

File No. 250187

Committee Item No. 4

Board Item No. \_\_\_\_\_

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation

Date: April 7, 2025

Board of Supervisors Meeting:

Date: \_\_\_\_\_

#### Cmte Board

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| <input type="checkbox"/>            | <input type="checkbox"/> | Motion                                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Resolution                                   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ordinance - VERSION 2                        |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest - VERSION 2               |
| <input type="checkbox"/>            | <input type="checkbox"/> | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/> | Youth Commission Report                      |
| <input type="checkbox"/>            | <input type="checkbox"/> | Introduction Form                            |
| <input type="checkbox"/>            | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/> | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Contract / DRAFT Mills Act Agreement         |
| <input type="checkbox"/>            | <input type="checkbox"/> | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Public Correspondence                        |

#### OTHER

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>PW Order No. 211444</u>                                   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Mission Rock SUD Sidewalk Diagram</u>                     |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Planning GP and CEQA Determination – February 6, 2025</u> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>PORT Reso No. 25-07 – February 11, 2025</u>               |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Mayor's Intro Memo – February 25, 2025</u>                |
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Prepared by: John Carroll

Date: April 3, 2025

Prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

Prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

[Public Works Code - Minor Sidewalk Encroachments at the Mission Rock, Pier 70, and Potrero Power Station Projects]

**Ordinance amending the Public Works Code to designate the Port of San Francisco, instead of the Department of Public Works, as responsible for permitting tables, seating, and other minor encroachments on the public sidewalks at the Mission Rock, Pier 70, and Potrero Power Station projects; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the eight priority policies of Planning Code, Section 101.1.**

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

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

Section 1. Background and Findings.

(a) The Board of Supervisors (the "Board") previously approved Development Agreements for the Mission Rock, Pier 70, and Potrero Power Station projects (collectively, "Development Agreements"), copies of which are on file with the Clerk of the Board in File Nos. 171313, 170863, and 200040, respectively. Pursuant to the Development Agreements, these projects are being developed by private developers on land owned by the City, acting by and through its Port Commission ("Port"). The Development Agreements require the developers to build specified infrastructure, including public streets, sidewalks, and utilities, as part of the overall projects, including certain roadway and sidewalk improvements comprising Public Right-of-Ways, as defined in Public Works Code Section 2.4.4. This infrastructure will

1 be offered for public dedication to the City as public roadways and sidewalks that are  
2 anticipated to be placed under the jurisdiction of the Department of Public Works ("Public  
3 Works") following the Board's acceptance and public dedication of these roadways and  
4 sidewalks ("Port DA Project Accepted Improvements"). Currently, the Port DA Project  
5 Accepted Improvements in Mission Rock and Pier 70 are those specified in Public Works  
6 Order Nos. 211444 and 210239, respectively, which are incorporated by reference herein and  
7 are on file with the Clerk of the Board in File Nos. 250187 and 240087, respectively. The  
8 infrastructure in Potrero Power Station is anticipated to be considered by the Board for  
9 acceptance in late 2025. Upon acceptance, said infrastructure will also comprise Port DA  
10 Project Accepted Improvements.

11 (b) This ordinance provides that the Port, and not Public Works, will regulate specified  
12 minor encroachments on the sidewalk portions of the Port DA Project Accepted  
13 Improvements.

## 14 15 Section 2. Environmental and Land Use Findings.

16 (a) In a letter dated February 6, 2025 ("Planning Department Letter"), the Planning  
17 Department determined that the actions contemplated in this ordinance comply with the  
18 California Environmental Quality Act (California Public Resources Code Sections 21000 et  
19 seq.) and do not trigger the need for subsequent environmental review. Said determination is  
20 on file with the Clerk of the Board in File No. 250187 and is incorporated herein by reference.

21 (b) In this same letter, the Planning Department determined that the actions  
22 contemplated in this ordinance are consistent, on balance, with the eight priority policies of  
23 Planning Code Section 101.1.

24 (c) The Board adopts as its own the environmental findings and Planning Code  
25 Section 101.1 consistency findings in the Planning Department Letter.

1           Section 3. Port Commission Actions.

2           The Board of Supervisors has reviewed, acknowledges, and approves the actions of  
3 the Port Commission, as described in its Resolution No. 25-07 and acknowledged at the Port  
4 Commission's February 11, 2025 meeting, to accept responsibility, including any associated  
5 liability, for regulation and enforcement of specified minor encroachments on certain sidewalk  
6 portions of the Port DA Project Accepted Improvements, among other actions. A copy of  
7 Resolution No. 25-07 is on file with the Clerk of the Board in File No. 250187, and is  
8 incorporated herein by reference.

9  
10          Section 4. Article 15 of the Public Works Code is hereby amended by adding  
11 Section 796, to read as follows:

12           **SEC. 796. EXCEPTION FOR MINOR ENCROACHMENTS REGULATED BY THE PORT**  
13 **OF SAN FRANCISCO AT CERTAIN PROJECTS ON PORT PROPERTY.**

14           (a) **Application.** This Section 796 applies within the public sidewalks in the Mission Rock  
15 Special Use District established by Planning Code Section 249.80, the Pier 70 Special Use District  
16 established by Planning Code Section 249.79, and that portion of 23rd Street within the Potrero Power  
17 Station Special Use District established by Planning Code Sec. 249.87 beginning at Illinois Street and  
18 continuing for approximately 735 linear feet to the eastern side of Louisiana Paseo, provided that such  
19 streets have been accepted by the Board of Supervisors for maintenance and liability and have been  
20 placed within the jurisdiction of the Department of Public Works for regulation of street use.

21           (b) **Exception for Port Regulation of Certain Minor Encroachments.** The categories of minor  
22 encroachments specified in this subsection (b) shall not be subject to permitting, approval, or  
23 enforcement by the Department, provided the Port of San Francisco ("Port") has exercised authority  
24 to permit or approve said categories of encroachments. This exception shall apply only to the following  
25 categories of minor encroachments: merchandise displays; benches and similar seating; tables;

1 planters; and café tables, chairs, and related appurtenant items such as umbrellas, lighting, pedestrian  
2 diverters, and waste containers, provided such items satisfy specifications and a range of physical  
3 dimensions agreed upon in writing by the Port and Public Works (collectively, “Port-Regulated  
4 Encroachments”). Such Port-Regulated Encroachments shall not be subject to Public Works Code  
5 Sections 176 et seq. (café tables and chairs); Sections 183 et seq. (food and non-food merchandise  
6 display stands); Sections 723 et seq. (minor encroachments); Sections 793 et seq. (Shared Spaces); and  
7 Article 16 (Urban Forestry Ordinance) to the maximum extent permitted by Proposition E (November  
8 2016). The Port shall exercise exclusive authority to regulate and enforce compliance regarding such  
9 Port-Regulated Encroachments. The Port shall exercise exclusive authority and responsibility for  
10 Maintaining Street Trees, as those terms are defined in Proposition E, that are Port-Regulated  
11 Encroachments, to the extent required by Proposition E. Port-Regulated Encroachments must not be  
12 permanently affixed (e.g., bolted) to the sidewalk.

13 (c) **Major Encroachments.** Notwithstanding subsection (b), if the Department determines that  
14 an encroachment would constitute a major encroachment subject to Public Works Code Section 786 et  
15 seq., such encroachment shall be subject to the Department’s review and discretionary approval or  
16 disapproval pursuant to Section 786 et seq.

17 (d) **Access and Authority.** Nothing in this Section 796 shall preclude any City department from  
18 protecting or accessing property or improvements within its jurisdiction for maintenance or any other  
19 purpose, or shall otherwise limit the authority of and remedies available to any City department under  
20 law.

21 (e) **Procedures.** The Directors of the Port and the Department shall establish procedures to  
22 implement this Section 796, including procedures for coordinating encroachments or assets regulated  
23 or managed by the Port and the Department, respectively, that may be within close physical proximity.

1           Section 5. Permit Liability and Enforcement Responsibilities. For Public Right-of-Way  
2 encroachments that are regulated by the Port and not Public Works in accordance with this  
3 ordinance, the Port shall be responsible for all enforcement responsibilities arising from such  
4 encroachments, whether permitted or unpermitted. Public Works shall bear no financial or  
5 legal liability for any costs or claims arising from such encroachments regulated by the Port in  
6 accordance with this ordinance.

7  
8           Section 6. Effective Date. This ordinance shall become effective 30 days after  
9 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
10 ordinance unsigned or does not sign the ordinance within 10 days of receiving it, or the Board  
11 of Supervisors overrides the Mayor's veto of the ordinance.

12  
13           Section 7. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
14 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
15 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
16 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
17 additions, and Board amendment deletions in accordance with the "Note" that appears under  
18 the official title of the ordinance.

19  
20 APPROVED AS TO FORM:  
21 DAVID CHIU, City Attorney

22 By: /s/ HEATHER GOODMAN  
23 HEATHER GOODMAN  
Deputy City Attorney

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25

**REVISED LEGISLATIVE DIGEST**

(Substituted, March 18 2025)

[Public Works Code - Minor Sidewalk Encroachments at the Mission Rock, Pier 70, and Potrero Power Station Projects]

**Ordinance amending the Public Works Code to designate the Port of San Francisco, instead of the Department of Public Works, as responsible for permitting tables, seating, and other minor encroachments on the public sidewalks at the Mission Rock, Pier 70, and Potrero Power Station projects; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the eight priority policies of Planning Code, Section 101.1.**

Existing Law

The Public Works Code prohibits people from placing items in public sidewalks without prior approval from the Department of Public Works ("Public Works"). Pursuant to the Public Works Code, Public Works issues encroachment permits for café tables and chairs, merchandise displays, and other minor encroachments. Public Works is responsible for enforcement to ensure compliance with these provisions of the Public Works Code.

The Port of San Francisco ("Port") is responsible for certain property along San Francisco's waterfront pursuant to state law. Port is responsible for, among other things, managing leases and licenses to third parties for their use of Port property. Currently, a person wishing to place encroachments, like a café table, on a public sidewalk within Port property would be required to obtain separate approvals from Public Works and from Port.

Amendments to Current Law

This ordinance would amend the Public Works Code to create an exception from Public Works encroachment permits for certain minor encroachments on public sidewalks within three new developments on Port property: Mission Rock, Pier 70, and Potrero Power Station. Port would have exclusive responsibility for regulating specified types of encroachments, including café tables and chairs, merchandise displays, seating, and planters. Public Works and Port would be required to develop procedures to ensure proper coordination for the different aspects of the sidewalk within their respective jurisdictions.

Background Information

Mission Rock, Pier 70, and Potrero Power Station are large, multi-phase developments that will include new housing, commercial space, open space, and public infrastructure on Port property along San Francisco's eastern waterfront. The projects are being constructed by private developers pursuant to development agreements with the City and the Port.

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 General – Director’s Office  
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 San Francisco, CA 94103  
 (628) 271-3160 [www.SFPublicWorks.org](http://www.SFPublicWorks.org)

**Public Works Order No: 211444**

**Recommending the acceptance of an irrevocable offer of public improvements associated with the Mission Rock Phase 1A Project, including improvements located within portions of Bridgeview Way, Dr. Maya Angelou Lane, Toni Stone Crossing, and Third Street; dedication of the public improvements for public use; designation of the public improvements for public street and roadway purposes, as specified; acceptance of certain Phase 1A public infrastructure for City maintenance and liability purposes, subject to specified limitations; establishment of official street grades and public right-of-way widths; the amendment of Ordinance No. 1061 entitled “Regulating the Width of Sidewalks” to establish official sidewalk widths on Bridgeview Way, Dr. Maya Angelou Lane, Toni Stone Crossing and Third Street; approval of proposed amendments to Public Works Code to designate Port’s exercise of permitting authority for specified retail activations (e.g., tables, seating, other minor encroachments) and to require excavators in the public right-of-way in the Mission Rock Special Use District to obtain excavation permits including for work that will be completed within 24 hours or would qualify for other existing exemptions; delegation of authority to the Public Works Director to accept deferred infrastructure and documentation, upon completion of such deferred infrastructure; authorize the Director to execute an absolving services agreement with Pacific Gas and Electric related to the provision of power to the 3rd Street Bridge Pilot House; and approval of two master encroachment permits and one major 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. This Order shall be dated for reference purposes as February 20, 2025.
2. California Statutes of 1968, Chapter 1333 (as amended, the “Burton Act”) and San Francisco Charter Section 4.114 empower the San Francisco Port Commission (“Port”) to use, conduct, operate, maintain, manage, regulate, and control the lands within Port Commission jurisdiction subject to the public trust.
3. This Mission Rock Project is subject to that certain Disposition and Development Agreement between the City and County of San Francisco (“City”), acting by and through the Port and Seawall Lot 337 Associates, LLC, a Delaware limited liability company (“SWL 337”), recorded in the Official Records of the City on August 17, 2018 as Document No. 2018-K656938 as approved by the Board of Supervisors through the passage of Resolution 42-18 and partially assigned to Mission Rock Horizontal Sub (Phase 1), LLC, a Delaware limited liability company (“Subdivider”) (“DDA”), and that certain Development Agreement between the City and SWL 337, recorded on August 17, 2018 as Document No. 2018-K656939 as approved by the Board of Supervisors through the passage of Resolution 42-18 and partially assigned to Mission Rock Horizontal Sub (Phase 1), LLC, a Delaware limited liability company as approved by the Board of Supervisors through Ordinance No. 33-18 (“Development Agreement”).
4. The Port and SWL 337 entered into a Master Lease, dated as of August 15, 2018 (“Master Lease”), pursuant to which SWL 337 leased the Premises as described therein. A Memorandum



of Master Lease was recorded on August 17, 2018, as Document No. 2018-K656941-00 in the Official Records of the City and County of San Francisco. Mission Rock Phase 1A is the area generally bounded by Channel Street, Third Street, Terry A. Francis Boulevard, and China Basin Park. Subdivider irrevocably offered public infrastructure and public amenities associated with Phase 1A of the Mission Rock Project and identified in the Offer of Improvements (collectively, the “Phase 1A Public Infrastructure”) to the City and the Port, as clarified and supplemented in two Amended And Restated Irrevocable Offers of Dedication of Improvements for City and Port, respectively (the “Offer of City Improvements” and “Offer of Port Improvements”).

5. Following its review of SWL 337’s proposed engineering design of and construction plans for the Phase 1A Public Infrastructure, Public Works issued Street Improvement Permit No. 20 IE-00486, dated October 1, 2020, approving construction and installation of the Phase 1A Public Infrastructure.
6. The Phase 1A Public Infrastructure being offered for acceptance and public dedication by the Board of Supervisors is located within the newly dedicated public streets known as Bridgeview Way, Dr. Maya Angelou Lane, Toni Stone Crossing, and a portion of Third Street outside of the Phase 1A area. The Phase 1A Public Infrastructure is generally described as, but not limited to:
  - i. streets, roadways, sidewalks, and shared public ways, bicycle lanes, trees, street furnishings, streetlights, traffic signal infrastructure (i.e., conduits, poles, electrical wires, cabinets, pullboxes, and traffic signal heads); roadway signage and striping; fire alarm boxes;
  - ii. lightweight cellular concrete (“LCC”), utility infrastructure including, but not limited to, electrical power infrastructure, stormwater systems including bioretention facilities, domestic water systems, and auxiliary water systems.

The Phase 1A Infrastructure offered for Port acceptance within both newly dedicated public rights-of-way and open spaces is described in the Offer of Port Improvements and is not part of the recommendations of this Order.

7. The improvements constructed by Subdivider for Phase 1A sited within proposed public right-of-way include nonstandard Port encroachments that will be owned and maintained by the Port, generally described as but not limited to: a) non-standard roadway and sidewalk treatments, b) stormwater drainage elements and infrastructure, c) street furnishings, d) public art installations, e) custom benches and trash receptacles, f) non-standard wayfinding signage, g) operational pedestals for retractable bollards, h) streetlight protection elements/stone blocks, i) landscaping and irrigation, j) shared public way improvements, and k) other additional improvements, all of which are more particularly described in the proposed Interdepartmental Master Encroachment Permit (“IMEP”) as defined herein (hereafter collectively the “Port Encroachments”).
8. In Public Works Order Nos. 202297, 203638, and 210720, the Director conditionally approved certain requests for exceptions and deferrals to the Subdivision Code and Subdivision Regulations.
9. In Public Works Order No. 203194, the Director recommended that the Board of Supervisors approve Final Map No. 9443.

