

File No. 170863

Committee Item No. 2

Board Item No. 8

COMMITTEE/BOARD OF SUPERVISORS AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date October 26, 2017

Board of Supervisors Meeting

Date NOVEMBER 14, 2017

Cmte Board

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Completed by: Linda Wong Date October 20, 2017
Completed by: Linda Wong Date October 30, 2017

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
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TDD/TTY No. 554-5227

MEMORANDUM

BUDGET AND FINANCE COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Malia Cohen, Chair
Budget and Finance Committee

FROM: Linda Wong, Assistant Clerk

DATE: October 30, 2017

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**
Tuesday, October 31, 2017

The following file should be presented as a **COMMITTEE REPORT** at the Board meeting on Tuesday, October 31, 2017, at 2:00 p.m. This item was acted upon at the Committee Meeting on Thursday, October 26, 2017, at 10:00 a.m., by the votes indicated.

Item No. 21 File No. 170863.

Ordinance approving a Development Agreement between the City and County of San Francisco and FC Pier 70, LLC, for 28 acres of real property located in the southeast portion of the larger area known as Seawall Lot 349 or Pier 70; and bounded generally by Illinois Street on the west, 22nd Street on the south, and San Francisco Bay on the north and east; waiving certain provisions of the Administrative Code, Planning Code, and Subdivision Code; and adopting findings under the California Environmental Quality Act, public trust findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1(b).

AMENDED, AMENDMENT OF THE WHOLE BEARING SAME TITLE

Vote: Supervisor Malia Cohen - Aye
Supervisor Norman Yee - Aye
Supervisor Katy Tang - Aye

RECOMMENDED AS AMENDED AS COMMITTEE REPORT

Vote: Supervisor Malia Cohen - Aye
Supervisor Norman Yee - Aye
Supervisor Katy Tang - Aye

c: Board of Supervisors
Angela Calvillo, Clerk of the Board
Jon Givner, Deputy City Attorney
Alisa Somera, Legislative Deputy Director

1 [Development Agreement - FC Pier 70, LLC - Pier 70 Development Project]

2
3 Ordinance approving a Development Agreement between the City and County of San
4 Francisco and FC Pier 70, LLC, for 28 acres of real property located in the southeast
5 portion of the larger area known as Seawall Lot 349 or Pier 70; and bounded generally
6 by Illinois Street on the west, 22nd Street on the south, and San Francisco Bay on the
7 north and east; waiving certain provisions of the Administrative Code, Planning Code,
8 and Subdivision Code; and adopting findings under the California Environmental
9 Quality Act, public trust findings, and findings of consistency with the General Plan,
10 and the eight priority policies of Planning Code, Section 101.1(b).

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

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

19 Section 1. Background and Findings.

20 (a) California Government Code Sections 65864 et seq. ("Development Agreement
21 Law") authorize any city, county, or city and county to enter into an agreement for the
22 development of real property within its jurisdiction.

23 (b) Chapter 56 of the Administrative Code sets forth certain procedures for
24 processing and approving development agreements in the City and County of San Francisco
25 (the "City").

(c) In April 2011, the Port Commission (the "Port") selected Forest City
Development California, Inc., a California corporation, through a competitive process to

1 negotiate exclusively for the mixed-use development (the "Project") of approximately 28 acres
2 (the "28-Acre Site") of Seawall Lot 349, a land parcel under Port jurisdiction that is bounded
3 generally by Illinois Street on the west, 22nd Street on the south, and San Francisco Bay on
4 the north and east commonly known as Pier 70. Forest City Development California, Inc. is
5 now wholly owned by Forest City Realty Trust, Inc., a New York Stock Exchange-listed real
6 estate company. FC Pier 70, LLC ("Developer"), a wholly-owned affiliate of Forest City
7 Realty Trust, Inc., Development California, Inc., will act as the master developer for the
8 Project ("Developer").

9 (d) In conjunction with this ordinance, the Board of Supervisors has taken or intends
10 to take a number of other actions in furtherance of the Project, including approval of: (1) a
11 trust exchange agreement between the Port and the California State Lands Commission; (2) a
12 disposition and development agreement ("DDA") between Developer and the Port;
13 (3) amendments to the General Plan; (4) amendments to the Planning Code that create the
14 Pier 70 Special Use District (the "SUD amendments") over the 28-Acre Site and two adjacent
15 parcels known as the "Illinois Street Parcels" and incorporate more detailed land use controls
16 of the Pier 70 SUD Design for Development; (5) amendments to the Zoning Maps;
17 (6) approval of a development plan for the 28-Acre Site in accordance with Charter
18 Section B7.310 (adopted as part of Proposition D, November 2008) and Section 4 of the
19 Union Iron Works Historic District Housing, Waterfront Parks, Jobs and Preservation Initiative
20 (Proposition F, November 2014); (7) a memorandum of understanding for interagency
21 cooperation among the Port, the City, and other City agencies (the "ICA") with respect to the
22 subdivision of the 28-Acre Site and construction of infrastructure and other public facilities;
23 (8) formation proceedings for financing districts and a memorandum of understanding
24 between the Port and the Assessor, the Treasurer-Tax Collector, and the Controller regarding
25 the assessment, collection, and allocation of ad valorem and special taxes to the financing

1 districts; and (9) a number of related transaction documents and entitlements to govern the
2 Project.

3 (e) At full build-out, the Project will include: (1) 1,100 to 2,150 new residential units,
4 at least 30% of which, in the Affordable Housing Area that includes the 28-Acre Site and a
5 portion of the 20th/Illinois Parcel, will be on-site housing affordable to a range of low- to
6 moderate-income households as described in the Affordable Housing Plan in the DDA;
7 (2) between 1 million and 2 million gross square feet of new commercial and office space;
8 (3) rehabilitation of three significant contributing resources to the historic district; (4) space for
9 small-scale manufacturing, retail, and neighborhood services; (5) transportation demand
10 management on-site, a shuttle service, and payment of impact fees to the Municipal
11 Transportation Agency that it will use to improve transportation connections through the
12 neighborhood; (6) 9 acres of new open space, potentially including active recreation on
13 rooftops, a playground, a market square, a central commons, and waterfront parks along the
14 shoreline; (7) on-site strategies to protect against sea level rise; and (8) replacement studio
15 space for artists leasing space in Building 11 in Pier 70 and a new arts space.

16 (f) While the DDA binds the Port and Developer, other City agencies retain a role in
17 reviewing and issuing certain later approvals for the Project. Later approvals include approval
18 of subdivision maps and plans for horizontal improvements and public facilities, design review
19 and approval of new buildings under the SUD amendments, and acceptance of Developer's
20 dedications of horizontal improvements and public facilities for maintenance and liability under
21 the Subdivision Code. Accordingly, the City and Developer negotiated a development
22 agreement for the Project (the "Development Agreement"), a copy of which is in Board File
23 No. 170863 and incorporated in this ordinance by reference. The DDA, the Development
24 Agreement, the ICA, the Tax MOU, and all leases and vertical disposition development
25

1 agreements that the Port enters into in accordance with the DDA are referred to collectively as
2 the "Transaction Documents."

3 (g) Development of the 28-Acre Site in accordance with the DDA and the
4 Development Agreement will help realize and further the City's goals to restore and revitalize
5 the Union Iron Works Historic District, increase public access to the waterfront, increase
6 public open space and community facilities within the neighborhood, increase affordable and
7 market-rate housing, and create a significant number of construction and permanent jobs
8 along the southeastern waterfront. In addition, the Project will provide additional benefits to
9 the public that could not be obtained through application of existing City ordinances,
10 regulations, and policies.

11 Section 2. Environmental Findings.

12 (a) The Planning Department has determined that the actions contemplated in this
13 ordinance comply with the California Environmental Quality Act (Cal. Public Resources Code
14 §§ 21000 et seq.) ("CEQA"). A copy of this determination is in Board File No. 170863 and
15 incorporated in this ordinance by reference.

16 (b) The Board of Supervisors previously adopted Resolution No. _____, a
17 copy of which is in Board File No. 170987, making CEQA findings for the Project. The Board
18 of Supervisors adopts and incorporates in this ordinance by reference the Planning
19 Commission's findings under CEQA.

20 Section 3. Consistency Findings.

21 The Planning Commission recommended that the Board of Supervisors approve the
22 Development Agreement and amendments to the General Plan, the Planning Code, and the
23 Zoning Maps at a public hearing on August 24, 2017, by Resolution Nos. 19978 and 19979, a
24 copy/copies of which is/are in Board File No. 170863. The Board of Supervisors adopts and
25 incorporates by reference in this ordinance the Planning Commission's findings of consistency

1 with the General Plan, as amended, and the eight priority policies of Planning Code
2 Section 101.1.

3 Section 4. Public Trust Findings.

4 At a public hearing on September 4²² 2017, the Port Commission consented to the
5 Development Agreement and approved the trust exchange agreement and the DDA, subject
6 to Board of Supervisors' approval, finding that the Project would be consistent with and further
7 the purposes of the common law public trust and statutory trust under the Burton Act (Stats.
8 1968, ch. 1333) by Resolution Nos. 17-44 and 17-47, a copy copies of which isare in Board
9 File No. 170863. The Board of Supervisors adopts and incorporates in this ordinance by
10 reference the Port Commission's public trust findings.

11 Section 5. Approval of Development Agreement.

12 The Board of Supervisors:

13 (a) approves all of the terms and conditions of the Development Agreement in
14 substantially the form in Board File No. 170863;

15 (b) finds that the Development Agreement substantially complies with the
16 requirements of Administrative Code Chapter 56;

17 (c) finds that the Project is a large multi-phase and mixed-use development that
18 satisfies Administrative Code Section 56.3(g); and

19 (d) approves the Workforce Development Plan attached to the DDA in lieu of
20 requirements under Administrative Code Chapter 14B, Article VII of Chapter 23,
21 and Section 56.7(c), and Chapter 83 to the extent that Chapter 83 applies to construction work
22 that is subject to the Local Hiring Requirements of the Workforce Development Plan.

1 Section 6. Administrative Code Chapter 56 Waivers.

2 The Board of Supervisors waives the application to the Project of the following
3 provisions of Administrative Code Chapter 56 to the extent inconsistent with the Development
4 Agreement, the DDA, or the ICA, specifically:

5 (a) Section 56.4 (Application, Forms, Initial Notice, Hearing); Section 56.7(c)
6 (Nondiscrimination/Affirmative Action Requirements); Section 56.8 (Notice); Section 56.10
7 (Negotiation Report and Documents); Section 56.15 (Amendment and Termination);
8 Section 56.17(a) (Annual Review); Section 56.18 (Modification or Termination); and
9 Section 56.20 (Fee); and

10 (b) any other procedural or other requirements if and to the extent that they are not
11 strictly followed.

12 Section 7. Other Administrative Code Waivers.

13 The Board of Supervisors waives the application to the Project of these provisions of
14 the Administrative Code: (a) Chapter 6 (Public Works Contracting Policies and Procedures)
15 other than the payment of prevailing wages as required in Chapter 6; (b) Chapter 14B (Local
16 Business Enterprise Utilization and Non-Discrimination in Contracting); (c) Competitive
17 Bidding Procedures appraisal effective date, and Additional Appraisal Review as defined in
18 Section 23.3 (Chapter Definitions) and required by Section 23.3 (Conveyance and Acquisition
19 of Real Property); (d) Section 23.2623.31 (Year-to-Year and Shorter
20 Leases); (e) Section 23.30-23.42 (Lease of Real Property's When City is Landlord);
21 (f) Sections 23.33 (Competitive Bidding Procedures); (fg) Section 23A.7 (Transfer of
22 Jurisdiction Over Surplus Properties to the Mayor's Office of Housing and Community
23 Development); and (gh) Subsection (c)(2) of Section 61.5(e)(2) (Listing of Unacceptable Non-
24 Maritime Land Uses); and (i) remedies and penalties for noncompliance with Section 4.9-1(c)
25 (Nutritional Standards and Guidelines), Section 12Q.5(f) (Health Care Accountability), or

1 Section 12T (Criminal History in Hiring and Employment) that would result in termination of
2 any Transaction Document, impairment of Developer's or any vertical developer's
3 development rights at the 28-Acre Site, or debarment of Developer or any vertical developer
4 from future contract opportunities with the City.

5 Section 8. Planning Code Waivers.

6 The Board of Supervisors:

7 (a) finds that the impact fees and exactions payable under the Development
8 Agreement will provide greater benefits to the City than the impact fees and exactions under
9 Planning Code Article 4 and waives the application of, and to the extent applicable exempts
10 the Project from, impact fees and exactions under Planning Code Article 4. on the condition
11 that Developer and all building developers comply with impact fees and exactions established
12 in the Development Agreement; and

13 (b) finds that the Transportation Plan attached to the Development
14 Agreement includes a Transportation Demand Management Plan ("TDM Plan") and other
15 provisions that meet the goals of the City's Transportation Demand Management Program in
16 Planning Code Section 169 and waives the application of Section 169 to the Project on the
17 condition that Developer implements and complies with the TDM Plan for the required
18 compliance period.

19 Section 9. Subdivision Code Waivers.

20 (a) The Board of Supervisors waives the application to the Project of time
21 limits under Subdivision Code Section ~~1333.3(b) (Rights Conveyed)~~, Section 1346(e)
22 (Improvement Plans) and Section 1355 (Time Limit for Submittal) to the extent that they
23 conflict with the ICA or the Development Agreement.

24 (b) The Board of Supervisors also waives the application to the Project of
25 Subdivision Code Section 1348 (Failure To Complete Improvements Within Agreed Time).

1 and the following terms shall apply in lieu thereof: The Public Improvement Agreement, as
2 defined in the ICA, shall include provisions consistent with the Transaction Documents and
3 the applicable requirements of the Municipal Code and the Subdivision Regulations regarding
4 extensions of time and remedies that apply when improvements are not completed within the
5 agreed time.

6 Section 10. Authorization.

7 (a) The Board of Supervisors affirms that the waivers in this ordinance do not waive
8 requirements under the Development Agreement Law and authorizes the City to execute,
9 deliver, and perform the Development Agreement as follows:

10 (1) the Director of Planning, the City Administrator, and the Director of Public
11 Works are authorized to execute and deliver the Development Agreement with signed
12 consents of the Port Commission, the Municipal Transportation Agency, and the San
13 Francisco Public Utilities Commission; and

14 (2) the Director of Planning and other appropriate City officials are authorized
15 to take all actions reasonably necessary or prudent to perform the City's obligations under the
16 Development Agreement in accordance with its terms.

17 (b) The Director of Planning is authorized to exercise discretion, in consultation with
18 the City Attorney, to enter into any additions, amendments, or other modifications to the
19 Development Agreement that the Director of Planning determines are in the best interests of
20 the City and that do not materially increase the obligations or liabilities of the City or materially
21 decrease the benefits to the City as provided in the Development Agreement. Final versions
22 of any additions, amendments, or other modifications to the Development Agreement shall be
23 provided to the Clerk of the Board of Supervisors for inclusion in Board File No. 170863 within
24 30 days after execution by all parties.

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Section 11. Ratification of Past Actions; Authorization of Future Actions.

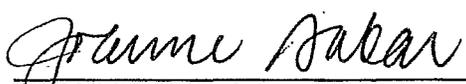
All actions taken by City officials in preparing and submitting the Development Agreement to the Board of Supervisors for review and consideration are hereby ratified and confirmed, and the Board of Supervisors hereby authorizes all subsequent action to be taken by City officials consistent with this ordinance.

Section 12. Effective and Operative Dates.

(a) This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned, or the Mayor does not sign the ordinance within ten days after receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

(b) This ordinance shall become operative only on the effective date of the DDA. No rights or duties are created under the Development Agreement until the operative date of this ordinance.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: 
JOANNE SAKAI
Deputy City Attorney

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LEGISLATIVE DIGEST

[Development Agreement - FC Pier 70, LLC - Pier 70 Development Project]

Ordinance approving a Development Agreement between the City and County of San Francisco and FC Pier 70, LLC, for 28 acres of real property located in the southeast portion of the larger area known as Seawall Lot 349 or Pier 70; and bounded generally by Illinois Street on the west, 22nd Street on the south, and San Francisco Bay on the north and east; waiving certain provisions of the Administrative Code, Planning Code, and Subdivision Code; and adopting findings under the California Environmental Quality Act, public trust findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1(b).

Existing Law

California Government Code sections 65864 *et seq.* (the "Development Agreement Statute") and San Francisco Administrative Code Chapter 56 ("Chapter 56") authorize the City to enter into a development agreement regarding the development of real property.

Amendments to Current Law

The ordinance would not amend Chapter 56.

Background Information

The Port of San Francisco owns and leases property for interim commercial uses at the site, about 28 acres bounded by Illinois Street on the west, 22nd Street on the south, and San Francisco Bay on the north and east. The proposed project involves construction of infrastructure, public open space and other public facilities, new building construction, and rehabilitation of three significant historic resources (the "Project") resulting in a mix of market-rate and affordable residential uses, commercial use, retail/arts/light-industrial uses, and shoreline improvements. The Planning Commission certified and approved a final environmental impact report on the Project and development of two adjacent parcels in accordance with a Pier 70 Special Use District created by companion legislation.

City staff has negotiated a proposed development agreement with FC Pier 70, LLC, an affiliate of Forest City Development California, Inc. Under the development agreement, Developer will attain the vested right to develop the Project in consideration of the application of impact fees and exactions for affordable housing, arts, and other community benefits. Approval of the ordinance would waive the application to the Project of specified provisions of the Administrative Code, Planning Code, and Subdivision Code.

FILE NO. 170863

By separate legislation, the Board is considering a number of other actions in furtherance of the Project, including the establishment of financing districts, amendments to the City's General Plan, Planning Code, and Zoning Map, a disposition and development agreement, and a public trust exchange agreement.

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Lodged with Board of Supervisors 10/12/17.

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

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

Exempt from recording fees under
Government Code § 27383.

Recorder's Stamp

DEVELOPMENT AGREEMENT

BETWEEN

THE CITY AND COUNTY OF SAN FRANCISCO

AND

FC PIER 70, LLC, A DELAWARE LIMITED LIABILITY COMPANY

RELATING TO DEVELOPMENT OF CITY LAND

UNDER THE JURISDICTION OF

THE PORT COMMISSION OF SAN FRANCISCO

[Insert Reference Date]

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APPENDIX EXCERPT

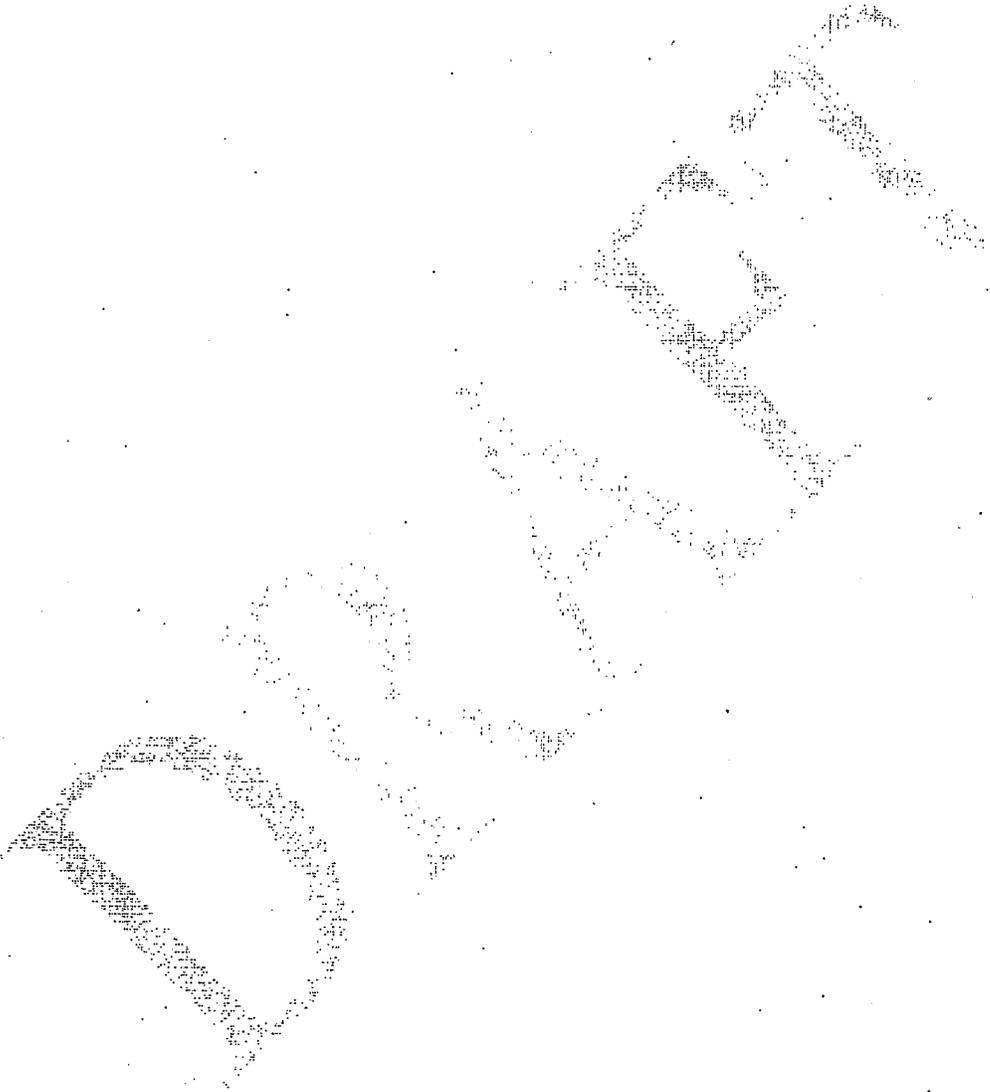
Consent to Development Agreement (Port Commission)
 Consent to Development Agreement (SFMTA)
 (with Transportation Plan and Pier 70 TDM Program attachments)
 Consent to Development Agreement (SFPUC)

EXHIBITS

DA Exhibit A: Legal description and Site Plan
 DA Exhibit B: Project Approvals
 DA Exhibit C: Chapter 56 as of the Reference Date

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**DEVELOPMENT AGREEMENT
(Pier 70 28-Acre Site)**

This **DEVELOPMENT AGREEMENT** (“**Development Agreement**”) is between the **CITY AND COUNTY OF SAN FRANCISCO**, a political subdivision and municipal corporation of the State of California (including its agencies and departments, the “**City**”), and **FC Pier 70, LLC**, a Delaware limited liability company (“**Developer**”) (each, a “**Party**”), is dated as of the Reference Date, and is made in conjunction with that certain Disposition and Development Agreement (the “**DDA**”) between the City, acting by and through the San Francisco Port Commission (the “**Port Commission**” or “**Port**”), and Developer. The DDA establishes the relative rights and obligations of the Port and Developer for the 28-Acre Site development project, some of which will be implemented as described in other Transaction Documents.

RECITALS

A. The City owns about 7 miles of tidelands and submerged lands along San Francisco Bay, including approximately 72 acres known as Pier 70 or Seawall Lot 349 under Port jurisdiction in the central waterfront area of San Francisco. Pier 70 is generally bounded by Illinois Street on the west, 22nd Street on the south, and San Francisco Bay on the north and east. The National Park Service listed approximately 66 acres of Pier 70 as the *Union Iron Works Historic District* in the National Register of Historic Places in 2014.

B. The City and Developer have negotiated this Development Agreement to vest in Developer and its successors certain entitlement rights with respect to the 28-Acre Site, the legal description of which is attached as **DA Exhibit A**.

C. The City has established a 35-acre Pier 70 Special Use District that includes the 28-Acre Site and adjacent parcels called the Illinois Street Parcels. Developer is the master developer for the 28-Acre Site and is responsible for subdividing and improving the 28-Acre Site and a portion of the Illinois Street Parcel known as Parcel K with Horizontal Improvements needed or desired to serve vertical development. Under the DDA, Developer has an Option to develop Vertical Improvements on designated Development Parcels known as Option Parcels. Horizontal and vertical development of the Project will be subject to the Project Requirements in the DDA, which include Regulatory Requirements.

D. The Development Agreement Statute authorizes local governments to enter into development agreements with persons having a legal or equitable interest in real property to strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development. In accordance with the Development Agreement Statute, the City adopted Chapter 56 to establish local procedures and requirements for development agreements. The Parties are entering into this Development Agreement in accordance with the Development Agreement Statute and Chapter 56. This Development Agreement is consistent with the requirements of section 65865.2 of the Development Agreement Statute, which requires a development agreement to state its duration, permitted uses of the property, the density or intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes.

E. The City and the Port have determined that the development of the Project in accordance with the DA Requirements will provide public benefits greater than the City and the Port could have obtained through application of pre-existing City ordinances, regulations, and policies. Public benefits include:

1. revitalizing a portion of the former industrial site that currently consists of asphalt lots and deteriorating buildings behind chain link fences that prevent open public access to the waterfront;

2. building a network of waterfront parks, playgrounds, and recreational facilities on the 28-Acre Site that, with development of the Illinois Street Parcels, will more than triple the amount of parks in the neighborhood;
3. creating significant amounts of on-site affordable housing units on the 28-Acre Site and Parcel K South;
4. restoring three deteriorating historic structures that are significant contributors to the historic district for reuse;
5. providing substantial new and renovated space for arts/cultural nonprofits, small-scale manufacturing, local retail, and neighborhood services;
6. preserving the artist community currently located in the Noonan Building in new state-of-the-art, on-site space that is affordable, functional, and aesthetically pleasing;
7. creating an estimated 10,000 permanent jobs and 11,000 temporary construction jobs and implementing a robust workforce commitment program to encourage local business participation;
8. investing over \$200 million to build transportation and other infrastructure critical to serving the 28-Acre Site, the historic district, the historic ship repair operations, and the surrounding neighborhood; and
9. implementing sustainability measures to enhance livability, health and wellness, mobility and connectivity, climate protection, resource efficiency, and ecosystem stewardship and provide funding sources needed to protect the Pier 70 shoreline from sea level rise.

F. The Project Approvals listed on **DA Exhibit B** entitle Developer's proposed Project, and authorize Developer to proceed with development in accordance with the Project Requirements under the DDA, which include this Development Agreement. The Parties intend for all acts referred to in this Development Agreement to comply with CEQA, the CEQA Guidelines, and the CEQA Procedures (collectively, "**CEQA Laws**"), the Development Agreement Statute, Chapter 56, and the DA Ordinance (together, "**DA Laws**"), the Planning Code, and all other Applicable Laws in effect on the Reference Date. This Development Agreement does not limit either the City's obligation to comply with CEQA Laws before taking any further discretionary action regarding the 28-Acre Site or Developer's obligation to comply with all Applicable Laws in the development of the Project.

AGREEMENT

1. DEFINITIONS

1.1. Role of Appendix. The attached excerpt from the **Appendix** includes Part A (Standard Provisions and Rules of Interpretation) and is an integral part of this Development Agreement.

1.2. Definitions Used. The following terms have the meanings given to them below, are defined elsewhere in this Development Agreement as indicated, or are defined in the Appendix.

"**28-Acre Site**" means a portion of Pier 70 that is described in the legal description and site plan attached as **DA Exhibit A**.

"**28-Acre Site Affordable Housing Fee**" is defined in the AHP.

"**28-Acre Site CFD**" is defined in the Appendix.

- “**28-Acre Site Jobs/Housing Equivalency Fee**” is defined in the Appendix and means the Impact Fee that Vertical Developers of office and other nonresidential uses will pay under **Subsection 5.4(b)** (Impact Fees and Exactions) in lieu of the Jobs/Housing Linkage Fee payable under Planning Code sections 413.1-413.11.
- “**Project**” means the development of the 28-Acre Site in accordance with the DA Requirements.
- “**AB 418**” is defined in the Appendix.
- “**Acquiring Agencies**” is defined in the Appendix.
- “**Acquisition Agreement**” means the Acquisition and Reimbursement Agreement between Developer and the Port in the form of *FP Exh A*.
- “**Adequate Security**” is defined in the Appendix.
- “**Administrative Fee**” is defined in the Appendix and means: (i) a City fee imposed citywide (or portwide, for Port fees) in effect and payable when a developer submits an application for any permit or approval, intended to cover only the estimated actual costs to the City or the Port of processing the application, addressing any related hearings or other actions, and inspecting work under the permit or approval; and (ii) amounts that Developer or a Vertical Developer must pay to the City or the Port under any Transaction Document to reimburse the City or the Port for its administrative costs in processing applications for any permits or approvals required under the DA Requirements.
- “Administrative Fee” excludes any Impact Fee or Exaction and Other City Costs subject to reimbursement under the DDA.*
- “**Affordable Housing Developer**” is defined in the AHP.
- “**Affordable Housing Parcel**” as defined in the AHP means a Development Parcel for which Developer must construct all necessary Horizontal Improvements needed for development in accordance with the AHP.
- “**Affordable Housing Plan**” means *DDA Exh B3*.
- “**Affordable Housing Project**” as defined in the AHP means the building that an affordable housing developer builds on an Affordable Housing Parcel in accordance with the AHP.
- “**Agent**” is defined in the Appendix.
- “**Aggrieved Party**” is defined in the Appendix and means the Party alleging that a Breaching Party has committed an Event of Default or is in Material Breach under the terms of this Development Agreement.
- “**AHP**” is an acronym for the Affordable Housing Plan.
- “**AHP Housing Area**” is defined in the AHP.
- “**Annual Review**” is defined in **Subsection 8.1(a)** (Statutory Provision).
- “**Annual Review Date**” is defined in **Subsection 8.1(c)** (Planning Director’s Discretion).
- “**Appendix**” means the Appendix to Transaction Documents for the Pier 70 Mixed-Use Project, consisting of Appendix Part A: Standard Provisions and Rules of Interpretation; Part B: Glossary of Defined Terms; and Part C: Index to Other Defined Terms.
- “**Appendix G-2,**” “**Appendix G-3,**” and “**Appendix G-4**” are defined in the Appendix.
- “**Applicable Law**” is defined in the Appendix and means, individually or collectively, any law that applies to development, use, or occupancy of or conditions at the FC Project Area.
- “**Applicable Lender Protections**” means provisions under *DDA art. 19 (Lender Rights), VDDA art. 15 (Financing; Rights of Lenders), and Parcel Lease art. XXXIX (Mortgages)*

that protect the rights of Lenders making loans to Borrowers to finance Improvements at the FC Project Area.

“**Applicable Port Laws**” is defined in the Appendix and means the Burton Act as amended by AB 418, the statutory trust imposed by the Burton Act, Charter Appendix B, and the common law public trust for navigation, commerce, and fisheries.

“**Assessor**” is defined in the Appendix.

“**Assignment and Assumption Agreement**” means an Assignment and Assumption Agreement in the form of *DDA Exh D10* or *VDDA Exh [XXXX]*.

“**Associated Public Benefits**” means the Developer Construction Obligations identified as Associated Public Benefits in the Schedule of Performance attached to the DDA as *DDA Exh B2*, some of which are also described in **Section 4.1** (Public Benefits).

“**AWSS**” is defined in the Appendix.

“**BMR Credit**” is defined in the AHP.

“**BMR Unit**” is defined in the AHP.

“**Bonds**” is defined in in the Appendix.

“**Borrower**” is defined in the Appendix.

“**Breaching Party**” is defined in the Appendix and means a Party alleged to have committed an Event of Default under this Development Agreement.

“**Burton Act**” is defined in the Appendix.

“**CEQA**” is an acronym for the California Environmental Quality Act (Cal. Pub. Res. Code §§ 21000-21189.3).

“**CEQA Findings**” means findings adopted by the Planning Commission, the Port Commission, and the Board of Supervisors under CEQA Laws.

“**CEQA Guidelines**” means the California Guidelines for Implementation of CEQA (Cal. Admin. Code §§ 15000-15387).

“**CEQA Laws**” is defined in the Appendix and is repeated in **Recital F**.

“**CEQA Procedures**” means Administrative Code chapter 31.

“**CFD**” is defined in the Appendix.

“**CFD Agent**” is defined in the Appendix.

“**Change to Existing City Laws and Standards**” means any change to Existing City Laws and Standards or other laws, plans, or policies adopted by the City or the Port or by voter initiative after the Reference Date that would conflict with the Project Approvals, the Transaction Documents, or Applicable Port Laws as specified in **Section 5.3** (Changes to Existing City Laws and Standards).

“Change to Existing City Laws and Standards” excludes regulations, plans, and policies that change only procedural requirements of Existing City Laws and Standards.

“**Chapter 56**” means Administrative Code chapter 56, which the Board of Supervisors adopted under the Development Agreement Statute.

“**Chief Harbor Engineer**” is defined in the Appendix.

“**City**” is defined in the Appendix, subject to **Subsection 2.4(b)** (Port Obligations) for the purposes of this Development Agreement.

“**City Agency**” is defined in the Appendix and means any public body or an individual authorized to act on behalf of the City in its municipal capacity, including the Board of Supervisors or any City commission, department, bureau, division, office, or other subdivision, and officials and staff to whom authority is delegated, on matters within the City Agency’s jurisdiction.

“**City Charter**” is defined in the Appendix.

“**City Law**” is defined in the Appendix and means any City ordinance or Port code provision and implementing regulations and policies governing zoning, subdivisions and subdivision design, land use, rate of development, density, building size, public improvements and dedications, construction standards, new construction and use, design standards, permit restrictions, development impacts, terms and conditions of occupancy, and environmental guidelines or review at the FC Project Area, including, as applicable: (i) the Waterfront Plan and the Design for Development; (ii) the Construction Codes, applicable provisions of the Planning Code, including section 249.79 and the City’s zoning maps, the Subdivision Code, and the General Plan; (iii) local Environmental Laws and the Health Code; and (iv) the Other City Requirements.

“**City Party**” is defined in the Appendix.

“**citywide**” is defined in the Appendix and means all real property within the territorial limits of San Francisco, not including any property owned or controlled by the United States or the State that is exempt from City Laws.

“**Claim**” is defined in the Appendix and means a demand made in an action or in anticipation of an action for money, mandamus, or any other relief available at law or in equity for a Loss arising directly or indirectly from acts or omissions occurring in relation to the Project or at the FC Project Area during the DA Term.

“Claim” excludes any demand made to an insurer under an insurance policy.

“**Component**” is defined in the Appendix and means a discrete portion or phase of a Horizontal Improvement where the Horizontal Improvement has an estimated construction cost over \$1 million.

“**Consent**” is defined in in the Appendix.

“**Construction Codes**” is defined in the Appendix and means the Port Building Code and all Municipal Codes regulating construction of Vertical Improvements, including the International Building Code, the California Building Code, and other uniform construction codes to the extent incorporated and as modified by the Port Commission or the Board of Supervisors.

“**Construction Document**” is defined in the Appendix and means any Improvement Plan or Master Utility Plan submitted to the Port or City in accordance with the ICA for Horizontal Improvements.

“**Construction Permit**” is defined in the Appendix

“**Current Phase**” is defined in the Appendix and means the Phase of the Project during which an event or determination occurs.

“**DA Assignment**” is defined in **Section 10.1** (DA Successors’ Rights).

“**DA Laws**” is defined in **Recital F**.

“**DA Ordinance**” means Ordinance No. XXXX adopting this Development Agreement, incorporating by reference CEQA findings, General Plan Consistency Findings, and public trust findings, and authorizing the Planning Director to execute this Development Agreement on behalf of the City.

“**DA Requirements**” is defined in **Subsection 5.2(a)** (Agreement to Follow).

“**DA Successor**” is defined in **Section 10.1** (DA Successors’ Rights).

“**DA Term**” is defined in **Section 2.2** (DA Term).

“**Deferred Infrastructure**” is defined in the Appendix and means Horizontal Improvements, primarily consisting of Utility Infrastructure, Public ROWs, and other Improvements installed between the edge of a Public ROW and the boundary of a Development Parcel, such as sidewalks and curb cuts, street lights, furnishing, and landscaping, and utility boxes and laterals serving the parcel, that Vertical Developers in a Current Phase will be required to construct under their Vertical DDA.

“Deferred Infrastructure” excludes utility improvements and fixtures customarily installed as part of a Vertical Improvement.

“**Design for Development**” means the Pier 70 Design for Development as approved by the Port Commission and the Planning Commission.

“**Developer Construction Obligations**” is defined in the Appendix.

“**Developer Mitigation Measure**” is defined in the Appendix and means any Mitigation Measure in the Mitigation Monitoring and Reporting Program attached to the DDA as *DDA Exh B10* that is to be performed by Developer or a Vertical Developer or that is otherwise identified as the responsibility of the “owner” or the “project sponsor.”

“**Development Agreement**” means this Development Agreement.

“**Development Agreement Statute**” means California Government Code sections 65864-65869.5.

“**Development Parcel**” is defined in the Appendix and means a buildable parcel in the SUD and includes each Option Parcel.

“**Director of Public Works**” is defined in in the Appendix.

“**Director of Transportation**” is defined in the Appendix.

“**Environmental Laws**” is defined in in the Appendix.

“**Environmental Regulatory Agency**” is defined in the Appendix.

“**Event of Default**” is defined in **Section 9.2** (Events of Default).

“**Exaction**” is defined in the Appendix and means any requirement to provide services or dedicate land or Improvements that the City imposes as a condition of approval to mitigate the impacts of increased demand for public services, facilities, or housing caused by a development project, which may or may not be an impact fee governed by the Mitigation Fee Act, including a fee paid in lieu of complying with a City requirement.

“Exaction” excludes Mitigation Measures and any federal, state, or regional impositions.

“**Excusable Delay**” is defined in the Appendix.

“**Existing City Laws and Standards**” is defined in **Subsection 5.2(a)** (Agreement to Follow).

“**FC Project Area**” is defined in the Appendix.

“**Federal or State Law Exception**” is defined in **Subsection 5.6(a)** (City’s Exceptions).

“**Final EIR**” is defined in the Appendix and means the environmental impact report for the Project that the Planning Department published on [date], together with the Comments and Responses document, [add specifics of approval].

- “**Final Map**” is defined in the Appendix and means a final Subdivision Map meeting the requirements of the Subdivision Code and the Map Act.
- “**Financing Documents**” is defined in the Appendix.
- “**Financing Plan**” means *DDA Exh C1*.
- “**First Construction Document**” means the first building permit, site permit, or addendum issued for a Vertical Improvement that authorizes its construction.
- “*First Construction Document*” *excludes permits or addenda for demolition, grading, shoring, pile driving, or other site preparation work.*
- “**FP**” is an acronym for the Financing Plan.
- “**Future Approval**” means any Regulatory Approval required after the Reference Date to implement the FC Project Area Project or begin Site Preparation or construction of Improvements.
- “**General Plan Consistency Findings**” means findings made in Motion No. XXXX by the Planning Commission [Add specifics if necessary to conform to motion] that the Project as a whole and in its entirety is consistent with the objectives, policies, general land uses, and programs specified in the General Plan and the planning principles in Planning Code section 101.1.
- “**gsf**” is an acronym for gross square feet in any structure, as measured under applicable provisions of the Design for Development.
- “**Historic Building**” is defined in the Appendix and means any one of the historic structures in the 28-Acre Site known as Building 2, Building 12, and Building 21, each of which is classified as a significant contributing historic resource to the Union Iron Works Historic District.
- “**horizontal development**” is defined in the Appendix.
- “**Horizontal Improvements**” means public capital facilities and infrastructure built or installed in or to serve the FC Project Acre, including Site Preparation, Shoreline Improvements, Public Spaces, Public ROWs, and Utility Infrastructure, but excluding Vertical Improvements, all as defined in the Appendix.
- “**Housing Tax Increment**” is defined in the Appendix.
- “**TCA**” is an acronym for “interagency cooperation agreement” that refers to the Memorandum of Understanding (Interagency Cooperation), an interagency agreement between the Port and the City, through the Mayor, the Controller, the City Administrator, and the Director of Public Works, with the Consents of SFMTA SFPUC, and SFFD, establishing procedures for interagency cooperation in City Agency review of Construction Documents, inspection of Horizontal Improvements, and related matters, as authorized by Port Resolution No. [XXXX] and the MOU Resolution under Charter section B7.320.
- “**TFD Agent**” is defined in the Appendix.
- “**Illinois Street Parcel**” is defined in the Appendix.
- “**Impact Fee**” means any fee that the City imposes as a condition of approval to mitigate the impacts of increased demand for public services, facilities, or housing caused by the development project that may or may not be an impact fee governed by the Mitigation Fee Act, including any in-lieu fee.
- “*Impact Fee*” *excludes any Administrative Fee, school district fee, or federal, state, or regional fee, tax, special tax, or assessment.*

“**Improvement**” is defined in the Appendix and means any physical change required or permitted to be made to the FC Project Area under the DDA, including Horizontal Improvements and Vertical Improvements.

“**Improvement Plan**” is defined in the Appendix and means any improvement and engineering plan meeting applicable City and Port specifications for the applicable Horizontal Improvements approved by the Port in accordance with the ICA.

“**Inclusionary Unit**” is defined in the AHP.

“**Index**” means the Construction Cost Index, San Francisco, published monthly by Engineering News-Record or replacement index as agreed by the Parties.

“**Indexed**” means the product of a cost estimate or actual cost that Developer established for Vertical Improvements or any Component of Horizontal Improvements in a Prior Phase, multiplied by the percentage of any increase between the Index published in the month in which the earlier actual cost or cost estimate was established and the Index published in the month in which Developer claims a Material Cost Increase.

“**Infrastructure Plan**” is defined in the Appendix and means the Infrastructure Plan attached to the DDA as *DDA Exh B8*, including the Streetscape Master Plan and each Master Utility Plan when approved by the applicable City Agency.

“**in-lieu fee**” is defined in the Appendix and means a fee a developer may pay instead of an Impact Fee or complying with an Exaction.

“**Insolvency**” is defined in the Appendix and means a person’s financial condition that results in any of the following:

- (i) a receiver is appointed for some or all of the person’s assets;
- (ii) the person files a petition for bankruptcy or makes a general assignment for the benefit of its creditors;
- (iii) a court issues a writ of execution or attachment or any similar process is issued or levied against any of the person’s property or assets; or
- (iv) any other action is taken by or against the person under any bankruptcy, reorganization, moratorium or other debtor relief law.

“**Interested Person**” is defined in the Appendix and means a person that acquires a property interest or security interest in any portion of the 28-Acre Site by Vertical DDA, Parcel Lease, Assignment and Assumption Agreement, or Mortgage.

“**TRFD**” is defined in the Appendix.

“**TRFD Agent**” is defined in the Appendix.

“**TFD Financing Plan**” is defined in the Appendix.

“**LBE**” is defined in the Appendix.

“**Lender**” is defined in the Appendix and used in the Applicable Lender Protections.

“**Losses**” is defined in the Appendix and means, when used in reference to a Claim, any personal injury, property damage, or other loss, liability, actual damages, compensation, contribution, cost recovery, lien, obligation, interest, injury, penalty, fine, action, judgment, award, or costs (including reasonable attorneys’ fees), or reasonable costs to satisfy a final judgment of any kind, known or unknown, contingent or otherwise, except to the extent specified in the DDA.

“**Map Act**” is defined in in the Appendix.

“**Market-Rate Condo Project**” is defined in the Appendix.

- “**Market-Rate Rental Project**” is defined in the Appendix.
- “**Master Lease**” is defined in the Appendix and means an interim lease for most of the FC Project Area in the form of *DDA Exh D2* that will allow Developer to take possession of the premises and construct Horizontal Improvements approved under the DDA.
- “**Master Lease Premises**” means the portions of the 28-Acre Site subject to the Master Lease.
- “**Master Utility Plan**” is defined in in the Appendix.
- “**Material Breach**” means the occurrence of any of the events described in *DDA art. 12 (Material Breaches and Termination)*.
- “**Material Change**” means any circumstance that would create a conflict between a Change to Existing City Laws and Standards and the Project Approvals that is described in **Subsection 5.3(b)** (Circumstances Causing Conflict).
- “**Material Cost Increase**” means a material cost increase in the costs of Vertical Improvements or any Component of Horizontal Improvements, as applicable.
- “**Material Modification**” is defined in in the Appendix
- “**Mello-Roos Taxes**” is defined in in the Appendix.
- “**Mitigation Fee Act**” means provisions of chapter 5, division 1, title 7 of the California Government Code beginning with section 66000, as described in section 66000.5.
- “**Mitigation Measure**” is defined in in the Appendix.
- “**MMRP**” is an acronym for the Mitigation Monitoring and Reporting Program that Planning Commission adopted by Resolution No. [XXXXX].
- “**MOHCD**” is an acronym for the Mayor’s Office of Housing and Community Development.
- “**Mortgage**” is defined in the Appendix and used in the Applicable Lender Protections.
- “**MOU Resolution**” is defined in the Appendix.
- “**Noonan Building**” is defined in the Appendix.
- “**Obligor**” is defined in the Appendix and means the person contractually obligated to perform under any form of Adequate Security provided under *DDA art. 17 (Security for Project Activities)*.
- “**Official Records**” is defined in the Appendix and means official real estate records that the Assessor records and maintains.
- “**OLSE**” is defined in the Appendix.
- “**Option Parcel**” is defined in the Appendix and means a Development Parcel for which Developer has an Option under *DDA art. 7 (Parcel Conveyances)*.
- “**Other City Agencies**” is defined in the Appendix and means a City Agency other than the Port.
- “**Other City Costs**” is defined in the Appendix and means costs that Other City Agencies incur to perform their obligations under the ICA, the Development Agreement, and the Tax Allocation MOU to implement or defend actions arising from the Project, including staff costs determined on a time and materials basis, third-party consultant fees, attorneys’ fees, and costs to administer the financing districts to the extent not paid by Public Financing Sources.
- “*Other City Costs*” *excludes Port Costs, Administrative Fees, Impact Fees, and Exactions.*
- “**Other City Requirements**” means *DDA Exh E1*.

“Other Regulator” is defined in the Appendix and means a federal, state, or regional body, administrative agency, commission, court, or other governmental or quasi-governmental organization with regulatory authority over Port land, including any Environmental Regulatory Agency.

“Other Regulator” excludes all City Agencies.

“Parcel K” is defined in the Appendix.

“Parcel K North” is defined in the Appendix.

“Parcel K South” is defined in the Appendix.

“Parcel Lease” is defined in the Appendix and means a contract in the form of *DDA Exh D4* by which the Port will convey a leasehold interest in an Option Parcel to a Vertical Developer.

“PDR” is defined in the Appendix.

“Phase” is defined in the Appendix and means one of the integrated stages of horizontal and vertical development for the FC Project Area as shown in the Phasing Plan, as may be revised from time to time in accordance with *DDA art. 3 (Phase Approval)*.

“Phase Approval” is defined in the Appendix and means approval by the Port of a Phase Submittal under *DDA art. 3 (Phase Approval)*.

“Phase Area” is defined in the Appendix and means the Development Parcels and other land at the FC Project Area that are to be developed in a Phase.

“Phase Improvements” is defined in the Appendix and means Horizontal Improvements that are to be constructed under a Phase Approval.

“Phase Submittal” is defined in the Appendix and means Developer’s application for Port Commission approval of a proposed Phase under *DDA art. 3 (Phase Approval)*.

“Phasing Plan” is defined in the Appendix and means *DDA Exh B1*, which shows the order of development of the Phases and the Development Parcels in each Phase Area, subject to revision under *DDA art. 3 (Phase Approval)*.

“Pier 70 TDM Program” is defined in **Subsection 4.1(c)** (Specific Benefits).

“Planning” is defined in the Appendix and means the San Francisco Planning Commission, acting by motion or resolution or by delegation of its authority to the Planning Department and the Planning Director.

“Planning Director” is defined in the Appendix.

“Port” and **“Port Commission”** are defined in the Appendix.

“Port Consent” means the Consent of the Port Commission of the City and County of San Francisco that is attached to and incorporated in this Development Agreement.

“Port Director” is defined in the Appendix.

“portwide” is defined in the Appendix and means any matter relating to all real property under the jurisdiction of the Port Commission.

“Prior Phase” is defined in the Appendix and means the Phase or Phases for which Developer obtained Phase Approval before any Current Phase.

“Project” is defined in the Appendix and means the Project.

“Project Approval” is defined in the Appendix and means a Regulatory Approval by a City Agency that is necessary to entitle the Project and grant Developer a vested right to begin Site Preparation and construction of Horizontal Improvements, including those listed in

DA Exhibit B and includes Future Approvals in accordance with **Subsection 5.1(d)** (Future Approvals).

“Project Payment Obligation” is defined in the Appendix.

“Project Requirements” is defined in the Appendix.

“Prop M” means Planning Code sections 320-325, which implement Proposition M, adopted in November 1986.

“Public Financing Sources” is defined in the Appendix.

“Public Health and Safety Exception” is defined in **Subsection 5.6(a)** (City’s Exceptions).

“Public ROWs” is defined in the Appendix and means Horizontal Improvements consisting of public streets, sidewalks, shared public ways, bicycle lanes, and other paths of travel, associated landscaping and furnishings, and related amenities.

“Public Spaces” is defined in the Appendix.

“public trust” is defined in in the Appendix.

“Reference Date” means the date stated on the title page, which is the date that the Board of Supervisors last took actions to approve and entitle the Project.

“Regulatory Agency” is defined in the Appendix and means a City Agency or Other Regulator with jurisdiction over any aspect of land in the SUD.

“Regulatory Approval” is defined in the Appendix and means any motion, resolution, ordinance, permit, approval, license, registration, utility services agreement, Final Map, or other action, agreement, or entitlement required or issued by any Regulatory Agency, as finally approved.

“Regulatory Requirements” is defined in the Appendix.

“Requested Change Notice” means Developer’s notice to the Port requesting changes to the Phasing Plan under *DDA § 3.9 (Changes to Project after Phase 1)*.

“RMA” is defined in the Appendix.

“Schedule of Performance” means the Schedule of Performance attached to the DDA as *DDA Exh B2*.

“Section 1.126” is defined in **Subsection 13.6(a)** (Application).

“Section 169” means Planning Code sections 169-169.6, which sets forth requirements of the TDM Program and requires new projects subject to its requirements to incorporate design features, incentives, and tools to encourage new residents, tenants, employees, and visitors to travel by sustainable transportation modes.

“Section 409” means Planning Code section 409, which establishes citywide reporting requirements for Impact Fees and timing and mechanisms for annual adjustments to Impact Fees.

“Services CFD” is defined in the Appendix.

“Services Special Taxes” is defined in the Appendix.

“SFFD” is an acronym for the San Francisco Fire Department.

“SFMTA” is an acronym for the San Francisco Municipal Transportation Agency.

“SFMTA Consent” means the Consent of the Municipal Transportation Agency of the City and County of San Francisco that is attached to and incorporated in this Development Agreement.

“**SFPUC**” is an acronym for the San Francisco Public Utilities Commission.

“**SFPUC Consent**” means the Consent of the Public Utilities Commission of the City and County of San Francisco that is attached to and incorporated in this Development Agreement.

“**SFPUC General Manager**” is defined in the Appendix.

“**SFPUC Wastewater Capacity Charge**” means the wastewater capacity charge and connection charge imposed by the SFPUC.

“**SFPUC Water Capacity Charge**” means the water capacity charge and connection charge imposed by the SFPUC.

“**Shoreline Improvements**” is defined in the Appendix.

“**Site Preparation**” is defined in the Appendix and means physical work to prepare and secure the FC Project Area for installation and construction of Horizontal Improvements, such as demolition or relocation of existing structures; excavation and removal of contaminated soils, fill, grading, soil compaction and stabilization, and construction fencing and other security measures and delivery of the Affordable Housing Parcels, as required.

“**State**” is defined in the Appendix.

“**Streetscape Master Plan**” is defined in the Appendix and means the master plan for Public ROW Improvements in the FC Project Area to be submitted by Developer and approved by applicable City Agencies in accordance with the DDA.

“**Subdivision Map**” is defined in the Appendix and means any map that Developer submits for the FC Project Area under the Map Act and the Subdivision Code.

“**Sub-Project Area**” is defined in the Appendix.

“**successor**” is defined in the Appendix and means heirs, successors (by merger, consolidation, or otherwise) and assigns, and all persons or entities acquiring any portion of or any interest in the FC Project Area, whether by sale, operation of law, or in any other manner.

