# City and County of San Francisco London N. Breed, Mayor

Ground Lease (No. L-16662)

#### **Between**

# CITY AND COUNTY OF SAN FRANCISCO, operating by and through the SAN FRANCISCO PORT COMMISSION

as Landlord

and

CALIFORNIA BARREL COMPANY LLC, a Delaware limited liability company

as Tenant

Dated as of March 15, 2021

**Elaine Forbes Executive Director** 

**San Francisco Port Commission** 

Kimberly Brandon, President Willie Adams, Vice-President John L. Burton, Commissioner Gail Gilman, Commissioner Doreen Woo Ho, Commissioner

| 1. | PRE  | MISES; TERM  | 3  |
|----|------|--|----|
|    | 1.1. | Premises   | 3  |
|    | 1.2. | Term   | 6  |
|    | 1.3. | Port Termination Right                                     | 6  |
|    | 1.4. | Craig Lane REA   | 6  |
|    | 1.5. | Port 23 <sup>rd</sup> Street Property                      | 6  |
| 2. | REN  | T  | 7  |
|    | 2.1. | Tenant's Covenant to Pay Rent                              | 7  |
|    | 2.2. | Minimum Rent   | 7  |
|    | 2.3. | Manner of Payment  | 7  |
|    | 2.4. | Interest on Delinquent Rent                                | 7  |
|    | 2.5. | Late Charges   | 7  |
|    | 2.6. | Additional Rent  | 8  |
|    | 2.7. | Net Lease  | 8  |
|    | 2.8. | Percentage Rent  | 9  |
|    | 2.9. | Public Trust Easement Option                               | 10 |
| 3. | USES | S  | 11 |
|    | 3.1. | Uses within Premises                                       | 11 |
|    | 3.2. | Advertising and Signs                                      | 11 |
|    | 3.3. | Limitations on Uses by Tenant                              | 12 |
|    | 3.4. | Consistency With Public Trust                              | 13 |
|    | 3.5. | Public Dock  | 13 |
| 4. | TAX  | ES AND ASSESSMENTS   | 13 |
|    | 4.1. | Payment of Possessory Interest Taxes and Other Impositions | 13 |
|    | 4.2. | Covenants Regarding Community Facilities Districts         | 15 |
|    | 4.3. | Port's Right to Pay  | 15 |
|    | 4.4. | Information Required by the County Assessor                | 15 |
| 5. | CON  | TESTS  | 16 |
|    | 5.1. | Right of Tenant to Contest Impositions and Liens           | 16 |
|    | 5.2. | Port's Right to Contest Impositions                        | 16 |
| 6. | COM  | IPLIANCE WITH LAWS   | 17 |
|    | 6.1. | Compliance with Laws and Other Requirements                | 17 |
|    |      |  |    |

|     | <b>6.2.</b> | Regulatory Approvals                                      | 17 |
|-----|-------------|---|----|
|     | 6.3.        | BCDC Permit   | 18 |
| 7.  | TENA        | ANT'S COVENANTS   | 18 |
|     | 7.1.        | Maintenance, Repair and Continuous Operation              | 18 |
|     | 7.2.        | Facilities Condition Report                               | 20 |
|     | 7.3.        | Dredging  | 20 |
|     | 7.4.        | City Reservation System                                   | 21 |
|     | 7.5.        | Storm Water Pollution Prevention                          | 21 |
| 8.  | NO O        | BLIGATION OF PORT TO REPAIR                               | 22 |
|     | 8.1.        | No Obligation of Port; Waiver of Rights                   | 22 |
|     | 8.2.        | Port's Right to Repair                                    | 22 |
| 9.  | IMPF        | ROVEMENTS   | 23 |
|     | 9.1.        | Tenant's Obligation to Construct the Initial Improvements | 23 |
|     | 9.2.        | Title to Improvements                                     | 23 |
|     | 9.3.        | Port Approval Items; Subsequent Construction Approvals    | 23 |
|     | 9.4.        | Construction Schedule                                     | 24 |
|     | 9.5.        | Construction  | 24 |
|     | 9.6.        | As-Built Plans and Specifications                         | 26 |
|     | 9.7.        | Adequate Security   | 26 |
| 10. | UTIL        | ITY SERVICES  | 27 |
|     | 10.1.       | Utility Services  | 27 |
|     | 10.2.       | Hetch Hetchy Power  | 28 |
|     | 10.3.       | Waiver  | 28 |
| 11. | DAM         | AGE OR DESTRUCTION  | 28 |
|     | 11.1.       | General; Notice; Waiver                                   | 28 |
|     | 11.2.       | Rent and Other Obligations after Damage or Destruction    | 29 |
|     | 11.3.       | Tenant's Restoration                                      | 29 |
|     | 11.4.       | Major Damage or Destruction or Uninsured Casualty         | 29 |
|     | 11.5.       | Distribution upon Lease Termination                       | 31 |
|     | 11.6.       | Effect of Termination                                     | 32 |
|     | 11 7        | Use of Insurance Proceeds                                 | 32 |

| <b>12.</b> | CONI  | DEMNATION                                      | 32 |
|------------|-------|--|----|
|            | 12.1. | General; Notice; Waiver                        | 32 |
|            | 12.2. | Total Condemnation                             | 33 |
|            | 12.3. | Substantial Condemnation, Partial Condemnation | 33 |
|            | 12.4. | Awards   | 34 |
|            | 12.5. | Temporary Condemnation                         | 35 |
|            | 12.6. | Personal Property                              | 35 |
| 13.        | LIENS | S  | 35 |
|            | 13.1. | Liens  | 35 |
|            | 13.2. | Mechanics' Liens                               | 35 |
| 14.        | TRAN  | SFERS AND SUBLEASES                            | 36 |
|            | 14.1. | Transfer                                       | 36 |
|            | 14.2. | Subleases                                      | 38 |
|            | 14.3. | Assignment of Rents                            | 39 |
|            | 14.4. | Acknowledgment                                 | 39 |
| 15.        | INDE  | MNIFICATION OF PORT                            | 39 |
|            | 15.1. | Indemnification of Port                        | 39 |
|            | 15.2. | Immediate Obligation to Defend                 | 40 |
|            | 15.3. | Not Limited by Insurance                       | 40 |
|            | 15.4. | Survival                                       | 40 |
|            | 15.5. | Other Obligations                              | 41 |
|            | 15.6. | Notice; Defense of Claims                      | 41 |
|            | 15.7. | Waiver   | 41 |
| 16.        | INSU  | RANCE  | 42 |
|            | 16.1. | Property and Liability Coverage                | 42 |
|            | 16.2. | Port Entitled to Participate                   | 49 |
|            | 16.3. | Release and Waiver                             | 49 |
| 17.        | HAZA  | ARDOUS MATERIALS                               | 50 |
|            | 17.1. | Hazardous Materials Compliance                 | 50 |
|            | 17.2. | Hazardous Materials Indemnity                  | 52 |
|            | 17.3. | Environmental Oversight Deposit                | 53 |
|            | 17.4  | Presence of Hazardous Materials                | 54 |

|     | 17.5. Survival   | 54 |
|-----|--|----|
| 18. | DELAY DUE TO FORCE MAJEURE   | 54 |
| 19. | PORT'S RIGHT TO PERFORM TENANT'S COVENANTS   | 55 |
|     | 19.1. Port May Perform in Emergency  | 55 |
|     | 19.2. Port May Perform Following Tenant's Failure to Perform   | 55 |
|     | 19.3. Tenant's Obligation to Reimburse Port  | 55 |
| 20. | EVENTS OF DEFAULT  | 56 |
|     | 20.1. Events of Default  | 56 |
|     | 20.2. Special Provisions Concerning Lenders and Events of Default  | 57 |
| 21. | REMEDIES   | 57 |
|     | 21.1. Port's Remedies Generally  | 57 |
|     | 21.2. Right to Keep Lease in Effect  | 57 |
|     | 21.3. Right to Terminate Lease   | 59 |
|     | 21.4. Right to Cure Tenant's Default   | 60 |
| 22. | EQUITABLE RELIEF   | 60 |
|     | 22.1. Port's Equitable Relief  | 60 |
|     | 22.2. Tenant's Equitable Relief  | 60 |
| 23. | NO WAIVER  | 60 |
|     | 23.1. No Waiver by Port or Tenant  | 60 |
|     | 23.2. No Accord or Satisfaction  | 60 |
| 24. | LIMITATIONS ON LIABILITY   | 61 |
|     | 24.1. No Recourse Against Port Beyond Value of Property  | 61 |
|     | 24.2. Nonliability of Port's Commissioners, Members, Agents, Office Employees                                  |    |
|     | 24.3. Nonliability of Tenant's Members, Officers, Partners, Sharehol Directors, Agents, Officers and Employees | ,  |
|     | 24.4. Waiver of Indirect or Consequential Damages  | 61 |
| 25. | ESTOPPEL CERTIFICATES BY TENANT  | 62 |
| 26. | ESTOPPEL CERTIFICATES BY PORT  |    |
| 27. | APPROVALS BY PORT  | 63 |
|     | 27.1. Approvals by Port  | 63 |
|     | 27.2. Fees for Review  | 63 |

| 28. | NO MERGER OF TITLE                                      | 63 |
|-----|---|----|
|     | 28.1. No Merger of Title                                | 63 |
| 29. | QUIET ENJOYMENT   | 63 |
|     | 29.1. Quiet Enjoyment                                   | 63 |
| 30. | SURRENDER OF PREMISES                                   | 64 |
|     | 30.1. End of Lease Term                                 | 64 |
| 31. | HOLD OVER   | 64 |
|     | 31.1. Hold Over   | 64 |
| 32. | NOTICES   | 65 |
|     | 32.1. Notices   | 65 |
|     | 32.2. Form and Effect of Notice                         | 65 |
| 33. | INSPECTION OF PREMISES BY PORT                          | 65 |
|     | 33.1. Entry   | 65 |
|     | 33.2. Notice, Right to Accompany                        | 66 |
| 34. | MORTGAGES   | 66 |
|     | 34.1. No Mortgage Except as Set Forth Herein            | 66 |
|     | 34.2. Leasehold Liens                                   | 67 |
|     | 34.3. Notice of Liens                                   | 67 |
|     | 34.4. Purpose of Mortgage                               | 67 |
|     | 34.5. Interest Covered by Mortgage                      | 68 |
|     | 34.6. Institutional Lender; Other Permitted Lenders     | 68 |
|     | 34.7. Rights Subject to Lease                           | 68 |
|     | 34.8. Lender's Obligations with Respect to the Property | 68 |
|     | 34.9. Required Provisions of Any Mortgage               | 69 |
|     | 34.10. Notices to Lender                                | 69 |
|     | 34.11. Lender's Right to Cure                           | 70 |
|     | 34.12. Assignment by Lender                             | 74 |
|     | 34.13. Transfer of Mortgage                             | 74 |
|     | 34.14. Appointment of Receiver                          | 74 |
| 35. | NO JOINT VENTURE  | 74 |
| 36. | ECONOMIC ACCESS   | 75 |
|     | 36.1. Workforce Agreement                               | 75 |

|     | 36.2.              | Southern Waterfront Community Benefits and Beautification Policy   | 75 |
|-----|--------------------|--|----|
| 37. | REPF               | RESENTATIONS AND WARRANTIES  | 75 |
| 38. | SPECIAL PROVISIONS |  |    |
|     | 38.1.              | Non-Discrimination   | 76 |
|     | 38.2.              | Mitigation and Improvement Measures  | 77 |
|     | 38.3.              | MacBride Principles – Northern Ireland   | 78 |
|     | 38.4.              | Tropical Hardwood and Virgin Redwood Ban; Preservative-Treated Wood Containing Arsenic                                 | 78 |
|     | 38.5.              | Drug-Free Workplace  | 78 |
|     | 38.6.              | Prohibition of Tobacco Sales and Advertising; Prohibition Against Tobacco Product Sales, Manufacture, and Distribution | 78 |
|     | 38.7.              | Prohibition of Alcoholic Beverage Advertising  | 79 |
|     | 38.8.              | Waiver of Relocation Assistance Rights   | 79 |
|     | 38.9.              | Intentionally Omitted  | 79 |
|     | 38.10.             | Green Building Standards Code  | 79 |
|     | 38.11.             | Transportation Demand Management Program   | 79 |
|     | 38.12.             | Sunshine Ordinance   | 79 |
|     | 38.13.             | Conflicts of Interest  | 80 |
|     | 38.14.             | Charter Provisions   | 80 |
|     | 38.15.             | Requiring Health Benefits for Covered Employees  | 80 |
|     | 38.16.             | Notification of Prohibition on Contributions   | 81 |
|     | 38.17.             | Food Service and Packaging Waste Reduction Ordinance   | 82 |
|     | 38.18.             | Port's Zero Waste Events and Activities Policy   | 82 |
|     | 38.19.             | San Francisco Packaged Water Ordinance   | 82 |
|     | 38.20.             | Criminal History in Hiring and Employment Decisions  | 83 |
|     | 38.21.             | Vending Machines; Nutritional Standards  | 84 |
|     | 38.22.             | Tenant's Compliance with City Business and Tax and Regulations Code  | 84 |
|     | 38.23.             | FEMA Disclosure  | 84 |
|     | 38.24.             | Graffiti Removal   | 84 |
|     | 38.25.             | Consideration of Salary History  | 85 |
| 39. | GENI               | ERAL   | 85 |
|     | 20.1               | Time of Darformance  | 95 |

|     | 39.2.  | Interpretation of Agreement       | 85 |
|-----|--------|-----------------------------------|----|
|     | 39.3.  | Successors and Assigns            | 86 |
|     | 39.4.  | No Third-Party Beneficiaries      | 87 |
|     | 39.5.  | Real Estate Commissions           | 87 |
|     | 39.6.  | Counterparts                      | 87 |
|     | 39.7.  | Entire Agreement                  | 87 |
|     | 39.8.  | Amendment                         | 87 |
|     | 39.9.  | Governing Law; Selection of Forum | 87 |
|     | 39.10. | . Recordation                     | 87 |
|     | 39.11. | Extensions by Port                | 88 |
|     | 39.12. | . Further Assurances              | 88 |
|     | 39.13. | . Attorneys' Fees                 | 88 |
|     | 39.14. | Effective Date                    | 88 |
|     | 39.15. | . Severability                    | 89 |
| 40. | DEFI   | NITION OF CERTAIN TERMS           | 89 |
|     |        |                                   |    |

# <u>LIST OF LEASE EXHIBITS</u>

| <u>Exhibit</u>          | <u>Description</u>                                      |
|-------------------------|---|
| Exhibit A-1             | Premises  |
| Exhibit A-1 Exhibit A-2 |   |
|                         | Port Open Space   |
| Exhibit A-3             | Port 23rd St. Property                                  |
| Exhibit A-4             | Port Bay Property                                       |
| Exhibit A-5             | Port Craig Lane Property                                |
| Exhibit A-6             | City Sub-Area   |
| Exhibit A-7             | Tenant's Craig Lane Property                            |
| Exhibit B               | Site Plan   |
| Exhibit C               | Project Approvals                                       |
| Exhibit D               | Intentionally Deleted                                   |
| Exhibit E               | Form of Public Trust Easement Deed                      |
| Exhibit F               | Form of Memorandum of Public Trust Option               |
| Exhibit G               | Port Approval Items                                     |
| Exhibit H               | Form of Assignment and Assumption Agreement             |
| Exhibit I               | Form of License to Use Property                         |
| Exhibit J               | Hazardous Materials Disclosure                          |
| Exhibit K               | Port's Zero Waste Events and Activities Policy          |
| Exhibit L               | FEMA-National Flood Insurance Program Disclosure Notice |
| Exhibit M               | Memorandum of Lease                                     |
| Exhibit N               | Approved Operating Standards and Reporting Requirements |
| Exhibit O               | Design for Development                                  |
| Exhibit P               | Form of Guaranty  |
| Exhibit Q               | Mitigation Measures and Improvement Measures            |
| Exhibit R               | Operations Plan   |
| Exhibit S               | Scope of Development                                    |
| Exhibit T               | Workforce Agreement                                     |
|                         | 5   |

# GROUND LEASE (No. L-16662)

#### **BASIC LEASE INFORMATION**

The terms set forth in the Basic Lease Information below have the meanings given to them in the Basic Lease Information.

**Effective Date:** March 15, 2021

Landlord: CITY AND COUNTY OF SAN FRANCISCO, a

municipal corporation, operating by and through the SAN FRANCISCO PORT COMMISSION ("Port")

Tenant: CALIFORNIA BARREL COMPANY LLC, a

Delaware limited liability company

**Tenant's Address for Notices:** California Barrel Company LLC

c/o Associate Capital

420 23<sup>rd</sup> Street

San Francisco, CA 94107

Attn: Project Director, Potrero Power Plant Project

with copies to:

Paul Hastings LLP

101 California Street, 48th Floor

San Francisco, CA 94111 Attn: David Hamsher, Esq.

and

Jim Abrams, Esq. J. Abrams Law, P.C.

One Maritime Plaza, Suite 1900

San Francisco, CA 94111

**Port's Address for Notices:** Port of San Francisco

Pier 1, The Embarcadero San Francisco, CA 94111

Attn: Deputy Director, Real Estate and

Development

with a copy to:

Port of San Francisco Pier 1, The Embarcadero San Francisco, CA 94111 Attn: Port General Counsel

**Premises:** All that real property located in the City and County

of San Francisco, California, as more particularly described in Exhibit A-1 attached hereto, comprised of the Port Open Space and the Port Bay Property (collectively, the "Land" and, together with all rights and privileges appurtenant to the Land and the Improvements, the "Premises"). The Premises contains approximately 1.5 acres of land area and is shown generally on the Site Plan attached hereto as

Exhibit B (the "Site Plan").

Permitted Uses: From and after the Commencement Date and

continuing until receipt of the required permit from BCDC for the construction of the Initial Improvements (the "BCDC Permit"), Tenant may use the Premises for testing, temporary storage and construction staging related to the Project, and upon receipt of the BCDC Permit, Tenant may use the Premises to construct the Initial Improvements and use and operate the Premises for public open space and public park purposes, including a portion of the Bay Trail, a public recreational dock (the "Recreational Dock") and uses ancillary to the foregoing such as events, retail sales and services and food and beverage sales primarily for on-site consumption, all in compliance with the Public Trust and subject to the limitations herein (collectively, the

"Permitted Uses").

**Initial Improvements:** The Initial Improvements are comprised of two

(2) phases of improvements to the Premises, all as

shown in the Scope of Development.

Commencement Date: April 1, 2021

**Expiration Date:** March 31, 2087

Annual Base Rent: \$1.00

Security Deposit: None

**Security for Completion of Initial** 

**Improvements:** 

Tenant shall provide Adequate Security on the terms and conditions contained in <u>Section 9.5(a)(iii)</u> herein.

**Environmental Oversight Deposit:** \$10,000

**Project Approvals:** Those certain approvals for the Potrero Power Station

project listed on Exhibit C attached hereto.

**Single Point of Entry for Subsurface** Located in California Latitude 37°45'20.66"N

Mineral Rights: Longitude 122°22'53.35"W

# GROUND LEASE (No. L-16662)

This GROUND LEASE (No. L-16662) (this "**Lease**") is entered into as of the Effective Date by and between Port, as landlord, and Tenant, as tenant. The Basic Lease Information (the "**Basic Lease Information**") that appears on the preceding pages and all Exhibits attached hereto are incorporated herein by this reference and shall be construed as a single instrument and a part of this Lease for all purposes. All initially capitalized terms used herein are defined in <u>Article 40</u> or have the meanings given them when first defined.

THIS LEASE IS MADE WITH REFERENCE TO THE FOLLOWING FACTS AND CIRCUMSTANCES:

- **A.** Port is an agency of the City, exercising its functions and powers over property under its jurisdiction and organized and existing under California Statutes of 1968, Chapter 1333 (the "**Burton Act**"), and the City's Charter. The Waterfront Plan is Port's adopted land use document for property within Port jurisdiction, which provides the policy foundation for waterfront development and improvement projects.
- **B.** Port owns approximately 7-1/2 miles of tidelands and submerged lands in the City along San Francisco Bay. The Burton Act grants to Port the power, among other things, to administer and control the property under its jurisdiction in conformance with the public trust for commerce, navigation and fisheries and the statutory trust imposed by the provisions of the Burton Act (collectively, the "**Public Trust**").
- C. Tenant owns approximately twenty-one (21) acres of developed and undeveloped land located in the City that is generally bounded by 22nd Street to the north, the San Francisco Bay to the east, 23rd Street to the south, and Illinois Street to the west, as shown on the Site Plan ("Tenant's Property"). Existing structures on Tenant's Property consist primarily of vacant buildings and facilities associated with the former power station use of Tenant's Property.
- port owns approximately 2.9 acres of land and water areas located in the City that is comprised of the following three noncontiguous sites in the vicinity of Tenant's Property (collectively, the "Port Sub-Area"): (i) approximately 1.5 acres of land located between Tenant's Property and the San Francisco Bay and certain adjacent water areas, as more particularly described on <a href="Exhibit A-2">Exhibit A-2</a> (the "Port Open Space"); (ii) approximately 1.3 acres of land located along 23rd Street between Tenant's Property and Illinois Street, as more particularly described on <a href="Exhibit A-3">Exhibit A-3</a> (the "Port 23rd St. Property"); and (iii) less than 0.1 acres of land located near the northeast corner of Tenant's Property and adjacent to the San Francisco Bay, as more particularly described on <a href="Exhibit A-4">Exhibit A-4</a> (the "Port Bay Property"). Port also owns approximately 0.25 acres of land adjacent to the northern border of Tenant's Property, as more particularly described on <a href="Exhibit A-5">Exhibit A-5</a> (the "Port Craig Lane Property"), which is subject to a Development Agreement between City and master developer of the adjacent Pier 70 project ("Pier 70 Master Developer"), a Disposition and Development Agreement between Port and Pier 70 Master Developer, and a Master Lease between Port and Pier 70 Master Developer (collectively, the "Pier 70").

**Agreements**"). The Port Open Space and the Port Bay Property comprise the Land leased by Tenant under this Lease.

- **E.** City owns less than 0.1 acres of land located in the City that is between Tenant's Property and the Port 23<sup>rd</sup> St. Property, as more particularly described on <u>Exhibit A-6</u> (the "City Sub-Area" and, collectively with Tenant's Property and the Port Sub-Area, the "**Project Site**").
- **F.** Tenant proposes a multi-phased, mixed-use development on the Project Site that will include a new publicly accessible network of improved parkland and open space and a mixed-use urban neighborhood, including up to approximately 2,600 dwelling units, approximately 1.5 million square feet of office and life science uses, as well as accessory parking, retail, PDR, and child care and community facility uses, as more particularly set forth in the Approvals (as defined in the DA) (the "**Project**").
- G. The Project includes construction and maintenance of publicly accessible open space, totaling approximately 6.9 acres, including (i) a series of contiguous, integrated waterfront parks, including extension of the Blue Greenway and Bay Trail and creation of a 4.0-acre "Waterfront Park", for the benefit of the residents of the "Dogpatch" neighborhood community in the City and the residents of the City and the State of California at large, (ii) a 1.3-acre central green space in the interior of the Project Site, (iii) a 0.3-acre plaza-type open space, and (iv) a publicly accessible soccer field.
- **H.** As of the Effective Date, City and Tenant entered into a Development Agreement (as amended from time to time, the "**DA**"), setting forth the terms and conditions under which Tenant would undertake the development of the Project Site as the master developer. Various City departments, including Port, consented to the DA.
- I. Port and Tenant desire to enter into this Lease for the construction of a portion of the Waterfront Park on the Premises and the operation and maintenance of the Premises consistent with the Public Trust.
- J. As additional consideration for this Lease, Tenant has agreed to grant to Port an option to impress the Public Trust on approximately one and ninety-seven hundredths (1.97) acres of real property adjacent to the Premises, as shown generally on the Site Plan (the "Public Trust Easement Parcel"), on the terms and conditions described in Section 2.9. Impressing the Public Trust on the Public Trust Easement Parcel would provide significant benefits to the Public Trust by consolidating and expanding the total acreage of lands protected by the Public Trust, providing and protecting public access and recreation along the San Francisco Bay shoreline, and enhancing the physical configuration of Public Trust lands along the San Francisco Bay shoreline.
- **K.** Subject to the terms and conditions set forth herein, including <u>Section 1.4</u>, Port, Tenant and Pier 70 Master Developer will enter into a Reciprocal Easement Agreement (the "**Craig Lane REA**") pursuant to which, among other things, (i) Tenant shall grant to Port, its invitees and certain other Persons a perpetual easement over the portion of Craig Lane shown on the diagram attached hereto as <u>Exhibit A-7</u> ("**Tenant's Craig Lane Property**") for vehicular, pedestrian and bicycle access, parking and loading, (ii) Port shall grant to Tenant, its invitees and certain other Persons a perpetual easement over the Port Craig Lane Property for vehicular,

pedestrian and bicycle access, parking and loading, and (iii) Tenant shall agree to maintain in perpetuity the improvements required to be constructed under the DA on Tenant's Craig Lane Property and the Port Craig Lane Property, all as more particularly described therein.

**L.** Port has been authorized to enter into this Lease by the Port Commission pursuant to Resolution No. 20-12, and the Board of Supervisors pursuant to Board Resolution No. 164-20 (File No. 200217).

ACCORDINGLY, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

# 1. PREMISES; TERM

#### 1.1. Premises.

- (a) <u>Lease of Premises</u>. Port hereby leases to Tenant, and Tenant hereby leases from Port, the Premises, subject to the terms of this Lease.
- (b) <u>Accessibility Inspection Disclosure</u>. California law requires commercial landlords to disclose to tenants whether the property being leased has undergone inspection by a Certified Access Specialist ("CASp") to determine whether the property meets all applicable construction-related accessibility requirements. The law does not require landlords to have the inspections performed. Tenant is hereby advised that the Premises has not been inspected by a CASp and Port will have no liability or responsibility to make any repairs or modifications to the Premises in order to comply with accessibility standards. The following disclosure is required by law:
- "A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The Parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises."
- (c) <u>San Francisco Disability Access Disclosures</u>. Tenant is hereby advised that the Premises may not currently meet all applicable construction-related accessibility standards. Tenant understands and agrees that Tenant may be subject to legal and financial liabilities if the Premises does not comply with applicable federal and state disability access Laws. As further set forth in <u>Article 6</u>, Tenant further understands and agrees that it is Tenant's obligation, at no cost to Port, to cause the Premises and Tenant's use thereof to be conducted in compliance with the Disabled Access Laws. Tenant shall notify Port if it is making any alterations or Improvements to the Premises that might impact accessibility standards required under the Disabled Access Laws.
- (d) <u>Subsurface Mineral Rights</u>. Under Section 2 of the Burton Act, the State of California (the "**State**") has reserved all subsurface mineral deposits, including oil and gas deposits, on or underlying the Premises. In accordance with the provisions of Sections 2 and 3.5(a)

of the Burton Act, Tenant and Port hereby acknowledge that the State has reserved the right to explore, drill for and extract such subsurface minerals, including oil and gas deposits, solely from the Single Point of Entry for Subsurface Mineral Rights, provided that such right shall not be exercised so as to disturb or otherwise interfere with the Leasehold Estate or the use or operation of the Premises, including the ability of the Premises to support the Improvements, but provided further that, without limiting any remedies the Parties may have against the State or other Persons, any such disturbance or interference that causes damage to or destruction of the Improvements or any portion thereof shall be governed by <u>Article 11</u>. Neither Party shall have liability under this Lease arising out of any exercise by the State of such mineral rights (with respect to Port, unless the State has succeeded to Port's interest under this Lease, in which case such successor owner may have such liability).

# (e) AS IS, WITH ALL FAULTS.

TENANT AGREES THAT PORT IS LEASING THE PREMISES, AND THE PREMISES ARE HEREBY ACCEPTED BY TENANT, IN THEIR EXISTING STATE AND CONDITION, "AS IS, WITH ALL FAULTS", SUBJECT TO THE TERMS OF THIS LEASE. TENANT ACKNOWLEDGES AND AGREES THAT, EXCEPT AS EXPRESSLY SET FORTH HEREIN, NEITHER PORT NOR ANY OF THE OTHER INDEMNIFIED PARTIES HAS MADE, AND THERE IS HEREBY DISCLAIMED, ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, OF ANY KIND, WITH RESPECT TO THE CONDITION OF THE PREMISES, THE CONDITION OF THE PREMISES, THE SUITABILITY OR FITNESS OF THE PREMISES OR ANY APPURTENANCES THERETO FOR THE DEVELOPMENT, USE OR OPERATION OF THE IMPROVEMENTS, THE COMPLIANCE OF THE PREMISES WITH ANY LAWS, ANY MATTER AFFECTING THE USE, VALUE, OCCUPANCY OR ENJOYMENT OF THE PREMISES OR ANY OTHER MATTER PERTAINING TO THE PREMISES.

Tenant further acknowledges and agrees that it has been afforded a full opportunity to inspect Port's records relating to conditions in, on, around, under and pertaining to the Premises. Port makes no representation or warranty as to the accuracy or completeness of any matters contained in such records. Tenant is not relying on any such information. All information contained in such records is subject to the limitations set forth in this Section 1.1(e). Tenant acknowledges and agrees that Tenant has performed a diligent and thorough inspection and investigation in, on, around, under and pertaining to the Premises, either independently or through its own experts, including with respect to: (i) the quality, nature, adequacy and physical condition in, on, around, under and pertaining to the Premises, including the structural elements, foundation and all other physical and functional aspects in, on, around, under and pertaining to the Premises; (ii) the quality, nature, adequacy and physical, geotechnical and environmental condition in, on, around, under and pertaining to the Premises, including the soil and any groundwater (including Hazardous Materials conditions (including the presence of asbestos or lead) with regard to soils and any groundwater); (iii) the suitability in, on, around, under and pertaining to the Premises for the development of the Improvements, the Permitted Uses or Tenant's planned use of the Premises or other occupancy, use or enjoyment of the Premises; (iv) title matters, the zoning, land use regulations and other Laws, including Environmental Laws, governing use of or construction in, on, around, under and pertaining to on the Premises, the appurtenances thereto or the Improvements; and (v) all other matters of material significance affecting, in, on, around, under

and pertaining to the Premises and its development and use under this Lease (the foregoing, collectively, the "Property Matters").

As part of its agreement to accept the Premises in its "AS IS, WITH ALL FAULTS" condition, effective upon the Commencement Date, Tenant, on behalf of itself and its successors and assigns, shall be deemed to waive any right to recover from, and forever release, acquit and discharge, Port, City, and their Agents of and from any and all Losses, whether direct or indirect, known or unknown, foreseen or unforeseen, that Tenant may now have or that may arise on account of or in any way be connected with the Property Matters; provided, however, the foregoing waiver shall not apply to Losses arising from or relating to the sole negligence or willful misconduct of any of the Indemnified Parties or constitute a release, acquittal or discharge of any of Port's obligations under this Lease.

In connection with the foregoing release, Tenant acknowledges that it is familiar with Section 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Tenant agrees that the waivers and releases contained in this Section 1.1(e) include all known and unknown, disclosed and undisclosed and anticipated and unanticipated claims pertaining to the subject matter of the waivers and releases. Tenant acknowledges that it has agreed upon this Lease in light of this realization and, being fully aware of this situation, it nevertheless intends to waive the benefits of California Civil Code Section 1542, or any other statute or similar law now or later in effect, in connection with the waivers and releases contained in this Section 1.1(e). Notwithstanding anything to the contrary contained in this Lease, the foregoing waivers and releases shall survive any expiration or earlier termination of this Lease.



- (f) <u>Title Defect</u>. Port shall have no liability to Tenant in the event any defect exists in Port's title to the Premises as of the Effective Date and no such defect shall be grounds for a termination of this Lease by Tenant. Tenant's sole remedy with respect to any such existing title defect shall be to obtain compensation by pursuing its rights against any title insurance company or companies issuing title insurance policies to Tenant.
- (g) <u>Unique Nature of Premises</u>. Tenant acknowledges that: (a) Port's activities in and around the Premises may involve activities, such as pile driving, that create noise and other effects not normally encountered in locations elsewhere in San Francisco due to the unique nature of the Premises; (b) there is a risk that all or a portion of the Premises will be inundated with water due to floods or sea level rise; and (c) there is a risk that sea level rise will increase the cost of operations, maintenance and repair of the Premises.
- (h) <u>Memorandum of Technical Corrections</u>. The Parties reserve the right, upon mutual agreement of the Port Director and Tenant, to enter into memoranda of technical corrections hereto

to reflect any non-material changes in the actual legal description and square footages of the Premises, and upon full execution thereof such memoranda shall be deemed to become a part of this Lease.

#### **1.2.** Term.

This Lease shall commence on the Commencement Date and shall expire at 11:59 p.m. on the Expiration Date, unless earlier terminated or extended in accordance with the terms of this Lease. The period from the Commencement Date until the Expiration Date or earlier termination of this Lease in accordance with its terms is referred to as the "**Term**". Port shall consider in good faith requests from Tenant from time to time to extend the Term to the extent permitted by applicable law, provided that Port shall retain the right to grant or deny such requests in its sole discretion.

# **1.3.** Port Termination Right.

Notwithstanding anything to the contrary contained in this Lease, if Tenant has not Commenced: (i) the initial Phase of the Initial Improvements by July 31, 2027 (subject to extension in accordance herewith, including due to Excusable Delay, the "Initial Improvements Deadline"), then as its sole remedy Port shall have the right to terminate this Lease by delivery of sixty (60) days' prior written notice to Tenant, and this Lease shall automatically terminate on the expiration of such sixty (60) day period (the "Termination Date") unless Tenant Commences such Phase before the Termination Date; or (ii) the second Phase of the Initial Improvements by July 31, 2036 (subject to extension in accordance herewith, including due to Excusable Delay), then as its sole remedy Port shall have the right to terminate this Lease solely with respect to the applicable portion of the Premises (but not including any portion of the Premises on which the Initial Improvements are covered by Adequate Security) by delivery of sixty (60) days' prior written notice to Tenant, and this Lease shall automatically terminate solely with respect to such portion of the Premises on the expiration of such sixty (60) day period (the "Partial Termination Date") unless Tenant Commences such Phase before the Partial Termination Date.

# **1.4.** Craig Lane REA.

Port, Tenant and Pier 70 Master Developer shall enter into the Craig Lane REA in a form approved by Port, Tenant and Pier 70 Master Developer as soon as is reasonably appropriate and in any event prior to the date that is sixty (60) days following the approval pursuant to the DA of the Development Phase (as defined in the DA) that includes Tenant's Craig Lane Property. Prior to commencing construction of Craig Lane, Port and Tenant shall reasonably cooperate as requested by either of them regarding the development process contemplated under the Craig Lane REA so that the development and operation of Craig Lane is undertaken in an efficient manner notwithstanding Craig Lane's location in two project areas.

# 1.5. Port 23<sup>rd</sup> Street Property.

Promptly following the approval pursuant to the DA of the Development Phase that includes the Port 23<sup>rd</sup> Street Property (or any portion thereof), Port shall grant to Tenant a license to enter the Port 23<sup>rd</sup> Street Property (or such portion) substantially in the form attached as <u>Exhibit I</u>

in order to permit Tenant to enter the Port 23<sup>rd</sup> Street Property as necessary to construct the Project or comply with or implement the Regulatory Approvals or other requirements in the DA.

#### 2. RENT

# **2.1.** Tenant's Covenant to Pay Rent.

During the Term, Tenant shall pay Rent for the Premises to Port at the times and in the manner provided in this Article 2.

#### 2.2. Minimum Rent.

On the Commencement Date and on or before the first day of each and every annual anniversary thereof during the Term (the "Anniversary Date"), Tenant shall pay to Port in advance as annual minimum rent for the Premises the sum of the Annual Base Rent (the "Minimum Rent"). At Tenant's election, Tenant may pre-pay Minimum Rent for the Term (or any portion thereof) in advance at any time. The Parties acknowledge that due to the Tenant's obligation to construct the Initial Improvements and cause the development of the Premises in accordance with the requirements hereof, and Tenant's obligations hereunder relating to the Public Trust Easement Parcel and the Craig Lane REA, the Minimum Rent payable hereunder is nominal.

# 2.3. Manner of Payment.

Tenant shall pay all Rent to Port in lawful money of the United States of America at the address for notices to Port specified in this Lease, or to such other Person or at such other place as Port may from time to time designate by notice to Tenant. Minimum Rent shall be payable at the times specified in Section 2.2 without prior notice or demand. Additional Rent shall be due and payable at the times otherwise provided in this Lease, provided that if no date for payment is otherwise specified, or if payment is stated to be due "upon demand", "promptly following notice", "upon receipt of invoice" or the like, then such Additional Rent shall be due thirty (30) days following the receipt by Tenant of such demand, notice, invoice or the like specifying that such sum is presently due and payable.

#### **2.4.** Interest on Delinquent Rent.

If any installment of Minimum Rent or Percentage Rent is not paid within ten (10) days following the date it is due, or if any Additional Rent is not paid within thirty (30) days following Tenant's receipt of written notice from Port of Tenant's failure to pay Additional Rent when due, such unpaid amount shall bear interest from the date due until paid at an annual interest rate (the "**Default Rate**") equal to the greater of (i) ten percent (10%) or (ii) five percent (5%) in excess of the Prime Rate that is in effect as of the date the applicable payment is due, but in any event not more than the maximum amount permitted under any applicable usury or similar Law. Payment of interest shall not excuse or cure any default by Tenant.

#### **2.5.** Late Charges.

Tenant acknowledges and agrees that late payment by Tenant to Port of Rent will cause Port increased costs not contemplated by this Lease. The exact amount of such costs is extremely difficult to ascertain. Such costs include processing and accounting charges. Accordingly, without limiting any of Port's rights or remedies hereunder and regardless of whether such late payment results in an Event of Default, if any installment of Minimum Rent or Percentage Rent is not paid within ten (10) days following the date it is due, or if any Additional Rent is not paid within thirty (30) days following Tenant's receipt of written notice from Port of Tenant's failure to pay Additional Rent when due, Tenant shall pay a late charge (the "Late Charge") equal to one and one-half percent (1.5%) of all such unpaid Rent. Tenant shall also pay Attorneys' Fees and Costs incurred by Port by reason of Tenant's failure to pay any Rent within the time periods described in the preceding sentence. The Parties agree that such Late Charge represents a fair and reasonable estimate of the cost that Port will incur by reason of a late payment by Tenant.

#### 2.6. Additional Rent.

Except as otherwise provided in this Lease, all costs, fees, interest, charges, expenses, reimbursements and Tenant's obligations of every kind and nature relating to the Premises that may arise or become due under this Lease, whether foreseen or unforeseen, and that are payable by Tenant to Port pursuant to this Lease, shall be deemed Additional Rent. Port shall have the same rights, powers and remedies at law in the case of non-payment of Additional Rent as in the case of non-payment of Minimum Rent.

#### 2.7. Net Lease.

It is the purpose of this Lease and intent of Port and Tenant that all Rent will be absolutely net to Port, so that this Lease will yield to Port the full amount of the Rent at all times during the Term, without deduction, abatement or offset. Except as may be provided in this Lease, Port shall not be expected or required to incur any expense or make any payment of any kind with respect to this Lease or Tenant's use or occupancy of the Premises, including any Improvements. Without limiting the foregoing, except as otherwise expressly provided in this Lease, Tenant shall be solely responsible for paying each item of cost or expense of every kind and nature whatsoever, the payment of which Port would otherwise be or become liable by reason of Port's estate or interests in the Premises and any Improvements, any rights or interests of Port in or under this Lease, or the ownership, leasing, operation, management, maintenance, repair, rebuilding, remodeling, renovation, use or occupancy of the Premises, any Improvements or any portion thereof, all as more particularly described herein. Except as expressly provided in Articles 11 and 12, no occurrence or situation arising during the Term and no present or future Law, whether foreseen or unforeseen and however extraordinary, shall relieve Tenant from its liability to pay all of the sums required by any of the provisions of this Lease, shall relieve Tenant from any of its obligations under this Lease, shall give Tenant any right to seek redress against Port, or, except as set forth in this Lease, shall give Tenant any right to terminate this Lease in whole or in part. Tenant waives any rights now or hereafter conferred upon it by any existing or future Law to terminate this Lease or to receive any abatement, diminution, reduction or suspension of payment of such sums, on account of any such occurrence or situation, provided that such waiver shall not affect or impair any right or remedy expressly provided Tenant under this Lease.

# 2.8. Percentage Rent.

- (a) <u>Percentage Rent</u>. Tenant agrees to pay to Port, in addition to the Minimum Rent payable by Tenant, for each Lease Year percentage rent in an amount equal to fifty percent (50%) of Adjusted Gross Revenues for such Lease Year ("**Percentage Rent**"). Percentage Rent shall be determined and paid by Tenant for each Lease Year within ninety (90) days after the end of such Lease Year.
- (b) Annual Statement. Within ninety (90) days after the end of each Lease Year, Tenant shall furnish a complete statement showing the computation of the Percentage Rent for such Lease Year ("Annual Statement"). Each Annual Statement shall set forth in reasonable detail Gross Revenues (including an itemized list of any and all deductions or exclusions from Gross Revenues that Tenant may claim and that are expressly permitted under this Lease), Budgeted Operating Expenses, Operating Reserves, Capital Reserves and a computation of the Percentage Rent for the applicable Lease Year. Each Annual Statement shall be certified as accurate and complete in accordance with the requirements hereof by Novogradac & Company LLP, any national independent certified public accounting firm selected by Tenant from time to time or any other independent certified public accounting firm reasonably approved by Port from time to time.
- (c) <u>Failure to Submit Annual Statement</u>. Upon the occurrence and during the continuance of an Event of Default for Tenant's failure to deliver any Annual Statement within the time period set forth in this <u>Section 2.8</u> (irrespective of whether any Percentage Rent is actually paid or due to Port), Port shall have the right, among its other remedies under this Lease, to employ a certified public accountant to examine Tenant's Books and Records as may be necessary to certify the amount of Tenant's Gross Revenues, Budgeted Operating Expenses, Operating Reserves and Capital Reserves for such Lease Year. Within thirty (30) days following Port's delivery to Tenant of such certification and an invoice for the total cost of the examination and any reasonable supporting documentation requested by Tenant, Tenant shall pay to Port the total reasonable cost of the examination, together with the full amount of Percentage Rent due and payable for the applicable Lease Year, if any.
- (d) <u>Books and Records</u>. Tenant shall keep complete and accurate Books and Records that contain all information required to permit Port to verify Gross Revenues, Budgeted Operating Expenses, Operating Reserves and Capital Reserves for each Lease Year in accordance with this Lease and with GAAP with respect to all operations to be conducted in or from the Premises. Tenant shall retain such Books and Records for each Lease Year until the later of (i) four (4) years after the end of such Lease Year and (ii) if an audit is commenced or if a controversy arises between the Parties regarding the Percentage Rent payable hereunder for such Lease Year, until such audit or controversy is concluded, in each case, notwithstanding the expiration or earlier termination of this Lease (the "Audit Period").
- (e) <u>Audit</u>. Acceptance by Port of any monies paid to Port by Tenant as Percentage Rent as shown by any Annual Statement shall not be an admission of the accuracy of said Annual Statement or the amount of such Percentage Rent payment. During the Audit Period for each Lease Year, Tenant agrees to make its Books and Records for such Lease Year available to Port or to any City auditor or other person or auditor authorized to act on behalf of Port in connection

with the Percentage Rent calculations (the "Port Representative"), upon no less than fifteen (15) Business Days' prior written notice to Tenant, for the purpose of auditing said Books and Records to determine the accuracy of Tenant's reporting of Percentage Rent for such Lease Year, as shown in the Annual Statement for such Lease Year. No Port Representative shall be compensated on a contingency fee basis. Tenant shall cooperate with the Port Representative during the course of any such audit; provided, however, such audit shall occur at Tenant's business office, or at such other location in San Francisco where the Books and Records are kept, and no Books and Records shall be removed by the Port Representative without the prior express written consent of Tenant. Such audit shall be diligently pursued to completion by Port within a reasonable time of its commencement, provided that Tenant makes available to the Port Representative all reasonably requested Books and Records in a timely manner. Upon completion of the audit, Port shall promptly deliver a copy of the audit report to Tenant. If an audit reveals that Tenant has understated its Gross Revenues or overstated its Budgeted Operating Expenses, Operating Reserves or Capital Reserves, in each case, for the applicable Lease Year, then within thirty (30) days following Port's delivery to Tenant of such audit report and, if payment is being requested pursuant to clause (ii) of this sentence, an invoice for the total cost of the audit and any reasonable supporting documentation requested by Tenant, (i) Tenant shall pay to Port the difference between the amount of Percentage Rent paid for such Lease Year and the amount of Percentage Rent that is due for such Lease Year, plus interest at the Prime Rate from the date that Percentage Rent for such Lease Year became due under this Lease, and (ii) if as a result thereof Port is entitled to an increase in Percentage Rent equal to more than the greater of (a) ten thousand dollars (\$10,000) or (b) five percent (5%) of the prior amount, Tenant shall pay to Port the total reasonable cost of the audit.

# 2.9. Public Trust Easement Option.

- (a) <u>Grant of Option</u>. As additional consideration for this Lease, Tenant hereby grants to Port the option to impress the Public Trust Easement Parcel (or any portion thereof) with the Public Trust on the terms and conditions of this <u>Section 2.9</u> (the "**Public Trust Option**"). Port may exercise the Public Trust Option any time during the period commencing with the date that is three (3) years after the Effective Date (or such earlier date as Tenant and Port may agree in their respective sole discretion) and ending with the date that is four (4) years after such commencement (the "**Option Period**") by giving Tenant written notice of its exercise of the Public Trust Option (the "**Option Notice**") identifying the portion of the Public Trust Easement Parcel for which it has elected. If the Option Notice identifies less than all of the Public Trust Easement Parcel, then Port shall retain the right to exercise the Public Trust Option as to the remainder of the Public Trust Easement Parcel for the remainder of the Option Period.
- (b) <u>Conveyance of Public Trust Easement</u>. Promptly (and in any event within one hundred twenty (120) days) after Port's delivery of the Option Notice, Tenant shall duly execute, acknowledge and deliver to Port a Public Trust Easement Deed substantially in the form attached hereto as <u>Exhibit E</u> (the "**Public Trust Deed**"). Port shall cause the Public Trust Deed to be recorded (and shall first duly execute, acknowledge and deliver the Public Trust Deed to the extent required).
- (c) <u>No Further Encumbrances</u>. Tenant shall not, without the prior written consent of Port, at any time prior to the expiration of the Option Period or earlier recordation of the Public

Trust Deed enter into any new leases, further encumber the Public Trust Easement Parcel or, through Tenant's act or omission, allow any third party to encumber the Public Trust Easement Parcel. Notwithstanding the foregoing, Tenant may, without Port's consent, enter into and record environmental covenants, utility easements, or public or emergency access easements consistent with those contemplated under the DA (including under the Design for Development and the Infrastructure Plan (as defined in the DA)), provided Tenant has provided Port with the proposed form of any such instrument at least ten (10) Business Days prior to entering into such instrument, and provided that, if requested by Port within the 10 day period, Tenant has met and conferred in good faith with Port prior to entering into such instrument.

- (d) Operation and Use of Public Trust Easement Parcel. Tenant may operate, use and maintain the Public Trust Easement Parcel in a manner consistent with the DA (including the Design for Development and Infrastructure Plan), provided that Tenant shall not, without the prior written consent of Port, at any time prior to the expiration of the Option Period or earlier recordation of the Public Trust Deed construct any structures or improvements on the Public Trust Easement Parcel that will remain in place after Port's due exercise of the Public Trust Option, other than public parks and open space and street improvements that are consistent with the DA (including the Design for Development and Infrastructure Plan).
- (e) <u>Binding Effect; Memorandum of Option</u>. The covenants, terms and conditions of the Public Trust Option set forth in this <u>Section 2.9</u> shall run with the Public Trust Easement Parcel for the benefit of the Premises and shall be binding on any successor or transferee of Tenant's interest in the Public Trust Easement Parcel. Tenant and Port shall cause a Memorandum of Public Trust Option substantially in the form attached hereto as <u>Exhibit F</u> to be duly executed, acknowledged and recorded against the Public Trust Easement Parcel within thirty (30) days after the Effective Date. Upon any termination or expiration of the Public Trust Option in whole or in part, Port and Tenant shall, promptly following the request of either of them, execute, acknowledge and record a termination of such Memorandum of Public Trust Option with respect to the property for which the Public Trust Option so terminated or expired.

#### 3. USES

#### **3.1.** Uses within Premises.

Tenant shall use and operate the Premises only for the Permitted Uses. Tenant agrees that following Completion of each Phase of the Initial Improvements the Completed portions of the Premises shall remain open to the public at all times, subject to the Rules and Regulations (which shall be applied in a nondiscriminatory manner). Except as provided herein, Tenant shall not allow any changes or additions to the Permitted Uses without the prior written consent of the Port Commission, by resolution. Any changes or additions to the Permitted Uses together with any conditions thereon may be implemented through a resolution of the Port Commission accepted in writing by Tenant, without need of further amendment to this Lease.

# 3.2. Advertising and Signs.

Tenant shall not have the right to place, construct or maintain any sign, flag, advertisement, awning, banner or other decoration (collectively, "**Sign**") on the Premises that does not comply

with the Design for Development without the Port Director's prior written consent. Any Sign that Tenant is permitted to place, construct or maintain on the Premises shall comply with all Laws relating thereto, including building permit requirements, and Tenant shall obtain all Regulatory Approvals required therefor. Port makes no representation with respect to Tenant's ability to obtain such Regulatory Approvals. Tenant, at its sole cost and expense, shall remove all Signs placed by it on the Premises at the expiration or earlier termination of this Lease.

#### **3.3.** Limitations on Uses by Tenant.

- (a) <u>Prohibited Activities</u>. Tenant shall not conduct or permit on the Premises any of the following activities, and such activities shall not constitute Permitted Uses, in any case without the approval of Port in writing:
  - (i) any activity that violates the Public Trust;
- (ii) any activity that will cause a cancellation of any fire or other insurance policy covering the Premises required to be carried by Tenant hereunder, any part thereof or any of its contents;
- (iii) any activity that constitutes waste or nuisance to owners or occupants of adjacent properties, including the preparation, manufacture or mixing of anything that might emit any unusually objectionable odors, noises or lights onto adjacent properties, the use of light apparatus that can be seen outside the Premises or the use of loudspeakers or sound apparatus that can be heard outside the Premises; provided that any activity performed in a manner consistent with the Mitigation Measures and Improvement Measures, or increased vehicle and truck traffic, re-routing of traffic, traffic delays, loss of street and public parking, dust, dirt, construction noise and visual obstructions reasonably expected for the construction of the Initial Improvements or Subsequent Construction shall not be considered or deemed a nuisance;
- (iv) any activity that will materially injure, unreasonably obstruct or unreasonably interfere with the rights of ingress and egress of other tenants, owners or occupants of adjacent properties;
- (v) use of the Premises for personal living quarters or overnight sleeping or camping; or
  - (vi) private membership clubs or private eating or drinking establishments.
- (b) <u>Land Use Restrictions</u>. Other than BCDC public access and inspection requirements in accordance with the BCDC Permit, Tenant may not enter into agreements granting licenses, easements or access rights over the Premises if the same would be binding on Port's reversionary interest in the Premises, or obtain changes in applicable land use laws or special or conditional use authorizations or other permits for any uses not provided for hereunder, in each instance without Port's prior written consent, which consent may be withheld in Port's sole discretion (provided, however, Port shall not withhold its consent to the extent that any such agreements granting licenses, easements or access rights over the Premises are contemplated by the DA (including the Infrastructure Plan) and comply with applicable requirements of the Public Trust and applicable Laws), and subject to the provisions of <u>Section 6</u>. The Parties recognize that

for Tenant to carry out its intended use, it may be necessary or desirable to obtain additional zoning, regulatory or land use approvals or special or conditional use authorizations relating to the Premises. Port agrees to, from time to time, reasonably cooperate with Tenant, at no out of pocket cost or liability to Port, in pursuing such aforementioned regulatory approvals or authorizations, including executing documents, applications or petitions relating thereto, subject to the limitations of Section 6.2.

# **3.4.** Consistency With Public Trust.

In approving this Lease, the Port Commission has made certain findings that this Lease and the proposed development of the Waterfront Park promotes Public Trust objectives. Consequently, it shall be reasonable for Port to withhold its consent to any change in the Permitted Uses or to the type, location or size of the Initial Improvements as further described in the Scope of Development, if such changes violate the Public Trust or Port's obligations under the Burton Act.

#### 3.5. Public Dock.

Any Recreational Dock constructed on the Premises shall be designed and approved in accordance with the Design for Development, the DA and Section 9.3(a), shall comply with applicable Laws, including applicable maritime rules and regulations set forth by Port, and shall be open and accessible to the public and available for commercial shoreline small vessel service on a non-discriminatory basis, subject to the Rules and Regulations (which shall be applied in a nondiscriminatory manner). Tenant is not required to construct the Recreational Dock. Unless and until Tenant commences physical construction of the Recreational Dock and notwithstanding anything to the contrary contained herein, Tenant shall not be permitted to utilize the portion of the Premises on which the Recreational Dock is anticipated to be developed as shown on Exhibit B (the "Recreational Dock Area") except in connection with any testing or related pre-development work reasonably required in connection with its Recreational Dock planning efforts and shall have no obligations or liability in connection therewith except to the extent arising from such testing, work or planning efforts. Once the plans for the Recreational Dock are approved by Port and all other applicable Regulatory Agencies as contemplated herein, the Parties shall revise the Recreational Dock Area (and the Premises) to the extent reasonably necessary such that the Recreational Dock Area consists of the Recreational Dock structure and the adjacent berthing area.

#### 4. TAXES AND ASSESSMENTS

# 4.1. Payment of Possessory Interest Taxes and Other Impositions.

(a) Payment of Possessory Interest Taxes. Tenant shall pay or cause to be paid to the proper authority before delinquency all Impositions assessed, levied, confirmed, or imposed on the Premises or any of the Improvements or Personal Property (excluding the personal property of any subtenant whose interest is separately assessed) located on the Premises or on its Leasehold Estate (but excluding any such taxes separately assessed, levied or imposed on any subtenant), or on any use or occupancy of the Premises hereunder, to the full extent of installments or amounts payable or arising during the Term, whether in effect at the Commencement Date or which become effective thereafter. Tenant shall not permit any such Impositions to become a defaulted lien on

the Premises or the Improvements thereon; provided that if applicable Law permits Tenant to pay such taxes in installments, Tenant may elect to do so. In addition, Tenant shall pay any fine, penalty, interest or cost as may be charged or assessed for nonpayment or delinquent payment of such taxes. Tenant shall have the right to contest the validity, applicability or amount of any such taxes in accordance with <u>Section 5.1</u>.

- (i) <u>Acknowledgment of Possessory Interest</u>. Tenant specifically recognizes and agrees that this Lease creates a possessory interest, which is subject to taxation, and that this Lease requires Tenant to pay any and all possessory interest taxes levied upon Tenant's interest pursuant to an assessment lawfully made by the County Assessor. Tenant further acknowledges that any Transfer permitted under this Lease and any exercise of any option to renew or extend this Lease may constitute a change in ownership, within the meaning of the California Revenue and Taxation Code, and therefore may result in a reassessment of any possessory interest created hereunder in accordance with applicable Law. For the avoidance of doubt, Tenant's Indemnity obligations under <u>Section 15.1</u> shall apply to all Losses resulting from any assessment or reassessment of any possessory interest created under this Lease, subject to Section 15.1.
- (ii) Reporting Requirements. San Francisco Administrative Code Sections 23.38 and 23.39 require that certain information relating to the creation, renewal, extension, assignment, sublease, or other transfer of this Lease be provided to the County Assessor within sixty (60) days after the transaction. Accordingly, Tenant must provide a copy of this Lease to the County Assessor not later than sixty (60) days after the Effective Date, and any failure of Tenant to timely provide a copy of this Lease to the County Assessor shall be a default under this Lease. Tenant shall also provide within a reasonable period of time any information that City may reasonably request to ensure compliance with San Francisco Administrative Code Sections 23.38 and 23.39 (or any successor statute) or any other reporting requirement under applicable Law.
- (b) Other Impositions. Without limiting the provisions of Section 4.1(a), and except as otherwise provided in this Section 4.1(b) and Article 5, Tenant shall pay or cause to be paid all Impositions, to the full extent of installments or amounts payable or arising during the Term (subject to the provisions of Section 4.1(c)), that may be assessed, levied, confirmed or imposed on or in respect of or be a lien upon the Premises, any Improvements now or hereafter located thereon, any Personal Property now or hereafter located thereon (but excluding the personal property of any subtenant whose interest is separately assessed), the Leasehold Estate, or any subleasehold estate permitted hereunder, including any taxable possessory interest which Tenant or any other Person may have acquired pursuant to this Lease (but excluding any such Impositions separately assessed, levied or imposed on any subtenant). Subject to the provisions of Section 5.1, Tenant shall pay all Impositions directly to the taxing authority, before delinquency, provided that if any applicable Law permits Tenant to pay any such Imposition in installments, Tenant may elect to do so. In addition, Tenant shall pay any fine, penalty, interest or cost as may be assessed for nonpayment or delinquent payment of any Imposition. The foregoing or subsequent provisions notwithstanding, Tenant shall not be responsible for any Impositions arising from or related to, Port's fee ownership interest in the Land or the Premises, or Port's interest as landlord under this Lease, including Impositions relating to the fee, transfer taxes associated with the conveyance of the fee, or business or gross rental taxes attributable to Port's fee interest or transfer thereof.

- (c) <u>Prorations</u>. All Impositions imposed for the tax year in which the Commencement Date occurs or during the tax year in which this Lease terminates shall be apportioned and prorated between Tenant and Port on a daily basis.
- (d) <u>Proof of Compliance</u>. Within a reasonable time following Port's written request, which Port may give at any time and give from time to time, Tenant shall deliver to Port copies of official receipts of the appropriate taxing authorities, or other proof reasonably satisfactory to Port, evidencing the timely payment of such Impositions.

# **4.2.** Covenants Regarding Community Facilities Districts.

- (a) <u>Community Facilities District</u>. As material consideration for Port entering into this Lease, Tenant shall comply with all of the covenants and acknowledgements set forth in the Financing Plan under and as defined in the DA with respect to the CFD (as defined in the DA) and the Contingent Services Special Tax, in each case to the extent applicable to the Premises.
- (b) <u>Contingent Services Special Tax</u>. Tenant acknowledges and agrees that the occurrence and continuance of an Event of Default under <u>Article 7</u> relating to Tenant's obligation to maintain, repair, replace or operate the Premises in accordance with the requirements of this Lease shall be a Contingent Trigger Event (as defined in the Financing Plan).

# **4.3.** Port's Right to Pay.

Unless Tenant is exercising its right to contest in accordance with Section 5.1, if Tenant fails to pay and discharge any Imposition (including fines, penalties and interest) before delinquency, Port, at its sole option, may (but is not obligated to) pay or discharge the same, provided that before paying any such delinquent Imposition, Port shall give Tenant written notice specifying a date that is at least ten (10) days following the date such notice is given after which Port intends to pay such Impositions. If Tenant fails, on or before the date specified in such notice, either to pay the delinquent Imposition or to notify Port that it is contesting such Imposition pursuant to Section 5.1, then Port may thereafter pay such Imposition, and the amount so paid by Port (including any interest and penalties thereon paid by Port), together with interest thereon at the Default Rate computed from the date Port makes such payment until paid by Tenant, shall be payable by Tenant as Additional Rent.

# **4.4.** Information Required by the County Assessor.

The County Assessor has notified Port that it requires certain information in order to facilitate completion of Assessor Block Maps, updates to ownership records, and assessment of in-progress construction, completed new construction, sales and other assessable transfers of property. Each Party shall provide to the County Assessor any information reasonably requested in writing by the County Assessor in the format required by the County Assessor within ninety (90) days of the applicable Party's receipt of a written request for such requested information.

#### 5. CONTESTS

# **5.1.** Right of Tenant to Contest Impositions and Liens.

Subject to Section 4.3, Tenant has the right to contest the amount, validity or applicability, in whole or in part, of any Imposition or other lien, charge or encumbrance against or attaching to the Premises or any portion of, or interest in, the Premises, including any lien, charge or encumbrance arising from work performed or materials provided to Tenant or other Person to improve the Premises or any portion of the Premises, by appropriate proceedings conducted in good faith and with due diligence, at no cost to Port. Tenant shall give notice to Port before the commencement of any such contest and upon completion thereof shall notify Port of the final determination of such contest. Subject to Section 4.2, nothing in this Lease shall require Tenant to pay any Imposition as long as it contests the validity, applicability or amount of such Imposition in good faith, and so long as it does not allow the portion of the Premises affected by such Imposition to be forfeited to the entity levying such Imposition as a result of its nonpayment. If any Law requires, as a condition to such contest, that the disputed amount be paid under protest, or that a bond or similar security be provided, Tenant shall be responsible for complying with such condition as a condition to its right to contest. Tenant shall be responsible for the payment of any interest, penalties or other charges that may accrue as a result of any contest, and Tenant shall provide a statutory lien release bond or other security reasonably satisfactory to Port in any instance where Port's interest in the Premises may be subjected to such lien or claim. Tenant shall not be required to pay any Imposition or lien being so contested during the pendency of any such proceedings unless payment is required by the court, quasi-judicial body or administrative agency conducting such proceedings. Port, at its own expense and at its sole option, may elect to join in any such proceeding whether or not any Law requires that such proceedings be brought by or in the name of Port or any owner of the Premises. Port shall not be subjected to any liability for the payment of any fines or penalties or, except as provided in the preceding sentence, costs, expenses or fees, including Attorneys' Fees and Costs, in connection with any such proceeding. For the avoidance of doubt, Tenant's Indemnity obligations under Section 15.1 shall apply to all Losses resulting from Tenant's contest of any Impositions, subject to Section 15.1.

# **5.2.** Port's Right to Contest Impositions.

At its own cost and after notice to Tenant of its intention to do so, Port may, but in no event shall be obligated to, contest the validity, applicability or the amount of any Impositions, by appropriate proceedings conducted in good faith and with due diligence. Nothing in this Section 5.2 shall require Port to pay any Imposition as long as it contests the validity, applicability or amount of such Imposition in good faith, and so long as it does not allow any portion of the Premises to be forfeited to the entity levying such Imposition as a result of its nonpayment and so long as such activities do not cause a default under any Mortgage in effect at the time. Port shall give notice to Tenant before the commencement of any such contest and promptly following the final determination of such contest. Port shall reimburse Tenant within thirty (30) days after demand from Tenant for any such fines, penalties, costs, interest, expenses or fees, including Attorneys' Fees and Costs, which Tenant is legally obligated to pay as a result of Port's contest of such Impositions.

#### 6. COMPLIANCE WITH LAWS

# **6.1.** Compliance with Laws and Other Requirements.

- (a) Tenant's Obligation to Comply. During the Term, Tenant shall with respect to the Premises comply, at no cost to Port, with (i) all applicable Laws (including Regulatory Approvals), the Project Approvals and the Mitigation and Improvement Measures, in each case to the extent applicable to the Premises (for the avoidance of doubt, during the term of the DA, solely to the extent applicable to the Premises in accordance with the DA), and (ii) in all material respects, the requirements of all policies of insurance required to be maintained pursuant to Article 16. The foregoing sentences shall not be deemed to limit Port's ability to act in its legislative or regulatory capacity, including the exercise of its police powers (but, for the avoidance of doubt, this sentence shall not limit the DA). In particular, Tenant acknowledges that the Permitted Uses do not limit Tenant's responsibility to obtain Regulatory Approvals for such uses, including approval of Design Review Applications (as defined in the DA) or building permits pursuant to the Port of San Francisco Building Code, nor do such uses limit Port's responsibility in the issuance of any such Regulatory Approvals to comply with applicable Laws. It is understood and agreed that Tenant's obligation to comply with Laws includes the obligation to make, at no cost to Port, all additions to, modifications of, and installations on the Premises that may be required by any Laws relating to or affecting the Premises.
- (b) <u>Unforeseen Requirements</u>. The Parties acknowledge and agree that Tenant's obligation to comply with all present or future Laws to the extent required pursuant to <u>Section 6.1(a)</u> and other requirements of this <u>Section 6.1(b)</u> is a material part of the bargained-for consideration under this Lease. Tenant's obligation to comply with Laws may include the obligation to make substantial or structural repairs and alterations to the Premises (including the Improvements), regardless of, among other factors, the relationship of the cost of the curative action to the Rent under this Lease, the length of the then remaining Term, the relative benefit of the repairs to Tenant or Port, the degree to which curative action may interfere with Tenant's use or enjoyment of the Premises, the likelihood that the Parties contemplated the particular Law involved, or the relationship between the Law involved and Tenant's particular use of the Premises. Tenant waives any rights now or hereafter conferred upon it by any existing or future Law to terminate this Lease, to receive any abatement, diminution, reduction or suspension of payment of Rent, or to compel Port to make any repairs to comply with any such Laws, on account of any such occurrence or situation, except to the extent provided in Article 11 or Article 12.
- (c) <u>Proof of Compliance</u>. Tenant shall promptly upon Port's reasonable request provide Port with reasonable supporting evidence of its compliance with any of the obligations required under this Section 6.1.

# **6.2.** Regulatory Approvals.

Tenant understands and agrees that Port is entering into this Lease in its proprietary capacity as the holder of fee title to the Premises for the public benefit on the terms of the Public Trust, and not in its capacity as a Regulatory Agency. Tenant understands that the entry by Port into this Lease shall not be deemed to imply that Tenant will be able to obtain any Regulatory Approvals from Port itself in a regulatory capacity or any other City departments, boards or

commissions that have jurisdiction over the Premises. By entering into this Lease, Port is in no way modifying Tenant's obligations to cause the Premises to be used and occupied in accordance with all Laws, as provided herein. Tenant further acknowledges and agrees that any time limitations on Port review or approval within this Lease apply only to Port in its proprietary capacity, not in its regulatory capacity.

# **6.3.** BCDC Permit.

Notwithstanding that Port and Tenant are or will be co-applicants/co-permittees under the BCDC Permit, Tenant shall be responsible at its sole cost and expense for complying with the BCDC Permit and satisfying all conditions thereof. For the avoidance of doubt, Tenant's Indemnity obligations under <u>Section 15.1</u> shall apply to all Losses arising under the BCDC Permit, subject to <u>Section 15.1</u>.

#### 7. TENANT'S COVENANTS

# 7.1. Maintenance, Repair and Continuous Operation.

(a) Tenant's Obligation. Tenant shall, at no cost to Port, maintain, repair and, following Completion of each Phase of the Initial Improvements and any Subsequent Construction, continuously operate the Premises or applicable portion thereof, or cause such portion to be maintained, repaired and continuously operated, during the Term in a manner consistent with standards for the maintenance, repair and operation of a first-class public waterfront park and open space project located on property within Port's jurisdiction and in compliance with all applicable Laws and the requirements of this Lease, subject to the provisions of Articles 11 and 12 relating to damage and destruction and Condemnation. Tenant shall be exclusively responsible, at no cost to Port, for the management and operation of the Improvements. In connection with managing and operating the Project, Tenant shall provide (or require others to provide) such services as Tenant deems necessary and appropriate for the uses to which the Premises are put, including: (a) repair and maintenance of the Improvements, as more fully described in this Article 7; (b) utility services to the extent, if any, customarily provided by equivalent projects located in the City; (c) cleaning, janitorial, extermination and trash removal; (d) landscaping and groundskeeping; (e) security services; (f) maintenance of continuous public access consistent with the Public Trust and the requirements of this Lease; and (g) such other services as may be necessary or appropriate for a first-class public waterfront park and open space project located on property within Port's jurisdiction. Tenant shall prepare "CC&Rs" under and as defined in the DA (and, for the avoidance of doubt, obtain all approvals thereof required under the DA and this Lease) that require Tenant or a Management Association, as applicable, to maintain, repair and operate the Improvements in accordance with this Lease by designating the Premises as a "common area" under the CC&Rs during the Term. The CC&Rs shall provide that (i) Tenant or a Management Association shall be responsible for complying with the periodic monitoring and reporting requirements under the BCDC Permit, (ii) to the extent voters ever reduce or eliminate the Contingent Services Special Taxes, each owner shall pay a fee equal to such owner's proportionate share of the reasonable cost of the maintenance, repair and operation of the Premises to the standard required pursuant to this Lease for the applicable fiscal year, not to exceed the amount of Contingent Services Special Taxes that such owner would have been required to pay (if any) for such fiscal year pursuant to the RMA (as defined in the Financing Plan) absent such

reduction or elimination, less (if the Contingent Services Special Taxes are reduced but not eliminated) any amount of Contingent Services Special Taxes that such owner is required to pay for such fiscal year, (iii) to the extent that the Management Association performs maintenance, repair and operation of the Premises and is not Tenant hereunder, Port shall be indemnified by the Management Association for the Management Association's acts and omissions in connection with its maintenance, repair and operation of the Premises under indemnification provisions consistent herewith, (iv) Port shall have the right to enforce against the Management Association the maintenance and repair provisions of the CC&Rs applicable to the Premises, and (v) any provisions of the CC&Rs that benefit Port shall not be amended without Port's approval. Tenant shall not cause the CC&Rs to be recorded against the Leasehold Estate without obtaining, to the extent required hereunder, Port approval, which shall not be unreasonably withheld. Port approval shall not be required with respect to any provisions of the CC&Rs related to voting rights, owner maintenance obligations, architectural control, enforcement and remedial action, mortgagee protections or cost allocations so long as such provisions of the CC&Rs do not conflict with Port's rights or Tenant's obligations under this Lease. Following termination of the CC&Rs as to the Premises, Tenant shall take all actions reasonably necessary to cause the CC&Rs to be removed as an encumbrance against the Premises, which obligation shall survive the expiration or earlier termination of this Lease. Port shall take all actions necessary to cause the CC&Rs (and any amendments thereto, subject to Port approval to the extent required under the CC&Rs) to be recorded against the Leasehold Estate promptly upon Tenant's request after Port's approval of the CC&Rs or amendments, as applicable. Any financings or other encumbrances placed by Port on the Leasehold Estate from and after the Effective Date shall be subordinate to the CC&Rs.

- (b) <u>Approved Rules and Regulations</u>. All Tenant's operations on the Premises shall be conducted in accordance with the Rules and Regulations, which shall be applied in a nondiscriminatory manner. Port may, from time to time, review the Rules and Regulations and request reasonable amendments thereto. Tenant shall not unreasonably deny Port's requests for such amendments.
- (c) Repairs. Tenant shall with reasonable promptness make (or cause others to make) all necessary or appropriate repairs, renewals and replacements, whether structural or non-structural, interior or exterior, ordinary or extraordinary, foreseen or unforeseen, except as otherwise provided in Article 11 or Article 12. Tenant shall make such repairs with materials, apparatus and facilities as originally installed and approved by Port under this Lease, or, if not originally subject to Port approval or not commercially available, with materials, apparatus and facilities at least equal in quality, appearance and durability to the materials, apparatus and facilities repaired, replaced or maintained. All such repairs and replacements made by Tenant shall be at least equivalent in quality, appearance, public safety, and durability to and in all respects consistent with the Initial Improvements.
- (d) <u>Annual Budget Updates</u>. Following Completion of each Phase of the Initial Improvements, Tenant shall provide to Port a copy of its annual budget update for the maintenance and operation of the Completed portions of the Initial Improvements promptly after Tenant completes each such update.
- (e) <u>Capital Reserves</u>. Tenant shall establish and maintain Capital Reserves to pay for Capital Items to the extent and on the terms and conditions required under the CC&Rs. Upon

Port's request, Tenant shall provide Port a statement from the depository institution where the Capital Reserves are held showing the then current balance and any activity on such account together with an explanation on Tenant's expenditures from the Capital Reserves.

(f) <u>Disabled Access</u>. Tenant acknowledges that the Disabled Access Laws require that the programs, services and other activities provided at the Premises must be accessible to the disabled public. Without limiting Tenant's obligations under this Lease to comply with applicable Laws, Tenant shall fulfill that obligation and shall not discriminate against disabled persons in the provision of services, benefits or activities pursuant to this Lease.

# 7.2. Facilities Condition Report.

- (a) <u>Facilities Condition Report</u>. No less than ninety (90) days before each FCR Date, Tenant shall deliver to Port a facilities condition report (the "Facilities Condition Report") prepared by a qualified team of professionals, including a structural engineer, each with at least ten (10) years of experience in constructing, renovating and/or evaluating major park and open space projects and shoreline or pier structures in California. The Facilities Condition Report shall describe at a minimum the condition and structural integrity of the Improvements, as well as an estimate of the remaining useful life of all the Improvements. Additionally, if a Facilities Condition Report is prepared by Tenant or another party in connection with any Transfer or refinancing, then Tenant shall provide or cause the other party to provide, a copy of such Facilities Condition Report to Port.
- (b) Failure to Revise or Submit Report. If Port reasonably believes the Facilities Condition Report does not satisfy the requirements set forth in Section 7.2(a), then Port shall notify Tenant of such deficiency within forty-five (45) days following receipt of the Facilities Condition Report, and Tenant shall revise the Facilities Condition Report to address Port's concerns to the extent consistent with the requirements set forth in Section 7.2(a) within sixty (60) days. If Tenant fails to provide a Facilities Condition Report, or a revised Facilities Condition Report to Port within such period of time, Port after giving thirty (30) days' notice to Tenant shall have the right, but not the obligation, to cause the preparation of a Facilities Condition Report that is consistent with the requirements set forth in Section 7.2(a) (including any revisions required pursuant to this Section 7.2(b)) by construction professionals of Port's choice, satisfying the experience requirements set forth in Section 7.2(a) at Tenant's sole cost. Upon Port's delivery to Tenant of an invoice for such Facilities Condition Report, Tenant shall promptly reimburse Port the amount set forth in such invoice.
- (c) <u>Maintenance and Repair of Identified Items</u>. Tenant shall use commercially reasonable efforts to perform the recommended repairs identified in the Facilities Condition Report in a manner consistent with standards for the repair of a first-class public waterfront park and open space project located on property within Port's jurisdiction and in compliance with all applicable Laws and the requirements of this Lease.

# 7.3. Dredging.

Commencing as of the date that Tenant commences physical construction of the Recreational Dock, Tenant shall be solely responsible for any dredging and dredging-related

activities (including any Investigation or Remediation associated with a Hazardous Materials Claim arising from Tenant's dredging and dredging-related activities on the Premises or adjoining property) that are required to maintain a depth of at least six (6) feet below MLLW within an approximately one hundred foot navigation corridor for its Recreational Dock operations in connection with the Project (the "Dredging Work"), and for all costs associated with the Dredging Work, including hydrographic surveys, pre-dredge testing, sampling, chemical analyses, bioassays permitting, and all consultant and contractor work in connection with the Dredging Work. Tenant shall also promptly provide at no cost to Port copies of all pre-dredge and post-dredge surveys, submittals to applicable Regulatory Agencies, soundings, reports, data and any other information obtained in connection with the Dredging Work. Tenant shall be responsible for testing, sampling, removing and disposing of the sediment, debris and other materials dredged from the San Francisco Bay in connection with such Dredging Work, all in accordance with this Lease. Dredging Work shall be performed in accordance with the requirements of the permit issued to Tenant by the Dredged Material Management Office for the San Francisco Bay Region, or if the Dredged Material Management Office for the San Francisco Bay Region has been renamed or ceased to exist, then such other equivalent issuer of Tenant's permit to perform the Dredging Work. Prior to undertaking any Dredging Work, Tenant shall obtain all requisite access rights to the area thereof. Port shall reasonably cooperate with Tenant in providing a license to enter property owned by Port necessary to undertake such Dredging Work.

Tenant shall also comply with the Risk Management and Monitoring Plan for the Potrero Offshore Sediment Areas (the "**RMMP**"), including notification and coordination with Pacific Gas & Electric Company, Port and the RWQCB as applicable to any of Tenant's in-water construction, dredging or other activities that may disturb sediment in the RMMP area.

# **7.4.** City Reservation System.

Without limiting Tenant's rights with respect to the Premises, Port and Tenant shall cooperate in good faith with respect to any process by which members of the public reserve open spaces and associated facilities within the Premises, including any open recreation areas or areas designed for group gatherings (both of which may be used by groups for activities including yoga, tai chi, or badminton) and picnic tables. To the extent required under the DA, Port and Tenant shall provide an online reservation system for the same that is linked to a broader City reservation system, such as the SFRPD website, similar to what is currently provided for other non-SFRPD open spaces located on Port property.

#### 7.5. Storm Water Pollution Prevention.

(a) <u>Compliance with Statewide Permit</u>. Tenant shall comply with the applicable provisions of the Statewide General Permit for Discharge of Industrial Storm Water issued by the State Water Resources Control Board, including filing a Notice of Intent, developing and implementing a site-specific Storm Water Pollution Prevention Plan ("**SWPPP**") and conducting storm water monitoring and reporting, in each case, with respect to the Premises. Tenant's SWPPP and a copy of a Notice of Intent for the Premises shall be submitted to Port's Real Estate Division before beginning operations on the Premises.

(b) <u>Post-Construction Requirements</u>. In addition to the requirements under <u>Section 7.5(a)</u>, Tenant shall comply with the post-construction stormwater control provisions of the Statewide General Permit for Discharge of Stormwater from Small Municipalities and San Francisco Public Works Code Article 4.2, Sections 147 through 147.6 (the "**San Francisco Stormwater Management Ordinance**"), subject to review and permitting by Port or SFPUC, as applicable. To the extent of any inconsistency between the Statewide General Permit and the San Francisco Stormwater Management Ordinance, the San Francisco Stormwater Management Ordinance shall control.

#### 8. NO OBLIGATION OF PORT TO REPAIR

#### **8.1.** No Obligation of Port; Waiver of Rights.

From and after the Commencement Date, Tenant shall be solely responsible for the condition, operation, repair, maintenance and management of the Premises, including the Initial Improvements, Subsequent Construction and any and all other Improvements. Port shall not, as a result of this Lease, have any obligation to make repairs or replacements of any kind or maintain the Premises or any portion of any of them. Tenant waives the benefit of any Law that would permit Tenant to make repairs or replacements at Port's expense, or abate or reduce any of Tenant's obligations under, or terminate, this Lease, on account of the need for any repairs or replacements. Without limiting the foregoing, Tenant hereby waives any right to make repairs at Port's expense as may be provided by California Civil Code Sections 1932(1), 1941 and 1942.

# 8.2. Port's Right to Repair.

In the event Tenant fails to maintain and repair the Premises in accordance with Section 7.1(c) and such failure continues without cure for more than thirty (30) days following Tenant's receipt of a Maintenance Notice therefor (unless such cure cannot be reasonably completed within such thirty (30) day period and Tenant commences such cure within such thirty (30) day period and thereafter prosecutes such cure diligently to completion within a reasonable time thereafter), then Port may repair the same at Tenant's cost and expense and Tenant shall reimburse Port therefor as provided in Article 19, provided that if such failure to maintain and repair the Premises gives rise to an emergency that creates an imminent danger to public health or safety, as reasonably determined by Port, Port may at its sole option, but shall not be obligated to, perform such obligation for and on behalf of Tenant, provided that, if there is time, Port first gives Tenant such notice and opportunity to take corrective action as is reasonable under the circumstances. In the event Port notifies Tenant of a failure to maintain and repair the Premises and specifies the nature of such failure ("Maintenance Notice"), Tenant shall pay to Port, as Additional Rent, an amount equaling Three Hundred Dollars (\$300), which amount shall be increased by One Hundred Dollars (\$100) on the tenth (10th) Anniversary Date and every ten (10) years thereafter, upon delivery of the Maintenance Notice. In the event Port determines during subsequent inspection(s) that Tenant has failed to so maintain the Premises in accordance with this Article 8, then Tenant shall pay to Port, as Additional Rent, an amount equaling Four Hundred Dollars (\$400), which amount shall be increased by One Hundred Dollars (\$100) on the tenth (10th) Anniversary Date and every ten (10) years thereafter, for each additional Maintenance Notice, if applicable, delivered by Port to Tenant following each inspection. The Parties agree that the charges associated with each inspection of the Premises and delivery of each Maintenance

Notice represent a fair and reasonable estimate of the administrative cost and expense that Port will incur by reason of Port's inspection of the Premises and issuance of each Maintenance Notice. Tenant's failure to comply with the applicable Maintenance Notice and Port's right to impose the foregoing charges is in addition to and not in lieu of any and all other rights and remedies of Port under this Lease.

|           | 1 |        |
|-----------|---|--------|
| Initials: | 9 | Tenant |

#### 9. IMPROVEMENTS

#### 9.1. Tenant's Obligation to Construct the Initial Improvements.

Tenant shall construct the Initial Improvements in compliance with the Project Approvals and subject to all the terms, covenants, conditions and restrictions in this Lease, including Section 9.3(a).

#### 9.2. Title to Improvements.

During the Term, Tenant shall own all of the Improvements, including all Subsequent Construction and all appurtenant fixtures, machinery and equipment installed therein. At the expiration or earlier termination of this Lease, title to the Improvements, including appurtenant fixtures (but excluding trade fixtures and other Personal Property), shall vest in Port without further action of any Party and without compensation or payment to Tenant. Tenant shall have the right at any time, or from time to time, including at the expiration or upon the earlier termination of the Term, to remove Personal Property from the Premises; provided, however, that if the removal of Personal Property causes material damage to the Premises, Tenant shall promptly cause the repair of such damage at no cost to Port.

#### 9.3. Port Approval Items; Subsequent Construction Approvals.

- (a) Port Approval Items. Subject to the MOU or other agreement that is anticipated to be entered into following the Effective Date among Port and certain other City Agencies (as defined in the DA) pursuant to exhibit Z to the DA, Tenant shall not commence construction of any Phase of the Initial Improvements without obtaining Port's approval of the items that are part of such Phase set forth on Exhibit G (the "Port Approval Items") pursuant to the DA and this Lease. If Port fails to deliver to Tenant notice of its approval or disapproval (and set forth in such notice the reasons for any such disapproval in reasonable detail) of any of the Port Approval Items with respect to the initial Phase of the Initial Improvements within sixty (60) days following Tenant's submission to Port thereof, then the Initial Improvements Deadline shall be extended by one (1) day for each day following the expiration of such sixty (60)-day period that such failure continues.
- (b) <u>Subsequent Construction Approvals</u>. Tenant shall have the right, from time to time during the Term, to perform Subsequent Construction in accordance with the provisions of this <u>Article 9</u>, provided that Tenant cannot perform Subsequent Construction that would adversely affect public access to, or the use or appearance of, the Premises (other than as reasonably necessary during Subsequent Construction and only on a temporary basis) without Port's prior approval, which approval may be withheld in Port's sole and absolute discretion. Tenant

acknowledges that any Subsequent Construction undertaken by Tenant shall be subject to Articles 6 and 9. Nothing herein alters Tenant's obligation to obtain all applicable Regulatory Approvals, including, where applicable, from Port itself to the extent required under the Project Approvals. Without limiting the foregoing, Tenant acknowledges that it shall comply with the Design for Development to the extent applicable.

#### **9.4.** Construction Schedule.

- (a) <u>Performance</u>. Once Commenced, Tenant shall prosecute the construction of each Phase of the Initial Improvements and all Subsequent Construction with reasonable diligence, subject to Excusable Delay.
- (b) <u>Reports and Information</u>. During the construction of the Initial Improvements and all Subsequent Construction, Tenant shall submit to Port written progress reports when and as reasonably requested by Port.

# 9.5. Construction.

- (a) <u>Commencement of Construction</u>. Tenant shall not Commence any Phase of the Initial Improvements or any Subsequent Construction until the following conditions have been satisfied or waived by Port to the extent applicable:
- (i) Tenant has prepared construction documents, obtained and paid for all building permits, obtained all other Regulatory Approvals, financing and Port approvals, in each case to the extent required to Commence such construction in accordance with this Lease and the Project Approvals.
- (ii) With respect to Subsequent Construction only, Tenant has submitted to Port in writing its good faith estimate of the anticipated total construction costs of the Subsequent Construction. If such good faith estimate exceeds One Million Dollars (\$1,000,000), as Indexed, Tenant has also submitted evidence reasonably satisfactory to Port of Tenant's ability to pay such costs as and when due.
- (iii) With respect to each Phase of the Initial Improvements, Tenant has delivered to Port Adequate Security for such Initial Improvements.
  - (iv) Tenant has provided notice thereof in accordance with Section 13.2.
- (b) <u>Construction Standards</u>. The construction of each Phase of the Initial Improvements and Subsequent Construction once Commenced shall be accomplished expeditiously, diligently and in accordance with good construction and engineering practices and applicable Laws. Tenant shall undertake commercially reasonable measures to minimize damage, disruption or inconvenience caused by such work and make adequate provision for the safety and convenience of all Persons affected by such work. Dust, noise and other effects of such work shall be controlled using commercially-accepted methods customarily used to control deleterious effects associated with construction projects in populated or developed urban areas. In addition, in the case of such construction which begins after the initial Phase of the Initial Improvements have opened for use by the general public, Tenant shall erect, to the extent reasonably possible,

construction barricades substantially enclosing the area of such construction and maintain them until such construction has been substantially completed, to the extent reasonably necessary to minimize the risk of hazardous construction conditions.

- (c) <u>Costs of Construction</u>. Port shall have no responsibility for costs of construction of any Initial Improvements or Subsequent Construction. Tenant shall pay (or cause to be paid) all such costs.
- Any undefined, initially-capitalized term used in this (d) Prevailing Wage. Section 9.5(d) shall have the meaning given to such term in San Francisco Administrative Code Section 23.61. Tenant shall require its Contractors and Subcontractors performing (i) labor in connection with a "public work" as defined under California Labor Code Section 1720 et seq. (which includes certain construction, alteration, maintenance, demolition, installation, repair, carpet laying, or refuse hauling work if paid for in whole or part out of public funds) or (ii) Covered Construction, in each case, at the Premises to (1) pay workers performing such work not less than the Prevailing Rate of Wages, (2) provide the same hours, working conditions and benefits as in each case are provided for similar work performed in San Francisco County, and (3) employ Apprentices in accordance with San Francisco Administrative Code Section 23.61 (collectively, "Prevailing Wage Requirements"). Tenant agrees to reasonably cooperate with City in any action or proceeding against a Contractor or Subcontractor that fails to comply with the Prevailing Wage Requirements. Tenant shall include, and shall require its subtenants, Contractors and Subcontractors (regardless of tier) to include the Prevailing Wage Requirements and the agreement to cooperate in City enforcement actions in any Construction Contract with specific reference to San Francisco Administrative Code Section 23.61. Each such Construction Contract shall name the City and County of San Francisco, affected workers, and employee organizations formally representing affected workers as third party beneficiaries for the limited purpose of enforcing the Prevailing Wage Requirements, including the right to file charges and seek penalties against any Contractor or Subcontractor in accordance with San Francisco Administrative Code Section 23.61. Provided that Tenant complies with the foregoing obligations under this Section 9.5(d), (a) Tenant shall not be found to be in breach of this Lease due to a Contractor's or Subcontractor's failure to pay Prevailing Wages, employ Apprentices or otherwise comply with this Section 9.5(d) and (b) if a Contractor or Subcontractor fails to pay Prevailing Wages, employ Apprentices or otherwise comply with this Section 9.5(d), City will seek the remedies specified in San Francisco Administrative Code Section 23.61 against the breaching Contractor or Subcontractor directly (and not against Tenant). For the current Prevailing Rate of Wages, see www.sfgov.org/olse or call the OLSE at 415-554-6235. Tenant shall also pay, and shall require its subtenants, Contractors and Subcontractors (regardless of tier) to pay, the Prevailing Rate of Wage for the following activities on the Premises as set forth in and to the extent required by San Francisco Administrative Code Chapter 21C: a Public Off-Street Parking Lot, Garage or Automobile Storage Facility (as defined in Section 21C.3), a Show (as defined in Section 21C.4), a Special Event (as defined in Section 21C.8), Broadcast Services (as defined in Section 21C.9), Commercial Vehicles, Loading and Unloading for Shows and Special Events (as defined in Section 21C.10), and Security Guard Services for Events (as defined in Section 21C.11).
- (e) <u>Safety Matters</u>. Tenant, while performing the construction of the Initial Improvements and any Subsequent Construction or maintenance or repair of the Improvements (for purposes of this <u>Section 9.5(e)</u> only, "**Work**"), shall undertake commercially reasonable

measures in accordance with good construction practices to minimize the risk of injury or damage to adjoining portions of the Premises and Improvements and the surrounding property, or the risk of injury to members of the public, caused by or resulting from the performance of its Work. Tenant shall erect appropriate construction barricades to enclose the areas of such Work and maintain them until such Work has been substantially completed, to the extent reasonably necessary to minimize the risk of hazardous construction conditions.

# **9.6.** As-Built Plans and Specifications.

With respect to each Phase of the Initial Improvements and any Subsequent Construction (but excluding tenant improvements) costing Five Hundred Thousand Dollars (\$500,000) as Indexed, or more, for which Port's approval was required under Article 9, Tenant shall furnish to Port one set of design/permit drawings in their finalized form and as-built plans and specifications (in both hard copy and AutoCad format, or such other form as reasonably requested by Port), specifications and surveys with respect to such Initial Improvements and Subsequent Construction within one hundred twenty (120) days following Completion. As used in this Section 9.6 "asbuilt plans and specifications" means as-built field documents prepared during the course of construction, including all requests for information responses, field orders, change orders and other corrections to the documents made during the course of construction. Submittals shall be both in the form of full-size, hard paper copies and converted into electronic format (or such other format as is industry standard at the time of submittal), and in such format as is reasonably required by Port's building department at the time of submittal. If Tenant fails to provide such as-built plans and specifications to Port within the time period specified herein, and such failure continues for an additional thirty (30) days following written request from Port, Port shall thereafter have the right to cause an architect or surveyor selected by Port to prepare as-built plans and specifications showing such Initial Improvements and Subsequent Construction, and the reasonable cost of preparing such plans and specifications shall be reimbursed by Tenant to Port as Additional Rent. Nothing in this Section 9.6 shall limit Tenant's obligations, if any, to provide plans and specifications in connection with the Initial Improvements and Subsequent Construction under applicable regulations adopted by Port in its regulatory capacity. Tenant is permitted to disclaim any representations or warranties with respect to the as-built plans and specifications provided hereunder, and, at Tenant's request, Port shall provide Tenant with a release from liability for future use of the applicable materials, in a form acceptable to Tenant and Port.

# **9.7.** Adequate Security.

Tenant shall have the right to substitute any Adequate Security provided hereunder, or any portion thereof, for another form of Adequate Security that meets all of the requirements of Adequate Security hereunder. If more than one instrument of Adequate Security is provided by Tenant for a Phase of the Initial Improvements, then such instruments shall not be cross-defaulted and liability thereunder shall be several and not joint. In the event that a claim or demand may be made against more than one instrument of Adequate Security, Port shall have the right to proceed against any or all of such Adequate Security instruments simultaneously or in such order as may be determined by Port. If at any time that a Guaranty has been provided, a Material Change to Guarantor occurs or the Net Worth of Guarantor falls below the then-applicable Net Worth Requirement, Tenant shall notify Port as soon as reasonably practicable and within twenty (20) days after the occurrence of such Material Change to Guarantor or Guarantor's failure to

maintain the Net Worth Requirement, deliver to Port a new Guaranty (or other form of Adequate Security) (provided, however, if such Material Change to Guarantor or Guarantor's failure to maintain the Net Worth Requirement is reversed or voided in such twenty (20) day period, then Tenant shall have no obligation to deliver to Port a new Guaranty (or other form of Adequate Security)). For avoidance of doubt, it shall be an Event of Default if such failure to meet the Net Worth Requirement or Material Change to Guarantor is not reversed or voided, and Tenant fails to deliver to Port a new Guaranty (or other form of Adequate Security) within twenty (20) days after the occurrence of such failure to meet the Net Worth Requirement or Material Change to Guarantor as provided in the preceding sentence. Any Adequate Security provided by Tenant shall be proportionately reduced upon partial satisfaction of the obligations secured thereby to the extent reasonably approved by Port or provided in such Adequate Security, and, if requested by Tenant or the obligor under such Adequate Security, Port shall provide a written confirmation of such reduction promptly (and, in any event, within five (5) Business Days) following such request. Port shall release and return any unused portion of any Adequate Security promptly (and, in any event, within thirty (30) days) following the Completion of the Phase of the Initial Improvements secured thereby and, if requested by Tenant or the obligor under such Adequate Security, provide a written confirmation of such release and return promptly (and, in any event, within five (5) Business Days) following such request.

## 10. UTILITY SERVICES

# 10.1. Utility Services.

Provision of Services. Port, in its proprietary capacity as owner of the Premises and landlord under this Lease, shall not be required to provide any utility services to the Premises or any portion of the Premises. Tenant shall be responsible for contracting with, and obtaining, all necessary utility and other services as may be necessary and appropriate to the uses to which the Premises are put, it being acknowledged that City (including the SFPUC) may be the sole and exclusive provider to the Premises of certain public utility services. Tenant shall pay or cause to be paid as the same become due all deposits, charges, meter installation fees, connection fees and other costs for all public or private utility services at any time rendered to the Premises or any part of the Premises, and shall do all other things required for the maintenance, repair, replacement and continuance of all such services. Tenant agrees, with respect to any public utility services provided to the Premises by City, that no act or omission of City in its capacity as a provider of public utility services shall abrogate, diminish, or otherwise affect the respective rights, obligations and liabilities of Tenant and Port under this Lease, or entitle Tenant to terminate this Lease or to claim any abatement or diminution of Rent. Further, Tenant covenants not to raise as a defense to its obligations under this Lease, or assert as a counterclaim or cross-claim in any litigation or arbitration between Tenant and Port relating to this Lease, any Losses arising from or in connection with City's provision (or failure to provide) public utility services, except to the extent to preserve its rights hereunder that failure to raise such claim in connection with such litigation would result in a waiver of such claim. The foregoing shall not constitute a waiver by Tenant of any claim it may now or in the future have (or claim to have) against any such public utility provider relating to the provision of (or failure to provide) utilities to the Premises.

# 10.2. Hetch Hetchy Power.

At Port's request given no more than sixty (60) days following Tenant's notice to Port that SFPUC has completed and delivered the Feasibility Study under and as defined in the DA, Tenant will purchase all of its electricity for the Improvements from City's utility, Hetch Hetchy Water and Power, at then prevailing market rates for comparable types of load so long as it is reasonably available for Tenant's needs and City determines based on the Feasibility Study that such service is feasible, provided that Tenant under no circumstances shall have an obligation to purchase such services from City if the level of services is materially less, or the price paid is materially more, than that available on the open market. At Tenant's request from time to time, Port shall reasonably cooperate with Tenant, at no out of pocket cost or liability to Port, in connection with the purchase of such electricity, including, to the extent that Port has available electricity capacity and all necessary rights and the ability to do so, in connection with making such electricity available to the Premises through other property owned by Port.

#### 10.3. Waiver.

Tenant hereby waives any benefits of any applicable Law, including the provisions of California Civil Code Section 1932(1), permitting the termination of this Lease due to any interruption or failure of utility services. The foregoing does not constitute a waiver by Tenant of any claim it may now or in the future have (or claim to have) against any public utility provider relating to the provision of (or failure to provide) utilities to the Premises.

### 11. DAMAGE OR DESTRUCTION

# 11.1. General; Notice; Waiver.

- (a) <u>General</u>. If at any time during the Term any damage to or destruction of all or any portion of the Premises, including the Improvements, occurs, then the rights and obligations of the Parties shall be as set forth in this Article 11.
- (b) Notice. If there is a Casualty Event (i) that could materially impair use or operation of any portion of the Improvements for their intended purposes for a period of thirty (30) days or longer, or (ii) for which the estimated cost of Restoration exceeds Two Hundred Fifty Thousand Dollars (\$250,000) (which amount includes both hard and soft costs of a Restoration, including architectural fees, permit and financing costs), Tenant shall promptly, but not more than ten (10) days after the occurrence of such Casualty Event, give written notice thereof to Port describing with as much specificity as is reasonable, given the ten-day time constraint, the nature and extent of any damage to or destruction of the Improvements resulting therefrom; provided, however, that Tenant shall provide Port with a supplemental and more detailed written report describing such matters with specificity within ninety (90) days after the Casualty Event.
- (c) <u>Waiver</u>. The Parties intend that this Lease fully govern all of their rights and obligations in the event of any damage to or destruction of the Premises. Accordingly, Port and Tenant each hereby waive the provisions of Sections 1932(2) and 1933(4) of the California Civil Code.

# 11.2. Rent and Other Obligations after Damage or Destruction.

If there is any damage to or destruction of the Premises, including the Improvements thereon, or any part thereof, from fire or any other cause, (i) this Lease shall not terminate, Tenant shall not be permitted to surrender this Lease, and Tenant shall not be relieved from any obligations hereunder, in any case except as otherwise specifically provided herein, and (ii) at all times before completion of Restoration or any termination in accordance with this <u>Article 11</u>, Tenant shall continue to pay to Port all Rent at the times and in the manner described in this Lease.

### 11.3. Tenant's Restoration.

If there is a Casualty Event that (i) does not constitute an Uninsured Casualty or Major Damage or Destruction or (ii) does constitute an Uninsured Casualty or Major Damage or Destruction and, in each instance, Tenant elects to commence and complete the Restoration of the applicable Improvements under its Casualty Notice, then Tenant shall, within a reasonable period of time (allowing for securing necessary Regulatory Approvals and subject to Excusable Delay), commence and diligently Restore the applicable Improvements without regard to the amount or availability of insurance proceeds. All such Restoration performed by Tenant shall be in accordance with the procedures set forth in <a href="Article 9">Article 9</a> relating to Subsequent Construction and shall be at Tenant's sole expense. Subject to the rights of any Lender pursuant to the terms of its Mortgage to require the application of all or any portion of insurance proceeds in the order required by such Mortgage, Tenant shall use all applicable insurance proceeds to the extent required to perform such Restoration. Tenant shall have the sole right to negotiate any insurance settlement for claims in connection with such Restoration.

# 11.4. Major Damage or Destruction or Uninsured Casualty.

- (a) Tenant's Election to Restore or Terminate.
  - (i) <u>Uninsured Casualty or Major Damage or Destruction</u>.

If an event of Major Damage or Destruction occurs during the last ten (10) years of the Term, or if an event of Uninsured Casualty occurs at any time during the Term, then at any time prior to the date that is one hundred eighty (180) days following the occurrence of such Major Damage or Destruction or Uninsured Casualty, then Tenant shall provide Port with written notice (the "Casualty Notice") either (1) electing to commence and complete Restoration of the applicable Improvements, or (2) electing to terminate this Lease (subject to Section 11.4(b)).

# (ii) Other Circumstance Allowing Termination.

Notwithstanding the foregoing or subsequent provisions of this <u>Article 11</u>, Tenant shall not be required to Restore the Improvements and may elect to terminate this Lease in accordance with this <u>Article 11</u> if the then existing Laws would not allow Tenant to Restore the Improvements.

(b) <u>Conditions to Termination</u>. As a condition precedent to the effectiveness of Tenant's termination of this Lease upon the occurrence of either of the events set forth in <u>Section 11.4(a)</u>, Tenant shall do all of the following:

- (i) in its election to terminate described in <u>Section 11.4(a)</u>, state the estimated cost of Restoration, and, with respect to an Uninsured Casualty only, the amount by which the estimated cost of Restoration plus the amount of any applicable policy deductible exceeds insurance proceeds payable under the insurance policies required to be carried by Tenant hereunder (or those insurance proceeds that would have been payable but for Tenant's failure to maintain the insurance policies and coverages required to be carried by Tenant hereunder);
- (ii) at its sole cost and expense, restore the Premises to a safe, clean and good condition, including any partial construction, to the extent needed to secure and use the Premises to the extent possible and reasonable, in accordance with plans approved by Port, or at Port's request, demolish and remove the Improvements;
  - (iii) cure all Events of Default that are reasonably susceptible to cure;
- (iv) pay in full all utility charges and Impositions payable by Tenant hereunder that are incurred up to and including the effective date of the termination; and
- (v) maintain all the insurance required to be maintained under <u>Article 16</u> until the effective date of the termination, and assign to Port as of the effective date of termination all insurance policies and rights to future insurance proceeds, as well as any unexpended insurance proceeds received by Tenant, in any case to the extent that such policies, rights and proceeds relate to the Casualty Event and the Premises and are assignable by Tenant to Port.
- (c) <u>Payment of Insurance Proceeds on Termination</u>. If Tenant terminates this Lease under <u>Section 11.4(a)</u>, then Tenant shall pay or cause to be paid the following amounts solely from the insurance proceeds from the insurance policies required to be carried by Tenant hereunder to the extent that such policies and proceeds relate to the Casualty Event and the Premises promptly following receipt of such proceeds, in the order required by any senior Mortgage or, if none, in the following order of priority:
- (i) First, to Tenant, for the actual costs incurred by Tenant for Restoration performed by Tenant and to alleviate any conditions caused by the Casualty Event that could cause an immediate or imminent threat to the public safety and welfare or damage to the environment, including any demolition, restoration and hauling of rubble or debris and, for the avoidance of doubt, including costs of Restoration under Section 11.4(b);
- (ii) Second, to Port, for the payment of all accrued and unpaid Rent owed to Port under this Lease, if any, by Tenant, up to the effective date of the termination;
- (iii) Third, (x) first, to each Non-Affiliate Lender demanding payment, in order of priority, in an amount not to exceed the aggregate amounts that are secured by the applicable Non-Affiliate Mortgage then owed to each such Non-Affiliate Lender (to the extent the Non-Affiliate Lender has the legal right to payment in lieu of the payments being used for Restoration), and (y) thereafter, to any other Lender demanding payment, in order of priority, in an amount not to exceed the aggregate amounts that are secured by the applicable Mortgage then owed to each such Lender (to the extent the Lender has the legal right to payment in lieu of the payments being used for Restoration):

- (iv) Fourth, to the appropriate governmental or quasi-governmental entity for all Impositions due up to the effective date of the termination;
- (v) Fifth, to Port for Restoration or demolition work to the Premises related to the Casualty Event; and
- (vi) Finally, divided proportionately between Port, for the value of Port's reversionary interest in the Premises and Improvements (in their condition immediately before the Casualty Event) as of the date the Term would have expired but for the Casualty Event, and Tenant, for the value of the Improvements for the remaining unexpired portion of the Term (in their condition immediately before the Casualty Event) less any proceeds distributed in repayment of any Mortgages as provided in Section 11.4(c)(iii).
- Port's Election Upon Notice of Termination. Notwithstanding the foregoing, if Tenant elects to terminate this Lease solely due to an Uninsured Casualty under circumstances permitted by Section 11.4(a), then Port may, by notice in writing given to Tenant within sixty (60) days after the date Tenant provides Port the Casualty Notice, elect by notice thereof to Tenant: (i) to accept the termination, or (ii) continue the Lease in effect and pay to Tenant the amount by which the cost of Restoration (including the cost of any required code upgrades) exceeds the net proceeds of any insurance payable under the policies of insurance that Tenant is required to carry under Article 16 (or those insurance proceeds that would have been payable but for Tenant's failure to maintain the insurance policies and coverages required by this Lease) by more than Five Hundred Thousand Dollars (\$500,000), as Indexed, plus the amount of any applicable policy deductible (except that in the case of damage or destruction caused by earthquake or flood, the amount of the policy deductible shall be deemed to be the lesser of the amount of the policy deductible for non-earthquake damage under Tenant's property insurance policy maintained under Section 16.1(a)(ii) as of the date of the Casualty Event, or the actual amount of the policy deductible) and require Tenant to Restore the applicable Improvements. Such required Restoration shall be performed by Tenant in accordance with Section 11.3, subject to receipt of such payment from Port. Port's failure to make any such election within the timeframe provided above shall be deemed an election under clause (i).

# 11.5. Distribution upon Lease Termination.

If there is a Casualty Event and before completion of all applicable Restoration this Lease terminates for any reason, including a termination by Port due to Tenant's Event of Default and excluding a termination by Tenant as provided in Section 11.4(a), then upon such termination Tenant shall assign to Port as of the effective date of such termination all insurance policies and rights to future insurance proceeds, as well as any unexpended insurance proceeds received by Tenant, in any case to the extent that such policies, rights and proceeds relate to the applicable Casualty Event and the Premises and are assignable by Tenant to Port (and, for the avoidance of doubt, assignable under any such Mortgage) until the Restoration is complete and all damages and awards have been paid to Port. Any excess proceeds shall be paid to (or retained by) Tenant.

### 11.6. Effect of Termination.

Upon termination in accordance with this <u>Article 11</u>, Tenant shall quit and surrender to Port the Premises in accordance with <u>Article 30</u>. Upon the effective date of the termination, the Parties shall be automatically released from this Lease without further obligations to the other Party except that any provision hereof that explicitly survives the expiration or earlier termination of this Lease shall survive any such termination in accordance herewith. The rights of any Lender hereunder and any rights of Tenant or Port to receive insurance proceeds in accordance with the provisions of this Lease shall survive the termination of this Lease. If Tenant elects to terminate the Lease under <u>Section 11.4(a)</u> and Port has not elected to continue this Lease in accordance with <u>Section 11.4(d)(ii)</u>, then this Lease shall terminate effective as of the later to occur of (i) the date that Tenant has fully complied with all other provisions of <u>Section 11.4(b)</u> and (ii) that date that is sixty (60) days after the date Tenant provides Port the Casualty Notice.

### 11.7. Use of Insurance Proceeds.

All all-risk property coverage insurance proceeds, earthquake and flood proceeds, boiler and machinery insurance proceeds, and any other insurance proceeds required hereunder in any case that are paid to Tenant by reason of any Casualty Event, if any (other than business or rental interruption insurance), must be used by Tenant to the extent necessary for payment of the cost of the Restoration of the applicable Improvements, except to the extent otherwise provided by the terms of any applicable Mortgages permitted hereunder and except as specifically provided to the contrary in this <u>Article 11</u>.

# 12. CONDEMNATION

# 12.1. General; Notice; Waiver.

- (a) <u>General</u>. If at any time during the Term there is any Condemnation of all or any portion of the Premises, including any of the Improvements thereon, the rights and obligations of the Parties shall be as set forth in this Article 12.
- (b) <u>Notice</u>. In case of the commencement of any proceedings or negotiations that might result in a Condemnation of all or any portion of the Premises during the Term, the Party learning of such proceedings or negotiations shall promptly give written notice of such proceedings or negotiations to the other Party. Such notice shall describe with as much specificity as is reasonable, the nature and extent of such Condemnation or the nature of such proceedings or negotiations and of the Condemnation that might result therefrom, as the case may be.
- (c) <u>Waiver</u>. Except as otherwise provided in this <u>Article 12</u>, the Parties intend that the provisions of this Lease shall govern their respective rights and obligations in the event of a Condemnation. Accordingly, but without limiting any right to terminate this Lease given Tenant in this <u>Article 12</u>, Tenant waives any right to terminate this Lease upon the occurrence of a Partial Condemnation under Sections 1265.120 and 1265.130 of the California Code of Civil Procedure.

### 12.2. Total Condemnation.

If there is a Condemnation of the entire Premises or the Leasehold Estate (a "**Total Condemnation**"), this Lease shall terminate as of the Condemnation Date. Upon such termination, except as otherwise set forth in this Lease, the Parties shall be released without further obligations to the other Party as of the Condemnation Date, subject to the payment to Port of accrued and unpaid Rent up to the Condemnation Date and the provisions that explicitly survive the expiration or earlier termination of this Lease.

## 12.3. Substantial Condemnation, Partial Condemnation.

If there is a Condemnation other than a Total Condemnation, the rights and obligations of the Parties shall be as follows:

- Substantial Condemnation. If there is a Substantial Condemnation, this Lease shall terminate at Tenant's option (which shall be exercised, if at all, at any time within ninety (90) days after the Condemnation Date by delivering written notice of termination to Port) as of the Condemnation Date. Notwithstanding the foregoing, Tenant shall have no right to terminate this Lease under this Section 12.3(a) if (1) the Condemnation is of the Leasehold Estate for less than one year (unless such Condemnation occurs during the last five (5) years of the Term) or (2) the condition that renders the Premises or any portion thereof untenantable, unsuitable or economically infeasible for the Permitted Uses, as the case may be, can be cured by the performance of Restoration (unless such Condemnation occurs during the last five (5) years of the Term or if Tenant reasonably anticipates, based upon a schedule of performance for such Restoration prepared with due diligence by Tenant in consultation with Port, that at the time of completion of the Restoration less than five (5) years would remain in the Term), and (x) the cost of such Restoration, after application of any Award received by Tenant for such Restoration, is not more than the Threshold Amount, or (y) Port (without any obligation to do so) gives written notice to Tenant within thirty (30) days (subject to extension as provided below) after receipt of Tenant's termination notice that Port agrees, at its cost and expense, to pay any amount by which the costs of such Restoration exceeds the sum of (i) any Award received by Tenant for such Restoration and (ii) the Threshold Amount. Port's right to exercise the option described in clause (2) above shall be conditioned upon Port and Tenant reaching an agreement within ninety (90) days following Port's delivery of such notice with respect to the schedule of performance for such Restoration, the timing of payments of Port's contribution to the costs of Restoration (including to the extent not available from Port's share of the Award), and any other related issues that may be necessary or appropriate for resolution in connection with such Restoration and the payment for such Restoration. If such satisfactory agreement is reached, Tenant shall thereafter commence and complete such Restoration as promptly as reasonably practicable by using commercially reasonable diligence in accordance with the procedures set forth in Article 9 relating to Subsequent Construction, subject to receipt of such payment from Port and Section 12.4, subject to events of Excusable Delay. If no satisfactory agreement is reached within such ninety (90) day period, then Tenant shall have the right to terminate this Lease in accordance with this Section 12.3 notwithstanding Port's notice.
- (b) <u>Partial Condemnation</u>. If there is a Condemnation of any portion of the Premises or the Leasehold Estate that does not result in a termination of this Lease under Section 12.2 or

<u>Section 12.3(a)</u> (a "**Partial Condemnation**"), this Lease shall terminate only as to the portion of the Premises or the Leasehold Estate taken in such Partial Condemnation, effective as of the Condemnation Date. In the case of a Partial Condemnation, this Lease shall remain in full force and effect as to the portion of the Premises or the Leasehold Estate remaining immediately after such Condemnation, and Tenant shall promptly commence and complete, subject to events of Excusable Delay, any necessary Restoration of the remaining portion of the Premises. All such Restoration performed by Tenant shall be in accordance with the procedures set forth in <u>Article 9</u> relating to Subsequent Construction and shall be at Tenant's sole expense.

#### 12.4. Awards.

Subject to <u>Sections 12.5</u> and <u>12.6</u>, Awards and other payments to either Port or Tenant on account of a Condemnation, less reasonable costs, fees and expenses of the receiving Party (including its Attorneys' Fees and Costs) incurred in the collection thereof ("**Net Awards and Payments**") shall be allocated between Port and Tenant as follows:

- (i) First, to Port for the payment of all accrued and unpaid Rent owed to Port under this Lease, if any, by Tenant, up to the date of payment;
- (ii) Second, for a Partial Condemnation, to pay costs of Restoration incurred by Tenant, in which case, the portion of the Net Awards and Payments allocable to Restoration shall be payable to Tenant in accordance with the requirements governing payment of insurance proceeds set forth in Section 11.7;
- (iii) Third, to Port for the value of the condemned land only, subject to the particular uses of the Premises existing immediately before the Condemnation Date, and without reference to, or inclusion of, Port's reversionary interest in the value of the Improvements;
- (iv) Fourth, (x) first, to each Non-Affiliate Lender, in order of priority, in an amount not to exceed the aggregate amounts that are secured by the applicable Non-Affiliate Mortgage then owed to each such Non-Affiliate Lender, together with its reasonable out of pocket expenses and charges in collecting the Net Awards and Payments, including its reasonable attorneys' fees incurred in the Condemnation, and (y) thereafter, to any other Lender, in order of priority, in an amount not to exceed the aggregate amounts that are secured by the applicable Mortgage then owed to each such Lender, together with its reasonable out of pocket expenses and charges in collecting the Net Awards and Payments, including its reasonable attorneys' fees incurred in the Condemnation;
- (v) Fifth, to Tenant to the extent that the Net Awards and Payments are attributable to the Leasehold Estate, not including the value of the Improvements, for the remaining unexpired portion of the Term to the original scheduled Expiration Date; and
- (vi) Sixth, divided proportionately between Port, for the value of Port's reversionary interest in the Improvements (based on the original scheduled Expiration Date), and Tenant, for the value of the Improvements for the remaining unexpired portion of the Term to the original scheduled Expiration Date.

(vii) Notwithstanding anything to the contrary set forth above, any portion of the Net Awards and Payments that has been specifically designated by the condemning authority or in the judgment of any court to be payable to Port or Tenant on account of any interest in the Premises or the Improvements separate and apart from the value of Port's reversionary interest in the Premises, the Improvements, the Leasehold Estate, or the value of the Improvements on the Premises for the remaining unexpired portion of the Term, shall be paid to Port or Tenant, as applicable, as so designated by the condemning authority or judgment.

# 12.5. Temporary Condemnation.

If there is a Partial Condemnation for a temporary period lasting less than the remaining Term, this Lease shall remain in full force and effect, and the entire Award shall be payable to Tenant.

# **12.6.** Personal Property.

Notwithstanding <u>Section 12.4</u>, Port shall not be entitled to any portion of any Net Awards and Payments payable in connection with the Condemnation of any Personal Property.

### 13. LIENS

### 13.1. Liens.

Tenant shall not create or permit the attachment of, and shall promptly discharge at no cost to Port, any lien, security interest, or encumbrance on the Premises or the Leasehold Estate, other than (i) this Lease and matters permitted hereunder, including permitted subleases and the CC&Rs, (ii) liens for non-delinquent Impositions, except only for Impositions being contested as permitted by Article 5, (iii) Mortgages permitted under Article 34 and (iv) liens of mechanics, material suppliers or vendors, or rights thereto, for sums that under the terms of the related contracts are not at the time due or that are being contested as permitted by Article 5.

### 13.2. Mechanics' Liens.

Tenant shall keep the Premises and the Leasehold Estate free from any liens arising out of any work performed, materials or services furnished, or obligations incurred by Tenant or any of its Agents. Tenant shall provide thirty (30) days' advance written notice to Port of the Commencement of any Phase of the Initial Improvements or any Subsequent Construction to allow Port to post a notice of non-responsibility on the Premises. If Tenant does not, within sixty (60) days following the imposition of any such lien, cause the same to be released of record or post a bond or take such other action reasonably acceptable to Port, it shall constitute an Event of Default (after notice and cure periods as provided in Section 20.1(h)), and Port shall have, in addition to all other remedies provided by this Lease or by Law, the right but not the obligation to cause the same to be released by such means as it deems proper, including payment of the claim giving rise to such lien. All sums paid by Port (together with interest thereon at the Default Rate computed from the date Port makes such payment until paid by Tenant) for such purpose and all expenses incurred by Port in connection therewith must be reimbursed to Port by Tenant upon demand by Port. Port shall include with its demand, supporting documentation.

### 14. TRANSFERS AND SUBLEASES

### 14.1. Transfer.

- (a) Port Notice and Consent. Tenant shall not (i) suffer or permit any Significant Change to occur, or (ii) assign or sell any interest in this Lease, either voluntarily or by operation of law (each of clauses (i) and (ii) above, a "**Transfer**"), without the prior written consent of Port. Notwithstanding the foregoing, if Tenant assigns its right, title and interest under the DA with respect to the Premises to any Person (for the avoidance of doubt, including any Management Association), then Tenant shall contemporaneously assign this Lease to such Person (for the avoidance of doubt, without obtaining any consent of Port); provided, however, that Tenant shall not be permitted to assign this Lease to any Management Association without the consent of Port pursuant to this sentence unless as of the date of assignment the Initial Improvements have been substantially completed, the CC&Rs have been recorded and the RMA with a Contingent Services Special Tax has been adopted in accordance with the Financing Plan, in each case to the extent applicable to the portion of the Premises so assigned. Tenant shall provide not less than ten (10) Business Days' notice to Port before any anticipated Transfer.
- (b) <u>Mortgaging of Leasehold</u>. Notwithstanding anything to the contrary in this Lease, at any time during the Term, Tenant shall have the right, without Port's consent, to directly or indirectly Transfer to a Lender or other purchaser at a foreclosure sale under the provisions of a Mortgage, subject to the limitations, rights and conditions set forth in <u>Article 34</u>.
- (c) <u>Conditions</u>. Except to the extent waived by Port, any Transfer (other than to a Lender or other purchaser at a foreclosure sale) shall be subject to the conditions precedent that at the time of such Transfer there shall be no Event of Default continuing on the part of Tenant under this Lease, unless Tenant or the proposed transferee has made provisions to cure the applicable Event of Default and such provisions are satisfactory to Port in its reasonable discretion, and that Tenant has delivered the following to Port:
- (i) With respect to any Transfer other than a Significant Change, an assignment and assumption agreement, in recordable form, to be executed by Tenant and the proposed transferee, wherein such proposed transferee assumes all obligations of Tenant (a) under this Lease to and including the end of the Term and (b) to the extent that the DA is in effect with respect to the Premises at the time of such Transfer, under the DA with respect to the Premises to and including the end of the Term (as defined in the DA), in each case to the extent of the Transfer. The assignment and assumption agreement shall be in substantially the form attached as Exhibit H and any material changes to the attached form shall be subject to the review and approval of Port. Port shall use good faith efforts to complete such review and grant or withhold approval within thirty (30) days after Port's receipt of such material changes.
  - (ii) Information about the proposed transferee reasonably requested by Port;
- (iii) Sufficient funds to reimburse Port for its Attorneys' Fees and Costs to review the proposed Transfer, provided if Port has not delivered to Tenant an invoice for Attorneys' Fees and Costs before the effective date of Transfer, Tenant shall reimburse Port for same upon receipt of such invoice; and

- (iv) An estoppel certificate executed by Tenant pursuant to <u>Section 25</u>, which estoppel certificate shall be effective as of the effective date of Transfer.
- (d) <u>Preservation of Port Rights and Remedies</u>. It is the intent of the Parties, to the fullest extent permitted by law and equity and excepting only in the manner and to the extent specifically provided otherwise in this Lease, that no Transfer, however consummated or occurring, and whether voluntary or involuntary, may operate, legally or practically, to deprive or limit Port of or with respect to any rights or remedies or controls provided in this Lease with respect to the Premises and the construction of the Improvements that Port would have had, had there been no such Transfer.
- (e) No Release of Tenant's Pre-Transfer Liability or Waiver by Virtue of Consent. Upon any permitted Transfer of this Lease to a Management Association, the transferor shall be automatically released of any liability arising out of or with regard to the performance of any covenants or obligations to be performed by Tenant hereunder on or after the date of such Transfer; provided, however, that notwithstanding anything to the contrary contained in any Management Association governing document, the transferor shall make commercially reasonable efforts to enforce the maintenance and repair obligations of the Management Association under this Lease during the term of the DA. The consent by Port to a Transfer is not in any way to be construed to (i) from and after the date of such Transfer, relieve Tenant of any liability arising out of or with regard to the performance of any covenants or obligations to be performed by Tenant hereunder or under the DA (if in effect) before the date of such Transfer, or (ii) relieve any transferee of Tenant from its obligation to obtain the express consent in writing of Port to any further Transfer.
- (f) Notice of Significant Changes. Following a Significant Change, if requested by Port, Tenant shall furnish Port with (i) a certificate signed and certified as true, correct and complete by an appropriate officer of Tenant setting forth the purchaser or purchasers of the ownership interest resulting in the Significant Change and (ii) a reaffirmation from Tenant that it shall continue to be obligated under all the terms and conditions of this Lease notwithstanding such Significant Change.
- request to Port for the approval of the terms of a proposed Transfer or for a decision by Port as to whether in its opinion a proposed Transfer requires Port consent under the provisions of this Article 14. Within thirty (30) days of the making of such a request and the furnishing by Tenant to Port of all documents and instruments with respect thereto reasonably requested by Port, Port must notify Tenant in writing of Port's reasonable business grounds for its approval or disapproval of the proposed Transfer or of Port's determination that the proposed Transfer does not require Port's consent. If Port disapproves the proposed Transfer, or determines that it requires the consent of Port, as applicable, it must specify in writing the grounds for its disapproval, its reason that consent is required, or both, as applicable.
- (h) <u>Scope of Prohibitions on Assignment</u>. The prohibitions provided in this <u>Section 14.1</u> shall not be deemed to prevent the granting of any Mortgage subject to compliance with Article 34.

#### 14.2. Subleases.

- (a) <u>Qualifying Subleases</u>. Tenant has the right to enter into subleases for any Permitted Uses comprising two hundred (200) square feet or less without the prior written consent of Port upon satisfaction of the following conditions:
- (i) The sublease (and any further sub-subleases) are all subject to the applicable terms and conditions of this Lease, and the terms and conditions of the sublease and further subsubleases are consistent with the provisions of this Lease (or to the extent of any inconsistency, the provisions of this Lease shall prevail), provided that subtenants need not be obligated for Restoration nor to undertake any obligations with respect to the subleased space that is Tenant's obligation under such sublease;
  - (ii) The term of the sublease does not extend beyond the Term;
- (iii) The sublease rental rates reflect an arms-length transaction at fair market rents for subleases as reasonably determined by Tenant, except to the extent that the subtenant is a governmental entity or non-profit organization (or any joint venture with such organization) or the sublease is for non-profit purposes;
- (iv) The sublease contains (or incorporates by reference) an Indemnification and waiver of claims provision benefitting Port and City that is substantially and materially the same as <u>Article 15</u> except that the term "Tenant" in such provision means the subtenant and subtenant's obligation to Indemnify Port from any Losses arising outside the Premises shall be limited to Losses arising from the acts or omissions of subtenant or its Agents;
- (v) The sublease requires that under all liability and other insurance policies, "THE CITY AND COUNTY OF SAN FRANCISCO, THE SAN FRANCISCO PORT COMMISSION, AND THEIR OFFICERS, AGENTS, EMPLOYEES AND REPRESENTATIVES" are additional insureds by written endorsement and acknowledging Port's rights to reasonably demand increased coverage to normal amounts consistent with the subtenant's business activities on the Premises, to the extent commercially available at reasonable prices;
- (vi) Subject to the rights of any Lender, the sublease (or a non-disturbance and attornment agreement or other agreement entered into by Port and the subtenant) requires subtenant to pay the sublease rent and other sums due under the sublease directly to Port upon receiving written notice from Port that an Event of Default has occurred and is continuing;
- (vii) The sublease requires the subtenant to expressly waive entitlement to any and all relocation assistance and benefits in connection with this Lease;
- (viii) The sublease contains (or incorporates by reference) a provision similar to Section 33.1 requiring subtenant to permit Port and City to enter its subleased space;
- (ix) The sublease requires subtenant to comply with the provisions set forth in Article 38, to the extent applicable; and

- (x) The sublease contains a provision that if for any reason whatsoever this Lease is terminated, unless Port has agreed otherwise in a non-disturbance and attornment agreement or other agreement entered into by Port and the subtenant, such termination shall result in the automatic termination of the sublease and any existing sub-subleases for the subleased space.
- (b) <u>Required Sublease Information</u>. Within fifteen (15) days of executing any sublease, Tenant must provide Port with all information related to such sublease necessary for Port to comply with San Francisco Administrative Code Sections 23.38 and 23.39 (or any successor statute).
- (c) Other Subleases. For the avoidance of doubt, any subleases comprising more than two hundred (200) square feet or that do not comply with the conditions described in Section 14.2(a) shall require the prior written consent of Port.

# **14.3.** Assignment of Rents.

Tenant hereby assigns to Port all rents and other payments of any kind, due or to become due, from any or present or future subtenant or others at the Premises as security for Tenant's obligations hereunder before actual receipt thereof by Tenant; provided, however, the foregoing assignment shall be subject and subordinate to any assignment made to a Lender under Article 34 until such time as Port has terminated this assignment following and during the continuation of an Event of Default (subject to Port's agreement to enter into a new lease with Lender and all other provisions of this Lease protecting Lender's interests in this Lease), at which time the rights of Port in all rents and other payments assigned pursuant to this Section 14.3 shall become prior and superior in right. Such subordination shall be self-operative. However, in confirmation thereof, Port shall, upon the request of each Lender, execute a subordination agreement in form and substance reasonably satisfactory to such Lender and to Port. Notwithstanding the foregoing, if this Lease terminates by reason of an Event of Default, any Lender that actually collected any rents or revenues pursuant to any assignment of rents or subleases made in its favor shall promptly remit to Port the amounts so collected (less the actual cost of collection) to the extent necessary to pay Port any Rent, including any and all Additional Rent, through the date of termination of this Lease. Such assignment shall be subject to the right of Tenant to collect such amounts except during the happening of any Event of Default under the provisions of this Lease. Port shall apply any net amount collected by it from such subtenants to the payment of Rent due under this Lease and remit any balance to Tenant.

## 14.4. Acknowledgment.

Tenant acknowledges and agrees that each of the rights of Port set forth in this <u>Article 14</u> is a reasonable limitation on Tenant's right to assign or sublet for purposes of California Civil Code Section 1951.4.

### 15. INDEMNIFICATION OF PORT

## **15.1.** Indemnification of Port.

Tenant shall Indemnify the Indemnified Parties from and against any and all Losses imposed upon or incurred by or asserted against any such Indemnified Party in connection with

the occurrence or existence of any of the following: (i) any accident, injury to or death of Persons or loss of or damage to property occurring on, under, or about the Premises or any part thereof; (ii) any use, possession, occupation, operation, maintenance, or management of the Premises or any part thereof by Tenant or any of its Agents or Invitees; (iii) any latent, design, construction or structural defect relating to the Initial Improvements and any Subsequent Construction, and any other matters relating to the condition of the Premises caused by Tenant or any of its Agents or Invitees; (iv) any failure on the part of Tenant or its Agents or Invitees, as applicable, to perform or comply with any of the terms of this Lease; (v) performance of any labor or services or the furnishing of any materials or other property in respect of the Premises or any part thereof by Tenant or any of its Agents or Invitees; and (vi) any civil rights actions or other similar legal actions or suits initiated by any of Tenant's subtenants, Agents or Invitees, in any case to the extent it relates to their use or occupancy of the Premises. Notwithstanding the foregoing, the foregoing Indemnity shall not apply to any and all Losses to the extent arising out of the gross negligence or willful misconduct of any Indemnified Party. Tenant may, and upon the request of such Indemnified Party shall, at Tenant's sole expense, resist and defend any action, suit or proceeding for which it has Indemnified any Indemnified Party under this Section 15.1 or any other Indemnification provision under this Lease, or cause the same to be resisted and defended by counsel designated by Tenant and reasonably approved by such Indemnified Party in writing.

# **15.2.** Immediate Obligation to Defend.

Tenant specifically acknowledges that it has an immediate and independent obligation to defend the Indemnified Parties from any claim that is actually or potentially within the scope of the Indemnity obligations under Section 15.1 or any other Indemnification provision under this Lease, even if such claim is or may be groundless, fraudulent or false, and such obligation arises at the time such claim is tendered to Tenant by an Indemnified Party and continues at all times thereafter; provided, however, that in the event of a final judgment determining that all or a portion of the claim fell outside the scope of such Indemnity obligations, Port shall reimburse Tenant within thirty (30) days after demand from Tenant for that portion of costs, fees and expenses expended by Tenant hereunder that was determined to be outside the scope of such Indemnity obligations.

# **15.3.** Not Limited by Insurance.

The insurance requirements and other provisions of this Lease shall not limit Tenant's Indemnification obligations under <u>Section 15.1</u> or any other Indemnification provision under this Lease.

### 15.4. Survival.

Tenant's obligations under this <u>Article 15</u> and under any other Indemnification provision under this Lease shall survive the expiration or earlier termination of this Lease with respect to matters arising before the effective date of such expiration or termination.

# 15.5. Other Obligations.

Tenant's obligations under this <u>Article 15</u> and any other Indemnification provision under this Lease are in addition to, and in no way shall be construed to limit or replace, any other obligations or liabilities which Tenant may have to Port in this Lease, at common law or otherwise.

## 15.6. Notice; Defense of Claims.

Port agrees to give prompt notice to Tenant with respect to any action, suit or proceeding filed or claim made against Port (or, upon Port's discovery thereof, against any Indemnified Party that Port believes in good faith is covered under Section 15.1 or any other Indemnification provision under this Lease) no later than the earlier of (a) ten (10) days after service of process as to any filed action, suit or proceeding or (b) fifteen (15) days after receiving notification of the assertion of any claim, in any case that Port has good reason to believe is likely to give rise to a claim for Indemnification under Section 15.1 or any other Indemnification provision under this Lease. The failure of Port to give such notice within such timeframes shall not affect the rights of Port or obligations of Tenant under this Lease except to the extent that Tenant is prejudiced by such failure. Tenant shall, at its option but subject to reasonable approval by Port, be entitled to control the defense, compromise or settlement of any such matter through counsel of Tenant's choice; provided, that in all cases Port shall be entitled to participate in such defense, compromise or settlement at its own expense. If Tenant fails, however, in Port's reasonable judgment, within a reasonable time following notice from Port alleging such failure, to take reasonable and appropriate action to defend, compromise or settle such suit or claim, Port shall have the right promptly to hire counsel to carry out such defense, compromise or settlement, and the reasonable expense of Port in so doing shall be due and payable to Port upon receipt by Tenant of a properly detailed invoice for such expense.

## 15.7. Waiver.

As a material part of the consideration for this Lease, Tenant hereby assumes the risk of, and waives, discharges, and releases any and all claims against the Indemnified Parties from, any Losses arising out of this Lease or relating to the Premises, including: (a) damages for death of or injury to any Person, or to property of any kind whatsoever and to whomever belonging; (b) goodwill; (c) business opportunities; (d) any act or omission of persons occupying adjoining premises; (e) theft; (f) explosion, fire, steam, oil, electricity, water, gas or rain, pollution or contamination; (g) inability to use all or any portion of the Premises due to sea level rise or flooding or seismic events; and (h) any other acts, omissions or causes arising at any time and from any cause, in, on, or under the Premises, including all claims arising from the joint, concurrent, active or passive negligence of any of the Indemnified Parties. The foregoing waiver, discharge and release shall not apply to Losses arising from or relating to the gross negligence or willful misconduct of any of the Indemnified Parties or constitute a release, acquittal or discharge of any of Port's obligations under this Lease.

Tenant expressly acknowledges and agrees that the amount payable by Tenant hereunder does not take into account any potential liability of the Indemnified Parties for any punitive, indirect or consequential damages (including lost profits). Port would not be willing to enter into this Lease in the absence of a complete waiver of liability for punitive, indirect or consequential

damages (including lost profits) due to the acts or omissions of the Indemnified Parties, and Tenant expressly assumes the risk with respect thereto. Accordingly, without limiting any Indemnification obligations of Tenant or other waivers or releases contained in this Lease and as a material part of the consideration of this Lease, Tenant fully RELEASES, WAIVES AND DISCHARGES forever any and all claims, demands, rights, and causes of action against the Indemnified Parties for punitive, indirect or consequential damages (including lost profits), and covenants not to sue any of the Indemnified Parties or to pay the Attorneys' Fees and Costs of the Indemnified Parties if it does sue for such damages, in connection with this Lease or the uses authorized hereunder, including any interference with uses conducted by Tenant pursuant to this Lease, in any case regardless of the cause, and whether or not due to the negligence of any of the Indemnified Parties.

Tenant understands and expressly accepts and assumes the risk that any facts concerning the claims released in this Lease might be found later to be other than or different from the facts now believed to be true, and agrees that the waivers and releases in this Lease shall remain effective. Therefore, with respect to the claims released in this Lease, Tenant waives any rights or benefits provided by California Civil Code, Section 1542, which reads as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

By placing its initials below, Tenant specifically acknowledges and confirms the validity of the waivers and releases made above and the fact that Tenant was represented by counsel who explained the consequences of the waivers and releases at the time this Lease was made, or that Tenant had the opportunity to consult with counsel, but declined to do so.

Tenant's Initials: 25

Tenant agrees that the waivers and releases contained in this Section 15.7 include all known and unknown, disclosed and undisclosed, and anticipated and unanticipated claims for consequential, incidental or punitive damages. Tenant acknowledges that it has agreed upon this Lease in light of this realization and, being fully aware of this situation, it nevertheless intends to waive the benefits of California Civil Code Section 1542, or any other statute or similar law now or later in effect, in connection with the waivers and releases contained in this Section 15.7. Notwithstanding anything to the contrary contained in this Lease, the foregoing waivers and releases shall survive any expiration or earlier termination of this Lease.

### 16. INSURANCE

### 16.1. Property and Liability Coverage.

(a) Required Types and Amounts of Insurance. Except as more specifically provided in this Article 16, Tenant shall, at no cost to Port, obtain, maintain or require to be maintained and cause to be in effect at all times from the Commencement Date to the later of (i) the last day of the

Term, or (ii) the last day Tenant is in possession of the Premises (except as otherwise specified in this <u>Section 16.1(a)</u>), the following types and amounts of insurance:

# (i) <u>Builders Risk Insurance</u>.

At all times during construction and before completion of any building on the Premises, Tenant shall maintain, or require to be maintained, on a form reasonably approved by Port, builders risk insurance in the amount equal to the 100% replacement cost value of any existing structures being rehabilitated, which replacement cost value shall be deemed to be Five Million Dollars (\$5,000,000), and the 100% replacement cost value of all new construction, including all materials and equipment to be incorporated in the permanent construction located on or about the Premises, and in transit or storage off-site, against all risk or "special form" hazards, and earthquake (subject to the provisions of Section 16.1(b)(iii)(1)) and flood insurance (subject to the provisions of Section 16.1(b)(iv)(1)), including Port as an additional insured and Tenant and Tenant's contractors and subcontractors as named insureds with any deductible not to exceed Two Hundred Fifty Thousand Dollars (\$250,000) (except as to earthquake insurance and flood insurance for which the deductible shall be in accordance with the requirements of Section 16.1(b)(iii)(1) and Section 16.1(b)(iv)(1)) and further provided that as to both earthquake and flood insurance, separate sublimits of the insurance required under this Section 16.1(a)(i) and the insurance required under Section 16.1(a)(vii) shall be in accordance with the requirements of Section 16.1(b)(iii)(1) and Section 16.1(b)(iv)(1). Such builders risk insurance shall also extend to cover loss of business income for delayed opening/completion as caused by any of the perils or hazards set forth in and required to be insured pursuant to Section 16.1(a)(i), for a delay period of not less than two (2) years with a limit of not less than One Million Dollars (\$1,000,000). If available at commercially reasonable rates, such builders risk insurance shall also extend to cover the peril of terrorism.

# (ii) Property Insurance; Earthquake and Flood Insurance.

Upon Completion of each Phase of the Initial Improvements, and upon Completion of any Subsequent Construction, Tenant shall maintain, or require to be maintained, property insurance policies with coverage at least as broad as Insurance Services Office form CP 10 30 06 95 (or its replacement), in an amount not less than 100% of the then-current full replacement cost of the Improvements including any foundations, pilings, excavations and footings, including increased cost of construction and demolition of damaged and undamaged structures due to the enforcement of ordinances or laws, including sub-limits for earthquake, as provided pursuant to Section 16.1(b)(iii)(2), sub-limits for flood as provided pursuant to Section 16.1(b)(iv)(2) (with any deductible not to exceed Two Hundred Fifty Thousand Dollars (\$250,000) except as to earthquake insurance and flood insurance for which any deductible is not subject to such limitation); provided, however, that as to both earthquake insurance and flood insurance, separate sublimits of the insurance required under this Section 16.1(a)(ii) and the insurance required under Section 16.1(a)(vii) may be required in order to comply with the requirements of Section 16.1(b)(iii)(2) and Section 16.1(b)(iv)(2). If available at commercially reasonable rates, such insurance shall extend to cover the peril of terrorism. In addition to the foregoing, Tenant may insure its Personal Property in such amounts as Tenant deems appropriate; and Port shall have no interest in the proceeds of such Personal Property insurance, and the proceeds of such insurance shall not be subject to the provisions of Section 11.7. Notwithstanding the foregoing, if during the Term Tenant decides that such earthquake insurance should be deleted from its policy because it is no longer available at commercially reasonable rates, then Tenant shall request in writing Port's consent to the deletion thereof, including evidence supporting Tenant's determination of commercial unreasonableness. Such evidence may include quotes, declinations, and notices of cancellation or non-renewal from leading insurance companies for the required coverage, percentage of overall operating expenses attributable thereto, and then current industry practice for comparable projects in San Francisco. Port shall approve or disapprove the deletion of earthquake insurance within thirty (30) days after Tenant's request. If Port disapproves such request, Port shall state the basis for its disapproval. If Tenant discontinues such coverage with Port's approval, and Port later determines that due to changes in the industry or other changed circumstances, earthquake insurance has become commercially reasonable and prudent business practice would require it again, then Port shall notify Tenant thereof, and Tenant shall add such coverage to its policy as soon as reasonably practicable thereafter.

# (iii) Commercial General Liability Insurance.

Tenant shall maintain, or require to be maintained, "Commercial General Liability" insurance with coverage at least as broad as Insurance Services Office form CG 00 01 10 93 (or its replacement) insuring against claims for bodily injury (including death), property damage, personal injury and advertising injury including coverage for premises operations, contractual liability (to the extent possible under the above referenced policy form or under a separate policy form) which includes coverage extending to the Indemnity obligations under Section 15.1(i), broad form property damage, explosion, collapse and underground, hazards, independent contractors, products and completed operations, with such insurance to afford protection in an amount not less than One Million Dollars (\$1,000,000) per occurrence and annual aggregate, and deleting exclusions for care, custody and control of real property and, once the Recreational Dock becomes operational, for non-owned watercrafts. Within thirty (30) days after the Completion of each Phase of the Initial Improvements, or Completion of any Subsequent Construction requiring Port's approval under Article 9, and annually for ten (10) years thereafter, Tenant, or its successors and assigns, shall provide Port with evidence that Tenant's Commercial General Liability insurance includes completed operations coverage for the Initial Improvements or Subsequent Construction, as applicable. In addition, if Tenant has (or is required under Laws to have) a liquor license and is selling or distributing alcoholic beverages on the Premises, then Tenant shall maintain or require to be maintained liquor liability coverage with limits not less than One Million Dollars (\$1,000,000) and Tenant shall require any subtenant who has (or is required under Laws to have) a liquor license and who is selling or distributing alcoholic beverages on the Premises, to maintain such coverage.

(iv) <u>Workers' Compensation and Employer's Liability Insurance</u>. During any period in which Tenant has employees as defined in the California Labor Code, Tenant will maintain or require to be maintained policies of workers' compensation insurance providing statutory limits, including Employer's Liability/Stop Gap Insurance in accordance with the following sentence. Employer's Liability/Stop Gap Insurance shall be provided in amounts not less than:

- \$1,000,000 each accident for bodily injury by accident
- \$1,000,000 policy limit for bodily injury by disease
- \$1,000,000 each employee for bodily injury by disease

Tenant shall voluntarily provide workers' compensation coverage for proprietors, partners, or others not statutorily required to maintain workers compensation insurance. In addition, to the extent required by applicable law, Tenant shall maintain or cause to be maintained U.S. Longshore and Harborworker's Act Insurance and Jones Act Insurance with Employer's Liability limit not less than Five Million Dollars (\$5,000,000) for each accident, injury or illness, on employees eligible for each.

# (v) <u>Boiler and Machinery Insurance</u>.

If any such exposures are not covered by the insurance required by Section 16.1(a)(ii), Tenant shall maintain, or require to be maintained, boiler and machinery insurance covering damage to or loss or destruction of machinery and equipment located on the Premises or in the Improvements that is used by Tenant for heating, ventilating, air-conditioning, power generation and similar purposes, in an amount not less than one hundred percent (100%) of the actual replacement value of such machinery and equipment.

# (vi) Business Automobile Insurance.

Tenant shall maintain, or require to be maintained, policies of business automobile liability insurance covering all owned, non-owned or hired motor vehicles to be used by Tenant and its Agents in connection with Tenant's use and occupancy of the Premises, affording protection for bodily injury (including death) and property damage in the form of a Combined Single Limit Bodily Injury and Property Damage policy with limits of not less than One Million Dollars (\$1,000,000) per accident and annual aggregate.

# (vii) Contractor's Pollution Legal Liability Insurance.

Tenant shall cause to be maintained during the period of construction of each Phase of the Initial Improvements and during any periods of Subsequent Construction that could reasonably be anticipated to involve a Release of Hazardous Materials at the Premises, Contractor's Pollution Legal Liability Insurance for any and all losses caused by pollution conditions, both sudden, accidental and gradual, resulting from the contractor's operations, or for which contractor is legally liable, in connection with the construction of such Phase of the Initial Improvements or Subsequent Construction, whether such operations be by the contractor or the contractor's subcontractors, consultants or suppliers. The Contractor's Pollution Legal Liability Insurance Policy shall contain minimum liability limits of Five Million Dollars (\$5,000,000) per occurrence and Five Million Dollars (\$5,000,000) in the aggregate with a deductible not to exceed Two Hundred Fifty Thousand Dollars (\$250,000). The Contractor's Pollution Legal Liability Insurance Policy shall, at a minimum, contain coverage for or be specifically endorsed to include coverage for pollution conditions resulting in, arising from or in connection with: (i) bodily injury (including death), property damage and environmental cleanup costs (on-site and off-site) resulting from construction

of such Phase of the Initial Improvements; (ii) the use or operation of motor vehicles (whether owned, non-owned or leased) in connection with construction of such Phase of the Initial Improvements, including transportation of any Hazardous Materials to or from the Premises, including any interim or temporary storage or transfer sites. Such transportation coverage shall also include loading/unloading of materials; (iii) any disposal location or facility, both final and temporary, to which any waste that is generated in connection with the performance of this Lease is delivered; all such disposal locations/facilities, both final and temporary, shall be schedules to the Contractor's Pollution Legal Liability Insurance Policy as Non-Owned Disposal Sites for coverage under such policy. The Contractor's Pollution Legal Liability Insurance Policy shall be written on an occurrence form and be in effect during the construction periods described above, or, if not available on an occurrence form, then on a claims-made form. If the policy is written on a claims-made basis, then the policy shall be maintained for, or contain an extended reporting period of, at least three (3) years. The Contractor's Pollution Legal Liability Insurance Policy definition of "Covered Operations" or any other such designation of services or operations performed by the contractor must include all work or services performed by such contractor under or in connection with this Lease.

## (viii) Professional Liability Insurance.

Tenant shall maintain or require to be maintained, project specific professional liability (errors or omissions) insurance, with limits not less than Five Million Dollars (\$5,000,000) per claim and annual aggregate, with respect to all professional services, including architectural, engineering, geotechnical, and environmental, reasonably necessary or incidental to Tenant's activities under this Lease with respect to the construction of the Initial Improvements and any Subsequent Construction with any deductible not to exceed Fifty Thousand Dollars (\$50,000) per claim. Notwithstanding the foregoing, however, Tenant may elect, instead of obtaining the foregoing coverages in this subsection (viii), to require that any architects, contractors and subcontractors, performing work in connection with the Initial Improvements or any Subsequent Construction carry professional liability (Errors & Omissions) insurance in an amount not less than One Million Dollars (\$1,000,000) in the aggregate with any deductible not to exceed Fifty Thousand Dollars (\$50,000), and any operators carry professional liability insurance as required by contract. Such coverage may be provided with a lower limit upon the prior written approval of Port, if requested by Tenant to accommodate the needs and limitations of LBEs (as defined in the Workforce Agreement) contractors used by Tenant. Such insurance shall remain in force during the period when such professional services are performed and for a period of three (3) years after the completion of such professional services.

# (ix) Umbrella / Excess Liability Insurance.

Tenant shall maintain, or require to be maintained, excess or umbrella liability insurance in an amount of not less than Ten Million Dollars (\$10,000,000) annual aggregate, the terms of which shall follow the form of the general liability, employers liability, and automobile liability insurances of the Tenant shown above.

## (x) Other Insurance.

Tenant shall obtain such other insurance as is reasonably requested by City's Risk Manager to the extent such insurance is customary for a first-class public waterfront park and open space project located on property within Port's jurisdiction.

# (b) <u>General Requirements</u>. All insurance provided for pursuant to this <u>Section 16.1</u>:

- (i) Shall be carried under a valid and enforceable policy or policies issued by insurers of recognized responsibility that are rated Best A—:VIII or better by the latest edition of Best's Key Rating Guide (or a comparable successor rating) and legally authorized to sell such insurance within the State of California;
- (ii) As to property insurance required hereunder, such insurance shall name Tenant as the first named insured, and shall name Port as an insured as its interest may appear, and as to general liability, automobile liability, contractors pollution and umbrella excess liability insurance shall include an endorsement naming as additional insureds the following: "THE CITY AND COUNTY OF SAN FRANCISCO, THE SAN FRANCISCO PORT COMMISSION, AND THEIR OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS."

# (iii) As to earthquake insurance only:

- (1) during construction of each Phase of the Initial Improvements, such insurance shall be in an amount at least equal to the lesser of (i) the Probable Maximum Loss to such Phase of the Initial Improvements, or (ii) the maximum amount as is available at commercially reasonable rates from recognized carriers (with a deductible of up to but not to exceed ten percent (10%) of the then-current, full replacement cost of the Improvements without sublimits for foundations, pilings, excavations and footings, provided such coverage is available at commercially reasonable rates), except that a greater deductible shall be permitted to the extent that such coverage is not available from recognized insurance carriers or at commercially reasonable rates. "**Probable Maximum Loss**" means the probable maximum loss as a result of an earthquake measuring 8.0 on the Richter Scale, as determined not less frequently than every five (5) years by a consultant chosen and paid for by Tenant who is reasonably satisfactory to Port;
- (2) from and after Completion of each Phase of the Initial Improvements, such insurance shall be in an amount at least equal to the lesser of (i) the Probable Maximum Loss to the Improvements, or (ii) the amount as is available at commercially reasonable rates from recognized insurance carriers, in each case, with a deductible of up to but not to exceed an amount that is necessary to make such earthquake insurance available at a commercially reasonable rate:

## (iv) As to flood insurance only:

(1) during construction of each Phase of the Initial Improvements, such insurance shall be in an amount, to the extent available at commercially reasonable rates from recognized insurance carriers, equal to the maximum amount of the then-current, full replacement cost of such Phase of the Initial Improvements (including building code upgrade coverage and without any deduction being made for depreciation), with a deductible up to, but not to exceed ten

percent (10%), except that a greater deductible shall be permitted to the extent that such coverage is not available from recognized insurance carriers or at commercially reasonable rates.

- (2) from and after Completion of such Phase of the Initial Improvements, such insurance shall be in an amount at least equal to the amount available at commercially reasonable rates from recognized insurance carriers, with a deductible of up to but not to exceed an amount that is necessary to make such flood insurance available at commercially reasonable rates.
- (v) Shall be evaluated by Port and Tenant for adequacy not less frequently than every five (5) years from the date of Completion of the Initial Improvements. Following consultation with Tenant, Port may, upon not less than ninety (90) days prior written notice, require Tenant to increase the insurance limits for all or any of its general liability policies if in the reasonable judgment of the City's Risk Manager it is the general commercial practice in San Francisco to carry insurance for facilities of comparable size and use to the Premises in amounts substantially greater than the amounts carried by Tenant with respect to risks comparable to those associated with use of the Premises. If the City's Risk Manager determines that insurance limits required under this Section 16.1 may be decreased in light of such commercial practice and the risks associated with use of the Premises, Port shall notify Tenant of such determination, and Tenant shall have the right to decrease the insurance coverage required under this Lease accordingly. In such event, Tenant shall promptly deliver to Port a certificate evidencing such new insurance amounts.
- (vi) Shall provide that no cancellation, material modification or termination of such insurance shall be effective until at least thirty (30) days after mailing or otherwise sending written notice of such cancellation, modification or termination to Port or ten (10) days for nonpayment of premium;
- (vii) As to Commercial General Liability and automobile liability insurance, shall provide that it constitutes primary insurance with respect to claims insured by such policy, and, except with respect to limits, that insurance applies separately to each insured against whom a claim is made or suit is brought;
- (viii) Shall provide for waivers of any right of subrogation that the insurer of such Party may acquire against each Party with respect to any losses and damages that are of the type covered under the policies required by Sections 16.1(a)(i), (ii) and (v);
- (ix) Shall be subject to the approval of Port, which approval shall be limited to whether or not such insurance meets the terms of this Lease;
- (x) If any of the insurance required hereunder is provided under a claims-made form of policy, it shall be maintained continuously throughout the Term, and following the expiration or termination of the Term, Tenant shall maintain, or require to be maintained, such coverage without lapse for a period of three (3) years beyond the expiration or termination of this Lease, or, in the case of construction, for three (3) years after Completion of the applicable Phase of the Initial Improvements or Subsequent Construction; and

- (xi) Shall only be required to the extent commercially available at reasonable prices.
- (c) Certificates of Insurance; Right of Port to Maintain Insurance. Tenant shall furnish Port certificates with respect to the policies required under this Section 16.1 within thirty (30) days after the Commencement Date and, with respect to renewal policies, within thirty (30) days after the policy renewal date of each such policy, and, within sixty (60) days after Port's request, shall also provide Port with copies of each such policy, or shall otherwise make such policy available to Port for its review. If at any time Tenant fails to maintain the insurance required pursuant to this Section 16.1, or fails to deliver certificates as required pursuant to this Section 16.1(c), then, upon thirty (30) days' written notice to Tenant, Port may obtain and cause to be maintained in effect such insurance by taking out policies with companies satisfactory to Port. Tenant shall reimburse Port upon receipt of a properly detailed invoice for all amounts so paid by Port, together with all costs and expenses in connection therewith and interest thereon at the Default Rate computed from the date Port makes such payment until paid by Tenant.
- d) Insurance of Others. To the extent Tenant requires liability insurance policies to be maintained by subtenants, contractors, subcontractors or others in connection with their use or occupancy of, or their activities on, the Premises, Tenant shall require that such policies be endorsed to include the CITY AND COUNTY OF SAN FRANCISCO AND THE SAN FRANCISCO PORT COMMISSION as additional insureds as their respective interests may appear. Notwithstanding the foregoing, Tenant shall require all contractors and sub-contractors performing work on the Premises and all operators and subtenants of any portion of the Premises to carry the following coverages: (i) commercial general liability, (ii) workers' compensation in amounts required by law, (iii) employer's liability coverage in an amount not less than One Million Dollars (\$1,000,000) covering all employees employed at the Premises, (iv) automobile insurance in an amount not less than One Million Dollars (\$1,000,000) combined single limit covering use of owned, non-owned or hired vehicles utilized in the performance of work at the Premises, provided, however, that such coverage may be provided with a lower limit upon the prior written approval of Port and the City's Risk Manager, if requested by Tenant.

## **16.2.** Port Entitled to Participate.

Except to the extent inconsistent with the terms of <u>Article 34</u>, with respect to property insurance, Port shall be entitled to participate in and consent to any settlement, compromise or agreement with respect to any claim for any loss in excess of Two Million Dollars (\$2,000,000) covered by the insurance policies required to be carried by Tenant hereunder; provided, however, that except as otherwise provided in <u>Section 11.3</u> hereof, no consent of Port shall be required in connection with any such settlement, compromise or agreement concerning damage to all or any portion of the Improvements if Tenant has agreed in writing to commence and complete Restoration.

## 16.3. Release and Waiver.

Each Party hereby waives all rights of recovery and causes of action, and releases each other Party from any liability, losses and damages occasioned to the property of each such Party, which losses and damages are of the type covered under the property policies required by

<u>Section 16.1(a)(i)</u>, <u>Section 16.1(a)(ii)</u> or <u>Section 16.1(a)(v)</u> to the extent that such liability, losses or damages are reimbursed by an insurer.

### 17. HAZARDOUS MATERIALS

## 17.1. Hazardous Materials Compliance.

- Compliance with Environmental Laws. Tenant shall comply, and cause (i) its (a) Agents, subtenants and Invitees, and their respective Agents and Invitees, and (ii) the Premises and the Improvements to comply, with all Environmental Laws and best environmental management practices. Without limiting the generality of the foregoing, Tenant shall not, nor shall it permit its Agents, subtenants or Invitees, and their respective Agents and Invitees, to, without the prior written consent of Port, Handle Hazardous Materials on, under or about the Premises, except for (A) standard building materials and equipment that do not contain asbestos or asbestoscontaining materials, lead or polychlorinated biphenyl (PCBs), (B) gasoline and other fuel products in operating vehicles and equipment, (C) any Hazardous Materials that do not require a Regulatory Approval for their Handling, or that need not be reported to, a Regulatory Agency, which Hazardous Materials are used in the construction of the Improvements, before any such Handling, (D) janitorial supplies or materials in such amounts as are customarily used for general park maintenance purposes and (E) Previously Identified Pre-Existing Hazardous Materials that are required by Law or best environmental management practices to be Handled for Investigation or Remediation purposes; provided that such Handling under clauses (A)-(E) is at all times in compliance with all Environmental Laws. Tenant shall be responsible for preparing and obtaining approval of any risk management or site management plans for the Premises, including any such plan required in connection with an environmental covenant. Tenant shall copy Port on all correspondence related to any risk management or site management plans for the Premises and all other correspondence with the San Francisco Department of Public Health, the RWQCB and other Regulatory Agencies regarding the environmental condition of the Premises.
- (b) Except for the Handling of Hazardous Materials as permitted by Section 17.1(a), Tenant and Port shall advise the other in writing promptly (but in any event within five (5) days) after (i) learning or receiving notice of the presence of any Hazardous Materials other than Previously Identified Pre-Existing Hazardous Materials on, under or about the Premises, (ii) learning or receiving notice of any Investigation or Remediation required of or performed by Tenant or Port in response to any (A) Hazardous Materials on, under or about the Premises or (B) Hazardous Materials Claims, and (iii) such Party's learning or receiving notice of the presence of Hazardous Materials other than Previously Identified Pre-Existing Hazardous Materials on, under or about any property adjoining the Premises including submerged lands. Tenant and Port shall inform the other orally as soon as possible of any emergency regarding a Release or discovery of Hazardous Materials. In addition, Tenant and Port shall promptly provide each other with copies of all written communications with Regulatory Agencies relating to Environmental Laws (other than privileged communication, so long as any non-disclosure of such privileged communication does not otherwise result in any non-compliance by Tenant or Port with the terms and provisions of this Article 17) and all written communication with any Person relating to Hazardous Materials Claims (other than privileged communications; provided, however, such nondisclosure of such privileged communication shall not limit or impair Tenant's or Port's obligation to otherwise comply with each of the terms and provisions of this Lease, including this Article 17).

Tenant and Port shall provide each other with copies of any work plans, environmental reports, risk assessments, closure reports, etc. within the scope of this <u>Section 17.1(b)</u>.

- Port's Approval of Remediation. After notifying Port, and in compliance with all Laws and this Lease, Tenant shall promptly perform whatever Remediation is necessary to cleanup a Release including on adjoining property to Port's reasonable satisfaction, except that Tenant shall not be responsible for (i) the Remediation of Hazardous Materials Released on, under or about the Premises to the extent caused by the act or omission of any Indemnified Party during Tenant's occupancy of the Premises or (ii) the Remediation of Pre-Existing Hazardous Materials, unless (A) Tenant, its Agents or Invitees disturbs or Exacerbates such Pre-Existing Hazardous Materials or (B) to the extent that the Remediation of such Pre-Existing Hazardous Materials is required by an applicable Regulatory Agency including any Remediation that would not have been required but for Tenant's use or planned use of the Premises. If Tenant fails to comply with this provision after notice and opportunity to cure in accordance with Section 20.1(i), Port may perform the Remediation at Tenant's expense and Tenant shall upon demand reimburse Port for Port's reasonable and necessary expenses. Notwithstanding the foregoing, except as required by Law or to respond to an emergency, Tenant shall not perform any Remediation in response to the presence, Handling, transportation or Release of any Hazardous Materials on, under or about the Premises unless Tenant shall have first submitted to Port for Port's approval a written Hazardous Materials Remediation plan and the name of the proposed contractor that will perform the work. Port shall approve or disapprove of such Hazardous Materials Remediation plan promptly, but in any event within thirty (30) days, after receipt thereof. If Port disapproves of any such Hazardous Materials Remediation plan, Port shall specify in writing the reasons for its disapproval. Any such Remediation undertaken by Tenant shall be done in a manner so as to minimize any impairment to the Premises to the extent reasonably possible. In the event Tenant undertakes any Remediation with respect to any Hazardous Materials on, under or about the Premises, Tenant shall conduct and complete such Remediation (x) in compliance with all applicable Environmental Laws, (y) to the reasonable satisfaction of Port (except in the case of a Remediation under subsection (c)(ii)(B) above), and (z) in accordance with the orders and directives of all Regulatory Agencies, including the RWQCB and the San Francisco Department of Public Health.
- Pesticide Prohibition. Chapter 3 of the San Francisco Environment Code (the Integrated Pest Management Program Ordinance or "IPM Ordinance") describes an integrated pest management ("IPM") policy to be implemented by all City departments. Tenant shall not use or apply or allow the use or application of any pesticides on the Premises or contract with any Person to provide pest abatement or control services to the Premises without first receiving Port's written approval of an IPM plan that (i) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Tenant may need to apply to the Premises during the Term, (ii) describes the steps Tenant will take to meet City's IPM policy described in Section 300 of the IPM Ordinance, and (iii) identifies, by name, title, address and telephone number, an individual to act as the Tenant's primary IPM contact person with Port. Tenant shall comply, and shall require all of Tenant's contractors to comply, with the IPM plan approved by Port and shall comply with the requirements of Sections 300(d), 302, 304, 305(f), 305(g), and 306 of the IPM Ordinance, as if Tenant were a City department. Among other matters, such provisions of the IPM Ordinance (A) provide for the use of pesticides only as a last resort, (B) prohibit the use or application of pesticides on property owned by Port, except for pesticides granted an exemption under Section 303 of the IPM Ordinance (including pesticides included on the most current Reduced

Risk Pesticide List compiled by City's Department of the Environment), (C) impose certain notice requirements, and (D) require Tenant to keep certain records and to report to Port all pesticide use at the Premises by Tenant's staff or contractors.

If Tenant or Tenant's contractor will apply pesticides to outdoor areas at the Premises, Tenant must first obtain a written recommendation from a person holding a valid Agricultural Pest Control Advisor license issued by the California Department of Pesticide Regulation ("CDPR") and any such pesticide application shall be made only by or under the supervision of a person holding a valid, CDPR-issued Qualified Applicator certificate or Qualified Applicator license. City's current Reduced Risk Pesticide List and additional details about pest management on City property can be found at the San Francisco Department of the Environment website, http://sfenvironment.org/ipm.

# 17.2. Hazardous Materials Indemnity.

- Indemnity. In addition to the Indemnification set forth in Article 15 and subject to (a) all the provisions of Article 15, Tenant shall Indemnify the Indemnified Parties from and against any and all Losses imposed upon or incurred by or asserted against any such Indemnified Party in connection with, arising out of, in response to, or in any manner relating to (i) Tenant's, its Agents', subtenants' or Invitees', and their respective Agents' and Invitees', violation of any Environmental Law on or relative to the Premises, or (ii) any Release or threatened Release of a Hazardous Material, or any condition of pollution, contamination or Hazardous Material-related nuisance on, under or from the Premises occurring during the Term, except to the extent such violation, Release, threatened Release, condition, contamination or nuisance was caused, contributed to or Exacerbated by any Indemnified Party. Tenant's obligations under this Section 17.2(a) include: (A) actual costs incurred in connection with any Investigation or Remediation requested by Port or required by any applicable Regulatory Agency to restore the affected area to its condition before the Release; (B) actual damages for diminution in the value of the Premises; (C) actual damages for the loss or restriction on use of rentable or usable space or of any amenity of the Premises; (D) actual damages arising from any adverse impact on marketing the Premises; (E) sums actually paid in settlement of Hazardous Materials Claims, including fines and penalties; (F) actual natural resource damages; and (G) Attorneys' Fees and Costs, consultant fees, expert fees, court costs, and all other actual litigation, administrative or other judicial or quasi-judicial proceeding expenses. If Port actually incurs any damage and/or pays any costs within the scope of this Section 17.2(a), Tenant must reimburse Port for Port's costs, plus interest at the Prime Rate from the date Port incurs each cost until paid, within thirty (30) days after receipt of Port's payment demand and reasonable supporting evidence of the cost or damage actually incurred.
- (b) The term "Hazardous Materials" means any material, waste, chemical, compound, substance, mixture, or byproduct that is identified, defined, designated, listed, restricted or otherwise regulated under Environmental Laws as a "hazardous constituent", "hazardous substance", "hazardous waste constituent", "infectious waste", "medical waste", "biohazardous waste", "extremely hazardous waste", "pollutant", "toxic pollutant", or "contaminant", or any other formulation intended to classify substances by reason of properties that are deleterious to the environment, natural resources, wildlife or human health or safety, including ignitability, infectiousness, corrosiveness, radioactivity, carcinogenicity, toxicity and reproductive toxicity. Hazardous Materials include any form of natural gas, petroleum products

or any fraction thereof, asbestos, asbestos-containing materials, polychlorinated biphenyls ("PCBs"), PCB-containing materials, and any substance that, due to its characteristics or interaction with one or more other materials, wastes, chemicals, compounds, substances, mixtures or byproducts, damages or threatens to damage the environment, natural resources, wildlife or human health or safety.

- (c) The term "Environmental Laws" means all present and future federal, State and local laws, statutes, rules, regulations, ordinances, standards, directives, and conditions of approval, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (commonly known as "CERCLA" or the "Superfund" law), all administrative or judicial orders or decrees and all permits, license approvals, deed restrictions, deed notices, risk management plans or certification reports required in connection with the approvals of any Regulatory Agency in connection with the Project or the Permitted Uses under this Lease or other entitlements, or rules of common law pertaining to Hazardous Materials, the protection of the environment, natural resources, wildlife, human health or safety, or employee or community right-to-know requirements applicable to the Permitted Uses under this Lease.
- (d) The term "**Exacerbate**" means any act or omission that increases the quantity or concentration of Hazardous Materials in the affected area, causes the increased migration of a plume of Hazardous Materials in soil, groundwater, or bay water, causes a Release of Hazardous Materials that had been contained until the act or omission, or otherwise requires Investigation or Remediation that would not have been required but for the act or omission.
- (e) The term "**Pre-Existing Hazardous Materials**" means the presence, Release or threatened Release of Hazardous Materials on, under or about the Premises or adjoining property before Tenant's occupancy of the Premises. For purposes of clarity, Pre-Existing Hazardous Materials include those Hazardous Materials on adjoining properties that migrate onto, under or about the Premises after the Commencement Date.
- (f) The term "**Previously Identified Pre-Existing Hazardous Materials**" means Pre-Existing Hazardous Materials identified in the reports listed in <u>Exhibit J</u>.
- (g) The term "**Release**" means any accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the air, land, surface water, groundwater or environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any Hazardous Material).

## 17.3. Environmental Oversight Deposit.

(a) On or before the later of the Commencement Date and five (5) Business Days following the Effective Date, Tenant must deliver to Port the amount specified in the Basic Lease Information (the "Environmental Oversight Deposit"), in cash, as security for Port's recovery of costs of inspection, monitoring, enforcement, and administration during Tenant's operations under this Lease; provided, however, that the Environmental Oversight Deposit shall not be deemed an advance of Rent, an advance of any other payment due to Port under this Lease, a security deposit subject to the California Civil Code, or a measure of Port's damages upon an Event of Default.

- (b) Subject to Section 17.3(c), Port may use, apply, or retain the Environmental Oversight Deposit in whole or in part to reimburse Port for costs incurred if an environmental Regulatory Agency delivers a notice of violation or order regarding a Hazardous Material condition ("Environmental Notice") to Tenant and Tenant has not begun to cure or comply with the Environmental Notice or is not working actively to cure the Environmental Notice within fourteen (14) days after its delivery. Under these circumstances, Port's costs may include staff time corresponding with and responding to Regulatory Agencies, attorneys' fees, and collection and laboratory analysis of environmental samples. For the avoidance of doubt, if Port delivers to Tenant a notice of default regarding Tenant's breach of its obligations under this Lease, such notice shall not be deemed an Environmental Notice for purposes of this Section 17.3(b).
- (c) If an Environmental Notice is delivered to Tenant, and Tenant has cured or complied with the Environmental Notice within fourteen (14) days after its delivery, Port may apply a maximum of \$500 from the Environmental Oversight Deposit for each Environmental Notice delivered to Tenant to reimburse Port for its administrative costs.
- (d) Within thirty (30) days following Port's delivery to Tenant of an invoice for the amount of the Environmental Oversight Deposit expended or applied by Port in accordance with this <u>Section 17</u> and any reasonable supporting documentation requested by Tenant, Tenant must pay to Port such amount.
- (e) Provided that no Environmental Notices are then outstanding, Port shall return the balance of the Environmental Oversight Deposit, if any, to Tenant within thirty (30) days following the expiration or earlier termination of this Lease. Port's obligations with respect to the Environmental Oversight Deposit are those of a debtor and not a trustee, and Port may commingle the Environmental Oversight Deposit or use it in connection with its business.

## 17.4. Presence of Hazardous Materials.

California Law requires landlords to disclose to tenants the presence or potential presence of certain Hazardous Materials. Accordingly, Tenant is hereby advised that Hazardous Materials described in the reports listed in <a href="Exhibit J">Exhibit J</a>, copies of which have been delivered to or made available to Tenant, are present on or near the Premises. By execution of this Lease, Tenant acknowledges that the notice set forth in this <a href="Section 17.4">Section 17.4</a> satisfies the requirements of California Health and Safety Code Section 25359.7 and related Laws. Tenant must disclose the information contained in this <a href="Section 17.4">Section 17.4</a> to any subtenant, licensee, transferee, or assignee of Tenant's interest in this Lease. Tenant also acknowledges its own obligations pursuant to California Health and Safety Code Section 25359.7 as well as the penalties that apply for failure to meet such obligations.

**17.5. Survival**. Tenant's obligations under this <u>Article 17</u> shall survive the expiration or earlier termination of this Lease with respect to matters arising before the effective date of such expiration or termination.

## 18. DELAY DUE TO FORCE MAJEURE

For all purposes of this Lease, a Party whose performance of its obligations hereunder is hindered or affected by events of Force Majeure shall not be considered in breach of or in default

in its obligations hereunder to the extent of any delay resulting therefrom, provided, however, that the provisions of this <u>Article 18</u> shall not apply to Tenant's obligation to pay Rent. A Party seeking an extension of time pursuant to the provisions of this <u>Article 18</u> shall give notice to the other Party describing with reasonable particularity (to the extent known) the facts and circumstances constituting Force Majeure within a reasonable time (but not more than thirty (30) days unless the other Party's rights are not prejudiced by such delinquent notice) after knowledge of the beginning of such facts or circumstances. For the avoidance of doubt, this <u>Article 18</u> shall not limit any provision of this Lease that expressly provides for extensions for Excusable Delay.

### 19. PORT'S RIGHT TO PERFORM TENANT'S COVENANTS

## **19.1.** Port May Perform in Emergency.

Without limiting any other provision of this Lease, and in addition to any other rights or remedies available to Port for any Event of Default, if Tenant fails to perform any maintenance or repairs required to be performed by Tenant hereunder within the time provided for such performance, which failure gives rise to an emergency that creates an imminent danger to public health or safety, as reasonably determined by Port, Port may at its sole option, but shall not be obligated to, perform such maintenance or repairs for and on behalf of Tenant, provided that, if there is time, Port first gives Tenant such notice and opportunity to take corrective action as is reasonable under the circumstances. Nothing in this Section 19.1 shall be deemed to limit Port's ability to act in its legislative or regulatory capacity, including the exercise of its police powers, nor to waive any claim on the part of Tenant that any such action on the part of Port constitutes a Condemnation or an impairment of Tenant's contract with Port.

# 19.2. Port May Perform Following Tenant's Failure to Perform.

Without limiting any other provision of this Lease, and in addition to any other rights or remedies available to Port for any Event of Default, if at any time Tenant fails to pay any sum required to be paid by Tenant pursuant to this Lease to any Person other than Port (other than any Imposition, with respect to which the provisions of Section 4.3 shall apply), or if Tenant fails to perform any obligation on Tenant's part to be performed under this Lease, which failure continues without cure following written notice from Port for a period of thirty (30) days, and is not the subject of a contest under Article 5, then, Port may, at its sole option, but shall not be obligated to, upon ten (10) days' prior notice to Tenant, pay such sum or perform such obligation for and on behalf of Tenant. Notwithstanding the foregoing, however, if within such period Tenant gives notice to Port that such failure is due to delay caused by Force Majeure, or is the subject of a contest under Article 5, or that cure of such failure cannot reasonably be completed within such period, then Port shall not pay such sum or perform such obligation during the continuation of such contest or such Force Majeure delay or extended cure period, as the case may be, for so long thereafter as Tenant continues diligently to prosecute such contest or cure or the resolution of such event of Force Majeure.

# 19.3. Tenant's Obligation to Reimburse Port.

If pursuant to the provisions of <u>Section 16.1(c)</u>, <u>Section 19.1</u>, or <u>Section 19.2</u>, Port pays any sum or performs any obligation required to be paid or performed by Tenant hereunder, Tenant

shall reimburse Port upon receipt of a properly detailed invoice, as Additional Rent, the sum so paid, or the reasonable expense incurred by Port in performing such obligation and, if such payment is not made within such period, interest thereon at the Default Rate computed from the date Port makes such payment or incurs such expense until paid by Tenant. Port's rights under this <u>Article 19</u> shall be in addition to its rights under any other provision of this Lease or under applicable laws.

### 20. EVENTS OF DEFAULT

### 20.1. Events of Default.

The occurrence of any one or more of the following events, which remain uncured after the passage of time set forth in this <u>Section 20.1</u>, shall constitute an "**Event of Default**" under the terms of this Lease:

- (a) Tenant fails to pay any Rent to Port when due, which failure continues for ten (10) days following written notice from Port (it being understood and agreed that the notice required to be given by Port under this Section 20.1(a) shall also constitute the notice required under Section 1161 of the California Code of Civil Procedures or its successor, and shall satisfy the requirements that notice be given pursuant to such section);
- (b) Tenant files a petition for relief, or an order for relief is entered against Tenant, in any case under applicable bankruptcy or insolvency Law, or any comparable Law that is in effect as of the date of determination, whether for liquidation or reorganization, which proceedings if filed against Tenant are not dismissed or stayed within one hundred twenty (120) days;
- (c) A writ of execution is levied on the Leasehold Estate that is not released within one hundred twenty (120) days, or a receiver, trustee or custodian is appointed to take custody of all or any material part of the property of Tenant, which appointment is not dismissed within one hundred twenty (120) days;
  - (d) Tenant makes a general assignment for the benefit of its creditors;
- (e) Tenant abandons the Premises, within the meaning of California Civil Code Section 1951.2 (or its successor), which abandonment is not cured within fifteen (15) days after notice of belief of abandonment from Port;
- (f) Tenant fails to maintain any insurance required to be maintained by Tenant under this Lease, which failure continues without cure for more than five (5) Business Days following written notice from Port, unless such cure cannot be reasonably completed within such five (5) Business Day period and Tenant commences such cure within such five (5) Business Day period and thereafter prosecutes such cure diligently to completion within a reasonable time thereafter;
- (g) Tenant fails to Restore any Improvements it is required or has elected to Restore following any damage or destruction in accordance with and within the timeframe set forth in <u>Article 11</u> and such failure continues without cure for more than thirty (30) days following written notice from Port, unless such cure cannot be reasonably completed within such thirty (30) day

period and Tenant commences such cure within such thirty (30) day period and thereafter prosecutes such cure diligently to completion within a reasonable time thereafter;

- (h) Tenant violates any other covenant or fails to perform any other obligation to be performed by Tenant under this Lease (including any Mitigation and Improvement Measures that Tenant is required to comply with) at the time such performance is due and such violation or failure continues without cure for more than thirty (30) days following written notice from Port specifying the nature of such violation or failure, unless such cure cannot be reasonably completed within such thirty (30) day period and Tenant commences such cure within such thirty (30) day period and thereafter prosecutes such cure diligently to completion within a reasonable time thereafter; or
- (i) Tenant suffers or permits a Transfer or sublease to occur in violation of this Lease that is not cured within thirty (30) days following written notice from Port by an effective rescission of the Transfer or sublease or through Port's consent to the Transfer or sublease, provided, however, that if the Transfer or sublease is the result of a willful, knowing and deliberate action on the part of Tenant to make a Transfer or sublease with the intent of violating Section 14.1, the thirty (30) day cure period shall not apply.

## 20.2. Special Provisions Concerning Lenders and Events of Default.

Notwithstanding anything to the contrary in this Lease, the exercise by a Lender of any of its remedies under its Mortgage shall not, in and of itself, constitute a default (or Event of Default) under this Lease.

#### 21. REMEDIES

# **21.1.** Port's Remedies Generally.

Upon the occurrence and during the continuance of an Event of Default, Port shall have all rights and remedies provided in this Lease or available at law or equity. All of Port's rights and remedies shall be cumulative, and except as may be otherwise provided by applicable law, the exercise of any one or more rights shall not preclude the exercise of any others.

# 21.2. Right to Keep Lease in Effect.

(a) Continuation of Lease. Upon the occurrence and during the continuance of an Event of Default, Port may continue this Lease in full force and effect, as permitted by California Civil Code Section 1951.4 (or any successor provisions). Specifically, Port has the remedy described in California Civil Code Section 1951.4 (lessor may continue lease in effect after lessee's breach and abandonment and recover rent as it becomes due, if lessee has right to sublet or assign, subject only to reasonable limitations). In the event Port elects this remedy, Port shall have the right to enforce by suit or otherwise, all covenants and conditions hereof to be performed or complied with by Tenant and exercise all of Port's rights, including the right to collect Rent, including any and all Additional Rent, when and as such sums become due, even though Tenant has breached this Lease and is no longer in possession of the Premises or actively managing or operating the Premises. If Tenant abandons the Premises in violation of this Lease, Port may (i) enter the Premises and relet the Premises, or any part thereof, to third Persons for Tenant's

account without notice to Tenant, Tenant hereby waiving rights, if any, to any such notice under any applicable Law, and (ii) alter, install or modify the Improvements or any portion thereof. Tenant shall be liable immediately to Port for all costs incurred by Port in enforcing this Lease, whether or not any action or proceeding is commenced, including Attorneys' Fees and Costs, brokers' fees or commissions, the costs of removing and storing the Personal Property of Tenant, costs incurred by Port in connection with reletting the Premises, or any portion thereof, and altering, installing, modifying and constructing tenant improvements required for a new tenant, and the costs of repairing, securing, servicing, maintaining and preserving the Premises or the Improvements, or any portion thereof. Reletting may be for a period equal to, shorter or longer than the remaining Term, provided Tenant's obligations shall in no event extend beyond the Term.

- (b) <u>No Termination</u>. No act by Port allowed by this <u>Section 21.2</u>, nor any appointment of a receiver upon Port's initiative to protect its interest under this Lease, nor any withholding of consent to an assignment or termination of an assignment in accordance herewith, shall terminate this Lease, unless and until Port notifies Tenant in writing that Port elects to terminate this Lease.
- (c) <u>Application of Proceeds of Reletting</u>. If Port elects to relet the Premises as provided hereinabove in <u>Section 21.2(a)</u>, the rent that Port receives from reletting shall be applied to the payment of:
- (i) First, all costs incurred by Port in enforcing this Lease, whether or not any action or proceeding is commenced, including Attorneys' Fees and Costs, brokers' fees or commissions, the costs of removing and storing the Personal Property of Tenant, costs incurred by Port in connection with reletting the Premises, or any portion thereof, and altering, installing, modifying and constructing tenant improvements required for a new tenant, and the costs of repairing, securing, servicing, maintaining and preserving the Premises or the Improvements, or any portion thereof;
- (ii) Second, the satisfaction of all obligations of Tenant hereunder (other than the payment of Rent), including the payment of all Impositions or other items of Additional Rent owed from Tenant to Port, in addition to or other than Rent due from Tenant;
- (iii) Third, Rent, including any and all Additional Rent, due and unpaid under this Lease; and
- (iv) After deducting the payments above in this <u>Section 21.2(c)</u>, any sum remaining from the rent Port receives from reletting shall be held by Port and applied to monthly installments of Rent as such amounts become due under this Lease. In no event shall Tenant be entitled to any excess rent received by Port from the reletting. To the extent that, on a date Rent or other amount is due under this Lease, the rent received as of such date from the reletting is less than the Rent or other amount due under this Lease as of such date after applying the rent received from the reletting as provided above in this <u>Section 21.2(c)</u>, Tenant shall pay to Port, upon demand, the remaining Rent or other amounts due.
- (d) <u>Payment of Rent</u>. If Port elects to relet the Premises as provided hereinabove in <u>Section 21.2(a)</u>, Tenant shall pay to Port the Rent due under this Lease on the dates the Rent is

due, less the rent Port has received from any reletting that is applied thereto as provided in Section 21.2(c).

# 21.3. Right to Terminate Lease.

- (a) <u>Damages</u>. Port may terminate this Lease at any time after the occurrence and during the continuance of an Event of Default by giving written notice to Tenant of such termination. Termination of this Lease shall thereafter occur on the date set forth in such notice. Acts of maintenance or preservation, and any appointment of a receiver upon Port's initiative to protect its interest hereunder shall not in any such instance constitute a termination of Tenant's right to possession. No act by Port other than giving notice of termination to Tenant in writing shall terminate this Lease under this <u>Section 21.3(a)</u>. On termination of this Lease pursuant to this <u>Section 21.3(a)</u>, Port shall have the right to recover from Tenant all sums allowed under California Civil Code Section 1951.2, including the following:
- (i) The worth at the time of the award of the unpaid Rent which had been earned at the time of termination of this Lease;
- (ii) The worth at the time of the award of the amount by which the unpaid Rent which would have been earned after the date of termination of this Lease until the time of the award exceeds the amount of the loss of Rent that Tenant proves could have been reasonably avoided;
- (iii) The worth at the time of the award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of the loss of Rent that Tenant proves could have been reasonably avoided (for the avoidance of doubt, subject to subdivision (c) of California Civil Code Section 1951.2); and
- (iv) Any other amount necessary to compensate Port for all detriment proximately caused by the default of Tenant, or which in the ordinary course of things would be likely to result therefrom.
- "The worth at the time of the award", as used in Section 21.3(a)(i) and (ii) shall be computed by allowing interest at a rate per annum equal to the Default Rate. "The worth at the time of the award", as used in Section 21.3(a)(iii), shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus one percent (1%).
- (b) <u>Interest</u>. Rent not paid when due shall bear interest from the date due until paid at the Default Rate as provided in <u>Section 2.4</u>.
- (c) <u>Waiver of Rights to Recover Possession</u>. In the event Port terminates Tenant's right to possession of the Premises pursuant to this <u>Section 21.3</u>, Tenant hereby waives any rights to recover or regain possession of the Premises under any rights of redemption to which it may be entitled by or under any present or future Law, including California Code of Civil Procedure Sections 1174 and 1179 or any successor provisions.

## 21.4. Right to Cure Tenant's Default.

If Port elects to relet the Premises as provided hereinabove in Section 21.2(a), Port, at any time after the occurrence and during the continuance of an Event of Default, may, at Port's sole option, cure the Event of Default at Tenant's cost. If Port at any time after the occurrence and during the continuance of an Event of Default undertakes any act to cure or attempt to cure such Event of Default that requires the payment of any sums, or in connection therewith Port otherwise incurs any costs, damages, or liabilities (including Attorneys' Fees and Costs), all such sums, costs, damages or liabilities paid by Port shall be due immediately from Tenant to Port at the time the sum is paid and payable on demand, together with interest thereon at the Default Rate computed from the date Port makes such payment until paid by Tenant.

# 22. EQUITABLE RELIEF

# **22.1.** Port's Equitable Relief.

In addition to the other remedies provided in this Lease, Port shall be entitled at any time after the occurrence and during the continuance of an Event of Default to seek injunctive relief or an order for specific performance, where appropriate to the circumstances of such Event of Default. In addition, upon the occurrence and during the continuance of an Event of Default, Port shall be entitled to any other equitable relief that may be appropriate to the circumstances of such Event of Default.

# 22.2. Tenant's Equitable Relief.

In addition to the other remedies provided in this Lease, Tenant shall be entitled at any time after a default or threatened default by Port to seek injunctive relief or an order for specific performance, where appropriate to the circumstances of such default. In addition, after the occurrence of a default by Port, Tenant shall be entitled to any other equitable relief that may be appropriate to the circumstances of such default.

## 23. NO WAIVER

## **23.1.** No Waiver by Port or Tenant.

No failure by Port or Tenant to insist upon the strict performance of any term of this Lease or to exercise any right, power or remedy consequent upon a breach of any such term, shall be deemed to imply any waiver of any such breach or of any such term unless clearly expressed in writing by the Party against which waiver is being asserted. No waiver of any breach shall affect or alter this Lease, which shall continue in full force and effect, or the respective rights of Port or Tenant with respect to any other then existing or subsequent breach.

## 23.2. No Accord or Satisfaction.

No submission by Tenant or acceptance by Port of full or partial Rent or other sums during the continuance of any failure by Tenant to perform its obligations hereunder shall waive any of Port's rights or remedies hereunder or constitute an accord or satisfaction, whether or not Port had knowledge of any such failure except with respect to the Rent so paid. No endorsement or statement on any check or remittance by or for Tenant or in any communication accompanying or relating to such payment shall operate as a compromise or accord or satisfaction unless the same is approved as such in writing by Port. Port may accept such check, remittance or payment and retain the proceeds thereof, without prejudice to its rights to recover the balance of any Rent, including any and all Additional Rent, due from Tenant and to pursue any right or remedy provided for or permitted under this Lease or in law or at equity. No payment by Tenant of any amount claimed by Port to be due as Rent hereunder (including any amount claimed to be due as Additional Rent) shall be deemed to waive any claim that Tenant may be entitled to assert with regard to the making of such payment or the amount thereof, and all such payments shall be without prejudice to any rights Tenant may have with respect thereto, whether or not such payment is identified as having been made "under protest" (or words of similar import).