10. On June 2, 2020, the Board of Supervisors approved Final Map No. 9443, which provides for a 16-lot subdivision, with lots intended for residential, commercial, open space and public right-of-way uses in Motion M20-060. 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 record the Public Improvement Agreement, and conditionally accept the offers of improvements, subject to completion and further Board of Supervisors action.
11. On May 26, 2020, the San Francisco Public Utilities Commission ("SFPUC") and the Port Commission approved a Jurisdictional Memorandum of Understanding ("Jurisdictional MOU") that sets a framework for the jurisdiction over and maintenance and permitting of the Phase 1A improvements, outlines the procedures for implementing such framework, and provides for access to improvements by the City departments and third parties. The Jurisdictional MOU includes the Mission Rock Acceptance and Maintenance Matrix that further defines the agencies responsible for the ownership and maintenance of the Improvements within Mission Rock Phase 1A.
12. A Director's Hearing was duly noticed and held on November 14, 2024 to present staff recommendation for approval of two applications for major encroachment permits including the proposed IMEP and the Master Encroachment Permit for certain encroachments for a district system utility infrastructure (also referred to as a "Global Master Encroachment Permit" or "GMEP") to be maintained by Mission Rock Utilities, Inc., a Delaware corporation ("MRU"), or its assignee.
13. On November 21, 2024, the Department issued a Conditional Notice of Completion ("NOC") for the Phase 1A Infrastructure including the public improvements, as well as the Port improvements/encroachments and other encroachments discussed in this Order, in which the Department and the City Engineer certified that the Phase 1A Infrastructure had been completed in accordance with the Improvement Plans and Specifications shown in Street Improvement Permit No. 20 IE-00486 prepared by BKF Engineers, entitled "Mission Rock Phase 1 Street Improvement Plans," as modified by Instructional Bulletins #1 through #13, and all City codes, regulations, and standards governing the Phase 1A Public Infrastructure and permitted encroachments. In doing so, the City Engineer also determined that the Phase 1A Public Infrastructure and permitted encroachments are ready for their intended use, subject to specified conditions and the completion of the Deferred Infrastructure.
14. The Port Commission scheduled a hearing on February 11, 2025, to take various actions in regard to the Board of Supervisors consideration of accepting Phase 1A Public Infrastructure for City maintenance and liability and the Port Commission may rely on this Order as the basis for some of its findings.
15. A Director's Hearing was duly noticed and held on February 12, 2025, to present staff recommendation for approval of an application for a major encroachment permit for LCC monitoring instruments monitors associated with the required monitoring of lightweight cellular concrete ("LCC") installed throughout Phase 1A.
16. In this Order, the Director recommends the Board of Supervisors accept the Phase 1A Public Infrastructure and take the additional actions described below.

#### **A. Delegation of Authority to Director to Accept Phased Infrastructure**

1. In Public Works Order No. 210720, the Director conditionally approved a request to defer certain scopes of work including traffic signalization infrastructure and connected streetlights and other various scopes of work and documentation typically required prior to issuance of a Notice of Completion and consideration for formal acceptance by the Board of Supervisors ("Deferred Infrastructure"). That order set forth the conditions of approval of the deferral, including criteria for when the Deferred Infrastructure must be completed.
2. 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 has been completed to the satisfaction of the Director and the City Engineer.

#### **B. Amendments to Public Works Code**

1. In furtherance of the Mission Rock project and other projects on Port property, amendments are proposed to the Public Works Code that would memorialize the Port's exercise of permitting authority for certain retail activations on City sidewalks (for tables, seating, and other minor encroachments).
2. In addition, in order to ensure that any excavation of or in proximity to LCC is performed according to Public Works standards and requirements, the Department recommends that the Board of Supervisors amend the Public Works Code to require all excavation in the Mission Rock Special Use District to require permits from Public Works, including excavation work that can be completed within 24 hours or would qualify for other existing exemptions.
3. The Director recommends that the Board of Supervisors approve the proposed amendments to the Public Works Code.

#### **C. 3rd Street Pilot House**

The Department operates the 3rd Street Pilot House, from which the 3rd Street Bridge over Mission Creek is raised and lowered. As part of the construction of the Mission Rock project, PG&E has performed work to provide electrical service to the 3rd Street Pilot House which electrical service runs partially through China Basin Park, subject to the City's execution of an Absolving Service Agreement. PG&E has made this a prerequisite to providing power to the 3rd Street Pilot House. The Port has requested that Public Works join the Port in executing the agreement.

#### **D. Global Master Encroachment Permit for Mission Rock Utilities**

1. The Director recommends approval of a Global Major Encroachment Permit, permitting certain encroachments for district system utility infrastructure to be maintained by Mission Rock Utilities, Inc., a Delaware corporation ("MRU") or its assignee.
2. Pursuant to the Development Agreement and the DDA, Subdivider has constructed district system utility infrastructure in the public right-of-way which will, upon acceptance of the Phase 1A Infrastructure and dedication of the public right-of-way, remain privately owned by the proposed permittee, MRU. The encroachments are generally described as: non-potable water systems; gravity and force main sewer systems; heating and chilled water systems; and conduits for fiber optic cable for purposes of systems communication (collectively, "MRU Encroachments").

3. 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.
4. The Director recommends that the MRU Encroachments be permitted to remain in the public right-of-way as encroachments pursuant to a Global Master Encroachment Permit (the "GMEP"), approved under Public Works Code Sections 786 *et seq.*, as further specified below. Due to the placement of the MRU district system utility infrastructure below the public right-of-way, the Director recommends that the Board of Supervisors authorize the Department to require MRU to provide the City with a removal, restoration, and abandonment fund.
5. 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 GMEP, as applicable, and assignments of rights and obligations from the original permittee to the permittee's agent or assignee, all based on terms, conditions, and obligations consistent with the GMEP.
6. The Director also recommends that the Board of Supervisors delegate to the Director the ability to divide the GMEP into separate master permits or individual street encroachment permits.

#### **E. Interdepartmental Master Encroachment Permit for Port**

1. The Director recommends approval of an Interdepartmental Master Encroachment Permit ("IMEP") permitting certain encroachments to be maintained by Port or its agent or assignee and allowing assignment of sidewalk maintenance responsibility to another entity, as further described in E.8 through E.11 below.
2. Pursuant to the Development Agreement and the DDA, Subdivider has agreed to install certain custom improvements and other encroachments in the public right-of-way for each phase of the development, including improvements installed to date in Phase 1A, which are comprised of the Port Encroachments.
3. The Director recommends that these custom improvements, including both the Port Encroachments in Phase 1A and similar future encroachments to be constructed in later phases, 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.* The Director recommends that the Board of Supervisors approve an IMEP for the Port Encroachments, as further specified below.
4. 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.
5. Pursuant to the Development Agreement and DDA, Subdivider has constructed sidewalks in the public right-of-way for the development.
6. 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 commercial owners' association, to comply with the terms of the Public Works Code Section 706 sidewalk maintenance responsibility in lieu of the fronting property owner.

7. The Port is currently the fronting property owner for all sidewalks in the Mission Rock project site.
8. Port and Subdivider have requested that the sidewalk maintenance responsibility be undertaken by Port or an approved assignee, which may be either a maintenance contractor ("Maintenance Contractor") pursuant to a separate maintenance agreement ("Maintenance Agreement") or the owners of the long-term leaseholds on the fronting properties ("Vertical Owners").
9. The City and the Port are evaluating the most efficient and effective mechanism for allocating sidewalk maintenance responsibilities. 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 maintenance responsibilities.
10. Any sidewalk maintenance responsibility allocated to an Owners' Association 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.
11. 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 Port IMEP, as applicable, and assignments of rights and obligations from the original permittee to the permittee's agent or assignee, all based on terms, conditions, and obligations consistent with the IMEP.
12. The Director also recommends that the Board of Supervisors delegate to the Director the ability to divide the Port IMEP into separate master permits or individual street encroachment permits.

#### **F. Major Encroachment Permit for LCC Monitoring Instruments**

1. In Public Works Order 202368, Public Works approved Tentative Map 9443 and imposed certain terms and conditions on the Subdivider's use of lightweight cellular concrete ("LCC") in the public right-of-ways on the Project site given that LCC is a new material for use in streets accepted into the City street system. In regard to the LCC, Order No. 202368 required the Subdivider to provide an "Initial Warranty," that would cover the failure of the "LCC Infrastructure" wherever it exists for a period of two years from the date of issuance of the last Notice of Completion for all LCC Infrastructure for the applicable Project phase. In addition, Order No. 202368 requires Subdivider to provide an "Extended Warranty" that covers all "Failures" of the LCC Infrastructure for a period of three years from the date of the expiration of the Initial Warranty. Order No. 202368 required that Subdivider's use of LCC Infrastructure comply with performance criteria to be issued subsequent to Order No. 202368.
2. In Public Works Order 203637, Public Works approved a monitoring plan and established performance criteria for LCC installed in Phase 1A.
3. In Public Works Order 207782, Public Works approved an amended and restated monitoring plan and established revised performance criteria for LCC in Phase 1A.
4. The Subdivider installed the LCC monitoring instruments as required by the Street Improvement Permit and will continue performing the required monitoring for the period specified in Order 207782. Such monitoring equipment is recommended to be permitted to occupy public right-of-way through a Major Encroachment Permit.

5. The Director recommends that the Board of Supervisors approve a Major Encroachment Permit for LCC monitoring instruments installed within Phase 1A.

#### **G. Street and City Utility Acceptance Findings**

1. Public Works inspected the Phase 1A Public Infrastructure, and the City Engineer issued a Conditional NOC, determining said improvements to be complete in accordance with the Improvement Plans and Specifications shown in Street Improvement Permit No. 20 IE-00486, and all City codes, regulations, and standards governing the Phase 1A Public Infrastructure, subject to certain conditions. In doing so, the City Engineer also determined that the Phase 1A Public Infrastructure is ready for its intended use. This Order also contains additional information in the form of an Acceptance and Maintenance Matrix dated February 19, 2025, which is attached to the Offer of City Improvements. The Offer of City Improvements also includes diagrams and maps that show the extent of the streets recommended for City acceptance of maintenance and liability and areas where City utilities, located outside of these streets on Port property, are recommended for City acceptance of maintenance and liability.
2. The City Engineer certifies to the Board of Supervisors that the Phase 1A Public Infrastructure, as shown in Street Improvement Permit No. 20 IE-00486 (Phase 1A), as modified by Instructional Bulletins #1 and #13, is ready to be accepted for public use. The Director also recommends that the Board of Supervisors accept said Phase 1A Public Infrastructure, 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.
3. The Director recommends that the Board of Supervisors approve legislation to set the official width of sidewalks and to establish official public right-of-way widths and grades in the Mission Rock project area as shown on Drawing Q-20-1215. The official public right-of-way widths for the applicable portions of and sidewalk widths established as shown on Drawing Q-20-1215, would 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.
4. Map A-17-229 shows the right-of-ways, and applicable portion thereof, being offered for dedication and acceptance.
5. In a letter dated February 6, 2025, the Planning Department found that the actions contemplated in this Order comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 *et seq.*) and that the contemplated actions are within the scope of the prior environmental review and do not trigger the need for subsequent environmental review and that the actions contemplated in this Order are consistent with the scope of the prior General Plan determination and are consistent, on balance, with the General Plan and Planning Code Section 101.1.

#### **NOW, THEREFORE, BE IT DETERMINED THAT:**

##### **I – Acceptance of Infrastructure**

A. Based on the findings contained in the Conditional NOC, and based on the Department's and the Director's and the City Engineer's determination herein that: subject to the approval of exceptions to allow for the deferral of the completion of certain improvements specified in Order No. 210720, the

Mission Rock Phase 1A Public Improvements have been completed in compliance with the Public Improvement Agreement, as amended, and in accordance with the Improvement Plans and Specifications shown in Street Improvement Permit No. 20 IE-00486 prepared by BKF Engineers, entitled "Mission Rock Phase I Street Improvement Plans," as modified by Instructional Bulletins #1 through #13, and all City codes, regulations, and standards governing the Phase 1A Public Infrastructure; that the Phase 1A Public Infrastructure is ready for its intended use; and that the design of the Phase 1A Public Improvements is reasonable.

B. The Director and the City Engineer recommend that the Board of Supervisors approve the legislation to accept the Offer of City Improvements for the Phase 1A Public Infrastructure and to dedicate the public infrastructure for public use, subject to the exceptions identified below. The Director's recommendations in this Order also include the City Engineer's certification of actions subject to the City Engineer's authority.

C. The Director and the City Engineer approve all of the following documents either attached hereto or referenced herein:

1. Amended and Restated Offer of City Improvement for the Phase 1A Public Infrastructure which was been revised to differentiate between improvements to be owned by the Port and improvements to be owned by the City, and which account for additional Phase 1A Public Infrastructure constructed outside the limits of Phase 1A;
2. Conditional Assignment of Warranties and Guaranties; and
3. Official Street Dedication Map No. A-17-229.

D. The Director further recommends that the Board of Supervisors approve the legislation to dedicate the Phase 1A Public Infrastructure to public use, accept it for City maintenance and liability purposes, and regarding the street areas, designate the areas 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 1A Public Infrastructure.
2. Acceptance of the Phase 1A Public Infrastructure for City maintenance and liability purposes is from back of curb to back of curb, unless specified otherwise, and sidewalk maintenance and underlying LCC is the responsibility of the adjacent property owners in accordance with the Public Works Code.
3. Subdivider's use of LCC shall be subject to the Initial Warranty and Extended Warranty described in Order No. 202368 and the monitoring plan and the performance criteria established in Public Works Order No. 207782.
4. Encroachments that are or will be permitted under an encroachment permit (including but not limited to the Port Encroachments, MRU Encroachments and LCC Monitoring Instrument Encroachments), not permitted, or both, are excluded from acceptance.
5. City Improvements in Port Open Space, which are City utilities outside of the PROW including but not limited to traffic signal infrastructure, storm drain, domestic water, power electrical facilities, portions of curb ramps, and one streetlight, are recommended for

acceptance, dedication for public use, and acceptance for maintenance and liability purposes.

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. The City has accepted or will accept Subdivider's conditional assignment of all warranties and guaranties to the City related to the construction of the Phase 1A and its warranty obligations under Street Improvement Permit No. 20 IE-00486, as modified by Instructional Bulletins #1 and #13.

#### E. Right-of-Way Widths, Sidewalk Widths, and Street Grades

1. The Director approves the attached Official Sidewalk Width and Street Grades Drawing No. Q-20-1215.
2. The Director recommends that the Board of Supervisors approve the legislation to set the public right-of-way widths for portions of Bridgeview Way, Dr. Maya Angelou Lane, Toni Stone Crossing, and Third Street as set forth in Public Works Map A-17-229 and Drawing Q-20-1215.
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 1648. The width of sidewalks on portions of Streets shall be modified as shown on the Public Works Drawing Q-20-1215, dated September 27, 2024.*

4. The Director further recommends that the Board of Supervisors approve the legislation to set the street grades for portions of Bridgeview Way, Dr. Maya Angelou Lane, Toni Stone Crossing, and Third Street as set forth in Public Works Drawings Q-20-1215.
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. Regarding the City Improvements on Port Open Spaces, the Director recommends that the Board of Supervisors dedicate these components of the Phase 1A Public Infrastructure to public use and accept them for City maintenance and liability.

#### **II – Delegated Authority for the Director to Accept Phased Infrastructure**

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.

#### **III – Amendments to Public Works Code**



The Director recommends that the Board of Supervisors approve amendments to the Public Works Code to memorialize the Port's exercise of permitting authority for certain retail activations on City sidewalks (for tables, seating, and other minor encroachments).

In addition, the Director recommends that the Board of Supervisors approve amendments to the Public Works code to ensure that any excavation of or in proximity to LCC is performed according to Public Works standards and requirements, the Department recommends that the Board of Supervisors amend the Public Works Code to require all excavation in the Mission Rock Special Use District to require permits from Public Works, including excavation work that can be completed within 24 hours or would qualify for other existing exemptions.

