from the

Approved Alternatives List created by City under San Francisco Environmental Code, Chapter 2, or any other material or tool approved by the Public Works Director. Permittee shall properly dispose of such cleaning materials or tools.

6. ANNEXATION OF PROPERTY INTO SCOPE OF PERMIT

6.1 Annexation of Property and Improvements into Permit

The Permit Area may be expanded or new permit areas may be established according to this Section 6. New area containing Improvements (each area shall be referred to as an “**Annexation Area**”) may be annexed into the Permit or, as delegated by the Board of Supervisors, may constitute separate master encroachment permits or discrete street encroachment permits (each shall be identified as a “**Sub-Permit Area**”), as further described below, upon: i) approval by the Public Works Director according to the procedures set forth in this Section 6 and ii) the Department’s issuance of a Notice of Completion or Certificate of Conformity (or equivalent determination establishing that improvements are eligible for acceptance or have been completed according to the approved SIPs) for Improvements completed within the proposed Annexation Area.

(a) **Annexation Application Approval Process.** For each Annexation Area or Sub-Permit Area Permittee proposes for annexation into the Permit (“**Annexation Application**”), Permittee shall provide to the Department the materials described below concurrent with City’s approval of 100% Improvement Plans for the Permit Area. To be eligible for annexation into the Permit, the Annexation Area or Sub-Permit Area (including street segments and/or encroachment areas) must have been generally shown in the approved Global Diagram initially approved with this Permit.

(1) Annexation Application. Permittee must submit a complete Encroachment Permit application requesting the Public Works Director’s approval of the annexation of the Annexation Area into the Permit or approval of a master encroachment permit or street encroachment permit comprised of the Annexation Area as part of this Permit. The Annexation Application shall reference this Permit and include a plat illustrating the Permit Area and identifying the location of the Improvements to be annexed into the Permit or the Permit Area for which Permittee seeks a discrete master encroachment permit or street encroachment permit. The Annexation Application shall identify and describe any modifications to any Permit Area compared to the real property or Improvements shown in the approved Global Diagram. The Annexation Application shall identify the Permittee proposed to be responsible for the Annexation Area.

(2) Updated Global Diagram. Permittee must update the Global Diagram previously submitted to the Department to depict the Permit Area at the time of the submittal of the Annexation Application, including all administratively approved Annexation Areas and/or discrete master encroachment permits or street encroachment permits. Permittee must refine the Global Diagram, as needed, to include the type of Improvements and their approximate location within the Annexation Area. The updated Global Diagram shall also identify the Permittee for any previously approved Annexation Area.

(3) Updated Permit Area Documentation. Permittee shall submit updated or supplemental Permit Area Documentation showing all Improvements in the Annexation Area that is the subject of the Annexation Application (“**Precise Diagram**”).

(4) Phasing Plan. Permittee shall submit a diagram that shows all improvements in the Annexation Area, and generally shows Improvements that are located adjacent to the Permit Area.

(5) Updated Maintenance Plan (if applicable). Permittee shall submit to the Department a Maintenance Plan with each Annexation Application which shall contain a detailed description of means and methods to maintain the Improvements within the Permit Area that is the subject of the Annexation Application. If the Public Works Director approved any changes to the Maintenance Plan subsequent to the issuance of the Permit, Permittee shall include the updated Maintenance Matrix or other mutually acceptable document reflecting such change.

(6) Engineering and Improvement Plans and diagrams for the Permit Area.

(7) An estimate of annual maintenance cost for the Improvements associated with the Permit Area in the Annexation Application.

(8) O&M Manuals for the Improvements in the Annexation Area unless such materials were previously submitted in a full set of O&M Manuals that has been approved by the Department.

(9) Updated Maintenance Monitoring and Reporting Program (if applicable). If the Permittee proposes any changes to the Maintenance Monitoring and Reporting Program or if there are specific maintenance monitoring and reporting obligations exclusive to the Annexation Area, Permittee shall include the updated or specific Maintenance Monitoring and Reporting Program for Public Works to determine compliance with this Permit.

(10) A request for a separate master encroachment permit or discrete encroachment permit (a “**Sub-Permit**”) relating to a specific improvement or group of improvements associated with a fronting property that is owned or leased by a public entity, including but not limited to the Port and the Mayor’s Office of Housing and Community Development, (“**Publicly Owned Lot**”) and Improvements that serve multiple fronting properties (“**Shared Infrastructure**”). In addition to the items described in Sections 6.1(a)(1) - (9), a request for a Sub-Permit shall include a Precise Diagram (as defined above) depicting the improvements and proposed Annexation Area and associated fronting properties to be included within the Sub-Permit, as applicable.

(b) **Review of Annexation Application**. The Department shall review the Annexation Application according to the procedures and requirements of Public Works Code Sections 786 et seq., as provided herein. The Department shall provide the Permittee written notice indicating whether: (a) the Annexation Application is approved; (b) additional information is required to complete the application; and/or (c) in the Public Works Director’s reasonable discretion, the

Annexation Application proposes one or more entirely new or significantly modified encroachments (each a “**New Encroachments**”) that were not included as part of the Board of Supervisors approval of the Permit. In the event an Annexation Application involves a New Encroachment, the Annexation Application shall be deemed an application for a new master or major encroachment permit requiring approval by the Board of Supervisors pursuant to Public Works Code Section 786(b).

(c) **Approval and Recordation of Notice of Annexation.** Upon the Public Works Director’s approval of an Annexation Application and prior to or concurrently with the Board of Supervisor’s acceptance of the public improvements located within the Permit Area that is the subject of the Annexation Application, the Permittee shall obtain written approval of a “**Notice of Annexation**” by the Public Works Director and, if required in accordance with Section 16.2, record the Notice of Annexation. The Notice of Annexation shall describe the area and Improvements annexed into the Permit and identify the party(ies) responsible for the completed Improvements in the Permit Area. The Notice of Annexation shall be include, and if recording is required in accordance with Section 16.2 shall be recorded with, the following documents: (1) Updated Global Diagram showing all the phases of work that have been annexed into the Permit, including the Permit Area; (2) a Precise Diagram; (3) a table identifying the Fronting Property Owner, encroachment permittee, or other party responsible for maintaining each category of Improvement in the Permit Area; and (4) a copy of the fully-executed Agreement with updated addenda and attachments, including the most current, updated versions of the documents set forth in Section 6.1(a). If required in accordance with Section 16.2, Permittee shall record the Notice of Annexation with all required and updated documents, as described herein, against each Fronting Property for the Permit Area identified in the Notice of Annexation or other such properties as may be agreed upon between Director and Permittee. Recordation of the Notice of Annexation shall not require the consent of any owner of property already subject to the Permit pursuant to a previously-recorded Notice of Annexation.

Upon approval and, if required in accordance with Section 16.2, recordation of the Notice of Annexation, the real property and Improvements identified therein shall become subject to the Permit, and the Permittee identified in the Notice of Annexation shall be subject to all terms and provisions set forth in this Agreement.

7. USE RESTRICTIONS

Permittee agrees that the following uses of the PROW by Permittee or any other person claiming by or through Permittee are inconsistent with the limited purpose of this Agreement and are strictly prohibited as provided below. The list of prohibited uses includes, but is not limited to, the following uses.

7.1 Proposed Alterations

Other than the approved Improvements, Permittee shall not make, construct, or place any temporary or permanent alterations, installations, additions, or improvements on the PROW, structural or otherwise, nor alter any existing structures or improvements on the PROW (each, a “**Proposed Alteration**”), without the Public Works Director’s prior written consent in each

instance. The in-kind replacement or repair of existing Improvements shall not be deemed a Proposed Alteration.

Permittee may request approval of a Proposed Alteration. The Public Works Director shall have a period of thirty (30) days from receipt of request for approval of a Proposed Alteration to review and approve or deny such request for approval. Should the Public Works Director fail to respond to such request within said thirty (30) day period, Permittee's Proposed Alteration shall be deemed disapproved; provided that Permittee may re-submit its request for approval until it is approved by the Public Works Director. In requesting the Public Works Director's approval of a Proposed Alteration, Permittee acknowledges that the Public Works Director's approval of such Proposed Alteration may be conditioned on Permittee's compliance with specific installation requirements and Permittee's performance of specific on-going maintenance thereof or of other affected PROW. If Permittee does not agree with the Public Works Director's installation or maintenance requirements for any Proposed Alteration, Permittee shall not perform the Proposed Alteration. If Permittee agrees with the Public Works Director's installation or maintenance requirements for any Proposed Alteration, prior to Permittee's commencement of such Proposed Alteration, Permittee and the Public Works Director shall enter into a written amendment to this Agreement that modifies the Permitted Activities to include such requirements. Prior approval from the Public Works Director shall not be required for any repairs made pursuant to and in accordance with the Permitted Activities.

If Permittee performs any City-approved Proposed Alteration, Permittee shall comply with all of the applicable terms and conditions of this Agreement, including, but not limited to, any and all conditions of approval of the Proposed Alteration(s).

Permittee shall obtain all necessary permits and authorizations from the Department and other regulatory agencies prior to commencing work for the Proposed Alteration. The Public Works Director's decision regarding a Proposed Alteration shall be final and not appealable.

7.2 Dumping

Permittee shall not dump or dispose of refuse or other unsightly materials on, in, under, or about the PROW.

7.3 Hazardous Material

(a) **Assignee.** Assignee shall not cause, nor shall Assignee allow any of its agents to cause, any Hazardous Material (as defined below) to be brought upon, kept, used, stored, generated, or disposed of in, on, or about the PROW, or unless in accordance with environmental laws, transported to or from the PROW. Assignee shall immediately notify City if Assignee learns or has reason to believe that a release of Hazardous Material has occurred in, on, or about the PROW. In the event Assignee or its agents cause a release of Hazardous Material in, on, or about the PROW, Assignee shall, without cost to City and in accordance with all laws and regulations, (i) comply with all laws requiring notice of such releases or threatened releases to governmental agencies, and shall take all action necessary to mitigate the release or minimize the spread of contamination, and (ii) return the PROW to a condition which complies with applicable law. In

connection therewith, Assignee shall afford Port and City a full opportunity to participate in any discussion with governmental agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree or other compromise proceeding involving Hazardous Material. For purposes hereof, "Hazardous Material" means material that, because of its quantity, concentration, or physical or chemical characteristics, is at any time now or hereafter deemed by any federal, state, or local governmental authority to pose a present or potential hazard to public health, welfare, or the environment. Hazardous Material includes, without limitation, any material or substance defined as a "hazardous substance, pollutant or contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Sections 9601 et seq., or pursuant to Section 25316 of the California Health & Safety Code; a "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials whether or not such materials are part of the PROW or are naturally occurring substances in the PROW, and any petroleum, including, without limitation, crude oil or any fraction thereof, natural gas or natural gas liquids. The term "release" or "threatened release" when used with respect to Hazardous Material shall include any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing in, on, under, or about the PROW. The Parties hereby acknowledge that customary use of cleaning solutions, oil, gas, and similar products that would typically be used to perform the Permitted Activities shall not be considered a hazardous materials pursuant to this Section 7.3 if such products are approved in advance by the Director and used in compliance with all applicable laws.

Notwithstanding anything herein to the contrary, if the Public Works Director determines that neither Assignee nor its agents caused the release or threatened release of the Hazardous Material, Assignee shall have no liability whatsoever (including, without limitation, the costs of any investigation, any required or necessary repair, replacement, remediation, cleanup or detoxification, or preparation and implementation of any closure, monitoring, or other required plans) with respect to any release or threatened release of any Hazardous Material on, in, under or about the PROW. If the Public Works Director finds that neither Assignee nor its agents were the source of and did not cause the release of the Hazardous Material, Assignee shall not be listed or identified as the generator or responsible party of any waste required to be removed from the PROW, and will not sign any manifests or similar environmental documentation, with respect to any Environmental Condition (as hereinafter defined). "Environmental Condition" shall mean any adverse condition relating to the release or discharge of any Hazardous Materials on, in, under, or about the PROW by any party other than Assignee or its agents.

(b) **Port as Permittee.** So long as Port is Permittee, Port shall Handle all Hazardous Materials introduced or disturbed in the Permit Area in compliance with all Environmental Laws. Port shall not be responsible for the safe Handling of Hazardous Materials released on the Permit Area solely by City or its agents, except to the extent Port disturbs or exacerbates such Hazardous Materials. Prior to termination of this Agreement, Port shall remove any and all Hazardous Materials introduced or released in, on, under or about Permit Area by Port or its agents during the term of this Agreement and shall remediate or dispose of any Hazardous Materials produced as a result of their activities within the Permit Area, to the extent consistent with Port's standard practices and required by applicable laws. All costs of storage, shipping and disposal of extracted soils and groundwater from the Permit Area shall be the responsibility of Port including, without

limitation, the costs of preparation and execution of shipping papers, including but not limited to hazardous waste manifests. For purposes of this Section 7.3(b), “Environmental Laws” means any present or future federal, state or local laws, ordinances, regulations or policies relating to Hazardous Material (including, without limitation, their use, handling, transportation, production, disposal, discharge, or storage) or to health and safety, industrial hygiene or environmental conditions in, on, under or about the Permit Area, including, without limitation, soil, air, bay water, and groundwater conditions; “Handle” means to use, generate, move, handle, manufacture, process, produce, package, treat, transport, store, emit, discharge or dispose of any Hazardous Material, “Handling” has a correlative meaning.

7.4 Nuisances

Permittee shall not conduct any activities on or about the PROW that constitute waste, nuisance, or unreasonable annoyance (including, without limitation, emission of objectionable odors, noises, or lights) to City, to the owners or occupants of neighboring property, or to the public. The Parties hereby acknowledge that customary use of landscaping and similar equipment (such as lawn mowers, clippers, hedge trimmers, leaf blowers, etc.) that would typically be used to perform the Permitted Activities shall not be considered a nuisance under this Section 7.4 if such equipment is used in compliance with all applicable laws.

7.5 Damage

Permittee shall use due care at all times to avoid causing damage to any of the PROW or any of City’s property, fixtures, or encroachments thereon. If any of the Permitted Activities or Permittee’s other activities at the PROW causes such damage, Permittee shall notify City, and, if directed by City, restore such damaged property or PROW to the condition it was in prior to the commencement of such Permittee activity to the Public Works Director’s satisfaction; or, if the City chooses to restore the damaged property, Permittee shall reimburse City for its costs of restoration.

8. INSURANCE

8.1 As described below, Non-Port Permittee or Maintenance Assignee, as applicable (the “**Insured Party**”), shall keep insurance in effect at all times during the term of this Agreement, at the Insured Party’s own expense, as applicable, and cause its contractors and subcontractors to maintain insurance at all times, during the Insured Party’s or its contractors performance of any of the Permitted Activities on the PROW. If the Insured Party fails to maintain the insurance in active status, such failure shall be a Permit default subject to the Department’s, or Port’s as to a Maintenance Assignee, enforcement remedies. The insurance policy shall be maintained and updated annually to comply with the Department’s applicable requirements. The following Sections represent the minimum insurance standard as of the Effective Date of this Permit.

8.1A An insurance policy or insurance policies issued by insurers with ratings comparable to A-VIII, or higher that are authorized to do business in the State of California, and that are satisfactory to the City. Approval of the insurance by City shall not relieve or decrease the Insured Party’s liability hereunder;

8.1B Commercial General Liability Insurance written on an Insurance Services Office (ISO) Coverage form CG 00 01 or another form providing equivalent coverage with limits not less than One Million Dollars (\$1,000,000) each occurrence and Two Million Dollars (\$2,000,000) in the aggregate for bodily injury and property damage, including coverages for contractual liability, personal injury, products and completed operations, independent permittees, and broad form property damage;

8.1C Commercial Automobile Liability Insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence, combined single limit for bodily injury and property damage, including coverages for owned, non-owned, and hired automobiles, as applicable for any vehicles brought onto PROW; and

8.1D Workers' Compensation Insurance, in statutory amounts, with Employer's Liability Coverage with limits of not less than One Million Dollars (\$1,000,000) each accident, injury, or illness.

8.2 All liability policies required hereunder shall provide for the following: (i) name as additional insured the City and County of San Francisco and the San Francisco Port Commission and their officers, directors, commissioners, agents, and employees, jointly and severally; (ii) specify that such policies are primary insurance to any other insurance available to the additional insureds, with respect to any claims arising out of this Agreement; and (iii) except pursuant to Section 8.11 below, stipulate that no other insurance policy of the City and County of San Francisco or the San Francisco Port Commission will be called on to contribute to a loss covered hereunder.

8.3 Limits may be provided through a combination of primary and excess insurance policies. Such policies shall also provide for severability of interests and that an act or omission of one of the named insureds which would void or otherwise reduce coverage shall not reduce or void the coverage as to any insured, and shall afford coverage for all claims based on acts, omissions, injury, or damage which occurred or arose (or the onset of which occurred or arose) in whole or in part during the policy period.

8.4 All insurance policies shall be endorsed to provide for thirty (30) days' prior written notice of cancellation for any reason, non-renewal or material reduction in coverage, or depletion of insurance limits, except for ten (10) days' notice for cancellation due to non-payment of premium, to the Insured Party, Port, and City. The Insured Party shall provide a copy of any notice of intent to cancel or materially reduce, or cancellation, material reduction, or depletion of, its required coverage to Department within one business day of the Insured Party's receipt. The Insured Party also shall take prompt action to prevent cancellation, material reduction, or depletion of coverage, reinstate or replenish the cancelled, reduced or depleted coverage, or obtain the full coverage required by this Section from a different insurer meeting the qualifications of this Section. Notices shall be sent to the Department of Public Works, Bureau of Street Use and Mapping, 1155 Market Street, 3rd Floor, San Francisco, CA, 94103, or any future address for the Bureau of Street Use and Mapping. The permission granted by the Permit shall be suspended upon the termination of such insurance. Upon such suspension, the Department and the Insured Party

shall meet and confer to determine the most appropriate way to address the Permit. If the Department and the Insured Party cannot resolve the matter, the Insured Party shall restore the PROW to a condition acceptable to the Department without expense to the Department. As used in this Section, “Personal Injuries” shall include wrongful death.

8.5 Prior to the Effective Date, the Insured Party shall deliver to the Department certificates of insurance and additional insured policy endorsements from insurers in a form reasonably satisfactory to Department, evidencing the coverages required hereunder. The Insured Party shall furnish complete copies of the policies upon written request from City’s Risk Manager. In the event the Insured Party shall fail to procure such insurance, or to deliver such certificates or policies (following written request), Department shall provide notice to the Insured Party of such failure and if the Insured Party has not procured such insurance or delivered such certificates within five (5) days following such notice, City may initiate proceedings to revoke the permit and require restoration of the PROW to a condition that the Public Works Director deems appropriate.

8.6 Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general aggregate limit shall double the occurrence or claims limits specified above.

8.7 Should any of the required insurance be provided under a claims-made form, the Insured Party shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three (3) years beyond the expiration of this Agreement, to the effect that, should any occurrences during the term of this Agreement give rise to claims made after expiration of this Agreement, such claims shall be covered by such claims-made policies.

8.8 Upon City’s request, the Insured Party and City shall periodically review the limits and types of insurance carried pursuant to this Section. If the general commercial practice in the City and County of San Francisco is to carry liability insurance in an amount or coverage materially greater than the amount or coverage then being carried by the Insured Party for risks comparable to those associated with the PROW, then City in its sole discretion may require Permittee to increase the amounts or coverage carried by the Insured Party hereunder to conform to such general commercial practice.

8.9 The Insured Party’s compliance with the provisions of this Section shall in no way relieve or decrease the Insured Party’s indemnification obligations under this Agreement or any of the Insured Party’s other obligations hereunder. The Insured Party shall be responsible, at its expense, for separately insuring the Insured Party’s personal property.

8.10 As between the City and Port, so long as Permittee is Port, the provisions of Section 25.2 will apply.

8.11 These requirements may be satisfied by Assignee obtaining insurance coverage required by Port that names as additional insured the City and County of San Francisco and its officers, directors, commissioners, agents, and employees, jointly and severally. In the event of a conflict between the insurance coverage provided hereunder and the insurance coverage provided

pursuant to agreement with the Port, the insurance coverage providing the greatest coverage to the City and Port shall apply.

9. VIOLATIONS; CITY ENFORCEMENT OF PERMIT AND AGREEMENT; SECURITY DEPOSIT

Permittee acknowledges that the Department may pursue the remedies described in this Section against Permittee and/or any Assignee, as applicable, in order to address a default by Permittee and/or Assignee of any obligation under this Permit with respect to any Permit Area for which Permittee and/or Assignee is responsible, including pursuant to the relevant Notice of Assignment, if applicable. In addition to the procedures below and as set forth in Section 5.4B, if Permittee fails to promptly respond to an unsafe or hazardous condition or to restore the site within the time the Department specifies, the Department may perform the temporary repair or restoration in order to protect the public health, safety, and welfare. Permittee shall reimburse the Department for any such temporary repair or restoration.

(a) **Correction Notice (CN).** The Department may issue a written notice informing Permittee that there is an unsafe, hazardous, damaged, or blighted condition within the Permit Area, or stating that the Permittee has otherwise failed to maintain the Permit Area as required by this Permit (“**Correction Notice**”). The Correction Notice shall identify the issue, deficiency, or maintenance obligation that is the subject of the notice with reasonable particularity and specify the time for correction, which shall be no less than thirty (30) days; provided, however, to the extent that such correction cannot be completed using reasonable efforts within the initially specified timeframe, then such period shall be extended provided that the Permittee has commenced and is diligently pursuing such correction. In the event of an emergency or other situation presenting a threat to public health, safety, or welfare, the Public Works Director may require correction in less than thirty (30) days.

(b) Notice of Violation (NOV).

(i) The Department may issue a written notice of violation to the Permittee for failure to maintain the Permit Area and creating an unsafe, hazardous, damaged, or blighted condition within the Permit Area, failure to comply with the terms of this Agreement, or failure to respond to the Correction Notice by abating the identified condition(s) within the time specified therein. The NOV shall identify each violation and any fines imposed per applicable code(s) or Agreement sections and specify the timeframe in which to cure the violation and pay the referenced fines (“**Notice of Violation**” or “**NOV**”), which shall be within thirty (30) days if not specified. Department will also send a courtesy copy of the Notice of Violation to the Port whether or not Port is Permittee or Fronting Property Owner.

(ii) Permittee shall have thirty (30) days to submit to the Department, addressed to the Public Works Director, via BSM Inspection Manager at 1155 Market St, 3rd Floor, San Francisco, CA 94103, or future Bureau address, a written appeal to the NOV or a written request for administrative review of specific items in the NOV. If Permittee submits said appeal or request for review, the Public Works Director shall hold a public hearing on the dispute in front of an administrative hearing officer. The Public Works Director shall then issue a final written decision on the Director’s determination to approve, conditionally

approve, modify, or deny the appeal based on the recommendation of the hearing officer and the information presented at the time of the hearing.

(c) **Uncured Default.** If the violation described in the Notice of Violation is not cured within ten (10) days after the latter of (1) the expiration of the Notice of Violation appeal period or (2) if an appeal is filed, the written decision by the Public Works Director following the hearing to uphold the Notice of Violation or sections thereof, said violation shall be deemed an “**Uncured Default.**” In the event of an Uncured Default, the Public Works Director may undertake either or both of the following:

(i) Cure the Uncured Default and issue a written demand to Permittee to pay the City’s actual reasonable costs to remedy said default in addition to any fines or penalties described in the Notice of Violation within ten (10) days (each such notice shall be referred to as a “**Payment Demand**”).

(ii) Solely as to Non-Port Permittees, notify Non-Port Permittee that it must submit a Security Deposit (as defined in Section 9(d)) for the maintenance obligation that is the subject of the Notice of Violation. Alternatively, the Public Works Director may initiate the procedures under Public Works Code Section 786 to revoke the Permit with respect to the particular portion of the Permit Area that is the subject of the Notice of Violation and require a Right-of-Way Conversion (as defined in Section 5.9A) with respect to that area, in the Public Works Director’s discretion.

(d) Security Deposit Required for Uncured Default

If there is an Uncured Default as defined in Section 9(c) of this Agreement, then within thirty (30) business days of the Public Works Director’s request, Non-Port Permittee shall deposit with the Department via the Permit Manager of the Bureau of Street Use and Mapping (or successor Bureau) the sum of no less than twice the annual cost of maintenance as set forth in the Maintenance Plan on file with the Public Works Director (the “**Security Deposit**”) with respect to the maintenance obligation that is the subject of the Uncured Default, to secure Non-Port Permittee’s faithful performance of all terms and conditions of this Agreement, including, without limitation, its obligation to maintain the PROW in the condition that the Public Works Director deems acceptable. When Non-Port Permittee delivers the Security Deposit to the Department pursuant to the foregoing sentence, the Department shall have the right to require Non-Port Permittee to proportionately increase the amount of the Security Deposit by an amount that reflects the increase in the Consumer Price Index Urban Wage Earners and Clerical Workers (base years 1982-1984 = 100) for San Francisco-Oakland-San Jose area published by the United States Department of Labor, Bureau of Labor Statistics (“**Index**”) published most immediately preceding the date the amount of the Security Deposit was established and the Index published most immediately preceding the date the Department delivers written notice of the increase in the Security Deposit. The amount of the Security Deposit shall not limit Non-Port Permittee’s obligations under this Agreement.

Non-Port Permittee agrees that the Department may, but shall not be required to, apply the Security Deposit in whole or in part to remedy any damage to the PROW caused by Non-Port Permittee, its agents, or the general public using the Permit Area to the extent that the Public Works

Director required Non-Port Permittee to perform such remediation under this Agreement and Non-Port Permittee failed to do so, or Non-Port Permittee failed to perform any other terms, covenants, or conditions contained herein (including, but not limited to, the payment of any sum due to the Department hereunder either before or after a default). Notwithstanding the preceding, the Department does not waive any of the Department's other rights and remedies hereunder or at law or in equity against the Non-Port Permittee should the Department use all or a portion of the Security Deposit. Upon termination of the Permitted Activities after an IMEP Termination Event as described herein, the Department shall return any unapplied portion of the Security Deposit to Non-Port Permittee, less any administrative processing cost.

Should the Department use any portion of the Security Deposit to cure any Uncured Default, Non-Port Permittee shall replenish the Security Deposit to the original amount within ten (10) days of the date of a written demand from the Department for reimbursement of the Security Deposit. Subject to the following sentence, the Non-Port Permittee's obligation to replenish the Security Deposit shall continue for two (2) years from the date of the initial payment of the Security Deposit unless the Public Works Director, in the Director's sole discretion, agrees to a shorter period; provided, however, that if the Public Works Director does not issue a new Notice of Violation related to the issues triggering an IMEP Termination Event for a period of one year from the date of the initial payment of the Security Deposit, then, upon Non-Port Permittee's written request, the Public Works Director shall submit a check request to City's Controller's Office to have any remaining Security Deposit, less any administrative processing cost, delivered to Non-Port Permittee. The Department's obligations with respect to the Security Deposit are solely that of debtor and not trustee. The Department shall not be required to keep the Security Deposit separate from its general funds, and Non-Port Permittee shall not be entitled to interest on the Security Deposit. The amount of the Security Deposit shall in no way limit the liabilities of Non-Port Permittee under any provision of the Permit or this Agreement. Upon termination of the Permitted Activities after an IMEP Termination Event, the Department shall return any unapplied portion of the Security Deposit to Non-Port Permittee, less any administrative processing cost.

So long as Port is Permittee, Port shall have no obligations under this Section 9(d).

(e) **Demand for Uncured Default Costs.** Where the Permittee or the Non-Port Permittee has failed to timely (A) remit the funds described in a Payment Demand, (B) remit the Security Deposit (solely as to the Non-Port Permittee), or (C) pay the City's costs associated with the City's performance of a Right-of-Way Conversion (collectively, "**Uncured Default Costs**"), the Public Works Director may initiate lien proceedings against the Fronting Property Owner where Fronting Property Owner is the Non-Port Permittee for the subject Improvements, or against the Owners' Association's members property(ies) where the Owners' Association is the Non-Port Permittee for the subject Improvements for the amount of the Uncured Default Costs pursuant to Public Works Code Sections 706.4 through 706.7, Public Works Code Section 706.9, Administrative Code Section 80.8(d), or any other remedy in equity or at law. The Public Works Director may not initiate lien proceedings against Port's fee interest in the Property, if applicable.

10. MAINTENANCE FUND AND SECURITY

10.1 Maintenance Fund

The Public Works Director may require a Maintenance Fund as a condition of assignment of this Permit, in whole or in part, to a Non-Port Permittee pursuant to Section 16.2. A Maintenance Fund, if required, shall be held by the Department.

For example, during any portion of the term of this Agreement that special taxes for maintenance of Improvements on Publicly Owned Lots and Shared Infrastructure (described in Section 6.1(a)(10)) (or their equivalent) are not being collected in the Special Tax District, the Public Works Director may require Assignee to establish and fund, following the Notice of Annexation for such Improvements, a “**Maintenance Fund**” in an amount of no less than twice the annual cost of maintenance as set forth in the Maintenance Plan for such Improvements.

If an Assignee fails to respond to a Correction Notice or Notice of Violation described above, the City may draw down upon the Maintenance Fund in the same manner that it would use a Security Deposit for an Uncured Default associated with Improvements on Privately Owned Lots.

Notwithstanding the foregoing, Public works in consultation with the Port may allow satisfaction of a Maintenance Fund requirement through posting of security or a maintenance reserve, such as a larger reserve held by Assignee for maintenance of open space and streets in the Global Area.

11. COMPLIANCE WITH LAWS

Permittee shall, at its expense, conduct and cause to be conducted all activities under its control on the PROW allowed hereunder in a safe and prudent manner and in compliance with all laws, regulations, codes, ordinances, and orders of any governmental or other regulatory entity (including, without limitation, the Americans with Disabilities Act and any other disability access laws), whether presently in effect or subsequently adopted and whether or not in the contemplation of the Parties. Permittee shall, at its sole expense, procure and maintain in force at all times during its use of the PROW any and all business and other licenses or approvals necessary to conduct the Permitted Activities. Nothing herein shall limit in any way Permittee’s obligation to obtain any required regulatory approvals from City departments, boards, or commissions or other governmental regulatory authorities or limit in any way City’s exercise of its police powers. At the Public Works Director’s written request, Permittee shall deliver written evidence of any such regulatory approvals Permittee is required to obtain for any of the Permitted Activities.

12. SIGNS

Permittee shall not place, erect, or maintain any sign, advertisement, banner, or similar object on or about the PROW without the Public Works Director’s written prior consent, which the Public Works Director may give or withhold in its sole discretion; provided, however, that Permittee may install any temporary sign that is reasonably necessary to protect public health or safety during the performance of a Permitted Activity. This Section shall not be applicable to any signs approved by the City under the master signage plan or master streetscape plan for the Project (the “**Pier 70 Streetscape Master Plan**”), or required by any other Regulatory Agency (e.g. San Francisco Bay Conservation and Development Commission, in connection with designation of Pier 70 as the Historic Union Ironworks District).

13. UTILITIES

The Permittee shall be responsible for locating and protecting in place all above and below grade utilities from damage, when Permittee, or its authorized agent, elects to perform any work in, on, or adjacent to the Permit Area. If necessary prior to or during the Permittee’s execution of any work, including Permitted Activities, a utility requires temporary or permanent relocation, the Permittee shall obtain written approval from the utility owner and shall arrange and pay for all costs for relocation. If Permittee damages any utility during execution of its work, the Permittee shall notify the utility owner and arrange and pay for all costs for repair. Permittee shall be solely responsible for arranging and paying directly to the City or utility company for any utilities or services necessary for its activities hereunder.

Permittee shall be responsible for installing, maintaining, and paying for utility services necessary to support any Improvements, such as light fixtures, water fountains, storm drains, etc. in the Permit Area that are included in the Permit.

14. NO COSTS TO CITY; NO LIENS

Permittee shall bear all costs or expenses of any kind or nature in connection with its use of the PROW pursuant to this Agreement, and shall keep the PROW free and clear of any liens or claims of lien arising out of or in any way connected with its use of the PROW pursuant to this Agreement.

15. “AS IS, WHERE IS, WITH ALL FAULTS” CONDITION OF PROW; DISABILITY ACCESS; DISCLAIMER OF REPRESENTATIONS

Permittee acknowledges and agrees that Permittee, or its agents, has installed or shall install the Improvements contemplated in the permit application for the Improvements and has full knowledge of the condition of the Improvements and the physical condition of the PROW. Permittee agrees to use the PROW in its “AS IS, WHERE IS, WITH ALL FAULTS” condition, without representation or warranty of any kind by City, its officers, agents, or employees, including, without limitation, the suitability, safety, or duration of availability of the PROW or any facilities on the PROW for Permittee’s performance of the Permitted Activities. Without limiting the foregoing, this Agreement is made subject to all applicable laws, rules, and ordinances governing the use of the PROW, and to any and all covenants, conditions, restrictions, encroachments, occupancy, permits, and other matters affecting the PROW, whether foreseen or unforeseen, and whether such matters are of record or would be disclosed by an accurate inspection or survey. It is Permittee’s sole obligation to conduct an independent investigation of the PROW and all matters relating to its use of the PROW hereunder, including, without limitation, the suitability of the PROW for such uses. Permittee, at its own expense, shall obtain such permission or other approvals from any third parties with existing rights as may be necessary for Permittee to make use of the PROW in the manner contemplated hereby.

Under California Civil Code Section 1938, to the extent applicable to this Agreement, Permittee is hereby advised that the PROW has not undergone inspection by a Certified Access Specialist (“CAS”) to determine whether it meets all applicable construction-related accessibility requirements.

16. ASSIGNMENT OF MAINTENANCE OBLIGATIONS; ASSIGNMENT OF AGREEMENT; PERMIT BINDING UPON SUCCESSORS AND ASSIGNEES; NOTICE OF ASSIGNMENT

16.1 Assignment of Maintenance Obligations; Notice of Assignment

Subject to the approval of the Public Works Director and any conditions the Public Works Director deems appropriate, Permittee, with prior written approval of Port Commission and Board of Supervisors, to the extent required under the Administrative Code or Charter, may assign the maintenance obligations with respect to all or any portion of the Permit Area or Improvements therein. The assignment may be made to a homeowners’ association (for residential or mixed-use properties), a commercial owners’ master association (for commercial properties), a master association with jurisdiction over the Fronting Property, or a management entity created for purposes of managing public realm improvements within the Pier 70 area (each, a “**Maintenance Assignee**”) by submitting a “**Notice of Assignment of Maintenance Obligations**” to the Department. Assignments of this Permit to an entity other than a permitted Maintenance Assignee shall be subject to Section 16.2 of this Agreement. The Parties anticipate that the initial Maintenance Assignee will be the Master Developer, as documented pursuant to that second amendment to DDA by and between Port and the Master Developer (the “**Second Amendment**”). Upon submittal of a Notice of Assignment in substantial conformance with **Attachment 5** attached hereto to Public Works and the Public Works Director’s written approval, the Permit rights and obligations may be performed by the Maintenance Assignee with respect to the Permit Area described therein. Following such assignment to a Maintenance Assignee, Port and Maintenance Assignee shall be jointly and severally liable for the obligations of this Permit.

The **Notice of Assignment of Maintenance Obligations** shall include:

- (1) identification of the Assignee and an acknowledgment of acceptance of the assignment;
- (2) the contact person for the Assignee and the contact information as required under Section 2.7;
- (3) a description of the Permit Area and Improvements located therein, by reference to the previously-approved Notice of Annexation that is being assigned;
- (4) a statement of whether Public Works Code § 706 obligations are assigned;
- (5) a copy of recorded CC&Rs, if there are such CC&Rs, evidencing (A) the Owners’ Association’s obligation to accept maintenance responsibility for the subject Improvements consistent with this Agreement upon assignment; (B) City’s right to enforce maintenance obligations as a third-party beneficiary under such CC&Rs and the San

Francisco Municipal Code; and (C) City’s right to record this Permit against Owners’ Association’s members’ property.

(6) a statement of whether Community Facilities District or other Special Tax District funds will be used to fund maintenance obligations;

(7) a confirmation by the Assignee that it will fund the Maintenance Fund and/or provide security, if required pursuant to Section 10 above;

(8) evidence of insurance meeting the requirements Section 8 above or the insurance requirements pursuant to applicable agreements with Port, whichever provision(s) or portion(s) thereof provides broader coverage for City;

(9) a confirmation by the assignee that it will indemnify City consistent with the requirements of Section 25 above or the indemnity requirements pursuant to applicable agreements with Port, whichever provision(s) or portion(s) thereof provides broader indemnity for City;

(10) a confirmation by the Assignee that it will comply with any conditions imposed by the Public Works Director in approving the assignment; and

(11) acknowledgment that Maintenance Assignee and Permittee are jointly and severally liable for the obligations under this Permit.

16.2 ASSIGNMENT OF AGREEMENT

This Agreement shall be the obligation of Permittee, and, except as to maintenance obligations as provided for in Section 16.1, may not be assigned, conveyed, or otherwise transferred to any other party, including an Owners’ Association established for the benefit of the Permittee, unless approved in writing by the Port Commission and Public Works Director. This Agreement shall bind Permittee, its successors and assignees with each successor or assignee being deemed to have assumed the obligations under this Agreement at the time of such acquisition of fee ownership or assignment. It is intended that this Agreement binds the Permittee and all future fee owners and/or Ground Lessees of all or any of the Fronting Property only during their respective successive periods of ownership; and therefore, the rights and obligations of any Permittee or its respective successors and assignees under this Agreement shall terminate upon transfer, expiration, or termination of its interest in the Fronting Property, except that its liability for any violations of the requirements or restrictions of this Agreement, or any acts or omissions during such ownership, shall survive any transfer, expiration, or termination of its interest in the Fronting Property.

Subject to the approval of the Public Works Director and any conditions the Public Works Director deems appropriate, Permittee may assign this permit to a homeowners’ association (for residential or mixed-use properties), a commercial owners’ association (for commercial properties) or a master association with jurisdiction over the Fronting Property by submitting a “**Notice of Assignment**” to the Department, in the form attached hereto as **Attachment 5**. Upon submittal of a Notice of Assignment in substantial conformance with **Attachment 5** attached hereto to Public

Works and the Public Works Director’s written approval, the Permit rights and obligations may be performed by the Non-Port Permittee with respect to the Permit Area described therein.

Recording. If the Non-Port Permittee is an Owners’ Association, the Public Works Director may record the Permit against the Owners’ Association’s members’ property. If the Non-Port Permittee is a Fronting Property Owner, the Public Works Director may record the Permit against the Fronting Property Owner’s property. For all other Non-Port Permittees, the Public Works Director may record the Permit against the Non-Port Permittee’s real property interest, if any, in the Project Area, or require a Maintenance Fund in accordance with Section 10.

The **Notice of Assignment** shall include the information identified in Section 16.1 (1) through (10) above.

Following such assignment, the obligations of the assigning Permittee shall be deemed released to the extent of the assignment, and the assigning Permittee shall have no obligations under this Agreement as to the assigned portion of the Agreement.

17. TRANSFER AND ACCEPTANCE PROCEDURES

If this Permit is assigned in accordance with the provisions of Section 16.2 to one or more Non-Port Permittee Fronting Property Owners, this Permit and the accompanying benefits and obligations are automatically transferred to any successor Fronting Property Owner(s). If the Non-Port Permittee is selling the property or leasing the property pursuant to a Ground Lease, the successor owner(s)/Ground Lessee, as applicable, shall submit contact information to the Department immediately upon closing on the property sale or Ground Lease, as applicable, along with an acknowledgement that the successor owner(s) or tenant(s), as applicable, shall accept and assume all Permit responsibilities. The Department may require that such a transfer be evidenced by a new written Agreement with the Public Works Director and require evidence of the requisite insurance to be submitted within a specified period of time.

18. POSSESSORY INTEREST TAXES

Non-Port Permittee recognizes and understands that this Agreement may create a possessory interest subject to property taxation with respect to privately-owned or occupied property in the PROW, and that Permittee may be subject to the payment of property taxes levied on such interest under applicable law. Non-Port Permittee agrees to pay taxes of any kind, including any possessory interest tax, if any, that may be lawfully assessed on Non-Port Permittee’s interest under this Agreement or use of the PROW pursuant hereto and to pay any other taxes, excises, licenses, permit charges, or assessments based on Non-Port Permittee’s usage of the PROW that may be imposed upon Non-Port Permittee by applicable law (collectively, a “Possessory Interest Tax”). Non-Port Permittee shall pay all of such charges when they become due and payable and before delinquency. The Parties hereto hereby acknowledge that the PROW will be a public open space during the term of this Agreement and Permittee’s use of the PROW pursuant to this Agreement is intended to be non-exclusive and non-possessory. Property owned and controlled by Port and not subject to a lease is not subject to property taxation.

19. PESTICIDE PROHIBITION

Permittee shall comply with the provisions of Section 308 of Chapter 3 of the San Francisco Environment Code (the “Pesticide Ordinance”) which (a) prohibit the use of certain pesticides on PROW, (b) require the posting of certain notices and the maintenance of certain records regarding pesticide usage and (c) require Permittee to submit to the Public Works Director an integrated pest management (“IPM”) plan that (i) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Permittee may need to apply to the PROW during the term of this Agreement, (ii) describes the steps Permittee will take to meet the City’s IPM Policy described in Section 300 of the Pesticide Ordinance, and (iii) identifies, by name, title, address and telephone number, an individual to act as the Permittee’s primary IPM contact person with the City. In addition, Permittee shall comply with the requirements of Sections 303(a) and 303(b) of the Pesticide Ordinance. Nothing herein shall prevent Permittee, through the Public Works Director, from seeking a determination from the Commission on the Environment that it is exempt from complying with certain portions of the Pesticide Ordinance as provided in Section 303 thereof.

20. PROHIBITION OF TOBACCO SALES AND ADVERTISING

Permittee acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on the PROW. This advertising prohibition includes the placement of the name of a company producing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. In addition, Permittee acknowledges and agrees that no Sales, Manufacture, or Distribution of Tobacco Products (as such capitalized terms are defined in Health Code Section 19K.1) is allowed on the PROW and such prohibition must be included in all subleases or other agreements allowing use of the PROW. The prohibition against Sales, Manufacture, or Distribution of Tobacco Products does not apply to persons who are affiliated with an accredited academic institution where the Sale, Manufacture, and/or Distribution of Tobacco Products is conducted as part of academic research.

21. PROHIBITION OF ALCOHOLIC BEVERAGE ADVERTISING

Permittee acknowledges and agrees that no advertising of alcoholic beverages is allowed on the PROW. For purposes of this Section, “alcoholic beverage” shall be defined as set forth in California Business and Professions Code Section 23004, and shall not include cleaning solutions, medical supplies, and other products and substances not intended for drinking. This advertising prohibition includes the placement of the name of a company producing, selling, or distributing alcoholic beverages or the name of any alcoholic beverage in any promotion of any event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit, or other entity designed to (a) communicate the health hazards of alcoholic beverages, (b) encourage people not to drink alcohol or to stop drinking alcohol, or (c) provide or publicize drug or alcohol treatment or rehabilitation services.

22. CONFLICTS OF INTEREST

Through its execution of this Agreement, Permittee acknowledges that it is familiar with the provisions of Section 15.103 of the San Francisco Charter, Article III, Chapter 2 of City’s

Campaign and Governmental Conduct Code, and Sections 87100 et seq. and Sections 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts related to this Agreement which would constitute a violation of said provisions, and agrees that if Permittee becomes aware of any such fact during the term of this Agreement, Permittee shall immediately notify the City.

23. FOOD SERVICE WASTE REDUCTION

If there is a City permit or authorization for the Permit Area that will allow food service, Permittee agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in the San Francisco Environment Code, Chapter 16, including the remedies provided therein, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth herein and the Permittee will be treated as a lessee for purposes of compliance with Chapter 16. This provision is a material term of this Agreement. By entering into this Agreement, Permittee agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine. Without limiting City's other rights and remedies, Permittee agrees that the sum of One Hundred Dollars (\$100.00) liquidated damages for the first breach, Two Hundred Dollars (\$200.00) liquidated damages for the second breach in the same year, and Five Hundred Dollars (\$500.00) liquidated damages for subsequent breaches in the same year is a reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amounts shall not be considered a penalty, but rather as mutually agreed upon monetary damages sustained by City because of Permittee's failure to comply with this provision.

24. GENERAL PROVISIONS

Unless this Agreement provides otherwise: (a) This Agreement may be amended or modified only in writing and signed by both the Public Works Director and Permittee; provided that the Public Works Director shall have the right to terminate or revoke the Permit in accordance with this Agreement. (b) No waiver by any Party of any of the provisions of this Agreement shall be effective unless in writing and signed by an officer or other authorized representative, and only to the extent expressly provided in such written waiver. (c) All approvals and determinations of City requested, required, or permitted hereunder may be made in the sole and absolute discretion of the Public Works Director or other authorized City official. (d) This Agreement (including its Attachments and associated documents hereto), the Permit, the Board of Supervisors legislation approving the Permit, and any authorization to proceed, discussions, understandings, and agreements are merged herein. (e) The section and other headings of this Agreement are for convenience of reference only and shall be disregarded in the interpretation of this Agreement. The Public Works Director shall have the sole discretion to interpret and make decisions regarding any and all discrepancies, conflicting statements, and omissions found in the Permit, Agreement, the Agreement's Attachments and associated documents, and Improvement Plans, if applicable. (f) Time is of the essence. (g) This Agreement shall be governed by California law and the City's Charter. (h) If either Party commences an action against the other or a dispute arises under this Agreement, the prevailing party shall be entitled to recover from the other reasonable attorneys' fees and costs. For purposes hereof, reasonable attorneys' fees of City shall be based on the fees

regularly charged by private attorneys in San Francisco with comparable experience, notwithstanding the City's use of its own attorneys. (i) If Permittee consists of more than one person then the obligations of each person shall be joint and several. (j) This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, representatives, successors, and assigns. (k) City is the sole beneficiary of Permittee's obligations under this Agreement. Nothing contained herein shall be deemed to be a gift or dedication to the general public or for any public purposes whatsoever, nor shall it give rights to the Parties expressly set forth above. Without limiting the foregoing, nothing herein creates a private right of action by any person or entity other than the City. (l) This Agreement does not create a partnership or joint venture between the City and Permittee as to any activity conducted by Permittee in its performance of its obligations under this Agreement. Permittee shall not be deemed a state actor with respect to any activity conducted by Permittee on, in, around, or under the Improvements pursuant to this Agreement.

25. INDEMNIFICATION

25.1 Any Assignee, on behalf of itself and its successors and assigns ("**Indemnitors**"), shall indemnify, defend, and hold harmless ("**Indemnify**") the City including, but not limited to, all of its boards, commissions, departments, agencies, and other subdivisions, including, without limitation, the Department and the Port, and all of the heirs, legal representatives, successors, and assigns (individually and collectively, the "**Indemnified Parties**"), and each of them, for any damages the Indemnified Parties may be required to pay as satisfaction of any judgment or settlement of any claim or legal or administrative action (collectively, "**Claims**"), incurred in connection with or arising in whole or in part from: (a) any accident, injury to or death of a person, or loss of or damage to property, or any negligent act or omission of the Indemnitor in or about the Permit Area arising from the Permitted Activities, and except to the extent they arise exclusively from the City's active negligence, willful misconduct, or failure to maintain one or more Improvements after agreeing to perform such maintenance and accepting funding from Permittee for that purpose; (b) any default by such Indemnitors in the observation or performance of any of the terms, covenants, or conditions of this Permit to be observed or performed on such Indemnitors' part; and (c) any release or discharge, or threatened release or discharge, of any Hazardous Material caused or allowed by Indemnitors in, under, on, or about the Permit Area arising from the Permitted Activities. Assignee on behalf of the Indemnitors specifically acknowledges and agrees that the Indemnitors have an immediate and independent obligation to defend the City from any claim which actually or potentially falls within this Indemnity even if such allegation is or may be groundless, fraudulent, or false, which obligation arises at the time such Claim is tendered to such Indemnitors by the City and continues at all times thereafter. Assignee agrees that the indemnification obligations assumed under this Permit shall survive expiration of the Permit or completion of work. It is expressly understood and agreed that the applicable Indemnitor shall only be responsible for Claims arising or accruing during its period as Permittee under this Permit.

25.2 As between the City and Port, so long as Permittee is Port, Port is responsible for any third-party claim related to Port's operation, maintenance, repair, and replacement of the Improvements in the Permit Area which gave rise to the claim.

25.3 Port shall require any Assignee to indemnify the Indemnified Parties as set forth herein in any separate agreement with Assignee. In the event of a conflict between Section 25.1 and the indemnity provision required by Port, the provision providing the greatest indemnification to the Indemnified Parties shall apply.

26. SEVERABILITY

If any provision of this Agreement or the application thereof to any person, entity or circumstance shall be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons, entities, or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law, except to the extent that enforcement of this Agreement without the invalidated provision would be unreasonable or inequitable under all the circumstances or would frustrate a fundamental purpose of this Agreement.

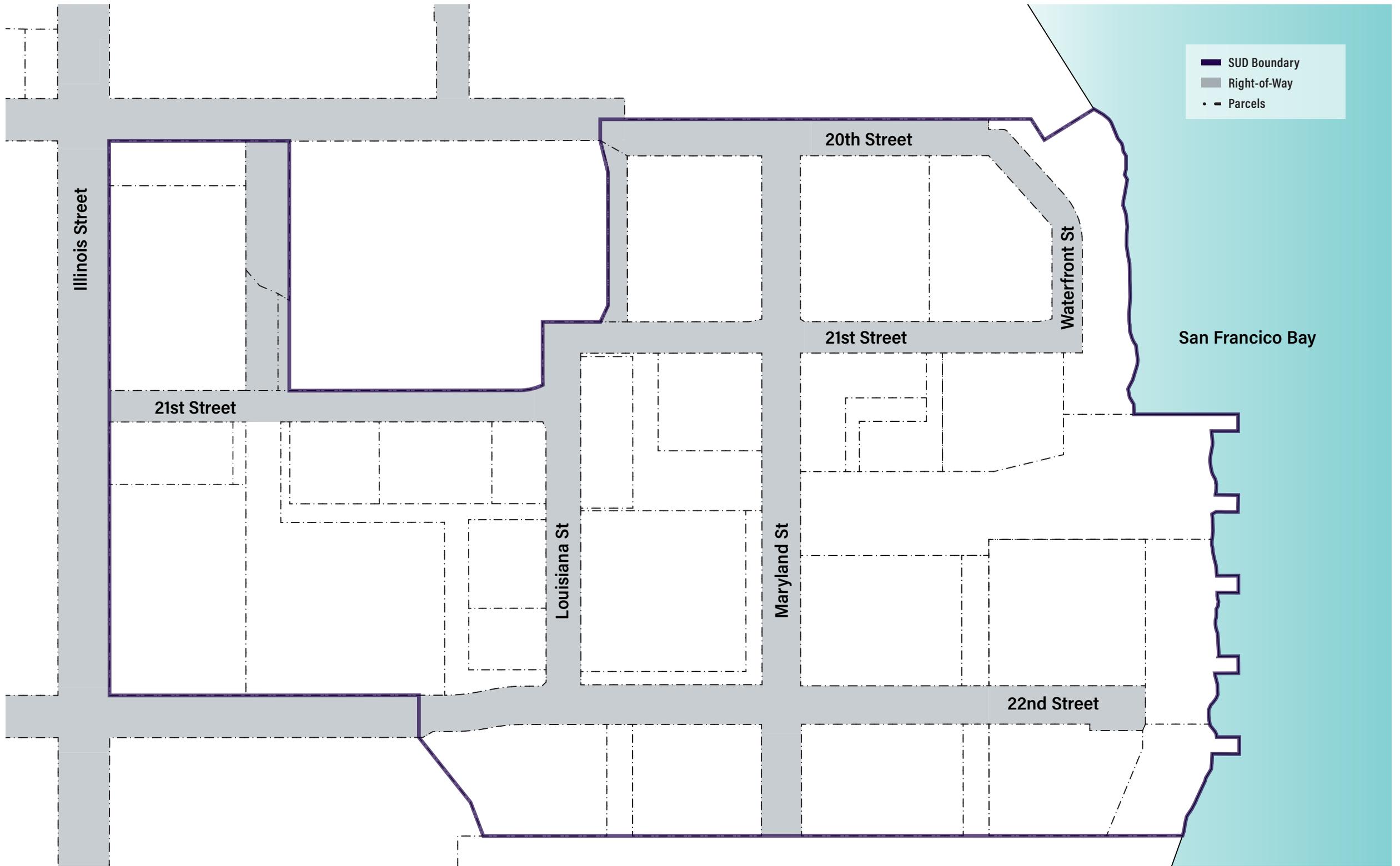
27. FORCE MAJEURE

If Permittee is delayed, interrupted, or prevented from performing any of its obligations under this Agreement, excluding all obligations that may be satisfied by the payment of money or provision of materials within the control of Permittee, and such delay, interruption, or prevention is due to fire, natural disaster, act of God, war, terrorism, riot, civil insurrection, federal or state governmental act or failure to act, labor dispute, unavailability of materials, epidemics, pandemics, and related governmental orders and requirements (and private sector responses to comply with those orders and requirements) or any cause outside such Party's reasonable control, then, provided written notice of such event and the effect on the Party's performance is given to the other Party within thirty (30) days of the occurrence of the event, the time for performance of the affected obligations of that Party shall be extended for a period equivalent to the period of such delay, interruption, or prevention.

[Signature Page to Follow]

In witness whereof the undersigned Permittee(s) have executed this agreement on the dates set forth below.

| | |
|---|--|
| <p>PERMITTEE:</p> <p>_____ Official authorized to bind Permittee</p> <p>_____ Secondary Official authorized to bind Permittee</p> | <p>_____ Date</p> <p>_____ Date</p> |
| <p>CITY AND COUNTY OF SAN FRANCISCO acting by and through its DEPARTMENT OF PUBLIC WORKS, a municipal corporation</p> <p>_____ City Engineer of San Francisco</p> <p>_____ Public Works Director</p> | <p>_____ Date</p> <p>_____ Date</p> |



- SUD Boundary
- Right-of-Way
- Parcels

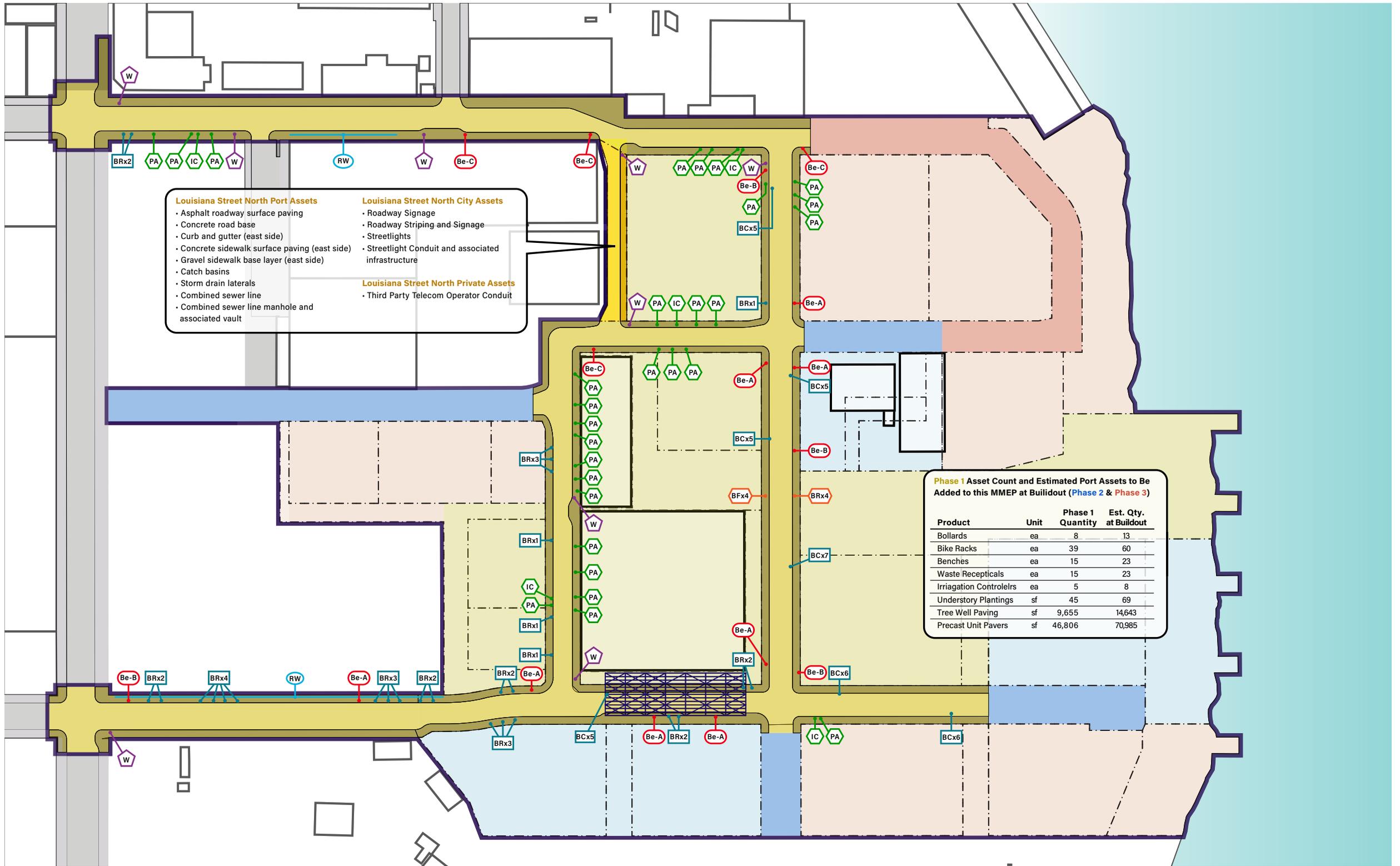
**Attachment 1:
Pier 70 Global Project Area Map**



Pier 70
Vicinity Map



NOT TO SCALE



- Louisiana Street North Port Assets**
- Asphalt roadway surface paving
 - Concrete road base
 - Curb and gutter (east side)
 - Concrete sidewalk surface paving (east side)
 - Gravel sidewalk base layer (east side)
 - Catch basins
 - Storm drain laterals
 - Combined sewer line
 - Combined sewer line manhole and associated vault
- Louisiana Street North City Assets**
- Roadway Signage
 - Roadway Striping and Signage
 - Streetlights
 - Streetlight Conduit and associated infrastructure
- Louisiana Street North Private Assets**
- Third Party Telecom Operator Conduit

Phase 1 Asset Count and Estimated Port Assets to Be Added to this MMEP at Buildout (Phase 2 & Phase 3)

| Product | Unit | Phase 1 Quantity | Est. Qty. at Buildout |
|-----------------------|------|------------------|-----------------------|
| Bollards | ea | 8 | 13 |
| Bike Racks | ea | 39 | 60 |
| Benches | ea | 15 | 23 |
| Waste Receptacles | ea | 15 | 23 |
| Irrigation Controlers | ea | 5 | 8 |
| Understory Plantings | sf | 45 | 69 |
| Tree Well Paving | sf | 9,655 | 14,643 |
| Precast Unit Pavers | sf | 46,806 | 70,985 |

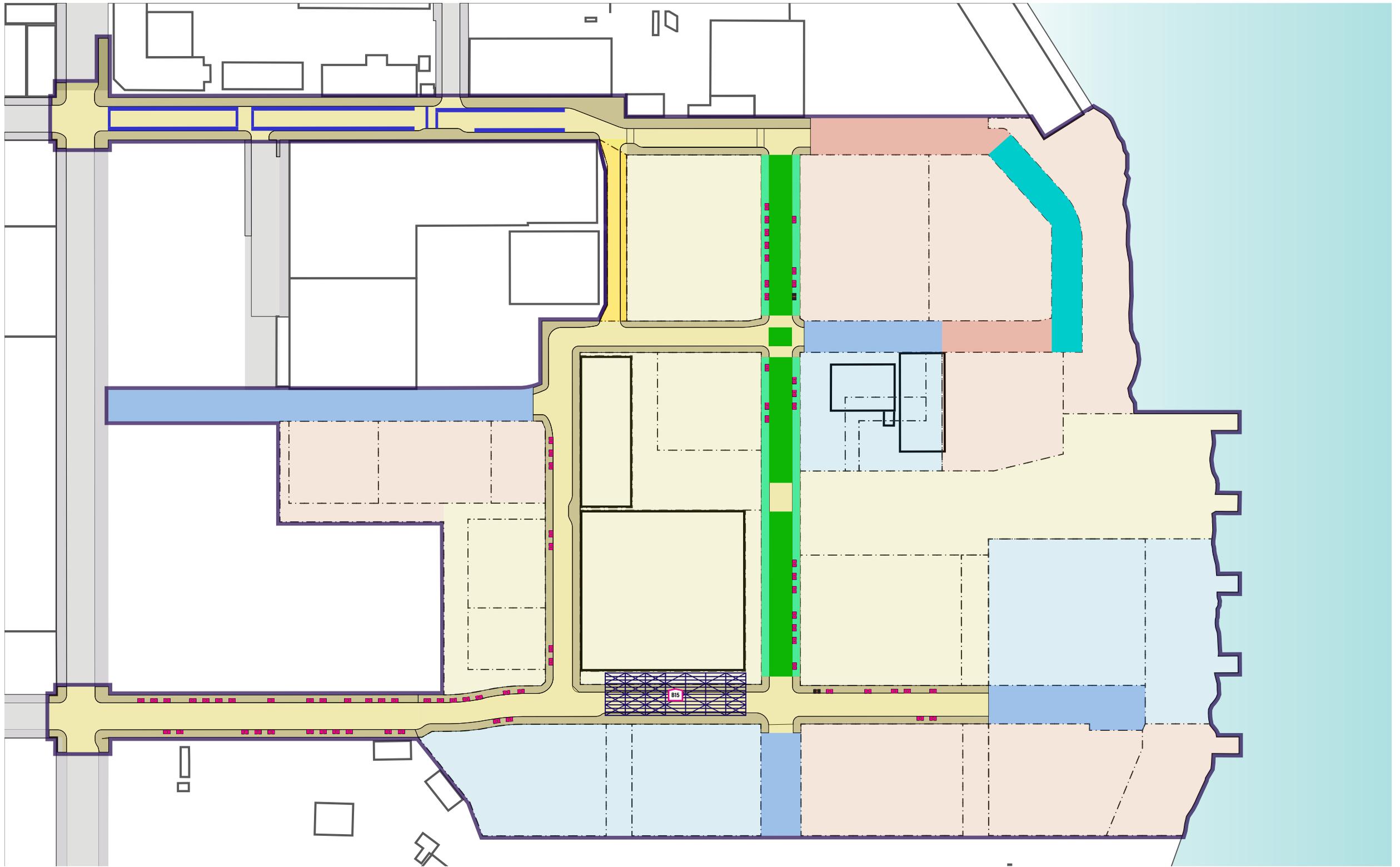
Attachment 2A: Pier 70 Global Area of Encroachments

Notes: 1. Map does not show non-standard Paving installed in Phase 1. For Special paving areas, see Map 2

