



City and County of San Francisco
Joaquin Torres, Assessor-Recorder

This document is exempt from payment of a recording fee pursuant to California Government Code Section 27383.

**Recording Requested By And
When Recorded Mail Document To:**
SFPW-BSM
49 S. Van Ness Ave, 3rd Floor
San Francisco, CA 94103
Attn: Permit Division

Doc #	2024043211	Fees	\$0.00
6/4/2024	3:18:28 PM	Taxes	\$0.00
NH	Electronic	Other	\$0.00
Pages 72	Title 398	SB2 Fees	\$0.00
Customer	2327	Paid	\$0.00

APNs: 4052-008, 4052-009, 4052-010,
4052-011, 4052-012, 4112-001, 4112-002,
4112-003, 4115-003, 4115-004, 4116-009,
4117-002, 4117-003

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

Address: Pier 70 28-Acre Site – area generally bounded by Illinois, 20th, 22nd and Maryland streets

**CORRECTIVE DECLARATION OF RESTRICTIONS AND
OBLIGATIONS PURSUANT TO
MASTER ENCROACHMENT PERMIT**

THIS CORRECTIVE DECLARATION OF RESTRICTIONS AND OBLIGATIONS PURSUANT TO MASTER ENCROACHMENT PERMIT IS BEING RECORDED TO CORRECT AN ERROR IN THE APNS LISTED ON THE COVER PAGE, EXHIBIT A, AND ATTACHMENT 5 TO EXHIBIT E OF THE DECLARATION OF RESTRICTIONS AND OBLIGATIONS PURSUANT TO MASTER ENCROACHMENT PERMIT WHICH RECORDED ON May 7, 2024 AS DOCUMENT NO. 2024037016 OF THE OFFICIAL RECORDS OF THE CITY AND COUNTY OF SAN FRANCISCO.

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SFPW-BSM
49 S. Van Ness Ave, 3rd Floor
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4052-011, 4052-012, 4112-001, 4112-002,
4112-003, 4115-003, 4115-004, 4116-009,
4117-002, 4117-003

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

Address: Pier 70 28-Acre Site – area generally bounded by Illinois, 20th, 22nd and Maryland streets

**DECLARATION OF RESTRICTIONS AND OBLIGATIONS
PURSUANT TO MASTER ENCROACHMENT PERMIT**

FC Pier 70, LLC, a Delaware limited liability company, the lessee of the real property (together with all subsequent successors and assigns, “**Owners**”) commonly known as **the Pier 70 28-Acre Site**, San Francisco, California acknowledges the restrictions and obligations set forth in the following documents, which shall be binding upon all current and future Owners of the Phase 2/3 property that is described on Exhibit A attached hereto:

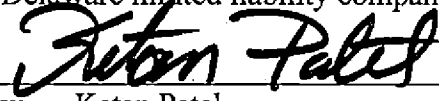
- **Exhibit A. Legal Description and Plat of Phase 2/3 Property**
- **Exhibit B. Master Encroachment Permit No. 24ME-00006**
- **Exhibit C. Diagram showing extent of encroachments**
- **Exhibit D. Board of Supervisors Resolution No. 138-24**
- **Exhibit E. Master Encroachment Agreement**

The City and County of San Francisco has granted Owners a revocable master encroachment permit (“**Permit**”), which authorizes Owners to place the private encroachments depicted in the preceding Exhibits on public right-of-way under the jurisdiction of the City and County of San Francisco and comply with all applicable requirements of the San Francisco Municipal Code, including but not limited to the Public Works Code requirements. Failure to comply with the applicable requirements may lead to the revocation of the master encroachment permit.

Owners are encouraged to review the Public Works Code and consult with Owners’ legal counsel if they have any questions about the applicability of any fees, assessments, or other requirements. The Owners are responsible for complying with all restrictions, obligations, and requirements of the Permit regardless of whether the named permittee was an agent of the Owners or Owners rely on a management entity to address such restrictions, obligations, and requirements of the Permit.

Acknowledged and agreed:

FC PIER 70, LLC,
a Delaware limited liability company

A handwritten signature in black ink that reads "Ketan Patel". The signature is written in a cursive style and is positioned above a horizontal line.

By: Ketan Patel

Title: President and Secretary

CERTIFICATE OF ACKNOWLEDGMENT

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF OHIO

COUNTY OF CUYAHOGA

Notary public

On May 1, 2024 before me, Amy Bird, personally appeared Ketan Patel, President and Secretary of FC Pier 70, LLC, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Ohio that the foregoing paragraph is true and correct.

WITNESS my hand and

Amy L. Bird
Signature

(Seal)



Exhibit A

Legal Description and Plat of Phase 2/3 Property

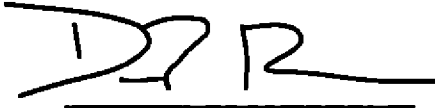
Attached.

LEGAL DESCRIPTION

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

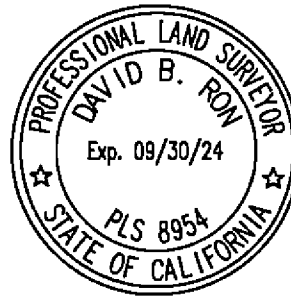
LOTS 3, 5, 6, 7, 13, 15, 16, 17, 18, 19, 20, 21, AND 22, AS SAID LOTS ARE SHOWN ON THAT CERTAIN MAP ENTITLED "FINAL TRANSFER MAP 9597" FILED FEBRUARY 7, 2019, IN BOOK HH OF SURVEY MAPS, AT PAGES 89-98, INCLUSIVE, OFFICIAL RECORDS OF THE CITY AND COUNTY OF SAN FRANCISCO.

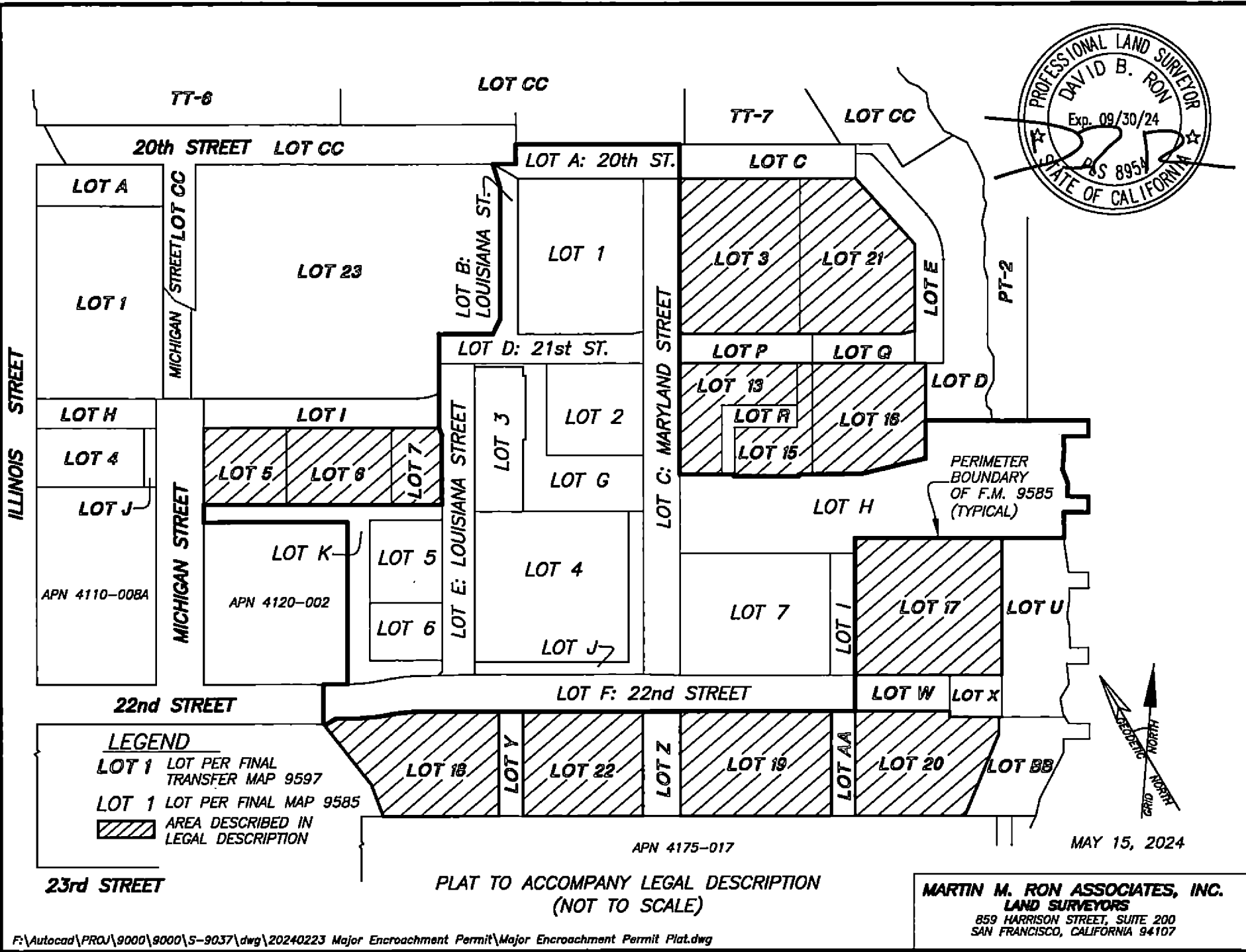
THIS DESCRIPTION WAS PREPARED BY ME IN ACCORDANCE WITH THE PROFESSIONAL LAND SURVEYORS' ACT.



MAY 15, 2024

DAVID B. RON, PLS 8954





LEGEND
 LOT 1 LOT PER FINAL TRANSFER MAP 9597
 LOT 1 LOT PER FINAL MAP 9585
 [Hatched Box] AREA DESCRIBED IN LEGAL DESCRIPTION

PLAT TO ACCOMPANY LEGAL DESCRIPTION
 (NOT TO SCALE)

MARTIN M. RON ASSOCIATES, INC.
 LAND SURVEYORS
 859 HARRISON STREET, SUITE 200
 SAN FRANCISCO, CALIFORNIA 94107

Exhibit B

Master Encroachment Permit No. 24ME-00006

Attached.



City and County of San Francisco
 San Francisco Public Works - Bureau of Street Use and Mapping
 49 South Van Ness Ave, Suite 300 - San Francisco, CA 94103
 sfpublicworks.org - tel (628) 271-2000

EXHIBIT B



4ME-00006

Major Encroachment Permit

Address : Multiple Locations

Block: Lot: Zip:

Pursuant to Article 15, Section 786 - Requires legislation approved by Board of Supervisors.

FC Pier 70, LLC

Name: FC Pier 70, LLC

MANDATORY COORDINATION WITH CONFLICTING PERMITS IS REQUIRED. PERMIT HOLDER SHALL NOT COMMENCE WORK WITHOUT FIRST PROPERLY COORDINATING WITH EXISTING PERMIT HOLDERS AS NOTED ON THE EXCEPTION PAGE(S) OF THIS PERMIT. IF THIS PERMIT CONFLICTS WITH A CITY PROJECT OR OTHER APPROVED PERMIT, THE PERMIT HOLDER OF THIS PERMIT SHALL BE RESPONSIBLE FOR THE PROPER COORDINATION AND EVALUATION OF THE SITE PRIOR TO COMMENCING WORK.

Permit Construction Date	
Permit USA Number	tbd
Purpose	to temporarily hold and maintain underground conduits and other corresponding facilities installed in the public right-of-way in the Phase 1 construction of Pier 70
recorded encroachment	0
Conditions	
Annual Assessment	0
Square Feet	00
Inspection	Work shall not commence until this permit has been activated by Public Works. The permittee shall contact Public Works at dpw-bsminspeacts@sfdpw.org or (628) 271-2000 to activate the permit and schedule inspection at least 72 hours prior to work. Failure to follow the activation process prior to commencing work may result in a correction notice and possible notice of violation.

The undersigned Permittee hereby agrees to comply with all requirements and conditions noted on this permit

For FC Pier 70, LLC

Approved Date : 03/26/2024

[Signature]
 Applicant/Permittee

5/7/2024
 Date

Vice President,
 FC Pier 70, LLC

[Signature]
 John Kwong

Printed : 5/7/2024 9:34:30 AM

Plan Checker

John Kwong

Exhibit C

Diagram Showing Extent of Encroachments

Attached.