#### **IV – 3rd Street Pilot House**

The Director recommends that the Board authorize the Director to execute the Absolving Service Agreement.

#### **V – Master Encroachment Permits**

##### **A. MRU GMEP**

The Director recommends that the Board of Supervisors approve the MRU GMEP to permit MRU to maintain the custom improvements and other encroachments in the public right-of-way, as more specifically described in said permit for the Mission Rock project sitewide (all phases), and specifically for the encroachments constructed for Phase 1A, (GMEP) Permit 21ME-00004. The permitted encroachments are generally described as: non-potable water systems; gravity and force main sewer systems; heating and chilled water systems; and conduits for fiber optic cable for purposes of systems communication. The MRU GMEP is subject to the terms and conditions specified in that permit. The Director further recommends that the Board authorize the Director, in the Director's discretion, to approve the assignment, conveyance, or transfer of the MRU GMEP to a successor or assignee.

##### **B. Port IMEP**

The Director recommends that the Board of Supervisors approve the IMEP to permit the Port to maintain the Port Encroachments as more specifically described in said permit for the Mission Rock project sitewide (all phases), and specifically for the encroachments constructed for Phase 1A (IMEP) Permit 25ME-00002. The Port Encroachments are more particularly described in the IMEP.

The Director recommends that as part of the IMEP the Board of Supervisors delegate to the Director the authority to allow assignment to the Maintenance Contractor or the Vertical Owners to assume responsibility and liability for compliance 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 addressed in the CC&Rs as a binding requirement on the Owners' Association and its successors.

##### **C. Major Encroachment Permit for LCC Monitoring Instruments**

The Director recommends that the Board of Supervisors approve a Major Encroachment Permit to permit the Permittee to maintain LCC Monitoring Instrument Encroachments as more specifically described in said permit for the Mission Rock project Phase 1A Permit 25ME-00003.

#### D. General Provisions for Master Encroachment Permits

1. The Director recommends that the Board of Supervisors delegate to the Director the ability to divide each 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 each 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, successor, or assignee or to such other assignees as may be described in the subject Master Encroachment Permit.
4. The Director recommends that the Board of Supervisors approve the permits described above subject to the Permit, Maintenance Agreement, 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 City and County Assessor-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*  
C907BA0BD82C4E6...

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Phan, Denny  
Bureau Manager, Infra & Dev Permitting

X DocuSigned by:  
*Albert Ko*  
281DC30E04CF41A...

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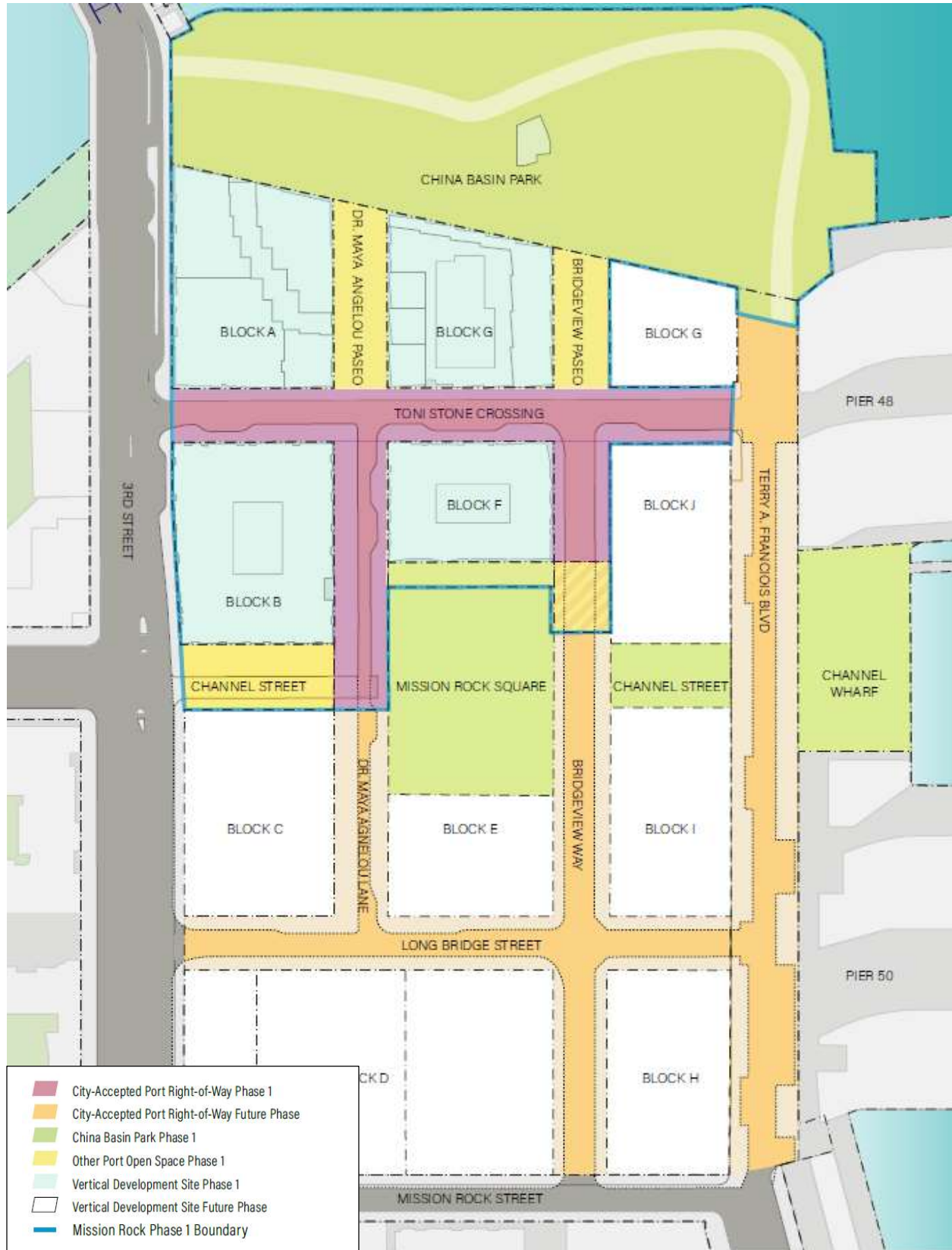
Ko, Albert J  
City Engineer

X DocuSigned by:  
*Carla Short*  
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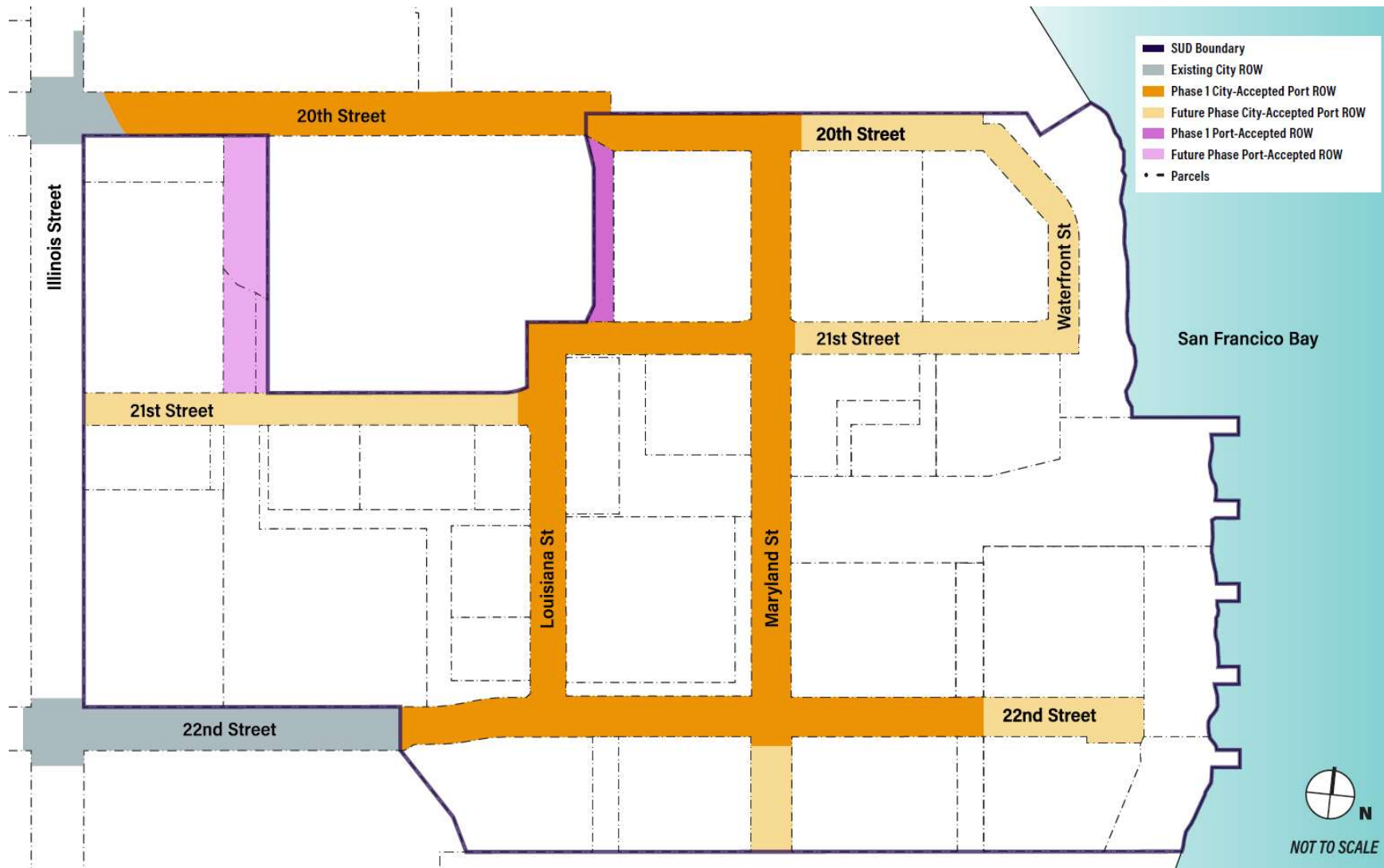
Short, Carla  
Director of Public Works



# MISSION ROCK SPECIAL USE DISTRICT AREA SIDEWALK PERMITTING LEGISLATION DIAGRAM



Areas highlighted purple and orange proposed to be included in sidewalk permitting legislation.

# PIER 70 SPECIAL USE DISTRICT AREA SIDEWALK PERMITTING LEGISLATION DIAGRAM



  = Areas highlighted in light and dark orange to be included in sidewalk permitting legislation.

# POTRERO POWER STATION SPECIAL USE DISTRICT AREA SIDEWALK PERMITTING LEGISLATION DIAGRAM

Map Showing Port Streets, Private Streets\*, and Public Streets

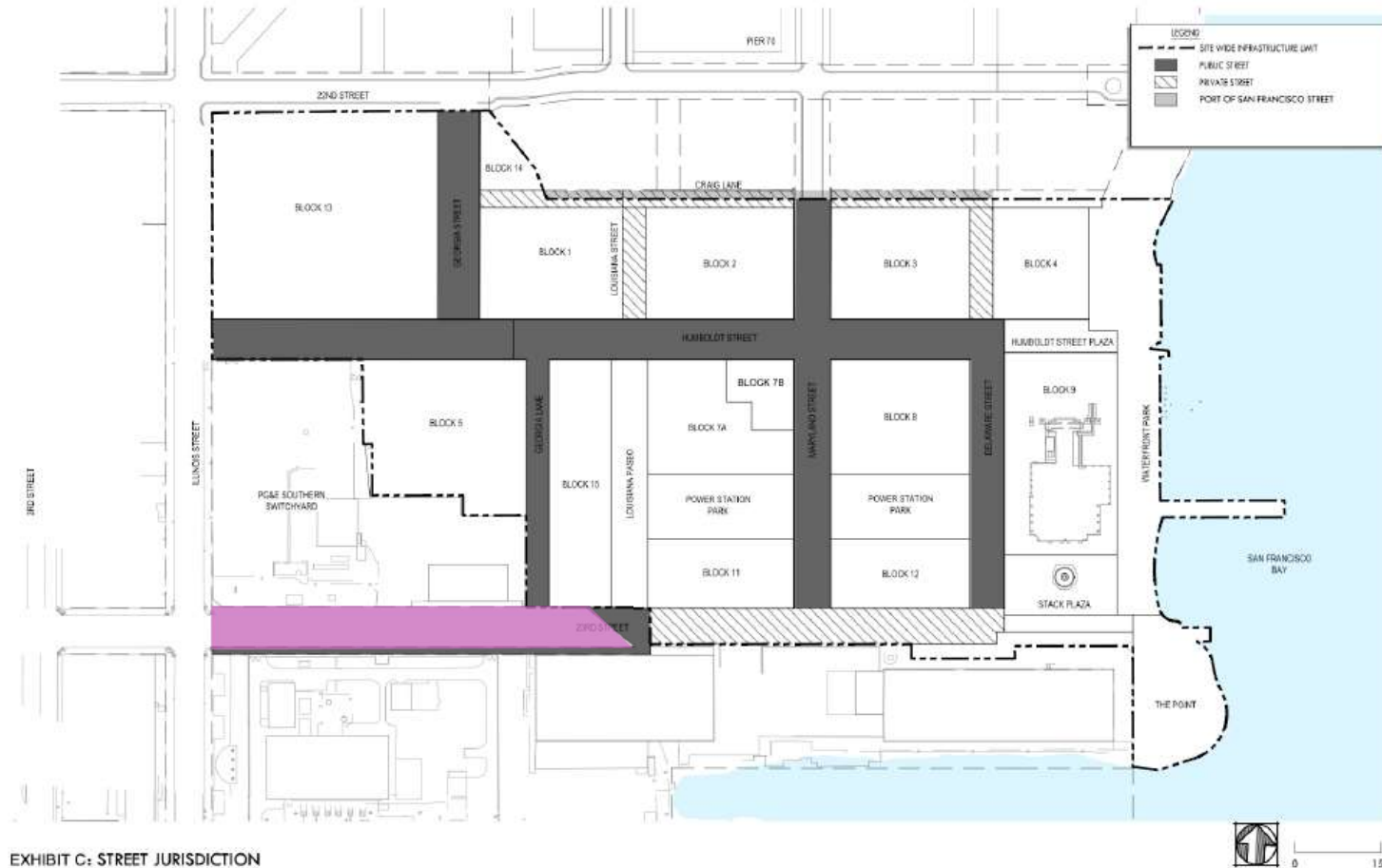


EXHIBIT C: STREET JURISDICTION

Portion of 23<sup>rd</sup> St under Port jurisdiction to be accepted by the City for maintenance purposes. Area highlighted pink proposed to be included in sidewalk permitting legislation.



# GENERAL PLAN CONSISTENCY DETERMINATION AND CEQA FINDINGS

February 6, 2025

Ms. Carla Short  
Director  
San Francisco Public Works  
49 South Van Ness Avenue, Suite 1600  
San Francisco, CA 94103

Ms. Elaine Forbes  
Director  
Port of San Francisco  
Pier 1, The Embarcadero  
San Francisco, CA 94111

**Project Title:** Mission Rock Project Phase 1 and Phase 1A – Acceptance of Public Improvements; Issuance of Encroachment Permits; Approval of Licenses, Leases, Open Space Management Agreements, and Other Agreements; Approval of Public Works Code Amendments; and Other Actions

**Assessor's Blocks(s)/Lot(s):** 8719A/005, 8719C/002, 8719D/001, 8719B/003, 8719A/009, 8719D/001, 8719B/003, 8719A/010, 8719A/004

**Design Review Approval No.(s):** 2013.0208ENV, DVA, MAP, PCA

**Zoning District(s):** Heavy Industrial (M2), Mission Rock Mixed Use (MR-MU) Zoning Districts; 40-Mission Rock, 60-Mission Rock, 90/120-Mission Rock, 90-Mission Rock, 100-Mission Rock, 120-Mission Rock, 190-Mission Rock, 240-Mission Rock, 40-X, and OS Height/Bulk Districts

**Staff Contact:** Elizabeth Purl, 628.652.7529, [elizabeth.purl@sfgov.org](mailto:elizabeth.purl@sfgov.org)

Dear Director Short and Director Forbes:

This letter addresses numerous proposed actions for consideration by the Port Commission and the Board of Supervisors regarding Phase 1 and Phase 1A of the Mission Rock project ("Project") on property located on Assessor's Blocks/Lots 8719A/005, 8719C/002, 8719D/001, 8719B/003, 8719A/009, 8719D/001, 8719B/003, 8719A/010, and 8719A/004.