- Bench Type A
- Waste Receptacle (Trash/Recycling)
- Louisiana Street (North Block)
- Bench Type B
- Planting Area
- Phase 1
- Bench Type C
- Irrigation Controller
- Phase 1 ROW (Completed)
- Fixed Bollards (4 Bollards)
- Retaining Wall
- Louisiana St. North (Port ROW)
- Removable Bollards (4 Bollards)
- Building 15
- Phase 2
- Sidewalk Bike Racks (3 Racks)
- Phase 2 ROW (Future)
- In-Street Bike Corral with 6 Racks
- Phase 3
- Phase 3 ROW (Future)



NOT TO SCALE

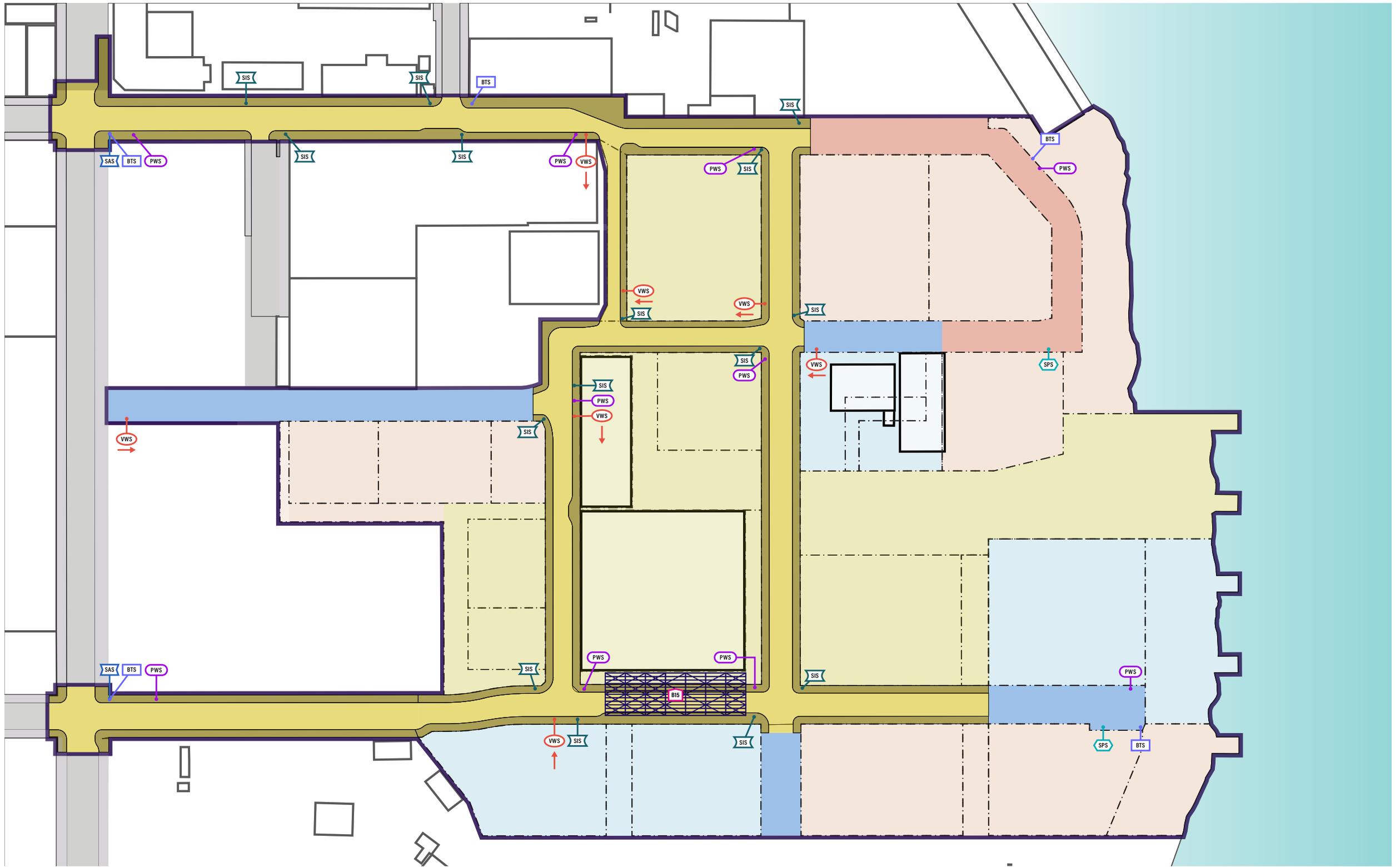


**Attachment 2B:
Pier 70 Global Area – Port Maintained
Special Paving**

- | | | | |
|---|---|---|---------------------------------|
|  | 20th Street Cobble Stones in Parking Lane and Crosswalks |  | Building 15 |
|  | Maryland Street Sidewalk Unit Pavers |  | Louisiana Street (North Block) |
|  | Maryland Street Roadway Unit Pavers |  | Phase 1 |
|  | Waterfront Street Special Paving (To be installed in Phase 3) |  | Phase 1 ROW (Completed) |
|  | Tree Well Unit Pavers |  | Louisiana St. North (Port ROW)* |
| | |  | Phase 2 |
| | |  | Phase 2 ROW (Future) |
| | |  | Phase 3 |
| | |  | Phase 3 ROW (Future) |



NOT TO SCALE



Attachment 2C: Pier 70 Proposed Wayfinding and Signage (All Phases)

- Notes:**
1. No wayfinding signage has been installed as of City acceptance of Phase 1 Streets (Spring 2024).
 2. The Pier 70 Signage and Wayfinding Plan proposes several signs adjacent to Port open space. These signs may be installed either in City ROW or Port open space.
 3. Proposed signage locations are conceptual and may change prior to installation

- Pedestrian Wayfinding Sign (Planned)
- Vehicular Wayfinding Sign (Planned)
Arrow shows direction of path
- Bay Trail Sign (Planned)
- Shoreline Access Sign (Planned)
- Shoreline Parking Sign (Planned)

- Building 15
- Louisiana Street (North Block)
- Phase 1
- Phase 1 ROW (Completed)
- Louisiana St. North (Port ROW)*
- Phase 2
- Phase 2 ROW (Future)
- Phase 3
- Phase 3 ROW (Future)



NOT TO SCALE

Attachment 3: Pier 70 Global Maintenance Matrix and Maintenance Plan

| Maintenance Item Number | Specific Improvement | Products | Maintenance Frequency | Maintenance Instructions | Approximate Quantities (Phase 1) | Approximate Quantities (Full Buildout) | Estimate of Annual Maintenance Costs (Phase 1) | Estimate of Annual Maintenance Costs (Full Buildout) |
|--|--|--|---|--|--|--|--|--|
| Real Property underlying Dedicated Right-of-Ways and Open Space Lands | | | | | | | | |
| Street Improvements in Dedicated Right-of-Ways | | | | | | | | |
| 4. | <i>Non-Standard Roadway Treatment</i> | Cobblestones in 20th Street, Stepstone precast unit pavers in Maryland Street | Sweep and inspect for lift/cracks weekly Pressure wash annually/as needed | * Pressure washing Cobblestones, stepstone pavers with care, adjust pressure to the concrete paver manufacturer's permitted level to preserve the shape and color of concrete pavers. If a more aggressive cleaning is needed, a standard masonry cleaner can be used. * Cleaner should test a small inconspicuous area to ensure that the results are satisfactory; some masonry cleaners are acid based and may etch the surface of the concrete. * Always follow the cleaner manufacturer's application instructions. * Paver manufacturer and model numbers should be preserved properly for future restoration and repair work. | 9,700 SF cobblestones 26,800 SF precast unit pavers (street) | 14,600 SF cobblestones 40,600 SF precast unit pavers (street) | \$30,000 | \$45,600 |
| 7. | <i>Stationary Sidewalk Furniture</i> | Streetlife benches, Dispatch trash receptacles, MaxiForce bollards | Control Litter & Empty Trash Receptacles daily Control litter after events as needed Remove posting/graffiti as needed Clean Benches, Bike Racks weekly Repair/replace Trash Receptacles, Bike Racks as needed Inspect bollards annually Repair/replace bollards as needed. | Benches: The slats can be cleaned with clear water and a soft brush or cloth. The use of detergents is discouraged. For removing algae or moss, recommend the use of biodegradable cleaning agents. Do not use a high pressure cleaner or similar; this will open up the wood grain and make the surface coarse. Bench wood can be replaced if it is burned, gouged with spear inventories on site. Trash Receptacles: Metal surfaces can be cleaned as needed using a soft cloth or brush with warm water and a mild detergent. Avoid abrasive cleaners. Bollards: Routine inspections and maintenance steps need to be carried out. The salt and moisture in the air at Pier 70 can create a damaging buildup of salt on the Bollards. This damaging build-up requires timely inspections of all Bollards to detect and subsequently remove the harmful residue. All bollards should be cleaned regularly, ideally with warm soapy water, or a solution of water and detergent, and a soft nylon brush. Once cleaned and rinsed, dry with a soft cloth. | 16 benches 15 trash receptacles 8 bollards | 25 benches 23 trash receptacles 13 bollards | \$15,000 | \$22,800 |
| 10. | <i>Non-standard Sidewalk Streetlife Zone</i> | Stepstone precast unit pavers in Maryland Street sidewalk, irrigation system for sidewalk planting | Sweep and inspect for lift/cracks weekly Pressure wash annually/as needed. Irrigation system check monthly, repair/replacement as needed Check irrigation programing twice a year | For Stepstone precast unit pavers in Maryland Street sidewalk, same maintenance instructions as item 4. Irrigation System: Check Springkler head water pressure routinely. Adjust the springkler schedule to extend the system's lifespan and save water. Winterize the irrigation system once temperatures reach or are below freezing; clean/ repair/replace broken heads as needed | 20,000 SF precast unit pavers (sidewalk) 5 irrigation controllers | 30,300 SF precast unit pavers (sidewalk) 8 irrigation controllers | \$15,000 | \$22,800 |
| Miscellaneous Elements | | | | | | | | |
| 20. | <i>Building 15 Structural Frame</i> | Building 15 frame Everbrite coating | Full inspection coating condition every 2 years Remove Posting/Graffiti weekly or as needed | * Remove all wax, silicone, oil, and grease with a stripper or solvent; remove chalk, rust, and dead or loose paint; wash the surface with Everbrite cleaners or other free-rinsing detergent; rinse well and allow to dry completely. * Rish thoroughly; do not allow the cleaners to dry on the surface. * If an acid cleaner is used, neutralize with EZ Prep Cleaner & Neutralizer or a solution of baking soda & water. Once clean, do not contaminate the surface with waxes, polish or silicone. * Apply three layer coats (Paint ID number: EB128) with paint sprayer with a fine finish tip, high-density form roller, sponge brush, nature bristled brush, applicator pad, dries to touch in 15-30 minutes. * Recoat before any tarnish or oxidation is seen or at the first sight of slight color change. * Conduct inspections by licensed structure engineers every 2 years with appropriate documentation showing the condition of the structure frame. | N/A | N/A | \$15,000 | \$22,800 |
| 22. | <i>Non-Standard Bike Rack/Corrals</i> | Bike racks | Repair/replacement as needed Remove Posting/Graffiti as needed | The finish of the racks does not need to be maintained aside from postings/graffiti removal (as needed) | 39 bike racks | 60 bike racks | \$6,000 | \$9,120 |

Notes:

- Annual Estimated costs are based on proposed scope of work and frequency with industry average standard, unit costs given here are estimated and do not constitute a firm quote. These estimated costs are based on the quote provided third party service vendors and subject to change if new requirement is forthcoming.
- Under the Owners' Association, this Budget maintenance will be performed by various 3rd party vendors and therefore there will be no dedicated FTEs (Full Time Employee) for these services. The cost table reflected in the budget assumes maintenance contract costs for the appropriate 3rd party contractors. Contractors will determine the allocation of staff with hours and specialized equipment (such a Pressure Washer/Steamer, Lawn Mower, Maintenance Vehicle, etc.) in order to successfully fulfill the scope of work in the service agreements.
- All costs presented in February 2024 dollars.
- Full buildout quantities are estimates based on phases 2 and 3 using similar designs and materials. Phase 2 and 3 designs have not yet been completed and are subject to change.

| Description | Manufacturer | Model Number | Description* | Phase 1 Quantities | Unit | Unit Cost* (Material + Installation) | Total (Material + Installation) Installation Cost* | With 20% Markup | % of Initial Construction cost to replace | Est. Replacement Cost | Life-Cycle (years) | No. of Replacements 40 years | Annual Contribution to Reserve Fund |
|--------------------------------|---|---|--|--------------------|------|--------------------------------------|--|-----------------|---|-----------------------|--------------------|------------------------------|-------------------------------------|
| Lights / Bollards | | | | | | | | | | | | | |
| Bollard | MAXIFORCE | MFSN-SS2-N (fixed) MCSP-SS2-S (collapsible) | Standard Body, Padlock Operated, Standard Style 2 Head, Simple Base Fix and Collapsible Bollard | 8 | ea | \$ 1,500 | \$ 12,000 | \$ 14,400 | 50% | \$ 7,200 | 20 | 2.0 | \$ 720 |
| Fixtures & Elements | | | | | | | | | | | | | |
| Bike Rack | URBAN ACCESSORIES | SFP | Custom 36" Ring, Surface Mount, ductile iron ASTM A536 class 65-45-12 Marterial with Baked Oil Finish, Cast in 1 piece. | 39 | ea | \$ 1,800 | \$ 70,200 | \$ 84,240 | 50% | \$ 42,120 | 10 | 4.0 | \$ 16,848 |
| Bench | STREETLIFE | DB-L2-300-TH /CT/ PC; DB-T-BR1-180-TH / TT / PC; DB-L1-300-TH /CT/ PC | Wooden bench nature color with 2 beams and steel supports; with 2 beams and steel supports, top mounted with 1 armrest; with 1 beam and steel supports | 16 | ea | \$ 9,500 | \$ 152,000 | \$ 182,400 | 50% | \$ 91,200 | 15 | 2.7 | \$ 16,213 |
| Trash Recepticals | FORMS+SURFACES | SLDIS-216 | Dispatch Receptacle with ink blue texture powdercoat, 36-gallon, split-stream (litter & recycling), two 16-gallon half liners | 15 | ea | \$ 1,000 | \$ 15,000 | \$ 18,000 | 50% | \$ 9,000 | 10 | 4.0 | \$ 3,600 |
| Irrigation Controller | WEATHERTRAK | WTLC-C-06-PL-F | Covered by Irrigation and Landscaping O&M manual | 5 | ea | \$ 5,000 | \$ 25,000 | \$ 30,000 | 50% | \$ 15,000 | 15 | 2.7 | \$ 2,667 |
| Landscaping | | | | | | | | | | | | | |
| Low Planting | See SIP landscape drawings for planting plan | | | 45 | ea | \$ 500 | \$ 22,500 | \$ 27,000 | 100% | \$ 27,000 | 30 | 1.3 | \$ 1,200 |
| Concrete & Pavement | | | | | | | | | | | | | |
| Vehicular Cobblestone Pavement | ROMEX | ROMPOX - D2000 | Apply stone gray color pavement jointing mortar with salvaged cobblestones. | 9,655 | sf | \$ 25 | \$ 241,373 | \$ 289,647 | 30% | \$ 86,894 | 20 | 2.0 | \$ 8,689 |
| Pavers | STEPSTONE | PA S1 & PA S2 | Narrow Modular Pavers in light, medium and dark gary color, 6"X18"X2-1/2" size for Maryland Street Sidewalk & 6"X18"X4" size for Maryland Street | 46,806 | sf | \$ 35 | \$ 1,638,210 | \$ 1,965,852 | 30% | \$ 589,756 | 30 | 1.3 | \$ 26,211 |
| Permeable Paving at Tree Wells | SALVAGED COBBLESTONE PAVERS | 4"x4" | Tree wells are filled with 4"x4" cobblestone pavers with rough crushed gravel | 3,091 | sf | \$ 55 | \$ 170,005 | \$ 204,006 | 30% | \$ 61,202 | 20 | 2.0 | \$ 6,120 |
| Vehicular Concrete | Please refer to Submittal #03-3000-11.0 - Vehicular Concrete Crosswalk - Concrete Mix Design 03-3000 - Cast-in-Place Concrete & Submittal #32-1316-5.0 - Seeded Vehicular Concrete Mockup 32-1316 - Exterior Landscape Concrete | | | 9,753 | sf | \$ 25 | \$ 243,813 | \$ 292,575 | 30% | \$ 87,773 | 30 | 1.3 | \$ 3,901 |
| Asphalt Concrete Pavement | Please refer to Submittal #32-1216-1.0 - Asphalt Paving 32-1216 - Asphalt Paving | | | 5,916 | sf | \$ 18 | \$ 106,484 | \$ 127,781 | 30% | \$ 38,334 | 30 | 1.3 | \$ 1,704 |
| Pedestrian Concrete/Sidewalk | Please refer to Submittal #03-3000-15.2 - Sidewalk and Street Base Concrete 03-3000 - Cast-in-Place Concrete | | | 83,478 | sf | \$ 20 | \$ 1,669,552 | \$ 2,003,462 | 35% | \$ 701,212 | 30 | 1.3 | \$ 31,165 |
| Retaining Wall | Please refer to Submittal #31-3516-8.1 - Concrete Mix Design 31-3516 - Shoreline Protection | | | 467 | lf | \$ 300 | \$ 140,190 | \$ 168,228 | 30% | \$ 50,468 | 30 | 1.3 | \$ 2,243 |
| Total for all items | | | | | | | | | | | | \$ 121,282 | |

*Notes: Please refer to submittals for Concrete and Pavement's detail specifications

Estimated Maintenance Labor Cost

| Staffing | Scope of Work | Frequency | Base Rate / Hr | Hours | Annual |
|-------------|--|--|----------------|-----------|--------------|
| Landscaper | Low planting maintenance, pest control on timely basis. | Service twice a month | \$ 28.00 | 192 | \$ 5,376.00 |
| Laborer | Site fixtures cleaning, inspection, inspect for lift/cracks, paver power washing, | Service Weekly & as needed | \$ 28.00 | 416 | \$ 11,648.00 |
| Plumber | Check Irrigation system on timely basis, repair/replace hardware as needed, programing irrigation system timely. | Service Once a month & Inspect Bi-Annually | \$ 75.00 | 106 | \$ 7,950.00 |
| Janitor | Control Litter and empty trash receptacles daily, control litter after events, clean benches, bike racks and site furnishings. | Clean daily & as needed | \$ 22.00 | 2,080 | \$ 45,760.00 |
| Painter | Clean site furnishing surface, remove grafittis including building 15 | Service monthly & as needed | \$ 30.00 | 126 | \$ 3,780.00 |
| Iron Worker | Repair and replace hardware as needed, such as bike racks, trash receptacles, etc. | Service as needed | | as needed | \$ 6,000.00 |
| | Materials and Supplies | | | | |

Attachment 4:

List of Pier 70 Global Operations and Maintenance Manuals

1. Building 15 Everbrite Coating O&M Manual
2. Dispatch Trash Receptacle O&M Manual
3. Dispatch Trash Receptacle Cleaning Instructions
4. MaxiForce Bollards O&M Manual
5. Pier 70 - Irrigation and Landscaping O&M Manual
6. Stepstone Precast Paver Cleaning Instructions
7. Streetlife Bench Maintenance Instructions

ADDENDUM 1

IMEP FOR PORT – PIER 70

NOTICE OF ANNEXATION FOR PHASE 1

Based on Board of Supervisors Resolution No. _____, the Maintenance Agreement hereby incorporates the information and terms provided in this Addendum 1, and in the revised Attachments listed herein and attached hereto.

2. PERMIT INFORMATION

2.1 Interdepartmental Master Encroachment Permit (IMEP) Approval: Board of Supervisors Resolution No. _____ on file with the Clerk of the Board in File No. _____.

2.2.1 Description/Location of Property (Phase 1 included in **Attachment 1**): Phase 1 of the Pier 70 project is roughly bounded by the northern edge of the 20th Street right-of-way, the eastern edge of the Maryland Street right-of-way, the southern edge of the 22nd Street right-of-way, and the eastern edge of the Illinois Street right-of-way; off-site improvements are also located at the intersections of Illinois Street and both 20th and 22nd Streets and on Maryland Street immediately south of 22nd Street.

2.3.1 Description/Location of Permit Area: The Phase 1 Permit Area is shown on **Attachment 2** and includes:

2.4 Description of Improvements (Phase 1 included in **Attachment 2**):

- (a) Cobblestones and pavers in streets, sidewalks, and crosswalks
- (b) Custom benches
- (c) Custom bike racks and bike corrals
- (d) Custom waste receptacles
- (e) Bollards
- (f) Wayfinding and interpretive signs, subject to future permitting (not yet constructed)
- (g) Building 15 Structural Frame
- (h) Ground plantings, irrigation, and tree well pavers unit pavers
- (i) Building-adjacent encroachments: retaining wall, rolling gate

2.8 List of Attachments. The documents listed below are attached to or accompany this Permit, to reflect that the Phase 1 Permit Area is annexed into the Permit.

Attachment 1: Property Information. Written description of the project site and location map identifying the property.

Attachment 2: Global Area and Permit Area Documentation.

Global Area: Updated Global Diagram showing all the phases of work that have been annexed into the Permit, including the Permit Area.

Permit Area:

- (a) Written description of the area where the encroachment(s) exist and the boundaries.
- (b) A detailed description of the Improvements.
- (c) Diagram showing the boundary limits of the Permit Area and identifying all Improvements in the Permit Area (“Precise Diagram”). The Precise Diagram shall be a separate document from the SIPs.

Attachment 3: Maintenance Documents

Attachment 3A: Maintenance Matrix (Includes Phase 1 information)

Attachment 3B: Maintenance Plan. (Includes Phase 1 information)

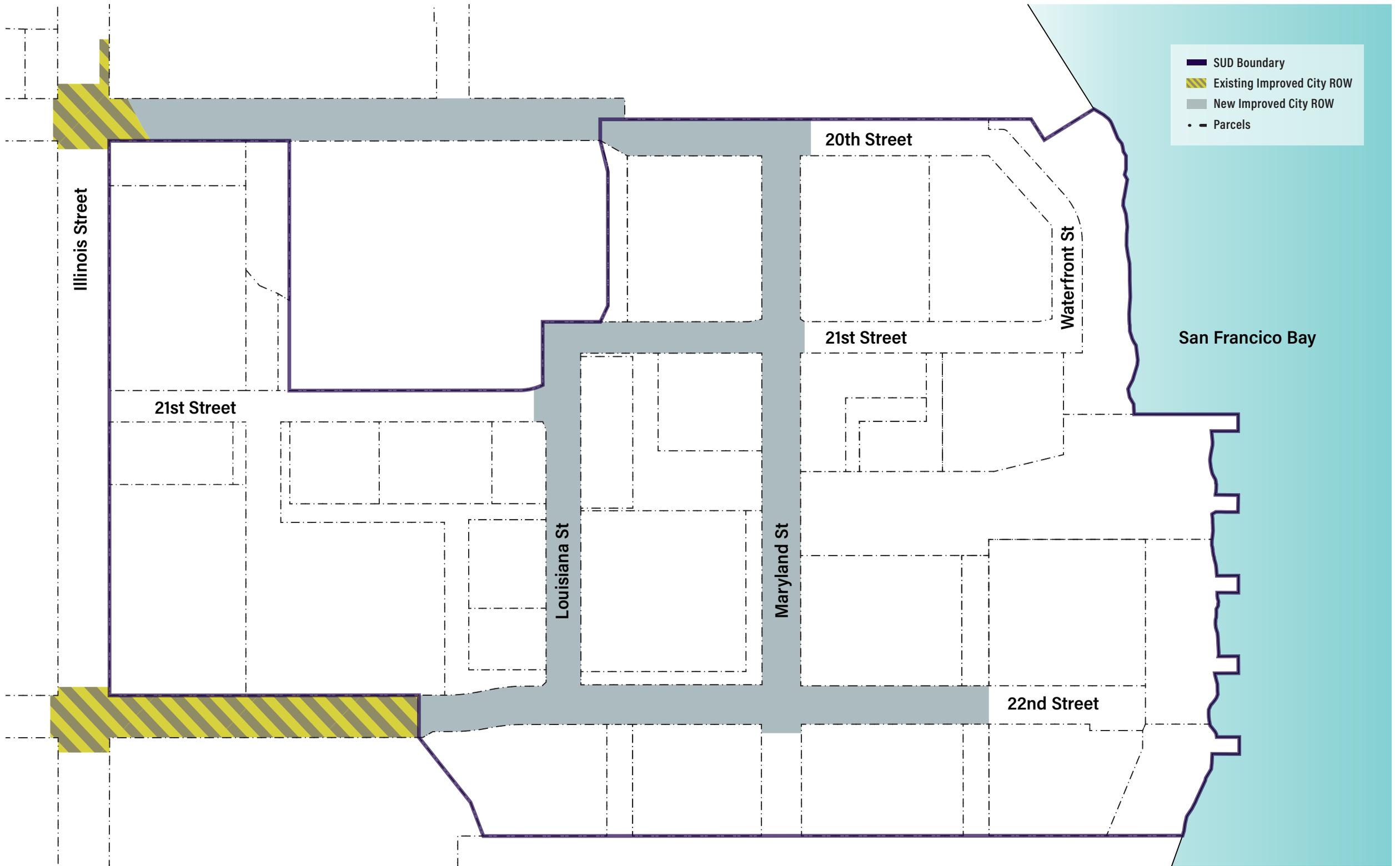
Attachment 4: Operations Manual List. Permittee shall submit a document or manual describing how to operate any specialized equipment necessary for continued operation of the Improvements along with manufacturer’s instructions for operation and maintenance (“**O&M Manuals**”) and other pertinent information about the equipment. These documents are for Public Works file purposes and not attached to this Agreement.

The City Engineer has reviewed and certified the description of the **Permit Area** (Attachment 2), **Maintenance Matrix** and **Maintenance Plan** (Attachment 3), and **O&M Manuals** (Attachment 4), and any necessary updates submitted with a Notice of Annexation.

5.1 Permits, Permissions, and Approvals

5.1A Requirement to Obtain all Regulatory Permits and Approvals.

Permittee and Master Developer have obtained all permits, licenses, and approvals of applicable regulatory agencies (“**Regulatory Permits**”) required to commence and complete construction of the Phase 1 Improvements in the PROW and performance of the Permitted Activities, with the exception of deferred improvements. All such Regulatory Permits have been delivered to the Department.



-  SUD Boundary
-  Existing Improved City ROW
-  New Improved City ROW
-  Parcels

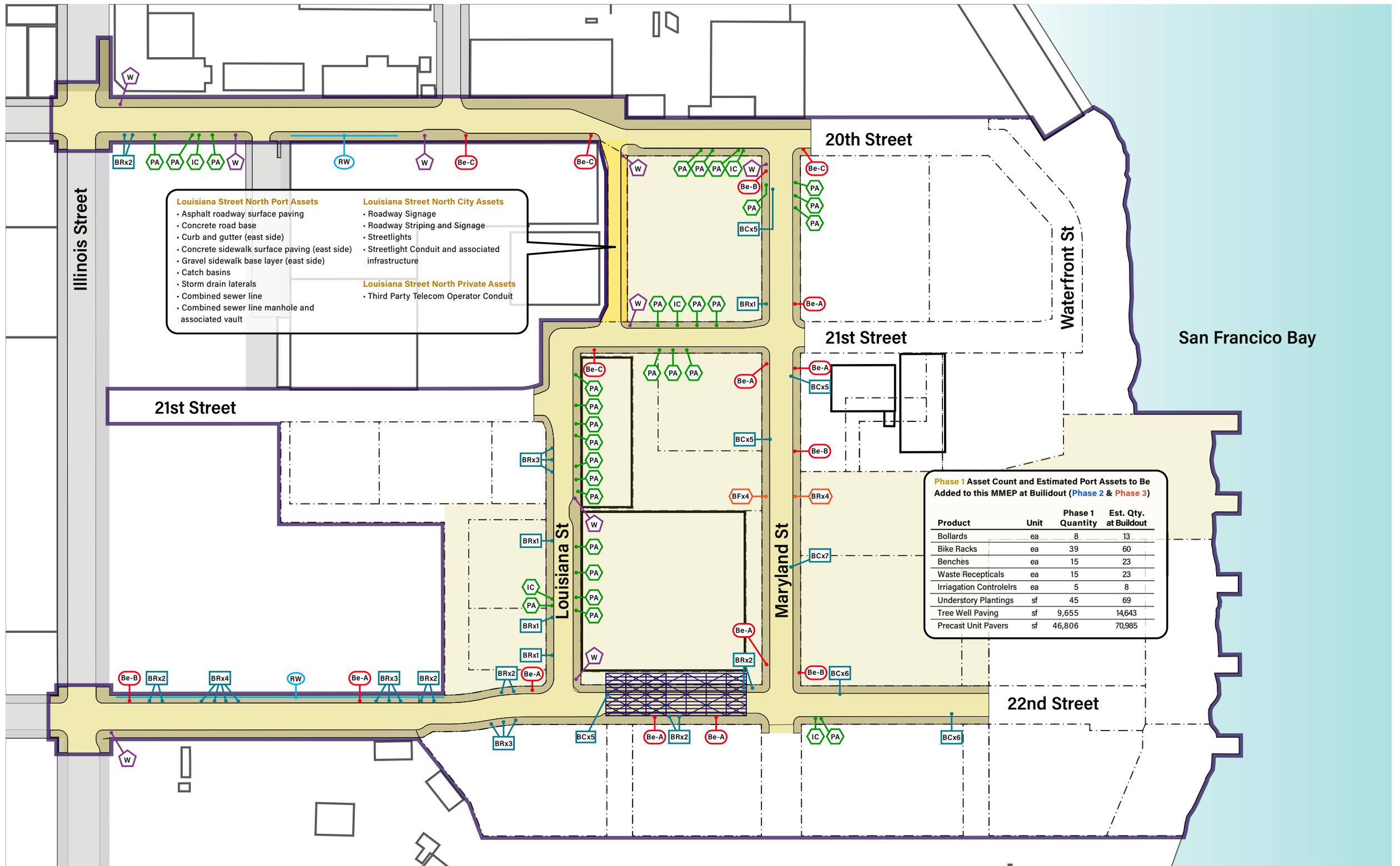
**Attachment 1:
Pier 70 Phase 1 Area Map**



Pier 70
Vicinity Map



NOT TO SCALE



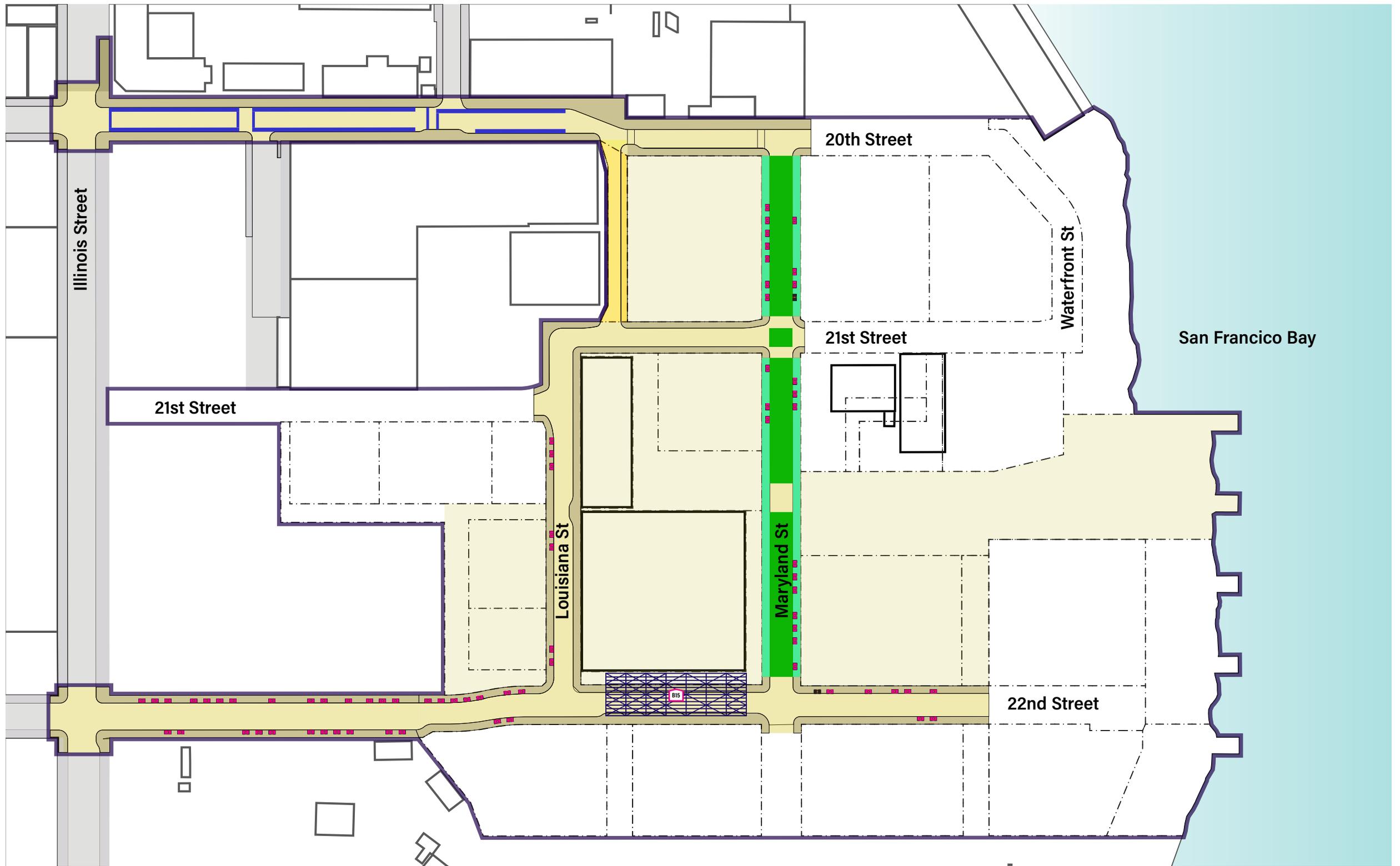
Attachment 2A: Pier 70 Phase 1 Description of Encroachments

Notes: 1. Map does not show non-standard Paving installed in Phase 1. For Special paving areas, see Map 2

- Be-A Bench Type A
 - Be-B Bench Type B
 - Be-C Bench Type C
 - BFx4 Fixed Bollards (4 Bollards)
 - BRx4 Removable Bollards (4 Bollards)
 - BRx3 Sidewalk Bike Racks (3 Racks)
 - BCx6 In-Street Bike Corral with 6 Racks
- W Waste Receptacle (Trash/Recycling)
 - PA Planting Area
 - IC Irrigation Controller
 - RW Retaining Wall
 - B15 Building 15
- Louisiana Street (North Block)
 - Phase 1
 - Phase 1 ROW (Completed)
 - Louisiana St. North (Port ROW)
 - Phase 2
 - Phase 2 ROW (Future)
 - Phase 3
 - Phase 3 ROW (Future)



NOT TO SCALE



**Attachment 2B:
Pier 70 Phase 1 – Port Maintained
Special Paving**

- | | | | |
|---|---|---|---------------------------------|
|  | 20th Street Cobble Stones in Parking Lane and Crosswalks |  | Building 15 |
|  | Maryland Street Sidewalk Unit Pavers |  | Louisiana Street (North Block) |
|  | Maryland Street Roadway Unit Pavers |  | Phase 1 |
|  | Waterfront Street Special Paving (To be installed in Phase 3) |  | Phase 1 ROW (Completed) |
|  | Tree Well Unit Pavers |  | Louisiana St. North (Port ROW)* |
| | |  | Phase 2 |
| | |  | Phase 2 ROW (Future) |
| | |  | Phase 3 |
| | |  | Phase 3 ROW (Future) |



NOT TO SCALE

Attachment 3: Pier 70 Phase 1 Maintenance Matrix and Maintenance Plan

| Maintenance Item Number | Specific Improvement | Products | Maintenance Frequency | Maintenance Instructions | Approximate Quantities (Phase 1) | Approximate Quantities (Full Buildout) | Estimate of Annual Maintenance Costs (Phase 1) | Estimate of Annual Maintenance Costs (Full Buildout) |
|--|--|--|---|--|--|--|--|--|
| Real Property underlying Dedicated Right-of-Ways and Open Space Lands | | | | | | | | |
| Street Improvements in Dedicated Right-of-Ways | | | | | | | | |
| 4. | <i>Non-Standard Roadway Treatment</i> | Cobblestones in 20th Street, Stepstone precast unit pavers in Maryland Street | Sweep and inspect for lift/cracks weekly Pressure wash annually/as needed | * Pressure washing Cobblestones, stepstone pavers with care, adjust pressure to the concrete paver manufacturer's permitted level to preserve the shape and color of concrete pavers. If a more aggressive cleaning is needed, a standard masonry cleaner can be used. * Cleaner should test a small inconspicuous area to ensure that the results are satisfactory; some masonry cleaners are acid based and may etch the surface of the concrete. * Always follow the cleaner manufacturer's application instructions. * Paver manufacturer and model numbers should be preserved properly for future restoration and repair work. | 9,700 SF cobblestones 26,800 SF precast unit pavers (street) | 14,600 SF cobblestones 40,600 SF precast unit pavers (street) | \$30,000 | \$45,600 |
| 7. | <i>Stationary Sidewalk Furniture</i> | Streetlife benches, Dispatch trash receptacles, MaxiForce bollards | Control Litter & Empty Trash Receptacles daily Control litter after events as needed Remove posting/graffiti as needed Clean Benches, Bike Racks weekly Repair/replace Trash Receptacles, Bike Racks as needed Inspect bollards annually Repair/replace bollards as needed. | Benches: The slats can be cleaned with clear water and a soft brush or cloth. The use of detergents is discouraged. For removing algae or moss, recommend the use of biodegradable cleaning agents. Do not use a high pressure cleaner or similar; this will open up the wood grain and make the surface coarse. Bench wood can be replaced if it is burned, gouged with spear inventories on site. Trash Receptacles: Metal surfaces can be cleaned as needed using a soft cloth or brush with warm water and a mild detergent. Avoid abrasive cleaners. Bollards: Routine inspections and maintenance steps need to be carried out. The salt and moisture in the air at Pier 70 can create a damaging buildup of salt on the Bollards. This damaging build-up requires timely inspections of all Bollards to detect and subsequently remove the harmful residue. All bollards should be cleaned regularly, ideally with warm soapy water, or a solution of water and detergent, and a soft nylon brush. Once cleaned and rinsed, dry with a soft cloth. | 16 benches 15 trash receptacles 8 bollards | 25 benches 23 trash receptacles 13 bollards | \$15,000 | \$22,800 |
| 10. | <i>Non-standard Sidewalk Streetlife Zone</i> | Stepstone precast unit pavers in Maryland Street sidewalk, irrigation system for sidewalk planting | Sweep and inspect for lift/cracks weekly Pressure wash annually/as needed. Irrigation system check monthly, repair/replacement as needed Check irrigation programing twice a year | For Stepstone precast unit pavers in Maryland Street sidewalk, same maintenance instructions as item 4. Irrigation System: Check Springkler head water pressure routinely. Adjust the springkler schedule to extend the system's lifespan and save water. Winterize the irrigation system once temperatures reach or are below freezing; clean/ repair/replace broken heads as needed | 20,000 SF precast unit pavers (sidewalk) 5 irrigation controllers | 30,300 SF precast unit pavers (sidewalk) 8 irrigation controllers | \$15,000 | \$22,800 |
| Miscellaneous Elements | | | | | | | | |
| 20. | <i>Building 15 Structural Frame</i> | Building 15 frame Everbrite coating | Full inspection coating condition every 2 years Remove Posting/Graffiti weekly or as needed | * Remove all wax, silicone, oil, and grease with a stripper or solvent; remove chalk, rust, and dead or loose paint; wash the surface with Everbrite cleaners or other free-rinsing detergent; rinse well and allow to dry completely. * Rish thoroughly; do not allow the cleaners to dry on the surface. * If an acid cleaner is used, neutralize with EZ Prep Cleaner & Neutralizer or a solution of baking soda & water. Once clean, do not contaminate the surface with waxes, polish or silicone. * Apply three layer coats (Paint ID number: EB128) with paint sprayer with a fine finish tip, high-density form roller, sponge brush, nature bristled brush, applicator pad, dries to touch in 15-30 minutes. * Recoat before any tarnish or oxidation is seen or at the first sight of slight color change. * Conduct inspections by licensed structure engineers every 2 years with appropriate documentation showing the condition of the structure frame. | N/A | N/A | \$15,000 | \$22,800 |
| 22. | <i>Non-Standard Bike Rack/Corrals</i> | Bike racks | Repair/replacement as needed Remove Posting/Graffiti as needed | The finish of the racks does not need to be maintained aside from postings/graffiti removal (as needed) | 39 bike racks | 60 bike racks | \$6,000 | \$9,120 |

Notes:

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- All costs presented in February 2024 dollars.
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| Description | Manufacturer | Model Number | Description* | Phase 1 Quantities | Unit | Unit Cost* (Material + Installation) | Total (Material + Installation) Installation Cost* | With 20% Markup | % of Initial Construction cost to replace | Est. Replacement Cost | Life-Cycle (years) | No. of Replacements 40 years | Annual Contribution to Reserve Fund |
|--------------------------------|---|---|--|--------------------|------|--------------------------------------|--|-----------------|---|-----------------------|--------------------|------------------------------|-------------------------------------|
| Lights / Bollards | | | | | | | | | | | | | |
| Bollard | MAXIFORCE | MFSN-SS2-N (fixed) MCSP-SS2-S (collapsible) | Standard Body, Padlock Operated, Standard Style 2 Head, Simple Base Fix and Collapsible Bollard | 8 | ea | \$ 1,500 | \$ 12,000 | \$ 14,400 | 50% | \$ 7,200 | 20 | 2.0 | \$ 720 |
| Fixtures & Elements | | | | | | | | | | | | | |
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| Irrigation Controller | WEATHERTRAK | WTLC-C-06-PL-F | Covered by Irrigation and Landscaping O&M manual | 5 | ea | \$ 5,000 | \$ 25,000 | \$ 30,000 | 50% | \$ 15,000 | 15 | 2.7 | \$ 2,667 |
| Landscaping | | | | | | | | | | | | | |
| Low Planting | See SIP landscape drawings for planting plan | | | 45 | ea | \$ 500 | \$ 22,500 | \$ 27,000 | 100% | \$ 27,000 | 30 | 1.3 | \$ 1,200 |
| Concrete & Pavement | | | | | | | | | | | | | |
| Vehicular Cobblestone Pavement | ROMEX | ROMPOX - D2000 | Apply stone gray color pavement jointing mortar with salvaged cobblestones. | 9,655 | sf | \$ 25 | \$ 241,373 | \$ 289,647 | 30% | \$ 86,894 | 20 | 2.0 | \$ 8,689 |
| Pavers | STEPSTONE | PA S1 & PA S2 | Narrow Modular Pavers in light, medium and dark gary color, 6"X18"X2-1/2" size for Maryland Street Sidewalk & 6"X18"X4" size for Maryland Street | 46,806 | sf | \$ 35 | \$ 1,638,210 | \$ 1,965,852 | 30% | \$ 589,756 | 30 | 1.3 | \$ 26,211 |
| Permeable Paving at Tree Wells | SALVAGED COBBLESTONE PAVERS | 4"x4" | Tree wells are filled with 4"x4" cobblestone pavers with rough crushed gravel | 3,091 | sf | \$ 55 | \$ 170,005 | \$ 204,006 | 30% | \$ 61,202 | 20 | 2.0 | \$ 6,120 |
| Vehicular Concrete | Please refer to Submittal #03-3000-11.0 - Vehicular Concrete Crosswalk - Concrete Mix Design 03-3000 - Cast-in-Place Concrete & Submittal #32-1316-5.0 - Seeded Vehicular Concrete Mockup 32-1316 - Exterior Landscape Concrete | | | 9,753 | sf | \$ 25 | \$ 243,813 | \$ 292,575 | 30% | \$ 87,773 | 30 | 1.3 | \$ 3,901 |
| Asphalt Concrete Pavement | Please refer to Submittal #32-1216-1.0 - Asphalt Paving 32-1216 - Asphalt Paving | | | 5,916 | sf | \$ 18 | \$ 106,484 | \$ 127,781 | 30% | \$ 38,334 | 30 | 1.3 | \$ 1,704 |
| Pedestrian Concrete/Sidewalk | Please refer to Submittal #03-3000-15.2 - Sidewalk and Street Base Concrete 03-3000 - Cast-in-Place Concrete | | | 83,478 | sf | \$ 20 | \$ 1,669,552 | \$ 2,003,462 | 35% | \$ 701,212 | 30 | 1.3 | \$ 31,165 |
| Retaining Wall | Please refer to Submittal #31-3516-8.1 - Concrete Mix Design 31-3516 - Shoreline Protection | | | 467 | lf | \$ 300 | \$ 140,190 | \$ 168,228 | 30% | \$ 50,468 | 30 | 1.3 | \$ 2,243 |
| Total for all items | | | | | | | | | | | | \$ 121,282 | |

*Notes: Please refer to submittals for Concrete and Pavement's detail specifications

Estimated Maintenance Labor Cost

| Staffing | Scope of Work | Frequency | Base Rate / Hr | Hours | Annual |
|-------------|--|--|----------------|-----------|--------------|
| Landscaper | Low planting maintenance, pest control on timely basis. | Service twice a month | \$ 28.00 | 192 | \$ 5,376.00 |
| Laborer | Site fixtures cleaning, inspection, inspect for lift/cracks, paver power washing, | Service Weekly & as needed | \$ 28.00 | 416 | \$ 11,648.00 |
| Plumber | Check Irrigation system on timely basis, repair/replace hardware as needed, programing irrigation system timely. | Service Once a month & Inspect Bi-Annually | \$ 75.00 | 106 | \$ 7,950.00 |
| Janitor | Control Litter and empty trash receptacles daily, control litter after events, clean benches, bike racks and site furnishings. | Clean daily & as needed | \$ 22.00 | 2,080 | \$ 45,760.00 |
| Painter | Clean site furnishing surface, remove grafittis including building 15 | Service monthly & as needed | \$ 30.00 | 126 | \$ 3,780.00 |
| Iron Worker | Repair and replace hardware as needed, such as bike racks, trash receptacles, etc. | Service as needed | | as needed | \$ 6,000.00 |
| | Materials and Supplies | | | | |

Attachment 4:

List of Pier 70 Phase 1 Operations and Maintenance Manuals

1. Building 15 Everbrite Coating O&M Manual
2. Dispatch Trash Receptacle O&M Manual
3. Dispatch Trash Receptacle Cleaning Instructions
4. MaxiForce Bollards O&M Manual
5. Pier 70 - Irrigation and Landscaping O&M Manual
6. Stepstone Precast Paver Cleaning Instructions
7. Streetlife Bench Maintenance Instructions

**ENCROACHMENT PERMIT
AND MAINTENANCE AGREEMENT
(Telecommunications Conduit)**

1. PARTIES AND BACKGROUND

A. The City and County of San Francisco Public Works (the “**Department**”) enters into this Encroachment Permit and Maintenance Agreement (“**Agreement**”) with FC Pier 70, LLC, a Delaware limited liability company (the “**Permittee**”), on this date, _____, 2024. In this Agreement, the “**Major Encroachment Permit**” or “**Permit**” collectively refers to the Encroachment Permit as shown on the Department approved plan(s), any associated Improvement (as defined below), and this Agreement, including its Attachments and accompanying documents. In this Agreement, “the **City**” refers to the City and County of San Francisco and all affiliated City agencies including, but not limited to, the Department, the San Francisco Public Utilities Commission (“**SFPUC**”) and the San Francisco Municipal Transportation Agency (“**SFMTA**”).

B. Permittee is a party to that certain Disposition and Development Agreement, dated as of May 2, 2018, by and between the City operating by and through the San Francisco Port Commission (“**Port**”) and Permittee as Master Developer (“**Master Developer**”) recorded in the official real estate records of the City (the “**Official Records**”) on May 25, 2018, as Instrument No. 2018-K619435-00 (as amended, supplemented, modified and/or assigned from time to time, the “**DDA**” and the real property subject to the DDA, the “**28-Acre Site**”). The project described in the DDA is referred to herein as the “**Project**”). City-approved Final Map 9585, recorded in the Official Records on October 23, 2020 as Document No. 20200035295 (the “**Phase 1 Final Map**”), created an 18-lot subdivision within the property subject to Final Map 9597, that allowed for the development of Phase 1 of the Pier 70 Project in accordance with the DDA. Permittee is also the tenant of the 28-Acre Site from the Port pursuant to a 25-year term Master Lease dated as of May 2, 2018 (as amended, the “**Master Lease**”), a Memorandum of which was recorded in the Official Records on May 25, 2018 as Instrument No. 2018-K619436-00. The property that is the subject of the Master Lease is referred to herein as the “**Master Lease Property**”.

C. The DDA requires the Master Developer to construct certain public improvements as part of the Project, consisting of various capital facilities and infrastructure, including public right-of-ways and utility infrastructure. In furtherance of those obligations, Master Developer entered into that certain Pier 70 Public Improvement Agreement dated September 15, 2020, pursuant to which it constructed the Phase 1 Public Infrastructure that are described in those certain Improvement Plans and Specifications entitled “Pier 70 SUD Phase 1 Improvement Plans” prepared by BKF Engineers, dated January 14, 2019, and approved by the City, dated March 13, 2019, as those plans may have been amended or revised from time to time with the City’s or Port’s approval (the “**Phase 1 Public Infrastructure**”). Master Developer offered the Phase 1 Public Infrastructure to the City by an Amended and Restated Offer of Improvements, recorded in the Official Records on January 25, 2024 as Document Number 2024009693.

D. City’s Public Works Department approved Master Developer’s construction of the Phase 1 Public Infrastructure in Street Improvement Permit 19IE-00245 (“**SIP 19IE-00245**”). SIP 19IE-00245 also authorized Master Developer to construct various encroachments and non-

standard improvements within the public right-of-way that will be excluded from the City’s acceptance and will be owned and maintained by the Port or private parties under separate encroachment permits. Such excluded encroachments include excess telecommunications conduit in a joint trench located within the Phase 1 Public Infrastructure, including portions of 20th Street, 21 Street, 22nd Street, Louisiana Street and Maryland Street (the “**Private Conduit Encroachment**”).

D. On _____, 2024, the Board of Supervisors approved Ordinance No. _____ (the “**Acceptance Ordinance**”), accepting the Phase 1 Public Infrastructure specified therein for City maintenance and liability purposes, subject to the conditions specified therein. As noted in Section 4(d)(4) of the Acceptance Ordinance, the accepted Phase 1 Public Infrastructure excluded encroachments that are or will be permitted (including Port encroachments and private encroachments on various streets), including the Private Conduit Encroachment.

E. Concurrently with its approval of the Acceptance Ordinance, the Board of Supervisors approved Resolution No. _____ to allow Permittee’s continued ownership and maintenance of the Private Conduit Encroachment, subject to the further terms and conditions of this Permit.

2. PERMIT INFORMATION

2.1 Encroachment Permit No. (“Permit”): _____ under Public Works Code Section 786(b), as originally constructed under SIP 19IE-00245.

2.2 Description/Location of Property (See Attachment 1): The following property within the Phase 1 Final Map that is the subject of the Pier 70 Master Lease and leased to Permittee, as Tenant, under the Master Lease: Lots 1 to 3, inclusive; and Lots 5 to 7 inclusive (collectively, the “**Phase 1 Property**”).

2.3 Description/Location of Permit Area (See Attachment 2):

- Final Map 9585 Lot/APN: Lot A (APN 3941-042); Lot B (APN 4111- 005); Lot C (APN 4114-001); Lot D (APN 4111-007); Lot E (APN 4114-002), Lot F (APN 4116-004)
- a portion of Final Transfer Map 9597 Lot CC within 20th Street (being a portion of APN 3941-041); a portion of 20th between Lot CC and Illinois Street that includes a portion of the intersection of 20th Street and Illinois; a portion of 22nd Street that spans between Illinois Street and Lot F that includes a portion of the intersection of 22nd Street and Illinois

2.4 General Description of Proposed Improvements (See Attachment 2):

Excess telecommunications conduit or boxes (ranging from between 4 to 11 conduits in any one location) located within the Permit Area that are labeled “Comcast” or “RACE”

on the Joint Trench Composite Plan Record Drawings dated October 23, 2020, a copy of which is attached hereto as Attachment 2 (collectively, the “**Improvements**”).

2.5 Permit Type: Major Encroachment Permit

2.6 Developer/Builder/Tenant of the Master Lease Property:

FC Pier 70, LLC, a Delaware limited liability company, c/o Tim Bacon, Sr. Director, Development, Commercial Development

2.7 Contact Information. The Permittee shall provide to Public Works, Bureau of Street Use and Mapping (“BSM”), SFMTA, 311 Service Division, and SFPUC the information below regarding a minimum of two (2) contact persons with direct relation to or association with, or is in charge of or responsible for, the Permit. Permittee shall notify both Public Works’ Bureau of Street Use and Mapping and SFMTA within thirty (30) calendar days of any relevant changes in the Permittee’s personnel structure, and submit the required contact information of the current and responsible contacts. If and when the City’s 311 Service Division (or successor public complaint system program) allows direct communications with the contact person(s) for the Permit, the Permittee shall participate in this program.

Contact Person Number 1

Last Name, First Name: Tim Bacon

Title/Relationship to Owner: Sr. Director, Development

Phone Numbers: (415) 593-4236 direct

Email Addresses: Tim.Bacon@brookfieldpropertiesdevelopment.com

Mailing Address: 685 Market Street, Suite 500, San Francisco, CA 94105

Office Address: same as mailing

Contact Person Number 2

Last Name, First Name: Dominic DiTullio

Title/Relationship to Owner: Director, Construction, Commercial Development

Phone Numbers: (415) 493-4235

Email Addresses: Dominic.DiTullio@brookfieldpropertiesdevelopment.com

Mailing Address: 685 Market Street, Suite 500, San Francisco, CA 94105

Office Address: same as mailing

2.8 List of Attachments. The following additional documents are attached to or accompany this Agreement. All attachments shall be on sheets sizing 8.5 by 11 inches so they can be easily inserted into this agreement as an attachment:

- Attachment 1: **Property Information.** Written description of the Phase 1 Property and location map identifying the Property.
- Attachment 2: “**Permit Area,**” which shall refer to areas that include the Improvements.
 - Written description of the area where the encroachment(s) exist and the boundaries,

- Diagram showing the boundary limits of the Permit Area and identifying all Improvements in the Permit Area (“**Precise Diagram**”). The Precise Diagram shall be a separate document from the engineered construction plans for the encroachments submitted to Public Works for review and approval. (“**Construction Plans**”).
- Table listing all Improvements in the Permit Area and identifying the maintenance responsibility for them (“**Maintenance Table**”). The table shall include all physical treatments, facilities, and elements, whether standard or non-standard, to clarify responsibility.
- Attachment 3: Maintenance Plan. A written document that contains a detailed description of the means and methods to maintain the Improvements within the Permit Area (the “**Maintenance Plan**”). The Maintenance Plan shall identify the daily, weekly, monthly, and annual routine maintenance, repair and replacement tasks, as applicable (“**Permitted Activities**”). For each category of the Permitted Activities, Permittee shall provide the regular (e.g. daily, weekly, etc.) estimated expenses, including labor hours, cost per hour, and materials needed for maintenance. In addition, Permittee shall provide a total estimated annual operating expense and include: regular maintenance expenses, replacement costs, costs for any specialized equipment (in the event that the Improvements incorporate such specialized equipment) necessary for continued operation of the Improvements, and the expected lifespan of any non-standard materials subject to regular use. The Maintenance Plan also shall identify whether a Community Benefit District, Business Improvement District, Community Facilities District or similar Special Tax-Based Entity (a “**Special Tax Entity**”) will expend monetary or staff resources on the Permit Area for maintenance or other activities, and documentation, to the Director’s satisfaction, that the monetary and/or staff resources are available and committed to perform the maintenance obligation.
- Attachment 4: Operations Manual. [*Not applicable to this Permit*]
- Attachment 5: Legal Description and Plat of Phase 2/3 Property (for purposes of recordation pursuant to Section 3(c) hereof).

The City Engineer shall review and certify the description of the Permit Area (Attachment 2) and Maintenance Plan (Attachment 3). The Department shall not issue the permit until the City Engineer has completed his or her review and certified the required attachments.

3. EFFECTIVE DATE; REVOCABLE, NON-EXCLUSIVE PERMIT; RECORDATION

(a) Following Board of Supervisors approval and confirmation that the Department has received all required permit documents and fees, the Department shall issue the approved Permit. The date this Encroachment Agreement is executed by all parties shall be the “**Effective Date**” of the Permit.

(b) Subject to the provisions of Sections 14 and 15 below, the privilege given to Permittee under this Agreement with respect to the Improvements located in the Permit Area is revocable, personal, non-exclusive, non-possessory, and effective only insofar as the rights of City in the PROW are concerned.

This Permit does not grant any rights to construct or install Improvements in the Permit Area until the Public Works Director issues written authorization for such work.

(c) Upon Board of Supervisors' approval of this Agreement, Permittee shall record a Notice of Restrictions against the portions of the Pier 70 Phases 2 and 3 property that are described in **Attachment 5** attached hereto (the "**Phase 2/3 Property**") that provides constructive notice of this Agreement; provided, however, that except as may otherwise be provided under Section 8(e) hereof, this Agreement shall not be interpreted as creating a lien or security interest against any parcel against which it is recorded, or to effect any secured interest now or in the future, as the obligations hereunder are personal to Permittee and its successors and assigns as may be authorized pursuant to Section 14.

4. MONITORING AND MAINTENANCE RESPONSIBILITIES; IN-LIEU FEES

(a) Because the Permit does not include any surface level or above grade elements, the Director shall not require Permittee to institute the maintenance monitoring responsibilities typically included in Section 4 of the Department's form of Major Encroachment Permit.

5. CONDITIONS OF ENTRY AND USE

By entering into this Agreement, Permittee acknowledges its responsibility to comply with all requirements for maintenance of the Improvements as specified in this Agreement, Public Works Code Section 786, Article 2.4 of the Public Works Code ("**Excavation in the Public Right-of-Way**"), and as directed by the Director. Permittee shall comply and cause its agents to comply, with each of the following requirements in its performance of the Permitted Activities.

5.1 Permits and Approvals

5.1A Requirement to Obtain all Regulatory Permits and Approvals. Permittee has obtained SIP 19IE-00245 for the construction of the Improvements that are the subject of this Permit.

5.1B Subsequent Excavation within Permit Area. When maintenance of the Improvements requires excavation as described in Article 2.4 of the Public Works Code, or prevents public access through the Permit Area, or obstructs the movement of vehicles or bicycles where allowed by law, Permittee shall apply for applicable permits from the Department and any other affected City agencies. Permittee or agent of Permittee shall comply with all excavation permit bonding and security requirements that the Department deems necessary when performing or causing to be performed any excavations or occupancies within the Permit Area.

5.1C Additional Approvals. Further permission from the Department may be required prior to Permittee's performance of work within the Permit Area including, but not limited to, the restoration of a temporarily restored trench, removal and replacement of a tree or other landscaping, or repair of damaged or uplifted sidewalk or other paving material. This Agreement does not limit, prevent, or restrict the Department from approving and issuing permits for the Permit Area including, but not limited to, occupancy, encroachment, and excavation permits. The Department shall include as a condition in all subsequent permits issued in the Permit Area that any subsequent permittee notify and coordinate with the Permittee prior to occupying, encroaching, or excavating within the Permit Area.

5.2 Exercise of Due Care

During any entry on the Permit Area to perform any of the Permitted Activities, Permittee shall, at all times and at its sole cost, perform the Permitted Activities in a manner that maintains the Permit Area in a good, clean, safe, secure, sanitary, and attractive condition. Permittee shall use due care at all times to avoid any damage or harm to the Permit Area or any Improvements or property located thereon or adjacent to, and to take such soil and resource conservation and protection measures within the Permit Area as are required by applicable laws and as City may reasonably request in writing. Permittee shall not perform any excavation work without City's prior written approval. Under no circumstances shall Permittee knowingly or intentionally damage, harm, or take any rare, threatened, or endangered species on or about the Permit Area. While on the Permit Area to perform the Permitted Activities, Permittee shall use commercially reasonable efforts to prevent and suppress fires on and adjacent to the Permit Area attributable to such entry.

5.3 Cooperation with City Personnel and Agencies

Permittee shall work closely with City personnel to avoid unreasonable disruption (even if temporary) of access to the Improvements and property in, under, on or about the Permit Area and City and public uses of the Permit Area. Permittee shall perform work in accordance with the Permit and this Agreement. Permittee also shall perform work pursuant to one or more Street Improvement Permits or General Excavation Permits and in accordance with Public Improvement Agreements if either or both are applicable.

5.4 Permittee's Maintenance and Liability Responsibilities

5.4A Permittee's Maintenance and Liability. (a) Permittee acknowledges its maintenance and liability responsibility for the Improvements (including, but not limited to, materials, elements, fixtures, etc.) in accordance with the Permit and this Agreement, and all other applicable City permits, ordinary wear and tear excepted. Permittee agrees to maintain said Improvements as described in the Permit, as determined by the Director, and in accordance with any other applicable City permits. Permittee shall reimburse the Department for any work performed by the Department as a result of the Permittee's failure to comply with the maintenance and restoration terms as specified in this Agreement under Section 8. Permittee is wholly responsible for any facilities installed in the Permit Area that are subject to this Permit's terms and for the quality of the work performed in the Permit Area under this Agreement. Permittee is liable for all claims related to the installed facilities and any condition caused by Permittee's performed

work. Neither the issuance of any permit nor the inspection, nor the repair, nor the suggestion, nor the approval, nor the acquiescence of any person affiliated with the City shall excuse the Permittee from such responsibility or liability.

(b) [*intentionally omitted*]

(c) In the event that the Director agrees to maintain one or more of the Improvements pursuant to Section 5.9B of this Agreement, Permittee shall not be responsible for the quality of maintenance or restoration work performed, nor liable for the resulting consequences of City work.

5.4B Abatement of Unsafe, Hazardous, Damaged, or Blighted Conditions.

Permittee acknowledges its maintenance responsibility to abate any unsafe, hazardous, damaged, or blighted conditions that arise solely from Permittee's ownership and maintenance of the Improvements within the Permit Area. Following receipt of a notice by the Department of an unsafe, damaged, or blighted condition of the Improvements (or of the Permit Area arising out of the presence of the Improvements therein), Permittee shall immediately respond to the notice and restore the site to the condition specified on the Construction Plans within thirty (30) calendar days, unless the Department specifies a shorter or longer compliance period based on the nature of the condition or the problems associated with it; provided, however, to the extent that such restoration cannot be completed using commercially reasonable efforts within such thirty (30) calendar day period or other period specified by the Department, then such period shall be extended provided that the Permittee has commenced and is diligently pursuing such restoration. In addition, Permittee acknowledges its responsibility to abate any hazardous conditions as a direct or indirect result of the use of the Permit Area to contain the Improvements, promptly upon receipt of notice from the Department. For unsafe or hazardous conditions, the Permittee shall immediately place or cause to be placed temporary measures to protect the public. Failure to promptly respond to an unsafe or hazardous condition or to restore the site within the specified time may result in the Department's performing the temporary repair or restoration in order to protect the public health, safety, and welfare. Permittee shall reimburse the Department for any such temporary repair or restoration. Failure to abate the problem also may result in the Department's issuance of a Correction Notice or Notice of Violation citation and/or request for reimbursement fees to the Department for departmental and other City services necessary to abate the condition in accordance with Section 8.