## 24. LIMITATIONS ON LIABILITY

# **24.1.** No Recourse Against Port Beyond Value of Property.

Tenant agrees that Tenant shall have no recourse with respect to, and Port will not be liable for, any obligation of Port under this Lease, or for any claim based upon this Lease, except to the extent of the fair market value of Port's fee interest in the Premises (as encumbered by this Lease). By Tenant's execution and delivery hereof and as part of the consideration for Port's obligations hereunder, Tenant expressly waives all such liability.

# 24.2. Nonliability of Port's Commissioners, Members, Agents, Officers and Employees.

No commissioner, member, agent, officer or employee of Port or City shall be personally liable to Tenant, or any successor, for any default by Port under this Lease, and Tenant agrees that it shall have no recourse with respect to any obligation of Port under this Lease, or for any amount that may become due Tenant or any successor or for any obligation or claim based upon this Lease, against any such Person.

# 24.3. Nonliability of Tenant's Members, Officers, Partners, Shareholders, Directors, Agents, Officers and Employees.

No direct or indirect member, officer, partner, shareholder, director, agent, or employee of Tenant shall be personally liable to Port, or any successor, for any default by Tenant under this Lease, and Port agrees that it shall have no recourse with respect to any obligation of Tenant under this Lease, or for any amount that may become due Port or any successor or for any obligation or claim based upon this Lease, against any such Person.

## 24.4. Waiver of Indirect or Consequential Damages.

As a material part of the consideration for this Lease, Tenant shall not be liable to Port, and Port shall not seek and Port hereby waives any claims against Tenant, for any punitive, indirect, consequential or special damages (including lost profits) due to the acts or omissions of Tenant under this Lease. Tenant would not be willing to enter into this Lease in the absence of a complete waiver of liability for punitive, indirect, consequential and special damages (including lost profits)

due to the acts or omissions of Tenant, and Port expressly assumes the risk resulting from such waiver.

#### 25. ESTOPPEL CERTIFICATES BY TENANT

Tenant shall execute, acknowledge and deliver to Port (or at Port's request, to a prospective purchaser or mortgagee of Port's interest in the Premises), within fifteen (15) days after a request from Port, a certificate stating to the best of Tenant's actual knowledge after diligent inquiry (a) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that this Lease is in full force and effect, as modified, and stating the modifications or, if this Lease is not in full force and effect, so stating), (b) the dates, if any, to which any Rent and other sums payable hereunder have been paid, (c) that no notice has been received by Tenant of any default hereunder that has not been cured, except as to defaults specified in such certificate, and (d) any other matter actually known to Tenant, directly related to this Lease and reasonably requested by Port. In addition, if requested, Tenant shall attach to such certificate a copy of this Lease and any amendments thereto, and include in such certificate a statement by Tenant that, to the best of its knowledge, such attachment is a true, correct and complete copy of this Lease, including all modifications thereto. Any such certificate may be relied upon by Port, any successor agency, and any prospective purchaser or mortgagee of the Premises or any part of Port's interest therein. Tenant shall also use commercially reasonable efforts (including inserting a provision similar to this Section 25 into each sublease) to cause subtenants under subleases to execute, acknowledge and deliver to Port, within twenty (20) days after request, an estoppel certificate covering the matters described in clauses (a), (b), (c) and (d) above with respect to such sublease but Tenant shall not be in default hereunder for failure of such subtenants to comply with such provisions, nor shall Tenant be obligated to take any action against such subtenants for failure to so comply.

# 26. ESTOPPEL CERTIFICATES BY PORT

Port shall execute, acknowledge and deliver to Tenant (or at Tenant's request, to any Lender, prospective Lender, transferee or prospective transferee of Tenant's interest under this Lease or any subtenant), within fifteen (15) days after request from Tenant, a certificate stating to the best of Port's actual knowledge after diligent inquiry (a) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that this Lease is in full force and effect, as modified, and stating the modifications or, if this Lease is not in full force and effect, so stating), (b) the dates, if any, to which any Rent and other sums payable hereunder have been paid, (c) whether or not, to the knowledge of Port, there are then existing any defaults under this Lease (and if so, specifying the same) and (d) any other matter actually known to Port, directly related to this Lease and reasonably requested by the requesting party. In addition, if requested, Port shall attach to such certificate a copy of this Lease and any amendments thereto, and include in such certificate a statement by Port that, to the best of its knowledge, such attachment is a true, correct and complete copy of this Lease, including all modifications thereto. Any such certificate may be relied upon by Tenant, any Lender, prospective Lender, transferee or prospective transferee of Tenant's interest under this Lease or subtenant.

#### 27. APPROVALS BY PORT

# **27.1.** Approvals by Port.

The Port Director, or his or her designee, is authorized to execute on behalf of Port any closing or similar documents and any contracts, agreements, memoranda or similar documents with Tenant, State, regional or local authorities or other Persons, in any case that are necessary or proper to achieve the purposes and objectives of this Lease and do not materially increase the obligations of Port hereunder, if the Port Director reasonably determines, after consultation with, and approval as to form by, the City Attorney, that the document is necessary or proper and in Port's best interests. The Port Director's signature of any such documents shall conclusively evidence such a determination by him or her. Wherever this Lease requires or permits the giving by Port of its consent or approval, or whenever an amendment, waiver, notice, or other instrument or document is to be executed by or on behalf of Port, the Port Director, or his or her designee, shall be authorized to execute such instrument on behalf of Port, except as otherwise provided by applicable law, including the City's Charter to the extent applicable.

#### 27.2. Fees for Review.

Tenant shall upon receipt of an invoice therefor pay Port, as Additional Rent, Port's reasonable costs, including Attorneys' Fees and Costs (and including fees and reasonable costs of the City Attorney) incurred in connection with the review, investigation, processing, documentation and/or approval of any proposed Transfer, Mortgage, estoppel certificate, non-disturbance and attornment agreement and Subsequent Construction, excluding any such costs incurred by Port in its regulatory capacity, which costs shall be paid separately by Tenant to the extent required by the applicable regulatory requirements. Tenant shall pay such reasonable costs regardless of whether or not Port consents to such proposal, except only in any instance where Port has wrongfully withheld, delayed or conditioned its consent in violation of this Lease.

#### 28. NO MERGER OF TITLE

# **28.1.** No Merger of Title.

There shall be no merger of the Leasehold Estate with the fee estate in the Premises by reason of the fact that the same Person may own or hold (a) the Leasehold Estate or any interest in such Leasehold Estate, and (b) any interest in such fee estate. No such merger shall occur unless and until all Persons having any interest in the Leasehold Estate and the fee estate in the Premises join in and record a written instrument effecting such merger.

## 29. QUIET ENJOYMENT

#### **29.1.** Quiet Enjoyment.

Subject to the terms and conditions of this Lease and applicable Laws, Port agrees that Tenant, upon paying the Rent and observing and keeping all of the covenants under this Lease on its part to be kept, shall lawfully and quietly hold, occupy and enjoy the Premises during the Term without hindrance or molestation of anyone claiming by, through or under Port.

#### 30. SURRENDER OF PREMISES

#### 30.1. End of Lease Term.

- (a) <u>Conditions of Premises</u>. Upon the expiration or other termination of the Term, Tenant shall quit and surrender to Port the Premises in good order and condition, clean, free of debris, waste and Hazardous Materials (other than any Pre-Existing Hazardous Materials), and free of all liens and encumbrances not permitted hereby, reasonable wear and tear excepted to the extent the same is consistent with maintenance of the Premises in the condition required hereunder. The Premises shall be surrendered with all Improvements, repairs, alterations, additions, substitutions and replacements thereto.
- (b) Personal Property. On or before expiration or earlier termination of this Lease, Tenant shall have the right to remove all Personal Property. At Port's request, Tenant shall remove, at no cost to Port, any Personal Property belonging to Tenant that then remains on the Premises. If the removal of such trade fixtures or Personal Property causes damage to the Premises, Tenant shall repair such damage, at no cost to Port. Any Personal Property not removed by Tenant as required herein shall be deemed abandoned and may be stored, removed, and disposed of by Port at Tenant's sole cost and expense, and Tenant waives all claims against Port for any Losses resulting from Port's retention, removal or disposition of any trade fixtures or Personal Property remaining on the date of expiration or termination; provided, however, that Tenant shall be liable to Port for all costs incurred in storing, removing and disposing of such abandoned property or repairing any damage to the Premises resulting from such removal.
- (c) Quitclaim. Upon the expiration or earlier termination of this Lease, the Premises shall automatically, and without further act or conveyance on the part of Tenant or Port, become the property of Port, free and clear of all liens and without payment therefore by Port and shall be surrendered to Port upon such date. Upon or at any time after the expiration or earlier termination of this Lease, if requested by Port, Tenant shall promptly deliver to Port, without charge, a quitclaim deed to the Premises and any other instrument reasonably requested by Port to evidence or otherwise effectuate the termination of the Leasehold Estate and to effectuate such transfer or vesting of title to the Premises, the Improvements and Personal Property that Port agrees are to remain within the Premises, which quitclaim or other instrument shall be duly executed and, if requested by Port, acknowledged and in form suitable for recordation in the Official Records. Port may record such quitclaim or other instrument at any time on or after the termination of this Lease, without the need for any approval or further act of Tenant.
- (d) <u>Survival</u>. This <u>Article 30</u> shall survive any expiration or earlier termination of this Lease.

#### 31. HOLD OVER

# 31.1. Hold Over.

Any holding over by Tenant after the expiration or termination of this Lease shall not constitute a renewal hereof or give Tenant any rights hereunder or in the Premises, except with the written consent of Port. In any such event, at Port's option, Tenant shall be (a) a tenant at sufferance, or (b) a month-to-month tenant at the Minimum Rent in effect at the expiration of the

Term Indexed from the date of hold-over. Either Party may terminate such tenancy on thirty (30) days written notice, and Port may condition or amend the terms and requirements of the tenancy on thirty (30) days written notice.

#### 32. NOTICES

#### **32.1.** Notices.

All notices, demands, consents, and requests that may or are to be given by any Party to the other shall be in writing, except as otherwise provided herein. All notices, demands, consents and requests to be provided hereunder shall be deemed to have been properly given on the date of receipt if served personally on a day that is a Business Day (or on the next Business Day if served personally on a day that is not a Business Day), or, if mailed, on the date that is three (3) days after the date when deposited with the U.S. Postal Service for delivery by United States registered or certified mail, postage prepaid, in either case, addressed to Tenant's Address for Notices or Port's Address for Notices, whichever is applicable, or at such other place or places in the United States as each such Party may from time to time designate by written notice to the other in accordance with the provisions hereof. For convenience of the Parties, copies of notices may also be given by email to the email addresses provided from time to time; however, neither Party may give official or binding notice by email.

#### **32.2.** Form and Effect of Notice.

Every notice given to a Party or other Person under this <u>Article 32</u> must state (or shall be accompanied by a cover letter that states):

- (a) the Section of this Lease pursuant to which the notice is given and the action or response required, if any;
- (b) if applicable, the period of time within which the recipient of the notice must respond thereto; and
- (c) if applicable, that the failure to object to the notice within a stated time period shall be deemed to be the equivalent of the recipient's approval of or consent to the subject matter of the notice.

In no event shall a recipient's approval of or consent to the subject matter of a notice be deemed to have been given by its failure to object thereto if such notice (or the accompanying cover letter) does not comply with the requirements of this <u>Section 32.2</u>.

#### 33. INSPECTION OF PREMISES BY PORT

# **33.1.** Entry.

Tenant shall permit Port and its Agents to enter the Premises during regular business hours upon reasonable prior notice (and at any time in the event of an emergency that poses an imminent danger to public health or safety) for the purpose of (i) inspecting the same for compliance with any of the provisions of this Lease, (ii) performing any work therein that Port may have a right to

perform, (iii) serving, posting or keeping posted any notices required or allowed under the provisions of this Lease or (iv) inspecting, sampling, testing, surveying and monitoring the Premises or the Improvements or any portion thereof, including the grounds and subsurface areas, as Port reasonably deems necessary or appropriate for evaluation of Hazardous Materials, or other physical, geotechnical, or environmental conditions. Port shall also have the right to enter all spaces of the Premises that are open to the public at any time, and without notice, consistent with the rules and regulations established for members of the public generally. Nothing herein shall imply any duty upon the part of Port to perform any work that under any provision of this Lease Tenant may be required to perform, nor to place upon Port any obligation, or liability, for the care, supervision or repair of the Premises. If Port enters the Premises as permitted under this Article 33, Port shall not be liable for inconvenience, loss of business or other damage to Tenant by reason of such entry, the performance of such work on the Premises, or on account of bringing necessary materials, supplies and equipment into or through the Premises during the course thereof. Port shall use reasonable diligence to minimize the interference any such work may cause with the activities of Tenant and its Invitees. Notwithstanding the foregoing, if Port's entry onto the Premises under this Article 33 or otherwise causes damage to the Premises, Port shall, at its own cost and expense, as soon as reasonably practicable, repair such damage and restore the Premises to substantially its condition prior to the occurrence of such damage.

## 33.2. Notice, Right to Accompany.

Port agrees to give Tenant reasonable prior notice of Port's entering on the Premises except in an emergency for the purposes set forth in <u>Section 33.1</u>. Such notice shall be not less than twenty-four (24) hours' prior notice. Tenant shall have the right to have a representative of Tenant accompany Port or its Agents on any entry into the Premises. Notwithstanding the foregoing, no notice shall be required for Port's entry onto public areas of the Premises.

#### 34. MORTGAGES

## 34.1. No Mortgage Except as Set Forth Herein.

- (a) <u>Restrictions on Financing</u>. Except as expressly permitted in this <u>Article 34</u>, Tenant shall not: (i) engage in any financing or other transaction creating any Mortgage upon the Leasehold Estate or Tenant's interest in the Improvements under this Lease; or (ii) place or suffer to be placed upon the Leasehold Estate or Tenant's interest in the Improvements hereunder any lien or other encumbrances other than as permitted by <u>Article 13</u>.
- (b) <u>No Subordination of Fee Interest or Rent</u>. Under no circumstance whatsoever shall Tenant place or suffer to be placed any lien or encumbrance on Port's fee interest in the Premises in connection with any financing permitted hereunder, or otherwise. Port shall not subordinate its interest in the Premises, nor its right to receive Rent, to any Lender.
- (c) <u>Violation of Covenant</u>. Any Mortgage or other encumbrance or lien not permitted by this <u>Article 34</u> shall be deemed to be a material violation of this covenant on the date of its execution or filing of record regardless of whether or when it is foreclosed or otherwise enforced.

#### 34.2. Leasehold Liens.

- (a) <u>Tenant's Right to Mortgage Leasehold</u>. At any time and from time to time during the Term, Tenant shall have the right to encumber the Leasehold Estate by way of Mortgage.
- (b) <u>Leasehold Mortgages Subject to this Lease</u>. With the exception of the rights expressly granted to Lenders in this Lease, the execution and delivery of a Mortgage shall not give or be deemed to give a Lender any greater rights than those granted to Tenant hereunder. No default by Tenant under this Lease shall invalidate or defeat the lien of any Lender.
- (c) <u>Limitation of Number of Leasehold Lenders Entitled to Protection Provisions.</u> Notwithstanding anything to the contrary in this Lease, any rights given hereunder to Lenders shall only apply to the most senior Lender (the "**Senior Lender**"), unless such Senior Lender elects not to exercise its rights in which event such rights shall apply to the next most senior Lender. A Senior Lender's failure to exercise its rights shall not extend (i) any cure period, (ii) any period to enter into a new Lease, or (iii) Tenant's or any Lender's rights under this <u>Article 34</u>. In the absence of an order of a court of competent jurisdiction that is served on Port, Port may rely on a title report prepared by a reputable title company licensed to do business in the State of California and having an office in the City, setting forth the order of priorities of the liens of Mortgages on real property, as conclusive evidence of priority.

#### 34.3. Notice of Liens.

Tenant shall notify Port promptly of any lien or encumbrance other than liens permitted hereunder of which Tenant has knowledge and that has been recorded against or attached to the Improvements or the Leasehold Estate whether by act of Tenant or otherwise.

#### **34.4.** Purpose of Mortgage.

- (a) <u>Purpose</u>. A Mortgage may be made only for the purposes of financing of construction or ownership of the Initial Improvements, any Subsequent Construction, any permanent take-out financing, or refinancing (permissible refinancing to include increasing the loan amount so long as the debt coverage ratio projected at the time of the Mortgage does not exceed 1.2:1, and the proceeds are used for matters directly related to the Premises and not for other properties). With respect to any issuance of corporate debt or other securitized financings, Tenant shall not be permitted to create any structure that would create an obligation or security of Port.
- (b) Statement. Port agrees within thirty (30) days after request by Tenant to give to any holder or proposed holder of a Mortgage or other security instrument a statement in recordable form as to whether such Mortgage or other security instrument is permitted hereunder to secure all of the advances and indebtedness stated by the terms of the applicable financing documents. Except as set forth in such statement, such a statement shall estop Port from asserting, against either Tenant or such prospective Lender, that such Mortgage or other security instrument (if done in the way described in the statement) is not permitted hereunder, but shall create no liability on Port, and shall conclusively establish that such Mortgage or other security instrument is permitted hereunder and does not constitute a default by Tenant. In making a request for such statement, Tenant shall furnish to Port true, accurate and complete copies of such financing documents upon

request. In no event, however, shall any failure by Tenant or other party to comply with the terms of any Mortgage, including the use of any proceeds of any debt, the repayment of which is secured by a Mortgage, be deemed to invalidate the lien of a Mortgage.

# **34.5.** Interest Covered by Mortgage.

A Mortgage may attach to any or all of the following interests in the Premises: (i) the Leasehold Estate and Tenant's interest in the Improvements or some portion thereof granted hereunder, (ii) any Personal Property, (iii) products and proceeds of the foregoing and (iv) any other rights and interests of Tenant arising under this Lease. As provided in <u>Section 34.1(b)</u>, no Mortgage may encumber Port's interest in or under this Lease or Port's fee simple interest in the Premises or Port's personal and other property in, on or around the Premises.

## 34.6. Institutional Lender; Other Permitted Lenders.

A Mortgage may be given only to (i) a Bona Fide Institutional Lender or (ii) any other lender that has been approved by Port.

# 34.7. Rights Subject to Lease.

Except as otherwise expressly provided herein, all rights acquired by a Lender under any Mortgage shall be subject to each and all of the covenants, conditions and restrictions set forth in this Lease, the DA, and to all rights of Port hereunder. None of such covenants, conditions and restrictions is or shall be waived by Port by reason of the giving of such Mortgage, except as expressly provided in this Lease or otherwise specifically waived by Port in writing.

# **34.8.** Lender's Obligations with Respect to the Property.

- Rights and Obligations upon Lender Acquisition. Except as set forth in this Article 34, no Lender shall have any obligations or other liabilities under this Lease unless and until it acquires title by any method to the Leasehold Estate (referred to as "Foreclosed **Property**"). Except as otherwise provided herein (including Sections 34.8(b) through (d)), a Lender (or its designee, successor or assign) or other winning bidder at a foreclosure sale (collectively, a "Successor Owner") that acquires title to any Foreclosed Property (a "Lender **Acquisition**") shall take title subject to all of the terms and conditions of this Lease to the extent applicable to the Foreclosed Property, including any claims for payment or performance of obligations that are due as a condition to enjoying the benefits under this Lease from and after the Lender Acquisition. Upon completion of a Lender Acquisition, Port shall recognize the Successor Owner as Tenant under this Lease. Such recognition shall be effective and self-operative without the execution of any further instruments; provided, upon request, at no cost to Port, Port shall execute a written agreement recognizing Successor Owner. A Successor Owner, upon a Lender Acquisition, shall be required promptly to cure all monetary defaults and all other defaults then reasonably susceptible of being cured by such Successor Owner to the extent not cured prior to completion of the Lender Acquisition. The foregoing obligation includes any obligation to Restore, except as set forth in Section 34.8(b).
- (b) <u>No Obligation to Restore</u>. Subject to <u>Sections 34.8(c)</u> and <u>(d)</u>, Lender, including any Lender who obtains title to Foreclosed Property through a Lender Acquisition, shall not be

obligated by the provisions of this Lease to Restore any damage or destruction to the Improvements beyond the extent necessary to preserve or protect the Improvements already made, to remove any debris and to perform other reasonable measures to protect the public; provided, however, any other Person who thereafter obtains title to the Leasehold Estate, or any interest therein from or through such Lender (or its designee), or any other Successor Owner (other than such Lender) shall be obligated to Restore any damage or destruction to the Improvements in accordance with this Lease, except that any time period for such Restoration shall be reset as if the applicable casualty or condemnation occurred as of the date of the Lender Acquisition.

- (c) Obligation to Sell If Not Restore. In the event that Lender acquires the Foreclosed Property through a Lender Acquisition and chooses not to complete or Restore the Improvements, it shall notify Port in writing of its election within ninety (90) days following the Lender Acquisition and shall sell its interest with reasonable diligence to a purchaser that shall be obligated to Restore the Improvements, but in any event Lender shall use good faith efforts to cause such sale to occur within six (6) months following Lender's written notice to Port of its election not to Restore (the "Sale Period").
- (d) <u>Lender Agreement to Complete or Restore</u>. If Lender fails to sell its interest in the Leasehold Estate within the Sale Period, such failure shall not constitute a default hereunder but Lender shall be obligated to Restore the Improvements to the extent this Lease obligates Tenant to so Restore. In the event Lender agrees, or is deemed to have agreed, to Restore the Improvements, all such work shall be performed in accordance with all the requirements set forth in this Lease, and Lender must submit evidence reasonably satisfactory to Port that it has the qualifications and financial responsibility necessary to perform such obligations.

## 34.9. Required Provisions of Any Mortgage.

Tenant agrees to have any Mortgage provide: (a) that the Lender shall by registered or certified mail give written notice to Port of the occurrence of any event of default as defined under the Mortgage; (b) that Port shall be given notice at the time any Lender initiates any foreclosure action; and (c) that the disposition and application of insurance and condemnation awards shall be consistent with the provisions of this Lease.

#### 34.10. Notices to Lender.

(a) <u>Copies of Notices</u>. Port shall give a copy of each notice Port gives to Tenant from time to time of the occurrence of a default or an Event of Default, or of Port's consent to a Transfer to any Lender that has given to Port written notice substantially in the form provided in <u>Section 34.10(b)</u>. Copies of such notices shall be given to Lender at the same time as notices are given to Tenant by Port, addressed to such Lender at the address last furnished to Port. Port shall acknowledge in writing its receipt of the name and address of a Lender so delivered to Port. Port's failure to give such notice to a Lender shall not be deemed to constitute a default by Port under this Lease, but any delay or failure by Port to give notice to any Lender that has previously requested notice shall extend, by the number of days until notice is given, the time allowed for Lender to cure.

(b) <u>Notice From Lender to Port</u>. The Lender under any Mortgage or other security instrument permitted hereunder shall be entitled to receive notices from time to time given to Tenant by Port under this Lease in accordance with <u>Section 34.10(a)</u> provided such Lender has delivered a notice to Port in substantially the following form:

"The undersigned does hereby certify that it is a Lender, as such term is defined in that certain Ground Lease (No. L-16662) originally entered into by and between the City and County of San Francisco, operating by and through the San Francisco Port Commission, as landlord ("Port"), and California Barrel Company LLC, a Delaware limited liability company, as tenant (as amended, the "Lease"), with respect to the portion of the Premises attached hereto as Exhibit A and made a part hereof by this reference. The undersigned hereby requests that copies of any and all notices of default from time to time given under the Lease to Tenant (as defined in the Lease) by Port be sent to the undersigned at the following address:

# 34.11. Lender's Right to Cure.

If Tenant, or Tenant's successors or assigns, encumber the Leasehold Estate by way of Mortgage in compliance with the provisions of this <u>Article 34</u>, then, so long as any such Mortgage remains unsatisfied of record, the following provisions shall apply:

- (a) <u>Cure Periods</u>. Each Lender shall have the right, but not the obligation, at any time before termination of this Lease and without payment of any penalty, to pay the Rent due, to effect any insurance, to pay taxes or assessments, to make any repairs or improvements, to do any other act or thing required of Tenant, and to do any act or thing that may be necessary and proper to be done in the performance and observance of the agreements, covenants and conditions hereof to prevent termination of this Lease; provided, however, that no such action shall constitute an assumption by such Lender of the obligations of Tenant under this Lease. Each Lender and its agents and contractors shall have full access to the Premises for purposes of accomplishing any of the foregoing. Any of the foregoing done by any Lender shall be as effective to prevent a termination of this Lease as the same would have been if done by Tenant. In the case of any notice of default given by Port to Tenant, the Lender shall have the same concurrent cure periods as are given Tenant under this Lease for remedying a default or causing it to be remedied, plus, in each case, an additional period of thirty (30) days after the later to occur of (i) the expiration of such cure period, or (ii) the date that Port has served such notice of default upon Lender, and Port shall accept such performance by or at the instance of the Lender as if the same had been made by Tenant. If such default cannot reasonably be cured or remedied within such additional thirty (30) day period, or if such default cannot be reasonably commenced or cured by Lender within such additional thirty (30) day period without obtaining possession of the Premises, such cure period shall be extended so long as the Lender commences the cure or remedy within such period, and prosecutes the completion thereof with diligence and dispatch, subject to Excusable Delay to the extent applicable, or if such default cannot be reasonably commenced within such thirty (30) day period so long as Lender is pursuing diligently obtaining possession (if possession is required to commence) and thereafter commences the cure promptly upon obtaining possession.
- (b) <u>Foreclosure</u>. Notwithstanding anything to the contrary in this Lease, upon the occurrence of an Event of Default, other than an Event of Default due to a default in the payment

of money or other default reasonably susceptible of being cured before Lender obtaining possession, Port shall take no action to effect a termination of this Lease if, within thirty (30) days after notice of such Event of Default is given to each Lender, a Lender has (x) obtained possession of the Premises (including possession by a receiver if Lender deems it advisable), or (y) notified Port of its intention to institute foreclosure proceedings (or to commence actions to obtain possession of the Premises through appointment of a receiver or otherwise) or otherwise directly or indirectly acquire Tenant's interest under this Lease, and thereafter promptly commences and prosecutes such proceedings with diligence and dispatch subject to normal and customary postponements and compliance with any judicial orders relating to the timing of or the right to conduct such proceedings and Excusable Delay to the extent applicable. The period from the date Lender so notifies Port until a Lender acquires and succeeds to the interest of Tenant under this Lease or some other party acquires such interest through Foreclosure is herein called the "Foreclosure Period". A Lender, upon acquiring Tenant's interest under this Lease, shall be required promptly to cure all monetary defaults and all other defaults then reasonably susceptible of being cured by such Lender to the extent not cured before Foreclosure. The foregoing provisions of this Section 34.11(b) are subject to the following: (i) no Lender shall be obligated to continue possession or to continue Foreclosure after the defaults or Events of Default hereunder referred to have been cured (and Port shall accept such cure or performance of such obligation by any party, including Tenant); (ii) nothing herein contained shall preclude Port, subject to the provisions of this Section 34.11, from exercising any rights or remedies under this Lease (other than a termination of this Lease to the extent otherwise permitted hereunder) with respect to any other Event of Default by Tenant during the pendency of such foreclosure proceedings; and (iii) such Lender shall agree with Port in writing to comply during the Foreclosure Period with such of the terms, conditions and covenants of this Lease as are reasonably susceptible of being complied with by such Lender (except to the extent related to Hazardous Materials or Restoration), including the payment of all sums due and owing hereunder (except for monetary obligations related to Hazardous Materials or Restoration) and the use restrictions set forth in Section 3.1 but excluding the operating covenants in Section 7.1. Notwithstanding anything to the contrary in this Lease, including an agreement by Lender given under clause (iii) of the preceding sentence, Lender shall have the right at any time to notify Port that it has relinquished possession of the Premises or that it will not institute Foreclosure or, if such Foreclosure has commenced, that it has discontinued such Foreclosure, and, in such event, the Lender shall have no further liability under such agreement from and after the date it delivers such notice to Port, and, thereupon, Port shall be entitled to seek the termination of this Lease and/or any other available remedy as provided in this Lease unless such Event of Default has been cured. Upon any such termination, the provisions of Section 34.11(d) shall apply. If Lender is prohibited by any process or injunction issued by any court having jurisdiction of any bankruptcy or insolvency proceedings involving Tenant from commencing or prosecuting Foreclosure or other appropriate proceedings in the nature thereof, the times specified above for commencing or prosecuting such Foreclosure or other proceedings shall be extended for the period of such prohibition, provided that Lender shall (1) have fully cured any Event of Default due to a default in the payment of money, except for monetary obligations related to Restoration or Hazardous Materials, (2) continue to pay currently such monetary obligations as and when the same become due, and (3) perform all other obligations of Tenant under this Lease to the extent that they are susceptible of being performed by Lender.

#### (c) Construction.

- (i) Subject to Section 34.8(b), if a default of Tenant occurs following any damage or destruction but before Restoration of the Improvements, Lender, either before or after Foreclosure or action in lieu thereof, shall not be obligated to Restore the Improvements beyond the extent necessary to preserve or protect the Improvements or construction already made, unless such Lender expressly assumes Tenant's obligations to Port by written agreement reasonably satisfactory to Port, to Restore, in the manner provided in this Lease, the Improvements on the Premises or the part thereof to which the lien or title of such Lender relates, and submitted evidence satisfactory to Port that it has the qualifications and financial responsibility necessary to perform such obligation.
- (ii) Upon assuming Tenant's obligations to Restore in accordance with Section 34.11(c)(i), Lender or any transferee of Lender shall not be required to adhere to the existing construction schedule, but instead all dates set forth in this Lease for such Restoration or otherwise agreed to shall be extended for the period of delay from the date on which Tenant stopped work on the Restoration to the date of such assumption plus an additional one hundred twenty (120) days.
- (d) New Lease. In the event of the termination of this Lease before the expiration of the Term, including the termination of this Lease by Port on account of an Event of Default or the rejection of this Lease by a trustee of Tenant in bankruptcy or by Tenant as a debtor-in-possession, except (i) by Total Condemnation, or (ii) subject to Section 11.5 and subject to Section 34.11(h), as the result of damage or destruction as provided in Article 11, Port shall serve upon the Lender written notice that this Lease has been terminated, together with a statement of any and all sums that would at that time be due under this Lease but for such termination, and of all other defaults, if any, under this Lease then known to Port. The Lender shall thereupon have the option to obtain a new lease in accordance with and upon the following terms and conditions:
- (i) Upon the written request of the Lender, within thirty (30) days after service of such notice that this Lease has been terminated, Port shall enter into a new lease of the Premises with the most senior Lender giving notice within such period or its designee; and
- (ii) Such new lease shall be entered into at the reasonable cost of the Lender, shall be effective as of the date of termination of this Lease, and shall be for the remainder of the Term and at the Rent and upon all the agreements, terms, covenants and conditions hereof, including any applicable rights of renewal and in substantially the same form as this Lease (except for any requirements or conditions which Tenant has satisfied before the termination). Such new lease shall have the same priority as this Lease, including priority over any mortgage or other lien, charge or encumbrance on the title to the Premises. Such new lease shall require the Lender to perform any unfulfilled monetary obligation of Tenant under this Lease that would, at the time of the execution of the new lease, be due under this Lease if this Lease had not been terminated and to perform as soon as reasonably practicable any unfulfilled non-monetary obligation which is reasonably susceptible of being performed by such Lender other than obligations of Tenant with respect to construction of the Initial Improvements, which obligations shall be performed by Lender in accordance with Section 34.11(c). Upon the execution of such new lease, the Lender shall pay any and all sums that would at the time of the execution thereof be due under this Lease

but for such termination, and shall pay all expenses, including Attorneys' Fees and Costs incurred by Port in connection with such defaults and termination, the recovery of possession of the Premises, and the preparation, execution and delivery of such new lease. The provisions of this Section 34.11(d) shall survive any termination of this Lease (except as otherwise expressly set out in the first sentence of this Section 34.11(d)), and shall constitute a separate agreement by Port for the benefit of and enforceable by the Lender.

- (iii) Simultaneously with the execution and delivery of the new lease, Port shall confirm and acknowledge that Lender has title to the Improvements for the term of the new lease by such means as is customary or may be reasonably required by a reputable title insurance company to insure the Leasehold Estate; provided, however, that Port shall have no responsibility for exceptions to title or title defects that affected title to the Improvements on or after the Commencement Date except to the extent created by the acts or omissions of City or Port.
- (e) <u>Nominee</u>. Any rights of a Lender under this <u>Section 34.11</u> may be exercised by or through its nominee or designee (other than Tenant) which is an Affiliate of Lender; provided, that a Lender may acquire title to the Lease through a wholly owned (directly or indirectly) subsidiary of Lender.
- (f) <u>Limited to Permitted Lenders</u>. Notwithstanding anything to the contrary in this Lease, the provisions of this <u>Section 34.11</u> shall inure only to the benefit of the holders of the Mortgages which are permitted hereunder.
- (g) <u>Consent of Lender</u>. No modification, termination or cancellation of this Lease shall be effective against a Lender unless a copy of the proposed modification, termination or cancellation has been delivered to the Lender and such Lender has approved the change in writing. No merger of this Lease and the fee estate in the Premises shall occur on account of the acquisition by the same or related parties of the Leasehold Estate and the fee estate in the Premises without the prior written consent of Lender.
- (h) <u>Limitation on Liability of Lender</u>. Notwithstanding anything to the contrary in this Lease, no Lender, or its designee or nominee, shall become liable under the provisions of this Lease, unless and until such time as it becomes the owner of the Leasehold Estate, and then only for so long as it remains the owner of the Leasehold Estate and only with respect to the obligations arising during such period of ownership.
- (i) <u>Limitation on Obligation to Cure</u>. Notwithstanding anything to the contrary in this Lease, a Lender, and its designee or nominee (other than Tenant), shall have no obligation to cure (i) any Event of Default by Tenant under this Lease occurring pursuant to <u>Section 20.1(b)</u>, <u>Section 20.1(c)</u>, <u>Section 20.1(d)</u>, <u>Section 20.1(e)</u>, or <u>Section 20.1(f)</u>, or (ii) any other nonmonetary Event of Default by Tenant under this Lease that is not reasonably susceptible of being cured; provided, however, such provisions of this Lease shall apply to and remain effective on a prospective basis notwithstanding Lender's inability to cure such previous Events of Default. The default listed in <u>Section 20.1(i)</u> shall be deemed a default "**not reasonably susceptible of being complied with**" or "**not reasonably susceptible of being cured**" for purposes of <u>Sections 34.11(b)</u> and (c).

(j) <u>Cooperation</u>. Port, through the Port Director, and Tenant shall cooperate in including in this Lease by suitable written amendment or agreement from time to time any provision that may be reasonably requested by the Lender to implement the provisions and intent of this <u>Article 34</u>, provided, however, that any such amendment or agreement shall not adversely affect in any material respect any of Port's rights and remedies under this Lease, and Port's obligation is conditioned upon receipt of Attorneys' Fees and Costs incurred in connection with the review and negotiation of any such amendment or agreement.

## 34.12. Assignment by Lender.

Foreclosure of any Mortgage, or any sale thereunder, whether by judicial proceedings or by virtue of any power contained in the Mortgage, or any conveyance of the Leasehold Estate from Tenant to any Lender or its designee through, or in lieu of, foreclosure or other appropriate proceedings in the nature thereof, shall not require the consent of Port or constitute a breach of any provision of or a default under this Lease, and upon such foreclosure, sale or conveyance Port shall recognize the Lender or other transferee in connection therewith as the Tenant hereunder. The right of such transferee or the right of the transferee of such Lender (but not the right of the Lender) thereafter to assign or transfer this Lease or such new lease shall be subject to the restrictions of Article 14. In the event Lender subsequently Transfers its interest under this Lease after acquiring the same by foreclosure or deed in lieu of foreclosure or subsequently assigns or transfers its interest under any new lease obtained pursuant to Section 34.11(d), and in connection with any such Transfer, Lender takes back a mortgage or deed of trust encumbering such leasehold interest to secure a portion of the purchase price given to Lender for such Transfer, then such mortgage or deed of trust shall be considered a permitted Mortgage, and Lender shall be entitled to receive the benefit and enforce the provisions of this Article 34 and any other provisions of this Lease intended for the benefit of a permitted Lender who holds a permitted Mortgage.

#### **34.13.** Transfer of Mortgage.

Port hereby consents to a transfer or encumbrance by Lender, absolutely or as collateral security for performance of its obligations, of its Mortgage or any interest therein, provided such transfer is to a Bona Fide Institutional Lender and otherwise satisfies the requirements of this Lease, and in the event of any such transfer the new holder or pledgee of the Mortgage shall have all the rights of its predecessor Lender hereunder until such time as the Mortgage is further transferred or released from the Leasehold Estate.

## 34.14. Appointment of Receiver.

In the event of any default under a Mortgage, the holder of the Mortgage shall be entitled to have a receiver appointed, irrespective of whether such Lender accelerates the maturity of all indebtedness secured by its Mortgage.

#### 35. NO JOINT VENTURE

Nothing contained in this Lease (for the avoidance of doubt, including any obligation to pay Percentage Rent under <u>Section 2.8</u>, which shall be deemed strictly a rental payment) shall be deemed or construed as creating a partnership or joint venture between Port and Tenant or between Port and any other Person, or cause Port to be responsible in any way for the debts or obligations

of Tenant. The subject of this Lease is a lease with neither Party acting as the agent of the other Party in any respect.

#### 36. ECONOMIC ACCESS

#### **36.1.** Workforce Agreement.

Tenant shall comply with the Workforce Agreement to the extent applicable to the Premises.

## **36.2.** Southern Waterfront Community Benefits and Beautification Policy.

Port's November 2007 "Policy for Southern Waterfront Community Benefits and Beautification" identifies beautification and related projects in the Southern Waterfront (from Mariposa Street in the north to India Basin) that require funding. Port agrees that the performance of Tenant's obligations hereunder will provide community benefits and beautification measures in consideration for the use of the Premises sufficient to satisfy the requirements of such policy. Without expanding or otherwise modifying the scope of Tenant's obligations hereunder, examples of desired benefits include: (i) beautification, greening and maintenance of any outer edges of and entrances to the Premises; (ii) creation and implementation of a Community Outreach and Good Neighbor Policy to guide Tenant's interaction with Port, neighbors, visitors and users; (iii) use or support of job training and placement organizations serving southeast San Francisco; (iv) commitment to engage in operational practices that are sensitive to the environment and the neighboring community by reducing engine emissions consistent with the City's Clean Air Program, and use of machines at the Premises that are low-emission diesel equipment and utilize biodiesel or other reduced particulate emission fuels; (v) commitment to use low impact design and other "green" strategies when installing or replacing stormwater infrastructure; (vi) employment at the Premises of a large percentage of managers and other staff who live in the local neighborhood or community; (vii) use of truckers that are certified by the City's Contract Monitoring Division as "Local Business Enterprises" under the City's Local Business Enterprise and Non-Discrimination Ordinance (San Francisco Administrative Code Chapter 14B); and (viii) use of businesses that are located within the Potrero Hill and Bayview Hunters Point neighborhoods. Tenant agrees to provide Port with documents and records regarding these activities upon Port's reasonable request.

#### 37. REPRESENTATIONS AND WARRANTIES

Tenant represents and warrants to Port as follows as of the Effective Date:

- (a) <u>Valid Existence</u>; <u>Good Standing</u>. Tenant is a limited liability company duly organized and validly existing under the laws of the State of Delaware. Tenant has the requisite power and authority to own its property and conduct its business as presently conducted. Tenant is in good standing in the State of California.
- (b) <u>Authority</u>. Tenant has the requisite power and authority to execute and deliver this Lease and the agreements contemplated hereby and to carry out and perform all of the terms and covenants of this Lease and the agreements contemplated hereby to be performed by Tenant.

- (c) <u>No Limitation on Ability to Perform</u>. Neither Tenant's articles of organization or operating agreement, nor any applicable Law, prohibits Tenant's entry into this Lease or its performance hereunder. No consent, authorization or approval of, and no notice to or filing with, any governmental authority, regulatory body or other Person is required for the due execution and delivery of this Lease by Tenant and Tenant's performance hereunder, except for consents, authorizations and approvals which have already been obtained, notices which have already been given and filings which have already been made. Except as may otherwise have been disclosed to Port in writing, there are no undischarged judgments pending against Tenant, and Tenant has not received notice of the filing of any pending suit or proceedings against Tenant before any court, governmental agency, or arbitrator, which might materially adversely affect the enforceability of this Lease or the business, operations, assets or condition of Tenant.
- (d) <u>Valid Execution</u>. The execution and delivery of this Lease and the performance by Tenant hereunder have been duly and validly authorized. This Lease is a legal, valid and binding obligation of Tenant.
- (e) <u>Defaults</u>. The execution, delivery and performance of this Lease (i) do not and shall not violate or result in a violation of, contravene or conflict with, or constitute a default by Tenant under (A) any agreement, document or instrument to which Tenant is a party or by which Tenant is bound, (B) any law, statute, ordinance, or regulation applicable to Tenant or its business, or (C) the articles of organization or the operating agreement of Tenant, and (ii) do not result in the creation or imposition of any lien or other encumbrance upon the assets of Tenant, except as contemplated hereby.
- (f) <u>Financial Matters</u>. Except to the extent disclosed to Port in writing, (i) Tenant is not in default under, and has not received notice asserting that it is in default under, any agreement for borrowed money, (ii) Tenant has not filed a petition for relief under any chapter of the U.S. Bankruptcy Code, (iii) there has been no event that has materially adversely affected Tenant's ability to meet its Lease obligations hereunder and (iv) to Tenant's knowledge, no involuntary petition naming Tenant as debtor has been filed under any chapter of the U.S. Bankruptcy Code.
- (g) <u>Public Trust Easement Parcel</u>. To the current actual knowledge of Tenant, Tenant is the sole owner of the Public Trust Easement Parcel, and no other person has any right or option to acquire all or any portion of the Public Trust Easement Parcel other than pursuant to a deed of trust thereon that will be subordinated to the Memorandum of Public Trust Option recorded pursuant to <u>Section 2.9(e)</u> on and as of the date of the recordation of such memorandum.

The representations and warranties herein shall survive any termination of this Lease to the extent specified in this Lease.

# 38. SPECIAL PROVISIONS

#### **38.1.** Non-Discrimination.

(a) <u>Covenant Not to Discriminate</u>. In the performance of this Lease, Tenant agrees not to discriminate against any employee, City employee working with Tenant, applicant for employment with Tenant, or against any person seeking accommodations, advantages, facilities,

privileges, services or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

- (b) <u>Subleases and Other Subcontracts</u>. Tenant shall include in all subleases and other subcontracts relating to the Premises a non-discrimination clause applicable to such subtenant or other subcontractor in substantially the form of <u>Section 38.1(a)</u>. In addition, Tenant shall incorporate by reference in all subleases and other applicable subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subtenants and other subcontractors to comply with such provisions. Tenant's failure to comply with the obligations in this subsection shall constitute a material breach of this Lease.
- (c) <u>Non-Discrimination in Benefits</u>. Tenant does not as of the Effective Date and shall not during the Term, in any of its operations in San Francisco or with respect to its operations under this Lease elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.
- (d) <u>Condition to Lease</u>. As a condition to this Lease, if applicable, Tenant shall execute the "Chapter 12B & 12C Declaration: Nondiscrimination in Contracts and Benefits" (Form CMD-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Contract Monitoring Division, Equal Benefits Unit.
- (e) <u>Incorporation of Administrative Code Provisions by Reference</u>. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the lease of City property are incorporated in this <u>Section 38.1</u> by reference and made a part of this Lease as though fully set forth herein. Tenant shall comply fully with and be bound by all of the provisions that apply to this Lease under such Chapters of the San Francisco Administrative Code, including the remedies provided in such Chapters. Without limiting the foregoing, Tenant understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Lease may be assessed against Tenant and/or deducted from any payments due Tenant.

## **38.2.** Mitigation and Improvement Measures.

In order to mitigate the significant environmental impacts of this Lease and operation of the Premises, Tenant agrees that the operation of the Project shall be in accordance with the Mitigation and Improvement Measures. As appropriate, Tenant shall incorporate the Mitigation and Improvement Measures into any applicable contract for the operation of the Improvements.

# **38.3.** MacBride Principles – Northern Ireland.

City urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1 *et seq*. City also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Tenant acknowledges that it has read and understands the above statement of City concerning doing business in Northern Ireland.

# 38.4. Tropical Hardwood and Virgin Redwood Ban; Preservative-Treated Wood Containing Arsenic.

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 Sections 802(b) and 803(b) of the San Francisco Environment Code. Tenant agrees that, except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, Tenant shall not use or incorporate any tropical hardwoods, tropical hardwood wood products, or virgin redwood or virgin redwood wood products in the construction of the Improvements or provide any items to the construction of the Improvements, or otherwise in the performance of this Lease, that are tropical hardwoods, tropical hardwood wood products, virgin redwood, or virgin redwood wood products. If Tenant fails to comply with any of Environment Code Chapter 8, Tenant shall 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. Tenant may not purchase preservative-treated wood products containing arsenic in the performance of this Lease unless an exemption from the requirements of Environment Code Chapter 13 is obtained from the Department of the Environment.

## 38.5. Drug-Free Workplace.

Tenant acknowledges that under the Federal Drug-Free Workplace Act of 1988, the unlawful manufacture, distribution, possession, or use of a controlled substance under federal Laws is prohibited on City premises. Any violation of this prohibition by Tenant or its Agents shall be a material breach of this Lease.

# 38.6. Prohibition of Tobacco Sales and Advertising; Prohibition Against Tobacco Product Sales, Manufacture, and Distribution.

No advertising or sale of cigarettes or tobacco products is allowed on the Premises. This advertising prohibition includes the placement of the name of a company producing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. In addition, Tenant acknowledges and agrees that no Sales, Manufacture, or Distribution of Tobacco Products (as such capitalized terms are defined in the San Francisco Health Code Section 19K.1) is allowed on the Premises and such prohibition must be included in all subleases or other agreements allowing use of the Premises. The prohibition against Sales,

Manufacture, or Distribution of Tobacco Products does not apply to Persons that are affiliated with an accredited academic institution where the Sale, Manufacture, and/or Distribution of Tobacco Products is conducted as part of academic research.

# 38.7. Prohibition of Alcoholic Beverage Advertising.

No advertising of alcoholic beverages is allowed on the Premises. For purposes of this <u>Section 38.7</u>, "alcoholic beverage" is defined as set forth in California Business and Professions Code Section 23004, and does not include cleaning solutions, medical supplies, and other products and substances not intended for drinking. This advertising prohibition includes the placement of the name of a company producing alcoholic beverages or the name of any alcoholic beverage in any promotion of any event or product.

# 38.8. Waiver of Relocation Assistance Rights.

Tenant acknowledges that it shall not be a displaced Person at the time this Lease is terminated or expires by its own terms, and Tenant fully RELEASES AND DISCHARGES forever any and all claims against, and covenants not to sue, Port, City, or their respective Agents under any Laws for relocation benefits or assistance from Port, City or their respective Agents for relocation assistance in connection therewith, including under federal and state relocation assistance Laws (including California Government Code Section 7260 et seq.), except as otherwise specifically provided in this Lease with respect to a Condemnation.

# **38.9.** Intentionally Omitted.

# 38.10. Green Building Standards Code.

Port has adopted the "Green Building Standards Code" as part of the Port of San Francisco Building Code. Tenant shall comply with the requirements of such Green Building Standards Code for the Initial Improvements and all Subsequent Construction.

#### **38.11.** Transportation Demand Management Program.

The Board of Supervisors has designated a Transportation Management Agency ("TMA") whose charge is to reduce the number of private automobile trips to the Premises and to assist in bringing about an overall reduction in automobile dependency through education, assistance, and incentives. The TMA from time to time, may establish transportation demand management programs and institute congestion pricing and other charges, as it determines appropriate within its authority. Tenant shall comply with all applicable programs and measures imposed by the TMA, and shall include in all subleases a requirement that the applicable subtenant complies with this Section 38.11.

#### 38.12. Sunshine Ordinance.

Tenant understands and agrees that under City's Sunshine Ordinance (San Francisco Administrative Code, Chapter 67) and the California Public Records Act (California Government Code Section 250 *et seq.*), this Lease and any and all records, information and materials submitted to Port hereunder may be public records subject to public disclosure upon request. Tenant may

mark or designate as confidential, or otherwise request to be kept confidential, materials that Tenant submits to Port that Tenant in good faith believes are or contain trade secrets or proprietary information protected from disclosure under the Sunshine Ordinance and other Laws, and Port shall attempt to maintain the confidentiality of such materials to the extent permitted by Law. When a Port official or employee receives a request for any such materials, Port may request further evidence or explanation from Tenant. Notwithstanding the foregoing, to the extent that Port determines that the information in such materials does not constitute a trade secret or proprietary or other information protected from disclosure, Port shall notify Tenant of that conclusion and that such information will be released by a specified date in order to provide Tenant an opportunity to obtain a court order prohibiting disclosure.

#### **38.13.** Conflicts of Interest.

Through its execution of this Lease, Tenant acknowledges that it is familiar with the provisions of Section 15.103 of City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 *et seq.* and Section 1090 *et seq.* of the California Government Code, and certifies that it does not know of any facts that constitute a violation of such provisions and agrees that it will promptly thereafter notify Port if it becomes aware of any such fact during the Term.

#### 38.14. Charter Provisions.

This Lease is governed by and subject to the provisions of City's Charter.

# 38.15. Requiring Health Benefits for Covered Employees.

- (a) Unless exempt, Tenant shall comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance ("HCAO"), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as they may be amended from time to time. The provisions of Chapter 12Q are incorporated into this Lease by reference and made a part of this Lease as though fully set forth herein. The text of the HCAO is available on the web at <a href="http://www.sfgov.org/olse/hcao">http://www.sfgov.org/olse/hcao</a>. Capitalized terms used in this <a href="Section 38.15">Section 38.15</a> and not defined in this Lease have the meanings assigned to those terms in Chapter 12Q.
- (b) For each Covered Employee, Tenant shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Tenant chooses to offer the health plan option, the health plan must meet the minimum standards set forth by the San Francisco Health Commission.
- (c) Notwithstanding the above, if the Tenant is a small business as defined in Section 12Q.3(e) of the HCAO, it shall have no obligation to comply with <u>Section 38.15(a)</u>.
- (d) Tenant's failure to comply with the HCAO shall constitute a material breach of this Lease. City may notify Tenant if a breach has occurred. If, within thirty (30) days after receiving City's written notice of a breach of this Lease for violating the HCAO, Tenant fails to cure the breach or, if the breach cannot reasonably be cured within the thirty (30) days period, and Tenant fails to commence efforts to cure within that period, or fails diligently to pursue the cure to completion, then City shall have the right to pursue the remedies set forth in Section 12Q.5(f)(1-

- 5). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.
- (e) Any Subcontract entered into by Tenant shall require the Subcontractor to comply with the requirements of the HCAO and contain contractual obligations substantially the same as those set forth in this Section 38.15. Tenant shall notify City's Purchasing Department when it enters into a Subcontract and shall certify to the Purchasing Department that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Tenant shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, City may pursue the remedies set forth in this Section 38.15 against Tenant based on the Subcontractor's failure to comply, provided that City has first provided Tenant with notice and an opportunity to cure the violation.
- (f) Tenant may not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City regarding Tenant's compliance or anticipated compliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.
- (g) Tenant represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.
  - (h) Tenant shall keep itself informed of the current requirements of the HCAO.
- (i) Tenant shall provide reports to City in accordance with any reporting standards promulgated by City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.
- (j) Tenant shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least five (5) Business Days to respond.
- (k) City may conduct random audits of Tenant to ascertain its compliance with HCAO. Tenant shall cooperate with City when it conducts the audits.
- (l) If Tenant is exempt from the HCAO when this Lease is executed because its amount is less than Twenty-Five Thousand Dollars (\$25,000), but Tenant later enters into an agreement or agreements that cause Tenant's aggregate amount of all agreements with City to reach Seventy-Five Thousand Dollars (\$75,000), then all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Tenant and City's Office of Contract Administration to be equal to or greater than Seventy-Five Thousand Dollars (\$75,000) in the fiscal year.

#### **38.16.** Notification of Prohibition on Contributions.

For the purposes of this <u>Section 38.16</u>, a "**City Contractor**" is a party that contracts with, or seeks to contract with, City for the sale or leasing of any land or building to or from the City

whenever such transaction would require the approval by a City elective officer, the board on which that City elective officer serves, or a board on which an appointee of that individual serves. Through its execution of this Lease, Tenant acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits a City Contractor from making any campaign contribution to (1) the City elective officer, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for that contract or twelve (12) months after the date that contract is approved. Tenant acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$100,000 or more. Tenant further acknowledges that (i) the prohibition on contributions applies to Tenant, each member of Tenant's board of directors, Tenant's chief executive officer, chief financial officer and chief operating officer, any person with an ownership interest of more than ten percent (10%) in Tenant, any subcontractor listed in the contract, and any committee that is sponsored or controlled by Tenant, and (ii) within thirty (30) days of the submission of a proposal for the contract, the City department seeking to enter into the contract must notify the San Francisco Ethics Commission of the parties and any subcontractor to the contract. Additionally, Tenant certifies it has informed each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126 of the San Francisco Campaign and Governmental Conduct Code by the time it submitted a proposal for the contract to City, and has provided the names of the persons required to be informed to the City department seeking to enter into that contract within thirty (30) days of submitting its contract proposal to the City department receiving that submittal, and acknowledges the City department receiving that submittal was required to notify the Ethics Commission of those persons.

# **38.17.** Food Service and Packaging Waste Reduction Ordinance.

Tenant shall comply with and is bound by all of the applicable provisions of the Food Service and Packaging Waste Reduction Ordinance, as set forth in the San Francisco Environment Code, Chapter 16, including the remedies provided therein, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated into this Lease by reference and made a part of this Lease as though fully set forth. This <u>Section 38.17</u> is a material term of this Lease.

## 38.18. Port's Zero Waste Events and Activities Policy.

Unless exempt, Tenant shall comply with Port's Zero Waste Events and Activities Policy, a copy of which is attached hereto as <u>Exhibit K</u>, as it may be amended from time to time, for all special events (as defined by the policy), regardless of attendance numbers.

# 38.19. San Francisco Packaged Water Ordinance.

Tenant shall comply with San Francisco Environment Code Chapter 24 ("Chapter 24"). Tenant may not sell, provide, or otherwise distribute Packaged Water, as defined in Chapter 24 (including bottled water), in the performance of this Lease or on City property unless Tenant obtains a waiver from City's Department of the Environment. If Tenant violates this requirement, City may exercise all remedies in this Lease and the Director of City's Department of the Environment may impose administrative fines as set forth in Chapter 24.

# 38.20. Criminal History in Hiring and Employment Decisions.

- (a) Unless exempt, Tenant shall comply with and be bound by all of the provisions of San Francisco Administrative Code Chapter 12T (Criminal History in Hiring and Employment Decisions) ("Chapter 12T"), which are incorporated into this Lease as if fully set forth, with respect to applicants and employees of Tenant who would be or are performing work at the Premises. All capitalized terms used in this Section 38.20 not otherwise defined in the Lease shall have the meanings ascribed to such terms in Chapter 12T.
- (b) Tenant shall incorporate by reference the provisions of Chapter 12T in all subleases of some or all of the Premises, and require all subtenants to comply with those provisions. Tenant's failure to comply with the obligations in this subsection shall constitute a material breach of this Lease.
- (c) Tenant and subtenants may not inquire about, require disclosure of, or if the information is received base an Adverse Action on an applicant's or potential applicant for employment, or employee's: (i) Arrest not leading to a Conviction, unless the Arrest is undergoing an active pending criminal investigation or trial that has not yet been resolved; (ii) participation in or completion of a diversion or a deferral of judgment program; (iii) a Conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise rendered inoperative; (iv) a Conviction or any other adjudication in the juvenile justice system; (v) a Conviction that is more than seven years old, from the date of sentencing; or (vi) information pertaining to an offense other than a felony or misdemeanor, such as an infraction.
- (d) Tenant and subtenants may not inquire about or require applicants, potential applicants for employment, or employees to disclose on any employment application the facts or details of any conviction history, unresolved arrest, or any matter identified in Section 38.19(c). Tenant and subtenants may not require that disclosure or make any inquiry until either after the first live interview with the person, or after a conditional offer of employment.
- (e) Tenant and subtenants shall state in all solicitations or advertisements for employees that are reasonably likely to reach persons who are reasonably likely to seek employment with Tenant or subtenant at the Premises, that the Tenant or subtenant shall consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.
- (f) Tenant and subtenants shall post the notice prepared by OLSE, available on OLSE's website, in a conspicuous place at the Premises and at other workplaces within San Francisco where interviews for job opportunities at the Premises occur. The notice shall be posted in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the Premises or other workplace at which it is posted.
- (g) Tenant and subtenants understand and agree that on any failure to comply with the requirements of Chapter 12T, City shall have the right to pursue any rights or remedies available under Chapter 12T or this Lease, including a penalty of \$50 for a second violation and \$100 for a subsequent violation for each employee, applicant, or other person as to whom a violation occurred or continued, or termination of this Lease in whole or in part.

- (h) If Tenant has any questions about the applicability of Chapter 12T, it may contact City's Real Estate Division for additional information. City's Real Estate Division may consult with the Director of City's Office of Contract Administration who may also grant a waiver, as set forth in Section 12T.8.
- (i) Capitalized terms used in this <u>Section 38.20</u> and not defined in this Lease have the meanings assigned to those terms in Chapter 12T.

# 38.21. Vending Machines; Nutritional Standards.

Tenant may not install or permit any vending machine on the Premises without the prior written consent of Port. Any permitted vending machine shall comply with the food and beverage nutritional standards and calorie labeling requirements set forth in San Francisco Administrative Code Section 4.9-1(c), as may be amended from time to time (the "Nutritional Standards Requirements"). Tenant shall incorporate the Nutritional Standards Requirements into any contract for the installation of a vending machine on the Premises or for the supply of food and beverages to that vending machine. Failure to comply with the Nutritional Standards Requirements or to otherwise comply with this Section 38.21 shall be a material breach of this Lease. Without limiting Port's other rights and remedies under this Lease, Port shall have the right to require the immediate removal of any vending machine on the Premises that is not permitted or that violates the Nutritional Standards Requirements. In addition, any restaurant located on the Premises is encouraged to ensure that at least 25% of Meals (as defined in San Francisco Administrative Code Section 4.9-1(b)) offered on the menu meet the nutritional standards set forth in San Francisco Administrative Code Section 4.9-1(e).

#### 38.22. Tenant's Compliance with City Business and Tax and Regulations Code.

Tenant acknowledges that under Section 6.10-2 of the San Francisco Business and Tax Regulations Code, the City Treasurer and Tax Collector may require the withholding of payments to any vendor that is delinquent in the payment of any amounts that the vendor is required to pay City under the San Francisco Business and Tax Regulations Code. If, under that authority, any payment City is required to make to Tenant under this Lease is withheld, then City shall not be in breach or default under this Lease, and the Treasurer and Tax Collector shall authorize release of any payments withheld under this paragraph to Tenant, without interest, late fees, penalties, or other charges, upon Tenant coming back into compliance with its San Francisco Business and Tax Regulations Code obligations.

#### 38.23. FEMA Disclosure.

Tenant acknowledges receipt of the FEMA disclosure notice attached as <u>Exhibit L</u> to this Lease.

#### 38.24. Graffiti Removal.

Tenant shall remove all graffiti from the Premises within forty-eight (48) hours of the earlier of Tenant's: (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works or Port. This section is not intended to require a tenant to breach any lease or other agreement that it may have concerning its use of the real

property. "Graffiti" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and that is visible from the public right-of-way, but does not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of this Lease or the Port of San Francisco Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (Calif. Civil Code §§ 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.).

# **38.25.** Consideration of Salary History.

Tenant shall comply with San Francisco Administrative Code Chapter 12K, the Consideration of Salary History Ordinance or "Pay Parity Act". For each employment application to Tenant for work that relates to this Lease or for work to be performed in the City or on City property, Tenant is prohibited from considering current or past salary of an applicant in determining whether to hire the applicant or what salary to offer the applicant. Tenant shall not (1) ask such applicants about their current or past salary or (2) disclose a current or former employee's salary history without that employee's authorization unless the salary history is publicly available. Tenant is subject to the enforcement and penalty provisions in Chapter 12K. Information about Chapter 12K is available on the web at https://sfgov.org/olse/consideration-salary-history.

#### 39. GENERAL

#### **39.1.** Time of Performance.

- (a) <u>Expiration</u>. All performance dates (including cure dates) expire at 5:00 p.m., San Francisco, California time, on the performance or cure date.
- (b) <u>Weekend or Holiday</u>. A performance date that falls on a day other than a Business Day is deemed extended to the next Business Day.
- (c) <u>Days for Performance</u>. All periods for performance or notices specified herein in terms of days shall be calendar days, and not Business Days, unless otherwise provided herein.
- (d) <u>Time of the Essence</u>. Time is of the essence with respect to each provision of this Lease, including the provisions for the exercise of any option on the part of Tenant hereunder and the provisions for the payment of Rent and any other sums due hereunder, subject to the provisions of this Lease relating to Excusable Delay.

# **39.2.** Interpretation of Agreement.

(a) <u>Exhibits</u>. Whenever an "**Exhibit**" is referenced, it means an attachment to this Lease unless otherwise specifically identified.

- (b) <u>Captions</u>. Whenever a section, article or paragraph is referenced, it refers to this Lease unless otherwise specifically identified. The captions preceding the articles and sections of this Lease and in the table of contents have been inserted for convenience of reference only. Such captions shall define or limit the scope or intent of any provision of this Lease.
- (c) <u>Words of Inclusion</u>. The use of the term "**including**," "**such as**" or words of similar import when following any general term, statement or matter shall not be construed to limit such term, statement or matter to the specific items or matters, whether or not language of non-limitation is used with reference thereto. Rather, such terms shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such statement, term or matter.
- (d) <u>No Presumption Against Drafter</u>. This Lease has been negotiated at arm's length and between Persons sophisticated and knowledgeable in the matters dealt with herein. In addition, each Party has been represented by experienced and knowledgeable legal counsel. Accordingly, this Lease shall be interpreted to achieve the intents and purposes of the Parties, without any presumption against the Party responsible for drafting any part of this Lease (including California Civil Code Section 1654).
- (e) <u>Fees and Costs</u>. The Party on which any obligation is imposed in this Lease shall be solely responsible for paying all costs and expenses incurred in the performance thereof, unless the provision imposing such obligation specifically provides to the contrary.
- (f) <u>Lease References</u>. Wherever reference is made to any provision, term or matter "in this Lease," "herein" or "hereof" or words of similar import, the reference shall be deemed to refer to any and all provisions of this Lease reasonably related thereto in the context of such reference, unless such reference refers solely to a specific numbered or lettered, section or paragraph of this Lease or any specific subdivision thereof.
- (g) <u>Approvals</u>. Unless otherwise specifically stated in this Lease, wherever a Party has a right of approval or consent, such approval or consent shall not be unreasonably withheld, conditioned or delayed.
- (h) <u>Legal References</u>. Wherever reference is made to a specific code or section of a specific Law, the reference shall be deemed to include any amendment, restatement or replacement.

# **39.3.** Successors and Assigns.

This Lease is binding upon and shall inure to the benefit of the successors and assigns of Port, Tenant and any Lender. Where the term "**Tenant**," "**Port**" or "**Lender**" is used in this Lease, it means and includes their respective successors and assigns, including, as to any Lender, any transferee and any successor or assign of such transferee. Whenever this Lease specifies or implies Port as a Party or the holder of the right or obligation to give approvals or consents, if Port or a comparable public body that has succeeded to Port's rights and obligations no longer exists, then City shall be deemed to be the successor and assign of Port for purposes of this Lease.

#### **39.4.** No Third-Party Beneficiaries.

This Lease is for the exclusive benefit of the Parties and not for the benefit of any other Person and shall not be deemed to have conferred any rights, express or implied, upon any other Person, except as provided in <u>Article 34</u> and elsewhere herein with regard to Lenders.

#### **39.5.** Real Estate Commissions.

Neither Party shall be liable for any real estate commissions, brokerage fees or finder's fees which may arise from this Lease. Tenant and Port each represents that it engaged no broker, agent or finder in connection with this transaction. In the event any broker, agent or finder makes a claim, the Party through whom such claim is made agrees to Indemnify the other Party from any Losses arising out of such claim.

# **39.6.** Counterparts.

This Lease may be executed in counterparts, each of which is deemed to be an original, and all such counterparts constitute one and the same instrument.

# **39.7.** Entire Agreement.

This Lease (including the Exhibits) and the DA (including the Exhibits, and for so long as the DA is in effect), constitute the entire agreement between the Parties with respect to the subject matter set forth therein, and supersede all negotiations or previous agreements between the Parties with respect to all or any part of the terms and conditions mentioned herein or incidental hereto. No parol evidence of any prior or other agreement shall be permitted to contradict or vary the terms of this Lease.

#### 39.8. Amendment.

Neither this Lease nor any of the terms hereof may be terminated, amended or modified except by a written instrument executed by the Parties.

## 39.9. Governing Law; Selection of Forum.

This Lease shall be governed by, and interpreted in accordance with, the laws of the State of California. As part of the consideration for the Parties entering into this Lease, the Parties agree that all actions or proceedings arising directly or indirectly under this Lease may be litigated in courts having situs within the State of California, and the Parties consent to the jurisdiction of any such local, state or federal court.

#### 39.10. Recordation.

This Lease shall not be recorded by either Party. The Parties agree to execute and record in the Official Records a Memorandum of Lease in the form attached hereto as <a href="Exhibit M">Exhibit M</a>. Promptly upon Port's request following the expiration of the Term or any other termination of this Lease, Port may record a quitclaim or other instrument for the purpose of evidencing in the public

records the termination of Tenant's interest under this Lease, as more particularly described in Section 30.1(c).

#### **39.11.** Extensions by Port.

Upon the request of Tenant, Port may, by written instrument, extend the time for Tenant's performance of any term, covenant or condition of this Lease or permit the curing of any default upon such terms and conditions as it determines appropriate, including the time within which Tenant must agree to such terms and/or conditions, provided, however, that any such extension or permissive curing of any particular default shall not operate to release any of Tenant's obligations nor constitute a waiver of Port's rights with respect to any other term, covenant or condition of this Lease or any other default in, or breach of, this Lease or otherwise effect the time of the essence provisions with respect to the extended date or other dates for performance hereunder.

#### **39.12.** Further Assurances.

The Parties agree to execute and acknowledge such other and further documents, including the CC&Rs, as may be necessary or reasonably required to express the intent of the Parties or otherwise effectuate the terms of this Lease.

## 39.13. Attorneys' Fees.

If either Party fails to perform any of its respective obligations under this Lease or if any dispute arises between the Parties concerning the meaning or interpretation of any provision of this Lease, then the defaulting Party or the Party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other Party on account of such default and/or in enforcing or establishing its rights hereunder, including Attorneys' Fees and Costs. Any such Attorneys' Fees and Costs incurred by either Party in enforcing a judgment in its favor under this Lease shall be recoverable separately from and in addition to any other amount included in such judgment, and such Attorneys' Fees and Costs obligation is intended to be severable from the other provisions of this Lease and to survive and not be merged into any such judgment. For purposes of this Lease, the reasonable fees of attorneys of the City Attorney's Office shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's Office's services were rendered who practice in the City in law firms with approximately the same number of attorneys as employed by the City Attorney's Office. If Tenant utilizes services of in-house counsel, then, for purposes of this Lease, the reasonable fees of such in-house counsel shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the in-house counsel's services were rendered who practice in the City in full service law firms.

#### **39.14.** Effective Date.

This Lease shall become effective on the Effective Date. The Parties acknowledge and agree that the Effective Date is the date on which the Parties duly executed and delivered this Lease following approval by City's Port Commission, Board of Supervisors and Mayor, in their respective sole and absolute discretion.

# 39.15. Severability.

If any provision of this Lease, or its application to any Person or circumstance, is held invalid by any court, the invalidity or inapplicability of such provision shall not affect any other provision of this Lease or the application of such provision to any other Person or circumstance, and the remaining portions of this Lease shall continue in full force and effect, unless enforcement of this Lease as so modified by and in response to such invalidation would be grossly inequitable under all of the circumstances, or would frustrate the fundamental purposes of this Lease.

#### 40. DEFINITION OF CERTAIN TERMS

"Additional Rent" means any and all sums (other than Minimum Rent) that may become due or be payable by Tenant under this Lease.

"Adequate Security" means any security provided by Tenant in accordance with this Lease that (i) secures the faithful performance of Tenant's obligation hereunder to Complete a Phase of the Initial Improvements by the date that is five (5) years following the date on which Tenant Commences such Phase, subject to Excusable Delay and, without duplication, any other extension of time permitted under the DA, (ii) is issued by a Person approved by Port, (iii) provides that the maximum liability of the obligor thereunder shall be equal to the Secured Amount, plus the costs of enforcing such Adequate Security, and (iv) is a Guaranty or, with the approval of Port, another form of security that provides reasonable assurances regarding the obligation secured thereby (which may include bonds, letters of credit, certificates of deposit or any other form).

"Adjusted Gross Revenues" means, with respect to each Lease Year, the Gross Revenues less Budgeted Operating Expenses, Operating Reserves and Capital Reserves for such Lease Year.

"Administrative Delay" means that (i) a governmental entity (for the avoidance of doubt, including Port) fails to act on Tenant's request or application within a reasonable period of time under its standard practices or as otherwise specified in the DA (or, in the case of Port, this Lease) or (ii) an appeal body or court determines that a governmental entity's act or failure to act on a request or application was improper following a challenge by Tenant, in each case, except to the extent caused by Tenant's failure to submit timely all required and requested information supporting a request or application.

"Affiliate" means any Person directly or indirectly Controlling, Controlled by or under Common Control with the other Person in question.

"Agents" when used with respect to a Person means the members, officers, directors, commissioners, employees, agents and contractors of such Person, and their respective heirs, legal representatives, successors and assigns.

"Anniversary Date" is defined in <u>Section 2.2</u>.

"Annual Base Rent" is defined in the Basic Lease Information.

"Annual Statement" is defined in Section 2.8(b).

"Approved Operating Standards and Reporting Requirements" means, to the extent applicable to the Premises, exhibit L-2 to the DA, as may be amended from time to time in accordance with the DA (and, to the extent applicable to the Premises, with Port's approval, not to be unreasonably withheld, conditioned or delayed). Exhibit L-2 to the DA as of the Effective Date is set forth on Exhibit N (which, for the avoidance of doubt, has been approved by Port as of the Effective Date).

"as-built plans and specifications" is defined in <u>Section 9.6</u>.

"Attorneys' Fees and Costs" means reasonable attorneys' fees, costs, expenses and disbursements, including expert witness fees and costs, travel time and associated costs, transcript preparation fees and costs, document copying, exhibit preparation, courier, postage, facsimile, long-distance and communications expenses, court costs and other reasonable costs and fees associated with any other legal, administrative or alternative dispute resolution proceeding, including such fees and costs associated with execution upon any judgment or order, and costs on appeal.

"Audit Period" is defined in Section 2.8(d).

"Award" means all compensation, sums or value paid, awarded or received for a Condemnation, whether pursuant to judgment, agreement, settlement or otherwise.

"Basic Lease Information" is defined in the Preamble.

"Bay Trail" is defined in the Design for Development.

"BCDC" means the San Francisco Bay Conservation and Development Commission.

"BCDC Permit" is defined in the Basic Lease Information.

"Blue Greenway" is defined in the Design for Development.

"Board of Supervisors" means the Board of Supervisors of the City and County of San Francisco.

"Bona Fide Institutional Lenders" means (i) a savings bank, a savings and loan association, a commercial bank or trust company or branch thereof, an insurance company, a governmental agency, a real estate investment trust, a religious, educational or charitable institution, an employees' welfare, benefit, pension or retirement fund or system (including a fund or system acting through a manager or fund vehicle), an investment banking, merchant banking or brokerage firm, or any other Person or group of Persons that, at the time a Mortgage is recorded in favor of such Person or Persons, has (or is Specially Controlled by a Person having) assets of at least \$500 million in the aggregate (or the equivalent in foreign currency), and in the case of any Person or group of Persons none of whom is a savings bank, a savings and loan association, a commercial bank or trust company, an insurance company, a governmental agency, or a real estate investment trust, is regularly engaged in the financial services business, (ii) any special account, managed fund, department, agency or Special Affiliate of any of the foregoing, or (iii) any person acting in a fiduciary capacity for any of the foregoing, provided, that the applicable loan is

consummated on terms competitive in the marketplace at the time a Mortgage is recorded in favor of such Person. For purposes hereof, (1) acting in a "fiduciary capacity" shall be deemed to include acting as a trustee, agent, or in a similar capacity under a mortgage, loan agreement, indenture or other loan document, (2) a lender, even if not a Bona Fide Institutional Lender, shall be deemed to be a Bona Fide Institutional Lender if promptly after the applicable loan is consummated the note(s) or other evidence of indebtedness or the collateral securing the same are assigned to one or more Persons then qualifying as a Bona Fide Institutional Lender, and (3) "Special Affiliate" means any Person directly or indirectly Specially Controlling, Specially Controlled by, or under common Special Control, through one or more other persons, with the Person in question.

"Books and Records" means all of Tenant's books, records, and accounting reports or statements relating to the costs and revenues of its business conducted at the Premises under this Lease, including cash journals, rent rolls, general ledgers, income statements, bank statements, income tax schedules and any other similar bookkeeping documents Tenant utilizes in its business operations conducted at the Premises.

"Budgeted Operating Expenses" means all costs, fees, charges, liabilities, obligations and expenses of managing, maintaining, repairing, marketing, promoting and operating the Premises, in each case, determined in accordance with GAAP, including employee remuneration, bonuses, social charges, payroll taxes, retirement and severance costs, health insurance, labor union dues and funding and other similar benefits, the cost of any audit, consumable supplies, equipment, utilities and insurance, taxes, governmental fees and assessments, license and permit fees, water and sewer charges, inspection fees and any other charges payable by or assessed against Tenant by any governmental authority, bad or uncollected debt, any administrative and general expense, the costs of advertising, marketing and managing reservation systems, the cost and expense of any non-capital repairs and maintenance including, deferred maintenance, in each case, excluding any items funded from the Operating Reserves or the Capital Reserves.

"Burton Act" is defined in Recital A.

"Business Day" means a day other than a Saturday, Sunday or holiday recognized by the City.

"Capital Items" mean replacements, repairs, and/or improvements to the rip rap, pier structure and other Improvements within the Premises that would be deemed capital assets under GAAP.

"Capital Reserves" means reserves to replace, repair, and improve Capital Items and related matters in such amount as is reasonably determined by Tenant from time to time.

"CASp" is defined in Section 1.1(b).

"Casualty Event" means a casualty event occurring at any time during the Term that causes damage to or destruction of the Improvements or any part thereof.

"Casualty Notice" is defined in Section 11.4(a)(i).

- "CC&Rs" is defined in Section 7.1(a).
- "CDPR" is defined in Section 17.1(d).
- "CEQA" means the California Environmental Quality Act (California Public Resources Code Section 21000 *et seq.*).
- "Chapter 12B & 12C Declaration: Nondiscrimination in Contracts and Benefits" is defined in Section 38.1(d).
  - "Chapter 12T" is defined in Section 38.20(a).
  - "Chapter 24" is defined in Section 38.19.
- "City" means the City and County of San Francisco, a municipal corporation, or the territorial limits of the foregoing.
- "City Attorney's Office" means the Office of the City Attorney of the City and County of San Francisco.
  - "City Contractor" is defined in Section 38.16.
- "City's Risk Manager" means the manager of the Risk Management Program operated by the General Services Agency of the City and County of San Francisco.
  - "City Sub-Area" is defined in Recital E.
- "Commence" and any reasonable variation thereof means, with respect to each Phase of the Initial Improvements, the start of physical construction of such Phase, excluding testing or any pre-construction activities.
  - "Commencement Date" is defined in the Basic Lease Information.
  - "Commercial General Liability" is defined in Section 16.1(a)(iii).
  - "Common Control" means that two Persons are both Controlled by the same other Person.
- "Completion" and any reasonable variation thereof means that the applicable Phase or other portion of the Initial Improvements or Subsequent Construction has been substantially completed in accordance with the City-approved plans and specifications therefor and the governmental entities with jurisdiction have issued all final approvals required for the contemplated use thereof.
- "Condemnation" means the taking or damaging, including severance damage, of all or any part of any property, or the right of possession thereof, by eminent domain, inverse condemnation, or for any public or quasi-public use under the law. Condemnation may occur pursuant to the recording of a final order of condemnation, or by a voluntary sale of all or any part of any property to any Person having the power of eminent domain (or to a designee of any such

Person), provided that the property or such part thereof is then under the threat of condemnation or such sale occurs by way of settlement of a condemnation action.

"Condemnation Date" means the earlier of: (a) the date when the right of possession of the condemned property is taken by the condemning authority; or (b) the date when title to the condemned property (or any part thereof) vests in the condemning authority.

"Contingent Services Special Tax" is defined in the Financing Plan attached as Exhibit C to the DA.

"Control" means, with respect to any Person, the possession, directly or indirectly, of the power to direct or cause the direction of the day to day management, policies or activities of such Person, whether through ownership of voting securities, by contract or otherwise (excluding limited partner or non-managing member approval rights). "Controlled" and "Controlling" shall have correlative meanings.

"County Assessor" means the Assessor for the City.

"Craig Lane REA" is defined in Recital K.

"**DA**" is defined in Recital H.

"**Default Rate**" is defined in Section 2.4.

"Design for Development" means, as of the date of determination, the Design for Development to the extent applicable to the Premises. Tenant shall not approve any material changes to the Design for Development under the DA with respect to the Premises without the approval of Port. The Design for Development as of the Effective Date is attached hereto as Exhibit O.

"Disabled Access Laws" means all Laws related to access for persons with disabilities, including the Americans with Disabilities Act, 42 U.S.C. Section 12101 *et seq*. and disabled access laws under the Port of San Francisco Building Code.

"**Dredging Work**" is defined in <u>Section 7.3</u>.

"Effective Date" is defined in the Basic Lease Information.

"Environmental Delay" means that (i) Port or City is required to conduct additional environmental review or prepare additional environmental documents after the Planning Commission of the City and County of San Francisco has certified the FEIR (as defined in the DA) and City staff has filed a notice of determination, (ii) a third party files an action challenging the certification or sufficiency of the FEIR or any other additional environmental review, even if development activities are not stayed, enjoined or otherwise prohibited, (iii) there is an unanticipated need to investigate, remediate or otherwise correct previously unknown environmental or geotechnical conditions on or affecting any portion of the Premises, but only if the conditions were not reasonably discoverable in the course of Tenant's due diligence before the Effective Date, or (iv) there is an unanticipated need to comply with any Mitigation and

Improvement Measures for conditions on or affecting any portion of the Premises, but only if the conditions were not reasonably discoverable in the course of Tenant's due diligence before the Effective Date and by their nature require delay or work stoppage for investigation, remediation or related activities, as long as Tenant is proceeding in a diligent manner to resolve the unforeseen issues.

"Environmental Laws" is defined in Section 17.2(c).

"Environmental Notice" is defined in Section 17.3(b).

"Environmental Oversight Deposit" is defined in Section 17.3(a).

"Event of Default" is defined in Section 20.1.

"Exacerbate" is defined in Section 17.2(d).

**"Excusable Delay**" means Force Majeure, Administrative Delay and Environmental Delay, whichever is applicable.

"Exhibit" is defined in Section 39.2(a).

"Expiration Date" is defined in the Basic Lease Information.

"Facilities Condition Report" is defined in Section 7.2(a).

"FCR Date" means the tenth (10th) Anniversary Date and every ten (10) years thereafter until and including the sixtieth (60th) Anniversary Date.

"Force Majeure" means events which result in delays in a Party's performance of its obligations hereunder due to causes beyond such Party's control, including, but not restricted to: (i) domestic or international events disrupting civil activities, such as war, acts of terrorism, insurrection, acts of the public enemy, and riots; (ii) acts of nature, including floods, earthquakes, unusually severe weather, and resulting fires and casualties; (iii) epidemics and other public health crises affecting the workforce by actions such as quarantine restrictions; and (iv) inability to secure necessary labor, materials, or tools (but only if the Party claiming delay has taken reasonable action to obtain them on a timely basis) due to any of the above events, freight embargoes, lack of transportation, or failure or delay in delivery of utilities serving the Premises. Force Majeure does not include failure to obtain financing or have adequate funds. The delay caused by Force Majeure includes not only the period of time during which performance of an act is hindered, but also such additional time thereafter as may reasonably be required to make repairs, to Restore if appropriate, and to complete performance of the hindered act.

"Foreclosed Property" is defined in Section 34.8(a).

"Foreclosure" means a foreclosure of a Mortgage or other proceedings in the nature of foreclosure (whether conducted pursuant to court order or pursuant to a power of sale contained in the Mortgage), deed or voluntary assignment or other conveyance in lieu thereof.

"Foreclosure Period" is defined in Section 34.11(b).

"GAAP" means generally accepted accounting principles in the United States consistently applied.

"Green Building Standards Code" shall mean the "Green Building Standards Code", which is part of the Port of San Francisco Building Code.

"Gross Revenues" means, subject only to the exceptions stated below, all sales, payments, revenues, income, fees, rentals, receipts, proceeds and amounts of any kind whatsoever, whether for cash, credit or barter, from any business, use or occupation, or any combination thereof, operating on the Premises under this Lease (but not including with respect to the Recreational Dock), including the total value, based on price, for any tickets, cover charges, merchandise or other items sold, the proceeds of any event, including any special or fundraising event, catering or food delivery business conducted by, from or at the Premises (irrespective of where the orders therefor originated or are accepted and irrespective of where the food or beverages are consumed) and the proceeds of sponsorships, in any case to the extent received by Tenant. Notwithstanding the foregoing, Gross Revenues shall exclude gratuities, service charges, taxes, interest earned on funds held in the Operating Reserves or the Capital Reserves (if any), condemnation or expropriation awards, insurance proceeds and similar extraordinary capital receipts, recoveries in legal actions for tortious conduct (other than the portion of such awards or receipts representing compensation for loss of Gross Revenues) or awards for punitive damages, proceeds from the sale of surplus or obsolete furniture, fixtures and equipment, rebates, discounts or credits of a similar nature, any actual uncollected or uncollectible amounts, receipts from vending and coin operated machines to the extent such receipts are paid over to Persons owning such machines, Management Association fees and assessments, costs and expenses reimbursable to Tenant or any of its Affiliates by the owners, lessees, guests and occupants of the property within the Project Site under the CC&Rs, and regular, special and reimbursement assessments and all other assessments and similar fees from owners of property within the Project Site.

"Guarantor" means that Person that has provided a Guaranty hereunder.

"Guaranty" means a guaranty, in a form substantially similar to the form attached hereto as Exhibit P or as otherwise approved by Port, issued by a Person that meets the Net Worth Requirement or, if Tenant meets the Net Worth Requirement, a binding commitment from Tenant to Complete the applicable Phase of the Initial Improvements.

"Handle" when used with reference to Hazardous Materials means to use, generate, manufacture, process, produce, package, treat, transport, store, emit, discharge or dispose of any Hazardous Material. "Handling" shall have a correlative meaning.

"Hazardous Materials" is defined in Section 17.2(b).

"Hazardous Materials Claims" means any and all enforcement, Investigation, Remediation or other governmental or regulatory actions, agreements or orders threatened, instituted or completed under any Environmental Laws, together with any and all Losses made or threatened by any third party against City, including Port, their Agents, or Tenant or the Premises or any Improvements, relating to damage, contribution, cost recovery compensation, loss or injury

resulting from the presence, release or discharge of any Hazardous Materials, including Losses based in common law. Hazardous Materials Claims include Investigation and Remediation costs, fines, natural resource damages, damages for decrease in value of the Premises or any Improvements, the loss or restriction of the use or any amenity of the Premises or any Improvements, and attorneys' fees and consultants' fees and experts' fees and costs.

# "HCAO" is defined in Section 38.15(a).

"Impositions" means all taxes (including possessory interest, real property, personal property, real property transfer and special taxes), Mello-Roos Taxes, assessments, liens, levies, charges or expenses of every description, levied, assessed, confirmed or imposed on the Premises, any of the Improvements or Personal Property located on the Premises, the Leasehold Estate, or any subleasehold estate, any use or occupancy of the Premises hereunder or any transfer of a leasehold interest or subleasehold interest in the Premises (including the transfer of the Leasehold Estate pursuant to this Lease) in any event by any applicable taxing authority in accordance with Law. Impositions shall include all such taxes, assessments, fees and other charges whether general or special, ordinary or extraordinary, foreseen or unforeseen, or hereinafter levied or assessed in lieu of or in substitution of any of the foregoing of every character.

"Improvements" means all buildings, structures, fixtures, landscaping and other improvements erected, built, placed, installed, constructed, renovated, or rehabilitated, located upon or within the Land on or after the Commencement Date, including the Initial Improvements and Subsequent Construction, but not including any improvements erected, built, placed, installed, constructed, renovated, or rehabilitated, located upon or within the Land (a) that are dedicated to and accepted by City or Port, (b) existing under license or other rights given by Port to any Person other than Tenant, including the Non-Exclusive Licenses to Use Port Property dated November 22, 2010 and June 10, 2014 in favor of Trans Bay Cable LLC and Pacific Gas and Electric Company, respectively, or (c) constituting utility improvements and owned by any public utility, City or any other Person with a right to occupy the Land or any portion thereof pursuant to applicable law, franchise agreement or approval of Port. For the avoidance of doubt, clause (a) is not intended to exclude from the definition of Improvements any public access area improvements that are required to be dedicated by BCDC.

"Indemnified Parties" means City, including all of its boards, commissions, departments, agencies and other subdivisions, including Port; and all of the Agents of City, including Port.

"Indemnify" (and any reasonable variation thereof) means indemnify, protect and hold harmless.

"Index" means the Consumer Price Index for All Urban Consumers (base years 1982-1984 = 100) for the San Francisco-Oakland-San-Jose area, published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is modified during the Term, the modified Index shall be used in place of the original Index. If compilation or publication of the Index is discontinued during the Term, Port shall select another similar published index, generally reflective of increases in the cost of living, subject to Tenant's approval, in order to obtain substantially the same result as would be obtained if the Index had not been discontinued.

"Indexed" means the product of the number to be Indexed multiplied by the percentage increase, if any, in the Index from the first day of the month in which the Commencement Date occurred to the first day of the most recent month for which the Index is available as of the date of determination.

"**Infrastructure Plan**" means that certain infrastructure plan attached as exhibit G to the DA.

"Initial Improvements" is defined in the Basic Lease Information.

"Initial Improvements Deadline" is defined in <u>Section 1.3</u>.

"Investigate" or "Investigation" when used with reference to Hazardous Material means any activity undertaken to determine the nature and extent of Hazardous Material that may be located in, on, under or about the Premises, any Improvements or any portion of the Premises or the Improvements or which have been, are being, or threaten to be Released into the environment. Investigation shall include preparation of site history reports and sampling and analysis of environmental conditions in, on, under or about the Premises or any Improvements.

"Invitees" when used with respect to a Person means the customers, patrons, invitees, guests, members, licensees, assignees and subtenants of such Person and the customers, patrons, invitees, guests, members, licensees, assignees and sub-tenants of subtenants of such Person.

"IPM" is defined in Section 17.1(d).

"IPM Ordinance" is defined in Section 17.1(d).

"Land" is defined in the Basic Lease Information.

"Late Charge" is defined in Section 2.5.

"Law" or "Laws" means, as of the date of determination, laws, ordinances, rules, regulations, permits, authorizations, orders and requirements, to the extent applicable to the Parties or to the Premises or any portion thereof, whether or not in the contemplation of the Parties as of the Effective Date, including all consents or approvals (including Regulatory Approvals) required to be obtained from, and all rules and regulations of, and all building and zoning laws of, all federal, state, county and municipal governments, the departments, bureaus, agencies or commissions thereof, authorities, boards of officers, any national or local board of fire underwriters, or any other body or bodies exercising similar functions, having or acquiring jurisdiction of, or which may affect or be applicable to, the Premises or any portion thereof, including any subsurface area, the use thereof and of the Improvements thereon. For the avoidance of doubt, during the term of the DA, local Laws will not include those local Laws that are not applicable to the Project in accordance with the DA.

"Lease" is defined in the preamble, as the same may be amended from time to time in accordance herewith.

"Leasehold Estate" means the leasehold estate created by this Lease.

"Lease Year" means the twelve (12) month period commencing upon the Effective Date and each consecutive twelve (12) month period thereafter during the Term.

"Lender" means the holder or holders of a Mortgage (for the avoidance of doubt, including any mezzanine lender to any Person with a direct or indirect interest in Developer (as defined in the DA)) and, if the Mortgage is held by or for the benefit of a trustee, agent or representative of one or more financial institutions, the financial institutions on whose behalf the Mortgage is being held. Multiple financial institutions participating in a single financing secured by a single Mortgage shall be deemed a single Lender for purposes of this Lease.

#### "Lender Acquisition" is defined in Section 34.8(a).

"Losse" when used with reference to any Indemnity means any and all claims, demands, losses, liabilities, damages (including foreseeable and unforeseeable consequential damages), liens, obligations, interest, injuries, penalties, fines, lawsuits and other proceedings, judgments and awards and costs and expenses, (including Attorneys' Fees and Costs and consultants' fees and costs) of whatever kind or nature, known or unknown, contingent or otherwise.

#### "Maintenance Notice" is defined in <u>Section 8.2</u>.

"Major Damage or Destruction" means a Casualty Event for which the hard costs of Restoration exceed sixty percent (60%) of the hard costs to replace the applicable Improvements in their entirety. The calculation of such percentage shall be based upon replacement costs and requirements of applicable Laws in effect as of the date of such Casualty Event.

"Management Association" means a residential, commercial or other management association that, as of the date of determination, (i) has the authority to perform Tenant's obligations under this Lease and levy fees or otherwise generate sufficient revenue to perform Tenant's obligations to maintain, repair and operate the Premises hereunder and (ii) is duly organized and validly existing under the laws of the state of its formation and is in good standing in the State of California.

"Material Change to Guarantor" means, with respect to any Person that has provided a Guaranty hereunder, that (i) such Person files a petition for bankruptcy or makes a general assignment for the benefit of its creditors, (ii) a receiver is appointed on account of such Person's insolvency, (iii) a writ of execution or a writ of attachment or any similar process is issued or levied against any bank accounts of such Person or against any substantial portion of any other property or assets of such Person, unless such writ of execution or writ of attachment is dismissed within thirty (30) days, (iv) a final non-appealable judgment is entered against such Person in an amount in excess of ten percent (10%) of such Person's Net Worth and such Person does not satisfy or bond the judgment within twenty (20) days or (v) without the consent of such Person, an application for relief is filed against such Person under any federal or state bankruptcy law, unless the application is dismissed within ninety (90) days.

"Memorandum of Lease" means the Memorandum of this Lease, between Port and Tenant, recorded in the Official Records, in the form of Exhibit M attached hereto.

"Minimum Rent" is defined in Section 2.2.

"Mitigation and Improvement Measures" means the mitigation measures (as defined by CEQA) applicable to the Project as set forth in Exhibit Q or, to the extent approved by City and Developer, that are necessary to mitigate adverse environmental impacts identified through the CEQA process as part of a Later Approval, as such terms are defined in the DA.

"MLLW" means Mean Lower Low Water, as defined by the National Oceanic and Atmospheric Administration.

"Mortgage" means a mortgage, deed of trust, assignment of rents, fixture filing, security agreement or similar security instrument or assignment of the Leasehold Estate that is recorded in the Official Records or of any direct or indirect interest in Tenant.

"Net Awards and Payments" is defined in Section 12.4.

"Net Worth" means, with respect to a Person, such Person's net worth calculated using GAAP (or, if such Person is a corporation, such Person's shareholders' equity calculated in accordance with GAAP).

"Net Worth Requirement" means that Tenant or the Guarantor, whichever is applicable, has a Net Worth that is greater than the Secured Amount and in no event less than Fifty Million Dollars (\$50,000,000) (such \$50,000,000 amount to be increased, automatically, by ten percent (10%) on each five (5) year anniversary of the Commencement Date).

"Non-Affiliate Lender" means a Lender that (A) is not an Affiliate of Tenant or (B) is a Bona Fide Institutional Lender (for the avoidance of doubt, even if an Affiliate of Tenant).

"Non-Affiliate Mortgage" means a Mortgage that is held by a Non-Affiliate Lender.

"Nutritional Standards Requirements" is defined in Section 38.21.

"Official Records" means, with respect to the recordation of Mortgages and other documents and instruments, the Official Records of the City and County of San Francisco.

"OLSE" means the City's Office of Labor Standards Enforcement.

"**Operating Reserves**" means operating reserves for the Premises in such amount as is reasonably determined by Tenant from time to time.

"Operations Plan" means the Operations Plan attached hereto as <u>Exhibit R</u> (which, for the avoidance of doubt, has been approved by Port as of the Effective Date), as may be amended from time to time by Tenant with Port's approval, not to be unreasonably withheld, conditioned or delayed.

"Option Notice" is defined in Section 2.9(a).

"Option Period" is defined in Section 2.9(a).

"Partial Condemnation" is defined in Section 12.3(b).

"Partial Termination Date" is defined in Section 1.3.

"Party" means Port or Tenant, as a party to this Lease; "Parties" means both Port and Tenant, as parties to this Lease.

"PCBs" is defined in Section 17.2(b).

"Percentage Rent" is defined in Section 2.8(a).

"**Permitted Uses**" is defined in the Basic Lease Information and includes such other uses as are permitted or required hereunder.

"**Person**" means any individual, partnership, corporation (including any business trust), limited liability company, joint stock company, trust, unincorporated association, joint venture or any other entity or association, the United States, or a federal, state or political subdivision thereof.

"Personal Property" means all fixtures, furniture, furnishings, equipment, machinery, supplies, software and other tangible personal property that is incident to the ownership, development or operation of the Improvements and/or the Premises, whether now or hereafter located in, upon or about the Premises, belonging to Tenant or any of its subtenants and/or in which Tenant or any of its subtenants has or may hereafter acquire an ownership interest, together with all present and future attachments, accessions, replacements, substitutions and additions thereto or therefor.

"Phase" means each geographically grouped portion of the Initial Improvements. As of the Effective Date, Tenant contemplates constructing the Initial Improvements in two (2) Phases as described in the Scope of Development. Each such Phase constitutes a portion of certain Development Phases defined in the Phasing Plan attached to the DA as of the Effective Date as "Development Phase 1" and "Development Phase 3". For the avoidance of doubt, such phasing is subject to revision pursuant to the DA; provided, Developer shall provide Port with notice of any such phasing revisions.

"Pier 70 Agreements" is defined in Recital D.

"Pier 70 Master Developer" is defined in Recital D.

"Port" is defined in the Basic Lease Information.

"Port 23rd St. Property" is defined in Recital D.

"Port Approval Items" is defined in Section 9.3(a).

"Port Bay Property" is defined in Recital D.

"**Port Commission**" means the San Francisco Port Commission, or any successor governing body of Port designated by or under law as of the date of determination.

"Port Craig Lane Property" is defined in Recital D.

"**Port Director**" means the Executive Director of the Port of San Francisco, as appointed as of the date of determination.

"Port Open Space" is defined in Recital D.

"Port Representative" is defined in Section 2.8(e).

"Port Sub-Area" is defined in Recital D.

"Port's Address for Notices" is defined in the Basic Lease Information.

"Pre-Existing Hazardous Materials" is defined in Section 17.2(e).

"Premises" is defined in the Basic Lease Information.

"Previously Identified Pre-Existing Hazardous Materials" is defined in Section 17.2(f).

"**Prime Rate**" means the base rate on corporate loans posted by at least 75% of the nation's 30 largest banks, as published by the Wall Street Journal, or if the Wall Street Journal has ceased to publish the Prime Rate, then such other equivalent recognized source.

"Probable Maximum Loss" is defined in Section 16.1(b)(iii)(1).

"**Project**" is defined in Recital F, as more completely described in the DA.

"Project Approvals" is defined in the Basic Lease Information, together with any Later Approvals (as defined in the DA) to the extent applicable to the Premises as of the date of determination.

"**Project Site**" is defined in Recital E, together with any additional property that is part of the Project Site (or removed from the Project Site) under and as defined in the DA as of the date of determination.

"**Property Matters**" is defined in <u>Section 1.1(e)</u>.

"Public Trust" is defined in Recital B.

"Public Trust Deed" is defined in Section 2.9(b).

"Public Trust Easement Parcel" is defined in Recital J.

"Public Trust Option" is defined in Section 2.9(a).

"Recreational Dock" is defined in the Basic Lease Information.

"Regulatory Agency" means any governmental agency that has jurisdiction over the Premises or other applicable matter, including City (and Port acting in its regulatory capacity),

RWQCB, and the Army Corps of Engineers. Notwithstanding the foregoing, Port shall not be a Regulatory Agency as such term is used in <u>Article 17</u>.

"Regulatory Approval" means any authorization, approval or permit required or issued by any Regulatory Agency with respect to the applicable matter.

"Release" is defined in Section 17.2(g).

"Remediate" or "Remediation" when used with reference to Hazardous Materials means any activities undertaken to clean up, remove, transport, dispose, contain, treat, stabilize, monitor or otherwise control Hazardous Materials located in, on, under or about the Premises or which have been, are being, or threaten to be Released into the environment. Remediation includes those actions included within the definition of "remedy" or "remedial action" in California Health and Safety Code Section 25322 and "remove" or "removal" in California Health and Safety Code Section 25323.

"Rent" means the sum of Minimum Rent (including all adjustments) and Additional Rent. For purposes of this Lease, Rent includes all unpaid sums that are payable as Rent, but that are unpaid when earned and/or accrue for payment at a later time in accordance with the provisions of this Lease.

"Restoration" means the restoration, replacement, or rebuilding of the Improvements (or the applicable portion thereof) destroyed or damaged by the applicable Casualty Event in accordance with all Laws then applicable; provided that Tenant shall not be required to Restore such Improvements to the identical size or configuration as existed before the Casualty Event so long as the Improvements, as Restored, are consistent with those in a first-class public waterfront park and open space project located on property within Port's jurisdiction and in compliance with all applicable Laws. In connection with any Restoration, the Improvements may be redesigned, made larger or smaller, reconfigured, or otherwise modified, provided that the Improvements as so redesigned comply with applicable requirements of the Public Trust, and are consistent with a first-class public waterfront park and open space project located on property within Port's jurisdiction and in compliance with all applicable Laws and afford similar public benefit as the Improvements (or applicable portions thereof) destroyed or damaged by the applicable Casualty Event. "Restore" and "Restored" shall have correlative meanings.

"**RMMP**" is defined in Section 7.3.

"Rules and Regulations" means (i) the Approved Operating Standards and Reporting Requirements, (ii) solely with respect to a Phase of the Initial Improvements or Subsequent Construction that has been Completed, the Operations Plan, and/or (iii) such other rules with respect to the Premises or any portion thereof or other applicable matter as may be adopted by Tenant from time to time with the approval of Port.

"RWQCB" means the San Francisco Bay Regional Water Quality Control Board of Cal/EPA, a state agency.

"Sale Period" is defined in Section 34.8(c).

"San Francisco Stormwater Management Ordinance" is defined in Section 7.5(b).

"Scope of Development" is attached hereto as Exhibit S.

"Secured Amount" means, with respect to Adequate Security, the estimated cost of Completion of the Phase of the Initial Improvements that such Adequate Security is provided to secure, as such cost is determined by Tenant and approved by Port with reference to the applicable construction contracts entered into by or on behalf of Tenant.

"Security Deposit" is defined in the Basic Lease Information.

"Senior Lender" is defined in Section 34.2(c).

"SFPUC" means the San Francisco Public Utilities Commission.

"SFRPD" means the City's Recreation and Parks Department.

"Sign" is defined in Section 3.2.

"Significant Change" means a change of Control of Tenant. For the avoidance of doubt, if Tenant is a Management Association, no change of the members or board members or other leadership of such Management Association shall constitute or be deemed a Significant Change.

"Single Point of Entry for Subsurface Mineral Rights" is defined in the Basic Lease Information.

"Site Plan" is defined in the Basic Lease Information.

"Special Control" means the power to direct the affairs or management of another Person, whether by contract, operation of Law or otherwise. "Specially Controlling" and "Specially Controlled" shall have correlative meanings.

"State" is defined in Section 1.1(d).

"Subsequent Construction" means all repairs to and reconstruction, replacement, addition, expansion, Restoration, alteration or modification of any Improvements, or any construction of additional Improvements, following Completion of the applicable Phase of the Initial Improvements pursuant to this Lease.

"Substantial Condemnation" means a Condemnation of (i) the Premises or any portion thereof that renders the Premises untenantable, unsuitable or economically infeasible for the Permitted Uses, or (ii) the Leasehold Estate.

"Successor Owner" is defined in Section 34.8(a).

"SWPPP" is defined in Section 7.5(a).

"Tenant" is defined in the Basic Lease Information or its permitted successors and assigns.

"Tenant's Address for Notices" is defined in the Basic Lease Information.

"Tenant's Craig Lane Property" is defined in Recital K.

"Tenant's Property" is defined in Recital C.

"**Term**" is defined in Section 1.2.

"**Termination Date**" is defined in Section 1.3.

"Threshold Amount" means One Million Dollars (\$1,000,000), which amount shall be increased by an additional Five Hundred Thousand Dollars (\$500,000) on the tenth (10th) Anniversary Date and every ten (10) years thereafter.

"TMA" is defined in Section 38.11.

"Total Condemnation" is defined in Section 12.2.

"Transfer" is defined in Section 14.1(a).

"Uninsured Casualty" means any of the following: (i) a Casualty Event for which the costs of Restoration (including the cost of any required code upgrades) are not insured or insurable under the policies of insurance that Tenant is required to carry under this Lease and such costs exceed the Threshold Amount, or (ii) a Casualty Event occurring at any time during the Term that is covered under Tenant's policies of insurance that Tenant is required to carry under this Lease but where the cost of Restoration (including the cost of any required code upgrades) will exceed the sum of (A) the net proceeds of any insurance payable, (B) the amount of any applicable policy deductibles, and (C) the Threshold Amount. For purposes of clause (ii)(A) and (B), if Tenant failed to maintain the applicable insurance policies and coverages required by this Lease, then clause (ii)(A) and (B) shall be calculated based on the amounts that would have been payable but for Tenant's failure to maintain the insurance policies and coverages required by this Lease.

"Waterfront Park" is defined in Recital G.

"Work" is defined in Section 9.5(e).

"Workforce Agreement" means the Workforce Agreement attached hereto as Exhibit T, as the same may be amended from time to time (i) during the term of the DA, in accordance with the DA, and (ii) after the expiration or termination of the DA, with Port approval.

IN WITNESS WHEREOF, the Parties have executed this Lease as of the Effective Date.

| TENANT:   | CALIFORNIA BARREL COMPANY LLC, a Delaware limited liability company  |  |
|---|--|--|
|   | By: Fifth and Third Partners LLC, a Delaware limited liability company its Manager  By: Name: Enrique Landa Title: Manager |  |
| PORT:   | CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, operating by and through the San Francisco Port Commission      |  |
|   | By: Name: Rebecca Benassini Title: Acting Deputy Director, Real Estate   |  |
| APPROVED AS TO FORM:                                |  |  |
| DENNIS J. HERRERA, City Attorney                    |  |  |
| By: Name: Eileen Malley Title: Deputy City Attorney | -  |  |
|   | Port Board of Directors Resolution No. 20-12<br>Board of Supervisors Resolution No. 164-20<br>(File No. 200217)            |  |

IN WITNESS WHEREOF, the Parties have executed this Lease as of the Effective Date.

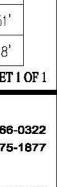
| TENANT:   | CALIFORNIA BARREL COMPANY LLC, a Delaware limited liability company |   |
|---|---|---|
|   | a rocca <b>P</b> ortee a  | Fifth and Third Partners LLC,<br>a Delaware limited liability company<br>its Manager  |
|   |   | By: Name: Enrique Landa Title: Manager  |
| PORT:   | a munic<br>through<br>By:<br>Name:                                  | AND COUNTY OF SAN FRANCISCO, cipal corporation, operating by and the San Francisco Port Commission  Rebecca Benassini Acting Deputy Director, Real Estate |
| APPROVED AS TO FORM:                                |   |   |
| DENNIS J. HERRERA, City Attorney                    |   |   |
| By: Name: Eileen Malley Title: Deputy City Attorney |   |   |
|   | Board o   | oard of Directors Resolution No. 20-12 of Supervisors Resolution No. 164-20 o. 200217)  |

| TENANT:  | CALIFORNIA BARREL COMPANY LLC, a Delaware limited liability company   |  |  |
|--|---|--|--|
|  | By: Fifth and Third Partners LLC, a Delaware limited liability company its Manager                                    |  |  |
|  | Ву:   |  |  |
|  | Name: Enrique Landa<br>Title: Manager   |  |  |
| PORT:  | CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, operating by and through the San Francisco Port Commission |  |  |
|  | By: Name: Rebecca Benassini Title: Deputy Director, Real Estate   |  |  |
| APPROVED AS TO FORM:                               |   |  |  |
| DENNIS J. HERRERA City Attorney                    |   |  |  |
| By: Name: Rona Sandler Title: Deputy City Attorney | <b>-</b>  |  |  |
| Time. Deputy City Timestiley                       | Port Board of Directors Resolution No. 20-12<br>Board of Supervisors Resolution No. 164-20<br>(File No. 200217)       |  |  |

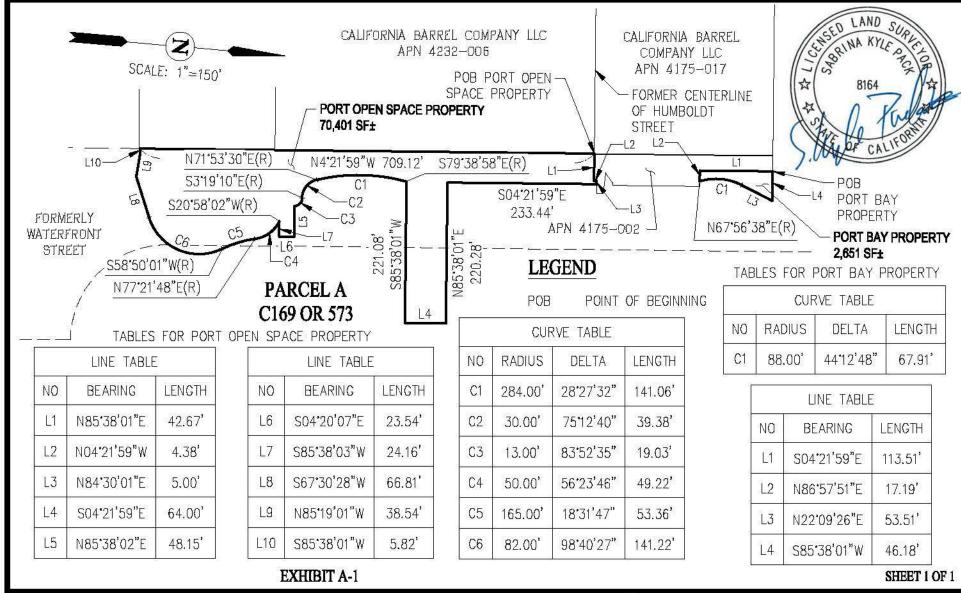
IN WITNESS WHEREOF, the Parties have executed this Lease as of the Effective Date.

### **Premises**

[attached]



9/16/2020 4:33 PM



## PLAT TO ACCOMPANY LEGAL DESCRIPTION

PREMISES
POTRERO SITE
CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA
SEPTEMBER 16, 2020



SAN RAMON (925) 866-0322 SACRAMENTO (916) 375-1877 WWW.CBANDG.COM

CIVIL ENGINEERS - SURVEYORS - PLANNERS

## EXHIBIT A-1 PROPERTY DESCRIPTION PREMISES POTRERO SITE CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA

REAL PROPERTY, SITUATE IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, COMPRISED OF TWO (2) PARCELS, DESCRIBED AS FOLLOWS:

#### PORT OPEN SPACE PROPERTY

BEING A PORTION OF PARCEL A, AS SAID PARCEL A IS DESCRIBED IN THAT CERTAIN DOCUMENT ENTITLED "DESCRIPTION", RECORDED MAY 14, 1976, IN BOOK C169 OF OFFICIAL RECORDS AT PAGE 573, IN THE OFFICE OF THE RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE BOUNDARY LINE OF SAID PARCEL A, SAID POINT BEING THE WESTERN TERMINUS OF THAT CERTAIN COURSE DESCRIBED AS "140. ... S. 85° 40' W 1.0 FOOT", SAID POINT BEING THE INTERSECTION OF THE CENTERLINE OF FORMER HUMBOLDT STREET (66 FEET WIDE) WITH THE WESTERN LINE OF WATERFRONT STREET (WIDTH VARIES);

THENCE, FROM SAID POINT OF BEGINNING, ALONG SAID BOUNDARY LINE OF PARCEL A, THE FOLLOWING THREE (3) COURSES:

- 1) NORTH 85°38'01" EAST (THE BEARING OF SAID BOUNDARY LINE BEING TAKEN AS NORTH 85°38'01" EAST FOR THE PURPOSE OF MAKING THIS DESCRIPTION) 42.67 FEET,
- 2) NORTH 04°21'59" WEST 4.38 FEET, AND
- 3) NORTH 84°30'01" EAST 5.00 FEET;

THENCE, LEAVING SAID BOUNDARY LINE OF PARCEL A, SOUTH 04°21'59" EAST 233.44 FEET;

THENCE, NORTH 85°38'01" EAST 220.28 FEET;

THENCE, SOUTH 04°21'59" EAST 64.00 FEET;

THENCE, SOUTH 85°38'01" WEST 221.08 FEET;

THENCE, ALONG THE ARC OF A NON-TANGENT 284.00 FOOT RADIUS CURVE TO THE LEFT, FROM WHICH THE CENTER OF SAID CURVE BEARS SOUTH 79°38'58" EAST, THROUGH A CENTRAL ANGLE OF 28°27'32", AN ARC DISTANCE OF 141.06 FEET;

### PROPERTY DESCRIPTION

PAGE 2 OF 3

THENCE, ALONG THE ARC OF A COMPOUND 30.00 FOOT RADIUS CURVE TO THE LEFT, FROM WHICH THE CENTER OF SAID CURVE BEARS NORTH 71°53'30" EAST, THROUGH A CENTRAL ANGLE OF 75°12'40", AN ARC DISTANCE OF 39.38 FEET;

THENCE, ALONG THE ARC OF A REVERSE 13.00 FOOT RADIUS CURVE TO THE RIGHT, FROM WHICH THE CENTER OF SAID CURVE BEARS SOUTH 03°19'10" EAST, THROUGH A CENTRAL ANGLE OF 83°52'35", AN ARC DISTANCE OF 19.03 FEET;

THENCE, NORTH 85°38'02" EAST 48.15 FEET;

THENCE, SOUTH 04°20'07" EAST 23.54 FEET;

THENCE, SOUTH 85°38'03" WEST 24.16 FEET;

THENCE, ALONG THE ARC OF A NON-TANGENT 50.00 FOOT RADIUS CURVE TO THE RIGHT, FROM WHICH THE CENTER OF SAID CURVE BEARS SOUTH 20°58'02" WEST, THROUGH A CENTRAL ANGLE OF 56°23'46", AN ARC DISTANCE OF 49.22 FEET;

THENCE, ALONG THE ARC OF A REVERSE 165.00 FOOT RADIUS CURVE TO THE LEFT, FROM WHICH THE CENTER OF SAID CURVE BEARS NORTH 77°21'48" EAST, THROUGH A CENTRAL ANGLE OF 18°31'47", AN ARC DISTANCE OF 53.36 FEET;

THENCE, ALONG THE ARC OF A REVERSE 82.00 FOOT RADIUS CURVE TO THE RIGHT, FROM WHICH THE CENTER OF SAID CURVE BEARS SOUTH 58°50'01" WEST, THROUGH A CENTRAL ANGLE OF 98°40'27", AN ARC DISTANCE OF 141.22 FEET;

THENCE, SOUTH 67°30'28" WEST 66.81 FEET;

THENCE, NORTH 85°19'01" WEST 38.54 FEET;

THENCE, SOUTH 85°38'01" WEST 5.82 FEET TO A POINT ON SAID BOUNDARY LINE OF PARCEL A;

THENCE, ALONG SAID BOUNDARY LINE OF PARCEL A, NORTH  $04^{\circ}21'59"$  WEST 709.12 FEET TO SAID POINT OF BEGINNING.

CONTAINING 70,401 SQUARE FEET OF LAND, MORE OR LESS.

#### PORT BAY PROPERTY

BEING A PORTION OF SAID PARCEL A (BOOK C169 OR 573), MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE BOUNDARY LINE OF SAID PARCEL A, SAID POINT BEING THE NORTHERN TERMINUS OF THAT CERTAIN COURSE DESCRIBED AS "130. S. 04°20' E., 113.69 FEET";

THENCE, FROM SAID POINT OF BEGINNING, ALONG SAID BOUNDARY LINE OF PARCEL A, THE FOLLOWING TWO (2) COURSES:

- 1) SOUTH 04°21'59" EAST (THE BEARING OF SAID BOUNDARY LINE BEING TAKEN AS SOUTH 04°21'59" EAST FOR THE PURPOSE OF MAKING THIS DESCRIPTION) 113.51 FEET, AND
- 2) NORTH 86°57'51" EAST 17.19 FEET;

THENCE, LEAVING SAID BOUNDARY LINE OF PARCEL A, ALONG THE ARC OF A NON-TANGENT 88.00 FOOT RADIUS CURVE TO THE RIGHT, FROM WHICH THE CENTER OF SAID CURVE BEARS NORTH  $67^{\circ}56'38"$  EAST, THROUGH A CENTRAL ANGLE OF  $44^{\circ}12'48"$ , AN ARC DISTANCE OF 67.91 FEET;

THENCE, NORTH 22°09'26" EAST 53.51 FEET;

THENCE, SOUTH 85°38'01" WEST 46.18 FEET TO SAID POINT OF BEGINNING.

CONTAINING 2,651 SQUARE FEET OF LAND, MORE OR LESS.

ATTACHED HERETO IS A PLAT TO ACCOMPANY LEGAL DESCRIPTION, AND BY THIS REFERENCE, MADE A PART HEREOF.

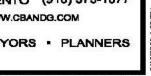
END OF DESCRIPTION

SABRINA KYLE PACK, P.L.S.

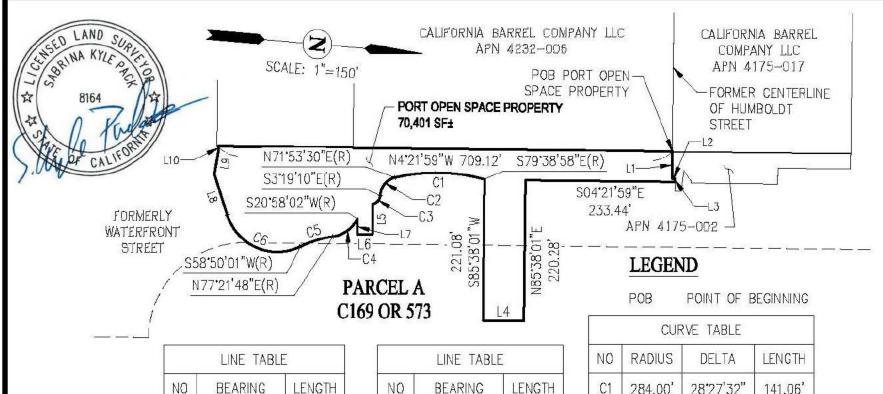
L.S. NO. 8164

## **Port Open Space**

[attached]



SHEET 1 OF 1



| LINE TABLE |             |        |
|------------|-------------|--------|
| NO         | BEARING     | LENGTH |
| L1         | N85'38'01"E | 42.67  |
| L2         | N04'21'59"W | 4.38'  |
| L3         | N84'30'01"E | 5.00'  |
| L4         | S04'21'59"E | 64.00  |
| L5         | N85*38'02"E | 48.15  |

|     | LINE TABLE  |        |
|-----|-------------|--------|
| NO  | BEARING     | LENGTH |
| L6  | S04*20'07"E | 23.54  |
| L7  | S85*38'03"W | 24.16  |
| L8  | S67*30'28"W | 66.81  |
| L9  | N85*19'01"W | 38.54  |
| L10 | S85'38'01"W | 5.82'  |

|    | CUF     | RVE TABLE  |         |
|----|---------|------------|---------|
| NO | RADIUS  | DELTA      | LENGTH  |
| C1 | 284.00' | 28'27'32"  | 141.06  |
| C2 | 30.00'  | 75'12'40'' | 39.38'  |
| СЗ | 13.00'  | 83*52′35"  | 19.03   |
| C4 | 50.00'  | 56*23'46"  | 49.22'  |
| C5 | 165.00' | 18'31'47"  | 53.36'  |
| C6 | 82.00'  | 98'40'27"  | 141.22' |

## PLAT TO ACCOMPANY LEGAL DESCRIPTION

**EXHIBIT A-2** 

PORT OPEN SPACE PROPERTY
POTRERO SITE
CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA

**SEPTEMBER 16, 2020** 



SAN RAMON (925) 866-0322 SACRAMENTO (916) 375-1877 WWW.CBANDG.COM

CIVIL ENGINEERS • SURVEYORS • PLANNERS

## EXHIBIT A-2 PROPERTY DESCRIPTION PORT OPEN SPACE PROPERTY CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA

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

BEING A PORTION OF PARCEL A, AS SAID PARCEL A IS DESCRIBED IN THAT CERTAIN DOCUMENT ENTITLED "DESCRIPTION", RECORDED MAY 14, 1976, IN BOOK C169 OF OFFICIAL RECORDS AT PAGE 573, IN THE OFFICE OF THE RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE BOUNDARY LINE OF SAID PARCEL A, SAID POINT BEING THE WESTERN TERMINUS OF THAT CERTAIN COURSE DESCRIBED AS "140. ... S. 85° 40' W 1.0 FOOT", SAID POINT BEING THE INTERSECTION OF THE CENTERLINE OF FORMER HUMBOLDT STREET (66 FEET WIDE) WITH THE WESTERN LINE OF WATERFRONT STREET (WIDTH VARIES);

THENCE, FROM SAID POINT OF BEGINNING, ALONG SAID BOUNDARY LINE OF PARCEL A, THE FOLLOWING THREE (3) COURSES:

- 1) NORTH 85°38'01" EAST (THE BEARING OF SAID BOUNDARY LINE BEING TAKEN AS NORTH 85°38'01" EAST FOR THE PURPOSE OF MAKING THIS DESCRIPTION) 42.67 FEET,
- 2) NORTH 04°21'59" WEST 4.38 FEET, AND
- 3) NORTH 84°30'01" EAST 5.00 FEET;

THENCE, LEAVING SAID BOUNDARY LINE OF PARCEL A, SOUTH 04°21'59" EAST 233.44 FEET;

THENCE, NORTH 85°38'01" EAST 220.28 FEET;

THENCE, SOUTH 04°21'59" EAST 64.00 FEET;

THENCE, SOUTH 85°38'01" WEST 221.08 FEET;

THENCE, ALONG THE ARC OF A NON-TANGENT 284.00 FOOT RADIUS CURVE TO THE LEFT, FROM WHICH THE CENTER OF SAID CURVE BEARS SOUTH  $79^\circ38'58"$  EAST, THROUGH A CENTRAL ANGLE OF  $28^\circ27'32"$ , AN ARC DISTANCE OF 141.06 FEET;

THENCE, ALONG THE ARC OF A COMPOUND 30.00 FOOT RADIUS CURVE TO THE LEFT, FROM WHICH THE CENTER OF SAID CURVE BEARS NORTH 71°53'30" EAST, THROUGH A CENTRAL ANGLE OF 75°12'40", AN ARC DISTANCE OF 39.38 FEET;

PROPERTY DESCRIPTIONSEPTEMBER 17, 2020PAGE 2 OF 2JOB NO.: 2747-000

THENCE, ALONG THE ARC OF A REVERSE 13.00 FOOT RADIUS CURVE TO THE RIGHT, FROM WHICH THE CENTER OF SAID CURVE BEARS SOUTH 03°19'10" EAST, THROUGH A CENTRAL ANGLE OF 83°52'35", AN ARC DISTANCE OF 19.03 FEET;

THENCE, NORTH 85°38'02" EAST 48.15 FEET;

THENCE, SOUTH 04°20'07" EAST 23.54 FEET;

THENCE, SOUTH 85°38'03" WEST 24.16 FEET;

THENCE, ALONG THE ARC OF A NON-TANGENT 50.00 FOOT RADIUS CURVE TO THE RIGHT, FROM WHICH THE CENTER OF SAID CURVE BEARS SOUTH 20°58'02" WEST, THROUGH A CENTRAL ANGLE OF 56°23'46", AN ARC DISTANCE OF 49.22 FEET;

THENCE, ALONG THE ARC OF A REVERSE 165.00 FOOT RADIUS CURVE TO THE LEFT, FROM WHICH THE CENTER OF SAID CURVE BEARS NORTH 77°21'48" EAST, THROUGH A CENTRAL ANGLE OF 18°31'47", AN ARC DISTANCE OF 53.36 FEET;

THENCE, ALONG THE ARC OF A REVERSE 82.00 FOOT RADIUS CURVE TO THE RIGHT, FROM WHICH THE CENTER OF SAID CURVE BEARS SOUTH 58°50'01" WEST, THROUGH A CENTRAL ANGLE OF 98°40'27", AN ARC DISTANCE OF 141.22 FEET;

THENCE, SOUTH 67°30'28" WEST 66.81 FEET;

THENCE, NORTH 85°19'01" WEST 38.54 FEET;

THENCE, SOUTH 85°38'01" WEST 5.82 FEET TO A POINT ON SAID BOUNDARY LINE OF PARCEL A;

THENCE, ALONG SAID BOUNDARY LINE OF PARCEL A, NORTH 04°21'59" WEST 709.12 FEET TO SAID POINT OF BEGINNING.

CONTAINING 70,401 SQUARE FEET OF LAND, MORE OR LESS.

ATTACHED HERETO IS A PLAT TO ACCOMPANY LEGAL DESCRIPTION, AND BY THIS REFERENCE, MADE A PART HEREOF.

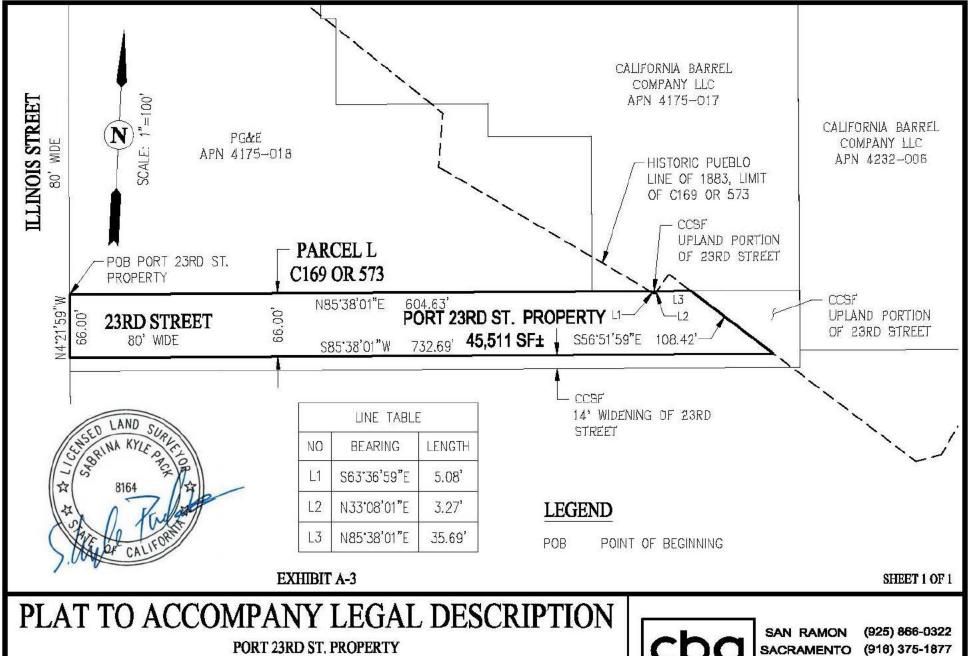
END OF DESCRIPTION

SABRINA KYLE PACK, P.L.S.

L.S. NO. 8164

## Port 23rd St. Property

[attached]



**POTRERO SITE** CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA JUNE 2, 2020

WWW.CBANDG.COM

CIVIL ENGINEERS . SURVEYORS . PLANNERS

## EXHIBIT A-3 PROPERTY DESCRIPTION PORT 23<sup>RD</sup> ST. PROPERTY CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA

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

BEING A PORTION OF PARCEL L, AS SAID PARCEL L IS DESCRIBED IN THAT CERTAIN DOCUMENT ENTITLED "DESCRIPTION", RECORDED MAY 14, 1976, IN BOOK C169 OF OFFICIAL RECORDS AT PAGE 573, IN THE OFFICE OF THE RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE BOUNDARY LINE OF SAID PARCEL L, SAID POINT BEING THE NORTHEASTERN CORNER OF  $23^{\text{RD}}$  STREET (FORMERLY NEVADA STREET, FORMERLY 66 FEET WIDE), AND ILLINOIS STREET (80 FEET WIDE);

THENCE, FROM SAID POINT OF BEGINNING, ALONG SAID BOUNDARY LINE OF PARCEL L, THE FOLLOWING SIX (6) COURSES:

- ALONG THE NORTHERN LINE OF SAID 23<sup>RD</sup> STREET, NORTH 85°38'01" EAST (THE BEARING OF SAID NORTHERN LINE BEING TAKEN AS NORTH 85°38'01" EAST FOR THE PURPOSE OF MAKING THIS DESCRIPTION) 604.63 FEET TO A POINT ON THE BOUNDARY LINE OF THE PUEBLO OF SAN FRANCISCO AS SURVEYED BY F. VON LEICHT, U.S. DEPUTY SURVEYOR, IN DECEMBER 1883 AND SHOWN ON "PLAT OF THE PUEBLO LANDS OF SAN FRANCISCO FINALLY CONFIRMED TO THE CITY AND COUNTY OF SAN FRANCISCO", APPROVED MAY 15, 1884;
- 2) ALONG SAID PUEBLO LINE, THE FOLLOWING TWO (2) COURSES: SOUTH 63°36'59" EAST 5.08 FEET AND
- 3) NORTH 33°08'01" EAST 3.27 FEET TO SAID NORTHERN LINE OF SAID  $23^{\text{RD}}$  STREET,
- 4) ALONG SAID NORTHERN LINE OF 23<sup>RD</sup> STREET, NORTH 85°38'01" EAST 35.69 FEET TO A POINT ON SAID PUEBLO LINE,
- 5) ALONG SAID PUEBLO LINE, SOUTH 56°51'59" EAST 108.42 FEET TO A POINT ON THE SOUTHERN LINE OF SAID 23<sup>RD</sup> STREET (FORMERLY 66 WIDE), AND
- 6) ALONG SAID SOUTHERN LINE, SOUTH 85°38'01" WEST 732.69 FEET TO THE EASTERN LINE OF SAID ILLINOIS STREET (80 FEET WIDE);

THENCE, LEAVING SAID BOUNDARY LINE OF PARCEL F (C169 OR 573), ALONG SAID EASTERN LINE OF ILLINOIS STREET (80 FEET WIDE), NORTH 04°21'59" WEST 66.00 FEET TO SAID POINT OF BEGINNING.

CONTAINING 45,511 SQUARE FEET OF LAND, MORE OR LESS.

ATTACHED HERETO IS A PLAT TO ACCOMPANY LEGAL DESCRIPTION, AND BY THIS REFERENCE, MADE A PART HEREOF.

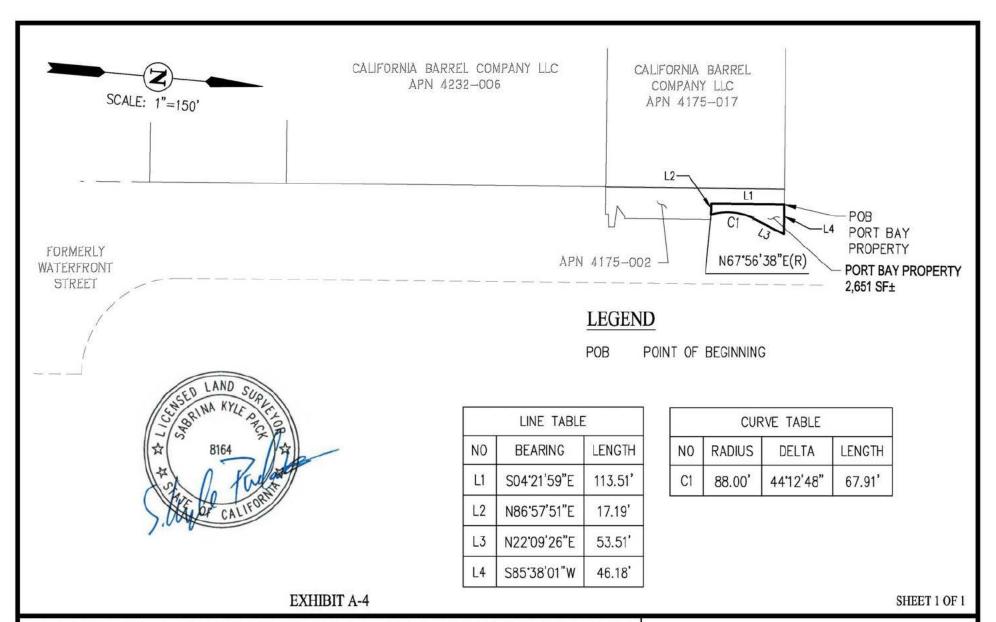
END OF DESCRIPTION

SABRINA KYLE PACK, P.L.S.

L.S. NO. 8164

## **Port Bay Property**

[attached]



## PLAT TO ACCOMPANY LEGAL DESCRIPTION

PORT BAY PROPERTY
POTRERO SITE
CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA

JUNE 1, 2020



SAN RAMON (925) 866-0322 SACRAMENTO (916) 375-1877

WWW.CBANDG.COM

CIVIL ENGINEERS • SURVEYORS • PLANNERS

JUNE 1, 2020 JOB NO.: 2747-000

## EXHIBIT A-4 PROPERTY DESCRIPTION PORT BAY PROPERTY CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA

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

BEING A PORTION OF PARCEL A, AS SAID PARCEL A IS DESCRIBED IN THAT CERTAIN DOCUMENT ENTITLED "DESCRIPTION" RECORDED MAY 14, 1976, IN BOOK C169 OF OFFICIAL RECORDS AT PAGE 573, IN THE OFFICE OF THE RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE BOUNDARY LINE OF SAID PARCEL A, SAID POINT BEING THE NORTHERN TERMINUS OF THAT CERTAIN COURSE DESCRIBED AS "130. S. 04°20' E., 113.69 FEET";

THENCE, FROM SAID POINT OF BEGINNING, ALONG SAID BOUNDARY LINE OF PARCEL A, THE FOLLOWING TWO (2) COURSES:

- 1) SOUTH 04°21'59" EAST (THE BEARING OF SAID BOUNDARY LINE BEING TAKEN AS SOUTH 04°21'59" EAST FOR THE PURPOSE OF MAKING THIS DESCRIPTION) 113.51 FEET, AND
- 2) NORTH 86°57'51" EAST 17.19 FEET;

THENCE, LEAVING SAID BOUNDARY LINE OF PARCEL A, ALONG THE ARC OF A NON-TANGENT 88.00 FOOT RADIUS CURVE TO THE RIGHT, FROM WHICH THE CENTER OF SAID CURVE BEARS NORTH  $67^{\circ}56'38"$  EAST, THROUGH A CENTRAL ANGLE OF  $44^{\circ}12'48"$ , AN ARC DISTANCE OF 67.91 FEET;

THENCE, NORTH 22°09'26" EAST 53.51 FEET;

THENCE, SOUTH 85°38'01" WEST 46.18 FEET TO SAID POINT OF BEGINNING.

CONTAINING 2,651 SQUARE FEET OF LAND, MORE OR LESS.

ATTACHED HERETO IS A PLAT TO ACCOMPANY LEGAL DESCRIPTION, AND BY THIS REFERENCE, MADE A PART HEREOF.

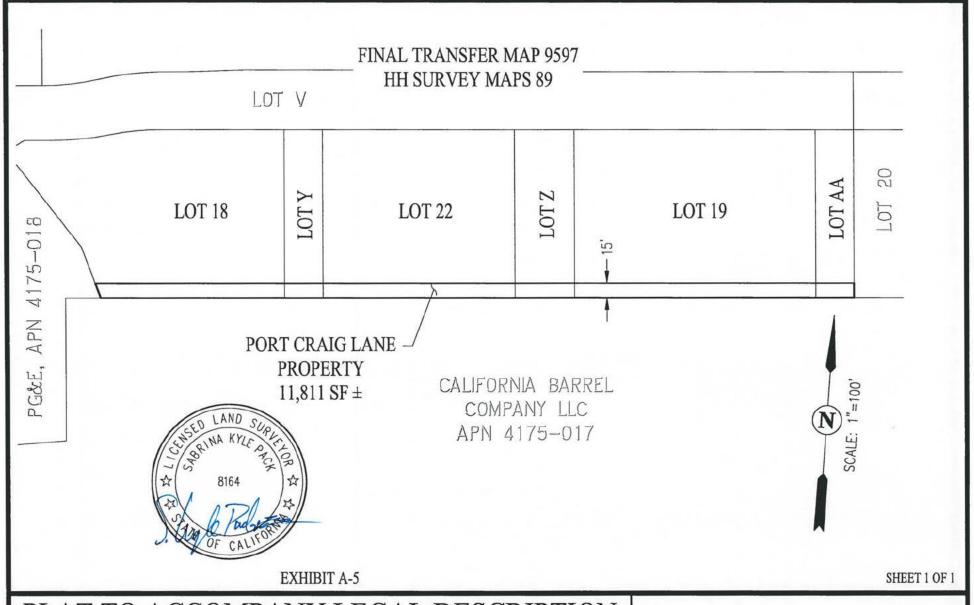
END OF DESCRIPTION

SABRINA KYLE PACK, P.L.S.

L.S. NO. 8164

## **Port Craig Lane Property**

[attached]



## PLAT TO ACCOMPANY LEGAL DESCRIPTION

PORT CRAIG LANE RPOPERTY

LOTS 18, 19, 22, Y , Z AND AA, FINAL TRANSFER MAP 9597 (HH SURVEY MAPS 89)

CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA

JANUARY 14, 2021



SAN RAMON (925) 866-0322 SACRAMENTO (916) 375-1877

WWW.CBANDG.COM

CIVIL ENGINEERS . SURVEYORS . PLANNERS

JANUARY 14, 2021 JOB NO.: 2747-000

# EXHIBIT A-5 PROPERTY DESCRIPTION PORT CRAIG LANE PROPERTY LOTS 18, 19, 22, Y, Z, AND AA, FINAL TRANSFER MAP 9597 (HH SURVEY MAPS 89) CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA

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

BEING A PORTION OF LOTS 18, 19, 22, LOT Y, LOT Z AND LOT AA, AS SAID LOTS ARE SHOWN AND SO DESIGNATED ON THAT CERTAIN FINAL TRANSFER MAP 9597, RECORDED FEBRUARY 7, 2019, IN BOOK HH OF SURVEY MAPS, AT PAGE 89, IN THE OFFICE OF THE RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING THE SOUTHERN FIFTEEN (15) FEET OF SAID LOTS.

CONTAINING 11,811 SQUARE FEET OF LAND, MORE OR LESS.

ATTACHED HERETO IS A PLAT TO ACCOMPANY LEGAL DESCRIPTION, AND BY THIS REFERENCE MADE A PART HEREOF.

END OF DESCRIPTION

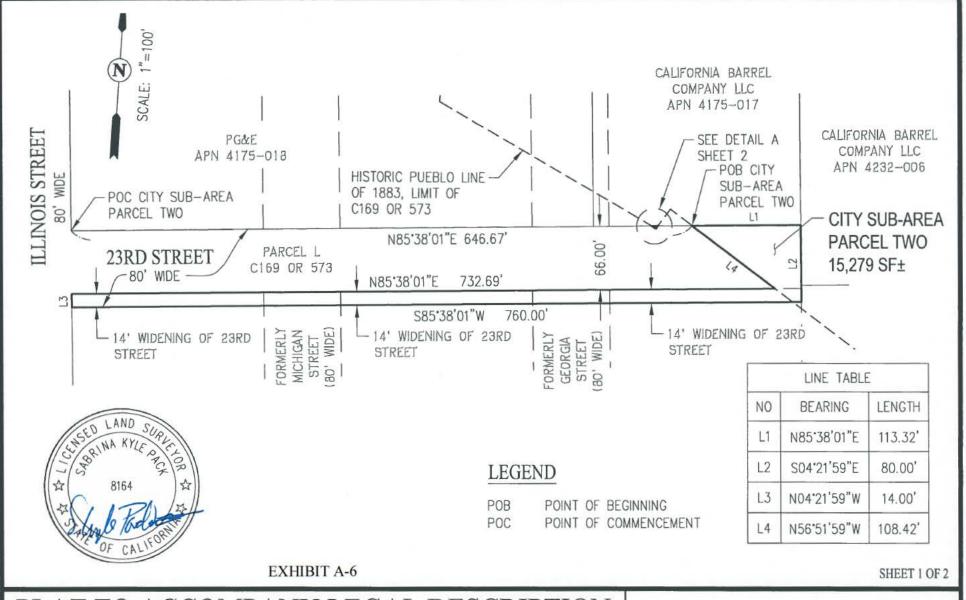
S. Will Tooking

L.S. NO. 8164

SABRINA KYLE PACK P.L.S.

## City Sub-Area

[attached]



## PLAT TO ACCOMPANY LEGAL DESCRIPTION

CITY SUB-AREA PROPERTY
POTRERO SITE
CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA

SEPTEMBER 20, 2019

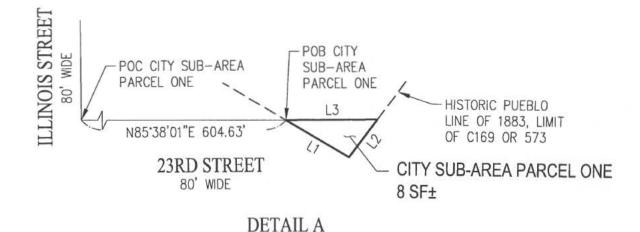


SAN RAMON (925) 866-0322 SACRAMENTO (916) 375-1877

WWW.CBANDG.COM

CIVIL ENGINEERS . SURVEYORS . PLANNERS





NOT TO SCALE

**LEGEND** 

POB

POINT OF BEGINNING

POC

POINT OF COMMENCEMENT

| 78.22 | LINE TABLE  |        |
|-------|-------------|--------|
| NO    | BEARING     | LENGTH |
| L1    | S63'36'59"E | 5.08   |
| L2    | N33*08'01"E | 3.27'  |
| L3    | S85'38'01"W | 6.35'  |

**EXHIBIT A-6** 

SHEET 2 OF 2

## PLAT TO ACCOMPANY LEGAL DESCRIPTION

CITY SUB-AREA PROPERTY
POTRERO SITE
CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA

**SEPTEMBER 20, 2019** 



SAN RAMON (925) 866-0322 SACRAMENTO (916) 375-1877

WWW.CBANDG.COM

CIVIL ENGINEERS . SURVEYORS . PLANNERS

## PROPERTY DESCRIPTION CITY SUB-AREA PROPERTY CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA

REAL PROPERTY, SITUATE IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, COMPRISED OF TWO (2) PARCELS, DESCRIBED AS FOLLOWS:

#### CITY SUB-AREA PARCEL ONE

BEING A PORTION OF 23<sup>RD</sup> STREET (FORMERLY NEVADA STREET, 80 FEET WIDE), MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEASTERN CORNER OF SAID 23RD STREET AND ILLINOIS STREET (80 FEET WIDE);

THENCE, FROM SAID POINT OF COMMENCEMENT, ALONG THE NORTHERN LINE OF SAID 23<sup>RD</sup> STREET, NORTH 85°38'01" EAST (THE BEARING OF SAID NORTHERN LINE BEING TAKEN AS NORTH 85°38'01" EAST FOR THE PURPOSE OF MAKING THIS DESCRIPTION) 604.63 FEET TO A POINT ON THE BOUNDARY LINE OF THE PUEBLO OF SAN FRANCISCO AS SURVEYED BY F. VON LEICHT, U.S. DEPUTY SURVEYOR, IN DECEMBER 1883 AND SHOWN ON "PLAT OF THE PUEBLO LANDS OF SAN FRANCISCO FINALLY CONFIRMED TO THE CITY AND COUNTY OF SAN FRANCISCO", APPROVED MAY 15, 1884, SAID POINT BEING THE POINT OF BEGINNING FOR THIS DESCRIPTION;

THENCE, FROM SAID POINT OF BEGINNING, ALONG SAID PUEBLO LINE, THE FOLLOWING TWO (2) COURSES:

- 1) SOUTH 63°36'59" EAST 5.08 FEET AND
- 2) NORTH 33°08'01" EAST 3.27 FEET TO SAID NORTHERN LINE OF SAID 23<sup>RD</sup> STREET;

THENCE, ALONG SAID NORTHERN LINE OF 23<sup>RD</sup> STREET, SOUTH 85°38'01" WEST 6.35 FEET TO SAID POINT OF BEGINNING.

CONTAINING 8 SQUARE FEET OF LAND, MORE OR LESS.

#### CITY SUB-AREA PARCEL TWO

BEING A PORTION OF SAID 23<sup>RD</sup> STREET (FORMERLY NEVADA STREET, FORMERLY 66 FEET WIDE), A PORTION OF THE 14 FOOT WIDENING OF 23<sup>RD</sup> STREET, AS SHOWN ON THE MAP ENTITLED "MAP SHOWING THE WIDENING OF TWENTY-THIRD STREET FROM THIRD STREET TO ITS EASTERLY TERMINATION", FILED ON JULY 22, 1927, IN BOOK L OF MAPS, AT PAGE 34, IN SAID OFFICE OF THE RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO, AND BEING A PORTION

SEPTEMBER 20, 2019 JOB NO.: 2747-000

OF MICHIGAN STREET (80 FEET WIDE) AND GEORGIA STREET (80 FEET WIDE), MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEASTERN CORNER OF SAID 23RD STREET (FORMERLY 66 FEET WIDE) AND ILLINOIS STREET (80 FEET WIDE);

THENCE, FROM SAID POINT OF COMMENCEMENT, ALONG THE NORTHERN LINE OF SAID 23<sup>RD</sup> STREET, NORTH 85°38'01" EAST (THE BEARING OF SAID NORTHERN LINE BEING TAKEN AS NORTH 85°38'01" EAST FOR THE PURPOSE OF MAKING THIS DESCRIPTION) 646.67 FEET TO A POINT ON SAID PUEBLO LINE, SAID POINT BEING THE POINT OF BEGINNING FOR THIS DESCRIPTION;

THENCE, FROM SAID POINT OF BEGINNING, CONTINUING ALONG SAID NORTHERN LINE OF 23<sup>RD</sup> STREET, NORTH 85°38'01" EAST 113.32 FEET TO THE WESTERN LINE OF FORMER LOUISIANA STREET (80 FEET WIDE);

THENCE, ALONG SAID WESTERN LINE, SOUTH 04°21'59" EAST 80.00 FEET TO THE SOUTHERN LINE OF SAID 14 FOOT WIDENING OF 23<sup>RD</sup> STREET;

THENCE, ALONG SAID SOUTHERN LINE, AND ITS CONNECTING PROLONGATIONS, SOUTH 85°38'01" WEST 760.00 FEET TO THE EASTERN LINE OF SAID ILLINOIS STREET (80 FEET WIDE);

THENCE, ALONG SAID EASTERN LINE, NORTH 04°21'59" WEST 14.00 FEET TO THE NORTHERN LINE OF SAID 14 FOOT WIDENING OF 23<sup>RD</sup> STREET;

THENCE, ALONG SAID NORTHERN LINE, AND IT'S CONNECTING PROLONGATIONS, NORTH 85°38'01" EAST 732.69 FEET TO A POINT ON SAID PUEBLO LINE;

THENCE, ALONG SAID PUEBLO LINE, NORTH 56°51'59" WEST 108.42 FEET TO SAID POINT OF BEGINNING.

CONTAINING 15,279 SQUARE FEET OF LAND, MORE OR LESS.

ATTACHED HERETO IS A PLAT TO ACCOMPANY LEGAL DESCRIPTION, AND BY THIS REFERENCE, MADE A PART HEREOF.

END OF DESCRIPTION

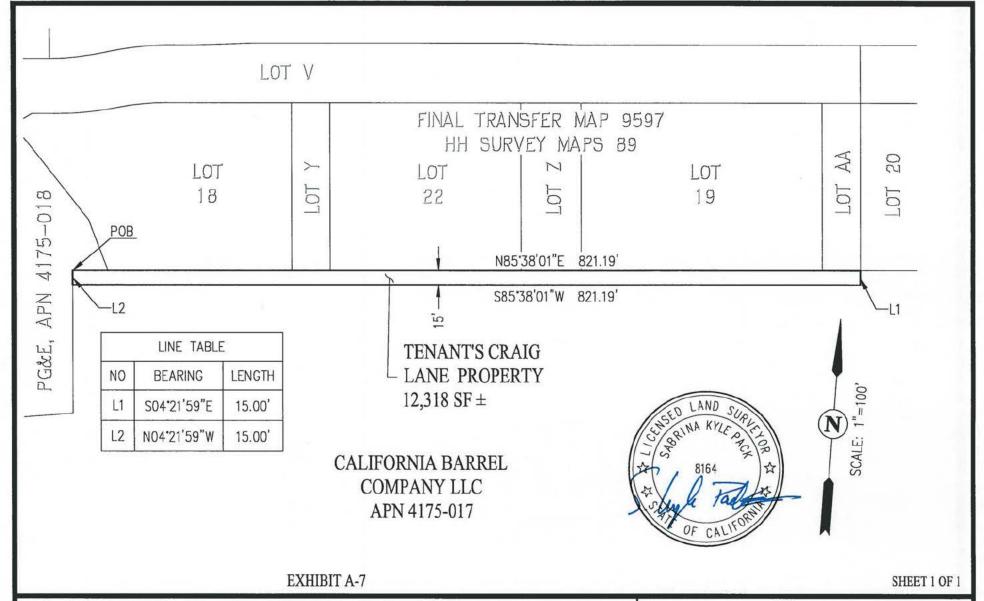
No. 8164

SABRINA KYLE PACK, P.L.S.

L.S. NO. 8164

## **Tenant's Craig Lane Property**

[attached]



# PLAT TO ACCOMPANY LEGAL DESCRIPTION

TENANT'S CRAIG LANE PROPERTY
CALIFORNIA BARREL COMPANY LLC PROPERTY (DN 2016-K334613)
CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA
JANUARY 14, 2021



SAN RAMON (925) 866-0322 SACRAMENTO (916) 375-1877

WWW.CBANDG.COM

CIVIL ENGINEERS • SURVEYORS • PLANNERS

JANUARY 14, 2021 JOB NO.: 2747-000

# EXHIBIT A-7 PROPERTY DESCRIPTION TENANT'S CRAIG LANE PROPERTY CALIFORNIA BARREL COMPANY LLC PROPERTY (DN 2016-K334613) CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA

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

BEING A PORTION OF PARCEL A, AS SAID PARCEL A IS DESCRIBED IN THAT CERTAIN GRANT DEED RECORDED SEPTEMBER 26, 2016, AS DOCUMENT NUMBER 2016-K334613, OF OFFICIAL RECORDS, IN THE OFFICE OF THE RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERN CORNER OF SAID PARCEL A;

THENCE, FROM SAID POINT OF BEGINNING, ALONG THE NORTHERN LINE OF SAID PARCEL A, NORTH 85°38'01" EAST 821.19 FEET (THE BEARING OF SAID NORTHERN LINE BEING TAKEN AS NORTH 85°38'01" EAST FOR THE PURPOSE OF MAKING THIS DESCRIPTION) TO A POINT ON SAID NORTHERN LINE, SAID POINT BEING THE SOUTHEASTERN CORNER OF LOT AA, AS SAID LOT AA IS SHOWN AND SO DESIGNATED ON THAT CERTAIN FINAL TRANSFER MAP 9597, RECORDED FEBRUARY 7, 2019, IN BOOK HH OF SURVEY MAPS, AT PAGE 89, IN SAID OFFICE OF THE RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO;

THENCE, LEAVING SAID NORTHERN LINE, SOUTH 04°21'59" EAST 15.00 FEET;

THENCE, ALONG A LINE PARALLEL WITH AND FIFTEEN (15.00) FEET SOUTHERLY, MEASURED AT RIGHT ANGLES, FROM SAID NORTHERN LINE OF PARCEL A, SOUTH 85°38'01" WEST 821.19 FEET TO A POINT ON THE WESTERN LINE OF SAID PARCEL A;

THENCE, ALONG SAID WESTERN LINE, NORTH 04°21'59" WEST 15.00 FEET TO SAID POINT OF BEGINNING.

CONTAINING 12,318 SQUARE FEET OF LAND, MORE OR LESS.

ATTACHED HERETO IS A PLAT TO ACCOMPANY LEGAL DESCRIPTION, AND BY THIS REFERENCE MADE A PART HEREOF.

END OF DESCRIPTION

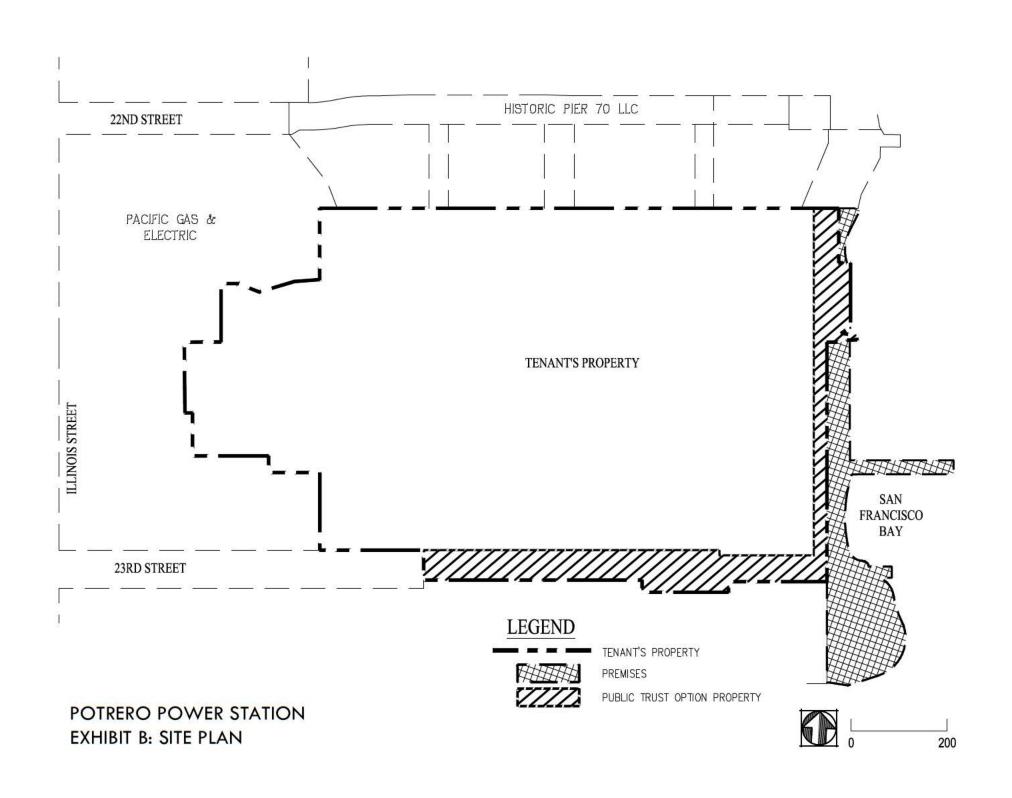
SABRINA KYLE PACK P.L.S.

L.S. NO. 8164

# **EXHIBIT B**

## Site Plan

[attached]



### **EXHIBIT C**

### **Project Approvals**

- A. Final approval actions by the City and County of San Francisco Board of Supervisors for the Port Lease Premises (Potrero Power Station Mixed-Use Project)
- 1. Ordinance 0062-20 (File No. 200040): (1) Approving a Development Agreement between the City and County of San Francisco and California Barrel Company LLC; (2) waiving or modifying certain provisions of the Administrative Code, Planning Code, Subdivision Code, and Zoning Map; and (3) adopting findings under the California Environmental Quality Act, public trust findings, and findings of consistency with the General Plan and Planning Code priority policies.
- 2. Ordinance 0061-20 (File No. 200039): Amending the Planning Code and the Zoning Maps to establish the Power Station Special Use District and Height and Bulk districts.
- 3. Ordinance 0064-20 (File No. 200174): Amending the General Plan to conform the General Plan with the Potrero Power Station Special Use District.
- 4. Resolution 0164-20 (File No. 200217): Resolution approving ground lease with Developer and the Port.
- B. Final and Related Approval Actions of City and County of San Francisco Port Commission (referenced by Resolution number "R No.")
- 1. R No. 20-12: (1) Consent to Development Agreement; (2) approval of a ground lease with Developer and Port for public parks and open space and publicly accessible ways; (3) delegation of authority to Port's Executive Director to enter into one or more Memoranda of Understandings with various City agencies, including the San Francisco Public Utilities Commission, the San Francisco Public Works Department and the Department of Building Inspection, relating to each agency's role and responsibility; and (4) adoption of environmental findings, including a mitigation monitoring and reporting program and a statement of overriding considerations, pursuant to the California Environmental Quality Act.
- C. Final and Related Approval Actions of City and County of San Francisco Planning Commission (referenced by Motion Number "M No." or Resolution Number "R No.")
- 1. M No. 20635: Certifying the Final Environmental Impact Report for the Potrero Power Station Mixed-Use Development Project.
- 2. M No. 20636: Adopting Findings and Statement of Overriding Considerations under the California Environmental Quality Act.
- 3. R No. 20637: Recommending to the Board of Supervisors approval of the General Plan Amendments to conform the General Plan to the Potrero Power Station Special Use District.

- 4. R No. 20640: Recommending to the Board of Supervisors approval of a Development Agreement between the City and California Barrel Company LLC.
- 5. R No. 20639: Recommending to the Board of Supervisors approval of amendments to the Planning Code and Zoning Map amendments to establish the Power Station Special Use District and Height and Bulk districts.
- 6. M No. 20638: Approving the Potrero Power Station Design for Development.

# D. Final and Related Approval Actions of Other City and County of San Francisco Boards, Commissions, and Departments:

- 1. San Francisco Municipal Transportation Agency Resolution Number 200218-017 consenting to a Development Agreement between the City and California Barrel Company LLC, including the Infrastructure Plan.
- 2. San Francisco Public Utilities Commission Resolution Number 20-056 consenting to a Development Agreement between the City and California Barrel Company LLC, including the Infrastructure Plan.
- 3. San Francisco Public Utilities Commission Resolution Number 18-0069 approving the water supply assessment for the Potrero Power Station Project.

# **EXHIBIT D**

# **Intentionally Deleted**

[attached]

# **EXHIBIT E**

## Form of Public Easement Deed

| RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:   |   |
|---|---|
| The undersigned hereby declares this instrument to be exempt from Recording Fees (CA Govt. Code § 27383) and Documentary Transfer Tax (CA Rev. & Tax Code § 11922 and S.F. Bus. & Tax Reg. Code § 1105) |   |
|   | (Space above this line reserved for Recorder's use only)  |
| Assessor's Block ("A.B."), Lot; A.B, Lot  | _   |
|   | T DEED<br>ast Easement)   |
| CALIFORNIA BARREL COMPANY LLC grants to the [STATE OF CALIFORNIA Commission/CITY AND COUNTY OF SAN I by and through the SAN FRANCISCO POR commerce, navigation and fisheries, in perpetuation           | ON, receipt of which is hereby acknowledged, a Delaware limited liability company, hereby A, acting by and through the State Lands FRANCISCO, a municipal corporation, operating T COMMISSION], a public trust easement for aity, in the real property located in the City and escribed on Exhibit A attached hereto and made a |
| Executed as of this day of  | , 20  |
| [Signature appears  | s on following page]  |
|   | ALIFORNIA BARREL COMPANY LLC, Delaware limited liability company  |
| Ву  | : Fifth and Third Partners LLC,<br>a Delaware limited liability company<br>its Manager  |
| By<br>Na<br>Tit   | me:   |

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

| State of California                        | )   |  |
|--|---|--|
| County of                                  | )   |  |
| On   | before me,  | , a Notary Public,   |
| personally appeared                        | l   | ,  |
| subscribed to the win his/her/their author | on the basis of satisfactory evidence to be<br>thin instrument and acknowledged to morized capacity(ies), and that by his/her/tity upon behalf of which the person(s) a | ne that he/she/they executed the same<br>heir signature(s) on the instrument the |
| I certify under PEN foregoing paragraph    | NALTY OF PERJURY under the laws is true and correct.  | s of the State of California that the  |
| WITNESS my hand                            | and official seal.  |  |
| Signature                                  |   | (Seal)   |

# EXHIBIT A

# **Legal Description of Property**

# CERTIFICATE OF ACCEPTANCE AND CONSENT TO RECORDING

| This is to certify that the [STATE Of CALIFORNIA STATE LANDS COMMISSION ("State")/CITY AND COUNTY OF SAN FRAM and through the SAN FRANCISCO PORT Colifornia Barrel Company LLC, a Delaware limit dated, 202_, granting a public trust e in the real property described therein. | NCISCO, a municipal corporation, operating by OMMISSION (" <b>Port</b> ")], hereby accepts from ited liability company, the foregoing Grant Deed  |
|---|---|
| The said interests in real property are accestate, as real property of the legal character of tid   | epted by [State/Port] in trust for the people of the elands and submerged lands.  |
| [State/Port] hereby consents to the record the Office of the Recorder of the City and Cour [Minute Item/Resolution No of its public n   | •   |
| Dated:, 202_  | [STATE OF CALIFORNIA, acting by and through the CALIFORNIA STATE LANDS COMMISSION, an agency of the STATE OF CALIFORNIA/ CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, operating by and through the SAN FRANCISCO PORT COMMISSION] |
|   | By:   |

### **EXHIBIT F**

### Form of Memorandum of Public Trust Option

RECORDING REQUESTED BY, AND WHEN RECORDED RETURN TO:

Port of San Francisco Pier 1, The Embarcadero San Francisco, CA 94111 Attn: Port General Counsel

The undersigned hereby declares this instrument to be exempt from Recording Fees (CA Govt. Code § 27383) and Documentary Transfer Tax (CA Rev. & Tax Code § 11922 and S.F. Bus. & Tax Reg. Code § 1105).

(Space above this line reserved for Recorder's use only)

Assessor's Block ("A.B.") 4175, Lot 002; a portion of A.B. 4175, Lot 017; A.B. 4232, Lot 001; a portion of A.B. 4232, Lot 006; A.B. 9900, Lot 072

### MEMORANDUM OF PUBLIC TRUST OPTION

THIS MEMORANDUM OF PUBLIC TRUST OPTION (this "Memorandum"), dated as of March 15, 2021 (the "Reference Date"), between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, operating by and through the SAN FRANCISCO PORT COMMISSION ("Optionee"), and CALIFORNIA BARREL COMPANY LLC, a Delaware limited liability company ("Optionor"), is to give notice of the Public Trust Option (as defined below) and the rights and obligations of Optionee and Optionor with respect to the Public Trust Option as follows:

- 1. Optionee and Optionor are parties to a Ground Lease (the "**Lease**"), dated as of March 15, 2021, pursuant to which Optionee ground leases to Optionor approximately 1.5 acres of land located in the City and County of San Francisco, California, more particularly described in **Exhibit A** attached to and incorporated by this reference into this Memorandum ("**Leased Premises**"). All initially capitalized terms used but not defined in this Memorandum shall have the meanings ascribed to them in the Lease.
- 2. Optionor is the owner of certain real property located in the vicinity of the Leased Premises in the City and County of San Francisco, California, as more particularly described in *Exhibit B* attached to and incorporated by this reference into this Memorandum ("**Public Trust Easement Parcel**").
- 3. Pursuant to section 2.9 of the Lease, Optionor has granted to Optionee the option to impress the Public Trust Easement Parcel (or any portion thereof) with the public trust for

commerce, navigation and fisheries and the statutory trust imposed by the provisions of the Burton Act, all on the terms and conditions set forth in section 2.9 of the Lease ("**Public Trust Option**").

- 4. During the Option Period, the grant of any encumbrances on the Public Trust Easement Parcel are subject to the limitations set forth in the Lease.
- 5. The covenants, terms and conditions of the Public Trust Option run with the Public Trust Easement Parcel for the benefit of the Leased Premises and shall be binding on any successor or transferee of Optionor's interest in the Public Trust Easement Parcel, subject to the terms and conditions of the Lease.
- 6. This Memorandum does not modify, alter, or amend the Lease in any way. If any conflict exists between the terms of the Lease and this Memorandum, the terms of the Lease shall govern and determine for all purposes the relationship between Optionor and Optionee and their respective rights and duties with respect to the Public Trust Option, the Public Trust Easement Parcel and the Leased Premises.

[Signatures appear on following page]

**IN WITNESS WHEREOF**, Optionee and Optionor have executed this Memorandum as of the Reference Date.

| OPTIONOR:  | CALIFORNIA BARREL COMPANY LLC, a Delaware limited liability company |  |
|--|---|--|
|  | •   | Fifth and Third Partners LLC, a Delaware limited liability company its Manager  By: Name: Title:     |
| OPTIONEE:  | a munic   | AND COUNTY OF SAN FRANCISCO, cipal corporation, operating by and through N FRANCISCO PORT COMMISSION |
|  |   | Rebecca Benassini<br>Deputy Director, Real Estate  |
| APPROVED AS TO FORM:                               |   |  |
| DENNIS J. HERRERA, City Attorney                   |   |  |
| By: Name: Rona Sandler Title: Deputy City Attorney | -   |  |

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

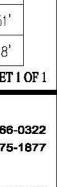
| State of California   | )  |   |                                      |
|---|--|---|--------------------------------------|
| County of   | )  |   |                                      |
| subscribed to the within ins in his/her/their authorized ca | trument and acknown apacity(ies), and that | , a Notar<br>evidence to be the person(s) whose name<br>wledged to me that he/she/they executed<br>by his/her/their signature(s) on the instru-<br>e person(s) acted, executed the instrument | e(s) is/are<br>the same<br>ament the |
| I certify under PENALTY foregoing paragraph is true         |  | der the laws of the State of California   | that the                             |
| WITNESS my hand and off                                     | icial seal.                                |   |                                      |
|   |  |   |                                      |
| Signature   |  | (S  | Seal)                                |

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

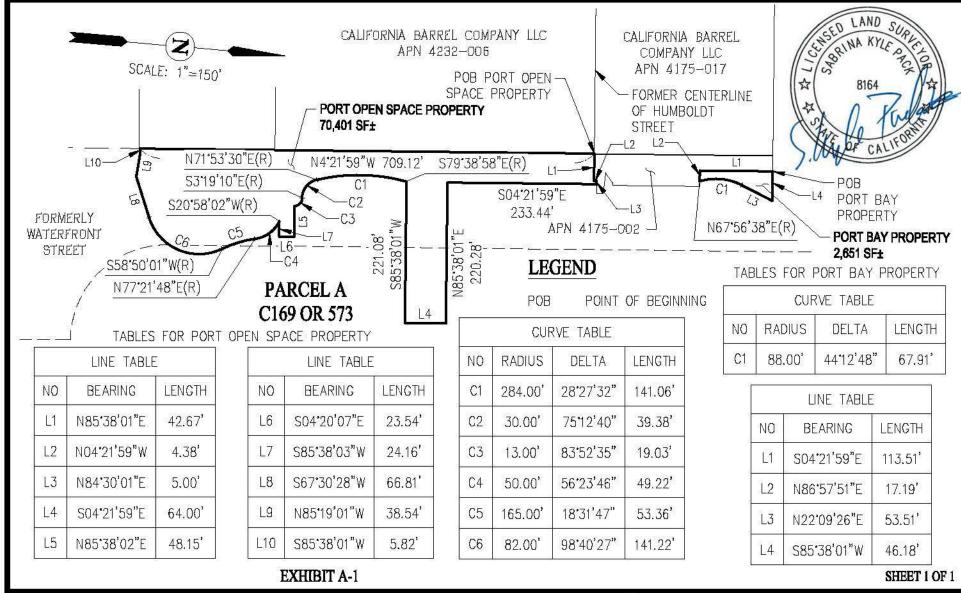
| State of California                         | )  |  |
|---|--|--|
| County of                                   | )  |  |
| On  | before me,   | , a Notary Public,   |
| personally appeared                         |  | ,  |
| subscribed to the wi in his/her/their autho | thin instrument and acknowledge rized capacity(ies), and that by his | ace to be the person(s) whose name(s) is/are ed to me that he/she/they executed the same is/her/their signature(s) on the instrument the on(s) acted, executed the instrument. |
| I certify under PEN foregoing paragraph     |  | ne laws of the State of California that the  |
|   | WITNESS my hand an   | d official seal.   |
|   |  |  |
| Signatura                                   |  | (See1)   |

# **EXHIBIT A**

## **LEASED PREMISES**



9/16/2020 4:33 PM



# PLAT TO ACCOMPANY LEGAL DESCRIPTION

PREMISES
POTRERO SITE
CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA
SEPTEMBER 16, 2020



SAN RAMON (925) 866-0322 SACRAMENTO (916) 375-1877 WWW.CBANDG.COM

CIVIL ENGINEERS - SURVEYORS - PLANNERS

# EXHIBIT A-1 PROPERTY DESCRIPTION PREMISES POTRERO SITE CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA

REAL PROPERTY, SITUATE IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, COMPRISED OF TWO (2) PARCELS, DESCRIBED AS FOLLOWS:

#### PORT OPEN SPACE PROPERTY

BEING A PORTION OF PARCEL A, AS SAID PARCEL A IS DESCRIBED IN THAT CERTAIN DOCUMENT ENTITLED "DESCRIPTION", RECORDED MAY 14, 1976, IN BOOK C169 OF OFFICIAL RECORDS AT PAGE 573, IN THE OFFICE OF THE RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE BOUNDARY LINE OF SAID PARCEL A, SAID POINT BEING THE WESTERN TERMINUS OF THAT CERTAIN COURSE DESCRIBED AS "140. ... S. 85° 40' W 1.0 FOOT", SAID POINT BEING THE INTERSECTION OF THE CENTERLINE OF FORMER HUMBOLDT STREET (66 FEET WIDE) WITH THE WESTERN LINE OF WATERFRONT STREET (WIDTH VARIES);

THENCE, FROM SAID POINT OF BEGINNING, ALONG SAID BOUNDARY LINE OF PARCEL A, THE FOLLOWING THREE (3) COURSES:

- 1) NORTH 85°38'01" EAST (THE BEARING OF SAID BOUNDARY LINE BEING TAKEN AS NORTH 85°38'01" EAST FOR THE PURPOSE OF MAKING THIS DESCRIPTION) 42.67 FEET,
- 2) NORTH 04°21'59" WEST 4.38 FEET, AND
- 3) NORTH 84°30'01" EAST 5.00 FEET;

THENCE, LEAVING SAID BOUNDARY LINE OF PARCEL A, SOUTH 04°21'59" EAST 233.44 FEET;

THENCE, NORTH 85°38'01" EAST 220.28 FEET;

THENCE, SOUTH 04°21'59" EAST 64.00 FEET;

THENCE, SOUTH 85°38'01" WEST 221.08 FEET;

THENCE, ALONG THE ARC OF A NON-TANGENT 284.00 FOOT RADIUS CURVE TO THE LEFT, FROM WHICH THE CENTER OF SAID CURVE BEARS SOUTH 79°38'58" EAST, THROUGH A CENTRAL ANGLE OF 28°27'32", AN ARC DISTANCE OF 141.06 FEET;

### PROPERTY DESCRIPTION

PAGE 2 OF 3

THENCE, ALONG THE ARC OF A COMPOUND 30.00 FOOT RADIUS CURVE TO THE LEFT, FROM WHICH THE CENTER OF SAID CURVE BEARS NORTH 71°53'30" EAST, THROUGH A CENTRAL ANGLE OF 75°12'40", AN ARC DISTANCE OF 39.38 FEET;

THENCE, ALONG THE ARC OF A REVERSE 13.00 FOOT RADIUS CURVE TO THE RIGHT, FROM WHICH THE CENTER OF SAID CURVE BEARS SOUTH 03°19'10" EAST, THROUGH A CENTRAL ANGLE OF 83°52'35", AN ARC DISTANCE OF 19.03 FEET;

THENCE, NORTH 85°38'02" EAST 48.15 FEET;

THENCE, SOUTH 04°20'07" EAST 23.54 FEET;

THENCE, SOUTH 85°38'03" WEST 24.16 FEET;

THENCE, ALONG THE ARC OF A NON-TANGENT 50.00 FOOT RADIUS CURVE TO THE RIGHT, FROM WHICH THE CENTER OF SAID CURVE BEARS SOUTH 20°58'02" WEST, THROUGH A CENTRAL ANGLE OF 56°23'46", AN ARC DISTANCE OF 49.22 FEET;

THENCE, ALONG THE ARC OF A REVERSE 165.00 FOOT RADIUS CURVE TO THE LEFT, FROM WHICH THE CENTER OF SAID CURVE BEARS NORTH 77°21'48" EAST, THROUGH A CENTRAL ANGLE OF 18°31'47", AN ARC DISTANCE OF 53.36 FEET;

THENCE, ALONG THE ARC OF A REVERSE 82.00 FOOT RADIUS CURVE TO THE RIGHT, FROM WHICH THE CENTER OF SAID CURVE BEARS SOUTH 58°50'01" WEST, THROUGH A CENTRAL ANGLE OF 98°40'27", AN ARC DISTANCE OF 141.22 FEET;

THENCE, SOUTH 67°30'28" WEST 66.81 FEET;

THENCE, NORTH 85°19'01" WEST 38.54 FEET;

THENCE, SOUTH 85°38'01" WEST 5.82 FEET TO A POINT ON SAID BOUNDARY LINE OF PARCEL A;

THENCE, ALONG SAID BOUNDARY LINE OF PARCEL A, NORTH  $04^{\circ}21'59"$  WEST 709.12 FEET TO SAID POINT OF BEGINNING.

CONTAINING 70,401 SQUARE FEET OF LAND, MORE OR LESS.

### PORT BAY PROPERTY

BEING A PORTION OF SAID PARCEL A (BOOK C169 OR 573), MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE BOUNDARY LINE OF SAID PARCEL A, SAID POINT BEING THE NORTHERN TERMINUS OF THAT CERTAIN COURSE DESCRIBED AS "130. S. 04°20' E., 113.69 FEET";

THENCE, FROM SAID POINT OF BEGINNING, ALONG SAID BOUNDARY LINE OF PARCEL A, THE FOLLOWING TWO (2) COURSES:

- 1) SOUTH 04°21'59" EAST (THE BEARING OF SAID BOUNDARY LINE BEING TAKEN AS SOUTH 04°21'59" EAST FOR THE PURPOSE OF MAKING THIS DESCRIPTION) 113.51 FEET, AND
- 2) NORTH 86°57'51" EAST 17.19 FEET;

THENCE, LEAVING SAID BOUNDARY LINE OF PARCEL A, ALONG THE ARC OF A NON-TANGENT 88.00 FOOT RADIUS CURVE TO THE RIGHT, FROM WHICH THE CENTER OF SAID CURVE BEARS NORTH  $67^{\circ}56'38"$  EAST, THROUGH A CENTRAL ANGLE OF  $44^{\circ}12'48"$ , AN ARC DISTANCE OF 67.91 FEET;

THENCE, NORTH 22°09'26" EAST 53.51 FEET;

THENCE, SOUTH 85°38'01" WEST 46.18 FEET TO SAID POINT OF BEGINNING.

CONTAINING 2,651 SQUARE FEET OF LAND, MORE OR LESS.

ATTACHED HERETO IS A PLAT TO ACCOMPANY LEGAL DESCRIPTION, AND BY THIS REFERENCE, MADE A PART HEREOF.

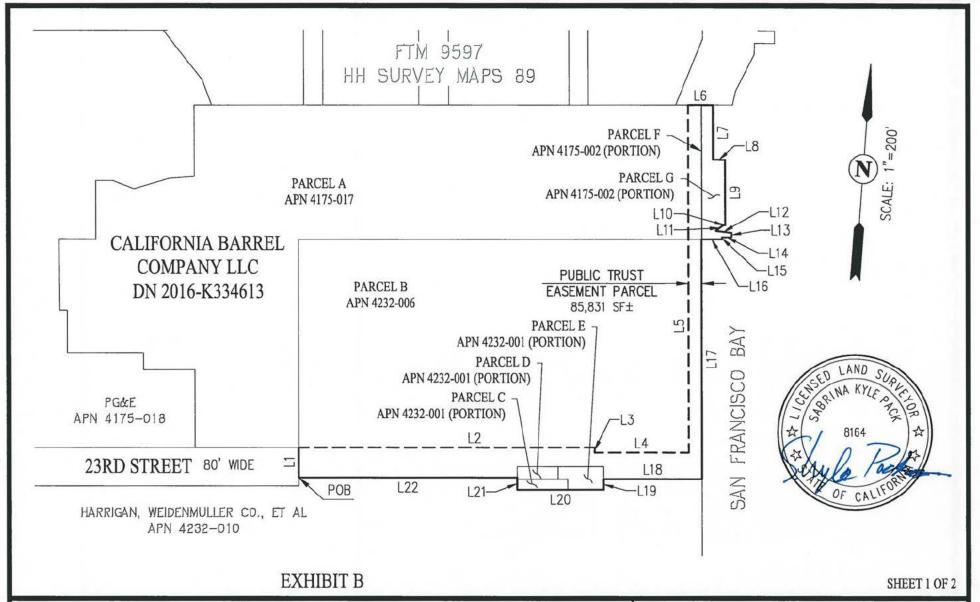
END OF DESCRIPTION

SABRINA KYLE PACK, P.L.S.

L.S. NO. 8164

# EXHIBIT B

# PUBLIC TRUST EASEMENT PARCEL



# PLAT TO ACCOMPANY LEGAL DESCRIPTION

PUBLIC TRUST EASEMENT PARCEL
CALIFORNIA BARREL COMPANY LLC PROPERTY (DN 2016-K334613)
CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA
JANUARY 28, 2021



SAN RAMON (925) 866-0322 SACRAMENTO (916) 375-1877

WWW.CBANDG.COM

CIVIL ENGINEERS . SURVEYORS . PLANNERS

| LINE TABLE |             |        |  |
|------------|-------------|--------|--|
| NO         | BEARING     | LENGTH |  |
| L1         | N04°21'59"W | 62.50  |  |
| L2         | N85'38'01"E | 616.29 |  |
| L3         | S04*21'59"E | 11.01  |  |
| L4         | N85*38'01"E | 196.50 |  |
| L5         | N04°21'59"W | 723.18 |  |
| L6         | N85°38'01"E | 51.77' |  |
| L7         | S04°21'59"E | 113.51 |  |
| L8         | N86*57'51"E | 24.83' |  |
| L9         | S04°21'59"E | 135.45 |  |
| L10        | S85°38'01"W | 4.00'  |  |
| L11        | S50'00'21"W | 19.19  |  |
| L12        | S87°38'09"E | 32.76' |  |

|     | LINE TABLE  |        |
|-----|-------------|--------|
| NO  | BEARING     | LENGTH |
| L13 | S05°29'59"E | 9.67   |
| L14 | S84°29'57"W | 19.84  |
| L15 | S04'21'59"E | 4.38'  |
| L16 | S85°38'01"W | 42.67  |
| L17 | S04'21'59"E | 499.01 |
| L18 | S85°38'01"W | 204.92 |
| L19 | S04'21'59"E | 21.83' |
| L20 | S85°38'01"W | 180.08 |
| L21 | N04°21'59"W | 25.17  |
| L22 | S85°38'01"W | 455.00 |

EXHIBIT B SHEET 2 OF 2

# PLAT TO ACCOMPANY LEGAL DESCRIPTION

PUBLIC TRUST EASEMENT PARCEL
CALIFORNIA BARREL COMPANY LLC PROPERTY (DN 2016-K334613)
CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA
JANUARY 28, 2021



SAN RAMON (925) 866-0322 SACRAMENTO (916) 375-1877 WWW.CBANDG.COM

CIVIL ENGINEERS . SURVEYORS . PLANNERS

JANUARY 28, 2021 JOB NO.: 2747-000

### EXHIBIT B

### PROPERTY DESCRIPTION

#### PUBLIC TRUST EASEMENT PARCEL

### CALIFORNIA BARREL COMPANY LLC PROPERTY (DN 2016-K334613) CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA

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

BEING ALL OF PARCELS C, D, E, F, AND G, ABD A PORTION OF PARCELS A AND B, AS SAID PARCELS ARE DESCRIBED IN THAT CERTAIN GRANT DEED RECORDED SEPTEMBER 26, 2016, AS DOCUMENT NUMBER 2016-K334613, OF OFFICIAL RECORDS, IN THE OFFICE OF THE RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERN CORNER OF SAID PARCEL B;

THENCE, FROM SAID POINT OF BEGINNING, ALONG THE WESTERN LINE OF SAID PARCEL B, NORTH  $04^\circ21'59"$  WEST (THE BEARING OF SAID WESTERN LINE BEING TAKEN AS NORTH  $04^\circ21'59"$  WEST FOR THE PURPOSE OF MAKING THIS DESCRIPTION) 62.50 FEET;

THENCE, LEAVING SAID WESTERN LINE, NORTH 85°38'01" EAST 616.29 FEET;

THENCE, SOUTH 04°21'59" EAST 11.01 FEET;

THENCE, NORTH 85°38'01" EAST 196.50 FEET;

THENCE, NORTH 04°21'59" WEST 723.18 FEET TO A POINT ON THE NORTHERN LINE OF SAID PARCEL A;

THENCE, ALONG SAID NORTHERN LINE, AND THE NORTHERN LINE OF SAID PARCELS F AND G, NORTH 85°38'01" EAST 51.77 FEET TO THE NORTHEASTERN CORNER OF SAID PARCEL G;

THENCE, FROM SAID NORTHEASTERN CORNER, ALONG THE EASTERN LINE OF SAID PARCEL G, THE SOUTHERN LINE OF SAID PARCEL G, AND THE SOUTHERN LINE OF SAID PARCEL F, THE FOLLOWING TEN (10) COURSES:

- 1) SOUTH 04°21'59" EAST 113.51 FEET,
- 2) NORTH 86°57'51" EAST 24.83 FEET,
- 3) SOUTH 04°21'59" EAST 135.45 FEET,
- 4) SOUTH 85°38'01" WEST 4.00 FEET,
- 5) SOUTH 50°00'21" WEST 19.19 FEET,

- 6) SOUTH 87°38'09" EAST 32.76 FEET,
- 7) SOUTH 05°29'59" EAST 9.67 FEET,
- 8) SOUTH 84°29'57" WEST 19.84 FEET,
- 9) SOUTH 04°21'59" EAST 4.38 FEET, AND
- 10) SOUTH 85°38'01" WEST 42.67 FEET TO THE SOUTHWESTERN CORNER OF SAID PARCEL F, SAID POINT ALSO BEING THE NORTHEASTERN CORNER OF SAID PARCEL B;

THENCE, FROM SAID NORTHEASTERN CORNER, ALONG THE EASTERN LINE OF SAID PARCEL B, SOUTH 04°21'59" EAST 499.01 FEET TO THE SOUTHEASTERN CORNER OF SAID PARCEL B;

THENCE, FROM SAID SOUTHEASTERN CORNER, ALONG THE SOUTHERN LINE OF SAID PARCEL B, SOUTH 85°38'01" WEST 204.92 FEET TO A POINT ON THE EASTERN LINE OF SAID PARCEL E;

THENCE, ALONG SAID EASTERN LINE, SOUTH 04°21'59" EAST 21.83 FEET TO THE SOUTHEASTERN CORNER OF SAID PARCEL E;

THENCE, FROM SAID SOUTHEASTERN CORNER, ALONG THE SOUTHERN LINE OF SAID PARCEL E AND THE SOUTHERN LINE OF SAID PARCEL C, SOUTH 85°38'09" WEST 180.08 FEET TO THE SOUTHWESTERN CORNER OF SAID PARCEL C;

THENCE, FROM SAID SOUTHWESTERN CORNER, ALONG THE WESTERN LINE OF SAID PARCEL C AND THE WESTERN LINE OF SAID PARCEL D, NORTH 04°21'59" WEST 25.16 FEET TO A POINT ON THE SOUTHERN LINE OF SAID PARCEL B;

THENCE, ALONG SAID SOUTHERN LINE OF PARCEL B, SOUTH 85°38'01" WEST 455.00 FEET TO SAID POINT OF BEGINNING.

CONTAINING 85,831 SQUARE FEET OF LAND, MORE OR LESS.

ATTACHED HERETO IS AN ILLUSTRATIVE PLAT TO ACCOMPANY LEGAL DESCRIPTION, AND BY THIS REFERENCE MADE A PART HEREOF.

END OF DESCRIPTION

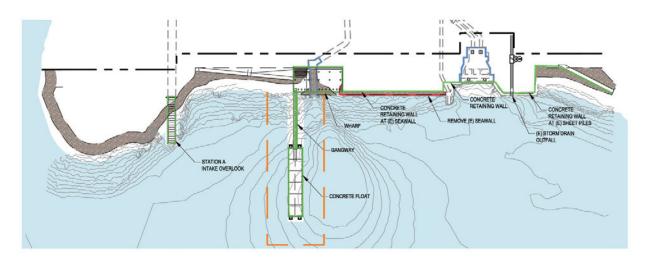
SABYINA KYLE PACK P.L.S.