Regarding Phase 1 and Phase 1A of the Project, the Port Commission and/or the Board of Supervisors will consider taking the following actions:

- Approval of the China Basin Park lease and loan agreement ("CBP Lease") for the management and operation of China Basin Park, and recommendation that the Board of Supervisors approve the CBP Lease;
- Approval of the license to authorize Pacific Gas and Electric ("PG&E") to provide power to the 3rd Street Bridge "Pilot House" and the "Absolving Services Agreement" and recommendation that the Board of Supervisors approve the same;
- Approval of the license to authorize PG&E to provide gas service to buildings located on Lot 3 and Lot 4 of the



Project and recommendation that the Board of Supervisors approve the same;

- Approval of a management agreement (“Open Space Management Agreement”) for the management and maintenance of certain Port infrastructure and the Mission Rock open space, and recommendation that the Board of Supervisors approve the Open Space Management Agreement;
- Approval of the license with Mission Rock Utilities (“MRU License”) for the operation and maintenance of private district utilities within China Basin Park and Mission Rock open space, and recommendation that the Board of Supervisors approve the MRU License;
- Approval of the license to place, operate, and maintain electrical lines within Port-owned conduit that facilitates service to mechanical bollards located in the Bridgeview Paseo and Dr. Maya Angelou Paseo (“Bollard License”);
- Approval of a sponsorship agreement between the manager under the Open Space Management Agreement and China Basin Ballpark Company to install special pavers within a portion of the Bay Trail in China Basin Park pursuant to Port Permit Number B-2025-0002;
- Recommendation that the Board of Supervisors approve legislation amending the Public Works Code to memorialize the Port’s exercise of permitting of certain retail activations on City and County of San Francisco (“City”) sidewalks;
- Acceptance of the Offer of Improvements for infrastructure shown in the plans for Street Improvement Permit (“SIP”) No. 20IE-00486, approved by Public Works, Bureau of Street Use and Mapping, on October 1, 2020 (“Plans”) that the City will maintain, including street and utility improvements and as further defined in the latest version of the project’s Maintenance Matrix on file with Public Works as of the date of this letter, and dedication of the same to public use and designation of the same as open public right-of-way for street and roadway purposes subject to specified conditions;
- Approval of the public right-of-way widths, sidewalk widths, and street grades;
- Approval of amendments to the Public Works Code to memorialize the Port’s exercise of permitting authority for certain retail activations on City sidewalks;
- Approval of amendments to the Public Works Code to ensure that any excavation of or in proximity to lightweight cellular concrete (“LCC”) in the Mission Rock Special Use District be performed according to Public Works standards and requirements and according to permits issued by Public Works, including for excavation work that can be completed within 24 hours;
- Authorization of the Public Works Director to execute the Absolving Services Agreement with PG&E;
- Approval of a Master Encroachment Permit for Mission Rock Utilities (“MRU”) to permit MRU to maintain the custom improvements and other encroachments in the public right-of-way including privately-owned district energy lines, non-potable water, and sanitary sewer lines to occupy public rights-of-way and be maintained by MRU;
- Approval of the Port Encroachment Interdepartmental Master Encroachment Permit (“IMEP”), to allow improvements that will be owned and maintained by the Port to be permitted as encroachments to occupy public rights-of-way, as described in the Port IMEP, Maintenance Matrix, and Jurisdictional Memorandum of

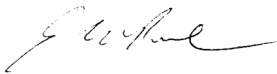
Understanding between the City and the Port; and delegation of authority to the Public Works Director to allow assignment to the maintenance contractor or the owners' association responsibility and liability for compliance with Public Works Code Section 706, provided that the Port also approve such assignment and subject to the condition that if allocated to an Owners' Association, the maintenance responsibilities must be addressed in the CC&Rs as a binding requirement on the Owners' Association and its successors;

- Approval of a major encroachment permit to enable the Developer to maintain LCC monitoring instrument encroachments that will measure the settlement of LCC installed around or below the sidewalks and roadways in the Phase 1A Project area; and
- Other related actions required to implement the Project.

On October 5, 2017, the San Francisco Planning Commission issued a series of approvals for the Mission Rock (i.e., Seawall Lot 337 / Pier 48) Project (Planning Department Records 2013.0208ENV, DVA, MAP, and PCA). These approval actions included certification of the Final Environmental Impact Report ("FEIR") through Motion No. 20017, adoption of California Environmental Quality Act ("CEQA") findings through Motion No. 20018, and adoption of General Plan and Planning Section 101.1 consistency findings through Resolution No. 20019. The Board of Supervisors subsequently adopted the CEQA Findings through Resolution No. 36-18.

Planning Department Staff has reviewed the Plans and considered the Port Commission actions and the Board of Supervisors actions identified in this letter and finds them consistent with the Planning Commission's approvals for the Project. Therefore, the Planning Department Staff finds that the Board of Supervisors actions and the Port Commission actions identified in this letter are covered with the scope of the FEIR and the CEQA findings of Planning Commission Motion Nos. 20017 and 20018 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. 20019. For purposes of the Board of Supervisors actions 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)

Wyatt Donnelly-Landolt, Development Projects, Por of San Francisco  
Shawna Gates, Infrastructure Task Force, Public Works

*Attachments:*

Planning Commission Motion No. 20017 (October 5, 2017)  
Planning Commission Motion No. 20018 (October 5, 2017)  
Planning Commission Resolution No. 20019 (October 5, 2017)





# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Commission Motion No. 20017

HEARING DATE: OCTOBER 5, 2017

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

Case No.: 2013.0208E  
Project Title: Seawall Lot 337 and Pier 48 Mixed-Use Project  
Zoning: MB-OS (Mission Bay-Open Space) and M-2 (Heavy Industrial)  
Mission Rock Height and Bulk District  
Block/Lot: Assessor's Block 8719/Lot 006, and Block 9900/Lot 048.  
Project Sponsor: Phil Williamson  
Port of San Francisco  
Pier 1, The Embarcadero  
San Francisco, CA 94111  
(415) 274-0453, phil.williamson@sfport.com

Jack Bair  
Seawall Lot 337 LLC  
24 Willie Mays Plaza  
San Francisco, CA 94107  
(415) 972-1755, jbair@sfgiants.com

Staff Contact: Tania Sheyner – (415) 575-9127  
tania.sheyner@sfgov.org

### ADOPTING FINDINGS RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR THE PROPOSED SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT.

MOVED, that the San Francisco Planning Commission (hereinafter "Commission") hereby CERTIFIES the final Environmental Impact Report identified as Case No. 2013.0208E, the "Seawall Lot 337 and Pier 48 Mixed-Use 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. Code Regs. 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 December 11, 2013.

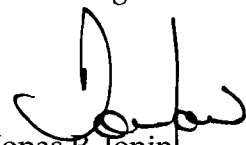
- B. The Department held a public scoping meeting on January 13, 2014, in order to solicit public comment on the scope of the Project's environmental review.
  - C. On April 26, 2017, the Department published the Draft Environmental Impact Report (hereinafter "DEIR") and provided public notice in a newspaper of general circulation of the availability of the DEIR for public review and comment and of the date and time of the 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 April 26, 2017.
  - E. On April 26, 2017, 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 April 26, 2017.
- 2. The Commission held a duly advertised public hearing on said DEIR on June 1, 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 June 12, 2017.
  - 3. The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the 47-day public review period for the DEIR, prepared revisions to 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 September 20, 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 October 5, 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.
7. The Commission hereby does find that the FEIR concerning File No. 2013.0208E 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 Guidelines Section 15088.5, and hereby does CERTIFY THE COMPLETION of said FEIR in compliance with CEQA, the CEQA Guidelines, and Chapter 31.
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-4: The proposed Project would result in an adverse impact by increasing ridership by more than 5 percent on two individual Muni routes that exceed 85 percent capacity utilization under baseline conditions.
  - B. TR-6: The proposed Project would result in an adverse impact related to a substantial increase in transit delays on Third Street between Channel Street and Mission Rock Street.
  - C. TR-9: The proposed Project would have significant impacts on pedestrian safety at the unsignalized intersections of Fourth Street/Mission Rock Street and Fourth Street/Long Bridge Street.
  - D. C-TR-4: The proposed Project would contribute considerably to a significant cumulative transit impact because it would increase ridership by more than 5 percent on one individual Muni route that would exceed 85 percent capacity utilization.
  - E. C-TR-6: The proposed Project would contribute considerably to significant cumulative impacts related to transit delays.
  - F. C-TR-7: The proposed Project would contribute considerably to significant cumulative pedestrian impacts.

- G. **NOI-1:** Construction of the proposed Project would generate noise levels in excess of standards or result in substantial temporary increases in noise levels.
- H. **NOI-2:** Operation of the proposed Project could result in the exposure of persons to or generation of noise levels in excess of the San Francisco Noise Ordinance or a substantial temporary, periodic or permanent increase in ambient noise levels in the Project vicinity, above levels existing without the Project.
- I. **NOI-3:** Construction of the proposed Project would expose persons to or generate excessive ground-borne vibration or ground-borne noise levels related to annoyance. Construction of the proposed Project could expose persons to or generate excessive ground-borne vibration or ground-borne noise levels related to damage to buildings.
- J. **C-NOI-1:** Construction activities for the proposed Project, in combination with other past, present, and reasonable future projects in the city, would result in a substantial temporary increase in noise or noise levels in excess of the applicable local standards.
- K. **C-NOI-2:** Construction activities associated with Project-related development, in combination with other past, present, and reasonable future projects in the city, would expose sensitive receptors to excessive ground-borne vibration related to annoyance and could result in similar impacts related to damage to buildings. (Significant and Unavoidable for Annoyance).
- L. **C-NOI-3:** Operation of the proposed Project, in combination with other past, present, and reasonable future projects in the city, would result in the exposure of persons to noise in excess of the applicable local standards or a substantial permanent ambient noise level increase in the Project vicinity.
- M. **AQ-1:** Construction of the proposed Project would generate fugitive dust and criteria air pollutants, which for criteria air pollutants but not fugitive dust, would violate an air quality standard, contribute substantially to an existing or projected air quality violation, or result in a cumulatively considerable net increase in criteria air pollutants. (Significant and Unavoidable with Mitigation for Criteria Air Pollutants).
- N. **AQ-2:** During Project operations, 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, or result in a cumulatively considerable net increase in criteria air pollutants.

- O. **AQ-3:** During combined Project construction and operations, 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, or result in a cumulatively considerable net increase in criteria air pollutants.
  - P. **C-AQ-1:** The proposed Project's construction and operation, in combination with other past, present, and reasonable future projects, would contribute to cumulative regional air quality impacts.
  - Q. **WS-1:** The proposed Project would alter wind in a manner that would substantially affect public areas.
  - R. **C-WS-1:** The proposed Project, in combination with past, present, and reasonably foreseeable future projects, would alter wind in a manner that would substantially affect public areas.
9. The Commission reviewed and considered the information contained in the FEIR prior to approving the proposed Project.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of October 5, 2017.

  
Jonas P. Ionin  
Commission Secretary

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

NOES: None

ABSENT: None

ADOPTED: October 5, 2017



# SAN FRANCISCO PLANNING DEPARTMENT

## Planning Commission Motion No. 20018

HEARING DATE: OCTOBER 5, 2017

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

Reception:  
415.558.6378

<i>Case No.:</i>	<b>2013.0208 ENV</b>	
<i>Project Name:</i>	<b>Mission Rock (aka Seawall Lot 337 and Pier 48 Mixed-Use Project)</b>	Fax: 415.558.6409
<i>Existing Zoning:</i>	Mission Bay Open Space (MB-OS); M-2 (Heavy Industrial) Zoning District; Mission Rock Height and Bulk Districts	Planning Information: 415.558.6377
<i>Block/Lot:</i>	8719/ 006; 9900/048	
<i>Proposed Zoning:</i>	Mission Rock Mixed-Use District / Mission Rock Special Use District; Mission Rock Height and Bulk District	
<i>Project Sponsor:</i>	Port of San Francisco and SWL 337 Associates, LLC	
<i>Staff Contact:</i>	Mat Snyder – (415) 575-6891 <a href="mailto:mathew.snyder@sfgov.org">mathew.snyder@sfgov.org</a>	

**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 MISSION ROCK (AKA SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT) ("PROJECT"), LOCATED ON ASSESSOR'S BLOCK 8719 LOT 006 AND BLOCK 9900 LOTS 048.**

### PREAMBLE

The project sponsor, Seawall Lot 337 Associates, LLC, applied for environmental review of a mixed-use phased development at Seawall Lot 337, and rehabilitation and reuse of Pier 48 ("Project") on May 31, 2013.

The Project is located on an approximately 28-acre project site that consists of the following: the 14.2-acre Seawall Lot 337; the 0.3-acre strip of land on the south side of Seawall Lot 337, referred to as Parcel P20; the 6.0-acre Pier 48; the existing 2.2-acre China Basin Park; and 5.4 acres of streets and access areas within or adjacent to the boundaries of Seawall Lot 337 and Pier 48. The project site is adjacent to the Mission Bay neighborhood of the city and the Mission Bay South Redevelopment Area. The site is currently used for open space (China Basin Park); a surface parking lot (Seawall Lot 337 and P20); and indoor parking, storage, warehouse uses and special events (Pier 48).

The Project would include 2.7 to 2.8 million gross square feet ("gsf") of mixed-uses on 11 proposed development blocks on Seawall Lot 337, with building heights ranging from 90 feet to a maximum of 240 feet. The mixed use development would comprise approximately 1.1 to 1.6 million gsf of residential uses (estimated at 1,000 to 1,600 units, consisting of both market-rate and affordable housing), approximately 972,000 to 1.4 million gsf of commercial uses, and 241,000 to 244,800 gsf of active/retail uses on the lower floors of each block. Additionally, the Project would include approximately 1.1 million gsf of



aboveground and underground parking (approximately 3,100 parking spaces) and rehabilitation of 242,500 gsf of space within Pier 48 to provide industrial, restaurant, active/retail, tour, exhibition, and meeting space for reuse by an industrial use, specifically analyzed as a proposed brewery. The Project would also include a total of approximately 8.0 acres of open space. The Project is more particularly described in Attachment A.

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, as lead agency, published and circulated a Notice of Preparation ("NOP") on December 11, 2013, that 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 Planning Department held a public scoping meeting on January 13, 2014, in the Bayside Room at the Port of San Francisco, Pier 1, The Embarcadero.

During the approximately 51-day public scoping period that ended on January 31, 2014, the Planning Department accepted comments from agencies and interested parties who identified environmental issues that should be addressed in the EIR. On the basis of public comments submitted in response to the NOP and at the public scoping meeting, the Planning Department found that potential areas of controversy and unresolved issues for the proposed project included: consistency of the Project with the Mission Bay Plan, the San Francisco Waterfront Plan, and the Mission Bay development guidelines; potential impacts along specific viewpoints, the waterfront and surrounding areas; the scale and height of the proposed project and the future use of Parcel P20; provision of affordable housing and population density; potential impacts on submerged cultural resources in the project area; increases in traffic and traffic congestion, connections to the City's transportation network, lack of public transportation in the area, pedestrian safety, traffic during game days, fair share contributions, and potential impacts of increased traffic on emergency vehicle delay; potential noise impacts from additional residents; potential greenhouse gas ("GHG") impacts, adequate mitigation measures for GHG impacts, and inclusion of a GHG emissions analysis consistent with Assembly Bill 32, the California Global Warming Solutions Act; potential shadow impacts along the waterfront, China Basin Park, and the proposed Mission Rock Square; potential impacts on loss of green space, and preservation of public lands for public and recreational use; adequacy of water and sewer systems with the addition of the proposed project, including a Water Supply Assessment; and potential impacts on the marine environment, as well as state- and federally listed species, and pile-driving impacts on fish, birds, and mammals. Comments received during the scoping process also were considered in preparation of the Draft EIR.

