

File No. 140749

Committee Item No. 4

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date July 16, 2014

Board of Supervisors Meeting

Date _____

Cmte Board

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Completed by: Linda Wong Date July 11, 2014
Completed by: _____ Date _____

1 [License Agreement - Pacific Gas and Electric Company - Embarcadero-Potrero 230kV
2 Transmission Project - Initial Term License Fee of \$15,275,205.35]

3 **Resolution approving License No. 15762 between the Port Commission and Pacific Gas**
4 **and Electric Company for the ZA-1 Embarcadero-Potrero 230kV Transmission Project**
5 **for approximately 435,600 square feet of submerged land between Pier 28½ and the**
6 **23rd Street, 52,272 square feet of underground access for horizontal directional**
7 **drilling, and 21,120 square feet of land along 23rd Street with an Initial Term License**
8 **Fee of \$15,275,205.35 for a 40 year term, to commence following Board approval, with a**
9 **26 year option.**

10
11 WHEREAS, California Statutes of 1968, Chapter 1333 (the "Burton Act") and the San
12 Francisco Charter, Section B3.581 empower the San Francisco Port Commission with the
13 power and duty to use, conduct, operate, maintain, manage, regulate and control the lands
14 within Port Commission jurisdiction; and

15 WHEREAS, Pacific Gas & Electric ("PG&E") proposes to construct a new, single
16 circuit, 230 kV transmission line between its Embarcadero Substation and its Potrero
17 Substation, along onshore and submerged land in the Port's jurisdiction generally within the
18 area bounded by Pier 28 ½ and portions of the shoreline at the foot of 23rd Street (the
19 "Project"), to increase reliability of electric service to downtown San Francisco and provide
20 operational flexibility; and

21 WHEREAS, At the Port Commission's August 14, 2012, meeting, an informational
22 presentation about the Project was made by Port staff and Port staff was directed to negotiate
23 a term sheet for use of Port lands for the Project; and

24 WHEREAS, At its November 13, 2012, meeting, the Port Commission approved
25 Resolution 12-90, endorsing the ZA-1 Embarcadero-Potrero 230kV Transmission Project

1 Term Sheet ("Original Term Sheet") between the Port and PG&E and authorizing Port staff to
2 enter into negotiations with PG&E related to the Project and PG&E parcels Block 4110 (Lot
3 008A) and Block 4120 (Lot 002), commonly known as the "Hoedown Yard"; and

4 WHEREAS, At its September 10, 2013, meeting, the Port Commission approved
5 Resolution 13-34 endorsing the Project Term Sheet ("Revised Term Sheet") between the Port
6 and PG&E and an option to acquire the Hoedown Yard (the "Hoedown Yard Option
7 Agreement"); and

8 WHEREAS, The California Public Utility Commission ("CPUC") issued a draft Mitigated
9 Negative Declaration ("MND") on August 13, 2013, notice of the draft MND was published in
10 the San Francisco Examiner on August 18 and 19, 2013, and a public informational meeting
11 was held on August 20, 2013, in San Francisco; and

12 WHEREAS, The CPUC received public comments from the California Department of
13 Fish and Wildlife, the San Francisco Bay Conservation Development Commission, the San
14 Francisco Public Utilities Commission, two members of the public, and PG&E and responded
15 to all of the comments in the final MND, which it issued on October 30, 2013; and

16 WHEREAS, Although a few revisions were made to clarify and revise the discussion
17 and certain mitigation measures described in the MND, the final MND does not identify any
18 new significant environmental impacts, and does not omit any existing mitigation measures,
19 from those identified in the draft MND; and

20 WHEREAS, On January 16, 2014, the CPUC, as lead agency, certified the final MND
21 and issued a Certificate of Public Convenience and Necessity for the Project by Decision No.
22 14-01-07; and

23 WHEREAS, On March 5, 2014, pursuant to Resolution No. 54-14, the Board of
24 Supervisors endorsed the Revised Term Sheet, subject to several changes to the proposed
25

1 Hoedown Yard Option Agreement, which will be executed by the Department of Real Estate;
2 and

3 WHEREAS, Port and City staff have negotiated License 15762 (the "License")
4 consistent with the terms of Port Commission Resolution 13-34 and Board of Supervisors
5 Resolution 54-14, as further described in the Port staff's memorandum to the Port
6 Commission dated June 5, 2014 ("Staff Report"), copies of which are on file with the Clerk of
7 the Board of Supervisors in File No. 140749; and

8 WHEREAS, On June 10, 2014, pursuant to Port Commission Resolution No. 14-43, the
9 Port Commission approved the License; and

10 WHEREAS, All applicable mitigation measures from the CPUC MND (as shown in
11 Exhibit E of the Staff Report) have been incorporated into the proposed Project, the Port
12 Commission and the Board of Supervisors have imposed them as conditions of approval, and
13 the Port will receive copies of all mitigation monitoring reports to the CPUC; now, therefore, be
14 it

15 RESOLVED, That the Board of Supervisors adopts and incorporates by reference as
16 though fully set forth herein the mitigation measures for the project described in Exhibit E of
17 the Staff Report; and, be it

18 FURTHER RESOLVED, That Board of Supervisors approves the License and
19 authorizes the Executive Director of the Port ("Executive Director") to execute the License, in
20 substantially the form with the Clerk of the Board of Supervisors in File No. 140749, and in
21 such final form as is approved by the Executive Director in consultation with the City Attorney;
22 and, be it

23 FURTHER RESOLVED, That the Board of Supervisors authorizes the Executive
24 Director to enter into enter into any additions, amendments or other modifications to the
25 License, including preparation and attachment of, or changes to, any or all of the attachments

1 and exhibits that the Executive Director, in consultation with the City Attorney, determines are
2 in the best interests of the City or Port, do not materially decrease the benefits or otherwise
3 materially increase the obligations or liabilities of the City or Port, and are necessary or
4 advisable to enable PG&E to complete the project that the License contemplates and
5 effectuates the purpose and intent of this resolution, such determination to be conclusively
6 evidenced by the execution and delivery by the Executive Director of such other agreements,
7 easement agreements and/or additions, amendments or other modifications to the License;
8 and, be it

9 FURTHER RESOLVED, That within thirty (30) days of the License being fully executed
10 by all parties, the Port Commission shall provide the License to the Clerk of the Board for
11 inclusion into the official file.

Items 4 and 5**Files 14-0749 and 14-0750****Department:**

Public Utilities Commission (PUC)

EXECUTIVE SUMMARY**Legislative Objectives**

File 14-0749 is a proposed resolution approving a license agreement between the Port and PG&E for approximately (a) 435,600 square feet of submerged land between Pier 28 ½ and the foot of 23rd Street, (b) 52,272 square feet of underground access for horizontal directional drilling, and (c) 21,120 square feet of land along 23rd Street. The license is for 40 years with one 26-year option to extend, totaling 66 years.

File 14-0750 is a proposed resolution approving an option agreement for the City to purchase from PG&E the Hoedown Yard at Illinois and 22nd Streets for a purchase price of \$8,283,726.

Key Points

- Pacific Gas and Electric (PG&E) has two existing 230 kV cables that transmit electricity from the Embarcadero Substation to the Martin Substation, serving most of downtown San Francisco, including sections of the Embarcadero, Chinatown, North Beach, Financial District, Union Square, Mid-Market, South of Market, and Mission Bay. Loss of these two cables or failure of the Embarcadero Substation breaker will result in the loss of electricity to the areas served by the Embarcadero Substation.
- PG&E requests to enter into a license with the Port to construct the proposed Embarcadero-Potrero 230 kV Cable Project (Cable Project) on Port property.
- City staff has negotiated a transferable option to acquire the PG&E Hoedown Yard. The City will only exercise the purchase option with PG&E if (1) the option is transferred to a third party that agrees to pay the full purchase price and assume all environmental liabilities on the property or (2) a City department proposes a public use for the property and has identified a funding source to pay the purchase price.

Fiscal Impact

- Under the proposed license agreement, PG&E would pay the Port \$15,275,205 for the initial 40-year term of the license agreement.
- Under the proposed option agreement, the Real Estate Division would have the option to purchase the Hoedown yard for an estimated price of \$8,322,942. Documents provided by Port staff estimate that increased value of the property due to entitlement changes could exceed \$20,000,000.

Recommendation

Approve the proposed resolutions based on prior policy decisions made by the Board of Supervisors.

MANDATE STATEMENT

Charter Section 9.118 (c) states that any lease of real property for a period of ten or more years, including options to renew, or having anticipated revenue to the City and County of \$1 million or more, shall first be approved by resolution of the Board of Supervisors.

Administrative Code Section 23.1 states that each department, board of commission of the City shall conduct all negotiations through the Director of Real Estate for the acquisition, conveyance or lease of any real property required for use or owned by the City. The Director of Real Estate must recommend resolutions and ordinances involving these transactions for approval by the Board of Supervisors.

BACKGROUND

Embarcadero-Potrero 230 kV Transmission Project

Pacific Gas and Electric (PG&E) has two existing 230 kV cables that comprise an electricity transmission line extending from the Embarcadero Substation (Fremont and Folsom Streets) to the Martin Substation (Schwerin Street and Geneva Avenue in Daly City,). Electricity generated by the Embarcadero Substation serves most of downtown San Francisco, including sections of the Embarcadero, Chinatown, North Beach, Financial District, Union Square, Mid-Market, South of Market, and Mission Bay.

According to the 2011/2012 Independent System Operator (ISO) Transmission Plan, loss of these two cables or failure of the Embarcadero Substation breaker will result in the loss of electricity to the areas served by the Embarcadero Substation, and "while the likelihood of the simultaneous loss of both circuits is low, the consequences of the outage are severe..." PG&E plans to construct a 230KV transmission bus¹ at the Embarcadero Substation, with an estimated completion date by 2016.

PG&E requests to enter into a license agreement with the Port to construct the proposed Embarcadero-Potrero 230 kV Transmission Project (Transmission Project) on Port property during the same general time frame in which PG&E is constructing the new Embarcadero 230KV Bus Upgrade project.

The Hoedown Yard Option

As a condition of the license agreement, City staff has negotiated a transferable option to acquire the PG&E Hoedown Yard, which consists of two parcels located at Illinois and 22nd Streets adjacent to Pier 70. The site comprises of 130,720 square feet. Current uses at the Hoedown Yard include parking, equipment storage, stock piling and temporary storage of drilling mud, concrete, soil, sand, gravel and asphalt associated with PG&E utility projects. According to Mr. Brad Benson, Director of Special Projects of the Port of San Francisco, relocation of these PG&E functions from the Hoedown Yard will enhance the Port's efforts to develop Pier 70.

¹ Transmission buses are steel structure arrays of switches used to route power into a substation.

The Hoedown Yard contains known contamination. PG&E has completed site investigation and a human health risk assessment. The findings of this assessment indicate that arsenic is present in soil with an approximately 20,000 square foot (by approx. 5 feet deep) area in the northwest corner of the site at concentrations that pose a potential human health risk to future construction workers upon disturbance of the soil (not to current or future commercial/industrial workers).

Based on preliminary analysis provided by Mr. Benson, the Port estimates that the difference between the as-is purchase price of the Hoedown Yard and its future rezoned value for residential use could be higher than \$20,000,000. The range of possible future uses will be determined by the Planning Commission and the Board of Supervisors.

Recent Action by the Board of Supervisors

On February 25, 2014, the Board of Supervisors approved Resolution No. 54-14 endorsing the term sheet between the Port and the Real Estate Division and PG&E for the Embarcadero-Potrero 230 kV Transmission Project license agreement and the Hoedown Yard purchase option.

DETAILS OF PROPOSED LEGISLATION

File 14-0749 is a resolution approving a license agreement between the Port and PG&E for approximately (a) 435,600 square feet of submerged land between Pier 28 ½ and the foot of 23rd Street, (b) 52,272 square feet of underground access for horizontal directional drilling, and (c) 21,120 square feet of land along 23rd Street where PG&E will construct the Embarcadero-Potrero 230 kV Transmission Project. The license is for 40 years with one 26-year option to extend, totaling 66 years.

File 14-0750 is a resolution approving an option agreement for the City to purchase from PG&E the Hoedown Yard at Illinois and 22nd Streets for a purchase price of \$8,283,726.

File 14-0749: ZA-1 Embarcadero-Potrero 230kV Transmission Project

Under the proposed resolution, the Port would enter into a license agreement with PG&E, in which PG&E would construct an underground/underwater cable extending from the Embarcadero Substation (Fremont and Folsom Streets) to the Potrero Switchyard at 23rd and Illinois Streets, as part of the Embarcadero-Potrero 230 kV T Project. The terms of the proposed license agreement are shown in Table 1 below.

**Table 1: Summary of Key Agreement Terms of Proposed License Agreement
Between the Port and PG&E**

Port Property to be used by PG&E	79,200 square feet of exclusive use underwater land 356,400 square feet of non-exclusive use underwater land 435,600 square feet of underwater land 52,272 square feet horizontal downward drilling 21,120 square feet underground 23 rd Street 508,992 square feet total
Initial Term	40 years from approximately 2014 through 2054
Option to Renew	26 years from approximately 2055 through 2081
Rent Initial Term Payable by PG&E to the Port	\$15,275,205 pre-paid in two equal installments
Rent Option Term Payable by PG&E to the Port	Fair market value based on third party appraisal Rent may be prepaid or paid annually as determined by PG&E. Prepaid option term rent will be equal to present value as of extension term commencement date, discounted at 6.5%. If annual payments are chosen, the option term rent will be equal to 103 percent of the initial term rent.
Construction Period Rent	75% abatement of rent during first two years of the license term
Deposits Payable by PG&E to the Port	Security deposit equal to 1/6 th of the license fee in the 40 th year of the term (approximately \$385,000) Environmental oversight deposit of \$10,000, increased by 15% every five years Environmental assurances deposit up to \$6 million at the discretion of the Port
Regulatory Approvals	California Public Utilities Commission (CPUC) California Environmental Quality Act (CEQA) San Francisco Department of Public Works (DPW) permits Port building and other permits. Other State agencies, which may include State Water Resources Control Board, San Francisco Bay Conservation and Development Commission, and Regional Water Quality Control Board Army Corps of Engineers
Non-exclusive License	Port reserves the right to grant other licenses or easements except in PG&E's exclusive use zone or other Port areas described in the proposed term sheet

Source: Proposed license between the Port and PG&E

The terms of the proposed license are consistent with the term sheet previously approved by the Board of Supervisors.

As-Is Condition

According to the proposed license, PG&E acknowledges that the Port has made no representation or warranties concerning the license area. PG&E further acknowledges the presence of certain hazardous materials and accepts these areas as is and with all faults.

Southern Waterfront Community Benefits and Beautification Policy

Consistent with the revised term sheet approved by the Board of Supervisors on February 25, 2014, PG&E agrees to enclose or screen, at the City's option, a substantial portion of the existing Potrero Switchyard, located at 22nd Street @ Illinois Street, at any time within five years of designation of the City's preferred design. Screening of the switchyard may include either an enclosed building or perimeter screening, based on City preference and approval of the Port's Waterfront Design Advisory Committee. PG&E also agrees to conduct outreach to various community groups and stakeholders in the vicinity of the Project to educate the public with respect to the Project and to provide information the Board of Supervisors and other regulatory agencies about the Project.

File 14-0750: Option to Purchase the Hoedown Yard by the City from PG&E

Under the proposed resolution, the Board of Supervisors would authorize the Director of Real Estate to enter into an option agreement to purchase the Hoedown Yard from PG&E. The terms of the purchase option are summarized in Table 2 below.

The proposed option agreement sets out the terms of the future purchase and sale agreement between the City and PG&E. Once the Board of Supervisors approves option agreement, the Director of Real Estate may enter into a purchase and sale agreement, but requires approval to do so from Board of Supervisors and Mayor.

As the Director of Real Estate is required to submit a future purchase and sale agreement for the property to the Board of Supervisors and Mayor for approval, the proposed resolution urges the Director of Real Estate to seek Board of Supervisors and Mayoral approval prior to selling the purchase option to a third party or purchasing the property on behalf of a City department.

Table 2: Summary of Key Agreement Terms for the City to Purchase the Hoedown Yard from PG&E

Area	3.0 acres on the northeast corner of 22 nd Street and Illinois Street
Purchase Price Payable by the City to PG&E	\$8,283,726, equal to \$63.37 per square foot for approximately 130,720 square feet (approximately 3.0 acres)
Option Period	Between January 1, 2018 and June 30, 2021
Transfer Rights	The option may be transferred or assigned to another party in the City's sole discretion without payment of fees or other consideration to PG&E.
Closing Costs	PG&E pays (a) the premium for title insurance; (b) all transfer and sales taxes; (c) one-half of escrow fees; and (d) PG&E's attorney and consultant fees City pays (a) one-half of escrow fees; (b) all other title costs; and (c) City's attorney and consultant fees
Closing Requirements	Real Estate Division must complete acquisition of the property within five years of exercising the option and the latter of CPUC, CEQA and other regulatory approvals
Rezoning of Property	The City may rezone the property, which is currently zoned for heavy industrial use, to another use, including residential use. Rezoning to residential use will require the City and PG&E to determine allocation of the risks associated with residential development on the Hoedown Yard based on the existing site conditions. The purchase price is not subject to change based on rezoning of the property.
Refinement of Terms	The terms and conditions of the option to purchase the property will be further refined in a separate option agreement, which will be submitted to the Board of Supervisors for approval concurrently with the License.

Table 2 (continued)

<p>Environmental Provisions</p>	<ul style="list-style-type: none"> • Certain uses on the Hoedown Yard will be prohibited, including school, daycare and hospital uses and ground floor private open space; • High density residential, office and public open space will be permitted, subject to a modification to the Water Board's deed restriction; • The ultimate buyer of the Hoedown Yard will clean up the arsenic in the northwest corner of the site and indemnify and hold harmless PG&E from liability, including liability for personal injury, property damage, or further cleanup, during and after the construction of any new uses on the Hoedown Yard; • The owner of the Hoedown Yard or its agent will supply a \$1 million letter of credit to PG&E to back its indemnity until 3 years after Certificate of Occupancy; • Construction on site will comply with a risk management plan and defined institutional controls, such as use of 3' feet of clean soil and a demarcation layer above native soil in softscaped areas such as public open space; and • The property owner/operator will notify all residents of site conditions and tenants and contractors of site conditions and required institutional controls and require notification of subtenants and subcontractors.
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Transferable Option to Purchase the Hoedown Yard

According to the proposed resolution, the City will only exercise the purchase option and enter into a sales and purchase agreement with PG&E if:

- The option is transferred to a third party that agrees to pay the full purchase price and assumes all environmental liabilities and other obligations related to the property; or
- A City department proposes a public use for the property and has identified a funding source to pay the purchase price.

FISCAL IMPACT

Rent to the Port under the Proposed License

Under the proposed license to be issued by the Port to PG&E, PG&E will prepay rent to the Port for the initial 40-year term, estimated to be \$15,275,205. The Port calculated the prepayment of the rent based on 3 percent per year escalation of the rent and an annual discount rate of 6.5 percent.² The discount rate of 6.5 percent is based on the current estimated blended average of the Port's costs of funds (bonds, loans and other payables). The terms of the rent

² The discount rate is the rate used to calculate the present value of future payments.

under the proposed license are the same as in the term sheet previously approved by the Board of Supervisors.

Costs to Purchase the Hoedown Yard

Under the proposed agreement, the Real Estate Division would have the option to purchase the Hoedown Yard for \$63.67 per square foot, for a total estimated cost of \$8,322,942. The actual purchase price would be established based on the actual square footage of the Hoedown Yard, estimated to be 130,720 square feet. The purchase price is not subject to change due to rezoning of the property or the date when the title is transferred to the City.

According to Mr. John Updike, Director of Real Estate, the value of the Hoedown Yard would increase due to entitlement work that would change the relevant zoning codes to allow residential use on the site. A third-party developer would be sought to build out the property at a price higher than the \$8,322,942 used by the City to acquire the property. If creating new entitlements to the property does not generate increased value or a third-party developer is not found, the City may decline the option to purchase the property.

Under the proposed agreement, Real Estate Division must exercise the option to purchase the Hoedown Yard by June 30, 2021, which is approximately seven years. Upon exercising the option, the City may complete the acquisition within seven years following the later of California Public Utilities Commission, California Environmental Quality Act and other regulatory approvals.

RECOMMENDATION

Approve the proposed resolutions based on prior policy decisions made by the Board of Supervisors.



040749
040750

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
JUN 30 AM 11:57

June 27, 2014

Angela Calvillo, Clerk of the Board
Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

Subject: License Agreement – License between the Port of San Francisco and Pacific, Gas and Electric Company for Port of San Francisco License 15762

Dear Ms. Calvillo:

Attached please find an original and four copies of a proposed resolution for Board of Supervisors approving License 15762 between the Port Commission and Pacific, Gas and Electric Company for the ZA-1 Embarcadero-Potrero 230kV Transmission Project for approximately (i) 435,600 square feet of submerged land between Pier 28½ and the foot of 23rd Street, (ii) 52,272 square feet of underground access for horizontal directional drilling and (iii) 21,120 square feet of land along 23rd Street for a 40 year term, with a 26 year option.

Attached you will also find a cover letter from John Updike and a companion resolution authorizing a transferable option agreement with Pacific, Gas and Electric Company (“PG&E”) to purchase the Hoedown Yard, two parcels located at Illinois and 22nd Streets comprising 130,720 square feet (or approximately 3 acres), for \$63.37 per square foot, or approximately \$8,283,726 (the “Option”).

Attached you will also find the following supporting documents:

1. Four copies of the Port Commission Staff Report;
2. Four copies of the License 15762, subject to Board of Supervisors approval; and
3. Four copies of the Option.

You may contact me at 819-1759 about either the License or the Option, and you may also contact John Updike at 554-9850 about the Option.

Sincerely,

Brad Benson, Director of Special Projects
Port of San Francisco

PORT OF SAN FRANCISCO

TEL 415 274 0400

TTY 415 274 0587

Pier 1, The Embarcadero

FAX 415 274 0528

www.sfport.com

San Francisco, CA 94111



**CITY AND COUNTY OF SAN FRANCISCO
EDWIN M. LEE, MAYOR**

**LICENSE No. 15762
NON-EXCLUSIVE LICENSE TO USE PROPERTY**

BY AND BETWEEN

**THE CITY AND COUNTY OF SAN FRANCISCO
ACTING BY AND THROUGH THE
SAN FRANCISCO PORT COMMISSION**

AND

**PACIFIC GAS AND ELECTRIC COMPANY
A SUBSIDIARY OF PG&E CORPORATION**

**MONIQUE MOYER
EXECUTIVE DIRECTOR**

SAN FRANCISCO PORT COMMISSION

**LESLIE KATZ, PRESIDENT
WILLIE ADAMS, VICE-PRESIDENT
KIMBERLY BRANDON, COMMISSIONER,
MEL MURPHY, COMMISSIONER
DOREEN WOO HO, COMMISSIONER**

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EXHIBITS

- EXHIBIT A** APPROXIMATE LICENSE AREA
- EXHIBIT B** MEMORANDUM RE: EFFECTIVE AND EXPIRATION DATES
- EXHIBIT C** NET PRESENT VALUE CALCULATION OF LICENSE FEE
- EXHIBIT D** FORM OF LETTER OF CREDIT
- EXHIBIT E** LOCAL BUSINESS PARTICIPATION

- SCHEDULE 1** HAZARDOUS MATERIALS DISCLOSURE
- SCHEDULE 2** FEMA DISCLOSURE NOTICE

NON-EXCLUSIVE LICENSE TO USE PORT PROPERTY NO. 15762

THIS NON-EXCLUSIVE LICENSE TO USE PORT PROPERTY (this "License") is dated as of June 10, 2014, for reference purposes only, by and between the **CITY AND COUNTY OF SAN FRANCISCO** ("City"), a municipal corporation acting by and through the **SAN FRANCISCO PORT COMMISSION** ("Port"), and **PACIFIC GAS AND ELECTRIC COMPANY** ("PG&E" or "Licensee"), a California corporation which is a subsidiary of PG&E Corporation. City and Licensee will sometimes hereinafter be referred to individually as a "Party" and collectively as the "Parties".

RECITALS

A. Licensee intends to install, operate and maintain a new, single circuit, 230 kV transmission line between PG&E's Embarcadero Substation and its Potrero Switchyard and to install new 230 kV gas-insulated switchgear ("GIS") and related equipment at its Potrero Switchyard (the "ZA-1 Line") to increase reliability of electric service to downtown San Francisco and provide operational flexibility (the "Project").

B. The Project will involve both transmission line work and substation work. Three major elements of the Project are (i) the construction of an approximately 3.5-mile, 230 kV submarine and underground cable route (for three cables) between PG&E's Embarcadero and Potrero Substations, (ii) termination of the new cables into a 230 kV bus (to be upgraded as part of a separate reliability project that is currently underway by PG&E) at the Embarcadero Substation, and (iii) construction of a new 230 kV switchyard on a portion of the former power plant site currently owned by NRG Energy, Inc. adjacent to the existing Potrero Switchyard, termination of the new cable at such site, and the interconnection of the new 230 kV and existing 115 kV switchyards via two new 230/115 kV transformers. The approximate License Area under this License is depicted in *Exhibit A*.

C. The submarine cable route would run in an underground configuration about 0.2 miles long and parallel to, but not within, the Trans Bay Cable ("TBC") alignment, as it exits the Potrero Switchyard and enters the San Francisco Bay (the "Bay"). It would then continue in the Bay along the general TBC alignment and several hundred feet to the west of the TBC alignment, and then return to land about 0.4 miles from the Embarcadero Substation, where it would be installed in an underground configuration terminating at the Embarcadero Substation. Installation of the duct banks in the near shore areas will be accomplished through horizontal directional drilling, a method which allows for trenchless construction across an area by drilling a hole well below the depth of a conventional line and pulling the line through the predrilled borehole. The installation of the cable in the Bay will be accomplished using a hydroplow, which is a water jet that consists of a long blade mounted to either a sled- or tire-mounted submerged vehicle. The total distance of the ZA-1 Line is approximately 3.5 miles.

D. Port has jurisdiction over the portion of the Bay and certain onshore real property through which a portion of the ZA-1 Line will be located.

E. In connection with the Project, the City has negotiated for the option to purchase PG&E-owned land at Illinois and 22nd Streets, commonly known as the Hoedown Yard, as further described in that certain Option Agreement between City and PG&E (the "Option Agreement").

F. Plan Bay Area, the Bay Area's first combined Sustainable Communities Strategy as required under Senate Bill 375 (SB 375), focuses a significant amount of regional growth in its transit served cities, with almost 15% of that growth projected for San Francisco. The Central Waterfront area, south of Mission Bay and east of the I-280 freeway is a significant Priority Development Area where the City plans to accommodate this projected growth. A significant portion of this growth is planned for current and former industrial lands in the immediate vicinity of the existing PG&E Potrero Switchyard. As a condition to and as additional consideration for this License, upon Port's notice, PG&E will either enclose a substantial portion of the existing

115 kV portion of the Potrero Switchyard within a building or construct a screen around a significant portion of the perimeter of the existing 115 kV portion of the Potrero Switchyard (either, a "Screen"), in accordance with the terms described more specifically in Section 16 of this License.

G. On September 10, 2013, pursuant to Resolution No. 13-34, the Port Commission endorsed the term sheet (the "Term Sheet") for this License and the Option Agreement and authorized the Executive Director to forward the Term Sheet to the Board of Supervisors for its endorsement. On March 5, 2014, pursuant to Resolution No. 54-14, the Board of Supervisors endorsed the Term Sheet.

H. The Parties have conducted due diligence with respect to property ownership in the Project areas and intend that this License and the consideration provided therefor will fully address all real property rights from the Port that are necessary or convenient for the planned construction, operation, maintenance, repair, and eventual removal from service of the Project. Licensee has submitted or will submit to City applications for Regulatory Approvals, including for the issuance of a Port encroachment permit(s); DPW encroachment permit(s) and building permit from the City's Department of Building Inspection.

I. On January 16, 2014, the California Public Utilities Commission ("CPUC"), as lead agency, certified the Mitigated Negative Declaration ("MND") and issued a Certificate of Public Convenience and Necessity for the Project by Decision No. 14-01-07 .

J. Pursuant to Port Commission Resolution No. 14-43 adopted on June 10, 2014, the Port Commission adopted CEQA findings and authorized the Port Executive Director to execute this License under the terms and conditions provided herein, subject to approval by the Board of Supervisors, which was granted by the Board of Supervisors in Resolution No. [XX] , in Board File No. [XX] on [XX, 20XX]).

IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES OF THE PARTIES, PORT AND LICENSEE HEREBY AGREE AS FOLLOWS:

1. GRANT OF LICENSE.

1.1 **License Area.** Port hereby grants to Licensee a non-exclusive license to enter upon and use that certain real property either owned by or that is under the jurisdiction of the Port as generally described on *Exhibit A* attached hereto (the "License Area") for the purposes described herein. The License Area will be comprised of approximately 508,992 square feet of submerged, underground and above-ground land as follows:

(a) Submerged land: 33 feet (11 foot width for each of three (3) cables) x 2.5 miles (13,200 ft.) = 435,600 sq. ft. This parcel will be divided into two zones: the inner "Submarine Portion Exclusive Zone," which will be 6 feet wide (1 foot width on either side of the centerline of each cable) x 13,200 ft. = 79,200 sq. ft.; and the outer "Submarine Portion Compatible Use Zone," which will be 27 feet wide (4.5 foot width extending beyond the Submarine Portion Exclusive Zone on each side of each cable) x 13,200 ft. = 356,400 sq. ft.;

(b) Onshore/offshore transition areas to be installed by horizontal directional drilling: 33 feet (11 foot width for each of three (3) cables) x 0.3 miles (1,584 sq. ft.) = 52,272 sq. ft. (the "HDD Area"); and

(c) Above ground area along 23rd St: 20 feet x 0.2 miles (1,056 sq. ft.) = 21,120 sq. ft. ("23rd Street Portion").

All square footages are approximate and the Parties acknowledge that this License allows for slight movement of the ZA-1 Line in accordance with its design and construction. *Exhibit A* shows the planned approximate location of the Port License Area. No later than one hundred twenty (120) days from completion of construction of the ZA-1 Line Equipment, Licensee shall provide Port with a revised *Exhibit A* and legal description of the actual License Area, including

an accurate description of the depth of the ZA-1 Line Equipment, which will be incorporated into this License by mutual technical amendment by Licensee and Port staff without further discretionary approvals. Subsequent changes to the location of the ZA-1 Line Equipment within the License Area subareas listed in (a), (b) or (c) may also be incorporated by mutual technical amendment(s) by Licensee and Port staff substituting a revised legal description; provided however that a subsequent change by Licensee to the location, size, nature, use or dimension of any of the License Area subareas listed in (a), (b) or (c) (for example, a change resulting in a conversion of a compatible use to an exclusive use) is subject to Port Commission's approval in its sole discretion and may be subject to additional City and other Regulatory Approvals.

All Exhibits and Schedules attached hereto are hereby incorporated by reference into this License and shall be construed as a single instrument and referred to herein as this "**License.**"

1.2. **Transbay Cable LLC License.** Licensee shall not use or encroach upon the License Area defined in Port License No. 14325 between Port and Transbay Cable LLC dated November 22, 2010 for reference purposes as amended by the First Amendment dated February 14, 2013 for reference purposes.

1.3. **Licensee's Consultants and Contractors.** Licensee shall require compliance with the applicable terms of this License in any agreement with its Agents for work on the Project and Licensee's Agents shall not need separate permission from Port to perform Permitted Activities on behalf of Licensee. All work performed in the License Area by Licensee, its Agents and Invitees and all property and equipment placed therein in furtherance of the permission granted herein is presumed to be with the express authorization of Licensee. Upon Port's request, Licensee will timely provide a list of its Agents that will enter Port property in connection with this License.

1.4. **America's Cup.** Licensee acknowledges that the Golden Gate Yacht Club has certain rights that may result in the 35th America's Cup being held in San Francisco. The 35th America's Cup could result in activities and impacts on the San Francisco waterfront, all of which are subject to review under CEQA. The potential activities and impacts include the America's Cup match, pre-match races, other regattas, possible future defense(s) of the America's Cup, related events and potential long-term development uses (collectively the "Event"). The Event, if held, will be, or may be, on property, including land and water, in the immediate vicinity of the License Area. Licensee is aware that the Event as proposed will include construction projects, dredging, racing in the Bay, and public and private events. The activities associated with the Event, if held, are expected to create certain impacts, some of which may result in some inconvenience to or disturbance of Licensee.

Impacts of the Event may include, but are not limited to, increased pedestrian, vessel, vehicle and truck traffic, traffic delays and re-routing of street traffic, loss of street and public parking, temporary re-routing or interruption of land and water transit, dust, dirt, land- and water-based construction, dredging, and other noise and visual obstructions. Licensee hereby waives any and all Claims against Port, City and their Agents arising out of impacts, inconvenience or disturbance as a result of the Event.

1.5. **Encroachment Area.** The terms and conditions of this License shall also apply to Licensee's (including, its Agents' and Invitees') use or occupancy of space outside the License Area and Accessory Use areas under Section 12 for purposes of constructing, operating, maintaining or removing the Project 2 (the "Encroachment Area") as if such areas were originally included in the License Area, and Licensee shall additionally Indemnify the Indemnified Parties from and against any and all loss or liability resulting from delay by Licensee in so surrendering the Encroachment Area including, without limitation, any loss or liability resulting from any Claims against Port made by any tenant, licensee or prospective tenant or licensee founded on or resulting from such delay and losses to Port due to lost opportunities to lease any portion of the Encroachment Area to any such person, together with, in each case, actual attorneys' fees and costs.

2. CONDITION OF PROPERTY.

2.1. **AS IS Condition.** Licensee acknowledges that Port has made no representations or warranties concerning the License Area shown in the approximate location in *Exhibit A* or any amended location or any other areas which Licensee has permission to use during construction pursuant to Section 12.2 of this License, including without limitation, the environmental or seismological condition thereof. Licensee acknowledges its receipt of *Schedule 1* regarding the presence of certain Hazardous Materials and the FEMA disclosure notice attached as *Schedule 2* and Licensee accepts these areas "AS IS", "WITH ALL FAULTS." Licensee shall maintain the License Area and any other areas used in connection with this License so they will not be unsafe, unsightly or unsanitary as a result of the Permitted Activities. Licensee represents and warrants to Port that Licensee has investigated and inspected, either independently or through agents of Licensee's own choosing, the condition of each of these areas and their suitability for Licensee's business and intended use. Licensee acknowledges and agrees that neither Port nor any of its Agents have made, and Port hereby disclaims, any representations or warranties, express or implied, concerning the seismological, physical or environmental condition of these areas, the present or future suitability of these areas for Licensee's business, or any other matter whatsoever relating to these areas, including, without limitation, any implied warranties of merchantability or fitness for a particular purpose.

2.2. **Accessibility.** Licensee is hereby advised that the License Area has not been inspected by a Certified Access Specialist ("CASp") for accessibility issues. Further, Licensee is hereby advised that the License Area may not currently meet all applicable construction-related accessibility standards. Licensee understands and agrees that it may be subject to legal and financial liabilities if the License Area does not comply with applicable federal and state disability access Laws and that it is Licensee's obligation, at no cost to Port, to cause the License Area and Licensee's use thereof to be conducted in compliance with the ADA and any other federal or state disability access Laws.

3. TAXES AND ASSESSMENTS.

Licensee agrees to pay to the proper authority any and all taxes, assessments and similar charges on the License Area in effect at the time this License is entered into, or which become effective thereafter, including all taxes levied or assessed upon the possession, use, or occupancy, as distinguished from the ownership to the License Area. Licensee, on behalf of itself and any permitted successors and assigns, recognizes and understands that this License may create a possessory interest subject to property taxation and that Licensee, and any permitted successor or assign may be subject to the payment of such taxes. Licensee, on behalf of itself and any permitted successors and assigns, further recognizes and understands that any assignment permitted hereunder and any exercise of any option to renew or extend this License may constitute a change in ownership for purposes of property taxation and therefore may result in a revaluation of any possessory interest created hereunder. Licensee shall report any assignment or other transfer of any interest in this License or any renewal or extension hereof to the County Assessor within 60 days after such assignment transaction or renewal or extension. Licensee further agrees to provide such other information as may be requested by the City or Port to enable the City or Port to comply with any reporting requirements under applicable law with respect to possessory interest.

4. USE OF THE LICENSE AREA.

4.1. **Permitted Activities.** Subject to obtaining all required Regulatory Approvals and compliance with the terms and conditions of this License, Licensee may: (a) use the License Area and Port-jurisdictional areas adjacent to and in the immediate vicinity of the License Area (as further described in Section 12.2) for the sole purpose of constructing, operating and maintaining, at Licensee's sole expense and risk, the Project, together with all necessary transmission line, fiber optic lines, ductwork, conduit, anchoring foundations and related equipment for use in connection therewith (collectively, the "ZA-1 Line Equipment"), including

but not limited to the right to excavate, repair, reconstruct, replace within the License Area, and remove such ZA-1 Line Equipment, for the purpose of transmission, transportation and/or distribution of electric energy and communications between Licensee's Embarcadero Substation and Potrero Substation in San Francisco; and (b) license with third parties, including any Affiliate of PG&E, for the unused capacity of the ZA-1 Line as further described in Section 22 of this License (collectively, the "Permitted Activities"). Port, in its sole discretion, must approve any amendments or alterations to the Permitted Activities to be performed by Licensee pursuant to this License in writing prior to performance of such work or activity.

The ZA-1 Line Equipment will be more particularly described in the plans and specifications submitted to Port with the Port permit application, as approved by Port, which upon Port's approval shall be incorporated by reference herein, and made a part hereof. Such plans and shall include the following:

(i) Licensee shall make commercially-reasonable and technically feasible efforts to locate the ZA-1 Line Equipment located within the HDD Areas as near to the bedrock surface as possible, and give Port, in its proprietary capacity, an opportunity to review and approve, to the extent consistent with CPUC Project Approval and other CPUC requirements, final work plans for the ZA-1 Line Equipment located within the HDD Areas, which proprietary approvals shall be limited to confirming that such plans are consistent with the requirements of this License.

(ii) Licensee shall use commercially reasonable efforts to install all ZA-1 Line Equipment within the Submarine Portion Exclusive Zone so that it lies between six (6) and ten feet (10') below the Bay floor as feasible. Licensee shall provide documentation of its consultation with the USACE regarding the potential for impact on federal navigation/shipping channels or other dredging routinely performed by or on behalf of USACE due to the location of the ZA-1 Line Equipment.

(iii) In the water area between Piers 30-32 and Pier 28, Licensee shall construct the ZA-1 Line Equipment so that it lies at least forty-five feet (45') below mean low low water for the entire length of the piers.

4.2. **Non-Interference.** Licensee acknowledges and agrees that Licensee's exercise of the rights herein granted shall not impede or unreasonably interfere with the use of the License Area by Port and its tenants, licensees, invitees, and guests without the prior written consent of Port, provided however that Port acknowledges the restrictions on its approvals and activities set forth in Section 11(b) of this License. Licensee shall notify and keep Port, Port tenants and private property owners informed of its activities under this License in accordance with the public notice requirements of the CPUC's Final MND and Initial Study prepared for the Project and certified by the CPUC on January 16, 2014, which document, as it may be modified or amended in the future by the CPUC, is fully incorporated herein.

4.3. **Prohibited Uses.** Licensee shall use the License Area solely for the Permitted Activities and for no other purpose. Any other use in the License Area, including but not limited to waste, nuisance or unreasonable annoyance to Port, its other licensees, tenants, or the owners or occupants of adjacent properties, interference with Port's use of its property except for the restrictions set forth in Section 11(b) of this License, obstruction of traffic (including, but not limited to, vehicular and pedestrian traffic) is prohibited (each, a "Prohibited Use"). In addition, the use, other than a Permitted Activity, of the ZA-1 Line Equipment including the fiber optic cable by any party other than Licensee for commercial purposes without Port's prior written consent pursuant to Section 22.4, is a Prohibited Use.

In the event Port determines after inspection of the License Area that a Prohibited Use is occurring on the License Area, then Licensee shall immediately cease the Prohibited Use and shall pay to Port, as an additional charge, an amount equaling Three Hundred Dollars (\$300.00), subject to increases set forth below, upon delivery of written notice to Licensee to cease the

Prohibited Use ("Notice to Cease Prohibited Use"). In the event Port determines in subsequent inspection(s) of the License Area that Licensee has not ceased the Prohibited Use, then Licensee shall pay to Port, as an additional charge, an amount equaling Four Hundred Dollars (\$400.00), subject to increases set forth below, for each additional Notice to Cease Prohibited Use delivered to Licensee. The Parties agree that the charges associated with each inspection of the License Area and delivery of the Notice to Cease Prohibited Use, if applicable, represent a fair and reasonable estimate of the administrative cost and expense which Port will incur by reason of Port's inspection of the License Area. Licensee's failure to comply with the applicable Notice to Cease Prohibited Use and Port's right to impose the foregoing charges shall be in addition to and not in lieu of any and all other rights and remedies of Port under this License, at law or in equity. The amounts set forth in this Section shall be due within three (3) business days following delivery of the applicable Notice to Cease Prohibited Use.

Each charge set forth in this Section and in Sections 9.7 (Additional Charges), and 12.6 (Prohibited Construction Charge) shall be increased by one hundred dollars (\$100.00) on every tenth (10th) Anniversary Date after the Effective Date. By signing this License, each Party specifically confirms the accuracy of the statements made in this Section and the reasonableness of the amount of the charges described in this Section.

5. EFFECTIVE DATE.

This License shall become effective on the first date (the "Effective Date") that all of the following conditions are satisfied:

- (a) the Port Commission authorizes execution of this License by the Port Executive Director.
- (b) the Board of Supervisors, authorizes execution of this License;
- (c) The Parties fully execute this License;
- (d) The Security Deposit, Environmental Oversight Deposit and the Environmental Assurances Deposit have been delivered to Port;
- (e) The first installment of the Initial Term License Fee has been delivered to Port;
- (f) The CPUC has issued an Initial Notice to Proceed; and
- (g) Promptly following the actual Effective Date, Port and Licensee shall execute a Memorandum substantially in the form attached hereto as *Exhibit B*, confirming the actual Effective and Expiration Dates, but either Party's failure to do so shall not affect the commencement or expiration of the Term.

6. TERM OF LICENSE.

This License shall be for a term ("Term") commencing on the Effective Date and expiring on the day that is forty (40) years from and after the Effective Date (the "Expiration Date"). Licensee shall have one (1) option to renew the Term, as further described in Section 7 below. The License shall be irrevocable during the Term unless terminated, in whole or in part, in accordance with either of the following: (a) provided all the terms and conditions of Section 8 below are satisfied by Licensee, Licensee delivers written notice to Port of its relinquishment and termination of any or all of the rights granted hereunder; or (b) upon an Event of Default as described in Section 24 below.

7. EXTENSION OPTION.

7.1. *Option to Extend Term.* Port grants to Licensee one (1) option (an "Extension Option") for twenty-six (26) years to extend the Term as to the entire License Area only commencing upon the date after the Expiration Date upon the following terms and conditions ("Extension Term"). Licensee may exercise the Extension Option by providing written notice of

its intent to Port no later than thirty (30) months prior to the Expiration Date. Licensee shall provide an additional written notice to Port no earlier than three hundred and sixty (360) days and no later than two hundred and seventy (270) days prior to the Expiration Date that states that each Party must select an appraiser to determine the Prevailing Market Rate for the Extension Term as set forth in Section 9.5 no later than one hundred and eighty (180) days prior to the Expiration Date. If any Event of Default by Licensee is outstanding hereunder either at the time of Licensee's exercise of the Extension Option or at any time prior to the first day of the Extension Term (or if any event shall have occurred which with the giving of notice or the passage of time or both would constitute such a default), then Port may elect by notice to Licensee to reject Licensee's exercise of the Extension Option, whereupon the Extension Option shall be null and void.

7.2. License Fee and Other Terms. If Licensee elects to exercise the Extension Option, then the license for the Extension Term shall cover the entire License Area and shall be upon all of the terms, covenants and conditions of this License, except that: (i) the Expiration Date shall mean the last day of the Extension Term, (ii) the Term shall include the Extension Term, and (iii) the License Fee hereunder shall be, at Licensee's option, either a one-time lump sum payment to Port due and payable as of the first day of the Extension Term, or an annual payment payable in advance, on or prior to each Anniversary Date of the commencement of the Extension Term (the "Extension Term License Fee"), as further described in Section 9.4.

7.3. Further Extensions. No later than two and one-half years prior to the final expiration of this License, upon advance written notice by Licensee to the Port's Executive Director, the Parties will enter into good faith negotiations to renew this License or enter into a new agreement upon mutually satisfactory terms and conditions, to the extent permitted by law and subject to all necessary approvals and Port's obligation as trustee of the public trust. If any Event of Default by Licensee is outstanding hereunder either at the time of Licensee's delivery of written notice as described in this Section 7.3 (or if any event shall have occurred which with the giving of notice or the passage of time or both would constitute such a default), then Port may elect by notice to Licensee not to enter into negotiations for a further license.

8. TERMINATION RIGHT.

At any time during the Term, Licensee shall have the option to terminate this License ("Termination Option") upon satisfaction of all the following terms and conditions:

(a) Licensee shall provide Port written notice ("Termination Notice") of its election to terminate no less than eighteen (18) months prior to the proposed termination date ("Termination Date");

(b) If the Termination Date is during the Initial Term, irrespective of how much time is remaining in the Initial Term, Port will retain all of the Initial Term License Fee and Licensee will have no right to reimbursement or credit of any portion of the pre-paid Initial Term License Fee;

(c) If the Termination Date is during the Extension Term, and:

(i) Licensee paid a one time lump sum payment of the Extension Term License Fee, irrespective of how much time is remaining in the Extension Term, Port will retain all the Extension Term License Fee and Licensee will have no right to reimbursement or credit of any portion of the pre-paid Extension Term License Fee; or

(ii) Licensee elected to pay the Extension Term License Fee annually, in conjunction with the delivery of the Termination Notice, Licensee shall deliver a non-refundable termination payment equal to the Extension Term License Fee payable for the one (1) year following the Termination Date. If any Termination Notice is revoked by Licensee during the Extension Term and Licensee elected to pay the Extension Term License Fee

annually, the termination payment will be applied to the next annual payment of the Extension Term License Fee that is due and payable to Port.

(iii) Licensee shall pay all amounts due under Section 9.4(d) if the Termination Date is during the period in which the Extension Term License Fee is being determined by the Parties under Section 9.4(d).

(d) If any Event of Default by Licensee is outstanding hereunder either at the time of Licensee's delivery of the Termination Notice or at any time prior to the Termination Date (or if any event shall have occurred which with the giving of notice or the passage of time or both would constitute such a default), then Port may elect by notice to Licensee to reject Licensee's exercise of the Termination Option, whereupon the Termination Option shall be null and void.

9. FEES.

9.1. **General.** All sums payable by Licensee to Port hereunder shall be paid in cash or by good check to Port and delivered to Port's address specified in Section 27, or such other place as Port may designate in writing.

9.2. *License Fee During the Initial Term.*

(a) Licensee shall pay Port a lump sum of Fifteen Million Two Hundred Seventy Five Thousand Two Hundred Five Dollars and 35 cents (\$15,275,205.35) as shown in *Exhibit C* which was calculated as of the Effective Date in the manner set forth in this Section ("**Initial Term License Fee**"). The Initial Term License Fee shall be paid in two (2) equal installments (1) the first to be paid no later than the Effective Date (payment of \$7,637,602.68); and (2) the second to be paid on or before the later of (a) the CPUC's issuance of a Full Notice to Proceed and (b) January 1, 2015 (payment of \$7,637,602.67).

(b) The Parties agree and acknowledge that the calculation of the Initial Term License Fee was based on approximate square footages, assumed values, construction periods and other agreed-upon factors that are an overall approximation which Port and Licensee agree is reasonable for use in determining the Initial Term License Fee. Port and Licensee further agree and acknowledge that the Initial Term License Fee amount as indicated above was properly calculated for the License Area as defined in Section 1.1 and is due and payable by Licensee and neither the fee nor any other economic term shall be subject to revision whether or not the factors used to calculate the fee are more or less.

9.3. **Method of Calculation.** The Initial Term License Fee reflects a seventy-five percent (75%) abatement for the ZA-1 Line Equipment construction period from and after the Effective Date until and including the date immediately prior to the 2nd anniversary of the Effective Date. The Initial Term License Fee was calculated to be an amount equal to the present value as of the Effective Date, discounted at six and a half percent (6.5%), of the following hypothetical stream of payments (each rounded to the nearest \$0.01) :

(i) An annual payment made on the Effective Date and each Anniversary Date, in an amount equal to \$217,008.00 (based \$2.74/sq. ft.) for the Submarine Portion, Exclusive Zone ("**Submarine Portion Exclusive Zone Basic Annual Pay Rate**"). For informational purposes only, the Submarine Portion Exclusive Zone Basic Annual Pay Rate assumes \$68.50/sq. ft. upland industrial sale value x 50% for submerged land x 8% capitalization rate to develop an annual rent rate. The Submarine Portion Exclusive Zone Basic Annual Pay Rate was deemed to have (a) increased by three percent (3%) for each full year between February 5, 2013 and the Effective Date; and (b) decreased by 75% for each of the first two (2) years following the Effective Date; PLUS

(ii) An annual payment made on the Effective Date and each Anniversary Date, in an amount equal to \$488,268.00 (based on \$1.37/sq. ft.) for the Submarine Portion, Compatible Use Zone ("**Submarine Portion Compatible Use Zone Basic Annual Pay Rate**").

For informational purposes only, Submarine Portion Compatible Use Zone Basic Annual Pay Rate assumes \$68.50/sq. ft. upland industrial sale value x 25% for submerged land x 8% capitalization rate to develop an annual rent rate. The Submarine Portion Compatible Use Zone Basic Annual Pay Rate was deemed to have (a) increased by three percent (3%) for each full year between February 5, 2013 and the Effective Date; and (b) decreased by 75% for each of the first two (2) years following the Effective Date; PLUS

(iii) An annual payment made on the Effective Date and each Anniversary Date, in an amount equal to \$2,316.00 (based on \$0.031562/sq. ft.) for the HDD Area and 23rd Street Portion ("**HDD Area/23rd Street Portion Basic Annual Pay Rate**"). For informational purposes, the HDD/23rd Street Portion Basic Annual Pay Rate is based on an aggregate 73,392 sq. ft. and an annual rate equal to the Hunters Point – Potrero License rate. The HDD Area/23rd Street Portion Basic Annual Pay Rate was deemed to have (a) increased by three percent (3%) for each full year between February 5, 2013 and the Effective Date; and (b) decreased by 75% for each of the first two (2) years following the Effective Date.

9.4. *Extension Term License Fee.*

(a) The Extension Term License Fee will be payable to Port on an annual basis or will be a one-time, lump sum payment of the license fee for the Extension Term (in each case, the "**Extension Term License Fee**") payable on the commencement date of the Extension Term (the "**Extension Term Commencement Date**").

(b) Licensee Election. Within thirty (30) days after the final determination of Prevailing Market Rate, Licensee shall notify Port in writing of Licensee's election to pay the Extension Term License Fee in one lump sum payment or on an annual basis.

(i) If Licensee elects to pay the Extension Term License Fee in one lump sum, then such amount will equal the then present value as of the Extension Term Commencement Date, discounted at 6.5%.

(ii) If Licensee elects to pay the Extension Term License Fee on an annual basis, then Licensee shall pay the annual Extension Term License Fee in advance on or before the first day of each Anniversary Date during the Extension Term. Throughout the Extension Term, the Extension Term License Fee shall be adjusted on each Anniversary Date to equal one hundred three percent (103%) of the License Fee in effect immediately prior to such applicable Anniversary Date. The annual Extension Term License Fee shall be paid without prior demand and without any deduction, setoff or counterclaim whatsoever.