“**Successor Default**” is defined in **Subsection 10.2(e)** (No Cross-Default).

“**Successor by Foreclosure**” means any person who obtains title to all or any portion of or any interest in the FC Project Area as a result of foreclosure proceedings, conveyance or other action in lieu of foreclosure, or other remedial action, including: (i) any other person who obtains title to all or any portion of or any interest in the FC Project Area from or through a Lender; and (ii) any other purchaser at a foreclosure sale.

“**SUD**” is an acronym used to refer to the Pier 70 Special Use District created by Planning Code section 249.79 and related zoning maps setting forth zoning and other land use limitations for the 28-Acre Site.

“**Sustainability Plan**” refers to the Sustainability Plan presented to the Port Commission on September 12, 2017, a copy of which is on file with the Secretary of the Port Commission.

“**Tax Allocation MOU**” is a term for the Memorandum of Understanding (Assessment, Levy, and Allocation of Taxes).

“**Tax Increment**” is defined in in the Appendix.

“**TDM Program**” means the City’s Transportation Demand Management Program, which is described in Section 169.

- “**Tentative Map**” is defined in the Appendix and means a Tentative Transfer Map, Vesting Tentative Transfer Map, Tentative Map, or Vesting Tentative Map as defined in the Subdivision Code.
- “**Termination Date**” is defined in the Appendix and means the date on which a termination under *DDA art. 12 (Material Breaches and Termination)* becomes effective.
- “**Third-Party Challenge**” is defined in the Appendix and means an action challenging the validity of any provision of the DDA or the Development Agreement, the Project, any Project Approval or Future Approval, the adoption or certification of the Final EIR, other actions taken under CEQA, or any other Project Approval.
- “**Total Fee Amount**” is defined in the Appendix.
- “**Transaction Documents**” is defined in the Appendix.
- “**Transfer**” is defined in the Appendix.
- “**Transferee**” is defined in the Appendix.
- “**Transportation Fee**” is defined in **Subsection 4.1(c)** (Specific Benefits).
- “**Transportation Impact Study**” is defined in the TDM Program.
- “**Transportation Plan**” refers to *DDA Exh B5*.
- “**Treasurer-Tax Collector**” is defined in the Appendix.
- “**Utility Infrastructure**” means Horizontal Improvements for utilities serving the FC Project Area that will be under SFPUC or Port jurisdiction when accepted.
- “*Utility Infrastructure*” *excludes telecommunications infrastructure and any privately-owned utility improvements, including a proposed blackwater plant at the 28-Acre Site.*
- “**Utility-Related Mitigation Measure**” is defined in the Appendix.
- “**Vertical DDA**” is defined in the Appendix and means a Vertical Disposition and Development Agreement between the Port and a Vertical Developer, substantially in the form attached to the DDA as *DDA Exh D3*.
- “**Vertical Developer**” is defined in the Appendix and means a person that acquires a Development Parcel from the Port under a Vertical DDA for the development of Vertical Improvements.
- “**vertical development**” is defined in the Appendix.
- “**Vertical Improvement**” is defined in the Appendix and means a new building that is built or a Historic Building that is rehabilitated at the 28-Acre Site.
- “**Vested Elements**” is defined in **Subsection 5.1(b)** (Vested Elements).
- “**VDDA**” is an acronym for Vertical DDA.
- “**Waterfront Plan**” is defined in the Appendix.
- “**Workforce Development Plan**” refers to *DDA Exh B4*.

2. CERTAIN TERMS

2.1. Effective Date. Pursuant to Administrative Code section 56.14(f), this Development Agreement will be effective on the later of: (a) the date that the Parties fully execute and deliver their respective counterparts to each other; and (b) the date the DA Ordinance is effective and operative (the “**Reference Date**”). When the Reference Date has

been determined, the City will provide Developer with a substitute title page that specifies the date.

2.2. DA Term. The term of this Development Agreement will begin on the Reference Date and continue separately for horizontal development and vertical development as described in this Section (the “**DA Term**”).

(a) Horizontal Development.

(i) If the DDA Term is extended, expires, or is terminated as to a portion of a Phase, the Project, or the Project Site, the DA Term will be extended, expire, or terminate as to the same portion of the Phase, the Project, or the Project Site automatically, without any action of the Parties.

(ii) When the DDA Term expires or is terminated as to the entire Project and Project Site, the DA Term will expire or terminate automatically, without any action of the Parties.

(b) Vertical Development. When a Vertical DDA is extended, expires, or is terminated as to a Development Parcel, the DA Term will be extended, expire, or terminate as to the Development Parcel automatically, without any action of the Parties.

2.3. Relationship to DDA.

(a) DDA Parameters. The Board of Supervisors has approved this Development Agreement in conjunction with its approval of the DDA, other Transaction Documents, and Project Approvals to entitle the Project and granted other Project Approvals as described in **DA Exhibit B**. The DDA is the overarching Transaction Document for the development of the Project, which cannot proceed independently of the DDA. This Development Agreement is a Transaction Document under the DDA, and is intended to be included in all references to the Transaction Documents.

(b) DDA Requirements. This Development Agreement incorporates by reference certain public benefits that Developer is required to provide and obligations that Developer is required to perform, as more fully described in the DDA and outlined in **Section 4.1** (Public Benefits).

2.4. Roles of City and Port. Developer acknowledges the following.

(a) City Obligations. The City will undertake its obligations under this Development Agreement through the Planning Director or, as necessary under Chapter 56, the Planning Commission or the Board of Supervisors.

(b) Port Obligations. References in this Development Agreement to obligations of the “City” include the Port and Other City Agencies unless explicitly and unambiguously stated otherwise. References to both the City and the Port are intended to emphasize the Port’s jurisdiction under Applicable Port Laws.

2.5. Recordation and Effect.

(a) Recordation. The Clerk of the Board of Supervisors will have this Development Agreement and any amendment to this Development Agreement recorded in the Official Records within 10 days after receiving fully executed and acknowledged original documents in compliance with section 65868.5 of the Development Agreement Statute and Administrative Code section 56.16.

(b) Binding Covenants. Pursuant to section 65868.5 of the Development Agreement Statute, from and after recordation of this Development Agreement, this Development Agreement will be binding on the Parties and, subject to **Section 10.2** (Effect of Assignment), their respective successors. Subject to the limitations on Transfers in **Section 10.2** (Effect of Assignment), all provisions of this Development

Agreement will be enforceable during the DA Term as equitable servitudes and will be covenants and benefits running with the land pursuant to Applicable Law, including California Civil Code section 1468.

(c) Constructive Notice. This Development Agreement, when recorded, gives constructive notice to every person. Recordation will cause it to be binding in its entirety on, and burden and benefit, any Interested Person to the extent of its interest in the FC Project Area.

(d) Nondischargeable Obligations. Obligations under this Development Agreement are not dischargeable in Insolvency.

2.6. Relationship to Project.

(a) Planning as Regulator. This Development Agreement relates to Planning's regulatory role with respect to development of the 28-Acre Site and implementation of the Project under the DDA in accordance with the SUD.

(b) Other City Agencies. The Board of Supervisors contemporaneously approved interagency Transaction Documents for the Project that describe the roles of the Port and Other City Agencies with respect to the Project.

(i) The ICA between the Port and the City describes the process for City Agency review and approval of Improvement Plans, Subdivision Maps, and other documents, primarily in relation to horizontal development.

(ii) In the Tax Allocation MOU, the City, through the Assessor, the Treasurer-Tax Collector, and the Controller, agrees to assist the Port in implementing the public financing for the FC Project Area.

(c) Port as Regulator: The Port in its regulatory capacity will:

(i) issue all Construction Permits, certificates of occupancy, and certificates of completion;

(ii) coordinate Other City Agency review of Improvement Plans and Subdivision Maps for the FC Project Area in accordance with the Infrastructure Plan and the ICA; and

(iii) monitor Developer's compliance with Applicable Laws in coordination with Other City Agencies.

(d) Port as Fiduciary. The City has appointed the Port to act in a fiduciary capacity as the IFD Agent and the IRFD Agent responsible for implementing Appendix G-2, the RMAs, and the IRFD Financing Plan, respectively, and has agreed to appoint the Port to act in a fiduciary capacity as the CFD Agent responsible for implementing the RMAs in the formation proceedings for the CFDs. In doing so, the City agreed to take actions at the Port's request to comply with the Financing Plan attached to the DDA as *DDA Exh C1*.

3. GENERAL RIGHTS AND OBLIGATIONS

3.1. Project.

(a) Vested Right to Develop. Developer will have the vested right to develop the Project in accordance with and subject to this Development Agreement and the DDA.

(b) Future Approvals. The City, excluding the Port, will consider and process all Future Approvals for the development of the Project in accordance with and subject to this Development Agreement and the ICA. The Port's Future Approvals will be governed by this Development Agreement, the ICA, and the DDA.

- (c) Project Approvals. The Parties acknowledge that Developer:
- (i) has obtained all Project Approvals from the City required to begin construction of the Project, other than any required Future Approvals; and
 - (ii) may proceed in accordance with this Development Agreement and the DDA with the construction and, upon completion, use and occupancy of the Project as a matter of right, subject to obtaining any required Future Approvals.

3.2. Timing of Development. The DDA permits the development of the FC Project Area in Phases. The Phasing Plan and Schedule of Performance, respectively, each as modified from time to time in accordance with the DDA, will govern the construction phasing and timing of the Project. The time for performance of obligations under this Development Agreement will be coordinated with the DDA and the Vertical DDAs, each as extended to the extent permitted under their respective performance schedules.

3.3. Horizontal Improvements Dedicated for Public Use. Development of the FC Project Area requires Horizontal Improvements to support the development and operation of all Development Parcels, including any Affordable Housing Parcel designated in accordance with the AHP, whether located in or outside of the 28-Acre Site. Under the DDA, Developer will take all steps necessary to construct and dedicate Horizontal Improvements to public use in accordance with the Subdivision Code.

3.4. Private Undertaking. Developer's proposed development of the FC Project Area is a private undertaking. Under the DDA and the Master Lease, Developer will have possession and control of the Master Lease Premises, subject only to any obligations and limitations imposed by the Master Lease, the DDA, and the DA Requirements. Except to the extent specified in the Transaction Documents, the City will have no interest in, responsibility for, or duty to third persons concerning the Horizontal Improvements until they are accepted.

4. DEVELOPER OBLIGATIONS

4.1. Public Benefits.

(a) Benefits Exceed Legal Requirements. The Parties acknowledge that development of the Project in accordance with the DDA and this Development Agreement will provide public benefits to the City beyond those achievable through existing laws.

(b) Consideration for Benefits.

(i) The City acknowledges that a number of the public benefits would not be achievable without Developer's express agreements under the DDA and this Development Agreement.

(ii) Developer acknowledges that: (1) the benefits it will receive under the DDA and this Development Agreement provide adequate consideration for its obligation to deliver the public benefits under the DDA and this Development Agreement; and (2) the Port would not be willing to enter into the DDA, and the City would not be willing to enter into this Development Agreement, without Developer's agreement to provide the public benefits.

(c) Specific Benefits. The public benefits that Developer must deliver in connection with the DDA include those described in the Project implementation listed below.

(i) The FC Project Area will be improved with new Shoreline Improvements, Public Spaces, Public ROWs, and Utility Infrastructure as shown in *DDA Exh B8 (Infrastructure Plan)*, the Design for Development, the

Streetscape Master Plan, and any Master Utilities Plans approved by the responsible Acquiring Agencies.

(ii) Developer is responsible for the historic rehabilitation of Historic Building 12 and Historic Building 21 under *DDA § 7.15 (Historic Buildings 12 and 21)* and Historic Building 2 if Developer elects to exercise its Option under *DDA § 7.1 (Developer Option)*.

(iii) Developer has agreed that at least 30% of the residential units developed in the AHP Housing Area, currently consisting of the 28-Acre Site and Parcel K South (or other parcels designated in accordance with the AHP), will be affordable to low- and moderate-income households in compliance with the AHP (*DDA Exh B3*) by implementing the following measures.

(1) Developer will deliver two construction-ready Affordable Housing Parcels on-site and one on Parcel K South to the Port, which will lease them rent-free to MOHCD or its selected Affordable Housing Developers for development of Affordable Housing Projects.

(2) In lieu of including on-site Inclusionary Units under Planning Code sections 415-415.6, each Vertical Developer of a Market-Rate Condo Project on the 28-Acre Site will pay the 28-Acre Site Affordable Housing Fee described in the AHP.

(3) Each Vertical Developer of a Market-Rate Rental Project will provide Inclusionary Units.

(4) Each Vertical Developer of office and other nonresidential uses otherwise subject to the City's Jobs/Housing Linkage Program under Planning Code sections 413.1-413.11 will pay the 28-Acre Site Jobs/Housing Equivalency Fee, which MOHCD will use for development of Affordable Housing Projects in accordance with the AHP.

(iv) Under *DDA Exh B5 (Transportation Plan)*, Developer will pay a fee specific to the 28-Acre Site (the "**Transportation Fee**") in lieu of the City's Transportation Sustainability Fee, which SFMTA will apply towards transit, bicycle, and pedestrian improvements that will improve transportation access and mobility in the surrounding neighborhoods. Developer will also implement the Transportation Demand Management Plan (the "**Pier 70 TDM Program**") attached to the Transportation Plan to reduce estimated daily one-way vehicle trips by at least 20% from the number of trips identified in the Project's Transportation Impact Study at Project build-out.

(v) Developer will: (1) develop the FC Project Area with sustainable measures required under the Design for Development, Infrastructure Plan, Pier 70 TDM Program, and MMRP and endeavor to meet sustainability targets in the Sustainability Plan seeking to enhance livability, health and wellness, mobility and connectivity, ecosystem stewardship, climate protection, and resource efficiency of the FC Project Area; and (2) submit a report with each Phase Submittal after Phase 1 that will describe the Project's performance towards the sustainable construction measures and sustainability targets.

(vi) Developer will comply with training and hiring goals for hiring San Francisco residents and formerly homeless and economically disadvantaged individuals for temporary construction and permanent jobs under *DDA Exh B4 (Workforce Development Plan)*, including a Local Hiring mandatory participation level of 30% per trade consistent with the policy set forth in Administrative Code section 6.22(g)(3)(B).

(vii) Under Vertical DDAs with the Port, Vertical Developers will be required to provide opportunities for local business enterprises to participate in the economic opportunities created by the vertical development of the FC Project Area in compliance with the LBE requirements under *DDA Exh B4 (Workforce Development Plan)*.

(viii) Developer will promote equality by complying with **Section 13.1** (Nondiscrimination in Contracts and Property Contracts).

(ix) Developer will provide the replacement space for the artists leasing space at the Noonan Building at Pier 70 in a newly constructed arts building or elsewhere at the 28-Acre Site and provide other space for arts and light-industrial uses, all as described in *DDA Exh B6 (Arts Program)*.

(x) Vertical Developers will provide a minimum of 50,000 gsf of PDR-restricted space within the Project under *DDA § 7.15 (PDR)*.

(xi) Vertical Developers will provide at least two on-site child care facilities for a minimum of 50 children per site to serve area residents and workers under *DDA § 7.16 (Child Care)*.

(xii) If requested by Port, Developer or a Vertical Developer will make available to the City at least 15,000 gsf of community space in one or more commercial buildings under *DDA § 7.17 (Community Facility)*.

(xiii) Owners and tenants in the Project will bear the cost of long-term maintenance and management of Public Spaces developed at the 28-Acre Site through Services Special Taxes that the Services CFDs will levy. Each Services CFD will require its respective Public Spaces operator/manager to adhere to standards ensuring public access to and quality maintenance, as described in *DDA § 15.10 (Maintenance of Public Improvements)*.

4.2. Delivery; Failure to Deliver.

(a) Obligation to Provide. Developer's obligation to deliver certain public benefits is tied to a specific Phase or Development Parcel as described in *DDA Exh A8 (Schedule of Performance)*, subject to Excusable Delay.

(i) After Developer obtains its first construction permit for Horizontal Improvements within a Phase, Developer's obligation to deliver public benefits tied to that Phase will survive until the pertinent public benefits are completed in accordance with the requirements of the DDA.

(ii) After a Vertical Developer obtains its First Construction Document for a Development Parcel that is tied to a specific public benefit, the Vertical Developer's obligation to deliver the pertinent public benefit will survive until it is completed in accordance with the requirements of the applicable Vertical DDA.

(b) Conditions to Delivery. Developer's obligation to deliver public benefits required in a Phase or in association with development of a Development Parcel is expressly conditioned as specified below, unless Developer's actions or inaction, including failure to meet the Schedule of Performance, causes the failure of condition.

(i) Developer's obligation to deliver public benefits to be provided in a Phase is conditioned on obtaining all Future Approvals required to begin construction of Phase Improvements.

(ii) Developer's obligation to deliver a public benefit specific to or dependent on vertical development will be coordinated with the applicable

Vertical Developer's construction of Vertical Improvements and may be an obligation of the Vertical Developer under the related Vertical DDA.

4.3. Developer Mitigation Measures. Under the DDA, Developer is obligated to implement Developer Mitigation Measures identified in the MMRP. At the Port's request, Planning may agree to undertake monitoring Developer's compliance with specified Developer Mitigation Measures on behalf of the Port.

4.4. Payment of Planning Costs. Under the DDA, Developer must reimburse the City for all Other City Costs, including those incurred by Planning in its implementation of this Development Agreement, exclusive of Administrative Fees. Planning agrees to comply with the procedures and limitations described in *FP § 9.2 (Port Accounting and Budget)* and *ICA § 3.6 (Cost Recovery)* as a condition to obtaining reimbursement of Planning's costs. More specifically, Planning will provide quarterly statements for payment to Developer through the Port, which will be responsible for disbursing reimbursement payments from Developer.

4.5. Indemnification of City. In addition to the indemnities provided under the DDA, Developer agrees to indemnify the City Parties from Losses caused directly or indirectly by an act or omission of Developer or any of its Agents in relation to this Development Agreement, except to the extent caused by gross negligence or willful misconduct of a City Party. Developer's indemnification obligation under this Section includes an indemnified City Party's reasonable attorneys' fees and related costs, including the cost of investigating any Claims against the City, and will survive the expiration or earlier termination of this Development Agreement.

4.6. Costa-Hawkins Waiver.

(a) State Policies. California directs local agencies regulating land use to grant density bonuses and incentives to private developers for the production of affordable and senior housing in the Costa-Hawkins Act (Cal. Gov't Code §§ 65915-65918). The Costa-Hawkins Act prohibits limitations on rental rates for dwelling units certified for occupancy after February 1, 1995, with certain exceptions. Section 1954.52(b) of the Costa-Hawkins Act creates an exception for dwelling units built under an agreement between the owner of the rental units and a public entity in consideration for a direct financial contribution and other incentives specified in section 65915 of the California Government Code.

(b) Waiver. Developer, on behalf of itself and its successors and assigns, agrees not to challenge and expressly waives any right to challenge Developer's obligations under the AHP as unenforceable under the Costa-Hawkins Act. Developer acknowledges that the City would not be willing to enter into this Development Agreement without Developer's agreement and waiver under this Section. Developer agrees to include language in substantially the following form in all Assignment and Assumption Agreements and consents to its inclusion in all Vertical DDAs and in recorded restrictions for any Development Parcel on which residential use is permitted.

The Development Agreement and the DDA, which includes the AHP, provide regulatory concessions and significant public investment to the 28-Acre Site and Parcel K South that directly reduce development costs at the 28-Acre Site. The regulatory concessions and public investment include a direct financial contribution of net tax increment and other forms of public assistance specified in California Government Code section 65915. These public contributions result in identifiable, financially sufficient, and actual cost reductions for the benefit of Developer and Vertical Developers under California Government Code section 65915. In consideration of the City's direct

financial contribution and other forms of public assistance, the parties understand and agree that the Costa-Hawkins Act does not apply to any BMR Unit developed under the AHP for the 28-Acre Site.

5. VESTING AND CITY OBLIGATIONS

5.1. Vested Rights.

(a) Policy Decisions. By the Project Approvals, the Board of Supervisors and the Port Commission each made an independent policy decision that development of the Project is in the City's best interests and promotes public health, safety, general welfare, and Applicable Port Laws.

(b) Vested Elements. Developer will have the vested right to develop the Project, including the following elements (collectively, the "**Vested Elements**"):

- (i) proposed land use plan and parcelization;
- (ii) locations and numbers of Vertical Improvements proposed;
- (iii) proposed height and bulk limits, including maximum density, intensity, and gross square footages;
- (iv) permitted uses; and
- (v) provisions for open space, vehicular access, and parking.

(c) Applicable Laws. The Vested Elements are subject to and will be governed as set specified in **Subsection 5.2(a)** (Agreement to Follow). The expiration of any construction permit or other Project Approval will not limit the Vested Elements. Developer will have the right to seek and obtain Future Approvals at any time during the DA Term, any of which will be governed by the DA Requirements.

(d) Future Approvals.

(i) Each Future Approval, when final, will be a Project Approval that is automatically incorporated into and vested under this Development Agreement.

(ii) The terms of this Development Agreement on the Reference Date will prevail over any conflict with any Future Approval or amendment to a Project Approval unless the Parties concurrently take action to harmonize the conflicting provisions.

5.2. Existing City Laws and Standards.

(a) Agreement to Follow.

(i) The City will process, consider, and review all Future Approvals in accordance with the following (collectively, the "**DA Requirements**"): (i) the Project Approvals; (ii) the Transaction Documents; and (iii) all other applicable City Laws in effect on the Reference Date (collectively, the "**Existing City Laws and Standards**"), subject to **Section 5.3** (Changes to Existing City Laws and Standards).

(ii) The City agrees not to exercise its discretionary authority in considering any application for a Future Approval in a manner that would change the policy decisions reflected in the DA Requirements or otherwise prevent or delay development of the Project as approved, subject to **Subsection 5.8(d)** (Effect of Final EIR).

(b) Pier 70 TDM Program.

(i) Section 169 is excluded from the Existing City Laws and Standards in accordance with “the Board of Supervisors’ strong preference that Development Agreements should include similar provisions that meet the goals of the TDM Program.” (Planning Code § 169.1(h)).

(ii) Mitigation Measure M-AQ-1f requires “a Transportation Demand Management (TDM) Plan with a goal of reducing estimated daily one-way vehicle trips by 20% compared to the total number of one-way vehicle trips identified in the project’s Transportation Impact Study at project build-out.”

(iii) The MMRP identifies Mitigation Measure M-AQ-1f as a Developer Mitigation Measure which is binding on Developer under the DDA. Developer has prepared a Pier 70 TDM Program that meets the requirements of Mitigation Measure M-AQ-1f and incorporates many of the TDM Program strategies described in Section 169, a copy of which is attached to the Transportation Plan (the “**Pier 70 TDM Program**”).

(iv) The City has determined that the Pier 70 TDM Program will exceed the goals under Section 169 if implemented for the required compliance period. In the DA Ordinance, the Board of Supervisors stated that the FC Project Area will be exempt from Section 169 as long as Developer implements and complies with the Pier 70 TDM Program for the required compliance period. The Transportation Plan requires Developer to comply with the procedures of Planning Code section 169.4(e), which requires the Zoning Administrator to approve and cause the recordation of the Pier 70 TDM Program against the FC Project Area. [DA Ordinance to include streets in project.]

(c) Construction Codes. Nothing in this Development Agreement will preclude the City or the Port from applying then-current Construction Codes applicable to all Horizontal Improvements and all Vertical Improvements in the FC Project Area and the AHP Housing Area.

(d) Applicability of Uniform Codes. Nothing in this Development Agreement will preclude the Port from applying to the FC Project Area and the AHP Housing Area then-current provisions of the California Building Code, as amended and adopted in the Port Building Code.

(e) Applicability of Utility Infrastructure Standards.

(i) Nothing in this Development Agreement will preclude the City from applying to the FC Project Area and the AHP Housing Area then-current standards and City Laws for Utility Infrastructure for each Phase so long as:

(1) the standards for Utility Infrastructure are in place, applicable citywide, and imposed on the Project concurrently with the applicable Phase Approval;

(2) the standards for Utility Infrastructure as applied to the applicable Phase are compatible with, and would not require the retrofit, removal, supplementation, or reconstruction of Utility Infrastructure approved in Prior Phases; and

(3) if the standards for Utility Infrastructure deviate from those applied in Prior Phases, the deviations would not cause a Material Cost Increase in the Hard Costs and Soft Costs of Utility Infrastructure in the Phase.

(ii) If Developer claims a Material Cost Increase has occurred, it will submit to the City reasonable documentation of its claim through bids, cost estimates, or other supporting documentation reasonably acceptable to the City, comparing costs (or cost estimates, if not yet constructed) for any applicable Components of Utility Infrastructure in the immediately Prior Phase, Indexed to the date of submittal, to cost estimates to construct the applicable Components in the current Phase if then-current standards for Utility Infrastructure were to be applied.

(iii) If the Parties are unable to agree on whether the application of then-current standards for Utility Infrastructure cause Developer to incur a Material Cost Increase, the Parties will submit the matter to dispute resolution procedures described in *DDA art. 10 (Resolution of Certain Disputes)*.

(f) Subdivision Code and Map Act.

(i) The DDA authorizes Developer, from time to time and at any time, to file Subdivision Map applications with respect to some or all of the FC Project Area and to subdivide, reconfigure, or merge the parcels in the FC Project Area as necessary or desirable to develop a particular part of the Project. The specific boundaries of parcels will be set by Developer, subject to Port consent, and approved by the City during the subdivision process.

(ii) Nothing in this Development Agreement: (1) authorizes Developer to subdivide or use any part of the FC Project Area for purposes of sale, lease, or financing in any manner that conflicts with the Subdivision Map Act, the Subdivision Code, or the DDA; or (2) prevents the City from enacting or adopting changes in the methods and procedures for processing Subdivision Maps so long as the changes do not conflict with the DA Requirements.

(iii) The Parties acknowledge that so long as the Port is the landowner, it must both: (1) approve the specific boundaries that Developer proposes for Development Parcels; and (2) sign all Final Maps for the FC Project Area.

(g) Chapter 56 as Existing City Laws and Standards. The text of Chapter 56 on the Reference Date is attached as **DA Exhibit C**. The DA Ordinance contains express waivers and amendments to Chapter 56 consistent with this Development Agreement. Chapter 56, as amended by the DA Ordinance for the Project, is Existing City Laws and Standards under this Development Agreement that will prevail over any conflicting amendments to Chapter 56 unless Developer elects otherwise under **Subsection 5.3(c)** (Developer Election).

5.3. Changes to Existing City Laws and Standards.

(a) Applicability. Existing City Laws and Standards and any Change to Existing City Laws and Standards will apply to the Project except to the extent that they would conflict with the Project Approvals, the Transaction Documents, or Applicable Port Laws. In the event of a conflict, the terms of the Project Approvals, Transaction Documents, and Applicable Port Laws will prevail, subject to **Section 5.6** (Public Health and Safety and Federal or State Law Exceptions).

(b) Circumstances Causing Conflict. Any Change to Existing City Laws and Standards will be deemed to conflict with the Project Approvals and the Transaction Documents (including this Development Agreement) and be a Material Change if the change would:

(i) impede the timely implementation of the Project in accordance with the DA Requirements, including: (1) Developer's rights and obligations under the Financing Plan and the Acquisition Agreement; and (2) the rate, timing,

phasing, or sequencing of site preparation, development, or construction in any manner, including the demolition of existing buildings at the 28-Acre Site;

(ii) limit or reduce the density or intensity of uses permitted under the DA Requirements on any part of the AHP Housing Area, otherwise require any reduction in the square footage or number or change the location of proposed Vertical Improvements, or change or reduce other Horizontal or Vertical Improvements from that permitted under the DA Requirements;

(iii) limit or reduce the height or bulk of any part of the Project, or otherwise require any reduction in the height or bulk of individual proposed Vertical Improvements that are part of the Project from that permitted under the DA Requirements;

(iv) limit, reduce, or change the location of vehicular access or parking or the number and location of parking or loading spaces from that permitted under the DA Requirements;

(v) limit any land uses for the Project from that permitted under the DA Requirements;

(vi) change or limit the Project Approvals or Transaction Documents;

(vii) limit or control the availability of public utilities, services, or facilities or any privileges or rights to public utilities, services, or facilities for the Project as contemplated by the Project Approvals and Transaction Documents;

(viii) materially and adversely limit the processing or procurement of Future Approvals that are consistent with the DA Requirements;

(ix) increase or impose any new Impact Fees or Exactions as they apply to the Project, except as permitted under **Section 5.4** (Fees and Exactions);

(x) preclude Developer's or any Vertical Developer's performance of or compliance with the DA Requirements, or result in a Material Cost Increase to the Project for Developer or any Vertical Developer;

(xi) increase the obligations of Developer, any Vertical Developer, or their contractors under any provisions of the DDA or any Vertical DDA addressing contracting and employment above those in the Workforce Development Plan;

(xii) require amendments or revisions to the forms of Vertical DDA or Parcel Lease, or the Other City Requirements applicable to either, whenever they are later executed, unless the change:

(1) is related to building or reconstruction of the seawall, protection from or adaptation to sea level rise, or environmental protection measures directly related to the waterfront location of the Project; or

(2) impose City remedies and penalties that could result in termination, loss, or impairment of a Vertical Developer's rights under any Vertical DDA or Parcel Lease, or debarment from future contract opportunities with the City due to a Vertical Developer's or its subtenant's noncompliance;

(xiii) require the City or the Port to issue permits or approvals other than those required under the DA Requirements; or

(xiv) extend the DA Term, decrease the public benefits required to be provided, reduce the Impact Fees or Exactions, increase the maximum height,

density, bulk, or size of the Project, or otherwise materially alter the City's rights, benefits, or obligations under this Development Agreement.

(c) Developer Election.

(i) Developer may elect to have a Change to Existing City Laws and Standards that conflicts with the DA Requirements (except those described in **clause (xiii)** and **clause (xiv)** of **Subsection 5.3(b)** (Circumstances Causing Conflict)) applied to the Project by giving the City notice of Developer's election. Developer's election notice will cause the Change to Existing City Laws and Standards to be deemed to be Existing City Laws and Standards. But if the application of the Change to Existing City Laws and Standards would be a Material Change to the City's obligations under this Development Agreement, the application of the Change to Existing City Laws and Standards will require the concurrence of any affected City Agencies.

(ii) Nothing in this Development Agreement will preclude: (1) the City from applying any Change to Existing City Laws and Standards to any development that is not a part of the Project under this Development Agreement; or (2) Developer from pursuing any challenge to the application of any Changes to Existing City Laws and Standards to any part of the Project.

(d) Circumstances Not Causing Conflict. The Parties expressly agree to the following.

(i) When entering into any Vertical DDA or Parcel Lease, the Port will only be entitled to amend the forms approved at Project Approval and update the Other City Requirements if necessary to incorporate any Change to Existing City Laws and Standards under circumstances described in **clause (xii)** of **Subsection 5.3(b)** (Circumstances Causing Conflict).

(e) Port Role. The Port does not have the authority to approve a Change to Existing City Laws and Standards that is solely an exercise of the City's police powers, with or without Developer's consent under this Section. The City agrees to obtain the Port's concurrence before applying any Change to Existing City Laws and Standards that does not have citywide application to the FC Project Area or other land under Port jurisdiction.

5.4. Fees and Exactions.

(a) Generally. This Section will apply to the Project for as long as this Development Agreement remains in effect.

(i) The Project will be subject only to the Impact Fees and Exactions listed in this Section. The City will not impose any new Impact Fees or Exactions on development of the Project or impose new conditions or requirements for the right to develop the FC Project Area (including required contributions of land, public amenities, or services) except as set forth in the Transaction Documents.

(ii) The Parties acknowledge that this Section is intended to implement the Parties' intent that: (1) Developer have the right to develop the Project pursuant to specified and known criteria and rules; and (2) the City receive benefits that will be conferred as a result of the FC Project Area's development without abridging the City's right to act in accordance with its powers, duties, and obligations, except as specifically provided in this Development Agreement.

(iii) Developer acknowledges that: (1) this Section does not limit the City's discretion if Developer requests changes under *DDA § 3.5 (Changes to Project after Phase 1)*; (2) the Chief Harbor Engineer will require proof of

payment of applicable Impact Fees to the extent then due and payable as a condition to issuing certain Construction Permits; and (3) Impact Fees will be subject to increases permitted by Section 409 and will be payable at the fee schedule in effect when payment is due.

(b) Impact Fees and Exactions. Developer or Vertical Developers as applicable must satisfy the following Exactions and pay the following Impact Fees for the Project as and when due or payable by their terms.

(i) Transportation Fees. Each Vertical DDA for an Option Parcel will require the Vertical Developer to pay to SFMTA the Transportation Fee, and the Transportation Sustainability Fee under Planning Code sections 411A.1-411A.8 will not apply to the Project. The Transportation Plan attached to the DDA as *DDA Exh B3* and to the SFMTA Consent describes: (1) the manner in which each Vertical Developer will pay the Transportation Fee; (2) transportation projects in the vicinity of the FC Project Area that are eligible uses for Transportation Fees; and (3) procedures that SFMTA will use to allocate an amount equal to or greater than the Total Fee Amount (as defined in the Transportation Plan) for eligible transportation projects.

(ii) 28-Acre Site Jobs/Housing Equivalency Fee. Each Vertical DDA for an Option Parcel to be developed for office and other nonresidential uses will require the Vertical Developer to pay to MOHCD the fee described in this clause (the "28-Acre Site Jobs/Housing Equivalency Fee"), and the Jobs/Housing Linkage Program fee under Planning Code sections 413.1-413.11 will not apply to the Project. MOHCD will administer and use the 28-Acre Site Jobs/Housing Equivalency Fees for development of Affordable Housing Parcels in the SUD in accordance with the AHP.

(1) The 28-Acre Site Jobs/Housing Equivalency Fees for net additional gsf of office use is \$28/gsf in 2017, subject to annual calendar year escalation by the same percentage increase applied to the Jobs/Housing Linkage Program fee for office use under Section 409.

(2) The 28-Acre Site Jobs/Housing Equivalency Fees will be the same as the Jobs/Housing Linkage Program fees for other uses listed on the San Francisco Citywide Development Impact Fee Register published annually with annual escalation in accordance with Section 409.

(3) Because Parcel E4, Historic Building 12, and Historic Building 21 are not Option Parcels under the DDA, Vertical Developers will not be required to pay the 28-Acre Site Jobs/Housing Equivalency Fees for space on Parcel E4 that is developed and dedicated to arts and nonprofit uses and space available for reuse in Historic Building 12 and Historic Building 21 after rehabilitation.

(iii) Affordable Housing. Under the AHP, each Vertical Developer of a Market-Rate Rental Project on the 28-Acre Site must provide Inclusionary Units and each Vertical Developer of a Market-Rate Condo Project must pay the 28-Acre Site Affordable Housing Fee, all in accordance with the terms and conditions of the AHP. In consideration of these requirements, Planning Code sections 415.1-415.11 will not apply to the Project.

(iv) Child Care.

(1) Under *DDA § 7.16 (Child Care)*, one Vertical Developer in Phase 1 and one Vertical Developer in Phase 2 or Phase 3 must provide on-site child care facilities within the potential child care locations

identified on the map attached to the DDA as *DDA Exh B7 (Potential Child Care Locations)*. Developer will designate the two selected Development Parcels in the pertinent Phase Submittal. Each facility must have a capacity of a minimum of 50 children and be available for lease to a qualified nonprofit operator at a cost not to exceed actual operating and tenant improvement costs reasonably allocated to similar facilities in similar buildings, amortized over the term of the lease. In consideration of these requirements, subject to **Paragraph 2**, Planning Code sections 414.1-414.15 and sections 414A.1-414A.8 will not apply to the Project.

(2) If Developer proposes to eliminate one or both of the childcare facilities from the Project, Developer will be required to pay an amount equal to the Impact Fees that would have been collected from Vertical Developers of the designated sites under Planning Code sections 414.1-414.15 and sections 414A.1-414A.8 as a condition to the City's approval. Any Developer payments under this Paragraph will be at its sole, unreimbursable expense.

(v) Community Facilities. At the City's request, which must be made during the Phase Submittal process under the DDA, Developer must designate up to 15,000 gsf of ground floor space for community facilities consistent with the requirements and limitations of *DDA § 7.17 (Community Facilities)*. If requested, Developer must make contiguous space in any one building available for up to the full 15,000 gsf if that amount of nonresidential space (excluding the specific frontages that are designated in the Design for Development/SUD as "priority retail") is proposed in that Phase. But community facility space may be distributed among two or more buildings by the Parties' agreement. Developer, in its sole discretion, may designate the location of each of the community facilities.

(vi) School Facilities Fees. Each Vertical Developer must pay the school facilities impact fees imposed under state law (Educ. Code §§ 17620-17626, Gov't Code §§ 65970-65981, & Gov't Code §§ 65995-65998) at the rates in effect at the time of assessment.

(c) Utility Fees.

(i) SFPUC Wastewater Capacity Charge. Each Vertical Developer must pay the SFPUC Wastewater Capacity Charge in effect on the connection or other applicable date specified by SFPUC.

(ii) SFPUC Water Capacity Charge. Each Vertical Developer must pay the SFPUC Water Capacity Charge in effect on the connection or other applicable date specified by SFPUC.

(iii) AWSS. Developer will make a fair share contribution to the City's auxiliary water supply system (AWSS) consistent with the Infrastructure Plan. The City will determine the amount, timing, and procedures for payment consistent with the AWSS requirements of the Infrastructure Plan as a condition of approval to the Master Tentative Map for the Project.

(iv) Office Allocation.

(1) An Office Development Authorization from the Planning Commission under Planning Code sections 321 and 322 and approval from the Planning Department are not required for new office development on land under the jurisdiction of the Port Commission. However, new office development on land under the jurisdiction of the

Port Commission will count against the annual maximum limit under Planning Code section 321.

(2) For the purposes of the Project, the amount of office development located on the 28-Acre Site to be applied against the annual maximum set in Planning Code subsection 321(a)(1) will be based on the approved building drawings for each office development. But to provide for the orderly development of new office space citywide, office development for the Project will be subject to the schedule and criteria described in *DDA Exh E2 (Office Development on Port Land)*.

(d) Administrative Fees. Developer will pay timely to the City all Administrative Fees as and when due. If further environmental review is required for a Future Approval, Developer must reimburse the City or pay directly all reasonable and actual costs to hire consultants and perform studies necessary for the review. Before engaging any consultant or authorizing related expenditures under this provision, the City will consult with Developer in an effort to reach agreement on: (i) the scope of work to be performed; (ii) the projected costs associated with the work; and (iii) the consultant to be engaged to perform the work.

5.5. Limitations on City's Future Discretion.

(a) Extent of Limitation. In accordance with Section 5.3 (Changes to Existing City Laws and Standards), the City in granting the Project Approvals and, as applicable, vesting the Project through this Development Agreement is limiting its future discretion with respect to the Project and Future Approvals to the extent that they are consistent with the DA Requirements. For elements included in a request for a Future Approval that have not been reviewed or considered by the applicable City Agency previously (including additional details or plans for Horizontal Improvements or Vertical Improvements), the reviewing City Agency will exercise its discretion consistent with Planning Code section 249.79, the other DA Requirements and otherwise in accordance with customary practice.

(b) Consistency with Prior Approvals. In no event may a City Agency deny issuance of a Future Approval based on items that are consistent with the DA Requirements and matters previously approved. Consequently, the City will not use its discretionary authority to: (i) change the policy decisions reflected by the DA Requirements; or (ii) otherwise prevent or delay development of the Project as contemplated in the DA Requirements.

(c) ICA. Although Planning is not a signatory or consenting party to the ICA, the Planning Commission is familiar with its contents and agrees that Planning will comply with the ICA's procedural requirements to the extent applicable to Planning.

(d) When Future Discretion Is Unaffected. Nothing in this Section affects or limits the City's discretion with respect to proposed Future Approvals that seek a Material Modification not contemplated by the DA Requirements.

5.6. Public Health and Safety and Federal or State Law Exceptions.

(a) City's Exceptions.

(i) Each City Agency having jurisdiction over the Project has police power authority to exercise its discretion under Project Approvals and Transaction Documents in a manner that is consistent with the public health, safety, and welfare and at all times will retain its authority to take any action that is necessary to protect the physical health and safety of the public (the "**Public Health and Safety Exception**") or reasonably calculated and narrowly drawn to comply with

applicable changes in federal or state law affecting the physical environment (the “**Federal or State Law Exception**”).

(ii) Accordingly, a City Agency will have the authority to condition or deny a Future Approval or to adopt a Change to Existing City Laws and Standards applicable to the Project so long as the condition, denial, or Change to Existing City Laws and Standards is: (1) limited solely to addressing a specific and identifiable issue in each case required to protect the physical health and safety of the public; (2) required to comply with a federal or state law and in each case not for independent discretionary policy reasons that are inconsistent with the DA Requirements; or (3) applicable citywide or portwide, as applicable, to the same or similarly situated uses and applied in an equitable and nondiscriminatory manner.

(b) Meet and Confer; Right to Dispute.

(i) Except for emergency measures, upon request by Developer, the City will meet and confer with Developer in advance of the adoption of a measure under **Subsection 5.6(a)** (City’s Exceptions) to the extent feasible. But the City will retain sole discretion with regard to the adoption of any Changes to Existing City Laws and Standards that fall within the Public Health and Safety Exception or the Federal or State Law Exception.

(ii) Developer retains the right to dispute any City reliance on the Public Health and Safety Exception or the Federal or State Law Exception. If the Parties are not able to reach agreement on the dispute following a reasonable meet and confer period, then Developer or the City can seek a judicial relief with respect to the matter.

(c) Amendments to Comply with Federal or State Law Changes. If a change in federal or state law that becomes effective after the Reference Date materially and adversely affects either Party’s rights, benefits, or obligations under this Development Agreement, or would preclude or prevent either Party’s compliance with any provision of the DA Requirements to which it is a Party, the Parties may agree to amend this Development Agreement. Any amendment under this Subsection will be limited to the extent necessary to comply with the law, subject to **Subsection 5.6(a)** (City’s Exceptions), **Subsection 5.6(e)** (Effect on Project Performance), and **Section 11.1** (Amendment).

(d) Changes to Development Agreement Statute. The Parties have entered into this Development Agreement in reliance on the Development Agreement Statute in effect on the Reference Date. Any amendment to the Development Agreement Statute that would affect the interpretation or enforceability of this Development Agreement or increase either Party’s obligations, diminish Developer’s development rights, or diminish the City’s benefits will not apply to this Development Agreement unless the changed law or a final judgment mandates retroactive application of the amended statute.

(e) Effect on Project Performance.

(i) If Developer determines that adoption of any Change to Existing City Laws and Standards that fall within the Public Health and Safety Exception or the Federal or State Law Exception would make the Project infeasible due to material and adverse effects on construction, development, use, operation, or occupancy, then Developer may deliver a Requested Change Notice to the Port (with a copy to the City) in accordance with *DDA § 3.4 (Changes to Project after Phase I)* and *App ¶ A.5 (Notices)*.

(ii) If the City determines that adoption of any Change to Existing City Laws and Standards that fall within the Public Health and Safety Exception or the Federal or State Law Exception would have a material and adverse effect on the delivery of Horizontal Improvements or Associated Public Benefits required under the DDA or the Port's ability to meet future Project Payment Obligations under the Financing Plan, then the Port may deliver a Requested Change Notice to Developer (with a copy to the City) in accordance with *DDA § 3.4 (Changes to Project after Phase 1)* and *App ¶ A.5 (Notices)*.

(iii) The Requested Change Notice will initiate the negotiation period under *DDA § 3.4(b) (Effect of Requested Change Notice)*, subject to extension by agreement, during which obligations under this Development Agreement will be tolled except to the extent the Parties expressly agree otherwise.

(iv) If the Port and Developer agree on changes to Transaction Documents during the negotiation period under *DDA § 3.4(b) (Effect of Requested Change Notice)*, the City will reasonably consider conforming changes to this Development Agreement and Project Approvals to the extent required.

(v) If at the end of the negotiation period under *DDA § 3.4(b) (Effect of Requested Change Notice)*, the Parties have failed to agree and obtain amendments to the Transaction Documents, and the Port is entitled to exercise its termination right under *DDA § 12.4(b) (Port Election to Terminate)* as to any portion of the FC Project Area, then this Development Agreement will terminate to the same extent as specified in **Section 2.2 (DA Term)**.

5.7. Future Approvals.

(a) No Actions to Impede. Except and only as required under **Section 5.6** (Public Health and Safety and Federal or State Law Exceptions), the City will take no action under this Development Agreement or impose any condition on the Project that would conflict with the DA Requirements. An action taken or condition imposed will be deemed to be in conflict with the DA Requirements if the actions or conditions result in the occurrence of one or more of the circumstances identified in **Subsection 5.3(b)** (Circumstances Causing Conflict).

(b) Expeditious Processing. City Agencies must process: (i) with due diligence all submissions and applications by Developer on all permits, approvals, and construction or occupancy permits for the Project; and (ii) any Future Approval requiring City action in accordance with **Section 5.8** (Criteria for Future Approvals) and in accordance with the ICA with respect to Horizontal Improvements and the SUD and Design for Development for Vertical Improvements.

5.8. Criteria for Future Approvals.

(a) Standard of Review Generally. The City:

(i) must not disapprove any application for a Future Approval based on any item or element that is consistent with the DA Requirements;

(ii) must consider each application for a Future Approval in accordance with its customary practices, subject to the DA Requirements;

(iii) may subject a Future Approval to any condition that is necessary to bring the Future Approval into compliance with the DA Requirements; and

(iv) will in no event be obligated to approve an application for a Future Approval that would effect a Material Change.

(b) Denial. If the City denies any application for a Future Approval that implements a portion of the Project as contemplated by the Project Approvals and the Transaction Documents, the City must specify in writing the reasons for denial and suggest modifications required for approval of the application. Any specified modifications must be consistent with the DA Requirements. The City must approve the re-submitted application if it: (i) corrects or mitigates, to the City's reasonable satisfaction, the stated reasons for the earlier denial in a manner that is consistent and compliant with the DA Requirements; and (ii) does not include new or additional information or materials that give the City a reason to object to the application under the standards in this Development Agreement.

(c) Public ROWs. The Parties agree that the Project Approvals include the City's and the Port's approvals of Public ROW widths which will be consistent with the City's policy objective to ensure street safety for all users while maintaining adequate clearances for utilities and vehicles, including fire apparatus vehicles.

(d) Effect of Final EIR.

(i) The Parties acknowledge that: (1) the Final EIR prepared for development of the FC Project Area and the Illinois Street Parcels complies with CEQA; (2) the Final EIR contains a thorough analysis of the Project and possible alternatives; (3) the City adopted the Mitigation Measures in the MMRP to eliminate or reduce to an acceptable level certain adverse environmental impacts of the Project; and (4) the Board of Supervisors adopted CEQA Findings, including a statement of overriding considerations in connection with the Project Approvals, pursuant to CEQA Guidelines section 15093, for those significant impacts that could not be mitigated to a less than significant level.

(ii) For the reasons listed above, the City: (1) does not intend to conduct any further environmental review or require additional mitigation under CEQA for any aspect of the Project vested under this Development Agreement, and (ii) will rely on the Final EIR to the greatest extent possible in accordance with Applicable Laws in all future discretionary actions related to the Project.

(iii) Developer acknowledges that: (1) nothing in this Agreement prevents or limits the City's discretion to conduct additional environmental review in connection with any Future Approvals for construction, including some of the Associated Public Benefits, to the extent required by Applicable Laws, including CEQA; and (2) Changes to Existing City Laws and Standards or changes to the Project may require additional environmental review and additional Mitigation Measures.

(e) Effect of General Plan Consistency Findings.

(i) In Motion No. XXXX adopting General Plan Consistency Findings for the Project, the Planning Commission specified that the findings also would support all Future Approvals that are consistent with the Project Approvals. To the maximum extent practicable, Planning will rely exclusively on these General Plan Consistency Findings when processing and reviewing all Future Approvals, including schematic review under the SUD, proposed Subdivision Maps, and any other actions related to the Project requiring General Plan determinations.

(ii) Developer acknowledges that these General Plan Consistency Findings do not limit the City's discretion in connection with any Future Approval that requires new or revised General Plan consistency findings because of amendments to any Project Approval or Material Changes.

(f) Subdivision Maps. The Director of Public Works' approval of a Tentative Map for a Phase will extend the term of the map to the end of the DDA Term. But the term of a Tentative Map that is approved less than five years before the DDA Term ends will be extended for the maximum period permitted under Subdivision Code section 1333.3(b).

5.9. Public Financing.

(a) Financing Districts. The Project Approvals include formation of Sub-Project Area G-2, Sub-Project Area G-3, Sub-Project Area G-4, and the IRFD and Future Approval of the formation of the CFDs as described in the Financing Plan. The City agrees not to: (i) initiate proceedings for any new or increased special tax or special assessment that is targeted or directed at the 28-Acre Site except as provided in the Financing Plan; or (ii) take any other action that is inconsistent with the Financing Plan or the Tax Allocation MOU without Developer's consent.

(b) Limitation on New Districts. The City will not form any new financing or assessment district over any portion of the 28-Acre Site unless the new district applies to similarly-situated property citywide or Developer gives its prior written consent to or requests the proceedings.

(c) Permitted Assessments. Nothing in this Development Agreement limits the City's ability to impose new or increased taxes or special assessments, any equivalent or substitute tax or assessment, or assessments for the benefit of business improvement districts or community benefit districts formed by a vote of the affected property owners.

6. NO DEVELOPMENT OBLIGATION

This Development Agreement does not obligate Developer to begin or complete development of any portion of the Project or impose a schedule or a phasing plan for Developer to start or complete development. But the Parties have entered into this Development Agreement as one of the Transaction Documents that implements the DDA, which includes a Phasing Plan and a Schedule of Performance for horizontal development. The Parties have entered into this Development Agreement, and the Port and Developer have agreed to the Schedule of Performance and Phasing Plan in the DDA, with the express intent of avoiding a result similar to that in *Pardee Construction Co. v. City of Camarillo* (1984) 37 Cal.3d 465.

7. MUTUAL OBLIGATIONS

7.1. Cooperation by Parties.

(a) Generally. The Parties agree to cooperate with one another to expeditiously implement the Project in accordance with the Project Approvals and Transaction Documents and to undertake and complete all actions or proceedings reasonably necessary or appropriate to ensure that the objectives of the Project Approvals and Transaction Documents are implemented. Nothing in this Development Agreement obligates the City to incur any costs except Other City Costs or costs that Developer must reimburse through the payment of Administrative Fees or otherwise.

(b) City.

(i) Through the procedures in the DDA and the ICA, the Port and the City have agreed to process Developer's submittals and applications for horizontal development diligently and to facilitate an orderly, efficient approval process that avoids delay and redundancies. The SUD specifies procedures for design review of vertical development.

(ii) The City, acting through the Assessor, the Treasurer-Tax Collector, and the Controller, has entered into the Tax Allocation MOU with the

Port, which establishes procedures to implement provisions of the Financing Documents that apply to future levy, collection, and allocation of Mello-Roos Taxes, Tax Increment, and Housing Tax Increment and to the issuance of Bonds for use at the 28-Acre Site and any Affordable Housing Parcel in the AHP Housing Area.

(c) Developer. Developer agrees to provide all documents, applications, plans, and other information necessary for the City to comply with its obligations under the Transaction Documents as reasonably requested with respect to any Developer submittal or application.

7.2. Other Regulators. The Port's obligations with respect to Regulatory Approvals that Developer and Vertical Developers must obtain from Other Regulators for Horizontal Improvements and Vertical Improvements are addressed in *DDA § 15.3 (Regulatory Approvals)* and *VDDA § 16.4 (Regulatory Approvals)*, respectively.

7.3. Third-Party Challenge.

(a) Effect. The filing of any Third-Party Challenge will not delay or stop the development of the Project or the City's issuance of Future Approvals unless the third party obtains a court order preventing the activity.