In June 2014, subsequent to the publication of the NOP, the City's voters approved Proposition B (Voter Approval for Waterfront Development Height Increases), which states that voter approval is required for any height increases on property, such as the project site, within the jurisdiction of the Port of San Francisco. Accordingly, on November 3, 2015, the City's voters approved Proposition D (the Mission Rock Affordable Housing, Parks, Jobs, and Historic Preservation Initiative), which amended the height and bulk restrictions for the project site by establishing the Mission Rock Height and Bulk District. Under Proposition D, the proposed heights for buildings on some of the proposed development blocks are lower than originally contemplated in the NOP, and there have been no increases in the height, density or intensity of development for the proposed Project since publication of the NOP.

To allow for flexibility to respond to future market demands and conditions, the project sponsor proposes flexible zoning and land uses on 3 of the 11 proposed development blocks on Seawall Lot 337. Specifically, Blocks H, I, and J are proposed to be designated to allow either residential or commercial as

the predominant use above the lower-floor active/retail uses. The project sponsor would determine the primary land uses of the three flexible zoning blocks above the lower floor (i.e., residential or commercial) at the time of filing for design approvals for block development proposals. These flexible blocks are analyzed in the EIR as ranges and land use assumptions (High Commercial or High Residential).

The San Francisco Planning Department then prepared the Draft EIR, which describes the Project and the environmental setting, analyzes potential impacts, identifies mitigation measures for impacts found to be significant or potentially significant, and evaluates project variants and alternatives to the Draft EIR Project. The Draft EIR assesses the potential construction and operational impacts of the Project on the environment, and the potential cumulative impacts associated with the 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 Planning Department published a Draft EIR for the project on April 26, 2017, and circulated the Draft EIR to local, state, and federal agencies and to interested organizations and individuals for public review. On April 26, 2017, the Planning 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 June 1, 2017, to solicit testimony on the Draft EIR during the public review period. The Draft EIR public review period ended on June 12, 2017. A court reporter, present at the public hearing, transcribed the oral comments verbatim, and prepared written transcripts. The Planning Department also received written comments on the Draft EIR, which were sent through mail, fax, hand delivery, or email.

The San Francisco Planning Department then prepared the Comments and Responses ("C&R"). The C&R document was published on September 21, 2017, and includes copies of all of the comments received on the Draft EIR and written responses to each comment.

The C&R 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 C&R document, the Appendices to the Draft EIR and C&R document, and all of the supporting information, has been reviewed and considered. The C&R 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 C&R 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.



On October 5, 2017, the Planning Commission by Motion No. 20017, found that the Final EIR was adequate, accurate, and objective, reflected the independent judgment of the Planning Commission and that the C&R document contains no significant revisions to the Draft EIR, and adopted findings of significant impact associated with the Project and certified the completion of the Final EIR for the Project in compliance with CEQA, and the CEQA Guidelines and Chapter 31.

The Planning Department prepared proposed Findings, as required by CEQA, regarding the alternatives, mitigation measures and significant impacts analyzed in the Final EIR and overriding considerations for approving the Project and a proposed mitigation monitoring and reporting program ("MMRP"), attached as Exhibit 1 to Attachment A, which material was made available to the public and this Planning Commission for the Planning Commission's review, consideration and actions.

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

- The proposed Project would result in an adverse impact by increasing ridership by more than 5 percent on two individual Muni routes that exceed 85 percent capacity utilization under baseline conditions.
- The proposed Project would result in an adverse impact related to a substantial increase in transit delays on Third Street between Channel Street and Mission Rock Street.
- The proposed Project would have significant impacts on pedestrian safety at the unsignalized intersections of Fourth Street/Mission Rock Street and Fourth Street/Long Bridge Street.
- The proposed Project would contribute considerably to a significant cumulative transit impact because it would increase ridership by more than 5 percent on one individual Muni route that would exceed 85 percent capacity utilization.
- The proposed Project would contribute considerably to significant cumulative impacts related to transit delays.
- The proposed Project would contribute considerably to significant cumulative pedestrian impacts.
- Construction of the proposed Project would generate noise levels in excess of standards or result in substantial temporary increases in noise levels.
- Operation of the proposed Project could result in the exposure of persons to or generation of noise levels in excess of the San Francisco Noise Ordinance or a substantial temporary, periodic or permanent increase in ambient noise levels in the Project vicinity, above levels existing without the Project.
- Construction of the proposed Project would expose persons to or generate excessive ground-borne vibration or ground-borne noise levels related to annoyance. Construction of the proposed Project could expose persons to or generate excessive ground-borne vibration or ground-borne noise levels related to damage to buildings.

- Construction activities for the proposed Project, in combination with other past, present, and reasonable future projects in the city, would result in a substantial temporary increase in noise or noise levels in excess of the applicable local standards.
- Construction activities associated with Project-related development, in combination with other past, present, and reasonable future projects in the city, would expose sensitive receptors to excessive ground-borne vibration related to annoyance and could result in similar impacts related to damage to buildings. (Significant and Unavoidable for Annoyance).
- Operation of the proposed Project, in combination with other past, present, and reasonable future projects in the city, would result in the exposure of persons to noise in excess of the applicable local standards or a substantial permanent ambient noise level increase in the Project vicinity.
- Construction of the proposed Project would generate fugitive dust and criteria air pollutants, which for criteria air pollutants but not fugitive dust, would violate an air quality standard, contribute substantially to an existing or projected air quality violation, or result in a cumulatively considerable net increase in criteria air pollutants. (Significant and Unavoidable with Mitigation for Criteria Air Pollutants).
- During Project operations, 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, or result in a cumulatively considerable net increase in criteria air pollutants.
- During combined Project construction and operations, 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, or result in a cumulatively considerable net increase in criteria air pollutants.
- The proposed Project's construction and operation, in combination with other past, present, and reasonable future projects, would contribute to cumulative regional air quality impacts.
- The proposed Project would alter wind in a manner that would substantially affect public areas.
- The proposed Project, in combination with past, present, and reasonably foreseeable future projects, would alter wind in a manner that would substantially affect public areas.

The Planning Commission Secretary is the custodian of records for the Planning Department materials, located in the File for Case No. 2013.0208ENV, at 1650 Mission Street, Fourth Floor, San Francisco, California.

On October 5, 2017, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting and adopted this Motion No. 20018, adopting CEQA findings, including a Statement of Overriding Considerations, and adopting an MMRP, and adopted other Motions and Resolutions with respect to the Project.

On October 5, 2017, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting on the various approvals necessary to implement the Project, including, but not limited to, Planning Code Text and Zoning Map Amendments, approval of the Mission Rock Design

Controls document, approval of a Development Agreement and made findings of General Plan consistency. (See Planning Commission Resolution and Motions numbers 20019, 20020, and 20021. The Planning Commission makes these findings and adopts the MMRP as part of each and all of these approval actions.

**MOVED**, that the Planning Commission has reviewed and considered the Final EIR and the record associated therewith, including the comments and submissions made to this Planning Commission and the Planning Department's responses to those comments and submissions, and based thereon, hereby adopts the Project Findings required by CEQA attached hereto as Attachment A including a statement of overriding considerations, and adopts the MMRP, included as Exhibit 1 to Attachment A, as a condition of approval for each and all of the approval actions set forth in the Resolutions and Motions described above.

I hereby certify that the Planning Commission **ADOPTED** the foregoing Motion on Thursday, October 5, 2017.



Jonas P. Ionin

Commission Secretary

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

NAYS: None

ABSENT: None

ADOPTED: October 5, 2017





# SAN FRANCISCO PLANNING DEPARTMENT

## Planning Commission Resolution No. 20019

HEARING DATE: OCTOBER 5, 2017

*Case No.:* **2013.0208 ENV/PCA/MAP/DVA**  
*Project Name:* **Mission Rock (aka Seawall Lot 337 / Pier 48)**  
*Existing Zoning:* **Mission Bay Open Space (MB-OS); M-2 (Heavy Industrial) Zoning District; Mission Rock Height and Bulk District**  
*Block/Lot:* **8719/ 006; 9900/048**  
*Proposed Zoning:* **Mission Mixed-Use Zoning District / Mission Rock Special Use District; Mission Rock Height and Bulk District**  
*Project Sponsor:* **Port of San Francisco and SWL 337 Associates, LLC**  
*Staff Contact:* **Mat Snyder – (415) 575-6891**  
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RESOLUTION RECOMMENDING THAT THE BOARD OF SUPERVISORS APPROVE AMENDMENTS TO THE PLANNING CODE TO ESTABLISH THE MISSION ROCK MIXED-USE DISTRICT, THE MISSION ROCK SPECIAL USE DISTRICT, ALONG WITH OTHER RELATED MINOR CHANGES TO ARTICLE 2 AND ARTICLE 9 OF THE PLANNING CODE; AND BY AMENDING ZONING MAP ZN 08 BY DESIGNATING ASSESSOR'S BLOCK AND LOT: 8719/ 006 AND 9900/-48 AS PART OF THE MISSION ROCK MIXED-USE DISTRICT AND BY AMENDING SPECIAL USE DISTRICT MAP SD 08 BY DESIGNATING ASSESSOR'S BLOCK AND LOTS: 8719/ 006 AND 9900/048 AS PART OF THE MISSION ROCK SPECIAL USE DISTRICT; ADOPT FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1 AND FINDINGS UNDER PLANNING CODE SECTION 302, AND INCORPORATING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

WHEREAS, on September 5, 2017, Mayor Edwin Lee and Supervisor Jane Kim introduced an ordinance (Board File 170940) for Planning Code Text Amendments to establish the Mission Rock Mixed-Use District and the Mission Rock Special Use District (herein "SUD"), and for Planning Code Map Amendments by amending Zoning Map ZN08 by designating Assessor's Block and Lot: 8719/006 as part of the Mission Rock Mixed-Use District and by amending Special Use District Map SD08 by designating assessor's block and lots: 8719/ 006 and 9900/048 to the Mission Rock SUD.

WHEREAS, pursuant to Planning Code Section 302(b), on September 5, 2017, the San Francisco Board of Supervisors initiated these Planning Code Text and Map Amendments.

WHEREAS, these Planning Code Text and Map Amendments would enable the Project. The Project includes new market-rate and affordable residential uses, commercial uses, retail, light industrial uses, parking, shoreline improvements, infrastructure development and street improvements, and public open space. Depending on the uses proposed, the Project would include approximately 1.1. to 1.6 million gross square feet (gsf) of residential uses (estimated as between 1,000 to 1,600 residential units) (of which 40% will be below market rate), approximately 972,000 to 1.4 million gsf of commercial-office uses, and a maximum of approximately 245,000 gsf of retail uses. The Project also includes construction of transportation and circulation improvements, new and upgraded utilities and infrastructure, geotechnical

and shoreline improvements, up to 3,000 off-street parking spaces in one or two new garages and 100 spaces elsewhere throughout the site. The Project is more comprehensively described in the Seawall Lot 337 and Pier 48 Mixed-Use Project Draft EIR.

WHEREAS, the Project would construct new buildings that would range in height from 90 to 240 feet, as is consistent with Proposition D which was passed by the voters of San Francisco in November 2015.

WHEREAS, these Planning Code Text Amendments would establish the Mission Rock Mixed Use District and Mission Rock SUD, which would outline the land use controls for the Project site.

WHEREAS, these Planning Code Map Amendments would designate the newly created Mission Rock Mixed-Use District and the Mission Rock Special Use District to the Project Site; the newly created SUD outline the land use controls for the Project site.

WHEREAS, this Resolution approving these Planning Code Text and Map Amendments is a companion to other legislative approvals relating to the Project, including approval of the Mission Rock Design Controls document, and recommendation for approval of the Development Agreement.

WHEREAS, as part of the implementation of the Project, the Office of Community Investment and Infrastructure (OCII) will consider removing certain property identified as Mission Bay Parcel P20 (a 0.3-acre, approximately 20-foot-wide strip of land adjacent to the south side of Seawall Lot 337, along the north side of Mission Rock Street) from the Mission Bay South Redevelopment Plan, and such removal would be part of the Project implementation as described in the Development Agreement. Parcel P20 is currently subject to the Mission Bay South Redevelopment Plan and is designated in that plan as a small open-space buffer. When it adopted AB 2797, the state legislature recognized the need to remove P20 from the Redevelopment Plan, on the basis that "the revitalization of Seawall Lot 337 . . . is of particular importance to the state." As such, AB 2797 calls for the amendment of the Redevelopment Plan to remove P20 without State-level review under Health & Safety Code Sections 34163(c)-(f) and 34164(a) and (b).

WHEREAS, on October 5, 2017, the Planning Commission reviewed and considered the Final EIR for the Mission Rock 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 certified the FEIR for the Project in compliance with the California Environmental Quality Act ("CEQA"), the CEQA Guidelines and Chapter 31 by Motion No. 20017.

WHEREAS, on October 5, the Commission by Motion No. 20018 approved CEQA Findings, including adoption of a Mitigation Monitoring and Reporting Program (MMRP), under Case No. 2013.0208ENV, for approval of the Project, which findings and MMRP are incorporated by reference as though fully set forth herein.

WHEREAS, on October 5, 2017, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on the proposed Planning Code Text and Map Amendments and has considered the information included in the File for these Amendments, the staff reports and presentations, public testimony and written comments, as well as the information provided about the Project from other City departments.

WHEREAS, a draft ordinance, substantially in the form attached hereto as Exhibit A, approved as to form, including those minor changes to Exhibit A as provided by staff on September 28, 2017, would

establish the Mission Rock Mixed Use District, Mission Rock SUD, and make other related Planning Code Text and Map amendments.

**NOW THEREFORE BE IT RESOLVED**, that the Planning Commission hereby finds that the Planning Code Text Amendments and Zoning Map Amendments promote the public welfare, convenience and necessity for the following reasons:

1. The Amendments would help implement the Mission Rock Mixed-Use Project development, thereby evolving currently under-utilized surface parking lot for needed housing, commercial space, and parks and open space.
2. The Amendments would help implement the Mission Rock 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 Amendments would help implement the Mission Rock 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 waterfront.
4. The Amendments would enable the construction of a new vibrant, safe, and connected neighborhood, including new parks and open spaces. The 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 Amendments would enable construction of new housing, including new on-site affordable housing, and new retail and manufacturing uses. These new uses would create a new mixed-use neighborhood that would strengthen and complement nearby neighborhoods.
6. The Amendments would facilitate the preservation and rehabilitation of Pier 48 - an important historic resource listed in the National Register of Historic Places.

**AND BE IT FURTHER RESOLVED**, that the Planning Commission finds the Planning Code Text and Map Amendments are in general conformity with the General Plan and Planning Code Section 101.1 as set forth below.

**AND BE IT FURTHER RESOLVED**, that the Planning Commission finds the Project and its approvals associated therein, including the amendment to the Mission Bay South Redevelopment Plan to remove Parcel P20 from that Plan, all as more particularly described in Exhibits B and C to the Development Agreement on file with the Planning Department in Case No. 2013.0208DVA, are on balance consistent with the Objectives and Policies of the General Plan, as described herein 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 approximately 1.1 to 1.6 million gsf of residential uses (estimated at between 1,100 and 1,600 dwelling units) at full project build-out, which will provide a wide range of housing options. As detailed in the Development Agreement, the Project substantially exceeds the inclusionary affordable housing requirements of the Planning Code, through a partnership between the developer and the City to reach a 40% 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 Controls (DC), includes a program of substantial community benefits and detailed plans designed to create a vibrant new mixed-use amenity-rich neighborhood at the location of an existing surface parking lot. The new neighborhood will feature small blocks and well-articulated buildings with a human scale modeled off of features characteristic of San Francisco neighborhoods. Through the standards and guidelines in the DC and through the Development Agreement (DA), the Project Sponsor has committed to the rehabilitation of Pier 48 pursuant to the Secretary of Interior Standards.

**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 proximate to both major regional and local public transit, including Muni Metro and Caltrain. 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. 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 eight acres of new open space for a variety of activities, including an expanded China Basin Park, a central town square-like space, a waterfront wharf, and other small plazas and pedestrian connections throughout.