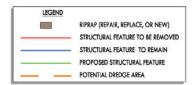
L.S. NO. 8164

### **EXHIBIT G**

## **Port Approval Items**

The following shoreline and waterfront improvements located on the Premises: the storm drain outfall, potential retrofit of the Station A intake structure (for use as an overlook of the San Francisco Bay), improvement of riprap, construction of wharfs and seawalls and potential Recreational Dock and associated dredging, all as more particularly described in the Infrastructure Plan (as defined in the DA) and as shown below.





### **EXHIBIT H**

## Form of Assignment and Assumption Agreement

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

| RECORDING REQUESTED BY:   |
|---|
| AND WHEN RECORDED MAIL TO:  |
| [   |
|   |
|   |
| Attn: []  |
|   |
| Lot, Block FOR RECORDER'S USE ONLY  |
|   |
| The Undersigned Declare(s):   |
| DOCUMENTARY TRANSFER TAX:   |
| computed on the consideration or full value of property conveyed, OR  |
| [ ] computed on the consideration or full value less value and/or encumbrances  |
| remaining at time of sale,  |
| [ ] unincorporated area;  |
| [ ] City of San Francisco   |
| A CCICNIMENTE AND A CCUMPTION A CIDETAMENTE   |
| ASSIGNMENT AND ASSUMPTION AGREEMENT (Ground Lease No. L-16662)  |
| (Ground Lease No. L-10002)  |
| This ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Agreement"),  |
| effective as of [] (the "Effective Date"), is entered into by and between   |
| [], a [] ("Assignor"), and [] ("Assignee").   |
| [], a [] ("Assignee").  |
| RECITALS:   |
|   |
| A. The City and County of San Francisco, a municipal corporation, operating by and  |
| through the San Francisco Port Commission ("Port"), and Assignor are parties to that certain  |
| Ground Lease (No. L-16662), dated as of March 15, 2021, a memorandum which was recorded in the Office of the Recorder of the City and County of San Francisco, State of California (the |
| "Official Records") on March 15, 2021, as Instrument No. 2021-[] [Note: add if  |
| applicable any intervening amendments ([as amended], the "Lease"), pursuant to which Port leases  |
| to Assignor certain property located in the City and County of San Francisco, California, as more   |
| particularly described in Exhibit A attached hereto and made a part hereof (the " <b>Premises</b> ").   |

Initially capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Lease.

- B. Pursuant to section 14.1 of the Lease, Tenant has the right to effectuate a Transfer on the terms and conditions set forth in the Lease.
- C. Pursuant to section 14.1(c)(i) of the Lease, except to the extent waived by Port, certain Transfers are subject to the condition precedent that Tenant has delivered to Port an assignment and assumption agreement, as more particularly described therein.
- D. In full satisfaction of such condition precedent, Assignor desires to assign to Assignee, and Assignee desires to assume, the Lease on the terms and conditions set forth in this Agreement.

### **AGREEMENT**

**NOW, THEREFORE**, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as follows:

| and Assignee agree as follows:   |
|--|
| 1. <u>Assignment by Assignor</u> . Subject to the terms and conditions of this Agreement. Assignor hereby assigns to Assignee as of the Effective Date each and all of the right, title, interest and obligations of Assignor under the Lease (including all of Assignor's right, title and interest in and to the Improvements) [with respect to] <sup>1</sup> .  |
| 2. <u>Assumption by Assignee</u> . Subject to the terms and conditions of this Agreement. Assignee hereby assumes from Assignor as of the Effective Date each and all of the right, title interest and obligations of Assignor under the Lease (including all of Assignor's right, title and interest in and to the Improvements) [with respect to] <sup>2</sup> . Assignee hereby acknowledges that Assignee has reviewed the Lease and agrees to be bound by the Lease and all conditions and restrictions applicable to the Premises pursuant to the Lease to the extent assumed hereunder. |
| 3. <u>Representations and Warranties of Assignor</u> . Assignor hereby makes the following representations and warranties to Assignee and Port as of the Effective Date:   |
| 3.1 Status. Assignor is a [] duly organized, validly existing and in good standing under the laws of the State of [] and is authorized to do business in the State of California and is in good standing therein.  |
| 3.2 <u>Authority</u> . This Agreement is duly authorized, executed and delivered and shall be the legal, valid and binding obligation of Assignor. The person signing this Agreement on behalf of Assignor has full power and authority to sign this Agreement on Assignor's behalf.   |

<sup>&</sup>lt;sup>1</sup> NTD: If applicable, describe partial lease assignment.

NTD: If applicable, describe partial lease assignment (same as above).

- 3.3 <u>No Defaults.</u> [There is not an Event of Default by Assignor continuing under the Lease, nor has Assignor committed an act or failed to act in such a manner that, with the passage of time or notice or both, would result in an Event of Default by Assignor under the Lease.]<sup>3</sup>
- 4. <u>Representations and Warranties of Assignee</u>. Assignee hereby makes the following representations and warranties to Assignor and Port as of the Effective Date:
- 4.1 <u>Status</u>. Assignee is a [\_\_\_\_\_] duly organized, validly existing and in good standing under the laws of the State of [\_\_\_\_\_] and is authorized to do business in the State of California and is in good standing therein.
- 4.2 <u>Authority</u>. This Agreement is duly authorized, executed and delivered and shall be the legal, valid and binding obligation of Assignee. The person signing this Agreement on behalf of Assignee has full power and authority to sign this Agreement on Assignee's behalf.
- 5. No Port Representations; Release of Port. [Assignee acknowledges receipt of the Facilities Condition Report dated \_\_\_\_\_\_ prepared by or on behalf of Tenant.] Assignee has reviewed and is familiar with the terms and conditions of the Lease. Assignee recognizes and acknowledges that Port makes no representation or warranty hereby, express or implied, regarding the Premises, the Improvements, [the Facilities Condition Report], or the amount, nature, or extent of any obligation, liability, or duty under the Lease. Assignee further acknowledges and agrees that as of the Effective Date it will be bound by the release and waiver in favor of Port set forth in section 1.1(e) of the Lease. If requested by Port, Assignee will execute a document acknowledging and affirming such release and waiver in the form reasonably requested by Port.

### 6. General Provisions.

6.1 Attorneys' Fees. If either party hereto fails to perform any of its respective obligations under this Agreement or if any dispute arises between the parties hereto concerning the meaning or interpretation of any provision of this Agreement, then the defaulting party or the party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party on account of such default and/or in enforcing or establishing its rights hereunder, including Attorneys' Fees and Costs. Any such Attorneys' Fees and Costs incurred by either party hereto in enforcing a judgment in its favor under this Agreement shall be recoverable separately from and in addition to any other amount included in such judgment, and such Attorneys' Fees and Costs obligation is intended to be severable from the other provisions of this Agreement and to survive and not be merged into any such judgment. If either party hereto utilizes services of in-house counsel, then, for purposes of this Agreement, the reasonable fees of such in-house counsel shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the in-house counsel's services were rendered who practice in the City in full service law firms.

NTD: If applicable, replace with: "There is an Event of Default by Assignor continuing under the Lease, and Assignor or Assignee has made provisions to cure such Event of Default and such provisions are satisfactory to Port in its reasonable discretion."

6.2 <u>Notices</u>. All notices, demands, consents, and requests that may or are to be given either party hereto to the other shall be in writing, except as otherwise provided herein. All notices, demands, consents and requests to be provided hereunder shall be deemed to have been properly given on the date of receipt if served personally on a day that is a Business Day (or on the next Business Day if served personally on a day that is not a Business Day), or, if mailed, on the date that is three (3) days after the date when deposited with the U.S. Postal Service for delivery by United States registered or certified mail, postage prepaid, in either case, addressed to the address(es) below, or at such other place or places in the United States as each such party may from time to time designate by written notice to the other in accordance with the provisions hereof. For convenience of the parties, copies of notices may also be given by email to the email addresses provided from time to time; however, neither party may give official or binding notice by email:

| TO |           |       |       |
|----|-----------|-------|-------|
| 1+ | to        | Λ 001 | anar  |
| 11 | $\iota o$ | USSI  | gnor: |

|                | [] [] Attn: []  | _] |
|----------------|-----------------|----|
|                | With a copy to: |    |
|                | [] [] Attn: []  | _] |
| If to Assignee | :               |    |
|                | [] [] Attn: [   | _] |
|                | With a copy to: |    |
|                | [] [] Attn: []  | _] |

- 6.3 <u>Successors and Assigns</u>. This Agreement is binding upon and shall inure to the benefit of the successors and assigns of Assignor and Assignee.
- 6.4 <u>Third Party Beneficiary</u>. Assignor and Assignee acknowledge and agree that Port is an intended third party beneficiary of (i) the representations and warranties of Assignor in <u>Section 3</u>, (ii) the representations and warranties of Assignee in <u>Section 4</u>, and (iii) Assignee's

acknowledgement in <u>Section 5</u> that Port has not made representations and warranties and agreement to be bound by the release and waiver set forth in section 1.1(e) of the Port Lease.

- 6.5 <u>Counterparts</u>. This Agreement may be executed in counterparts, each of which is deemed to be an original, and all such counterparts constitute one and the same instrument.
- 6.6 <u>Captions</u>. Whenever a section, article or paragraph is referenced, it refers to this Agreement unless otherwise specifically identified. The captions preceding the articles and sections of this Agreement have been inserted for convenience of reference only. Such captions shall not define or limit the scope or intent of any provision of this Agreement.
- 6.7 <u>Amendment</u>. Neither this Agreement nor any of the terms hereof may be terminated, amended or modified except by a written instrument executed by each of the parties hereto.
- 6.8 <u>Exhibits</u>. Whenever an "Exhibit" is referenced, it means an attachment to this Agreement unless otherwise specifically identified. All such Exhibits are incorporated herein by reference.
- 6.9 <u>Waiver</u>. The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.
- 6.10 <u>Governing Law</u>. This Agreement shall be governed by, and interpreted in accordance with, the laws of the State of California. All actions or proceedings arising directly or indirectly under this Agreement may be litigated in courts having situs within the State of California, and Assignor and Assignee consent to the jurisdiction of any such local, state or federal court.
- 6.11 <u>Severability</u>. If any provision of this Agreement, or its application to any Person or circumstance, is held invalid by any court, the invalidity or inapplicability of such provision shall not affect any other provision of this Agreement or the application of such provision to any other Person or circumstance, and the remaining portions of this Agreement shall continue in full force and effect, unless enforcement of this Agreement as so modified by and in response to such invalidation would be grossly inequitable under all of the circumstances, or would frustrate the fundamental purposes of this Agreement.
- 6.12 <u>No Presumption Against Drafter</u>. This Agreement has been negotiated at arm's length and between Persons sophisticated and knowledgeable in the matters dealt with herein. In addition, each of Assignor and Assignee has been represented by experienced and knowledgeable legal counsel. Accordingly, this Agreement shall be interpreted to achieve the intents and purposes of the parties hereto, without any presumption against the party responsible for drafting any part of this Agreement (including California Civil Code Section 1654).
- 6.13 Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter set forth therein, and supersedes all negotiations or previous agreements between the parties hereto with respect to all or any part of

the terms and conditions mentioned herein or incidental hereto. No parol evidence of any prior or other agreement shall be permitted to contradict or vary the terms of this Agreement.

6.14 <u>Recordation</u>. Assignor and Assignee shall record this Agreement in the Official Records against the Premises promptly following the Effective Date.

[the remainder of this page has been intentionally left blank]

IN WITNESS WHEREOF, Assignor and Assignee have caused this Agreement to be duly executed as of the Effective Date.

| ASSIGNOR: |  |  |
|-----------|--|--|
|           |  |  |
| By:       |  |  |
| Name:     |  |  |
| Title:    |  |  |
| ASSIGNEE: |  |  |
| By:       |  |  |
| Name:     |  |  |
| Title:    |  |  |

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

| State of California   | )  |   |                                  |
|---|--|---|----------------------------------|
| County of   | )  |   |                                  |
| subscribed to the within ins in his/her/their authorized ca | trument and acknown apacity(ies), and that | vidence to be the person(s) whose reledged to me that he/she/they exemples by his/her/their signature(s) on the person(s) acted, executed the instance. | ecuted the same e instrument the |
| I certify under PENALTY foregoing paragraph is true         |  | der the laws of the State of Cal  | ifornia that the                 |
| WITNESS my hand and off                                     | icial seal.                                |   |                                  |
|   |  |   |                                  |
| Signature   |  |   | (Seal)                           |

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

| State of California   | )  |  |
|---|--|--|
| County of   | )  |  |
| Onpersonally appeared   | before me,   | , a Notary Public  |
| who proved to me on<br>subscribed to the with<br>in his/her/their authori | the basis of satisfactory evidence to be<br>in instrument and acknowledged to m<br>zed capacity(ies), and that by his/her/th<br>upon behalf of which the person(s) a | ne that he/she/they executed the same<br>heir signature(s) on the instrument the |
| I certify under PENA foregoing paragraph is                               | ALTY OF PERJURY under the laws strue and correct.  | s of the State of California that the  |
| WITNESS my hand a   | nd official seal.  |  |
| Signature   |  | (Seal)   |

## EXHIBIT A

## **LEGAL DESCRIPTION OF PREMISES**

#### **EXHIBIT I**

## Form of License to Use Property



#### PIER 1 SAN FRANCISCO, CA 94111

# LICENSE TO USE PROPERTY LICENSE NO.

## BY AND BETWEEN

THE CITY AND COUNTY OF SAN FRANCISCO AND CALIFORNIA BARREL COMPANY LLC, A DELAWARE LIMITED LIABILITY COMPANY

PORTIONS OF CRAIG LANE AND 23<sup>RD</sup> STREET<sup>1</sup> SAN FRANCISCO, CALIFORNIA

## **ELAINE FORBES EXECUTIVE DIRECTOR**

SAN FRANCISCO PORT COMMISSION

KIMBERLY BRANDON, PRESIDENT WILLIE ADAMS, VICE PRESIDENT JOHN L. BURTON, COMMISSIONER GAIL GILMAN, COMMISSIONER **DOREEN WOO HO, COMMISSIONER** 

CBC Street Construction License 1/25/21

LEGAL\_US\_W # 106738587.1

Drafter's Note: For purposes of creating a form license and for drafting convenience, this draft includes both Craig Lane and 23rd Street. Pursuant to the Development Agreement and in a timely manner, the parties will finalize and execute the license for each area using this form. Terms needed only for one license are sometimes bracketed.

## TABLE OF CONTENTS

|     |         | <u>Page</u>  |  |
|-----|---------|--|--|
| 1.  | Basic   | License Information  |  |
| 2.  | Grant   | of License; Term; Revocability   |  |
|     | 2.1.    | License  |  |
|     | 2.2.    | As Is With all Faults  |  |
|     | 2.3.    | Revocability   |  |
|     | 2.4.    | Other Development Projects   |  |
| 3.  | Fees    | 2  |  |
| 4.  | Permi   | tted Activity; Suitability of License Area                                 |  |
| 5.  | Prohib  | pited Uses   |  |
| 6.  | Comp    | liance With Laws; Regulatory Approvals; City Acting as Owner of Property 3 |  |
|     | 6.1.    | Compliance With Laws   |  |
|     | 6.2.    | Regulatory Approval  |  |
|     | 6.3.    | City Acting As Owner of Property   |  |
|     | 6.4.    | Accessibility4   |  |
| 7.  | Utiliti | Utilities, Services, Maintenance And Repair                                |  |
|     | 7.1.    | Utilities5   |  |
|     | 7.2.    | Services   |  |
|     | 7.3.    | Maintenance and Repair   |  |
| 8.  | Taxes   | and Assessments  |  |
| 9.  | Impro   | vements and Alterations  |  |
|     | 9.1.    | Construction Prohibited; General Conditions                                |  |
|     | 9.2.    | Title to Improvements  |  |
|     | 9.3.    | Construction   |  |
|     | 9.4.    | Security8  |  |
|     | 9.5.    | Non-Liability of City  |  |
|     | 9.6.    | Liens9   |  |
| 10. | Insura  | nce  |  |
|     | 10.1.   | Property and Liability Coverage. 9   |  |
|     | 10.2.   | City Entitled to Participate   |  |

|     | 10.3.                         | Release and Waiver   | 15 |  |
|-----|-------------------------------|--|----|--|
| 11. | Notices                       |  |    |  |
|     | 11.1.                         | Notices  | 16 |  |
|     | 11.2.                         | Form and Effect of Notice  | 16 |  |
| 12. | Default By Licensee; Remedies |  |    |  |
|     | 12.1.                         | Event of Default   | 16 |  |
|     | 12.2.                         | City's Remedies  | 17 |  |
| 13. | Indem                         | Indemnification  |    |  |
|     | 13.1.                         | General Indemnity  | 17 |  |
|     | 13.2.                         | Immediate Obligation to Defend   | 18 |  |
|     | 13.3.                         | Not Limited by Insurance   | 18 |  |
|     | 13.4.                         | Survival   | 18 |  |
|     | 13.5.                         | Other Obligations  | 18 |  |
|     | 13.6.                         | Notice; Defense of Claims  | 18 |  |
|     | 13.7.                         | Waiver   | 19 |  |
|     | 13.8.                         | [For Craig Lane Add: P70 Master Developer  | 20 |  |
| 14. | HAZA                          | ARDOUS MATERIALS   | 21 |  |
|     | 14.1.                         | Hazardous Materials Compliance.  | 21 |  |
|     | 14.2.                         | Hazardous Materials Indemnity  | 23 |  |
|     | 14.3.                         | Environmental Oversight Deposit  | 25 |  |
|     | 14.4.                         | Presence of Hazardous Materials  | 26 |  |
|     | 14.5.                         | Storm Water Pollution Prevention.  | 26 |  |
|     | 14.6.                         | Survival   | 26 |  |
| 15. | City's Entry on License Area  |  |    |  |
|     | 15.1.                         | Entry for Inspection   | 26 |  |
|     | 15.2.                         | Emergency Entry  | 26 |  |
|     | 15.3.                         | No Liability   | 27 |  |
| 16. | Surre                         | nder   | 27 |  |
| 17. | Attorr                        | neys' Fees; Limitations on Damages   | 27 |  |
|     | 17.1.                         | Attorneys' Fees  | 27 |  |
|     | 17.2.                         | Limitation on Damages  | 28 |  |
|     | 17.3.                         | Non-Liability of Licensee's Members, Officers, Partners, Shareholders, Directors, Agents, Officers and Employees | 28 |  |

|     | 17.4.  | Non-Liability of City Officials, Employees and Agents  | 28 |
|-----|--------|--|----|
|     | 17.5.  | Limitation on City's Liability Upon Transfer   | 28 |
|     | 17.6.  | Waiver of Indirect or Consequential Damages  | 29 |
| 18. | Miner  | al Reservation   | 29 |
| 19. | City R | Lequirements   | 29 |
|     | 19.1.  | Non-discrimination.  | 29 |
|     | 19.2.  | Requiring Health Benefits for Covered Employees  | 30 |
|     | 19.3.  | Prohibition of Tobacco Sales and Advertising; Prohibition Against Tobacco Product Sales, Manufacture, and Distribution | 32 |
|     | 19.4.  | Prohibition of Alcoholic Beverages Advertising   | 32 |
|     | 19.5.  | Graffiti Removal   | 32 |
|     | 19.6.  | MacBride Principles Northern Ireland   | 33 |
|     | 19.7.  | Tropical Hardwood and Virgin Redwood Ban; Preservative-Treated Wood Containing Arsenic                                 | 33 |
|     | 19.8.  | Notification of Limitations on Contributions   | 33 |
|     | 19.9.  | Sunshine Ordinance   | 34 |
|     | 19.10. | Conflicts of Interest.   | 34 |
|     | 19.11. | Drug-Free Workplace  | 34 |
|     | 19.12. | Prevailing Wages and Working Conditions  | 34 |
|     | 19.13. | Food Service and Packaging Waste Reduction Ordinance   | 35 |
|     | 19.14. | Consideration of Criminal History in Hiring and Employment Decisions   | 35 |
|     | 19.15. | Workforce Agreement  | 36 |
|     | 19.16. | San Francisco Packaged Water Ordinance   | 36 |
|     | 19.17. | Local Truckers   | 37 |
|     | 19.18. | Vending Machines; Nutritional Standards  | 37 |
|     | 19.19. | Licensee's Compliance with City Business and Tax Regulations Code  | 38 |
|     | 19.20. | Consideration of Salary History  | 38 |
|     | 19.21. | [For Craig Lane add: Local Hire]   | 38 |
|     | 19.22. | [For Craig Lane add: First Source Hiring   | 39 |
|     | 19.23. | [For Craig Lane add: Local Business Enterprises  | 39 |
| 20. | Waive  | er of Relocation   | 39 |
| 21. | Signs. |  | 39 |
| 22. | Misce  | llaneous Provisions  | 39 |

|       | 22.1.       | Governing Law   |
|-------|-------------|---|
|       | 22.2.       | Entire Agreement  |
|       | 22.3.       | Amendments  |
|       | 22.4.       | Severability  |
|       | 22.5.       | Interpretation of License   |
|       | 22.6.       | Successors and Assigns  |
|       | 22.7.       | Counterparts41  |
|       | 22.8.       | Authority41   |
|       | 22.9.       | No Implied Waiver41   |
|       | 22.10.      | Time is of Essence  |
|       | 22.11.      | Cumulative Remedies   |
|       | 22.12.      | Survival  |
|       | 22.13.      | Relationship of the Parties   |
|       | 22.14.      | No Recording  |
|       | 22.15.      | Additional Written Agreement Required   |
|       | 22.16.      | Approvals   |
|       | 22.17.      | Further Assurances  |
|       | 22.18.      | Estoppels   |
| 23.   | Definit     | tions   |
|       |             |   |
|       |             | SCHEDULES LIGHTON APPLIA  |
| EXHIB | II A        | LICENSE AREA EXHIBIT A-1 CRAIG LANE LICENSE AREA MAP AND LEGAL DESCRIPTION    |
|       |             | EXHIBIT A-2 PORT'S 23 <sup>RD</sup> STREET PROPERTY MAP AND LEGAL DESCRIPTION |
|       |             | EXHIBIT A-3 CITY'S 23 <sup>RD</sup> STREET PROPERTY MAP AND LEGAL DESCRIPTION |
| Ехнів | <b>ІТ</b> В | EFFECTIVE DATE, COMMENCEMENT AND EXPIRATION DATE MEMORANDUM                   |
| Ехнів |             | MITIGATION AND IMPROVEMENT MEASURES   |
| EXHIB | IT <b>D</b> | FORM OF PERFORMANCE BOND AND PAYMENT BOND                                     |
| Ехнів | IT E        | WORKFORCE AGREEMENT   |
|       |             |   |

SCHEDULE 1 HAZARDOUS MATERIALS DISCLOSURE [SCHEDULE 2 SUBSTRUCTURE REPORT(S)]

## BASIC LICENSE INFORMATION

| License Date:                      |   |  |  |
|------------------------------------|---|--|--|
| License Number:                    |   |  |  |
| Licensor:                          | CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, operating by and through the SAN FRANCISCO PORT COMMISSION [ON BEHALF OF THE PORT AND THE SF DIRECTOR OF PROPERTY] [EACH DEPARTMENT WILL SIGN 23RD STREET LICENSE]   |  |  |
| City's Address:                    | Port of San Francisco Pier 1 San Francisco, California 94111 Attention: Deputy Director, Real Estate and Development  |  |  |
|                                    | Telephone: (415) 274-0400<br>Facsimile: (415) 274-0494  |  |  |
|                                    | [General Services Agency Real Estate Division 25 Van Ness Avenue, Suite 400 San Francisco, CA 94102 Attention: Director of Property   |  |  |
|                                    | Telephone: (415) 554-9850<br>Facsimile: (415) ]   |  |  |
| Interdepartmental<br>Coordination: | As described in Exhibit Z to the DA, RED, Port and the other involved City Agencies (as defined in the DA) intend to enter into a memorandum of understanding regarding further details and respective roles and responsibilities in administering and enforcing this License. Nothing in this License or in any interdepartmental memorandum of understanding shall give Licensee or any party a third party right to enforce the terms of any such memorandum of understanding except to the extent set forth in such memorandum. |  |  |

| City Contacts for Notices:                                | David Beaupre Port of San Francisco Pier 1 San Francisco, California 94111  Telephone 415-274-0539; 415-215-5465 david.beaupre@sfport.com  [Name] General Services Agency Real Estate Division 25 Van Ness Avenue, Suite 400 San Francisco, CA 94102  Telephone: Facsimile: |
|---|---|
| Licensee:   | California Barrel Company LLC, a Delaware limited liability company   |
| Licensee's Main Contact<br>Person and Mailing<br>Address: | 1 3   |
| Licensee's Emergency<br>Contact and Address:              | Enrique Landa California Barrel Corporation c/o Associate Capital 420 23 <sup>rd</sup> Street San Francisco, CA 94109 Telephone: (415) 713-3699 Email: e5@associatecapital.com  |

| Licensee's Insurance<br>Contact and Address<br>(not broker):           | Diane McCarthy, CRIS, AIM, SCLA, AIC Align Claims Services, Inc., Claims Administrator for United Specialty Group 350 10th Ave, Suite 1450 San Diego, CA 92101 Telephone 1-800-210-9358 Email: dmccarthy@alignclaimsservices.com   |  |
|--|--|--|
| Licensee's Parking Contact<br>and Address:                             | ± *  |  |
| Contact Information for<br>Licensee's Agent for Service<br>of Process: | California Barrel Company LLC<br>c/o Associate Capital<br>420 23 <sup>rd</sup> Street<br>San Francisco, CA 94109<br>Attn: Project Director, Potrero Power Station Project  |  |
| Development Agreement:   | City and Licensee have entered into a Development Agreement (BoS Ordinance 62-20) (as amended from time to time, the " <b>DA</b> "), setting forth the terms and conditions under which Licensee would undertake the development of approximately twenty-one (21) acres of land that it owns in the City that is generally bounded by 22 <sup>nd</sup> Street to the north, the San Francisco Bay to the east, 23 <sup>rd</sup> Street to the south, and Illinois Street to the west, as further defined in the DA, the " <b>Project</b> ". Various City departments, including Port, consented to the DA. Notwithstanding any other provision of this License, this License shall terminate upon termination of the DA. |  |
|  | As required by the DA and subject to the terms and conditions set forth herein, as part of the Project, Licensee shall construct (i) Privately Owned Community Improvements on an area partially owned by Licensee and partially owned by Port and known as Craig Lane (the "Craig Lane Improvements"); and (ii) the Public Improvements on 23 <sup>rd</sup> Street (the "23rd Street Improvements").  |  |
| License Area:  | The License Area is comprised of the following areas in the City and County of San Francisco, State of California, as further described in <i>Exhibit A</i> attached hereto and made a part hereof, together with any and all improvements and alterations thereto:  |  |

<u>Parcel A</u>: approximately .5 acres of unimproved land in Port jurisdiction known as a portion of "Craig Lane" ("Craig Lane License Area") as further described in *Exhibit A-1* attached hereto and made a part hereof;

<u>Parcel B</u>: approximately 1.3 acres of right-of-way in Port jurisdiction known as a portion of "23<sup>rd</sup> Street" ("**Port's 23**<sup>rd</sup> **Street Property**") as further described in *Exhibit A-2* attached hereto and made a part hereof; and

<u>Parcel C</u>: approximately less than 0.1 acre of right-of-way in City jurisdiction known as a portion of "23<sup>rd</sup> Street" ("City's 23<sup>rd</sup> Street Property") as further described in *Exhibit A-3* attached hereto and made a part hereof.

Parcels B and C (Port's 23<sup>rd</sup> Street Property and City's 23<sup>rd</sup> Street Property) are collectively referred to as the "23<sup>rd</sup> Street License Area".

#### Effective Date:

The Effective Date of this License is the date on which the Parties duly execute and deliver this License. Promptly following the actual Effective Date, City and Licensee will document such Effective Date by countersigned memo substantially in the form hereto as *Exhibit B*, but either party's failure to do so shall not affect the Effective Date.

This License shall commence as to each parcel on the Commencement Date therefor as specified below.

#### Parcel A: Craig Lane License Area

### Reciprocal Easement Agreement:

On or about [date xx,] 2021, Licensee, FC Pier 70 LLC, a Delaware limited liability company, and Port executed, delivered and and recorded a Reciprocal Easement Agreement [add cite to recorded document] (the "Craig Lane REA") pursuant to which, among other things, (i) Licensee grants to Port, its tenants, invitees and certain other persons a perpetual easement over the portion of Craig Lane owned by Licensee for vehicular, pedestrian and bicycle access, parking and loading, (ii) Port grants to Licensee, its invitees and certain other persons a perpetual easement over the Craig Lane License Area for vehicular, pedestrian and bicycle access, parking and loading, and (iii) Licensee agrees to maintain in perpetuity the improvements required to be constructed under the DA on the portion of Craig Lane owned by Licensee and the Craig Lane License Area, all as more particularly described in the Craig Lane REA.

#### Commencement Date:

[Per the phasing plan under the DA or earlier in accordance with the Craig Lane REA]

Upon City's request, prior to the Commencement Date, Licensee shall make the applicable representations and warranties set forth in Section 13.1 of the DA to City as of the Commencement Date.

Promptly following the actual Commencement Date for the Craig Lane License Area, City and Licensee will document such Commencement Date by countersigned memo substantially in the form attached hereto as *Exhibit B*, but either party's failure to do so shall not affect the commencement of the Term for the Craig Lane License Area.

#### Expiration Date:

This License will expire as to the Craig Lane License Area (or the applicable portion thereof) upon Completion of the Craig Lane Improvements (or such portion).

Promptly following the actual Expiration Date for Craig Lane License Area or any portion thereof, City and Licensee will document such Expiration Date by countersigned memo substantially in the form attached hereto as *Exhibit B*, but either party's failure to do so shall not affect the Expiration Date of the Term for the Craig Lane License Area.

#### Permitted Activity:

The Craig Lane License Area shall be used solely to construct the Craig Lane Improvements and for no other purpose. The Craig Lane License Area may be used for construction laydown purposes, but only for construction of the Craig Lane Improvements. Any other use of the Craig Lane License Area, including as laydown space for any other aspect of the Project, is prohibited. Port and Licensee may enter into a separate agreement for such uses on the Port's standard form license agreement at standard rates; provided, however, that any such separate agreement shall require the prior written consent of the P70 Master Developer and any P70 Vertical Developer to the extent that the P70 Master Developer or P70 Vertical Developer retain a property interest in the applicable portion of the Craig Lane License Area (any such party, a "Pier 70 Developer Party").

City permits for the construction of the Craig Lane Improvements will be issued by [ ]. The Parties agree and acknowledge that, notwithstanding anything to the contrary in the DA, Port Codes, including the Port Building Code and its interpretation and administration by the Port's

Chief Harbor Engineer will apply to all construction on Port lands.

[Placeholder: If the Craig Lane Improvements are Required Infrastructure in the PIA, use the following language: The Craig Lane Improvements shall be constructed in accordance with the DA, the Potrero Power Station Special Use District established by Planning Code section 249.87, the PPS Design for Development, the Pier 70 Special Use District established by Planning Code section 249.79 and Pier 70 Design for Development, to the extent applicable, the City's Zoning Map and other land use controls applicable to the PPS Project, this License, and the Public Infrastructure Agreement between City and Licensee dated for references purposes as of [ pursuant to Cal. Gov Code §664462(a) and SF Subdivision Code §1651 and the associated Infrastructure Plan and all related documents, approvals and agreements including any required security obligations (collectively, the "PIA"). In the event of a conflict between this License and the PIA, the PIA governs.

If Craig Lane is not in the PIA, then see Section 9, which includes construction requirements similar to the Port Lease, and consistent with the DA and PIA-like provisions that will apply to Craig Lane.]

#### Additional Prohibited Uses:

In addition to, and without limiting, the Prohibited Uses specified in Section 5 below, Licensee shall be prohibited from using the Craig Lane License Area for any of the following activities:

- (a)
- (b)

City shall have all remedies set forth in this License, and at law or equity in the event Licensee performs any of the Prohibited Uses.

#### Parcels B and C: 23rd Street License Area

#### Commencement Date:

[Per the phasing plan under the DA]

Upon City's request, prior to the Commencement Date, Licensee shall make the applicable representations and warranties set forth in Section 13.1 of the DA to City as of the Commencement Date.

Promptly following the actual Commencement Date for 23<sup>rd</sup> Street, City and Licensee will document such Commencement Date by countersigned memo substantially

|                     | in the form attached hereto as $Exhibit B$ , but either party's failure to do so shall not affect the commencement of the Term for the $23^{rd}$ Street License Area.  |
|---------------------|--|
| Expiration Date:    | This License will expire as to the 23 <sup>rd</sup> Street License Area or any portion thereof on the earlier to occur of (i) the effective date of the Board of Supervisors' ordinance accepting 23 <sup>rd</sup> Street or such portion thereof for public use and maintenance following Completion of the 23 <sup>rd</sup> Street Improvements or such portion thereof; or (ii) the date that is three (3) years following the date of Completion of the 23 <sup>rd</sup> Street Improvements. Promptly following the actual Expiration Date for 23 <sup>rd</sup> Street or any portion thereof, City and Licensee will document such Expiration Date by countersigned memo substantially in the form attached hereto as <i>Exhibit B</i> , but either party's failure to do so shall not affect the expiration of the Term for the pertinent 23 <sup>rd</sup> Street License Area. |
| Permitted Activity: | The License Area shall be used hereunder solely to construct the 23 <sup>rd</sup> Street Improvements and for no other purpose (but, for the avoidance of doubt, nothing herein shall limit the use of the 23 <sup>rd</sup> Street License Area for street purposes consistent with use by property owners in the vicinity and the general public). The 23 <sup>rd</sup> Street License Area may be used for construction laydown purposes, but only for construction of the 23 <sup>rd</sup> Street Improvements. Any other use of the 23 <sup>rd</sup> Street License Area, including as laydown space for any other aspect of the Project, is prohibited. Port and Licensee may enter into a separate agreement for such uses on the Port's standard form license agreement at standard rates.  |
|                     | The 23 <sup>rd</sup> Street License Area shall, at all times, remain open to traffic to the greatest extent feasible (or reasonable alternatives shall be provided by Licensee, subject to City's reasonable approval).  |
|                     | City permits for the construction of the 23 <sup>rd</sup> Street Improvements will be issued by SFPW.  |
|                     | The 23 <sup>rd</sup> Street Improvements shall be constructed in accordance with DA, this License, and the Public Infrastructure Agreement between City and Licensee dated for references purposes as of [ ] pursuant to Cal. Gov Code §664462(a) and SF Subdivision Code §1651 and the associated Infrastructure Plan and all related documents, approvals and agreements (collectively, the "PIA").  |

| Additional Prohibited Uses: | In addition to, and without limiting, the Prohibited Uses specified in <i>Section 5</i> below, Licensee shall be prohibited from using the 23 <sup>rd</sup> Street License Area for any of the following activities:  (a)   |  |
|-----------------------------|---|--|
|                             | (b) City shall have all remedies set forth in this License, and at law or equity in the event Licensee performs any of the Prohibited Uses.   |  |
| Existing Utilities:         | Licensee acknowledges that the following entities own and operate subterranean infrastructure beneath portions of 23 <sup>rd</sup> Street, including electric transmission cables and water and wastewater lines together with their necessary appliances, facilities, fixtures and improvements ("Utility Infrastructure"): the City and County of San Francisco, acting by and through its Public Utilities Commission, Pacific Gas and Electric Company and Trans Bay Cable LLC (each, together with their respective agents, successors and contractors, "Utility Providers"). Licensee shall not interfere with the Utility Infrastructure or the Utility Provider's use of the areas in which Utility Infrastructure is located, including without limitation, repair and maintenance of the Utility Infrastructure and agrees to coordinate its own activities in the 23 <sup>rd</sup> Street License Area with Utility Providers to the extent necessary. |  |
| Signage:                    | Subject to City permitting, Licensee shall post a 24" x 24" metal sign at the appropriate locations in the License Area providing the emergency contact name and phone number. The signs shall be removed upon expiration or termination of this License.   |  |
| Transfers:                  | This License is personal to Licensee and is not assignable or transferable without the prior written consent of City in its sole discretion. Notwithstanding the foregoing, if Licensee assigns its right, title and interest under the DA and/or under the Port Lease and/or under the Craig Lane REA as applicable in accordance with the provisions thereof, then Licensee may, without City's consent, contemporaneously assign its right, title and interest under this License or portions thereof to such Person; provided that such Person assume all obligations of Licensee under this License to and including the end of the Term as documented in the assignment and assumption agreement and/or loan agreements required by the DA, Port  |  |

Lease and/or Craig Lane REA as applicable. Notice of such assignment or transfer shall be provided to City under this License in the manner specified in the DA, Port Lease and/or Craig Lane REA. Licensee shall have the right to grant a mortgage or similar lien over its right, title and interest in this License consistent with, and City's and Licensee's obligations with respect thereto shall be as provided in, Article 10 of the DA (with respect to the 23<sup>rd</sup> Street License Area) or Article 7 of the Craig Lane REA (with respect to the Craig Lane License Area) as applicable as if such provisions are fully set forth herein.

It is the intent of the Parties, to the fullest extent permitted by law and equity that no assignment or transfer of this License, however consummated or occurring, and whether voluntary or involuntary, may operate, legally or practically, to deprive or limit City of or with respect to any rights or remedies or controls provided in this License with respect to the License Area and the construction of the improvements that City would have had, had there been no such assignment or transfer.

No assignment or transfer of this License is in any way to be construed to (i) from and after the date of such assignment or transfer, relieve Licensee of any liability arising out of or with regard to the performance of any covenants or obligations to be performed by Licensee hereunder or under the DA (if in effect) before the date of such assignment or transfer, or (ii) relieve any transferee from its obligation to obtain the express consent in writing of City to any further assignment or transfer as required by and in the manner required by this License, and the DA or Port Lease, as applicable.

#### City Requirements:

[For 23<sup>rd</sup> Street: The Parties agree that, subject to the provisions of the DA, any new applicable City Requirements effective subsequent to the effective date of the Port Lease (as defined by the Port Lease) and prior to the Effective Date of this License shall be added to this License by written addenda.]

[For Craig Lane: The Parties agree that, any new applicable City Requirements effective subsequent to the effective date of the Craig Lane REA (as defined by the Craig Lane REA) and prior to the Effective Date of this License shall be added to this License at the time of its execution by written addenda.

| Mitigation and Improvement<br>Measures: | On January 30, 2020, the SF Planning Commission certified the Final Environmental Impact Report prepared for the Project and the CEQA findings for the Project and adopted the Mitigation Measures (Case No. 2017-011878ENV). In order to mitigate any potential significant environmental impacts of the Project, Licensee agrees that its activities under this License will be in accordance with the Mitigation and Improvement Measures. Licensee is responsible for implementation and compliance with all measures relating to its activities. As appropriate, in addition, Licensee will incorporate the Mitigation and Improvement Measures into any contract for the activities under this License. Failure to comply with the Mitigation and Improvement Measures shall be a default of this License as more particularly set forth in <i>Section 12.1(c)</i> . |
|---|--|
| Prepared By:                            | David Beaupre, Senior Development Project Manager  |

#### LICENSE TO USE PROPERTY

#### 1. BASIC LICENSE INFORMATION.

This License to Use Property, dated for reference purposes only as of the License Date set forth in the Basic License Information, is by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City"), as licensor, and the party identified in the Basic License Information as licensee ("Licensee"). The Basic License Information that appears on the preceding pages and all Exhibits and Schedules attached hereto are hereby incorporated by reference into this License and shall be construed as a single instrument and referred to herein as this "License". In the event of any conflict or inconsistency between the Basic License Information and the License provisions, the Basic License Information will control.

#### 2. GRANT OF LICENSE; TERM; REVOCABILITY.

- **2.1.** *License*. In consideration of the stated conditions and agreements, City hereby grants permission to Licensee to carry on the Permitted Activity within the License Area described in the Basic License Information and *Exhibit A* attached hereto. This License is a revocable, personal, non-assignable (except as expressly permitted hereunder as provided above), non-exclusive, and non-possessory privilege to enter and use the License Area for the Permitted Activity only on a temporary basis that commences on the Commencement Date and expires on the Expiration Date specified in the Basic License Information ("Term") unless sooner terminated pursuant to the terms of this License, all subject to the terms hereof.
- 2.2. As Is With all Faults. Licensee agrees that Licensee is accepting the License Area in its existing state and condition, "as is, with all faults", subject to the terms of this License. Licensee acknowledges and agrees that City has not made, and hereby disclaims, any representation or warranty, express or implied, of any kind, with respect to the condition of the License Area, the condition of title to the License Area, the suitability or fitness of the License Area or any appurtenances thereto for the development, use or operation of the Improvements, the compliance of the License Area with any laws, any matter affecting the use, value, occupancy or enjoyment of the License Area or any other matter pertaining to the License Area. Licensee further acknowledges and agrees that it has been afforded a full opportunity to inspect the City's records relating to conditions in, on, around, under, and pertaining to the License Area. City makes no representation or warranty as to the accuracy or completeness of any matters contained in such records. Licensee is not relying on any such information. All information contained in such records is subject to the limitations set forth in this License. Licensee acknowledges and agrees that Licensee has performed a diligent and thorough inspection and investigation in, on, around, under, and pertaining to the License Area, either independently or through its own experts, including with respect to (i) the quality, nature, adequacy and physical condition in, on, around, under, and pertaining to the License Area, including the structural elements, foundation, and all other physical and functional aspects in, on, around, under, and pertaining to the License Area; (ii) the quality, nature, adequacy, and physical, geotechnical and environmental condition in, on, around, under, and pertaining to the License Area, including the soil and any groundwater (including Hazardous Materials conditions (including the presence of asbestos or lead) with regard to soils and any groundwater); (iii) the suitability in, on, around, under, and pertaining to the License Area for the development of the Improvements, the

Permitted Activities or Licensee's planned use of the License Area; (iv) title matters, the zoning, land use regulations, and other Laws, including Environmental Laws, governing use of or construction in, on, around, under, and pertaining to on the License Area, the appurtenances thereto or the Improvements; and (v) all other matters of material significance affecting, in, on, around, under, and pertaining to the License Area and its development and use under this License (the foregoing, collectively, the "**Property Matters**"). By entering onto the License Area under this License, Licensee acknowledges its receipt of Schedule 1 (Hazardous Materials Disclosures) [and Schedule 2 regarding the condition of the substructure].

**2.3.** *Revocability*. Without limiting any of City's rights hereunder, by initialing below, Licensee agrees and acknowledges that City may, in its sole and absolute discretion, revoke or terminate this License at any time prior to the Expiration Date, without cause and without obligation to pay any consideration to Licensee ("City's Termination Right"). City agrees that it will not exercise City's Termination Right absent an Event of Default by Licensee. Failure of Licensee to initial below shall in no way affect or hinder City's Termination Right.

| Initials: |          |
|-----------|----------|
|           | Licensee |

**2.4.** Other Development Projects. Licensee acknowledges that during the Term, the P70 Project and other City and private projects are scheduled to be, or may be, constructed on property in the vicinity of the License Area. Licensee is aware that the construction of such project(s) and the activities associated with such construction will generate certain adverse impacts which may result in some inconvenience to or disturbance of Licensee. Impacts may include, but are not limited to, increased vehicle and truck traffic, traffic delays and re-routing, loss of street and public parking, dust, dirt, construction noise and visual obstructions. Licensee hereby waives any and all Losses against City and its Agents arising out of such inconvenience or disturbance.

#### 3. FEES.

Provided that Licensee strictly complies with the terms and conditions of this License, there shall be no fees for Licensee's use. The parties agree that, upon a Licensee Event of Default, Licensee shall pay the fair market rent for all property used as established by the then-current Port Commission rental rate schedule starting on the date of City's notice of default and continuing until cured.

#### 4. PERMITTED ACTIVITY; SUITABILITY OF LICENSE AREA.

The License Area shall be used only for the Permitted Activity specified in the Basic License Information and for no other purpose. If the Basic License Information limits the times and location of the activities permitted hereunder, then Licensee shall not conduct the activity at times and locations other than at the times and locations hereinabove specified unless express prior written permission is granted by City. Persons subject to this License must comply with the directions of the San Francisco Police Department and Fire Department in connection therewith.

#### 5. PROHIBITED USES.

Licensee shall use the License Area solely for Permitted Activities and for no other purpose. [Licensee shall not place any object, machinery or equipment on any portion of the License Area that exceeds the load restrictions, if any, described in the Basic License Information or in *Schedule 2*]. Any other use in, on or around the License Area or surrounding or adjacent City property shall be strictly prohibited, including, but not limited to, waste, nuisance or unreasonable annoyance to City, its other licensees, tenants, or the owners or occupants of adjacent properties, interference with City's use of its property, or obstruction of traffic (including, but not limited to, vehicular and pedestrian traffic) (each, a "**Prohibited Use**").

In the event City determines after inspection of the License Area that a Prohibited Use or Prohibited Uses are occurring in, on or around the License Area, then Licensee shall immediately cease the Prohibited Use(s) and shall pay to City an additional charge in the amount of Three Hundred Dollars (\$300) upon delivery of written notice to Licensee to cease the Prohibited Use ("Notice to Cease Prohibited Use"). In the event City determines in subsequent inspection(s) of the License Area that Licensee has not ceased the Prohibited Use, then Licensee shall pay to City an additional charge in the amount of Four Hundred Dollars (\$400) for each additional Notice to Cease Prohibited Use delivered to Licensee. The parties agree that the charges associated with each inspection of the License Area and delivery of the Notice to Cease Prohibited Use, if applicable, represent a fair and reasonable estimate of the administrative cost and expense which City will incur by reason of City's inspection of the License Area and Licensee's failure to comply with the applicable Notice to Cease Prohibited Use and that City's right to impose the foregoing charges shall be in addition to and not in lieu of any and all other rights under this License, at law or in equity. By signing this License, each party specifically confirms the accuracy of the statements made in this Section 5 and the reasonableness of the amount of the charges described in this Section 5.

# 6. COMPLIANCE WITH LAWS; REGULATORY APPROVALS; CITY ACTING AS OWNER OF PROPERTY.

- **6.1.** *Compliance With Laws*. Licensee, at Licensee's sole cost and expense, promptly shall comply with all Laws relating to or affecting the condition or use of the License Area.
- 6.2. Regulatory Approval. Licensee understands that Licensee's activity on the License Area requires Regulatory Approvals from Regulatory Agencies. Licensee shall be solely responsible for obtaining any such Regulatory Approvals, and Licensee shall not seek any Regulatory Approval with respect to the License Area from any non-City agency without first obtaining the prior written approval of City. With respect to the 23<sup>rd</sup> Street License Area, such City approval shall be obtained to the extent required under the DA. All costs associated with applying for and obtaining any necessary Regulatory Approval shall be borne solely and exclusively by Licensee. Licensee shall be solely responsible for complying with any and all conditions imposed by Regulatory Agencies as part of a Regulatory Approval; provided, however, Licensee shall not agree to the imposition of conditions or restrictions in connection with its efforts to obtain a permit or other entitlement from any Regulatory Agency (other than Port acting in its regulatory capacity or City acting through SFPW), if City is required to be a copermittee under such permit, or if the conditions or restrictions it would impose on the project

could affect use or occupancy of other areas controlled or owned by the City or would create obligations on the part of the City (whether on or off of the License Area) to perform or observe, unless in each instance the City has previously approved such conditions in writing, in City's sole and absolute discretion.

Any fines or penalties imposed as a result of the failure of Licensee to comply with the terms and conditions of any Regulatory Approval shall be promptly paid and discharged by Licensee, and City shall have no liability, monetary or otherwise, for the fines and penalties. For the avoidance of doubt, Licensee's Indemnity obligations under *Section 13.1* shall apply to all Losses resulting from Licensee's failure to obtain or comply with the terms and conditions of any Regulatory Approval subject to *Section 13.1*.

- 6.3. City Acting As Owner of Property. By signing this License, Licensee agrees and acknowledges that (i) City has made no representation or warranty that any required Regulatory Approval can be obtained, (ii) although the City signatory departments are agencies of City, they have no authority or influence over any other Regulatory Agency including City agencies acting in their regulatory capacity responsible for the issuance of such required Regulatory Approvals, (iii) City signatory departments are entering into this License in its capacity as a landowner with a proprietary interest in the License Area and not as a Regulatory Agency of City with certain police powers, and (iv) Licensee is solely responsible for obtaining any and all required Regulatory Approvals in connection with the Permitted Activity on, in or around the License Area. Accordingly, Licensee understands that there is no guarantee, nor a presumption, that any required Regulatory Approval(s) will be issued by the appropriate Regulatory Agency and Port's and RED's status as an agency of City shall in no way limit the obligation of Licensee to obtain approvals from any Regulatory Agencies (including those of City) which have jurisdiction over the License Area. Licensee hereby releases and discharges City from any liability relating to the failure of any Regulatory Agency (including those of City) from issuing any required Regulatory Approval. Nothing in this Section 6.3 shall limit or constitute a waiver of either Party's rights or obligations under the DA.
- **6.4.** Accessibility. California Law requires commercial landlords to disclose to tenants whether the property being leased has undergone inspection by a Certified Access Specialist ("CASp") to determine whether the property meets all applicable construction-related accessibility requirements. The Law does not require landlords to have the inspections performed. Licensee is hereby advised that the License Area has not been inspected by a CASp and, except to the extent expressly set forth in this License, City shall have no liability or responsibility to make any repairs or modifications to the License Area in order to comply with accessibility standards. The following disclosure is required by Law:
- "A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state Law. Although state Law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the

CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises."

Further, Licensee is hereby advised that the License Area may not currently meet all applicable construction-related accessibility standards, including standards for public restrooms and ground floor entrances and exits. Licensee understands and agrees that Licensee may be subject to legal and financial liabilities if the License Area does not comply with applicable Disabled Access Laws. As further set forth in this Section, Licensee further understands and agrees that it is Licensee's obligation, at no cost to City, to cause the License Area and Licensee's uses thereof to be conducted in compliance with Disabled Access Laws.

#### 7. UTILITIES, SERVICES, MAINTENANCE AND REPAIR.

- **7.1.** *Utilities*. City has no responsibility or liability hereunder of any kind with respect to any utilities that may be on, in or under the License Area. Except as may be otherwise provided in the Basic License Information, Licensee shall make arrangements and shall pay all charges for all utilities to be furnished on, in or to the License Area or to be used by Licensee. Licensee will procure all electricity from the San Francisco Public Utilities Commission at rates to be determined by the San Francisco Public Utilities Commission. If the San Francisco Public Utilities Commission determines that it cannot feasibly provide service to Licensee or Licensee is otherwise permitted under the DA to use a different provider, Licensee may seek another provider.
- **7.2.** Services. City has no responsibility or liability of any kind with respect to the provision of any services to Licensee or on, in, or to the License Area. Licensee shall make arrangements for and shall pay all charges for all services to be furnished on, in or to the License Area or to be used by Licensee, including, without limitation, security service, garbage and trash collection, janitorial service and extermination service.

#### 7.3. Maintenance and Repair.

- (a) Licensee shall at all times during the Term, at its sole cost and expense, maintain and repair in good and working order, condition and repair the License Area and all improvements and alterations thereon including without limitation, the Craig Lane Improvements and the 23<sup>rd</sup> Street Improvements.
- (b) City shall not be obligated to make any repairs, replacements or renewals of any kind, nature or description whatsoever to the License Area or to any improvements or alterations now or hereafter located thereon. In the event that Licensee or its Agents or Invitees cause any damage (excepting ordinary wear and tear) to the License Area or any other City property, Licensee shall be responsible and City may, at its sole and absolute discretion, elect to repair the same itself or require Licensee to repair the same, all at Licensee's sole cost and expense. Upon receipt of any invoice from City for costs incurred by City related to any repair performed by City in accordance with this Section, Licensee shall immediately reimburse City therefor. Licensee's obligation to reimburse City shall survive the expiration or earlier termination of this License.

#### 8. TAXES AND ASSESSMENTS.

Licensee agrees to pay to the proper authority any and all taxes, assessments and similar charges on the License Area under applicable Laws, including all taxes levied or assessed upon the possession, use, or occupancy, as distinguished from the ownership, of the License Area. Licensee, on behalf of itself and any permitted successors and assigns, recognizes and understands that this License may create a possessory interest subject to property taxation and that Licensee, and any permitted successor or assign may be subject to the payment of such taxes. Licensee, on behalf of itself and any permitted successors and assigns, further recognizes and understands that any assignment permitted hereunder and any exercise of any option to renew or extend this License may constitute a change in ownership for purposes of property taxation and therefore may result in a revaluation of any possessory interest created hereunder. San Francisco Administrative Code Sections 23.38 and 23.39 (or any successor statute) require that certain information relating to the creation, renewal, extension, assignment, sublicense, or other transfer of this License be reported to the San Francisco County Assessor within sixty (60) days after any such transaction. Accordingly, Licensee must provide a copy of this License to the San Francisco County Assessor not later than sixty (60) days after the Effective Date, and any failure of Licensee to timely provide a copy of this License to the San Francisco County Assessor will be an Event of Default under this License (after notice and expiration of any applicable cure period). Licensee further agrees to provide such other information as may be requested by City to enable City to comply with any reporting requirements under applicable Law with respect to possessory interest. For the avoidance of doubt, Licensee's Indemnity obligations under Section 13.1 shall apply to all Losses resulting from any assessment or reassessment of any possessory interest created under this License, subject to **Section 13.1**.

#### 9. IMPROVEMENTS AND ALTERATIONS.

#### 9.1. Construction Prohibited; General Conditions.

- (a) Except as specified in the Basic License Information, Licensee shall not make, nor suffer to be made, Alterations or Improvements to the License Area.
- (b) All Alterations and Improvements performed by Licensee including any maintenance or repair of any Alterations or Improvements (sometimes referred to as the "Work") shall be performed in a good and workmanlike manner in accordance with plans and specifications previously approved by City in writing and in compliance with the applicable building, zoning and other applicable Laws, including, but not limited to, compliance with Disabled Access Laws, the Potrero Power Station Special Use District established by Planning Code section 249.87, the PPS Design for Development the Pier 70 Special Use District established by Planning Code section 249.79 and Pier 70 Design for Development, to the extent applicable, the City's Zoning Map and other land use controls applicable to the PPS Project, and in compliance with the terms of and conditions imposed in the PIA and any Regulatory Approval, permit or authorization.
- (c) All Work shall be performed at the sole cost and expense of Licensee, with reasonable dispatch and prosecuted to Completion, and only by duly licensed and bonded contractors or mechanics approved by City to the extent required by the DA.

- (d) All Work shall be accomplished expeditiously, diligently and in accordance with good construction and engineering practices and applicable Laws. Licensee, while performing any Work shall undertake commercially reasonable measures to minimize damage, disruption or inconvenience caused by such work and make adequate provision for the safety and convenience of all Persons affected by such Work. Dust, noise and other effects of such work shall be controlled using commercially-accepted methods customarily used to control deleterious effects associated with construction projects in populated or developed urban areas. In addition, in the case of such construction which begins after any Improvements are or have opened for use by the general public, Licensee shall erect, to the extent reasonably possible, construction barricades substantially enclosing the area of such construction and maintain them until such construction has been substantially completed, to the extent reasonably necessary to minimize the risk of hazardous construction conditions.
- **9.2.** *Title to Improvements*. During the Term, Licensee shall own all of the Craig Lane Improvements and 23<sup>rd</sup> Street Improvements and all appurtenant fixtures, machinery and equipment installed therein.

#### 9.3. Construction.

- (a) <u>Commencement of Construction</u>. Licensee shall not Commence construction of any phase of the Craig Lane Improvements or the 23<sup>rd</sup> Street Improvements ("**Phase**") until the following conditions have been satisfied or waived by City:
- (i) Licensee has obtained City's approval of such Phase pursuant to the DA and this License.
- (ii) Licensee has prepared construction documents, obtained and paid for all building permits, obtained all other Regulatory Approvals, financing and approvals, in each case to the extent required to commence such construction in accordance with this License and the Project Approvals.
- (iii) Licensee has delivered to City the Security as required by the PIA for the 23<sup>rd</sup> Street Improvements and as required in *Section 9.4* below for the Craig Lane Improvements.
- (iv) Licensee has provided thirty (30) days' advance written notice to City to allow City to post a notice of non-responsibility on the License Area.

#### **(b)** Construction Schedule.

- (i) Once Commenced, Licensee shall prosecute the construction of each of the Craig Lane Improvements and the 23<sup>rd</sup> Street Improvements with reasonable diligence, subject to Excusable Delay.
- (ii) During the construction of the Craig Lane Improvements and the 23<sup>rd</sup> Street Improvements, Licensee shall submit to City written progress reports when and as reasonably requested by City.

- As-Built Plans and Specifications. At the Completion of any Phase of any Work permitted by this License or upon earlier termination of this License, Licensee shall furnish to City and Port one set of design/permit drawings in their finalized form and as-built plans and specifications (in both hard copy and AutoCad format, or such other form as reasonably requested by City or Port), specifications and surveys with respect to such Improvements and within one hundred twenty (120) days following Completion. As used in this Section 9.3(c), "as-built plans and specifications" means as-built field documents prepared during the course of construction, including all requests for information responses, field orders, change orders and other corrections to the documents made during the course of construction. Submittals shall be both in the form of full-size, hard paper copies and converted into electronic format (or such other format as is industry standard at the time of submittal), and in such format as is reasonably required by City's or Port's building department at the time of submittal. If Licensee fails to provide such as-built plans and specifications within the time period specified herein, and such failure continues for an additional thirty (30) days following written request from City, City shall thereafter have the right to cause an architect or surveyor selected by City to prepare as-built plans and specifications showing such Improvements, and the reasonable cost of preparing such plans and specifications shall be promptly reimbursed by Licensee to City. Nothing in this Section 9.3 shall limit Licensee's obligations, if any, to provide plans and specifications in connection with the Improvements permitted by this License under applicable regulations adopted by City in its regulatory capacity. Licensee is permitted to disclaim any representations or warranties with respect to the as-built plans and specifications provided hereunder, and, at Licensee's request, City shall provide Licensee with a release from liability for future use of the applicable materials, in a form acceptable to Licensee and City. Licensee's obligations under this Section 9.3 shall survive the expiration or earlier termination of this License.
- Security. Licensee shall provide City, at its sole cost and expense, a payment bond and a performance bond substantially in the form attached hereto as *Exhibit D* from an issuer acceptable to the City securing the Completion of the Craig Lane Improvements. Each bond shall be in an amount equal to one hundred percent (100%) of the estimated costs of the Craig Lane Improvements and must obligate the surety to Licensee and the City and County of San Francisco as co-obligees. Licensee, at its option, may provide City with an alternative form of security in a form and substance reasonably acceptable to City to substitute for all or part of the required payment and performance bond including without limitation, the form and substance of security accepted by Port for tenant improvements under the Port Lease or the form and substance of security accepted by City for the 23<sup>rd</sup> Street Improvements; provided that such alternative form of security provides the same guaranty of performance as the payment and performance bond. Any security provided under this Section 9.4 shall be referred to collectively as the "Security". If the Craig Lane Improvements are not Completed within the time periods specified in the DA, City may use the Security for Completion of the Craig Lane Improvements. The use of such Security is cumulative and in addition to any and all other rights or remedies of City. Any Security provided by Licensee shall be proportionately reduced upon partial satisfaction of the obligations secured thereby to the extent reasonably approved by City or provided in such Security, and, if requested by Licensee or the obligor under such Security, City shall provide a written confirmation of such reduction promptly (and, in any event, within five (5) Business Days) following such request. City shall release and return any unused portion of any Security promptly (and, in any event, within thirty (30) days) following the Completion of

the Phase of the Craig Lane Improvements secured thereby and, if requested by Licensee or the obligor under such Security, provide a written confirmation of such release and return promptly (and, in any event, within five (5) Business Days) following such request. Notwithstanding the foregoing, if the PIA requires security for the Craig Lane Improvements, then such security shall be provided solely in the form, in the amount and at the time required thereby, and the use and return of such security shall be exclusively governed thereby.

- **9.5.** Non-Liability of City. The City shall not be an insurer or surety for the design or construction of the Craig Lane Improvements, nor shall any officer or employee thereof be liable or responsible for any accident, loss, or damage happening or occurring during the construction of the Craig Lane Improvements, except to the extent arising out of the gross negligence or willful acts or omissions of the City.
- 9.6. *Liens*. Licensee shall not create or permit the attachment of, and shall promptly discharge at no cost to City, any lien, security interest, or encumbrance on the License Area including any liens arising out of any work performed, materials or services furnished, or obligations incurred by Licensee or any of its Agents. If Licensee does not, within sixty (60) days following the imposition of any such lien, cause the same to be released of record or post a bond or take such other action reasonably acceptable to City, it shall constitute an Event of Default (after notice and expiration of any applicable cure period), and City shall have, in addition to all other remedies provided by this License or by law or equity, the right but not the obligation to cause the same to be released by such means as it deems proper, including payment of the claim giving rise to such lien. All sums paid by City (together with interest thereon at the Interest Rate computed from the date City makes such payment until paid by Licensee) for such purpose and all expenses incurred by City in connection therewith must be reimbursed to City by Licensee upon demand by City. City shall include with its demand, supporting documentation. Licensee's obligation to reimburse City shall survive the expiration or earlier termination of this License.

#### 10. Insurance.

#### 10.1. Property and Liability Coverage.

- (a) Required Types and Amounts of Insurance. Except as more specifically provided in this *Article 10*, Licensee shall, at no cost to City, obtain, maintain or require to be maintained and cause to be in effect at all times from the Commencement Date to the last day Licensee uses the License Area (except as otherwise specified in this *Section 10.1*) the following types and amounts of insurance:
- (i) <u>Builders Risk Insurance</u>. At all times during construction and before completion of any building on the License Area, Licensee shall maintain, or require to be maintained, on a form reasonably approved by City, builders risk insurance in the amount equal to the 100% replacement cost value of any existing structures being rehabilitated, which replacement cost value shall be deemed to be Five Million Dollars (\$5,000,000), and the 100% replacement cost value of all new construction, including all materials and equipment to be incorporated in the permanent construction located on or about the License Area, and in transit or storage off-site, against all risk or "special form" hazards, and earthquake (subject to

the provisions of *Section 10.1(b)(iii)(1)*) and flood insurance (subject to the provisions of *Section 10.1(b)(iv)(1)*), including City as an additional insured and Licensee and Licensee's contractors and subcontractors as named insureds with any deductible not to exceed Two Hundred Fifty Thousand Dollars (\$250,000) (except as to earthquake insurance and flood insurance for which the deductible shall be in accordance with the requirements of *Section 10.1(b)(iii)(1)* and *Section 10.1(b)(iv)(1)*) and further provided that as to both earthquake and flood insurance, separate sublimits of the insurance required under this *Section 10.1(a)(i)* and the insurance required under *Section 10.1(a)(vi)* shall be in accordance with the requirements of *Section 10.1(b)(iii)(1)* and *Section 10.1(b)(iv)(1)*. Such builders risk insurance shall also extend to cover loss of business income for delayed opening/completion as caused by any of the perils or hazards set forth in and required to be insured pursuant to *Section 10.1(a)(i)*, for a delay period of not less than two (2) years with a limit of not less than One Million Dollars (\$1,000,000). If available at commercially reasonable rates, such builders risk insurance shall also extend to cover the peril of terrorism.

Property Insurance; Earthquake and Flood Insurance. Upon Completion of each Phase of the Craig Lane Improvements or 23<sup>rd</sup> Street Improvements. Licensee shall maintain, or require to be maintained, property insurance policies with coverage at least as broad as Insurance Services Office form CP 10 30 06 95 (or its replacement), in an amount not less than 100% of the then-current full replacement cost of the Improvements including any foundations, pilings, excavations and footings, including increased cost of construction and demolition of damaged and undamaged structures due to the enforcement of ordinances or laws, including sublimits for earthquake, as provided pursuant to Section 10.1(b)(iii)(2), sublimits for flood as provided pursuant to Section 10.1(b)(iv)(2)(with any deductible not to exceed Two Hundred Fifty Thousand Dollars (\$250,000) except as to earthquake insurance and flood insurance for which any deductible is not subject to such limitation); provided, however, that as to both earthquake insurance and flood insurance, separate sublimits of the insurance required under this Section 10.1(a)(ii) and the insurance required under Section 10.1(a)(vi) may be required in order to comply with the requirements of Section 10.1(b)(iii)(2) and Section 10.1(b)(iv)(2). If available at commercially reasonable rates, such insurance shall extend to cover the peril of terrorism. In addition to the foregoing, Licensee may insure its Personal Property in such amounts as Licensee deems appropriate; and City shall have no interest in the proceeds of such Personal Property insurance. Notwithstanding the foregoing, if during the Term Licensee decides that such earthquake insurance should be deleted from its policy because it is no longer available at commercially reasonable rates, then Licensee shall request in writing City's consent to the deletion thereof, including evidence supporting Licensee's determination of commercial unreasonableness. Such evidence may include quotes, declinations, and notices of cancellation or non-renewal from leading insurance companies for the required coverage, percentage of overall operating expenses attributable thereto, and then current industry practice for comparable projects in San Francisco. City shall approve or disapprove the deletion of earthquake insurance within thirty (30) days after Licensee's request. If City disapproves such request, City shall state the basis for its disapproval. If Licensee discontinues such coverage with City's approval, and City later determines that due to changes in the industry or other changed circumstances, earthquake insurance has become commercially reasonable and prudent business practice would require it again, then City shall notify Licensee thereof, and Licensee shall add such coverage to its policy as soon as reasonably practicable thereafter.

- (iii) Commercial General Liability Insurance. Licensee shall maintain, or require to be maintained, "Commercial General Liability" insurance with coverage at least as broad as Insurance Services Office form CG 00 01 10 93 (or its replacement) insuring against claims for bodily injury (including death), property damage, personal injury and advertising injury including coverage for premises operations, contractual liability (to the extent possible under the above referenced policy form or under a separate policy form) which includes coverage extending to the Indemnity obligations under *Section 13*, broad form property damage, explosion, collapse and underground, hazards, independent contractors, products and completed operations, with such insurance to afford protection in an amount not less than One Million Dollars (\$1,000,000) per occurrence and annual aggregate, and deleting exclusions for care, custody and control of real property. Within thirty (30) days after the Completion of each Phase of the Craig Lane Improvements or 23<sup>rd</sup> Street Improvements, and annually for ten (10) years thereafter, Licensee, or its successors and assigns, shall provide City with evidence that Licensee's Commercial General Liability insurance includes completed operations coverage for the Craig Lane Improvements or 23<sup>rd</sup> Street Improvements.
- (iv) Workers' Compensation Insurance. During any period in which Licensee has employees as defined in the California Labor Code, Licensee shall maintain or require to be maintained policies of workers' compensation insurance providing statutory limits, including employer's liability coverage with limits not less than \$1,000,000 each accident and policy limit by disease (except that such insurance in excess of \$100,000 each accident may be covered by a so-called "umbrella" or "excess coverage" policy) covering liability for all Persons directly employed by Licensee in connection with the use, operation and maintenance of the License Area and the Improvements.
- (v) <u>Business Automobile Insurance</u>. Licensee shall maintain, or require to be maintained, policies of business automobile liability insurance covering all owned, non-owned or hired motor vehicles to be used by Licensee and its Agents in connection with Licensee's use of the License Area, affording protection for bodily injury (including death) and property damage in the form of a Combined Single Limit Bodily Injury and Property Damage policy with limits of not less than One Million Dollars (\$1,000,000) per accident and annual aggregate.
- Liability Insurance: Contractor's Pollution Legal Liability Insurance: Licensee shall cause to be maintained during the period of construction of each Phase of the Craig Lane Improvements or 23<sup>rd</sup> Street Improvements that could reasonably be anticipated to involve a Release of Hazardous Materials at the License Area, Contractor's Pollution Legal Liability Insurance for any and all losses caused by pollution conditions, both sudden, accidental and gradual, resulting from the contractor's operations, or for which contractor is legally liable, in connection with the construction of such Phase of the Craig Lane Improvements or 23<sup>rd</sup> Street Improvements. The Contractor's Pollution Legal Liability Insurance Policy shall contain minimum liability limits of \$5,000,000 per occurrence and \$5,000,000 in the aggregate with a deductible not to exceed \$250,000. The Contractor's Pollution Legal Liability Insurance Policy shall, at a minimum, contain coverage for or be specifically endorsed to include coverage for pollution conditions resulting in, arising from or in connection with: (i) bodily injury (including death), property damage and environmental cleanup costs (on-site and off-site) resulting from construction of such Phase of the Craig Lane

Improvements or 23<sup>rd</sup> Street Improvements; (ii) the use or operation of motor vehicles (whether owned, non-owned or leased) in connection with construction of such Phase of the Craig Lane Improvements or 23<sup>rd</sup> Street Improvements, including transportation of any Hazardous Materials to or from the License, including any interim or temporary storage or transfer sites. Such transportation coverage shall also include loading/unloading of materials; (iii) any disposal location or facility, both final and temporary, to which any waste that is generated in connection with the performance of this License is delivered; all such disposal locations/facilities, both final and temporary, shall be schedules to the Contractor's Pollution Legal Liability Insurance Policy as Non-Owned Disposal Sites for coverage under such policy. The Contractor's Pollution Legal Liability Insurance Policy shall be written on an occurrence form and be in effect during the construction periods described above, or, if not available on an occurrence form, then on a claims-made form. If the policy is written on a claims-made basis, then the policy shall be maintained for, or contain an extended reporting period of, at least three (3) years. The Contractor's Pollution Legal Liability Insurance Policy definition of "Covered Operations" or any other such designation of services or operations performed by the contractor must include all work or services performed by such contractor under or in connection with this License.

Professional Liability. Licensee shall maintain or require to be (vii) maintained, project specific professional liability (errors or omissions) insurance, with limits not less than Five Million Dollars (\$5,000,000) per claim and annual aggregate, with respect to all professional services, including architectural, engineering, geotechnical, and environmental, reasonably necessary or incidental to Licensee's activities under this License with respect to the construction of the Craig Lane Improvements or 23<sup>rd</sup> Street Improvements with any deductible not to exceed Fifty Thousand Dollars (\$50,000) per claim. Notwithstanding the foregoing, however, Licensee may elect, instead of obtaining the foregoing coverages in this subsection (vii), to require that any architects, contractors and sub-contractors, performing work in connection with the Craig Lane Improvements or 23<sup>rd</sup> Street Improvements carry professional liability (Errors & Omissions) insurance in an amount not less than One Million Dollars (\$1,000,000) in the aggregate with any deductible not to exceed Fifty Thousand Dollars (\$50,000), and any operators carry professional liability insurance as required by contract. Such coverage may be provided with a lower limit upon the prior written approval of City, if requested by Licensee to accommodate the needs and limitations of LBEs contractors used by Licensee. Such insurance shall remain in force during the period when such professional services are performed and for a period of three (3) years after the completion of such professional services.

(viii) <u>Umbrella / Excess Liability Insurance</u>. Licensee shall maintain, or require to be maintained, excess or umbrella liability insurance in an amount of not less than Ten Million Dollars (\$10,000,000) annual aggregate, the terms of which shall follow the form of the general liability, employers liability, and automobile liability insurances of the Licensee shown above.

(ix) Other Insurance. Licensee shall obtain such other insurance as is reasonably requested by City's Risk Manager to the extent such insurance is customary for a public street project located on property within Port's jurisdiction.

- (b) <u>General Requirements</u>. All insurance provided for pursuant to this **Section 10**:
- (i) Shall be carried under a valid and enforceable policy or policies issued by insurers of recognized responsibility that are rated Best A:VIII or better by the latest edition of Best's Key Rating Guide (or a comparable successor rating) and legally authorized to sell such insurance within the State of California;
- (ii) As to property insurance required hereunder, such insurance shall name Licensee as the first named insured, and shall name City as an insured as its interest may appear, and as to general liability, automobile liability, contractors' pollution and umbrella excess liability insurance shall include an endorsement naming as additional insureds the following: "THE CITY AND COUNTY OF SAN FRANCISCO, THE SAN FRANCISCO PORT COMMISSION, AND THEIR OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS." [For Craig Lane, add the P70 Developer Indemnified Parties]
  - (iii) As to earthquake insurance only:
- Improvements or 23<sup>rd</sup> Street Improvements, such insurance shall be in an amount at least equal to the lesser of (i) the Probable Maximum Loss to such Phase of the Craig Lane Improvements or 23<sup>rd</sup> Street Improvements, or (ii) the maximum amount as is available at commercially reasonable rates from recognized carriers (with a deductible of up to but not to exceed ten percent (10%) of the then-current, full replacement cost of the Improvements without sublimits for foundations, pilings, excavations and footings, provided such coverage is available at commercially reasonable rates), except that a greater deductible shall be permitted to the extent that such coverage is not available from recognized insurance carriers or at commercially reasonable rates; "**Probable Maximum Loss**" means the probable maximum loss as a result of an earthquake measuring 8.0 on the Richter Scale, as determined not less frequently than every five (5) years by a consultant chosen and paid for by Licensee who is reasonably satisfactory to City;
- (2) from and after Completion of each Phase of the Craig Lane Improvements or 23<sup>rd</sup> Street Improvements, such insurance shall be in an amount at least equal to the lesser of (i) the Probable Maximum Loss to the Improvements, or (ii) the amount as is available at commercially reasonable rates from recognized insurance carriers, in each case, with a deductible of up to but not to exceed an amount that is necessary to make such earthquake insurance available at a commercially reasonable rate;
  - (iv) As to flood insurance only:
- (1) during construction of each Phase of the Craig Lane Improvements or 23<sup>rd</sup> Street Improvements, such insurance shall be in an amount, to the extent available at commercially reasonable rates from recognized insurance carriers, equal to the maximum amount of the then-current, full replacement cost of such Phase of the Craig Lane Improvements or 23<sup>rd</sup> Street Improvements (including building code upgrade coverage and without any deduction being made for depreciation), with a deductible up to, but not to exceed

ten percent (10%), except that a greater deductible shall be permitted to the extent that such coverage is not available from recognized insurance carriers or at commercially reasonable rates.

- (2) from and after Completion of such Phase of the Craig Lane Improvements or 23<sup>rd</sup> Street Improvements, such insurance shall be in an amount at least equal to the amount available at commercially reasonable rates from recognized insurance carriers, with a deductible of up to but not to exceed an amount that is necessary to make such flood insurance available at commercially reasonable rates.
- less frequently than every five (5) years from the date of Completion of the Craig Lane Improvements or 23<sup>rd</sup> Street Improvements. Following consultation with Licensee, City may, upon not less than ninety (90) days prior written notice, require Licensee to increase the insurance limits for all or any of its general liability policies if in the reasonable judgment of the City's Risk Manager it is the general commercial practice in San Francisco to carry insurance for facilities of comparable size and use to the License Area in amounts substantially greater than the amounts carried by Licensee with respect to risks comparable to those associated with use of the License Area. If the City's Risk Manager determines that insurance limits required under this *Section 10.1* may be decreased in light of such commercial practice and the risks associated with use of the License Area, City shall notify Licensee of such determination, and Licensee shall have the right to decrease the insurance coverage required under this License accordingly. In such event, Licensee shall promptly deliver to City a certificate evidencing such new insurance amounts.
- (vi) Shall provide that no cancellation, material modification or termination of such insurance shall be effective until at least thirty (30) days after mailing or otherwise sending written notice of such cancellation, modification or termination to City or ten (10) days for nonpayment of premium;
- (vii) As to Commercial General Liability and automobile liability insurance, shall provide that it constitutes primary insurance with respect to claims insured by such policy, and, except with respect to limits, that insurance applies separately to each insured against whom claim is made or suit is brought;
- (viii) Shall provide for waivers of any right of subrogation that the insurer of such Party may acquire against each Party with respect to any losses and damages that are of the type covered under the policies required by **Sections 10.1(a)(i)**, (ii) and (v);
- (ix) Shall be subject to the approval of City, which approval shall be limited to whether or not such insurance meets the terms of this License;
- (x) If any of the insurance required hereunder is provided under a claims-made form of policy, it shall be maintained continuously throughout the Term, and following the expiration or termination of the Term, Licensee shall maintain, or require to be maintained, such coverage without lapse for a period of three (3) years beyond the expiration or termination of this License, or, in the case of construction, for three (3) years after Completion of the applicable Phase of the Craig Lane Improvements or 23<sup>rd</sup> Street Improvements; and

- (xi) Shall only be required to the extent commercially available at reasonable prices.
- shall furnish City certificates with respect to the policies required under this *Section 10.1* within thirty (30) days after the Commencement Date and, with respect to renewal policies, within thirty (30) days after the policy renewal date of each such policy, and, within sixty (60) days after City's request, shall also provide City with copies of each such policy, or shall otherwise make such policy available to City for its review. If at any time Licensee fails to maintain the insurance required pursuant to this *Section 10.1*, or fails to deliver certificates as required pursuant to this *Section 10.1(c)*, then, upon thirty (30) days' written notice to Licensee, City may obtain and cause to be maintained in effect such insurance by taking out policies with companies satisfactory to City. Licensee shall reimburse City upon receipt of a properly detailed invoice for all amounts so paid by City, together with all costs and expenses in connection therewith and interest thereon at the Interest Rate computed from the date City makes such payment until paid by Licensee. Licensee's obligation to reimburse City shall survive the expiration or earlier termination of this License.
- (d) Insurance of Others. To the extent Licensee requires liability insurance policies to be maintained by sublicensees, contractors, subcontractors or others in connection with their use or occupancy of, or their activities on, the License Area, Licensee shall require that such policies be endorsed to include the CITY AND COUNTY OF SAN FRANCISCO AND THE SAN FRANCISCO PORT COMMISSION [For Craig Lane, add the P70 Developer *Indemnified Parties*] as additional insureds as their respective interests may appear. Notwithstanding the foregoing, Licensee shall require all contractors and sub-contractors performing work on the License Area and all operators and sublicensees of any portion of the License Area to carry the following coverages: (i) commercial general liability, (ii) workers' compensation in amounts required by law, (iii) employer's liability coverage in an amount not less than \$1,000,000 covering all employees employed at the License Area, (iv) automobile insurance in an amount not less than \$1,000,000 combined single limit covering use of owned, non-owned or hired vehicles utilized in the performance of work at the License Area, provided, however, that such coverage may be provided with a lower limit upon the prior written approval of City's Risk Manager, if requested by Licensee.
- **10.2.** City Entitled to Participate. Except to the extent inconsistent with the terms of any mortgage as provided in the DA or Craig Lane REA, as applicable, with respect to property insurance, City shall be entitled to participate in and consent to any settlement, compromise or agreement with respect to any claim for any loss in excess of Two Million Dollars (\$2,000,000) covered by the insurance policies required to be carried by Licensee hereunder.
- 10.3. Release and Waiver. Each Party hereby waives all rights of recovery and causes of action, and releases each other Party from any liability, losses and damages occasioned to the property of each such Party, which losses and damages are of the type covered under the property policies required by Sections 10.1(a)(i), (ii) or (v) to the extent that such liability, losses or damages are reimbursed by an insurer.

#### 11. NOTICES.

- 11.1. Notices. All notices, demands, consents, and requests that may or are to be given by any Party to the other shall be in writing, except as otherwise provided herein. All notices, demands, consents and requests to be provided hereunder shall be deemed to have been properly given on the date of receipt if served personally on a day that is a Business Day (or on the next Business Day if served personally on a day that is not a Business Day), or, if mailed, on the date that is three (3) days after the date when deposited with the U.S. Postal Service for delivery by United States registered or certified mail, postage prepaid, in either case, addressed to Licensee's Mailing Address or City's Address for Notices specified in the Basic License Information, whichever is applicable, or at such other place or places in the United States as each such Party may from time to time designate by written notice to the other in accordance with the provisions hereof. For convenience of the Parties, copies of notices may also be given by email to the email addresses provided from time to time; however, neither Party may give official or binding notice by email.
- 11.2. Form and Effect of Notice. Every notice given to a Party or other Person under this Article 11 must state (or shall be accompanied by a cover letter that states):
- (a) the Section of this License pursuant to which the notice is given and the action or response required, if any;
- **(b)** if applicable, the period of time within which the recipient of the notice must respond thereto; and
- (c) if applicable, that the failure to object to the notice within a stated time period shall be deemed to be the equivalent of the recipient's approval of or consent to the subject matter of the notice.

In no event shall a recipient's approval of or consent to the subject matter of a notice be deemed to have been given by its failure to object thereto if such notice (or the accompanying cover letter) does not comply with the requirements of this *Section 11.2*.

#### 12. DEFAULT BY LICENSEE; REMEDIES.

- **12.1.** *Event of Default*. The occurrence of any one or more of the following events shall constitute an "Event of Default" by Licensee:
- (a) Failure by Licensee to pay when due any reimbursement, fees or other charges due hereunder, if the failure is not cured within ten (10) calendar days following written notice from City; or
- **(b)** Failure by Licensee to perform necessary Remediation to cleanup a Release as required by *Section 14.1*, if the failure to perform is not cured within thirty (30) days following written notice from City. If such default cannot reasonably be cured within such 30-day period, there shall not be an Event of Default of this License if Licensee commences to cure the default within such 30-day period and thereafter prosecutes such cure diligently to completion within a reasonable time thereafter; or

- (c) Licensee violates any other covenant or fails to perform any other obligation to be performed by Licensee under this License (including any Mitigation and Improvement Measures that Licensee is required to comply with) at the time such performance is due and such violation or failure continues without cure for more than thirty (30) days following written notice from City specifying the nature of such violation or failure, unless such cure cannot be reasonably completed within such 30-day period and Licensee commences such cure within such 30-day period and thereafter prosecutes such cure diligently to completion within a reasonable period of time thereafter; or
- (d) Licensee violates any covenant or fails to perform any obligation to be performed by Licensee under the DA, any applicable PIA or any Regulatory Approval (including without limitation, any provision of any of the Plan Documents or Approvals as defined by the DA) at the time such performance is due and such violation or failure continues without cure beyond the cure date as established by the DA or other applicable document; or
- (e) Licensee suffers or permits an assignment or transfer to occur in violation of this License that is not cured within thirty (30) days following written notice from City by an effective rescission of the assignment or through City's consent to the assignment, provided, however, that if the assignment is the result of a willful, knowing and deliberate action on the part of Licensee to make an assignment with the intent of violating the assignment provisions set forth in the Basic License Information, the thirty (30) day cure period shall not apply; or
- (f) Licensee files a petition for relief, or an order for relief is entered against Licensee, in any case under applicable bankruptcy or insolvency Law, or any comparable Law that is in effect as of the date of determination, whether for liquidation or reorganization, which proceedings if filed against Licensee are not dismissed or stayed within one hundred twenty (120) days; or
- (g) A writ of execution is levied on Licensee's interest in this License that is not released within one hundred twenty (120) days, or a receiver, trustee or custodian is appointed to take custody of all or any material part of the property of Licensee, which appointment is not dismissed within one hundred twenty (120) days; or
  - (h) Licensee makes a general assignment for the benefit of its creditors.
- **12.2.** *City's Remedies*. Upon an Event of Default by Licensee, City shall, without further notice or demand of any kind to Licensee or to any other person, and in addition to any other remedy City may have under this License and at law or in equity, have the ability to immediately terminate this License and Licensee's right to use the License Area. Upon notice of any such termination, Licensee shall immediately vacate and discontinue its use of the License Area and City may take any and all action to enforce Licensee's obligations.

#### 13. INDEMNIFICATION.

**13.1.** *General Indemnity*. Licensee shall Indemnify the Indemnified Parties from and against any and all Losses imposed upon or incurred by or asserted against any such Indemnified Party in connection with the occurrence or existence of any of the following: (i) any accident, injury to or death of Persons or loss of or damage to property occurring on, under, or about the

License Area or any part thereof; (ii) any use, operation, maintenance, or management of the License Area or any part thereof by Licensee or any of its Agents or Invitees; (iii) any latent, design, construction or structural defect relating to the Craig Lane Improvements or the 23<sup>rd</sup> Street Improvements, and any other matters relating to the condition of the License Area caused by Licensee or any of its Agents or Invitees; (iv) any failure on the part of Licensee or its Agents or Invitees, as applicable, to perform or comply with any of the terms of this License; (v) performance of any labor or services or the furnishing of any materials or other property in respect of the License Area or any part thereof by Licensee or any of its Agents or Invitees; and (vi) any civil rights actions or other similar legal actions or suits initiated by any of Licensee's sublicensees, Agents or Invitees, in any case to the extent it relates to their use of the License Area. Notwithstanding the foregoing, the foregoing Indemnity shall not apply to any and all Losses to the extent arising out of the gross negligence or willful misconduct of any Indemnified Party. Licensee may, and upon the request of such Indemnified Party shall, at Licensee's sole expense, resist and defend any action, suit or proceeding for which it has Indemnified any Indemnified Party under this **Section 13.1** or any other Indemnification provision under this License, or cause the same to be resisted and defended by counsel designated by Licensee and reasonably approved by such Indemnified Party in writing.

- 13.2. Immediate Obligation to Defend. Licensee specifically acknowledges that it has an immediate and independent obligation to defend the Indemnified Parties from any claim that is actually or potentially within the scope of the Indemnity obligations under Section 13.1 or any other Indemnification provision under this License, even if such claim is or may be groundless, fraudulent or false, and such obligation arises at the time such claim is tendered to Licensee by an Indemnified Party and continues at all times thereafter; provided, however, that in the event of a final judgment determining that all or a portion of the claim fell outside the scope of such Indemnity obligations, City shall reimburse Licensee within thirty (30) days after demand from Licensee for that portion of costs, fees and expenses expended by Licensee hereunder that was determined to be outside the scope of such Indemnity obligations.
- 13.3. *Not Limited by Insurance*. The insurance requirements and other provisions of this License shall not limit Licensee's Indemnification obligations under *Section 13.1* or any other Indemnification provision under this License.
- **13.4.** *Survival*. Licensee's obligations under this *Article 13* and any other Indemnification provision under this License shall survive the expiration or earlier termination of this License with respect to matters arising before the effective date of such expiration or termination.
- **13.5.** *Other Obligations*. Licensee's obligations under this *Article 13* and any other Indemnification provision under this License are in addition to, and in no way shall be construed to limit or replace, any other obligations or liabilities which Licensee may have to City in this License, at common law or otherwise.
- **13.6.** *Notice; Defense of Claims*. City agrees to give prompt notice to Licensee with respect to any action, suit or proceeding filed or claim made against City (or, upon City's discovery thereof, against any Indemnified Party that City believes in good faith is covered under *Section 13.1* or any other Indemnification provision under this License) no later than the earlier

of (a) ten (10) days after service of process as to any filed action, suit or proceeding or (b) fifteen (15) days after receiving notification of the assertion of any claim, in any case that City has good reason to believe is likely to give rise to a claim for Indemnification under *Section 13.1* or any other Indemnification provision under this License. The failure of City to give such notice within such timeframes shall not affect the rights of City or obligations of Licensee under this License except to the extent that Licensee is prejudiced by such failure. Licensee shall, at its option but subject to reasonable approval by City, be entitled to control the defense, compromise or settlement of any such matter through counsel of Licensee's choice; provided, that in all cases City shall be entitled to participate in such defense, compromise or settlement at its own expense. If Licensee fails, however, in City's reasonable judgment, within a reasonable time following notice from City alleging such failure, to take reasonable and appropriate action to defend, compromise or settle such suit or claim, City shall have the right promptly to hire counsel to carry out such defense, compromise or settlement, and the reasonable expense of City in so doing shall be due and payable to City upon receipt by Licensee of a properly detailed invoice for such expense.

13.7. Waiver. As a material part of the consideration for this License, Licensee hereby assumes the risk of, and waives, discharges, and releases any and all claims against the Indemnified Parties from, any Losses arising out of this License or relating to the License Area, including: (a) the Property Matters; (b) damages for death of or injury to any Person, or to property of any kind whatsoever and to whomever belonging; (c) goodwill; (d) business opportunities; (e) any act or omission of persons occupying adjoining premises; (f) theft; (g) explosion, fire, steam, oil, electricity, water, gas or rain, pollution or contamination; (h) inability to use all or any portion of the License Area due to sea level rise or flooding or seismic events; and (i) any other acts, omissions or causes arising at any time and from any cause, in, on, or under the License Area, including all claims arising from the joint, concurrent, active or passive negligence of any of the Indemnified Parties. The foregoing waiver, discharge and release shall not apply to Losses arising from or relating to the gross negligence or willful misconduct of any of the Indemnified Parties or constitute a release, acquittal or discharge of any of City's obligations under this License.

Licensee expressly acknowledges and agrees that the amount payable by Licensee hereunder does not take into account any potential liability of the Indemnified Parties for any punitive, indirect or consequential damages (including lost profits). City would not be willing to enter into this License in the absence of a complete waiver of liability for punitive, indirect or consequential damages (including lost profits) due to the acts or omissions of the Indemnified Parties, and Licensee expressly assumes the risk with respect thereto. Accordingly, without limiting any Indemnification obligations of Licensee or other waivers or releases contained in this License and as a material part of the consideration of this License, Licensee fully RELEASES, WAIVES AND DISCHARGES forever any and all claims, demands, rights, and causes of action against the Indemnified Parties for punitive, indirect or consequential damages (including lost profits), and covenants not to sue any of the Indemnified Parties or to pay the Attorneys' Fees and Costs of the Indemnified Parties if it does sue for such damages, in connection with this License or the uses authorized hereunder, including any interference with uses conducted by Licensee pursuant to this License, in any case regardless of the cause, and whether or not due to the negligence of any of the Indemnified Parties.

Licensee understands and expressly accepts and assumes the risk that any facts concerning the claims released in this License might be found later to be other than or different from the facts now believed to be true, and agrees that the waivers and releases in this License shall remain effective. Therefore, with respect to the claims released in this License, Licensee waives any rights or benefits provided by California Civil Code, Section 1542, which reads as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

By placing its initials below, Licensee specifically acknowledges and confirms the validity of the waivers and releases made above and the fact that Licensee was represented by counsel who explained the consequences of the waivers and releases at the time this License was made, or that Licensee had the opportunity to consult with counsel, but declined to do so.

| Licensee' | Initials: |  |
|-----------|-----------|--|
|-----------|-----------|--|

Licensee agrees that the waivers and releases contained in this *Section 13.7* include all known and unknown, disclosed and undisclosed, and anticipated and unanticipated claims for consequential, incidental or punitive damages. Licensee acknowledges that it has agreed upon this License in light of this realization and, being fully aware of this situation, it nevertheless intends to waive the benefits of California Civil Code Section 1542, or any other statute or similar law now or later in effect, in connection with the waivers and releases contained in this *Section 13.7*.

13.8. [For Craig Lane Add: P70 Master Developer. The Parties acknowledge and agree that neither P70 Master Developer nor any P70 Vertical Developer shall have any liabilities or obligations under the P70 Master Lease, P70 DA, P70 DDA, P70 VDDA or P70 Parcel Lease with respect to the acts or omissions of Licensee or its Agents under this License. Until the Completion of Craig Lane, Licensee shall Indemnify the P70 Developer Indemnified Parties from and against any and all Losses imposed upon or incurred by or asserted against any such P70 Developer Indemnified Party in connection with the occurrence or existence of any of the following: (i) any accident, injury to or death of Persons or loss of or damage to property occurring on, under, or about the License Area or any part thereof; (ii) any use, possession, occupation, operation, maintenance, or management of the License Area or any part thereof by Licensee or any of its Agents, or by any of Licensee's Permittees; (iii) any latent, design, construction or structural defect relating to the Craig Lane Improvements to the extent designed or constructed by Licensee or any of its Agents, and any other matters relating to the condition of the License Area to the extent caused, contributed to or exacerbated by Licensee or any of its Agents or Permittees; (iv) any failure on the part of Licensee to perform or comply with any of the terms of this License; and (v) performance of any labor or services or the furnishing of any materials or other property in respect of the License Area or any part thereof by Licensee or any of its Agents. Notwithstanding the foregoing, the foregoing Indemnification shall not apply to any and all Losses to the extent arising out of the negligence or willful misconduct of any P70

Developer Indemnified Party or any of their Agents or Permittees. Licensee may, and upon the request of a P70 Developer Indemnified Party shall, at Licensee's sole expense, resist and defend any action, suit or proceeding for which it has Indemnified such P70 Developer Indemnified Party under this *Section 13.8*, or cause the same to be resisted and defended by counsel designated by Licensee and reasonably approved by such P70 Developer Indemnified Party in writing. Capitalized terms used in this Section but not otherwise defined in this License shall have the meanings ascribed to them in the Craig Lane REA.]

#### 14. HAZARDOUS MATERIALS.

#### 14.1. Hazardous Materials Compliance.

- Compliance with Environmental Laws. Licensee shall comply, (a) and cause (i) its Agents, sublicensees and Invitees, and their respective Agents and Invitees, and (ii) the License Area and Improvements to comply, with all Environmental Laws and best environmental management practices. Without limiting the generality of the foregoing, Licensee shall not, nor shall it permit its Agents, sublicensees or Invitees, and their respective Agents and Invitees, to, without the prior written consent of City, Handle Hazardous Materials on, under or about the License Area, except for (A) standard building materials and equipment that do not contain asbestos or asbestos-containing materials, lead or polychlorinated biphenyl (PCBs), (B) gasoline and other fuel products in operating vehicles and equipment, (C) any Hazardous Materials that do not require a Regulatory Approval for their Handling, or that need not be reported to, a Regulatory Agency, which Hazardous Materials are used in the construction of the Improvements, before any such Handling, (D) janitorial supplies or materials in such amounts as are customarily used for general street maintenance purposes, and (E) Previously Identified Pre-Existing Hazardous Materials (as defined below) that are required by Law or best environmental management practices to be Handled for Investigation or Remediation purposes; provided that such Handling under clauses (A)-(E) is at all times in compliance with all Environmental Laws. Licensee shall be responsible for preparing and obtaining approval of any risk management or site management plans for the License Area, including any such plan required in connection with an environmental covenant. Licensee shall copy City on all correspondence related to any risk management or site management plans for the License Area and all other correspondence with the San Francisco Department of Public Health, the RWQCB and other Regulatory Agencies regarding the environmental condition of the License Area.
- Section 14.1(a), Licensee and City shall advise the other in writing promptly (but in any event within five (5) days after) (i) learning or receiving notice of the presence of any Hazardous Materials other than Previously Identified Pre-Existing Hazardous Materials (as defined below) on, under or about the License Area, (ii) learning or receiving notice of any Investigation or Remediation required of or performed by Licensee or City in response to any (A) Hazardous Materials on, under or about the License Area or (B) Hazardous Materials Claims, and (iii) such Party's learning or receiving notice of the presence of Hazardous Materials other than Previously Identified Pre-Existing Hazardous Materials on, under or about any property adjoining the License Area including submerged lands. Licensee and City shall inform the other orally as soon as possible of any emergency regarding a Release or discovery of Hazardous Materials. In addition, Licensee and City shall promptly provide each other with copies of all written

communications with Regulatory Agencies relating to Environmental Laws (other than privileged communication, so long as any non-disclosure of such privileged communication does not otherwise result in any non-compliance by Licensee or City with the terms and provisions of this *Article 14*) and all written communication with any Person relating to Hazardous Materials Claims (other than privileged communications; provided, however, such non-disclosure of such privileged communication shall not limit or impair Licensee's or City's obligation to otherwise comply with each of the terms and provisions of this License, including this *Article 14*). Licensee and City shall provide each other with copies of any work plans, environmental reports, risk assessments, closure reports, etc. within the scope of this *Section 14.1(b)*.

with all Laws and this License, Licensee shall promptly perform whatever Remediation is necessary to cleanup a Release including on adjoining property to City's reasonable satisfaction in the case of Parcel A [and to Port's and RED's reasonable satisfaction in the case of Parcels B and C] except that Licensee shall not be responsible for (i) the Remediation of Hazardous Materials Released on, under or about the License Area to the extent caused by the act or omission of any Indemnified Party during Licensee's occupancy of the License Area or (ii) the Remediation of Pre-Existing Hazardous Materials (as defined below), unless (A) Licensee, its Agents or Invitees disturbs or Exacerbates such Pre-Existing Hazardous Materials or (B) to the extent that the Remediation of such Pre-Existing Hazardous Materials is required by an applicable Regulatory Agency including any Remediation that would not have been required but for Licensee's use or planned use of the License Area.

If Licensee fails to comply with this provision after notice and opportunity to cure in accordance with Section 12, City may perform the Remediation at Licensee's expense and Licensee shall upon demand reimburse City for City's reasonable and necessary expenses. Notwithstanding the foregoing, except as required by Law or to respond to an emergency, Licensee shall not perform any Remediation in response to the presence, Handling, transportation or Release of any Hazardous Materials on, under or about the License Area unless Licensee shall have first submitted to City for City's approval a written Hazardous Materials Remediation plan and the name of the proposed contractor that will perform the work. City shall approve or disapprove of such Hazardous Materials Remediation plan promptly, but in any event within thirty (30) days, after receipt thereof. If City disapproves of any such Hazardous Materials Remediation plan, City shall specify in writing the reasons for its disapproval. Any such Remediation undertaken by Licensee shall be done in a manner so as to minimize any impairment to the License Area to the extent reasonably possible. In the event Licensee undertakes any Remediation with respect to any Hazardous Materials on, under or about the License Area, Licensee shall conduct and complete such Remediation (x) in compliance with all applicable Environmental Laws, (y) to the reasonable satisfaction of City (except in the case of a Remediation under subsection (c)(ii)(B) above), and (z) in accordance with the orders and directives of all Regulatory Agencies, including the RWQCB and the San Francisco Department of Public Health.

(d) <u>Pesticide Prohibition</u>. Chapter 3 of the San Francisco Environment Code (the Integrated Pest Management Program Ordinance or "**IPM Ordinance**") describes an integrated pest management ("**IPM**") policy to be implemented by all City departments. Licensee shall not use or apply or allow the use or application of any pesticides on the License

Area or contract with any Person to provide pest abatement or control services to the License Area without first receiving City's written approval of an IPM plan that (i) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Licensee may need to apply to the License Area during the Term, (ii) describes the steps Licensee will take to meet the City's IPM policy described in Section 300 of the IPM Ordinance, and (iii) identifies, by name, title, address and telephone number, an individual to act as the Licensee's primary IPM contact person with City. Licensee shall comply, and shall require all of Licensee's contractors to comply, with the IPM plan approved by City and shall comply with the requirements of Sections 300(d), 302, 304, 305(f), 305(g), and 306 of the IPM Ordinance, as if Licensee were a City department. Among other matters, such provisions of the IPM Ordinance (A) provide for the use of pesticides only as a last resort, (B) prohibit the use or application of pesticides on property owned by City, except for pesticides granted an exemption under Section 303 of the IPM Ordinance (including pesticides included on the most current Reduced Risk Pesticide List compiled by City's Department of the Environment), (C) impose certain notice requirements, and (D) require Licensee to keep certain records and to report to City all pesticide use at the License Area by Licensee's staff or contractors.

If Licensee or Licensee's contractor will apply pesticides at the License Area, Licensee must first obtain a written recommendation from a person holding a valid Agricultural Pest Control Advisor license issued by the California Department of Pesticide Regulation ("CDPR") and any such pesticide application shall be made only by or under the supervision of a person holding a valid, CDPR-issued Qualified Applicator certificate or Qualified Applicator license. City's current Reduced Risk Pesticide List and additional details about pest management on City property can be found at the San Francisco Department of the Environment website, http://sfenvironment.org/ipm.

14.2. Hazardous Materials Indemnity. In addition to the Indemnification set forth in Section 13 and subject to all the provisions of Section 13, Licensee shall Indemnify the Indemnified Parties [add with respect to any portion of the License Area that is subject to the P70 Master Lease, Parcel Lease or owned in fee by a P70 Vertical Developer: and the applicable P70 Developer Indemnified Parties] from and against any and all Losses imposed upon or incurred by or asserted against any such Indemnified Party [and P70 Developer *Indemnified Party*] in connection with, arising out of, in response to, or in any manner relating to (i) Licensee's, its Agents', sublicensees' or Invitees', and their respective Agents' and Invitees', violation of any Environmental Law on or relative to the License Area, or (ii) any Release or threatened Release of a Hazardous Material, or any condition of pollution, contamination or Hazardous Material-related nuisance on, under or from the License Area occurring during the Term, except to the extent such violation, Release, threatened Release, condition, contamination or nuisance was caused, contributed to or Exacerbated by any Indemnified Party [or P70 Developer Indemnified Party]. Licensee's obligations under this Section 14.2 include: (A) actual costs incurred in connection with any Investigation or Remediation requested by City or required by any applicable Regulatory Agency to restore the affected area to its condition before the Release; (B) actual damages for diminution in the value of the License Area; (C) actual damages for the loss or restriction on use of rentable or usable space or of any amenity of the License Area; (D) actual damages arising from any adverse impact on marketing the License Area; (E) sums actually paid in settlement of Hazardous Materials Claims, including fines and penalties; (F) actual natural resource damages; and

- (G) Attorneys' Fees and Costs, consultant fees, expert fees, court costs, and all other actual litigation, administrative or other judicial or quasi-judicial proceeding expenses. If City [or a P70 Developer Indemnified Party] actually incurs any damage and/or pays any costs within the scope of this Section 14.2(a), Licensee must reimburse City [or the P70 Developer Indemnified Party] for its costs, plus interest at the Interest Rate from the date City incurs each cost until paid, within thirty (30) days after receipt of City's payment demand and reasonable supporting evidence of the cost or damage actually incurred.
- (a) The term "Hazardous Materials" means any material, waste, chemical, compound, substance, mixture, or byproduct that is identified, defined, designated, listed, restricted or otherwise regulated under Environmental Laws as a "hazardous constituent", "hazardous substance", "hazardous waste constituent", "infectious waste", "medical waste", "biohazardous waste", "extremely hazardous waste", "pollutant", "toxic pollutant", or "contaminant", or any other formulation intended to classify substances by reason of properties that are deleterious to the environment, natural resources, wildlife or human health or safety, including ignitability, infectiousness, corrosiveness, radioactivity, carcinogenicity, toxicity and reproductive toxicity. Hazardous Materials include any form of natural gas, petroleum products or any fraction thereof, asbestos, asbestos-containing materials, polychlorinated biphenyls ("PCBs"), PCB-containing materials, and any substance that, due to its characteristics or interaction with one or more other materials, wastes, chemicals, compounds, substances, mixtures or byproducts, damages or threatens to damage the environment, natural resources, wildlife or human health or safety.
- (b) The term "Environmental Laws" means all present and future federal, State and local laws, statutes, rules, regulations, ordinances, standards, directives, and conditions of approval, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (commonly known as "CERCLA" or the "Superfund" law), all administrative or judicial orders or decrees and all permits, license approvals, deed restrictions, deed notices, risk management plans or certification reports required in connection with the approvals of any Regulatory Agency in connection with the Permitted Activities under this License or other entitlements, or rules of common law pertaining to Hazardous Materials, the protection of the environment, natural resources, wildlife, human health or safety, or employee or community right-to-know requirements applicable to the Permitted Activities under this License.
- (c) The term "Exacerbate" means any act or omission that increases the quantity or concentration of Hazardous Materials in the affected area, causes the increased migration of a plume of Hazardous Materials in soil, groundwater, or bay water, causes a Release of Hazardous Materials that had been contained until the act or omission, or otherwise requires Investigation or Remediation that would not have been required but for the act or omission.
- (d) The term "Pre-Existing Hazardous Materials" means the presence, Release or threatened Release of Hazardous Materials on, under or about the License Area or adjoining property before the Effective Date of this License. For purposes of clarity, Pre-Existing Hazardous Materials include those Hazardous Materials on adjoining properties that migrate onto, under or about the License Area after the Effective Date.

- (e) The term "Previously Identified Pre-Existing Hazardous Materials" means Pre-Existing Hazardous Materials identified in the reports listed in *Schedule 1*.
- (f) The term "Release" means any accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the air, land, surface water, groundwater or environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any Hazardous Material).

#### 14.3. Environmental Oversight Deposit.

- (a) On or before five (5) Business Days following the Effective Date, Licensee must deliver to Port Ten Thousand Dollars (\$10,000) (the "Environmental Oversight Deposit"), in cash, as security for City's recovery of costs of inspection, monitoring, enforcement, and administration during Licensee's operations under this License; provided, however, that the Environmental Oversight Deposit shall not be deemed an advance of Fees, an advance of any other payment due to City under this License, a security deposit subject to the California Civil Code, or a measure of City's damages upon an Event of Default.
- (b) Subject to this *Section 14.3(b)*, City may use, apply, or retain the Environmental Oversight Deposit in whole or in part to reimburse City for costs incurred if an Environmental Regulatory Agency delivers a notice of violation or order regarding a Hazardous Material condition ("Environmental Notice") to Licensee and Licensee has not begun to cure or comply with the Environmental Notice or is not working actively to cure the Environmental Notice within fourteen (14) days after its delivery. Under these circumstances, City's costs may include staff time corresponding with and responding to Regulatory Agencies, Attorneys' Fees and Costs, and collection and laboratory analysis of environmental samples. For purposes of this *Section 14.3(b)*, Port shall not be an Environmental Regulatory Agency if Port is the permitting entity for the License Area subject to the Environmental Notice and City shall not be an Environmental Regulatory Agency if SFPW or DBI is the permitting entity for the License Area subject to the Environmental Notice is delivered to Licensee, and Licensee has cured or complied with the Environmental Notice within fourteen (14) days after its delivery, City may apply a maximum of \$500 from the Environmental Oversight Deposit for each Environmental Notice delivered to Licensee to reimburse City for its administrative costs.
- (c) Within thirty (30) days following City's delivery to Licensee of an invoice for the amount of the Environmental Oversight Deposit expended or applied by City in accordance with this *Section 14* and any reasonable supporting documentation requested by Licensee, Licensee must pay to City such amount.
- (d) Provided that no Environmental Notices are then outstanding, Port shall return the balance of the Environmental Oversight Deposit, if any, to Licensee within thirty (30) days following the expiration or earlier termination of this License. City's obligations with respect to the Environmental Oversight Deposit are those of a debtor and not a trustee, and Port may commingle the Environmental Oversight Deposit or use it in connection with its business.

14.4. Presence of Hazardous Materials. California Law requires landlords to disclose to Licensees the presence or potential presence of certain Hazardous Materials. Accordingly, Licensee is hereby advised that Hazardous Materials commonly associated with street operations, such as vehicle fluids, lead and other metals and the Hazardous Materials described in the reports listed in Schedule 1, copies of which have been delivered to or made available to Licensee, are present on or near the License Area. By execution of this License, Licensee acknowledges that the notice set forth in this Section 14.4 satisfies the requirements of California Health and Safety Code Section 25359.7 and related Laws. Licensee must disclose the information contained in this Section 14.4 to any sublicensee, licensee, transferee, or assignee of Licensee's interest in this License. Licensee also acknowledges its own obligations pursuant to California Health and Safety Code Section 25359.7 as well as the penalties that apply for failure to meet such obligations.

#### 14.5. Storm Water Pollution Prevention.

- (a) Licensee must comply with the applicable provisions of the Statewide General Permit for Discharge of Industrial Storm Water issued by the State Water Resources Control Board, including filing a Notice of Intent to be covered, developing and implementing a site-specific Storm Water Pollution Prevention Plan ("SWPPP"), and conducting storm water monitoring and reporting. Licensee's SWPPP and a copy of a Notice of Intent for Licensee's License Area must be submitted to City before beginning operations in the License Area.
- **(b)** In addition to requiring compliance with the permit requirements under Subsection (a), Licensee shall comply with the post-construction stormwater control provisions of the Statewide General Permit for Discharge of Stormwater from Small Municipalities and the San Francisco Stormwater Management Requirements, subject to review and permitting by the City.
- **14.6.** *Survival*. Licensee's obligations under this *Article 14* (Hazardous Materials) shall survive the expiration or earlier termination of this License with respect to matters arising before the effective date of such expiration or termination.

#### 15. CITY'S ENTRY ON LICENSE AREA.

- **15.1.** *Entry for Inspection.* City and its authorized Agents shall have the right to enter the License Area without notice at any time for the purpose of inspecting the License Area to determine whether the License Area is in good condition and whether Licensee is complying with its obligations under the DA and this License; to perform any necessary maintenance, repairs or restoration to the License Area; and to show the License Area to prospective licensees, tenants or other interested parties.
- **15.2.** *Emergency Entry*. City may enter the License Area at any time, without notice, in the event of an emergency. City shall have the right to use any and all means that City may deem proper in such an emergency in order to obtain entry to the License Area. Entry to the License Area by any of these means, or otherwise, shall not under any circumstances be construed or deemed to be a breach of Licensee's rights under this License.

15.3. No Liability. City shall not be liable in any manner, and Licensee hereby waives any Losses for damages, for any inconvenience, disturbance, loss of business, nuisance, or other damage, including without limitation any abatement or reduction in Fees due hereunder, arising out of City's entry onto the License Area, or entry by the public (as Licensee has a non-exclusive right to use the License Area) onto the License Area except to the extent arising out of the gross negligence or willful acts or omissions of, or breach of this License by the City.

#### 16. SURRENDER.

Upon the expiration or earlier termination of this License, Licensee shall surrender to City the License Area and the Craig Lane Improvements and 23<sup>rd</sup> Street Improvements and any remaining pre-existing alterations and improvements in good condition. The License Area shall be surrendered clean, free of debris, waste, and Hazardous Materials, and free and clear of all liens and encumbrances other than liens and encumbrances existing as of the Effective Date of this License and any other encumbrances created by City. On or before the expiration or earlier termination hereof, Licensee shall remove all of its Personal Property and, unless City directs otherwise, any alterations and improvements that Licensee has installed without City's consent, and perform all restoration made necessary by the removal of Licensee's Personal Property.

Without any prior notice, City may elect to retain or dispose of Licensee's Personal Property and any alterations and improvements that Licensee has installed without City's consent that Licensee does not remove from the License Area prior to the expiration or earlier termination of this License. These items shall be deemed abandoned. City may retain, store, remove, and sell or otherwise dispose of abandoned property, and Licensee waives all Losses against City for any damages resulting from City's retention, removal and disposition of such property; provided, however, that Licensee shall be liable to City for all costs incurred in storing, removing and disposing of abandoned property and repairing any damage to the License Area. Licensee agrees that City may elect to sell abandoned property and offset against the sales proceeds City's storage, removal, and disposition costs without notice to Licensee. Licensee hereby waives the benefits of California Civil Code Section 1993 et seq., to the extent applicable.

For the avoidance of doubt, Licensee's Indemnity obligations under *Section 13.1* shall apply to all Losses resulting from Licensee's failure to surrender the License Area as required by this Section, including, but not limited to, Losses comprising any costs of City to enforce this Section and Losses made by a succeeding licensee or tenant resulting from Licensee's failure to surrender the License Area as required together with, in each instance, Attorneys' Fees and Costs, subject to *Section 13.1*.

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

#### 17. ATTORNEYS' FEES; LIMITATIONS ON DAMAGES.

17.1. Attorneys' Fees. If either Party fails to perform any of its respective obligations under this License or if any dispute arises between the Parties concerning the meaning or interpretation of any provision of this License, then the defaulting Party or the Party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred

by the other Party on account of such default and/or in enforcing or establishing its rights hereunder, including Attorneys' Fees and Costs. Any such Attorneys' Fees and Costs incurred by either Party in enforcing a judgment in its favor under this License shall be recoverable separately from and in addition to any other amount included in such judgment, and such Attorneys' Fees and Costs obligation is intended to be severable from the other provisions of this License and to survive and not be merged into any such judgment. For purposes of this License, the reasonable fees of attorneys of the City Attorney's Office shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's Office's services were rendered who practice in the City in law firms with approximately the same number of attorneys as employed by the City Attorney's Office. If Licensee utilizes services of in-house counsel, then, for purposes of this License, the reasonable fees of such in-house counsel shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the in-house counsel's services were rendered who practice in the City in full service law firms.

- 17.2. Limitation on Damages. Licensee agrees that Licensee will have no recourse with respect to, and City shall not be liable for, any obligation of City under this License, or for any Losses based upon this License, except to the extent of the fair market value of City's fee interest in the License Area (as encumbered by this License). Licensee's execution and delivery hereof and as part of the consideration for City's obligations hereunder Licensee expressly waives all such liability.
- 17.3. Non-Liability of Licensee's Members, Officers, Partners, Shareholders, Directors, Agents, Officers and Employees. No direct or indirect member, officer, partner, shareholder, director, agent, or employee of Licensee shall be personally liable to City, or any successor, for any default by Licensee under this License, and City agrees that it shall have no recourse with respect to any obligation of Licensee under this License, or for any amount that may become due City or any successor or for any obligation or claim based upon this License, against any such Person.
- 17.4. Non-Liability of City Officials, Employees and Agents. No elective or appointive board, commission, member, officer, employee or other Agent of City shall be personally liable to Licensee, its successors and assigns, in the event of any default or breach by City or for any amount which may become due to Licensee, its successors and assigns, or for any obligation of City under this License. Under no circumstances shall City or its Agents be liable under any circumstances for any consequential, incidental or punitive damages.
- 17.5. Limitation on City's Liability Upon Transfer. In the event of any transfer of City's interest in and to the License Area, City (and in case of any subsequent transfers, the then transferor), subject to the provisions hereof, will be automatically relieved from and after the date of such transfer of all liability with regard to the performance of any covenants or obligations contained in this License thereafter to be performed on the part of City, but not from liability incurred by City (or such transferor, as the case may be) on account of covenants or obligations to be performed by City (or such transferor, as the case may be) hereunder before the date of such transfer.

17.6. Waiver of Indirect or Consequential Damages. As a material part of the consideration for this License, subject to any express conditions for payment set forth in this License and Licensee's satisfaction of any Indemnity obligations under this License, Licensee shall not be liable to City, and City shall not seek and City hereby waives any claims against Licensee, for any punitive, indirect, consequential or special damages (including lost profits) due to the acts or omissions of Licensee under this License. Licensee would not be willing to enter into this License in the absence of the waiver of liability for punitive, indirect, consequential and special damages (including lost profits) as provided in this Section 17.6, and City expressly assumes the risk resulting from such waiver.

#### 18. MINERAL RESERVATION.

The State of California ("State"), pursuant to Section 2 of Chapter 1333 of the Statutes of 1968, as amended, has reserved all subsurface mineral deposits, including oil and gas deposits, on or underlying the License Area and Licensee acknowledges such reserved rights including necessary ingress and egress rights. In no event shall City be liable to Licensee for any Losses arising from the State's exercise of its rights nor shall such action entitle Licensee to any abatement or diminution of Fees or otherwise relieve Licensee from any of its obligations under this License.

#### 19. CITY REQUIREMENTS.

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

#### 19.1. Non-discrimination.

- (a) Covenant Not to Discriminate. In the performance of this License, Licensee agrees not to discriminate against any employee, City employee working with Licensee, applicant for employment with Licensee, or against any person seeking accommodations, advantages, facilities, privileges, services or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.
- (b) <u>Sublicenses and Other Subcontracts</u>. Licensee shall include in all sublicenses and other subcontracts relating to the License Area a non-discrimination clause

applicable to such sublicensee or other subcontractor in substantially the form of *Section 19.1(a)*. In addition, Licensee shall incorporate by reference in all sublicenses and other applicable subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all sublicensees and other subcontractors to comply with such provisions. Licensee's failure to comply with the obligations in this subsection shall constitute a material breach of this License.

- One of the Effective Date and shall not during the Term, in any of its operations in San Francisco or with respect to its operations under this License elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.
- (d) <u>Conditions to License</u>. As a condition to this License, if applicable, Licensee shall execute the "Chapter 12B & 12C Declaration: Nondiscrimination in Contracts and Benefits" (Form CMD-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Contract Monitoring Division, Equal Benefits Unit.
- (e) Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the lease of City property are incorporated in this Section 19.1 by reference and made a part of this License Area as though fully set forth herein. Licensee shall comply fully with and be bound by all of the provisions that apply to this License Area under such Chapters of the San Francisco Administrative Code, including the remedies provided in such Chapters. Without limiting the foregoing, Licensee understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this License Area may be assessed against Licensee and/or deducted from any payments due Licensee.

#### 19.2. Requiring Health Benefits for Covered Employees.

(a) Unless exempt, Licensee shall comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance ("HCAO"), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as they may be amended from time to time. The provisions of Chapter 12Q are incorporated into this License by reference and made a part of this License as though fully set forth herein. The text of the HCAO is available on the web at <a href="http://www.sfgov.org/olse/hcao">http://www.sfgov.org/olse/hcao</a>. Capitalized terms used in this Section 19.2 and not defined in this License have the meanings assigned to those terms in Chapter 12O.

- **(b)** For each Covered Employee, Licensee shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Licensee chooses to offer the health plan option, the health plan must meet the minimum standards set forth by the San Francisco Health Commission.
- (c) Notwithstanding the above, if Licensee is a "small business" as defined in Section 12Q.3 of the HCAO, it shall have no obligation to comply with **Section 19.2(a)**.
- (d) Licensee's failure to comply with the HCAO shall constitute a material breach of this License. City may notify Licensee if a breach has occurred. If, within thirty (30) days after receiving City's written notice of a breach of this License for violating the HCAO, Licensee fails to cure the breach or, if the breach cannot reasonably be cured within the thirty (30) days period, and Licensee fails to commence efforts to cure within that period, or fails diligently to pursue the cure to completion, then City shall have the right to pursue the remedies set forth in Section 12Q.5(f)(1-5). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.
- (e) Any Subcontract entered into by Licensee shall require the Subcontractor to comply with the requirements of the HCAO and contain contractual obligations substantially the same as those set forth in this *Section 19.2*. Licensee shall notify City's Purchasing Department when it enters into a Subcontract and shall certify to the Purchasing Department that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Licensee shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, City may pursue the remedies set forth in this *Section 19.2* against Licensee based on the Subcontractor's failure to comply, provided that City has first provided Licensee with notice and an opportunity to cure the violation.
- (f) Licensee may not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City regarding Licensee's compliance or anticipated compliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.
- **(g)** Licensee represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.
- (h) Licensee shall keep itself informed of the current requirements of the HCAO.
- (i) Licensee shall provide reports to City in accordance with any reporting standards promulgated by City under the HCAO, including reports on Subcontractors and Sublicensees, as applicable.
- **(j)** Licensee shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least five (5) Business Days to respond.

- **(k)** City may conduct random audits of Licensee to ascertain its compliance with HCAO. Licensee shall cooperate with City when it conducts the audits.
- (I) If Licensee is exempt from the HCAO when this License is executed because its amount is less than Twenty-Five Thousand Dollars (\$25,000), but Licensee later enters into an agreement or agreements that cause Licensee's aggregate amount of all agreements with City to reach Seventy-Five Thousand Dollars (\$75,000), then all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Licensee and City's Office of Contract Administration to be equal to or greater than Seventy-Five Thousand Dollars (\$75,000) in the fiscal year.
- 19.3. Prohibition of Tobacco Sales and Advertising; Prohibition Against Tobacco Product Sales, Manufacture, and Distribution. No advertising or sale of cigarettes or tobacco products is allowed on the License Area. This advertising prohibition includes the placement of the name of a company producing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. In addition, Licensee acknowledges and agrees that no Sales, Manufacture, or Distribution of Tobacco Products (as such capitalized terms are defined in the San Francisco Health Code Section 19K.1) is allowed on the License Area and such prohibition must be included in all sublicenses or other agreements allowing use of the License Area. The prohibition against Sales, Manufacture, or Distribution of Tobacco Products does not apply to Persons that are affiliated with an accredited academic institution where the Sale, Manufacture, and/or Distribution of Tobacco Products is conducted as part of academic research.
- 19.4. Prohibition of Alcoholic Beverages Advertising. No advertising of alcoholic beverages is allowed on the License Area. For purposes of this Section 19.4, "alcoholic beverage" is defined as set forth in California Business and Professions Code Section 23004, and does not include cleaning solutions, medical supplies, and other products and substances not intended for drinking. This advertising prohibition includes the placement of the name of a company producing alcoholic beverages or the name of any alcoholic beverage in any promotion of any event or product.
- 19.5. Graffiti Removal. Licensee shall remove all graffiti from the License Area within forty-eight (48) hours of the earlier of Licensee's: (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works or Port. This section is not intended to require a tenant to breach any lease or other agreement that it may have concerning its use of the real property. "Graffiti" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and that is visible from the public right-of-way, but does not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of this License or the Port Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (Calif. Civil Code §§ 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.).

- 19.6. MacBride Principles Northern Ireland. The City urges companies doing business in Northern Ireland to move towards resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in Administrative Code Section 12F.1 et seq.. The City also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Licensee acknowledges that it has read and understands the above statement of the City concerning doing business in Northern Ireland.
- 19.7. Tropical Hardwood and Virgin Redwood Ban; Preservative-Treated Wood Containing Arsenic. 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 Sections 802(b) and 803(b) of the San Francisco Environment Code. Licensee agrees that, except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, Licensee shall not use or incorporate any tropical hardwoods, tropical hardwood wood products, or virgin redwood or virgin redwood wood products in the construction of the Improvements or provide any items to the construction of the Improvements, or otherwise in the performance of this License, that are tropical hardwoods, tropical hardwood wood products. virgin redwood, or virgin redwood wood products. If Licensee fails to comply with any of Environment Code Chapter 8, Licensee shall 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. Licensee may not purchase preservative-treated wood products containing arsenic in the performance of this License unless an exemption from the requirements of Environment Code Chapter 13 is obtained from the Department of the Environment.
- 19.8. Notification of Limitations on Contributions. For the purposes of this Section 19.8, a "City Contractor" is a party that contracts with, or seeks to contract with, City for the sale or leasing of any land or building to or from the City whenever such transaction would require the approval by a City elective officer, the board on which that City elective officer serves, or a board on which an appointee of that individual serves. Through its execution of this License, Licensee acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits a City Contractor from making any campaign contribution to (1) the City elective officer, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for that contract or twelve (12) months after the date that contract is approved. Licensee acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$100,000 or more. Licensee further acknowledges that (i) the prohibition on contributions applies to Licensee, each member of Licensee's board of directors, Licensee's chief executive officer, chief financial officer and chief operating officer, any person with an ownership interest of more than ten percent (10%) in Licensee, any subcontractor listed in the contract, and any committee that is sponsored or controlled by Licensee, and (ii) within thirty (30) days of the submission of a proposal for the contract, the City department seeking to enter into the contract must notify the San Francisco Ethics Commission of the parties and any subcontractor to the contract. Additionally, Licensee certifies it has informed each of the persons described in the preceding sentence of the prohibitions

contained in Section 1.126 of the San Francisco Campaign and Governmental Conduct Code by the time it submitted a proposal for the contract to City, and has provided the names of the persons required to be informed to the City department seeking to enter into that contract within thirty (30) days of submitting its contract proposal to the City department receiving that submittal, and acknowledges the City department receiving that submittal was required to notify the Ethics Commission of those persons.

- 19.9. Sunshine Ordinance. Licensee understands and agrees that under City's Sunshine Ordinance (San Francisco Administrative Code, Chapter 67) and the California Public Records Act (California Government Code Section 250 et seq.), this License and any and all records, information and materials submitted to City hereunder may be public records subject to public disclosure upon request. Licensee may mark or designate as confidential, or otherwise request to be kept confidential, materials that Licensee submits to City that Licensee in good faith believes are or contain trade secrets or proprietary information protected from disclosure under the Sunshine Ordinance and other Laws, and City shall attempt to maintain the confidentiality of such materials to the extent permitted by Law. When a City official or employee receives a request for any such materials, City may request further evidence or explanation from Licensee. Notwithstanding the foregoing, to the extent that City determines that the information in such materials does not constitute a trade secret or proprietary or other information protected from disclosure, City shall notify Licensee of that conclusion and that such information will be released by a specified date in order to provide Licensee an opportunity to obtain a court order prohibiting disclosure.
- **19.10.** Conflicts of Interest. Through its execution of this License, Licensee acknowledges that it is familiar with the provisions of Section 15.103 of the City's Charter, Article III, Chapter 2 of the City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the California Government Code, and certifies that it does not know of any facts that constitute a violation of such provisions and agrees that it will promptly thereafter notify the City if it becomes aware of any such fact during the Term.
- **19.11.** *Drug-Free Workplace*. Licensee acknowledges that under the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, possession, or use of a controlled substance federal Laws is prohibited on City premises. Any violation of this prohibition by Licensee or its Agents shall be a material breach of this License.
- 19.12. Prevailing Wages and Working Conditions. Any undefined, initially-capitalized term used in this Section 19.12 shall have the meaning given to such term in San Francisco Administrative Code Section 23.61. Licensee shall require its Contractors and Subcontractors performing (i) labor in connection with a "public work" as defined under California Labor Code Section 1720 et seq. (which includes certain construction, alteration, maintenance, demolition, installation, repair, carpet laying, or refuse hauling work if paid for in whole or part out of public funds) or (ii) Covered Construction, in each case, at the License Area to (1) pay workers performing such work not less than the Prevailing Rate of Wages, (2) provide the same hours, working conditions and benefits as in each case are provided for similar work performed in San Francisco County, and (3) employ Apprentices in accordance with San Francisco Administrative Code Section 23.61 (collectively, "Prevailing Wage Requirements"). Licensee agrees to reasonably cooperate with City in any action or proceeding against a Contractor or Subcontractor

that fails to comply with the Prevailing Wage Requirements. Licensee shall include, and shall require its sublicensees, Contractors and Subcontractors (regardless of tier) to include the Prevailing Wage Requirements and the agreement to cooperate in City enforcement actions in any Construction Contract with specific reference to San Francisco Administrative Code Section 23.61. Each such Construction Contract shall name the City and County of San Francisco, affected workers, and employee organizations formally representing affected workers as third party beneficiaries for the limited purpose of enforcing the Prevailing Wage Requirements, including the right to file charges and seek penalties against any Contractor or Subcontractor in accordance with San Francisco Administrative Code Section 23.61. Provided that Licensee complies with the foregoing obligations under this Section 19.12, (a) Licensee shall not be found to be in breach of this License Area due to a Contractor's or Subcontractor's failure to pay Prevailing Wages, employ Apprentices or otherwise comply with this Section 19.12 and (b) if a Contractor or Subcontractor fails to pay Prevailing Wages, employ Apprentices or otherwise comply with this Section 19.12, City will seek the remedies specified in San Francisco Administrative Code Section 23.61 against the breaching Contractor or Subcontractor directly (and not against Licensee). For the current Prevailing Rate of Wages, see www.sfgov.org/olse or call the OLSE at 415-554-6235. Licensee shall also pay, and shall require its sublicensees, Contractors and Subcontractors (regardless of tier) to pay, the Prevailing Rate of Wage for the following activities on the License Area as set forth in and to the extent required by San Francisco Administrative Code Chapter 21C: a Public Off-Street Parking Lot, Garage or Automobile Storage Facility (as defined in Section 21C.3), a Show (as defined in Section 21C.4), a Special Event (as defined in Section 21C.8), Broadcast Services (as defined in Section 21C.9), Commercial Vehicles, Loading and Unloading for Shows and Special Events (as defined in Section 21C.10), and Security Guard Services for Events (as defined in Section 21C.11).

19.13. Food Service and Packaging Waste Reduction Ordinance. Licensee shall comply with and is bound by all of the applicable provisions of the Food Service and Packaging Waste Reduction Ordinance, as set forth in the San Francisco Environment Code, Chapter 16, including the remedies provided therein, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated into this License by reference and made a part of this License as though fully set forth. This Section 19.13 is a material term of this License.

#### 19.14. Consideration of Criminal History in Hiring and Employment Decisions.

- (a) Unless exempt, Licensee shall comply with and be bound by all of the provisions of San Francisco Administrative Code Chapter 12T (Criminal History in Hiring and Employment Decisions) ("Chapter 12T"), which are incorporated into this License as if fully set forth, with respect to applicants and employees of Licensee who would be or are performing work at the License Area. All capitalized terms used in this *Section 19.14* not otherwise defined in the License shall have the meanings ascribed to such terms in Chapter 12T.
- **(b)** Licensee shall incorporate by reference the provisions of Chapter 12T in all sublicenses of some or all of the License Area, and require all sublicensees to comply with those provisions. Licensee's failure to comply with the obligations in this subsection shall constitute a material breach of this License.

- (c) Licensee and sublicensee may not inquire about, require disclosure of, or if the information is received base an Adverse Action on an applicant's or potential applicant for employment, or employee's: (i) Arrest not leading to a Conviction, unless the Arrest is undergoing an active pending criminal investigation or trial that has not yet been resolved; (ii) participation in or completion of a diversion or a deferral of judgment program; (iii) a Conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise rendered inoperative; (iv) a Conviction or any other adjudication in the juvenile justice system; (v) a Conviction that is more than seven years old, from the date of sentencing; or (vi) information pertaining to an offense other than a felony or misdemeanor, such as an infraction.
- (d) Licensee and sublicensees may not inquire about or require applicants, potential applicants for employment, or employees to disclose on any employment application the facts or details of any conviction history, unresolved arrest, or any matter identified in **Section 19.14(c)**. Licensee and sublicensees may not require that disclosure or make any inquiry until either after the first live interview with the person, or after a conditional offer of employment.
- **(e)** Licensee and sublicensees shall state in all solicitations or advertisements for employees that are reasonably likely to reach persons who are reasonably likely to seek employment with Licensee or sublicensee at the License Area, that the Licensee or sublicensee shall consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.
- (f) Licensee and sublicensees shall post the notice prepared by OLSE, available on OLSE's website, in a conspicuous place at the License Area and at other workplaces within San Francisco where interviews for job opportunities at the License Area occur. The notice shall be posted in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the License Area or other workplace at which it is posted.
- (g) Licensee and sublicensees understand and agree that on any failure to comply with the requirements of Chapter 12T, City shall have the right to pursue any rights or remedies available under Chapter 12T or this License, including a penalty of \$50 for a second violation and \$100 for a subsequent violation for each employee, applicant, or other person as to whom a violation occurred or continued, or termination of this License in whole or in part.
- **(h)** If Licensee has any questions about the applicability of Chapter 12T, it may contact City's Real Estate Division for additional information. City's Real Estate Division may consult with the Director of City's Office of Contract Administration who may also grant a waiver, as set forth in Section 12T.8.
- **19.15.** *Workforce Agreement*. Licensee shall comply with the Workforce Agreement attached hereto *as Exhibit E* to the extent applicable to the License Area.
- 19.16. San Francisco Packaged Water Ordinance. Licensee shall comply with San Francisco Environment Code Chapter 24 ("Chapter 24"). Licensee may not sell, provide, or otherwise distribute Packaged Water, as defined in Chapter 24 (including bottled water), in the

performance of this License or on City property unless Licensee obtains a waiver from City's Department of the Environment. If Licensee violates this requirement, City may exercise all remedies in this License and the Director of City's Department of the Environment may impose administrative fines as set forth in Chapter 24.

19.17. Local Truckers. As material consideration for Port's agreement to enter into this License, Licensee agrees that, for all directly contracted or service agreement trucking opportunities associated with Licensee's operations at the License Area, including, without limitation, hauling of materials on and off the License Area, Licensee shall make good faith efforts to first use Local Truckers.

For purposes of this Section, "truckers" means a business that provides trucking services for a profit. "**Local truckers**" means those truckers that are certified by the Contract Monitoring Division of the City's General Services Agency as "Local Business Enterprises" pursuant to the City's Local Business Enterprise and Nondiscrimination in Contracting Ordinance as amended from time to time (Administrative Code Chapter 14B.)

To the extent that Licensee in its sole discretion directly contracts or enters into a service agreement with truckers for trucking opportunities as described in this Section, Licensee shall use Local Truckers for a minimum of sixty percent (60%) of all contracted or service agreement trucking. Only the actual dollar amount paid to truckers will be counted towards meeting the sixty percent (60%) requirement; equipment rental and disposal fees will not be counted. Notwithstanding the foregoing, if Licensee fails to meet the sixty percent (60%) minimum, Licensee shall not be in default of this provision so long as Licensee first offered trucking opportunities to Local Truckers, and such Local Truckers were unavailable or unwilling to perform the work.

Licensee shall submit a monthly report to the Port and CMD stating the total cost to Licensee of trucking through a contract or service agreement during the preceding month and identifying the total amount paid to Local Truckers by the Licensee. The monthly report shall document all truckers who conducted contract or service agreement work for Licensee, and identify those truckers which are Local Truckers. If Licensee fails to meet the 60% minimum in any month, the report shall document Licensee's good faith outreach efforts to contact Local Truckers and the reasons that such work could not be conducted by Local Truckers. At Port or CMD's request, Licensee shall provide additional documentation required to ensure Licensee's compliance with this provision. Licensee's failure to comply with this Section shall be deemed a material breach under this License subject to the default provisions of *Section 12* (Default by Licensee; Remedies).

19.18. Vending Machines; Nutritional Standards. Licensee may not install or permit any vending machine on the License Area without the prior written consent of City. Any permitted vending machine shall comply with the food and beverage nutritional standards and calorie labeling requirements set forth in San Francisco Administrative Code Section 4.9-1(c), as may be amended from time to time (the "Nutritional Standards Requirements"). Licensee shall incorporate the Nutritional Standards Requirements into any contract for the installation of a vending machine on the License Area or for the supply of food and beverages to that vending machine. Failure to comply with the Nutritional Standards Requirements or to otherwise comply

with this *Section 19.18* shall be a material breach of this License. Without limiting City's other rights and remedies under this License, City shall have the right to require the immediate removal of any vending machine on the License Area that is not permitted or that violates the Nutritional Standards Requirements. In addition, any restaurant located on the License Area is encouraged to ensure that at least 25% of Meals (as defined in San Francisco Administrative Code Section 4.9-1(b)) offered on the menu meet the nutritional standards set forth in San Francisco Administrative Code Section 4.9-1(e).

- 19.19. Licensee's Compliance with City Business and Tax Regulations Code. Licensee acknowledges that under Section 6.10-2 of the San Francisco Business and Tax Regulations Code, the City Treasurer and Tax Collector may require the withholding of payments to any vendor that is delinquent in the payment of any amounts that the vendor is required to pay City under the San Francisco Business and Tax Regulations Code. If, under that authority, any payment City is required to make to Licensee under this License is withheld, then City shall not be in breach or default under this License, and the Treasurer and Tax Collector shall authorize release of any payments withheld under this paragraph to Licensee, without interest, late fees, penalties, or other charges, upon Licensee coming back into compliance with its San Francisco Business and Tax Regulations Code obligations.
- 19.20. Consideration of Salary History. Licensee shall comply with San Francisco Administrative Code Chapter 12K, the Consideration of Salary History Ordinance or "Pay Parity Act". For each employment application to Licensee for work that relates to this License or for work to be performed in the City or on City property, Licensee is prohibited from considering current or past salary of an applicant in determining whether to hire the applicant or what salary to offer the applicant. Licensee shall not (1) ask such applicants about their current or past salary or (2) disclose a current or former employee's salary history without that employee's authorization unless the salary history is publicly available. Licensee is subject to the enforcement and penalty provisions in Chapter 12K. Information about Chapter 12K is available on the web at https://sfgov.org/olse/consideration-salary-history.
- 19.21. [For Craig Lane add: Local Hire]. Any undefined, initially-capitalized term used in this Section shall have the meaning given to such term in San Francisco Administrative Code Section 23.62 (the "Local Hiring Requirements"). Licensee's improvements and alterations under this License are subject to the Local Hiring Requirements unless the cost for such work is (i) estimated to be less than \$750,000 per building permit; (ii) is in connection with the set-up, execution and strike of special events of three (3) or fewer days costing in excess of the Threshold Amount; or (iii) meets any of the other exemptions in the Local Hiring Requirements. Licensee agrees that it will comply with the Local Hiring Requirements to the extent applicable. Before starting any Licensee's improvements or alterations, Licensee shall contact City's Office of Economic Workforce and Development ("OEWD") to determine the work is a Covered Project subject to the Local Hiring Requirements.

License shall include, and shall require its sublicensees to include, a requirement to comply with the Local Hiring Requirements in any contract for a Covered Project with specific reference to San Francisco Administrative Code Section 23.62. Each such contract shall name the City and County of San Francisco as a third party beneficiary for the limited purpose of enforcing the Local Hiring Requirements, including the right to file charges and seek penalties.

Licensee shall cooperate, and require its sublicensees to cooperate, with the City in any action or proceeding against a contractor or subcontractor that fails to comply with the Local Hiring Requirements when required. Licensee's failure to comply with its obligations under this Section shall constitute a material breach of this License. A contractor's or subcontractor's failure to comply with this Section will enable the City to seek the remedies specified in San Francisco Administrative Code Section 23.62 against the breaching party.

19.22. [For Craig Lane add: First Source Hiring.] The City has adopted a First Source Hiring Program (San Francisco Administrative Code Sections 83.1 et seq.) which establishes specific requirements, procedures and monitoring for first source hiring of qualified economically disadvantaged individuals for entry-level positions as those terms are defined by the ordinance. Licensee acknowledges receiving and reviewing the First Source Hiring Program materials and requirements and agrees to comply with all requirements of the ordinance as implemented by Port and/or City, including without limitation, notification of vacancies throughout the Term and entering into a First Source Hiring Agreement, if applicable. Licensee acknowledges and agrees that it may be subject to monetary penalties for failure to comply with the ordinance or a First Source Hiring Agreement and that such non-compliance shall be a default of this License.

19.23. [For Craig Lane add: Local Business Enterprises. The Port Commission encourages the participation of local business enterprises ("LBEs") in Licensee's operations. Licensee agrees to consult with the CMD to determine appropriate methods for promoting participation by LBEs in the scope of work. Architecture, Engineering, Laboratory Services (Materials Testing), Trucking and Hauling, and Security Guard Services are categories of services that may provide opportunities for certified LBE participation. City maintains a list of certified LBEs at: https://sfgov.org/cmd/LBE-certification-0.

#### 20. WAIVER OF RELOCATION

Licensee hereby waives any and all rights, benefits or privileges of the California Relocation Assistance Law, California Government Code §§ 7260 et seq., or under any similar Law, statute or ordinance now or hereafter in effect, to the extent allowed under applicable Law.

#### 21. Signs.

Licensee shall not have the right to place, construct or maintain any business signage, awning or other exterior decoration or notices on the License Area without Port's prior written consent. Any sign that Licensee is permitted to place, construct or maintain on the License Area shall comply with all Laws relating thereto, including but not limited to Port's Sign Guidelines, as revised by Port from time to time, and building permit requirements, and Licensee shall obtain all Regulatory Approvals required by such Laws. Licensee, at its sole cost and expense, shall remove all signs placed by it on the License Area at the expiration or earlier termination of this License.

#### 22. MISCELLANEOUS PROVISIONS.

**22.1.** *Governing Law*. This License shall be governed by, and interpreted in accordance with, the laws of the State of California. As part of the consideration for the Parties

entering into this License, the Parties agree that all actions or proceedings arising directly or indirectly under this License may be litigated in courts having situs within the State of California, and the Parties consent to the jurisdiction of any such local, state or federal court.

- **22.2.** Entire Agreement. This License and the DA (including its Exhibits, and for so long as the DA is in effect), contains all of the representations and the entire agreement between the parties with respect to the subject matter of this License. Any prior correspondence, memoranda, agreements, warranties, or representations, whether written or oral, relating to such subject matter are superseded in total by this License. No prior drafts of this License or changes from those drafts to the executed version of this License shall be introduced as evidence in any litigation or other dispute resolution proceeding by any party or other person, and no court or other body should consider those drafts in interpreting this License.
- **22.3.** *Amendments*. No amendment of this License or any part thereof shall be valid unless it is in writing and signed by all of the parties hereto.
- **22.4.** *Severability*. If any provision of this License or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this License, or the application of such provision to persons, entities or circumstances other than those as to which is invalid or unenforceable, shall not be affected thereby, and each other provision of this License shall be valid and be enforceable to the fullest extent permitted by Law.

#### 22.5. Interpretation of License.

- (a) References in this License to Licensee's acts or omissions will mean acts or omissions by Licensee and its Agents and Invitees unless the context requires or specifically stated otherwise.
- **(b)** Whenever an exhibit or schedule is referenced, it means an attachment to this License unless otherwise specifically identified. All exhibits and schedules are incorporated in this License by reference.
- (c) Whenever a section, article or paragraph is referenced, it refers to this License unless otherwise specifically provided. The captions preceding the articles and sections of this License and in the table of contents have been inserted for convenience of reference only and must be disregarded in the construction and interpretation of this License. Wherever reference is made to any provision, term, or matter "in this License", "herein" or "hereof" or words of similar import, the reference will be deemed to refer to any reasonably related provisions of this License in the context of the reference, unless the reference refers solely to a specific numbered or lettered article, section, subdivision, or paragraph of this License.
- (d) Wherever reference is made to a specific code or section of a specific Law, the reference shall be deemed to include any amendment, restatement or replacement.
- **(e)** The terms "include", "included", "including" and "such as" or words of similar import when following any general term, statement, or matter may not be construed to limit the term, statement, or matter to the specific items or matters, whether or not language of non-limitation is used, but will be deemed to refer to all other items or matters that could

reasonably fall within the broadest possible scope of the term, statement, or matter, and will be deemed to be followed by the phrase "without limitation" or "but not limited to".

- (f) This License has been negotiated at arm's length between persons sophisticated and knowledgeable in the matters addressed. In addition, each party has been represented by experienced and knowledgeable legal counsel, or has had the opportunity to consult with counsel. Accordingly, the provisions of this License must be construed as a whole according to their common meaning in order to achieve the intents and purposes of the parties, without any presumption (including a presumption under California Civil Code § 1654) against the party responsible for drafting any part of this License.
- (g) The party on which any obligation is imposed in this License will be solely responsible for paying all costs and expenses incurred in performing the obligation, unless the provision imposing the obligation specifically provides otherwise.
- **(h)** Whenever required by the context, the singular includes the plural and vice versa, the masculine gender includes the feminine or neuter genders and vice versa, and defined terms encompass all correlating forms of the terms (e.g., the definition of "waive" applies to "waiver", "waivers", "waived", waiving", etc.).
- **22.6.** Successors and Assigns. The terms, covenants, agreements and conditions set forth in this License shall bind and inure to the benefit of City and Licensee and, except as otherwise provided herein, their successors and assigns.
- **22.7.** *Counterparts*. For convenience, the signatures of the parties to this License may be executed and acknowledged on separate pages which, when attached to this License, shall constitute as one complete License. This License may be executed in any number of counterparts each of which shall be deemed to be an original and all of which shall constitute one and the same License.
- **22.8.** *Authority*. If Licensee signs as a corporation or a partnership, each of the persons executing this License on behalf of Licensee does hereby covenant and warrant that Licensee is a duly authorized and existing entity, that Licensee has and is qualified to do business in California, that Licensee has full right and authority to enter into this License, and that each and all of the persons signing on behalf of Licensee are authorized to do so. Upon City's request, Licensee shall provide City with evidence reasonably satisfactory to City confirming the foregoing representations and warranties.
- **22.9.** *No Implied Waiver*. No failure by City to insist upon the strict performance of any obligation of Licensee under this License or to exercise any right, power or remedy arising out of a breach thereof, irrespective of the length of time for which such failure continues, and no acceptance of full or partial Fees during the continuance of any such breach shall constitute a waiver of such breach or of City's rights to demand strict compliance with such term, covenant or condition. City's consent to or approval of any act by Licensee requiring City's consent or approval shall not be deemed to waive or render unnecessary City's consent to or approval of any subsequent act by Licensee. Any waiver by City of any default must be in writing and shall

not be a waiver of any other default (including any future default) concerning the same or any other provision of this License.

- **22.10.** *Time is of Essence*. Time is of the essence with respect to all provisions of this License in which a definite time for performance is specified.
- **22.11.** *Cumulative Remedies*. All rights and remedies of either party hereto set forth in this License shall be cumulative, except as may otherwise be provided herein.
- **22.12.** *Survival*. Termination or expiration of this License shall not affect the right of either party to enforce any representations and warranties given or made to the other party under this License or the ability to collect any sums due, nor shall it affect any provision of this License that expressly states it shall survive termination or expiration hereof.
- **22.13.** *Relationship of the Parties*. City is not, and none of the provisions in this License shall be deemed to render City, a partner in Licensee's business, or joint venturer or member in any joint enterprise with Licensee. Neither party shall act as the agent of the other party in any respect hereunder. This License is not intended nor shall it be construed to create any third party beneficiary rights in any third party, unless otherwise expressly provided.
- **22.14.** *No Recording*. Licensee shall not record this License or any memorandum hereof in the Official Records of the City and County of San Francisco.
- **22.15.** Additional Written Agreement Required. Licensee expressly agrees and acknowledges that no officer, director, or employee of City is authorized to offer or promise, nor is City required to honor, any offered or promised rent credit, concession, abatement, or any other form of monetary consideration (individually and collectively, "Concession") without a written agreement executed by the appropriate City official with requisite authority to make such Concession authorizing such Concession and, if applicable, certification of the Concession from the City's Controller.
- **22.16.** *Approvals*. Unless otherwise specifically stated in this License, wherever a Party has a right of approval or consent, such approval or consent shall not be unreasonably withheld, conditioned or delayed.
- **22.17.** *Further Assurances*. The Parties agree to execute and acknowledge such other and further documents as may be necessary or reasonably required to express the intent of the Parties or otherwise effectuate the terms of this License.
- **22.18.** *Estoppels*. City shall execute, acknowledge and deliver to Licensee (or at Licensee's request, to any lender, prospective lender, transferee or prospective transferee of Licensee's interest under this License or any sublicensee), within fifteen (15) days after request from Licensee, a certificate stating to the best of City's actual knowledge after diligent inquiry (a) that this License is unmodified and in full force and effect (or, if there have been modifications, that this License is in full force and effect, as modified, and stating the modifications or, if this License is not in full force and effect, so stating), (b) the dates, if any, to which any Fees and other sums payable hereunder have been paid, (c) whether or not, to the knowledge of City, there are then existing any defaults under this License (and if so, specifying

the same) and (d) any other matter actually known to City, directly related to this License and reasonably requested by the requesting party. In addition, if requested, City shall attach to such certificate a copy of this License and any amendments thereto, and include in such certificate a statement by City that, to the best of its knowledge, such attachment is a true, correct and complete copy of this License, including all modifications thereto. Any such certificate may be relied upon by Licensee, any lender, prospective lender, transferee or prospective transferee of Licensee's interest under this License or sublicensee.

#### 23. **DEFINITIONS.**

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

"23rd Street Improvements" is defined in the Basic License Information.

"23rd Street License Area" is defined in the Basic License Information.

"Administrative Delay" means that (i) a governmental entity (for the avoidance of doubt, including City) fails to act on Licensee's request or application within a reasonable period of time under its standard practices or as otherwise specified in the DA or this License or (ii) an appeal body or court determines that a governmental entity's act or failure to act on a request or application was improper following a challenge by Licensee, in each case, except to the extent caused by Licensee's failure to submit timely all required and requested information supporting a request or application.

"Agents" means, as to a Person, the officers, directors, commissioners, employees, agents, attorneys and contractors of such Person (including subcontractors and others performing construction or maintenance and repair obligations on behalf of such Person in accordance with this License), and their respective heirs, legal representatives, successors and assigns.

"Alterations" means any alterations, installations, improvements, or additions to any Improvements or to the License Area.

"Attorneys' Fees and Costs" means reasonable attorneys' fees, costs, expenses and disbursements, including expert witness fees and costs, travel time and associated costs, transcript preparation fees and costs, document copying, exhibit preparation, courier, postage, facsimile, long-distance and communications expenses, court costs and other reasonable costs and fees associated with any other legal, administrative or alternative dispute resolution proceeding, including such fees and costs associated with execution upon any judgment or order, and costs on appeal.

"Basic License Information" refers to the summary of basic license information attached to this License.

"Board of Supervisors" means the Board of Supervisors of the City and County of San Francisco.

- "Business Day" means a day other than a Saturday, Sunday or holiday recognized by the City.
- "CEQA" means the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.).
  - "City" is defined in *Article 1*.
  - "City Requirements" is defined in Section 19.
- "City's 23<sup>rd</sup> Street Property" is defined in the Basic License Information and depicted in *Exhibit A-3*.
  - "City's Termination Right" is defined in Section 2.3.
  - "CMD" means the Contract Monitoring Division of the City's General Services Agency.
- "Commence" and any reasonable variation thereof means, with respect to each Phase of the Craig Lane Improvements or 23<sup>rd</sup> Street Improvements, the start of physical construction of such Phase, excluding testing or any pre-construction activities.
- "Commencement Date" means the date specified in the Basic License Information as to each of the Craig Lane License Area and the 23<sup>rd</sup> Street License Area as relevant.
- "Completion" and any reasonable variation thereof means that the applicable Phase or other portion of the Craig Lane Improvements or 23<sup>rd</sup> Street Improvements has been substantially completed in accordance with this License, the PIA and other City-approved plans and specifications therefor and any non-City governmental entities with jurisdiction over any required permits for such improvements have issued all final approvals required for the contemplated use thereof and that all applicable fees of such entities in connection therewith, including inspection and testing fees have been paid.
  - "Craig Lane Improvements" is defined in the Basic License Information.
- "Craig Lane License Area" is defined in the Basic License Information and depicted in *Exhibit A-1*.
  - "Craig Lane REA" is defined in the Basic License Information.
  - "DBI" means the City's Department of Building Inspection.
  - "Development Agreement" or "DA" is defined in the Basic License Information.
- "Disabled Access Laws" means all Laws related to access for persons with disabilities, including the Americans with Disabilities Act, 42 U.S.C. Section 12101 et seq. and disabled access laws under the applicable building codes.
- "Environmental Delay" means that (i) the City is required to conduct additional environmental review or prepare additional environmental documents after the Planning

Commission of the City and County of San Francisco has certified the FEIR (as defined in the DA) and City staff has filed a notice of determination, (ii) a third party files an action challenging the certification or sufficiency of the FEIR or any other additional environmental review, even if development activities are not stayed, enjoined or otherwise prohibited, (iii) there is an unanticipated need to investigate, Remediate or otherwise correct previously unknown environmental or geotechnical conditions on or affecting any portion of the License Area, but only if the conditions were not reasonably discoverable in the course of Licensee's due diligence before the Effective Date, or (iv) there is an unanticipated need to comply with any Mitigation and Improvement Measures for conditions on or affecting any portion of the License Area, but only if the conditions were not reasonably discoverable in the course of Licensee's due diligence before the Effective Date and by their nature require delay or work stoppage for investigation, Remediation or related activities, as long as Licensee is proceeding in a diligent manner to resolve the unforeseen issues.

"Environmental Laws" is defined in Section 14.2(b).

"Environmental Oversight Deposit" is defined in Section 14.3.

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

"Event of Default" is defined in Section 12.1.

"Exacerbate" is defined in *Section 14.2(c)*.

"Excusable Delay" means Force Majeure, Administrative Delay and Environmental Delay, whichever is applicable. A Party seeking an extension of time due to an Excusable Delay shall give written notice to the other Party describing with reasonable particularity (to the extent known) the facts and circumstances constituting Force Majeure within a reasonable time (but not more than thirty (30) days unless the other Party's rights are not prejudiced by such delinquent notice) after knowledge of the beginning of such facts or circumstances.

"Expiration Date" means the date specified in the Basic License Information as to this License and as to each of the Craig Lane License Area and the 23<sup>rd</sup> Street License Area.

"Fees" means all sums payable by Licensee under this License, including without limitation, any accrued interest.

"**FEIR**" is defined in the DA.

"Force Majeure" means events which result in delays in a Party's performance of its obligations hereunder due to causes beyond such Party's control, including, but not restricted to: (i) domestic or international events disrupting civil activities, such as war, acts of terrorism, insurrection, acts of the public enemy, and riots; (ii) acts of nature, including floods, earthquakes,

unusually severe weather, and resulting fires and casualties; (iii) epidemics and other public health crises affecting the workforce by actions such as quarantine restrictions; and (iv) inability to secure necessary labor, materials, or tools (but only if the Party claiming delay has taken reasonable action to obtain them on a timely basis) due to any of the above events, freight embargoes, lack of transportation, or failure or delay in delivery of utilities serving the License Area. Force Majeure does not include failure to obtain financing or have adequate funds. The delay caused by Force Majeure includes not only the period of time during which performance of an act is hindered, but also such additional time thereafter as may reasonably be required to make repairs and to complete performance of the hindered act.

"Handle" when used with reference to Hazardous Materials means to use, generate, manufacture, process, produce, package, treat, transport, store, emit, discharge or dispose of any Hazardous Material. "Handling" shall have a correlative meaning.

"Hazardous Materials" is defined in Section 14.2(a).

"Hazardous Materials Claims" means any and all enforcement, Investigation, Remediation or other governmental or regulatory actions, agreements or orders threatened, instituted or completed under any Environmental Laws, together with any and all Losses made or threatened by any third party against City its Agents, [add, for Craig Lane: a P70 Developer Indemnified Party] or Licensee or the License Area or any Improvements, relating to damage, contribution, cost recovery compensation, loss or injury resulting from the presence, release or discharge of any Hazardous Materials, including Losses based in common law. Hazardous Materials Claims include Investigation and Remediation costs, fines, natural resource damages, damages for decrease in value of the License Area or any Improvements, the loss or restriction of the use or any amenity of the License Area or any Improvements, and attorneys' fees and consultants' fees and experts' fees and costs.

"**Improvements**" means all buildings, structures, streets, fixtures and other improvements erected, built, placed, installed, constructed, renovated, or rehabilitated, located upon or within the License Area constructed by or on behalf of Licensee pursuant to this License (i.e., the Craig Lane Improvements or the 23<sup>rd</sup> Street Improvements, as applicable).

"Indemnified Parties" means City and its Agents, including all of its boards, commissions, departments, agencies and other subdivisions.

"Indemnify" (and any reasonable variation thereof) means indemnify, protect and hold harmless.

"Interest Rate" means an interest rate equal to the greater of (i) ten percent (10%) or (ii) five percent (5%) in excess of the Prime Rate that is in effect as of the date the applicable payment is due, but in any event not more than the maximum amount permitted under any applicable usury or similar Law.

"Investigate" or "Investigation" when used with reference to Hazardous Material means any activity undertaken to determine the nature and extent of Hazardous Material that may be located in, on, under or about the License Area, any Improvements or any portion of the site or the Improvements or which have been, are being, or threaten to be Released into the

environment. Investigation shall include preparation of site history reports and sampling and analysis of environmental conditions in, on, under or about the License Area or any Improvements.

"Invitees" when used with respect to a Person means the customers, patrons, invitees, guests, members, licensees, assignees and sublicensees of such Person and the customers, patrons, invitees, guests, members, licensees, assignees and sub-licensees of sublicensees of such Person.

"Law" or "Laws" means, as of the date of determination, laws, ordinances, rules, regulations, permits, authorizations, orders and requirements, to the extent applicable to the Parties or to the License Area or any portion thereof, whether or not in the contemplation of the Parties as of the Effective Date, including all consents or approvals (including Regulatory Approvals) required to be obtained from, and all rules and regulations of, and all building and zoning laws of, all federal, state, county and municipal governments, the departments, bureaus, agencies or commissions thereof, authorities, boards of officers, any national or local board of fire underwriters, or any other body or bodies exercising similar functions, having or acquiring jurisdiction of, or which may affect or be applicable to, the License Area or any part thereof, including any subsurface area, the use thereof and of the Improvements thereon. [Add for 23<sup>rd</sup> Street License: For the avoidance of doubt, during the term of the DA, local Laws will not include those local Laws that are not applicable to the Project in accordance with the DA.

"LBE" is defined in the [Workforce Agreement] [Section 19.23.].

"License" is defined in the Basic License Information.

"License Area" means the area described in the Basic License Information.

"Licensee" is defined in the Basic License Information or means the successors and assigns of the Person described therein.

"Loss" or "Losses" when used with reference to any Indemnity means any and all claims, demands, losses, liabilities, damages (including foreseeable and unforeseeable consequential damages), liens, obligations, interest, injuries, penalties, fines, lawsuits and other proceedings, judgments and awards and costs and expenses, (including Attorneys' Fees and Costs and consultants' fees and costs) of whatever kind or nature, known or unknown, contingent or otherwise.

"Mitigation and Improvement Measures" means the mitigation measures (as defined by CEQA) applicable to the Project as set forth in *Exhibit C* and fully incorporated herein or, to the extent approved by City and Licensee, that are necessary to mitigate adverse environmental impacts identified through the CEQA process as part of a Later Approval, as such terms are defined in the DA.

"Notice to Cease Prohibited Use" is defined in Section 5.

"OSHA" means the United States Occupational Safety and Health Administration.

- "P70 Developer Indemnified Parties" means, collectively, the P70 Master Developer Indemnified Parties and each of the P70 Vertical Developer Indemnified Parties, as those terms are defined in the Craig Lane REA.
  - "P70 Master Developer" is defined in the Craig Lane REA.
  - "P70 Project" is defined in the Craig Lane REA.
  - "P70 Vertical Developer" is defined in the Craig Lane REA.
- "Party" means City or Licensee, as a party to this License; "Parties" means both City and Licensee, as parties to this License.
  - "Permitted Activity" means the activity described in the Basic License Information.
- "Person" means any individual, partnership, corporation (including any business trust), limited liability company, joint stock company, trust, unincorporated association, joint venture or any other entity or association, the United States, or a federal, state or political subdivision thereof.
- "Personal Property" means all fixtures, furniture, furnishings, equipment, machinery, supplies, software and other tangible personal property that is incident to the ownership, development or operation of the Improvements and/or the License Area, whether now or hereafter located in, upon or about the License Area, belonging to Licensee or any of its sublicensees and/or in which Licensee or any of its sublicensees has or may hereafter acquire an ownership interest, together with all present and future attachments, accessions, replacements, substitutions and additions thereto or therefor.
  - "PIA" is defined in the Basic License Information.
- "**Port**" means the Executive Director of the Port of San Francisco and his or her staff or the Port Commission.
- "**Port Commission**" means the San Francisco Port Commission, or any successor governing body of Port designated by or under law as of the date of determination.
- "**Port Lease**" means Ground Lease No. L-16662 between Port as landlord and Licensee as tenant effective as of , 2021 (See Port Commission Resolution 20-12 and BOS Resolution 164- 10).
- "Port's 23<sup>rd</sup> Street Property" is defined in the Basic License Information and depicted in *Exhibit A-2*.
- "PPS Project" means the proposed development on certain real property owned by Licensee in the City in which Licensee expects to construct all or a portion of a multi-phased, mixed-use development project that is planned to include a new, publicly accessible network of improved parkland and open space and a mixed-use urban neighborhood, including up to

approximately 2,600 dwelling units and approximately 1.6 million square feet of commercial uses.

"Prime Rate" means the base rate on corporate loans posted by at least 75% of the nation's 30 largest banks, as published by the Wall Street Journal, or if the Wall Street Journal has ceased to publish the Prime Rate, then such other equivalent recognized source.

"Privately Owed Community Improvements" is defined in the DA.

"Prohibited Use" is defined in Section 5.

"Project" is defined in the Basic License Information.

"Project Approvals" is defined in the DA.

"Property Matters" is defined in Section 2.2.

"Public Improvements" is defined in the DA.

"RED" means the City's San Francisco General Services Agency, Real Estate Division.

"Regulatory Agency" means any governmental agency that has jurisdiction over the License Area or other applicable matter, including the City or Port acting in its regulatory capacity, RWQCB, and the Army Corps of Engineers.

"Regulatory Approval" means any authorization, approval or permit required or issued by any Regulatory Agency with respect to the applicable matter.

"Release" is defined in *Section 14.2(f)*.

"Remediate" or "Remediation" when used with reference to Hazardous Materials means any activities undertaken to clean up, remove, transport, dispose, contain, treat, stabilize, monitor or otherwise control Hazardous Materials located in, on, under or about the License Area or which have been, are being, or threaten to be Released into the environment. Remediation includes those actions included within the definition of "remedy" or "remedial action" in California Health and Safety Code Section 25322 and "remove" or "removal" in California Health and Safety Code Section 25323.

"RWQCB" means the San Francisco Bay Regional Water Quality Control Board of Cal/EPA, a state agency.

"SFPW" means the City's Department of Public Works.

"SWPPP" is defined in Section 14.5.

"Term" is defined in Section 2.1.

"Workforce Agreement" means the Workforce Agreement attached hereto as *Exhibit E*, as the same may be amended from time to time (i) during the term of the DA, in accordance with the DA, and (ii) after the expiration or termination of the DA, with City approval.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, City and Licensee have executed this License as of the last date set forth below

| Licensee:                               | CALIFORNIA BARREL COMPANY LLC, a Delaware limited liability company  |
|---|--|
|   | By: Fifth and Third Partners LLC, a Delaware limited liability company, its Manager  |
|   | By:  |
|   | Name: Title:   |
|   |  |
|   | Date signed:   |
| Port:                                   | CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, operating by and through the SAN FRANCISCO PORT COMMISSION                                |
|   | By:Rebecca Benassini   |
|   | Rebecca Benassini Acting Deputy Director, Real Estate and Development  |
|   | Date signed:   |
|   | [CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, operating by and through the SAN FRANCISCO GENERAL SERVICES AGENCY, REAL ESTATE DIVISION |
|   | By:  |
|   | By:Andrico Q. Penick Director Property   |
|   | Date signed:   |
| Approved as to Form:                    | DENNIS J. HERRERA, City Attorney   |
|   | By: Deputy City Attorney   |
| Port Commission Reso: 20-12             |  |
| License Prepared by David Bea           | upre, Senior Development Project Manager(initial)  |
| CBC Street Construction License 1/25/21 | 51   |

# EXHIBIT A

## LICENSE AREA

(To be attached.)

[Page intentionally left blank.]

# Ехнівіт В

# FORM EFFECTIVE, COMMENCEMENT AND EXPIRATION DATE MEMORANDUM

| Landlord:       | CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, operating by and through the SAN FRANCISCO PORT COMMISSION |
|-----------------|---|
| Licensee:       |   |
| License Number: |   |
| License Date:   |   |
| License Area:   | [Craig Lane Parcel/23 <sup>rd</sup> Street Parcel]<br>San Francisco, California                                       |
|                 | Commencement/Expiration Date of the License as to the parcel specified ished as, 20                                   |
| PORT:           | CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, operating by and through the SAN FRANCISCO PORT COMMISSION |
|                 | By: Rebecca Benassini Acting Deputy Director, Real Estate and Development   |
|                 | Date Signed:  |
| Licensee:       |   |
|                 | By:<br>Name:<br>Title:  |
|                 | Date Signed:  |

# EXHIBIT C

# MITIGATION AND IMPROVEMENT MEASURES

[attached]

# MITIGATION MONITORING AND REPORTING PROGRAM

### **Section 1: Contents of MMRP**

This Mitigation Monitoring and Reporting Program (MMRP) for the Potrero Power Station Mixed Use Development project consists of two separate tables:

- **Table A**, Mitigation Measures Adopted as Conditions of Approval for the Proposed Project and Project Variant, and
- Table B, Improvement Measures Adopted as Conditions of Approval for the Proposed Project and Project Variant.

The tables provide the following information: the environmental issue areas for which mitigation or improvement measures are identified; the required measure(s); the timeframe for implementing, monitoring, and reporting on the measure(s); the responsible implementing, monitoring and reporting parties; and the actions needed to verify compliance/completion of the measure(s).

The Final EIR¹ for this project describes and analyzes two variations of the project at an equal level of detail—referred to as the "proposed project" and the "project variant." Therefore, Tables A and B serve as the MMRP for both the proposed project and project variant. Unless otherwise noted, all mitigation and improvement measures in Tables A and B apply to both the proposed project and project variant. In four measures in Table A only, the table distinguishes between measures that would be unique to the proposed project and project variant with distinct sub-titles.

# Section 2: Implementation and Enforcement of Measures

This MMRP includes all mitigation measures identified in the Final EIR that would lessen the severity of significant adverse impacts and are required to be implemented as conditions of project approval. In addition, this MMRP includes improvement measures, which were identified in the Final EIR as feasible measures that would lessen the severity of less-than-significant impacts, and the project sponsor has agreed to implement all improvement measures as conditions of project approval.

The MMRP tables identify the mitigation schedule and the parties responsible for implementing, monitoring and reporting on the implementation of the measures, as listed in Tables A and B.

City and County of San Francisco, *Potrero Power Station Mixed Use Development Project Final EIR*, San Francisco Planning Department Case No 20 7 0 878ENV, State Clearinghouse No 20 7 2005, December , 20 9

As the CEQA lead agency for the project, the City of San Francisco is principally responsible for MMRP monitoring and enforcement. In addition, as provided in CEQA Guidelines section 15097(a), the City may delegate MMRP monitoring responsibilities to other public agencies; either working with other local governments through their permitting or regulatory authorities, or through memoranda of understanding that the City enters into with other entities. Accordingly, the MMRP identifies specific departments within the City, including the San Francisco Municipal Transportation Agency (SFMTA), the San Francisco Public Utilities Commission (SFPUC), the San Francisco Department of Building Inspection, the San Francisco Public Works, the San Francisco Planning Department, the San Francisco Entertainment Commission, or other public agencies such as the San Francisco Bay Regional Water Quality Control Board, and the Bay Area Air Quality Management District (BAAQMD) where such delegation is known or anticipated.

If any mitigation and improvement measures are not implemented as required, the City may, in conjunction with other entities listed above, pursue corrective actions including, but not limited to, the following: (1) a written notification and request for compliance; (2) withholding of permits; (3) administrative fines; (4) a stop-work order; (5) criminal prosecution and/or administrative fines; (6) forfeiture of security bonds or other guarantees; and (7) revocation of permits or other entitlements.

#### **Section 3: Changes to Mitigation Measures**

Any substantive change in the MMRP made by City staff shall be reported in writing to the Environmental Review Officer (ERO). City staff may modify or substitute mitigation measures subject to one of the following findings, documented by substantial evidence:

a. The mitigation measure included in the Final EIR and the MMRP is no longer required because the significant environmental impact identified in the Final EIR has been found not to exist, or to occur at a level which makes the impact less than significant as a result of changes in the project, changes in conditions of the environment, or other factors.

OR

b. The modified or substitute mitigation measure either provides corrections to text without any substantive change in the intention or meaning of the original mitigation measure, or provides a level of environmental protection equal to or greater than that afforded by the mitigation measure included in the Final EIR and the MMRP; and

The modified or substitute mitigation measures do not have significant adverse effects on the environment in addition to or greater than those which were considered by the relevant agencies in their decisions on the Final EIR and the proposed project or project variant; and

The modified or substitute mitigation measures are feasible, and the City, through measures included in the MMRP or other City procedures, can ensure their implementation.

Documentation supporting the findings involving modifications to mitigation measures shall be maintained in the project file with the MMRP and shall be made available to the public upon request.