(b) Cooperation in Defense. The Parties agree to cooperate in defending any Third-Party Challenge to any City discretionary action on the Project. The City will notify Developer promptly after being served with any Third-Party Challenge filed against the City.

(c) Developer Cooperation. Developer at its own expense will assist and cooperate with the City in connection with any Third-Party Challenge. The City Attorney in his sole discretion may use legal staff of the Office of the City Attorney with or without the assistance of outside counsel in connection with defense of the Third-Party Challenge.

(d) Cost Recovery. Developer must reimburse the City for its actual defense costs, including the fees and costs of legal staff and any consultants. Subject to further agreement, the City will provide Developer with monthly invoices for all of the City's defense costs.

(e) Developer's Termination Option. Instead of bearing the defense costs of any Third-Party Challenge, Developer may terminate this Development Agreement (and the DDA under *DDA § 12.6(a) (Mutual Termination Right)*) by delivering a notice to the City, with a copy to the Port, specifying a termination date at least 10 days after the notice is delivered. If Developer elects this option, the Parties will promptly cooperate to file a request for dismissal. Developer's and the City's obligations to cooperate in defending the Third-Party Challenge, and Developer's responsibility to reimburse the City's defense costs, will end on the Termination Date, but Developer must indemnify the City from any other liability caused by the Third-Party Challenge, including any award of attorneys' fees or costs.

(f) Survival. The indemnification, reimbursement, and cooperation obligations under this Section will survive termination under **Subsection 7.3(e)** (Developer's Termination Option) or any judgment invalidating any part of this Development Agreement.

7.4. Estoppel Certificates.

(a) Contents. Either Party may ask the other Party to sign an estoppel certificate as to the following matters to the best of its knowledge:

(i) This Development Agreement is in full force and effect as a binding obligation of the Parties.

(ii) This Development Agreement has not been amended, or if amended, identifying the amendments or modifications and stating their date and nature.

(iii) The requesting Party is not in default in the performance of its obligations under this Development Agreement, or is in default in the manner specified.

(iv) The City's findings in the most recent Annual Review under **Article 8** (Periodic Compliance Review).

(b) Response Period. A Party receiving a request under this Section must execute and return the completed estoppel certificate within 30 days after receiving the request. A Party's failure to either execute and return the completed estoppel certificate or provide a detailed written explanation for its failure to do so will be an Event of Default following notice and opportunity to cure as set forth in **Section 9.1** (Meet and Confer).

(c) Reliance. Each Party acknowledges that Interested Persons may rely on an estoppel certificate provided under this Section. At an Interested Person's request, the City will provide an estoppel certificate in recordable form, which the Interested Person may record in the Official Records at its own expense.

8. PERIODIC COMPLIANCE REVIEW

8.1. Initiation or Waiver of Review.

(a) Statutory Provision. Under section 65865.1 of the Development Agreement Statute, the Planning Director must conduct annually a review of developers' good faith compliance with approved development agreements (each, an "**Annual Review**"). The Planning Director will follow the process set forth in this Article and in Chapter 56 for each Annual Review.

(b) No Waiver. The City's failure to timely complete an Annual Review of Developer's good faith compliance with this Development Agreement in any year during the DDA Term will not waive the City's right to do so at a later date.

(c) Planning Director's Discretion. The DA Ordinance waives certain provisions of compliance review procedures specified in Chapter 56 and grants discretion to the Planning Director with respect to Annual Reviews as follows.

(i) For administrative convenience, the Planning Director may designate the annual date when each Annual Review of Developer's compliance will begin, which may be the same or different from the date specified in Chapter 56 (in either case, the "**Annual Review Date**").

(ii) The Planning Director may elect to forego an Annual Review for any of the following reasons: (1) before the designated Annual Review Date, Developer reports that no significant construction work occurred on the FC Project Area during that year; (2) either Developer or the Port has initiated procedures to terminate the DDA; or (3) the Planning Director otherwise decides an Annual Review is unnecessary.

8.2. Required Information from Developer.

(a) Contents of Report. Under **Subsection 8:1(c)** (Planning Director's Discretion), Developer will submit a letter to the Planning Director setting forth in

reasonable detail the status of Developer's compliance with its obligations under this Development Agreement and the other Transaction Documents with respect to delivery of the public benefits described in **Section 4.1** (Public Benefits). Developer must provide the requested letter within 60 days after each Annual Review Date during the DA Term, unless the Planning Director specifies otherwise. The letter to the Planning Director must include appropriate supporting documentation, which may include an estoppel certificate from the Port in a form acceptable to the Port, the Planning Director, and Developer.

(b) **Standard of Proof.** An estoppel certificate from the Port, if submitted with Developer's letter, will be conclusive proof of Developer's compliance with specified obligations under the DDA and be binding on the City. Each Other City Agency responsible for monitoring and enforcing any part of Developer's compliance with the Vested Elements and its obligations under **Article 4** (Developer Obligations) and **Article 7** (Mutual Obligations) must confirm Developer's compliance or provide the Planning Director with a statement specifying the details of noncompliance. Developer has the burden of proof to demonstrate compliance by substantial evidence of matters not covered in the Port's estoppel certificate or any Other City Agency's letter.

8.3. City Review. The Annual Review will include determining Developer's compliance with **Article 4** (Developer Obligations) and **Article 7** (Mutual Obligations) and whether an Event of Default or a Material Breach has occurred and is continuing under the DDA.

8.4. Certificate of Compliance. Within 60 days after Developer submits its letter, the Planning Director will review the information submitted by Developer and all other available evidence on Developer's compliance with **Article 4** (Developer Obligations) and **Article 7** (Mutual Obligations). The Planning Director must provide copies to Developer of any evidence provided by sources other than Developer promptly after receipt. The Planning Director will summarize his determination as to each item in a letter to Developer. If the Planning Director finds Developer in compliance, then the Planning Director will follow the procedures in Administrative Code section 56.17(b).

8.5. Public Hearings. If the Planning Director finds Developer is not in compliance or that a public hearing is in the public interest, or a member of the Planning Commission or the Board of Supervisors requests a public hearing on Developer's compliance, the Planning Director will follow the procedures in Administrative Code section 56.17(c), and the City may enforce its rights and remedies under this Development Agreement and Chapter 56.

8.6. Effect on Transferees. If Developer has Transferred its rights and obligations for any Phase in compliance with the DDA, then each Transferee must provide a separate letter reporting compliance for itself and for each Vertical Developer in the Phase. The procedures, rights, and remedies under this Article and Chapter 56 will apply separately to Developer and any Transferee, each with respect only to obligations attaching to each Phase for which it is obligated. This requirement does not apply to Vertical Developers.

8.7. Notice and Cure Rights.

(a) **Amended Rights.** This Section reflects an amendment to Chapter 56 in the DA Ordinance that is binding on the Parties and all other persons affected by this Development Agreement.

(b) **Required Findings.** If the Planning Commission makes a finding of noncompliance, or if the Board of Supervisors overrules a Planning Commission finding of compliance, in a public hearing under Administrative Code section 56.17(c), then the Planning Commission or the Board of Supervisors, as applicable, must specify to the Breaching Party in reasonable detail how it failed to comply and specify a reasonable time for the Breaching Party to cure its noncompliance.

(c) Cure Period. The Breaching Party must have a reasonable opportunity to cure its noncompliance before the City begins proceedings to modify or terminate this Development Agreement under Administrative Code section 56.17(f) or section 56.18. The cure period under this Section must not be less than 30 days and must in any case provide a reasonable amount of time for the Breaching Party to effect a cure. City proceedings to modify or terminate this Development Agreement under Administrative Code section 56.17(f) or section 56.18 must not begin until the specified cure period has expired.

8.8. No Limitation on City's Rights After Event of Default. The City's rights and powers under this Article are in addition to, and do not limit, the City's rights to terminate or take other action under this Development Agreement after an event of Event of Default by Developer.

9. DEFAULTS AND REMEDIES

9.1. Meet and Confer. Before sending a notice of default under **Section 9.2** (Events of Default), the Aggrieved Party must follow the process in this Section.

(a) Good Faith Effort. The Aggrieved Party must make a written request that the Breaching Party meet and confer to discuss the alleged breach within three business days after the request is delivered. If, despite the Aggrieved Party's good faith efforts, the Parties have not met to confer within seven business days after the Aggrieved Party's request, the Aggrieved Party will be deemed to have satisfied the meet and confer requirement.

(b) Opportunity to Cure. If the Parties meet in response to the Aggrieved Party's request, the Aggrieved Party must allow a reasonable period of not less than 10 days for the Breaching Party to respond to or cure the alleged breach.

(c) Exclusions. The meet and confer requirement does not apply to a Breaching Party's failure to pay amounts when due under this Development Agreement or in circumstances where delaying the Aggrieved Party's right to send a notice of default under **Section 9.2** (Event of Default) would impair the Aggrieved Party's rights under this Development Agreement.

9.2. Events of Default.

(a) Specific Events. The occurrence of any of the following will be an Event of Default under this Development Agreement.

(i) A Breaching Party fails to make any payment when due if not cured within 30 days after the Aggrieved Party delivers notice of nonpayment.

(ii) A Breaching Party fails to satisfy any other material obligation under this Development Agreement when required if not cured within 60 days after the Aggrieved Party delivers notice of noncompliance or if the breach cannot be cured within 60 days, the Breaching Party fails to take steps to cure the breach within the 60-day period and diligently complete the cure within a reasonable time.

(b) Cross-Defaults. *DDA § 5.7 (Defaults and Breaches)* will apply to Events of Default by Developer and any finding of Developer's noncompliance under this Development Agreement.

(c) Certain Payment Defaults. Developer or the applicable Transferee will have a complete defense if the City alleges an Event of Default in Developer's obligation to pay Other City Costs in the following circumstances.

(i) If Developer or the applicable Transferee made a payment to the Port that included the allegedly unpaid Other City Costs, but the Port failed to disburse the portion of the amount payable to the aggrieved City Agency.

(ii) If a City Agency claiming nonpayment did not submit a timely statement for reimbursement of the claimed Other City Costs under ICA § 3.6 (*Cost Recovery*).

9.3. Remedies for Events of Default.

(a) Specific Performance. After an Event of Default under this Development Agreement, the Aggrieved Party may file an action and seek injunctive relief against or specific performance by the Breaching Party. Nothing in this Section requires an Aggrieved Party to delay seeking injunctive relief if it believes in good faith that postponement would cause it to suffer irreparable harm.

(b) Limited Damages. The Parties agree as follows.

(i) Monetary damages are an inappropriate remedy for any Event of Default other than a payment Event of Default under this Development Agreement.

(ii) The actual damages suffered by an Aggrieved Party under this Development Agreement for any Event of Default other than a payment Event of Default would be extremely difficult and impractical to fix or determine.

(iii) Remedies at law other than monetary damages and equitable remedies are particularly appropriate for any Event of Default other than a payment Event of Default under this Development Agreement. Except to the extent of actual damages, neither Party would have entered into this Development Agreement if it were to be liable for consequential, punitive, or special damages under this Development Agreement.

(c) Exclusive Remedy for Material Breach under DDA. For any Material Breach that results in the termination of the DDA in whole or in part, this Development Agreement will automatically and concurrently terminate on the Termination Date as to the affected portion of the Project.

(d) City Processing. The City may suspend action on any Developer requests for approval or take other actions under this Development Agreement during any period in which payments from Developer are past due.

(e) Port's Rights if Not Delivered. The Port has rights and remedies under the DDA and Vertical DDAs to secure the delivery of public benefits under DDA § 12.2(c) (*Material Breaches by Developer*), DDA § 15.4 (*Substantial Completion*), DDA § 15.5 (*Final Completion*), and VDDA § 14.2 (*Default by Vertical Developer*), which variously entitle the Port to withhold completeness determinations, declare Developer to be in Material Breach of the DDA, and declare a Vertical Developer Default under the applicable Vertical DDA on specified conditions.

9.4. Changes to Existing City Laws and Standards. Under section 65865.4 of the Development Agreement Statute, either Party may enforce this Development Agreement regardless of any Changes to Existing City Laws and Standards unless this Development Agreement has been terminated by agreement under Article 11 (Amendment or Termination), as a remedy for an Event of Default under Subsection 9.3(c) (Exclusive Remedy for Material Breach under DDA), by termination proceedings under Chapter 56, or by termination of the DDA.

10. ASSIGNMENTS; LENDER RIGHTS

10.1. Successors' Rights. Applicable provisions of this Development Agreement will apply to Developer's and Vertical Developers' successors (each, a "DA Successor") in accordance with procedures under *DDA art. 6 (Transfers)* and *VDDA § 18.3 (Transfers)*. Each DA Successor will be assigned specified rights and obligations under the Development Agreement by an Assignment and Assumption Agreement in the form of *DDA Exh D10* or *VDDA Exh XX* (each, a "DA Assignment"). Each DA Assignment will be recorded in accordance with the DDA or Vertical DDA, as applicable. Each DA Assignment will provide for Developer or the pertinent Vertical Developer to be released from obligations under this Development Agreement to the extent assumed by the DA Successor.

10.2. Effect of Assignment. On the Reference Date of a DA Assignment, the following will apply.

(a) DA Successor as Party. The DA Successor will have all rights assigned and obligations assumed under the DA Assignment and will be deemed a Party to this Development Agreement to the extent of its rights and obligations.

(b) Direct Enforcement Against Successors. The City will have the right to enforce directly against any DA Successor every obligation that it assumed under its DA Assignment. A DA Successor's claim that its default is caused by Developer's or a Vertical Developer's, as applicable, breach of any duty or obligation to the DA Successor arising out of the DA Assignment or other related transaction will not be a valid defense to enforcement by the City.

(c) Partial Developer Release. Developer will remain liable for obligations under this Development Agreement only to the extent that Developer retains liability under the applicable DA Assignment. Developer will be released from any prospective liability or obligation, and its DA Successor will be deemed to be subject to all future rights and obligations of Developer under this Development Agreement to the extent specified in the DA Assignment.

(d) Partial Vertical Developer Release. A Vertical Developer will remain liable for obligations under this Development Agreement only to the extent that it retains liability under the applicable DA Assignment. A Vertical Developer will be released from any prospective liability or obligation, and its DA Successor will be deemed to be subject to all future rights and obligations of the Vertical Developer, under this Development Agreement to the extent specified in the DA Assignment.

(e) No Cross-Default. An Event of Default under this Development Agreement, any Vertical DDA, or any Parcel Lease, as applicable, by a DA Successor (in each case, a "Successor Default") with respect to any part of the Project will not be an Event of Default by Developer with respect to any other part of the Project. The occurrence of a Successor Default will not entitle the City to terminate or modify this Development Agreement with respect to any part of the Project that is not the subject of the Successor Default.

10.3. Applicable Lender Protections Control Lender Rights.

(a) Rights to Encumber Horizontal Interests. Developer, Vertical Developers, and DA Successors have or will have the right to encumber their real property interests in and development rights at the FC Project Area in accordance with the Applicable Lender Protections, which are incorporated by this reference.

(b) Lender's Rights and Obligations. The rights and obligations of a Lender under this Development Agreement will be identical to its rights and obligations under the Applicable Lender Protections.

(c) City's Rights and Obligations.

(i) The City's obligations with respect to a Lender, including any Successor by Foreclosure, will be identical to those of the Port under the Applicable Lender Protections.

(ii) The City will reasonably cooperate with the request of a Lender or Successor by Foreclosure to provide further assurances to assure the Lender or Successor by Foreclosure of its rights under this Development Agreement, which may include execution, acknowledgement, and delivery of additional documents reasonably requested by a Lender confirming the applicable rights and obligations of the City and Lender with respect to a Mortgage.

(iii) No breach by Developer, a Vertical Developer, or a DA Successor of any obligation secured by a Mortgage will defeat or otherwise impair the Parties' rights or obligations under this Development Agreement.

(d) Successor by Foreclosure. A Successor by Foreclosure will succeed to all of the rights and obligations under and will be deemed a Party to this Development Agreement to the extent of the defaulting Borrower's rights and obligations.

10.4. Requests for Notice.

(a) Lender Request. If the City receives a written request from a Lender, or from Developer or a DA Successor requesting on a Lender's behalf, a copy of any notice of default that the City delivers under this Development Agreement that provides the Lender's address for notice, then the City will deliver a copy to the Lender concurrently with delivery to the Breaching Party. The City will have the right to recover its costs to provide notice from the Breaching Party or the applicable Lender.

(b) City Request. This provision is the City's request under California Civil Code section 2924 that a copy of any notice of default or notice of sale under any Mortgage be delivered to City at the address shown on the cover page of this Development Agreement.

10.5. No Third-Party Beneficiaries. Except for DA Successors with vested rights at the FC Project Area and to the extent of any Interested Person's rights, the City and Developer do not intend for this Development Agreement to benefit or be enforceable by any other persons. More specifically, this Development Agreement has no unspecified third-party beneficiaries.

11. AMENDMENT OR TERMINATION

11.1. Amendment. This Development Agreement may be amended only by the Parties' agreement or as specifically provided otherwise in this Development Agreement, the Development Agreement Statute, or Chapter 56. The Port Commission, the Planning Commission, and the Board of Supervisors must all approve any amendment that would be a Material Change. Following an assignment, the City and Developer or any DA Successor may amend this Development Agreement as it affects Developer, the DA Successor, or the portion of the FC Project Area to which the rights and obligations were assigned without affecting other portions of the FC Project Area or other Vertical Developers and DA Successors. The Planning Director may agree to any amendment to this Development Agreement that is not a Material Change, subject to the approval of any City Agency that would be affected by the amendment.

11.2. Termination. This Development Agreement may be terminated in whole or in part by: (a) the Parties' agreement or as specifically provided otherwise in this Development Agreement, the Development Agreement Statute, or Chapter 56; or (b) by termination of the DDA as provided by **Section 2.2 (DA Term).**

12. DEVELOPER REPRESENTATIONS AND WARRANTIES

12.1. Due Organization and Standing. Developer represents that it has the authority to enter into this Development Agreement. Developer is a Delaware limited liability company duly organized and validly existing and in good standing under the laws of Delaware. Developer has all requisite power to own its property and authority to conduct its business in California as presently conducted.

12.2. Valid Execution. Developer represents and warrants that it is not a party to any other agreement that would conflict with Developer's obligations under this Development Agreement and it has no knowledge of any inability to perform its obligations under this Development Agreement. Developer's execution and delivery of this Development Agreement have been duly and validly authorized by all necessary action. This Development Agreement will be a legal, valid, and binding obligation of Developer, enforceable against Developer on its terms.

12.3. Other Documents. To the current, actual knowledge of Jack Sylvan, after reasonable inquiry, no document that Developer furnished to the City in relation to this Development Agreement, nor this Development Agreement, contains any untrue statement of material fact or omits any material fact that makes the statement misleading under the circumstances under which the statement was made.

12.4. No Bankruptcy. Developer represents and warrants to the City that Developer has neither filed nor is the subject of any petition under federal bankruptcy law or any federal or state insolvency laws or laws for composition of indebtedness or for the reorganization of debtors, and, to the best of Developer's knowledge, no action is threatened.

13. CITY REQUIREMENTS

13.1. Nondiscrimination in Contracts and Property Contracts (Admin. Code ch. 12B, ch. 12C).

In the performance of the Development Agreement, Developer covenants and agrees not to discriminate against or segregate any person or group of persons on any basis listed in section 12955 of the California Fair Employment and Housing Act (Calif. Gov't Code §§ 12900-12996), or 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, AIDS/HIV status, weight, height, association with members of protected classes, or in retaliation for opposition to any forbidden practices against any employee of, any City employee working with, or applicant for employment with Developer, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in the business, social, or other establishment or organization operated by Developer.

13.2. Prevailing Wages and Working Conditions in Construction Contracts (Calif. Labor Code §§ 1720 et seq.; Admin. Code § 6.22(e)).

(a) Labor Code Provisions. Certain contracts for work at the Project Site may be public works contracts if paid for in whole or part out of public funds, as the terms "public work" and "paid for in whole or part out of public funds" are defined in and subject to exclusions and further conditions under California Labor Code sections 1720-1720.6.

(b) Requirement. Developer agrees that all workers performing labor in the construction of public works or Improvements for the City under the DDA will be:
(i) paid the Prevailing Rate of Wages as defined in Administrative Code section 6.22 and established under Administrative Code section 6.22(e); and (ii) subject to the hours and days of labor provisions in Administrative Code section 6.22(f). All contracts or subcontracts for public works or Improvements for the City must require that all persons

performing labor under the contract be paid the Prevailing Rate of Wages for the labor so performed, as provided by Administrative Code section 6.22(e). Any contractor or subcontractor performing a public work or constructing Improvements must make certified payroll records and other records required under Administrative Code section 6.22(e)(6) available for inspection and examination by the City with respect to all workers performing covered labor. For current Prevailing Wage Rates, see the OLSE website or call the OLSE at 415-554-6235.

13.3. Tropical Hardwood and Virgin Redwood Ban (Env. Code ch. 8).

The City urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood, or virgin redwood wood product, except as expressly permitted by the application of Environment Code sections 802(b) and 803(b). Developer agrees that, except as permitted by the application of Environment Code sections 802(b) and 803(b), Developer will not use or incorporate any tropical hardwood or virgin redwood in the construction of the Improvements or provide any items to the construction of the Project, or otherwise in the performance of the DDA that are tropical hardwoods, tropical hardwood wood products, virgin redwood, or virgin redwood wood products. If Developer fails to comply in good faith with any of Environment Code chapter 8, Developer will be liable for liquidated damages for each violation in any amount equal to the contractor's net profit on the contract, or 5% of the total amount of the contract dollars, whichever is greater.

13.4. Conflicts of Interest (Calif. Gov't Code §§ 87100 et seq. & §§ 1090 et seq.; Charter § 15.103; Campaign and Gov't Conduct Code art. III, ch. 2).

Through its execution of this DA, Developer acknowledges that it is familiar with Charter section 15.103, Campaign and Governmental Conduct Code article III, chapter 2, and California Government Code sections 87100 et seq. and sections 1090 et seq., certifies that it does not know of any facts that would violate these provisions and agrees to notify the City if Developer becomes aware of any such fact during the DA Term.

13.5. Sunshine (Calif. Gov't Code §§ 6250 et seq.; Admin. Code ch. 67).

Developer understands and agrees that under the California Public Records Act (Calif. Gov't Code §§ 6250 et seq.) and the City's Sunshine Ordinance (Admin. Code ch. 67), the Transaction Documents and all records, information, and materials that Developer submits to the City may be public records subject to public disclosure upon request. Developer may mark materials it submits to the City that Developer in good faith believes are or contain trade secrets or confidential proprietary information protected from disclosure under public disclosure laws, and the City will attempt to maintain the confidentiality of these materials to the extent provided by law. Developer acknowledges that this provision does not require the City to incur legal costs in any action by a person seeking disclosure of materials that the City received from Developer.

13.6. Contribution Limits-Contractors Doing Business with the City (Campaign and Gov't Conduct Code § 1.126).

(a) Application. Campaign and Governmental Conduct Code section 1.126 ("Section 1.126") applies only to agreements subject to approval by the Board of Supervisors, the Mayor, any other elected officer, or any board on which an elected officer serves. Section 1.126 prohibits a person who contracts with the City for the sale or lease of any land or building to or from the City from making any campaign contribution to: (i) any City elective officer if the officer or the board on which that individual serves or a state agency on whose board an appointee of that individual serves must approve the contract; (ii) a candidate for the office held by the individual; or (iii) a committee controlled by the individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for the contract or six months after the date the contract is approved.

(b) Acknowledgment. Through its execution of this DA, Developer acknowledges the following.

(i) Developer is familiar with Section 1.126.

(ii) Section 1.126 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.

(iii) If applicable, the prohibition on contributions applies to:
(1) Developer; (2) each member of Developer's governing body; (3) Developer's chairperson, chief executive officer, chief financial officer, and chief operating officer; (4) any person with an ownership interest of more than 20% in Developer; (5) any subcontractor listed in the contract; and (6) any committee, as defined in Campaign and Governmental Conduct Code section 1.104, that is sponsored or controlled by Developer.

13.7. Implementing the MacBride Principles - Northern Ireland (Admin. Code ch. 12F).

The City urges companies doing business in Northern Ireland to move towards resolving employment inequities and encourage them to abide by the MacBride Principles. The City urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

14. MISCELLANEOUS

The following provisions apply to this Development Agreement in addition to those in **Appendix Part A** (Standard Provisions and Rules of Interpretation).

14.1. Addresses for Notice. Notices given under this Development Agreement are governed by *App § A.5 (Notices)*. Notice addresses are listed below.

To the City:

John Rahaim
Director of Planning
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94102

With a copy to:

Dennis J. Herrera, Esq.
City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Attn: _____

To Developer:

FC Pier 70, LLC
949 Hope Street, Suite 200
Los Angeles, CA 90015
Attention: Mr. Kevin Ratner

With a copy to:

Forest City Enterprises, Inc.
50 Public Square
1360 Terminal Tower
Cleveland, OH 44113
Attention: Amanda Seewald, Esq.

14.2. Limitations on Actions. Administrative Code section 56.19 establishes certain limitations on actions to challenge final decisions made under Chapter 56, as follows:

(a) Board of Supervisors. Any action challenging a Board of Supervisors decision under Chapter 56 must be filed within 90 days after the decision is finally approved.

(b) Planning. Any action challenging any of the following Planning decisions under Chapter 56 must be filed within 90 days after any of the following becomes final: (i) a Planning Director decision under Administrative Code section 56.15(d)(3); or (ii) a Planning Commission resolution under section 56.17(e).

14.3. Attachments. The attached Appendix excerpts, Port Consent, SFMTA Consent, SFPUC Consent, and exhibits listed below are incorporated in and are a part of this Development Agreement.

DA Exhibit A: Legal description and Site Plan
DA Exhibit B: Project Approvals
DA Exhibit C: Chapter 56 as of the Reference Date

Developer and the City have executed this Development Agreement as of the last date written below.

DEVELOPER:

FC PIER 70, LLC,
a Delaware limited liability company

By: _____
Kevin Ratner,
Vice President

Date: _____

CITY:

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation

By: _____
John Rahaim
Director of Planning

Date: _____

Authorized by Ordinance No. _____
on [effective date].

APPROVED AND AGREED:

By: _____
Naomi Kelly
City Administrator

By: _____
Mohammad Nuru,

Director of Public Works

APPROVED AS TO FORM:

Dennis J. Herrera, City Attorney

By: _____
Joanne Sakai
Deputy City Attorney

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APPENDIX EXCERPT
(To be inserted)

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CONSENT TO DEVELOPMENT AGREEMENT
Port Commission

The Port Commission of the City and County of San Francisco has reviewed the Development Agreement between the City and Developer relating to the proposed Project to which this Consent to Development Agreement is attached and incorporated. Capitalized terms used in this Port Consent have the meanings given to them in the Development Agreement or the Appendix.

By executing this Port Consent, the undersigned confirms the following.

1. The Port Commission, at a duly noticed public hearing, adopted the CEQA Findings, including the Statement of Overriding Considerations, and the MMRP, including Mitigation Measures for which the Port is the responsible agency.
2. At that meeting, the Port Commission considered and consented to the Development Agreement as it relates to matters under Port jurisdiction and delegated to the Port Director or her designee any future Port approvals under the Development Agreement, subject to Applicable Laws, including the City Charter.
3. The Port Commission directed the Chief Harbor Engineer to: (a) require evidence that Developer has paid any Impact Fees that are required as a condition to issuing any Construction Permit for horizontal development; (b) require evidence that Vertical Developers have paid all Impact Fees that are required as a condition to issuing any Construction Permit for vertical development; and (c) report promptly to the Planning Director the location, date, and amount of office space approved for construction in any Construction Permit as provided in *DDA Exh E2 (Office Development on Port Land)*.
4. The Port Commission also authorized Port staff to take any measures reasonably necessary to assist the City in implementing the Development Agreement in accordance with Port Resolution No. _____.

[Remainder of page intentionally left blank.]

By authorizing the Port Director to execute this Port Consent, the Port Commission affirms that it does not intend to limit, waive, or delegate in any way its exclusive authority or rights under Applicable Port Law.

PORT:

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

By: _____
Elaine Forbes,
Executive Director

Date: _____

Authorized by Port Resolution No. _____
and Board of Supervisors Resolution No. _____.

APPROVED AS TO FORM:
Dennis J. Herrera, City Attorney

By: _____
Eileen Malley
Port General Counsel

[Remainder of page intentionally left blank.]

CONSENT TO DEVELOPMENT AGREEMENT
San Francisco Municipal Transportation Agency

The Municipal Transportation Agency of the City and County of San Francisco has reviewed the Development Agreement between the City and Developer relating to the proposed Project to which this Consent to Development Agreement is attached and incorporated. Capitalized terms used in this SFMTA Consent have the meanings given to them in the Development Agreement or the Appendix.

By executing this SFMTA Consent, the undersigned confirms the following:

1. The SFMTA Board of Directors, after considering at a duly noticed public hearing the CEQA Findings for the Project, including the Statement of Overriding Considerations and the Mitigation Monitoring and Reporting Program, consented to and agreed to be bound by the Development Agreement as it relates to matters under SFMTA jurisdiction and delegated to the Director of Transportation or his designee any future SFMTA approvals under the Development Agreement, subject to Applicable Laws, including the City Charter.
2. The SFMTA Board of Directors also:
 - a. approved Mitigation Measure M-AQ-1f, which requires “a Transportation Demand Management (TDM) Plan with a goal of reducing estimated daily one-way vehicle trips by 20% compared to the total number of one-way vehicle trips identified in the project’s Transportation Impact Study at project build-out,” which is a Developer Mitigation Measure under the MMRP;
 - b. approved Developer’s Pier 70 TDM Program for the Transportation Plan (attached to this SFMTA Consent) and found that the Pier 70 TDM Program meets the requirements of Mitigation Measure M-AQ-1f and incorporates many of the Pier 70 TDM Program strategies described in Section 169;
 - c. directed the Director of Transportation to administer and direct the allocation and use of Transportation Fees in an amount no less than the Total Fee Amount as provided in the Transportation Plan; and
 - d. delegated to the Director of Transportation the authority to approve the Streetscape Master Plan for the FC Project Area.
3. The SFMTA Board of Directors also authorized SFMTA staff to take any measures reasonably necessary to assist the City in implementing the Development Agreement in accordance with SFMTA Resolution No. _____, including the Transportation Plan and the transportation-related Mitigation Measures.

[Remainder of page intentionally left blank.]

By authorizing the Director of Transportation to execute this SFMTA Consent, the SFMTA does not intend to in any way limit, waive or delegate the exclusive authority of the SFMTA as set forth in Article VIII A of the City Charter.

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, acting by and through the
San Francisco Municipal Transportation Agency

By: _____
Edward D. Reiskin,
Director of Transportation

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
Susan Cleveland-Knowles
SFMTA General Counsel

SFMTA Resolution No. _____
Adopted: _____, 2017

Attachment: Pier 70 Transportation Plan and TDM Program

[Remainder of page intentionally left blank.]

ATTACHMENT TO SFMTA CONSENT

Transportation Plan and Pier 70 TDM Program

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CONSENT TO DEVELOPMENT AGREEMENT
San Francisco Public Utilities Commission

The San Francisco Public Utilities Commission of the City and County of San Francisco has reviewed the Development Agreement between the City and Developer relating to a proposed Project to which this Consent to Development Agreement is attached and incorporated. Capitalized terms used in this SFPUC Consent have the meanings given to them in the Development Agreement or the Appendix.

By executing this SFPUC Consent, the undersigned confirms the following.

1. The SFPUC, after considering at a duly noticed public hearing the CEQA Findings for the Project, including the Statement of Overriding Considerations and the Mitigation Monitoring and Reporting Program (MMRP), approved the Utility-Related Mitigation Measures and consented to and agreed to be bound by the Development Agreement as it relates to matters under SFPUC jurisdiction.
2. Vertical Developers will be required to pay the SFPUC Wastewater Capacity Charge and the SFPUC Water Capacity Charge, each at rates in effect on the applicable connection dates.
3. Developer will be required to pay a fair share contribution to the City's AWSS consistent with the Infrastructure Plan, the terms and timing of payment to be established as a condition of approval to the master tentative subdivision map for the FC Project Area.
4. The SFPUC will coordinate and cooperate with the Port and the Public Works Department regarding public infrastructure inspection and acceptance. The SFPUC's responsibilities for the permitting, acceptance, operations and maintenance of utility related components constructed pursuant to this agreement are contingent on execution of a memorandum of understanding between the Port, SFPUC and other relevant City agencies regarding the implementation of such responsibilities.
5. In accordance with Chapter 99 of the San Francisco Administrative Code, the SFPUC has performed a feasibility study and has determined that it will provide electric power to the project. SFPUC agrees that electrical service will be reasonably available for the Project's needs and that the projected price for electrical service is comparable to rates in San Francisco for comparable service. The SFPUC agrees to work with the Developer to provide temporary construction and permanent electric services pursuant to its Rules and Regulations for Electric Service. The SFPUC has provided their space requirements for related infrastructure to the Port, and WDT facilities will be provided in accordance with Infrastructure Plan Section 16.2.1

By authorizing the General Manager to execute this SFPUC Consent, the SFPUC does not intend to in any way limit, waive or delegate the exclusive authority of the SFPUC as set forth in Article XIII B of the City Charter.

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, acting by and through the
San Francisco Public Utilities Commission

By: _____
Harlan Kelly,
General Manager

Authorized by SFPUC Resolution No. _____

APPROVED AS TO FORM:
DENNIS J. HERRERA City Attorney

By: _____
Francesca Gessner
SFPUC General Counsel

San Francisco Public Utilities Commission
Resolution No. _____
Adopted: _____, 2017

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DA EXHIBIT A

Legal Description and Site Plan

LEGAL DESCRIPTION
for
28 ACRE SITE

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

A PORTION OF THAT CERTAIN PARCEL OF LAND AS DESCRIBED IN THAT GRANT DEED RECORDED DECEMBER 16, 1982, IN BOOK D464, PAGE 628, OFFICIAL RECORDS.

ALSO BEING A PORTION PARCEL "A", AS SAID PARCEL IS SHOWN ON "MAP OF LANDS TRANSFERRED IN TRUST TO THE CITY AND COUNTY OF SAN FRANCISCO", FILED IN BOOK "W" OF MAPS, PAGES 66-72, AND FURTHER DESCRIBED IN THAT DOCUMENT RECORDED MAY 14, 1976, IN BOOK C169, PAGE 573, OFFICIAL RECORDS, CITY AND COUNTY OF SAN FRANCISCO.

ALSO BEING A PORTION OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THAT DEED GRANTED TO THE STATE OF CALIFORNIA, RECORDED NOVEMBER 13, 1967 IN BOOK B192, PAGE 384, OFFICIAL RECORDS, CITY AND COUNTY OF SAN FRANCISCO.

ALSO BEING THE PACIFIC ROLLING MILL COMPANY PATENT, APPROVED MARCH 28, 1868, STATE STATUTE, CHAPTER 362.

ALSO BEING A PORTION OF THE ALVORD PATENT, APPROVED APRIL 2, 1866, STATE STATUTE, CHAPTER 616.

ALSO BEING A PORTION OF RANCHO DEL POTRERO NUEVO.

ALSO BEING A PORTION OF THE FOLLOWING CLOSED STREETS PER CITY RESOLUTIONS: GEORGIA STREET, LOUISIANA STREET, MARYLAND STREET, DELAWARE STREET, WATERFRONT STREET, 20TH STREET, 21ST STREET AND 22ND STREET.

BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHERLY LINE OF 22ND STREET (66 FEET WIDE), THE WESTERLY LINE OF FORMER GEORGIA STREET (80 FEET WIDE), AS SAID STREET EXISTED PRIOR TO THE CLOSURE THEREOF, PER RESOLUTIONS No. 1759, DATED FEBRUARY 27, 1884, No. 10787, DATED MARCH 30, 1914 AND No. 1376, DATED OCTOBER 15, 1940 AND THE GENERAL WESTERLY LINE OF THAT PARCEL OF LAND DESCRIBED IN DEED GRANTED TO THE STATE OF CALIFORNIA, RECORDED NOVEMBER 13, 1967 IN BOOK B192, PAGE 384, OFFICIAL RECORDS (B192 O.R. 384), CITY AND COUNTY OF SAN FRANCISCO; THENCE ALONG THE NORTHERLY LINE OF FORMER 22ND STREET, AS SAID STREET EXISTED PRIOR TO THE CLOSURE THEREOF, PER RESOLUTION No. 1376, DATED FEBRUARY 27, 1884 AND ALONG THE LINE OF SAID B192 O.R. 384 PARCEL, NORTH 85°38'01" EAST 40.00 FEET TO THE CENTERLINE OF SAID FORMER GEORGIA STREET; THENCE ALONG SAID CENTERLINE AND LINE OF B192 O.R. 384 PARCEL, NORTH 04°21'59" WEST 270.00 FEET TO THE MOST SOUTHEASTERLY CORNER OF PARCEL 2 OF THAT PARCEL OF LAND AS DESCRIBED IN GRANT DEED TO THE CITY AND COUNTY OF SAN FRANCISCO, RECORDED DECEMBER 16, 1982, AS INSTRUMENT NO. D275576, IN BOOK D464, PAGE 628, OFFICIAL RECORDS (D464 O.R. 628), CITY AND COUNTY OF SAN FRANCISCO; THENCE ALONG THE SOUTHERLY AND WESTERLY LINES OF SAID PARCEL 2 OF D464 O.R. 628, THE FOLLOWING TWO COURSES: SOUTH 85° 38'01" WEST 240.00 FEET TO THE EASTERLY LINE OF MICHIGAN STREET (80 FEET WIDE), AND ALONG SAID LINE OF MICHIGAN STREET NORTH 04° 21'59" WEST 205.95 FEET; THENCE NORTH 85°38'01" EAST 356.54 FEET; THENCE ALONG A TANGENT CURVE TO THE LEFT WITH A RADIUS OF 80.00 FEET, THROUGH A CENTRAL ANGLE OF 25° 00'00", AN ARC LENGTH OF 34.91 FEET; THENCE NORTH 60°38'01" EAST

2.38 FEET; THENCE NORTH 04°21'59" WEST 98.46 FEET; THENCE NORTH 85°38'01" EAST 89.57 FEET; THENCE NORTH 21°16'29" EAST 27.73 FEET; THENCE NORTH 04° 21'59" WEST 218.09 FEET; THENCE NORTH 21°03'56" WEST 41.76 FEET TO THE SOUTHERLY LINE OF 20TH STREET (66 FEET WIDE) AND THE NORTHERLY LINE OF SAID PARCEL 2 OF D464 O.R. 628; THENCE ALONG SAID LINES, NORTH 85°38'01" EAST 37.93 FEET TO THE EASTERLY LINE OF SAID STREET AND THE GENERAL WESTERLY LINE OF SAID B192 O.R. 384 PARCEL; THENCE ALONG SAID LINES NORTH 04°21'59" WEST 33.00 FEET TO THE CENTERLINE OF SAID STREET; THENCE ALONG A PORTION OF THE SOUTHERLY LINE OF PARCEL 1 OF SAID D464 O.R. 628, ALONG A PORTION OF THE NORTHERLY LINE OF SAID B192 O.R. 384 PARCEL AND ALONG THE CENTERLINE OF FORMER 20TH STREET, AS SAID STREET EXISTED PRIOR TO THE CLOSURE THEREOF, PER RESOLUTION No. 10787, DATED MARCH 30, 1914, NORTH 85°38'01" EAST 630.37 FEET; THENCE SOUTH 36°29'34" EAST 38.91 FEET; THENCE NORTH 53°30'26" EAST 91.14 FEET TO THE MEAN HIGH WATER LINE, DEFINED BY AN ELEVATION OF 5.8 FEET (NAVD88 DATUM); THENCE IN A GENERAL SOUTHERLY DIRECTION ALONG SAID MEAN HIGH WATER LINE, APPROXIMATELY 1686 FEET TO THE MOST SOUTHERLY LINE OF SAID B192 O.R. 384 PARCEL; THENCE ALONG SAID SOUTHERLY LINE SOUTH 85°30'01" WEST 1085 FEET, MORE OR LESS, TO THE MOST SOUTHWESTERLY CORNER OF SAID PARCEL; THENCE ALONG THE LINES OF SAID PARCEL, NORTH 25°06'47" WEST 56.46 FEET AND NORTH 42° 41'34" WEST 129.00 FEET TO THE SOUTHEASTERLY CORNER OF SAID 22ND STREET; THENCE ALONG THE EASTERLY LINE OF SAID 22ND STREET AND THE LINE OF SAID B192 O.R. 384 PARCEL, NORTH 04°21'59" WEST 66.00 FEET TO THE POINT OF BEGINNING, CONTAINING 28.20 ACRES, MORE OR LESS.

THE BASIS OF BEARING FOR THE ABOVE DESCRIPTION IS BASED UPON THE BEARING OF N03°41'33"W BETWEEN SURVEY CONTROL POINTS NUMBERED 375 AND 376, OF THE HIGH PRECISION NETWORK DENSIFICATION (HPND), CITY & COUNTY OF SAN FRANCISCO 2013 COORDINATE SYSTEM (SFCS13).

Assessor's Parcel Nos. : portions of 4052-001 and 4046-001

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DA EXHIBIT B

Project Approvals

1. **Final Environmental Impact Report, State Clearinghouse No.** _____
 - Certify and adopt CEQA Findings: Planning Commission Motion No. _____
 - Adopt CEQA Findings and MMRP: Port Resolution No. _____
 - Adopt CEQA Findings and MMRP: Board of Supervisors Resolution No. _____
2. **General Plan Consistency Findings**
 - Planning Commission Motion No. _____
3. **General Plan Amendment**
 - Planning Commission Motion No. _____
 - Board of Supervisors Ordinance No. _____
4. **Planning Code and Zoning Map Ordinance**
 - a. amend section 201 to include the Pier 70 SUD
 - b. add section 249.79 to establish the Pier 70 SUD
 - c. amend Sectional Map ZN08 to show the Pier 70 SUD Mixed Use District
 - d. amend Sectional Map HT08 to show the height limits in the Pier 70 SUD
 - e. amend new Sectional Map SU08 to create the Pier 70 SUD
 - Recommend: Planning Commission Motion No. _____
 - Consent: Port Resolution No. _____
 - Approve: Board of Supervisors Ordinance No. _____
5. **Pier 70 SUD Design for Development**
 - Approve: Planning Commission Motion No. _____
 - Approve: Port Resolution No. _____
6. **Development Agreement and DA Ordinance**
 - Recommend: Planning Commission Motion No. _____
 - Consent: Port Resolution No. _____
 - Consent: SFMTA Resolution No. _____
 - Consent: SFPUC Resolution No. _____
 - Approve: Board of Supervisors Ordinance No. _____
 - Signed by: Planning Director and Developer
7. **Public Trust Exchange Agreement**
 - Approve per Burton Act (AB 2659, stats. 1987, ch. 310): Port Resolution No. _____
 - Approve per Burton Act (AB 2659, stats. 1987, ch. 310): Board of Supervisors Resolution No. _____
 - Signed by: Executive Officer of State Lands Commission and Port Director

8. **Disposition and Development Agreement as Development Plan under Charter § B7.320 and Prop F**
 - a. Form of Master Lease
 - b. Form of Vertical DDA for Option Parcels
 - c. Form of Parcel Lease for Option Parcels
 - d. Historic Building 12 and Historic Building 21 lease terms
 - e. Parcel E4 lease terms
 - f. MOU with MOHCD for development of Affordable Housing Parcels
 - Approve: Port Resolution No. _____
 - Approve under Charter § 9.118: Board of Supervisors Resolution No. _____
 - Signed by: Developer and Port Director
9. **Parcel K North public offering**
 - Approve: Port Resolution No. _____
 - Approve: Board of Supervisors Resolution No. _____
10. **Waterfront Land Use Plan / Waterfront Design and Access Element amendments**
 - Approve: Port Resolution No. _____
11. **San Francisco Administrative Code amendment to article X of chapter 43**
 - Recommend: Port Resolution No. _____
 - Approve: Board of Supervisors Ordinance No. _____
12. **Financing Districts**
 - a. formation proceedings for IFD Sub-Project Area G-2, Sub-Project Area G-3, and Sub-Project Area G-4
 - b. formation proceedings for IRFD No. 2 (Hoedown Yard)
 - Recommend: Port Resolution No. _____
 - Approve: Board of Supervisors Resolution Nos. _____ and Ordinance Nos. _____
13. **Memorandum of Understanding re Interagency Cooperation**
 - Approve: Port Resolution No. _____
 - Adopt CEQA Findings and Consent: SFMTA Resolution No. _____
 - Adopt CEQA Findings and Consent: SFPUC Resolution No. _____
 - Consent: SFFD Resolution No. _____
 - Approve: Board of Supervisors Resolution No. _____
 - Signed by: Mayor, City Administrator, Director of Public Works, and Port Director
14. **Memorandum of Understanding re Assessment, Collection, and Allocation of Taxes**
 - Approve: Port Resolution No. _____
 - Approve: Board of Supervisors Resolution No. _____
 - Signed by: Assessor, Treasurer-Tax Collector, Controller, and Port Director

[Print](#)

San Francisco Administrative Code

CHAPTER 56: DEVELOPMENT AGREEMENTS

- Sec. 56.1. Findings.
- Sec. 56.2. Purpose and Applicability.
- Sec. 56.3. Definitions.
- Sec. 56.4. Filing of Application; Forms; Initial Notice and Hearing.
- Sec. 56.5. Form of Agreement.
- Sec. 56.6. Signatories to the Development Agreement.
- Sec. 56.7. Contents of Development Agreement.
- Sec. 56.8. Notice.
- Sec. 56.9. Rules Governing Conduct of Hearing.
- Sec. 56.10. Development Agreement Negotiation Report and Documents.
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- Sec. 56.12. Irregularity in Proceedings.
- Sec. 56.13. Determination by Commission.
- Sec. 56.14. Decision by Board of Supervisors.
- Sec. 56.15. Amendment and Termination of an Executed Development Agreement by Mutual Consent.
- Sec. 56.16. Recordation of Development Agreements Amendment or Termination.
- Sec. 56.17. Periodic Review.
- Sec. 56.18. Modification or Termination.
- Sec. 56.19. Limitation on Actions.
- Sec. 56.20. Fee.

SEC. 56.1. FINDINGS.

The Board of Supervisors ("Board") concurs with the State Legislature in finding that:

(a) The lack of certainty in the approval of development projects can result in a waste of resources, escalate the cost of housing and other development to the consumer, and discourage investment in and commitment to comprehensive planning and development of infrastructure and public facilities which would make maximum efficient utilization of resources at the least economic cost to the public.

(b) Assurance to the applicant/developer for a development project that upon approval of the project, the applicant/developer may proceed with the project in accordance with specified policies, rules and regulations, and subject to conditions of approval, will strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs of development.

(Added by Ord. 372-88, App. 8/10/88)

SEC. 56.2. PURPOSE AND APPLICABILITY.

(a) The purpose of this Chapter is to strengthen the public planning process by encouraging private participation in the achievement of comprehensive planning goals and reducing the economic costs of development. A development agreement reduces the risks associated with development, thereby enhancing the City's ability to obtain public benefits beyond those achievable through existing ordinances and regulations. To accomplish this purpose the procedures, requirements and other provisions of this Chapter are necessary to promote orderly growth and development (such as, where applicable and appropriate, provision of housing, employment and small business opportunities to all segments of the community including low income persons, minorities and women), to ensure provision for adequate public services and facilities at the least economic cost to the public, and to ensure community participation in determining an equitable distribution of the benefits and costs associated with development.

(b) Such agreements shall only be used for (1) affordable housing developments or (2) large multi-phase and/or mixed-use developments involving public improvements, services, or facilities installations, requiring several years to complete, as defined below in Section 56.3, or a housing development with a minimum of 1,000 units, as defined below in Section 56.3; or (3) rental housing developments with on-site affordable units, as defined below in Section 56.3.

(Added by Ord. 372-88, App. 8/10/88; amended by Ord. 67-05, File No. 041748, App. 4/15/2005; Ord. 312, File No. 100046, App. 12/23/2010)

SEC. 56.3. DEFINITIONS.

The following definitions shall apply for purposes of this Chapter:

(a) "Affordable housing development" shall mean for purposes of Section 56.2(b)(1), any housing development which has a minimum of 30 percent of its units affordable to low income households, and a total of 60 percent of its units affordable to households, as defined by the U.S. Census, whose immediate household income does not exceed 120 percent of the median household income for the San Francisco Primary Metropolitan Statistical Area, with the remaining 40 percent of its units unrestricted as to affordability. For purposes of this definition of "affordable housing development," "low income" shall mean the income of households, as defined by the U.S. Census whose immediate household income does not exceed 80 percent of the median household income for the San Francisco Primary Metropolitan Statistical Area. "Median household income" for the San Francisco Primary Metropolitan Statistical Area shall be as determined by the U.S. Department of Housing and Urban Development and adjusted according to the determination of that Department and published from time to time. In the event that such income determinations are no longer published by the Department of Housing and Urban Development, median household income shall mean the median gross yearly income of a household in the City and County of San Francisco, adjusted for household size, as published periodically by the California Department of Housing and Community Development. Such affordable housing development may include neighborhood commercial facilities which are physically and financially an integral part of the affordable housing project and which will provide services to local residents.

(b) "Applicant/Developer" shall mean a person or entity who has legal or equitable interest in the real property which is the subject of the proposed or executed development agreement for an "affordable housing development" or a "large multi-phase and/or mixed-use development," as those terms are defined herein, or such person's or entity's authorized agent or successor in interest; provided, however, that an entity which is subject to the requirements of City Planning Code Section 304.5 relating to institutional master plans does not qualify as an applicant for a development agreement.

(c) "Collateral agreement" shall mean a written contract entered into by the applicant/developer and/or governmental agencies with other entities (including, but not limited to, community coalitions) for the purpose of having said entities provide for and implement social, economic, or environmental benefits or programs; provided, however, that such term does not include agreements between the applicant/developer or governmental agencies and (1) construction contractors and subcontractors, (2) construction managers, (3) material suppliers, and (4) architects, engineers, and lawyers for customary architectural, engineering or legal services.

(d) "Commission" shall mean the Planning Commission.

(e) "Director" shall mean the Director of the Planning Department.

and (1) construction contractors and subcontractors, (2) construction managers, (3) material suppliers, and (4) architects, engineers, and lawyers for customary architectural, engineering or legal services.

d) "Commission" shall mean the Planning Commission.

(e) "Director" shall mean the Director of the Planning Department.

(f) "Housing development with a minimum of 1,000 units" shall mean a proposed residential development project which: (1) is on a site which exceeds two and one-half acres in area, (2) includes two or more buildings to be constructed on the site, and (3) includes a proposal for constructing or participating in providing, either off-site or on-site, public improvements, facilities, or services beyond those achievable through existing ordinances and regulations.

(g) "Large multi-phase and/or mixed-use development" shall mean a proposed development project which: (1) is on a site which exceeds five acres in area, (2) includes two or more buildings to be constructed sequentially on the site, and (3) includes a proposal for constructing or participating in providing, either off-site or on-site, public improvements, facilities, or services beyond those achievable through existing ordinances and regulations.

(h) "Material modification" shall mean any proposed amendment or modification to either a proposed development agreement approved by the Commission, or a previously executed development agreement, which amendment or modification is otherwise required by the terms of the development agreement, which changes any provision thereof regarding the following: (1) duration of the agreement; (2) permitted uses of the subject property; (3) density or intensity of the permitted uses; (4) location, height or size of any structures, buildings, or major features; (5) reservation or dedication of land; (6) any conditions, terms, restrictions and requirements relating to subsequent discretionary actions as to design, improvements, construction standards and specifications; (7) any other condition or covenant relating to the financing or phasing of the development which substantially modifies the use of the property, the phasing of the development, or the consideration exchanged between the parties as recited in the proposed development agreement; (8) the type, number, affordability level, and/or tenure of any proposed affordable housing as well as any change as to performance of such public benefits, including but not limited to timing, phasing, method of performance or parties involved; or (9) any other terms or conditions of the development agreement if the development agreement provides that amendment of said specified term or condition would be a material modification.