The Project includes substantial contributions related to quality of life elements such as open space, affordable housing, transportation improvements, childcare, public art, 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 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 would incorporate varying heights, massing and scale, maintaining a strong human-scaled 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 a Workforce Development Plan, including a local hire participation level of 30% per trade. Vertical developers will contribute \$1,000,000 to OEWD in 11 parcel-by-parcel installments. Half of the funds will support community-based organizations that provide barrier removal services and job readiness training for individuals within at-risk populations, and half will support city programs that provide job training for local residents.

## **OBJECTIVE 6**

*MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.*

**POLICY 6.1** *Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.*

**POLICY 6.2**

*Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to economic and technological innovation in the marketplace and society*

**POLICY 6.4**

*Encourage the location of neighborhood shopping areas throughout the city so that essential retail goods and personal services are accessible to all residents.*

**POLICY 6.5**

*Discourage the creation of major new commercial areas except in conjunction with new supportive residential development and transportation capacity.*

**POLICY 6.7**

*Promote high quality urban design on commercial streets.*

The Project meets and furthers the Objectives and Policies of the Commerce and Industry Element by reinforcing the typical San Francisco pattern of including resident serving uses along with mixed-use development. The Amendments will generally permit small-scale retail and community-related uses throughout the site by requiring it at key locations along China Basin Park and along the pedestrian-oriented "Shared Public-Way." The Project calls for neighborhood commercial and other retail be established in a pedestrian-oriented active environment typical of San Francisco neighborhoods and specifically called for in the Commerce and Industry Element. The provision of retail space will provide entrepreneurial opportunities for local residents and workers. As noted above, streets will be designed to Better Streets standards with the particular goal of assuring an active and engaging environment for pedestrians.

**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 along Third Street and the Muni T-Line, whose service will substantially expand in the near future with the opening of the Central Subway. The Project is also in close proximity to the San Francisco Caltrain station along with other major bus lines. 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 establish a new tight-knit street network on the project site, and will provide pedestrian improvements and streetscape enhancement measures as described in the DC and reflected in the mitigation measures, the Transportation Plan, and in the Development Agreement. The Project would establish two new north-south rights-of-way and three new east-west rights-of-way through the site, increasing the sites connectivity and access. All streets will be constructed to Better Street standards; the transportation network will include robust bike facilities and will improve and complete a missing link in the Bay Trail and Blue Greenway.

**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 DC, the Project is very carefully designed with particular emphasis on assuring a vibrant and engaging pedestrian realm. Buildings are to be scaled and shaped specific to their immediate context by assuring streetwalls are well proportioned relative to adjacent streets and open spaces. The Project's proposed tallest buildings will be sited at key locations to mark important gateway locations assuring that the buildings taken together create a dynamic skyline. The overall heights of the project are harmonious with and complementary to the overall city skyline when viewed from various distances.

**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.*

**POLICY 1.5**

*Emphasize the special nature of each district through distinctive landscaping and other features.*

**POLICY 1.6**

*Make centers of activity more prominent through design of street features and by other means.*

**POLICY 1.7**

*Recognize the natural boundaries of districts, and promote connections between districts.*

**POLICY 2.9**

*Review proposals for the giving up of street areas in terms of all the public values that streets afford.*

**POLICY 2.10**

*Permit release of street areas, where such release is warranted, only in the least extensive and least permanent manner appropriate to each case.*

The Project will create a new fine-knit street network on the project site where it does not currently exist, increasing public access and circulation through the site. Buildings will be constructed between a maximum height range of 90 and 240 feet, with buildings stepping down to bases of 40 to 65 feet along streets. Building heights and urban design requirements in the DC assure that Pier 48, the site's existing historic Pier, will be respected and retain its predominance along the bayfront. The Project is envisioned as an extension and improvement to the Mission Bay neighborhood

**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.*

Pier 48 will be rehabilitated to Secretary of Interior's Standards.



**OBJECTIVE 3**

*MODERATION OF MAJOR NEW DEVELOPMENT TO COMPLEMENT THE CITY PATTERN, THE RESOURCES TO BE CONSERVED, AND THE NEIGHBORHOOD ENVIRONMENT.*

**POLICY 3.3**

*Promote efforts to achieve high quality of design for buildings to be constructed at prominent locations.*

**POLICY 3.4**

*Promote building forms that will respect and improve the integrity of open spaces and other public areas.*

**POLICY 3.5**

*Relate the height of buildings to important attributes of the city pattern and to the height and character of existing development.*

**POLICY 3.7**

*Recognize the special urban design problems posed in development of large properties.*

**POLICY 3.8**

*Discourage accumulation and development of large properties, unless such development is carefully designed with respect to its impact upon the surrounding area and upon the city.*

While large in scope, the Project will be constructed in such a way to be an integral part of the San Francisco urban fabric. Blocks are being established at smaller-than-typical sizes to assure buildings are well-scaled, and that the site is permeable and accessible to all. Buildings will be shaped to assure that their fronting streetwalls are well proportioned relative to their adjacent streets and open spaces. The tallest of the site's buildings will be placed at key gateway and central locations and well-spaced to assure they work well together in adding to the City's skyline.

**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 will greatly enhance access to and along the Bay. China Basin Park will be significantly expanded to provide a multi-use Bayfront park that provides both active and

contemplative space, while providing a space for planned community events. A central town square-like space will enable the proposed high-retail corridor to spill into open space creating an active and engaging central civic space. The Project will provide approximately eight acres of new and expanded open space for a variety of activities, including a great lawn, a small ballfield, kayak boat launches, wharf, along with small pedestrian plazas throughout. In addition, the Project would provide new private and/or common open space for 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 approximately eight acres of new and expanded public open space and opens up new connections to the shoreline in the Mission Bay neighborhood. The Project would encourage non-automobile transportation to and from open spaces, and would ensure physical accessibility within these open spaces. The Project features robust bike facilities to both assure continuity of the Bay Trail and Blue Greenway, and improve bike access for its residents, workers, and visitors.

### **ENVIRONMENTAL PROTECTION ELEMENT**

#### **OBJECTIVE 1**

**ACHIEVE A PROPER BALANCE AMONG THE CONSERVATION, UTILIZATION, AND DEVELOPMENT OF SAN FRANCISCO'S NATURAL RESOURCES.**

#### **Policy 1.4**

*Assure that all new development meets strict environmental quality standards and recognizes human needs.*

#### **OBJECTIVE 15**

**INCREASE THE ENERGY EFFICIENCY OF TRANSPORTATION AND ENCOURAGE LAND USE PATTERNS AND METHODS OF TRANSPORTATION WHICH USE LESS ENERGY.**

#### **POLICY 15.3**

*Encourage an urban design pattern that will minimize travel requirements among working, shopping, recreation, school and childcare areas.*

The Project is consistent with and implements the Environmental Protection Element in that it calls for mixed-use, high density, transit-friendly, sustainable development.

The Project's approvals include a Sustainability Plan, that among other things, set goals for the Project Sponsor that include sea level resilience through the year 2100, 100% operational energy from renewable sources, 100% non-potable water met with non-potable sources, and 20% single occupancy vehicle trip reduction.

#### **PUBLIC SAFETY ELEMENT**

OBJECTIVE 2 REDUCE STRUCTURAL AND NON-STRUCTURAL HAZARDS TO LIFE SAFETY, MINIMIZE PROPERTY DAMAGE AND RESULTING SOCIAL, CULTURAL AND ECONOMIC DISLOCATIONS RESULTING FROM FUTURE DISASTERS.

POLICY 2.1 *Assure that new construction meets current structural and life safety standards.*

POLICY 2.3 *Consider site soils conditions when reviewing projects in areas subject to liquefaction or slope instability.*

POLICY 2.9 *Consider information about geologic hazards whenever City decisions that will influence land use, building density, building configurations or infrastructure are made.*

POLICY 2.12 *Enforce state and local codes that regulate the use, storage and transportation of hazardous materials in order to prevent, contain and effectively respond to accidental releases.*

The Project is consistent with and implements the Community Safety Element. All improvements, including infrastructure, buildings and open space improvements will be constructed to local seismic standards, taking into account, among other considerations, the geological condition of the soil.

#### **AIR QUALITY ELEMENT**

OBJECTIVE 3 DECREASE THE AIR QUALITY IMPACTS OF DEVELOPMENT BY COORDINATION OF LAND USE AND TRANSPORTATION DECISIONS.

POLICY 3.1 *Take advantage of the high density development in San Francisco to improve the transit infrastructure and also encourage high density and compact development where an extensive transportation infrastructure exists.*

POLICY 3.2 *Encourage mixed land use development near transit lines and provide retail and other types of service oriented uses within walking distance to minimize automobile dependent development.*

POLICY 3.6 *Link land use decision making policies to the availability of transit and consider the impacts of these policies on the local and regional transportation system.*

POLICY 3.9 *Encourage and require planting of trees in conjunction with new development to enhance pedestrian environment and select species of trees that optimize achievement of air quality goals*

**OBJECTIVE 6 LINK THE POSITIVE EFFECTS OF ENERGY CONSERVATION AND WASTE MANAGEMENT TO EMISSION REDUCTIONS.**

**POLICY 6.2** *Encourage recycling to reduce emissions from manufacturing of new materials in San Francisco and the region.*

The Project is consistent with and implements the Air Quality Element in that it calls for mixed-use, high density, sustainable development that will enable efficient use of land and encourage travel by transit, bicycle and by foot, thereby reducing auto use. The Sustainability Plan and TDM Plan governing development of the Project mandate a 20% single occupancy vehicle trip reduction.

**AND BE IT FURTHER RESOLVED**, that the Planning Commission finds the Project and its approvals associated therein, all as more particularly described in Exhibits B and C to the Development Agreement on file with the Planning Department in Case No. 2013.0208DVA, are in general conformity with the Planning Code Section 101.1 priority policies, as follows:

1. That existing neighborhood serving retail uses be preserved and enhanced and future opportunities for resident employment in or ownership of such businesses enhanced.

*The Project will preserve and enhance existing neighborhood serving retail uses. The Project includes adding roughly 245,000 square feet of new retail uses, that will be focused along a central pedestrian "Shared Public Way" and fronting the site's major parks. The project does not include the removal of any existing neighborhood serving retail.*

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

*The Project accommodates new development on land currently a surface parking lot. It would not accommodate removing or changing the character of existing residential neighborhoods. The Project includes a robust affordable housing program setting aside 40-percent of the on-site housing for below-market-rate units. The Project lays out requirements to assure the new development has characteristics of mixed-use neighborhoods throughout San Francisco, including but not limited to a fine-grained system of streets, well-modulated buildings with active frontages, and the ability to establish diverse retail and community uses where nothing exists today.*

3. That the City's supply of affordable housing be preserved and enhanced.

*The Project calls for development that would have a positive effect on the City's affordable housing stock. The Project would accommodate up to 1.6 million gsf of new residential units (estimated at 1,600 new units), of which 40-percent will be designated as Below-Market Rate. There is no housing on the site today; the Project would not accommodate the removal of any existing dwelling units.*



4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

*The Project anticipates substantial new transit service improvements along Third Street with the opening of the Central Subway in 2019, as well as substantial improvement to nearby Caltrain service through the ongoing electrification project. Streets have been designed to emphasize travel by bicycle or by foot. On-street parking is generally not proposed thereby allowing more street space to be designated for bicyclists, pedestrians, and those arriving by transit, or taxi/TNCs, as well as for deliveries. While a large centralized parking facility (up to 3,000 spaces in one or two centralized garages) is proposed, the total number of spaces site-wide would not represent a substantial net gain of spaces for the site overall from existing conditions. At present, approximately 2,900 parking spaces are on the site between Lot A and Pier 48. Only 100 parking spaces are allowed elsewhere on the site in addition to the centralized garages.*

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.

*The Project would not adversely affect the industrial sector or service sectors. No such uses would be displaced by the Project. The Project includes the rehabilitation of Pier 48, which will provide about 250,000 gsf of new or improved space for production uses. Additional small production spaces would also be required along Terry Francois Boulevard, providing industrial space where none exists today.*

6. That the City achieves the greatest possible preparedness to protect against injury and loss of life in an earthquake.

*All new construction would be subject to the City's Building Code, Fire Code and other applicable safety standards. Thus, the Project would improve preparedness against injury and loss of life in an earthquake by prompting development that would comply with applicable safety standards.*

7. That landmarks and historic buildings be preserved.

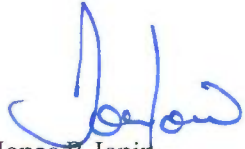
*Pier 48 would be rehabilitated pursuant to the Secretary of Interior's Standards.*

8. That our parks and open space and their access to sunlight and vistas be protected from development.

*The Project would not significantly adversely affect existing open spaces or their access to sunlight and vistas. The Project includes a robust parks and open space program including the substantial expansion of China Basin Park and the establishment of two new additional parks and*

*other pedestrian plazas throughout. The Project includes a fine-grained network of new streets thereby assuring the site permeability and access through it.*

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on Thursday, October 5, 2017.



Jonas P. Ionin

Commission Secretary

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

NAYS: None

ABSENT: None

ADOPTED: October 5, 2017



## MEMORANDUM

February 7, 2025

**TO:** MEMBERS, PORT COMMISSION  
Hon. Kimberly Brandon, President  
Hon. Gail Gilman, Vice President  
Hon. Willie Adams  
Hon. Stephen Engblom  
Hon. Steven Lee

**FROM:** Elaine Forbes  
Executive Director

**SUBJECT:** Request the Port Commission recommend that the Board of Supervisors (BOS) amend the Public Works Code to declare that Port will exclusively permit and/or license certain minor encroachments including: 1) Café Tables and Chairs Permits, 2) Display Merchandise Permits, and 3) other Minor Encroachment Permits in the sidewalk area in certain City-Accepted Port Streets, such as Mission Rock, Pier 70 and a portion of 23rd Street within the Potrero Power Station Special Use Districts.

**DIRECTOR'S RECOMMENDATION:** Approve the Attached Resolution No. 25-07

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### EXECUTIVE SUMMARY

Existing legislation and regulation for retail activations on City-accepted Port rights-of-way (ROWs) at Mission Rock, Pier 70, and other areas require tenants fronting City-accepted streets on Port land to obtain both a license from the Port, and an encroachment permit from the San Francisco Department of Public Works (Public Works).

The requirement for the Port to issue overlapping licenses on top of any Public Works commercial activation permit stems from the Port's public trust obligations as landowner.

The dual permit/license requirement also addresses the need for the Port to insure against claims associated with 3<sup>rd</sup> Party commercial activities within Port jurisdiction. Port licenses

include language required by Port's insurer indemnifying the Port against claims against 3<sup>rd</sup> party commercial tenants.

This redundant process places an unnecessary burden on retail tenants, particularly on small businesses, both in terms of the requirement to pay fees to both agencies as well as the length of time it takes to obtain approvals from two different City agencies. Further, it represents wasted staff resources with little to no benefit to the Port.

Port and Public Works staff desire to simplify post-City acceptance permitting/licensing at Mission Rock, Pier 70 and the Potrero Power Station by establishing the Port as the sole agency with jurisdiction for permitting and licensing retail activations within Port-owned and City-accepted rights-of-way within these development areas. Because Public Works is expressly empowered to issue and enforce permits by City code, the City Attorney's Office (CAO) determined that City code must be amended to allow the Port to exercise sole permitting authority. Port and Public Works would continue to coordinate permitting approvals and could further formalize such coordination in a memorandum of understanding.

## **STRATEGIC OBJECTIVE**

The proposed legislation is consistent with the following Strategic Plan Objectives:

### Equity:

By streamlining the permitting process for 3<sup>rd</sup> Party retail tenants at Mission Rock and Pier 70, many of which are locally owned small businesses.

### Evolution:

By advancing development projects such as the Mission Rock and Pier 70 projects that grow real estate revenue for the Port and transform our waterfront.

### Productivity:

By advancing development projects that grow the waterfront portfolio and create vibrant new neighborhoods for residents and retail and commercial tenants.

## **GEOGRAPHY**

This legislation would apply to certain City-accepted Port streets within Mission Rock and potentially include the Pier 70 and Potrero Power Station Special Use Districts (SUDs). Exhibits 1, 2, and 3 show these areas.