#### List of Abbreviations

ADRP Archeological Data Recovery Program

AMP Archeological Monitoring Program

ATP Archeological Testing Program

BAAQMD Bay Area Air Quality Management District

CDFW California Department of Fish and Wildlife

CEQA California Environmental Quality Act

D for D Design for Development

dBA A-weighted decibel

ERO Environmental Review Officer

HABS Historic American Building Survey

HAER Historic American Engineering Record

MMRP Mitigation Monitoring and Reporting Program

MOU Memorandum of Understanding

NA Not Applicable

NAHC Native American Heritage Commission

NOx oxides of nitrogen

PDR Production, Distribution and Repair

PPV peak particle velocity

R&D Research and Development

RMS root mean square

ROG reactive organic gases
SEL sound exposure level

SFMTA San Francisco Municipal Transportation Agency

SF Public Works San Francisco Department of Public Works

SUD Special Use District

TACs toxic air contaminants

TDM Transportation Demand Management

U.S. EPA United States Environmental Protection Agency

 $\mu g/m^3$  microgram per cubic meter VOC volatile organic compounds

TABLE A

MITIGATION MEASURES ADOPTED AS CONDITIONS OF APPROVAL FOR THE PROPOSED PROJECT AND PROJECT VARIANT

| Mitigation Measure   | Responsibility for<br>Implementation  | Mitigation Schedule  | Monitoring/<br>Reporting<br>Responsibility   | Monitoring Actions/<br>Schedule and Verification<br>of Compliance   |  |  |  |  |  |
|--|---|--|--|---|--|--|--|--|--|
| EIR Section 4.D Historic Architectural Resources   |   |  |  |   |  |  |  |  |  |
| Mitigation Measure M-CR-5a: Documentation  Before any demo t on or rehab tat on act vites within the project site, the project sponsor shall retain a profession on who meets the Secretary of the Interior's Professiona. Qualification of Station A, the Compressor House, the Meter House, the Gate House, the Boier Stack, and Unit 3. The documentation shall be prepared based on the National Park Service's Historic American Building of Survey (HABS)/H storic American Engineering Record (HAER) Historican Report Guidenes. The HABS/HAER package shall jointy document the Third Street Industrian District contributors and not vidually eight of the solid provided the state of the state | Project sponsor and qua f ed h stor c preservat on profess ona who meets the standards for h story, arch tectura h story, or arch tecture (as appropr ate), as set forth by the Secretary of the Interior's Professional Qualification Standards (36 Code of Federa Regu at ons, Part 61) | Pror to the ssuance of a s te perm t, demo t on perm t, or any other perm t from the Department of Bu d ng Inspect on n connect on wth Stat on A, the Compressor House, the Meter House, the Gate House, the Bo er Stack, and Un t 3 | P ann ng Department Preservat on Techn ca Spec a st to rev ew and approve HABS/ HAER documentat on | Cons dered comp ete upor subm tta of f na HABS/HAER documentat on to the Preservat on Techn ca Spec a st and determ nat on from the Preservat on Techn ca Spec a st that documentat on s comp ete |  |  |  |  |  |

| Mitigation Measure   | Responsibility for Implementation   | Mitigation Schedule  | Monitoring/<br>Reporting<br>Responsibility   | Monitoring Actions/<br>Schedule and Verification<br>of Compliance  |  |  |  |  |
|--|---|--|--|--|--|--|--|--|
| EIR Section 4.D Historic Architectural Resources (cont.)   |   |  |  |  |  |  |  |  |
| Pub c L brary, San Franc sco Her tage, Internet Arch ve, the Ca forn a H stor ca Soc ety, the Potrero H Arch ves Project, and the Northwest Informat on Center of the Ca forn a H stor ca Informat on Resource System. A documentat on w be reviewed and approved by the San Franc sco P ann ng Department's Preservat on staff pr or to grant ng any demo t on or s te perm t.  |   |  |  |  |  |  |  |  |
| Mitigation Measure M-CR-5b: Video Recordation  Pr or to any demo t on or substant a a terat on of an nd v dua h stor ca resource or contr butor to a h stor c d str ct on the project s te, the project sponsor sha retan a qua f ed profess on a to undertake v deo documentat on of the affected h stor ca resource and ts setting. The documentation sha be conducted by a profess on a v deographer with experience recording architectural resources. The profess on a v deographer shalp provide a storyboard of the proposed video recordation for review and approva by Planning Department preservation staff. The documentation shalp be narrated by a qualified profess on a who meets the standards for history, architectural history, or architecture (as appropriate), as set forth by the Secretary of the linter or's Profess ona Qualification Standards (36 Code of Federal Regulations, Part 61). The documentation shalp not ude as much information as possible using visuals in combination with narration about the materials, construction methods, current condition, historical use, and historic context of the historic resources.  Archivation copies of the video documentation shalp be submitted to the Planning Department, and to repositories including the San Francisco Planning Department, the Port of San Francisco, the San Francisco Planning Department, and the Northwest Information Center of the California Historical Information Resource System. This in tigation measure would supplement the traditional HABS documentation, and would enhance the colection of reference materials that would be available to the public and inform future research.  The video documentation shalper reviewed and approved by the San Francisco Planning Department's preservation staffing or to ssuance of a demo to no permit or site permit or ssuance of any Building Premits for the project. | Project sponsor, profess ona v deographer, and qua f ed narrator who meets the standards for h story, arch tectura h story, or arch tecture (as appropr ate), as set forth by the Secretary of the Interior's Professional Qualification Standards (36 Code of Federa Regu at ons, Part 61) | Pror to the ssuance of a s te perm t, demo t on perm t, or any other perm t from the Department of Bu d ng Inspect on n connect on w th Stat on A, the Compressor House, the Meter House, the Bo er Stack, and Un t 3, or other contr butor to a h stor c d str ct | P ann ng Department Preservat on Techn ca Spec a st  | Cons dered comp ete upon submitta of final video documentation to the Preservation Technical Special strand determination from the Preservation Technical Special strand documentation is completed. |  |  |  |  |
| Mitigation Measure M-CR-5c: Public Interpretation and Salvage  Pr or to any demoton or rehabitation activities that would remove character defining features of an individual historical resource or contributor to a historical distriction the project site, the project sponsor shall consult with planning department preservation staff as to whether any such features may be salvaged, in whole or in part, during demotion/a teration. The project sponsor shall make a good faith effort to salvage materials of historical netrest to be ut it zed as part of the interpretative program. This could include reuse of the Greek Revival façade of the Machine Shop Office, Gate House or a port on of the Unit 3 Power Block. Following any demotion or rehabitation activities within the project site, the project sponsor shall provide within public ylaccess be areas of the project site alpermanent display(s) of interpretive materials concerning the history and architectural features of the individual historical resources.  | Project sponsor, qua f ed arch tectura h stor an or h stor an who meets the Secretary of the Interior's Professional Qualification Standards, and an exh b t des gner or andscape arch tect w th h stor ca nterpretat on des gn exper ence.   | Adequacy of co ect on conf rmed by the P ann ng Department Preservat on Techn ca Spec a st pr or to demo t on or rehab tat on act v t es. Interpretat ve d sp ay to be nsta ed pr or to the ssuance of a Cert f cate of Occupancy                                  | P ann ng Department<br>Preservat on<br>Techn ca Spec a st<br>to rev ew and<br>approve sa vaged<br>mater a and<br>nterpret ve d sp ay | Cons dered comp ete upon nsta at on of d sp ay   |  |  |  |  |

| Mitigation Measure  | Responsibility for<br>Implementation   | Mitigation Schedule  | Monitoring/<br>Reporting<br>Responsibility  | Monitoring Actions/<br>Schedule and Verification<br>of Compliance  |  |  |  |  |  |
|---|--|--|---|--|--|--|--|--|--|
| EIR Section 4.D Historic Architectural Resources (cont.)  |  |  |   |  |  |  |  |  |  |
| and Th rd Street Industr a D str ct. The content of the Interpret ve d sp ay(s) sha be coord nated and consistent with the site wide Interpret very paint prepared in coordination with planning department preservation staff, and may include the display of sa vaged features recovered through the process described above. The specific location, media, and other characteristics of such interpret very display sha be presented to planning department preservation staff for review prior to any demoit on or removal activities. The historic interpretation plan shall be prepared in coordination with an architectural historian or historian who meets the Secretary of the Interior's Professional Qualification Standards and an exhibit designer or landscape architect with historical interpretation designes experience. As feasible, coordination with ocal artist should occur. Interpret very displays shall document both the Third Street Industrian Distriction did vidually eigher resources to be demoished or rehabitated. The interpretative program should also coordinate with other interpretative displays currently proposed along the Bay, specifically at Pierro, those along the Biulian Greenway, and others in the general vicinity. The interpretative plan should also explore contributing to digital platforms that are publicly accessible. A proposal describing the general parameters of the interpret very program shall be approved by planning department preservation staff prior to subance of a site permit. The substance, media and other elements of such interpretive displayshall be approved by planning department preservation staff prior to subance of a site permit. The substance, media and other elements of such interpretive displayshall be approved by planning department preservation staff prior to subance of a site permit. The substance, media and other elements of such interpretive displayshall be approved by planning department preservation staff prior to subance of a site permit. |  |  |   |  |  |  |  |  |  |
| Mitigation Measure M-CR-5d: Rehabilitation of the Boiler Stack  Pr or to the ssu ng of bu d ng perm ts assoc ated w th mod f cat ons to the exter or of the Bo er Stack, p ann ng department preservat on staff sha rev ew the proposed des gn and conf rm that t conforms to the Secretary of the Inter or's Standards for Rehab tat on and the Des gn for Deve opment standards and gu de nes.  | Project sponsor and<br>qua f ed arch tectura<br>h stor an who meets the<br>Secretary of Interior's<br>Professional<br>Qualification Standards<br>(36 Code of Federa<br>Regu at ons Part 61   | Pr or to the ssuance of<br>a s te perm t, demo t on<br>perm t, or any other<br>perm t from the<br>Department of Bu d ng<br>Inspect on n connect on<br>w th the Bo er Stack                           | P ann ng<br>Department<br>Preservat on<br>Techn ca Spec a st<br>to rev ew and<br>approve des gn   | Cons dered comp ete upon<br>des gn approva from the<br>Preservat on Techn ca<br>Spec a st                                    |  |  |  |  |  |
| Mitigation Measure M-CR-5e: (Dependent on approval of Proposed Project OR Project Variant)  Proposed Project:  Mitigation Measure M-CR-5e: Historic Preservation Plan and Review Process for Alteration of the Boiler Stack  Pr or to the approva of the first building permit for construction of Phase 1, a historic preservation plan establishing protective measures shall be prepared and implemented to a din preserving and protecting the Boiler Stack, which would be retained as part of the project. The historic preservation plan shall be prepared by a qualified architectural historian who meets the Secretary of Interior's Professional Qualification Standards (36 Code of Federal Regulations Part 61). The plan shall establish measures to protect the  | Project sponsor and a<br>qua f ed arch tectura<br>h stor an who meets the<br>Secretary of Interior's<br>Professional<br>Qualification Standards<br>(36 Code of Federa<br>Regu at ons Part 61 | Construct on spec f cat ons to be deve oped pr or to the ssuance of a s te perm t, demo t on perm t, or any other perm t from the Department of Bu d ng Inspect on n connect on w th the Bo er Stack | P ann ng Department Preservat on Techn ca Spec a st to rev ew and approve preservat on and protect on p an, spec f cat ons, mon tor ng schedu e, and other support ng documents | Cons dered comp ete upon acceptance by P ann ng Department of construct on spec f cat ons to avo d damage to the Bo er Stack |  |  |  |  |  |

| Mitigation Measure   | Responsibility for<br>Implementation  | Mitigation Schedule  | Monitoring/<br>Reporting<br>Responsibility  | Monitoring Actions/<br>Schedule and Verification<br>of Compliance  |  |  |  |  |  |
|--|---|--|---|--|--|--|--|--|--|
| EIR Section 4.D Historic Architectural Resources (cont.)   |   |  |   |  |  |  |  |  |  |
| reta ned character def n ng features dur ng construct on of the project, such as avo d ng construct on equ pment nadvertent y com ng n contact w th the Bo er Stack, to m n m ze construct on re ated damage to the Bo er Stack, and to ensure that any such damage s documented and repa red. If deemed necessary upon further cond t on assessment of the resource, the p an sha nc ude stab zat on of the Bo er Stack pr or to construct on to prevent deter orat on or damage. Where p e dr v ng and other construct on act v t es nvo v ng the use of heavy equ pment wou d occur n prox m ty to the Bo er Stack, the project sponsor sha undertake a v brat on mon tor ng program as descr bed n M t gat on Measure M NO 4a, nc ud ng estab sh ng a max mum v brat on eve that sha not be exceeded based on ex st ng cond t ons, character def n ng features, so s cond t ons, and ant c pated construct on pract ces n use at the t me. The project sponsor sha ensure that the contractor fo ows these p ans. The preservat on and protect on p an, spec f cat ons, mon tor ng schedu e, and other support ng documents sha be ncorporated nto the bu d ng or s te perm t app cat on p an sets. The documentat on sha be rev ewed and approved by P ann ng Department Preservat on staff.  |   |  |   |  |  |  |  |  |  |
| Mitigation Measure M-CR-5e (Variant): Historic Preservation Plan and Review Process for Alteration of Station A and the Boiler Stack  Pr or to the approva of the first building permit for construction of Phase 1, a historic preservation plan establishing protective measures shall be prepared and implemented to a din preserving and protecting portions of Station A and the Boiler Stack, which would be retained as part of the project. The historic preservation plan shall be prepared by a qualified architectural historian who meets the Secretary of Interior's Professional Qualification Standards (36 Code of Federal Regulations Part 61). The plan shall establish measures to protect the retained character defining features during construction of the project, such as avoiding construction equipment inadvertently coming in contact with Station A and the Boiler Stack, to minimize construction related damage to Station A and the Boiler Stack, and to ensure that any such damage is documented and repaired. If deemed necessary upon further condition assessment of the resource, the plan shall not destablish and the Boiler Station A and the Bo | Project sponsor and a qua f ed arch tectura h stor an who meets the Secretary of Interior's Professional Qualification Standards (36 Code of Federa Regu at ons Part 61 | Construct on spec f cat ons to be deve oped pr or to the ssuance of a s te perm t, demo t on perm t, or any other perm t from the Department of Bu d ng Inspect on n connect on w th Stat on A and the Bo er Stack | P ann ng Department Preservat on Techn ca Spec a st to rev ew and approve preservat on and protect on p an, spec f cat ons, mon tor ng schedu e, and other support ng documents | Cons dered comp ete upon acceptance by P ann ng Department of construct on spec f cat ons to avo d damage to Stat on A and the Bo er Stack |  |  |  |  |  |

| Mitigation Measure  | Responsibility for<br>Implementation                  | Mitigation Schedule   | Monitoring/<br>Reporting<br>Responsibility   | Monitoring Actions/<br>Schedule and Verification<br>of Compliance                                |  |  |  |  |  |
|---|---|---|--|--|--|--|--|--|--|
| EIR Section 4.D Historic Architectural Resources (cont.)  |   |   |  |  |  |  |  |  |  |
| Mitigation Measure M-CR-6: Design Controls for New Construction  The Spec a Use D str ct (SUD) and Des gn for Deve opment (D for D) sha contain des gn standards and guide nes that ensure that new construction and site deve opment within the SUD sha be compatible with the character of the Third Street Industria D strict. Beyond the site wide standards and guide nes developed for open space, buildings, and streetscapes in the D for D, the D for D sha contain design controls for the Third Street Industria D strict, as out ned below (see site wide design controls below). | Project sponsor and a qua f ed arch tectura h stor an | Rev ew of new<br>construct on p ans pr or<br>to the ssuance of<br>bu d ng perm ts | P ann ng Department and P ann ng Department staff and Preservat on Techn ca Spec a st to rev ew and approve des gn | Cons dered comp ete upon<br>des gn approva from the<br>P ann ng Department<br>Preservat on staff |  |  |  |  |  |
| Add t ona des gn standards sha app y to the western façades of new bu d ngs front ng I no s Street, the southern façades of new bu d ngs front ng 23rd Street, and the eastern and/or southern façades of new bu d ngs front ng the Bo er Stack (see b ock and frontage spec f c des gn contro s be ow and <b>Figure M-CR-6</b> , <b>Site Frontages Subject to Design Controls</b> ). These façades wou d a face contr butors to the Th rd Street Industr a D str ct. The add t ona des gn standards that sha app y spec f ca y to those frontages are nc uded be ow.                         |   |   |  |  |  |  |  |  |  |
| 13  |   |   |  |  |  |  |  |  |  |
| Figure M-CR-6 S te Frontages Subject to Des gn Contro s  These des gn contro s n the D for D sha be compat be with the Secretary of the Inter or Standards for Rehabilitation, Standard 9. Standard 9 states that new work sha be different ated from the oid and sha be compatible with the massing, size, scale, and architectural features to protect the integrity of the historic district and its environment.  |   |   |  |  |  |  |  |  |  |

| Mitigation Measure   | Responsibility for<br>Implementation | Mitigation Schedule | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |  |  |  |  |  |
|--|--------------------------------------|---------------------|--|---|--|--|--|--|--|
| EIR Section 4.D Historic Architectural Resources (cont.)   |                                      |                     |  |   |  |  |  |  |  |
| Review Process   |                                      |                     |  |   |  |  |  |  |  |
| New construct on n the Spec a Use D str ct w be subject to adm n strat ve des gn rev ew pr or to the ssu ng of bu d ng perm ts. P ann ng staff a ong w th Preservat on staff w rev ew new projects to ensure compat b ty w th the Th rd Street Industr a D str ct as determ ned n the above standards and gu de nes and dent f ed n the D for D.   |                                      |                     |  |   |  |  |  |  |  |
| The D for D sha contain the following Third Street Industrial D strict Frontage Design Controls:   |                                      |                     |  |   |  |  |  |  |  |
| <ul> <li>Block and Frontage Specific Design Controls Ground Floor Height for Blocks 11 12 and 13:<br/>For Ground Floor of Blocks 11 and 12 facing 23rd Street Sugar Warehouses and Block 13<br/>facing American Industrial Center all ground floor spaces shall have a minimum floor to floor<br/>height of 15 feet as measured from grade</li> </ul>  |                                      |                     |  |   |  |  |  |  |  |
| <ul> <li>Height + Massing along 23rd and Illinois street frontages In order for 23rd and Illinois streets to appear balanced on either side new construction shall respect existing heights of contributors to the Third Street Industrial District by referencing their heights with an upper level 10 foot setback at approximately 65 feet</li> </ul>   |                                      |                     |  |   |  |  |  |  |  |
| • Awnings on Blocks 10 11 12 and 13 An awning shall be provided on the southern facades of Blocks 10 11 and 12 that face 23rd Street at a height of 15 to 25 feet above sidewalk grade to reference the industrial awning at the westernmost Sugar Refinery Warehouse Awnings at this location may project up to 15 feet into the public realm Should the southern façade of Station A be retained an awning on Block 10 would not be required For Block 13 frontages facing Illinois Street canopies and awnings should only be located at the retail land use at the corner of Illinois and 22nd streets |                                      |                     |  |   |  |  |  |  |  |
| The character, des gn and mater as used for such awn ngs sha be ndustra n character and des gn, suggest ons are the fo ow ng:  |                                      |                     |  |   |  |  |  |  |  |
| <ul> <li>They shou d be f at or p tched, and shou d not be arched. The funct ona support ng<br/>structure and/or t eback rods shou d be c ear y read [.e., rema n apparent to the<br/>observer].</li> </ul>  |                                      |                     |  |   |  |  |  |  |  |
| <ul> <li>Mater a s used for canop es and awn ngs shou d be ut tar an. Suggested mater a s nc ude wood, stand ng seam or ouvered meta pane s, and corrugated meta.</li> </ul>   |                                      |                     |  |   |  |  |  |  |  |
| <ul> <li>Openings along 23<sup>rd</sup> and Illinois street frontages. To the extent a owed by the Department of Pub c Heath, arge doors, such as s d ng or ro up doors that fac tate the movement of peop e, equipment, and goods in and out of the ground floor of new construction on Blocks 10.13 shall be incorporated along 23rd Street and I no s Street.</li> </ul>  |                                      |                     |  |   |  |  |  |  |  |
| <ul> <li>Special Corners on Block 12. To frame the v ew of the con c Bo er Stack, the northeast corner of B ock 12 should include the use of high quality materials, such as brick, concrete, copper, steeling, glass, and wood, and in addition shall include:</li> </ul>   |                                      |                     |  |   |  |  |  |  |  |

| M  | itigation Measure   | Responsibility for<br>Implementation | Mitigation Schedule | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |
|----|---|--------------------------------------|---------------------|--|---|
| EI | IR Section 4.D Historic Architectural Resources (cont.)   |                                      |                     |  | V <sub>2</sub>  |
|    | <ul> <li>Vo umetr c shap ng of the area of a bu d ng w th n 15 feet of the northeastern corner of<br/>B ock 12 w th arch tectura treatments nc ud ng but not m ted to chamfers, round<br/>edges, setbacks, and/or protrus ons to h gh ght v ews or re ate to the shape of the<br/>Bo er Stack from the pub c rea m.</li> </ul>  |                                      |                     |  |   |
| •  | Special Corners Block 9 without Unit 3. To create an open and nvtng entrance to Waterfront Park and Stack P aza from De aware Street and Power Stat on Park, the southwest corner of B ock 9 w thout Un t 3 should use high quality materials, such as brick, concrete, copper, steel, glass, and wood, and in addition shall not ude:  |                                      |                     |  |   |
|    | <ul> <li>Vo umetr c shap ng of any bu d ng n the area w th n 15 feet of the southwest corner of<br/>B ock 9 w th arch tectura treatments nc ud ng but not m ted to chamfers, round edges,<br/>setbacks, and/or protrus ons to h gh ght v ews or re ate to the shape of the Bo er Stack<br/>from the pub c rea m.</li> </ul>   |                                      |                     |  |   |
| •  | Block 9 without Unit 3. For deference to the h stor c Stack, and to create more phys ca space between the Stack and new construct on, the bu d ng of B ock 9 w thout Un t 3 sha be designed such that the overal bulk is reduced by at least 10 percent from the max mum permitted foor area, with a focus along the southern façade of the new bull ding, facing the Stack. A potential distribution of bulk reduction, for example, could result in an 8 percent reduction along the southern façade with a 2 percent reduction elsewhere.              |                                      |                     |  |   |
|    | The bu d ng shou d nteract mean ngfu y w th the Bo er Stack, such as referenc ng the ex st ng re at onsh p between t and Un t 3 (.e., the s mp e, con c form of the Bo er Stack n contrast to the h gh y comp ex, deta ed form of the Un t 3 Power B ock). Reta n the ex st ng exhaust nfrastructure connect ng the Un t 3 Power B ock w th the Bo er Stack and ncorporat ng t nto the new structure as feas b e. Cons der preserv ng other e ements of the Un t 3 Power B ock, such as port ons of the stee gr dded frame structure, n new construct on. |                                      |                     |  |   |
| •  | Architectural Features on Blocks 10 11 12 and 13. Regu ar y spaced structura bays should be expressed on the exterior of the lower massing through the use of rectangular columns or plasters, which reference the rhythm of loading docks on the Western Sugar Refinery Warehouses and American Industrial Center. Bay widths shall be no larger than 30 feet on center.   |                                      |                     |  |   |
|    | Arch tectura features such as corn ce nes, be t courses, arch tectura tr m, or change n mater a ty or co or should be not not not the building design to reference heights and massing of the Western Sugar Refinery Warehouses on 23rd Street and American Industria Center on I nois Street at areas of the façade that are not required to be set back.  |                                      |                     |  |   |
| •  | Third Street District Fenestration. Operable windows shall be single or double hung wood sash, or awning, pivot, or other industrial style stee or aluminum fenestration. Casement windows shall be avoided at lower building massing. Divided it ewindows are appropriate.   |                                      |                     |  |   |
|    | Ground eve g az $ng$ sha $ncorporate$ transom $w$ $ndows$ $f$ $not$ $ut$ $z$ $ng$ $ro$ $up$ or $fu$ $he$ $ght$ $s$ $d$ $ng$ doors.  |                                      |                     |  |   |

| M | itigation Measure   | Responsibility for<br>Implementation | Mitigation Schedule | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |  |  |  |  |  |
|---|---|--------------------------------------|---------------------|--|---|--|--|--|--|--|
| E | EIR Section 4.D Historic Architectural Resources (cont.)  |                                      |                     |  |   |  |  |  |  |  |
|   | Upper eve g az ng sha cons st of regu ar repeated punched open ngs wth d v ded tes. Punched open ngs sha be rectangu ar n proport on; an except on s the use of segmenta y arched open ngs f the bu d ng mater a s br ck.   |                                      |                     |  |   |  |  |  |  |  |
| • | Third Street District Building Rooftops. Rooftops sha refect the h stor c industrial character of the district and include flat, monitor, or shallow shed roofs. Gable or hipped roofs shall be avoided as primary features.  |                                      |                     |  |   |  |  |  |  |  |
| T | he D for D shall contain the following Site Wide Design Controls:   |                                      |                     |  |   |  |  |  |  |  |
| • | Recommended Materials Recommended mater a s should be incorporated into building design. Recommended mater a sinclude brick, concrete, copper, steeling, glass, smooth stuccoland wood. Avoid using veneer masonry panels except as described in the Depth of Façade, below. Avoid using smooth, flat, or min maily detailed glass curtain wais; highly reflective glass; coarse sand finished stuccolas a primary sid ng materia; bamboo wood sid ng as a primary sid ng materia; am nated timber panels; or back and dark materias should not be used as a predominate materia. Where meta is used, selection should favor metais with naturally occurring patina such as copper, steeling roots. Wetais should be mattein finish. Where shiny materials are used, they should be accent elements rather than dominant materials, and are generally not encouraged. |                                      |                     |  |   |  |  |  |  |  |
| • | Depth of Façade The façade should be designed to create a sense of durability and substantial ty, and to avoid a thin or veneer like appearance. Full brick or masonry is a preferred material. If thin brick or masonry or pane systems are used, these materials should read as having a volumetricle by that is appropriate to their thickness. For example, masonry should turn the corner at a depth that is consistent with the typical depth of a brick.   |                                      |                     |  |   |  |  |  |  |  |
|   | W ndows and other open ngs are an opportun ty to re nforce the vo umetr c eg b ty of the façade, w th an appropr ate depth that re ates to the mater a se ected. For examp e, the depth of the bu d ng frame to the g az ng shou d be suff c ent y deep to convey a substant a exter or wa, and mater a s shou d turn the corner into a window revea.   |                                      |                     |  |   |  |  |  |  |  |
| • | Quality and Durability Exter or f n shes should have the qualities of permanence and durability found n s m ar contextual building materials used on neighboring sites and nother Central Waterfront. Materials should be low maintenance, we suited to the specific maritime microcimate of the neighborhood, and able to naturally weather over time without extensive maintenance and upkeep. Materials characteristic of the surrounding context, such as brick, concrete, stone, wood, and glass, and, are envisioned on site and are good candidates to meet durability through the surrounding context.  |                                      |                     |  |   |  |  |  |  |  |
| T | he D for D shall contain the following Street and Open Spaces Design Controls:  |                                      |                     |  |   |  |  |  |  |  |
| • | Stack Plaza. No more than one third of the area within 45 feet of the Boller Stack shall be planted. Paving and hardscape elements shall incorporate industrial elements and materials into the design. Design elements should use simple geometric forms, regular or repeating paving patterns and ut it arian materials such as simple masonry pavers or salvaged masonry units if feasible and safe for public use.  |                                      |                     |  |   |  |  |  |  |  |

| Mitigation Measure   | Responsibility for<br>Implementation | Mitigation Schedule | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |  |  |  |  |  |
|--|--------------------------------------|---------------------|--|---|--|--|--|--|--|
| EIR Section 4.D Historic Architectural Resources (cont.)   |                                      |                     |  |   |  |  |  |  |  |
| Stack P aza des gn e ements, such as p anters and nat ve p ant ng, shou d be kept ow to the ground to comp ement and not d stract from the Bo er Stack. Surfaces shou d not be des gned w th e aborate y app ed patterns. Any pattern ng shou d be the pragmat c resu t of the use of un t pavers or concrete score jo nts.  |                                      |                     |  |   |  |  |  |  |  |
| <ul> <li>23rd Street Streetscape. The streetscape des gn of 23rd Street shou d ba ance the h stor c ut tar an character of the Th rd Street Industr a D str ct w th we com ng des gn gestures for th s mportant entrance to the Potrero Power Stat on deve opment. To that end, the fo ow ng gu de nes sha be fo owed:</li> </ul>  |                                      |                     |  |   |  |  |  |  |  |
| <ul> <li>Landscape e ements should fee add tive to the industrial streetscape. Examples not ude potted or otherwise designed raised beds of plants and trees that are placed onto paved surfaces; small tree we siw thin paved surfaces; green wais; and raised or owered beds edged with industrial materials such as brick, low grante curbs, or stee.</li> </ul>  |                                      |                     |  |   |  |  |  |  |  |
| <ul> <li>Tree p ant ng ocat ons shou d be rregu ar y spaced or p aced n sma group ngs a ong the street, n contrast w th standard Better Street P an requirements, n order to provide better compat bity with the historic district.</li> </ul>   |                                      |                     |  |   |  |  |  |  |  |
| <ul> <li>A tree and vegetat on pa ette shou d be used that does not detract from the industrial character. Green wais, planter boxes, and vegetat on should be considered rather than trees for storm water management.</li> </ul>   |                                      |                     |  |   |  |  |  |  |  |
| <ul> <li>Pub c art nsta at ons, such as mura s, are encouraged.</li> </ul>   |                                      |                     |  |   |  |  |  |  |  |
| <ul> <li>Transit Bus Shelter The bus she ter should be ut tar an nimater alty and design to reflect the industrial nature of the nearby Western Sugar Reflery Warehouse buildings. The bus she ter shall be coordinated with the building design on Block 12.</li> </ul>   |                                      |                     |  |   |  |  |  |  |  |
| 23rd Street and Illinois Paving. S dewa k pav ng at 23rd Street and I no s Street shou d be more ndustra n character compared to s dewa k pav ng at other port ons of the s te. Cons der vary ng s dewa k concrete score jo nt patterns or pavers from b ock to b ock. Des gn must be rev ewed and approved by San Franc sco Pub c Works and San Franc sco Mun c pa Transportat on Agency as part of the Street Improvement P ans.   |                                      |                     |  |   |  |  |  |  |  |
| 23rd Street Transit Island Paving. Pavement at the trans t board ng s and shou d ncorporate concrete or stone pavers or enhanced cast n p ace concrete with smaller scale joint patterns for a more refined appearance. Integral color and decorative aggregates may be selected for aesthetic quality and shall meet access be design requirements for significant particles. Design must be reviewed and approved by San Francisco Public Works and San Francisco Municipal Transportation Agency as part of the Street Improvement Plans. |                                      |                     |  |   |  |  |  |  |  |
| <ul> <li>Signage. Tenant s gnage fac ng contr but ng bu d ngs to the Th rd Street Industr a D str ct<br/>shou d be ut tar an n des gn and mater a ty to refect the adjacent h stor c resources and<br/>strengthen the 23rd Street streetscape. Back t s gnage shou d be avo ded.</li> </ul>  |                                      |                     |  |   |  |  |  |  |  |

| Mitigation Measure  |   |  | Responsibility for<br>Implementation  | Mitigation Schedule  | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance  |
|---|---|--|---|--|--|--|
| EIR Section 4.E Transportation and Circ   | culation  |  |   |  |  |  |
| Mitigation Measure M-TR-5: (Dependent Proposed Project:  Mitigation Measure M-TR-5: Implem Performance Standard. The project stransportation demand management (generated vehicle it psice during the pine est mated values of each of the phase shown in the table below. The number performance standard shalp beinclude Project Development Phase  Phase 1  Phase 2  Phase 3  Phase 4  Phase 5  Phase 6  Monitoring and Reporting. Within or occupancy, the project sponsor shalm by the SFMTA to beg in monitoring dating the project steep in monitoring and reporting plan, which shall have been dead to ect on shalm cude the project steep in memorial the three weekdays. The data for the three be averaged, and surveys shalp be convicted the strength of the annual vehicle of confident annual TDM monitoring report as required to consult the project in the strength of the annual vehicle of the annual vehicle of the annual TDM monitoring report as required the very commental Review Officer in consulting the project is required. | tent Measures to Red sponsor sha be responsor sha be submitted with nithe same counts of the sha be submitted in 30 days of the data corred by the TDM P an (for the sponsor sha be submitted in 30 days of the data corred by the TDM P an (for the sponsor sha be submitted in 30 days of the data corred by the TDM P an (for the sponsor sha be submitted in 30 days of the data corred by the TDM P an (for the sponsor sha be submitted in 30 days of the data corred by the TDM P an (for the sponsor sha be submitted in the same bunts sha | uce Transit Delay  Inside the number of project form of 89 percent of the EIR ent (performance standard), as use to meet the above stated of P an.  Ik Hour Vehicle Trips  Running Total  380  780  1,050  1,690  1,990  2,260  The project's first cert ficate of contation consultant approved of (4 p.m. to 7 p.m.) vehicle in given be a project of the approved TDM P an. of vehicle approved TDM P an. | Project sponsor, a qua f ed transportat on consu tant approved by the SFMTA | W th n one year of ssuance of the project's frst cert f cate of occupancy: the frst mon tor ng of da y and p.m. peak per od (4 p.m. to 7 p.m.) veh c e tr ps n accordance w th an SFMTA and San Franc sco P ann ng Department agreed upon mon tor ng and report ng p an.  Ongo ng: A document w th the resu ts of the annua veh c e counts sha be subm tted to the Env ronmenta Rev ew Off cer and the SFMTA for rev ew w th n 30 days of the data co ect on, or w th the project's annua TDM mon tor ng report as requ red by the TDM P an (f the atter s preferab e to ERO n consu tat on w th the SFMTA). | P ann ng Department<br>staff and SFMTA     | Cons dered comp ete where ght consecut ve reporting per ods show that the fully built project has met the performance standard, or until expiration of the project's development agreement, whichever sie earlier. |

| Mitigation Measure  | Responsibility for<br>Implementation | Mitigation Schedule | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |  |  |  |  |  |
|---|--------------------------------------|---------------------|--|---|--|--|--|--|--|
| EIR Section 4.E Transportation and Circulation (cont.)  |                                      |                     |  |   |  |  |  |  |  |
| The project sponsor sha beg n submitting monitoring reports to the Planning Department 18 months following 75 percent occupancy of the first phase. Thereafter, annual monitoring reports shall be submitted (referred to as "reporting periods") until eight consecutive reporting periods show that the fully built project has met the performance standard, or until expiration of the project's development agreement, whichever is earlier.   |                                      |                     |  |   |  |  |  |  |  |
| If the C ty f nds that the project exceeds the stated performance standard for any deve opment phase, the project sponsor shall select and implement additional TDM measures in order to reduce the number of project generated vehicle trips to meet the performance standard for that development phase. These measures could include expansion of measures a ready included in the project's proposed TDM P an (e.g., providing additional project shuttle routes to a ternative destinations, increases in tailored transportation marketing services, etc.), other measures dentified in the City's TDM Program Standards Appendix A (as such appendix may be amended by the Planning Department from time to time) that have not yet been included in the project's approved TDM Plan, or, at the project sponsor's discretion, other measures not included in the City's TDM Program Standards Appendix A that the City and the project sponsor agree are likely to reduce peak period driving trips.  |                                      |                     |  |   |  |  |  |  |  |
| For any deve opment phase where add t ona TDM measures are required, the project sponsor shall have 30 months to demonstrate a reduction in vehicle the performance standard. If the performance standard is not met within 30 months, the project sponsor shall submit to the Environmenta Review Officer and the SFMTA a memorandum documenting proposed methods of enhancing the effectiveness of the TDM measures and/or add tional feasible TDM measures that would be implemented by the project sponsor, along with annual monitoring of the project generated vehicle to eithor to right memoranders of the project generated vehicle the reflectiveness in meeting the performance standard. The comprehensive monitoring and reporting program shall be terminated upon the earlier of () expiration of the project's development agreement, or () eight consecutive reporting periods showing that the fully built project has met the performance standard. However, compliance reporting for the City's TDM Program shall continue to be required. |                                      |                     |  |   |  |  |  |  |  |
| If the add t ona TDM measures do not ach eve the performance standard, then the C ty sha mpose add t ona measures to reduce veh c e tr ps as prescr bed under the deve opment agreement, which may no ude on site or off site capital improvements intended to reduce vehicle trips from the project. Capital measures may no ude, but are not imited to, peak period or all day transition yields, along 22nd Street), turn pockets, bus builds, queue jumps, turn restrictions, preipad boarding pass machines, and/or boarding is ands, or other measures that support sustainable trip making.  |                                      |                     |  |   |  |  |  |  |  |
| The mon tor ng and report ng p an descr bed above may be mod f ed by the Env ronmenta Rev ew Off cer n coord nat on w th the SFMTA to account for trans t route or transportat on network changes, or major changes to the deve opment program. The mod f cat on of the mon tor ng and report ng p an, however, sha not change the performance standard set forth n th s m t gat on measure.  |                                      |                     |  |   |  |  |  |  |  |

| itigation Measure  |   |  |  |   | Responsibility for<br>Implementation  | Mitigation Schedule   | Monitoring/<br>Reporting<br>Responsibility   | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |  |
|--|---|--|--|---|---|---|--|---|--|
| R Section 4.E Trans  | sportation and Cir  | rculation (cont.   | )  |   |   |   |  |   |  |
| Performance Standard. The project sponsor sha be respons be for mp ement ng transportat on demand management (TDM) measures to mt the number of project generated veh ce trips during the p.m. peak hour to a max mum of 89 percent of the EIR est mated values of each of the phases of project development (performance standard), as shown in the table below. The number of vehicle trips by phase to meet the above stated performance standard shall be included in the approved TDM P an. |   |  |  | Project sponsor, a<br>qua f ed transportat on<br>consu tant approved by<br>the SFMTA  | W th n one year of ssuance of the project's frst cert f cate of occupancy: the frst mon tor ng of da y and p.m. peak per od (4 p.m. to 7 p.m.) veh c e tr ps n accordance w th an SFMTA and San | P ann ng Department<br>staff and SFMTA  | Cons dered comp ete whe<br>e ght consecut ve report n<br>per ods show that the fu y<br>bu t project has met the<br>performance standard, or<br>unt exp rat on of the<br>project's deve opment<br>agreement, wh chever s<br>ear er. |   |  |
|  | Maximum P.M. Peak Hour Vehicle Trips  |  |  |   |   | Franc sco P ann ng<br>Department agreed   |  |   |  |
| Project  | Project   | Variant  | No PG&E Sub  | area Scenario   | upon mon tor ng and report ng p an.   |   | upon mon tor ng and report ng p an.  |   |  |
| Development<br>Phase   | Phase Total   | Running<br>Total   | Phase Total  | Running<br>Total  |   | Ongo ng: A document with the results of the annual vehicle counts   |  |   |  |
| Phase 1  | 370   | 370  | 370  | 370   |   | sha be submitted to the   |  |   |  |
| Phase 2  | 440   | 810  | 440  | 810   |   | Env ronmenta Rev ew Off cer and the SFMTA for rev ew w th n 30 days of the data co ect on, or w th the project's annua TDM mon tor ng report as requ red by the TDM |  |   |  |
| Phase 3  | 250   | 1,060  | 250  | 1,060   |   |   |  |   |  |
| Phase 4  | 630   | 1,690  | 670  | 1,730   |   |   | w th the project's annua<br>TDM mon tor ng report<br>as required by the TDM  | th the project's annua  |  |
| Phase 5  | 240   | 1,930  | 240  | 1,970   |   |   |  |   |  |
| Phase 6  | 280   | 2,210  | NA   | NA  |   | P an (f the atter s<br>preferable to ERO n  |  |   |  |
| mon tor ng and report<br>The vehicle data co   | oject sponsor sha<br>begin mon toring da<br>be with an SFMTA a<br>orting plan, which so<br>bect on shall not ud<br>internal streets at the<br>ne data for the three<br>surveys shall be cor<br>he annual vehicle of<br>MTA for review with<br>oring report as requi | retain a quaifer y and p.m. peand San Francischa be nouded le counts of the residual terms of the residual terms of the red by the TDM red by the TDM red by the TDM | d transportation con<br>ak per od (4 p.m. to<br>co P ann ng Depart<br>as a part of the app<br>number of veh c es<br>s on 22nd, I no s,<br>seday, Wednesday<br>e same month ann<br>ubm tted to the Envi | nsu tant approved o 7 p.m.) veh c e treent agreed upon proved TDM P an. enter ng and ext ng and 23rd streets for or Thursday) sha ua y. A document ronmenta Rev ew with the project's |   | consu tat on w th the SFMTA).   |  |   |  |

| Mitigation Measure  | Responsibility for<br>Implementation | Mitigation Schedule | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |
|---|--------------------------------------|---------------------|--|---|
| EIR Section 4.E Transportation and Circulation (cont.)  |                                      |                     |  | - <b>t</b> s  |
| The project sponsor sha begin submitting monitoring reports to the Planning Department 18 months following 75 percent occupancy of the first phase. Thereafter, annual monitoring reports shall be submitted (referred to as "reporting periods") until eight consecutive reporting periods show that the fully built project has met the performance standard, or until expiration of the project's development agreement, whichever is earlier.   |                                      |                     |  |   |
| If the C ty f nds that the project exceeds the stated performance standard for any deve opment phase, the project sponsor shall select and implement add tonal TDM measures in order to reduce the number of project generated vehicle trips to meet the performance standard for that development phase. These measures could include expansion of measures a ready included in the project's proposed TDM P an (e.g., providing add tonal project shuttle routes to a ternative destinations, increases in tailored transportation marketing services, etc.), other measures dentified in the City's TDM Program Standards Appendix A (as such appendix may be amended by the P anning Department from time to time) that have not yet been included in the project's approved TDM P an, or, at the project sponsor's discretion, other measures not included in the City's TDM Program Standards Appendix A that the City and the project sponsor agree are likely to reduce peak period diving trips.             |                                      |                     |  |   |
| For any deve opment phase where add t ona TDM measures are required, the project sponsor shall have 30 months to demonstrate a reduction in vehicle the performance standard. If the performance standard is not met within 30 months, the project sponsor shall submit to the Environmenta Review Officer and the SFMTA a memorandum documenting proposed methods of enhancing the effect veness of the TDM measures and/or add tional feasible TDM measures that would be implemented by the project sponsor, along with annual monitoring of the project generated vehicle trips to demonstrate their effect veness in meeting the performance standard. The comprehensive monitoring and reporting program shall be terminated upon the earlier of () expiration of the project's development agreement, or () eight consecutive reporting periods showing that the fully built project has met the performance standard. However, compliance reporting for the City's TDM Program shall continue to be required. |                                      |                     |  |   |
| If the add t ona TDM measures do not ach eve the performance standard, then the C ty sha mpose add t ona measures to reduce veh c e tr ps as prescr bed under the deve opment agreement, which may no ude on site or off site capital improvements intended to reduce vehicle trips from the project. Capital measures may no ude, but are not imited to, peak period or all day transition y lanes (e.g., along 22nd Street), turn pockets, bus builds, queue jumps, turn restrictions, preipad boarding pass machines, and/or boarding is ands, or other measures that support sustainable trip making.   |                                      |                     |  |   |
| The mon tor ng and report ng p an descr bed above may be mod f ed by the Env ronmenta Rev ew Off cer n coord nat on w th the SFMTA to account for trans t route or transportat on network changes, or major changes to the deve opment program. The mod f cat on of the mon tor ng and report ng p an, however, sha not change the performance standard set forth n th s m t gat on measure.  |                                      |                     |  |   |

| Mitigation Measure  | Responsibility for<br>Implementation | Mitigation Schedule                            | Monitoring/<br>Reporting<br>Responsibility                 | Monitoring Actions/<br>Schedule and Verification<br>of Compliance   |  |
|---|--------------------------------------|--|--|---|--|
| EIR Section 4.E Transportation and Circulation (cont.)  |                                      | <u>,                                      </u> |  | l.  |  |
| Mitigation Measure M-TR-7: Improve Pedestrian Facilities at the Intersection of Illinois Street/22nd Street   | Project sponsor and SFMTA            | Ongo ng dur ng project construct on            | ERO or other<br>P ann ng Department                        | Cons dered comp ete when ntersect on                                |  |
| In the event that the P er 70 M xed Use D str ct project does not mp ement mprovements at the ntersect on of I no s Street/22nd Street, as part of the proposed project's s dewa k mprovements on the east s de of I no s Street between 22nd and 23rd streets, the project sponsor sha work w th SFMTA to mp ement the fo owng mprovements:  |                                      |  | staff a ong w th<br>SFMTA                                  | mprovement s comp ete   |  |
| <ul> <li>Insta a traff c s gna, nc ud ng pedestr an countdown s gna heads at the ntersect on of<br/>I no s Street/22nd Street.</li> </ul>   |                                      |  |  |   |  |
| <ul> <li>Str pe marked crosswa ks in the continental design.</li> </ul>   |                                      |  |  |   |  |
| <ul> <li>Construct/reconstruct ADA comp ant curb ramps at the four corners, as necessary.</li> </ul>  |                                      |  |  |   |  |
| In the event that the P er 70 M xed Use D str ct project does not mp ement these mprovements, the project sponsor sha be respons be for costs assoc ated with design and implementation of these mprovements. The SFMTA sha determine whether the SFMTA or the project sponsor would implement these improvements.  |                                      |  |  |   |  |
| EIR Section 4.F Noise and Vibration   |                                      |  |  |   |  |
| Mitigation Measure M-NO-1: Construction Noise Control Measures  | Project sponsor and                  |  | Bu d ng Inspect on<br>(as requested<br>and/or on comp a nt | Cons dered comp ete at<br>the comp et on of project<br>construct on |  |
| The project sponsor sha mp ement construct on no se contro s as necessary to ensure comp ance with the No se Ordinance imits and to reduce construction no seleve s at sensitive receptor locations to the degree feasible. No se reduction strategies that could be implemented not ude, but are not imited to, the following:   | construct on contractor              |  |  |   |  |
| <ul> <li>Require the general contractor to ensure that equipment and trucks used for project construction ut it ze the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoust cally attenuating shields or shrouds).</li> </ul>  |                                      |  |  |   |  |
| <ul> <li>Require the general contractor to locate stationary noise sources (such as the rock/concrete crusher, or compressors) as far from adjacent or nearby sensitive receptors as possible, to muffle such noise sources, and/or to construct barriers around such sources and/or the construction is te, which could reduce construction noise by as much as 5 dBA. To further reduce noise, the contractor shall ocate stationary equipment in pit areas or excavated areas, to the maximum extent practicable.</li> </ul> |                                      |  |  |   |  |
| • Require the general contractor to use impact too s (e.g., jack hammers, pavement breakers, and rock dr s) that are hydrau cally or electrically powered wherever possible to avoid no se associated with compressed air exhaust from pneumatically powered tools. Where use of pneumatic tools is unavoidable, an exhaust muffier on the compressed air exhaust shall be used, along with external noise jackets on the tools, which would reduce noise evels by as much as 10 dBA.   |                                      |  |  |   |  |

| Mitigation Measure   | Responsibility for<br>Implementation | Mitigation Schedule | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |
|--|--------------------------------------|---------------------|--|---|
| EIR Section 4.F Noise and Vibration (cont.)  |                                      | <u> </u>            | 4  | - to  |
| Inc ude no se contro requ rements for construct on equ pment and too s, nc ud ng spec f ca y concrete saws, n spec f cat ons prov ded to construct on contractors. Such requ rements cou d nc ude, but are not m ted to, erect ng temporary p ywood no se barr ers around a construct on s te, part cu ar y where a s te adjo ns no se sens t ve uses; ut z ng no se contro b ankets on a bu d ng structure as the bu d ng s erected to reduce no se eve s emanat ng from the construct on s te; perform ng a work n a manner that m n m zes no se; us ng equ pment w th effect ve muff ers; undertak ng the most no sy act v t es dur ng t mes of east d sturbance to surround ng res dents and occupants; and se ect ng hau routes that avo d res dent a uses.   |                                      |                     |  |   |
| • Pr or to the ssuance of each bu d ng perm t, a ong w th the subm ss on of construct on documents, subm t to the P ann ng Department and Department of Bu d ng Inspect on or the Port, as appropr ate, a p an to track and respond to comp a nts perta n ng to construct on no se. The p an sha nc ude the fo ow ng measures: (1) a procedure and phone numbers for not fy ng the San Franc sco Department of Bu d ng Inspect on or the Port, the Department of Pub c Hea th, and the Po ce Department (dur ng regu ar construct on hours and off hours); (2) a s gn posted ons te descr b ng perm tted construct on days and hours, no se comp a nt procedures, and a comp a nt hot ne number that sha be answered at a t mes dur ng construct on; (3) des gnat on of an ons te construct on comp ance and enforcement manager for the project; and (4) not f cat on of ne ghbor ng res dents and non res dent a bu d ng managers w th n 300 feet of the project construct on area at east 30 days n advance of extreme no se generat ng act v t es (such as p e dr v ng and b ast ng) about the est mated durat on of the act v ty. |                                      |                     |  |   |
| <ul> <li>Wherever p e dr v ng or contro ed rock fragmentat on/rock dr ng s proposed to occur, the construct on no se contro s sha nc ude as many of the fo ow ng contro strateg es as feas b e:</li> </ul>   |                                      |                     |  |   |
| <ul> <li>Imp ement "qu et" p e dr v ng techno ogy such as pre dr ng p es where feas b e to<br/>reduce construct on re ated no se and v brat on.</li> </ul>   |                                      |                     |  |   |
| <ul> <li>Use p e dr v ng equ pment w th state of the art no se sh e d ng and muff ng dev ces.</li> </ul>   |                                      |                     |  |   |
| <ul> <li>Use pre dr ed or son c or v bratory dr vers, rather than mpact dr vers, wherever<br/>feas b e (nc ud ng s pways) and where v brat on nduced quefact on wou d not occur.</li> </ul>  |                                      |                     |  |   |
| <ul> <li>Schedu e p e dr v ng act v ty for t mes of the day that m n m ze d sturbance to res dents<br/>as we as commerc a uses ocated ons te and nearby.</li> </ul>  |                                      |                     |  |   |
| <ul> <li>Erect temporary p ywood or s m ar so d no se barr ers a ong the boundar es of each<br/>project b ock as necessary to shed affected sens t ve receptors.</li> </ul>  |                                      |                     |  |   |
| <ul> <li>Imp ement other equ va ent techno og es that emerge over t me.</li> </ul>   |                                      |                     |  |   |
| <ul> <li>If contro ed rock fragmentat on (nc ud ng rock dr s) were to occur at the same t me as p e dr v ng act v t es n the same area and n prox m ty to no se sens t ve receptors, p e dr vers shou d be set back at east 100 feet wh e rock dr s shou d be set back at east 50 feet (or v ce versa) from any g ven sens t ve receptor.</li> </ul>   |                                      |                     |  |   |

| Mitigation Measure   | Responsibility for<br>Implementation                                  | Mitigation Schedule  | Monitoring/<br>Reporting<br>Responsibility  | Monitoring Actions/<br>Schedule and Verification<br>of Compliance  |
|--|---|--|---|--|
| EIR Section 4.F Noise and Vibration (cont.)  |   |  |   |  |
| <ul> <li>If b ast ng s done as part of contro ed rock fragmentat on, use of b ast ng mats and<br/>reduc ng b ast s ze sha be mp emented to the extent feas b e n order to m n m ze<br/>no se mpacts on nearby sens t ve receptors.</li> </ul>  |   |  |   |  |
| Mitigation Measure M-NO-4a: Construction Vibration Monitoring  The project sponsor sha undertake a mon tor ng program to ensure that construct on re ated v brat on does not exceed 0.5 n/sec PPV at the Bo er Stack, the Amer can Industr a Center South bu dng, and the Western Sugar Warehouses as required pursuant to Mitigation Measures M NO 4b (V bration Contro Measures During Contro ed B asting and P e Driving), M NO 4c (V bration Contro Measures During Use of V bratory Equipment), and M CR 5e (H storic Preservation P an and Review Process for A teration of the Boiler Stack). The monotoring program sha include the following components:  • Provide to any controled biasting, pied riving, or use of v bratory construction equipment (v bration inducing construction), the project sponsor shall engage a historic architection qualified historic preservation profess on a and a qualified acoustical v bration consultant or structural engineer to undertake a pre construction survey of the Boiler Stack, the American Industria Center South building, and the Western Sugar Warehouses to document and photograph the building riving review of the structural engineer or other qualified entity shall establish a maximum viving that shall not be exceeded based on existing conditions, character defining features, so is conditional and anticipated construction practices in use at the time. The qualified consultant shall conducing construction practices in use at the time. The qualified consultant shallowed process for A teration of the Boiler Stack.  • Provide the start of any vibration inducing construction, the qualified acoustic of vibration inducing construction. The qualified process for A teration of the Boiler Stack.  • Provide the start of any vibration inducing construction, the qualified acoust calified to such vibration inducing construction. The qualified process for A teration of the Boiler Stack.  • Provide the start of any vibration inducing construction, the qualified acoust calified process for A teration of the Boiler s | Project sponsor,<br>structura eng neer, and<br>preservat on arch tect | Pre Construct on Assessment and V brat on Management and Mon tor ng P an to be comp eted pr or to ssuance of s te perm t, demo t on perm t, or any other construct on perm t from the Department of Bu d ng Inspect on n connect on w th the Bo er Stack, the Amer can Industr a Center South bu d ng, and the Western Sugar Warehouses.  Mon tor ng to occur dur ng the per od of major structura project construct on act v ty, nc ud ng demo t on and excavat on. If mon tor ng detects v brat on eve s n excess of the standard, sponsor to not fy the P ann ng Department w th n 5 work ng days.  Mon tor ng reports to be subm tted at a frequency estab shed n the mon tor ng p an. | P ann ng Department Preservat on Techn ca Spec a st sha rev ew and approve the V brat on Management and Mon tor ng P an and per od c mon tor ng reports | Cons dered comp ete upon subm tta to P ann ng Department of report on the V brat on Management and Mon tor ng P an and effects, f any, on adjacent h stor ca resources, after a major structura project construct on act v ty, nc ud ng demo t on and excavat on |

| Mitigation Measure   | Responsibility for<br>Implementation         | Mitigation Schedule                             | Monitoring/<br>Reporting<br>Responsibility                  | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |
|--|--|---|---|---|
| EIR Section 4.F Noise and Vibration (cont.)  |  |   |   |   |
| construct on techn ques put in practice, to the extent feas bie. For example, smaller, ighter equipment might be able to be used or preidir ied pies could be substituted for driven pies, if so conditions a low.   |  |   |   |   |
| Mitigation Measure M-NO-4b: Vibration Control Measures During Controlled Blasting and Pile Driving   | Project sponsor and construct on contractor  | Dur ng p e dr v ng and re ated construct on     | P ann ng<br>Department,                                     | Cons dered comp ete at the comp et on of project                  |
| V brat on controls shalp be specified to ensure that the vibration imit of 0.5 in/sec PPV can be met at a linear by structures when a potential construction related vibration sources (onsite and offsite) are considered. These controls could include smaller charges zes if controlled basting slused, preidring pie holes, using the puise plasma fragmentation technique, or using smaler vibratory equipment. This vibration imit shalp be coordinated with vibration imits required under Mitigation Measure Mibility. Fish and Marine Mamma Protection during Pie Driving, to ensure that the lowest of the specified vibration imits slutimately implemented.  | act v t es                                   | Department of<br>Bu d ng Inspect on             | construct on  |   |
| Mitigation Measure M-NO-4c: Vibration Control Measures During Use of Vibratory Equipment   | Project sponsor, geotechn ca eng neer,       | P an subm tted to ERO pr or to use of v bratory | ERO, P ann ng<br>Department, and                            | Cons dered comp ete at the comp et on of project                  |
| In areas with a "very high" or "high" suscept bity for vibration induced induced quefact on or different a settlement risks, as part of subsequent site specific geotechnical investigations, the project's geotechnical engineer shall specify an appropriate vibration imit based on proposed construction activities and proximity to inquefaction suscept bity zones. At a minimum, the vibration imit shall not exceed 0.5 in/sec PPV, unless the geotechnical engineer demonstrates, to the satisfaction of the Environmental Review Officer (ERO), that a higher vibration imit would not result in building damage. The geotechnical engineer shall specify construction practices (such as using smaller equipment or preidring pieholes) required to ensure that construction related vibration does not cause quefaction hazards at nearby structures. The project sponsor shall ensure that a construction contractors comply with these specified construction practices. This vibration imit shall be coordinated with vibration imits required under Mitigation Measure Mitigation imits suit mately implemented. | and construct on contractor                  | equ pment                                       | Department of<br>Bu d ng Inspect on                         | construct on  |
| Mitigation Measure M-NO-5: Stationary Equipment Noise Controls   | Project sponsor and                          | Pr or to approva of a                           | ERO, P ann ng   | Cons dered comp ete at  |
| For a stat onary equipment on the project site, no se attenuation measures shall be incorporated into the design of fixed stat onary no se sources to ensure that the no seleve simeet section 2909 of the San Francisco Police Code. A qualified acoustical engineer or consultant shall verify the ambient no seleve based on no selemon toring and shall design the stat onary equipment to ensure that the following requirements of the noise ordinance are met:  | qua f ed acoust ca<br>eng neer or consu tant | bu d ng perm t                                  | ng perm t  Department, and Department of Bu d ng Inspect on | the comp et on of project<br>construct on                         |
| <ul> <li>F xed stat onary equ pment sha not exceed 5 dBA above the amb ent no se eve at the property p ane at the c osest res dent a uses (B ocks 1, 5 8, 13 and poss b y B ocks 4, 9, 12, and 14, depend ng on the use u t mate y deve oped) and 8 dBA on b ocks where commerc a / ndustr a uses are deve oped (B ocks 2, 3, 10, 11, and poss b y B ocks 4, 12, and 14, depend ng on the use u t mate y deve oped);</li> </ul>  |  |   |   |   |

| Mitigation Measure  | Responsibility for<br>Implementation   | Mitigation Schedule  | Monitoring/<br>Reporting<br>Responsibility           | Monitoring Actions/<br>Schedule and Verification<br>of Compliance    |
|---|--|--|--|--|
| EIR Section 4.F Noise and Vibration (cont.)   |  |  |  |  |
| Stat onary equipment shall be designed to ensure that the interior noise levels at adjacent or nearby sensitive receptors (residently, hotely, and childcare receptors) do not exceed 45 dBA.   |  |  |  |  |
| No se attenuat on measures could include installation of critical grade's encers, sound traps on rad ator exhaust, provision of sound enclosures/barriers, addition of roof parapets to block noise, increasing setback distances from sensitive receptors, provision of intake ouvers or ouvered ventiopenings, location of ventiopenings away from adjacent residential uses, and restriction of generator testing to the daytime hours.  |  |  |  |  |
| The project sponsor sha demonstrate to the sat sfact on of the Env ronmenta Rev ew Off cer (ERO) that no se attenuat on measures have been ncorporated nto the design of a fixed stat onary no se sources to meet these im ts prior to approva of a building permit.  |  |  |  |  |
| Mitigation Measure M-NO-8: (Dependent on approval of Proposed Project OR Project Variant)   |  | a f ed acoust ca bu d ng perm t for  | San Franc sco<br>Department of<br>Bu d ng Inspect on | Cons dered comp ete upon approva of f na project des gn for bu d ngs |
| Proposed Project:   | [85] [CONT. ] [1.5] [SON [CONT. ] [SON [CONT. ] [SON [CONT. ] [SON [CONT. ] ] [SON [CONT. ] ] [SON [CONT. ] [SON [CONT. ] ] [SON [CONT. ] ] [SON [CONT. ] [SON [CONT. ] ] [SON [CONT. ] ] [SON [CONT. ] ] [SON [CONT. ] [SON [CONT. ] ] [SON [CONT. ] ] [SON [CONT. ] ] [SON [CONT. ] [SON [CONT. ] [SON [CONT. ] ] [SON [CONT |  |  |  |
| Mitigation Measure M-NO-8: Design of Future Noise-Sensitive Uses  |  |  | ** **  |  |
| Pr or to ssuance of a bu d ng perm t for vert ca construct on of a res dent a bu d ng or a bu d ng w th ch dcare or hote uses, a qua f ed acoust ca consu tant sha conduct a no se study to determ ne the need to ncorporate no se attenuat on features into the building design in order to meet a 45 dBA interior no se mit. This evaluation sha be based on no se measurements taken at the time of the building permit application and the future cumulative traffic (year 2040) no seleves expected on roadways ocated on or adjacent to the project site (i.e., 67 dBA on I no sistreet, 66 dBA on 22nd Street, 60_dBA on Humboldt Street, and 64 dBA on 23rd Street at 50 feet from roadway center nes) to dentify the STC ratings required to meet the 45 dBA interior no seleve. The noise study and its recommendations and attenuation measures shall be incorporated into the final design of the building and shall be submitted to the San Francisco Department of Building Inspection for review and approval. The project sponsor shall mplement recommended no sellationate on the san francisco study as part of final project design for buildings that would not ude residential, hotely and children uses. |  | or hote uses   |  |  |
| Project Variant:  Mitigation Measure M-NO-8 (Variant): Design of Future Noise-Sensitive Uses  Pr or to ssuance of a bu d ng perm t for vert ca construct on of a res dent a bu d ng or a bu d ng w th ch dcare or hote uses, a qua f ed acoust ca consu tant sha conduct a no se study to determ ne the need to ncorporate no se attenuat on features into the building design in order to meet a 45 dBA interior no se mit. This evaluation sha be based on no se measurements taken at the time of the building permit application and the future cumulative traffic (year 2040) no seleves expected on roadways ocated on or adjacent to   | Project sponsor and qua fed acoust ca consu tant   | Pr or to ssuance of a<br>bu d ng perm t for<br>vert ca construct on of a<br>res dent a bu d ng or a<br>bu d ng w th ch dcare<br>or hote uses | San Franc sco<br>Department of<br>Bu d ng Inspect on | Cons dered comp ete upon approva of f na project des gn for bu d ngs |

| Mitiga                      | ation Measure  | Responsibility for<br>Implementation           | Mitigation Schedule   | Monitoring/<br>Reporting<br>Responsibility   | Monitoring Actions/<br>Schedule and Verification<br>of Compliance  |
|-----------------------------|--|--|---|--|--|
| EIR S                       | ection 4.F Noise and Vibration (cont.)   |  |   |  |  |
| ra<br>re<br>th<br>fo<br>at  | the project s te (.e., 67 dBA on I no s Street, 66 dBA on 22nd Street, 61 dBA on Humbo dt treet, and 64 dBA on 23rd Street at 50 feet from roadway center nes) to dent fy the STC at ngs required to meet the 45 dBA interior no seleve. The no selected and its ecommendations and attenuation measures shall be incorporated into the final design of the building and shall be submitted to the San Francisco Department of Building Inspection for review and approva. The project sponsor shall mplement recommended no selected at the project design for undirected and the p |  |   |  |  |
| EIR S                       | section 4.G Air Quality  |  |   |  |  |
| The p  A. E.  1.  2.  3. 4. | roject sponsor or the project sponsor's contractor shall comply with the following:  Ingine Requirements  The project sponsor shall also ensure that a long road heavy-duty diese trucks with a gross vehicle weight rating of 19,500 pounds or greater used at the project site (such as haul trucks, water trucks, dump trucks, and concrete trucks) be mode year 2010 or newer.  A off road equipment (including water construction equipment used onboard barges) greater than 25 horse power shall have engines that meet Tier 4 Final off road emission standards. Tugsishall comply with U.S. EPA Tier 3 Marine standards for Marine Diese Engine Emissions.  Since grid power with being a diese engines shall be prohibited.  Renewable diese shall be used to fue ald ese engines shall be prohibited.  Renewable diese shall be used to fue ald ese engines shall be prohibited.  Renewable diese shall be used to fue ald ese engines of the can be demonstrated to the Environmenta Review Officer (ERO) that it is compatible with on road or off road engines and that emissions of ROG and NOx from the transport of fue to the project site windout offset its NOx reduction potental.  Diese engines, whether for off road or on road equipment, shall not be efficial or more than two minutes, at any location, except as provided in exceptions to the applicable state regulations regarding ding for off road and on road equipment (e.g., traffic conditions, safe operating conditions). The contractor shall post egible and visible signs in Engish, Spanish, and Chinese, in designated queeing areas and at the construction is to tremind operators of the two minuted ing mit.  The contractor shall nitricut construction workers and equipment operators on the maintenance and tuning of construction equipment, and require that such workers and operators properly maintain and tune equipment in accordance with manufacturer specifications.  | Project sponsor and construct on contractor(s) | Pr or to ssuance of a s te perm t, demo t on perm t, or any other perm t from the Department of Bu d ng Inspect on, w th ongo ng comp ance w th the Construct on Em ss ons M n m zat on P an throughout the construct on per od | ERO to rev ew and approve Construct on Em ss ons M n m zat on P an; project sponsor and construct on contractor to comp y w th, and document comp ance w th, Construct on Em ss ons M n m zat on P an as required by the ERO | Construct on Em ss ons M n m zat on P an cons dered comp ete upor ERO rev ew and acceptance of P an; measure cons dered comp ete upon comp et or of project construct on and subm tta to ERO of required documentation |

| Mit | igation Measure   | Responsibility for<br>Implementation | Mitigation Schedule | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |
|-----|---|--------------------------------------|---------------------|--|---|
| EIF | Section 4.G Air Quality (cont.)   |                                      |                     | 4,6  | <b>₩</b>  |
| В.  | Waivers.  |                                      |                     |  |   |
|     | The ERO may wa ve the equipment requirements of Subsection (A)(1) f: a particular piece of off road equipment is technically not feasible; the equipment would not produce desired emissions reduction due to expected operating modes; installation of the equipment would create a safety hazard or impaired visible typically for the operator; or, there is a compelling emergency need to use other off road equipment. If the ERO grants the waiver, the contractor must use the next cleanest piece of off road equipment, according to the table below.                                       |                                      |                     |  |   |
|     | The ERO may wa ve the equipment requirements of Subsection (A)(2) f: a particular piece of off road equipment with an engine meeting T er 4 F nailem ss on standards is not regionally available to the satisfaction of the ERO. If seeking a waiver from this requirement, the project sponsor must demonstrate to the satisfaction of the ERO that the health risks from existing sources, project construction and operation, and cumulative sources do not exceed a total of $10  \mu \text{g/m} \cdot 3  \text{or} \cdot 100  \text{excess cancer}$ risks for any onsite or offs te receptor.    |                                      |                     |  |   |
|     | The ERO may wa ve the equipment requirements of Subsection (A)(3) $f$ : an application has been submitted to init ate on site electrical power, portable diese engines may be temporarly operated for a period of up to three weeks until on site electrical power can be initiated or, there is a compelling emergency.  |                                      |                     |  |   |
| C.  | <b>Construction Emissions Minimization Plan.</b> Before start ng ons te construct on act v t es, the contractor sha subm t a Construct on Em ss ons M n m zat on P an to the ERO for rev ew and approva. The p an sha state, n reasonable detal, how the contractor with meet the requirements of Section A, Engine Requirements.   |                                      |                     |  |   |
|     | 1. The Construct on Em ss ons Mnm zat on P an shan not ude est mates of the construct on time ne by phase, with a description of each piece of off road equipment required for every construction phase. The description may not ude, but is not imited to: equipment type, equipment manufacturer, equipment dentification number, engine mode year, engine certification (T er rating), horsepower, engine ser a number, and expected fue jusage and hours of operation. For off road equipment using a ternative fue s, the description shall also specify the type of a ternative fue being used. |                                      |                     |  |   |
|     | <ol> <li>The project sponsor shall ensure that a lapscable requirements of the Construction<br/>Emissions Minimization P an have been incorporated into the contract specifications.<br/>The plan shall include a certification statement that the contractor agrees to comply fully with the plan.</li> </ol>  |                                      |                     |  |   |
|     | 3. The contractor sha make the Construct on Em ss ons Mnm zat on Pan ava abe to the pub c for review onsite during working hours. The contractor shall post at the construction site aliegible and visible sign summarizing the pan. The sign shall also state that the public may ask to inspect the pan for the project at any time during working hours and shall explain how to request to inspect the pan. The contractor shall post at least one copy of the sign in a visible location on each side of the construction site facing a public right of way.                                     |                                      |                     |  |   |

| Mitigation Measure   | Responsibility for<br>Implementation  | Mitigation Schedule   | Monitoring/<br>Reporting<br>Responsibility                | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |  |
|--|---|---|---|---|--|
| EIR Section 4.G Air Quality (cont.)  |   |   |   | **  |  |
| D. Monitoring. After start of construct on act v t es, the contractor sha subm t quarter y reports to the ERO document ng comp ance w th the Construct on Em ss ons M n m zat on P an. After comp et on of construct on act v t es and pr or to rece v ng a f na cert f cate of occupancy, the project sponsor sha subm t to the ERO a f na report summar z ng construct on act v t es, nc ud ng the start and end dates and durat on of each construct on phase, and the spec f c nformat on required in the pian.  | Project sponsor and construct on contractor (s)                               | Quarter y, after start of construct on act v t es, and w th n s x months of comp et on of construct on act v ty | Project sponsor/<br>contractor(s) and<br>the ERO          | Cons dered comp ete upon acceptance of the f na report by the ERO |  |
| Mitigation Measure M-AQ-2b: Diesel Backup Generator Specifications  To reduce NOx assoc ated w th operat on of the proposed project, the project sponsor sha mp ement the fo owng measures.  | Project sponsor, and<br>each fac ty operator<br>where a generator s<br>ocated | each fac ty operator<br>where a generator s sponsor, and each<br>fac ty operator where a                        | San Franc sco<br>P ann ng<br>Department ERO<br>and BAQQMD | Ongo ng for the fe of each generator                              |  |
| <ul> <li>A. A new dese backup generators sha:</li> <li>1. Have eng nes that meet or exceed Ca forn a Ar Resources Board Ter 4 off road em ss on standards which have the lowest NOx em ss ons of commercially available generators; and</li> </ul>   |   |   |   |   |  |
| <ol> <li>Be fue ed w th renewab e d ese, f commerc a y ava ab e<sup>2</sup>, wh ch has been<br/>demonstrated to reduce NOx em ss ons by approx mate y 10 percent.</li> </ol>   |   |   |   |   |  |
| B. A new d ese backup generators sha have an annua mantenance testing imit of<br>50 hours, subject to any further restrictions as may be imposed by the Bay Area Air Quality<br>Management District in its permitting process.   |   |   |   |   |  |
| C. For each new d ese backup generator perm t subm tted to Bay Area A r Quality Management D strict for the project, the project sponsor shall submit the anticipated ocation and engine specifications to the San Francisco P anning Department environmental review officer for review and approval prior to issuance of a permit for the generator from the San Francisco Department of Building Inspection. Once operational, and dese backup generators shall be maintained in good working order for the felofithe equipment and any future replacement of the diese backup generators shall be required to be consistent with these emissions specifications. The operator of the facility at which the generator is ocated shall be required to maintain records of the testing schedule for each diese backup generator for the felofithat diese backup generator and to provide this information for review to the planning department within three months of requesting such information. |   |   |   |   |  |
| Mitigation Measure M-AQ-2c: Promote Use of Green Consumer Products   | Project sponsor   | Pr or to cert f cate of f na  | San Franc sco   | Ongo ng   |  |
| The project sponsor sha provide educational programs and/or materials for residential and commercial tenants concerning green consumer products. Prior to receipt of any certificate of final occupancy and every five years thereafter, the project sponsor shall work with the San Francisco Department of Environment to develope electronic correspondence to be distributed by emalannually to residential and/or commercial tenants of each building on the project site that  |   |   |   | Street 1995   |  |

Neste MY renewable Diesel is available in the Bay Area through Western States Oil

| Mit | tigation Measure   | Responsibility for<br>Implementation  | Mitigation Schedule  | Monitoring/<br>Reporting<br>Responsibility               | Monitoring Actions/<br>Schedule and Verification<br>of Compliance                      |
|-----|--|---|--|--|--|
| EIF | R Section 4.G Air Quality (cont.)  |   | <u> </u>   |  | <b>.</b>   |
| The | courages the purchase of consumer products that generate ower than typ ca VOC emss ons. e correspondence sha encourage env ronmenta y preferable purchasing and sha include ntact information and website inks to SF Approved (www.sfapproved.org). This website also be used as an informational resource by businesses and residents.  |   |  |  |  |
| Mit | tigation Measure M-AQ-2d: Electrification of Loading Docks   | Project sponsor and   | Pr or to approva of a  | Department of  | Cons dered comp ete at   |
| tha | e project sponsor sha ensure that oad ng docks for reta, ght ndustra, or warehouse uses it we receive deliver es from refr gerated transport trucks incorporate electrification hook upsitransportation refrigeration units to avoid emissions generated by ding refrigerated transporticks.   | construct on contractor   | bu d ng perm t   | Bu d ng Inspect on                                       | the comp et on of project<br>construct on  |
| Mit | tigation Measure M-AQ-2e: Additional Mobile Source Control Measures  | bu d ng perm t, or<br>approva of des gr<br>d str ct park ng ga<br>wh chever s f rst<br>Ongo ng dur ng | Pr or to approva of a  | Department of  | Cons dered comp ete at<br>the comp et on of d str ct<br>park ng garage<br>construct on |
|     | e fo ow ng Mob e Source Contro Measures from the Bay Area Ar Qua ty Management str ct's 2010 C ean Ar P an sha be mp emented:  |   | approva of design of district parking garage, whichever is first.  Ongoing during operation of car share | Bu d ng Inspect on<br>for approva of<br>d str ct park ng |  |
| •   | Promote use of c ean fue eff c ent veh c es through preferent a (des gnated and prox mate to entry) park ng and/or nsta at on of charg ng stat ons beyond the eve required by the C ty's Green Bu d ng code, from 8 to 20 per  |   |  | garage   | Ongo ng dur ng operat ons of car share programs  |
| •   | Promote zero em ss on veh c es by request ng that any car share program operator nc ude e ectr c veh c es w th n ts car share program to reduce the need to have a veh c e or second veh c e as a part of the TDM program that wou d be required of a new deve opments.  |   |  |  |  |
|     | tigation Measure M-AQ-2f: (Dependent on approval of Proposed Project OR Project riant)   | Project Sponsor   | Upon comp et on of construct on, and pr or to  |  | Comp ete upon acceptance of fee by BAAQMD  |
| Pre | oposed Project:  |   | ssuance of cert f cate of occupancy; (w th n s x   |  |  |
|     | Mitigation Measure M-AQ-2f: Offset Construction and Operational Emissions  |   | months of comp et on of  |  |  |
|     | Pr or to ssuance of the final certificate of occupancy for the final building associated with Phase 1, the project sponsor, with the oversight of the Environmental Review Officer (ERO), shall either:  |   | the offset project for<br>ver f cat on)  |  |  |
|     | (1) Directly fund or implement a specific offset project within San Francisco to ach eve equ va ent to a one t me reduct on of 13 tons per year of ozone precursors. This offset is ntended to offset the combined emissions from construction and operations remaining above significance evels after implementing the other mitigation measures discussed. To qualify under this mitigation measure, the specific emissions offset project must result in emission reductions within the San Francisco Bay Area Air Basin that would not otherwise be achieved through compliance with existing regulatory requirements. A preferred offset project would be one implemented ocally within the City and County of San Francisco. Prior to implementing the offset project, it must be approved by the ERO. The project sponsor shall not fy the ERO within six (6) months of completion of the offset project for verification; or |   |  |  |  |

| Mitigation Measure   | Responsibility for<br>Implementation | Mitigation Schedule | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |  |  |  |  |
|--|--------------------------------------|---------------------|--|---|--|--|--|--|
| EIR Section 4.G Air Quality (cont.)  |                                      |                     |  |   |  |  |  |  |
| (2) <b>Pay mitigation offset</b> fees to the Bay Area A r Qua ty Management D str ct Bay Area C ean A r Foundat on. The mt gat on offset fee, current y est mated at approx mate y \$30,000 per we ghted ton, p us an adm n strat ve fee of no more than 5 percent of the tota offset, sha fund one or more em ss ons reduct on projects wth n the San Franc sco Bay Area A r Bas n. The fee w be determ ned by the p ann ng department, the project sponsor, and the a r d str ct, and be based on the type of projects ava ab e at the t me of the payment. This fee is ntended to fund emissions reduct on projects to ach eve reductions of 13 tons of ozone precursors per year, which is the amount required to reduce emissions below significance evels after mplementation of other dentified mitigation measures as currently calculated.  |                                      |                     |  |   |  |  |  |  |
| The offset fee sha be made pr or to ssuance of the f na cert f cate of occupancy for the f na bu d ng assoc ated w th Phase 1 of the project (or an equ va ent of approx mate y 360,000 square feet of res dent a , 176,000 square feet of off ce, 16,000 square feet of reta , 15,000 square feet of PDR, 240,000 square feet of hote , and 25,000 square feet of assemb y) when the comb nat on of construct on and operat ona em ss ons s pred cted to f rst exceed 54 pounds per day. Th s offset payment sha tota the pred cted 13 tons per year of ozone precursors above the 10 ton per year threshod after mp ementat on of M t gat on Measures M AQ 2a though M AQ 2e and M TR 5.   |                                      |                     |  |   |  |  |  |  |
| The tota em ss on offset amount was ca cu ated by summing the max mum daily construction and operational em ss ons of ROG and NOX (pounds/day), multiplying by 260 work days per year for construction and 365 days per year for operation, and converting to tons. The amount represents the total est mated operational and construction related ROG and NOx emissions offsets required.   |                                      |                     |  |   |  |  |  |  |
| (3) Additional mitigation offset fee. The need for an add t ona mtgat on offset payment sha be determ ned as part of the performance standard assessment of Mtgat on Measure MTR 5. If at that t me, t s determ ned that mp ementation of Mtgat on Measure MTR 5 has successfuly achieved to targeted trip reduction at project buildout, or the project sponsor demonstrates that the project's emissions upon the earlier of: (a) full buildout or (b) termination of the Development Agreement are essithan the 10 ton per year thresholds for ROG and NOx, then no further instalment shable required. However, if the performance standard assessment determines that the trip reduction goal has not been achieved, and the project sponsor is unable to demonstrate that the project's emission upon the earlier of: (a) full buildout or (b) termination of the Development Agreement are essithan the 10 ton per year thresholds for ROG and NOx, then an additional offset payment shall be made in an amount reflecting the difference in emissions, in tons per year of ROG and NOx, represented by the shortfall in the production. |                                      |                     |  |   |  |  |  |  |

| Mitigation Measure   | Responsibility for<br>Implementation | Mitigation Schedule   | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |
|--|--------------------------------------|---|--|---|
| EIR Section 4.G Air Quality (cont.)  |                                      | ,   |  | · ·   |
| Documentation of mit gat on offset payments, as applicable, shall be provided to the planning department.  |                                      |   |  |   |
| When paying a mitigation offset fee, the project sponsor shall enter into a memorandum of understanding (MOU) with the Bay Area Air Quality Management District Clean Air Foundation. The MOU shall not ude detais regarding the funds to be paid, the administrative fee, and the timing of the emissions reductions project. Acceptance of this fee by the air district shall serve as acknowledgment and a commitment to (1) implement an emissions reduction project(s) within a time frame to be determined, based on the type of project(s) selected, after receipt of the mitigation fee to achieve the emissions reduction objectives specified above and (2) provide documentation to the planning department and the project sponsor describing the project(s) funded by the mitigation fee, including the amount of emissions of ROG and NOx reduced (tonsiper year) within the San Francisco Bay Area Air Basin from the emissions reduction project(s). To qualify under this mitigation measure, the specific emissions reduction project must result in emission reductions within the basin that are real, surplus, quantifiable, and enforceable and would not otherwise be achieved through compliance with existing regulatory requirements or any other legal requirement. The requirement to pay such mitigation offset fee shall terminate fithe project sponsor is able to demonstrate that the project's emissions upon the earlier of: (a) full build out or (b) termination of the Development Agreement are less than the 10 ton per year thresholds for ROG and NOx. |                                      |   |  |   |
| Project Variant:  Mitigation Measure M-AQ-2f (Variant): Offset Construction and Operational Emissions  Pr or to ssuance of the final certificate of occupancy for the final building associated with Phase 1, the project sponsor, with the oversight of the Environmental Review Officer (ERO), shale either:  (1) Directly fund or implement a specific offset project within San Francisco to achieve equivalent to a one it me reduction of 14 tons per year of ozone precursors. This offset is intended to offset the combined emissions from construction and operations remaining above significance evels after implementing the other mitigation measures discussed. To qualify under this mitigation measure, the specific emissions offset project must result in emission reductions within the San Francisco Bay Area Air Basin that would not otherwise be achieved through compliance with existing regulatory requirements. A preferred offset project would be one implemented ocally within the City and County of San Francisco. Prior to implementing the offset project, it must be approved by the ERO. The project sponsor shall not fy the ERO within six (6) months of completion of the offset project for verification; or   | Project Sponsor                      | Upon comp et on of construct on, and pr or to ssuance of cert f cate of occupancy; (w th n s x months of comp et on of the offset project for ver f cat on) | ERO  | Comp ete upon acceptance of fee by BAAQMD                         |

| Mitigation Measure  | Responsibility for<br>Implementation | Mitigation Schedule | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |  |  |  |  |
|---|--------------------------------------|---------------------|--|---|--|--|--|--|
| EIR Section 4.G Air Quality (cont.)   |                                      |                     |  |   |  |  |  |  |
| (2) Pay mitigation offset fees to the Bay Area A r Quality Management D strict Bay Area C ean A r Foundation. The mitigation offset fee, currently estimated at approximately \$30,000 per weighted ton, plus an administrative fee of no more than 5 percent of the total offset, shall fund one or more emissions reduction projects within the San Francisco Bay Area A r Basin. The fee will be determined by the planning department, the project sponsor, and the air district, and be based on the type of projects avaiable at the time of the payment. This fee is intended to fund emissions reduction projects to achieve reductions of 14 tons of ozone precursors per year, which is the amount required to reduce emissions below significance evels after mitigation of other dentified mitigation measures as currently calculated.   |                                      |                     |  |   |  |  |  |  |
| The offset fee sha be made pr or to ssuance of the f na cert f cate of occupancy for the f na bu d ng assoc ated w th Phase 1 of the project (or an equ va ent of approx mate y 360,000 square feet of res dent a, 176,000 square feet of off ce, 16,000 square feet of reta, 15,000 square feet of PDR, 240,000 square feet of hote, and 25,000 square feet of assemb y) when the comb nat on of construct on and operat ona em ss ons s pred cted to f rst exceed 54 pounds per day. Th s offset payment sha tota the pred cted 14 tons per year of ozone precursors above the 10 ton per year threshod after mp ementat on of M t gat on Measures M AQ 2a though M AQ 2e and M TR 5.   |                                      |                     |  |   |  |  |  |  |
| The tota em ss on offset amount was ca cu ated by summ ng the max mum da y construct on and operat ona em ss ons of ROG and NOX (pounds/day), mu t p y ng by 260 work days per year for construct on and 365 days per year for operat on, and convert ng to tons. The amount represents the tota est mated operat ona and construct on re ated ROG and NOx em ss ons offsets required.  |                                      |                     |  |   |  |  |  |  |
| (3) Additional mitigation offset fee. The need for an add t ona mt gat on offset payment sha be determ ned as part of the performance standard assessment of Mt gat on Measure MTR 5. If at that t me, t s determ ned that mp ementat on of Mt gat on Measure MTR 5 has successfu y ach eved ts targeted tr p reduct on at project bu dout, or the project sponsor demonstrates that the project's em ss ons upon the ear er of: (a) fu bu d out or (b) term nat on of the Deve opment Agreement are ess than the 10 ton per year thresho ds for ROG and NOx, then no further nsta ment sha be required. However, if the performance standard assessment determ nes that the trip reduct on goal has not been ach eved, and the project sponsor is unable to demonstrate that the project's em ss ons upon the ear er of: (a) fu bu d out or (b) term nat on of the Deve opment Agreement are ess than the 10 ton per year thresho ds for ROG and NOx, then an add t ona offset payment shall be made in an amount reflecting the difference in emissions, in tons per year of ROG and NOx, represented by the shortfall in the project on. |                                      |                     |  |   |  |  |  |  |
| Documentat on of m t gat on offset payments, as app cab e, sha be provided to the p ann ng department.  |                                      |                     |  |   |  |  |  |  |

| Mitigation Measure   | Responsibility for<br>Implementation | Mitigation Schedule  | Monitoring/<br>Reporting<br>Responsibility         | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |  |  |  |
|--|--------------------------------------|--|--|---|--|--|--|
| EIR Section 4.G Air Quality (cont.)  |                                      |  |  |   |  |  |  |
| When pay ng a m t gat on offset fee, the project sponsor shall enter into a memorandum of understanding (MOU) with the Bay Area Air Quality Management District Clean Air Foundation. The MOU shall not ude details regarding the funds to be paid, the administrative fee, and the timing of the emissions reductions project. Acceptance of this fee by the air district shall serve as acknowledgment and a commitment to (1) implement an emissions reduction project(s) within a time frame to be determined, based on the type of project(s) selected, after receipt of the mitigation fee to achieve the emissions reduction objectives specified above and (2) provide documentation to the planning department and the project sponsor describing the project(s) funded by the mitigation fee, including the amount of emissions of ROG and NOx reduced (tonsiper year) within the San Francisco Bay Area Air Basin from the emissions reduction project(s). To qualify under this mitigation measure, the specific emissions reduction project must result in emission reductions within the basin that are real, surplus, quantifiable, and enforceable and would not otherwise be achieved through compliance with existing regulatory requirements or any other legal requirement. The requirement to pay such mitigation offset fee shalterminate if the project sponsor is able to demonstrate that the project's emissions upon the earlier of the project sponsor is able to demonstrate that the project's emissions upon the earlier of the project sponsor is able to demonstrate that the project's emissions upon the earlier of the project sponsor is able to demonstrate that the project's emissions upon the earlier of the project sponsor is able to demonstrate that the project's emissions upon the earlier of the project sponsor is able to demonstrate that the project's emissions upon the earlier of the project sponsor is able to demonstrate that the project's emissions upon the earlier of the project sponsor is able to demonstrate that the project's emissions upon the earlie |                                      |  |  |   |  |  |  |
| Mitigation Measure AQ-4: Siting of Uses that Emit Toxic Air Contaminants  For new deve opment nc ud ng R&D/ fe sc ence uses and PDR use or other uses that wou d be expected to generate tox c a r contam nants (TACs) as part of everyday operations, prior to ssuance of the certificate of occupancy, the project sponsor shalloob obtain written verification from the Bay Area Air Quality Management District either that the facility has been ssued a permit from the air district, firequired by aw, or that permitirequirements do not apply to the facility. However, since air distriction dipotentially ssue multiple separate permits to operate that could cumulatively exceed an increased cancer risk of 10 nionem on, the project sponsor shall also submit written verification to the San Francisco Planning Department that increased cancer risk associated with a such uses does not cumulatively exceed 10 nionem on at any onsite receptor. This measure shall be applicable, at aim nimum, to the following uses and any other potential uses that may emit TACs: gas dispensing facilities, auto body shops; metain pating shops; photographic processing shops; appliance repair shops; mechanical assembly cleaning; printing shops; medical circles, and biotechnology research facilities.  |                                      | Pr or to ssuance of the cert f cate of occupancy for new deve opment wou d be expected to generate TACs, (such as R&D uses and PDR uses) | BAAQMD and San<br>Franc sco P ann ng<br>Department | Cons dered comp ete at the comp et on of project construct on     |  |  |  |
| Mitigation Measure AQ-5: Include Spare the Air Telecommuting Information in Transportation Welcome Packets  The project sponsor sha nc ude d ssem nat on of information on Spare The Air Days within the San Francisco Bay Area Air Basin as part of transportation we come packets and ongoing transportation marketing campaigns. This information sha encourage employers and employees, as a lowed by their workplaces, to telecommute on Spare The Air Days.  | Project sponsor                      | Pr or to and dur ng<br>occupancy of<br>commerc a uses  | ERO  | Ongo ng   |  |  |  |

| Mitigation Measure  | Responsibility for<br>Implementation                                      | Mitigation Schedule   | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |  |  |  |  |
|---|---|---|--|---|--|--|--|--|
| EIR Section 4.H Wind and Shadow   |   |   |  |   |  |  |  |  |
| Mitigation Measure M-WS-2: Identification and Mitigation of Interim Hazardous Wind Impacts Pr or to the approva of bu d ng p ans for construct on of any proposed bu d ng, or a bu d ng wth n a group of bu d ngs to be constructed s mu taneous y, at a he ght of 85 feet or greater, the project sponsor (nc ud ng any subsequent deve oper) sha subm t to the San Franc sco P ann ng Department for review and approva a wind mpact analys s of the proposed buildings. The wind mpact analys s of whether the buildings and the second of a qualative analys s of whether the buildings and the second of a qualative analys s of whether the buildings and the second of the proposed buildings and second of the second | Project sponsor, or<br>bu d ng deve oper, and<br>qua f ed w nd consu tant | Pr or to the approva of bu d ng p ans for construct on of any proposed bu d ng, or a bu d ng with n a group of bu d ngs to be constructed s mu taneous y, at a he ght of 85 feet or greater. San Franc sco P ann ng Department and ERO to review and approve scope of work pr or to any wind mpact analys sor wind tunne testing. | San Franc sco P ann ng Department and ERO  | Cons dered comp ete at the comp et on of project construct on     |  |  |  |  |

| M  | igation Measure   | Responsibility for<br>Implementation         | Mitigation Schedule  | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance   |  |  |  |  |
|--|---|--|--|--|---|--|--|--|--|
| EI   | EIR Section 4.I Biological Resources  |  |  |  |   |  |  |  |  |
| The project engager shall require that a construction contractors make among the following |   | construct on contractors, and qua fed boogst | Not more than 14 days<br>pr or to vegetat on<br>remova and grad ng<br>act v tes that occur<br>between January 15 and | ERO  | Comp ete upon comp et on of preconstruct on nest ng b rd surveys or comp et on of vegetat on remova and grad ng act v t es outs de of |  |  |  |  |
| 1.   | To the extent feas b e, conduct in tail project act vit es outs de of the nesting season (January 15. August 15). These act vit es include, but are not imited to: vegetat on removal, tree trimming or removal, ground disturbance, building demoit on, site grading, and other construction act vit es that may impact nesting birds or the success of their nests (e.g., controlled rock fragmentation, biasting, or pie driving).   |  | August 15  |  | the b rd breed ng season  |  |  |  |  |
| 2.   | For construct on act vt es that occur dur ng the brd nest ng season, a quafed wd feboogst <sup>3</sup> sha conduct pre construct on nest ng surveys wth n 14 days pror to the start of construct on or demoton at areas that have not been previously disturbed by project act vt es or after any construct on breaks of 14 days or more. Surveys sha be performed for su table habitat wth n 100 feet of the project stein order to ocate any active passer ne (perching brd) nests and wthin 100 feet of the project stein ocate any active raptor (brds of prey) nests, waterbird nesting pars, or colonies.   |  |  |  |   |  |  |  |  |
| 3.   | If act ve nests protected by federa or state $aw^4$ are ocated during the preconstruction bird nesting surveys, a qualified biologist shall evaluate if the schedule of construction activities could affect the active nests and if so, the following measures would apply:  |  |  |  |   |  |  |  |  |
|  | a. If construct on s not key to affect the act ve nest, construct on may proceed w thout restriction; however, a qualified biologist shall regularly monitor the nest at a frequency determined appropriate for the surrounding construction activity to confirm there is no adverse effect. The qualified biologist would determine spot check monitoring frequency on a nest by nest basis considering the particular construction activity, duration, proximity to the nest, and physical barriers that may screen activity from the nest. The qualified biologist may revise his/her determination at any time during the nesting season in coordination with the Environmental Review Officer (ERO). |  |  |  |   |  |  |  |  |
|  | b. If t s determ ned that construct on may affect the act ve nest, the qua f ed b o og st sha estab sh a no d sturbance buffer around the nest(s) and a project work sha hat wth n the buffer unt a qua f ed b o og st determ nes the nest s no onger n use.  |  |  |  |   |  |  |  |  |
|  | G ven the deve oped cond t on of the s te, n t a buffer d stances are 100 to 250 feet for passer nes and 100 to 500 feet for raptors; however, the qua f ed b o og st may adjust the buffers based on the nature of proposed act $v$ t es or s te spec f c cond t ons.  |  |  |  |   |  |  |  |  |

Typical experience requirements for a "qualified biologist" include a minimum of four years of academic training and professional experience in biological sciences and related resource management activities and a minimum of two years of experience conducting surveys for each species that may be present within the project area

These would include species protected by FESA MBTA CESA and California Fish and Game Code and does not apply to rock pigeon house sparrow or European starling USFWS and CDFW are the federal and state agencies respectively with regulatory authority over protected birds and are the agencies who would be engaged with if nesting occurs onsite and protective buffer distances and/or construction activities within such a buffer would need to be modified while a nest is still active

| Mitiga  | ation Measure   | Responsibility for<br>Implementation                      | Mitigation Schedule   | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance   |
|---|---|---|---|--|---|
| EIR S   | ection 4.I Biological Resources (cont.)   | ·   | ×   |  | **  |
| C.  | Mod fy ng nest buffer d stances, a ow ng certa n construct on act v t es w th n the buffer, and/or mod fy ng construct on methods n prox m ty to act ve nests sha be done at the d scret on of the qual field b o og st and in coord nation with the ERO, who would not fy CDFW.  |   |   |  |   |
| d.  | Any work that must occur with n established no disturbance buffers around active nests shall be monitored by a qualified biologist. If the qualified biologist observes adverse effects in response to project work within the buffer that could compromise the active nest, work within the noid sturbance buffer(s) shall halt until the nest occupants have fiedged.   |   |   |  |   |
| e.  | With some exceptions, birds that begin nesting within the project area amid construction activities are assumed to be habituated to construct on related or similar noise and disturbance levels. Exclusion zones around such nests may be reduced or eight nated in these cases as determined by the qualified biologist in coordination with the ERO, who would not fy CDFW. Work may proceed around these active nests as onglas the nests and their occupants are not directly impacted.  |   |   |  |   |
| A qua<br>samp<br>consu<br>hab ta<br>under<br>No fui<br>hab ta | fed b o og st <sup>5</sup> who s exper enced w th bat survey ng techn ques (nc ud ng aud tory ng methods), behav or, roost ng hab tat, and dent f cat on of oca bat spec es sha be ted pr or to demo t on or bu d ng rehab tat on act v t es to conduct a pre construct on it assessment of the project s te (focus ng on bu d ngs to be demo shed or rehab tated the project) to character ze potent a bat hab tat and dent fy potent a y act ve roost s tes. Ther act on s required should the pre construct on hab tat assessment not dent fy bat it or s gns of potent a y act ve bat roosts with not the project s te (e.g., guano, ur ne stain ng, bats, etc.). | Project sponsor,<br>contractors, and qua fed<br>b o og st | Not more than 14 days<br>pr or to bu d ng<br>demo t on or<br>rehab tat on | ERO  | Comp ete upon comp et on of preconstruct on roost ng bat surveys or comp et on of bu d ng demo t on or rehab tat on |
| bat ro  | o owing measures shall be implemented should potent a roosting habitation potent all yactive osts be identified during the habitat assessment in buildings to be demolshed or tated under the proposed project:   |   |   |  |   |
| de<br>pe  | areas dent f ed as potent a roost ng hab tat dur ng the hab tat assessment, n t a bu d ng emo t on or rehab tat on sha occur when bats are act ve, approx mate y between the er ods of March 1 to Apr 15 and August 15 to October 15, to the extent feas b e. These ates avo d the bat matern ty roost ng season and per od of w nter <i>torpor</i> .6  |   |   |  |   |
| CC  | epend ng on tempora gu dance as def ned be ow, the quaffed boog st sha conduct pre<br>onstruct on surveys of potent a bat roost sites dentified during the initial habitat assessment<br>o more than 14 days prior to building demo   |   |   |  |   |

Typical experience requirements for a qualified biologist include a minimum of four years of academic training and professional experience in biological sciences and related resource management activities and a minimum of two years of experience conducting surveys for each species that may be present within the project area

Torpor refers to a state of decreased physiological activity with reduced body temperature and metabolic rate

| M   | itigation Measure  | Responsibility for<br>Implementation   | Mitigation Schedule  | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |  |  |  |  |
|---|--|--|--|--|---|--|--|--|--|
| EI  | EIR Section 4.I Biological Resources (cont.)   |  |  |  |   |  |  |  |  |
| 3.  | f act ve bat roosts or ev dence of roost ng s dent fed dur ng pre construct on surveys, the qua fed boog st sha determine, f possible, the type of roost and species. A no disturbance buffer sha be established around roost sites until the qualfed boog st determines they are no onger active. The size of the noid sturbance buffer would be determined by the qualfed boog st and would depend on the species present, roost type, existing screening around the roost site (such as dense vegetation or a building), as we last the type of construction activity that would occur around the roost site.   |  |  |  |   |  |  |  |  |
| 4.  | If spec a status bat spec es or matern ty or h bernat on roosts are detected during these surveys, appropriate species and roost specific avoidance and protection measures shalbe developed by the qualified biologist in coordination with the California Department of Fish and Wid fe. Such measures may include postponing the removal of buildings or structures, establishing exclusionary work buffers while the roost is active (e.g., 100 foot noid sturbance buffer), or other avoidance measures.  |  |  |  |   |  |  |  |  |
| 5.  | The qualified biologist shall be present during building demolition or rehabilitation if potential bat roosting habitation active bat roosts are present. Buildings with active roosts shall be disturbed only under clear weather conditions when precipitation is not forecast for three days and when daytime temperatures are at least 50 degrees Fahrenheit.  |  |  |  |   |  |  |  |  |
| 6.  | The demo ton or rehabilitation of buildings containing or suspected to contain bat roosting habitation active bat roosts shall be done under the supervision of the qualified biologist. When appropriate, buildings shall be part aligned to significantly change the roost conditions, causing bats to abandon and not return to the roost, kely in the evening and after bats have emerged from the roost to forage. Under noic roumstances shall active maternity roosts be disturbed until the roost disbands at the completion of the maternity roosting season or otherwise becomes inactive, as determined by the qualified biologist.   |  |  |  |   |  |  |  |  |
| M   | itigation Measure M-BI-4: Fish and Marine Mammal Protection during Pile Driving  | Project sponsor and  | Pr or to the start of any  | P ann ng Department                        | Comp ete upon comp et on  |  |  |  |  |
| sh<br>pr<br>co<br>to<br>wa<br>ac<br>no<br>m<br>1, | or to the start of any n water construct on that would require pied driving, the project sponsor a prepare a National Marine Fisheries Service approved sound attenuation monitoring plan to otect fish and marine mammais, and the approved plan shalp be implemented during instruction. This plan shalp provide detail on the sound attenuation system, detail methods used monitor and verify sound levels during pied riving activities (if required based on projected in atterino selevels), and describe best management practices to reduce impact pied riving in the quatic environment to an intensity level less than 183 dB (sound exposure level). SEL) impulse to seleve for fish at a distance of 33 feet, and 160 dB (root mean square pressure level), RMS) puise no seleve or 120 dB (RMS) continuous no selevel for marine mammais at a distance of 640 feet. The plan shall incorporate, but not be imitted to, the following best management actices:  A in water construction shalp be conducted within the established environmental work. | construct on contractors,<br>and qua f ed acoust ca<br>eng neer w th exper ence<br>n f sh and mar ne<br>mamma no se protect on | n water construct on that<br>wou d requ re p e<br>dr v ng, dur ng the work<br>w ndow between June 1<br>and November 30 | and Nat ona Mar ne<br>F sher es Serv ce    | of n water construct on that requires pie driving                 |  |  |  |  |
| _   | w ndow between June 1 and November 30, designed to avoid potent a impacts to fish species.   |  |  |  |   |  |  |  |  |

| Mitigation Measure   | Responsibility for<br>Implementation | Mitigation Schedule   | Monitoring/<br>Reporting<br>Responsibility                                  | Monitoring Actions/<br>Schedule and Verification<br>of Compliance  |
|--|--------------------------------------|---|---|--|
| EIR Section 4.I Biological Resources (cont.)   |                                      |   |   | <u>.</u>   |
| To the extent feas b e v bratory p e dr vers sha be used for the nsta at on of a support p es. V bratory p e dr v ng sha be conducted fo ow ng the U.S. Army Corps of Eng neers "Proposed Procedures for Perm tt ng Projects that w Not Adverse y Affect Se ected L sted Spec es n Ca forn a." U.S. F sh and W d fe Serv ce and Nat ona Mar ne F sher es Serv ce comp eted sect on 7 consu tat on on th s document, wh ch estab shes genera procedures for m n m z ng mpacts to natura resources assoc ated w th projects n or adjacent to jur sd ct ona waters.   |                                      |   |   |  |
| <ul> <li>A soft start techn que to mpact hammer p e dr v ng sha be mp emented, at the start of each work day or after a break n mpact hammer dr v ng of 30 m nutes or more, to g ve f sh and mar ne mamma s an opportun ty to vacate the area.</li> </ul>  |                                      |   |   |  |
| • If during the use of an impact hammer, established National Marine Fisher es Service piedriving thresholds are exceeded, a bubble curtain or other sound attenuation method as described in the National Marine Fisher es Service approved sound attenuation monitoring planishal be ut ized to reduce sound levels be ow the criterial described above. If National Marine Fisher es Service sound levels to exceeded with the use of attenuation methods, a National Marine Fisher es Service approved biological monitorishal be available to conduct surveys before and during piedriving to inspect the work zone and adjacent waters for marine mamma s. The monitorishal be present as specified by the National Marine Fisher es Service during impact piedriving and ensure that: |                                      |   |   |  |
| <ul> <li>The safety zones estab shed in the sound monitoring p an for the protection of marine<br/>mamma s are maintained.</li> </ul>  |                                      |   |   |  |
| <ul> <li>Work act v t es are ha ted when a mar ne mamma enters a safety zone and resumed on y after the an ma has been gone from the area for a m n mum of 15 m nutes.</li> </ul>  |                                      |   |   |  |
| This no seleve imit shall be coordinated with vibration imits required under Mitigation Measures Mino 4a, Construction Vibration Monitoring, Mino 4b, Vibration Contro Measures During Controlled Blasting and Pie Driving, and Mino 4c, Vibration Control Measures During Use of Vibratory Equipment, to ensure that the lowest of the specified vibration imits is uit mately implemented.   |                                      |   |   |  |
| Mitigation Measure M-BI-7: Compensation for Fill of Jurisdictional Waters  | Project sponsor                      | Pr or to project<br>construct on and dur ng<br>the perm tt ng process | ERO and regu atory  | Cons dered comp ete when bay re ated f perm ts are ssued and compensatory m t gat on accepted by regu atory agenc es |
| The project sponsor sha prov de compensatory m t gat on for p acement of $f$ assoc ated w th maintenance or installation of new structures in the San Francisco Bay as further determined by the regulatory agencies with authority over the bay during the permitting process.  | t t                                  |   | agenc es w th<br>author ty over the<br>bay dur ng the<br>perm tt ng process |  |
| Compensat on may no ude onsite or offs te shore ne improvements or intertida/subt da habitat enhancements along San Francisco's waterfront through removal of chemically treated wood material (e.g., plings, decking, etc.) by puling, cutting, or breaking off plies at least 1 foot below mudine or removal of other unengineered debris (e.g., concrete filed drums or large pleces of concrete).  |                                      |   | point any process   |  |

| Mitigation Measure   | Responsibility for<br>Implementation  | Mitigation Schedule   | Monitoring/<br>Reporting<br>Responsibility   | Monitoring Actions/<br>Schedule and Verification<br>of Compliance   |  |  |  |  |
|--|---|---|--|---|--|--|--|--|
| Initial Study E.3 Cultural Resources   |   |   |  |   |  |  |  |  |
| Based on a reasonab e presumpt on that archeo og ca resources may be present within the project site in ocations determined to have moderate or high archeo og ca sensitivity, the following measures shalp be undertaken to avoid any potent aligned grant adverse effect from the proposed project on buried or submerged historical resources. The project sponsor shalf retain the services of an archeological consultants. List maintained by the San Francisco rotational Department archeologist. The project sponsor shald contact the department archeologist to obtain the names and contact information for the next three archeological consultants on the st. The archeological consultant shald undertake an archeological testing program as specified herein. In addition, the consultant shald be available to conduct an archeological monitoring and/or data recovery program if required pursuant to this measure. The archeological consultant's work shald be conducted in accordance with this measure at the direction of the City's appointed project Environmental Review Officer (ERO). A plans and reports prepared by the consultant as specified herein shalp be submitted first and directly to the ERO for review and comment, and shalp be considered draft reports subject to revision until final approva by the ERO. Archeological monitoring and/or data recovery programs required by this measure could suspend construction of the project for up to a maximum of four weeks. At the direction of the review officer, the suspension of construction can be extended beyond four weeks only if such a suspension is the only feas be means to reduce to a less than significant everyonental effects on a significant archeological resource as defined in CEQA Guide nesized on 15064.5 (a) and (c). | Project sponsor and P ann ng Department archeo og st or a qua f ed archeo og ca consu tant from the P ann ng Department poo (archeo og ca consu tant) | Archeo og ca consu tant<br>sha be reta ned pr or to<br>ssuance of s te perm t<br>from the Department of<br>Bu d ng Inspect on | Project sponsor to reta n a qua f ed archeo og ca consu tant who sha report to the ERO.  Qua f ed archeo og ca consu tant w scope archeo og ca test ng program w th ERO and P ann ng Department staff archeo og st | Cons dered comp ete when archeo og ca consu tant has approved scope from the ERO for the archeo og ca test ng program |  |  |  |  |
| Consultation with Descendant Communities: On d scovery of an archeological site assoc ated with descendant Native Americans, the Overseas Chinese, or other potentially nterested descendant group an appropriate representative of the descendant group and the review officer shalp be contacted. The representative of the descendant group shalp be given the opportunity to monitor archeological field investigations of the site and to offer recommendations to the review officer regarding appropriate archeological treatment of the site, of recovered data from the site, and, if applicable, any interpretative treatment of the associated archeological site. A copy of the Final Archeological Resources Report shalp be provided to the representative of the descendant group.  | Project sponsor and/or archeo og ca consu tant  | Throughout the durat on of ground d sturb ng act v t es   | Project sponsor<br>and/or archeo og ca<br>consu tant to subm t<br>record of<br>consu tat on as part<br>of F na<br>Archeo og ca<br>Resources Report, f<br>app cab e   | Cons dered comp ete upon<br>subm tta to ERO of F na<br>Archeo og ca Resources<br>Report, f app cab e                  |  |  |  |  |

The term archeological site is intended here to minimally include any archeological deposit feature burial or evidence of burial

An appropriate representative of the descendant group is here defined to mean in the case of Native Americans any individual listed in the current Native American Contact List for the City and County of San Francisco maintained by the California Native American Heritage Commission and in the case of the Overseas Chinese the Chinese Historical Society of America An appropriate representative of other descendant groups should be determined in consultation with the Department archeologist

| Mitigation Measure  | Responsibility for<br>Implementation  | Mitigation Schedule  | Monitoring/<br>Reporting<br>Responsibility  | Monitoring Actions/<br>Schedule and Verification<br>of Compliance  |  |  |  |  |
|---|---|--|---|--|--|--|--|--|
| nitial Study E.3 Cultural Resources (cont.)   |   |  |   |  |  |  |  |  |
| Archeological Testing Program. The archeo og ca consu tant sha prepare and submit to the review officer for review and approva an archeo og ca testing pinn. The archeo og ca testing program sha be conducted in accordance with the approved archeo og ca testing plan. The archeo og ca testing plan sha dentify the property types of the expected archeo og ca resource(s) that potent a y could be adversely affected by the proposed project, the testing method to be used, and the locations recommended for testing. The purpose of the archeological case of archeological resources and to dentify and to evaluate whether any archeological resource encountered on the site constitutes and storical resource under CEQA.   | Project sponsor/<br>archeo og ca consu tant<br>at the d rect on of the<br>ERO.  | Pr or to any so s d sturb ng act v t es on the project s te.   | Consu tant Archeo og st sha prepare and subm t draft ATP to the ERO. ATP to be subm tted and rev ewed by the ERO pr or to any so s d sturb ng act v t es on the project s te. | Date ATP subm tted to the ERO:  Date ATP approved by the ERO:  Date of nta so s d sturb ng act vt es:  |  |  |  |  |
| At the comp et on of the archeo og ca test ng program, the archeo og ca consu tant sha subm t a wr tten report of the find ngs to the review officer. If based on the archeo og ca testing program the archeo og ca consultant finds that significant archeo og ca resources may be present, the review officer in consultation with the archeo og ca consultant shall determine fiadd tional measures are warranted. Add tional measures that may be undertaken include add tional archeo og caltesting, archeo og calmonitoring, and/or an archeo og caldata recovery program. No archeo og caldata recovery shall be undertaken without the prior approval of the review officer or the planning department archeologist. If the review officer determines that a significant archeological resource is present and that the resource could be adversely affected by the proposed project, at the discretion of the project sponsorie them:  | Project sponsor/<br>archeo og ca consu tant<br>at the d rect on of the<br>ERO.  | After comp et on of the Archeo og ca Test ng Program.  | Archeo og ca<br>consu tant sha<br>subm t report of the<br>f nd ngs of the ATP<br>to the ERO.  | Date archeo og ca f nd ngs report subm tted to the ERO:  ERO determ nat on of s gn f cant archeo og ca resource present?  Y N  Wou d resource be |  |  |  |  |
| A. The proposed project shall be relief gned so as to avoid any adverse effect on the significant archeological resource; or  |   |  |   | adverse y affected? Y N  |  |  |  |  |
| B. A data recovery program sha be mp emented, un ess the rev ew off cer determ nes that the archeo og ca resource s of greater interpretive than research significance and that interpretive use of the resource is feasible.   |   |  |   | Add t ona m t gat on to be undertaken by project sponsor?  Y N   |  |  |  |  |
| <ul> <li>Archeological Monitoring Program. If the rev ew off cer n consultation with the archeological consultant determines that an archeological monitoring program shall be implemented the archeological monitoring program shall minimally include the following provisions:</li> <li>The archeological consultant, project sponsor, and review off cer shall meet and consult on the scope of the archeological monitoring plan reasonably prior to any project related so significant shall determine what project activities shall be archeologically monitored. In most cases, any so significant shall determine what project activities shall be archeologically monitored. In most cases, any so significant shall determine what project activities shall be archeologically monitored. In most cases, any so significant shall determine what project activities shall be archeologically monitored. In most cases, any so significant shall determine what project activities shall be archeologically monitored. In most cases, any so significant shall be archeologically monitored. In most cases, any so significant shall be archeologically monitored. In most cases, any so significant shall be archeologically monitored. In most cases, any so significant shall be archeologically monitored. In most cases, any so significant shall be archeologically monitored. In most cases, any so significant shall be archeologically monitored. In most cases, any so significant shall be archeologically monitored. In most cases, any so significant shall be archeologically monitored. In most cases, any so significant shall be archeologically monitored. In most cases, any so significant shall be archeologically monitored. In most cases, any so significant shall be archeologically monitored. In most cases, any so significant shall be archeologically monitored. In most cases, any so significant shall be archeologically monitored. In most cases, any so significant shall be archeologically monitored.</li> </ul> | Project sponsor/<br>archeo og ca consu tant/<br>archeo og ca mon tor/<br>contractor(s), at the<br>d rect on of the ERO. | ERO and archeo og ca<br>consu tant sha meet<br>pr or to commencement<br>of so s d sturb ng<br>act v ty. If the ERO<br>determ nes that an<br>Archeo og ca Mon tor ng<br>Program s necessary,<br>mon tor throughout a<br>so s d sturb ng act v t es. | Project sponsor/<br>archeo og ca<br>consu tant/<br>archeo og ca<br>mon tor/<br>contractor(s) sha<br>mp ement the AMP,<br>f requ red by the<br>ERO.                            | AMP required? Y N  Date:  Date AMP submitted to the ERO:  Date AMP approved by the ERO:  |  |  |  |  |

December 2019

| Mitigation Measure   | Responsibility for<br>Implementation            | Mitigation Schedule  | Monitoring/<br>Reporting<br>Responsibility  | Monitoring Actions/<br>Schedule and Verification<br>of Compliance                                  |  |  |  |  |
|--|---|--|---|--|--|--|--|--|
| Initial Study E.3 Cultural Resources (cont.)   |   |  |   |  |  |  |  |  |
| <ul> <li>The archeo og ca consu tant sha adv se a project contractors to be on the a ert for ev dence of the presence of the expected resource(s), of how to dent fy the ev dence of the expected resource(s), and of the appropr ate protoco n the event of apparent d scovery of an archeo og ca resource;</li> </ul>  |   |  |   | Date AMP mp ementat on comp ete:  Date wr tten report  |  |  |  |  |
| <ul> <li>The archeo og ca mon tor(s) sha be present on the project s te according to a schedule agreed upon by the project sponsor, archeo og ca consultant, and the Environmenta Review Officer (ERO) until the review officer has, in consultation with project archeological consultant, determined that project construct on activities could have no effects on significant archeological deposits;</li> </ul>  |   |  |   | regard ng f nd ngs of the<br>AMP rece ved:   |  |  |  |  |
| <ul> <li>The archeo og ca mon tor sha record and be author zed to co ect so samp es and<br/>art factua /ecofactua mater a as warranted for ana ys s;</li> </ul>  |   |  |   |  |  |  |  |  |
| • If an ntact archeo og ca depost s encountered, a so s d sturb ng act vtes n the vcn ty of the depost sha cease. The archeo og ca mon tor sha be empowered to temporar y red rect demo t on/excavat on/p e dr v ng/construct on act vtes and equipment until the depost s evaluated. If n the case of p e dr v ng or deep foundat on act vtes (foundat on, shor ng, etc.), the archeo og ca mon tor has cause to be eve that the p e dr v ng or deep foundat on act vtes may affect an archeo og ca resource, the p e dr v ng or deep foundat on act vtes sha be term nated until an appropriate evaluation of the resource has been made n consultation with the review officer. The archeo og ca consultant sha mmed ately not fy the review officer of the encountered archeo og ca depost. The archeo og ca consultant sha make a reasonable effort to assess the dentity, integrity, and significance of the encountered archeo og ca depost, and present the findings of this assessment to the ERO.  |   |  |   |  |  |  |  |  |
| Whether or not s gn f cant archeo og ca resources are encountered, the archeo og ca consu tant sha subm t a wr tten report of the f nd ngs of the mon tor ng program to the ERO.   |   |  |   |  |  |  |  |  |
| Archeological Data Recovery Program. The archeo og ca data recovery program sha be conducted n accord w th an archeo og ca data recovery p an. The archeo og ca consu tant, project sponsor, and ERO sha meet and consu t on the scope of the archeo og ca data recovery p an pro to preparat on of a draft p an. The archeo og ca consu tant sha subm t a draft p an to the ERO. The archeo og ca data recovery p an sha dent fy how the proposed data recovery program w preserve the s gn f cant nformat on the archeo og ca resource s expected to conta n. That s, the archeo og ca data recovery p an w dent fy what sc ent f c/h stor ca research quest ons are app cab e to the expected resource, what data c asses the resource s expected to possess, and how the expected data c asses wou d address the app cab e research quest ons. Data recovery, n genera, shou d be m ted to the port ons of the h stor ca property that cou d be adverse y affected by the proposed project. Destruct ve data recovery methods sha not be app ed to port ons of the archeo og ca resources f nondestruct ve methods are pract ca. | Archeo og ca consu tant, as d rected by the ERO | If there is a determination that an ADRP program is required, conduct ADRP throughout a so is disturbing activities. | Project sponsor/<br>archeo og ca<br>consu tant/<br>archeo og ca<br>mon tor/<br>contractor(s) sha<br>prepare an ADRP f<br>requ red by the ERO. | ADRP required? Y N Date:  Date of scoping meeting for ARDP:  Date Draft ARDP submitted to the ERO: |  |  |  |  |

## TABLE A (CONTINUED) MITIGATION MEASURES ADOPTED AS CONDITIONS OF APPROVAL FOR THE PROPOSED PROJECT AND PROJECT VARIANT

| Mitigation Measure  | Responsibility for<br>Implementation  | Mitigation Schedule                                     | Monitoring/<br>Reporting<br>Responsibility  | Monitoring Actions/<br>Schedule and Verification<br>of Compliance   |  |  |  |
|---|---|---|---|---|--|--|--|
| Initial Study E.3 Cultural Resources (cont.)  | Initial Study E.3 Cultural Resources (cont.)  |   |   |   |  |  |  |
| The scope of the archeo og ca data recovery p an sha nc ude the fo ow ng e ements:  |   |   |   | Date ARDP approved by   |  |  |  |
| <ul> <li>Field Methods and Procedures Descr pt ons of proposed f e d strateg es, procedures, and<br/>operat ons.</li> </ul>   |   |   |   | the ERO:  |  |  |  |
| <ul> <li>Cataloguing and Laboratory Analysis Description of selected cataloguing system and<br/>artifact analysis procedures.</li> </ul>  |   |   |   | Date ARDP   |  |  |  |
| <ul> <li>Discard and Deaccession Policy Description of and rationale for field and post field discard<br/>and deaccess on policies.</li> </ul>  |   |   |   | mp ementat on comp ete:   |  |  |  |
| <ul> <li>Interpretive Program Cons derat on of an ons te/offs te pub c nterpret ve program dur ng the course of the archeo og ca data recovery program.</li> </ul>  |   |   |   |   |  |  |  |
| <ul> <li>Security Measures Recommended secur ty measures to protect the archeo og ca resource<br/>from vanda sm, oot ng, and non ntent ona y damag ng act v t es.</li> </ul>  |   |   |   |   |  |  |  |
| <ul> <li>Final Report Description of proposed report format and distribution of results.</li> </ul>   |   |   |   |   |  |  |  |
| <ul> <li>Curation Description of the procedures and recommendations for the curation of any recovered data having potential research value, identification of appropriate curation facties, and a summary of the accession policies of the curation facties.</li> </ul>   |   |   |   |   |  |  |  |
| Human Remains, Associated or Unassociated Funerary Objects. The treatment of human rema ns and of assoc ated or unassoc ated funerary objects d scovered dur ng any so s d sturb ng act v ty sha comp y w th app cable state and federal aws, not und ng mmed ate not fication of the Office of the Chief Medical Examiner of the City and County of San Francisco and in the event of the medical examiner's determination that the human remains are Native American remains, not fication of the California State Native American Heritage Commission who sha appoint a Most Like y Descendant (Public Resource Code section 5097.98). The ERO sha also be immediately not field upon discovery of human remains. The archeological consultant, project sponsor, ERO, and almost key descendant shall have up to but not beyond six days after the discovery to make a reasonable efforts to develop an agreement for the treatment of human remains and associated or unassociated funerary objects with appropriate dignity (CEQA Guide nesisection 15064.5(d)). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, curation, possession, and final disposition of the human remains and associated or unassociated funerary objects. Nothing in existing state regulations or in this mitigation measure compessible project sponsor and the ERO to accept recommendations of a most key descendant. The archeological consultant shall retain possession of any Native American human remains and associated or unassociated bur alobjects untricompletion of any scientification and several propriets and several possession of any Native American human remains and associated or unassociated bur alobjects untricompletion of any scientification and the ERO. If no agreement is reached, state regulations shall be foliowed in the property in a location not subject to further subsurface disturbance (Public Resource Code section 5097.98). | Project sponsor,<br>contractor, P ann ng<br>Department's<br>archeo og st or<br>archaeo og ca<br>consu tant, and ERO | Throughout the durat on of ground d sturb ng act v t es | Project sponsor to<br>not fy ERO, Coroner,<br>and, f app cab e,<br>NAHC of any<br>d scovery of human<br>rema ns | Cons dered comp ete upon comp et on of ground d sturb ng act v t es |  |  |  |

## TABLE A (CONTINUED) MITIGATION MEASURES ADOPTED AS CONDITIONS OF APPROVAL FOR THE PROPOSED PROJECT AND PROJECT VARIANT

| Mitigation Measure  | Responsibility for<br>Implementation  | Mitigation Schedule  | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance   |
|---|---|--|--|---|
| Initial Study E.3 Cultural Resources (cont.)  |   |  |  |   |
| Final Archeological Resources Report. The archeo og ca consultant shall submit a Draft Final Archeological Resources Report to the ERO that evaluates the historical significance of any discovered archeological resource and describes the archeological and historical research methods employed in the archeological testing/recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the final report.  | Archeo og ca consu tant   | Pr or to the ssuance of<br>the ast cert f cate of<br>occupancy for the<br>proposed project   | ERO  | Cons dered comp ete upon<br>subm tta to ERO and other<br>repos tor es dent f ed n<br>m t gat on measure of F na<br>Archeo og ca Resources<br>Report |
| Once approved by the ERO, cop es of the F na Archeo og ca Resources Report sha be d str buted as fo ows: Ca forn a H stor ca Resource Informat on System Northwest Informat on Center sha rece ve one (1) copy and the ERO sha rece ve a copy of the transmitta of the report to the Northwest Informat on Center. The San Franc sco P anning Department Environmenta P anning Division sha receive one bound, one unbound and one un ocked, searchable PDF copy on CD of the report along with copies of any formalist terrorized to forms (Ca forn a Department of Parks and Recreation 523 form) and/or documentation for nomination to the National Register of Historical Resources. In instances of high public interest in or the high interpret version than that presented above.  |   |  |  |   |
| Mitigation Measure M-CR-3: Tribal Cultural Resources Interpretive Program  If the ERO determ nes that a s gn f cant archeo og ca resource s present, and f n consu tat on w th the aff ated Nat ve Amer can tr ba representat ves, the rev ew off cer determ nes that the resource const tutes a tr ba cu tura resource and that the resource cou d be adverse y affected by the proposed project, the proposed project sha be redes gned so as to avo d any adverse effect on the s gn f cant tr ba cu tura resource, f feas b e. If the ERO, n consu tat on w th the aff ated Nat ve Amer can tr ba representat ves, determ nes that preservat on n p ace of the tr ba cu tura resources s not a suff c ent or feas b e opt on, the project sponsor sha mp ement an nterpret ve program of the tr ba cu tura resource n consu tat on w th aff ated tr ba representat ves. An nterpret ve p an produced n consu tat on w th the ERO and aff ated tr ba representat ves, at a m n mum, and approved by the ERO wou d be required to mp ement the nterpret ve program. The p an sha dent fy, as appropr ate, proposed ocat ons for nsta at ons or d sp ays, the proposed content and mater a s of those d sp ays or nsta at on, the producers or art sts of the d sp ays or nsta at on, and a ong term mantenance program. The nterpret ve program may nc ude art st nsta at ons, preferab y by oca Nat ve Amer can art sts, ora h stor es w th oca Nat ve Amer cans, art facts d sp ays and nterpretat on, and educat ona pane s or other nformat ona d sp ays. | Project sponsor n consu tat on w th tr ba representat ve(s), as d rected by the ERO | If d rected by the ERO to mp ement an nterpret ve program, approva of nterpret ve p an pr or to the ssuance of the cert f cate of occupancy for the proposed bu d ng affect ng the re evant Tr ba Cu tura Resource | ERO  | Cons dered comp ete upon mp ementat on of any requ red interpret ve program   |

## TABLE A (CONTINUED) MITIGATION MEASURES ADOPTED AS CONDITIONS OF APPROVAL FOR THE PROPOSED PROJECT AND PROJECT VARIANT

| Mitigation Measure   | Responsibility for<br>Implementation                           | Mitigation Schedule                               | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |  |  |  |
|--|--|---|--|---|--|--|--|
| Initial Study E.13 Geology and Soils   |  |   |  | <del></del>   |  |  |  |
| Mitigation Measure M-GE-6: Paleontological Resources Monitoring and Mitigation Program  Pr or to ssuance of a bu d ng permt for construct on act vt es that would disturb the deep f area, where P e stocene aged sed ments, which may include Colma Formation, bay mud, bay clay, and or deribeach deposits (based on the site specific geotechnical investigation or other available information) may be present, the project sponsor shall retain the services of a qualified paleontological consultant having expertise in California paleontology to design and implement a Paleontological Resources Monitoring and Mitigation Program. The program shall specify the | Project sponsor and a<br>qua f ed pa eonto og ca<br>consu tant | Pr or to ssuance of a demo t on or bu d ng perm t | ERO  | Cons dered comp ete upon comp et on of project construct on       |  |  |  |
| t m ng and spec f c ocat ons where construct on mon tor ng wou d be required; nadvertent d scovery procedures; samping and data recovery procedures; procedures for the preparation, dent f cation, analysis, and curation of foss is specimens and data recovered; preconstruction coordination procedures; and procedures for reporting the results of the monitoring program. The program shall be consistent with the Society for Vertebrate Paleontology Standard Guidelines for the mitigation of construction related adverse impacts to paleontological resources and the requirements of the designated repository for any foss is collected.                       |  |   |  |   |  |  |  |
| Dur ng construct on, earth mov ng act v t es that have the potent a to d sturb prev ous y und sturbed nat ve sed ment or sed mentary rocks sha be mon tored by a qua f ed pa eonto og ca consu tant hav ng expert se n Ca forn a pa eonto ogy. Mon tor ng need not be conducted when construct on act v t es wou d encounter art f c a f , Young Bay Mud, or non sed mentary rocks of the Franc scan Comp ex.  |  |   |  |   |  |  |  |
| If a pa eonto og car esource sid scovered, construction activities in an appropriate buffer around the discovery site shall be suspended for a max mum of 4 weeks. At the direction of the Environmenta Review Officer (ERO), the suspension of construction can be extended beyond four (4) weeks if needed to implement appropriate measures in accordance with the program, but only if such a suspension is the only feasible means to prevent an adverse impact on the paleontological resource.  |  |   |  |   |  |  |  |
| The pa eonto og ca consultant's work shall be conducted at the direction of the City's environmental review officer. Plans and reports prepared by the consultant shall be submitted first and directly to the ERO for review and comment, and shall be considered draft reports subject to revision unit if na approva by the ERO.  |  |   |  |   |  |  |  |

TABLE B
IMPROVEMENT MEASURES ADOPTED AS CONDITIONS OF APPROVAL

| Improvement Measure   | Responsibility for<br>Implementation  | Mitigation Schedule   | Monitoring/<br>Reporting<br>Responsibility       | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |
|---|---|---|--|---|
| EIR Section 4.E Transportation and Circulation  |   | an -  |  | 90  |
| <ul> <li>Construction Management Plan         The project sponsor w deve op and, upon review and approva by the San Francisco Municipal participation of the project sponsor wide op and, upon review and approva by the San Francisco Public Works, mplement a Construction Management Plan, addressing transportation related circulation, access, staging and hours of delivery. The Construction Management Plan would disseminate appropriate information to contractors and affected agencies with respect to coordinating construction activities to minimize overa disruption and ensure that overa circulation in the project area is maintained to the extentitions being with particular focus on ensuring transiting the project area is maintained to the extentitions being with particular focus on ensuring transiting the project area is maintained to the extentitions being with particular focus on ensuring transiting transiti</li></ul> | Project sponsor,<br>construct on<br>contractor, SFMTA,<br>SF Pub c Works, as<br>d rected by the ERO | Pr or to the ssuance of<br>a s te perm t, demo t on<br>perm t, or any other<br>perm t from the<br>Department of Bu d ng<br>Inspect on | SFMTA, SF Pub c<br>Works, P ann ng<br>Department | Cons dered comp ete upon comp et on of project construct on       |
| <ul> <li>Carpool, Bicycle, Walk, and Transit Access for Construction Workers To mnm ze park ng demand and vehicle to right park of the Construction workers, the construction contractor wind no reduced as part of the Construction Management P an methods to encourage carpooing, block explored and transit access to the project site by construction workers. These methods could not deproved ng secure block explored parking spaces, participating in the emergency right home program through the City of San Francisco (www.sferh.org), and providing transit information to construction workers.</li> <li>Project Construction Updates for Nearby Businesses and Residents To min mize construction impacts on access to nearby residences and businesses, the project sponsor with project construction, not used not construct on activities, trave and construction and parking and and sidewalk construction to the project sponsor that would provide current construction information of interest to neighbors, as we as contact information for specific construction in quiries or concerns.</li> </ul>  |   |   |  |   |

# TABLE B (CONTINUED) IMPROVEMENT MEASURES ADOPTED AS CONDITIONS OF APPROVAL

| Improvement Measure  | Responsibility for<br>Implementation                                       | Mitigation Schedule  | Monitoring/<br>Reporting<br>Responsibility   | Monitoring Actions/<br>Schedule and Verification<br>of Compliance   |
|--|--|--|--|---|
| EIR Section 4.E Transportation and Circulation (cont.)   |  |  |  |   |
| Improvement Measure I-TR-B: Monitoring and Abatement of Queues  As an improvement measure to reduce the potent a for queuing of vehicles accessing the project garages, it will be the responsibility of the project sponsor to ensure that recurring vehicle queues or vehicle conflicts do not occur adjacent to garage entries. A vehicle queue is defined as one or more vehicles blocking any portion of adjacent sidewalks, blocycle anes, or trave lanes for a consecutive per od of three minutes or longer on a daily and/or weekly basis.  If recurring queuing occurs, the owner/operator of the facility will employ abatement methods as needed to abate the queue. Appropriate abatement methods will vary depending on the character stics and causes of the recurring queue, as we last the character stics of the parking facility, the street(s) to which the facility connects, and the associated and uses (if applicable).  Suggested abatement methods include, but are not mitted to the following: redesign of facility to mprove vehicle circuit at on and/or onsite queue capacity; employment of parking attendants; installation of "GARAGE FULL" signs with active management by parking attendants; use of valet parking or other space efficient parking techniques; use of other garages on the project site; use of parking occupancy sensors and signage directing divers to avaiable spaces; trave idemand management strategies; and/or parking demand management strategies such as parking time imits, paid parking, time of day parking surcharge, or validated parking.  If the panning department will not fythe project sponsor in writing. Upon request, the owner/operator will her alphanes determines that a recurring queue or conflict may be present, the panning department will not fythe project sponsor in writing. Upon request, the owner/operator will her alphanes at the subation of the panning department for review. If the panning department determines that a recurring queue or | Project sponsor, qua fed transportat on consu tant, as d rected by the ERO | Ongo ng dur ng project<br>operat on; f/when a<br>veh c e queue s<br>dent f ed as reoccurr ng | ERO or other<br>P ann ng Department<br>staff   | Mon tor ng of the pub c r ght of way wou d be on go ng by the owner/operator of off street park ng operat ons; cons dered comp ete upon abatement of the recurr ng queue or conf ct |
| conf ct does ex st, the project sponsor w have 90 days from the date or the written determination to abate the recurring queue or confict.   |  |  |  |   |
| EIR Section 4.F Noise and Vibration  |  |  |  |   |
| <ul> <li>Improvement Measure I-NO-A, Nighttime Construction Noise Control Measures</li> <li>The fo owng sha occur to reduce potent a conficts between night me construction activities on the project site and residents of the Pierr 70 project:</li> <li>Night me construction noise shalp be mitted to 10 dBA above ambient levels at 25 feet from the edge of the Power Station project boundary.</li> <li>Temporary noise barriers installed in the line of sight between the location of construction and any occupied resident aluses.</li> <li>Construction contractor(s) shalp be required to make best efforts to complete the loudest construction activities before 8 p.m. and after 7 a.m.</li> </ul>   | Project sponsor and construct on contractor                                | Dur ng the construct on  | P ann ng Department, Department of Bu d ng Inspect on (as requested and/or on comp a nt bas s) | Cons dered comp ete at<br>the comp et on of project<br>construct on   |

# TABLE B (CONTINUED) IMPROVEMENT MEASURES ADOPTED AS CONDITIONS OF APPROVAL

| lm        | provement Measure   | Responsibility for<br>Implementation | Mitigation Schedule   | Monitoring/<br>Reporting<br>Responsibility                                   | Monitoring Actions/<br>Schedule and Verification<br>of Compliance  |
|-----------|---|--------------------------------------|---|--|--|
| EII       | R Section 4.F Noise and Vibration (cont.)   |                                      |   |  |  |
| •         | Further, not ces sha be provided to be majed or, if possible, emajed to residents of the Pier 70 project at least 10 days prior to the date any night me construction activities are scheduled to occur and again within three days of commencing such work. Such notice sha include:   |                                      |   |  |  |
|           | . a descr pt on of the work to be performed;  |                                      |   |  |  |
|           | . two 24 7 emergency contact names and ce phone numbers;  |                                      |   |  |  |
|           | . the exact dates and t mes when the n ght work w be performed;   |                                      |   |  |  |
|           | v. the name(s) of the contractor(s); and  |                                      |   |  |  |
|           | v. the measures that the contractor w perform to reduce or m t gate n ght no se.  |                                      |   |  |  |
| •         | In add t on to the forego ng, the Deve oper sha work with building managers of occupied resident a buildings in the Pier 70 project to post a notification with the aforement oned information in the lobby and other public meeting areas in the building.   |                                      |   |  |  |
| lm        | provement Measure I-NO-B: Avoidance of Residential Streets  | Project sponsor and                  | nd Dur ng the construct on  | P ann ng<br>Department,<br>Department of<br>Bu d ng Inspect on               | Cons dered comp ete at<br>the comp et on of project<br>construct on  |
| p a<br>on | ucks shou d be required to use routes and queuing and loading areas that avoid existing and anned resident a luses to the max mum extent feasible, including existing resident a development. Third Street (north of 23rd Street), existing resident a development on I inois Street (north of th Street), and planned Pier 70 resident a development (north of 22nd Street).   | construct on contractor              |   |  |  |
|           | provement Measure I-NO-C: Design of Future Noise-Generating Uses near Residential ies:  | Project sponsor and acoust ca des gn | bu d ng perm t for deve opment a ong the northern s te boundary (adjacent to P er 70) | P ann ng<br>Department,<br>Department of<br>Bu d ng Inspect on,<br>and SFMTA | Cons dered comp ete at<br>the comp et on of project<br>construct on (a. and b.),<br>and for (c), upon<br>comp et on of the |
| Pe        | e fo owing improvement measures will be implemented to reduce the potential for disturbance of er 70 residents from other traffic related, no seigenerating activities located near the northern PS is to boundary:   | consu tant                           |   |  |  |
| a.        | Design of Building Loading Docks and Trash Enclosures. To m n m ze the potent a for s eep d sturbance at any potent a adjacent res dent a uses, exter or fac t es such as oad ng areas / docks and trash enc osures assoc ated w th any non res dent a uses a ong Cra g Lane, sha be ocated on s des of bu d ngs fac ng away from ex st ng or p anned Res dent a or Ch d Care uses, f feas b e. If nfeas b e, these types of fac t es assoc ated w th non res dent a uses a ong Cra g Lane sha be enc osed. |                                      | (a. and b.)<br>Ongo ng (c.)   |  | Covenants, Cond t ons,<br>and Restr ct ons app cab e<br>to the project s te<br>document                                    |
|           | If res dent a uses ex st or are p anned on Cra g Lane, on street oad ng act v t es on Cra g Lane sha occur between the hours of 7:00 a.m. and 8:00 p.m. on weekdays, and 9:00 a.m. to 8:00 p.m. on Saturdays, Sundays, and federa ho days. Off street oad ng outs de of these hours sha on y be perm tted on y f such oad ng occurs ent re y w th n enc osed bu d ngs.  |                                      |   |  |  |
| b.        | Design of Above Ground Parking Structure. Any park ng structure sha be designed to she d ex sting or planned resident a luses from no se and light associated with parking cars.  |                                      |   |  |  |
| C.        | Restrict Hours of Operation of Loading Activities on Craig Lane. To reduce potent a conf cts between oad ng act vt es for commerc a uses and potent a res dent a uses, the project  |                                      |   |  |  |

# TABLE B (CONTINUED) IMPROVEMENT MEASURES ADOPTED AS CONDITIONS OF APPROVAL

| Improvement Measure  | Responsibility for<br>Implementation                         | Mitigation Schedule                    | Monitoring/<br>Reporting<br>Responsibility                                | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |
|--|--|--|---|---|
| EIR Section 4.F Noise and Vibration (cont.)  |  |  |   | **  |
| sponsor w seek to restrict oading activities on Craig Lane to occur only between the hours of 7 a.m. and 8 p.m. In the event Craig Lane is a private street, such restriction may be included in the Covenants, Conditions, and Restrictions applicable to the project site. If San Francisco Public Works accepts Craig Lane, the project sponsor will seek to have SFMTA impose these restrictions.  |  |  |   |   |
| EIR Section 4.H Wind and Shadow  |  |  |   |   |
| Improvement Measure I-WS-1: Wind Reduction Features for Block 1  As part of the schemat c des gn of bu d ng(s) on B ock 1, the project sponsor and the B ock 1 arch tect(s) should consult with a qualified wind consultant regarding design treatments to minimize pedestrian level winds created by development on B ock 1, with a focus on the southwest corner of the block. Design treatments could not ude, but need not be imited to, no us on of podium setbacks, terraces, architectural canopies or screens, vertical or horizontal fins, chamfered corners, and other articulations to the building façade. If such building design measures are found not to be effective, and scaping (trees and shrubs), street furniture, and ground level fences or screens may be considered. If recommended by the qualified wind consultant, the project sponsor should subject the building(s) proposed for this block to wind tunne testing prior to the completion of schematic design. The goal of this measure is to improve pedestrian wind conditions resulting from the development of Block 1. The project sponsor should incorporate into the design of the Block 1 building(s) any wind reduction features recommended by the qualified wind consultant. | Project sponsor,<br>arch tect and qua fed<br>w nd consu tant | Pr or to Des gn<br>Approva for B ock 1 | P ann ng<br>Department,<br>Department of<br>Bu d ng Inspect on,<br>or ERO | Cons dered comp ete upon<br>ssuance of B ock 1 Des gn<br>Approva  |

#### EXHIBIT D

#### PERFORMANCE BOND AND PAYMENT (LABOR & MATERIALS) BOND

WHEREAS, said Principal is required under the terms of said Contract to furnish a Bond for the faithful performance of said Contract; and to furnish a separate Bond for the payment of any materials, provisions, or other supplies, used in, upon, for or about the performance of the Work contracted to be done;

| NOW, THEREFORE, we the Principal and          |   |
|---|---|
| as Surety, are firmly bound unto the City and | d County of San Francisco in the penal sum of |
| (PERFORMANCE BOND)                            | (PAYMENT BOND) and                            |

lawful money of the United States for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally firmly by these presents for the penal sum for a performance bond and an equal and separate penal sum for a separate payment bond. The conditions of this obligation is such that if the said principal does well and faithfully performs all the conditions and covenants of said Contract, according to the true intent and meaning thereof, upon its part to be kept and performed, then the above obligation is to be null and void, otherwise to remain in full force and effect.

#### (PERFORMANCE BOND)

THE CONDITION OF THIS OBLIGATION IS SUCH, that if the above bounden Principal, its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the said Contract, including the provisions for liquidated damages in the said Contract, any changes, additions or alterations thereof made as therein provided, on its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City and County of San Francisco, its officers and agents, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

#### (PAYMENT BOND)

THE CONDITION OF THIS OBLIGATION IS SUCH, that if said principal, its heirs, executors, administrators, successors or assigns, or its subcontractors, shall fail to pay (i) any of the persons named in California Civil Code Section 9100 for any materials, provisions, or other supplies used in, upon, for or about the performance of work under the Contract, or for any work or labor performed under the Contract; or (ii) amounts due under the California Unemployment Insurance Code with respect to work or labor performed under the Contract; or (iii) for any amounts required to be deducted, withheld, and paid over to the State of California Employment Development Department from the wages of employees of Principal and subcontractors pursuant to Section 13020 of the California Unemployment Insurance Code with respect to such work or labor, that Surety will pay for the same in an amount not exceeding the sum specified in this Bond. In the event that suit is brought upon this Payment Bond, the parties not prevailing in such suit shall pay reasonable attorney's fees and costs incurred by the prevailing parties in such suit.

This Payment Bond shall inure to the benefit of any of the persons named in California Civil Code Section 9100 as to give a right of action to such persons or their assigns in any suit brought against this Bond.

Should the condition of this Payment Bond be fully performed, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

Surety, for value received, hereby expressly agrees that no change, extension of time, modification, alteration or addition to the undertakings, covenants, terms, conditions and agreements of the Contract, or to the work to be performed thereunder, or to the Specifications accompanying the same, and no inadvertent overpayment of progress payments, shall in any way affect its obligations on these Bonds; and it does hereby waive notice of any such change, extension of time, modification, alteration or addition to the undertakings, covenants, terms, conditions and agreements of the Contract, or to the Work to be performed thereunder, or to the Specifications, or of any inadvertent overpayment of progress payments.

| IN WITNE    | ESS WHEREOF,        | the above-bou  | ınden parties h  | ave executed   | this instrument  | under their   |
|-------------|---------------------|----------------|------------------|----------------|------------------|---------------|
| seal this   | day of              | , 20           | _, the name an   | d corporate so | eal of each corp | orate party   |
| being here  | to affixed and the  | se presents du | lly signed by it | s undersigned  | l representative | , pursuant to |
| authority o | of its governing be | ody.           |                  | _              | _                |               |
| Approved    | as to form:         |                |                  |                |                  |               |
| Dennis J. I | Herrera             |                |                  |                |                  |               |
| City Attorn | ney                 |                |                  |                |                  |               |
| By:         |                     |                |                  |                |                  |               |
| De          | puty City Attorne   | V              |                  |                |                  |               |

| Princip | pal    |  |
|---------|--------|--|
| By:     |        |  |
|         | Surety |  |
| By:     |        |  |

END OF DOCUMENT

## EXHIBIT E

## WORKFORCE AGREEMENT

(To be attached.)

[Page intentionally left blank.]

## SCHEDULE 1

## HAZARDOUS MATERIALS DISCLOSURE

[Page intentionally left blank.]

## SCHEDULE 2

## SUBSTRUCTURE REPORT(S)

(To be attached.)

## **EXHIBIT J**

## **Hazardous Materials Disclosure**

[attached]

| Title   | Author                              | Date              |
|---|-------------------------------------|-------------------|
| Potrero Power Plant Sitewide Documents  |                                     |                   |
| Phase II Environmental Site Assessment, Pacific Gas and Electric Company, Potrero<br>Power Plant, San Francisco, California                 | Fluor Daniel GTI                    | June 1998         |
| Report of Results, Additional Site Characterization, Potrero Power Plant Site (Vol. I and Vol. II), San Francisco, California               | Geomatrix<br>Consultants, Inc.      | April 2000        |
| Technical Memorandum – Updated Continuous DNAPL Areas and Bay Mud<br>Contours, Potrero Power Plant Site                                     | Haley and Aldrich                   | July 11, 2013     |
| Phase I Environmental Site Assessment, Former Potrero Power Plant, San Francisco, California  | Geosyntec<br>Consultants, Inc.      | August 19, 2016   |
| Maher Ordinance Permit Application, Group 1 Development Properties, Potrero Power Plant (Formerly owned by PG&E), San Francisco, California | Geosyntec<br>Consultants, Inc.      | October 29, 2018  |
| Preliminary Geotechnical Report, Potrero Power Station, San Francisco, California   | ENGEO Incorporated                  | September 7, 2019 |
| Station A Documents   |                                     |                   |
| Soil Vapor Investigation Report, Potrero Power Plant, San Francisco, California   | AMEC Geomatrix, Inc.                | April 2010        |
| Report of Results, Supplemental Soil Vapor Sampling, Potrero Power Plant, San Francisco, California   | AMEC Geomatrix,<br>Inc.             | December 2010     |
| Human Health Risk Assessment, Station A, Potrero Power Plant Site, San Francisco,<br>California   | AMEC Geomatrix,<br>Inc.             | October 2011      |
| Risk Management Plan, Station A NRG Area, Potrero Power Plant Site, San Francisco, California   | Haley and Aldrich and<br>Pivox Corp | June 16, 2016     |

| Title   | Author                             | Date               |
|---|------------------------------------|--------------------|
| Covenant and Environmental Restriction on Property, Portion of 1201 Illinois Street APN 4175-006 (portion) 4232-001, 4232-006 (portion), 11, August Recorded August 12, 2016 Assessor Doc# K305568-00 | San Francisco<br>Assessor-Recorder | August 12, 2016    |
| Approval Letter, Risk Management Plan, Station A NRG Area, Potrero Power Plant Site, San Francisco, California  | Water Board                        | September 12, 2016 |
| No Further Action, Station A Area, Potrero Power Plant Site, San Francisco, California  | Water Board                        | February 13, 2017  |
| Unit 3 Documents  |                                    |                    |
| Final Former Unit 3 Power Generation Facility Investigation Report and Human<br>Health Risk Assessment, Potrero Power Plant Site, San Francisco, California   | Haley and Aldrich                  | June 27, 2017      |
| Approval of Former Unit 3 Power Generation Facility Investigation Report and Human Health Risk Assessment.  | Water Board                        | September 15, 2017 |
| Second Addendum to the Final Remedy, Station A PG&E and CBC (Formerly NRG)<br>Areas, Incorporating Unit 3 Area, Potrero Power Plant Site, San Francisco,<br>California                                | Haley and Aldrich                  | June 18, 2018      |
| Approval of Second Addendum to the Final Remedy, Station A PG&E and CBC (Formerly NRG) Areas, Incorporating Unit 3 Area, Potrero Power Plant Site, San Francisco, California                          | Water Board                        | January 2, 2019    |
| Northeast Area Documents  | <del>!</del>                       |                    |
| Source Investigation Report, Potrero Power Plant Site, San Francisco, California  | Geomatrix<br>Consultants, Inc.     | March 2004         |
| Report of Results, Shoreline Investigation, Potrero Power Plant Site, San Francisco, California   | Geomatrix<br>Consultants, Inc.     | March 2008         |

| Title  | Author            | Date              |
|--|-------------------|-------------------|
| Report of Results, Subsurface Investigation Activities: Evaluation of Impacts to Fill and Bay Mud, Potrero Power Plant Site, San Francisco, California | AMEC              | September 2010    |
| Report of Results: Phase III Subsurface Investigation, Pier 70 Property, Potrero Power Plant Site, San Francisco, California                           | AMEC              | August 2011       |
| Human Health Risk Assessment, Northeast Area, Potrero Power Plant Site, San Francisco, California  | AMEC              | July 2012         |
| Approval of Human Health Risk Assessment, Northeast Area, Potrero Power Plant Site, San Francisco, California  | Water Board       | August 9, 2012    |
| Feasibility Study, Northeast Area, Potrero Power Plant Site, San Francisco, California   | Haley and Aldrich | December 2012     |
| Approval of Feasibility Study, Northeast Area, Potrero Power Plant Site, San Francisco, California   | Water Board       | December 27, 2012 |
| Remedial Action Plan, Northeast Area, Potrero Power Plant Site, San Francisco, California  | Haley and Aldrich | June 2016         |
| Approval of Northeast Area Remedial Action Plan, Potrero Power Plant Site, San Francisco, California   | Water Board       | July 7, 2016      |
| Post-Remediation Performance Monitoring Plan, Northeast Area, Potrero Power Plant Site, San Francisco, California                                      | Haley and Aldrich | November 20, 2018 |
| Remedial Action Completion Report, Upland Remediation, Northeast Area, Potrero Power Plant Site, San Francisco, California                             | Haley and Aldrich | October 4, 2019   |
| Draft Post-Remediation Performance Monitoring and Conditions Report, Northeast Area, Potrero Power Plant Site, San Francisco, California               | Terra Pacific     | December 30, 2019 |

| Title   | Author                             | Date               |
|---|------------------------------------|--------------------|
| Approval of Remedial Action Completion Report, Upland Remediation, Northeast<br>Area, Potrero Power Plant Site, San Francisco, California   | Water Board                        | January 13, 2020   |
| Tank Farm Area Documents  |                                    |                    |
| Tank Farm Area Investigation Report, Potrero Power Plant Site, San Francisco, California  | Haley and Aldrich                  | July 2018          |
| Draft Tank Farm Area Human Health Risk Assessment, Potrero Power Plant Site,<br>San Francisco, California   | Haley and Aldrich                  | May 2019           |
| Approval of Tank Farm Investigation Report, Potrero Power Plant Site, San Francisco, California   | Water Board                        | October 30, 2019   |
| Switchyard/General Construction Yard Documents  |                                    |                    |
| Report of Results and Human Health Risk Assessment, Soil and Groundwater Investigation, Switchyard and General Construction Yard, Potrero Power Plant Site, San Francisco, California                       | Geomatrix<br>Consultants, Inc.     | November 2003      |
| Site Management Plan, Potrero Power Plant Site, Switchyard and General Construction Yard, San Francisco, California   | Innovative Technical<br>Solutions  | April 2008         |
| Covenant and Environmental Restriction on Property, Potrero Switchyard and General Construction Yard, 1201 Illinois Street APN 4175-007, Parcels 1 and 2, Recorded January 5, 2012 Assessor Doc# J329253-00 | San Francisco<br>Assessor-Recorder | September 15, 2011 |
| Shoreline/Potrero Point Park Area Documents   |                                    |                    |
| Investigation of PG&E ZA-1 Line Alignment, Unit 3 Power Generation Area, Potrero Power Plant Site   | Haley and Aldrich                  | October 2, 2014    |
| Summary of Investigation and Remedial Activities, Port of San Francisco-Owned Areas, Potrero Power Plant Site   | Haley and Aldrich                  | September 27, 2019 |

| Title  | Author            | Date          |
|--|-------------------|---------------|
| Offshore Area Documents  |                   |               |
| Final Potrero Sediment Phase 3a Investigation Summary, Offshore Potrero Power Plant                                  | Haley and Aldrich | June 26, 2012 |
| Potrero Offshore Sediment Area Remedial Investigation Report, Potrero Power Plant<br>Site, San Francisco, California | Haley and Aldrich | July 2014     |
| Approval of Potrero Offshore Sediment Area Remedial Investigation Report, Potrero<br>Power Plant Site                | Water Board       | October 2014  |
| Groundwater to Surface Water Investigation Report, Potrero Power Plant Site, San Francisco, California               | Haley and Aldrich | November 2014 |
| Approval of Groundwater to Surface Water Investigation Report, Potrero Power Plant Site                              | Water Board       | November 2015 |
| Potrero Offshore Sediment Area Feasibility Study Report, Potrero Power Plant Site,<br>San Francisco, California      | Haley and Aldrich | December 2015 |
| Remedial Action Plan, Offshore Sediment Area, Potrero Power Plant Site, San Francisco, California                    | Haley and Aldrich | December 2017 |

## **EXHIBIT K**

## Port's Zero Waste Events and Activities Policy

[attached]

# PORT OF SAN FRANCISCO ZERO WASTE EVENTS AND ACTIVITIES POLICY

### February 2012

The Port of San Francisco is proud to host numerous events on Port property each year. These include fundraising walks and runs, "tailgate parties" at athletic events, Christmas tree sales, 4th of July Celebration, Oktoberfest, Fleet Week, and the proposed 34<sup>th</sup> America's Cup events (subject to pending environmental review). Some events can generate public participation of 5,000 or more people during the period of the event. Large outdoor events of this size typically generate a variety of plastic wastes from the sale of water in single-use bottles, the use of non-compostable plastic food ware, and the distribution of plastic bags to customers for food, merchandise and souvenirs. Along the Port's facilities, the inherent challenges of waste management at a large event are compounded by a windy environment and proximity to the San Francisco Bay.

#### **Plastics**

Several plastic waste items have significant environmental impacts. Single use plastic bags are difficult to recycle and can contaminate existing recycling and composting streams. These products are easily scattered by the wind and can create significant litter problems on shore and in water. Single-use plastic water bottles are resource intensive to produce, fill and transport, and contribute to waste management challenges at events. Non-food product plastic packaging is also difficult to recycle, may create a significant litter problem and harm the marine environment. The National Oceanic and Atmospheric Administration (NOAA) has recognized burst latex and Mylar balloons as a commonly reported source of marine debris. Balloons drift onto the surface of water and mimic the appearance of jellyfish and other floating organisms that are a natural food source for turtles, fish, dolphins, and shorebirds.

Plastic wastes are of increasing concern in marine environments and are a focus of volunteer and non-profit clean-up activities along the waterfront and bay shoreline. Plastics from litter, stormwater and maritime sources enter the marine environment where they degrade into microscopic bits and damage the ecology of our oceans. They can entangle wildlife and disrupt their internal organs and, when digested by marine life plastics can function as a pathway of exposure several pollutants such polychlorinated biphenyls (PCBs), dichlorodiphenyltrichloroethane (DDTs) and polycyclic aromatic hydrocarbons (PAHs). These pollutants can bio-accumulate and bio-magnify in the food chain, eventually making their way into human food sources. There are five ocean gyres, or large bodies of water that contain massive accumulations of degraded plastics around the globe.

### Food-Related Wastes and Packaging

Large events produce large volumes of food-related wastes and packaging. San Francisco Special Events Ordinance No. 73-89 requires any applicant seeking permission for the temporary use or occupancy of a public street, a street fair or an athletic event within the City and County that includes the dispensing of beverages or which generates large amounts of other materials to submit a recycling plan to the department issuing the permit for the event or activity. Recycling plans shall include arrangements for collection and disposition of source separated recyclables and/or

compostables by a service provider of the event organizer. San Francisco offers one of the most successful and comprehensive large municipal food scrap collection programs in the nation.

Events at the Port of San Francisco attract tourists who may be less familiar with the City's recycling and composting programs than residents and local business owners. In the experience of the Department of the Environment, the best way to manage food waste streams at large events is to require the use of either compostable or durable, reusable food service ware.

Exclusive use of compostable food service ware facilitates source separation and the diversion of organic materials from landfill, mitigates contamination in the City's recycling programs, and streamlines composting and related waste diversion activities during large events. A wide variety of compostable food service ware and bags are available in the marketplace. These are made from renewable resources such as paper, corn starch and sugarcane.

#### Reusable Water Bottles and Refilling Stations

The City's water delivery system consistently provides among the purest, safest drinking water in the nation from spring snowmelt stored in the Hetch Hetchy Reservoir and flowing down the Tuolumne River. Re-usable water bottles are easy to refill and use of Hetch Hetchy water guarantees a high quality of water for the public. Durable or compostable service ware can be combined with water filling stations to further reduce the need for single-use plastic packaging.

The Port Commission adopts the following measures to address the concerns outlined above and to 1) ensure that food waste streams from large outdoor events can be easily composted, and 2) marine life in the Bay is protected from plastics and litter through elimination or reduction of plastics at these events.

- 1. The provisions of this Policy are mandatory for all events or activities ("Events") on Port property that the Port expects will attract 5,000 or more people aggregated over the number of days the event is held. Examples of these Events include but are not limited to: exhibitions or presentations of sporting events, tournaments, concerts, musical and theatrical performances and other forms of live entertainment, public ceremonies, fairs, carnivals, markets, shows, fundraising events, races or other public or private exhibitions and activities related thereto. This Policy shall apply to all persons or entities organizing, sponsoring or hosting an Event, including all vendors, subcontractors and agents ("Event Organizers") for an Event. Event Organizers of Events with an expected attendance of less than 5,000 people are strongly encouraged to comply with this Policy.
- 2. The sale, use and distribution of single-use plastic water bottles are prohibited. The Event Organizer must provide "water filling stations" supplied either by the San Francisco Public Utilities Commission or a vendor approved by the Port's Executive Director or her or his designee for use by individuals with reusable water bottles. This prohibition applies only to single-use plastic bottles that are used for non-carbonated or non-flavored water.
- 3. The sale, use and distribution of single-use disposable plastic bags are prohibited. The Event Organizer must use alternatives to single-use plastic bags such as recyclable paper, compostable plastic (preferably marine degradable) and/or reusable bags as those terms are defined by the City's Plastic Bag Reduction Ordinance.

- 4. The sale, use and distribution of single-use non-compostable plastic food ware are prohibited. The Event Organizer may only sell, use and distribute food service ware that is either labeled "compostable" and meets American Society for Testing and Materials (ASTM) standards for compostability or that is durable, washable, and reusable.
- 5. All compostable plastic food service ware must meet ASTM D-6400 standards for compostable plastics, have BPI certification (www.BPIworld.org), and be clearly labeled with a color-coded (green) identifying marker, such as a green sticker, stripe or band on all pieces of the product (for example the cup and lid must both be labeled), or other certification standards (such as marine degradability) as may be recommended from time to time by the San Francisco Department of the Environment and approved by the Port Executive Director.
- 6. The intentional release of balloons on Port property in connection with an Event subject to this Policy is prohibited.
- 7. Event Organizers are encouraged to minimize packaging and avoid the use of disposable plastic packaging.
- 8. The Port reserves the right at any time and from time to time to revise this Policy or to make such other and further Rules and Regulations as the Port shall determine are in the best interest of the Port, the San Francisco Bay, and the community, or that comply with City law.
- 9. For Events that the Port expects will attract 5,000 or more people in the aggregate, all licenses, leases, or other real property agreements with Event Organizers entered into after the date of adoption of this Policy by the Port Commission ("the adoption date"), and all amendments to licenses, leases, or other real property agreements with Event Organizers made beginning in 2012 shall require the Event Organizer to comply with this Policy. Such Event Organizer's failure to comply with this Policy shall be deemed a material breach of the agreement and the Port may pursue remedies, including liquidated damages and termination of the agreement.
- 10. The Port Commission may grant a waiver of any of the provisions of this Policy, in its sole discretion, if the provision that is waived is replaced by an action that (i) protects the Port's and Bay's natural habitat, (ii) is compliant with law, and (iii) is in keeping with the environmental spirit of the Port's goals herein.

This Policy for Zero Waste Events and Activities shall apply to all events on Port property with a total expected attendance of 5,000 or more people aggregated over the number of days the event is held. This Policy for Zero Waste Events and Activities also serves as non-mandatory goals for events with an expected attendance of less than 5,000 people.

#### **EXHIBIT L**

### **FEMA-National Flood Insurance Program Disclosure Notice**

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

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

FIRMs identify areas that are subject to inundation during a flood having a 1% chance of occurrence in a given year (also known as a "base flood" or "100-year flood"). FEMA refers to an area that is at risk from a flood of this magnitude as a special flood hazard area ("SFHA"). To prepare the FIRM for San Francisco, FEMA has performed detailed coastal engineering analyses and mapping of the San Francisco Bay and Pacific Ocean shorelines. These studies include both regional hydrodynamic and wave modeling and detailed onshore coastal analysis used to estimate wave runup and overtopping, as well as overland wave propagation. These onshore analyses form the basis for the Base Flood Elevations (BFEs) and SFHAs shown on the FIRM.

FEMA used these studies to prepare a preliminary FIRM for San Francisco, which it issued in November 2015. The preliminary FIRM identified SFHAs along the City's shoreline in and along the San Francisco Bay consisting of "A zones" (coastal areas subject to inundation by tidal surge and waves less than three feet in height) and "V zones" (areas subject to the additional hazards that accompany waves more than three feet in height). These zones generally affect City property under the jurisdiction of the Port of San Francisco and other areas of the San Francisco waterfront, including parts of Mission Bay, Hunters Point Shipyard, Candlestick Point, Treasure and Yerba Buena Islands, and an area adjacent to Islais Creek. Additionally, the preliminary FIRM shows most of San Francisco International Airport to be within an SFHA.

In response to comments and an appeal submitted by the City, FEMA issued a revised preliminary FIRM in May 2019. The revised preliminary FIRM included changes to the flood hazard data for waterfront piers within the Port's jurisdiction and in the area of the Mission Bay development. FEMA is currently preparing to initiate a 90-day appeal period during which the City and/or property owners may appeal the revised information based on technical data. FEMA

expects the appeal period to be initiated in December 2019 or January 2020. Following resolution of any appeals or comments, FEMA will issue a Letter of Final Determination (LFD) stating that the flood hazard data shown on the FIRM is final, and stating that the map will be published in final form six months from the date of the LFD (referred to as the "effective date" of the FIRM). During that six-month period, the City must amend the floodplain management ordinance to adopt the new FIRM. FEMA expects the FIRM to become effective in early 2021. After the effective date, the FIRM will be used for all flood insurance and floodplain management purposes.

The federal legislation and regulations implementing the NFIP are located at 42 U.S.C. §§ 4001 et seq.; 44 C.F.R. Parts 59-78, §§ 59.1-78.14. FEMA also publishes "Answers to Questions About the NFIP" and FEMA Publication 186 entitled "Mandatory Purchase of Flood Insurance Guidelines." Additional information on this matter can be found on the City's and FEMA's websites at the following links:

http://sfgsa.org/san-francisco-floodplain-management-program

https://www.fema.gov/national-flood-insurance-program-flood-hazard-mapping

https://www.fema.gov/national-flood-insurance-program

#### **EXHIBIT M**

#### Form of Memorandum of Lease

| This document is exempt from payment of a recording fee pursuant to California                                 | FOR RECORDER'S USE ONLY |
|--|-------------------------|
| Government Code Section 27383  |                         |
| RECORDING REQUESTED BY, AND WHEN RECORDED, MAIL TO:  |                         |
| Paul Hastings LLP<br>101 California Street, 48th Floor<br>San Francisco, CA 94111<br>Attn: David Hamsher, Esq. |                         |

Assessor's Block 9900, Lot 072

The Undersigned Tenant Declares:

DOCUMENTARY TRANSFER TAX: \$16,541.25;

[ X ] computed on the consideration or full value of property conveyed, OR

[ ] computed on the consideration or full value less value and/or encumbrances remaining at time of sale,

[ ] unincorporated area;

[ X ] City of San Francisco

#### MEMORANDUM OF LEASE

This Memorandum of Lease (this "Memorandum"), dated for reference purposes only as of March 15, 2021 (the "Reference Date"), is by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, operating by and through the SAN FRANCISCO PORT COMMISSION ("Port"), and CALIFORNIA BARREL COMPANY LLC, a Delaware limited liability company ("Tenant").

#### RECITALS

- A. Port and Tenant have entered into that certain Ground Lease (No. L-16662) (the "Lease"), dated as of the Reference Date, pursuant to which Port leases to Tenant and Tenant leases from Port certain real property more particularly described in the attached **EXHIBIT A** (the "**Premises**"), which is incorporated by this reference.
- B. Port and Tenant desire to execute this Memorandum to evidence the Lease and provide constructive notice of Tenant's rights and interests under the Lease to all third parties.

For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

- 1. <u>Term.</u> Port leases the Premises to Tenant for a term commencing on April 1, 2021. The term of the Lease will expire on March 31, 2087, unless extended or earlier terminated in accordance with the terms of the Lease.
- 2. <u>Lease Terms</u>. The lease of the Premises to Tenant is pursuant to the Lease, which is incorporated in this Memorandum by reference and confirmed hereby. This Memorandum is not a complete summary of and in no way modifies the Lease. Should any party require any information concerning the Lease, such party should reference the Lease. In the event of any conflict or inconsistency between this Memorandum and the Lease, the terms and conditions of the Lease shall be controlling in all respects. Except as otherwise defined in this Memorandum, capitalized terms shall have the meanings given them in the Lease.
- 3. <u>Successors and Assigns</u>. This Memorandum and the Lease are binding upon and shall inure to the benefit of the successors and assigns of Port and Tenant, subject, however, to the provisions of the Lease on assignment and transfers.
- 4. <u>Counterparts</u>. This Memorandum may be executed in counterparts, each of which is deemed to be an original, and all such counterparts constitute one and the same instrument.
- 5. <u>Governing Law</u>. This Memorandum shall be governed by, and interpreted in accordance with, the laws of the State of California.
- 6. Documentary Transfer Tax. Notwithstanding the statement on the first page of this Memorandum, Port's signature on this Memorandum does not constitute City's agreement that the real property transfer tax due in connection with the lease of the Premises under the Lease is \$16,541.25.

[The remainder of this page intentionally left blank]

IN WITNESS WHEREOF, Port and Tenant have executed this Memorandum as of the Reference Date.

| TENANT:  | CALIFORNIA BARREL COMPANY LLC, a Delaware limited liability company   |  |
|--|---|--|
|  | By: FIFTH AND THIRD PARTNERS LLC, a Delaware limited liability company its Manager                                    |  |
|  | By: Name: Enrique Landa Title: Manager  |  |
| PORT:  | CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, operating by and through the SAN FRANCISCO PORT COMMISSION |  |
|  | By: Name: Rebecca Benassini Title: Deputy Director, Real Estate   |  |
| APPROVED AS TO FORM:                               |   |  |
| DENNIS J. HERRERA, City Attorney                   |   |  |
| By: Name: Rona Sandler Title: Deputy City Attorney |   |  |
| Port Resolution No. 20-12, adopted on Februar      | y 25, 2020  |  |

Board of Supervisors Resolution No. 164-20, adopted on April 14, 2020; File No. 200217

### CERTIFICATE OF ACKNOWLEDGMENT

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

| State of California                              | )                                 |   |
|--|-----------------------------------|---|
| County of  | )                                 |   |
| On   | before me,                        | , a Notary Public   |
| subscribed to the with in his/her/their authoriz | in instrument and acknowledged to | be the person(s) whose name(s) is/ard<br>me that he/she/they executed the same<br>r/their signature(s) on the instrument the<br>acted, executed the instrument. |
| I certify under PENA foregoing paragraph is      |                                   | ws of the State of California that the  |
| WITNESS my hand ar                               | nd official seal.                 |   |
| Signature  |                                   | (Seal)  |

### CERTIFICATE OF ACKNOWLEDGMENT

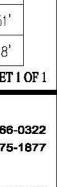
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

| State of California   | )   |  |
|---|---|--|
| County of   |   |  |
| On  | before me,  | , a Notary Public,   |
| personally appeared   |   | · · · · · · · · · · · · · · · · · · ·  |
| subscribed to the within ins in his/her/their authorized ca | strument and acknowledged to apacity(ies), and that by his/he | be the person(s) whose name(s) is/are me that he/she/they executed the same r/their signature(s) on the instrument the acted, executed the instrument. |
| I certify under PENALTY foregoing paragraph is true         |   | ws of the State of California that the   |
| WITNESS my hand and of                                      | ficial seal.  |  |
| Signature   |   | (Seal)   |

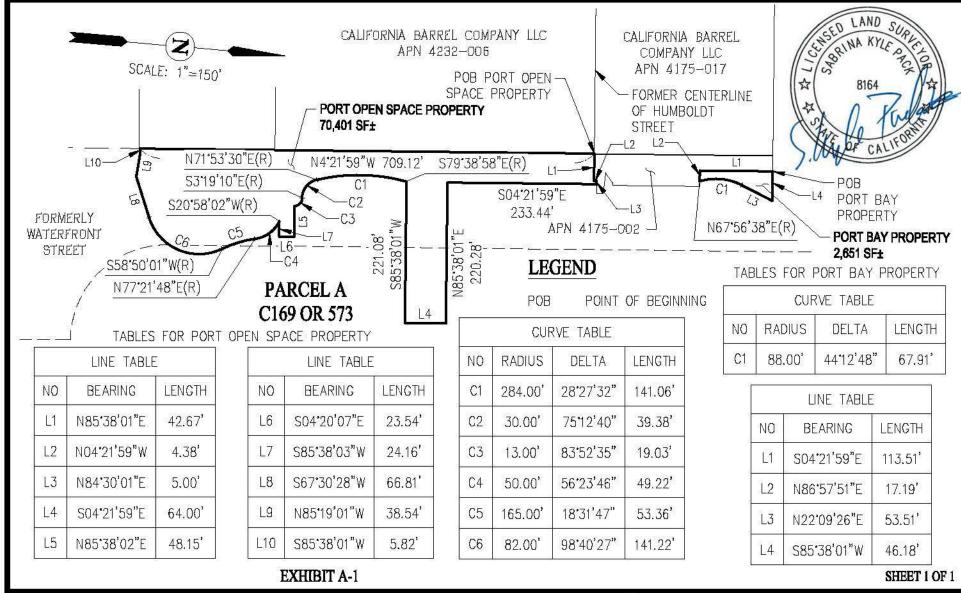
## **EXHIBIT A**

## **Premises**

[attached]



9/16/2020 4:33 PM



## PLAT TO ACCOMPANY LEGAL DESCRIPTION

PREMISES
POTRERO SITE
CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA
SEPTEMBER 16, 2020



SAN RAMON (925) 866-0322 SACRAMENTO (916) 375-1877 WWW.CBANDG.COM

CIVIL ENGINEERS - SURVEYORS - PLANNERS

# EXHIBIT A-1 PROPERTY DESCRIPTION PREMISES POTRERO SITE CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA

REAL PROPERTY, SITUATE IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, COMPRISED OF TWO (2) PARCELS, DESCRIBED AS FOLLOWS:

#### PORT OPEN SPACE PROPERTY

BEING A PORTION OF PARCEL A, AS SAID PARCEL A IS DESCRIBED IN THAT CERTAIN DOCUMENT ENTITLED "DESCRIPTION", RECORDED MAY 14, 1976, IN BOOK C169 OF OFFICIAL RECORDS AT PAGE 573, IN THE OFFICE OF THE RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE BOUNDARY LINE OF SAID PARCEL A, SAID POINT BEING THE WESTERN TERMINUS OF THAT CERTAIN COURSE DESCRIBED AS "140. ... S. 85° 40' W 1.0 FOOT", SAID POINT BEING THE INTERSECTION OF THE CENTERLINE OF FORMER HUMBOLDT STREET (66 FEET WIDE) WITH THE WESTERN LINE OF WATERFRONT STREET (WIDTH VARIES);

THENCE, FROM SAID POINT OF BEGINNING, ALONG SAID BOUNDARY LINE OF PARCEL A, THE FOLLOWING THREE (3) COURSES:

- 1) NORTH 85°38'01" EAST (THE BEARING OF SAID BOUNDARY LINE BEING TAKEN AS NORTH 85°38'01" EAST FOR THE PURPOSE OF MAKING THIS DESCRIPTION) 42.67 FEET,
- 2) NORTH 04°21'59" WEST 4.38 FEET, AND
- 3) NORTH 84°30'01" EAST 5.00 FEET;

THENCE, LEAVING SAID BOUNDARY LINE OF PARCEL A, SOUTH 04°21'59" EAST 233.44 FEET;

THENCE, NORTH 85°38'01" EAST 220.28 FEET;

THENCE, SOUTH 04°21'59" EAST 64.00 FEET;

THENCE, SOUTH 85°38'01" WEST 221.08 FEET;

THENCE, ALONG THE ARC OF A NON-TANGENT 284.00 FOOT RADIUS CURVE TO THE LEFT, FROM WHICH THE CENTER OF SAID CURVE BEARS SOUTH 79°38'58" EAST, THROUGH A CENTRAL ANGLE OF 28°27'32", AN ARC DISTANCE OF 141.06 FEET;

## PROPERTY DESCRIPTION

PAGE 2 OF 3

THENCE, ALONG THE ARC OF A COMPOUND 30.00 FOOT RADIUS CURVE TO THE LEFT, FROM WHICH THE CENTER OF SAID CURVE BEARS NORTH 71°53'30" EAST, THROUGH A CENTRAL ANGLE OF 75°12'40", AN ARC DISTANCE OF 39.38 FEET;

THENCE, ALONG THE ARC OF A REVERSE 13.00 FOOT RADIUS CURVE TO THE RIGHT, FROM WHICH THE CENTER OF SAID CURVE BEARS SOUTH 03°19'10" EAST, THROUGH A CENTRAL ANGLE OF 83°52'35", AN ARC DISTANCE OF 19.03 FEET;

THENCE, NORTH 85°38'02" EAST 48.15 FEET;

THENCE, SOUTH 04°20'07" EAST 23.54 FEET;

THENCE, SOUTH 85°38'03" WEST 24.16 FEET;

THENCE, ALONG THE ARC OF A NON-TANGENT 50.00 FOOT RADIUS CURVE TO THE RIGHT, FROM WHICH THE CENTER OF SAID CURVE BEARS SOUTH 20°58'02" WEST, THROUGH A CENTRAL ANGLE OF 56°23'46", AN ARC DISTANCE OF 49.22 FEET;

THENCE, ALONG THE ARC OF A REVERSE 165.00 FOOT RADIUS CURVE TO THE LEFT, FROM WHICH THE CENTER OF SAID CURVE BEARS NORTH 77°21'48" EAST, THROUGH A CENTRAL ANGLE OF 18°31'47", AN ARC DISTANCE OF 53.36 FEET;

THENCE, ALONG THE ARC OF A REVERSE 82.00 FOOT RADIUS CURVE TO THE RIGHT, FROM WHICH THE CENTER OF SAID CURVE BEARS SOUTH 58°50'01" WEST, THROUGH A CENTRAL ANGLE OF 98°40'27", AN ARC DISTANCE OF 141.22 FEET;

THENCE, SOUTH 67°30'28" WEST 66.81 FEET;

THENCE, NORTH 85°19'01" WEST 38.54 FEET;

THENCE, SOUTH 85°38'01" WEST 5.82 FEET TO A POINT ON SAID BOUNDARY LINE OF PARCEL A;

THENCE, ALONG SAID BOUNDARY LINE OF PARCEL A, NORTH  $04^{\circ}21'59"$  WEST 709.12 FEET TO SAID POINT OF BEGINNING.

CONTAINING 70,401 SQUARE FEET OF LAND, MORE OR LESS.

#### PORT BAY PROPERTY

BEING A PORTION OF SAID PARCEL A (BOOK C169 OR 573), MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE BOUNDARY LINE OF SAID PARCEL A, SAID POINT BEING THE NORTHERN TERMINUS OF THAT CERTAIN COURSE DESCRIBED AS "130. S. 04°20' E., 113.69 FEET";

THENCE, FROM SAID POINT OF BEGINNING, ALONG SAID BOUNDARY LINE OF PARCEL A, THE FOLLOWING TWO (2) COURSES:

- 1) SOUTH 04°21'59" EAST (THE BEARING OF SAID BOUNDARY LINE BEING TAKEN AS SOUTH 04°21'59" EAST FOR THE PURPOSE OF MAKING THIS DESCRIPTION) 113.51 FEET, AND
- 2) NORTH 86°57'51" EAST 17.19 FEET;

THENCE, LEAVING SAID BOUNDARY LINE OF PARCEL A, ALONG THE ARC OF A NON-TANGENT 88.00 FOOT RADIUS CURVE TO THE RIGHT, FROM WHICH THE CENTER OF SAID CURVE BEARS NORTH  $67^{\circ}56'38"$  EAST, THROUGH A CENTRAL ANGLE OF  $44^{\circ}12'48"$ , AN ARC DISTANCE OF 67.91 FEET;

THENCE, NORTH 22°09'26" EAST 53.51 FEET;

THENCE, SOUTH 85°38'01" WEST 46.18 FEET TO SAID POINT OF BEGINNING.

CONTAINING 2,651 SQUARE FEET OF LAND, MORE OR LESS.

ATTACHED HERETO IS A PLAT TO ACCOMPANY LEGAL DESCRIPTION, AND BY THIS REFERENCE, MADE A PART HEREOF.

END OF DESCRIPTION

SABRINA KYLE PACK, P.L.S.

L.S. NO. 8164

#### **EXHIBIT N**

#### **Approved Operating Standards and Reporting Requirements**

[attached]

## Development Agreement Exhibit L-2 Regulations Regarding Access and Maintenance of Certain Privately-Owned Community Improvements

These Regulations ("Regulations"), inclusive of the "Code of Conduct" set forth herein, shall govern the use, maintenance, and operations of those certain Privately-Owned Community Improvements that are also Parks and Open Spaces and located on Developer Property (each, a "Privately-Owned Public Open Space" and collectively, the "Privately-Owned Public Open Spaces"). These Regulations also govern the use, maintenance, and operations of the Premises under and as defined in the Port Lease that are also Privately-Owned Community Improvements and Parks and Open Spaces (the "Port-Leased Open Space"). The Privately-Owned Public Open Spaces and Port-Leased Open Spaces are collectively defined as the "Public Access Open Space Areas". Initially capitalized and other terms not listed below are defined in the Development Agreement. All references to the Development Agreement include this Exhibit.

The Privately-Owned Public Open Spaces are Power Station Park, Humboldt Street Plaza, Block 9 Open Space (including Turbine Plaza and the Block 9 publicly accessible restroom), Stack Plaza, Louisiana Paseo, Illinois Street Plaza, the Soccer Field (including the publicly accessible restroom to be provided in close proximity to the Soccer Field), and portions of Waterfront Park and the Point (all as defined in the Phasing Plan and the Design for Development), as well as the Mid-Block Passage on Block 15 and the potential Mid-Block Alley on Block 13 (unless the Mid-Block Alley on Block 13 is open to vehicle traffic). The Port-Leased Open Space is portions of Waterfront Park and the Point. The Privately-Owned Public Open Spaces and the Port-Leased Open Space are shown on Figure L-1.

These Regulations shall be incorporated into the form of CC&Rs recorded against the Project Site. The CC&Rs shall require that the Management Association shall post notice online inviting neighborhood organizations and members of the public to a minimum of one (1) of the Management Association's meetings held per year. Such notice also shall be provided to the Planning Department and Port of San Francisco. At such meeting, the Management Association shall provide the opportunity for the City and Port or members of such neighborhood organizations to comment on the Management Association's use, maintenance, and/or operation of the Public Access Open Space Areas.

#### I. USE AND OPERATION OF PUBLIC ACCESS OPEN SPACE AREAS

#### A. Authority

#### 1. <u>Developer and Management Association</u>

The Developer and/or Management Association have authority to control, manage, and operate the Public Access Open Space Areas, subject to the Development Agreement and, with respect to the Port-Leased Open Space, the Port Lease, in each case, inclusive of the Regulations set forth in this Exhibit L-2.

#### B. Monitoring and Reporting.

One year from the completion and opening of any Public Access Open Space Areas, and then every three years thereafter, the Management Association shall submit a maintenance and operations report to the Zoning Administrator for review by the Planning Department and to the Port Director for review by the Port. At a minimum the maintenance and operations report shall include:

- 1. A description of the amenities, and list of events and programming with dates, and any changes to the design or programing during the reporting period;
- 2. If the design of the Public Access Open Space Areas was altered during the reporting period, a plan of the Public Access Open Space Areas, including the location of amenities, food service, landscape, furnishing, lighting, and signage;
- 3. Photos of the existing Public Access Open Space Areas at time of reporting;
- 4. Description of access to the Public Access Open Space Areas, if it changed during the reporting period;
- 5. A schedule of the means and hours of access, if changed during the reporting period, and all temporary closures occurring during the reporting period;
- 6. A schedule of completed maintenance activities during the reporting period;
- 7. A schedule of proposed maintenance activities for the next reporting period;
- 8. Contact information for a community liaison officer; and
- 9. A list of complaints filed to the Association regarding the parks operations or maintenance

#### C. Public Use

Upon completion of the Privately-Owned Public Open Spaces in accordance with the Development Agreement and Phasing Plan, Developer and/or Management Association shall offer, in perpetuity, the Privately-Owned Public Open Spaces for the use, enjoyment and benefit of the public for open space and recreational purposes only, including leisure, social activities, picnics, playgrounds, sports, and authorized special events, as applicable and as set forth in these Regulations and the Design for Development; provided, however, that Developer may use the Privately-Owned Public Open Spaces for temporary construction staging related to adjacent development within the Project Site (during which time the subject Privately-Owned Public Open Space shall not be used by the public). Without limiting the Permitted Use under and as defined in the Port Lease, the Port-Leased Open Spaces shall be offered by the Developer and/or Management Association for the use, enjoyment and benefit of the public for those uses consistent with the Public Trust (as defined in the Port Lease) and the Port Lease.

#### D. No Discrimination

Developer and/or Management Association shall not discriminate against or segregate any person or group of persons, on account of race, color, religion, creed, national origin, gender, ancestry, sex, sexual orientation, age, disability, medical condition, marital status, or acquired immune deficiency syndrome, acquired or perceived, in the use, occupancy, tenure, or enjoyment of the Privately-Owned Public Open Spaces. The requirements of Section 38.1 of the Port Lease ("Non-Discrimination") shall apply to the Port-Leased Open Space.

#### E. Maintenance Standard

The Privately-Owned Public Open Spaces shall be operated, managed, and maintained in a clean and safe condition in accordance with the anticipated and foreseeable use thereof. The Port-Leased Open Spaces shall be operated, managed and maintained consistent with the standards for operation, management and maintenance of a first-class public park and open space project in accordance with the Port Lease.

#### F. Rooftop Privately-Owned Public Open Space

Where Privately-Owned Public Open Space is provided in connection with Retail structures on the rooftop of a majority non-residential building (excluding Block 9), such Open Space shall comply with Planning Code Section 138(d)(1), and shall be open to the public, at a minimum, during operating hours of the associated Retail space.

### G. Scheduling of Active Recreational Activities for the Soccer Field and the Power Station Park Fields

The Soccer Field, sized to accommodate at least a U-10 field, shall be provided on either the roof of the district parking structure on one of Blocks 1, 5, or 13, or in another location on the Project Site, as further described in the Phasing Plan and Design for Development. During all operating hours, so long as SFRPD accepts such obligation in writing, use of the Soccer Field will be reservable through the City's Recreation and Parks Department ("SFRPD") reservation system for sports activities, including for sport leagues. SFRPD shall maintain an up-to-date schedule for this facility, available to view regularly by Developer and/or Management Association, and the public. In such instance, SFRPD shall assess fees for the use of the Soccer Field (the "SFRPD Reservation Fees") in an amount commensurate with fees typically assessed by SFRPD for similar facilities. However, as neither the SFRPD nor the City shall be liable or responsible for carrying out or funding any maintenance obligations to the Soccer Field, any SFRPD Reservation Fees collected by SFRPD that exceed its administrative costs for the Soccer Field reservation system shall be paid to the Developer and/or Management Association. Developer and/or Management Association shall be responsible for carrying out and funding ongoing maintenance of the Soccer Field. SFRPD may propose to Developer and/or Management Association and undertake, at the expense of SFRPD or in collaboration with Developer and/or Management Association, minor capital improvements or installation of equipment and furnishings to enhance public usage of the facility over time, subject to review and approval by Developer and/or Management Association, which approval shall not be unreasonably withheld. Whether the Soccer Field is subject to the SFRPD reservation system shall be determined by the process identified in Exhibit Z.

Power Station Park contains multi-purpose grass areas that are not programmed or striped for any specific sport or purpose (the "Power Station Park Fields"). The Power Station Park Fields are sufficiently sized to accommodate two youth U-6 soccer fields. Use of the Power Station Park Fields will be reservable through a system established and managed by the Developer and/or Management Association, or, at the election of the Developer and/or Management Association, the SFRPD reservation system. Use of the Power Station Park Fields shall be available for reservation for soccer or other active recreation uses for no fewer than three consecutive hours per day between the hours of 3pm and 7pm Monday through Friday and between 9am and 6pm on weekends. Developer and/or Management Association may assess fees for the use of the Power Station Park Fields in an amount commensurate with fees typically assessed by SFRPD for similar facilities.

#### H. Reservation System for Port-Leased Open Spaces

Port and Developer shall cooperate in good faith with respect to any process by which members of the public reserve open spaces and associated facilities within the Port-Leased Open Spaces, including any open recreation areas or areas designed for group gatherings (both of which may be used by groups for activities including, but not limited to, yoga, tai chi, or badminton) and picnic tables. Port and Developer shall provide an online reservation system for the same that is linked to a broader City reservation system, such as the SFRPD website, similar to what is currently provided for other non-SFRPD open spaces located on Port property. Notwithstanding the foregoing, all reservation procedures within the Port-Leased Open Space shall be consistent with the Port Lease.

#### I. Temporary Closure of Public Access Open Space Areas

Developer and/or Management Association shall have the right, without obtaining the prior consent of the City or any other person or entity, to temporarily close any or all of the Public Access Open Space Areas to the public from time to time for one of the following three reasons. In each instance, such temporary closure of any Privately-Owned Public Open Space shall continue for as long as Developer and/or Management Association reasonably deems necessary to address the circumstances below. In each instance, Developer and/or Management Association shall have the right to temporarily close any Port-Leased Open Spaces for such period as Developer and/or Management Association reasonably deems necessary to address the circumstances below, but in no event for more than seven (7) consecutive days, unless the Port approves additional time for such closure, which approval shall not be unreasonably withheld.

#### 1. <u>Emergency</u>

In the event of an emergency or danger to the public health or safety created from whatever cause (including, but not limited to, flood, storm, fire, earthquake, explosion, accident, criminal activity, riot, civil disturbances, civil unrest, unlawful assembly), Developer and/or Management Association may temporarily close the Public Access Open Space Areas (or affected portions

thereof) in any manner deemed necessary or desirable to promote public safety, security, and the protection of persons and property.

#### 2. <u>Maintenance and Repairs</u>

Developer and/or Management Association may temporarily close the Public Access Open Space Areas (or affected portions thereof) in order to make any repairs or perform any maintenance as Developer and/or Management Association, in its reasonable discretion, deems necessary or desirable to repair, maintain, or operate the Public Access Open Space Areas; provided such closure may not impede emergency vehicle access.

#### 3. Special Events

Developer and/or Management Association shall have the right to close temporarily to the public all or any portion of any Privately-Owned Public Open Space per the allowances described below, and as summarized in Figure L-2.1, in connection with the use of the subject Privately-Owned Public Open Space for a private or public special event such as fundraisers, picnics, concerts, and weddings (each, a "Special Event" and collectively, "Special Events"). All Special Events must comply with all applicable laws and are subject to any required approvals or permits from applicable City Agencies with jurisdiction over the Special Event. Prior to closing any Privately-Owned Public Open Space for a Special Event, a notice of the closure shall be posted at all major entrances to the subject Privately-Owned Public Open Space for a period of seventy-two (72) hours prior to the Special Event. Figure L-2.2 depicts the areas within the subject Privately-Owned Public Open Spaces that may be closed for Special Events. Developer and/or Management Association may require payment of a permit fee or other charge for use of any Privately-Owned Public Open Space for Special Events. Such permit fee or other charge shall be commensurate with the permit fees charged by SFRPD for use of comparable City-owned facilities. Developer and/or Management Association shall provide discounts from regular permit fee amounts to nonprofit or community organizations consistent with any discounts provided by SFRPD for similar open space facilities, so long as such discounts are provided by SFRPD on a Citywide basis.

#### A. Power Station Park

Developer and/or Management Association shall have the right to close temporarily to the public the portions of Power Station Park East and any portion of Power Station Park West that does not include a play structure as shown in <u>Figure L-2.2</u> of this Exhibit for a period of up to forty-eight (48) consecutive hours, no more than one time per month, up to a cumulative maximum of 6 (six) events per year per space. Any temporary closure must provide a minimum 10 (ten) feet clear pedestrian passage that traverses the length of the entire space and is free and open to the public for access to all adjacent buildings and uses. Temporary closures shall not be permitted on Saturdays and Sundays between the hours of 7am and 6pm more than two times per year.

#### B. Stack Plaza

Developer and/or Management Association shall have the right to close temporarily the portions of Stack Plaza for Non-Closure Events and Special Events that are open to the public as described in <u>Figure L-2.1</u> and shown in <u>Figure L-2.2</u> of this Exhibit for a period of up to forty-eight (48) consecutive hours, no more than one time per month, up to a cumulative maximum of 6

(six) events per year. No single Non-Closure Event or Special Event shall occupy more than sixty (60)% of the area of Stack Plaza. Any temporary closure must provide a minimum 10 (ten) feet clear pedestrian passage that traverses the length of the entire space and is free and open to the public for access to all adjacent buildings and uses. Temporary closures shall not be permitted on Saturdays and Sundays between the hours of 7am and 6pm more than two times per year.

#### C. Humboldt Street Plaza and Illinois Street Plaza

Developer and/or Management Association shall have the right to close temporarily all or any portion of Humboldt Street Plaza and Illinois Street Plaza for Non-Closure Events and Special Events that are open to the public as described in <u>Figure L-2.1</u> and shown in <u>Figure L-2.2</u> of this Exhibit for a period of up to forty-eight (48) consecutive hours, no more than two times per month, up to a cumulative maximum of 10 (ten) events per year. Any temporary closure in the Humboldt Street Plaza and/or Illinois Street Plaza must provide a minimum 10 (ten) feet clear pedestrian passage that traverses the entire space and that is free and open to the public for access to adjacent buildings and uses.

## D. <u>Louisiana Paseo/Mid-Block Passage (Block 15)/Mid-Block Alley</u> (Block 13)

Developer and/or Management Association shall have the right to close temporarily to the public the portions of Louisiana Paseo, the Mid-Block Passage on Block 15, and the Mid-Block Alley on Block 13 as shown in <u>Figure L-2.2</u> of this Exhibit for a period of up to forty-eight (48) consecutive hours, no more than two times per month, up to a cumulative maximum of 10 (ten) events per year per space. Any temporary closure must provide a minimum 10 (ten) feet clear pedestrian passage that traverses the length of the entire space and is free and open to the public for access to all adjacent buildings and uses.

#### E. <u>Block 9 Open Space (including Turbine Plaza)</u>

Developer and/or Management Association shall have the right to close temporarily to the public all or any portion of Block 9 Open Space, except for any portion(s) of the open space used for outdoor food service areas, for a period of up to twelve (12) consecutive hours, four times per month, up to a maximum of 40 (forty) events per year.

#### F. Waterfront Park and the Point

Temporary closures related to Special Events shall not be permitted on the Port-Leased Open Space. Non-Closure Events described in Section J.2 are permitted.

#### J. Operation of the Public Access Open Space Areas

Operation of the Public Access Open Space Areas shall be subject to the additional requirements of this <u>Section I.J.</u>

#### 1. <u>Hours of Operation</u>

Except as otherwise stated herein, the Public Access Open Space Areas shall be open and accessible to the public seven (7) days per week from 5 am until 12 am, unless reduced hours are (i) approved in writing by the City or Port (as applicable), (ii) otherwise expressly provided for in this Exhibit or (iii) reasonably imposed by Developer and/or Management Association, with the City or Port's reasonable consent (for the Privately-Owned Public Open Spaces and Port-Leased Open Spaces, respectively), to address security concerns. Notwithstanding the above provisions in this subsection, the portions of the Public Access Open Space Areas shown on Figure L-2.3, that function as primary paths of pedestrian and/or vehicular travel (and bicycle travel in the case of the Bay Trail) through the site and provide access to adjacent buildings and uses, shall be open to public passage 24 hours per day every day.

#### 2. Non-Closure Events

#### a. At Privately-Owned Public Open Spaces

Members of the public or other entities sponsoring events ("Event Sponsors") shall have the right to request the use of the Privately-Owned Public Open Space for privately- or publiclysponsored Special Events, including meetings, festivals, gatherings, assemblies, celebrations, festivals, receptions, seminars, lectures, fitness classes, concerts, art displays, exhibits, booths for charitable, patriotic or welfare purposes, conventions, and open air sale of agriculturally produced seasonal decorations, such as Christmas trees and Halloween pumpkins, that do not require the closure of any portion of the Privately-Owned Public Open Space to the public (collectively, the "Non-Closure Events"). Non-Closure Events may not close or obstruct the Blue Greenway (as defined in the Design for Development). All Non-Closure Events must be approved in advance by Developer and/or Management Association and are subject to any required approvals or permits from applicable City Agencies with jurisdiction over the Non-Closure Event. It shall be the sole responsibility of the requesting member of the public to obtain any such required permits or approvals. Developer and/or Management Association may require payment in the form of a permit fee or other charge for use of the Privately-Owned Public Open Space for Non-Closure Events, so long as the permit fee or use charge does not exceed the reasonable costs for administration, maintenance, security, liability, and repairs associated with such event. Developer and/or Management Association shall post on the Internet a clear explanation of the application process and criteria for review and approval of such Non-Closure Events, including related fees, and make available such criteria and application forms to the Planning Director for the purpose of the Planning Department or other City entity or Agency publishing such criteria and application forms if they so choose.

#### b. At Port-Leased Open Spaces

Event Sponsors shall also have the right to request the use of the Port-Leased Open Spaces for Non-Closure Events. All Non-Closure Events on Port-Leased Open Spaces must be approved in advance by Developer and/or Management Association, and the Port Director, and shall be free to the public, with no entrance or other fees charged by Developer, Management Association, the Port, or any City Agency. No single Non-Closure Event on Port-Leased Open Spaces shall be permitted to physically occupy more than 50% of the area of the portion of Waterfront Park and

the Point, respectively, within the Port-Leased Open Space. Each Non-Closure Event on Port-Leased Open Spaces shall not exceed forty-eight (48) consecutive hours in duration, except as authorized in writing by the Port Director, but in no case shall the Port Director authorize more than two (2) Non-Closure Events per annum that exceed seventy-two (72) consecutive hours in duration. No more than two (2) Non-Closure Events on Port-Leased Open Spaces per month may commence on a weekend and no more than four (4) of such events per month may commence on a weekday, except as authorized in writing by the Port Director. The Port shall post on the Internet a clear explanation of the application process and criteria for review and approval of such Non-Closure Events. The Port Director shall have the right to require that all permitted Non-Closure Events on Port-Leased Open Spaces for any given twelve (12) month period be identified in an annual event plan, developed on an annual basis by the Port Director in consultation with the Developer and/or Management Association.

#### c. Good Neighbor Policies

Event Sponsors shall manage the Public Access Open Space Areas in accordance with the following good neighbor policies during the Non-Closure Event:

- (a) The quiet, safety, and cleanliness of the space and its adjacent area shall be maintained in accordance with these Regulations;
- (b) Proper and adequate storage and disposal of debris and garbage shall be provided;
- (c) Noise and odors, unless otherwise permitted, shall be contained within the immediate area of the Privately-Owned Public Space so as not to be a nuisance to neighbors;
- (d) Notices shall be prominently displayed during Non-Closure Events urging patrons to: (i) leave the Public Access Open Space Areas and neighborhood in a quiet, peaceful, and orderly fashion; (ii) remove all litter; and (iii) avoid blocking driveways in the neighborhood. Such notices shall be removed promptly after each Non-Closure Event.
- (e) The Event Sponsor or its employees or volunteers shall walk a 100-foot radius from the edge of the Public Access Open Space Areas within thirty (30) minutes after the Non-Closure event has ended and shall pick up and dispose of any discarded beverage containers and other trash left by patrons.

#### 3. Signage and Permissive Use

Developer and/or Management Association must post at each entrance to each of the Public Access Open Space Areas a sign indicating that such space is a public space available for public use. Such sign shall meet the minimum standards for design, location, and content otherwise applicable to such signage for spaces under Planning Code Section 138 and as it may be periodically amended. Developer and/or Management Association may also post at each entrance to each Public Access Open Space Areas, or at intervals of approximately 200 feet along the boundary, signs reading substantially as follows: "Right to pass by permission, and subject to

control of owner: Section 1008, Civil Code." Notwithstanding the posting of any such sign, no use by the public nor any person of any portion of any Public Access Open Space Areas for any purpose or period of time shall be construed, interpreted, or deemed to create any rights or interests to or in any Public Access Open Space Areas other than the rights and interests expressly granted in this Development Agreement or the Port Lease. The right of the public or any person to make any use whatsoever of any Public Access Open Space Areas or any portion thereof is not meant to be an implied dedication for the benefit of, or to create any rights or interests in, any third parties.

#### 4. Security During Period of Non-Access to Public Access Open Space Areas

During the time periods when public access to the Public Access Open Space Areas or any portion thereof (other than the Blue Greenway) is restricted or not permitted pursuant to this Exhibit L-2, Developer and/or Management Association shall have the right to:

- (a) block entrances to all Public Access Open Space Areas other than the Blue Greenway;
- (b) install and operate security devices; and
- (c) maintain security personnel in and around the Public Access Open Space Areas to prevent the entry of persons or vehicles.
- (d) any proposal to install permanent architectural features that serve as security devices, such as gates and fences, shall be subject to City design review and approval (including by SFFD, as appropriate), as detailed in this Development Agreement and the Project SUD.

#### 5. Removal of Obstructions

Developer and/or Management Association shall have the right to remove and dispose of, in any lawful manner it deems appropriate, any object, including personal belongings or equipment abandoned in the Public Access Open Space Areas, left or deposited in any Public Access Open Space Areas.

#### 6. <u>Temporary Structures</u>

Subject to Developer's right to use the Privately-Owned Public Open Spaces for temporary construction staging related to adjacent development within the Project Site as set forth in Section I.C of this Exhibit, or as otherwise permitted by the Project SUD, no trailer, tent, shack, or other outbuilding, or structure of a temporary character, shall be used on any portion of the Privately-Owned Public Open Spaces at any time, either temporarily or permanently; provided, however, that Developer and/or Management Association may approve the use of temporary tents, booths, and other structures in connection with Special Events or Non-Closure Events. The Port-Leased Open Space is subject to the Port Lease, including Section 9.3(b).

#### II. PUBLIC ACCESS OPEN SPACE AREA CODE OF CONDUCT FOR PUBLIC USE

#### A. Applicability

The following Potrero Power Station Open Space Code of Conduct for Public Use ("Code of Conduct") applies to members of the public during use of the Public Access Open Space Areas. The Code of Conduct is intended to address normal operating conditions; emergency or unusual circumstances may necessitate deviations from the Code of Conduct. The Code of Conduct is subject to update and change.

#### B. Arrest or Removal of Persons

Developer and/or Management Association shall have the right (but not the obligation) to use lawful means to effect the removal of any person who creates a public nuisance, who otherwise violates the applicable Regulations of any Public Access Open Space Area, or who commits any crime, including infractions or misdemeanors in or around any Public Access Open Space Area.

#### C. Limits on Public Use

#### 1. <u>No Loitering</u>

No person shall enter, remain, stay, or loiter in the Public Access Open Space Areas outside of the hours of operation, or when the Public Access Open Space Areas are closed to the public as set forth in <u>Section I.I.</u> of this Exhibit, except persons authorized in conjunction with a Special Event or other temporary closure, or authorized service and maintenance personnel.