(i) "Minor modification" shall mean any amendment or modification to the development agreement which relates to any provision not deemed to be a "material modification."

(j) "Rental housing developments with on-site affordable units" shall mean a proposed residential development project the project sponsor of which covenants to provide on-site units to satisfy the Inclusionary Affordable Housing Program, as set forth in Planning Code Sections 415—417, as an alternative to payment of the Affordable Housing Fee.

(Added by Ord. 372-88, App. 8/10/88; amended by Ord. 67-05, File No. 041748, App. 4/15/2005; Ord. 312, File No. 100046, App. 12/23/2010)

SEC. 56.4. FILING OF APPLICATION; FORMS; INITIAL NOTICE AND HEARING.

(a) The Director may prescribe the form of the application for the preparation and implementation of development agreements.

(b) The applicant must list on the application the anticipated public benefits which would exceed those required by existing ordinances and regulations. The public benefits ultimately provided by an approved development agreement may differ from those initially identified by the applicant/developer. The Director may require an applicant/developer to submit such additional information and supporting data as the Director considers necessary to process the application; provided, however, that the Director shall not require the applicant/developer to submit,

as part of the application, special studies or analyses which the Director would customarily obtain through the environmental review process.

(c) The Director shall endorse the application the date it is received. If the Director finds that the application is complete, the Director shall (1) accept the application for filing, (2) publish notice in the official newspaper of acceptance of said application, (3) make the application publicly available, and (4) schedule a public hearing before the Commission within 30 days following receipt of a completed application. At said public hearing, the Director shall make a recommendation with respect to the fee to be paid by the applicant/developer as set forth in Section 56.20(b).

(Added by Ord. 372-88, App. 8/10/88)

SEC. 56.5. FORM OF AGREEMENT.

A proposed development agreement, and any modifications or amendments thereto, must be approved as to form by the City Attorney prior to any action by the Director, Commission or Board of Supervisors.

(Added by Ord. 372-88, App. 8/10/88)

SEC. 56.6. SIGNATORIES TO THE DEVELOPMENT AGREEMENT.

(a) **Applicant.** Only an applicant/developer, as that term is defined in Section 56.3, may file an application to enter into a development agreement.

(b) **Governmental Agencies.** In addition to the City and County of San Francisco and the applicant/developer, any federal, State or local governmental agency or body may be included as a party or signatory to any development agreement.

(Added by Ord. 372-88, App. 8/10/88)

SEC. 56.7. CONTENTS OF DEVELOPMENT AGREEMENT.

(a) **Mandatory Contents.** A development agreement, by its express terms or by reference to other documents, shall specify (1) the duration of the agreement, (2) the permitted uses of the property, (3) the density or intensity of use, (4) the maximum height and size of proposed buildings, (5) the provisions for reservation or dedication of land for public purposes, (6) for any project proposing housing, the number, type, affordability and tenure of such housing, (7) the public benefits which would exceed those required by existing ordinances and regulations, and (8) nondiscrimination and affirmative action provisions as provided in subsection (c) below.

(b) **Permitted Contents.** The development agreement may (1) include conditions, terms, restrictions, and requirements for subsequent discretionary actions, (2) provide that construction shall be commenced within a specified time and that the project or any phase thereof be completed within a specified time, (3) include terms and conditions relating to applicant/developer and/or City financing or necessary public facilities and subsequent reimbursement by other private party beneficiaries, (4) require compliance with specified terms or conditions of any collateral agreements pursuant to Section 56.11, and (5) include any other terms or conditions deemed appropriate in light of the facts and circumstances.

(c) **Nondiscrimination/Affirmative Action Requirements.**

(1) **Nondiscrimination Provisions of the Development Agreement.** The development agreement shall include provisions obligating the applicant/developer not to discriminate on the grounds, or because of, race, color, creed, national origin, ancestry, age, sex, sexual orientation, disability or Acquired Immune Deficiency Syndrome or AIDS Related Condition (AIDS/ARC), against any employee of, or applicant for employment with the applicant/developer or against any bidder or contractor for public works or improvements, or for a franchise, concession or lease of property, or for goods or services or supplies to be purchased by applicant/developer. The

development agreement shall require that a similar provision be included in all subordinate agreements let, awarded, negotiated or entered into by the applicant/developer for the purpose of implementing the development agreement.

(2) **Affirmative Action Program.** The development agreement shall include a detailed affirmative action and employment and training program (including without limitation, programs relating to women, minority and locally-owned business enterprises), containing goals and timetables and a program for implementation of the affirmative action program. For example, programs such as the following may be included:

- (i) Apprenticeship where approved programs are functioning, and other on-the-job training for a nonapprenticeable occupation;
- (ii) Classroom preparation for the job when not apprenticeable;
- (iii) Preapprenticeship education and preparation;
- (iv) Upgrading training and opportunities;
- (v) The entry of qualified women and minority journeymen into the industry; and
- (vi) Encouraging the use of contractors, subcontractors and suppliers of all ethnic groups, and encouraging the full and equitable participation of minority and women business enterprises and local businesses (as defined in Section 12D of this Code and implementing regulations) in the provision of goods and services on a contractual basis.

(3) **Reporting and Monitoring.** The development agreement shall specify a reporting and monitoring process to ensure compliance with the non-discrimination and affirmative action requirements. The reporting and monitoring process shall include, but not be limited to, requirements that:

- (i) A compliance monitor who is not an agent or employee of the applicant/developer be designated to report to the Director regarding the applicant/developer's compliance with the nondiscrimination and affirmative action requirements;
- (ii) The applicant/developer permit the compliance monitor or the Director or his designee reasonable access to pertinent employment and contracting records, and other pertinent data and records, as specified in the Development Agreement for the purpose of ascertaining compliance with the nondiscrimination and affirmative action provisions of the development agreement;
- (iii) The applicant/developer annually file a compliance report with the compliance monitor and the Director detailing performance pursuant to its affirmative action program, and the compliance monitor annually reports its findings to the Director; such reports shall be included in and subject to the periodic review procedure set forth in Sec. 56.17.

(Added by Ord. 372-88, App. 8/10/88)

SEC. 56.8. NOTICE.

The Director shall give notice of intention to consider adoption, amendment, modification, or termination of a development agreement for each public hearing required to be held by the Commission under this Chapter. The Clerk of the Board of Supervisors shall give such notice for each public hearing required to be held by the Board of Supervisors. Such notices shall be in addition to any other notice as may be required by law for other actions to be considered concurrently with the development agreement.

(a) **Form of Notice.**

- (1) The time and place of the hearing;

(2) A general summary of the terms of the proposed development agreement or amendment to be considered, including a general description of the area affected, and the public benefits to be provided; and

(3) Other information which the Director, or Clerk of the Board of Supervisors, considers necessary or desirable.

(b) Time and Manner of Notice.

(1) **Publication and Mailing.** Notice of hearing shall be provided in the same manner as that required in City Planning Code Section 306.3 for amendments to that Code which would reclassify land; where mailed notice is otherwise required by law for other actions to be considered concurrently with the development agreement, notice of a public hearing before the Commission on the development agreement shall be included on the next Commission calendar to be mailed following the date of publication of notice in the official newspaper.

(2) **Notice to Local Agencies.** Notice of the hearing shall also be mailed at least 10 days prior to the hearing to any local public agency expected to provide water, transit, sewage, streets, schools, or other essential facilities or services to the project, whose ability to provide those facilities and services may be significantly affected by the development agreement.

(c) **Failure to Receive Notice.** The failure of any person to receive notice required by law does not affect the authority of the City and County of San Francisco to enter into a development agreement.

(Added by Ord. 372-88, App. 8/10/88; amended by Ord. 59-91, App. 2/27/91)

SEC. 56.9. RULES GOVERNING CONDUCT OF HEARING.

The Commission's public hearing on the proposed development agreement shall be conducted in accordance with the procedure for the conduct of reclassification hearings as provided in Subsections (b) and (c) of Section 306.4 of the City Planning Code. Such public hearing on the proposed development agreement shall be held prior to or concurrently with the public hearing for consideration of any other Commission action deemed necessary to the approval or implementation of the proposed development agreement, unless the Commission determines, after a duly noticed public hearing pursuant to Section 56.8, that proceeding in a different manner would further the public interest; provided, however, that any required action under the California Environmental Quality Act shall not be affected by this Section.

(Added by Ord. 372-88, App. 8/10/88)

SEC. 56.10. DEVELOPMENT AGREEMENT NEGOTIATION REPORT AND DOCUMENTS.

(a) **Report.** The Director shall prepare a report on development agreement negotiations between the applicant and the City and County of San Francisco (City), which report shall be distributed to the Commission and Board of Supervisors, and shall be available for public review 20 days prior to the first public hearing on the proposed development agreement. Said report shall include, for each negotiation session between the applicant and the City: (1) an attendance list; (2) a summary of the topics discussed; and (3) a notation as to any terms and conditions of the development agreement agreed upon between the applicant and the City.

(b) **Documents.** The Director shall (1) maintain a file containing documents exchanged between the applicant/developer and the City's executive offices and departments; and (2) endeavor to obtain copies and maintain a list of all correspondence which executive offices and departments received from and sent to the public relating to the development agreement. The Director shall make said documents and the correspondence list available for public review 20 days prior to the first public hearing on the proposed development agreement.

(c) **Update of Report, Documents, and Correspondence List.** The Director shall update the negotiation session report and the correspondence list, and continue to maintain a file of documents exchanged between the

applicant/developer and the City until a development agreement is finally approved. The Director shall make the updated report, correspondence list, and documents available to the public at least five working days before each public hearing on the proposed development agreement.

(d) **Remedies.** No action, inaction or recommendation regarding the proposed development agreement shall be held void or invalid or be set aside by a court by reason of any error, irregularity, informality, neglect or omission ("error") which may occur with respect to City compliance with this Section 56.10. This section is not intended to affect rights and remedies with respect to public records otherwise provided by law.

(Added by Ord. 372-88, App. 8/10/88)

SEC. 56.11. COLLATERAL AGREEMENTS.

(a) **Filing.** In order to qualify for consideration under the provisions of this section, the party to the collateral agreement seeking such consideration must: (1) submit a copy of the executed collateral agreement to the Director, (2) identify the specific terms and conditions of said collateral agreement which said party believes are necessary to achieve the public purposes sought to be achieved by the City and County through the development agreement process, and (3) provide contemporaneous notice to any other party or parties to the collateral agreement or the development agreement that a request for consideration pursuant to this section was filed. The Director shall forward copies of all collateral agreements received to the City Attorney's Office for review.

(b) **Recommendation of the Director Prior to the First Public Hearing on the Proposed Development Agreement.**

(1) The Director is obligated to consider and make a recommendation only as to those collateral agreements which satisfy the provisions of Section 56.11(a) above, and which are received by the Director within seven days after the date of publication of notice of the first hearing on the proposed development agreement. The Director shall consider those collateral agreements which are on the list provided pursuant to Section 56.11(d) below.

(2) With respect to collateral agreements received pursuant to the provisions set forth above, the Director shall prepare a report to the Commission on said collateral agreements. If the Director finds that applicant compliance with certain specified terms or conditions of said collateral agreements is necessary to achieve the public purposes sought by the City through the development agreement process, then the Director shall recommend that such terms or conditions be incorporated into the proposed development agreement. If the Director recommends incorporation into the development agreement of any terms or conditions of any collateral agreements, then the Director's report shall also note whether the other party or parties to the collateral agreement or proposed development agreement objects, and the basis for that objection.

(3) The provisions of this section are not intended to limit the power of the Commission or the Board to amend the proposed development agreement to incorporate terms or conditions of collateral agreements.

(c) **Annual Recommendation of the Director.** After execution of a development agreement,

(1) The Director shall consider and make a recommendation as to those collateral agreements which satisfy the provisions of Section 56.11(a) above, and which are received 30 days prior to the date scheduled for periodic review, as determined pursuant to Section 56.17(a). The Director shall consider those collateral agreements which are on the list provided pursuant to Section 56.11 (d) below.

(2) With respect to collateral agreements received pursuant to the provisions set forth above, the Director shall prepare a report to the Commission on said collateral agreements. The Director shall also consult with the applicant/developer concerning said collateral agreements. If the Director finds that applicant/developer compliance with certain specified terms or conditions of said collateral agreements would substantially further attainment of the public purposes which were recited as inducement for entering into the development agreement, then the Director shall recommend that the Commission propose an amendment to the development agreement to incorporate said terms and conditions. If the Director recommends proposal of an amendment to incorporate into

the development agreement specified terms or conditions of any collateral agreements, then the Director's report shall also note whether the other party or parties to the collateral agreement or development agreement objects, and the basis for that objection.

(d) Applicant/Developer Disclosure of Collateral Agreements.

(1) At least 21 days prior to the first hearing on the proposed development agreement, the applicant/developer shall provide the Director, for the Director's consideration, a list of all collateral agreements as defined in Section 56.3(c) that have been entered into by the applicant/developer.

(2) At least 30 days prior to the date scheduled for periodic review pursuant to Section 56.17(a), the applicant/developer shall provide the Director, for the Director's consideration, an update to the list prepared pursuant to Subsection (d)(1) above, or any previous list prepared pursuant to this Subsection (d)(2), as applicable, identifying all such collateral agreements entered into subsequent to the date of the first list, or subsequent updates, as appropriate.

(Added by Ord. 372-88, App. 8/10/88)

SEC. 56.12. IRREGULARITY IN PROCEEDINGS.

No action, inaction or recommendation regarding the proposed development agreement or any proposed amendment shall be held void or invalid or be set aside by a court by reason of any error, irregularity, informality, neglect or omission ("error") as to any matter pertaining to the application, notice, finding, record, hearing, report, summary, recommendation, or any matters of procedure whatever unless after an examination of the entire record, the court is of the opinion that the error complained of was prejudicial and that by reason of the error the complaining party sustained and suffered substantial injury, and that a different result would have been probable if the error had not occurred or existed. There is no presumption that error is prejudicial or that injury resulted if error is shown.

(Added by Ord. 372-88, App. 8/10/88)

SEC. 56.13. DETERMINATION BY COMMISSION.

(a) **Public Hearing.** The Commission shall hold a public hearing to consider and act on a proposed development agreement after providing notice as required under Section 56.8.

(b) **Recommendations to Board of Supervisors.** Following the public hearing, the Commission may approve or disapprove the proposed development agreement, or may modify the proposed development agreement as it determines appropriate. The Commission shall make its final recommendation to the Board of Supervisors which shall include the Commission's determination of whether the development agreement proposed is consistent with the objectives, policies, general land uses and programs specified in the general plan and any applicable area or specific plan, and the priority policies enumerated in City Planning Code Section 101.1. The decision of the Commission shall be rendered within 90 days from the date of conclusion of the hearing; failure of the Commission to act within the prescribed time shall be deemed to constitute disapproval.

(Added by Ord. 372-88, App. 8/10/88)

SEC. 56.14. DECISION BY BOARD OF SUPERVISORS.

(a) **Action by Board of Supervisors.** The Board of Supervisors shall hold a public hearing on the proposed development agreement approved by the Commission. After the Board of Supervisors completes its public hearing, it may approve or disapprove the proposed development agreement recommended by the Commission. If the Commission disapproves the proposed development agreement, that decision shall be final unless the applicant/developer appeals the Commission's determination to the Board of Supervisors. The applicant/developer may appeal by filing a letter with the Clerk of the Board of Supervisors within 10 days following the Com-

Commission's disapproval of the proposed development agreement. The procedures for the Board's hearing and decision shall be the same as those set forth in City Planning Code Sections 308.1(c) and 308.1(d) with respect to an appeal of a Commission disapproval of a City Planning Code amendment initiated by application of one or more interested property owners.

(b) **Material Modification of the Commission's Recommended Development Agreement.** The Board of Supervisors may adopt a motion proposing a material modification to a development agreement recommended by the Commission, as defined in Section 56.3 herein. In such event, the material modification must be referred back to the Commission for report and recommendation pursuant to the provisions of Subdivision (c) below. However, if the Commission previously considered and specifically rejected the proposed material modification, then such modification need not be referred back to the Commission. The Board of Supervisors may adopt any minor modification to the proposed development agreement recommended by the Commission which it determines appropriate without referring the proposal back to the Commission.

(c) **Consideration of Material Modification By the Commission.** The Commission shall hold a public hearing and render a decision on any proposed material modification forwarded to the Commission by motion of the Board within 90 days from the date of referral of the proposed modification by the Board to the Commission; provided, however, if the Commission has not acted upon and returned the proposed material modification within such 90 day period, the proposal shall be deemed disapproved by the Commission unless the Board, by resolution, extends the prescribed time within which the Commission is to render its decision.

(d) **Effect of Commission Action on Proposed Material Modification.** The Board of Supervisors shall hold public hearing to consider the Commission's action on the proposed material modification. If the Commission approves the Board's proposed material modification, the Board may adopt the modification to the agreement by majority vote. If the Commission disapproves the Board's proposed material modification, or has previously specifically rejected the proposed material modification, then the Board may adopt the material modification to the development agreement by a majority vote, unless said modification would reclassify property or would establish, abolish, or modify a setback line, in which case the modification may be adopted by the Board only by a vote of not less than of all of the members of said Board.

(e) **Consistency With General and Specific Plans.** The Board of Supervisors may not approve the development agreement unless it receives the Commission's determination that the agreement is consistent with the Master Plan, any applicable area or specific plan and the Priority Policies enumerated in City Planning Section 101.1.

(f) **Approval of Development Agreement.** If the Board of Supervisors approves the development agreement, it shall do so by the adoption of an ordinance. The Board of Supervisors may not vote on the development agreement ordinance on second reading unless the final version of the development agreement ordinance is available for public review at least two working days prior to the second reading. The development agreement shall take effect upon its execution by all parties following the effective date of the ordinance.

(Added by Ord. 372-88, App. 8/10/88; amended by Ord. 59-91, App. 2/27/91)

SEC. 56.15. AMENDMENT AND TERMINATION OF AN EXECUTED DEVELOPMENT AGREEMENT BY MUTUAL CONSENT.

(a) The development agreement may further define the extent to which changes in the project will require an amendment to the development agreement.

(b) Either the applicant/developer or the City and County may propose an amendment to, or cancellation in whole or in part of, any development agreement. Any amendment or cancellation shall be by mutual consent of the parties, except as otherwise provided in the development agreement or in Section 56.16.

(c) The procedure for proposing and adopting an amendment which constitutes (1) a material modification, (2) the termination in whole or in part of the development agreement, or (3) a minor modification which the

Commission or Board has requested to review pursuant to subsection (d) below, shall be the same as the procedure for entering into an agreement in the first instance, including, but not limited to, the procedures described in Section 56.4, above.

(d) Any proposed amendment or modification to the development agreement which would constitute a minor modification shall not require a noticed public hearing before the parties may execute an amendment to the agreement. The Director may commit to a minor modification on behalf of the City if the following conditions are satisfied:

(1) The Director has reached agreement with the other party or parties to the development agreement regarding the modification;

(2) The Director has: (i) notified the Commission and the Board; (ii) caused notice of the amendment to be published in the official newspaper and included on the Commission calendar; (iii) caused notice to be mailed to the parties to a collateral agreement if specific terms or conditions of said collateral agreement were incorporated into the development agreement and said terms or conditions would be modified by said minor modification; and (iv) caused notice to be mailed to persons who request to be so notified; and

(3) No member of either the Board or Commission has requested an opportunity to review and consider the minor modification within 14 days following receipt of the Director's notice. Upon expiration of the 14-day period, in the event that neither entity requests a hearing, the decision of the Director shall be final.

(Added by Ord. 372-88, App. 8/10/88; amended by Ord. 59-91, App. 2/27/91)

SEC. 56.16. RECORDATION OF DEVELOPMENT AGREEMENTS AMENDMENT OR TERMINATION.

(a) Within 10 days after the execution of the development agreement, or any amendments thereto, the Clerk of the Board of Supervisors shall have the agreement recorded with the County Recorder.

(b) If the parties to the agreement or their successors in interest amend or terminate the agreement as provided herein, or if the Board of Supervisors terminates or modifies the agreement as provided herein for failure of the applicant/developer to comply in good faith with the terms or conditions of the agreement, the Clerk of the Board of Supervisors shall have notice of such action recorded with the County Recorder.

(Added by Ord. 372-88, App. 8/10/88; amended by Ord. 59-91, App. 2/27/91)

SEC. 56.17. PERIODIC REVIEW.

(a) **Time for and Initiation of Review.** The Director shall conduct a review in order to ascertain whether the applicant/developer has in good faith complied with the development agreement. The review process shall commence at the beginning of the second week of January following final adoption of a development agreement, and at the same time each year thereafter for as long as the agreement is in effect. The applicant/developer shall provide the Director with such information as is necessary for purposes of the compliance review.

Prior to commencing review, the Director shall provide written notification to any party to a collateral agreement which the Director is aware of pursuant to Sections 56.11(a) and (d), above. Said notice shall summarize the periodic review process, advising recipients of the opportunity to provide information regarding compliance with the development agreement. Upon request, the Director shall make reasonable attempts to consult with any party to a collateral agreement if specified terms and conditions of said agreement have been incorporated into the development agreement. Any report submitted to the Director by any party to a collateral agreement, if the term or conditions of said collateral agreement have been incorporated into the development agreement, shall be transmitted to the Commission and/or Board of Supervisors.

(b) **Finding of Compliance by Director.** If the Director finds on the basis of substantial evidence, that the applicant/developer has complied in good faith with the terms and conditions of the agreement, the Director shall notify the Commission and the Board of Supervisors of such determination, and shall at the same time cause notice of the determination to be published in the official newspaper and included on the Commission calendar. If no member of the Commission or the Board of Supervisors requests a public hearing to review the Director's determination within 14 days of receipt of the Director's notice, the Director's determination shall be final. In such event, the Director shall issue a certificate of compliance, which shall be in recordable form and may be recorded by the developer in the official records. The issuance of a certificate of compliance by the Director shall conclude the review for the applicable period.

(c) **Public Hearing Required.** If the Director determines on the basis of substantial evidence that the applicant/developer has not complied in good faith with the terms and conditions of the development agreement, or otherwise determines that the public interest would be served by further review, or if a member of the Commission or Board of Supervisors requests further review pursuant to Subsection (b) above, the Director shall make a report to the Commission which shall conduct a public hearing on the matter. Any such public hearing must be held no sooner than 30 days, and no later than 60 days, after the Commission has received the Director's report. The Director shall provide to the applicant/developer (1) written notice of the public hearing scheduled before the Commission at least 30 days prior to the date of the hearing, and (2) a copy of the Director's report to the Commission on the date the report is issued.

(d) **Findings Upon Public Hearing.** At the public hearing, the applicant/developer must demonstrate good faith compliance with the terms of the development agreement. The Commission shall determine upon the basis of substantial evidence whether the applicant/developer has complied in good faith with the terms of the development agreement.

(e) **Finding of Compliance by Commission.** If the Commission, after a hearing, determines on the basis of substantial evidence that the applicant/developer has complied in good faith with the terms and conditions of the agreement during the period under review, the Commission shall instruct the Director to issue a certificate of compliance, which shall be in recordable form, may be recorded by the applicant/developer in the official records, and which shall conclude the review for that period; provided that the certificate shall not be issued until after the time has run for the Board to review the determination. Such determination shall be reported to the Board of Supervisors. Notice of such determination shall be transmitted to the Clerk of the Board of Supervisors within three days following the determination. The Board may adopt a motion by majority vote to review the decision of the Planning Commission within 10 days of the date after the transmittal. A public hearing shall be held within 30 days after the date that the motion was adopted by the Board. The Board shall review all evidence and testimony presented to the Planning Commission, as well as any new evidence and testimony presented at or before the public hearing. If the Board votes to overrule the determination of the Planning Commission, and refuses to approve issuance of a certificate of compliance, the Board shall adopt written findings in support of its determination within 10 days following the date of such determination. If the Board agrees with the determination of the Planning Commission, the Board shall notify the Planning Director to issue the certificate of compliance.

(f) **Finding of Failure of Compliance.** If the Commission after a public hearing determines on the basis of substantial evidence that the applicant/developer has not complied in good faith with the terms and conditions of the agreement during the period under review, the Commission shall either (1) extend the time for compliance upon a showing of good cause; or (2) shall initiate proceedings to modify or terminate the agreement pursuant to Section 56.18.

(Added by Ord. 372-88, App. 8/10/88; amended by Ord. 59-91, App. 2/27/91; Ord. 287-96, App. 7/12/96)

SEC. 56.18. MODIFICATION OR TERMINATION.

(a) If the Commission, upon a finding pursuant to Subdivision (f) of Section 56.17, determines that modification of the agreement is appropriate or that the agreement should be terminated, the Commission shall

notify the applicant/developer in writing 30 days prior to any public hearing by the Board of Supervisors on the Commission's recommendations.

(b) **Modification or Termination.** If the Commission, upon a finding pursuant to Subdivision (f) of Section 56.17, approves and recommends a modification or termination of the agreement, the Board of Supervisors shall hold a public hearing to consider and determine whether to adopt the Commission recommendation. The procedures governing Board action shall be the same as those applicable to the initial adoption of a development agreement; provided, however, that consent of the applicant/developer is not required for termination under this section.

(Added by Ord. 372-88, App. 8/10/88)

SEC. 56.19. LIMITATION ON ACTIONS.

(a) Any decision of the Board pursuant to this Chapter shall be final. Any court action or proceeding to attack, review, set aside, void or annul any final decision or determination by the Board shall be commenced within 90 days after (1) the date such decision or determination is final, or (2) when acting by ordinance, after the ordinance is signed by the Mayor, or is otherwise finally approved.

(b) Any court action or proceeding to attack, review, set aside, void or annul any final decision or determination by (1) the Director pursuant to Section 56.15(d)(iii), or (2) the Commission pursuant to Section 56.17(e) shall be commenced within 90 days after said decision is final.

(Added by Ord. 372-88, App. 8/10/88)

SEC. 56.20. FEE.

In order to defray the cost to the City and County of San Francisco of preparing, adopting, and amending a development agreement, a fee shall be charged and collected in accord with the procedures described below:

(a) **Cost Estimate and Application Report.** The reasonable costs to the various departments of the City and County of San Francisco including, but not limited to, the Planning Department, the Department of Public Works, the Mayor's Office of Housing, the Real Estate Department and the City Attorney's Office for staff time, necessary consultant services and associated costs of materials and administration will vary according to the size and complexity of the project. Accordingly, upon receipt of an application for a development agreement, the Planning Department, after consultation with the applicant/developer, any other parties identified in the application as parties to the proposed development agreement, and the affected City and County departments, shall prepare an estimated budget of the reasonable costs to be incurred by the City and County (1) in the preparation and adoption of the proposed development agreement, and (2) in the preparation of related documents where the costs incurred are not fully funded through other City fees or funds; provided, however, that if the projected time schedule exceeds one year, then the estimated budget shall be prepared for the initial 12-month period only, and the estimated budgets for any subsequent 12-month time periods shall be prepared prior to the end of the prior 12-month period.

The Director shall also prepare a report for the Commission and Board describing the application, the anticipated public benefits listed in the application pursuant to Section 56.4(b), and the projected time schedule for development agreement negotiations.

(b) **Commission and Board of Supervisors Consideration.** The Commission shall recommend to the Board of Supervisors that a fee be imposed of a specified amount after reviewing the cost estimate prepared by the Director and conducting a public hearing pursuant to Section 56.4(c). If the Board of Supervisors approves the fee amount by resolution, the fee shall be paid within 30 days after the effective date of the resolution. The fee shall be paid in a single installment or, at the discretion of the Director, in four equal installments, payable periodically over the estimated time frame for which the estimated budget has been prepared, with the first installment due within 30 days after the effective date of the fee resolution.

(c) **Deposit.** The applicant/developer may prepay up to 50 percent of the amount of the fee (as calculated in the Director's estimated budget) into a Development Agreement Fund established for that purpose to enable the affected City Departments and agencies to begin work on the application. Such funds shall be deemed appropriated for the purposes identified in the cost estimate, and shall be credited against the final fee amount specified in the fee resolution if such resolution is ultimately adopted by the Board of Supervisors. If the Board fails to adopt such fee resolution, then the Controller shall return any prepaid funds remaining unexpended or unobligated to the applicant/developer. If the Board approves a fee amount which is less than the amount which the applicant/developer prepaid, then the Controller shall return that portion of the difference between the fee amount and the prepaid funds which remains unexpended or unobligated to the applicant/developer.

(d) **Development Agreement Fund.** There is hereby created a Development Agreement Fund wherein all funds received under the provisions of this section shall be deposited. All expenditures from the Fund shall be for purposes of reviewing the application for, or proposed material modification to, a development agreement and preparing the documents necessary to the approval of the development agreement, or a material modification thereto. Up to 50 percent of the annual cost estimate is hereby deemed appropriated for such purposes if the applicant/developer chooses to prepay such amount pursuant to Subsection (c) above. All other funds are subject to the budget and fiscal powers of the Board of Supervisors. Interest earned on such amounts deposited in said Fund shall accrue to the Fund for the purposes set forth herein. Upon the execution of a development agreement, or withdrawal by an applicant/developer of its application, any unexpended or unobligated portion of the fee paid by the applicant/developer shall be returned to the applicant/developer.

(e) **Waiver for Affordable Housing.** The Board of Supervisors may, by resolution, waive all or a portion of the fee required pursuant to this section for affordable housing developments, as that term is defined in Section 56.3, only if it finds that such waiver is necessary to achieve such affordable housing development.

(f) **Other Fees.** Payment of fees charged under this section does not waive the fee requirements of other ordinances. The fee provisions set forth herein are not intended to address fees or funding for parties to collateral agreements.

(g) **Not Applicable to Rental Housing With On-Site Affordable Housing Units.** The hearings and fee required pursuant to this section shall not apply to development agreements entered into with project sponsors of rental housing developments with on-site affordable housing units as that term is defined in Section 56.3(j) if the provision of on-site affordable housing units is the primary purpose of the Development Agreement.

(Added by Ord. 372-88, App. 8/10/88; Ord. 312, File No. 100046, App. 12/23/2010)

AECOM

**Pier 70 Special Use District
TDM Program**

July 24, 2017

TRANSPORTATION DEMAND MANAGEMENT

The Project (defined as the area within the Pier 70 Special Use District) will implement TDM measures designed to produce 20% fewer driving trips than identified by the project’s Transportation Impact Study (“Reduction Target”) for project build out, as identified in Table 1, below.

Table 1: Trip Reduction Target from EIR Trip Estimates

Period	EIR Auto Trip Estimate at Project Build-Out	Auto Trips Reflecting 20% Reduction (“Reduction Target”)
Daily	34,790	27,832

To do this, the TDM Plan creates a TDM Program that will support and promote sustainable modes and disincentivize the use of private automobiles, particularly single-occupancy vehicles, among residents, employees, and visitors. This chapter outlines the different strategies that Project, initially, will employ to meet those goals, including the formation of a Transportation Management Association (TMA). The TMA will be responsible for the administration, monitoring, and adjustment of the TDM Plan and program over time. In addition to meeting the Reduction Target, the following overall TDM goals are proposed to ensure that the Project creates an enjoyable, safe, and inviting place for residents, workers, and visitors.

1.1 TDM Goals

In addition to meeting the Reduction Target described above, the TDM program will include measures that contribute to the following goals:

- Encourage residents, workers, and visitors to the Project site to use sustainable transportation modes and provide resources and incentives to do so.
- Make the Project site an appealing place to live, work and recreate by reducing the number of cars on the roadways and creating an active public realm.
- Integrate the Project into the existing community by maintaining the surrounding neighborhood character and seamlessly integrating the Project into the established street and transportation network.
- Provide high quality and convenient access to open space and the waterfront.
- Promote pedestrian and bike safety by integrating bicycle and pedestrian-friendly streetscaping throughout the Project site.
- Improve access to high quality transit, including Caltrain, BART, and Muni light rail.
- Reduce the impact of the Project on neighboring communities, including reducing traffic congestion and parking impacts.

1.2 TDM Approach

The fundamental principle behind the TDM program is that travel habits can be influenced through incentives and disincentives, investment in sustainable transportation options, and educational and marketing efforts. Recognizing this principle, the following section describes the TDM program, including its basic structure, as well as logistical issues, such as administration and maintenance of the program.

The Project's land use and site design principles, including creating a dense, mixed-use area that provides neighborhood and office services within walking distance from residential and commercial buildings and the creation of walkable and bicycle-friendly streets, will work synergistically with the TDM program to achieve the Project's transportation goals.

Planning Code Section 169 (TDM) requires that master planned projects such as Pier 70 meet the spirit of the TDM Ordinance, and acknowledges that there may be unique opportunities and strategies presented by master planned projects to do so. If, in the future, the Port establishes its own TDM program across its various properties, the Project will have the right, but not the obligation, to consolidate TDM efforts with this larger plan. In all cases, the Project will coordinate with a Port-wide TDM program, should it exist. In the absence of such a Port-wide program now, the Project is proposing the site-specific TDM program structure outlined below.

As previously mentioned, in order to meet the Project goals to reduce Project-related one-way vehicular traffic by 20%¹—and to create a sustainable development, the Project's TDM program will be administered and maintained by a TMA. Existing examples of TMAs include the Mission Bay TMA and TMA SF Connects.

The TMA will provide services available to all residents and workers at the Project site. The TMA will be funded by an annual assessment of all buildings in the Pier 70 Special Use District area (excluding Buildings 12, 21 and E4). The TMA will be responsible for working with future subtenants of the site (e.g., employers, HOAs, property managers, residents) to ensure that they are actively engaging with the TDM program and that the Program meets their needs as it achieves or exceeds the driving trip reduction targets. Upon agreeing to lease property at the Project, these subtenants will become "members" of the TMA and able to take advantage of the TDM program services provided through the TMA. The TMA will be led by a board of directors which will be composed of representatives from diverse stakeholders that will include the Port (as the current property owner), the SFMTA (as the public agency responsible for oversight of transportation in the City), and representatives of various buildings that have been constructed at the site. The board of directors may also include representatives from commercial office tenants or homeowners' associations.

Day-to-day operations of the TMA will be handled by a staff that would work under the high-level direction provided by the board of directors. The lead staff position will serve as the onsite Transportation Coordinator (TC) (also referred to as the "TDM Coordinator"), functioning as the TMA's liaison with subtenants in the implementation of the TDM program and as the TMA's representative in discussions with the City.

The TC will perform a variety of duties to support the implementation of the TDM program, including educating residents, employers, employees, and visitors of the Project site about the range of

¹ Reduction in trips is in comparison to trip generation expectations from the EIR.

transportation options available to them. The TC would also assist with event-specific TDM planning and monitoring, and reporting on the success and effectiveness of the TDM program overall. The TC may be implemented as a full-time position, or as a part-time position shared with other development projects. The TMA will have the ability to adjust TDM program to respond to success or failure of certain components.

1.2.1 The TMA Website

The TMA, through the onsite TC, would be responsible for the creation, operation, and maintenance of a frequently updated website that provides information related to the Project’s TDM program. The TMA’s website would include information on the following (and other relevant transportation information):

- Connecting shuttle service (e.g., routes and timetables);
- General information on transit access (e.g., route maps and real-time arrival data for Muni, Caltrain, and BART);
- Bikesharing stations on site and in the vicinity;
- On- and off-street parking facilities pricing (e.g., pricing, location/maps and real-time occupancy);
- Carsharing pods on site and in the vicinity,
- Ridematching services; and
- Emergency Ride Home (ERH) program.

1.3 Summary of TDM Measures

Table 2 provides a summary of the TDM measures to be implemented at the Project by the TMA. The following sections provide more detail on the measures as organized by measures that are applicable site-wide, those that target residents only, and those that target non-residents (workers and visitors) only. The applicable measures will be ready to be implemented upon issuance of each certificate of occupancy.

Table 2: Summary of Pier 70 TDM Measures

Measure ²	Description	Applicability		
		Site-wide	Residential	Non-Residential
Improve Walking Conditions	Provide streetscape improvements to encourage walking	✓		
Bicycle Parking	Provide secure bicycle parking	✓		
Showers and Lockers	Provide on-site showers and lockers so commuters can travel by active modes			✓
Bike Share Membership	Property Manager/HOA to offer contribution of 100% toward first year membership; one per dwelling unit		✓	

² Where applicable, measure names attempt to be consistent with names of menus in San Francisco’s TDM Program

Measure ²	Description	Applicability		
		Site-wide	Residential	Non-Residential
Bicycle Repair Station	Each market-rate buildings shall provide one bicycle repair station		✓	
Fleet of Bicycles	Sponsor at least one bikeshare station at Pier 70 for residents, employees, and/or guests to use	✓		
Bicycle Valet Parking	For large events (over 2,000), provide monitored bicycle parking for 20% of guests	✓		
Car Share Parking & Membership	Provide car share parking per code. Property Manager/HOA to offer contribution of 100% toward first year membership; one per dwelling unit		✓	
Delivery Supportive Amenities	Facilitate deliveries with a staffed reception desk, lockers, or other accommodations, where appropriate.	✓		
Family TDM Amenities	Encourage storage for car seats near car share parking, cargo bikes and shopping carts	✓		
On-site Childcare	Provide on-site childcare services	✓		
Family TDM Package	Require minimum number of cargo or trailer bike parking spaces		✓	
Contributions or Incentives for Sustainable Transportation	Property Manager/HOA to offer one subsidy (40% cost of MUNI "M" pass) per month for each dwelling unit		✓	
Shuttle Bus Service	Provide shuttle bus services	✓		
Multimodal Wayfinding Signage	Provide directional signage for locating transportation services (shuttle stop) and amenities (bicycle parking)	✓		
Real Time Transportation Information Displays	Provide large screen or monitor that displays transit arrival and departure information	✓		
Tailored Transportation Marketing Services	Provide residents and employees with information about travel options	✓		
On-site Affordable Housing	Provide on-site affordable housing as part of a residential project		✓	
Unbundle Parking	Separate the cost of parking from the cost of rent, lease or ownership	✓		
Prohibition of Residential Parking Permits (RPP)	No RPP area may be established at or expanded into the Project site		✓	
Parking Supply	Provide less accessory parking than the neighborhood parking rate	✓		
Emergency Ride Home Program	Ensure that every employer is registered for the program and that employees are aware of the program			✓

1.4 Site-wide Transportation Demand Management Strategies

The following are site-wide TDM strategies that will be provided to support driving trip reductions by all users of the Project.

1.4.1 Improve Walking Conditions

The Project will significantly improve walking conditions at the site by providing logical, accessible, lighted, and attractive sidewalks and pathways. Sidewalks will be provided along most new streets and existing streets will be improved with curbs and sidewalks as necessary. The street design includes improvements to streets and sidewalks to enhance the pedestrian experience and promote the safety of pedestrians as a top priority. In addition, ground floor retail will create an active ground plan that promotes comfortable and interesting streetscapes for pedestrians.

1.4.2 Encourage Bicycling

Bicycling will be encouraged for all users of the site by providing well-designed and well-lit bike parking in residential and commercial buildings, in district parking, and also in key open space and activity nodes. Bicycle parking will be provided in at least the amounts required by the Planning Code at the time a building secures building permits. Furthermore, valet bicycle parking will be provided for large events (over 2,000) to accommodate 20% of guests. In addition to bicycle parking, the Project will fund at least one bikeshare station on site, including the cost of installation and operation for three years, for residents, employees, and or guests to use. This will help reduce the cost-burden of purchasing a bike and increase convenience. Bicycle facilities provided at the Project site will help improve connectivity to existing bike facilities on Illinois Street and the Bay Trail.

1.4.3 Tailored Transportation Marketing Services and Commuter Benefits

Tailored marketing services will provide information to the different users of the site about travel options and aid in modal decision making. For example, the TMA will be responsible for notifying employers about the San Francisco Commuter Benefits Ordinance, the Bay Area Commuter Benefits Program, and California's Parking Cash-Out law when they sign property leases at the site and disseminating general information about the ordinances on the TMA's website. The TMA will provide information and resources to support on-site employers in enrolling in pre-tax commuter benefits, and in establishing flex time policies.

Employers will be encouraged to consider enrolling in programs or enlisting services to assist in tracking employee commutes, such as Luum and Rideamigos. The services offered by these platforms include the development of incentive programs to encourage employees to use transit, customized commute assistance resources, tracking the environmental impact of employee commutes, and assessing program effectiveness. As the TMA works with on-site employers, other useful resources that support sustainable commute modes may be identified and provided by the TMA.

1.4.4 Car Share Parking

The Project will provide car share parking in the amounts specified by Planning Code Section 166 for applicable new construction buildings.

1.4.5 Shuttle Service

A shuttle will be operated at Pier 70 serving to connect site users (residents, employees, and visitors) with local and regional transit hubs. The shuttle service will aim to augment any existing transit services and it is not intended to compete with or replicate Muni service. Shuttle routes, frequencies, and service standards will be planned in cooperation with SFMTA staff. In addition, coordination and integration of the shuttle program with other developments in the area will be considered, including with Mission Bay and future development at the former Potrero Power Plant. The necessity of the shuttle service will continue to be assessed as transit service improves in the Pier 70 area over time.

Any shuttles operated by the Project will secure safe and legal loading zones for passenger boarding and alighting, both in the site and off-site. Shuttles will be free and open to the public and be accessible per ADA standards. Shuttles will comply with any applicable laws and regulations.

1.4.6 Parking

The Project is subject to an aggregate, site-wide parking maximum based on the following ratios:

- Residential parking maximums are set to 0.60 spaces per residential unit; and
- Commercial Office parking maximums are set to 1 space per 1,500 gross square feet; and
- Retail shall have 0 parking spaces.

The cost of parking will be unbundled, or separate from the cost of rent, lease, or ownership at the Project. Complying with San Francisco Planning Code, residential parking will not be sold or rented with residential units in either for-sale or rental buildings. Residents or workers who wish to have a car onsite will have to pay separately for use of a parking space. Residential and non-residential parking spaces will be leased at market rate.

Non-residential parking rates shall maintain a rate or fee structure such that:

- Base hourly and daily parking rates are established and offered.
- Base daily rates shall not reflect a discount compared to base hourly parking rates; calculation of base daily rates shall assume a ten-hour day.
- Weekly, monthly, or similar-time specific periods shall not reflect a discount compared to base daily parking rates, and rate shall assume a five-day week.
- Daily or hourly rates may be raised above base rate level to address increased demand, for instance during special events.

1.4.7 Displays and Wayfinding Signage

Real time transportation information displays (e.g., large television screens or computer monitors) will be provided in prominent locations (e.g., entry/exit areas, lobbies, elevator bays) on the project site highlighting sustainable transportation options. The displays shall be provided at each office building larger than 200,000 SF and each residential building of more than 150 units, and include arrival and departure information, such as NextBus information, as well as the availability of car share vehicles and shared bicycles as such information is available. In addition, multimodal wayfinding signage will be provided to help site users locate transportation services (such as shuttle stops) and amenities (such as bicycle parking). Highly visible information and signage will encourage and facilitate the use of these resources.

1.4.8 Family Amenities

Five percent of residential Class 1 bicycle parking will be designated for cargo and trailer bicycles. In addition, services and amenities will be encouraged to support the transportation needs of families, including storage for strollers and car seats near car share parking. On-site child care services will also be provided to further support families with children and reduce commuting distances between households, places of employment, and childcare.

1.5 Residential Transportation Demand Management Strategies

Strategies for reducing automobile use for residents of Pier 70 are discussed in the following sections.

1.5.1 Encourage Transit

All homeowners' associations and property managers will offer one subsidy (equivalent to 40% cost of Muni M pass or future equivalent Muni monthly pass) per month for each dwelling unit. These would likely consist of Clipper Cards that work for Muni, BART, and Caltrain and are auto-loaded with a certain cash value each month. In addition, tailored marketing services will provide information to residents about travel options and aid in modal decision making.

1.5.2 Bicycles

Indoor secure bicycle parking will be provided for residents in at least the amounts required by the Planning Code at the time the building secures building permits. Property Managers and HOA's will offer a contribution of 100% towards the first year's membership cost in a bikeshare program at a rate of one membership per dwelling unit. In addition, each market-rate residential building shall provide a bicycle repair station in a secure area of the building.

1.5.3 Car Share Membership

Property managers and HOA's will offer a contribution of 100% towards the first year's membership cost in a car share program at a rate of one membership per dwelling unit. Any user fees will be the responsibility of the resident member.

1.5.4 Family TDM Package

Amenities for families residing at the Project will be encouraged, such as car share memberships and other family amenities, including stroller and car seat storage and cargo bicycle parking.

1.5.5 Prohibition of Residential Parking Permits

Residential permit parking (RPP) will be prohibited at the Project site, and residents of Pier 70 will not be eligible for the neighboring Dogpatch RPP. This restriction is recorded within the Project's Master Covenants, Codes and Restrictions (CC&R) documents. This approach to RPP is intended to complement the Project's unbundled parking policy by ensuring that residents pay market rate for parking and that residential parking does not spill over onto neighborhood RPP streets.

1.6 Non-residential Transportation Management Strategies

As with residents, there are several ways to encourage public transit and other sustainable modes of travel for employees and visitors to the Project site.

1.6.1 Emergency Ride Home Program

San Francisco provides an emergency ride home (ERH) program that reimburses the cost of a taxi ride home for an employee who commutes to work by a sustainable mode (transit, bicycling, walking, or carpool/vanpool) and has an unexpected emergency such as personal or family related illness or unscheduled overtime. Any employee in San Francisco is eligible as long as the employer has registered. Registration is free for employers. The ERH program is a safety net that may remove a barrier to sustainable commute choices. The TMA will ensure that every employer tenant on-site is registered for the Emergency Ride Home program and that employees are aware of the program.

1.6.2 Bicycles

Indoor secure bicycle parking will be provided for employees at least in the amount required by the Planning Code at the time the building secures building permits. Showers and lockers for employee use will also be provided at least in the amount required by the Planning Code in order to support active travel modes for commuting. Employees will be encouraged to participate in Bike to Work Day events by the TMA. As previously mentioned, the Project will provide at least one bikeshare station that would be available to residents, employees, and visitors.

1.7 Special Event Transportation Management Strategies

The Project's open spaces will host a variety of public events, including evening happy hours, outdoor film screenings, music concerts, fairs and markets, food events, street festivals art exhibitions and theatre performances. Typical events may occur several times a month, with an attendance from 500 to 750 people. Larger-scale events would occur approximately four times a year, with an attendance up to 5,000 people. All events in parks or open spaces require permitting approval by the Port.

The TMA will work with the open space management team and any building managers or retailers to establish and implement transportation management plans for specific events. Transportation management plans will consider best practices and lessons learned from other San Francisco events and event venues. Event scheduling will attempt to minimize overlapping of events with AT&T Park and the Chase Event Center as required by the Environmental Impact Report. Event transportation management plans can include the following mechanisms:

- Directional signage for vehicles accessing the site
- Charging event pricing for parking associated with special events;
- Dedicated passenger loading zones in the site;
- Staffed and secure bicycle valet parking;
- Identifying and rewarding guests who ride their bicycles, walk, or transit to events (i.e., free giveaways);
- Encouraging customers at the time of ticket sales to take public transportation, walk, or bicycle to the events, and providing reminders and trip planning tools to support them in doing so;
- Disseminating the recommended transportation options on different marketing outlets (with ticket receipt, online channels, Pier 70 website, TMA website, etc.);

- Identifying offsite parking and using shuttles to transport visitors between the event venues, offsite parking, and transit hubs, as needed; and,
- Encouraging guests to arrive early and stay onsite longer by promoting local vendors, restaurants, etc., to spread and reduce pre- and post-event peaking effects.

Successful special event transportation management plans will minimize driving trips and promote sustainable modes of access to events. The TMA will monitor the effectiveness of these event management strategies, and at SFMTA's request, meet with SFMTA to consider revised approaches to event management.

1.7.1 Street Closures

During larger events and temporary programming, Maryland Street between 21st and 22nd Streets is expected to seek permits to be closed to motor vehicle traffic through the City's Interdepartmental Staff Committee of Traffic and Transportation (ISCOTT) process. Street closures would be in effect anywhere from a few hours to an entire day. In advance and during any street closure, event organizers must provide sufficient street signage to discourage driving to the site during the event and to route motor vehicles through the site and minimize queuing and impacts to circulation in and around the Project site. The recommended vehicular loop will be through 22nd Street (west of Louisiana Street), Louisiana Street (south of 21st Street), and 21st Street (west of Louisiana Street), with drop-off zones located on Louisiana Street. 21st Street (east of Louisiana Street) would serve as a loading/service alley for events.

1.8 Monitoring, Evaluation, and Refinement

The Pier 70 TMA, through an on-site Transportation Coordinator, shall collect data and make monitoring reports available for review and approval by the Planning Department staff. Monitoring data shall be collected and reports shall be submitted to Planning Department staff every year (referred to as "reporting periods"), until five consecutive reporting periods display the project has met the reduction goal, at which point monitoring data shall be submitted to Planning Department staff once every three years. The first monitoring report is required 18 months after issuance of the First Certificate of Occupancy for buildings that include off-street parking or the establishment of surface parking lots or garages that bring the project's total number of off-street parking spaces to greater than or equal to 500. Each trip count and survey (see below for description) shall be completed within 30 days following the end of the applicable reporting period. Each monitoring report shall be completed within 90 days following the applicable reporting period. The timing shall be modified such that a new monitoring report shall be required 12 months after adjustments are made to the TDM Plan in order to meet the reduction goal, as may be required in the "TDM Plan Adjustments" heading below. In addition, the timing may be modified by the Planning Department as needed to consolidate this requirement with other monitoring and/or reporting requirements for the project.

Table 3 below provides the EIR trip estimates for each phase identified in the EIR, as well as the number of trips for each phase reflecting a 20 percent reduction. Annual monitoring reports will compare progress against the trip estimates in Table 3 to assess progress, however the Project will not be considered out of compliance with either this Plan or Project mitigation measure M-AQ-1f unless the Reduction Target calculated for the fully built out project (see Table 1) has been exceeded.



The findings will be reported out to the Planning Department, as described in the Mitigation Monitoring and Reporting Program (MMRP). The monitoring reports are intended to satisfy the requirements of Project mitigation measure M-AQ-1f, M-TR-5, M-C-TR-4A, and M-C-TR-4B. If, however, separate reporting is preferred by the TMA, separate reports are acceptable.

Based on findings from the evaluation and with input from SFMTA and the Planning Department, the Project will refine the TDM Plan by improving existing measures (e.g., additional incentives, changes to shuttle schedule), including new measures (e.g., a new technology), or removing existing measures, in order to achieve the Project's Reduction Target, as well as monitor progress against the trip estimates for each phase outlined below. It will be especially important to refine strategies as new transportation options are put into place in the area and as the TMA learns which strategies are most effective in shaping the transportation behaviors of the site users.

Table 3: Auto Trip Estimates by Phase

Phase	Residential			Commercial			Phase Trip Estimates	
	Units	Cum. Units	%	GSF	Cum. GSF	%	EIR Auto Trip Estimates (by phase)	Auto Trip Target ¹
Phase 1	300	300	18%	6,600	6,600	0%	1,072	858
Phase 2	690	990	60%	348,200	354,800	16%	9,970	8,834
Phase 3	375	1,365	83%	673,900	1,028,700	45%	7,662	14,963
Phase 4	280	1,645	100%	747,450	1,776,150	79%	12,241	24,756
Phase 5	0	1,645	100%	486,200	2,262,350	100%	3,845	27,832

Notes:

1. Represents 20 percent reduction target.

1.8.1 Purpose

The Plan has a commitment to reduce daily one-way vehicle trips by 20 percent compared to the total number of one-way vehicle trips identified in the project's Transportation Impact Study at project build-out ("Reduction Target"). To ensure that this reduction goal could be reasonably achieved, the TDM Plan will have a monitoring goal of reducing by 20 percent the one-way vehicle trips calculated for each building that has received a Certificate of Occupancy and is at least 75% occupied compared to the one-way vehicle trips anticipated for that building based on anticipated development on that parcel, using the trip generation rates contained within the project's Transportation Impact Study. The Plan must be adjusted if three consecutive monitoring results demonstrate that the TDM program is not achieving the TDM objectives. TDM adjustments will be made in consultation with the SFMTA and the Planning Department until three consecutive reporting periods' monitoring results demonstrate that the reduction goal is achieved.