(c) The Extension Term License Fee shall be the sum of the following hypothetical stream of payments:

(i) An annual payment made (a) on the Extension Term Commencement Date, in an amount ("**Submarine Portion Exclusive Zone Extension Term Basic Annual Pay Rate**") equal to the higher of (1) 103% of the amount equal to the portion of the Initial License Fee attributable to the Submarine Portion Exclusive Zone for the 40th year of the Term, or (2) the Prevailing Market Rate of the Submarine Portion Exclusive Zone license area; PLUS

(ii) An annual payment made (a) on the Extension Term Commencement Date, in an amount ("**Submarine Portion Compatible Use Zone Extension Term Basic Annual Pay Rate**") equal to the higher of (1) 103% of the amount equal to the portion of the Initial License Fee attributable to the Submarine Portion Compatible Use Zone for the 40th year of the Term, or (2) the Prevailing Market Rate of the Submarine Portion Compatible Use Zone license area; PLUS

(iii) An annual payment made (a) on the Extension Term Commencement Date, in an amount ("**HDD/23rd Street Portion Extension Term Basic Annual Pay Rate**") equal to the higher of (1) 103% of the amount equal to the portion of the Initial License

Fee attributable to the HDD Area and 23rd Street Portion for the 40th year of the Term, or (2) the Prevailing Market Rate of the HDD Area and 23rd Street Portion license area.

(d) If, for any reason, the Prevailing Market Rate is not finally determined by the commencement date of the Extension Term, then, Licensee shall pay, in advance on a monthly basis prior to the first day of the month, an amount equal to one hundred ten percent (110%) of the License Fee applicable to the fortieth (40th) year of the Initial Term as set forth in *Exhibit C* until such time as the Prevailing Market Rate is finally determined and Licensee has elected either to pay the Extension Term License Fee in one lump sum payment or on an annual basis, at which time Port shall refund any excess amount to Licensee or Licensee shall pay any shortage to Port, as the case may be. No such delay in the determination of Prevailing Market Rate shall be deemed to constitute a waiver by either Party of the adjustment of Prevailing Market Rate as provided in this Section 9.

For purposes of clarity, the Extension Term will commence as described above regardless of whether the Prevailing Market Rate has been finally determined by the commencement date of the Extension Term and the Holding Over provisions of this License set forth in Section 30 will not apply.

9.5. *Establishing the Prevailing Market Rate for the Extension Term .*

(a) Definition and Selection of Appraisers. "Prevailing Market Rate" means the fair market value of the upland industrial land in the proximate vicinity of the License Area as established by an appraiser using the same methodology used to establish the Initial Term License Fee as described in Sections 9.2 and 9.3. No later than one hundred and eighty (180) days prior to the Expiration Date, each Party shall appoint one (1) appraiser. Each such appraiser shall be competent, licensed, qualified by training and experience in the City and County of San Francisco, and shall be a member in good standing of the Appraisal Institute and designated as a MAI, or, if the Appraisal Institute no longer exists, shall hold the senior professional designation awarded by the most prominent organization of appraisal professionals then awarding such professional designations. Without limiting the foregoing, each appraiser shall have at least ten (10) years' experience valuing industrial land in the City and County of San Francisco. Upon selecting its appraiser, each Party shall promptly notify the other Party in writing of the name of the appraiser selected. Each such appraiser may have a prior working relationship with either or both of the Parties, provided that such working relationship shall be disclosed to both Parties. The Parties shall cause each appraiser to make an independent determination of his or her determination of the Prevailing Market Rate and to complete, sign and submit his or her written appraisal setting forth his or her determination of the Prevailing Market Rate (rounded to the nearest \$0.01) to the Parties no later than sixty (60) days after their appointment. Neither of the appraisers shall have access to the appraisal of the other (except for the sharing of objective information contained in such appraisals) until both of the appraisals are submitted.

(i) If the higher appraised rate is one hundred ten percent (110%) or less of the lower appraised rate, then the final Prevailing Market Rate shall be the average of such two (2) rate figures (rounded to the nearest \$0.01).

(ii) If the higher appraised rate is more than one hundred ten percent (110%) of the lower appraised rate, then the Parties shall cause the first two appraisers to agree upon and appoint an independent third appraiser from the City's list of approved appraisers from the San Francisco Department of Real Estate within thirty (30) days after both of the first two (2) appraisals have been submitted to the Parties and shall inform the Parties of their appointment at or before the end of such thirty (30) day appointment period.

(b) Dispute; Third Appraiser. The third appraiser shall have the minimum qualifications as required of an appraiser pursuant to Section 9.5(a) above, and shall also have experience acting as a third appraiser of disputes involving industrial real estate. Each Party shall have the opportunity to question the proposed third appraiser, in writing only, as to his or

her qualifications, experience, past working relationships with the Parties, and any other matters relevant to the appraisal set forth in this License. Either Party may, by written notice to the other Party and the two appraisers, raise a good faith objection to the selection of the third appraiser based on his or her failure to meet the requirements of this Section. In such event, if the two (2) appraisers determine that the objection was made in good faith, the Parties shall cause the two (2) appraisers to promptly select another third appraiser, subject again to the same process for the raising of objections. If neither Party raises a good faith objection to the appointment of the third appraiser within ten (10) days after notice of his or her appointment is given, each such Party shall be deemed to have waived any issues or questions relating to the qualifications or independence of the third appraiser or any other matter relating to the selection of the third appraiser under this License. If for any reason the two appraisers do not appoint such third appraiser within such fifteen (15) day period (or within a reasonable period thereafter not to exceed fifteen (15) days in the event a good faith objection is made as provided above), then either Party may apply to the Writs and Receivers Department of the Superior Court of the State of California in and for the County of San Francisco for appointment of a third appraiser meeting the foregoing qualifications. If the Court denies or otherwise refuses to act upon such application within thirty (30) days from the date on which the Party first applies to the Court for appointment of the third appraiser, either Party may apply to the American Arbitration Association, or any similar provider of professional commercial arbitration services, for appointment in accordance with the rules and procedures of such organization of an independent third appraiser meeting the foregoing qualifications.

The Parties shall cause the third appraiser to make an independent determination of the Prevailing Market Rate using the same methodology described in Section 9.5(a). The third appraiser may consider all prior appraisals as well as any other relevant written evidence which the third appraiser may request of either or both of the appraisers appointed by the Parties. The Parties shall cause the initial two (2) appraisers appointed by the Parties to submit any evidence to such third appraiser only at the request of the third appraiser and to deliver a complete and accurate copy to the other Party and the appraiser such Party selected, at the same time it submits the same to the third appraiser. Neither Party, nor, by prohibition by the Parties, the appraisers they appoint, shall conduct any ex parte communications with the third appraiser regarding the subject matter of the appraisal. The third appraiser shall complete, sign and submit his or her written appraisal setting forth his or her determination of the Prevailing Market Rate (rounded to the nearest \$0.01) to the Parties no later than sixty (60) days from his or her appointment and, within fifteen (15) days from the submittal, shall determine the final Prevailing Market Rate as follows:

- (i) If the difference between the rate determined by the third appraiser and the rate determined by the appraiser appointed by Port is ten percent (10%) or less than the higher of the rate determined by the third appraiser and the appraiser appointed by Port, then the Prevailing Market Rate will be the average of those two values.
- (ii) If the difference between the rate determined by the third appraiser and the rate determined by the appraiser appointed by Licensee is ten percent (10%) or less than the higher of the rate determined by the third appraiser and the appraiser appointed by Licensee, then the Prevailing Market Rate will be the average of those two values.
- (iii) If neither of the conditions in subsections (i) or (ii) is met or if both of the conditions in subsections (i) and (ii) are met, then the third appraiser's value will be deemed to be the final Prevailing Market Rate.

(c) General.

- (i) Each appraiser can utilize the services of special experts, including experts to determine such things as property condition, market rates, leasing commissions, renovation costs and similar matters. The Parties shall cause each appraiser to produce his or her determination in writing, supported by the reasons for the determination.

(ii) If any appraiser has questions regarding the instructions in this Section 9.5(a) or the interpretation of the License, such appraiser will use his or her own professional judgment and shall make clear all assumptions upon which his or her professional conclusions are based, including any supplemental instructions or interpretative guidance received from the Party appointing such appraiser. There shall not be any arbitration or adjudication of the instructions to the appraisers contained in this Section 9.5.

(iii) Each Party shall bear the fees, costs and expenses of the appraiser it selects under Section 9.5(a) and of any experts and consultants used by that appraiser. The fees, costs and expenses of the third appraiser under Section 9.5(b) shall be shared equally by Port and Licensee. Each Party waives any claims against the appraisers appointed by the other Party, and against the third appraiser, for negligence, malpractice or similar claims in the performance of the appraisals or arbitration contemplated by this Section 9.5.

(iv) Except as provided in California Code of Civil Procedure Section 1286.2 (as the same may be amended from time to time), the determination of the Prevailing Market Rate by the original appraisers or, in the case of a dispute, by the third appraiser, shall be conclusive, final and binding on the Parties. The Parties agree that none of the appraisers shall have any power to modify any of the provisions of this License and must base her or his decision on the definitions, standards, assumptions, instructions and other provisions contained in this License and will so advise the appraisers. Subject to the provisions of this 9.5, the Parties will cooperate to provide all appropriate information to the appraisers.

9.6. **Additional Charges.** Without limiting Port's other rights and remedies set forth in this License, at law or in equity, in the event Licensee fails to submit to the appropriate Party, on a timely basis, the items identified in Sections 10.2(b) (Environmental Oversight Deposit); 18.3(a) (Licensee's Environmental Condition Notification Requirements); 18.4 (Storm Water Pollution Prevention); and 36.1 (Non-Discrimination), or to provide evidence of the required insurance coverage described in Section 23, then upon written notice from Port of such failure, Licensee shall pay, as an additional charge, an amount equaling Three Hundred Dollars (\$300.00), as increased subject to Section 4.3. In the event Licensee fails to provide the necessary document within the time period set forth in the initial notice and Port delivers to Licensee additional written notice requesting such document, then Licensee shall pay to Port, as an additional charge, an amount equaling Three Hundred Fifty Dollars (\$350.00), as increased subject to Section 4.3 for each additional written notice Port delivers to Licensee requesting such document. The Parties agree that the charges set forth in this Section represent a fair and reasonable estimate of the administrative cost and expense which Port will incur by reason of Licensee's failure to provide the documents identified in this Section and that Port's right to impose the foregoing charges shall be in addition to and not in lieu of any and all other rights under this License, at law or in equity. The amounts set forth in this Section shall be due within three (3) business days following delivery of the applicable Notice to Cease Prohibited Construction. By signing this License, each Party specifically confirms the accuracy of the statements made in this Section and the reasonableness of the amount of the charges described in this Section.

9.7. **Late Charges.** Licensee acknowledges that late payment by Licensee to Port of Fees or other sums due under this License will cause Port increased costs not contemplated by this License, the exact amount of which will be extremely difficult to ascertain. Accordingly, if Licensee fails to pay Fees on the date due, such failure shall be subject to a Late Charge at Port's discretion. Licensee shall also pay any costs including attorneys' fees incurred by Port by reason of Licensee's failure to timely pay Fees. The Parties agree that the charges set forth in this Section represent a fair and reasonable estimate of the cost that Port will incur by reason of any late payment. Such charges may be assessed without notice and cure periods and regardless of whether such late payment results in an Event of Default. Payment of the amounts under this Section shall not excuse or cure any default by Licensee.

9.8. **Default Interest.** Any Fees, if not paid within five (5) days following the due date and any other payment due under this License not paid by the applicable due date, shall bear interest from the due date until paid at the Interest Rate. However, interest shall not be payable on Late Charges incurred by Licensee nor on other amounts to the extent this interest would cause the total interest to be in excess of that which an individual is lawfully permitted to charge. Payment of interest shall not excuse or cure any default by Licensee.

9.9. **Returned Checks.** If any check for a payment for any License obligation is returned without payment for any reason, Licensee shall pay, as an additional charge, an amount equal to Fifty Dollars (\$50.00) (as such amount may be adjusted from time to time by the Port Commission) and the outstanding payment shall be subject to a Late Charge as well as interest at the Interest Rate.

10. SECURITY.

10.1. Security Deposit.

(a) **Amounts.** On or prior to the Effective Date, Licensee shall pay to Port a security deposit, in cash, or provide a Letter of Credit which complies with the terms set forth in Section 10.3, in an amount equal to $1/6^{\text{th}}$ of the License Fee that would be due in the last (40th) year of the Initial Term as shown in *Exhibit C, which equals Three Hundred Eighty Four Thousand Six Hundred Ninety Eight dollars and Eighty-six cents (\$384,698.86)* ("Security Deposit"), as security for the faithful performance by Licensee of all terms, covenants and conditions of this License. No later than the commencement date of the Extension Term, if any, Licensee shall provide a Security Deposit equal to one-sixth ($1/6^{\text{th}}$) of the Extension Term License Fee that would be due in the last (26th) year of the Extension Term.

(b) **Use of Security Deposit; Conditions.** Licensee agrees that Port may (but shall not be required to) apply the Security Deposit in whole or in part to: (a) pay any sum due to Port under this License; (b) compensate Port for any expense incurred or damage caused by Licensee, its Agents or Invitees; (c) cure any default by Licensee; or (d) cure, or attempt to cure, any failure of Licensee to perform any other covenant, term or condition contained herein. Licensee shall immediately upon demand pay Port a sum equal to the portion of the Security Deposit expended or applied by Port. Port's obligations with respect to any cash portion of the Security Deposit are those of a debtor and not a trustee, and Port may commingle the Security Deposit or use it in connection with its business. Licensee shall not be entitled to any interest on the Security Deposit. Nothing contained in this Section 10 shall in any way diminish or be construed as waiving any of Port's other remedies set forth in this License or provided by law or equity.

Licensee hereby waives the provisions of California Civil Code Section 1950.7 and/or any successor statute, it being expressly agreed that Port may apply all or any portion of the Security Deposit in payment of any and all sums reasonably necessary to compensate Port for any other loss or damage, foreseeable or unforeseeable, caused by the act or omission of Licensee or any Agent or Invitee of Licensee, and that following a default by Licensee, all or any portion of the Security Deposit may be retained by Port following a termination of this License and applied to future damages, including damages for future Fees, pending determination of the same.

(c) **Return of Security Deposit.** At Licensee's written request, upon Licensee's payment of the second installment of the Initial Term License Fee as required by Section 9.2(a) and provided that there are no pending Claims, Environmental Notices, Events of Default existing (or if any event shall have occurred which with the giving of notice or the passage of time or both would constitute such a default) at the time of Licensee's delivery of the written request, or other outstanding matters for which Port could apply the Security Deposit, Port shall either return the balance of any cash portion of the Security Deposit to Licensee or notify

Licensee that it may withdraw or revoke its Letter of Credit with respect to the portion of the Letter of Credit securing the obligation under Section 10.1(a) for the Initial Term.

If Licensee elects to make a one-time lump sum payment of the Extension Term License Fee on the first day of the Extension Term, then, upon Licensee's payment and at Licensee's written request, Port shall waive the Security Deposit for the Extension Term.

If Port retains a Security Deposit under Section 10.1(a), provided that there are no pending Claims, Environmental Notices, Events of Default existing (or if any event shall have occurred which with the giving of notice or the passage of time or both would constitute such a default) at the time of Licensee's delivery of the written request, or other outstanding matters for which Port could apply the Security Deposit, and Licensee delivers the License Area to Port on the Expiration Date of the Initial Term or the Extension Term or any earlier termination date in compliance with the terms and conditions of Sections 18.2 and 14 below, Port shall, within one hundred eighty (180) days after Port takes full and complete possession of the License Area either return the balance of any cash portion of the Security Deposit to Licensee or notify Licensee that it may withdraw or revoke its Letter of Credit with respect to the portion of the Letter of Credit securing the obligation under this Section 10.1.

10.2. *Environmental Oversight Deposit.*

(a) On or prior to the Effective Date, Licensee shall deliver to Port, in addition to the first installment of the Initial Term Fee and the Security Deposit, an environmental oversight deposit ("**Environmental Oversight Deposit**") in cash, in an amount equaling Ten Thousand Dollars (\$10,000.00), as security for the recovery of Port's costs and expenses related to the increased inspection, monitoring, enforcement and administration of this License; provided, however, that the Environmental Oversight Deposit shall not be deemed an advance rent deposit or an advance payment of any other kind, or a measure of Port's damages upon an Event of Default.

(b) On the fifth (5th) Anniversary Date and on every fifth (5th) Anniversary Date thereafter, Licensee must increase its Environmental Oversight Deposit by fifteen percent (15%).

(c) If a notice of violation or other regulatory order from a Regulatory Agency with jurisdiction over the License Area and/or Licensee's activities and operations alleging that Licensee caused or contributed to a violation of an Environmental Law within the License Area (in each case, an "**Environmental Notice**") is delivered to Licensee and such notice of violation cannot be cured, or such regulatory order cannot be complied with within fourteen (14) calendar days after delivery of such Environmental Notice and Licensee is not actively working to cure such notice of violation or comply with such regulatory order, Port may use, apply, or retain the Environmental Oversight Deposit in whole or in part to reimburse Port for administrative costs and expenses incurred by Port while inspecting and monitoring the conditions of the License Area and enforcing and administering Licensee's obligations under this License (including, but not limited to staff time corresponding with and responding to regulatory agencies and collection and laboratory analysis of environmental samples).

(d) If an Environmental Notice is delivered to Licensee and such notice of violation is cured, or regulatory order is complied with, within fourteen (14) calendar days after delivery of such Environmental Notice, Port may use and apply from the Environmental Oversight Deposit an amount equaling Five Hundred Dollars (\$500.00), as increased subject to Section 10.2(b) above, for each Environmental Notice delivered to Licensee to reimburse Port for its administrative cost and expense. The Parties agree that the foregoing charge relating to each Environmental Notice delivered to Licensee represents a fair and reasonable estimate of the administrative cost and expense Port will incur by reason of Port staff time devoted to its response and action to each Environmental Notice. The amounts set forth in this Section shall be due within three (3) business days following delivery of the applicable Environmental Notice.

(e) Licensee shall immediately upon demand pay Port a sum equal to the portion of the Environmental Oversight Deposit expended or applied by Port. If Licensee shall fail to replenish the amount used or applied by Port from the Environmental Oversight Deposit within three (3) business days after demand by Port, such failure shall constitute an Event of Default.

(f) Provided that there are no outstanding Environmental Notices and Licensee delivers the License Area to Port on the Expiration Date of the Initial Term or the Extension Term or any earlier termination date in compliance with the terms and conditions of Sections 18.2 and 14 below, Port shall return the balance of the Environmental Oversight Deposit, if any, to Licensee within one hundred eighty (180) days after Port takes full and complete possession of the License Area. Port's obligations with respect to the Environmental Oversight Deposit are those of a debtor and not a trustee, and Port may commingle the Environmental Oversight Deposit or use it in connection with its business. Licensee shall not be entitled to any interest on the Environmental Oversight Deposit. Nothing contained in this Section shall in any way diminish or be construed as waiving any of Port's other remedies set forth in this License or provided by law or equity.

10.3. *Environmental Assurances Deposit.*

(a) No later than the Effective Date, Licensee shall deliver to Port an environmental assurances deposit in an amount equaling Six Million Dollars (\$6,000,000), of which: (i) Five Million Dollars (\$5,000,000.00) shall be used to satisfy Claims against the City or Port due to any requirement of a Regulatory Agency for Investigation or Remediation of any Hazardous Materials arising directly and solely from Licensee's or its Agents' discovery of pre-existing contamination during the course of the Project where such Claim arises merely from the discovery of pre-existing contamination not caused or permitted by Licensee and which shall serve to limit Licensee's liability to Port with respect to such Claims; and (ii) One Million Dollars (\$1,000,000.00) shall serve as collateral for the full and faithful performance by Licensee of its obligations with respect to Hazardous Materials (collectively, "Environmental Obligations"). In no event shall the limitation of Licensee's liability as described in (i) above otherwise limit Licensee's Indemnification obligations. Port may require an increase in the Environmental Assurances Deposit amount to cover any additionally authorized improvements, alterations or purposes and any modification of the Permitted Uses. At Licensee's option, the Environmental Assurances Deposit may be provided by an irrevocable, stand-by and unconditional letter of credit (the "Letter of Credit") in substantially the same form attached hereto as *Exhibit D*. Neither cash, nor the Letter of Credit or any Letter of Credit Proceeds (as defined below) shall be deemed an advance deposit or payment of any other kind, or a measure of Port's damages upon an Event of Default.

(b) Port may (but shall not be required to) draw upon the cash or Letter of Credit in such amount as is necessary, and may use the proceeds therefrom (the "Letter of Credit Proceeds") or any portion thereof for the purposes described above in Section 10.3(a), it being understood that any use of the Letter of Credit Proceeds shall not constitute a bar or defense to any of Port's remedies set forth in Section 24.2 below. As to the amounts specified in Section 10.3(a)(ii) above, in the event and upon written notice from Port to Licensee specifying the amount of the Letter of Credit Proceeds so utilized by Port and the particular purpose for which such amount was applied, Licensee shall immediately deliver to Port an amendment to the Letter of Credit or a replacement Letter of Credit so that the Letter of Credit is again in the face amount equal to the Letter of Credit amount. Licensee's failure to deliver such an amendment or replacement Letter of Credit to Port within ten (10) business days of Port's notice shall constitute an immediate Event of Default hereunder.

In the event Port transfers its interest in this License, Port shall transfer the cash balance of the Environmental Assurances Deposit, if any, to Port's successor-in-interest on the effective date of such transfer and Licensee may revoke any outstanding Letter of Credit to Port; provided, that Licensee shall, if it elects to provide the Environmental Assurances Deposit to Port's

successor-in-interest by Letter of Credit rather than cash, provide a replacement Letter of Credit meeting the requirements of this Section 10.3 and in substantially the same form attached hereto as **Exhibit D** to Port's successor-in-interest within ten (10) business days of Port's notice to Licensee of said transfer.

(c) The Letter of Credit shall be in a form acceptable to Port and otherwise containing the terms required herein, issued by a money-center bank (a bank which accepts deposits, maintains accounts, and whose deposits are insured by the FDIC) and otherwise reasonably satisfactory to Port (the "Bank"). The Letter of Credit shall (i) be at sight and irrevocable; (ii) be subject to the terms of this Section 10.3 and maintained in effect, whether through replacement, renewal or extension, for the entire period from the Effective Date through one hundred eighty (180) days following the expiration of the Term (including an Extension Term, if applicable) ("**LC Expiration Date**"), and to the extent the Letter of Credit delivered to Port does not extend by its terms until the LC Expiration Date, Licensee shall deliver a new Letter of Credit or certificate of renewal or extension to Port at least sixty (60) days prior to the expiration of the Letter of Credit, without any action whatsoever on the part of Port; (iii) provide that Port may make partial and multiple draws thereunder, up to the face amount thereof, and the Bank will pay to Port the amount of such draw upon receipt by the Bank of a sight draft signed by Port, and accompanied by a written certification from Port to the Bank stating either that: (A) funds are due and owing to the Port under Section 10 of this License, or (B) Port has received notice from the Bank at least sixty (60) days prior to the then current expiry date of the Letter of Credit that the Letter of Credit will not be renewed by the Bank and Licensee has not otherwise furnished Port with a replacement Letter of Credit as hereinafter provided. In the event that the Bank (y) notifies Port that the Letter of Credit will not be renewed for at least one (1) year beyond the then applicable expiration date (or, in the case of the last year of the Term, until the LC Expiration Date), and (z) Licensee shall not have otherwise delivered to Port, at least sixty (60) days prior to the relevant annual expiration date, a replacement Letter of Credit in the amount required hereunder and otherwise meeting the requirements set forth above, then Port shall be entitled to draw on the Letter of Credit as provided above, and shall hold the proceeds of such draw as Letter of Credit Proceeds pursuant to Section 10.3(b) above.

(d) Port's obligations with respect to the Letter of Credit Proceeds are those of a debtor and not a trustee, and Port may commingle the Letter of Credit Proceeds or use it in connection with its business. Licensee shall not be entitled to any interest on the Letter of Credit Proceeds. Except as explicitly provided in Section 10.3(a)(i), nothing contained in this Section 10.3 shall in any way diminish or be construed as waiving any of Port's other remedies set forth in this License or provided by law or equity.

(e) Licensee hereby waives the provisions of California Civil Code Section 1950.7 and/or any successor statute, it being expressly agreed that, except as explicitly provided in Section 10.3(a)(i), Port may apply all or any portion of the Letter of Credit Proceeds in payment of any and all sums reasonably necessary to compensate Port for any other loss or damage, foreseeable or unforeseeable for the purposes described above in Section 10.3(a), and, all or any portion of the Letter of Credit Proceeds may be retained by Port following a termination of the License and applied to future damages arising directly or indirectly out of Licensee's failure to perform or abide by such terms. Licensee agrees not to interfere in any way with payment to Port of the Letter of Credit Proceeds, either prior to or following a draw by Port of any portion of the Letter of Credit, regardless of whether any dispute exists between Licensee and Port as to Port's right to draw from the Letter of Credit. No condition or term of this License shall be deemed to render the Letter of Credit conditional to justify the issuer of the Letter of Credit in failing to honor a drawing upon such Letter of Credit in a timely manner.

(f) Licensee hereby waives the provisions of California Civil Code Section 1950.7 and/or any successor statute which provides the return of a security deposit within thirty (30) days from the date the landlord receives possession of the premises, it being expressly agreed that the Letter of Credit shall expire on the LC Expiration Date (which date is

beyond such thirty (30) day period) and that Port shall have until the LC Expiration Date to return to Licensee, the Letter of Credit Proceeds, if any.

(g) From and after expiration of the twelve (12) month period following delivery to the San Francisco Bay Regional Water Quality Control Board of Cal/EPA ("RWQCB") of all documents, summaries, reports and findings required to be submitted to the RWQCB concerning the Project in a form acceptable to the RWQCB, provided that the RWQCB has not initiated any inquiry or action regarding pre-existing contamination or other Claims of the type described in Section 10.3(a)(i), Licensee shall have the right to reduce the Environmental Assurances Deposit to One Million Dollars (\$1,000,000.00) for the remainder of the Term. If Licensee has provided a Letter of Credit as an Environmental Assurances Deposit, Licensee shall deliver to Port an amendment to the Letter of Credit or a replacement Letter of Credit ") in substantially the same form attached hereto as *Exhibit D* reflecting the reduced Letter of Credit amount for Port's approval as to form.

(h) Provided that there are no pending Claims, Environmental Notices, Events of Default existing (or if any event shall have occurred which with the giving of notice or the passage of time or both would constitute such a default) at the time of Licensee's delivery of the written request, or other outstanding matters for which Port could apply the Environmental Assurances Deposit, and Licensee delivers the License Area to Port on the Expiration Date of the Initial Term or the Extension Term or any earlier termination date in compliance with the terms and conditions of Sections 18.2 and 14 below, Port shall, within one hundred eighty (180) days after Port takes full and complete possession of the License Area either return any cash portion of the Environmental Assurances Deposit, to Licensee or notify Licensee that it may withdraw or revoke its Letter of Credit with respect to the portion of the Letter of Credit securing the obligation under this Section 10.3. Port's obligations with respect to any cash portion of the Environmental Assurances Deposit are those of a debtor and not a trustee, and Port may commingle or use it in connection with its business. Licensee shall not be entitled to any interest on the Environmental Assurances Deposit.

11. SUBJECT TO OTHER USES.

Licensee acknowledges and agrees that this License herein granted is for Licensee's non-exclusive use and that Port shall have the right to use or permit the use by others of the License Area for any use that does not unreasonably interfere with the rights granted to Licensee herein, provided that,

(a) Notwithstanding the generality of the foregoing, Licensee acknowledges its obligations in Section 4.2.

(b) Port shall obtain Licensee's prior written consent, which consent shall be at Licensee's reasonable discretion, and which shall not be unreasonably withheld, conditioned or delayed if Port wishes to undertake or allow the following:

(i) issue a license, lease or other permission for any uses that would penetrate the Bay mud surface in the Submarine Portion Exclusive Zone, and/or that, in Licensee's opinion based upon accepted engineering practices, could reasonably be expected to jeopardize the integrity or reliability of the ZA-1 Line Equipment in the Submarine Portion Exclusive Zone.

(ii) In the License Area, issue a license, lease or other permission to allow a lateral crossing through the License Area. In all submarine portions, if lateral crossings are allowed, Port shall require that such crossings be no closer than five (5) vertical feet from the ZA-1 Line Equipment, that the equipment crossing the ZA-1 Line Equipment be equipped with thermal and mechanical protection, and that the license, lease or other permission for the crossing equipment ensure that Licensee's ability to access, maintain, replace, and raise the ZA-1 Equipment is not unreasonably impeded.

(iii) In the Compatible Use Zone of the submarine portion, issue a license, lease or other permission to allow installation of any other underground or submarine electric lines.

(iv) With respect to any HDD Area:

(1) allow piles to be installed to the bedrock in the area north and east of Pier 30 to support maintenance and facilitate use and development of Piers 30/32; provided that to the extent that Licensee provides such consent, Licensee and Port will cooperate in good faith to identify installation specifications to adequately protect the ZA-1 Equipment;

(2) license, lease or otherwise permit in writing construction of solder piles, piers, pilings, foundations, or other permanent improvements in any other HDD Area;

(v) Dredging:

(1) enter into any written agreements permitting any dredging in the submarine portions of the License Area

(2) In the area north and east of Piers 30-32, Port may be permitted to dredge up to a depth of forty feet (40') below mean low low water if Port reasonably determines dredging to such depth is required to support or advance maritime operations and use within Port jurisdiction, provided that in no event shall Port dredge within five (5) vertical feet of the ZA-1 Line Equipment.

(vi) Port will cooperate with Licensee to have the License Area designated as a no anchoring area by the US Coast Guard.

(c) In the case of (b)(i) – (v) of this Section 11, Port shall provide sufficient documentation, including engineering drawings to enable Licensee to review any such proposed activities. Licensee shall consent or deny consent within ninety (90) days of a Port request presented to Licensee with sufficient documentation under Section 11(b). Licensee's failure to respond within the 90-day period, after at least two (2) written requests from Port highlighting the issue and 90-day deadline and reasonable further efforts by the Port to communicate the issue to PG&E through established channels of communication between the Parties, shall be deemed an approval of Port's request. If Licensee denies the request, the denial must be accompanied by an explanation of the technical rationale for the denial in sufficient detail to allow Port to submit a redesign of the requested project such that Licensee would consent.

(d) If Licensee denies consent, Port may seek CPUC approval to allow the activity or to allow the proposed facilities to be co-located in the License Area, which approval would supersede Licensee's denial.

(e) Licensee shall take all necessary measures within its control to ensure that the License Area is depicted on all official navigation maps as a "no anchoring" area.

12. CONSTRUCTION.

12.1. **No Construction Without Required Regulatory Approvals.** Licensee shall not commence Construction Activities, until all required Regulatory Approvals have been obtained and any fees associated with such Regulatory Approvals have been paid.

12.2. **Use of Other Port Property for Construction.** For purposes of construction, maintenance, repair, and replacement of the Project and subject to Regulatory Approvals, Licensee will have the temporary right to use areas owned and controlled by Port adjacent to and in the immediate vicinity of the License Area (each such use, an "Accessory Use") subject to the following conditions:

(a) For all construction activities during the Construction Period, no later than thirty (30) days prior to commencement, Licensee must submit a description of the planned

Accessory Use (including any temporary installations), a map of the area Licensee proposes to use, copies of Regulatory Approvals necessary/obtained for the Accessory Use (excluding any by Port) and start and end dates for Accessory Use of each area.

(b) For any other Accessory Use that will exceed thirty (30) days, Licensee must seek Port's written approval no later than thirty (30) days prior to the proposed start date of each such use by submittal of a description of the planned Accessory Use (including any temporary installations), a map of the area Licensee proposes to use, copies of Regulatory Approvals necessary/obtained for the Accessory Use (excluding any by Port) and start and end dates for Accessory Use of each area. Port, as a condition of approval, may impose additional insurance requirements and may require the payment of a market rate license fee where Port land is being used for construction laydown or similar activities.

Each Accessory Use (subject to Port approval if required above) shall be deemed a Permitted Activity hereunder and each area used for an Accessory Use shall be deemed to be part of the License Area under this License and shall be incorporated into this License without further action by the Parties. The license provided by this Section 12.2 shall be on all the terms and conditions of this License and any non-compliance shall constitute an Event of Default of this License. Each Accessory Use shall expire without notice or other action by Port on the later of the end date described in Licensee's submittal or the expiration of the Regulatory Approval issued by Port.

12.3. *Investigations; Sampling Activity*

(a) Unless specifically required by Laws or a Regulatory Agency, Licensee shall not generate any investigation-derived waste and shall perform geotechnical sampling only and not environmental sampling.

(b) Licensee shall provide Port with copies of all boring logs, sample or laboratory test results promptly upon receipt and copies of any reports prepared by Licensee documenting the results of the work conducted by Licensee pursuant to this License.

(c) Licensee must refill, compact and replace surface covering for onshore all trenches, holes or pits using the same or better quality material to the level of the original surface penetrated. Any onshore trenches, holes or pits having a diameter dimension that could create a safety hazard for persons must be adequately safeguarded and secured upon completion of each day's work.

12.4. *Documents; Records.* At least thirty (30) days prior to commencement of any Construction Activity within the northern HDD Area, the southern HDD area, or the 23rd Street Portion, separately and respectively, or by such date as required by Port permit, Licensee shall provide Port with copies of the following documents and any other documents reasonably requested by Port including those required by Port permits:

(a) A set of final engineering drawings for the northern HDD Area, the southern HDD area, and the 23rd Street Portion, respectively, as issued for construction showing all details such as coordinates for both exit and entry pits, proposed alignment bearing minimum bend radius, structural details for foundation and support for the near shore facilities, and other related information certified by a California registered civil/structural engineer.

(b) As to each of the northern HDD Area and the southern HDD Area, respectively, a copy of a geotechnical report certified by a California registered geotechnical engineer including any geotechnical recommendations and confirmation of the adequacy of the proposed HDD program at the intended depth based on the existing subsurface conditions, and the geotechnical recommendations for the supporting structures for the near shore facilities.

(c) As to each of the northern HDD Area and the southern HDD Area, respectively, a copy of the HDD contractor's work execution plan, including manufacturers specifications for the specific boring machine that will be used, its tolerance limits, MSDS for

the drilling mud and its additives, and health and safety plan. The plan must also include any abandonment contingency plans in case the boring operations are forced to be suspended and a partially completed bore hole be abandoned.

(d) A copy of the latest construction schedule timeline chart.

(e) A project-specific hazardous spill contingency plan, with specific designation of the onsite person who will have the responsibility of implementing the plan. The spill plan must include potential minor and major scenarios, preventive measures, equipment available onsite, spill notification protocol and procedures, etc. The plan must provide that the primary marine work vessel shall carry on board a minimum of 400 feet of sorbent boom, five bales of sorbent pads at least 18" x 18" square and a small powered boat for rapid deployment to contain and clean up any small spill or sheen on the water surface. The plan must also provide for the provision of additional spill containment and clean up resources in the event of an accident that exceeds the rapid clean up capability of the onsite work force. In the event of an oil spill during construction that impacts State or Port waters, in addition to U.S. Coast Guard, notification shall also be provided as soon as possible to the State Office of Emergency Services at (800) 852-7550, State Lands Commission response number at (562) 590-5201 and Port's response number at (415) 274-0276 (as those numbers may be updated per the plan).

(f) A critical operations and curtailment plan for marine work vessels operating in the License Area. The plan must define the limiting conditions of sea state, wind, or any other weather conditions that exceed the safe operation of the vessels and equipment or divers in the water, that hinder potential spill cleanup or in any way pose a threat to personnel or the safety of the environment. The plan must also identify the onsite person with authority to determine critical conditions and suspend the work operations when needed.

12.5. *Project Requirements.*

(a) Licensee shall maintain a logbook on all marine work vessels utilized during operations conducted under this License to keep track of all debris created by objects of any kind that fall into the water. The logbook should include the type of debris, date, time and location to facilitate identification and location of debris for recovery and site clearance verification.

(b) At least two (2) weeks prior to commencement of any Construction Activity in the Bay, Licensee shall file an advisory of pending construction operations with the local U.S. Coast Guard District Office for publication in the Local Notice to Mariners. Licensee shall provide Port a copy of the Notice to Mariners.

(c) Within one hundred twenty (120) days of completion of the ZA-1 Line Licensee shall deliver to Port:

(i) Two complete sets of "as-built" plans certified by a California registered Civil Engineer, showing the final plan and profiles of the ZA-1 Line Equipment in the License Area, and all field changes or other modifications to the plans as originally approved for construction; and

(ii) A post construction written report confirming completion in accordance with the approved plans, describing any field changes with the justification, any accidents or spills affecting the waterway and corrective measures taken, and any other extraordinary conditions that occurred during the course of the Project.

12.6. *Prohibited Construction Charge.* In the event Port determines after inspection of the License Area that Licensee has commenced Construction Activities prior to obtaining all the required permits and Regulatory Approvals and payment of the applicable fees, then Licensee shall immediately cease the Prohibited Construction and shall pay to Port, as an additional charge, an amount equaling Three Hundred Dollars (\$300.00), as increased subject to Section 4.3, upon delivery of written notice to Licensee to cease the prohibited construction ("Notice to Cease Prohibited Construction"). In the event Port determines in subsequent inspection(s) of the

License Area that Licensee has not ceased the prohibited construction, then Licensee shall pay to Port, as an additional charge, an amount equaling Four Hundred Dollars (\$400.00), as increased subject to Section 4.3, for each additional Notice to Cease Prohibited Construction delivered to Licensee. The Parties agree that the charges associated with each inspection of the License Area and delivery of the Notice to Cease Prohibited Construction, if applicable, represent a fair and reasonable estimate of the administrative cost and expense which Port will incur by reason of Port's inspection of the License Area and Licensee's failure to comply with the applicable Notice to Cease Prohibited Construction and that Port's right to impose the foregoing charges shall be in addition to and not in lieu of any and all other rights under this License, at law or in equity.

Licensee's failure to comply with the applicable Notice to Cease Prohibited Construction and Port's right to impose the foregoing charges shall be in addition to and not in lieu of any and all other rights and remedies of Port under this License, at law or in equity. The amounts set forth in this Section shall be due within three (3) business days following delivery of the applicable Notice to Cease Prohibited Construction. By signing this License, each Party specifically confirms the accuracy of the statements made in this Section and the reasonableness of the amount of the charges described in this Section.

13. REPAIR AND MAINTENANCE.

Licensee, at its sole cost and expense, (a) shall repair and maintain the ZA-1 Line Equipment and the License Area as necessary to prevent threats to health, safety or the environment and may make other repairs all in compliance with all applicable Laws; and (b) in the event that Licensee shall make any excavation on any onshore portions of the License Area, Licensee shall restore said portion of the (including any surrounding area damaged or affected by such excavation) as nearly as reasonably practicable to its condition prior to such excavation, including without limiting the generality of the foregoing, pavement, sidewalks, lawns and shrubs and as may be required by Regulatory Approvals. Port shall not be obligated to make any repairs, replacement or renewals of any kind, nature or description whatsoever to the License Area or to any improvements or alterations now or hereafter located thereon. Licensee acknowledges and agrees that, except in the case of an emergency, Licensee shall provide advance written notice, obtain all Regulatory Approvals (along with full payment of all fees and charges associated with obtaining the same), and coordinate with Port prior to performing any repair or maintenance of the ZA-1 Line Equipment permitted under this License.

14. SURRENDER; EQUIPMENT REMOVAL PLAN.

(a) Upon expiration or within twenty four (24) months of the earlier termination of this License, Licensee shall surrender the License Area clean, free of debris, waste, and Hazardous Materials, and free and clear of all liens and encumbrances other than liens and encumbrances existing as of the date of this License and any other encumbrances created by Port. Licensee shall, subject to Section 14(c) below and applicable Laws, remove all portions of the ZA-1 Line Equipment and all material or structures within the License Area, including fills, in accordance with the methods and schedules of an Equipment Removal Plan developed and paid for by Licensee as that plan is approved by Port.

(b) Licensee shall submit a final Equipment Removal Plan to Port and to all Regulatory Agencies for Regulatory Approvals no less than eighteen (18) months prior to the expiration or earlier termination of this License. The plan must contain the following:

(i) A detailed description of the methods to be employed to remove ZA-1 Line Equipment and all other improvements listed in subsection (a) immediately above, including their ultimate disposition;

(ii) Supplemental environmental information that addresses any differences between the impacts described and analyzed in the MND and the planned removal operations, to enable Port to comply with applicable Laws;

(iii) A schedule for completion of the removal of the ZA-1 Line Equipment by ninety (90) days following the expiration or earlier termination of this License, unless that term is extended in writing by Port; and

(iv) Identification of the entities to be employed to execute the Equipment Removal Plan.

(c) Port may choose to direct Licensee in writing to leave all or part of the ZA-1 Line Equipment within the License Area in place at no cost to Port. Should that occur, Licensee shall deliver to Port such documentation as may be necessary to convey title to such remaining improvements to Port free and clear of any liens, mortgages, loans or other encumbrances. Port shall Indemnify Licensee as to any Claims arising from any improvements that Port has directed Licensee to leave in place and to which Port takes title.

(d) Should Licensee fail to remove the ZA-1 Line Equipment pursuant to the requirements of this Section, Licensee agrees it will be deemed abandoned and Port may elect to sell it and offset against the sales proceeds Port's storage, removal, and disposition costs without notice to Licensee. Licensee hereby waives the benefits of California Civil Code Section 1993, to the extent applicable.

(e) If Licensee fails to surrender the License Area as required by this Section, Licensee shall Indemnify Port from all damages resulting from Licensee's failure to surrender the License Area, including, but not limited to, any costs of Port to enforce this Section and Claims made by a succeeding licensee or tenant resulting from Licensee's failure to surrender the License Area as required together with, in each instance, reasonable attorneys' fees and costs.

(f) Licensee' obligation under this Section shall survive the expiration or earlier termination of this License.

15. REQUIRED REMOVAL OR RELOCATION OF THE ZA-1 LINE EQUIPMENT.

15.1. *Required Removal or Relocation.* Licensee agrees that it will remove or relocate without expense to Port or City any ZA-1 Line Equipment installed, used and maintained under this License, if and when such removal or relocation is made necessary by any lawful change of grade, alignment or width of any street or right of way, or by any work to be performed under the governmental authority of Port or the City and upon written notice of the same by Port or City. After receipt of a notice requesting relocation/removal of the ZA-1 Line Equipment, Licensee and the Port/City will use commercially reasonable and technically feasible efforts to facilitate the Port's/City's design and engineering of any Port or City project requiring such removal or relocation to minimize time and expense to both Parties. The Parties will negotiate in good faith to amend this License to the extent necessary to reflect the new License Area and any adjustment in fees shall be calculated pursuant to the methodology used to calculate Fees as described in Section 9.

In the event that: (a) applicable law prohibits the removal or relocation of the ZA-1 Line Equipment; or (b) the required relocation would render the ZA-1 Line Equipment permanently unusable and thereby defeat the purpose of this License or; (c) despite Licensee's good faith efforts, a Regulatory Agency having jurisdiction over the ZA-1 Line Equipment prohibits Licensee from removing or relocating the ZA-1 Line Equipment; or (d) the Port or City can reasonably redesign or reroute such work at significantly less cost than the cost to Licensee to relocate or remove the ZA-1 Line Equipment, Port and Licensee agree to negotiate in good faith to allow for the Port or City to proceed in an alternative manner acceptable to all Parties, as evidenced in writing signed by Licensee and Port or City, as applicable, conditioned on Licensee bearing all commercially reasonable incremental costs of the City/Port alternative (where incremental means the difference between the Port's/City original conflicting design and the Port's/City /Port's alternative design).

Licensee shall remove or relocate the ZA-1 Line Equipment, pursuant to an Equipment Removal Plan as described in Section 15, within thirty-six (36) months subject to Force Majeure and reasonable extensions by Port or City after notice has been given under this Section.

To the extent that all or any portion of the License Area is surrendered as a result of a removal or relocation of the ZA-1 Line Equipment as provided by this Section, Licensee shall comply with the provisions Section 14 (Surrender).

15.2. **Force Majeure Delay.** The dates and times by which Licensee must perform the obligations described in this Section 15 will be extended by Force Majeure. To obtain the benefit of an extension of time due to Force Majeure (in each instance, a "Force Majeure Delay"), Licensee must give Port and City written notice within sixty (60) days after the earlier of the Force Majeure event or Licensee's discovery of the Force Majeure event causing the delay to occur ("Force Majeure Notice") of: (i) the cause of the delay; (ii) Licensee's reasonable estimate of the length of the Force Majeure Delay. Unless the City or Port objects to Licensee's estimate of the period of Force Majeure Delay within ten (10) days after timely receipt of a Force Majeure Notice, the Force Majeure Delay will be the period specified in the Force Majeure Notice. The Force Majeure Notice must display prominently on the envelope enclosing such notice and the first page of such notice a statement substantially the following form (including emphasis): **"FORCE MAJEURE DELAY NOTICE. IMMEDIATE ATTENTION REQUIRED. FAILURE TO RESPOND WITHIN TEN (10) BUSINESS DAYS WILL RESULT IN A FORCE MAJEURE DELAY AS DESCRIBED IN THIS NOTICE."**

16. SCREENING OF POTRERO SWITCHYARD

16.1. **Screening.** Provided that Port issues Notice to Screen (as defined below), Licensee must construct a Screen in accordance with this Section as a condition to and as additional consideration for this License.

16.2. **Requirement for Screen.** Any time within ten (10) years after the Effective Date, Port may provide notice ("Notice to Screen") to Licensee of Port's election to have Licensee (1) enclose a substantial portion of the Potrero Switchyard in a building, or (2) surround a significant portion of the Potrero Switchyard with a perimeter screen (either, a "Preferred Screen Design"). Promptly following the Notice to Screen, Licensee will (i) prepare the project description and conceptual design for the Preferred Screen Design including architectural and aesthetic qualities consistent with Licensee's customary protocols for screening substation facilities in dense urban areas; and (ii) initiate environmental review if required by CEQA, apply for any required Regulatory Approvals to construct the Preferred Screen Design and file any pre-construction applications required for reimbursement through electricity rates.

16.3. **Screen Design, and Approvals.**

(a) Licensee will: (i) present to the Port's Waterfront Design Advisory Committee or similar successor body designated by Port ("WDAC") its proposed design for the Screen, (ii) incorporate into its proposed design any WDAC's recommendations (which Licensee acknowledges may reflect the WDAC's and the Port's desire and intention to accommodate projected growth within the City's Central Waterfront area, south of Mission Bay and east of the I-280 freeway), to the extent such recommendations would not materially adversely impact the operation of the Potrero Switchyard ("Revised Screen Design"), and (iii) obtain confirmation from WDAC that the Revised Screen Design has adequately addressed WDAC's prior recommendations.

(b) Following confirmation from WDAC that the Revised Screen Design has adequately addressed WDAC's recommendations, Licensee will use commercially reasonable efforts to: (i) obtain any necessary Regulatory Approvals to commence construction of the Revised Screen Design and (ii) obtain all other required approvals to commence construction of the Revised Screen Design.

(c) Subject to Force Majeure Delays on the terms and conditions described in Section 15.2, Licensee must complete construction of the approved Revised Screen Design no later than five (5) years after its receipt of the Notice to Screen.

16.4. **Redesign.** If Licensee fails to obtain necessary approvals (except for approval for reimbursement through electricity rates) despite its commercially reasonable efforts or upon receipt of a Force Majeure Notice relating to the Revised Screen Design, Port may require Licensee to redesign the Screen in a manner that would allow the Screen to be constructed. Such redesign will be subject to the terms and conditions of this Section 16.

17. COMPLIANCE WITH LAWS; PORT ACTING AS REAL PROPERTY OWNER.

17.1. **Compliance with Laws.** All activities performed on the License Area by Licensee its Agents shall be done in accordance with all then applicable Laws.

17.2. **Proprietary Capacity.** Licensee understands and agrees that Port is entering into this License in its capacity as a property owner with a proprietary interest. Except as specifically stated herein, Licensee further understand and agree that no approval by Port for purposes of this License shall be deemed to constitute any approval required by any federal, state, regional or City authority. Before beginning any work in the License Area, Licensee shall obtain any and all necessary permits and other Regulatory Approvals for conducting the Permitted Activities and shall maintain such approvals as necessary throughout the Term of this License. Promptly upon receipt of such approvals, Licensee shall deliver copies to Port. Port shall cooperate with Licensee, at no cost to Port, to the extent necessary to obtain applicable approvals. To the fullest extent permitted by Law, Licensee agree to indemnify and hold the Indemnified Parties harmless from and against any loss, expense, cost, damage, attorneys' fees, penalties, claims or liabilities which City or Port may incur as a result of Licensee's failure to obtain or comply with the terms and conditions of any Regulatory Approval. The indemnity obligation in this paragraph shall survive the expiration or termination of this License.

17.3. **Regulatory Approval.** Licensee understands that Licensee's activity on the License Area may require Regulatory Approval(s). Licensee shall be solely responsible for obtaining any such Regulatory Approval. All costs associated with applying for and obtaining any necessary Regulatory Approval shall be borne solely and exclusively by Licensee. Licensee shall be solely responsible for complying with any and all conditions imposed by regulatory agencies as part of a Regulatory Approval; provided, however, Licensee shall not agree to the imposition of conditions or restrictions in connection with its efforts to obtain a permit or other entitlement from any Regulatory Agency (other than Port), if Port is required to be a co-permittee under such permit, or if the conditions or restrictions it would impose on the project could affect use or occupancy of other areas controlled or owned by Port or would create obligations on the part of Port (whether on or off of the License Area), other than those expressly acknowledged in Section 11(b) of this License, to perform or observe, unless in each instance Port has previously approved such conditions in writing, in Port's sole and absolute discretion.

Any fines or penalties imposed as a result of the failure of Licensee to comply with the terms and conditions of any Regulatory Approval shall be promptly paid and discharged by Licensee, and Port shall have no liability, monetary or otherwise, for said fines and penalties.

Without limiting the terms and conditions of this Section, Licensee agrees and acknowledges that (i) Port has made no representation or warranty that any required Regulatory Approval can be obtained, (ii) although Port is an agency of the City, Port has no authority or influence over any governmental officials, departments, boards, commissions or agencies responsible for the issuance of such required Regulatory Approvals, (iii) Port is entering into this License in its capacity as a landowner with a proprietary interest in the License Area and not as a regulatory agency of the City with certain police powers, and (iv) Licensee is solely responsible for obtaining any and all required Regulatory Approvals in connection with the Permitted Activity on, in or around the License Area. Accordingly, Licensee understands that there is no

guarantee, nor a presumption, that any required Regulatory Approval(s) will be issued by the appropriate Regulatory Agency and Port's status as an agency of the City shall in no way limit the obligation of Licensee to obtain approvals from any Regulatory Agencies (including Port) which have jurisdiction over the License Area. Licensee hereby releases and discharges Port from any liability relating to the failure of any Regulatory Agency (including Port) from issuing any required Regulatory Approval.

18. HAZARDOUS MATERIALS.

18.1. **Hazardous Materials.** Licensee shall Handle all Hazardous Materials present on or introduced by Licensee, its Agents or Invitees on the License Area during the Term of this License in compliance with all Environmental Laws. Licensee shall protect its employees and the general public in accordance with all Environmental Laws. Port or its Agents may from time to time request, and Licensee shall be obligated to provide, information reasonably adequate for Port to determine that any and all Hazardous Materials are being Handled in a manner which complies with all Environmental Laws.

18.2. **Removal/Remedial Action of Hazardous Materials.** Nothing in this Section 18.2 shall limit the parties' rights and obligations under Section 14 (Surrender/Equipment Removal Plan). Prior to the expiration or within twenty-four (24) months of the earlier termination of this License, Licensee, at its sole cost and expense, shall remove and/or Remediate any and all Hazardous Materials Released in, on, under or about the License Area by Licensee or its Agents or Invitees as a result of Licensee's use or the Permitted Activities during the Term of this License to the Port's reasonable satisfaction taking into consideration any requirement of a Regulatory Agency for such Investigation or Remediation provided that in no case shall the Port require removal or Remediation where a Regulatory Agency with jurisdiction over the removal or Remediation has determined that the Port's proposed removal or Remediation requirement would be unlawful or more detrimental to the environment than other no action alternatives. Nothing herein shall be construed to waive Licensee's rights to seek recovery or contribution from any third party responsible for such Hazardous Material. Notwithstanding the foregoing, Licensee shall not be obligated to remove any Hazardous Materials introduced on the License Area solely by the City, Port, or their respective Agents, except to the extent Licensee Exacerbates such Hazardous Materials conditions.