#### 2. Intoxication As Cause for Exclusion

Developer and/or Management Association are authorized to order any person to stay out of or to leave a Public Access Open Space Area or any building, structure, equipment, apparatus, or appliance therein when it has reasonable cause to conclude that the person so ordered:

- (a) Is under the influence of intoxicating liquor, any drug, or any "controlled substance" as that term is defined and described in the California Health and Safety Code, or any combination of any intoxicating liquor, drug, or controlled substance, and is in such a condition that he or she is unable to exercise care for his or her own safety or the safety of others or interferes with or obstructs or prevents the free use of a Public Access Open Space Area.
- (b) Is consuming alcoholic beverages in violation of this Code of Conduct.
- (c) Is using any drug or controlled substance or any combination of any intoxicating liquor, drug, or controlled substance.
- (d) Is doing any act injurious to the Public Access Open Space Area or any building, structure, equipment, apparatus, or appliance therein.

(e) Is taking any action in violation of SF Park Code Section 4.01 or SF Port Code Section 3.1, as applicable, or this Code of Conduct.

#### D. Permits, Reservations, and Rentals

#### 1. Activities Requiring a Permit

No person shall, without a permit or written permission from SFRPD (for the Soccer Field) or the Developer and/or Management Association, as applicable and as set forth in <u>Section I.G</u>, <u>I.H and/or I.I.</u> of this Exhibit, perform any of the following acts in the Public Access Open Space Areas:

- (a) Conduct or sponsor a parade involving fifty (50) or more persons.
- (b) Conduct or sponsor or engage in petitioning, leafletting, demonstrating, or soliciting when the number of petitioners, leafletters, demonstrators, or solicitors engaging in one or more of these activities involves fifty (50) or more such persons at the same time within an area circumscribed by a five hundred foot (500-foot) radius.
- (c) Sell or offer for sale books, newspapers, periodicals or other printed material.
- (d) Conduct or sponsor any exhibit, promotion, dramatic performance, theatrics, pantomime, dance, fair, circus, festival, juggling or other acrobatics or show of any kind or nature which has been publicized four (4) hours or more in advance.
- (e) Perform any feat of skill or produce any amusement show, movie or entertainment which has been publicized four (4) hours or more in advance.
- (f) Make a speech which has been publicized (4) four hours or more in advance.
- (g) Conduct or sponsor a religious event involving fifty (50) or more persons.
- (h) Conduct or sponsor a concert or musical performance which (1) has been publicized four (4) hours or more in advance, or (2) utilizes sound amplification equipment, or (3) involves a band or orchestra.
- (i) Participate in a picnic, dance, or other social gathering involving forty-five (45) or more persons.
- (j) Sell or provide food to persons, except that no permit is required when a person participating in a picnic or social gathering of forty-five (45) or fewer persons provides food to others who are also participating in the picnic or social gathering.

- (k) Conduct or sponsor a race or marathon which involves twenty (25) or more persons as participants or which obstructs or interferes with the normal flow of pedestrian traffic.
- (l) Conduct or sponsor any event which utilizes sound amplification equipment, as defined in Part II, Chapter VIII (Police Code) of the San Francisco Municipal Code.
- (m) Conduct or sponsor an exhibition.
- (n) Conduct or sponsor an animal show.
- (o) Conduct a wedding ceremony.
- (p) Conduct or sponsor an art show.
- (q) Operate any amusement park device.
- (r) Conduct or sponsor an organized kite-flying event of any club or organization.
- (s) Station or erect any scaffold, stage, platform, rostrum, tower, stand, bandstand, building, fence, wall, monument, dome or other structure.
- (t) Launch or land any drone, airplane, helicopter, parachute, hang glider, hot air balloon, or other machine or apparatus of aviation in the Public Access Open Space Areas, or bring into the Public Access Open Space Areas any balloon with a diameter of more than six (6) feet or a gas capacity of more than one hundred fifteen (115) cubic feet.
- (u) Bring or cause to be brought, for the purposes of sale or barter, or have for sale, or sell or exchange, or offer for sale or exchange any goods, wares, or merchandise.
- (v) Construct or maintain or inhabit any structure, tent, or any other thing in the Public Access Open Space Areas that may be used for housing accommodations or camping, and construct or maintain any device that can be used for cooking, nor shall any person construct or maintain any device that can be used for cooking, except with permission from the Developer and/or Management Association. No person shall modify the landscape in any way in order to create a shelter or accumulate household furniture or appliances or construction debris in a Public Access Open Space Area.
- (w) Engage in commercial photography, filming, or recording in the Public Access Open Space Areas.
- (x) Conduct a farmers' market.

- (y) Bring any animal into the Public Access Open Space Areas, other than a dog or other domesticated animal, or guide, signal, or support animal.
- (z) Provide instruction in any athletic activity for compensation.

#### 2. Additional Activities Requiring a Permit

Developer and/or Management Association shall have the authority to require a permit or written permission for additional activities in the Public Access Open Space Areas when such a requirement furthers the purposes set forth in the Code of Conduct or the San Francisco Municipal Code. A list of the additional activities for which permits are required shall be posted in the Public Access Open Space Areas, filed with the SFRPD, and made available to the public upon request.

#### E. Rules Regarding Conduct

#### 1. Rules to Be Obeyed

No person shall willfully disobey or violate any of the Regulations governing the use and enjoyment by the public of the Public Access Open Space Areas, or of any building, structure, equipment, apparatus or appliance in the Public Access Open Space Areas, which Regulations, at the time, are posted in some conspicuous place in that area or at an entrance to the Public Access Open Space Areas, or in or near the building, structure, equipment, apparatus, or appliance to which the Regulation applies.

#### 2. Signs to Be Obeyed

No person shall willfully disobey the notices, prohibitions, or directions on any sign posted by the Developer and/or Management Association.

#### 3. <u>Interference with Developer or Management Association Employees</u>

No person shall, with malice, interfere with or in any manner hinder any employee or agent of the Developer or Management Association, or a duly authorized contractor while that person is engaged in constructing, repairing, or caring for any portion of the Public Access Open Space Areas or is otherwise engaged in the discharge of such employee's, agent's, or contractor's duties.

#### 4. Refusal to Obey Lawful Order

It shall be unlawful for any person to refuse to obey the lawful order of law enforcement or an employee of Developer or Management Association made pursuant to the Code of Conduct.

#### 5. <u>Prohibited Activities or Conduct</u>

- a. Smoking. No person shall smoke in a Public Access Open Space Area, either in enclosed or unenclosed areas.
- b. Intoxication by Alcohol or Drugs. State law provides that any person in a public place who is under the influence of intoxicating liquor, drugs, or

- certain specified substances and endangers themselves or others or interferes with the free use of a public right of way is guilty of disorderly conduct.
- c. Fighting, Disturbing Peace, Offensive Words. State law prohibits unlawful fighting in a public place, the malicious and willful disturbance of others by loud and unreasonable noise in a public place, and the use of offensive words in a public place which are inherently likely to provoke an immediate violent reaction.
- d. Malicious Destruction of Property. State law prohibits the malicious defacement, damage, or destruction of real or personal property.
- e. Human Body Substances. No person shall emit, eject, or cause to be deposited any excreta of the human body, except in a proper receptacle designated for such purpose.
- f. Entrance to Controlled Areas. No person shall enter a Public Access Open Space Area or its facilities by means other than at designated public entrances. No person shall enter Public Access Open Space Area facilities where a "No Admittance" or "Employees Only" sign is posted. No person shall gain or attempt admittance to a Public Access Open Space Area or its facilities where a charge is made, without paying that charge.
- g. Polluting Waters. No person shall throw or place, or cause to be thrown or placed, any garbage, trash, refuse, paper, container, or noxious or offensive matter into any fountain.
- h. Littering and Dumping of Waste Matter. No person shall litter, dump, or dispose of garbage, bottles, cans, paper, or other waste matter anywhere other than in designated trash receptacles.
- i. Soliciting.
  - i. It shall be unlawful for any person to engage in petitioning, leafletting, demonstrating, or soliciting in such a manner as to substantially obstruct any traffic of pedestrians or vehicles after being warned by a law enforcement officer, or the Developer and/or Management Association not to do so. No person shall solicit in an aggressive manner.
- j. Obstructing Any Sidewalk, Passageway, or Other Public Way. No person shall willfully and substantially obstruct the free passage of any person or persons on any sidewalk, passageway, or other public places in a Public Access Open Space Area. Notwithstanding the foregoing, (1) it is not intended that this Section shall apply where its application would result in an interference with or inhibition of any exercise of the constitutionally protected right of freedom of speech or assembly, and (2) nothing contained

herein shall be deemed to prohibit persons from sitting on public benches or other public structures, equipment, apparatus, appliances, or facilities provided for such purpose.

- k. Consumption of Alcohol. No person shall consume alcoholic beverages of any kind in a Public Access Open Space Area, except as follows:
  - i. Alcohol may be consumed at a Public Access Open Space Area restaurant or café, or other businesses with permission of the Developer and/or Management Association. All alcoholic drinks and their containers must remain within the businesses' premises.
  - ii. Alcohol may be served in conjunction with events in a Public Access Open Space Area, with permission of the Developer and/or Management Association.
- 1. Weapons and Fireworks.

No person shall fire or carry firearms of any size or description or possess any instrument, appliance, or substance designed, made, or adopted for use primarily as a weapon, including but not limited to slingshots, clubs, swords, razors, billies, explosives, dirk knives, bowie knives, or similar knives, without the permission of the Developer and/or Management Association, with the exception that this Section shall not apply to sworn law enforcement officers.

- i. No person shall fire or carry any firecracker, rocket, torpedo, or any other fireworks of any description, except with permission of the Developer and/or Management Association.
- m. No person shall drive or propel any vehicle on any planted area or on any access road or unpaved service road or firetrail in any Public Access Open Space Area.
- n. No person shall park any vehicle on any lawn, or planted area, or unimproved area or on any pedestrian or equestrian lane, or on any access road or unpaved service road or firetrail or in any manner so as to block access to or exit from any service road or access road or firetrail, or in any other place in a Public Access Open Space Area where parking is prohibited, unless allowed otherwise by permit.
- o. No person shall allow any automobile or other vehicle to remain parked in any parking lot in a Public Access Open Space Area which is open for public use and for which a fee is charged for parking, for a period of more than 24 hours after the expiration of the period for which a fee is charged, unless otherwise allowed by permit.

- p. No person shall park any "oversized vehicle," defined herein as any vehicle longer than 19 feet and/or wider than seven feet, eight inches, in any parking lot in a Privately-Owned Public Open Space, unless allowed otherwise by permit.
- q. No person shall allow any automobile or any other vehicle that is disabled to remain parked in any parking lot in a Public Access Open Space Area, unless otherwise allowed by permit.
- r. Swimming and Bathing. No person shall enter, wade, bathe, or swim in the waters of any fountain in a Public Access Open Space Area.

#### s. Children.

- i. No parent, guardian, or custodian of a minor shall permit or allow such minor to do any act or thing in a Public Access Open Space Area prohibited by provisions of the SF Park Code or the SF Port Code, as applicable, or the Code of Conduct.
- ii. No adults are allowed in the children's play area of a Public Access Open Space Area except when accompanying a child.
- t. Wildlife and Environmental Protection.
  - i. Disturbing Animals, Exceptions. Except as provided in the Article 7, Chapter VIII (Police Code) of the San Francisco Municipal Code, it shall be unlawful for any person to hunt, chase, shoot, trap, discharge or throw missiles at, harass, disturb, taunt, endanger, capture, injure, or destroy any animal in a Public Access Open Space Area, or to permit any animal in such person's custody or control to do so; provided, however, that any mole or any gopher, mouse, rat, or other rodent which is determined by the Developer and/or Management Association to be a nuisance may be destroyed by the Developer and/or Management Association; and provided, further, that any animal other than a mole or a gopher, mouse, rat, or other rodent which is determined by the Developer or Management Association to be a nuisance or a hazard to persons using a Public Access Open Space Area or to be a hazard to plants or other horticulture, may, in a humane manner, be live trapped by the Developer and/or Management Association and delivered as appropriate. The provisions of this Section shall not be applicable to the destruction of any animal in any park where such animal poses an immediate and serious threat to persons or property or is suffering excessively.
  - ii. Feeding Animals. It shall be unlawful for any person to feed or offer to feed to any animal in a Public Access Open Space Area any substance which would be likely to be harmful to it. It shall be

unlawful for any person to feed or offer food or any substance to any animal in a Public Access Open Space Area which is wild in nature and not customarily domesticated in the City and County of San Francisco, except with permission of the Developer and/or Management Association.

- iii. Introduction or Removal of Trees, Wood, Etc. No person shall introduce, or remove or take away any tree, wood, bush, turf, shrub, flower, plant, grass, soil, rock, water, wildlife, or anything or like kind natural resource, except with permission of the Developer and/or Management Association.
- iv. Performance of Labor. No person, other than authorized personnel, shall perform any labor on or upon a Public Access Open Space Area, including but not limited to taking up or replacing soil, turf, ground, pavement, structure, tree, shrub, plant, grass, flower, and the like, except with permission of the Developer and/or Management Association.
- v. Climbing. No person shall climb or lie upon any tree, shrub, monument, wall, fence, railing, shelter, fountain, statue, building, structure, equipment, apparatus, appliance, or construction, except with permission of the Developer and/or Management Association. Notwithstanding the foregoing, this provision does not apply to any structure, equipment, apparatus, or appliance that is a play structure for children and designed for climbing play.
- u. Posting of Signs. No person shall post or affix to any tree, shrub, plant, fence, building, structure, equipment, apparatus, appliance, monument, wall, post, vehicle, bench, or other physical object within a Public Access Open Space Area any written or printed material, including but not limited to signs, notices, handbills, circulars, and pamphlets, except with permission of the Developer and/or Management Association.
- v. Throwing or Propelling Objects. No person shall throw or propel objects of a potentially dangerous nature, including but not limited to stones, bottles, glass, cans, or crockery, within or over the edges of a Public Access Open Space Area, except with permission of the Developer and/or Management Association.
- w. Fire. No person shall make, kindle, maintain, or in any way use a fire, including but not limited to recreational fires other than in designating cooking/grilling areas, fire twirling, and fire dancing, except with permission of the Developer and/or Management Association.
- x. Percussion Instruments. No person shall play any percussion instrument, including drums, at any time or location prohibited by the Developer and/or

- Management Association when a sign has been posted in the area affected to give notice of this prohibition, provided that such prohibition does not unreasonably curtail the playing of such instruments.
- y. Graffiti. No person shall possess, carry, use or keep graffiti or etching tools, etching cream, or slap tags. For purposes of this subsection: (a) "Graffiti or etching tools" means a masonry or glass drill bit, a glass cutter, a grinding stone, an awl, a chisel, a carbide scribe, an aerosol paint container, or any permanent marker with a nib (marking tip) one-half inch or more at its largest dimension and that is capable of defacing property with permanent, indelible, or waterproof ink, paint or other liquid; (b) "Etching cream" means any caustic cream, gel, liquid, or solution capable, by means of chemical action, of defacing, damaging, or destroying hard surfaces in a manner similar to acid; (c) "Slap tag" means any material including but not limited to decals, stickers, posters, or labels which contain a substance commonly known as adhesive glue which may be affixed upon any structural component of any building, structure, equipment, apparatus, appliance, post, pole, or other facility.

#### F. Authorization of San Francisco Police Department to Enforce Code of Conduct

- 1. Law enforcement officers of the San Francisco Police Department are authorized to order persons to stay out of, or to leave, any Public Access Open Space Area, or any facility, building or structure therein, when such officers or employees have reasonable cause to conclude that the person so ordered is under the influence of intoxicating liquor, any drug, or any "controlled substance" as that term is defined and described in the California Health and Safety Code, or any combination of any intoxicating liquor, drug, or controlled substance, and is in such a condition that he or she is unable to exercise care for his or her own safety or the safety of others or interferes with or obstructs or prevents the free use of the Public Access Open Space Area.
- 2. Law enforcement officers of the San Francisco Police Department are authorized to order any person to stay out of or to leave any Public Access Open Space Area, or any facility, building or structure therein, when such officers have reasonable cause to conclude that the person:
  - (a) Is doing any act injurious to any Public Access Open Space Area or any building, structure or facility therein;
  - (b) While using any athletic facility or area, disobeys any rule or regulation governing such area or facility after being warned not to do so by a Developer and/or Management Association employee or designee, when the employee or designee has reasonable cause to conclude that such behavior damages or risks damage to Public Access Open Space Area property or interferes with the use and enjoyment of such area or facility by other persons;

- (c) Behaves in so noisy, boisterous or rowdy a manner as to disturb spectators or participants at an athletic event; or
- (d) Is taking any action in violation of the Code of Conduct.

Notwithstanding the foregoing, the San Francisco Police Department shall have no obligation to enforce the Code of Conduct in the Public Access Open Space Area unless and until the San Francisco Police Commission approves such action and accepts such authority and obligation through its standard approval process and in compliance with all applicable Laws. If the Port Commission approves the addition of the Port-Leased Open Space to the property subject to the Port Code, the Port Code shall control in the event of any inconsistency between the Port Code and the Code of Conduct.

Figure L-2.1 Special Event Allowances

|  | Free Public Events<br>(Non-Closure Event) | Ticketed Public Events<br>(Special Events)   | Private Events (Special Events) |  |
|--|---|--|---------------------------------|--|
| Illinois Plaza   | Unlimited*                                | 10 events per year, up to 2 per month, for up to 48 hours each event   |                                 |  |
| Louisiana Paseo/<br>Mid-Block Passage<br>(Block 15)/ Mid-<br>Block Alley<br>(Block 13) | Unlimited*                                | 10 events (ticketed public and/or private) per year, up to 2 per month, for up to 48 hours each event  |                                 |  |
| Power Station Park<br>West   | Unlimited*                                | Total of 6 events (ticketed public and/or private) per year, up to 1 per month, for up to 48 hours each event. Events on Saturdays and Sundays between the hours of 7am and 6pm permitted up to a maximum of two times per year. |                                 |  |
| Power Station Park<br>East   | Unlimited*                                | Total of 6 events (ticketed public and/or private) per year, up to 1 per month, for up to 48 hours each event. Events on Saturdays and Sundays between the hours of 7am and 6pm permitted up to a maximum of two times per year. |                                 |  |
| Stack Plaza  | Unlimited*                                | Total of 6 events per year, up to 1 per month, for up to 48 hours each event   | None                            |  |
| Humboldt Plaza   | Unlimited*                                | 10 events per year, up to 2 per month, for up to 48 hours per each event   |                                 |  |
| Turbine Plaza  | Unlimited*                                | Total of 40 events (ticketed public and/or private) per year, up to 4 per month, for up to 12 hours each event   |                                 |  |

|   | Free Public Events<br>(Non-Closure Event)   | Ticketed Public Events<br>(Special Events) | Private Events (Special Events) |
|---|---|--|---------------------------------|
| Port-Leased Open<br>Space (portions of<br>Waterfront Park<br>and the Point) | Not to exceed forty- eight (48) consecutive hours in duration, except as authorized in writing by the Port Director. No more than two events per month may commence on a weekend and no more than four (4) of events per month may commence on a weekday, except as authorized in writing by the Port Director. | None                                       | Dienas                          |

Figure L-1
Map of Privately-Owned Community Improvements

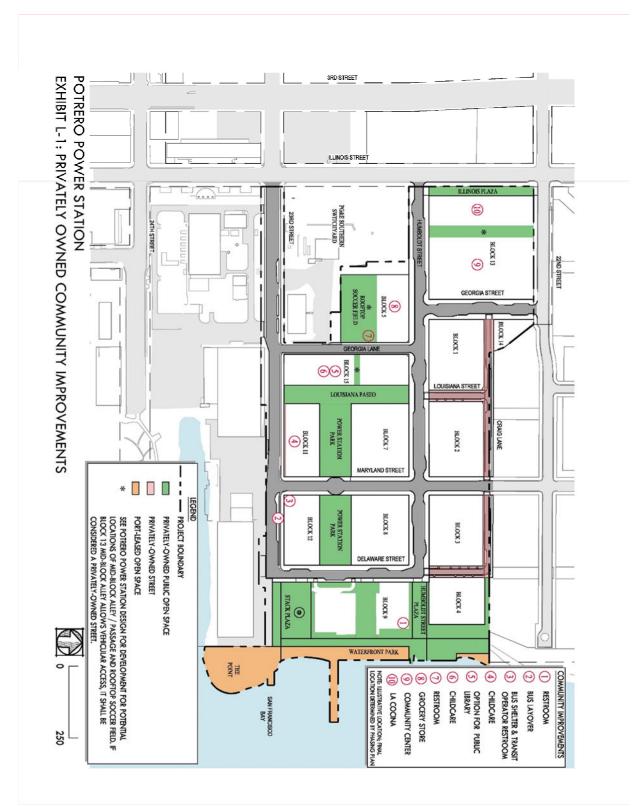


Figure L-2.2 Events in Privately-Owned Public Open Spaces

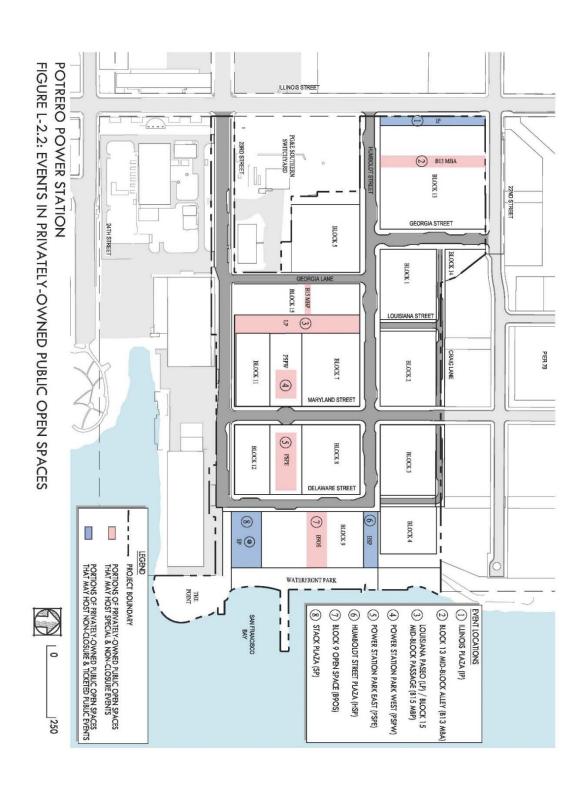
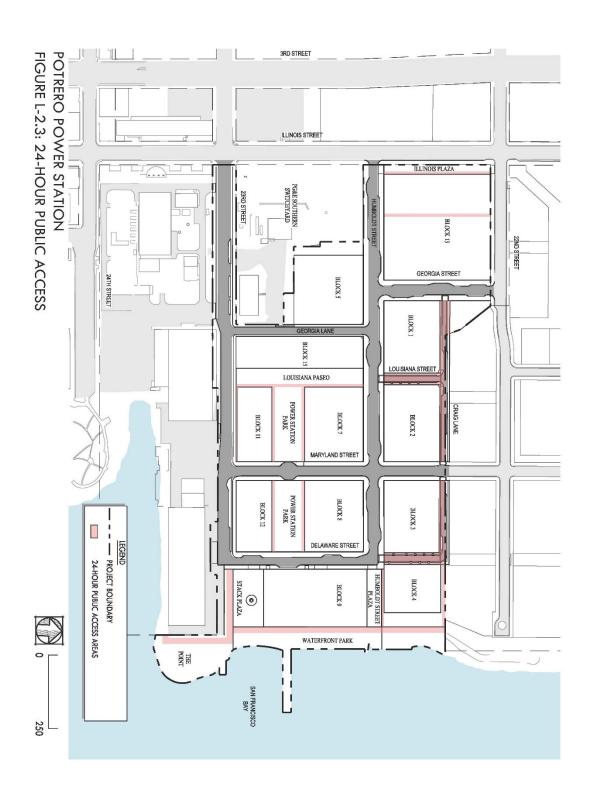


Figure L-2.3
Privately Owned 24-Hour Public Access



#### **EXHIBIT O**

#### **Design for Development**

[attached]



DESIGN FOR DEVELOPMENT

February 26, 2020 FINAL





# DESIGN FOR DEVELOPMENT

February 26, 2020

| 1 | PROJECT OVERVIEW                          | 7   |
|---|---|-----|
| 2 | TELLING OUR STORY:<br>INTERPRETIVE VISION | 31  |
| 3 | LAND USE                                  | 43  |
| 4 | OPEN SPACE                                | 53  |
| 5 | STREETS                                   | 143 |
| 6 | BUILDINGS                                 | 239 |
| 7 | LIGHTING AND<br>SIGNAGE                   | 315 |
| 8 | APPENDICES                                | 329 |
|   |   |     |

#### **User Guide**

#### **Document Content**

The Design for Development (the "D4D") document of the Potrero Power Station (the "Power Station," "project site" or "site") governs the future development of the Power Station (the "Power Station project" or "project") and implementation of the Power Station's Special Use District (the "SUD"). The D4D establishes the design intent and prescribes design controls to direct development on the 29 acres that comprise the project site. General references to the "Power Station project" and "project" (defined above) are to be distinguished from references to a "building" or "building project," terms which are intended to describe the construction of a building or group of buildings undertaken as a discrete project that implements a portion of the overall Power Station project. The following sections are included in this document:

Section 1: Project Overview

Section 2: Telling Our Story: Interpretive Vision

Section 3: Land Use

Section 4: Open Space

Section 5: Streets

Section 6: Buildings

Section 7: Lighting and Signage

The Appendices contain supporting information for reference during implementation by designers, developers, and agencies:

Appendix A: Block Plan Guide

Appendix B: Sustainable Neighborhood Framework

**Appendix C: Power Station Definitions** 

Appendix D: Applicable Planning Code Sections

Appendix E: No PG&E Sub-Area Scenario

Appendix F: Historic Resource Evaluation, Part 2

**Excerpt (Character Defining Features)** 

#### Standards, Guidelines, and Considerations

This D4D includes standards, guidelines, and considerations. Standards and guidelines are requirements that govern the construction and modification of buildings, streets, and open spaces within the project site. Standards are quantifiable or objective requirements whereas guidelines are qualitative or subjective requirements, relating to matters such as the choice of building materials or fenestration.

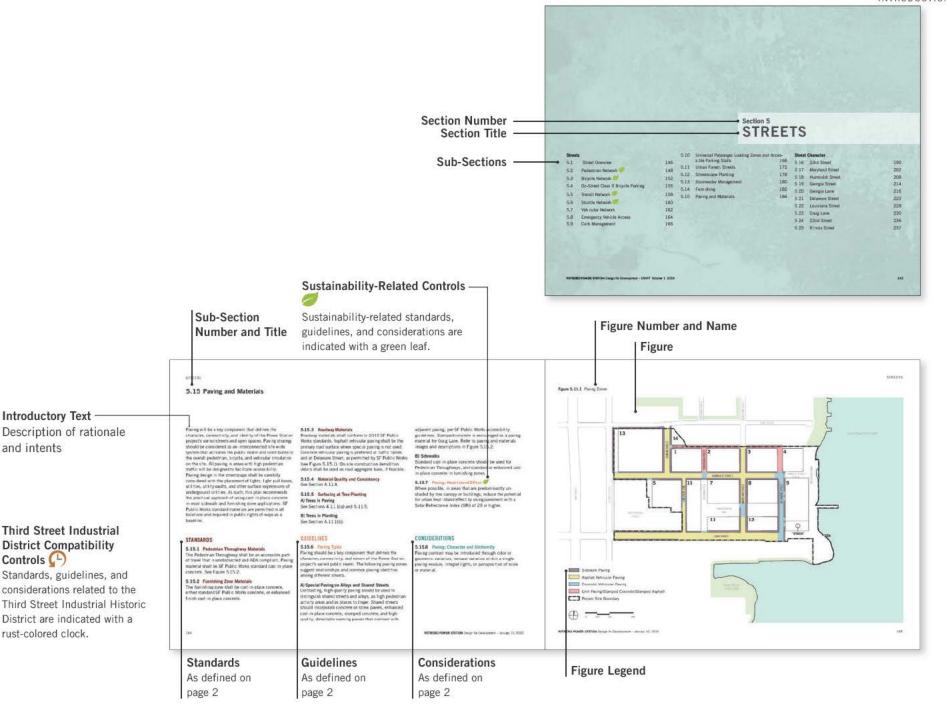
Each new building, street, and open space within the Power Station must meet the standards and guidelines prescribed herein unless modifications to these standards and/or guidelines are approved by the appropriate public bodies. The procedure required to modify the standards contained in the D4D is described in the Potrero Power Station SUD (Appendix E).

Considerations are recommendations, advisory in nature, and intended to further the objectives, principles, and values of this D4D.

#### **Relationship to the Planning Code**

References to the "Planning Code" or "Code" herein are references to the San Francisco Planning Code, as it exists as of the effective date of the Development Agreement. Future changes to the Planning Code may apply to the Power Station project, pursuant to the terms of the Development Agreement. Key Planning Code definitions and provisions, as of the effective date of the Development Agreement, are included as Appendix D (for reference purposes only).

In the event definitions and other provisions in this D4D conflict with the Planning Code (which includes the provisions of the PPS SUD), the Planning Code will control. If an amendment to the D4D creates a conflict between the D4D and the Planning Code, the Planning Code shall prevail unless and until such time as the Planning Code is amended and there is no longer a conflict between the D4D and the Planning Code. Consistent with the PPS SUD, in the event of a conflict between the SUD and the other provisions of the Planning Code, the SUD shall prevail.



#### **Companion Documents**

In concert with the D4D, the Infrastructure Plan (the "Infrastructure Plan" or "IP") describes the infrastructure improvements required to support the Power Station project. The IP outlines the infrastructure elements related to the project's streets, open spaces, and utilities. It provides technical descriptions for how these elements are planned and identifies the responsible parties for design, construction and operation of the infrastructure. The IP includes information on the project's regulatory compliance, as well as an approach to non-potable water and stormwater management for the site.

#### **Interpretive Vision**

The interpretive strategies identified within this document form the basis of the Project's site-wide interpretive plan, as required by Mitigation Measure M-CR-5(c), and will be coordinated with the designs and designers of public areas and open spaces. The hierarchy, location, and expression of these interpretive experiences will be further refined during the project's implementation.

#### **Sustainability and Transportation**

The project takes an integrated approach to sustainability and transportation planning by incorporating these elements into the D4D, rather than treating them as standalone documents. The controls pertaining to sustainability and transportation are integrated as standards and guidelines throughout the D4D.

The controls related to the circulation aspects of transportation are mainly in Section 5: Streets, and those related to buildings (such as parking) can be found in Section 6: Buildings. The Power Station is committed to sustainability and minimizing climate impacts from development. The project takes an integrated approach to enhanced mobility, environmental sustainability, and resilience planning by incorporating related controls and considerations throughout the D4D, rather than as standalone documents.

Sustainability-related standards focus on aspects such as climate (greenhouse gas emissions and air quality), energy, water and stormwater, materials, ecology/biodiversity, and healthy communities, and are indicated with a green leaf: . The project's Sustainable Neighborhood Framework summary is presented as Appendix B.

#### **Reviewing Agencies**

The table below indicates the different agencies involved in review during implementation of the various elements of the D4D and IP.

Table 1.1.1 Matrix of Reviewing Agencies

= Reviewing Agency

|                                       | SF PLANNING | SFMTA | SF PUBLIC WORKS | SFPUC | SFFD | RPD | DBI | PORT |
|---------------------------------------|-------------|-------|-----------------|-------|------|-----|-----|------|
| DESIGN FOR DEVELOPMENT (D4D)          |             |       |                 |       |      |     |     | II.  |
| 01 Project Overview                   | •           |       |                 |       |      |     |     |      |
| 02 Interpretive Vision                | •           |       |                 |       |      |     |     |      |
| 03 Land Use                           | •           |       |                 |       |      |     |     |      |
| 04 Open Space <sup>1</sup>            | •           |       |                 |       |      | •   |     | •    |
| 05 Streets                            | •           | •     | •               |       | •    |     |     |      |
| 06 Buildings                          | •           |       |                 |       |      |     |     |      |
| 07 Lighting and Signage               | •           |       | •               | •     |      |     |     |      |
| NFRASTRUCTURE PLAN                    |             |       |                 |       |      |     |     | **   |
| 01 Introduction                       | •           |       |                 | •     |      |     |     |      |
| 02 Sustainability                     | •           |       |                 | •     |      |     |     |      |
| 03 Environmental Management           |             |       |                 | •     |      |     |     |      |
| 04 Site Demolition                    | •           |       |                 |       |      |     | •   |      |
| 05 Site Resilience <sup>1</sup>       | •           |       |                 | •     |      |     |     | •    |
| 06 Geotechnical Conditions            | •           |       | •               |       |      |     | •   |      |
| 07 Site Grading                       |             |       |                 | •     |      |     | •   |      |
| 08 Street and Transportation Systems  | •           | •     | •               |       |      |     |     |      |
| 09 Open Space and Parks <sup>1</sup>  | •           |       |                 | ●²    | •    |     |     | •    |
| 0 Utility Layout and Separation       |             |       |                 | •     |      |     |     |      |
| 11 Low-Pressure Water System          |             |       |                 | 0     |      |     |     |      |
| 2 Non-Potable Water System            |             |       |                 | •     |      |     |     |      |
| 3 Auxiliary Water Supply System       |             |       |                 | •     | •    |     |     |      |
| 4 Separated and Combined Sewer System |             |       |                 | •     |      |     |     |      |
| 5 Stormwater Management System        | •           |       |                 | •     |      |     |     |      |
| 6 Dry Utility Systems                 |             |       |                 | •     |      |     |     |      |

<sup>1.</sup> Per Figure 1.2.1, the Port of San Francisco has jurisdiction over certain waterfront spaces. The Port will thus be involved in the review of said spaces and their resilience against sea level rise during implementation, as described in this D4D and IP.

2. To the extent that there are stormwater management facilities.

POTRERO POWER STATION Design for Development – February 26, 2020



# PROJECT OVERVIEW

| 1.1 | Project Vision     | 4 1 |
|-----|--------------------|-----|
| 1.2 | Site Context       | 1.  |
| 1.3 | Site History       | 1   |
| 1.4 | Planning Context   | 1   |
| 1.5 | Project Principles | 20  |
| 1.6 | Design Framework   | 2:  |



# 1.1 Project Vision

The Power Station will be a vibrant new neighborhood that seamlessly connects with Dogpatch, Pier 70, and the Central Waterfront as a whole.

The Power Station will be a place for Dogpatch residents and all San Franciscans to access the Central Waterfront, drawing people to a place of arrival at an active, urban water's edge, through a network of streets designed for safe and easy use by those on foot, bicycle, or transit.

It will be a neighborhood alive with places to live, work, shop, and enjoy culture. A series of open spaces will offer opportunities for active recreation, passive contemplation, and everything in between.

The 300-foot-tall "Stack" is an icon for the Central Waterfront. It will stand side-by-side with elegant new buildings that enliven and anchor the public realm, a tangible expression of the site's story arc—from a polluting power plant to a sustainable, resilient neighborhood that embraces wellness.



#### **Community Outreach Themes**

The community outreach process was a comprehensive multi-year community effort that revealed a series of themes and observations critical to the users and neighbors of the Power Station, shown in Figure 1.1.1. Ranging from program and density ideas to qualitative observations of the diversity and culture in place, these collective goals guided the development of the principles that inform and guide the urban design and placemaking of the Power Station project.



Figure 1.1.1 Community Feedback Summary

#### 1.2 Site Context

The site is located in the Dogpatch neighborhood of San Francisco, which is characterized by large industrial warehouses near smaller, single-family homes. This mix and adjacency of uses gives Dogpatch its unique urban fabric, and has given rise to a community that is rich with arts and industry. The American Industrial Center buildings west of the project site, shown in Figure 1.2.1, serve as an anchor for a community of local artisans and craftspeople.

Large industrial users remain active in the area, particularly along the waterfront, where notable neighbors include the Pier 70 Shipyard and Pier 80, both of which are major Port of San Francisco operations. The character of the waterfront in this area is undergoing a substantial transformation, as Crane Cove Park will soon connect Dogpatch to the waterfront with a significant open space that provides water access for kayaks and other small craft. See Figure 1.2.2 for a map of current use districts that surround the site.

Another significant aspect of the site's context is the development of Pier 70. The Pier 70 project, which reimagines 35 acres of land entrusted to the Port of San Francisco, lies immediately north of the Power Station and shares a boundary along the newly proposed Craig Lane. Pier 70 will contribute to the neighborhood a significant amount of housing and jobs within a grid of walkable blocks, as well as waterfront connections and open space. A cluster of historic buildings comprises a character-defining element of Pier 70; these include Building 12, which will be home to a market-hall of small-scale "makers" and artists. The diagram in Figure 1.2.3 shows the contextual relationship of the future build-out of the Power Station to the plans for Pier 70.

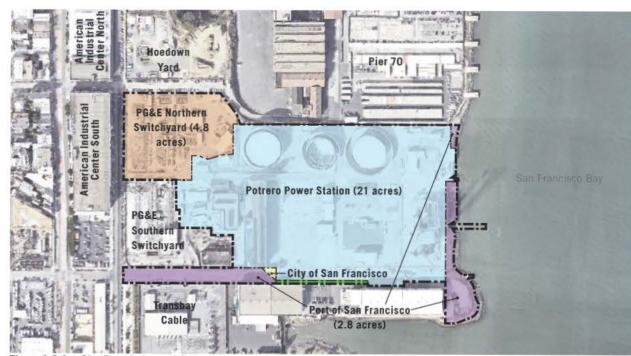


Figure 1.2.1 Site Boundaries and Ownership

The western end of the Power Station is characterized by two PG&E switchyards: the Northern Switchyard, which is within the project site's boundary, and the Southern Switchyard, which is not. To the south of the Southern Switchyard lies the Transbay Cable site. Through streetscape improvements that provide wide, welcoming sidewalks and parking-protected bicycle lanes, this D4D addresses the challenging arrival sequence posed by the Transbay Cable and PG&E Southern Switchyard sites.

The site itself comprises the properties of four different owners (see Figure 1.2.1). The 21-acre parcel that was the former Potrero Power Station is developer-owned; the 4.8-acre parcel currently used as a switchyard is owned by PG&E; sections of 23rd Street and the waterfront totaling 2.8 acres are entrusted to the Port of San Francisco, and are subject to the public trust doctrine; and a small triangle of land along 23rd Street is owned by the City of San Francisco (See Appendix E for the scenario without the PG&E Switchyards).

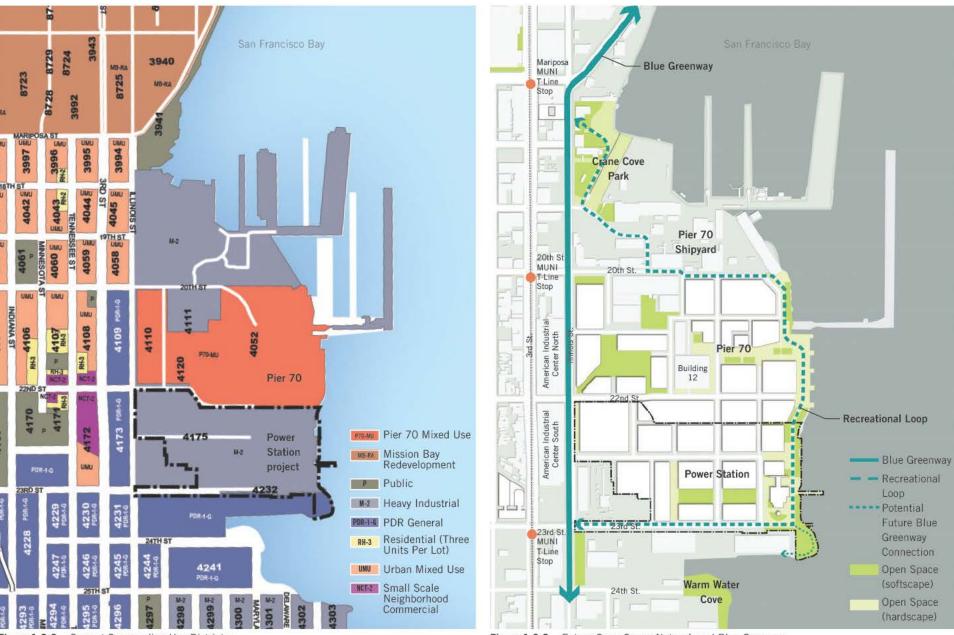


Figure 1.2.2 Current Surrounding Use Districts

Figure 1.2.3 Future Open Space Network and Blue Greenway

## 1.3 Site History

Unlike other portions of the Central Waterfront that are primarily filled-in marshlands, this site was historically a peninsula of land called Potrero Point. The high elevation and proximity to a deep-water port in the southern part of San Francisco made the site ideal for industrial uses. Many kinds of industry thrived here, including gunpowder and cordage manufacturing, iron smelting and rolling, and barrelmaking.

In 1881, Claus Spreckels established his own refinery for sugar shipped here from Hawaii, taking advantage of the site's existing sugar warehouses, manufacturing infrastructure, and waterfront access. He built the site's first power plant, Station A, in 1901 to support sugar refinery operations; by 1905, it was producing the majority of San Francisco's power, and was acquired by PG&E. From historic photos, it is evident that this site was developed with density and height long before any of the other uses in the Central Waterfront came into being.

Station A was renovated in the 1930s and began using more natural gas than manufactured gas. In the 1960s, PG&E added the Unit 3 Power Generating Station ("Unit 3") to the site. Up until its closure in 2011, the Power Station site was responsible for generating approximately one third of San Francisco's power. Figure 1.3.1 shows a composite image of these various eras in the history of the Power Station site.

After more than a century of industrial use, the plant eventually outlived its practical utility, as the city moved toward more efficient and environmentally friendly technologies. Once critical to San Francisco's power network, the plant gave way to off-site power generation, allowing the facility to be decommissioned—and the city of San Francisco to embrace an exciting new chapter for this unique waterfront location.

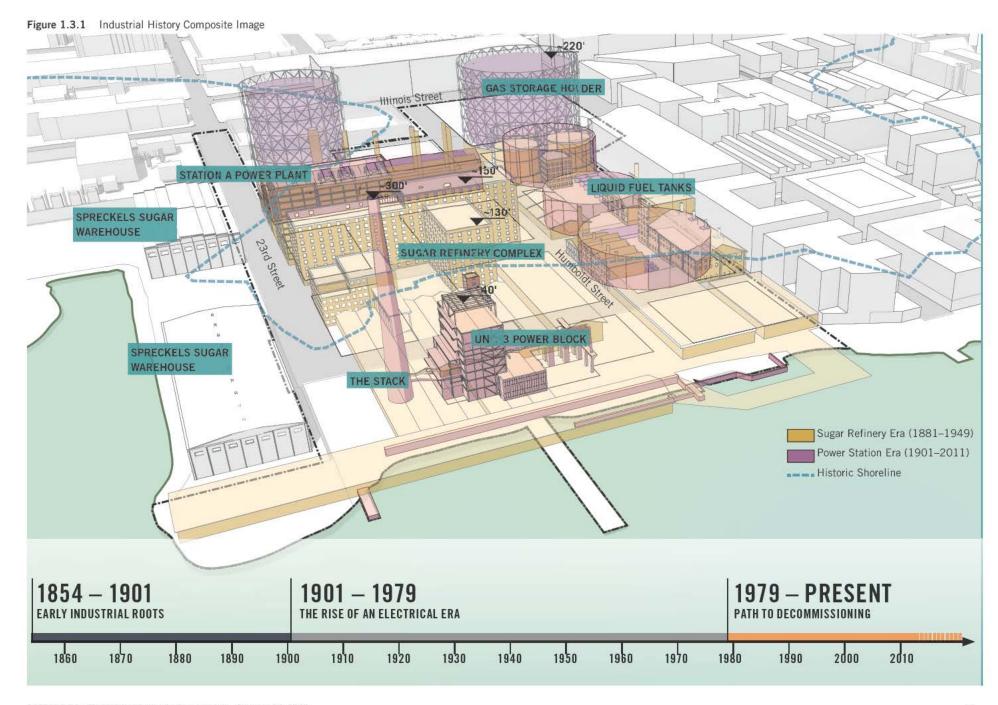








- 1. 1929 aerial of site shows dense build-out before the development of the rest of Dogpatch.
- 2. A view of the 180-foot warehouse building, demolished in the 1980s, that existed adjacent to Station A.
- 3. 20th and Indiana streets, circa 1940. The American Industrial Center (North Building) stands between the viewer and the site
- 4. 1964 photo of Unit 3 and the Stack, constructed by PG&E to provide power to much of San Francisco.



# 1.4 Planning Context

#### Eastern Neighborhoods Plan (2009)

Based on more than a decade of community input and technical analysis, the *Eastern Neighborhoods Plan* calls for transitioning about half of the existing industrial areas in the plan area (see Figure 1.4.1) to mixed-use zones that encourage new housing. The remaining half would be reserved for Production, Distribution, and Repair (PDR) districts, where a wide variety of functions, such as Muni vehicle yards, caterers, and performance spaces can continue to thrive. The Power Station site was specifically called out for rezoning in the *Eastern Neighborhoods Plan*.

#### Central Waterfront Area Plan (2008)

In addition to the Eastern Neighborhoods-wide objectives outlined above, the following goals were developed over the course of many public workshops, specifically for the Central Waterfront:

- Encourage development that builds on the Central Waterfront's established character as a mixed-use, working neighborhood.
- Foster the Central Waterfront's role in San Francisco's economy by supporting existing and future PDR and maritime activities.
- Increase housing in the Central Waterfront without impinging on or creating conflicts with identified existing or planned areas of PDR activities.
- Establish a land use pattern that supports and encourages transit use, walking, and bicycling.
- Better integrate the Central Waterfront with the surrounding neighborhoods and improve its connections to Port land and the water's edge.

 Improve the public realm so that it better supports new development and the residential and working population of the neighborhood.

#### Better Streets Plan (2010)

The Better Streets Plan was adopted in 2010 to support the City's goals to create complete streets with enhanced streetscape and improved pedestrian and bicycle facilities. It classifies public streets and rights-of-way and creates a unified set of standards, guidelines, and implementation strategies that govern how the City designs, builds, and maintains its public streets and rights-of-way to achieve these goals. Major project concepts applicable to the Better Streets Plan include:

- Pedestrian safety and accessibility features, such as enhanced pedestrian crossings, corner or midblock curb extensions, pedestrian countdown and priority signals, and other traffic calming features.
- Universal pedestrian-oriented streetscape design with incorporation of street trees, sidewalk plantings, streetscape furnishing, street lighting, efficient utility location for unobstructed sidewalks, shared single surface for small streets/alleys, and sidewalk/median pocket parks.
- Integrated pedestrian/transit functions using bus bulb-outs and boarding islands (bus stops located in medians within the street).

### Pier 70 Special Use District (Pier 70 SUD) (2018)

To the immediate north of the site is Pier 70, described by the Pier 70 Special Use District (the "Pier 70 SUD"), which was adopted in 2018. See *Planning Code Section 249.79*. The site is roughly 35 acres, approximately nine acres of which will be open space. The plan anticipates

between 1,645 and 3,025 units of housing, and between 1.1 and 2.2 million square feet of commercial development. Design standards and guidelines governing the development of Pier 70 are contained in the Pier 70 SUD Design for Development document.

#### **Bay Conservation and Development Commission (BCDC)**

BCDC has jurisdiction over the portion of the project site located within 100 feet inland of the mean high tide line (see Figure 1.4.2). The proposed project would require BCDC approval of activities within this area. Because only recreational use, hotel, open space, and public access are proposed for the portions of the project site within the shoreline band, the project will not conflict with the *Bay Plan* or BCDC regulations. However, BCDC will make the final determination of consistency with *Bay Plan* policies for the portions of the project site that are within its permit jurisdiction.

#### **Public Trust Doctrine**

The public trust doctrine is the principle that certain natural and cultural resources (especially waterways) are the collective property of the public, and that the government owns and must protect and maintain these resources for the public's use. California's State Lands Commission governs the doctrine's application in the State, managing 4 million acres of tide and submerged lands and the beds of navigable rivers, streams, lakes, bays, estuaries, inlets, and straits. The public trust doctrine ensures that land that adjoins the State of California's waterways, or is actually covered by those waters, be committed to maritime-oriented uses. Only those portions of the site that are Port property are subject to the public trust doctrine.



Figure 1.4.1 Eastern Neighborhoods Plan Area (image adapted from San Francisco Eastern Neighborhoods Plan, 2009)

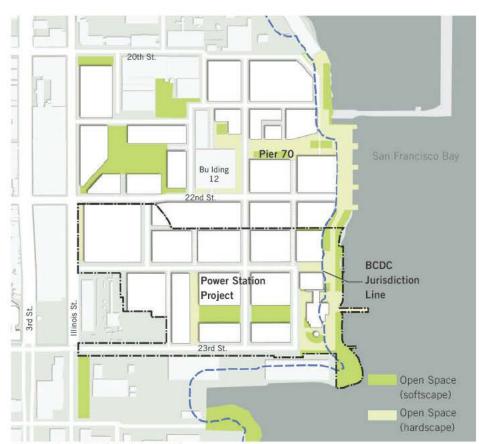


Figure 1.4.2 BCDC Jurisdiction Line

#### Third Street Industrial District

The site lies within the Third Street Industrial District (see Figure 1.4.3), and is a sub-district of the Central Waterfront Historic District (also known as the Potrero Point Historic District). The Third Street Industrial District is an historic district initially identified in the 2001 Central Waterfront Historic Resources Survey Summary Report, and in 2008 was fully documented by Kelley & VerPlanck and Page & Turnbull. The district is eligible for listing in the California Register. The boundary of the Third Street Industrial District extends west from the project site along 23rd Street, and runs north along Third and Illinois streets, roughly between 18th and 24th streets. The original period of significance of the Third Street Industrial District was 1872 to 1958. The Historic Resource Evaluation for the Power Station project extended the period of significance to 1965. The Historic Resource Evaluation Response noted that 1965 was "the start of the decline in manufacturing and industry in the area and therefore marks another potential date for the district's period of significance." The change in end-date resulted in the addition of two contributing buildings to the district that were not previously evaluated: Unit 3 and the Boiler Stack, both constructed in 1965.

Some of the character-defining features of the Third Street Industrial District are a high concentration of manufacturing, repair, and processing plants; warehouses of industrial character; long-present industries dependent on the nearby waterfront and the freight-hauling Santa Fe Railroad trains that ran along Illinois Street; and buildings with the following typical features: brick and concrete construction, one to four stories in height, flat roofs, ornamented parapets, steel-sash and wood-sash

windows, rectilinear and arched window openings, and/ or American Commercial style. Figure 1.4.3 shows the location of the Third Street Industrial District and the buildings that are contributors of significance to the district's historic resources, including contributors on the project site.

Third Street Industrial District compatibility controls have been developed and are included in this D4D to ensure that the Power Station project's buildings, streetscapes, and relevant open spaces are consistent with the historic district. Such controls are indicated with a (1) icon.

#### Union Iron Works Historic District

The Union Iron Works (UIW) Historic District abuts the Third Street Industrial District along the northern boundary (Figure 1.4.3), and includes 66 acres of the 69-acre Pier 70 Area. It was listed in the National Register of Historic Places in 2014, as recommended in the Port Master Plan. The UIW Historic District consists of buildings, piers, slips, cranes, ship repair activities, and landscape and circulation elements that are associated with steel shipbuilding. The UIW Machine Shop, built in 1884, was the first to be built on-site during a period of industrial architecture ending with World War II.

#### San Francisco Bay Trail / Blue Greenway

The Blue Greenway, a project of the San Francisco Parks Alliance in collaboration with the City of San Francisco, is planned to improve the city's southerly portion of the 500-mile, nine-county regional Bay Trail, as well as the Bay Area Water Trail and associated waterfront open space system (see Figure 1.4.4). The San Francisco Bay Trail / Blue Greenway (referred to in this plan as "the

Blue Greenway") will expand recreational and wateroriented activities and green corridors connected to surrounding neighborhoods. Public open spaces proposed at the Power Station project will be part of this network.

The main spine of the Blue Greenway adjacent to the project site runs down Illinois Street. The Pier 70 project adds a "recreational loop" from Illinois Street out to the waterfront, stopping at the northerly edge of the Power Station site. The Power Station project will continue this trail along the waterfront, creating pedestrian and bicycle connections to Illinois Street along 23rd Street, and terminating the recreational loop at the existing Blue Greenway. Additionally, the project makes possible the opportunity to extend the Blue Greenway along Warm Water Cove south of 23rd Street, allowing for a continuous waterfront trail. See Figure 1.4.4 for an illustration of the path of the Blue Greenway and its recreational loops.

#### Army Corps of Engineers

The project shoreline improvements Bay-ward of the high tide line are subject to the permitting jurisdiction of the U.S. Army Corps of Engineers.

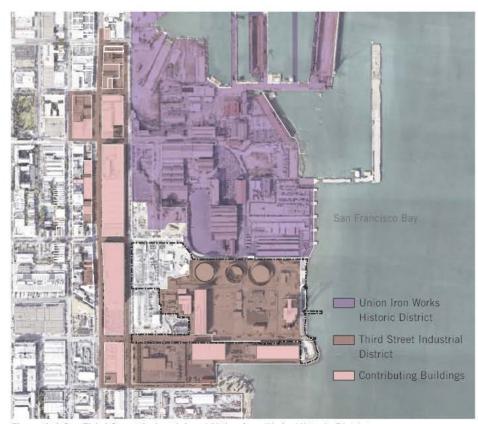


Figure 1.4.3 Third Street Industrial and Union Iron Works Historic Districts



Figure 1.4.4 San Francisco Bay Trail / Blue Greenway (referred to in this D4D as "the Blue Greenway")

# 1.5 Project Principles

The Power Station project is a portion of the waterfront that has always serviced San Franciscans, but remained inaccessible to members of the public for more than 150 years. The following principles guide the site's reintegration into and restoration of the fabric of San Francisco, while celebrating the site's industrial past and providing much-needed uses to the city, such as open space and housing. Principles 1–7,

relating to the physical development of the site, can be found embedded throughout the document. Since Principle 8 does not guide the project's design, it is not discussed further in this D4D. However, the principle is integral to the site's development and included below.



PRINCIPLE 1

Design a unique public waterfront that emphasizes and connects active uses.



Accommodate needed growth in the city while creating a diversity of uses that can support a lively, livable, and inclusive neighborhood.



PRINCIPLE 3
Celebrate the site's rich industrial history.



PRINCIPLE 4
Establish an accessible neighborhood that prioritizes walking, biking, and transit.



PRINCIPLE 5

Contribute well-designed parks and recreational facilities that will complement the existing neighborhood and citywide open space network.



PRINCIPLE 6

Design a neighborhood that is context-appropriate, diverse, and human-scaled.



PRINCIPLE 7

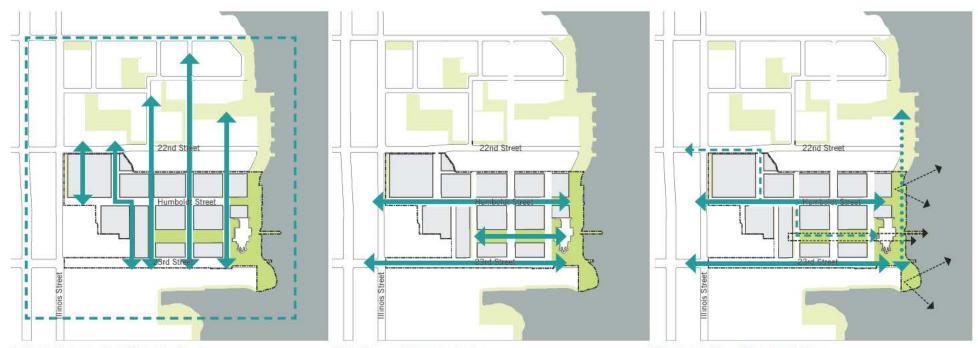
Create a healthy, sustainable, and resilient neighborhood that fosters innovation and embraces wellness.



PRINCIPLE 8

Develop a financially feasible project that can deliver the benefits promised to the community and the city.

# 1.6 Design Framework



#### A Unified, Connected Neighborhood

A major consideration of the urban design framework is to maximize connectivity with the north-south linkages of Pier 70, creating a continuous, legible, single neighborhood.

#### Walkable, and Human Scale

The framework continues 23rd Street and Humboldt Street through the site, carrying these connections all the way to the waterfront. A third east-west connection formed by Power Station Park further reduces the scale of the blocks, providing for an inviting, walkable grid of streets and open spaces.

#### **Unmistakably a Waterfront Place**

The design framework prominently features the project's expansive waterfront access. All roads at the Power Station lead to the Bay. The street framework invites pedestrians and cyclists to access the Blue Greenway, and park viewsheds capture open views across the water to the hills beyond.

#### Land Use

The Power Station project's land use framework and SUD specify residential, commercial (office, laboratory, and life science), PDR, retail, hotel, and open space uses.

The framework calls for a variety of housing types, including affordable housing, to create a diverse and family-friendly neighborhood.

A variety of neighborhood-serving retail, services, and amenities are provided within convenient walking distance of housing and commercial uses on the site.

The land use framework balances and distributes the various uses so that they work together to create a complete, round-the-clock neighborhood. Figure 1.6.1 illustrates the project's approach to the distribution of land uses. The land use framework is based on Principles 2, 4, and 6.

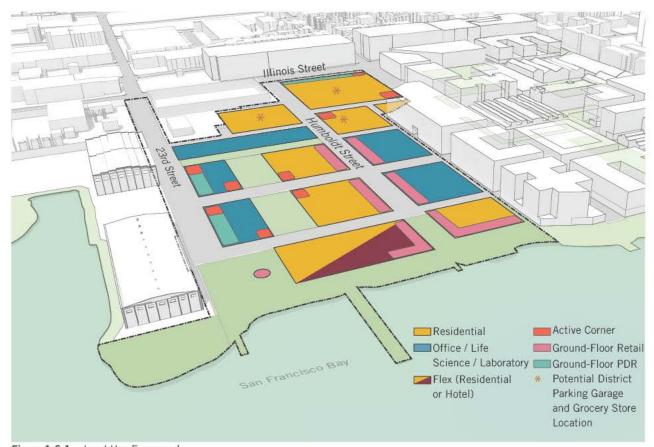


Figure 1.6.1 Land Use Framework

#### Waterfront and Open Spaces

The Power Station project will join a connected network of waterfront parks and open spaces that includes Crane Cove Park, Warm Water Cove, the Blue Greenway, and those at Pier 70, opening this portion of the Central Waterfront to public access and enjoyment for the first time in 150 years.

The Power Station project's open space framework provides a variety of recreational uses on the Central Waterfront, including a rooftop soccer field, playgrounds, and other amenities that support active recreation and wellness. Parks are programmed with all potential users in mind, accommodating a variety of abilities and interests. Figure 1.6.2 illustrates the series of open spaces throughout the site and how they connect.

The waterfront design is comprised of a series of active spaces, enlivened by the proposed hotel, restaurants, and other retail uses. A recreational dock may provide direct access to the water, while carefully designed moments along the Blue Greenway provide places to enjoy sweeping views of the Bay. The Point is envisioned as a quieter place for picnicking and adventure play, and the Blue Greenway reacreational loop provides a critical link along the waterfront for pedestrians, cyclists, visitors, and residents alike.

Power Station Park is intended to be a neighborhood gathering-place similar to South Park in SoMa, which balances the dynamism of flexible open spaces with the attraction of specific activities for all age groups (such as seating areas, play structures, etc.). Surrounding

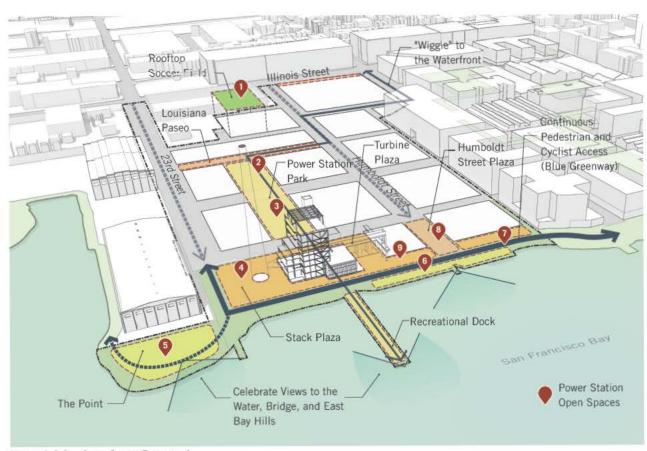
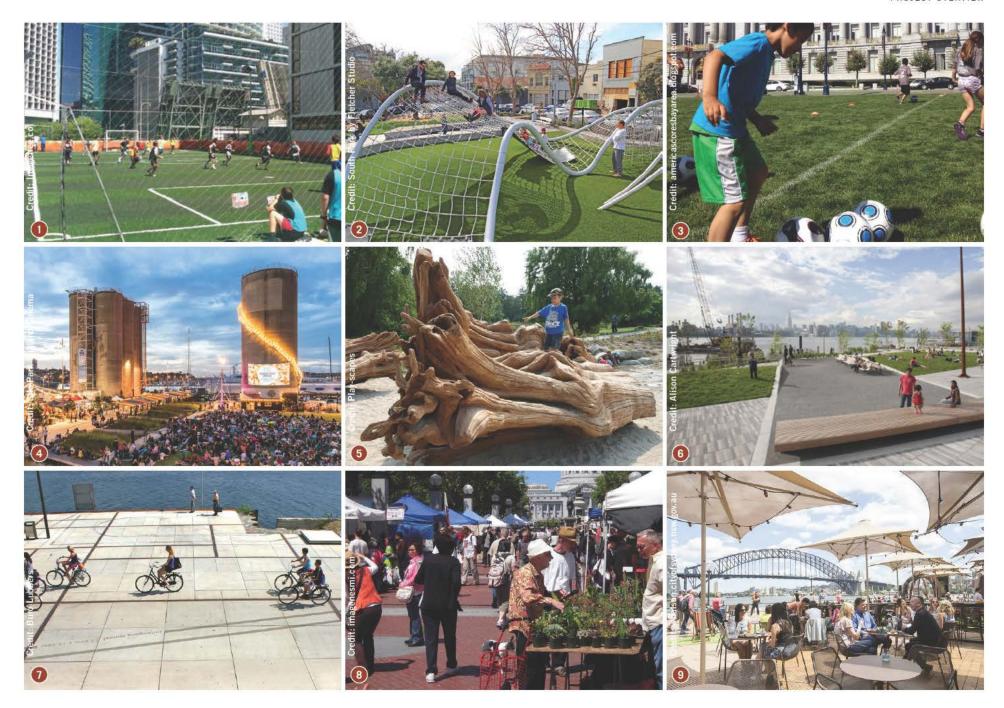


Figure 1.6.2 Open Space Framework

ground-floor uses are intended to activate these open spaces day and night, during the week, and on weekends. The open space framework is based on Principles 1, 5, and 7.

Images at right demonstrate the range of potential recreational and active uses corresponding to the numbered open space areas in Figure 1.6.2, including flex fields for soccer and yoga, formal play structures, adventure play spaces, social games, and adult fitness facilities.



#### **Complete Streets**

City policy calls for a shift to active modes of travel, such as walking, biking, and transit, which reduce congestion and emit fewer greenhouse gases.

Additionally, San Franciscans increasingly demonstrate a preference for sustainable transportation modes, owning fewer cars and taking fewer car trips.

There are several existing plans that together will help to reduce automobile use at the Power Station. These include increased service and capacity on the Muni T-Line, a new bus line that will terminate at the site, faster and more frequent regional connections via Caltrain (due to electrification), and the expansion of Bay Area Bikeshare.

Streets at the Power Station project are networked and designed to enhance walking and bicycling connections to transit, the Blue Greenway, and adjacent neighborhoods in the city. In addition to being better for the environment, sustainable transportation choices support the health and wellness of future residents, workers, and visitors to the site. Figure 1.6.3 illustrates the transportation network for the Power Station project.

Streets and sidewalks are designed to be safe and enjoyable for users of all backgrounds, physical abilities, and mode choices. Street design will plan for and accommodate evolving transportation needs and technology, including a shift to shared modes such as ride-hailing services and public transit; increased passenger loading; and systems-based delivery of goods. The complete streets framework is based on Principles 4 and 7.

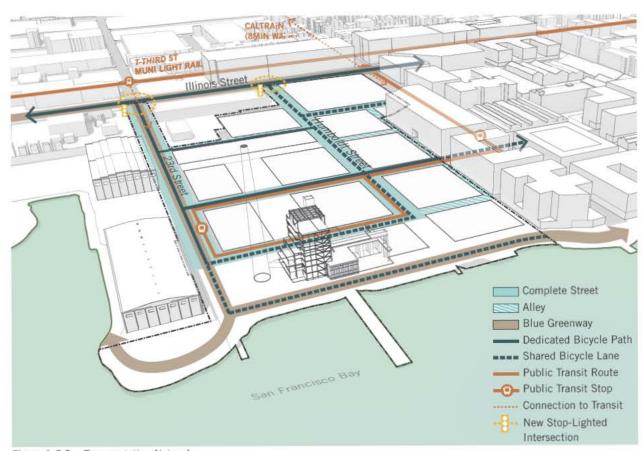


Figure 1.6.3 Transportation Network

#### **Historic Character**

There are a few remnants of the site's prior use as a sugar refinery and as a power station that carry the historic character of the Power Station into the present. The Stack, arguably the most prominent visual icon of the Central Waterfront area, will be retained. Unit 3, the second most visually prominent structure on-site, may be retained and converted into a hotel, residential building, or combination of the two uses. Station A will be rehabilitated and repurposed as an office building. Other historic resources, such as the Compressor House, the Meter House, and the Gate House, are proposed to be demolished.

Adaptation of this site from a polluting power plant into a healthy, sustainable neighborhood also serves as an important opportunity to shape a resilient future for the site with thoughtful, forward-thinking, and integrated design. A robust interpretive program is established in this D4D to communicate the unique industrial history of the project site and its role in the Dogpatch neighborhood. The program calls for the permanent display of interpretive materials in open spaces and on buildings throughout the site (refer to Section 2: Interpretive Vision). Where historic resources such as the Stack, Station A, and potentially Unit 3 are adaptively reused, those buildings/locations will incorporate site-interpretive elements as a way to share the stories of the site's industrial past.

Third Street Industrial District design controls are embedded in the Open Space, Streets, and Buildings Sections of this D4D. The historic character framework is based on Principle 3 and ensures that new construction is compatible with the historic district within which the project site is located.



A view of Unit 3 and the Stack from the Bay.



The Pompidou Center in Paris is an example of a building with an external structure, as Unit 3 would have if developed into a hotel. The visibility of the structure on the outside of the building offers a unique architectural opportunity.



A historic building adapted into a hotel.



The Standard, on New York's High Line, demonstrates how the identity of a hotel can be tightly linked to adjacent open spaces, as Unit 3 will be with the waterfront at the Power Station project.

#### Sustainability, Resilience, and Wellness

Consistent with Principle 7, redevelopment of the Power Station aims to create a healthy, sustainable, and resilient neighborhood that fosters innovation and embraces wellness. The project endeavors to create a low-carbon community in response to the site's past use as a power plant and in support of San Francisco's ambitious Climate Action Strategy. The project aims to reduce Greenhouse Gas (GHG) emissions in ways that also improve air quality, contribute to water conservation, and support human health and wellness. The project is intended to be a leading example of a sustainable and resilient community and the site's interpretive program serves as an opportunity to highlight and enhance public understanding of the strategies that contribute to these goals.

Transportation planning on the site is intended to reduce single-occupancy vehicle use and vehicle miles traveled (VMT), improving air quality by reducing greenhouse gas emissions from cars. New infrastructure will take advantage of the mix of uses on site, allowing buildings to work together to save water and energy—critical, as buildings account for a large portion of greenhouse gas emissions.

The open space strategy restores waterfront access and vegetation to the site, improving biodiversity and encouraging healthier ecosystems, using landscape to manage stormwater, further improving local air quality, contributing to meaningful carbon sequestration, and providing spaces for active outdoor use. As a response to climate change, the site's future elevations along the shoreline anticipate and accommodate sea level rise and storm surge into the year 2100.



Green roof decks will provide easy access to outdoor green space.



Flexible outdoor spaces allow for a range of activities such as yoga and other forms of fitness.

Fostering wellness is central to the site design, which encourages walking and cycling, and provides site-wide recreational amenities such as flexible lawns, play areas, and the rooftop soccer field. Inside the buildings, multiple sets of controls promote wellness, from the



The waterfront will be designed to anticipate 66 inches of sea level rise (the current projection for the year 2100.)



The rooftop soccer field will provide an important recreational amenity for the entire Central Waterfront.

selection of healthy building materials to the provision of building amenities that support physical activity, respite, recreation, and community gathering.

#### **Urban Form and Architecture**

The Central Waterfront is made up of different neighborhoods that together form a distinct, eclectic district. A diverse mix of buildings characterizes the area, including large-scale warehouses that occupy an entire block, small Victorian flats, mid-rise multifamily buildings, and large-floorplate office buildings. Visual connections to most of the site are limited by the presence of the switchyards and the American Industrial Center buildings.

To promote Principle 6, the Power Station design establishes a pattern of streets and blocks that is walkable and appropriate to its context, and relates and connects to the existing and future neighborhood. The ground floors of buildings will be programmed and designed to enliven and activate the public realm and emphasize a human scale.

Building envelopes have been set to allow sunlight to reach parks and streets, reduce wind impacts, and step down toward the water's edge. The massing for the site will allow for a diversity of building heights and types, including low- and mid-rise buildings. A cluster of mid and high-rise buildings along Humboldt Street will rise to create a counterpoint to the iconic Stack as indication that there is life and activity beyond the switchyards.

As illustrated in Figure 1.6.4, most buildings will make up a general urban fabric, with a streetwall height that provides enough continuity to frame the streets, but allows for a variety of heights and modulation ("fabric buildings"). A few select buildings will stand out: Station A, the Unit 3 hotel (if retained) and the Stack, as well as the 240-foot tower (Block 7), frontages



Figure 1.6.4 Urban Form Framework

facing Power Station Park, and Block 4 on the waterfront ("differentiated buildings"). These differentiated buildings all offer opportunities to deploy iconic architecture that contributes to a unique site identity and sense of arrival at a special place.



Images above capture the aspirations for the architecture at the Power Station: gridded buildings with structure-and-fill-type construction, solid streetwalls, and potential for more transparency above; a ground floor that is designed to enliven and activate the adjacent pedestrian realm; and high-quality materials that contribute a tactile aspect to the pedestrian experience.

# TELLING OUR STORY: INTERPRETIVE VISION

| 2.1 | Experiential Goals                      | 3    |
|-----|---|------|
| 2.2 | Visitor Flow and Interpretive Locations | 3    |
| 23  | Interpretive Production Techniques      | . 41 |



# **Interpretive Vision**

The Power Station will celebrate its rich industrial history, bridging its past with contemporary stories of its continued transformation. A program of coordinated interpretive exhibits will be integrated throughout public areas and open spaces to promote an understanding of the site's history, significance, and function.

The Interpretive Mission Statement above shall guide all interpretive endeavors for the Power Station.

This Interpretive Vision chapter of the D4D details important stories relevant to the further development of the site. It provides the framework for a site-wide interpretive masterplan required as part of Mitigation Measure M-CR-5c. This framework was developed in coordination with the Project Sponsor and the Planning Department, and serves as the guiding vision for the interpretive masterplan. The interpretive strategies as identified within this chapter are consistent with the remainder of the D4D and will be coordinated with the designs and designers of public areas and open spaces. The hierarchy, location, and expression of these interpretive experiences will be further refined during the project's implementation.

This section provides a framework for a site-wide interpretive masterplan required as part of Mitigation

Measure M-CR-5c of the *Potrero Power Station Mixed-Use Development Project Environmental Impact Report* ("EIR"). This framework was developed in coordination with the Project Sponsor and the Planning Department, and serves as the guiding vision for the interpretive masterplan.

Measure M-CR-5c is included here for reference:\*

Prior to any demolition or rehabilitation activities that would remove character-defining features of an individual historical resource or contributor to a historic district on the project site, the Project Sponsor shall consult with planning department preservation staff as to whether any such features may be salvaged, in whole or in part, during demolition/alteration. The Project Sponsor shall make a good faith effort to salvage materials of historical interest to be utilized as part of the interpretative program. This could include reuse of the Gate House or a portion of the Unit 3 Power Block.

Following any demolition or rehabilitation activities within the project site, the Project Sponsor shall provide within publicly accessible areas of the project site a permanent display(s) of interpretive materials concerning the history and architectural features of the individual historical resources and Third Street Industrial District. The content of the interpretive display(s) shall be coordinated and consistent with the site-wide interpretive plan prepared in coordination with planning department preservation staff, and may include the display of salvaged features recovered through the process described above.

The specific location, media, and other characteristics of such interpretive display(s) shall be presented to planning department preservation staff for review prior to any demolition or removal activities. The historic interpretation plan shall be prepared in coordination with an architectural historian or historian who meets the Secretary of the Interior's Professional Qualification

Standards and an exhibit designer or landscape architect with historical interpretation design experience.

Interpretive display(s) shall document both the Third Street Industrial District and individually eligible resources to be demolished or rehabilitated. The interpretative program should also coordinate with other interpretative displays currently proposed along the Bay, specifically at Pier 70, those along the Blue Greenway, and others in the general vicinity. The interpretative plan should contribute to digital platforms that are publicly accessible.

A proposal describing the general parameters of the interpretive program shall be approved by planning department preservation staff prior to issuance of a site permit. The substance, media, and other elements of such interpretive display shall be approved by planning department preservation staff prior to issuance of a Temporary Certificate of Occupancy.

\* In the event of inconsistencies or conflicts between the M-CR-5(c) language included in this section and the final Power Station EIR, the EIR shall control.

# 2.1 Experiential Goals

The following tenets are a culmination and distillation of local government agency and project stakeholder guidance, along with interpretive best practices. They will guide the development of interpretive exhibits at the Power Station. See Figure 2.1.1.

#### **Celebrate Transformation**

The site has a rich industrial history, with each successive occupant 'standing on the shoulders' of its predecessors. The infrastructure of each occupying industry was repurposed and transformed to accommodate the next. Each occupant was tied to the waterfront, which also continually changed, based on the needs of the occupant. The Power Station will continue in this evolution to support the ever-changing needs of the community. The exhibits should highlight transformation as a 'metanarrative.'

#### **Demonstrate Connections**

The intent is to expose residents, visitors, and employees to the layered history of the site rather than depict the site's history in a linear fashion. Potrero Point has many independent stories, which paint a broader picture when combined. By bridging the past with the present within a geographical context, the exhibits at the Power Station should be designed to help visitors connect these individual stories into broader-reaching themes to fully realize the site's importance.

#### Create a Unique Identity

The industrial heritage along the Central Waterfront is evident across Potrero Point and many neighboring sites. Once these developments are complete, most visitors will perceive them as a continuous fabric of the city, yet each has a unique story to tell. For continuity,

the exhibits at the Power Station should share some interpretive methodologies with neighboring sites, yet visitors shall be made aware of historical boundaries to create a unique identity and sense of place.

#### Reveal the Past

Continuous growth has yielded many changes to Potrero Point over time. With technological advances, the site infrastructure has evolved to support its inhabitants and will continue to do so. Even during its tenure as a functioning power station, many prominent structures were replaced by more relevant ones. Upon completion of the Power Station development, many of the site's past historic resources will not be physically available for storytelling. Where appropriate and feasible, these elements shall be revived in interpretive features like paving patterns, site markers, exhibit panels, repurposed artifacts and other artistic techniques intended to show what is no longer there. Additionally, any retained historic resources shall be interpreted within the exhibit program.

#### **Echo the Diversity**

A diverse array of visitor types will come to the Power Station—those with different interests, time constraints, learning styles, capabilities, ages, cultures, etc. The site will have a heterogeneous mix of offerings and experiences and the exhibit methodologies will be equally varied to provide interpretation for all of its users and visitors.

#### **Allow for Change**

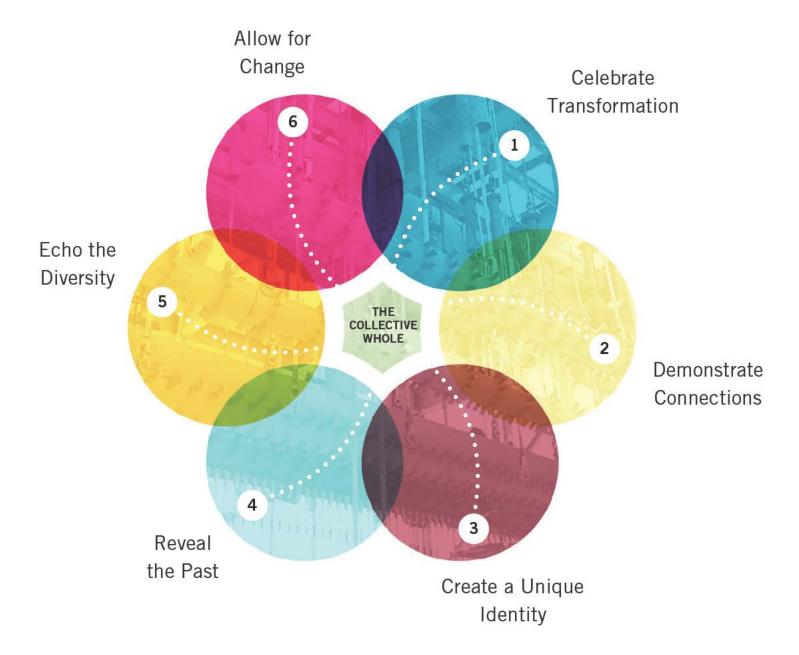
The site has transformed throughout its history and is expected to continue evolving. Permanent interpretive features should have the capacity to be augmented

with opportunities for further storytelling, adding points of view and even reinterpreting history if society's views change. The site will include multi-purpose programmable areas, which potentially allow an ongoing dialogue about its history, as well as facilitated interpretive events, such as changing exhibits or the display of archaeological features that may be uncovered during site excavation.

#### The Collective Whole

It is unlikely that each interpretive experience could individually satisfy all of these tenets. Interpretive designers should attempt to satisfy as many of these tenets as possible per experience and consider whether other goals have or will be met by other experiences.

Figure 2.1.1 Interpretive Experiential Goals



# 2.2 Visitor Flow and Interpretive Locations

At the Power Station, visitors will enter the site from different points, and come with unique destinations and interests. Controlling the sequence and depth of each visitor's interpretive experience is not possible. However, learning can be optimized by establishing a hierarchy of experiences designed to direct individuals from one destination to another.

Figure 2.2.1 demonstrates potential pedestrian paths of travel through the site. Though typical behavior might be from west to east along primary corridors, an indefinite number of visitor pathways may be assumed. Using an aleatoric approach, a random experience for organic discovery of stories is embraced, while providing structure in the hierarchy of experiences, painting stories across the site. Thus, interpretive exposure for the largest variety of visitor types is maximized, offering a unique and novel experience for each person.

This method of interpretive organization is referred to as "hub and spoke". A central hub of interpretive information provides an overview of all of the site's stories, as shown on Figure 2.2.2. It feeds (and conversely is fed by) interpretive features across the site. Such features may take the form of larger interpretive features or smaller "breadcrumbs" collected by wanderers.

The hub and spoke approach, along with a hierarchy of interpretive experiences, will also be employed at adjacent sites, including the Pier 70 project and Crane Cove Park. This continuity allows visitors across multiple sites to place individual site stories into a larger context to better appreciate the significance of the sites, individually and collectively.

#### CONSIDERATIONS

#### 2.2.1 The Hub

Create a central interpretive hub to educate and inspire travel to alternate points on the site. This hub shall be placed in a prominent, open space area and shall give an interpretive overview of the site, as well as direct visitors to other locations to continue their interpretive journey.

#### 2.2.2 Interpretive Hierarchy

At geographically-appropriate locations, employ a diverse range of interpretive features, organized into a hierarchy of experience types with varying depths, fed from and to the hub. This will allow learning experiences for all visitor types.

#### 2.2.3 Visitor Paths

In the layout of interpretive experiences on site, embrace random paths of travel, yet provide a visible organization of stories. This will allow each visitor to have a novel experience and still find the information they may be seeking.

#### 2.2.4 Collective Experience

Design individual elements to paint a larger interpretive picture by demonstrating connections to other interpretive elements on site. By providing these connections, visitors will better understand the context of a particular story within the site.

#### 2.2.5 Connect to Adjacent Sites and Blue Greenway

Connect the Power Station interpretive stories to adjacent sites and the Blue Greenway through shared interpretive methodologies and content references that provide context between the sites.

#### 2.2.6 Site Introduction

At each major point of site entry, consider the use of a site introduction. This will help delineate site boundaries to create a unique site identity. These elements should give a brief overview of the historical significance of the site and may be tied to other site identification and orientation information. At each minor point of entry, consider the use of a smaller site boundary marker to identify historical property lines.

#### 2.2.7 Breadcrumbs

Consider the regular use of light interpretive elements—or "breadcrumbs"—across the site to help lead visitors from one experience to another. Increase the density along the "wiggle" pedestrian zone to help draw visitors to the waterfront.

#### 2.2.8 The View

Though the tops of buildings are not typically considered part of the open space portions of the site, they represent a unique vantage point in which to see the extent of the site and understand what was once there, in addition to affording an opportunity to see the site within the context in which it resides. Architects should consider adding interpretive elements atop any buildings where the public may have access (especially the Rooftop Soccer Field and Unit 3).

#### 2.2.9 Salvaged Architectural Elements

If the north façade of the Station A Machine Shop (Greek Revival Façade) and Gate House are preserved as salvaged elements, consider locating them as shown on Figure 2.2.2.

Figure 2.2.1 Interpretive Visitor Flow Diagram

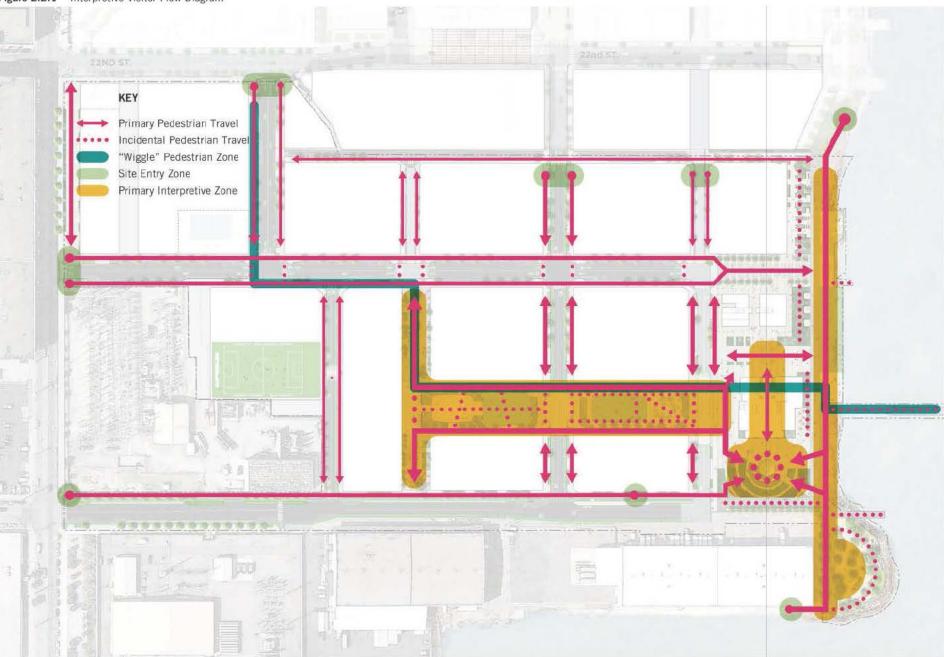
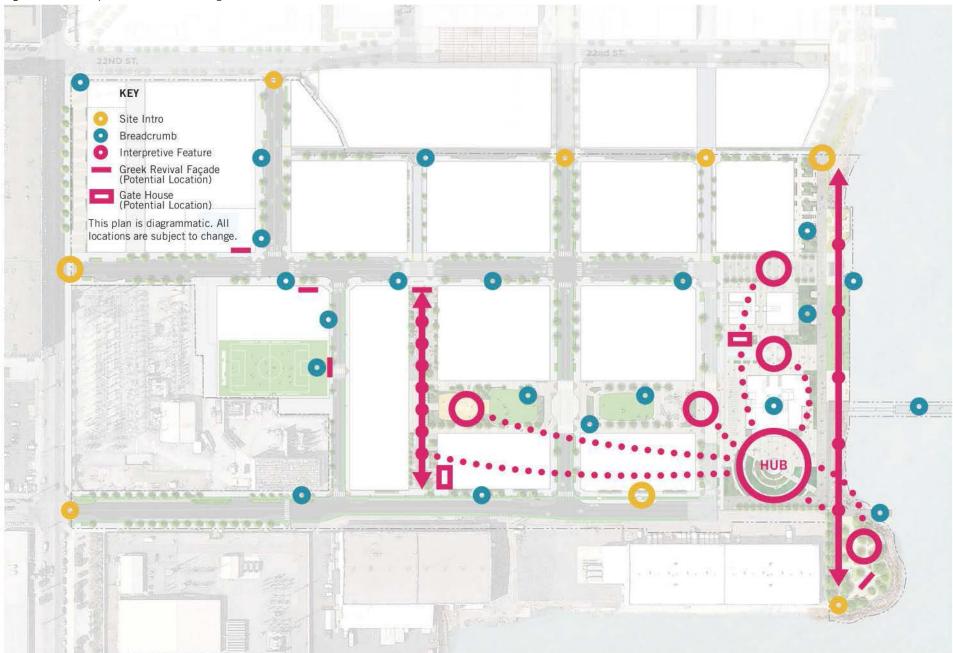


Figure 2.2.2 Interpretive Location Plan Diagram



# 2.3 Interpretive Production Techniques

#### **GUIDELINES**

#### 2.3.1 Interpretive Production Techniques

Use constructed or existing site elements, if feasible, as interpretive infrastructure. This will not only produce a more integrated look, but can also reduce cost and structural interventions in a busy landscape. While each interpretive experience may employ a variety of methods to tell a story, the following family of techniques should be used when possible. See Figure 2.3.1 for precedent imagery of these techniques.

#### A) Etched Concrete

Text and/or diagrammatic (or halftone) images are etched into a horizontal or vertical cast concrete surface via a graphic film that is temporarily applied to the form in the casting production. When removed, this visually exposes the aggregate within the surrounding smooth finished surface wherever the graphic exists.

#### B) Sandblasted Surface

Text and/or diagrammatic images are sandblasted into hard surfaces (concrete, paving, boulders) via a frit masking process. This produces depth wherever the graphic occurs and may be used across a field of material or individually. This process is best-suited for irregular or already-set surfaces and may be dyed to produce additional contrast.

#### C) Laser-Etched Wood

Text and/or diagrammatic images are laser-etched into wood decking, benches, and other site wood surfaces (prior to delivery to the site), removing a small amount of material wherever the graphic occurs. The graphic contrast is enhanced by a slight burning of the wood. This may be used across a field of wood or individually.

#### D) Modified Metal

Text and/or diagrammatic images are incorporated into metal surfaces via a variety of techniques, including chemical etching, rust-resistant finishes, and screenprinting. Additionally, laser (or waterjet) cutting may be employed to shape and/or remove material.

#### E) Tactile Object

A cast bronze dimensional representation of an historical object (or site plan) is attached to a wayside (or other explanatory) panel, or set on its own, to provide tactile interpretation. This durable surface may have a patina (or paint) applied to match other site materials. The technique is especially relevant for those with visual disabilities.

#### F) Wayside

A explanatory graphic panel is mounted to an architectural surface or is freestanding to give interpretation specific to that area or adjacent building/object. This is the primary tool utilized to provide interpretive depth, where necessary. It may also be paired with other interpretive production techniques and wayfinding information.

Figure 2.3.1 Interpretive Production Techniques



f. Wayside

e. Tactile Object

POTRERO POWER STATION Design for Development – February 26, 2020

d. Modified Metal

TELLING OUR STORY - INTERPRETIVE VISION

[This page intentionally left blank.]

# Section 3 LAND USE

| Land Use Plan     | 4 |
|-------------------|---|
| Ground Floor Uses | 5 |



# **Zoning and Land Use**

The Power Station project will provide a mix of the uses that support the Central Waterfront neighborhood identity as a place to live, work, and create.

The district permits Residential, Office, Hotel, Life Science, Laboratory, PDR, Retail, and Entertainment, Arts, and Recreation uses. Off-street accessory parking is permitted, and off-street non-accessory parking is not permitted. Supplementing the permitted uses are standards designed to create active ground floor uses, including PDR spaces that will enliven frontages along 23rd Street, and community-oriented spaces or residences throughout the neighborhood. The district permits rooftop accessory and principal uses including Retail, Child Care Facilities, and Entertainment, Arts, and Recreation uses.

The zoning and land use controls that follow will be codified in the *San Francisco Planning Code Section 249.87*, as the Power Station Special Use District (the "SUD"). The land uses for each block are intended to create a vibrant, complete neighborhood.

As shown in the Land Use Plan (Figure 3.1.1), a variety of land uses are permitted on each block.

Uses shown in the Land Use Plan apply to all floors, including mezzanines and ground floors, unless otherwise noted. The standards focus on overall categories of use, and denote specific uses within each category that are not permitted.

# 3.1 Land Use Plan

# **STANDARDS**

#### 3.1.1 Land Use

The Power Station Project is within the Potrero Power Station Special Use District (PPS-SUD). Port-owned waterfront land is zoned P (Public) and the remainder of the site is zoned PPS-MU (Potrero Power Station-Mixed Use). All uses shall be permitted, except as listed in Table 3.1.1 as Not Permitted (NP). The uses shown in Table 3.1.1 are principal uses.

Land use categories identified in Table 3.1.1 are consistent with Planning Code definitions.

Ground floor uses shall be further regulated by Section 3.2: Ground Floor Uses.

# 3.1.2 Dwelling Unit Density Limit

Dwelling unit density shall not be limited by lot area. See Section 6.1.3 and 6.1.4 for dwelling unit exposure standards and residential open space requirements.

### 3.1.3 Required Minimum Dwelling Unit Mix

- (a) No less than 30 percent of the total number of proposed dwelling units in each building or phase shall contain at least two bedrooms. Any fraction resulting from this calculation shall be rounded to the nearest whole number of dwelling units.
- (b) No less than 10 percent of the total number of proposed dwelling units in each building shall contain at least three bedrooms. Any fraction resulting from this calculation shall be rounded to the nearest whole number of dwelling units. Units counted towards this requirement may also count towards the requirement for units with two or more bedrooms as described in subsection (a) above.

(c) The minimum dwelling unit mix requirement shall not apply to buildings for which 100 percent of the residential uses are designated under Planning Code as: Group Housing, Inclusionary or below-market-rate dwelling units, Single Room Occupancy (SRO) Units, Student Housing, or housing specifically and permanently designated for seniors or persons with physical disabilities, with the exception of units to be occupied by staff serving any of the foregoing residential uses.

# 3.1.4 Active Uses in Open Spaces

Retail Sales and Service and Entertainment, Arts, and Recreation Uses are allowed within a limited number of mobile carts and kiosks in parks and open spaces, as shown in Table 4.15.1 and discussed in Section 4.15. See Figure 4.15.1 for potential locations where mobile carts and semi-permanent kiosks are permitted.

# 3.1.5 Temporary Uses

Temporary Uses and Intermittent Activities (as listed in *Planning Code Sections 205.1 through 205.4*) are permitted, provided that the Temporary Uses listed in *Section 205.3* are limited to 72 hours per event, for up to 12 events per year per building.

In addition to the above, Retail Sales and Service Uses as well as Entertainment, Arts, and Recreation Uses that are permitted as a principal use pursuant to Table 249.87-1 in the PPS SUD may be authorized for a period of up to 180 days as a Temporary Use.

## 3.1.6 Outdoor Activity Areas

Outdoor Activity Areas are permitted.

Table 3.1.1 \* Permitted Uses

| Power Station Blocks<br>(As Shown in Figure 3.1.1) |                                  |      | Retail Sales and<br>Service Uses | Non-Retail Sales<br>and Service<br>(including Office<br>Uses) | Entertainment,<br>Arts, and<br>Recreation Uses | PDR Uses | Parking<br>Garage,<br>Public | Laboratory<br>Uses | Life<br>Science<br>Uses | Utility and<br>Infrastructure |  |
|--|----------------------------------|------|----------------------------------|---|--|----------|------------------------------|--------------------|-------------------------|-------------------------------|--|
| Block 1  | Р                                | P(1) | P(2)(7)(16)                      | P(8)  | P(3)(9)  | P(5)     | P(14)                        | NP                 | NP                      | NP(12)                        |  |
| Block 2  | NP                               | P(1) | P(2)(7)(16)                      | P(13)   | P(3)(9)  | P(5)     | NP                           | P(13)              | P(13)                   | NP(12)                        |  |
| Block 3  | NP                               | P(1) | P(2)(7)(16)                      | P(13)   | P(3)(9)  | P(5)     | NP                           | P(13)              | P(13)                   | NP(12)                        |  |
| Block 4  | Р                                | P(1) | P(2)(7)(16)                      | P(8)  | P(3)(9)  | P(5)     | NP                           | NP                 | NP                      | NP(12)                        |  |
| Block 5  | Р                                | P(1) | P(2)(7)(16)                      | P(8)  | P(3)(9)  | P(4)(6)  | P(14)                        | NP                 | NP                      | NP(6)(12)                     |  |
| Block 6  | Block Omitted from Land Use Plan |      |                                  |   |  |          |                              |                    |                         |                               |  |
| Block 7  | Р                                | P(1) | P(2)(7)(16)                      | P(8)  | P(3)(9)  | P(5)     | NP                           | NP                 | NP                      | NP(12)                        |  |
| Block 8  | Р                                | P(1) | P(2)(7)(16)                      | P(8)  | P(3)(9)  | P(5)     | NP                           | NP                 | NP                      | NP(12)                        |  |
| Block 9  | Р                                | P(1) | P(10)(16)                        | P(8)  | P(3)(11)                                       | P(5)     | NP                           | NP                 | NP                      | NP(12)                        |  |
| Block 10   | Block Omitted from Land Use Plan |      |                                  |   |  |          |                              |                    |                         |                               |  |
| Block 11   | NP                               | P(1) | P(2)(7)(16)                      | P(13)   | P(3)(9)  | P(4)     | NP                           | P(13)              | P(13)                   | NP(12)                        |  |
| Block 12   | NP                               | P(1) | P(2)(7)(16)                      | P(13)   | P(3)(9)  | P(4)     | NP                           | P(13)              | P(13)                   | NP(12)                        |  |
| Block 13   | Р                                | P(1) | P(2)(7)(16)                      | P(8)  | P(3)(9)  | P(4)(6)  | P(14)                        | NP                 | NP                      | NP(6)(12)                     |  |
| Block 14   | Р                                | P(1) | P(2)(7)(16)                      | P(8)  | P(3)(9)  | P(5)     | NP                           | NP                 | NP                      | NP(12)                        |  |
| Block 15   | NP                               | P(1) | P(2)(7)(16)                      | P(13)   | P(3)(9)  | P(5)     | NP                           | P(13)              | P(13)                   | NP(12)                        |  |
| The Stack  | NP                               | NP   | P(2)(16)                         | NP  | P(3)   | NP       | NP                           | NP                 | NP                      | NP(12)                        |  |
| Public and Private<br>Open Space                   | NP                               | NP   | P(15)                            | NP  | NP   | NP       | NP                           | NP                 | NP                      | NP                            |  |

<sup>\*</sup> See Notes on the following page.

#### Table 3.1.1 Notes:

- (1) Hospital is NP. P at basement, ground floor, and mezzanine only for majority Residential buildings; provided that Residential Care Facility and Child Care Facility are permitted on all floors.
- (2) Hotel is NP.
- (3) Livery Stables are NP.
- (4) Automobile Assembly, Agricultural and Beverage Processing 1, Arts Activities, Business Services, Catering, Light Manufacturing, Metal Working, Trade Shop, Wholesale Sales are P at the basement level, ground floor, 2nd floor, and mezzanine only. Other PDR Uses are NP.
- (5) Agricultural and Beverage Processing 1, Light Manufacturing, Arts Activities, Business Services, Catering, Trade Shop Wholesale Sales are P at the basement level, ground floor, 2nd floor, and mezzanine only.
- (6) Public Utility Yard and Storage Yards are P.
- (7) P at the basement level, ground floor, mezzanine, and 2nd floor only; on Blocks 2, 3, 11, 12, and 15, and Block 9 if Block 9 is majority non-residential, Bar, Tourist Oriented Gift Store, Specialty Grocery, Gym, Liquor Store, Limited Restaurant, General Restaurant, Instructional Service, and Retail Personal Service Uses are P on rooftops; other Retail Uses are NP on rooftops.
- (8) P at the basement level, ground floor, and mezzanine only.

- (9) P at the basement level, ground floor, mezzanine, and 2nd floor; on Blocks 2, 3, 11, 12, and 15, and Block 9 if Block 9 is majority non-residential, Arts Activities, General Entertainment, Nighttime Entertainment, Open Recreation Area, Outdoor Entertainment, and Passive Outdoor Recreation Uses are P on rooftops; other Entertainment, Arts, and Recreation Uses are NP on rooftops.
- (10) Hotel is P. Bar, Tourist Oriented Gift Store, Specialty Grocery, Gym, Liquor Store, Limited Restaurant, General Restaurant, Instructional Service, and Retail Personal Service Uses are P on rooftops; other Retail Uses are NP on rooftops. Only one rooftop bar shall be permitted on Block 9. If building is majority Residential, P at the basement level, ground floor, mezzanine, 2nd floor and 3rd floor only.
- (11) If building is majority non-residential, P on all floors and rooftop, provided that only Arts Activities, General Entertainment, Nighttime Entertainment, Open Recreation Area, Outdoor Entertainment, and Passive Outdoor Recreation Uses P on rooftops; other Entertainment, Arts, and Recreation Uses are NP on rooftops. If building is majority Residential, P at the basement level, ground floor, mezzanine, 2nd floor, and 3rd floor only.
- (12) Wireless Telecommunications Services (WTS) Facility, Macro and Wireless Telecommunications Services (WTS) Facility, Micro are P.
- (13) Consistent with the Phasing Plan of the Development Agreement, one or more of Blocks 2, 3, 11, 12, or 15 must be deed restricted for Life Science/Laboratory Uses.

- (14) Up to one District Parking Garage is permitted but not required and may be located only on Block 1, 5, or 13. The maximum amount of parking that may be located in the Garage is subject to the parking maximums for the Project as built, less the amount of parking that is developed in each individual building. The maximum height of the Parking Garage shall be 90 feet. The rooftop of the District Parking Garage shall be used as a publicly accessible recreational sports field.
- (15) Only Carts and Kiosks are permitted.
- (16) Self Storage uses are conditionally permitted.

Figure 3.1.1 Land Use Plan



# 3.2 Ground Floor Uses

Engaging and accessible uses are encouraged on the ground floors of buildings. To encourage movement through the site from the existing Dogpatch neighborhood to Waterfront Open Spaces, a vibrant retail core will exist along Humboldt Street. Beginning with a neighborhood-serving grocery use near the entrance of the site, residents, employees, and guests alike will continue along the street to both neighborhood-serving retail and experiences more boutique in nature as one approaches the water's edge.

# **STANDARDS**

#### 3.2.1 Measuring Frontages

Frontages shall be measured in linear feet.

# 3.2.2 Measuring Corners

A Corner shall consist of the first 30 feet extending from the intersection of two right-of-ways or a right-of-way and an open space along the frontage of a building.

#### 3.2.3 Active Use Frontages

To create pedestrian and visual activity at the ground floors of buildings, Active Uses shall occur on frontages within the site as shown in Figure 3.2.1. Ground floor Residential and Office uses meeting certain requirements described below qualify as a permitted Active Use. With the exception of space for parking and loading access, building egress, and access to mechanical systems, space for the following "Active Uses" must be provided within the first 25 feet minimum of building depth on the ground floor for 100 percent of the shaded Active Use, Priority Retail and Priority PDR frontage zones identified in Figure 3.2.1, except where a different depth is described below:

- Retail, Sales and Service Use (including 1,000 square foot or smaller "Micro-Retail" uses, which can have a depth of 10 feet from the street, as opposed to the standard depth of 25 feet). See Section 6.17 for additional considerations regarding the development of Active Use space.
- PDR Use.
- Institutional Use. Social Spaces shall be provided at the front of the building, oriented toward the street, within at least the first 15 feet of building depth.
- Entertainment, Arts, and Recreation Use.

- Lobbies up to 40 feet wide or 25 percent of building frontage, whichever is larger.
- Up to 50 percent of the building frontage may contain accessory mail rooms and bicycle storage rooms with direct access to the street or lobby space and Non-Retail, Sales and Service Use (including Office Use). Social Spaces shall be provided at the front, oriented toward the street, within at least the first 15 feet of building depth.
- Residential Uses. Includes dwelling units and Social Spaces accessory to Residential Uses that have direct access to a street or public open space.

All Active Uses must have a Transparent Frontage per Standard 6.9.5, Transparent Frontage.

# 3.2.4 Priority Retail Frontages

A minimum of 50 percent of the Active Uses in the Priority Retail Frontages shown in Figure 3.2.1 shall be limited to Retail Sales and Service Use to a depth of 40 feet.

#### 3.2.5 Priority PDR Frontages

A minimum of 75 percent of the Active Uses in the Priority PDR Frontages shown in Figure 3.2.1 shall be limited to PDR uses to a depth of 40 feet, except that if Childcare and/or Community Facilities are provided within the subject Priority PDR Frontage(s), then a minimum of 50 percent of the Active Uses shall be PDR.

Figure 3.2.1 Ground Floor Uses



#### 3.2.6 Active Lane Frontages

Active Lane Frontages shall contain Active Lane Uses for at least 20 percent of the subject building Frontage. Minimum depth requirements do not apply to this Frontage zone. Active Lane Uses include all those listed in Standard 3.2.3, Active Use Frontages, as well as the following:

- Building inset of at least 4 feet in depth at the ground floor for pedestrian amenities, including permanent, semi-permanent, and movable furnishings such as tables, chairs, umbrellas; and
- Public Art, such as a wall mural, at least 15 feet in height measured from ground level.

# 3.2.7 Accessory Uses

All ground-floor uses are permitted to provide accessory uses in up to 1/3 of their gross square footage.

#### 3.2.8 Transformer Vaults

For any building with a frontage greater than 75 feet in length, transformers shall be located within a vault within the ground-floor building frontage with direct access to the sidewalk.

#### 3.2.9 Active Corners

Street Corners are an important node of urban life, naturally resulting from crossroads, and providing an opportunity for people to gather, pause, and select a new path. Specific Corners are highlighted in Figure 3.2.1 as "Active Corners," requiring a higher level of publicness and activity to create opportunities for public interaction with buildings and wayfinding between different nodes within the site and beyond. Locations indicated as Active Corners are required to provide, for a minimum of 30 feet of the frontage from each Corner, either a Retail Sales and Service Use; Entertainment, Arts, and Recreation Use; or Community Facility Use; which comprise a subset of Active Uses per Standard 3.2.3. See Section 6.10 for a more detailed discussion of Active Corner guidelines.

# CONSIDERATIONS

# 3.2.10 Active Uses on Humboldt Street and Power Station Park

Consider locating Active Uses comprised of Non-Retail Sales and Services, and Lobby uses on Frontages other than those directly adjacent to Humboldt Street, Power Station Park, or Louisiana Paseo.

# 3.2.11 PDR Frontages

Consider locating Social Spaces such as communal kitchens or employee breakrooms of PDR Uses within the first 15 feet of building depth.

# OPEN SPACE

| 4.1  | Open Space Network                   | 56 | 4.16 | Waterfront Open Spaces                 | 92  | 4.29 | Power Station Park West         | 128 |
|------|--------------------------------------|----|------|--|-----|------|---------------------------------|-----|
| 4.2  | Open Space Systems                   | 58 | 4.17 | Waterfront Open Spaces: Circulation    | 94  | 4.30 | Louisiana Paseo                 | 132 |
| 4.3  | Resilience and Adaptation            | 60 | 4.18 | Waterfront Outdoor Food Service Areas  | 96  | 4.31 | Rooftop Soccer Field            | 136 |
| 4.4  | Open Space Pedestrian Circulation    | 62 | 4.19 | Waterfront Park                        | 98  | 4.32 | Illinois Street Plaza           | 138 |
| 4.5  | Urban Forest in Parks and Open Space | 64 | 4.20 | The Point                              | 100 | 4.33 | Block 9 Building and Open Space |     |
| 4.6  | Planting, Ecology, and Habitat       | 68 | 4.21 | Stack Plaza                            | 104 |      | Configuration Without Unit 3    | 140 |
| 4.7  | Stormwater Management                | 70 | 4.22 | Block 9 Open Space: Turbine Plaza      | 108 |      |                                 |     |
| 4.8  | Site Irrigation                      | 74 | 4.23 | Block 9 Open Space: Unit 3 Entry Plaza | 112 |      |                                 |     |
| 4.9  | Site Furnishing                      | 76 | 4.24 | Humboldt Street Plaza                  | 114 |      |                                 |     |
| 4.10 | Bicycle Parking                      | 80 | 4.25 | Power Station Park and Louisiana Paseo |     |      |                                 |     |
| 4.11 | Paving and Materials                 | 82 |      | Overview                               | 118 |      |                                 |     |
| 4.12 | Ground-Level On-Structure Open Space |    | 4.26 | Power Station Park and Louisiana Paseo |     |      |                                 |     |
|      | Design                               | 84 |      | Overview: Pedestrian Circulation       | 120 |      |                                 |     |
| 4.13 | Wellness                             | 86 | 4.27 | Power Station Park and Louisiana Paseo |     |      |                                 |     |
| 4.14 | Public Art                           | 88 |      | Overview: Program                      | 121 |      |                                 |     |
| 4.15 | Carts and Kiosks in Open Space       | 90 | 4.28 | Power Station Park East                | 122 |      |                                 |     |



# **Open Space**

The Power Station's open spaces feature vibrant community parks and plazas, opportunities for active recreation, and iconic waterfront destinations. A vital stretch of San Francisco's historic waterfront, closed to the public for over 100 years, will be reinvigorated and opened up for all to enjoy.

Destination open spaces, along with inviting, neighborhood-focused spaces, will provide diverse public amenities and recreational opportunities for workers, residents, and visitors. These new open spaces will complement and enrich the network of existing and planned open space in Dogpatch and the Central Waterfront.

The Waterfront Open Spaces at the Power Station will be a destination that includes diverse programming to encourage a variety of experiences along the waterfront, emphasizing views to the Bay. Park designs will feature the 300-foot-tall Stack, an iconic structure that underscores the site's industrial past as a power plant. The design of a new civic space at Stack Plaza will enhance its status as a prominent landmark and encourage visitors to linger. Natural areas of Bay shore-adapted plants will alternate with urban social

areas at a variety of scales. Preserved elements of the site's industrial heritage will be showcased, connecting people to the Bay and contributing to the future health of its human and ecological communities.

A set of public, urban open spaces at Power Station Park and Louisiana Paseo will provide recreational and fitness activities, informal play, opportunities for casual social interaction, and space for outdoor gatherings and performances. A publicly accessible rooftop soccer field will provide additional space for organized sports. Refer to Figure 4.1.1 for the location of open spaces at the Power Station.

This section prescribes key features, values, and relationships that will define the qualities and functions of each open space that are essential to creating a unique, and vibrant urban open space network.

# 4.1 Open Space Network

The open space network is a fundamental part of the urban design and identity of the Power Station. A series of open spaces, located along the waterfront and at the center of the neighborhood, provide a well-rounded variety of social and recreational opportunities. In total, open space comprises approximately 24 percent of the total project area—6.9 out of 29 acres.

The open space network is made up of ten open space areas, as shown in Figure 4.1.1. The Waterfront Open Spaces are further divided into four distinct open space areas: The Point, Stack Plaza, Block 9 Open Spaces (Including Turbine Plaza and Unit 3 Entry Plaza), and Humboldt Street Plaza. Waterfront Park includes the Blue Greenway and all of the spaces between the Blue Greenway and the Bay shore, exclusive of the Point, as well as all of the ancillary spaces west of the Blue Greenway and bounded by Delaware Street that are not designated as part of any other open space area.

The Waterfront Open Spaces, at approximately 3.6 acres, will feature an urban edge, with shopping, dining, and public seating areas facing onto the Blue Greenway. The Blue Greenway will be punctuated by a series of overlooks, plazas, and native planting zones. Together, the waterfront open spaces will form a cohesive whole that acknowledges the site's

industrial past, while looking to a future for the Bay that prioritizes responsible planning and ecological wellbeing.

The project's stretch of the Blue Greenway will link seamlessly with the portion planned for Pier 70 to the north and to the greater Blue Greenway system. The series of integrated waterfront open spaces associated with the Blue Greenway will include: Humboldt Street Plaza, Block 9 Open Spaces (Including Turbine Plaza and Unit 3 Entry Plaza), Stack Plaza, the Point, and associated features, such as Bay overlooks, terraces, and multipurpose lawn areas. A potential recreational dock may provide water access and contribute to the Metropolitan Transportation Commission (MTC) Water Trail network.

At the heart of the neighborhood, Power Station Park will include opportunities for fitness, active and passive recreation, and casual social interactions. The two blocks of Power Station Park, at about 1.2 acres, will have distinct programs and elements, but will also be linked by common features and materials. Louisiana Paseo (0.7 acres) will provide flexible-use urban plaza spaces and car-free pedestrian areas connecting the neighborhood's retail and residential uses with the open space program.

A rooftop soccer field on top of the District Parking Garage (if developed), at 0.7 acres, will provide a publicly accessible Under-10 sized soccer field.

All of these open spaces will be carefully integrated with adjacent ground-floor uses of the blocks and buildings to create delightful, welcoming, active, and unique places.

Open space at the Power Station will conform to BCDC and Public Trust requirements where applicable. All open spaces will provide active, distinctive programming to attract visitors and create a lively network of well-loved public spaces along San Francisco's waterfront.

Figure 4.1.1 Location Map of Open Spaces



- Waterfront Open Spaces: Section 4.16-4.19
- (2) Humboldt Street Plaza: Section 4.24
- 3 Block 9 Open Space: Section 4.22-4.23
- 4 Stack Plaza: Section 4.21
- (5) The Point: Section 4.20
- 6 Power Station Park East: Section 4.28
- 7 Power Station Park West: Section 4.29
- 8 Louisiana Paseo: Section 4.30
- 9 Rooftop U-10 Soccer Field: Section 4.31
  - ★ Rooftop Soccer Field will be at the District Parking Garage, which may be at Block 1, Block 5, or Block 13

(10) Illinois Street Plaza: Section 4.32

# 4.2 Open Space Systems

While the Power Station's open spaces each have their own distinct character and unique elements, a common set of systems and principles is standard across the open space network, constituting a unified set of aesthetic, functional, and structural elements. Standards and guidelines specific to each open space are described in the relevant sections (4.16 through 4.33). Sections 4.3 through 4.15 provide general standards and guidelines that apply to all open spaces.









# 4.3 Resilience and Adaptation

The Waterfront Open Spaces at the Power Station will balance the goal of maximizing public access to the Bay with the reality of "living with the Bay" in the face of future sea level rise. Figure 4.3.2 depicts the portions of the waterfront that will be adapted for sea level rise inundation, and those that will be designed to accommodate temporary coastal flooding events. In the adaptation plan, approximately 5 percent, or 0.3 acres (14,000 sf), of open space area will be lost under a model that assumes approximately 6 feet of sea level rise, which is projected to occur by 2100.

Finished grade elevations of the Waterfront Open Spaces will be determined based on sea level rise projections for the year 2100 to ensure that accessible paths of travel and all major program areas will remain free of coastal flooding.

# **STANDARDS**

# 4.3.1 Grading Design Criteria

Waterfront Open Spaces shall be graded consistent with the requirements of the Infrastructure Plan. The Blue Greenway design elevation shall be above the current 100-year coastal flood elevation plus 6 feet of sea level rise inundation. Where existing structures require accommodation at a lower elevation, such as the Stack, ADA-compliant access shall be provided.

A recreational floating dock is permitted but not required. If provided, the floating dock for the recreational dock shall be constructed with steel pipe guide piles. The piles allow the dock to float up and down with water levels in the Bay, up to 7.3 feet above the 100-year coastal flood elevation.

The lower deck of the recreational dock shall be designed with piles that will allow for construction of a higher deck on top of the lower deck in the future. The lower deck and piles shall be designed with capacity for additional weight of the future adapted higher deck and associated concrete frame. The pathway to the lower deck shall be reconstructed at a higher elevation as part of the higher deck adaptation.

Figure 4.3.1 Projected Sea Level Rise of 3.5 feet and 6 feet with Existing Site Topography -100 YR BFE WITH 6' OF SLR 100 YEAR BFE WITH 3.5' OF SLR FEMA 100 YR BFE EXISTING SHORELINE -- ARMY CORPS JURISDICTION 100 YR BFE + 3.5' SLR = 15.0 FEMA 100 YR BFE MEAN SEA LEVEL

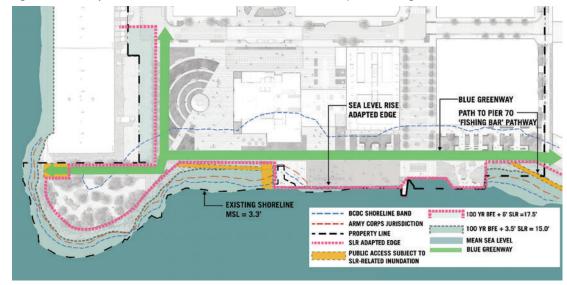
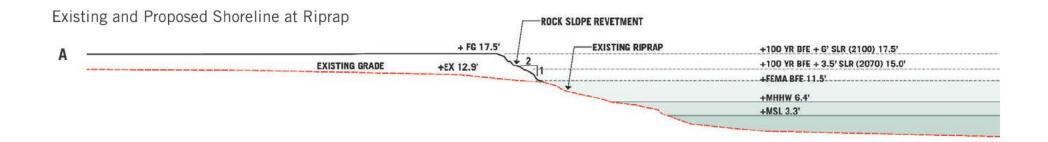
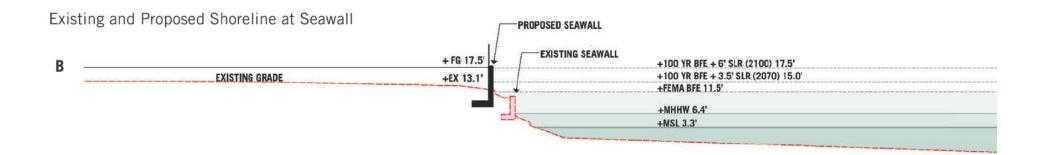


Figure 4.3.2 Projected Sea Level Rise of 3.5 feet and 6 feet with Proposed Grading and Seawall

Figure 4.3.3 Typical Existing and Proposed Shorelines at Riprap and Seawall







# Legend:

FEMA Federal Emergency Management Agency
BFE Base Flood Elevation
MHHW Mean Higher High Water
MSL Mean Sea Level
SLR Sea Level Rise

# 4.4 Open Space Pedestrian Circulation

The open spaces at the Power Station will play an integral role in the neighborhood's overall pedestrian network, connecting streets to parks and bringing people to the waterfront. The open spaces will give residents and visitors intuitive, generous, and clear routes through a diverse set of parks and plazas. Standards and guidelines regarding pedestrian circulation are located within the controls for the Power Station's specific open spaces. Please see Sections 4.17.1, 4.20.1, 4.21.2, 4.22.1, 4.24.1, 4.26.1, 4.26.2, 4.28.3, and 4.30.1.



Ample pedestrian walkways with furnishings and amenities.



Plaza edge with generous seating and wide paths of travel.

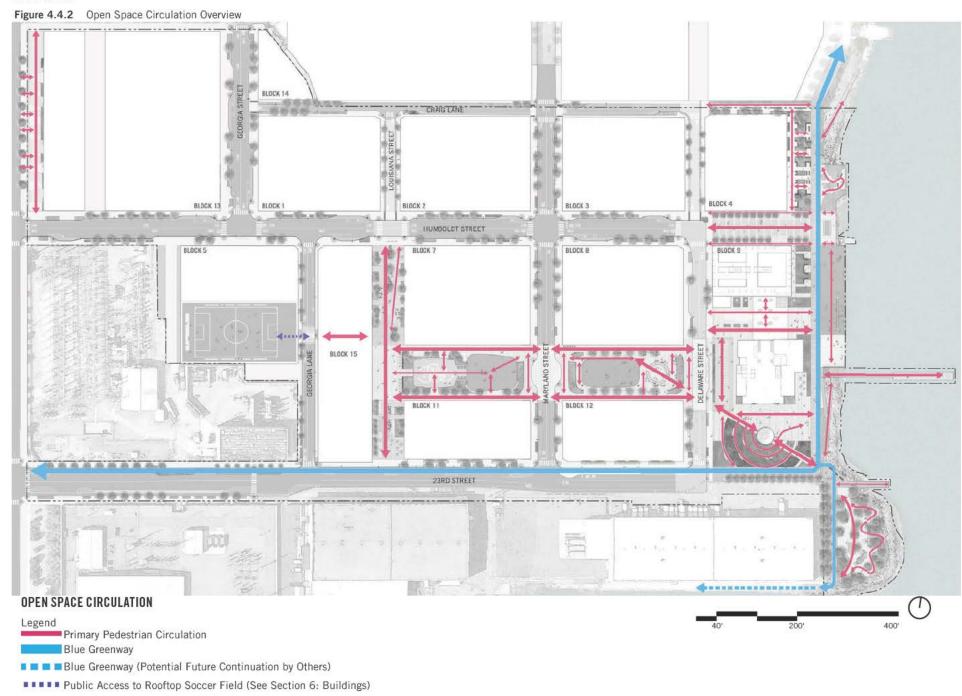




Park edge path open to central field.



Waterfront promenade with generous proportions and multiple seating types.



# 4.5 Urban Forest in Parks and Open Space

Trees within the Power Station's open spaces will help achieve the project's goals for a sustainable and healthy environment. The composition and distribution of a diverse, adaptive urban forest will create a resilient ecological framework to shape varied sensory experiences across the site and provide waterfront and urban habitat.

Trees will provide shade, reduce the urban heat-island effect, and provide shelter for birds and other wildlife.

As trees are some of the most functional and iconic elements in the landscape, careful selection is important in creating a successful urban forest.

The following standards and guidelines apply only to areas outside of the public right-of-way within Privately Owned Publicly Accessible Open Spaces (POPOS). Standards and guidelines for street trees can be found in Sections 5.11 and 5.12.

#### **STANDARDS**

#### 4.5.1 Urban Forest Composition

Selected species shall generally conform to the baseline for species diversity and distribution shown in Figure 4.5.1. Species selection must also comply with SFPW requirements (and Port requirements, in Port-owned areas).

# Tree Installation and Establishment

A) Minimum Installation Size: Trees shall be installed at a minimum box size of 24 inches.

B) Soil Composition: Tree planting soil for backfill within tree pits shall be sandy loam soil and amended as required to provide a healthy and fertile root zone.

- C) Tree Staking: Manufactured wood or steel staking systems shall be used to stake trees as required during the establishment period if prevailing wind conditions threaten stability of new planting.
- D) Clear Trunk: Requirements for clear trunk, the measurement between ground level and first branching. shall be achieved within five years of installation. Branches shall not interfere with Pedestrian Throughway as defined in Section 5.2 of this D4D (minimum 84inch clearance measured from ground surface). At designated fire access clear zones, maintain mandated minimum fire truck vertical clearance of 13 feet and 6 inches (measured from roadway surface).
- E) Establishment Period: Centrally controlled automatic drip irrigation shall be provided to each tree for establishment irrigation for a minimum of three years. Following that period, tree irrigation may be reduced or eliminated. Minimize potable water use for irrigation (see Section 4.8.1).

#### GUIDELINES

# 4.5.3 Tree Species Selection



Tree species should be selected and located based on a combination of their aesthetics and their ecological performance benefits related to improved air quality, stormwater retention, biodiversity and habitat creation. carbon sequestration, and benefits related to public health and comfort.

Tree species for each open space should be selected in consultation with a certified arborist. Species should conform to the aesthetic and performance requirements in Figure 4.5.2 and to the irrigation requirements described in Section 4.8. Power Station tree species should be selected using the following criteria:

- Drought tolerance.
- Non-invasive.
- Proven long-term durability (20- to 30-year life span) in the region.
- Tolerance of urban conditions such as compacted soils and air pollution.
- Resistance to disease and blight.
- Medium to high density branching structure that will provide shade.
- Ability to adapt to predicted future temperature increases related to climate change.
- Non-fruiting and free of significant seed pods.
- Wind Tolerance. Wind-tolerant species are those that can survive and thrive in windy conditions without significant root and branch damage or deformation.
- Habitat value. At least 25% of trees should be selected to provide habitat opportunities for birds and insects.

Note: Consult www.SFplantfinder.org for tree selection tools.

#### 4.5.4 Soil Volume

Trees in the public realm should have adequate soil volume and water infiltration to allow for healthy tree growth.

# 4.5.5 Tree Maintenance

# A) Pruning

Trees in the public realm should be pruned yearly to sustain long-term health and to maintain desired growth pattern.

# B) Water Application

Determine appropriate water application after establishment (minimum of three years) in consultation with a certified arborist's comprehensive review of tree health on the site. Monitor water application. Only use non-potable water for irrigation, per Section 4.8.1.

# **CONSIDERATIONS**

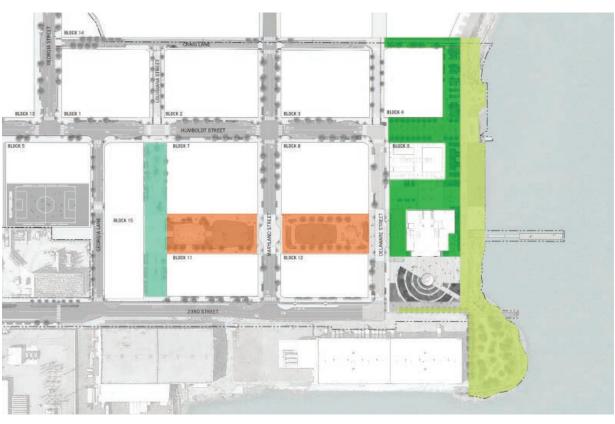
# 4.5.6 Soil Volume

Where feasible, continuous soil volumes connecting multiple tree wells below paving is recommended. Structural soil systems or structural cell systems are recommended for this application, if permitted by SFPW and SFPUC.

# 4.5.7 Tree Species Selection

Trees that provide habitat opportunities for birds and other small wildlife are encouraged.

Figure 4.5.1 Urban Forest Diversity Planting Zones in Open Space



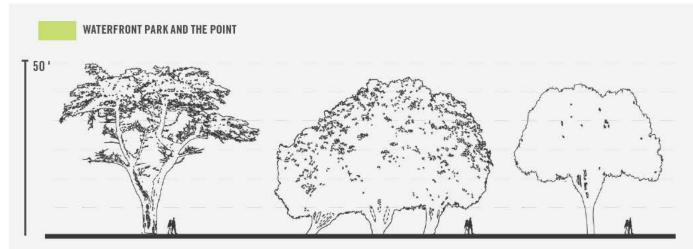


Planting Zones



Tree criteria for each zone are given in Figure 4.5.2.

Figure 4.5.2 Tree Aesthetic and Performance Criteria by Planting Zone



- Large-canopy evergreen tree (to 50+ feet tall at maturity)
- Minimum 24-inch box at installation
- Iconic character; picturesque, sculptural form
- Windbreak and specimen tree
- Tolerances: high-wind tolerance; tolerant of coastal environment; healthy in paving and/or lawn (select as appropriate for design concept); tolerant of high pedestrian traffic
- Low water usage
- · Minimal root disruption when planted in paving
- Recommended species:

Monterey Cypress [Cupressus macrocarpa];

New Zealand Christmas Tree [Metrosideros excelsa];

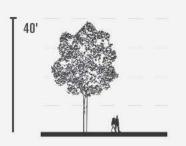
Red-Flowering Gum [Corymbia ficifolia]; Lemon Eucalyptus [Corymbia citriodora];

Brisbane Box [Lophostemon confertus]; Coast Live Oak [Quercus agrifolia];

Cork Oak [Quercus suber]

\*All tree heights given in this figure indicate expected sizes at maturity.

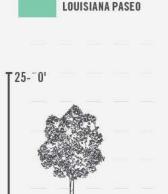




- Medium to large evergreen or deciduous tree (40 feet tall at maturity)
- Minimum 24-inch box at installation
- Upright, narrow form
- Tolerances: high wind tolerance; tolerant of partto full-shade conditions; healthy in paving
- Low water usage
- · Minimal root disruption when planted in paving
- Recommended species: Brisbane Box [Lophostemon confertus]; African Fern Pine [Afrocarpus gracilior]; Chinese Flame [Koelreuteria bipinnata]; Catalina Ironwood [Lyonothamnus floribundus]; Holly Oak [Quercus ilex]; Cork Oak [Quercus suber]; Soap Bark [Quillaja saponaria]

# POWER STATION PARK

- Primary size: Small to medium evergreen or deciduous tree (25 to 40 feet tall at maturity)
- Secondary Size: Large specimen tree with picturesque form used to punctuate and identify key spaces and provide landmark feature (40 feet or taller at maturity)
- Minimum 24-inch box at installation
- · Use upright or narrow form trees when planting close to buildings
- Use deciduous species where winter sun exposure is desirable
- Tolerances: medium to high wind tolerance; tolerant of part shade to deep shade; tolerant of coastal environment; healthy in paving
- Low water usage
- Recommended species: Melaleuca [Melaleuca quinquenervia]; African Fern Pine [Afrocarpus gracilior]; Chinese Flame [Koelreuteria bipinnata]; Catalina Ironwood [Lyonothamnus floribundus]; Holly Oak [Quercus ilex]; Cork Oak [Quercus suber]; Soap Bark [Quillaja saponaria]; Coast Live Oak [Quercus agrifolia]; Water Gum [Tristaniopsis laurina]; Olive [Olea europaea]; Strawberry Tree [Arbutus x Marina]; Peppermint Tree [Agonis flexuosa]; Carob Tree [Ceratonia siliqua]; Australian Willow [Geijera parviflora]; Sweet Hakea [Hakea suaveolens]



- Medium to large evergreen or deciduous tree (to 50 feet tall at maturity)
- Secondary Size: Large specimen tree with picturesque form used to punctuate and identify key spaces and provide landmark feature
- Minimum 24-inch box at installation
- Use upright or narrow form trees when planting close to buildings
- Tolerances: medium to high wind tolerance; tolerant of part to full shade; healthy in paving
- Minimal root disruption when planted in paving
- Low water usage
- Recommended species: Brisbane Box [Lophostemon confertus];
   Lemon Eucalyptus [Corymbia citriodora]; Primrose Tree
   [Lagunaria patersonii]; Catalina Ironwood [Lyonothamnus floribundus]; Holly Oak [Quercus ilex]; Coast Live Oak [Quercus agrifolia]

# 4.6 Planting, Ecology, and Habitat

Planting design is a key element that can add ecological and habitat value to open space design. Ground-level planting within the Power Station's open spaces will be integrated with active use of the park and planted with resilient native, climate-appropriate and climate-adaptive, non-invasive species that perform ecologically and aesthetically.

# GUIDELINES

# 4.6.1 Plants: Site and Program Specificity

Plant species should be selected for their adaptability to particular site conditions and programmatic needs of each space, including foot traffic and active and passive uses.

# 4.6.2 Plants: Water Use

Specify low water-use plants. Use climate-adapted species.

# 4.6.3 Invasive Plants

Use native or non-invasive species. Non-native invasive plants should not be used.

# 4.6.4 Plant Selection

At least 50% of understory plants should be California and San Francisco native plants, and include pollinator species. Trees, understory, and stormwater garden plants should contribute functionally and aesthetically to the overall design concept and experience of the Power Station's open spaces. See Figure 4.6.2 for an example shrub and groundcover palette. See Section 4.7 for suggested stormwater garden plant palettes.

# CONSIDERATIONS

# 4.6.5 Plant Selection 4

Trees and plants should contribute to the goal of biodiversity and increased habitat value. Species with habitat value include those that provide nectar and fruit for insects and birds, and shelter for birds. Plant selection and design should also contribute to the goal of reducing the carbon footprint of the project.

# 4.6.6 Recycled Water and Plant Selection

When using recycled water in irrigation, select plants that can tolerate the salinity levels of the recycled water, which may be higher than potable water. Consult the California Department of Water Resources (www. ca.gov) for guidance and a recommended list of plants with high tolerance of salt in irrigation water.

# 4.6.7 Plants: Interpretation and Education

Consider integrating interpretive elements into planting design, to engage and educate visitors about the value of diverse native plant communities.

Figure 4.6.1 Native Coastal Planting







Figure 4.6.2 Example Shrub and Groundcover Palette\*

<sup>(</sup>SF) SAN FRANCISCO NATIVE SPECIES

<sup>\*</sup>Refer to sfplantfinder.org for additional plant species that support biodiversity.

# 4.7 Stormwater Management

The Power Station's landscapes and building systems will be designed to work together to conserve, reuse, and filter water.

The project will be designed to integrate Low Impact Development (LID) strategies and green infrastructure to achieve compliance with San Francisco Stormwater Management Ordinance (SMO). LID strategies will include reducing stormwater runoff from impervious surfaces by integrating landscaping, permeable surfaces, rainwater harvesting and green roofs. Stormwater management facilities include primarily plant-based treatment measures, such as bioretention areas, including rain gardens, flow-through planters and green roofs. Infiltration may also be considered, but it is anticipated that the low infiltrating soils and documented underlying environmental contamination will challenge the feasibility of permeable pavement use as a stormwater measure on site. The green infrastructure will treat, reuse, or infiltrate stormwater and reduce volume and runoff rates prior to discharging to the Bay or the downstream system.

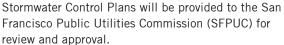
The project stormwater management system includes areas with a combined sewer system, which combines stormwater with other wastewater and sends it to wastewater treatment facilities prior to discharge to the bay, and other areas with a Separated Storm Drain System, which maintains stormwater runoff in a separate system that discharges directly to the Bay. The delineation of these areas is depicted on Figure 4.7.1. The stormwater management performance requirements for each of these areas are generally described below. Refer to section 16.1 of the Infrastructure Plan for additional information. Treatment and reduction of runoff as a result of said green infrastructure will prevent pollutants from washing into the Bay and reduce the project's impacts on the City's downstream system. Co-benefits, such as urban greening, improved air quality, biodiversity, and reduced urban heat island effect, can be provided by implementing LID and green infrastructure.

Site hydrology will be considered in the design of open spaces and streets in a systematic way, with green infrastructure as an integrated part of the public realm. Bioretention treatment areas (including stormwater treatment gardens & bioswales) will be seamlessly incorporated into the spatial, topographical, and circulation design of the Power Station's open spaces.

The standards, guidelines, and considerations in this section apply to open space areas, as well as streets. See Section 5.13 for stormwater management standards and guidelines that apply only to streets.

#### **STANDARDS**

# 4.7.1 Stormwater Management



# 4.7.2 Stormwater Treatment Area Requirements: A) Localized Treatment

Required treatment volume for each street and open space shall be accommodated and located as close to the source as possible, unless stormwater can be treated in centralized locations.

# B) Minimum Treatment Footprint Area and Performance Requirements

Minimum stormwater treatment footprint areas noted in the Infrastructure Plan shall be provided for treatment of impervious surfaces in each open space as well as potential watershed-scale treatment in large feature gardens around the Stack. Stormwater facilities shall conform to applicable performance and area requirements per the Infrastructure Plan, Chapter 16.

# 4.7.3 **Stormwater Management Plant-Based Facility**

Stormwater gardens within open spaces shall adhere to accessibility and safety standards. If directly adjacent to a pedestrian area, the top of the planted surface shall be no greater than 18 inches below the surface of adjacent paving. Design of stormwater gardens shall be integrated into the design of open spaces. See Figures 4.7.2 for ways to integrate stormwater landscaping into open spaces.

# **GUIDELINES**

#### Stormwater Management 4.7.4



A) General

The public realm at the Power Station should include stormwater management for impervious areas within the open space network. The stormwater runoff from impervious surfaces will be directed to primarily plant-based stormwater management features, such as bioretention elements, including rain gardens and flow-through planters.

Combined Separate Sanitary Sewer Storm Drain Areas Areas BLOCK 1 BLOCK 13 HUMBOLDT STREET BLOCK 8 BLOCK 9 BLOCK 5 BLOCK 15 BLOCK 12 23RD STREET STORMWATER MANAGEMENT 200' Bioretention Zones Bioretention Treatment Areas - Conceptual Layout Boundary Between Combined Sanitary Sewer Areas and Separate Storm Drain Areas

Figure 4.7.1 Stormwater Management and Conceptual Layout of Bioretention Treatment Areas

# B) Conceptual Management Strategy: Separated Storm Drain Areas

Within the Separated Storm Drain Areas of the project, stormwater treatment should be handled through plant-based treatment facilities integrated into the open spaces and streets. The treatment facilities will include specific localized treatment areas distributed throughout the open space and street areas. The treatment facilities will be centralized where feasible, which may include larger stormwater gardens around the Stack, and in Power Station Park, to which runoff is conveyed by gravity or force main for treatment. Figure 4.7.1 illustrates the conceptual management strategy.

# C) Conceptual Management Strategy: Combined Sewer Areas

Within the Combined Sewer Areas of the project, stormwater volume and rate reductions for the open space and streets should be achieved. This should be handled through a combination of plant-based stormwater management integrated into the open spaces and streets as well as credits achieved by excess volume and rate reductions from the buildings within the Combined Sewer Area. Figure 4.7.1 illustrates the conceptual management strategy.

# 4.7.5 Stormwater Management Plant-Based Facility Plant Selection

Use native and non-invasive plants that tolerate wet and dry conditions and are adapted to coastal climate. Refer to SFPUC-approved list of stormwater plants at SFplantfinder.org.

Figure 4.7.2 Precedent Images: Plant-Based Treatment Integrated into Open Space Design









# CONSIDERATIONS

# 4.7.6 Stormwater Management Plant-Based Facility Design

Stormwater gardens may integrate interpretive elements that explain their role in Bay ecosystem health and their function as part of San Francisco's larger wastewater system as well as their co-benefits, including biodiversity and urban greening. Interpretive elements may also highlight the site's historical transformation from electrical distribution systems to green infrastructure.

Salvaged infrastructure elements from the site may be incorporated into design of stormwater treatment gardens. To encourage public use and interaction with stormwater gardens, consider incorporating pathways, boardwalks, overlooks, and/or seating into garden designs.

Figure 4.7.3 Suggested Plant Palette for Stormwater Treatment Gardens\*



CALIFORNIA NATIVE SPECIES

SF) SAN FRANCISCO NATIVE SPECIES

<sup>\*</sup>Refer to sfplantfinder.org for additional plant species that support biodiversity.

# 4.8 Site Irrigation

Irrigation is an essential element of plant health and should be incorporated into the site hydrology strategy for the Power Station.

# **STANDARDS**

## 4.8.1 Site Irrigation

# A) Irrigation During Plant Establishment Period

All plant species shall receive establishment irrigation for a minimum of three years. Where required, permanent irrigation infrastructure shall be provided.

# B) Irrigation Efficiency

Irrigation systems shall comply with all standards in the San Francisco Water Efficient Irrigation Ordinance.

# C) Recycled Water

On-site irrigation shall use non-potable water and shall comply with the San Francisco Non-Potable Water Ordinance.

# D) Monitoring

Irrigation flow meters for all irrigation hydrozones shall be installed to record and monitor water use across the site.

# **GUIDELINES**

# 4.8.2 Plant Species Hydrozones



Planting design should optimize irrigation efficacy by grouping plants with similar water needs into efficient irrigation hydrozones.

#### CONSIDERATIONS

# 4.8.3 Pressurized Drip Irrigation at Turf Areas



Overhead spray irrigation for turf areas should be avoided. Use of pressurized drip irrigation tubing at turf areas is recommended.

OPEN SPACE

[This page intentionally left blank.]

# 4.9 Site Furnishing

Furnishing in the Public Open Spaces of the Power Station will help establish the identity of the district and neighborhood. Along with planting, lighting and paving, furnishing is an integral part of what makes the open space an inviting and comfortable part of the public network. The Power Station will implement a district-wide approach to furnishing that allows for variety while establishing a unified look and feel that contributes to a unique neighborhood identity.

# STANDARDS

# 4.9.1 Seating Location

Seating shall be placed outside of the Pedestrian Throughway with a minimum of two-foot buffer (leg room) between the seat and Pedestrian Throughway. See Figure 4.9.1.

# 4.9.2 Outdoor Cafe and Restaurant Seating

Outdoor café and restaurant seating is allowed in all open space areas outside of the public right-of-way. For seating within sidewalks, see Section 5.14.2. Waterfront outdoor food service areas are subject to the controls in Section 4.19, while all other open space areas are subject to the standards listed in this sub-section:

Movable furnishings, including tables, chairs, umbrellas, heat lamps, planters, and other moveable furniture and fixtures, shall be permitted in open spaces adjacent to eating and drinking establishments.

 Placement of the above-mentioned furnishings adjacent to businesses must be within 20 feet of the building face and not obstruct the Pedestrian Throughway.

- Placement of the above-mentioned furnishings in open spaces shall not interfere with curb ramps, access to the building, driveways or access to any fire escapes in any way.
- The above mentioned furnishings must be removed at the end of business hours.

#### 4.9.3 Tree Grates

Tree grates, where provided, shall be made of cast iron or steel and incorporate decorative design (see Figure 4.9.2 for example image). Tree grates shall meet ADA path-of-travel guidelines, and be flush with adjacent sidewalks and other pedestrian areas.

# GUIDELINES

#### 4.9.4 Bollards

Bollards that separate pedestrian traffic from vehicular traffic in curbless conditions should be selected and spaced to prevent automobiles from entering Pedestrian Throughways. Lighted bollards are allowed.

# 4.9.5 Waste Receptacles

Waste receptacles should be located at areas of high pedestrian traffic and near seating areas and picnic areas. They should be located outside of the Pedestrian Throughway. Receptacles should accommodate landfill waste, recycling, and compost. Receptacles should be rain protected, tamper and vermin proof, and possess side opening for collection.

#### 4.9.6 Outdoor Grills

Outdoor public grills should be located at the Point. Select grills made with durable materials and finishes, such as cast iron or weathering steel. Grills should be selected for ease of maintenance. Select a standard product with readily replaceable parts.

#### 4.9.7 Seating Character

Seating should be selected or designed to be inviting, comfortable, and accessible to all people. Benches, whether standard or custom designed, should be functional, and support a high-quality public realm. Seating materials should be chosen for suitability for high use in an urban setting, and ability to withstand the local marine environment. Seating should be constructed of durable materials, such as heavy timbers, hardwoods, cast iron, steel, and concrete.

# 4.9.8 Furnishing Compatibility with Third Street Industrial District

While a variety of seating and other furnishing is acceptable, effort should be made to unify individual open spaces with a cohesive family of seating and other furnishings. Furnishing should be compatible with and reflect the scale and industrial character of the district and be utilitarian in materiality and design. Interpretive elements may be incorporated into furniture design.

# CONSIDERATIONS

# 4.9.9 Furnishing - Responsible Material Use

Furnishing should incorporate sustainable materials, such as recycled metals, sustainably sourced hardwoods, and locally sourced materials.

# 4.9.10 Furnishing Coordination with Pier 70

Waterfront site furnishing and fixtures should be coordinated with the Pier 70 project to ensure a general sense of cohesiveness and consistency across the two projects. Fixtures and furnishing should not be identical to those of Pier 70, but belong to a similar aesthetic family.

Figure 4.9.1 Location Map of Furnishing Types in Public Open Spaces

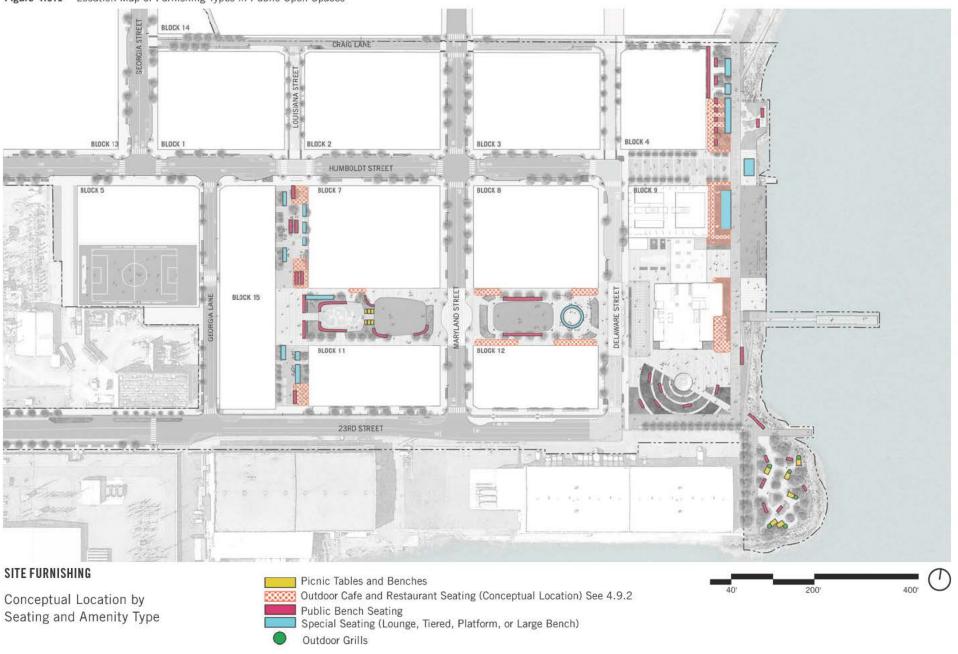


Figure 4.9.2 Site Furnishing Character: Precedent Images



Custom cast-iron park benches, with and without backs.



Manufactured park bench with back (cast aluminum and hardwood).



Modular benches with backs.



Waterfront platform benches directed toward view.



Plaza platform benches.



Waterfront seating in durable materials.





Lounges.



Cast-iron tree grate, ADA-compliant, in attractive modern pattern.



Moveable chairs.



Whimsical moveable seating.



Picnic tables in durable materials



Public grills.



Weathered steel bollards.



Waste receptacles.

# 4.10 Bicycle Parking

High-quality bicycle racks shall be located throughout the Public Open Spaces of the Power Station neighborhood to provide secure short-term bicycle parking for transportation-focused and recreational biking, and to express a commitment to cyclist and bicycle culture.



Bicycle Corral with circular bicycle racks.

# **STANDARDS**

#### 4.10.1 Bicycle Rack Placement

The location of bicycle racks will follow requirements outlined in the standards and guidelines below.

- Locate a minimum of 5 bicycle racks (10 bicycle parking spots) within or adjacent to each of the Power Station's nine open space areas.
- Bicycle racks will be located in well-lit, highly visible locations. Bicycle racks will be easy to use and conveniently located within parks and plazas adjacent to bicycle circulation routes.
- Placement shall maintain at least a 6-foot clear walkway, to comply with the ADA.
- At least 3 feet of clearance between bicycles parked at racks and any other furniture must be maintained, except other bicycle racks, which shall be placed a minimum of every 3 feet on center.
- Bicycle racks shall offer visibility to pedestrians with a minimum height of 31 inches.
- Bicycles parked at a rack shall have a minimum 1 foot clearance from utility vaults.

# **GUIDELINES**

#### 4.10.2 Design of Bicycle Racks

Standard SFMTA-approved bicycle racks should be installed for each open space. See Consideration 4.10.4 for considerations for artistic or custom designed racks.

# CONSIDERATIONS

#### 4.10.3 Bicycle Corrals

Bicycle corrals (pictured on this page) are encouraged where space allows.

# 4.10.4 Artistic and Custom Designed Bicycle Racks

Artistic bicycle racks or custom designed racks integrated with other elements are permitted so long as they adhere to the following requirements:

- Bicycle racks should be durable and practical with a design similar in function to the inverted "U" or the Welle Circular bicycle rack. Bicycle racks should be made of galvanized or stainless steel materials or cast iron. Powder-coated finishes are not allowed.
- All elements of a bicycle rack should have a minimum 2-inch diameter (or 2-inch-square tube). Racks should offer a minimum of two points of support for bicycles unless the rack can support a bicycle in two places, such as a post and ring configuration.
- Allow locking of bicycle frames and wheels with U-Locks.
- Racks should not require lifting of the bicycle.

BLUCK 14 CRAIG LANE anni) BLOCK 13 HUMBOLDT STREET BLOCK 9 BLOCK 8 BLOCK 7 BLOCK 5 BLOCK 15 BLOCK 12 BLOCK 11 23RD STREET **BICYCLE PARKING** O Conceptual Location for Bicycle Racks Conceptual Locations

Figure 4.10.1 Conceptual Locations for Bicycle Parking in Public Open Spaces

# 4.11 Paving and Materials

Paving is a key component that will help define the character, connectivity, and identity of the Power Station's varied open spaces. Paving strategy should be considered as an interconnected site-wide system that activates the public realm and contributes to the overall pedestrian and bicycle circulation on the site. Paving connections to surrounding streets should be carefully considered for their impact on the larger neighborhood.

#### STANDARDS

#### 4.11.1 Surfacing at Tree Planting

Where trees are planted in pedestrian areas, tree well surfacing material shall be within two inches of adjacent pedestrian paving.

# 4.11.2 Paving: Heat Island Effect

Materials that reduce the urban heat island effect by using pavement with a Solar Reflectance Index (SRI) of 29 or higher shall be selected for use in areas that are predominantly unshaded by tree canopy or buildings.

#### GUIDELINES

#### 4.11.3 Surfacing at Tree Planting

Where trees are planted in paving, surfacing material should allow air and water to reach tree roots.

#### 4.11.4 Material Quality and Consistency

Paving and built-in site elements should be composed of high-quality materials and finishes. All materials should be durable and capable of withstanding high-intensity use in the Bay environment. All material textures in designated path-of-travel and accessible-use areas should be ADA-compliant.

#### 4.11.5 Utilites and Paving Design

Paving design in open spaces should be coordinated with the placement of lights, light pull boxes, utilities, utility vaults, and other surface expressions of underground utilities.

#### 4.11.6 Paving Types

Paving should be a key component that defines the character, connectivity, and extent of the Power Station's varied public realm.

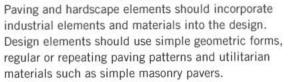
#### A) Special Paving at Plazas

Use contrasting, high-quality paving that distinguishes plaza spaces as areas that prioritize pedestrians and encourage gathering. Plaza spaces should incorporate concrete unit pavers, stone pavers, or cast-in-place concrete with integral color and/or exposed aggregate finish. Refer to paving and materials images and descriptions in Figure 4.11.1.

#### B) Blue Greenway

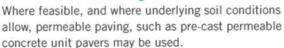
Cast-in-place concrete with integral color and/or topcast finish is recommended for the Blue Greenway. Coordinate paving design with the Pier 70 Blue Greenway to either match or complement paving finish, color, and score pattern.

# 4.11.7 Character and Uniformity

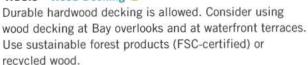


#### CONSIDERATIONS

#### 4.11.8 Permeable Paving



#### 4.11.9 Wood Decking



#### 4.11.10 Responsible Material Use



Use sustainable paving materials, including recycled, local, and sustainably sourced materials. Consider conducting a life-cycle assessment to identify embodied carbon drivers for the site and quantify reduction potential for key elements and materials. Consider opportunities for reuse of demolition waste from the site.

## 4.11.11 Character and Uniformity

Paving contrast may be introduced through color or geometric variation, textural variation within a single paving module, integrated lights, or juxtaposition of scale or material. Salvaged masonry units from the site's existing buildings should be included, if feasible and safe for public use.

Figure 4.11.1 Example Paving Types for Open Spaces



Cast-in-place concrete with integral color and/or exposed aggregate finish.



Enhanced cast-in-place concrete with saw-cut joints.



Pre-cast concrete unit pavers and pre-cast permeable concrete unit pavers.



Wood decking made of durable hardwood appropriate for coastal conditions.



Enhanced concrete and/or pre-cast unit pavers with contrasting pattern.



Stone unit pavers.

# 4.12 Ground-Level On-Structure Open Space Design

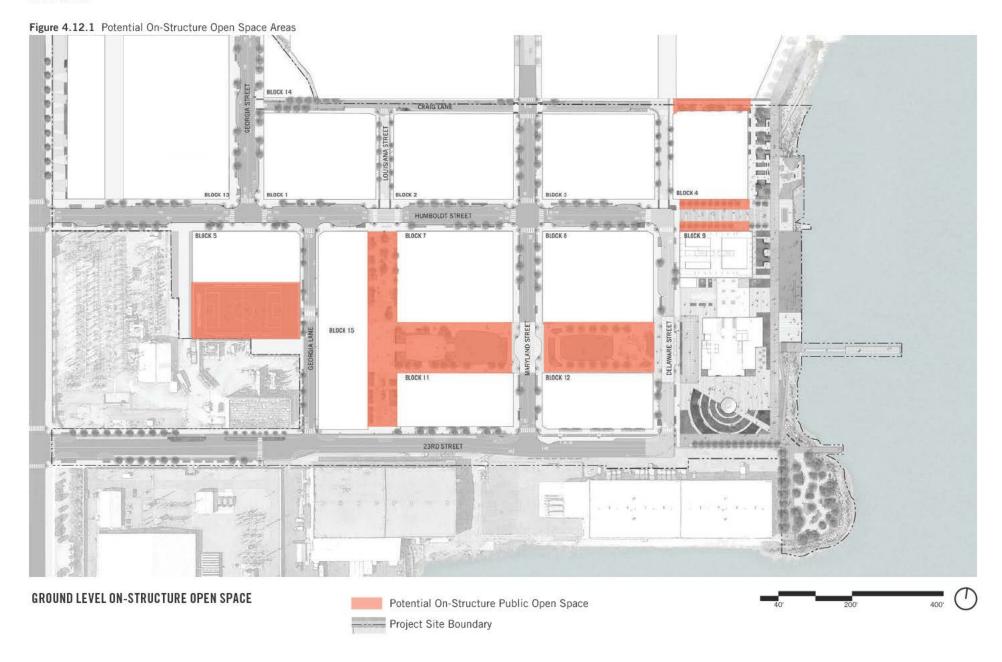
Several portions of the Power Station's open spaces may be built over structured parking. These areas include Humboldt Street Plaza, Power Station Park, Craig Lane Paseo, and Louisiana Paseo (See Figure 4.12.1). If structured parking is planned beneath any of these open spaces, the following standards shall be followed to ensure that below-grade structures are designed to allow for viable landscapes in the open spaces atop these structures.

#### **STANDARDS**

#### 4.12.1 Structural Coordination

As depicted on Figure 4.12.1, there are areas where the open spaces may be built on top of structures. Structures beneath open space shall be designed and constructed to withstand and support robust and viable landscapes. Structures shall allow sufficient space between the top of the structural slab and the finished grade in the open space to allow for paving areas, ground cover planting, tree planting, drainage, footings for play structures, overhead structures, and large seating elements.

- A) Structures shall accommodate 18 to 24 inches of soil depth in groundcover planting areas.
- B) Structures shall accommodate 36 to 48 inches of soil depth for tree planting.
- C) Structures shall be designed to withstand anticipated loading of emergency and maintenance vehicles.



# 4.13 Wellness

Health, fitness, and wellness will be a primary focus of the Power Station's open spaces. This includes open turf areas for yoga and fitness classes, play areas for all ages, a generous waterfront trail for biking and walking, and athletic fields for a range of age groups and activities. Figure 4.13.2 depicts the health and wellness activities that are envisioned throughout Power Station open spaces.

Figure 4.13.1 Health and Wellness Precedent Images



Temporary farmer's market In open space.



Adult fitness playground.



Rooftop under-10 soccer field.

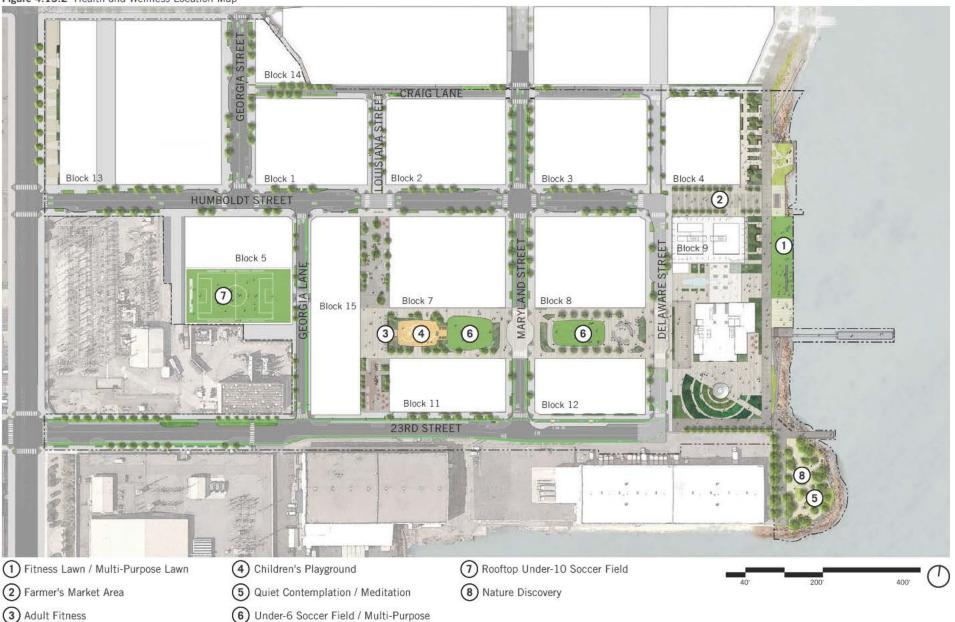


Children's playground.



Fitness activities on lawn.

Figure 4.13.2 Health and Wellness Location Map



Lawn

# 4.14 Public Art

The Power Station's open spaces will provide opportunities to integrate interactive art and recreational amenities that may also act as interpretive elements for the site's unique history and its sustainable future.

Public art of scale can contribute significantly to the urban design of the Power Station when placed at key locations, such as the terminus of a view corridor, to draw visitors through the public realm to a point of destination. Public art can also contribute to wayfinding by acting as a landmark and memorable feature within the public realm network.

#### **CONSIDERATIONS**

#### 4.14.1 Public Art Locations

Permanent public art pieces may be located in Waterfront Park, the Point, Turbine Plaza, Humboldt Street Plaza, Power Station Park, and Louisiana Paseo. Suggested locations within these open spaces for public art can be found in Figure 4.14.1. Temporary public art may be located in any open space and should comply with all controls for those spaces.

#### 4.14.2 Public Art Interpretive Elements

Public art installations may relate to, describe, or otherwise engage with the layered history of the site, doubling as interpretive exhibits. Public art installations may also relate to or highlight the unique climatic/ecological conditions of the site.

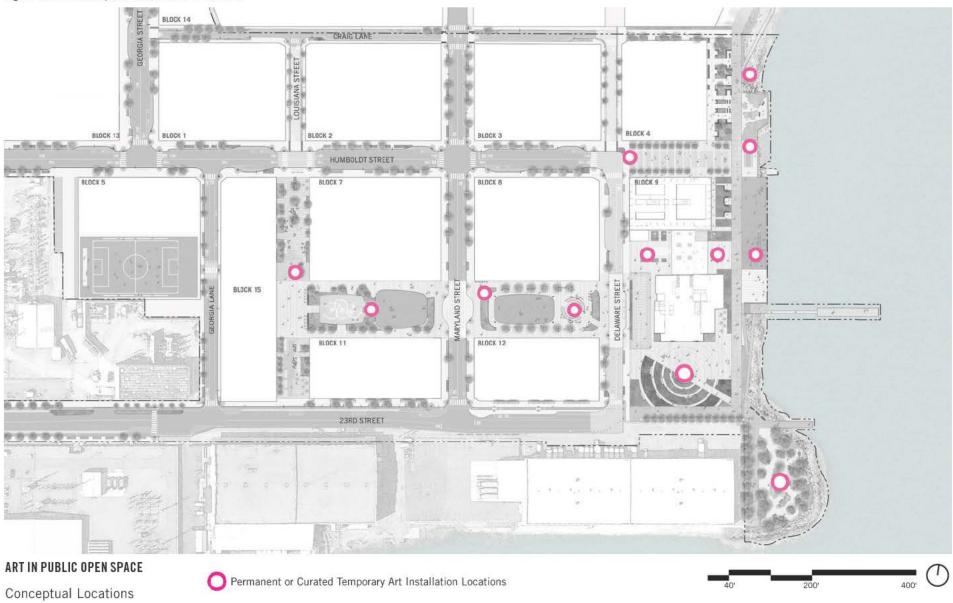


Public art example.



Sculpture play example.

Figure 4.14.1 Conceptual Locations for Public Art



# 4.15 Carts and Kiosks in Open Space

A limited number of food service and/or retail Carts and Kiosks will be allowed to operate within the open spaces of the Power Station. (See Table 4.15.1 for number and size restrictions within specific open spaces.)

## STANDARDS

#### 4.15.1 Location of Carts and Kiosks

Carts and Kiosks shall not block accessible paths of travel or areas for Emergency Vehicle Access (EVA). (See Table 4.15.1 for limits on the number of Carts and Kiosks per open space location.)

#### 4.15.2 Size of Carts and Kiosks

The maximum size of any Cart or Kiosk located within public open space is 200 square feet.

## GUIDELINES

#### 4.15.3 Visual Interest of Kiosks

Kiosks should be visually interesting even when closed.



Retail Kiosk example.



Cafe Cart example.



Cafe Kiosk in a modified shipping container example.



Maker Kiosk example.

Figure 4.15.1 Conceptual Locations for Carts and Kiosks BLOCK 4 BLOCK 13 BLOCK 1 BLOCK 3 HUMBOLDT STREET BLOCK 7 BLOCK 8 BLOCK 5 BLOCK 9 BLOCK 15 23RD STREET Conceptual Location for Kiosk Note: The zones represent the general areas where Carts and Conceptual Location for Cart Kiosks may be located; these zones may shift locations. Conceptual Allowed Zone for Kiosks and Carts

Table 4.15.1 Publicly Oriented Accessory Retail Uses in Open Spaces

| USE/LOCATION                            | LOUISIANA PASEO               | POWER STATION PARK            | HUMBOLDT STREET PLAZA         | BLOCK 9 OPEN<br>SPACE | STACK PLAZA   | WATERFRONT PARK               |
|---|-------------------------------|-------------------------------|-------------------------------|-----------------------|---------------|-------------------------------|
| Cart (not larger than 200 square feet)  | Limit of 1 in this open space | Limit of 2 in this open space | Limit of 1 in this open space | Not permitted         | Not permitted | Limit of 3 in this open space |
| Kiosk (not larger than 200 square feet) | Limit of 1 in this open space | Limit of 1 in this open space | Limit of 1 in this open space | Not permitted         | Not permitted | Limit of 1 in this open space |

# 4.16 Waterfront Open Spaces

The Waterfront Open Spaces at the Power Station will be a vibrant series of active parks that emphasize the relationship between people and the Bay. The open spaces will provide an array of amenities for both the larger Bay Area population and local neighborhood communities within San Francisco. The design of Waterfront Open Spaces will allow expansive views of the Bay and environs and increase physical access to the waterfront and to the Bay itself.

A generous new portion of the Blue Greenway will link a series of unique public spaces that offer a range of activities.

The general standards and guidelines for planting, stormwater management, accessibility, sea level rise planning, and programming that are delineated in this section (4.16) apply to the entire open space area shown in the Waterfront Open Spaces Concept Plan Overview in Figure 4.16.1. In addition, this section describes specific standards and guidelines for the Waterfront Park Blue Greenway, recreational dock, Bay overlook terraces, Bay shore planting and stormwater gardens, and outdoor seating areas.

This section should be read in conjunction with the sections that cover in detail the distinct spaces of Waterfront Open Spaces: the Point, Stack Plaza, Block 9 Open Space (including Turbine Plaza and Unit 3 Entry Plaza), and Humboldt Street Plaza (4.20 through 4.24).

#### **STANDARDS**

#### 4.16.1 Public Access

Portions of Waterfront Open Spaces that are within BCDC jurisdiction shall be publicly accessible, subject to the terms of the BCDC permit. All other areas will be subject to public access controls contained in the Development Agreement.

#### 4.16.2 Publicly Accessible Restroom

A publicly-accessible restroom shall be located in Block 9, and be open when it is reasonable to expect substantial public use.

#### GUIDELINES

#### 4.16.3 Visual Access

Waterfront Open Spaces should provide views to the water from both sides of the Blue Greenway. First branching height and spacing of trees should facilitate these views.

#### 4.16.4 Public Uses and Amenities

Waterfront Open Spaces should provide both active and passive program uses along with waterfront ecological amenities, including native Bay shore planting with habitat value. At least one drinking fountain should be located within Waterfront Open Spaces. The amenities and features shown in figure 4.16.1 are permitted in Waterfront Open Spaces.

#### 4.16.5 Stormwater Treatment Areas



Waterfront Open Spaces should include stormwater treatment gardens of varying sizes to treat runoff from impermeable surfaces. Stormwater gardens must be functionally and aesthetically integrated into the experience of the park. See Section 4.7 for general planting standards and guidelines for stormwater treatment areas.

Figure 4.16.1 Waterfront Open Spaces: Concept Plan Overview



#### WATERFRONT OPEN SPACES

Concept Plan Overview

- 1 Waterfront Park: Section 4.19
- 2) The Point: Section 4.20
- 3 Stack Plaza: Section 4.21
- 4 Block 9 Open Spaces 4.22-423
- 5 Humboldt Street Plaza: Section 4.24

# 4.17 Waterfront Open Spaces: Circulation

#### STANDARDS

#### 4.17.1 Waterfront Open Spaces Circulation: Blue Greenway

The waterfront multi-use trail, the Blue Greenway, shall provide a direct north-south waterfront route for pedestrians and bicyclists along the length of the Waterfront Open Spaces, connecting to Pier 70 at the north and 23rd Street at the south. The Blue Greenway shall not be accessible to automobiles or trucks (with the exception of emergency and maintenance vehicles).

#### 4.17.2 Blue Greenway: Clear Width

The Blue Greenway shall provide a clear width of 20 feet.

#### 4.17.3 Blue Greenway: Universal Access

The Blue Greenway shall be ADA-compliant.

#### 4.17.4 Blue Greenway: Bicycle Connections

The Blue Greenway shall connect to bicycle facilities on 23rd Street. Signage, warning cues, and controls shall be included in the Blue Greenway trail to minimize pedestrian and bicycle conflict.

#### 4.17.5 Recreational Dock Access Path

Should a recreational dock be constructed, an ADAcompliant path shall be provided for access to the recreational dock from the Blue Greenway.

#### 4.17.6 Path to the Pier 70 Shoreline Path

An ADA-compliant pedestrian path shall be provided for access from the Blue Greenway at the northern end of the Power Station to the shoreline path at Pier 70.

#### GUIDELINES

# 4.17.7 Pedestrian Throughway Connections at Key Places

Circulation in Waterfront Open Spaces should reinforce important Pedestrian Throughway connections between the Blue Greenway and the other open space areas, including clear east—west pedestrian routes with linkages to 23rd Street, Power Station Park, and Humboldt Street, and to Delaware Street through Stack Plaza, Block 9 Open Space (including Turbine and Unit 3 Entry Plazas), Humboldt Street Plaza, and Craig Lane.

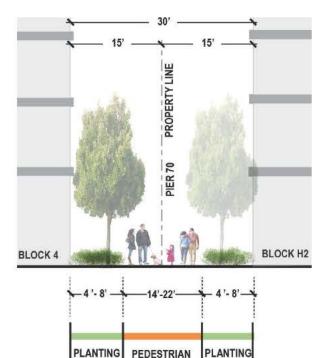
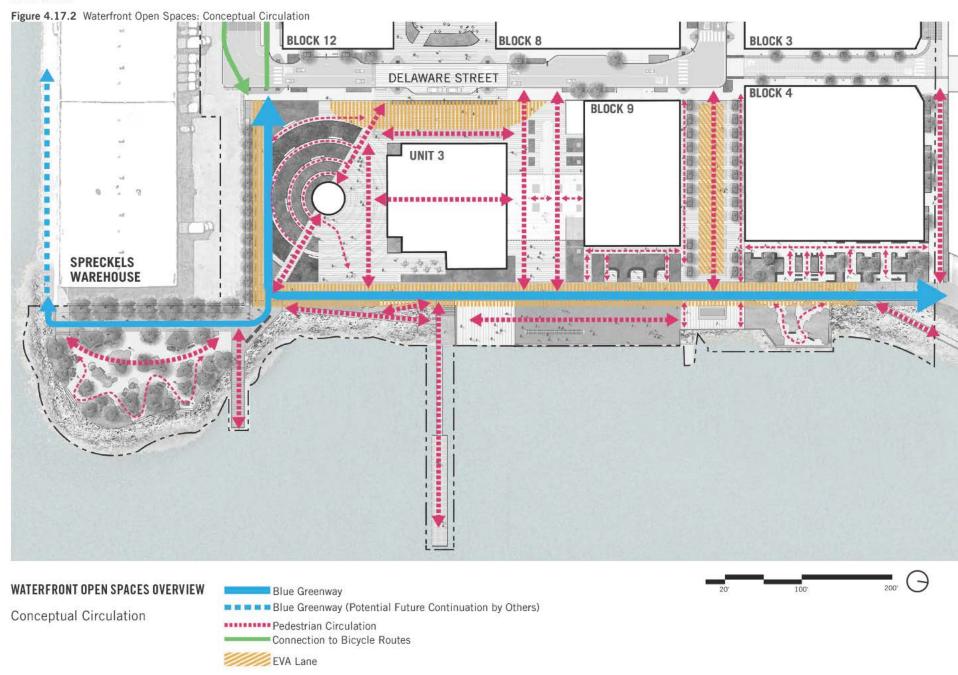




Figure 4.17.1 Section: Craig Lane Paseo



#### 4.18 Waterfront Outdoor Food Service Areas

The Waterfront Open Spaces will provide many ways to experience the beauty of its special location along the Bay. One of these experiences will be outdoor dining or drinking. While the great majority of seating along the waterfront will be entirely public, some outdoor restaurant or cafe seating will enliven the waterfront experience at the Power Station.

#### **STANDARDS**

#### 4.18.1 Waterfront Outdoor Food Service Areas

Permanent, semi-permanent, and movable furnishings such as tables, chairs, umbrellas, heat lamps, and fire pits for eating and drinking use, shall be permitted on the east side of the buildings constructed on Blocks 4 and 9. The shaded areas in Figure 4.18.1 indicate potential locations for this use. Within these areas, up to 60 percent of the area may be reserved for exclusive use by eating and drinking establishments during business hours. This reserved area may be contiguous. The remainder of these areas shall be open to the public and shall not require patronage of any eating and drinking establishment. Food service areas must remain clear of the Blue Greenway at all times.

# 4.18.2 Signage for Public Seating in Waterfront Outdoor Food Service Areas

Signage shall be provided to clearly indicate that public seating is open to the public without having to patronize the eating and drinking establishment.

#### **GUIDELINES**

# 4.18.3 Public Seating in Waterfront Outdoor Food Service Areas

Public seating should be of high quality, and differentiated from reserved seating at adjacent eating and drinking establishments.

# 4.18.4 Reserved Seating in Waterfront Outdoor Food Service Areas

Areas of reserved seating for eating and drinking establishment used during business hours should serve as attractive and functional public spaces during non-business hours. These spaces should include at least some permanent, non-movable seating.

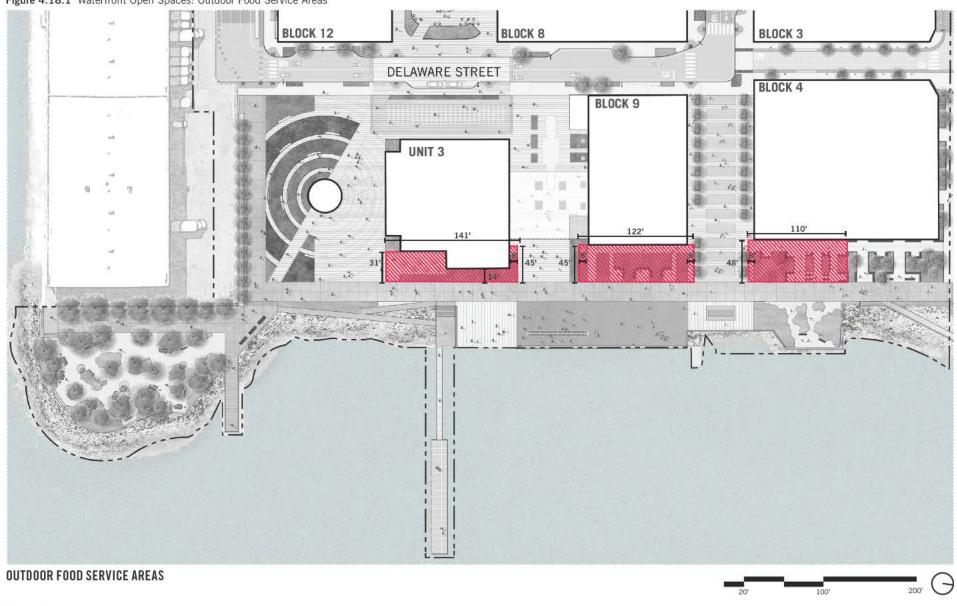


Example of restaurant seating adjacent to public seating and promenade.



Example of cafe seating along the waterfront.

Figure 4.18.1 Waterfront Open Spaces: Outdoor Food Service Areas



Food and Beverage Service: Allowed Zones.\*
Up to 60% of Each Designated Area May be Used for Food and Beverage Service

\*Note: Exact locations and dimensions of these zones may shift.

## 4.19 Waterfront Park

Waterfront Park is generally bounded by the Point to the south, the northern boundary of the Blue Greenway along 23rd Street, the Bay to the east, the northern boundary of Craig Lane Paseo, and the western boundary of the Blue Greenway parallel to the shoreline. See Figure 4.19.1

#### **GUIDELINES**

#### 4.19.1 Bay Overlook Terrace at Unit 3

Opposite Block 9 Open Space, on the water side of the Blue Greenway, an open, accessible Bay overlook terrace should be designed to allow pedestrian access to the water's edge at the elevation of the Blue Greenway. Comfortable seating compliant with Guideline 4.9.7 should be provided at this overlook.

#### 4.19.2 Bay Overlook Terrace at Humboldt Street Plaza

A waterside plaza should be designed as an extension of Humboldt Street Plaza, allowing public access to the water's edge at the terminus of Humboldt Street. The same paving type and pattern used at Humboldt Street Plaza should continue into the waterside overlook terrace, broken only by the Blue Greenway paving.

#### 4.19.3 Public Seating

Public seating should be designed and selected to be integrated with elements in the waterfront landscape. Permanent public seating should be provided at overlook terraces and along the Blue Greenway.

#### 4.19.4 Fitness and Multi-Purpose Lawn

An open natural turf area for picnicking and exercise should be designed on the water side of the Blue Greenway east of Block 9.

#### 4.19.5 Bay Shore Planting Areas

Planted areas, featuring a diverse palette of Bayappropriate native plants, should be incorporated into the design on both sides of the Blue Greenway. Pedestrian path access is allowed in these areas. See Section 4.6 for example plant palettes for these areas.

#### 4.19.6 Stormwater Management

Stormwater management gardens should be designed as integral parts of open space designs and as integral parts of larger planting designs. See Section 4.6 for general planting standards and guidelines for stormwater treatment areas. Refer to Figures 4.7.2 and 4.7.3 for examples of integrated stormwater management design and a suggested stormwater management plant palette.

#### 4.19.7 Waterfront Outdoor Dining Areas (Block 4)

Waterfront Park includes outdoor dining areas in front of Block 4. See Section 4.18 for applicable Standards and Guidelines.

#### CONSIDERATIONS

#### 4.19.8 Recreational Dock

The Project Sponsor may construct a recreational dock in the location shown on the Waterfront Park plan (Figure 4.16.1).

#### 4.19.9 Bay Overlook Terrace Paving

Bay overlook terrace paving should be special paving that contrasts with and complements Blue Greenway paving. Durable hardwood decking, unit pavers, and/ or concrete with special finish and score patterns should be considered. If wood decking is used, special consideration should be given to using woods and finishes that can withstand maritime shoreline conditions and heavy pedestrian traffic.

\*See Sections 4.20 through 4.24 for detailed standards and guidelines for The Point, Stack Plaza, Unit 3 Entry Plaza and passenger loading, Turbine Plaza, and Humboldt Street Plaza.

Figure 4.19.1 Waterfront Park Enlargement Concept Plan



#### WATERFRONT PARK

Concept Plan

- 1) Blue Greenway
- (2) Recreational Dock Access Path
- 3 Potential Recreational Dock
- 4 Bay Overlook Terrace at Unit 3
- (5) Multi-Purpose Lawn
- Bay Overlook Terrace at Humboldt Street Plaza
- (7) Bay Shore Planting
- 8 Path to Pier 70 Shoreline Path
- 9 Outdoor Food Service Area
- (10) Craig Lane Paseo
- Waterfront Park Boundary

## 4.20 The Point

Situated apart from the more social uses associated with Block 9, the Point will be a quieter place of natural planted areas, informal discovery play, and casual seating and picnicking. A Bay overlook, built upon the existing footprint of a decommissioned power plant intake structure, will allow visitors to walk out over the Bay and take advantage of the panoramic views of the East Bay, South Bay, and Bay Bridge. The plan for the Point includes a section of Blue Greenway that will allow for the future connection of the Blue Greenway system from the Power Station waterfront to Warm Water Cove around the south side of the existing Spreckels Warehouse to the south of the project site, which will be completed by others. The Point may also include public art and/or elements of an interpretive program, such as interpretive exhibits.

#### **STANDARDS**

#### 4.20.1 Circulation

A Pedestrian Throughway shall be established through the Point open space, including an accessible path of travel to each amenity in this area.

#### 4.20.2 Blue Greenway Extension

A minimum 20-foot-wide section of the Blue Greenway shall be integrated into the design of the Point along its western edge. A planted buffer having a minimum width of 8 feet shall be maintained between the Point's western property line and the Blue Greenway Extension.

#### 4.20.3 Amenities

The following amenities shall be provided within the Point: picnic areas with picnic tables and benches, discovery play features, seating, lighting, outdoor grills, and waste receptacles. The amenities and features shown in figure 4.20.1 are permitted at The Point.

#### 4.20.4 Program

Temporary programs and activities shall be permitted to occur on the Point, subject to Exhibit L-2 of the Development Agreement.

#### 4.20.5 Planting

Tree, shrub, and groundcover planting shall adhere to the general standards and guidelines set forth in Sections 4.5, 4.6, and 4.7.

#### **GUIDELINES**

#### 4.20.6 Materials

Natural paving materials such as crushed stone, stabilized crushed stone, and bark mulch should be selected to enhance the natural aesthetic of this area. Select accessible materials to allow wheelchair access to at least one instance of each amenity type listed in 4.20.3.

#### 4.20.7 Furnishing

See Section 4.9 for standards and guidelines. The look and feel of furnishing in this area should fit with the theme of a natural shoreline environment. Durable hardwood, cast-in place concrete, or precast concrete are preferred furnishing materials. Locate seating near natural play area. Permanent grills are allowed.

#### 4.20.8 Lighting

See Section 7 for standards and guidelines. Maintain minimum light levels for safety at primary amenity areas. Shoreline planted areas should be kept free of lighting.

#### 4.20.9 Discovery Play Area

Site elements that allow for informal play and discovery should be integrated in the design of the park. Elements such as boulders, reclaimed logs, and stumps are examples of site elements that could be considered "discovery play" elements. Salvaged materials and artifacts from the site may be incorporated into this area if feasible and safe for public use.

#### 4.20.10 Bay Overlook at 23rd Street: Paving

The paving, railings, and other features of this overlook should be integrated in the overall design theme of a natural shoreline environment. Durable hardwood decking, unit pavers, and/or concrete with special finish and score patterns should be considered. If wood decking is used, special consideration should be given to using woods and finishes that can withstand maritime shoreline conditions and heavy pedestrian traffic.

#### **CONSIDERATIONS**

#### 4.20.11 Furnishing

Consider shaded seating within the Point.

#### 4.20.12 Bay Overlook at 23rd Street

A Bay overlook should be designed in the area of the existing intake structure at the end of 23rd Street providing access to the Bay edge, if the existing structure is found to be structurally adequate. If the existing structure is not structurally adequate to support a Bay overlook, the existing intake structure may not be incorporated into the design.

#### 4.20.13 Transition Between 23rd Street and The Point

The Point should incorporate a clear and graceful transition between the natural character of the Point and the more industrial, urban character of Stack Plaza and the Blue Greenway to the north.

Figure 4.20.1 The Point: Enlargement Concept Plan 4 THE POINT (7) Seating

Conceptual Informal Open Space for Picnicking and Nature Discovery

- 1) Picnic Area
- 2 Discovery Natural Area and Informal Play
- 3 Bay Shore Planting Area
- 4) Blue Greenway Extension
- Potential Bay Overlook at 23rd Street
- 6 Blue Greenway



# The Point

Figure 4.20.2 The Point: Bird's-eye Concept View Looking North



Figure 4.20.3 The Point: Concept Section Looking North

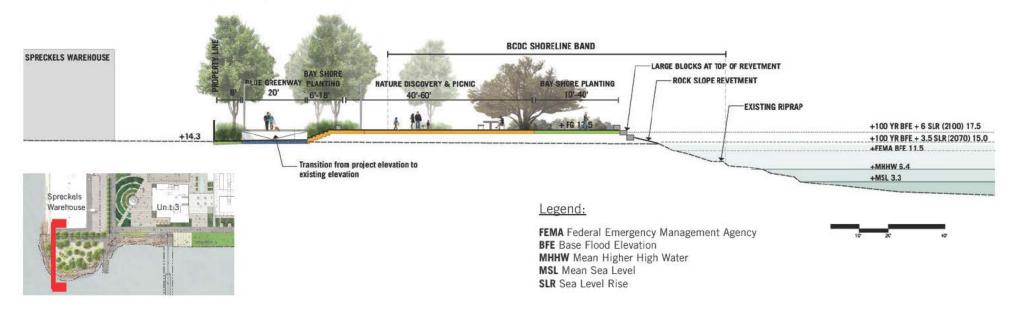


Figure 4.20.4 The Point: Precedent Images



#### 4.21 Stack Plaza

The Stack is the Power Station's most monumental feature, an icon in the neighborhood visible from many vantage points throughout the city. Stack Plaza is, accordingly, the signature public space of the Power Station. It will be an accessible, compelling civic space that provides a sense of arrival and encourages visitors to linger, gather, and appreciate the Stack in all of its roles—as a monument, a marker of the site's industrial past, and a focal point along San Francisco's Central Waterfront.

The Stack will remain as a visual landmark that orients visitors and recalls the site's history as a power plant, but it shall also assume new life as a place for art, social space, or unique cafe or bar. The plaza design shall remain free of elements that visually compete with or detract from the singular presence of the Stack. Physical and conceptual connections between the Stack and Unit 3 shall be reinforced through paving and pedestrian circulation design. This publicly accessible open space will anchor the southern end of the Blue Greenway, providing pedestrian connections from the waterfront to the land side of the neighborhood via Delaware Street and 23rd Street.

#### STANDARDS

#### 4.21.1 Bicycle Circulation

A bicycle connection shall be established between the southern end of the Blue Greenway and 23rd Street. Bicycle wayfinding and signage shall indicate these routes.

#### 4.21.2 Pedestrian Circulation

A Pedestrian Throughway shall be established between the southern end of the Blue Greenway and 23rd Street, at the southern edge of the Stack Plaza, through the center of this open space, and along the southern edge of Block 9 with Unit 3. Pedestrian access to and around the base of the Stack shall be provided. Plaza design shall allow for multiple paths and vantage points from which to experience the scale and presence of the Stack. Pedestrian access between the Stack and the building on Block 9 shall be accommodated. Paved paths shall allow pedestrian access through garden spaces.

# 4.21.3 Planting

Tree, shrub, and groundcover planting shall adhere to the general standards and guidelines set forth in Sections 4.6 and 4.7. No more than one-third of the area within 45 feet of the Stack shall be planted.

#### 4.21.4 Amenities

The following amenities shall be provided within Stack Plaza: seating, lighting, open plaza space, planted areas, bicycle parking, and waste receptacles. Movable outdoor seating and tables to serve a café or bar within the Stack may be provided. The amenities and features shown in figure 4.21.2 are permitted in Stack Plaza.

# 4.21.5 Paving

Paving and hardscape elements shall incorporate industrial elements and materials into the design. Design elements shall use simple geometric forms, regular or repeating paving patterns, and utilitarian materials such as simple masonry pavers or salvaged masonry units, if feasible and safe for public use. Surfaces shall not be designed with elaborately applied patterns. Any patterns shall be the pragmatic result of the use of unit pavers or concrete score joints.

#### GUIDELINES

#### 4.21.6 Furnishing

See Section 4.9 for standards and guidelines. Furnishing should complement and be integrated into the overall plaza design. Removeable cafe tables and chairs are allowed.

#### 4.21.7 Lighting

See Section 7 for standards and guidelines. Feature lighting for the Stack should be the focus of lighting design for this area. Artistic façade lighting and projected light displays are allowed.

#### 4.21.8 Program

Stack Plaza should be primarily a civic space for passive recreation and socializing, with minimal fixed or temporary program elements.

#### 4.21.9 Connection to Spreckels Warehouse

If the eastern Spreckels Warehouse changes tenants and uses, the tree row (see Consideration 4.21.10) should be modified and coordinated with a re-design of the driveway and truck loading area to create stronger visual and physical connections between Stack Plaza and the eastern Spreckels Warehouse.



Figure 4.21.1 Stack Plaza: Concept View Looking West

#### **CONSIDERATIONS**

#### 4.21.10 Visual Buffer

A row of trees, mural wall, decorative fence, or other visual buffer should be installed along the southern edge of the site, between Stack Plaza and the eastern Spreckels Warehouse. Tree planting must adhere to the terms of the existing utility easement.