If the TDM Plan does not achieve the Reduction Target for three consecutive monitoring results, the Plan must also be adjusted as described above. If, following the three consecutive monitoring periods, the TDM Plan still does not achieve the Reduction Target, the Planning Department may impose additional measures on the Project including capital or operational improvements intended to reduce

VMT, or other measures that support sustainable trip making, until the Plan achieves the Reduction Target.

1.8.2 Monitoring Methods

The Transportation Coordinator shall collect data (or work with a third party consultant to collect this data) and prepare annual monitoring reports for review and approval by the Planning Department and the SFMTA. The monitoring report, including trip counts and surveys, shall include the following components or comparable alternative methodology and components as approved or provided by Planning Department staff:

- **Trip Count and Intercept Survey:** Trip count and intercept survey of persons and vehicles arriving and leaving the project site for no less than two days of the reporting period between 6:00 a.m. and 8:00 p.m. One day shall be a Tuesday, Wednesday, or Thursday during one week without federally recognized holidays, and another day shall be a Tuesday, Wednesday, or Thursday during another week without federally recognized holidays. The trip count and intercept survey shall be prepared by a qualified transportation or qualified survey consultant and the methodology shall be approved by the Planning Department prior to conducting the components of the trip count and intercept survey. It is anticipated that the Planning Department will have a standard trip count and intercept survey methodology developed and available to project sponsors at the time of data collection.
- **Travel Demand Information:** The above trip count and survey information shall be able to provide travel demand analysis characteristics (work and non-work trip counts, origins and destinations of trips to/from the project site, and modal split information) as outlined in the Planning Department's Transportation Impact Analysis Guidelines for Environmental Review, October 2002, or subsequent updates in effect at the time of the survey.
- **Documentation of Plan Implementation:** The TDM Coordinator shall work in conjunction with the Planning Department to develop a survey (online or paper) that can be reasonably completed by the TDM Coordinator and/or TMA staff to document the implementation of TDM program elements and other basic information during the reporting period. This survey shall be included in the monitoring report submitted to Planning Department staff.
- **Degree of Implementation:** The monitoring report shall include descriptions of the degree of implementation (e.g., how many tenants or visitors the TDM Plan will benefit, and on which locations within the site measures will be/have been placed, etc.)
- **Assistance and Confidentiality:** Planning Department staff will assist the TDM Coordinator on questions regarding the components of the monitoring report and shall ensure that the identity of individual survey responders is protected.

Additional methods (described below) may be used to identify opportunities to make the TDM program more effective and to identify challenges that the program is facing.

1.8.3 Monitoring Documentation

Monitoring data and efforts will be documented in an Annual TMA Report. Monitoring data shall be collected and reports shall be submitted to Planning Department staff every year (referred to as "reporting periods"), until five consecutive reporting periods display the project has met the reduction goal, at which point monitoring data shall be submitted to Planning Department staff once every three years. The first monitoring report is required 18 months after issuance of the First Certificate of Occupancy for buildings that include off-street parking or the establishment of surface parking lots or

garages that bring the project's total number of off-street parking spaces to greater than or equal to 500. Each trip count and survey (see section 1.8.2 for description) shall be completed within 30 days following the end of the applicable reporting period. Each monitoring report shall be completed within 90 days following the applicable reporting period. The timing shall be modified such that a new monitoring report shall be required 12 months after adjustments are made to the TDM Plan in order to meet the reduction goal, as may be required in the "Compliance and TDM Plan Adjustments" heading below. In addition, the timing may be modified by the Planning Department as needed to consolidate this requirement with other monitoring and/or reporting requirements for the project.

1.8.4 Compliance and TDM Plan Adjustments

The Project has a compliance commitment of achieving a 20 percent daily one-way vehicle trip reduction from the EIR's analysis of full build out, as described in Table 1. To ensure that this reduction could be reasonably achieved, the project will employ TDM measures to ensure that each phase's auto trips generated are no more than 80% of the trips estimated for the development within that phase, as shown in Table 3.

Monitoring data will be submitted to Planning Department staff every year, starting 18 months after the certificate of occupancy of the first building, until five consecutive reporting periods indicate that the fully-built Project has met the Reduction Target. Following the initial compliance period, monitoring data will be submitted to the Planning Department staff once every three years.

If three consecutive reporting periods demonstrate that the TDM Plan is not achieving the Reduction Target, or the interim target estimates identified in Table 3 above, TDM adjustments will be made in consultation with the SFMTA and the Planning Department and may require refinements to existing measures (e.g., change to subsidies, increased bicycle parking), inclusion of new measures (e.g., a new technology), or removal of existing measures (e.g., measures shown to be ineffective or induce vehicle trips).

If three consecutive reporting periods' monitoring results demonstrate that measures within the TDM Plan are not achieving the Reduction Target, or the interim target estimates identified in Table 3 above,, the TDM Plan adjustments shall occur within 270 days following the last consecutive reporting period. The TDM Plan adjustments shall occur until three consecutive reporting periods' monitoring results demonstrate that the reduction goal is achieved. If the TDM Plan does not achieve the Reduction Target then the Planning Department shall impose additional measures to reduce vehicle trips as prescribed under the development agreement, which may include restriction of additional off-street parking spaces beyond those previously established on the site, capital or operational improvements intended to reduce vehicle trips from the project, or other measures that support sustainable trip making, until three consecutive reporting periods' monitoring results demonstrate that the reduction goal is achieved.

TRANSPORTATION PLAN
of
DISPOSITION AND DEVELOPMENT AGREEMENT

(PIER 70 28-Acre Site)

TRANSPORTATION PLAN

I. Transportation Fee.

A. Payment by Vertical Developers. Each Vertical Developer shall pay to SFMTA a "Transportation Fee" that SFMTA will use and allocate in accordance with Section I.B below. The Transportation Fee must meet all requirements of and will be payable on all vertical development in the 28-Acre Site in accordance with Planning Code sections 411A.1-411A.8. Under the Development Agreement and this Transportation Program:

- The Transportation Fee will be payable on any development project on the 28-Acre Site, except Affordable Housing Projects pursuant to Planning Code section 406(b) and Building 21, Building 12 and Parcel E4.
- The Transportation Fee will be calculated at 100% of the applicable TSF rate without a discount under Section 411A.3(d). The Project shall be subject to 100% of the applicable TSF rate as if it were a Project submitted under 411A.3(d)(3). The amount of the Transportation Fee for each applicable land use category will be identical to the amount for the same land use category in the Fee Schedule in Planning Code section 411A.5 as in effect when the Port issues the first construction permit for each building.

B. Accounting and Use of Transportation Fee by SFMTA. Section 411A.7 will apply except as follows. The Treasurer will account for all Transportation Fees paid for each development project on the 28-Acre Site (the "Total Fee Amount"). SFMTA will use an amount equal to or greater than the Total Fee Amount to pay for uses permitted by the TSF Fund under Planning Code section 411A.7, including SFMTA and other agencies' costs to design, permit, construct, and install a series of transportation improvements in the area surrounding the Pier 70 SUD Area. SFMTA and other implementing agencies will be responsible for all costs associated with the design, permitting, construction, installation, maintenance, and operation of these improvements above the Total Fee Amount. SFMTA will report to the Planning Director on any use of the Total Fee Amount in any reporting period for the Annual Review under the Development Agreement. Examples of projects that SFMTA may fund with the Total Fee Amount include:

- 16th Street Ferry Landing. Construction of a new ferry terminal at Mission Bay and support of other water transit, including a network of water taxi/small water ferry docks along the waterfront.
- T-Third Enhancements. Reliability and capacity enhancements, including flashing "Train Coming" signs, in-ground detectors at to-be-identified intersections, and additional light rail vehicles (LRV) as needed to serve the growing population along the line.
- 10, 11, 12, and other MUNI lines that are planned to serve 28-Acre Site Project neighborhood. Capital improvements, including buses, associated with newly proposed MUNI routes, and re-routing of existing MUNI lines to better serve transit riders in the Dogpatch, Mission Bay, and Potrero Hill neighborhoods. Operation plans for all Muni service is contingent on the SFMTA Board of Directors adoption of an operating budget.
- Muni Metro East. Capital costs associated with an expanded facility for on-site rebuilds, capacity for expanded bus and LRV fleet, and tracks for storage.

1 Project payment for Mitigation Measure M-TR-5 will not be requested by the SFMTA until after Project's contribution to the 10, 11, 12, and other Muni lines planned to serve the 28-Acre Site Project neighborhood are expended, provided relevant impacts still exist.

- Mission Bay E-W Bike Connector. Implementation of a connection across tracks, likely between 17th Street and Owens Street, to connect the 4th Street bikeway on east side and the 17th Street bikeway on west side.
- Terry A. Francois Boulevard Cycletrack. Implementation of bicycle access on Terry A. Francois Boulevard, including multi-use (peds/bikes) access on the 3rd Street Bridge and associated signal modifications.
- North-south bike connection on Indiana Street. Implementation of bicycle connection along Indiana Street from Cesar Chavez Boulevard to Mariposa Street.
- Upgraded bicycle access on Cesar Chavez Boulevard. Implementation of a lane along Cesar Chavez Boulevard from US 1-280/Pennsylvania to Illinois Street, including elements such as bulbs, islands, and restriping.
- Pedestrian improvements. Implement improved sidewalks and crosswalks as needed at various gap locations throughout the adjacent Dogpatch neighborhood, as identified in partnership with community and City partners.

Nothing in this Transportation Program will prevent or limit the City's absolute discretion to: (i) conduct environmental review in connection with any future proposal for improvements; (ii) make any modifications or select feasible alternatives to future proposals that the City deems necessary to conform to any applicable laws, including CEQA; (iii) balance benefits against unavoidable significant impacts before taking final action; (iv) determine not to proceed with such future proposals; or (v) obtain any required approvals for the improvements.

II TDM Plan.

Developer shall implement the Transportation Demand Management ("TDM") Plan attached as **TP Schedule 1** and otherwise comply with EIR Mitigation Measure M-AQ-1f, attached as **TP Schedule 2**. Under Planning Code Section 169.4(e), the Zoning Administrator shall approve and order the recordation of the TDM Plan against the Project and it shall be enforceable through the Notice of Violation procedures in the Planning Code, or any other applicable provision of law. The Zoning Administrator shall retain the discretion to determine what constitutes a separate violation in this context. The Planning Code procedures shall apply, except that the Zoning Administrator shall have discretion to impose a penalty of up to \$250 per violation. Developer agrees to a TDM Plan that vehicle trips associated with the 28-Acre Site will not exceed 80% of the vehicle trips calculated for 28-Acre Site Project in the Transportation Impact Study. The TDM measures (the "TDM Measures") outlined in the TDM Plan, or made in consultation with the relevant agencies, must achieve the TDM Plan.

Developer's TDM Plan and related obligations under this Transportation Program will begin when the Port or DBI issues a temporary certificate of occupancy for the first building at the Pier 70 SUD Area and remain in effect for the life of Project.

III. SFMTA Contact

SFMTA commits to designating a staff person to follow up on the transportation related components of the Project, including this Exhibit, the DA, and the FEIR. This staff person will be a point person for the Developer and the community.

IV. RPP Permits

The Project will not be eligible for Residential Parking Permits under Transportation Code Section 405. Developer has agreed that such restriction will be included in the Conditions, Covenants and Restrictions (CC&Rs) of the Project.

LEGAL DESCRIPTION

for 28 ACRE SITE

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

A PORTION OF THAT CERTAIN PARCEL OF LAND AS DESCRIBED IN THAT GRANT DEED RECORDED DECEMBER 16, 1982, IN BOOK D464, PAGE 628, OFFICIAL RECORDS.

ALSO BEING A PORTION PARCEL "A", AS SAID PARCEL IS SHOWN ON "MAP OF LANDS TRANSFERRED IN TRUST TO THE CITY AND COUNTY OF SAN FRANCISCO", FILED IN BOOK "W" OF MAPS, PAGES 66-72, AND FURTHER DESCRIBED IN THAT DOCUMENT RECORDED MAY 14, 1976, IN BOOK C169, PAGE 573, OFFICIAL RECORDS, CITY AND COUNTY OF SAN FRANCISCO.

ALSO BEING A PORTION OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THAT DEED GRANTED TO THE STATE OF CALIFORNIA, RECORDED NOVEMBER 13, 1967 IN BOOK B192, PAGE 384, OFFICIAL RECORDS, CITY AND COUNTY OF SAN FRANCISCO.

ALSO BEING THE PACIFIC ROLLING MILL COMPANY PATENT, APPROVED MARCH 28, 1868, STATE STATUTE, CHAPTER 362.

ALSO BEING A PORTION OF THE ALVORD PATENT, APPROVED APRIL 2, 1866, STATE STATUTE, CHAPTER 616.

ALSO BEING A PORTION OF RANCHO DEL POTRERO NUEVO.

ALSO BEING A PORTION OF THE FOLLOWING CLOSED STREETS PER CITY RESOLUTIONS: GEORGIA STREET, LOUISIANA STREET, MARYLAND STREET, DELAWARE STREET, WATERFRONT STREET, 20TH STREET, 21ST STREET AND 22ND STREET.

BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHERLY LINE OF 22ND STREET (66 FEET WIDE), THE WESTERLY LINE OF FORMER GEORGIA STREET (80 FEET WIDE), AS SAID STREET EXISTED PRIOR TO THE CLOSURE THEREOF, PER RESOLUTIONS No. 1759, DATED FEBRUARY 27, 1884, No. 10787, DATED MARCH 30, 1914 AND No. 1376, DATED OCTOBER 15, 1940 AND THE GENERAL WESTERLY LINE OF THAT PARCEL OF LAND DESCRIBED IN DEED GRANTED TO THE STATE OF CALIFORNIA, RECORDED NOVEMBER 13, 1967 IN BOOK B192, PAGE 384, OFFICIAL RECORDS (B192 O.R. 384), CITY AND COUNTY OF SAN FRANCISCO; THENCE ALONG THE NORTHERLY LINE OF FORMER 22ND STREET, AS SAID STREET EXISTED PRIOR TO THE CLOSURE THEREOF, PER RESOLUTION No. 1376, DATED FEBRUARY 27, 1884 AND ALONG THE LINE OF SAID B192 O.R. 384 PARCEL, NORTH 85°38'01" EAST 40.00 FEET TO THE CENTERLINE OF SAID FORMER GEORGIA STREET; THENCE ALONG SAID CENTERLINE AND LINE OF B192 O.R. 384 PARCEL, NORTH 04°21'59" WEST 270.00 FEET TO THE MOST SOUTHEASTERLY CORNER OF PARCEL 2 OF THAT PARCEL OF LAND AS DESCRIBED IN GRANT DEED TO THE CITY AND COUNTY OF SAN FRANCISCO, RECORDED DECEMBER 16, 1982, AS INSTRUMENT NO. D275576, IN BOOK D464, PAGE 628, OFFICIAL RECORDS (D464 O.R. 628), CITY AND COUNTY OF SAN FRANCISCO; THENCE ALONG THE SOUTHERLY AND WESTERLY LINES OF SAID PARCEL 2 OF D464 O.R. 628, THE FOLLOWING TWO COURSES: SOUTH 85° 38'01" WEST 240.00 FEET TO THE EASTERLY LINE OF MICHIGAN STREET (80 FEET WIDE), AND ALONG SAID LINE OF MICHIGAN STREET NORTH 04° 21'59" WEST 205.95 FEET; THENCE NORTH 85°38'01" EAST 356.54 FEET; THENCE ALONG A TANGENT CURVE TO THE LEFT WITH A RADIUS OF 80.00 FEET, THROUGH A CENTRAL ANGLE OF 25° 00'00", AN ARC LENGTH OF 34.91 FEET; THENCE NORTH 60°38'01" EAST

2.38 FEET; THENCE NORTH 04°21'59" WEST 98.46 FEET; THENCE NORTH 85°38'01" EAST 89.57 FEET; THENCE NORTH 21°16'29" EAST 27.73 FEET; THENCE NORTH 04° 21'59" WEST 218.09 FEET; THENCE NORTH 21°03'56" WEST 41.76 FEET TO THE SOUTHERLY LINE OF 20TH STREET (66 FEET WIDE) AND THE NORTHERLY LINE OF SAID PARCEL 2 OF D464 O.R. 628; THENCE ALONG SAID LINES, NORTH 85°38'01" EAST 37.93 FEET TO THE EASTERLY LINE OF SAID STREET AND THE GENERAL WESTERLY LINE OF SAID B192 O.R. 384 PARCEL; THENCE ALONG SAID LINES NORTH 04°21'59" WEST 33.00 FEET TO THE CENTERLINE OF SAID STREET; THENCE ALONG A PORTION OF THE SOUTHERLY LINE OF PARCEL 1 OF SAID D464 O.R. 628, ALONG A PORTION OF THE NORTHERLY LINE OF SAID B192 O.R. 384 PARCEL AND ALONG THE CENTERLINE OF FORMER 20TH STREET, AS SAID STREET EXISTED PRIOR TO THE CLOSURE THEREOF, PER RESOLUTION No. 10787, DATED MARCH 30, 1914, NORTH 85°38'01" EAST 630.37 FEET; THENCE SOUTH 36°29'34" EAST 38.91 FEET; THENCE NORTH 53°30'26" EAST 91.14 FEET TO THE MEAN HIGH WATER LINE, DEFINED BY AN ELEVATION OF 5.8 FEET (NAVD88 DATUM); THENCE IN A GENERAL SOUTHERLY DIRECTION ALONG SAID MEAN HIGH WATER LINE, APPROXIMATELY 1686 FEET TO THE MOST SOUTHERLY LINE OF SAID B192 O.R. 384 PARCEL; THENCE ALONG SAID SOUTHERLY LINE SOUTH 85°30'01" WEST 1085 FEET, MORE OR LESS, TO THE MOST SOUTHWESTERLY CORNER OF SAID PARCEL; THENCE ALONG THE LINES OF SAID PARCEL, NORTH 25°06'47" WEST 56.46 FEET AND NORTH 42° 41'34" WEST 129.00 FEET TO THE SOUTHEASTERLY CORNER OF SAID 22ND STREET; THENCE ALONG THE EASTERLY LINE OF SAID 22ND STREET AND THE LINE OF SAID B192 O.R. 384 PARCEL, NORTH 04°21'59" WEST 66.00 FEET TO THE POINT OF BEGINNING, CONTAINING 28.20 ACRES, MORE OR LESS.

THE BASIS OF BEARING FOR THE ABOVE DESCRIPTION IS BASED UPON THE BEARING OF N03°41'33"W BETWEEN SURVEY CONTROL POINTS NUMBERED 375 AND 376, OF THE HIGH PRECISION NETWORK DENSIFICATION (HPND), CITY & COUNTY OF SAN FRANCISCO 2013 COORDINATE SYSTEM (SFCS13).

Assessor's Parcel Nos. : portions of 4052-001 and 4046-001



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July 26, 2017

San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, California 94103-2479
Attn: John Rahaim, Director

RE: Pier 70 Application for Development Agreement, Administrative Code 56.4

Dear Director Rahaim:

Pursuant to San Francisco Administrative Code Section 56.4, FC Pier 70, LLC ("FC"), submits this letter application for a development agreement ("DA") with respect to the 28-Acre Site portion ("Project") of the Pier 70 Special Use District ("Pier 70 SUD"). The Pier 70 SUD is an approximately 35-acre phased, mixed-use development. Upon completion, the Pier 70 SUD will include substantial residential uses (including affordable housing), office, retail, light industrial, arts, parks and open space areas.

FC has had extensive discussions with City departments and the community about the DA's proposed public benefits. In addition to public benefits associated with the jobs and revenue generated by the mixed-use development of this underutilized and transit rich waterfront site, those discussions led to the following proposed community benefits, which exceed those required by existing ordinances and regulations governing the approval of this project and are additionally consistent with and exceed the robust set of public benefits affirmed by the public in its approval of Proposition F in November 2014.

- Implementing Proposition F—A Broad Range of Benefits
The Project would implement the open space, housing, affordability, historic rehabilitation, artist community preservation, commercial, waterfront height limit and urban design, and jobs policies endorsed by the voters in Proposition F for the 28-Acre Site (November 2014).
- Significant Infrastructure Improvements - \$360+ Million
The Project would invest over \$360 million in improvements in open space, geotechnical, transportation, historic building rehabilitation and other infrastructure critical to serving the Project Site, the Union Iron Works Historic District, the historic ship repair operations and the surrounding neighborhood.
- Transportation Investment
The Project includes an innovative Transportation Demand Management program and a pedestrian-prioritized design. Additionally, the Project will voluntarily pay an amount equivalent to the full Transportation Sustainability Fee levels.
- Affordable Housing Program – 30% Onsite
30% of all units built at the 28-Acre Site will be affordable. The Project would also include a priority housing program for residents of District 10 to the extent allowable. In addition, the Pier 70 SUD would generate approximately \$15-20 million in revenue to support the rebuild of public housing facilities, such as the nearby Potrero Annex and Potrero Terrace public housing communities, in accordance with Board Resolution No. 54-14.



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www.forestcity.net

- Historic Rehabilitation

The Project would rehabilitate three contributors to the Union Iron Works Historic District consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties to accommodate new uses, and design and build new infrastructure, public realm areas, parks and buildings consistent with the Pier 70 SUD Design for Development and support the continued integrity of the Union Iron Works Historic District.

- Jobs and Workforce Development

The Project would create business and employment opportunities, including an estimated 10,000 permanent jobs and 11,000 temporary construction jobs, for local workers and businesses during the design, construction, and operation phases of the Proposed Project. The Project sponsors have committed to hiring local employees for 30% of the infrastructure and building construction jobs, and implementing a small diverse business program and a workforce training program that partners with local organizations.

- New Spaces for the Arts and Small-Scale Manufacturing

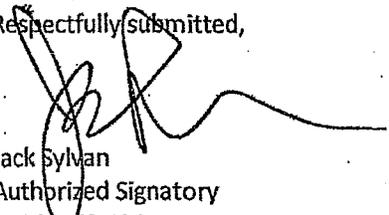
The Project would provide substantial new and renovated space for arts, cultural, non-profits, small-scale manufacturing, local retail and neighborhood services, including a new arts facility up to 90,000 square feet and at least 50,000 square feet of production, distribution and repair ("PDR") uses. The Project would also preserve the artist community currently located in the Noonan Building in new state-of-the-art, on-site space that is affordable, functional and aesthetic.

- Preparation for Sea-Level Rise

The Project would elevate and reinforce site infrastructure and building parcels to allow the new Pier 70 neighborhood to be resilient to projected levels of sea level rise and any major seismic event, as well as incorporate financing strategies and generate funding streams that enable the project and the Port's Bay shoreline to adapt to future, increased levels of sea level rise.

Thank you for your consideration.

Respectfully submitted,



Jack Sylvan
Authorized Signatory
FC Pier 70, LLC

cc: Dan Sider, San Francisco Planning Department
Rich Sucre, San Francisco Planning Department
Ken Rich, Office of Economic & Workforce Development
Sarah Dennis-Phillips, Office of Economic & Workforce Development
Tom Shanahan, Office of Economic & Workforce Development

Pier 70 Mixed Use Project Overview

July 25, 2017

Between 2007 and 2010 the Port led an extensive community process to develop the Pier 70 Preferred Master Plan, with the goal of redeveloping the site to bring back its historic activity levels through infill and economic development, and increasing access to the water and creating new open spaces, while maintaining the area's historic character and supporting its ship repair activities. The Pier 70 Preferred Master Plan was endorsed by the Port Commission in 2010. The Port then issued a Request for Developer Qualifications for the Waterfront Site infill development opportunity, representing a 28 acre portion of Pier 70. In 2011, after a competitive solicitation process, Forest City was named as master developer. In 2013, the Port Commission and the Board of Supervisors each unanimously endorsed a term sheet, outlining the proposed land plan and transaction terms for future development of Pier 70. In 2014, 73% of voters supported Proposition F, the 2014 ballot measure supporting Forest City's proposed vision for reuse of the area and enabling the Board of Supervisors to increase height limits at the project. Throughout this process, Forest City and the Port have undertaken extensive engagement and outreach efforts, hosting workshops, open houses, markets, tours, presentations and family events – more than 135 events at last count engaging over 75,000 people. These activating events have allowed visitors to experience Pier 70, and share their input as to its future, today rather than wait for Project improvements.

After a decade of outreach and concept development, the Pier 70 project has developed into a clear vision to reintegrate and restore the 28-Acre Site into the fabric of San Francisco, creating an active, sustainable neighborhood that recognizes its industrial past. As contemplated in the proposed Pier 70 SUD Design for Development, the future of the 28-Acre Site is envisioned as an extension of the nearby Dogpatch neighborhood that joins community and industry, engaging residents, workers, artists, and manufacturers into a lively mix of uses and activities. The Project will reflect this diversity and creativity, inviting all to the parks, which are lined with local establishments, restaurants, arts uses, and event spaces, each with individual identities. And as a fundamental premise, the Project will create public access to the San Francisco Bay where it has never previously existed, opening up the shoreline for all to enjoy.

New buildings within the site will complement the industrial setting and fabric in size, scale, and material, with historic buildings repurposed into residential use, spaces for local manufacturing and community amenities. The Project will include a diversity of open spaces at multiple scales, shaped by nearby buildings, framing the waterfront, and creating a platform for a range of experiences.

Project Statistics (Mid Point Program – Pier 70 SUD):

- 1,400,000 square feet of new office space
- 2150 new housing units (Approximately 1200 rentals and 950 condos)
- 400,000 square feet of active ground floor uses (traditional retail, arts uses, and PDR)
- Over nine acres of new public open space
- Preservation and rehabilitation of three historic buildings on site (2, 12, and 21)

Public Benefits:

The Supervisor's Office, OEWD, Port, and Forest City have negotiated a public benefit package that reflects the goals of the Southern Bayfront, and represents over \$750M dollars of public benefits. Key benefits include:

- **Affordable Housing:** Overall the project will result in 30% onsite affordability, with the following components:
 - Approximately 150 or more units of onsite rental inclusionary housing, representing 20% of the units in all onsite rental buildings. These units will be affordable to households from 55% TO 110% of area median income, with the maximum number possible at the time of their lottery rented to applicants under the Neighborhood Resident Housing Preference program.
 - Approximately 320 or more fully-funded units of permanently affordable family and formerly homeless housing, in three buildings developed by local nonprofits located close to transit and a children's playground.
 - Estimated \$15- \$20M in revenue dedicated to HOPE SF projects, including Potrero Rebuild.
- **Transportation Funding and On-Site Services:** Transportation demand management on-site, facilities to support a new bus line through the project, an open-to-the-public shuttle service, and almost \$50 million in funding that will be used to support neighborhood-supporting transportation infrastructure. Commitment to reducing total auto trips by 20% from amount analyzed in Project environmental review document.
- **Workforce Development Program:** 30% local hiring commitment, local business enterprise ("LBE") utilization, participation in OEWD's "First Source" hiring programs, and funding to support expansion of CityBuild and TechSF with outreach to District 10 residents.
- **Rehabilitation of Historic Structures at Pier 70:** The Project will rehabilitate three key historic structures (Buildings 2, 12, 21) and include interpretive elements to enhance public understanding of the Union Iron Works Historic District in open space, streetscape and building design.
- **Parks:** The project will provide over 9 acres of new open space for a variety of activities, including an Irish Hill playground, a market square, a central commons, public art, a minimum 20k square feet active rooftop recreation, and waterfront parks along 1,380 feet of shoreline. Project will pay for maintenance of its own parks.
- **Retail and Industrial Uses:** The project will provide a 60,000 square foot local market hall supporting local manufacturing, is committing to a minimum of 50,000 square feet of on-site PDR space, and is developing a small business attraction program with OEWD staff.
- **A Centerpiece For the Arts:** The project will include an up to 90,000 square foot building that will house local performing and other arts nonprofits, as well as providing replacement, permanently affordable studio space for the Noonan building tenants. The development will provide up to \$20 million through fee revenue and a special tax for development of the building.
- **Community Facilities:** The Project will contribute up to \$2.5M towards creating new space to serve the education and recreational needs of the growing community from Central Waterfront, from Mission Bay to India Basin and Potrero Hill, as well as include on-site childcare facilities.
- **Site Sea Level Rise Protection:** The Project's waterfront edge will be designed to protect buildings against the high-end of projected 2100 sea-level-rise estimates established by the state, and the grade of the entire site will be raised to elevate buildings and ensure that utilities function properly.
- **City Seawall Improvement Funding Stream:** The Project will include a perpetual funding stream of between \$1 and \$2 billion to finance future sea level rise improvements anywhere along the San Francisco waterfront.

The Project's commitment to these benefits will be memorialized in the Development Agreement, which must be recommended for approval by the Planning Commission, and the Disposition and Development Agreement, which will be approved by the Port Commission, before seeking final approval from the Board of Supervisors.

Zoning and Design Controls:

The DA and DDA are part of a larger regulatory approvals package that also includes a Planning Code text amendment creating a Special Use District ("SUD") for the Project Site, conforming Zoning Map amendments for height and to establish the Special Use District and a Design for Development (D4D) which will detail development standards and guidelines for buildings, open space and streetscape improvements. Under the Design for Development, the following components of the Project will be subject to review and approval as follows:

- **New Development:** New buildings will be reviewed by Planning Department staff, in consultation with Port staff, for consistency with the standards and guidelines in the Design for Development, with a recommendation to the Planning Director who will approve or deny applications for proposed new buildings;
- **Historic Rehabilitation:** Historic rehabilitation of Buildings 2, 12 and 21 will be reviewed by Port staff, in consultation with Planning Department staff, for consistency with Secretary of the Interior's Standards for Treatment of Historic Properties ("Secretary's Standards") and the standards and guidelines in the Design for Development as part of the Port's building permit process, with a recommendation to the Port Executive Director, who will approve or deny plans for proposed historic rehabilitation projects; and
- **Parks and Open Space:** Design of parks and open space will undergo public design review by a design advisory committee appointed by the Port Executive Director, with a recommendation to the Port Commission, which will approve or deny park schematic designs.

Project Approvals:

The approvals relating to the proposed Project include:

1. Entitlements, including certification and approval of a Final Environmental Impact Report ("EIR"), adoption of a Special Use District and its accompanying Design for Development, amendments to the City's General Plan, Planning Code and Zoning Map, and a Development Agreement.
2. Implementing Documents, including a Disposition and Development Agreement (DDA) governing the transaction between the Port and Forest City, setting forth Forest City's obligations for horizontal development, including infrastructure, affordable housing and jobs, and establishing the timing for vertical development; and a Financing Plan setting forth the financial deal, including public financing and disposition of land proceeds.
3. Public Financing approvals, including establishment of an infrastructure financing district (IFD) project area to support construction of infrastructure and rehabilitation of historic structures, an Infrastructure and Revitalization Financing District (IRFD) to support onsite affordable housing, and a series of community facilities districts (CFD) which will fund construction of infrastructure, maintenance of streets and open space, construction of the arts building, and combat sea level rise along the seawall.
4. a Trust Exchange that requires approval and implementation of a Compromise Title Settlement and Land Exchange Agreement and an amendment to the Burton Act Transfer Agreement with the California State Lands Commission ("State Lands") consistent with the requirements of AB 418.

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

RESOLUTION NO. 17-44

- WHEREAS, The Port owns approximately 72 acres along San Francisco's Central Waterfront, roughly bounded by Mariposa Street, Illinois Street, and 22nd Streets and the San Francisco Bay, known as Pier 70. Pier 70 includes approximately 61.29 acres of land and approximately 10.42 acres of submerged lands; and
- WHEREAS, Under the Burton Act and the City Charter, certain State lands granted to the City and County of San Francisco subject to the public trust for commerce, navigation and fisheries ("Public Trust") were placed within the administration and control of the City acting by and through the Port Commission; and
- WHEREAS, Pier 70 consists of lands granted under the Burton Act and adjacent lands later acquired by the Port. Under the agreement between the City and the State of California transferring the granted lands to the City ("Transfer Agreement"), the City agreed that lands later acquired by the Port would be held as assets of the Public Trust subject to the Burton Act; and
- WHEREAS, The Port along with its development partners and interested stakeholders have been working for more than two decades to develop a land use plan to facilitate the beneficial development of Pier 70 and generate substantial revenue for the Port as part of a proposed mixed-use project (the "Pier 70 Mixed-Use Project"); and
- WHEREAS, The Pier 70 area consist of five sub-areas including: 1) the ship repair yard, 2) the 20th Street Historic Core, 3) Crane Cove Park, 4) the 28-acre Waterfront Mixed-Use Special Use District area, and 5) other development opportunities; and
- WHEREAS, The extent to which the Public Trust covers lands at Pier 70 is subject to dispute, and the State and the Port disagree as to the existence of the Public Trust on certain of those lands; and
- WHEREAS, The existing configuration of trust and non-trust lands at Pier 70 is such that the purposes of the Public Trust cannot by fully realized, and the Pier 70 Mixed-Use Project cannot be developed due to the current trust configuration; and
- WHEREAS, The California legislature, through Chapter 477 of the Statutes of 2011 (Assembly Bill 418) ("AB 418") authorized the Port, subject to applicable laws, to enter into an exchange agreement with the

California State Lands Commission ("State Lands") to effectuate a Public Trust exchange in accordance with the terms of the statute, and to transfer, convey or otherwise grant interests in or rights to use or occupy all or any portion of the Pier 70 areas removed from the Public Trust pursuant to the exchange; and

WHEREAS, The exchange authorized under AB 418 would resolve the Public Trust title uncertainties and reconfigure the Public Trust at Pier 70 in a manner that furthers the purposes of the Public Trust and provides a more useful configuration of Public Trust lands by placing the Public Trust along the entire shoreline of Pier 70 and on other lands of high value to the Public Trust, while removing the Public Trust from lands in the interior of Pier 70 that are cut off from the water, thereby removing impediments to their productive reuse and development; and

WHEREAS, To implement development of Pier 70, the Port and its development partners have negotiated, among other agreements; a Compromise Title Settlement and Land Exchange Agreement for Pier 70 (the "Exchange Agreement") between the Port and State Lands, as more particularly described in the staff memorandum to which this resolution is attached; and

WHEREAS, The Exchange Agreement implements the exchange through conveyances by which State Lands will take title to the lands from the Port and convey them back to the Port either subject to or free of the Public Trust; and

WHEREAS, Following these conveyances, the Port would hold the Public Trust lands as trustee, subject to the terms and conditions of the Burton Act and AB 418, and would hold the Trust termination lands as assets of the Public Trust, but free of the use and alienability restrictions of the Public Trust, the Burton Act and the Transfer Agreement; and

WHEREAS, The Exchange Agreement makes conforming amendments to the Transfer Agreement to effectuate the exchange authorized by AB 418; and

WHEREAS, The Exchange Agreement contains provisions to ensure that public access is provided to Public Trust lands; and

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

Environmental Quality Act ("CEQA"), the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code; and

WHEREAS, At the same hearing, the Planning Commission approved the Pier 70 Mixed-Use Project and in so doing, adopted approval findings under CEQA by Motion No. 19977, including a Statement of Overriding Considerations (the "Pier 70 CEQA Findings"), and adopted a Mitigation Monitoring and Reporting Program ("MMRP"). A copy of the Planning Commission Motions, the Pier 70 CEQA Findings, and the MMRP are on file with the Port Commission Secretary and may be found in the records of the Planning Department at 1650 Mission Street, San Francisco, CA, and are incorporated in this resolution by reference as if fully set forth herein; and

WHEREAS, The Port Commission has reviewed the FEIR, the MMRP and the CEQA Findings, and finds that the approvals before the Port Commission are within the scope of the FEIR and that no substantial changes in the Pier 70 Mixed-Use Project or the circumstances surrounding the Pier 70 Mixed-Use Project have occurred and no new information that could not have been known previously showing new significant impacts or an increase in severity in impacts has been discovered since the FEIR was certified; now, therefore be it

RESOLVED, That the Port Commission adopts the Pier 70 CEQA Findings as its own and adopts the MMRP and imposes its requirements as a condition to this approval action; and be it further

RESOLVED, That in order to effectuate the beneficial development of Pier 70, the Port Commission approves the Exchange Agreement and authorizes the Executive Director or her designee to execute, deliver and perform the Exchange Agreement in substantially the form on file with the Port Commission Secretary, subject to obtaining Board of Supervisors approval of the Exchange Agreement; and, be it further

RESOLVED, That the Port Commission finds that the lands or interests in lands that will be impressed with the Public Trust will provide a significant benefit to the Public Trust and are useful for the Public Trust purposes authorized by AB 418; and, be it further

RESOLVED, That the Port Commission authorizes and urges the Executive Director, prior to execution of the Exchange Agreement, to make changes and take any and all steps, including but not limited to, the attachment of exhibits and the making of corrections, as the Executive Director determines in consultation with the City Attorney, are necessary or appropriate to consummate the Exchange Agreement in accordance with this resolution; provided, however, that such changes and steps do not materially decrease the benefits to or materially

increase the obligations or liabilities of the Port, and are in compliance with all applicable laws; and, be it further

RESOLVED, That all actions heretofore taken by the officers and employees of the Port with respect to the Exchange Agreement are approved, confirmed and ratified; and, be it further

RESOLVED, That the Port Commission authorizes and urges all officers, employees, and agents of the Port and the City to take any and all steps as they deem necessary or appropriate, to the extent permitted by applicable law, in order to consummate the Exchange Agreement in accordance with this resolution and to implement the Exchange Agreement, including execution of subsequent documents and conveyance of real property to, and the acceptance of real property from, State Lands, or to otherwise effectuate the purpose and intent of this resolution and the Port's performance under the Exchange Agreement; and, be it further

RESOLVED, That the Port Commission authorizes the Executive Director or her designee to enter into any amendments or modifications to the Exchange Agreement that the Executive Director or her designee determines, in consultation with the City Attorney, are in the best interest of the Port, do not materially decrease the benefits to or materially increase the obligations or liabilities of the Port, and are in compliance with all applicable laws.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of September 26, 2017.

Amy Quesada
Digitally signed by Amy Quesada
DN: cn=Amy Quesada, o=Port of San Francisco, ou=Port
Executive, email=amy.quesada@port.com, c=US
Date: 2017.10.11 12:46:26 -0700

Secretary



**SAN FRANCISCO
PLANNING DEPARTMENT**

Planning Commission Resolution No. 19979

HEARING DATE: AUGUST 24, 2017

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

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Planning
Information:
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Case No.: 2014-001272MAP/PCA
Project Name: Pier 70 Mixed-Use Project
Existing Zoning: M-2 (Heavy Industrial) Zoning District
P (Public) Zoning District
40-X and 65-X Height and Bulk Districts
Block/Lot: 4052/001, 4110/001 and 008A, 4111/004, 4120/002,
Proposed Zoning: Pier 70 Mixed-Use Zoning District
65-X and 90-X Height and Bulk Districts
Project Sponsor: Port of San Francisco and Forest City Development California Inc.
Staff Contact: Richard Sucre – (415) 575-9108
richard.sucre@sfgov.org

RESOLUTION RECOMMENDING THAT THE BOARD OF SUPERVISORS APPROVE AMENDMENTS TO THE PLANNING CODE WITH MODIFICATIONS TO ESTABLISH THE PIER 70 SPECIAL USE DISTRICT AND TO AMEND ZONING USE DISTRICT MAP NO. ZN08 TO REZONE ASSESSOR'S BLOCK 4052 LOT 001 (PARTIAL), BLOCK 4111 LOT 004 (PARTIAL), BLOCK 4110 LOTS 001 AND 008A FROM M-2 (HEAVY MANUFACTURING) TO PIER 70 MIXED-USE DISTRICT, AND BLOCK 4120 LOT 002 FROM P (PUBLIC) TO PIER 70 MIXED USE DISTRICT, AND HEIGHT & BULK DISTRICT MAP NO. HT08 TO INCREASE THE HEIGHT LIMIT FOR BLOCK 4052 LOT 001 (PARTIAL), BLOCK 4111 LOT 004 (PARTIAL), AND BLOCK 4120 LOT 002 FROM 40-X TO 90-X, AND VARIOUS FINDINGS, INCLUDING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on July 25, 2017, Mayor Edwin Lee and Supervisor Malia Cohen introduced ordinances for Planning Code Text Amendments to establish the Pier 70 Special Use District (herein "Pier 70 SUD") and amend Zoning Use District Map No. ZN08 and Height and Bulk District Map No. HT08 for the Pier 70 Mixed-Use Project ("Project").

WHEREAS, pursuant to Planning Code Section 302(b), on July 25, 2017, the San Francisco Board of Supervisors initiated the aforementioned Planning Code Text Amendments.

WHEREAS, these Planning Code Text Amendments would enable the Project. The Project includes new market-rate and affordable residential uses, commercial use, retail-arts-light industrial uses, parking, shoreline improvements, infrastructure development and street improvements, and public open space. Depending on the uses proposed, the Project would include between 1,645 to 3,025 residential units, a maximum of 1,102,250 to 2,262,350 gross square feet (gsf) of commercial-office use, and a maximum of 494,100 to 518,700 gsf of retail-light industrial-arts use. The Project also includes construction of transportation and circulation improvements, new and upgraded utilities and

infrastructure, geotechnical and shoreline improvements, between 3,215 to 3,345 off-street parking spaces in proposed buildings and district parking structures, and nine acres of publicly-owned open space.

WHEREAS, the Project would construct new buildings that would range in height from 50 to 90 feet, as is consistent with Proposition F which was passed by the voters of San Francisco in November 2014.

WHEREAS, these Planning Code Text Amendments would establish the Pier 70 SUD, which would outline the land use controls for the Project site, alongside the Pier 70 SUD Design for Development ("D4D").

WHEREAS, these Planning Code Text Amendments would amend Zoning Use District Map No. ZN08 to rezone Assessor's Block 4052 Lot 001 (partial), Block 4111 Lot 004 (partial), Block 4110 Lots 001 and 008A from M-2 (Heavy Manufacturing) to Pier 70 Mixed-Use District, and Block 4120 Lot 002 from P (Public) to Pier 70 Mixed Use District.

WHEREAS, these Planning Code Text Amendments would amend Height & Bulk District Map No. HT08 to increase the height limit for Block 4052 Lot 001 (partial), Block 4111 Lot 004 (partial), and Block 4120 Lot 002 from 40-X to 90-X.

WHEREAS, this Resolution approving these Planning Code Text Amendments is a companion to other legislative approvals relating to the Project, including recommendation of approval of General Plan Amendments, approval of the Pier 70 SUD Design for Development, and recommendation for approval of the Development Agreement.

WHEREAS, on August 24, 2017, the Planning Commission reviewed and considered the Final EIR for the Pier 70 Mixed Project ("FEIR") and found the FEIR to be adequate, accurate and objective, thus reflecting the independent analysis and judgment of the Department and the Commission, and that the summary of comments and responses contained no significant revisions to the Draft EIR, and, by Motion No. 19976, certified the FEIR as accurate, complete and in compliance with the California Environmental Quality Act ("CEQA"), the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code.

WHEREAS, on August 24, 2017, the Commission by Motion No. 19977 approved California Environmental Quality Act (CEQA) Findings, including adoption of a statement of overriding considerations, under Case No. 2014-001272ENV, for approval of the Project, which findings are incorporated by reference as though fully set forth herein.

WHEREAS, the CEQA Findings included adoption of a Mitigation Monitoring and Reporting Program (MMRP) as Attachment B, which MMRP is hereby incorporated by reference as though fully set forth herein and which requirements are made conditions of this approval.

WHEREAS, on August 24, 2017, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on the proposed Planning Code Text Amendments.

WHEREAS, a draft ordinance, substantially in the form attached hereto as Exhibit A, approved as to form, would establish the Pier 70 SUD and amend Zoning Use District Map No. ZN08 and Height and Bulk District Map No. HT08 for the Project.

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

1. The Planning Code Text Amendments would help implement the Pier 70 Mixed-Use Project development, thereby evolving currently under-utilized industrial land for needed housing, commercial space, and parks and open space.
2. The Planning Code Text Amendments would help implement the Pier 70 Mixed-Use Project, which in turn will provide employment opportunities for local residents during construction and post-occupancy, as well as community facilities and parks for new and existing residents.
3. The Planning Code Text Amendments would help implement the Pier 70 Mixed-Use Project by enabling the creation of a mixed-use and sustainable neighborhood, with fully rebuilt infrastructure. The new neighborhood would improve the site's multi-modal connectivity to and integration with the surrounding City fabric, and connect existing neighborhoods to the City's central waterfront.
4. The Planning Code Text Amendments would enable the construction of a new vibrant, safe, and connected neighborhood, including new parks and open spaces. The General Plan Amendments would help ensure a vibrant neighborhood with active streets and open spaces, high quality and well-designed buildings, and thoughtful relationships between buildings and the public realm, including the waterfront.
5. The Planning Code Text Amendments would enable construction of new housing, including new on-site affordable housing, and new arts, retail and manufacturing uses. These new uses would create a new mixed-use neighborhood that would strengthen and complement nearby neighborhoods.
6. The Planning Code Text Amendments would facilitate the preservation and rehabilitation of portions of the Union Iron Works Historic District--an important historic resource listed in the National Register of Historic Places.

AND BE IT FURTHER RESOLVED, that the Commission finds the Planning Code Text Amendments are in general conformity with the General Plan as set forth in Planning Commission Resolution No. 19978.

AND BE IT FURTHER RESOLVED, that the Commission finds the Planning Code Text Amendments are in general conformity with Planning Code Section 101.1 as set forth in Planning Commission Resolution No. 19978.

AND BE IT FURTHER RESOLVED, that the Commission recommends approval of the proposed legislation with the following modifications:

- *Uses* – The Ordinance should be updated to reflect definitions contained within the Planning Code and to exempt certain uses, such as hospital and automotive retail uses. In addition, the revised ordinance should include refinements to the permitted uses within the ground floor frontages, as defined by Planning Department staff.
- *Bicycle Parking* – The Ordinance should be updated to clarify that the location and design of bicycle parking shall follow the guidelines set forth in the D4D.

- *Off-Street Parking* – The Ordinance should be updated to require review of the off-street parking program upon submittal of a phase application. In addition, the Ordinance should update the criteria for review of the off-street parking program, as defined by Planning Department staff.
- *Design Review and Approval of Vertical Improvements* – The Ordinance should be updated to specify that Port staff review for compliance may occur with either the Vertical DDA (if available) or the Appraisal Notice.
- *Non-Substantial Text Edits* – The Ordinance should be updated to reflect other non-substantial text edits, as defined by Planning Department staff.
- *Maximize Housing As Feasible* – The Commission encourages the Project Sponsor to maximize the construction of new housing, as feasible.
- *Jobs & Housing Balance* – Given the uncertain future state of the jobs and housing balance in San Francisco, the Commission encourages the Board of Supervisors to include a provision in the Pier 70 SUD, to establish a reasonable threshold for office development where anything above said threshold would return to the Planning Commission as a Conditional Use Authorization.

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



Jonas P. Ionin
Commission Secretary

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

NAYES: None

ABSENT: Fong

ADOPTED: August 24, 2017

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

RESOLUTION NO. 17-47

- WHEREAS, Beginning in 2006, the Port initiated an intensive planning process that has culminated in a project that would restore and redevelop an approximately 35-acre site located at Pier 70 bounded generally by Illinois Street on the west, 20th Street to the north, San Francisco Bay on the east and 22nd Street on the south in San Francisco's Central Waterfront Plan Area (the "Project Site"); and
- WHEREAS, The Project Site includes an approximately 28-acre area at Pier 70 owned by the Port known as the "28-Acre Site," bounded generally by Michigan Street on the west, 22nd Street on the south, 20th Street on the north and San Francisco Bay on the east; and
- WHEREAS; From 2007 to 2010, the Port conducted a community process that evaluated the unique site conditions and opportunities at Pier 70 and built a public consensus for Pier 70's future that nested within the policies established for the Eastern Neighborhoods-Central Waterfront. This process culminated in the Pier 70 Master Plan, which was endorsed by the Port Commission in May 2010, and the proposed mixed-used development on the Project Site (the "Pier 70 Mixed-Use Project"); and
- WHEREAS, In April 2011, by Resolution No. 11-21, the Port Commission awarded to Forest City Development California, Inc. ("Forest City"), through a competitive process, the opportunity to negotiate for the development of the 28-Acre Site as a mixed-use development and historic preservation project (the "28-Acre Project"); and
- WHEREAS, In May 2013, by Resolution No. 13-20, the Port Commission endorsed the Term Sheet for the 28-Acre Project. Subsequently, in June 2013, by Resolution No. 201-13, the Board of Supervisors found the 28-Acre Project fiscally feasible under Administrative Code, Chapter 29 and endorsed the Term Sheet for the 28-Acre Project; and
- WHEREAS, Chapter 56 of the San Francisco Administrative Code authorizes the City to approve a development agreement with a developer of property in the City and County of San Francisco in accordance with California law; and
- WHEREAS, The Planning Commission has recommended that the Board of Supervisors approve a Development Agreement with FC Pier 70, LLC ("Developer"), an affiliate of Forest City; and

- WHEREAS, The Development Agreement would vest development rights in exchange for the delivery of public benefits with respect to the development of the 28-Acre Site with new market-rate and affordable residential uses, commercial uses, retail-arts-light industrial uses, parking, shoreline improvements, infrastructure development and street improvements, and public open space; and
- WHEREAS, Depending on the uses proposed, the 28-Acre Project would include between 1,100 and 2,105 residential units, a maximum of between 1 million and 2 million gross square feet ("gsf") of commercial-office use, and a maximum of up to 500,000 gsf of retail-light industrial-arts use, construction of transportation and circulation improvements, new and upgraded utilities and infrastructure, geotechnical and shoreline improvements, and nine acres of publicly-owned open space; and
- WHEREAS, Since the Port Commission selected Forest City through a competitive process to serve as master developer for the 28-Acre Project in 2011, Port staff and Developer have negotiated a number of transaction documents that will govern horizontal and vertical development of the 28-Acre Site ("Transaction Documents") consistent with the Term Sheet and Proposition F, which the voters approved in 2014; and
- WHEREAS, The Port Commission is concurrently taking a number of other actions in furtherance of the 28-Acre Project, which include approving a disposition and development agreement ("DDA") with Developer; approving a Design for Development and conforming amendments to the Waterfront Land Use Plan / Waterfront Design and Access Element; approving a public trust exchange agreement; approving an interagency memorandum of understanding regarding cooperation in matters relating to horizontal development, and approving terms related to disposition of parcels and formation proceedings for financing districts; and
- WHEREAS, While the Port is not a party to the Development Agreement, it would work in concert with the DDA, which incorporates Developer's obligations under the Development Agreement; and
- WHEREAS, On August 24, 2017, the Planning Commission (1) reviewed and considered the Final Environmental Impact Report for the Pier 70 Mixed-Use Project ("FEIR") (Case No. 2014-001272ENV); (2) found the FEIR to be adequate, accurate and objective, thus reflecting the independent analysis and judgment of the Planning Department and the Planning Commission; and (3) by Motion No. 19976, certified the FEIR as accurate, complete and in compliance with the California Environmental Quality Act ("CEQA"), the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code; and

- WHEREAS, At the same hearing, the Planning Commission approved the Pier 70 Mixed-Use Project and in so doing, adopted approval findings under CEQA by Motion No. 19977, including a Statement of Overriding Considerations (the "Pier 70 CEQA Findings"), and adopted a Mitigation Monitoring and Reporting Program ("MMRP"). A copy of the Planning Commission Motions, the Pier 70 CEQA Findings, and the MMRP are on file with the Port Commission Secretary and may be found in the records of the Planning Department at 1650 Mission Street, San Francisco, CA, and are incorporated in this resolution by reference as if fully set forth herein; and
- WHEREAS, The Port Commission has reviewed the FEIR, the MMRP and the CEQA Findings, and finds that the approvals before the Port Commission are within the scope of the FEIR and that no substantial changes in the Pier 70 Mixed-Use Project or the circumstances surrounding the Pier 70 Mixed-Use Project have occurred and no new information that could not have been known previously showing new significant impacts or an increase in severity in impacts has been discovered since the FEIR was certified; now, therefore be it
- RESOLVED, That the Port Commission adopts the Pier 70 CEQA Findings as its own and adopts the MMRP and imposes its requirements as a condition to this approval action; and be it further
- RESOLVED, Upon consideration of the Development Agreement, the Port Commission hereby consents to the Development Agreement as it relates to matters under Port jurisdiction; and be it further
- RESOLVED, That the Port Commission hereby authorizes the Executive Director, or her designee, to execute the consent to the Development Agreement, in substantially the form on file with the Port Commission Secretary, subject to such further changes and revisions as deemed necessary and appropriate to implement this resolution; and be it further
- RESOLVED, That the Port Commission authorizes the Executive Director, or her designee, to enter into any amendments or modifications to the consent to the Development Agreement that the Executive Director determines, in consultation with the City Attorney, are in the best interest of the Port, do not materially decrease the benefits to or materially increase the obligations or liabilities of the Port, and are in compliance with all applicable laws.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of September 26, 2017.