EXHIBIT C- LOCATION OF TELECOMMUNICATION CONDUITS

D & B Engineers

COMCAST SUBSTRUCTURE PLAN

PIER 70

SAN FRANCISCO - CALIFORNIA

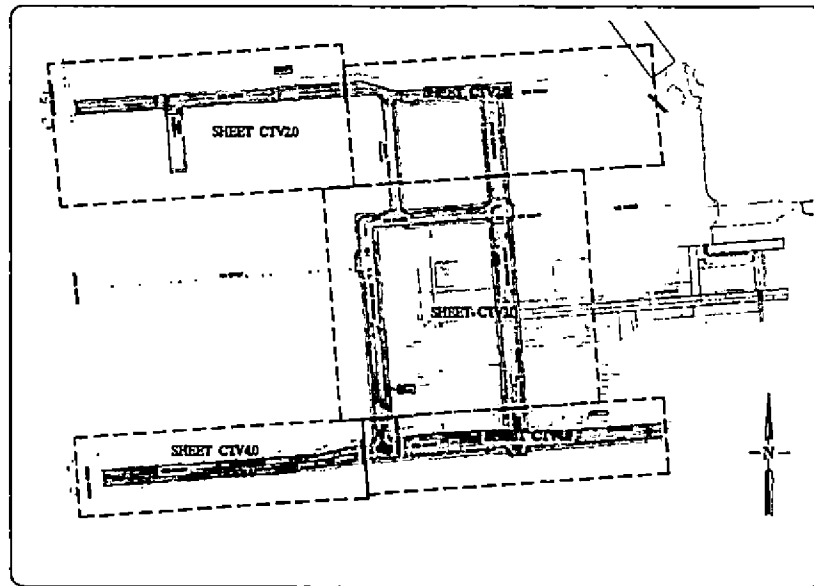
LEGEND

--- Proposed Work

① CONG. TO BRACE AND CHAINING AND BY OF CHAINING

② CONG. TO BRACE AND CHAINING AND BY OF CHAINING

③ CONG. TO BRACE AND CHAINING AND BY OF CHAINING



MAYOR ED 17-02 PRIORITY PERMIT

SAN FRANCISCO COUNTY SAN FRANCISCO CALIFORNIA

COMCAST SUBSTRUCTURE PLAN PIER 70

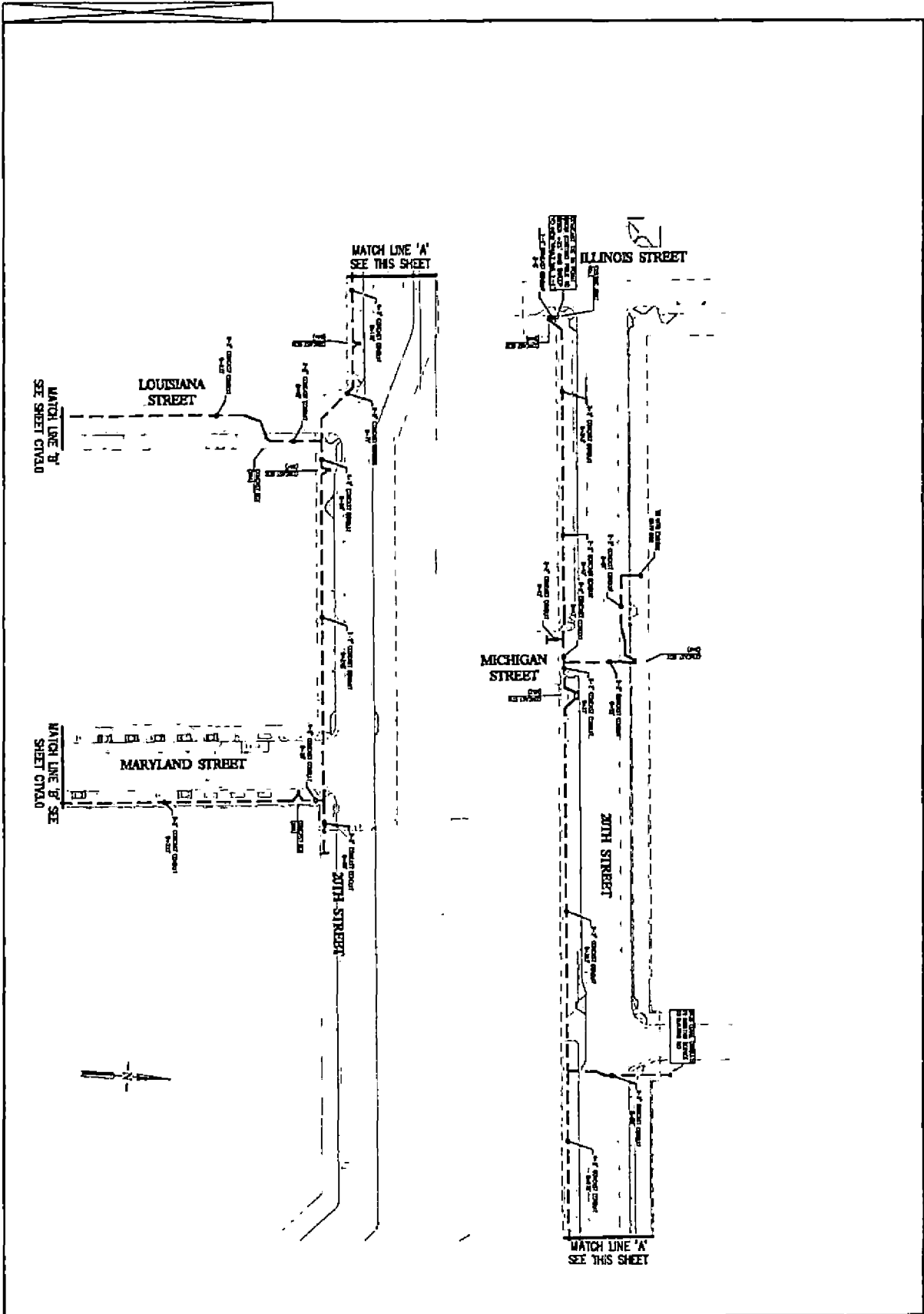
POWER SYSTEMS PERMITS DIVISION

PIER 70

DATE	NO.	DESCRIPTION
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07/11/08	02	ISSUED FOR PERMITTING
07/11/08	03	ISSUED FOR PERMITTING
07/11/08	04	ISSUED FOR PERMITTING
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07/11/08	100	ISSUED FOR PERMITTING

CTV1.0

RECORD DRAWINGS



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	CLIENT	02/11/20 - 010	DATE	02/11/20
	REVISION	02/28/20 - 011	DATE	02/28/20
	03/02/20 - 012	DATE	03/02/20	
	02/27/20 - RECORD DRAWING	DATE	02/27/20	

**COMCAST SUBSTRUCTURE PLAN
PIER 70**

SAN FRANCISCO SAN FRANCISCO COUNTY CALIFORNIA

POWER SYSTEMS DESIGN

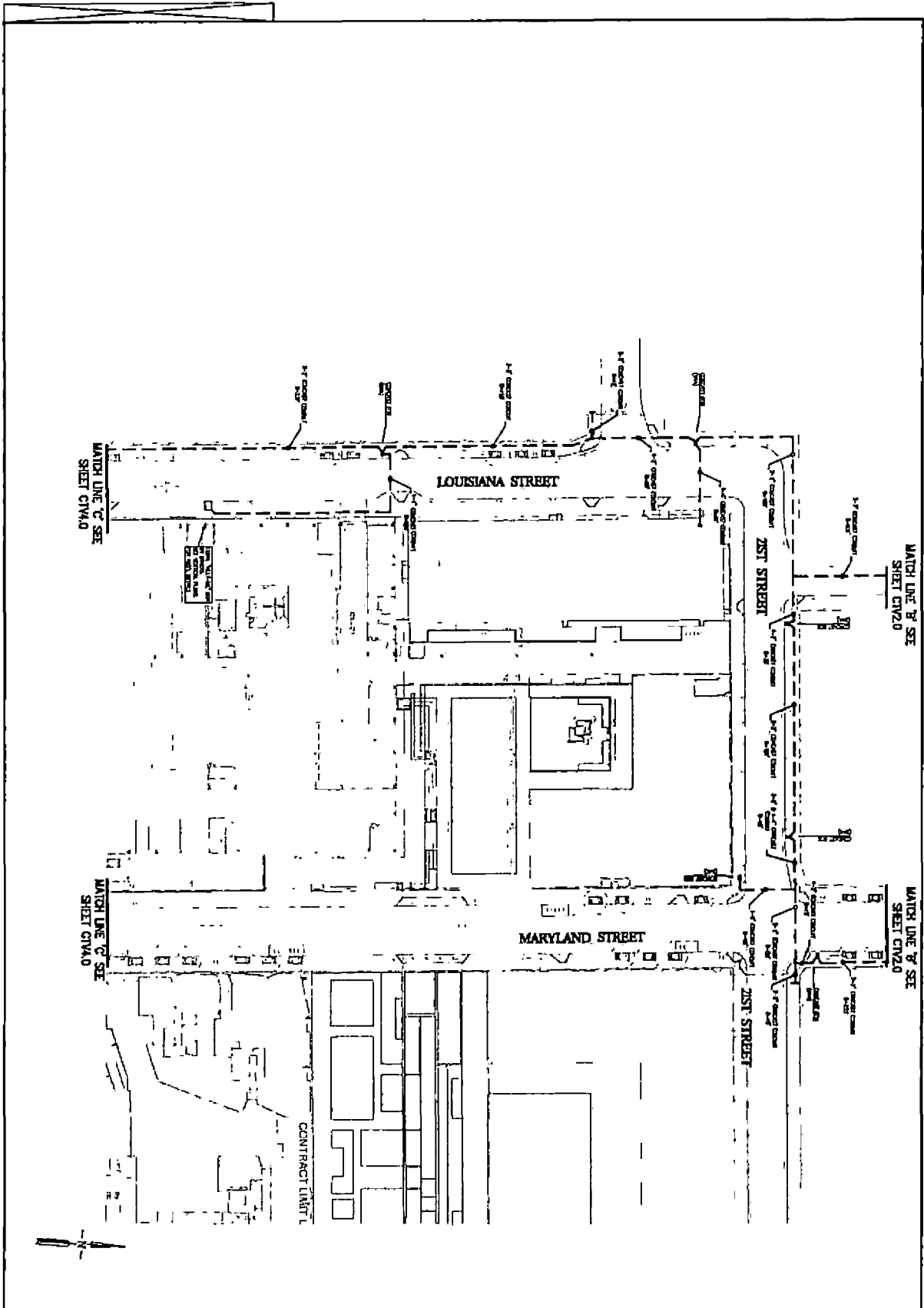
1000 S. GATEWAY AVENUE, SUITE 100
SAN FRANCISCO, CA 94107
415.774.8888



RECORD DRAWINGS

MAYOR ED 17-02 PRIORITY PERMIT


© 2018 Power Systems Design




Sheet	Date	By	Revised
CV-3.0	10/27/20	AS	
CV-2.0	09/11/20	AS	REVISIONS
CV-1.0	02/18/20	AS	REVISIONS
CV-0.0	02/26/20	AS	REVISED
CV-0.0	10/27/20	AS	REVISED
CV-0.0	10/21/20	AS	RECORD DRAWINGS