At the March 12, 2024, Port Commission meeting, Port staff gave an informational presentation outlining the Port's and City's respective acceptance processes and summarized the required land use agreements needed for the City and Port to accept Phase 1 infrastructure within the Mission Rock SUD. Streamlining retail activation permits was identified as an important milestone for the larger Port and City acceptance process, which may be heard by the Port Commission in conjunction with this item.

Construction of Phase 1 streets at Pier 70 was completed in early 2024. On January 23, 2024, the Port Commission took several actions to facilitate the acceptance of recently constructed Port assets at Pier 70 (Resolutions 24-03, and 24-04). A subsequent City acceptance legislative process took effect on May 5 (BOS Resolutions 240203 and 240087).

At this time, staff are not recommending Public Works address permitting authority for retail activations for all City-accepted Port Streets and instead recommends prioritizing three potential Special Use Districts (Mission Rock, Pier 70, and Potrero Power Station) to pilot the process and ensure appropriate coordination with Public Works regarding other encroachments. Boundaries establishing Port jurisdiction at Mission Rock and Pier 70 are clearly established, and the Port anticipates these both areas will be highly activated with uses sponsored by fronting retail tenants.

The Port and Public Works are actively working on the Port of San Francisco Boundary Survey Project through which the Port seeks to better understand the Port's jurisdictional boundaries. If Port licensing of retail activations at Mission Rock, Pier 70, and/or Potrero Power Station proves successful, Port staff may return to the Commission to request the Commission recommend the BOS expand the geography where the Port holds the sole jurisdictional authority for licensing and permitting certain minor encroachments in the sidewalk areas of City-accepted Port ROW.

## **BACKGROUND**

While the Port will continue to own fee title to the land underneath the newly constructed Mission Rock and Pier 70 streets and sidewalks after City acceptance due to its public trust obligations, standard infrastructure constructed within ROWs will be owned and maintained by the customary City agencies. For example, Public Works, Department of Technology, the San Francisco Fire Department, the San Francisco Municipal Transportation Agency, and the San Francisco Public Utilities Commission own street curbs and gutters, asphalt roadways, traffic signals, traffic signage, and utility systems. Accordingly, pursuant to each project's respective Interjurisdictional MOU Public Works will act as lead permitting agency for streets and sidewalks at Mission Rock and Pier 70 after these streets are accepted by the Board of Supervisors (BOS).

The CAO has determined that under the current regime, the Port's public trust obligations and indemnification requirements require the Port to issue an overlapping license for any retail activation permit issued by Public Works on City-accepted Port ROW at Mission Rock and Pier 70.

Both Port and Public Works staff as well as the Port's Mission Rock and Pier 70 development partners wish to streamline this process. The status quo where Mission Rock and Pier 70 tenants fronting City-accepted Port streets are required to obtain both a license from the Port, and an encroachment permit from the Department of Public Works places an unnecessary burden on retail tenants – particularly on small businesses – both in terms of the requirement to pay fees to both agencies as well as the length of time it

takes to obtain approvals from two different City agencies. It also results in wasted staff resources with little benefit to the Port.

Because Public Works is expressly empowered to issue and enforce permits by the Public Works code, the City Attorney's Office determined that City code must be amended to allow the Port to exercise sole permitting authority.

Such legislation would amend the Public Works Code to (1) exclude Port-owned and City-accepted rights of way from the Public Works café seating permit program and (2) affirmatively delegates permit authority to Port for those areas.

Staff believe the benefits achieved through in-house licensing outweigh any gain that might be achieved by outsourcing this work to sister agencies, primarily because it eliminates the confusion and burden for tenants (customers) who would otherwise be required to engage in a more costly, time-consuming process. Specific benefits are outlined below:

1. **One-stop shop** – The Port will already be issuing licenses for retail activations in certain Port open spaces in Mission Rock such as the China Basin Park Promenade and the Dr. Maya Angelou and Bridgeview Paseos. Having the Port issue licenses for the City-accepted Port ROW will lead to a more predictable and understandable approval process, especially for retailers sited in spaces that border both Port open space and City ROWs.
2. **Seamless Transition** – Prior to acceptance, the Mission Rock developer anticipates issuing sub-licenses for retail activations in the ROW under the master lease. Port staff will perform design review for these licenses issued before acceptance. If the Port is the primary agency (Option 1), these retailers can seamlessly transition their outdoor seating after the City accepts the ROWs. If Public Works were the primary permitting agency, retailers would need to obtain Public Works permits before they can use the ROW, potentially leading to disruptions to restaurant operations if permits cannot be obtained before acceptance.
3. **Unique Regulatory Framework** – Outdoor seating and other retail activations at Mission Rock are governed by the Mission Rock Design Controls which are “baked-in” to the Mission Rock Development Agreement with the City. This regulatory framework varies slightly from typical Public Works design standards, potentially leading to confusion and delay if Public Works is the lead permitting agency because Public Works Permit Plan Checkers are not in the habit of reviewing permits under Mission Rock design controls.
4. **IRS Regulations** – Streets and Paseos in Mission Rock were funded using tax-exempt bonds (a funding source only available for public infrastructure). IRS rules dictate that only 5% of these spaces may be apportioned for private uses such as outdoor dining. Exceeding the 5% threshold will become an issue if the project is audited in the future. Of the two agencies, the Port is better equipped to monitor this regulation ensuring that net retail operations in Mission Rock rights-of-way don't

exceed the 5% threshold because Public Works Permit Plan Checkers are not accustomed to monitoring tax-exempt bond requirements.

5. **Simple Permits** – Retail permit activations such as outdoor dining and sidewalk merchandise displays are relatively simple permit types to review. These permits were intentionally designed for lay people to obtain without the assistance of design professionals, attorneys, permit expeditors, etc. The relative simplicity of these permit types reduces the likelihood that an additional workload of performing permit reviews will prove overly burdensome for Port staff.

## **RECOMMENDATION**

Port staff recommends that the Port Commission approve the attached resolution recommending the BOS amend the Public Works code to establish the Port as the sole agency with jurisdiction to issue licenses for retail activations in sidewalks located at Mission Rock, Pier 70, and certain portions of Potrero Power Station.

Prepared by: Paul Chasan  
Project Manager, Engineering

For: Wendy Proctor,  
Interim Deputy Director, Engineering

Scott Landsittel  
Deputy Director, Real Estate and Development

Exhibits: 

1. Mission Rock SUD Area
2. Pier 70 SUD Area
3. Potrero Power Station SUD Area
4. Creative Retail Activation Examples

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

**RESOLUTION NO. 25-07**

- 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, The Port requires private parties using Port streets or rights-of-way (ROWs) to obtain a license that, among other things, protects the Port against claims related to the private use; and
- WHEREAS, The Public Works Code requires private parties that use or encroach on City-accepted streets and rights-of-way to obtain encroachment permits from the Public Works Department that, among other things, protect the City against certain claims related to the encroachment; and
- WHEREAS, When the Board of Supervisors accepts Port ROWs on behalf of the City, the Port requires private parties to obtain licenses and the Department of Public Works requires the same private parties to obtain encroachment permits for the same activity, which process is duplicative and can discourage activation of Port ROWs; and
- WHEREAS, Vibrant streetscapes, where businesses are able to utilize public spaces for outdoor seating and merchandise displays and similar activities, foster a sense of place, encourage foot traffic, and enhance the public realm to benefit both businesses and the broader community; and
- WHEREAS, The Port Commission recognizes the critical importance of fostering active, vibrant streets that encourage social interaction, cultural engagement, and economic activity, benefiting both local residents and visitors; and
- WHEREAS, The Port Commission is dedicated to ensuring that public spaces, including sidewalks, remain universally accessible to all individuals, including people with disabilities, seniors, and families with young children, while also allowing for retail and outdoor dining activations; and
- WHEREAS, Port and Public Works staff agree that the duplicative Port license and Public Works' encroachment permit process is unnecessary and should be simplified by granting Port the sole ability to license and permit certain minor encroachments, including café tables and chairs, merchandise displays, and other minor encroachments that are not affixed to the City-accepted Port ROWs (collectively, "Port Licensed Encroachments") that are located sidewalks within certain City-accepted Port ROWs, so long as Port and Public Works collaborate and coordinate regarding licenses and encroachments generally to avoid conflicts and maintain mutual awareness between and among departments of uses of City-accepted Port ROWs; and



WHEREAS, Port and Public Works staffs have identified potential areas to pilot the simplified license and permit procedure to further support vibrant, mixed-use developments, which may include the Mission Rock Special Use District ("SUD"), the Pier 70 SUD, and/or the Potrero Power Station SUD, all of which include City-accepted Port ROWs and would benefit from the simplified license and permit procedure; and

WHEREAS, The Public Works Code must be amended to implement the simplified license and permit procedure for Port-Licensed Encroachments on sidewalks within City-accepted Port ROWs; now, therefore be it

RESOLVED, That the Port Commission supports simplifying the duplicative license and permit procedure for Port-Licensed Encroachments on sidewalks within City-accepted Port ROWs, including in the Mission Rock SUD, Pier 70 SUD, and Potrero Power Station SUD, by identifying the Port as the sole licensing and permitting authority for Port-Licensed Encroachments; and be it further

RESOLVED, That the Port Commission recommends the Board of Supervisors and Mayor amend the Public Works Code to identify the Port as the sole licensing and permitting authority for Port-Licensed Encroachments on sidewalks within City-accepted Port ROWs within the Mission Rock SUD, Pier 70 SUD, and the Potrero Power Station SUD; and, be it further

RESOLVED, That the Port will accept responsibilities including design review, permitting, inspecting, and enforcement of such Port-Licensed Encroachments on sidewalks within City-accepted Port ROWs in such areas as may be defined by the Board of Supervisors, and further instructs Port staff to collaborate with and coordinate such responsibilities with the Department of Public Works to avoid conflicts and facilitate vibrant use and activation of City-accepted Port ROWs; and, be it further

RESOLVED, The Port Commission directs staff to establish guidelines and regulations (the Retail Activation Guidelines) concerning the licensing and/or permitting of retail activations on City-accepted Port ROWs. These Retail Activation Guidelines shall include standards pertinent to urban design and placemaking, accessibility, aesthetics, Port/Public Works coordination, and reference the Mission Rock, Pier 70, and Potrero Power Station design controls; and be it further

RESOLVED, That upon passage of any necessary legislation, and to the extent that the Port does not have adequate licensing and permitting rules and regulations, Port staff may implement and rely on existing Public Works standards

***I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of February 11, 2025.***

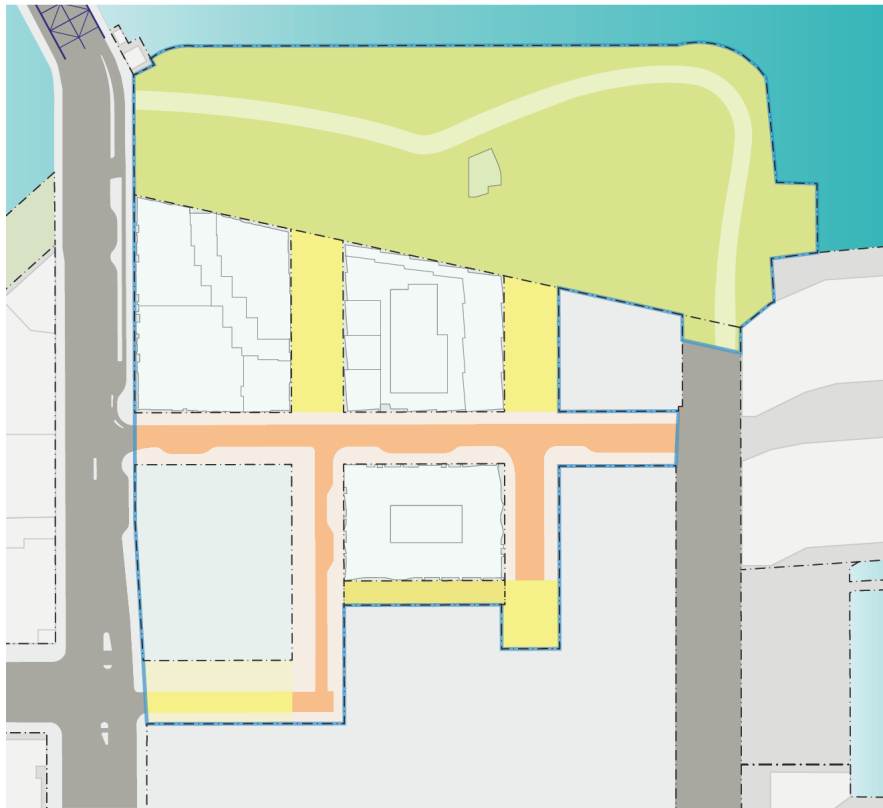
DocuSigned by:

A blue ink signature of Jenica Lin, written in a cursive script.

Secretary

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## EXHIBIT 1. MISSION ROCK SUD AREA

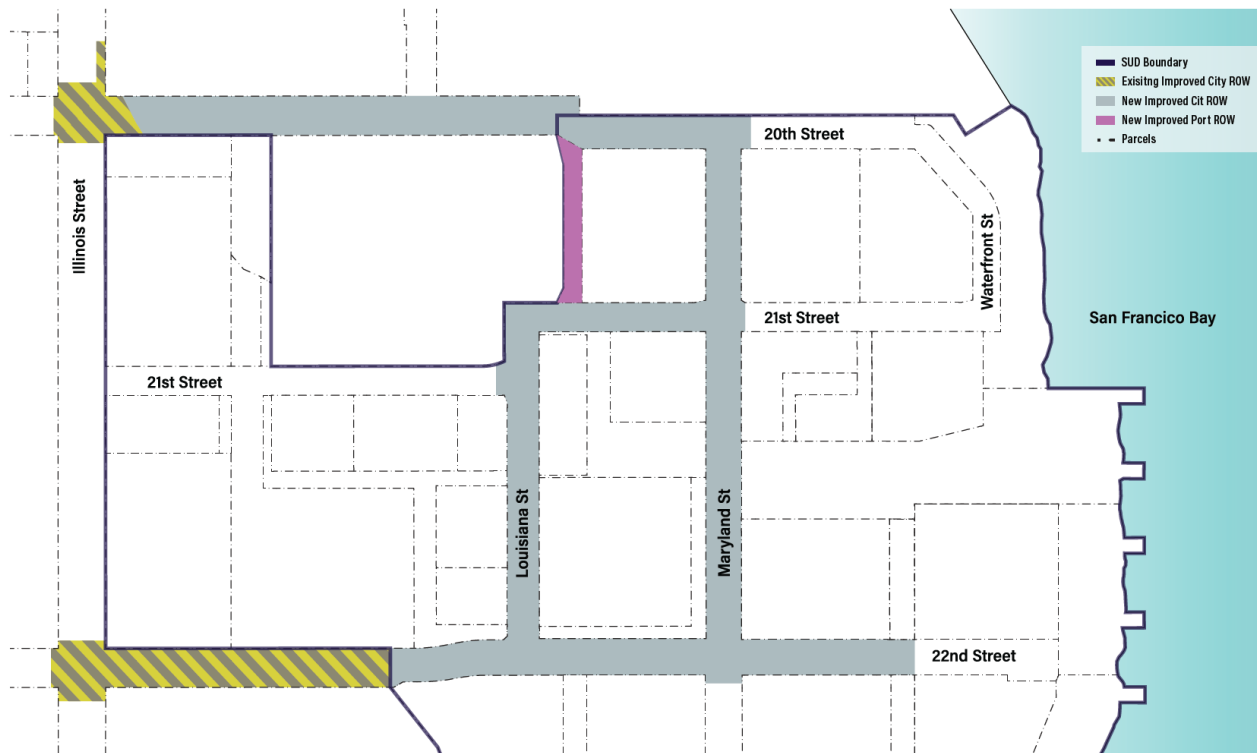


Mission Rock Phase 1 City-Accepted Port Streets.

Legislation would also apply to subsequent phases

Area in orange is proposed to be included in legislation.

## EXHIBIT 2. PIER 70 SUD AREA



### City-Accepted Port Streets within Pier 70 Phase 1.

Legislation would also apply to subsequent phases

Area in gray is proposed to be included in legislation.