Prior to or within twelve (12) months following the expiration or earlier termination of this License, Port shall have the right but not the obligation to conduct an inspection and audit, at Licensee's cost, of the License Area for the sole purpose of confirming the adequate removal and/or Remediation of Hazardous Materials associated with a Release in, on, under, or about the License Area by Licensee or its Agents or Invitees as a result of Licensee's use or the Permitted Activities during the Term. Such inspection and audit shall not extend beyond the scope that is either reasonably necessary to make such confirmation or otherwise required by a Regulatory Agency. Port will seek Licensee's concurrence on the selection of any third party entity Port engages to conduct such inspection and audit, which Licensee shall not unreasonably withhold, condition or delay. Port's failure to conduct an audit or to detect conditions if any audit is conducted shall not be deemed to be a release of any liability for environmental conditions subsequently determined to be Licensee's responsibility under this License. If Licensee fails to comply with this provision, Port may perform the removal or remedial action at Licensee's sole cost and expense, and Licensee shall immediately reimburse Port therefor. All costs of storage, shipping and disposal of extracted soils and groundwater as a result of Licensee's use or Permitted Activities shall be the responsibility of Licensee including, without limitation, the costs of preparation and execution of shipping papers, including but not limited to manifests.

18.3. Licensee's Environmental Condition Notification Requirements.

(a) Licensee shall notify Port upon the issuance of any environmental permit, approval or license issued by a Regulatory Agency related to Licensee's activities on the License Area and shall provide Port with a copy of such documents as requested from Port from time to

time, and shall provide to Port any hazardous waste generator identification numbers related to the License Area issued by the U.S. Environmental Protection Agency or the California Environmental Protection Agency, to itself, its sublicensees or Agents.

(b) Section 4.1.2 of the CPUC's Mitigation Monitoring, Compliance, and Reporting Plan requires the CPUC's environmental field monitor to submit a weekly report to the CPUC's project manager documenting PG&E's compliance with the MND and conditions imposed by other Regulatory Agencies. Licensee shall forward a copy of the weekly report to Port when it receives the same from the CPUC's environmental consultant.

(c) Licensee shall immediately notify Port in writing of, and shall contemporaneously provide Port with a copy of:

(i) Any written notice of release of Hazardous Materials in or on the License Area that is provided by Licensee or any other user of the License Area to a governmental or Regulatory Agency including any City agency other than Port;

(ii) Any notice of a violation, or a potential or alleged violation, of any Environmental Law that is received by Licensee or any other user of the License Area from any governmental or Regulatory Agency including any City agency other than Port;

(iii) Any inquiry, investigation, enforcement, cleanup, removal, or other action that is instituted or threatened by a governmental or Regulatory Agency, including any City agency other than Port, against Licensee or any other user of the License Area and that relates to the Release of Hazardous Material on or from the License Area;

(iv) Any claim that is instituted or threatened by any third Party against Licensee or any other user of the License Area and that relates to any Release of Hazardous Materials on or from the License Area; and

(v) Any notice of the termination, expiration or substantial amendment of any environmental operating permit or license needed by Licensee or any other user of the License Area related to Licensee's use of the License Area.

18.4. *Storm Water Pollution Prevention.*

(a) Licensee must comply with the applicable provisions of the Statewide General Permit for Discharge of Industrial Storm Water issued by the State Water Resources Control Board, including filing a Notice of Intent to be covered, developing and implementing a site-specific Storm Water Pollution Prevention Plan ("SWPPP"), and conducting storm water monitoring and reporting, if applicable. Licensee's SWPPP and a copy of a Notice of Intent for Licensee's License Area must be submitted to Port's Real Estate Division before beginning on-site operations, if applicable.

(b) In addition to requiring compliance with the permit requirements under Subsection (a), Licensee shall comply with the post-construction storm water control provisions of the Statewide General Permit for Discharge of Storm Water from Small Municipalities and the San Francisco Storm Water Design Guidelines, subject to review and permitting by the Port's Engineering Division if applicable.

18.5. *Disclosure of Hazardous Materials.* Licensee is hereby advised that Hazardous Materials may be present on the License Area, including elevated concentrations of petroleum hydrocarbons, polynuclear aromatic hydrocarbons, heavy metals, and other contaminants commonly found in public rights-of-way, fill and in Bay sediments as further described in the reports listed in *Schedule 1* attached hereto. By execution of this License, Licensee acknowledges that the notice set forth in this Section satisfies the requirements of California Health and Safety Code Section 25359.7 and related statutes. Licensee agrees to provide this information to its sublicensees, Agents, Contractors and Invitees in connection with their use of the License Area.

18.6. **Failure to Comply.** Failure to comply with this Section 18 shall constitute a material default under this License. In the event of such default, Port shall have all rights available under this License and at law or equity including, without limitation, the right to either:

(a) Terminate this License and collect damages Port incurs as a result of such default, including, without limitation, cleanup costs incurred by Port resulting from the cleanup of any Hazardous Materials present in or on the License Area, soil, or groundwater; or

(b) Continue this License and require Licensee to clean up such Hazardous Materials at Licensee's sole expense.

18.7. **Survival.** Licensee's obligations under this Section 18 shall survive the expiration or earlier termination of this License.

19. NO COSTS TO PORT.

Licensee shall bear all costs or expenses of any kind or nature in connection with this License, including but not limited to, all costs of excavation, construction, operation, sampling, monitoring, testing, transporting and disposing of soil or groundwater and backfilling, and shall keep the License Area free and clear of any mechanics' liens or other claims of lien arising out of or in any way connected with the Permitted Activities.

20. REPAIR OF DAMAGE.

If any portion of the License Area, or any other property of Port or its Agents located on or about the License Area, is damaged by any of the Permitted Activities conducted by Licensee or its Agents, Licensee shall, at its own cost and expense, repair any and all such damage and restore said property to as nearly as reasonably practicable, the condition that existed prior to such damage. Such repair shall be done immediately if the damage creates an unsafe condition or, if the damage does not create an unsafe condition, within a reasonable period but not longer than the time frame specified in Section 24 below.

21. INDEMNIFICATION.

21.1. **General Indemnity.** Licensee agrees to indemnify, hold harmless and defend, the City and Port and their respective officers, agents and employees (collectively, the "Indemnified Parties"), without cost to the Indemnified Parties, from and against any and all claims, judgments, losses, costs, expenses, injuries, settlements, liens, damages, penalties, fines or liabilities including, without limitation, interest, engineering fees, consultant fees and reasonable attorneys' fees of whatever kind (collectively "Claims") arising in any manner out of (a) any injury to or death of any person or damage to or destruction of any property occurring in, on, under or about the License Area or any part thereof, including from any Accessory Use, whether to the person or property of Licensee or its Agents, or third persons, to the extent resulting from Licensee's use of the License Area under this License; (b) any failure by Licensee or its Agents to faithfully observe or perform any of the terms, covenants or conditions of this License; or (c) the use of the License Area or any activities conducted thereon under this License by Licensee or its Agents.

21.2. **Toxics Indemnity.** Subject to the explicit limitation on Licensee's liability under Section 10.3, Licensee agrees to indemnify, hold harmless and defend, without cost to the Indemnified Parties from any and against any Claims resulting from all or any of the following: (a) any Release of Hazardous Materials at the License Area caused by or allowed by Licensee or its Agents or invitees during the Term; (b) any requirement of a Regulatory Agency for Investigation or Remediation of any Release of Hazardous Materials at the License Area caused or allowed by Licensee or its Agents during the Term including any Claim arising solely from the discovery of pre-existing contamination discovered during the course of the Project even if such Claim does not involve a Release by Licensee or its Agents; (c) any Handling of any Hazardous Materials produced by Licensee during the performance of the Permitted Activities; or (d) any breach of or failure to perform or observe any term, covenant, or agreement in this

License to be performed or observed by Licensee, including, but not limited to any violation of any Environmental Law.

21.3. **General.** These indemnities shall apply regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on Port or City, except that these indemnities do not extend to any Claims caused solely by the gross negligence or willful or intentional misconduct of Port, its officers, agents or employees. The provisions of this section shall survive termination of this License with respect to any Claim arising out of Licensee's activities. In addition to Licensees' obligation to Indemnify Port and City, Licensee specifically acknowledges and agrees that it has an immediate and independent obligation to defend Port and City from any claim that actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent. Licensees' obligation to defend shall arise at the time such claim is tendered to Licensee by Port and/or City and shall continue at all times thereafter.

22. ASSIGNMENT; USE BY OTHERS.

22.1. **Assignment; Port Consent Required.** This License is personal to Licensee and shall not be assigned, except with the written consent by Port, which shall not be unreasonably withheld; provided, however, that Licensee shall have the right, with notice delivered at least sixty (60) days prior to the assignment, to assign Licensee's interest in this License to an Affiliate of PG&E (a "Permitted Assignee") without the prior written consent of Port so long as the Permitted Assignee assumes all of Licensee's obligations under this License.

22.2. **Request for Assignment.** Except in connection with an assignment to a Permitted Assignee, Licensee shall give Port at least one hundred twenty (120) days prior written notice of any desired assignment (herein "Notice of Request to Assign") and shall provide Port with the following information in writing: (a) the name, address, legal composition and ownership of the proposed assignee, (b) the current balance sheet and profit and loss statements (herein "financial statements") for the proposed assignee and for any other entity or person who is to be liable for Licensee's obligations under this License, such financial statements to be certified in writing to be true and correct and to be prepared in accordance with generally accepted accounting principles and to cover a period of three years prior to the proposed effective date of the assignment (or for such shorter period as the proposed assignee or other person may have been in existence), (c) a full description of the terms and conditions of the proposed assignment, including copies of any and all proposed assignment agreements or other documents and instruments concerning the proposed assignment, (d) a Pre-screening and Leasing Application, or other similar document, completed by the proposed assignee and delivered to Port, and (e) any other information, documentation or evidence as may be requested by Port, all in sufficient detail to enable Port to evaluate the proposed assignment and the prospective assignee. Licensee's Notice of Request to Assign shall not be deemed to have been served or given until such time as Licensee has provided Port with all information set forth hereinabove. Licensee shall immediately notify Port of any modifications to the proposed terms of the assignment.

If Port consents to the Assignment, Licensee must close the Assignment on the terms stated in the Notice of Request to Assign within one hundred twenty (120) days after Port notifies Licensee of Port's consent. If the assignment agreement does not close within the 120-day period, then Port's consent will expire, unless Licensee gives Port a new Notice of Request to Assign, in which case Port again will be entitled to exercise any of the options under this Section.

22.3. **Required Provisions in Every Assignment.** Each and every assignment agreement shall contain the following provisions:

(a) Each assignee shall assume all obligations of Licensee under this License and shall be jointly and severally liable with Licensee for payment of all Fees and performance of all terms, covenants and conditions to be performed by Licensee hereunder.

(b) A clause naming as additional insureds under all liability and other insurance policies "THE CITY AND COUNTY OF SAN FRANCISCO, THE SAN FRANCISCO PORT COMMISSION AND THEIR OFFICERS, AGENTS EMPLOYEES AND REPRESENTATIVES".

(c) Prior to the effective date of an assignment, assignee shall deliver to Port, a replacement letter of credit complying with the terms and conditions of Section 10.3 above.

22.4. *Use by Others.* With Port's prior written approval as described in this Section, Licensee may contract with third parties to allow use of the unused capacity of the ZA-1 Line (including the fiber optic cable) (each a "User Agreement") subject to any required Regulatory Approvals. Port will not unreasonably condition, withhold or delay its approval, provided that, the Parties agree that it will be reasonable for Port to withhold its approval if Port does not receive at least fifty percent (50%) of the gross revenues received by Licensee for allowing any unused capacity of the ZA-1 Line.

Licensee shall give Port at least ninety (90) days prior written notice of a proposed User Agreement and shall provide Port with the following information in writing: (a) the name, address, legal composition and ownership of the proposed user; (b) a list of any Regulatory Approvals required and obtained in connection with the proposal; (c) a description of the terms and conditions of the proposed use including the proposed financial compensation to Licensee and to Port; and (e) any other information, documentation or evidence as may be requested by Port, all in sufficient detail to enable Port to evaluate the proposal. If Port consents to the User Agreement, Licensee must close the User Agreement on the terms stated in the notice within ninety (90) days after Port notifies Licensee of Port's consent. If the User Agreement does not close within the 90-day period, then Port's consent will expire, unless Licensee gives Port a new notice, in which case Port again will be entitled to exercise any of the options under this Section.

Each User Agreement must provide that the user will be jointly and severally liable with Licensee for payment of all Fees and performance of all terms, covenants and conditions to be performed by Licensee hereunder with respect to the user's activities and a clause naming as additional insureds under all of user's liability and other insurance policies "THE CITY AND COUNTY OF SAN FRANCISCO, THE SAN FRANCISCO PORT COMMISSION AND THEIR OFFICERS, AGENTS EMPLOYEES AND REPRESENTATIVES".

22.5. *No Further Consent Implied.* A consent to one Assignment or User Agreement shall not be construed as a consent to a subsequent assignment or User Agreement. Except as set forth in Section 22.1 above, no interest in this License shall be assignable as to Licensee's interest by operation of Law without Port's written consent.

22.6. *Fees for Review.* Licensee shall reimburse Port for all costs, including without limitation, reasonable attorneys' fees, which are incurred by Port in connection with the review, investigation, processing, documentation and/or approval of any proposed assignment or User Agreement, including any assignment to a Permitted Assignee.

22.7. *No Release of Licensee.* The acceptance by Port of Fees or other payment from any other person shall not be deemed to be a waiver by Port of any provision of this License or to be a consent to any assignment, User Agreement or to be a release of Licensee from any obligation under this License. No assignment of this License or term of any User Agreement shall in any way diminish, impair or release any of the liabilities and obligations of Licensee, any guarantor or any other person liable for all or any portion of Licensee's obligations under this License.

22.8. *Failure to Comply.* Any Assignment or User Agreement that does not comply with this Section fully will constitute an incurable Event of Default and will be void as to Port and this License.

22.9. **Acknowledgement.** Licensee acknowledges and agrees that each of the rights of Port set forth in Section 22 is a reasonable limitation on Licensee's right to assign or sublet for purposes of California Civil Code Section 1951.4.

22.10. **Waiver of Liability.** The Indemnified Parties shall not be liable for any damage to the property of Licensee or its Agents, or for any bodily injury or death to any such Agent, resulting or arising from the condition of the License Area or its use by Licensee or for any cause arising at any time, including without limitation all Claims arising from the joint or concurrent, active or passive, negligence of the Indemnified Parties, with the exception of damage or injury caused by the gross negligence, willful or intentional misconduct of the Indemnified Parties. Under no circumstances shall any of the Indemnified Parties be liable under any circumstances for any consequential, incidental or punitive damages.

23. INSURANCE.

23.1. **Required Insurance.** Except as limited in Section 23.1(h), during the Term, Licensee shall maintain in full force and effect, at its own cost and expense at all times while Permitted Activities are being conducted, insurance in the amounts and coverages set forth below. Licensee shall have the right to self-insure with respect to any of the insurance requirements required of Licensee under this License. In the event that Licensee elects to self-insure, on or before the Effective Date and thirty (30) days in advance of each Anniversary Date or the date Licensee intends to begin self-insurance for any coverage, Licensee shall submit a certificate of self-insurance satisfactory to the Port signed by a duly authorized representative of Licensee, such certificate evidencing that Licensee's self-insurance program is in full force and effect and in compliance with and subject to all the terms, agreements, covenants, conditions and provisions of this License.

(a) Workers' Compensation, U.S. Longshore and Harborworker's Act Insurance and Jones Act Insurance as required by Law, with Employers' Liability limits not less than One Million Dollars (\$1,000,000.00) for each accident. In the event Licensee is self-insured for the insurance required pursuant to this Section 23.1(a), it shall furnish to Port a current Certificate of Permission to Self-Insure signed by the Department of Industrial Relations, Administration of Self-Insurance, Sacramento, California.

(b) Comprehensive General Liability Insurance with limits not less than Ten Million Dollars (\$10,000,000.00) for each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations, and Ten Million Dollars (\$10,000,000.00) General Annual Aggregate Limit (other than Products-Completed Operations). The Comprehensive General Liability Insurance provided shall cover any property damage or personal injury resulting from any drilling or excavation conducted as part of the Permitted Activities. However, this provision shall not apply to claims relating to investigation or remediation of any environmental conditions on the License Area.

(c) Comprehensive Automobile Liability Insurance with limits not less than One Million Dollars (\$1,000,000.00) each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned and Non-owned and hired auto coverage, as applicable.

(d) Contractor's Pollution Legal Liability Insurance with combined single limit of Two Million Dollars (\$2,000,000.00) each claim, Five Million Dollars (\$5,000,000.00) aggregate, and with coverage to include legal liability arising from the sudden and accidental release of pollutants, and no less than a one-year extended reporting period.

(e) Protection and Indemnity Insurance or other form of Watercraft Liability Insurance acceptable to Port, including collision liability with limits not less than Five Million Dollars (\$5,000,000) per each occurrence, including coverages for owned and non-owned watercraft.

(f) **Vessel Pollution Liability Insurance.** Licensee shall maintain, or require to be maintained, vessel pollution liability insurance coverage with limits not less than Five Million Dollars (\$5,000,000.00) per occurrence and Five Million Dollars (\$5,000,000.00) in the aggregate with a deductible not to exceed Fifty Thousand Dollars (\$50,000.00) or such lesser limits and deductible as are readily available in the insurance market at a commercially reasonable cost, which limits and deductible are subject to Port approval. The insurance should cover liability imposed under Federal Laws and the Laws of any state or subdivision thereof on the insured for any loss, damage, cost, liability or expense arising out of the sudden, accidental and unintentional discharge, spillage, leakage, emission or release of any substance of any kind into or upon the navigable waters of the United States or the adjoining shorelines.

(g) **Hull and Machinery Protection and Indemnity Insurance.** Licensee, at its sole cost and expense shall procure and maintain Hull and Machinery Protection and Indemnity Insurance in a form and with limits acceptable to the Port.

(h) **Construction Activities.** At all times during the Construction Period and any period during which Licensee performs maintenance, repair, removal or relocation of the ZA-1 Line Equipment within the License Area,

Licensee shall require its contractors to maintain (a) commercial general liability insurance with limits of not less than Three Million Dollars (\$3,000,000) combined single limit for bodily injury and property damage (including personal injury and death), and contractor's protective liability; and products and completed operations coverage in an amount not less than Five Hundred Thousand Dollars (\$500,000) per incident, One Million Dollars (\$1,000,000) in the aggregate; (b) comprehensive automobile liability insurance with a policy limit of not less than One Million Dollars (\$1,000,000) each accident for bodily injury and property damage, providing coverage at least as broad as the Insurance Services Office (ISO) Business Auto Coverage form covering Automobile Liability, and insuring against all loss in connection with the ownership, maintenance and operation of automotive equipment that is owned, hired or non-owned; (c) worker's compensation with statutory limits and employer's liability insurance with limits of not less than One Hundred Thousand Dollars (\$100,000) per accident, Five Hundred Thousand Dollars (\$500,000) aggregate disease coverage and One Hundred Thousand Dollars (\$100,000) disease coverage per employee. If Licensee has engaged Agents to work on the Project other than Licensee's contractors, Licensee shall cause such Agents to carry insurance that is consistent with industry custom and practice for work of similar nature and scope.

(i) Licensee shall carry "All Risk Property Insurance," which includes coverage during construction, testing, and start-up for any and all materials, equipment and machinery intended for the Project while at the site, off-site and during transit to the site.

(ii) Licensee shall require all providers of professional services, including architectural, design, engineering, geotechnical, and environmental professionals under contract with Licensee in connection with Permitted Activities within the License Area for any improvements or any alterations to maintain professional liability (errors or omissions) insurance, with limits not less than One Million Dollars (\$1,000,000.00) each claim and aggregate, with respect to all professional services provided to Licensee therefor.

23.2. General Insurance Matters. All liability insurance policies procured by Licensee for the specific purpose of meeting the requirements of this License and not otherwise met by Licensee's self-insurance program shall be endorsed to provide the following:

(a) That the **CITY AND COUNTY OF SAN FRANCISCO, THE SAN FRANCISCO PORT COMMISSION AND THEIR RESPECTIVE DIRECTORS, OFFICERS, AGENTS, AND EMPLOYEES** are named as additional insureds; and

(b) That such policies are primary insurance to any other insurance available to the additional insureds with respect to any claims arising out of this License and that insurance applies separately to each insured against whom claim is made or suit is brought.

(c) That no cancellation, major change of coverage, or expiration shall become effective or occur until at least thirty (30) calendar days after Licensee or Licensees' Agent, as the case may be, delivers and Port receives advance written notice as provided in Section 25 below. Licensee, upon notification of receipt by Port of any such notice, shall forthwith file with Port a certified copy of the required new or renewal policy or certificate for such policy. If Licensee makes any application to Port for an extension of time to enter the License Area to perform the Permitted Activities, Licensee shall submit evidence that the policies will be in effect during the requested additional period of time.

(d) If at any time during the Term, Licensee or its Agents, as the case may be, fail to maintain the required insurance in full force and effect, all work under this License shall be discontinued immediately, and shall not resume until notice is received by Port that the required insurance has been renewed to full force and effect for a period satisfactory to Port. Failure to maintain the required insurance within ten (10) days after notice by Port shall sufficient cause for immediate termination of this License.

(e) All insurance policies required to be maintained by Licensee hereunder shall be issued by an insurance company or companies reasonably acceptable to Port with an AM Best rating of not less than A-VIII and authorized to do business in the State of California. Licensee's compliance with this Section shall in no way relieve or decrease Licensee's liability under this License. Approval of insurance by Port shall not relieve or decrease the liability of Licensee, or its Agents, hereunder.

(f) **Claims Made Policy.** Should any of the insurance that Licensee is required to hold under this License be provided under a claims-made form, Licensee shall maintain such coverage continuously throughout the Term and, without lapse, for three (3) years beyond the expiration of this License, to the effect that, should occurrences during the Term give rise to claims made after expiration of this License, such claims shall be covered by such claims-made policies.

(g) **Annual Aggregate Limit.** Should any of the insurance that Licensee is required to hold under this License 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 annual aggregate limit, such annual aggregate limit shall be not less than double the occurrence limits specified above.

(h) **Certificates.** Certificates of insurance or self-insurance, along with additional insured endorsements in form and with insurers satisfactory to Port, evidencing all coverage's above shall be furnished to Port by Licensee's broker through the use of EXIGIS or another internet service as directed by Port prior to the Effective Date of this License, with complete copies of policies to be furnished promptly upon Port's request.

(i) Not more often than every ten (10) years and upon not less than sixty (60) days prior written notice, Port may require Licensee to add coverage or increase the insurance limits set forth in Section 23.1 above if Port or the City's Risk Manager determines that additional coverage or higher limits are required by prudent commercial practices with respect to risks comparable to those associated with the use of the License Area.

23.3. **Waiver of Subrogation.** Port and Licensee release each other, and their respective authorized representatives, from any claims for damage to the License Area or personal property of either Port or Licensee in or on the License Area which are caused by or result from risks insured against or under any property insurance policies carried by the Parties and in force at the time of any such damage, to the extent such claims for damage are paid by such policies. Each Party shall cause each property insurance policy obtained by it to provide that the insurance company waives all right of recovery by way of subrogation against the other Party in connection with any damage covered by any policy.

24. DEFAULT; REMEDIES.

24.1. **Default.** Except as otherwise provided for in this License, if Licensee fails to cure any violation of any term, covenant or condition of this License within forty-eight (48) hours after written notice of violation from Port, and is not actively pursuing such cure, such failure shall constitute an "Event of Default." If Port determines that there has been a violation of any term, covenant or condition of this License, Port shall provide Licensee ten (10) business days to remedy such default or, if it reasonably would require more than ten (10) business days to remedy such default, within a time reasonably necessary to remedy such default after Licensee's receipt of such written notice, provided Licensee has undertaken to cure such default within such ten (10) business day period and diligently pursues such efforts to cure to completion. Any such notice of violation shall specify the nature of the default. If the default has been remedied to the reasonable satisfaction of Port during this time, Port shall not terminate this License based upon such default. For purposes of this provision, written notice of violation shall be deemed sufficiently given if under Section 26.

24.2. **Remedies.** Upon an Event of Default by Licensee and following the applicable cure period set forth in Section 24.1 above, Port may, in its sole discretion, in addition to any other remedy Port may have at law or in equity, elect to terminate this License and Licensee's right to use the License Area. Upon any such termination, Licensee shall immediately vacate and discontinue its use of the License Area and surrender the License Area in accordance with Section 14 above and Port may take any and all action to enforce Licensee's obligations.

25. PORT'S ENTRY ON LICENSE AREA.

Port and its authorized Agents shall have the right to enter the License Area without notice at any time for the purpose of inspecting the License Area to determine whether the License Area is in good condition and whether Licensee is complying with its obligations under this License; and, except as provided in Section 11(b) of this License, to perform any necessary maintenance, repairs or restoration to the License Area. Port may enter the License Area at any time, without notice, in the event of an emergency. Port shall have the right to use any and all means that Port may deem proper in such an emergency in order to obtain entry to the License Area. Entry to the License Area by any of these means, or otherwise, shall not under any circumstances be construed or deemed to be a breach of Licensee's rights under this License. Port shall not be liable in any manner, and Licensee hereby waives any Claims for damages, for any inconvenience, disturbance, loss of business, nuisance, or other damage, including without limitation any abatement or reduction in Fees due hereunder, arising out of Port's entry onto the License Area for the purposes described in this Section, or entry by the public (as to those areas of the License Area that are public rights-of-way) onto the License Area.

26. NOTICES.

Any notice given under this License shall be in writing and given by delivering the notice in person, by commercial courier or by sending it by registered or certified mail, or Express Mail, return receipt requested, with postage prepaid, to the mailing address listed below or any other address notice of which is given. For the convenience of the Parties, copies of notices may also be given by facsimile at the numbers listed below.

Licensee: Pacific Gas and Electric Company
Attn: Land Rights Supervisor
Mail Code N10A, P.O. Box 770000
San Francisco, CA 94177
Telephone: (415) 973-7000
Facsimile: (415) 973-1522

Port: Port of San Francisco
Pier 1
San Francisco, California 94111
Attention: Director of Real Estate

Telephone: (415) 274-0400
Facsimile: (415) 274-0578

With a copy to: Port of San Francisco
Pier 1
San Francisco, California 94111
Attention: General Counsel

Telephone: (415) 274-0400
Facsimile: (415) 274-0494

Any mailing address may be changed at any time by giving written notice of such change in the manner provided above at least ten (10) days prior to the effective date of the change. All notices under this License shall be deemed given, received, made or communicated on the date personal receipt actually occurs or, if mailed, on the delivery date or attempted delivery date shown on the return receipt.

27. RECORDATION.

Licensee may record this License (or a memorandum thereof approved by Port) in the Official Records of the City and County of San Francisco and provide Port with a copy.

28. EXCLUSIVE BENEFIT.

The provisions of this License are for the exclusive benefit of City and Port and its successors and assigns and Licensee and shall not be deemed to be for the benefit of or confer rights upon any other person except as provided herein. Nothing herein shall be deemed a dedication of any portion of the License Area to or for the benefit of the general public.

29. SIGNS.

Except for any signs that may be required by Laws relating to the construction and operation of the Project, Licensee shall not have the right to place, construct or maintain any sign, advertisement, awning, banner or other exterior decoration in the License Area without Port's prior written consent which consent may be granted or withheld in Port's sole discretion. Any sign that Licensee is permitted to place, construct or maintain on the License Area shall comply with all Laws relating thereto, and Licensee shall obtain all Regulatory Approvals required by Laws.

30. HOLDING OVER.

30.1. **With Consent.** Any holding over after the expiration of the Term with the prior written consent of Port shall not constitute a renewal hereof, but shall be deemed a month-to-month license and shall be upon each and every one of the terms, conditions and covenants of this License, except that the annual License Fee shall be equal to one hundred twenty percent (120%) of the annual License Fee payable in the year immediately preceding the expiration of this License prorated by calendar month. Either Party may cancel said month-to-month license upon thirty (30) days written notice to the other Party.

30.2. **Without Consent.** Any holding over after the expiration of the Term without the prior written consent of Port shall not constitute a renewal hereof, but shall be deemed a month-to-month license and upon each and every one of the terms, conditions and covenants of this License, except that the annual License Fee shall equal two hundred percent (200%) of the annual License Fee payable in the year immediately preceding the expiration of this License

prorated by calendar month. Either Party may cancel said month-to-month license upon thirty (30) days written notice to the other Party.

31. MISCELLANEOUS.

This License may be amended or modified only by a written amendment signed by each of the Parties hereto. No waiver by a Party of any of the provisions of this License 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. This License may be executed in one or more originals or counterparts, each of which shall be an original but all of which together shall be deemed to constitute a single agreement. Time is of the essence as to each and every provision of this License. This License shall be construed and interpreted in accordance with the laws of the State of California and the City's Charter. This License contains all of the representations and the entire agreement between the Parties with respect to the subject matter of this License. Any prior correspondence, memoranda, agreements, warranties, or representations, whether written or oral, relating to such subject matter are superseded in total by this License. No prior drafts of this License or changes from those drafts to the executed version of this License shall be introduced as evidence in any litigation or other dispute resolution proceeding by any party or other person, and no court or other body should consider those drafts in interpreting this License. This License has been negotiated at arm's length between persons sophisticated and knowledgeable in the matters addressed. In addition, each party has been represented by experienced and knowledgeable legal counsel, or has had the opportunity to consult with counsel. Accordingly, the provisions of this License must be construed as a whole according to their common meaning in order to achieve the intents and purposes of the Parties, without any presumption (including a presumption under California Civil Code § 1654) against the Party responsible for drafting any part of this License.

32. WAIVER OF CLAIMS:

Licensee hereby waives on behalf of itself and its heirs, successors, and assigns, any and all rights which it may have to file a claim or bring an action of any kind or character against the City, Port, or their respective officers, agents, or employees, for damage to property or personal injury, including death, which might arise out of the use of the License Area under this License, except to the extent that such damage or injury results from any claims caused by the gross negligence, willful or intentional misconduct of City or Port or their officers, agents, or employees.

33. ATTORNEYS FEES.

If any Party hereto brings an action or proceeding (including any cross complaint or counterclaim) against any other Party by reason of a default, or otherwise arising out of this License, the prevailing Party in such action or proceeding shall be entitled to recover from the other Party its costs and expenses of suit, including but not limited to reasonable attorneys' fees, which shall be payable whether or not such action is prosecuted to judgment. "Prevailing Party" within the meaning of this section shall include, without limitation, a Party who substantially obtains or defeats, as the case may be, the relief sought in the action, whether by compromise, settlement, judgment or the abandonment by the other Party of its claim or defense. Attorneys' fees under this section shall include attorneys' fees and all other reasonable costs and expenses incurred in connection with any appeal. For purposes of this License, reasonable fees of attorneys of Licensees' in-house Law Department and the City Attorney's Office shall be based on the fees regularly charged by private attorneys with an equivalent number of years of professional experience (calculated by reference to earliest year of admission to the Bar of any State) who practice in San Francisco in law firms with approximately the same number of attorneys as employed by Licensee's in-house Law Department or the City Attorney's Office, respectively.

34. AUTHORITY.

If Licensee signs as a corporation or a partnership, each of the persons executing this License on behalf of such Licensee does hereby covenant and warrant that such Licensee is a duly authorized and existing entity, that such Licensee has and is qualified to do business in California, that such Licensee has full right and authority to execute this License and that each and all of the persons signing on behalf of such Licensee is authorized to do so. Upon Port's request, a Licensee shall provide Port with evidence reasonably satisfactory to Port confirming the foregoing representations and warranties.

35. MINERAL RESERVATION.

The State of California ("State"), pursuant to Section 2 of Chapter 1333 of the Statutes of 1968, as amended, has reserved all subsurface mineral deposits, including oil and gas deposits, on or underlying the License Area. In accordance with the provisions of such laws, Port and Licensee hereby acknowledge such rights including necessary ingress and egress rights and Licensee acknowledges that the exercise of such rights, if performed in a manner that would not cause the ZA-1 Line Equipment to become inoperable or result in conditions that do not comply with safety or reliability requirements that are standard in the industry, would not disturb or otherwise interfere with the rights provided by this License. Subject to applicable Laws, the Parties agree that the State may use the point that is shown as the "access point" on *Exhibit A-1* for ingress and egress. In no event shall Port be liable to Licensee for any Claims arising from such exploration or drilling, nor shall such exploration or drilling entitle Licensee to any abatement or diminution of the License Fees or otherwise relieve Licensee from any of its obligations under this License.

36. CITY REQUIREMENTS.

The San Francisco Municipal Codes (available at www.sfgov.org) and City and Port policies described or referenced in this License are incorporated by reference as though fully set forth in this License. The descriptions below are not comprehensive but are provided for notice purposes only; Licensee is charged with full knowledge of each such ordinance and policy and any related implementing regulations as they may be amended from time to time. Licensee understands and agrees that its failure to comply with any provision of this License relating to any such code provision shall be deemed a material breach of this License and may give rise to penalties under the applicable ordinance. Capitalized or highlighted terms used in this Section and not defined in this License shall have the meanings ascribed to them in the cited ordinance.

36.1. *Non Discrimination.*

(a) **Covenant Not to Discriminate.** In the performance of this License, Licensee covenants and agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), weight, height, association with members of classes protected under Chapters 12B or 12C of the Administrative Code or in retaliation for opposition to any practices forbidden under Chapters 12B or 12C of the San Francisco Administrative Code against any employee of Licensee, any City and County employee working with Licensee, any applicant for employment with Licensee, or any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Licensee in the City and County of San Francisco.

(b) **Sublicenses and Other Contracts.** Licensee shall include in all Sublicenses and other contracts relating to the License Area a nondiscrimination clause applicable to such Sublicensee or other contractor in substantially the form of Subsection (a) above. In addition, Licensee shall incorporate by reference in all Sublicenses and other contracts the provisions of Sections 12B.2 (a), 12B.2 (c)-(k) and 12C.3 of the Administrative Code and shall require all Sublicensees and other contractors to comply such provisions.

(c) **Non-Discrimination in Benefits.** Licensee does not as of the date of this License and will not during the Term, in any of its operations within the City and County of San Francisco or where the work is being performed for the City, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits (collectively "**Core Benefits**") as well as any benefits other than the Core Benefits between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2 of the San Francisco Administrative Code.

(d) **Condition to License.** As a condition to the effectiveness of this License, Licensee shall execute and deliver to Port prior to the Effective Date, the Nondiscrimination in Contracts and Benefits form approved by the HRC.

(e) **Penalties.** Licensee understands that pursuant to Section 12B.2(h) of the Administrative Code, a penalty of \$50.00 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this License may be assessed against Licensee and/or deducted from any payments due Licensee.

36.2. **MacBride Principles Northern Ireland.** Port and the City urge companies doing business in Northern Ireland to move towards resolving employment inequities and encourage such companies to abide by the MacBride Principles. Port and the City urge San Francisco companies to do business with corporations that abide by the MacBride Principles.

36.3. **Tropical Hardwood & Virgin Redwood.** Port and the City urge Licensee not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood product. Except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, Licensee shall not provide any items to the construction of the Project, or otherwise in the performance of this License which are tropical hardwoods, tropical hardwood wood products, virgin redwood, or virgin redwood wood products. In the event Licensee fails to comply in good faith with any of the provisions of Chapter 8 of the San Francisco Environment Code, Licensee shall be liable for liquidated damages for each violation in any amount equal to the contractor's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greater.

36.4. **Prohibition of Tobacco Sales and Advertising.** Licensee acknowledges and agrees that no sales or advertising of cigarettes or tobacco products is allowed on the License Area. 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 (i) communicate the health hazards of cigarettes and tobacco products, or (ii) encourage people not to smoke or to stop smoking.

36.5. **Prohibition of Alcoholic Beverages Advertising.** Licensee acknowledges and agrees that no advertising of alcoholic beverages is allowed on the License Area. 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 (i) communicate the health hazards of alcoholic beverages, (ii) encourage people not to drink alcohol or to stop drinking alcohol, or (iii) provide or publicize drug or alcohol treatment or rehabilitation services.

36.6. **First Source Hiring.** The City has adopted a First Source Hiring Program (San Francisco Administrative Code Sections 83.1 et seq.) which establishes specific requirements, procedures and monitoring for first source hiring of qualified economically disadvantaged individuals for entry-level positions as those terms are defined by the ordinance. Licensee acknowledges receiving and reviewing the First Source Hiring Program materials and requirements.

Licensee agrees to comply with the ordinance through compliance with the following:

(a) No later than thirty (30) days after full execution of this License, Licensee shall notify the City and County of San Francisco's Workforce Development System, Department of Human Services of all projected Entry Level Positions and the approximate date such positions will be available, by using the Job Survey Form provided by the Port of San Francisco.

(b) Licensee shall follow all requirements of the San Francisco Workforce Development System, including without limitation, notification of vacancies throughout the Term and entering into a First Source Hiring Agreement, if applicable.

(c) Licensee shall interview qualified applicants and use good faith in hiring applicants. Licensee shall maintain good records of recruitment and hiring process, and shall permit Port or City to audit such records upon request.

Pursuant to the ordinance, Licensee may be subject to monetary penalties for failure to comply with the ordinance.

36.7. **Requiring Health Benefits for Covered Employees.** Unless exempt, Licensee agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q (Chapter 12Q), including the implementing regulations as the same may be amended or updated from time to time. The provisions of Chapter 12Q are incorporated herein by reference and made a part of this License as though fully set forth herein. The text of the HCAO is currently available on the web at www.sfgov.org. Capitalized terms used in this Section and not defined in this License shall have the meanings assigned to such terms in Chapter 12Q.

(a) For each Covered Employee, Licensee shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO.

(b) Notwithstanding the above, if Licensee meets the requirements of a "small business" by the City pursuant to Section 12Q.3(d) of the HCAO, it shall have no obligation to comply with Section 36.7(a) above.

(c) If, within thirty (30) days after receiving written notice of a breach of this License for violating the HCAO, Licensee fails to cure such breach or, if such breach cannot reasonably be cured within such 30-day period Licensee fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City shall have the remedies set forth in Section 12Q.5(f)(1-5). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

(d) Any Sublicense or Contract regarding services to be performed on the License Area entered into by Licensee shall require the Sublicensee or Contractor and Subcontractors, as applicable, to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in Chapter 12Q of the Administrative Code. Licensee shall notify the Purchasing Department when it enters into such a Sublicense or Contract and shall certify to the Purchasing Department that it has notified the Sublicensee or Contractor of the obligations under the HCAO and has imposed the requirements of the HCAO on the Sublicensee or Contractor through written agreement with such Sublicensee or Contractor. Licensee shall be responsible for ensuring compliance with the HCAO for each

Sublicensee, Contractor and Subcontractor performing services on the License Area. If any Sublicensee, Contractor or Subcontractor fails to comply, the City may pursue the remedies set forth in Section 12Q.5 of the Administrative Code against Licensee based on the Sublicensee's, Contractor's, or Subcontractor's failure to comply, provided that the Contracting Department has first provided Licensee with notice and an opportunity to cure the violation.

(e) Licensee shall not discharge, reprimand, penalize, reduce the compensation of, or otherwise discriminate against, any employee for notifying the City of any issue relating to the HCAO, for opposing any practice proscribed by the HCAO, for participating in any proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

(f) Licensee represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the requirements of the HCAO.

(g) Licensee shall keep itself informed of the requirements of the HCAO, as they may change from time to time.

(h) Upon request, Licensee shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Sublicensees, Contractors, and Subcontractors.

(i) Within five (5) business days of any request, Licensee shall provide the City with access to pertinent records relating to any Licensee's compliance with the HCAO. In addition, the City and its Agents may conduct random audits of Licensee at any time during the Term. Licensee agrees to cooperate with City in connection with any such audit.

(j) If a Contractor or Subcontractor is exempt from the HCAO because the amount payable to such Contractor or Subcontractor under all of its contracts with the City or relating to City-owned property is less than \$25,000.00 (or \$50,000.00 for nonprofits) in that fiscal year, but such Contractor or Subcontractor later enters into one or more agreements with the City or relating to City-owned property that cause the payments to such Contractor or Subcontractor to equal or exceed \$75,000.00 in that fiscal year, then all of the Contractor's or Subcontractor's contracts with the City and relating to City-owned property shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements to equal or exceed \$75,000.00 in the fiscal year.

36.8. **Pesticide Prohibition.** Licensee shall comply with the provisions of Section 308 of Chapter 3 of the San Francisco Environment Code (the "**Pesticide Ordinance**") which (i) prohibit the use of certain pesticides on City property, (ii) require the posting of certain notices and the maintenance of certain records regarding pesticide usage and (iii) require Licensee to submit to Port an integrated pest management (IPM) plan that (A) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Licensee may need to apply to the License Area during the Term of this License, (B) describes the steps Licensee will take to meet the City's IPM Policy described in Section 300 of the Pesticide Ordinance and (C) identifies, by name, title, address and telephone number, an individual to act as Licensee's primary IPM contact person with the City. In addition, Licensee shall comply with the requirements of Sections 303(a) and 303(b) of the Pesticide Ordinance.

Through Port, Licensee may seek a determination from the City's Commission on the Environment that Licensee is exempt from complying with certain portions of the Pesticide Ordinance with respect to this License, as provided in Section 307 of the Pesticide Ordinance. Port shall reasonably cooperate with Licensee, at Licensee's sole cost and expense, if Licensee seeks in good faith an exemption under the Pesticide Ordinance.

36.9. **Resource-Efficient Facilities and Green Building Requirements.** Licensee acknowledges that the City and County of San Francisco has enacted San Francisco Environment Code Sections 700 to 707 relating to resource-efficient City buildings and resource-efficient pilot

projects. Licensee hereby agrees that it shall comply with all applicable provisions of such code sections.

36.10. **Notification of Limitations on Contributions.** Through its execution of this License, Licensee acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any land or building to or from the City whenever such transaction would require approval by a City elective officer, the board on which that City elective officer serves, or a board on which an appointee of that individual serves, from making any campaign contribution to (a) the City elective officer, (b) a candidate for the office held by such individual, or (c) a committee controlled by such individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Licensee acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Licensee further acknowledges that the prohibition on contributions applies to each Licensee; each member of Licensee's board of directors, and Licensee's chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Licensee; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Licensee. Additionally, Licensee acknowledges that Licensee must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Licensee further agrees to provide to City the name of each person, entity or committee described above.

36.11. **Sunshine Ordinance.** In accordance with Section 67.24(e) of the San Francisco Administrative Code, contracts, contractors' bids, leases, agreements, responses to Requests for Proposals, and all other records of communications between Port and persons or firms seeking contracts will be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract, lease, agreement or other benefit until and unless that person or organization is awarded the contract, lease, agreement or benefit. Information provided which this section covers will be made available to the public upon request.

36.12. **Conflicts of Interest.** Through its execution of this License, Licensee 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 Section 87100 et seq. and Section 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 Licensee becomes aware of any such fact during the Term, Licensee shall immediately notify Port.

36.13. **Charter Provisions.** This License is governed by and subject to the provisions of the Charter of the City and County of San Francisco.

36.14. **Drug-Free Workplace.** Licensee acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1988 (41 U.S.C §§ 701 et seq.), the unlawful manufacture, distribution, possession or use of a controlled substance is prohibited on City or Port premises.

36.15. **Preservative-Treated Wood Containing Arsenic.** Licensee may not purchase preservative-treated wood products containing arsenic in the performance of this License unless an exemption from the requirements of Environment Code Chapter 13 is obtained from the Department of Environment under Section 1304 of the Environment Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniac copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Licensee may purchase preservative-treated wood

products on the list of environmentally preferable alternatives prepared and adopted by the Department of Environment. This provision does not preclude Licensee from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

36.16. Food Service Waste Reduction Ordinance. Licensee agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. By entering into this License, Licensee agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Licensee 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 License was made. Such amounts shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Licensee's failure to comply with this provision.

36.17. Prevailing Wages and Working Conditions. Licensee agrees that any person performing labor in the construction of any alterations or improvements to the License Area, which Licensee provides under this License, shall be paid not less than the highest prevailing rate of wages as required by Section 6.22(E) of the Administrative Code, shall be subject to the same hours and working conditions, and shall receive the same benefits as in each case are provided for similar work performed in San Francisco, California. Licensee shall include in any contract for construction of such Alterations or Improvements a requirement that all persons performing labor under such contract shall be paid not less than the highest prevailing rate of wages for the labor so performed. Licensee shall require any contractor to provide, and shall deliver to City upon request, certified payroll reports with respect to all persons performing labor in the construction of such Alterations or Improvements to the License Area.

36.18. Public Transit Information. Licensee shall establish and carry on during the Term a program to encourage maximum use of public transportation by personnel of Licensee employed on the License Area, including, without limitation, the distribution to such employees of written materials explaining the convenience and availability of public transportation facilities adjacent or proximate to the License Area and encouraging use of such facilities, all at Licensee's sole expense.

36.19. Local Business Enterprises and Local Hiring Practices. Licensee shall comply with its obligations as set forth in the Memorandum of Understanding between Pacific Gas and Electric Company ("PG&E") and the City and County of San Francisco, acting by and through the Mayor's Office of Economic and Workforce Development's CityBuild Program ("CityBuild") regarding community workforce and neighborhood benefits during the Project attached hereto as *Exhibit E*.

36.20. Southern Waterfront Community Benefits and Beautification Policy. In satisfaction of the Port's "Policy for Southern Waterfront Community Benefits and Beautification", Licensee has agreed to provide the following community benefits and beautification measures in consideration for the use of the License Area: Screening of the Potrero Switchyard as described in Section 16, construction of a sidewalk and related right of way improvements on 23rd Street adjacent to the Potrero Switchyard to be constructed as part of the Project; and the Community Outreach Program as described in Section 43.

37. SEVERABILITY.

Except as is otherwise specifically provided for in this License, invalidation of any provision of this License, or of its application to any person, by judgment or court order, shall

not affect any other provision of this License or its application to any other person or circumstance, and the remaining portions of this License shall continue in full force and effect, unless enforcement of this License as invalidated would be unreasonable or grossly inequitable under all of the circumstances or would frustrate the purposes of this License.

38. ENTIRE AGREEMENT.

This License contains all of the representations and the entire agreement between the Parties with respect to the subject matter of this License. No prior drafts of this License or changes from those drafts to the executed version of this License shall be introduced as evidence in any litigation or other dispute resolution proceeding by any Party or other person, and no court or other body should consider those drafts in interpreting this License.

39. SURVIVAL.

Termination or expiration of this License shall not affect the right of either Party to enforce any and all indemnities and representations and warranties given or made to the other Party under this License, the ability to collect any sums due, nor shall it affect any provision of this License that expressly states it shall survive termination or expiration hereof.

40. NON-LIABILITY OF CITY OFFICIALS, EMPLOYEES AND AGENTS.

No elective or appointive board, commission, member, officer, employee or other Agent of City and/or Port shall be personally liable to Licensee, its successors and assigns, in the event of any default or breach by City and/or Port or for any amount which may become due to Licensee, its successors and assigns, or for any obligation of City and/or Port under this License.

41. DOCUMENTS AND INFORMATION SHARING.

Licensee shall provide to Port and, upon request, to any other City department without charge, copies of all publicly-available documents required to be submitted to Regulatory Agencies in connection with the Project, including, copies of any studies, applications, reports, documents, memorandums, permit applications, permits, licenses, plans, drawings, applications of rate approvals, or other agreements (collectively, "Studies"). Studies may be provided electronically in the format in which they were received by Licensee or in PDF format. Upon request, which shall identify the document(s) or categories of document(s) subject to the request, Licensee shall also provide the requesting City Department with supporting documentation for any of the foregoing Studies that Licensee is not contractually prohibited from sharing with a third party relating to the Project, including but not limited to, any Studies relating to the San Francisco transmission grid and its substations and any Studies (including but not limited to, Studies regarding marine resources, Hazardous Materials, geotechnical conditions, and navigation/shipping channel locations) related to alternative routing of submarine cables. In addition, Licensee shall, without charge, meet with Port or other City agencies as designated by Port as reasonably required to assist Port or City agencies in reviewing the Studies, determining their potential applicability to other City or Port projects, and assessing the feasibility of, or, under commercially reasonable prices and terms, assisting in or undertaking the construction of projects to the extent authorized by the Board of Supervisors. Such meetings shall take place at Port's office or another location within the City, as designated by Port or another City agency.

For purposes of this Section, "Licensee" shall mean PG&E, an Affiliate of PG&E or any successor or assign.

42. COMPLIANCE WITH CEQA MITIGATION MEASURES.

Licensee shall fully carry out, implement and comply with all mitigation measures and reporting obligations identified and set forth in the MND and supporting Initial Study adopted by the CPUC, as that document may be amended or modified.

43. COMMUNITY OUTREACH PROGRAM.

PG&E has or will conduct outreach to various community groups and stakeholders in the vicinity of the Project, for educating the public with respect to the Project, and for informing the Board of Supervisors and other Regulatory Agencies about the Project ("Community Outreach Program"). The Community Outreach Program may be conducted in conjunction with one or more public workshops conducted by the CPUC related to the Project. Port may suggest reasonable revisions or changes to the proposed Community Outreach Program, if any, which Licensee shall consider in good faith. Licensee agrees and acknowledges that maintaining professional working relations with Port's constituents, the public and Regulatory Agencies are critical to implementing Port's management obligations.

44. SALES AND USE TAX.

City shall be entitled to receive applicable sales and use taxes ordinarily payable under Law. Licensee shall use its best commercially reasonable efforts to have the City and County of San Francisco realize sales and use taxes as to the Project in San Francisco, including all of its components.

45. APPROVAL OF BOARD OF SUPERVISORS.

Notwithstanding anything to the contrary contained in this License, Licensee acknowledges and agrees that no officer or employee of City has authority to commit City to this License unless and until City's Board of Supervisors shall have duly adopted a Resolution approving this License and authorizing the transactions contemplated hereby. Therefore, any obligations or liabilities of City hereunder are contingent upon adoption of such a Resolution, and this License shall be null and void if City's Mayor and the Board of supervisors do not approve this License, in their respective sole discretion. Approval of this License by any department, commission or agency of City shall not be deemed to imply that such Resolution will be enacted, nor will any such approval create any binding obligations on City.

46. MISCELLANEOUS PROVISIONS.

46.1. *Interpretation of License.*

(a) Whenever a section, article or paragraph is referenced, it refers to this License unless otherwise specifically provided. The captions preceding the articles and sections of this License and in the table of contents have been inserted for convenience of reference only and must be disregarded in the construction and interpretation of this License.

(b) *Cumulative Remedies.* All rights and remedies of either Party hereto set forth in this License shall be cumulative, except as may otherwise be provided herein.

(c) *Relationship of the Parties.* Port is not, and none of the provisions in this License shall be deemed to render Port, a partner in Licensee's business, or joint venturer or member in any joint enterprise with Licensee. Neither Party shall act as the agent of the other Party in any respect hereunder. This License is not intended nor shall it be construed to create any third party beneficiary rights in any third party, unless otherwise expressly provided.

(d) *Additional Written Agreement Required.* Licensee expressly agrees and acknowledges that no officer, director, or employee of Port or City is authorized to offer or promise, nor is Port or the City required to honor, any offered or promised rent credit, concession, abatement, or any other form of monetary consideration (individually and collectively, "Concession") without a written agreement executed by either the Executive Director of Port or the Deputy Director of Real Estate authorizing such Concession and, if applicable, certification of the Concession from the City's Controller.

47. DEFINITIONS

For purposes of this License, the following terms have the meanings ascribed to them in this Section or elsewhere in this License as indicated:

"23rd Street Portion" is defined in Section 1.1(c).

"Accessory Use" is defined in Section 12.2.

"ADA" means the Americans with Disabilities Act, a federal law codified at 42 U.S.C. §§ 12101 et seq., including, but not limited to, Title III thereof, and all regulations and guidelines related thereto, together with any and all laws, rules, regulations, ordinances, codes and statutes now or hereafter enacted by local or state agencies having jurisdiction thereof, including all requirements of Title 24 of the State of California, as the same may be in effect on the date of this Lease and may be hereafter modified, amended or supplemented.

"Affiliate of PG&E" shall mean (A) an entity that controls, is controlled by or is under common control with, PG&E, or (B) an entity that acquires all or substantially all of the business and assets of PG&E or a division thereof or results from a merger with PG&E or such a division. A party shall be deemed to **"control"** another party for purposes of the aforesaid definition only if the first party owns more than fifty percent (50%) of the stock or other beneficial interests of the second party.