#### 4.21.11 Stormwater Management

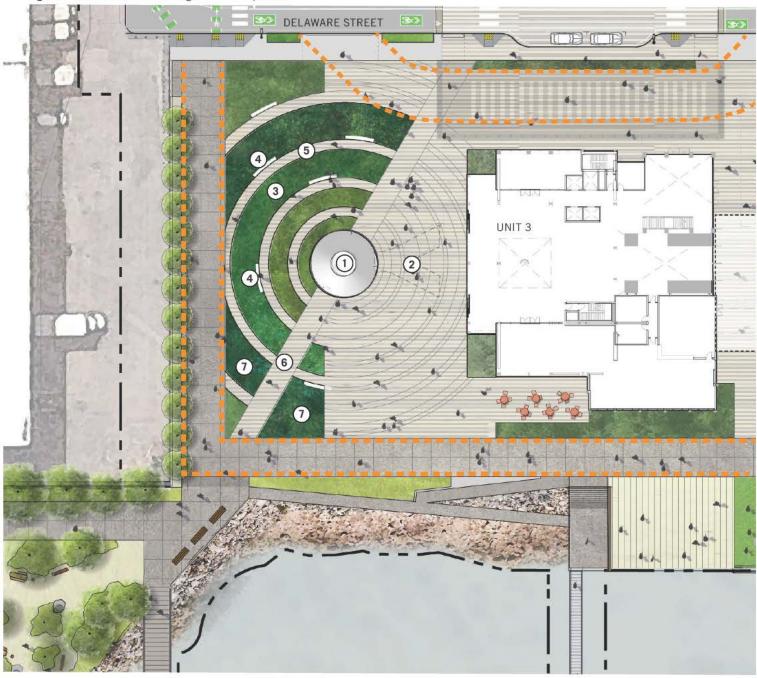
Stack Plaza should accommodate the need for stormwater management as an integrated design element. Consider integrating stormwater management gardens into site interpretation strategies that mark the transition from industrial infrastructure to green infrastructure. See Section 4.7 for general planting standards and guidelines for stormwater management areas. Refer to Figures 4.7.2 and 4.7.3 for examples of integrated stormwater management design and a suggested stormwater management plant palette.

#### 4.21.12 Program

A bar or café within the Stack should be considered. Outdoor seating associated with a bar or cafe is allowed. Stack Plaza should also be designed to accommodate temporary events, performances, and art exhibits, subject to Exhibit L-2 of the Development Agreement.

# Stack Plaza

Figure 4.21.2 Stack Plaza: Enlargement Concept Plan



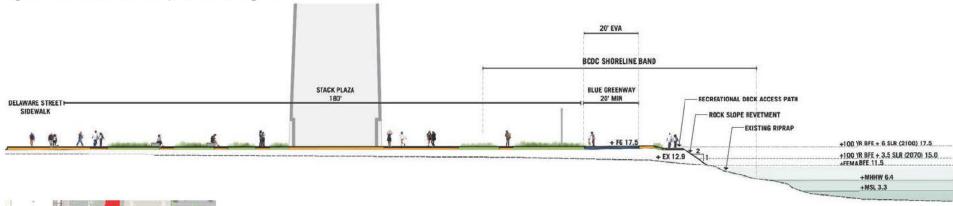
## STACK PLAZA

An Iconic Civic Space

- 1) The Stack
- 2 Paved Plaza
- (3) Planting
- (4) Seating Area
- (5) Paved Garden Path
- 6 Primary Paved Path
- 7 Stormwater Treatment BMP Area

EVA Access

Figure 4.21.3 Stack Plaza: Concept Section Looking North

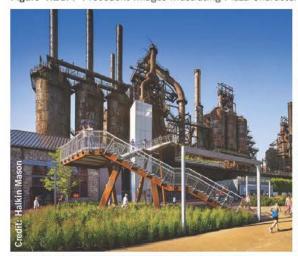


# Spreckels Warehouse

#### Legend:

FEMA Federal Emergency Management Agency BFE Base Flood Elevation MHHW Mean Higher High Water MSL Mean Sea Level SLR Sea Level Rise

Figure 4.21.4 Precedent Images Illustrating Plaza Character and Potential Program



Post-industrial site with gardens and contemporary interventions.



Post-industrial site as civic gathering space.



Plant-based stormwater management garden integrated with public space design.

# 4.22 Block 9 Open Space: Turbine Plaza

Block 9 Open Space refers to open spaces adjacent to and surrounding the building on Block 9, including Turbine Plaza and the Unit 3 Entry Plaza. See Figure 4.22.2.

Turbine Plaza serves multiple functions. Not only does it serve as the visual and physical corridor to the waterfront for Block 9, the plaza is a flexible, sheltered, open space that can host functions and provide the potential for permanent or rotating public art and/or interpretive exhibits. Turbine Plaza is located adjacent to Unit 3 and within Block 9, and may be partially covered, as permitted within Block 9 (Section 6.13). While the plaza will be publicly accessible at most times of the day and year, the planned hotel use of the adjacent buildings will help formulate the uses and programming of this plaza. Portions of the plaza may be closed for private events in association with the operation of the building on Block 9. This plaza space shall be a primarily paved, flexible-use space, protected from wind and weather. A project-serving separated sanitary sewer pump station pump house may be located within Turbine Plaza.

#### **STANDARDS**

#### 4.22.1 Pedestrian Circulation

A Pedestrian Throughway shall be established and maintained between the Blue Greenway and Delaware Street through this plaza, with appropriate paving, furniture, and other amenities to encourage pedestrian use. During daytime/business hours, the plaza will allow public passage in the east—west direction.

#### 4.22.2 Amenities

The following amenities shall be provided within Turbine Plaza: lighting, open flexible-use plaza space, planted areas, bicycle parking, waste receptacles, and power sources for temporary events and performances.

#### 4.22.3 Access

The portion of the plaza between Unit 3 and the building at Block 9 may be enclosed with architectural walls and a roof as further specified in Section 6.13.2. This enclosed plaza shall be publicly accessible at times when it is reasonable to expect substantial public use, and may be closed to the public during non-business hours or as required for the operation of the hotel.

#### **GUIDELINES**

#### 4.22.4 Pump House

If a project-serving separated sanitary sewer pump station house is located within Turbine Plaza, it should be carefully designed and well-integrated with the open space.

#### 4.22.5 **Paving**

Plaza paving should be enhanced concrete with interesting score patterns, unit pavers, or a combination of concrete and unit pavers. Paving should be selected to complement the adjacent paved areas and the character of the adjacent buildings. Coordinate paving materials and design with the Unit 3 Entry Plaza and Stack Plaza to maintain a sense of continuity. If the plaza is partially covered, paving design should be unified through the interior and exterior areas.

#### 4.22.6 Furnishing

See Section 4.9 for standards and guidelines. Furnishing should complement and be integral to the plaza design.

#### 4.22.7 Lighting

See Section 7 for standards and guidelines.

#### 4.22.8 **Program**

This flexible-use plaza should be designed to accommodate temporary events, performances, and

permanent or temporary art exhibits, subject to Exhibit L-2 of the Development Agreement. The programmatic elements shown in figure 4.22.2 are permitted in Turbine Plaza.

#### CONSIDERATIONS

#### 4.22.9 Pump House

The existing Gate House structure may be moved and used to house the pump house.

#### **4.22.10 Lighting**

Feature lighting should highlight the salvaged overhead crane and other unique structures if they are retained. In-grade accent lighting may be used to highlight unique paving patterns. Public art should also be highlighted with feature lighting. Ample pedestrian lighting should be provided to ensure pedestrian comfort and safety.

#### 4.22.11 Program

Permanent or temporary public art features are encouraged.

#### 4.22.12 Furnishings

Fixed seating is encouraged, as is moveable seating, such as cafe tables and chairs.



Figure 4.22.1 Turbine Plaza: Concept View East Through Craneway

Figure 4.22.2 Block 9 Open Space: Turbine Plaza



Event and Flexible-Use Plaza

- 1 Turbine Plaza
- (2) Exterior Public Plaza
- Outdoor Food Service and Public Seating
- 4 Unit 3
- 5 Potential Pump House Location
- (6) Unit 3 Entry Plaza, Passenger Drop-off and EVA Lane. (See Section 4.23)
- 7 Potential Re-use of Turbine Housing as Water Feature

EVA Access





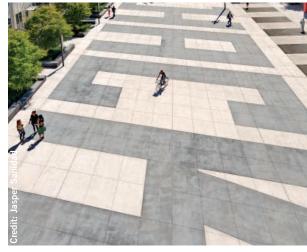
Figure 4.22.3 Turbine Plaza: Precedent Images



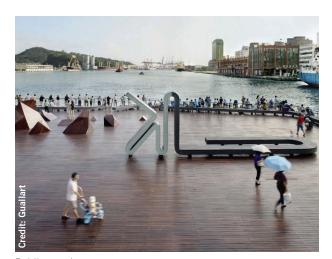
Bold paving In keeping with industrial waterfront.



In-grade lighting reinforcing bold paving pattern.



Bold paving pattern.



Public art plaza.



Temporary public art installation.



Interactive public art installation.



Sheltered public space.



Inside-outside openness and permeability.



Public passage through hotel.



Event space.



Interior art and light installation.



Feature architectural lighting.

# 4.23 Block 9 Open Space: Unit 3 Entry Plaza

Between Unit 3 and Delaware Street, the Unit 3 Entry Plaza will allow for passenger drop-off and required emergency vehicle access to Unit 3. The design of this plaza shall use a portion of Stack Plaza and prioritize the pedestrian experience while allowing for the practical function of passenger drop-off.

#### **STANDARDS**

#### 4.23.1 Passenger Loading and Drop-off

An area devoted to off-street passenger loading and emergency vehicle access shall be permitted within the Unit 3 Entry Plaza as shown in Figure 4.23.1. The Entry Plaza shall include a minimum 10-foot pedestrian zone at Unit 3, a minimum 7-foot passenger loading zone, a 26-foot-clear emergency vehicle access lane, and a 5-foot paved or planted buffer at the back of sidewalk to clearly demarcate the pedestrian-only and vehicular areas of the plaza to ensure safety. The pedestrian zone shall be protected. Bollards are permitted to achieve pedestrian protection. See Figure 4.23.2 for a cross-section of the Unit 3 Entry Plaza.

The passenger loading and drop-off in the Unit 3 Entry Plaza shall be open for use by the public. Signage shall be installed indicating that the passenger loading area is available for public use and not exclusive to hotel patrons.

#### **GUIDELINES**

#### 4.23.2 **Paving**

Plaza paving should be enhanced concrete with interesting score patterns, unit pavers, or a combination of concrete and unit pavers. Paving should be selected to complement the adjacent paved areas. Coordinate paving materials and design with Block 9 Open Space and Stack Plaza to maintain a sense of continuity. While paving of the entire area should be unified in material selection, paving patterns, textures, and variation should be used to distinguish pedestrian zones from vehicular. Ensure that unit pavers within EVA areas meet requirements for emergency vehicles.

#### 4.23.3 Planting

Planting should be incorporated into the plaza design where feasible and within the requirements of the EVA lane.

#### CONSIDERATIONS

#### 4.23.4 Paving

Vehicular-rated pervious pavers or standard pavers with compacted base should be considered for the EVA lane.

Figure 4.23.1 Block 9 Open Space: Unit 3 Entry Plaza

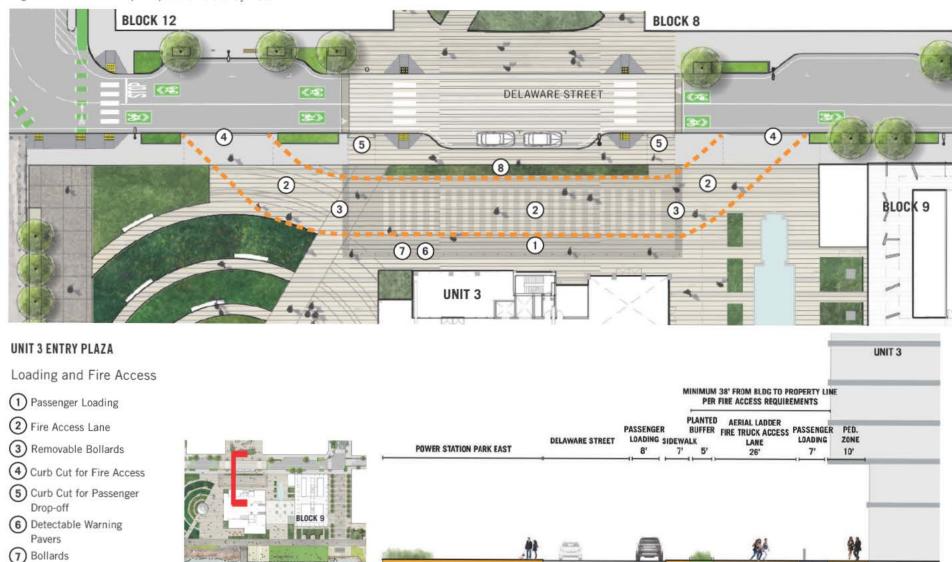


Figure 4.23.2 Unit 3 Passenger Entry Plaza: Concept Section Looking North

\_\_\_\_\_

(8) Planted Buffer

- - Aerial Ladder Fire
Truck Access Lane

#### 4.24 Humboldt Street Plaza

Humboldt Street Plaza is envisioned as an open and flexible space, primarily paved, with the ability to accommodate open air markets, performances, public art, and elements of an interpretive program, such as exhibits. The plaza will provide a car-free pedestrian connection between the terminus of Humboldt Street and the waterfront. Views of the Bay and the East Bay Hills will draw visitors from the surrounding neighborhood to the water.

#### **STANDARDS**

#### 4.24.1 Pedestrian Circulation

Pedestrian Throughways shall be established and maintained between the Blue Greenway and Delaware Street through this plaza. The plaza will be open to the public. See Figure 4.24.2.

#### 4.24.2 Emergency Vehicle Access / Circulation

26-foot clear width emergency vehicle access (EVA) shall extend between Blocks 4 and 9 from Delaware Street to the eastern edge of the building faces at Blocks 4 and 9. Paving shall be designed to accommodate the structural loading of emergency vehicles. See Figure 4.24.2.

#### 4.24.3 Amenities

The following amenities shall be provided within Humboldt Street Plaza: seating, lighting, open flexible-use plaza space, planted areas, bicycle parking, waste receptacles, and power sources for temporary markets and performances. The amenities and features shown in figure 4.24.2 are permitted in Humboldt Street Plaza.

#### 4.24.4 Program

This flexible-use plaza shall be designed to accommodate temporary events, performances, and art exhibits, subject to Exhibit L-2 of the Development Agreement.

#### 4.24.5 Food and Drink Kiosks and Carts

See Table 4.15.1 Publicly Oriented Accessory Retail Uses in Open Spaces.

#### 4.24.6 Fire Access in Open Space

Fire access to Block 4 and Block 9 shall be provided in Humboldt Plaza for maximum length of 150 feet, measured from the curb-cut or vehicular access point into the plaza. Open space fire access shall provide a minimum 26-foot-wide clear path of travel. See Figure 5.8.1 for fire access locations within open space.

#### **GUIDELINES**

#### 4.24.7 Paving

Plaza paving should be enhanced concrete with interesting score patterns, unit pavers, or a combination of concrete and unit pavers. Paving should be selected to complement the adjacent paving of the Blue Greenway.

#### 4.24.8 Furnishing

See Section 4.9 for standards and guidelines. Integrate fixed furnishing, constructed of durable materials such as concrete, hardwoods, steel, and/or cast iron, in plaza design. Moveable seating, such as café tables and chairs, is encouraged.

#### 4.24.9 Lighting

See Section 7 for standards and guidelines. Lighting at Humboldt Street Plaza should balance safety with the need to keep light pollution to a minimum. Fixtures should reinforce the linear design of the plaza.

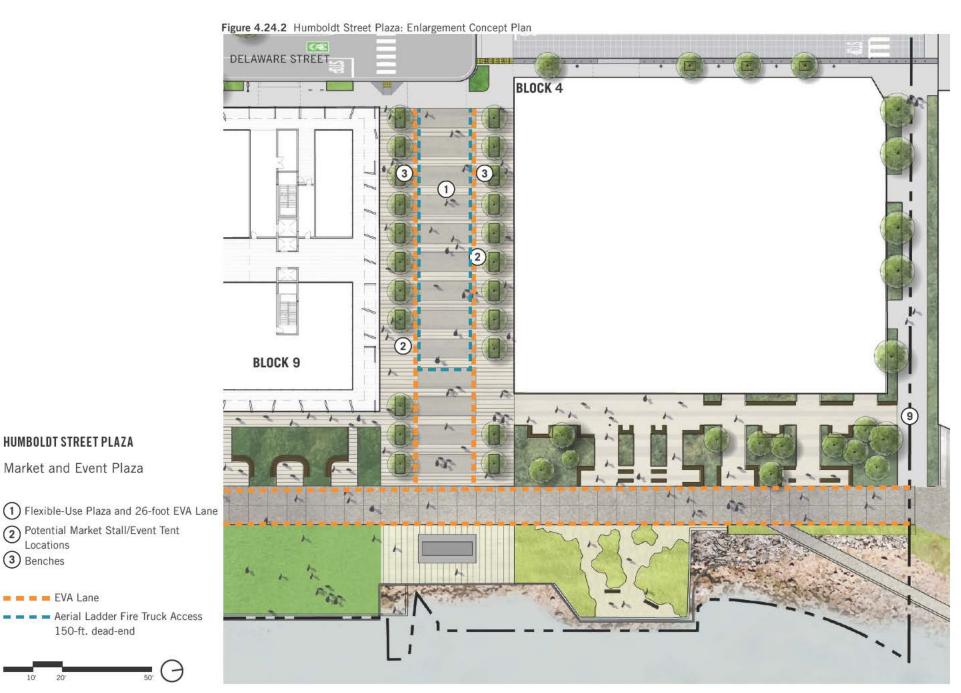
#### CONSIDERATIONS

#### 4.24.10 Paving

Consider variation in paving texture and color across the plaza width, which may serve to visually reduce the scale of paving needed for EVA.



Figure 4.24.1 Concept View West towards Humboldt Street and Block 9 from the Bay Overlook at Humboldt Street Plaza



# POTRERO POWER STATION Design for Development – February 26, 2020

**HUMBOLDT STREET PLAZA** 

Market and Event Plaza

Locations (3) Benches

EVA Lane

Potential Market Stall/Event Tent

150-ft. dead-end

# **Humboldt Street Plaza**

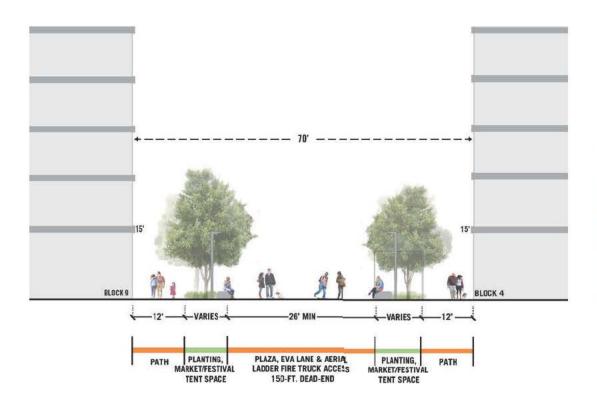




Figure 4.24.4 Humboldt Street Plaza: Precedent Images





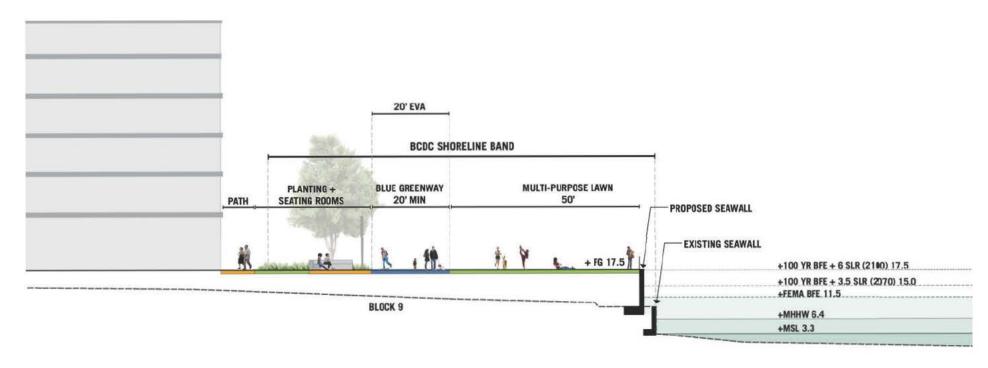


Outdoor performance.



Outdoor market.

Figure 4.24.5 Block 9 to Waterfront: Concept Section Looking North





#### Legend:

FEMA Federal Emergency Management Agency BFE Base Flood Elevation MHHW Mean Higher High Water MSL Mean Sea Level SLR Sea Level Rise

# 4.25 Power Station Park and Louisiana Paseo Overview

Located in the heart of the development, Power Station Park and Louisiana Paseo will provide Dogpatch and other local neighborhoods a rich array of active and passive recreational opportunities. Power Station Park will include opportunities for fitness, active and passive recreation, and casual social experiences. The two blocks of Power Station Park will be distinct from one another in their programming and site elements, but will be linked by common features and materials. Louisiana Paseo will provide flexible-use urban plaza spaces and car-free pedestrian areas connecting the neighborhood's retail and residential uses with the open space program.

All of these open spaces will be designed to allow for interaction with adjacent ground-floor uses of the adjacent buildings to create delightful, welcoming, and active public places.



View of Unit 3 and the Stack from Power Station Park West.

HUMBOLDT STREET MARYLAND STREET BLOCK 7 BLOCK 15 **BLOCK 8** BLOCK 11 BLOCK 12 23RD STREET

Figure 4.25.1 Power Station Park and Louisiana Paseo: Concept Plan Overview

# POWER STATION PARK AND LOUISIANA PASEO

Concept plan overview

- 1 Power Station Park East
- 2 Power Station Park West
- 3 Louisiana Paseo

# 4.26 Power Station Park and Louisiana Paseo Overview: Pedestrian Circulation

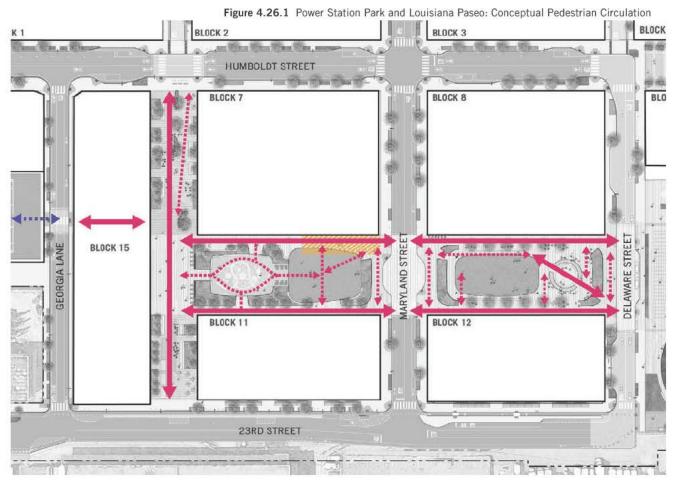
## **STANDARDS**

#### 4.26.1 Circulation: Power Station Park

Power Station Park shall establish Pedestrian Throughways in the east–west direction, creating a clear connection between the core of the neighborhood, the Stack, and potentially Unit 3. The park's primary east–west pedestrian circulation will establish a clear, straightforward connection to Louisiana Street Paseo. In the north–south direction, an open and permeable design will allow free movement across the parks.

#### 4.26.2 Circulation: Louisiana Paseo

Louisiana Paseo shall establish a Pedestrian Throughway in the north–south direction, creating a clear connection between Humboldt Street and 23rd Street.



#### POWER STATION PARK AND LOUISIANA PASEO

Conceptual Pedestrian Circulation

Primary Pedestrian: 10' W Minimum
Secondary Pedestrian: 6' W Minimum
Emergency Vehicle Access: 26' W Minimum

Public Access to Rooftop Soccer Field (See Section 6: Buildings)

# 4.27 Power Station Park and Louisiana Paseo Overview: Program

## **STANDARDS**

#### 4.27.1 Program

The open space composed of Power Station Park and Louisiana Paseo shall establish recreational amenities that will include accommodation for youth soccer, play and fitness activities for all ages, public seating areas, open flexible spaces, and stormwater treatment gardens. Design and programming of these spaces shall be established in coordination with anticipated or established ground-floor uses of adjacent buildings. See Sections 4.28, 4.29, and 4.30 for more standards and guidelines for each open space.

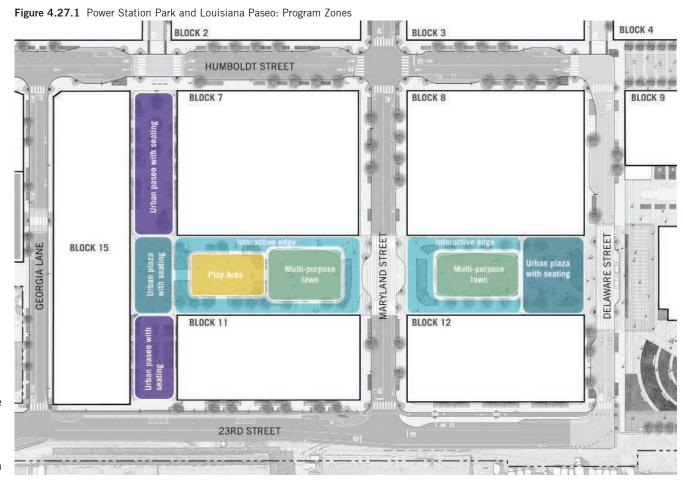
#### 4.27.2 Carts and Kiosk

See Table 4.15.1 Publicly Oriented Accessory Retail Uses in Open Spaces.

#### **CONSIDERATIONS**

#### 4.27.3 Thermal Energy Plant Piping Connection

The Project Sponsor may elect to construct shared thermal energy plants. Such a system would use shared thermal energy plants within the project site to recover waste heat from commercial buildings for heating and cooling use in residential buildings to reduce the project's overall energy and water demands. If feasible, utilities related to this system including an insulated pipe connection should be provided under the private portion of Power Station Park between Blocks 7 and 11 and Blocks 8 and 12.



#### POWER STATION PARK AND LOUISIANA PASEO

Program Zones

# 4.28 Power Station Park East

Power Station Park East will feature a social neighborhood plaza that opens up to Unit 3 and the Stack, as well as a multi-purpose lawn that can accommodate a variety of activities, including youth soccer, outdoor movies, community events, and casual lounging and play. Public seating within the plaza will afford views of the Stack and Unit 3, if Unit 3 is retained. Linear seating on the north and south edges of the lawn will help define the outdoor room and allow spectators to view a youth soccer game or practice.

#### **STANDARDS**

#### 4.28.1 Multi-Purpose Lawn

Power Station Park East shall feature an open, multipurpose lawn that can accommodate one under-6 youth soccer field.

#### 4.28.2 Plaza

Power Station Park East shall feature an open, paved plaza at its eastern end.

#### 4.28.3 Pedestrian Circulation

Pedestrian Throughways, at minimum 10-feet wide, shall be established in the east—west direction along the northern and southern building frontages. See Figure 4.28.3. This circulation pattern shall continue to Power Station Park West. Free movement in the north—south direction across the park, between buildings shall be allowed, with porous edges or edges with multiple points of entry between circulation paths and the turf field.

#### 4.28.4 Amenities

The following amenities shall be provided within Power Station Park East: open plaza space, seating, lighting,

multi-purpose lawn, planted areas, stormwater gardens, bicycle parking, waste stations, drinking fountains, and power sources for outdoor movies and other community events. The amenities and features shown in figure 4.28.1 are permitted in Power Station Park East.

#### 4.28.5 **Program**

Power Station Park East shall be designed to accommodate temporary events, including outdoor movies and community events, performances, art exhibits, and one under-6 youth soccer field, subject to Exhibit L-2 of the Development Agreement.

#### **GUIDELINES**

#### 4.28.6 Views to Unit 3 and Stack

Power Station Park design should maintain open views of the Stack and Unit 3. The eastern edge of Power Station Park should be free of large trees and other vertical obstructions that interrupt these views.

#### 4.28.7 **Paving**

Primary circulation paths at building faces should be paved with enhanced cast-in-place concrete, unit pavers, or a combination of enhanced concrete and unit pavers. Permeable unit pavers are allowed. Paving at primary circulation paths at both blocks of Power Station Park should be identical or similar to create uniformity across the two park blocks.

#### 4.28.8 Lighting

See Section 7 for standards and guidelines. Lighting should balance safety with the need to keep light pollution to a minimum. Fixtures should reinforce the linear design of the primary circulation paths on the north and south edges of the park.

#### CONSIDERATIONS

#### 4.28.9 Awnings and Architectural Canopies

To establish an intermediate scale between the park and adjacent buildings, consider a canopy structure or awning that may be freestanding or integrated with building architecture along the northern edge of Power Station Park at both East and West blocks.

#### 4.28.10 Park-Edge Trees

Trees may be planted along the park edges instead of or in addition to canopy structures or awnings as long as the minimum 10-foot wide circulation path is maintained.

#### 4.28.11 Multi-Purpose Lawn

Consider consolidating the two multi-purpose lawns in Power Station Park East and Power Station Park West into either Power Station Park East or Power Station Park West during detailed or final design to provide the opportunity for having a larger field.

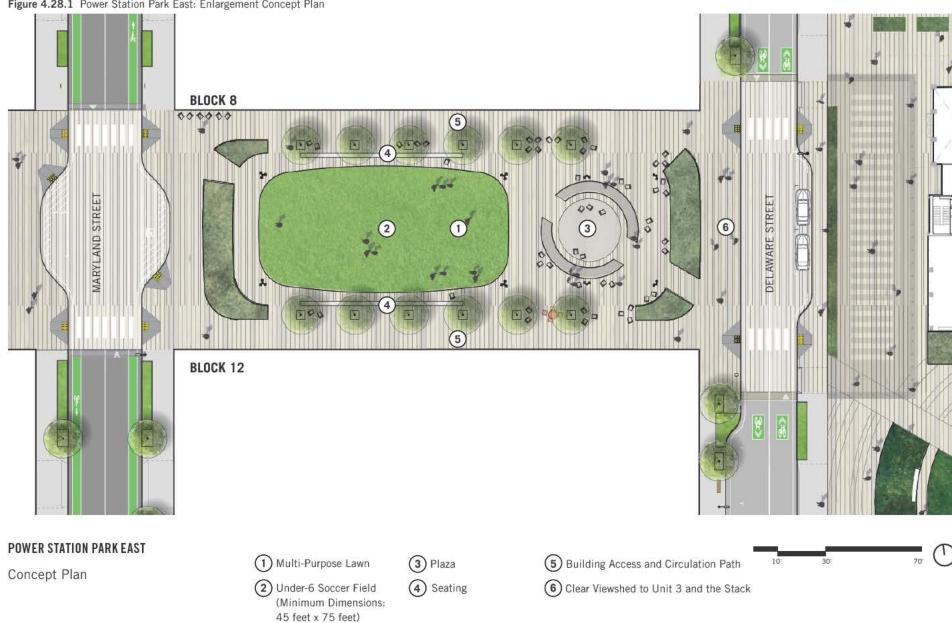
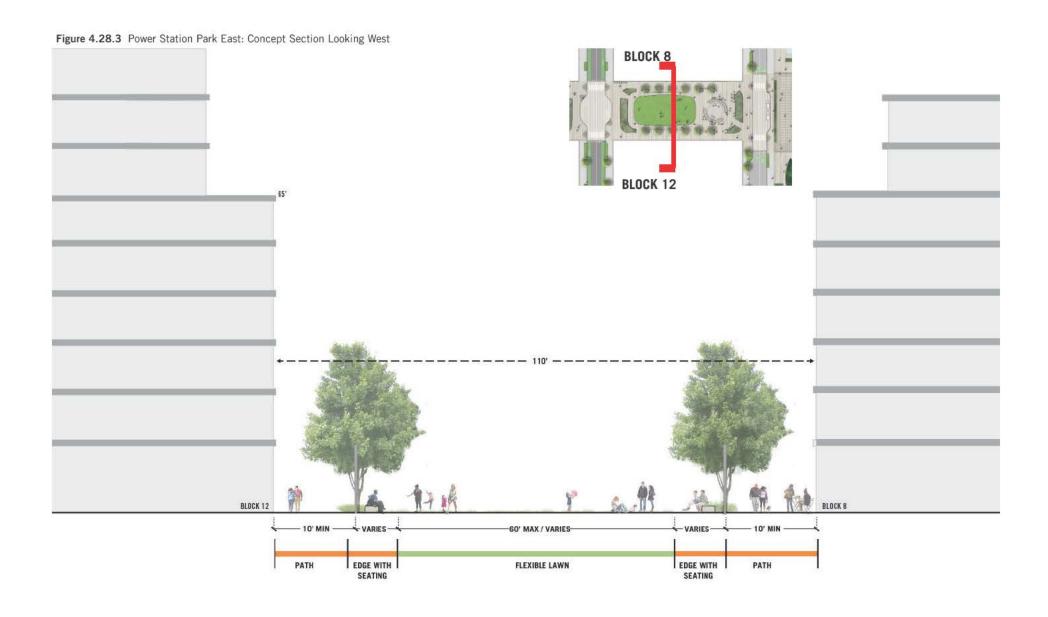


Figure 4.28.1 Power Station Park East: Enlargement Concept Plan

# **Power Station Park East**

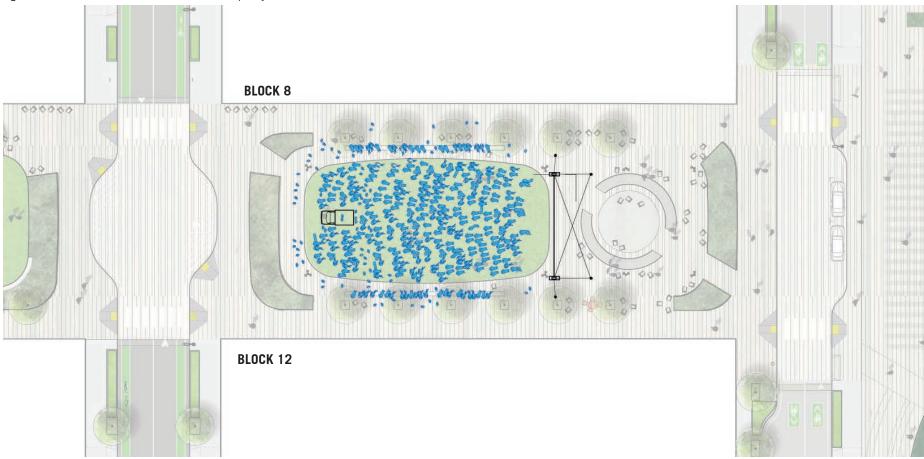
Figure 4.28.2 Power Station Park East: Conceptual View Toward Unit 3 and the Stack, Showing Edge of Flexible-Use Field and the Power Station Park East Plaza





# **Power Station Park East**

Figure 4.28.4 Power Station Park East: Event Capacity



#### POWER STATION PARK EAST EVENT CAPACITY

Diagram showing a performance or movie night accommodating over 450 people.

Figure 4.28.5 Power Station Park East: Precedent Images



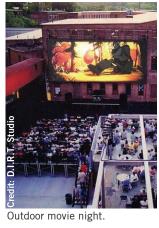
Fitness in the park.



Community plaza.



Active recreation.





Picnic in the park.



Outdoor seating on the park.

## 4.29 Power Station Park West

Power Station Park West will feature a fitness and play area for all ages and a multi-purpose lawn that can accommodate youth soccer. Signature sculptural play elements will distinguish this park, providing opportunities for active play and exercise. To the extent possible, play features shall integrate uses for all ages and not segregate people by age groups.

The Park will be designed to be interactive with the ground floors of adjacent buildings. The park design shall enhance building programming, including community uses such as day care, indoor fitness rooms, or other community spaces. Public seating on the north side of the park and around the turf area will take advantage of sun exposure. Primary circulation paths at the north and south edges of the park will provide pedestrian paths and connect the west and east blocks of the park with similar paving and path widths.

#### **STANDARDS**

#### 4.29.1 Sculptural Play Elements

Power Station Park West shall feature play structures appropriate for play and fitness for all ages. A special zone may be designated for use by an adjacent day care during day care operation hours. Outside of such hours, the special zone shall be open to the general public.

#### 4.29.2 Multi-Purpose Lawn

Power Station Park West shall feature an open, multipurpose lawn that can accommodate one under-6 youth soccer field.

#### 4.29.3 Pedestrian Circulation

A Pedestrian Throughway, having a minimum width of 10 feet, shall be established in the east–west direction along the building faces to the north and south. Free movement shall be allowed in the north–south direction across the park between buildings, through porous

edges or edges with multiple points of entry between circulation paths and the central play plaza.

#### 4.29.4 Amenities

The following amenities shall be provided within Power Station Park West: play features, seating, lighting, planted areas, stormwater gardens, bicycle parking, drinking fountains, and waste stations. The amenities and features shown in figure 4.29.1 are permitted in Power Station Park West.

#### 4.29.5 Fire Access

Fire access within Power Station Park West may be required if Block 7 is developed with more than one building. This access shall be a maximum length of 150 feet, measured from the curb-cut or vehicular access point into the open space. Open space fire access shall provide a minimum 26-foot-wide clear path of travel. See Figure 5.8.1 for fire access locations within open space.

#### **GUIDELINES**

#### 4.29.6 Paving

Primary circulation paths at building faces should be paved with enhanced cast-in-place concrete, unit pavers, or a combination of enhanced concrete and unit pavers. Paving at primary circulation paths at both blocks of Power Station Park should be identical or similar in order to create uniformity across the two park blocks.

#### 4.29.7 Lighting

See Section 7 for standards and guidelines. Lighting should balance safety with the need to keep light pollution to a minimum.

#### 4.29.8 Sculptural Play Elements

Play elements should be integrated into a cohesive urban plaza design. To the extent feasible, play features should not segregate age groups from one another. To avoid fixed barriers and fences, it is recommended that potential designated day care center activities use temporary moveable barriers/fences during use.

#### **CONSIDERATIONS**

#### 4.29.9 Awnings and Architectural Canopies

To establish an intermediate scale between the park and adjacent buildings, consider a canopy structure or awning that may be freestanding or integrated with building architecture along the northern edge of Power Station Park at both East and West blocks.

#### 4.29.10 Park-edge Trees

Trees may be planted along the park edges instead of or in addition to canopy structures or awnings as long as the minimum 10-foot wide circulation path is maintained

#### 4.29.11 Furnishing

See Section 4.9 for standards and guidelines. Furnishing should complement and be integrated into the overall park design. Moveable seating, such as cafe tables and chairs is encouraged along the northern building face. Public picnic tables or fixed cafe tables for public use are recommended. Picnic tables and bench seating should be located directly adjacent to the play area.

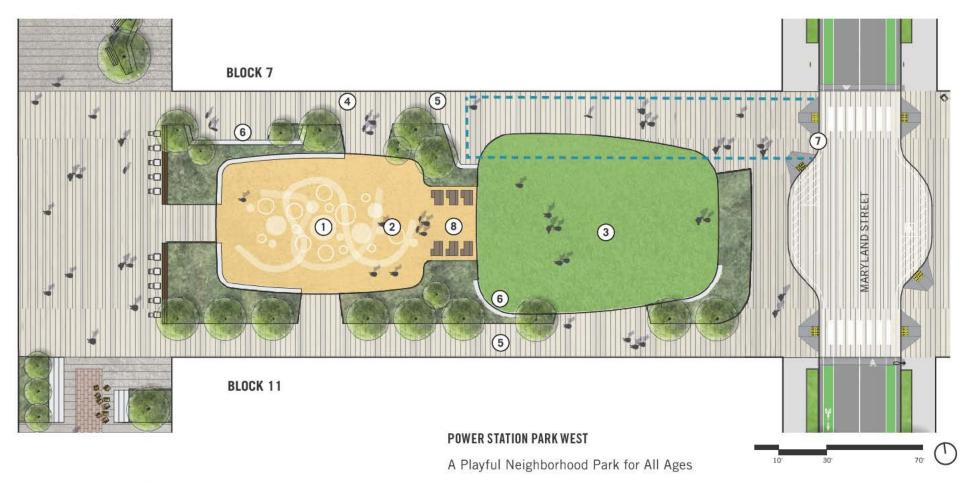
#### 4.29.12 **Lighting**

Fixtures should reinforce the linear design of the primary circulation paths on the north and south edges of the park. Accent lighting at park features such as seating and play elements may be used to provide lighting variety.

#### 4.29.13 Sculptural Play Elements

Play elements should be artful, original structures that give Power Station Park West a clear identity.

Figure 4.29.1 Power Station Park West: Enlargement Concept Plan



#### 4.29.14 Multi-Purpose Lawn

Consider consolidating the two multi-purpose lawns in Power Station Park East and Power Station Park West into either Power Station Park East or Power Station Park West during detailed or final design to provide the opportunity for having a larger field.

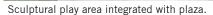
- Sculptural Play Elements -All Ages
- Play Area Potential Day Care Center Outdoor Use
- Multi-Purpose Lawn and Under 6 Soccer Field (Minimum Dimensions: 45 feet x 75 feet)
- Potential Outdoor Food Service Seating
- Building Access and Circulation Path
- 6 Public Seating
- Modified Curb for EVA Access
- Picnic Area with Tables and Benches

Aerial Ladder Fire Truck Access 150-ft. dead-end

# **Power Station Park West**

Figure 4.29.2 Power Station Park West: Precedent Images







Play features for all ages.



Sculptural play element.



Playful elements for all ages.



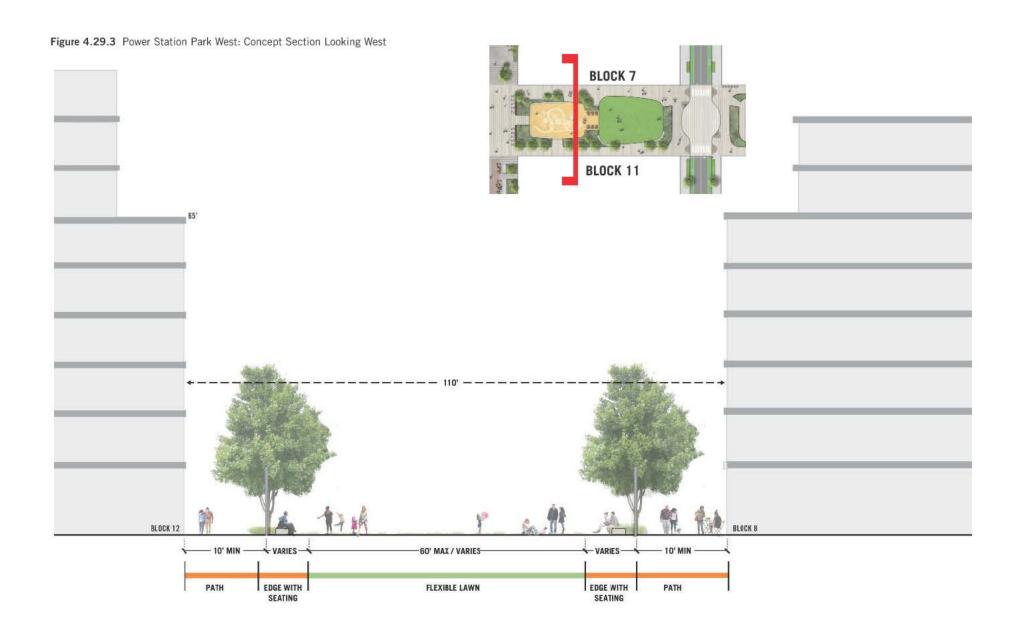
Adult fitness amenities.



Game tables.



Game tables.



# 4.30 Louisiana Paseo

Louisiana Paseo, while providing continuous pedestrian passage from block to block, will be made up of several distinct spaces. The south end of the paseo, at 23rd Street, will incorporate an open, paved plaza space that can accommodate food trucks or small neighborhood events. The plaza shall complement the commercial and light-industrial uses in the adjacent buildings at Block 15 and Block 11. Accordingly, Louisiana Paseo shall be designed to provide spill-out space relating to this public use, inviting public gathering and drawing pedestrians from Humboldt and 23rd Streets. Where it meets the west end of Power Station Park, the paseo will incorporate seating and may include game tables such as table tennis or chess. At the north end of the paseo, between Power Station Park and Humboldt Street, the paseo will be a pedestrian passage with seating that complements the adjacent Residential and Commercial uses of Block 15 and Block 7. The various spaces of Louisiana Paseo also provide opportunities for public art and elements of an interpretive program, such as interpretive exhibits.

#### **STANDARDS**

#### 4.30.1 Pedestrian Circulation

Pedestrian Throughways, having a minimum width of 10 feet, shall be established in the north–south and east–west directions through the paseo. See Figures 4.30.2 and 4.30.3

#### 4.30.2 Amenities

The following amenities shall be provided within Louisiana Paseo: seating, lighting, planted areas, stormwater gardens, bicycle parking, waste stations, and power sources for events. The amenities and features shown in figure 4.30.1 are permitted in Louisiana Paseo

# 4.30.3 Food and Drink Semi-Permanent Kiosks and Mobile Carts

See Table 4.15.1 Publicly Oriented Accessory Retail Uses in Open Spaces.

#### **GUIDELINES**

#### 4.30.4 **Paving**

Primary circulation paths and plaza spaces should be paved with enhanced cast-in-place concrete, unit pavers, or a combination of enhanced concrete and unit pavers.

#### 4.30.5 Furnishing

See Section 4.9 for standards and guidelines.

#### 4.30.6 Lighting

See Section 7 for standards and guidelines. Lighting should balance safety with the need to keep light pollution to a minimum.

#### 4.30.7 Program and Design

Louisiana Paseo should be designed to accommodate temporary events, performances, and art exhibits. If the eastern wall of Station A collapses or is damaged beyond repair, the paseo should be designed to provide welcoming spill-out space for the public use that would be required on the portion of Block 15 fronting Power Station Park. While unifying design elements such as paving, lighting fixtures, and furnishing should provide a legible identity for the entire paseo, the individual spaces at 23rd street, at Power Station Park, and at Humboldt Street should incorporate design elements and programming that are distinct from one another.

#### CONSIDERATIONS

#### 4.30.8 Lighting

Primary fixtures should reinforce the linear design of the primary circulation paths. Secondary accent lighting may be used to highlight furnishing, paving, or other site elements.

#### 4.30.9 Amenities

If the eastern wall of Station A collapses or is otherwise damaged beyond repair, amenities within Louisiana Paseo fronting Power Station Park should complement the spill-out space for the public use that then would be required on the portion of Block 15 fronting Power Station Park. Such amenities could include space for public assembly, public art, and informal recreation spaces, such as game tables, described earlier.

#### LOUISIANA PASEO

Outdoor Living Room, Spaces for Play, and A Pedestrian Paseo

- 1 Station A Plaza: Play Tables and Seating
- 2 Flexible-Use Plaza For Events, Food Trucks, Block Parties
- 3 Seating
- 4 Pedestrian Paseo and Seating
- 5 Rooftop Sports Field (See Section 4.31)
- 6 Curb Cut for Food Trucks/Maintenance Access (No Parking at this location)





Figure 4.30.2 Louisiana Paseo South: Concept Section Looking North

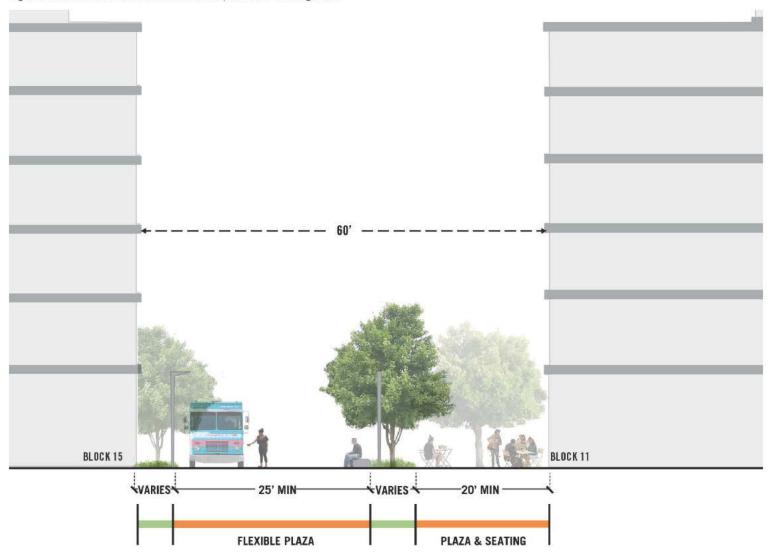
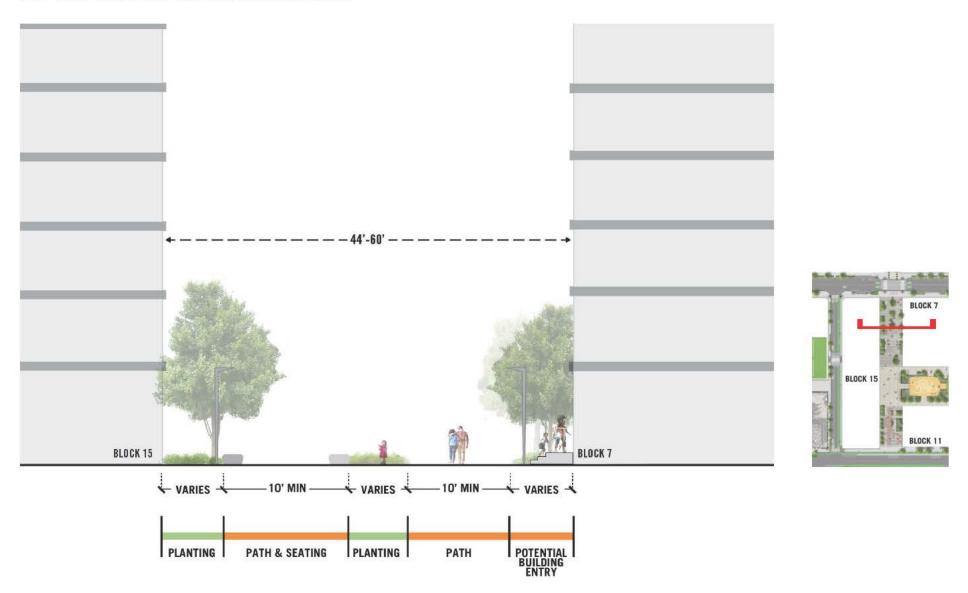




Figure 4.30.3 Louisiana Paseo North: Concept Section Looking North



# 4.31 Rooftop Soccer Field

The Power Station proposes to use a portion of the rooftop of the District Parking Garage for a publicly accessible, under-10 multi-purpose field made of high-quality artificial field turf. The location of the soccer field is proposed to be on top of Block 5, but may instead be on the roof of Block 1 or 13, which are also potential locations of the District Parking Garage. The facility is sized to accommodate casual adult-league play, youth development, and club training on one large under-10 field or three smaller under-6 fields. A field reservation system will be available for users to reserve the space. If a District Parking Garage is not constructed, an under-10 multi-purpose field will be constructed elsewhere on Blocks 5. 1 or 13. or elsewhere on-site. Such field may be indoors or outdoors.

#### **STANDARDS**

#### 4.31.1 Access

Use of the soccer field shall be open to the public, pursuant to the terms of the Development Agreement. An access route from street level shall be provided with elevator and stair access and legible wayfinding.

#### 4.31.2 Furnishing

Provide bench seating at field level for players and spectators.

#### 4.31.3 Amenities

The following amenities shall be provided at the soccer field: seating, lighting, drinking fountain, and waste stations. A restroom serving the field will be provided within the same building as the field but may be located on the ground floor. The amenities and features shown in figure 4.31.2 are permitted at the rooftop soccer field.

#### 4.31.4 Field Enclosure

A wind screen and/or protective netting shall be provided as necessary. See also height exception Standard 6.2.4.

#### 4.31.5 Field Dimensions

The field will be an under-10 field measuring 105 feet by 180 feet with 10-foot clearance on south, east, and north edges of the field. The field may be split into three under-6 fields measuring 60 feet by 105 feet. A clearance of 26 feet will be provided on the western edge of the field.

Note: These dimensions apply to a soccer field at Block 5. Should the field be located at Block 1 or Block 13, the field shall have the same minimum dimensions of 105 feet by 180 feet, but the clearances may differ. If the field is located indoors, the minimum ceiling height shall be 20 feet.

#### 4.31.6 Turf

Artificial turf is required.

#### 4.31.7 Permitted Activities

Other active recreation activities are permitted on the soccer field.

#### **GUIDELINES**

#### 4.31.8 Lighting

See Section 7 for standards and guidelines. Lighting should balance the safety and functionality of the sports field with the need to keep light pollution to a minimum.

Note: Sports field lighting is not PUC lighting.

#### 4.31.9 Field Reservation Policy

If permitted by Recreation and Parks Department (RPD), reservation of the rooftop soccer field may occur through RPD's online athletic facilities reservation system.



Figure 4.31.1 Rooftop Soccer Field: Precedent Image

Figure 4.31.2 Rooftop Soccer Field: Enlargement Concept Plan



# ROOFTOP SOCCER FIELD

Publicly accessible sports facility

- 1 Under-10 sized soccer field (105 feet x 180 feet)
- 2 Warm-up area
- (3) Benches
- Publicly accessible restroom to be located at the Block where field is located. Final location on or in building TBD.



# 4.32 Illinois Street Plaza

Illinois Street Plaza is a linear plaza that stretches between 22nd Street and Humboldt Street along the west side of Block 13. Since the plaza sits over a utility corridor and serves as an EVA lane, the primary character of the space will be driven by interesting paving and the light-industrial and commercial activity at the ground floor of Block 13.

#### **STANDARDS**

#### 4.32.1 Fire Access

Fire access within Illinois Street Plaza is required. Open space fire access shall provide a minimum 26-foot-wide clear path of travel. See Figure 5.8.1 for fire access locations within open space.

#### 4.32.2 Amenities

The following amenities shall be provided within Illinois Street Plaza: seating, lighting, planted areas, bicycle parking, waste stations. The amenities and features shown in figure 4.32.1 are permitted in Illinois Street Plaza.

#### **GUIDELINES**

#### 4.32.3 **Paving**

The plaza should be paved with enhanced cast-in-place concrete, unit pavers, or a combination of enhanced concrete and unit pavers. Vehicular rated paving systems that incorporate planted cells within the paving should be considered for the EVA lane.

#### 4.32.4 Planting

Planting should be incorporated in the plaza design where feasible and within the requirements of the EVA lane

#### 4.32.5 Furnishing

See Section 4.9 for requirements. Furnishing must be located at the edge of the building or at the back of the Illinois Street sidewalk, clear of the Pedestrian Throughway and clear of the EVA lane.

#### 4.32.6 Lighting

See Section 7 for standards and guidelines. Lighting must be clear of the EVA Lane.

Figure 4.32.1 Illinois Street Plaza: Enlargement Concept Plan

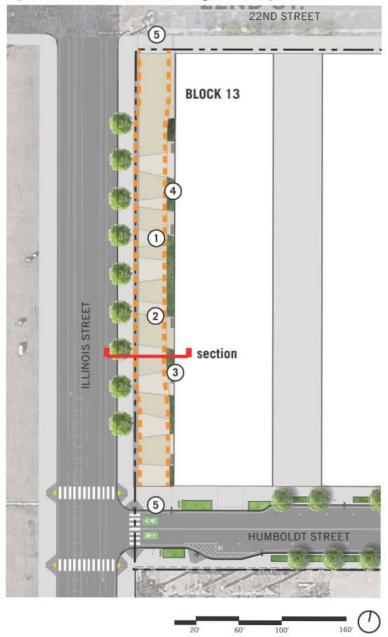
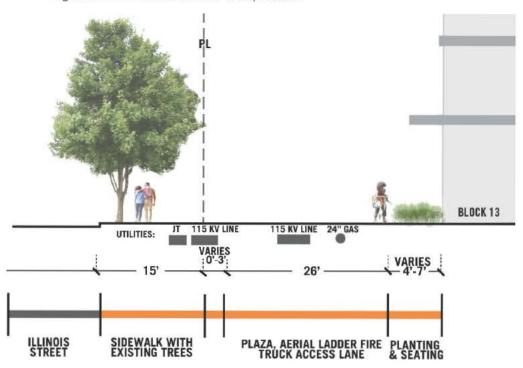


Figure 4.32.2 Illinois Street Plaza: Concept Section



#### ILLINOIS STREET PLAZA

- 1) Plaza
- (2) EVA Lane
- (3) Seating
- 4 Planting
- 5 EVA Curb Cut

- - - - Truck Access Lane

# 4.33 Block 9 Building and Open Space Configuration Without Unit 3

If Unit 3 is not retained, the open space and building footprint at Block 9 will be reconfigured (see Sections 6.11 and 6.13). In this configuration, the southern edge of the new Block 9 building will align with the southern edge of Block 8, creating a continuous open space that connects Power Station Park to the Blue Greenway and the Bay. In this configuration, a unified Stack Plaza design extends from 23rd Street to Block 9, creating a grand civic space on the waterfront that incorporates paved plazas, gardens, and a south-facing lawn oriented to the Stack. A singular paving design links Stack Plaza to the Plaza spaces to the south and east of Block 9. The Plaza between the lawn and Block 9 may accommodate permanent and rotating art and interpretive exhibits, while allowing for everyday public seating and gathering.

The open space surrounding Block 9, extending from the south edge of Block 4 to the south edge of Stack Plaza, shall be characterized by a seamless design that reads and functions as one integrated space. The plaza and turf area shall be open, flexible-use space, appropriate for temporary events, public art, and the display of interpretive exhibits. The design shall include a balance of paving and green space while also including stormwater management gardens as needed. As the signature open space on the site, the design shall be of the highest caliber.

#### **STANDARDS**

#### 4.33.1 Bicycle Circulation

See Section 4.21.1.

#### 4.33.2 Pedestrian Circulation

See Section 4.21.2. A Pedestrian Throughway shall connect Delaware Street to the Blue Greenway in the east—west direction within the plaza south of Block 9.

#### 4.33.3 Planting

See Section 4.21.3.

#### 4.33.4 Amenities

See Section 4.21.4. A plaza south of Block 9 and a south-facing flexible-use turf area shall be provided. The amenities and features shown in figure 4.33.1 are permitted in the open space associated with the Block 9 alternative configuration.

#### 4.33.5 Public Access

Block 9 Plaza shall remain open and accessible to the public. Please see Section 4.18 for standards and guidelines regarding Food Service Areas.

# 4.33.6 Food and Drink Semi-Permanent Kiosks and Mobile Carts

See Table 4.15.1 Publicly Oriented Accessory Retail Uses in Open Spaces.

### 4.33.7 Paving

See Section 4.21.5

#### **GUIDELINES**

#### 4.33.8 Furnishing

See Section 4.21.6.

#### 4.33.9 Lighting

See Section 4.21.7

#### 4.33.10 Program

See Section 4.21.8 The flexible-use plaza and turf area should be designed to accommodate temporary events, performances, and art exhibits. Permanent public art features are allowed.

#### 4.33.11 Connection to Spreckels Warehouse

See Section 4.21.9.

#### **CONSIDERATIONS**

#### 4.33.12 Visual Buffer

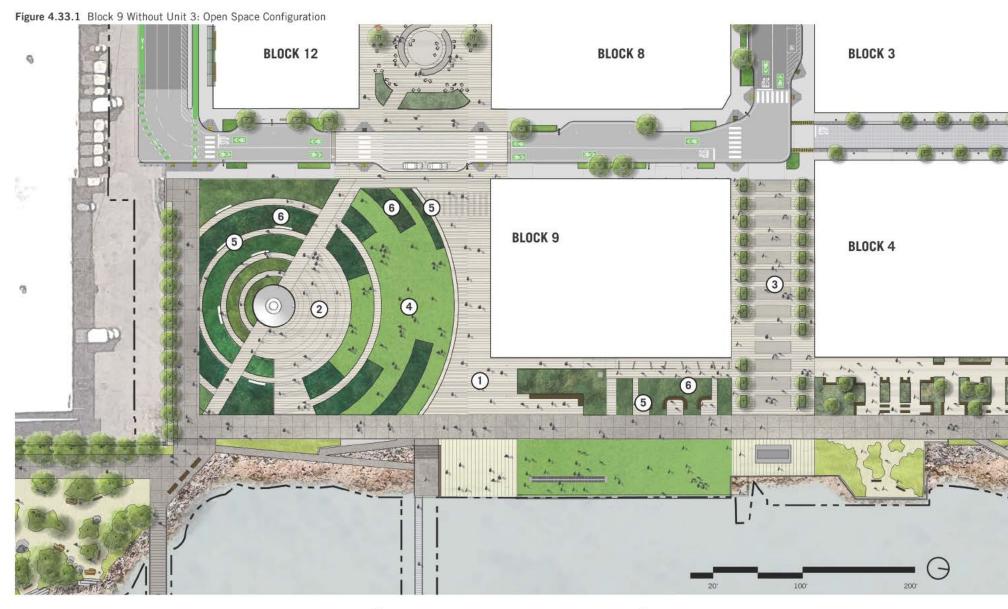
See Section 4.21.10

#### 4.33.13 Stormwater Management

See Section 4.21.11

#### 4.33.14 Program

See Section 4.21.12



# BLOCK 9 ALTERNATIVE CONFIGURATION WITH STACK PLAZA AND HUMBOLDT STREET PLAZA

Conceptual Scenario in which Unit 3 is Not Retained

- 1) Block 9 Plaza: Multi-Use Event and Art Plaza
- 2 Stack Plaza
- (3) Humboldt Street Plaza

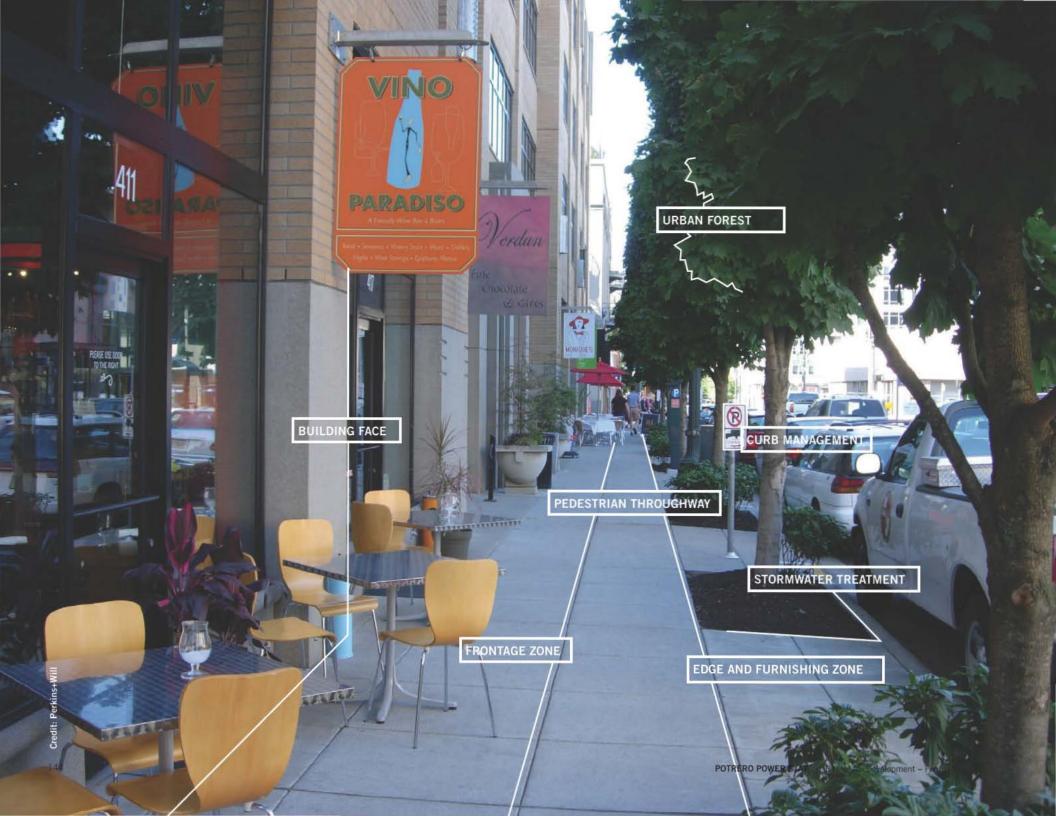
- 4 Turf Area
- (5) Public Seating
- 6 Planting

OPEN SPACE

[This page intentionally left blank.]

# Section 5 STREETS

| Streets |                                    |     |      |                                       |     | Street Character |                  |     |
|---------|------------------------------------|-----|------|---------------------------------------|-----|------------------|------------------|-----|
| 5.1     | Street Overview                    | 146 | 5.10 | Universal Passenger Loading Zones and |     | 5.16             | 23rd Street      | 190 |
| 5.2     | Pedestrian Network                 | 148 |      | Accessible Parking Stalls             | 168 | 5.17             | Maryland Street  | 202 |
|         |                                    |     | 5.11 | Urban Forest: Streets                 | 172 | 5.18             | Humboldt Street  | 208 |
| 5.3     | Bicycle Network                    | 152 | 5.12 | Streetscape Planting                  | 178 | 5.19             | Georgia Street   | 214 |
| 5.4     | On-Street Class II Bicycle Parking | 156 | 5.13 | Stormwater Management                 | 180 |                  |                  |     |
| 5.5     | Transit Network                    | 158 |      |                                       |     | 5.20             | Georgia Lane     | 216 |
| 0.0     |                                    | 100 | 5.14 | Furnishing                            | 182 | 5.21             | Delaware Street  | 222 |
| 5.6     | Shuttle Network                    | 160 | 5.15 | Paving and Materials                  | 184 | 5.22             | Louisiana Street | 228 |
| 5.7     | Vehicular Network                  | 162 |      |                                       |     | 3.22             | Louisiana Street |     |
|         |                                    |     |      |                                       |     | 5.23             | Craig Lane       | 230 |
| 5.8     | Emergency Vehicle Access           | 164 |      |                                       |     | 5.24             | 22nd Street      | 236 |
| 5.9     | Curb Management                    | 166 |      |                                       |     |                  |                  |     |
|         |                                    |     |      |                                       |     | 5.25             | Illinois Street  | 237 |



# **Streets**

The quality of a neighborhood's public life is largely defined by what happens in its streets.

The Streets section implements the "Complete Streets" concept described in the Vision and provides detailed controls for the site's array of streetscapes. This section begins with an overview of street types and moves on to describe the pedestrian, bicycle, transit, shuttle, and vehicular networks that create the site's transportation system. The Power Station project will include several complementary street typologies that create a variety of different experiences for residents, workers, and visitors. These varied street types facilitate different uses and speeds of movement, from an afternoon stroll to a morning bicycle ride to work.

Streets at the Power Station project are designed to be pedestrian-and bicycle-friendly, with generous sidewalks and narrow vehicular travel lanes designed to facilitate slower vehicle speeds and prioritize safe pedestrian travel. Public transit is seamlessly integrated into the design, and optimally located to facilitate and encourage transit use. Street types and designs conform to the *San Francisco Better Streets Plan (2010)*, enhancing the public realm with a robust network of complete-street typologies. Proposed street designs included in this section have been carefully reviewed by San Francisco Department of Public Works (SF Public Works), San Francisco Fire Department (SFFD), San Francisco Municipal Transportation Authority (SFMTA), and San Francisco Public Utilities Commission (SFPUC), and found to be compatible with 2015 SF Public Works Subdivision Regulations and other regulations that sometimes conflict with the *Better Streets Plan*.

# 5.1 Street Overview

The *Better Streets Plan* seeks to balance the needs of all users with an understanding that, because they serve a multitude of social, recreational, and ecological roles, streets themselves are an integral component of the public realm and city fabric.

In accordance with the Better Streets Plan, streets at the Power Station project will connect to the surrounding neighborhood with well-designed sidewalks. They employ a unified palette of pedestrian-oriented streetscape materials that follow universal design principles and satisfy SF Public Works accessibility requirements. Space for retail spill-out and moments of casual interaction, integrated with the design, support adjacent businesses and community-serving public spaces. Curb space is designed to accommodate as much loading and servicing need as possible, in an effort to reduce vehicular and pedestrian conflicts by limiting the number of driveways provided within the project. A generous canopy of trees and integrated stormwater treatment areas contribute to a verdant, attractive, and ecologically sustainable streetscape. Streets are designed to maximize pedestrian and cyclist safety, upholding Vision Zero SF, a policy adopted by the City and County of San Francisco in 2014.

Consistent with the *Better Streets Plan* and Vision Zero SF, the site will include the following street types, illustrated in Figure 5.1.1:

- Neighborhood Commercial Streets are those where San Franciscans do their daily errands, meet with friends, and shop and play on weekends. Accordingly, they must accommodate a variety of needs, including ample foot traffic as well as short-term parking for customers and loading space requirements for merchants.
   Neighborhood commercial streets include Humboldt Street, Maryland Street, Georgia Street, and the portion of Delaware Street south of Humboldt Street.
- Mixed-Use Streets serve a variety of low-intensity industrial uses in addition to residences, shops, and services. Mixed-use streets are often wide streets, with higher volumes of faster-moving traffic. Their use and character are in a state of constant change. 23rd Street will be a mixed-use street.
- Alleys are small-scale streets that typically only carry low numbers of vehicles accessing adjacent properties.
   Alleys will include Georgia Lane, Louisiana Street, and the portion of Delaware Street north of Humboldt Street. Louisiana Street and the portion of Delaware Street north of Humboldt Street may be shared streets, which are alleys without raised curbs. Craig Lane will be a one-way service alley with curbs and conventional sidewalks.
- Shared Streets are alleys without curbs. The goal
  of designating a shared street is to calm traffic and
  create a safe environment that encourages public
  activity. Louisiana Street and the portion of Delaware
  Street north of Humboldt Street may be shared streets.

#### **STANDARDS**

#### 5.1.1 Requirements

Streets shall be designed for SU-30 Single Unit trucks and to accommodate WB-40 Intermediate Semitrailers (therefore WB-40 trucks may need to use adjacent travel lanes in order to turn). Streets shall adhere to the standards and guidelines contained within this section. For specific requirements for each street, see Street Character Sections 5.16 through 5.25.

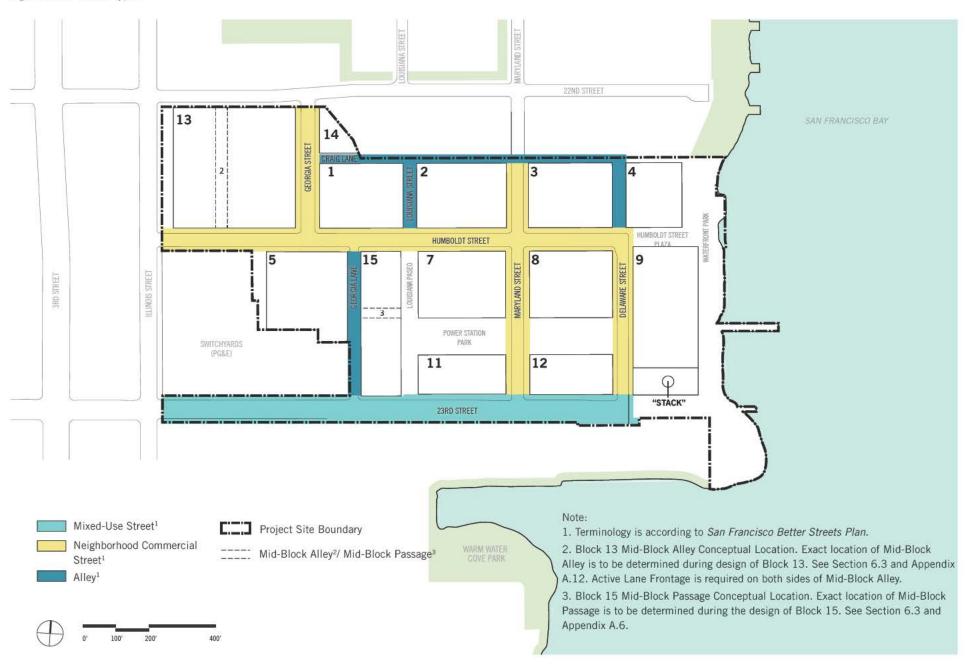
#### 5.1.2 Public Rights-of-Way

Public streets at the Power Station project must comply with Department of Public Works (SF Public Works) standards, and be publicly accessible, subject to reasonable maintenance, operations, repair, and emergency access rights. Refer to Figure 5.13.1 for public rights-of-way planned for the Power Station project.

#### 5.1.3 Signage and Markings

All intersections shall comply with City of San Francisco standards for signage and street markings.

Figure 5.1.1 Street Types



# 5.2 Pedestrian Network

Sidewalks within public rights-of-way (ROWs) and throughways within open spaces at the Power Station project are designed to prioritize the safety and convenience of pedestrians with highly visible crossings, curb extensions that minimize crossing distances, and ample sidewalk space.

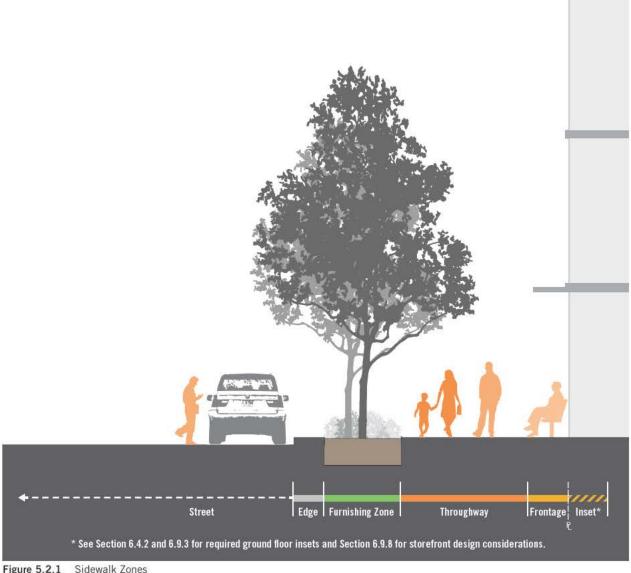
Sidewalks—the area between the curb and the property line—balance pedestrian travel with landscaping, furnishings, lighting, and other elements such as signage and fire hydrants. The following zones, consistent with the Better Streets Plan, help organize the aforementioned elements. See Figure 5.2.1 Sidewalk Zones.

Edge Zone. This area is used for the loading and unloading of people and goods. The edge zone shall be 24 inches in width (measured from the curb or streetedge) and located where there is adjacent parking or loading activities.

Furnishing Zone. This portion of the sidewalk is used for street trees, landscaping, transit stops, street lighting, furniture (such as benches), trash receptacles, bicycle racks, and other amenities. The width of the furnishing zone ranges from 3 to 5 feet, but can be wider as needed.

Throughway Zone. This zone is used for pedestrian travel. The throughway zone, also called the Pedestrian Throughway, varies in width, but is in no event less than 4 feet wide.

Frontage Zone. This area, adjacent to the building, provides a transition from the activity inside the building to that of the street.





Furnishing Zone



Edge Zone

POTRERO POWER STATION Design for Development – February 26, 2020



Throughway Zone



Frontage Zone

#### **STANDARDS**

#### 5.2.1 Pedestrian Throughway

The Pedestrian Throughway shall be an accessible path of travel.

A) On all street types, except for alleys and shared streets, a minimum six-foot-wide Pedestrian Throughway shall be provided.

B) On alleys and shared streets, a minimum 4-foot-wide Pedestrian Throughway shall be provided, with a minimum 5 foot by 5 foot passing zone at a maximum of 200 feet on center. A 6-foot-wide path of travel shall be maintained where feasible. See Street Character sections (5.16 through 5.25) for streetscape details.

#### 5.2.2 Raised Pedestrian Crossings

Raised pedestrian crossings shall be provided in the following locations, illustrated in Figure 5.2.2:

- Where Power Station Park crosses Maryland and Delaware streets;
- At the intersection of Humboldt and Louisiana streets; and
- At the mid-block crossing on Georgia Lane.

The surface, elevation, and design of raised pedestrian crossings shall comply with SF Public Works and SFPUC standards.

At raised crossings, Pedestrian Throughways across the intersection shall be indicated with crosswalks.

#### 5.2.3 Shared Streets

Shared streets apply a continuous single surface treatment across the width of the ROW, with no raised curbs. Louisiana Street and the portion of Delaware Street north of Humboldt Street may be shared streets, as shown in Figure 5.2.2. In the event that these segments north of Humboldt are not shared streets, they would have raised curbs at least 4 inches in height. Additional detail is given in the D4D sections regarding the streetscape of Delaware Street (Section 5.21) and Louisiana Street (Section 5.22).

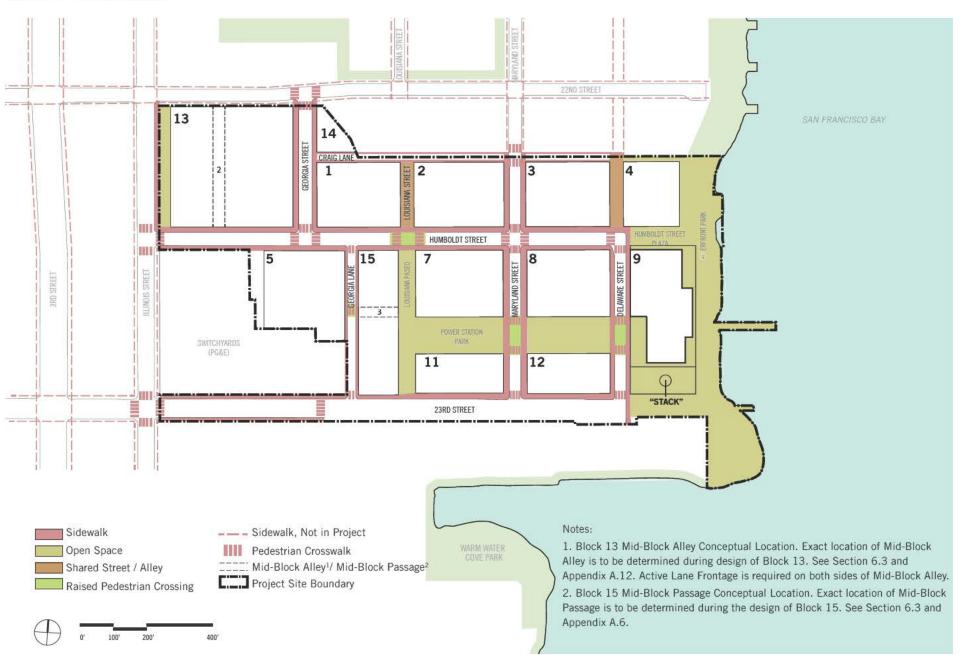
#### 5.2.4 Crosswalks

Crosswalk treatments shall comply with City requirements and with SF Public Works standards. Surfacing of crosswalks shall meet ADA standards.

#### 5.2.5 Bulb-outs

Bulb-outs shall be used wherever feasible based on design vehicle turning movement requirements to decrease pedestrian crossing distances and to create additional space for pedestrians, public seating and furnishing. The width of bulb-outs will be maximized to the extent reasonable based on vehicle turning movements and required utility separation to curb. Bulb-outs shall not be required if they will not be accepted by SF Public Works.

Figure 5.2.2 Pedestrian Network



# 5.3 Bicycle Network

The Power Station project's internal bicycle network is designed to connect cyclists safely and efficiently to destinations within and adjacent to the site (See Figure 5.3.1). Ranging from shared-roadway markings (sharrows) to protected bicycle lanes, all public streets at the Power Station project will include bicycle facilities.

#### **Bicycle Lane Classifications**

Class I bikeways, also known as bicycle paths or shared-use paths, are facilities with exclusive right-of-way for bicyclists and pedestrians, situated away from the roadway, and with cross-flows by motor traffic minimized. Some systems provide separate pedestrian facilities. Class I facilities support both recreational and commuting opportunities. Class I facilities are commonly applied along rivers, shorelines, canals, utility rights-of-way, and railroad rights-of-way; within school campuses; and within and between parks.

Class II bikeways are bicycle lanes established along streets and defined by pavement striping and signage that delineates a portion of a roadway for bicycle travel. Bicycle lanes are one-way facilities, typically striped adjacent to motor traffic travelling in the same direction. Contraflow bicycle lanes can be provided on one-way streets for bicyclists travelling in the opposite direction.

Class III bikeways, or bicycle routes, designate a preferred route for bicyclists on streets shared with motor traffic and are not served by dedicated bikeways, in order to provide continuity to the bikeway network. Bicycle routes are generally not appropriate for roadways with higher motor traffic speeds or volumes. Bicycle routes are established by placing bicycle-route signs and optional sharrows along roadways.

A Class IV separated bikeway, often referred to as a cycle track or protected bicycle lane, is for the exclusive use of bicycles, physically separated from motor traffic with a vertical feature. The separation may include, but is not limited to, grade separation, flexible posts, inflexible barriers, or on-street parking. Separated bikeways can provide for one-way or two-way travel. By providing physical separation from motor traffic, Class IV bikeways can reduce the level of stress and improve comfort for more types of bicyclists, and contribute to an increase in bicycle volumes and mode share.

Note: Bicycle lane classifications above are from "Caltrans Bikeway Classification Guide," published July 2017.



Class I B keway



Class III B keway





Class IV Separated B keway

### **STANDARDS**

#### 5.3.1 Waterfront Connection

The Blue Greenway shall conform to the street sections shown in Section 5.16, connecting to bicycle facilities on 23rd Street and Pier 70. Design shall include effective warning cues and controls, per National Association of City Transportation Officials (NACTO), and shall adhere to SFMTA guidelines in order to minimize pedestrian, bicycle, and vehicular conflict. See Section 5.16.

#### 5.3.2 Pier 70 Connection

The Class II bicycle lanes on Maryland Street shall connect to proposed bicycle facilities north of Craig Lane, as shown in Figure 5.17.1. Effective warning cues and controls per NACTO and SFMTA guidelines shall be included in the design of the Maryland Street facility to minimize pedestrian, bicycle, and vehicular conflict when transitioning to and from the Class II to the Class III facility proposed for Pier 70.

### 5.3.3 Required Bicycle Facilities

#### A) 23rd Street

A Class IV bicycle facility shall be provided on the north side of the street, extending from Illinois Street to Delaware Street. A Class IV bicycle facility shall be provided on the south side of the street from Illinois Street to Georgia Lane. A Class II bicycle lane shall be provided on the south side of 23rd Street from Georgia Lane to Delaware Street. See Figure 5.3.1.

### B) Maryland Street

Class II bicycle lanes shall be provided on the east and west sides of the street. The bikeway design for Maryland Street is tentative. The Project will continue to work with the City towards the design of a separated bikeway within the 64' right-of-way proposed on Maryland Street. Such a design change would be reviewed by City infrastructure agencies and incorporated into City approvals as part of the first Basis of Design submittal.

## C) Georgia Lane

A Class II bicycle lane shall be provided on the east side of the street; sharrows shall be provided on the west side of the street.

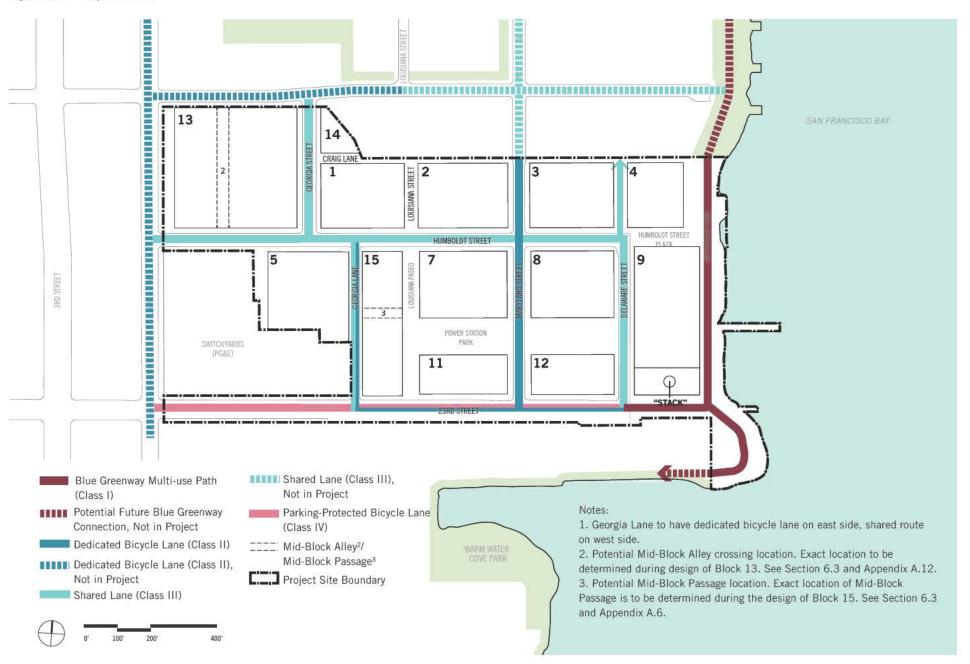
#### D) Other Streets

A Class III bicycle facility shall be provided on Georgia Street, Georgia Lane (southbound), Humboldt Street, and Delaware Street.

#### E) Blue Greenway

See Section 4.16 Waterfront Open Spaces Circulation and 5.16 23rd Street.

Figure 5.3.1 Bicycle Network



## 5.4 On-Street Class II Bicycle Parking

## **STANDARDS**

#### 5.4.1 Bicycle Parking

Class II Bicycle Parking shall comply with the ratios, design, and location standards and guidelines described in Section 6.21.





Examples of a Class II bike rack.

### **GUIDELINES**

#### 5.4.2 Bicycle Rack Placement

Bicycle racks shall be provided near major destinations, such as childcare facilities, libraries, transit stops, major shopping and service destinations, as well as other locations with high pedestrian traffic.

Racks should be located either in the furnishing zone or on curb extensions where possible. Racks should not be placed at accessible parking (blue curb) zones, passenger loading zones, or near curb ramps where they might potentially restrict ADA access.

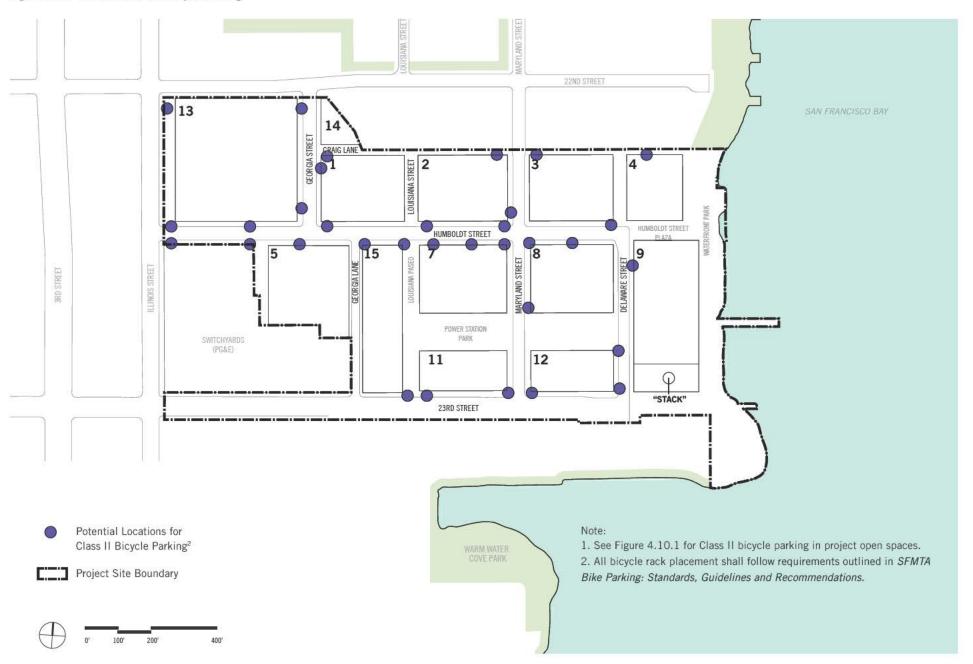
For bicycle rack placement at the Muni transit stop, see SFMTA *Bike Parking: Standards, Guidelines and Recommendations, Appendix E: Bicycle Racks at Transit Stops*, updated December 3, 2015).

Bicycle rack locations shown in Figure 5.4.1 are intended to serve as illustrative guidelines, though Class II bicycle parking shall comply with the standards regarding bicycle parking provided in Section 6.21.

## 5.4.3 Bicycle Parking Lighting

Bicycle parking areas should be sufficiently lit for safety and functionality. See Section 7.2 for Street Lighting Design.

Figure 5.4.1 On-Street Class II Bicycle Parking



## 5.5 Transit Network

The Power Station project benefits from close proximity to both regional and local public transit services. A planned Muni bus line will bring the transit system into the site itself, providing a convenient option for accessing the broader City and regional transit networks.

The planned Muni line, the "55," is proposed to run through the site via Maryland, Humboldt, and Delaware Streets, and the Power Station project will provide a terminus on 23rd Street (see Figure 5.5.2 for the proposed route through the site and Figure 5.16.7 for a street cross-section of 23rd Street at the terminus). Although the exact path of the new line outside the site has not been finalized, it is envisioned to continue west of the site through the Dogpatch, lower Potrero Hill, and Mission neighborhoods before connecting to the 16th Street Bay Area Rapid Transit (BART) station and, potentially, the Castro Muni Metro station.

A terminal stop for the 55 is proposed on 23rd Street, adjacent to Block 12 at the Power Station. A transit shelter and restroom for Muni drivers, is planned for Block 12. See Section 6.10.1 Transit Support Facilities for requirements.

## **STANDARDS**

## 5.5.1 Bus Layover

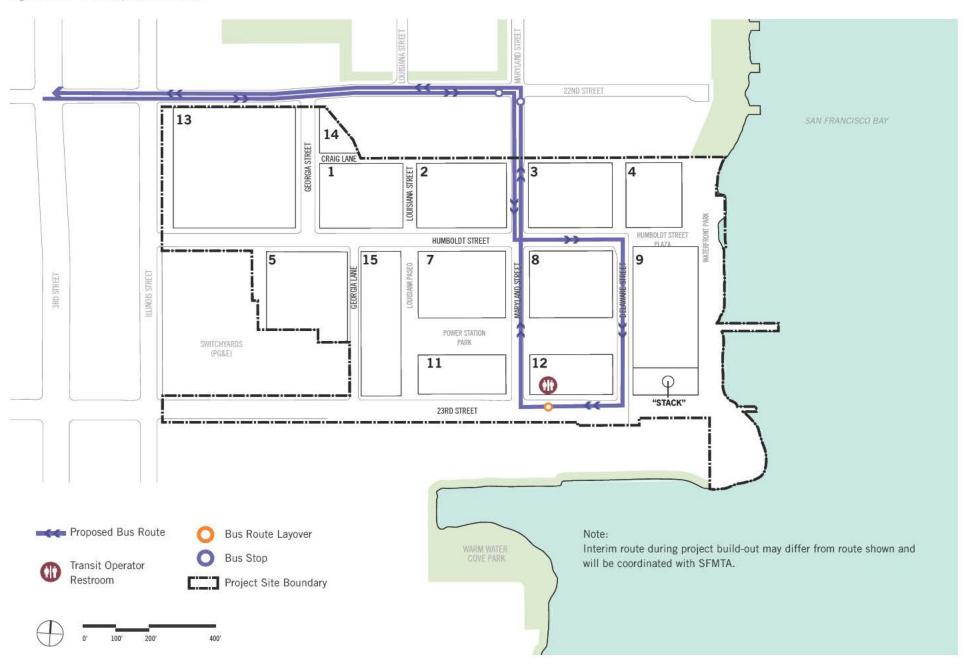
The bus layover shall meet SFMTA requirements for a terminal stop, which can accommodate two 40-foot buses. See Figure 5.16.7.

#### 5.5.2 Bus Shelter

Due to utility easement constraints, the bus shelter provided at the terminal stop shall be coordinated with the building design on Block 12 (See Section 6.10.1).



Figure 5.5.2 MTA Proposed Bus Route



## 5.6 Shuttle Network @

The project is located close to the region's core rapid transit services. To facilitate adequate connections to BART and Caltrain, the site will provide peak-period shuttle connections at 15 minute intervals to the 16th Street/Mission BART station, with a stop at the 22nd Street Caltrain station. The route of the shuttle may change over time, as approved by the SFMTA.

The shuttle service is intended to supplement SFMTA service, not replace it. As described in Section 5.5, SFMTA's planned 55 bus line will serve the 16th Street/ Mission BART station. Additionally, the agency has approved significant service increases on the T-Line light-rail line, which will provide improved access to downtown. The project will provide sufficient service to meet the needs of residents, employees, and visitors, and in keeping with that commitment, shuttle service consistent with the project's Transportation Demand Management Plan will be provided. Future routes will be coordinated with SFMTA.

See Figure 5.6.1 for the proposed Shuttle Route Plan within the larger city context. See Figure 5.6.2 for the proposed shuttle route on-site. Two routes are shown; the alternate route without the connection through Pier 70 is provided to allow for flexibility during implementation.

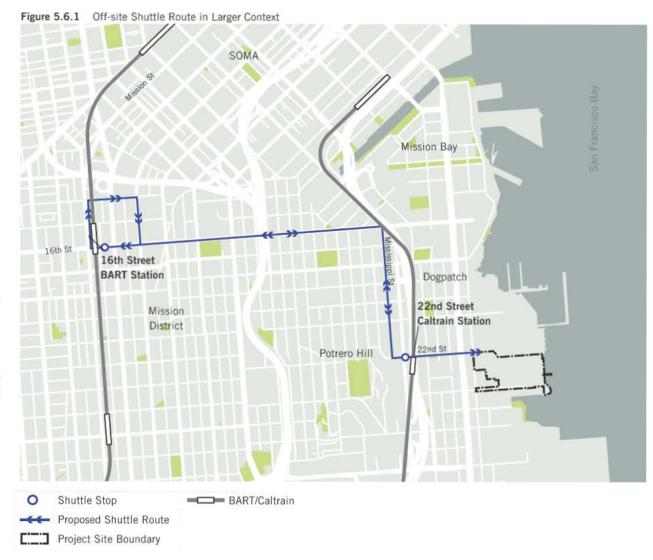
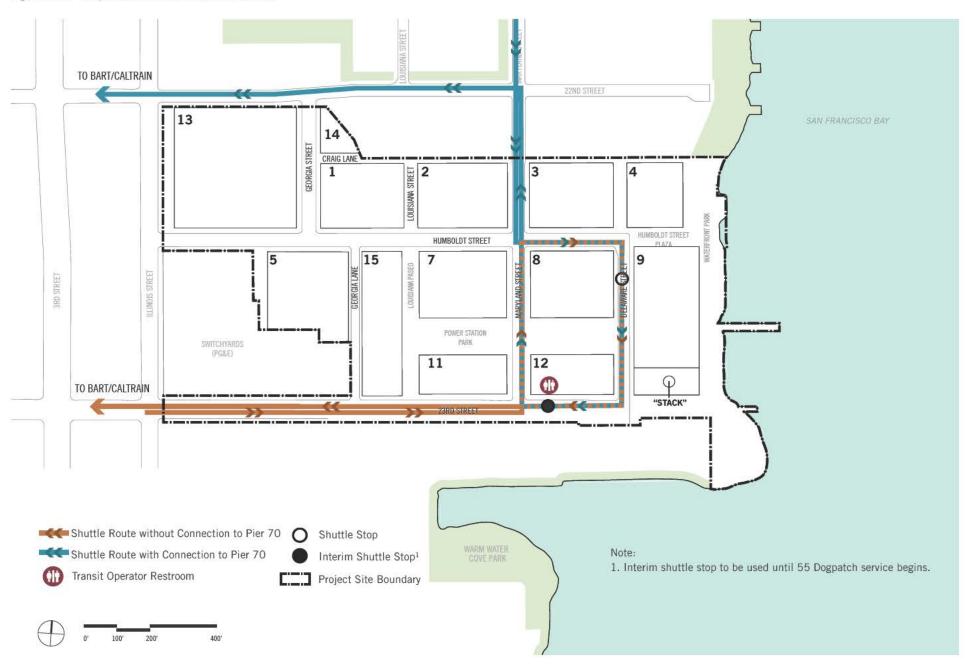


Figure 5.6.2 Proposed Shuttle Routes Within the Site



## 5.7 Vehicular Network

The Power Station project's street network has been designed as an extension of the City's existing grid. Maryland Street will provide a direct north-south spine for vehicle travel through the site, while Humboldt and 23rd Streets, with their direct connections to Illinois and Third Streets, respectively, will provide east-west connections to and from the site.

Traffic-calming measures will be an important aspect of the vehicular network. Bulb-outs, raised streets and intersections, midblock crossings, special paving zones, and on-street parking will work together to slow vehicular traffic and create a safe environment for non-vehicular modes of travel.

## **STANDARDS**

#### 5.7.1 Vehicular Circulation

All streets at the Power Station project shall have two-way traffic circulation, with the exception of Craig Lane, which shall have one-way traffic in the westbound direction only. Refer to Figure 5.7.1.

#### 5.7.2 Intersections

All stop-controlled and signalized intersections shall adhere to SFMTA standards for signage and street markings. Refer to Figure 5.7.1 and to the Infrastructure Plan.

Where crosswalks at uncontrolled intersections are proposed, an appropriate combination of traffic control strategies, including crosswalk markings, shall be employed to maximize visibility and safe pedestrian crossing.

#### 5.7.3 Traffic Calming

Traffic-calming measures shall include the following:

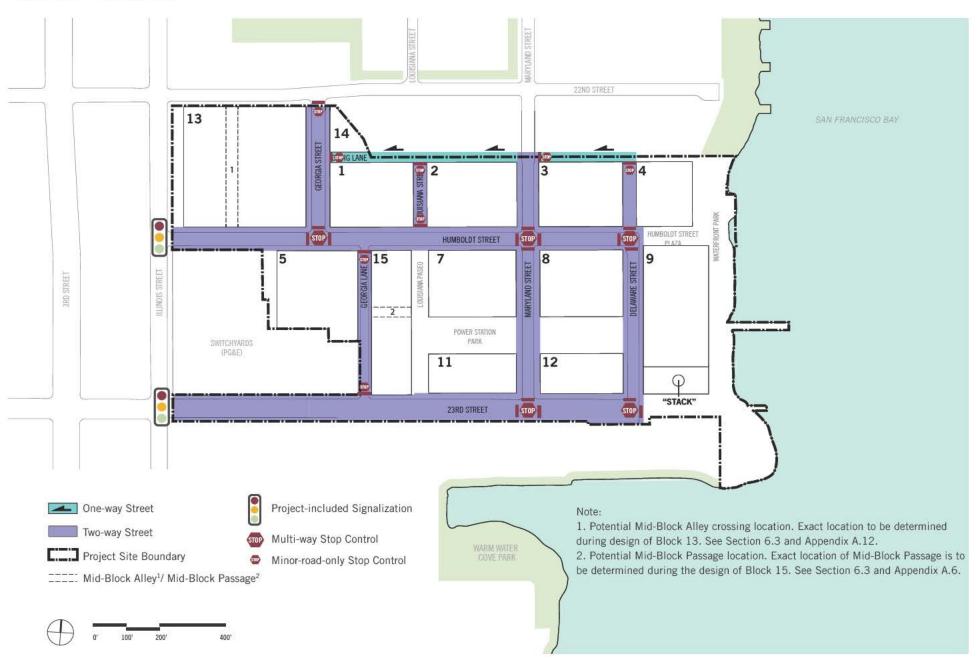
**Bulb-outs.** See Street Character Sections 5.16 through 5.22 for locations.

Midblock Crossings. See Figure 5.2.2 for locations.

Raised Pedestrian Crossings. See Figure 5.2.2 for locations.

**Special Paving.** See Section 5.15 for paving strategies.

Figure 5.7.1 Vehicular Network



## 5.8 Emergency Vehicle Access

#### **STANDARDS**

#### 5.8.1 Fire Access in Streets

Streets shall provide a minimum 26-foot-wide clear path of travel where indicated in Figure 5.8.1 unless otherwise approved by SFFD. The 26-foot-wide clear path is to be positioned such that the truck ladder turn table can be positioned at least 15 feet and no greater than 30 feet from the building.

The clear-path dimension assumes that parked cars only occupy 7 feet from the adjacent curb, and may include multiple vehicular travel lanes and bicycle lanes. On shared streets, the clear-path dimension may include bollards separating the pedestrian zones from the travel lane.

Each building shall provide the Fire Department with a staging area adjacent to the primary building entrance with a minimum length of 100 feet. This staging area will fall within the 26-foot-wide clear path of travel.

## 5.8.2 Road Weight Capacity

All pathways provided for emergency vehicles, whether on roadways, in parking structures, or through public parks and passageways, shall support a minimum vehicle weight of 75,000 pounds, including the Blue Greenway, which will provide fire engine, ambulance, and maintenance vehicles access.

### 5.8.3 Turning Requirement

In accordance with SFFD requirements, intersections shall be designed to accommodate the 57-foot articulated fire truck ("ladder truck") and the FE-30 ("engine"). The truck and engine are permitted to turn into the opposing travel lane provided that a separation of at least 7 feet from the truck to the opposing curb is maintained.

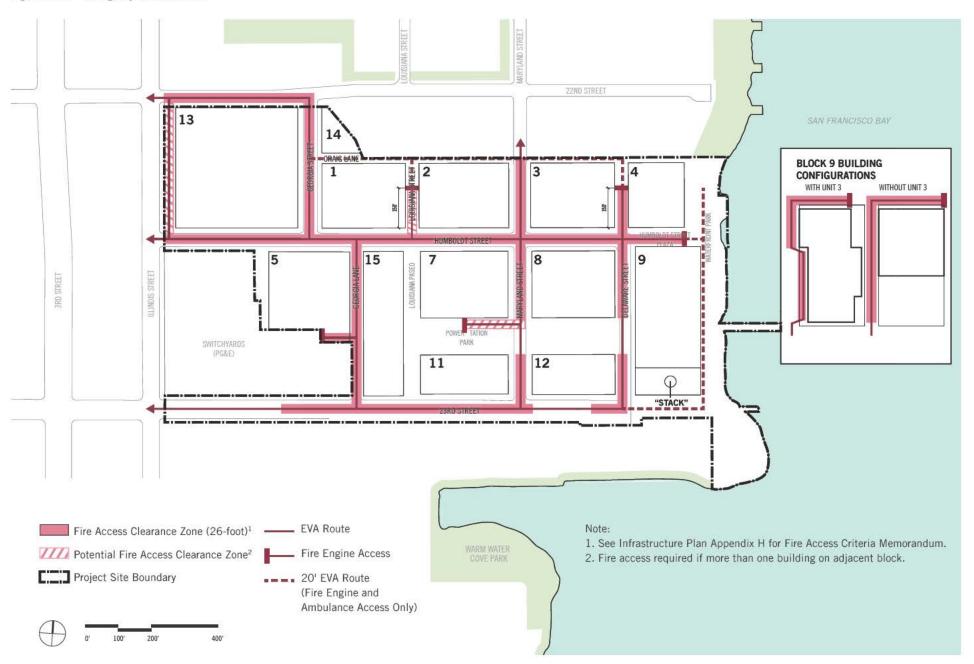
See the appendix of the Infrastructure Plan for fire truck turning movements for the 57-foot ladder truck and engine.

### **GUIDELINES**

#### 5.8.4 Intersections

To accommodate turning movements of SFFD fire engines and trucks, each intersection should be designed to allow for a 7-foot refuge area for vehicles traveling in the opposing direction of travel, which is inclusive of any bicycle facilities that are adjacent to travel lanes (i.e., Classes II and III).

Figure 5.8.1 Emergency Vehicle Access



## 5.9 Curb Management

The Power Station project has been designed to allocate sufficient space to meet passenger and commercial loading demand, as informed by San Francisco's *Transportation Impact Analysis Guidelines for Environmental Review* (as most recently updated in February 2018). This D4D is also informed by emerging research on the use of ride-hail services by San Francisco County Transportation Authority, entitled "TNCs Today: A Profile of San Francisco Transportation Network Company Activity" (published June 2017).

The site will provide loading facilities through a combination of on- and off-street spaces. On-street loading spaces will be well distributed, with access to each building as appropriate for the planned land uses and building sizes. Curbside loading activities must be balanced with needs for stormwater management, transit and bicycle facilities, driveways for loading docks, and fire access for buildings.

## **STANDARDS**

### 5.9.1 Curbside Loading

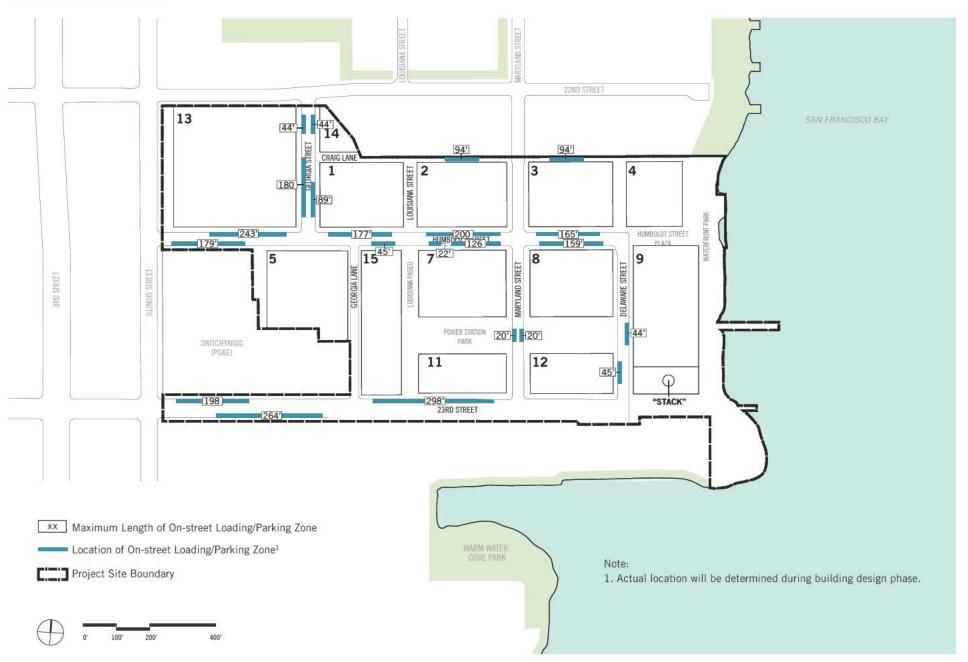
Passenger and commercial loading shall be designated on curbs to meet demand as determined by the SFMTA. Figure 5.9.1 shows curb space available for striping.

See Section 5.10 for universal passenger loading zones and accessible parking standards.

#### 5.9.2 Metered Curb

Meters, where required by SFMTA or Port of San Francisco, shall meet SFMTA or Port of San Francisco guidelines and policies. Where on-street parking is provided, a concrete strip will be maintained within 2 feet from the face of the curb.

Figure 5.9.1 Curb Management



## 5.10 Universal Passenger Loading Zones and Accessible Parking Stalls

On-street universal passenger loading zones and accessible parking stalls are located at select locations distributed throughout the site, providing convenient access to the site's buildings and open spaces based on proximity and topography. The D4D offers a sitewide approach to, and standard design of, loading and accessible parking zones.

## **STANDARDS**

Accessible paths of travel are provided per Standard Figure 5.2.2.

### 5.10.1 Universal Passenger Loading

Universal passenger loading zones are spaces equipped with a safe unloading zone and a curb ramp; they may be accessed by anyone on a temporary basis for the purpose of loading or drop off, but not for parking.

Universal passenger loading zones shall be provided in a minimum of eight locations within the site. Where a passenger loading / drop-off zone is provided, it shall be universally accessible and ADA-compliant.

Passenger loading activities shall be limited to five-minute stops, per SFMTA regulations, and drivers must remain within the vehicle. Universal passenger loading zones must be located to provide convenient access to buildings, crosswalks, parks, and open spaces. Potential locations for universal passenger loading zones are shown on Figure 5.10.1.

Figure 5.10.2 provides required dimensions for universal passenger loading zones.

### 5.10.2 Accessible Parking Stall Distribution

The project shall provide a minimum number of ADA-compliant accessible parking spaces in accordance with the requirements of the ADA and of CBC Chapter 11B (Table 11B-208.2).

Accessible parking stalls shall be distributed throughout the site as much as possible, where there are minimum street and sidewalk slopes, as illustrated in Figure 5.10.2. Potential locations for accessible parking stalls are shown on Figure 5.10.1.

## 5.10.3 Accessible Parking Stall Dimensions

Dimensions shall be as follows:

- 20-foot stall, adjacent to the sidewalk, clear of objects.
- 10-foot loading area at rear, with SF Public Worksstandard curb-ramp.

The striping of public streets for universal passenger loading and accessible parking will ultimately be determined by the SFMTA or Port of San Francisco.

Figure 5.10.1 Potential Universal Passenger Loading Zones and Accessible Parking 22ND STREET 13 GEORGIA STREET CRAIG LANE LOUISIANA STREET 00 HUMBOLDT STREET HUMBOLDT STREET 00 15 9 MARYLAND STREET GEORGIA LANE ILLINOIS STREET 3RD STREET POWER STATION PARK 00 SWITCHYARDS (PG&E) 11 12 23RD STREET Accessible Parking WARM WATER COVE FARK Universal Passenger Loading

Project Site Boundary

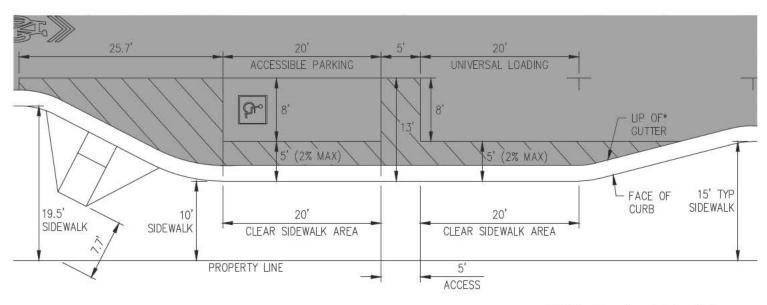


Figure 5.10.2 Universal Passenger Loading Zone and Accessible Parking Stall

NOTE: Transition area is required when adjoining parking stall is 7 feet w de.

[This page intentionally left blank.]

## 5.11 Urban Forest: Streets

The urban forest at the Power Station project will function ecologically to help achieve the project's goals for sustainability and contribute to a healthy environment. Composition and distribution of a diverse, adaptive urban forest will create a resilient ecological framework to shape varied sensory experiences across the site and provide waterfront and urban habitat.

Trees have been selected and located to provide shade to pedestrian corridors and gathering spaces within the Power Station project's streetscapes, as well as to reduce the urban heat-island effect and to provide habitat for birds and other wildlife.

As street trees are some of the most functional and iconic elements in the streetscape, careful selection is important in creating a successful urban forest.

The following standards and guidelines apply only to areas within the public right-of-way, such as public streets and publicly owned open spaces. For urban forest areas outside of the public realm, such as within privately owned publicly accessible open spaces, refer to Section 4.5. Urban Forest: Parks and Open Space.

## **STANDARDS**

### 5.11.1 Urban Forest Composition

See Figures 5.11.1 and 5.11.2 for suggested species diversity. Species selected for specific streets shall conform to this general distribution and diversity. No two street types shall have the same species.

## 5.11.2 Tree Species Selection Standards



Except as stated below, tree species selection shall adhere to standards identified in Section 4.5.3.

If alternative species are chosen, they shall conform to the aesthetic and performance requirements outlined in Figure 5.11.2, and to the irrigation requirements described in Sections 5.12 through 5.13.

### 5.11.3 Tree Species and Installation and Establishment A) Soil Volume

Trees shall receive adequate soil volume to sustain longterm health: see Sections 4.5.4.

#### B) Minimum Installation Size

Large- and medium-size trees shall be installed with a minimum box size of 36 inches. Refer to Figure 5.11.2 for minimum box sizes corresponding to each tree size at installation.

#### C) Clear Trunk Requirements

See Section 4.5.2(d).

#### D) Establishment Period

See Section 4.5.2(e).

## D) Street Trees adjacent to Bus Travel Lanes

Street tree species adjacent to bus travel lanes shall be selected for upright form so as to not interfere with buses. Branches adjacent to a bus travel lane shall maintain clearance from buses and bus mirrors.

#### 5.11.4 Tree Wells

Tree well sizes and openings have been developed based on the type of trees selected in each location. Each opening shall meet or exceed the tree pit/opening minimum size requirements of 4 feet wide by 6 feet long, with a minimum depth of 3 feet 6 inches. See Sections 5.16 through 5.22 for specific tree well size requirements.

The surface of a tree well shall allow water to penetrate the soil below, as well as protect the tree root zone from compaction. The tree well surface must be installed and maintained to be flush with adjacent sidewalk paving and comply with SF Public Works guidelines. In all cases, crushed stone mulch or groundcover planting shall be placed at tree well surfaces. See annotated block plans in Sections 5.16 through 5.22 for location of tree-pit surface types.

#### 5.11.5 Tree Grates

Tree grates shall be used only where accessible surface is required for adequate Pedestrian Throughway widths. Tree grates are generally not preferred, but may be used on streets or Alleys, as a way to augment an accessible path of travel or as otherwise required in the D4D. Where provided, tree grates shall meet ADA accessible pathof-travel guidelines and shall be flush with adjacent sidewalks and other pedestrian areas. Tree grates shall be reviewed and approved by SFPW-BUF.

#### 5.11.6 Street Tree Placement

Street trees shall be generally placed within the furnishing zones as shown in Figure 5.2.1. The ultimate street tree locations shall be selected in accordance with required clearances for utilities, street lights, and other streetscape elements.

Figure 5.11.1 Urban Forest: Streets

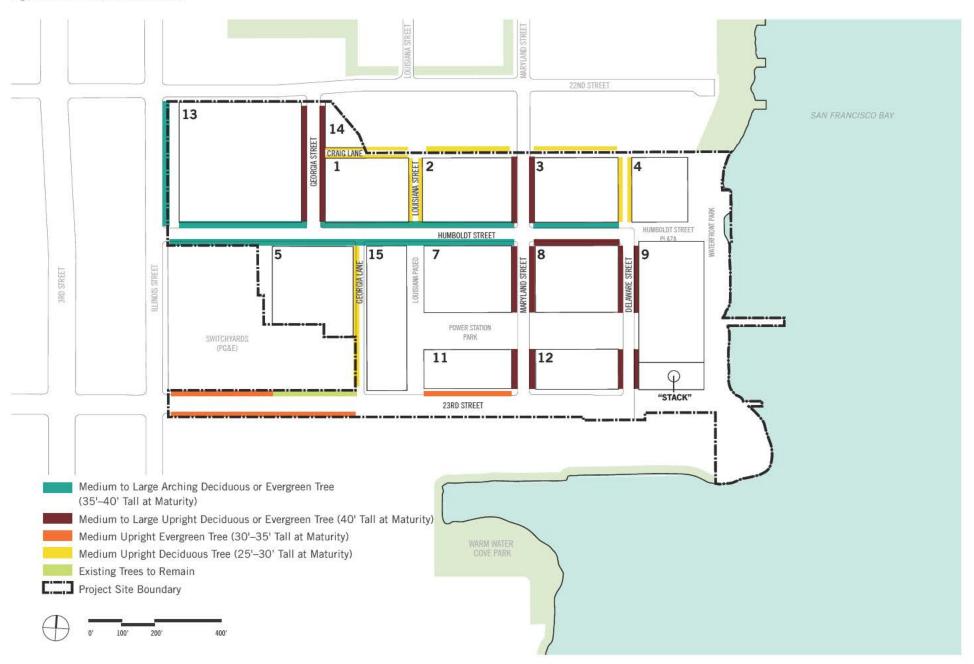
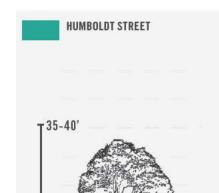
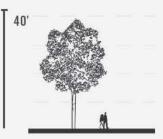


Figure 5.11.2 Tree Species Selection



- Medium to large Evergreen or Deciduous tree (35 to 40 feet tall at maturity)
- Minimum 36-inch box at installation
- · Arching, graceful form, with special ornamental character if possible
- Tolerances: medium wind tolerance; tolerant of part- to full-shade; healthy in paving, with minimal root disruption at sidewalk
- Low water use
- · Recommended species: Victorian Box [Pittosporum undulatum], California Pepper [Schinus molle], Cork Oak [Quercus suber]

**DELAWARE STREET** MARYLAND STREET **GEORGIA STREET HUMBOLDT STREET AT BUS** TRAVEL LANE



- Medium to large Evergreen or Deciduous tree (to 40 feet tall at maturity)
- · Minimum 36-inch box at installation
- Upright Form
- · Tolerances: medium wind tolerance; tolerant of part- to full-shade; healthy in paving, with minimal root disruption at sidewalk
- Low water use
- · Recommended species: Brisbane Box [Lophostemon confertus], Water Gum [Tristaniopsis laurina], African Fern Pine [Afrocarpus gracilor]



23RD STREET

- Medium to Large Evergreen tree (30 to 35 feet tall at maturity)
- Minimum 36-inch box at installation
- Upright form
- · Tolerances: high wind tolerance; tolerant of coastal environment: healthy in paving
- Low water use
- · Recommended species: Brisbane Box [Lophostemon confertus], Melaleuca [Melaleuca quinquenervia], Norfolk Island Hibiscus [Lagunaria patersonii], African Fern Pine [Afrocarpus gracilor]

LANES AND ALLEYS



25'-30'



- Medium Deciduous (25 to 30 feet tall at maturity)
- Minimum 36-inch box at installation
- · Upright form with fall and summer interest; Iconic seasonal ornamental character in leaf or flower
- Delicate leaf; medium-fine textured canopy
- · As uniform as possible; close spacing
- · Tolerances: medium wind tolerance; tolerant of part-shade conditions; healthy in paving, with minimal root disruption at plaza paving
- Low water use
- Recommended species: Chinese Pistache [Pistachia chinensis 'Keith Davey'], Ginkgo [Ginkgo biloba 'Autumn Gold-Fruitless'], Golden Rain Tree [Koelreutia bipinnata]

## DELAWARE STREET Maryland Street Georgia Street

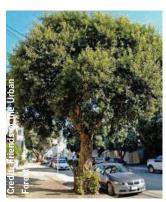
## **HUMBOLDT STREET**



Victorian Box [*Pittosporum undulatum*]



California Pepper [Schinus molle]



Cork Oak [Quercus suber]



Brisbane Box [Lophostemon confertus]



Water Gum [Tristaniopsis laurina]



African Fern Pine [Afrocarpus gracilor]

## 23RD STREET



Brisbane Box [Lophostemon confertus]



Melaleuca [*Melaleuca quinquenervia*]



Norfolk Island Hibiscus [Lagunaria patersonii]

## LANES AND ALLEYS



Chinese Pistache [*Pistachia chinensis 'Keith Davey'*]



Ginkgo [*Ginkgo biloba ' Autumn Gold-Fruitless'*]



Golden Rain Tree [*Koelreutia bipinnata*]

## STANDARDS

### 5.11.7 Soil Composition

Tree well planting soil for back-fill within tree pits shall be sandy loam soil, unless an alternative soil composition is required to provide a healthy and fertile root zone.

### 5.11.8 Staking

Manufactured wood or steel staking systems shall be used to stake trees, if required, during the establishment period (i.e., if prevailing wind conditions threaten stability of new planting). Refer to the 2018 SF Public Works Bureau of Urban Forestry guidelines for tree staking.

## 5.11.9 Street Trees and Lighting

Per SFPUC standards: large trees shall be located at a minimum of 21 feet from street lights; medium trees shall be located at a minimum of 15 feet from street lights; small trees shall be placed at a minimum of 9 feet from street lights. Tree size is defined per SF Public Works Bureau of Urban Forestry standards.

#### 5.11.10 Street Trees at Intersections

Street trees shall be located at a minimum of 25 feet from pedestrian crossings on approach, and 10 feet from pedestrian crossings on exit, measured from the centerline of the trunk. See Figure 5.11.4.

#### 5.11.11 Irrigation

Landscaped areas over 10,000 square feet in size shall be irrigated with non-potable water to the extent permitted by SFPUC and state law. (See discussion of site irrigation in Section 4.8).

## **GUIDELINES**

#### 5.11.12 Soil Volume

See Section 4.5.4

#### 5.11.13 Irrigation

Centrally controlled automatic drip irrigation should be provided to each tree for establishment irrigation during the first three years. Following that period, tree irrigation may be reduced or eliminated.

#### 5.11.14 Tree Grates

Tree grate materials should be selected for durability and artful design. Recommended materials include decorative cast-iron that weathers naturally, or is preweathered with a hot oil protective coating to prevent staining of adjacent paving.

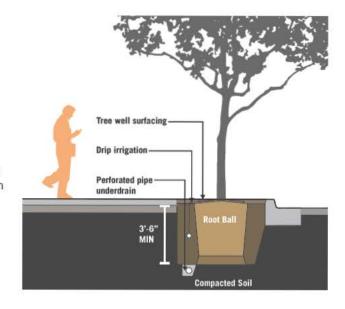
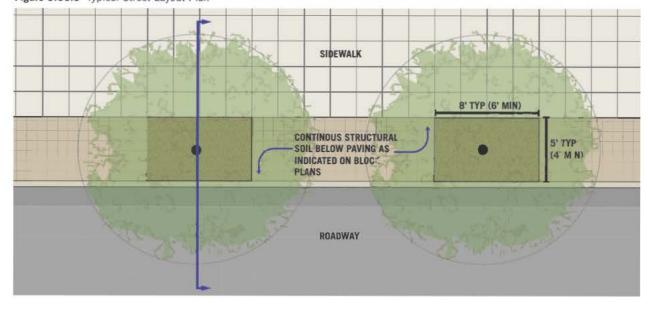


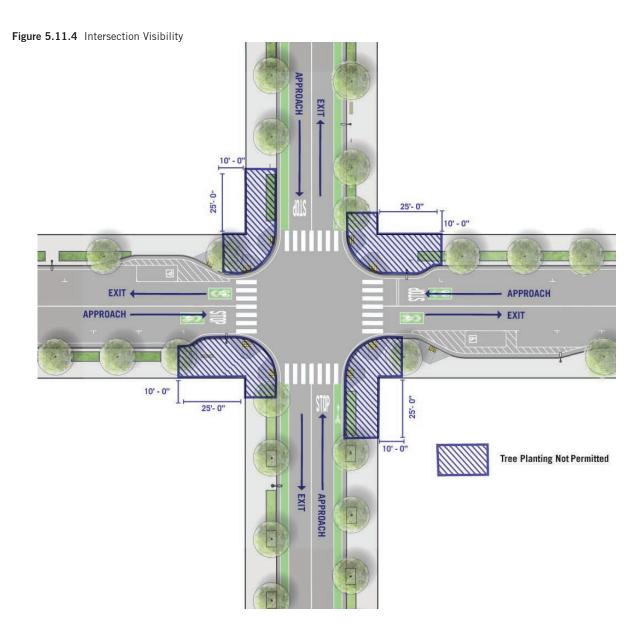
Figure 5.11.3 Typical Street Layout Plan



## **CONSIDERATIONS**

## 5.11.15 Habitat and Wildlife Connections

The urban forest may be used to provide habitat and improve wildlife connections. Prioritize the location of habitat-supportive trees along pedestrian-oriented streets. Consider using the San Francisco Plantfinder database to find drought-tolerant plants that support habitat for this specific area of the city. Species that provide habitat opportunities for birds and other small wildlife are encouraged. Tree species for each segment of the streets network shall be selected in consultation with a certified arborist.



## 5.12 Streetscape Planting

Streetscape plantings enhance the identity of a street network and provide opportunities for adding distinctive character to special districts within a greater neighborhood context. The following palette represents an array of locally-adapted species, both native to the area and suitable to Mediterranean climates, notable for their interesting form, flower, foliage, and urban resilience.

## **STANDARDS**

## 5.12.1 Planting Strips with Street Trees

To allow adequate space for healthy tree growth, planting strips with street trees shall be a minimum of 4 feet in width, with the tree centered and placed at a minimum of 18 inches from the edge of curb. See Section 5.11 for urban forest standards and guidelines.

## 5.12.2 Planting Strips

Streetscape plantings shall be permitted on all streets, with the exception of the portions of 23rd Street that have utility easement conflicts.

Planting strips without street trees shall be a minimum of 4 feet in width.

Where sidewalk width is less than 10 feet. 3-foot-wide planting strips are permitted if a minimum 4-foot Pedestrian Throughway can be provided.

## 5.12.3 Non-Potable Irrigation

Non-potable irrigation shall be used. See Section 4.8 for irrigation standards.

### **GUIDELINES**

#### 5.12.4 Streetscape Planting Composition

See Figure 5.12.1 for suggested species diversity. Species selected for specific areas shall conform to this general distribution and diversity for the Power Station streetscape.

## 5.12.5 Streetscape Planting Selection

Streetscape planting should use regionally-appropriate, native, and/or adaptive species to limit irrigation demand. General guidelines for understory planting species are as follows:

- Compatibility with site soils and microclimates;
- Durability in urban settings:
- Low water-usage:
- Compatibility with co-located street trees;
- Low maintenance needs:
- Meeting street service needs (such as biofiltration);
- Seasonal interest:
- Ecological benefits.

The plant palettes provided in this document express a design intention, and should guide the selection of plants throughout the site, as determined within the subphase of each development area.

## **CONSIDERATIONS**

## 5.12.6 Streetscape Planting Selection



Consider using streetscape planting that supports local habitat. Trees and plants should contribute to the goal of biodiversity and increased habitat value. Species with habitat value include those that provide nectar and fruit for insects and birds, and shelter for birds. Plant selection and design should also contribute to the goal of reducing the carbon footprint of the project.

## 5.12.7 Multistory Planting



For streetscapes with limited space for street-level vegetation, consider planting palettes with varying plant heights to increase habitat benefit and biodiversity.

## 5.12.8 Support Pollinator Habitat



Where possible, design streetscape planting that supports pollinator habitat. Select brightly colored, native plants that flower across multiple seasons. A minimum planting area of 20 square feet is encouraged, with access to full sun. Consider placement near building entrances and/or seating areas, for increased visibility and access by residents and visitors.

Figure 5.12.1 Example Streetscape Plant Species for Ground-Level Planting



## 5.13 Stormwater Management





Example steetscape stormwater planters, with and without integrating seating elements.

## STANDARDS

Except as stated below, Stormwater Management Section 4.7 shall apply. See Figure 5.13.1.

# 5.13.1 Streetscape Stormwater Treatment Planter Design

Stormwater management planters within the streetscape shall adhere to accessibility and safety standards, with minimum 6-inch curbs protecting pedestrians from trip and fall hazards. The level of planted surfaces within stormwater management planters shall be no greater than 18 inches below the surface of the adjacent sidewalk. Design of steetscape stormwater planters shall be generally consistent across the project area. Planters shall be located 2 feet from face of curb for parking step-out and parking meters.

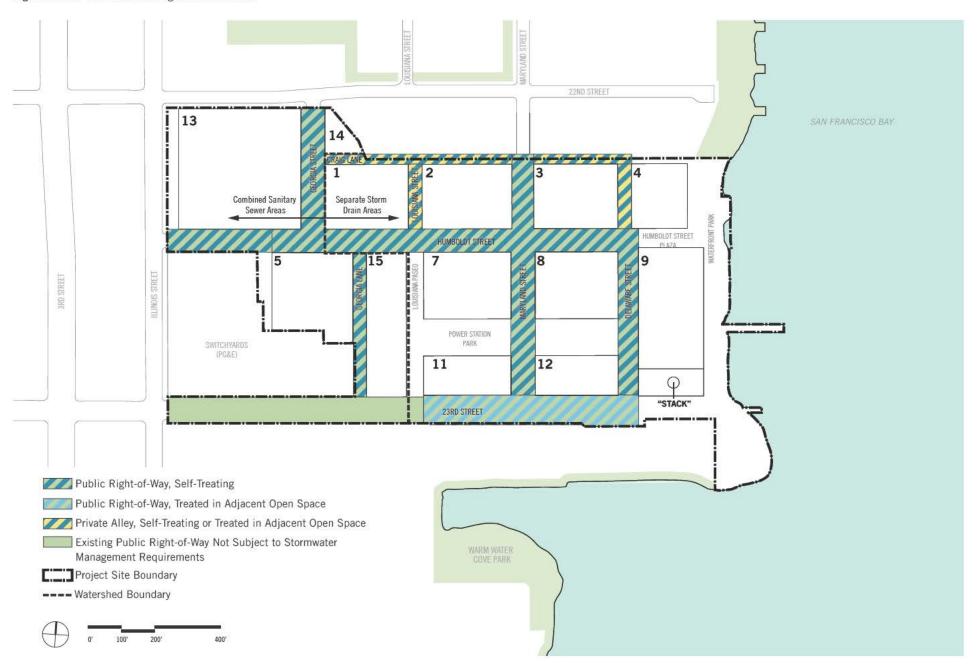
## 5.13.2 Site Irrigation

The site irrigation standards given in Section 4.8 shall apply.

## GUIDELINES

5.13.3 Stormwater Management Plantings See Figure 4.7.3 for a suggested plant palette for stormwater treatment gardens.

Figure 5.13.1 Stormwater Management for Streets



## 5.14 Furnishing

Streetscape furnishings help establish the identity of a district or neighborhood. Along with planting. lighting, and paving, street furnishing is an integral streetscape element that helps make streets an inviting and comfortable part of the public open space network. The Power Station project will implement a districtwide approach to furnishing that allows for variety while establishing a unified look and feel that contributes to a unique neighborhood identity. Furnishings provided at the Power Station project may vary from those discussed below, as SF Public Works must accept all streetscape elements that are a part of the public right-of-way.

## **STANDARDS**

## 5.14.1 Furnishing Zone Design

Furnishings shall be located within the furnishing zone, unless otherwise provided for within outdoor cafe-seating areas or as part of the transit shelter on Block 12.

### **5.14.2** Seating

Where provided, seating shall be placed outside of the Pedestrian Throughway with a minimum buffer (leg room) of 2 feet between seating and the Pedestrian Throughway.

Outdoor café and restaurant seating (tables, chairs, umbrellas, heat lamps, etc.) shall be permitted within the frontage and/or furnishing zones of the public ROW, provided that such seating is permitted by SF Public Works.

#### 5.14.3 Stormwater Planters

Stormwater planters shall be incorporated into the furnishing zone as needed to treat stormwater runoff. See Section 4.7 for stormwater planter standards and guidelines.

### **GUIDELINES**

#### 5.14.4 Furnishing

Furnishings should be compatible with and reflect the scale and industrial character of the district and be utilitarian in materiality and design. Elements provided in the furnishing zone shall have related character, scale, and intention along the length of a single street but are not required to be identical to elements on other streets unless otherwise noted.

#### **5.14.5 Seating**

Seating should be concentrated in areas of high pedestrian and retail frontage activity.

Seating materials should be selected or designed to be inviting, comfortable, and accessible. Seating should be selected that does not get too hot or cold in the sun or shade and is comfortable for sitting year-round.

Benches shall be durable, attractive, and support the value of a high-quality public realm. Seating materials shall be chosen for longevity, suitability for heavy use in an urban environment, and ability to withstand the local marine environment.

## 5.14.6 Waste and Recycling Receptacles

Waste receptacles shall be located at areas of high pedestrian traffic, such as near pedestrian crosswalks. They should be durable, resilient, and easy to maintain. Separate compost, recycling, and landfill receptacles are recommended.

### 5.14.7 Stormwater Planters and Seating

Stormwater planters at intersections and highest pedestrian traffic areas should integrate public seating into planter design or be adjacent to public seating.

#### 5.14.8 Bollards

Bollards, where required, should be selected as an integral part of the designed streetscape environment.

## **CONSIDERATIONS**

## 5.14.9 Furnishings



Consider using materials and products that incorporate recycled materials, sustainable wood products, non-toxic finishes, and environmentally responsible manufacturing practices. Interpretive elements may be incorporated into street furniture design.

#### 5.14.10 Bollards

Weathered, galvanized, or painted steel bollards with flat caps are recommended.

## 5.14.11 Salvaged Material

feasible and safe for public use.

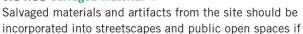


Figure 5.14.1 Furnishings Palette

## **PUBLIC BENCHES**









Custom Cast-Iron Bench with Back

Custom Cast-Iron Bench (Backless)

Manufactured Bench with Back

Manufactured Bench (Backless)

## TREE GRATES



Decorative Cast-Iron Tree Grates (Iron Age or s milar).

## TRASH RECEPTACLES



Trash and recycling receptacles

Landscape Forms 'Central Park'

## BOLLARDS



Calpipe or S milar Stainless or Weathered Steel Finish Bollards

## 5.15 Paving and Materials

Paving will be a key component that defines the character, connectivity, and identity of the Power Station project's varied streets and open spaces. Paving strategy should be considered as an interconnected site-wide system that activates the public realm and contributes to the overall pedestrian, bicycle, and vehicular circulation on the site. All paving in areas with high pedestrian traffic will be designed to facilitate accessibility. Paving design in the streetscape shall be carefully considered with the placement of lights, light pull boxes, utilities, utility vaults, and other surface expressions of underground utilities. As such, this plan recommends the practical approach of using cast-in-place concrete in most sidewalk and furnishing zone applications. SF Public Works standard materials are permitted in all locations and required in public rights-of-ways as a baseline.

## **STANDARDS**

## 5.15.1 Pedestrian Throughway Materials

The Pedestrian Throughway shall be an accessible path of travel that is unobstructed and ADA compliant. Paving material shall be SF Public Works standard cast-in-place concrete. See Figure 5.15.2.

## 5.15.2 Furnishing Zone Materials

The furnishing zone shall be cast-in-place concrete. either standard SF Public Works concrete, or enhancedfinish cast-in-place concrete.

### 5.15.3 Roadway Materials

Roadway materials shall conform to 2015 SF Public Works standards. Asphalt vehicular paving shall be the primary road surface where special paving is not used. Concrete vehicular paving is preferred at traffic tables and at Delaware Street, as permitted by SF Public Works (see Figure 5.15.1). On-site construction demolition debris shall be used as road aggregate base, if feasible.

## 5.15.4 Material Quality and Consistency

See Section 4.11.4.

## 5.15.5 Surfacing at Tree Planting

### A) Trees in Paving

See Sections 4.11.1(a) and 5.11.5.

## B) Trees in Planting

See Section 4.11.1(b).

#### **GUIDELINES**

### 5.15.6 Paving Types

Paving should be a key component that defines the character, connectivity, and extent of the Power Station project's varied public realm. The following paving zones suggest relationships and common paving identities among different streets.

## A) Special Paving on Alleys and Shared Streets

Contrasting, high-quality paving should be used to distinguish shared streets and alleys, as high pedestrian activity areas and as places to linger. Shared streets should incorporate concrete or stone pavers, enhanced cast-in-place concrete, stamped concrete, and highquality, detectable warning pavers that contrast with

adjacent paving, per SF Public Works accessibility guidelines. Stamped concrete is encouraged as a paving material for Craig Lane. Refer to paving and materials images and descriptions in Figure 5.15.2.

### B) Sidewalks

Standard cast-in-place concrete should be used for Pedestrian Throughways, and standard or enhanced castin-place concrete in furnishing zones.

### 5.15.7 Paving: Heat-Island Effect



Where possible, in areas that are predominantly unshaded by tree canopy or buildings, reduce the potential for urban heat-island effect by using pavement with a Solar Reflectance Index (SRI) of 29 or higher.

## CONSIDERATIONS

## 5.15.8 Paving: Character and Uniformity

Paving contrast may be introduced through color or geometric variation, textural variation within a single paving module, integral lights, or juxtaposition of scale or material.

Figure 5.15.1 Paving Zones



Figure 5.15.2 Paving Palette



DPW STANDARD CAST-IN-PLACE CONCRETE

Per the current (2018) SF Public Works specification for castin-place concrete for sidewalks. Refer to SF Public Works standard for color, finish, and typical joint layouts.



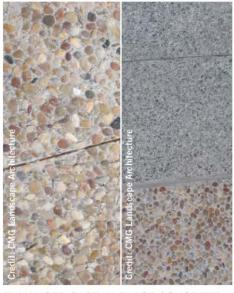
ASPHALT VEHICULAR PAVING

Standard asphalt roadway surface, per SF Public Works standards.



STAMPED ASPHALT VEHICULAR PAVING

Stamped asphalt is a cost-effective technique for adding decorative patterns to standard asphalt roadway surface. Stamped asphalt may be used in the Craig Lane roadway.



**ENHANCED CAST-IN-PLACE CONCRETE** 

Enhanced concrete may have an exposed aggregate finish for a rich, textured surface and may incorporate special joint patterns for a more refined appearance. Integral color and decorative aggregates shall be selected for aesthetic quality and shall meet accessible design requirements for slip-resistance. Design must be reviewed and approved by SF Public Works as part of Street Improvement Plans. Enhanced cast-in-place concrete could occur in all furnishing zones and edge zones, Delaware Street and Maryland Street Pedestrian Throughways, Delaware Street Pedestrian Throughway and Vehicular Lanes, Louisiana Street Pedestrian Throughway and Vehicular Lanes, Raised Pedestrian Crossings, and Delaware Street traffic lanes.



UNIT PAVERS

Unit paying is a modular system that provides an enhanced level of material quality and detail. Paver color and finish shall be selected for aesthetic quality and shall meet accessible design requirements for proper visual contrast and slip-resistance. Paver edges and joints shall create a smooth, continuous surface. The installation design (paving section) shall ensure a level, stable paving surface and be in accordance with the manufacturer's recommended installation method(s). Within public rights-ofway and where public utilities exist beneath paving, unit pavers shall comply with SF Public Works and SFPUC permeable paving guidelines. Designs must be reviewed and approved by SF Public Works as part of Street Improvement Plans. Outside of the public right-of-way, unit pavers need not comply with SF Public Works standards.



PERMEABLE CONCRETE UNIT PAVERS

Permeable concrete unit pavers may be used in select locations such as Louisiana Street and Delaware Street north of Humboldt (private streets). Paver color and finish shall be selected for aesthetic quality and meet accessible design requirements for proper visual contrast and slip resistance. Paver edges and joints shall create a smooth, continuous surface. The installation design (paving section) shall ensure a level, stable paving surface and be in accordance with manufacturer's recommended installation method(s). Where public utilities exist beneath paving, all permeable pavers must be designed per SFPUC's 2016 Green Infrastructure Typical Details and Specifications permeable paving guidelines. Outside of the public right of way, unit pavers need not comply with SF Public Works standards.



STONE PAVERS AND STONE SETTS

Setts and pavers—quarried stone worked to a regular shape—provide the most refined material quality to special Power Station project streets. Stone color and finish shall be selected for aesthetic quality and meet accessible design requirements for slip-resistance. Edges and joints shall create a smooth continuous surface. The installation design (paving section) shall ensure a level, stable paving surface and be in accordance with manufacturer's recommended installation method(s). Designs must be reviewed and approved by SF Public Works as part of street improvement plans. Outside of the public right-of-way, unit pavers need not comply with SF Public Works standards.



DETECTABLE SURFACE PAVING: SF PUBLIC WORKS STANDARD

Used where pedestrians enter vehicular zones of the street, standard detectable paving clearly delineates the edge or end of the pedestrianonly zone, consistent with the treatment of public sidewalks throughout the city. Refer to SF Public Works standards for material, color, and installation specifications.



DETECTABLE SURFACE PAVING: ALTERNATIVE

Used in special situations where the SF Public Works standard detectable surface is not required but a tactile paving treatment is necessary, detectable paving alternatives clearly delineate the edge of the pedestrian-only zone with a textured surface, such as approved truncated dome products. Material shall meet accessible design requirements for slip resistance and provide high visual contrast (70 percent from adjacent paving) per SF Public Works standards. To meet these standards, design must be reviewed and approved by SF Public Works as part of street improvement plans.



# **Street Character**

# The unique character of each street will define a rich and dynamic urban experience as people move through the site.

Neighborhood commercial streets include Humboldt Street, Maryland Street, Delaware Street, and a portion of Georgia Street. With commercial storefronts and other active uses lining each of these streets, they are likely to be the most active part of the Power Station project. Neighborhood commercial streets will be designed with adequate commercial loading areas to facilitate operations of the streets' retail stores and restaurants, with a mix of passenger loading, metered parking, and planting areas along remaining sidewalk frontages. Along Delaware Street, a high-quality connection to the Blue Greenway will be designed.

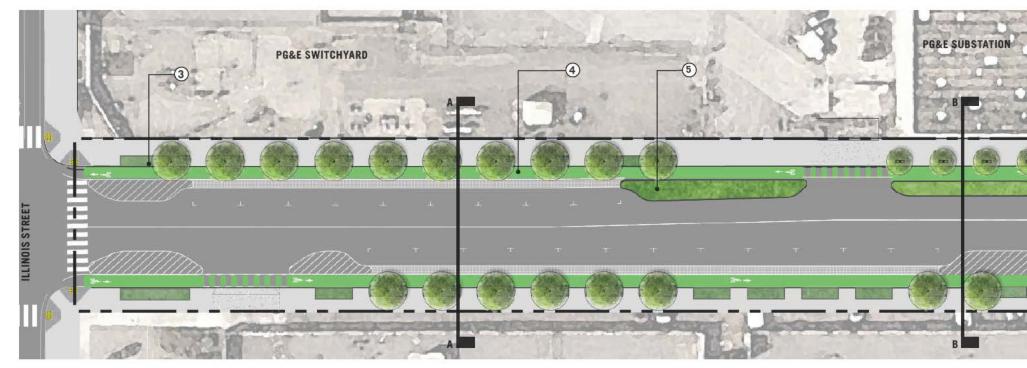
Along the southern boundary of the site, 23rd Street will be a mixed-use street that gracefully accommodates PDR uses while creating safe and inviting gateways to the site for bicyclists and pedestrians. Specifically, 23rd Street will provide space for the loading activity of larger trucks that supply parts to, and pick up finished goods from, light-industrial uses. The project will provide wide sidewalks and protected bicycle facilities on the north side of the street to make walking and cycling safe, and

to connect the Blue Greenway from the waterfront to Illinois Street. The current use of the warehouses on the south side of 23rd Street do not allow for the provision of sidewalks and Class IV bicycle facilities on the south side of 23rd Street. Sidewalks and protected bicycle facility may be provided on the south side of 23rd Street by the future developer of the property to the south, but only if, in the future, such facilities would meet SF Public Works standards and would be accepted by the City.

Alleys will include Georgia Lane, Louisiana Street, and Delaware Street north of Humboldt Street; these alleys may include garage entries. Craig Lane will be a one-way service alley that will accommodate both loading and garage entries.

Streets at the Power Station project will be designed to be consistent with the Better Streets Plan and uphold City policies, including Vision Zero SF and Transit First. Unless otherwise noted, aforementioned standards and guidelines within this Streets section shall apply to the following streets.

# 5.16 23rd Street



# **STANDARDS**

#### 5.16.1 Street-Lane and Sidewalk Widths

The widths of street lanes and sidewalks shall be per street sections shown in Figure 5.16.2 through Figure 5.16.8.

#### 5.16.2 Tree Well Size

Between Illinois Street and Maryland Street, tree wells shall be minimum 5 feet wide by 10 feet long. Provide a minimum 4-foot paved break in tree wells at regular intervals to allow cyclists to access sidewalk as pedestrians.

#### 5.16.3 Tree Well Surfacing

Tree wells shall either be planted with a diverse mix of ornamental grasses, small woody shrubs, and herbaceous perennials or surfaced with non-stabilized crushed stone.

#### 5.16.4 Bicycle Lane Buffers

At parking-protected bicycle lanes, a clear material change or striping shall mark the buffer between parking and the bicycle lane. Where feasible, raised buffers and 'islands' should be planted with low shrubs, ornamental grasses, and perennials. Planted buffers shall allow clear visibility at intersections, crossings and curb cuts. Plants in buffers and islands shall not exceed 36 inches in height. There shall be a clear path of travel from every parking space to the sidewalk.

# 5.16.5 Block Station A, 11 & 12 Frontage

Where utility easements preclude planting and fixed streetscape elements, signage, awnings, canopies and/or

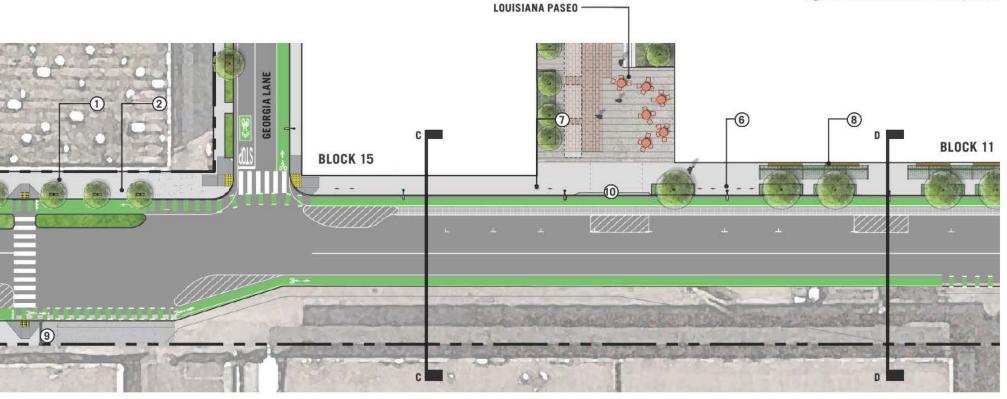
seating shall be permitted to be affixed to the building (see Third Street Industrial District Awnings, Section 6.11.3) within the frontage zone.

#### 5.16.6 Railing between Bike Lane and Retaining Wall

A 42-inch railing must be placed in between the bike lane and existing brick retaining wall to the south near the intersection of Maryland Street.

#### 5.16.7 Lighting

Figure 5.16.1 23rd Street Concept Plan



- 1 Pedestrian Throughway
- Furnishing Zone
- 3 Planted Tree Well
  4 Parking-Protected Bicycle Lane
- 5 Planted Buffer
- 6 Street Light
- Bicycle Rack
- 8 Bench
- 9 Pedestrian Barrier
- (10) Curb Cut (maintenance and food truck access)

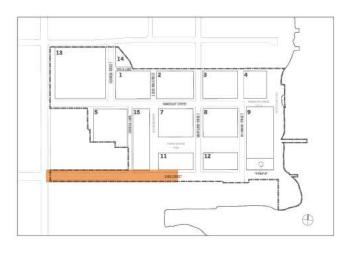


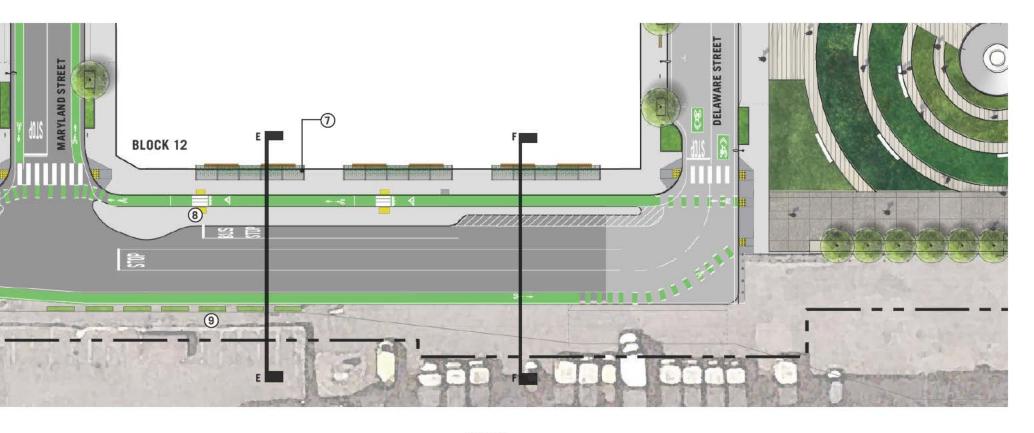
Figure 5.16.1 23rd Street Concept Plan (continued) **LOUISIANA PASEO** GEORGIA LANE BLOCK 11 **BLOCK 15** 

# 5.16.8 Third Street Character

As an important entrance to the Power Station project, the streetscape design of 23rd Street should balance the historic utilitarian character of the Third Street Industrial District with welcoming design gestures. To that end, the following guidelines shall be followed:

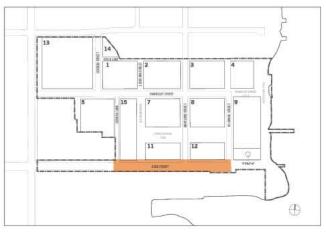
 Landscape elements should feel additive to the industrial streetscape. Examples include potted or otherwise designed raised beds of plants and trees that are placed onto paved surfaces; small tree wells within paved surfaces; green walls; and raised or lowered beds edged with industrial materials such as brick, low granite curbs, or steel.

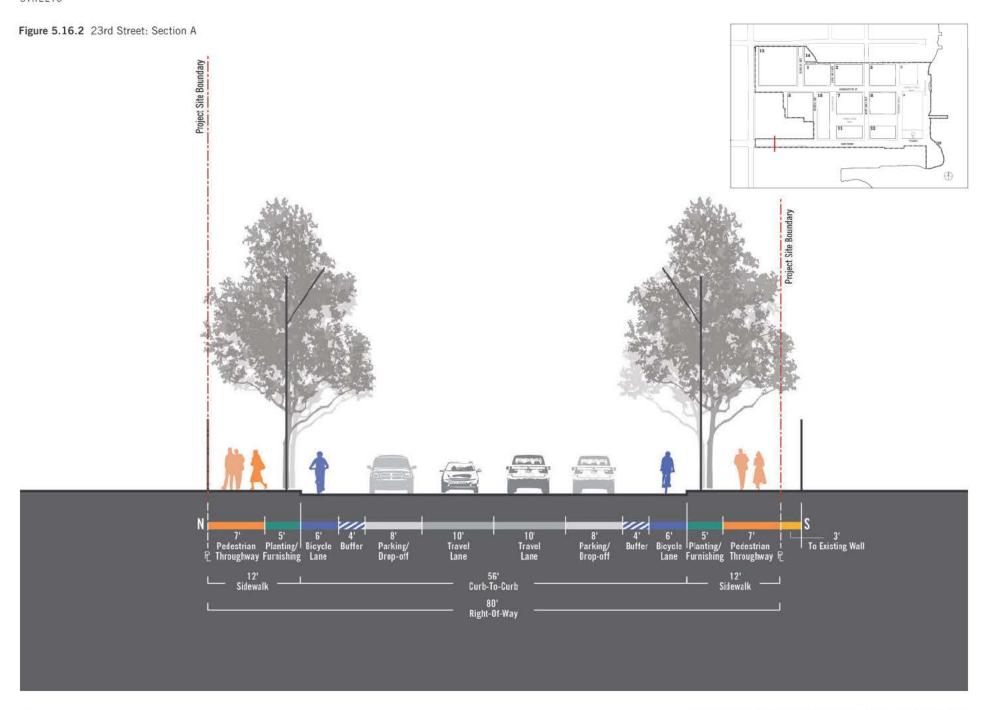
- Tree planting locations should be irregularly spaced or placed in small groupings along the street, in contrast with standard *Better Streets Plan* requirements, in order to provide better compatibility with the historic district.
- A tree and vegetation palette should be used that does not detract from the industrial character. Green walls, planter boxes, and vegetation should be considered rather than trees for storm water management.
- Sidewalk paving at 23rd Street should be more industrial in character compared to sidewalk paving at other portions of the site. Consider varying sidewalk concrete score joint patterns or pavers from block to block.
- Pavement at the transit boarding island should incorporate concrete or stone pavers or enhanced castin-place concrete with smaller scale joint patterns for a more refined appearance. Integral color and decorative aggregates may be selected for aesthetic quality and shall meet accessible design requirements for slipresistance.
- 23rd Street is intended to be accepted as a SF Public Works-owned and -maintained street.

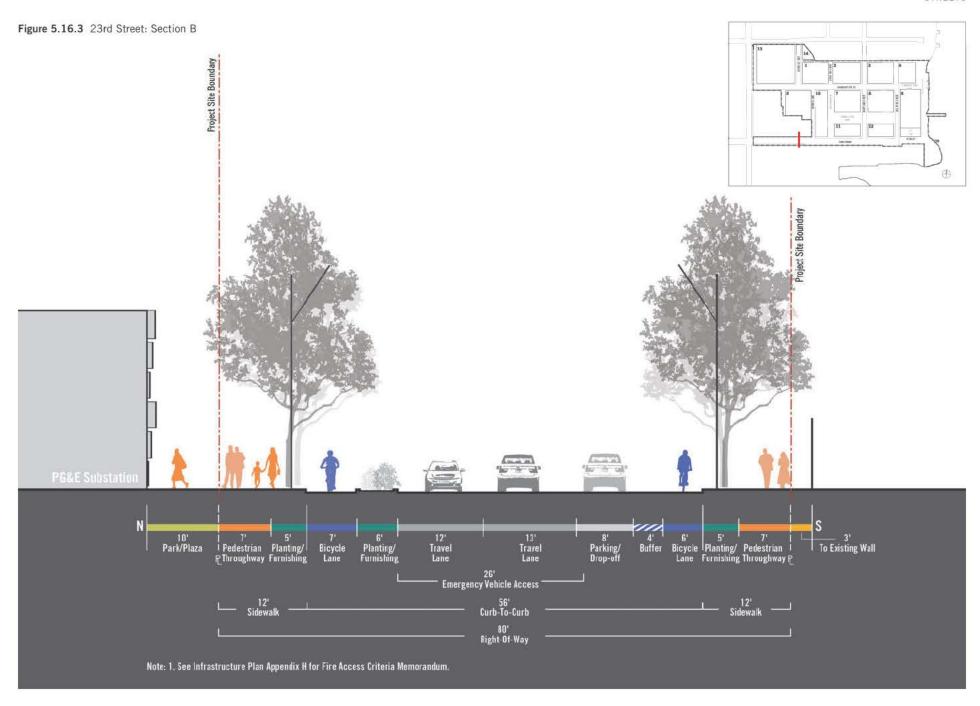


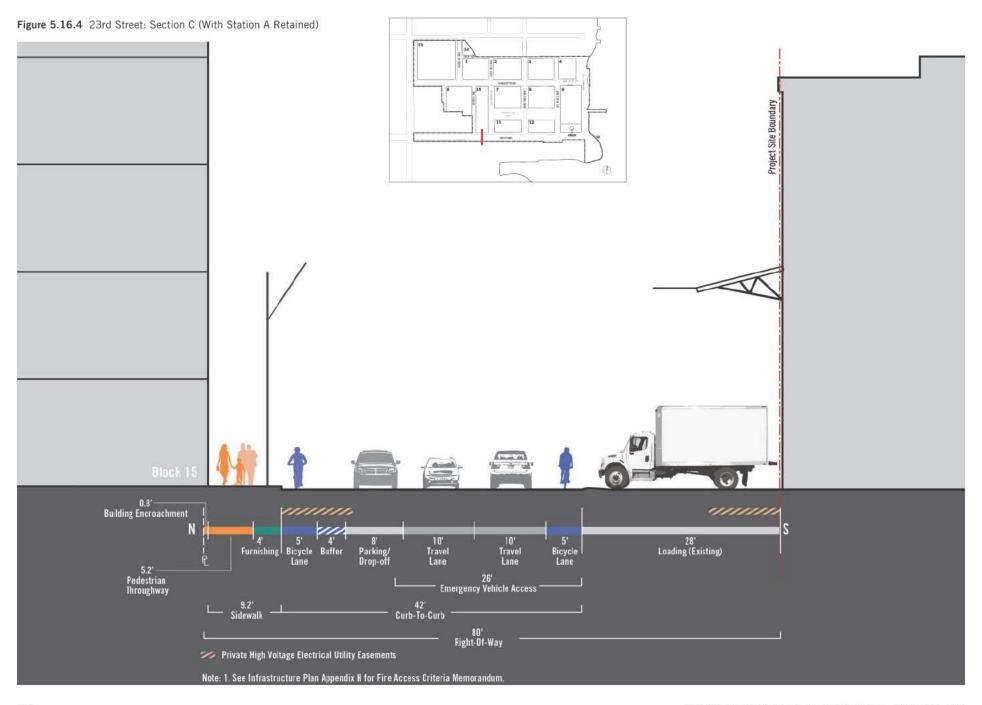
- Pedestrian Throughway
- 2 Furnishing Zone
- Planted Tree Well
- Parking-ProteStreet LightBike RackBus Shelter Parking-Protected Bicycle Lane

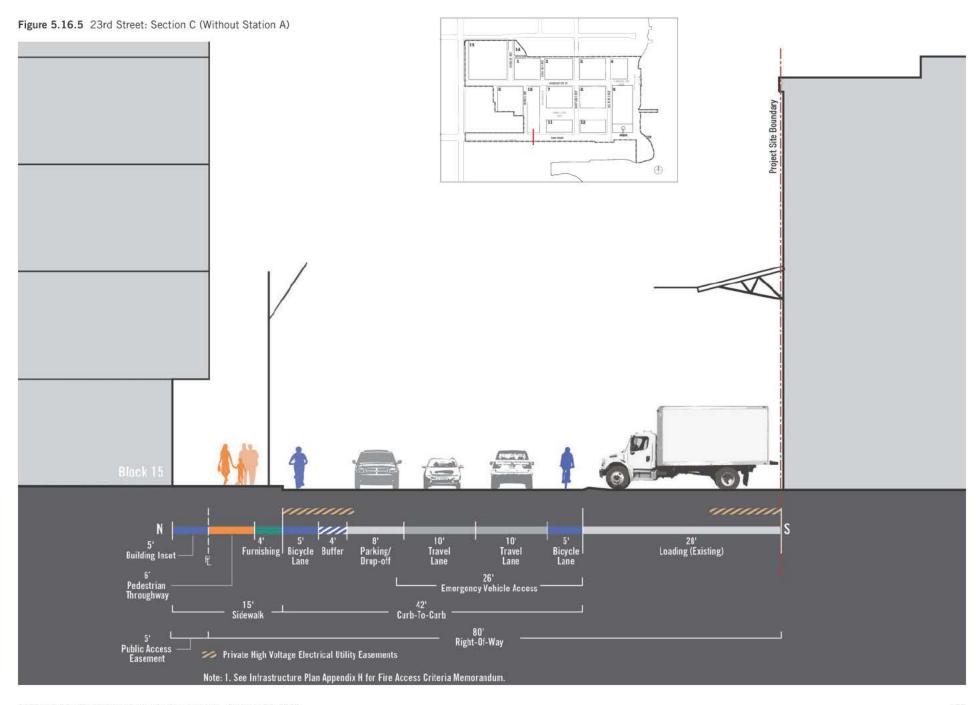
- 8 Transit Boarding Island
- 9 Moveable Raised Planters at 5' Buffer Between Bicycle Lane and Retaining Wall
- Curb Cut (maintenance and food truck access)

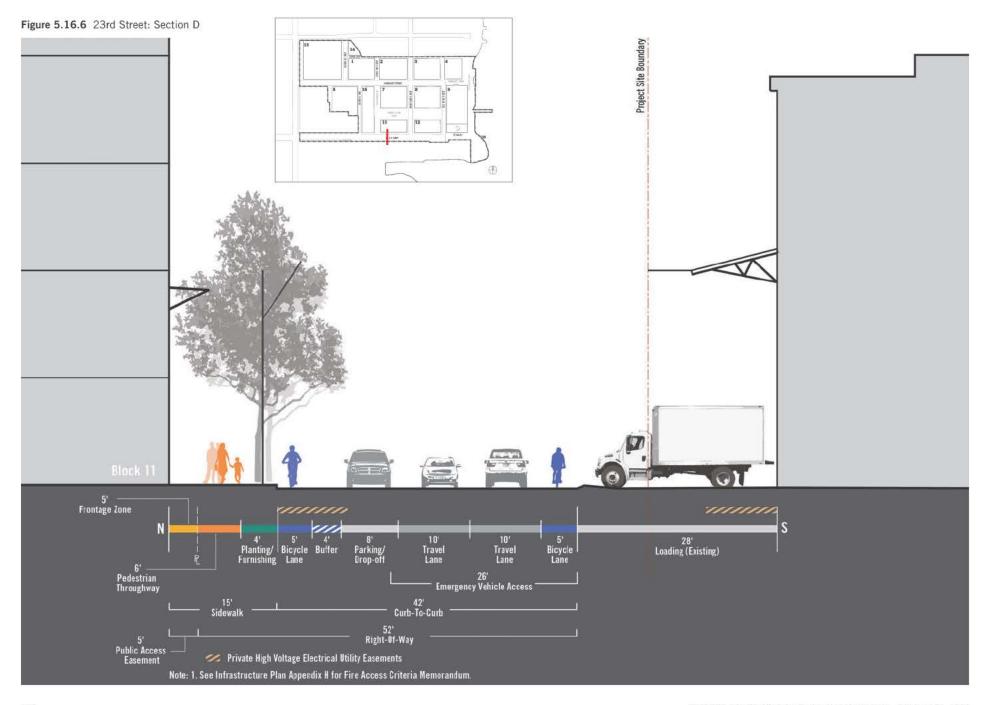


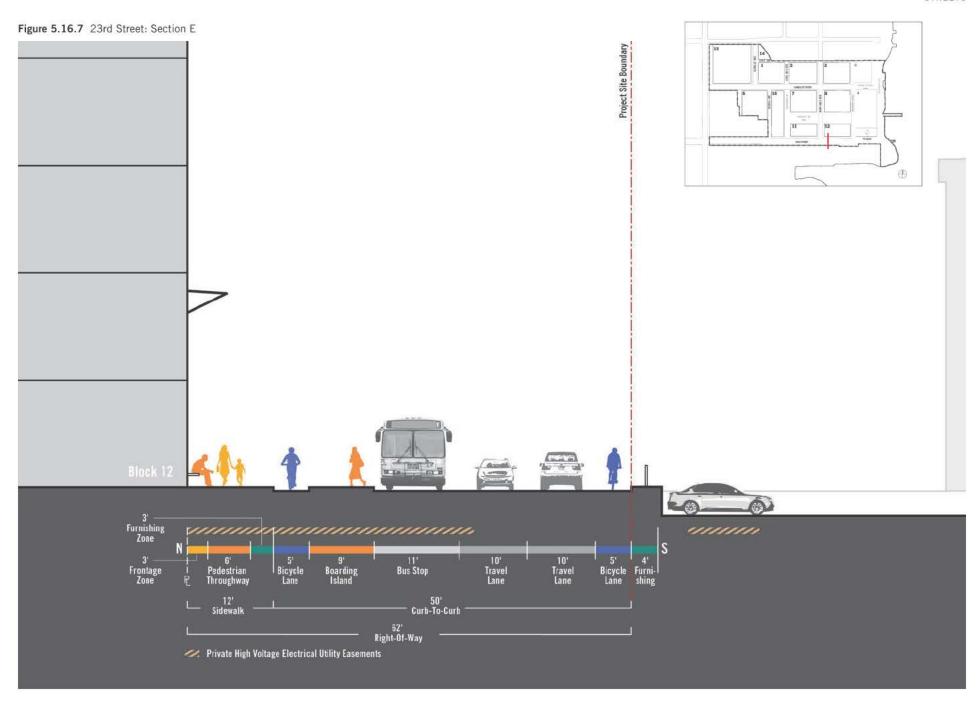


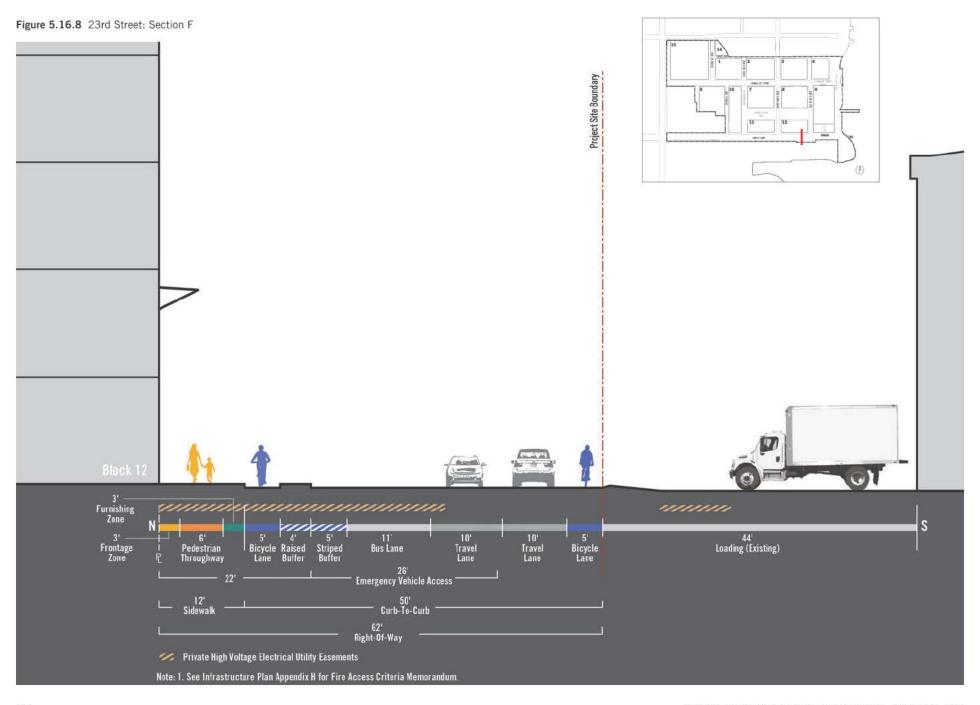






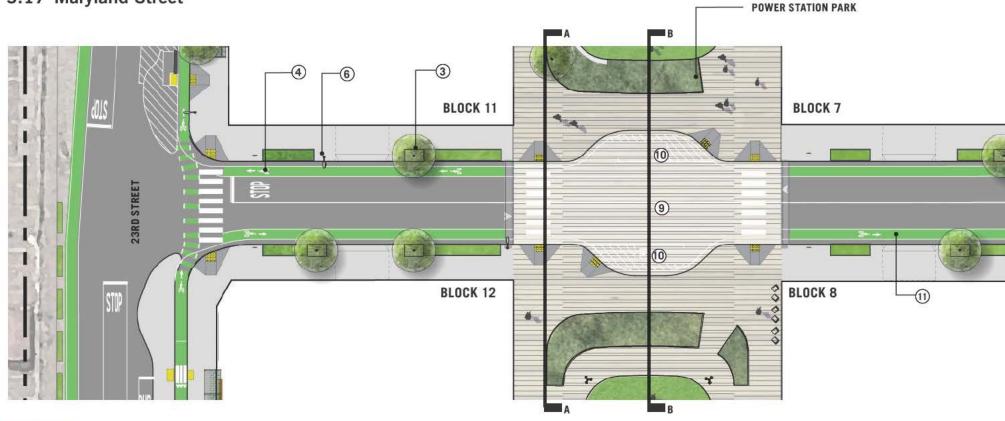






[This page intentionally left blank.]

# 5.17 Maryland Street



# STANDARDS

#### 5.17.1 Street-Lane and Sidewalk Widths

The bikeway design for Maryland Street is tentative. The Project will continue to work with the City towards the design of a separated bikeway within the 64' right-of-way proposed on Maryland Street. Such a design change would be reviewed by City infrastructure agencies and incorporated into City approvals as part of the first Basis of Design submittal.

#### 5.17.2 Tree Well Size

Tree wells shall be at least 5 feet by 8 feet.

#### 5.17.3 Tree Well Surfacing

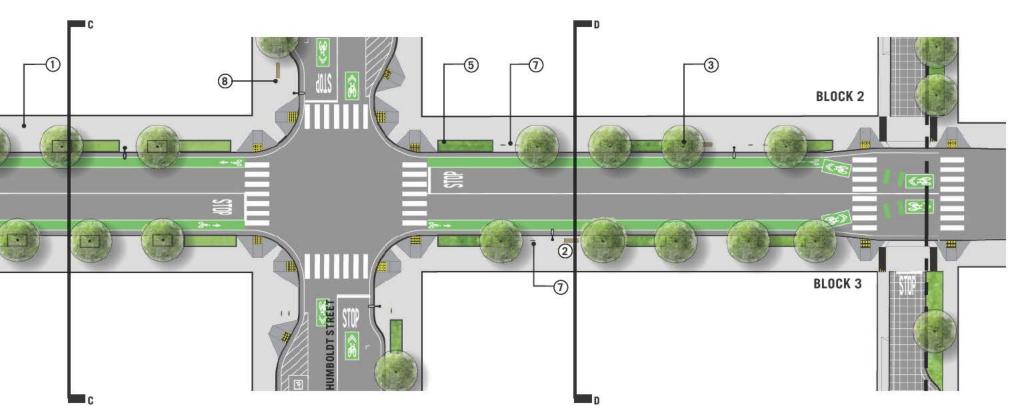
Tree wells shall have crushed stone without stabilizer. Planting in tree wells is allowed.

# 5.17.4 Raised Pedestrian Crossing

Between the two blocks of Power Station Park, a twoinch-raised concrete pedestrian crossing shall be included in the street design. The crossing shall be separated from the pedestrian sidewalk by a minimum four-inch curb.

## 5.17.5 Lighting

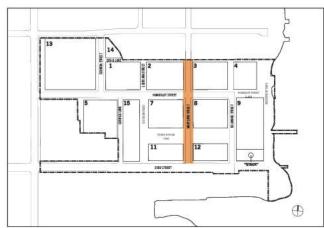
Figure 5.17.1 Maryland Street Concept Plan

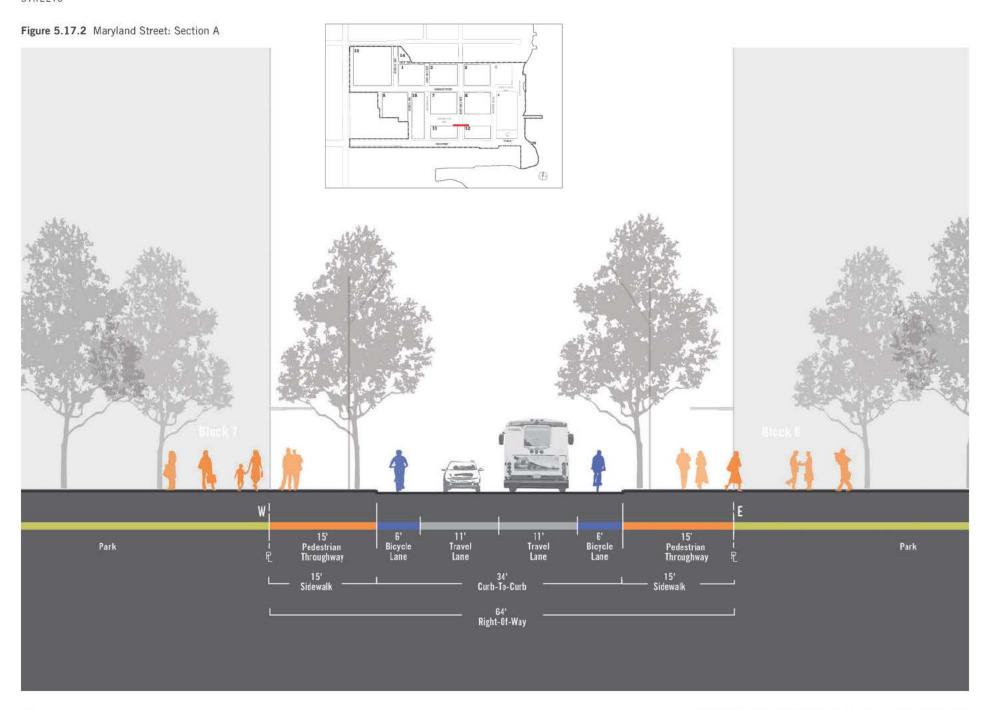


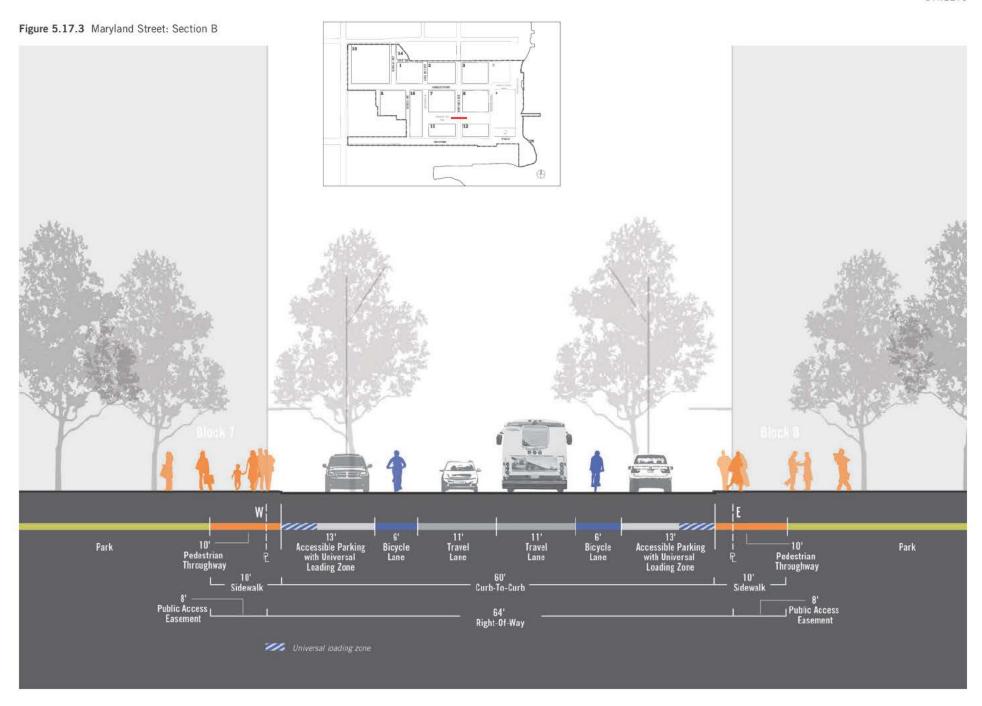
#### Note:

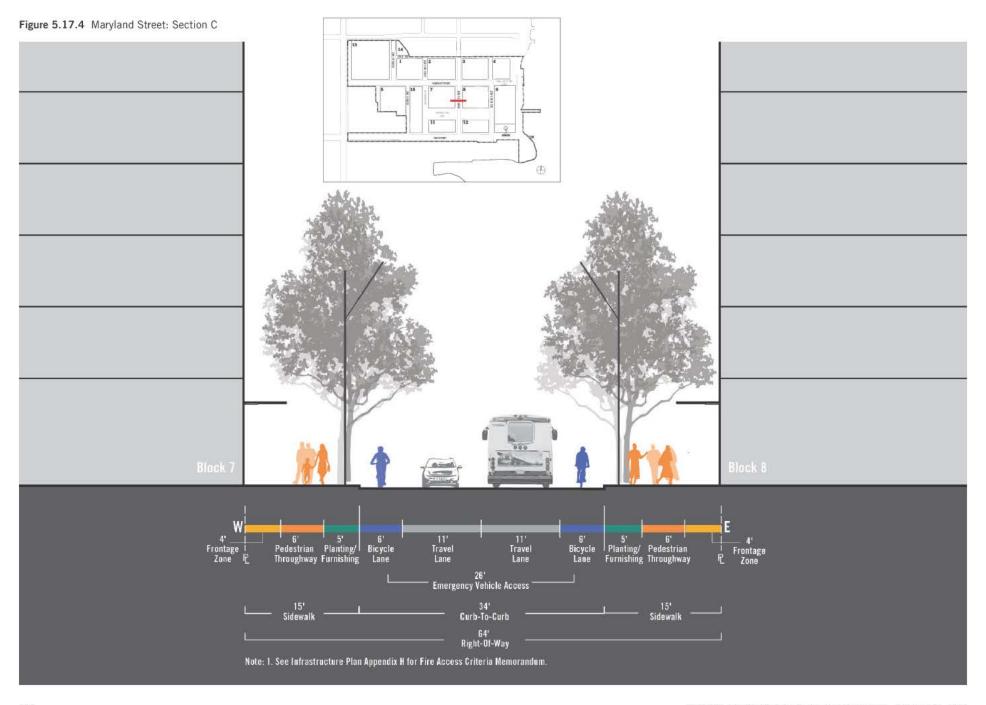
1. The bikeway design for Maryland Street is tentative. The Project will continue to work with the City towards the design of a separated bikeway within the 64' right-of-way proposed on Maryland Street. Such a design change would be reviewed by City infrastructure agencies and incorporated into City approvals as part of the first Basis of Design submittal.

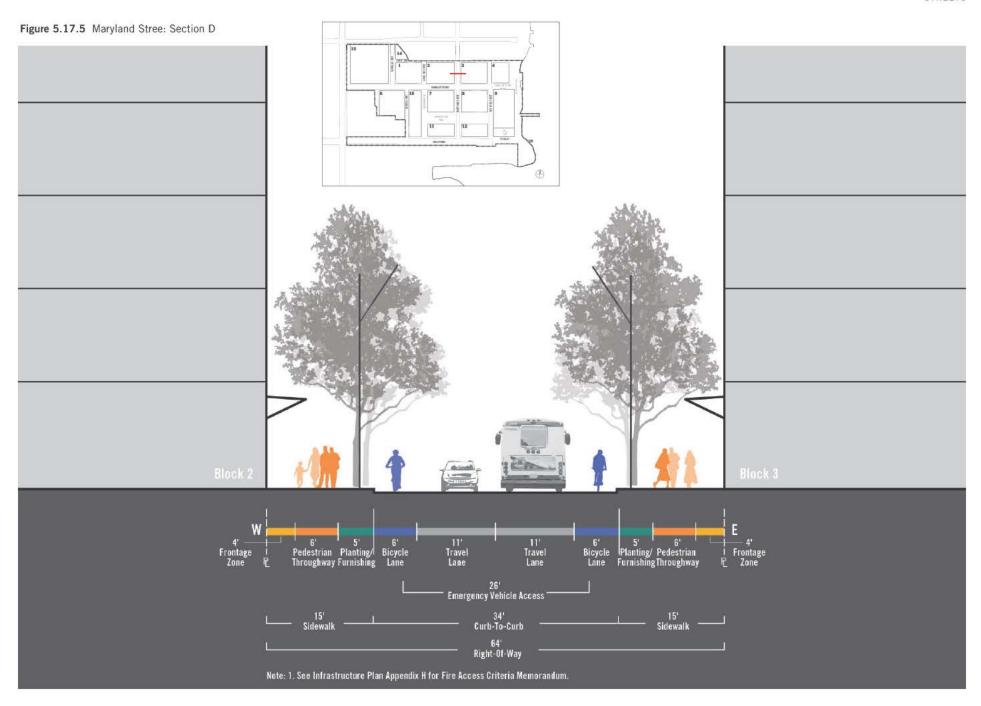
- Pedestrian Throughway
- Furnishing Zone
- 3 Tree Well
- 960 Class II Bicycle Lane
- Stormwater Planter
- Street Light
- Bike Rack
- Bench
- Raised Pedestrian Crossing
- Universal Loading Zone
- Bicycle facility<sup>1</sup>



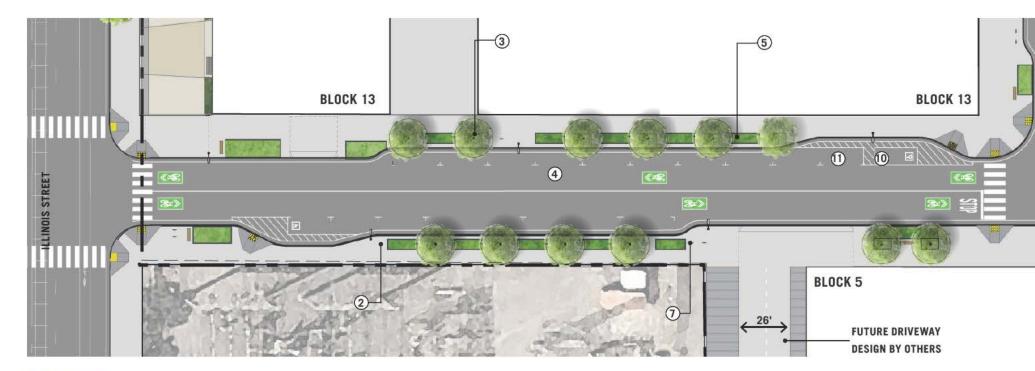








# 5.18 Humboldt Street



# STANDARDS

#### 5.18.1 Street-Lane and Sidewalk Widths

The widths of street lanes and sidewalks shall be per street section shown in Figure 5.18.2.

#### 5.18.2 Tree Well Size

Tree wells shall be at least 5 feet by 8 feet.

### 5.18.3 Tree Well Surfacing

Tree wells shall have crushed stone without stabilizer. Planting in tree wells is allowed.

### 5.18.4 Raised Pedestrian Crossing

At the intersection of Louisiana Street and Humboldt Street, a two-inch-raised concrete pedestrian crossing shall be included in the street design. The crossing shall be separated from the pedestrian sidewalk by a minimum four-inch curb.