5.4C Permittee Contact Information, Signage. [*intentionally omitted*]

5.4D Non-standard Materials and Features. [*intentionally omitted*]

5.5 Permittee's Maintenance, Liability, and Notice Responsibilities.

The Permittee's maintenance responsibility shall be limited to the Improvements located within the portion of the Permit Area described and shown in the attachments and as determined by the Director, and its immediate vicinity, including any sidewalk damage directly related to the use or maintenance of the Improvement or Permitted Activities.

5.6 Annual Certification of Insurance

Upon receipt of a written request by the Department, but no more than annually, Permittee shall submit written evidence to the Department indicating that the requirements of Section 7 (Insurance) and, if applicable, Section 8 (Security), have been satisfied.

5.7 Damage to and Cleanliness and Restoration of Permit Area and City Owned or Controlled Property

Permittee, at all times, shall maintain the Improvements within the Permit Area in a clean and orderly manner to the satisfaction of the Director. Following any construction activities or other activities on the Permit Area, Permittee shall remove all debris and any excess dirt from the Permit Area and Improvements.

If any portion of the Permit Area, any City-owned or controlled property located adjacent to the Permit Area, including other publicly dedicated PROW, or private property in the vicinity of the Permit Area is damaged by any of the activities conducted by Permittee hereunder, Permittee shall immediately, at its sole cost, repair any and all such damage and restore the Permit Area or affected property to its previous condition to the satisfaction of the Director.

5.8 Excavation or Temporary Encroachment within the Permit Area

Permittee acknowledges its maintenance responsibility following any excavation or temporary encroachment of any portion or portions of the Permit Area as described below.

5.8A Excavation by City or UCP Holders. After providing public notice according to Article 2.4 of the Public Works Code, any City Agency or Public Utility may excavate within the PROW, which may include portions of the Permit Area. A “City Agency” shall include, but not be limited to, the SFPUC, SFMTA, and any City authorized contractor or agent, or their sub-contractor. “Public Utility” shall include any company or entity currently holding a valid Utility Conditions Permit (“UCP”) or a valid franchise with the City or the California Public Utilities Commission. Permittee acknowledges that it will provide and not obstruct access to any utilities and facilities owned and operated by any City Agency or a Public Utility at any time within the Permit Area for maintenance, repair, and/or replacement.

Emergency work. In the case of an emergency, a City Agency or Public Utility need not notify the Permittee of the work until after the emergency situation has been abated at which point the Department will strive to cooperate with affected City department to provide written notice to the Permittee concerning the emergency work.

In the performance of any excavation in the Permit Area by a City Agency or Public Utility, it shall be the responsibility of the Permittee to coordinate with the City Agency or Public Utility and restore the site to the condition specified on the Construction Plans, provided, however, the excavator shall implement commercially reasonable precautions to protect the Permit Area and any Improvements located within the Permit Area from injury or damage during the excavation or future work.

In the case where the excavated portion of the Permit Area consists of only City Standard materials, the City Agency or Public Utility shall complete its restoration work within thirty (30) calendar days following the completion of the excavation or temporary encroachment; provided, however, to the extent that such restoration cannot be completed within such thirty (30) calendar day period due to weather or unforeseen circumstances, then such period shall be extended provided that the excavator has commenced and is diligently pursuing such restoration.

The Permittee shall not seek or pursue compensation from a City Agency or a Public Utility for Permittee's coordination of work or the inability to use of the Permit Area for the duration of excavation or occupancy.

5.8B Excavation by Private Parties. Following any excavation of any portion or portions of the Permit Area by a private party (e.g., contractor, property owner, or resident), it shall be the responsibility of the private party and the Permittee to coordinate the restoration of the site and the private party shall bear all the cost of restoration; provided, however, that in all events the private party shall be required to restore the excavated portion or portions of the Permit Area to the condition specified on the design for the Improvements within thirty (30) calendar days after completion of the excavation or temporary encroachment, provided, however, to the extent that such restoration cannot be completed using commercially reasonable efforts within such thirty (30) calendar day period, then the Department shall extend such period provided that the private party has commenced and is diligently pursuing such restoration.

If the private party fails to perform such restoration, then the Permittee should notify the Department of such failure in writing and allow any Departmental corrective procedures to conclude prior to pursuing any and all claims against such private party related thereto should the permittee have such third-party rights. The City, through its separate permit process with that private party, shall require that private party to bear all the costs of restoration and cooperate with the Permittee on how the restoration is performed and how any costs that the Permittee assumes for work performed (time and materials) are reimbursed.

The Permittee shall only seek or pursue compensation for work performed (time and materials) and shall not seek or request compensation for coordination or the inability to use the Permit Area for the duration of excavation or occupancy, provided that Permittee is provided with access to Permittee's property.

5.8C Temporary Encroachments for Entities Other Than Permittee. In the case of temporary encroachments, which may include the temporary occupancy of portions of the Permit Area or the temporary relocation of Improvements (elements or fixtures) from the Permit Area, Permittee shall work collaboratively with the entity that will be temporarily encroaching the Permit Area ("**Temporary Encroacher**") to coordinate the temporary removal and storage of the Improvements from the affected portion of the Permit Area, when necessary. It shall be the responsibility of the Temporary Encroacher to protect in-place any undisturbed portion of the Permit Area.

Where the Temporary Encroacher is a private party, the private party shall be responsible for any costs for removal, storage, and maintenance of the Improvements, and

restoration associated with restoration of the Permit Areas. The obligation to coordinate and restore under this section shall be a condition of the City permit issued to the Temporary Encroacher. If the Temporary Encroacher fails to coordinate with Permittee and compensate the Permittee or restore the Permit Area, then the Permittee should notify the Department of such failure in writing.

The Permittee may only seek or pursue compensation for costs incurred (time and materials) to temporarily relocate and replace Improvements, and shall not seek or request compensation for coordination or the inability to use the Permit Area for the duration of the Temporary Encroacher's occupancy.

Where the Temporary Encroacher is a City Agency or a Public Utility, Permittee shall be responsible for any costs for removal, storage, maintenance, and restoration associated with the Improvements and any associated areas within the Permit Area, and the City Agency or Public Utility, as applicable, shall be responsible for restoration of any standard City features or improvements. The City Agency or the Public Utility or its contractors shall not be responsible for Permittee's temporary removal and storage costs.

The Permittee shall be responsible for ensuring the Permit Area has been restored within thirty (30) calendar days following the completion of the temporary encroachment; provided, however, to the extent that such restoration cannot be completed using commercially reasonable efforts within such thirty (30) calendar day period, then such period shall be extended provided that the Permittee has commenced and is diligently pursuing such restoration.

5.8D Additional Time to Complete Site Restoration Where Future Work Is Anticipated. Prior to the Permittee's undertaking of any restoration of the applicable portion of the Permit Area to the conditions specified in the Construction Plans, the Permittee and the City shall confer as to whether any party (e.g., any City Agency, Public Utility, or private party) intends to perform any future work (e.g., any excavation or temporary encroachment) that would be likely to damage, disrupt, disturb or interfere with any restoration of the Permit Area.

If such future work is anticipated within six (6) months following completion of any then proposed excavation or temporary encroachment, then the Permittee's deadline for restoring the site shall be automatically extended. The Permittee may submit to the Department a written request for an extension to the restoration deadline if future work is anticipated to commence more than six (6) months from the completion of the prior excavation and temporary encroachment. If the restoration deadline is extended as set forth above, then the Permittee shall be obligated to complete the restoration within the timeframes specified in this Agreement.

5.9 Permit Revocation; Termination; Modification of Agreement

5.9A Permit Revocation or Termination.

Permittee acknowledges and agrees that the obligations of the Permittee, successor owner(s), or Permittee's successor(s) in interest to perform the Permitted Activities shall continue for the term of the Permit. The City reserves the right to revoke the Permit under the procedures

set forth in the Public Works Code Sections 786 et seq. and, if applicable, as specified in the Board of Supervisors or Public Works Director's approval of this permit.

If the Permit is terminated by Permittee, revoked or terminated by City, or revoked by operation of the events set forth in Section 5.9B(3) (each an "**MEP Termination Event**") with respect to a portion or portions of the Permit Area, Permittee shall remove the Improvements therein and restore the Permit Area to a condition specified by City for a standard PROW or as the Director of Public Works deems appropriate under the circumstances, at Permittee's sole cost (the "**Right-of-Way Conversion** ") by (i) applying for, and providing the materials necessary to obtain, a street improvement permit or other authorization from City for the performance of such conversion work; (ii) performing such conversion work pursuant to the terms and conditions of such street improvement permit or other City authorization; and (iii) warranting that the conversion work that meets the standards required by a Public Works street improvement permit with a duration not less than one (1) year from the date Public Works confirms that the work is complete. For avoidance of doubt, acquisition of the Improvements by a franchisee or other party with legal authority to maintain the Improvements without this Permit shall not give rise to the Right-of-Way Conversion requirements hereof.

A termination or revocation of the Permit under the procedures set forth in Public Works Code Sections 786 et seq. shall result in an automatic termination of this Agreement as to the affected portion of the Permit Area, and all of Permittee's responsibilities and obligations hereunder shall terminate, unless otherwise provided for in this Agreement. The City may partially terminate or revoke the Permit as to those portions of the Permit Area subject to default and the City may elect to allow the Permit to remain effective as to all portions of the Permit Area that are not subject to default.

The obligation of Permittee, successor owner, or Permittee's successor in interest to remove the Improvements and restore the PROW to a condition satisfactory to Director of Public Works shall survive the revocation, expiration, or termination of this Permit. Upon completion of the Right-of-Way Conversion, and subject to Section 5.9B, Permittee shall have no further obligations under the Permit for the portion of the Permit area subject to the Right-of-Way Conversion and to the extent the Director has agreed to terminate the Permittee's obligations in regard to all or a portion of the Right-of-Way Conversion, except as to any applicable warranty.

The City and any and all City subdivisions or agencies shall be released from the responsibility to maintain the existence of the Improvements and shall not be required to preserve or maintain the Improvements in any capacity following the termination or revocation of the Permit unless the Department, in its discretion and in accordance with this Agreement, agrees to an alternative procedure.

5.9B Modification or Termination of the Agreement.

(a) This Agreement shall continue and remain in full force and effect at all times in perpetuity, except in the circumstances listed below in subsections (1)-(5). In addition, while this Agreement remains in full force and effect, Permittee, on an annual basis, shall submit a report to the Public Works Director that includes a brief description of all efforts to find a telecommunications provider to acquire fee ownership of the Improvements. The information

may be included in the Annual Review letter submitted by Developer to the City in accordance with Section 8 of the Pier 70 Development Agreement, in which case, Developer shall submit a copy of the Annual Review letter to the Director concurrently with submittal to the Planning Director.

(1) City may elect to terminate Permittee's maintenance obligations pursuant to this Section 5.9B and provide written notice to the address provided in Section 2.7. Under such circumstances, this Agreement shall terminate at the time specified in such written notice with exception to those terms as specified in this Agreement that apply to the any remaining Permit obligations. City shall record evidence of any such termination in the Official Records.

(2) In the event fee ownership of the Improvements are acquired by a telecommunications provider (such as AT&T, Comcast or others) or other third party that has the legal authority through a franchise or otherwise to maintain the Improvements without a Major Encroachment Permit, Permittee or the acquiring entity shall provide the Director with written notice thereof, accompanied by reasonably detailed supporting information that this Permit may be terminated. Under such circumstances, this Agreement shall terminate at the time specified in such written notice with exception to those terms as specified in this Agreement that apply to the any remaining Permit obligations. City shall record evidence of any such termination in the Official Records.

(3) This Agreement shall terminate as to any Development Parcel (as defined in the DDA) that is subject to the Master Lease if it is sold or leased to a Vertical Developer (as defined in the DDA), such termination to be effective upon the recordation of a Partial Release of Master Lease as to the applicable Development Parcel in accordance with the requirements of the DDA. City shall record evidence of any such termination in the Official Records as further provided in Section 14 hereof.

(4) In the event Permittee no longer retains any interest as the Tenant under the Master Lease in any of the Master Lease Property (as evidenced by a release of the Master Lease as to all of the Master Lease Property), then, unless this Permit has been assigned to a successor entity or master association as may be otherwise permitted under Section 14 hereof, this Agreement shall terminate at the time specified in such written notice with exception to those terms as specified in this Agreement that apply to any remaining Permit obligations.

(5) Unless earlier terminated, this Agreement shall terminate upon the seventh (7th) anniversary of the Effective Date hereof, unless extended by approval of the Director. Prior to issuing any such extension, the Public Works Director may seek Board of Supervisors approval to charge the annual right-of-way occupancy fee for the Improvements under Public Works Code Section 786.7 if the Director determines that Permittee has not made reasonable efforts (such as documented evidence of outreach, marketing, site visits, written correspondence) to find a telecommunications provider to acquire fee ownership of the Improvements.

(b) Upon the occurrence of any termination event described in Section 5.9B(a), Permittee may request the Director's authorization to record, and if so authorized, the Parties shall record, a Notice of Termination with respect to the Property, or in the event of a termination under Section 5.9(b)(3), as to the applicable Development Parcel that is released from the Master Lease (in any such case, a "**Notice of Termination**"). Any such request shall be accompanied by documentary evidence supporting such request (*e.g.*, authorization from the Port with respect to the release of a Development Parcel from the Master Lease or documentation evidencing the acquisition of the Improvements by a telecommunications provider holding franchise rights in the PROW). The Director shall execute and authorize the recordation of the applicable Notice of Termination if he or she determines, based on satisfactory evidence, that the termination event has occurred with respect to the applicable Property and Permit Area.

(c) At any time during the term of the Permit, Permittee may request to amend the scope of such Permitted Activities through a written amendment to this Agreement. The Director, in his or her sole discretion, may approve, approve with conditions, or deny the requested amendment. If the Director approves an amendment, both parties shall execute and record the approved amendment. Further, Permittee and Director may, but are not required to, execute a written modification of this Agreement to provide for the Department's maintenance of a portion or all of the Improvements as described in the Permit Area (Attachment 2). In the event of such modification of this Agreement, Department may require Permittee to pay the Department for the cost of maintaining specified Improvements as described in the Maintenance Plan (defined in Section 2.8) and Attachment 3. The Director's written modification shall, among other relevant terms, identify the specific portion of the Improvements that the Department shall maintain and the terms of Permittee's payments.

(d) In addition, Permittee and City may mutually elect to modify Permittee's obligation to perform the Right-of-Way Conversion described in Section 5.9.A including any modification necessary to address any Improvements that cannot be modified or replaced with a PROW improvement built according to the City's standard specifications. Any such modification may include, but not be limited to, Permittee's agreement to convert, at its sole cost, specified Improvements to a PROW built according to the City's standard specifications while leaving other specified Improvements in their as-is condition, with Permittee assuming a continuing obligation to pay for City's costs to maintain and replace such remaining Improvements. In addition, any such modification may address any applicable City requirements for maintenance security payment obligations and City's acquisition of specialized equipment needed to perform the maintenance work, however, no such specialized equipment shall be required for Improvements built to City standards. If City and the Permittee mutually agree to any modification to the Right-of-Way Conversion that results in Permittee assuming such a maintenance payment obligation, Permittee shall execute and acknowledge, and City shall have the right to record in the Official Records of San Francisco County, an amendment to this Agreement that details such payment obligation.

5.10 Green Maintenance Requirements

In performing any Permitted Activities that require cleaning materials or tools, Permittee, to the extent commercially reasonable, shall use cleaning materials or tools selected from the

Approved Alternatives List created by City under San Francisco Environmental Code, Chapter 2, or any other material or tool approved by the Director. Permittee shall properly dispose of such cleaning materials or tools.

6. USE RESTRICTIONS

Permittee agrees that the following uses of the PROW by Permittee or any other person claiming by or through Permittee are inconsistent with the limited purpose of this Agreement and are strictly prohibited as provided below. The list of prohibited uses includes, but is not limited to, the following uses.

6.1 Improvements

Other than the approved Improvements, Permittee shall not make, construct, or place any temporary or permanent alterations, installations, additions, or improvements on the PROW, structural or otherwise, nor alter any existing structures or improvements on the PROW (each, a "**Proposed Alteration**"), without the Director's prior written consent in each instance. The in-kind replacement or repair of existing Improvements shall not be deemed a Proposed Alteration.

Permittee may request approval of a Proposed Alteration. The Director shall have a period of twenty (20) business days from receipt of request for approval of a Proposed Alteration to review and approve or deny such request for approval. Should the Director fail to respond to such request within said twenty (20) business day period, Permittee's Proposed Alteration shall be deemed disapproved. In requesting the Director's approval of a Proposed Alteration, Permittee acknowledges that the Director's approval of such Proposed Alteration may be conditioned on Permittee's compliance with specific installation requirements and Permittee's performance of specific on-going maintenance thereof or other affected PROW. If Permittee does not agree with the Director's installation or maintenance requirements for any Proposed Alteration, Permittee shall not perform the Proposed Alteration. If Permittee agrees with the Director's installation or maintenance requirements for any Proposed Alteration, prior to Permittee's commencement of such Proposed Alteration, Permittee and the Director shall enter into a written amendment to this Agreement that modifies the Permitted Activities to include such requirements. Prior approval from the Director shall not be required for any repairs made pursuant to and in accordance with the Permitted Activities.

If Permittee performs any City-approved Proposed Alteration, Permittee shall comply with all of the applicable terms and conditions of this Agreement, including, but not limited to, any and all conditions of approval of the Proposed Alteration(s).

Permittee shall obtain all necessary permits and authorizations from the Department and other regulatory agencies prior to commencing work for the Proposed Alteration. The Director's decision regarding a Proposed Alteration shall be final and not appealable.

6.2 Dumping

Permittee shall not dump or dispose of refuse or other unsightly materials on, in, under, or about the PROW.

6.3 Hazardous Material

Permittee shall not cause, nor shall Permittee allow any of its agents to cause, any Hazardous Material (as defined below) to be brought upon, kept, used, stored, generated, or disposed of in, on, or about the PROW, or transported to or from the PROW. Permittee shall immediately notify City if Permittee learns or has reason to believe that a release of Hazardous Material has occurred in, on, or about the PROW. In the event Permittee or its agents cause a release of Hazardous Material in, on, or about the PROW, Permittee shall, without cost to City and in accordance with all laws and regulations, (i) comply with all laws requiring notice of such releases or threatened releases to governmental agencies, and shall take all action necessary to mitigate the release or minimize the spread of contamination, and (ii) return the PROW to a condition which complies with applicable law. In connection therewith, Permittee shall afford City a full opportunity to participate in any discussion with governmental agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree or other compromise proceeding involving Hazardous Material. For purposes hereof, "Hazardous Material" means material that, because of its quantity, concentration, or physical or chemical characteristics, is at any time now or hereafter deemed by any federal, state, or local governmental authority to pose a present or potential hazard to public health, welfare, or the environment. Hazardous Material includes, without limitation, any material or substance defined as a "hazardous substance, pollutant or contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Sections 9601 et seq., or pursuant to Section 25316 of the California Health & Safety Code; a "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials whether or not such materials are part of the PROW or are naturally occurring substances in the PROW, and any petroleum, including, without limitation, crude oil or any fraction thereof, natural gas or natural gas liquids. The term "release" or "threatened release" when used with respect to Hazardous Material shall include any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing in, on, under, or about the PROW.

Notwithstanding anything herein to the contrary, if the Director determines that neither Permittee nor its agents caused the release or threatened release of the Hazardous Material, Permittee shall have no liability whatsoever (including, without limitation, the costs of any investigation, any required or necessary repair, replacement, remediation, cleanup or detoxification, or preparation and implementation of any closure, monitoring, or other required plans) with respect to any release or threatened release of any Hazardous Material on, in, under or about the PROW. If the Director finds that neither Permittee nor its agents was the source and did not cause the release of such Hazardous Material, Permittee shall not be listed or identified as the generator or responsible party of any waste required to be removed from the PROW, and will not sign any manifests or similar environmental documentation, with respect to any Environmental Condition (as hereinafter defined). . "Environmental Condition" shall mean any adverse condition relating to the release or discharge of any Hazardous Materials on, in, under, or about the PROW by any party other than Permittee or its agents.

6.4 Nuisances

Permittee shall not conduct any activities on or about the PROW that constitute waste, nuisance, or unreasonable annoyance (including, without limitation, emission of objectionable odors, noises, or lights) to City, to the owners or occupants of neighboring property, or to the public. The parties hereby acknowledge that customary use of landscaping and similar equipment (such as lawn mowers, clippers, hedge trimmers, leaf blowers, etc.) that would typically be used to perform the Permitted Activities shall not be considered a nuisance under this Section 6.4 if such equipment is used in compliance with all applicable laws.

6.5 Damage

Permittee shall use due care at all times to avoid causing damage to any of the PROW or any of City's property, fixtures, or encroachments thereon. If any of the Permitted Activities or Permittee's other activities at the PROW causes such damage, Permittee shall notify City, and, if directed by City, restore such damaged property or PROW to the condition it was in prior to the commencement of such Permittee activity to the Director's satisfaction; or, if the City chooses to restore the damaged property, Permittee shall reimburse City for its costs of restoration.

7. INSURANCE

7.1 As described below, Permittee shall procure and keep insurance in effect at all times during the term of this Agreement, at Permittee's own expense, and cause its contractors and subcontractors to maintain insurance at all times, during Permittee's or its contractors performance of any of the Permitted Activities on the PROW. If Permittee fails to maintain the insurance in active status, such failure shall be a Permit default subject to the Department's enforcement remedies. The insurance policy shall be maintained and updated annually to comply with the Department's applicable requirements. The following Sections represent the minimum insurance standard as of the Effective Date of this Permit.

7.1A An insurance policy or insurance policies issued by insurers with ratings comparable to A-VIII, or higher that are authorized to do business in the State of California, and that are satisfactory to the City. Approval of the insurance by City shall not relieve or decrease Permittee's liability hereunder;

7.1B Commercial General Liability Insurance written on an Insurance Services Office (ISO) Coverage form CG 00 01 or another form providing equivalent coverage with limits not less than One Million Dollars (\$1,000,000) each occurrence and Two Million Dollars (\$2,000,000) in the aggregate for bodily injury and property damage, including coverages for contractual liability, personal injury, products and completed operations, independent permittees, and broad form property damage;

7.1C Commercial Automobile Liability Insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence, combined single limit for bodily injury and property

damage, including coverages for owned, non-owned, and hired automobiles, as applicable for any vehicles brought onto PROW; and

7.1D Workers' Compensation Insurance, in statutory amounts, with Employer's Liability Coverage with limits of not less than One Million Dollars (\$1,000,000) each accident, injury, or illness.

7.2 All liability policies required hereunder shall provide for the following: (i) name as additional insured the City and County of San Francisco, its officers, agents, and employees, jointly and severally; (ii) specify that such policies are primary insurance to any other insurance available to the additional insureds, with respect to any claims arising out of this Agreement; and (iii) stipulate that no other insurance policy of the City and County of San Francisco will be called on to contribute to a loss covered hereunder.

7.3 Limits may be provided through a combination of primary and excess insurance policies. Such policies shall also provide for severability of interests and that an act or omission of one of the named insureds which would void or otherwise reduce coverage shall not reduce or void the coverage as to any insured, and shall afford coverage for all claims based on acts, omissions, injury, or damage which occurred or arose (or the onset of which occurred or arose) in whole or in part during the policy period.

7.4 All insurance policies shall be endorsed to provide for thirty (30) days' prior written notice of cancellation for any reason, non-renewal or material reduction in coverage, or depletion of insurance limits, except for ten (10) days' notice for cancellation due to non-payment of premium, to both Permittee and City. Permittee shall provide a copy of any notice of intent to cancel or materially reduce, or cancellation, material reduction, or depletion of, its required coverage to Department within one business day of Permittee's receipt. Permittee also shall take prompt action to prevent cancellation, material reduction, or depletion of coverage, reinstate or replenish the cancelled, reduced or depleted coverage, or obtain the full coverage required by this Section from a different insurer meeting the qualifications of this Section. Notices shall be sent to the Department of Public Works, Bureau of Street Use and Mapping, 1155 Market Street, 3rd Floor, San Francisco, CA, 94103, or any future address for the Bureau. The permission granted by the Permit shall be suspended upon the termination of such insurance. Upon such suspension, the Department and Permittee shall meet and confer to determine the most appropriate way to address the Permit. If the Department and Permittee cannot resolve the matter, the Permittee shall restore the PROW to a condition acceptable to the Department without expense to the Department. As used in this Section, "Personal Injuries" shall include wrongful death.

7.5 Prior to the Effective Date, Permittee shall deliver to the Department certificates of insurance and additional insured policy endorsements from insurers in a form reasonably satisfactory to Department, evidencing the coverages required hereunder. Permittee shall furnish complete copies of the policies upon written request from City's Risk Manager. In the event Permittee shall fail to procure such insurance, or to deliver such certificates or policies (following written request), Department shall provide notice to Permittee of such failure and if Permittee has not procured such insurance or delivered such certificates within five (5) days following such

notice, City may initiate proceedings to revoke the permit and require restoration of the PROW to a condition that the Director deems appropriate.

7.6 Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general aggregate limit shall double the occurrence or claims limits specified above.

7.7 Should any of the required insurance be provided under a claims-made form, Permittee shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three (3) years beyond the expiration of this Agreement, to the effect that, should any occurrences during the term of this Agreement give rise to claims made after expiration of this Agreement, such claims shall be covered by such claims-made policies.

7.8 Upon City's request, Permittee and City shall periodically review the limits and types of insurance carried pursuant to this Section. If the general commercial practice in the City and County of San Francisco is to carry liability insurance in an amount or coverage materially greater than the amount or coverage then being carried by Permittee for risks comparable to those associated with the PROW, then City in its sole discretion may require Permittee to increase the amounts or coverage carried by Permittee hereunder to conform to such general commercial practice.

7.9 Permittee's compliance with the provisions of this Section shall in no way relieve or decrease Permittee's indemnification obligations under this Agreement or any of Permittee's other obligations hereunder. Permittee shall be responsible, at its expense, for separately insuring Permittee's personal property.

8. VIOLATIONS; CITY ENFORCEMENT OF PERMIT AND AGREEMENT; SECURITY DEPOSIT. Permittee acknowledges that the Department may pursue the remedies described in this Section in order to address a default by Permittee of any obligation under this Permit with respect to any Permit Area for which Permittee is responsible pursuant to the relevant Notice of Assignment, if applicable. In addition to the procedures below and as set forth in Section 5.4B, if Permittee fails to promptly respond to an unsafe or hazardous condition or to restore the site within the time the Department specifies, the Department may perform the temporary repair or restoration in order to protect the public health, safety, and welfare. Permittee shall reimburse the Department for any such temporary repair or restoration.

(a) Correction Notice (CN). The Department may issue a written notice informing Permittee that there is an unsafe, hazardous, damaged, or blighted condition within the Permit Area, or stating that the Permittee has otherwise failed to maintain the Permit Area as required by this Permit or stating that the Permittee has otherwise failed to comply with a term or terms of this Agreement (“**Correction Notice**”). The Correction Notice shall identify the issue, deficiency, or maintenance obligation that is the subject of the notice with reasonable particularity and specify the time for correction, which shall be no less than thirty (30) days; provided, however, to the extent that such correction cannot be completed using reasonable efforts within the initially specified timeframe, then such period shall be extended provided that the Permittee has commenced and is diligently pursuing such correction. In the event of an emergency or other

situation presenting a threat to public health, safety, or welfare, the Director may require correction in less than thirty (30) days.

(b) Notice of Violation (NOV).

(i) The Department may issue a written notice of violation to the Permittee for failure to maintain the Improvements within the Permit Area and creating an unsafe, hazardous, damaged, or blighted condition within the Permit Area, failure to comply with the terms of this agreement, or failure to respond to the Correction Notice by abating the identified condition(s) within the time specified therein. The NOV shall identify each violation and any fines imposed per applicable code(s) or Agreement sections and specify the timeframe in which to cure the violation and pay the referenced fines (“**Notice of Violation**”), thirty (30) days if not specified.

(ii) Permittee shall have ten (10) days to submit to the Department, addressed to the Director via BSM Inspection Manager at 1155 Market St, 3rd Floor, San Francisco, CA 94103, or future Bureau address, a written appeal to the NOV or a written request for administrative review of specific items. If Permittee submits said appeal or request for review, the Director shall hold a public hearing on the dispute in front of an administrative hearing officer. The Director shall then issue a final written decision on his or her determination to approve, conditionally approve, modify, or deny the appeal based on the recommendation of the hearing officer and the information presented at the time of the hearing.

(c) Uncured Default. If the violation described in the Notice of Violation is not cured within ten (10) days after the latter of (1) the expiration of the Notice of Violation appeal period or (2) the written decision by the Director following the hearing to uphold the Notice of Violation or sections thereof, said violation shall be deemed an “**Uncured Default.**” In the event of an Uncured Default, the Director may undertake either or both of the following:

(i) Cure the Uncured Default and issue a written demand to Permittee to pay the Department’s actual reasonable costs to remedy said default in addition to any fines or penalties described in the Notice of Violation within ten (10) days (each such notice shall be referred to as a “**Payment Demand**”).

(ii) Notify Permittee that it must submit a Security Deposit (as defined in Section 8(d)) for the maintenance obligation that is the subject of the Notice of Violation. Alternatively, the Director may initiate the procedures under Public Works Code Section 786 to revoke the Permit with respect to the particular portion of the Permit Area that is the subject of the Notice of Violation and require a Right-of-Way Conversion (as defined in Section 5.9.A) with respect to that area, in the Director’s discretion.

(d) Security Deposit Required for Uncured Default.

If there is an Uncured Default as defined in Section 8(c) of this Agreement, then within thirty (30) business days of the Director's request, Permittee shall deposit with the Department via the Permit Manager of the Bureau of Street Use and Mapping (or successor Bureau) the sum of no less than twice the annual cost of maintenance as set forth in the Maintenance Plan on file with the Director (the “**Security Deposit**”) with respect to the maintenance obligation that is the subject of

the Uncured Default, to secure Permittee's faithful performance of all terms and conditions of this Agreement, including, without limitation, its obligation to maintain the PROW in the condition that the Director deems acceptable. When Permittee delivers the Security Deposit to the Department pursuant to the foregoing sentence, the Department shall have the right to require Permittee to proportionately increase the amount of the Security Deposit by an amount that reflects the increase in the Consumer Price Index Urban Wage Earners and Clerical Workers (base years 1982-1984 = 100) for San Francisco-Oakland-San Jose area published by the United States Department of Labor, Bureau of Labor Statistics (“**Index**”) published most immediately preceding the date the amount of the Security Deposit was established and the Index published most immediately preceding the date the Department delivers written notice of the increase in the Security Deposit. The amount of the Security Deposit shall not limit Permittee’s obligations under this Agreement.

Permittee agrees that the Department may, but shall not be required to, apply the Security Deposit in whole or in part to remedy any damage to the PROW caused by Permittee, its agents, or the general public using the Permit Area to the extent that the Director of Public Works required Permittee to perform such remediation under this Agreement and Permittee failed to do so, or Permittee failed to perform any other terms, covenants, or conditions contained herein (including, but not limited to, the payment of any sum due to the Department hereunder either before or after a default). Notwithstanding the preceding, the Department does not waive any of the Department’s other rights and remedies hereunder or at law or in equity against the Permittee should Department use all or a portion of the Security Deposit. Upon termination of the Permitted Activities after an MEP Termination Event as described herein, the Department shall return any unapplied portion of the Security Deposit to Permittee, less any administrative processing cost.

Should the Department use any portion of the Security Deposit to cure any Uncured Default, Permittee shall replenish the Security Deposit to the original amount within ten (10) days of the date of a written demand from the Department for reimbursement of the Security Deposit. Subject to the following sentence, the Permittee’s obligation to replenish the Security Deposit shall continue for two (2) years from the date of the initial payment of the Security Deposit unless the Director, in his or her sole discretion, agrees to a shorter period; provided, however, that if the Director does not issue a new Notice of Violation related to the issues triggering the MEP Termination Event for a period of one year from the date of the initial payment of the Security Deposit, then, upon Permittee’s written request, the Director shall submit a check request to City’s Controller’s Office to have any remaining Security Deposit, less any administrative processing cost, delivered to Permittee. The Department’s obligations with respect to the Security Deposit are solely that of debtor and not trustee. The Department shall not be required to keep the Security Deposit separate from its general funds, and Permittee shall not be entitled to interest on the Security Deposit. The amount of the Security Deposit shall in no way limit the liabilities of Permittee under any provision of the Permit or this Agreement. Upon termination of the Permitted Activities after an MEP Termination Event, the Department shall return any unapplied portion of the Security Deposit to Permittee, less any administrative processing cost.

(e) Demand for Uncured Default Costs. Where the Permittee, or, if different, the Master Lease tenant of the Master Lease Property associated with the Permit Area that is the subject of the Notice of Violation, has failed to timely remit the funds described in a Payment Demand, the Security Deposit, or to pay the City’s costs associated with the City’s performance of a Right-of-

Way Conversion (collectively, “**Uncured Default Costs**”), the Director may initiate lien proceedings against the Master Lease tenant’s interest in the applicable Master Lease Property for the amount of the Uncured Default Costs pursuant to Public Works Code Sections 706.4 through 706.7, Public Works Code Section 706.9, Administrative Code Section 80.8(d), or any other remedy in equity or at law.

9. COMPLIANCE WITH LAWS

Permittee shall, at its expense, conduct and cause to be conducted all activities under its control on the PROW allowed hereunder in a safe and prudent manner and in compliance with all laws, regulations, codes, ordinances, and orders of any governmental or other regulatory entity (including, without limitation, the Americans with Disabilities Act and any other disability access laws), whether presently in effect or subsequently adopted and whether or not in the contemplation of the parties. Permittee shall, at its sole expense, procure and maintain in force at all times during its use of the PROW any and all business and other licenses or approvals necessary to conduct the Permitted Activities. Nothing herein shall limit in any way Permittee's obligation to obtain any required regulatory approvals from City departments, boards, or commissions or other governmental regulatory authorities or limit in any way City's exercise of its police powers. At the Director's written request, Permittee shall deliver written evidence of any such regulatory approvals Permittee is required to obtain for any of the Permitted Activities.

10. SIGNS

Permittee shall not place, erect, or maintain any sign, advertisement, banner, or similar object on or about the PROW without the Director's written prior consent, which the Director may give or withhold in its sole discretion; provided, however, that Permittee may install any temporary sign that is reasonably necessary to protect public health or safety during the performance of a Permitted Activity.

11. UTILITIES

The Permittee shall be responsible for locating and protecting in place all above and below grade utilities from damage, when Permittee, or its authorized agent, elects to perform any work in, on, or adjacent to the Permit Area. If necessary, prior to or during the Permittee’s execution of any work, including Permitted Activities, a utility requires temporary or permanent relocation, the Permittee shall obtain written approval from the utility owner and shall arrange and pay for all costs for relocation. If Permittee damages any utility during execution of its work, the Permittee shall notify the utility owner and arrange and pay for all costs for repair. Permittee shall be solely responsible for arranging and paying directly to the City or utility company for any utilities or services necessary for its activities hereunder.

Permittee shall be responsible for installing, maintaining, and paying for utility services necessary to support any Improvements, such as light fixtures, water fountains, storm drains, etc. in the Permit Area that are included in the Permit.

12. NO COSTS TO CITY; NO LIENS

Permittee shall bear all costs or expenses of any kind or nature in connection with its use of the PROW pursuant to this Agreement, and shall keep the PROW free and clear of any liens or claims of lien arising out of or in any way connected with its (and not others') use of the PROW pursuant to this Agreement.

13. "AS IS, WHERE IS, WITH ALL FAULTS" CONDITION OF PROW; DISABILITY ACCESS; DISCLAIMER OF REPRESENTATIONS

Permittee acknowledges and agrees that Permittee shall install the Improvements contemplated in the permit application for the Improvements and has full knowledge of the condition of the Improvements and the physical condition of the PROW. Permittee agrees to use the PROW in its "AS IS, WHERE IS, WITH ALL FAULTS" condition, without representation or warranty of any kind by City, its officers, agents, or employees, including, without limitation, the suitability, safety, or duration of availability of the PROW or any facilities on the PROW for Permittee's performance of the Permitted Activities. Without limiting the foregoing, this Agreement is made subject to all applicable laws, rules, and ordinances governing the use of the PROW, and to any and all covenants, conditions, restrictions, encroachments, occupancy, permits, and other matters affecting the PROW, whether foreseen or unforeseen, and whether such matters are of record or would be disclosed by an accurate inspection or survey. It is Permittee's sole obligation to conduct an independent investigation of the PROW and all matters relating to its use of the PROW hereunder, including, without limitation, the suitability of the PROW for such uses. Permittee, at its own expense, shall obtain such permission or other approvals from any third parties with existing rights as may be necessary for Permittee to make use of the PROW in the manner contemplated hereby.

Under California Civil Code Section 1938, to the extent applicable to this Agreement, Permittee is hereby advised that the PROW has not undergone inspection by a Certified Access Specialist ("CAS") to determine whether it meets all applicable construction-related accessibility requirements.

14. TERMS OF ASSIGNMENT; PERMIT BINDING UPON SUCCESSORS AND ASSIGNEES; NOTICE OF ASSIGNMENT

(a) This Agreement shall be the obligation of Permittee and any of its successors and assigns under the Master Lease with respect to the Master Lease Property (any such party(ies), the "Master Lease Tenant"), and may not be assigned, conveyed, or otherwise transferred to any other party, including a homeowners' association or commercial owners' association established for the benefit of the Permittee, unless approved in writing by the Director. This Agreement shall bind Permittee, its successors and assignees, including all future assignees of Permittee's interest as Tenant under the Master Lease with respect to all or any portion of the Master Lease Property, with each successor or assignee being deemed to have assumed the obligations under this Agreement at the time of the applicable assignment. For the avoidance of doubt, this Permit shall not bind any owner or lessee of any Development Parcel within the Master Lease Property that is released from the Master Lease as provided in Section 5.9B(a)(3), and any Vertical Developer

thereunder shall have no obligations or liability hereunder, which release shall be conclusively evidenced by the recordation of a Notice of Termination under Section 5.9B(b)(3).

It is intended that this Agreement binds the Permittee and any future Master Lease Tenant as to the Master Lease Property only during their respective successive periods of tenancy; and therefore, the rights and obligations of any Permittee or its respective successors and assignees under this Agreement shall terminate upon transfer, expiration, or termination of its interest in the Master Lease, but only to the extent that such party is released under the terms of the Master Lease, except that its liability for any violations of the requirements or restrictions of this Agreement, or any acts or omissions during such ownership, shall survive any transfer, expiration, or termination of its interest in the Master Lease Property.

Subject to the approval of the Director, which shall not unreasonably be withheld, Permittee may assign this permit to a homeowners' association (for residential or mixed-use properties), a commercial owners' association (for commercial properties) or a master association with jurisdiction over Development Parcels located within the Phase 1 Property by submitting a "Notice of Assignment" to the Department.

The **Notice of Assignment** shall include:

- (1) Identification of the Assignee and written acknowledgment of the Assignee's acceptance of the responsibilities under this permit;
- (2) The contact person for the Assignee and the contact information as required under Section 2.7;
- (3) If the Assignee is a homeowners' association or commercial owners' association, a copy of recorded CC&Rs, if there are such CC&Rs evidencing (a) the homeowners association's or commercial owners association's obligation to accept maintenance responsibility for the subject Improvements consistent with this Agreement upon assignment; and (b) City's right to enforce maintenance obligations as a third-party beneficiary under such CC&Rs and the San Francisco Municipal Code; and
- (4) A statement identifying whether a Community Facilities District or other Special Tax Entity will expend monetary or staff resources on the Permit area for maintenance or other activities;
- (5) A copy of the Assignee's general liability insurance that satisfies Section 7 and security under Section 8 if applicable;
- (6) Any other considerations necessary to promote the health, safety, welfare, including demonstration to the Director's satisfaction that the Assignee has the monetary and/or staff resources are available and committed to perform the maintenance obligation.

Permittee shall submit to Public Works a Notice of Assignment in a form acceptable to Public Works. Prior to approval from the Director, the Department shall provide a written determination that the proposed assignee satisfies Section 7 (Insurance) and Section 8 (Security).

Following such assignment, the obligations of the assigning Permittee shall be deemed released and the assigning Permittee shall have no obligations under this Agreement.

(b) Lender. A “**Lender**” means the beneficiary named in any deed of trust that encumbers all or a portion of the Master Lease Property and is recorded in the Official Records of San Francisco County (the “**Deed of Trust**”). All rights in the Master Lease Property acquired by any party pursuant to a Deed of Trust shall be subject to each and all of the requirements and obligations of the Permit and this Agreement and to all rights of City hereunder. Any Lender that takes possession or acquires the ground tenant’s interest in all or a portion of the Master Lease Property shall automatically assume the Owner’s obligations under the Permit and this Agreement for the period that Lender holds possession as the Master Lease Tenant. None of such requirements and obligations is or shall be waived by City by reason of the giving of such Deed of Trust, except as specifically waived by City in writing.

15. TRANSFER AND ACCEPTANCE PROCEDURES

This Permit, and the accompanying benefits and obligations are automatically transferred to any successor Master Lease Tenant. If the Permittee is assigning all or any portion of its interest in the Master Lease, the successor owner(s) shall submit contact information to the Department immediately upon such transfer or release, and with respect to a Master Lease assignment, along with an acknowledgement that the successor Master Lease Tenant shall accept and assume all Permit responsibilities. The Department may require that such a transfer be evidenced by a new written Agreement with the Director and require evidence of insurance to be submitted within a specified period of time.

16. POSSESSORY INTEREST TAXES

Permittee recognizes and understands that this Agreement may create a possessory interest subject to property taxation with respect to privately-owned or occupied property in the PROW, and that Permittee may be subject to the payment of property taxes levied on such interest under applicable law. Permittee agrees to pay taxes of any kind, including any possessory interest tax, if any, that may be lawfully assessed on Permittee's interest under this Agreement or use of the PROW pursuant hereto and to pay any other taxes, excises, licenses, permit charges, or assessments based on Permittee's usage of the PROW that may be imposed upon Permittee by applicable law (collectively, a "Possessory Interest Tax"). Permittee shall pay all of such charges when they become due and payable and before delinquency. The parties hereto hereby acknowledge that the PROW will be a public open space during the term of this Agreement and Permittee’s use of the PROW pursuant to this Agreement is intended to be non-exclusive and non-possessory.

17. PESTICIDE PROHIBITION

Permittee shall comply with the provisions of Section 308 of Chapter 3 of the San Francisco Environment Code (the "Pesticide Ordinance") which (a) prohibit the use of certain pesticides on PROW, (b) require the posting of certain notices and the maintenance of certain records regarding pesticide usage and (c) require Permittee to submit to the Director an integrated pest management

("IPM") plan that (i) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Permittee may need to apply to the PROW during the term of this Agreement, (ii) describes the steps Permittee will take to meet the City's IPM Policy described in Section 300 of the Pesticide Ordinance, and (iii) identifies, by name, title, address and telephone number, an individual to act as the Permittee's primary IPM contact person with the City. In addition, Permittee shall comply with the requirements of Sections 303(a) and 303(b) of the Pesticide Ordinance. Nothing herein shall prevent Permittee, through the Director, from seeking a determination from the Commission on the Environment that it is exempt from complying with certain portions of the Pesticide Ordinance as provided in Section 303 thereof.

18. PROHIBITION OF TOBACCO SALES AND ADVERTISING

Permittee acknowledges and agrees that no sale or advertising of cigarettes or tobacco products is allowed on the PROW. This advertising prohibition includes the placement of the name of a company producing, selling or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit, or other entity designed to (a) communicate the health hazards of cigarettes and tobacco products, or (b) encourage people not to smoke or to stop smoking.

19. PROHIBITION OF ALCOHOLIC BEVERAGE ADVERTISING

Permittee acknowledges and agrees that no advertising of alcoholic beverages is allowed on the PROW. For purposes of this Section, "alcoholic beverage" shall be defined as set forth in California Business and Professions Code Section 23004, and shall not include cleaning solutions, medical supplies, and other products and substances not intended for drinking. This advertising prohibition includes the placement of the name of a company producing, selling, or distributing alcoholic beverages or the name of any alcoholic beverage in any promotion of any event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit, or other entity designed to (a) communicate the health hazards of alcoholic beverages, (b) encourage people not to drink alcohol or to stop drinking alcohol, or (c) provide or publicize drug or alcohol treatment or rehabilitation services.

20. CONFLICTS OF INTEREST

Through its execution of this Agreement, Permittee acknowledges that it is familiar with the provisions of Section 15.103 of the San Francisco Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Sections 87100 et seq. and Sections 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which would constitute a violation of said provisions, and agrees that if Permittee becomes aware of any such fact during the term of this Agreement, Permittee shall immediately notify the City.

21. FOOD SERVICE WASTE REDUCTION

If there is a City permit or authorization for the Permit Area that will allow food service, Permittee agrees to comply fully with and be bound by all of the provisions of the Food Service

Waste Reduction Ordinance, as set forth in the San Francisco Environment Code, Chapter 16, including the remedies provided therein, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth herein and the Permittee will be treated as a lessee for purposes of compliance with Chapter 16. This provision is a material term of this Agreement. By entering into this Agreement, Permittee agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine. Without limiting City's other rights and remedies, Permittee agrees that the sum of One Hundred Dollars (\$100.00) liquidated damages for the first breach, Two Hundred Dollars (\$200.00) liquidated damages for the second breach in the same year, and Five Hundred Dollars (\$500.00) liquidated damages for subsequent breaches in the same year is a reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amounts shall not be considered a penalty, but rather as mutually agreed upon monetary damages sustained by City because of Permittee's failure to comply with this provision.

22. GENERAL PROVISIONS

Unless this Agreement provides otherwise: (a) This Agreement may be amended or modified only in writing and signed by both the Director and Permittee; provided that the Director shall have the right to terminate or revoke the Permit in accordance with this Agreement. (b) No waiver by any party of any of the provisions of this Agreement shall be effective unless in writing and signed by an officer or other authorized representative, and only to the extent expressly provided in such written waiver. (c) All approvals and determinations of City requested, required, or permitted hereunder may be made in the sole and absolute discretion of the Director or other authorized City official. (d) This Agreement (including its Attachments and associated documents hereto), the Permit, the Board of Supervisors legislation approving the Permit, and any authorization to proceed, discussions, understandings, and agreements are merged herein. (e) The section and other headings of this Agreement are for convenience of reference only and shall be disregarded in the interpretation of this Agreement. Director shall have the sole discretion to interpret and make decisions regarding any and all discrepancies, conflicting statements, and omissions found in the Permit, Agreement, the Agreement's Attachments and associated documents, and Construction Plans, if applicable. (f) Time is of the essence in each and every provision hereof. (g) This Agreement shall be governed by California law and the City's Charter. (h) If either party commences an action against the other or a dispute arises under this Agreement, the prevailing party shall be entitled to recover from the other reasonable attorneys' fees and costs. For purposes hereof, reasonable attorneys' fees of City shall be based on the fees regularly charged by private attorneys in San Francisco with comparable experience, notwithstanding the City's use of its own attorneys. (i) If Permittee consists of more than one person, then the obligations of each person shall be joint and several. (j) This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, representatives, successors, and assigns. (k) City is the sole beneficiary of Permittee's obligations under this Agreement. Nothing contained herein shall be deemed to be a gift or dedication to the general public or for any public purposes whatsoever, nor shall it give rights to the parties expressly set forth above. Without limiting the foregoing, nothing herein creates a private right of action by any person or entity other than the City. (l) This Agreement does not create a partnership or joint venture between the City and Permittee as to any activity conducted by Permittee in its performance of its obligations under this Agreement.

Permittee shall not be deemed a state actor with respect to any activity conducted by Permittee on, in, around, or under the Improvements pursuant to this Agreement.

23. INDEMNIFICATION

Permittee, on behalf of itself and its successors and assigns (“**Indemnitors**”), shall indemnify, defend, and hold harmless (“**Indemnify**”) the City including, but not limited to, all of its boards, commissions, departments, agencies, and other subdivisions, including, without limitation, the Department, and all of the heirs, legal representatives, successors, and assigns (individually and collectively, the “**Indemnified Parties**”), and each of them, for any damages the Indemnified Parties may be required to pay as satisfaction of any judgment or settlement of any claim (collectively, “**Claims**”), incurred in connection with or arising in whole or in part from: (a) any accident, injury to or death of a person, or loss of or damage to property, howsoever or by whomsoever caused, occurring in or about the Permit Area arising from the Permitted Activities, with the exception of Claims arising from the City’s failure to maintain one or more Improvements after agreeing to perform such maintenance and accepting funding from Permittee for that purpose; (b) any default by such Indemnitors in the observation or performance of any of the terms, covenants, or conditions of this Permit to be observed or performed on such Indemnitors’ part; and (c) any release or discharge, or threatened release or discharge, of any Hazardous Material caused or allowed by Indemnitors in, under, on, or about the Permit Area arising from the Permitted Activities. Permittee on behalf of the Indemnitors specifically acknowledges and agrees that the Indemnitors have an immediate and independent obligation to defend the City from any claim which actually or potentially falls within this Indemnity even if such allegation is or may be groundless, fraudulent, or false, which obligation arises at the time such Claim is tendered to such Indemnitors by the City and continues at all times thereafter. Permittee agrees that the indemnification obligations assumed under this Permit shall survive expiration of the Permit or completion of work. It is expressly understood and agreed that the applicable Indemnitor shall only be responsible for claims arising or accruing during its period of ownership of the Master Lease Property.

24. SEVERABILITY

If any provision of this Agreement or the application thereof to any person, entity or circumstance shall be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons, entities, or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law, except to the extent that enforcement of this Agreement without the invalidated provision would be unreasonable or inequitable under all the circumstances or would frustrate a fundamental purpose of this Agreement.

25. FORCE MAJEURE

If Permittee is delayed, interrupted, or prevented from performing any of its obligations under this Agreement, excluding all obligations that may be satisfied by the payment of money or provision of materials within the control of Permittee, and such delay, interruption, or prevention is due to fire, natural disaster, act of God, civil insurrection, federal or state governmental act or

failure to act, labor dispute, unavailability of materials, or any cause outside such Party's reasonable control, then, provided written notice of such event and the effect on the Party's performance is given to the other Party within thirty (30) days of the occurrence of the event, the time for performance of the affected obligations of that Party shall be extended for a period equivalent to the period of such delay, interruption, or prevention.

26. USA NORTH MEMBERSHIP

Permittee shall be obligated to become a member of USA North and be subject to all support and work around clauses as required by Public Works for all third-party utilities, including the City Standard Specifications Section 00 73 20 and 00 73 21 (effective 2021) and all updates to said specifications for utility relocation and support and work around.

[Signature Page to Follow]

In witness whereof the undersigned Permittee(s) have executed this agreement this _____ day of _____, 2024.

PERMITTEE:

FC PIER 70, LLC,
a Delaware limited liability company

By:

Its:

CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF PUBLIC WORKS, a
municipal corporation

City Engineer of San Francisco

Director of Public Works

ATTACHMENT 1

LEGAL DESCRIPTION/LOCATION OF PERMITTEE'S PROPERTY

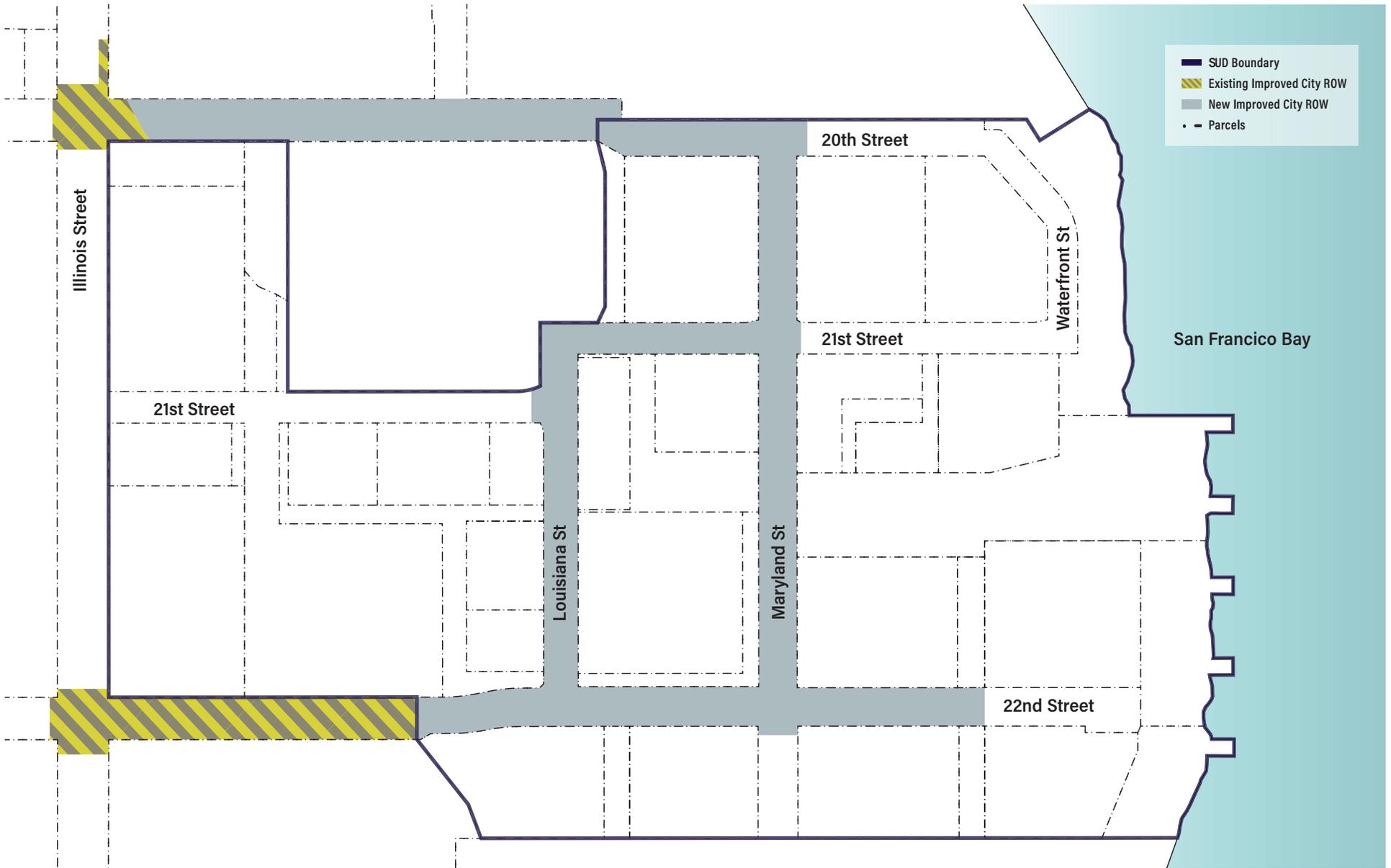
ATTACHMENT 1: LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN FRANCISCO, IN THE COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

Lots 1 to 3, inclusive and Lots 5 to 7 inclusive, as shown on Final Map 9585, recorded in the Official Records on October 23, 2020 as Document No. 20200035295.

ATTACHMENT 1: PLAT OF PHASE 1 PROPERTY

[TO BE ATTACHED PRIOR TO EXECUTION]



**Attachment 1:
Pier 70 Phase 1 Area Map**



Pier 70
Vicinity Map



NOT TO SCALE

ATTACHMENT 2
DESCRIPTION/LOCATION OF PERMIT AREA AND THE IMPROVEMENTS

1. **Written Description of Permit Area:** Portions of 20th Street, Louisiana Street, Maryland Street, 21st Street and 22nd Street within the Pier 70 project site bounded by Illinois Street to the west, 20th Street to the north, 21st street to the south and the San Francisco Bay to the east that are occupied by the joint trench and appurtenances shown on those certain Record Drawings prepared by Power Systems Design entitled “Joint Trench Composite Plan, Pier 70” dated October 23, 2020 (17-02 Priority Permit) (the “**Joint Trench Record Drawings**”) attached hereto, containing between 4 and 11 conduits in any particular location therein that are the subject of this Encroachment Permit.

2. **Precise Diagram.** All conduits and boxes labelled “Comcast” or “RACE” on the Joint Trench Record Drawings attached hereto.