"Agents" when used with reference to either Party to this License or any other person, means the officers, directors, employees, agents, and contractors of the Party or other person, and their respective heirs, legal representatives, successors, and assigns. References in this License to a Party's acts or omissions will mean acts or omissions by that Party and its Agents and Invitees unless the context requires or specifically states otherwise.

"Anniversary Date" means the first and each subsequent anniversary of the Effective Date.

"CEQA" means the California Environmental Quality Act.

"Claims" is defined in Section 21.1. With respect to environmental Claims, the term includes any Environmental Regulatory Action or any Claim made or threatened by any third party against the Indemnified Parties, or the License Area, relating to damage, contribution, cost recovery compensation, loss or injury resulting from the presence or Release of any Hazardous Materials, including, without limitation, losses based in common law and includes, without limitation, Investigation and Remediation costs, fines, natural resource damages, damages for decrease in value of the License Area or any other Port property, the loss or restriction of the use or any amenity of the License Area or any other Port property, and attorneys' fees and consultants' fees and experts' fees and costs.

"Community Outreach Program" is defined in Section 43.

"Construction Activities" means any construction, installation, repair, reconstruction, excavation replacement or removal of the ZA-1 Line Equipment. Construction Activities shall not include site preparation and study activities in advance of issuance of a Notice to Proceed by the CPUC, to the extent that no Regulatory Approval is required for such preliminary work.

"Construction Period" means the two-year period starting on the Effective Date and ending two years thereafter.

"CPUC" is the California Public Utilities Commission.

"days" mean calendar days unless otherwise specified, provided that if the last day on which a Party must give notice, respond to a notice, or take any other action under this License occurs on a day that is not a business day, the date by which the act must be performed will be extended to the next business day.

"Effective Date" is defined in Section 5.

"Embarcadero Substation" means the PG&E Substation located at the corner of Folsom and Fremont Streets in San Francisco, CA.

"Encroachment Area" is defined in Section 21.3.

"Environmental Laws" means any Laws relating to Hazardous Material (including its Handling, Release, or Remediation) or to human health and safety, industrial hygiene, or environmental conditions in the environment, including structures, soil, air, bay water, and groundwater, and any environmental mitigation measure adopted under Environmental Law affecting any portion of the License Area.

"Environmental Obligations" is defined in Section 10.3.

"Environmental Oversight Deposit" is defined in Section 10.2(a).

"Environmental Notice" is defined in Section 10.2(c).

"Environmental Regulatory Action" when used with respect to Hazardous Materials means any inquiry, Investigation, enforcement, Remediation, agreement, order, consent decree, compromise, or other action that is threatened, instituted, filed, or completed by an Environmental Regulatory Agency in relation to a Release of Hazardous Materials, including both administrative and judicial proceedings.

"Environmental Regulatory Agency" means the United States Environmental Protection Agency, the United States Occupational Safety and Health Administration, any California Environmental Protection Agency board, department, or office, including the Department of Toxic Substances Control and the San Francisco Bay Regional Water Quality Control Board, Cal OSHA, the Bay Area Air Quality Management District, the San Francisco Department of Public Health, the San Francisco Fire Department, Port, or any other Regulatory Agency now or later authorized to regulate Hazardous Materials.

"Environmental Regulatory Approval" means any approval, license, registration, permit, or other authorization required or issued by any Environmental Regulatory Agency, including any hazardous waste generator identification numbers relating to operations on the License Area and any closure permit.

"Event of Default" is defined in Section 24.1.

"Equipment Removal Plan" is described in Section 14.

"Exacerbate" or **"Exacerbating"** when used with respect to Hazardous Materials means any act or omission that increases the quantity or concentration of Hazardous Materials in the affected area, causes the increased migration of a plume of Hazardous Materials in soil, groundwater, or bay water, causes a Release of Hazardous Materials that had been contained until the act or omission, or otherwise requires Investigation or Remediation that would not have been required but for the act or omission. Exacerbate also includes the disturbance, removal or generation of Hazardous Materials in the course of Licensee's operations, Investigations, maintenance, repair, Improvements and Alterations under this License. **"Exacerbation"** has a correlating meaning.

"Expiration Date" is defined in Section 6.

"Extension Option" is defined in Section 7.1.

"Extension Term" is defined in Section 7.1.

"Extension Term License Fee" is defined in Section 7.2.

"Fees" means the Initial Term License Fee, the Extension Term License Fee and all other fees, charges and sums payable by Licensee under this License, including without limitation, any Late Charge and any interest assessed pursuant to Section 9.

"Force majeure" means a delay in Licensee's performance of its obligations under this License to the extent caused by (a) acts of nature, enemy action, civil commotion, fire, flood, earthquake or other casualty, (b) strikes or other labor disputes (to the extent not resulting from the labor practices of Licensee, (c) material shortages of or inability to obtain labor or materials

beyond the reasonable control of Licensee, (d) any action or proceeding before any judicial, adjudicative, or legislative decision-making body, including any administrative appeal, brought by plaintiffs unaffiliated with Licensee that challenges the validity of: (A) any action taken by a Regulatory Agency in connection with the obligation to be performed, or (B) the failure of a Regulatory Agency to impose conditions to a Regulatory Approval for the obligation to be performed or (C) the validity of any other Regulatory Approval required in connection with the obligation to be performed, and (e) delays by Regulatory Agencies in issuing requisite approvals or consents beyond the reasonable control of Licensee so long as Licensee is diligently proceeding to obtain the necessary Regulatory Approvals. Delays beyond Licensee's reasonable control exclude delays to the extent caused by the negligent act or omission or willful misconduct of Licensee.

"**Force Majeure Delay**" is defined in Section 15.2.

"**Force Majeure Notice**" is defined in Section 15.2.

"**Full Notice to Proceed**" means a Notice to Proceed without conditions or limitations issued by the CPUC for the Project pursuant to Section 4.1.1 of the CPUC's Mitigation Monitoring, Compliance, and Reporting Plan for the Project dated April 2014.

"**HDD Area**" is defined in Section 1.1(b).

"**HDD Area/23rd Street Portion Basic Annual Pay Rate**" is defined in Section 9.2(iii).

"**HDD Area/23rd Street Portion Prevailing Market Rate**" is defined in Section 9.3 (a)(i)(4).

"**Handle**" or "**Handling**" means to use, generate, process, manufacture, produce, package, treat, transport, store, emit, discharge, or dispose of a Hazardous Material.

"**Hazardous Material**" means any substance, waste, or material that is now or in the future designated by any Regulatory Agency to be capable of posing a present or potential risk of injury to human health or safety, the environment, or property. This definition includes anything designated or defined in any Environmental Law as hazardous, hazardous substance, hazardous waste, toxic, pollutant, or contaminant; any asbestos, whether or not part of the structure of any existing Improvements on the License Area, any Improvements to be constructed on the License Area by or on behalf of Licensee, or occurring in nature; and other naturally-occurring substances such as petroleum, including crude oil or any fraction, and natural gas or natural gas liquids.

"**HRC**" means the San Francisco Human Rights Commission.

"**Initial Notice to Proceed**" means the first Notice to Proceed issued by the CPUC for the Project pursuant to Section 4.1.1 of the CPUC's Mitigation Monitoring, Compliance, and Reporting Plan for the Project dated April 2014. The Initial Notice to Proceed may apply to only part of the Project, or it may be a Full Notice to Proceed.

"**Initial Term**" means the Effective Date through the date that is forty (40) years from the Effective Date.

"**Initial Term License Fee**" is defined in Section 9.1.

"**Indemnified Parties**" is defined in Section 21.1.

"**Indemnify**" means to indemnify, protect, defend, and hold harmless forever.

"**Indemnification**" and "**Indemnity**" have correlating meanings.

"**Interest Rate**" means ten percent (10%) per year or, if a higher rate is legally permissible, the highest rate an individual is permitted to charge under Law.

"**Investigate**" or "**Investigation**" when used with reference to Hazardous Materials means any activity undertaken to determine and characterize the nature and extent of Hazardous Materials that have been, are being, or are threatened to be Released in, on, under or about the

License Area, any other Port property, or the environment, and includes, without limitation, preparation of site history reports, performing equipment and facility testing such as testing the integrity of secondary containment and above and underground tanks, and sampling and analysis of environmental conditions before, during, and after Remediation begins and continuing until the appropriate Environmental Regulatory Agency has issued a no further action letter, lifted a clean-up order, or taken similar action.

"**Invitees**" means Licensee's clients, customers, invitees, patrons, guests, members, licensees, permittees, concessionaires, assignees, Sublicensees, and any other person whose rights arise through them.

"**Late Charge**" means a fee of ten percent (10%) of the amount outstanding.

"**Law**" means any present or future law, statute, ordinance, code, resolution, rule, regulation, judicial decision, requirement, proclamation, order, decree, policy (including the Waterfront Land Use Plan), and Regulatory Approval of any Regulatory Agency with jurisdiction over any portion of the License Area including Regulatory Approvals issued to Port which require Licensee's compliance, and any and all recorded and legally valid covenants, conditions, and restrictions affecting any portion of the License Area, whether in effect when this License is executed or at any later time and whether or not within the present contemplation of the Parties.

"**Letter of Credit**" is defined in Section 10.3.

"**Letter of Credit Proceeds**" is defined in Section 10.3.

"**License Area**" means the area described in *Exhibit A* (as amended)..

"**Notice to Cease Prohibited Construction**" is defined in Section 12.5.

"**Notice to Cease Prohibited Use**" is defined in Section 4.3.

"**Notice to Screen**" is defined in Section 16.2.

"**Permitted Activity**" is defined in Section 4.1.

"**Potrero Substation**" means the PG&E 230 KV Substation within the Potrero Switchyard to be constructed as part of the Project..

"**Potrero Switchyard**" means the entirety of the existing PG&E 115 KV substation located adjacent to and east of Illinois street between 22nd and 23rd Streets and the expansion of that facility through the addition of the Potrero Substation.

"**Preferred Screen Design**" is defined in Section 16.2.

"**Prevailing Party**" is defined in Section 33.

"**Prohibited Use**" is defined in Section 4.3.

"**Project**" is defined in Recital A.

"**Regulatory Agency**" means the municipal, county, regional, state, or federal government and their bureaus, agencies, departments, divisions, courts, commissions, boards, officers, or other officials, potentially including the Federal Energy Regulatory Commission ("FERC"), the Bay Conservation and Development Commission, any Environmental Regulatory Agency, the City and County of San Francisco (in its regulatory capacity), Port (in its regulatory capacity), Port's Chief Harbor Engineer, the Dredged Material Management Office, the State Lands Commission, the US Army Corps of Engineers, the National Marine Fisheries Service, the California Department of Fish and Wildlife, the United States Department of Labor, the California Department of Transportation, now or later having jurisdiction over Port property, Licensee, and the Project.

"Regulatory Approval" means any authorization, approval, license, registration, or permit required or issued by any Regulatory Agency.

"Release" when used with respect to Hazardous Materials means any actual or imminent spilling, introduction, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing in, on, under or about the License Area other Port property, or the environment and includes Exacerbation of a pre-existing condition.

"Remediate" or "Remediation" when used with respect to Hazardous Materials means to clean up, abate, contain, treat, stabilize, monitor, remediate, remedy, remove, or otherwise control Hazardous Materials, or to restore the affected area to the standard required by the applicable Environmental Regulatory Agency in accordance with applicable Environmental Laws and any additional Port requirements: **"Remediation"** also includes the creation of a remedial work plan to be approved by the appropriate Environmental Regulatory Agency when required.

"Revised Screen Design" is defined in Section 16.3(a).

"Screen" is defined in Recital F.

"Security Deposit" is defined in Section 10.1.

"Studies" is defined in Section 41.

"Submarine Portion Compatible Use Zone" is defined in Section 1.1(a).

"Submarine Portion Compatible Use Zone Basic Rate" is defined in Section 9.2(ii).

"Submarine Portion Exclusive Zone" is defined in Section 1.1(a).

"Submarine Portion Exclusive Zone Basic Annual Pay Rate" is defined in Section 9.3(i).

"SWPPP" is defined in Section 18.4(a).

"Term" is defined in Section 6.

"Termination Date" is defined in Section 8(a).

"Termination Option" is defined in Section 8.

"Termination Notice" is defined in Section 8(a).

"User Agreement" is defined in Section 22.4.

"US Army Corps of Engineers" or **"USACE"** is the US Army Corps of Engineers.

"WDAC" is defined in Section 16.3 (a).

"ZA-1 Line" is defined in Recital A.

"ZA-1 Line Equipment" is defined in Section 4.1.

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IN WITNESS WHEREOF, the undersigned have executed this License as of dates indicated below.

San Francisco Port Commission: CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation operating by and through the
SAN FRANCISCO PORT COMMISSION

By:

Monique A. Moyer
Executive Director

Date Executed: _____

Licensee: PACIFIC GAS & ELECTRIC COMPANY, a California
corporation

By: _____

Name: _____

Title: _____

Date Executed: _____

By: _____

Name: _____

Title: _____

Date Executed: _____

APPROVED AS TO FORM:
DENNIS J. HERRERA
CITY ATTORNEY

By: _____

Rona H. Sander
Deputy City Attorney

Drafted By: Brad Benson, Special Projects Manager _____
(initial)

PROPOSED PG&E
SUBMARINE CABLES

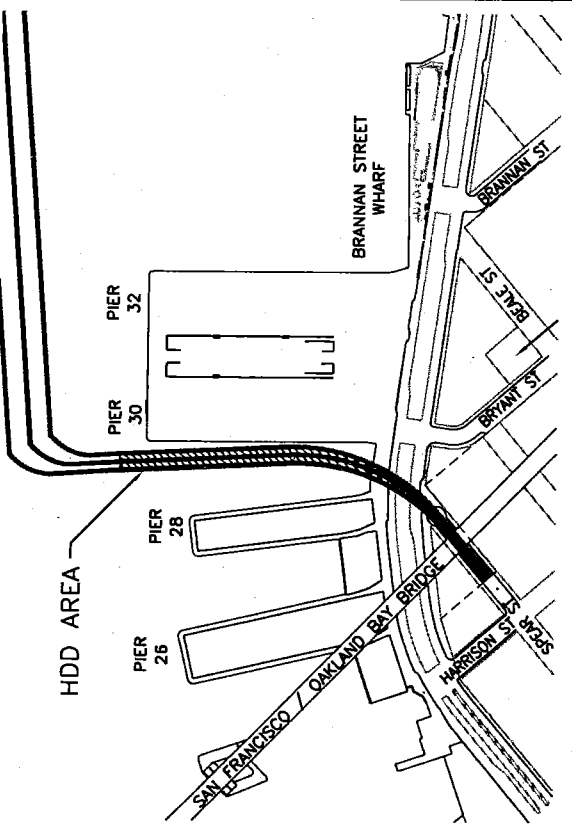
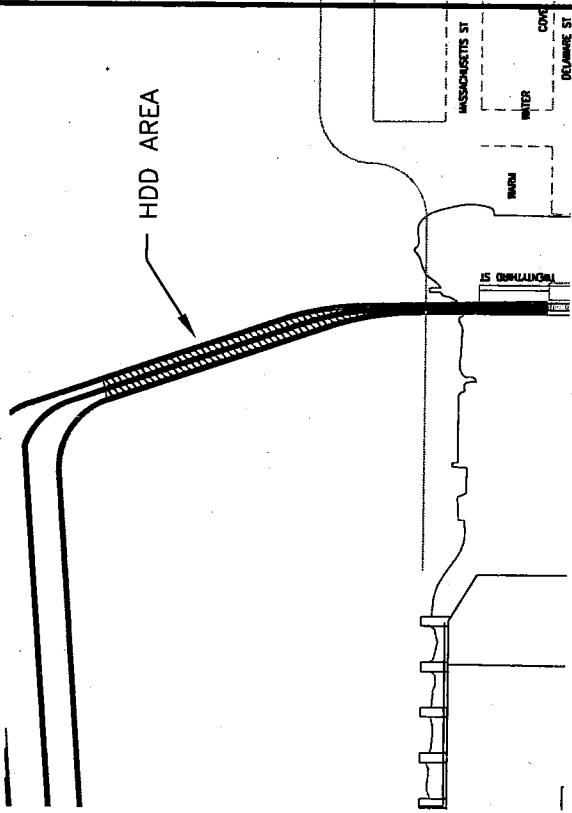
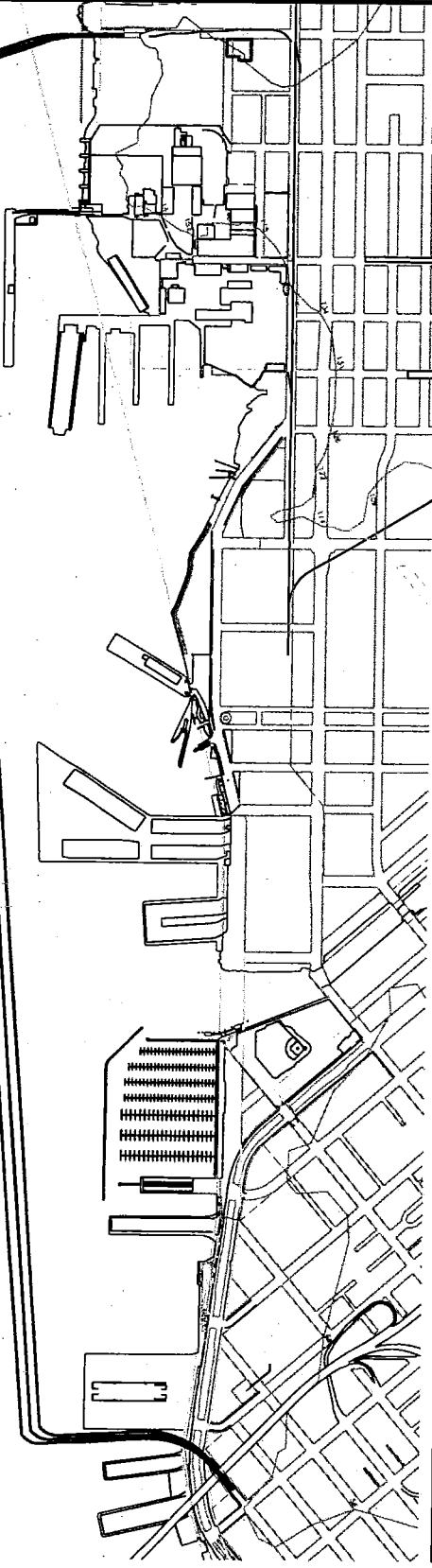


EXHIBIT A

INITIALS: PORT: _____ LICENSEE: _____ DATE: _____

LICENSE NO. 15762	SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING	LICENSEE PACIFIC GAS & ELECTRIC CO.	DRAWN BY: ECC CHECKED BY: B. BENSON PLACE CODE NO.	DATE: JUN 4 2014 SCALE: NONE	SHEET NO. 2 OF 2 SHEETS
			G:\OR PROPERTY FILES\License Maps\PLZ Micro\licenseinfo.dwg		

MINERAL ACCESS POINT
2,102,550 N
6,018,870 E

PROPOSED PG&E
SUBMARINE CABLES

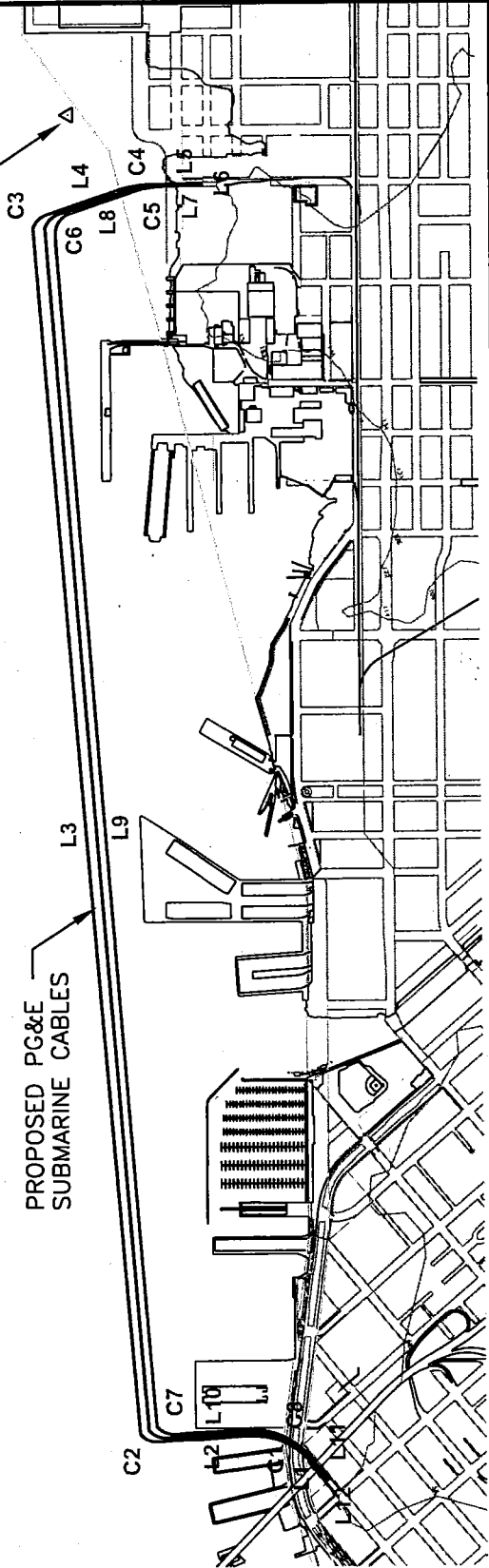
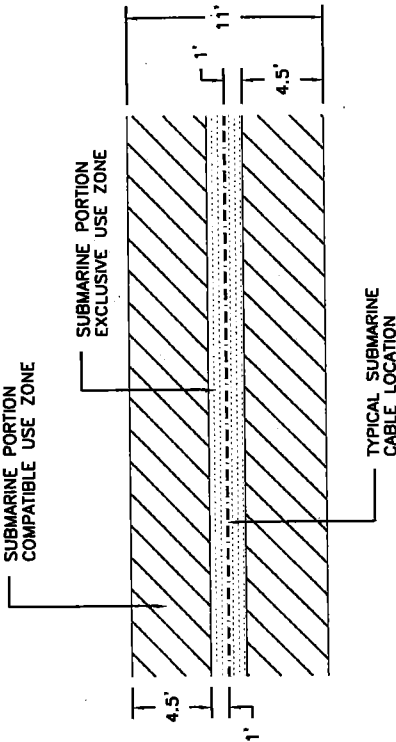


EXHIBIT A-1

INITIALS: PORT: _____ LICENSEE: _____ DATE: _____



TYPICAL SUBMERGED LAND USE
ZONES FOR THREE CABLES

PARCEL BOUNDARIES					
COURSE NO.	DISTANCE	BEARING	COURSE NO.	DISTANCE	BEARING
L 1	241.06	S 43° 47' 51" E	C 5	R = 800.00 Δ = 17° 38' 01" T = 124.08	Lc = 246.21
C 1	R = 700.00 Δ = 52° 08' 18" T = 342.46	Lc = 636.99	L 8	646.01	N 68° 10' 39" E
L 2	891.48	N 83° 49' 07" E	C 6	R = 196.64 Δ = 75° 39' 44" T = 152.70	Lc = 259.67
C 2	R = 196.35 Δ = 48° 47' 06" T = 162.18	Lc = 167.18	L 9	11,046.81	N 7° 29' 05" W
L 3	11,223.46	S 7° 43' 13" E	C 7	R = 199.76 Δ = 47° 35' 59" T = 161.23	Lc = 165.96
C 3	R = 198.66 Δ = 53° 40' 59" T = 179.40	Lc = 186.13	L 10	725.92	S 83° 55' 42" W
L 4	722.86	S 68° 10' 48" W	C 8	R = 700.00 Δ = 52° 08' 24" T = 342.47	Lc = 637.01
C 4	R = 800.00 Δ = 17° 35' 58" T = 123.84	Lc = 245.74	L 11	297.47	N 43° 47' 43" W
L 5	507.09	S 85° 46' 37" W	L 12	25.21	N 46° 18' 10" E
L 6	20.22	N 4° 13' 37" W			
L 7	371.20	N 85° 48' 40" E			

LICENSE NO. **15762**

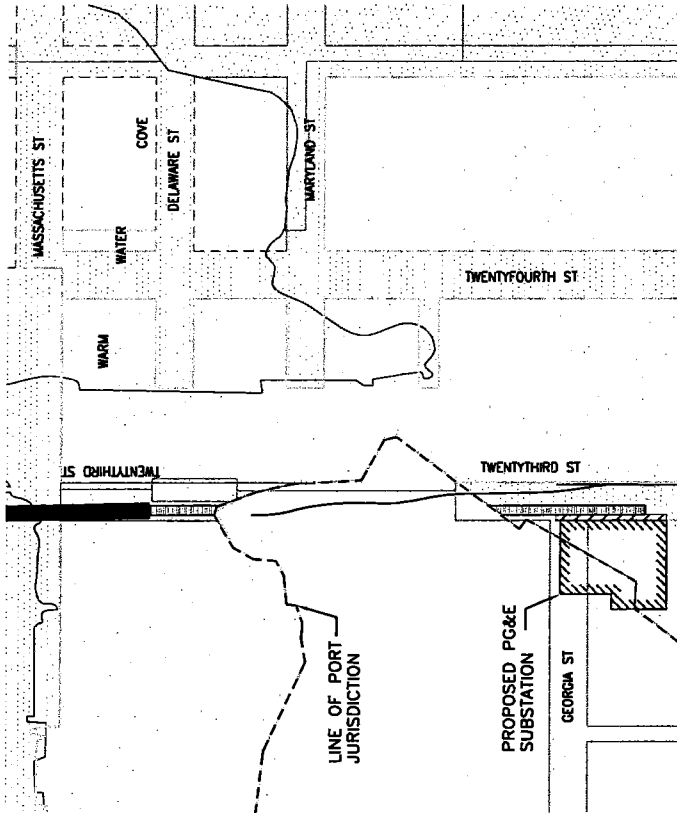
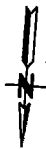
LICENSEE **PACIFIC GAS & ELECTRIC CO.**

DRAWN BY: ECC
CHECKED BY: B. BENSON
PLACE CODE NO.
DATE: JUN 4, 2014
SCALE: NONE

SAN FRANCISCO PORT COMMISSION
PORT OF SAN FRANCISCO
DEPARTMENT OF ENGINEERING

SHEET NO. 1
OF 2 SHEETS

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UNDERGROUND AREA
ALONG 23rd STREET

SUBMERGED LAND = 435,600 Sq Ft

A. SUBMARINE PORTION EXCLUSIVE ZONE
= 79,200 Sq Ft

B. SUBMARINE PORTION COMPATIBLE ZONE
= 356,400 Sq Ft

ONSHORE/OFFSHORE TRANSITION AREAS
= 52,272 Sq Ft


UNDERGROUND AREA (23rd STREET PORTION)
= 21,120 Sq Ft

EXHIBIT A-2

INITIALS: PORT: _____ LICENSEE: _____ DATE: _____

LICENSE NO.

15762

 SAN FRANCISCO PORT COMMISSION
PORT OF SAN FRANCISCO
DEPARTMENT OF ENGINEERING

LICENSEE

PACIFIC GAS & ELECTRIC CO.

DRAWN BY: ECC
CHECKED BY: B. BENSON
PLACE CODE NO.

DATE: JUN 4, 2014

SCALE: NONE

SHEET NO. 2

OF 2 SHEETS

EXHIBIT B

MEMORANDUM RE: EFFECTIVE AND EXPIRATION DATES

LANDLORD:

CITY AND COUNTY OF SAN FRANCISCO, A MUNICIPAL CORPORATION, OPERATING BY AND THROUGH THE SAN FRANCISCO PORT COMMISSION

LICENSEE:

LICENSE NUMBER:

LICENSE DATE:

THE EFFECTIVE DATE OF THE LICENSE IS HEREBY ESTABLISHED AS _____, 20__ AND THE EXPIRATION DATE AS _____, 20__.

PORT:

CITY AND COUNTY OF SAN FRANCISCO, A MUNICIPAL CORPORATION, OPERATING BY AND THROUGH THE SAN FRANCISCO PORT COMMISSION

By: _____
SUSAN REYNOLDS
DEPUTY DIRECTOR, REAL ESTATE

DATE SIGNED: _____

PG&E:

PACIFIC GAS AND ELECTRIC COMPANY, a California corporation

By: _____
Name: _____
Title: _____
Date Signed: _____

EXHIBIT C

NET PRESENT VALUE CALCULATION OF LICENSE FEE

ASSUMES COMMENCEMENT DATE BETWEEN FEB 5, 2014 AND FEB 4, 2015

Annual Escalation Rate	3.00%
Land Capitalization Rate	8.00%
Discount Rate	6.50%
Exclusive Use Zone	79,200
Compatible Use Zone	356,400
HDD Zone	52,272
23rd Street Zone	21,120

NPV of Payments \$15,275,205.35

Year	Exclusive Rate	Exclusive Zone Payment	Compatible Use Rate	Compatible Zone Pmt	HDD/23rd St Rate	HDD/23rd St Pmt	Total Pmt
1	\$2.82	\$223,518.24	\$1.41	\$502,916.04	\$0.03	\$2,385.89	\$182,205.04
2	\$2.91	\$230,223.79	\$1.45	\$518,003.52	\$0.03	\$2,457.47	\$187,671.19
3	\$2.99	\$237,130.50	\$1.50	\$533,543.63	\$0.03	\$2,531.19	\$773,205.32
4	\$3.08	\$244,244.42	\$1.54	\$549,549.94	\$0.04	\$2,607.13	\$796,401.48
5	\$3.18	\$251,571.75	\$1.59	\$566,036.43	\$0.04	\$2,685.34	\$820,293.52
6	\$3.27	\$259,118.90	\$1.64	\$583,017.53	\$0.04	\$2,765.90	\$844,902.33
7	\$3.37	\$266,892.47	\$1.68	\$600,508.05	\$0.04	\$2,848.88	\$870,249.40
8	\$3.47	\$274,899.24	\$1.74	\$618,523.29	\$0.04	\$2,934.34	\$896,356.88
9	\$3.58	\$283,146.22	\$1.79	\$637,078.99	\$0.04	\$3,022.37	\$923,247.59
10	\$3.68	\$291,640.61	\$1.84	\$656,191.36	\$0.04	\$3,113.05	\$950,945.01
11	\$3.79	\$300,389.82	\$1.90	\$675,877.10	\$0.04	\$3,206.44	\$979,473.36
12	\$3.91	\$309,401.52	\$1.95	\$696,153.42	\$0.04	\$3,302.63	\$1,008,857.57
13	\$4.02	\$318,683.56	\$2.01	\$717,038.02	\$0.05	\$3,401.71	\$1,039,123.29
14	\$4.14	\$328,244.07	\$2.07	\$738,549.16	\$0.05	\$3,503.76	\$1,070,296.99
15	\$4.27	\$338,091.39	\$2.13	\$760,705.63	\$0.05	\$3,608.87	\$1,102,405.90
16	\$4.40	\$348,234.13	\$2.20	\$783,526.80	\$0.05	\$3,717.14	\$1,135,478.08
17	\$4.53	\$358,681.16	\$2.26	\$807,032.61	\$0.05	\$3,828.65	\$1,169,542.42
18	\$4.66	\$369,441.59	\$2.33	\$831,243.59	\$0.05	\$3,943.51	\$1,204,628.69
19	\$4.80	\$380,524.84	\$2.40	\$856,180.89	\$0.06	\$4,061.82	\$1,240,767.55
20	\$4.95	\$391,940.59	\$2.47	\$881,866.32	\$0.06	\$4,183.67	\$1,277,990.58
21	\$5.10	\$403,698.80	\$2.55	\$908,322.31	\$0.06	\$4,309.18	\$1,316,330.30
22	\$5.25	\$415,809.77	\$2.63	\$935,571.98	\$0.06	\$4,438.46	\$1,355,820.21
23	\$5.41	\$428,284.06	\$2.70	\$963,639.14	\$0.06	\$4,571.61	\$1,396,494.81
24	\$5.57	\$441,132.58	\$2.78	\$992,548.31	\$0.06	\$4,708.76	\$1,438,389.66
25	\$5.74	\$454,366.56	\$2.87	\$1,022,324.76	\$0.07	\$4,850.02	\$1,481,541.35
26	\$5.91	\$467,997.56	\$2.95	\$1,052,994.51	\$0.07	\$4,995.52	\$1,525,987.59
27	\$6.09	\$482,037.48	\$3.04	\$1,084,584.34	\$0.07	\$5,145.39	\$1,571,767.21
28	\$6.27	\$496,498.61	\$3.13	\$1,117,121.87	\$0.07	\$5,299.75	\$1,618,920.23
29	\$6.46	\$511,393.57	\$3.23	\$1,150,635.53	\$0.07	\$5,458.74	\$1,667,487.84
30	\$6.65	\$526,735.37	\$3.33	\$1,185,154.59	\$0.08	\$5,622.51	\$1,717,512.47

31	\$6.85	\$542,537.44	\$3.43	\$1,220,709.23	\$0.08	\$5,791.18	\$1,769,037.85
32	\$7.06	\$558,813.56	\$3.53	\$1,257,330.51	\$0.08	\$5,964.92	\$1,822,108.98
33	\$7.27	\$575,577.97	\$3.63	\$1,295,050.42	\$0.08	\$6,143.86	\$1,876,772.25
34	\$7.49	\$592,845.30	\$3.74	\$1,333,901.93	\$0.09	\$6,328.18	\$1,933,075.42
35	\$7.71	\$610,630.66	\$3.85	\$1,373,918.99	\$0.09	\$6,518.03	\$1,991,067.68
36	\$7.94	\$628,949.58	\$3.97	\$1,415,136.56	\$0.09	\$6,713.57	\$2,050,799.71
37	\$8.18	\$647,818.07	\$4.09	\$1,457,590.66	\$0.09	\$6,914.97	\$2,112,323.70
38	\$8.42	\$667,252.61	\$4.21	\$1,501,318.38	\$0.10	\$7,122.42	\$2,175,693.42
39	\$8.68	\$687,270.19	\$4.34	\$1,546,357.93	\$0.10	\$7,336.10	\$2,240,964.22
40	\$8.94	\$707,888.30	\$4.47	\$1,592,748.67	\$0.10	\$7,556.18	\$2,308,193.14

**EXHIBIT D
FORM OF LETTER OF CREDIT**

[NAME OF FINANCIAL INSTITUTION]

ISSUANCE DATE: _____

IRREVOCABLE STANDBY LETTER OF CREDIT NO. _____

EXPIRY DATE: _____

ISSUING BANK:
CITIBANK N.A.
C/O ITS SERVICE CITICORP NORTH AMERICA, INC.
3800 CITIBANK CENTER, BUILDING B, 3RD FLOOR
TAMPA, FL 33610
ATTN: U.S. STANDBY DEPT

BENEFICIARY:
CITY AND COUNTY OF SAN FRANCISCO, OPERATING BY AND THROUGH
THE SAN FRANCISCO PORT COMMISSION
PIER 1
SAN FRANCISCO, CA 94111

APPLICANT: _____

LADIES/GENTLEMEN:

WE HEREBY ESTABLISH OUR IRREVOCABLE STANDBY LETTER OF CREDIT IN YOUR FAVOR FOR THE ACCOUNT OF THE ABOVE REFERENCED APPLICANT IN THE AMOUNT OF _____ U.S. DOLLARS (\$ _____) AVAILABLE FOR PAYMENT AT SIGHT BY YOUR DRAFT DRAWN ON US WHEN ACCOMPANIED BY THE FOLLOWING DOCUMENTS:

1. THE ORIGINAL OF THIS IRREVOCABLE STANDBY LETTER OF CREDIT.
2. BENEFICIARY'S DATED STATEMENT PURPORTEDLY SIGNED BY AN AUTHORIZED SIGNATORY OR AGENT OF BENEFICIARY READING: "THIS DRAW IN THE AMOUNT OF _____ U.S. DOLLARS (\$ _____) UNDER YOUR IRREVOCABLE STANDBY LETTER OF CREDIT NO. _____ REPRESENTS FUNDS DUE AND OWING TO US PURSUANT TO THE TERMS OF SECTION 10 OF THAT CERTAIN LICENSE BY AND BETWEEN CITY AND COUNTY OF SAN FRANCISCO, OPERATING BY AND THROUGH THE SAN FRANCISCO PORT COMMISSION, AS OWNER, AND _____, AS LICENSEE, AND/OR ANY AMENDMENT TO THE LICENSE BETWEEN SUCH PARTIES."

ALTERNATIVELY, IN LIEU OF PRESENTING AN ORIGINAL OF THIS IRREVOCABLE STANDBY LETTER OF CREDIT, DRAWINGS MAY BE PRESENTED BY TELEFACSIMILE ("FAX") TO FAX NUMBER 813-604-7187 AND SUCH PRESENTATIONS BY FAX ARE ACCEPTABLE WITHOUT FURTHER NEED OF

DOCUMENTATION, INCLUDING DELIVERY OF THE ORIGINAL OF THIS IRREVOCABLE STANDBY LETTER OF CREDIT, IT BEING UNDERSTOOD THAT EACH DRAWING SO SUBMITTED IS TO BE THE SOLE OPERATIVE INSTRUMENT OF DRAWING, PROVIDED THAT SUCH FAX PRESENTATION IS RECEIVED ON OR BEFORE THE EXPIRY DATE ON THIS INSTRUMENT IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THIS IRREVOCABLE STANDBY LETTER OF CREDIT.

IT IS A CONDITION OF THIS IRREVOCABLE STANDBY LETTER OF CREDIT THAT IT WILL BE CONSIDERED AUTOMATICALLY EXTENDED FOR A ONE YEAR PERIOD UPON THE EXPIRY DATE SET FORTH ABOVE AND UPON EACH ANNIVERSARY OF SUCH DATE, UNLESS AT LEAST 60 DAYS PRIOR TO SUCH EXPIRY DATE OR APPLICABLE ANNIVERSARY THEREOF, WE NOTIFY YOU IN WRITING, BY CERTIFIED MAIL (RETURN RECEIPT REQUESTED) OR BY RECOGNIZED OVERNIGHT COURIER SERVICE, THAT WE ELECT NOT TO SO EXTEND THIS IRREVOCABLE STANDBY LETTER OF CREDIT. A COPY OF ANY SUCH NOTICE SHALL ALSO BE SENT, IN THE SAME MANNER, TO: PORT OF SAN FRANCISCO, PIER 1, SAN FRANCISCO, CA 94111, ATTENTION: GENERAL COUNSEL. HOWEVER, NON-RECEIPT OF OUR NOTICE OF NON-RENEWAL BY GENERAL COUNSEL DOES NOT INVALIDATE OUR NOTICE.

IN ADDITION TO THE FOREGOING, WE UNDERSTAND AND AGREE THAT YOU SHALL BE ENTITLED TO DRAW UPON THIS IRREVOCABLE STANDBY LETTER OF CREDIT IN ACCORDANCE WITH 1 AND 2 ABOVE IN THE EVENT THAT: 1) WE ELECT NOT TO RENEW THIS IRREVOCABLE STANDBY LETTER OF CREDIT AND 2) YOU PROVIDE US WITH A DATED STATEMENT PURPORTEDLY SIGNED BY AN AUTHORIZED SIGNATORY OR AGENT OF BENEFICIARY STATING THAT THE "APPLICANT HAS FAILED TO PROVIDE BENEFICIARY WITH AN ACCEPTABLE SUBSTITUTE IRREVOCABLE STANDBY LETTER OF CREDIT IN ACCORDANCE WITH THE TERMS OF THE ABOVE REFERENCED LICENSE". WE FURTHER ACKNOWLEDGE AND AGREE THAT: (A) UPON RECEIPT OF THE DOCUMENTATION REQUIRED HEREIN, WE WILL HONOR YOUR DRAWS AGAINST THIS IRREVOCABLE STANDBY LETTER OF CREDIT WITHOUT INQUIRY INTO THE ACCURACY OF BENEFICIARY'S SIGNED STATEMENT AND REGARDLESS OF WHETHER APPLICANT DISPUTES THE CONTENT OF SUCH STATEMENT; AND (B) THIS IRREVOCABLE STANDBY LETTER OF CREDIT SHALL PERMIT PARTIAL DRAWS AND, IN THE EVENT YOU ELECT TO DRAW UPON LESS THAN THE FULL STATED AMOUNT HEREOF, THE STATED AMOUNT OF THIS IRREVOCABLE STANDBY LETTER OF CREDIT SHALL BE AUTOMATICALLY REDUCED BY THE AMOUNT OF SUCH PARTIAL DRAW.;

THIS IRREVOCABLE STANDBY LETTER OF CREDIT IS NOT TRANSFERRABLE.

THIS IRREVOCABLE STANDBY LETTER OF CREDIT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF CALIFORNIA.

THIS IRREVOCABLE STANDBY LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (2007 REVISION) ICC PUBLICATION NO. 600.

WE HEREBY ENGAGE WITH YOU TO HONOR DRAFTS AND DOCUMENTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS IRREVOCABLE STANDBY LETTER OF CREDIT.

ALL WRITTEN COMMUNICATIONS TO US WITH RESPECT TO THIS IRREVOCABLE
STANDBY LETTER OF CREDIT MUST BE ADDRESSED TO OUR OFFICE LOCATED AT
CITIBANK N.A., C/O ITS SERVICE CITICORP NORTH AMERICA, INC., 3800 CITIBANK
CENTER, BUILDING B, 3RD FLOOR, TAMPA, FL 33610, ATTN: U.S. STANDBY DEPT.,
PHONE NO. 866-945-6284

ALL PARTIES TO THIS LETTER OF CREDIT ARE ADVISED THAT THE U.S.
GOVERNMENT HAS IN PLACE CERTAIN SANCTIONS AGAINST CERTAIN
COUNTRIES, INDIVIDUALS, ENTITIES, AND VESSELS. CITIGROUP ENTITIES,
INCLUDING BRANCHES AND, IN CERTAIN CIRCUMSTANCES, SUBSIDIARIES,
ARE/WILL BE PROHIBITED FROM ENGAGING IN TRANSACTIONS OR OTHER
ACTIVITIES WITHIN THE SCOPE OF APPLICABLE SANCTIONS.

VERY TRULY YOURS,

[NAME]

[TITLE]

EXHIBIT E

LOCAL BUSINESS PARTICIPATION

Memorandum of Understanding (“MOU”) between Pacific Gas and Electric Company (“PG&E”) and the City and County of San Francisco (the “City”), acting by and through the Mayor’s Office of Economic and Workforce Development’s CityBuild Program (“CityBuild”), (collectively “Parties”) regarding community workforce and neighborhood benefits during the Embarcadero to Potrero 230kV transmission project (the “Project”).

WHEREAS, PG&E’s proposed Embarcadero-Potrero 230kV transmission lines will provide additional reliability to San Francisco’s electrical system and operational flexibility as well as opportunities for construction and support jobs throughout the duration of the project; and

WHEREAS, the City has a “CityBuild Program” which has as its purpose the creation of employment opportunities for qualified, economically disadvantaged individuals; and

WHEREAS, Local hiring policies provide opportunities for San Francisco workers that promote partnerships between business and the community; and

WHEREAS, a portion of the project is located in the southeast portion of San Francisco, an area that has traditionally included many economically disadvantaged individuals; and

WHEREAS, PG&E wishes to voluntarily work with the City’s CityBuild Program and PG&E’s construction contractors (“Contractors”) to staff the Project with qualified workers from Citybuild to the extent feasible; and

WHEREAS, PG&E commits to engage in operational practices during the project that limit impacts on nearby residents and businesses and to communicate with the community in a manner consistent with best practices established by PG&E during similarly impactful projects in the southeastern sector of San Francisco, including but not limited to a project website, newsletter, toll-free telephone number as well as community meetings and individual meetings; and

WHEREAS, the Project will lead to direct investments in the community including the screening of the existing Potrero switchyard and improvements including beautification, enhanced maintenance and greening of the surrounding areas; and

WHEREAS, PG&E and CityBuild wish to memorialize their agreement.

Therefore, PG&E and the City agree as follows:

A. PG&E hereby notifies CityBuild that PG&E’s agreements with its contractors for the Project includes the following provisions:

- i. Contractors will use their best efforts to utilize individuals from the CityBuild program.
- ii. Contractors will use good faith efforts to meet a local hiring goal of 30% or more for project laborer positions. “Local hiring” is defined as persons residing within the City and County of San Francisco.

B. PG&E agrees as follows:

- i. PG&E will work with Contractors to identify required certifications and training for employment of workers and assist in providing required training as necessary.

C. CityBuild will work with Contractors as follows:

- i. CityBuild will identify key staff as liaison to the Project.
- ii. CityBuild will act as a referral agency to provide referrals of qualified economically disadvantaged individuals for employment on the Project.
- iii. CityBuild will provide workforce reports to PG&E every other week or as requested.

SCHEDULE 1

HAZARDOUS MATERIALS DISCLOSURE

Environmental Reports and Documents Regarding Hazardous Materials

PG&E

**Embarcadero-Potrero 230 kV
Transmission Cable Project**

December 2013

Pier 28

Hazardous Materials Inspection Report; Pier 28, Van Brunt Associates, June 17, 2011.

Pier 26 and 28 Bulkhead - Limited Asbestos and Lead Survey, North Tower environmental, April 30, 2010.

Pier 26 and 28 Bulkhead; Limited asbestos and lead survey; NTE project no.: NT-3278, North Tower environmental, April 30, 2010.

Proposal and Contract for Asbestos Removal, Pier 28, 2nd Floor upper north office area and lower entry room area, Bluewater Environmental Services, 5/16/2007.

Summary Report: Asbestos and Lead Content Roof Surveys for Piers 15, 17, 19, 26, 26-Annex, 28 and 45C, SCA Environmental, Inc., December 1999.

Twenty-Third Street

Phase II Soil and Groundwater Site Investigation Report for HWC-Mitigated Site – Western Portion of Harrigan Weidenmuller Company Property At 435, 525, and 555 Twenty-Third Street, San Francisco, California, URS, September 2006.

SF Bay

Distribution of Mercury in Surface Sediments in San Francisco Estuary, Open File Map, U.S. Geological Survey, 1971.

Environmental Site Assessment, Alternatives A, B-3, and C -- Bayside Discharge Alternatives, Baseline Environmental Consulting, 3/5/93.

Master Sampling and Analysis Plan, Maintenance Dredging Program, Harding Lawson Associates, April 27, 2000.

Regional Dredged Material Rehandling Facility Feasibility Study, Task 1 Report, Laurel Marcus & Associates, 3/30/99.

San Francisco Port Commission, Maintenance Dredging Testing Results, San Francisco Port Commission, 2/2/90.

San Francisco Port Commission, Maintenance Dredging Testing Results, San Francisco Port Commission, 7/14/88.

Sediment Quality and Biological Effects in San Francisco Bay, Bay Protection and Toxic Cleanup Program, Final Technical Report, California Regional Water Quality Control Board, 8/31/98.

Zone of Siting Feasibility Analysis, Draft Final Report, Ogden Beeman & Associates, Inc., June 7, 1991.

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SCHEDULE 2

FEMA Disclosure Notice

The Federal Emergency Management Agency ("FEMA") is revising Flood Insurance Rate Maps ("FIRMs") for San Francisco Bay Area communities. As part of this effort, FEMA plans to prepare a FIRM for the City and County of San Francisco for the first time. That process may have significant impacts for developing new structures and reconstructing or repairing existing structures on San Francisco's waterfront.

FIRMs identify areas that are subject to inundation during a flood having a 1% chance of occurrence in a given year (also known as a "base flood" or "100-year flood"). FEMA refers to an area that is at risk from a flood of this magnitude as a special flood hazard area ("SFHA").

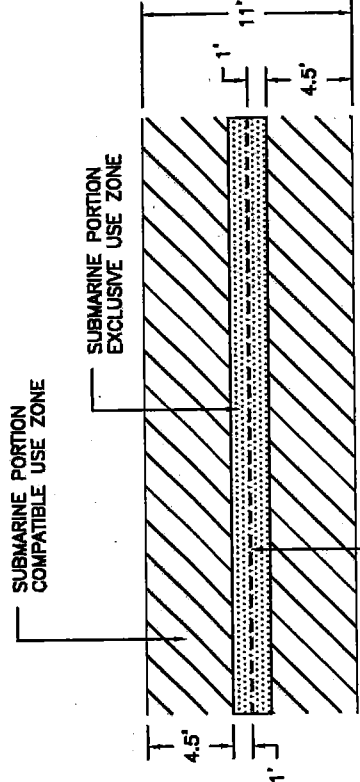
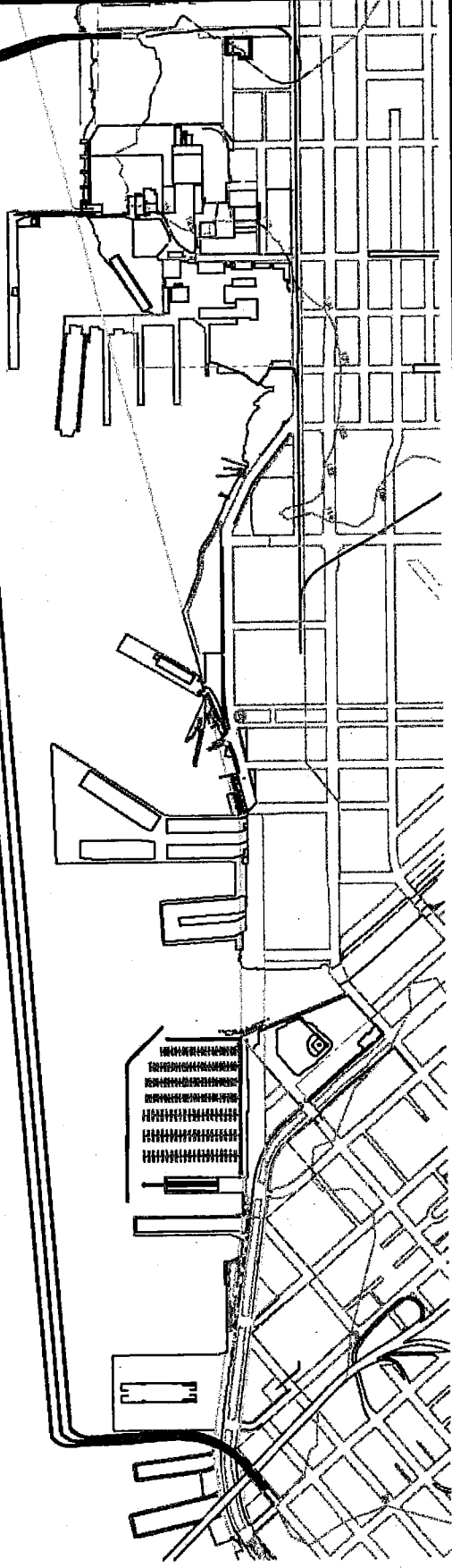
On September 21, 2007, FEMA issued a preliminary FIRM of San Francisco tentatively identifying SFHAs along City's shoreline in and along the San Francisco Bay consisting of "A zones" (areas subject to inundation by tidal surge) and "V zones" (areas subject to the additional hazards that accompany wave action). These zones generally affect City property under the jurisdiction of the Port of San Francisco and other areas of the San Francisco waterfront, including parts of Mission Bay, Hunters Point Shipyard, Candlestick Point, Treasure and Yerba Buena Islands, and an area adjacent to Islais Creek.

FEMA prepares the FIRMs to support the National Flood Insurance Program ("NFIP"), a federal program that enables property owners, businesses, and residents in participating communities to purchase flood insurance backed by the federal government. The San Francisco Board of Supervisors has adopted a floodplain management ordinance governing new construction and substantial improvements in flood prone areas of San Francisco and authorizing the City's participation in NFIP (as amended, the "Floodplain Ordinance"). The Floodplain Ordinance imposes requirements on any new construction or substantial improvement of structures in city-designated flood zones that are intended to minimize or eliminate flood hazard risks. NFIP regulations allow a local jurisdiction to issue variances to its floodplain management ordinance under certain narrow circumstances, without jeopardizing the local jurisdiction's eligibility in the NFIP. However, the particular projects that are granted variances by the local jurisdiction may be deemed ineligible for federally-backed flood insurance by FEMA.