# 5.18.5 Lighting

Figure 5.18.1 Humboldt Street Concept Plan



- Pedestrian Throughway
- 234567 Furnishing Zone
- Tree Well
- Shared Lane Bicycle Route
- Stormwater Planter
- Street Light
- Bicycle Rack
- Bench
- 9 Raised Pedestrian Crossing
- Universal Loading Zone
- Accessible Parking

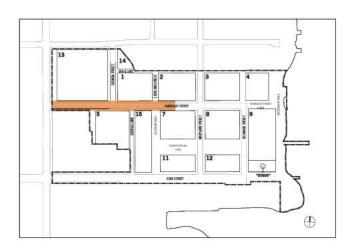
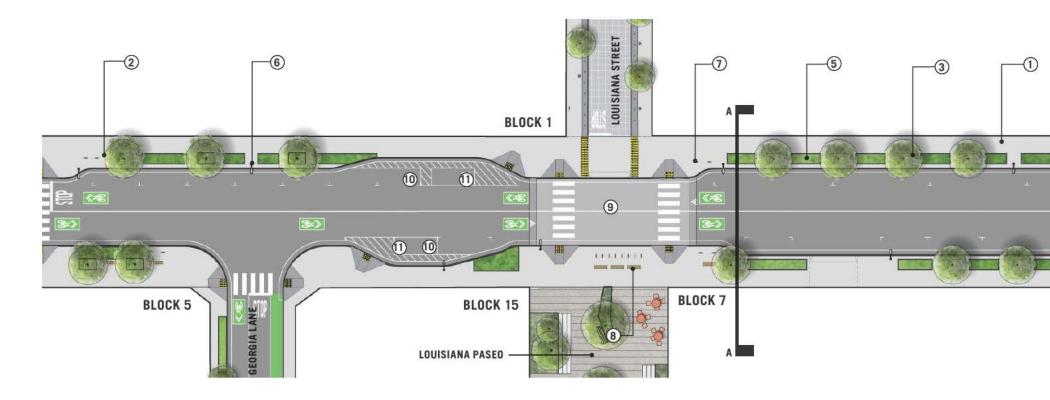
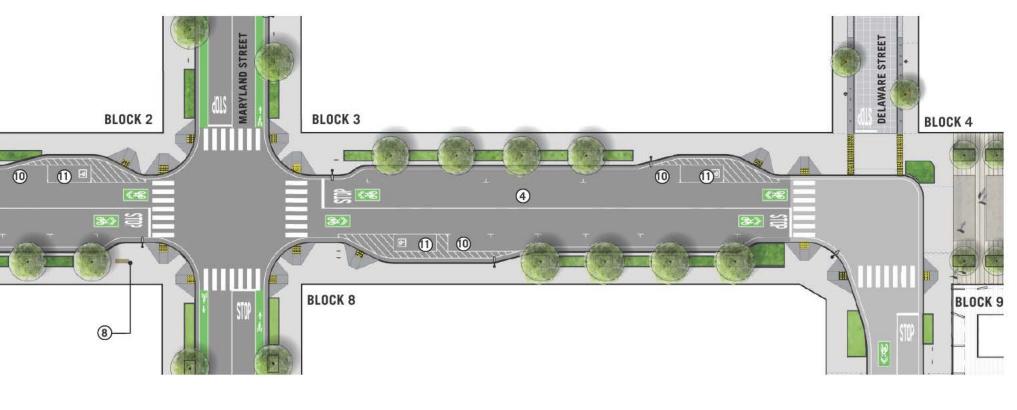
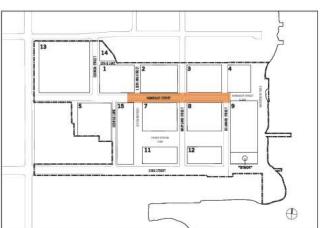


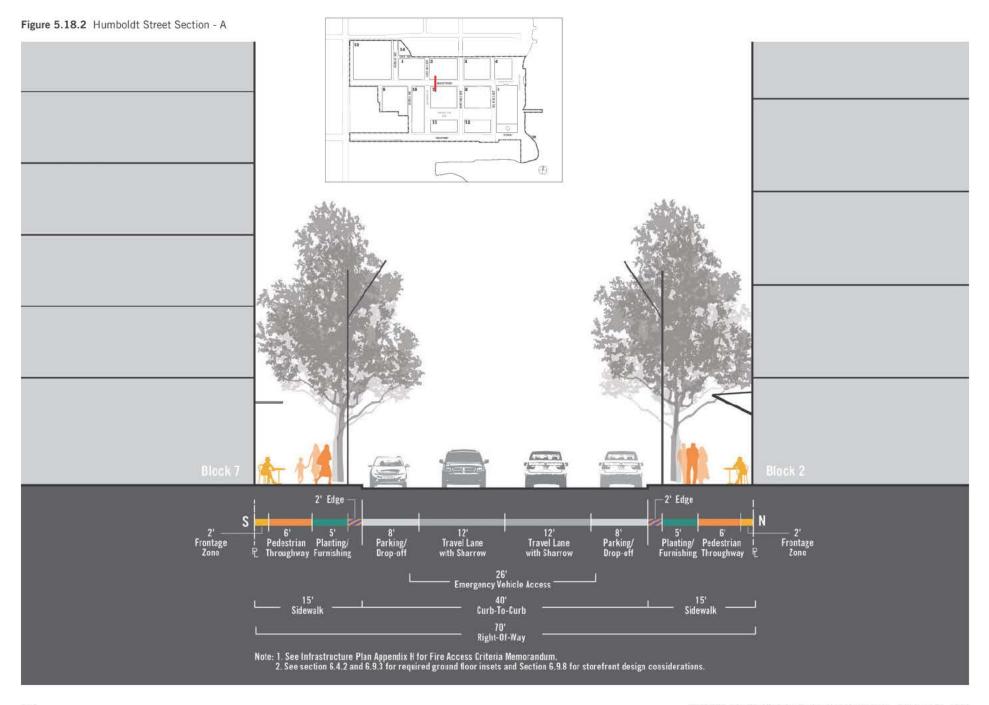
Figure 5.18.1 Humboldt Street Concept Plan (continued)





- Pedestrian Throughway
- Furnishing Zone
- Tree Well
- 2345678 Shared Lane Bicycle Route
- Stormwater Planter
- Street Light
- Bike Rack
- Bench
- Raised Pedestrian Crossing
- Universal Loading Zone
- Accessible Parking

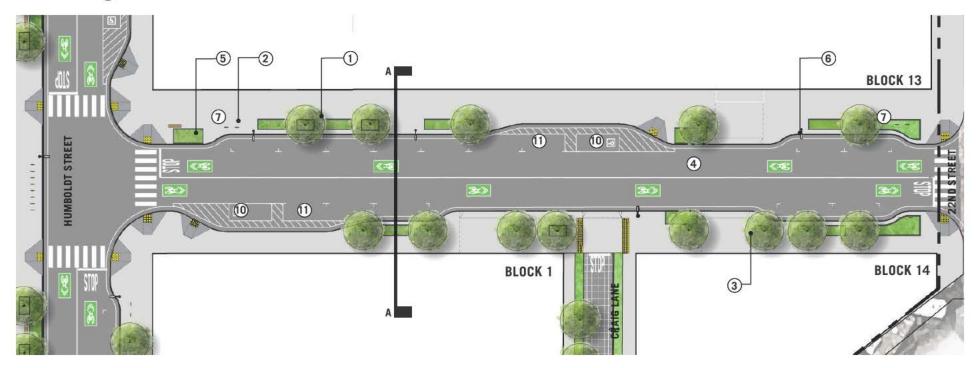




[This page intentionally left blank.]

# 5.19 Georgia Street

Figure 5.19.1 Georgia Street Concept Plan



# STANDARDS

#### 5.19.1 Street-Lane and Sidewalk Widths

The widths of street lanes and sidewalks shall be per the street section shown in Figure 5.19.2.

#### 5.19.2 Tree Well Size

Tree wells shall be at least five 5 by 8 feet.

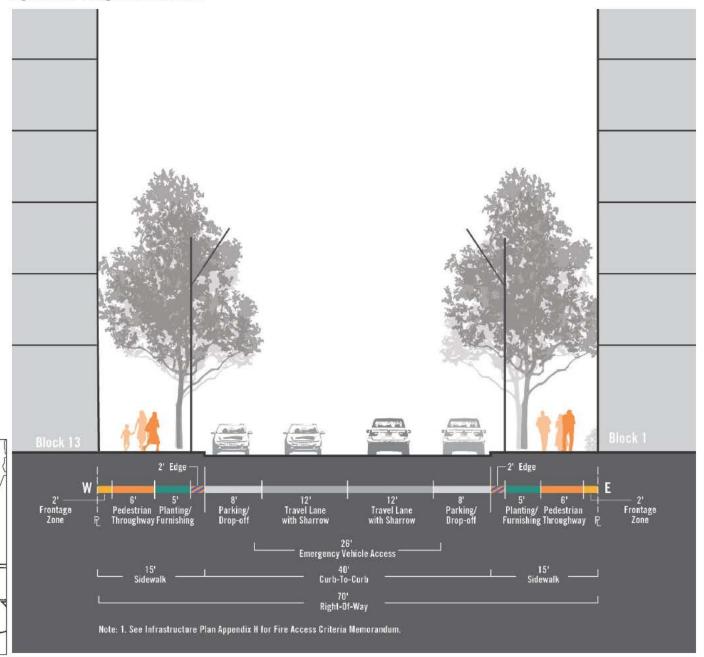
### 5.19.3 Tree Well Surfacing

Tree wells shall have crushed stone without stabilizer. Planting in tree wells is allowed.

### 5.19.4 Lighting

- Pedestrian Throughway
- Furnishing Zone
- 3 Tree Well
- 4 Shared Lane Bicycle Route
- 5 Stormwater Planter
- 6 Street Light
- Bicycle Rack
- 8 Bench
- Raised Pedestrian Crossing
- (10) Universal Loading Zone
- 1) Accessible Parking

Figure 5.19.2 Georgia Street: Section A



# 5.20 Georgia Lane

Figure 5.20.1 Georgia Lane Concept Plan



## STANDARDS

#### 5.20.1 Street-Lane and Sidewalk Widths

The widths of street lanes and sidewalks shall be per street sections shown in Figure 5.20.2 and Figure 5.20.3.

#### 5.20.2 Tree Well Size

Tree wells shall be at least 3 feet and 6 inches by 8 feet.

## 5.20.3 Raised Pedestrian Crossing

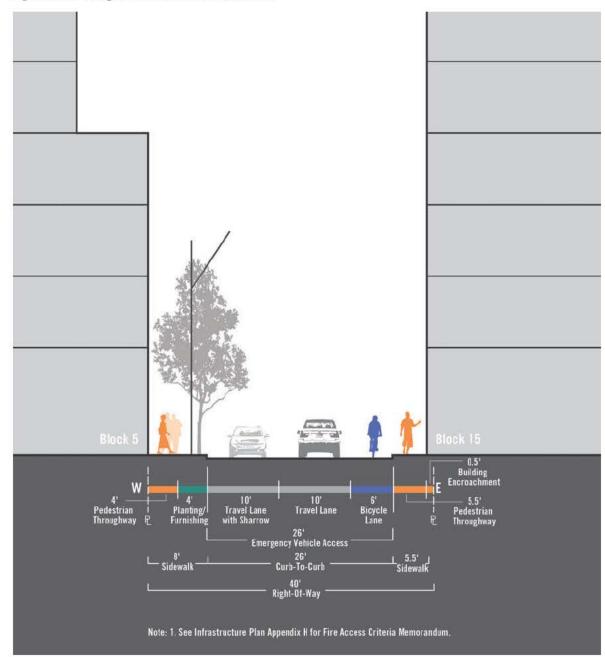
At approximately the mid-block portion of Block 15, if public access is provided through the building, a 2-inchraised concrete pedestrian crossing shall be included in the street design for safe crossing, if Block 5 contains Residential, Active Recreation and/ or District Parking Garage uses.

## 5.20.4 Lighting

Refer to lighting standards per Section 7.2.

- 1) Pedestrian Throughway
- 2 Furnishing Zone
- 3) Tree Well
- 4 Class II Bicycle Lane
- 5 Shared Lane Bicycle Route
- 6 Stormwater Planter
- 7) Street Light
- 8) Raised Pedestrian Crossing

Figure 5.20.2 Georgia Lane: Section A (With Station A)



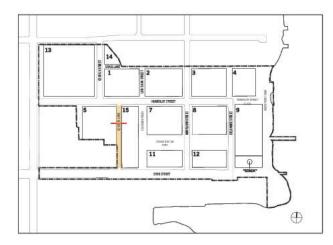
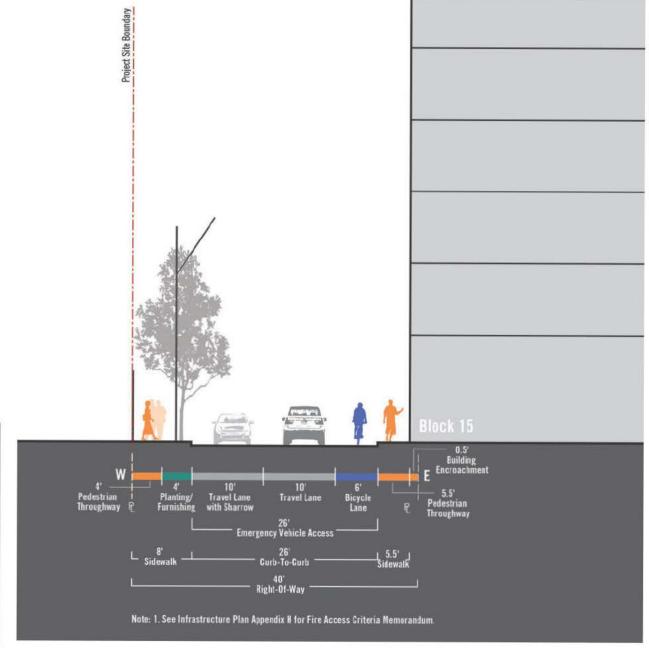


Figure 5.20.3 Georgia Lane: Section B (With Station A)



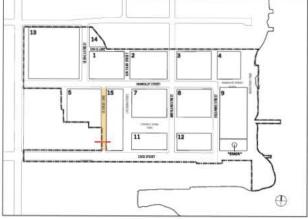
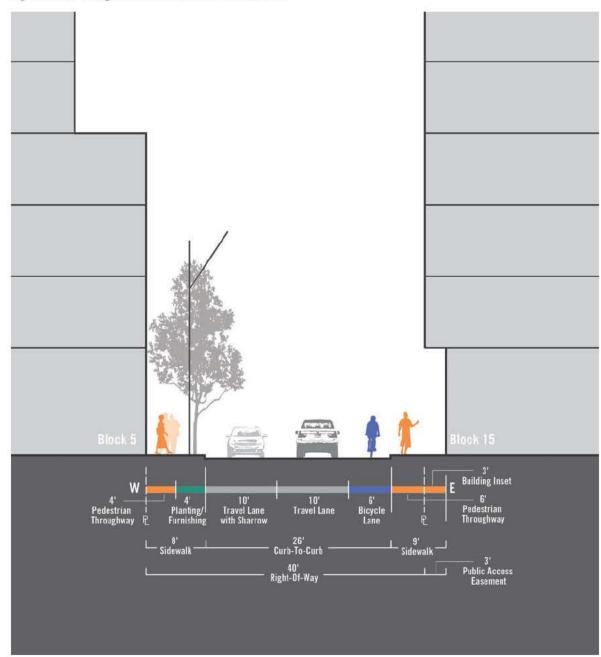


Figure 5.20.4 Georgia Lane: Section A (Without Station A)



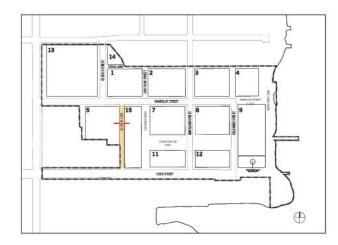
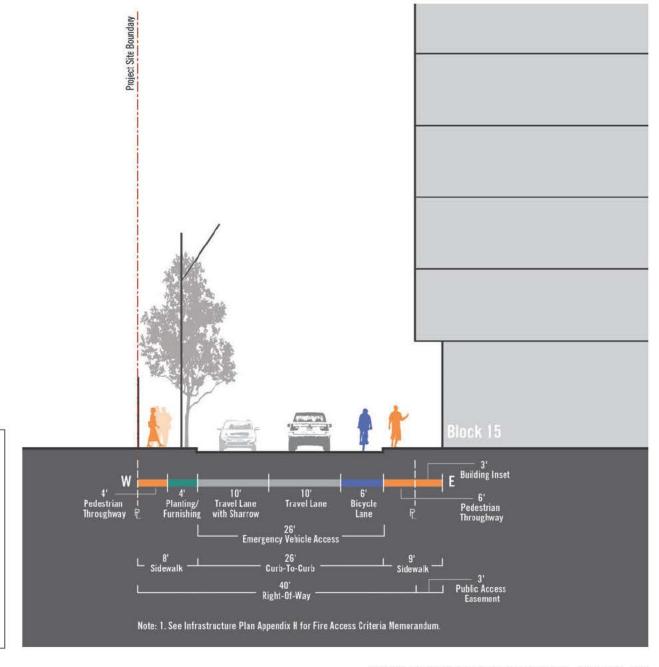
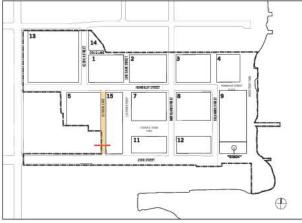


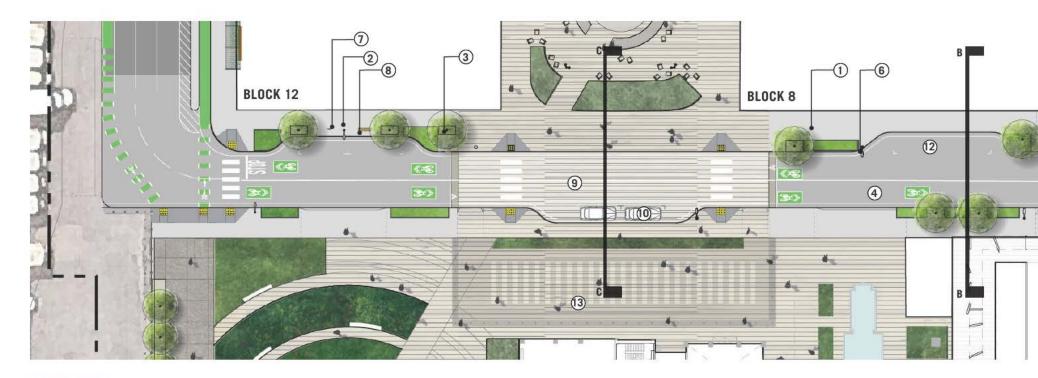
Figure 5.20.5 Georgia Lane: Section B (Without Station A)





[This page intentionally left blank.]

# 5.21 Delaware Street



# **STANDARDS**

#### 5.21.1 Street-Lane and Sidewalk Widths

The widths of street lanes and sidewalks shall be per street sections shown in Figure 5.21.2, 5.21.3, and 5.21.4.

#### 5.21.2 Roadway Materials

Delaware Street shall be paved with concrete between 23rd Street and Humboldt Street. Custom score patterns may be used to the extent that they will be accepted by SFPW.

#### 5.21.3 Tree Well Size

Tree wells shall be at least 5 feet by 8 feet.

#### 5.21.4 Tree Well Surfacing

Tree wells shall be planted. Crushed stone without stabilizer in tree wells is allowed.

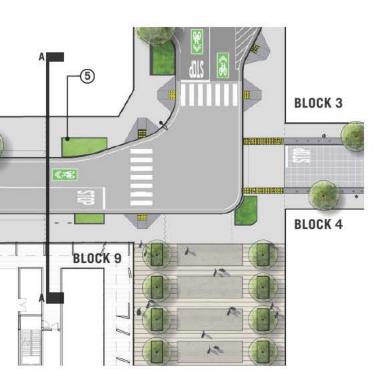
#### 5.21.5 Raised Pedestrian Crossing

Between Power Station Park and Unit 3, a 2-inch-raised concrete pedestrian crossing shall be included in the street design. The crossing shall be separated from the pedestrian sidewalk by a minimum 4-inch curb.

This standard applies to the section of Delaware Street west of the Unit 3 passenger loading and fire access area and east Power Station Park for a width of approximately 145 feet.

- Pedestrian Throughway
- 2 Furnishing Zone
- Tree Well
- 4 Shared Lane Bicycle Route
- Stormwater Planter
- 6 Street Light
- Bike Rack
- 8 Bench
- 9 Raised Pedestrian Crossing
- 10 Passenger Loading Zone
- 1 Accessible Parking
- (12) Shuttle Stop
- (3) Unit 3 Fire Access and Passenger Loading

Figure 5.21.1 Delaware Street Concept Plan



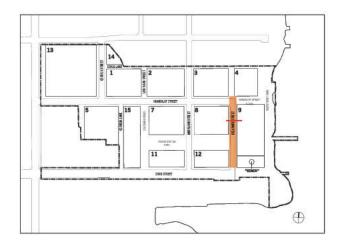


Figure 5.21.2 Delaware Street: Section A

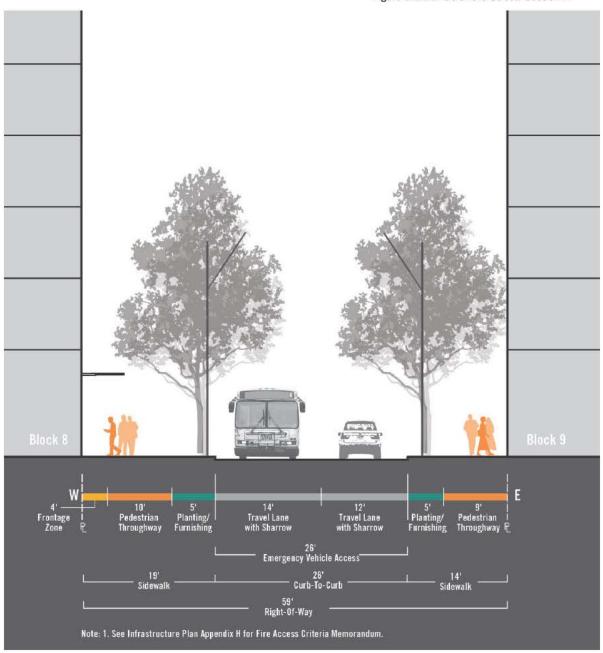
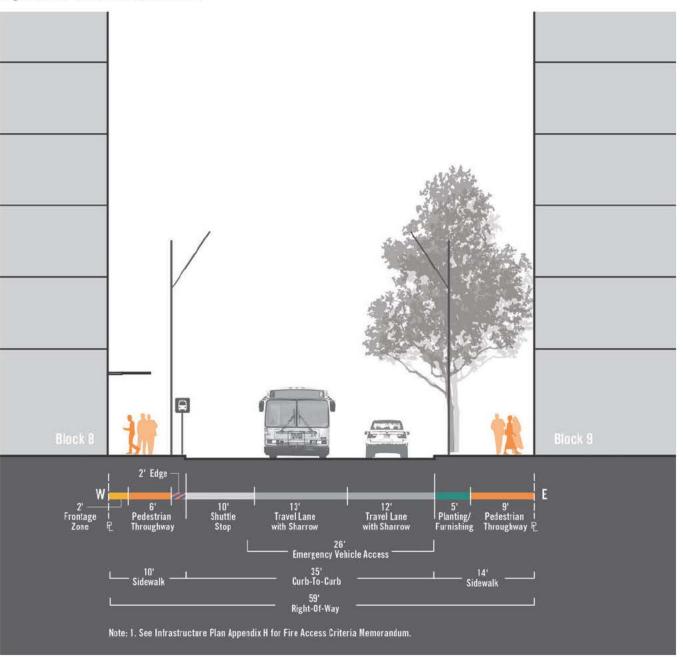
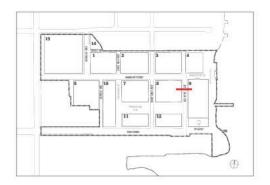
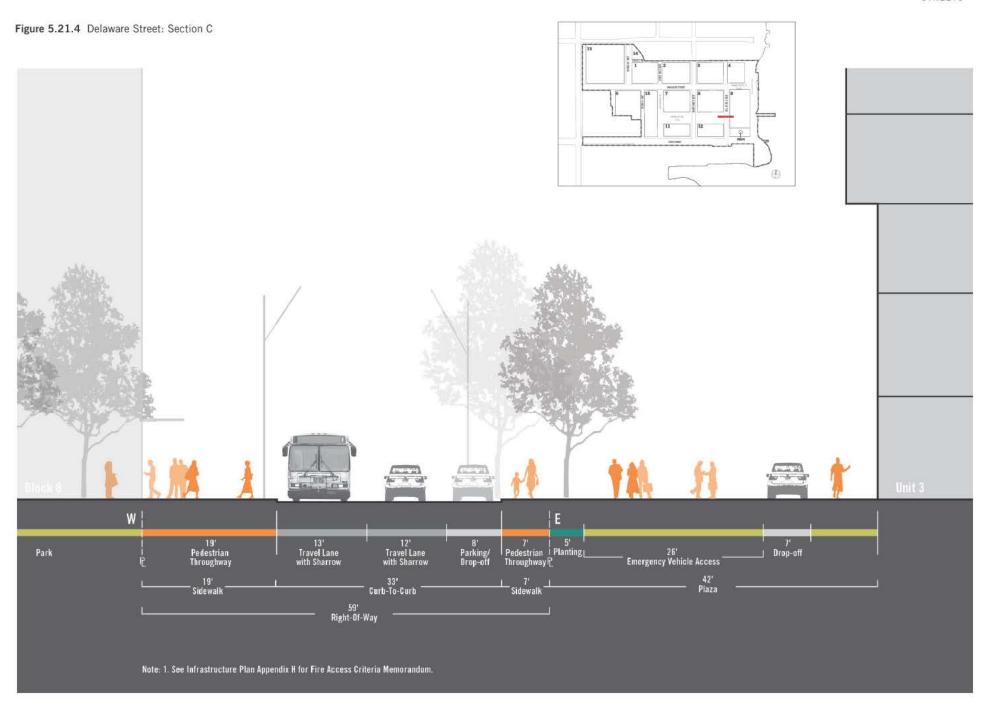
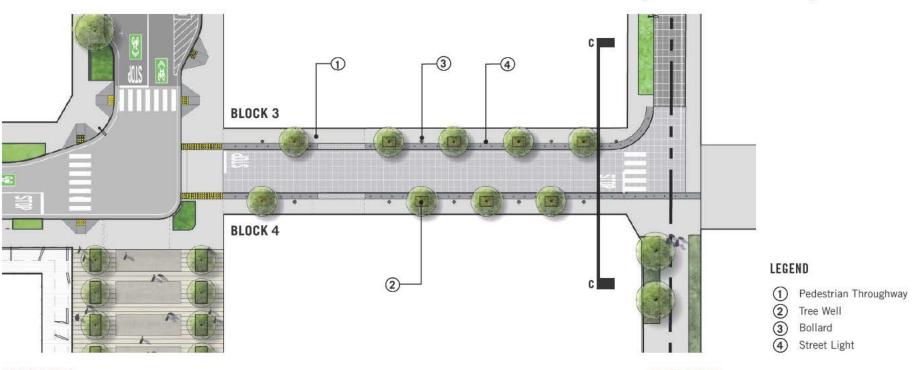


Figure 5.21.3 Delaware Street: Section B









STANDARDS

#### 5.21.6 Vehicular/Shared Travel Lane and Pedestrian-Only Throughway Space Widths

The widths of street lanes and sidewalks shall be per street section shown in Figure 5.21.6.

#### 5.21.7 Shared Lane/Vehicular Zone Materials

Shared lanes shall be paved with enhanced cast in place concrete, unit pavers, or permeable unit pavers.

## 5.21.8 Detectable Warning Pavers

A three-foot-wide strip of detectable warning pavers shall separate the Pedestrian Throughway from the shared lanes. Detectable warning pavers shall be alternate colors/materials as shown in Figure 5.15.2.

#### 5.21.9 Bollards

Bollards shall be placed at minimum 5 feet on-center along the center of the detectable warning paver strip if a curb is not provided instead.

#### 5.21.10 Tree Well Size

Tree wells shall be at least 4 feet by 6 feet minimum.

#### 5.21.11 Tree Well Surfacing

Tree wells shall have tree grates that comply with pedestrian accessibility standards.

#### 5.21.12 Lighting

Lighting design shall feature pedestrian pole lights or lighted bollards, as appropriate. Refer to lighting standards per Section 7.2.

#### **GUIDELINES**

#### 5.21.13 Stormwater Treatment

If surface stormwater treatment planters are not feasible, a structural cell system for tree planting and/ or permeable concrete unit pavers may be used to treat stormwater runoff.

Figure 5.21.5 Delaware Street Concept Plan (continued)

#### 5.21.14 Pier 70 Connection

To ensure a safe transition, the Power Station project shall coordinate design of Delaware Street with the Pier 70 project.

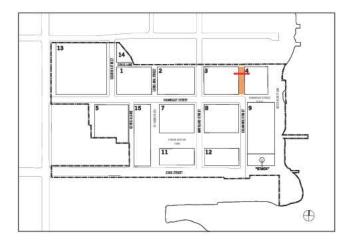
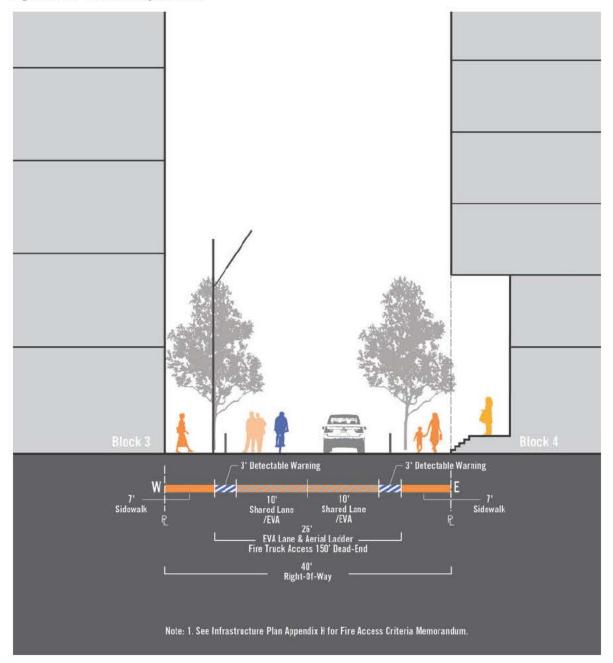


Figure 5.21.6 Delaware Alley: Section C

## CONSIDERATIONS

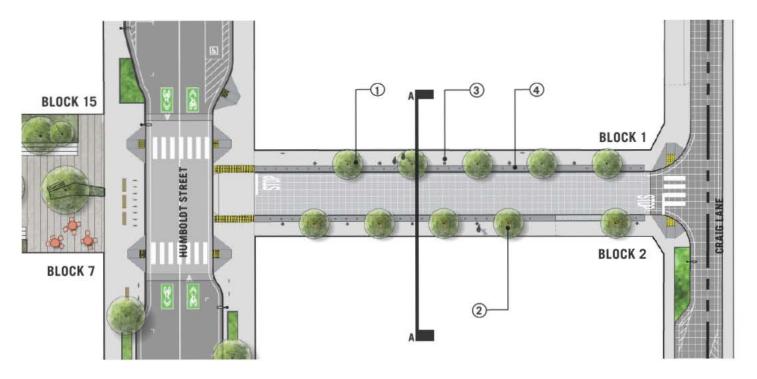
#### 5.21.15 Thermal Energy Plant Piping Connection

If the Project Sponsor determines that such a system would be feasible, the project may elect to construct shared thermal energy plants. Such a system would use shared thermal energy plants within the project site, to recover waste heat from commercial buildings for heating and cooling use in residential buildings, to reduce the project's overall energy and water demands. If feasible, utilities related to this system including an insulated pipe connection shall be provided under the private portion of Delaware Street, between Blocks 3 and 4.



## 5.22 Louisiana Street

Figure 5.22.1 Louisiana Street Concept Plan



#### LEGEND

- 1 Pedestrian Throughway
- (2) Tree Well
- 3) Bollard
- 4 Street Light

## **STANDARDS**

#### 5.22.1 Vehicular/Shared Travel Lane and Pedestrian-Only Throughway Space Widths

The widths of street lanes and sidewalks shall be per street sections shown in Figure 5.22.2.

#### 5.22.2 Pedestrian Throughway Materials

The Pedestrian Throughway, shall be an accessible path of travel that is unobstructed and ADA-compliant. Paving material shall be enhanced cast in place concrete and/or unit pavers.

#### 5.22.3 Shared Lane/Vehicular Zone Materials

Shared lanes shall be paved with enhanced cast in place concrete, unit pavers, or permeable unit pavers.

#### 5.22.4 Detectable Warning Pavers

A three-foot wide strip of detectable warning pavers shall separate the Pedestrian Throughway from the shared lanes. Detectable warning pavers shall be alternate colors/materials as shown in Figure 5.15.2.

#### 5.22.5 Bollards

Bollards shall be placed at minimum 5 feet on-center along the center of the detectable warning paver strip if a curb is not provided instead.

#### 5.22.6 Tree Well Size

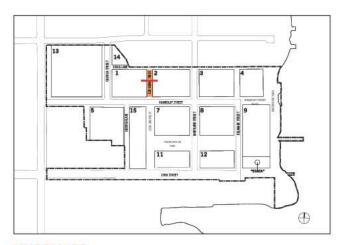
Tree wells shall be at least 4 feet by 6 feet.

#### 5.22.7 Tree Well Surfacing

Tree wells shall have tree grates that comply with pedestrian accessibility standards.

#### 5.22.8 Lighting

Lighting design shall feature pedestrian pole or lighted bollards, as appropriate. Refer to lighting standards per Section 7.2.



#### GUIDELINES

#### 5.22.9 Residential Stoops

A four-foot encroachment zone is allowed, but not required along the west side of the Louisiana Street shared public way. Stoops and stairs related to residential entries are allowed, but not required in this zone.

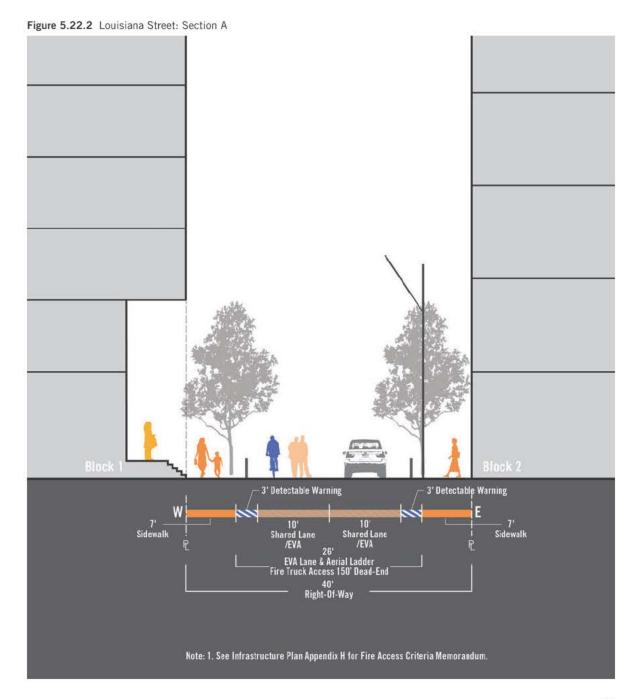
#### 5.22.10 Stormwater Treatment

If surface stormwater treatment planters are not feasible, a structural cell system for tree planting and/ or permeable concrete unit pavers may be used to treat stormwater runoff.

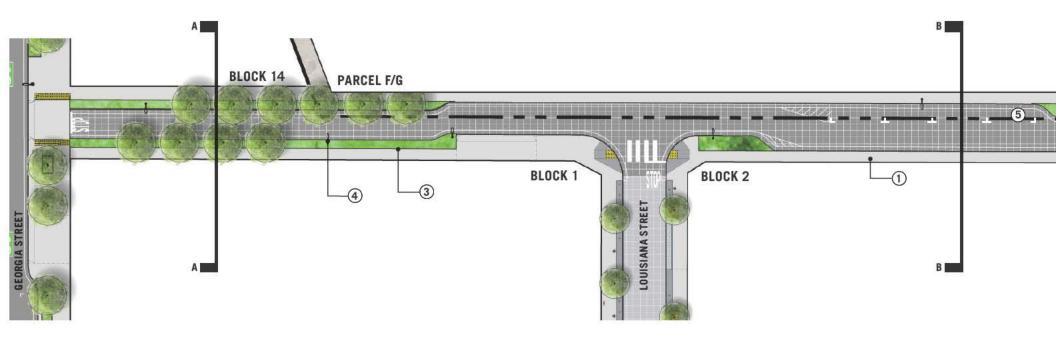
#### CONSIDERATIONS

#### 5.22.11 Thermal Energy Plant Piping Connection

The project may elect to construct shared thermal energy plants, if the Project Sponsor determines that such a system would be feasible. Such a system would use shared thermal energy plants within the project site to recover waste heat from commercial buildings for heating and cooling use in residential buildings to reduce the project's overall energy and water demands. If feasible, utilities related to this system, including an insulated pipe connection, shall be provided under the private portion of Louisiana Street, between Blocks 1 and 2.



## 5.23 Craig Lane



#### STANDARDS

#### 5.23.1 Street-Lane and Sidewalk Widths

The design of Craig Lane is tentative pending locations of building openings, curb cuts, and distribution of loading/parking to the north and south sides of the street. The widths of street lanes and sidewalks shall be per street sections shown in Figure 5.23.2-5.23.4.

#### 5.23.2 Roadway Materials

Craig Lane shall be paved with stamped concrete, stamped asphalt, or unit paving.

#### 5.23.3 Tree Well Size

Tree wells shall be at least 5 feet by 8 feet.

#### 5.23.4 Tree Well Surfacing

Tree wells shall be planted with a diverse mix of ornamental grasses, small woody shrubs and herbaceous perennials. Alternate tree surfacing: non-stabilized crushed stone.

#### 5.23.5 Pedestrian Throughway Materials

The Pedestrian Throughway, shall be an accessible path of travel that is unobstructed and ADA-compliant. Paving material shall be SF Public Works standard cast-in-place concrete.

#### 5.23.6 Furnishing Zone Materials

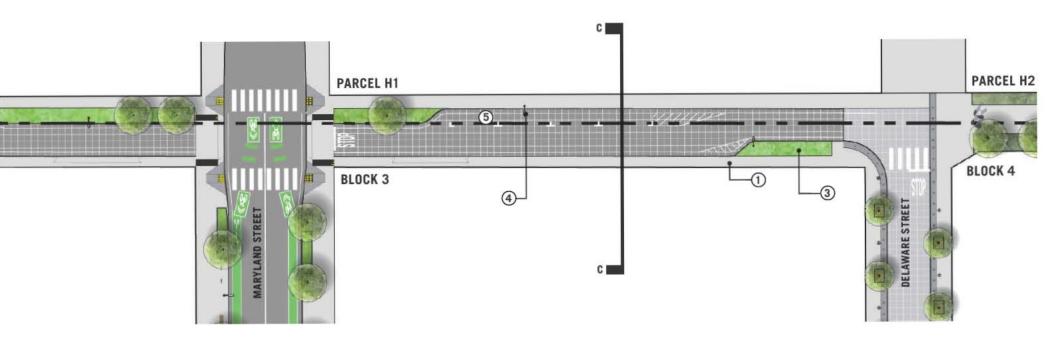
Furnishing zone shall be SF Public Works standard cast-in-place concrete.

#### CONSIDERATION

#### 5.23.7 Parking / Loading

Consider dedicating 50 percent of the frontrages of Pier 70 parcels F/G and H1 to parking/loading zone.

Figure 5.23.1 Craig Lane Concept Plan



## LEGEND

- Pedestrian Throughway
- Tree Well
- @34 Stormwater Planter
- Street Light
- Commercial Loading Zone

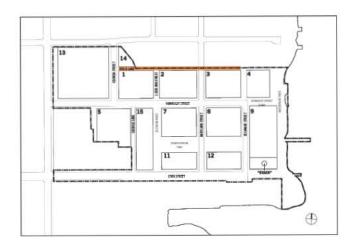
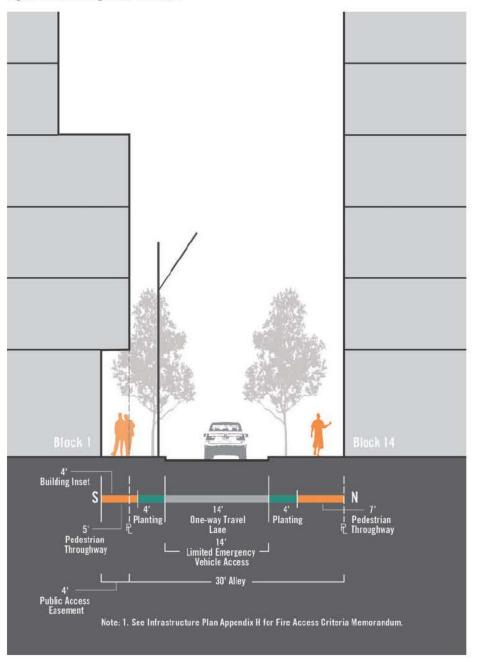


Figure 5.23.2 Craig Lane: Section A



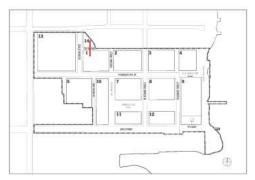
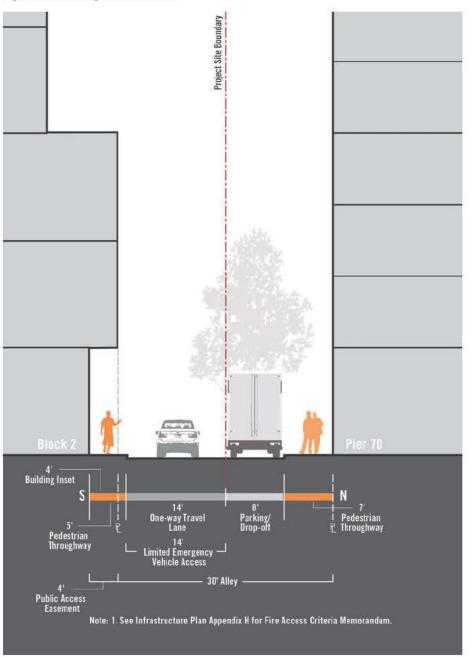


Figure 5.23.3 Craig Lane: Section B



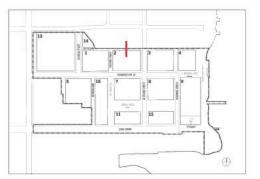
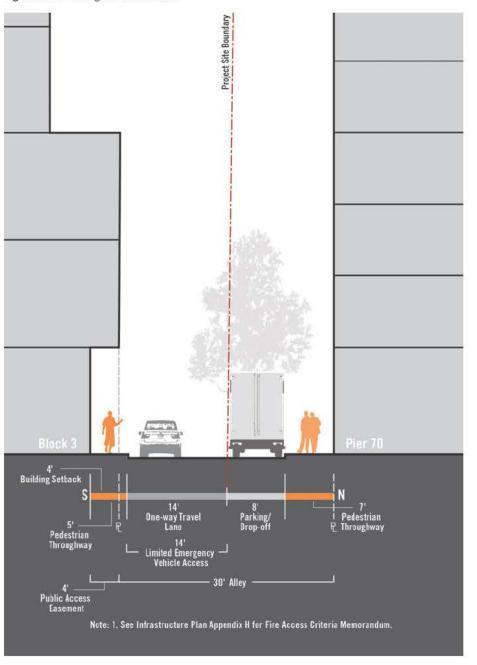
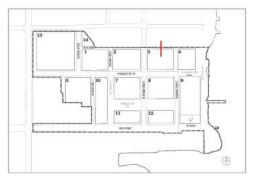


Figure 5.23.4 Craig Lane: Section C





[This page intentionally left blank.]

## 5.24 22nd Street

Note: The sidewalk on 22nd Street is within an existing right-of-way, planned for and to be constructed as part of the Pier 70 development. The current design of this street, including sidewalk, is shown in this figure.

6' Pedestrian Throughway

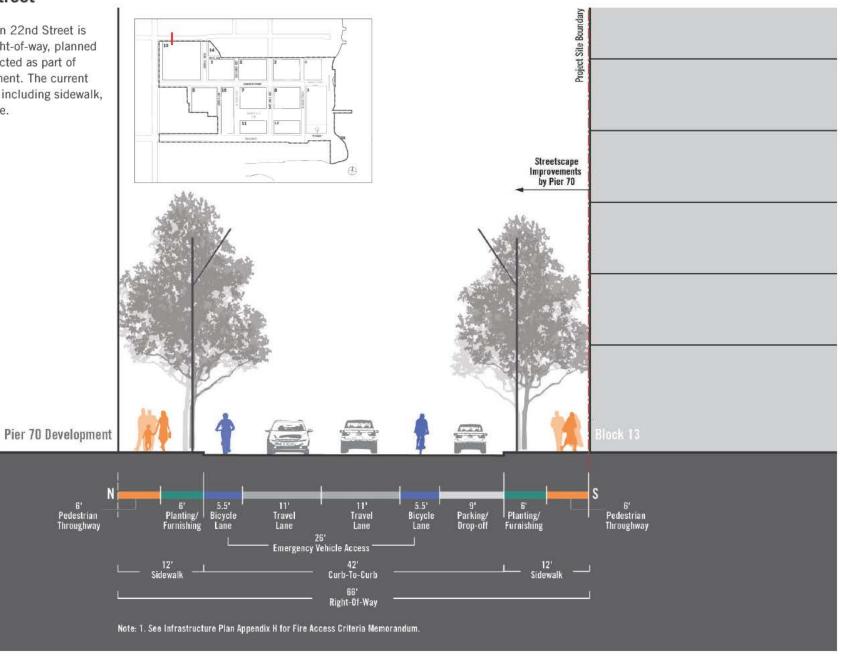
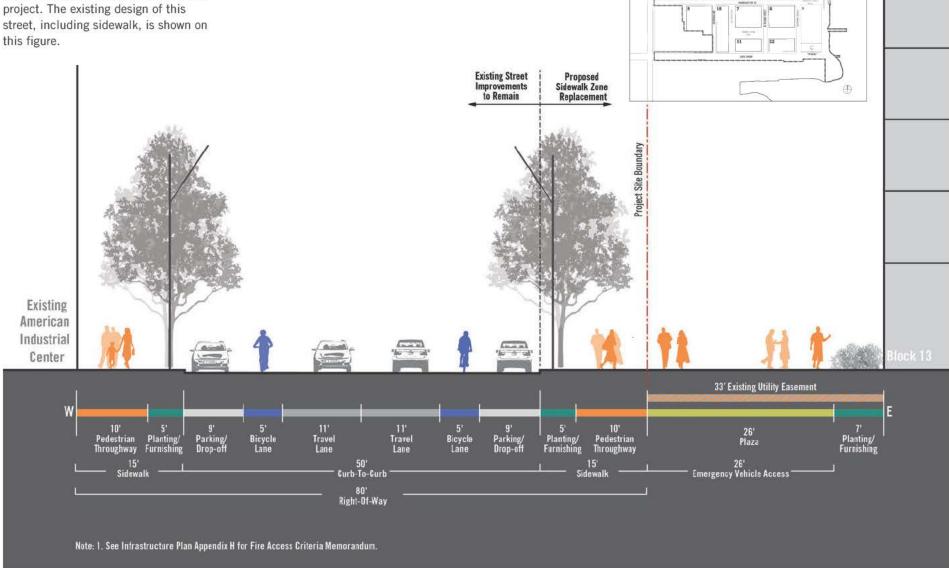


Figure 5.24.1 22nd St: Section A

## 5.25 Illinois Street

Figure 5.25.1 Illinois St: Section A

Note: The sidewalk on Illinois Street is within an existing right-of-way, and will be replaced with the Power Station project. The existing design of this street, including sidewalk, is shown on this figure.





# Section 6 BUILDINGS

| Urban Form   |                         |      | Design Context   |   |      | Building Experience and Operations |  |     |
|--------------|-------------------------|------|--|---|------|------------------------------------|--|-----|
| 6.1          | Building Form Controls  | 242  | 6.9  | Ground Floor Design   | 270  | 6.18                               | Sustainable Buildings and Human Wellness | 292 |
| 6.2          | Building Height         | 244  | 6.10   | Key Frontages and Corners   | 272  | 6.19                               | Building Rooftops                        | 299 |
| 6.3          | Block Size              | 249  | 6.11   | Third Street Industrial District Frontages                                | 274  | 6.20                               | Off-Street Parking and Loading           | 302 |
| 6.4          | Building Setbacks       | 251  | 6.12   | Existing Buildings within the Third Street Industrial District: The Stack |      | 6.21                               | Bicycle Parking                          | 306 |
| 6.5          | Upper Building Controls | 254  |  |   | 277  | 6.22                               | District Parking Garage                  | 309 |
| Architecture |                         | 6.13 | Existing Buildings within the Third Street Industrial District: Unit 3 | 278   | 6.23 | Construction Noise                 | 314                                      |     |
| 6.6          | Building Modulation     | 260  | 6.14   | Existing Buildings within the Third Street Industrial District: Station A |      |                                    |  |     |
| 6.7          | Façade Articulation     | 266  |  |   | 282  |                                    |  |     |
| 6.8          | Color and Materials     | 267  | 6.15   | Park Frontages  | 285  |                                    |  |     |
|              |                         |      | 6.16   | Residential Character   | 287  |                                    |  |     |
|              |                         |      | 6.17   | Active Use Character  | 289  |                                    |  |     |



## **Urban Form**

Urban form at the Power Station project prioritizes the pedestrian experience, providing a framework for organizing a neighborhood's buildings, streets, and open space to enhance walkability.

The Power Station D4D prioritizes the pedestrian experience, not only with gracious sidewalks and ample open spaces, but also with thoughtful urban form and architecture. With respect to buildings, three main factors contribute to walkability: (1) building mass and bulk; (2) block size and scale; and (3) visual interest created by architectural modulation, articulation, and materiality. To be meaningful, these three elements must be contextual, paying mind to a building's location, use, and typology.

As with many new developments in San Francisco, at the Power Station, no residential dwelling unit density limit or maximum floor area ratio applies. Density is instead regulated by a building's exposure and open space requirements, bulk and mass, including height, required setbacks, as well as maximum plan, diagonal, and apparent face dimensions. Such controls allow for a varied urban form that steps down towards the waterfront, human-scaled streetwalls, and buildings that do not appear overwhelmingly massive.

New buildings at the Power Station generally fall into four categories:

- Lowrise buildings (Blocks 4, 12, and 14): Buildings up to 100 feet in height; or
- Midrise buildings (Blocks 2, 3, 8, 9, 11 and 13): Buildings between 101 and 145 feet in height; or
- Midrise towers (Blocks 1 and Block 15): Buildings between 146 and 180 feet in height; or
- Highrise towers (Block 5 and Block 7): Buildings between 181 feet and 240 feet in height.

All buildings are required to provide a building setback at specified heights (Section 6.4), though some exceptions may apply to Station A where the building is appropriately sculpted (Section 6.14.5). The portion of the building between sidewalk grade up to this required building setback forms the streetwall (Section 6.4.5).

Buildings taller than 145 feet (i.e., midrise towers and the highrise towers) are composed of two parts: (1) the Base and (2) the Upper Building (Section 6.2.2).

## **6.1 Building Form Controls**

#### **STANDARDS**

#### **6.1.1** Application of Bulk Controls

For buildings within the Potrero Power Station SUD, the building form and bulk controls contained in this Design for Development shall control.

#### 6.1.2 Form-Based Controls

No residential dwelling unit density limit or maximum floor area ratio shall apply within the Potrero Power Station SUD. Density is instead regulated by design standards and guidelines contained in this D4D.

#### **6.1.3** Dwelling Unit Exposure

All dwelling units shall face onto a public or private rightof-way, or onto an open area, defined as:

- A public street, publicly accessible alley, or Mid-Block Alley (public or private) at least 20 feet in width that is unobstructed and open to the sky. See Figure 6.1.1.(a).
- An outer court or terrace that is open to a public street, publicly accessible alley, Mid-Block Alley (public or private), or public open space and at least 25 feet in width. See Figure 6.1.1.(b).
- An inner court that is unobstructed (except for obstructions permitted in *Sections* 136(c)(14), (15), (16), (19), and (20) of the planning code) and is no less than 40 feet in one horizontal dimension and 25 feet in the other horizontal dimension, at the lowest two floors having dwelling units facing onto the inner court. The horizontal dimension that is at least 25 feet shall increase 5 feet at each subsequent floor. See Figure 6.1.1(c) and Figure 6.1.2.
- For below-grade units, an open space at the same grade as the unit, that is no less than 7.5 feet wide in

every horizontal dimension, at least 136 square feet in area, and 60 percent open to the sky. See Figure 6.1.3. Such open spaces shall face onto a public street, publicly accessible alley, or public open space. Below-grade units shall be maximum 6 feet below the grade of the public street, publicly accessible alley, or public open space.

#### 6.1.4 Usable Open Space

Usable Open Space is defined as an outdoor area or areas designed for outdoor living, recreation, or landscaping, including such areas on the ground and on decks, balconies, porches and roofs, which are safe, suitably surfaced and screened. Private Open Space is defined as an area or areas private to and designed for use by only one dwelling unit. Common Open Space shall mean an area or areas designed for use jointly by two or more dwelling units.

Usable Open Space requirements shall be met by providing (i) 36 square feet of Private Open Space per dwelling unit or (ii) 48 square feet of Common Open Space per dwelling unit. For Group Housing or Single Room Occupancy units, the minimum open space requirements shall be one-third the amount specified in this subsection for a dwelling unit.

In addition, to count as Usable Private Open Space, the area credited on a deck, balcony, porch, or roof must either face a street, or face or be within an open area, per Section 6.1.3.

#### A) Common Open Space

Courtyards, rooftop terraces, decks and/or porches, among other spaces shall count towards the provision of Common Open Space. Mid-Block Alleys may also count as Common Open Space provided that the space is well designed, contains landscaping where appropriate, and does not allow vehicular access. All such open space shall have a minimum 10 feet in every horizontal dimension and be unobstructed and open to the sky, except for obstructions permitted under Planning Code Section 136, to be counted toward the requirement of 48 square feet of Common Open Space per dwelling unit.

#### B) Private Open Space

Spaces including but not limited to setback areas, balconies, and/or decks shall count towards the provision of Private Open Space. Such open space shall have a minimum dimension of 6 feet in every horizontal dimension to be counted toward the requirement of 36 square feet of Private Open Space per dwelling unit.

Private Open Space shall be directly accessible from the dwelling unit it serves.

C) Rooftop Publicly Accessible Private Open Space Where Publicly Accessible Private Open Space is provided in connection with Retail structures on the roof of majority non-residential buildings (excluding Block 9), such open space shall comply with Planning Code Section 138(d)(1) and be open to the public, at minimum, during operating hours of the associated Retail space.

#### D) Rooftop POPOS on Block 15

If Station A is damaged such that 30% or less of the eastern wall remains, a publicly accessible private open space not less than 5,000 square feet in size and meeting the requirements of Planning Code section 138(d) shall be provided on the rooftop of one building constructed on Block 15.

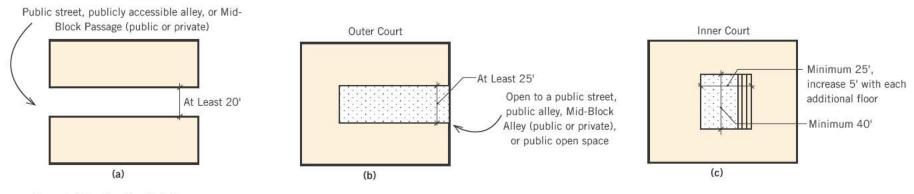


Figure 6.1.1 Dwelling Unit Exposure



Figure 6.1.2 Minimum Width of Inner Courts

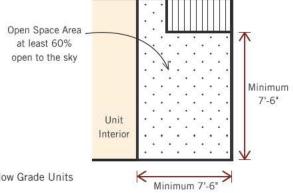


Figure 6.1.3 Dwelling Unit Exposure for Below Grade Units

## 6.2 Building Height

#### STANDARDS

#### 6.2.1 Height of Existing Structures

The height limit for Unit 3 and the Stack have been established at their existing heights. In the event that the Stack collapses or is otherwise damaged beyond repair, the 300-foot height limit shall not be applicable to a new structure. Rather, the area of land currently improved with the Stack shall be used as open space. Should Unit 3 be demolished, the height limit for Block 9 would be 125/85 feet, per Figure 6.2.3.

#### 6.2.2 Maximum Height

Maximum height limits establish a neighborhood fabric that is sculpted, with heights generally stepping down as one approaches the waterfront.

- Lowrise buildings (Blocks 4, 12, and 14): Buildings up to 100 feet in height; or
- Midrise buildings (Blocks 2, 3, 8, 9, 11 and 13: Buildings between 101 and 145 feet in height; or
- Midrise towers (Blocks 1 and Block 15): Buildings between 146 and 180 feet in height; or
- Highrise towers (Block 5 and Block 7): Buildings between 181 feet and 240 feet in height.

The height of buildings shall not exceed the applicable maximum heights shown in Figure 6.2.3. Where two heights are separated by a "/", the lower height reflects the limit permitted for the Base or podium, while the taller height reflects the limit permitted for the Upper Building or tower, which are defined as follows:

#### A) Base (Podium)

The Base is the lower portion of a midrise or highrise tower that extends vertically to a height of up to 90 feet. See Figure 6.2.1.

#### B) Upper Building (Tower)

The Upper Building (commonly referred to as the "tower"), is the portion of a midrise or highrise tower above the Base. See Section 6.5 for Upper Building controls.

#### 6.2.3 Measuring Height

Maximum building heights are to be measured from the highest point of finished grade along the property line of the building parcel on which the building is located (see Figure 6.2.2.), up to the highest point of the uppermost structural slab in the case of a flat roof; or up to the average height of the rise in the case of a pitched or stepped roof, or similarly sculptured roof form.

#### 6.2.4 Height Exemptions

Rooftop elements may project above given height limits if the following conditions are met:

- A) On rooftops between 45 feet and 100 feet in height, rooftop elements greater than 4 feet in height must be set back at a minimum ratio of 1.2 feet in a horizontal dimension from the roof edge for every 1 foot that they exceed the maximum height limit (for example, a 4-foot-tall rooftop feature that is not a railing or parapet must be set back 4.8 feet from the roof edge);
- B) On Upper Building rooftops, mechanical features must be screened or enclosed;
- C) Enclosed structures designed for human occupancy may not exceed 25 percent of the total roof area of a building (including roof areas of the same building at different elevations);

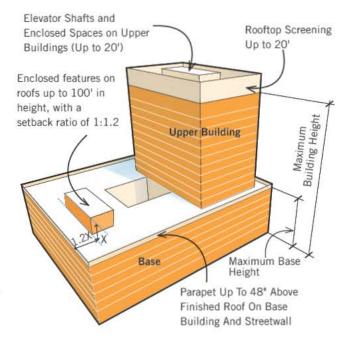


Figure 6.2.1 Maximum Building Height and Base Height

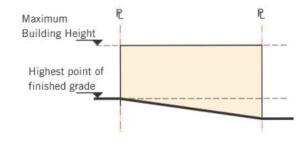


Figure 6.2.2 Measuring Height on a Slope

Figure 6.2.3 Building Height Plan



#### 6.2.4 Height Exemptions, continued

- **D)** The sum of the horizontal area of the following rooftop elements may not exceed 40 percent of the horizontal areas of the roofs of the building above which they are situated, and may project for the number of feet above the permitted height limit as noted:
- Elevator, stair and mechanical penthouses, all up to 20 feet in height. These features may exceed 20 feet in height as required by the California Code of Regulations;
- On the roof of majority residential buildings, structures related to the recreational use of the rooftop (e.g. greenhouses, sheds for the storage of furniture or equipment, hot tub enclosures, changing rooms, etc.) up to 16 feet in height;
- On the roof of majority non-residential buildings, Retail structures containing certain Retail Sales and Service Uses (limited to Bar, Tourist Oriented Gift Store, Specialty Grocery, Gym, Liquor Store (to allow for wine tasting), Limited Restaurant, General Restaurant, Instructional Service, and Personal Service); and/or certain Entertainment, Arts, and Recreation Uses (limited to Arts Activities, General Entertainment, Nighttime Entertainment, and/or Childcare Facility), all up to 16 feet in height. Such enclosed space shall not exceed 5,000 square feet of Gross Floor Area, and shall be accompanied by 1 square foot of Publicly Accessible Open Space for each square foot of Gross Floor Area (see Standard 6.1.4 (C)):
- If a building used predmoninantly for Hotel Use is developed on Block 9, on the roof of such building, Retail structures containing certain Retail Sales and Service Uses (limited to Bar, Tourist Oriented Gift Store, Specialty Grocery, Gym, Liquor Store (to allow for wine tasting), Limited Restaurant, General Restaurant, Instructional Service, and Personal Service); and/or certain Entertainment, Arts, and Recreation Uses (limited to Arts Activities, General

- Entertainment, and Nighttime Entertainment), all up to 16 feet in height;
- Enclosed restrooms up to 10 feet in height; and,
- Mechanical equipment and appurtenances necessary
  to the operation or maintenance of the building
  or structure itself such as chimneys, ventilators,
  plumbing vent stacks, and/or cooling towers together
  with visual screening for any such features, all up to
  20 feet in height;
- If a building used predmoninantly for Hotel Use is developed on Block 9, on the roof of such building, Retail structures containing certain Retail Sales and Service Uses (limited to Bar, Tourist Oriented Gift Store, Specialty Grocery, Gym, Liquor Store (to allow for wine tasting), Limited Restaurant, General Restaurant, Instructional Service, and Personal Service); and/or certain Entertainment, Arts, and Recreation Uses (limited to Arts Activities, General Entertainment, and Nighttime Entertainment), all up to 16 feet in height; On Block 9, only one rooftop bar is permitted.
- **E)** On buildings that are majority Laboratory use, mechanical features and those features necessary to building operations may exceed 40 percent of the horizontal area of the roof as long as they do not contain space for human occupancy;
- **F)** The following rooftop elements may project above given height limits without regard to horizontal area:
- Non-occupied architectural features, including nonpermeable wind screens, up to 10 feet on buildings between 45 and 100 feet (with a minimum set back of 5 feet from the roof edge) and up to 20 feet on upper buildings above the maximum permitted building height, except on Block 7, where these features may extend up to 10 percent vertically above the maximum permitted building height;
- Unenclosed structures related to unroofed recreation facilities, such as sports fields and swimming

- pools, including lighting required for the nighttime enjoyment of rooftop fields, all up to 60 feet in height, and/or fencing, goal boxes and other sports equipment, netting or other semi-transparent enclosure necessary for the safe enjoyment of unroofed recreation facilities, all up to 30 feet in height;
- Furniture, including but not limited to: tables, chairs, fire pits, bars, umbrellas, lighting, canopies, windscreens, lattices, sunshades, trellises, and other items intended to allow the habitable use of the rooftop, all up to 10 feet in height;
- Photovoltaic panels;
- Equipment and appurtenances necessary to Living Roofs as defined in Planning Code Section 149;
- Wireless Telecommunications Services Facilities and other antennas, dishes and towers and related screening elements;
- Landscaping, with a maximum height of 48 inches for planters or other non-plant materials:
- Trees and plants;
- Decking, up to 3 feet in height;
- Flagpoles and flags;
- Cranes, scaffolding and batch plants erected temporarily at active construction sites; and
- Railings, parapets and catwalks, up to 4 feet in height; and
- **G)** Above-grade connections as permitted in Sections 6.13.8 and 6.14.7.

Figure 6.2.4 Building Height



BUILDINGS

[This page intentionally left blank.]

## 6.3 Block Size

Shorter, walkable blocks increase the permeability of the urban environment and encourage walking. The City of San Francisco generally holds that blocks should be shorter than 300 feet in length, where possible. All of the blocks on site are shorter than 300 feet in length, with the exception of Blocks 9 with Unit 3, Block 15, and Block 13. For Block 9 with Unit 3, a Mid-Block Alley is not required because guidelines require permeability through the building's ground floor, allowing pedestrian access directly through the building from its entrance facing Power Station Park to its entrance facing Waterfront Park. Additionally, a waterfront access corridor is required between the existing Unit 3 structure and the northern horizontal addition to the structure (See Section 6.13.2).

To facilitate preservation of the existing Station A walls (Block 15), a Mid-Block Alley through Station A shall not be required if the features per Section 6.14.1 are retained. Instead, the standards in this section shall apply.

To create more permeability, Block 13 is required to provide at least one Mid-Block Alley compliant with the standards articulated in this section.

#### **STANDARDS**

#### 6.3.1 Mid-Block Alley/Passage Location

Block 13 shall provide at least one publicly accessible Mid-Block Alley for the entire depth of the Block.

On Block 15, (see Section 6.14) at least one publicly accessible east-west Mid-Block Passage through the entire depth of the building's ground floor measuring at least 20 feet of continuous clear width and 15 feet of continuous clear height shall be provided. Such passage may be completely enclosed to facilitate preservation of the existing Station A walls. If Station A is damaged so severely that 30 percent or less of the walls listed in 6.14.1 remain, a Mid-Block Alley shall be provided pursuant to Standard 6.3.2 and the Mid-Block Alley shall have a minimum clear height of 30 feet, unless the remaining portions of the eastern wall physically preclude its construction. A Mid-Block Alley on Block 15 shall be pedestrian only.

## 6.3.2 Mid-Block Alley/Passage Design

Mid-Block Alleys and Passages shall:

- Have a minimum clear walking width of 10 feet free of any obstructions in the case of a pedestrian-only right-of-way
- Be located as close to the middle portion of the subject block as possible, and connect to existing adjacent streets and alleys;
- Provide pedestrian access;
- Have a minimum width of 20 feet, exclusive of those obstructions allowed within setbacks pursuant to San Francisco Planning Code Section 136 in the case of Mid-Block Alleys;
- Have a minimum height of 15 feet on Block 13, and 30 feet on Block 15.

In addition, Mid-Block Alleys shall:

- Provide no, limited, or full vehicular access, as specific conditions warrant. The Mid-Block Alley on Block 15 shall be pedestrian only;
- Have dual sidewalks each of not less than 6 feet in width with not less than 4 feet minimum clear walking width in the case of an alley with vehicular access, unless the alley is designed as a shared street;
- Have at least 60 percent of the area of the Mid-Block Alley open to the sky. Obstructions permitted within setbacks pursuant to Planning Code Section 136 may be located within the portion of the Alley that is required to be open to the sky. All portions of the Alley not open to the sky shall have a minimum clearance height of 15 feet from grade at all points;
- Provide such ingress and egress as will make the area easily accessible to the general public;
- Be provided with appropriate paving, furniture, and other amenities that encourage pedestrian use, and be landscaped;
- Be provided with pedestrian lighting to ensure pedestrian comfort and safety;
- Be free of any changes in grade or steps not required by the underlying natural topography and average grade; and
- Be fronted by Active Lane Frontage uses, as defined in Section 3.2.6 Active Lane Frontages.

#### 6.3.3 Mid-Block Alley/Passage Informational Plaque

Prior to issuance of a permit of occupancy, a plaque shall be placed in a publicly conspicuous location for pedestrian viewing. The plaque shall state the right of the public to pass through the Alley or Passage, and shall state the name and address of the owner or owner's agent responsible for maintenance. The plaque shall be of no less than 24 inches by 36 inches in size.

# 6.3.4 Mid-Block Alley/Passage Open Space Requirements

Any non-vehicular portions of such a Mid-Block Alley or Passage, including sidewalks or other walking areas, seating areas, or landscaping, are permitted to count toward any open space requirements that permit publicly accessible open space on the same block where the Passage or Alley is located.

#### **CONSIDERATIONS**

#### 6.3.5 Multiple Buildings Per Block

Bulk controls will help create buildings that are pedestrian-scaled, visually well proportioned, and do not result in overwhelming mass. Constructing more than one building per block can also help accomplish this goal and is permitted on any block, though more likely on blocks containing predominantly residential uses. If more than one building is constructed on a block where a midrise or highrise tower is allowed, the bulk controls for upper buildings apply to the entire block and not to individual buildings.

## 6.4 Building Setbacks

#### STANDARDS

#### 6.4.1 Building Setbacks

At heights specified in Figure 6.2.3, a setback from the property line is required to ensure that the building defines a distinct streetwall at a comfortable, humanscaled height.

On frontages facing Power Station Park, Louisiana Paseo, Waterfront Open Spaces, Humboldt Street Plaza, and Major Streets (streets that are greater than 40 feet in width, measured from property line to property line), buildings shall be set back at least 10 feet from the streetwall at a height ranging from 70 feet to 90 feet, as shown in Figure 6.4.1.

On frontages facing Minor Streets (rights-of-way that are 40 feet wide or narrower, measured from property line to property line), buildings shall be set back at least 10 feet from the property line at a maximum height of 50 feet for predominantly residential buildings and 70 feet for predominantly non-residential buildings as shown in Figure 6.4.2, except for corners as described in Section 6.4.6 and along Craig Lane where the setback is required at a height of 50 feet for both residential and non-residential uses.

Along certain frontages, the depth of the setback shall be greater than 10 feet, as shown in Figure 6.4.5.

On frontages facing Mid-Block Alley on Block 13, buildings shall be set back at least 10 feet from the Streetwall at a height of 70 feet per note 2 on Figure 6.4.5.

#### 6.4.2 Ground Floor Insets

To allow for generous pedestrian throughways, some blocks are required to inset the ground floor along

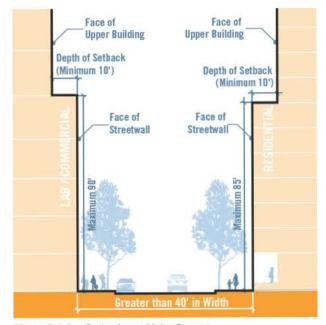


Figure 6.4.1 Setbacks on Major Streets

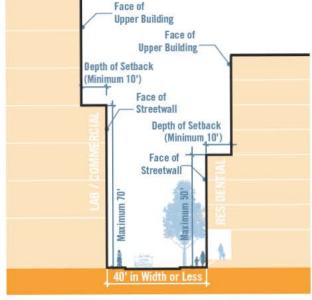


Figure 6.4.2 Setbacks on Minor Streets and Alleys

specific frontages for widened sidewalks, or at given corners to achieve a 5-foot-wide clear path of travel behind curb ramps. The locations for these ground floor insets are listed below, and dimensions are given in detail in Appendix A Block Controls. These are:

- · Northeastern corner of Blocks 1, 5 and 8;
- Northwestern corner of Blocks 2, 4 and Block 15 unless Station A walls are retained;
- A 5 foot inset of ground floor of the southern frontage of Block 15 unless Station A walls are retained;

- A 4 foot inset of northern frontage of Blocks 1, 2 and 3;
- · Southwestern corner of Block 12.

#### 6.4.3 Block 7 Setback Exemption

The setback requirements in Section 6.4.1 Building Setbacks do not apply to the highrise tower on Block 7. Instead, the highrise tower must be set back at least 15 feet in the horizontal dimension for at least 60 percent of the Upper Building's frontages facing Humboldt Street or Louisiana Paseo.

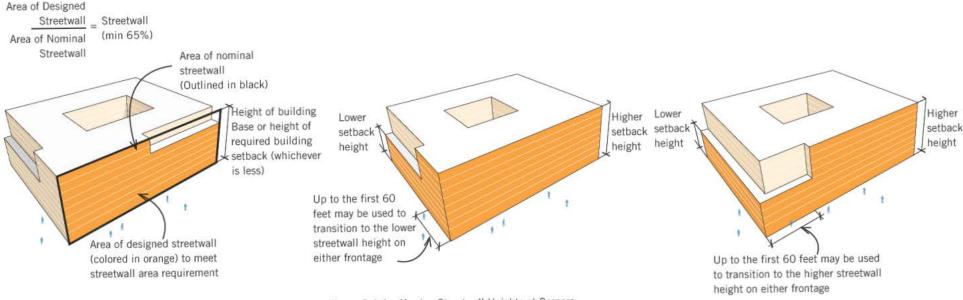


Figure 6.4.3 Streetwall Area Requirement

## 6.4.4 Station A Exemption

New construction on Station A above a height of 65 feet or the height of retained Station A walls shall provide a setback of at least 10 feet on the frontages facing 23rd Street, Louisiana Paseo, and Georgia Lane, and a setback of at least 15 feet on the frontage facing Humboldt Street; or a vertical hyphen of at least 10 feet in depth and one story in height beginning at the height of the cornice of the retained walls of Station A (see Section 6.14). Alternatively, no setbacks for new construction are required above existing walls if the building above 65 feet is appropriately sculpted pursuant to Section 6.14.5.

#### 6.4.5 Streetwall

A clear streetwall helps define the experience of the street as an "urban room." Where there is not a strong streetwall, streets can feel inactive and suburban. The streetwall is defined as the portion of a building:

Figure 6.4.4 Varying Streetwall Heights at Corners

- Facing a Major or Minor Street or Mid-Block Alley (See also Guideline 6.10.6);
- Built to the property line (except for the portions of the building that meet the Modulation and Articulation standards and guidelines in Sections 6.6 and 6.7, which are part of the streetwall, but may recess and project from the building frontage); and
- At an elevation at or below the maximum Streetwall height per Figure 6.4.5.

The "Streetwall Requirement" is that new buildings must provide a streetwall for at least 65 percent of each frontage from sidewalk grade to the required maximum streetwall height (see Figure 6.4.3). The Streetwall Requirement does not apply to:

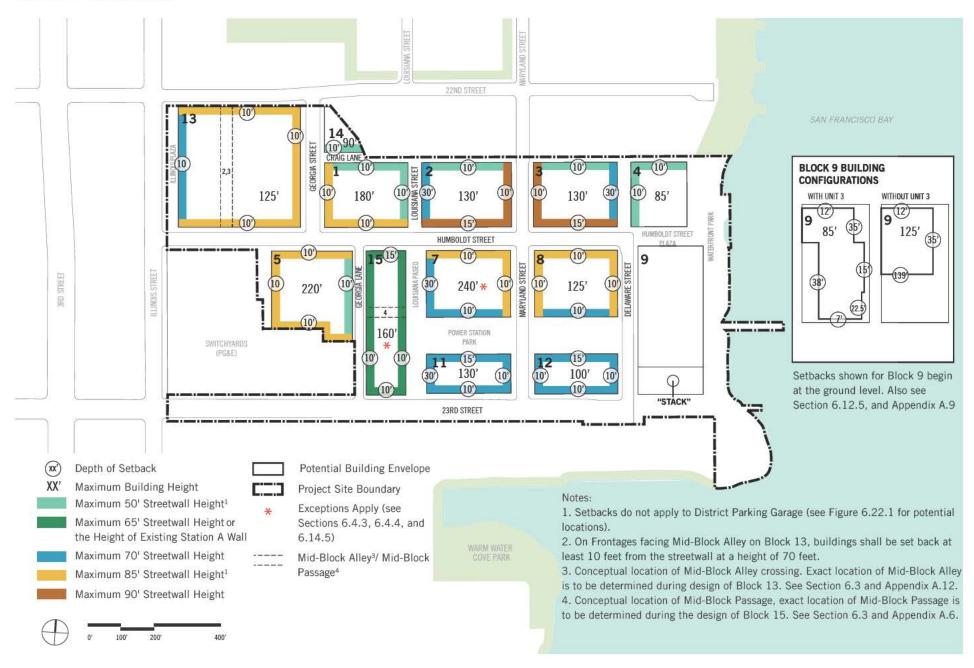
 Existing buildings on the project site that are rehabilitated or reused as part of the project (such as Unit 3 or Station A. See Standard 6.14.5), including additions to such existing buildings;

- Pocket parks that extend at least 10 feet horizontally inward from the property line;
- The frontage of any new building facing Waterfront Open Spaces (including Humboldt Street Plaza), Power Station Park, or Louisiana Paseo, provided that deviations from the minimum 65 percent standard shall contribute to differentiated architecture as described in the Project Overview and shown in Figure 6.4.4.

## 6.4.6 Varying Streetwall Heights at Corners

The maximum streetwall heights vary across the Power Station site and may differ at the corners of the same building. For a more graceful transition at corners, up to the first 60 feet of building frontage, measured horizontally from a Corner, may be used to transition to the higher or lower streetwall height on either frontage as required per Figure 6.4.5 (see Figure 6.4.4)

Figure 6.4.5 Building Setbacks



## **6.5 Upper Building Controls**

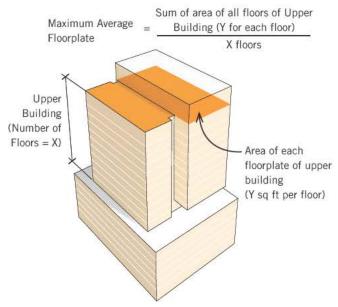
The controls on the following pages apply only to the Upper Buildings of midrise tower as permitted on Block 1, and the highrise towers permitted on Block 5 and Block 7. Midrise towers are between 146 and 180 feet in height, and highrise towers are between 181 and 240 feet in height. Unless otherwise stated, these controls do not apply to Block 15 with or without Station A.

Table 6.5.1 summarizes the bulk controls for the different portions of buildings based on land use.

 Table 6.5.1
 Summary of Bulk Controls

|                              | LOWRISE & MIDRISE<br>BUILDINGS<br>(UP TO 145' IN HEIGHT) | MIDRISE TOWER<br>ON BLOCK 1<br>(146'-180' IN HEIGHT) | MIDRISE TOWER<br>ON BLOCK 15<br>(146'-160' IN HEIGHT) | HIGHRISE TOWERS<br>ON BLOCKS 5 AND 7<br>(181'-240' IN HEIGHT) |  |  |  |  |  |  |
|------------------------------|--|--|---|---|--|--|--|--|--|--|
| UPPER BUILDING BULK CONTROLS |  |  |   |   |  |  |  |  |  |  |
| Maximum Average Floorplate   | N/A  | 12,000 gross square feet                             | See Standard 6.5.1                                    | 12,000 gross square feet                                      |  |  |  |  |  |  |
| Maximum Plan                 | N/A  | 150'   | N/A   | 140'  |  |  |  |  |  |  |
| Maximum Diagonal             | N/A  | 190'   | N/A   | 160'  |  |  |  |  |  |  |
| Maximum Apparent Face        | N/A  | 120'   | N/A   | 120'  |  |  |  |  |  |  |
| Upper Building Separation    | N/A  | 85'  | 115'  | 115'  |  |  |  |  |  |  |

Note: Controls apply to the entire Upper Building, not only portions of the Upper Building at the specified heights. For example, for the Highrise Tower (181' - 240') on Block 7, the bulk controls would apply to the portion of the building above the Base.



Maximum Diagonal Plan

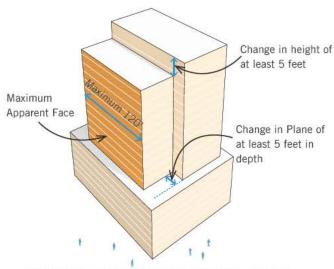


Figure 6.5.1 Upper Building Maximum Average Floorplate

Figure 6.5.2 Upper Building Maximum Plan and Maximum Diagonal Length

Figure 6.5.3 Upper Building Maximum Apparent Face

#### STANDARDS

#### 6.5.1 Upper Building Maximum Average Floorplate

The maximum average floorplate of the Upper Building is defined as the sum of the area of all of the floorplates of the Upper Building, divided by the number of floors in the Upper Building. Refer to Figure 6.5.1 and Table 6.5.1 for maximum average floorplate sizes that shall apply to buildings based on the building's total height.

Design controls for Block 15 with Station A are provided in Section 6.14. For Block 15 without Station A, the building above the 65-foot setback shall achieve a 15-percent average reduction in square footage for all floors. The reduction shall apply relative to a baseline floorplate of 47,089 square feet (i.e., the footprint of Block 15) for construction up to 145 feet, and a baseline floorplate of 24,955 square feet for construction between 145 feet and 160 feet.

#### 6.5.2 Upper Building Maximum Plan and Diagonal

The maximum plan dimension of an Upper Building is the greatest plan dimension parallel to the longest side of the building at any given level of the Upper Building. The maximum diagonal dimension of an Upper Building is the greatest horizontal distance between two opposing points at any level of the Upper Building. Refer to Figure 6.5.2 and Table 6.5.1 for maximum plan and diagonal dimensions that shall apply to buildings based on the building's total height.

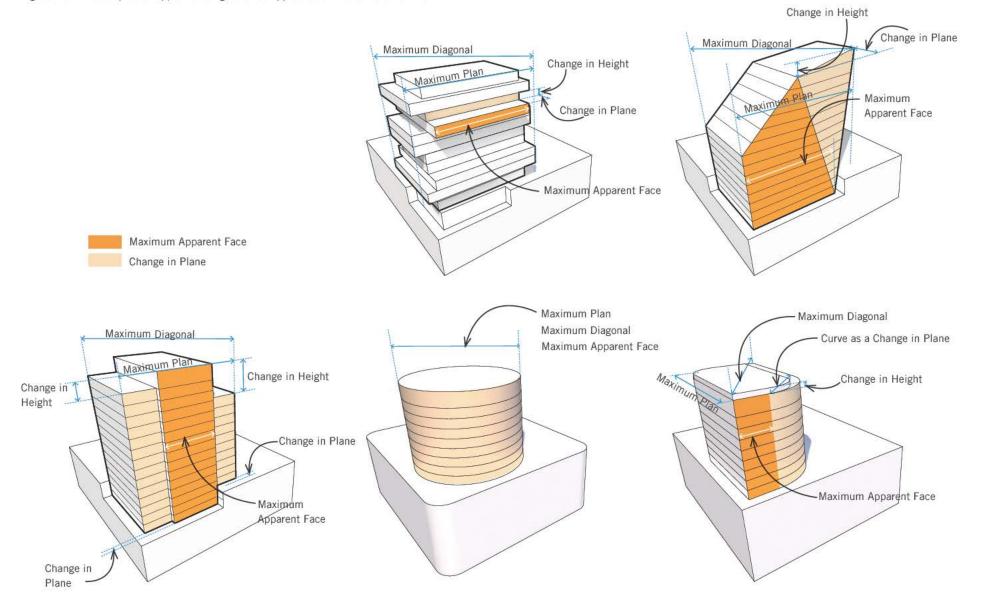
Maximum plan and diagonal dimensions do not apply to balconies, cornices, decorative projections, unenclosed building elements, or other unenclosed obstructions permitted by Planning Code Section 136 (see Appendix D)

## 6.5.3 Upper Building Maximum Apparent Face

For midrise and highrise towers, a maximum apparent face helps control the visual bulk of the Upper Building by placing a limit on the maximum width of a face that can be expressed. Beyond this maximum width, there shall be a Change in Plane to visually reduce the bulk of the building, and create logical locations for architectural detailing, such as balconies or changes in material or fenestration.

The maximum apparent face shall be a maximum of 120 feet of the Upper Building (Figure 6.5.3). The maximum apparent face shall be offset with a Change in Plane of at least 5 feet in depth. This Change in Plane must be accompanied by a change in height of the roof form (which may be a reduction or increase in the height of the roof screen) of at least 5 feet (refer to Figure 6.5.3) and/or a change in material. The required Change in Plane may occur by curving the face of the building.

Figure 6.5.4 Examples of Upper Building Controls Applied to Different Tower Forms



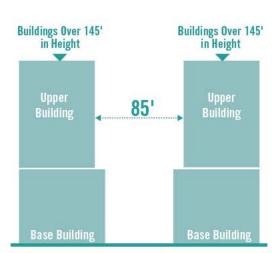


Figure 6.5.5 Upper Building Separation for Midrise Towers on Different Blocks

## 6.5.3 Upper Building Maximum Apparent Face, continued

For buildings with curved façades, on those portions of the façade that are curved, the maximum apparent face shall be measured as the plan dimension between the endpoints of each arc. If the building is a circle or ellipse, the maximum apparent face shall be measured as the longest diameter of the circle or ellipse (See Figure 6.5.4).

#### 6.5.4 Upper Building Separation

The Upper Building of a midrise tower shall be separated from any other Upper Building of a midrise tower on another block by a distance of at least 85 horizontal feet (Figure 6.5.5).

The Upper Building of a highrise tower shall be separated from any other Upper Building of a midrise tower or highrise tower on another block by a distance of at least 115 horizontal feet (Figure 6.5.6).

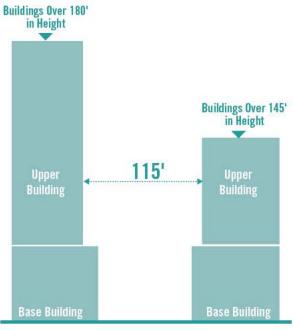


Figure 6.5.6 Upper Building Separation for Midrise and Highrise Towers on Different Blocks

Separation shall be measured horizontally from the building face of the subject Upper Building to the nearest building face of the closest Upper Building, exclusive of permitted obstructions pursuant to Planning Code Section 136.

Examples of creative approaches to shaping the tops of midrise and highrise towers.

## CONSIDERATIONS

## 6.5.5 Sculpted Upper Buildings

A) Upper Buildings of mid-rise and high-rise towers should be sculpted in a manner that enhances the skyline. Examples of how this could be achieved include stepping, tapering, or other shaping.

B) The highrise tower on Block 7 should be iconic within the Power Station SUD and larger Central Waterfront Plan Area. The form of the highrise tower should use bold massing moves and be elegant and well-scaled.









## **Architecture**

Architecture reflects the culture of a neighborhood, connecting buildings with the public life that occurs on its streets.

Architecture at the Power Station project is deferential to its industrial context and the Third Street Industrial District. It builds from the larger bulk and massing moves established by the project's urban form and focuses on enhancing visual interest and creating human-scaled designs critical for providing a memorable pedestrian experience. Building Modulation and Articulation ensure a building's walls are neither overwhelming nor monotonous, while color and materiality guidelines provide a baseline for high-quality finishes consistent with the Power Station's overall industrial aesthetic.

Building Modulation and Articulation as defined in this D4D document (Sections 6.6 and 6.7) help create visual interest, rhythm, and human-scaled dimensions within the "urban room" of the street, and are therefore considered compliant with and part of the streetwall. Buildings meeting ground-floor design guidelines in Section 6.9 are also compatible with the streetwall requirements contained herein.

## 6.6 Building Modulation

Building Modulation (or "Modulation") is required to create visual interest, rhythm and human-scaled dimensions. Modulation can also result in functional spaces, such as creating recesses that can provide opportunities for terraces or balconies. Modulation strategies should be consistent with the industrial character of the area.

New buildings above the ground floor must be modulated in the manner described in this section. These controls do not apply to existing buildings on the site (such as Unit 3 or Station A) that are rehabilitated as part of the project.

#### **STANDARDS**

#### 6.6.1 Building Modulation

The streetwall (See Section 6.4.5) shall be modulated by providing a Change in Plane, or a combination of Change in Plane and change in material, as described below.

#### A) Change in Plane

To achieve modulation by a Change in Plane, the streetwall must recess or project at least 3 feet in depth (a "Change in Plane") for at least 20 percent of the streetwall, which may be but is not required to be contiguous. This requirement may be achieved using any one or any combination of the individual design approaches listed below and illustrated in Figure 6.6.1:

- Volumetric notches (including balconies)
- Vertical shifts
- Sawtooth balconies or bay windows
- Corner expression
- Volumetric projections
- Volumetric recesses

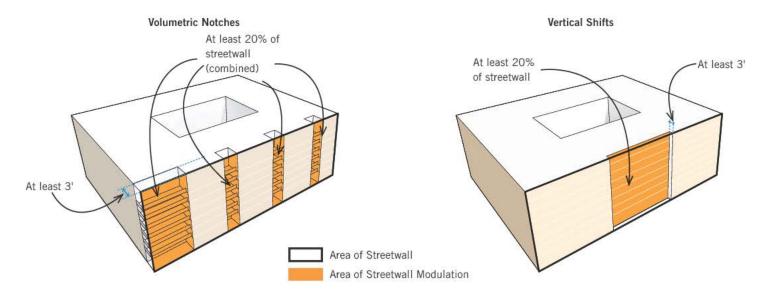
#### B) Change in Plane and Change in Material

Modulation may also be provided by a combination of Change in Plane and a change in color, material, or fenestration occuring for at least 20 percent of the façade, which may but is not required to be contiguous.

#### **6.6.2** Encroachments and Projections

Projections as permitted in Planning Code Section 136, and those permitted in this Design for Development document, shall be permitted above the ground level and may count towards modulation requirements.

Figure 6.6.1 Examples of Streetwall Modulation





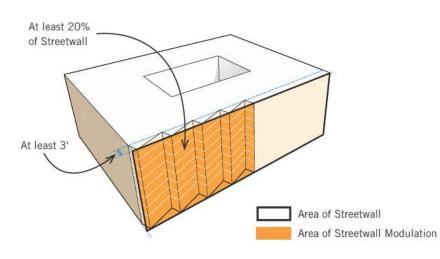
Volumetric notches add visual interest by introducing vertical recesses into the massing of the streetwall. The notches should correspond to the delineations between individual units, balconies, or porches.



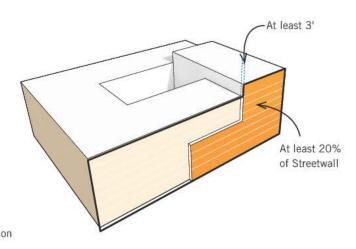
The use of vertical shifts add visual interest by breaking the façade into smaller vertical elements. These shifts should relate to the location and proportion of interior programmatic uses.

## Examples of Streetwall Modulation (continued)

#### Sawtooth Balconies and Bay Windows



#### Corner Expressions





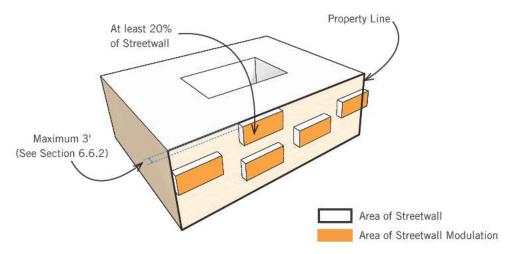
Sawtooth balconies or bay windows reduce the visual mass of the streetwall by introducing a pattern of smaller-scaled components. They can be open, partially enclosed, enclosed, projections, or recesses from the main façade.



The massing of this building adds height at the corner, combined with a recess. The effect is that the building has the appearance of being composed of two distinct volumes.

## Examples of Streetwall Modulation (continued)

## Volumetric Projections





Projections help create shadow lines and added façade depth. Such projections should be located and scaled to relate to interior programmatic uses.

Examples of modulation compatible with historic districts.



The materials in the addition above the existing building are articulated with a change in material and plane.



The use of natural materials such as brick or stone can bring a tactile quality to the pedestrian zone.



The addition above the existing building uses a vertical hyphen in conjunction with balconies and recesses.



Projected windows help create shadow lines and added façade depth.



This new building uses the language of warehouse construction with a grid and fill design.



Recesses help create shadow lines, depth, a sense of quality, and durability.

## **GUIDELINES**

## 6.6.3 Industrial Streetwall Character

To relate to the Power Station's industrial context, the streetwall along 23rd Street and Illinois Street should be articulated with one or more of the following patterns, to meet the Midrise Building Articulation guidelines described in Section 6.7.3 and be used as part of a design approach that meets the Building Modulation requirements.

- · A solid wall with punched openings;
- · A gridded pattern, emphasizing vertical piers;
- A wall containing a visible expression of horizontal floorplates and large, glassy openings with smaller panes.

#### 6.6.4 Highrise Tower Modulation

Above the Base, the highrise towers on Block 5 and 7 should employ modulation techniques, such as a change in material or Change in Plane, that is carefully considered with sculpting of the tower, per Section 6.5.4 or 6.5.5, and façade articulation, per Section 6.7.

## CONSIDERATIONS

#### 6.6.5 Midrise Tower Modulation

Above the Base, the midrise tower on Block 1 should consider using balconies as an organizing element for Upper Building modulation, giving it a residential scale and creating indoor/outdoor opportunities to enliven the building façade.



Balconies can be used as an organizing element for the massing and design of the building, creating a residential scale.



Lowering the streetwall at the base of the tower portion can help create a proportionate streetwall relative to the tower.



The tops of these buildings should be visibly reduced in mass and dimension to create a stepped or a tapered effect.



A change in height and plane is effective at breaking up bulk and avoiding long, undifferentiated facades.

## 6.7 Façade Articulation

Building façades should be articulated by employing the strategies outlined below. Articulation supports modulation by creating visual interest, but at a finergrained scale.

## GUIDELINES

## 6.7.1 Depth of Façade

Full brick and masonry are among the site's preferred materials. If thin brick or masonry or panel systems are used, these materials should read as having a volumetric legibility that is appropriate to their thickness. For example, masonry should turn the corner at a depth that is consistent with the typical depth of a brick. Examples of strategies that can be used to articulate a façade with volumetric depth include:

- Use of architectural treatments that create visible shadow lines including vertical recesses, notches, massing reveals, or Changes in Plane at least 6 inches in depth; or,
- Windows and other openings are an opportunity to reinforce the volumetric legibility of the façade, with an appropriate depth that relates to the material selected. For example, the depth of the building frame to the glazing should be sufficiently deep to convey a substantial exterior wall, and materials should turn the corner into a window reveal.

Also see Section 6.8.3 for guidelines relating to material quality and durability.

## 6.7.2 Facade Organization

Each building should be organized into a visible hierarchy and a consistent system with patterning or rhythm that defines an internal logic. Building elements and themes should be appropriately scaled and proportionate to the overall building. Examples of strategies that can be used to define hierarchy and proportion that are also consistent with the neighborhood's industrial characteristics include:

- Vertical or horizontal elements that create a rhythm or patterning within the façade; or
- Contrast in the scale of patterns, such as larger patterning of structural piers and bays that convey an industrial scale, combined with a smaller patterning of window mullions and sashes that are finer-grained and more detailed at the pedestrian scale; or
- Key programmatic elements such as building circulation, gathering spaces, building lobbies, and so on clearly expressed in the design of the façade.

## 6.7.3 Midrise Building Articulation

Predominantly residential buildings between 100 and 145 feet in height should be articulated with smaller volumes, such as windows, doors or balconies that highlight a residential scale using reveals from 6 inches to 3 feet in depth.

Predominantly non-residential buildings between 100 and 145 feet in height should be articulated with strong horizontal elements that convey a more industrial aesthetic, such as clearly expressed floorplates separated by a consistent glazing pattern (see precedent images in Section 6.6).

#### 6.7.4 Tower Articulation

The façade of midrise and highrise towers should be lighter and more loft-like than the Base, with thinner vertical and horizontal elements that feature more glazing.

## 6.8 Color and Materials

## STANDARDS

## 6.8.1 Bird-Safe Glazing

Bird-safe glazing including but not limited to fritting, netting, permanent stencils, frosted glass, exterior screens, UV patterns visible to birds, or physical grids placed on the exterior of glazing shall be applied to:

- . Blocks 3, 4, 8, 9, and 12, the portion of the building facade between grade and 60 feet in height, within 300 feet of the Waterfront Open Spaces; and,
- . Unbroken glazed segments of free-standing glass that are 24 square feet or larger provided on any portion of the building, including glass walls, wind barriers, skywalks, balconies, and greenhouses on rooftops.

To qualify as Bird-Safe Glazing, vertical elements of window patterns shall be at least a quarter-inch wide at a maximum spacing of 4 inches or horizontal elements at least one-eighth of an inch wide at a maximum spacing of 2 inches.

## GUIDELINES

## 6.8.2 Recommended Materials

Recommended materials should be incorporated into building design. Recommended materials include brick, concrete, copper, steel, glass, smooth stucco and wood. Avoid using veneer masonry panels except as described in Section 6.7.1 Depth of Facade. Avoid using smooth, flat, or minimally detailed glass curtain walls; highly reflective glass; coarse-sand finished stucco as a primary siding material; bamboo wood siding as a primary siding material: laminated timber panels; or black and dark materials should not be used as a predominate material.

Where metal is used, selection should favor metals with naturally occurring patina such as copper, steel, or zinc. Metals should be matte in finish. Where shiny materials are used, they should be accent elements rather than dominant materials, and are generally not encouraged.

## 6.8.3 Quality and Durability (2)



Exterior finishes should have the permanence and quality found in similar contextual building materials used on neighboring sites and in the Central Waterfront. Materials should be low-maintenance, well suited to the specific maritime microclimate of the neighborhood, and able to naturally weather over time without extensive maintenance and upkeep.

## 6.8.4 Decorative Materials



Where provided, architectural details should be inherent features of the facade material and should not appear as 'tacked on.' Examples include but are not limited to using decorative masonry courses, joints, patterns, or contrasting metal insets.

#### 6.8.5 Pedestrian-Oriented Materials

To create a pedestrian-focused environment and engaging street frontage, the ground floor of new buildings should have a differentiated architectural expression from the floors above. This may include, but is not limited to increased transparency, shifts in color, material and texture of facade elements.

Specific design guidelines and considerations related to different ground-floor frontages may be found in Sections 6.10 through 6.17.

#### CONSIDERATIONS

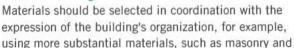
### 6.8.6 Building Color

Use of exterior surface materials that are naturally rich in color, such as terra cotta and copper, is encouraged. Lightness of color is preferred at the Upper Building. where buildings are visible from a further distance and have more presence on the skyline.

## 6.8.7 Glazing @

Glazing selection should be made with consideration to energy performance. Glazing should be generally light in color and low-reflectance in order to achieve a balance of daylighting and energy performance.

## 6.8.8 Building Finish



metals, to define corners, and lighter materials, such as glass and wood, to define vertical circulation.

Also see Section 6.6 for how changes in material and color should be combined with modulation strategies to reinforce visually interesting and human-scale building design.

## 6.8.9 Living/Green Walls

Living walls and/or plantings may be used to provide a highly visible, biophilic amenity and passive cooling benefit. Vegetation may be integrated into exterior shading to support shading performance and enhance privacy, and would be a permitted obstruction on floors above the ground floor. Living walls can be especially beneficial outside where they front onto adjacent open spaces. Living walls are permitted on the ground floor, provided that the encroachments and projections comply with Section 6.6.2.

## 6.8.10 Life-cycle Assessment

Conduct a life-cycle assessment (LCA) of building structure and enclosure to identify embodied carbon drivers for the project, and evaluate embodied carbon reduction potential for key building elements. Consider designing buildings for deconstruction.

Refer to LEED credit Materials & Resources: Building Life-Cycle Impact Reduction, Option 4. Whole-Building Life-Cycle Assessment for more information.

## Examples of recommended materials.







Corten steel.

Copper cladding.

Brick in any range of colors, especially modern applications, such as this offset stacked pattern.



Wood.



Concrete or stone.



Fritted Glass.



# **Design Context**

Buildings and public realm work together to frame an active, urban experience that draws on and connects to the surrounding context.

Buildings should not be designed as individual objects that stand on their own, but instead as contributors to the character of the streets and open spaces that they frame. The frontages that enclose a space will inform the experience along each street and alley. The frontage character proposals in this D4D are meant to enhance that concept and anchor it into a specific context.

The pages that follow provide standards and guidelines to help establish the character of key building corners, frontages, and façades throughout the site.

In the best urban neighborhoods, ground-floor uses work together with the adjacent sidewalks and public spaces to frame an interesting and diverse pedestrian

experience. Together, they provide a continuous network of spaces that are active, safe, comfortable, and engaging.

Accordingly, the key to designing such spaces will be ensuring flexibility—high ceilings, ability to subdivide, strategies to add or remove doorways—such that the buildings can be adapted to different uses by different users as the city grows and changes.

## 6.9 Ground Floor Design

## STANDARDS

## 6.9.1 Ground Floor Height

All non-residential ground floor spaces shall have a minimum floor-to-floor height of 15 feet as measured from grade. At least 30 percent of the cumulative PDR space pursuant to Figure 3.2.1 shall contain floor-to-floor heights of 17 feet.

#### 6.9.2 Ground-Floor Uses

All standards and guidelines contained in Section 3.2, Ground-Floor Uses, shall apply.

#### 6.9.3 Sidewalk Encroachment at Corners

To allow for a minimum of 5 feet clear for pedestrian movement behind curb ramps, at specific intersections, some building corners may be required to be inset at the ground floor only. See Appendix A for specific block-by-block guidance on sidewalk encroachment locations.

## 6.9.4 Awnings and Canopies

Where provided, awnings and canopies must be at least 8 feet above sidewalk grade. Awnings that are more than 100 feet in length (as on 23rd Street) must be at least 15 feet above sidewalk grade.

Awnings that are between 8 and 15 feet above sidewalk grade may project up to 10 feet into the public realm (including the public right of way). Awnings that are higher than 15 feet above sidewalk grade may project up to 15 feet into the public realm (including the public right-of-way).

In no instance shall awnings project beyond the width of the sidewalk they cover. Awnings shall be designed so as not to interfere with street tree canopy.

## 6.9.5 Transparent Frontage

Portions of frontages that contain Active Uses (per Section 3.2.3 and Figure 3.2.1) other than residential units or PDR uses shall be fenestrated with transparent windows and doorways for not less than 60 percent of the street frontage at between 2 feet and 12 feet vertical above grade, and must allow visibility of at least 4 feet in depth inside of the building.

PDR frontages shall be fenestrated with transparent windows or doors for no less than 50 percent of the street frontage from sidewalk grade up to 12 feet vertical above grade, and must allow visibility of at least 4 feet in depth inside of the building.

The use of dark, mirrored, or opaque glass shall not count toward the required transparent area.

Ground-floor transparent frontage standards shall not apply to historic or adaptively-reused buildings.

## 6.9.6 Gates, Railings, and Grillwork

Any decorative railings or grillwork (other than wire mesh) that is placed in front of or behind ground floor windows shall be at least 75 percent open to perpendicular view. Rolling or sliding security gates shall consist of open grillwork rather than solid material, so as to provide visual interest to pedestrians when the gates are closed, and to permit light to pass through. Gates, when open, folded, or rolled, as well as gate mechanisms, shall be recessed within, or laid flush with the building façade.

## GUIDELINES

## 6.9.7 Longer Awnings

Awnings greater than 25 feet in length should be designed to create an intermediary scale between the pedestrian and the bulk of the building, integrated with the design of the building, and industrial in scale such that the awning is consistent in scale with other similarly sized awnings in the Third Street Industrial District.

## CONSIDERATIONS

#### 6.9.8 Storefront Design

Non-residential ground-floor frontages may be set back at least 2 feet from the sidewalk, to create a datum for storefronts to have individual expression, allow for a transitional space between store and sidewalk for window shopping, and expand opportunities for seating in the frontage zone.

Non-residential frontages should be designed with vertical and horizontal elements that can be personalized or adapted with different materials. Elements such as bulkheads, piers, signboards, and recessed entries are encouraged. In addition to allowing for individualization, these elements provide a human scale of detailing to the street experience. Vertical elements should be primary in the design of frontages, and bulkheads should be secondary, with piers coming to the ground and bulkheads recessed.



Figure 6.9.1 Ground-Floor Retail Design



Figure 6.9.1 and the image above are good examples for how to clearly make the ground floor of a building identifiable through an inset, a change in material, or a change in proportion of the façade design.



Retail frontages will be designed with elements that can be personalized.



As shown in the image above, fully glazed frontages can make it difficult for retailers to distinguish themselves, resulting in an uninteresting pedestrian experience.

## 6.10 Key Frontages and Corners

Certain buildings' corners and frontages warrant greater architectural design consideration, due to their prominent location in the Power Station project—as the visual terminus of a view corridor, in proximity to a landmark, or at an entrance to the site's central green. The standards and guidelines below are intended to ensure that sufficient attention be paid to such frontages and corners. The latter are designated as "Special Corners" (or "Corners"); controls for these locations coordinate all aspects of the streetscape, architecture, and program to increase the distinctiveness of the public realm, and to enhance the experience of the neighborhood.

## **STANDARDS**

#### 6.10.1 Block 12 Transit Support Facilities

A SFMTA Muni 55 Bus terminal stop shall be provided along the south side of Block 12, as shown in Figure 5.5.2, where up to two buses at a time may lay over, unless SFMTA determines that no such bus layover is necessary. Due to transmission line easements below the street, no structures containing permanent footings may be constructed.

The following facilities shall be located on the 23rd Street frontage of Block 12 and be consistent with Third Street Industrial District guidelines per Section 6.11:

- An indoor bathroom for Muni drivers to use during breaks;
- Public seating to be used as a transit shelter for people waiting for the bus, with a real-time information screen for expected bus arrival times and

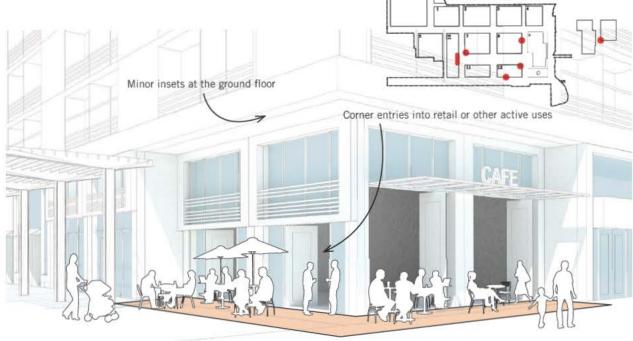


Figure 6.10.1 Key Frontages and Corners

an overhead shelter. Such seating, shelter, and signage may project from the face of the building into the sidewalk area; and

· A system map.

## 6.10.2 Block 8 Transit Support Facilities

A shuttle stop shall be provided along the east side of Block 8, as shown in Figure 5.6.2.

The following facilities shall be incorporated into the ground floor design of Block 8, facing Maryland Street:

 Public seating to be used as a transit shelter for people waiting for the shuttle, with a real-time information screen for expected shuttle arrival times and an overhead shelter. Such seating, shelter, and signage may project from the face of the building into the sidewalk area.

## **GUIDELINES**

## 6.10.3 Special Corners: Block 7

To create an invitation to Power Station Park from Louisiana Paseo, the southwest Corner of Block 7 should include at least one of the following features:

- Transparency for at least 20 linear feet on either side
  of the Corner at the ground floor between the heights
  of 2 and 15 feet above sidewalk grade, such that
  views of Power Station Park may be perceived prior to
  turning the Corner. The transparent Corners may count
  towards Transparent Frontage requirements;
- Building shaping, such as a chamfer or rounding of Corners; or
- Architectural detailing that emphasizes the importance of this Corner.



Corner retail helps activate the street and promote engagement with the public realm.

# 6.10.4 Special Corners: Block 9 without Unit 3 Plock 9 without Unit 3 should be a standout, signature waterfront building that is well-designed with use of high-quality materials commensurate with its waterfront location against the iconic Stack.

To create an open and inviting entrance to the Waterfront Open Spaces and Stack Plaza from Delaware Street and Power Station Park, the southwest corner of Block 9 without Unit 3 should use high-quality materials, such as brick, concrete, copper, steel, glass, and wood, and in addition should include volumetric shaping of the area within 15 feet of said corner with architectural treatments including but not limited to chamfers, round edges, setbacks, and/or protrusions to highlight views or relate to the shape of the Stack from the public realm.

## 6.10.5 Special Corners: Block 12

To frame the view of the Stack, the northeast Corner of Block 12 should include the use of high quality materials, such as brick, concrete, copper, steel, glass, and wood, and in addition should include volumetric shaping of the area of a building within 15-feet of said corner of Block 12 with architectural treatments including but not limited to chamfers, round edges, setbacks, and/or protrusions to highlight views or relate to the shape of the Stack from the public realm.



Building corners should bring a heightened level of visual interest to emphasize the importance of street intersections.

#### 6.10.6 Block 15 Eastern Façade

The eastern façade of Block 15 serves as an important terminus of Power Station Park and should be designed with high quality materials. In addition, if the eastern wall of Station A is not retained, the eastern façade of Block 15 shall be approved at the discretion of the Planning Director and comply with the following criteria:

At least 60 percent of the eastern façade of Block 15 framed by the southern façade of Block 7 and the northern façade of Block 11 should include a volumetric projection, which must:

- Be an inviting, unique, and iconic architectural form
  that serves as a visual beacon to the Power Station
  Park for people entering the site from 23rd and
  Humboldt Streets, as well as serves as a fitting visual
  anchor on the west end of the park and counterpoint
  to Unit 3. The form must express a creative and
  exceptional architectural massing feature that achieves
  a projection of approximately 10 feet in plan from the
  primary façade of the building and is at least 5 stories;
- Be materially differentiated from the rest of the building;



Face of building provides an important visual terminus and focal point.

- Complement the architectural language of both the new and retained elements of Unit 3 (if Unit 3 is preserved);
- Be permeable and open to pedestrians if the projection reaches the ground floor, in which case a design permitting pedestrian access to upper levels of the projection from Louisiana Paseo should be considered;
- Include a public use such as a library / media center, museum, open space or assembly space designed with an inviting public entrance from Louisiana Paseo/ Power Station Park that relates to the design of the architectural projection described above; and
- Provide a pedestrian passage way between Louisiana Paseo and Georgia Lane that is no less than 20 feet wide and 30 feet tall;
- Any building constructed within the MId-Block Alley on Block 15 without Station A shall be set back at least 5 feet from the eastern and western faces of the building; See Section 4.30 Louisiana Paseo for supportive amenities of the public use on Block 15, if the eastern wall of Station A is not retained.

## 6.11 Third Street Industrial District Frontages

Note: The frontage of Station A on 23rd Street is not subject to the controls listed in Section 6.11 if the walls of Station A collapse or are otherwise damaged beyond repair.

The western façades of new buildings fronting Illinois Street, the southern façades of new buildings fronting 23rd Street, and the eastern and/or southern façades of new buildings fronting the Stack are facing contributors to the Third Street Industrial District. The following standards and guidelines will ensure that new buildings respond to and reinforce the character of this district. Unless otherwise stated, these standards and guidelines apply to all frontages specified in Figure 6.11.1. For reference, an excerpt of the *Historic Resource Evaluation—Part 2*, containing character-defining features of the District and its contributors, is included as Appendix F of this D4D.

Standard 9 of the Secretary of the Interior's Standards for Rehabilitation ("Secretary's Standards") guides all standards and guidelines in this section. Standard 9 states that new work shall be differentiated from the old and be compatible with the massing, size, scale, and architectural features to protect the integrity of the historic district and its environment. Compliance with Standard 9 is achieved through the design controls set forth in this section.

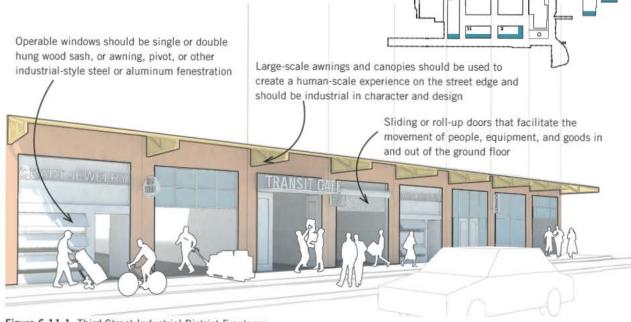


Figure 6.11.1 Third Street Industrial District Frontages

#### STANDARDS

# 6.11.1 Third Street Industrial District Ground Floor Height (

On the Frontages of Blocks 11 and 12 facing the 23rd Street Sugar Warehouses, and Block 13 facing the American Industrial Center all ground-floor spaces shall have a minimum floor-to-floor height of 15 feet as measured from grade. At least 30 percent of the cumulative PDR space pursuant to Figure 3.2.1 shall contain floor-to-floor heights of 17 feet. See also Standard 6.9.1.

# 6.11.2 Third Street Industrial District Height and Massing

In order for 23rd and Illinois Streets to appear balanced on either side, new construction shall respect existing heights of contributors to the Third Street Industrial District by including an upper level 10-foot setback at 65 feet on Block 15, and 70 feet on Blocks 11 and 12, as required by Section 6.4.1 Building Setbacks.

## 6.11.3 Third Street Industrial District Awnings

To reference the industrial awning at the westernmost Sugar Refinery Warehouse, an awning shall be provided on the southern façades of Blocks 11 and 12 that face 23rd Street, and the southern facade of Station A if



Openings can turn the corner adding lightness and transparency at the corners of a building with punched openings.

the southern Station A wall collapses or is otherwise damaged beyond repair. Such awnings shall be provided at a height of 15 to 25 feet above sidewalk grade, and may project up to 15 feet into the public realm.

For Block 13 Frontages facing Illinois Street, canopies and awnings shall only be located at the retail land use at the corner of Illinois and 22nd streets.

The character, design and materials used for such awnings on Blocks 11, 12, and 13 shall be industrial in character and design, per these criteria:



Well-proportioned panels create a hierarchy of scale within the façade patterning. The recessed entrance provides a focal point.

- They shall be flat or pitched, and shall not be arched.
   The functional supporting structure and/or tieback rods shall be clearly legible (i.e., remain apparent to the observer);
- Materials used for canopies and awnings shall be utilitarian. Suggested materials include wood, standing seam or louvered metal panels, and corrugated metal.

## 6.11.4 Third Street District Fenestration

Operable windows shall be single or double hung wood sash, awning, pivot, or other industrial style steel or aluminum fenestration. Casement windows shall be avoided at lower building massing. Divided lite windows are appropriate.



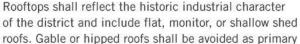
Modulation and articulation relate to structural bays, interior floor-to-floor heights, and activities within.

Ground level glazing shall incorporate transom windows if not utilizing roll up or full height sliding doors.

Upper level glazing shall consist of regular repeated punched openings with divided lite windows. Punched openings shall be rectangular in proportion; an exception is the use of segmentally arched openings if the building material is brick.

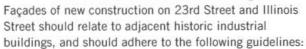
## 6.11.5 Third Street District Building Rooftops

features.



## GUIDELINES

## 6.11.6 23rd Street and Illinois Street Frontages



#### A) Architectural Features

Regularly-spaced structural bays should be expressed on the exterior of the lower massing through the use of rectangular columns or pilasters, which reference the rhythm of loading docks on the Western Sugar Refinery Warehouses and American Industrial Center Southern Extension. Widths of bays should not exceed 30 feet on-center.

Architectural features such as cornice lines, belt courses. architectural trim, or change in material or color should be incorporated into the building design to reference heights and massing of the Western Sugar Refinery Warehouses on 23rd Street and American Industrial Center on Illinois Street at areas of the façade that are not required to be set back per Section 6.4.

#### B) Bus Shelter

The bus shelter should be utilitarian in materiality and designed to reflect the industrial nature of the nearby Western Sugar Refinery Warehouse buildings. The bus shelter should be coordinated with the building design on Block 12. (See also Section 6.10.1 Block 12 Transit Support Facilities).

## 6.11.7 Third Street District Openings



To the extent allowed by the Department of Public Health, large doors, such as sliding or roll-up doors that facilitate the movement of people, equipment, and goods in and out of the ground floor of these buildings should be incorporated along 23rd Street and Illinois Street.

## 6.11.8 Block 9 with or without Unit 3



Block 9 with or without Unit 3 must additionally comply with the following guidelines:

- . Design new construction, with or without Unit 3, to be standout architecture—a signature building set within the site's signature open space.
- . Design new construction at Block 9, with or without Unit 3, to interact meaningfully with surrounding open spaces and provide permeability through the building's ground floor, allowing pedestrian access directly through the building from its entrance facing Delaware Street to its entrance facing Waterfront Park (see Section 6.15.1). Said entrances should be no less than 15 feet in width.
- · A publicly-accessible restroom must be provided.

## CONSIDERATIONS

## 6.11.9 Block 9 with or without Unit 3: Retained Elements (1)

Block 9 with or without Unit 3 should consider the following:

- . Consider retaining the existing exhaust infrastructure connecting Unit 3 with the Stack and incorporating it into the new structure;
- Consider preserving other elements of Unit 3 in the new structure on Block 9.

## 6.12 Existing Buildings within the Third Street Industrial District: The Stack

The Stack is a recognizable and well-loved icon of the Central Waterfront, visible from many places around the city. Its historic purpose was as a smokestack for the emissions of the Unit 3 power station when it was operational. This building will be retained as an icon for the site, and the intent for the building is that it can be adaptively reused in any number of ways that will add interest and create a destination along the waterfront.

## STANDARDS

## 6.12.1 Repair and Seismic Retrofit

Structural and/or seismic upgrades to the interior or exterior of the Stack to ensure safety and resilience of the structure shall be permitted. Such upgrades may include painting (to match existing), installation of carbon-fiber sleeves, and other structural reinforcements as necessary. Exterior upgrades shall not alter the exterior form, including the character-defining features listed in Section 6.12.2, except as permitted in Sections 6.12.3 and 6.13.8.

## 6.12.2 Character-Defining Features



The following features of the Stack are considered character-defining and shall be maintained:

- · Reinforced concrete construction
- · Tapered form
- · 300-foot height
- · Crow's nest walkway
- · Exterior metal ladder
- · Red paint

## GUIDELINES

## 6.12.3 Building Access



Up to two penetrations are allowed on the ground floor, allowing for ingress and egress. Each may be no larger the 12 feet wide and 10 feet high.

Penetrations to allow for an occupiable connection between the Stack and Unit 3 to reinforce the stack are permitted on upper stories, provided that the connection is sculpted and designed in a manner that relates to the Stack and its features, and complies with dimensions per Sections 6.13.8 and 6.14.7.

#### 6.12.4 Public Art

The interior of the Stack may be painted or otherwise decorated as public art. Public art installations on the exterior are limited to light installations.



Image looking from the base of the stack toward the top.

## 6.13 Existing Buildings within the Third Street Industrial District: Unit 3

## STANDARDS

## 6.13.1 Unit 3 Retained Features

If Unit 3 remains and is repurposed as a hotel or residential building, the following existing features must be retained:

- Exterior visibility of at least 50 percent of the steel gridded frame of the Unit 3 structure (as illustrated in Figure 6.13.1 and Figure 6.13.2), with a minimum visibility of 75 percent of the southern and eastern facades. However, transparent materials, including glass, are permitted to cover up to 45 percent of the visible exterior of the Unit 3 structure. Such transparent materials, to the maximum extent feasible, shall have high transparency and low reflectivity;
- The height of the existing Unit 3 structure (131');
- Exterior visibility of the 143-foot tall, concrete elevator shaft: and
- . The following features of the eastern facade of the office structure, as shown in Figure 6.13.2: the vertical concrete patterning, the metal panel cladding and glazing pattern, and the facade's solid-to-void ratio.

## 6.13.2 Waterfront Access Corridor (Turbine Plaza)

A corridor for visual and physical access between Delaware Street and the waterfront must be provided. A portion of the corridor may be enclosed and serve as common space within the hotel, so long as the corridor is open to the public and provides a direct connection between Delaware Street and the waterfront. The unenclosed portions of the corridor serve as outdoor open space. Turbine Plaza extends from Delaware Street to the Bay Trail. At minimum, the corridor must meet the following criteria:

- . Have a minimum width of 70 feet:
- . Have at least 65 percent of the area open to the sky exclusive of obstructions permitted within setbacks pursuant to Planning Code Section 136 and existing structure(s). Portions of the corridor that are not open to the sky may be enclosed;
- · Have a minimum clearance height of at least 25 feet above grade;
- · Provide visual access between Delaware Street and the waterfront, with the eastern and western facades of any enclosed portion of the corridor being at least 85 percent transparent;
- · Provide pedestrian access between Delaware Street and the waterfront, with the eastern and western facades of any enclosed portion of the corridor having large and obvious doors that welcome the public to cross through any enclosed area:
- · Be publicly accessible at times when it is reasonable to expect substantial public use;
- · Encourage pedestrian use by allowing furniture, including tables, chairs, umbrellas, heat lamps, planters, and other amenities; and
- Provide ample pedestrian lighting to ensure pedestrian comfort and safety:
- Limit enclosed portions to approximately 95 feet in width (the distance between the existing Unit 3 structure to the south and new addition of the north of Turbine Plaza) and 72 feet in length (35 percent of the length of Turbine Plaza).

#### 6.13.3 Unit 3 Gross Floor Area

The total gross square footage of all buildings on Block 9 shall not exceed 241,600 square feet.

## 6.13.4 Unit 3 Height



If Unit 3 remains and is repurposed as a hotel or residential building, the maximum building height on the block shall be limited to 85 feet, except for existing portions of the building to remain, including the steel gridded frame at 131 feet and concrete elevator shaft at 143 feet tall. In addition to those features listed in Section 6.2.4, the following features shall be exempt from height:

· Enclosed space related to the recreational and/or Retail use of the roof on the existing Unit 3 structure and new northern addition, provided that each space does not exceed 5,000 square feet. The enclosed space on top of the existing Unit 3 structure is exempt from the minimum setback ratio of 1:1.2 required on the rooftops of other buildings up to 100 feet in height.

#### 6.13.5 Unit 3 Setbacks

Setbacks from the property line commencing at the ground level are required along the eastern, western, southern, and northern Frontages of Block 9, as indicated on Figure 6.4.5, with certain permitted obstructions including pump house, awnings and canopies permitted under Section 6.9.4, furnishings permitted in Outdoor Café and Restaurant Seating and Outdoor Food Service Zones, Section 4.9, and obstructions permitted within setbacks pursuant to Planning Code Section 136. The Unit 3 Public Passenger Loading and Fire Access lane are also permitted within this setback area, as shown in Figure 4.23.1, items 1 and 2. Refer to A.9 for detailed diagrams depicting setbacks.

#### 6.13.6 Unit 3 Ground Floor

Active Uses shall be provided on the ground floor, consistent with Section 3.2.3 and Figure 3.2.1.

Unit 3 Frontages with Active Uses shall be fenestrated with transparent windows and doorways for not less than 60 percent of the street frontage at between 2 feet and 12 feet vertical above grade, and must allow visibility of at least 4 feet in depth inside of the building.

## 6.13.7 Unit 3 Additions

Building alterations, including horizontal and vertical additions to the structure are permitted provided that such additions comply with all other applicable provisions of this D4D, including compliance with Sections 6.11, Third Street Industrial District controls, 6.4, Building Setbacks, 6.6 Building Modulation, etc.

## 6.13.8 Above-grade Pedestrian Connections

Enclosed above-grade pedestrian connections are permitted between the existing Unit 3 structure, the Stack, and/or other buildings or structures on Block 9, as long as they meet the following conditions:

- If an above-grade connection between the existing Unit 3 structure and any new additions on Block 9 is constructed, it shall not exceed one story in height (no more than 15 feet tall);
- If constructed at approximately the third story (see Figure 6.13.4), the above-grade connection shall not exceed 50 feet in width;
- If an above-grade connection is provided above the third story, it shall not exceed 30 feet in width, including the width of existing structures (such as the gantry crane);

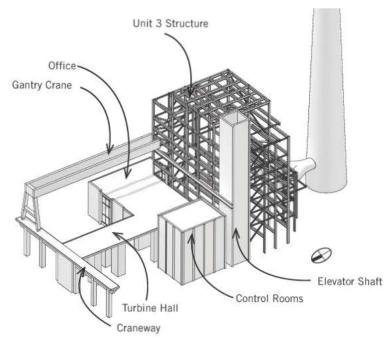


Figure 6.13.1 Components of Unit 3

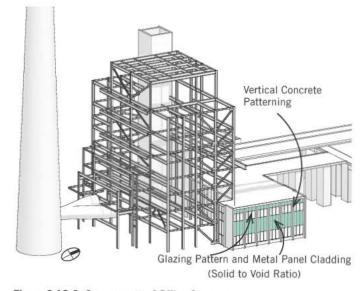


Figure 6.13.2 Components of Office Structure

#### 6.13.8 Above Grade Pedestrian Connections, continued

- There shall be at least a two story separation between each above-grade connection;
- Maximum diameter or width of connection is 15 feet

   unless adaptively reusing an existing connection
   between the Stack and Unit 3, in which case, the
   existing diameter shall not be exceeded;
- Terminate at an opening on the northern surface of the Stack and to the building face of the southern side of Unit 3. The connection shall not extend around the Stack's perimeter if connected to the Stack, unless the perimeter connection is necessary for seismic support of the Stack.
- If an enclosed, above-grade connection between Unit 3 and the Stack above the third story is provided, seismic support for the Stack must also be provided. Note: Only one such connection is permitted, and only if other seismic reinforcement strategies prove infeasible.

#### In addition:

- Any connections may be left open to the sky;
- Windscreens up to 10 feet in height are permitted for any connections that are open to the sky;
- Such connections may also contain programming for the primary use of and/or be accessory to the Unit 3 structure; and

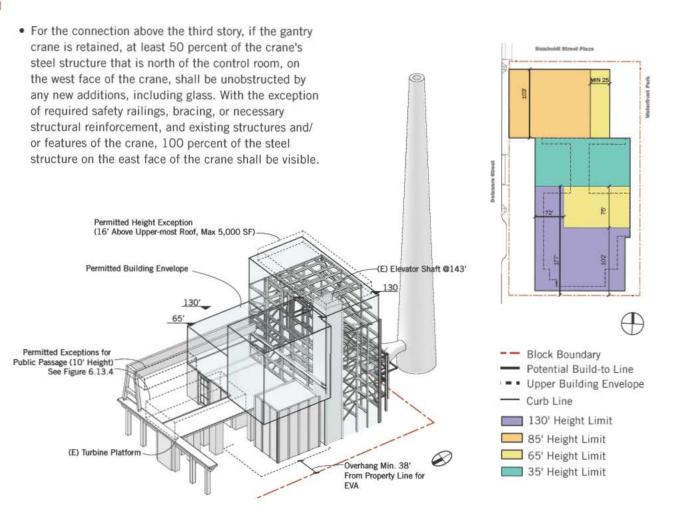


Figure 6.13.3 Unit 3 Massing and Block 9 Height Diagram

## CONSIDERATIONS

## 6.13.9 Unit 3 Retained Features



In addition to the retained features listed above under the standards for Block 9, the following features should be considered for retention where feasible:

- . The exhaust tubes connecting Unit 3 and the Stack;
- · Concrete construction and exposed infrastructure that expresses industrial character;
- · Gantry Crane;
- · Turbine Hall.

## 6.13.10 Unit 3 Additions or New Buildings



Additions or any new-construction on Block 9 should be carefully designed to be high quality in construction but modest in character, so as to not draw attention from the primary steel frame structure of Unit 3.

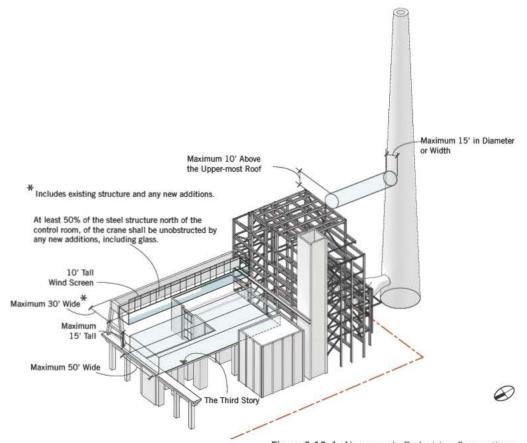


Figure 6.13.4 Above-grade Pedestrian Connections

## 6.14 Existing Buildings within the Third Street Industrial District: Station A

#### STANDARDS

## 6.14.1 Station A Retained Features

Station A shall retain, at minimum, the following walls, for the full existing height of the walls (see Figure 6.14.1):

- The southernmost 250 feet of the western wall;
- The southern wall;
- · The eastern wall, and
- The easternmost 60 feet of the northern wall.

Station A is an unreinforced masonry building, which is prone to collapse in earthquakes. Accordingly, there is a chance that Station A could collapse prior to an adaptive reuse project of Station A being constructed.

Given the paramount importance of the building's brick walls to the character of the Project Site, if Station A is damaged by an earthquake or otherwise, any remaining portions of the above-listed walls shall be retained in place and incorporated into the Station A project. If Station A is damaged so severely that 30 percent or less of the above listed walls remain, the following would apply: Standard 3.2.3 "Active Use Frontages," to the degree feasible, and Setbacks per Figure 6.4.5 "Building Setbacks, except without the exemption permitted by Standard 6.4.4 "Station A Exemption. Further, a Mid-block Alley shall be required unless more than 30 percent of the eastern wall is retained, or if retained portions physically preclude its construction. If none of the eastern wall remains, Guideline 6.10.6 shall apply.

#### 6.14.2 Station A Openings

New windows, fenestration or other openings are permitted for up to 30 percent of the total area of

the existing wall or walls retained pursuant to Section 6.14.1. Existing windows, fenestration and/or other openings shall not count against the permitted 30 percent. No more than 20 percent of the total permitted fenestration Area above the ground floor may be contiguous.

#### 6.14.3 Station A Projections

Projections are permitted provided that they do not exceed 30 percent of the total area of the streetwall, or extend more than 10 feet beyond the existing footprint of Station A. See Section 6.14.12 for recommended locations for such projections.

#### 6.14.4 Station A Enclosures

Up to 30 percent of the walls retained pursuant to 6.14.1 may be enclosed by an atrium, light court, or other transparent structure that extends no more than 10 feet beyond the existing footprint of Station A provided that such structure is at least 80 percent transparent and provides a programmatic element that is open to the public, such as but not limited to, viewing platform(s), ground floor retail, atrium and/or a combination of such elements.

## 6.14.5 Sculpting of Addition to Station A on Block 15

New construction on Station A is allowed up to 145 feet in height along the northern half and 160 feet on the southern half of the building, as shown in Figure 6.2.3.

New construction on Block 15 above the height of the existing Station A walls shall achieve a 15% reduction in overall exterior volume for all mass above the Station A walls. The reduction shall apply relative to a baseline floorplate of 47,089 square feet (ie the footprint of Station A) for construction up to 145 feet and a baseline floorplate of 24,955 square feet for construction

between 145 feet and 160 feet. Assuming the existing Station A walls are an average of 65 feet in height, the overall volume allowed above shall be calculated as follows:

| Α | Floorplate up to 145' x height<br>between Station A walls and<br>145' = Volume A | 47,089 square feet x<br>80 feet = 3,767,120<br>cubic feet                 |
|---|--|---|
| В | Floorplate above 145' x height above 145' = Volume B                             | 24,955 square feet<br>x 15 feet = 374,325<br>cubic feet                   |
| С | A + B = total volume   | 3,767,120 cubic feet<br>+ 374,325 cubic feet<br>= 4,141,445 cubic<br>feet |
| D | C x 0.85 = maximum<br>buildable volume   | 4,141,445 cubic feet<br>x 0.85 = 3,520,228<br>cubic feet                  |
| Ε | C x 0.15 = required volumetric reduction   | 4,141,445 cubic feet<br>x 0.15 = 621,217<br>cubic feet                    |

The 15% reduction may be achieved by providing setbacks, a Vertical Hyphen, or a combination of these or other sculpting strategies. The purpose of sculpting the vertical addition above the existing Station A structure is to:

- Differentiate its mass from the existing Station A structure below:
- Reduce its mass to ensure that development on Block 15 does not overwhelm adjacent open spaces and sensitively responds to its immediate context, including adjacent structures, streets, open spaces, and to the existing walls of Station A itself, and:

· Sculpt its mass with an architectural expression that distinguishes Block 15 as a high-quality, characterdefining element of the site's urban design.

A project applicant may request and the Planning Director may grant a waiver from the 15% reduction requirement if the Planning Director determines that new construction on Block 15 above the height of the Station A walls demonstrates superior design quality consistent with the provisions of Planning Code Section 249.87 and with the sculpting purposes described immediately above in this Section 6.14.5.

Where a Vertical Hyphen is utilized as a design element. it shall be at least 10 feet in depth and at least one story in height beginning at the height of the cornice of the existing walls of Station A.

Projections in new construction above the existing Station A walls are permitted per Planning Code Section 136 for Streets, Alleys, and Useable Open Space, except that such projections shall be measured from the outer face of the existing Station A walls that faces a street, alley, or open space. To allow for the possibility of a design response that results in a superior design consistent with the provisions of Planning Code Section 249.87 and the sculpting purposes described above in this Section 6.14.5, the Planning Director may approve projections on the eastern wall of Station A (facing Louisiana Paseo and Power Station Park) that deviate from Planning Code Section 136 provided that no projection extends farther than 10 feet beyond the outer face of the existing Station A walls and that projections are limited to no more than 25 percent of the square footage of the building face above the existing Station A walls.

#### 6.14.6 Station A Ground Floor

Minimal Active Use controls pursuant to Figure 3.2.1 apply to the ground floor of Station A, to allow for maximum preservation. However, any windows or fenestration at the ground floor shall be 75 percent transparent and shall not be obstructed by interior furnishings. Active Use controls shall apply to portions of the building where the existing walls of Station A are not retained and along the Frontage directly fronting Power Station Park.

#### 6.14.7 Above-grade Pedestrian Connection between Station A and Block 11

To facilitate the preservation of Station A, an above-grade pedestrian connection between Station A and Block 11 is permitted at the discretion of the Planning Director provided that the connection:

- · Is sculpted and detailed with an architectural expression that sensitively responds to both the Station A walls and the new construction on Blocks 15 and 11:
- Helps create a welcoming and public entrance to Lousiana Paseo and Power Station Park beyond while minimizing shadowing impacts to these open spaces to the greatest extent possible:
- . Is set back at least 10 feet from the southern faces of Station A and Block 11, and 20 feet from the northern face of Block 11:
- . Is set back at least 5 feet on either side of the uppermost level of the connection so as to appear to be tapered, or otherwise sculpted to appear less bulky. and:
- Is no taller than 30 feet or two stories, whichever is greater.

In addition to pedestrian passage, connections are permitted to contain programming related to the principal or accessory use of Station A and Block 11.

#### GUIDELINES

## 6.14.8 Station A Additions



Additions to Station A shall be constructed with high quality materials and finishes per Section 6.8. New additions should be designed to complement and be harmonious with the existing Station A walls. The materials used for new construction shall be differentiated yet compatible with the existing Station A wall materials. Additionally, new additions to Station A can be volumetrically distinct yet should complement the existing walls and/or features. While not incorporated into this D4D and made applicable to the Power Station project, the Retained Elements Guidelines may be a resource: https://sfplanning.org/project/retainedelements-design-guidelines#info.

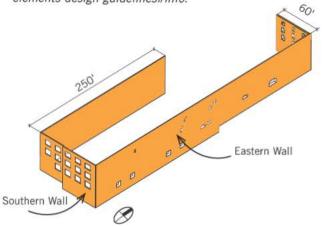


Figure 6.14.1 Station A Retained Features

## 6.14.9 Station A Train Door

The historic "Station A" train door should be repurposed as an important entry in the building, and considered as part of the building's arrival sequence.

#### 6.14.10 Station A Walls and Vertical Addition Transition

Where a Vertical Hyphen or setback is not utilized to transition between the existing Station A walls and the vertical addition above, a transition shall be employed that provides appropriate distinction between the old and new structures. See the San Francisco *Retained Elements Design Guidelines* for approaches that may be appropriate in this context.

## CONSIDERATIONS

#### 6.14.11 Station A Ground Floor

To better activate Louisiana Paseo, consider providing Active Uses for the eastern Frontage directly facing the Paseo.

## 6.14.12 Relationship to Power Station Park

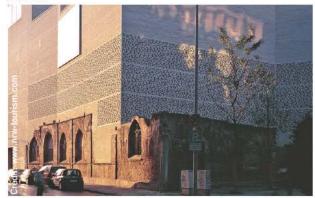
Consider the building's relationship to Power Station Park, and encourage interaction between the building and the park with features such as a publicly accessible atrium or open space.

## 6.14.13 Historic Penetrations

Where projections, entrances, or other architectural features are incorporated on retained historic façades, consider relating the location of such features to the locations on the façade where penetrations historically existed to maximize preservation of the structure and retain character-defining features (see Appendix F).



The Caixa Forum demonstrates an addition with a material contrast.



The Kolumba Museum demonstrates material contrast, but with a complementary, harmonious addition.



An example of the first vertical hyphen alternative described in Section 6.14.5.



The Hamburg Philharmonic is an example of a volumetrically distinct, yet complementary addition.



The Restoration Hardware store in New York is an example of an addition with harmonious materials.



An example of the second vertical hyphen alternative described in Section 6.14.5.

## 6.15 Park Frontages

Building frontages facing Power Station Park and Waterfront Open Spaces are opportunities for architecture that will be inviting and create a sense of arrival and interest.

Third Street Industrial District frontage controls will also apply to specific Power Station Park and the Waterfront Open Spaces frontages as indicated in Figure 6.11.1.

## **STANDARDS**

#### 6.15.1 Waterfront Access at Block 9

The design of Block 9 without Unit 3 shall allow for direct pedestrian passage through the building from its entrance facing Delaware Street to its entrance facing Waterfront Park. See Section 6.13.2 for requirements related to the Waterfront Access Corridor at Block 9 with Unit 3 (also known as Turbine Plaza) and Section 6.11.8 for waterfront access guidelines for Block 9 without Unit 3.

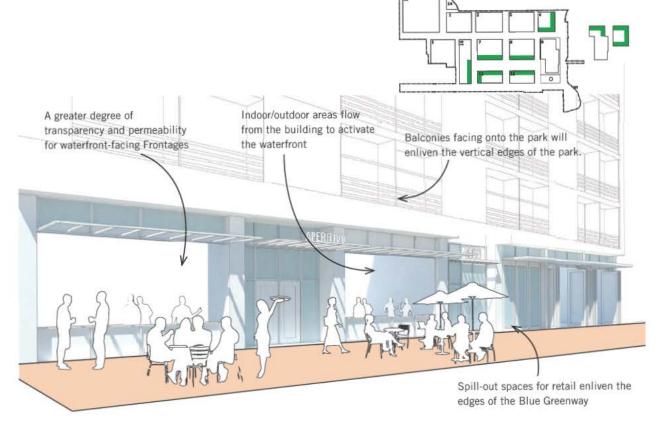


Figure 6.15.1 Park Frontages

## CONSIDERATIONS

## 6.15.2 Permeability

Use of accordion doors, roll up doors, and other ways to increase permeability between indoor and outdoor uses is encouraged.

#### 6.15.3 Historic Shoreline

Buildings may include references to the historic shoreline that runs through the eastern portion of Power Station Park, utilizing shifts in building planes, changes in material, or other interpretive design elements.

#### 6.15.4 Balconies and Terraces

Building frontages facing Power Station Park and Waterfront Open Spaces are an ideal location for generous balconies and terraces, which will enliven the built edge of the waterfront. The design of these frontages may incorporate large overhangs and balconies as an integral part of the design concept.

#### 6.15.5 Pedestrian Passages

Building frontages facing Power Station Park and Waterfront Open Spaces are ideal locations for transparent building atria that form connections through buildings from the Park or Waterfront to surrounding streets.



Façades that can be folded away create a sense of connection between the indoor and the outdoor environment.



Larger-scale moves at the ground floor create an emphasis on the public nature of the uses.



This waterfront building uses the structure at the building edge as a way to frame inviting indoor/outdoor spaces.



This waterfront building frontage is designed to be very permeable with many balconies and an indoor-outdoor ground floor that spills out and activates the adjacent wharf.

## 6.16 Residential Character

Residential buildings may be characterized by a finergrained pattern of small-scale stoops and entryways. These intermediate spaces are neither fully private nor fully public, creating a comfortable social interval between a unit and the street. Where stoops are large enough to be occupied, they can provide an opportunity for casual interaction between neighbors and with passersby.

San Francisco's draft *Ground Floor Residential Design Guidelines* may serve as a reference for additional approaches to ground-floor design.

### **STANDARDS**

## 6.16.1 Minimum Height of Stoops

Residential stoops that are slightly elevated from the street create a comfortable social distance that lets residents experience greater privacy in their unit. The landing elevation of stoops for residential units shall be between 18 and 48 inches above finished sidewalk grade, unless the building is located on a grade that does not permit stoops to be provided at this elevation without requiring internal ramping or stairs to connect the units to the building's lobby and amenities.

Up to 25 percent of stoops on any given Frontage may deviate from these minimum 18-inch and maximum 48-inch elevation requirements. This requirement shall be superseded by ADA requirements if said ADA requirements do not permit implementation.

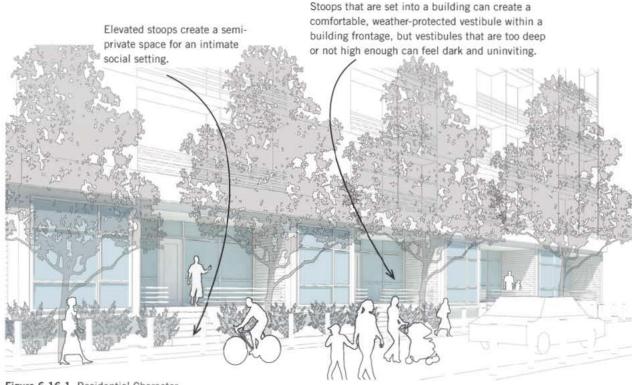


Figure 6.16.1 Residential Character

## 6.16.2 Inset Stoops

Stoops that are inset to a building can create a comfortable, weather-protected vestibule within a building Frontage. However, vestibules that are too deep and not high enough can feel dark and uninviting. If a vestibule is provided, the height of the vestibule shall be at least 1.5 times the depth of the inset; for example, a vestibule that is inset 6 feet is required to be at least 9 feet in height.

#### 6.16.3 Stoop Entries

Where stoops are provided, they shall be considered secondary entries, where unit numbers and doorbells are not to be placed. The primary entry must be through an accessible path of travel (such as an interior lobby). Secondary entrances must also have lockable gates, which help identify stoops as secondary entrances; these gates may be low in height.

Shall the Department of Building Inspection permit entrances at stoops to serve as primary entrances and meet all applicable ADA requirements, stoops may be considered primary entrances.

#### 6.16.4 Projection of Stoops

Stoops and planted areas along the face of a building can create a softer edge where residential buildings meet the street. In order to allow for a strong streetwall while also ensuring that stoops have adequate room to enliven sidewalks, stoops are allowed to encroach up to 4 feet into the adjacent sidewalk of a shared street, alley, or open space, as long as a minimum 6-foot continuous Pedestrian Throughway is maintained on sidewalks of open spaces, and a continuous 4-foot Pedestrian Throughway is maintained on Shared Streets and Alleys; and where fire access throughways are maintained (if required).

#### CONSIDERATIONS

#### 6.16.5 Residential Building Design

The design of residential buildings should respond to the different characters of the streets that they face. On Major Streets like Georgia Street or Maryland Street, the ground floor can be more urban and vertical in nature, with double-height insets appropriately scaled to these larger streetwalls.

On Minor Streets, such as Louisiana and Delaware streets where the streetwall is lower and lanes are narrower, residential character can be articulated as townhomes or individual units. Frontages here might include bay windows and wood siding, similar to those in other lower-scale neighborhoods in San Francisco.

## 6.16.6 Planting @

The placement of planting between stoops and entryways should be considered on Neighborhood Residential Streets as a way to create a softer building edge and a more residential feel to the streets, as a contrast to the hardscape of Neighborhood Commercial and Mixed-Use Streets (see Figure 5.1.1 for Street Types).



As illustrated in the above image, stoops and planted edges that encroach into the adjacent sidewalk can help create a softer street-edge for residential buildings.



Stoops create a comfortable, intermediate social space between the public realm of the street and the private realm of a residence.

## 6.17 Active Use Character

Wherever buildings are required to have Active Use frontages and do not have lobbies, dwelling units, PDR, or Retail uses, their ground floors will be characterized by a range of other Active Uses that bring activity and transparency to street edges.

The Active Use designation encompasses a wide variety of uses to allow for flexibility and variety, so long as the requirement for a high degree of transparency is met, to ensure that they will contribute to the life of the streets they face.

At the Power Station, the Active Use designation permits even more flexibility than in other parts of San Francisco, to allow for a greater mix of uses (such as allowing Retail to be mixed with greater amounts of Office or PDR space). By allowing for a greater mix of uses, these frontages can be flexible and supportive of a dynamic ground floor, where manufacturing, sales, and business management can all be accommodated in a smaller footprint.

Where Office and PDR Uses exist alongside Retail, the uses more active in nature, such as the Retail and PDR, will be oriented towards the street to give the street a social edge and create opportunities for the public to interact with these ground-floor uses.

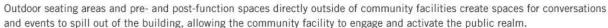
transparency as Retail Frontages, they are also an opportunity to enliven the edges of buildings facing onto sidewalks and open spaces. The flexibility of the Active Use designation encourages an interesting and dynamic mix of uses. For community uses, consider spaces that allow pre- and post-function conversations to spill out into the street.

Because Active Uses will be designed with the same level of

Figure 6.17.1 Active Use Character





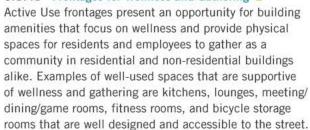




Where offices are located in Active Use frontages, Social Spaces should be oriented toward the street, consistent with Standard 3.2.3.

## CONSIDERATIONS

## 6.17.1 Frontages for Wellness and Gathering



## 6.17.2 Frontages for Community Uses

For community uses in particular, ensure that the design of the outdoor areas in front of these frontages conveys a welcoming character and facilitates opportunities for lingering and social interaction. Consider larger doorways, indoor or outdoor spaces for pre- and post-function conversations, and benches for additional seating.

## **Building Experience and Operations**

A complete neighborhood is a pleasant experience, not only for visitors and passersby, but also for residents and building occupants.

Attention is turned to building performance and operations in this section, where standards and guidelines are provided for human wellness, recycled water, thermal energy, rooftops, and parking for bicycles and vehicles alike.

## 6.18 Sustainable Buildings and Human Wellness

While the development embraces its industrial past as a power station, it facilitates a sustainable, healthy future through building standards that prioritize human health and wellness and reduce material, water, and energy waste.

The following pages articulate strategies that help reduce greenhouse gas ("GHG") emissions. According to the Intergovernmental Panel on Climate Change, major reductions in greenhouse gas emissions across all sectors are critical to limiting human-induced global warming to 1.5 deg Celsius. The State of California and the City of San Francisco are leaders in climate change mitigation, and the State has set a target for all new construction to be net zero by 2030 in accordance with the Paris Climate Accords target of Net-Zero Cities by 2050. Reducing GHG emissions helps facilitate a sustainable future for the environment while also prioritizing human health and wellness.

New infrastructure at the Potrero Power Station will take advantage of the mix of uses on site, allowing parcels to work together to save water and potentially energy. Certain residential buildings, which generate more graywater and blackwater than they can use, could host water treatment systems to provide recycled water to meet district-wide non-potable water demands for flushing, irrigation, and cooling towers. Commercial and Laboratory buildings could capture the waste heat generated from their cooling processes and use this for heating and/or domestic hot water production in residential buildings. Each of the building types on the site could turn their 'waste' into a resource for district-wide water and energy savings.

The implementation of measures to reduce GHG emissions, including shared thermal energy plants

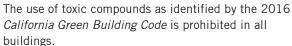
and all electric systems for building heating and hot water production, shall be determined by a number of factors, including future utility rates, building design, and feasibility as determined by the Project Sponsor. These considerations are important to reduce the project's climate change impact and to future-proof the development in anticipation of evolving regulations.

## **STANDARDS**

## 6.18.1 Building Performance

All buildings are required to achieve a certification of LEEDv4 Gold or better.

## 6.18.2 Non-Toxic Building Interiors



## 6.18.3 Non-Potable / Recycled Water

The Potrero Power Station project will pursue one of the following two options for complying with the City's Non-Potable Water Ordinance, which requires non-potable water sources for flushing, irrigation, and cooling towers:

#### Option 1

Water treatment plants will treat wastewater generated within certain development blocks to San Francisco Health Code Article 12C water quality standards and deliver to all buildings and open space areas within the project site through a new, private, non-potable water distribution system within the public right-of-way. See Figure 6.18.1. (Note that an encroachment permit from the Department of Public Works and an exemption from the Recycled Water Ordinance from the SFPUC would be required under Option 1).

If private water treatment plants are incorporated into the project, the best candidates for wastewater collection and treatment are Blocks 1, 5, 7, and 8 (see Figure 6.18.1); these blocks are planned for residential land use, which generates the largest amount of wastewater on site.

The number of water treatment plants incorporated into the project shall meet the need of project-wide non-potable demands for flushing, irrigation, and cooling towers. If wastewater collection and treatment in the blocks identified above do not meet the project-wide non-potable needs, additional residential buildings shall incorporate water treatment (likely Blocks 9 and 13).

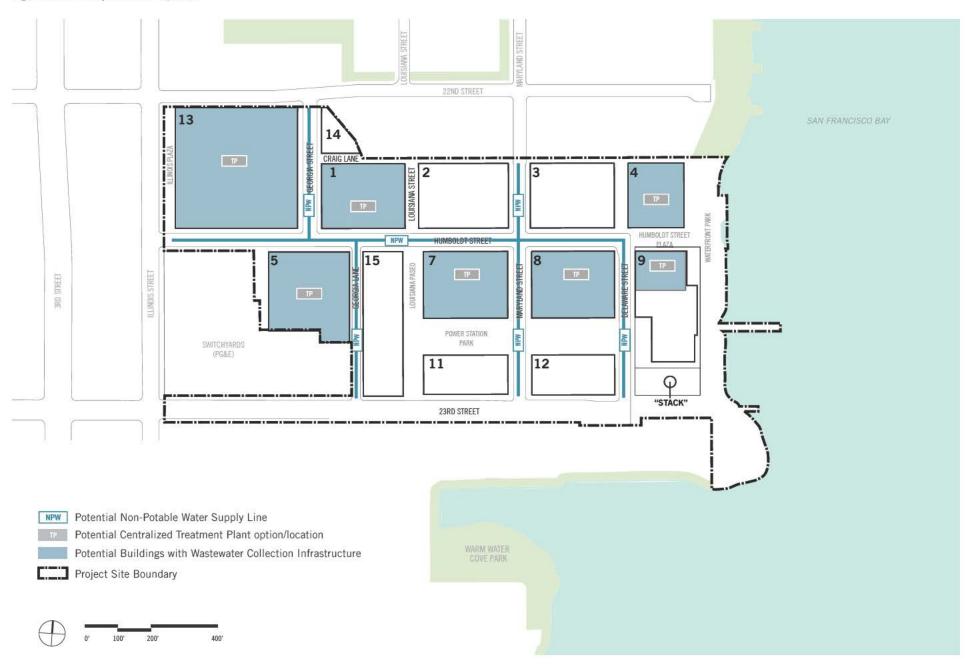
The treatment plants shall treat wastewater to San Francisco's non-potable standard. Pumps required to maintain pressurization in wastewater collection lines and/or non-potable water distribution lines will be provided by the vertical developer as necessary.

Wastewater treatment may also be satisfied by a single centralized treatment plant, which would likely be located on Block 8.

#### Option 2

In the event that the City constructs a regional recycled water facility that provides recycled water to the project site, the project may connect to this system, delivering recycled water to development parcels through a new, public recycled water distribution system within the public right-of-way. In this case, the Power Station project would not include construction of separate water treatment or non-potable water distribution systems on private parcels.

Figure 6.18.1 Recycled Water Option 1



#### 6.18.4 Materials & Resources



Building material selection shall consider attributes such as embodied carbon, recycled and regional content, and material toxicity. Each building shall earn a minimum of three (3) points total under the following LEED Materials & Resources credits:

- MRc Building Lifecycle Impact Reduction
- MRc Building Product Disclosure & Optimization (BPDO): Environmental Product Declarations (EPD)
- . MRc BPDO Sourcing of Raw Materials
- MRc BPDO Material Ingredients

## 6.18.5 Real Time Transportation Information Displays



In the lobbies of buildings that contain predominantly Office Uses, or those that fall under Land Use Category B pursuant to the "TDM Program Standards" adopted August 4, 2016 and updated June 7, 2018, real-time transportation information shall be provided on displays (e.g., large television screens or computer monitors) in prominent locations (e.g., entry / exit areas, lobbies, elevator bays) to highlight sustainable transportation options and support informed trip-making. At minimum, transportation information displays shall be provided at each major entry / exit. The displays shall include realtime information on sustainable transportation options in the vicinity of the project site, which may include, but are not limited to, transit arrivals and departures for nearby transit routes, walking times to these locations, and the availability of car-share vehicles (within or adjacent to the building), shared bicycles, and shared scooters.

#### 6.18.6 Delivery Support Amenities



Buildings containing predominantly Office and Residential Uses, or those that fall under Land Use Categories B and C pursuant to the "TDM Program Standards" adopted August 4, 2016 and updated June 7, 2018, shall facilitate delivery services by providing an area for receipt of deliveries that offers one of the following: (1) clothes lockers for delivery services, (2) temporary storage for package deliveries, laundry deliveries, and other deliveries, or (3) providing temporary refrigeration for grocery deliveries, and / or including other delivery supportive measures as proposed by the property owner that may reduce Vehicle Miles Traveled by reducing the number of trips that may otherwise have been made by single occupancy vehicles.

## 6.18.7 Recycled Water



Cooling systems shall use recycled water as a nonpotable demand in the SFPUC Water Budget Application District-scale calculator.

## CONSIDERATIONS

#### 6.18.8 Shared Thermal Energy Plants



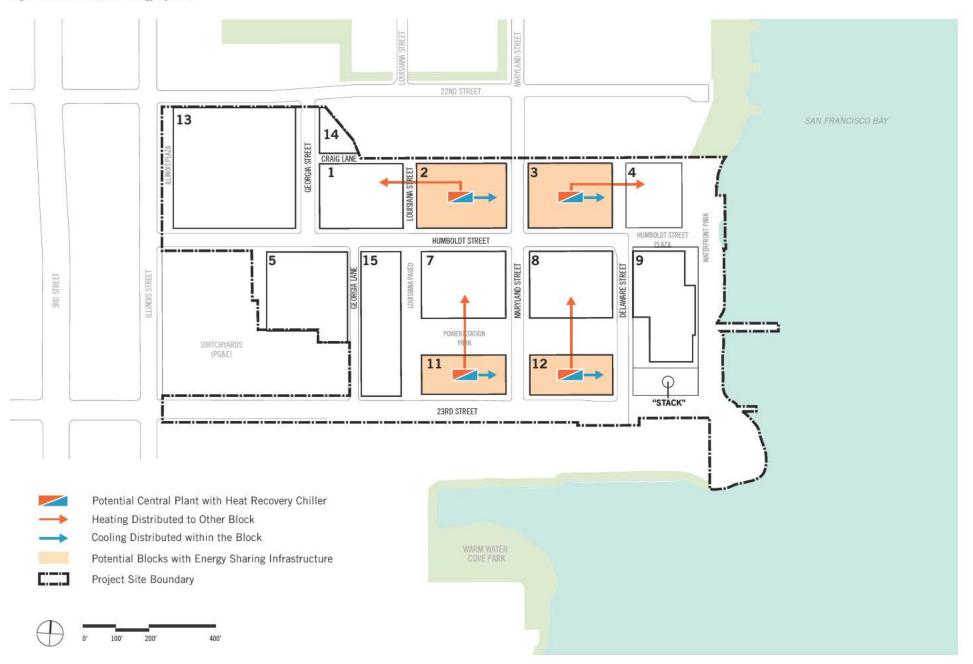
The project may elect to construct shared thermal energy plants within the project site if the Project Sponsor determines that such a system would be feasible. These plants would use shared thermal energy plants within the project site to recover waste heat from commercial buildings for use in space heating and domestic hot water production in residential buildings to reduce the project's overall energy and water demands. A connection would be provided between residential and commercial building pairs when (1) such pairing would result in an energy efficiency benefit, and (2) a connection can be made without crossing a public rightof-way.

Anticipated residential-commercial pairings include Blocks 1 and 2; 3 and 4; 7 and 11; and 8 and 12. See Figure 6.18.2.

Shared thermal energy plant equipment installed in commercial buildings would include heat recovery cooling equipment such as heat recovery chillers to provide excess hot water to the adjacent residential buildings for space heating and domestic hot water production. Residential buildings would install space heating and domestic hot water equipment capable of utilizing the hot water provided by the adjacent commercial building.

In a residential/commercial pairing, if construction of a shared thermal energy plant in the residential building precedes construction of the commercial building, temporary provision of hot water for space heating and domestic hot water would be provided. In the case of this temporary provision, electric or natural gas may be used to produce hot water.

Figure 6.18.2 Thermal Energy System



#### 6.18.9 All-Electric Buildings



Any building in the project may elect to eliminate the use of natural gas to reduce operational GHG emissions and limit on-site combustion. During the design for each building, the feasibility of systems that provide for allelectric space heating, domestic hot water production, and cooking should be explored.

## 6.18.10 Resilient Energy



Consider providing sufficient renewable energy generation and battery storage to support adequate power supply for up to 72 hours during emergencies and power outages.

## 6.18.11 Natural Ventilation



The San Francisco climate is particularly well-suited to natural ventilation, with moderate outdoor air temperatures that are typically in a comfortable range. Buildings that are naturally ventilated deliver the cobenefits of fresh air for occupants, reduction in energy needed to condition outdoor air, and greater resilience in the case of energy blackouts. Consider using operable windows and/or HVAC systems that allow for natural ventilation.

## 6.18.12 Natural Daylight



Passive lighting and access to natural daylight should be used where possible. Access to natural daylight can improve physical energy, performance, and overall human health. Artificial lighting can be one of the largest demands on building energy. By enhancing access to natural daylight, buildings can better serve both occupants and the environment.

## 6.18.13 Solar Control and Exterior Shading



Façades that are south- or west-facing can be exposed to greater amounts of thermal energy from the sun, causing heat-gain to the building and requiring additional energy for cooling. Consider using passive means of shading these building façades. Examples include use of more solid wall, less glazing, louvers, and eaves.

## 6.18.14 Active Design



Buildings that are designed to prioritize the use of stairs help support healthy habits and increase the likelihood of chance encounters between building occupants. Where appropriate, feature stairs as the main path of circulation. Locate communal spaces like kitchenettes and lounges near stair landings to draw occupants to the stairs, for convenience and community. Encourage the active use of rooftops and the construction of spaces that support the recreational use of rooftops.

## 6.18.15 Biophilic Design



Research suggests that humans possess an innate tendency to seek connections with nature. Since most people spend 90 percent of their time indoors, biophilic design -- such as incorporating greenery, green spaces, or views to such spaces when indoors -- helps satisfy our desire to affiliate with nature in buildings. Biophilic design can serve as an amenity that also contributes positive health benefits. Where possible, provide access to landscaped roof gardens and/or balconies. In the design of these spaces, consider creating microclimates that are supportive of planting, with protection from wind and adequate sun for planting to thrive.

#### 6.18.16 Building Amenities for Wellness



Building amenities that address wellness can be appealing for residents, visitors, and employees. Examples of amenities that support wellness in residential or commercial buildings are:

- Fitness rooms that are close to and visible from an outdoor space, so that people have the choice of incorporating outdoor exercise;
- Collaborative or conference spaces that can also accommodate informal fitness classes, meditation groups, or other fitness-related activities;
- In residential buildings, wellness facilities such as steam rooms, saunas, and jacuzzis;
- Rooftop open spaces and enclosed space related to the recreational use of the roof.

## 6.18.17 Family-Friendly Design



Buildings should consider amenities that address the needs of families, such as lobbies with storage for strollers, shopping carts, and convenient car seat storage for families that do not own cars.

#### 6.18.18 Pet-Friendly Design

Residential buildings should consider dogs and their owners in the design of amenities. Dog runs, pet wash facilities, and pet relief areas should be considered and incorporated into building programming where possible.

# 6.18.19 Climate Resilience



Buildings should consider design strategies to maintain thermally comfortable interior conditions in the event of a power failure in current and future climates. Buildings should comply with Article 38 of the Public Health Code as required to support high indoor air quality during times of poor outdoor air quality.

# **6.18.20 Real Time Transportation Information Displays**



Consider providing real time transportation information displays per Section 6.18.5 in prominent locations of buildings that fall under "TDM Program Standards" Land Use Categories A, C, and/or D, in addition to those required for Land Use Category B.

# 6.18.21 Renewable Energy



Evaluate the feasibility of meeting 100% of building energy demands with greenhouse gas free or renewable electricity through a combination of on-site renewable energy generation and green power purchase.

BUILDINGS

[This page intentionally left blank.]

# 6.19 Building Rooftops

The project roofscape should be designed to balance renewable energy generation and Living Roof coverage. In addition to providing such benefits as stormwater management and biodiversity, Living Roofs, as defined below, can also enhance Usable Open Spaces located on the roof. Refer to Table 6.19.1 and Figure 6.19.1 for the preferred approach to renewable energy and Living Roof location for each block.

#### **STANDARDS**

#### 6.19.1 Better Roofs

All building rooftops shall comply with the *San Francisco Green Building Code* section on Renewable Energy and Better Roofs. With Planning Department approval, the project may demonstrate compliance with the Better Roof requirements, including the Living Roof Alternative, as provided in Planning Code Section 149, *Better Roofs: Living Roof Alternative Ordinance*.

A "Living Roof" is defined as the media for growing plants, as well as the set of related components, installed exterior to a facility's roofing membrane. Living Roofs include both "roof gardens" and "landscaped roofs" as defined in Planning Code Section 149. To comply with Planning Code Section 149, Living Roofs must function as stormwater management and be approved by SFPUC.

The Better Roofs: Living Roof Alternative Ordinance allows for the project to meet the Better Roofs requirements across multiple buildings as a collective system (rather than on a building-by-building basis), in order to allow for a comprehensive approach to the district roof-scape, and to create meaningful greening through habitat-supportive planting and stormwater management. Living Roofs will be most effective on rooftops that are visible from taller buildings, and/or rooftops where a Living Roof can contribute to meeting building stormwater management requirements. Buildings within the combined sewer watershed must provide a Living Roof at no less than the percentages listed in Table 6.19.1 to meet SFPUC stormwater management requirements.

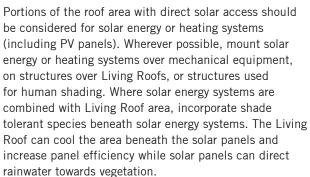
See Table 6.19.1 and Figure 6.19.1 for recommendations for where to locate solar energy or heating systems versus Living Roofs.

## 6.19.2 Living Roof Non-Potable Irrigation

Plant palettes selected for Living Roofs shall accommodate the site-wide requirement that all irrigation must use non-potable water.

#### **CONSIDERATIONS**

#### 6.19.3 Photovoltaic Panels



# 6.19.4 Living Roof Permanent Irrigation

Consider subsurface irrigation and weather or moisturebased controllers for permanent irrigation systems.

## 6.19.5 Living Roof Pollinator Habitat

Where possible, design Living Roofs to support pollinator habitat with native plants comprising at least 50 percent of the selection. Select brightly colored, native plants that flower across at least three seasons. Provide a diversity of plant types and prioritize lower rooftops as location for Living Roof.

# 6.19.6 Living Roof Uses

Consider additional uses for Living Roofs, such as community or private gardens to support urban agriculture or meaningful pollinator habitat.

# 6.19.7 Rainwater Harvesting



Consider rainwater harvesting and reuse of stormwater runoff from roof areas as a source of non-potable water.



A green roof with native plantings for a pollinator habitat. Image from the Living Roof Manual, a valuable resource for green roof design and planting.

Table 6.19.1 Better Roofs Recommendations

| BLOCK NUMBER | RECOMMENDED APPROACH TO BETTER ROOFS STANDARDS   |  |
|--------------|--|--|
| Block 1      | 30 percent Living Roof located on the Base   |  |
| Block 2      | 15 percent photovoltaics   |  |
| Block 3      | 15 percent photovoltaics   |  |
| Block 4      | 30 percent Living Roof   |  |
| Block 5*^    | 15 percent photovoltaics located on the Base   |  |
| Block 15^    | Dependent on design  |  |
| Block 7*     | 15 percent photovoltaics located on the Base   |  |
| Block 8      | 30 percent of the Base for Living Roof and 15 percent of the<br>Upper Building for photovoltaics |  |
| Block 9      | Dependent on design  |  |
| Block 11     | 30 percent Living Roof   |  |
| Block 12     | 30 percent Living Roof   |  |
| Block 13^    | 30 percent Living Roof   |  |
| Block 14     | 30 percent Living Roof   |  |
| The Stack    | N/A  |  |

All percentages in the above table reference the percent of roof space defined as the minimum solar zone area and calculated per Title 24, Part 6, Section 110.10(b)

\*Remaining percentage of roof area required to meet Better Roofs can include any combination of Living Roof or photovoltaics on the Upper Building or Base, provided that the building complies with the standards listed above.

^All percentages reflect minimum roof areas, however, Living Roof percentages on Blocks 5, 15, and 13, in particular, may exceed 30 percent to address stormwater management requirements pursuant to the SFPUC Stormwater Management Ordinance (SMO).

Figure 6.19.1 Conceptual Better Roof Design



# 6.20 Off-Street Parking and Loading

#### **STANDARDS**

#### 6.20.1 Building Address

The address of a building serves as the main drop-off point for vehicles and the location to which emergency vehicles are called. Building addresses shall be located in proximity to vehicle drop-off areas and fire standpipes.

#### 6.20.2 Off-Street Parking

Parking is permitted on all blocks as an accessory use. With the exception of the above-grade District Parking Garage, parking at the ground level shall be wrapped with Active Uses for the first 25 feet of building depth at the ground level of Active Use, PDR and Priority Retail Frontages, and with Active Lane Uses on Active Lane Frontages. Parking above the ground level shall be wrapped with any principally permitted use for the first 15 feet of building depth.

Accessory parking is permitted up to the following maximum ratios and may be provided on a different parcel than the principal use:

- 0.6 cars parked per dwelling unit;
- 1 car parked per 1.500 square feet of Occupied Floor Area of Non-Retail Sales and Services, Industrial, PDR, Laboratory, or Life Science Uses;
- 3 cars parked per 1,000 square feet of Occupied Floor Area of Grocery Store; and
- 1 car parked per 16 hotel guest bedrooms plus 1 car parked for a hotel manager.

Parking for uses not listed above is not permitted. Each of the above cars parked may be accommodated in an independently accessible parking space.

Below-grade parking is permitted where off-street parking is allowed. While below-grade parking shall not extend beneath public rights-of-way, it may extend beneath privately-owned open spaces. Shared Streets at Delaware and Louisiana Streets, as well as Craig Lane, which are private streets. See Section 4.12.

# 6.20.3 Electric Vehicle Charging



All off-street passenger vehicle parking spaces shall provide an electrical power source capable of supporting future Electric Vehicle Supply Equipment ("EVSE").

At least 25 percent of off-street passenger vehicle parking spaces in Residential buildings shall be equipped with EVSE.

# 6.20.4 Car Share



Buildings shall provide dedicated car share parking as required by Planning Code Section 166. See Table 6.20.1 for requirements as of adoption of this D4D. A project applicant may request and the Planning Director may grant a reduction in the required car share parking as a Minor Modification per the SUD.

# 6.20.5 Parking and Loading Entrances

Building entrances for parking garage and loading dock access are allowed only on those Frontages indicated in Figure 6.20.1.

With exceptions as noted in this section, no more than 22 feet of any given Frontage of a new or altered structure facing a street shall be devoted to parking and loading ingress or egress. Entrances to off-street parking shall be located at least 30 feet from any lot Corner at the intersection of two public rights-of-way, unless such location is infeasible given requirements imposed by the Department of Public Works or the San Francisco

Table 6.20.1 Required Car-Share Parking Spaces

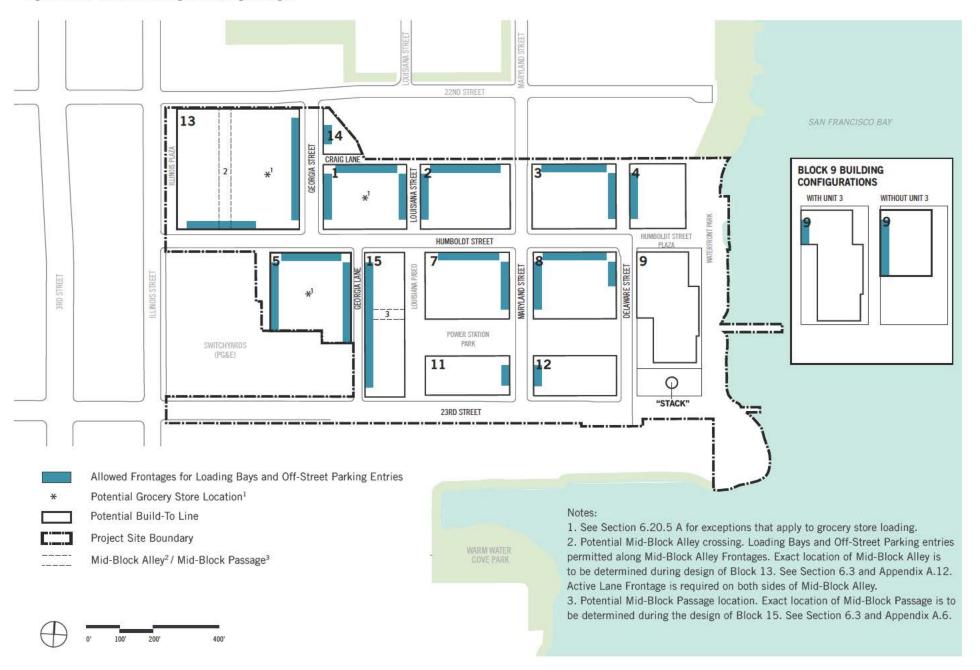
| NUMBER OF RESIDENTIAL<br>UNITS                                | NUMBER OF REQUIRED<br>CAR-SHARE PARKING<br>SPACES |
|---|---|
| 0 - 49  | 0   |
| 50 - 200  | 1   |
| 201 or more   | 2, plus 1 for every 200 dwelling units over 200   |
| NUMBER OF PARKING<br>SPACES PROVIDED FOR NON-                 | NUMBER OF REQUIRED<br>CAR-SHARE PARKING           |
| RESIDENTIAL USES OR IN A<br>NON-ACCESSORY PARKING<br>FACILITY | SPACES  |
| NON-ACCESSORY PARKING   | SPACES<br>0                                       |
| NON-ACCESSORY PARKING<br>FACILITY                             | SPACES  0  1                                      |

Source: Planning Code Section 166, Table 166.

Fire Department during the Street Improvement Permit process.

Building openings and curb cuts dedicated to parking and loading access shall be minimized. Entrances for offstreet parking and off-street loading shall be combined where possible. The placement of parking and loading entrances shall minimize interference with street-fronting Active Uses and with the movement of pedestrians, cyclists, public transit, and vehicles. Off-street parking and loading entrances shall be located to minimize the loss of on-street parking and loading spaces.

Figure 6.20.1 Off-Street Parking and Loading Frontages



#### Exceptions

**A)** If a grocery store is provided, the following exceptions apply to the building containing such grocery store:

- A loading bay may be located at the building Corner, as long as: 1) it is designed to minimize visibility of loading activities from the street; and 2) the Corner of the building is given an equivalent level and quality of design as a typical corner of a building;
- Separate loading dock and parking garage entries may be provided such that the loading dock entry may be no more than 35 feet in width and the parking garage entry may be no more than 22 feet in width;
- To accommodate turning movements of a WB-67 truck, driveways into loading docks may be up to 50 feet in width on Block 1 and 13, or up to 53 feet in width on Block 5.
- B) On Craig Lane, to accommodate turning movements of an SU-30 truck, loading dock entries up to 25 feet and driveways not to exceed 40 feet in width are permitted.
- C) On Georgia Lane, to allow for aerial fire truck access, a driveway entry up to 37 feet wide for access into Block 5 is permitted.

#### 6.20.6 On- or Off-Street Loading

Freight loading shall be provided per building as required by Planning Code Section 154. See Table 6.20.2 for requirements as of adoption of this D4D. A project applicant may request and the Planning Director may grant a reduction in the required freight loading as a Minor Modification per the SUD.

Table 6.20.2 Freight Loading Requirements

| LAND USE   | SQUARE FEET       | NUMBER OF FREIGHT LOADING SPACES   |
|--|-------------------|--|
|  | 0 - 10,000        | 0  |
| Retail Sales and Services,<br>Except as Listed Below | 10,001 - 30,000   | 1  |
|  | 30,001 - 50,000   | 2  |
|  | over 50,000       | 1 space per 25,000 square feet of occupied floor area                          |
| PDR, Industrial                                      | 0 - 10,000        | 0  |
|  | 10,001 - 50,000   | 1  |
|  | over 50,000       | 0.21 spaces per 10,000 square feet of occupied floor area                      |
|  | 0 - 100,000       | 0  |
|  | 100,001 - 200,000 | 1  |
| Hotel, Residential, Office                           | 200,001 - 500,000 | 2  |
|  | over 500,000      | 3, plus 1 space for each additional 400,000 square feet of occupied floor area |

Source: Planning Code Section 152.1, Table 152.1.

Freight loading may be accommodated off-street or within the permitted on-street loading or parking zones depicted in Figure 5.9.1 Curb Management. Off-street parking and loading are also permitted within building Frontages of the Block 13 Mid-Block Alley. On-street loading may require time-management of deliveries and may need to occur in on-street parking stalls as managed by the adjacent building manager or the Master Association.

At least one off-street loading space shall have a minimum width of 10 feet, a minimum length of 25 feet, and a minimum vertical clearance, including entry and exit, of 12 feet. Two service-vehicle spaces for each required off-street freight loading space may be made, provided that at least one required off-street freight loading space is provided per building.

Each substituted service-vehicle space shall have a minimum width of 8 feet, a minimum length of 20 feet, and a minimum vertical clearance of 7 feet.

To minimize the potential for sleep disturbance at any potential adjacent residential uses, for Blocks 2 and 3, exterior facilities such as loading areas / docks and trash enclosures associated with any non-residential uses along Craig Lane, shall be located on sides of buildings facing away from existing or planned Residential or Child Care uses, if feasible. If infeasible, these types of facilities associated with non-residential uses along Craig Lane shall be enclosed.

If residential uses exist or are planned on Craig Lane, on-street loading activities on Craig Lane shall occur between the hours of 7:00 a.m. and 8:00 p.m. on weekdays, and 9:00 a.m. to 8:00 p.m. on Saturdays, Sundays, and federal holidays. Off-street loading outside of these hours shall only be permitted only if such loading occurs entirely within enclosed buildings.

# **CONSIDERATIONS**

# 6.20.7 Electric Stations



Consider providing electric vehicular, bicycle and/ or scooter charging stations on- or off-street to accommodate multiple modes of transportation. If charging stations are provided on-street and within the public right-of-way, the location and installation of charging stations must be coordinated with SFMTA.

#### 6.20.8 Reduced Parking Ratios

Consider reducing permitted parking ratios to reduce parking provided if mobility options increase and demand for parking decreases or as Transportation Demand Management (TDM) helps accomplish driving reduction goals.

# 6.21 Bicycle Parking

Bicycle parking is divided into two different classes of parking spaces. Class I spaces are located in secure, weather-protected facilities, intended for use as long-term, overnight, and work-day bicycle storage by dwelling-unit residents, non-residential occupants, and employees. Class II spaces are located in a publicly accessible, highly visible location, intended for transient or short-term use by visitors, guests, and patrons to the building or use.

Bicycle parking spaces are generally in the form of lockers or racks. Bicycle lockers can be used to satisfy the requirements for Class I bicycle parking, and bicycle racks can be used to satisfy Class II bicycle parking. Bicycle racks located in a locked area or attended facility can also satisfy the requirements of Class I bicycle parking.

#### **STANDARDS**

# 6.21.1 Bicycle Parking Ratios

Class I and Class II bicycle parking spaces shall be provided as required by Planning Code Section 155. See Table 6.21.2 for requirements as of adoption of this D4D. A project applicant may request and the Planning Director may grant a reduction in the required bicycle parking spaces as a Minor Modification per the SUD.

#### 6.21.2 Design Standards for Class I Spaces

Class I spaces shall protect the entire bicycle, its components and accessories against theft and inclement weather, including wind-driven rain. Acceptable forms of Class I spaces include:

- Individual Lockers
- Attended Facilities
- Monitored Parking
- Restricted Access Parking
- Bicycle Cages / Rooms
- Stacked Parking

Stacked Parking spaces may be used to satisfy Class I required spaces. However, Class I spaces shall not require manually lifting the entire bicycle more than 3 inches to be placed in the space, except for Vertical Bicycle Parking.

Doors accessing bicycle parking facilities shall have mechanical openers for ease of access.

Any spaces provided for oversized bicycles, such as cargos or long tails, shall be sufficiently sized.

#### **6.21.3** Location Standards for Class I Spaces:

Class I spaces shall be located with direct access for bicycles without requiring the use of stairs. The location of such spaces shall allow bicycle users to ride to the entrance of the space or the entrance of the lobby leading to the space. The design shall provide safe and convenient access to and from bicycle parking facilities. Safe and convenient means of access include, but are not limited to, ramps and wide hallways as described below. Escalators and stairs are not considered safe and convenient means of ingress and egress and shall not be used. Use of elevators to access bicycle parking spaces shall be minimized for all uses and, if necessary, shall follow the requirements below. Class I bicycle parking spaces shall be located in one of the following:

- A) On the ground floor within 100 feet of the primary entrance to the lobby there shall be either (i) convenient separate access to and from the street to the bicycle parking space, and another entrance from the bicycle parking space to the lobby area, or (ii) a minimum 4-foot wide hallway or lobby space that leads to the bicycle parking area entrance, where direct access to bicycle parking area from the street does not exist. Such access route may include up to two limited constriction points, such as doorways, provided that these constrictions are no narrower than 3 feet wide and extend for no more than 1 foot of distance. If constriction points are doorways, mechanical openers will be provided for ease of access.
- **B)** In the off-street automobile parking area, where lot configurations or other limitations do not allow all bicycle parking spaces to be located near the lobby as described in subsection (A) above, bicycle parking spaces shall be located on the first level of automobile parking, either above- or below-grade near elevators or other pedestrian entrances to the building. The access to Class I bike parking shall be safe from auto circulation, if in a garage (grade, sightlines/visibility, etc.). For example, bike routes within parking structures must have painted sharrows or lanes leading from the parking entry to the bike parking.
- **C)** Where the two options in (A) and (B) above will not be possible due to an absence of automobile parking or other unique limitations, ramps or elevators shall be provided to access the bicycle parking space, and the bicycle parking spaces shall be near the elevators or other entrance to the parking area. At least one designated access route meeting the dimensional

requirements described in (A) above shall connect a primary building entrance to the bicycle parking facility. For non-residential uses, any elevator necessary to access bicycle parking facilities larger than 50 spaces shall have clear passenger cab dimensions of at least 70 square feet and shall not be less than 7 feet in any dimension.

#### 6.21.4 Design Standards for Class II Spaces

Class II spaces shall meet the following design standards:

- A) Bicycle racks shall permit the locking of the bicycle frame and one wheel to the rack with a U-lock without removal of the wheel, and shall support the bicycle in a stable, upright position without damage to wheels, frame or components. Class II spaces are encouraged, but not required, to include weather protection, as feasible and appropriate.
- **B)** The surface of bicycle parking spaces need not be paved but shall be finished to avoid mud and dust.
- **C)** All bicycle racks shall be securely anchored to the ground or building structure, with tamper-resistant hardware.
- **D)** Bicycle parking spaces may not interfere with pedestrian circulation.
- **E)** All bicycle racks within the public right-of-way shall comply with SFMTA bicycle parking standards; non-standard spaces or equipment shall be subject to SFMTA review and approval.

 Table 6.21.1
 Bicycle Parking Minimum Ratios

| LAND USE  | CLASS I CODE REQUIREMENTS  | CLASS II CODE REQUIREMENTS  |
|---|--|---|
| Residential                                     | One Class I space per dwelling unit. For<br>buildings containing more than 100<br>Dwelling Units, 100 Class I spaces plus<br>one Class I space for every four Dwelling<br>Units over 100 | One Class II bicycle parking space per 20 units   |
| Office  | One Class I space per 5,000 square feet  | Two Class II spaces, plus one space per 50,000 square feet in excess of 5,000 square feet   |
| Laboratory<br>(Uses Industrial<br>Requirements) | One Class I space per 12,000 square feet   | Minimum of two Class II spaces; four spaces for any use larger than 50,000 square feet  |
| Retail  | One Class I space per 7,500 square feet  | Two Class II spaces, plus one space per 2,500 square feet up to 50,000 square feet (additional guidelines for larger or personal services retail types) |
| Hotel   | One Class I space per 30 rooms   | One Class II space per 30 rooms, plus one<br>Class II space per 5,000 square feet of<br>conference space  |
| PDR<br>(Uses Industrial<br>Requirements)        | One Class I space per 12,000 square feet   | Minimum of two Class II spaces; four spaces for any use larger than 50,000 square feet  |
| Garage  |  | One Class II space per 20 car spaces  |
| Community Facility                              | Two Class I spaces, plus one space per 5,000 square feet in excess of 10,000 square feet   | Two Class II spaces, plus one space per 2,500 square feet in excess of 5,000 square feet  |
| Restaurant                                      | One Class I space per 7,500 square feet  | Two Class II spaces, plus one space per 750 square feet in excess of 1,500 square feet  |

Source: San Francisco Planning Code Section 155, Table 155.2

#### 6.21.5 Location Standards for Class II Spaces

Class II spaces shall be located, as feasible, near all main pedestrian entries to which they are accessory and shall not be located in or immediately adjacent to service, trash, or loading areas.

All uses may locate Class II bicycle parking in a public right-of-way, such as in a sidewalk furnishing zone or in place of an on-street vehicle parking space. If existing Class II bicycle parking in the required quantities already exists in a public right-of-way immediately fronting the subject lot, and such spaces are not satisfying bicycle parking requirements for another use, such parking shall be deemed to meet the Class II requirement for that use. Parking meters, poles, signs, or other street furniture shall not be used to satisfy Class II bicycle parking requirements, unless other public agencies have specifically designed and designated these structures for the parking of a bicycle.

If located within a public right-of-way (refer to Figure 5.4.1), the location of bicycle racks shall follow requirements outlined in *SFMTA Bike Parking: Standards, Guidelines and Recommendations*, and as outlined below:

- Prior to issuance of the first architectural addenda, the Project Sponsor must coordinate installation of on-street bicycle racks with the SFMTA Bike Parking Program;
- Class II bicycle parking shall be located within 100 feet from the primary entrance of a building.

Non-residential uses other than non-accessory garages and parking lots, may locate Class II spaces in required non-residential open space, provided that such bicycle parking does not occupy more than 5 percent of the open space area or 120 square feet, whichever is greater, and does not affect pedestrian circulation in the open space.

 Table 6.21.2
 Required Bicycle-Supportive Amenities

|   | Occupied Floor Area                                | Minimum Shower Facility & Lockers Required |
|---|--|--|
| Non-Residential.                        | Greater than 10,000 SF, but less than<br>20,000 SF | 1 shower and 6 clothes lockers             |
| (Except Retail Sales and Services Uses) | Greater than 20,000 SF but less than<br>50,000 SF  | 2 showers and 12 clothes lockers           |
|   | Greater than 50,000 SF                             | 4 showers and 24 clothes lockers           |
| Retail Sales and<br>Services Uses       | Greater than 25,000 SF but less than<br>50,000 SF  | 1 shower and 6 clothes lockers             |
|   | Greater than 50,000 SF                             | 2 showers and 12 clothes lockers           |

Source: San Francisco Planning Code Section 155.4

#### 6.21.6 Bicycle-Supportive Amenities



For non-residential buildings, shower facilities and lockers shall be provided as required by Planning Code Section 155.4. See Table 6.21.2 for requirements as of adoption of this D4D. A project applicant may request and the Planning Director may grant a reduction in the required shower facilities and lockers as a Minor Modification per the SUD.