3. **Maintenance Table.**

| Improvement | Maintenance Responsibility |
|--|-----------------------------------|
| All conduits and boxes labelled “Comcast” or “RACE” on the Joint Trench Record Drawings attached hereto. | Permittee |

ATTACHMENT 2: PRECISE DIAGRAM

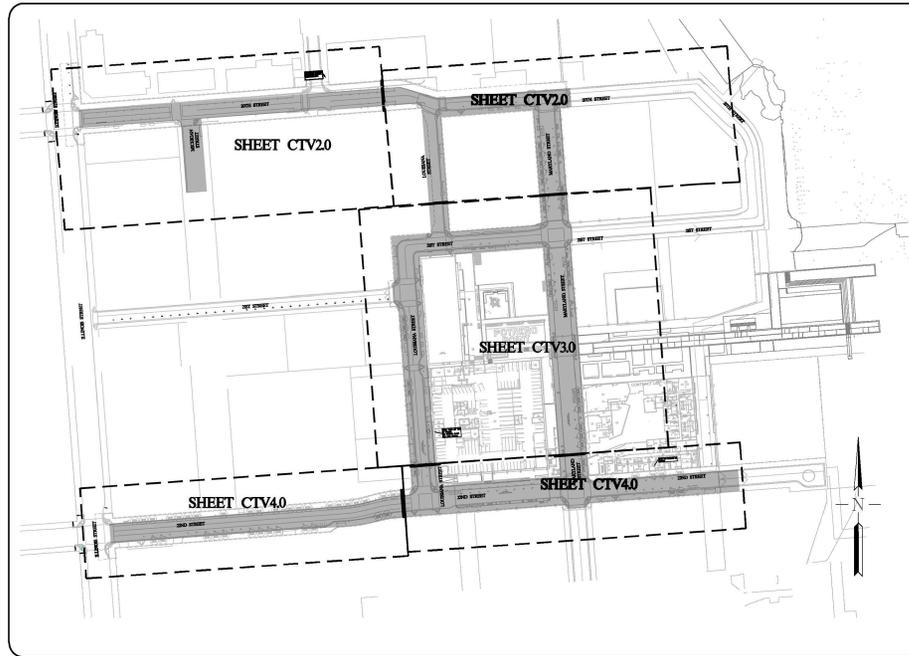
[to be attached prior to execution]

COMCAST SUBSTRUCTURE PLAN PIER 70

SAN FRANCISCO - CALIFORNIA

LEGEND

-  PROPOSED TRENCH
-  CABLE T.V. SPUR BOX (CHRISTY 840 W/ 12" EXTENSION)
-  CABLE T.V. SPUR BOX (CHRISTY 844 W/ 12" EXTENSION)
-  CABLE T.V. SPUR BOX (CHRISTY 852 W/ 14" EXTENSION)

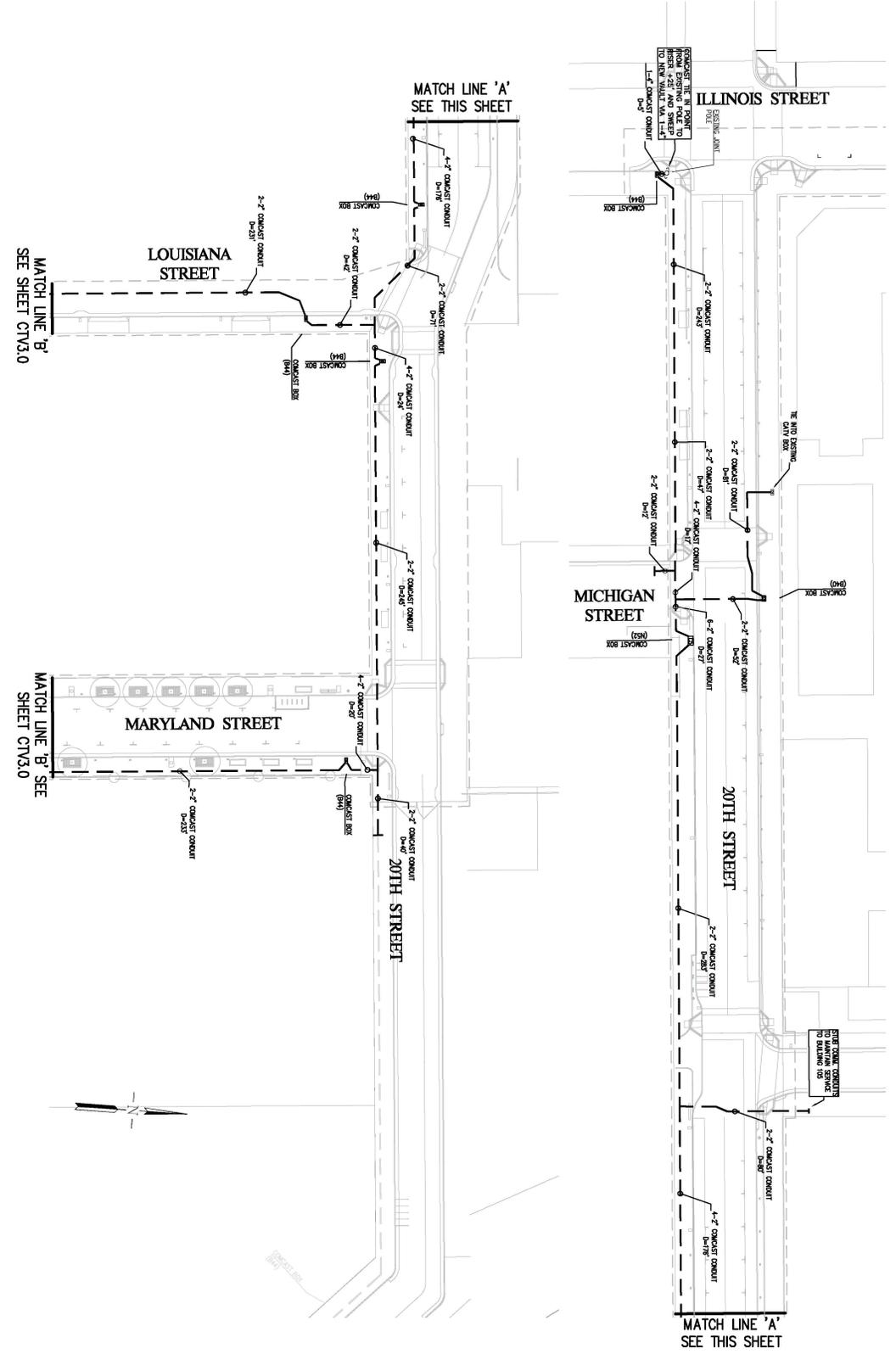


MAYOR ED 17-02 PRIORITY PERMIT

COMCAST SUBSTRUCTURE PLAN
PIER 70
SAN FRANCISCO SAN FRANCISCO COUNTY CALIFORNIA

| Date | By | Check | Description |
|------------|----|-------|-------------|
| 10/28/2019 | RS | AV | REVISION |
| 05/17/20 | RS | RS | REVISION |
| 05/15/20 | RS | RS | REVISION |
| 08/28/20 | RS | RS | REVISION |
| 10/02/20 | AV | AV | REVISION |
| 10/23/20 | RS | RS | REVISION |

RECORD DRAWINGS
Drawing Number: CTV1.0



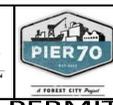
| Date | Revisions |
|------------|-------------------------------|
| 10/28/2019 | 24 05/11/20 - IBB RESUBMITTAL |
| 11/20 | 25 05/15/20 - IB10 |
| 12/20 | 26 08/28/20 - IB11 |
| 1/21 | 27 10/02/20 - IB12 |
| 2/21 | 28 10/23/20 - RECORD DRAWINGS |

COMCAST SUBSTRUCTURE PLAN
PIER 70

SAN FRANCISCO SAN FRANCISCO COUNTY CALIFORNIA

POWER SYSTEMS DESIGN
PSD

3030 N. MIAMI STREET, SUITE 600
MOUNTAIN VIEW, CA 94039
TEL: 925.938.8100
WWW.POWERSYSTEMSDESIGN.COM



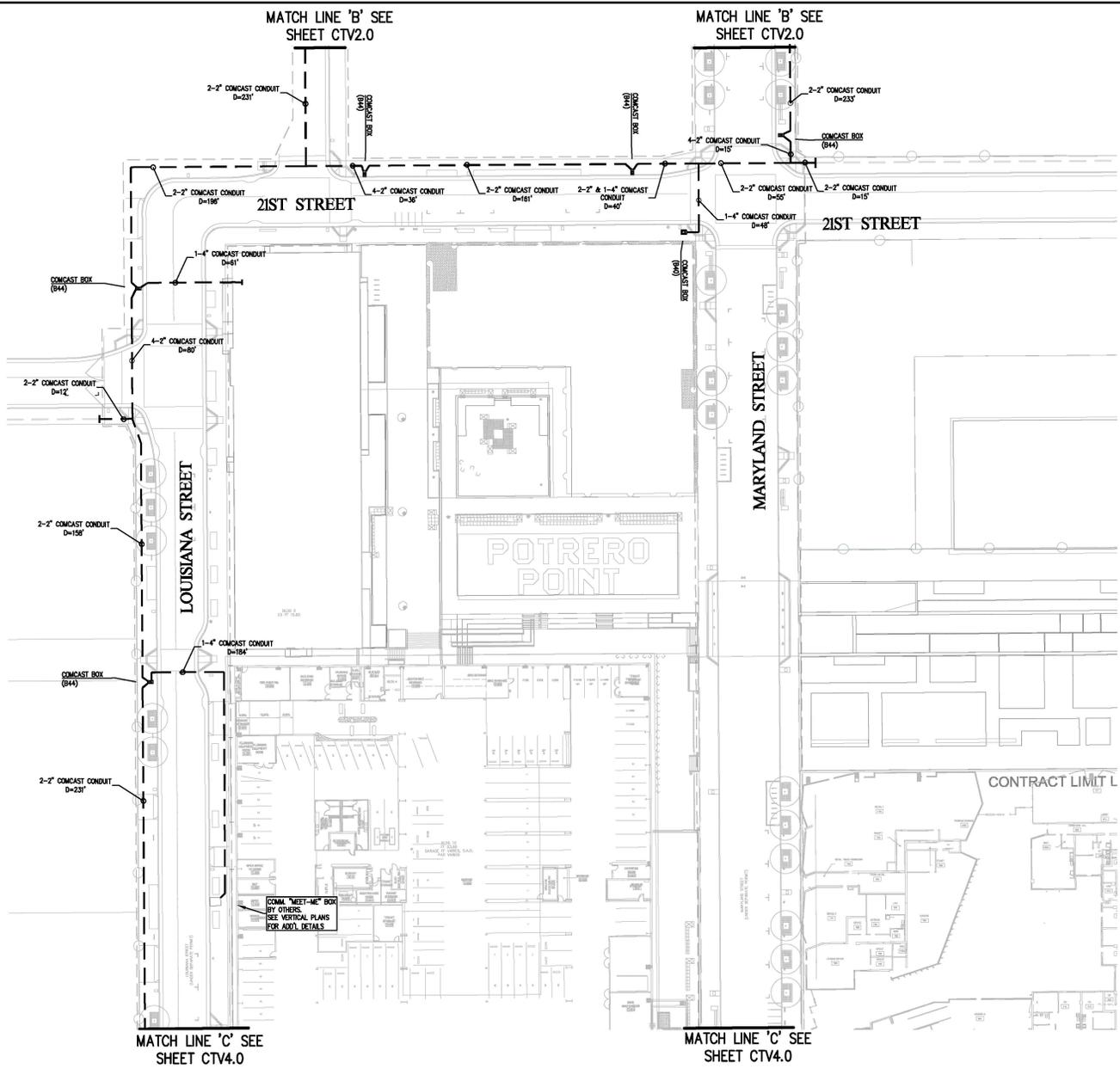


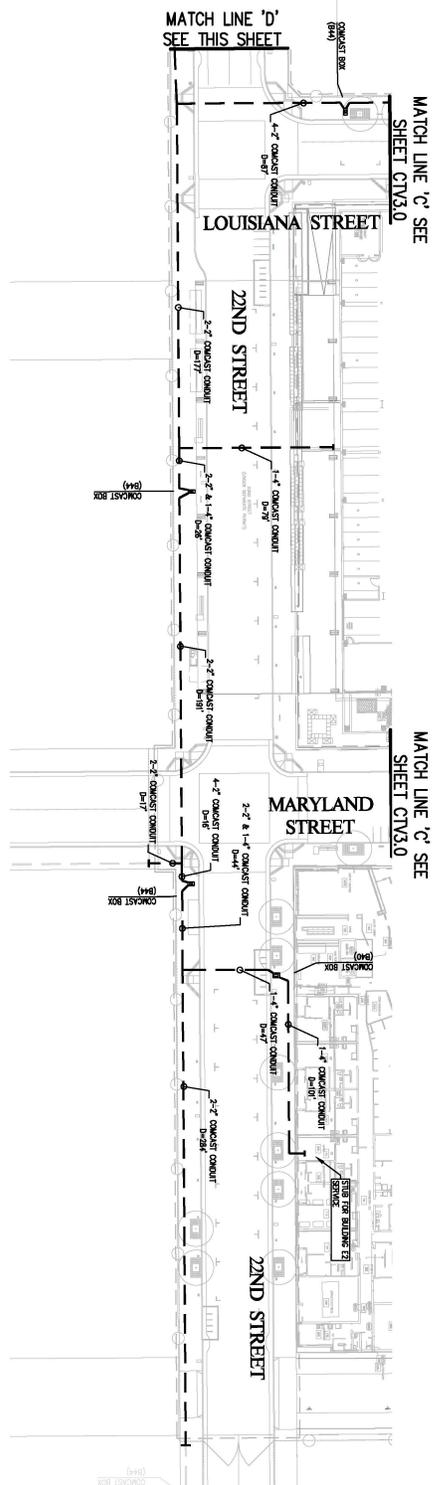
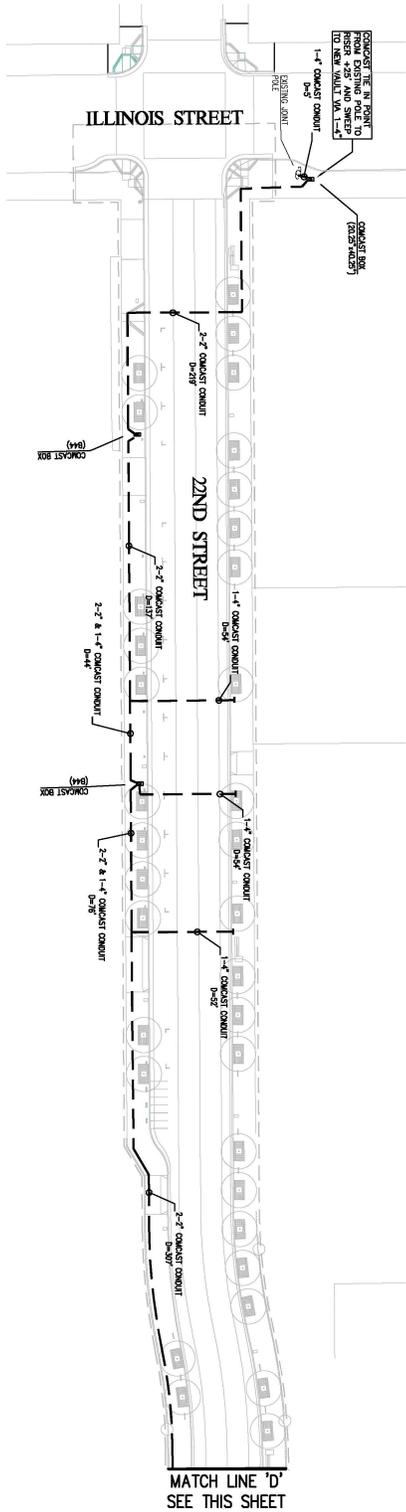
COMCAST SUBSTRUCTURE PLAN
 PIER 70
 SAN FRANCISCO SAN FRANCISCO COUNTY CALIFORNIA

| | | | |
|-----------|------------|--------------|----|
| Date: | 10/28/2019 | Revised: | |
| Scale: | 1"=30' | Resubmittal: | |
| Drawn: | RS | By: | RS |
| Checked: | AV | By: | AV |
| Approved: | AV | By: | AV |
| Job No.: | 13-042 | By: | AV |

RECORD DRAWINGS
 DRAWING NUMBER:
 CTV3.0

MAYOR ED 17-02 PRIORITY PERMIT



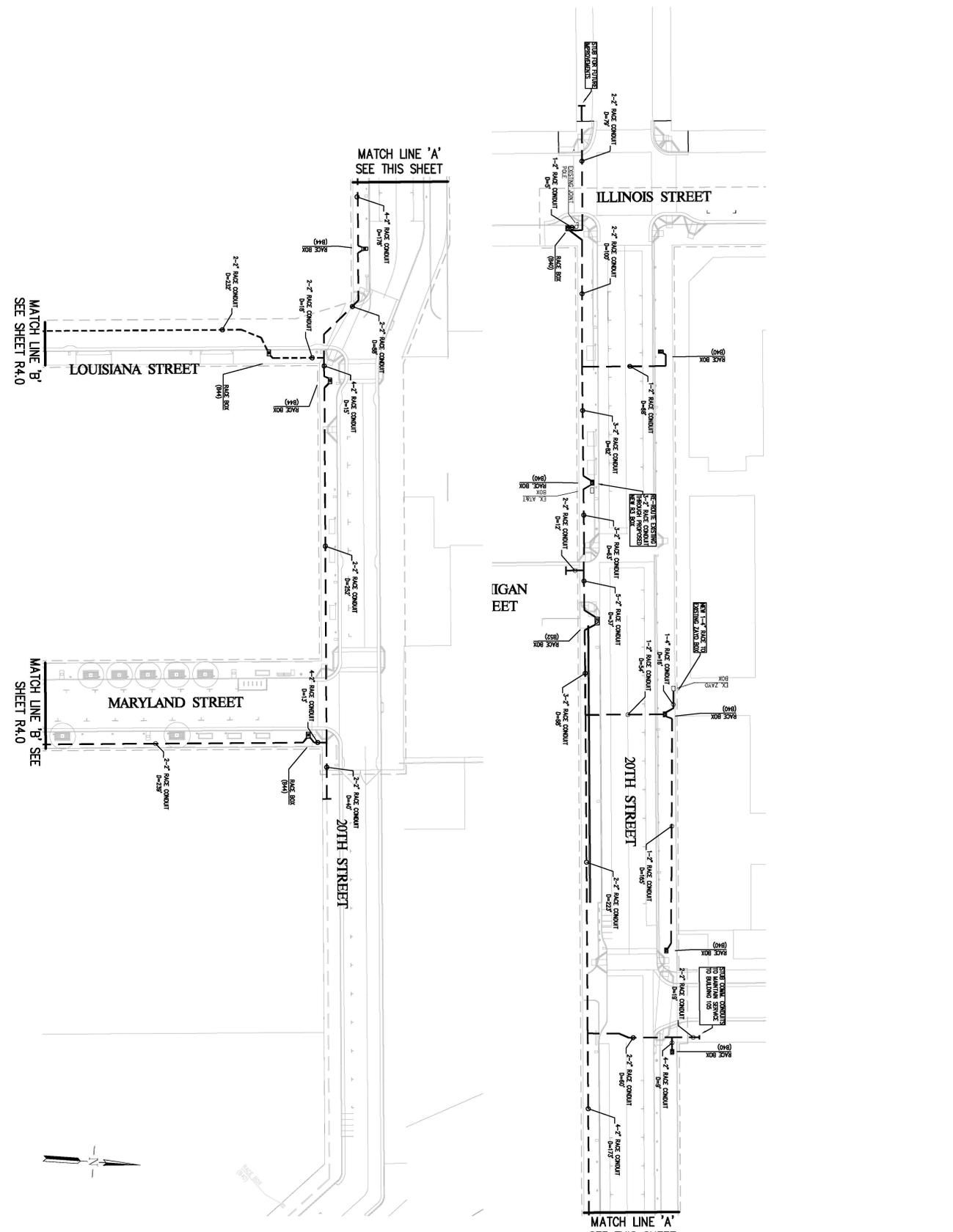


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| | Design | RS | 25 | 05/15/20 - IB10 |
| | Drawn | RS | 26 | 08/28/20 - IB11 |
| | Approved | AV | 27 | 10/02/20 - IB12 |
| | Job No | 13-042 | 28 | 10/23/20 - RECORD DRAWINGS |

COMCAST SUBSTRUCTURE PLAN
PIER 70
 SAN FRANCISCO SAN FRANCISCO COUNTY CALIFORNIA

PSD POWER SYSTEMS DESIGN
 PLANNING • TRANSMISSION • DISTRIBUTION • SUBSTATION • RENEWABLE ENERGY DESIGN
 2025 N. MAIN STREET, SUITE 600
 WALNUT CREEK, CA 94598
 TEL: 925.938.6100
 WWW.PSDPOWERDESIGN.COM

PIER 70
 2 FOREST CITY PARTNER



| | | | | |
|------|----------|------------|------|----------------------------|
| R3.0 | Date | 10/28/2019 | Rev. | Revisions |
| | Scale | 1"=30' | 24 | 05/11/20 - IBB RESUBMITTAL |
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| | Drawn | RS | 26 | 08/28/20 - IB11 |
| | Approved | AV | 27 | 10/02/20 - IB12 |
| | Job No | 13-042 | 28 | 10/23/20 - RECORD DRAWINGS |

RACE SUBSTRUCTURE PLAN
PIER 70

SAN FRANCISCO SAN FRANCISCO COUNTY CALIFORNIA

POWER SYSTEMS DESIGN

PSD

PLANNING • TRANSMISSION • DISTRIBUTION • SUBSTATION • ENVIRONMENTAL DESIGN

3030 N. MAIN STREET, SUITE 600
WALNUT CREEK, CA 94598
TEL: 925.938.8888
WWW.POWERSYSTEMSDSIGN.COM





REGISTERED PROFESSIONAL ENGINEER - ELECTRICAL - STATE OF CALIFORNIA
NO. 50818
POWER SYSTEMS DESIGN
1000 CALIFORNIA STREET, SUITE 100
SAN FRANCISCO, CA 94108
WWW.PSDDESIGN.COM

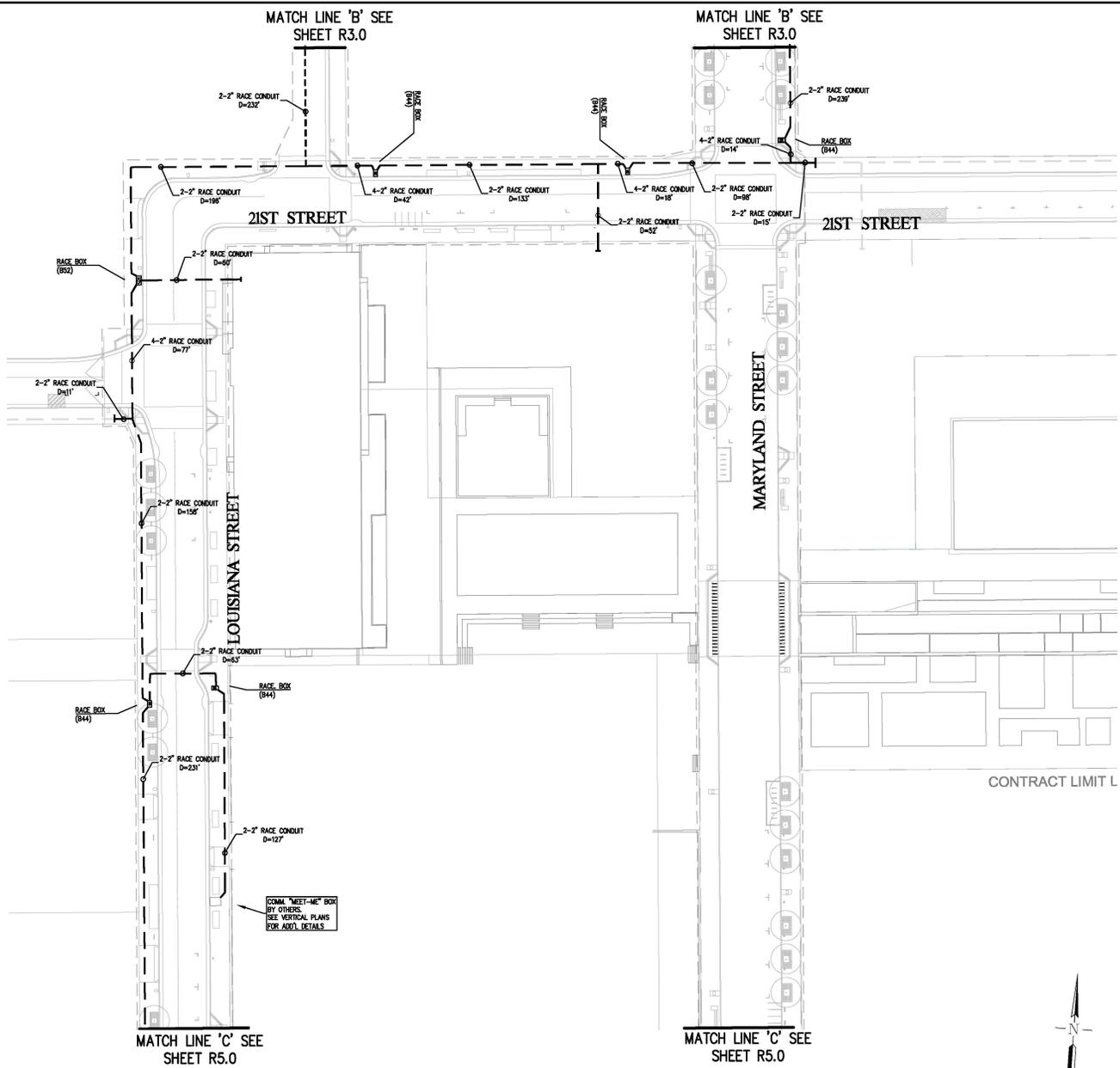
RACE SUBSTRUCTURE PLAN
PIER 70
SAN FRANCISCO COUNTY
SAN FRANCISCO CALIFORNIA

| | |
|----------|------------|
| Date | 10/28/2019 |
| Rev | 1 |
| By | RS |
| Check | RS |
| Drawn | AV |
| Approved | AV |
| Job No. | 13-042 |

Scale: 1"=30'
Drawing Number: R 4.0

RECORD DRAWINGS

MAYOR ED 17-02 PRIORITY PERMIT



CONTRACT LIMIT L



MATCH LINE 'B' SEE SHEET R3.0

MATCH LINE 'B' SEE SHEET R3.0

MATCH LINE 'C' SEE SHEET R5.0

MATCH LINE 'C' SEE SHEET R5.0

CONTRACT "MEET-ME" BOX BY OTHERS. SEE VERTICAL PLANS FOR ADDL DETAILS



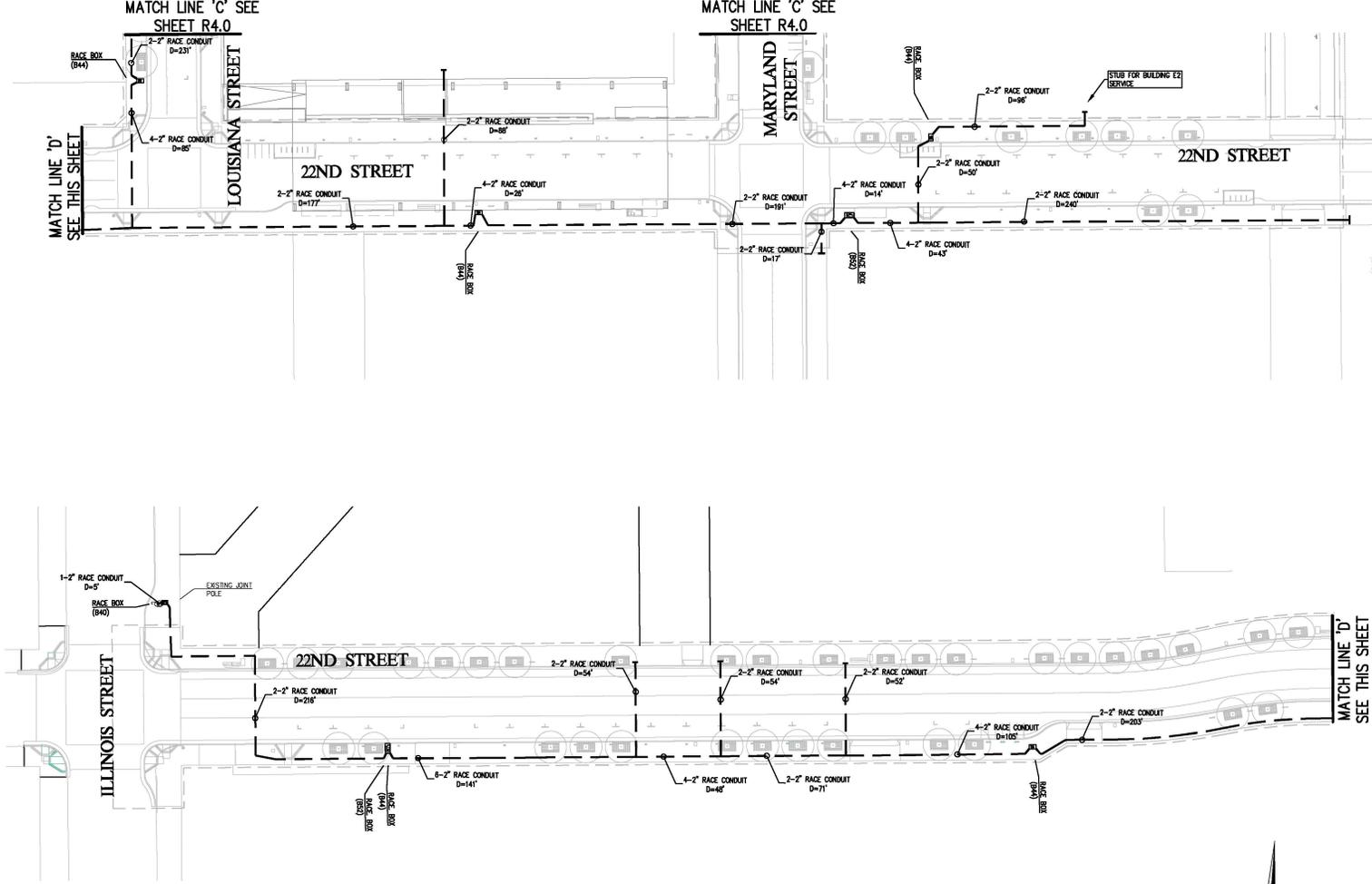


RACE SUBSTRUCTURE PLAN
PIER 70
SAN FRANCISCO COUNTY
SAN FRANCISCO CALIFORNIA

| | |
|------------------|---------------------------------|
| Date: 10/28/2019 | Revised: |
| Scale: 1" = 30' | 1 - 05/11/20 - RB RESUBMITTAL |
| Drawn: RS | 25 - 05/15/20 - IB10 |
| Checked: AV | 26 - 08/28/20 - IB11 |
| Approved: AV | 27 - 10/02/20 - IB12 |
| Job No: 13-042 | 28 - 10/23/20 - RECORD DRAWINGS |
| Drawing Number: | |
| 5.0 | |

RECORD DRAWINGS

MAYOR ED 17-02 PRIORITY PERMIT



MATCH LINE 'D' SEE THIS SHEET

MATCH LINE 'D' SEE THIS SHEET

MATCH LINE 'C' SEE SHEET R4.0

MATCH LINE 'C' SEE SHEET R4.0

RACE BOX (B4)

2-2" RACE CONDUIT D=23"

4-2" RACE CONDUIT D=45"

LOUISIANA STREET

22ND STREET

2-2" RACE CONDUIT D=177"

4-2" RACE CONDUIT D=26"

(M8) RIB 3576

MARYLAND STREET

2-2" RACE CONDUIT D=191"

4-2" RACE CONDUIT D=14"

(M8) RIB 3576

2-2" RACE CONDUIT D=50"

2-2" RACE CONDUIT D=96"

STUB FOR BUILDING E2 SERVICE

22ND STREET

4-2" RACE CONDUIT D=14"

2-2" RACE CONDUIT D=50"

2-2" RACE CONDUIT D=240"

4-2" RACE CONDUIT D=45"

(M8) RIB 3576

1-2" RACE CONDUIT D=5"

RACE BOX (B4)

ILLINOIS STREET

2-2" RACE CONDUIT D=216"

6-2" RACE CONDUIT D=141"

(M8) RIB 3576

2-2" RACE CONDUIT D=54"

2-2" RACE CONDUIT D=54"

4-2" RACE CONDUIT D=46"

2-2" RACE CONDUIT D=71"

2-2" RACE CONDUIT D=52"

4-2" RACE CONDUIT D=105"

(M8) RIB 3576

2-2" RACE CONDUIT D=203"

22ND STREET

MATCH LINE 'D' SEE THIS SHEET

MATCH LINE 'C' SEE SHEET R4.0

MATCH LINE 'C' SEE SHEET R4.0

**ATTACHMENT 3
MAINTENANCE PLAN
(LIST OF TASKS/SERVICES AND COSTS)**

The following scope of work is intended to define, describe, state, and outline the Permittee's maintenance, repair, and replacement obligations within the Permit Area and the Public Right-of-Way.

A. Maintenance Plan: Permittee shall comply with the following maintenance requirements:

1. Every two years starting from the date of Permit issuance, Permittee shall conduct an inspection of the Improvements which shall include the following:
 - a. Ensure that each conduit has a pull rope or locating wire. As part of the inspection, Permittee shall pull on the locating wire or pull tape between pullboxes to ensure no blockage.
 - b. Within the pull boxes ensure extra conduit are covered to prevent any water (or rodents) from entering into the conduits
 - c. Remove any debris from within the pull box
 - d. Replace any damaged lids and pullboxes
 - e. Photograph and generate an inspection report each time the inspection is conducted.
2. Permittee shall submit a copy of each inspection report to the Department within thirty (30) days after each inspection

B. Operating Expenses: The total estimated annual operating expenses, including inspection costs, regular maintenance expenses and replacement cost necessary for continued operation of the Improvements is anticipated to be \$1,000 annually.

C. Expected Lifespan: The expected lifespan of the Improvements is anticipated to be 50-100 years.

D. No Special Tax Entity. No Community Benefit District, Business Improvement District, Community Facilities District or similar Special Tax-Based Entity will expend monetary or staff resources on the Permit Area for maintenance or other activities.

ATTACHMENT 4
OPERATION AND MAINTENANCE MANUALS
(NOT APPLICABLE)

ATTACHMENT 5

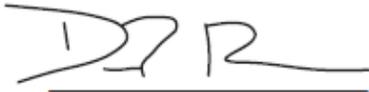
LEGAL DESCRIPTION AND PLAT OF PHASE 2/3 PROPERTY
(for purposes of recordation pursuant to Section 3(c) hereof).

LEGAL DESCRIPTION

ALL THAT REAL PROPERTY SITUATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

LOTS C, D, E, H, I, J, P, Q, R, U, W, X, Y, AA, BB, 3, 4, 5, 6, 7, 13, 15, 16, 17, 18, 19, 20, 21, AND 22, AS SAID LOTS ARE SHOWN ON THAT CERTAIN MAP ENTITLED "FINAL TRANSFER MAP 9597" FILED FEBRUARY 7, 2019, IN BOOK HH OF SURVEY MAPS, AT PAGES 89-98, INCLUSIVE, OFFICIAL RECORDS OF THE CITY AND COUNTY OF SAN FRANCISCO.

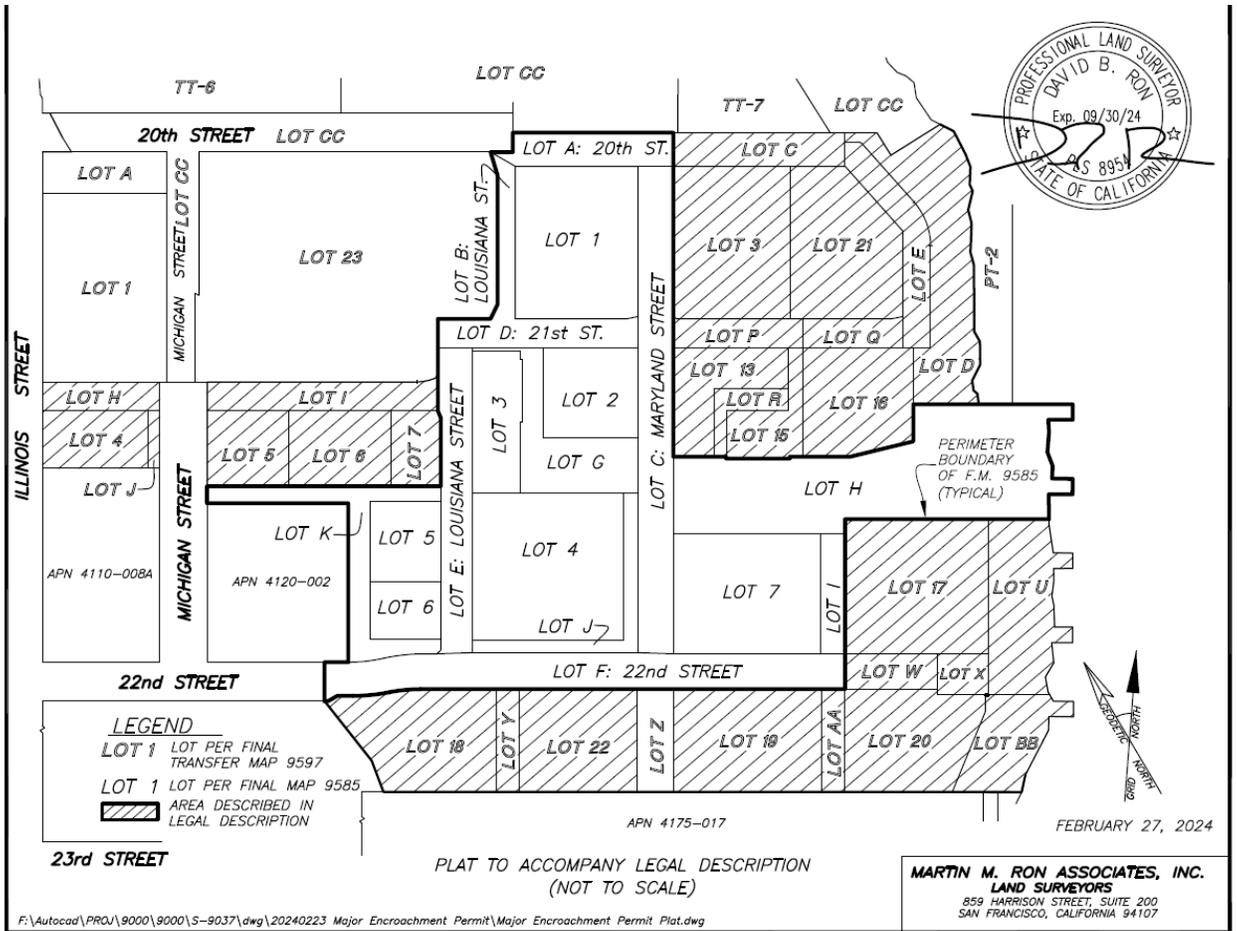
THIS DESCRIPTION WAS PREPARED BY ME IN ACCORDANCE WITH THE PROFESSIONAL LAND SURVEYORS' ACT.



FEBRUARY 27, 2024

DAVID B. RON, PLS 8954





107015887.9



San Francisco Public Works
General – Director’s Office
49 South Van Ness Ave., Suite 1600
San Francisco, CA 94103
(628) 271-3160 www.SFPublicWorks.org

Public Works Order No: 210239

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

Background and Findings

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

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

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

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

A. Retroactive Acceptance of Joint Trench

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

B. Exception for Excess Telecommunications Conduit and Major Encroachment Permit

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

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

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

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

D. Master Encroachment Permit for Multiple Encroachments and Permittees

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

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

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

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

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

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

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

E. Street and City Utility Acceptance Findings

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

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

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

NOW THEREFORE BE IT ORDERED THAT,

I – Subdivision Code Exception Approval for Excess Conduit

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

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

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

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

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

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

II – Acceptance of Infrastructure

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

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

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

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

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

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

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

III – Delegated Authority for the Director to Accept Deferred Infrastructure

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

IV – Master Encroachment Permit

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

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

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

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

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

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

D. General Provisions for Master Encroachment Permit

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

X DocuSigned by:
Denny Phan

Phan, Denny C907BA0BD82C4E6...
Acting ITF Manager

X DocuSigned by:
Albert Ko

Ko, Albert J 281DC30E04CF41A...
City Engineer

X DocuSigned by:
Carla Short

Short, Carla
Director of Public Works

**PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

RESOLUTION NO. 24-03

WHEREAS, Charter Section B3.581 empowers the Port Commission with the authority and duty to use, conduct, operate, maintain, manage, regulate and control the lands within Port jurisdiction; and

WHEREAS, On September 26, 2017, the Port Commission approved (1) Resolution No. 17-43 authorizing the Executive Director to enter into (a) a Disposition and Development Agreement (as amended, the “DDA”) between Port and FC Pier 70, LLC (“Developer”), an affiliate of Brookfield Properties, for a mixed-use development project on the 28-Acre Site (the “Project”), (b) Master Lease No. L-16390, dated as of May 2, 2018, between Port and Developer (as amended, the “Master Lease”), and (c) other Project-related documents, including an inter-departmental agreement called the Interagency Cooperation Agreement (“ICA”) between the Port, San Francisco Public Works (“Public Works”), San Francisco Public Utilities Commission (“SFPUC”), and San Francisco Municipal Transportation Authority (“SFMTA”), which governs how City departments will cooperate on project implementation, and (2) Resolution No. 17-45, authorizing the creation of the Pier 70 Special Use District, including the 28-Acre Site, Parcel K North, Parcel K South and the Hoedown Yard (the “Pier 70 SUD”); and

WHEREAS, On October 31, 2017, the San Francisco Board of Supervisors approved the Project, the Pier 70 SUD, the Development Agreement by and between Developer and the City, dated as of May 2, 2018, and the ICA; and

WHEREAS, On August 24, 2017, the Planning Commission (1) reviewed and considered the Final Environmental Impact Report for the Pier 70 Mixed-Use Project (“FEIR”) (Case No. 2014-001272ENV); (2) found the FEIR to be adequate, accurate and objective, thus reflecting the independent analysis and judgment of the Planning Department and the Planning Commission; and (3) by Motion No. 19976, certified the FEIR as accurate, complete and in compliance with the California Environmental Quality Act (“CEQA”), the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code; and

WHEREAS, At the same hearing, the Planning Commission approved the Pier 70 Mixed-Use District Project and in so doing, adopted approval findings under CEQA by Motion No. 19977, including a Statement of Overriding Considerations (the “CEQA Findings”), and adopted a Mitigation Monitoring and Reporting Program (“MMRP”). A copy of the Planning Commission Motions, the CEQA Findings, and the MMRP are on file with

the Port Commission Secretary and may be found in the records of the Planning Department at 1650 Mission Street, San Francisco, CA, and are incorporated in this resolution by reference as if fully set forth herein; and

WHEREAS, The DDA contemplates development within the Pier 70 SUD to include up to 3,000 units of housing, 1.75 million gross square feet of office space, 500,000 gross square feet of retail, arts, and light industrial space, nine acres of parks and open space, new and upgraded streets and other public ways, and extensive bicycle, pedestrian, and facilities; and

WHEREAS, Under the DDA, the Developer is required to construct public Horizontal Improvements (as defined in the DDA) serving the Project, including parks, streets, and utilities, which the Port or City, as applicable, will accept for ownership, maintenance and liability purposes; and

WHEREAS, The Developer substantially commenced construction of Horizontal Improvements serving Phase 1 of the Project in March of 2019 upon issuance of Street Improvement Permit 19IE-00245 (as modified by Instructional Bulletins #1 through #13, the “Street Improvement Permit”) by the City. The horizontal scope of work under the Street Improvement Permit included installation of utilities, including auxiliary water supply mains, low-pressure water mains, combined sewer mains, combined sewer storage, non-potable water mains, electricity and gas infrastructure, and surface improvements along 20th Street, Maryland Street, Louisiana Street, 21st Street, and 22nd Street; and

WHEREAS, The Port, Public Works and Developer entered into a Public Improvement Agreement dated as of September 15, 2020 (the “PIA”) governing the construction of the Horizontal Improvements as part of the final subdivision map process for Phase 1 of the Project; and

WHEREAS, In November of 2022, Public Works granted a Notice of Completion to the Developer signaling that construction of Phase 1 Horizontal Improvements approved under the Street Improvement Permit was substantially complete and the Horizontal Improvements were ready for acceptance; and

WHEREAS, The DDA requires the Port’s Chief Harbor Engineer to make a determination that the Horizontal Improvements have been completed as designed within the timeframes specified in the Schedule of Performance (as defined in the DDA) (the “SOP Compliance Determination”); and

WHEREAS, The Developer’s request for SOP Compliance Determination was submitted on July 1, 2023, and conditionally approved by the Acting Chief Harbor Engineer on January 3, 2024. In issuing the Conditional SOP Compliance Determination the Acting Chief Harbor Engineer determined (1) the Port Acceptance Items exclusive of Port Encroachments (defined below) to be complete and construction of those Horizontal Improvements

to be in accordance with applicable project and regulatory requirements, (2) that the Port Acceptance Items exclusive of Port Encroachments are ready for their intended use, and (3) the Developer's compliance with the outside date set forth in the SOP for the completion of certain Phase 1 Horizontal Improvements. It also signals certain of these improvements are ready for acceptance by the Port, and others by the City; and

WHEREAS, Acceptance of improvements is governed by (i) the ICA, (ii) the jurisdictional memorandum of understanding between the Port, SFPUC, Public Works, SFMTA, and San Francisco Fire Department approved by the Port Commission via Resolution No. 20-39 (the "Interjurisdictional MOU"), (iii) the DDA, and (iv) the PIA; and

WHEREAS, Horizontal Improvements built to City standards will be owned, maintained, and permitted by the City (Public Works, SFMTA, SFPUC, Department of Technology) ("City Acceptance Items"). City Acceptance Items also include the power system, streetlights, and light poles in and on Louisiana Street between 20th and 21st Streets. Non-standard improvements will be owned by the Port ("Port Acceptance Items"). Port Acceptance Items include a one-block segment of Louisiana Street, the frame of former Building 15 that spans 22nd Street, special sidewalk and in-street paving, bike racks, trash cans, bollards, understory plantings, retaining walls and portions of utility laterals serving Port-owned buildings. Once the acceptance process is complete, the Port will release the Port Acceptance Items and City Acceptance from the Master Lease premises. This framework is memorialized in the Interjurisdictional MOU and DDA, and further detailed in the staff report accompanying this resolution; and

WHEREAS, Per the DDA, the Developer is responsible for maintenance of Port Acceptance Items until they are accepted by the Port Commission; upon Port Commission acceptance, services special taxes from the Pier 70 Leased Property Community Facilities District ("CFD") and Pier 70 Condo CFD are identified as the funding source for the ongoing maintenance of these items. The Pier 70 Leased Property CFD and Pier 70 Condo CFD were formed by the Board of Supervisors in 2020 by Resolution Nos. 011-20 and 009-20, respectively; and

WHEREAS, Due to delayed vertical development in Phase 1 of the Project, there are currently no developed properties subject to services special taxes. As a result, there will be a period when services special taxes are unavailable or insufficient to cover ongoing maintenance costs of the Port Acceptance Items. Subject to Port Commission approval pursuant to Port Commission Resolution No. 24-04 and Board of Supervisor's approval, Developer and Port anticipate entering into a second amendment to the DDA (the "DDA Amendment") to allow Developer to perform and fund the ongoing maintenance of the Phase 1 Port Acceptance Items until such time as services special taxes become sufficiently available; and

WHEREAS, The Port and Public Works are negotiating a Master Major Encroachment Permit (“Port Encroachment MMEP”), to be approved by the Port Commission and Board of Supervisors, pursuant to which Port will accept maintenance and liability responsibility of the Port Acceptance Items in City rights-of-ways (the “Port Encroachments”), subject to assignment during the Phase 1 Maintenance Term (as defined in the DDA Amendment) of maintenance responsibility and liability to Developer; and

WHEREAS, Pursuant to the PIA, the Developer provided an irrevocable offer of improvements for both Port Acceptance Items and City Acceptance Items to the Port and City (the “Offer of Improvements”). The Developer will also provide a quit claim deed, subject to the Conditional Assignment of Warranties (defined below) to the Port for Port Acceptance Items located outside of City rights-of-way on Port jurisdictional property; and

WHEREAS, Public Works has prepared a Public Works Order (the “Public Works Order”), confirming that Public Works: (1) inspected the Port Encroachments and the City Acceptance Items, and the City Engineer, by issuing a series of Conditional Notices of Completion, determined them to be complete in substantial conformity with the approved plans, specifications, and applicable City regulations governing the applicable infrastructure improvements; and (2) determined that the City Acceptance Items and the Port Encroachments are ready for their intended use; and

WHEREAS, Pursuant to the PIA, the Developer conditionally assigned all warranties and guarantees to the City and Port, as applicable, related to the construction of Horizontal Improvements pursuant to that certain Conditional Assignment of Warranties and Guarantees dated May 9, 2022 (the “Conditional Assignment of Warranties”). With respect to any warranties and guarantees that by their term expired prior to acceptance of the Port and City Acceptance Items, the Developer has assumed performance of those warranties pursuant to the DDA (the “Self-Warranties”). A copy of the Conditional Assignment of Warranties, the Self-Warranties, and the draft Public Works Order are on file with the Commission Secretary and are incorporated herein by reference; and

WHEREAS, Port acceptance of the Port Acceptance Items is consistent with the FEIR and does not alter the maximum development capacity of the site or alter the Project from what was previously analyzed in the FEIR; now, therefore be it

RESOLVED, The Port Commission has reviewed and considered the FEIR, the CEQA Findings, and the record as a whole, and finds that the FEIR is adequate for its use for the action taken by this resolution, and incorporates the CEQA Findings into this resolution; and, be it further

- RESOLVED, The Port Commission further finds that since the FEIR was finalized, there have been no substantial project changes and no substantial changes in project circumstances that would require revisions to the FEIR due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the FEIR; and be it further
- RESOLVED, That the acceptance, operation, and maintenance of the Port Acceptance Items would not lead to additional or substantially more severe environmental impacts beyond those shown in the FEIR; and, be it further
- RESOLVED, That the Port Commission finds that the Port Acceptance Items described in the accompanying staff memorandum are functional and constructed in conformity with the Project Requirements and Regulatory Requirements, each as defined in the DDA; and, be it further
- RESOLVED, That the Port Commission accepts the Offer of Improvements for the Port Acceptance Items; and, be it further
- RESOLVED, That the Port Commission, subject to (i) the Acquisition Agreement by and between Port and the Developer, dated for reference purposes as of May 2, 2018 (the "Acquisition Agreement"), (ii) the DDA, (iii) the Conditional Assignment of Warranties, (iv) the Self-Warranties, (v) execution of the Public Works Order, (vi) approval of the DDA Amendment by the Board of Supervisors, (vii) entry into the DDA Amendment, (viii) entry into the Port Encroachment MMEP or an interim license with the Developer in the event the MMEP is delayed, and (ix) entry into a license with Developer for private utilities in the portion of Louisiana Street to be accepted by the Port, (w) accepts the Port and City Acceptance Items, (x) dedicates the applicable Port and City Acceptance Items for public use, (y) designates the Port and City Acceptance Items on all City and Port public rights-of-way for street and roadway purposes, and (z) accepts the Port Acceptance Items for maintenance and liability purposes; and, be it further
- RESOLVED, That the Port Commission acknowledges and accepts the Conditional Assignment of Warranties related to the construction of the Port Acceptance Items, substantially in the form on file with the Commission Secretary and incorporated herein by reference; and, be it further
- RESOLVED, That the Port Commission recommends that the Board of Supervisors accept ownership of the City Acceptance Items, (ii) dedicate such City Acceptance Items to public use, (iii) designate the City Acceptance Items in the City public right-of-way for street and roadway purposes; and (iv) accept City Acceptance Items for maintenance and liability purposes, including the power supply, streetlights, and light poles in Louisiana Street

(a Port Street) subject to the Conditional Assignment of Warranties and Self-Warranties; and, be it further

RESOLVED, That the Port Commission authorizes Port Director to negotiate the Port Encroachment MMEP with Public Works and recommends that the Board of Supervisors delegate authority to the Port Director and the Public Works Director to (1) negotiate and enter into the Port Encroachment MMEP, including its exhibits and (2) annex improvements in future phases into the Port Encroachment MMEP; and, be it further

RESOLVED, That the Commission delegates the Port Director or her designee the authority to accept any Port Acceptance Items identified as deferred infrastructure in Public Works Director's Order No. 205012 (Conditionally Approving Certain Requests for Exceptions to the Subdivision Code and 2015 Subdivision Regulations, Including Conditionally Approving Deferral of Materials to be Submitted); and, be it further

RESOLVED, That the Commission authorizes and directs the Port Director, or her designee, to record a signed, acknowledged Partial Release from the Master Lease releasing the Port Acceptance Items and City Acceptance Items from the Master Lease, upon acceptance of the City Acceptance Items by the Board of Supervisors and contingent upon approval by the Board of Supervisors, in their sole discretion, of the DDA Amendment; and, be it further

RESOLVED, That the Port Commission authorizes the Executive Director, in consultation with the City Attorney, to take any and all actions (including (1) amending the Conditional Assignment of Warranties, (2) entering into and/or amending the Port Encroachment MMEP, (3) entering into additional master major encroachment permits, (4) accepting exhibits to the Port Encroachment MMEP, (5) accepting deferred infrastructure, and (6) executing and recording a signed, acknowledged Partial Release from the Master Lease releasing Port Acceptance Items and City Acceptance Items from the Master Lease upon acceptance by the City of the City Acceptance Items) which may be necessary or advisable to effectuate the purpose and intent of this resolution, are in the best interests of the Commission, and that do not materially increase the obligations or liabilities of the Port or materially reduce the rights of the Port, such determination to be conclusively evidenced by the execution and delivery by the Executive Director of the documents.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of January 23, 2024. DocuSigned by:


Secretary

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**PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

RESOLUTION NO. 24-04

- WHEREAS, Charter Section B3.581 empowers the Port Commission with the authority and duty to use, conduct, operate, maintain, manage, regulate and control the lands within Port jurisdiction; and
- WHEREAS, On September 26, 2017, the Port Commission approved (1) Resolution No. 17-43 authorizing (i) the Executive Director to enter into (a) a Development Disposition Agreement (the “Original DDA”) between Port and FC Pier 70, LLC (“Developer”), an affiliate of Brookfield Properties, for a mixed-use development project on the 28-Acre Site (the “Project”) and (b) other Project-related documents, and (ii) Resolution No. 17-45 authorizing the creation of the Pier 70 Special Use District, including the 28-Acre Site, Parcel K North, Parcel K South and the Hoedown Yard; and
- WHEREAS, Port and Developer entered into the Original DDA, dated as of May 2, 2018, recorded in the Official Records on May 25, 2018, as Instrument No. 2018-K619435-00, which was amended by that certain First Amendment to Pier 70 DDA (Self-Warranty) dated July 7, 2022 and recorded in the Official Records as Document 2022-083565 (as amended, the “DDA”); and
- WHEREAS, Under the DDA, the Developer is required to construct public horizontal improvements serving the Project, including parks, streets, and utilities, which the Port or City, as applicable, will accept for ownership, maintenance and liability purposes; and
- WHEREAS, The Developer substantially commenced construction of horizontal improvements for Phase 1 of the Project in March of 2019 upon issuance of a Street Improvement Permit by the City. The horizontal scope of work under the Street Improvement Permit included the installation of utilities, including auxiliary water supply mains, low-pressure water mains, combined sewer mains, combined sewer storage, non-potable water mains, electricity and gas infrastructure, and surface improvements along 20th Street, Maryland Street, Louisiana Street, 21st Street, and 22nd Street; and
- WHEREAS, In November of 2022, Public Works granted a Notice of Completion to the Developer signaling the substantial completion of Phase 1 horizontal improvements constructed pursuant to the Street Improvement Permit; and
- WHEREAS, The DDA requires the Port’s Chief Harbor Engineer to make a determination that the horizontal improvements have been completed as designed within the timeframes specified in the Schedule of Performance (as defined in the DDA) (the “SOP Compliance Determination”); and

WHEREAS, The Developer's request for SOP Compliance Determination was submitted on July 1, 2023, and conditionally approved by the Acting Chief Harbor Engineer on January 3, 2024. The conditional SOP Compliance Determination establishes the Developer's compliance with the outside date set forth in the SOP for the completion of certain Phase 1 horizontal improvements and construction of those horizontal improvements in accordance with applicable project and regulatory requirements. It also signals certain of these improvements are ready for acceptance by the Port, and others by the City; and

WHEREAS, Acceptance of horizontal improvements is governed by (i) the Interagency Cooperation Agreement between the Port, San Francisco Public Works ("Public Works"), San Francisco Public Utilities Commission ("SFPUC"), and San Francisco Municipal Transportation Authority ("SFMTA") dated as of May 2, 2018, (ii) that certain jurisdiction and maintenance memorandum of understanding between the Port and other city departments that was approved by the Port Commission via Resolution No. 20-39 ("Interjurisdictional MOU"), (iii) the DDA, and (iv) the Public Improvement Agreement between Port, Public Works and Developer dated as of September 15, 2020; and

WHEREAS, Improvements built to City standards will be owned, maintained, and permitted by the City (Public Works, SFMTA, SFPUC, Department of Technology) whereas non-standard improvements will be owned by the Port ("Port Acceptance Items"). Port Acceptance Items include a one-block segment of Louisiana Street, the frame of former Building 15 that spans 22nd Street, special sidewalk pavers, bike racks, trash cans, bollards, and understory plantings. This framework is memorialized in the Interjurisdictional MOU; and

WHEREAS, Per the DDA, the Developer is responsible for maintenance of Port Acceptance Items until they are accepted by the Port Commission pursuant to Resolution No. 24-03; upon Port Commission acceptance, services special taxes from the Pier 70 Leased Property Community Facilities District ("CFD") and Pier 70 Condo CFD are identified as the funding source for the ongoing maintenance of these items; and

WHEREAS, The Pier 70 Leased Property CFD and Pier 70 Condo CFD were formed by the Board of Supervisors in 2020 by Resolution Nos. 011-20 and 009-20, respectively. However, due to delayed vertical development in Phase 1 of the Project, there are currently no developed properties subject to services special taxes. As a result, there will be a period when services special taxes are unavailable or insufficient to cover ongoing maintenance costs of the Port Acceptance Items; and

- WHEREAS, Developer and Port are proposing to enter into a second amendment to the DDA (the “DDA Amendment”) to allow Developer to perform and fund the ongoing maintenance of the Phase 1 Port Acceptance Items until such time as services special taxes become sufficiently available. Developer’s payments will be considered Project costs earning an 18% return pursuant to the DDA but will only accrue a return until the earlier of: (1) one year after issuance of a temporary certificate of occupancy for the first new vertical project or (2) June 30, 2028, provided however this date will be December 31st 2028 if Port has entered into a Parcel Lease (as defined in the DDA) with a Vertical Developer Affiliate (as defined in the DDA) prior to June 30, 2025. Costs incurred after that date will be eligible for reimbursement but will not accrue a return; and
- WHEREAS, The parties wish to enter into the DDA Amendment substantially in the form on file with the Commission Secretary and incorporated in this resolution by reference; and
- WHEREAS, The DDA Amendment is consistent with the Pier 70 Mixed Use District Final Environmental Impact Report (“FEIR”) (2014-001272ENV) and does not alter the maximum development capacity of the site or alter the Project from what was previously analyzed in the FEIR; now, therefore be it
- RESOLVED, That the Commission approves the DDA Amendment to allow the Developer to maintain the Port Acceptance Items as a Project cost in the absence of services special taxes; and, be it further
- RESOLVED, That the Port Commission authorizes the Executive Director of the Port, or her designee, to execute the DDA Amendment, upon Board of Supervisors’ approval, and recommends to the Board of Supervisors approval of the DDA Amendment; and, be it further
- RESOLVED, That the Port Commission authorizes and urges all officers, employees, and agents of the Port and the City to take all steps that they deem necessary or appropriate, to the extent permitted by applicable law, in order to implement the DDA Amendment in accordance with this resolution, including preparation and attachment of exhibits, execution of subsequent documents, or to otherwise effectuate the purpose and intent of this resolution and the DDA Amendment as described in the staff memorandum accompanying this resolution; and, be it further
- RESOLVED, That the Port Commission authorizes the Executive Director of the Port, or her designee, to enter into any amendments or modifications to the DDA Amendment that the Executive Director determines, in consultation with the City Attorney, are in the best interest of the Port, do not materially decrease the benefits to or materially increase the obligations or liabilities of the Port, and are in compliance with all applicable laws.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of January 23, 2024.

DocuSigned by:

Jenica Liu

Secretary

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GENERAL PLAN CONSISTENCY DETERMINATION AND CEQA FINDINGS

January 25, 2024

Ms. Carla Short
Interim Director
San Francisco Public Works
49 South Van Ness Avenue
San Francisco, CA 94103

| | |
|---------------------------------------|--|
| Project Title: | Pier 70 Waterfront Site – Acceptance and Permitting of Public Improvements |
| Assessor’s Blocks(s)/Lot(s): | 4111-009, 4052-008, 4112-001, 4112-002, 4112-003, 4113-002, 4113-003, 4114-005, 4114-007, 4052-009, 4116-008, 4052-010, 4052-011, 4116-009, 4115-003, 4117-002, 4117-003, 4052-012, 4115-004, 3941-042, 4052-002, 4052-003, 4052-004, 4111-005, 4114-001, 4111-006, 4113-001, 4111-007, 4114-002, 4114-003, 4114-004, 4052-005, 4052-006, 4052-007, 4116-001, 4116-002, 4116-003, 4116-004, 4116-005, 4116-006, 4115-001, 4115-002, 4117-001, and 4116-007 |
| Design Review Approval No.(s): | 2014-001272GPA, ENV, DVA, MAP, PHA |
| Zoning District(s): | Pier 70 Mixed Use (P70-MU), Heavy Industrial (M2) Zoning Districts, 40-X, 60-X, and 90-X Height/Bulk Districts |
| Staff Contact: | Elizabeth Purl, 628.652.7529, elizabeth.purl@sfgov.org |

Dear Ms. Short:

This letter addresses the proposed acceptance of public improvements, approval of master and major encroachment permits, and related actions within the Pier 70 Disposition and Development Agreement project area, located on the following Assessor’s Blocks/Lots: 4111-009, 4052-008, 4112-001, 4112-002, 4112-003, 4113-002, 4113-003, 4114-005, 4114-007, 4052-009, 4116-008, 4052-010, 4052-011, 4116-009, 4115-003, 4117-002, 4117-003, 4052-012, 4115-004, 3941-042, 4052-002, 4052-003, 4052-004, 4111-005, 4114-001, 4111-006, 4113-001, 4111-007, 4114-002, 4114-003, 4114-004, 4052-005, 4052-006, 4052-007, 4116-001, 4116-002, 4116-003, 4116-004, 4116-005, 4116-006, 4115-001, 4115-002, 4117-001, and 4116-007. The public improvements are shown in the plans (“Plans”) for the following:

- Public improvements constructed under Street Improvement Permit (SIP) No. 19IE-00245, approved by Public Works Street Use and Mapping on March 13, 2019, that the City and County of San Francisco (“City”) will maintain, and other public improvements that the Port of San Francisco (“Port”) will maintain;
- Public improvements to be permitted as encroachments, located within the Project area’s Phase 1 development

that will be assets maintained by the Port, as described in the Master Encroachment Permit and Maintenance Agreement between the City and the Port;

- Sidewalks within the Project area’s Phase 1 development that will be maintained by FC Pier 70, LLC (the “Master Developer”), the Homeowner’s Association, or another entity as described in the Master Encroachment Permit and Maintenance Agreement between the City and the Master Developer;
- A Major Encroachment Permit for excess conduit in a joint trench to be temporarily held by the Master Developer prior to its transfer to a third-party utility; and
- The Second Amendment to the Pier 70 Disposition and Development Agreement, covering: Pier 70 Phase 1 Project Area Maintained Facilities; Self-Warranty; Schedule of Performance; and Fronting Property Owners.

On August 24, 2017, the San Francisco Planning Commission issued a series of approvals for the Pier 70 Mixed-Use Project (Planning Department Records 2014-001272GPA, ENV, DVA, the “Project”). These approval actions included certification of the Final Environmental Impact Report (“FEIR”) through Motion No. 19976, adoption of California Environmental Quality Act (“CEQA”) findings through Motion No. 19977, and adoption of General Plan and Planning Section 101.1 consistency findings through Resolution No. 19978. The Board of Supervisors subsequently adopted the CEQA Findings through Resolution No. 402-17.

Planning Department Staff has reviewed the Plans and considered the other actions comprising the Board of Supervisors legislation and finds them consistent with the Planning Commission’s approvals for the Project . Therefore, the Planning Department Staff finds that the Board of Supervisors and Port Commission actions are covered with the scope of the FEIR and the CEQA findings of Planning Commission Motion Nos. 19976 and 19977 and there is no need for subsequent environmental analysis. In addition, the Planning Department Staff finds that these actions are, on balance, consistent with and covered within the scope of the General Plan and Planning Code Section 101.1 Consistency Findings of Planning Commission Resolution No. 19978. For purposes of the Board of Supervisors and Port Commission actions identified in this letter, the Planning Department Staff relies on and incorporates by reference these Planning Commission Motions and their associated findings, copies of which are attached to this letter.

Sincerely,



Elizabeth Purl
Senior Planner

cc: *(via email)*

Christine Maher, Development Project Manager
Port of San Francisco



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Motion No. 19976

HEARING DATE: AUGUST 24, 2017

Case No.: 2014-001272ENV
Project Title: Pier 70 Mixed-Use District Project
Zoning: M-2 (Heavy Industrial) and P (Public)
40-X and 65-X Height and Bulk Districts
Block/Lot: Assessor's Block 4052/Lot 001, Block 4111/Lot 004
Block 4120/Lot 002, and Block 4110/Lots 001 and 008A
Project Sponsor: David Beaupre/Port of San Francisco
david.beaupre@sfport.com, (415) 274-0539
Kelly Pretzer/Forest City Development California, Inc.
KellyPretzer@forestcity.net, (415) 593-4227
Staff Contact: Melinda Hue – (415) 575-9041
melinda.hue@sfgov.org

1650 Mission St.
Suite 400
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415.558.6377

ADOPTING FINDINGS RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR THE PROPOSED PIER 70 MIXED-USE DISTRICT PROJECT.

MOVED, that the San Francisco Planning Commission (hereinafter "Commission") hereby CERTIFIES the final Environmental Impact Report identified as Case No. 2014-001272ENV, the "Pier 70 Mixed-Use District Project" (hereinafter "Project"), based upon the following findings:

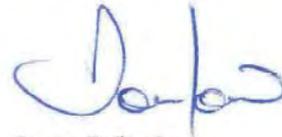
1. The City and County of San Francisco, acting through the Planning Department (hereinafter "Department") fulfilled all procedural requirements of the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 *et seq.*, hereinafter "CEQA"), the State CEQA Guidelines (Cal. Admin. Code Title 14, Section 15000 *et seq.*, hereinafter "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code (hereinafter "Chapter 31").
 - A. The Department determined that an Environmental Impact Report (hereinafter "EIR") was required and provided public notice of that determination by publication in a newspaper of general circulation on May 6, 2015.
 - B. The Department held a public scoping meeting on May 28, 2015 in order to solicit public comment on the scope of the Project's environmental review.
 - C. On December 21, 2016, the Department published the Draft Environmental Impact Report (hereinafter "DEIR") and provided public notice in a newspaper of general circulation of the availability of the DEIR for public review and comment and of the date and time of the Planning

Commission public hearing on the DEIR; this notice was mailed to the Department's list of persons requesting such notice.

- D. Notices of availability of the DEIR and of the date and time of the public hearing were posted near the project site on December 21, 2016.
 - E. On December 21, 2016, copies of the DEIR were mailed or otherwise delivered to a list of persons requesting it, to those noted on the distribution list in the DEIR, and to government agencies, the latter both directly and through the State Clearinghouse.
 - F. A Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on December 21, 2016.
2. The Commission held a duly advertised public hearing on said DEIR on February 9, 2017 at which opportunity for public comment was given, and public comment was received on the DEIR. The period for acceptance of written comments ended on February 21, 2017.
 3. The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the 60-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the DEIR. This material was presented in a Comments and Responses document, published on August 9, 2017, distributed to the Commission and all parties who commented on the DEIR, and made available to others upon request at the Department.
 4. A Final Environmental Impact Report (hereinafter "FEIR") has been prepared by the Department, consisting of the DEIR, any consultations and comments received during the review process, any additional information that became available, and the Comments and Responses document all as required by law.
 5. Project EIR files have been made available for review by the Commission and the public. These files are available for public review at the Department at 1650 Mission Street, Suite 400, and are part of the record before the Commission.
 6. On August 24, 2017, the Commission reviewed and considered the information contained in the FEIR and hereby does find that the contents of said report and the procedures through which the FEIR was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code.
 7. The Planning Commission hereby does find that the FEIR concerning File No. 2014-001272ENV reflects the independent judgement and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the Comments and Responses document contains no significant revisions to the DEIR that would require recirculation of the document pursuant to CEQA Guideline Section 15088.5, and hereby does CERTIFY THE COMPLETION of said FEIR in compliance with CEQA, the CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code.