**COMCAST SUBSTRUCTURE PLAN
PIER 70**

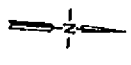
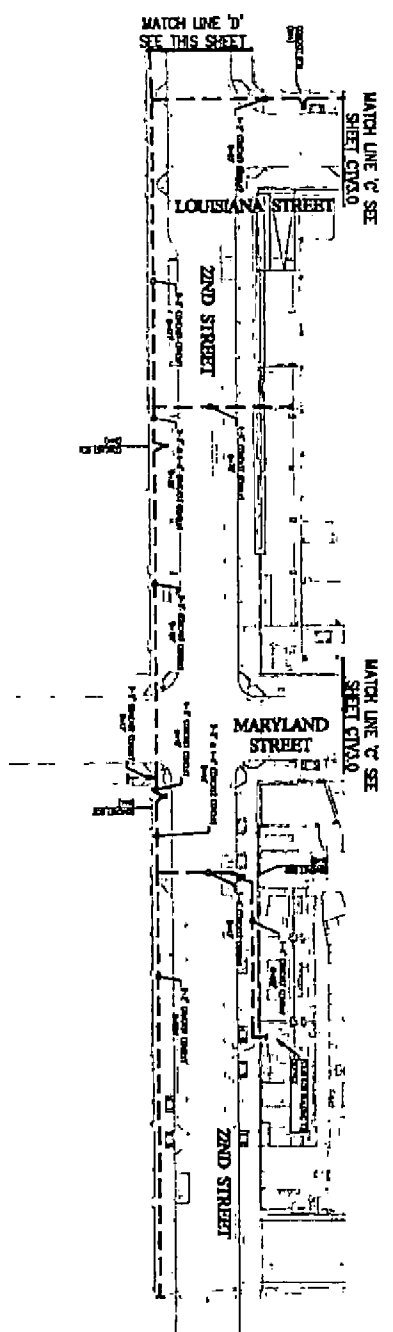
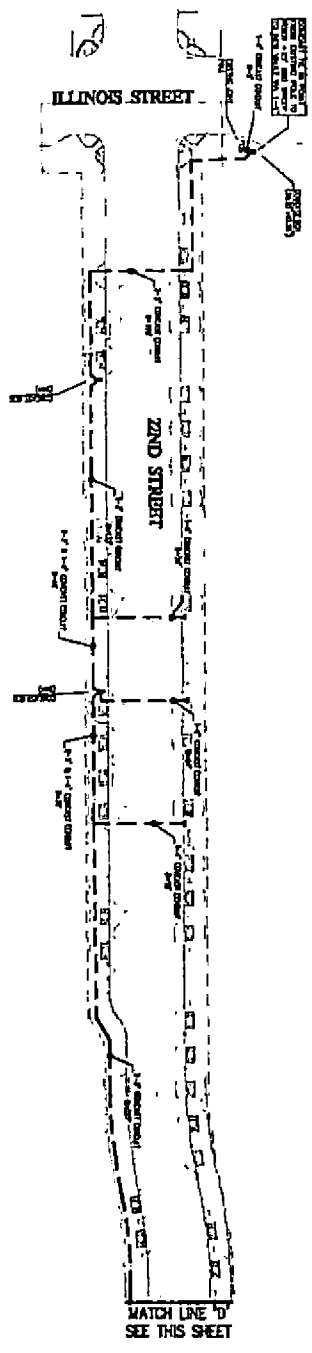
SAN FRANCISCO SAN FRANCISCO COUNTY CALIFORNIA



**POWER
SYSTEMS
DESIGN**



PIER 70



CTVA: 0	Date	10/25/2018	By	Author
	Scale	1"=20'	SA	05/11/20 - 08/26/2018
	Drawn	ST	SA	05/11/20 - 08/26/2018
	Checked	ST	SA	08/28/20 - 09/11/2018
	Approved	SA	ST	12/02/20 - 01/12/2019
JOB NO		18-01-1	SA	01/21/20 - RECORD DRAWINGS

**COMCAST SUBSTRUCTURE PLAN
PIER 70**

SAN FRANCISCO SAN FRANCISCO COUNTY CALIFORNIA

POWER SYSTEMS DESIGN

1000 CALIFORNIA STREET, SUITE 200, SAN FRANCISCO, CA 94109
 TEL: 415.774.8888 FAX: 415.774.8889
 WWW.PSDGROUP.COM



RECORD DRAWINGS

MAYOR ED 17-02 PRIORITY PERMIT

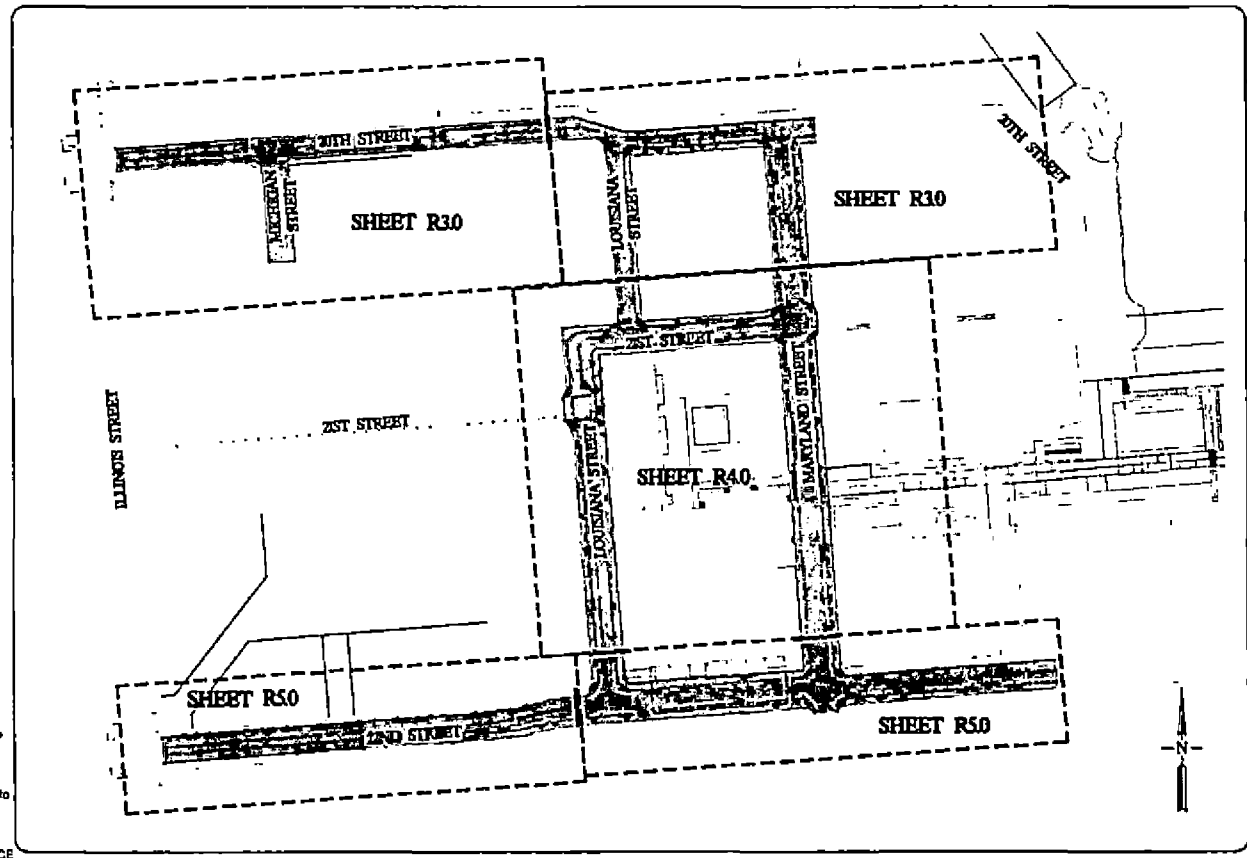
© 2018 Engineers

RACE SUBSTRUCTURE PLAN PIER 70

SAN FRANCISCO - CALIFORNIA

LEGEND

- RACE BOX WITH 4 OR LESS CONDUITS
- RACE BOX WITH 5-10 CONDUITS
- RACE BOX WITH 11-15 CONDUITS



- Note:**
1. B40 (24" x 34")
 - 1.1. Place a B40 at all locations with 4 or less conduits going into the box.
 2. B44 (20" x 42")
 - 2.1. Place a B44 at all locations with 5-10 conduits going into the box.
 3. B52 (30" x 60")
 - 3.1. Place a B52 at all locations with 11-15 conduits going into the box.
 4. Decorative Covers
 - 4.1. All decorative covers need to be labeled as follows "RACE CONM"
 5. Conduit
 - 5.1. Place 2" HOPE for all underground conduit routes.
 - 5.2. Place Rigid 2" Sch 40 conduit between the Tie-In vault and the utility pole.
 - 5.3. All conduit runs will require mule tape to be placed inside.

PIER 70

POWER DESIGN

RACE SUBSTRUCTURE PLAN
PIER 70

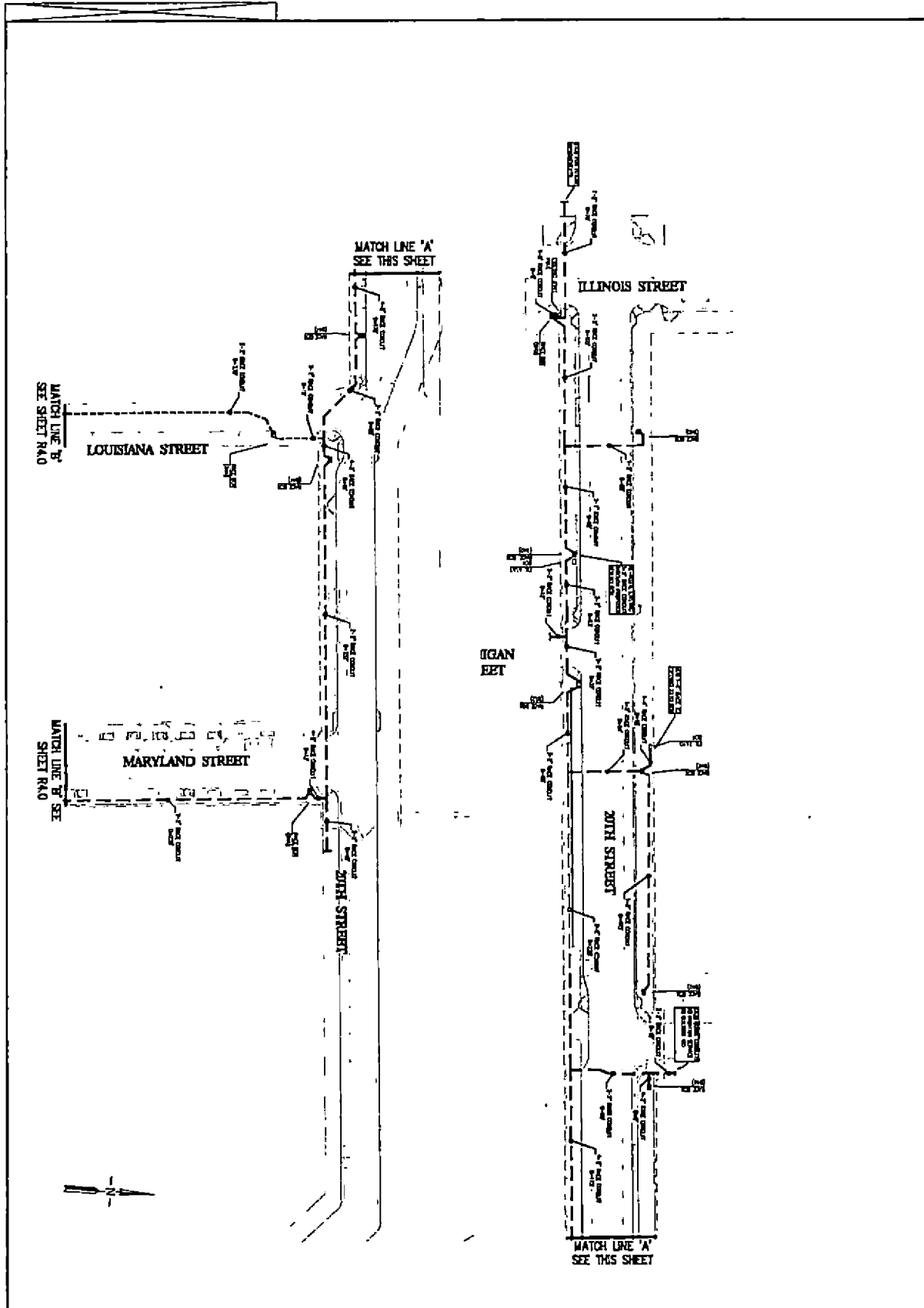
SAN FRANCISCO SAN FRANCISCO COUNTY CALIFORNIA

RECORD DRAWINGS

No.	DATE	DESCRIPTION
1	05/17/01	ISSUE FOR PERMIT
2	05/17/01	ISSUE FOR PERMIT
3	05/17/01	ISSUE FOR PERMIT
4	05/17/01	ISSUE FOR PERMIT
5	05/17/01	ISSUE FOR PERMIT