FEMA is performing detailed coastal engineering analyses and mapping of the San Francisco Bay shoreline in accordance with FEMA's February 2005 Pacific guidelines for new coastal studies. The San Francisco Bay Area Coastal Study includes both regional hydrodynamic and wave modeling of the San Francisco Bay, as well as detailed onshore coastal analysis used to estimate wave runup and overtopping, as well as overland wave propagation. These onshore analyses will form the basis for potential revisions to the Base Flood Elevations (BFEs) and Special Flood Hazard Areas (SFHAs) within the coastal areas. The new coastal study will revise and update the flood and wave data based on current conditions within the coastal Flood Insurance Study reports and Flood Insurance Rate Maps for each of the nine counties. For San Francisco, the preliminary FIRMs will replace the preliminary FIRMs issued in 2007. FEMA expects to issue preliminary FIRMs for San Francisco in early 2014, with an intended effective date in mid-2015.

The federal legislation and regulations implementing the NFIP are located at 42 U.S.C. §§ 4001 et seq.; 44 C.F.R. Parts 59-78, §§ 59.1-78.14. FEMA also publishes "Answers to Questions About the NFIP" and FEMA Publication 186 entitled "Mandatory Purchase of Flood Insurance Guidelines." Additional information on this matter can be found on the City's and FEMA's websites at the following links: <http://www.fema.gov/plan/prevent/fhm/index.shtm>; [http://www.r9map.org/Docs/Oct13-SanFranCo-FEMA_Factsheet_rev%20\(2\).pdf](http://www.r9map.org/Docs/Oct13-SanFranCo-FEMA_Factsheet_rev%20(2).pdf); <http://www.fema.gov/business/nfip/index.shtm>; and <http://www.sfgov.org>.

PROPOSED PG&E
SUBMARINE CABLES



TYPICAL SUBMERGED LAND USE
ZONES FOR THREE CABLES

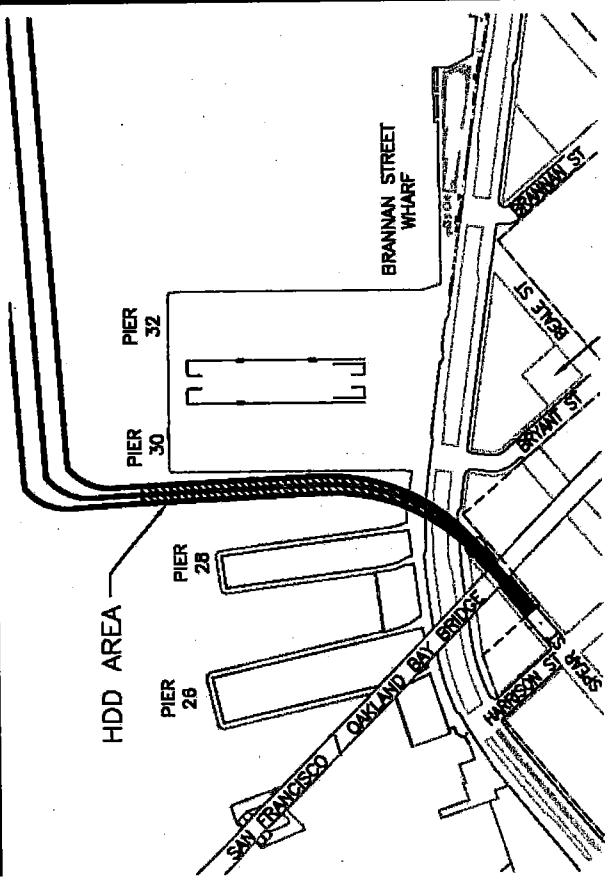


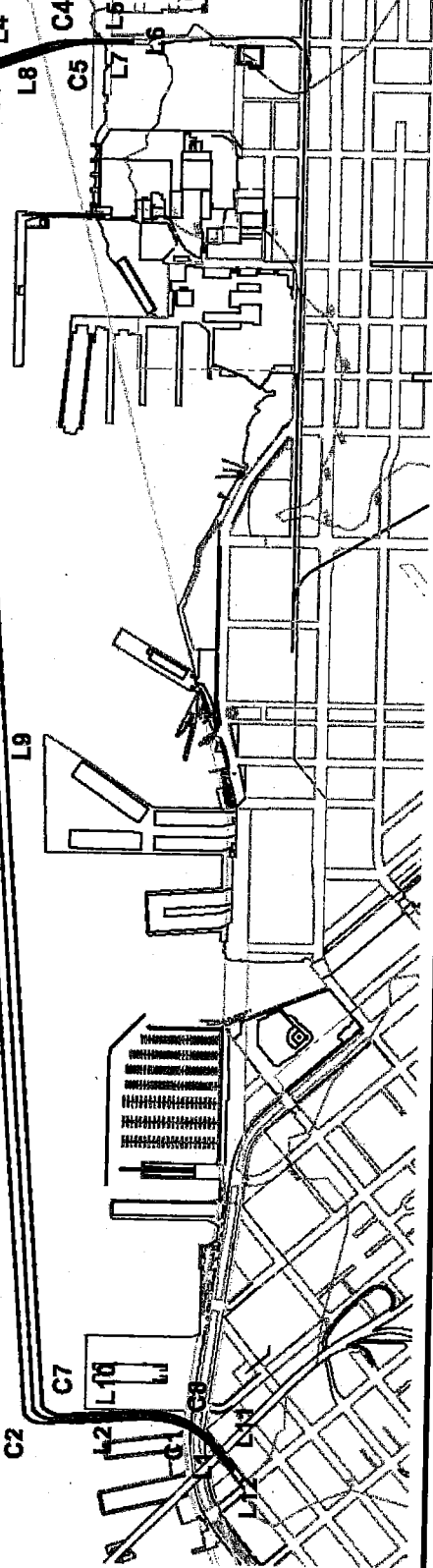
EXHIBIT A

INITIALS: PORT: _____ LICENSEE: _____ DATE: _____

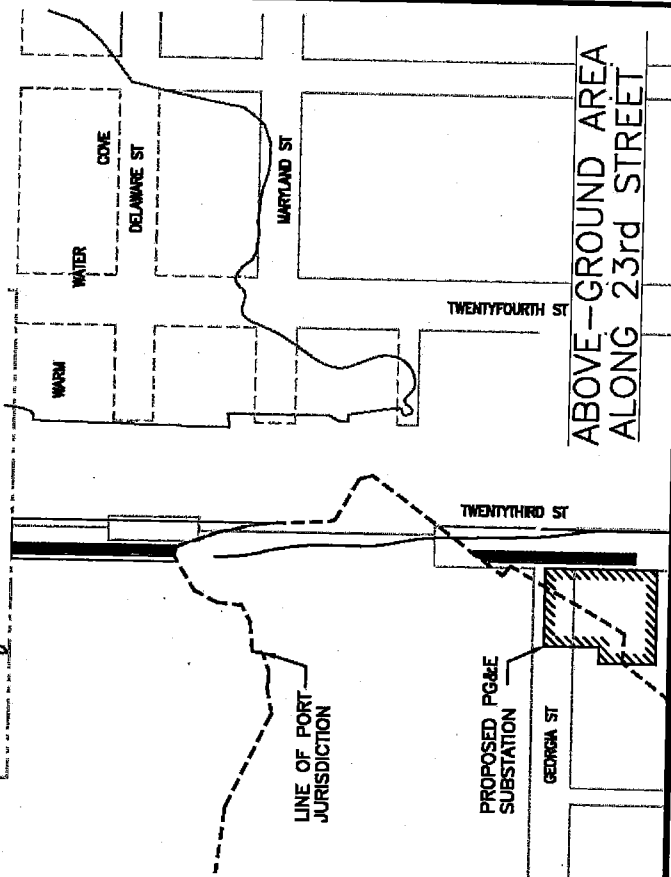
LICENSE NO. 15762	LICENSEE SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING	LICENSE PACIFIC GAS & ELECTRIC CO.	DRAWN BY: ECC CHECKED BY: B. BENSON PLACE CODE NO.	DATE: JUN 4 2014 SCALE: NONE	SHEET NO. 1 OF 2 SHEETS
			G:\08 PROPERTY FILES\Jesse Mapa\PG&E\Marine\revision.dwg		

MINERAL ACCESS POINT
2,102,550 N
6,018,870 E

PROPOSED PG&E
SUBMARINE CABLES



PARCEL BOUNDARIES					
COURSE NO.	DISTANCE	BEARING	COURSE NO.	DISTANCE	BEARING
L1	241.06	S 43° 47' 51" E	C5	R = 800.00	Lc = 246.21
C1	R = 700.00	Lc = 636.99	L8	Δ = 17° 38' 01"	T = 124.08
L2	891.48	N 89° 49' 07" E	C6	646.01	N 68° 10' 39" E
C2	R = 196.35	Lc = 167.18	L9	R = 196.84	Lc = 259.67
L3	11,223.46	S 7° 43' 13" E	C7	Δ = 75° 39' 44"	T = 152.70
C3	R = 198.66	Lc = 186.13	L10	11,046.81	N 7° 29' 05" W
L4	Δ = 53° 40' 59"	c = 179.40	C8	R = 199.76	Lc = 165.96
C4	R = 800.00	Lc = 245.74	L11	Δ = 47° 35' 58"	c = 161.23
L5	Δ = 17° 35' 58"	T = 123.84	L12	725.92	S 83° 55' 42" W
L6	507.09	S 85° 46' 37" W		R = 700.00	Lc = 637.01
L7	20.22	N 4° 13' 37" W		Δ = 52° 08' 24"	T = 342.47
	371.20	N 85° 48' 40" E		297.47	N 43° 47' 43" W
				25.21	N 46° 18' 10" E



DRAWN BY: ECC
CHECKED BY: B. BENSON
PLACE CODE NO.
DATE: JUN 4, 2014
SCALE: NONE
SHEET NO. 2
OF 2 SHEETS

PACIFIC GAS & ELECTRIC CO.

SAN FRANCISCO PORT COMMISSION
PORT OF SAN FRANCISCO
DEPARTMENT OF ENGINEERING

LICENSE NO. 15762

EXHIBIT A-1

INITIALS: PORT: _____ LICENSEE: _____ DATE: _____

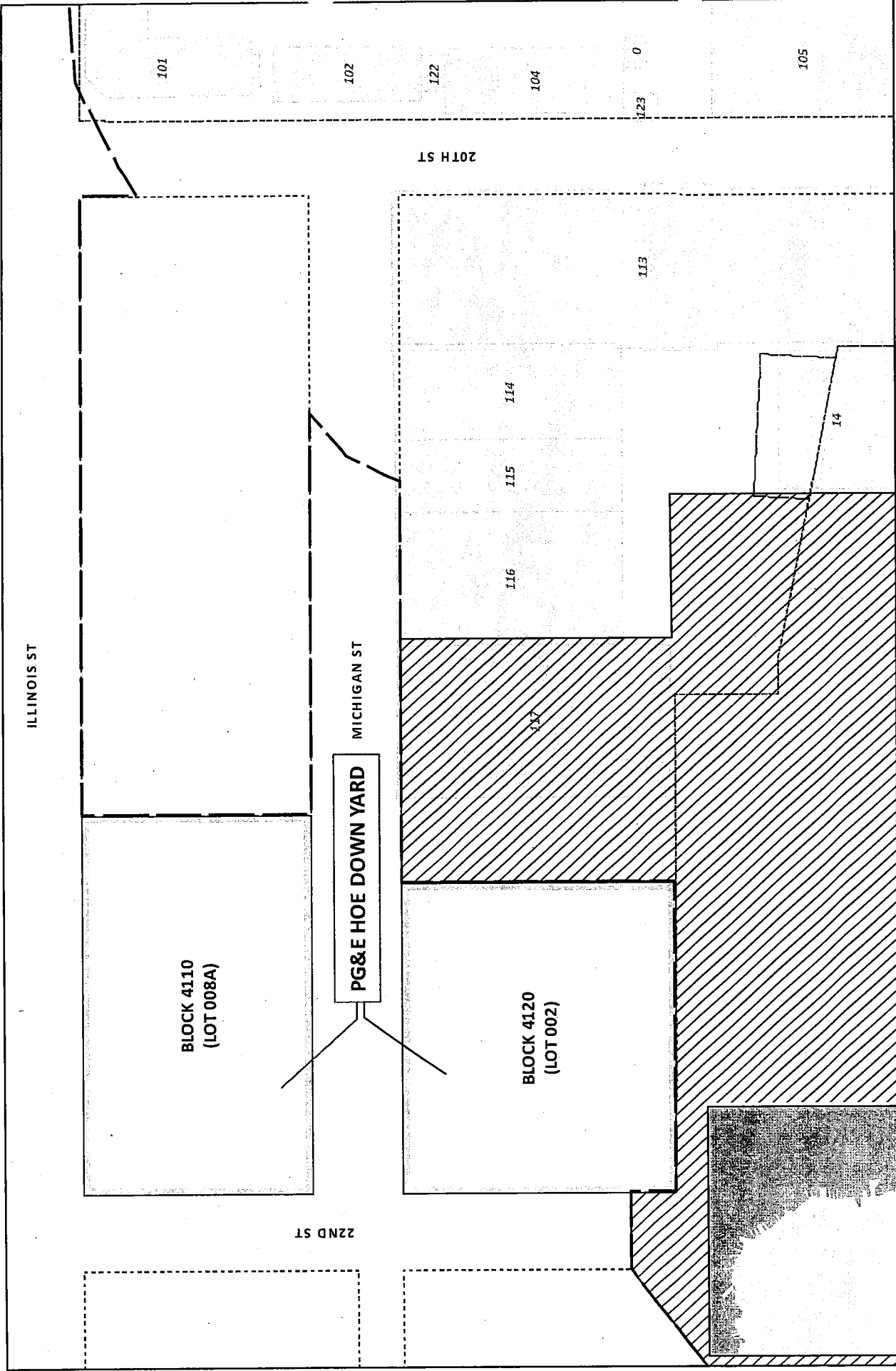
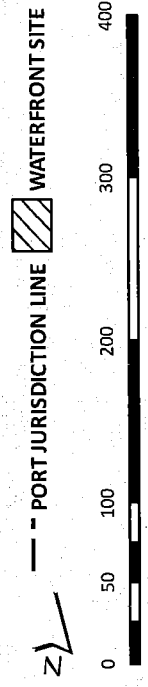
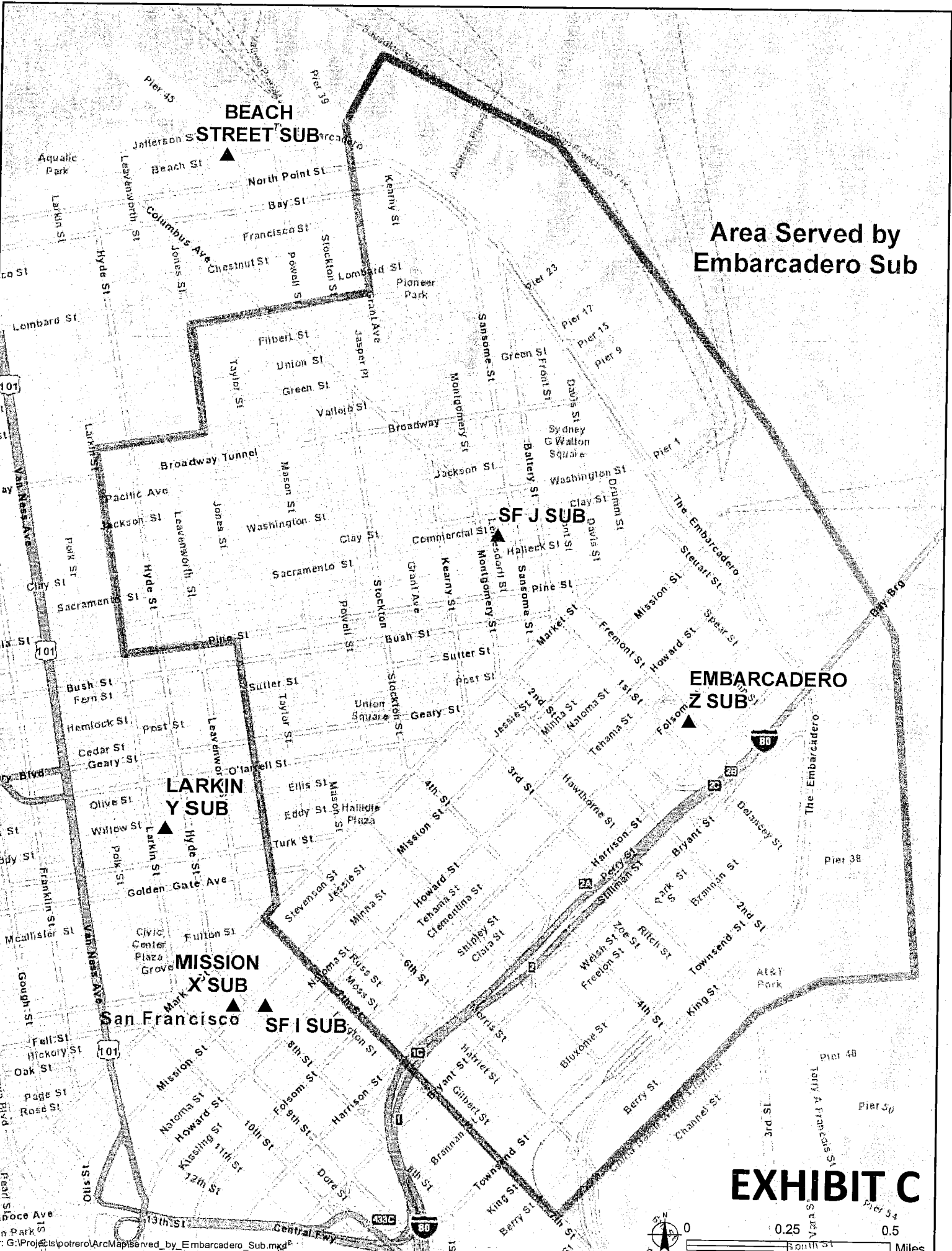


EXHIBIT B
 PG&E HOE DOWN YARD
 PORT OF SAN FRANCISCO





Area Served by
Embarcadero Sub

EMBARCADERO
Z SUB

EXHIBIT C

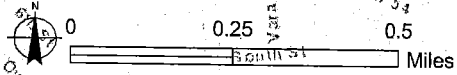


Exhibit D:
CPUC Findings from January 16, 2014 Decision Granting
Certificate of Public Convenience and Necessity

Findings of Fact

1. There is a need to improve the reliability of electric service for downtown San Francisco to reduce the potential for extended electrical outages in a seismic event.
2. The Embarcadero-Potrero 230 kV Transmission Project will meet the need to improve the reliability of electric service for downtown San Francisco.
3. There is no cost-effective alternative to transmission facilities that meet the need to improve the reliability of electric service for downtown San Francisco.
4. No party opposes the project on the basis of community values.
5. With the implementation of the mitigation measures identified in the Mitigation Monitoring Plan identified in the MND and attached to this order, the Embarcadero-Potrero 230 kV Transmission Project will avoid any significant environmental impacts, including those with respect to public safety and the safety of utility services, recreational and park areas, historical and aesthetic values, and influences on the environment.
6. PG&E's preliminary EMF management plan for the Embarcadero-Potrero 230 kV transmission project includes no-cost and low-cost measures (within the meaning of D.93-11-013, and D.06-01-042) to reduce possible exposure to EMF.
7. The Commission has reviewed and considered the information contained in the MND and finds that it reflects the Commission's independent judgment and analysis.
8. The maximum reasonable cost for the project is \$196.8 million, including contingency.
9. Hearings are not necessary.

Conclusions of Law

1. The MND was completed in compliance with CEQA.
2. PG&E's preliminary EMF management plan for the Embarcadero-Potrero 230 kV Transmission Project is consistent with the Commission's EMF policy for implementing no-cost and low-cost measures to reduce potential EMF impacts.
3. PG&E should be granted a certificate of public convenience and necessity to construct the Embarcadero-Potrero 230 kV transmission project with the mitigation identified in the Mitigation Monitoring Plan, which is attached to this order.
4. If the final detailed engineering design-based construction estimate for the Embarcadero-Potrero Transmission Project is one percent or more lower than \$196.8 million, including contingency, absent good cause shown to the contrary, it is reasonable for the Commission to adopt the lower amount as the maximum reasonable cost for the project.

5. If the final detailed engineering design-based construction estimate for the Embarcadero-Potrero Transmission Project is one percent or more lower than \$196.8 million, including contingency, PG&E should, within 30 days of developing the final estimate, file an advice letter to show cause why the Commission should not adopt a lower amount as the maximum reasonable and prudent cost to reflect the final estimate.
6. This decision should be effective today.
7. Application 12-12-004 should be closed.

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



FINAL
Mitigated Negative Declaration
Pacific Gas & Electric Company's
Embarcadero-Potrero 230 kV Transmission Project
Application No. A.12-12-004

Lead Agency: California Public Utilities Commission
Energy Division
505 Van Ness Avenue, 4th Floor
San Francisco, California 94102

Contact: Billie Blanchard, Project Manager
(415) 703-2068 or billie.blanchard@cpuc.ca.gov

1. Mitigated Negative Declaration

1.1 Project Information

Project: Embarcadero-Potrero 230 kV Transmission Project
San Francisco, California

Project Sponsor: Pacific Gas and Electric Company
77 Beale Street, B30A
San Francisco, California 94105
(800) 743-5000

1.2 Introduction

Pursuant to California Public Utilities Commission's (CPUC) General Order 131-D, Pacific Gas and Electric Company (PG&E), a regulated California utility, filed an application and Proponent's Environmental Assessment (PEA) on December 11, 2012 (Application No. A.12-12-004), for a Certificate of Public Convenience and Necessity (CPCN) to authorize construction of the Embarcadero-Potrero 230 kilovolt (kV) Transmis-

sion Project (Proposed Project). The CPUC Energy Division deemed the PEA and Application complete on January 10, 2013.

Pursuant to CEQA, the CPUC must prepare an Initial Study (IS) for the Proposed Project to determine if any significant adverse effects on the environment would result from project implementation. The IS utilizes the significance criteria outlined in Appendix G of the CEQA *Guidelines*. If the IS for the project indicates that a significant adverse impact could occur, the CPUC would be required to prepare an Environmental Impact Report (EIR).

According to Article 6 (Negative Declaration Process) and Section 15070 (Decision to Prepare a Negative Declaration or Mitigated Negative Declaration) of the CEQA *Guidelines*, a public agency shall prepare or have prepared a proposed negative declaration or mitigated negative declaration for a project subject to CEQA when:

- (a) *The initial study shows that there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment, or*
- (b) *The initial study identifies potentially significant effects, but:*
 - (1) *Revisions in the project plans or proposals made by, or agreed to by the applicant before a proposed mitigated negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and*
 - (2) *There is no substantial evidence, in light of the whole record before the agency, that the project as revised may have a significant effect on the environment.*

Based on the analysis in the Initial Study, it has been determined that all project-related environmental impacts could be reduced to a less than significant level with the incorporation of feasible mitigation measures. Therefore, adoption of a Mitigated Negative Declaration (MND) will satisfy the requirements of CEQA. The mitigation measures included in this MND are designed to reduce or eliminate the potentially significant environmental impacts described in the Initial Study. Where a measure described in this document has been previously incorporated into the project, either as a specific project design feature or as an Applicant Proposed Measure, this is noted in the discussion. Mitigation measures are structured in accordance with the criteria in Sections 15126.4 and 15370 of the CEQA *Guidelines*.

1.3 Project Description

The proposed Embarcadero-Potrero 230 kV Transmission Project would include construction, operation, and maintenance of a new 230 kV transmission line entirely within the City and County of San Francisco from the Embarcadero Substation at the corner of Fremont and Folsom Streets, to the Potrero Switchyard on Illinois Street between 22nd and 23rd Streets.

The new 230 kV transmission line would be approximately 3.5 miles in total length, including approximately 2.5 miles to be installed offshore in the San Francisco Bay, 0.4 miles to be installed in horizontal directional drills (HDD) between onshore transition points and the bay, and approximately 0.6 miles to be installed underground in paved areas, including Spear Street and Folsom Street in San Francisco's Rincon Hill neighborhood. Construction of a new 230 kV switchyard would occur near the existing Potrero Switchyard, but no new substation work is proposed to occur at the existing Embarcadero Substation beyond the proposed termination of the new cable into the 230 kV bus.

PG&E's project objectives include improving the reliability of the existing transmission system in San Francisco to provide a high likelihood of continued electric service to downtown San Francisco in the

event of overlapping outages on both of two existing 230 kV transmission lines that presently feed Embarcadero Substation.

1.4 PG&E PEA Alternatives Considered

CEQA does not require the inclusion of an alternatives analysis in a Mitigated Negative Declaration because the Initial Study concludes that, with incorporation of mitigation measures, there would be no significant adverse impacts resulting from the Proposed Project (CEQA Guidelines Sections 15063(d) and 15071). However, PG&E was required to provide an alternative analysis in its PEA that was submitted as part of its CPCN application (A.12-12-004) for the Proposed Project.

Although no alternatives analysis is required to be provided in this document, this section summarizes the process that PG&E used to develop its Proposed Project, because this process involved evaluation of several options that could meet the project objectives. As described in the PEA, PG&E initially screened 10 potential routes, three possible transition locations for the cables at each end of the route, and three switchyard locations before narrowing the options to the following, which were further evaluated in a feasibility study (PG&E, 2012a; B&V, 2012):

- Three switchyard site location alternatives, including the proposed site immediately east of the existing Potrero Switchyard
- Two onshore alternative transmission line routes
- Proposed submarine route (Proposed Project)
- No Project Alternative

In accordance with Section IX (A)(1)(a) of CPUC General Order 131-D, PG&E provided a discussion and an evaluation of the advantages and disadvantages of each of these alternatives in the PEA, as well as a brief description of the criteria for choosing the proposed route and switchyard location. The PEA determined that the Proposed Project would have considerably less impact on urbanized areas than either of the alternative onshore routes given that it has only 0.6 mile of underground construction, and therefore, would have the least impact on urbanized residential and commercial areas, including the least construction impacts to land uses, traffic, transportation, noise, and air quality. PG&E also concluded in the PEA that the proposed route would be the most reliable seismically of the three route alternatives and would best meet the project purpose and need. PG&E selected the proposed switchyard site due to engineering feasibility and ease of connectivity to existing facilities (PG&E, 2012a). PG&E's PEA section that addresses alternatives is available at the following website:

<http://www.cpuc.ca.gov/Environment/info/aspen/embarc-potrero/pea/5-Alternatives.pdf>

1.5 CAISO San Francisco Peninsula Reliability Assessment

The San Francisco-Peninsula transmission system is in the center of PG&E's service territory, serving urban load centers across a unique geographic landscape. The California Independent System Operator (CAISO) considered the Proposed Project during 2011 and 2012, and during other transmission planning cycles the CAISO has or will consider other San Francisco-area proposals. On March 23, 2012, the CAISO Governing Board found the Proposed Project to be needed for reliability, as shown in its 2011-2012 Transmission Plan (pp. 107-108 of CAISO, 2012).

Since then, the CAISO 2012-2013 Transmission Plan initiated a study of the potential need for transmission reinforcement of the San Francisco Peninsula as being particularly vulnerable to lengthy

outages in the event of extreme contingencies (i.e., seismic, third-party action, and/or co-located facility failure). CAISO is in the process of conducting the San Francisco Peninsula Extreme Event Reliability Assessment to determine the need and urgency for reinforcement and is engaging stakeholders in the evaluation of risks and potential alternatives. The purpose of the CAISO study is to:

- identify the system performance after extreme events;
- identify the risk and impacts of extreme events in the San Francisco Peninsula area; and
- based upon the system performance, risks and impacts, identify potential alternatives to mitigate for the extreme events. (CAISO, 2013)

The CAISO conducted a detailed assessment and held a stakeholder meeting on May 29, 2013, soliciting comments from stakeholders by June 19, 2013. Based on the assessment, the following mitigation alternatives are going to be considered by the CAISO in developing the mitigation plan for the extreme event in the peninsula area (CAISO, 2013):

- No mitigation (not acceptable based upon the CAISO's assessment)
- Expanded mobile and spare equipment contingency plans and strategy
- Modifications or upgrades to 230 kV system
- Upgrades to 115 kV system
- New 230 kV supply into North Peninsula area:
 - Moraga
 - Pittsburg
 - East Shore
 - San Mateo

Depending upon the results, additional transmission upgrades may be brought to the CAISO Board of Governors as early as September in late 2013 or early 2014.

Due to the sensitive nature of the material, the reliability assessment and presentations from the stakeholder meeting are being handled on a confidential basis. However, in compliance with FERC Order 890, the CAISO provides stakeholders access to confidential information used in the transmission planning process through a secured website. Information on how to join the stakeholder process and access the secured transmission planning webpage can be found at:

http://www.caiso.com/Documents/2012-2013_TransmissionPlanningProcessAdditionalStudyAssessmentMaterialsAvailableJun6_2013.htm.

1.6 San Francisco Port Commission Negotiations

The San Francisco Port Commission (SF Port) established a Revised Term Sheet with PG&E after the August 2013 release of the Draft MND. At its September 10, 2013 meeting, the Port Commission considered Resolution 13-34 to endorse the Revised Term Sheet. In contrast to the original term sheet from November 2012, the Revised Term Sheet now contemplates a requirement for PG&E to screen or otherwise enclose the existing 115 kV Potrero Switchyard along Illinois Street between 22nd Street and 23rd Street. This means that the recent Port Commission decision to endorse the Revised Term Sheet is at least partially based on the SF Port License "obligating PG&E to screen the Potrero Switchyard" (at p.1 of the Term Sheet).

Because the Term Sheet endorsed by the Port defines a future requirement for PG&E to screen or enclose the existing Potrero Switchyard, this MND/Initial Study evaluates whether enclosing the switchyard amounts to an activity that would either be undertaken as part of the Proposed Project, caused by the project, or caused indirectly by the project. If so, the physical changes in the environment stemming from screening the switchyard would need to be disclosed to the extent they are reasonably foreseeable (see CEQA Guidelines 15064).

This MND/Initial Study does not treat screening the existing Potrero Switchyard as a reasonably foreseeable consequence of PG&E developing the Proposed Project. Although the City wishes to obligate PG&E to either enclose a substantial portion of the existing 115 kV Potrero Switchyard within a building or construct a screen around the perimeter of the switchyard, the Term Sheet itself is not contractually binding, and it does not presently commit PG&E to screening or enclosing the switchyard. The Term Sheet specifies that the City must first, within 10 years after executing the License for the Proposed Project, provide PG&E with notice of its preference, through a "Designation Notice" of the City's "Preferred Screen", which would then be subject to the Port's Waterfront Design Advisory Committee review. Following the Port's design committee review of PG&E's screening proposal, PG&E must then obtain the necessary approvals before commencing construction of the screen or enclosure. The Term Sheet also notes that negotiations will continue to occur before a License for the Proposed Project can be executed by PG&E and the Port Commission, and the binding form of the License will only become known after the present environmental review for the Proposed Project has been completed. The final terms and conditions of the negotiated transaction for the License are subject to the approval of the Port Commission.

PG&E has not presented to the CPUC any plans for an enclosure or screen at this time. After the City's designation, PG&E will need to apply for future approvals to construct the City's preferred screen, and this may require conducting a future project-level environmental review under CEQA of that proposal. PG&E notes that the purpose of the screening would be separate from the objectives of the Embarcadero-Potrero 230 kV Transmission Project, and screening could be implemented entirely separately of the Proposed Project [PG&E in Response to CPUC Data Request PD-18, General Reply to SFPUUC Letter, October 3, 2013 (PG&E, 2013a)].

Foreseeable Environmental Effects of Screening for Potrero Switchyard. Although construction of screening for or enclosing the existing Potrero Switchyard would not be directly or indirectly caused by the Proposed Project, and no design is proposed, certain environmental effects would generally be expected from this type of project. Developing a perimeter screen for the existing 115 kV Potrero Switchyard would create impacts related to construction activity along Illinois Street between 22nd Street and 23rd Street. This could result in PG&E removing street trees along Illinois Street, creating temporary ground disturbance for the foundations or footings of the screening, and temporarily impacting parking conditions, traffic, air quality, and noise along Illinois Street during the work to install the switchyard screen. Alternatively, if the switchyard were to be enclosed within a new building, construction-phase impacts would be more intense than what would occur with building a screening wall. The primary long-term physical change to the environment would be to shield views of the existing open-air equipment and to reduce the industrial aesthetics of the existing streetscape. Overall, the City's goal is to improve the compatibility of the site with mixed uses.

1.71.6 Environmental Determination

The Initial Study was prepared to identify the potential environmental effects resulting from Proposed Project implementation, and to evaluate the level of significance of these effects. The Initial Study relies

on information in PG&E's PEA filed on December 11, 2012 (Application No. A.12-12-004), project site reconnaissance by the CPUC environmental team between January and March 2013, CPUC data requests, and other environmental analyses.

PG&E's PEA identified measures to address potentially significant environmental impacts — the Applicant Proposed Measures (APMs) — and these APMs are considered to be part of the description of the Proposed Project. Based on the Initial Study analysis, additional mitigation measures are identified for adoption to ensure that impacts of the Proposed Project would be less than significant. The additional mitigation measures either supplement, or supersede the APMs. PG&E has agreed to implement all of the additional recommended mitigation measures as part of the Proposed Project.

Implementation of the mitigation measures listed here and presented fully in the Initial Study would avoid potentially significant impacts identified or reduce them to less than significant levels.

Mitigation Measure for Construction-Phase Air Quality

- MM A-1** **Achieve minimum emission standards.** This measure incorporates and supplements portions of APM AQ-2, Minimize Construction Exhaust Emissions. PG&E shall maintain all construction equipment properly in accordance with manufacturer's specifications, and ensure that equipment is checked by a certified visible emissions evaluator. All off-road construction diesel engines not registered under the CARB Statewide Portable Equipment Registration Program shall meet at a minimum the Tier 2 California Emission Standards for Off-Road Compression-Ignition Engines as specified in California Code of Regulations (CCR) Title 13, Chapter 9, Sec. 2423(b)(1). All marine commercial harbor craft, except gasoline-powered small craft, shall meet at a minimum the Tier 2 Marine Engine Emission Standards (CCR Title 17, Sec. 93118.5).

Mitigation Measures for Special-Status Species

- MM B-1** **Implement an Invasive Marine Species Control Plan.** PG&E shall develop and implement an Invasive Marine Species Control Plan prior to any in-water work. The plan shall include measures designed to effectively limit the introduction and spread of invasive marine species. PG&E shall submit this plan to the CPUC for approval at least 60 days before the start of marine activities. Vessels originating outside San Francisco Bay shall follow existing compliance measures established by the California State Lands Commission as part of the Marine Invasive Species Program, relating to hull fouling and ballast water control. In addition, if used outside the San Francisco Bay area prior to use on this project, the hydroplow and associated equipment shall be examined and any invasive species handled and disposed of according to the developed plan. Similarly, if the equipment is to be used outside the San Francisco Bay after this use, the equipment shall be examined and cleaned prior to leaving the area.

PG&E shall coordinate plan preparation with the CPUC, U.S. Coast Guard, U.S. Army Corps of Engineers, National Marine Fisheries Service [NMFS], Regional Water Quality Control Board, and California Department of Fish and Wildlife [CDFW] as appropriate. The plan shall include: environmental training for all crew members working in marine areas addressing invasive marine species and actions to be taken to prevent release and spread of invasive marine species. Training shall include procedures for safe removal and disposal of any invasive species found on project equipment. Before and after boats and equipment leave the water, a qualified biologist (approved by the CPUC) shall assist

crew members in removing plants, plant debris, and any other potentially invasive species.

MM B-2

Protect marine mammals from high noise levels. PG&E shall consult with the National Marine Fisheries Service (NMFS) to determine whether Incidental Harassment Authorization (IHA) or Letter of Authorization (LOA) for marine mammals is necessary. If NMFS determines that an IHA or LOA is not necessary, PG&E shall submit evidence of this determination to the CPUC prior to the start of marine construction activities.

Monitoring. PG&E shall prepare and implement a Marine Mammal Monitoring Plan. PG&E shall submit this plan to the CPUC for approval before the start of marine activities. The Marine Mammal Monitoring Plan shall include the following elements:

- Establishment of an appropriate buffer zone around the work area, generally 400 feet or as defined in consultation with NMFS, that would require work be slowed or otherwise modified if the work approaches a marine mammal within the established buffer zone.
- A qualified biologist (approved by the CPUC) shall be on board the hydroplowing ship during construction.
- The qualified biologist shall monitor marine mammal presence and behavior in the vicinity of the ship and the surface above hydroplow operations.
- The qualified biologist shall have the authority to slow or stop work, if safe to do so, and shall consult with the CPUC and NMFS about the implementation of additional minimization measures if, based on observations, project construction appears to be disrupting marine mammal behavior in ways that indicate harassment or injury.
- Any disruption of marine mammal behavioral patterns shall be reported to the CPUC and NMFS within two working days with a description of actions taken to curtail work and reduce noise source levels and a demonstration that the disruption caused no potential for injury or mortality.
- PG&E shall submit weekly reports of marine mammal observations to the CPUC during marine construction activities.

As an alternative to preparing and implementing the Marine Mammal Monitoring Plan specified in this mitigation measure, PG&E may provide adequate evidence, to the CPUC for approval at least 30 days before the start of marine activities, based upon actual data collected for this project or other projects using similar equipment in a similar submarine environment, that demonstrates to the satisfaction of the CPUC that underwater noise source levels generated by the project hydroplow and marine activities cannot ~~not~~ be reasonably expected to exceed the 180 dB threshold recently used by NMFS for marine mammal protection.

MM B-3

Protect marine species. PG&E shall consult with CDFW to obtain an Incidental Take Permit for longfin smelt or a determination from the agency that the project ~~is~~ will not likely to adversely affect result in take of longfin smelt.

Fish screens. As stated in APM BIO-6, all hydroplow water jet intakes shall be covered with a mesh screen or screening device to minimize potential for impingement or entrain-

ment of fish species, especially longfin smelt. Additional requirements to minimize or prevent entrainment and impingement are also required to supplement APM BIO-6:

- The mesh screen or screening device shall comply with applicable state (CDFW) and federal (NMFS) criteria for screening intakes such as those found in NMFS's 1996 *Juvenile Fish Screen Criteria for Pump Intakes* and CDFW's *Fish Screening Criteria* (http://www.dfg.ca.gov/fish/Resources/Projects/Engin/Engin_ScreenCriteria.asp) or as required in coordination with by NMFS and CDFW.

Monitoring. A qualified biologist (approved by CPUC) shall verify that the screens are in place at the beginning of each hydroplow work period and examine them for impinged longfin smelt or other fish species at the end of each work period, or whenever the screens are cleaned or the hydroplow is raised out of the water during the cable laying. Injury or mortality shall be reported to CPUC within two working days, with a discussion of actions taken to prevent or minimize any additional longfin smelt injury or mortality or as otherwise determined with CDFW and NMFS. Any injury or mortality of longfin smelt shall also be reported as determined in permitting discussions with CDFW and NMFS.

MM B-4

Avoid impacts to nesting birds. This measure supersedes APM BIO-2. If onshore construction activities occur during the avian nesting season, a preconstruction survey for nesting birds shall be conducted by a qualified wildlife biologist (PG&E employees or contractors, approved by the CPUC) within 7 days prior to the start of noise-generating construction or vegetation trimming or removal activities in any new work area. Surveys shall cover all public areas within 50 feet of work sites. For San Francisco County, the avian nesting season regularly occurs between February 15 and August 31, but a survey may be appropriate earlier or later depending on species, location, and weather conditions as determined by the qualified wildlife biologist.

Work areas that cause no appreciable increase in ambient noise, such as where work is performed manually, by hand, or on foot and activities that cause no observable disturbances to nesting birds (e.g., operating switches, driving on access roads, normally occurring activities at substations, staging or laydown areas) would not warrant a preconstruction survey.

Protective measures for birds. If an active bird nest for a species covered by the Migratory Bird Treaty Act or California Fish and Game Code is found within 50 feet of project work areas, the qualified biologist shall determine appropriate protective measures to reduce the likelihood of nest failure. Protective measures for active nests shall include one or more of the following: avoiding or limiting certain project-related activities within a designated buffer zone surrounding the nest, shielding of the nest from project disturbance using a temporary soundwall or visual screen, or other shielding method as appropriate. The width of the buffer zone (in which work may not occur) shall be based on the disturbance tolerance and conservation status of the species, and the nature of planned construction activities and other human activities in the immediate area. Buffer zones of less than 50 feet shall be allowed only when planned construction activities involve relatively low disturbance or birds have demonstrated tolerance of noise and disturbance. Buffers shall not apply to construction-related vehicle or pedestrian traffic using city streets and sidewalks. As appropriate, exclusion techniques may be used for any construction equipment that is left unattended for more than 24 hours to reduce the

possibility of birds nesting in the construction equipment. An example exclusion technique is covering equipment with tarps.

Bird species found building nests within the work areas after specific project activities begin may be assumed tolerant of that specific project activity; the CPUC approved, qualified biologist shall implement an appropriate buffer or other appropriate measures to protect such nests, after taking into consideration the position of the nest, the bird species nesting on site, the type of work to be conducted, and duration of the construction disturbance.

Protective measures for special-status birds. If an active nest for a special-status bird is found, PG&E shall record the position of the nest in the monitoring report and notify the CPUC through the reporting process outlined below. The qualified biologist shall implement buffers and set other protective measures (described above), as appropriate, to protect special-status nesting birds from construction activities in consultation with CPUC, and as appropriate the California Department of Fish and Wildlife (CDFW) and/or United States Fish and Wildlife Service (USFWS). Buffer zones of less than 50 feet shall be allowed only when planned construction activities involve relatively low disturbance or birds have demonstrated tolerance of noise and disturbance. Requests for buffers of less than 50 feet for special-status nesting birds must be submitted to the CPUC's independent biologist(s) for review. The CPUC's independent biologist shall respond to PG&E's request for a buffer reduction (and buffer reduction terms) within one business day; if a response is not received, PG&E can proceed with the buffer reduction. If nesting birds in the presence of the CPUC-approved qualified biologist show signs of intolerance to construction activities within a reduced buffer zone, the qualified biologist shall reinstate the recommended buffer. The recommended buffer may only be reduced again following the same process, as identified above, and after the CPUC-approved, qualified biologist has determined that the nesting birds are no longer exhibiting signs of intolerance to construction activities. Nests shall be monitored daily by the qualified biologist when construction is active at that location. Any potentially significant construction-related disturbance shall be reported to CPUC, CDFW, and USFWS.

Monitoring. Active nests shall be monitored at least once daily during construction until nestlings have fledged and dispersed or until nest failure has been documented. Daily nest checks shall be at least 30 minutes or more as determined by the qualified biologist based on the type of construction activity (duration, equipment being used, potential for construction-related disturbance) and other factors related to assessment of nest disturbance (weather variations, pair behavior, nest stage, nest type, species, etc.).

The qualified biologist shall record the construction activity occurring at the time of the nest check and note any work exclusion buffer in effect at the time of the nest check. The qualified biologist shall record any sign of disturbance to the active nest, including but not limited to parental alarm calls, agitated behavior, distraction displays, nest fleeing and returning, chicks falling out of the nest or chicks or eggs being predated as a result of parental abandonment of the nest. If the qualified biologist determines that project activities are contributing to nest disturbance, they shall notify CPUC (and CDFW/USFWS as appropriate in the case of special-status bird nests) and coordinate with the Construction Manager to limit the duration or location of work, and/or increase appropriate protective measures (as described above).

Reporting. If there are active nests present within 50 feet of the project area during construction, a weekly written report shall be submitted to CPUC. A final report shall be submitted to CPUC at the end of each nesting season summarizing all nest monitoring results and nest outcomes for the duration of project construction. No avian reporting shall be required for construction occurring outside of the nesting season and if construction activities do not occur within a reduced buffer during any calendar month. Nests located in areas of existing human presence and disturbance, such as in yards of private residences, or within commercial and or industrial properties are likely acclimated to disturbance and may not need to be monitored, as determined by the CPUC-approved, qualified biologist and approved by the CPUC's independent biologist.

Permits. Prior to the start of construction, PG&E may obtain a permit authorized by Section 3503 and/or Section 3503.5 of the California Fish and Game Code, or by any regulation adopted pursuant thereto, pertaining to nesting birds. If PG&E obtains such a permit under the above authorities, where that permit conflicts with the measures outlined above, the conditions of the permit shall govern.

Mitigation Measure for Preservation of Unanticipated Discoveries

MM C-1

Unanticipated discoveries of cultural deposits. This mitigation supersedes APM CUL-4. In the event that previously unidentified archaeological, cultural, or historical sites, artifacts, or features are uncovered during implementation of the project, work will be suspended within 100 feet (30 meters) of the find and redirected to another location. The CPUC-approved cultural resources specialist shall be contacted immediately to examine the discovery and determine if further investigation is needed. If the discovery can be avoided or protected and no further impacts will occur, the resource will be documented on California Department of Parks and Recreation 523 forms and no further effort will be required.

If the resource cannot be avoided and may be subject to further impact, the CPUC-approved cultural resource specialist/archaeologist shall evaluate the resource and determine whether it is: (1) eligible for the CRHR (and thus a historical resource for purposes of CEQA); or (2) a unique archaeological resource as defined by CEQA. If the resource is determined to be neither a unique archaeological nor an historical resource, work may commence in the area. If the resource meets the criteria for either an historical or unique archaeological resource, or both, work shall remain halted, and the cultural resources specialist/archaeologist shall consult with CPUC staff regarding methods to ensure that no substantial adverse change would occur to the significance of the resource pursuant to CEQA Guidelines Section 15064.5(b).

Preservation in place, i.e., avoidance, is the preferred method of mitigation for impacts to historical or unique archaeological resources. Alternative methods of treatment that may be demonstrated ~~by~~ to the CPUC to be effective include evaluation, collection, recordation, and analysis of any significant cultural materials in accordance with a Cultural Resources Management Plan prepared by the CPUC approved qualified cultural resource specialist/archaeologist. The methods and results of evaluation or data recovery work at an archaeological find shall be documented in a professional level technical report to be filed with CHRIS. Work may commence upon completion of treatment, as approved by the CPUC.

Mitigation Measure to Avoid Known and Potential Cultural Resources

MM C-2 **Avoid known and potential shipwreck locations.** This measure incorporates and supplements portions of APM CUL-2, Resource Avoidance. During installation of the submarine cable, PG&E and its contractors shall map the as-built alignment of the cable in relation to known cultural resources, and the contractors shall ensure that the cable passes at least 100 feet to the west of the known shipwreck located in the northeastern portion of the marine geophysical survey area and mapped on NOAA Chart no.18650. In addition, prior to the installation of the cable, PG&E and its contractors shall map a 50 foot buffer around the magnetic anomaly identified by OSI as anomaly no. M63 in the southern half of the marine geophysical survey area and located at 6019099E, 2106491N, as the anomaly may result from the remains of a shipwreck buried beneath the bay floor in that location. PG&E and its contractors shall ensure that no sediment disturbing excavation or hydroplowing is conducted within the 50 foot buffer zone. If the project cannot be routed around the anomaly, additional evaluation and mitigation as detailed in Mitigation Measure C-1, for unanticipated discoveries, and detailed in the Unanticipated Discoveries Plan may be necessary prior to excavation.

Mitigation Measure for Underground Transmission Line Construction Noise

MM N-1 **Implement General Noise Control Measures.** PG&E shall implement the following general noise control measures in addition to APMs NO-1 to NO-7, with APMs NO-2 and NO-3 superseded:

- PG&E and contractors shall use equipment that incorporates noise-control elements into the design.
- PG&E and contractors shall ensure equipment exhaust stacks and vents are directed away from buildings.
- Where use of pneumatic tools, such as impact tools (e.g., jack hammers and pavement breakers), is unavoidable, a noise source screen such as a barrier around the activity using the tools, an external noise jacket, or an exhaust muffler on the compressed air exhaust shall be used and shall be designed to reduce noise levels from the source by 10 dBA.
- PG&E shall include noise control requirements in specifications provided to construction contractors. Such contract specifications would include, but not be limited to, performing all work in a manner that minimizes noise; use of equipment with effective mufflers; undertaking the most noisy activities during times of least disturbance to surrounding residents, day care operations, and commercial uses; and using haul routes that avoid residential buildings inasmuch as such routes are otherwise safely available.
- PG&E shall respond to and track complaints pertaining to construction noise. PG&E shall provide a complaint hotline phone number that shall be answered at all times during construction and designate an on-site construction complaint and enforcement manager for the project. The noise complaint and response process shall be described in the residential notifications required under APM NO-5 and posted publicly near work areas that are within 300 feet of residential buildings or day care operations.

Mitigation Measure for 24-Hour HDD Noise

- MM N-2** **Obtain Special Permit for Nighttime HDD Noise.** This mitigation measure is to supplement and ensure enforceability of APM NO-6 for noise sources at the Embarcadero HDD Transition Area.
- PG&E shall apply to the San Francisco Director of Public Works and obtain a special permit for nighttime or 24-hour activity at the Embarcadero HDD Transition Area, consistent with Section 2908 of the Police Code. Prior to commencing construction of the HDD, PG&E shall provide to the CPUC a copy of the special permit or evidence that no permit is required by San Francisco.
 - PG&E shall provide to the CPUC at least 7 days prior to commencing construction of the Embarcadero HDD Transition Area the results of actual ambient hourly (Leq) noise measurements for each hour between 8:00 p.m. to 7:00 a.m. at the edge of the nearest private property containing residential use obtained from monitored noise levels as specified in APM NO-6.
 - PG&E and contractors conducting nighttime work at the Embarcadero HDD Transition Area, between 8:00 p.m. to 7:00 a.m., shall implement noise attenuation features, including acoustical barriers, blankets and enclosures as identified in APM NO-6, to achieve no more than 5 dBA above existing local ambient noise levels at the edge of the nearest private property containing residential use, based on 1-hour Leq.
 - PG&E shall provide a report to the CPUC regarding actions taken to reduce the duration or level of noise within 48 hours of monitoring noise levels found to be in excess of the ambient noise level by 5 dBA, at the edge of the nearest private property containing residential use, based on 1-hour Leq.

Mitigation Measure for Accidental Utility Service Disruptions

- MM UT-1** **Protect underground utilities.** Prior to commencing construction of the underground transmission line, PG&E shall submit to the CPUC written documentation of the following:
- Construction plans designed to protect existing utilities, showing the dimensions and location of the finalized alignment as well as the corrosion and induced currents study;
 - Records that the Applicant provided the plans to the City and County of San Francisco for review, revision and final approval;
 - Construction plans approved by the City and County of San Francisco detailing the steps taken to prevent damage to two large SFPUC storm sewers, including but not limited to an appropriate shoring plan, work zone restrictions, and setbacks for the adjacent structures, at the following locations: (1) in the intersection of Spear and Folsom; and (2) at the end of the route as it turns to enter Embarcadero Substation;
 - Evidence of coordination with all utility owners within the approved right-of-way, including their review of construction plans, results of the induced current and corrosion potential analysis, and a description of any protection measures or compensation to be implemented to protect affected facilities;
 - Copy of the Applicant's database of emergency contacts for utilities that may be in close proximity or require monitoring during construction of the project;

- Evidence that the project meets all applicable local requirements;
- Evidence of compliance with design standards; and
- Copies of any necessary permits, agreements, or conditions of approval.

Based on the analysis and conclusions of the Initial Study, the impacts of the project as proposed by PG&E would be mitigated to less than significant levels with the implementation of the mitigation measures presented herein, which have been incorporated into the Proposed Project.

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Exhibit F:
Hoedown Yard Appraisal Process and Valuation of Submerged Land

Hoedown Yard Appraisals

As described in the September 6, 2013 Port Commission staff report, Port staff commissioned an appraisal through the Department of Real Estate's ("DRE") as-needed appraiser pool to calculate the value of the license area and to calculate the value of the Hoedown Yard (discussed below). The City selected Associated Right of Way Services, Inc. to conduct the appraisal, and PG&E concurred with the selection. This appraisal indicated industrial land values that exceeded the expectations of both Port and PG&E staff. PG&E requested the Port's authorization to conduct a second appraisal, which Port staff granted, and PG&E conducted its own appraisal, subject to appraisal instructions approved by the Port, utilizing David Tattersol & Associates, an appraiser also listed in DRE's as-needed pool.

In both instances, appraisal instructions were to determine:

- (a) the fee simple value of the Site assuming raw clean undeveloped land subject only to current zoning (M-2), i.e., market value; and
- (b) the fee simple value of the Site "AS-IS" with all faults using assumptions as to the cost of compliance with the Site Management Plan and any other documents provided ... that affect value.