Amy Quesada

Digitally signed by Amy Quesada
DN: cn=Amy Quesada, o=Port of San Francisco, ou=Port Executive,
email=amy.quesada@psf.com, c=US
Date: 2017.10.11 13:47:50 -0700

Secretary



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 19978

HEARING DATE: AUGUST 24, 2017

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Case No.: 2014-001272GPA
Project Name: Pier 70 Mixed-Use Project
Existing Zoning: M-2 (Heavy Industrial) Zoning District
P (Public) Zoning District
40-X and 65-X Height and Bulk Districts
Block/Lot: 4052/001, 4110/001 and 008A, 4111/004, 4120/002,
Proposed Zoning: Pier 70 Mixed-Use Zoning District
65-X and 90-X Height and Bulk Districts
Project Sponsor: Port of San Francisco and Forest City Development California Inc.
Staff Contact: Richard Sucre - (415) 575-9108
richard.sucre@sfgov.org

RESOLUTION RECOMMENDING THAT THE BOARD OF SUPERVISORS APPROVE AMENDMENTS TO MAP NO. 04 AND MAP NO. 05 OF THE URBAN DESIGN ELEMENT OF GENERAL PLAN AND THE LAND USE INDEX OF THE GENERAL PLAN TO PROVIDE REFERENCE TO THE PIER 70 MIXED-USE PROJECT SPECIAL USE DISTRICT, AND MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1, AND FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

WHEREAS, Section 4.105 of the Charter of the City and County of San Francisco provides to the Planning Commission the opportunity to periodically recommend General Plan Amendments to the Board of Supervisors; and

WHEREAS, pursuant to Planning Code Section 340(C), the Planning Commission ("Commission") initiated a General Plan Amendment for the Pier 70 Mixed-Use Project ("Project"), per Planning Commission Resolution No. 19949 on June 22, 2017.

WHEREAS, these General Plan Amendments would enable the Project. The Project includes new market-rate and affordable residential uses, commercial use, retail-arts-light industrial uses, parking, shoreline improvements, infrastructure development and street improvements, and public open space. Depending on the uses proposed, the Project would include between 1,645 to 3,025 residential units, a maximum of 1,102,250 to 2,262,350 gross square feet (gsf) of commercial-office use, and a maximum of 494,100 to 518,700 gsf of retail-light industrial-arts use. The Project also includes construction of transportation and circulation improvements, new and upgraded utilities and infrastructure, geotechnical and shoreline improvements, between 3,215 to 3,345 off-street parking spaces in proposed buildings and district parking structures, and nine acres of publicly-owned open space.

WHEREAS, the Project would construct new buildings that would range in height from 50 to 90 feet, as is consistent with Proposition F which was passed by the voters of San Francisco in November 2014.

WHEREAS, these General Plan Amendments would amend Map No. 04 "Urban Design Guidelines for Heights of Buildings" and Map No. 5 "Urban Design Guidelines for Bulk of Buildings" in the Urban Design Element to reference the Pier 70 Mixed-Use Project Special Use District, as well as update and amend the Land Use Index of the General Plan accordingly.

WHEREAS, this Resolution approving these General Plan Amendments is a companion to other legislative approvals relating to the Pier 70 Mixed-Use Project, including recommendation of approval of Planning Code Text Amendments and Zoning Map Amendments, approval of the Pier 70 SUD Design for Development and recommendation for approval of the Development Agreement.

WHEREAS, on August 24, 2017, the Planning Commission reviewed and considered the Final EIR for the Pier 70 Mixed Project (FEIR) and found the FEIR to be adequate, accurate and objective, thus reflecting the independent analysis and judgment of the Department and the Commission, and that the summary of comments and responses contained no significant revisions to the Draft EIR, and approved the FEIR for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31.

WHEREAS, on August 24, 2017, by Motion No. 19976, the Commission certified the Final Environmental Impact Report for the Pier 70 Mixed-Use Project as accurate, complete and in compliance with the California Environmental Quality Act ("CEQA").

WHEREAS, on August 24, 2017, the Commission by Motion No. 19977 approved California Environmental Quality Act (CEQA) Findings, including adoption of a Mitigation Monitoring and Reporting Program (MMRP), under Case No. 2014-001272ENV, for approval of the Project, which findings are incorporated by reference as though fully set forth herein.

WHEREAS, the CEQA Findings included adoption of a Mitigation Monitoring and Reporting Program (MMRP) as Attachment B, which MMRP is hereby incorporated by reference as though fully set forth herein and which requirements are made conditions of this approval.

WHEREAS, on July 20, 2017, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on General Plan Amendment Application Case No. 2014-001272GPA. At the public hearing on July 20, 2017, the Commission continued the adoption of the General Plan Amendment Application to the public hearing on August 24, 2017.

WHEREAS, a draft ordinance, substantially in the form attached hereto as Exhibit A, approved as to form, would amend Map No. 04 "Urban Design Guidelines for Heights of Buildings" and Map No. 05 "Urban Design Guidelines for Bulk of Buildings" in the Urban Design Element, and the Land Use Index of the General Plan.

NOW THEREFORE BE IT RESOLVED, that the Planning Commission hereby finds that the General Plan Amendments promote the public welfare, convenience and necessity for the following reasons:

1. The General Plan Amendments would help implement the Pier 70 Mixed-Use Project development, thereby evolving currently under-utilized industrial land for needed housing, commercial space, and parks and open space.
2. The General Plan Amendments would help implement the Pier 70 Mixed-Use Project, which in turn will provide employment opportunities for local residents during construction and post-occupancy, as well as community facilities and parks for new and existing residents.

3. The General Plan Amendments would help implement the Pier 70 Mixed-Use Project by enabling the creation of a mixed-use and sustainable neighborhood, with fully rebuilt infrastructure. The new neighborhood would improve the site's multi-modal connectivity to and integration with the surrounding City fabric, and connect existing neighborhoods to the City's central waterfront.
4. The General Plan Amendments would enable the construction of a new vibrant, safe, and connected neighborhood, including new parks and open spaces. The General Plan Amendments would help ensure a vibrant neighborhood with active streets and open spaces, high quality and well-designed buildings, and thoughtful relationships between buildings and the public realm, including the waterfront.
5. The General Plan Amendments would enable construction of new housing, including new on-site affordable housing, and new arts, retail and manufacturing uses. These new uses would create a new mixed-use neighborhood that would strengthen and complement nearby neighborhoods.
6. The General Plan Amendments would facilitate the preservation and rehabilitation of portions of the Union Iron Works Historic District—an important historic resource listed in the National Register of Historic Places.

AND BE IT FURTHER RESOLVED, that the Planning Commission finds these General Plan Amendments are in general conformity with the General Plan, and the Project and its approvals associated therein, all as more particularly described in Exhibit A to the Development Agreement on file with the Planning Department in Case No. 2014-001272DVA, are each on balance, consistent with the following Objectives and Policies of the General Plan, as it is proposed to be amended as described herein, and as follows:

HOUSING ELEMENT

OBJECTIVE 1

IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

POLICY 1.1

Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing.

POLICY 1.8

Promote mixed use development, and include housing, particularly permanently affordable housing, in new commercial, institutional or other single use development projects.

POLICY 1.10

Support new housing projects, especially affordable housing, where households can easily rely on public transportation, walking and bicycling for the majority of daily trips.

The Project is a mixed-use development with between 1,645 and 3,025 dwelling units at full project build-out, which provides a wide range of housing options. As detailed in the Development Agreement, the Project exceeds the inclusionary affordable housing requirements

of the Planning Code, through a partnership between the developer and the City to reach a 30% affordable level.

OBJECTIVE 11

SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.

POLICY 11.1

Promote the construction and rehabilitation of well-designed housing that emphasizes beauty, flexibility, and innovative design, and respects existing neighborhood character.

POLICY 11.2

Ensure implementation of accepted design standards in project approvals.

POLICY 11.7

Respect San Francisco's historic fabric, by preserving landmark buildings and ensuring consistency with historic districts.

The Project, as described in the Development Agreement and controlled in the Design for Development (D4D), includes a program of substantial community benefits designed to revitalize a former industrial shipyard and complement the surrounding neighborhood. Through the standards and guidelines in the D4D, the Project would respect the character of existing historic resources, while providing for a distinctly new and unique design. The Project retains three historic resources (Buildings 2, 12 and 21) and preserves the character of the Union Iron Works Historic District by providing for compatible new construction.

OBJECTIVE 12

BALANCE HOUSING GROWTH WITH ADEQUATE INFRASTRUCTURE THAT SERVES THE CITY'S GROWING POPULATION.

POLICY 12.1

Encourage new housing that relies on transit use and environmentally sustainable patterns of movement.

POLICY 12.2

Consider the proximity of quality of life elements, such as open space, child care, and neighborhood services, when developing new housing units.

The Project appropriately balances housing with new and improved infrastructure and related public benefits.

The project site is located adjacent to a transit corridor, and is within proximity to major regional and local public transit. The Project includes incentives for the use of transit, walking and bicycling through its TDM program. In addition, the Project's streetscape design would enhance vehicular, bicycle and pedestrian access and connectivity through the site. The Project will establish a new bus line through the project site, and will provide an open-to-the-public shuttle.

Therefore, new residential and commercial buildings constructed as part of the Project would rely on transit use and environmentally sustainable patterns of movement.

The Project will provide over nine acres of new open space for a variety of activities, including an Irish Hill playground, a market square, a central commons, a minimum ½ acre active recreation on the rooftop of buildings, and waterfront parks along 1,380 feet of shoreline.

The Project includes substantial contributions related to quality of life elements such as open space, affordable housing, transportation improvements, childcare, schools, arts and cultural facilities and activities, workforce development, youth development, and historic preservation.

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

POLICY 1.1

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

The Project is intended to provide a distinct mixed-use development with residential, office, retail, cultural, and open space uses. The Project would leverage the Project site's location on the Central Waterfront and close proximity to major regional and local public transit by building a dense mixed-use development that allows people to work and live close to transit. The Project's buildings would be developed in a manner that reflects the Project's unique location in a former industrial shipyard. The Project would incorporate varying heights, massing and scale, maintaining a strong streetwall along streets, and focused attention around public open spaces. The Project would create a balanced commercial center with a continuum of floorplate sizes for a range of users, substantial new on-site open space, and sufficient density to support and activate the new active ground floor uses and open space in the Project.

The Project would help meet the job creation goals established in the City's Economic Development Strategy by generating new employment opportunities and stimulating job creation across all sectors. The Project would also construct high-quality housing with sufficient density to contribute to 24-hour activity on the Project site, while offering a mix of unit types, sizes, and levels of affordability to accommodate a range of potential residents. The Project would facilitate a vibrant, interactive ground plane for Project and neighborhood residents, commercial users, and the public, with public spaces that could accommodate a variety of events and programs, and adjacent ground floor building spaces that include elements such as transparent building frontages and large, direct access points to maximize circulation between, and cross-activation of, interior and exterior spaces.

OBJECTIVE 2

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

POLICY 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

See above (Commerce and Industry Element Objective 1 and Policy 1.1) which explain the Project's contribution to the City's overall economic vitality.

OBJECTIVE 3

PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

POLICY 3.2

Promote measures designed to increase the number of San Francisco jobs held by San Francisco residents.

The Project would help meet the job creation goals established in the City's Economic Development Strategy by generating new employment opportunities and stimulating job creation across all sectors. The Project will provide expanded employment opportunities for City residents at all employment levels, both during and after construction. The Development Agreement, as part of the extensive community benefit programs, includes focused workforce first source hiring – both construction and end-user – as well as a local business enterprise component.

TRANSPORTATION ELEMENT

OBJECTIVE 2

USE THE TRANSPORTATION SYSTEM AS A MEANS FOR GUIDING DEVELOPMENT AND IMPROVING THE ENVIRONMENT.

POLICY 2.1

Use rapid transit and other transportation improvements in the city and region as the catalyst for desirable development, and coordinate new facilities with public and private development.

POLICY 2.5

Provide incentives for the use of transit, carpools, vanpools, walking and bicycling and reduce the need for new or expanded automobile and automobile parking facilities.

The Project is located within a former industrial shipyard, and will provide new local, regional, and statewide transportation services. The Project is located in close proximity to the Caltrain Station on 22nd Street, and the Muni T-Line along 3rd Street. The Project includes a detailed TDM program, including various performance measures, physical improvements and monitoring and enforcement measures designed to create incentives for transit and other alternative to the single occupancy vehicle for both residential and commercial buildings. In addition, the Project's design, including its streetscape elements, is intended to promote and enhance walking and bicycling.

OBJECTIVE 23

IMPROVE THE CITY'S PEDESTRIAN CIRCULATION SYSTEM TO PROVIDE FOR EFFICIENT, PLEASANT, AND SAFE MOVEMENT.

POLICY 23.1

Provide sufficient pedestrian movement space with a minimum of pedestrian congestion in accordance with a pedestrian street classification system.

POLICY 23.2

Widen sidewalks where intensive commercial, recreational, or institutional activity is present, sidewalks are congested, where sidewalks are less than adequately wide to provide appropriate pedestrian amenities, or where residential densities are high.

POLICY 23.6

Ensure convenient and safe pedestrian crossings by minimizing the distance pedestrians must walk to cross a street.

The Project will re-establish a street network on the project site, and will provide pedestrian improvements and streetscape enhancement measures as described in the D4D and reflected in the mitigation measures and Transportation Plan in the Development Agreement. The Project would establish 21st Street (between the existing 20th and 22nd Streets) and Maryland Street, which would function as a main north-south thoroughfare through the project site. Each of the new streets would have sidewalks and streetscape improvements as is consistent with the Better Streets Plan.

URBAN DESIGN ELEMENT

OBJECTIVE 1

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

POLICY 1.1

Recognize and protect major views in the city, with particular attention to those of open space and water.

As explained in the D4D, the Project uses a mix of scales and interior and exterior spaces, with this basic massing further articulated through carving and shaping the buildings to create views and variety on the project site, as well as pedestrian-friendly, engaging spaces on the ground. The Project maintains and opens view corridors to the waterfront.

POLICY 1.2

Recognize, protect and reinforce the existing street pattern, especially as it is related to topography.

POLICY 1.3

Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

The Project would re-establish the City's street pattern on the project site, and would construct new buildings, which would range in height from 50 and 90 feet. These new buildings would be viewed in conjunction with the three existing historic resources (Buildings 2, 12 and 21) on the project site, and the larger Union Iron Works Historic District. The Project would include new construction, which is sensitive to the existing historic context, and would be compatible, yet differentiated, from the historic district's character-defining features. The Project is envisioned as an extension of the Central Waterfront and Dogpatch neighborhoods.

OBJECTIVE 2

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

POLICY 2.4

Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

POLICY 2.5

Use care in remodeling of older buildings, in order to enhance rather than weaken the original character of such buildings.

The Project would revitalize a portion of a former industrial shipyard, and would preserve and rehabilitate important historic resources, including Buildings 2, 12 and 21, which contribute to the Union Iron Works Historic District, which is listed in the National Register of Historic Places. New construction would be designed to be compatible, yet differentiated, with the existing historic context.

RECREATION AND OPEN SPACE ELEMENT

OBJECTIVE 1

ENSURE A WELL-MAINTAINED, HIGHLY UTILIZED, AND INTEGRATED OPEN SPACE SYSTEM.

POLICY 1.1

Encourage the dynamic and flexible use of existing open spaces and promote a variety of recreation and open space uses, where appropriate.

POLICY 1.7

Support public art as an essential component of open space design.

The Project would build a network of waterfront parks, playgrounds and recreational facilities on the 28-Acre Site that, with development of the Illinois Street Parcels, will more than triple the amount of parks in the neighborhood. The Project will provide over nine acres of new open space for a variety of activities, including an Irish Hill playground, a market square, a central commons, a minimum ½ acre active recreation on the rooftop of buildings, and waterfront parks along 1,380 feet of shoreline. In addition, the Project would provide new private open space for each of the new dwelling units.

POLICY 1.12

Preserve historic and culturally significant landscapes, sites, structures, buildings and objects.

See Discussion in Urban Element Objective 2, Policy 2.4 and 2.5.

OBJECTIVE 3

IMPROVE ACCESS AND CONNECTIVITY TO OPEN SPACE.

POLICY 3.1

Creatively develop existing publicly-owned right-of-ways and streets into open space.

The Project provides nine acres of new public open space and opens up new connections to the shoreline in the Central Waterfront neighborhood. The Project would encourage non-automobile transportation to and from open spaces, and would ensure physical accessibility these open spaces to the extent feasible.

CENTRAL WATERFRONT AREA PLAN

Objectives and Policies

Land Use

OBJECTIVE 1.1

ENCOURAGE THE TRANSITION OF PORTIONS OF THE CENTRAL WATERFRONT TO A MORE MIXED-USE CHARACTER, WHILE PROTECTING THE NEIGHBORHOOD'S CORE OF PDR USES AS WELL AS THE HISTORIC DOGPATCH NEIGHBORHOOD.

POLICY 1.1.2

Revise land use controls in formerly industrial areas outside the core Central Waterfront industrial area, to create new mixed use areas, allowing mixed-income housing as a principal use, as well as limited amounts of retail, office, and research and development, while protecting against the wholesale displacement of PDR uses.

POLICY 1.1.7

Ensure that future development of the Port's Pier 70 Mixed Use Opportunity Site supports the Port's revenue-raising goals while remaining complementary to the maritime and industrial nature of the area.

POLICY 1.1.10

While continuing to protect traditional PDR functions that need large, inexpensive spaces to operate, also recognize that the nature of PDR businesses is evolving gradually so that their production and distribution activities are becoming more integrated physically with their research, design and administrative functions.

OBJECTIVE 1.2

IN AREAS OF THE CENTRAL WATERFRONT WHERE HOUSING AND MIXED-USE IS ENCOURAGED, MAXIMIZE DEVELOPMENT POTENTIAL IN KEEPING WITH NEIGHBORHOOD CHARACTER.

POLICY 1.2.1

Ensure that infill housing development is compatible with its surroundings.

POLICY 1.2.2

For new construction, and as part of major expansion of existing buildings in neighborhood commercial districts, require housing development over commercial. In other mixed-use districts encourage housing over commercial or PDR where appropriate.

POLICY 1.2.3

In general, where residential development is permitted, control residential density through building height and bulk guidelines and bedroom mix requirements.

POLICY 1.2.4

Identify portions of Central Waterfront where it would be appropriate to increase maximum heights for residential development.

OBJECTIVE 1.4

SUPPORT A ROLE FOR "KNOWLEDGE SECTOR" BUSINESSES IN APPROPRIATE PORTIONS OF THE CENTRAL WATERFRONT.

POLICY 1.4.1

Continue to permit manufacturing uses that support the Knowledge Sector in the Mixed Use and PDR districts of the Central Waterfront.

POLICY 1.4.3

Allow other Knowledge Sector office uses in portions of the Central Waterfront where it is appropriate.

OBJECTIVE 1.7

RETAIN THE CENTRAL WATERFRONT'S ROLE AS AN IMPORTANT LOCATION FOR PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ACTIVITIES

POLICY 1.7.3

Require development of flexible buildings with generous floor-to-ceiling heights, large floor plates, and other features that will allow the structure to support various businesses.

Housing

OBJECTIVE 2.1

ENSURE THAT A SIGNIFICANT PERCENTAGE OF NEW HOUSING CREATED IN THE CENTRAL WATERFRONT IS AFFORDABLE TO PEOPLE WITH A WIDE RANGE OF INCOMES.

POLICY 2.1.1

Require developers in some formally industrial areas to contribute towards the City's very low, low, moderate and middle income needs as identified in the Housing Element of the General Plan.

OBJECTIVE 2.3

REQUIRE THAT A SIGNIFICANT NUMBER OF UNITS IN NEW DEVELOPMENTS HAVE TWO OR MORE BEDROOMS EXCEPT SENIOR HOUSING AND SRO DEVELOPMENTS UNLESS ALL BELOW MARKET RATE UNITS ARE TWO OR MORE BEDROOM UNITS.

POLICY 2.3.1

Target the provision of affordable units for families.

POLICY 2.3.2

Prioritize the development of affordable family housing, both rental and ownership, particularly along transit corridors and adjacent to community amenities.

POLICY 2.3.3

Require that a significant number of units in new developments have two or more bedrooms, except Senior Housing and SRO developments.

POLICY 2.3.4

Encourage the creation of family supportive services, such as child care facilities, parks and recreation, or other facilities, in affordable housing or mixed-use developments.

Built Form

OBJECTIVE 3.1

PROMOTE AN URBAN FORM THAT REINFORCES THE CENTRAL WATERFRONT'S DISTINCTIVE PLACE IN THE CITY'S LARGER FORM AND STRENGTHENS ITS PHYSICAL FABRIC AND CHARACTER.

POLICY 3.1.1

Adopt heights that are appropriate for the Central Waterfront's location in the city, the prevailing street and block pattern, and the anticipated land uses, while producing buildings compatible with the neighborhood's character.

POLICY 3.1.2

Development should step down in height as it approaches the Bay to reinforce the city's natural topography and to encourage and active and public waterfront.

POLICY 3.1.6

New buildings should epitomize the best in contemporary architecture, but should do so with full awareness of, and respect for, the height, mass, articulation and materials of the best of the older buildings that surrounds them.

POLICY 3.1.9

Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

OBJECTIVE 3.2

PROMOTE AN URBAN FORM AND ARCHITECTURAL CHARACTER THAT SUPPORTS WALKING AND SUSTAINS A DIVERSE, ACTIVE AND SAFE PUBLIC REALM.

POLICY 3.2.1

Require high quality design of street-facing building exteriors.

POLICY 3.2.2

Make ground floor retail and PDR uses as tall, roomy and permeable as possible.

POLICY 3.2.5

Building form should celebrate corner locations.

OBJECTIVE 3.3

PROMOTE THE ENVIRONMENTAL SUSTAINABILITY, ECOLOGICAL FUNCTIONING AND THE OVERALL QUALITY OF THE NATURAL ENVIRONMENT IN THE PLAN AREA

POLICY 3.3.1

Require new development to adhere to a new performance-based ecological evaluation tool to improve the amount and quality of green landscaping.

POLICY 3.3.3

Enhance the connection between building form and ecological sustainability by promoting use of renewable energy, energy-efficient building envelopes, passive heating and cooling, and sustainable materials.

Transportation

OBJECTIVE 4.1

IMPROVE PUBLIC TRANSIT TO BETTER SERVE EXISTING AND NEW DEVELOPMENT IN CENTRAL WATERFRONT

POLICY 4.1.4

Reduce existing curb cuts where possible and restrict new curb cuts to prevent vehicular conflicts with transit on important transit and neighborhood commercial streets.

POLICY 4.1.6

Improve public transit in the Central Waterfront including cross-town routes and connections the 22nd Street Caltrain Station and Third Street Light Rail.

OBJECTIVE 4.3

ESTABLISH PARKING POLICIES THAT IMPROVE THE QUALITY OF NEIGHBORHOODS AND REDUCE CONGESTION AND PRIVATE VEHICLE TRIPS BY ENCOURAGING TRAVEL BY NON-AUTO MODES

POLICY 4.3.1

For new residential development, provide flexibility by eliminating minimum off-street parking requirements and establishing reasonable parking caps.

POLICY 4.3.2

For new non-residential development, provide flexibility by eliminating minimum off-street parking requirements and establishing caps generally equal to the previous minimum requirements. For office uses limit parking relative to transit accessibility.

OBJECTIVE 4.4

SUPPORT THE CIRCULATION NEEDS OF EXISTING AND NEW PDR AND MARITIME USES IN THE CENTRAL WATERFRONT

POLICY 4.4.3

In areas with a significant number of PDR establishments and particularly along Illinois Street, design streets to serve the needs and access requirements of trucks while maintaining a safe pedestrian and bicycle environment.

OBJECTIVE 4.5

CONSIDER THE STREET NETWORK IN CENTRAL WATERFRONT AS A CITY RESOURCE ESSENTIAL TO MULTI-MODAL MOVEMENT AND PUBLIC OPEN SPACE

POLICY 4.5.2

As part of a development project's open space requirement, require publicly-accessible alleys that break up the scale of large developments and allow additional access to buildings in the project.

POLICY 4.5.4

Extend and rebuild the street grid, especially in the direction of the Bay.

OBJECTIVE 4.7

IMPROVE AND EXPAND INFRASTRUCTURE FOR BICYCLING AS AN IMPORTANT MODE OF TRANSPORTATION.

POLICY 4.7.1

Provide a continuous network of safe, convenient and attractive bicycle facilities connecting Central Waterfront to the citywide bicycle network and conforming to the San Francisco Bicycle Plan.

POLICY 4.7.2

Provide secure, accessible and abundant bicycle parking, particularly at transit stations, within shopping areas and at concentrations of employment.

POLICY 4.7.3

Support the establishment of the Blue-Greenway by including safe, quality pedestrian and bicycle connections from Central Waterfront.

Streets & Open Space

OBJECTIVE 5.1

PROVIDE PUBLIC PARKS AND OPEN SPACES THAT MEET THE NEEDS OF RESIDENTS, WORKERS AND VISITORS

POLICY 5.1.1

Identify opportunities to create new public open spaces and provide at least one new public open space serving the Central Waterfront.

POLICY 5.1.2

Require new residential and commercial development to provide, or contribute to the creation of public open space.

OBJECTIVE 5.4

THE OPEN SPACE SYSTEM SHOULD BOTH BEAUTIFY THE NEIGHBORHOOD AND STRENGTHEN THE ENVIRONMENT

POLICY 5.4.1

Increase the environmental sustainability of Central Waterfronts system of public and private open spaces by improving the ecological functioning of all open space.

POLICY 5.4.3

Encourage public art in existing and proposed open spaces.

Historic Preservation

OBJECTIVE 8.2

PROTECT, PRESERVE, AND REUSE HISTORIC RESOURCES WITHIN THE CENTRAL WATERFRONT AREA PLAN

POLICY 8.2.2

Apply the Secretary of the Interior's Standards for the Treatment of Historic Properties in conjunction with the Central Waterfront area plan and objectives for all projects involving historic or cultural resources.

OBJECTIVE 8.3

ENSURE THAT HISTORIC PRESERVATION CONCERNS CONTINUE TO BE AN INTEGRAL PART OF THE ONGOING PLANNING PROCESSES FOR THE CENTRAL WATERFRONT AREA PLAN

POLICY 8.3.1

Pursue and encourage opportunities, consistent with the objectives of historic preservation, to increase the supply of affordable housing within the Central Waterfront plan area.

The Central Waterfront Area Plan anticipated a new mixed-use development at Pier 70. The Project is consistent with the objectives and policies of the Central Waterfront Plan, since the Project adaptively reuses a portion of a former industrial shipyard and provides a new mixed-use development with substantial community benefits, including nine-acres of public open space, new streets and streetscape improvements, on-site affordable housing, rehabilitation of three historic buildings, and new arts, retail and light manufacturing uses. New construction will be appropriately designed to fit within the context of the Union Iron Works Historic District. In addition, the Project includes substantial transit and infrastructure improvements, including new on-site TDM program, facilities for a new public line through the project site, and a new open-to-the public shuttle service.

AND BE IT FURTHER RESOLVED, that the Planning Commission finds these General Plan Amendments are in general conformity with the Planning Code Section 101.1, and the Project and its approvals associated therein, all as more particularly described in Exhibit B to the Development Agreement on file with the Planning Department in Case No. 2014-001272DVA, are each on balance, consistent with the following Objectives and Policies of the General Plan, as it is proposed to be amended as described herein, and as follows:

- 1) *That existing neighbor-serving retail uses will be preserved and enhanced, and future opportunities for resident employment in and ownership of such businesses enhanced;*

No neighborhood-serving retail uses are present on the Project site. Once constructed, the Project will contain major new retail, arts and light industrial uses that will provide opportunities for employment and ownership of retail businesses in the community. These new uses will serve nearby residents and the surrounding community. In addition, building tenants will patronize existing retail uses in the community (along 3rd Street and in nearby Dogpatch), thus enhancing the local retail economy. The Development Agreement includes commitments related to local hiring.

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

No existing housing will be removed for the construction of the Project, which will provide at full build-out between 1,645 and 3,025 new residential units. The Project is designed to revitalize a former industrial site and provide a varied land use program that is consistent with the surrounding Central Waterfront and Dogpatch neighborhoods, and the historic context of the Union Iron Works Historic District, which is listed in the National Register of Historic Places. The Project provides a new neighborhood complete with residential, office, retail, arts, and light manufacturing uses, along with new transit and street infrastructure, and public open space. The Project design is consistent with the historic context, and provides a desirable, pedestrian-friendly experience with interactive and engaged ground floors. Thus, the Project would preserve and contribute to housing within the surrounding neighborhood and the larger City, and would otherwise preserve and be consistent with the neighborhood's industrial context.

3) *That the City's supply of affordable housing be preserved and enhanced;*

The construction of the Project will not remove any residential uses, since none exist on the project site. The Project will enhance the City's supply of affordable housing through its affordable housing commitments in the Development Agreement, which will result in total of 30% on-site affordable housing units.

4) *That commuter traffic not impede Muni transit service or overburden our streets or neighborhood parking;*

The Project would not impede transit service or overburden streets and neighborhood parking. The Project includes a robust transportation program with an on-site Transportation Demand Management (TDM) program, facilities to support a new bus line through the project site, an open-to-the-public shuttle service, and funding for new neighborhood-supporting transportation infrastructure.

The Project is also well served by public transit. The Project is located within close proximity to the MUNI T-Line Station along 3rd Street and the bus routes, which pick-up/drop-off at 20th and 3rd, and 23rd and 3rd Streets. In addition, the Project is located within walking distance to the 22nd Street Caltrain Station. Future residents would be afforded close proximity to bus or rail transit.

Lastly, the Project contains new space for vehicle parking to serve new parking demand. This will ensure that sufficient parking capacity is available so that the Project would not overburden neighborhood parking, while still implementing a rigorous TDM Plan to be consistent with the City's "transit first" policy for promoting transit over personal vehicle trips.

5) *That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;*

Although the Project would displace portions of an industrial use historically associated with the Bethlehem Steel and/or Union Iron Works, the Project provides a strong and diverse economic base by the varied land use program, which includes new commercial office, retail, arts, and light industrial uses. The Project balances between residential, non-residential and PDR (Production, Distribution and Repair) uses. Across the larger site at Pier 70 (outside of the project site), the Port of San Francisco has maintained the industrial shipyard operations (currently under lease by BAE). On the 28-Acre site, the Project includes light manufacturing and arts uses, in order to diversify the mix of goods and services within the

project site. The Project also includes a large workforce development program and protections for existing tenants/artists within the Noonan Building. All of these new uses will provide future opportunities for service-sector employment.

- 6) *That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;*

The Project will comply with all current structural and seismic requirements under the San Francisco Building Code and the Port of San Francisco.

- 7) *That landmarks and historic buildings be preserved;*

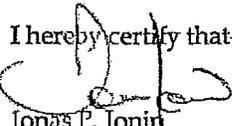
The Project would preserve and rehabilitate a portion of the Union Iron Works Historic District and three of its contributing resources: Buildings 2, 12 and 21. In addition, the Project includes standards and guidelines for new construction adjacent to and within the Union Iron Works Historic District, which is listed in the National Register of Historic Places. These standards and guidelines ensure compatibility of new construction with the character-defining features of the Union Iron Works Historic District, as guided by the Secretary of the Interior's Standards for the Treatment of Historic Properties. In addition, the Project preserves and provides access to an important cultural relic, Irish Hill, which has been identified as an important resource to the surrounding community.

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

The Project will improve access to the shoreline within the Central Waterfront neighborhood, and will provide 9-acres of new public open space. The Project will not affect any of the City's existing parks or open space or their access to sunlight and vistas. A shadow study was completed and concluded that the Project will not cast shadows on any property under the jurisdiction of, or designated for acquisition by, the Recreation and Park Commission.

AND BE IT FURTHER RESOLVED, that pursuant to Planning Code Section 340, the Commission recommends to the Board of Supervisors APPROVAL of the aforementioned General Plan Amendments. This approval is contingent on, and will be of no further force and effect until the date that the San Francisco Board of Supervisor has approved by resolution approving the Zoning Map Amendment, Planning Code Text Amendment, and Development Agreement.

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


Jonas P. Ionin
Commission Secretary

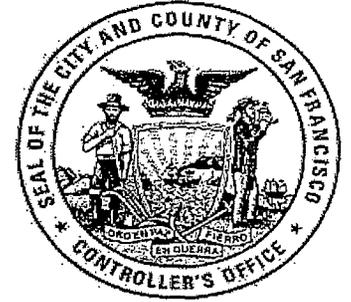
AYES: Hillis, Johnson, Koppel, Melgar, Moore and Richards
NAYES: None
ABSENT: Fong
ADOPTED: August 24, 2017

File # 170863

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2017 OCT 18 PM 2:54

BY AK



Pier 70 Development Agreement and Proposed SUD: Economic Impact Report

Office of Economic Analysis
Items # 170863-64
October 19, 2017

Introduction

- On July 25, 2017 Mayor Lee introduced legislation (#170863) to approve a development agreement between the City and FC Pier 70, LLC, an affiliate of Forest City Development California, Inc. The agreement would redevelop 35 acres of property located in Pier 70 on the central waterfront.
- Accompanying legislation (#170864) would amend the planning code to create the Pier 70 Special Use District (SUD). The SUD legislation would change allowable heights and land uses for parcels in this area.
- In addition, an Infrastructure Financial District (IFD) is planned to use incremental property tax revenue to fund needed infrastructure for the area. As this district will not be officially formed through the bundle of Pier 70-related legislation, we are not considering the economic impact of this spending in this report.

Project Description

- The project consists of approximately 35 acres of land, comprising 19 parcels as outlined on pages 6 and 7.
- The project will be a mixed-use development of about 35 acres, containing two development areas:
 - (1) The “28 acres site” comprising of 15 parcels located between 20th, Michigan, and 22nd streets, and San Francisco Bay
 - (2) The “Illinois Parcels” comprising of 7 acres of land on four parcels, labelled as PKN, PKS, HDY2 and HDY3 on pages 6 and 7.
- The SUD zoning legislation, and the Design-for-Development agreement, define the maximum heights and density controls for the 19 parcels.
- Within those constraints, the developer, Forest City, has some discretion about how much housing and office space to build.
- Under a “maximum commercial” scenario the project can include 2,262,350 gsf of office space and space for 1,645 housing units.
- Under a “maximum residential” scenario the project can include 1,102,250 gsf of office space and space for 3,025 housing units.
- Both scenarios also include similar amounts of retail, restaurants, arts and light industrial space.

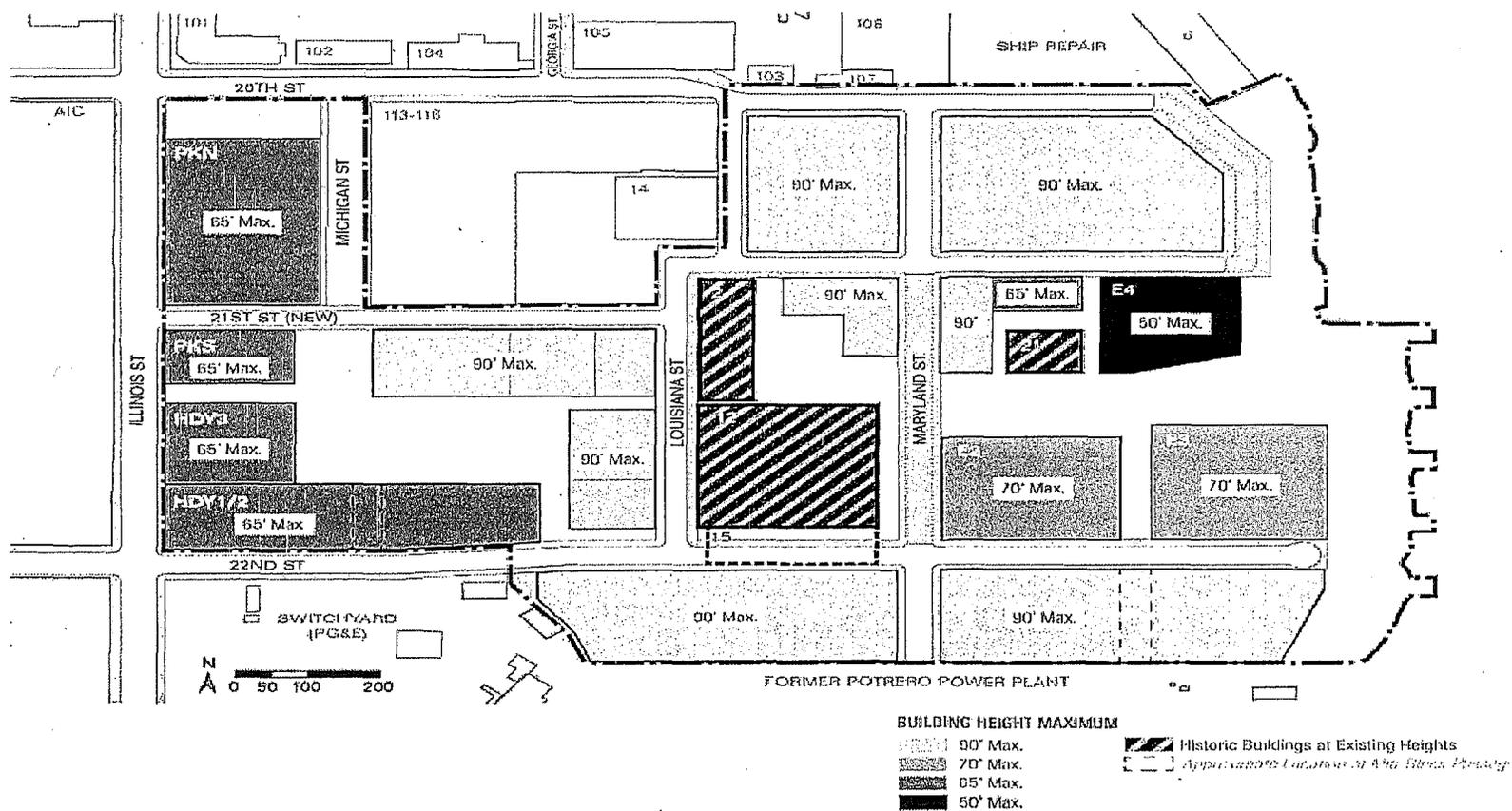
Project Description: Continued

- Under the Development Agreement, the developer will commit a set of public benefits including the revitalization of the Union Iron Works Historic District, and building waterfront parks, a playground, and recreational facilities and new open space for a variety of recreational activities.
- The project would restore and retain three historic building structures (labelled as parcel 2, 12 and 21 on slides 6 and 7) that are considered significant contributor to the Union Iron Works Historic District.
- Another element of the proposed project is the creation of new affordable housing. The developer will dedicate land for 327 units of affordable housing, whose construction will be funded by fees paid on market-rate housing and office development in the project area, and potentially the IFD as well. In addition, 20% of all new rental housing in the area will be required to be affordable.
- The project will also provide a new space in the project area for the artist community currently located in the Noonan Building.

Existing Uses, Retention & Rehabilitation of the Project Site

- The project site currently contains 11 buildings of approximately 351,800 gsf area.
- These 11 buildings and facilities currently serve various uses on the site ranging from special event venues, art studios, warehouses, self-storage facilities, auto storage, parking lot, soil recycling yard, as well as office spaces.
- Of the 11 buildings on the site, the Port has proposed to demolish one building (30,940 gsf) separately from and prior to the approval of the proposed project. The demolition of that building will undergo environmental review, as required by CEQA.
- Under the Development Agreement, the developer has agreed to retain and rehabilitate about 65% (or 227,800 gsf) of the existing building spaces in the project area. This retained and rehabilitated space will be located in the three historical buildings (labelled as parcel 2, 12 and 21 on the next two slides) that are deemed significant contributors to the Union Iron Works Historic District.

General Map of the Proposed SUD Project Area: Height Limits of the Parcels Under the Proposed Development Agreement



627

Map of Area Parcels' Width & Heights

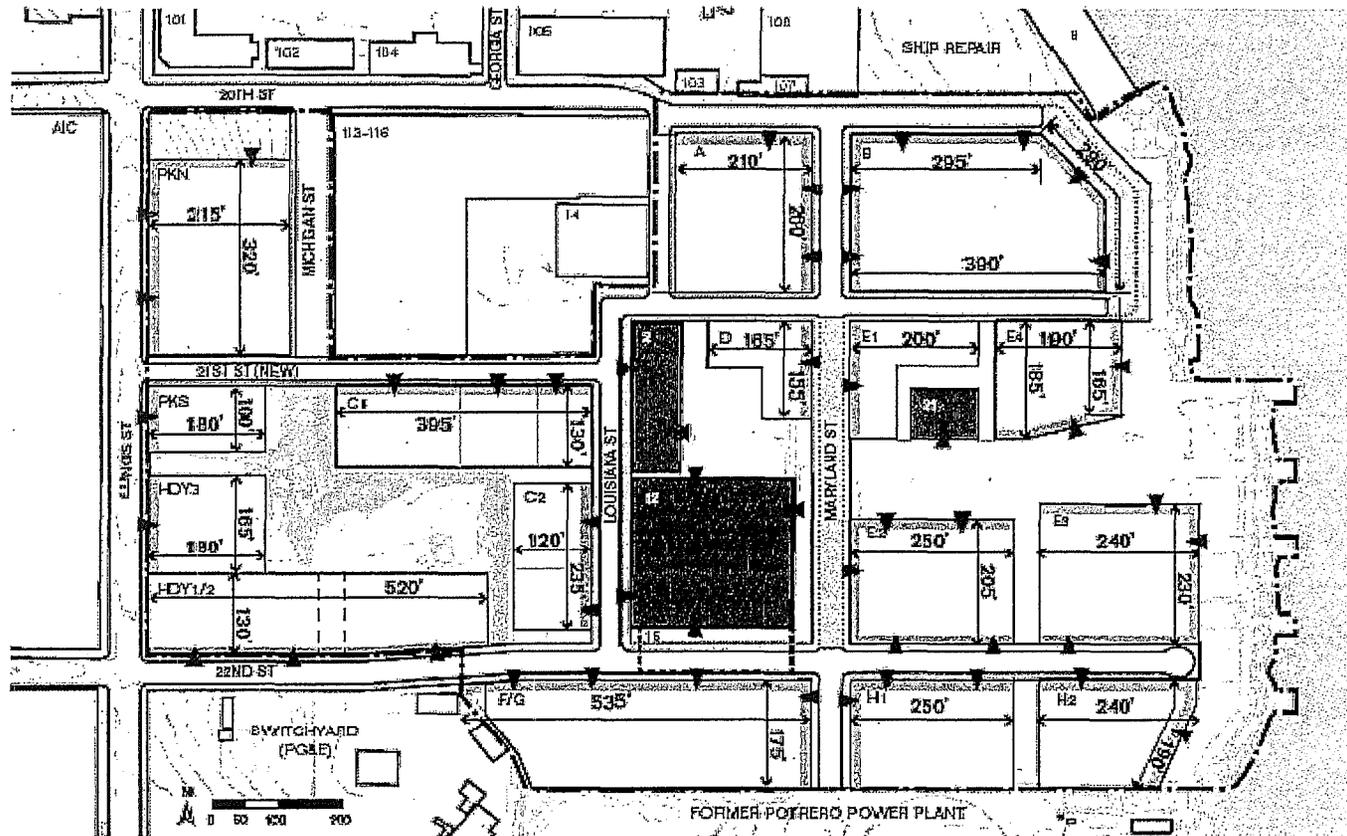


FIGURE 6.8.5: Illustrative Plan of Building Entries from Public Right of Way

Note: All dimensions are rounded up to the nearest 5'.

-  Frontage with Required Building Entries
-  Illustrative of Minimum Building Entries

Source: Design for Development

Difference in Potential Development Capacity: Current Zoning versus Development Agreement under the Proposed Zoning

Land Uses	Existing Zoning Potential	Max Housing Scenario	Max Housing Difference from Existing	Max Office Scenario	Max Office Difference from Existing
Residential Units	1,067	3,025	1,958	1,645	578
Commercial Office (gsf)	871,156	1,102,250	231,094	2,262,350	1,391,194
Retail (gsf)	140,999	269,495	128,496	275,075	134,076
Restaurants (gsf)	35,249	67,375	32,126	68,765	33,516
Arts, Light Industrial (gsf)	74,108	143,110	69,002	143,110	69,002
TOTAL	2,049,516	4,212,230	2,162,714	4,179,300	2,129,784

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Economic Impact Factors

The proposed Pier 70 SUD development is expected to affect the local economy in three major ways:

1. The re-zoning from 40' height to 90' height will expand the potential development capacity on the site, leading to an increase in housing, retail and office space in the city. This will put downward pressure on prices and rents for residential and commercial real estate.
2. The construction activity due rezoning and the development agreement will generate additional economic activity over and above what would have been possible under the existing zoning.
3. The direct value of the subsidy associated with the on-site affordable housing will both alleviate the housing burden of resident households, and also release additional consumer spending into the local economy.

Because the actual amount of housing and non-residential space that will be constructed is unknown, we modeled both the Maximum Housing and Maximum Office scenarios, both relative to what could be constructed under existing zoning.

Impact of New Housing and Non-Residential Space

- Increase in the housing supply will put downward pressure on residential rents and home prices in San Francisco.
- The proposed re-zoning and development agreement could expand the city's housing development capacity anywhere from 587 units under the "maximum office" scenario, to 1,958 units under the "maximum housing" scenario. This represents the increased amount of housing that could be built, under each scenario, compared to what is allowed under current zoning.
- The OEA estimates that under the two scenarios (as outlined on slide 8) the expanded development capacity created by the re-zoning would result in housing prices in the range of 0.23% to 0.79% lower than they would have been otherwise.
- Given the amount of non-residential space that may be developed; including office, retail, restaurants, and arts/light industrial space, we similarly project a citywide decline in non-residential rents of between -0.8% to -3.0%, depending on the scenario.

Impact of the Affordable Housing Subsidy

- Increasing the number of subsidized housing units will particularly benefit low-income households, who experience higher housing burdens than higher-income households in the city.
- Based on requirements in the development agreement, we project the affordable housing supply would increase by anywhere from 299 to 437, compared to what would be required through the City's inclusionary housing as applied to the existing development capacity and zoning on the site.
- We project that, at full build-out, these additional affordable units would reduce housing payment the range of \$1.2 million to \$4.1 million per year for their low-income residents. In addition to reducing low-income housing burdens, this subsidy frees funds for additional spending that stimulates the local economy.

Construction Spending: Residential and Commercial

- According to San Francisco housing construction costs published by RSMeans, average residential construction cost (excluding land) is currently about \$259 per square foot; whereas average non-residential construction costs (excluding land) is about \$255 per square foot.
- The expected increase in construction spending—resulting from increased development potential as a result of rezoning and the development agreement—in the city is projected to increase anywhere from \$532 million (max office scenario) to \$545 million (max housing scenario).

Assumptions and REMI Model Inputs

- The OEA uses the REMI model to simulate the impact of the proposed re-zoning and development agreement on the city's economy. The project was assumed to be completed over a 20-year horizon beginning in 2018.
- Based on the discussion the previous pages, the model inputs are summarized below.

	Max Housing	Max Office
Housing price reduction (at full build-out)	-0.8%	-0.2%
Non-residential rent reduction (at full build-out)	-0.8%	-3.0%
Affordable housing subsidy value (at full build-out)	\$1.2 million	\$4.0 million
Construction Spending (over 20 years)	\$545 million	\$532 million

Economic Impact Assessment and Conclusions

- The proposed Pier 70 SUD rezoning and the associated development agreement will expand the city's economy, by accommodating the city's growing demand for housing and office space.
- As shown on the table on the next page, the maximum office scenario would lead to a larger economy, with greater employment and GDP. In fact, population is expected to also grow more under this scenario, even though it produces less housing. Housing prices are expected to rise, although other prices would fall, and incomes would rise.
- In the maximum housing scenario, on the other hand, less job and income growth would occur, but housing prices fall.
- Both scenarios would lead to higher per capita incomes, which would be even higher when reduced prices are taken into account.
- In general, the maximum office scenario would have greater aggregate benefits for more people. On a per capita basis, however, inflation-adjusted personal income would grow by more in the maximum housing scenario, leading to greater per capita benefits for a smaller number of people.

Comparison of the Maximum Office and Maximum Housing Scenarios

	Max Housing (at full build-out)	Max Office (at full build-out)
Employment growth	1,740	2,785
Population growth	3,430	-4,125
GDP growth (\$2016)	\$380 million	\$730 million
Housing price change	-0.3%	0.4%
Overall price change	-0.06%	-0.03%
Inflation-adjusted per capita income (\$2016)	\$83	\$52

Staff Contacts

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Ted Egan, Ph.D., Chief Economist

ted.egan@sfgov.org

(415) 554-5268

ECONOMIC AND WORKFORCE DEVELOPMENT
TODD RUFO, DIRECTOR



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

To: Linda Wong
From: Sarah Dennis Phillips, OEWD
CC: Brad Benson, Christine Maher, Port
Date: October 12, 2017
Re: Supporting Documents for Board File 170863 (Pier 70 Project)

On July 24 2017, Mayor Lee and Supervisor Cohen introduced an Ordinance approving a Development Agreement for the Pier 70 Project, Board File 170863. Please find attached supporting document submittals for this file:

- o Port Commission Resolution dated 9/21/17
- o Replacement DA version dated 10-12-17 (note this includes previously omitted Exhibits A, B and C)

2017 OCT 12 PM 3:03
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SAN FRANCISCO

BOARD of SUPERVISORS



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

NOTICE OF PUBLIC HEARING

BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO BUDGET AND FINANCE COMMITTEE

NOTICE IS HEREBY GIVEN THAT the Budget and Finance Committee will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

Date: October 19, 2017

Time: 1:00 p.m.

Location: Legislative Chamber, Room 250, located at City Hall
1 Dr. Carlton B. Goodlett Place, San Francisco, CA

Subject: File No. 170863. Ordinance approving a Development Agreement between the City and County of San Francisco and FC Pier 70, LLC, for 28 acres of real property located in the southeast portion of the larger area known as Seawall Lot 349 or Pier 70; and bounded generally by Illinois Street on the west, 22nd Street on the south, and San Francisco Bay on the north and east; waiving certain provisions of the Administrative Code, Planning Code, and Subdivision Code; and adopting findings under the California Environmental Quality Act, public trust findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1(b).

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made part of the official public record in this matter, and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, October 13, 2017.

A handwritten signature in black ink, appearing to read "Angela Calvillo".