R1.0

MAYOR ED 17-02 PRIORITY PERMIT



R30	Drawn	10/21/2018	10	10/21/2018
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	Check	10/21/2018	23	10/21/2018 - 100
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	Issue	10/21/2018	21	10/21/2018 - 100

RACE SUBSTRUCTURE PLAN
PIER 70

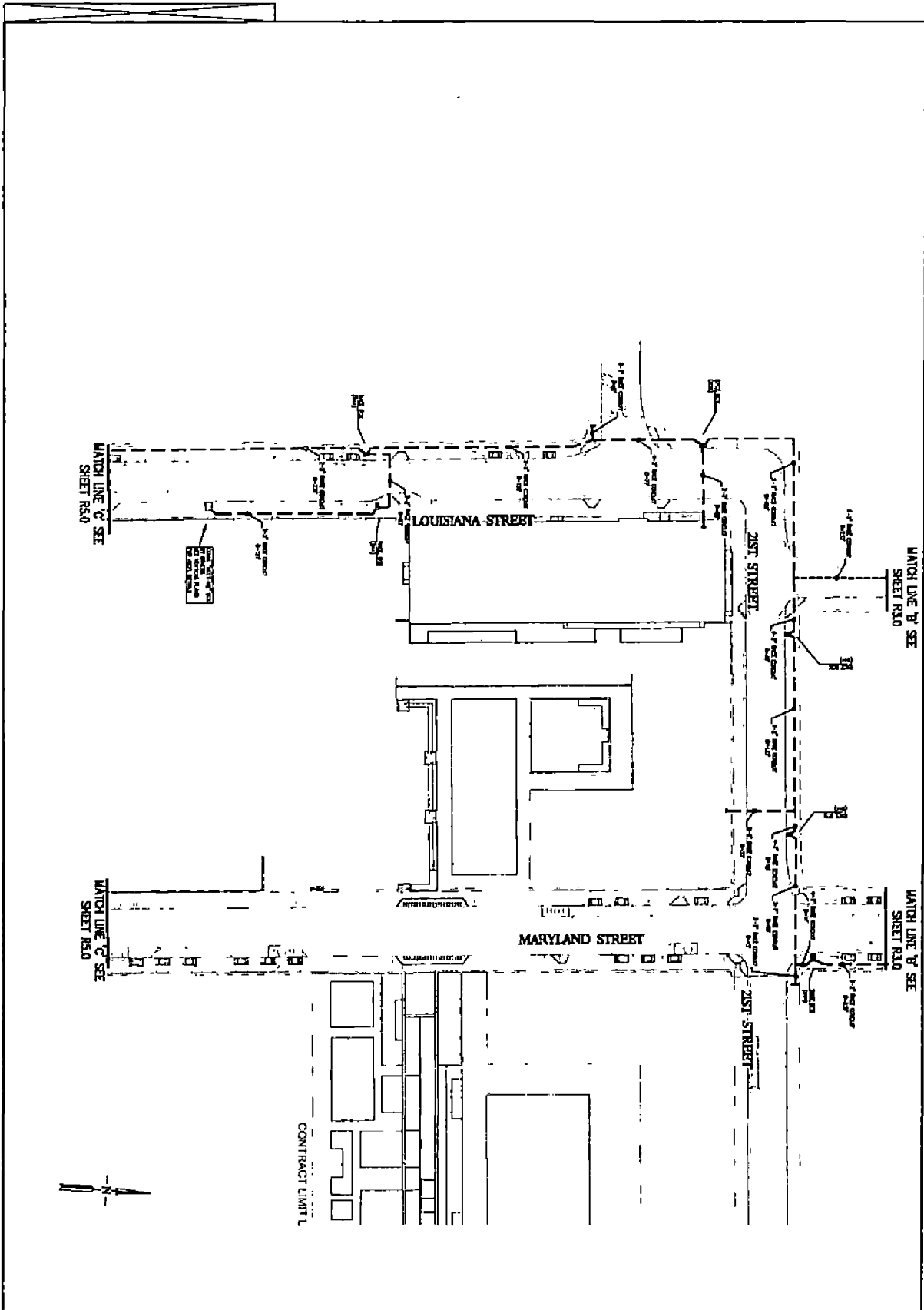
SAN FRANCISCO SAN FRANCISCO COUNTY CALIFORNIA



PSC
POWER
SYSTEMS
DESIGN



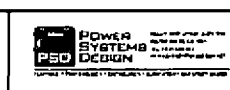
PIER 70

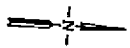
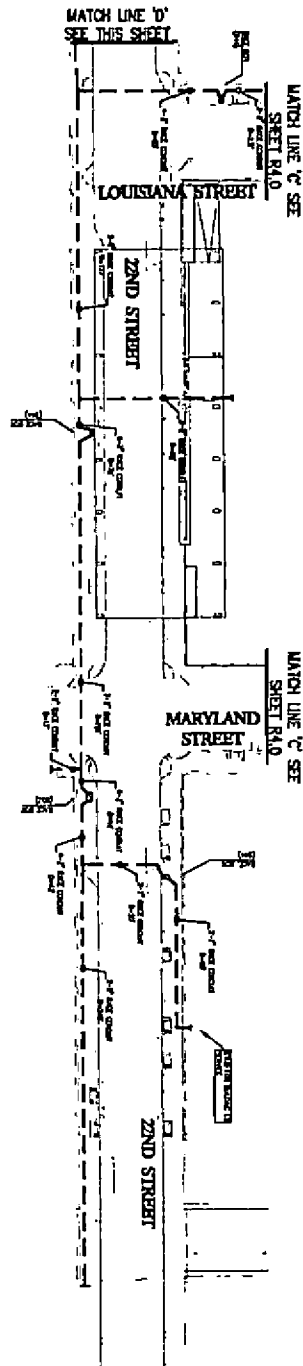
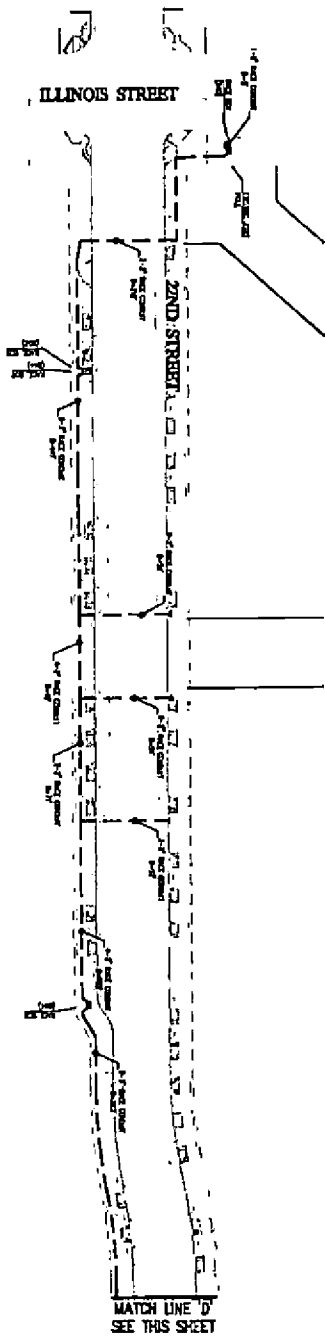


Date	10/26/2011	No.	Revisions
Scale	1" = 20'	24	05/11/20 - 108 REVISIONAL
Design	25	05/11/20	= 210
Drawn	26	05/27/20	= 211
Approved	27	10/02/20	= 212
Job No	10/23/20	02	CDMP BALANCE

RACE SUBSTRUCTURE PLAN
PIER 70

SAN FRANCISCO SAN FRANCISCO COUNTY CALIFORNIA





R.S.O.	DATE	10/25/2018	REV	
	SCALE	1"=30'	TO	02/11/20 - 02 RESUBMITTAL
	DESIGNER	MS	BY	02/03/20 - 010
	CHECKER	ES	BY	02/03/20 - 011
	APPROVED	AV	BY	02/03/20 - 012
	APP NO	18-01	DATE	02/21/20 - RECORD GRABER

**RACE SUBSTRUCTURE PLAN
PIER 70**

SAN FRANCISCO SAN FRANCISCO COUNTY CALIFORNIA



RECORD DRAWINGS

MAYOR ED 17-02 PRIORITY PERMIT

© 2018 Engineers

Exhibit D

Board of Supervisors Resolution No. 138-24

Attached.

1 [Master Encroachment Permit - Pier 70]

2
3 **Resolution granting revocable permission to the Port of San Francisco to maintain**
4 **encroachments in the public right-of-way, including but not limited to custom paving**
5 **materials, bicycle racks, and a historic building frame structure; delegating authority to**
6 **the Public Works Director, in consultation with the Port of San Francisco, to assign**
7 **responsibility for sidewalk maintenance and liability to various entities; granting**
8 **revocable permission to FC Pier 70, LLC to maintain an excess conduit in the public**
9 **right-of-way within the Pier 70 Project, Phase 1; adopting environmental findings under**
10 **the California Environmental Quality Act; making findings of consistency with the**
11 **General Plan, and the eight priority policies of Planning Code, Section 101.1; and to**
12 **authorize the Director of Public Works to enter into amendments or modifications to**
13 **the Permit and associated Agreements that do not materially increase the obligations**
14 **or liabilities to the City and are necessary to effectuate the purposes of the Permit and**
15 **associated Agreements or this Resolution.**

16
17 WHEREAS, This Resolution addresses the Board of Supervisors approval for certain
18 improvements in the public right-of-way within the Pier 70 Project site to be maintained by the
19 City and County of San Francisco acting by and through its Port Commission ("Port") and by
20 FC PIER 70, LLC, a Delaware limited liability company ("FC Pier 70"), the master developer of
21 this Pier 70 Project; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25

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

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

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

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

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

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

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

25

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

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

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

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

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

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

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

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



City and County of San Francisco
Tails
Resolution

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 240203

Date Passed: March 26, 2024

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


March 18, 2024 Land Use and Transportation Committee - RECOMMENDED


March 26, 2024 Board of Supervisors - ADOPTED

Ayes: 11 - Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

File No. 240203

I hereby certify that the foregoing Resolution was ADOPTED on 3/26/2024 by the Board of Supervisors of the City and County of San Francisco.


Angela Calvillo
Clerk of the Board


London N. Breed
Mayor

4/4/24
Date Approved

Exhibit E

Master Encroachment Agreement

Attached.

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

1. PARTIES AND BACKGROUND

A. The City and County of San Francisco Public Works (the “**Department**”) enters into this Encroachment Permit and Maintenance Agreement (“**Agreement**”) with FC Pier 70, LLC, a Delaware limited liability company (the “**Permittee**”), on this date, April 4, 2024. In this Agreement, the “**Major Encroachment Permit**” or “**Permit**” collectively refers to the Encroachment Permit as shown on the Department approved plan(s), any associated Improvement (as defined below), and this Agreement, including its Attachments and accompanying documents. In this Agreement, “the **City**” refers to the City and County of San Francisco and all affiliated City agencies including, but not limited to, the Department, the San Francisco Public Utilities Commission (“**SFPUC**”) and the San Francisco Municipal Transportation Agency (“**SFMTA**”).

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

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

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

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

D. On April 4, 2024, the Board of Supervisors approved Ordinance No. 066-24 (the "**Acceptance Ordinance**"), accepting the Phase 1 Public Infrastructure specified therein for City maintenance and liability purposes, subject to the conditions specified therein. As noted in Section 4(d)(4) of the Acceptance Ordinance, the accepted Phase 1 Public Infrastructure excluded encroachments that are or will be permitted (including Port encroachments and private encroachments on various streets), including the Private Conduit Encroachment.

E. Concurrently with its approval of the Acceptance Ordinance, the Board of Supervisors approved Resolution No. 138-24 to allow Permittee's continued ownership and maintenance of the Private Conduit Encroachment, subject to the further terms and conditions of this Permit.