The conclusions of these appraisals were presented in a November 23, 2012 final appraisal report by Associated Right of Way Services, Inc. and a February 13, 2013 final appraisal report by David Tattersol & Associates, done in compliance with Standards Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice (USPAP). The average of the land value indicated by these two appraisals is \$68.50 per square foot which affects both the submerged license area and the Hoedown Yard.

Valuation of Submerged Land

The approach to establishing rent for the submerged license area is based on industrial upland values. The process for valuing the Hoedown Yard requires the same analysis. City staff and PG&E representatives therefore agreed to use a single appraisal (using the same set of comparable land values of \$68.50 psf) for purposes of valuing both the submerged license area and the Hoedown Yard.

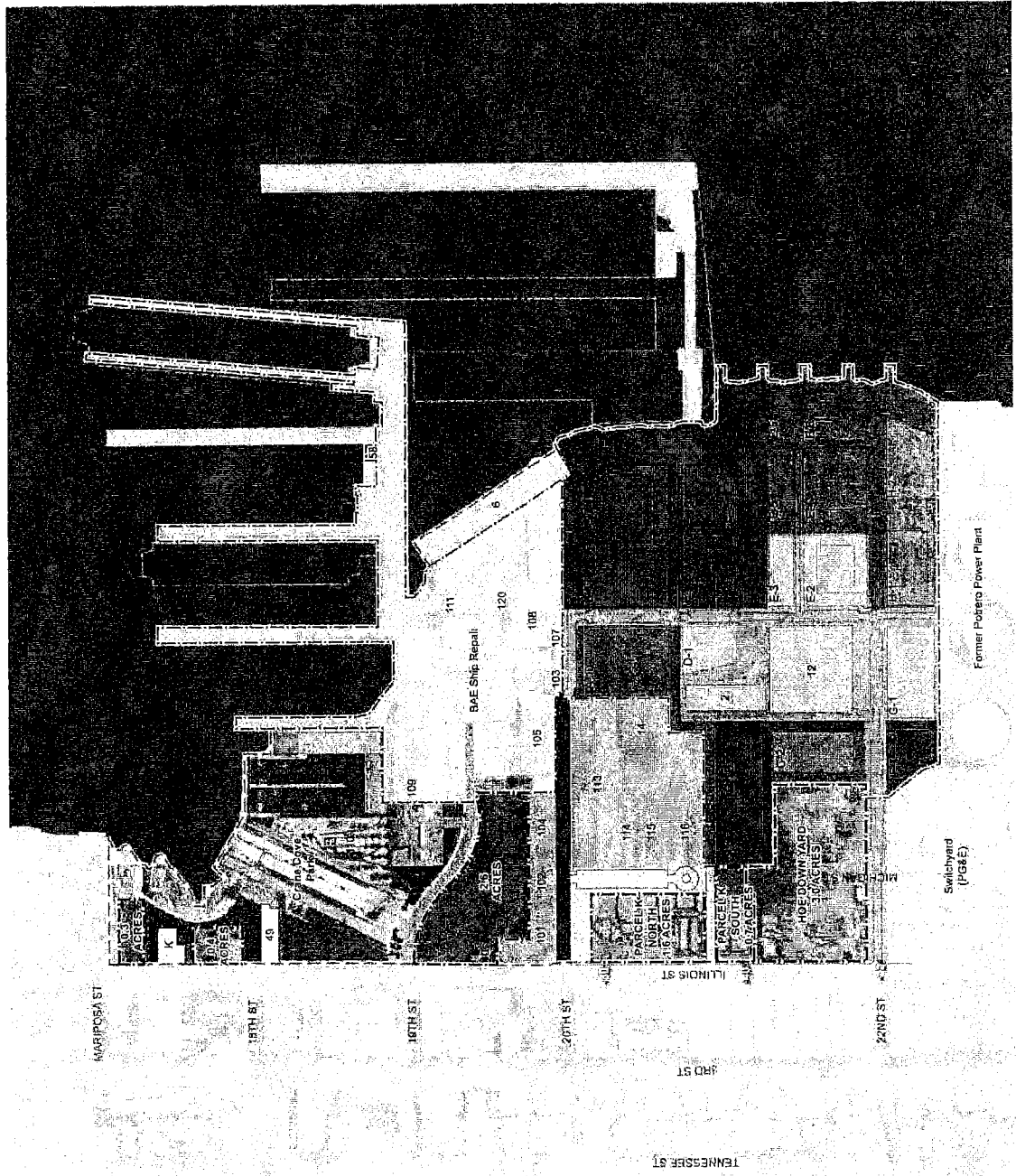
In establishing rent for the proposed license area, most of which is submerged land, Port staff and PG&E agreed on the following formulas:

- Exclusive use areas: 50% industrial upland value (\$68.50 psf) x 8% capitalization rate

- Compatible (non-exclusive) use areas: 25% industrial upland value (\$68.50 psf) x 8% capitalization rate
- Upland underground areas: \$0.031562/sf, based on the rate for like property in the Hunters Point-Potrero license area
- A two year construction period rent for the same areas, reduced by 75%

The parties agreed to a prepaid rent structure for the initial forty (40) year term of the agreement utilizing a 6.5% discount rate, which is the current estimated blended average of the Port's costs of funds.

Exhibit G: Pier 70 Conceptual Land Use Plan, Including the Hoedown Yard



LEGEND

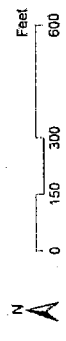
- PIER 70 AREA
- WATERFRONT SITE
- ILLINOIS STREET SITES
- BAE SITE
- PILE SUPPORTED PIER
- PRESENTLY SUBMERGED

- WATERFRONT SITE
- PHASE 1
- PHASE 2
- PHASE 3
- PHASE 4

- ILLINOIS ST. PARCELS
- ORTON/20TH ST. HISTORIC CORE
- PHASE 1
- TO BE DETERMINED

PHASING PLAN

PIER 70 MASTER PLAN
ILLINOIS PARCELS INITIAL STUDY



FORESTCITY AECOM SITELAB
May 24, 2013

**Exhibit H:
Environmental Risk Management Measures**

The Hoedown Yard Option Agreement and form of Purchase and Sale Agreement will require the following approach to remedial action and environmental risk management.

Pacific Gas and Electric Company (PG&E) agrees to allow the City and County of San Francisco (City) or a subsequent third-party owner of the Hoedown Yard to seek San Francisco Bay Regional Water Quality Control Board (Water Board) approval to amend the Covenant and Environmental Restriction on Property currently encumbering the Hoedown Yard (Land Use Covenant). The purchaser will be required periodically to certify to PG&E and the City regarding compliance with the following requirements and any other requirements the Water Board imposes as conditions to amending the existing Land Use Covenant. Each certificate must be supported by the written report of an independent third-party onsite construction monitor.

The City and PG&E (parties) acknowledge that PG&E's past testing of conditions at the Hoedown Yard has characterized the site to the satisfaction of the Water Board, which the parties agree is adequate for its current use. PG&E agrees not to conduct further testing of the Hoedown Yard unless required by an order of a regulatory agency.

PG&E agrees not to impose its own land use covenant restricting future uses of the Hoedown Yard. If a potential purchaser or future owner, through site investigation, discovers new conditions, the party making the discovery will be required to disclose to PG&E, the City, and the Water Board and any other regulatory agency with jurisdiction for the agency's direction on whether further investigation, remediation, monitoring, or other measures will be imposed by order or through amendments to the Land Use Covenant. PG&E, the City, and the potential purchaser or future owner will have the right to submit comments to the Water Board for consideration in its deliberations.

The City will require any purchaser of the Hoedown Yard to indemnify and hold harmless PG&E from liability, including liability for personal injury, property damage, or further cleanup, during and after the construction of any new uses on the Hoedown Yard. The purchaser's indemnification obligation to PG&E must be secured by a letter of credit in the amount of \$1 million for a period of three years, beginning on the date a certificate of occupancy is first issued for any new building at the Hoedown Yard.

Authorized Land Uses and Remedial Actions

Category	Possible New Uses	Remediation
1	High-density residential; temporary lodging; enclosed recreational, commercial, institutional.	Install and maintain Durable Cover . Implement Institutional Controls
2	Public open space covered by hardscape.	Same as above

3	Public open space covered by "softscape," including landscaping.	Install and maintain 3-foot layer of Clean Soil underlain by a Demarcation Layer between native soil and ground surface. The Clean Soil layer will cover landscaped areas, including raised landscaping planters, and line tree pits. The thickness of Clean Soil layer will be increased if needed to include root bearing zones and below-grade irrigation systems.
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Acceptable forms of Durable Cover:

- All forms of Durable Cover must meet applicable standards of the San Francisco Public Works Code, the Port Building Code, and any other applicable rules or regulations
- Buildings and building foundations.
- Streets and sidewalks.
- Hardscapes, parking areas, pathways or similar areas paved with concrete, asphalt, stone, or other material of sufficient durability to withstand usage and prevent exposure of native soil. Cover for pedestrian paths must include at least a 4-inch thick layer of aggregate base beneath at least a 2-inch layer of asphalt, concrete, stone, or crushed or decomposed stone paving. Paving stones with interstitial exposed native soil will be subject to requirements for softscape.
- Demarcation Layer must provide a visual indicator that distinguishes Clean Soil above the Demarcation Layer from underlying native soil. The Demarcation Layer will serve as a visual and physical deterrent to further excavation. It need not be impermeable to vapor or water, but must be resistant to penetration by hand tools.

Land Use Controls:

1. School, daycare, and hospital uses will be prohibited.
2. Private open space at grade will be prohibited; private roof top, balcony, or similar open space will be permitted.
3. Except as specified in this document, any permitted uses will be permitted on the ground floor as well as above ground floor.
4. Use of groundwater for any purpose other than dewatering will be prohibited.
5. Growing plants for human consumption in native soil will be prohibited.
6. Removal of identified areas of arsenic-impacted soil to achieve site-specific background concentration of arsenic as defined and summarized in *Report of Results – Additional Soil Investigation, Hoe Down Yard* (AMEC, 4/12/11).

Disclosure:

- Property owner/operator will notify all tenants and contractors of site conditions and required Institutional Controls and require notification of subtenants and subcontractors.

- Property owner/operator will disclose environmental conditions and Institutional Controls to residents.

Institutional Controls:

Property owner/operator will implement Institutional Controls including:

- Controlled access prior to and during construction.
- Environmental health and safety plans for construction and maintenance workers.
- Dust control during construction and maintenance.
- Stormwater pollution prevention during construction.
- Regular inspection, maintenance, and repair of Durable Covers
- Implementation of a Water Board-approved revised Risk Management Plan.
- The purchaser will be required to implement or participate in a funding mechanism that provides sufficient funds for maintenance and capital repair of public use areas in accordance with the Risk Management Plan for the life of the public use areas.

Definitions

“Native” or “existing soil” means soil present at the site, regardless of its provenance, as of the date PG&E transfers title to the Hoedown Yard as contemplated by the Option Agreement.

“Clean Soil” means soil that will be used on site in a manner that presents potential for exposure to future site users, such as soil used to create the 3-foot thick layer of Clean Soil required for landscaped areas. Clean Soil must meet the prevailing standards (i.e., Environmental Screening Levels (as defined by the Water Board and published at http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/esl.shtml) or California Screening Levels (as defined by Cal/EPA and published at <http://oehha.ca.gov/risk/soil.html>) or Water Board-approved site-specific background levels applicable to the current or planned land use (i.e., less than or equal to commercial standards for commercial site use, and less than or equal to residential standards for residential site use). Imported soil that will be placed under one of the acceptable forms of Durable Cover does not have to meet standards for Clean Soil.

MEMORANDUM

September 6, 2013

TO: MEMBERS, PORT COMMISSION
Hon. Doreen Woo Ho, President
Hon. Kimberly Brandon, Vice President
Hon. Willie Adams
Hon. Leslie Katz
Hon. Mel Murphy

FROM: Monique Moyer
Executive Director

SUBJECT: Request (1) a rescission of Port Commission Resolution 12-90, (2) endorsement of the PG&E ZA-1 Embarcadero-Potrero 230kV Transmission Project Revised Term Sheet and (3) authorization to enter into a Negotiation Agreement with PG&E, all related to onshore and submerged Port land between Pier 28½ and the foot of 23rd Street and PG&E parcels Block 4110 (Lot 008A) and Block 4120 (Lot 002)

DIRECTOR'S RECOMMENDATION: Approve Attached Resolution

Background

On November 13, 2012, the Port Commission approved Resolution 12-90, endorsing the ZA-1 Embarcadero-Potrero 230kV Transmission Project Term Sheet ("Original Term Sheet") between the Port and PG&E and authorizing Port staff to enter into a Negotiation Agreement with PG&E, all related to onshore and submerged Port land between Pier 28 ½ and the foot of 23rd Street and PG&E parcels Block 4110 (Lot 008A) and Block 4120 (Lot 002), commonly known as the "Hoedown Yard" (see Exhibits A and B).

Since November 13, 2012, Port staff has engaged in periodic negotiations with PG&E in concert with the Office of Mayor Ed Lee and the Office of Economic and Workforce Development. These negotiations have resulted in a revised Term Sheet between the City, acting through the Port and the Office of Economic and Workforce Development, and PG&E. This report is an amended and restated version of the November 13, 2012 staff report to the Port Commission reflecting the revised terms of the proposed Term Sheet ("Revised Term Sheet").

THIS PRINT COVERS CALENDAR ITEM NO. 13A

Introduction

Pacific Gas & Electric ("PG&E") proposes to construct a new, single circuit, 230 kV transmission line between its Embarcadero Substation and its Potrero Substation to increase reliability of electric service to downtown San Francisco and provide operational flexibility ("ZA-1 Project"). Exhibit C to this staff report shows the service area of the existing Embarcadero Substation that will benefit from this reliability improvement.

One of the proposed routes for the proposed project contemplates transmission line installation along submerged land in the Port's jurisdiction, subject to the Port's proprietary approval. On August 14, 2012, Port staff and representatives of PG&E delivered an informational presentation to the Port Commission describing the proposed project. On November 13, 2012, the Port Commission approved Resolution 12-90, endorsing the ZA-1 Embarcadero-Potrero 230kV Transmission Project Original Term Sheet between the Port and PG&E. Exhibit A to this staff report shows the proposed route for the submarine alternative for the project along Port submerged land. Subsequent to the Port Commission's approval of Resolution 12-90, PG&E submitted an application to the California Public Utilities Commission ("CPUC") to commence a public process to review the cost-effectiveness and environmental impacts of the submarine route, subject to other required proprietary and regulatory approvals, including approval by the Federal Energy Regulatory Commission ("FERC") and the California Independent System Operator ("CAISO").

In August 2013, the CPUC published a Draft Mitigated Negative Declaration and Supporting Initial Study ("Draft MND") for the ZA-1 Project to obtain public comment on its environmental analysis. Port staff circulated the Draft MND for comment to sister City departments. The timeline for public comment on the Draft MND requires that written comments are received by the CPUC no later than 5:00 PM September 16, 2013 at the following address:

Billie Blanchard
California Public Utilities Commission
c/o Aspen Environmental Group
235 Montgomery Street, Suite 935
San Francisco, CA 94104-3002
embarcaderopotrero@aspeneg.com

A copy of the Draft MND can be found at:

http://www.cpuc.ca.gov/Environment/info/aspen/embarc-potrero/dmnd/Embarcadero-Potrero_230_kV_Transmission_Project_Draft_MND-IS.pdf

City staff has reviewed the Draft MND and based on initial review do not intend to submit comments.

Port staff requests (i) endorsement of a Revised Term Sheet attached as Exhibit D to this staff report outlining the basic terms between the City and County, acting through

the Port Commission, and PG&E for use of Port lands by PG&E for the proposed submarine route and (ii) authorization for the Port Executive Director to enter into the negotiations agreement, as further described below, with PG&E. As further described in this report, the Revised Term Sheet contemplates:

1. a long-term, non-exclusive license to construct and operate the ZA-1 Project,
2. a transferable option for the Office of Economic and Workforce Development ("OEWD") to purchase PG&E-owned land at Illinois and 22nd Streets (see Exhibit B) subject to CPUC approval pursuant to Section 851 of the California Public Utilities Code, and
3. a requirement for PG&E to screen or otherwise enclose the Potrero Substation which is situated along Illinois Street between 22nd Street and 23rd Street (see Exhibit A), subject to review by the Waterfront Design Advisory Committee ("WDAC"), environmental review pursuant to CEQA and other required approvals.

Project Description

The proposed Embarcadero-Potrero cable, or ZA-1, would provide a third cable into Embarcadero Substation. Seismic risk is a key consideration in its design and routing. If approved, ZA-1 also will connect PG&E's 230 kV system in San Francisco with both the Trans Bay Cable ("TBC")¹ and PG&E's existing 115 kV systems in San Francisco, providing operational flexibility to both the 230 kV and 115kV systems. Both PG&E and City staff consider the Embarcadero-Potrero 230 kV Transmission Project a high priority because of the impact that outages would have on downtown San Francisco.

The project will involve both transmission line work and substation work. Three major elements are:

- Construct an approximately 3-mile, 230 kV submarine cable between the Embarcadero and Potrero Substations;
- Terminate the new cable into a 230 kV bus (to be upgraded as part of a separate reliability project that is underway) at the Embarcadero Substation; and
- Construct a new 230 kV switchyard adjacent to the Potrero Substation, terminate the new cable there, and interconnect the new 230 kV and existing 115 kV switchyards at Potrero Substation via two new 230/115 kV transformers.

The submarine cable route would run in a reinforced underground duct bank about 2 city blocks along the TBC alignment as it exits the Potrero Switchyard and enters the Bay. It would then continue in the Bay along the general alignment and several hundred feet to the west of the TBC, and then return to land 2-3 city blocks from the

¹ On August 7, 2007, by Resolution 414-07, the San Francisco Board of Supervisors approved a 66 year license for the construction and operation of the Trans Bay Cable on Port submerged land.

Embarcadero Substation, where it would be installed in a reinforced underground duct bank to the substation. Both landings from the Bay to land will be accomplished through horizontal directional drilling.

Negotiation Agreement

Port staff and representatives of PG&E have negotiated a negotiation agreement ("Negotiation Agreement"), a copy of which is on file with the Port Commission Secretary. Under the Negotiation Agreement, PG&E is responsible for obtaining all regulatory approvals for the Project and will pay expenses reasonably incurred by Port directly and solely related to the Project for, including, but not limited to, time spent on the Project by Port staff, the services of real estate and economic consultants, and legal services. PG&E will also pay the Port's costs for legal services associated with the Project that were incurred prior to the execution of the Negotiating Agreement.

Appraisals

To calculate the value of the license area, and for purposes of the option to acquire the Hoedown Yard (discussed below), Port staff commissioned an appraisal through the Department of Real Estate's ("DRE") as-needed appraiser pool. The City selected Associated Right of Way Services, Inc. to conduct the appraisal, and PG&E concurred with the selection. This appraisal indicated industrial land values that exceeded the expectations of both Port and PG&E staff. PG&E requested the Port's authorization to conduct a second appraisal, which Port staff granted, and PG&E conducted its own appraisal, subject to appraisal instructions approved by the Port, utilizing David Tattersol & Associates, an appraiser also listed in DRE's as-needed pool.

In both instances, appraisal instructions were to determine:

- (a) the fee simple value of the Site assuming raw clean undeveloped land subject only to current zoning (M-2) i.e. market value; and
- (b) the fee simple value of the Site "AS-IS" with all faults using assumptions as to the cost of compliance with the Site Management Plan and any other documents provided ... that affect value.

The conclusions of these appraisals were presented in a November 23, 2012 final appraisal report by Associated Right of Way Services, Inc. and a February 13, 2013 final appraisal report by David Tattersol & Associates, done in compliance with Standards Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice (USPAP). The average of the land value indicated by these two appraisals is \$68.50 per square foot which affects both the submerged license area and the Hoedown Yard.

The approach to establishing rent for the submerged license area is based on industrial upland values. The process for valuing the Hoedown Yard requires the same analysis. City staff and PG&E representatives therefore agreed to use a single appraisal (using the same set of comparable land values of \$68.50 psf) for purposes of valuing both the submerged license area and the Hoedown Yard.

In establishing rent for the proposed license area, most of which is submerged land, Port staff and PG&E agreed on the following formulas:

- Exclusive use areas: 50% industrial upland value (\$68.50 psf) x 8% capitalization rate
- Compatible (non-exclusive) use areas: 25% industrial upland value (\$68.50 psf) x 8% capitalization rate
- Upland underground areas: \$0.031562/sf, based on the rate for like property in the Hunters Point-Potrero license area
- A two year construction period rent for the same areas, reduced by 75%

The parties agreed to a prepaid rent structure for the initial forty (40) year term of the agreement utilizing a 6.5% discount rate, which is the current estimated blended average of the Port's costs of funds.

Proposed Terms

Port staff and representatives of PG&E have negotiated a Term Sheet for the project. The following are the high-level terms for the proposed non-exclusive license, which are provided in greater detail in Exhibit D:

- License Area: 508,992 sf of underground and submerged land, generally along the route depicted in Exhibit A
- Term: 40 years, with a 2 year reduced rent construction period, and one 26 year PG&E option to renew
- Pre-Paid Rent: \$14,820,258
- Option Period Rent: Fair Market Value rent, paid either annually or prepaid (at PG&E's option), with rent determined by appraisal. If rent is prepaid for the 26 year option period, the FMV rent will be determined by appraisal, using the same formulas used to establish the initial rent, including an 8% capitalization rate and a discount rate set at the average of the Port's future taxable and tax-exempt bond interest rates.
- OEWD Option: Transferable option to OEWD to purchase PG&E Hoedown Yard near Pier 70 (see Exhibit B) at \$63.67/sf for 130,600 sf of industrial land at Illinois and 22nd Street, totaling approximately \$8,315,302, subject to CPUC approval by Section 851 approval
- Potrero Substation Screen: Within 10 years after executing the ZA-1 License, the City may designate its preference ("Preferred Screen") for 1) enclosing the

Potrero Substation (see Exhibit A) in a building, or 2) surrounding a significant portion of the Potrero Substation with a perimeter screen. PG&E will use commercially reasonable efforts to obtain rate reimbursement and other approvals required for these improvements. The City may elect to utilize IFD proceeds from the Hoedown Yard or other nearby PG&E property to fund screening improvements not funded through utility rates.

Option to Acquire the Hoedown Yard

As a condition of the license, City staff has negotiated a transferable OEWD option to acquire the PG&E Hoedown Yard at Pier 70, which includes a portion of Irish Hill. A map of the Hoedown Yard is attached as Exhibit B. Current uses at the Hoedown Yard include parking, equipment storage, stockpiling and temporary storage of drilling mud, concrete, soil, sand, gravel and asphalt associated with PG&E utility projects. While these uses are important functions, they represent a fundamental land use conflict with the Port's planned development efforts at Pier 70. The Hoedown Yard is located at Illinois Street and 23rd Street. Port staff expects that 23rd Street will be a major entry to the Pier 70 Waterfront Site² and that relocation of the Hoedown Yard is a necessary step to attract private investment to the Waterfront Site (shown in Exhibit E).

The Original Term Sheet approved by the Port Commission contemplated that the Hoedown Yard purchase option would belong to the Port. After further consideration, Port staff concluded that it would be best for another City department to acquire the option under the agreement, because the Port should not utilize its proceeds to acquire non-trust property with the intention of developing it for non-trust purposes. OEWD agreed to take the option in the Port's stead.

The proposed OEWD option to purchase the Hoedown Yard is transferable, allowing the City to transfer this purchase right to another private entity. Since the Hoedown Yard is an asset of a regulated utility, PG&E's sale of the Hoedown Yard is subject to CPUC approval pursuant to Section 851 of the California Public Utilities Code.

Not unlike the surrounding Pier 70 area, the Hoedown Yard contains known contamination. PG&E has completed site investigation and a human health risk assessment. The findings of this assessment indicate that arsenic is present in soil within an approximately 20,000 sf (by approx. 5 ft. deep) area in the northwest corner of the site at concentrations that pose a potential human health risk to future construction workers (not to current or future commercial/industrial workers). All other contaminants investigated are at concentrations below levels of concern.

The San Francisco Bay Regional Water Quality Control Board ("Water Board") has approved these investigations and agrees that no remediation is warranted under

² On May 28, 2013, the Port Commission approved Resolution 13-20 endorsing a Term Sheet between the Port and Forest City Development California, Inc. ("Forest City") for the mixed-use development of the Pier 70 Waterfront Site, bordered generally by 20th Street, Michigan Street, 22nd Street, and the San Francisco Bay, shown in Exhibit E. The Term Sheet was subsequently endorsed by the Board of Supervisors on June 11, 2013.

current or anticipated future conditions, provided that activities at the site comply with a Site Management Plan ("SMP") and land use is restricted to commercial/industrial uses through a deed restriction.

PG&E has developed and Water Board has approved a SMP for the Hoedown Yard. The SMP specifies measures to protect workers, minimize dust, prevent contamination of stormwater, and other measures to manage potential risks from soil contamination. PG&E has also filed a deed restriction limiting future uses of the site to commercial and industrial uses.

Port environmental staff has reviewed the SMP and the deed restriction and has found that Hoedown Yard site conditions are suitable for future commercial or industrial use. If the City desires to acquire the site for residential purposes, further remedial actions (such as removal or capping of arsenic-contaminated soil) would likely be required, along with approval of the Water Board to lift the residential deed restriction. The Revised Term Sheet provides that PG&E will consent to lifting the residential deed restriction subject to the parties establishing a reasonable mechanism agreeable to the City and PG&E, to allocate risks of existing site conditions associated with residential development on the Hoedown Yard..

Subject to approval by the Board of Supervisors, OEWD intends to utilize any net proceeds between the purchase price and its sale price to a third-party developer based on its rezoned value as a source of funds for the Potrero Terrace and Annex HOPE VI project, a major priority of Mayor Ed Lee. For more information about this project, see <http://www.rebuildpotrero.com/>.

Pursuant to the Waterfront Site Term Sheet with Forest City, Forest City will include the Hoedown Yard in the proposed Special Use District for the Waterfront Site for purposes of rezoning and design for development controls. The SUD is expected to be ready for consideration by the Planning Commission and the Board of Supervisors by mid-2016, after environmental review of the Waterfront Site mixed use development is complete, which means that the Hoedown Yard would be rezoned and ready for sale to a third-party within that timeframe, subject to required regulatory approvals.

Based on preliminary analysis – subject to change depending on market factors and site specific development risks – Port staff estimates that the difference between the as-is purchase price of the Hoedown Yard and its future rezoned value for commercial office use is \$4-\$7 million. The City and Forest City will continue to examine the highest and best use of the Hoedown Yard during development of the SUD and associated environmental review.

Potrero Substation Screening

As evidenced by the Pier 70 Waterfront Site proposed development and evolving plans to redevelop the adjacent former Potrero Power Plant site, the Central Waterfront, south of Mission Bay and east of the I-280 freeway (the "Central Waterfront"), is undergoing a significant change of use from heavy industrial uses to mixed use areas that include continuing heavy industrial operations (such as the Pier 70 Shipyard). In most mixed

use areas of the City, PG&E has enclosed substations (such as the Larkin Substation or the Embarcadero Substation) which are more compatible with surrounding mixed use development than the current open air Potrero 115 kV Substation ("Potrero Substation"), located along Illinois Street between 22nd and 23rd Streets.

The Revised Term Sheet acknowledges that Plan Bay Area, the Bay Area's first combined Sustainable Communities Strategy as required under Senate Bill 375 (SB 375), focuses a significant amount of regional growth in its transit served cities, with almost 15% of that growth projected for San Francisco. The Central Waterfront area is a significant Priority Development Area where the City plans to accommodate this projected growth. City staff believe that development of the Central Waterfront will require substantial changes to the existing PG&E Potrero Substation to accommodate this planned growth.

As part of the public benefits of the ZA-1 Transmission Line, Port staff has also negotiated for PG&E to obtain the approvals for and construct screening (or otherwise enclose) the Potrero Substation, subject to review by the Waterfront Design Advisory Committee, environmental review pursuant to CEQA and other required approvals. As a condition to and additional consideration for the License, PG&E will either enclose a substantial portion of the existing Potrero Substation within a building or construct a screen around the perimeter of the Potrero Substation (either, a "Screen").

Potrero Substation Screening Approach and Approvals

Within 10 years after executing the ZA-1 license, the City may provide notice designating its preference ("Preferred Screen") for 1) enclosing the Potrero Substation in a building, or 2) surrounding a significant portion of the Potrero Substation with a perimeter screen.

- Following the notice of the City's Preferred Screen, PG&E will initiate applications for required regulatory approvals to construct the Preferred Screen, including applications required for rate-reimbursement and compliance with CEQA. The project description and conceptual design for the Preferred Screen will include architectural and aesthetic qualities consistent with PG&E's customary protocols for screening dense urban substation facilities.
- PG&E will (i) present to the Port's Waterfront Design Advisory Committee ("WDAC") PG&E's proposed design for the Preferred Screen, (ii) incorporate into its proposed Screen design WDAC's recommendations to the extent they would not materially adversely impact the operation of the Potrero Switchyard ("Revised Screen Design"), and (iii) obtain confirmation from WDAC that the Revised Screen Design has adequately addressed WDAC's prior recommendations.
- Following confirmation from WDAC that the Revised Screen Design has adequately addressed WDAC's prior recommendations, PG&E will use commercially reasonable efforts to (i) obtain any necessary governmental approvals to commence construction of the Revised Screen Design and (ii) obtain all other required approvals to commence construction of the Revised

Screen Design. Subject to force majeure events, or its failure to obtain required approvals, PG&E shall complete construction of the approved Revised Screen Design no later than five (5) years after the City presents the notice of its Preferred Screen.

Alternative Funding Approach to Potrero Substation Screen

The expense to screen the Potrero Substation is expected to be considerable, and this expense requires approval to be included in the utility rate base. If the Potrero Substation Screen cannot be funded with capital funding approved in the utility rate base, PG&E and the City will have to examine other potential funding mechanisms for this work.

To that end, the Revised Term Sheet provides for a potential infrastructure financing district ("IFD") mechanism to partially fund the City's Preferred Screen using future tax increment from the Hoedown Yard and/or the existing Potrero Substation. If the City forms a Pier 70 IFD project area that includes the Potrero Substation and the Hoedown Yard, the City will use good faith efforts, subject to applicable law and the sole and absolute discretion of the Board of Supervisors, to permit IFD proceeds from the Potrero Substation and the Hoedown Yard to finance improvements related to the Revised Screen Design that have no utility rate-based funding source. PG&E will not be subject to assessment in connection with the IFD.

Additional Public Benefits

City staff believes that the ZA-1 project provides critical transmission reliability benefits to the City, and that the OEWD option to acquire the Hoedown Yard and the PG&E obligation to pursue screening of the Potrero Substation are major public benefits of the proposed project.

The proposed License is subject to the Port's Southern Waterfront Community Benefits Policy. As such, Port staff will set aside 8% of project rents to the Southern Waterfront Community Benefit Fund ("Fund"), or \$665,224. The Fund is used to pay for open space and related public improvements in the Southern Waterfront.

Project Schedule

PG&E is pursuing the following Project schedule:

- | | |
|--------------------------------|-------------------------------|
| 1. Initiate CPUC Application | November 2012 |
| 2. CPUC CEQA Review | November 2012 – November 2013 |
| 3. Resource agency permits | December 2013 – January 2014 |
| 4. Onshore cable installation | December 2013 – May 2015 |
| 5. Offshore cable installation | May 2015 – November 2015 |
| 6. Operation | December 2015 |

Recommendation and Next Steps

Port staff recommends approval of the attached resolution which approves the Term Sheet and authorizes the Executive Director to enter into the Negotiation Agreement. If the Port Commission approves the resolution, Port staff proposes the following next steps:

- Negotiate a non-exclusive license for use of submerged Port land for the ZA-1 230 kV Embarcadero-Potrero Transmission Line with PG&E consistent with the Term Sheet;
- Continue to review environmental analysis conducted by the CPUC regarding routes that involve Port property, in consultation with other City departments (underway);
- Further evaluate the development potential of the Hoedown Yard, in consultation with the City's Pier 70 development partners;
- If the CPUC process determines that the submerged alternative is the preferred project alternative, submit for Port Commission and Board of Supervisors consideration a long-term license for construction and operation of the project.

Prepared by: Brad Benson, Special Project Manager

For: Monique Moyer, Executive Director
Tony Winnicker, Senior Advisor to Mayor
Ed Lee

Exhibits

- A. PG&E Route Alternatives for Proposed ZA-1 Project
- B. Hoedown Yard Map
- C. PG&E Embarcadero Substation Area Map
- D. Revised Term Sheet
- E. Pier 70 Waterfront Site Conceptual Land Use Plan

**PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO
RESOLUTION NO. 13-34**

- WHEREAS, California Statutes of 1968, Chapter 1333 (the "Burton Act") and the San Francisco Charter Section B3.581 empower the San Francisco Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the lands within Port Commission jurisdiction; and
- WHEREAS, Pacific Gas & Electric ("PG&E") proposes to construct a new, single circuit, 230 kV transmission line between its Embarcadero Substation and its Potrero Substation, along onshore and submerged land in the Port's jurisdiction generally within the area bounded by Pier 28 ½ and portions of the shoreline at the foot of 23rd Street (the "Project"), to increase reliability of electric service to downtown San Francisco and provide operational flexibility, as further described in the staff report accompanying this resolution; and
- WHEREAS, At the Port Commission's August 14, 2012 meeting, an informational presentation about the Project was made by Port staff and Port staff was directed to negotiate a term sheet for use of Port lands for the Project; and
- WHEREAS, At its November 13, 2012 meeting, the Port Commission approved Resolution 12-90, endorsing the ZA-1 Embarcadero-Potrero 230kV Transmission Project Term Sheet ("Original Term Sheet") between the Port and PG&E and authorizing Port staff to enter into a Negotiation Agreement with PG&E, related to onshore and submerged Port land between Pier 28 ½ and the foot of 23rd Street and PG&E parcels Block 4110 (Lot 008A) and Block 4120 (Lot 002), commonly known as the "Hoedown Yard"; and
- WHEREAS, Port staff and City staff have negotiated revised terms to the Original Term Sheet, as described in both the staff report and Exhibit C accompanying this resolution ("Revised Term Sheet"); and
- WHEREAS, Port staff and PG&E have also negotiated the terms of a negotiation agreement ("Negotiation Agreement") on file with the Port Commission Secretary, which among other things, provides for reimbursement by PG&E to Port of Port's costs associated with the Project, as further described in the staff report accompanying this resolution and the Negotiation Agreement; and
- WHEREAS, Because PG&E is a regulated utility, the Project is subject to the review and approval of the California Public Utilities Commission ("CPUC"); and
- WHEREAS, The parties acknowledge that the Revised Term Sheet is not itself a binding agreement that commits the Port or PG&E to proceed with the approval or implementation of the Project and that the Project will first

undergo appropriate environmental review under the California Environmental Quality Act ("CEQA") and will be subject to public review in accordance with the processes of the Port Commission, other City departments and offices, the CPUC, and other government agencies with approval rights over the Project before any entitlements and other regulatory approvals required for the Project will be considered; now therefor be it

RESOLVED, That the Port Commission hereby rescinds Resolution 12-90 and its prior endorsement of the Original Term Sheet; and, be it further

RESOLVED, That the Port Commission hereby endorses the Revised Term Sheet and the Negotiation Agreement and authorizes and directs the Executive Director of the Port, or her designee, to execute the Negotiation Agreement and present the Revised Term Sheet to the Board of Supervisors for its endorsement; and, be it further

RESOLVED, That provided the Board of Supervisors endorses the Revised Term Sheet, the Port Commission authorizes the Executive Director to work with PG&E to negotiate the terms and conditions of any license and related documents (collectively, "Transaction Documents") for use of Port lands for the Project based on the terms of the Revised Term Sheet, with the understanding that the final terms and conditions of the Transaction Documents negotiated between Port staff and PG&E will be subject to the approval of the Port Commission and as applicable, the Board of Supervisors and the Mayor; and, be it further

RESOLVED, That the Port Commission authorizes the Executive Director to enter into any additions, amendments or other modifications to the Negotiation Agreement that the Executive Director, in consultation with the City Attorney, determines are in the best interests of the City, do not materially decrease the benefits or otherwise materially increase the obligations or liabilities of the City or Port, and are necessary or advisable to complete the transactions which the Revised Term Sheet and the Negotiation Agreement contemplate and effectuate the purpose and intent of this resolution, such determination to be conclusively evidenced by the execution and delivery by the Executive Director of such additions, amendments or other modifications to the Negotiation Agreement; and be it further

RESOLVED, That endorsement of the Revised Term Sheet and entering into the Negotiation Agreement does not commit the Port Commission or the City to approve final Transaction Documents or implementation of the Project or grant any entitlements to PG&E, nor does endorsing the Revised Term Sheet or executing the Negotiation Agreement foreclose the possibility of considering alternatives to the proposal, mitigation measures or deciding not to grant entitlement or approve or implement the Project, after conducting appropriate environmental review under CEQA, and while the Revised Term Sheet identifies certain essential terms of a proposed

transaction with the Port, it does not necessarily set forth all of the material terms and conditions of any final transaction documents; and, be it further

RESOLVED, That the Port Commission will not take any discretionary actions committing the Port to implement the Project, and the provisions of the Revised Term Sheet are not intended and will not become contractually binding on the Port unless and until the relevant bodies have reviewed and considered environmental documentation prepared in compliance with the CEQA for the Project and the Port Commission, and as applicable, the Board of Supervisors and the Mayor, have approved final Transaction Documents for the Project.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of September 10, 2013.

Secretary

MEMORANDUM

November 8, 2012

TO: MEMBERS, PORT COMMISSION
Hon. Doreen Woo Ho, President
Hon. Kimberly Brandon, Vice President
Hon. Willie Adams
Hon. Leslie Katz

FROM: Monique Moyer
Executive Director

SUBJECT: Request approval of the PG&E ZA-1 Embarcadero-Potrero 230kV Transmission Project Term Sheet and authorization to enter into a Negotiation Agreement with PG&E, all related to onshore and submerged Port land between Pier 28 ½ and the foot of 23rd Street and PG&E parcels Block 4110 (Lot 008A) and Block 4120 (Lot 002)

DIRECTOR'S RECOMMENDATION: Approve Attached Resolution

Introduction

Pacific Gas & Electric ("PG&E") proposes to construct a new, single circuit, 230 kV transmission line between its Embarcadero Substation and its Potrero Substation to increase reliability of electric service to downtown San Francisco and provide operational flexibility ("ZA-1Project"). One of the proposed routes for the proposed project contemplates transmission line installation along submerged land in the Port's jurisdiction, subject to the Port's proprietary approval. On August 14, 2012, Port staff and representatives of PG&E delivered an informational presentation to the Port Commission describing the proposed project. Exhibits A and B to this staff report show the existing map of the Embarcadero and Potrero Substations, and the proposed route for the submarine alternative for the project along Port submerged land.

The attached resolution requests (i) approval of a term sheet attached as Exhibit C to this staff report ("Term Sheet") outlining the basic terms between the City and County, acting through the Port Commission, and PG&E for use of Port lands by PG&E for the proposed submarine route and (ii) authorization of the Port Executive Director to enter into the negotiations agreement, as further described below, with PG&E. If the Port Commission approves the resolution, PG&E will submit an application to the California Public Utilities Commission ("CPUC") to commence a public process to review the

cost-effectiveness and environmental impacts of the submarine route, subject to other required proprietary and regulatory approvals, including approval by the Federal Energy Regulatory Commission ("FERC") and the California Independent System Operator ("CAISO").

As further described in this report, the Term Sheet contemplates a long-term, non-exclusive license to construct and operate the ZA-1 Project and a Port option to purchase PG&E-owned land at Illinois and 22nd Streets.

Project Description

The proposed Embarcadero-Potrero cable, also referred to as ZA-1, would provide a third cable into Embarcadero Substation. Seismic risk is a key consideration in its design and routing. If approved, ZA-1 also will connect PG&E's 230 kV system in San Francisco with both the Trans Bay Cable ("TBC")¹ and PG&E's existing 115 kV systems in San Francisco, providing operational flexibility to both the 230 kV and 115kV systems. Both PG&E and City staff consider the Embarcadero-Potrero 230 kV Transmission Project a high priority because of the impact that outages would have on downtown San Francisco.

The project will involve both transmission line work and substation work. Three major elements are:

- Construct an approximately 3-mile, 230 kV submarine and/or underground cable between the Embarcadero and Potrero Substations;
- Terminate the new cable into a 230 kV bus (to be upgraded as part of a separate reliability project that is underway) at the Embarcadero Substation; and
- Construct a new 230 kV switchyard at Potrero Substation, terminate the new cable there, and interconnect the new 230 kV and existing 115 kV switchyards at Potrero Substation via two new 230/115 kV transformers.

The submarine cable route would run in a reinforced underground duct bank about 2 city blocks along the TBC alignment as it exits the Potrero Switchyard and enters the Bay. It would then continue in the Bay along the general alignment and several hundred feet to the west of the TBC, and then return to land 2-3 city blocks from Embarcadero Substation, where it would be installed in a reinforced underground duct bank to the substation. Both landings from the Bay to land will be accomplished through horizontal directional drilling.

Negotiation Agreement

Port staff and representatives of PG&E have negotiated a negotiation agreement ("Negotiation Agreement"), a copy of which is on file with the Port Commission

¹ On August 7, 2007, by Resolution 414-07, the San Francisco Board of Supervisors approved a 66 year license for the construction and operation of the Trans Bay Cable on Port submerged land.

Secretary. Under the Negotiation Agreement, PG&E is responsible for obtaining all regulatory approvals for the Project and will pay expenses reasonably incurred by Port directly and solely related to the Project for, including, but not limited to, time spent on the Project by Port staff, the services of real estate and economic consultants, and legal services. PG&E will also pay Port's costs for legal services associated with the Project that were incurred prior to the execution of the Negotiating Agreement.

Appraisal

To calculate the value of the license area, and for purposes of the option to acquire the Hoedown Yard, Port staff commissioned an appraisal through the Department of Real Estate's as-need appraiser pool. The City selected Associated Right of Way Services, Inc. to conduct the appraisal, and PG&E concurred with the selection. Appraisal instructions were to determine:

- (a) the fee simple value of the Site assuming raw clean undeveloped land subject only to current zoning (M-2) i.e. market value; and
- (b) the fee simple value of the Site "AS-IS" with all faults using assumptions as to the cost of compliance with the Site Management Plan and any other documents provided ... that affect value.

The conclusions of this appraisal will be presented in a November 23, 2012 final appraisal report, done in compliance with Standards Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice (USPAP).

The approach to establishing rent for the submerged license area is based on industrial upland values. The process for valuing the Hoedown Yard requires the same analysis. City staff and PG&E representatives therefore agreed to use a single appraisal (using the same set of comparable land values) for purposes of valuing both the submerged license area and the Hoedown Yard.

For purposes of the Term Sheet negotiation, City staff and representatives of PG&E assume a potential range of land value \$50-75 per square foot, which has been used to calculate the indicated range of rent for the submerged license area and the range of option sales prices for the Hoedown Yard. The appraisal will be finalized on November 23, 2012. Any modifications to industrial upland land value in the final appraisal will be reflected in the Term Sheet. Prices will be indexed annually by 3% until the parties enter any final transaction.

Proposed Terms

Port staff and representatives of PG&E have negotiated a Term Sheet for the project. The following are the high-level terms for the proposed non-exclusive license, which are provided in greater detail in Exhibit C:

License Area: 508,992 s.f. of underground and submerged land, generally along the route depicted in Exhibit B

<u>Term:</u>	40 years, with a 4 year reduced rent construction period, and one 26 year option to renew
<u>Annual Rent:</u>	\$583,248 - \$872,328 annually in 2012 dollars (depending on the final appraised value of industrial land), subject to increases
<u>Port Option:</u>	Purchase PG&E Hoedown Yard near Pier 70 at Fair Market Value assuming current industrial M-2 zoning, estimated at \$6.5 - \$9.8 million

Option to Acquire the Hoedown Yard

As a condition of the license, Port staff has negotiated a transferable Port option to acquire the PG&E Hoedown Yard at Pier 70. A map of the Hoedown Yard is attached as Exhibit D. Current uses at the Hoedown Yard include recycling of excavated soils from PG&E trenching projects. While this use is an important function, it represents a fundamental land use conflict with the Port's planned development efforts at Pier 70. The Hoedown Yard is located at Illinois Street and 23rd Street. Port staff expects that 23rd Street will be a major entry to the Pier 70 Waterfront Site² and that relocation of the Hoedown Yard is a necessary step to attract private investment to the Waterfront Site.

The proposed Port option to purchase the Hoedown Yard is transferable, allowing the Port to transfer this purchase right to another entity, if the Port Commission so desires. As negotiations related to the Project continue, Port staff will work to evaluate potential relocation options on Port land for Hoedown Yard activities.

Not unlike the surrounding Pier 70 area, the Hoedown Yard has known contamination. PG&E has completed site investigation and human health risk assessment. The findings of this assessment indicate that arsenic is present in soil within in an approximately 20,000 sq. ft. (by approx. 5 ft. deep) area in the northwest corner of the site at concentrations that pose a potential human health risk to future construction workers (not to current or future commercial/industrial workers). All other contaminants investigated are at concentrations below levels of concern.

The San Francisco Bay Regional Water Quality Control Board ("Water Board") has approved these investigations and agrees that no remediation is warranted under current or anticipated future conditions, provided that activities at the site comply with a Site Management Plan ("SMP") and land use is restricted to commercial/industrial uses through a deed restriction.

PG&E has developed and Water Board has approved a SMP for the Hoedown Yard. The SMP specifies measures to protect workers, minimize dust, prevent contamination of stormwater, and other measures to manage potential risks from soil contamination. PG&E has also filed a deed restriction limiting future uses of the site to commercial and industrial uses.

² City staff is currently negotiating the development of the 25 acre Pier 70 Waterfront Site with Forest City California, Inc.

Port environmental staff has reviewed the SMP and the deed restriction and has found that Hoedown Yard site conditions are suitable for future commercial or industrial use. If the Port Commission desires to acquire the site for residential purposes, further remedial actions (such as removal or capping of arsenic-contaminated soil) would likely be required. Port staff will continue to monitor site conditions and regulatory restrictions related to the Hoedown Yard as the proposed ZA-1 project negotiation proceeds.

Port Commission acquisition of the Hoedown Yard would be subject to review under the California Environmental Quality Act, and approval by the Mayor and the Board of Supervisors.

Additional Public Benefits

City staff believes that the ZA-1 project provides critical transmission reliability benefits to the City.

The proposed License is subject to the Port's Southern Waterfront Community Benefits Policy. As such, Port staff will set aside 8% of project rents to the Southern Waterfront Community Benefit Fund ("Fund"), or \$46,700 - \$69,800 annually for years (depending on the final license rent. The Fund is used to pay for open space and related public improvements in the Southern Waterfront.

Project Schedule

PG&E is pursuing the following Project schedule:

- | | |
|--------------------------------|-------------------------------|
| 1. Initiate CPUC Application | November 2012 |
| 2. CPUC CEQA Review | November 2012 – November 2013 |
| 3. Resource agency permits | December 2013 – January 2014 |
| 4. Onshore cable installation | December 2013 – May 2015 |
| 5. Offshore cable installation | May 2015 – November 2015 |
| 6. Operation | December 2015 |

Recommendation and Next Steps

Port staff recommends approval of the attached resolution which approves the Term Sheet and authorizes the Executive Director to enter into the Negotiation Agreement. If the Port Commission approves the resolution, Port staff proposes the following next steps:

- Negotiate a non-exclusive license for use of submerged Port land for the ZA-1 230 kV Embarcadero-Potrero Transmission Line with PG&E consistent with the Term Sheet;

- Review and comment on environmental analysis conducted by the CPUC regarding routes that involve Port property, in consultation with other City departments;
- Further evaluate the development potential of the Hoedown Yard, in consultation with the Port's Pier 70 development partners;
- Examine potential locations on Port property that may be suitable for the PG&E operations currently conducted at the Hoedown Yard; and
- If the CPUC process determines that the submerged alternative is the preferred project alternative, submit for Port Commission and Board of Supervisors consideration a long-term license for construction and operation of the project.

Prepared by: Brad Benson, Special Project Manager

For: Monique Moyer, Executive Director
Byron Rhett, Deputy Director
Planning & Development

Exhibits

- A. PG&E Embarcadero Substation Area Map
- B. PG&E Route Alternatives for Proposed ZA-1 Project
- C. Term Sheet
- D. Hoedown Yard Map

Exhibit A: PG&E Embarcadero Substation Area Map

Exhibit B: PG&E Route Alternatives for Proposed ZA-1 Project

Exhibit C: Term Sheet

Exhibit D: Hoedown Yard Map

**PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO
RESOLUTION NO. 12-90**

- WHEREAS, California Statutes of 1968, Chapter 1333 (the "Burton Act") and the San Francisco Charter Section B3.581 empower the San Francisco Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the lands within Port Commission jurisdiction; and
- WHEREAS, Pacific Gas & Electric ("PG&E") proposes to construct a new, single circuit, 230 kV transmission line between its Embarcadero Substation and its Potrero Substation, along onshore and submerged land in the Port's jurisdiction generally within the area bounded by Pier 28 ½ and portions of the shoreline at the foot of 23rd Street (the "Project"), to increase reliability of electric service to downtown San Francisco and provide operational flexibility, as further described in the staff report accompanying this resolution; and
- WHEREAS, At the Port Commission's August 14, 2012 meeting, an informational presentation about the Project was made by Port staff and Port staff was directed to negotiate a term sheet for use of Port lands for the Project; and
- WHEREAS, Port staff and PG&E have negotiated a term sheet, attached as Exhibit C to the staff report accompanying this resolution (the "Term Sheet"), which Term Sheet sets forth the essential terms upon which Port and PG&E will negotiate to reach agreement on the final transaction documents; and
- WHEREAS, Port staff and PG&E have also negotiated the terms of a negotiation agreement ("Negotiation Agreement") on file with the Port Commission Secretary, which among other things, provides for reimbursement by PG&E to Port of Port's costs associated with the Project, as further described in the staff report accompanying this resolution and the Negotiation Agreement; and
- WHEREAS, Because PG&E is a regulated utility, the Project is subject to the review and approval of the California Public Utilities Commission ("CPUC"); and
- WHEREAS, The parties acknowledge that the Term Sheet is not itself a binding agreement that commits the Port or PG&E to proceed with the approval or implementation of the Project and that the Project will first undergo appropriate environmental review under the California Environmental Quality Act ("CEQA") and will be subject to public review in accordance with the processes of the Port Commission, other City departments and offices, the CPUC, and other government agencies with approval rights over the Project before any entitlements and other regulatory approvals required for the Project will be considered; and now for be it

RESOLVED, That the Port Commission hereby approves the Term Sheet and the Negotiation Agreement and authorizes and directs the Executive Director of the Port, or her designee, to execute the Negotiation Agreement and work with PG&E to negotiate the terms and conditions of any license and related documents ("Transaction Documents") for use of Port lands for the Project, with the understanding that the final terms and conditions of the Transaction Documents negotiated between Port staff and PG&E will be subject to the approval of the Port Commission and as applicable, the Board of Supervisors and the Mayor; and, be it further

RESOLVED, That the Port Commission authorizes the Executive Director to enter into any additions, amendments or other modifications to the Term Sheet and the Negotiation Agreement that the Executive Director, in consultation with the City Attorney, determines are in the best interests of the City, do not materially decrease the benefits or otherwise materially increase the obligations or liabilities of the City or Port, and are necessary or advisable to complete the transactions which the Term Sheet and the Negotiation Agreement contemplate and effectuate the purpose and intent of this resolution, such determination to be conclusively evidenced by the execution and delivery by the Executive Director of such additions, amendments or other modifications to the Term Sheet or Negotiation Agreement; and be it further

RESOLVED, That approval of the Term Sheet and entering into the Negotiation Agreement does not commit the Port Commission or the City to approval of final Transaction Documents or implementation of the Project or grant any entitlements to PG&E, nor does approving the Term Sheet or executing the Negotiation Agreement foreclose the possibility of considering alternatives to the proposal, mitigation measures or deciding not to grant entitlement or approve or implement the Project, after conducting appropriate environmental review under CEQA, and while the Term Sheet identifies certain essential terms of a proposed transaction with the Port, it does not necessarily set forth all of the material terms and conditions of any final transaction documents; and, be it further

RESOLVED, That the Port Commission will not take any discretionary actions committing the Port to implement the Project, and the provisions of the Term Sheet are not intended and will not become contractually binding on the Port unless and until the relevant bodies have reviewed and considered environmental documentation prepared in compliance with the CEQA for the Project and the Port Commission, and as applicable, the Board of Supervisors and the Mayor, have approved final Transaction Documents for the Project.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of November 13, 2012.