## EXHIBIT 3. POTRERO POWER STATION SUD AREA

### City-Accepted Portion of Port-Owned 23rd Street in the Potrero Power Station



## EXHIBIT 4. CREATIVE RETAIL ACTIVATION EXAMPLES



1. Custom seating, table, planter
2. Modular Seating/planters / Parklet\*
3. Hexagonal ping-pong-table
4. Serpentine bench\*
5. Simple furnishings/stage\*

6. Custom planters and furnishings
7. Temporary Art / Sculpture

\* Note: Port not seeking authorization to allow paint on sidewalk

**MISSION ROCK | PIER 70 | POTRERO POWER STATION**

# **RETAIL SIDEWALK ACTIVATION PERMITTING**

**San Francisco Port Commission | Agenda Item 12B**

**Presented by: Paul Chasan**

**February 11, 2025**



# Today's Action

- **Recommend BOS approve** legislation amending the SF Public Works Code
- **Establish Port as sole agency w/ jurisdiction** for permitting and licensing retail activations within Port-owned and City-accepted rights-of-way
  - 1) Café Seating    2) Merchandise Displays    3) Creative Sidewalk Activations
- **Pilot in major development areas:** Mission Rock (MR), Pier 70 (P70), Potrero Power Station (PPS)

# Retail Challenge

## Status Quo

- Retail tenants must obtain overlapping Port & Public Works approvals for sidewalk activations (e.g. café seating, merchandise displays, benches)

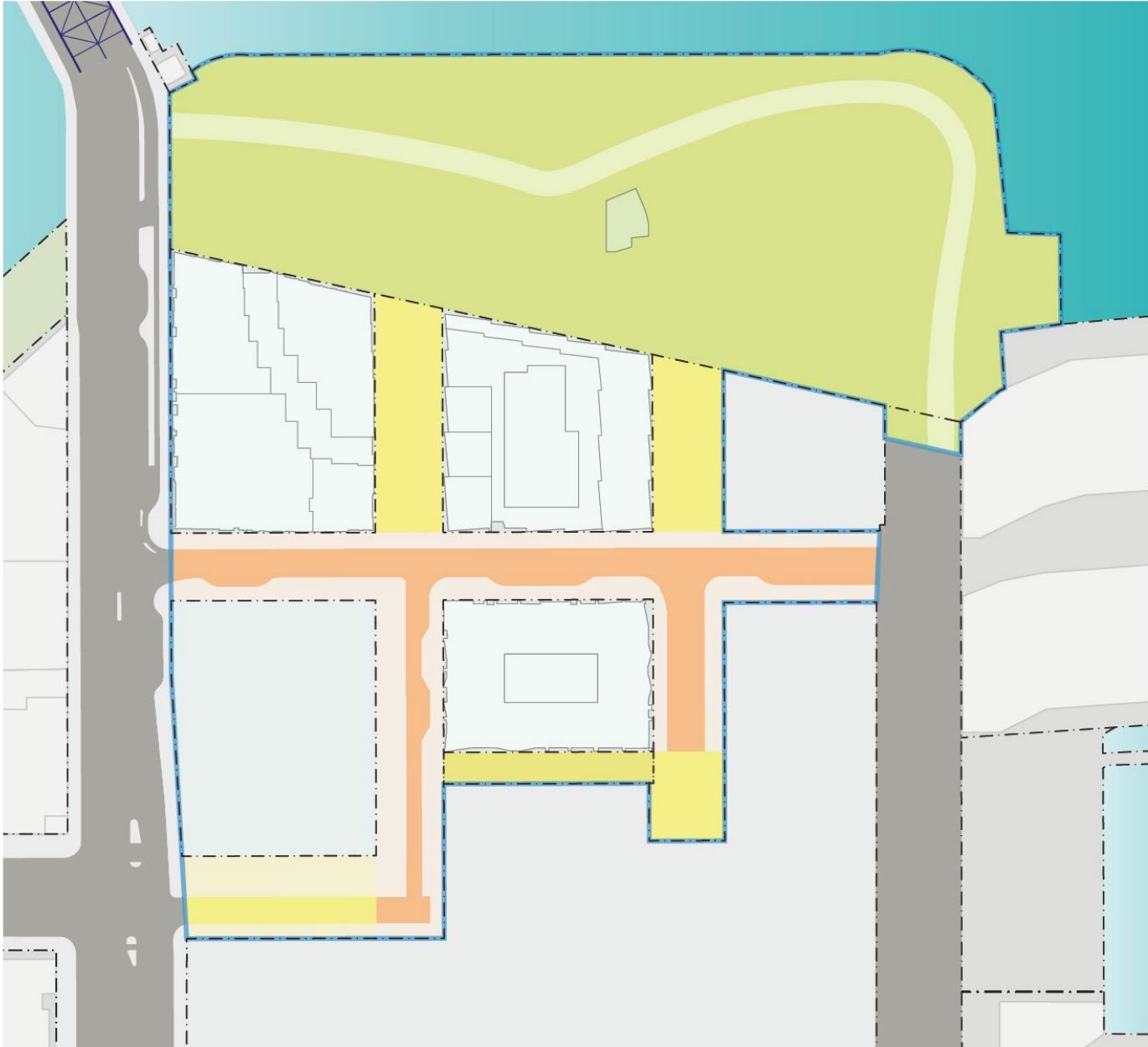
## Why

- Public Trust obligations require Port receives fair market value for its property
- Insure against 3rd Party Claims for commercial activities within Port Jurisdiction (typically handled via license)



# Solution

- Exclude City-Accepted Port Streets in development areas from SFPW retail activation permits (café tables, merchandise displays, outdoor seating)
- Affirmatively delegate permit authority to Port for a pilot in major development areas (Mission Rock, Pier 70, Potrero Power Station)
- Public Works would still lead permitting for other activities in the ROW
- Benefits
  1. Simplified and streamlines to create one-stop shop for retail tenants
  2. Port staff better positioned to implement unique regulations with Mission Rock Design Controls
  3. Port staff better positioned to manage IRS private use rules under tax-exempt bond funding

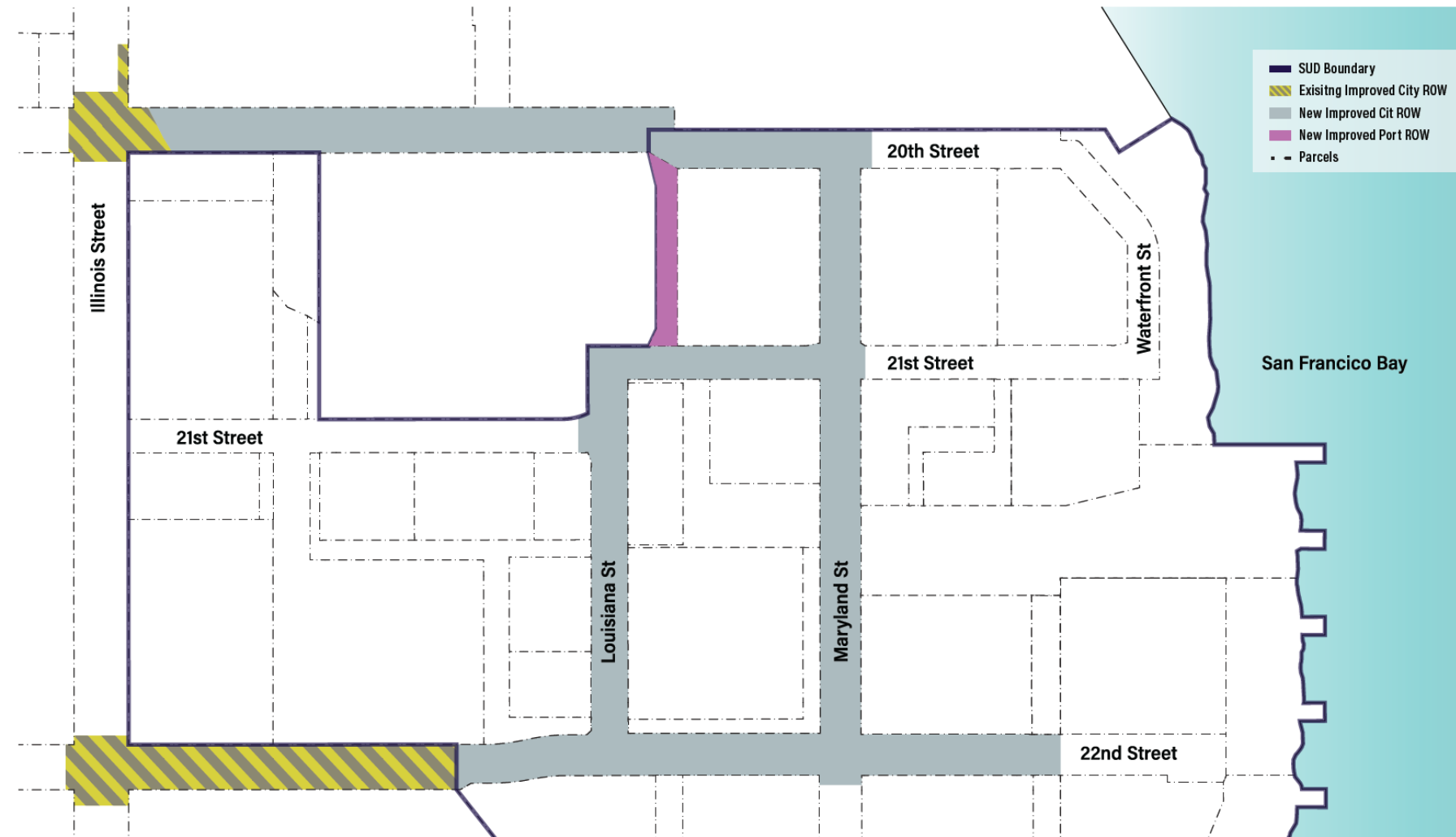


# Mission Rock



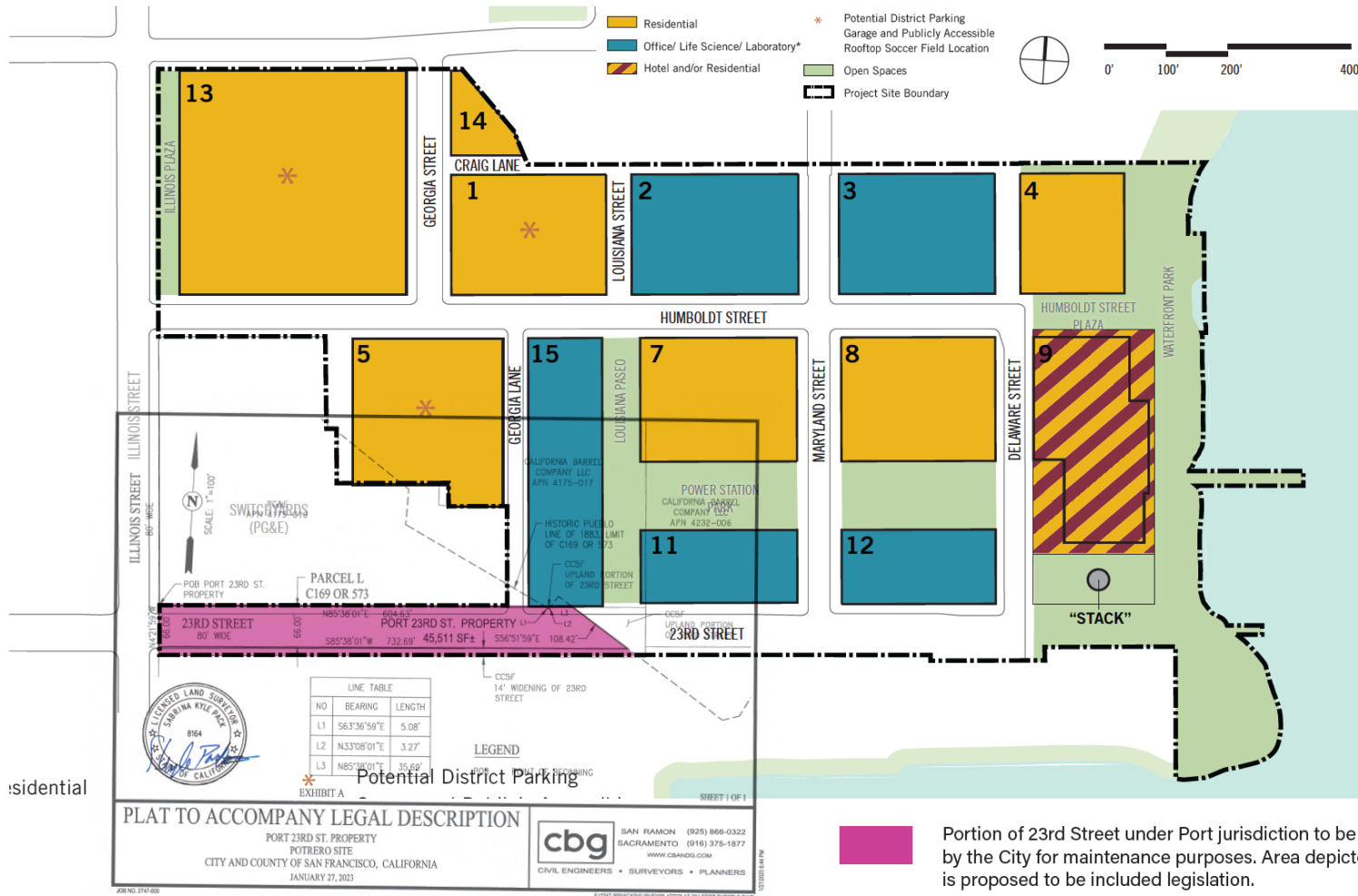
City-Accepted Port  
Streets at Mission Rock

# Pier 70



City-Accepted Port  
Streets at Pier 70

# Potrero Power Station



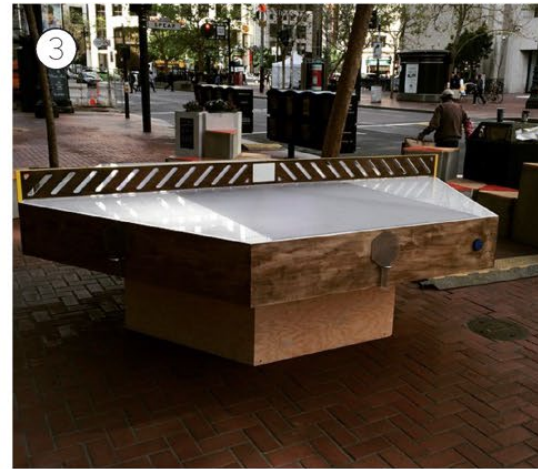
City-Accepted Port Streets  
at Potrero Power Station



Portion of 23rd Street under Port jurisdiction to be accepted by the City for maintenance purposes. Area depicted in pink is proposed to be included legislation.



# Creative Sidewalk Activations



1. Custom seating, table, planter
2. Modular Seating/planters / Parklet\*
3. Hexagonal ping-pong-table
4. Serpentine bench\*
5. Simple furnishings/stage\*

6. Custom planters and furnishings
7. Temporary Art / Sculpture

\* Note: Port not seeking authorization to allow paint on sidewalk

# Next Steps

<b>02/25/2025</b>	BOS Intro
<b>04/07/2025</b>	Land Use Committee
<b>05/02/2025</b>	Mayor Signs
<b>06/01/2025</b>	Legislation Takes Effect

Staff will continue to work retail tenants to foster vibrant streets at Mission Rock, Pier 70, and Potrero Power Station



# Thank You

Paul Chasan, Project Manager  
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OFFICE OF THE MAYOR  
SAN FRANCISCO



DANIEL LURIE  
MAYOR

TO: Angela Calvillo, Clerk of the Board of Supervisors  
FROM: Adam Thongsavat, Liaison to the Board of Supervisors  
RE: [Public Works Code - Minor Sidewalk Encroachments at the Mission Rock, Pier 70, and Potrero Power Station Projects]  
DATE: February 25, 2025

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Ordinance amending the Public Works Code to designate the Port of San Francisco, instead of the Department of Public Works, as responsible for permitting tables, seating, and other minor encroachments on the public sidewalks at the Mission Rock, Pier 70, and Potrero Power Station projects; and affirming the Planning Department's determination under the California Environmental Quality Act, and making findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1

Should you have any questions, please contact Adam Thongsavat at [adam.thongsavat@sfgov.org](mailto:adam.thongsavat@sfgov.org)