2. PERMIT INFORMATION

2.1 Encroachment Permit No. ("Permit"): 24ME-00006 under Public Works Code Section 786(b), as originally constructed under SIP 19IE-00245. **2.2**

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

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

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

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

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

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

2.5 Permit Type: Major Encroachment Permit

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

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

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

Contact Person Number 1

Last Name, First Name: Tim Bacon

Title/Relationship to Owner: Sr. Director, Development

Phone Numbers: (415) 593-4236 direct

Email Addresses: Tim.Bacon@brookfieldpropertiesdevelopment.com

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

Office Address: same as mailing

Contact Person Number 2

Last Name, First Name: Dominic DiTullio

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

Phone Numbers: (415) 493-4235

Email Addresses: Dominic.DiTullio@brookfieldpropertiesdevelopment.com

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

Office Address: same as mailing

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

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

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

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

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

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

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

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

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

4. MONITORING AND MAINTENANCE RESPONSIBILITIES; IN-LIEU FEES

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

5. CONDITIONS OF ENTRY AND USE

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

5.1 Permits and Approvals

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

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

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

5.2 Exercise of Due Care

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

5.3 Cooperation with City Personnel and Agencies

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

5.4 Permittee's Maintenance and Liability Responsibilities

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

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

(b) [*intentionally omitted*]

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

5.4B Abatement of Unsafe, Hazardous, Damaged, or Blighted Conditions. Permittee acknowledges its maintenance responsibility to abate any unsafe, hazardous, damaged, or blighted conditions that arise solely from Permittee's ownership and maintenance of the Improvements within the Permit Area. Following receipt of a notice by the Department of an unsafe, damaged, or blighted condition of the Improvements (or of the Permit Area arising out of the presence of the Improvements therein), Permittee shall immediately respond to the notice and restore the site to the condition specified on the Construction Plans within thirty (30) calendar days, unless the Department specifies a shorter or longer compliance period based on the nature of the condition or the problems associated with it; provided, however, to the extent that such restoration cannot be completed using commercially reasonable efforts within such thirty (30) calendar day period or other period specified by the Department, then such period shall be extended provided that the Permittee has commenced and is diligently pursuing such restoration. In addition, Permittee acknowledges its responsibility to abate any hazardous conditions as a direct or indirect result of the use of the Permit Area to contain the Improvements, promptly upon receipt of notice from the Department. For unsafe or hazardous conditions, the Permittee shall immediately place or cause to be placed temporary measures to protect the public. Failure to promptly respond to an unsafe or hazardous condition or to restore the site within the specified time may result in the Department's performing the temporary repair or restoration in order to protect the public health, safety, and welfare. Permittee shall reimburse the Department for any such temporary repair or restoration. Failure to abate the problem also may result in the Department's issuance of a Correction Notice or Notice of Violation citation and/or request for reimbursement fees to the Department for departmental and other City services necessary to abate the condition in accordance with Section 8.

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

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

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

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

5.6 Annual Certification of Insurance

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

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

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

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

5.8 Excavation or Temporary Encroachment within the Permit Area

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5.9 Permit Revocation; Termination; Modification of Agreement

5.9A Permit Revocation or Termination.

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

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

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

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

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

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

5.9B Modification or Termination of the Agreement.

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

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

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

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

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

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

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

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

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

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

5.10 Green Maintenance Requirements

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

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

6. USE RESTRICTIONS

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

6.1 Improvements

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

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

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

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

6.2 Dumping

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

6.3 Hazardous Material

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

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

6.4 Nuisances

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

6.5 Damage

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

7. INSURANCE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Notice of Violation (NOV).

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

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

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

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

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

(d) Security Deposit Required for Uncured Default.

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

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

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

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

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

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

9. COMPLIANCE WITH LAWS

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

10. SIGNS

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

11. UTILITIES

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

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

12. NO COSTS TO CITY; NO LIENS

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

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

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

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

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

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

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

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

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

The Notice of Assignment shall include:

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

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

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

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

15. TRANSFER AND ACCEPTANCE PROCEDURES

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

16. POSSESSORY INTEREST TAXES

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

17. PESTICIDE PROHIBITION

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

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

18. PROHIBITION OF TOBACCO SALES AND ADVERTISING

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

19. PROHIBITION OF ALCOHOLIC BEVERAGE ADVERTISING

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

20. CONFLICTS OF INTEREST

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

21. FOOD SERVICE WASTE REDUCTION

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

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

22. GENERAL PROVISIONS

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

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

23. INDEMNIFICATION

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

24. SEVERABILITY

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

25. FORCE MAJEURE

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

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

26. USA NORTH MEMBERSHIP

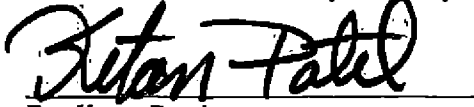
Permittee shall be obligated to become a member of USA North and be subject to all support and work around clauses as required by Public Works for all third-party utilities, including the City Standard Specifications Section 00 73 20 and 00 73 21 (effective 2021) and all updates to said specifications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

[Signature Page to Follow]

In witness whereof the undersigned Permittee(s) have executed this agreement this
2nd day of May, 2024.

PERMITTEE:

FC PIER 70, LLC,
a Delaware limited liability company



By: Ketan Patel
Title: President and Secretary

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

City Engineer of San Francisco

Director of Public Works

In witness whereof the undersigned Permittee(s) have executed this agreement this
2nd day of May, 2024.

PERMITTEE:

FC PIER 70, LLC,
a Delaware limited liability company

By:
Its:

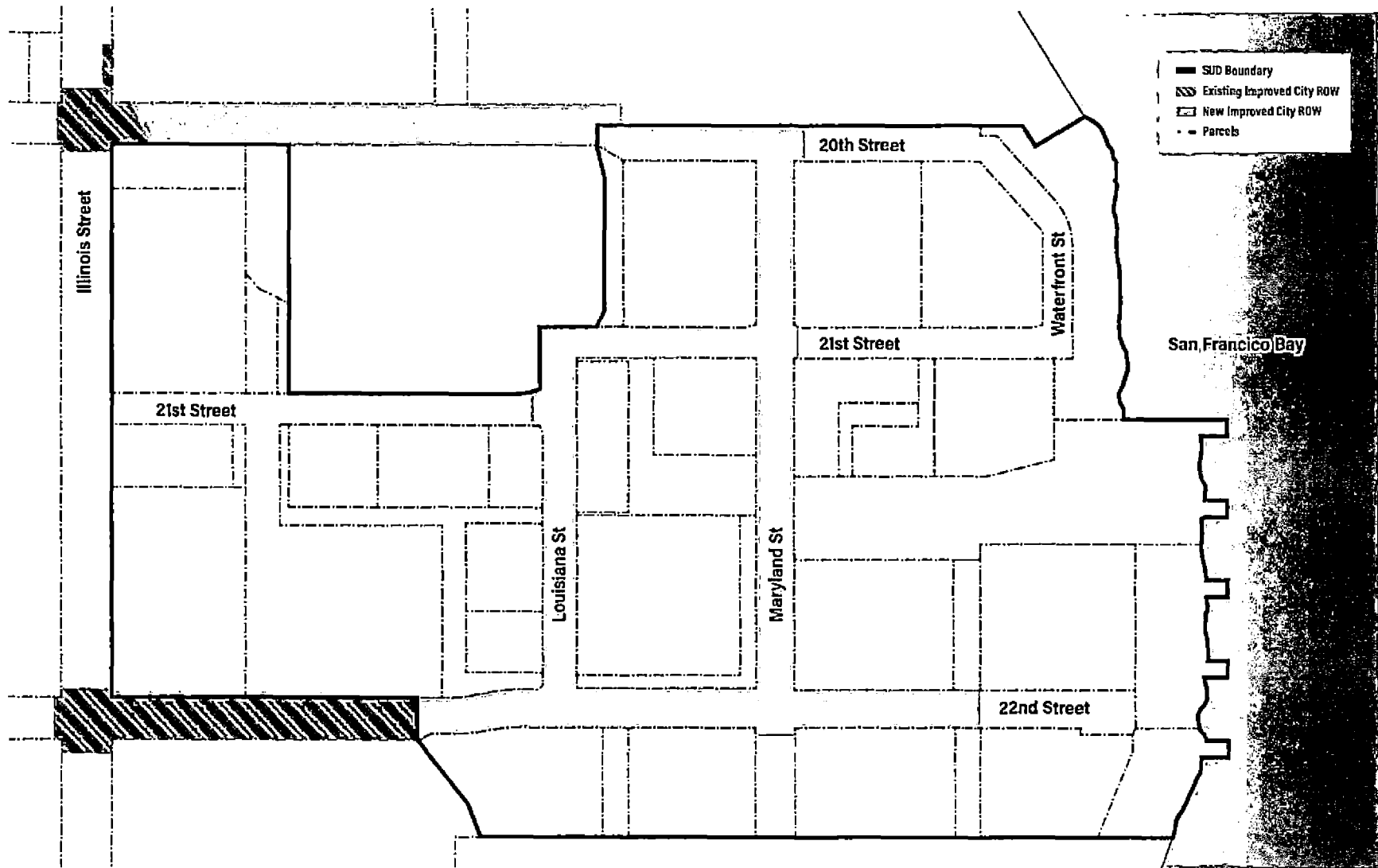
CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF PUBLIC WORKS, a
municipal corporation



City Engineer of San Francisco



Director of Public Works



ATTACHMENT 1

DESCRIPTION/LOCATION OF PERMITTEE'S PROPERTY



Pier 70
Vicinity Map



NOT TO SCALE

ATTACHMENT 2
DESCRIPTION/LOCATION OF PERMIT AREA AND THE IMPROVEMENTS

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

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

3. **Maintenance Table.**




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

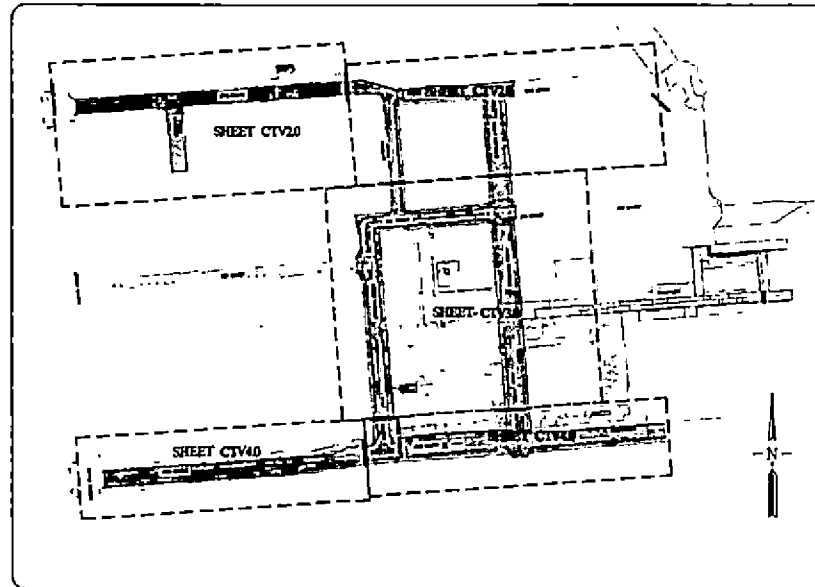
ATTACHMENT 2- LOCATION OF TELECOMMUNICATION CONDUITS


B+C Engineers

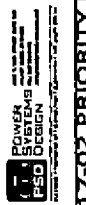
COMCAST SUBSTRUCTURE PLAN
PIER 70

SAN FRANCISCO - CALIFORNIA

LEGEND	
---	PROPERTY BOUNDARY
	CABLE 1.6 (SPACE FOR CONDUITS 1/4" W/ 1"2" CENTER)
	CABLE 1.8 (SPACE FOR CONDUITS 1/4" W/ 1"2" CENTER)
	CABLE 2.0 (SPACE FOR CONDUITS 1/4" W/ 1"2" CENTER)