Secretary

MEMORANDUM

June 5, 2014

TO: MEMBERS, PORT COMMISSION
Hon. Leslie Katz, President
Hon. Willie Adams, Vice President
Hon. Kimberly Brandon
Hon. Mel Murphy
Hon. Doreen Woo Ho

FROM: Monique Moyer
Executive Director

SUBJECT: Request approval of License 15762 with Pacific, Gas and Electric Company for the ZA-1 Embarcadero-Potrero 230kV Transmission Project for approximately (i) 435,600 square feet of submerged land between Pier 28½ and the foot of 23rd Street, (ii) 52,272 square feet of underground access for horizontal directional drilling and (iii) 21,120 square feet of land along 23rd Street for a 40 year term, with a 26 year option, subject to approval by the Board of Supervisors

DIRECTOR'S RECOMMENDATION: Approve Attached Resolution

Note: This staff report includes errata shown in underline that were added since the original Port Commission staff report.

Introduction

On November 13, 2012, the Port Commission approved Resolution 12-90, endorsing the ZA-1 Embarcadero-Potrero 230kV Transmission Project Term Sheet ("Original Term Sheet") between the Port and Pacific, Gas and Electric Company (PG&E), all related to onshore and submerged Port land between Pier 28 ½ and the foot of 23rd Street and PG&E parcels Block 4110 (Lot 008A) and Block 4120 (Lot 002), commonly known as the "Hoedown Yard" (see Exhibits A and B).

On September 10, 2013, the Port Commission approved Resolution 13-34, endorsing a Revised Project Term Sheet ("Revised Term Sheet"), which incorporated revised business terms negotiated by the Parties, including a new requirement to screen or enclose the existing PG&E 115kV Switchyard located between 22nd Street and 23rd Street along Illinois Street.

THIS PRINT COVERS CALENDAR ITEM NO. 12B

On February 25, 2014, the Board of Supervisors approved Resolution 54-14, endorsing the Revised Term Sheet with a number of modifications recommended by the Board of Supervisors and its Budget Analyst, as further described in this report.

This report describes the terms of proposed License 15762 with PG&E for the ZA-1 Embarcadero-Potrero 230kV Transmission Project for approximately (i) 435,600 square feet of submerged land between Pier 28½ and the foot of 23rd Street, (ii) 52,272 square feet of underground access for horizontal directional drilling and (iii) 21,120 square feet of land along 23rd Street for a 40 year term, with a 26 year option (the “ZA-1 License”), and requests Port Commission approval of the attached resolution approving the ZA-1 License, subject to approval by the Board of Supervisors.

This report also includes a description of a proposed Option Agreement and companion Purchase and Sale Agreement for the Hoedown Yard (the “Hoedown Yard Option”) between the Department of Real Estate and PG&E that is not subject to approval by the Port Commission but will be considered by the Board of Supervisors in tandem with the ZA-1 License.

I. ZA-1 LICENSE

Background

After examining two upland alternative routes through City neighborhoods, Pacific Gas & Electric (“PG&E”) proposes to construct a new, single circuit, 230 kV transmission line between its Embarcadero Substation and its Potrero Substation to increase reliability of electric service to downtown San Francisco and provide operational flexibility along a route of submerged Port property (“ZA-1 Project”). Exhibit C to this staff report shows the service area of the existing Embarcadero Substation that will benefit from this reliability improvement. Exhibit A to this staff report (the “Premises”) shows the proposed submarine route for the project along Port submerged land.

According to the California Public Utilities Commission (“CPUC”), PG&E submitted an application for the project to the CPUC on December 11, 2012 (Application # A.12-12-004¹). On October 30, 2013 the CPUC published a Final Mitigated Negative Declaration². The CPUC approved the project on January 16, 2014 (Decision # D.14-01-07³). Exhibit D to this staff report summarizes the CPUC decision findings related to

¹ PG&E CPUC Application:

http://delaps1.cpuc.ca.gov/CPUCProceedingLookup/f?p=401:56:1249097859999101::NO:RP,57,RIR:P5,PROCEEDING_SELECT:A1212004

² CPUC Final Mitigated Negative Declaration:

<http://www.cpuc.ca.gov/Environment/info/aspen/embarc-potrero/toc-fmnd.htm>

³ CPUC Decision:

<http://docs.cpuc.ca.gov/SearchRes.aspx?DocFormat=ALL&DocID=85875195>

the project. Exhibit E to this staff report includes the mitigation measures adopted by the CPUC for the project which are incorporated into the proposed Project. If the Port Commission adopts the attached resolution, these measures will be conditions of Port Commission approval of the License. The Port will receive copies of all mitigation monitoring reports to the CPUC.

The ZA-1 Project is subject to other required proprietary and regulatory approvals, including approval by the Federal Energy Regulatory Commission ("FERC") and the California Independent System Operator ("CAISO").

Project Description

As described in the September 6, 2013 Port Commission staff report, the proposed Embarcadero-Potrero cable, or ZA-1 Project, would provide a third cable into Embarcadero Substation. Seismic risk is a key consideration in its design and routing. If approved, the ZA-1 Project will also connect PG&E's 230 kV system in San Francisco with both the Trans Bay Cable ("TBC")⁴ and PG&E's existing 115 kV systems in San Francisco, providing operational flexibility to both the 230 kV and 115kV systems. Both PG&E and City staff consider the Embarcadero-Potrero 230 kV Transmission Project a high priority because of the impact that outages would have on downtown San Francisco.

The project will involve both transmission line work and substation work. Three major elements are:

1. Construct an approximately 3.5 mile, 230 kV submarine cable between the Embarcadero Substation and the Potrero Switchyard;
2. Terminate the new cable into a 230 kV bus (to be upgraded as part of a separate reliability project that PG&E is undertaking) at the Embarcadero Substation; and
3. Construct a new 230 kV switchyard adjacent to the Potrero Switchyard, terminate the new cable there, and interconnect the new 230 kV and existing 115 kV switchyards at Potrero Substation via two new 230/115 kV transformers.

The submarine cable route will run in a reinforced underground duct bank the length of 2 city blocks along the TBC alignment as it exits the Potrero Switchyard and enters the Bay. It will then continue in the Bay along the general alignment and several hundred feet to the west of the TBC, and then return to land 2-3 city blocks from the Embarcadero Substation, where it will be installed in a reinforced underground duct bank to the substation. Both landings from the Bay to land will be accomplished through horizontal directional drilling (see Exhibit A).

⁴ On August 7, 2007, by Resolution 414-07, the San Francisco Board of Supervisors approved licenses totaling 39 years (including options) for the construction and operation of the Trans Bay Cable on Port submerged land. The Trans Bay Cable project is a 53 mile high-voltage direct current (HVDC Plus) underwater cable interconnection between San Francisco and Pittsburg that transmits up to 400 MW of power.

Port Engineering and Maritime Division staff have reviewed the proposed route and determined that 1) the PG&E plan to install the cable beneath bedrock (adjacent to Piers 30-32 will not hinder maritime operations along side the pier or future dredging of the area (if needed), and 2) the submarine portion of the route is at a sufficient depth so as not to interfere with future maritime operations.

Seismic Risk and Power Service to Downtown San Francisco

According to the CPUC, the ZA-1 Project will provide significant protection to San Francisco in the aftermath of a major earthquake:

“Both [existing] cables [serving downtown San Francisco] are located in areas of San Francisco expected to be subject to significant liquefaction in the event of a major earthquake. PG&E retained InfraTerr, Inc., a specialist in seismic response of infrastructure systems, and an independent technical review panel consisting of Dr. Thomas O’Rourke of Cornell University and Dr. Steve Kramer of the University of Washington, both recognized experts in seismic response, to evaluate the seismic risk to the two cables. The study shows that there is a 91.1 percent probability of concurrent failure of the two cables in the event of a magnitude 7.8 earthquake on the San Andreas Fault, and a 48.2 percent probability of concurrent failure in the event of a magnitude 7.0 earthquake on the Hayward fault. It further shows that the overall 30-year and 50-year probabilities for concurrent failure are 26 percent and 39.4 percent, respectively.

“Physical damage to each could take two to four months to fix and would have severe economic impacts on downtown San Francisco. PG&E retained Dr. Michael Sullivan of Freeman, Sullivan & Co., an expert in electrical outage costs, to analyze the expected economic costs to businesses of long duration outages in downtown San Francisco. Direct costs to local businesses would range from \$125.7 million in the event of a 24-hour outage to nearly \$3 billion in the event of a seven-week outage. Indirect costs experienced by businesses in California as a whole would range from \$62.9 million to \$251.4 million in the event of a 24-hour outage to \$1.461 billion to \$5.845 billion in the event of a seven-week outage. In addition, many residents, particularly those that live in high-rise buildings that rely on mechanical ventilation and elevators, would have to evacuate their homes and find other places to live during the outage; governmental agencies would incur significant additional costs to provide security, traffic control and emergency services during an outage; and an extended outage would cause many businesses to fail and jobs to be lost.

“The third cable provided by the [ZA-1] project is designed to withstand a 7.8 magnitude earthquake on the San Andreas Fault.”

Prior Staff and Board of Supervisors Budget Analyst Analysis

Port staff and the Board of Supervisors Budget Analyst have drafted three prior reports on the proposed ZA-1 Project, available at the following web addresses:

Report	Web Address
November 8, 2012 Staff Report on the Original ZA-1 Term Sheet	Report: http://www.sfport.com/modules/showdocument.aspx?documentid=4928
September 6, 2013 Staff Report on the Revised ZA-1 Term Sheet	Report: http://www.sfport.com/modules/showdocument.aspx?documentid=6674 Exhibits: http://www.sfport.com/modules/showdocument.aspx?documentid=6675

Board of Supervisors Amendments

The terms endorsed by the Port Commission in the Revised Term Sheet were amended as follows during Board of Supervisors consideration of the Revised Term Sheet, subject to approval by the Port Commission (where applicable):

- The responsibility for the City's transferable option to acquire the Hoedown Yard for resale to generate proceeds for the Potrero Terrace and Annex HOPE VI Project was shifted from the Office of Economic and Workforce Development to the Real Estate Division of the General Services Agency;
- The Board of Supervisors must approve of the acquisition of the Hoedown Yard by a City department or authorize the sale of the option to acquire the Hoedown Yard to a third party developer;
- The Real Estate Division must conduct a competitive process to dispose of the Hoedown Yard to a third party developer;
- In the event of a sale of the Hoedown Yard to a third party developer, the City may not have any liability exposure in connection with that sale or subsequent uses of the property; and
- The proposal to use Infrastructure Financing District proceeds from the future development of the Hoedown Yard, subject to future approval by the Board of Supervisors, to finance the screening or enclosure of the PG&E Potrero 115 kV Switchyard in the event that electricity rate funding is not available for this purpose was eliminated.

Port staff and PG&E have negotiated the final proposed agreements consistent with this policy direction.

Proposed Terms

The parties agreed to a prepaid rent structure based on two appraisals of nearby upland industrial land and a formula to adjust for submerged land and a combination of exclusive and compatible use zones more fully described in Exhibit F. The prepaid rent for the initial forty (40) year term of the agreement utilizes a 6.5% discount rate, which is the estimated blended average of the Port's costs of funds. The prepaid rent will be paid by PG&E over two installments: 1) \$7,637,602.68 on the License effective date, and 2) \$7,637,602.68 before the later of (a) the CPUC's issuance of a Full Notice to Proceed and (b) January 1, 2015.

The following are the other terms for the proposed non-exclusive license, a copy of which is on file with the Port Commission Secretary:

Table 1: License 15762 Terms	
Term	Description
License Area	<p>Approximately (i) 435,600 square feet of submerged land between Pier 28½ and the foot of 23rd Street, (ii) 52,272 square feet of underground access for horizontal directional drilling and (iii) 21,120 square feet of land along 23rd Street.</p> <p>The submerged area is divided into the Submarine Portion Exclusive Zone (1 foot width on either side of the centerline of each of three cables) and the Submarine Portion Compatible Use Zone (4.5 foot width extending beyond the Submarine Portion Exclusive Zone on each side of each cable).</p>
Term	40 years and one 26 year PG&E option to renew
Pre-Paid Rent	<p>Two equal installments: (1) the first to be paid no later than the Effective Date (payment of \$7,637,602.68); AND (2) the second to be paid on or before the later of (a) the CPUC's issuance of a Full Notice to Proceed and (b) January 1, 2015 (payment of \$7,637,602.67).</p> <p>The pre-paid rent is calculated based on the appraisals and methodology described in Exhibit F.</p>
Option Period Rent (for 26 years after 1 st 40 years)	<p>Fair Market Value ("FMV") rent, paid either annually or prepaid (at PG&E's option), with rent determined by appraisal. If rent is prepaid for the 26 year option period, the FMV rent will be determined by appraisal, using the same formulas used to establish the initial rent, including an 8% capitalization rate and a discount rate set at the average of the Port's future taxable and tax-exempt bond interest rates.</p> <p>The appraisal process to determine FMV rent includes a baseball arbitration appraisal process, with two initial appraisals and a 3rd appraisal to resolve the process, if needed.</p>
Permitted Uses	<p>(a) Constructing, operating and maintaining the Project, together with all necessary transmission line, fiber optic lines, ductwork, conduit, anchoring foundations and related equipment for use in connection therewith (collectively, the "ZA-1 Line Equipment"), including the right to excavate, repair, reconstruct, replace within the License Area, and remove such ZA-1 Line Equipment, for the purpose of transmission, transportation and/or distribution of electric energy and communications between Licensee's Embarcadero Substation and Potrero Substation in San Francisco; and (b) licensing the unused capacity of the ZA-1 Line with third parties, including any Affiliate of PG&E. All Permitted Uses are subject to Port permitting where required.</p>
Security	<p>\$384,698.86 cash or letter of credit security deposit, refundable when PG&E pays the second installment of the prepaid license fee, AND 1/6th of the Extension Term License Fee that would be due in the last (26th) year of the Extension Term (waived if PG&E elects to pre-pay the option period license fee)</p>
Environmental Security	<p>\$10,000 cash Environmental Oversight Deposit for the recovery of Port's costs and expenses related to the increased inspection, monitoring, enforcement and administration of the License</p> <p>Environmental assurances deposit in the form of an irrevocable standby letter of credit equaling \$6,000,000:</p> <p>(i) \$5,000,000 used for Claims due to any requirement of a Regulatory</p>

Table 1: License 15762 Terms

Term	Description
	<p>Agency for Investigation/Remediation of Hazardous Materials arising from Licensee's or its Agents' discovery of preexisting contamination to be released 12 months after data is submitted to the Regional Water Quality Control Board subject to conditions set forth in the License AND</p> <p>(ii) \$1,000,000 for the full and faithful performance by Licensee of its obligations with respect to Hazardous Materials.</p>
<p>Limitations on Other Uses of License Area</p>	<p>Port shall obtain Licensee's reasonable, written consent to:</p> <p>(i) Permit uses that penetrate the Bay mud surface in the Submarine Portion Exclusive Zone.</p> <p>(ii) Permit a lateral crossing through the License Area. If lateral crossings are allowed, Port shall require that such crossings be no closer than five (5) vertical feet from the ZA-1 Line Equipment and be equipped with thermal and mechanical protection.</p> <p>(iii) In the Compatible Use Zone of the submarine portion, permit other underground or submarine electric lines.</p> <p>(iv) With respect to any Horizontal Directional Drilling Area:</p> <p>(1) <u>allow piles to be installed to the bedrock in the area north and east of Pier 30 to support maintenance and facilitate use and development of Piers 30/32; provided that to the extent that Licensee provides such consent, Licensee and Port will cooperate in good faith to identify installation specifications to adequately protect the ZA-1 Equipment;</u></p> <p>(2) <u>license, lease or otherwise permit in writing construction of solder piles, piers, pilings, foundations, or other permanent improvements in any other HDD Area.</u></p> <p>(v) Dredging:</p> <p>(1) Permit any dredging in the submarine portions of the License Area;</p> <p>(2) In the area north and east of Piers 30-32, Port may be permitted to dredge up to a depth of forty feet (40') below mean lower low water if Port reasonably determines dredging to such depth is required to support or advance maritime operations and use within Port jurisdiction, provided that in no event shall Port dredge within five (5) vertical feet of the ZA-1 Line Equipment.</p> <p>(vi) Port will cooperate with Licensee to have the License Area designated as a no anchoring area by the US Coast Guard.</p> <p>If Licensee denies consent, Port may seek CPUC approval to allow the activity or to allow the proposed facilities to be co-located in the License Area, which approval would supersede Licensee's denial.</p> <p>Licensee will ensure that the License Area is depicted on all official navigation maps as a "no anchoring" area.</p>
<p>Required Removal or Relocation of ZA-1 Line</p>	<p>Licensee agrees that it will remove or relocate without expense to Port or City any ZA-1 Line Equipment by any lawful change of grade, alignment or width of any street or right of way, or, if such removal or relocation is made necessary by any work to be performed under the governmental authority of Port or the City.</p> <p>Licensee and the Port/City will use commercially reasonable efforts to facilitate the design of any Port or City project requiring such removal or relocation to minimize time and expense to both Parties. The Parties will negotiate in good faith to amend this License to reflect the new License</p>

Table 1: License 15762 Terms	
Term	Description
	Area and any associated fees. If the ZA-1 Line cannot legally be moved or the Port or City can reasonably redesign or reroute a Port or City project at a lower cost than moving the ZA-1 Line, Port and Licensee will negotiate to allow the Port or City to proceed in an alternative manner acceptable to all Parties, conditioned on Licensee bearing the incremental costs of the City/Port alternative (where incremental means the difference between the Port's/City original conflicting design and the Port's/City alternative design).
Potrero Switchyard Screening	Within 10 years after executing the ZA-1 License, the City may designate its preference ("Preferred Screen") for 1) enclosing the Potrero Switchyard in a building, or 2) surrounding a significant portion of the Potrero Switchyard with a perimeter screen performed at PG&E's cost. PG&E will use commercially reasonable efforts to obtain rate reimbursement and other approvals required for these improvements.
Sales and Use Tax	City shall be entitled to receive applicable sales and use taxes ordinarily payable under Law. Licensee shall use its best commercially reasonable efforts to have the City and County of San Francisco realize sales and use taxes as to the Project in San Francisco, including all of its components.

Potrero Switchyard Screening

As described in the September 6, 2013 Port Commission staff report, the screening or enclosure of the existing 115 kV Potrero Switchyard is critical to support planned growth at the Pier 70 and NRG⁵ sites in the Central Waterfront, a Priority Development Area. The License requires PG&E to obtain the approvals for and construct screening (or otherwise enclose) the Potrero Switchyard as a public benefit of the ZA-1 Transmission Line.

Within 10 years after executing the ZA-1 license, the City may designate its Preferred Screen (either enclosing the Switchyard in a building or constructing a perimeter screen). Following this notice, PG&E will apply for any required rate-reimbursement, commence any required CEQA review and apply for any other required permits for the Preferred Screen. The conceptual design for the Preferred Screen will include architectural and aesthetic qualities consistent with PG&E's customary protocols for screening dense urban substation facilities, subject to review by the Port's Waterfront Design Advisory Committee. Subject to force majeure events, or its failure to obtain required approvals, PG&E shall complete construction of the approved Revised Screen Design no later than five (5) years after the City presents the notice of its Preferred Screen.

⁵ The NRG site is a 23 acre parcel immediately to the south of Pier 70 which was the site of the former Potrero Power Plant which closed in January 2011.

The Revised Term Sheet previously contemplated that infrastructure financing district proceeds from future development of the Hoedown Yard, subject to Board of Supervisors approval, could be a source to partially fund the Preferred Screen, if rate funding was insufficient. The Board of Supervisors was not supportive of this concept, so it has not been included in the agreement.

Southern Waterfront Community Benefits

City staff believes that the ZA-1 project provides critical transmission reliability benefits to the City. In addition, the City option to acquire the Hoedown Yard and the PG&E obligation to screen the Potrero Switchyard as described above are major public benefits of the proposed project which will benefit the Southern Waterfront community and increase the value of Port property.

The proposed License is subject to the Port's Southern Waterfront Community Benefits Policy. As such, Port staff will set aside 8% of project rents to the Southern Waterfront Community Benefit Fund ("Fund"), or \$1,222,016. The Fund is used to pay for open space and related public improvements in the Southern Waterfront. Expenditures from the fund are subject to Port Commission approval. As a condition of the License, PG&E has also agreed to construction of a sidewalk and related right of way improvements on 23rd Street adjacent to the Potrero Switchyard.

PG&E has negotiated a voluntary Local Hire agreement with the Office of Economic and Workforce Development which includes the following provisions:

- PG&E contractors will use their best efforts to utilize individuals from the CityBuild⁶ program;
- PG&E Contractors will use good faith efforts to meet a San Francisco local hiring goal of 30% or more for project laborer positions;
- PG&E will work with Contractors to identify required certifications and training for employment of workers and assist in providing required training; and
- CityBuild will identify key staff as liaisons to the Project and as a referral agency to provide referrals of qualified economically disadvantaged individuals for employment on the Project.

Projected Ratepayer Impacts within CAISO Grid

The cost of transmission lines constructed within the Control Area of CAISO is shared by electricity ratepayers in California. The CAISO Control Area generally includes

⁶ CityBuild is an employment program in the Office of Economic and Workforce Development ("OEWD"). CityBuild provides workforce training and job placement services to San Francisco residents in the construction industry.

PG&E Territory, Southern California Edison (SCE) Territory, San Diego Gas & Electric (SDG&E) Territory and other metered subsystems.

Based on a project cost of \$197 million, including contingency, PG&E projects that the Project will increase the average bundled retail electric bills by no more than a few cents per month. PG&E currently projects that the Project will generate approximately \$4.2 million in sales taxes to the City over the two year construction period.

Project Schedule

PG&E is pursuing the following Project schedule:

- Building Construction and Equipment Installation: June 2014 – Feb. 2016
- Onshore Infrastructure Construction (including HDD): Aug. 2014 – Aug. 2015
- Offshore Cable Laying: June 2015 – Aug. 2015
- Cable in Service: April 2016

II. Hoedown Yard Option

As a condition of the license, City staff has negotiated a transferable Real Estate Division option to acquire the PG&E Hoedown Yard, which includes a portion of Irish Hill ("Hoedown Yard Option Agreement"), adjoining Pier 70. The Port of San Francisco is not a party to the Hoedown Yard Option Agreement and the agreement and its companion form of purchase and sale agreement ("Purchase and Sale Agreement") are not subject to Port Commission approval. However, given the proximity of the Hoedown Yard to Pier 70, Port staff has participated in the discussions between the parties. A map of the Hoedown Yard is attached as Exhibit B.

While the Port will not own the Hoedown Yard Option Agreement, a description of current site conditions and the Option are included in this report in order to provide a complete record of the ZA-1 Project transaction between the City and PG&E.

Current uses at the Hoedown Yard include parking, equipment storage, stockpiling and temporary storage of drilling mud, concrete, soil, sand, gravel and asphalt associated with PG&E utility projects. Relocation of these functions from the Hoedown Yard will enhance the Port's efforts to revitalize Pier 70⁷. Exhibit G shows the proximity of the Hoedown Yard to Pier 70.

The City option to purchase the Hoedown Yard is transferable, allowing the City to transfer this purchase right to a private entity. Since the Hoedown Yard is an asset of a regulated utility, PG&E's sale of the Hoedown Yard is subject to CPUC approval pursuant to Section 851 of the California Public Utilities Code, unless PG&E is able to relocate these activities before the City exercises the option.

Not unlike the surrounding Pier 70 area, the Hoedown Yard contains known contamination. PG&E has completed site investigation and a human health risk assessment. The findings of this assessment indicate that arsenic is present in soil within an approximately 20,000 sf (by approx. 5 ft. deep) area in the northwest corner of the site at concentrations that pose a potential human health risk to future construction workers upon disturbance of the soil (not to current or future commercial/industrial workers). All other contaminants investigated exist at concentrations below levels of concern. The Port and City do not, and will not, bear any responsibility for existing contamination or the environmental risk exposure of future uses on the site.

The San Francisco Bay Regional Water Quality Control Board ("Water Board") has approved PG&E's investigations and agrees that no remediation is warranted under

⁷ On May 28, 2013, the Port Commission approved Resolution 13-20 endorsing a Term Sheet between the Port and Forest City Development California, Inc. ("Forest City") for the mixed-use development of the Pier 70 Waterfront Site, bordered generally by 20th Street, Michigan Street, 22nd Street, and the San Francisco Bay, shown in Exhibit G. The Term Sheet was subsequently endorsed by the Board of Supervisors on June 11, 2013. City staff, including Port staff, and Forest City continue to pursue entitlement of the Pier 70 Waterfront Site.

current or anticipated future conditions, provided that activities at the site comply with an approved Site Management Plan ("SMP") and land use is restricted to commercial/industrial uses through a deed restriction recorded by the Water Board.

PG&E has developed and Water Board has approved a SMP for the Hoedown Yard. The SMP specifies measures to protect workers, minimize dust, prevent contamination of stormwater, and other measures to manage potential risks from soil contamination.

Port environmental staff also has reviewed the SMP and the Water Board deed restriction and believe that Hoedown Yard site conditions are suitable for future commercial or industrial use. If a third-party developer desires to acquire the City's option for the site for residential purposes, further remedial actions (such as removal or capping of arsenic-contaminated soil) would likely be required, along with approval of the Water Board to lift the deed restriction.

Pursuant to the Port's Waterfront Site Term Sheet with Forest City, Forest City will include the Hoedown Yard in the proposed Special Use District ("SUD") for the Waterfront Site for purposes of rezoning and design for development controls. The SUD is expected to be ready for consideration by the Planning Commission and the Board of Supervisors by mid-2016, after environmental review of the Waterfront Site mixed use development is complete, which means that the Hoedown Yard would be rezoned and ready for sale to a third-party within that timeframe, subject to required regulatory approvals. PG&E has authorized the City and Forest City to pursue this rezoning. Port staff will continue to monitor the Real Estate Division's activities with respect to the Hoedown Yard.

Based on preliminary analysis – subject to change depending on market factors and site specific development risks – Port staff estimates that the difference between the as-is purchase price of the Hoedown Yard and its future rezoned value for residential use could be in excess of \$20 million. The City will continue to examine the highest and best use of the Hoedown Yard during development of the Waterfront Site SUD and associated environmental review. The range of permissible future uses of the Hoedown Yard will ultimately be decided by the Planning Commission and the Board of Supervisors.

Subject to approval by the Board of Supervisors, the Director of Real Estate will conduct a competitive process to sell its option to purchase the Hoedown Yard. Unless the City opts to acquire the Hoedown Yard for its own use, City staff expects that the City will not be in the chain of title for the site. The City intends to designate any net proceeds of its sale price to a third-party developer based on its rezoned value as a source of funds for the Potrero Terrace and Annex HOPE VI project, a major priority of Mayor Edwin Lee. For more information about this project, see <http://www.rebuildpotrero.com/>.

Table 2: Hoedown Yard Option Agreement and Purchase and Sale Agreement	
Term	Description
Premises	PG&E parcels Block 4110 (Lot 008A) and Block 4120 (Lot 002), 130,600 sf of industrial land at Illinois and 22 nd Street (see Exhibit B)
Purchase Price	\$8,315,302 (\$63.37 per square foot)
Term	City or its transferee may exercise the Option by delivering written notice to PG&E on or before December 31, 2019
Section 851 Order	Unless PG&E relocates its current Hoedown Yard operations in advance of the City's exercise of the Option, the CPUC will need to approve a Section 851 Order to allow PG&E to sell the property
Environmental Provisions	<ul style="list-style-type: none"> • Certain uses on the Hoedown Yard will be prohibited, including school, daycare and hospital uses and ground floor private open space; • High density residential, office and public open space will be permitted, subject to a modification to the Water Board's deed restriction; • The ultimate buyer of the Hoedown Yard will clean up the arsenic in the northwest corner of the site and indemnify and hold harmless PG&E from liability, including liability for personal injury, property damage, or further cleanup, during and after the construction of any new uses on the Hoedown Yard; • The owner of the Hoedown Yard or its agent will supply a \$1 million letter of credit to PG&E to back its indemnity until 3 years after Certificate of Occupancy; • Construction on site will comply with a risk management plan and defined institutional controls, such as use of 3' feet of clean soil and a demarcation layer above native soil in soft scaped areas such as public open space; and • The property owner/operator will notify all residents of site conditions and tenants and contractors of site conditions and required institutional controls and require notification of subtenants and subcontractors. <p>Exhibit H to this staff report details the environmental risk management measures negotiated between City staff and PG&E related to future development on the Hoedown Yard.</p>

The Hoedown Yard Option Agreement and the form of Purchase and Sale Agreement are subject to approval by the Board of Supervisors concurrent with the License. No action by the Port Commission is requested for this part of the agreement with PG&E.

Recommendation

Port staff recommends approval of the attached resolution which approves License 15762 between the Port and PG&E, subject to approval by the Board of Supervisors and authorizes the Executive Director to enter into the License. If the Port Commission approves the resolution, Port staff proposes the following next steps:

1. Port staff will submit the License and the Real Estate Division will submit Hoedown Yard Option Agreement and form of Purchase and Sale Agreement to the Board of Supervisors for its consideration;
2. If approved, the Port Executive Director will execute the License and the City Director of Real Estate will execute the Hoedown Yard Option Agreement;
3. Port staff will coordinate with the Planning Director to provide notice to PG&E of the City's Preferred Screen for the Potrero Switchyard; and
4. Port and OEWD staff will collaborate with Forest City California to entitle the Hoedown Yard for its highest and best use as part of broader Pier 70 Waterfront Site entitlement efforts.

Prepared by: Brad Benson, Director of Special Projects

For: Monique Moyer, Executive Director

Exhibits

- A. Premises
- B. Hoedown Yard
- C. PG&E Embarcadero Substation Service Area Map
- D. CPUC Findings from Decision Granting Certificate of Public Convenience and Necessity
- E. CPUC Adopted Mitigation Measures
- F. Hoedown Yard Appraisal Process and Valuation of Submerged Land
- G. Pier 70 Waterfront Site Conceptual Land Use Plan
- H. Hoedown Yard Environmental Risk Management Measures (City-PG&E Option Agreement)

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

RESOLUTION NO. 14-43

- WHEREAS, California Statutes of 1968, Chapter 1333 (the "Burton Act") and the San Francisco Charter Section B3.581 empower the San Francisco Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the lands within Port Commission jurisdiction; and
- WHEREAS, Pacific Gas & Electric ("PG&E") proposes to construct a new, single circuit, 230 kV transmission line between its Embarcadero Substation and its Potrero Substation, along onshore and submerged land in the Port's jurisdiction generally within the area bounded by Pier 28 ½ and portions of the shoreline at the foot of 23rd Street (the "Project"), to increase reliability of electric service to downtown San Francisco and provide operational flexibility, as further described in the staff report accompanying this resolution; and
- WHEREAS, At the Port Commission's August 14, 2012 meeting, an informational presentation about the Project was made by Port staff and Port staff was directed to negotiate a term sheet for use of Port lands for the Project; and
- WHEREAS, At its November 13, 2012 meeting, the Port Commission approved Resolution 12-90, endorsing the ZA-1 Embarcadero-Potrero 230kV Transmission Project Term Sheet ("Original Term Sheet") between the Port and PG&E and authorizing Port staff to enter into a Negotiation Agreement with PG&E, related to onshore and submerged Port land between Pier 28½ and the foot of 23rd Street and PG&E parcels Block 4110 (Lot 008A) and Block 4120 (Lot 002), commonly known as the "Hoedown Yard"; and
- WHEREAS, At its September 10, 2013 meeting, the Port Commission approved Resolution 13-34 endorsing the Revised ZA-1 Embarcadero-Potrero 230kV Transmission Project Term Sheet ("Revised Term Sheet") between the Port and PG&E related to onshore and submerged Port land, including approximately 435,600 square feet of submerged land between Pier 28½ and the foot of 23rd Street, 52,272 square feet of underground access for horizontal directional drilling and 21,120 square feet of land along 23rd Street, as shown on Exhibit A (the "Premises") and an option to acquire the Hoedown Yard (the "Hoedown Yard Option Agreement"); and
- WHEREAS, The California Public Utility Commission's ("CPUC") Energy Division staff issued a draft Mitigated Negative Declaration ("MND") on August 13, 2013, notice of the draft MND was published in the San Francisco Examiner on August 18 and 19, 2013, and a public informational meeting was held on August 20, 2013, in San Francisco; and

- WHEREAS, The CPUC Energy Division received public comments from the California Department of Fish and Wildlife, the San Francisco Bay Conservation Development Commission, the San Francisco Public Utilities Commission, two members of the public, and PG&E and responded to all of the comments in the final MND, which it issued on October 30, 2013; and
- WHEREAS, Although a few revisions were made to clarify and revise the discussion and certain mitigation measures described in the MND, the final MND does not identify any new significant environmental impacts, and does not omit any existing mitigation measures, from those identified in the draft MND; and
- WHEREAS, On January 16, 2014, the California Public Utilities Commission ("CPUC"), as lead agency, certified the Mitigated Negative Declaration ("MND") and issued a Certificate of Public Convenience and Necessity for the Project by Decision No. 14-01-07; and
- WHEREAS, On March 5, 2014, pursuant to Resolution No. 54-14, the Board of Supervisors endorsed the Revised Term Sheet, subject to several changes to the proposed Hoedown Yard Option Agreement, which will be executed by the Department of Real Estate; and
- WHEREAS, Port and City staff have negotiated License 15762 (the "License") and the City's Hoedown Yard Option Agreement and form of purchase and sale agreement (the "Purchase and Sale Agreement") consistent with the terms of Port Commission Resolution 13-34 and Board of Supervisors Resolution 54-14, as described in the staff report accompanying this resolution, copies of which are on file with the Port Commission Secretary; and
- WHEREAS, The Port Commission is not a party to the City's Hoedown Yard Option Agreement and form of Purchase and Sale Agreement, and is not responsible for current or future uses of the site; and
- WHEREAS, All applicable mitigation measures from the CPUC MND (as shown in Exhibit E of the accompanying staff report) have been incorporated into the proposed Project, the Port Commission has imposed them as conditions of approval, and the Port will receive copies of all mitigation monitoring reports to the CPUC; now, therefore, be it
- RESOLVED, That the Port Commission adopts and incorporates by reference as though fully set forth herein the mitigation measures for the project described in Exhibit E of the accompanying staff report; and, be it further
- RESOLVED, That subject to approval by the Board of Supervisors, the Port Commission authorizes and directs the Executive Director of the Port ("Executive Director") to execute the License, in substantially the form on file with the Port Commission Secretary, and in such final form as is

approved by the Executive Director in consultation with the City Attorney;
and, be it further

RESOLVED, That the Port Commission authorizes the Executive Director to enter into other agreements, encroachment permits, and easement agreements necessary to implement the project contemplated by the License, and to enter into any additions, amendments or other modifications to the License, including preparation and attachment of, or changes to, any or all of the attachments and exhibits that the Executive Director, in consultation with the City Attorney, determines are in the best interests of the City or Port, do not materially decrease the benefits or otherwise materially increase the obligations or liabilities of the City or Port, and are necessary or advisable to enable PG&E to complete the project that the License contemplates and effectuates the purpose and intent of this resolution, such determination to be conclusively evidenced by the execution and delivery by the Executive Director of such other agreements, easement agreements and/or additions, amendments or other modifications to the License.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of June 10, 2014.

Secretary

PROPOSED PG&E
SUBMARINE CABLES

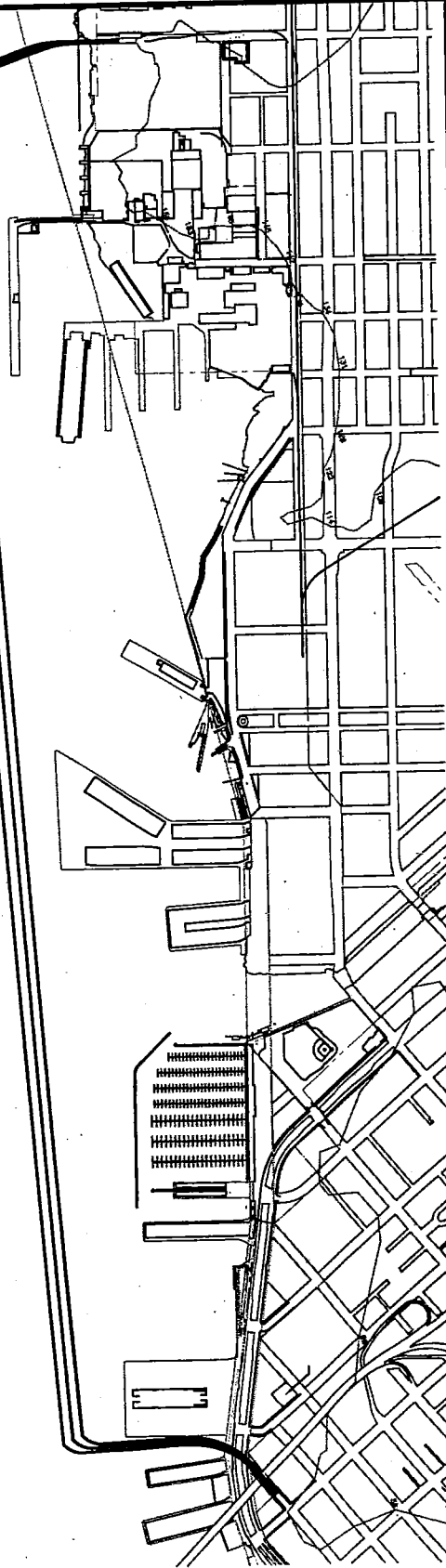
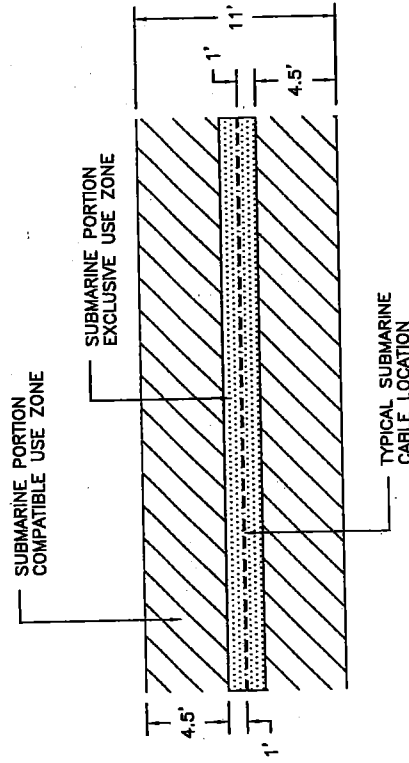
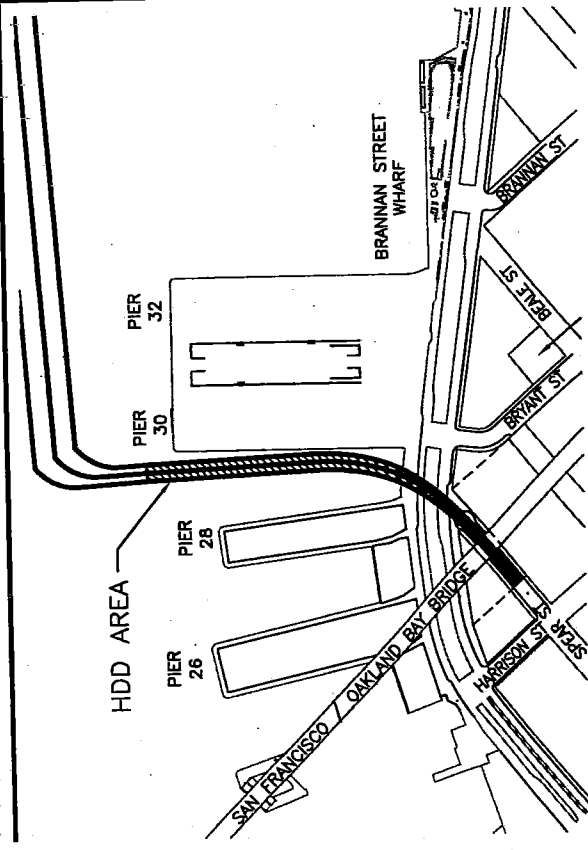


EXHIBIT A



TYPICAL SUBMERGED LAND USE
ZONES FOR THREE CABLES

HDD AREA

LICENSE NO. 15762	SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING	LICENSEE PACIFIC GAS & ELECTRIC CO.	DRAWN BY: ECC CHECKED BY: B. BENSON PLACE CODE NO.	DATE: JUN 4 2014 SCALE: NONE
			SHEET NO. 1 OF 2 SHEETS	<small>6A\08 PROPERTY FILES\Lease Maps\PG&E MineralReservation.dwg</small>

MINERAL ACCESS POINT
 2,102,550 N
 6,018,870 E

PROPOSED PG&E
 SUBMARINE CABLES

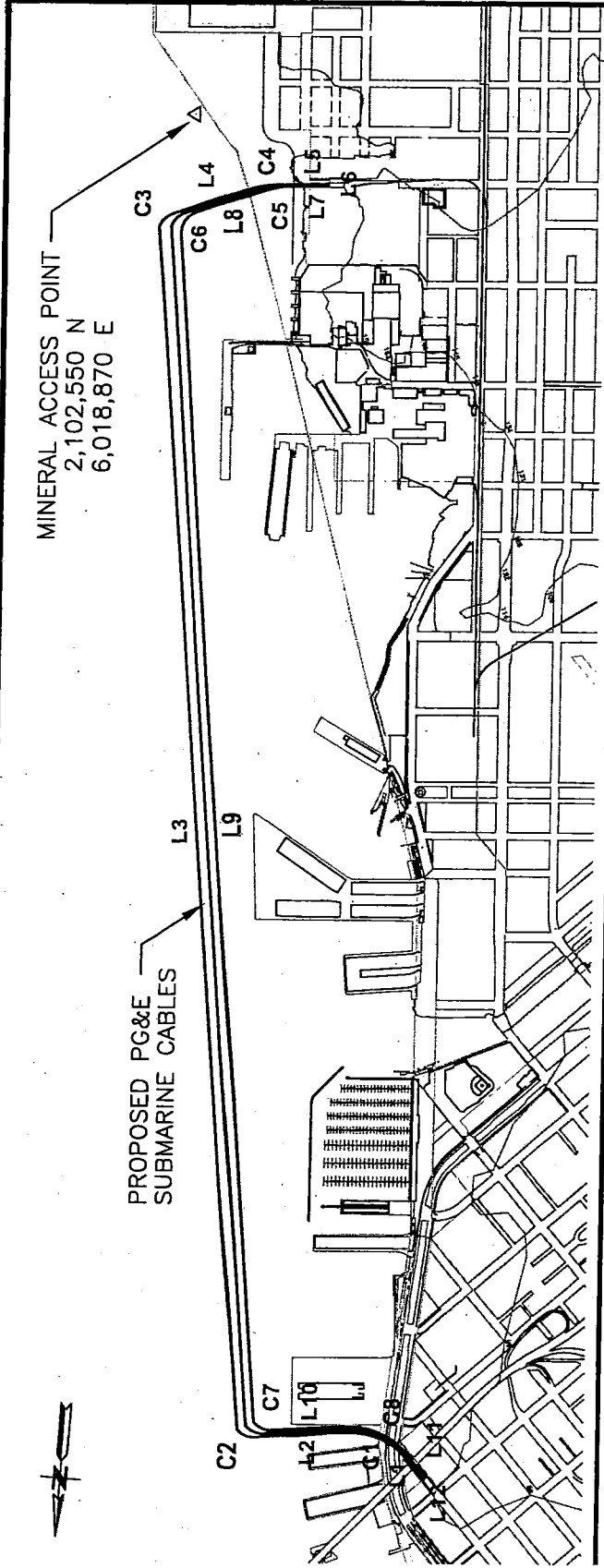
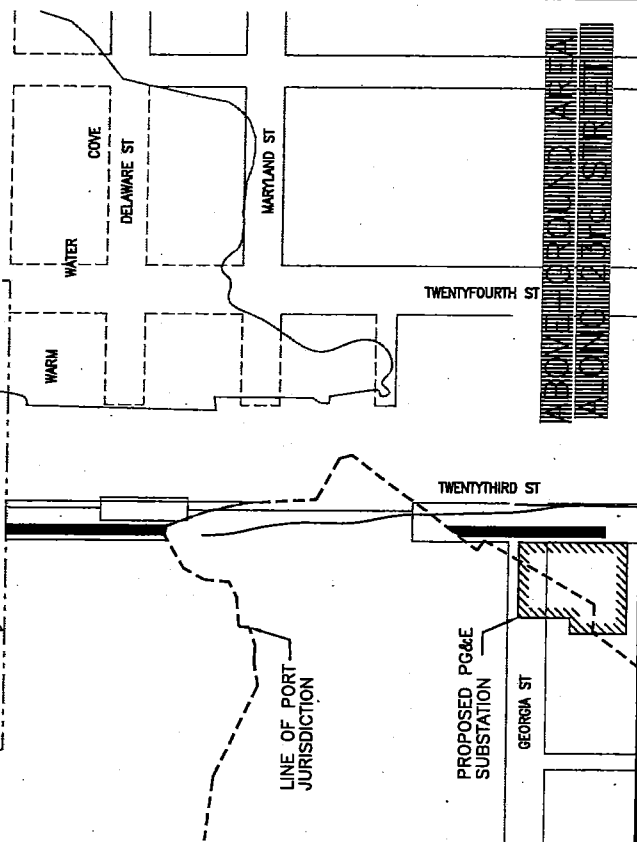


EXHIBIT A-1

INITIALS: PORT: _____ LICENSEE: _____ DATE: _____

PARCEL BOUNDARIES		
COURSE NO.	DISTANCE	BEARING
L 1	241.06	S 43° 47' 51" E
C 1	R = 700.00 Δ = 52° 08' 18" T = 342.46	Lc = 636.99 T = 342.46
L 2	891.48	N 83° 49' 07" E
C 2	R = 196.35 Δ = 48° 47' 06" T = 162.18	Lc = 167.18 c = 162.18
L 3	11,223.46	S 7° 43' 13" E
C 3	R = 198.66 Δ = 53° 40' 59" T = 179.40	Lc = 186.13 c = 179.40
L 4	722.86	S 68° 10' 48" W
C 4	R = 800.00 Δ = 17° 35' 58" T = 123.84	Lc = 245.74 T = 123.84
L 5	507.09	S 85° 46' 37" W
L 6	20.22	N 4° 13' 37" W
L 7	371.20	N 85° 48' 40" E
C 5	R = 800.00 Δ = 17° 38' 01" T = 124.08	Lc = 246.21 T = 124.08
L 8	646.01	N 68° 10' 39" E
C 6	R = 196.64 Δ = 75° 39' 44" T = 152.70	Lc = 259.67 T = 152.70
L 9	11,046.81	N 7° 29' 05" W
C 7	R = 199.76 Δ = 47° 35' 59" T = 161.23	Lc = 165.96 c = 161.23
L 10	725.92	S 83° 55' 42" W
C 8	R = 700.00 Δ = 52° 08' 24" T = 342.47	Lc = 637.01 T = 342.47
L 11	297.47	N 43° 47' 43" W
L 12	25.21	N 46° 18' 10" E



DRAWN BY: ECC
 CHECKED BY: B. BENSON
 PLACE CODE NO.
 DATE: JUN 4, 2014
 SCALE: NONE
 SHEET NO. 2
 OF 2 SHEETS

LICENSEE
PACIFIC GAS & ELECTRIC CO.