Angela Calvillo, Clerk of the Board

DATED/PUBLISHED/POSTED: October 6, 2017

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Notice Type: GPN GOVT PUBLIC NOTICE
Ad Description EDM/LW Pier 70 Mixed Use Project Ads - 170863,
170864, 170930

To the right is a copy of the notice you sent to us for publication in the SAN FRANCISCO EXAMINER. Thank you for using our newspaper. Please read this notice carefully and call us with ny corrections. The Proof of Publication will be filed with the County Clerk, if required, and mailed to you after the last date below. Publication date(s) for this notice is (are):

10/06/2017

The charge(s) for this order is as follows. An invoice will be sent after the last date of publication. If you prepaid this order in full, you will not receive an

EXM# 3058935

NOTICE OF PUBLIC HEARING BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO LAND USE AND TRANSPORTATION COMMITTEE
MONDAY, OCTOBER 16, 2017 - 1:30 PM CITY HALL, LEGISLATIVE CHAMBER, ROOM 250 1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA

NOTICE IS HEREBY GIVEN THAT the Land Use and Transportation Committee will hold a public hearing to consider the following proposals and said public hearing will be held as follows, at which time all interested parties may attend and be heard: File No. 170930. Ordinance amending the General Plan to revise Maps 4 and 5 of the Urban Design Element to refer to the Pier 70 Mixed-Use Project Special Use District; adopting findings under the California Environmental Quality Act, and Planning Code, Section 340; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1. File No. 170864. Ordinance amending the Planning Code and the Zoning Map to add the Pier 70 Special Use District; making findings under the California Environmental Quality Act, and making findings of consistency with the General Plan, the eight priority policies of Planning Code, Section 101.1, and Planning Code, Section 302.

NOTICE OF PUBLIC HEARING BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO BUDGET AND FINANCE COMMITTEE THURSDAY, OCTOBER 19, 2017 - 1:00 PM CITY HALL, LEGISLATIVE CHAMBER, ROOM 250 1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA

NOTICE IS HEREBY GIVEN THAT the Budget and Finance Committee will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard: File No. 170863. Ordinance approving a Development Agreement between the City and County of San Francisco and FC Pier 70, LLC, for 28 acres of real property located in the southeast portion of the larger area known as

Seawall Lot 349 or Pier 70, and bounded generally by Illinois Street on the west, 22nd Street on the south, and San Francisco Bay on the north and east; waiving certain provisions of the Administrative Code, Planning Code, and Subdivision Code; and adopting findings under the California Environmental Quality Act, public trust findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1(b).

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearings on these matters may submit written comments to the City prior to the time the hearings begin. These comments will be made part of the official public record on these matters, and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102. Information relating to these matters is available in the Office of the Clerk of the Board. Agenda information relating to these matters will be available for public review on Friday, October 13, 2017. - Angela Calvillo, Clerk of the Board.



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**NOTICE OF PUBLIC HEARING
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 CITY AND COUNTY OF SAN
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 TRANSPORTATION COMMITTEE
 MONDAY, OCTOBER 16, 2017 -
 1:30 PM CITY HALL, LEGISLATIVE
 CHAMBER, ROOM 250 1 DR.
 CARLTON B. GOODLETT PLACE,
 SAN FRANCISCO, CA**
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 Land Use and Transportation
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**NOTICE OF PUBLIC HEARING
BOARD OF SUPERVISORS OF THE
CITY AND COUNTY OF SAN
FRANCISCO BUDGET AND
FINANCE COMMITTEE THURSDAY,
OCTOBER 19, 2017 - 1:00 PM
CITY HALL, LEGISLATIVE
CHAMBER, ROOM 250 1 DR.
CARLTON B. GOODLETT PLACE,
SAN FRANCISCO, CA**

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official public record on these matters, and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102. Information relating to these matters is available in the Office of the Clerk of the Board. Agenda information relating to these matters will be available for public review on Friday, October 13, 2017. - Angela Calvillo, Clerk of the Board.

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Introduction Form

By a Member of the Board of Supervisors or Mayor

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

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

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

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

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

Sponsor(s):

Cohen

Subject:

Development Agreement - FC Pier 70, LLC - Pier 70 Development Project

The text is listed:

Attached

Signature of Sponsoring Supervisor:



For Clerk's Use Only

OFFICE OF THE MAYOR
SAN FRANCISCO



EDWIN M. LEE

TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: *for* Mayor Edwin M. Lee 
RE: Pier 70 Project
DATE: July 25, 2017

RECEIVED
7/25/2017 @ 5:50pm

AS

Attached for introduction to the Board of Supervisors is legislation for the Pier 70 Project:

- Resolution of Intention to Issue Bonds in an Amount Not to Exceed \$273,900,000, \$196,100,000 and \$323,300,000 for Sub-Project Area G-2, Sub-Project Area G-3 and Sub-Project Area G-4, respectively, City and County of San Francisco Infrastructure Financing District No. 2 (Port of San Francisco).
- Resolution of Intention to establish Sub-Project Area G-2, Sub-Project Area G-3 and Sub-Project Area G-4 of City and County of San Francisco Infrastructure Financing District No. 2 (Port of San Francisco).
- Resolution authorizing and directing the Executive Director of the Port of San Francisco, or designee of the Executive Director of the Port of San Francisco to prepare an infrastructure financing plan for City and County of San Francisco Infrastructure Financing District No. 2 (Hoedown Yard) and determining other matters in connection therewith.
- Resolution of Intention to establish City and County of San Francisco Infrastructure and Revitalization Financing District No. 2 (Hoedown Yard) on land within the City and County of San Francisco commonly known as the Hoedown Yard to finance the construction of affordable housing within Pier 70 and Parcel K South; to call a public hearing on October 24, 2017 on the formation of the district and to provide public notice thereof; and determining other matters in connection therewith.
- Resolution of intention to issue bonds for City and County of San Francisco Infrastructure and Revitalization Financing District No. 2 (Hoedown Yard) and determining other matters in connection therewith.
- Ordinance approving a Development Agreement between the City and County of San Francisco and FC Pier 70, LLC, for 28 acres of real property located in the Pier 70 area; waiving certain provisions of the Administrative Code, Planning Code, and Subdivision Code; and adopting findings under the California Environmental Quality Act, public trust findings, and findings of consistency with the City's General Plan and with the eight priority policies of Planning Code Section 101.1(b).

- Ordinance amending the Planning Code and the Zoning Map to add the Pier 70 Special Use District; and making findings, including findings under the California Environmental Quality Act and findings of consistency with the General Plan, the eight priority policies of Planning Code Section 101.1, and Planning Code Section 302.

Please note that the legislation is co-sponsored by Supervisor Cohen.

I respectfully request that these items be calendared in Land Use Committee on October 16, 2017.

Should you have any questions, please contact Mawuli Tugbenyoh (415) 554-5168.

File# 170863, 170986,
170988

Pier 70 Special Use District



Request Recommendation

Budget & Finance Committee, October 19, 2017

Presentation Overview

- Pier 70 Updates
- Land Use Use Committee Items
- Public Benefits
- Infrastructure & ICA
- Key Transaction Documents
- Funding Structure
- Financial Analysis
- Next Steps

Pier 70 Updates



Shipyards

- Port paying for maintenance
- New operator RFP underway



Historic Core (Orton Development)

- Rehab of Buildings 14, 101, 104, 113-116 underway
- Full occupancy late 2018



Crane Cove Park

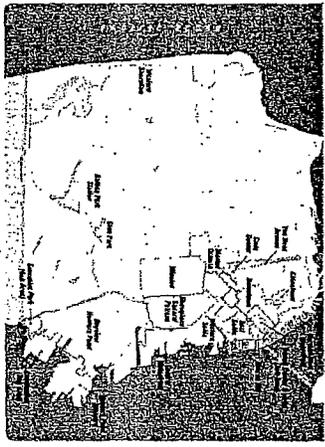
- First 6 acres complete mid-late 2018
- New beach, restored Slipway 4, Crane Plaza, dog run, picnic areas, site history interpretation and restrooms



Current Tenants

- Affordable Self Storage, Paul's Stores, Ernesto Rivera, Michael Rios, Noonan Tenants, ImPark
- Currently discussing relocation options

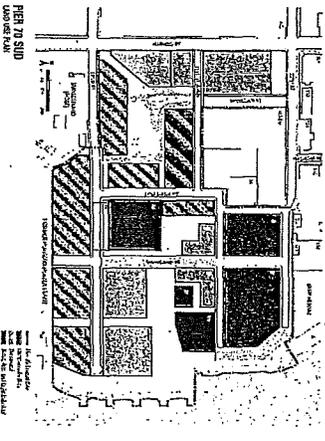
Land Use Committee Items



Adopted Area Plans

**General Plan
Amendment**

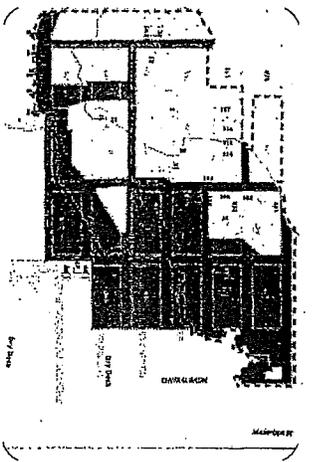
This map shows various land use zones and planning areas across a city, with labels for different zones and a legend at the bottom.



PIER 70 SUD
LAWRENCE ST
STREETSIDE CORRIDOR

**Pier 70 Special
Use District**

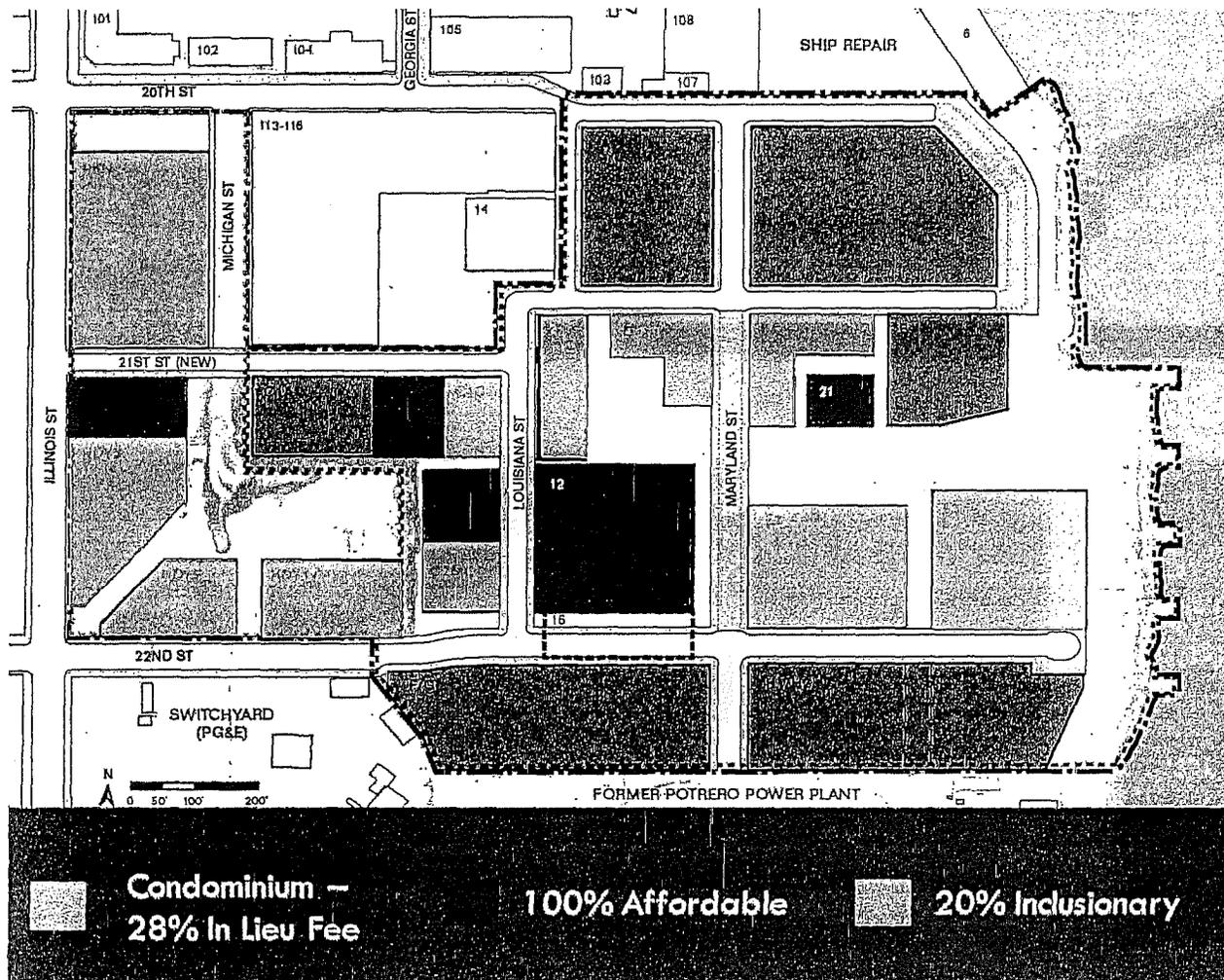
This map details the Pier 70 Special Use District, showing street layouts, building footprints, and specific zoning designations. A legend at the bottom identifies different types of buildings and zones.



**Public Trust
Exchange**

This map illustrates a public trust exchange area, showing a large rectangular plot with internal divisions and a legend at the bottom.

470+ Units of Affordable Housing



20% inclusionary units in rental buildings

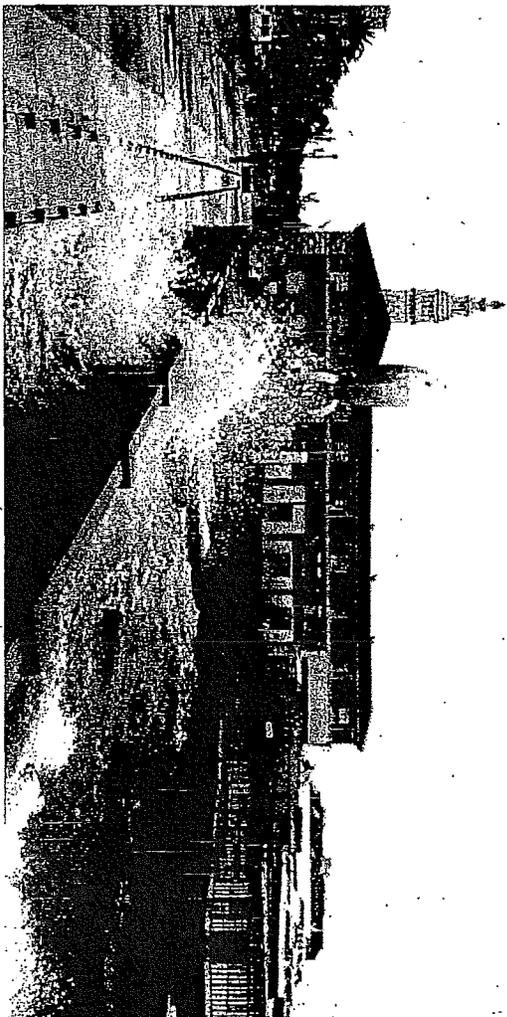
Three 100% affordable housing parcels

Generates gap funding for affordable housing:

- Tax increment from Hoedown Yard
- Jobs Housing Linkage Fees from office development
- In lieu fees from condo projects

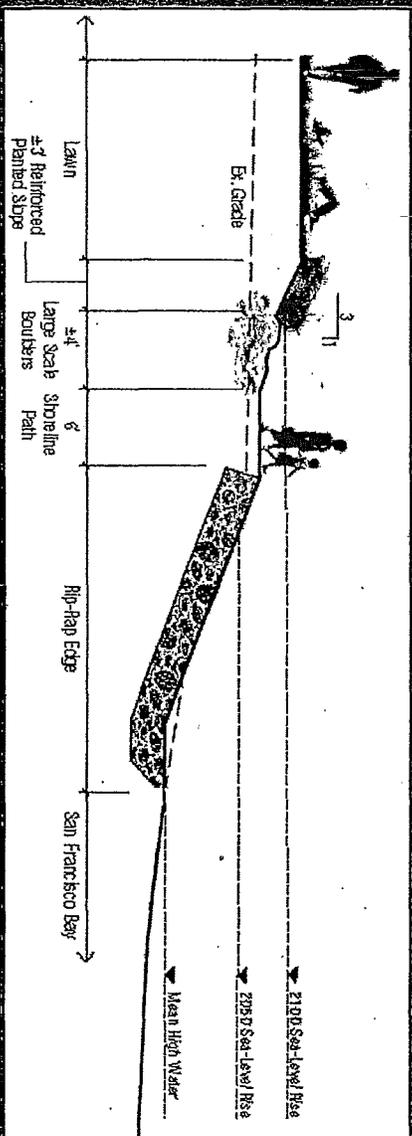
699

Significant Sea Level Rise Protections

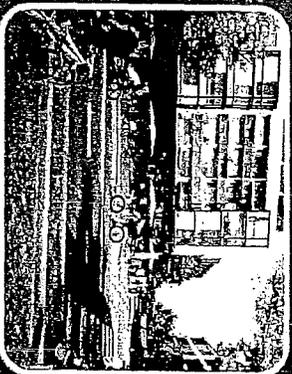


- **Shoreline Special Tax**
- **New, long-term funding stream for shoreline protection**
- **Port-wide investments, including ongoing needs at Project**

- **Site Improvements**
- **Elevation of buildings 4-8' to accommodate 66" of SLR**
- **Drainage away from buildings**
- **Shoreline protections**

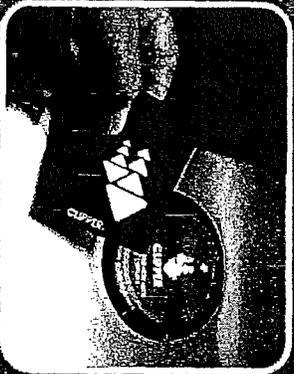


Significant Transportation Improvements



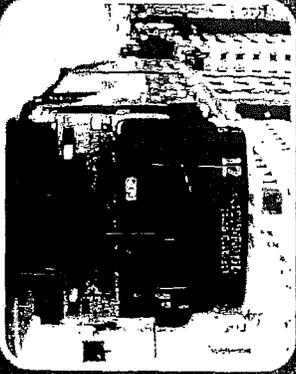
Site Design

- New street grid w/ Safe bicycle network with Class II and sharrows
- Bay Trail and Blue Greenway connections



Transportation Demand Management

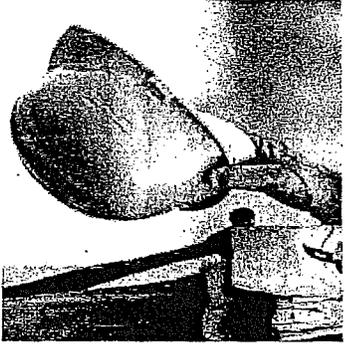
- Transit passes for residents
- Unbundled parking
- TMA with Shuttle to Muni, BART and Caltrain
- Reduce vehicle trips by 20%



\$45 – \$50M Impact Fees

- Upgrades to 10 and 12 MUNI Lines
- New 11 Line and XX MUNI Lines
- Precise routing subject to neighborhood outreach

Additional Public Benefits

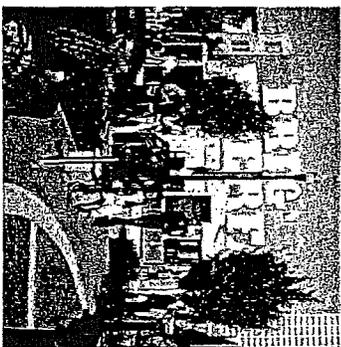


Economic Access & Diversity

- \$1 M for CityBuild/Tech SF
- 17% LBE hiring goal
- Local hiring for construction

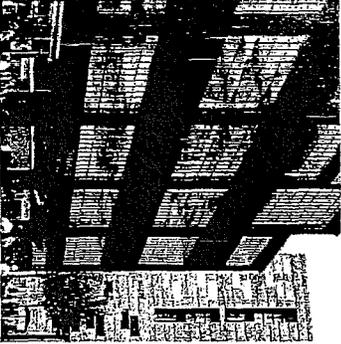
Parks and Open Space

- 9 acres new open space
- 1,380 feet of shoreline parks

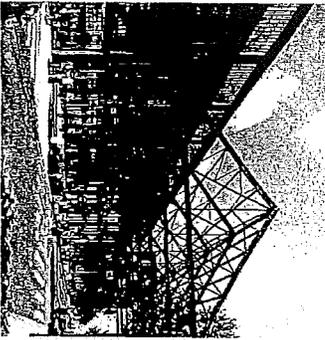


Retail and Industrial Uses

- 60,000 sf local market hall
- Minimum 50,000 sf PDR



Provides Additional Public Benefits



Historic Structure Rehab

- Buildings 2, 12, 21
- Interpretive design
- Building 15 frame over 22nd St.

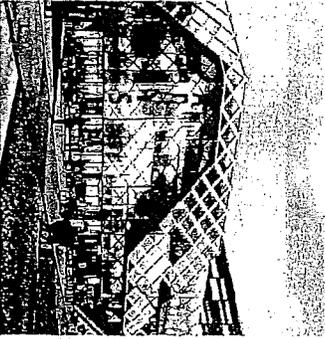
Community Facilities

- On-site child care
- \$2.5m for new community space

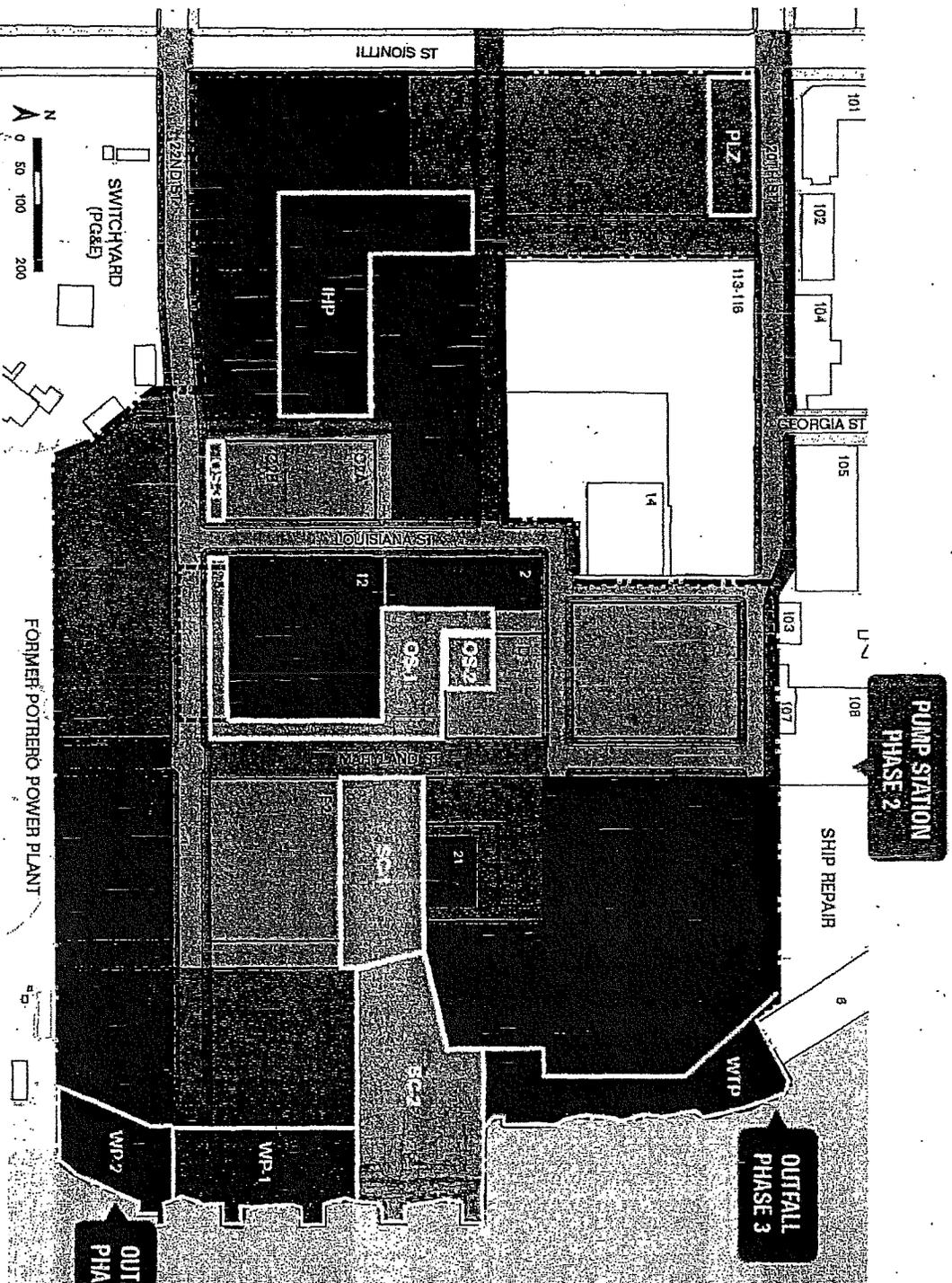


Noonan Tenants/Arts Building

- Relocation of artists on site
- Up to 90,000 sf arts building
- \$17.5m private fundraising



\$260M of Horizontal Improvement Costs

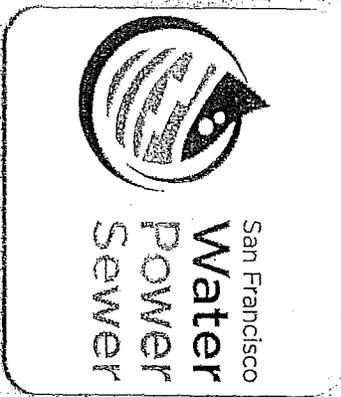


- Phase 1 • \$140 million
- Phase 2 • \$74 million
- Phase 3 • \$46 million
- OUTFALL PHASE 3

Interagency Cooperation Agreement



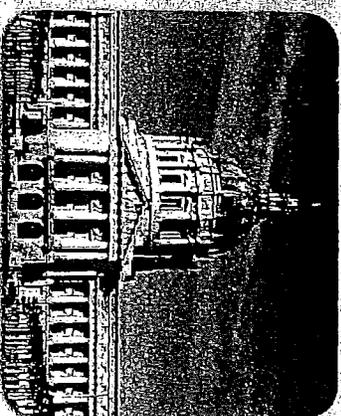
- Streets & Mapping**
- Coordination
 - Subdivision Map Applications
 - Consider exceptions to City standards
 - Accept streets meeting standards



- Utilities**
- Water
 - Wastewater
 - AWSS
 - Stormwater
 - Power



- Chief Harbor Engineer**
- Complete Trust Exchange
 - Phase Applications under DDA
 - Coordinate permit applications & inspections
 - Schedule of Performance Compliance



- Consenting City Agencies**
- OEWD, MOHCD, and MOD
 - GSA, including SF Public Works
 - SFPUC
 - Port
 - SFMTA
 - Controller
 - City Administrator

DDA Governs Project, subject to Subdivision Code

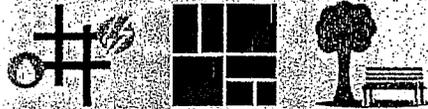
ForestCity



Horizontal
Improvements &
Public Benefits



- 28-Acre Master Lease
- Vertical DDAs (for vertical developers)
- 99 Year Parcel Leases (office & residential)
- Inspect & accept parks
- Coordinate with City agencies (street & infrastructure acceptance)



Schedule of
Performance

Horizontal
Development
Requirements

Attachments

- Financing Plan
- Infrastructure Plan
- Affordable Housing Plan
- Streetscape Plan
- Form of VDDA, Parcel Lease & Acquisition Agreement
- Jobs & Equal Opportunity Program
- Mitigation Monitoring & Reporting Program

DA Sets Vested Rights and Public Benefits

ForestCity



Vested Rights

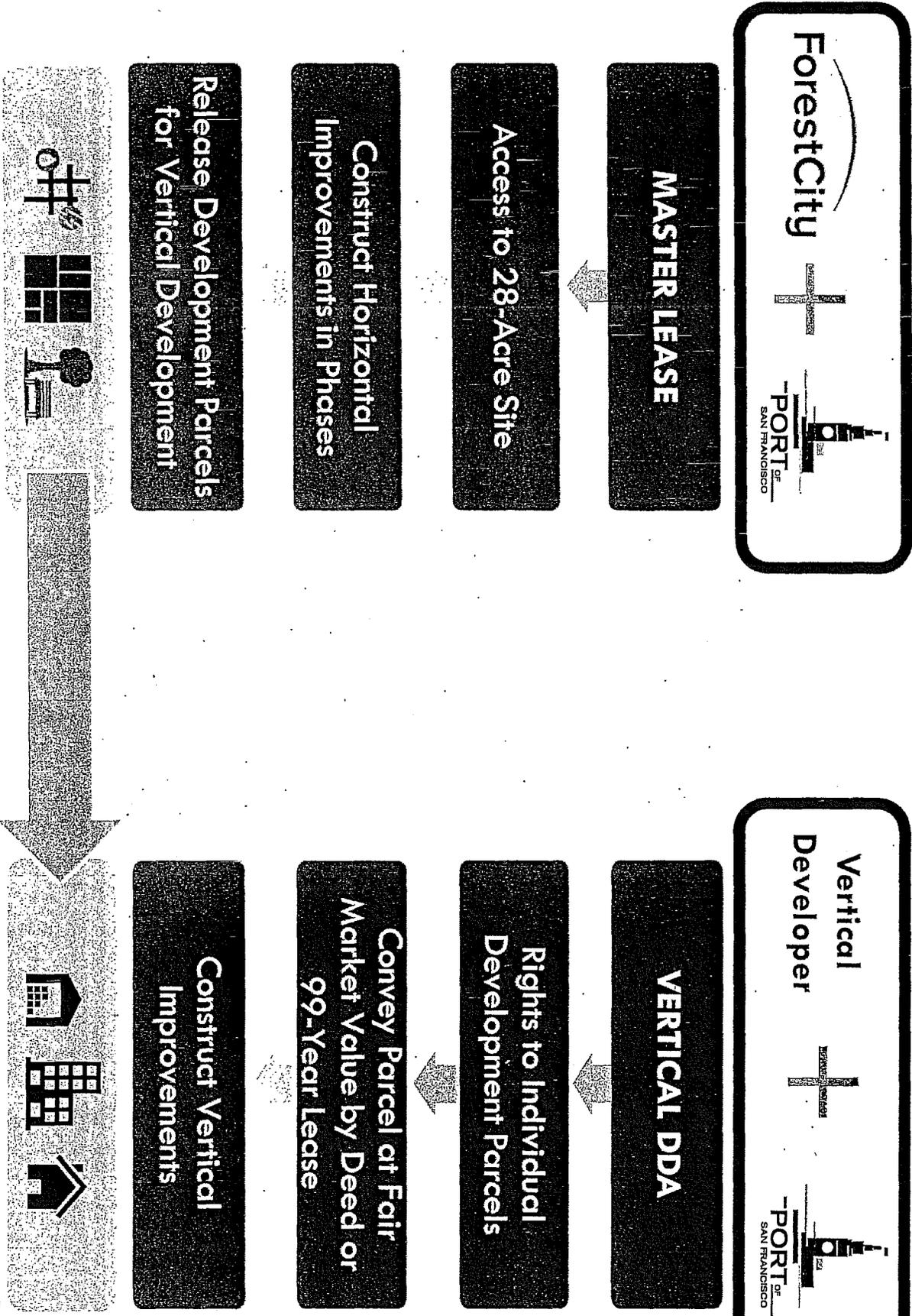


Public Benefits

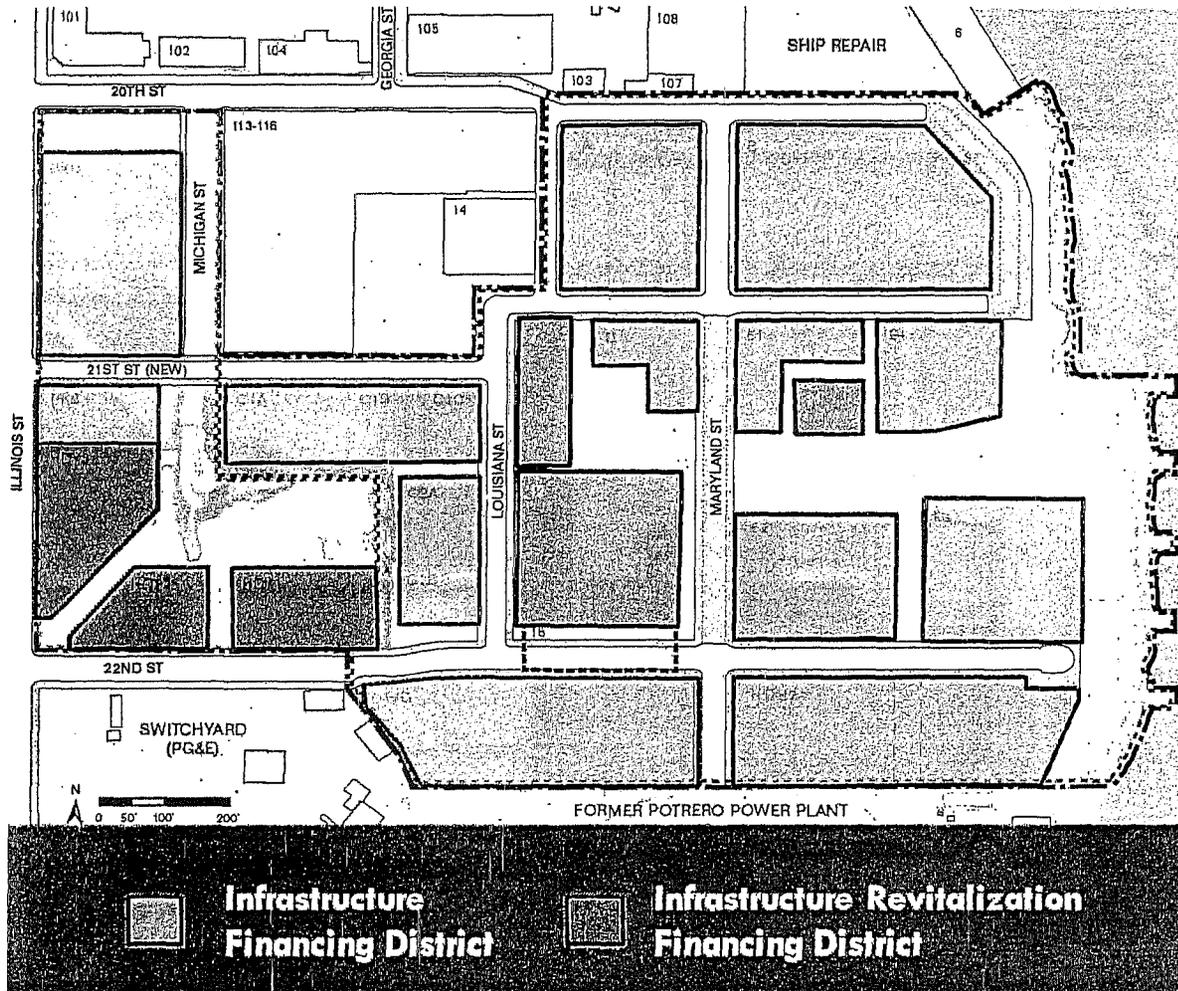
Right to Develop
Processing of Approvals
City & Port Building Code Standards
Fees & Exactions

Infrastructure Improvements
Affordable Housing
Noonan Building Replacement Space
PDR Space
On-site Child Care
Transportation Improvements
TDM Program
Workforce & LBE goals
Equal Benefits

Master Lease, VDDA Set Development Framework



IFD - Tax Increment Growth



IFD

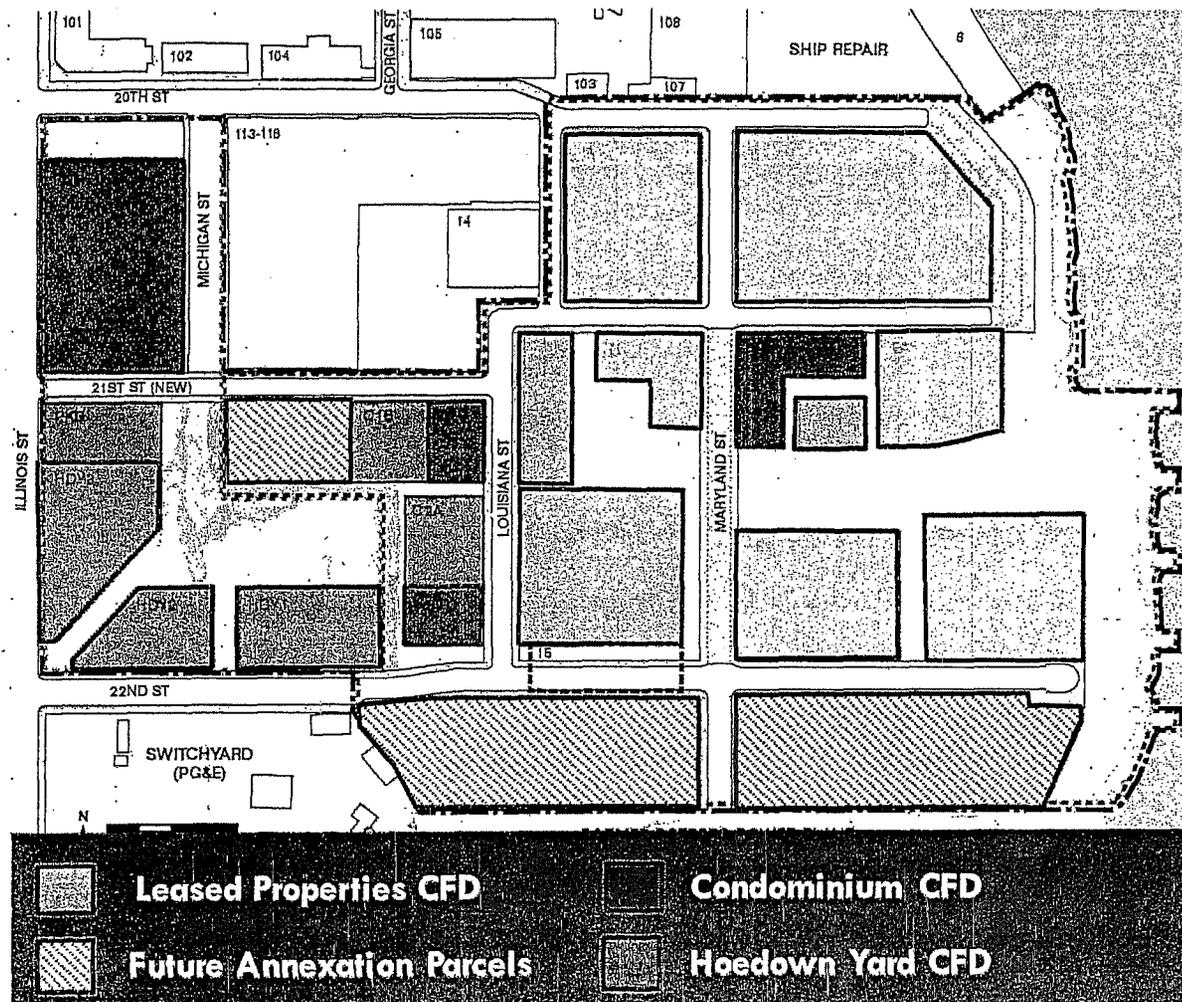
- Local & state tax increment
- 92% to 28-Acre facilities
- 8% to other Pier 70 needs; Port and BOS decide allocation later (\$24M)
- After Project needs, \$40M to seawall & sea level rise
- **General Fund and Harbor Fund protected**

IRFD

- Affordable housing (\$16 M)
- Remainder to General Fund

673

CFDs - Early, Lower Cost Financing



Leased Properties CFD

- Public Improvements (credited)
- Arts Building
- Maintenance
- SLR Improvements

Condominium CFD

Approx. \$6,000/unit annually:

- Public Improvements
- Arts Building
- Maintenance
- SLR Improvements

Hoedown Yard CFD

Approx. \$6,000/unit annually:

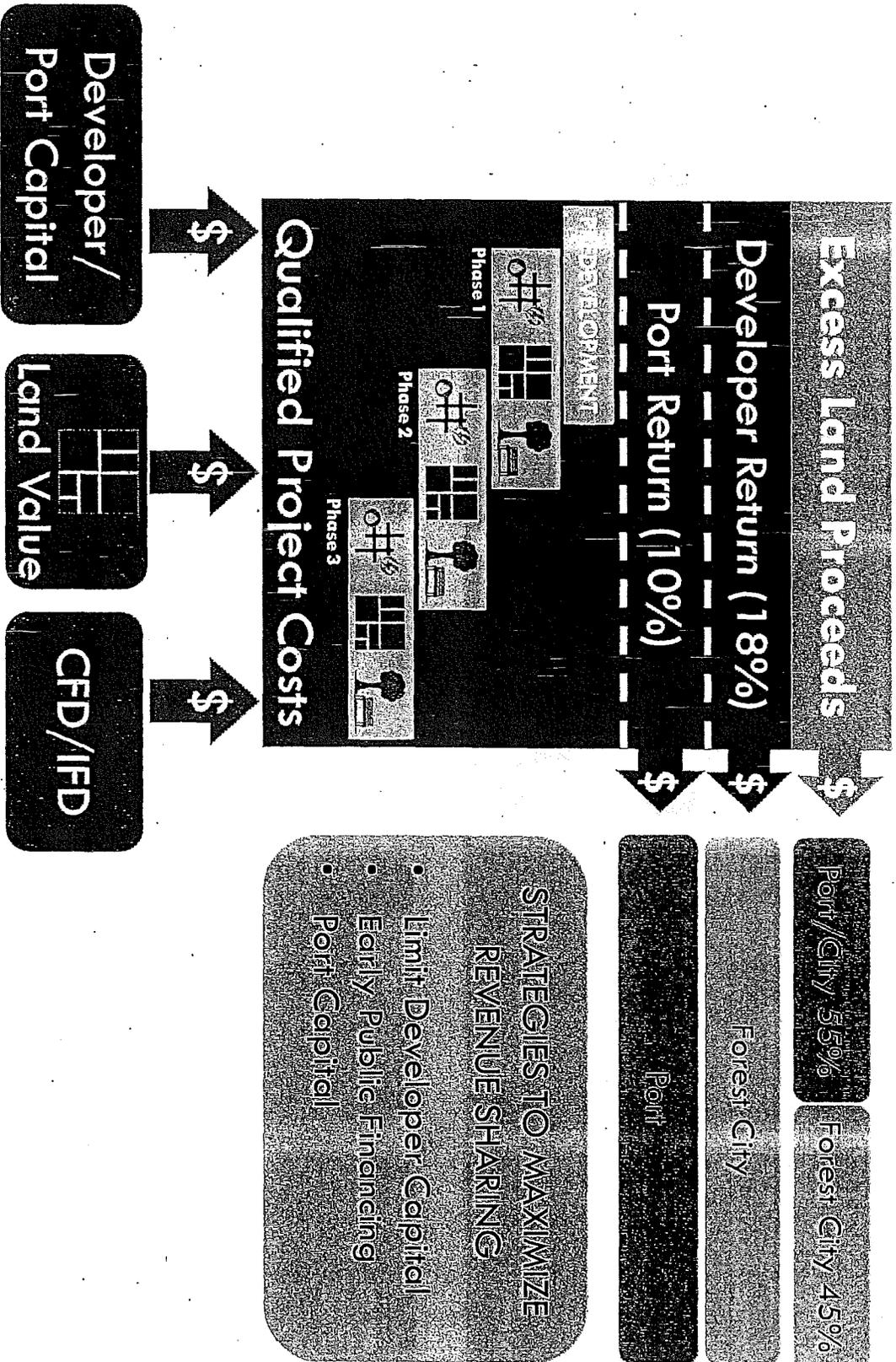
- Irish Hill Park, purchase shoreline property
- Maintenance
- SLR Improvements

**Total CFD SLR Funding:
\$60 M (2017\$)**

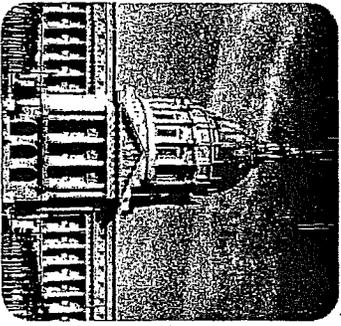
28-Acre Site Maintenance: \$2.8M/year

Irish Hill Park, Michigan St & Crane Cove Park: \$730k/yr

Project-Generated Financing

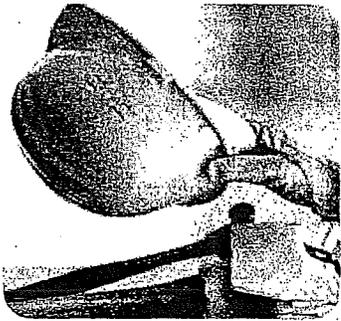


Project Provides Direct + Indirect Benefits



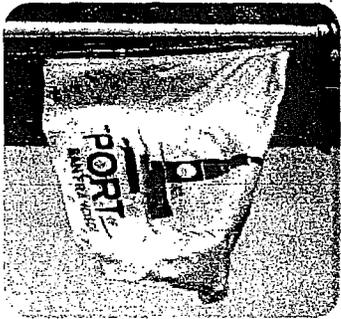
Fiscal Benefits

- \$8M new annual revenues to General Fund
- CFD Maintenance Taxes
- \$184M Impact Fees



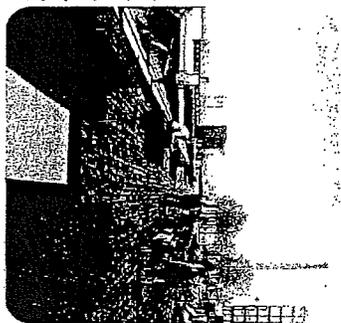
Economic Benefits

- \$2B construction activity
- 17k construction jobs
- 1.4k new permanent jobs
- 2k new residential units



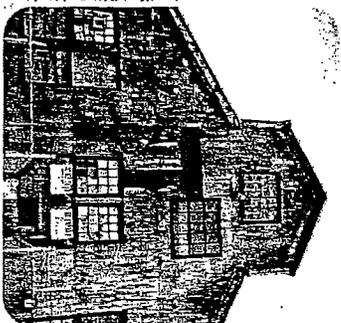
Port Financial Benefits

- \$102M land revenues



Public Access Facilities

- Parks and Open Space
- Pedestrian Connections
- Bicycle Networks



Other Public Benefits

- Urban Revitalization
- Historic Preservation
- Affordable Housing
- Sea Level Rise Protections

Net Financial Benefits

September 2017 Base Underwriting (No Port Capital)

Nominal
Revenues over
~120 Years Net Present
Value 2017\$

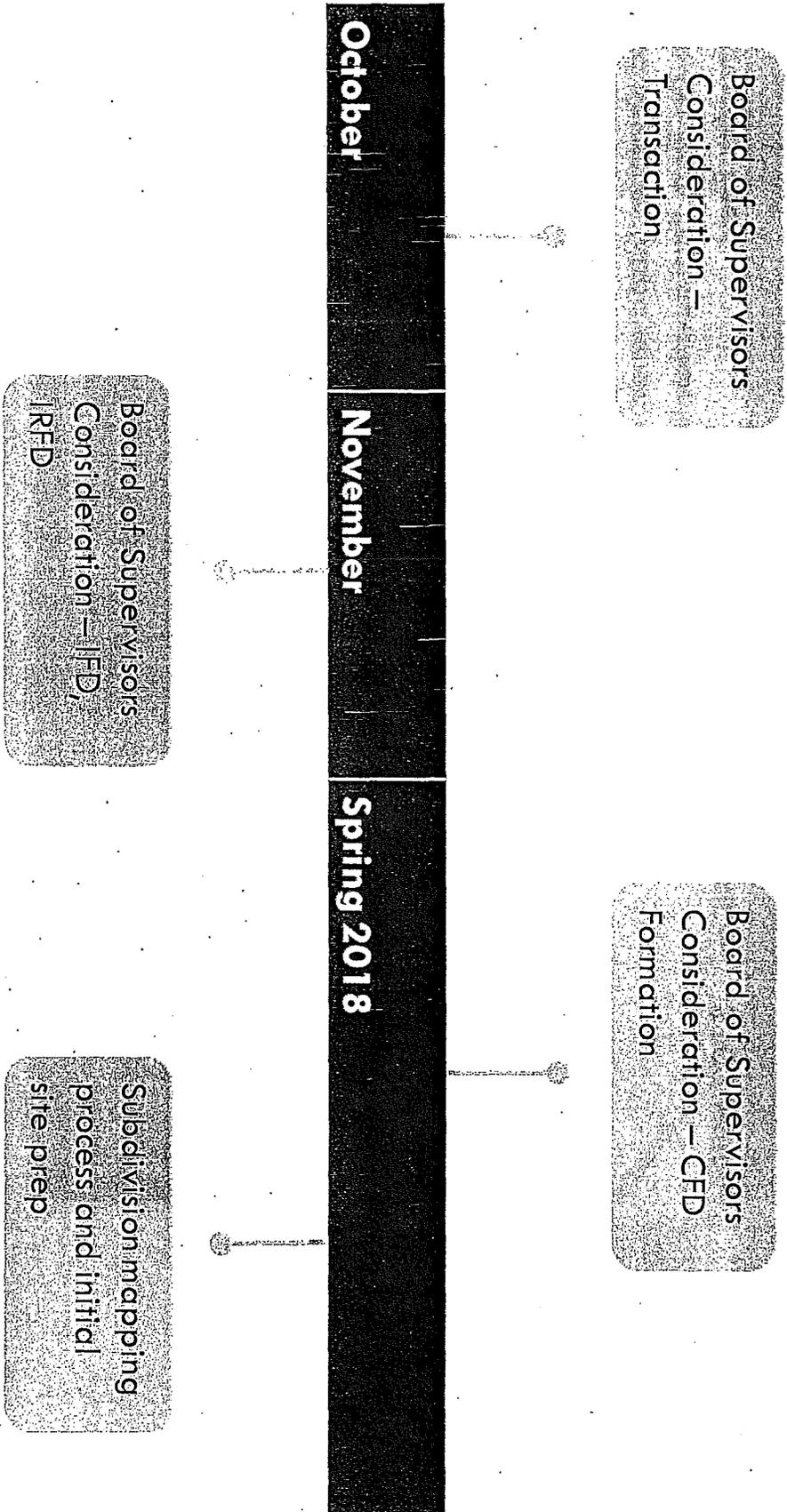
Developer Cash Flow		
Capital Contributions	(\$152 Million)	(\$122 Million)
Capital Distributions	\$152 Million	\$100 Million
Developer Cash Flow (Profit, After Capital is Repaid)	\$227 Million	\$94 Million
Developer IRR	18.7%	
Net Financial Benefit to Port & City		
Port Land Revenues (Repayment of Port Advances, Parcel Lease Rent, Participation Rent, Condo Transfer Fees)	\$4 Billion	\$102 Million
Port's Share of IFD for Pier 70 Wide Facilities	\$146 Million	\$24 Million
Trailing Tax Increment for Seawall and SLR	\$555 Million	\$40 Million
CFD Revenues, Net of Project Costs, for Seawall and SLR	\$2 Billion	\$60 Million
Total Financial Benefit to Port & City	\$7 Billion	\$226 Million

IFD and CFD projected to create ~\$99 M (2017) for the Seawall and SLR

72% of Port Land Revenues not contingent on 18% IRR

Up to \$37 million for HOPE VI, subject to later BOS approval.