COMCAST SUBSTRUCTURE PLAN

PIER 70

SAN FRANCISCO

SAN FRANCISCO COUNTY

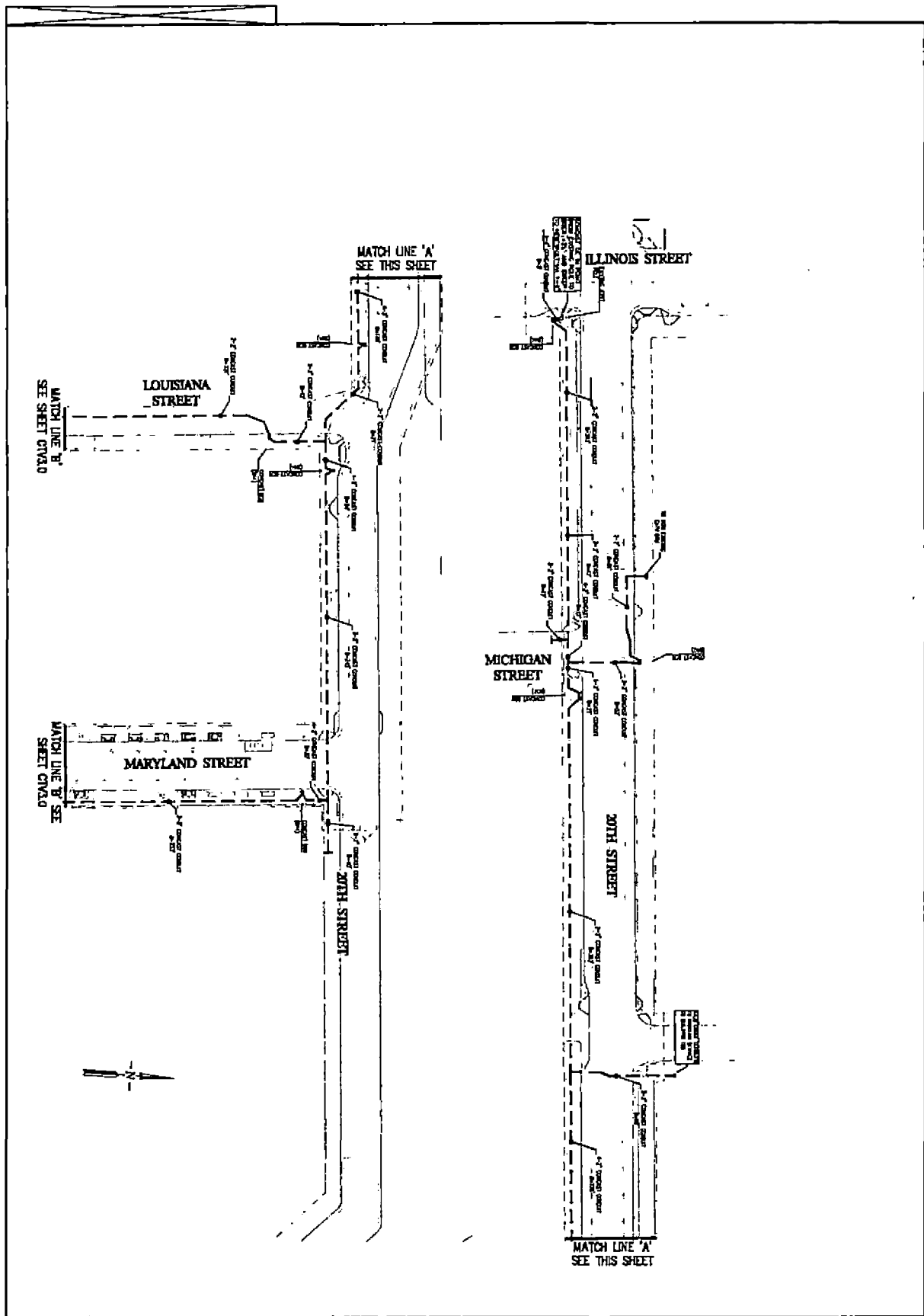
CALIFORNIA

MAYOR ED 17-02 PRIORITY PERMIT

NO.	DATE	DESCRIPTION
11	05/01/20	ISSUE FOR PERMITTING
12	05/04/20	REVISED - 800
13	05/04/20	REVISED - 800
14	05/04/20	REVISED - 800
15	05/04/20	REVISED - 800
16	05/04/20	REVISED - 800

RECORD DRAWINGS

CTV1.0



CIV2.0 RECORD DRAWINGS	Date	10/28/2019	By	
	Scale	1"=30'	By	03/11/20 - 08 RESUBMITAL
	Drawn	PS	By	03/15/20 - 019
	Checked	PS	By	04/21/20 - 011
	Appr'd	SR	By	01/02/20 - 012
Job No	13-042	20	02/21/20	RECORD DRAWING

COMCAST SUBSTRUCTURE PLAN
PIER 70
 SAN FRANCISCO SAN FRANCISCO COUNTY CALIFORNIA

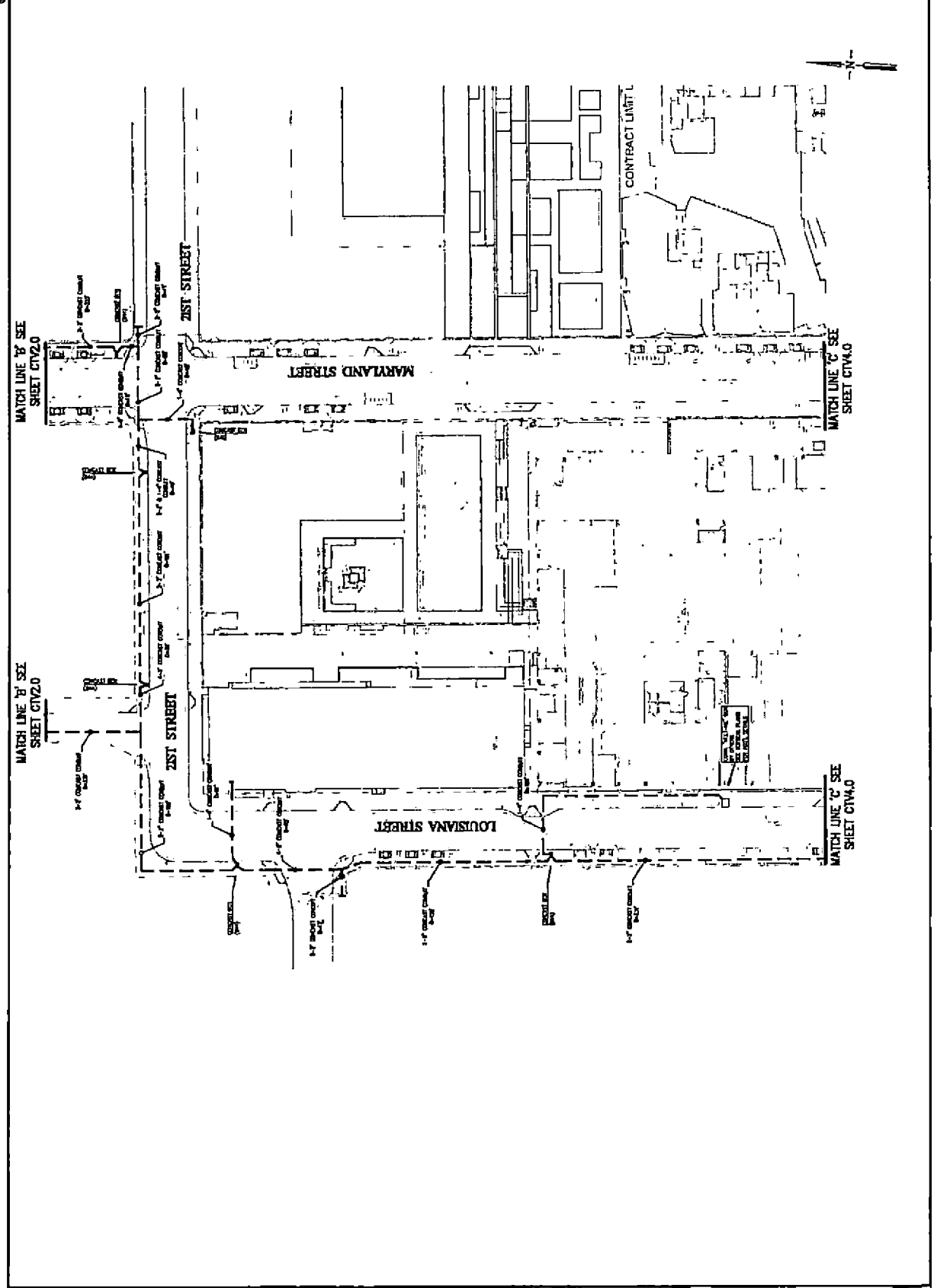
POWER SYSTEMS DESIGN
1000 Market Street, Suite 1000, San Francisco, CA 94102
 Tel: 415.774.8888 Fax: 415.774.8889
 www.powersystemdesign.com

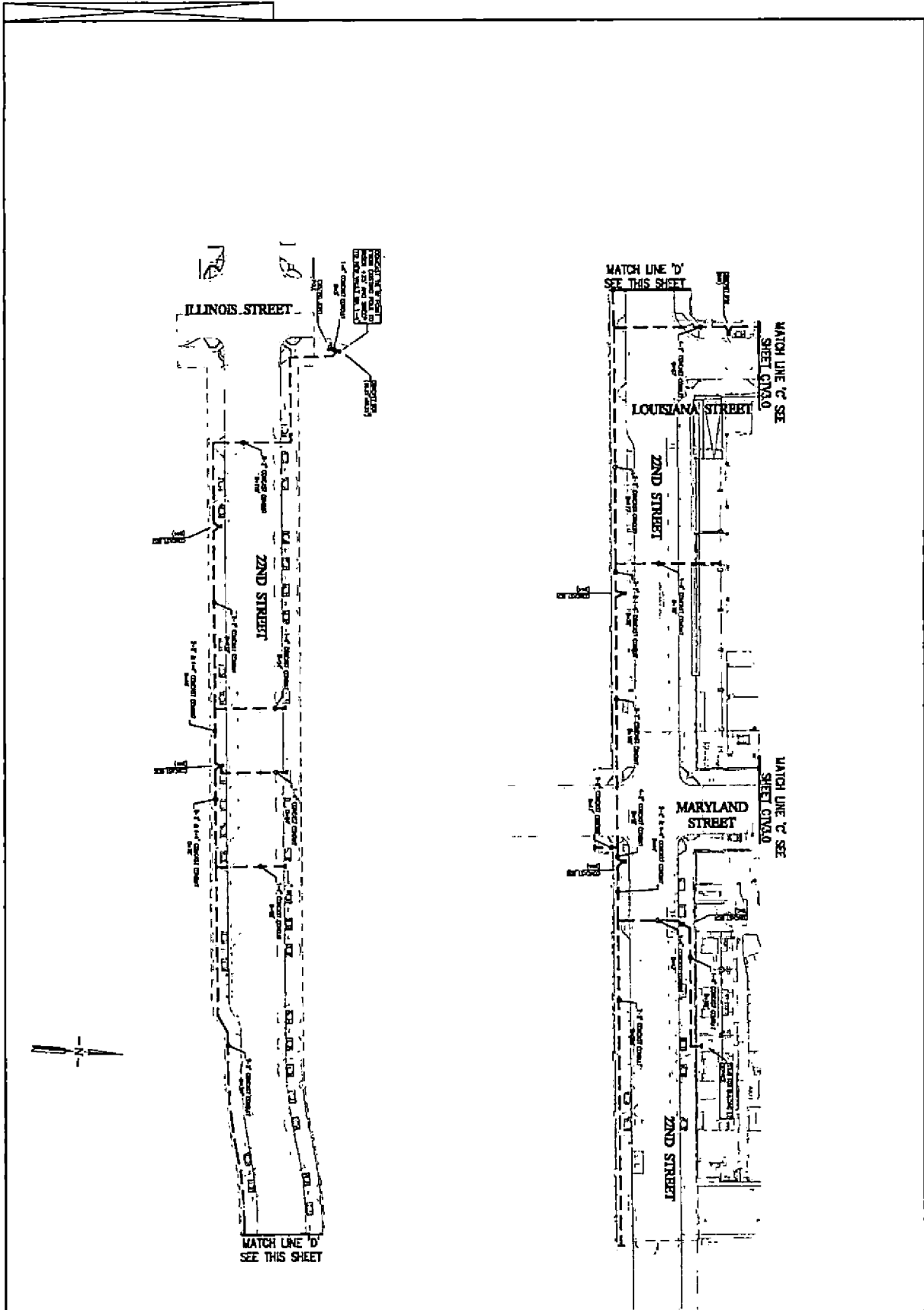


03/11/20

MAYOR ED 17-02 PRIORITY PERMIT

PIER 70
 COMCAST SUBSTRUCTURE PLAN
 PS&D DESIGN
 POWER SYSTEMS
 1800 CALIFORNIA STREET, SUITE 100
 SAN FRANCISCO, CA 94109
 (415) 774-1100
 www.psd.com