8. The Commission, in certifying the completion of said FEIR, hereby does find that the project described in the EIR would have the following significant unavoidable environmental impacts, which cannot be mitigated to a level of insignificance:
 - A. **TR-5:** The Proposed Project would cause the 48 Quintara/24th Street bus route to exceed 85 percent capacity utilization in the a.m. and p.m. peak hours in both the inbound and outbound directions.
 - B. **TR-12:** The Proposed Project's loading demand during the peak loading hour would not be adequately accommodated by proposed on-site or off-street loading supply or in proposed on-street loading zones, which may create hazardous conditions or significant delays for transit, bicycles or pedestrians.
 - C. **C-TR-4:** The Proposed Project would contribute considerably to significant cumulative transit impacts on the 48 Quintara/24th Street and 22 Fillmore bus routes.
 - D. **NO-2:** Construction of the Proposed Project would cause a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.
 - E. **NO-5:** Operation of the Proposed Project would cause substantial permanent increases in ambient noise levels along some roadway segments in the project site vicinity.
 - F. **C-NO-2:** Operation of the Proposed Project, in combination with other cumulative development, would cause a substantial permanent increase in ambient noise levels in the project vicinity.
 - G. **AQ-1:** Construction of the Proposed Project would generate fugitive dust and criteria air pollutants, which would violate an air quality standard, contribute substantially to an existing or projected air quality violation, and result in a cumulatively considerable net increase in criteria air pollutants.
 - H. **AQ-2:** At project build-out, the Proposed Project would result in emissions of criteria air pollutants at levels that would violate an air quality standard, contribute to an existing or projected air quality violation, and result in a cumulatively considerable net increase in criteria air pollutants.
 - I. **C-AQ-1:** The Proposed Project, in combination with past, present, and reasonably foreseeable future development in the project area, would contribute to cumulative regional air quality impacts.
9. The Commission reviewed and considered the information contained in the FEIR prior to approving the Project.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of August 24, 2017.



Jonas P. Ionin
Commission Secretary

AYES: Hillis, Richards, Johnson, Koppel, Melgar, Moore

NOES: None

ABSENT: Fong

ADOPTED: August 24, 2017



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Motion No. 19977

HEARING DATE: AUGUST 24, 2017

Case No.: 2014-001272ENV
Project Address: Pier 70 Mixed-Use Project
Existing Zoning: M-2 (Heavy Industrial) Zoning District
P (Public) Zoning District
40-X and 65-X Height and Bulk Districts
Block/Lot: 4052/001, 4110/001 and 008A, 4111/004, and 4120/002
Project Sponsor: Port of San Francisco and FC Pier 70, LLC
Staff Contact: Richard Sucre – (415) 575-9108
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ADOPTING ENVIRONMENTAL FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, INCLUDING FINDINGS OF FACT, FINDINGS REGARDING SIGNIFICANT IMPACTS AND SIGNIFICANT AND UNAVOIDABLE IMPACTS, EVALUATION OF MITIGATION MEASURES AND ALTERNATIVES, AND A STATEMENT OF OVERRIDING CONSIDERATIONS RELATED TO APPROVALS FOR THE PIER 70 MIXED-USE PROJECT ("PROJECT"), LOCATED ON ASSESSOR'S BLOCK 4052 LOT 001, BLOCK 4110 LOTS 001 and 008A, BLOCK 4111 LOT 004 and BLOCK 4120 LOT 002.

PREAMBLE

The Pier 70 Mixed-Use Project ("Project") comprises a project site of approximately 35-acres, bounded by Illinois Street to the west, 20th Street to the north, San Francisco Bay to the east, and 22nd Street to the south. Together, the Port of San Francisco ("Port") and FC Pier 70, LLC ("Forest City") are project sponsors for the Project. The Project is a mixed-use development containing two development areas—the "28-Acre Site" and the "Illinois Parcels"—that will include substantial residential uses (including affordable housing), office, retail, light industrial, arts, parks and open space areas.

The "28-Acre Site" is an approximately 28-acre area located between 20th, Michigan, and 22nd streets, and San Francisco Bay. This site includes Assessor's Block 4052/Lot 001 and Lot 002 and Block 4111/Lot 003 and Lot 004. The "Illinois Parcels" form an approximately 7-acre site that consists of an approximately 3.4-acre Port-owned parcel, called the "20th/Illinois Parcel," along Illinois Street at 20th Street (Assessor's Block 4110/Lot 001) and the approximately 3.6-acre "Hoedown Yard," at Illinois and 22nd streets (Assessor's Block 4120/Lot 002 and Block 4110/Lot 008A), which is owned by PG&E. The Hoedown Yard includes a City-owned 0.2-acre portion of street right-of-way that bisects the site.

The Project would rezone the entire 35-acre project site (including the 28-Acre Site and the Illinois Parcels) and establish land use controls for the project site through adoption of the Pier 70 Special Use District (SUD), and incorporation of design standards and guidelines in a proposed *Pier 70 Design for Development* document. The Project would include the rehabilitation and adaptive reuse of three of the 12

on-site contributing resources in the Union Iron Works Historic District, and retention of the majority of one on-site contributing resource (Irish Hill). The Project would demolish eight remaining on-site contributing resources and partially demolish the single, non-contributing structure, Slipways 5 through 8, which are currently covered by fill and asphalt. As envisioned, the Project would include market-rate and affordable residential uses, commercial use, RALI uses,¹ parking, shoreline improvements, infrastructure development and street improvements, and public open space. The Project involves a flexible land use program under which certain parcels on the project site could be designated for either commercial-office or residential uses, depending on future market demand. Depending on the uses proposed, the Project would include between 1,645 to 3,025 residential units, a maximum of 1,102,250 to 2,262,350 gross square feet (gsf) of commercial-office use, and a maximum of 494,100 to 518,700 gsf of retail-light industrial-arts use. The Project also includes construction of transportation and circulation improvements, new and upgraded utilities and infrastructure, geotechnical and shoreline improvements, between 3,215 to 3,345 off-street parking spaces in proposed buildings and district parking structures, and nine acres of publicly-owned open space. New buildings would range in height from 50 to 90 feet, consistent with Proposition F, which was passed by San Francisco voters in November 2014. Under the Project, development of the 28-Acre Site would include up to approximately 3,422,265 gsf of construction in new buildings and improvements to existing structures (excluding square footage allocated to accessory and structured parking). . Development of the Illinois Parcels would include up to approximately 801,400 gsf of construction in new buildings (excluding square footage allocated to accessory parking). New buildings on the Illinois Parcels would not exceed a height of 65 feet. The Project is more particularly described in Attachment A (See Below).

The Project Sponsors filed an Environmental Evaluation Application for the Project with the Department on November 10, 2014.

Pursuant to and in accordance with the requirements of Section 21094 of CEQA and Sections 15063 and 15082 of the CEQA Guidelines, the San Francisco Planning Department ("Department"), as lead agency, published and circulated a Notice of Preparation ("NOP") on May 6, 2015, which notice solicited comments regarding the scope of the environmental impact report ("EIR") for the proposed project. The NOP and its 30-day public review comment period were advertised in a newspaper of general circulation in San Francisco and mailed to governmental agencies, organizations and persons interested in the potential impacts of the proposed project. The Department held a public scoping meeting on May 28, 2015, at the Port of San Francisco, Pier 1.

During the approximately 30-day public scoping period that ended on June 5, 2015, the Department accepted comments from agencies and interested parties that identified environmental issues that should be addressed in the EIR. Comments received during the scoping process were considered in preparation of the Draft EIR.

¹ The Project Sponsors describe the RALI use as including neighborhood-serving retail, arts activity, eating and drinking places, production distribution and repair, light manufacturing, and entertainment establishments.

The Department prepared the Draft EIR, which describes the Draft EIR Project and the environmental setting, analyzes potential impacts, identifies mitigation measures for impacts found to be significant or potentially significant, and evaluates alternatives to the Draft EIR Project. The Draft EIR assesses the potential construction and operational impacts of the Draft EIR Project on the environment, and the potential cumulative impacts associated with the Draft EIR Project in combination with other past, present, and future actions with potential for impacts on the same resources. The analysis of potential environmental impacts in the Draft EIR utilizes significance criteria that are based on the San Francisco Planning Department Environmental Planning Division guidance regarding the environmental effects to be considered significant. The Environmental Planning Division's guidance is, in turn, based on CEQA Guidelines Appendix G, with some modifications.

The Department published a Draft EIR for the project on December 21, 2016, and circulated the Draft EIR to local, state, and federal agencies and to interested organizations and individuals for public review. On December 21, 2016, the Department also distributed notices of availability of the Draft EIR; published notification of its availability in a newspaper of general circulation in San Francisco; posted the notice of availability at the San Francisco County Clerk's office; and posted notices at locations within the project area. The Planning Commission held a public hearing on February 9, 2017, to solicit testimony on the Draft EIR during the public review period. A court reporter, present at the public hearing, transcribed the oral comments verbatim, and prepared written transcripts. The Department also received written comments on the Draft EIR, which were sent through mail, fax, hand delivery, or email. The Department accepted public comment on the Draft EIR until February 21, 2017.

The San Francisco Planning Department then prepared the Comments and Responses to Comments on Draft EIR document ("RTC"). The RTC document was published on August 9, 2017, and includes copies of all of the comments received on the Draft EIR and written responses to each comment.

During the period between publication of the Draft EIR and the RTC document, the Project Sponsor has requested to adopt three variants into the Project, including the Reduced Off-Haul Variant, the Wastewater Treatment and Reuse System Variant, and the Irish Hill Passageway Variant. Thus, these three variants are added to the Project Description as part of the Project. The Reduced Off-Haul Variant would minimize the overall volume of excavated soils and the number of off-haul truck trips required for the transport and disposal of excavated soils. Under the Wastewater Treatment and Reuse System Variant, blackwater, graywater, and rainwater would be collected from all newly constructed buildings, treated, and reused for toilet and urinal flushing, irrigation, and cooling tower makeup. This variant differs from the project without the variant, because it assumes blackwater is treated and recycled and that all newly constructed buildings would form a district system. Finally, the Irish Hill Passageway Variant would realign the proposed pedestrian passageway between Illinois Street and the proposed Irish Hill Playground in order to create a view corridor through the proposed infill construction, from Illinois Street to the Irish Hill landscape feature. Under this Variant, the 40-foot-wide pedestrian passageway connecting Illinois Street and the proposed Irish Hill Playground would separate construction within Parcel PKS and Parcel HDY2 at the southwest corner of the project site. The pedestrian passageway would be shifted northward by approximately 165 feet, to bisect Parcel PKS

(which would become PKS1 and HDY3 with this variant), to allow views of the western face of the Irish Hill remnant from Illinois Street. These variants were fully studied in the Draft EIR.

In addition to describing and analyzing the physical, environmental impacts of the revisions to the Project, the RTC document provided additional, updated information, clarification and modifications on issues raised by commenters, as well as Planning Department staff-initiated text changes to the Draft EIR. The Final EIR, which includes the Draft EIR, the RTC document, the Appendices to the Draft EIR and RTC document, and all of the supporting information, has been reviewed and considered. The RTC documents and appendices and all supporting information do not add significant new information to the Draft EIR that would individually or collectively constitute significant new information within the meaning of Public Resources Code Section 21092.1 or CEQA Guidelines Section 15088.5 so as to require recirculation of the Final EIR (or any portion thereof) under CEQA. The RTC documents and appendices and all supporting information contain no information revealing (1) any new significant environmental impact that would result from the Project or from a new mitigation measure proposed to be implemented, (2) any substantial increase in the severity of a previously identified environmental impact, (3) any feasible project alternative or mitigation measure considerably different from others previously analyzed that would clearly lessen the environmental impacts of the Project, but that was rejected by the project sponsor, or (4) that the Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

The Commission reviewed and considered the Final Environmental Impact Report (FEIR) for the Project and found the contents of said report and the procedures through which the FEIR was prepared, publicized and reviewed complied with the California Environmental Quality Act (Public Resources Code section 21000 *et seq.*) ("CEQA"), the CEQA Guidelines (14 Cal. Code Reg. section 15000 *et seq.*), and Chapter 31 of the San Francisco Administrative Code.

The Commission found the FEIR was adequate, accurate and objective, reflected the independent analysis and judgment of the Department and the Planning Commission, and that the summary of comments and responses contained no significant revisions to the Draft EIR, and certified the Final EIR for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31 by its Motion No. 19976.

The Commission, in certifying the FEIR, found that the Project described in the FEIR will have the following significant and unavoidable environmental impacts:

- Cause one individual Muni route (48 Quintara/24th Street bus routes) to exceed 85 percent capacity utilization in the a.m. and p.m. peak hours in both the inbound and outbound directions;
- Cause loading demand during the peak loading hour to not be adequately accommodated by proposed on-site/off-street loading supply or in proposed on-street loading zones, which may create hazardous conditions or significant delays for transit, bicycles, or pedestrians;
- Contribute considerably to significant cumulative transit impacts on the 48 Quintara/24th Street and 22 Fillmore bus routes;
- Cause a substantial temporary or periodic increase in ambient noise levels during construction in the project vicinity above levels existing without the project;

- Cause substantial permanent increases in ambient noise levels in the project vicinity (22nd Street [east of Tennessee Street to east of Illinois Street]; and Illinois Street [20th Street to south of 22nd Street]);
- Combine with cumulative development to cause a substantial permanent increase in ambient noise levels in the project vicinity (22nd Street [east of Tennessee Street to east of Illinois Street] and Illinois Street [20th Street to south of 22nd Street]);
- Generate fugitive dust and criteria air pollutants during construction, which would violate an air quality standard, contribute substantially to an existing or projected air quality violation, and result in a cumulatively considerable net increase in criteria air pollutants;
- Result in operational emissions of criteria air pollutants at levels that would violate an air quality standard, contribute to an existing or projected air quality violation, and result in a cumulatively considerable net increase in criteria air pollutants; and
- Combine with past, present, and reasonably foreseeable future development in the project area to contribute to cumulative regional air quality impacts.

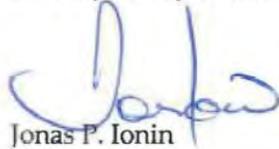
The Planning Commission Secretary is the custodian of records for the Planning Department materials, located in the File for Case No. 2014-001272ENV, at 1650 Mission Street, Fourth Floor, San Francisco, California.

On August 24, 2017, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Case No. 2014-001272ENV to consider the approval of the Project. The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the Project, the Planning Department staff, expert consultants and other interested parties.

This Commission has reviewed the entire record of this proceeding, the Environmental Findings, attached to this Motion as Attachment A and incorporated fully by this reference, regarding the alternatives, mitigation measures, environmental impacts analyzed in the FEIR and overriding considerations for approving the Project, and the proposed MMRP attached as Attachment B and incorporated fully by this reference, which material was made available to the public.

MOVED, that the Planning Commission hereby adopts these findings under the California Environmental Quality Act, including rejecting alternatives as infeasible and adopting a Statement of Overriding Considerations, as further set forth in Attachment A hereto, and adopts the MMRP attached as Attachment B, based on substantial evidence in the entire record of this proceeding.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on August 24, 2017.



Jonas P. Ionin
Commission Secretary

AYES: Hillis, Johnson, Koppel, Melgar, Moore and Richards

NAYES: None

ABSENT: Fong

ADOPTED: August 24, 2017

Attachment A

Pier 70 Mixed-Use Project

California Environmental Quality Act Findings:

FINDINGS OF FACT, EVALUATION OF MITIGATION MEASURES AND ALTERNATIVES, AND STATEMENT OF OVERRIDING CONSIDERATIONS

SAN FRANCISCO PLANNING COMMISSION

August 24, 2017

In determining to approve the Pier 70 Mixed-Use Project ("Project"), as described in Section I.A, Project Description, below, the following findings of fact and decisions regarding mitigation measures and alternatives are made and adopted, and the statement of overriding considerations is made and adopted, based on substantial evidence in the whole record of this proceeding and under the California Environmental Quality Act, California Public Resources Code Sections 21000-21189.3 ("CEQA"), particularly Sections 21081 and 21081.5, the Guidelines for implementation of CEQA, California Code of Regulations, Title 14, Sections 15000-15387 ("CEQA Guidelines"), particularly Sections 15091 through 15093, and Chapter 31 of the San Francisco Administrative Code.

This document is organized as follows:

Section I provides a description of the project proposed for adoption, project objectives, the environmental review process for the project, the approval actions to be taken, and the location of records;

Section II identifies the impacts that were not studied in the EIR;

Section III identifies the impacts found not to be significant that do not require mitigation;

Section IV identifies potentially significant impacts that can be avoided or reduced to less-than-significant levels through mitigation and describes the disposition of the mitigation measures;

Section V identifies significant impacts that cannot be avoided or reduced to less-than-significant levels and describes any applicable mitigation measures as well as the disposition of the mitigation measures;

Section VI evaluates the different project alternatives and the economic, legal, social, technological, and other considerations that support approval of the project and the rejection as infeasible of alternatives, or elements thereof, analyzed; and

Section VII presents a statement of overriding considerations setting forth specific reasons in support of the actions for the project and the rejection as infeasible of the alternatives not incorporated into the project.

The **Mitigation Monitoring and Reporting Program** (“MMRP”) for the mitigation measures that have been proposed for adoption is attached with these findings as Attachment B to Motion No. 19977. The MMRP is required by CEQA Section 21081.6 and CEQA Guidelines Section 15091. The MMRP provides a table setting forth each mitigation measure listed in the Final Environmental Impact Report for the Project (“Final EIR”) that is required to reduce or avoid a significant adverse impact. The MMRP also specifies the agency responsible for implementation of each measure and establishes monitoring actions and a monitoring schedule. The full text of the mitigation measures is set forth in the MMRP.

These findings are based upon substantial evidence in the entire record before the San Francisco Planning Commission. The references set forth in these findings to certain pages or sections of the Draft Environmental Impact Report (“Draft EIR” or “DEIR”) or the Responses to Comments document (“RTC”) in the Final EIR are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these findings.

I. PROJECT DESCRIPTION, OBJECTIVES, ENVIRONMENTAL REVIEW PROCESS, APPROVAL ACTIONS, AND RECORDS

The Project is a mixed-use development project, located on an approximately 35-acre portion of Pier 70 bounded by Illinois Street to the west, 20th Street to the north, San Francisco Bay to the east, and 22nd Street to the south. Together, the Port of San Francisco (“Port”) and FC Pier 70, LLC (“Forest City”) are project sponsors for the Project. The Project contains two development areas: the “28-Acre Site” and the “Illinois Parcels.” The “28-Acre Site” is an approximately 28-acre area located between 20th, Michigan, and 22nd streets, and San Francisco Bay. This site includes Assessor’s Block 4052/Lot 001 and Lot 002 and Block 4111/Lot 003 and Lot 004. The “Illinois Parcels” form an approximately 7-acre site that consists of an approximately 3.4-acre Port-owned parcel, called the “20th/Illinois Parcel,” along Illinois Street at 20th Street (Assessor’s Block 4110/Lot 001) and the approximately 3.6-acre “Hoedown Yard,” at Illinois and 22nd streets (Assessor’s Block 4120/Lot 002 and Block 4110/Lot 008A), which is owned by PG&E. The Hoedown Yard includes a City-owned 0.2-acre portion of street right-of-way that bisects the site.

The Project would provide a phased mixed-use land use program in which certain parcels could be developed with either primarily commercial uses or residential uses, with much of the ground floor dedicated to retail/arts/light-industrial (“RALI”) uses. In addition, two parcels on the project site (Parcels C1 and C2) could be developed for structured parking, residential/commercial use, or solely residential use, depending on future market demand for parking and future travel demand patterns. Development of the 28-Acre Site would include up to a maximum of approximately 3,422,265 gross square feet (gsf) of construction in new buildings and improvements to existing structures (excluding square footage allocated to accessory parking). New buildings would have maximum heights of 50 to 90 feet. Development of the Illinois Parcels would include up to a maximum of approximately 801,400 gsf in new buildings; these new buildings would not exceed a height of 65 feet, which is the existing height limit along Illinois Street on both the Port-owned and the western portion of the Hoedown Yard.

A. Project Description.

1. Project Location and Site Characteristics.

a. Project Site and Vicinity.

The 35-acre project site is located within the 69-acre Pier 70 area on San Francisco Bay along San Francisco's Central Waterfront. It is just south of Mission Bay South and east of the Potrero Hill and Dogpatch neighborhoods. The American Industrial Center, a large multi-tenant light-industrial building, is located across Illinois Street, west of the Illinois Parcels. To the north of the project site are the BAE Systems Ship Repair facility, the 20th Street Historic Core (Historic Core) of the Union Iron Works Historic District, future Crane Cove Park (construction of which is scheduled to begin in 2016), and the Mission Bay South redevelopment area. To the south of the project site are PG&E's Potrero Substation (a functioning high-voltage transmission substation serving San Francisco), the decommissioned Potrero Power Plant, and the TransBay Cable converter station, which connects the Pittsburg-San Francisco 400-megawatt direct-current, underwater electric transmission cable to PG&E's electricity transmission grid by way of the Potrero Substation. There is a dilapidated pier extending from the project site into San Francisco Bay immediately northeast of the slipways, but is not part of the Project analyzed in this EIR.

The project site currently contains approximately 351,800 gsf of buildings and facilities, most of which are deteriorating. Current uses on the site, all of which are temporary, include special event venues, artists' studios, self-storage facilities, warehouses, automobile storage lots, a parking lot, a soil recycling yard, and office spaces. The project site has varying topography, sloping up from San Francisco Bay, with an approximately 30-foot increase in elevation at the western extent of the 28-Acre Site. The 35-foot-tall remnant of Irish Hill is located in the southwestern portion of the project site and straddles both the 28-Acre Site and Illinois Parcels. Impervious surface covers approximately 98 percent of the 28-Acre Site and approximately 43 percent of the Illinois Parcels.

b. Union Iron Works Historic District.

Most of Pier 70 (66 of the total 69 acres) is listed in the Union Iron Works Historic District. The Historic District's National Register nomination report documents the significance of Union Iron Works (UIW) and Bethlehem Steel at Pier 70 and their role in the nation's maritime history, supporting multiple war efforts, as well as in the evolution of industrial architecture in San Francisco. The Historic District's 44 contributing features and 10 non-contributing features include "buildings, piers, slips, cranes, segments of a railroad network, and landscape elements." Most of the buildings are of an industrial architectural style and historic use, and made of "unreinforced brick masonry, concrete, and steel framing, with corrugated iron or steel cladding." UIW built or repaired ships at Pier 70 from the time of the Spanish American War in 1898, and ship repair operations continue today.

The project site contains 12 of the 44 contributing features in the Historic District and one of the ten non-contributing features in the Historic District. The Hoedown Yard is not within the Historic District, but it has also been used for industrial purposes since the 1880s. Identifiable historical uses at the Hoedown Yard appear to have been limited to the storage of fuel oil in above-ground storage tanks

(30,000- to 40,000-barrel capacity) for adjacent industrial activities. PG&E acquired the Hoedown Yard over time from various companies, including UIW and Bethlehem Steel.

c. Historic Uplands and Tidelands.

The largest portion of the Pier 70 site comprises lands mapped and sold by the Board of Tide Land Commissioners (BTLC). The sales were authorized by Chapter 543 of the Statutes of 1868. Most of the BTLC lots were owned by Bethlehem Steel or Risdon Iron & Locomotive Works by the turn of the nineteenth century into the twentieth century. All of the filled lands north of the Bethlehem Steel property appear to have been reserved from sale by the State, including Illinois Street, portions of 20th and Michigan streets, and the Central Basin. The State conveyed these lands to the City as part of the Burton Act grant.

d. Proposition F.

On November 4, 2014, the San Francisco electorate approved Proposition F, a ballot measure that authorized a height increase at the 28-Acre Site from the existing 40 to 90 feet, directed that the project proposed on the 28-Acre Site undergo environmental review, and established policies regarding the provision of certain significant public benefits as part of the proposed project at the 28-Acre Site. Proposition F complied with the requirement established by Proposition B (June 2014) for San Francisco voter approval for any proposed height limit increase along the San Francisco waterfront on Port-owned property that would exceed existing height limits in effect on January 1, 2014. Proposition B does not apply to the Hoedown Yard, because the property is not owned by the Port. Proposition F conditioned the effective date of the proposed height increase on completion of an EIR and approval of a development plan for the 28-Acre Site by the Port Commission and Board of Supervisors. Proposition F did not address heights on the Illinois Parcels.

The height increase approved in Proposition F was contingent on the City's later approval of a project at the 28-Acre Site that would include the following:

- Provision of 9 acres of waterfront parks, playgrounds, and recreation opportunities on and adjacent to the 28-Acre Site;
- Construction of between approximately 1,000 and 2,000 new housing units;
- Provision of 30 percent of all new housing units at below-market rates;
- Stipulation that the majority of new housing units be offered for rent;
- Restoration of those historic structures on the site that are essential to the integrity of the Union Iron Works Historic District;
- Creation of substantial new and renovated space for arts, cultural, small-scale manufacturing, local retail, and neighborhood-serving uses;
- Preservation of the artist community currently located in Building 11 (the Noonan Building) by providing new state-of-the-art, on-site space that is affordable, functional and aesthetic, and by continuing to accommodate the Noonan Building community within the Union Iron Works Historic District during any transition period associated with the construction of new space;

- Creation of between approximately 1,000,000 and 2,000,000 square feet of new commercial and office space; and
- Provision of accessory parking facilities and other transportation infrastructure as part of a transportation demand management program that enhances mobility in the district and neighborhood.

2. Project Characteristics.

a. Demolition and Rehabilitation.

The project site has 12 contributors to the Union Iron Works Historic District and one non-contributor, totaling 351,800 gsf. The Project includes rehabilitation, in compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties, of approximately 227,800 gsf in Buildings 2, 12, and 21 for reuse. Buildings 2 and 12 would remain in their current location. Building 21 would be relocated about 75 feet to the southeast, to create public frontage along the waterfront park and maintain a visual connection to Buildings 2 and 12. Seven of the remaining contributing buildings and structures on the site (Buildings 11, 15, 16, 19, 25, 32, and 66), containing 92,945 gsf, would be demolished. A small portion of the contributing feature, the remnant of Irish Hill, would also be removed. The Port has proposed to demolish the 30,940-gsf Building 117, located on the Project site, as part of the 20th Street Historic Core project to allow the adjacent building (Building 116) to be rehabilitated to meet fire code. This demolition is proposed separately from and prior to approval of the Project. The non-contributing feature on the project site (subterranean portions of Slipways 5 through 8) would be partially removed as part of the Project.

b. Special Use District and Land Use Program

The Project amends the Planning Code to create the Pier 70 Special Use District (SUD), and amends the Zoning Maps to make conforming changes related to Pier 70 SUD. The Pier 70 SUD requires compliance with the proposed Pier 70 SUD Design for Development, which is discussed on p. 2.35 of the DEIR. Under the SUD, the Project provides a mixed-use land use program in which certain parcels (Parcels F, G, H1, H2, HDY1, and HDY2) and Building 2 could be developed for either primarily commercial uses or residential uses. Parcels C1 and C2 would be designated for structured parking, but could be developed with either residential or commercial (Parcel C1) or residential uses (Parcel C2), depending on future methods of travel for residents and visitors.

The Zoning Maps are amended to show changes from the current zoning (M-2 [Heavy Industrial] and P [Public]) to the Pier 70 SUD. Height limits on the 28-Acre Site would be increased from 40 to 90 feet, except for a 100-foot-wide portion adjacent to the shoreline that would remain at 40 feet, as authorized by Proposition F in November 2014. The Zoning Map amendments also modify the existing height limits on an eastern portion of the Hoedown Yard from 40 to 65 feet. The height limits for the Illinois Street parcels would remain the same at 65 feet. Height limits are further restricted through the design standards established in the Pier 70 SUD Design for Development (Design for Development). The Project also amends the Port's Waterfront Land Use Plan (WLUP).

Proposed new zoning in the SUD would permit the following uses, listed below by parcel and shown in DEIR Table 2.2: Proposed Pier 70 Special Use District – Primary Uses by Parcel and Rehabilitated Building.

On the 28-Acre Site:

- Parcels A and B: Restricted to primarily commercial use, with RALI uses allowed on the ground floor.
- Parcel C1: Permitted for commercial, residential, or structured parking uses with RALI uses allowed on the ground floor.
- Parcel C2: Permitted for either residential or structured parking uses, with RALI uses allowed on the ground floor.
- Parcels D, E1, E2, and E3: Restricted to primarily residential use, with RALI uses allowed on the ground floor.
- Parcels F, G, H1, and H2, and Building 2: Permitted for either commercial or residential uses, with RALI uses allowed on the ground floor.
- Parcel E4 and Buildings 12 and 21: Permitted for RALI uses with commercial allowed on the upper floor of Parcel E4 and Building 12.
- All 28-Acre Site parcels except existing Buildings 2, 12, and 21 and Parcel E4: Permitted to include accessory parking.

On the Illinois Parcels:

- 20th/Illinois Parcel (Subdivided into Parcel K North [PKN] and Parcel K South [PKS]): Restricted to primarily residential use, with RALI uses on the ground floor.
- Hoedown Yard (Subdivided into Parcel Hoedown Yard 1 [HDY1] and Parcel Hoedown Yard 2 [HDY2]): Permitted for either commercial or residential uses, with RALI uses allowed on the ground floor.
- All Illinois Parcels: Permitted to include accessory parking.

To cover a full range of potential land uses that could be developed under the proposed SUD, the EIR analyzed a maximum residential-use scenario and a maximum commercial-use scenario for the project site. The Maximum Residential Scenario and the Maximum Commercial Scenario for both the 28-Acre Site and the Illinois Parcels are mutually exclusive: the maximum commercial and maximum residential programs could not both be built. Depending on the uses developed over time, the Project's total gross square feet (gsf) would range between a maximum of 4,212,230 gsf, under the Maximum Residential Scenario, to 4,179,300 gsf, under the Maximum Commercial Scenario, excluding square footage associated with accessory and structured parking. Total construction would not exceed a maximum of 3,422,265 gsf on the 28-Acre Site and 801,400 gsf on the Illinois Parcels.

Maximum Residential Scenario

Development under the Maximum Residential Scenario on the 28-Acre Site would include a maximum of up to 3,410,830 gsf in new and renovated buildings (excluding square footage allocated to parking). Under this scenario, there would be up to 2,150 residential units (up to approximately 710 studio/one-bedroom units and 1,440 two- or more bedroom units), totaling about 1,870,000 gsf, as well as approximately 1,095,650 gsf of commercial space and 445,180 gsf of RALI space (241,655 gsf of retail space, 60,415 gsf of restaurant space, and 143,110 gsf of arts/light-industrial space). Under a scenario where the Project provides up to 10 percent three-bedroom units, there would be up to 2,150 residential units (up to approximately 925 studio/one-bedroom units and 1,225 two- or more bedroom units), totaling about 1,870,000 gsf. The overall development envelope includes rehabilitation of 237,800 gsf in Buildings 2, 12, and 21 in compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties.

Development under the Maximum Residential Scenario on the Illinois Parcels would include a maximum of up to 801,400 gsf in newly constructed buildings. Under this scenario, there would be up to 875 residential units (up to approximately 290 studio/one-bedroom units and 585 two- or more bedroom units), totaling about 760,000 gsf, as well as approximately 6,600 gsf of commercial area and approximately 34,800 gsf of RALI space (27,840 gsf of retail space and 6,960 gsf of restaurant space) in new buildings. Under a scenario where the Project provides up to 10 percent three-bedroom units, there would be up to 875 residential units (up to approximately 377 studio/one-bedroom units and 498 two- or more bedroom units) totaling about 760,000 gsf. Under the Maximum Residential Scenario a maximum of 3,370 off-street parking spaces would be allowed.

Maximum Commercial Scenario

Development on the 28-Acre Site under the Maximum Commercial Scenario would include a maximum of up to about 3,422,265 gsf in new and renovated buildings. Under this scenario, there would be up to 1,100 residential units (up to approximately 365 studio/one-bedroom units and 735 two- or more bedroom units), totaling about 957,000 gsf, as well as approximately 2,024,050 gsf of commercial area, and 441,215 gsf of RALI space (238,485 gsf of retail space, 59,620 gsf of restaurant space, and 143,110 gsf of arts/light-industrial space). Under a scenario where the Project provides up to 10 percent three-bedroom units, there would be up to 1,100 residential units (up to approximately 473 studio/one-bedroom units and 627 two- or more bedroom units) totaling about 957,000 gsf. The overall development envelope includes the rehabilitation of 227,800 gsf in Buildings 2, 12, and 21 in compliance with the Secretary of the Interior's Standards for Treatment of Historic Properties.

Illinois Parcels

Development on the Illinois Parcels under the Maximum Commercial Scenario would include a maximum of about 757,035 gsf in new buildings. Under this scenario, there would be up to 545 residential units (up to approximately 180 studio/one-bedroom units and 365 two or more bedroom units), totaling about 473,000 gsf, as well as approximately 238,300 gsf of commercial area and approximately 45,735 gsf of RALI (36,590 gsf of retail space and 9,145 gsf of restaurant space) in new buildings. Under a scenario where the Project provides up to 10 percent three-bedroom units, 545 residential units (up to approximately 235 studio/one-bedroom units and 310 two-or-more bedroom units) totaling about 473,000 gsf. Under the Maximum Commercial Scenario a maximum of 3,496 off-street parking spaces would be allowed.

c. Public Trust Exchange.

Portions of the 28-Acre Site and Illinois Parcels are subject to the common law public trust for commerce, navigation, and fisheries and the statutory trust under the Burton Act, as amended (the Public Trust). In order to clarify the Public Trust status of portions of Pier 70, the Port has obtained State legislation (AB 418) that authorizes the State Lands Commission to approve a Public Trust exchange that would free some portions of the project site from the Public Trust while committing others to the Public Trust. To implement the Project in accordance with the proposed SUD, the Port and State Lands Commission would have to implement a public trust exchange that would lift the Public Trust from designated portions of Pier 70 in accordance with the terms of a negotiated trust exchange agreement meeting the requirements of AB 418. The Hoedown Yard is not subject to the Public Trust and will not be affected by the trust exchange.

d. Affordable Housing Program.

Under the Project, 30 percent of all completed residential units on the 28-Acre Site would be required to be offered at below market rate prices, and a majority of residential units constructed would be rentals, in compliance with Proposition F. Residential units on the Illinois Parcels would be subject to the affordable housing requirements in Section 415 of the Planning Code. Under Board of Supervisors Resolution No. 54-14, if the City exercises its option to purchase the Hoedown Yard from PG&E, proceeds from the sale of the Hoedown Yard would be directed to the City's HOPE SF housing program, which includes the Potrero Terrace and Annex HOPE SF project.

e. Pier 70 SUD Design for Development.

The Pier 70 SUD Design for Development sets forth the underlying vision and principles for development of the project site, and establishes implementing standards and design guidelines. The Design for Development includes building design standards and guidelines (Building Design Standards) that are intended to address compatibility of new development within the project site with the Historic District, guide rehabilitation of existing historic buildings as critical anchors, and encourage architecture of its own time in new construction.

Future vertical development at the project site, whether constructed by Forest City, Forest City affiliates, or third-party developers selected by the Port through broker-managed offerings, would be bound by the Design for Development, including the Building Design Standards.

The Design for Development provides standards and guidelines for Zoning and Land Use; Open Space & Streetscape Improvements; Streets and Streetscapes; Parking and Loading; Building Form, Massing, and Architecture; and Lighting, Signage, and Art.

f. Project Open Space Plan.

The Project includes 9 acres of publicly owned open space, in addition to private open space areas such as balconies, rooftops with active recreational spaces, and courtyards that would be accessible only to building occupants. The open spaces are anticipated to accommodate everyday passive uses as well as public outdoor events, including art exhibitions, theater performances, cultural events, outdoor fairs,

festivals and markets, outdoor film screenings, evening/night markets, food events, street fairs, and lecture services. Fewer than 100 events per year are anticipated and would likely include approximately 25 mid-size events attracting between 500 to 750 people, and four larger-size events attracting up to 5,000 people. The proposed open space would supplement recreational amenities in the vicinity of the project site, such as the future Crane Cove Park in the northwestern part of Pier 70, and would include extension of the Blue Greenway and Bay Trail through the southern half of the Pier 70 area. Publicly owned open space on the site is allocated as follows: Waterfront Promenade; Waterfront Terrace; Slipway Commons; Building 12 Plaza and Market Square; Irish Hill Playground; 20th Street Plaza; and Rooftop Open Space Areas.

g. Traffic and Circulation Plan.

i. Street Improvements, Circulation and Parking.

The primary streets on the project site would be 20th and 22nd streets, built out from west to east. Maryland Street would be a secondary north-south-running street designed as a shared street. New minor streets include a new 21st Street, running west to east from Illinois Street to the waterfront, and Louisiana Street, running north from 22nd Street. New traffic signals would be installed at the intersection of Illinois and 21st streets. Louisiana Street from 21st Street to 20th Street would include a jog to accommodate existing historic structures within the Historic Core. Except for the western side of Louisiana Street adjacent to the Historic Core, all new streets would include sidewalks, and street furniture where appropriate. Maryland, 20th, and 22nd streets would include bicycle infrastructure or signage. With the exception of Louisiana Street between 20th and 21st streets, all streets would be two-way, with a single lane of travel in each direction. Louisiana Street would be one-way in the southbound direction, with a single lane of travel.

As part of the Project, Michigan Street from the southern side of 20th Street towards 21st Street shall be narrowed from 80 to 68 feet with 12 feet of the right-of-way converted from a public street to private use, i.e., "vacated," and developed as part of the Illinois Parcels. Vehicle travel would not be connected through to 21st Street due to a grade change, but pedestrian pathways would connect.

The Project provides parking spaces within a site-wide maximum and a maximum ratio per use. Under the Maximum Residential Scenario a maximum of 3,370 off-street parking spaces would be allowed, and under the Maximum Commercial Scenario a maximum of 3,496 off-street parking spaces would be allowed. The Project provides about 285 on street parking spaces along most the streets internal to the project site under either scenario. One parking space per 1,000 square feet of gross floor area would be provided for office/commercial and RALI uses, and 0.75 parking spaces per residential unit would be allowed. If not developed as residential or commercial uses, planned structured parking on Parcels C1 and C2 would provide shared parking for multiple uses. The Illinois Parcels and most parcels on the 28-Acre Site, excluding Buildings 2, 12, and 21, would also have accessory parking. All residential parking would be unbundled, which means parking would be an optional, additional cost to the price of renting or purchasing a dwelling unit.

ii. Transportation Plan.

The Project includes a Pier 70 SUD Transportation Plan intended to manage transportation demands and to encourage sustainable transportation choices, consistent with the City of San Francisco's Transit First, Better Streets, Climate Action, and Transportation Sustainability Plans and Policies. The Pier 70 SUD Transportation Plan includes a transportation demand management ("TDM") plan, which is described in an exhibit to the Development Agreement for the Project. The TDM Plan provides a comprehensive strategy to manage the transportation demands that the Project would create, and is also required as a mitigation measure under the Final EIR [See Mitigation Measure M-AQ-1f]. The street improvements and TDM Plan would be the same for both the Maximum Residential Scenario and the Maximum Commercial Scenario.

The Project's TDM Plan would be administered and maintained by a Transportation Management Association (TMA). The TMA would be responsible for provision of shuttle service between the project site and local and regional transit hubs.

The TMA would work collaboratively with SFMTA and Bay Area Bike Share (BABS) representatives to finalize the design, location, installation timeline, and funding arrangements for both initial installation and ongoing operation and maintenance of any proposed bikesharing station. Supplementary components such as provision of passenger amenities, real-time occupancy data for shared parking facilities, on-street carshare spaces, unbundled parking for residents, and preferential treatment for high-occupancy vehicles would be coordinated and provided through the TMA, as required by the TDM Plan and mitigation measure.

iii. Bicycle and Pedestrian Improvements.

The Project includes bike lanes, bike-safety-oriented street design, and bike-parking facilities to promote bicycling in and around the project site. Under the provisions of the SUD, bike amenities would be constructed on the project site that would meet or exceed the existing Planning Code requirements at the time of permit submittal. Under the Maximum Residential Scenario, 1,142 Class 1 and 514 Class 2 bicycle parking spaces would be required. Sufficient Class 2 bicycle parking should also be provided at key entrance areas of the major open spaces. Under the Maximum Commercial Scenario, 995 Class 1 and 475 Class 2 bicycle parking spaces would be required. Improvements proposed for the Project include construction of Class II facilities (bicycle lanes) and Class III facilities (shared-lane markings and signage) on 20th, 22nd, and Maryland streets. A Class I separated bicycle and pedestrian facility would be provided along the Bay Trail and Blue Greenway the length of the project site along the shoreline, connecting at Georgia Street to the northbound path to Crane Cove Park and the southern waterfront park boundary to the future southern connection through the former Potrero Power Plant site.

Pedestrian travel would be encouraged throughout the project site by establishing a network of connected pedestrian pathways running both west-to-east and north-to-south to connect open spaces. Street and open space design would also incorporate pedestrian-safe sidewalk and street design and signage. All streets on the project site would include 9- to 18-foot-wide sidewalks. The project site is designed to make the area east of Maryland Street a predominantly pedestrian zone, and there would be no vehicular streets along the length of waterfront parks, with the exception of the north-south running portion of 20th Street. Maryland Street and 20th Street could potentially have a shared street condition, to reinforce the pedestrian connection from the western portion of the site, across the street, and to San Francisco Bay.

Both 20th and 22nd streets would feature pedestrian amenities to encourage walking from the Dogpatch neighborhood, as well as transit use along the Third and 22nd streets corridors.

iv. Loading.

The proposed new streets would provide access for emergency vehicles and off-street freight loading. Michigan, Louisiana, and 21st streets would be designed as primary on-street loading corridors.

h. Infrastructure and Utilities.

i. Potable Water.

Potable water distribution piping would be constructed in trenches under the planned streets to provide water for site uses and firefighting needs. To reduce potable water demand, high-efficiency fixtures and appliances would be installed in new buildings, and fixtures in existing buildings would be retrofitted, as required by City regulations.

ii. Recycled (Reclaimed) Water.

The project site is located within the City's designated recycled water use area and is subject to Article 22 of the San Francisco Public Works Code, the Recycled Water Use Ordinance, whose goal is to maximize the use of recycled water. Therefore, buildings and facilities that are subject to this ordinance must use recycled water for all uses authorized by the State once a source of recycled water is available and projects must include recycled water distribution systems within buildings as well as throughout the project sites. Although a source of recycled water is not yet available from the City, the project sponsors would install distribution pipelines to ultimately connect with the City's recycled water distribution system once it is constructed. Accordingly, the Project includes the installation of distribution pipelines beneath existing and proposed streets within the project area. Once the City's recycled water system is constructed, the Project's recycled water pipelines would connect to the City's recycled water system.

iii. On-Site Non-Potable Water.

San Francisco's Non-potable Water Ordinance requires new buildings larger than 250,000 square feet to use on-site "alternate water sources" of graywater, rainwater, and foundation drainage water to meet that building's toilet and urinal flushing and irrigation demands. The Project would include the diversion and reuse of graywater and rainwater for toilet and urinal flushing and irrigation.

iv. Auxiliary Water Supply System.

To meet supplemental firefighting water requirements for the Auxiliary Water Supply System (AWSS), the Project would be required to include on-site AWSS high-pressure distribution piping. The pipelines would be installed beneath existing and proposed streets and would supply fire hydrants within the project site for the purposes of firefighting. The AWSS may also include a permanent manifold installed upland of the shoreline that can be connected to a temporary, portable submersible pump for redundancy.

v. Wastewater (Sanitary Sewer) and Stormwater Facilities.

Wastewater and stormwater flows from the project site are currently conveyed to the Southeast Water Pollution Control Plant (“SEWPCP”) for treatment via the City’s combined sewer system. The Port also owns and maintains many gravity sewer lines that connect the existing buildings on the site to the SFPUC sewer lines. The project sponsors are considering three options for managing wastewater and stormwater flows from the project site: Option 1, Combined Sewer System; Option 2, Separate Wastewater and Stormwater Systems; and Option 3, Hybrid System.

vi. Electricity and Natural Gas.

The Project would replace overhead electrical distribution with a joint trench utilities distribution system which would follow the proposed realigned roadways. The Project would also extend the existing natural gas distribution system from 20th Street to connect to the 28-Acre Site. A new natural gas distribution system would be constructed to extend to the Illinois Parcels. New gas lines would be placed in the joint utilities trench distribution system following the realigned roadways.

The Project would comply with San Francisco Green Building Requirements for energy efficiency in new buildings. Energy-efficient appliances and energy-efficient lighting would be installed in the three rehabilitated historic buildings.

Back-up emergency diesel generators are required by the San Francisco Building Code for new buildings with occupied floor levels greater than 75 feet in height. There are 10 parcels (all in the 28-Acre Site) that would allow building heights of up to 90 feet: Parcels A, B, C1, C2, D, E1, F, G, H1, and H2. Each of the buildings on Parcels A, C1, C2, D, E1, F, G, H1, and H2 would have a back-up diesel generator, if built with occupied floor levels greater than 75 feet; such generators would operate in emergency situations, each having an average size of 400 horsepower. Due to the larger size of Parcel B, the building proposed for that parcel would have two 400-horsepower, back-up diesel generators to operate in emergency situations. In total, 11 generators are anticipated on the project site.

vii. Renewable Energy.

The Project is required to meet the State’s Title 24 and the San Francisco Green Building Requirements for renewable energy and the Better Roof Requirements for Renewable Energy Standards. The Project would allow for roof-mounted or building-integrated solar photovoltaic (PV) systems and/or roof-mounted solar thermal hot water systems for all proposed buildings, excluding existing Buildings 2, 12, and 21. At least 15 percent of the roof area would include roof-mounted or building-integrated PV systems and/or roof-mounted solar thermal hot water systems that would be installed in residential and commercial buildings. These systems would partially offset the energy demands of the associated buildings. No ground-mounted facilities are proposed under the Project. The solar PV arrays located on various rooftops could be interconnected via a community microgrid that serves as a site-wide distribution network capable of balancing captive supply and demand resources to maintain stable service within the Project.

i. Grading and Stabilization Plan.

i. Site Grading.

The Project would involve excavation of soils for grading and construction of the 15- to 27-foot-deep basements planned on Parcels A, B, C1, C2, D, E1, E2, E3, E4, F, G, H1, H2, PKN, PKS, HDY1 and HDY2. No basement levels are planned for existing Buildings 2, 12, or 21. The Project will likely require bedrock removal by controlled rock fragmentation techniques. Controlled rock fragmentation technologies may include pulse plasma rock fragmentation, controlled foam or hydraulic injection, and controlled blasting. In some scenarios it may be necessary to utilize a combination of these techniques.

The Project would raise the grade of the 28-Acre Site and the southern, low-lying portions of the Illinois Parcels by adding up to 5 feet of fill in order to help protect against flooding and projected future sea level rise and as required for environmental remediation.

A portion of the northern spur of the remnant of Irish Hill would be removed for construction of the new 21st Street. Retaining walls would be necessary along the sides of the new 21st Street to protect the adjacent Building 116 in the Historic Core as well as the remnant of Irish Hill and along the reconfigured 22nd Street, to account for the proposed elevation difference between the streets and adjacent ground surfaces.

ii. Geotechnical Stabilization.

To address the potential hazard of liquefaction and lateral spreading that may occur during a major earthquake, the Project would include construction of improvements to control the amount of lateral displacement that could occur. These improvements could include either reinforcing the existing slope with structural walls or implementing ground improvements.

iii. Shoreline Protection Improvements and Sea Level Rise Adaptation.

The objectives of the proposed shoreline protection improvements include maintaining a stable shoreline in the project area by preventing shoreline erosion and protecting the proposed development from coastal flooding. The proposed shoreline protection system is designed to minimize the need for placing fill in San Francisco Bay; maximize open space and public access to the shoreline edge; improve existing slope protection, where feasible; develop aesthetically pleasing and cost-efficient shoreline protection; and provide for future sea level rise adaptation. For design purposes, the existing shoreline is divided into four separate "reaches." Options for shoreline protection improvements were developed for each reach.

The improvements constitute minor repairs to the existing shoreline protection system along the bayfront of the 28-Acre site that is currently in disrepair. These improvements are restricted to repair or replacement of the existing bulkhead in Reach II, and repair or replacement of the existing rip rap slopes in Reaches I, III, and IV. As proposed, the improvements would provide shoreline protection from erosion based on current flooding conditions, and the worst case flooding projected for the year 2100. The entire 100-foot shoreline band, including the shoreline protection features, would be reserved for public access that is safe and feasible. The project sponsors would also implement a long-term inspection and maintenance program to observe for deterioration of the shoreline protection system, and would repair any deficiencies noted to ensure adequate erosion and flood protection for the life of the project.

3. Project Variants.

The Draft EIR studied five variants to the Project. Each variant would modify a limited feature or aspect of the Project. During the period between publication of the Draft EIR and the RTC document, the Project Sponsor requested adoption of three variants into the Project, including the Reduced Off-Haul Variant, the Wastewater Treatment and Reuse System Variant, and the Irish Hill Passageway Variant. Thus, these three variants are added to the Project.

The Reduced Off-Haul Variant would minimize the overall volume of excavated soils and the number of off-haul truck trips required for the transport and disposal of excavated soils. Under the Wastewater Treatment and Reuse System Variant, blackwater, graywater, and rainwater would be collected from all newly constructed buildings, treated, and reused for toilet and urinal flushing, irrigation, and cooling tower makeup. This variant differs from the project without the variant, because it assumes blackwater is treated and recycled and that all newly constructed buildings would form a district system. Finally, the Irish Hill Passageway Variant would realign the proposed pedestrian passageway between Illinois Street and the proposed Irish Hill Playground in order to create a view corridor through the proposed infill construction, from Illinois Street to the Irish Hill landscape feature. Under this Variant, the 40-foot-wide pedestrian passageway connecting Illinois Street and the proposed Irish Hill Playground would separate construction within Parcel PKS and Parcel HDY2 at the southwest corner of the project site. The pedestrian passageway would be shifted northward by approximately 165 feet, to bisect Parcel PKS (which would become PKS1 and HDY3 with this variant), to allow views of the western face of the Irish Hill remnant from Illinois Street.

Additionally, the FEIR analyzed two additional project variants that are not proposed for approval at this time: the District Energy System Variant and the Automated Waste Collection System Variant. The Project assumes all heating and cooling would be done at the individual building level and independent from adjacent buildings, and PG&E would provide natural gas, and electricity would be provided by the SFPUC and renewable power generated on the project site. Under the District Energy System Variant, a single central energy plant would be located in one of the basement levels of a newly constructed building on Parcel C1. The proposed central energy plant would provide heating and cooling for a linked group of residential and commercial buildings.

Under the Project, typical collection trucks would drive around the project site to pick up solid waste (separated by residents and businesses into recyclables, compostables, and trash/waste) from each individual building for transport to Pier 96 (recyclables) in San Francisco, the Jepson-Prairie facility (compostables) in Solano County, and the Hay Road Landfill (trash/waste) in Solano County. Under the

Automated Waste Collection System (AWCS) Variant, an automated waste collection system would be installed to transport solid waste from individual new buildings and in public areas, replacing interior and outdoor trash receptacles. The central waste collection facility would be located in a stand-alone building near the proposed 20th Street Pump Station on the BAE Systems Ship Repair site directly north of Parcels A and B on the project site. This variant has the potential to operate more efficiently and would reduce the number of trash collection truck trips and the associated noise and air pollutant emissions.

1. Project Construction Phasing and Duration.

For both development scenarios, the Maximum Residential Scenario and the Maximum Commercial Scenario, Project construction is conceptual; however it is expected to begin in 2018 and would be phased over an approximately 11-year period, concluding in 2029. Proposed development is expected to involve up to five phases, designated as Phases 1, 2, 3, 4, and 5. The Project's construction and rehabilitation phasing for the Maximum Residential and Maximum Commercial Scenarios are outlined in Tables 2.5 and 2.6 in the DEIR on pp. 2.80 to 2.84.

Infrastructure improvements (utilities, streets, and open space) and grading and excavation activities would be constructed by Forest City, as master developer, and would occur in tandem, as respective and adjacent parcels are developed. Vertical development on the various parcels could be constructed by Forest City and its affiliates, or by third party developers.

B. Project Objectives.

The Port and Forest City seek to achieve the following objectives by undertaking the Project:

- Create a unique San Francisco neighborhood within an industrial historic district that includes new, activated waterfront open spaces with the amenities and services necessary to support a diverse, thriving community of residents and workers, while addressing potential land use conflicts with ongoing ship repair at Pier 70.
- Implement the open space, housing, affordability, historic rehabilitation, artist community preservation, commercial, waterfront height limit and urban design policies endorsed by the voters in Proposition F for the 28-Acre Site (November 2014).
- Provide dense, mixed-income housing that includes both ownership and rental opportunities, to attract a diversity of household types in order to help San Francisco meet its fair share of regional housing needs.
- Provide a model of 21st century sustainable urban development by implementing the Pier 70 Risk Management Plan approved by the San Francisco Bay Regional Water Quality Control Board; encouraging energy and water conservation systems; and reducing vehicle usage, emissions, and vehicle miles traveled to reduce the carbon footprint impacts of new development, consistent with the Port's Climate Action Plan.
- Provide access to San Francisco Bay where it has been historically precluded, by opening the eastern shore of the site to the public with a major new waterfront park, extending the Bay Trail, and establishing the Blue Greenway, and create a pedestrian- and bicycle-friendly environment.

- Rehabilitate three contributors to the Union Iron Works Historic District to accommodate new uses consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties, and design and build new infrastructure, public realm areas, parks and buildings consistent with the Infill Development Design Criteria within the Port's *Pier 70 Preferred Master Plan* and support the continued integrity of the Union Iron Works Historic District.
- Create business and employment opportunities for local workers and businesses during the design, construction, and operation phases of the Project.
- Elevate and reinforce site infrastructure and building parcels to allow the new Pier 70 neighborhood to be resilient to projected levels of sea level rise and any major seismic event, as well as incorporate financing strategies that enable the project and the Port's Bay shoreline to adapt to future, increased levels of sea level rise.
- Along with the Historic Core and Crane Cove Park, serve as a catalyst project for Pier 70 to support the Port's site-wide goals established in the Pier 70 Preferred Master Plan, including new infrastructure, streets and utilities, and new revenue to fund other Pier 70 improvements.
- Construct a high-quality, public-private development project that can attract sources of public investment, equity, and debt financing sufficient to fund the Project's site and infrastructure costs, fund ongoing maintenance and operation costs, and produce a market rate return investment that meets the requirement of Assembly Bill (AB) 418 (2011) and allows the Port to further its Public Trust mandate and mission.
- Through exercise of the City's option with PG&E to purchase the Hoedown Yard, provide funds for the City's HOPE VI rebuild projects in accordance with Board Resolution No. 54-14, such as the Potrero Terrace and Annex project.

C. Approval Actions.

The Project is subject to review and approvals by local, regional, State, and Federal agencies, with jurisdiction after completion of environmental review, including the following:

San Francisco Board of Supervisors

- Approval of *General Plan* amendments.
- Approval of Planning Code Text Amendments and associated Zoning Map Amendments.
- Approval of a Development Agreement.
- Approval of the Interagency Cooperation Agreement.
- Approval of a Public Trust Exchange Agreement.
- Approval of a Disposition and Development Agreement, including forms of ground leases and purchase and sale agreements.
- Approval of Final Subdivision Maps.
- Approval of street vacations, approval of dedications and easements for public improvements, and acceptance (or delegation to Public Works Director to accept) of public improvements, as necessary.

- Approval of the formation of one or more community facilities districts and adoption of a Rate and Method of Apportionment for the districts and authorizing other implementing actions and documents.
- Approval of one or more appendices to the Infrastructure Financing Plan for City and County of San Francisco Infrastructure Financing District No. 2 (Port of San Francisco) and formation of one or more sub-project areas for the 28-Acre Site and some or all of the Illinois Parcels and authorizing other implementing actions and documents.

San Francisco Planning Commission

- Certification of the Final EIR.
- Adoption of findings that the Public Trust Exchange is consistent with the *General Plan*.
- Approval of *Pier 70 SUD Design for Development*.
- Initiation and recommendation to Board of Supervisors to approve amendments to the *General Plan*.
- Initiation and recommendation to the Board of Supervisors to approve Planning Code amendments adopting a Special Use District and associated Zoning Map amendments.
- Recommendation to Board of Supervisors to approve a Development Agreement.
- Approval of the Interagency Cooperation Agreement.

San Francisco Port Commission

- Adoption of findings regarding Public Trust consistency.
- Approval of Disposition and Development Agreement, including forms of Ground Leases and Purchase and Sale Agreements, authorizing other actions and documents necessary to implement the project, and recommending that the Port Commission and the Board of Supervisors take other actions and documents necessary to implement the project.
- Consent to a Development Agreement and recommendation to the Board of Supervisors to approve.
- Approval of the Interagency Cooperation Agreement.
- Approval of a Development Plan for the 28-Acre Site in accordance with Section 11 of Proposition F.
- Approval of *Pier 70 SUD Design for Development*.
- Approval of amendments to *Waterfront Land Use Plan*.
- Public Trust consistency findings and approval of Public Trust Exchange Agreement with the State Lands Commission.
- Approval of project construction-related permits for property within Port jurisdiction.
- Approval of Construction Site Stormwater Runoff Control Permit.

San Francisco Public Utilities Commission

- Consent to Development Agreement.
- Consent to Interagency Cooperation Agreement.

San Francisco Public Works

- Review of subdivision maps and presentation to the Board for approval.
- Approval of Interagency Cooperation Agreement.
- Issuance of Public Works street vacation order.

San Francisco Municipal Transportation Agency

- Approval of transit improvements, public improvements and infrastructure, including certain roadway improvements, bicycle infrastructure and loading zones, to the extent included in the project, if any.
- Consent to Development Agreement.
- Consent to Interagency Cooperation Agreement.

San Francisco Fire Department

- Consent to Interagency Cooperation Agreement.

San Francisco Art Commission

- Approval of design of public structures and private structures located within public property, to the extent any such structures are located outside of Port jurisdiction.

San Francisco Department of Public Health

- Oversee compliance with San Francisco Health Code Article 22A (Maher Ordinance).

Bay Conservation and Development Commission

- Approval of permits for improvements and activities within the San Francisco Bay Conservation and Development Commission's jurisdictions.

State Lands Commission

- Approval of Public Trust Exchange Agreement.

Regional Water Quality Control Board – San Francisco Bay Region

- Approval of Section 401 water quality certification.
- Site-Specific Remediation Completion Approval(s) under Risk Management Plan.

Bay Area Air Quality Management District

- Approval of any necessary air quality permits (e.g., Authority to Construct and Permit to Operate) for individual air pollution sources, such as boilers and emergency diesel generators.

California Public Utilities Commission

- Approval of PG&E's sale of Hoedown Yard parcel, if PG&E's operations on the site have not already been relocated.

California Department of Fish and Wildlife

- Possible Section 404/Section 10 Permit.

U.S. Army Corps of Engineers

- Possible Section 404/Section 10 Permit.

U.S. Fish and Wildlife

- Possible Section 404/Section 10 Permit.

National Marine Fisheries Service

- Possible Essential Fish Habitat Consultation.
- Possible Endangered Species Act Consultation.

D. Findings About Significant Environmental Impacts and Mitigation Measures.

The following Sections II, III, IV, and V set forth the findings about the determinations of the Final EIR regarding significant environmental impacts and the mitigation measures proposed to address them. These findings provide written analysis and conclusions regarding the environmental impacts of the Project and the mitigation measures included as part of the Final EIR and adopted as part of the Project.

In making these findings, the opinions of the Planning Department and other City staff and experts, other agencies and members of the public have been considered. These findings recognize that the determination of significance thresholds is a judgment within the discretion of the City and County of San Francisco; the significance thresholds used in the Final EIR are supported by substantial evidence in the record, including the expert opinion of the Final EIR preparers and City staff; and the significance thresholds used in the Final EIR provide reasonable and appropriate means of assessing the significance of the adverse environmental effects of the Project.

These findings do not attempt to describe the full analysis of each environmental impact contained in the Final EIR. Instead, a full explanation of these environmental findings and conclusions can be found in the Final EIR and these findings hereby incorporate by reference the discussion and analysis in the Final EIR supporting the determination regarding the Project impacts and mitigation measures designed to address those impacts. In making these findings, the determinations and conclusions of the Final EIR relating to environmental impacts and mitigation measures, are hereby ratified, adopted and incorporated in these

findings, except to the extent any such determinations and conclusions are specifically and expressly modified by these findings.

As set forth below, the mitigation measures set forth in the Final EIR and the attached MMRP are hereby adopted and incorporated to substantially lessen or avoid the potentially significant impacts of the Project. Accordingly, in the event a mitigation measure recommended in the Final EIR has inadvertently been omitted in these findings or the MMRP, such mitigation measure is nevertheless hereby adopted and incorporated in the findings below by reference. In addition, in the event the language describing a mitigation measure set forth in these findings or the MMRP fails to accurately reflect the mitigation measure in the Final EIR due to a clerical error, the language of the mitigation measure as set forth in the Final EIR shall control. The impact numbers and mitigation measure numbers used in these findings reflect the numbers contained in the Final EIR.

In Sections II, III, IV, and V below, the same findings are made for a category of environmental impacts and mitigation measures. Rather than repeat the identical finding dozens of times to address each and every significant effect and mitigation measure, the initial finding obviates the need for such repetition because in no instance are the conclusions of the Final EIR, or the mitigation measures recommended in the Final EIR for the Project, being rejected.

E. Location and Custodian of Records.

The public hearing transcripts and audio files, a copy of all letters regarding the Final EIR received during the public review period, the administrative record, and background documentation for the Final EIR are located at the Planning Department, 1650 Mission Street, San Francisco. The Planning Commission Secretary, Jonas P. Ionin, is the custodian of records for the Planning Department and the Planning Commission.

II. IMPACTS NOT CONSIDERED

CEQA Section 21099(d), provides that “aesthetics and parking impacts of a residential, mixed-use residential, or employment center project on an infill site located within a transit priority area shall not be considered significant impacts on the environment.” Accordingly, aesthetics and parking are not considered in determining whether the Project has the potential to result in significant environmental effects since the Project meets all of the following three criteria:

1. The Project is in a transit priority area;
2. The Project is on an infill site; and
3. The Project is residential, mixed-use residential, or an employment center.

A “transit priority area” is defined as an area within one-half mile of an existing or planned major transit stop. A “major transit stop” is defined in California Public Resources Code Section 21064.3 as a rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

III. IMPACTS FOUND NOT TO BE SIGNIFICANT AND THUS DO NOT REQUIRE MITIGATION

Under CEQA, no mitigation measures are required for impacts that are less than significant (Pub. Res. Code § 21002; CEQA Guidelines §§ 15126.4, subd. (a)(3), 15091). As more fully described in the Final EIR and based on the evidence in the whole record of this proceeding, it is hereby found that implementation of the Project would not result in any significant impacts in the following areas and that these impact areas therefore do not require mitigation.

A. Land Use.

Impacts LU-1: The Project would not physically divide an existing community.

Impacts LU-2: The Project would not conflict with applicable land use plans, policies or regulations adopted for the purpose of avoiding or mitigating an environmental effect, Such that a substantial adverse physical change in the environment related to Land Use would result.

Impact C-IU-1: The Project, in combination with past, present and reasonably foreseeable future projects, would not contribute considerably to significant cumulative land use impacts related to (a) physical division of an established community, or (b) conflicts with applicable land use plans and policies adopted for the purpose of avoiding or mitigating an environmental effect.

B. Population, Employment and Housing.

Impacts PH-1: The Project would not substantially induce population growth, either directly or indirectly.