Next Steps



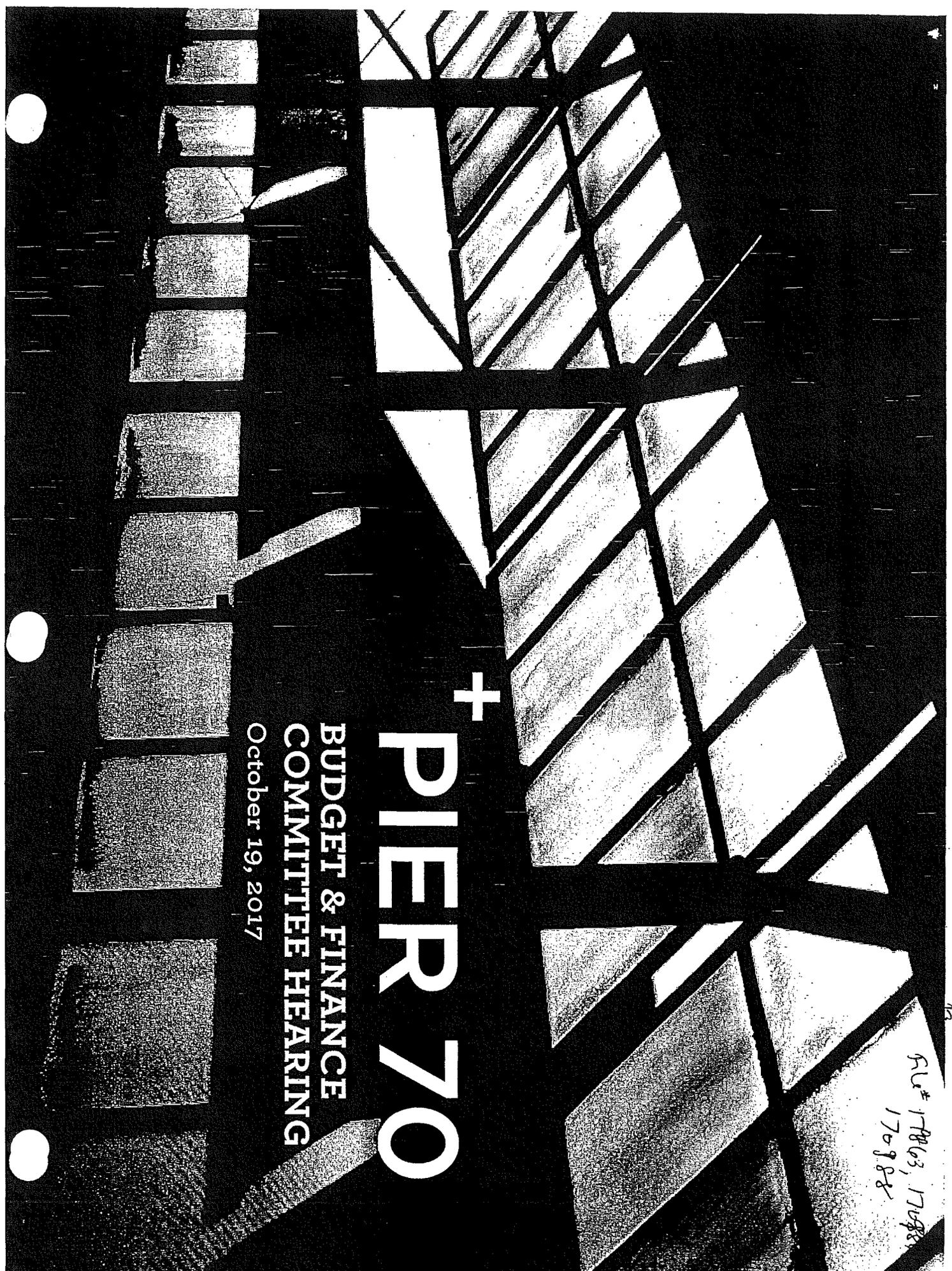
Thank You

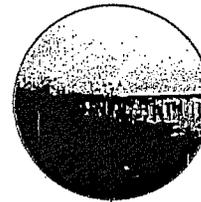
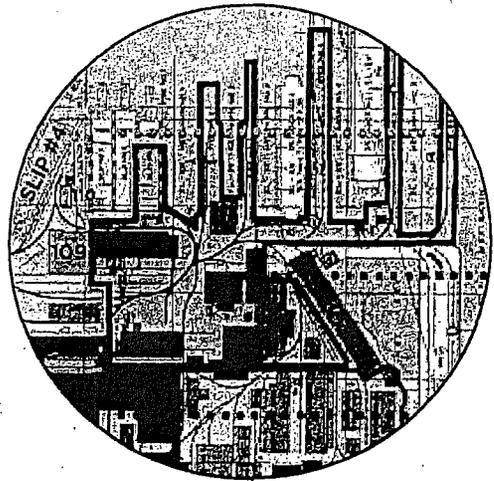
File # 17863, 17698
170988

+ PIER 70

BUDGET & FINANCE
COMMITTEE HEARING

October 19, 2017





2007 ----- 2008 ----- 2009 ----- 2010 ----- 2011 ----- 2012 ----- 2013 ----- 2014 ----- 2015 ----- 2016 ----- 2017 ----- 2018 -----

6882

**Port Preferred Master Plan
Planning and Outreach**

**Forest City Selected as
Development Partner**

**Ongoing Public
Events Begin**

**Prop F
Passes**

**CEQA
Review Begins**

DEIR

**Project
Approval**



**3 YEARS
Port Master Plan**

**5 YEARS
of Extensive Planning**

**2 YEARS
of Technical Studies
and Refinement**

**Prepare
for
Construction**

GATHERINGS

community meetings

workshops

artist narratives

photo journal

open houses

events

STAKEHOLDERS

residents

artists/artisans

community stakeholders

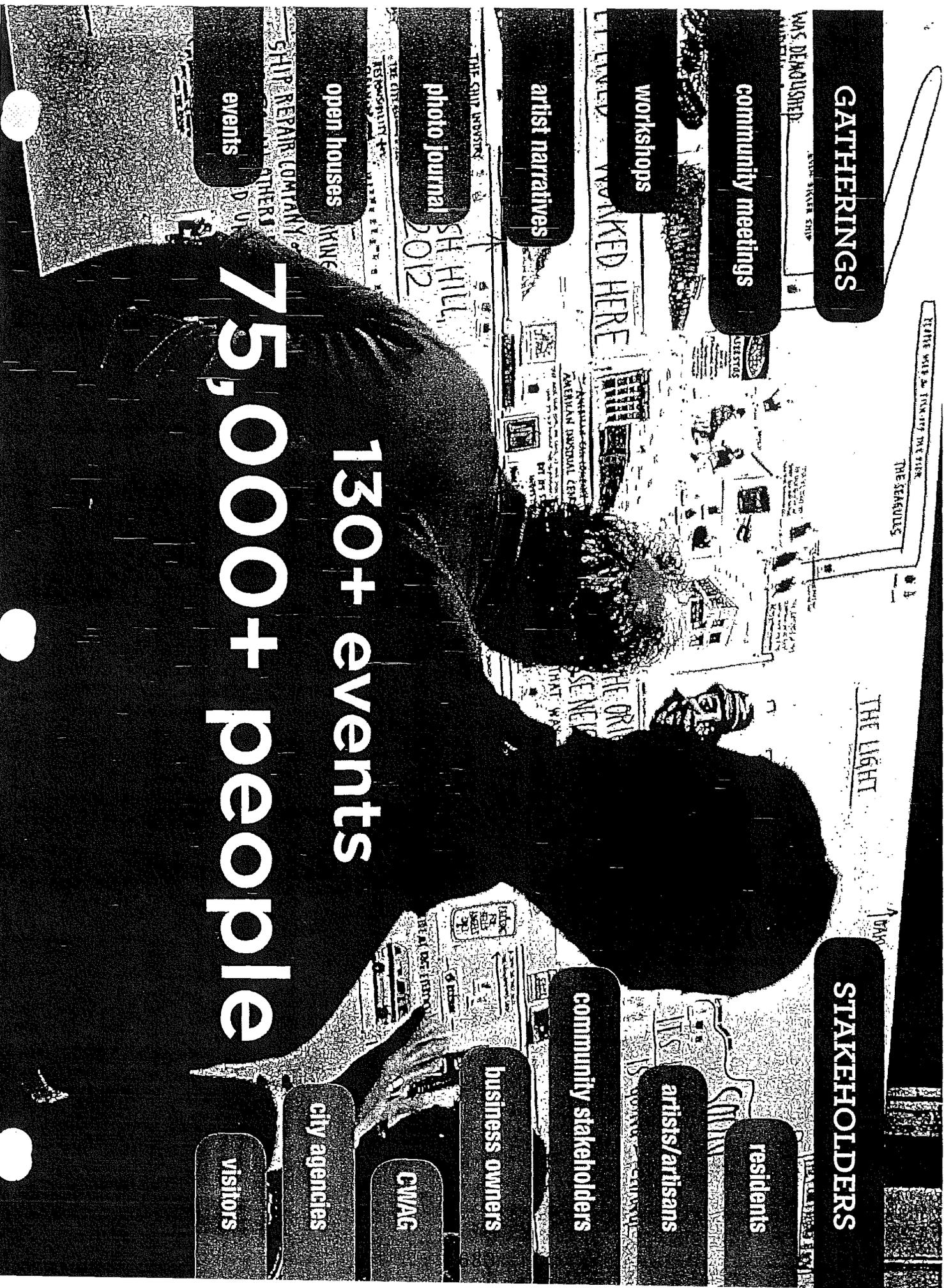
business owners

CWAG

city agencies

visitors

75,000+ events
130+ events
75,000+ people



THE SEAGULLS

THE LIGHT

↑ CARS

WAS DEMOLISHED

WORKED HERE

2012

SHIP REPAIR COMPANY

OTHERS

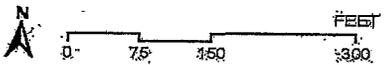
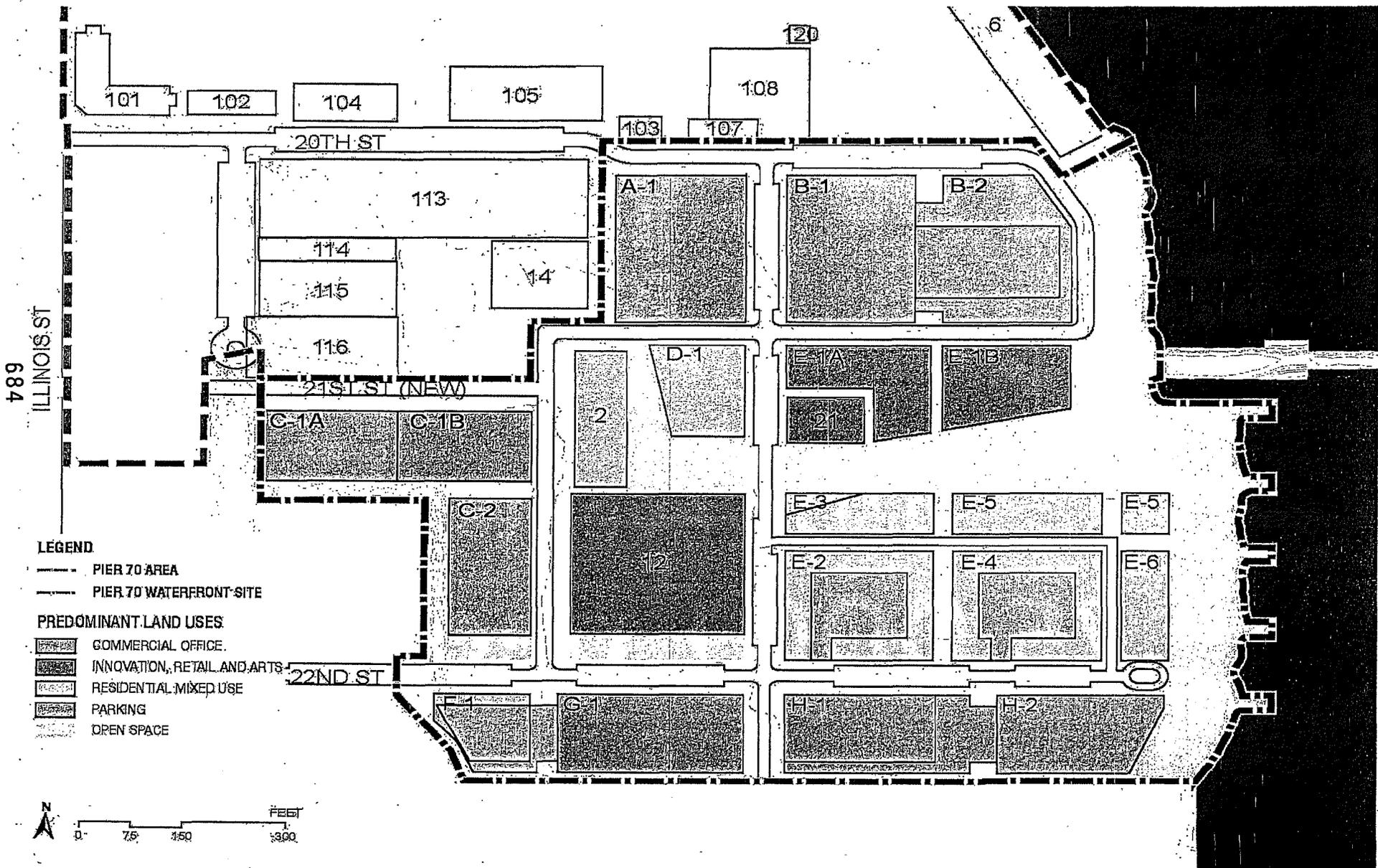
WORKING

AMERICAN INDUSTRIAL CENTER

THE DRINK

THE LIGHT

2013 TERM SHEET PLAN (ENDORSED BY BOARD OF SUPERVISORS)



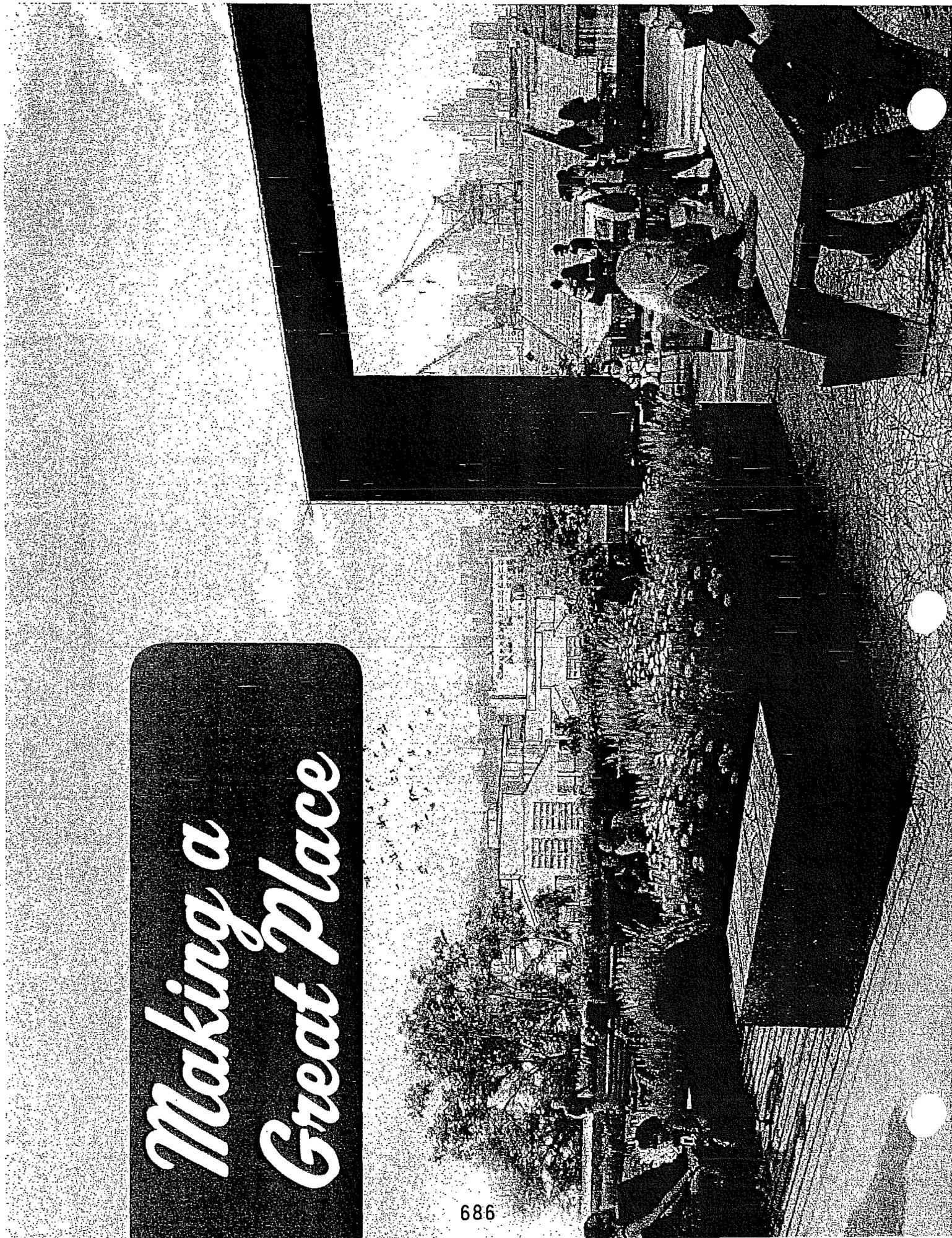


PROP F (2014)

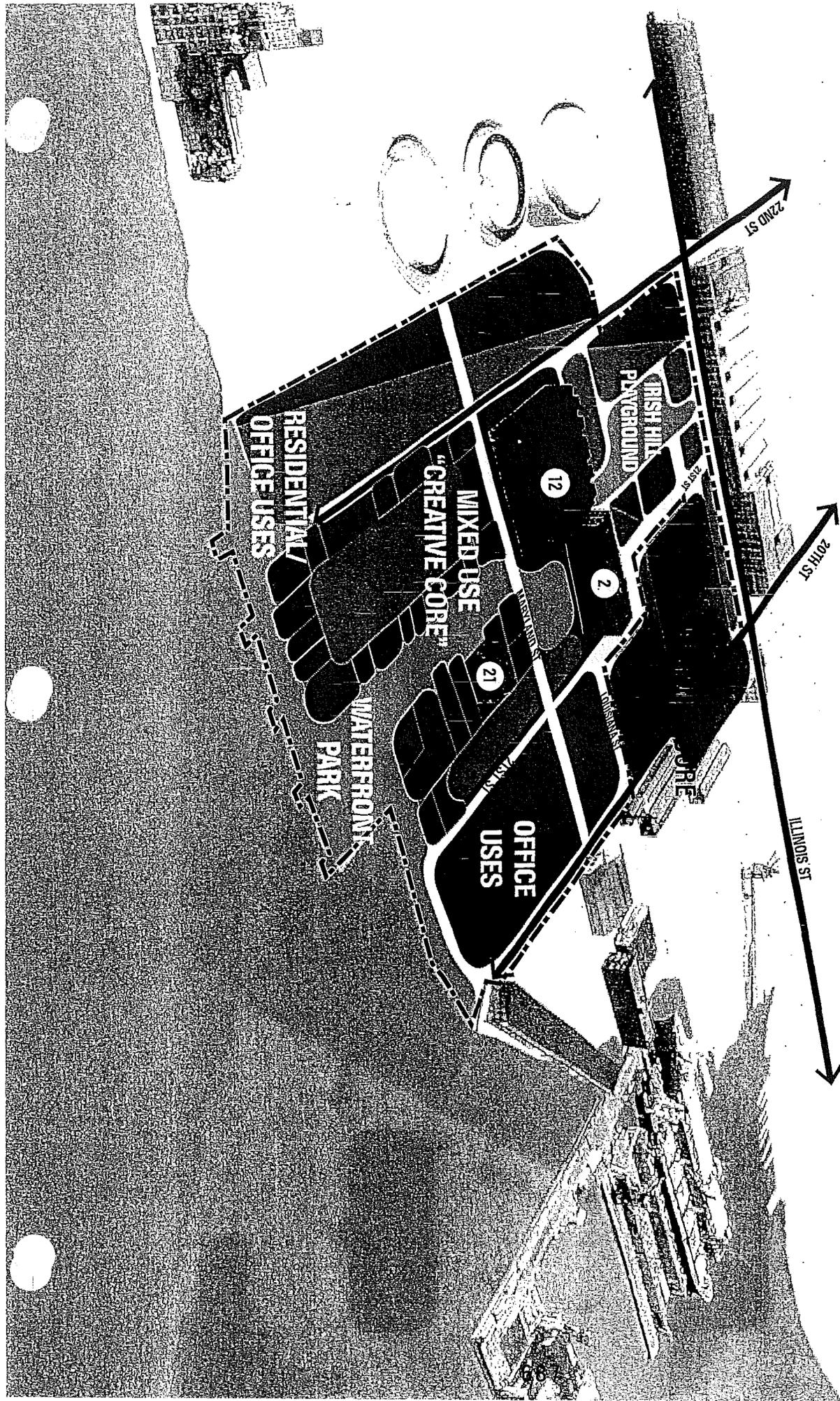
Passes with
73% support

- ↙ **90' MAXIMUM HEIGHT**
- ↙ **NINE ACRES OPEN SPACE**
- ↙ **30% AFFORDABLE HOUSING**
- ↙ **LOCAL HIRE COMMITMENT**
- ↙ **REHABILITATE HISTORIC BUILDINGS**
- ↙ **NOONAN ARTISTS COMMUNITY PRESERVED**
- ↙ **1-2 MILLION SF COMMERCIAL SPACE**
- ↙ **1,000-2,000 RESIDENTIAL UNITS**

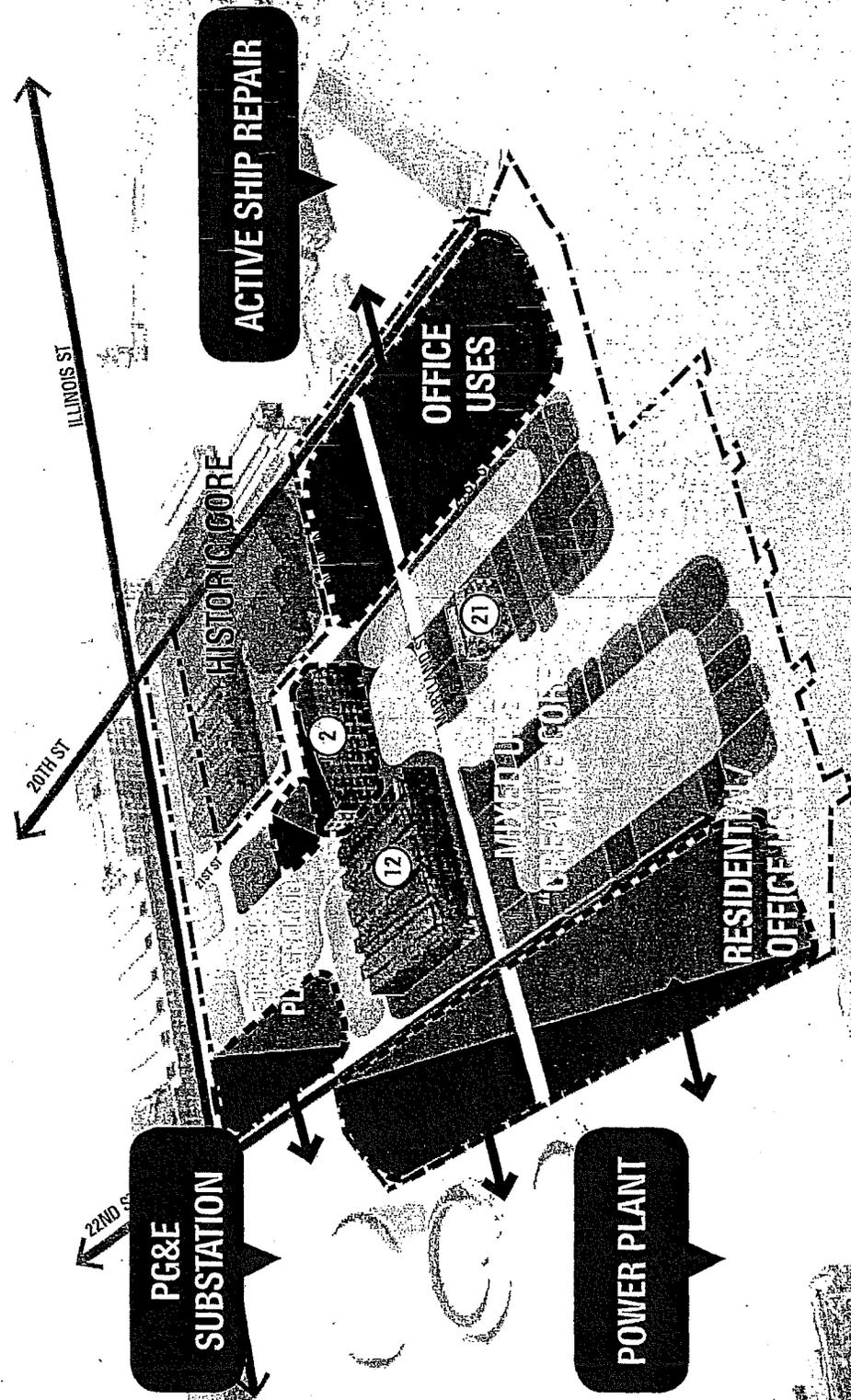
Making a Great Place



CONCEPT FRAMEWORK

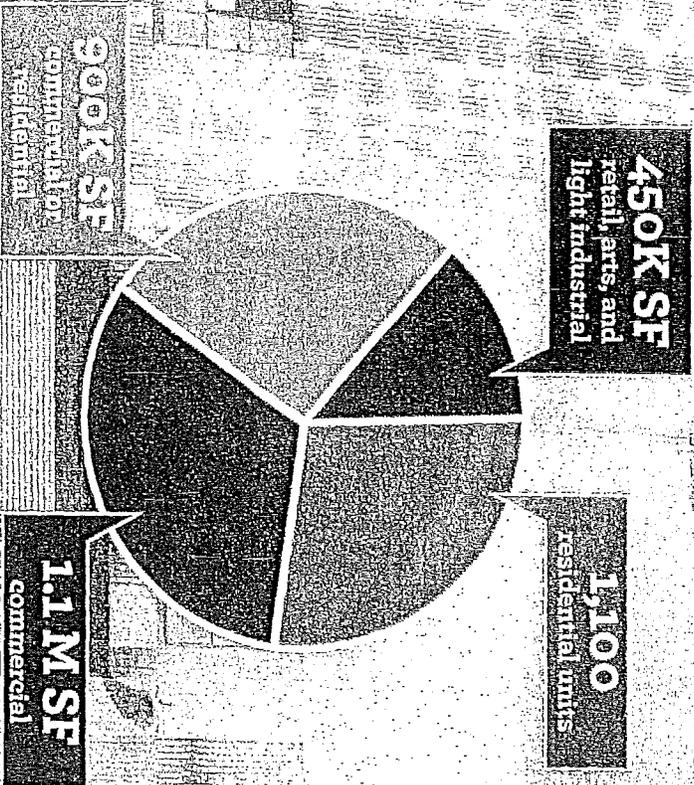


CONCEPT FRAMEWORK

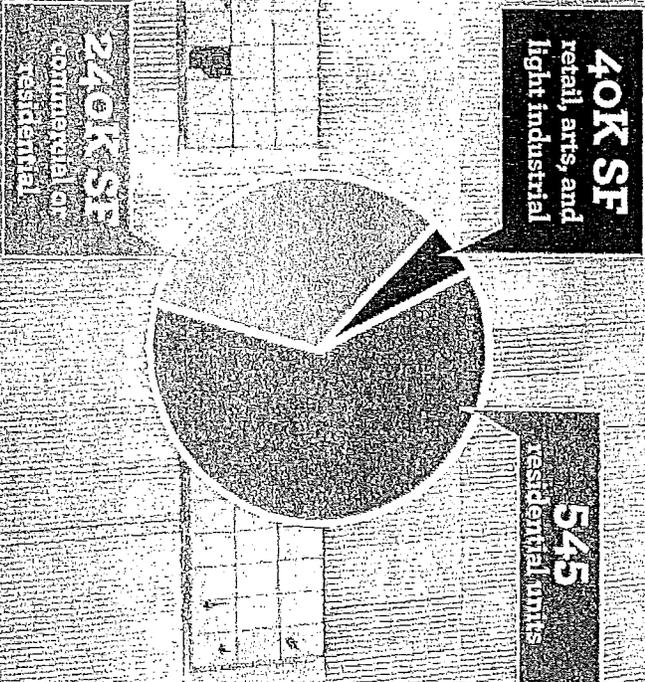


PROGRAM OVERVIEW

Waterfront Site



Illinois Parcels

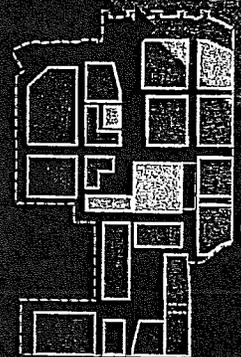
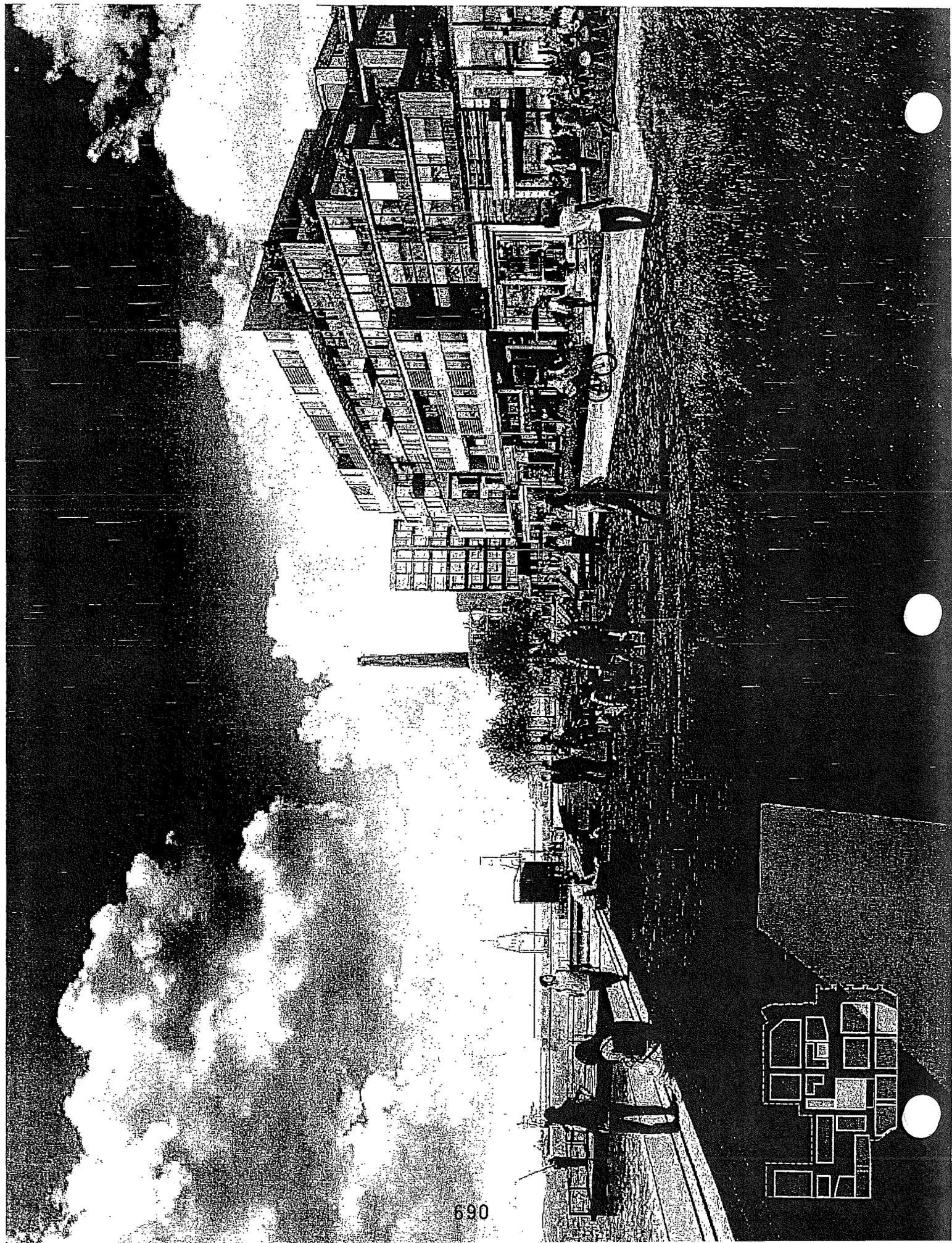


Total SUD Program:

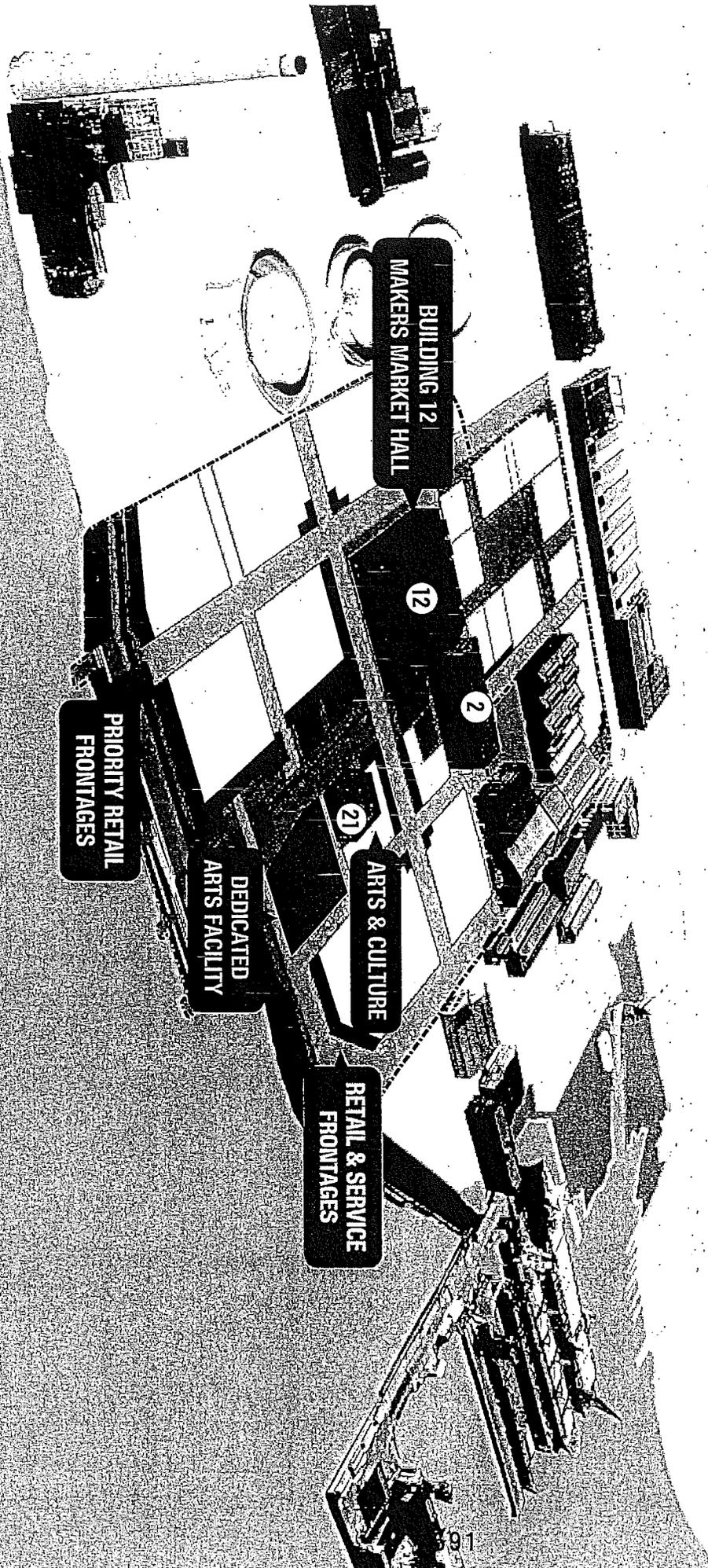
~2,300
minimum
residential units

~1.1M SF
minimum
commercial

~650K SF
commercial or
residential



RETAIL, ARTS, AND LIGHT INDUSTRIAL



PRIORITY RETAIL FRONTAGES

DEDICATED ARTS FACILITY

RETAIL & SERVICE FRONTAGES

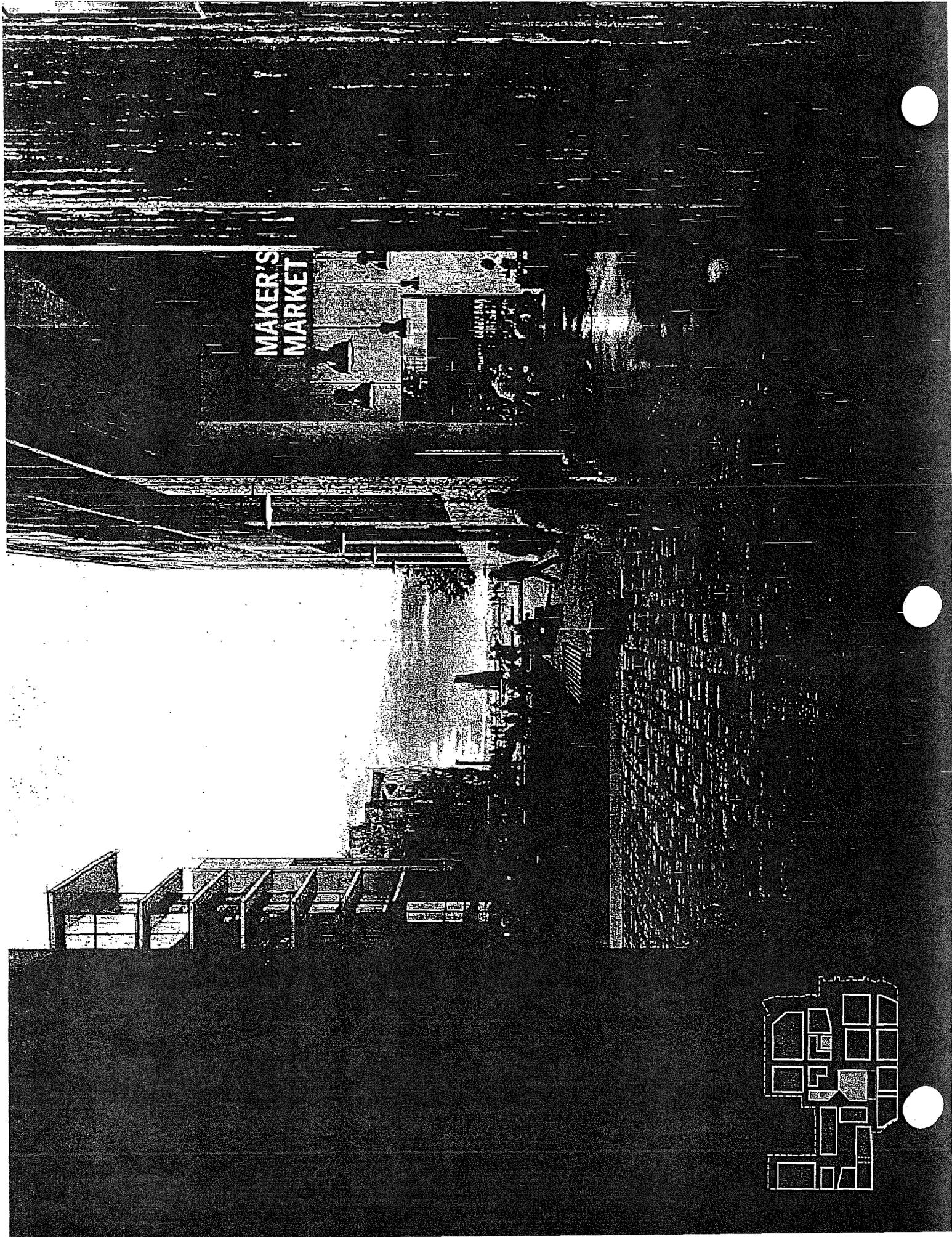
ARTS & CULTURE

BUILDING 12 | MAKERS MARKET HALL

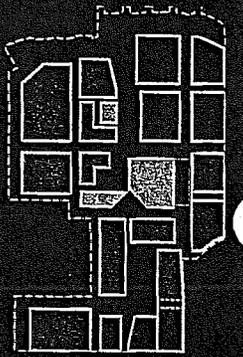
12

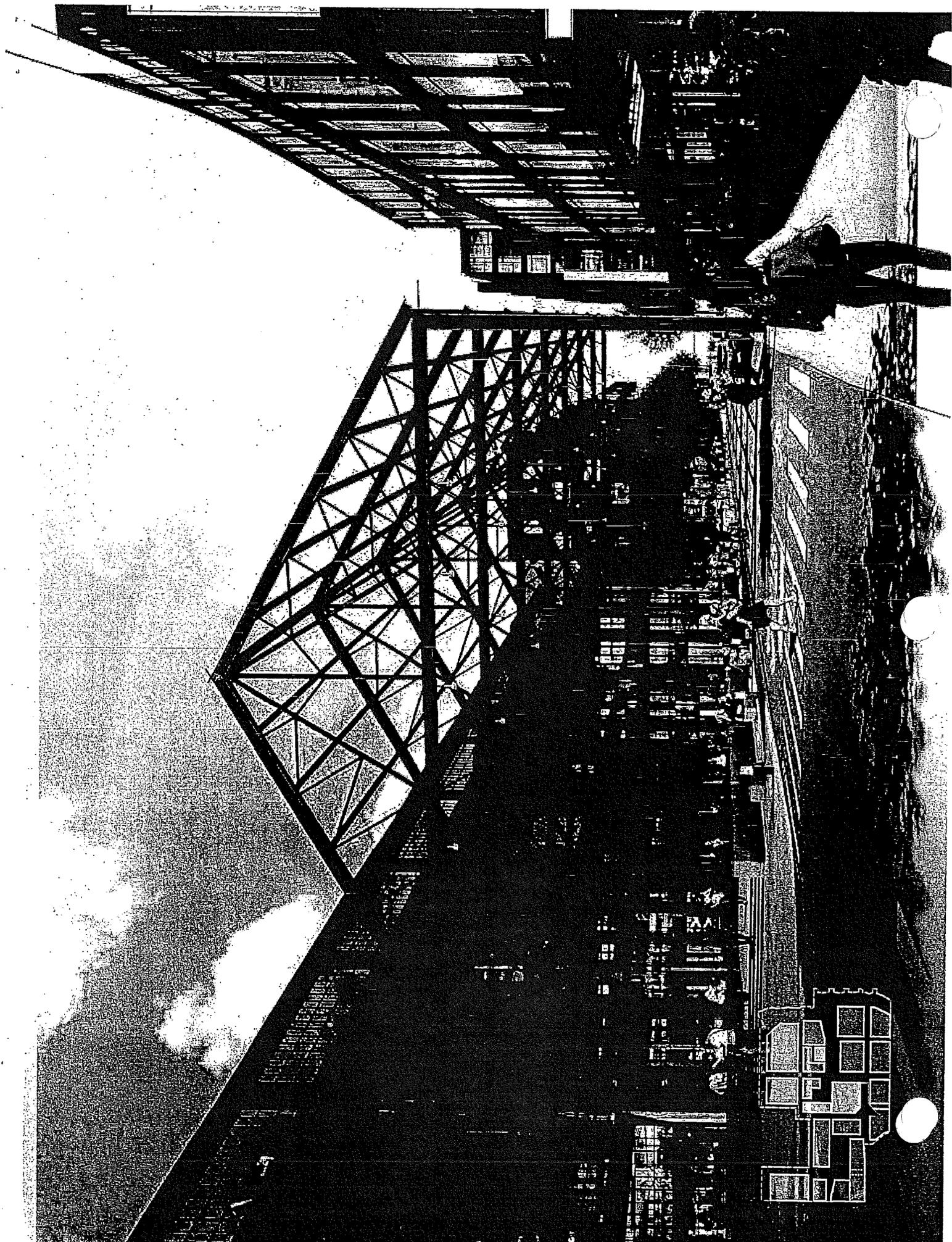
2

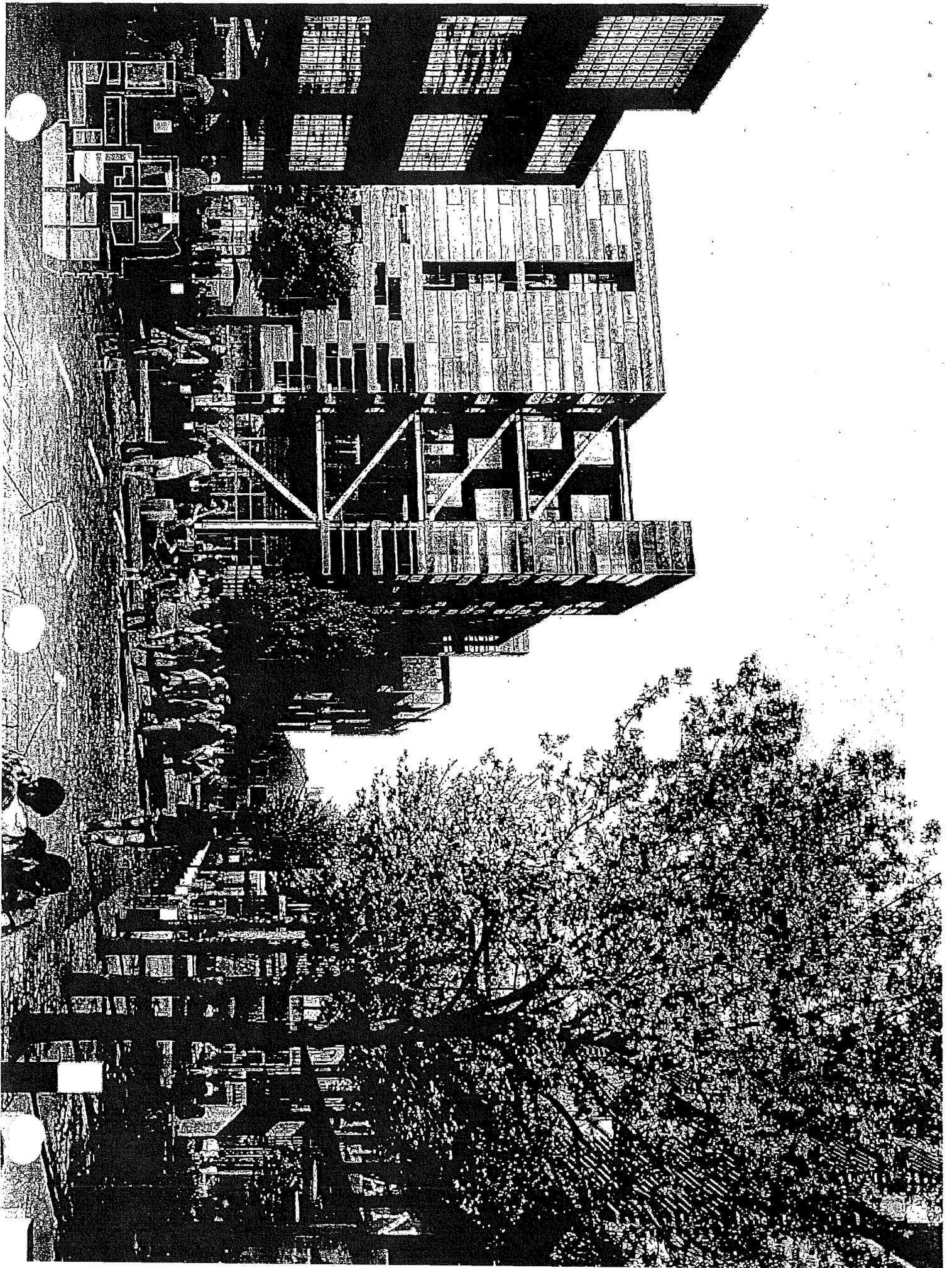
21



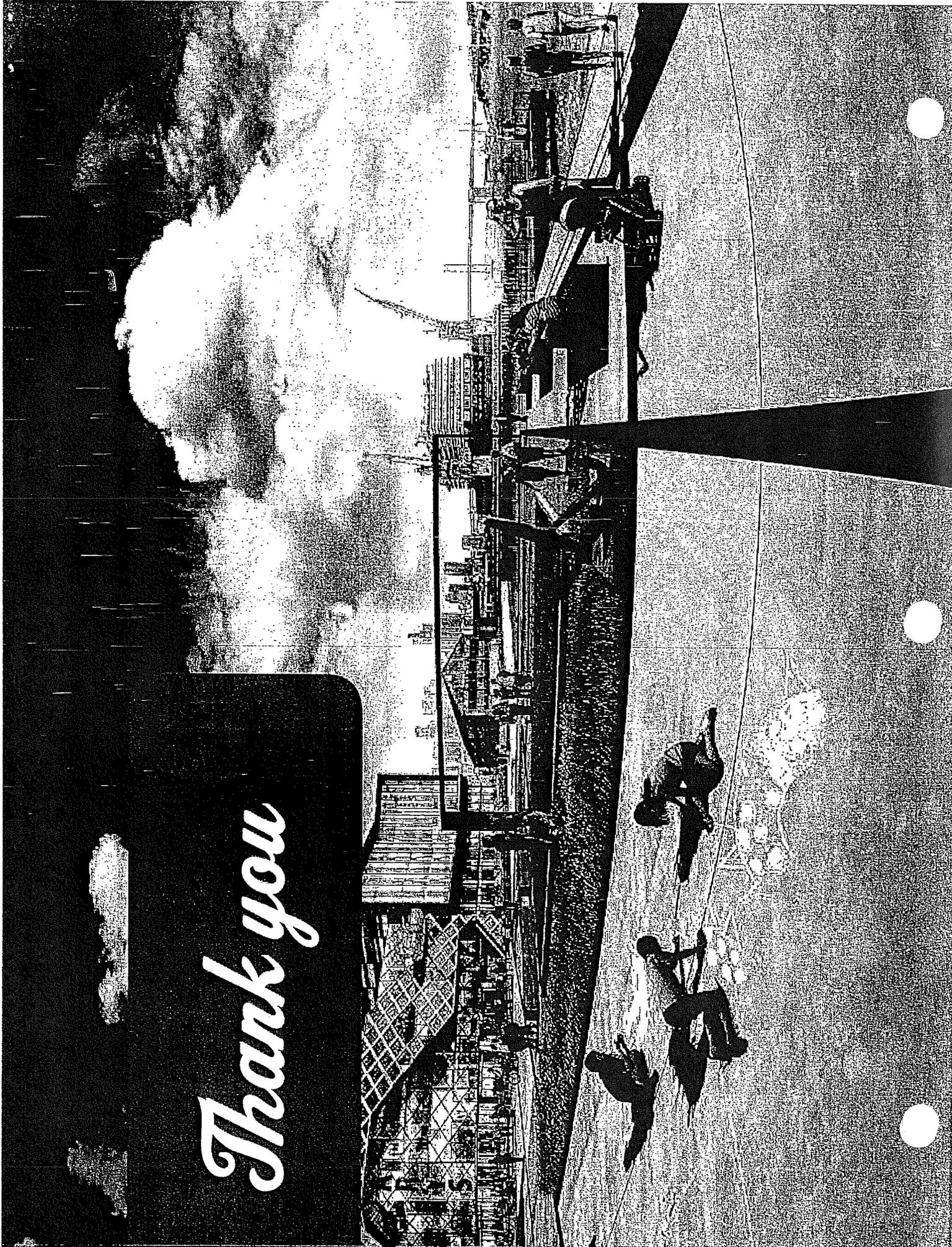
MAKER'S
MARKET







Thank you



FORM SFEC-126:
NOTIFICATION OF CONTRACT APPROVAL
(S.F. Campaign and Governmental Conduct Code § 1.126)

City Elective Officer Information (Please print clearly.)	
Name of City elective officer(s): Members, Board of Supervisors	City elective office(s) held: Members, Board of Supervisors

Contractor Information (Please print clearly.)	
Name of contractor: FC Pier 70, LLC	
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.	
David J. LaRue, President Ketan Patel, Secretary Christopher L. Clayton, Treasurer Christopher M. Mellis, Vice President Duane F. Bishop, Jr., Vice President James W. Finnerty, Vice President	Jonathan Ratner, Vice President Kevin L. Ratner, Vice President Mark Gerteis, Vice President Robert G. O'Brien, Vice President Ronald A. Ratner, Vice President
Contractor address: 875 Howard St., Ste. 330, San Francisco CA 94103	
Date that contract was approved:	Amount of contracts: Approximately \$294,000,000
Describe the nature of the contract that was approved: A disposition and development agreement for a portion of Pier 70.	
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: San Francisco 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 (Please print clearly.)	
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