CIV4.0	Date	10/26/2018	By	
	Scale	1"=32'	Drawn	24 02/11/20 - ISB PTD/MATIA
	Checked	02	Revised	25 03/15/20 - 029
	Approved	RS	Revised	26 06/28/20 - 021
	Approved	AY	Revised	27 10/02/20 - 013
	Job No	13-043	Revised	28 10/23/20 - Record Drawings

**COMCAST SUBSTRUCTURE PLAN
PIER 70**

SAN FRANCISCO SAN FRANCISCO COUNTY CALIFORNIA

POWER SYSTEMS DESIGN

1000 Market Street, Suite 1000
San Francisco, CA 94102
Tel: 415.774.8888
www.psd.com

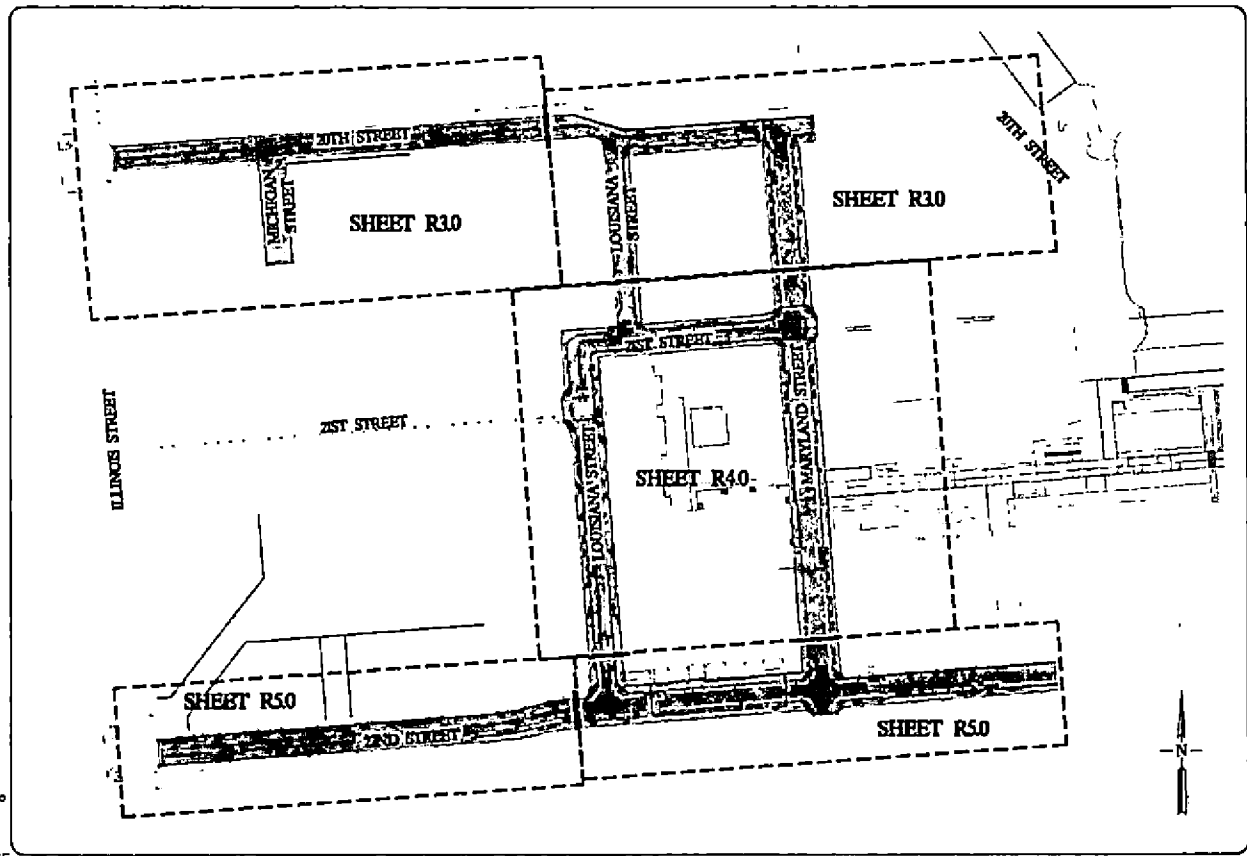


RACE SUBSTRUCTURE PLAN PIER 70

SAN FRANCISCO - CALIFORNIA

LEGEND

- 12" DIA. HDPE CONDUIT (SEE A QUANTITY IN NOTES)
- 4" DIA. RIGID PVC CONDUIT (SEE A QUANTITY IN NOTES)
- 2" DIA. RIGID PVC CONDUIT (SEE A QUANTITY IN NOTES)
- 1" DIA. RIGID PVC CONDUIT (SEE A QUANTITY IN NOTES)



- Notes:**
1. B40 (24" x 36")
 - 1.1. Place a B40 at all locations with 4 or less conduits going into the box
 2. B44 (30" x 42")
 - 2.1. Place a B44 at all locations with 5-10 conduits going into the box
 3. B52 (30" x 60")
 - 3.1. Place a B52 at all locations with 11-15 conduits going into the box
 4. Decorative Covers
 - 4.1. All decorative covers need to be labeled as follows "RACE COMM"
 5. Conduit
 - 5.1. Place 2" HDPE for all underground conduit routes
 - 5.2. Place Rigid 2" Sch 40 conduit between the Tie-In vault and the utility pole.
 - 5.3. All conduit runs will require mule tape to be placed inside

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POWER SYSTEMS DESIGN
P.E. DESIGN

RACE SUBSTRUCTURE PLAN
PIER 70

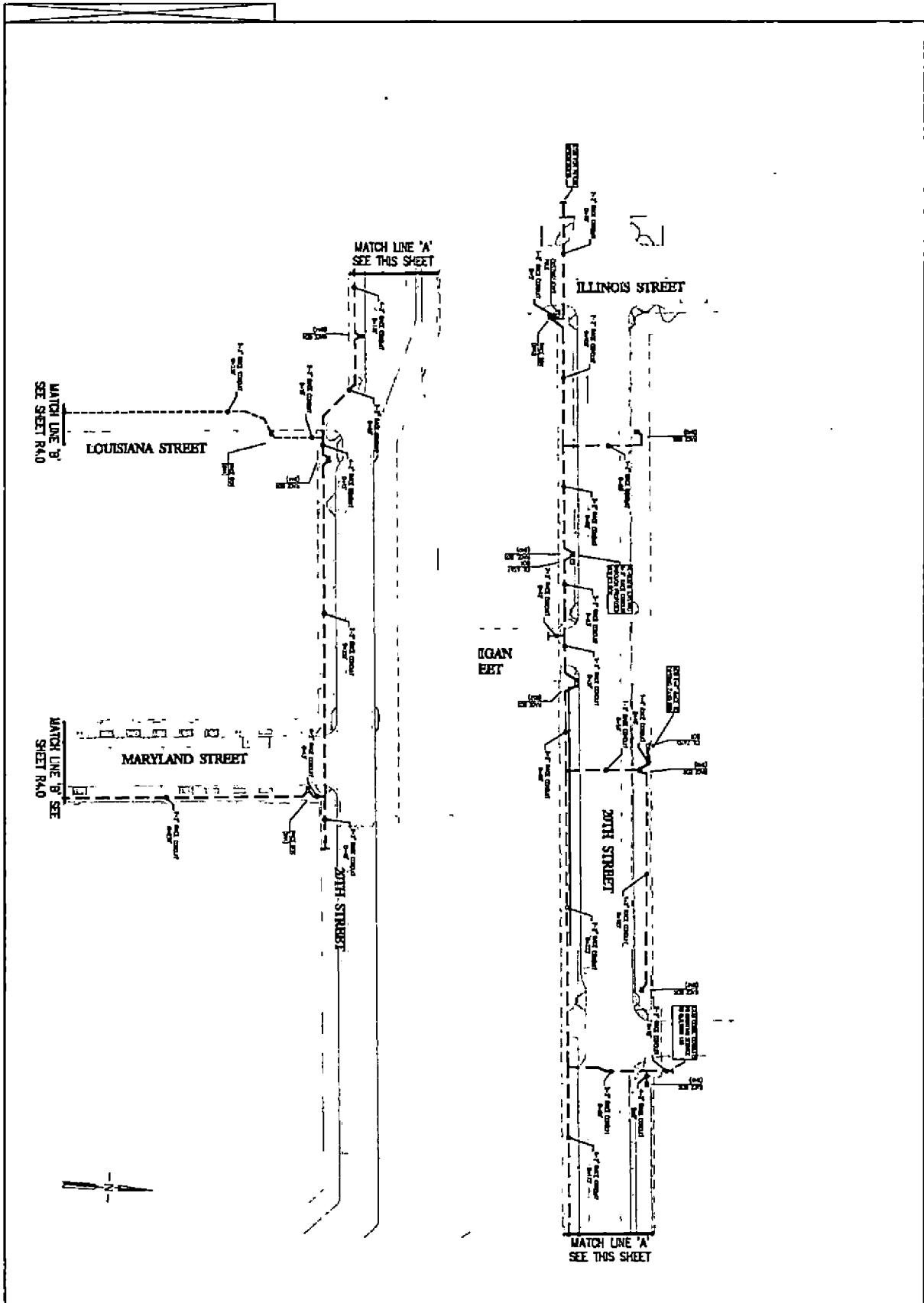
SAN FRANCISCO SAN FRANCISCO COUNTY CALIFORNIA

MAYOR ED IY-02 PRIORITY PERMIT

DATE	BY	DESCRIPTION
02/07/03	ASB	ASB
02/07/03	ASB	ASB
02/07/03	ASB	ASB
02/07/03	ASB	ASB
02/07/03	ASB	ASB

R.1.0

RECORD DRAWINGS



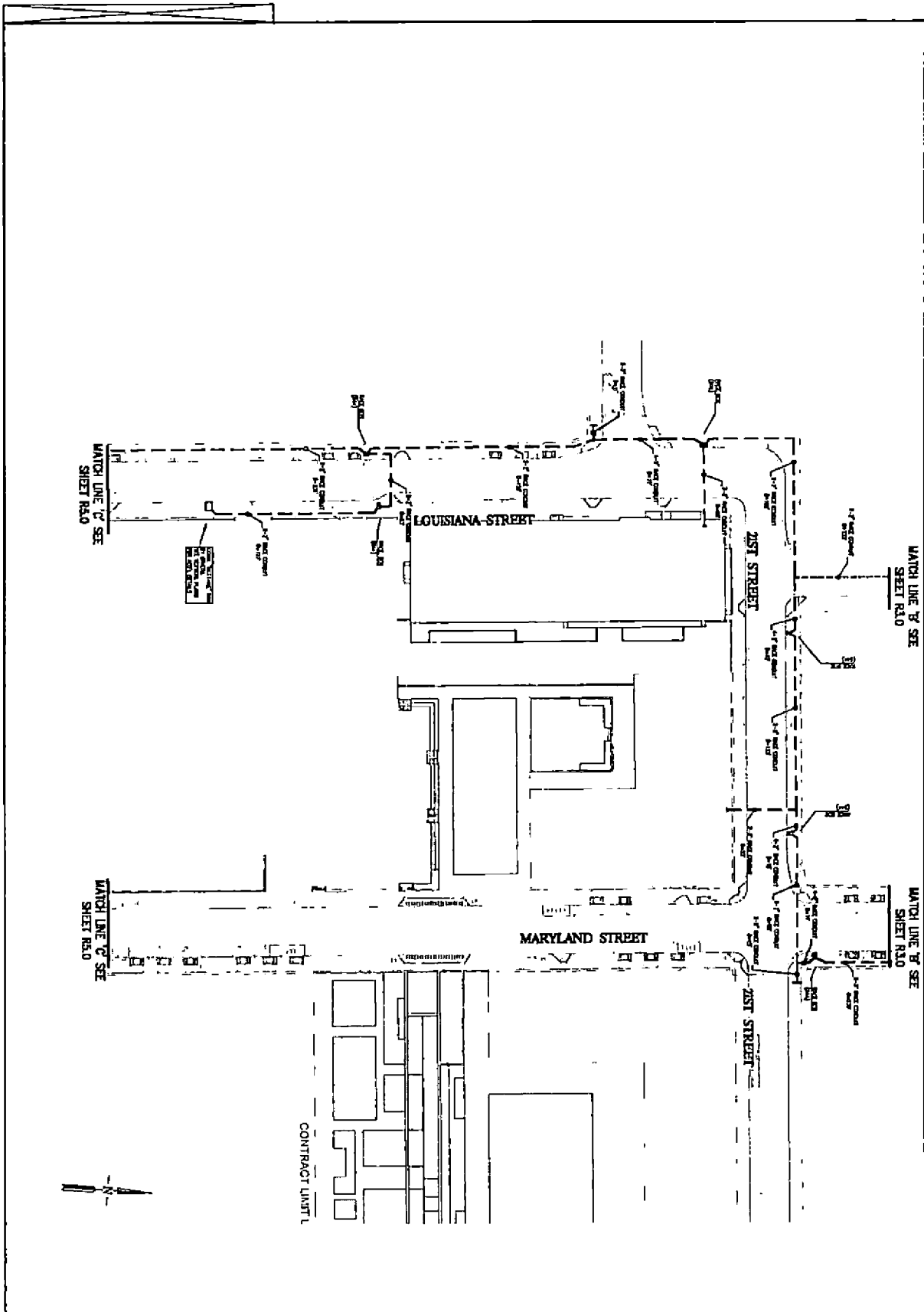
R30	DATE	10/18/2019	BY	...
	SCALE	1"=30'	NO.	...
	PROJECT	...	DATE	...
	DESIGNER	...	DATE	...
	CHECKED	...	DATE	...