Impacts PH-2: The Project would not displace substantial numbers of existing housing units or create demand for additional housing, necessitating the construction of replacement housing elsewhere.

Impact C-PH-1: The Project under the Maximum Residential and Maximum Commercial scenarios, in combination with past, present, and reasonably foreseeable future projects, would not result in a cumulatively considerable contribution to significant cumulative population and housing impacts.

C. Cultural Resources.

Impact CR-3: Construction activities for the Project would not cause a substantial adverse change in the significance of a tribal cultural resource, as defined in Public Resources Code Section 21074, if such resources are present within the project site.

Impact CR-4: The Project would result in the demolition of seven buildings that contribute to the significance of the UIW I historic District. These are Buildings 11, 15, 16, 19, 25, 32, and 66.

The demolition of these buildings would not result in a substantial adverse change in the historic significance of the UIW Historic District, nor would the demolition result in a deleterious effect on most of the District's character-defining features. The UIW I Historic District would retain sufficient contributing features, character-defining features, and overall integrity to continue its listing in the NRIIP

and the CRHR. As such, the demolition of contributing Buildings 11, 15, 16, 19, 25, 32, and 66 would not materially impair the physical characteristics that justify the UIW Historic District's inclusion in the NRHP or the CRHR. Although demolition of contributing Buildings 11, 15, 16, 19, 25, 32, and 66 would have a less-than-significant impact on individual historical resources identified in this EIR and the UIW Historic District as a whole, implementation of **Improvement Measure I-CR-4a: Documentation** and **I-CR-4b: Public Interpretation**, which call for the documentation and interpretation of the UIW Historic District for the general public, would further reduce the less-than-significant impact resulting from the proposed demolition of contributing features.

Impact CR-6: The relocation of contributing Building 21 would not materially alter, in an adverse manner, the physical characteristics of the UIW National Register Historic District that justify its inclusion in the California Register of Historical Resources, nor the physical characteristics of Building 21 that justify its eligibility for individual inclusion in the California Register of Historical Resources.

Impact CR-7: The demolition of non-contributing slipways would not materially alter, in an adverse manner, the physical characteristics of the UIW National Register Historic District that justify its inclusion in the California Register of Historical Resources.

Impact CR-8: The site grading work associated with contributing Buildings 2 and 12 would not materially alter, in an adverse manner, the physical characteristics of the UIW National Register Historic District that justify its inclusion in the California Register of Historical Resources.

Impact CR-9: The alteration of Irish Hill, a contributing landscape feature, and the proposed infill construction surrounding Irish Hill, would not materially alter, in an adverse manner, the physical characteristics of the UIW National Register Historic District that justify its inclusion in the California Register of Historical Resources.

Impact CR-10: The changes and additions to the network of streets and open space would not materially alter, in an adverse manner, the physical characteristics of the UIW National Register Historic District that justify its inclusion in the California Register of Historical Resources.

Impact CR-12: The Project would not materially alter, in an adverse manner, the physical characteristics of other historical resources (outside of the UIW National Register Historic District) that justify inclusion of such resources in a Federal, State or local register of historical resources.

Impact C-CR-3: The impacts of the Project, in combination with other past, present, and future projects, would not materially alter, in an adverse manner, the physical characteristics of historical resources (outside of the UIW National Register Historic District) that justify its inclusion in the California Register of Historical Resources, resulting in a cumulative impact.

D. Transportation and Circulation.

Impact TR-1: Construction of the Project would not result in significant impacts on the transportation and circulation network because they would be of limited duration and temporary.

Although no mitigation measures would be required, **Improvement Measure I-TR-A: Construction Management Plan** is identified to further reduce less-than-significant potential conflicts between

construction activities and pedestrians, bicyclists, transit, and autos, and between construction activities and nearby businesses and residents.

Impact TR-2: The Project would not cause substantial additional VMT nor substantially induce automobile travel.

Impact TR-3: The Project would not create major traffic hazards.

Impact TR-4: The Project would not result in any Muni screenlines or sub-corridors exceeding 85 percent capacity utilization nor would it increase ridership by more than five percent on any Muni screenline or subcorridor forecast to exceed 85 percent capacity utilization under Baseline conditions without the Project.

Impact TR-6: Two individual Muni routes would continue to operate within the 85 percent capacity utilization standard in the a.m. and p.m. peak hours in both the inbound and outbound directions with addition of the Project.

Impact TR-7: The Project would not cause significant impacts on regional transit routes.

Impact TR-8: Pedestrian travel generated by the Project could be accommodated on the new roadway and sidewalk network proposed for the project site.

Although the Project's parking facility access points would comply with appropriate design standards, the less-than-significant effect of vehicle queuing across sidewalks would be minimized with implementation of **Improvement Measure I-TR-B: Queue Abatement**, to ensure that pedestrian travel is unimpeded.

Impact TR-9: Existing pedestrian facilities in the vicinity of the project site, while incomplete, would not pose substantial hazards to pedestrian traffic generated by the Project.

Impact TR-11: The Project would not create potentially hazardous conditions for bicyclists and would not interfere with bicycle accessibility to the project site or adjoining areas.

Impact TR-13: The Project would not result in significant impacts on emergency access to the project site or adjacent locations.

Although not required to address significant impacts, implementation of **Improvement Measure I-TR-C: Strategies to Enhance Transportation Conditions During Events** would ensure that events at Pier 70 are coordinated with events at AT&T Park to further reduce the less-than-significant effects of congestion on emergency vehicle circulation.

Impact C-TR-1: Construction of the Project would occur over an approximately 11-year time frame and may overlap with construction of other projects in the vicinity. Due to the detailed planning and coordination requirements, the Project would not contribute considerably to a significant cumulative impact in the area.

Although no mitigation measures would be required, **Improvement Measure I-TR-A: Construction Management Plan** is identified to further reduce impacts associated with construction of the Project.

Impact C-TR-2: The Project's incremental effects on regional VMT would not be significant, when viewed in combination with past, present, and reasonably foreseeable future projects.

Impact C-TR-3: The Project would not contribute to a major traffic hazard.

Impact C-TR-5: The Project would not contribute considerably to a significant cumulative impact on the K1 Third Ingleside Muni line.

Impact C-TR-6: The Project would not contribute considerably to significant cumulative impacts at Muni Downtown screenlines or subcorridors.

Impact C-TR-7: The Project would not contribute considerably to significant cumulative impacts on regional transit routes.

Impact C-TR-8: The Project would not contribute considerably to significant cumulative pedestrian impacts.

Impact C-TR-9: The Project would not contribute considerably to a significant cumulative bicycle impact.

Impact C-TR-10: The Project would not contribute to a significant cumulative loading impact.

Impact C-TR-11: The Project would not contribute considerably to a significant cumulative impact on emergency vehicle access.

E. Noise.

Impact NO-8: Operation of the Project would not expose people and structures to or generate excessive groundborne vibration or noise levels.

Impact C-NO-1: Construction of the Project combined with cumulative construction noise in the project area would not cause a substantial temporary or periodic increase in ambient noise levels in the project vicinity during construction.

F. Air Quality.

Impact AQ-5: The Maximum Residential or Maximum Commercial Scenarios would not create objectionable odors that would affect a substantial number of people.

G. Greenhouse Gas Emissions.

Impact C-GG-1: The Project would generate GHG emissions, but not at levels that would result in a significant impact on the environment or conflict with any policy, plan, or regulation adopted for the purpose of reducing GHG emissions.

H. Wind and Shadow.

Impact WS-3: At full build-out, the Project would not alter wind in a manner that substantially affects ground-level public areas. The pedestrian comfort criterion is not considered within the CEQA significance threshold; however, **Improvement Measures I-WS-3a: Wind Reduction for Public Open Spaces and Pedestrian and Bicycle Areas, I-WS-3b: Wind Reduction for Waterfront Promenade and Waterfront Terrace, I-WS-3c: Wind Reduction for Slipways Commons, I-WS-3d: Wind Reduction for Building 12 Market Plaza and Market Square, I-WS-3e: Wind Reduction for Irish Hill Playground, and I-WS-3f: Wind Reduction for 20th Street Plaza** would improve the comfort, suitability, and usability of public open spaces and further reduce this less-than-significant impact. City decision makers may choose to impose these improvement measures on the Project as conditions of approval.

Impact WS-4: The Project would not create new shadow in a manner that substantially affects outdoor recreation facilities or other public areas.

Impact C-WS-1: The Project at full build-out, when combined with other cumulative projects, would not alter wind in a manner that substantially affects public areas within the vicinity of the project site.

Impact C-WS-2: The Project, in combination with past, present, and reasonably foreseeable future projects in the project vicinity, would not create new shadow in a manner that substantially affects outdoor recreation facilities or other public areas. The Project would not make a cumulatively considerable contribution to a significant cumulative shadow impact.

I. Recreation.

Impact RE-1: The Project would increase the use of existing neighborhood and regional parks or other recreational facilities, but not to such an extent that substantial physical deterioration of existing facilities would occur or be accelerated, or such that the construction of new facilities would be required.

Impact RE-2: Construction of the parks and recreational facilities proposed as part of the Project would not result in substantial adverse physical environmental impacts beyond those analyzed and disclosed in the Final EIR.

Impact C-RE-1: The Project, in combination with past, present, and reasonably foreseeable future development, would not result in a cumulatively considerable contribution to significant cumulative impacts on recreation.

J. Utilities and Service Systems.

Impact UT-1: The City's water service provider would have sufficient water supply available to serve the Project from existing entitlements and resources, and would not require new or expanded water supply resources or entitlements.

Impact UT-2: The Project would not require or result in the construction of new water treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects.

Impact UT-3: The Project would not exceed wastewater treatment requirements of the Southeast Water Pollution Control Plant.

Impact UT-4: The Project would not require or result in the construction of new wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects. Nor would the project result in a determination by the SFPUC that it has inadequate capacity to serve the project's projected demand in addition to its existing commitments.

Impact UT-5: The Project would not require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects.

Impact UT-6: The Project would be served by a landfill with sufficient capacity to accommodate the Project's solid waste disposal needs.

Impact UT-7: The Project would not fail to comply with Federal, State, and local statutes and regulations related to solid waste.

Impact C-UT-1: The Project, in combination with other past, present, and reasonably foreseeable future projects, would not result in significant adverse cumulative utilities and service systems impacts.

K. Public Services.

Impact PS-1: The Project would not result in the need for new or physically altered facilities in order to maintain acceptable service ratios, response times, or other performance objectives for police protection.

Impact PS-2: The Project would not result in the need for new or physically altered facilities in order to maintain acceptable response times for fire protection and emergency medical services.

Impact PS-3: The increase in students associated with implementation of the Project would not require new or expanded school facilities, the construction of which could result in substantial adverse impacts.

Impact PS-4: The Project would not result in an increase in demand for library services that could not be met by existing library facilities.

Impact C-PS-1: The Project, in combination with other past, present, and reasonably foreseeable future projects, would not result in a cumulatively considerable contribution to significant adverse cumulative impacts that would result in a need for construction of new or physically altered facilities in order to maintain acceptable service ratios, response times, or other performance objectives for any public services, including police protection, fire protection and emergency services, schools, and libraries.

L. Biological Resource.

Impact BI-6: The Project would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance, and would not have a substantial conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan.

M. Geology and Soils.

Impact GE-1: The Project would not expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving fault rupture, seismic ground shaking, seismically induced ground failure, or seismically induced landslides.

Impact GE-2: The Project would not result in substantial erosion or loss of topsoil.

Impact GE-4: The Project would not create substantial risks to life or property as a result of locating buildings or other features on expansive or corrosive soils.

Impact GE-5: The Project would not substantially change the topography or any unique geologic or physical features of the site.

Impact C-GE-1: The Project, in combination with past, present, and reasonably foreseeable future projects, would not substantially contribute to cumulative impacts on geology and soils.

N. Hydrology and Water Quality.

Impact HY-1: Construction of the Project would not violate a water quality standard or a waste discharge requirement, or otherwise substantially degrade water quality.

Impact IY-3: The Project would not substantially deplete groundwater supplies or interfere with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table.

Impact HY-4: The Project would not substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion, siltation, or flooding on- or off site.

Impact HY-5: Operation of the Project would not place housing within a 100-year flood zone or place structures within an existing 100-year flood zone that would impede or redirect flood flows.

Impact HY-6: Operation of the Project would not place structures within a future 100-year flood zone that would impede or redirect flood flows.

Impact IY-7: The Project would not expose people or structures to substantial risk of loss, injury, or death due to inundation by seiche, tsunami, or mudflow.

Impact C-HY-1: The Project, in combination with past, present, and reasonably foreseeable future projects in the site vicinity, would not result in a considerable contribution to cumulative impacts on hydrology and water quality.

O. Hazards and Hazardous Materials.

Impact HZ-1: Construction and operation of the Project would not create a significant hazard through routine transport, use, or disposal of hazardous materials.

Impact HZ-9: The Project would not handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. Although construction activities would emit diesel particulate matter and naturally occurring asbestos, these emissions would not result in adverse effects on nearby schools.

Impact HZ-10: The Project would not expose people or structures to a significant risk of loss, injury, or death involving fires, nor would it impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.

Impact C-HZ-1: The Project, in combination with other past, present or reasonably foreseeable future projects in the project vicinity, would not result in a considerable contribution to significant cumulative impacts related to hazards and hazardous materials.

P. Mineral and Energy Resources.

Impact ME-1: The Project would not have a significant adverse impact on the availability of a known mineral resource and/or a locally important mineral resource recovery site.

Impact ME-2: The Project would not have a substantial adverse effect on the use of fuel, water, or energy consumption, and would not encourage activities that could result in the use of large amounts of fuel, water, or energy, or use these in a wasteful manner.

Impact ME-3: The Project would not result in new or expansion of existing electric or natural gas transmission and/or distribution facilities that would cause significant physical environmental effects.

Impact C-ME-1: The Project, in combination with other past, present and reasonably foreseeable future projects in the vicinity, would not result in a cumulatively considerable contribution to a significant adverse cumulative impact on mineral and energy resources.

Q. Agriculture and Forest Resources.

Impact AG-1: The Project would not convert designated farmland under the Farmland Mapping and Monitoring Program, nor would it conflict with any existing agricultural zoning or a Williamson Act contract, nor would it involve any changes to the environment that would result in the conversion of designated farmland. The Project would have no impact on farmland and land zoned or contracted for agricultural uses. Therefore no mitigation measures are necessary.

Impact AG-2: The Project would not conflict with existing zoning for, or cause rezoning of, forest land or timberland, nor would it result in the loss of or conversion of forest land to non-forest uses. There would be no impact with respect to forest land or timberland, and no mitigation measures are necessary.

Impact C-AG-1: The Project, in combination with other past, present and reasonably foreseeable future projects in the vicinity, would not result in a cumulatively considerable contribution to a significant adverse cumulative impact on agricultural resources or forest land or timberland, and no mitigation measures are necessary.

R. Growth Inducement.

While the Project in itself represents growth, the provision of new housing and employment opportunities would not encourage substantial new growth in the City that has not been previously projected or in an area of the City that has not been identified through local and regional planning processes as an area that could accommodate future population, housing, and employment growth. Thus, the Project would not have a substantial growth-inducing impact.

IV. FINDINGS OF POTENTIALLY SIGNIFICANT IMPACTS THAT CAN BE AVOIDED OR REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL THROUGH MITIGATION AND THE DISPOSITION OF THE MITIGATION MEASURES

CEQA requires agencies to adopt mitigation measures that would avoid or substantially lessen a project's identified significant impacts or potential significant impacts if such measures are feasible (unless mitigation to such levels is achieved through adoption of a project alternative). The findings in this Section IV and in Section V concern mitigation measures set forth in the Final EIR. These findings discuss mitigation measures as identified in the Final EIR for the Project. The full text of the mitigation measures is contained in the Final EIR and in Attachment B, the Mitigation Monitoring and Reporting Program. The impacts identified in this Section IV would be reduced to a less-than-significant level through implementation of the mitigation measures contained in the Final EIR, included in the Project, or imposed as conditions of approval and set forth in Attachment B. The impacts identified in Section V, below, for which feasible mitigation has been identified in the Final EIR also would be reduced, although not to a less-than-significant level.

This Commission recognizes that some of the mitigation measures are partially within the jurisdiction of other agencies. The Commission urges these agencies to assist in implementing these mitigation measures, and finds that these agencies can and should participate in implementing these mitigation measures.

A. Cultural Resources.

Impact CR-1: Construction activities for the Project would cause a substantial adverse change in the significance of archeological resources, if such resources are present within the project site.

Construction activities, in particular grading and excavation, could disturb archeological resources potentially located at the project site. Unless mitigated, ground-disturbing construction activity within the project site, particularly within previously undisturbed soils, could adversely affect the significance of archeological resources under CRHR Criterion 4 (Information Potential) by impairing the ability of such resources to convey important scientific and historical information. This effect would be considered a substantial adverse change in the significance of an historical resource and would therefore be a potentially significant impact under CEQA.

Mitigation Measures M-CR-1a: Archeological Testing, Monitoring, Data Recovery and Reporting and Mitigation Measure M-CR-1b: Interpretation, as more fully described in the Final EIR, are hereby adopted in the form set forth in the Final EIR and the attached MMRP and will be implemented as provided therein.

Based on the Final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measures M-CR-1a and M-CR-1b would reduce Impact CR-1 to a less-than-significant level.

Impact CR-2: Construction activities for the Project would cause a substantial adverse change in the significance of human remains, if such resources are present within the project site.

Because the project site has been substantially disturbed over the last two centuries, the possibility of discovering human remains is considered low. Although unlikely, it is possible human remains may be encountered during project implementation. If human remains are present within the project site, construction activities for the Project would cause a substantial adverse change in the significance of human remains.

Based on the Final EIR and the entire administrative record, it is hereby found and determined that with implementing Mitigation Measures M-CR-1a, referenced above, would reduce Impact CR-2 to a less-than-significant level.

Impact C-CR-1: Disturbance of archeological resources, if encountered during construction of the Project, in combination with other past, present, and future reasonably foreseeable projects, would make a cumulatively considerable contribution to a significant cumulative impact on archeological resources.

Ground-disturbing activities of foreseeable projects, in particular (but not limited to) those along San Francisco's Central Waterfront, have the potential to disturb previously unidentified archeological resources that could yield information pertaining to common research themes identified for the Project in the ARDTP (consumer behavior, social status and identity, wharf and pier construction, land reclamation, and industrialization and technology). As such, the potential disturbance of archeological resources within the project site could make a cumulatively considerable contribution to a loss of significant historic and scientific information about California, Bay Area, and San Francisco history.

There is no evidence that the Project would cause a substantial adverse change in the significance of a tribal cultural resource. For this reason, the Project in combination with past, present, and future reasonably foreseeable projects would not make a cumulatively considerable contribution to a significant cumulative impact on tribal cultural resources.

Based on the Final EIR and the entire administrative record, it is hereby found and determined that with implementation of Mitigation Measures M-CR-1a and M-CR-1b, referenced above, the Project's contribution to cumulative impacts on archeological resources would not be cumulatively considerable.

Impact CR-5: The rehabilitation of Buildings 2, 12, and 21 would materially alter, in an adverse manner, the physical characteristics of the UIW National Register Historic District that justify its inclusion in the California Register of Historical Resources and would materially alter the physical characteristics of Building 21 that justify its individual eligibility for inclusion in the California Register of Historical Resources.

Buildings 2, 12, and 21 would be rehabilitated under the Project for a range of possible reuse purposes. Prior to Port issuance of building permits, the City and the Port of San Francisco would require the project sponsors to rehabilitate Buildings 2, 12, and 21 in accordance with the Secretary of the Interior's Standards for Rehabilitation (Secretary's Standards). As noted in CEQA Section 15064.5(a)(3), "a project that follows the Secretary of the Interior's Standards for the Rehabilitation and Guidelines for Rehabilitating Historic Buildings ... shall be considered as mitigated to a level of less-than-significant impact on the historical resource."

As the rehabilitation efforts for these buildings are still in the design phase, the Planning Department conservatively finds that the impact of the proposed rehabilitation to Buildings 2, 12, and 21 to be significant.

Mitigation Measure M-CR-5: Preparation of Historic Resource Evaluation Reports, Review, and Performance Criteria, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR, and the attached MMRP, and will be implemented as provided therein.

Based on the Final EIR and the entire administrative record, it is hereby found and determined that implementation of Mitigation Measure M-CR-5 would reduce Impact CR-5 to a less-than-significant level.

Impact CR-11: The proposed infill construction would materially alter, in an adverse manner, the physical characteristics of the UIW National Register Historic District that justify its inclusion in the California Register of Historical Resources.

As new construction is expected to begin in 2018, would be phased over an approximately 11-year period, and could be designed and constructed by different development teams responding to varying real estate market conditions, it is possible that new infill development could change the historic significance of the UIW Historic District by introducing a wide variety of new building designs and types that may not be compatible with the historic character of adjacent historical resources. This could incrementally reduce the integrity of the UIW Historic District to the extent it may no longer qualify for the National Register, which would be considered a significant impact on historical resources.

However, the Project site was more densely developed at the end of the UIW Historic District's period of significance (1945) than it is today. As such, the proposed infill construction would return the site to a building density that is more in keeping with its historic density.

The application of the Pier 70 Design for Development standards and guidelines, including the application of maximum heights, building articulation, material grain and palette, and building-specific responsiveness, would help maintain the integrity of the UIW Historic District by emphasizing the industrial character of the District. The Project would also establish buffer zones surrounding the core of historic buildings and landscapes that specify the minimum distances of separation between historic buildings and landscapes and new construction. These measures would reduce the impacts of new construction on the integrity of adjacent contributing buildings and the UIW Historic District.

The proposed new construction would not result in the need to adjust the boundary of the UIW Historic District, because the boundary is based on the boundary of the shipyard at the end of WWII, according to

the Bethlehem Shipbuilding Division's 1944 Master Plan. The district boundary, therefore, captures the entire shipyard's development from 1884 through 1945.

Mitigation Measure M-CR-11: Performance Criteria and Review Process for New Construction, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR, and the attached MMRP, and will be implemented as provided therein. Based on the Final EIR and the entire administrative record, it is hereby found and determined that implementation of Mitigation Measure M-CR-11 would reduce Impact CR-11 to a less-than-significant level.

Impact C-CR-2: The impacts of the Project, in combination with other past, present, and future projects, would materially alter, in an adverse manner, the physical characteristics of the UIW National Register Historic District that justify its inclusion in the California Register of Historical Resources, and could materially alter the physical characteristics of Building 21 that justify its individual eligibility for inclusion in the California Register of Historical Resources.

In addition to the Project, there are three anticipated projects within the UIW Historic District that have the potential to have a significant cumulative impact on the significance of the UIW Historic District: (1) Crane Cove Park project, (2) BAE Systems Lease Renewal project, and (3) revisions to the on-going 20th Street Historic Core project, which would demolish historic Buildings 40 and 117.

The Planning Department completed the environmental review for the Crane Cove Park project in October 2015. As part of the Crane Cove Park environmental review, Planning Department Preservation staff completed a HRER that evaluated the impacts of the project on historical resources. Department staff found that the demolition of two contributing buildings (Buildings 30 and 50) within the UIW Historic District would not cause a significant adverse impact upon any qualified historical resource.

The Planning Department completed the environmental review for the BAE Systems Lease Renewal Project in March 2015. As part of the BAE Systems Lease Renewal Project environmental review, Planning Department Preservation staff completed a HRER that evaluated the impacts of project on historical resources. Department staff found that the demolition of Buildings 38, 119, and 121 would not impact the integrity of the UIW Historic District.

In 2014, the Planning Department issued a CPE for the 20th Street Historic Core Project (Case No. 2013.1168E) to the Port of San Francisco for the rehabilitation of 10 historic buildings at Pier 70. The rehabilitation project is currently underway. In 2015, the Port added demolition of contributing Buildings 40 and 117, located within the Pier 70 project site. Although Building 40 is a contributor to the District, it was not found to possess individual significance because it is one of many architecturally undistinguished support buildings from World War II and it has lost integrity due to advanced deterioration. Therefore, it would not qualify for listing under the National or California Registers as an individual historical resource. The Planning Department and Port of San Francisco found that the proposed demolition of Building 40 would have a less-than-significant impact on the integrity of the UIW Historic District.

Although Building 117 is a contributor to the District, it was not found to possess individual significance because its simple, undistinguished, and utilitarian design lacks architectural distinction, and it had a minor support function as a parts storage warehouse in the shipbuilding and repair process. Therefore, it

would not qualify for listing under the National or California Registers as an individual historical resource. The Planning Department and Port of San Francisco found that the proposed demolition of Building 117 would have a less-than-significant impact on the integrity of the UIW Historic District.

All projects described above cumulatively would result in the collective loss of 14 historic buildings that contribute to the significance of the UIW Historic District, as well as the retention and rehabilitation, or no change, to the other 30 contributing features. The collective demolition of these buildings and its cumulative impact on the integrity of the UIW Historic District were analyzed in a report prepared by Carey & Co., Inc. for the Port of San Francisco in August 2015. The Planning Department concurs that that despite the new construction under the Crane Cove Park project and the loss of two contributing buildings (Buildings 30 and 50), the loss of three contributing buildings (Buildings 38, 119, and 121) from the BAE Systems Lease Renewal project, and the loss of two contributing buildings (Buildings 40 and 117) from the revised 20th Street Historic Core project, these three projects would have a less-than-significant impact on the integrity of the UIW Historic District.

The Project would also result in a less-than-significant impact to historical resources (demolition of seven contributing resources), and would result in significant but mitigable impacts to historical resources resulting from rehabilitation of three contributing features and new infill construction.

Based on the Final EIR and the entire administrative record, it is hereby found and determined that with implementation of **Mitigation Measures M-CR-5 and M-CR-11**, referenced above, the Project and other projects described above would collectively result in a less-than-significant cumulative impact upon historical resources.

B. Transportation and Circulation.

Impact TR-10: Existing pedestrian facilities at the Project's access points would present barriers to accessible pedestrian travel.

The Project's access points would use existing stop-controlled intersections on Illinois Street at 20th Street and 22nd Street and a new intersection at the new 21st Street to be added west of Illinois Street. Several barriers to accessible pedestrian travel currently exist between these intersections, including missing ADA curb ramps at the intersection of 22nd Street and Illinois Street and a narrow stretch of sidewalk with obstructions mid-block on Illinois Street between 22nd and 20th streets. This lack of an accessible path of travel to and from the project site would be a significant impact.

Additionally, the Project's transit riders would cross Illinois Street at the intersections with 20th, 21st, and 22nd streets. Although the Project is proposing to construct a new signal at the new intersection at Illinois Street and 21st Street, pedestrian crossings at the all-way stop controlled intersections along Illinois Street at 20th and 22nd streets would be particularly challenging, given forecasted increases in traffic along Illinois Street. This would also be a significant impact.

Mitigation Measure M-TR-10: Improve pedestrian facilities on Illinois Street adjacent to and leading to the project site, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR, and the attached MMRP, and will be implemented as provided therein.

Based on the Final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measure M-TR-10 would reduce Impact CR-5 to a less-than-significant level.

C. Noise.

Impact NO-1: Construction of the Project would expose people to or generate noise levels in excess of standards in the Noise Ordinance (Article 29 of the San Francisco Police Code) or applicable standards of other agencies.

Operation of jackhammers, concrete saws, controlled rock fragmentation (CRF) equipment, rock drills, and a rock/concrete crusher would have the potential to exceed the noise limit for construction equipment (as specified by the Police Code) by 2 to 4 dBA. While jackhammers with approved acoustic shields as well as rock drills and pile drivers with approved intake and exhaust mufflers are exempt from this ordinance limit, concrete saws and rock/concrete crushers would not be exempt. Therefore, operation of concrete saws, a rock/concrete crusher, or any other equipment not exempt from the Police Code that exceeds the noise limit would be a significant noise impact.

Mitigation Measure M-NO-1: Construction Noise Control Plan, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR and the MMRP and will be implemented as provided therein.

Based on the Final EIR and the entire administrative record, it is hereby found and determined implementing Mitigation Measure M-NO-1: Construction Noise Control Plan would reduce Impact NO-1 to a less-than-significant level.

Impact NO-3: Construction of the Project would expose people and structures to or generate excessive groundborne vibration levels.

The Project would include the types of construction activities that could produce excessive groundborne vibration (i.e., CRF during excavation and pile driving for foundations or secant walls). In addition, construction equipment used for demolition, site preparation, and shoring activities, such as jackhammers, pavement breakers, and drills, could generate varying degrees of temporary groundborne vibration, with the highest levels expected during demolition, excavation, and below-grade construction stages of each construction phase. If groundborne vibration generated by project-related demolition and construction activities were to exceed 0.5 in/sec PPV, it could cause cosmetic damage to a nearby structure. Pile driving, CRF, and building locations on project parcels have not been specified for the entire site, but pile driving is proposed adjacent to and east of the 20th Street Historic Core, which adjoins the northwestern boundary of the 28-Acre Site and eastern boundary of the 20th/Illinois Parcels. CRF may need to be employed along the western portion of the site (Parcels PKN, PKS, and HDY), as well as Parcels C1, D, E2, F and G on the 28-Acre Site. While it may be possible to maintain a setback of 70 feet or more between pile drivers and adjacent structures at many locations to avoid cosmetic damage to adjacent structures, the minimum separation between some parcels such as between Parcel E1, Parcel E4, and Building 21 or between Parcels E2 and E3 would be less than 70 feet. At distances of less than 70 feet, vibration from impact or vibratory pile-driving activities could result in cosmetic damage to Project structures and historic Buildings 113 and 114, a significant vibration impact.

Depending on the timing of development at Parcels E2, E3, and E4, as well as the timing of the proposed relocation of Historic Building 21 to within 25 feet of new development, construction-related vibration impacts on this building from adjacent pile driving activities could be avoided entirely if development precedes relocation. If, however, relocation of Building 21 precedes development at adjacent Parcels E2, E3, and E4, significant vibration impacts could occur. When the more stringent threshold of 0.2 in/sec PPV is applied to historic buildings, cosmetic damage could occur at distances of up to 160 feet from historic buildings.

While vibratory pile driving (or similar continuous vibration sources) can reduce the potential impacts to fragile structures that can occur with impact pile driving (where higher intermittent vibration levels can occur when the hammer strikes the pile), continuous vibration can also cause liquefaction (or differential settlement in sandy soils), due to the continuous nature of the vibration. The potential for structural damage from vibration-induced liquefaction would be a significant vibration impact.

Mitigation Measure M-NO-3: Vibration Control Measures During Construction, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR and the MMRP and will be implemented as provided therein.

Based on the Final EIR and the entire administrative record, implementing Mitigation Measure M-NO-3 would reduce Impact NO-3 to a less-than-significant level.

Impact NO-4: Operation of the Project would result in a substantial permanent increase in ambient noise levels in the immediate project vicinity, or permanently expose persons to noise levels in excess of standards in the San Francisco General Plan and San Francisco Noise Ordinance.

Stationary Equipment

Assuming HVAC equipment operates 24 hours per day (worst-case), such noise levels would exceed ordinance noise limits if this equipment is placed near parcel boundaries, resulting in a significant impact.

Emergency generators would be required on at least 11 of the proposed parcels where building heights would exceed 70 feet under both the Maximum Residential and Maximum Commercial scenarios, as well as at the proposed pump station. The only exception would be Parcel E1, which would not require an emergency generator under the Maximum Commercial Scenario, because the building on this parcel would be 65 feet high under this scenario. The Project's residential receptors could be located as close as 50 feet from these buildings/parcels. At this distance, noise levels generated by operation of emergency generators would exceed noise limits specified in the City's Noise Ordinance and result in a significant impact.

A wastewater pump station (the 20th Street Pump Station) and electrical transformers are proposed to be located to the north of the 28-Acre Site between Building 108 and Building 6. Combined noise generated by these facilities would have a slight potential to increase ambient noise levels in this vicinity. Given the range of existing ambient noise levels in the pump station vicinity, addition of the proposed pump station is conservatively considered to have the potential to slightly exceed ordinance noise limits, and result in a significant impact.

Other Noise-Generating Uses

Development of commercial-office uses in proximity to existing residential uses would increase the potential for noise disturbance or conflicts. Sources of noise typically associated with such non-residential uses that can cause sleep disturbance include mechanical equipment, delivery trucks and associated loading areas, parking cars, and use of refuse bins. There would be a potential for sleep disturbance from these types of noise under both scenarios, because all future commercial-office or RALI buildings would be located adjacent to one or more residential buildings (as close as 23 to 38 feet in some instances), a potentially significant noise impact.

If deliveries and associated unloading/loading activities occur in proximity to future residential buildings and during the nighttime hours, future residents could be subject to sleep disturbance by noise from these activities.

Noise associated with parking cars includes engines starting and car doors slamming. Such noise can cause annoyance at adjacent residential uses if it is concentrated in one area (i.e., a surface parking lot is located adjacent to residences), and if it occurs during the evening or nighttime hours, it could cause sleep disturbance, a potentially significant impact.

Noise associated with trash or refuse facilities for both future residential and commercial-office uses could disturb or annoy any future nearby residents, a significant impact.

Mitigation Measures M-NO-4a: Stationary Equipment Noise Controls, M-NO-4b: Design of Future Noise-Generating Uses near Residential Uses and M-NO-6: Design of Future Noise-Sensitive Uses, as more fully described in the Final EIR, are hereby adopted in the form set forth in the Final EIR and the MMRP and will be implemented as provided therein.

Based on the Final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measures M-NO-4a, M-NO-4b and M-NO-6 would reduce Impact NO-4 to a less-than-significant level.

Impact NO-6: The Project's occupants would be substantially affected by existing and future noise levels on the site.

The primary sources of future noise on the project site and its vicinity are from BAE Systems Ship Repair facility activities, earthmoving activities in the southwestern corner of the Illinois Parcel (PG&E Hoedown Yard), Existing Plus Project traffic noise on Illinois Street and other local streets, tonal noise from transformers at PG&E Potrero Substation, and loading dock activities along Illinois Street at the AIC Building. In addition to shipyard-related noise, there is continuous, distant background traffic noise from the I-280 freeway and other roadways. Passing Muni light rail and Caltrain rail operations also contribute to background noise.

Future noise levels at all Project parcels designated for residential use have existing noise levels that are considered Conditionally Acceptable according the City's Land Use Compatibility Chart for Community Noise ranging between 60 dBA and 70 dBA (Ldn), except residential units facing the future 21st Street on

Parcels PKN and PKS would be subject to noise levels of up to 72 dBA (Ldn), resulting in a significant impact.

The applicant would be required to demonstrate that the 45-dBA (Ldn or CNEL) interior noise standard specified by Title 24 would be met at all project residences, and additional noise attenuation measures are required to be incorporated into the project design as necessary to meet this interior standard, but also address potential sleep disturbance effects on affected parcels from adjacent or nearby industrial activities. It is noted that on-site noise levels could increase with proposed building demolition, but also decrease in the future with project implementation if existing heavy equipment operations at the Hoedown Yard cease and Project buildings are up to 90 feet tall in the northern portion of the 28-Acre Site. Such building heights could help partially shield the rest of the site from noise generated by the BAE Systems Ship Repair facility (i.e., BAE boilers and generators). Such future noise reductions, however, would ultimately depend on the final locations and heights of proposed buildings but could reduce the extent of noise attenuation required at some residential units. Compliance with Title 24's interior standard would reduce noise compatibility impacts to less-than-significant levels at all residential units except those subject to noise levels above 70 dBA (Ldn). Mitigation Measure M-NO-6 would require design elements for those units subject to noise levels of up to 72 dBA (Ldn) to meet Title 24's interior standard.

Future noise levels at all but three Project parcels designated for open space/park/playground uses are considered acceptable. However, park users could access quieter areas within these parks (away from adjacent streets), and noise levels would be considered generally acceptable at all proposed open space/park/playground areas.

Based on the Final EIR and the entire administrative record, it is hereby found and determined that implementing **Mitigation Measure M-NO-6: Design of Future Noise-Sensitive Uses**, referenced above, would reduce Impact NO-6 to a less-than-significant level.

Impact NO-7: The Project's special events would result in substantial periodic, temporary noise increases.

The proximity of future residential uses to open space uses would pose the potential for Project residents to be disturbed or annoyed by noise from outdoor active recreation/open space activities. Noise levels associated with the proposed café terrace, social lawn, beer garden, food/beverage operations, picnic areas and the playground would be typical of an urban, mixed-use residential area and would be less than significant in regards to compatibility with nearby sensitive receptors. The potential noise conflicts would be greatest where amplified sound systems would be used and/or events occur during the more noise-sensitive late evening/nighttime hours when sleep disturbance could occur.

Promoters of any proposed outdoor events on the site's outdoor plaza that would use amplified sound or music would be required to obtain a permit from the City prior to the event. This permit process requires a public hearing and includes a requirement for neighborhood outreach. Article 1, Section 47.2 of the Police Code, while generally focused on truck-mounted amplification equipment, regulates the use of any sound amplifying equipment, whether truck-mounted or otherwise. Hours of operation are restricted to between 9:00 a.m. and 10:00 p.m., unless permitted by the San Francisco Entertainment Commission.

Due to uncertainties as to the nature and extent of future outdoor events at the project site, the use of amplified sound equipment could still have the potential for significant noise impacts to nearby sensitive receptors in excess of standards established in the San Francisco General Plan or San Francisco Noise Ordinance.

Mitigation Measure M-NO-7: Noise Control Plan for Special Outdoor Amplified Sound, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR and the MMRP and will be implemented as provided therein.

Based on the Final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measure M-NO-7, and compliance with Sections 47.2, 1060.1 and 2909 of the Police Code, would reduce Impact NO-7 to less than significant.

D. Air Quality.

Impact AQ-3: Construction and operation of the Project would generate toxic air contaminants, including DPM, which would expose sensitive receptors to substantial pollutant concentrations.

Site preparation activities, such as demolition, excavation, grading, foundation construction, and other ground-disturbing construction activity, in addition to the long-term emissions from the Project's mobile and stationary sources would affect localized air quality during the construction phases of the Project. Neither the proposed receptors nor the nearest off-site receptors are located within an area that currently meets the APEZ criteria. Therefore, a Health Risk Assessment (HRA) was conducted for the Project to determine whether the Project would, in combination with other existing sources in the area, result in a given off-site or on-site receptor meeting the APEZ criteria.

Excess Cancer Risk from Construction and Operation Emissions at Off-Site Receptors

The HRA showed that unmitigated emissions plus existing background emissions would not result in a total excess cancer risk of 100 in one million at the most impacted off-site receptor. This would be below the level for causing a new location to meet the APEZ excess cancer risk criteria, and thus would be a less-than-significant impact.

Excess Cancer Risk from Construction and Operation Emissions at On-Site Receptors

Both the Maximum Residential Scenario and the Maximum Commercial Scenario would include development of residential units, which is considered a sensitive land use for purposes of air quality evaluation.

The HRA showed that the project's emissions would combine with existing background concentrations and would exceed the APEZ excess cancer risk criteria of an excess cancer risk of 100 per one million persons exposed. Therefore, the impact with regard to increased cancer risk would be significant for on-site receptors for the Maximum Residential and Maximum Commercial Scenarios. The mitigated condition assumed in the HRA included emission reductions quantified for **Mitigation Measures M-AQ-1a: Construction Emissions Minimization, M-AQ-1b: Diesel Backup Generator Specifications, M-AQ-1c: Use Low- and Super-Compliant VOC Architectural Coatings in Maintaining Buildings through**

CC&Rs, and M-AQ-1f: **Transportation Demand Management**. Implementation of Mitigation Measure M-AQ-1a alone would be sufficient to reduce this impact to a less-than-significant level.

PM2.5 Concentrations from Construction and Operation Emissions at Off-Site Receptors

The HRA showed that unmitigated emissions in combination with background concentrations would result in PM2.5 concentrations of 8.5 $\mu\text{g}/\text{m}^3$ for both scenarios, which would be below the levels for causing a new location to meet the APEZ criteria of 10 $\mu\text{g}/\text{m}^3$. Therefore, this would be a less than significant impact.

PM2.5 Concentrations from Construction and Operation Emissions at On-Site Receptors

The HRA showed that unmitigated emissions in combination with background concentrations would result in PM2.5 concentrations of 8.6 $\mu\text{g}/\text{m}^3$ for both scenarios, which would be below the levels for causing a new location to meet the APEZ criteria of 10 $\mu\text{g}/\text{m}^3$. Therefore, this would be a less than significant impact.

Mitigation Measure M-AQ-1a: Construction Emissions Minimization, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR and the MMRP and will be implemented as provided therein.

Based on the Final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measure M-AQ-1a would reduce Impact AQ-3 to less than significant.

Impact AQ-4: The Maximum Residential or Maximum Commercial Scenarios would conflict with implementation of the Bay Area 2010 Clean Air Plan.

The most recently adopted air quality plan for the SFBAAB is the 2010 Clean Air Plan. The Clean Air Plan includes 55 control measures aimed at reducing air pollutants in the SFBAAB. Twenty-five of these measures are suited to implementation through local planning efforts or project approval actions. Without certain mitigation measures incorporated into the Project, the Project would not include applicable control measures from the 2010 Clean Air Plan and this impact would be significant. As such, mitigation described below requires incorporation of applicable measures, the Project would include the applicable control measures. Transportation control measures that are identified in the Clean Air Plan are implemented by the San Francisco General Plan and the Planning Code, for example, through the City's Transit First Policy, the bicycle parking requirements, and transit impact development fees. The Project will comply with these policies and regulations.

Mitigation Measures M-AQ-1f: Transportation Demand Management, M-AQ-1g: Additional Mobile Source Control Measures, and M-AQ-1h: Offset of Operational Emissions, as more fully described in the Final EIR, are hereby adopted in the form set forth in the Final EIR, and the attached MMRP, and will be implemented as provided therein.

Based on the Final EIR and the entire administrative record, it is hereby found and determined that with implementing Mitigation Measures M-AQ-1a (referenced above), M-AQ-1f, AQ-1g, and M-AQ-1h, Impact AQ-4 would be less than significant.

Impact C-AQ-2: The Maximum Residential or Maximum Commercial Scenarios, in combination with past, present, and reasonably foreseeable future development in the project area, would contribute to cumulative health risk impacts on sensitive receptors.

The HRA takes into account the cumulative contribution of existing localized health risks to sensitive receptors from sources included in the Citywide modeling plus the Project's sources. There are, however, other future projects, whose emissions have not been incorporated into the existing citywide health risk modeling because analysis with respect to CEQA for these future project either has not yet been prepared or is pending.

There are 16 cumulative projects within the 1,000 foot zone of influence, two of which are already completed and/or occupied. Another one of these cumulative projects is for the renewal of the lease for BAE Systems whose operations were already considered in the HRA analysis. The remaining projects are either residential, most of which have a ground floor retail or commercial component, or the proposed development of Crane Cove Park.

Cumulative year 2040 conditions without the project show lower background risks than the existing baseline cancer risks and consequently, addition of the project's risks cancer risk to 2040 conditions would similarly not result in new locations meeting the APEZ criteria that otherwise would not without the project with mitigation. Therefore, the project plus cumulative development projects and background risks in 2040 would not result in significant health risk impacts and the analysis in Impact AQ-3 presents a worst-case cumulative health risk analysis.

The Project would be required to implement **Mitigation Measure M-AQ-1a: Construction Emission Minimization**, referenced above. Additionally, **Mitigation Measure M-AQ-1b: Diesel Backup Generator Specifications**, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR, and the attached MMRP, and will be implemented as provided therein.

Based on the Final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measures M-AQ-1a and M-AQ-1b would reduce the Project's contribution to cumulative air quality impacts to a less-than-significant level.

E. Wind and Shadow

Impact WS-1: The phased development of the Project would temporarily alter wind in a manner that substantially affects public areas.

Although the Project at full build-out would generally slightly improve wind conditions on the project site, potentially significant interim wind impacts may occur prior to the completion of construction. Due to phased build-out, a particular building configuration resulting from partial completion of the Project could last for one or more years, creating the potential for interim wind impacts.

The potential for exceedances of the wind hazard criterion during the phased construction period would occur under the Maximum Residential Scenario and the Maximum Commercial Scenario. Additionally, the ultimate build-out of the Project might not maximize the development potential under either of these two scenarios. Such wind hazards would likely exist until buildings on adjacent parcels are completed and provide shelter from the unabated force of the wind. These hazards would be a significant impact.

Mitigation Measure M-WS-1: Identification and Mitigation of Interim Hazardous Wind Impacts, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR, and the attached MMRP, and will be implemented as provided therein.

Based on the Final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measure M-WS-1 would reduce Impact WS-1 to a less-than- significant level.

Impact WS-2: For public open space built on rooftops, the Project would alter wind in a manner that affects those public open spaces.

If Parcels C1 and C2 are developed with structured parking, public open space would be provided on the rooftops. Under the Maximum Residential Scenario and Maximum Commercial Scenario, the wind hazard criterion of Planning Code Section 148 would be exceeded on the rooftop of Building C1 at test point 143 for 1 hour per year. Under the Maximum Commercial Scenario - Pedestrian Passageway Option, test point 143 would have 2 hours of exceedance of the hazard criterion. In all three modeled instances, Building C1 was modeled at a maximum height of 90 feet. These exceedances represent a potentially significant impact.

Mitigation Measure M-WS-2: Wind Reduction for Rooftop Winds, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR, and the attached MMRP, and will be implemented as provided therein.

Based on the Final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measure M-WS-2 would reduce Impact WS-2 to a less-than- significant level.

F. Biological Resources

Impact BI-1: Construction and operation of the Project would have a substantial adverse effect either directly or through habitat modifications on migratory birds and/or on bird species identified as special status in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.

Construction Impacts

Construction activities within both the 20th/Illinois Parcel and the 28-Acre Site, especially those that involve heavy machinery, may adversely affect nesting bird species within 0.25 mile of the project site during the nesting season (January 15–August 15).

Birds currently residing in both the terrestrial and marine study areas are accustomed to varying levels of ambient noise emanating from existing human activities in the area. Typical noise levels for some construction activities anticipated during project implementation would exceed ambient levels in the project vicinity. Construction activities that would substantially alter the noise environment could disrupt birds attempting to nest, disrupt parental foraging activity, or displace mated pairs with territories in the project vicinity. Given the long build-out period for the Project, the potential impacts of noise and visual disturbance to breeding birds are likely to occur over several nesting seasons, with the highest potential impacts associated with initial disturbance to idle parcels of the site.

As the project progresses and the level of disturbance to the site increases with parcel development, nesting birds are less likely to be attracted to the site and the potential for construction-related impacts to birds and their nests will decrease over time. The loss of an active nest attributable to project activities would be considered a significant impact under CEQA.

Disruption of nesting migratory or native birds is not permitted under the MBTA or California Fish and Game Code. Thus, the loss of any active nest by, for example, removing a tree, or shrub, or demolishing a building containing an active nest or causing visual or noise disturbance which leads to nest abandonment must be avoided under Federal and California law.

Mitigation Measures M-BI-1a: Worker Environmental Awareness Program Training and M-BI-1b: Nesting Bird Protection Measures, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR, and the attached MMRP, and will be implemented as provided therein.

Based on the Final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measures M-BI-1a and M-BI-1b, in combination with compliance with the MBTA and California Fish and Game Code, would avoid or reduce Impact BI-1 to a less-than- significant level.

Operational Impacts

Direct effects on migratory as well as resident birds moving through the project site could include bird death or injury from collisions with lighted structures, and bird exhaustion and death due to light attraction, as well as bird collisions with glass during the daytime. Indirect effects to migratory birds could include delayed arrival at breeding or wintering grounds, and reduced energy stores necessary for migration, winter survival, or subsequent reproduction.

Due to the surrounding urban setting, the Project is not expected to appreciably increase the overall amount of lighting along the San Francisco waterfront as a whole, considering existing nighttime lighting conditions within the project site and adjacent development along the eastern shoreline from San Francisco Bay to AT&T Park; however, avian collisions with glass or reflective surfaces used in the proposed buildings could result in mortality, which would be a significant impact under CEQA.

The Project would comply with San Francisco's adopted Standards for Bird-Safe Buildings (Planning Code Section 139) and would incorporate specific design elements into the development to avoid or minimize avian collisions with buildings or other project features.

Based on the Final EIR and the entire administrative record, it is hereby found and determined that Project compliance with the *Standards for Bird-Safe Buildings*, as administered by the San Francisco Planning Department, would avoid or minimize the adverse effects of avian collisions; therefore, no additional mitigation is necessary.

Impact BI-2: Construction of the Project would have a substantial adverse effect either directly or through habitat modifications on bats identified as special-status in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or the United States Fish and Wildlife Service.

Common bats (Mexican free-tailed bat) and special-status bats (Pallid bat and Yuma myotis) have the potential to roost in existing vacant or underutilized buildings, other human-made structures, and trees within or near the 20th/Illinois Parcel and 28-Acre Site of the Project. Destruction of an occupied, non-breeding bat roost, resulting in the death of bats; disturbance that causes the loss of a maternity colony of bats (resulting in the death of young); or destruction of hibernacula are prohibited under the California Fish and Game Code and would be considered a significant impact. This may occur due to direct or indirect disturbances.

Demolition of Buildings 11, 15, 16, 19, 25, 32, and 66, and rehabilitation of Buildings 2, 12, and 21 could result in direct mortality of or indirect disturbance to roosting special-status bats, if present. Additionally, any bats roosting in eucalyptus trees in the project site could be disturbed by periphery construction activity. Direct mortality of special-status bats would be a significant impact.

Mitigation Measure M-BI-2: Avoidance and Minimization Measures for Bats, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR, and the attached MMRP, and will be implemented as provided therein.

Based on the Final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measure M-BI-2 would reduce Impact BI-2 to a less-than-significant level.

Impact BI-3: Construction of the Project would have a substantial adverse effect, either directly or through habitat modifications, on aquatic species identified as candidate, sensitive, or special-status species in local, regional, or Federal plans, policies, or regulations, or by California Department of Fish and Wildlife, United States Fish and Wildlife Service, or National Oceanic and Atmospheric Administration.

San Francisco Bay waters adjacent to the Project site are used by multiple special-status marine species known to be present in the project site, including longfin smelt, green sturgeon, Pacific herring, harbor seals, California sea lions, and native Olympia oysters. In addition to FESA-, CESA-, and MMPA-listed species, as well as species of special concern, San Francisco Bay waters adjacent to the project site are used by 16 fish species managed by one of three Fisheries Management Plans under the Magnuson-Stevens Act.

Accidental Discharge and Stormwater Run-Off Impacts

The potential accidental discharge of hydrocarbon-containing materials (fuel, lubricating oils, construction materials), construction debris, and packing materials from staged equipment, building materials, and demolition debris that might be located or staged close to or adjacent to San Francisco Bay waters could pose a short-term and temporary risk of exposing these taxa to toxic contaminants and non-edible forage. Normal BMPs implemented as part of City of San Francisco, BCDC, and State Water Quality Control Board permits are expected to make the impact of these potential sources of contamination and their impact on special-status marine species less than significant.

Demolition activities at the project site could also result in extensive ground disturbance and increased surface run-off through existing and future stormwater drains to San Francisco Bay, resulting in increased sedimentation and organic and inorganic contaminant loading to San Francisco Bay waters with low-level

exposure to protected species. Potential impacts on special-status fish and marine mammal species due to increased contaminant loading to San Francisco Bay waters from low-level contaminated sediments could be significant if uncontrolled. Implementation of normal construction and demolition BMPs required as part of City of San Francisco, regional (BCDC), and State (State Water Quality Control Board) permits would be expected to reduce these impacts to a less-than-significant level. In addition, specific requirements issued by the RWQCB for stormwater discharges within the City and County of San Francisco in accordance with the Statewide stormwater permit contain additional actions to prevent and/or reduce project site sediment from reaching Bay waters and causing any significant effect on resident offshore biological resources.

Sewer/Stormwater Options

The Project proposes to upgrade the sewer and stormwater collection and transport system according to one of three options: a combined sewer and stormwater system, a separated sewer and stormwater system, and a hybrid option where a combined sewer and stormwater system would be located only in the eastern portion of the project site, with the rest of the site having a separated sewer and stormwater system. All three options would include repaired or improved outfalls at 20th and 22nd streets; however, in a separated and hybrid system option, a potential new outfall at 21st Street would be constructed in San Francisco Bay. The repair and potential construction of these outfalls would be expected to result in short-term disturbance to existing subtidal soft and hard substrate habitat and associated biological communities. Although the potential disturbance and/or loss of these habitats and associated marine communities could have an effect on special-status fish and marine mammal foraging, the overall effect would be minor and less than significant because of the very small area being disturbed and the temporary nature of the disturbance. Once installed and repaired, these stormwater outfalls and any temporarily disturbed subtidal habitat associated with them would be expected to recover naturally and quickly to pre-disturbance conditions.

Additionally, planned upgrades to the project site stormwater and sanitary waste collection, transport, and treatment system would ultimately reduce the contaminant loading of organic, inorganic, and fecal bacteria into San Francisco Bay waters. Therefore, potential impacts to special-status species from the improved stormwater and sanitary wastewater system and discharges to San Francisco Bay would be less than significant.

Sheet Pile and Soldier Pile Impacts

The repair of the bulkhead would entail the installation of either a new sheet pile bulkhead or a soldier pile wall seaward of the existing bulkhead. The construction activities associated with either option would be expected to result in the temporary loss of the sessile marine invertebrate community currently present, loss of a small area of soft substrate intertidal habitat in Reach I and associated marine communities, and potential temporary disturbance to soft and hard substrate habitat and associated marine communities where personnel and equipment transit to work on the reconstructed bulkhead. Recovery of disturbed intertidal habitat to pre-disturbance conditions is expected to occur naturally within 6 to 18 months with no remediate actions required. Consequently, these disturbances are expected to be less than significant, and no mitigation is required.

The installation of either the sheet pile or soldier wall bulkhead (using precast H piles) for improving Reach II, could result in the generation of potential underwater noise from either vibratory or impact pile-driving hammers used to install the pilings. This underwater noise could have a damaging effect on special-status fish species and marine mammals. Further, although the potential for acute barotrauma to occur is limited, behavioral changes in fish movement or activity can be expected.

The use of vibratory pile drivers rather than impact pile drivers, or the application of established industry BMPs to reduce underwater noise generation from either equipment type, would be expected to substantially reduce underwater pile-driving noise, so that the potential impact would be less than significant.

However, if the sheet piling or H-piling installation occurs when the tide is in, the potential exists to generate underwater noise levels that could result in significant impacts to special-status fish species, and multiple marine mammal species.

Mitigation Measure M-BI-3: Pile Driving Noise Reduction for Protection of Fish and Marine Mammals, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR, and the attached MMRP, and will be implemented as provided therein.

Based on the Final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measure M-BI-3 would reduce Impact BI-3 to a less-than-significant level.

Impact BI-4: The Project would have a substantial adverse effect on Federally-protected waters as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means.

San Francisco Bay is considered a navigable water of the United States and is therefore considered jurisdictional waters of the U.S. regulated by the Corps under Section 404 of the CWA up to the high tide line, and under Section 10 of the Rivers and Harbors Act up to the mean high water mark. These waters also are regulated by the RWQCB as Waters of the State and by BCDC, which has jurisdiction over all areas of San Francisco Bay that are subject to tidal action, as well as a 100-foot shoreline band.

Project activities such as demolition, extensive ground disturbance, grading, and shoreline improvements could result in increased surface run-off through stormwater drains to San Francisco Bay, or erosion or siltation into San Francisco Bay. In the case of soil erosion or an accidental release of damaging materials during construction, the Project could indirectly impact water quality, a significant impact. However, because the project site exceeds 1 acre in size, the project sponsors or future developers would be required to apply for coverage under the Construction General Stormwater Permit to comply with Federal National Pollutant Discharge Elimination System (NPDES) regulations (NPDES permit), and would be required to develop and implement a Stormwater Pollution Prevention Plan (SWPPP) that identifies appropriate construction BMPs designed to prevent pollutants from coming into contact with stormwater and to keep all products of erosion and stormwater pollutants from moving offsite into receiving waters. Implementation of the SWPPP would maintain the potential for degradation of water quality in wetlands and other jurisdictional waters at a less-than-significant level.

The Project includes shoreline improvements to the 28-Acre Site that would repair or replace existing shoreline protection and the existing bulkhead along Reach II with a new sheet piling or soldier wall adjacent to the east (seaward) of the existing concrete bulkhead. Additionally, planned upgrades to the project site's stormwater and sanitary waste collection, transport, and treatment system could include rebuilding the outfalls at 20th and 22nd streets or the installation of a new outfall at 21st Street under the separated system approach or the hybrid system approach and possible cleanup and rehabilitation of the intertidal areas in Reaches I and IV. Should this option be selected, these activities would result in both temporary impacts to jurisdictional waters during repair of the existing shoreline protection, bulkhead, or 20th and 22nd streets outfalls, or installation of the new 21st Street outfall, as well as potential permanent impacts through placement of fill material associated with a new bulkhead and/or a new 21st Street stormwater outfall, which would be considered a significant impact.

Project activities resulting in the discharge of Bay fill or other disturbance to jurisdictional waters (i.e., below the high tide line) require permit approval from the Corps, and a water quality certification and/or waste discharge requirements from the RWQCB. Those projects within San Francisco Bay or within the shoreline band require a permit from BCDC. Collectively, these regulatory agencies and the permits and authorizations they issue for the Project would require that placement of new fill in jurisdictional waters be avoided or minimized to the maximum extent practicable while still accomplishing the Project's purpose, and would specify an array of measures and performance standards as conditions of Project approval. In addition, permanent placement of new fill resulting in the loss of jurisdictional waters in excess of that necessary for normal maintenance may trigger a requirement for compensatory mitigation that will be aimed at restoring or enhancing similar ecological functions and services as those displaced. The types, amounts, and methods of compensatory measures required will differ between the permitting agencies depending on the specific resources they regulate and the policies and guidelines they implement.

Mitigation Measure M-BI-4: Compensation for Fill of Jurisdictional Waters, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR, and the attached MMRP, and will be implemented as provided therein.

Based on the Final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measure M-BI-4 would reduce Impact BI-4 to a less-than-significant level.

Impact BI-5: The Project would interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.

Terrestrial

Construction of the Project could affect birds attempting to nest within the project site directly through nest destruction or avian mortality, and indirectly through an increase in the ambient noise environment that might disrupt breeding behavior, discourage nesting, or cause nest abandonment. Compliance with the MBTA and California Fish and Game Code, and compliance with the San Francisco *Standards for Bird-Safe Buildings* are expected to reduce potential construction-related effects on birds nesting within the project site and surrounding vicinity and potential collision hazards for migrating birds to less-than-significant levels.

Marine

If impact hammers are used for pile driving, harbor seals and California sea lions could be subjected to underwater noise levels high enough to cause avoidance behavior while they migrate to or from haul-out or pupping locations or during normal foraging. Therefore, the potential impact from impact-hammer-generated noise on special-status marine mammal species, including harbor seals and California sea lions, migrating to or from haul-out and pupping sites or foraging could be significant.

There is a very low probability of any salmonids being present in the shallow waters adjacent to the project site where potential underwater noise levels would be high enough to result in any behavioral disturbance. As a consequence, any potential disturbance to migrating salmonids (steelhead and salmon) would be very minimal in the waters adjacent to the project site.

Based on the Final EIR and the entire administrative record, it is hereby found and determined that implementation of **Mitigation Measure M-BI-3: Pile Driving Noise Reduction for Protection of Fish and Marine Mammals**, referenced above, would reduce Impact BI-5 to a less-than-significant level.

Impact C-BI-1: The Project, in combination with past, present, and reasonably foreseeable future projects in the site vicinity, would result in a cumulatively considerable contribution to significant biological resources impacts.

Terrestrial

The Project would have a limited effect on terrestrial biological resources that inhabit the Project site and surrounding vicinity primarily because the existing built-out environment of the study area offers marginal habitat value to resident species. Short-term construction impacts and long-term operational impacts to nesting birds and roosting bats, and the mitigation of the Project's impacts are discussed in this Section above under Impact BI 1 an BI-2, including **Mitigation Measures M-BI-1a: Worker Environmental Awareness Program Training** and **M-BI-1b: Nesting Bird Protection Measures**, and **M-BI-2: Avoidance and Minimization Measures for Bats**. These impacts would not be cumulatively considerable.

Development of the projects on San Francisco's eastern waterfront is likely to have limited effects on nesting birds and roosting bats, similar to those with the Project; however, given the limited extent of existing habitat and poor habitat quality in these planned development areas, project implementation would not result in a cumulatively considerable impact on terrestrial resources. Mitigation measures similar to those for the Project would reduce the incremental effect of the individual projects on such resources.

Landside redevelopment projects in the vicinity of the Project may result in similar temporary impacts to biological resources considered under the project analysis; however, given their existing conditions and location away from the eastern waterfront, these project sites likely offer even less habitat for terrestrial resources than the Project site.

None of the potential adverse effects identified for the Project would result in a cumulative effect with other approved or anticipated projects considered in this analysis.

Marine

The Project would have limited activities and potential effects on marine habitats and associated biological communities within the Central Bay basin waters and marine habitats adjacent to the Project site, primarily because limited project components would occur below the high tide mark. Potential effects on marine habitat and biological taxa, and the mitigation of the Project's impacts are discussed in this Section above under Impact BI-3, BI-4, and BI-5, including **Mitigation Measure M-BI-3: Pile Driving Noise Reduction for Protection of Fish and Marine Mammals** and **M-BI-4: Compensation for Fill of Jurisdictional Waters**.

All of these potential impacts are common to any project sited on the San Francisco Bay shoreline. Despite this commonality with other similar projects, none of these Project impacts are anticipated to result in a cumulatively considerable contribution to a significant cumulative impact with other approved or reasonably foreseeable projects.

Based on the Final EIR and the entire administrative record, it is hereby found and determined that implementation of **Mitigation Measures M-BI-1: Worker Environmental Awareness Program Training**, **M-BI-2: Avoidance and Minimization Measures for Bats**, **M-BI-3: Pile Driving Noise Reduction for Protection of Fish and Marine Mammals** and **M-BI-4: Compensation for Fill of Jurisdictional Waters**, all referenced above, the Project, in combination with past, present, and reasonably foreseeable future projects in the site vicinity, would not result in a cumulatively considerable contribution to significant biological resources impacts.

G. Geology and Soils.

Impact GE-3: The Project site would not be located on a geologic unit or soil that is unstable, or that could become unstable as a result of the Project.

Settlement During Construction

The Project could induce ground settlement during construction as a result of excavation for construction of utilities as well as for the building foundations and basement levels, construction dewatering, and heave during pile installation.

Pile driving may cause the ground to heave up to several inches, and the heave could adversely affect structures adjacent to the pile driving work, such as existing utilities and streets as well as the 20th Street Historic Core, the existing historic buildings that would be retained on the project site (Buildings 2, 12, and 21), and buildings constructed as part of the Project during earlier development phases.

DBI or the Port would require a site-specific geotechnical report for the specific developments to be constructed under the Project in accordance with Section 1803 of the San Francisco and Port of San Francisco Building Codes. DBI or the Port would review the report to ensure that the potential settlement effects of excavation, construction-related dewatering, and pile driving are adequately addressed. With implementation of the recommendations provided in the site-specific geotechnical report, subject to review and approval by DBI or the Port as part of the building permit approval process, as well as monitoring by the project sponsor (if required), impacts related to the settlement and subsidence due to

construction on soil that is unstable, or that could become unstable as a result of excavation, dewatering, and pile driving, would be less than significant. No mitigation is necessary.