SAN FRANCISCO PORT COMMISSION
 PORT OF SAN FRANCISCO
 DEPARTMENT OF ENGINEERING

LICENSE NO.
15762

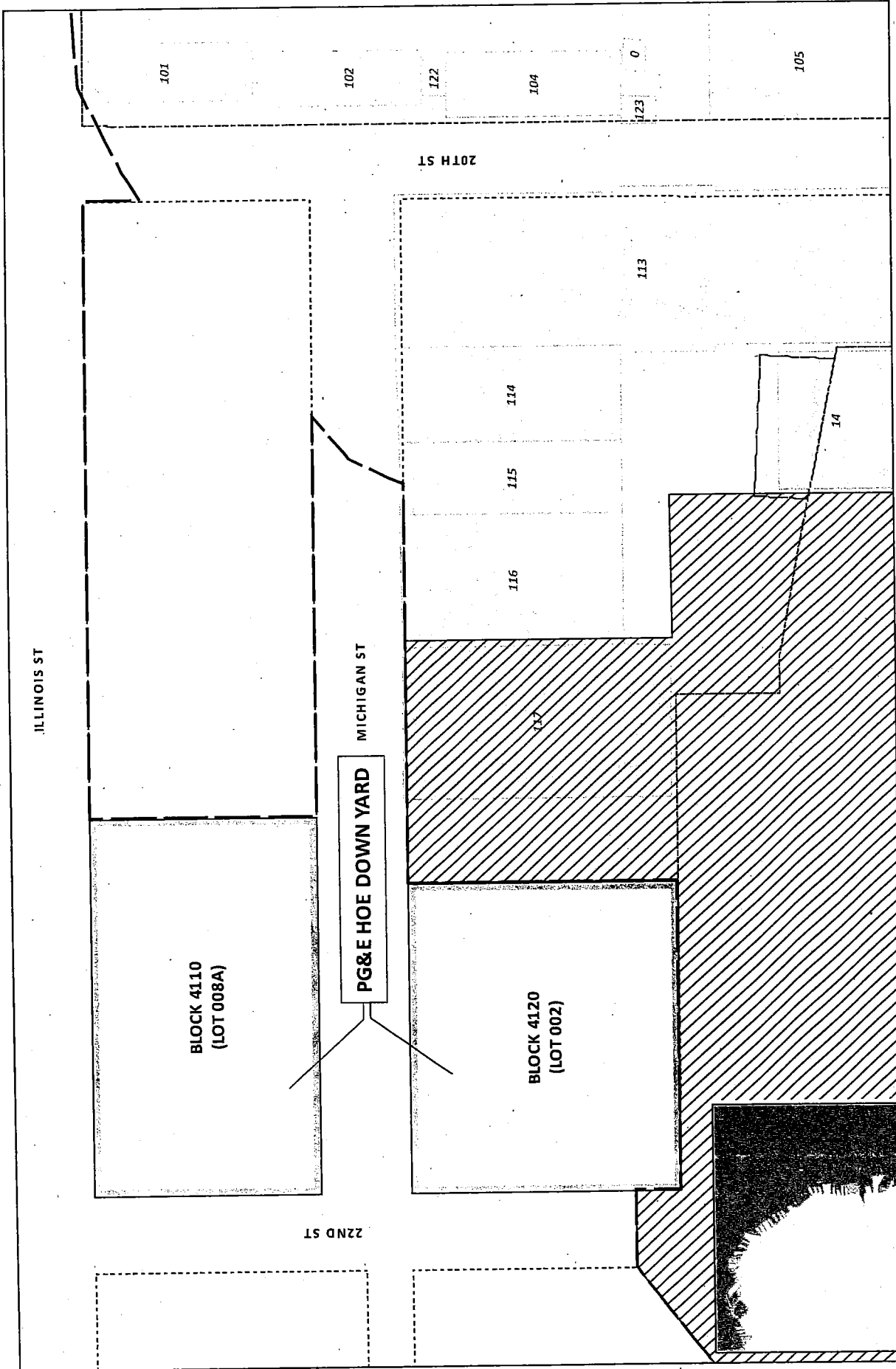
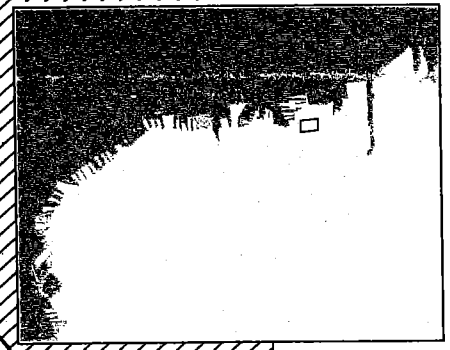
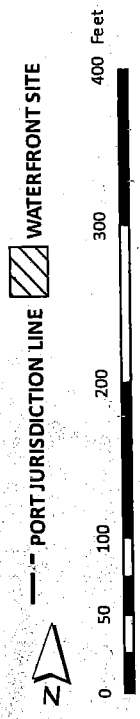


EXHIBIT B
 PG&E HOE DOWN YARD
 PORT OF SAN FRANCISCO



Area Served by
Embarcadero Sub

BEACH
STREET SUB

SF J SUB

EMBARCADERO
Z SUB

LARKIN
Y SUB

MISSION
X SUB

SF I SUB

EXHIBIT C

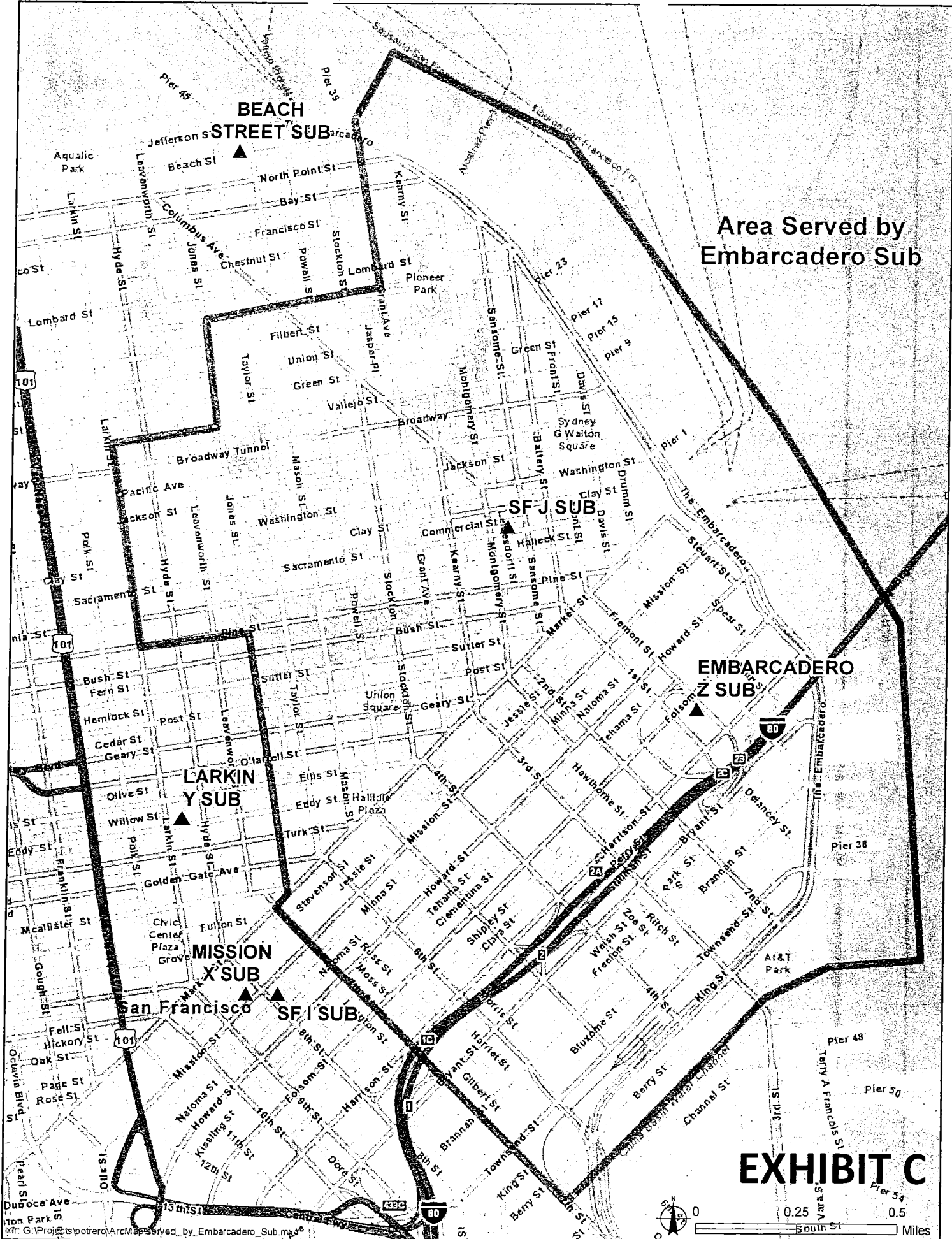
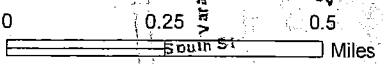


Exhibit D:
**CPUC Findings from January 16, 2014 Decision Granting
Certificate of Public Convenience and Necessity**

Findings of Fact

1. There is a need to improve the reliability of electric service for downtown San Francisco to reduce the potential for extended electrical outages in a seismic event.
2. The Embarcadero-Potrero 230 kV Transmission Project will meet the need to improve the reliability of electric service for downtown San Francisco.
3. There is no cost-effective alternative to transmission facilities that meet the need to improve the reliability of electric service for downtown San Francisco.
4. No party opposes the project on the basis of community values.
5. With the implementation of the mitigation measures identified in the Mitigation Monitoring Plan identified in the MND and attached to this order, the Embarcadero-Potrero 230 kV Transmission Project will avoid any significant environmental impacts, including those with respect to public safety and the safety of utility services, recreational and park areas, historical and aesthetic values, and influences on the environment.
6. PG&E's preliminary EMF management plan for the Embarcadero-Potrero 230 kV transmission project includes no-cost and low-cost measures (within the meaning of D.93-11-013, and D.06-01-042) to reduce possible exposure to EMF.
7. The Commission has reviewed and considered the information contained in the MND and finds that it reflects the Commission's independent judgment and analysis.
8. The maximum reasonable cost for the project is \$196.8 million, including contingency.
9. Hearings are not necessary.

Conclusions of Law

1. The MND was completed in compliance with CEQA.
2. PG&E's preliminary EMF management plan for the Embarcadero-Potrero 230 kV Transmission Project is consistent with the Commission's EMF policy for implementing no-cost and low-cost measures to reduce potential EMF impacts.
3. PG&E should be granted a certificate of public convenience and necessity to construct the Embarcadero-Potrero 230 kV transmission project with the mitigation identified in the Mitigation Monitoring Plan, which is attached to this order.
4. If the final detailed engineering design-based construction estimate for the Embarcadero-Potrero Transmission Project is one percent or more lower than \$196.8 million, including contingency, absent good cause shown to the contrary, it is reasonable for the Commission to adopt the lower amount as the maximum reasonable cost for the project.

5. If the final detailed engineering design-based construction estimate for the Embarcadero-Potrero Transmission Project is one percent or more lower than \$196.8 million, including contingency, PG&E should, within 30 days of developing the final estimate, file an advice letter to show cause why the Commission should not adopt a lower amount as the maximum reasonable and prudent cost to reflect the final estimate.
6. This decision should be effective today.
7. Application 12-12-004 should be closed.

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



FINAL
Mitigated Negative Declaration
Pacific Gas & Electric Company's
Embarcadero-Potrero 230 kV Transmission Project
Application No. A.12-12-004

Lead Agency: California Public Utilities Commission
Energy Division
505 Van Ness Avenue, 4th Floor
San Francisco, California 94102

Contact: Billie Blanchard, Project Manager
(415) 703-2068 or billie.blanchard@cpuc.ca.gov

1. Mitigated Negative Declaration

1.1 Project Information

Project: Embarcadero-Potrero 230 kV Transmission Project
San Francisco, California

Project Sponsor: Pacific Gas and Electric Company
77 Beale Street, B30A
San Francisco, California 94105
(800) 743-5000

1.2 Introduction

Pursuant to California Public Utilities Commission's (CPUC) General Order 131-D, Pacific Gas and Electric Company (PG&E), a regulated California utility, filed an application and Proponent's Environmental Assessment (PEA) on December 11, 2012 (Application No. A.12-12-004), for a Certificate of Public Convenience and Necessity (CPCN) to authorize construction of the Embarcadero-Potrero 230 kilovolt (kV) Transmis-

sion Project (Proposed Project). The CPUC Energy Division deemed the PEA and Application complete on January 10, 2013.

Pursuant to CEQA, the CPUC must prepare an Initial Study (IS) for the Proposed Project to determine if any significant adverse effects on the environment would result from project implementation. The IS utilizes the significance criteria outlined in Appendix G of the CEQA *Guidelines*. If the IS for the project indicates that a significant adverse impact could occur, the CPUC would be required to prepare an Environmental Impact Report (EIR).

According to Article 6 (Negative Declaration Process) and Section 15070 (Decision to Prepare a Negative Declaration or Mitigated Negative Declaration) of the CEQA *Guidelines*, a public agency shall prepare or have prepared a proposed negative declaration or mitigated negative declaration for a project subject to CEQA when:

- (a) *The initial study shows that there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment, or*
- (b) *The initial study identifies potentially significant effects, but:*
 - (1) *Revisions in the project plans or proposals made by, or agreed to by the applicant before a proposed mitigated negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and*
 - (2) *There is no substantial evidence, in light of the whole record before the agency, that the project as revised may have a significant effect on the environment.*

Based on the analysis in the Initial Study, it has been determined that all project-related environmental impacts could be reduced to a less than significant level with the incorporation of feasible mitigation measures. Therefore, adoption of a Mitigated Negative Declaration (MND) will satisfy the requirements of CEQA. The mitigation measures included in this MND are designed to reduce or eliminate the potentially significant environmental impacts described in the Initial Study. Where a measure described in this document has been previously incorporated into the project, either as a specific project design feature or as an Applicant Proposed Measure, this is noted in the discussion. Mitigation measures are structured in accordance with the criteria in Sections 15126.4 and 15370 of the CEQA *Guidelines*.

1.3 Project Description

The proposed Embarcadero-Potrero 230 kV Transmission Project would include construction, operation, and maintenance of a new 230 kV transmission line entirely within the City and County of San Francisco from the Embarcadero Substation at the corner of Fremont and Folsom Streets, to the Potrero Switchyard on Illinois Street between 22nd and 23rd Streets.

The new 230 kV transmission line would be approximately 3.5 miles in total length, including approximately 2.5 miles to be installed offshore in the San Francisco Bay, 0.4 miles to be installed in horizontal directional drills (HDD) between onshore transition points and the bay, and approximately 0.6 miles to be installed underground in paved areas, including Spear Street and Folsom Street in San Francisco's Rincon Hill neighborhood. Construction of a new 230 kV switchyard would occur near the existing Potrero Switchyard, but no new substation work is proposed to occur at the existing Embarcadero Substation beyond the proposed termination of the new cable into the 230 kV bus.

PG&E's project objectives include improving the reliability of the existing transmission system in San Francisco to provide a high likelihood of continued electric service to downtown San Francisco in the

event of overlapping outages on both of two existing 230 kV transmission lines that presently feed Embarcadero Substation.

1.4 PG&E PEA Alternatives Considered

CEQA does not require the inclusion of an alternatives analysis in a Mitigated Negative Declaration because the Initial Study concludes that, with incorporation of mitigation measures, there would be no significant adverse impacts resulting from the Proposed Project (CEQA Guidelines Sections 15063(d) and 15071). However, PG&E was required to provide an alternative analysis in its PEA that was submitted as part of its CPCN application (A.12-12-004) for the Proposed Project.

Although no alternatives analysis is required to be provided in this document, this section summarizes the process that PG&E used to develop its Proposed Project, because this process involved evaluation of several options that could meet the project objectives. As described in the PEA, PG&E initially screened 10 potential routes, three possible transition locations for the cables at each end of the route, and three switchyard locations before narrowing the options to the following, which were further evaluated in a feasibility study (PG&E, 2012a; B&V, 2012):

- Three switchyard site location alternatives, including the proposed site immediately east of the existing Potrero Switchyard
- Two onshore alternative transmission line routes
- Proposed submarine route (Proposed Project)
- No Project Alternative

In accordance with Section IX (A)(1)(a) of CPUC General Order 131-D, PG&E provided a discussion and an evaluation of the advantages and disadvantages of each of these alternatives in the PEA, as well as a brief description of the criteria for choosing the proposed route and switchyard location. The PEA determined that the Proposed Project would have considerably less impact on urbanized areas than either of the alternative onshore routes given that it has only 0.6 mile of underground construction, and therefore, would have the least impact on urbanized residential and commercial areas, including the least construction impacts to land uses, traffic, transportation, noise, and air quality. PG&E also concluded in the PEA that the proposed route would be the most reliable seismically of the three route alternatives and would best meet the project purpose and need. PG&E selected the proposed switchyard site due to engineering feasibility and ease of connectivity to existing facilities (PG&E, 2012a). PG&E's PEA section that addresses alternatives is available at the following website:

<http://www.cpuc.ca.gov/Environment/info/aspen/embarc-potrero/pea/5-Alternatives.pdf>

1.5 CAISO San Francisco Peninsula Reliability Assessment

The San Francisco-Peninsula transmission system is in the center of PG&E's service territory, serving urban load centers across a unique geographic landscape. The California Independent System Operator (CAISO) considered the Proposed Project during 2011 and 2012, and during other transmission planning cycles the CAISO has or will consider other San Francisco-area proposals. On March 23, 2012, the CAISO Governing Board found the Proposed Project to be needed for reliability, as shown in its 2011-2012 Transmission Plan (pp. 107-108 of CAISO, 2012).

Since then, the CAISO 2012-2013 Transmission Plan initiated a study of the potential need for transmission reinforcement of the San Francisco Peninsula as being particularly vulnerable to lengthy

outages in the event of extreme contingencies (i.e., seismic, third-party action, and/or co-located facility failure). CAISO is in the process of conducting the San Francisco Peninsula Extreme Event Reliability Assessment to determine the need and urgency for reinforcement and is engaging stakeholders in the evaluation of risks and potential alternatives. The purpose of the CAISO study is to:

- identify the system performance after extreme events;
- identify the risk and impacts of extreme events in the San Francisco Peninsula area; and
- based upon the system performance, risks and impacts, identify potential alternatives to mitigate for the extreme events. (CAISO, 2013)

The CAISO conducted a detailed assessment and held a stakeholder meeting on May 29, 2013, soliciting comments from stakeholders by June 19, 2013. Based on the assessment, the following mitigation alternatives are going to be considered by the CAISO in developing the mitigation plan for the extreme event in the peninsula area (CAISO, 2013):

- No mitigation (not acceptable based upon the CAISO's assessment)
- Expanded mobile and spare equipment contingency plans and strategy
- Modifications or upgrades to 230 kV system
- Upgrades to 115 kV system
- New 230 kV supply into North Peninsula area:
 - Moraga
 - Pittsburg
 - East Shore
 - San Mateo

Depending upon the results, additional transmission upgrades may be brought to the CAISO Board of Governors as early as September in late 2013 or early 2014.

Due to the sensitive nature of the material, the reliability assessment and presentations from the stakeholder meeting are being handled on a confidential basis. However, in compliance with FERC Order 890, the CAISO provides stakeholders access to confidential information used in the transmission planning process through a secured website. Information on how to join the stakeholder process and access the secured transmission planning webpage can be found at:

http://www.caiso.com/Documents/2012-2013_TransmissionPlanningProcessAdditionalStudyAssessmentMaterialsAvailableJun6_2013.htm.

1.6 San Francisco Port Commission Negotiations

The San Francisco Port Commission (SF Port) established a Revised Term Sheet with PG&E after the August 2013 release of the Draft MND. At its September 10, 2013 meeting, the Port Commission considered Resolution 13-34 to endorse the Revised Term Sheet. In contrast to the original term sheet from November 2012, the Revised Term Sheet now contemplates a requirement for PG&E to screen or otherwise enclose the existing 115 kV Potrero Switchyard along Illinois Street between 22nd Street and 23rd Street. This means that the recent Port Commission decision to endorse the Revised Term Sheet is at least partially based on the SF Port License "obligating PG&E to screen the Potrero Switchyard" (at p.1 of the Term Sheet).

Because the Term Sheet endorsed by the Port defines a future requirement for PG&E to screen or enclose the existing Potrero Switchyard, this MND/Initial Study evaluates whether enclosing the switchyard amounts to an activity that would either be undertaken as part of the Proposed Project, caused by the project, or caused indirectly by the project. If so, the physical changes in the environment stemming from screening the switchyard would need to be disclosed to the extent they are reasonably foreseeable (see CEQA Guidelines 15064).

This MND/Initial Study does not treat screening the existing Potrero Switchyard as a reasonably foreseeable consequence of PG&E developing the Proposed Project. Although the City wishes to obligate PG&E to either enclose a substantial portion of the existing 115 kV Potrero Switchyard within a building or construct a screen around the perimeter of the switchyard, the Term Sheet itself is not contractually binding, and it does not presently commit PG&E to screening or enclosing the switchyard. The Term Sheet specifies that the City must first, within 10 years after executing the License for the Proposed Project, provide PG&E with notice of its preference, through a "Designation Notice" of the City's "Preferred Screen", which would then be subject to the Port's Waterfront Design Advisory Committee review. Following the Port's design committee review of PG&E's screening proposal, PG&E must then obtain the necessary approvals before commencing construction of the screen or enclosure. The Term Sheet also notes that negotiations will continue to occur before a License for the Proposed Project can be executed by PG&E and the Port Commission, and the binding form of the License will only become known after the present environmental review for the Proposed Project has been completed. The final terms and conditions of the negotiated transaction for the License are subject to the approval of the Port Commission.

PG&E has not presented to the CPUC any plans for an enclosure or screen at this time. After the City's designation, PG&E will need to apply for future approvals to construct the City's preferred screen, and this may require conducting a future project-level environmental review under CEQA of that proposal. PG&E notes that the purpose of the screening would be separate from the objectives of the Embarcadero-Potrero 230 kV Transmission Project, and screening could be implemented entirely separately of the Proposed Project [PG&E in Response to CPUC Data Request PD-18, General Reply to SFPUC Letter, October 3, 2013 (PG&E, 2013a)].

Foreseeable Environmental Effects of Screening for Potrero Switchyard. Although construction of screening for or enclosing the existing Potrero Switchyard would not be directly or indirectly caused by the Proposed Project, and no design is proposed, certain environmental effects would generally be expected from this type of project. Developing a perimeter screen for the existing 115 kV Potrero Switchyard would create impacts related to construction activity along Illinois Street between 22nd Street and 23rd Street. This could result in PG&E removing street trees along Illinois Street, creating temporary ground disturbance for the foundations or footings of the screening, and temporarily impacting parking conditions, traffic, air quality, and noise along Illinois Street during the work to install the switchyard screen. Alternatively, if the switchyard were to be enclosed within a new building, construction-phase impacts would be more intense than what would occur with building a screening wall. The primary long-term physical change to the environment would be to shield views of the existing open-air equipment and to reduce the industrial aesthetics of the existing streetscape. Overall, the City's goal is to improve the compatibility of the site with mixed uses.

1.71-6 Environmental Determination

The Initial Study was prepared to identify the potential environmental effects resulting from Proposed Project implementation, and to evaluate the level of significance of these effects. The Initial Study relies

on information in PG&E's PEA filed on December 11, 2012 (Application No. A.12-12-004), project site reconnaissance by the CPUC environmental team between January and March 2013, CPUC data requests, and other environmental analyses.

PG&E's PEA identified measures to address potentially significant environmental impacts — the Applicant Proposed Measures (APMs) — and these APMs are considered to be part of the description of the Proposed Project. Based on the Initial Study analysis, additional mitigation measures are identified for adoption to ensure that impacts of the Proposed Project would be less than significant. The additional mitigation measures either supplement, or supersede the APMs. PG&E has agreed to implement all of the additional recommended mitigation measures as part of the Proposed Project.

Implementation of the mitigation measures listed here and presented fully in the Initial Study would avoid potentially significant impacts identified or reduce them to less than significant levels.

Mitigation Measure for Construction-Phase Air Quality

MM A-1 **Achieve minimum emission standards.** This measure incorporates and supplements portions of APM AQ-2, Minimize Construction Exhaust Emissions. PG&E shall maintain all construction equipment properly in accordance with manufacturer's specifications, and ensure that equipment is checked by a certified visible emissions evaluator. All off-road construction diesel engines not registered under the CARB Statewide Portable Equipment Registration Program shall meet at a minimum the Tier 2 California Emission Standards for Off-Road Compression-Ignition Engines as specified in California Code of Regulations (CCR) Title 13, Chapter 9, Sec. 2423(b)(1). All marine commercial harbor craft, except gasoline-powered small craft, shall meet at a minimum the Tier 2 Marine Engine Emission Standards (CCR Title 17, Sec. 93118.5).

Mitigation Measures for Special-Status Species

MM B-1 **Implement an Invasive Marine Species Control Plan.** PG&E shall develop and implement an Invasive Marine Species Control Plan prior to any in-water work. The plan shall include measures designed to effectively limit the introduction and spread of invasive marine species. PG&E shall submit this plan to the CPUC for approval at least 60 days before the start of marine activities. Vessels originating outside San Francisco Bay shall follow existing compliance measures established by the California State Lands Commission as part of the Marine Invasive Species Program, relating to hull fouling and ballast water control. In addition, if used outside the San Francisco Bay area prior to use on this project, the hydroplow and associated equipment shall be examined and any invasive species handled and disposed of according to the developed plan. Similarly, if the equipment is to be used outside the San Francisco Bay after this use, the equipment shall be examined and cleaned prior to leaving the area.

PG&E shall coordinate plan preparation with the CPUC, U.S. Coast Guard, U.S. Army Corps of Engineers, National Marine Fisheries Service [NMFS], Regional Water Quality Control Board, and California Department of Fish and Wildlife [CDFW] as appropriate. The plan shall include: environmental training for all crew members working in marine areas addressing invasive marine species and actions to be taken to prevent release and spread of invasive marine species. Training shall include procedures for safe removal and disposal of any invasive species found on project equipment. Before and after boats and equipment leave the water, a qualified biologist (approved by the CPUC) shall assist

crew members in removing plants, plant debris, and any other potentially invasive species.

MM B-2

Protect marine mammals from high noise levels. PG&E shall consult with the National Marine Fisheries Service (NMFS) to determine whether Incidental Harassment Authorization (IHA) or Letter of Authorization (LOA) for marine mammals is necessary. If NMFS determines that an IHA or LOA is not necessary, PG&E shall submit evidence of this determination to the CPUC prior to the start of marine construction activities.

Monitoring. PG&E shall prepare and implement a Marine Mammal Monitoring Plan. PG&E shall submit this plan to the CPUC for approval before the start of marine activities. The Marine Mammal Monitoring Plan shall include the following elements:

- Establishment of an appropriate buffer zone around the work area, generally 400 feet or as defined in consultation with NMFS, that would require work be slowed or otherwise modified if the work approaches a marine mammal within the established buffer zone.
- A qualified biologist (approved by the CPUC) shall be on board the hydroplowing ship during construction.
- The qualified biologist shall monitor marine mammal presence and behavior in the vicinity of the ship and the surface above hydroplow operations.
- The qualified biologist shall have the authority to slow or stop work, if safe to do so, and shall consult with the CPUC and NMFS about the implementation of additional minimization measures if, based on observations, project construction appears to be disrupting marine mammal behavior in ways that indicate harassment or injury.
- Any disruption of marine mammal behavioral patterns shall be reported to the CPUC and NMFS within two working days with a description of actions taken to curtail work and reduce noise source levels and a demonstration that the disruption caused no potential for injury or mortality.
- PG&E shall submit weekly reports of marine mammal observations to the CPUC during marine construction activities.

As an alternative to preparing and implementing the Marine Mammal Monitoring Plan specified in this mitigation measure, PG&E may provide adequate evidence, to the CPUC for approval at least 30 days before the start of marine activities, based upon actual data collected for this project or other projects using similar equipment in a similar submarine environment, that demonstrates to the satisfaction of the CPUC that underwater noise source levels generated by the project hydroplow and marine activities cannot be reasonably expected to exceed the 180 dB threshold recently used by NMFS for marine mammal protection.

MM B-3

Protect marine species. PG&E shall consult with CDFW to obtain an Incidental Take Permit for longfin smelt or a determination from the agency that the project ~~is~~ will not ~~likely to adversely affect~~ result in take of longfin smelt.

Fish screens. As stated in APM BIO-6, all hydroplow water jet intakes shall be covered with a mesh screen or screening device to minimize potential for impingement or entrain-

ment of fish species, especially longfin smelt. Additional requirements to minimize or prevent entrainment and impingement are also required to supplement APM BIO-6:

- The mesh screen or screening device shall comply with applicable state (CDFW) and federal (NMFS) criteria for screening intakes such as those found in NMFS's 1996 *Juvenile Fish Screen Criteria for Pump Intakes* and CDFW's *Fish Screening Criteria* (http://www.dfg.ca.gov/fish/Resources/Projects/Engin/Engin_ScreenCriteria.asp) or as required in coordination with by NMFS and CDFW.

Monitoring. A qualified biologist (approved by CPUC) shall verify that the screens are in place at the beginning of each hydroplow work period and examine them for impinged longfin smelt or other fish species at the end of each work period, or whenever the screens are cleaned or the hydroplow is raised out of the water during the cable laying. Injury or mortality shall be reported to CPUC within two working days, with a discussion of actions taken to prevent or minimize any additional longfin smelt injury or mortality or as otherwise determined with CDFW and NMFS. Any injury or mortality of longfin smelt shall also be reported as determined in permitting discussions with CDFW and NMFS.

MM B-4

Avoid impacts to nesting birds. This measure supersedes APM BIO-2. If onshore construction activities occur during the avian nesting season, a preconstruction survey for nesting birds shall be conducted by a qualified wildlife biologist (PG&E employees or contractors, approved by the CPUC) within 7 days prior to the start of noise-generating construction or vegetation trimming or removal activities in any new work area. Surveys shall cover all public areas within 50 feet of work sites. For San Francisco County, the avian nesting season regularly occurs between February 15 and August 31, but a survey may be appropriate earlier or later depending on species, location, and weather conditions as determined by the qualified wildlife biologist.

Work areas that cause no appreciable increase in ambient noise, such as where work is performed manually, by hand, or on foot and activities that cause no observable disturbances to nesting birds (e.g., operating switches, driving on access roads, normally occurring activities at substations, staging or laydown areas) would not warrant a preconstruction survey.

Protective measures for birds. If an active bird nest for a species covered by the Migratory Bird Treaty Act or California Fish and Game Code is found within 50 feet of project work areas, the qualified biologist shall determine appropriate protective measures to reduce the likelihood of nest failure. Protective measures for active nests shall include one or more of the following: avoiding or limiting certain project-related activities within a designated buffer zone surrounding the nest, shielding of the nest from project disturbance using a temporary soundwall or visual screen, or other shielding method as appropriate. The width of the buffer zone (in which work may not occur) shall be based on the disturbance tolerance and conservation status of the species, and the nature of planned construction activities and other human activities in the immediate area. Buffer zones of less than 50 feet shall be allowed only when planned construction activities involve relatively low disturbance or birds have demonstrated tolerance of noise and disturbance. Buffers shall not apply to construction-related vehicle or pedestrian traffic using city streets and sidewalks. As appropriate, exclusion techniques may be used for any construction equipment that is left unattended for more than 24 hours to reduce the

possibility of birds nesting in the construction equipment. An example exclusion technique is covering equipment with tarps.

Bird species found building nests within the work areas after specific project activities begin may be assumed tolerant of that specific project activity; the CPUC approved, qualified biologist shall implement an appropriate buffer or other appropriate measures to protect such nests, after taking into consideration the position of the nest, the bird species nesting on site, the type of work to be conducted, and duration of the construction disturbance.

Protective measures for special-status birds. If an active nest for a special-status bird is found, PG&E shall record the position of the nest in the monitoring report and notify the CPUC through the reporting process outlined below. The qualified biologist shall implement buffers and set other protective measures (described above), as appropriate, to protect special-status nesting birds from construction activities in consultation with CPUC, and as appropriate the California Department of Fish and Wildlife (CDFW) and/or United States Fish and Wildlife Service (USFWS). Buffer zones of less than 50 feet shall be allowed only when planned construction activities involve relatively low disturbance or birds have demonstrated tolerance of noise and disturbance. Requests for buffers of less than 50 feet for special-status nesting birds must be submitted to the CPUC's independent biologist(s) for review. The CPUC's independent biologist shall respond to PG&E's request for a buffer reduction (and buffer reduction terms) within one business day; if a response is not received, PG&E can proceed with the buffer reduction. If nesting birds in the presence of the CPUC-approved qualified biologist show signs of intolerance to construction activities within a reduced buffer zone, the qualified biologist shall reinstate the recommended buffer. The recommended buffer may only be reduced again following the same process, as identified above, and after the CPUC-approved, qualified biologist has determined that the nesting birds are no longer exhibiting signs of intolerance to construction activities. Nests shall be monitored daily by the qualified biologist when construction is active at that location. Any potentially significant construction-related disturbance shall be reported to CPUC, CDFW, and USFWS.

Monitoring. Active nests shall be monitored at least once daily during construction until nestlings have fledged and dispersed or until nest failure has been documented. Daily nest checks shall be at least 30 minutes or more as determined by the qualified biologist based on the type of construction activity (duration, equipment being used, potential for construction-related disturbance) and other factors related to assessment of nest disturbance (weather variations, pair behavior, nest stage, nest type, species, etc.).

The qualified biologist shall record the construction activity occurring at the time of the nest check and note any work exclusion buffer in effect at the time of the nest check. The qualified biologist shall record any sign of disturbance to the active nest, including but not limited to parental alarm calls, agitated behavior, distraction displays, nest fleeing and returning, chicks falling out of the nest or chicks or eggs being predated as a result of parental abandonment of the nest. If the qualified biologist determines that project activities are contributing to nest disturbance, they shall notify CPUC (and CDFW/USFWS as appropriate in the case of special-status bird nests) and coordinate with the Construction Manager to limit the duration or location of work, and/or increase appropriate protective measures (as described above).

Reporting. If there are active nests present within 50 feet of the project area during construction, a weekly written report shall be submitted to CPUC. A final report shall be submitted to CPUC at the end of each nesting season summarizing all nest monitoring results and nest outcomes for the duration of project construction. No avian reporting shall be required for construction occurring outside of the nesting season and if construction activities do not occur within a reduced buffer during any calendar month. Nests located in areas of existing human presence and disturbance, such as in yards of private residences, or within commercial and or industrial properties are likely acclimated to disturbance and may not need to be monitored, as determined by the CPUC-approved, qualified biologist and approved by the CPUC's independent biologist.

Permits. Prior to the start of construction, PG&E may obtain a permit authorized by Section 3503 and/or Section 3503.5 of the California Fish and Game Code, or by any regulation adopted pursuant thereto, pertaining to nesting birds. If PG&E obtains such a permit under the above authorities, where that permit conflicts with the measures outlined above, the conditions of the permit shall govern.

Mitigation Measure for Preservation of Unanticipated Discoveries

MM C-1 **Unanticipated discoveries of cultural deposits.** This mitigation supersedes APM CUL-4. In the event that previously unidentified archaeological, cultural, or historical sites, artifacts, or features are uncovered during implementation of the project, work will be suspended within 100 feet (30 meters) of the find and redirected to another location. The CPUC-approved cultural resources specialist shall be contacted immediately to examine the discovery and determine if further investigation is needed. If the discovery can be avoided or protected and no further impacts will occur, the resource will be documented on California Department of Parks and Recreation 523 forms and no further effort will be required.

If the resource cannot be avoided and may be subject to further impact, the CPUC-approved cultural resource specialist/archaeologist shall evaluate the resource and determine whether it is: (1) eligible for the CRHR (and thus a historical resource for purposes of CEQA); or (2) a unique archaeological resource as defined by CEQA. If the resource is determined to be neither a unique archaeological nor an historical resource, work may commence in the area. If the resource meets the criteria for either an historical or unique archaeological resource, or both, work shall remain halted, and the cultural resources specialist/archaeologist shall consult with CPUC staff regarding methods to ensure that no substantial adverse change would occur to the significance of the resource pursuant to CEQA Guidelines Section 15064.5(b).

Preservation in place, i.e., avoidance, is the preferred method of mitigation for impacts to historical or unique archaeological resources. Alternative methods of treatment that may be demonstrated ~~by~~ to the CPUC to be effective include evaluation, collection, recordation, and analysis of any significant cultural materials in accordance with a Cultural Resources Management Plan prepared by the CPUC approved qualified cultural resource specialist/archaeologist. The methods and results of evaluation or data recovery work at an archaeological find shall be documented in a professional level technical report to be filed with CHRIS. Work may commence upon completion of treatment, as approved by the CPUC.

Mitigation Measure to Avoid Known and Potential Cultural Resources

MM C-2 **Avoid known and potential shipwreck locations.** This measure incorporates and supplements portions of APM CUL-2, Resource Avoidance. During installation of the submarine cable, PG&E and its contractors shall map the as-built alignment of the cable in relation to known cultural resources, and the contractors shall ensure that the cable passes at least 100 feet to the west of the known shipwreck located in the northeastern portion of the marine geophysical survey area and mapped on NOAA Chart no.18650. In addition, prior to the installation of the cable, PG&E and its contractors shall map a 50 foot buffer around the magnetic anomaly identified by OSI as anomaly no. M63 in the southern half of the marine geophysical survey area and located at 6019099E, 2106491N, as the anomaly may result from the remains of a shipwreck buried beneath the bay floor in that location. PG&E and its contractors shall ensure that no sediment disturbing excavation or hydroplowing is conducted within the 50 foot buffer zone. If the project cannot be routed around the anomaly, additional evaluation and mitigation as detailed in Mitigation Measure C-1, for unanticipated discoveries, and detailed in the Unanticipated Discoveries Plan may be necessary prior to excavation.

Mitigation Measure for Underground Transmission Line Construction Noise

MM N-1 **Implement General Noise Control Measures.** PG&E shall implement the following general noise control measures in addition to APMs NO-1 to NO-7, with APMs NO-2 and NO-3 superseded:

- PG&E and contractors shall use equipment that incorporates noise-control elements into the design.
- PG&E and contractors shall ensure equipment exhaust stacks and vents are directed away from buildings.
- Where use of pneumatic tools, such as impact tools (e.g., jack hammers and pavement breakers), is unavoidable, a noise source screen such as a barrier around the activity using the tools, an external noise jacket, or an exhaust muffler on the compressed air exhaust shall be used and shall be designed to reduce noise levels from the source by 10 dBA.
- PG&E shall include noise control requirements in specifications provided to construction contractors. Such contract specifications would include, but not be limited to, performing all work in a manner that minimizes noise; use of equipment with effective mufflers; undertaking the most noisy activities during times of least disturbance to surrounding residents, day care operations, and commercial uses; and using haul routes that avoid residential buildings inasmuch as such routes are otherwise safely available.
- PG&E shall respond to and track complaints pertaining to construction noise. PG&E shall provide a complaint hotline phone number that shall be answered at all times during construction and designate an on-site construction complaint and enforcement manager for the project. The noise complaint and response process shall be described in the residential notifications required under APM NO-5 and posted publicly near work areas that are within 300 feet of residential buildings or day care operations.

Mitigation Measure for 24-Hour HDD Noise

- MM N-2** **Obtain Special Permit for Nighttime HDD Noise.** This mitigation measure is to supplement and ensure enforceability of APM NO-6 for noise sources at the Embarcadero HDD Transition Area.
- PG&E shall apply to the San Francisco Director of Public Works and obtain a special permit for nighttime or 24-hour activity at the Embarcadero HDD Transition Area, consistent with Section 2908 of the Police Code. Prior to commencing construction of the HDD, PG&E shall provide to the CPUC a copy of the special permit or evidence that no permit is required by San Francisco.
 - PG&E shall provide to the CPUC at least 7 days prior to commencing construction of the Embarcadero HDD Transition Area the results of actual ambient hourly (Leq) noise measurements for each hour between 8:00 p.m. to 7:00 a.m. at the edge of the nearest private property containing residential use obtained from monitored noise levels as specified in APM NO-6.
 - PG&E and contractors conducting nighttime work at the Embarcadero HDD Transition Area, between 8:00 p.m. to 7:00 a.m., shall implement noise attenuation features, including acoustical barriers, blankets and enclosures as identified in APM NO-6, to achieve no more than 5 dBA above existing local ambient noise levels at the edge of the nearest private property containing residential use, based on 1-hour Leq.
 - PG&E shall provide a report to the CPUC regarding actions taken to reduce the duration or level of noise within 48 hours of monitoring noise levels found to be in excess of the ambient noise level by 5 dBA, at the edge of the nearest private property containing residential use, based on 1-hour Leq.

Mitigation Measure for Accidental Utility Service Disruptions

- MM UT-1** **Protect underground utilities.** Prior to commencing construction of the underground transmission line, PG&E shall submit to the CPUC written documentation of the following:
- Construction plans designed to protect existing utilities, showing the dimensions and location of the finalized alignment as well as the corrosion and induced currents study;
 - Records that the Applicant provided the plans to the City and County of San Francisco for review, revision and final approval;
 - Construction plans approved by the City and County of San Francisco detailing the steps taken to prevent damage to two large SFPUC storm sewers, including but not limited to an appropriate shoring plan, work zone restrictions, and setbacks for the adjacent structures, at the following locations: (1) in the intersection of Spear and Folsom; and (2) at the end of the route as it turns to enter Embarcadero Substation;
 - Evidence of coordination with all utility owners within the approved right-of-way, including their review of construction plans, results of the induced current and corrosion potential analysis, and a description of any protection measures or compensation to be implemented to protect affected facilities;
 - Copy of the Applicant's database of emergency contacts for utilities that may be in close proximity or require monitoring during construction of the project;

- Evidence that the project meets all applicable local requirements;
- Evidence of compliance with design standards; and
- Copies of any necessary permits, agreements, or conditions of approval.

Based on the analysis and conclusions of the Initial Study, the impacts of the project as proposed by PG&E would be mitigated to less than significant levels with the implementation of the mitigation measures presented herein, which have been incorporated into the Proposed Project.

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Exhibit F:
Hoedown Yard Appraisal Process and Valuation of Submerged Land

Hoedown Yard Appraisals

As described in the September 6, 2013 Port Commission staff report, Port staff commissioned an appraisal through the Department of Real Estate's ("DRE") as-needed appraiser pool to calculate the value of the license area and to calculate the value of the Hoedown Yard (discussed below). The City selected Associated Right of Way Services, Inc. to conduct the appraisal, and PG&E concurred with the selection. This appraisal indicated industrial land values that exceeded the expectations of both Port and PG&E staff. PG&E requested the Port's authorization to conduct a second appraisal, which Port staff granted, and PG&E conducted its own appraisal, subject to appraisal instructions approved by the Port, utilizing David Tattersol & Associates, an appraiser also listed in DRE's as-needed pool.

In both instances, appraisal instructions were to determine:

- (a) the fee simple value of the Site assuming raw clean undeveloped land subject only to current zoning (M-2), i.e., market value; and
- (b) the fee simple value of the Site "AS-IS" with all faults using assumptions as to the cost of compliance with the Site Management Plan and any other documents provided ... that affect value.

The conclusions of these appraisals were presented in a November 23, 2012 final appraisal report by Associated Right of Way Services, Inc. and a February 13, 2013 final appraisal report by David Tattersol & Associates, done in compliance with Standards Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice (USPAP). The average of the land value indicated by these two appraisals is \$68.50 per square foot which affects both the submerged license area and the Hoedown Yard.

Valuation of Submerged Land

The approach to establishing rent for the submerged license area is based on industrial upland values. The process for valuing the Hoedown Yard requires the same analysis. City staff and PG&E representatives therefore agreed to use a single appraisal (using the same set of comparable land values of \$68.50 psf) for purposes of valuing both the submerged license area and the Hoedown Yard.

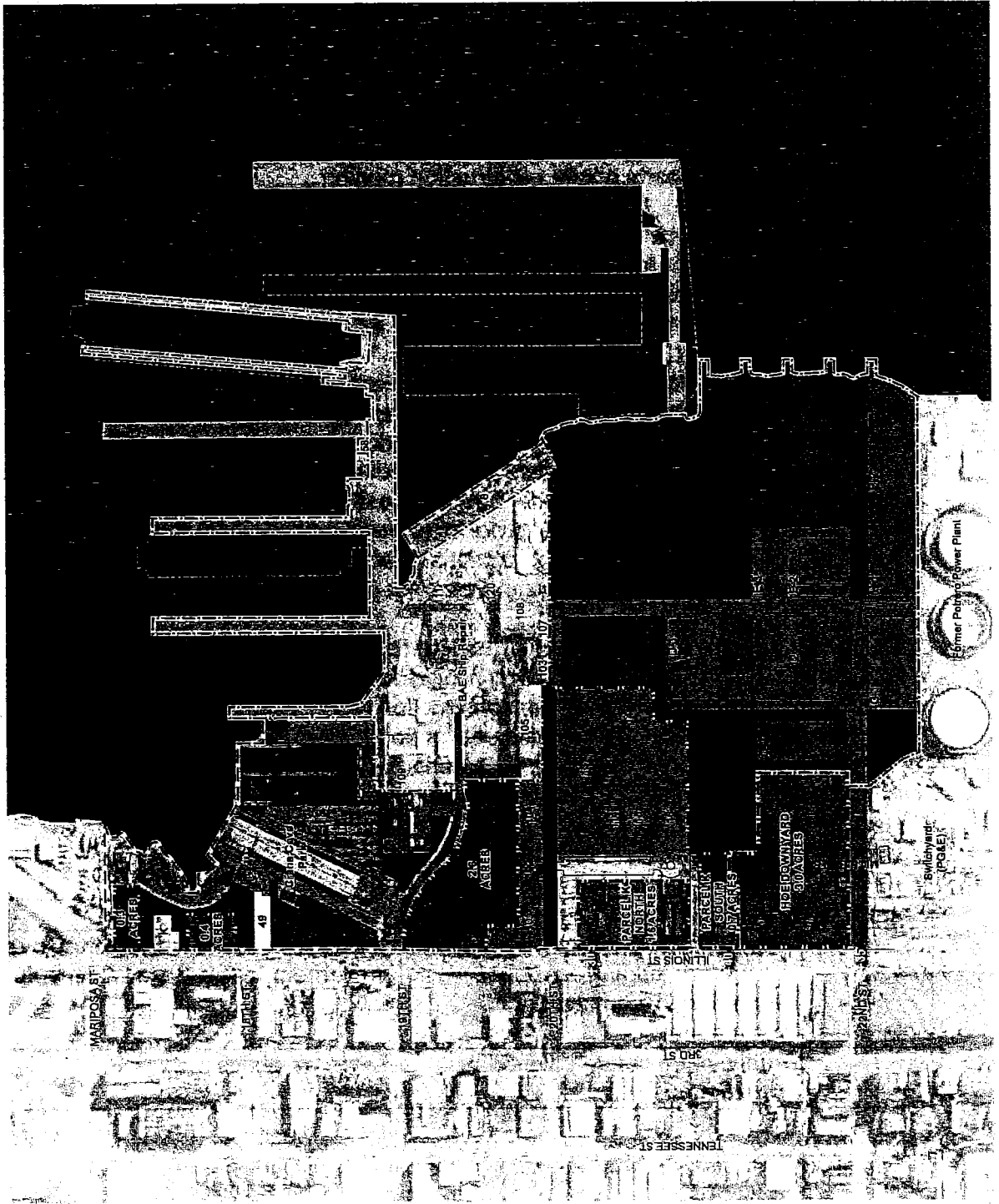
In establishing rent for the proposed license area, most of which is submerged land, Port staff and PG&E agreed on the following formulas:

- Exclusive use areas: 50% industrial upland value (\$68.50 psf) x 8% capitalization rate

- Compatible (non-exclusive) use areas: 25% industrial upland value (\$68.50 psf) x 8% capitalization rate
- Upland underground areas: \$0.031562/sf, based on the rate for like property in the Hunters Point-Potrero license area
- A two year construction period rent for the same areas, reduced by 75%

The parties agreed to a prepaid rent structure for the initial forty (40) year term of the agreement utilizing a 6.5% discount rate, which is the current estimated blended average of the Port's costs of funds.

Exhibit G: Pier 70 Conceptual Land Use Plan, Including the Hoedown Yard



LEGEND

- PIER 70 AREA
- WATERFRONT SITE
- ILLINOIS STREET SITES
- BAE SITE
- PILE SUPPORTED PIER
- PRESENTLY SUBMERGED

WATERFRONT SITE

- PHASE 1
- PHASE 2
- PHASE 3
- PHASE 4

ILLINOIS ST. PARCELS

- ORTON/20TH ST. HISTORIC COF
- PHASE 1
- TO BE DETERMINED

PHASING PLAN

PIER 70 MASTERPLAN
ILLINOIS PARCELS INITIAL STUDY



FORESTCITY AECOM SITELAB
MAY 24, 2013

**Exhibit H:
Environmental Risk Management Measures**

The Hoedown Yard Option Agreement and form of Purchase and Sale Agreement will require the following approach to remedial action and environmental risk management.

Pacific Gas and Electric Company (PG&E) agrees to allow the City and County of San Francisco (City) or a subsequent third-party owner of the Hoedown Yard to seek San Francisco Bay Regional Water Quality Control Board (Water Board) approval to amend the Covenant and Environmental Restriction on Property currently encumbering the Hoedown Yard (Land Use Covenant). The purchaser will be required periodically to certify to PG&E and the City regarding compliance with the following requirements and any other requirements the Water Board imposes as conditions to amending the existing Land Use Covenant. Each certificate must be supported by the written report of an independent third-party onsite construction monitor.

The City and PG&E (parties) acknowledge that PG&E's past testing of conditions at the Hoedown Yard has characterized the site to the satisfaction of the Water Board, which the parties agree is adequate for its current use. PG&E agrees not to conduct further testing of the Hoedown Yard unless required by an order of a regulatory agency.

PG&E agrees not to impose its own land use covenant restricting future uses of the Hoedown Yard. If a potential purchaser or future owner, through site investigation, discovers new conditions, the party making the discovery will be required to disclose to PG&E, the City, and the Water Board and any other regulatory agency with jurisdiction for the agency's direction on whether further investigation, remediation, monitoring, or other measures will be imposed by order or through amendments to the Land Use Covenant. PG&E, the City, and the potential purchaser or future owner will have the right to submit comments to the Water Board for consideration in its deliberations.

The City will require any purchaser of the Hoedown Yard to indemnify and hold harmless PG&E from liability, including liability for personal injury, property damage, or further cleanup, during and after the construction of any new uses on the Hoedown Yard. The purchaser's indemnification obligation to PG&E must be secured by a letter of credit in the amount of \$1 million for a period of three years, beginning on the date a certificate of occupancy is first issued for any new building at the Hoedown Yard.

Authorized Land Uses and Remedial Actions

Category	Possible New Uses	Remediation
1	High-density residential; temporary lodging; enclosed recreational, commercial, institutional.	Install and maintain Durable Cover . Implement Institutional Controls
2	Public open space covered by hardscape.	Same as above

3	Public open space covered by "softscape," including landscaping.	Install and maintain 3-foot layer of Clean Soil underlain by a Demarcation Layer between native soil and ground surface. The Clean Soil layer will cover landscaped areas, including raised landscaping planters, and line tree pits. The thickness of Clean Soil layer will be increased if needed to include root bearing zones and below-grade irrigation systems.
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Acceptable forms of Durable Cover:

- All forms of Durable Cover must meet applicable standards of the San Francisco Public Works Code, the Port Building Code, and any other applicable rules or regulations
- Buildings and building foundations.
- Streets and sidewalks.
- Hardscapes, parking areas, pathways or similar areas paved with concrete, asphalt, stone, or other material of sufficient durability to withstand usage and prevent exposure of native soil. Cover for pedestrian paths must include at least a 4-inch thick layer of aggregate base beneath at least a 2-inch layer of asphalt, concrete, stone, or crushed or decomposed stone paving. Paving stones with interstitial exposed native soil will be subject to requirements for softscape.
- Demarcation Layer must provide a visual indicator that distinguishes Clean Soil above the Demarcation Layer from underlying native soil. The Demarcation Layer will serve as a visual and physical deterrent to further excavation. It need not be impermeable to vapor or water, but must be resistant to penetration by hand tools.

Land Use Controls:

1. School, daycare, and hospital uses will be prohibited.
2. Private open space at grade will be prohibited; private roof top, balcony, or similar open space will be permitted.
3. Except as specified in this document, any permitted uses will be permitted on the ground floor as well as above ground floor.
4. Use of groundwater for any purpose other than dewatering will be prohibited.
5. Growing plants for human consumption in native soil will be prohibited.
6. Removal of identified areas of arsenic-impacted soil to achieve site-specific background concentration of arsenic as defined and summarized in *Report of Results – Additional Soil Investigation, Hoe Down Yard (AMEC, 4/12/11)*.

Disclosure:

- Property owner/operator will notify all tenants and contractors of site conditions and required Institutional Controls and require notification of subtenants and subcontractors.

- Property owner/operator will disclose environmental conditions and Institutional Controls to residents.

Institutional Controls:

Property owner/operator will implement Institutional Controls including:

- Controlled access prior to and during construction.
- Environmental health and safety plans for construction and maintenance workers.
- Dust control during construction and maintenance.
- Stormwater pollution prevention during construction.
- Regular inspection, maintenance, and repair of Durable Covers
- Implementation of a Water Board-approved revised Risk Management Plan.
- The purchaser will be required to implement or participate in a funding mechanism that provides sufficient funds for maintenance and capital repair of public use areas in accordance with the Risk Management Plan for the life of the public use areas.

Definitions

“Native” or “existing soil” means soil present at the site, regardless of its provenance, as of the date PG&E transfers title to the Hoedown Yard as contemplated by the Option Agreement.

“Clean Soil” means soil that will be used on site in a manner that presents potential for exposure to future site users, such as soil used to create the 3-foot thick layer of Clean Soil required for landscaped areas. Clean Soil must meet the prevailing standards (i.e., Environmental Screening Levels (as defined by the Water Board and published at http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/esl.shtml) or California Screening Levels (as defined by Cal/EPA and published at <http://oehha.ca.gov/risk/soil.html>) or Water Board-approved site-specific background levels applicable to the current or planned land use (i.e., less than or equal to commercial standards for commercial site use, and less than or equal to residential standards for residential site use). Imported soil that will be placed under one of the acceptable forms of Durable Cover does not have to meet standards for Clean Soil.

**FORM SFEC-126:
NOTIFICATION OF CONTRACT APPROVAL
(S.F. Campaign and Governmental Conduct Code § 1.126)**

City Elective Officer Information <i>(Please print clearly.)</i>	
Name of City elective officer(s): Members, Board of Supervisors	City elective office(s) held: Members, Board of Supervisors

Contractor Information <i>(Please print clearly.)</i>	
Name of contractor: Pacific Gas and Electric Company (PG&E)	
<p><i>Please list the names of (1) members of the contractor's board of directors; (2) the contractor's chief executive officer, chief financial officer and chief operating officer; (3) any person who has an ownership of 20 percent or more in the contractor; (4) any subcontractor listed in the bid or contract; and (5) any political committee sponsored or controlled by the contractor. Use additional pages as necessary.</i></p> <p>Pacific Gas and Electric Company Board of Directors: Lewis Chew, Anthony F. Earley Jr., Fred J. Fowler, Maryellen C. Herringer, Christopher P. Johns, Richard C. Kelly, Roger H. Kimmel, Richard A. Meserve, Forrest E. Miller, Rosendo G. Parra, Barbara L. Rambo, Barry Lawson William</p> <p>PG&E President: Christopher P. Johns PG&E Chief Financial Officer: Dinyar B. Mistry PG&E Chief Operating Officer: n/a</p> <p>Contractor address: 77 Beale Street, San Francisco CA 94105</p>	
Date that contract was approved: <i>(By the SF Board of Supervisors)</i>	Amount of contract: \$15,275,205.35
Describe the nature of the contract that was approved: Non-exclusive license to use Port property for construction for 230kV electric transmission.	
Comments:	

This contract was approved by (check applicable):

the City elective officer(s) identified on this form

a board on which the City elective officer(s) serves Board of Supervisors
Print Name of Board

the board of a state agency (Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority) on which an appointee of the City elective officer(s) identified on this form sits

Print Name of Board

Filer Information <i>(Please print clearly.)</i>	
Name of filer: Angela Calvillo, Clerk of the Board	Contact telephone number: (415) 554-5184
Address: City Hall, Room 244, 1 Dr. Carlton B. Goodlett Pl., San Francisco, CA 94102	E-mail: Board.of.Supervisors@sfgov.org

Signature of City Elective Officer (if submitted by City elective officer)

Date Signed

Signature of Board Secretary or Clerk (if submitted by Board Secretary or Clerk)

Date Signed