RACE SUBSTRUCTURE PLAN
PIER 70
 SAN FRANCISCO SAN FRANCISCO COUNTY CALIFORNIA

PSD
POWER SYSTEMS DESIGN

POWER SYSTEMS DESIGN
 1000 MARKET STREET, SUITE 100
 SAN FRANCISCO, CA 94102
 TEL: 415.774.8888
 WWW.PSDDESIGN.COM





Date	By	Description
02/11/20	MS	MS SUBJECT
05/15/20	MS	MS
08/28/20	MS	MS
10/02/20	MS	MS
10/23/20	MS	MS

**RACE SUBSTRUCTURE PLAN
PIER 70**

SAN FRANCISCO SAN FRANCISCO COUNTY CALIFORNIA

POWER SYSTEMS DESIGN

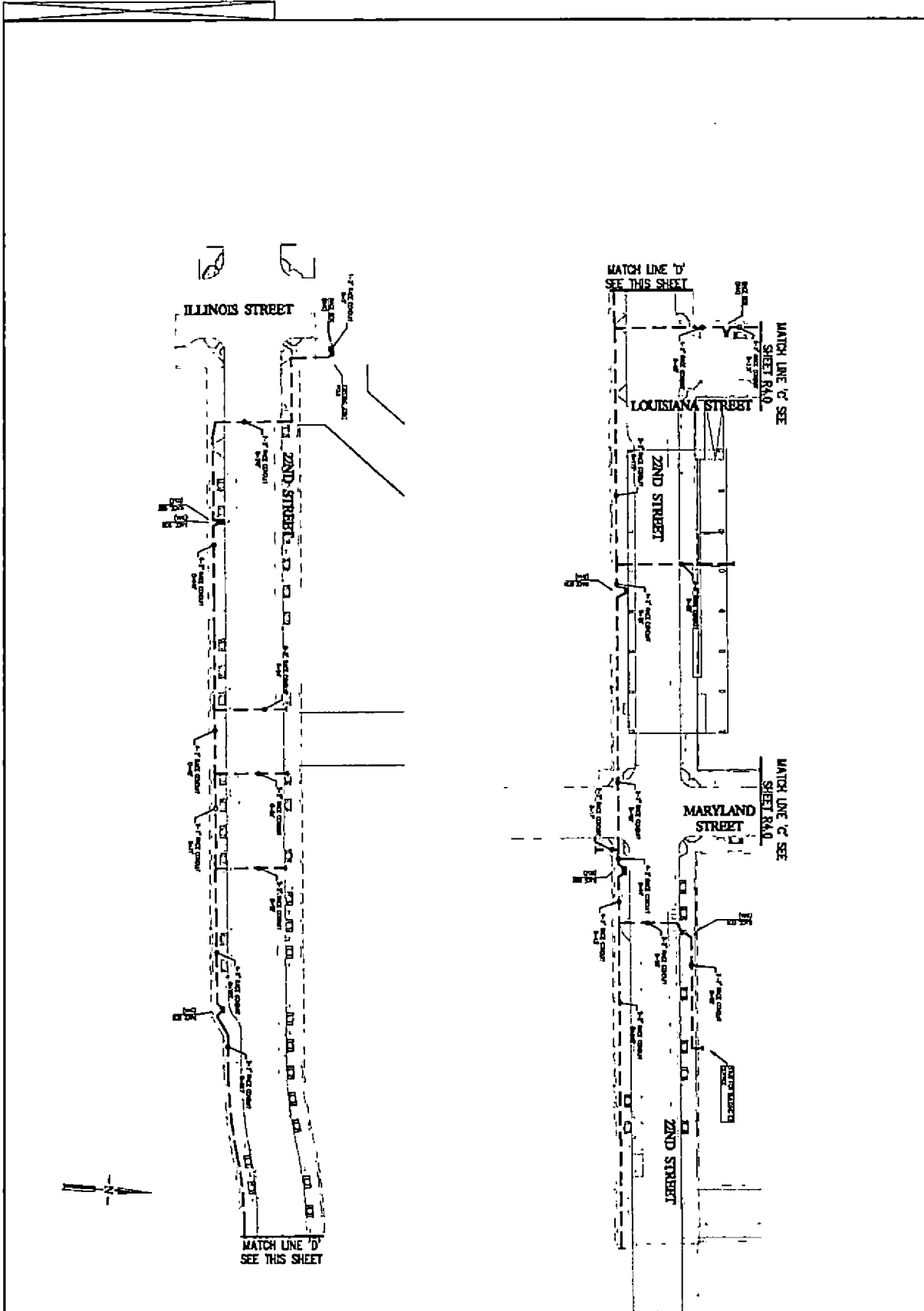
RED



RECORD DRAWINGS

MAYOR ED 17-02 PRIORITY PERMIT

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RS.O	DATE	12/23/2021	BY	DR
	SCALE	1"=30'	NO.	14
	DESIGN	05/11/20 - ISS PER SUBMITTAL	REV.	15
	REVISION	05/11/20 - 05/11/20	NO.	16
	APPROVAL	05/11/20 - 05/11/20	NO.	17
	DATE	05/11/20	NO.	18

RACE SUBSTRUCTURE PLAN
PIER 70

SAN FRANCISCO SAN FRANCISCO COUNTY CALIFORNIA

POWER SYSTEMS DESIGN
P.S.D.



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

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

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

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

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

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

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

ATTACHMENT 4
OPERATION AND MAINTENANCE MANUALS
(NOT APPLICABLE)

ATTACHMENT 5

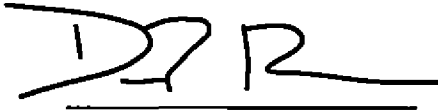
LEGAL DESCRIPTION AND PLAT OF PHASE 2/3 PROPERTY
(for purposes of recordation pursuant to Section 3(c) hereof).

LEGAL DESCRIPTION

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

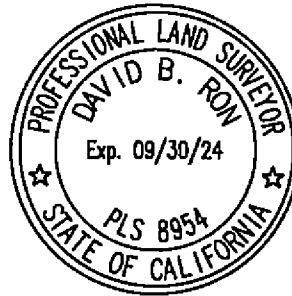
LOTS 3, 5, 6, 7, 13, 15, 16, 17, 18, 19, 20, 21, AND 22, AS SAID LOTS ARE SHOWN ON THAT CERTAIN MAP ENTITLED "FINAL TRANSFER MAP 9597" FILED FEBRUARY 7, 2019, IN BOOK HH OF SURVEY MAPS, AT PAGES 89-98, INCLUSIVE, OFFICIAL RECORDS OF THE CITY AND COUNTY OF SAN FRANCISCO.

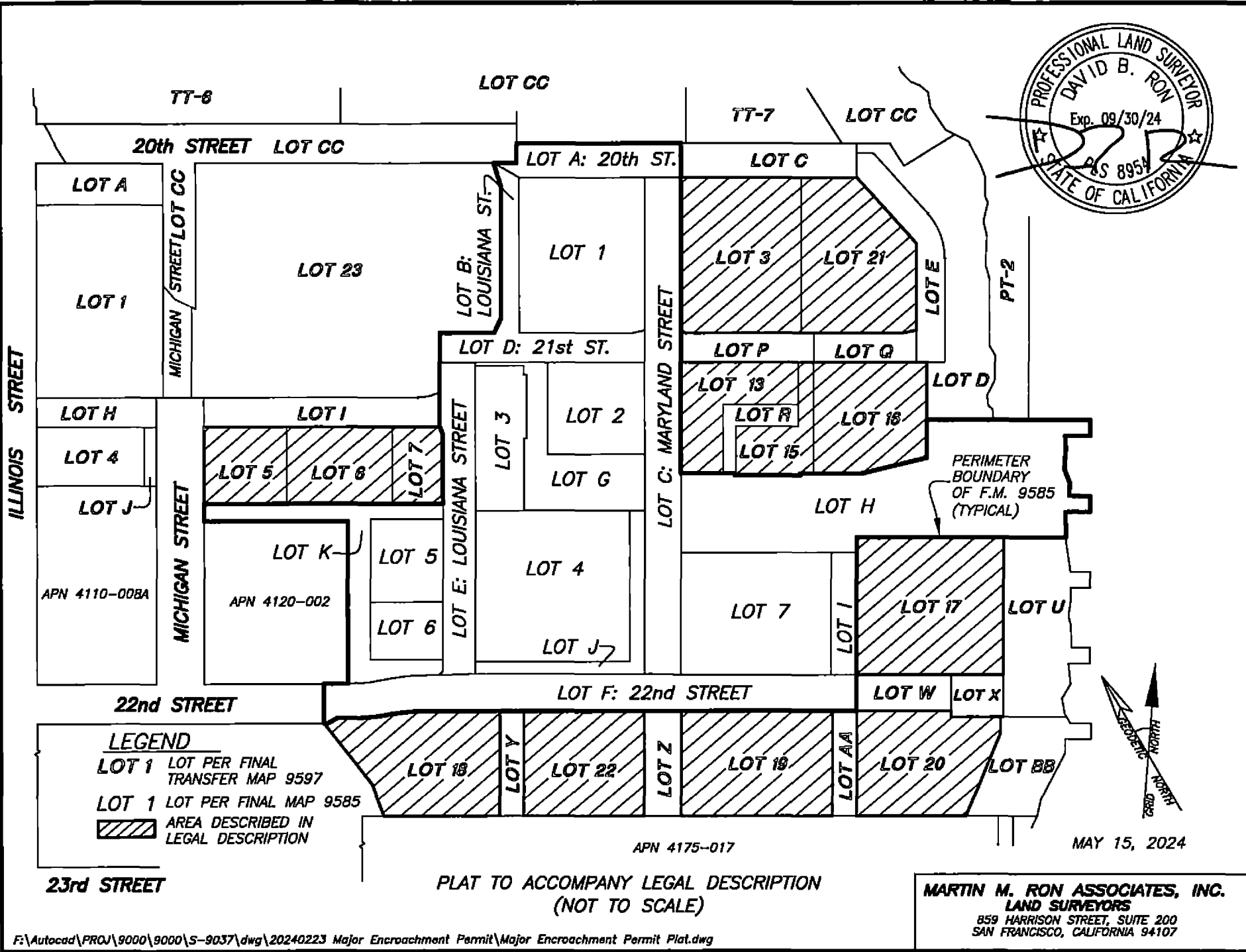
THIS DESCRIPTION WAS PREPARED BY ME IN ACCORDANCE WITH THE PROFESSIONAL LAND SURVEYORS' ACT.



MAY 15, 2024

DAVID B. RON, PLS 8954





LEGEND
 LOT 1 LOT PER FINAL TRANSFER MAP 9597
 LOT 1 LOT PER FINAL MAP 9585
 [Hatched Box] AREA DESCRIBED IN LEGAL DESCRIPTION

PLAT TO ACCOMPANY LEGAL DESCRIPTION
 (NOT TO SCALE)

MARTIN M. RON ASSOCIATES, INC.
 LAND SURVEYORS
 859 HARRISON STREET, SUITE 200
 SAN FRANCISCO, CALIFORNIA 94107