Settlement and Unstable Conditions During Operation

Once constructed, differential settlement within the Young Bay Mud could occur as a result of placement of up to 5 feet of soil to raise the site grade. In addition, cuts made into the bedrock of the remnant of Irish Hill for the construction of the new 21st Street could become unstable if not supported. Rock fall hazards also would be present near the remnant of Irish Hill and exposed bedrock cuts. The dilapidated pier extending from the project site into the Bay could also fail if it is used by site occupants and visitors.

Long-term dewatering would not be required because the below-grade walls and basement slabs would be waterproofed and designed to withstand the anticipated hydrostatic pressure in accordance with the recommendations of the preliminary geotechnical evaluations that have been completed for the Project. The design of these features would be further evaluated in the site-specific geotechnical report required under Section 1803 of the San Francisco and Port of San Francisco Building Codes.

The preliminary geotechnical evaluations for the Project estimate that the placement of fill throughout the site to raise site grades by up to 5 feet would generate large amounts of total and differential settlement in areas underlain by Young Bay Mud. These settlement effects would be restricted to those areas north and east of the historic 1869 shoreline that are underlain by artificial fill, marsh deposits, and Young Bay Mud. The proposed streets and non-building improvements also could experience settlement in areas underlain by Young Bay Mud where fill is placed. The magnitude of settlement would depend on several factors, including the thickness of fill, the thickness of Young Bay Mud, and the state of consolidation of the Young Bay Mud.

Specific intervention would be further refined in the site-specific geotechnical report and would be subject to review and approval by DBI or the Port as part of the building permit approval process. Therefore, impacts related to settlement following construction of the proposed buildings would be less than significant. No mitigation is necessary.

The existing near-vertical cuts in the serpentinite bedrock of the project site, including the remnant of Irish Hill, could be subject to rock fall hazards, as noted in the preliminary geotechnical evaluation for the Illinois Parcels. Any rock fall could potentially damage nearby structures, including buildings on Parcels PKS, C-1, and C-2, or injure site occupants, particularly visitors to the Irish Hill playground and pedestrians on 21st Street. Therefore, rock fall hazards would be significant.

A dilapidated pier extends from the project site into the Bay immediately northeast of the slipways. Although the pier is not a geologic unit, its use by future site occupants and visitors could cause it to fail due to the increased loads, which would be a significant impact.

Mitigation Measure M-GE-3a: Reduction of Rock Fall Hazards and M-GE-3b: Signage and Restricted Access to Pier 70, as more fully described in the Final EIR, are hereby adopted in the form set forth in the Final EIR, and the attached MMRP, and will be implemented as provided therein.

Based on the Final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measure M-GE-3a and M-GE-3b would reduce Impact GE-3 to a less-than-significant level.

Impact GE-6: The Project would directly or indirectly destroy a unique paleontological resource or site.

Given that sedimentary rocks of the Franciscan Complex have produced significant fossils important for understanding the age, depositional environments, and tectonic history the San Francisco area, paleontological resources could exist in the sedimentary rocks of the Franciscan Complex that underlie the project site. Project construction activities, including excavation for the planned basement levels and anticipated pile-driving activities, could disturb significant paleontological resources if such resources are present within the project site. Unless mitigated, implementation of the Project could impair the significance of unknown paleontological resources on the project site; this would be considered a significant impact

In addition to **Mitigation Measures M-CR-1a: Archaeological Testing, Monitoring, Data Recovery and Reporting**, and **M-CR-1b: Interpretation**, referenced above, **Mitigation Measure M-GE-6: Paleontological Resources Monitoring and Mitigation Program**, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR, and the attached MMRP, and will be implemented as provided therein.

Based on the Final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measures M-CR-1a, M-CR-1b and M-GE-6 would reduce Impact GE-6 to a less-than-significant level.

H. Hydrology and Water Quality.

Impact HY-2: The Project could violate a water quality standard or waste discharge requirement or otherwise substantially degrade water quality, but runoff from the Project could exceed the capacity of a storm drain system or provide a substantial source of stormwater pollutants.

The Project includes three options for stormwater and wastewater management: Option 1, Combined Sewer System; Option 2, Separate Wastewater and Stormwater Systems; and Option 3, Hybrid System.

Water Quality Effects Related to Exceedance of Water Quality Criteria and Waste Discharge Requirements

Discharges to the Combined Sewer System

Option 1, Combined Sewer System, and Option 3, Hybrid System, would both involve discharges of wastewater and stormwater to the City's combined sewer system, and Option 2, Separate Wastewater and Stormwater Systems, would involve discharges of wastewater to the combined sewer system. However, these discharges would not violate water quality standards or otherwise degrade water quality because

all discharges would be in accordance with City regulatory requirements that have been developed to ensure compliance with the Bayside NPDES permit.

Wastewater discharges from future development projects would be subject to the permit requirements of Article 4.1 of the San Francisco Public Works Code and supplemented by SFPW Order No. 158170. Accordingly, future commercial users of the site would be required to develop and implement a pollution prevention program and comply with the pretreatment standards and discharge limitations specified in Article 4.1. These dischargers would also be required to monitor the discharge quality for compliance with permit limitations.

Additionally, Stormwater discharges to the combined sewer system under Options 1 and 3 would be subject to Article 4.2 of the San Francisco Public Works Code, Section 147 and the San Francisco Stormwater Management Requirements and Design Guidelines that apply to future development projects that create and/or replace 5,000 square feet or more of impervious surfaces.

All wastewater and stormwater discharges to the combined sewer system would be treated at the SEWPCP and Bayside wet-weather facilities in compliance with the Bayside NPDES permit for discharges from the SEWPCP, North Point Wet Weather Facility, and all of the Bayside wet-weather facilities. Therefore, project-related discharges to the combined sewer system during operation under all three options would not cause a violation of water quality standards or WDRs and would not otherwise substantially degrade water quality. This impact would be less than significant for discharges to the combined sewer system, and no mitigation is necessary.

Discharges to a Separate Stormwater System

Under Option 2, Separate Wastewater and Stormwater Systems, and Option 3, Hybrid System, future development projects would discharge stormwater to new separate stormwater systems constructed under the Project. These discharges would not violate water quality standards or otherwise degrade water quality because all discharges would be in accordance with City regulatory requirements that have been developed to ensure compliance with the Small MS4 General Stormwater Permit.

Stormwater runoff from the project site to the separate stormwater system would be managed in accordance with Article 4.2 of the San Francisco Public Works Code, Section 147, and the Stormwater Management Requirements and Design Guidelines.

Article 4.2 of the San Francisco Public Works Code, Section 147, and the Stormwater Management Requirements and Design Guidelines implement the stormwater treatment requirements of the Small MS4 General Stormwater Permit. Therefore, project-related stormwater discharges to the separate stormwater system that would be constructed under Options 2 and 3 would not cause a violation of water quality standards or WDRs and would not otherwise substantially degrade water quality. This impact would be less than significant for discharges to the separate stormwater system, and no mitigation is necessary.

Water Quality Effects Related to Exceeding the Capacity of the Stormwater System

None of the three stormwater management options would result in stormwater runoff that would exceed the capacity of the stormwater conveyance system because the new stormwater systems would be

constructed in accordance with the City Subdivision Regulations. Accordingly, the new separate stormwater system and components of the combined sewer system would be sized to accommodate the 5-year storm, and flows for the 100-year storm would be directed to San Francisco Bay via streets and other approved corridors that would be designed to accommodate 100-year flood flows in excess of the 5-year storm in accordance with the subdivision regulations. Therefore, water quality effects related to exceeding the capacity of the stormwater system would be less than significant, and no mitigation is necessary.

Water Quality Effects Related to Additional Sources of Polluted Runoff

Option 1, Combined Sewer System, and Option 3, Hybrid System, would both involve discharges of stormwater to the City's combined sewer system. Option 2, Separate Wastewater and Stormwater Systems, and Option 3 would both involve discharges of stormwater to the separate stormwater system that would be built for the Project. However, these discharges would not provide an additional source of stormwater pollutants, because all discharges would be in accordance with Article 4.2, Section 147 of the San Francisco Public Works Code and Stormwater Management Requirements and Design Guidelines that have been developed to ensure compliance with the Bayside NPDES permit and the Small MS4 General Stormwater Permit. With implementation of the source control and treatment BMPs in accordance with Article 4.2 of the San Francisco Public Works Code, Part 147, the Project would not provide an additional source of stormwater pollutants, and this impact would be less than significant. No mitigation is necessary.

Water Quality Effects Related to Changes in Combined Sewer Discharges

The project site is located within the 20th Street sub-basin of the City's combined sewer system. The Bayside NPDES permit requires that the wet-weather facilities within this sub-basin be designed for a long-term average of no more than 10 CSD events per year. The permit allows for this annual average to be exceeded in any particular year as long as the long-term average is maintained at the appropriate level. However, a permanent increase in wastewater flows could affect the ability to maintain the long-term average of no more than 10 CSD events, potentially resulting in a violation of the NPDES permit, a significant water quality impact.

Option 1: Combined Sewer System

Under Option 1, Combined Sewer System, both wastewater and stormwater from the project site would be conveyed to the new 20th Street Pump Station for ultimate conveyance to the SEWPCP via the City's combined sewer system. Without sufficient pumping capacity, the new pump station could cause the frequency of CSDs from the 20th Street sub-basin and/or downstream basins to increase beyond the long-term average of 10 CSD events per year, in violation of the Bayside NPDES permit. This would constitute a significant impact.

Option 2: Separate Wastewater and Stormwater Systems

Under Option 2, Separate Wastewater and Stormwater Systems, wastewater from the project site would continue to be conveyed to the City's combined sewer system for treatment at the SEWPCP. A new separate stormwater system would also be constructed to convey stormwater flows to a new outfall located near the foot of the realigned 21st Street. This option would eliminate all stormwater flows from

the project site to the combined sewer system, although stormwater flows from the 20th Street Historic Core site and BAE Systems Ship Repair facility to the north of 20th Street would continue to discharge to the combined sewer system.

Under this option, wet-weather discharges to the new pump station would consist of wastewater from the entire sub-basin, and stormwater from the 20th Street Historic Core and BAE Systems site. Because of the elimination of stormwater discharges from the project site and the addition of wastewater discharges from the project site to the new 20th Street Pump Station, future combined sewer discharges would consist of a much larger portion of sanitary sewage and industrial wastewater relative to existing conditions. The Bayside NPDES permit includes collection system management requirements that require the combined sewer system to be operated in a manner that does not result in a release of untreated or partially treated wastewater. Therefore, this option could result in a violation of the Bayside NPDES permit without appropriate design of the proposed pump station. This would constitute a significant impact.

Option 3: Hybrid System

Under Option 3, Hybrid System, wastewater from the entire project site and stormwater from the areas of the project site to the west of the proposed Maryland Street would be conveyed to the new pump station for ultimate conveyance to the SEWPCP via the City's combined sewer system. Only the small area to the east of the proposed Maryland Street would be served by a new separate stormwater system that would discharge stormwater to the Central Basin of Lower San Francisco Bay. The required capacity of the new pump station would be less than required under Option 1, because the total flows to the new pump station would be less under this option. However, without sufficient pumping capacity, the new pump station could cause the frequency of CSDs to increase beyond the long-term average of 10 CSD events per year specified in the Bayside NPDES Permit, a significant impact.

Mitigation Measure M-HY-2a: Design and Construction of Proposed Pump Station for Options 1 and 3 and Mitigation Measure M-HY-2b: Design and Construction of Proposed Pump Station for Option 2, as more fully described in the Final EIR, are hereby adopted in the form set forth in the Final EIR, and the attached MMRP, and will be implemented as provided therein.

Based on the Final EIR and the entire administrative record, it is hereby found and determined that compliance with applicable regulations and implementing Mitigation Measures M-HY-2a and M-HY-2b Impact IY-2 would be less than significant.

Water Quality Effects Related to Use of Alternate Water Supply

In accordance with San Francisco's Non-potable Water Ordinance, the Project would use alternate water sources for non-potable applications such as toilet and urinal flushing as well as irrigation. Compliance with water quality criteria would be ensured through the permitting process. This process requires the project sponsors submit a water budget application to the SFPUC and an engineering report to the DPH. With compliance with these requirements, the quality of the alternate water supply would not exceed water quality criteria, and water quality effects related to use of an alternate water supply would be less than significant. No mitigation is necessary.

Water Quality Effects Related to Littering

The proposed use of the project site for commercial, residential, RALI, and public open space uses could increase the potential for litter, and the adjacent Lower San Francisco Bay is listed as impaired for trash. In accordance with Article 6 of the San Francisco Health Code, Garbage and Refuse, the project sponsors would be required to place containers in appropriate locations for the collection of refuse and ensure refuse containers must be constructed with tight fitting lids or sealed enclosures. The Project would also be required to comply with several City ordinances, which would decrease the amount of non-degradable trash generated under the Project.

Further, under Option 2, Separate Wastewater and Stormwater Systems, and Option 3, Hybrid System, the Project would be required to comply with the Trash Amendment of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California. This amendment would require the Project to implement specific measures to prevent the transport of trash to San Francisco Bay.

Compliance with Article 6 of the San Francisco Health Code, the City ordinances, and the Trash Amendment for wastewater and stormwater, Options 2 and 3 would reduce the amount of non-recyclable and non-compostable wastes produced at the project site, would ensure that adequate containers and refuse service are provided, and would ensure that offshore San Francisco Bay water is kept free of trash as a result of littering at the Project site. This would reduce the potential for transport of litter to the combined or separate stormwater systems and directly to San Francisco Bay via wind or stormwater runoff. Therefore, water quality impacts related to littering would be less than significant, and no mitigation is necessary.

I. Hazards and Hazardous Materials.

Impact HZ-2: Demolition and renovation of buildings under the Project would not expose workers and the public to hazardous building materials including asbestos-containing materials, lead-based paint, bis (2-ethylhexyl) phthalate (DEHP), and mercury, or result in a release of these materials into the environment during construction. However, workers and the public would be exposed to PCBs as a result of the removal of electrical transformers.

Construction

Building 21 was constructed in approximately 1900. All of the other existing buildings at the project site were constructed between 1937 and 1945. Previous surveys for hazardous building materials have identified asbestos-containing materials and lead-based paint in Building 11 which would be demolished under the Project. Based on their age, these hazardous building materials are likely present in Buildings 15, 16, 19, 25, 32, and 66 which also would be demolished under the Project. Similarly, previous surveys for hazardous building materials have identified asbestos-containing materials and lead-based paint in Buildings 2, 12, and 21, all of which would be renovated under the Project. The Phase I ESA for the Project also noted PCB-containing light ballasts and mercury switches and thermostats in most buildings in 2011 as well as PCB-containing transformers in several locations. In addition, the Phase I ESA noted that pipes associated with the historic distribution of steam are likely to include transite materials. Other existing utility systems could include asbestos in their coatings, gaskets, or other features.

Workers and the public could be exposed to hazardous building materials if they were not removed or abated prior to demolition or renovation of the existing buildings and utility systems. There is a well-

established regulatory process that must be followed for ensuring adequate abatement of these materials prior to building demolition or renovation.

Asbestos-Containing Materials

In accordance with BAAQMD Rule 11, Regulation 2, the project sponsors would be required to retain a qualified contractor to conduct a survey to identify asbestos-containing materials in any building planned for demolition or renovation and in any utility systems that would be demolished. During removal activities, the contractor would implement controls to ensure that there are no visible asbestos emissions to the outside air. The removal activities would be conducted in accordance with the State regulations contained in Title 8 of the California Code of Regulations, Section 1529, and Title 8 of the California Code of Regulations, Sections 341.6 through 341.17. Pursuant to California law, the Port would not issue the building demolition or renovation permit until the project sponsors have complied with the notice and abatement requirements.

Section 3425 of the Port of San Francisco Building Code also addresses work practices for asbestos-containing materials. In accordance with this section, the project sponsors would be required to include an asbestos survey report with the building permit application for any subsequent development.

Compliance with the regulatory requirements and implementation of the required procedures prior to building demolition or renovation would ensure that potential impacts due to demolition or renovation of structures with asbestos-containing materials would be less than significant. No mitigation measures are necessary.

Lead-Based Paint

Because all of the buildings that would be demolished or renovated were constructed prior to 1979, and could contain lead-based paint, the project sponsors would be required to implement the requirements of Section 3426 of the Port of San Francisco Building Code, Work Practices for Lead-Based Paint on Pre-1979 Buildings and Steel Structures. Accordingly, the project sponsors would retain a qualified contractor to abate the lead based paint prior to demolition or renovation of any buildings. At the completion of abatement activities, the contract would demonstrate compliance with the clean-up standards of Section 3426 that require removal of visible work debris, including the use of a HEPA vacuum following interior work. Pursuant to Section 3426, the Port would not issue the building demolition or renovation permit until the project sponsors have complied with the requirements.

Demolition of other structures that include lead-containing materials and renovation of the interiors of Buildings 2, 12, and 21 could also result in exposure of workers and the public to lead. However, these activities would be subject to the CalOSHA Lead in Construction Standard (Title 8 of the California Code of Regulations, Section 1532.1).

Any lead-based paint during abatement activities would be consolidated, and disposed of at a permitted facility in accordance with applicable law. Implementation of procedures required by Section 3426 of the Port of San Francisco Building Code and the Lead in Construction Standard, along with legal disposal of the lead-based paint by the project sponsors would ensure that potential impacts of demolition or renovation of structures with lead-based paint would be less than significant. No mitigation measures are necessary.

Electrical Transformers

Electrical transformers are present in at least two locations of the 28-Acre Site, including Building 21 which houses an operating electrical substation and Building 12 where a PCB-containing transformer was observed in a utility room during the 2011 Phase I ESA conducted for the 28-Acre Site in support of the Project. However, a complete survey of electrical transformers present at the site, and their PCB content, has not been conducted. If a PCB transformer is present in a building that would be demolished, a release of PCBs could occur, potentially exposing workers and the public to PCBs, or resulting in a release of PCBs to the environment. If a release of PCB-containing dielectric fluid has occurred, future occupants of the building could be exposed to residual PCBs in the building or in the soil if a release has affected soil. Therefore, impacts related to the potential release of PCBs from existing transformers at the site would be significant, if not mitigated.

Mitigation Measure M-HZ-2a: Conduct Transformer Survey and Remove PCB Transformers, Mitigation Measure M-HZ-2b: Conduct Sampling and Cleanup if Stained Building Materials Are Observed and Mitigation Measure M-HZ-2c: Conduct Soil Sampling if Stained Soil is Observed, as more fully described in the Final EIR, are hereby adopted in the form set forth in the Final EIR, and the attached MMRP, and will be implemented as provided therein.

Based on the Final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measures M-HZ-2a, M-HZ-2b and M-HZ-2c would reduce Impact HZ-2 to less than significant.

Other Hazardous Building Materials

Other hazardous building materials that are likely present within the buildings to be demolished or renovated include fluorescent light ballasts that could contain PCBs or DEHP, fluorescent lamps that contain mercury vapors, and electrical switches and thermostats that also contain mercury. Disruption or disturbance of these materials could pose health threats for construction workers if not properly disposed of. However, prior to demolition or renovation, the project sponsors, through their contractor, would remove these items and dispose of them in accordance with the established State Regulatory Framework. Therefore, through compliance with regulatory requirements, impacts related to exposure to PCBs, DEHP, and mercury in these materials would be less than significant. No mitigation measures are necessary.

Operation

Buildings 2, 12, and 21 would be renovated and reused under the Project. These buildings are known to include asbestos-containing materials and lead-based paint as well as other hazardous building materials such as fluorescent lamps, PCB-containing light ballasts, and mercury switches and thermostats. However, these materials would be abated and/or removed during the construction phase of the Project, prior to reuse of the buildings, as discussed above. Although electrical transformers are also present in Buildings 12 and 21, and release of PCB-containing oil from these transformers could have potentially contaminated building surfaces, the transformers would be removed and the surfaces would be cleaned during the construction phase of the Project in accordance with **Mitigation Measures M-HZ-2a and M-HZ-2b**. Soil containing PCBs would be managed in accordance with the Pier 70 RMP as specified in

Mitigation Measure M-HZ-2c. Therefore, site occupants and the public would not be exposed to hazardous building materials during operation of the Project, and this impact would be less than significant.

Impact HZ-3: Project development within the 28-Acre Site and 20th/Illinois Parcel would be conducted on a site included on a government list of hazardous materials sites and could encounter hazardous materials in the soil and groundwater, creating a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

The Pier 70 Preferred Master Plan area (including the 20th/Illinois Parcel, the 28-Acre Site, and Sims Metals and Auto Return which are two businesses formerly operated within the 28-Acre Site) is identified on several lists of hazardous materials sites compiled pursuant to Government Code Section 65962.5. Numerous site investigations have been completed for both the 28-Acre Site and the 20th/Illinois Parcel, located within the Pier 70 Preferred Master Plan area, and these investigations have identified chemicals in the soil and groundwater. Groundwater monitoring wells also could be located within the Pier 70 Preferred Master Plan area, or new wells could be constructed in the future as part of remedial activities at the project site or other project activities. These wells could be damaged during construction.

Exposure to Chemicals in Soil and Groundwater during Construction

During development, including excavation for new structures, utilities, and shoreline improvements, construction workers could be exposed to chemicals in the soil, including naturally occurring asbestos, and groundwater through skin contact with the soil or groundwater, ingestion of the soil, or inhalation of airborne dust or vapors. The public, including students and staff at nearby schools as well as occupants of off-site residences and developments on adjacent parcels that have previously been developed, could be exposed to these chemicals through inhalation of airborne dust, contact with accumulated dust, and contaminated runoff. Therefore, impacts related to exposure to chemicals in the soil and groundwater during construction would be significant if not mitigated.

Mitigation Measure M-HZ-3a: Implement Construction and Maintenance-Related Measures of the Pier 70 Risk Management Plan, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR, and the attached MMRP, and will be implemented as provided therein.

Based on the Final EIR and the entire administrative record, it is hereby found and determined that implementing Pier 70 RMP risk management procedures in accordance with Mitigation Measure M-HZ-3a would reduce this impact to a less-than-significant level. The deed restriction prepared and enforced by the RWQCB for the Pier 70 Preferred Master Plan area also incorporates these requirements of the Pier 70 RMP.

Damage of Groundwater Monitoring Wells

If groundwater monitoring wells are damaged during construction, they could potentially create a conduit for downward migration of chemicals in the overlying soil, potentially degrading groundwater quality. This would be a significant impact.

Mitigation Measure M-HZ-3b: Implement Well Protection Requirements of the Pier 70 Risk Management Plan, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR, and the attached MMRP, and will be implemented as provided therein.

Based on the Final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measure M-HZ-3b would reduce this impact to a less-than-significant level. The deed restriction prepared and enforced by the RWQCB for Pier 70 also incorporates these requirements of the Pier 70 RMP.

Impact HZ-4: Project development within the Hoedown Yard would be conducted on a site included on a government list of hazardous materials sites and could encounter hazardous materials in the soil and groundwater, creating a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

The Hoedown Yard is included in the Voluntary Cleanup Program database as part of the Potrero Power Plant. Several environmental investigations have identified chemicals in the soil and groundwater at the Hoedown Yard which is within the Illinois Parcels. During project construction, including excavation for new structures and utilities, construction workers could be exposed to chemicals in the soil and groundwater through skin contact with the soil or groundwater, ingestion of the soil, or inhalation of airborne dust. The public, including students and staff at nearby schools and occupants of adjacent parcels that have been previously developed, could be exposed to these chemicals through inhalation of airborne dust, contact with accumulated dust, and contaminated runoff. Therefore, impacts related to exposure to chemicals in the soil and groundwater during construction at the Hoedown Yard would be significant, if not mitigated.

This property is owned by PG&E, and a separate SMP has been prepared and approved by the RWQCB for development of this site. The Hoedown Yard SMP specifies measures that must be implemented during development activities to ensure the protection of construction workers and the public, and to ensure that contaminated materials are appropriately disposed of.

Mitigation Measure M-HZ-4: Implement Construction-Related Measures of the Hoedown Yard Site Management Plan, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR, and the attached MMRP, and will be implemented as provided therein.

Based on the Final EIR and the entire administrative record, it is hereby found and determined that implementing Hoedown Yard SMP measures in accordance with Mitigation Measure M-HZ-4 would reduce this impact to a less-than-significant level. Implementation of the Hoedown Yard SMP requirements is enforced by the RWQCB through the deed restriction recorded on the property in 2012.

Impact HZ-5: Operation of the Project within the "PG&E Responsibility Area" would expose residents, site workers, and site visitors to hazardous materials in the soil, creating a significant hazard to the public or the environment.

Site investigations conducted by the Port and PG&E identified two localized areas in the southeast portion of the 28-Acre Site where the accumulated DNAPL ranges in thickness from 1 to 4 feet in areas

where discontinuous DNAPL have accumulated. As the responsible party for the contamination, PG&E will be conducting site remediation with regulatory oversight by the RWQCB that involves excavating the continuous DNAPL areas at the southernmost slipway to a depth of about 25 feet and backfilling the excavations with clean fill. PG&E anticipates completing these remediation activities by 2018, well before construction would commence in Parcels H1, H2, and H3. However, implementation of the remediation activities in the PG&E Responsibility Area is outside of the project sponsors' control. In the unlikely event that PG&E's remediation activities are delayed, construction of the proposed development on Parcels H1, H2, and E3 could preclude implementation of the planned remediation and future construction workers and site occupants could be exposed to health risks if the existing pavement were removed from this area and development commenced prior to implementation of PG&E's remediation, a significant impact.

Mitigation Measure M-HZ-5: Delay Development on Proposed Parcels H1, H2, and E3 Until Remediation of the "PG&E Responsibility Area" is Complete, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR, and the attached MMRP, and will be implemented as provided therein.

Based on the Final EIR and the entire administrative record, it is hereby found and determined that implementing Mitigation Measure M-HZ-5 would reduce this impact to less than significant.

Impact HZ-6: Operation of the Project within the 28-Acre Site and the 20th/Illinois Parcel would expose residents, site workers, and site visitors to hazardous materials in the soil or soil vapors, creating a significant hazard to the public or the environment.

Exposure to Hazardous Materials in Soil

Previous sampling within the 28-Acre Site and 20th/Illinois Parcel which are part of the Pier 70 Preferred Master Plan area has found that chemical concentrations throughout the sites contain PAHs, metals, and/or TPH at concentrations exceeding residential, commercial, and/or recreational cleanup levels. To avoid unacceptable health risks associated with exposure to the soil by residents, site workers, and visitors, the Pier 70 RMP requires placement of a durable cover over the any soil with chemical concentrations greater than the cleanup level for the planned land use. However, maintenance workers would occasionally need to breach the durable cover to conduct repairs of utilities and other systems. This could result in exposure to chemicals in the soil beneath the durable cover, a significant impact.

Residential Exposure to Soil Vapors

In areas where groundwater and soil vapor concentrations exceed residential Environmental Screening Levels, building occupants in residential developments could be exposed to chemicals present in the soil vapors and groundwater as a result of vapor intrusion into the subsurface features of the building. However, the concentrations of chemicals detected in the soil vapor or groundwater exceeded residential cleanup levels in the groundwater or soil vapor at several locations. If residential development is constructed at or near any of these locations, residents could be subjected to health risks, a significant impact unless mitigated.

Mitigation Measure M-HZ-6: Additional Risk Evaluations and Vapor Control Measures for Residential Land Uses, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR, and the attached MMRP, and will be implemented as provided therein.

Based on the Final EIR and the entire administrative record, it is hereby found and determined implementing **Mitigation Measure M-HZ-3a: Implement Construction and Maintenance-Related Measures of the Pier 70 Risk Management Plan and M-HZ-6** this impact would be reduced to less than significant.

Impact HZ-7: Operation of the Project within the Hoedown Yard would expose residents, site workers, and site visitors to hazardous materials in the soil, creating a significant hazard to the public or the environment.

Previous sampling within the Hoedown Yard has found that, based on future use of the Hoedown Yard for commercial or industrial purposes, arsenic is the primary chemical of concern identified in the soil. Naturally occurring asbestos was also identified in the fill materials. Although the Hoedown Yard SMP addresses risk management measures necessary to manage site risks based on industrial use of the site by PG&E, the plan does not provide measures for redevelopment of the site, and does not address risks related to potential residential uses. Without additional evaluation and implementation of additional risk management measures, future site occupants and visitors of the residential and commercial land uses under the Project could be subjected to potential health risks as a result of contact with the site soil, a significant impact unless mitigated.

Mitigation Measure M-HZ-7: Modify Hoedown Yard Site Mitigation Plan, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR, and the attached MMRP, and will be implemented as provided therein.

Based on the Final EIR and the entire administrative record, it is hereby found and determined that implementing **Mitigation Measure M-HZ-7** would reduce this impact to less than significant.

Impact HZ-8: Operation of the Irish Hill Playground would expose site visitors to naturally occurring asbestos and naturally occurring metals, creating a significant hazard to the public or the environment.

The Irish Hill remnant is composed of serpentinite bedrock of the Franciscan Complex. Serpentinite commonly contains naturally occurring chrysotile and amphibole asbestos, fibrous minerals that can be hazardous to human health if they become airborne, as well as naturally occurring metals (i.e., arsenic, cadmium, copper, chromium, nickel, vanadium, and zinc).

If visitors to the playground play on exposed bedrock or fill materials derived from the bedrock, they could cause naturally occurring asbestos and naturally occurring metals to become airborne. As a result, playground users, including young children, could be exposed to airborne asbestos fibers and/or potentially hazardous concentrations of naturally occurring metals, a significant impact unless mitigated.

Similarly, visitors to the Irish Hill Playground could be exposed to airborne naturally occurring asbestos and naturally occurring metals if they use the playground during ground-disturbing activities for construction on adjacent parcels or during the construction of the new 21st Street which would remove a

portion of the northern spur of the Irish Hill remnant. This would also be a significant impact unless mitigated.

Mitigation Measures M-HZ-8a: Prevent Contact with Serpentinite Bedrock and Fill Materials in Irish Hill Playground and M-HZ-8b: Restrictions on the Use of Irish Hill Playground, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR, and the attached MMRP, and will be implemented as provided therein. Based on the Final EIR and the entire administrative record, it is hereby found and determined implementing **Mitigation Measures M-HZ-8a and M-HZ-8b** would reduce these impacts to less than significant.

V. SIGNIFICANT IMPACTS THAT CANNOT BE AVOIDED OR MITIGATED TO A LESS-THAN-SIGNIFICANT LEVEL

Based on substantial evidence in the whole record of these proceedings, the Planning Commission finds that, where feasible, changes or alterations have been required, or incorporated into, the Project to reduce the significant environmental impacts as identified in the Final EIR. The Commission finds that certain mitigation measures in the Final EIR, as described in this Section V, or changes, have been required in, or incorporated into, the Project, pursuant to Public Resources Code Section 21002 and CEQA Guidelines Section 15091, that may lessen, but do not avoid (i.e., reduce to less-than-significant levels), the potentially significant environmental effects associated with implementation of the Project that are described below. Although all of the mitigation measures set forth in the Final EIR and the Mitigation Monitoring and Reporting Plan (MMRP), attached as Attachment B, are hereby adopted, for some of the impacts listed below, despite the implementation of feasible mitigation measures, the effects remain significant and unavoidable.

The Commission further finds, as described in this Section V below, based on the analysis contained within the Final EIR, other considerations in the record, and the significance criteria identified in the Final EIR, that because some aspects of the Project could cause potentially significant impacts for which feasible mitigation measures are not available to reduce the impact to a less-than-significant level, those impacts remain significant and unavoidable. The Commission also finds that although mitigation measures are identified in the Final EIR that would reduce some significant impacts, certain measures, as described in this Section V below, are uncertain or infeasible for reasons set forth below, and therefore those impacts remain significant and unavoidable or potentially significant and unavoidable.

Thus, the following significant impacts on the environment, as reflected in the Final EIR, are unavoidable. As more fully explained in Section VII, below, under Public Resources Code Section 21081(a)(3) and (b), and CEQA Guidelines 15091(a)(3), 15092(b)(2)(B), and 15093, it is found and determined that legal, environmental, economic, social, technological and other benefits of the Project override any remaining significant adverse impacts of the Project for each of the significant and unavoidable impacts described below. This finding is supported by substantial evidence in the record of this proceeding.

A. Transportation and Circulation.

Impact TR-5: The Project would cause one individual Muni route to exceed 85 percent capacity utilization in the a.m. and p.m. peak hours in both the inbound and outbound directions.

The T Third light rail line (renamed from the KT Third/Ingleside route following completion of the Central Subway) as well as the 22 Fillmore and the 48 Quintara/24th Street bus routes under Baseline Conditions operate within the capacity utilization standard of 85 percent in the a.m. and p.m. peak period. With ridership generated by the Maximum Residential Scenario and Maximum Commercial Scenario, the T Third light rail line and 22 Fillmore bus route would continue to operate below 85 percent capacity utilization. However, the 48 Quintara/24th Street routes would exceed 85 percent capacity utilization inbound and outbound with project implementation. This would occur in the a.m. and p.m. peak hours. The increase in capacity utilization of the 48 Quintara/24th Street routes would be a significant impact on this Muni route under either scenario of the Project.

Mitigation Measure M-TR-5: Monitor and increase capacity on the 48 Quintara/24th Street bus routes as needed, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR and the MMRP and will be implemented as provided therein.

Implementing any of the components of Mitigation Measure M-TR-5 would allow Muni to maintain transit headways, and would reduce the Project's impact to less-than-significant levels. However, implementation of features of the mitigation measure above that would require discretionary approval actions by the SFMTA or other public agencies (including allocation of funds to operate increased frequencies) is considered uncertain because public agencies subject to CEQA cannot commit to implementing any part of a proposed project, including proposed mitigation measures, until environmental review is complete. Thus, while the SFMTA has reviewed the feasibility of the options listed above, implementation of these measures cannot be assured until after certification of this EIR. Because it is unknown whether M-TR-5 would be implemented, project-related impacts on the 48 Quintara/24th Street would be significant and unavoidable if M-TR-5 is not implemented.

Impact TR-12: The Project's loading demand during the peak loading hour would not be adequately accommodated by proposed on-site/off-street loading supply or in proposed on-street loading zones, which may create hazardous conditions or significant delays for transit, bicycles or pedestrians.

To minimize conflicts with pedestrians and bicyclists, a maximum of one loading access point would be permitted for each building. This requirement would minimize curb cuts and prioritize pedestrian movement where a sidewalk is present. Exterior loading docks, where loading and unloading occurs outside of a building, would not be permitted fronting major public open spaces and the project's central waterfront area, and commercial loading entries would be required to be at least 60 feet from the corner of an intersection. Waste collection facilities would be provided separately for each building and would be visually screened from the public right-of-way, minimizing conflicts with travelways.

The Project includes a shared street treatment on Maryland Street and 20th Street that would allow limited or no vehicular access at some times, either for special events or at designated times of day. However, for all buildings fronting Maryland Street service entrances would be provided on 21st, Louisiana, and 22nd streets (although on-street loading could still occur from Maryland Street and 20th

Street during periods when the shared street was open to vehicular access). Thus, limiting or prohibiting delivery vehicles from accessing Maryland Street from time to time would not result in a significant impact because building service access would be retained.

Despite the fact that the Project would minimize loading conflicts with bicycles and pedestrians and would not result in significant loading impacts on the shared street, there would be a loading supply shortfall that would result in significant impacts.

Mitigation Measures M-TR-12A: Coordinate Deliveries and M-TR-12B: Monitor loading activity and convert general purpose on-street parking spaces to commercial loading spaces as needed, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR and the MMRP and will be implemented as provided therein.

While the project sponsor may reduce the severity of the impact with implementation of Mitigation Measures M-TR-12A and M-TR-12B, these measures may not fully resolve the loading shortfall, as the project's Transportation Coordinator may not be able to shift on-site delivery times. Additionally, there may not be an adequate supply of on-street general purpose parking spaces to convert to commercial loading spaces such that the loading shortfall can be accommodated on-street. Thus, even with implementation of Mitigation Measures M-TR-12A and M-TR-12B, the Project's loading impacts would remain significant and unavoidable.

Impact C-TR-4: The Project would contribute considerably to significant cumulative transit impacts on the 48 Quintara/24th Street and 22 Fillmore bus routes.

In combination with reasonably foreseeable development expected to occur under Cumulative Conditions, the Project would cause the 48 Quintara/24th Street bus route to exceed 85 percent utilization in both the Maximum Residential Scenario and the Maximum Commercial Scenario during the a.m. and p.m. peak hours. This would be a considerable contribution to a significant cumulative impact on individual transit routes.

Mitigation Measure M-TR-5: Monitor and increase capacity on the 48 Quintara/24th Street bus routes as needed, to increase capacity on the 48 Quintara/24th Street bus route, as referenced above under Impact TR-5, could reduce the Project's contribution to this significant cumulative impact. Under the Maximum Commercial Scenario, Mitigation Measure M-TR-5 would be adequate to reduce the Project's contribution to the significant cumulative impact to not considerable. Under the Maximum Residential Scenario, the Project's contribution would remain considerable even with the implementation of Mitigation Measure M-TR-5. Therefore, additional mitigation would be necessary for the Maximum Residential Scenario to reduce the considerable contribution to the significant cumulative impact on Muni service on this route.

Mitigation Measure M-C-TR-4A: Increase capacity on the 48 Quintara/24th bus route under the Maximum Residential Scenario, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR and the MMRP and will be implemented as provided therein.

The Project would also cause the 22 Fillmore bus route to exceed 85 percent utilization in the Maximum Commercial Scenario during the a.m. and p.m. peak hours. This would be a considerable contribution to a significant cumulative impact on individual transit routes. Therefore, additional mitigation would be

necessary for the Maximum Commercial Scenario to reduce the considerable contribution to the significant cumulative impact on Muni service on this route.

Mitigation Measure M-C-TR-4B: Increase capacity on the 22 Fillmore bus route under the Maximum Commercial Scenario, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR and the MMRP and will be implemented as provided therein.

Because SFMTA cannot commit funding to operate additional buses on these routes, to expand bus zones, or to increase transit vehicle travel speeds until environmental review of the selected elements is complete, the implementation of Mitigation Measures M-C-TR-4A and M-C-TR-4B is uncertain, and the Project's contribution to the significant cumulative impact would remain significant and unavoidable under both project scenarios if Mitigation Measures M-C-TR-4A and M-C-TR-4B are not implemented.

B. Noise.

Impact NO-2: Construction of the Project would cause a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.

On-Site Construction Activities

Demolition and construction activities would require the use of heavy trucks, material loaders, cranes, concrete saws, and other mobile and stationary construction equipment. Piles would be driven with the use of impact or vibratory pile drivers. Controlled rock fragmentation (CRF) would occur for a cumulative total of approximately 30 days per phase. During controlled rock fragmentation activities, up to five CRF events would occur daily with one drilling event lasting up to one hour before each CRF event. General building construction would be less noise intrusive, involving cranes, forklifts, saws, and nail guns. Project construction would also result in temporary increases in truck traffic noise along haul routes for off-hauling excavated materials and materials deliveries.

Because the project would be constructed in phases over an 11-year period, multiple construction activities could be occurring on different parcels within the project site at any given time (i.e., demolition could occur on one parcel while pile driving occurs on another) so that some of the noisier construction activities, such as pile driving, on one project parcel could overlap with other noisier construction phases, such as demolition or CRF and rock crushing, on other parcels. This could expose nearby sensitive receptors to temporary increases in noise levels substantially in excess of ambient levels.

If pile drivers operated on one parcel while a mounted impact hammer or concrete saw (for demolition) occurred on another parcel at the same time (worst-case condition), the combined noise level from these two noisiest pieces of equipment would not exceed these thresholds because it is expected that both types of equipment would not operate simultaneously closer than 50 feet to any existing residential or commercial uses.

Noise Impacts on Off-Site Receptors

The closest existing off-site sensitive receptors are located 140 to 200 feet from the closest site boundary (northwest corner of Parcel PKN). The maximum combined noise levels at the three closest off-site receptors would exceed these thresholds, a significant noise impact.

For all but these three receptor locations (residences at 820 Illinois Street and 628 20th Street (second floor), and Dogpatch Alt School at 616 20th Street), there are intervening buildings that would block and reduce Project-related construction noise at nearby existing receptors. If phasing occurs as proposed, it would result in the construction of residential buildings on the western portion of the Project site (Illinois Parcels) first. These buildings would also help block and reduce project-related construction noise (including noise from pile-driving activities to the east on the 28-Acre Site) at all existing off-site receptors (including the closest existing receptors).

Mitigation Measure M-NO-2: Noise Control Measures During Pile Driving, as more fully described in the Final EIR, is hereby adopted in the form set forth in the Final EIR and the MMRP and will be implemented as provided therein.

With implementation of noise controls during all construction phases (specified in **Mitigation Measure M-NO-1: Construction Noise Control Plan**, referenced above) as well as implementation of noise controls during pile driving (specified in Mitigation Measure M-NO-2), the potential for noise disturbance of existing off-site receptors (assumed to be present during the 11-year construction period) located approximately 140 to 200 feet to the northwest would be reduced. However, even with implementation of these noise controls, the feasibility of quieter, alternative pile driving methods in all areas cannot be determined at this time and also the potential would still exist that combined noise levels from simultaneous operation of the noisiest types of construction equipment could still exceed the threshold. Given this uncertainty and the potential 11-year duration of this activity, this impact is conservatively considered to remain significant and unavoidable with mitigation, even with implementation of Mitigation Measures M-NO-1 and M-NO-2.

Noise Impacts on On-Site Receptors

While early construction of Project residential uses on the Illinois Parcels would help reduce construction-related noise levels at existing receptors, it would also expose future residents living in these new residential buildings to construction noise generated during subsequent phases of project construction. Construction activities in this area would occur in phases over an 11-year period.

As a result of this possible phasing under either scenario, future residents in the project site area that face an adjacent or nearby construction project could be subject to demolition and construction noise for as long as 6 to 9 years. Depending on the order of construction within each phase and overall phasing, some Project buildings that have already been constructed could interrupt the direct line-of-sight between construction sources and noise-sensitive receptors, and reduce the number of receptors directly exposed to construction noise with no intervening buffering structure.

The average thresholds at on-site receptors, and the maximum combined noise level would, at times, exceed thresholds at the closest future on-site residential receptors (those occupying residential units built in earlier phases). The degree of disturbance would vary with proximity of the demolition and construction activities to sensitive receptors, but is considered significant and unavoidable because the "Ambient +10 dBA" threshold could be exceeded.

Construction noise impacts associated with the street network, new infrastructure, and open space would be similar to, but somewhat less substantial than, those for development projects in the project site area,

except that pile driving would not be necessary for the street network changes, utility lines (including those associated with all three sewer options), or open space improvements. Building demolition, road construction, and building construction would all occur concurrently within each phase. Simultaneous operation of the noisiest pieces of equipment associated with demolition (mounted impact hammer or concrete saw) and other construction activities (excavator) would result in combined noise levels that exceed the average thresholds at on-site receptors located at this proximity. Therefore, construction-related noise increases during other phases of construction, such as construction for road and infrastructure improvements, could adversely affect future on-site residents, a significant noise impact.

With implementation of noise controls during all construction phases (specified in **Mitigation Measure M-NO-1: Construction Noise Control Plan**, referenced above) as well as implementation of noise controls during pile driving (specified in **Mitigation Measure M-NO-2: Noise Control Measures During Pile Driving**, referenced above), the potential for noise disturbance of future on-site residents would be reduced. However, even with implementation of these noise controls, the potential would still exist that combined noise levels from simultaneous operation of the noisiest types of construction equipment could still exceed the Ambient+10 dBA threshold, and therefore, construction-related noise impacts on future on-site residential receptors is conservatively considered to be significant and unavoidable with mitigation.

Off-Site Haul Truck Traffic

The net export total of about 340,000 cubic yards of soil and an import of about 20,000 cubic yards of clean fill would generate a total of about 45,000 truck trips, which would be phased over the duration of the planned construction activities (averaging 17 truck trips per day). Given the minimal increase in traffic on local roadways that would be attributable to project-related haul trucks, temporary increases in traffic noise resulting from haul trucks would be less than significant. Use of truck routes that avoid residential uses as required by the Construction Traffic Control Plan (Improvement Measure I-TR-A: Construction Management Plan) would further reduce less-than-significant construction-related truck noise impacts.

Impact NO-5: Operation of the Project would cause substantial permanent increases in ambient noise levels along some roadway segments in the project site vicinity.

Operational Traffic Noise

Project implementation (under both the Maximum Residential and Maximum Commercial scenarios) would result in traffic noise increases ranging from 0 to 14.3 dBA on local roadways providing access to the site.

The Project would include a shuttle service, operated and maintained by the Pier 70 TMA, to connect the Pier 70 Mixed-Use District to regional transit hubs. The two preliminary routes assumed for the DEIR analysis are:

- 22nd Street, Mississippi Street, and 16th Street to access the 22nd Street Caltrain Station and the 16th Street / Mission BART station; and

- Third Street, 16th Street, and King Street to access the Fourth and King Caltrain Station (with some trips extending to the Transbay Transit Center).)

An increase in shuttle bus volumes along these routes would incrementally increase traffic noise levels along these streets. However, the degree of impact would depend on bus sizes, frequency of buses on an hourly basis, and hours of operation. The future shuttle bus schedule is not known at this time, but it is anticipated that any shuttle trips would be relatively minor and adequately accounted for in the modeled traffic noise analysis above.

Operation of the Project would result in permanent increases in ambient noise levels, primarily through project-related increases in traffic. Noise modeling was completed to estimate existing (baseline) and future traffic noise levels along 79 road segments in the Pier 70 Mixed-Use District project area based on traffic volumes presented in the project's Traffic Impact Study. Of the 79 road segments examined, traffic noise increases on all analyzed street segments would not exceed the applicable thresholds except for the following, which would exceed traffic noise thresholds, resulting in significant impacts:

- 20th Street (east of Third Street to east of Illinois Street)
- 22nd Street (east of Tennessee Street to east of Illinois Street)
- Illinois Street (20th Street to south of 22nd Street).

There is one street segment, 22nd Street between Tennessee Street and Third Street where there are residential uses and the resulting noise level is estimated to slightly exceed 60 dBA (Ldn or CNEL) and the incremental increase attributable to the project would be 3.2 dB, 0.2 dB above the threshold.

Reduction of project-related one-way traffic by 20 percent through transportation demand management measures required in **Air Quality Mitigation Measure M-AQ-1f: Transportation Demand Management** (referenced above), could reduce noise levels by up to 1.0 dB and would reduce the above significant impacts related to noise increases to less than significant with mitigation at all of the above street segments except for three road segments:

- 22nd Street from Third Street to Illinois Street;
- 22nd Street east of Illinois Street (on the project site); and
- Illinois Street from the future 21st Street and 22nd Street (adjacent to the project site).

Project residences located adjacent to the section of 22nd Street east of Illinois Street and the section of Illinois Street between the proposed 21st and 22nd streets would not be adversely affected by future noise levels because noise attenuation measures would be incorporated into these units as necessary to ensure that interior noise levels are maintained at acceptable levels even with future traffic noise level increases, as required by **Mitigation Measure M-NO-6: Design of Future Noise-Sensitive Uses** (referenced above). While this mitigation measure would reduce the effects of project-related traffic noise increases on the interior environment of future uses, the Project's traffic would still result in noise levels that would cause a substantial permanent increase in ambient noise levels. Therefore, this impact would remain significant and unavoidable with mitigation.

Impact C-NO-2: Operation of the Project, in combination with other cumulative development would cause a substantial permanent increase in ambient noise levels in the project vicinity.

When traffic noise increases related to the Project (under both the Maximum Residential and Maximum Commercial scenarios) are added to future traffic noise increases resulting from cumulative development, the Project would add 0 to 8.0 dBA (Ldn) to estimated cumulative noise increases under both scenarios. Of the 79 road segments examined, the Project would contribute considerably to cumulative traffic noise increases along the following street segments because cumulative noise increases would exceed significance thresholds for traffic noise increases:

- 22nd Street (east of Third Street to east of Illinois Street)
- Illinois Street (Mariposa Street to 22nd Street)

These street segments either directly adjoin the project site or are within two blocks of the project site and provide direct access to the site. Residential development is located adjacent to the segment of Illinois Street between Mariposa Street and 20th Street. Based on the significance thresholds for traffic noise increases, these cumulative traffic noise increases would be a cumulatively significant impact because traffic noise would result in a substantial permanent increase in ambient noise levels, and the project's contribution to these cumulative increases would be cumulatively considerable.

Additionally, when 2040 cumulative (with Project) noise levels are compared to 2020 baseline noise levels, 2020 noise levels would increase by 0 to 15 dBA under both scenarios with increases exceeding the significance thresholds for traffic noise increases on the following roadway segments:

- Third Street (Channel to south of Mission Rock and 20th to 23rd Streets)
- 20th Street (east of Third Street to east of Illinois Street)
- 22nd Street (west of Third Street to east of Illinois Street)
- 23rd Street (Third Street to Illinois Street)
- 25th Street (west of Third Street to Illinois Street)
- Cesar Chavez (East of Third Street)
- Illinois Street (Mariposa Street to south of 22nd Street)
- Indiana Street (north of 25th Street)

These street segments either directly adjoin the project site or are within approximately eight blocks of the project site and several provide direct access to the site. There is a school and residential development located adjacent to 20th Street between Third Street and Illinois Street. Residential development is also located adjacent to Third Street (Channel to 25th), Illinois Street (Mariposa Street to 20th Street), and on 22nd Street (west of Third Street). Based on the significance thresholds for traffic noise increases, these cumulative traffic noise increases would also be a cumulatively significant impact because traffic noise

would result in a substantial permanent increase in baseline noise levels. The Project's contribution to these increases would range from 22 to 95 percent of these increases and therefore, the Project contribution to these cumulative traffic noise increases would be cumulatively considerable.

Implementation of Transportation Demand Management measures required in **Mitigation Measure M-AQ-1f: Transportation Demand Management**, referenced above, could result in reductions of one-way traffic by up to 20 percent, and such reductions could provide noise level reductions. Such reductions would reduce the above significant noise increases to less than significant along Illinois Street (between Mariposa Street and the proposed 23rd Street) and 22nd Street (west of Third Street) but would not be sufficient to reduce cumulative noise increases on any of the other above-listed street segments to less-than-significant levels (i.e., below threshold levels). Cumulative traffic noise increases would still exceed the significance thresholds for traffic noise increases on some of the above-listed street segments when compared to future baseline noise levels (2040) and existing baseline noise levels (2020). Therefore, the Project would result in a considerable contribution to this cumulative impact, which is significant and unavoidable with mitigation.

C. Air Quality.

Impact AQ-1: During construction, the Project would generate fugitive dust and criteria air pollutants, which would violate an air quality standard, contribute substantially to an existing or projected air quality violation, and result in a cumulatively considerable net increase in criteria air pollutants.

Construction activities would result in emissions of ozone precursors and PM in the form of dust (fugitive dust) and exhaust (e.g., vehicle tailpipe emissions). Emissions of ozone precursors and PM are primarily a result of the combustion of fuel from on-road and off-road vehicles. However, ROG's are also emitted from activities that involve painting, other types of architectural coatings, or asphalt paving.

Fugitive Dust

Project-related demolition, excavation, grading, drilling, rock crushing and potentially blasting, and other construction activities may cause wind-blown dust that could contribute PM into the local atmosphere. The City's Dust Control Ordinance would be applicable for the portion of the project site that is outside Port jurisdiction (Hoe Down Yard). For portions of the project site under the jurisdiction of the Port (20th/Illinois Parcel and 28-Acre Site), Section 1247 of Article 22B of the Public Health Code requires that all city agencies that authorize construction or other improvements on City property adopt rules and regulations to ensure that the dust control requirements of Article 22B are followed. DBI will not issue a building permit without written notification from the Director of Public Health that the applicant has a site-specific dust control plan, unless the Director waives the requirement.

Implementation of dust control measures in compliance with the regulations and procedures set forth by the San Francisco Dust Control Ordinance would ensure that potential dust-related construction air quality impacts of the Project would be less than significant.

Criteria Air Pollutants

Maximum Residential Scenario

Construction of the Maximum Residential Scenario would result in emissions of ROG, NO_x, PM₁₀, and PM_{2.5} that would be below the thresholds of significance when considered alone. However, future

construction phases (Phases 3, 4, and 5) would occur when operational emissions would also be generated by the earlier phases. Construction-related emissions during concurrent construction of Phases 1 and 2 which includes development of the entirety of the Illinois Parcels would be less than significant. Additionally, after completion and occupancy of Phase 1 and the continuation of Phase 2 construction, the combined construction-related and operational emissions would be less than significant. However, construction of Phase 3, when considered with occupancy and operation of Phases 1 and 2, would result in emissions of ROG and NO_x that would exceed significance thresholds, while emissions of PM₁₀ and PM_{2.5} would be below their respective thresholds. Construction of Phase 4 and Phase 5 when considered with occupancy and operation of earlier phases would also result in emissions of ROG and NO_x that would exceed significance thresholds, while emissions of PM₁₀ would be meet the threshold with Phase 5 construction and PM_{2.5} emissions would be below thresholds. Therefore, unmitigated criteria pollutant emissions from the Maximum Residential Scenario during simultaneous construction and operation would be a significant air quality impact.

Maximum Commercial Scenario

The Maximum Commercial Scenario's construction-related emissions during concurrent construction of Phases 1 and 2 which include development of the entirety of the Illinois Parcels would be less than significant, as would the continued construction of Phase 2 with completion and occupancy of Phase 1. However, construction of Phase 3 when considered with occupancy and operation of Phases 1 and 2 would result in emissions of ROG and NO_x that would exceed significance thresholds, while emissions of PM₁₀ and PM_{2.5} would be below their respective thresholds. Construction of Phase 4 when considered with occupancy and operation of earlier phases would result in emissions of ROG and NO_x that would exceed significance thresholds, while emissions of PM₁₀ and PM_{2.5} would be below the applicable thresholds. Construction of Phase 5 when considered with occupancy and operation of earlier phases would result in emissions of ROG, NO_x, and PM₁₀ that would exceed significance thresholds, while emissions of PM_{2.5} would be below the applicable threshold. Therefore, criteria pollutant emissions during simultaneous construction and operation of the Maximum Commercial Scenario would be significant.

Generally the Maximum Commercial Scenario results in a marginal 1 to 6 percent greater emissions than the Maximum Residential Scenario, depending on the year analyzed and whether average pounds per day or maximum tons per year are considered. Regardless, under the Maximum Commercial Scenario emissions of ROG, NO_x, and PM₁₀ would exceed significance thresholds, while emissions of PM_{2.5} would be below the applicable threshold.

Health Implications of Significant Impacts Related to Emissions of Ozone Precursors and PM₁₀

It is difficult to predict the magnitude of health effects from the project's exceedance of significance criteria for regional ROG, NO_x, and PM₁₀ emissions. The increase in emissions associated with the Project represents a fraction of total SFBAAB regional ROG emissions. However, the Project's ROG, NO_x, and PM₁₀ increases could contribute to new or exacerbated air quality violations in the SFBAAB region by contributing to more days of ozone or PM₁₀ exceedance or result in AQI values that are unhealthy for sensitive groups and other populations. Therefore, criteria pollutant emissions during simultaneous construction and operation of the Maximum Commercial Scenario would be significant.

To address ROG, NO_x, and PM₁₀ emissions that would occur during construction of the Project under both the Maximum Residential and Maximum Commercial Scenarios, **Mitigation Measure M-AQ-1a: Construction Emissions Minimization**, referenced above, has been identified and would apply during

construction of Phases 3, 4, and 5, or after build-out of 1.3 million gross square feet of development, whichever comes first.

Residual Impacts with Implementation of Mitigation Measure M-AQ-1a

Mitigation Measure M-AQ-1a would result in a reduction of construction-related ROG emissions ranging from 8 to 10 percent, depending on the construction phase. Emissions of construction-related NO_x would be reduced by 54 to 64 percent and emissions of construction-related PM₁₀ would be reduced between 72 and 83 percent. While construction emissions alone would be less than significance thresholds, emissions of simultaneous operational and construction emissions would still exceed thresholds but would be substantially reduced by this measure. Additionally, particulate emission reductions from this measure are necessary to reduce potential health risk impacts to on-site receptors to less than significant levels. Implementation of this mitigation measure would not result in any adverse environmental effects.

To address emissions that would occur during operation of the Project, **M-AQ-1f: Transportation Demand Management**, referenced above; **M-AQ-1g: Additional Mobile Source Control Measures**, referenced above; and **M-AQ-1h: Offset Operational Emissions**, referenced above would be applied to the Project.

Additionally, **Mitigation Measures M-AQ-1b: Diesel Backup Generator Specifications, M-AQ-1c: Use Low and Super-compliant VOC Architectural Coatings in Maintaining Buildings through Covenants Conditions and Restrictions (CC&Rs) and Ground Lease, M-AQ-1d: Promote use of Green Consumer Products, and M-AQ-1e: Electrification of Loading Docks**, as more fully described in the Final EIR, are hereby adopted in the form set forth in the Final EIR and the MMRP and will be implemented as provided therein.

Residual Impact with Implementation of Mitigation Measure M-AQ-1b

Mitigation Measure M-AQ-1b would result in an 86 percent reduction of ROG emissions from generators. Emissions of NO_x emissions from generators would be reduced by 89 percent and emissions of PM₁₀ would be reduced by 98 percent. Operational emissions would still exceed thresholds as the overall contribution of generator emissions to total project emissions is very small. However, as discussed later in Impact AQ-3, particulate emission reductions from this measure are necessary to reduce potential health risk impacts to on-site receptors to less than significant levels. Implementation of this mitigation measure would not result in any adverse environmental effects.

Residual Impact with Implementation of Mitigation Measure M-AQ-1c

Mitigation Measure M-AQ-1c would reduce ROG emissions associated with maintenance application of paint and other architectural coatings by 31 percent. Operational emissions would still exceed thresholds as the overall contribution of architectural coating emissions to total project emissions is comparatively small. Should the applicant commit to requiring use of no-VOC interior paints, ROG emissions from maintenance application of paint and other architectural coatings could be further reduced by up to 90 percent. Implementation of this mitigation measure would not result in any adverse environmental effects.

Residual Impact with Implementation of Mitigation Measure M-AQ-1d

Mitigation Measure M-AQ-1d would reduce ROG emissions associated with use of consumer products. Given that the project applicant does not have authority to require use of certain products, no reduction in ROG emissions can be estimated from this measure. Implementation of this mitigation measure would not result in any adverse environmental effects.

Residual Impact with Implementation of Mitigation Measure M-AQ-1e

Mitigation Measure M-AQ-1e would reduce emissions of ROG, NO_x, and PM₁₀. Given that the specific land uses are not determined, no reduction in emissions can be reliably estimated from this measure at this time. Implementation of this mitigation measure would not result in any adverse environmental effects.

Residual Impact with Implementation of Mitigation Measure M-AQ-1f

Mitigation Measure M-AQ-1f would reduce mobile source emissions of ROG, NO_x, and PM₁₀. Quantification of emission reduction from this measure is based on a 20 percent reduction target for vehicle trips. Although emission reductions would be substantial, operational emissions would still exceed thresholds. Implementation of this mitigation measure would not cause any significant effects in addition to those that would result from implementation of the Project.

Residual Impact with Implementation of Mitigation Measure M-AQ-1g

Mitigation Measure M-AQ-1g would marginally reduce mobile source emissions of ROG, NO_x, and PM₁₀. No additional emissions reductions were quantified from implementation of this mitigation measure. Implementation of this mitigation measure would not result in any adverse environmental effects.

Residual Impact with Implementation of Mitigation Measure M-AQ-1h

Mitigation Measure M-AQ-1h would offset emissions of ROG, NO_x, and PM₁₀ that would exceed the respective thresholds of significance for these pollutants. Implementation of the emissions reduction project could be conducted by the BAAQMD and is outside the jurisdiction and control of the City and not fully within the control of the project sponsor. M-AQ-1h also allows the project sponsor to directly fund or implement an offset project; however, no such project has yet been identified. Therefore, the residual impact of project emissions during construction is conservatively considered significant and unavoidable with mitigation, acknowledging the assumption that the project sponsor would implement Mitigation Measures M-AQ-a through M-AQ-1h (Emission Offsets). Although the specific offset projects are not known, it is anticipated that implementation of this mitigation measure would not result in any adverse environmental effects.

Residual Impact with Implementation of All Identified Mitigation Measures

Implementation of Mitigation Measure M-AQ-1a would substantially reduce construction-related emissions of ROG, NO_x, and PM₁₀. The measure would require use of off-road equipment to meet the most stringent emission standards available and would reduce construction-related emissions of ROG,

NO_x, and PM₁₀. However, criteria air pollutant emissions would remain significant during construction of Phases 3, 4, and 5 when operational emissions are also considered.

Mitigation Measures M-AQ-1b through M-AQ-1g would reduce operational emissions associated with both the Maximum Residential Scenario and the Maximum Commercial Scenario. However, emissions of ROG and NO_x during construction of Phases 3, 4, and 5 with consideration of concurrent operational emissions would remain significant even with implementation of Mitigation Measures M-AQ-1a through M-AQ-1g. Consequently, Mitigation Measure M-AQ-1h (Emissions Offsets) is identified to further reduce the residual pollutant emissions. Mitigation Measure M-AQ-1h would require the project sponsor to offset remaining emissions to below significance thresholds by funding the implementation of an offsite emissions reduction project in an amount sufficient to mitigate residual criteria pollutant emissions.

As specified in Mitigation Measure M-AQ-1h, offsetting of the project's emissions would follow completion of construction activities for Phases 1 and 2. If construction emissions were considered alone, without operational emissions, construction emissions would be less than significant. Consequently, emissions offsets would represent the necessary amount of offset required to also address operational emissions. Therefore, emissions reduction projects funded through Mitigation Measure M-AQ-1h would offset the regional criteria pollutant emissions generated by operation of the Project that would remain in excess of the applicable thresholds after implementation of the project-specific emission reductions required under Mitigation Measures M-AQ-1a through M-AQ-1g. If Mitigation Measure M-AQ-1h is implemented via a directly funded or implemented offset project, it could have the potential to reduce the impact to a less than significant level but only if the timing of the offsets could be documented prior to the occupancy of Phase 3 and ensured for the life of the project. Therefore, the residual impact of project emissions during construction is conservatively considered significant and unavoidable with mitigation, acknowledging the assumption that the project sponsor would implement Mitigation Measures M-AQ-1a through M-AQ-1h.

Impact AQ-2: At project build-out, the Project would result in emissions of criteria air pollutants at levels that would violate an air quality standard, contribute to an existing or projected air quality violation, and result in a cumulatively considerable net increase in criteria air pollutants.

Maximum Residential Scenario

Project-related emissions under the Maximum Residential Scenario would exceed BAAQMD thresholds of significance for ROG, NO_x, and PM₁₀. Therefore, the Project would have a significant impact on regional emissions related to operational emissions of ozone precursors and PM₁₀. Significant emissions of ozone precursors (ROG and NO_x) and PM₁₀ from operation would have the same potential health effects as discussed in Impact AQ-1 above.

Maximum Commercial Scenario

Project-related emissions under the Maximum Commercial Scenario would exceed BAAQMD thresholds of significance for ROG, NO_x, and PM₁₀. Therefore, the Project would also have a significant impact on regional emissions related to ozone precursors and PM₁₀ under this scenario. Significant emissions of ozone precursors (ROG and NO_x) and PM₁₀ from operation would have the same potential health effects as discussed in Impact AQ-1 above.

Mitigation Measures M-AQ-1b: Diesel Backup Generator Specifications, M-AQ-1c: Use Low and Super-compliant VOC Architectural Coatings in Maintaining Buildings through Covenants Conditions and Restrictions (CC&Rs) and Ground Lease, M-AQ-1d: Promote use of Green Consumer Products, M-AQ-1e: Electrification of Loading Docks, M-AQ-1f: Transportation Demand Management, and M-AQ-1g: Additional Mobile Source Control Measures would reduce operational emissions associated with both the Maximum Residential and Maximum Commercial Scenarios. However, even with implementation of Mitigation Measures M-AQ-1b through M-AQ-1g, criteria pollutant emissions from operation of the Maximum Residential Scenario or the Maximum Commercial Scenario would remain significant. Consequently, implementation of Mitigation Measure M-AQ-1h: Offsets of Operational Emissions would be required to reduce emission to the extent feasible. As discussed in Impact AQ-1 (above), if Mitigation Measure M-AQ-1h is implemented via a directly funded or implemented offset project, it could have the potential to reduce the impact to a less than significant level but only if the timing of the offsets could be documented prior to the occupancy of Phase 3 and ensured for the life of the project. Therefore, the residual impact of project emissions during operation at build out is conservatively considered significant and unavoidable with mitigation, acknowledging the assumption that the project sponsor would implement Mitigation Measures M-AQ-1a through M-AQ-1h.

Impact C-AQ-1: The Maximum Residential or Maximum Commercial Scenarios, in combination with past, present, and reasonably foreseeable future development in the project area, would contribute to cumulative regional air quality impacts.

The contribution of a project's individual air emissions to regional air quality impacts is, by its nature, a cumulative effect. Emissions from past, present, and future projects in the region also have or will contribute to adverse regional air quality impacts on a cumulative basis. No single project by itself would be sufficient in size to result in non-attainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulative air quality conditions. The project-level thresholds for criteria air pollutants are based on levels by which new sources are not anticipated to contribute to an air quality violation or result in a considerable net increase in criteria air pollutants. Therefore, because the Project's emissions exceed the project-level thresholds, the project would result in a considerable contribution to cumulative regional air quality impacts. As discussed above, implementation of Mitigation Measures M-AQ-1a through M-AQ-1h would reduce this impact, however, not to a less-than-significant level. Therefore, this impact would be significant and unavoidable with mitigation.

VI. EVALUATION OF PROJECT ALTERNATIVES

This Section describes the reasons for approving the Project and the reasons for rejecting the alternatives as infeasible. CEQA requires that an EIR evaluate a reasonable range of alternatives to the proposed project or the project location that substantially reduce or avoid significant impacts of the proposed project. CEQA requires that every EIR also evaluate a "No Project" alternative. Alternatives provide the decision maker with a basis of comparison to the proposed Project in terms of their significant impacts and their ability to meet project objectives. This comparative analysis is used to consider reasonable, potentially feasible options for minimizing environmental consequences of the Project.

A. Alternatives Selected for Detailed Analysis

The Alternatives set forth in the Final EIR and listed below are hereby rejected as infeasible based upon substantial evidence in the record, including evidence of economic, legal, social, technological, and other

considerations described in this Section, in addition to those described in Section VII below, which are hereby incorporated by reference, that make these alternatives infeasible. These determinations are made with the awareness that CEQA defines “feasibility” to mean “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.” (CEQA Guidelines § 15364.) Under CEQA case law, the concept of “feasibility” encompasses (i) the question of whether a particular alternative promotes the underlying goals and objectives of a project; and (ii) the question of whether an alternative is “desirable” from a policy standpoint to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and technological factors.

1. No Project Alternative.

Under the No Project Alternative, existing conditions at the Pier 70 project site would not change. Under this alternative, there would be no exchange of land under the Public Trust Exchange Agreement. The 35-acre project site that contains approximately 351,800 gsf of mostly vacant buildings and facilities, most of which are unoccupied, would be retained in its current condition with the current level of maintenance. Current uses on the site, all of which are on short-term leases or temporary, would continue. The Port would continue to renew the existing short-term leases on the project site; no tenant relocation plan would be proposed. While it is likely that the Port and/or developers could develop portions or all the 28 Acre Site and Illinois Parcels over a period of time, such development is speculative and therefore not analyzed under the No Project Alternative.

Under the No Project Alternative, there would be no amendment to the Planning Code, no rezoning of the entire 35-acre project site, and no adoption of a SUD enabling development controls. None of the approximately 3,422,265 gsf or 801,400 gsf of new buildings and improvements to existing structures on the 28-Acre Site and the Illinois Parcels, respectively, proposed as part of the Project would be constructed or improved. No new proposed residential, commercial, RALI, or open space uses would be constructed on the project site under this alternative. No affordable residential units complying with the City’s Affordable Inclusionary Housing Ordinance would be built. There would be no demolition or rehabilitation of contributing historic architectural resources in the Union Iron Works (UIW) Historic District on the project site under the No Project Alternative; no traffic or street and circulation improvements; no infrastructure or utilities improvements; no new 20th Street pump station; no grading or stabilization improvements; and no shoreline protection or sea level rise adaptation strategies on the project site.

If the No Project Alternative were implemented, none of the impacts associated with the Project would occur. The No Project Alternative would not preclude future development of the project site with a range of land uses that are principally permitted at the project site. Development and growth would continue within the vicinity of the project site as nearby projects are approved, constructed, and occupied. These projects would contribute to significant cumulative impacts in the vicinity, but under the No Project Alternative, the existing land use activity on the project site would continue and would therefore not contribute to these cumulative impacts beyond existing levels.

The No Project Alternative is hereby rejected as infeasible because, although it would eliminate the Project’s significant and unavoidable impacts, it would fail to meet any of the basic objectives of the project and, therefore, is not a feasible alternative.

2 Code Compliant Alternative.

Under the Code Compliant Alternative, there would be no establishment of an SUD; the project site would remain in M-2 and P Zoning Districts. The Code Compliant Alternative would include approximately 1,881,360 gsf of development, about 45 percent less than under the Project overall. This alternative would include 590 residential units totaling 519,950 gsf, 1,162,260 gsf of commercial (office) use, 156,780 gsf of retail use, and 42,370 gsf of arts/light-industrial uses. The Code Compliant Alternative would provide 150 on-street vehicle parking spaces and 985 off-street spaces located on several surface parking lots on the site. Under this alternative, 5.76 acres of public open space would be constructed, including promenade and terrace areas along the waterfront, an Irish Hill playground area, and a plaza and market square around Building 12. Unlike the Project, this alternative does not include the Maximum Residential Scenario and the Maximum Commercial Scenario as optional development scenarios.

Under this alternative, the project site would remain within the existing Height and Bulk Districts of 65-X and 40-X. No voter approval would have been required pursuant to Proposition B under the Code Compliant Alternative because no changes to the height districts would be proposed.

Under the Code Compliant Alternative, 227,866 gsf located in Buildings 2, 12, and 21 on the project site would be retained and rehabilitated in accordance with Secretary of the Interior's Standards. As with the Project, the northern spur of the Irish Hill remnant would be removed to allow for the construction of 21st Street. Also, as under the Project, Building 21 would be relocated about 75 feet to the southeast. The remaining seven structures on the project site (Buildings 11, 15, 16, 19, 25, 32, and 66), containing 92,945 gsf, would be demolished.

Similar to the Project, the Code Compliant Alternative includes construction of transportation and circulation improvements. Under this alternative, the following transportation and circulation improvements would be implemented: construction of new 21st Street, reconstruction of 20th and 22nd streets, and construction of new Louisiana and Maryland streets. All new and reconstructed streets would be built with sidewalks. As under the Project, the Code Compliant Alternative would include the same bicycle circulation improvements (Bay Trail extension, Class II and Class III facilities on internal streets, and a bikeshare location). The Code Compliant Alternative would include same Transportation Demand Management (TDM) program as the Project, with exception of those items that pertain only to residential tenants. A TDM program would include the following: establishment of a Transportation Management Agency (TMA) that employs an on-site transit coordinator, operation of a shuttle system, maintenance of a TMA website with real-time transit information, distribution of educational documents, coordination of ride-matching services, enrollment in Emergency Ride Home program, employment of a structured parking strategy, unbundled residential and commercial parking, provision of car-share parking spaces, metering of on-street parking, and parking wayfinding signage across the site.

Under this alternative, new and upgraded utilities and infrastructure would be constructed, including a new 20th Street pump station. A combined sewer and stormwater system would be built, similar to Option 1 under the Project, but it would have slightly different alignments due to different building and roadway siting and locations. Unlike the Project, this alternative does not include variants. The Code Compliant Alternative would further some of the project sponsors' objectives.

The Code Compliant Alternative includes about 47,962 cubic yards of off-haul of excavated materials and about 8,900 cubic yards of clean fill import. This alternative includes construction of an engineered berm along the eastern property boundary with an approximately 3:1 slope and a maximum height of approximately 4 feet to address projected sea level rise flooding risks. Shoreline protection improvements, including placing rip-rap along the water's edge, under this alternative would be similar to those under the Project. Like the Project, implementation of this alternative would take place over a period of 11 years, similar to the Project, and in several phases (up to five for the Project, up to four for this alternative).

Under this alternative, an exchange of land under the Public Trust Exchange Agreement would occur under in order to clarify the Public Trust status of portions of Pier 70 that would free some portions of the project site from the Public Trust while committing others to the Public Trust.

The Draft EIR identified the Code Compliant as the environmentally superior alternative. Due to the substantially lower number of residential units and the decrease in the amount of commercial and RALI space to be constructed and occupied under the Code Compliant Alternative, that Alternative would lessen (but not avoid) the significant adverse impacts identified for the Project related to the topics of transportation, noise, and air quality. The Code Compliant Alternative would also lessen impacts of the Project that were found to be less than significant, or less than significant with mitigation, related to the topics of Land Use, Population and Housing, Cultural Resources (Archeological and Historic Architectural), Greenhouse Gas Emissions, Wind, Shadow, Recreation, Utilities and Service Systems, Public Services, Geology and Soils, Hazards and Hazardous Materials, and Mineral and Energy Resources.

The Code Compliant Alternative would partially meet the objectives of the Project. Like the Project, it would retain, rehabilitate, and reuse a former industrial complex that would continue to be a part of an historic district. It would provide public open spaces and waterfront access, commercial and retail space, and would contribute market-rate and affordable units toward meeting San Francisco's regional housing needs. However, it would provide substantially less public open space, market-rate and affordable residential units, and commercial and retail space than the Project. This alternative would not elevate building parcels, nor would it include a financing strategy to enable the project to adapt to future, increased levels of sea level rise. This alternative would not construct a high-quality, public-private development project that could attract sources of public investment, equity, and debt financing to fund site and infrastructure costs, and ongoing maintenance, and produce a market rate return investment that allows the Port to further its Public Trust mandate and mission.

The Project's transit impacts would be reduced but would still be significant and unavoidable with mitigation under the Code Compliant Alternative. As with the Project, loading impacts would remain significant and unavoidable even with implementation of identified mitigation. Similarly, the Code Compliant Alternative would reduce significant and unavoidable noise impacts related to increases in ambient noise (both temporary/periodic and permanent) associated with the Project, but these impacts would still be significant and unavoidable with mitigation. Compared to the Project, the Code Compliant Alternative would, however, reduce cumulative impacts related to increase in permanent ambient noise levels. Like the Project, the Code Compliant Alternative would result in air quality impacts that are significant and unavoidable with mitigation, although these impacts would be reduced compared to the Project.

The Code Compliant Alternative is rejected as infeasible because, although it would eliminate impacts associated with increase in ambient noise levels identified as significant and unavoidable with mitigation for the Project, it would not reduce to a less-than-significant level any of the other impacts identified as significant and unavoidable with mitigation for the Project. Additionally, the Code Compliant Alternative would not meet many of the project objectives. The Code Compliant Alternative would retain and reuse a former industrial complex that would continue to be a part of an historic district. However, the alternative would have significantly fewer waterfront open spaces, amenities, and services. Overall density of residential and commercial office uses would also be substantially reduced, as well as reduced housing affordability levels. As such, the Code Compliant Alternative would contribute fewer market-rate and affordable units toward meeting San Francisco's fair share of the regional housing needs. The catalytic effect of the Code Compliant Alternative on the larger Pier 70 area would be significantly diminished, as would revenue generation to fund other Pier 70 improvements, due to greatly reduced density. At the given density, taking into account the level of infrastructure necessary to facilitate development, development under the alternative would not be able to attract sources of equity and debt financing sufficient to fund the project's site and infrastructure costs, would not be able to fund ongoing maintenance and operation costs, and would not produce a market rate return on investment that meets the requirements of AB 418. While the alternative would comply with the *Pier 70 Risk Management Plan*, it would not include sustainability features over and above those currently required by the Planning and Building codes. The alternative would include construction of an engineered berm to protect the shoreline against projected levels of sea level rise. However, the alternative would not elevate building parcels, nor would it include a financing strategy to enable the project to adapt to future, increased levels of sea level rise.

3. 2010 Pier 70 Master Plan Alternative.

The 2010 Pier 70 Master Plan Alternative would conform to the Port of San Francisco's 2010 Pier 70 Preferred Master Plan. The 2010 Pier 70 Master Plan Alternative includes approximately 31.4 acres, and would not include development on the 3.6-acre Hoedown Yard (which would continue to be owned and operated by PG&E as a storage and maintenance yard). Under the 2010 Pier 70 Master Plan Alternative, the General Plan and Planning Code would be amended, adding a new Pier 70 SUD, which would establish land use and zoning controls for the 31.4-acre site. The existing Zoning Map would be amended to show changes from the current Zoning District (M-2 and P) to the proposed SUD zoning. Under this alternative, as under the Project, the existing Height and Bulk Districts of 65-X and 40-X would be increased to 90-X, except for a 100-foot-wide portion adjacent to the shoreline that would remain at 40 feet, but would become public open space under this alternative.

The 2010 Pier 70 Master Plan Alternative would include approximately 2,153,330 gsf of development, about 50 percent less square footage than under the Project. This alternative would include 195 residential units totaling 160,440 gsf, 1,698,780 gsf of commercial (office) use, 188,610 gsf of retail use, and 105,500 gsf of arts/light-industrial uses. The 2010 Pier 70 Master Plan Alternative would provide 405 on-street vehicle parking spaces and 2,120 off-street spaces located on several surface parking lots on the site. Under this alternative, 8.07 acres of open space would be constructed, including promenade and terrace areas along the waterfront, a plaza and market square around Buildings 2 and 12, an open space block along the northern portion of the 28-Acre Site, and a plaza on 20th Street around Building 3A. Unlike the Project, this alternative does not include the Maximum Residential Scenario and the Maximum Commercial Scenario as optional development scenarios.

Like the Project, this alternative would include a Design for Development document comparable to that of the Project, but would apply specifically to the height districts, use program, and site plan for streets, configuration of parcels, and open spaces under this alternative. As with the Project, the Design for Development under this alternative would establish standards and guidelines for the rehabilitation of historic buildings, buildable zones for infill construction, and would contain project-wide as well as location-specific massing and architecture requirements that would govern the design of infill construction within the project site to ensure architectural compatibility with historic buildings within the UIW Historic District.

Under the 2010 Pier 70 Master Plan Alternative, a total of 293,228 gsf of existing buildings would be retained and rehabilitated in accordance with the Secretary of the Interior's Standards. Buildings 2, 12, and 19 on the project site would be retained and rehabilitated in their current location, and Building 21 would be relocated just to the south of the Historic Core boundary, at the intersection of Louisiana and 21st streets within the project site. The remaining six structures on the project site (Buildings 11, 15, 16, 25, 32, and 66), containing about 86,793 gsf, would be demolished. As with the Project, the northern spur of the Irish Hill remnant would be removed to allow for the construction of 21st Street. The less-than-significant impacts associated with the demolition of contributing Building 19, specifically, under the Project, would be reduced to a level of no impact under this alternative, because this building would be retained.

Similar to the Project, the 2010 Pier 70 Master Plan Alternative includes construction of transportation and circulation improvements. Under this alternative, the following transportation and circulation improvements would be implemented: construction of new 21st Street, reconstruction of 20th and 22nd streets, and construction of new Louisiana and Maryland streets. All new and reconstructed streets would be built with sidewalks. The 2010 Pier 70 Master Plan Alternative would include the same bicycle circulation improvements (Bay Trail extension, Class II and Class III facilities on internal streets, and a bikeshare location) as the Project. The 2010 Pier 70 Master Plan Alternative would include the same TDM program as the Project, with exception of those items that pertain only to residential tenants. The TDM program would include establishment of a TMA that employs an on-site transit coordinator, operation of a shuttle system, maintenance of a TMA website with real-time transit information, distribution of educational documents, coordination of ride-matching services, enrollment in Emergency Ride Home program, employment of a district parking strategy, unbundled residential and commercial parking, provision of car-share parking spaces, metering of on-street parking, and parking wayfinding signage across the site.

Under this alternative, new and upgraded utilities and infrastructure, and a new 20th Street pump station, would be constructed. A combined sewer and stormwater system would be built, similar to Option 1 under the Project, but with slightly different alignments due to different building and roadway siting and locations. Unlike the Project, this alternative does not include variants. The 2010 Pier 70 Master Plan Alternative would further some of the project sponsors' objectives.

The 2010 Pier 70 Master Plan Alternative includes about 47,962 cubic yards of off-haul of excavated materials and about 8,900 cubic yards of clean fill import. It also includes construction of an engineered berm along the eastern property boundary with an approximately 3:1 slope and a maximum height of approximately 4 feet to address projected sea level rise flooding risks. Shoreline protection improvements under this alternative, including placement of new rip-rap along the water's edge, would be similar to

those under the Project. Like the Project, implementation of this alternative would take place over a period of 11 years and in several phases (up to five for the Project, up to four for this alternative). Similar to the Project, an exchange of land under the Public Trust Exchange Agreement would occur under the 2010 Pier 70 Master Plan Alternative in order to clarify the Public Trust status portions of Pier 70, which would free some portions of the project site from the Public Trust while committing others to the Public Trust.

The Project's transit impacts would be reduced but would still be significant and unavoidable with mitigation under the 2010 Pier 70 Master Plan Alternative. As with the Project, loading impacts would remain significant and unavoidable even with implementation of identified mitigation. The 2010 Pier 70 Master Plan Alternative would avoid the significant cumulative noise increases that would occur under either scenario of the Project. This alternative would substantially reduce the number of roadway segments subject to significant noise increases. With implementation of Mitigation Measure M-AQ-1f, Transportation Demand Management, these increases could be reduced by up to 1.0 dB, and all but two of these significant cumulative noise increases would be reduced to less than significant. Although there would still be a significant and unavoidable cumulative impact under this alternative for two roadway segments (20th Street east of Illinois Street and 25th Street east of Third Street), the degree of impact on both of these segments would be less than the Project. The 2010 Pier 70 Master Plan Alternative's contribution to this cumulative impact would still be cumulatively considerable, but substantially less than the Project. Like the Project, the 2010 Pier 70 Master Plan Alternative would result in air quality impacts that remain significant and unavoidable with mitigation, although these impacts would be reduced compared to the Project.

The 2010 Pier 70 Master Plan Alternative is rejected as infeasible because, although it would reduce to less-than-significant impacts associated with increase in ambient noise levels identified as significant and unavoidable with mitigation for the Project, it would not reduce to a less-than-significant level any of the other impacts identified as significant and unavoidable with mitigation for the Project. Additionally, the 2010 Pier 70 Master Plan Alternative would not meet many of the project objectives. The alternative would retain and reuse a former industrial complex that would continue to be a part of an historic district. However, the alternative would have fewer amenities and services and overall density of residential uses would be substantially reduced, eliminating the mixed-use nature of the project. The alternative would provide only one parcel for housing, with the standard level of affordable housing units. The alternative would have a reduced amount of open space. While the alternative would likely include development able to fund ongoing maintenance and operation costs, it may not be able to produce a market rate return on investment that meets the requirements of AB 418 and therefore would not attract cost-efficient sources of equity and debt financing sufficient to fund the project's site and infrastructure construction costs. Finally, the 2010 Pier 70 Master Plan Alternative does not include future development at the Hoedown Yard.

B. Alternatives Considered and Rejected

1. Maritime Use Alternative.

The Maritime Use Alternative would contain only maritime; industrial; production, distribution and repair (PDR); and parking uses throughout the entirety of the project site, consistent with existing zoning and height limits. This alternative would be more consistent with the current and past uses at the site. The

resulting project would have a significantly lower intensity, which would reduce project trips and associated noise and air quality impacts. It would also eliminate residential uses at both the 28-Acre Site and Illinois Parcels, which would address potential transportation, noise and vibration, and air quality impacts. However, the maritime or industrial uses could themselves produce greater noise and/or air quality impacts as compared to the Project.

This alternative was ultimately not selected as it does not achieve a variety of the project sponsors' basic objectives. The Maritime Use Alternative would significantly modify the Project to allow only maritime, industrial, PDR, and parking uses. The overall intensity would be significantly less than the Project. The Maritime Use Alternative would not fully meet the project objectives of providing a new, activated waterfront open space and providing access to San Francisco Bay where it has historically been precluded, by opening the eastern shore of the site to the public with a significant new waterfront park, and creating a pedestrian- and bicycle-friendly environment. This alternative would result in no new affordable housing. Additionally, the alternative would not attract sources of equity and debt financing sufficient to fund the alternative's site and infrastructure construction costs or fund ongoing maintenance and operation costs, and would not achieve a market-rate return on investment that meets the requirements of Assembly Bill No. 418 (2011).

2. No Hoedown Yard Alternative.

The No Hoedown Yard Alternative would modify the Project to eliminate all future development at or improvement of the approximately 3.6-acre Hoedown Yard parcel. This condition would occur if PG&E were unable to find a suitable area to relocate the utilities operations that currently occur at the Hoedown Yard. This alternative would result in a total open space area of 6.7 acres at the project site, a 2.3 acre reduction from the Project. The No Hoedown Yard Alternative would also result in a reduced intensity of development. The No Hoedown Yard Alternative would result in reduced excavation at the Hoedown Yard parcel. Except for these modifications, the No Hoedown Yard Alternative would include components similar to the Project.

The No Hoedown Yard Alternative would not require the approval of the California Public Utilities Commission of PG&E's sale of Hoedown Yard parcel. Otherwise, all of the same approval actions as those listed for the Project in Section 2.G of this EIR.

This alternative would meet most, but not all, of the Project Sponsors' objectives. However, this EIR analyzes as an alternative the 2010 Pier 70 Master Plan Alternative, which includes approximately 32 acres, and excludes all land associated with the Hoedown Yard. Accordingly, the No Hoedown Yard Alternative was ultimately not selected for further consideration because the 2010 Pier 70 Master Plan Alternative similarly excluded the Hoedown Yard, and therefore analysis of this alternative would be redundant. Additionally, this alternative would not substantially reduce environmental impacts as compared to the Project.

3. Noise Compatibility Alternative.

The Noise Compatibility Alternative would be similar to the Project but would allow only commercial-office and RALI uses on the Illinois Parcels, in order to prevent exposure of future sensitive receptors (that would locate on Illinois Street within the project site) to significant noise impacts. This alternative

was also intended to address comments submitted on behalf of the American Industrial Center during the Notice of Preparation public comment period. Except for the modification in allowable uses, the Noise Compatibility Alternative would include components similar to the Project and would meet most of the project sponsor's objectives. Mitigation Measure M-NO-6: Design of Future Noise-Sensitive Uses would require that a noise study be conducted by a qualified acoustician who shall determine the need to incorporate noise attenuation measures into the building design. Under the Project, Mitigation Measure M-NO-6 would reduce the potentially significant noise impact on proposed residential sensitive receptors in the Illinois Parcels to a less-than-significant level. Because no significant and unavoidable impact on proposed residential sensitive receptors would result under the Project, the identification and evaluation of a Noise Compatibility Alternative is not required under CEQA.

VII. STATEMENT OF OVERRIDING CONSIDERATIONS

Pursuant to Public Resources Section 21081 and CEQA Guidelines Section 15093, it is hereby found, after consideration of the Final EIR and the evidence in the record, that each of the specific overriding economic, legal, social, technological and other benefits of the Project as set forth below independently and collectively outweighs the significant and unavoidable impacts and is an overriding consideration warranting approval of the Project. Any one of the reasons for approval cited below is sufficient to justify approval of the Project. Thus, even if a court were to conclude that not every reason is supported by substantial evidence, this determination is that each individual reason is sufficient. The substantial evidence supporting the various benefits can be found in the Final EIR and the preceding findings, which are incorporated by reference into this Section, and in the documents found in the administrative record, as described in Section I.

On the basis of the above findings and the substantial evidence in the whole record of this proceeding, it is specifically found that there are significant benefits of the Project in spite of the unavoidable significant impacts. It is further found that, as part of the process of obtaining Project approval, all significant effects on the environment from implementation of the Project have been eliminated or substantially lessened where feasible. Any remaining significant effects on the environment found to be unavoidable are found to be acceptable due to the following specific overriding economic, technical, legal, social and other considerations:

- The Project would implement the open space, housing, affordability, historic rehabilitation, artist community preservation, commercial, waterfront height limit and urban design policies endorsed by the voters in Proposition F for the 28-Acre Site (November 2014).
- The Project would serve, along with the Historic Core Project (also referred to as the Orton Project) and Crane Cove Park, as a catalyst project for Pier 70 to support the Port's site-wide goals established in the *Pier 70 Preferred Master Plan*, including new infrastructure, streets and utilities, and new revenue to fund other Pier 70 improvements.

- The Project would invest over \$390 million in improvements in transportation and other infrastructure critical to serving the Project Site, the Union Iron Works Historic District, the historic ship repair operations and the surrounding neighborhood.
- The Project would create a unique San Francisco neighborhood within an industrial historic district that includes new, activated waterfront open spaces with the amenities and services necessary to support a diverse, thriving community of residents and workers, while addressing potential land use conflicts with ongoing ship repair at Pier 70.
- The Project would provide a model of 21st century sustainable urban development by implementing the *Pier 70 Risk Management Plan* approved by the San Francisco Bay Regional Water Quality Control Board; encouraging energy and water conservation systems; and reducing vehicle usage, emissions, and vehicle miles traveled to reduce the carbon footprint impacts of new development, consistent with the Port's *Climate Action Plan*.
- Development of the 28-Acre Site will include sustainability measures required under the Design for Development, Infrastructure Plan, TDM Plan, and MMRP, seeking to enhance livability, health and wellness, mobility and connectivity, ecosystem stewardship, climate protection, and resource efficiency of the 28-Acre Site.
- The Project's Transportation Plan, which includes a TDM plan, would provide a full suite of measures to reduce vehicles on the road and would result in a minimum of a 20% vehicle trip reduction.
- The Project would provide dense, mixed-income housing that includes both ownership and rental opportunities, to attract a diversity of household types in order to help San Francisco meet its fair share of regional housing needs.
- The Project would create between approximately 300 and 600 new affordable homes, comprising 30% of all new homes at the 28-Acre Site. The Project would also include a priority housing program for residents of District 10, to the extent allowable under applicable law.
- The Project would generate approximately \$15-20 million in revenue to support the rebuild of public housing facilities, such as the nearby Potrero Annex and Potrero Terrace public housing communities, in accordance with Board Resolution No. 54-14.
- The Project would provide long overdue improvements and revitalize the former industrial site that is currently asphalt lots and deteriorating buildings behind chain link fences, which prohibit public access to the waterfront.
- The Project would provide access to San Francisco Bay where it has been historically precluded, by opening the eastern shore of the site to the public with a major new waterfront park, extending the Bay Trail, and establishing the Blue Greenway, all of which will create a pedestrian- and bicycle-friendly environment.

- The Project would incorporate cutting edge streetscape design that prioritizes pedestrian access, such as providing a raised street design at Maryland and 20th Street at the waterfront and over 50% of the Project site as open space or pedestrian only paths.
- The Project's design would provide an innovative approach to complement the Union Iron Works Historic District, with the Pier 70 SUD Design for Development document establishing standards and guidelines for rehabilitation of historic buildings, as well as maximum building heights and buildable zones for infill construction and project-side and location-specific massing and architecture requirements. Key design features of the Design for Development intended to enhance compatibility of new infill construction with adjacent historical resources in the UIW Historic District include: (1) buffer zones; (2) facades and materiality; (3) adjacency to historical resources.
- The Project would establish nine acres of parks, playgrounds and recreational facilities on and adjacent to the Project Site, more than tripling the amount of parks in the Dogpatch neighborhood. Potential rooftop areas adjacent to Irish Hill would provide active recreation opportunities, such as playing fields and courts.
- Private development will bear the cost for long-term maintenance and management of parks and open spaces within the Project, as well as future sea level rise improvements.
- The Project would include dedicated on-site childcare for at least 100 children to serve area residents and workers, to be operated by a qualified non-profit operator.
- The Project would rehabilitate three contributors to the Union Iron Works Historic District to accommodate new uses consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties, and design and build new infrastructure, public realm areas, parks and buildings consistent with the Infill Development Design Criteria within the Port's *Pier 70 Preferred Master Plan* and support the continued integrity of the Union Iron Works Historic District.
- The Project would create business and employment opportunities, including an estimated 10,000 permanent jobs and 11,000 temporary construction jobs, for local workers and businesses during the design, construction, and operation phases of the Project. The Project sponsors have committed to hiring local employees for 30% of the infrastructure and building construction jobs, and implementing a small diversity business program and a workforce training program that partners with local organizations.
- The Project would provide substantial new and renovated space for arts, cultural, non-profits, small-scale manufacturing, local retail and neighborhood services, including a new arts facility up to 90,000 square feet and 50,000 square feet of production, distribution and repair (PDR) uses.
- The Project would preserve the artist community currently located in the Noonan Building in new state-of-the-art, on-site space that is affordable, functional and aesthetic.

- The Project would elevate and reinforce site infrastructure and building parcels to allow the new Pier 70 neighborhood to be resilient to projected levels of sea level rise and any major seismic event, as well as incorporate financing strategies and generate funding streams that enable the project and the Port's Bay shoreline to adapt to future, increased levels of sea level rise.
- The Project would construct a high-quality, public-private development project that can attract sources of public investment, equity, and debt financing sufficient to fund the Project's site and infrastructure costs, fund ongoing maintenance and operation costs, and produce a market rate return investment that meets the requirement of Assembly Bill (AB) 418 (2011) and allows the Port to further its Public Trust mandate and mission.
- The project will provide training and hiring opportunities for hiring San Francisco residents and formerly homeless and economically disadvantaged individuals for temporary construction and permanent jobs, including local hire mandatory participation at 30% per trade, opportunities for local business enterprise participation and first source hiring.

Having considered the above, the Planning Commission finds that the benefits of the Project outweigh the unavoidable adverse environmental effects identified in the Final EIR, and that those adverse environmental effects are therefore acceptable.

Attachment B

Mitigation Monitoring and Reporting Program for Pier 70 Mixed-Use Project



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 19978

HEARING DATE: AUGUST 24, 2017

Case No.: **2014-001272GPA**
Project Name: **Pier 70 Mixed-Use Project**
Existing Zoning: M-2 (Heavy Industrial) Zoning District
P (Public) Zoning District
40-X and 65-X Height and Bulk Districts
Block/Lot: 4052/001, 4110/001 and 008A, 4111/004, 4120/002,
Proposed Zoning: Pier 70 Mixed-Use Zoning District
65-X and 90-X Height and Bulk Districts
Project Sponsor: Port of San Francisco and Forest City Development California Inc.
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RESOLUTION RECOMMENDING THAT THE BOARD OF SUPERVISORS APPROVE AMENDMENTS TO MAP NO. 04 AND MAP NO. 05 OF THE URBAN DESIGN ELEMENT OF GENERAL PLAN AND THE LAND USE INDEX OF THE GENERAL PLAN TO PROVIDE REFERENCE TO THE PIER 70 MIXED-USE PROJECT SPECIAL USE DISTRICT, AND MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1, AND FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

WHEREAS, Section 4.105 of the Charter of the City and County of San Francisco provides to the Planning Commission the opportunity to periodically recommend General Plan Amendments to the Board of Supervisors; and

WHEREAS, pursuant to Planning Code Section 340(C), the Planning Commission ("Commission") initiated a General Plan Amendment for the Pier 70 Mixed-Use Project ("Project"), per Planning Commission Resolution No. 19949 on June 22, 2017.

WHEREAS, these General Plan Amendments would enable the Project. The Project includes new market-rate and affordable residential uses, commercial use, retail-arts-light industrial uses, parking, shoreline improvements, infrastructure development and street improvements, and public open space. Depending on the uses proposed, the Project would include between 1,645 to 3,025 residential units, a maximum of 1,102,250 to 2,262,350 gross square feet (gsf) of commercial-office use, and a maximum of 494,100 to 518,700 gsf of retail-light industrial-arts use. The Project also includes construction of transportation and circulation improvements, new and upgraded utilities and infrastructure, geotechnical and shoreline improvements, between 3,215 to 3,345 off-street parking spaces in proposed buildings and district parking structures, and nine acres of publicly-owned open space.

WHEREAS, the Project would construct new buildings that would range in height from 50 to 90 feet, as is consistent with Proposition F which was passed by the voters of San Francisco in November 2014.

WHEREAS, these General Plan Amendments would amend Map No. 04 "Urban Design Guidelines for Heights of Buildings" and Map No. 5 "Urban Design Guidelines for Bulk of Buildings" in the Urban Design Element to reference the Pier 70 Mixed-Use Project Special Use District, as well as update and amend the Land Use Index of the General Plan accordingly.

WHEREAS, this Resolution approving these General Plan Amendments is a companion to other legislative approvals relating to the Pier 70 Mixed-Use Project, including recommendation of approval of Planning Code Text Amendments and Zoning Map Amendments, approval of the Pier 70 SUD Design for Development and recommendation for approval of the Development Agreement.

WHEREAS, on August 24, 2017, the Planning Commission reviewed and considered the Final EIR for the Pier 70 Mixed Project (FEIR) and found the FEIR to be adequate, accurate and objective, thus reflecting the independent analysis and judgment of the Department and the Commission, and that the summary of comments and responses contained no significant revisions to the Draft EIR, and approved the FEIR for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31.

WHEREAS, on August 24, 2017, by Motion No. 19976, the Commission certified the Final Environmental Impact Report for the Pier 70 Mixed-Use Project as accurate, complete and in compliance with the California Environmental Quality Act ("CEQA").

WHEREAS, on August 24, 2017, the Commission by Motion No. 19977 approved California Environmental Quality Act (CEQA) Findings, including adoption of a Mitigation Monitoring and Reporting Program (MMRP), under Case No. 2014-001272ENV, for approval of the Project, which findings are incorporated by reference as though fully set forth herein.

WHEREAS, the CEQA Findings included adoption of a Mitigation Monitoring and Reporting Program (MMRP) as Attachment B, which MMRP is hereby incorporated by reference as though fully set forth herein and which requirements are made conditions of this approval.

WHEREAS, on July 20, 2017, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on General Plan Amendment Application Case No. 2014-001272GPA. At the public hearing on July 20, 2017, the Commission continued the adoption of the General Plan Amendment Application to the public hearing on August 24, 2017.

WHEREAS, a draft ordinance, substantially in the form attached hereto as Exhibit A, approved as to form, would amend Map No. 04 "Urban Design Guidelines for Heights of Buildings" and Map No. 05 "Urban Design Guidelines for Bulk of Buildings" in the Urban Design Element, and the Land Use Index of the General Plan.

NOW THEREFORE BE IT RESOLVED, that the Planning Commission hereby finds that the General Plan Amendments promote the public welfare, convenience and necessity for the following reasons:

1. The General Plan Amendments would help implement the Pier 70 Mixed-Use Project development, thereby evolving currently under-utilized industrial land for needed housing, commercial space, and parks and open space.
2. The General Plan Amendments would help implement the Pier 70 Mixed-Use Project, which in turn will provide employment opportunities for local residents during construction and post-occupancy, as well as community facilities and parks for new and existing residents.

3. The General Plan Amendments would help implement the Pier 70 Mixed-Use Project by enabling the creation of a mixed-use and sustainable neighborhood, with fully rebuilt infrastructure. The new neighborhood would improve the site's multi-modal connectivity to and integration with the surrounding City fabric, and connect existing neighborhoods to the City's central waterfront.
4. The General Plan Amendments would enable the construction of a new vibrant, safe, and connected neighborhood, including new parks and open spaces. The General Plan Amendments would help ensure a vibrant neighborhood with active streets and open spaces, high quality and well-designed buildings, and thoughtful relationships between buildings and the public realm, including the waterfront.
5. The General Plan Amendments would enable construction of new housing, including new on-site affordable housing, and new arts, retail and manufacturing uses. These new uses would create a new mixed-use neighborhood that would strengthen and complement nearby neighborhoods.
6. The General Plan Amendments would facilitate the preservation and rehabilitation of portions of the Union Iron Works Historic District—an important historic resource listed in the National Register of Historic Places.

AND BE IT FURTHER RESOLVED, that the Planning Commission finds these General Plan Amendments are in general conformity with the General Plan, and the Project and its approvals associated therein, all as more particularly described in Exhibit A to the Development Agreement on file with the Planning Department in Case No. 2014-001272DVA, are each on balance, consistent with the following Objectives and Policies of the General Plan, as it is proposed to be amended as described herein, and as follows:

HOUSING ELEMENT

OBJECTIVE 1

IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

POLICY 1.1

Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing.

POLICY 1.8

Promote mixed use development, and include housing, particularly permanently affordable housing, in new commercial, institutional or other single use development projects.

POLICY 1.10

Support new housing projects, especially affordable housing, where households can easily rely on public transportation, walking and bicycling for the majority of daily trips.

The Project is a mixed-use development with between 1,645 and 3,025 dwelling units at full project build-out, which provides a wide range of housing options. As detailed in the Development Agreement, the Project exceeds the inclusionary affordable housing requirements

of the Planning Code, through a partnership between the developer and the City to reach a 30% affordable level.

OBJECTIVE 11

SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.

POLICY 11.1

Promote the construction and rehabilitation of well-designed housing that emphasizes beauty, flexibility, and innovative design, and respects existing neighborhood character.

POLICY 11.2

Ensure implementation of accepted design standards in project approvals.

POLICY 11.7

Respect San Francisco's historic fabric, by preserving landmark buildings and ensuring consistency with historic districts.

The Project, as described in the Development Agreement and controlled in the Design for Development (D4D), includes a program of substantial community benefits designed to revitalize a former industrial shipyard and complement the surrounding neighborhood. Through the standards and guidelines in the D4D, the Project would respect the character of existing historic resources, while providing for a distinctly new and unique design. The Project retains three historic resources (Buildings 2, 12 and 21) and preserves the character of the Union Iron Works Historic District by providing for compatible new construction.

OBJECTIVE 12

BALANCE HOUSING GROWTH WITH ADEQUATE INFRASTRUCTURE THAT SERVES THE CITY'S GROWING POPULATION.

POLICY 12.1

Encourage new housing that relies on transit use and environmentally sustainable patterns of movement.

POLICY 12.2

Consider the proximity of quality of life elements, such as open space, child care, and neighborhood services, when developing new housing units.

The Project appropriately balances housing with new and improved infrastructure and related public benefits.

The project site is located adjacent to a transit corridor, and is within proximity to major regional and local public transit. The Project includes incentives for the use of transit, walking and bicycling through its TDM program. In addition, the Project's streetscape design would enhance vehicular, bicycle and pedestrian access and connectivity through the site. The Project will establish a new bus line through the project site, and will provide an open-to-the-public shuttle.

Therefore, new residential and commercial buildings constructed as part of the Project would rely on transit use and environmentally sustainable patterns of movement.

The Project will provide over nine acres of new open space for a variety of activities, including an Irish Hill playground, a market square, a central commons, a minimum ½ acre active recreation on the rooftop of buildings, and waterfront parks along 1,380 feet of shoreline.

The Project includes substantial contributions related to quality of life elements such as open space, affordable housing, transportation improvements, childcare, schools, arts and cultural facilities and activities, workforce development, youth development, and historic preservation.

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

POLICY 1.1

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

The Project is intended to provide a distinct mixed-use development with residential, office, retail, cultural, and open space uses. The Project would leverage the Project site's location on the Central Waterfront and close proximity to major regional and local public transit by building a dense mixed-use development that allows people to work and live close to transit. The Project's buildings would be developed in a manner that reflects the Project's unique location in a former industrial shipyard. The Project would incorporate varying heights, massing and scale, maintaining a strong streetwall along streets, and focused attention around public open spaces. The Project would create a balanced commercial center with a continuum of floorplate sizes for a range of users, substantial new on-site open space, and sufficient density to support and activate the new active ground floor uses and open space in the Project.

The Project would help meet the job creation goals established in the City's Economic Development Strategy by generating new employment opportunities and stimulating job creation across all sectors. The Project would also construct high-quality housing with sufficient density to contribute to 24-hour activity on the Project site, while offering a mix of unit types, sizes, and levels of affordability to accommodate a range of potential residents. The Project would facilitate a vibrant, interactive ground plane for Project and neighborhood residents, commercial users, and the public, with public spaces that could accommodate a variety of events and programs, and adjacent ground floor building spaces that include elements such as transparent building frontages and large, direct access points to maximize circulation between, and cross-activation of, interior and exterior spaces.

OBJECTIVE 2

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

POLICY 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

See above (Commerce and Industry Element Objective 1 and Policy 1.1) which explain the Project's contribution to the City's overall economic vitality.

OBJECTIVE 3

PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

POLICY 3.2

Promote measures designed to increase the number of San Francisco jobs held by San Francisco residents.

The Project would help meet the job creation goals established in the City's Economic Development Strategy by generating new employment opportunities and stimulating job creation across all sectors. The Project will provide expanded employment opportunities for City residents at all employment levels, both during and after construction. The Development Agreement, as part of the extensive community benefit programs, includes focused workforce first source hiring -- both construction and end-user -- as well as a local business enterprise component.

TRANSPORTATION ELEMENT

OBJECTIVE 2

USE THE TRANSPORTATION SYSTEM AS A MEANS FOR GUIDING DEVELOPMENT AND IMPROVING THE ENVIRONMENT.

POLICY 2.1

Use rapid transit and other transportation improvements in the city and region as the catalyst for desirable development, and coordinate new facilities with public and private development.

POLICY 2.5

Provide incentives for the use of transit, carpools, vanpools, walking and bicycling and reduce the need for new or expanded automobile and automobile parking facilities.

The Project is located within a former industrial shipyard, and will provide new local, regional, and statewide transportation services. The Project is located in close proximity to the Caltrain Station on 22nd Street, and the Muni T-Line along 3rd Street. The Project includes a detailed TDM program, including various performance measures, physical improvements and monitoring and enforcement measures designed to create incentives for transit and other alternative to the single occupancy vehicle for both residential and commercial buildings. In addition, the Project's design, including its streetscape elements, is intended to promote and enhance walking and bicycling.

OBJECTIVE 23

IMPROVE THE CITY'S PEDESTRIAN CIRCULATION SYSTEM TO PROVIDE FOR EFFICIENT, PLEASANT, AND SAFE MOVEMENT.

POLICY 23.1

Provide sufficient pedestrian movement space with a minimum of pedestrian congestion in accordance with a pedestrian street classification system.

POLICY 23.2

Widen sidewalks where intensive commercial, recreational, or institutional activity is present, sidewalks are congested, where sidewalks are less than adequately wide to provide appropriate pedestrian amenities, or where residential densities are high.

POLICY 23.6

Ensure convenient and safe pedestrian crossings by minimizing the distance pedestrians must walk to cross a street.

The Project will re-establish a street network on the project site, and will provide pedestrian improvements and streetscape enhancement measures as described in the D4D and reflected in the mitigation measures and Transportation Plan in the Development Agreement. The Project would establish 21st Street (between the existing 20th and 22nd Streets) and Maryland Street, which would function as a main north-south thoroughfare through the project site. Each of the new streets would have sidewalks and streetscape improvements as is consistent with the Better Streets Plan.

URBAN DESIGN ELEMENT

OBJECTIVE 1

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

POLICY 1.1

Recognize and protect major views in the city, with particular attention to those of open space and water.

As explained in the D4D, the Project uses a mix of scales and interior and exterior spaces, with this basic massing further articulated through carving and shaping the buildings to create views and variety on the project site, as well as pedestrian-friendly, engaging spaces on the ground. The Project maintains and opens view corridors to the waterfront.

POLICY 1.2

Recognize, protect and reinforce the existing street pattern, especially as it is related to topography.

POLICY 1.3

Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

The Project would re-establish the City's street pattern on the project site, and would construct new buildings, which would range in height from 50 and 90 feet. These new buildings would be viewed in conjunction with the three existing historic resources (Buildings 2, 12 and 21) on the project site, and the larger Union Iron Works Historic District. The Project would include new construction, which is sensitive to the existing historic context, and would be compatible, yet differentiated, from the historic district's character-defining features. The Project is envisioned as an extension of the Central Waterfront and Dogpatch neighborhoods.

OBJECTIVE 2

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

POLICY 2.4

Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

POLICY 2.5

Use care in remodeling of older buildings, in order to enhance rather than weaken the original character of such buildings.

The Project would revitalize a portion of a former industrial shipyard, and would preserve and rehabilitate important historic resources, including Buildings 2, 12 and 21, which contribute to the Union Iron Works Historic District, which is listed in the National Register of Historic Places. New construction would be designed to be compatible, yet differentiated, with the existing historic context.

RECREATION AND OPEN SPACE ELEMENT

OBJECTIVE 1

ENSURE A WELL-MAINTAINED, HIGHLY UTILIZED, AND INTEGRATED OPEN SPACE SYSTEM.

POLICY 1.1

Encourage the dynamic and flexible use of existing open spaces and promote a variety of recreation and open space uses, where appropriate.

POLICY 1.7

Support public art as an essential component of open space design.

The Project would build a network of waterfront parks, playgrounds and recreational facilities on the 28-Acre Site that, with development of the Illinois Street Parcels, will more than triple the amount of parks in the neighborhood. The Project will provide over nine acres of new open space for a variety of activities, including an Irish Hill playground, a market square, a central commons, a minimum ½ acre active recreation on the rooftop of buildings, and waterfront parks along 1,380 feet of shoreline. In addition, the Project would provide new private open space for each of the new dwelling units.

POLICY 1.12

Preserve historic and culturally significant landscapes, sites, structures, buildings and objects.

See Discussion in Urban Element Objective 2, Policy 2.4 and 2.5.

OBJECTIVE 3

IMPROVE ACCESS AND CONNECTIVITY TO OPEN SPACE.

POLICY 3.1

Creatively develop existing publicly-owned right-of-ways and streets into open space.

The Project provides nine acres of new public open space and opens up new connections to the shoreline in the Central Waterfront neighborhood. The Project would encourage non-automobile transportation to and from open spaces, and would ensure physical accessibility these open spaces to the extent feasible.

CENTRAL WATERFRONT AREA PLAN

Objectives and Policies

Land Use

OBJECTIVE 1.1

ENCOURAGE THE TRANSITION OF PORTIONS OF THE CENTRAL WATERFRONT TO A MORE MIXED-USE CHARACTER, WHILE PROTECTING THE NEIGHBORHOOD'S CORE OF PDR USES AS WELL AS THE HISTORIC DOGPATCH NEIGHBORHOOD.

POLICY 1.1.2

Revise land use controls in formerly industrial areas outside the core Central Waterfront industrial area, to create new mixed use areas, allowing mixed-income housing as a principal use, as well as limited amounts of retail, office, and research and development, while protecting against the wholesale displacement of PDR uses.

POLICY 1.1.7

Ensure that future development of the Port's Pier 70 Mixed Use Opportunity Site supports the Port's revenue-raising goals while remaining complementary to the maritime and industrial nature of the area.

POLICY 1.1.10

While continuing to protect traditional PDR functions that need large, inexpensive spaces to operate, also recognize that the nature of PDR businesses is evolving gradually so that their production and distribution activities are becoming more integrated physically with their research, design and administrative functions.

OBJECTIVE 1.2

IN AREAS OF THE CENTRAL WATERFRONT WHERE HOUSING AND MIXED-USE IS ENCOURAGED, MAXIMIZE DEVELOPMENT POTENTIAL IN KEEPING WITH NEIGHBORHOOD CHARACTER.

POLICY 1.2.1

Ensure that infill housing development is compatible with its surroundings.

POLICY 1.2.2

For new construction, and as part of major expansion of existing buildings in neighborhood commercial districts, require housing development over commercial. In other mixed-use districts encourage housing over commercial or PDR where appropriate.

POLICY 1.2.3

In general, where residential development is permitted, control residential density through building height and bulk guidelines and bedroom mix requirements.

POLICY 1.2.4

Identify portions of Central Waterfront where it would be appropriate to increase maximum heights for residential development.

OBJECTIVE 1.4

SUPPORT A ROLE FOR "KNOWLEDGE SECTOR" BUSINESSES IN APPROPRIATE PORTIONS OF THE CENTRAL WATERFRONT.

POLICY 1.4.1

Continue to permit manufacturing uses that support the Knowledge Sector in the Mixed Use and PDR districts of the Central Waterfront.

POLICY 1.4.3

Allow other Knowledge Sector office uses in portions of the Central Waterfront where it is appropriate.

OBJECTIVE 1.7

RETAIN THE CENTRAL WATERFRONT'S ROLE AS AN IMPORTANT LOCATION FOR PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ACTIVITIES

POLICY 1.7.3

Require development of flexible buildings with generous floor-to-ceiling heights, large floor plates, and other features that will allow the structure to support various businesses.

Housing

OBJECTIVE 2.1

ENSURE THAT A SIGNIFICANT PERCENTAGE OF NEW HOUSING CREATED IN THE CENTRAL WATERFRONT IS AFFORDABLE TO PEOPLE WITH A WIDE RANGE OF INCOMES.

POLICY 2.1.1

Require developers in some formally industrial areas to contribute towards the City's very low, low, moderate and middle income needs as identified in the Housing Element of the General Plan.

OBJECTIVE 2.3

REQUIRE THAT A SIGNIFICANT NUMBER OF UNITS IN NEW DEVELOPMENTS HAVE TWO OR MORE BEDROOMS EXCEPT SENIOR HOUSING AND SRO DEVELOPMENTS UNLESS ALL BELOW MARKET RATE UNITS ARE TWO OR MORE BEDROOM UNITS.

POLICY 2.3.1

Target the provision of affordable units for families.

POLICY 2.3.2

Prioritize the development of affordable family housing, both rental and ownership, particularly along transit corridors and adjacent to community amenities.

POLICY 2.3.3

Require that a significant number of units in new developments have two or more bedrooms, except Senior Housing and SRO developments.

POLICY 2.3.4

Encourage the creation of family supportive services, such as child care facilities, parks and recreation, or other facilities, in affordable housing or mixed-use developments.

Built Form

OBJECTIVE 3.1

PROMOTE AN URBAN FORM THAT REINFORCES THE CENTRAL WATERFRONT'S DISTINCTIVE PLACE IN THE CITY'S LARGER FORM AND STRENGTHENS ITS PHYSICAL FABRIC AND CHARACTER.

POLICY 3.1.1

Adopt heights that are appropriate for the Central Waterfront's location in the city, the prevailing street and block pattern, and the anticipated land uses, while producing buildings compatible with the neighborhood's character.

POLICY 3.1.2

Development should step down in height as it approaches the Bay to reinforce the city's natural topography and to encourage and active and public waterfront.

POLICY 3.1.6

New buildings should epitomize the best in contemporary architecture, but should do so with full awareness of, and respect for, the height, mass, articulation and materials of the best of the older buildings that surrounds them.

POLICY 3.1.9

Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

OBJECTIVE 3.2

PROMOTE AN URBAN FORM AND ARCHITECTURAL CHARACTER THAT SUPPORTS WALKING AND SUSTAINS A DIVERSE, ACTIVE AND SAFE PUBLIC REALM.

POLICY 3.2.1

Require high quality design of street-facing building exteriors.

POLICY 3.2.2

Make ground floor retail and PDR uses as tall, roomy and permeable as possible.

POLICY 3.2.5

Building form should celebrate corner locations.

OBJECTIVE 3.3

PROMOTE THE ENVIRONMENTAL SUSTAINABILITY, ECOLOGICAL FUNCTIONING AND THE OVERALL QUALITY OF THE NATURAL ENVIRONMENT IN THE PLAN AREA

POLICY 3.3.1

Require new development to adhere to a new performance-based ecological evaluation tool to improve the amount and quality of green landscaping.

POLICY 3.3.3

Enhance the connection between building form and ecological sustainability by promoting use of renewable energy, energy-efficient building envelopes, passive heating and cooling, and sustainable materials.

Transportation

OBJECTIVE 4.1

IMPROVE PUBLIC TRANSIT TO BETTER SERVE EXISTING AND NEW DEVELOPMENT IN CENTRAL WATERFRONT

POLICY 4.1.4

Reduce existing curb cuts where possible and restrict new curb cuts to prevent vehicular conflicts with transit on important transit and neighborhood commercial streets.

POLICY 4.1.6

Improve public transit in the Central Waterfront including cross-town routes and connections the 22nd Street Caltrain Station and Third Street Light Rail.

OBJECTIVE 4.3

ESTABLISH PARKING POLICIES THAT IMPROVE THE QUALITY OF NEIGHBORHOODS AND REDUCE CONGESTION AND PRIVATE VEHICLE TRIPS BY ENCOURAGING TRAVEL BY NON-AUTO MODES

POLICY 4.3.1

For new residential development, provide flexibility by eliminating minimum off-street parking requirements and establishing reasonable parking caps.

POLICY 4.3.2

For new non-residential development, provide flexibility by eliminating minimum off-street parking requirements and establishing caps generally equal to the previous minimum requirements. For office uses limit parking relative to transit accessibility.

OBJECTIVE 4.4

SUPPORT THE CIRCULATION NEEDS OF EXISTING AND NEW PDR AND MARITIME USES IN THE CENTRAL WATERFRONT

POLICY 4.4.3

In areas with a significant number of PDR establishments and particularly along Illinois Street, design streets to serve the needs and access requirements of trucks while maintaining a safe pedestrian and bicycle environment.

OBJECTIVE 4.5

CONSIDER THE STREET NETWORK IN CENTRAL WATERFRONT AS A CITY RESOURCE ESSENTIAL TO MULTI-MODAL MOVEMENT AND PUBLIC OPEN SPACE

POLICY 4.5.2

As part of a development project's open space requirement, require publicly-accessible alleys that break up the scale of large developments and allow additional access to buildings in the project.

POLICY 4.5.4

Extend and rebuild the street grid, especially in the direction of the Bay.

OBJECTIVE 4.7

IMPROVE AND EXPAND INFRASTRUCTURE FOR BICYCLING AS AN IMPORTANT MODE OF TRANSPORTATION

POLICY 4.7.1

Provide a continuous network of safe, convenient and attractive bicycle facilities connecting Central Waterfront to the citywide bicycle network and conforming to the San Francisco Bicycle Plan.

POLICY 4.7.2

Provide secure, accessible and abundant bicycle parking, particularly at transit stations, within shopping areas and at concentrations of employment.

POLICY 4.7.3

Support the establishment of the Blue-Greenway by including safe, quality pedestrian and bicycle connections from Central Waterfront.

Streets & Open Space

OBJECTIVE 5.1

PROVIDE PUBLIC PARKS AND OPEN SPACES THAT MEET THE NEEDS OF RESIDENTS, WORKERS AND VISITORS

POLICY 5.1.1

Identify opportunities to create new public open spaces and provide at least one new public open space serving the Central Waterfront.

POLICY 5.1.2

Require new residential and commercial development to provide, or contribute to the creation of public open space.

OBJECTIVE 5.4

THE OPEN SPACE SYSTEM SHOULD BOTH BEAUTIFY THE NEIGHBORHOOD AND STRENGTHEN THE ENVIRONMENT

POLICY 5.4.1

Increase the environmental sustainability of Central Waterfronts system of public and private open spaces by improving the ecological functioning of all open space.

POLICY 5.4.3

Encourage public art in existing and proposed open spaces

Historic Preservation

OBJECTIVE 8.2

PROTECT, PRESERVE, AND REUSE HISTORIC RESOURCES WITHIN THE CENTRAL WATERFRONT AREA PLAN

POLICY 8.2.2

Apply the Secretary of the Interior's Standards for the Treatment of Historic Properties in conjunction with the Central Waterfront area plan and objectives for all projects involving historic or cultural resources.

OBJECTIVE 8.3

ENSURE THAT HISTORIC PRESERVATION CONCERNS CONTINUE TO BE AN INTEGRAL PART OF THE ONGOING PLANNING PROCESSES FOR THE CENTRAL WATERFRONT AREA PLAN

POLICY 8.3.1

Pursue and encourage opportunities, consistent with the objectives of historic preservation, to increase the supply of affordable housing within the Central Waterfront plan area.

The Central Waterfront Area Plan anticipated a new mixed-use development at Pier 70. The Project is consistent with the objectives and policies of the Central Waterfront Plan, since the Project adaptively reuses a portion of a former industrial shipyard and provides a new mixed-use development with substantial community benefits, including nine-acres of public open space, new streets and streetscape improvements, on-site affordable housing, rehabilitation of three historic buildings, and new arts, retail and light manufacturing uses. New construction will be appropriately designed to fit within the context of the Union Iron Works Historic District. In addition, the Project includes substantial transit and infrastructure improvements, including new on-site TDM program, facilities for a new public line through the project site, and a new open-to-the public shuttle service.

AND BE IT FURTHER RESOLVED, that the Planning Commission finds these General Plan Amendments are in general conformity with the Planning Code Section 101.1, and the Project and its approvals associated therein, all as more particularly described in Exhibit B to the Development Agreement on file with the Planning Department in Case No. 2014-001272DVA, are each on balance, consistent with the following Objectives and Policies of the General Plan, as it is proposed to be amended as described herein, and as follows:

- 1) *That existing neighbor-serving retail uses will be preserved and enhanced, and future opportunities for resident employment in and ownership of such businesses enhanced;*

No neighborhood-serving retail uses are present on the Project site. Once constructed, the Project will contain major new retail, arts and light industrial uses that will provide opportunities for employment and ownership of retail businesses in the community. These new uses will serve nearby residents and the surrounding community. In addition, building tenants will patronize existing retail uses in the community (along 3rd Street and in nearby Dogpatch), thus enhancing the local retail economy. The Development Agreement includes commitments related to local hiring.

- 2) *That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;*

No existing housing will be removed for the construction of the Project, which will provide at full build-out between 1,645 and 3,025 new residential units. The Project is designed to revitalize a former industrial site and provide a varied land use program that is consistent with the surrounding Central Waterfront and Dogpatch neighborhoods, and the historic context of the Union Iron Works Historic District, which is listed in the National Register of Historic Places. The Project provides a new neighborhood complete with residential, office, retail, arts, and light manufacturing uses, along with new transit and street infrastructure, and public open space. The Project design is consistent with the historic context, and provides a desirable, pedestrian-friendly experience with interactive and engaged ground floors. Thus, the Project would preserve and contribute to housing within the surrounding neighborhood and the larger City, and would otherwise preserve and be consistent with the neighborhood's industrial context.

- 3) *That the City's supply of affordable housing be preserved and enhanced;*

The construction of the Project will not remove any residential uses, since none exist on the project site. The Project will enhance the City's supply of affordable housing through its affordable housing commitments in the Development Agreement, which will result in total of 30% on-site affordable housing units.

- 4) *That commuter traffic not impede Muni transit service or overburden our streets or neighborhood parking;*

The Project would not impede transit service or overburden streets and neighborhood parking. The Project includes a robust transportation program with an on-site Transportation Demand Management (TDM) program, facilities to support a new bus line through the project site, an open-to-the-public shuttle service, and funding for new neighborhood-supporting transportation infrastructure.

The Project is also well served by public transit. The Project is located within close proximity to the MUNI T-Line Station along 3rd Street and the bus routes, which pick-up/drop-off at 20th and 3rd, and 23rd and 3rd Streets. In addition, the Project is located within walking distance to the 22nd Street Caltrain Station. Future residents would be afforded close proximity to bus or rail transit.

Lastly, the Project contains new space for vehicle parking to serve new parking demand. This will ensure that sufficient parking capacity is available so that the Project would not overburden neighborhood parking, while still implementing a rigorous TDM Plan to be consistent with the City's "transit first" policy for promoting transit over personal vehicle trips.

- 5) *That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;*

Although the Project would displace portions of an industrial use historically associated with the Bethlehem Steel and/or Union Iron Works, the Project provides a strong and diverse economic base by the varied land use program, which includes new commercial office, retail, arts, and light industrial uses. The Project balances between residential, non-residential and PDR (Production, Distribution and Repair) uses. Across the larger site at Pier 70 (outside of the project site), the Port of San Francisco has maintained the industrial shipyard operations (currently under lease by BAE). On the 28-Acre site, the Project includes light manufacturing and arts uses, in order to diversify the mix of goods and services within the

project site. The Project also includes a large workforce development program and protections for existing tenants/artists within the Noonan Building. All of these new uses will provide future opportunities for service-sector employment.

- 6) *That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;*

The Project will comply with all current structural and seismic requirements under the San Francisco Building Code and the Port of San Francisco.

- 7) *That landmarks and historic buildings be preserved;*

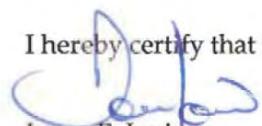
The Project would preserve and rehabilitate a portion of the Union Iron Works Historic District and three of its contributing resources: Buildings 2, 12 and 21. In addition, the Project includes standards and guidelines for new construction adjacent to and within the Union Iron Works Historic District, which is listed in the National Register of Historic Places. These standards and guidelines ensure compatibility of new construction with the character-defining features of the Union Iron Works Historic District, as guided by the Secretary of the Interior's Standards for the Treatment of Historic Properties. In addition, the Project preserves and provides access to an important cultural relic, Irish Hill, which has been identified as an important resource to the surrounding community.

- 8) *That our parks and open space and their access to sunlight and vistas be protected from development.*

The Project will improve access to the shoreline within the Central Waterfront neighborhood, and will provide 9-acres of new public open space. The Project will not affect any of the City's existing parks or open space or their access to sunlight and vistas. A shadow study was completed and concluded that the Project will not cast shadows on any property under the jurisdiction of, or designated for acquisition by, the Recreation and Park Commission.

AND BE IT FURTHER RESOLVED, that pursuant to Planning Code Section 340, the Commission recommends to the Board of Supervisors **APPROVAL** of the aforementioned General Plan Amendments. This approval is contingent on, and will be of no further force and effect until the date that the San Francisco Board of Supervisor has approved by resolution approving the Zoning Map Amendment, Planning Code Text Amendment, and Development Agreement.

I hereby certify that the Planning Commission **ADOPTED** the foregoing Resolution on August 24, 2017.


Jonas P. Ionin
Commission Secretary

AYES: Hillis, Johnson, Koppel, Melgar, Moore and Richards

NAYES: None

ABSENT: Fong

ADOPTED: August 24, 2017