#### CONSIDERATIONS

#### 6.21.7 Ramp Grade

Consider the ramp grade to below or above grade off-street bicycle parking, if provided in the off-street automobile parking area, since greater than 10 percent may be challenging for the average rider.

# **6.22 District Parking Garage**

Car ownership has been steadily declining in San Francisco, and this trend is expected to continue as public transportation improves and ride-hailing and other technology changes the way people use cars. The Power Station project plans to respond to this by reducing the amount of parking built into each individual building compared to the amount of parking permitted under the Planning Code in similar zoning districts, such as Urban Mixed-Use (UMU), and possibly consolidating much of the parking on site into a single district parking garage ("District Parking Garage"). The District Parking Garage could be shared by residents, employees, and visitors to the site. This approach provides the following benefits:

- Locating the District Parking Garage toward the western end of the site will capture vehicles as they enter the site, reducing the presence of automobiles within the site;
- Combining parking into a dedicated facility allows for economies of scale and efficient parking design;
- Economies of scale will help leverage the latest technologies in parking management, which may facilitate sharing parking between different uses, allow for dynamic pricing for demand management, provide real-time information about parking availability, and make electric vehicle charging available to any users of the parking garage;

- Centralizing parking in a District Parking Garage could encourage people to use sustainable modes of transportation such as walking, biking, and transit and increased foot traffic could as activate retail and community facilities;
- If the demand for parking decreases substantially over time, the District Parking Garage could serve as a future development site or be converted into a different use.

#### **STANDARDS**

#### **6.22.1 District Parking Garage Location**

Up to one District Parking Garage is permitted, but not required, and may be located at one of the locations shown in Figure 6.22.1.

If provided, Block 5 is the preferred location for the District Parking Garage. Locating the District Parking Garage on Blocks 1 and 13 would only be explored in the event that one on Block 5 is not reasonably feasible.

## 6.22.2 Parking Garage Height

The maximum height of the District Parking Garage is 90 feet.

# 6.22.3 Maximum Parking Ratio

All parking located in the District Parking Garage is accessory to other uses on the site. As such, the maximum amount of parking that can be located in this garage is subject to the parking maximums for the project as built, less the parking that is developed in each individual building. See Section 6.20.2 for parking ratios, and Section 6.20.3 for electric vehicle charging requirements.

# 6.22.4 Rooftop Soccer Field

The rooftop of the District Parking Garage shall be used as a publicly accessible soccer field. One structure of up to 5,000 square feet is permitted, but not required, for use as equipment storage, a food kiosk, and other uses accessory to a soccer field. (See Section 6.2.4 for the maximum height of structures and lighting on rooftops.)

Public access to the field shall be provided by elevator and stair during hours of public use. Signage that is clearly visible shall be posted, directing the public to the soccer field, and indicating its hours of operation and means of access. See Section 7.5.2 for requirements for Public Facilities and Open Space Signage.

A public restroom shall be provided in or on the same building as the rooftop soccer field.

#### 6.22.5 Visual and Physical Connectivity

To enhance safety for users inside the garage, the District Parking Garage shall allow for lines of sight into and through the building from the adjacent sidewalks and/or open spaces. The ground floor of the District Parking Garage shall be at least 75 percent visually transparent or physically permeable.

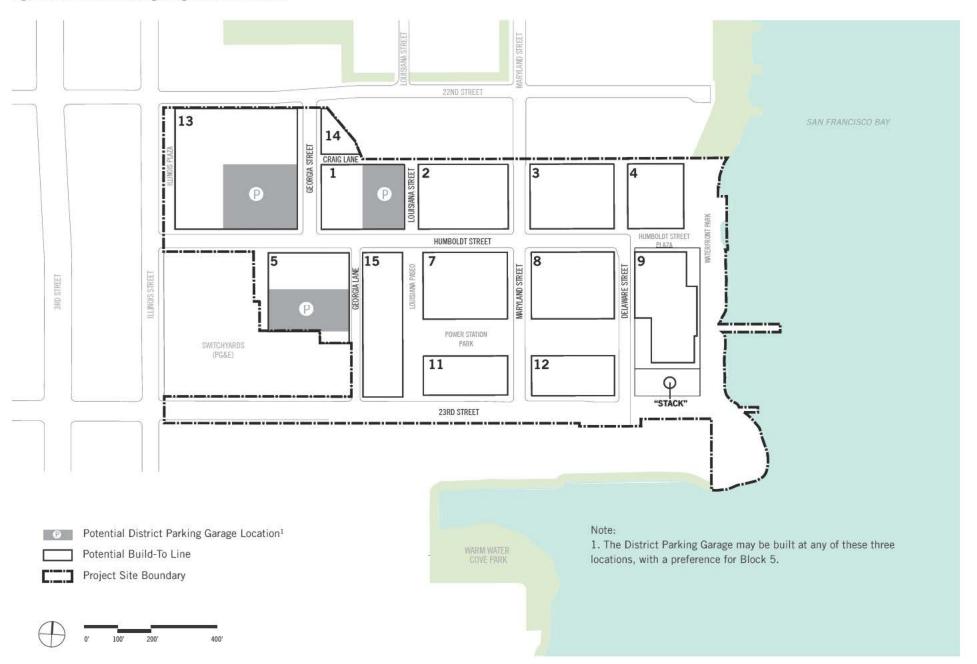
There shall be at least one walkway connecting through the building at grade between any streets or alleys. For each of the possible locations of the District PArking Garage, if selected, the following respective walkway connections are required:

- Block 1: a north-to-south pedestrian connection between Craig Lane and Humboldt Street.
- Block 5: an east-to-west pedestrian connection between Georgia Lane and the access lane east of Block 5.
- Block 13: either an east-to-west connection between Georgia Street and a north-to-south midblock connector; or a north-to-south connection between Humboldt Street and an east-to-west midblock connector.

#### 6.22.6 Architectural Modulation and Articulation

The District Parking Garage shall be designed to be consistent with the standards and guidelines described in Section 6.6 Building Modulation and Section 6.7 Façade Articulation.

Figure 6.22.1 District Parking Garage: Possible Locations



# **GUIDELINES**

#### 6.22.7 Façade Screening

The District Parking Garage shall be architecturally or artistically screened, and designed with attention to detail compatible with adjacent buildings. Exposed façades are an ideal location for interpretive elements, public art, or green walls. Also see Section 2 for site approaches to interpretation and wayfinding.

#### 6.22.8 Flat Floor Slabs

Floor slabs that are set at a slope, such as speed ramps, should not be expressed at the façade of the parking structure. Where they occur, they should be visually screened. Floor slabs visible from the street must be flat.

#### 6.22.9 Ground Floor Materials

Higher quality building materials should be emphasized in the façade design at the ground floor, as well as at pedestrian touch points and in circulation areas. Section 6.8 addresses color and materials.

# 6.22.10 Light Trespass

Light spillage from within the District Parking Garage should be minimized. Indirect lighting should be used to light interior areas of the garage visible to the exterior. Parapet edges of the parking trays should be higher than vehicle headlights to screen adjacent properties.

#### 6.22.11 Noise Trespass

Any District Parking Garage shall be designed to shield existing or planned Residential Uses from noise associated with the garage.

# **CONSIDERATIONS**

## 6.22.12 Design for Adaptive Reuse

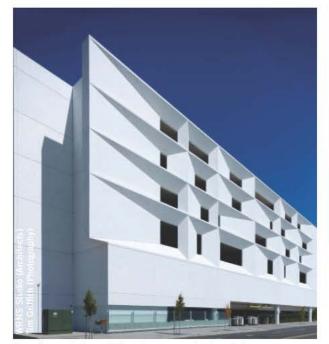


Consider designing the District Parking Garage such that future adaptive reuse is possible

#### 6.22.13 Wayfinding

Take opportunities to be playful and creative with wayfinding and environmental graphics, particularly those directing the public to the rooftop soccer field. (See also Section 2.)

# Examples of Parking Garage Design



A sculptured, faceted façade creates depth and interest.



Louvers create a shifting pattern across the façade, and modulate scale. They also redirect light from the headlights of cars to create a dynamic building when in use.



This parking garage contributes to the activity of the street with ground-floor Active Uses and a colorful, large-scale mural.



Living walls can transform a parking garage into a vertical garden.



Environmental graphics can be used as a way to enhance the design of the garage while also providing effective wayfinding.



This popular soccer field sits on the rooftop of a parking garage.

# 6.23 Construction Noise

#### **STANDARDS**

#### **6.23.1** Nighttime Construction Noise

The following shall occur to reduce potential conflicts between nighttime construction activities on the project site and residents of the Pier 70 project: nighttime construction noise shall be limited to 10 dBA above ambient levels at 25 feet from the edge of the Power Station project boundary; temporary noise barriers shall be installed in the line of sight between the location of construction and any occupied Residential Use; and construction contractor(s) shall be required to make best efforts to complete the loudest construction activities before 8:00 p.m. and after 7:00 a.m. Further, notices shall be mailed or, if possible, e-mailed to residents of the Pier 70 project at least 10 days prior to the date any nighttime construction activities are scheduled to occur, and again within 3 days of commencing such work. Such notice shall include:

- (1) a description of the work to be performed;
- (2) two 24-7 emergency contact names and cell phone numbers:
- (3) the exact dates and times when the night work will be performed;
- (4) the name(s) of the contractor(s); and
- (5) the measures that the contractor will implement to reduce night noise. In addition to the foregoing, the Developer shall work with building managers of occupied residential buildings in the Pier 70 project to post a notification with the aforementioned information in the lobby and other public meeting areas in the building.

# LIGHTING AND SIGNAGE

| 7.1 | Site Lighting                       | 318 |
|-----|-------------------------------------|-----|
| 7.2 | Street Lighting Design              | 322 |
| 7.3 | Building Lighting                   | 324 |
| 7.4 | General Signage                     | 326 |
| 7.5 | Wayfinding and Interpretive Signage | 328 |



# **Lighting and Signage**

Lighting and signage designs and strategies work together to create a more inviting, attractive, and safe environment at the Power Station, both during the day and at night.

Lighting and signage is an important component of the design of both the public and private realm at the Potrero Power Station. The design direction given here ensures lighting and signage elements that reinforce the connectivity and cohesiveness of the district, while responding to the functional criteria and unique character of open spaces, streets, and buildings.

# 7.1 Site Lighting

The following standards and guidelines apply to lighting in public open spaces.

While minimum lighting requirements will satisfy safety and security functions, special considerations around nighttime identity, pedestrian wayfinding, and unique project conditions are key aspects of the lighting approach.

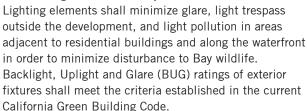
Practical lighting concerns should be supplemented with artful, inviting, and engaging lighting strategies and installations. Lighting across the site is scaled to the pedestrian and bicycle experience, reinforcing key pedestrian routes and open spaces.

Given the project's location, special consideration is given to light pollution reduction strategies and dark sky measures to reduce the project's effects on the ecology of the Bay.

For rooftop soccer field lights, see Section 6.2.4 Height Exemptions.

#### **STANDARDS**

#### 7.1.1 Light Pollution Trespass and Glare



## 7.1.2 Energy-Efficient Lighting Fixtures



Lighting fixtures and bulbs shall meet or exceed applicable energy-efficiency standards and/or use solar power.

#### **GUIDELINES**

#### 7.1.3 Pedestrian Scale Lighting

Lighting shall be designed to allow facial recognition along paths of travel, and scaled to the pedestrian and bicycle experience across the public realm. Lighting shall not create glare or "hot spots" that would inhibit visual acuity, and shall facilitate sight lines, allowing the perception of safety across the public realm. Lighting shall also prevent unnecessary vertical transmittance of light. On streets, light levels shall meet SFPUC standards.

# 7.1.4 Lighting Design Intention

Lighting uniformity ranges in open spaces shall allow for variation in light levels to create hierarchy and a range of experiences. Lighting shall reinforce key pedestrian circulation routes and connections. Lighting strategies shall incorporate varied fixture types and ambient light from buildings, particularly in high-active retail zones

where retail spaces will provide ample ambient light for pedestrian paths. Use a variety of lighting types, scaled to reinforce active street life and open space experiences. Bollard, pole, mast, and in-grade lighting are allowed.

#### 7.1.5 Projected Light

Projected light through a tree canopy ("moonlighting") and through special filters on light fixtures may be used to highlight special places or experiences.

#### 7.1.6 Light Zones

Light levels and uniformity levels for the public realm are grouped in seven zones (Figure 7.1.1) with different suggested lighting identities that are related to the location and proposed uses. (Example images of suggested lighting identity character are in Figure 7.1.2.)

#### **CONSIDERATIONS**

#### 7.1.7 **Energy-Efficient Lighting Fixtures**

Exterior lighting controls, which may include but are not limited to motion sensing and dimming capability, shall also be considered to allow for additional energy savings and preservation of the night sky.

#### 7.1.8 Interactive and Artistic Lighting

Consider special lighting installations that imbue public open spaces with unique visual experiences for visitors. Louisiana Paseo, Stack Plaza, Block 9 Open Space, and Humboldt Street Plaza would benefit from a creative lighting approach.

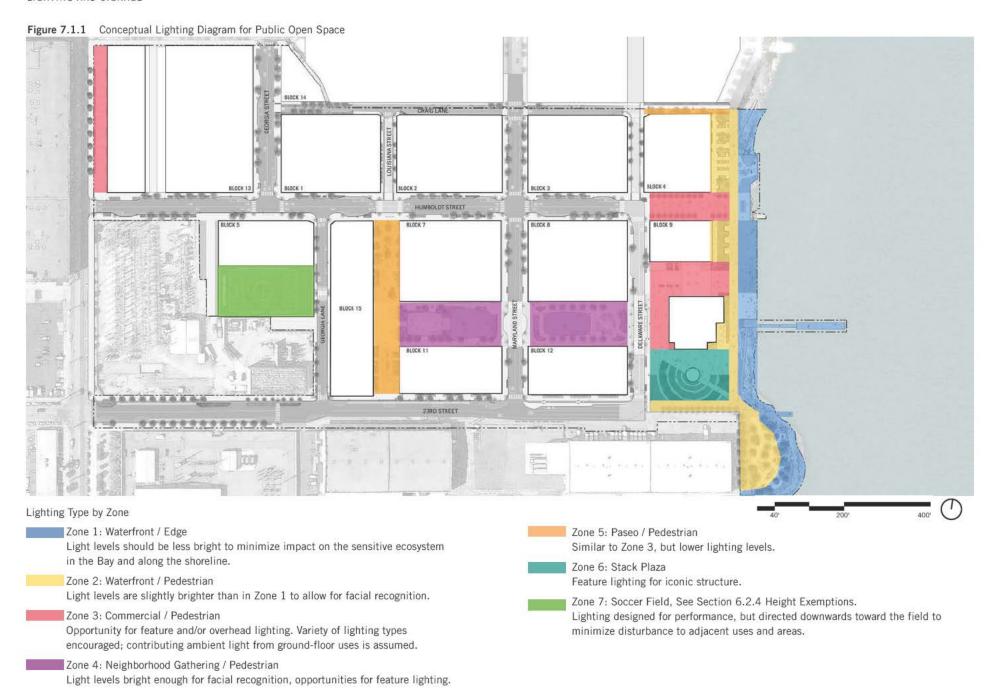


Figure 7.1.2 Example Lighting Character Images by Zone

Zone 1: Waterfront / Edge



Zone 2: Waterfront / Pedestrian



Credit: JJ Tiziou



Zone 3: Commercial / Pedestrian





Zone 4: Neighborhood Gathering / Pedestrian



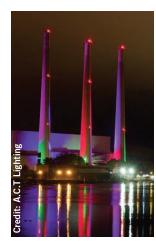


Zone 5: Paseo / Pedestrian





Zone 6: Stack Plaza



Zone 7: Rooftop Soccer Field



Figure 7.1.3 Additional Lighting Character Precedent Images



Creatvie lighting.



Creatvie lighting.



Varied lighting that takes ambient light into account.



Facade lighting.



Projected-light installations.



Artistic lighting with subtle, in-grade lights.



Feature lighting that creates distinctive experiences.



Artistic, interactive lighting.

# 7.2 Street Lighting Design

Lighting at the Power Station project will be an important component of the streetscape design, reinforcing the connectivity and cohesiveness of the district, while responding to the functional criteria and unique character of each streetscape.

A hierarchy of lighting types will work together to create a warm, inviting, and safe nighttime environment that also minimizes light pollution.

Lighting across the site will be scaled to the pedestrian and bicycle experience, reinforcing key pedestrian routes in open spaces, along shared public ways, and along Delaware Street fronting the Waterfront Open Spaces.

#### **STANDARDS**

#### 7.2.1 Location

Street lighting shall be placed within the Furnishing Zone of the sidewalk, away from Pedestrian Throughways and Edge Zones per Section 5.2, so as not to obstruct pedestrian traffic or the loading/unloading of people and goods.

# 7.2.2 Light Pollution, Trespass, and Glare Street lighting shall comply with Illuminating Engineering

Society Standards appropriate for the subject street type.

# 7.2.3 Energy-Efficient Lighting Fixtures

Lighting fixtures and bulbs shall be LED lights and meet or exceed applicable energy-efficiency standards. If in public streets, see Standard 7.2.4.

#### 7.2.4 Fixtures

Fixtures within publicly maintained streets shall adhere to SFPUC guidelines and shall be selected from the SFPUC catalogue of acceptable fixtures.

#### 7.2.5 Pedestrian Pole Light

Pedestrian pole lights within publicly maintained streets shall be either Landscape Forms FGP, Landscape Forms Alcott, or similar contemporary design from the SFPUC Street Light Catalogue. Light levels shall meet SFPUC standards.

#### **GUIDELINES**

#### 7.2.6 Lighting Design Intention

Lighting uniformity ranges in streets should allow for variation in light levels to indicate the hierarchy of streets and create a range of experiences. Lighting should reinforce key pedestrian circulation routes and connections. See Figure 5.2.2.

#### 7.2.7 Pedestrian-Scale Lighting

Lighting should be scaled to the pedestrian and bicycle experience across the public realm. Glare should not be created at eye level. The unnecessary vertical transmittance of light should be prevented.

#### 7.2.8 Variety of Light Types

Use a variety of lighting types, scaled to reinforce active street life and open space experiences. Bollard, pole, mast, and in-grade lighting are allowed.

#### 7.2.9 Projected Light

See Section 7.1.5.

#### 7.2.10 Suggested Light Levels

See Section 7.1.6.

#### 7.2.11 Pedestrian Pole Light Fixtures on Private Streets

Pedestrian Pole lights in private streets, including the portions of Delaware and Louisiana Streets that are designated as shared streets, should be chosen for durability and an understated contemporary design. Options include Hess Linea and Landscape forms FGP.

#### 7.2.12 Energy-Efficient Lighting Fixtures



Where applicable, consider smart sensors, which can turn down lighting in response to the presence of pedestrians.

Figure 7.2.1 Examples of SFPUC Permitted Street Light Fixtures







Street Light Lumec Roadstar 16' to 22' Pole Height

Lumec Roadfocus - 16' to 22' Pole Height



Pedestrian Level Light - Public Streets Landscape Forms FGP 12' to 16' Pole Height

# 7.3 Building Lighting

Building designs are encouraged to use lighting in innovative and engaging ways with the aim of making the Power Station more attractive and secure, both during the day and at night.

The following standards and guidelines apply to all retail, residential, and commercial building lighting.

# **STANDARDS**

# 7.3.1 Light Trespass

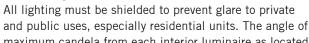
At a minimum, all exterior lighting must be suitable for a given "Lighting Zone" as defined by USGBC and IESNA. It is expected that most of the development area will be LZ3. Lighting Zone LZ3 is defined as follows:

LZ3: Medium (Commercial/Industrial, High Density Residential). No more than 0.20 horizontal and vertical footcandles at the site boundary and 0.10 horizontal foot-candles 10 feet beyond the site boundary. Also, 5 percent of total initial luminaire lumens are emitted at an angle of 90 degrees above nadir or greater.

Maximum candela values for photometric distributions of interior luminaires shall fall within the building (i.e. not through skylights, windows or other building fenestration).

Each photometric for every luminaire type shall be reviewed for compliance to standards.

# 7.3.2 Light Pollution



maximum candela from each interior luminaire as located in the building shall intersect opaque building interior surfaces and not exit out through the windows.

All new site lighting shall incorporate cut-off control, as well as the "Lighting Zone" credit requirements found in the U.S. Green Building Council's LEED v4 for New Construction. All luminaires shall be at least semi-cutoff with non-cutoff types only as permitted.

Definitions of cutoff control are as follows:

- Full Cutoff: Zero candela intensity occurs at an angle of 90 degrees above nadir, or greater. Additionally, no more than 10 percent candela intensity occurs at an angle greater than 80 degrees above nadir.
- Cutoff: No more than 2.5 percent candela intensity occurs at an angle greater than 90 degrees above nadir, and 10 percent at an angle greater than 80 degrees above nadir.
- Semi-Cutoff: No more than 5 percent candela intensity occurs at an angle greater than 90 degrees above nadir, and 20 percent at an angle greater than 80 degrees above nadir.
- Non-Cutoff: No candela limitation.

Lighting Power Allowance (LPA) shall comply with the current Title 24 or ASHRAE 90.1 standard, whichever is more stringent.

# **GUIDELINES**

#### 7.3.3 Well-Lit Entries

Doorways and addresses of buildings should be well-lit and visible.

# 7.3.4 Minimizing Light Trespass

Lighting of walls, soffits and other surfaces should be applied strategically. It is also encouraged that all such surfaces that are visible to the exterior be studied for luminance ratios and glare, since illuminated surfaces rather than the light source itself can often be the major source of glare from a building.

# 7.3.5 Luminaire Ratings and Efficiency



Luminaires should be selected with rating considerations as determining factors, and should demonstrate at least 60-80 lumens per watt source efficacy.

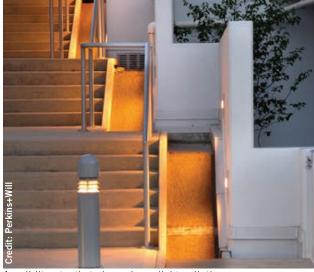
The following codes should apply to lighting installations:

- ASHRAE 90.1
- California Title 24
- IESNA Recommended light levels

If alternate or equal fixtures are suggested during the submittal process, they should have efficiency equal to or greater than the originally specified products.



Light projected onto surfaces reduces light pollution.



A well-lit entry that also reduces light pollution

# 7.4 General Signage

Signage helps to highlight the identity of businesses while enhancing the appearance of the streetscape. Signage should be creative and engaging.

The standards and guidelines below pertain to general signage, as well as wayfinding and interpretive elements.

#### STANDARDS

#### 7.4.1 Signage within the Power Station SUD

All signs shall be defined as described by Article 6 of the San Francisco Planning Code. Except as specified below, the provisions of *Section 607.2* ("Mixed-Use Districts") of the San Francisco Planning Code applicable to UMU (Urban Mixed-Use) Districts shall apply such that a sign that is permitted or prohibited in a UMU District shall likewise be permitted or prohibited at the Power Station. A sign shall not extend beyond the roofline of the building to which it is attached.

#### 7.4.2 Concealed Electrical Signage Elements

All electrical signage elements, such as wires, exposed conduits, junction boxes, transformers, ballasts, switches, and panel boxes, shall be concealed from view.

#### 7.4.3 Portable Signage

Portable signs, such as sandwich boards and valet parking signs, are permitted and limited to one per business. All portable signage shall be located within frontage or Furnishing Zones on sidewalks, or within open spaces fronting the businesses.

#### 7.4.4 Temporary Sale or Lease Signs

No permit shall be required for temporary Sale or Lease Signs. Such signs are permitted only when all of the following criteria are met:

- No more than two such signs are permitted at any one time on any building; and
- The area of each sign is no larger than 40 square feet; and
- The height of each sign is no greater than 10 feet; and
- . The sign is a wall sign or a window sign; and
- . The sign is not directly illuminated; and
- The sign indicates the availability of a particular space within the building on or in which the sign is placed; and
- The sign directs attention to a space which is available for immediate sale or lease.

# 7.4.5 Signage along the Waterfront and Power Station Park

Signage for buildings fronting Power Station Park or the Bay Trail shall:

- Be 50 square feet or less, and its highest point may not be greater than 35 feet;
- Consist only of indirect illumination, pursuant to Section 602 of the Planning Code, including but not limited to halo-style lighting.

See Figure 7.4.1 for applicable frontages.

## GUIDELINES

# 7.4.6 Signage Design

The design of building signage should be creative and convey a unique identity. Collaboration with local artisans is strongly encouraged. Signage should be designed to relate to both the Power Station and the

Dogpatch neighborhood. High quality materials and detailing are encouraged in building signs.

Tenant signage facing contributing buildings to the Third Street Industrial District should be utilitarian in design and materiality, to reflect the adjacent historic resources and strengthen the 23rd Street Streetscape. Backlit signage should be avoided.

#### 7.4.7 Signage Orientation

Signage should be primarily oriented toward the pedestrian realm.

#### 7.4.8 Preferred Signage Types

To encourage variety, preferred sign types include small blade designs, chalkboards, split-flap displays, window signs, projections, wall murals, and wall signs.

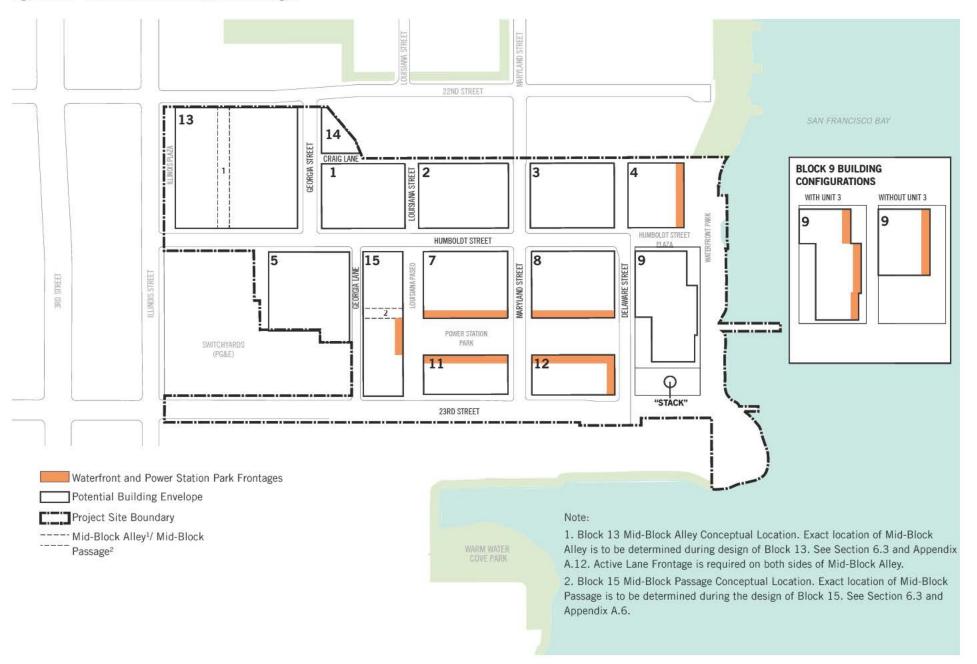
#### 7.4.9 Projecting Signage

Projecting and three-dimensional signs are encouraged to relate to pedestrian scale and enrich the public realm.



Signage is an opportunity to convey a unique identity.

Figure 7.4.1 Waterfront and Power Station Park Frontages



# 7.5 Wayfinding and Interpretive Signage

Thoughtfully located and intentionally designed wayfinding signage creates a legible and visually interesting neighborhood to guide people along the shortest routes to the appropriate transit options and neighborhood destinations. Visitors can also learn about the Power Station's history and cultural significance from well-placed educational signage.



Wayfinding signage helps promote the use of services and amenities.

#### **STANDARDS**

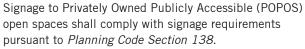
#### 7.5.1 Wayfinding Signage

Clear wayfinding signage shall be provided to guide visitors and residents along the shortest walking route to transit stops, bike share stations, bicycle parking, car share pods, and major destinations on and off the project site. Highly visible information and signage about transportation services and amenities will encourage the use and enjoyment of these resources.

# 7.5.2 Public Facilities and Open Space Signage

Wayfinding signage shall be installed for interior public facilities, rooftop open spaces and facilities, ADA access routes, alternative access routes, bicycle facilities, the waterfront and waterfront access, and the Blue Greenway. Blue Greenway signage shall be consistent with the San Francisco Bay Trail Design Guidelines and Toolkit (2016).

# 7.5.3 Public Open Space Signage



Access to elevated public open spaces shall have two locations of signage, one of which shall be within five feet of the building entrance, and clearly visible from the street or adjoining public space.

#### 7.5.4 BCDC Considerations

Signage within 100 feet of Mean High Water shall be consistent with BCDC approved signage graphics. See BCDC Shoreline Signs: Public Access Signage Guidelines (2005) for guidance on the design and installation of signs used at public access areas that are part of development projects along the San Francisco Bay shoreline.

#### **GUIDELINES**

#### 7.5.5 Parking Wayfinding

Wayfinding signage for vehicular and bicycle parking access should be visible from a public street.

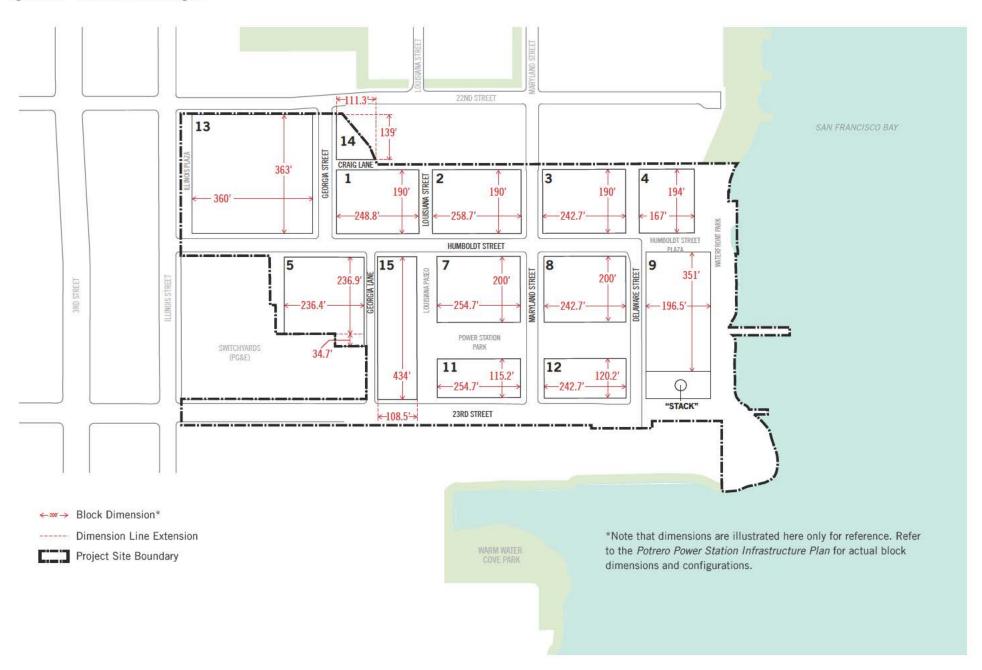
#### 7.5.6 Interpretive Signage Icon

Interpretive signage for site education and interpretation should be visible to pedestrians from a public street and located at key points of interest, such as the Stack, Unit 3, and the waterfront. Figure 2.2.1 shows a conceptual Interpretive Location Plan Diagram. Interpretive signage should be consistent and compatible in design and content with the larger interpretive program.

# APPENDICES

| A.   | Block Plan Guide                      | 331 | В. | Sustainable Neighborhood Framework    | 365 |
|------|---------------------------------------|-----|----|---------------------------------------|-----|
| A.1  | Block 1 Controls (Mid-rise Tower)     | 332 | C. | Power Station Definitions             | 373 |
| A.2  | Block 2 Controls (Mid-rise Building)  | 334 | D. | Applicable Planning Code Sections     | 376 |
| A.3  | Block 3 Controls (Mid-rise Building)  | 336 | E. | No PG&E Subarea Scenario              | 430 |
| A.4  | Block 4 Controls (Low-rise Building)  | 338 | F. | Historic Resource Evaluation, Part 2  |     |
| A.5  | Block 5 Controls (High-rise Tower)    | 340 |    | Excerpt (Character Defining Features) | 438 |
| A.6  | Block 15 Controls                     | 342 |    |                                       |     |
| A.7  | Block 7 Controls (High-rise Tower)    | 344 |    |                                       |     |
| 8.A  | Block 8 Controls (Mid-rise Building)  | 346 |    |                                       |     |
| A.9  | Block 9 Options                       | 348 |    |                                       |     |
| A.10 | Block 11 Controls (Mid-rise Building) | 356 |    |                                       |     |
| A.11 | Block 12 Controls (Low-rise Building) | 358 |    |                                       |     |
| A.12 | Block 13 Controls (Low-rise Building) | 360 |    |                                       |     |
| A.13 | Block 14 Controls (Low-rise Building) | 362 |    |                                       |     |
|      |                                       |     |    |                                       |     |

Figure A.O.1 Block Dimensions Diagram



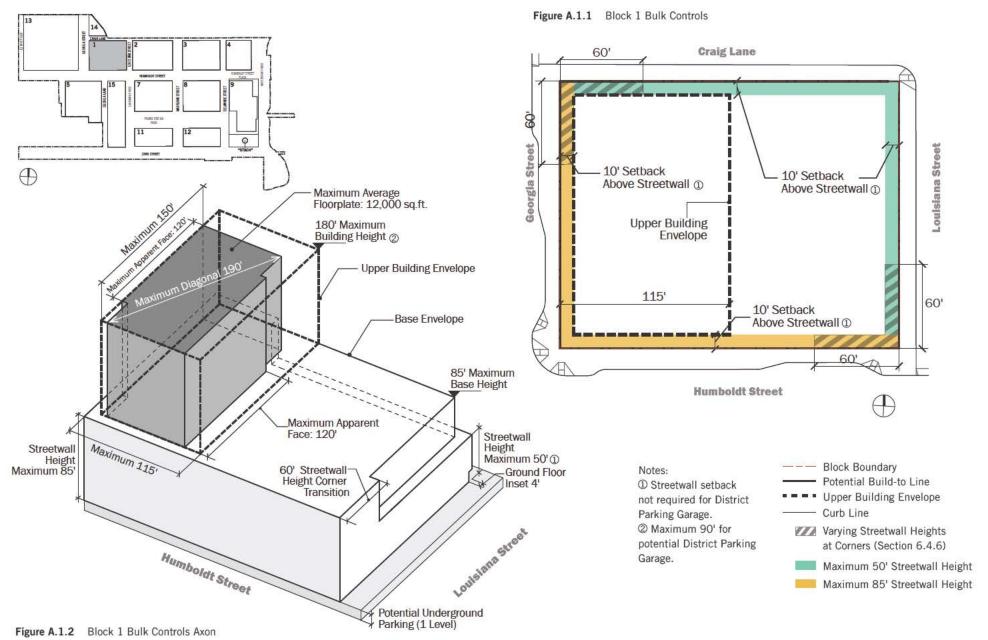
# A. Block Plan Guide

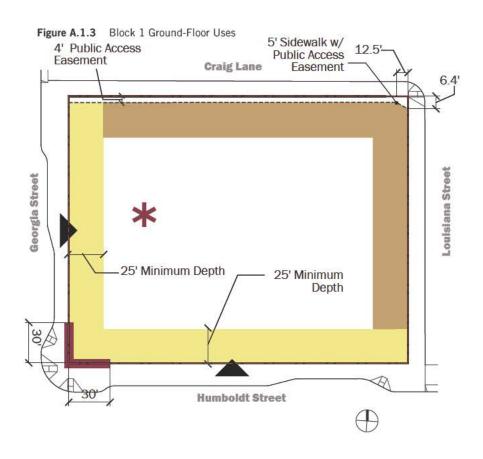
The following guide illustrates how the standards and guidelines contained within this D4D apply to buildings within each block.

These following diagrams depict the parcel boundaries and maximum three-dimensional massing envelope allowed for each block. The ground-floor controls for each location, and minimum depths of each type of use, are included, as well as constraints for loading and parking entries. Extents of underground parking are defined here as well.

In addition to the plan and axon drawings, the building standards and guidelines that apply specifically to each block are listed here, as an easy checklist reference for designers and regulating agencies alike. In some cases, additional standards and guidelines are included to clarify specific requirements or allowances for individual buildings. In no instance shall this guide conflict with standards and guidelines stated in the main body of this Design for Development document. Where conflicts occur, the standards and guidelines contained in the main body shall apply.

# A.1 Block 1 Controls (Mid-rise Tower)





Potential District Parking Garage Location, See Section 6.22

Humboldt Street

Figure A.1.4 Block 1 Parking and Loading



Potential Build-to Line

Block Boundary

Curb Line

Potential Parking and
Loading Entry Frontage\*

30' Loading Prohibited Zone

Potential District Parking Garage

<sup>\*</sup> One loading entry and one parking entry allowed per building, with exceptions as listed in Section 6.20.

## A.2 Block 2 Controls (Mid-rise Building)

Figure A.2.1 Block 2 Bulk Controls

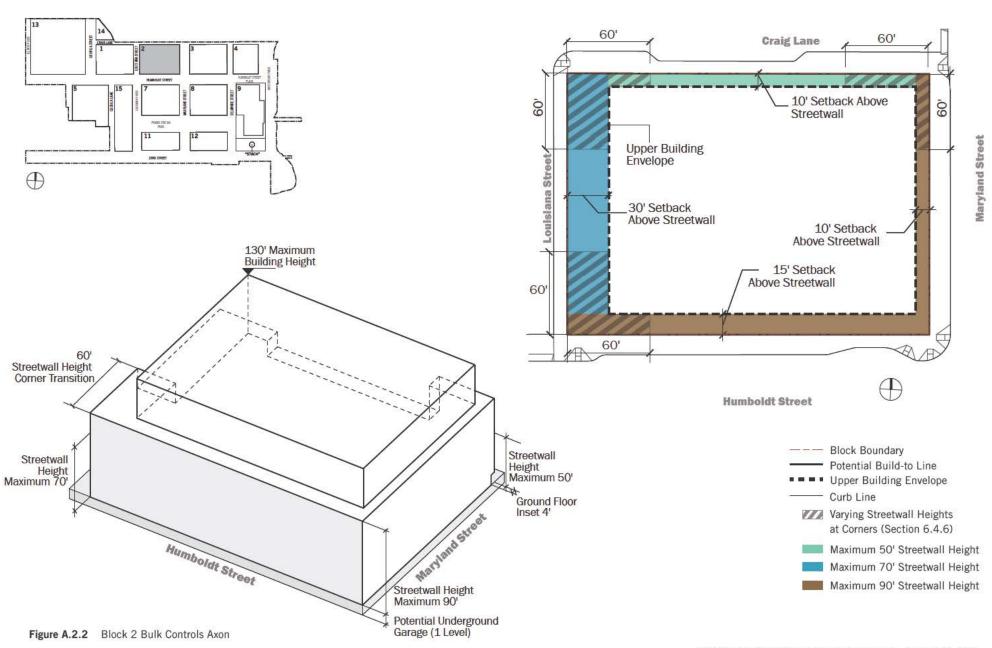


Figure A.2.3 Block 2 Ground-Floor Uses

5' Sidewalk w/ Public Access Easement

Craig Lane

25' Minimum Depth

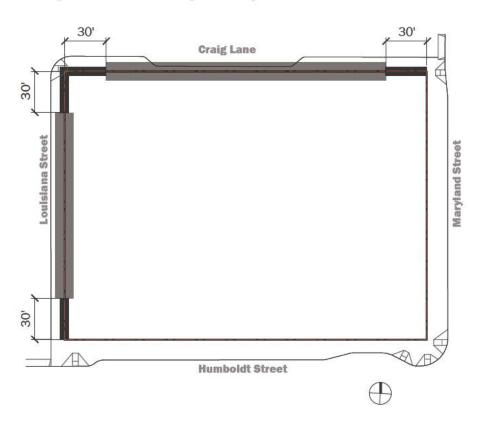
4' Public Access Easement

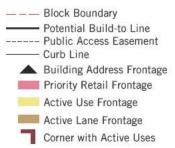
25' Minimum Depth

40' Minimum Depth

Humboldt Street

Figure A.2.4 Block 2 Parking and Loading

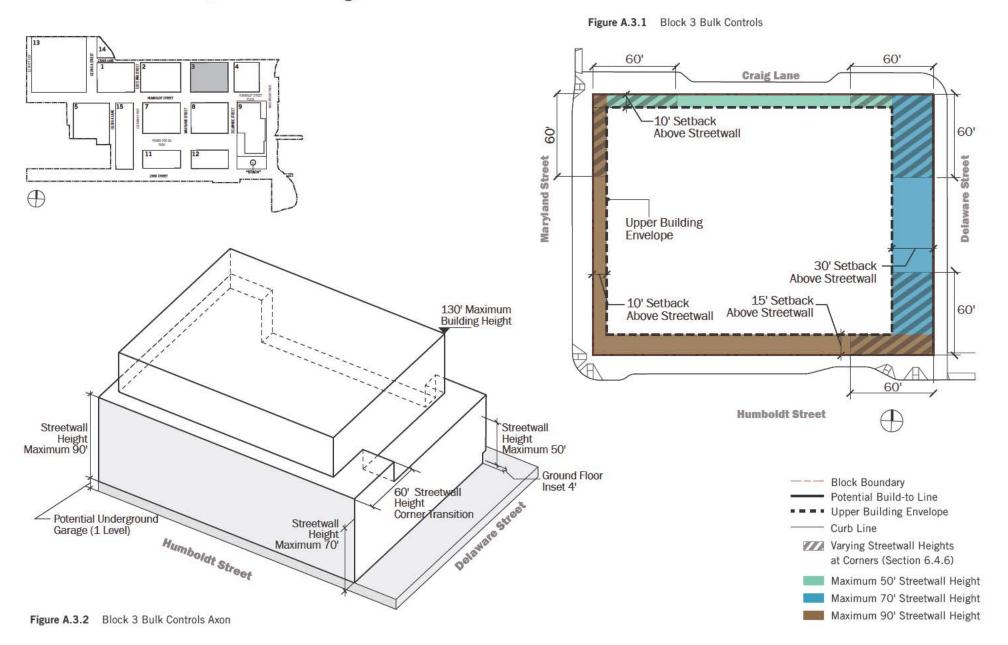




<sup>Block Boundary
Potential Build-to Line
Curb Line
Potential Parking and
Loading Entry Frontage\*
30' Loading Prohibited Zone</sup> 

<sup>\*</sup> One loading entry and one parking entry allowed per building, with exceptions as listed in Section 6.20.

## A.3 Block 3 Controls (Mid-rise Building)



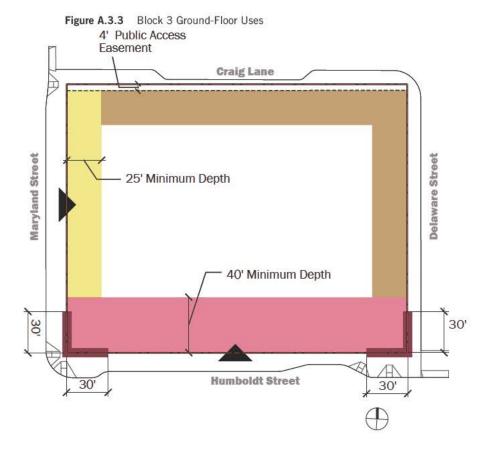
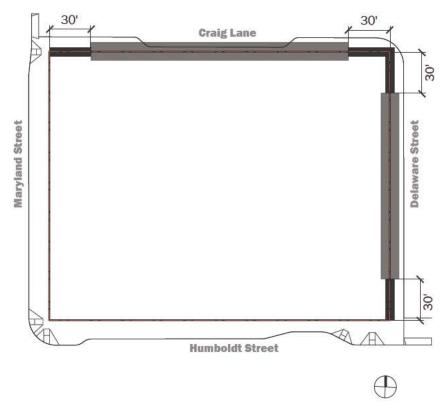
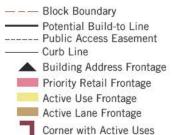
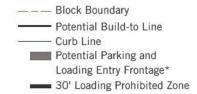


Figure A.3.4 Block 3 Parking and Loading

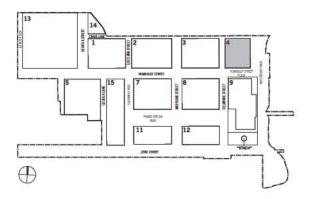






<sup>\*</sup> One loading entry and one parking entry allowed per building, with exceptions as listed in Section 6.20.

## A.4 Block 4 Controls (Low-rise Building)



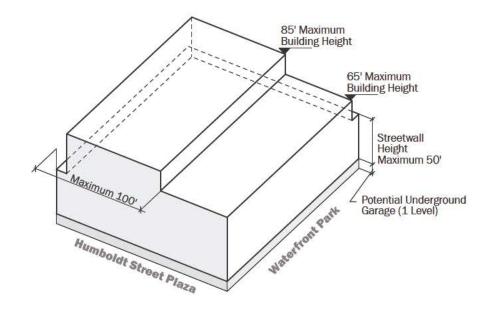


Figure A.4.2 Block 4 Bulk Controls Axon

Figure A.4.1 Block 4 Bulk Controls

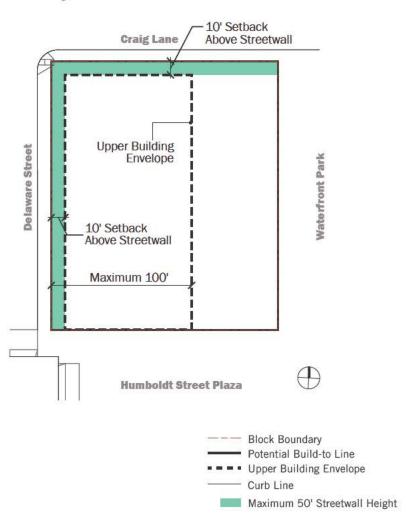


Figure A.4.3 Block 4 Ground-Floor Uses

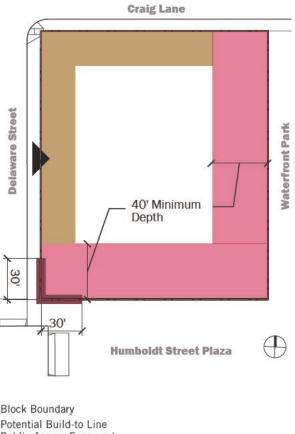
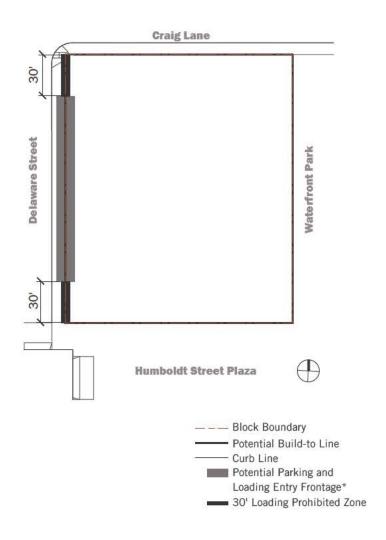




Figure A.4.4 Block 4 Parking and Loading



<sup>\*</sup> One loading entry and one parking entry allowed per building, with exceptions as listed in Section 6.20.

### A.5 Block 5 Controls (High-rise Tower)

Figure A.5.1 Block 5 Bulk Controls Axon

Figure A.5.2 Block 5 Bulk Controls

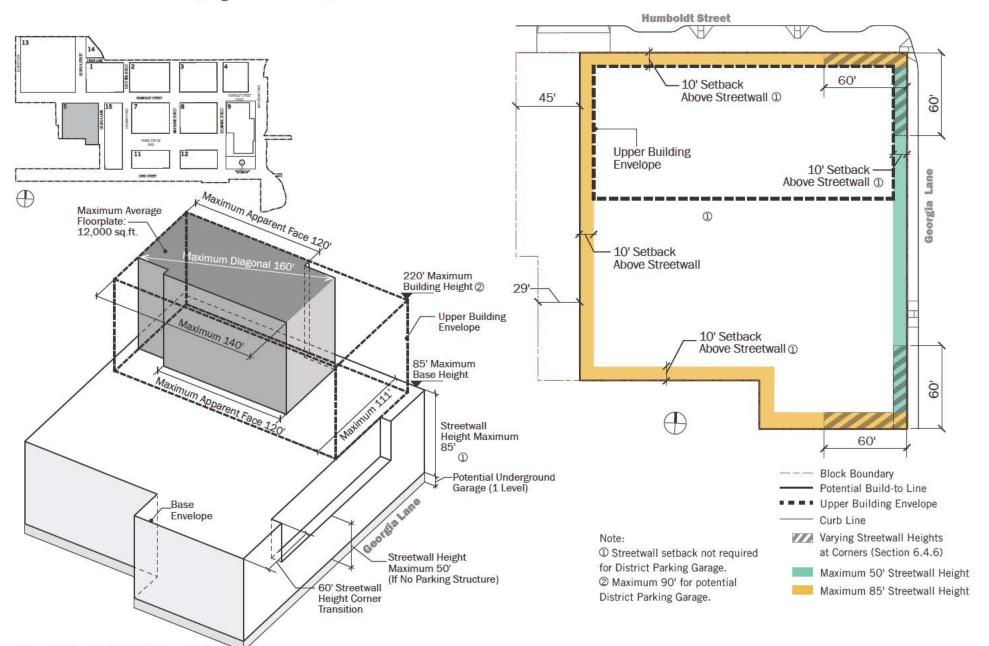


Figure A.5.3 Block 5 Ground-Floor Uses

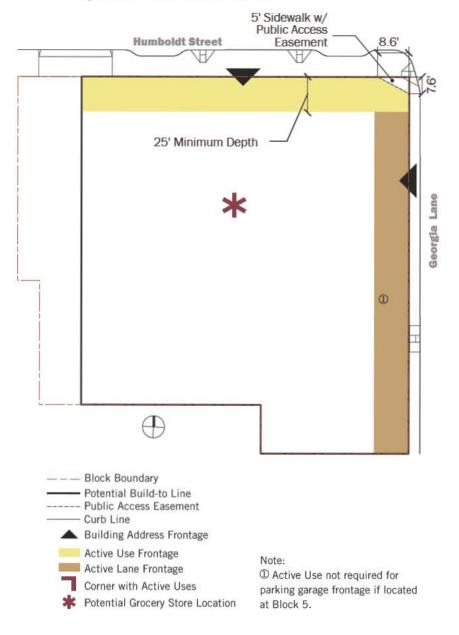
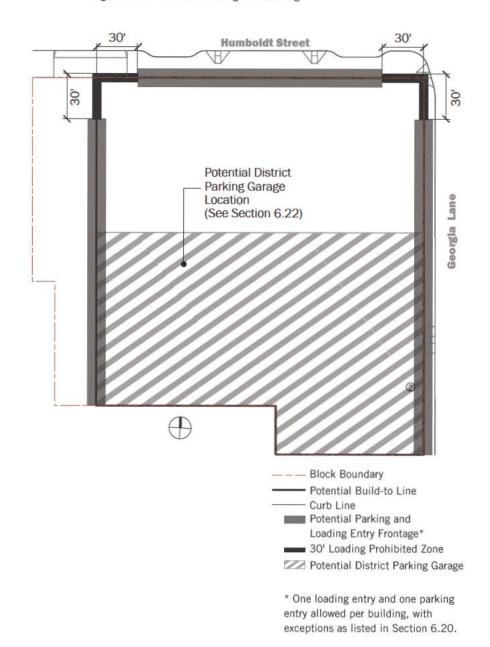


Figure A.5.4 Block 5 Parking and Loading



### A.6 Block 15 Controls

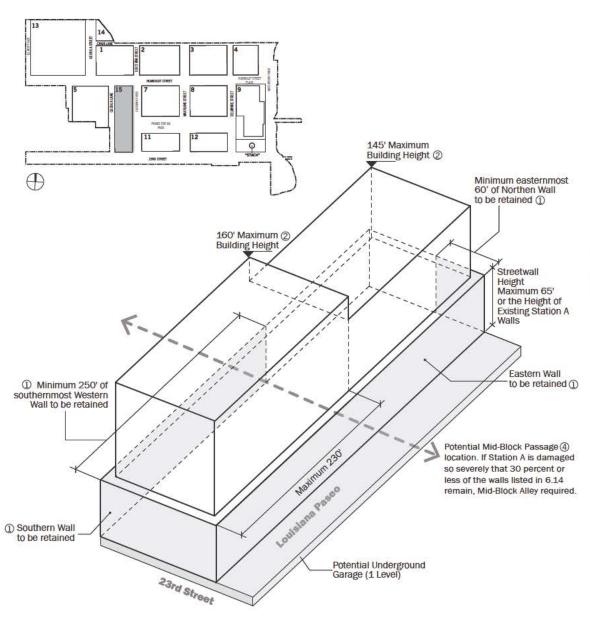
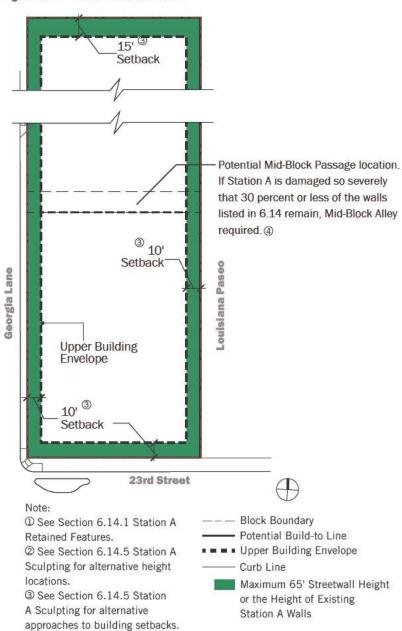


Figure A.6.2 Block 15 Bulk Controls Axon

Figure A.6.1 Block 15 Bulk Controls

@ See Section 6.3 for Mid-Block

Alley/Passage Controls.



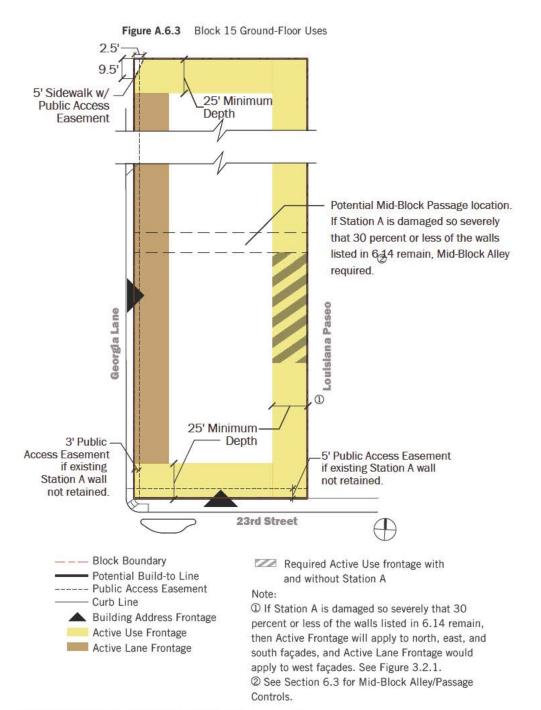


Figure A.6.4 Block 15 Parking and Loading Potential Mid-Block Passage location. If Station A is damaged so severely that 30 percent or less of the walls listed in 644 remain, Mid-Block Alley required. Louisiana Paseo Georgia Lane 30 23rd Street Block Boundary Note: ① One loading entry and one parking Potential Build-to Line entry allowed per building, with Curb Line exceptions as listed in Section 6.20. Potential Parking and 2 See Section 6.3 for Mid-Block Loading Entry Frontage ①

Alley/Passage Controls.

30' Loading Prohibited Zone

## A.7 Block 7 Controls (High-rise Tower)

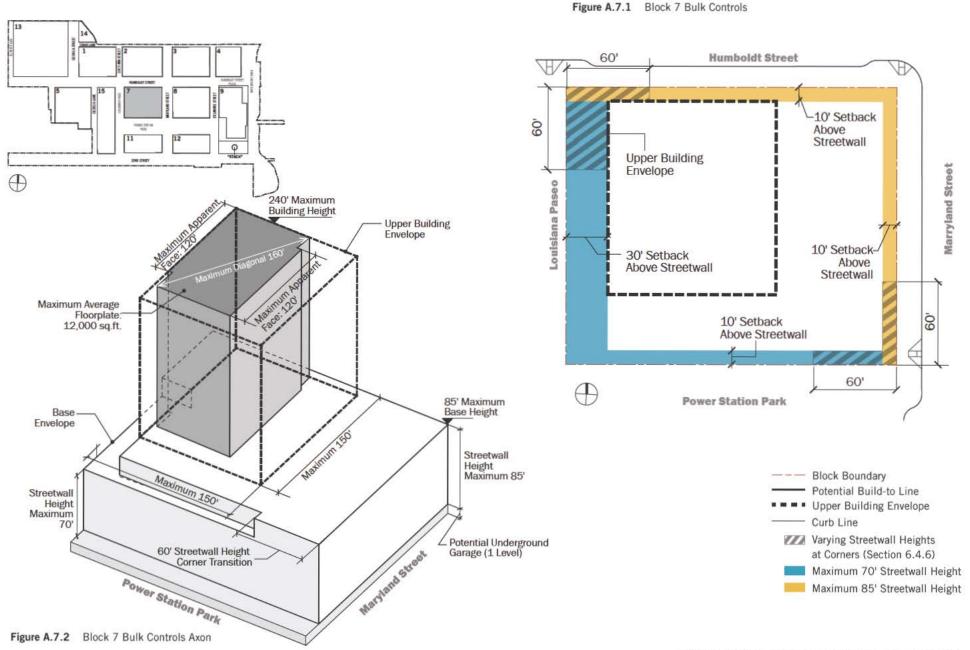
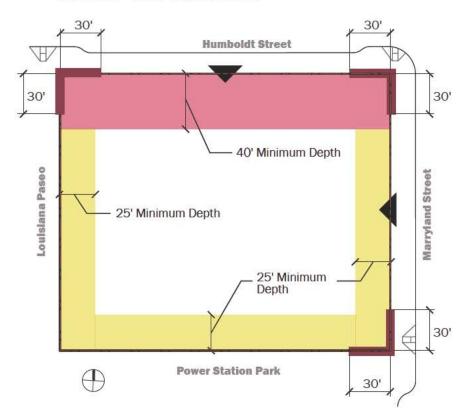


Figure A.7.3 Block 7 Ground-Floor Uses



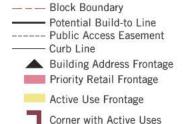
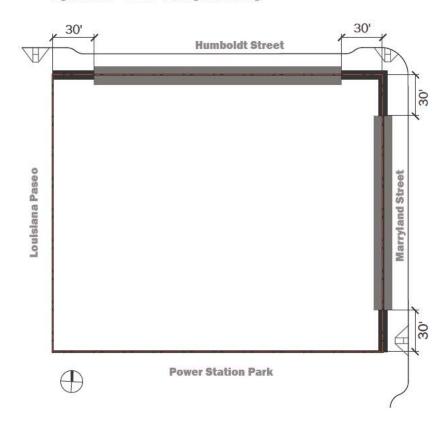
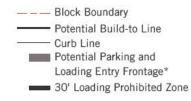


Figure A.7.4 Block 7 Parking and Loading





<sup>\*</sup> One loading entry and one parking entry allowed per building, with exceptions as listed in Section 6.20.

## A.8 Block 8 Controls (Mid-rise Building)

**Humboldt Street** 10' Setback Above Streetwall φ Maryland Street 10' Setback **Upper Building** Above Streetwall Envelope 10' Setback 125' Maximum Building Height Above Streetwall 60 10' Setback 60' 60' 09 Above Streetwall, Maximum 90 **Power Station Park** Streetwall Height Maximum 85' 60' Streetwall Block Boundary Height Corner Transition Potential Build-to Line Streetwall Height Maximum 70' Upper Building Envelope Potential Underground Garage (1 Level) - Curb Line 60' Streetwall Height Corner Varying Streetwall Heights at Corners (Section 6.4.6) Power Station Park Transition Maximum 70' Streetwall Height Maximum 85' Streetwall Height

Figure A.8.1 Block 8 Bulk Controls

Figure A.8.2 Block 8 Bulk Controls Axon

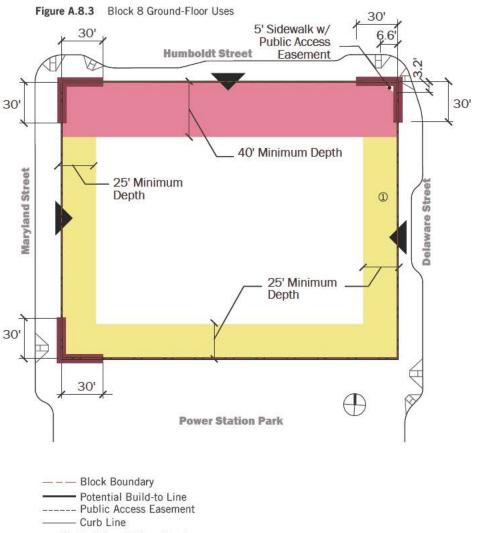
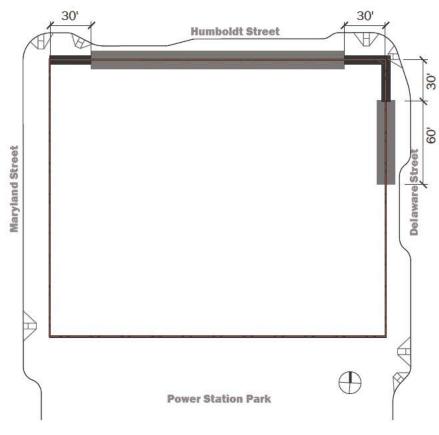


Figure A.8.4 Block 8 Parking and Loading



Building Address Frontage Priority Retail Frontage Active Use Frontage

Corner with Active Uses

Note:

1 Transit Support Facilities shall be provided along the east side of Block 8, see Section 6.10.2

Block Boundary

Potential Parking and

Curb Line

Potential Build-to Line

Loading Entry Frontage\* 30' Loading Prohibited Zone \* One loading entry and one parking

entry allowed per building with exceptions as listed in Section 6.20.

### A.9 Block 9 Options

Block 9 currently contains the Unit 3 power block structure. Two options for the block have been envisioned – one where Unit 3 remains and is repurposed with a hotel, and another option where the structure is demolished and replaced with open space and a building with either hotel or residential uses.

### Option 1: With Unit 3

In Option 1, the Unit 3 power block would remain and become repurposed as a hotel, residential building, or combination of the two. This option would require the removal of obsolete mechanical equipment within Unit 3, such as the boiler. In some areas, subject to the standards discussed below, the building envelope could increase to create a floorplate more suitable for rehabilitation. The standards and guidelines given in Section 6.13 will guide development on this block under Option 1.

### Option 2: Without Unit 3

In Option 2, the Unit 3 power block would be demolished and a new building constructed pursuant to the controls contained in this D4D, in particular, see Section 6.11.8.

The following diagrams depict standards and guidelines contained in this D4D for Block 9 with and without Unit 3.



### A.9A Block 9 Controls: With Unit 3

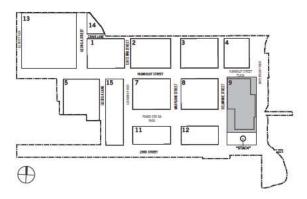
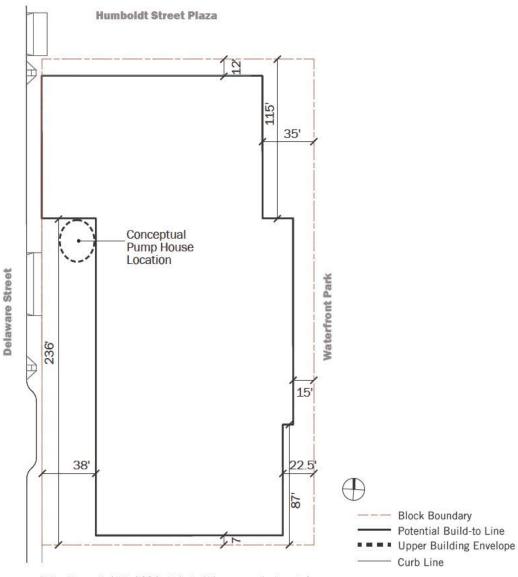


Figure A.9.2 Block 9A Setbacks



Note: Above a height of 36 feet, the building may project west of the 38-foot setback line by up to 17 feet, provided that SFFD can adequately service the building.

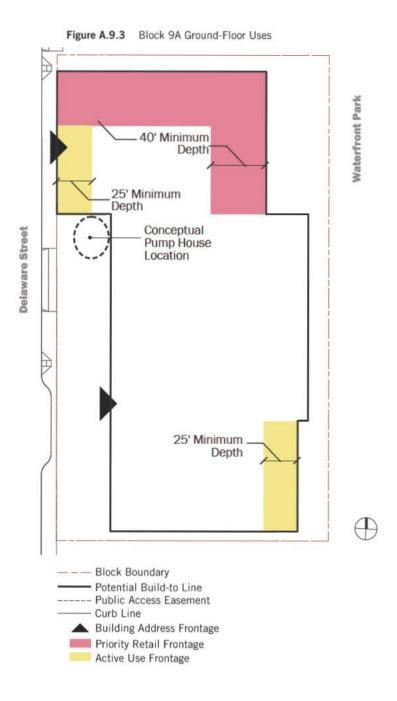


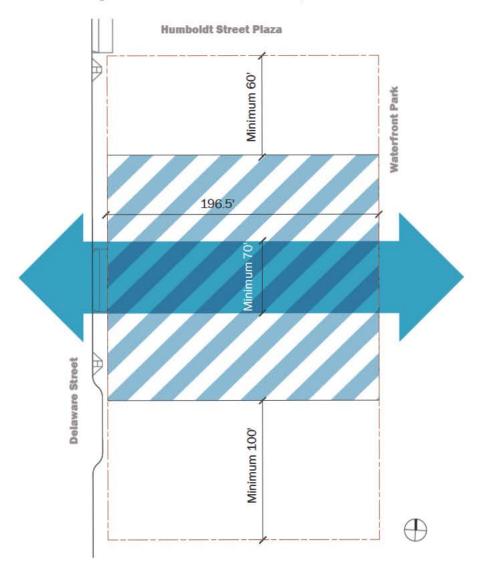
Figure A.9.4 Parking and Loading 30 Conceptual Pump House **Delaware Street** Location Block Boundary Potential Build-to Line - Curb Line Potential Parking and Loading Entry Frontage\* - 30' Loading Prohibited Zone \* One loading entry and one parking entry allowed per building with exceptions as listed in Section 6.20.



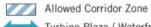
Figure A.9.5 Block 9A Height Controls



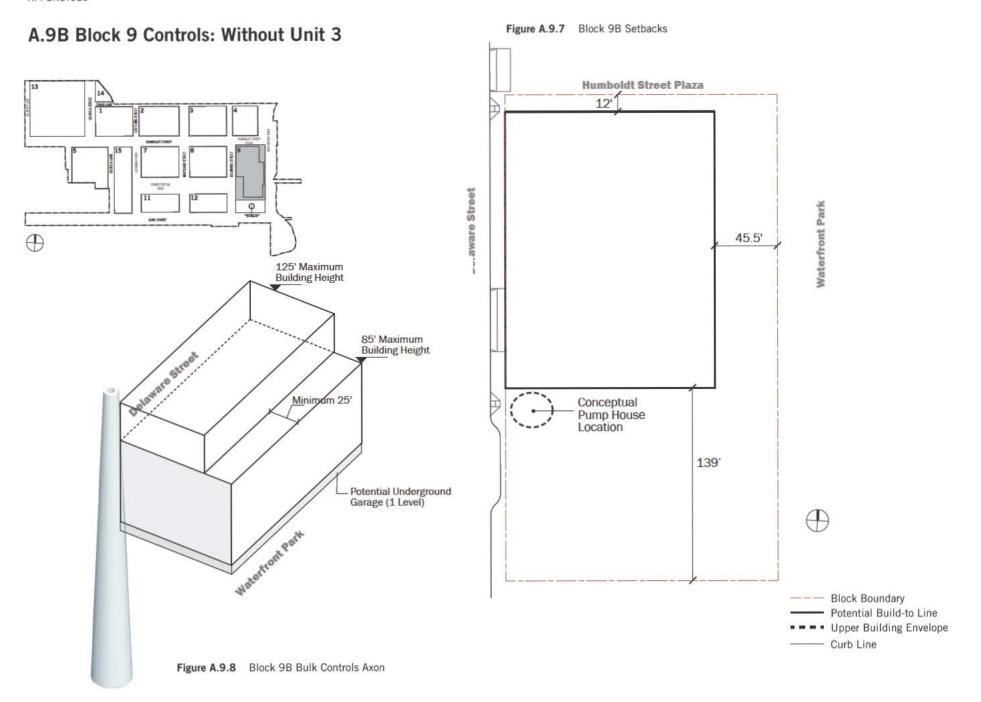
Figure A.9.6 Block 9A Access Corridor Requirement

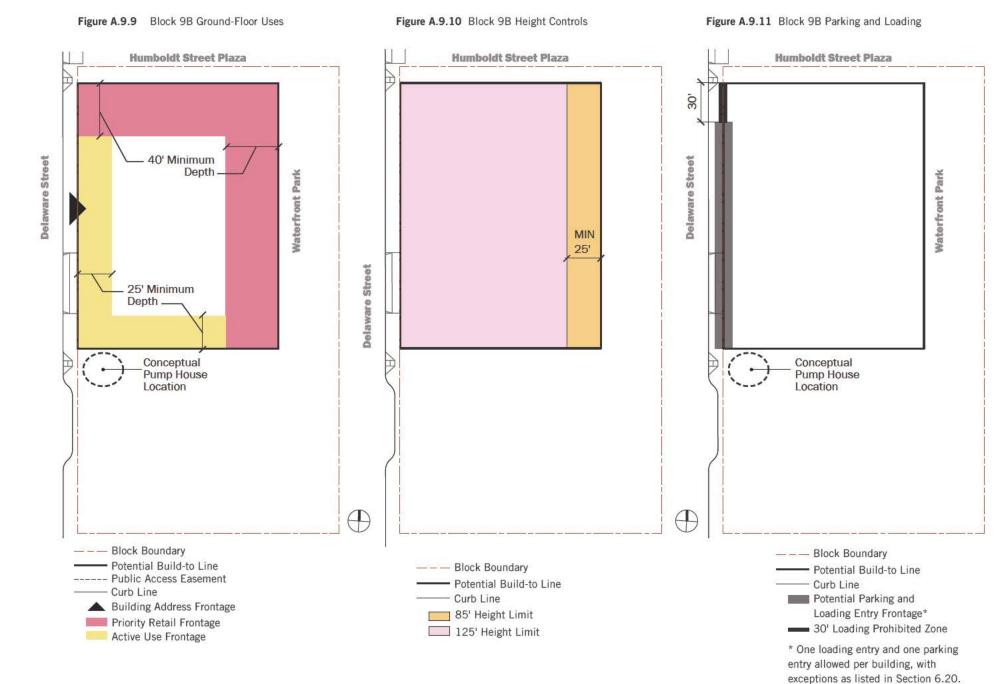






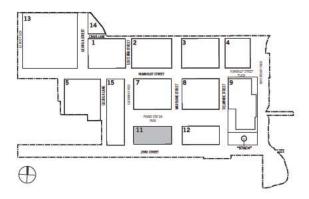
Turbine Plaza / Waterfront Access Corridor Note: At least 65% of the area within corridor must be open to the sky. Exceptions apply; see Section 6.13.2.





POTRERO POWER STATION Design for Development - February 26, 2020

## A.10 Block 11 Controls (Mid-rise Building)



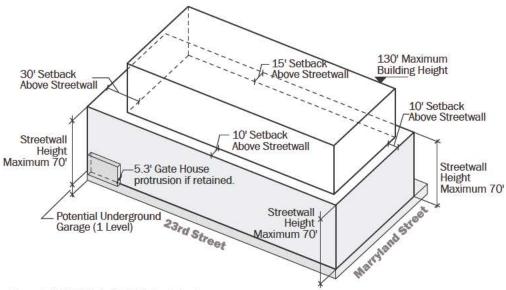
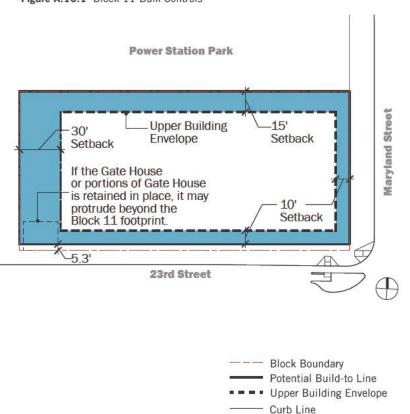


Figure A.10.2 Block 11 Bulk Controls Axon

Figure A.10.1 Block 11 Bulk Controls

Louisiana Paseo



Maximum 70' Streetwall Height

Figure A.10.3 Block 11 Ground-Floor Uses

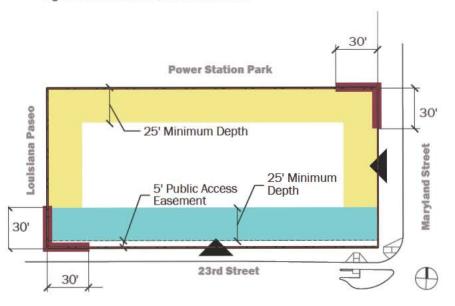
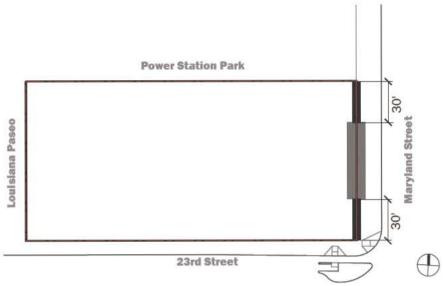
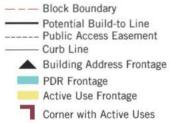
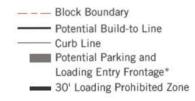


Figure A.10.4 Block 11 Parking and Loading

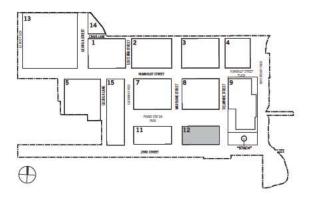






<sup>\*</sup> One loading entry and one parking entry allowed per building, with exceptions as listed in Section 6.20.

## A.11 Block 12 Controls (Low-rise Building)



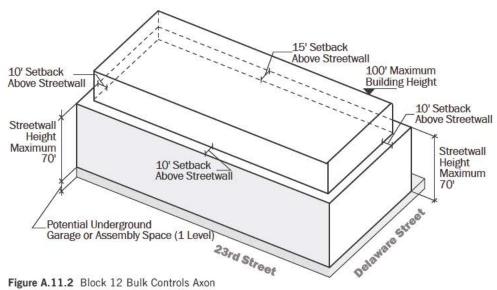
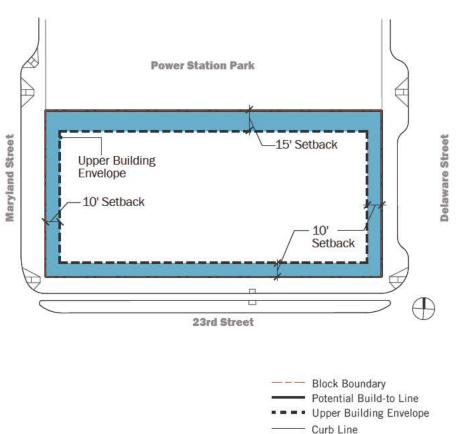
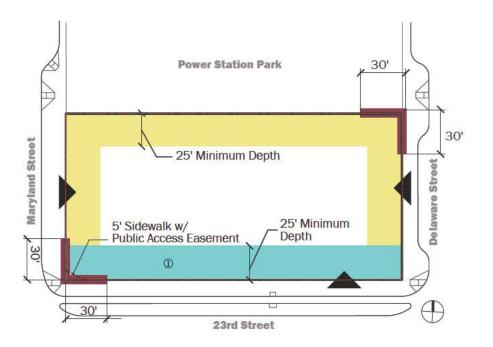


Figure A.11.1 Block 12 Bulk Controls



Maximum 70' Streetwall Height

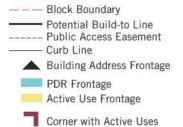
Figure A.11.3 Block 12 Ground-Floor Uses



Power Station Park

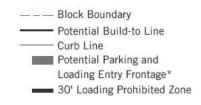
Polyanare Street

Figure A.11.4 Block 12 Parking and Loading



### Note:

① Transit Support Facilities shall be provided along the south side of Block 12, see Section 6.10.1



<sup>\*</sup> One loading entry and one parking entry allowed per building, with exceptions as listed in Section 6.20.

## A.12 Block 13 Controls (Low-rise Building)

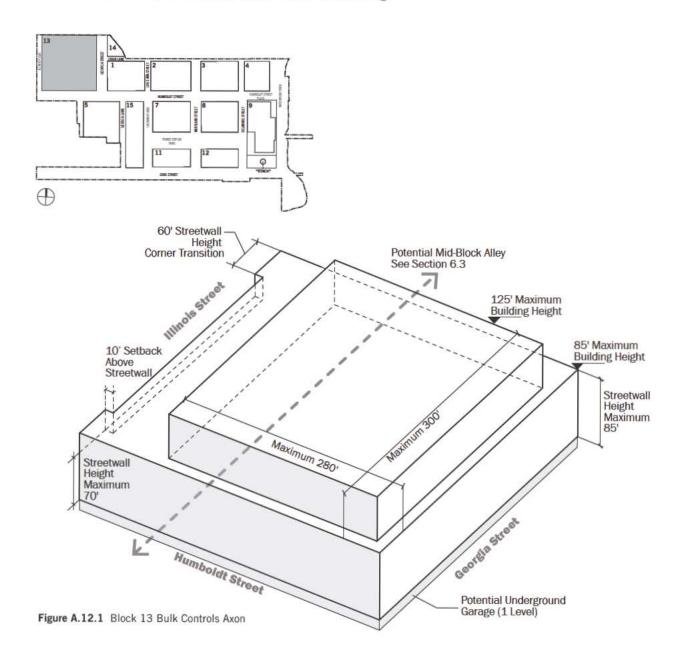


Figure A.12.2 Block 13 Bulk Controls

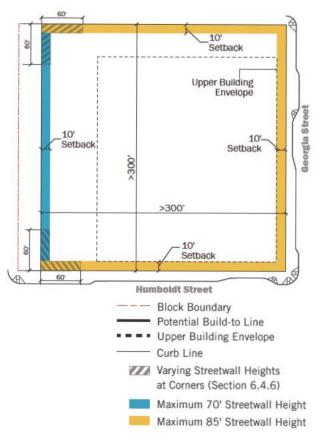
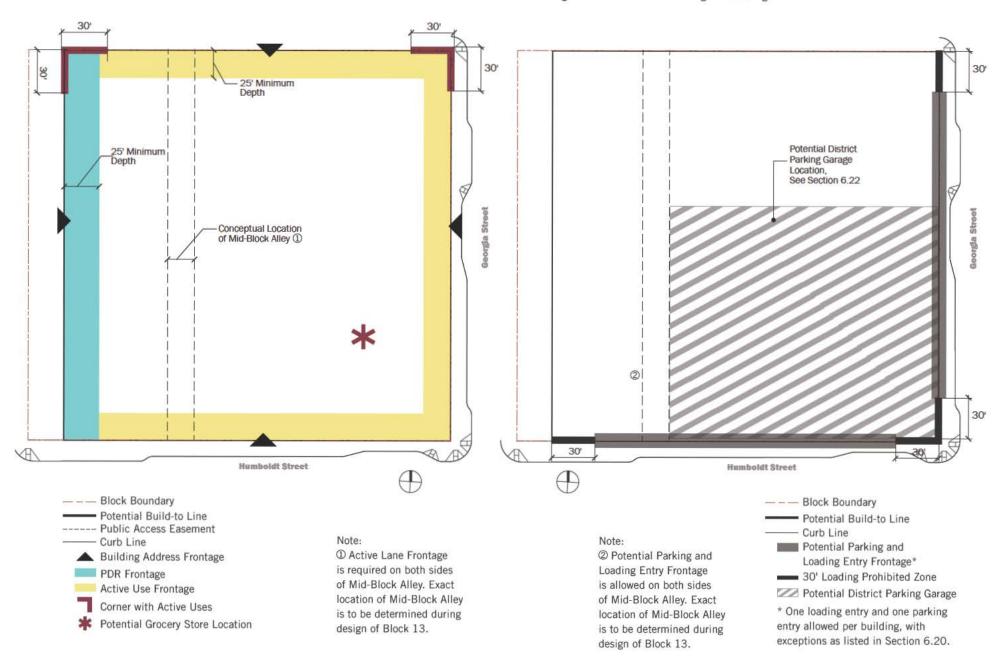
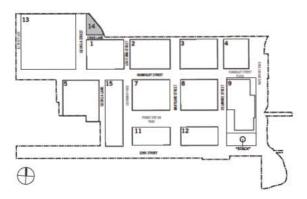


Figure A.12.3 Block 13 Ground-Floor Uses

Figure A.12.4 Block 13 Parking and Loading



## A.13 Block 14 Controls (Low-rise Building)



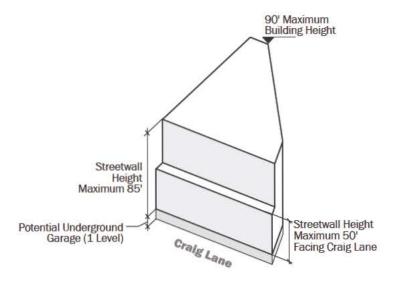


Figure A.13.2 Block 14 Bulk Controls Axon

Figure A.13.1 Block 14 Bulk Controls

Georgia Street

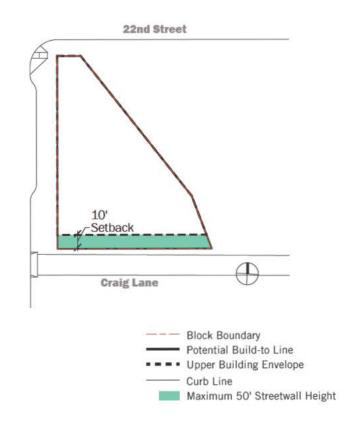
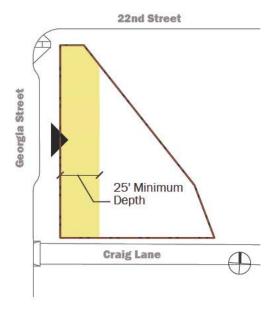


Figure A.13.3 Block 14 Ground-Floor Uses



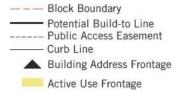
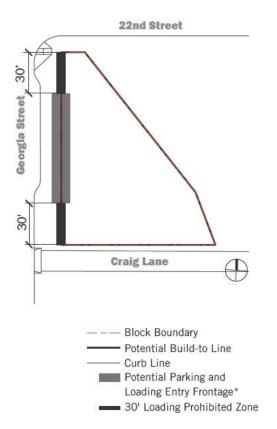
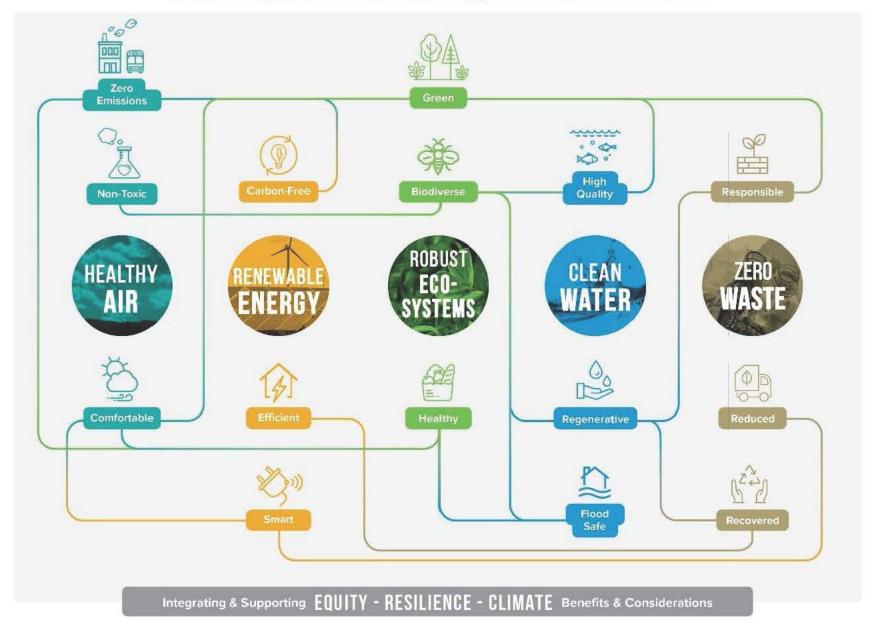


Figure A.13.4 Block 14 Parking and Loading



<sup>\*</sup> One loading entry and one parking entry allowed per building, with exceptions as listed in Section 6.20.

## San Francisco Sustainable Neighborhood Framework



## B. Sustainable Neighborhood Framework

The Power Station will be an example for how to convert a formerly polluting power plant into a healthy, resilient, and regenerative community.

The City of San Francisco, led by SF Planning, in collaboration with fellow agencies, has been developing a Sustainable Neighborhood Framework, which builds on years of work around various "eco-districts" (e.g., Mission Rock, Central SoMa Area Plan) and global best practices. The Framework seeks to synthesize citywide sustainability, climate, and resilience-related policies into a comprehensive yet streamlined tool that helps any scale development amplify environmental performance, quality of life, and community co-benefits. It also seeks to ensure investments throughout the built environment support San Francisco's global commitment to be a net-zero city by 2050 by embedding the City's bold and urgent climate and related goals: healthy air, renewable energy, clean water, robust ecosystems, and zero waste.

As a platform, the Framework aims to:

- Provide a consistent vision and set of priorities for sustainable development throughout the City
- Advance equity and climate resilience through the thoughtful, integrated, and innovative pursuit of environmental sustainability regulations
- Help identify opportunities, constraints, best practices, and potential partnerships for success

Neighborhood- or district-sized developments are an ideal scale for maximizing the effectiveness and efficiency of environmental sustainability and climate resilience aims. Potrero Power Station was invited to help pilot this program during its development, starting with the draft Framework issued by the City in late 2017. Over the past two years, the Power Station team worked with City staff in an iterative process to use and refine the framework as best fits the opportunities and constraints of the project. For each of the Sustainable Neighborhood Framework's five goals, a robust table summarizes related existing regulations (at the time of this publication), project-specific goals to achieve by build-out (non-binding), relevant standards and guidelines (required), and considerations (recommendations) that are found and detailed throughout the D4D. Together, this comprehensive approach to sustainable development supports the Potrero Power Station project's ability to become an exemplary neighborhood in San Francisco.

# Potrero Power Station Carbon Reduction Approach

An overarching goal of the Potrero Power Station project is to create a low-carbon-emitting community, in response to the site's past use as a power plant and in accordance with San Francisco's ambitious climate goals. The project aims to reduce Greenhouse Gas (GHG) emissions in ways that also improve air quality, human health and wellness, water conservation, and resilience.

A preliminary GHG emissions assessment was undertaken during the master plan phase to determine where the greatest GHG impact could be made. The findings of this study influenced GHG-reduction strategies in several ways, as described below and illustrated at right.

#### TRANSPORTATION

The largest emitter is transportation, contributing 59% of the site's GHGs. The project's Transportation Demand Management Plan includes measures that address trip reduction, parking policy and pricing, and neighborhood and site enhancements. These reduce GHG emissions related to transportation by approximately 20% compared to the baseline for the site.

### **BUILDING OPERATIONS**

Building energy use is next greatest, contributing 30% of GHG emissions. Of these, the residential buildings emit the largest part (13%), as this is the largest use in the site plan. Laboratory buildings are next (9%); despite comprising only a few parcels, these buildings have the highest energy use per square foot. The remainder of the 30% comes from office buildings (5%), hotel (2%), and retail (1%).

To address building energy GHG emissions, a smart, thermal energy approach is being considered, which pairs buildings of different uses in a way that reduces heating and cooling energy use. The project is also exploring the use of electrical energy for heating, cooling, and domestic hot water. Eliminating combustion for these uses reduces GHGs while improving local air quality. Using electricity also means that the project is "future-proofed" for a low-carbon grid – as the California energy grid adds renewables over time, the Power Station will continue to lower GHG emissions.

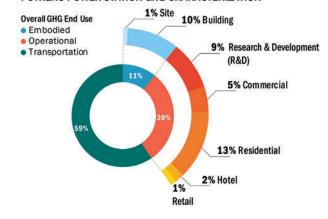
Over the course of 60 years, the combination of shared thermal energy plants and electrified buildings are estimated to reduce operational GHG emissions by approximately 30% beyond a development built to Title 24-2016 energy standards. Furthermore, buildings will meet San Francisco's Green Building Code, which includes requirements for energy efficiency that get more stringent with each Code cycle, further driving down GHGs.

#### **EMBODIED CARBON**

Lastly, 11% of GHGs came from embodied carbon of materials (the carbon emitted in the extraction, manufacture, transportation, and installation of materials to the site). Of this, approximately 1% is from the site development, and 10% from buildings.

Taken all together, Power Station project model shows that these strategies could reduce total project GHG emissions by approximately 20%, as compared with a standard development in the same area of San Francisco (See Figure Potrero Power Station GHG Emissions).

### POTRERO POWER STATION GHG CHARACTERIZATION



### POTRERO POWER STATION GHG EMISSIONS

EmbodiedOperationalTransportation

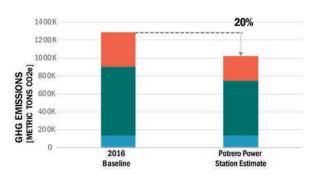


Table B.13.1 Sustainable Neighborhood Framework



### **EQUITY**

**OPPORTUNITIES:** keep from exacerbating the health impacts of cumulative air pollution like respiratory and cardiovascular; decrease hospital visits for those with limited access to health insurance.

**CONSIDERATIONS:** projects in neighborhoods with populations with greatest sensitivity to extreme heat should take additional measures to provide habitable environments; population-specific health challenges may warrant additional study.

### RESILIENCE

**OPPORTUNITIES:** better respond to heat waves and bad air quality days.

**CONSIDERATIONS:** integrate future heating and cooling needs into energy capacity scaling equipment; extreme heat puts pressure on essential services such as energy, transport, and health.

### CLIMATE

**OPPORTUNITIES:** lower toxic pollutants; renewable electricity exports; reduced risks of ozone production due to higher temperatures.

**CONSIDERATIONS:** analyze long-term climate impacts of strategies to respond to high temperatures.

| TARGETS                        | APPROACHES                  | EXISTING<br>REQUIREMENTS  | GOALS FOR THE POTRERO<br>POWER STATION   | POTRERO D4D STANDARDS AND CONSIDERATIONS   |
|--------------------------------|-----------------------------|---|--|--|
| ZERO-EMISSION environments     | Land Use                    |   | TDM Plan that achieves Planning<br>Code Compliant points target  | Section 5 Streets 5.2 Pedestrian Network 5.3 Bicycle Network   |
|                                | All-Electric                |   | <ul> <li>Increase sustainable trips (walk, bike, transit, carpool) and encourage zero-emission vehicles for remainder</li> <li>25% of all off-street parking stalls will be equipped with</li> </ul> | 5.4 On-Street Class II Bicycle Parking 5.5 Transit Network 5.6 Shuttle Network   |
|                                | Construction<br>Practices   | Construction Air Filtration [GBC]                                   |  | Section 6 Buildings  |
|                                | Material<br>Selection       | Greenhouse Gas Emissions compliance checklist [CEQA]                | a plug for electrical vehicle charging     Minimize or eliminate   | 6.18.8 Shared Thermal Energy Plants 6.18.9 All-Electric Buildings 6.18.20 Real Time Transportation Information Displays 6.20.3 Electric Vehicle Charging |
|                                | Active Mobility             | Transportation Demand Management (TDM)                              | combustion within buildings  | 6.20.4 Car Share 6.21.1 Bicycle Parking Ratios 6.21.6 Bicycle-Supportive Amenities   |
|                                | Electric Vehicles           | 100% EV-ready off-street parking Installed chargers at 5% of spaces |  | 6.22.3 Maximum Parking Ratio   |
| 100%<br>NON-TOXIC<br>interiors | Material<br>Selection       | Low-Emitting Materials [GBC]  | All buildings required to achieve<br>LEEDv4 Gold cert fication and<br>pursue at least three points under   | Section 6 Buildings 6.8.10 Life-cycle Assessment 6.18.2 Non-toxic Building Interiors   |
|                                | Air Filtration              | High Quality Air Filtration [GBC]                                   | specific LEED materials and resources credits to encourage disclosure from materials manufacturers, prioritize responsible material selection and reduce whole building embodied carbon              | Materials & Resources  1 Natural Ventilation 2 Natural Daylight 3 Solar Control and Exterior Shading 5 Biophilic Design 6 Climate Resilience             |
| COMFORTABLE micro-climates     | Passive Exterior<br>Cooling | High Quality Air Filtration [Art 38]                                | See Robust Ecosystems Goal   | See Robust Ecosystems Goal   |
|                                | Interior Respites           |   |  |  |

 Table B.13.1 Sustainable Neighborhood Framework (continued)



### **EQUITY**

**OPPORTUNITIES:** healthier air; lower utility costs & minimized rate volat lity; improved indoor comfort; energy revenues for local economy; equal access to energy efficiency upgrades for renters; increase job opportunities for energy upgrade work.

**CONSIDERATIONS:** avoid passing upfront retrofit costs to residents; limited triggers/funding for existing building retrofits; explore opportunities for community-owned solar.

### RESILIENCE

**OPPORTUNITIES:** reduced outages; emergency power supplies; reduced risk from natural gas explosions; secure against global oil price shifts and instability; better respond to heat waves and bad air quality days.

**CONSIDERATIONS:** plan for most vulnerable communities; tenant education about energy measures are great opportunities to foster stronger and connected communities.

### CLIMATE

**OPPORTUNITIES:** emission free; Increasing energy efficiency reduces overall demand and accommodates fuel switching; reduce toxic pollutants.

**CONSIDERATIONS:** when assessing carbon footprint factor-in gas leak rates at well sites, forgo gas infrastructures to receive credits.

| TARGETS                                     | APPROACHES                                  | EXISTING<br>REQUIREMENTS                   | GOALS FOR THE POTRERO<br>POWER STATION   | POTRERO D4D STANDARDS AND CONSIDERATIONS   |
|---|---|--|--|--|
| Maximum energy<br>EFFICIENT<br>environments | Solar Orientation                           | Reduce energy use by 5% [Title 24/<br>GBC] | Buildings will consider passive design measures (orientation, massing, façade optimization) to reduce overall energy demand and active measures such as shared thermal energy plants to more effectively delivery energy to the buildings      All buildings required to achieve LEEDv4 Gold cert fication which includes optimized energy performance as a certification strategy | Section 4 Open Space 4.27.3 Thermal Energy Plant Piping Connection  Section 6 Buildings 6.8.10 Life-cycle Assessment 6.18.1 Building Performance 6.18.8 Shared Thermal Energy Plants 6.18.11 Natural Ventilation 6.18.12 Natural Daylight 6.18.13 Solar Control and Exterior |
|   | Building Form                               |  |  |  |
|   | Envelope<br>& Façade<br>Treatements         |  |  |  |
|   | Mechanical<br>Systems                       |  |  |  |
|   | Appliances                                  |  |  |  |
|   | Vegetation                                  |  |  |  |
| 100% CARBON-<br>FREE energy                 | On-Site<br>Renewable<br>Power<br>Generation | or solar thermal systems [GBC]             | energy production (PV and solar<br>thermal hot water) based on solar<br>access and visibility from other<br>buildings, as outlined in Table  | Section 6 Buildings 6.18.9 All-Electric Buildings 6.18.10 Energy for Emergencies 6.18.21 Renewable Energy 6.19.1 Better Roofs 6.19.3 Photovoltaic Panels  Table 6.19.1 Better Roofs Recommendations  |
|   | Solar Thermal<br>Hot Water                  |  |  |  |
|   | Battery Storage                             |  |  |  |
|   | All-Electric                                |  |  |  |
|   | Green Power<br>Purchase                     |  |  |  |

 Table B.13.1 Sustainable Neighborhood Framework (continued)



Support Biodiversity & Connect Everyone to Nature Daily

# **EQUITY**

**OPPORTUNITIES:** access to healthy and affordable food; physical and mental health improvement; social cohesion and connection to one's environment; reduced exposure to noise, air pollution, and extreme heat; robust biodiversity minimizes rodent infestations.

**CONSIDERATIONS**: inequitable access, use, or quality of green spaces by vulnerable populations; add tional maintenance costs (public & private); potential existing contaminants for safe food production.

#### RESILIENCE

**OPPORTUNITIES:** ecosystem services improve shoreline and urban flood management, reducing housing and work place instability and access due to flooding; planted hillsides are less susceptible to erosion and landslides; wildlife biodiversity.

**CONSIDERATIONS:** increased landscaping that includes too much impervious surface can increase flooding; poor plant selection or irrigation equipment can exacerbate water scarcity.

# CLIMATE

**OPPORTUNITIES:** enhance climate regulation and carbon sequestration; reduce carbon footprint associated with to large-scale food production; distribution and waste; improve water efficiency.

**CONSIDERATIONS:** gas-powered lawn equipment exacerbates emissions and health impacts of landscaping; poor landscaping maintenance practices can lead to additional methane from decomposing green waste.

| TARGETS                        | APPROACHES              | EXISTING<br>REQUIREMENTS   | GOALS FOR THE POTRERO<br>POWER STATION   | POTRERO D4D STANDARD   | S AND CONSIDERATIONS  |
|--------------------------------|-------------------------|--|--|--|---|
| GREEN space equivalent to 1/2  | Open Spaces             | 36 SF per unit, 48 SF if common space (does not require greening) [PC] | Public access to 1,170 linear<br>feet of waterfront, which will  | Section 4 Open Space 4.1 Open Space Network  | Section 6 Buildings<br>6.8.9 Living/Green Walls   |
| site area                      | Living Roofs            | 30% roof area as living roof [PC alt]                                  | include planting and trees; 100% of waterfront areas to be publicly  | 4.3 Resilience and Adaptation 4.4 Open Space Pedestrian Circulation  | 6.19.1 Better Roofs   |
|                                | Green Walls             |  | accessible     100% of public realm stormwater   | 4.6.7 Plants: Interpretation and Education 4.16 Waterfront Open Spaces 4.17 Waterfront Open Spaces – Circulation   |   |
|                                | Green<br>Infrastructure | Manage 25% of stormwater ons te [SMO option]                           | <ul> <li>managed by green infrastructure</li> <li>Provide approximately 6.9 acres of parks and open space, which will include plantings and trees.</li> </ul>  | 4.18 Waterfront Outdoor Dining Food Service Areas 4.19 Waterfront Park   |   |
| BIODIVERSE                     | Right-Of-Way            | 1 street tree every 20' [PC]   | 100% of greening to be climate   | Section 4 Open Space   | 5.11.2 Tree Species Selection   |
| landscapes of 100% climate     | Tree Canopy             |  | appropriate or programmed to accommodate Active Use  | 4.5.1 Urban Forest Composition 4.5.3 Tree Species Selection  | 5.12.5 Streetscape Planting Selection 5.12.7 Multistory Planting  |
| appropriate,<br>majority local | Understory<br>Planting  |  | At least 50% of understory plants should be California and San Francisco native plants and   | 4.5.7 Tree Species Selection 4.6.1 Plants: Site and Program Specificity 4.6.3 Invasive Plants  | 5.13.8 Support Pollinator Habitat  Section 6 Buildings  |
| species                        | Natural Areas           |  | include pollinator species   | 4.6.4 Plant Selection  | 6.19.5 Living Roof Pollinator Habitat<br>6.19.6 Living Roof Uses  |
|                                | Building Façades        |  | Interpretive signage can support eco-literacy on site  | Section 5 Streets 5.11.13 Habitat and Wildlife Connections   |   |
| HEALTHY food &                 | Buildings               | Bird Safe Buildings [PC]   | 100% of newly provided public<br>and private streets to have   | Section 3 Land Use 3.1.1 Permitted Uses Table  | Section 5 Streets 5.2 Pedestrian Network  |
| wildlife systems               | Open Spaces             | ment February 26, 2020   | and private streets to have sidewalks or recreation paths and nighttime lighting  • Minimum of 25% of open space available for active recreation use (e.g., sports fields, flexible play areas)  • Provide access to healthy and affordable food through permanent and temporary on-site amenities | Section 4 Open Space  4.4 Open Space Pedestrian Circulation 4.9.9 Furnishing - Responsible Material Use 4.10 Bicycle Parking – Open Space 4.11.8 Permeable Paving 4.11.9 Wood Decking 4.11.10 Responsible Material Use 4.13 Wellness 4.24 Humboldt Street Plaza 4.28.1 Flexible Field 4.29.1 Sculptural Play Features 4.30 Louisiana Paseo 4.31 Rooftop Soccer Field | 5.3 Bicycle Network  Section 6 Buildings 6.17.1 Frontages for Wellness and Gathering 6.17.2 Frontages for Community Use 6.18.14 Active Design 6.18.15 Biophilic Design 6.18.16 Building Amenities for Wellness 6.18.17 Family Friendly Design 6.19.6 Living Roof Uses |

 Table B.13.1 Sustainable Neighborhood Framework (continued)



Support Biodiversity & Connect Everyone to Nature Daily

# **EQUITY**

**OPPORTUNITIES:** keep from exacerbating the health impacts of populations impacted by toxins in water; reduce home-based health hazards; reduce the disproportionate racial impact of flooding.

**CONSIDERATIONS:** ground water pollution is more prevalent in disadvantaged communities; in case of emergency plan for large-scale temporary relocation of low-income residents; use high quality potable water filters.

# RESILIENCE

**OPPORTUNITIES:** decrease risk of flooding of power generation, transmission, and distribution networks; reduce vulnerability to droughts; better respond to heat waves and bad air quality days.

**CONSIDERATIONS:** in urban centers, critical services like healthcare, food supply, transportation, energy systems, schools and retail share interdependencies with water.

# CLIMATE

**OPPORTUNITIES:** decrease in energy and emissions associated with extraction, conveyance, treatment and consumption of water.

**CONSIDERATIONS:** climate change is expected to impact water quality by increasing the nutrient content, pathogens, and the sediment levels of surface water.

| TARGETS                                     | APPROACHES              | EXISTING<br>REQUIREMENTS   | GOALS FOR THE POTRERO<br>POWER STATION   | POTRERO D4D STANDARDS AND CONSIDERATIONS  |  |  |  |
|---|-------------------------|--|--|---|--|--|--|
| REGENERATIVE systems that                   | Efficient<br>Fixtures   | Reduced water consumption [GBC]  | Use non-potable water to meet<br>100% of project demands for<br>flushing, irrigation, and cooling  | Section 4 Open Space 4.6.2 Plants: Water Use 4.6.6 Recycled Water and Plant Selection 6.18.8 Shared Thermal Energy Plants                           |  |  |  |
| minimize<br>consumption &<br>maximize reuse | Smart-Metering          | Residential multifamily water sub-<br>metering [GBC/CA Water Code]   | towers.  | 4.8.1 Site Irrigation 4.8.2 Plant Species Hydrozones 4.8.3 Pressurized Drip Irrigation at Turf Areas  |  |  |  |
|   | Non-Potable<br>Reuse    | Onsite systems for non-potable flushing and irrigation [Art 12C]   |  | Section 5 Streets 5.11.10 Irrigation  |  |  |  |
|   | Irrigation              | Low water, climate appropriate plants [GBC]  |  | 5.12.3 Non-Potable Irrigation 5.13.2 Site Irrigation  |  |  |  |
| 100%<br>FLOOD-SAFE<br>buildings &           | Design<br>Elevations    | Sea level rise consideration [CEQA]  100-yr flood disclosure   | 100% of buildings, sidewalks,<br>and street assets resilient to<br>permanent inundation (up to   | Section 4 Open Space 4.3 Res lience and Adaptation  |  |  |  |
| sidewalks                                   | Grey<br>Infrastructure  | Ensure positive sewage flow, raise entryway elevation and/or special sidewalk construction and deep gutters if risk of ground-level flooding | 66-inches of sea level rise) plus 42-inches for 100-year coastal flood elevations, which includes storm surge  100% of public realm stormwater managed by green infrastructure | Section 6 Buildings 6.18.19 Climate Res lience  PPS Infrastructure Plan Section 5, Sea Level Rise and Adaptive Management Strategy                  |  |  |  |
|   | Green<br>Infrastructure | Manage 25% of stormwater onsite [SMO option]   | aagoa 27 grootaca acaaro   |   |  |  |  |
| HIGH QUALITY waterways &                    | Erosion<br>Prevention   | Slowed stormwater flow rates [SMO]   | Zero increase in combined<br>sewage overflows annually   | Section 4 Open Space 4.7.1 Stormwater (SW) Management 4.7.2 Stormwater Treatment Area Requirements  Section 6 Buildings 6.19.1 Better Roofs         |  |  |  |
| sources                                     | Pollutant<br>Management | Reduced runoff and pollution from construction [GBC]   | 100% of public realm stormwater<br>managed by green infrastructure   | 4.7.3 Stormwater Management Plant-Based Facility Design PPS Infrastructure Plan Section 14, Sanitary Sewer System Section 16, Stormwater Management |  |  |  |
|   |                         | (MS4) filter or treat 80% on site [SM0]  |  | Section 5 Streets 5.13.1 Streetscape SW Treatment Planter Design 5.13.3 Stormwater Management Plantings   |  |  |  |

 Table B.13.1 Sustainable Neighborhood Framework (continued)



Prioritize Resource Conservation, Responsibility & Reuse

# **EQUITY**

**OPPORTUNITIES:** reduced noise and emissions from waste collection vehicles and transfer stations; reduced vermin; reduced solid waste fees.

**CONSIDERATIONS:** user education; space trade-offs for adequate collection and storage; limited recycling of certain types of food packaging; health impacts of waste-management jobs.

# RESILIENCE

**OPPORTUNITIES:** less risk of pollution from waste management facilities in case of major climate event; upcycling products can lead to more localized resource independence.

**CONSIDERATIONS**: mis-managed waste can contaminate soil, ground water, and the Bay.

# CLIMATE

**OPPORTUNITIES:** reduction in methane (potent greenhouse gas 35-80x CO2); reduction in scarce resources extraction and transportation; reduction in fossil fuel consumption.

**CONSIDERATIONS:** energy required to recycle and upcycle materials; truck emissions associated with waste transfer and marketplace delivery.

| TARGETS                                       | APPROACHES                         | EXISTING<br>REQUIREMENTS                     | GOALS FOR THE POTRERO POWER STATION   | POTRERO D4D STANDARDS AND CONSIDERATIONS  |
|---|------------------------------------|--|---|---|
| 100%<br>RESPONSIBLE<br>material use           | Resource<br>Extraction<br>Reusable |  | Use materials/systems that minimize resource use, eliminate waste, and protect health     Include embodied carbon considerations in materials | Section 4 Open Space 4.9.9 Furnishing – Responsible Material Use 4.11.9 Responsible Material Use  Section 6 Buildings 6.8.10 Life-cycle Assessment  |
|   | Products                           |  | selection throughout horizontal<br>and vertical design processes  | 6.18.2 Non-toxic Building Interiors 6.18.4 Materials & Resources  |
| Significantly<br>REDUCED per-<br>capita waste | 3-Stream Waste Collection          | Accessible and sufficient collection systems | 100% of open spaces include<br>three-stream waste systems     Meet City ordinances for waste  | Section 4 Open Space 4.9.5 Waste Receptacles  |
| generation                                    |                                    | Recycling and composting (Buildings)         | reduction to reduce consumption   | Section 5 Streets 5.14.7 Waste Receptacles  |
| Solloration                                   | Consumption &<br>Purchasing        |  | and provide adequate waste<br>management infrastructure to<br>support the City-wide Zero Waste<br>Goal  |   |
|   | Cost Monitoring                    |  | Guai  |   |
| 100% materials<br>RECOVERED<br>from waste     | Material Re-Use                    |  | Divert at least 65% percent of<br>construction and demolition<br>waste materials per State and<br>City and County of San Francisco            | Section 2 Telling our Story: Interperative Vision  Section 5 Streets 5.14.11 Salvaged Material  |
| stream  | Construction<br>Debris             | Construction waste diversion (65%)           | targets   | Section 6 Buildings 6.12 Existing Buildings within the Third Street Industral District: The Stack 6.13.1 Unit 3 Retained Features 6.13.9 Unit 3 Retained Features 6.14 Existing Buildings within the Third Street Industral District: Station A |

APPENDICES

[This page intentionally left blank.]

# C. Power Station Definitions

Terms that are capitalized throughout the D4D are defined in this appendix, which incorporates the definitions in the Potrero Power Station SUD (Planning Code Section 249.87). In the event the meaning of any defined term in this D4D differs from the meaning given to such words or concepts in the Planning Code or the SUD, the meaning in the Planning Code and SUD shall prevail. In the absence of any conflict, this D4D will control so long as the D4D remains consistent with the SUD.

Active Lane Use. Consist of Active Use, as well as building insets of at least 4 feet in depth at the ground floor for pedestrian amenities. These include permanent, semi-permanent, and movable furnishings (such as tables, chairs, umbrellas), and Public Art, such as a wall mural, at least 15 feet in height measured from ground level.

**Active Use.** Consist of the following uses, and must have a Transparent Frontage:

- Retail, Sales and Service Use (including 1,000 square foot or smaller "Micro-Retail" uses, which can have a depth of 10 feet from the street, as opposed to the standard depth of 25 feet).
- PDR Use.
- Institutional Use. Social Spaces shall be provided at the front of the building, oriented toward the street, within at least the first 15 feet of building depth.
- Entertainment, Arts, and Recreation Use.
- Lobbies up to 40 feet or 25 percent of building frontage, whichever is larger.
- Non-Retail, Sales and Service Use (including Office Use) up to 50 percent of the building frontage; Social spaces, such as communal kitchens, conferences rooms, employee break rooms, and waiting areas of

Non-Retail Sales and Service Use shall be provided at the front of spaces, oriented toward the street within at least the first 15 feet of building depth.

- Residential Uses, including Social Spaces and dwelling units, provided they have direct access to a street or public open space.
- Accessory mail rooms and bicycle storage rooms with direct access to the street or lobby space.

Agricultural and Beverage Processing 1. See Appendix D.

Americans with Disabilities Act (ADA). Legislation passed in 1990 that prohibits discrimination against people with disabilities. Under this Act, all buildings, streets, and open spaces must be designed to be accessible to people with disabilities.

**Apparent Face, Maximum.** The maximum length of any unbroken plane of a given building elevation.

**Articulation.** Minor variations in the massing, setback, height, fenestration, or entrances to a building, which express a change across the elevation or façades of a building. Articulation may be expressed, among other things, as bay windows, porches, building modules, entrances, or eaves.

**Attended Facility.** A type of monitored parking in which an attendant is available to answer questions of facility users.

**Base.** Base is the lower portion of a midrise or highrise tower that extends vertically to a height of up to 90 feet.

**Bicycle Cages / Rooms.** A location that provides bicycle storage within an enclosure accessible only to building residents, non-residential occupants, and employees.

**Block.** An area of land bounded by public or private right-of-way and/or park.

**Building Project.** Also referred to as "building". The construction of a building or group of buildings undertaken as a discrete project distinct from the overall Power Station project.

**Bulkhead.** On a retail storefront, the solid horizontal element between the sidewalk and the display window, often framed by vertical piers (see also Piers).

**Cart.** A mobile structure used in conjunction with food service and/or retail uses, that operates intermittently in a publicly accessible open space, and that is removed daily from such open space during non-business hours.

**Community Facility.** Community Facility has the same meaning as set forth in *Planning Code Section 102*, except that it also includes transit support facilities.

**Corner.** Corners are defined as the first 30 feet extending from the intersection of two rights-of-way, or a right-of-way and an open space, along the frontage of a building.

# Cultural Resources (Contributing Historic Resources).

Cultural resources encompass archaeological, natural, and built environment resources, including but not limited to buildings, structures, objects, districts, and sites. Qualifying cultural resources are designated by local, state, and national registries, such as the National Register of Historic Places.

**Curb Cut.** A break in the street curb to provide vehicular access from the street surface to private or public property across a continuous sidewalk.

**Design for Development (D4D).** A document that establishes conceptual standards and guidelines for land use, urban form, streets, and public spaces in the project site.

**Design Guidelines.** Subjective design requirements

that set forth design intent, design expectations, and encouraged or discouraged features.

**Design Standards.** Mandatory and measurable design specifications applicable to all new construction.

**Encroachment.** A portion of a building that projects into the public right-of-way.

**Fenestration.** The arrangement of windows and openings on the exterior of the building.

**Floorplate.** The gross floor footage area of a given floor as bounded by the exterior walls of the a floor without any exclusions or deductions otherwise permitted under the definition of Gross Floor Area.

**Frontage.** The frontage of a building is defined as the vertical exterior face or wall of a building and its linear extent that is adjacent to or fronts on a street, right-ofway, or open space.

Gross Floor Area. "Gross Floor Area" has the meaning set forth in Planning Code Section 102 for C-3 districts, except that in addition to other permitted exceptions or exclusions, Gross Floor Area also shall not include the following: for existing buildings on the Project Site that are rehabilitated or reused as part of the Project (such as Unit 3 or Station A), (i) ground floor area devoted to building or pedestrian circulation and building service, and (ii) space devoted to personal services, restaurants, and retail sales of goods intended to meet the convenience shopping and service needs of area workers and residents, not to exceed 5,000 occupied square feet per use and, in total, not to exceed 75 percent of the area of the ground floor of the building plus the ground level, on-site open space.

**HRE.** That certain *Potrero Power Station Historic Resource Evaluation – Part 1* prepared for Associate Capital by Page and Turnbull, dated as of January 29, 2018, together with that certain *Potrero Power Station Historic Resource Evaluation – Part 2* prepared for

Associate Capital by Page and Turnbull, dated as of February 2, 2018.

**HRER.** That certain Historic Resource Evaluation Response regarding Case No. 2017-011878ENV, prepared by the San Francisco Planning Department on April 8, 2018.

**Individual Locker.** An enclosed and secure bicycle parking space accessible only to the owner or operator of the bicycle or owner and operator of the Locker.

**Kiosk.** A building or other structure that is set upon the ground and is not attached to a foundation, such as a shipping container, trailer, or similar structure, from which food service and/or retail business is conducted. A Kiosk operates in a publicly accessible open space, and remains in place until the business operation is terminated or relocated.

**Master Association.** A master residential, commercial, and/or other management association.

**Materiality.** Non-occupiable features and treatments within the thickness of a façade plane.

**Micro-Retail.** Retail Sales and Service Uses that are 1,000 square foot or smaller.

Mid-block Alley. A publicly-accessible mid-block alley that runs the entire length of the building, generally located toward the middle of the subject block face, perpendicular to the subject frontage and connecting to any existing streets and alleys. A Mid-Block Alley may be open to both pedestrian and vehicular traffic, and must have at least 60 percent of the area of the alley open to the sky, except that an above-grade pedestrian connection is permitted as set forth in Section 6.14.7.

**Mid-block Passage.** A publicly-accessible mid-block passage that runs the entire length of the building, generally located toward the middle of the subject block face, perpendicular to the subject frontage and

connecting to any existing streets and alleys. A Mid-Block Passage is accessible only to pedestrians and may be completely covered.

**Modulation.** Occupiable façade strategies that are generally less than ten feet and more than nine inches in depth.

**Nonconforming Structure.** A "nonconforming structure" is a structure that existed lawfully at the effective date of *Planning Code Section 249.87*, or of amendments thereto, and that fails to conform to one or more of the use controls included in Section 6.

**Nonconforming Use.** A "nonconforming use" is a use that existed lawfully at the effective date of *Planning Code Section 249.87*, or of amendments thereto, and that fails to conform to one or more of the use limitations listed in Table 3.1.2.

**Parcel.** An area of land bounded by public rights-of-way, parks, or private rights-of-way designated alphanumerically as developable portions of land. Used as a unit for assessment.

**Parking Garage, District.** An accessory parking garage that provides for accessory parking for uses located in other buildings on the project site.

**Pedestrian-Oriented.** Design of buildings with the pedestrian in mind. Pedestrian-oriented buildings include ground floor transparency, canopies, clear entries, distinct storefronts, and an overall human scale and rhythm.

**Permitted Use.** Permitted uses are listed uses that are allowed [as of right].

**Piers.** On a retail storefront, the solid vertical elements that frame each individual storefront. The rhythm, width, and depth of piers directly shapes the feeling and scale of a retail frontage.

**Project.** The Potrero Power Station Mixed-Use Project. Also referred to as the "project," "Potrero Power Station project," or "Power Station project."

**Project Site.** The approximately 29 acre site comprised of the various subareas shown on Figure 1.2.1. Also referred to as "project site," "site," "Power Station," and "Potrero Power Station."

**Project Sponsor.** California Barrel Company, LLC, or any other entity with rights to develop the property pursuant to the development agreement approved in conjunction with the SUD.

**Projection.** A part of a building surface that extends outwards from the primary façade plane. Projections may include balconies, bay windows and other architectural features. Projections may extend into the building setback or the public right-of-way.

**Public Open Space.** Open space, including parks and plazas that are accessible to the public at all times of day.

**Public Trust.** Tidal and submerged lands subject to jurisdiction of the Port and held in trust for the common use by the people for commerce, navigation, and fisheries.

**Right-of-Way (ROW).** The public right-of-way (ROW) is the space of the public street bounded by the adjacent building property lines.

**Screen, Rooftop.** Architectural rooftop screening designed to hide mechanical equipment from public view.

Semi-Permanent Kiosk. A semi-permanent enclosed structure with doors, windows, gates and/or shutters on one or more sides to provide employee access, to secure the facility during non-business hours, and from which food service and/or retail business is conducted. A Semi-Permanent Kiosk operates in a publicly accessible open

space, and remains in place until the business operation is terminated or relocated.

Setback (or Setback Zone). The required or actual distance between the vertical edges of a building above a specified height, or between the vertical edge of a building and the property line. The setback may either start at grade creating an open space provided between the property line and the primary built structure, or it may start above a specified height for the purpose of bulk reduction in the mass of the building. The ground area created by a setback imposed at the ground floor level may be required to be dedicated for public use or remain as private space between the public right-of-way and the building mass.

**Sightlines.** View corridors to a specific site asset (example: historic building, waterfront).

**Signboards.** On a retail storefront, the solid horizontal element that sits above the door or display windows, often the location where signs are affixed. Signboards are often framed by vertical piers (see also Piers), and may alternately referred to as the transom sash.

Single Room Occupancy (SRO) Unit. See Appendix D.

Social Spaces. Social Spaces are communal areas shared within a building, used by building users. Such spaces may include fitness rooms, workshops for hands-on projects and to conduct repairs, leasing offices, shared kitchens, resident libraries or reading rooms, community rooms, children's playrooms and classrooms (which may also serve as general assembly rooms), communal kitchens, conferences rooms, employee break rooms, and waiting areas.

**Soffit.** A visible underside of projecting architectural elements, including, but not limited to, building connector, roof, balcony, staircase, overhang, canopy, ceiling, bay window, and arch.

Special Use District (SUD). An area designated with a

specific set of zoning controls adopted as part of the *San Francisco Planning Code*.

**Stoop.** An outdoor entryway into residential units raised above the sidewalk level. Stoops may include steps leading to a small porch or landing at the level of the first floor of the unit.

**Storefront.** The façade of a retail space between the street grade and the ceiling of the first floor.

**Streetwall.** A continuous façade of a building and/or buildings along a street frontage.

Third Street Industrial District. The Third Street Industrial District is an historic district documented in 2008 as part of the Central Waterfront Potrero Point Historic District and is California Register-eligible. The district is significant for its association with the industrial development of the city of San Francisco and based on its collection of late-nineteenth and early twentieth century American industrial buildings and structures.

**Transparent Frontage.** The condition in which glass, glazing, window, or other building feature allows visibility into the building interior. Does not include heavily tinted or highly mirrored glass.

**U-lock.** A rigid bicycle lock, typically constructed out of hardened steel composed of a solid U-shaped piece whose ends are connected by a locking removable crossbar.

**Upper Building.** The portion of a midrise or highrise tower above the Base (also referred to as "tower").

**Vertical Hyphen.** An architectural element that visually differentiates between existing, historic elements and new additions to a building. In the case of Station A, such hyphen shall be at least 10 feet in depth and one story in height, measured from the exterior face and height of the retained wall or feature.

# D. Applicable Planning Code Sections

# SECTION 102. DEFINITIONS<sup>1</sup>

Accessory Use. A related minor Use that is either necessary to the operation or enjoyment of a lawful Principal Use or Conditional Use, or appropriate, incidental, and subordinate to any such use, and is located on the same lot.

Agricultural and Beverage Processing 1. An Industrial use that involves the processing of agricultural products and beverages with a low potential for noxious fumes, noise, and nuisance to the surrounding area, including but not limited to bottling plants, breweries, dairy products plant, malt manufacturing or processing plant, fish curing, smoking, or drying, cereal manufacturing, liquor distillery, manufacturing of felt or shoddy, processing of hair or products derived from hair, pickles, sauerkraut, vinegar, yeast, soda or soda compounds, meat products, and fish oil. This use does not include the processing of wood pulp, and is subject to the operating conditions outlined in Section 202.2(d).

Arts Activities. A retail Entertainment, Arts and Recreation Use that includes performance, exhibition (except exhibition of films), rehearsal, production, post-production and some schools of any of the following: Dance, music, dramatic art, film, video, graphic art, painting, drawing, sculpture, small-scale glassworks, ceramics, textiles, woodworking, photography, custom-made jewelry or apparel, and other visual, performance and sound arts and craft. It shall exclude accredited Schools and Post Secondary Educational Institutions. It shall include commercial arts and art-related business service uses including, but not limited to, recording and editing services, small-scale film and video developing

and printing; titling; video and film libraries; special effects production; fashion and photo stylists; production, sale and rental of theatrical wardrobes; and studio property production and rental companies. Arts spaces shall include studios, workshops, archives and theaters, and other similar spaces customarily used principally for arts activities, exclusive of a Movie Theater, Amusement Enterprise, Adult Entertainment, and any other establishment where liquor is customarily served during performances.

**Automobile Assembly.** An Industrial Use that involves the assembly of parts for the purpose of manufacturing automobiles, trucks, buses, or motorcycles. This use is subject to operational and location restrictions outlined in Section 202.2(d) of this Code.

**Awning.** A light roof-like structure, supported entirely by the exterior wall of a building; consisting of a fixed or movable frame covered with cloth, plastic, or metal; extending over doors, windows, and/or show windows; with the purpose of providing protection from sun and rain and/or embellishment of the façade; as further regulated in Section 3105 of the Building Code.

**Bar.** A Retail Sales and Service Use that provides on-site alcoholic beverage sales for drinking on the premises, including bars serving beer, wine and/or liquor to the customer where no person under 21 years of age is admitted (with Alcoholic Beverage Control [ABC] license types 23, 42, 48, or 61) and drinking establishments serving beer where minors are present (with ABC license types 40 or 60) in conjunction with other uses such as Movie Theaters and General Entertainment. Such businesses shall operate with the specified conditions in Section 202.2(a).

**Canopy.** A light roof-like structure, supported by the exterior wall of a building and on columns or wholly on

columns, consisting of a fixed or movable frame covered with approved cloth, plastic or metal, extending over entrance doorways only, with the purpose of providing protection from sun and rain and/or embellishment of the façade, as further regulated in Section 3105 of the Building Code.

Child Care Facility. An Institutional Community Use defined in California Health and Safety Code Section 1596.750 that provides less than 24-hour care for children by licensed personnel and meets the open-space and other requirements of the State of California and other authorities.

Class 1 Bicycle Parking Space(s). Spaces in secure, weather-protected facilities intended for use as long-term, overnight, and work-day bicycle storage by dwelling unit residents, non-residential occupants, and Employees.

Class 2 Bicycle Parking Space(s). Bicycle racks located in a publicly-accessible, highly visible location intended for transient or short-term use by visitors, guests, and patrons to the building or use.

Community Facility. An Institutional Community Use that includes community clubhouses, neighborhood centers, community cultural centers, or other community facilities not publicly owned but open for public use in which the chief activity is not carried on as a gainful business and whose chief function is the gathering of persons from the immediate neighborhood in a structure for the purposes of recreation, culture, social interaction, health care, or education other than Institutional Uses as defined in this Section.

**Court.** Any space on a lot other than a yard that, from a point not more than two feet above the floor line of the lowest story in the building on the lot in which there are windows from rooms abutting and served by the court, is

<sup>1</sup> Capitalized terms used in this Appendix D are defined in the Planning Code as of the effective date of the SUD and provided as a reference. See User Guide, Relationship to the SUD and Planning Code on page 2 of this D4D.

open and unobstructed to the sky, except for obstructions permitted by this Code. An "outer court" is a court, one entire side or end of which is bounded by a front setback, a rear yard, a side yard, a front lot line, a street, or an alley. An "inner court" is any court that is not an outer court.

**Dwelling Unit.** A Residential Use defined as a room or suite of two or more rooms that is designed for, or is occupied by, one family doing its own cooking therein and having only one kitchen. A housekeeping room as defined in the Housing Code shall be a Dwelling Unit for purposes of this Code. For the purposes of this Code, a Live/Work Unit, as defined in this Section, shall not be considered a Dwelling Unit.

Entertainment, Arts and Recreation Use. A Use Category that includes Amusement Game Arcade, Arts Activities, General Entertainment, Livery Stables, Movie Theater, Nighttime Entertainment, Open Recreation Area, Outdoor Entertainment, Passive Outdoor Recreation and Sports Stadiums. Adult Business is not included in this definition, except for the purposes of Development Impact Fee Calculation as described in Article 4.

**Entertainment, General**. A Retail Entertainment, Arts and Recreation Use that provides entertainment or leisure pursuits to the general public including dramatic and musical performances where alcohol is not served during performances, billiard halls, bowling alleys, skating rinks, and mini-golf, when conducted within a completely enclosed building, and which is adequately soundproofed or insulated so as to confine incidental noise to the premises.

**Entertainment, Nighttime.** A Retail Entertainment, Arts and Recreation Use that includes dance halls, discotheques, nightclubs, private clubs, and other similar evening-oriented entertainment activities which require dance hall keeper police permits or Place of Entertainment police permits, as defined in Section 1060 of the Police Code, which are not limited to non-amplified

live entertainment, including Restaurants and Bars which present such activities, but shall not include any Arts Activity, any theater performance space which does not serve alcoholic beverages during performances, or any temporary uses permitted pursuant to Sections 205 through 205.4 of this Code.

**Entertainment, Outdoor.** A Retail Entertainment, Arts and Recreation Use that includes circuses, carnivals, or other amusement enterprises not conducted within a building, and conducted on premises not less than 200 feet from any R District.

**Façade.** An entire exterior wall assembly including, but not limited to, all finishes and siding, fenestration, doors, recesses, openings, bays, parapets, sheathing, and framing.

**Gift Store—Tourist Oriented.** A Retail Sales and Service Use that involves the marketing of small art goods, gifts, souvenirs, curios, or novelties to the public, particularly those who are visitors to San Francisco rather than local residents.

Grocery, General. A Retail Sales and Services Use that:

- (a) Offers a diverse variety of unrelated, non-complementary food and non-food commodities, such as beverages, dairy, dry goods, fresh produce and other perishable items, frozen foods, household products, and paper goods;
- (b) May provide beer, wine, and/or liquor sales for consumption off the premises with a California Alcoholic Beverage Control Board License type 20 (off-sale beer and wine) or type 21 (off-sale general) that occupy less than 15% of the Occupied Floor Area of the establishment (including all areas devoted to the display and sale of alcoholic beverages);
- (c) May prepare minor amounts of food on site for immediate consumption;

- (d) Markets the majority of its merchandise at retail prices; and
- (e) Shall operate with the specified conditions in Section 202.2(a)(1).
- (f) Such businesses require Conditional Use authorization for conversion of a General Grocery use greater than 5,000 square feet, pursuant to Section 202.3 and 303(I).

Grocery, Specialty. A Retail Sales and Services Use that:

- (a) Offers specialty food products such as baked goods, pasta, cheese, confections, coffee, meat, seafood, produce, artisanal goods, and other specialty food products, and may also offer additional food and non-food commodities related or complementary to the specialty food products;
- (b) May provide beer, wine, and/or liquor sales for consumption off the premises with a California Alcoholic Beverage Control Board License type 20 (off-sale beer and wine) or type 21 (off-sale general) which occupy less than 15% of the Occupied Floor Area of the establishment (including all areas devoted to the display and sale of alcoholic beverages);
- (c) May prepare minor amounts of food on site for immediate consumption off-site with no seating permitted; and
- (d) Markets the majority of its merchandise at retail prices.
- (e) Such businesses that provide food or drink per subsections (b) and (c) above shall operate with the specified conditions in Section 202.2(a)(1).

**Group Housing.** A Residential Use that provides lodging or both meals and lodging, without individual cooking facilities, by prearrangement for a week or more at a time, in a space not defined by this Code as a dwelling unit. Such group housing shall include, but not necessarily

be limited to, a Residential Hotel, boardinghouse, guesthouse, rooming house, lodging house, residence club, commune, fraternity or sorority house, monastery, nunnery, convent, or ashram. It shall also include group housing affiliated with and operated by a medical or educational institution, when not located on the same lot as such institution, which shall meet the applicable provisions of Section 304.5 of this Code concerning institutional master plans.

**Gym.** A Retail Sales and Service Use including a health club, fitness, gymnasium, or exercise facility when including equipment and space for weight-lifting and cardiovascular activities.

**Height.** The vertical distance by which a building or structure rises above a certain point of measurement. See Section 260 of this Code for how height is measured.

Hospital. An Institutional Healthcare Use that includes a hospital, medical center, or other medical institution that provides facilities for inpatient or outpatient medical care and may also include medical offices, clinics, laboratories, and employee or student dormitories and other housing, operated by and affiliated with the institution, which institution has met the applicable provisions of Section 304.5 of this Code concerning institutional master plans.

Hotel. A Retail Sales and Services Use that provides tourist accommodations, including guest rooms or suites, which are intended or designed to be used, rented, or hired out to guests (transient visitors) intending to occupy the room for less than 32 consecutive days. This definition also applies to buildings containing six or more guest rooms designated and certified as tourist units, under Chapter 41 of the San Francisco Administrative Code. For purposes of this Code, a Hotel does not include (except within the Bayshore-Hester Special Use District as provided for in Sections 713 and 780.2 of this Code) a Motel, which contains guest rooms or suites that are independently accessible from the outside, with garage or parking space located on the lot, and designed for,

or occupied by, automobile-traveling transient visitors. Hotels shall be designed to include all lobbies, offices, and internal circulation to guest rooms and suites within and integral to the same enclosed building or buildings as the guest rooms or suites.

Industrial Use. A Use Category containing the following uses: Agricultural and Beverage Processing 1 and 2, Automobile Wrecking, Automobile Assembly, Grain Elevator, Hazardous Waste Facility, Junkyard, Livestock Processing 1 and 2, Heavy Manufacturing 1, 2, and 3, Light Manufacturing, Metal Working, Power Plant, Ship Yard, Storage Yard, Volatile Materials Storage, and Truck Terminal.

Institutional Use. A Use Category that includes Child Care Facility, Community Facility, Private Community Facility, Hospital, Job Training, Medical Cannabis Dispensary, Philanthropic Administrative Services, Religious Institution, Residential Care Facility, Social Service or Philanthropic Facility, Post-Secondary Educational Institution, Public Facility, School, and Trade School.

Laboratory. A Non-Retail Sales and Services Use intended or primarily suitable for scientific research. The space requirements of uses within this category include specialized facilities and/or built accommodations that distinguish the space from Office uses, Light Manufacturing, or Heavy Manufacturing. Examples of laboratories include the following:

- (a) Chemistry, biochemistry, or analytical laboratory;
- (b) Engineering laboratory;
- (c) Development laboratory;
- (d) Biological laboratories including those classified by the Centers for Disease Control (CDC) and National Institutes of Health (NIH) as Biosafety level 1, Biosafety level 2, or Biosafety level 3;
- (e) Animal facility or vivarium, including laboratories classified by the CDC/NIH as Animal Biosafety level 1,

Animal Biosafety level 2, or Animal Biosafety level 3;

- (f) Support laboratory;
- (g) Quality assurance/Quality control laboratory;
- (h) Core laboratory; and
- (i) Cannabis testing facility (any use requiring License Type 8—Testing Laboratory, as defined in California Business and Professions Code, Division 10).

Life Science. A Non-Retail Sales and Service Use that involves the integration of natural and engineering sciences and advanced biological techniques using organisms, cells, and parts thereof for products and services. This includes the creation of products and services used to analyze and detect various illnesses, the design of products that cure illnesses, and/or the provision of capital goods and services, machinery, instruments, software, and reagents related to research and production. Life Science uses may utilize office, laboratory, light manufacturing, or other types of space. As a subset of Life Science uses, Life Science laboratories typically include biological laboratories and animal facilities or vivaria, as described in the Laboratory definition Subsections (d) and (e).

**Liquor Store.** A Retail Sales and Service Use that sells beer, wine, or distilled spirits to a customer in an open or closed container for consumption off the premises and that needs a State of California Alcoholic Beverage Control Board License type 20 (off-sale beer and wine) or type 21 (off-sale general) This classification shall not include retail uses that:

- (a) are both (1) classified as a General Grocery, a Specialty Grocery, or a Restaurant- Limited, and (2) have a Gross Floor Area devoted to alcoholic beverages that is within the applicable accessory use limits for the use district in which it is located, or
- (b) have both (1) a Non-residential Use Size of greater than 10,000 gross square feet and (2) a gross floor area

devoted to alcoholic beverages that is within accessory use limits as set forth in Section 204.3 or Section 703(d) of this Code, depending on the zoning district in which the use is located.

- (c) For purposes of Planning Code Sections 249.5, 781.8, 781.9, 782, and 784, the retail uses explicitly exempted from this definition as set forth above shall only apply to General Grocery and Specialty Grocery stores that exceed 5,000 square feet in size shall not:
- (1) sell any malt beverage with an alcohol content greater than 5.7 percent by volume; any wine with an alcohol content of greater than 15 percent by volume, except for "dinner wines" that have been aged two years or more and maintained in a corked bottle; or any distilled spirits in container sizes smaller than 600 milliliters;
- (2) devote more than 15 percent of the gross square footage of the establishment to the display and sale of alcoholic beverages; and
- (3) sell single servings of beer in container sizes 24 ounces or smaller.

**Livery Stable.** A Retail Entertainment, Arts and Recreation Use where horses and carriages are kept for hire and where stabling is provided. This use also includes horse riding academies.

**Locker.** A fully enclosed and secure bicycle parking space accessible only to the owner or operator of the bicycle or owner and operator of the locker.

Manufacturing, Light. An Industrial Use that provides for the fabrication or production of goods, by hand or machinery, for distribution to retailers or wholesalers for resale off the premises, primarily involving the assembly, packaging, repairing, or processing of previously prepared materials. Light manufacturing uses include production and custom activities usually involving individual or special design, or handiwork, such as the following fabrication or production activities, as may be defined by the Standard Industrial Classification Code Manual as

light manufacturing uses:

- (a) Food processing;
- (b) Apparel and other garment products;
- (c) Furniture and fixtures;
- (d) Printing and publishing of books or newspapers;
- (e) Leather products;
- (f) Pottery;
- (g) Glass-blowing;
- (h) Commercial laundry, rug cleaning, and dry cleaning facility;
- (i) Measuring, analyzing, and controlling instruments; photographic, medical, and optical goods; watches and clocks; or
- (j) Manufacture of cannabis products or cannabis extracts that are derived without the use of volatile organic compounds (any use requiring License Type 6—Manufacturer 1, as defined in California Business and Professions Code, Division 10).

It shall not include Trade Shop, Agricultural and Beverage Processing 1 or 2, or Heavy Manufacturing 1, 2, or 3. This use is subject to the location and operation controls in Section 202.2(d).

**Metal Working.** An Industrial use that includes metal working or blacksmith shop; excluding presses of over 20 tons' capacity and machine-operated drop hammers. This use is subject to location and operational controls in Section 202.2(d).

**Monitored Parking.** A location where Class 2 parking spaces are provided within an area under constant surveillance by an attendant or security guard or by a monitored camera.

Office, General. A Non-Retail Sales and Service Use that includes space within a structure or portion thereof intended or primarily suitable for occupancy by persons or entities which perform, provide for their own benefit, or provide to others at that location, services including, but not limited to, the following: professional, banking, insurance, management, consulting, technical, sales, and design; and the non-accessory office functions of manufacturing and warehousing businesses, multimedia, software development, web design, electronic commerce, and information technology. This use shall exclude Non-Retail Professional Services as well as Retail Uses; repair; any business characterized by the physical transfer of tangible goods to customers on the premises; wholesale shipping, receiving and storage; and design showrooms or any other space intended and primarily suitable for display of goods.

**Open Recreation Area.** A Non-Commercial Entertainment, Arts and Recreation Use that is not publicly owned which is not screened from public view, has no structures other than those necessary and incidental to the open land use, is not operated as a gainful business, and is devoted to outdoor recreation such as golf, tennis, or riding.

**Outdoor Activity Area.** A Commercial Use characteristic defined as an area associated with a legally established use, not including primary circulation space or any public street, located outside of a building or in a courtyard, which is provided for the use or convenience of patrons of a commercial establishment including, but not limited to, sitting, eating, drinking, dancing, and food-service activities.

Parking Garage, Private. A Non-Retail Automotive Use that provides temporary parking accommodations for automobiles, trucks, vans, bicycles, or motorcycles in a garage not open to the general public, without parking of recreational vehicles, mobile homes, boats, or other vehicles, or storage of vehicles, goods, or equipment. Provisions regulating automobile parking are set forth in Sections 155, 156, 303(t) or (u) and other provisions of Article 1.5 of this Code.

Parking Garage, Public. A Retail Automotive Use that provides temporary parking accommodations for automobiles, trucks, vans, bicycles, or motorcycles in a garage open to the general public, without parking of recreational vehicles, mobile homes, boats, or other vehicles, or storage of vehicles, goods, or equipment. Provisions regulating automobile parking are set forth in Sections 155, 156, 303(t) or (u) and other provisions of Article 1.5 of this Code.

Parking Lot, Private. A Non-Retail Automotive Use that provides temporary off-street parking accommodations for private automobiles, trucks, vans, bicycles, or motorcycles on an open lot or lot surrounded by a fence or wall not open to the general public, without parking of recreational vehicles, motor homes, boats, or other vehicles, or storage of vehicles, goods, or equipment. Provisions regulating automobile parking are set forth in Sections 155, 156, 303(t) or (u) and other provisions of Article 1.5 of this Code

Parking Lot, Public. A Retail Automotive Use that provides temporary parking accommodations for private automobiles, trucks, vans, bicycles, or motorcycles on an open lot or lot surrounded by a fence or wall open to the general public, without parking of recreational vehicles, motor homes, boats, or other vehicles, or storage of vehicles, goods, or equipment. Provisions regulating automobile parking are set forth in Sections 155, 156, 303(t) or (u) and other provisions of Article 1.5 of this Code.

Passive Outdoor Recreation. A Non-Commercial Entertainment, Arts and Recreation Use defined as an open space used for passive recreational purposes that is not publicly owned and is not screened from public view, has no structures other than those necessary and incidental to the open land use, is not served by vehicles other than normal maintenance equipment, and has no retail or wholesale sales on the premises. Such open space may include, but not necessarily be limited to, a park, playground, or rest area.

Permeable Surface. Permeable surfaces are those that allow stormwater to infiltrate the underlying soils. Permeable surfaces shall include, but not be limited to, vegetative planting beds, porous asphalt, porous concrete, single-sized aggregate, open-jointed blocks, stone, pavers, or brick that are loose-set and without mortar. Permeable surfaces are required to be contained so neither sediment nor the permeable surface discharges off the site.

Plan Dimensions. The linear horizontal dimensions of a building or structure, at a given level, between the outside surfaces of its exterior walls. The "length" of a building or structure is the greatest plan dimension parallel to an exterior wall or walls and is equivalent to the horizontal dimension of the corresponding elevation of the building or structure at that level. The "diagonal dimension" of a building or structure is the plan dimension between the two most separated points on the exterior walls.

**Public Utilities Yard.** A Utility and Infrastructure Use that is defined as a service yard for public utility, or public use of a similar character, if conducted entirely within an area completely enclosed by a wall or concealing fence not less than six feet high.

Residential Use. A Use Category consisting of uses that provide housing for San Francisco residents, rather than visitors, including Dwelling Units, Group Housing, Residential Hotels, and Senior Housing, Homeless Shelters, and for the purposes of Article 4 only any residential components of Institutional Uses. Single Room Occupancy and Student Housing designations are consider characteristics of certain Residential Uses.

**Restaurant.** A Retail Sales and Service use that serves prepared, ready-to-eat cooked foods to customers for consumption on the premises and which has seating. As a minor and incidental use, it may serve such foods to customers for off-site consumption. It may provide on-site beer, wine, and/or liquor sales for drinking on the premises (with ABC license types 41, 47, 49, 59, or 75); however, if it does so, it shall be required to operate as a Bona Fide Eating Place. It is distinct and separate from

a Limited-Restaurant. Such businesses shall operate with the specified conditions in Section 202.2(a)(1).

It shall not be required to operate within an enclosed building so long as it is also a Mobile Food Facility. Any associated outdoor seating and/or dining area is subject to regulation as an Outdoor Activity Area as set forth elsewhere in this Code.

Restaurant, Limited. A Retail Sales and Service Use that serves ready-to-eat foods and/or drinks to customers for consumption on or off the premises, that may or may not have seating. It may include wholesaling, manufacturing, or processing of foods, goods, or commodities on the premises as an Accessory Use as set forth in Sections 204.3 or 703.2 depending on the zoning district in which it is located. It includes, but is not limited to, foods provided by sandwich shops, coffee houses. pizzerias, ice cream shops, bakeries, delicatessens, and confectioneries meeting the above characteristics, but is distinct from a Specialty Grocery, Restaurant, and Bar. Within the North Beach SUD, it is also distinct from Specialty Food Manufacturing, as defined in Section 780.3(b). It shall not provide on-site beer and/or wine sales for consumption on the premises, but may provide off-site beer and/or wine sales for consumption off the premises with a California Alcoholic Beverage Control Board License type 20 (off-sale beer and wine), that occupy less than 15% of the Occupied Floor Area of the establishment (including all areas devoted to the display and sale of alcoholic beverages). Such businesses shall operate with the specified conditions in Section 202.2(a) (1).

**Restricted Access Parking.** A location that provides Class 2 bicycle racks within a locked room or locked enclosure accessible only to the owners of bicycles parked within.

Sales and Services, Non-Retail. A Commercial Use category that includes Uses that involve the sale of goods or services to other businesses rather than the end user, or that does not provide for direct sales to the consumer on site. Uses in this category include, but are not limited

to: Business Services, Catering, Commercial Storage, Design Professional, General Office, Laboratory, Life Science, Non-Retail Professional Service, Trade Office, Wholesale Sales, and Wholesale Storage.

Sales and Services, Retail. A Commercial Use category that includes Uses that involve the sale of goods, typically in small quantities, or services directly to the ultimate consumer or end user with some space for retail service on site, excluding Retail Entertainment Arts and Recreation, and Retail Automobile Uses and including, but not limited to: Adult Business, Animal Hospital, Bar, Cannabis Retail, Cat Boarding, Chair and Foot Massage, Tourist Oriented Gift Store, General Grocery, Specialty Grocery, Gym, Hotel, Jewelry Store, Kennel, Liquor Store, Massage Establishment, Mortuary (Columbarium), Motel, Non-Auto Sales, Pharmacy, Restaurant, Limited Restaurant, General Retail Sales and Service, Financial Service, Fringe Financial Service, Limited Financial Service, Health Service, Instructional Service, Personal Service, Retail Professional Service, Self-Storage, Tobacco Paraphernalia Establishment, and Trade Shop.

Service, Business. A Non-Retail Sales and Service Use that provides the following kinds of services to businesses and/or to the general public and does not fall under the definition of Office: radio and television stations, newspaper bureaus, magazine and trade publication publishing, microfilm recording, slide duplicating, bulk mail services, parcel shipping services, parcel labeling and packaging services, messenger delivery/courier services, sign painting and lettering services, or building maintenance services.

**Service, Instructional.** A Retail Sales and Service Use that includes instructional services not certified by the State Educational Agency, such as art, dance, exercise, martial arts, and music classes.

**Service, Non-Retail Professional.** A Non-Retail Sales and Service Office Use that provides professional services to other businesses including, but not limited to, accounting, legal, consulting, insurance, real estate

brokerage, advertising agencies, public relations agencies, computer and data processing services, employment agencies, management consultants and other similar consultants, telephone message services, and travel services. This use may also provide services to the general public but is not required to. This use shall not include research services of an industrial or scientific nature in a commercial or medical laboratory, other than routine medical testing and analysis by a health-care professional or hospital.

**Service, Personal.** A Retail Sales and Services Use that provides grooming services to the individual, including salons, cosmetic services, tattoo parlors, and health spas, bathhouses, and steam rooms. Personal Service does not include Massage Establishments or Gym, which are defined separately in this Section.

Single Room Occupancy (SRO) Unit. A Residential Use characteristic, defined as a Dwelling Unit or Group Housing room consisting of no more than one occupied room with a maximum gross floor area of 350 square feet and meeting the Housing Code's minimum floor area standards. The unit may have a bathroom in addition to the occupied room. As a Dwelling Unit, it would have a cooking facility and bathroom. As a group housing room, it would share a kitchen with one or more other single room occupancy unit/s in the same building and may also share a bathroom. A single room occupancy building (or "SRO" building) is one that contains only SRO units and accessory living space.

**Stacked Parking.** Bicycle parking spaces where racks are stacked and the racks that are not on the ground accommodate mechanically-assisted lifting in order to mount the bicycle.

**Storage Yard.** An Industrial Use involving the storage of building materials or lumber, stones or monuments, livestock feed, or contractors' equipment, if conducted within an area enclosed by a wall or concealing fence not less than six feet high. This use does not include Vehicle Storage or a Hazardous Waste Facility.

Student Housing. A Residential Use characteristic defined as a living space for students of accredited Post-Secondary Educational Institutions that may take the form of Dwelling Units, Group Housing, or SRO Unit and is owned, operated, or otherwise controlled by an accredited Post-Secondary Educational Institution. Unless expressly provided for elsewhere in this Code, the use of Student Housing is permitted where the form of housing is permitted in the underlying Zoning District in which it is located. Student Housing may consist of all or part of a building, and Student Housing owned, operated, or controlled by more than one Post-Secondary Educational Institution may be located in one building.

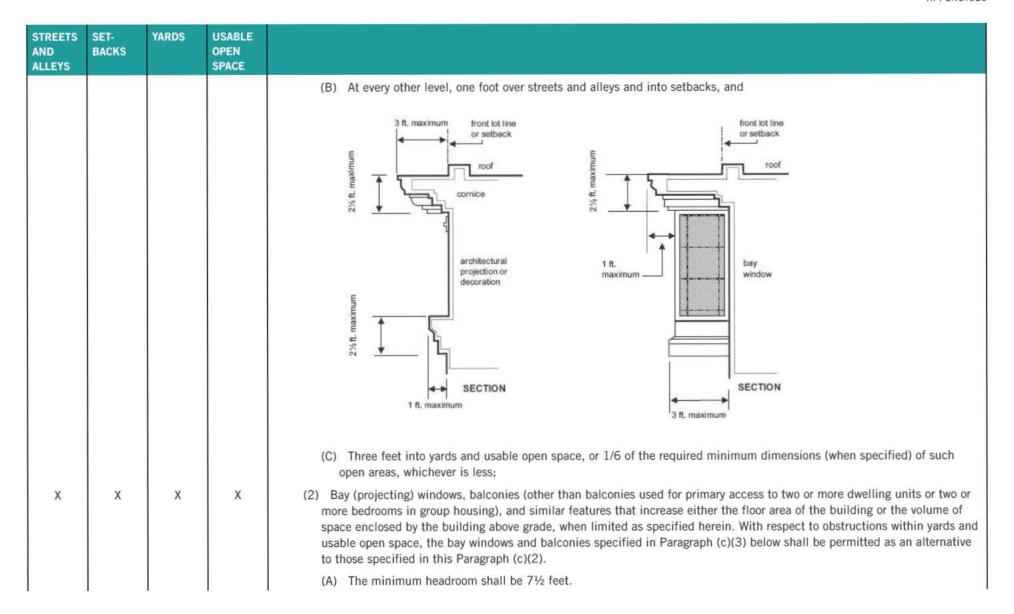
Trade Offices. A Non-Retail Sales and Service Use that includes business offices of building, plumbing, electrical, painting, roofing, furnace, or pest control contractors, if no storage of equipment or items for wholesale use are located on site. It may also include incidental accessory storage of office supplies and samples if located entirely within an enclosed building having no openings other than fixed windows or exits required by law within 50 feet of an R District, and if the storage of equipment and supplies does not occupy more than of the total gross floor area of the use. No processing of building materials, such as mixing of concrete or heating of asphalt shall be conducted on the premises. Parking, loading, and unloading of all vehicles used by the contractor shall be located entirely within the building containing the use.

Vehicle Storage Lot. A Retail Automotive Use that provides for the storage of buses, recreational vehicles, mobile homes, trailers, or boats and/or storage for more than 72 hours of other vehicles on an open lot. It shall not include rooftop storage. Vehicle Storage Lots shall comply with the Screening and Greening requirements of Section 142.

**Vertical Bicycle Parking.** Bicycle Parking that requires both wheels to be lifted off the ground, with at least one wheel that is no more than 12 inches above the ground.

# SECTION 136. OBSTRUCTIONS OVER STREETS AND ALLEYS AND IN REQUIRED SETBACKS, YARDS, AND USEABLE OPEN SPACE

| STREETS<br>AND<br>ALLEYS | SET-<br>BACKS | YARDS | USABLE<br>OPEN<br>SPACE |   |
|--------------------------|---------------|-------|-------------------------|---|
|                          |               |       |                         | (a) The following obstructions shall be permitted, in the manner specified, as indicated by the symbol "X" in the columns at the left, within the required open areas listed herein:  |
|                          |               |       |                         | (1) Projections from a building or structure extending over a street or alley as defined by this Code. Every portion of such projections over a street or alley shall provide a minimum of 7½ feet of vertical clearance from the sidewalk or other surface above which it is situated, or such greater vertical clearance as may be required by the San Francisco Building Code, unless the contrary is stated below. The permit under which any such projection over a street or alley is erected over public property shall not be construed to create any perpetual right but is a revocable license; |
|                          |               |       |                         | (2) Obstructions within legislated setback lines and front setback areas, as required by Sections 131 and 132 of this Code;   |
|                          |               |       |                         | (3) Obstructions within side yards and rear yards, as required by Sections 133 and 134 of this Code;  |
|                          |               |       |                         | (4) Obstructions within usable open space, as required by Section 135 of this Code  |
|                          |               |       |                         | (b) No obstruction shall be constructed, placed, or maintained in any such required open area except as specified in this Section.  |
|                          |               |       |                         | (c) The permitted obstructions shall be as follows:   |
| X                        | Х             | x     | X                       | (1) Overhead horizontal projections (leaving at least 7½ feet of headroom) of a purely architectural or decorative character such as cornices, eaves, sills and belt courses, with a vertical dimension of no more than two feet six inches, not increasing the floor area or the volume of space enclosed by the building, and not projecting more than:   |
|                          |               |       |                         | (A) At roof level, three feet over streets and alleys and into setbacks, or to a perimeter in such required open areas<br>parallel to and one foot outside the surfaces of bay windows immediately below such features, whichever is the greater<br>projection,   |



| THE PERSON NAMED IN COLUMN TWO IS NOT THE OWNER. | SET-<br>BACKS | YARDS | USABLE<br>OPEN<br>SPACE |  |
|--|---------------|-------|-------------------------|--|
|  |               |       |                         | (B) Projection into the required open area shall be limited to three feet, provided that projection over streets and alleys shall be further limited to two feet where the sidewalk width is nine feet or less, and the projection shall in no case be closer than eight feet to the centerline of any alley.  STREET  |
|  |               |       |                         | (C) The glass areas of each bay window, and the open portions of each balcony, shall be not less than 50 percent of the sum of the areas of the vertical surfaces of such bay window or balcony above the required open area. At least 1/3 of such required glass area of such bay window, and open portions of such balcony, shall be on one or more vertical surfaces situated at an angle of not less than 30 degrees to the line establishing the required open area. In addition, at least 1/3 of such required glass area or open portions shall be on the vertical surface parallel to, or most nearly parallel to, the line establishing each open area over which the bay window or balcony projects. |

| STREETS<br>AND<br>ALLEYS | SET-<br>BACKS | YARDS | USABLE<br>OPEN<br>SPACE |  |
|--------------------------|---------------|-------|-------------------------|--|
|                          |               |       |                         | (D) The maximum length of each bay window or balcony shall be 15 feet at the line establishing the required open area, and shall be reduced in proportion to the distance from such line by means of 45 degree angles drawn inward from the ends of such 15-foot dimension, reaching a maximum of nine feet along a line parallel to and at a distance of three feet from the line establishing the required open area.  |
|                          |               |       |                         | 9 ft. maximum line establishing required open area  bay window  15 ft. maximum   |
|                          |               |       |                         | (E) Where a bay window and a balcony are located immediately adjacent to one another, and the floor of such balcony in its entirety has a minimum horizontal dimension of six feet, the limitations of Subparagraph (c)(2)(D) above shall be increased to a maximum length of 18 feet at the line establishing the required open area, and a maximum of 12 feet along a line parallel to and at a distance of three feet from the line establishing the required open area.  12 ft. maximum  6 ft. minimum for floor |
|                          |               |       |                         | bay window line establishing required open area  |

| STREETS SET-<br>AND BACK<br>ALLEYS | YARDS | USABLE<br>OPEN<br>SPACE |  |
|------------------------------------|-------|-------------------------|--|
|                                    |       |                         | (F) The minimum horizontal separation between bay windows, between balconies, and between bay windows and<br>balconies (except where a bay window and a balcony are located immediately adjacent to one another, as provided for in<br>Subparagraph (c)(2)(E) above), shall be two feet at the line establishing the required open area, and shall be increased<br>in proportion to the distance from such line by means of 135-degree angles drawn outward from the ends of such two-<br>foot dimension, reaching a minimum of eight feet along a line parallel to and at a distance of three feet from the line<br>establishing the required open area.  |
|                                    |       |                         | (G) Each bay window or balcony over a street or alley, setback or rear yard shall also be horizontally separated from interior<br>lot lines (except where the wall of a building on the adjoining lot is flush to the interior lot line immediately adjacent<br>to the projecting portions of such bay window or balcony) by not less than one foot at the line establishing the required<br>open area, with such separation increased in proportion to the distance from such line by means of a 135-degree angle<br>drawn outward from such one-foot dimension, reaching a minimum of four feet along a line parallel to and at a distance<br>of three feet from the line establishing the required open area; |
|                                    |       |                         | bay window  bay window  135°  4 ft. minimum  1 ft. minimum  |

| STREETS<br>AND<br>ALLEYS | SET-<br>BACKS | YARDS | USABLE<br>OPEN<br>SPACE |  |
|--------------------------|---------------|-------|-------------------------|--|
|                          |               | х     | Х                       | (3) Bay (projecting) windows, balconies (other than balconies used for primary access to two or more dwelling units or two or more bedrooms in group housing), and similar features that increase either the floor area of the building or the volume of space enclosed by the building above grade, when limited as specified herein. With respect to obstructions within yards an usable open space, the bay windows and balconies specified in Paragraph (c)(2) above shall be permitted as an alternative to those specified in this Paragraph (c)(3). (A) The minimum headroom shall be 7½ feet.  |
|                          |               |       |                         | (B) Projection into the required open area shall be limited to three feet, or 1/6 of the required minimum dimension (when specified) of the open area, whichever is less.  |
|                          |               |       |                         | (C) In the case of bay windows, the maximum length of each bay window shall be 10 feet, and the minimum horizontal<br>separation between bay windows shall be five feet, above all parts of the required open area.  |
|                          |               |       |                         | (D) The aggregate length of all bay windows and balconies projecting into the required open area shall be no more than the buildable width of the lot along a rear building wall, 2/3 the buildable length of a street side building wall, or 1/3 the length of all open areas along the buildable length of an interior side lot line; in the case of yards, these limits on aggregate length shall apply to the aggregate of all bay windows, balconies, fire escapes and chimneys.  |
|                          |               |       |                         | line establishing required open area ——————————————————————————————————  |
|                          |               |       |                         | bay window fire escape bay window to the scape bay win |
|                          |               |       |                         | maximum total of 2/3 buildable width of lot along rear building wall   |
| Х                        | х             | х     | X                       | (4) Fire escapes, leaving at least 7½ feet of headroom exclusive of drop ladders to grade, and not projecting more than necessary for safety or in any case more than four feet six inches into the required open area. In the case of yards, the aggregate length of all bay windows, balconies, fire escapes and chimneys that extend into the required open area shall be no more than 2/3 the buildable width of the lot along a rear building wall, 2/3 the buildable length of a street side building wall, or 1/3 the buildable length of an interior side lot line;  |

| STREETS<br>AND<br>ALLEYS | SET-<br>BACKS | YARDS | USABLE<br>OPEN<br>SPACE |  |
|--------------------------|---------------|-------|-------------------------|--|
|                          |               |       | X                       | (5) Overhead horizontal projections other than those listed in Paragraphs (c)(1), (2), (3) and (4) above, leaving at least 7½ feet of headroom, where the depth of any such projection is no greater than the headroom it leaves, and in no case is greater than 10 feet; and provided that, in the case of common usable open space at ground level, the open space under the projection directly adjoins uncovered usable open space that is at least 10 feet in depth and 15 feet in width;  7/4 ft.  minimum  10 ft. maximum  10 ft. minimum  10 ft. minimum  10 ft. minimum |
|                          |               | х     |                         | (6) Chimneys not extending more than three feet into the required open area or 1/6 of the required minimum dimension (when specified) of the open area, whichever is less; provided, that the aggregate length of all bay windows, balconies, fire escapes and chimneys that extend into the required open area is no more than 2/3 the buildable width of the lot along a rear building wall, 2/3 the buildable length of a street side building wall, or 1/3 the buildable length of an interior side lot line;  |
| X                        |               |       |                         | (7) Temporary occupancy of street and alley areas during construction and alteration of buildings and structures, as regulated<br>by the Building Code and other portions of the Municipal Code;   |
| Х                        |               |       |                         | (8) Space below grade, as regulated by the Building Code and other portions of the Municipal Code;   |
| X                        | Х             |       |                         | (9) Building curbs and buffer blocks at ground level, not exceeding a height of nine inches above grade or extending more<br>than nine inches into the required open area;   |
| Х                        | Х             |       |                         | (10) Signs as regulated by Article 6 of this Code, at locations and to the extent permitted therein;   |
| X                        | Х             |       |                         | (11) Flagpoles for projecting flags permitted by Article 6 of this Code;   |
| Х                        | Х             |       |                         | (12) Awnings, Canopies, and Marquees and for Limited Commercial Uses in Residential and RTO Districts, as defined in Section 102 and regulated by the Building Code, and as further limited in Section 136.1 and other provisions of this Code;  |

| STREETS<br>AND<br>ALLEYS | SET-<br>BACKS | YARDS | USABLE<br>OPEN<br>SPACE |  |
|--------------------------|---------------|-------|-------------------------|--|
|                          | Х             | Х     | Х                       | (13) Retaining walls that are necessary to maintain approximately the grade existing at the time of construction of a<br>building. Other retaining walls and the grade maintained by them shall be subject to the same regulations as decks (see<br>Paragraphs (c)(24) and (c)(25) below);   |
|                          | X             | X     | X                       | existing grade  SECTION  (14) Steps of any type not more than three feet above grade, and uncovered stairways and landings not extending higher than the floor level of the adjacent first floor of occupancy above the ground story, and, in the case of yards and usable open  |
|                          |               |       |                         | space, extending no more than six feet into the required open area for any portion that is more than three feet above grade, provided that all such stairways and landings shall occupy no more than 2/3 the buildable width of the lot along a front or rear building wall, 2/3 the buildable length of a street side building wall, or 1/3 the length of all open areas along the buildable length of an interior side lot line; |
| X                        | Х             | Х     | Х                       | (15) Railings no more than three feet six inches in height above any permitted step, stairway, landing, fire escape, deck, porch or balcony, or above the surface of any other structure permitted in the required open area.  |
|                          | Х             | х     | Х                       | (16) Decorative railings and decorative grille work, other than wire mesh, at least 75 percent open to perpendicular view and<br>no more than six feet in height above grade;  |
|                          | Х             | Х     | Х                       | (17) Fences no more than three feet in height above grade;   |
|                          |               | Х     | Х                       | (18) Fences and wind screens no more than six feet in height above grade;  |
|                          |               | Х     |                         | (19) Fences and wind screens no more than 10 feet in height above grade;   |
|                          |               | Х     | Х                       | (20) Normal outdoor recreational and household features such as play equipment and drying lines;   |
|                          | Х             | Х     | Х                       | (21) Landscaping and garden furniture;   |

| STREETS<br>AND<br>ALLEYS | SET-<br>BACKS | YARDS | USABLE<br>OPEN<br>SPACE |   |
|--------------------------|---------------|-------|-------------------------|---|
|                          |               | Х     | Х                       | (22) Garden structures enclosed by walls on no more than 50 percent of their perimeter, such as gazebos and sunshades, if<br>no more than eight feet in height above grade and covering no more than 60 square feet of land;  |
|                          |               | Х     |                         | (23) Other structures commonly used in gardening activities, such as greenhouses and sheds for storage of garden tools, if no<br>more than eight feet in height above grade and covering no more than 100 square feet of land;  |
|                          |               | Х     |                         | (24) Decks, whether attached to a building or not, at or below the adjacent first floor of occupancy, if developed as usable<br>open space and meeting the following requirements:  |
|                          |               |       |                         | (A) Slope of 15 percent or less. The floor of the deck shall not exceed a height of three feet above grade at any point in the<br>required open area, nor shall such floor penetrate a plane made by a vertical angle 45 degrees above horizontal with its<br>vertex three feet above grade at any lot line bordering the required open area, |
|                          |               |       |                         | downslope— 15% or less  rear lot line  3 ft.  maximum  3 ft.  required rear yard  SECTION   |
|                          |               |       |                         | upslope 15% or less   |
|                          |               |       |                         | rear lot line 3 ft maximum  required rear yard SECTION  |

| STREETS SET-<br>AND BACKS<br>ALLEYS | OS USABLE<br>OPEN<br>SPACE |  |
|-------------------------------------|----------------------------|--|
| ALLEYS                              | SPACE                      | (B) Slope of more than 15 percent and no more than 70 percent. The floor of the deck shall not exceed a height of three feet above grade at any point along any lot line bordering the required open area, nor shall such floor penetrate a plane made by a vertical angle 45 degrees above horizontal with its vertex three feet above grade at any lot line bordering the required open area, except that when two or more lots are developed with adjacent decks whose floor levels differ by not more than three feet, whether or not the lots will remain in the same ownership, each deck may come all the way to the lot line adjacent to the other deck. In addition, the vertical distance measured up from grade to the floor of the deck shall not exceed seven feet at any point in the required open area,  downslope 16% to 70%  45° plane  rear lot line  required rear yard  SECTION |

| STREETS<br>AND<br>ALLEYS | SET-<br>BACKS | YARDS | USABLE<br>OPEN<br>SPACE |  |  |
|--------------------------|---------------|-------|-------------------------|--|--|
|                          |               |       |                         | (C) Slope of more than 70 percent. Because in these cases the normal usability of the required open area is seriously impaired by the slope, a deck covering not more than 1/3 the area of the required open area may be built exceeding the heights specified above, provided that the light, air, view, and privacy of adjacent lots are not seriously affected. Each such case shall be considered on its individual merits. However, the following points shall be considered guidelines in these cases: |  |
|                          |               |       |                         | (i) The deck shall be designed to provide the minimum obstruction to light, air, view and privacy.   |  |
|                          |               |       |                         | (ii) The deck shall be at least two feet inside all side lot lines.  |  |
|                          |               |       |                         | (iii) On downhill slopes, a horizontal angle of 30 degrees drawn inward from each side lot line at each corner of the rear building line shall be maintained clear, and the deck shall be kept at least 10 feet inside the rear lot line;  |  |
|                          |               | х     |                         | (25) Except in required side yards, decks, and enclosed and unenclosed extensions of buildings, when limited as specified herein:  |  |
|                          |               |       |                         | (A) The structure shall extend no more than 12 feet into the required open area; and shall not occupy any space within the rear 25 percent of the total depth of the lot, or within the rear 15 feet of the depth of the lot, whichever is greater,  |  |
|                          |               |       |                         | (B) Within all parts of the required open area, the structure shall be limited in height to either:  |  |
|                          |               |       |                         | (i) 10 feet above grade, or  |  |
|                          |               |       |                         | subject property   |  |
|                          |               |       |                         | 12 ft. maximum extension cannot occupy rear 25% of lot depth or rear 15 ft., whichever is greater  maximum height 10 ft. above grade rear lot line   |  |

| STREETS<br>AND<br>ALLEYS | SET-<br>BACKS | YARDS | USABLE<br>OPEN<br>SPACE |  |
|--------------------------|---------------|-------|-------------------------|--|
|                          |               |       |                         | (ii) A height not exceeding the floor level of the second floor of occupancy, excluding the ground story, at the rear of the building on the subject property, in which case the structure shall be no closer than five feet to any interior side lot line,  subject property  maximum height not exceeding floor level of adjacent second floor of occupancy excluding ground story  extension cannot occupancy extension cannot occupancy extension annot occupancy extension greater is fit. whichever is greater |
|                          |               |       |                         | (C) Any fence or wind screen extending above the height specified in Subparagraph (c)(25)(B) shall be limited to six feet<br>above such height; shall be no closer to any interior side lot line than one foot for each foot above such height; and shall<br>have not less than 80 percent of its surfaces above such height composed of transparent or translucent materials;   |
|                          |               | X     |                         | (26) Garages which are underground, or under decks conforming to the requirements of Paragraph (c)(24) or (c)(25) above, if<br>their top surfaces are developed as usable open space, provided that no such garage shall occupy any area within the rear<br>15 feet of the depth of the lot;   |

| STREETS<br>AND<br>ALLEYS | SET-<br>BACKS | YARDS | USABLE<br>OPEN<br>SPACE |  |
|--------------------------|---------------|-------|-------------------------|--|
| ALLEYS                   | X             |       | SPACE                   | (27) Garages, where the average slope of the required open area ascends from the street lot line to the line at the setback and exceeds 50 percent, provided the height of the garage is limited to 10 feet above grade, or the floor level of the adjacent first floor of occupancy on the subject property, whichever height is less;  slope of setback area exceeds 50%  front lot line  height not to exceed floor level of adjacent first floor of occupancy  STREET  SECTION |
|                          |               |       |                         | Reserved.  |

| STREETS<br>AND<br>ALLEYS | SET-<br>BACKS | YARDS | USABLE<br>OPEN<br>SPACE |  |
|--------------------------|---------------|-------|-------------------------|--|
|                          |               | х     |                         | (29) Garages, where the subject property is a through lot having both its front and its rear lot line along streets, alleys, or a street and an alley, and both adjoining lots (or the one adjoining lot where the subject property is also a corner lot) contain a garage structure adjacent to the required rear yard on the subject property, provided the garage on the subject property does not exceed the average of the two adjacent garage structures (or the one adjacent garage structure where the subject property is a corner lot) in either height above grade or encroachment upon the required rear yard;   existing  rear yard |
|                          |               |       |                         | existing garage existing adjacent building   |
|                          |               |       |                         | existing garage  existing adjacent building  new garage  subject property  |
|                          |               |       |                         | existing garage existing adjacent building   |
| X                        | х             | х     |                         | (30) Driveways, for use only to provide necessary access to required or permitted parking that is located in the buildable area of the subject property other than in a required open area, and where such driveway has only the minimum width needed for such access, and in no case shall parking be allowed in the setback;   |
|                          |               | Х     | Х                       | (31) In the Outer Clement Street Neighborhood Commercial District, outdoor activity area if used in connection with a<br>commercial use on a contiguous lot and which existed in 1978 and has remained in said use since 1978.   |

| STREETS<br>AND<br>ALLEYS | SET-<br>BACKS | YARDS | USABLE<br>OPEN<br>SPACE |   |  |  |
|--------------------------|---------------|-------|-------------------------|---|--|--|
|                          |               |       |                         | (d) Notwithstanding the limitations of Subsection (c) of this Section, the following provisions shall apply in C-3 districts:   |  |  |
|                          |               |       |                         | (1) Decorative Architectural Features. Decorative architectural features not increasing the interior floor area or volume of the space enclosed by the building are permitted over streets and alleys and into setbacks within the maximum vertical and horizontal dimensions described as follows:   |  |  |
|                          |               |       |                         | (A) At roof level, decorative features such as cornices, eaves, and brackets may project four feet in districts other than C-3-O(SD) and 10 feet in the C-3-O(SD) district with a maximum vertical dimension no greater than six feet.  |  |  |
|                          |               |       |                         | (B) At all levels above the area of minimum vertical clearance required in Subsection (a)(1) above, decorative features, such as belt courses, entablatures, and bosses, may project two feet, with a maximum vertical dimension of four feet, except that in the C-3-O(SD) district at all levels above a minimum vertical clearance of 20 feet from sidewalk grade, decorative features may project half the width of the sidewalk up to a maximum projection of 10 feet. |  |  |
|                          |               |       |                         | (C) At all levels above the area of minimum vertical clearance required by Subsection (a)(1) above, vertical decorative features, such as pilasters, columns, and window frames (including pediment and sills), with a cross-sectional area of not more than three square feet at midpoint, may project one foot horizontally.  |  |  |
|                          |               |       |                         | (2) Bay Windows. Notwithstanding the provisions of Subsections (c)(2)(D) and (F) of this Section, bay windows on nonresidential floors of a structure are permitted only if the width of the bay is at least two times its depth, the total width of all bays on a façade plane does not exceed ½ of the width of the façade plane, and the maximum horizontal (plan) dimensions of the bay fit within the dimensions set forth in the diagram below.                       |  |  |
|                          |               |       |                         | Commerial Bay   |  |  |
|                          |               |       |                         | a commercial bay must fit within these dimensions   |  |  |
|                          |               |       |                         | 2 ft. minimum space to building corner or another bay  10 feet maximum width  width of this surface shall be at least two times the depth of the bay  commercial bay  2 ft. maximum depth   |  |  |
|                          |               |       |                         |   |  |  |

# SECTION 138.1. STREETSCAPE AND PEDESTRIAN IMPROVEMENTS.

| #  | PHYSICAL ELEMENT  | BETTER STREETS PLAN SECTION | #  | PHYSICAL ELEMENT  | BETTER STREETS<br>PLAN SECTION |
|----|---|-----------------------------|--|---|--------------------------------|
| 1  | Curb ramps*   | 5.1                         | 22   | Modern roundabouts  | 5.7                            |
| 2  | Marked crosswalks*                                      | 5.1                         | 23   | Sidewalk or median pocket parks   | 5.8                            |
| 3  | Pedestrian-priority signal devices and timings          | 5.1                         | 24   | Reuse of 'pork chops' and excess right-of-way                                 | 5.8                            |
| 4  | High-visibility crosswalks                              | 5.1                         | 25   | Multi-way boulevard treatments  | 5.8                            |
| 5  | Special crosswalk treatments                            | 5.1                         | 26   | Shared public ways  | 5.8                            |
| 6  | Restrictions on vehicle turning movements at crosswalks | 5.1                         | 27   | Pedestrian-only streets   | 5.8                            |
| 7  | Removal or reduction of permanent crosswalk closures    | 5.1                         | 28   | Public stairs   | 5.8                            |
| 8  | Mid-block crosswalks                                    | 5.1                         | 29   | Street trees*   | 6.1                            |
| 9  | Raised crosswalks                                       | 5.1                         | 30   | Tree basin furnishings*   | 6.1                            |
| 10 | Curb radius guidelines                                  | 5.2                         | 31   | Sidewalk planters*  | 6.1                            |
| 11 | Corner curb extensions or bulb-outs*                    | 5.3                         | 32   | Above-ground landscaping  | 6.1                            |
| 12 | Extended bulb-outs                                      | 5.3                         | 33   | Stormwater management tools*  | 6.2                            |
| 13 | Mid-block bulb-outs                                     | 5.3                         | 34   | Street and pedestrian lighting*   | 6.3                            |
| 14 | Center or side medians                                  | 5.4                         | 35   | Special paving*   | 6.4                            |
| 15 | Pedestrian refuge islands                               | 5.4                         | 36   | Site furnishings*   | 6.5                            |
| 16 | Transit bulb-outs                                       | 5.5                         | 37   | Driveways   | 6.6                            |
| 17 | Transit boarding islands                                | 5.5                         | Table [  | <b>0.13.1</b> Pedestrian and Streetscape Elements per the <i>Better Str</i> . | eets Plan(2010)                |
| 18 | Flexible use of the parking lane                        | 5.6                         | standard streetscape elements marked with a *. (Requirement varies by street type: see the E  Streets Plan.) |   |                                |
| 19 | Parking lane planters                                   | 5.6                         |  |   |                                |

5.75.7

20

21

Chicanes

Traffic calming circles

- (c) Required streetscape and pedestrian improvements. Development projects shall include streetscape and pedestrian improvements on all publicly accessible rights-of-way directly fronting the property as follows:
  - (2) Other streetscape and pedestrian elements for large projects.
    - (A) Application.
      - (i) In any district, streetscape and pedestrian elements in conformance with the Better Streets Plan shall be required, if all the following conditions are present: (1) the project is on a lot that (a) is greater than one-half acre in total area, (b) contains 250 feet of total lot frontage on one or more publicly-accessible rights-of-way, or (c) the frontage encompasses the entire block face between the nearest two intersections with any other publicly-accessible rights-of-way, and (2) the project includes (a) new construction or (b) addition of 20% or more of gross floor area to an existing building.
      - (ii) Project Sponsors that meet the thresholds of this Subsection shall submit a streetscape plan to the Planning Department showing the location, design, and dimensions of all existing and proposed streetscape elements in the public right-of-way directly adjacent to the fronting property, including street trees, sidewalk landscaping, street lighting, site furnishings, utilities, driveways, and curb lines, and the relation of such elements to proposed new construction and site work on the subject property.
    - (B) Standards.
      - (i) Required streetscape elements. A continuous soil-filled trench parallel to the curb shall connect all street tree basins for those street trees required under the Public Works Code. The trench may be covered only by permeable surfaces as defined in Section 102 of the Planning Code, except at required tree basins, where the soil must remain uncovered. The Director of Planning, or his or her designee, may modify or waive this requirement where a continuous trench is not possible due to the location of existing utilities, driveways, sub-sidewalk basements, or other pre-existing surface or sub-surface features.

- (ii) Additional streetscape elements. The Department shall consider, but need not require, additional streetscape elements for the appropriate street type per Table D.13.1 and the Better Streets Plan, including benches, bicycle racks, curb ramps, corner curb extensions, stormwater facilities, lighting, sidewalk landscaping, special sidewalk paving, and other site furnishings, excepting crosswalks and pedestrian signals.
  - a. Streetscape elements shall be selected from a City-approved palette of materials and furnishings, where applicable, and shall be subject to approval by all applicable City agencies.
  - b. Additionally, streetscape elements shall be consistent with the overall character and materials of the district, and shall have a logical transition or termination to the sidewalk and/or roadway adjacent to the fronting property.
- (iii) Sidewalk widening. The Planning Department in consultation with other agencies shall evaluate whether sufficient roadway space is available for sidewalk widening for the entirety or a portion of the fronting public right-of-way in order to meet or exceed the recommended sidewalk widths for the appropriate street type per Table D.13.2 and the Better Streets Plan and/or to provide additional space for pedestrian and streetscape amenities. If it is found that sidewalk widening is feasible and desirable, the Planning Department shall require the owner or developer to install such sidewalk widening as a condition of approval, including all associated utility re-location, drainage, and street and sidewalk paying.
- (iv) Minimum sidewalk width. New publicly-accessible rights-of-way proposed as part of development projects shall meet or exceed the recommended sidewalk widths for the appropriate street type per Table D.13.2. Where a consistent front building setback of 3 feet or greater extending for at least an entire block face is provided, the recommended sidewalk width may be reduced by up to 2 feet.

|                      | STREET TYPE (PER BETTER<br>STREETS PLAN) | RECOMMENDED SIDEWALK WIDTH (MINIMUM REQUIRED FOR NEW STREETS) |
|----------------------|--|---|
| Commercial           | Downtown commercial                      | See Downtown<br>Streetscape Plan                              |
| -                    | Commercial throughway                    | 15'   |
| -                    | Neighborhood commercial                  | 15'   |
| Residential          | Downtown residential                     | 15'   |
| -                    | Residential throughway                   | 15'   |
| -                    | Neighborhood residential                 | 12'   |
| Industrial/Mixed-Use | Industrial                               | 10'   |
| -                    | Mixed-use                                | 15'   |
| Special              | Parkway                                  | 17'   |
| -                    | Park edge (multi-use path)               | 25'   |
| -                    | Multi-way boulevard                      | 15'   |
| -                    | Ceremonial                               | varies  |
| Small                | Alley                                    | 9'  |
| -                    | Shared public way                        | n/a   |
| -                    | Paseo                                    | varies  |

**Table D.13.2** Recommended Sidewalk Widths by Street Type

- (C) Review and approvals.
  - (i) The streetscape plan required by this section shall be submitted to the Planning Department no later than 60 days prior to any Department or Planning Commission approval action, and shall be considered for approval at the time of other project approval actions. The Planning Department may require any or all standard streetscape elements for the appropriate street type per Table 1 and the Better Streets Plan, if it finds

- that these improvements are necessary to meet the goals and objectives of the General Plan of the City and County of San Francisco. In making its determination about required streetscape and pedestrian elements, the Planning Department shall consult with other City agencies tasked with the design, permitting, use, and maintenance of the public right-of-way.
- (ii) Final approval by the affected agencies and construction of such streetscape improvements shall be completed prior to the issuance of the first Certificate of Occupancy or temporary Certificate of Occupancy for the project, unless otherwise extended by the Zoning Administrator. Should conditions, policies, or determinations by other City agencies require a change to the streetscape plan after approval of the streetscape plan but prior to commencement of construction of the streetscape improvements, the Planning Department shall have the authority to require revision to such streetscape plan. In such case, the Zoning Administrator shall extend the timeframe for completion of such improvements by an appropriate duration as necessary.
- (iii) Waiver. Any City agency tasked with the design, permitting, use, and maintenance of the public right-of-way, may waive any or all Department required improvements of the streetscape plan as described in this Subsection under that agency's jurisdiction if said agency determines that such improvement or improvements is inappropriate, interferes with utilities to an extent that makes installation financially infeasible, or would negatively affect the public welfare. Any such waiver shall be from the Director or General Manager of the affected agency, shall be in writing to the applicant and the Department, and shall specify the basis for the waiver. Waivers, if any, shall be obtained prior to commencement of construction of the streetscape improvements unless extenuating circumstances arise during the construction of said improvements. If such a waiver is granted, the Department reserves the right to impose alternative requirements that are the same as or similar to the elements in the adopted streetscape plan after consultation with the affected agency. This Subsection shall not apply to the waiver of the street tree requirement set forth in Section 138.1(c)(1).

# SECTION 153. RULES FOR CALCULATION OF REQUIRED SPACES

- (a) In the calculation of off-street parking, freight loading spaces, and bicycle parking spaces required under Sections 151, 152, 152.1, 155.2, 155.3 and 155.4 of this Code, the following rules shall apply:
  - (1) In the case of mixed uses in the same structure, on the same lot or in the same development, or more than one type of activity involved in the same use, the total requirements for off-street parking and loading spaces shall be the sum of the requirements for the various uses or activities computed separately, including fractional values.
  - (2) Where an initial quantity of floor area, rooms, seats or other form of measurement is exempted from off-street parking or loading requirements, such exemption shall apply only once to the aggregate of that form of measurement. If the initial exempted quantity is exceeded, for either a structure or a lot or a development, the requirement shall apply to the entire such structure, lot or development, unless the contrary is specifically stated in this Code. In combining the requirements for use categories in mixed use buildings, all exemptions for initial quantities of square footage for the uses in question shall be disregarded, excepting the exemption for the initial quantity which is the least among all the uses in question.
  - (3) Where a structure or use is divided by a zoning district boundary line, the requirements as to quantity of off-street parking and loading spaces shall be calculated in proportion to the amount of such structure or use located in each zoning district.

- (4) Where seats are used as the form of measurement, each 22 inches of space on benches, pews and similar seating facilities shall be considered one seat.
- (5) When the calculation of the required number of off-street parking or freight loading spaces results in a fractional number, a fraction of ½ or more shall be adjusted to the next higher whole number of spaces, and a fraction of less than ½ may be disregarded.
- (6) In C-3, MUG, MUR, MUO, UMU, and South of Market Districts, substitution of two service vehicle spaces for each required off-street freight loading space may be made, provided that a minimum of 50 percent of the required number of spaces are provided for freight loading. Where the 50 percent allowable substitution results in a fraction, the fraction shall be disregarded.

# SECTION 155.2. BICYCLE PARKING: APPLICABILITY AND REQUIREMENTS FOR SPECIFIC USES

- (b) Rules for Calculating Bicycle Parking Requirements.
  - (1) Under no circumstances may total bicycle parking provided for any use, building, or lot constitute less than five percent of the automobile parking spaces for the subject building, as required by Section 5.106.4 of the 2013 California Green Building Standards Code (CalGreen) (California Title 24, Part 11), as amended from time to time.
  - (2) Calculations of bicycle parking requirements shall follow the rules of Section 153(a) of this Code.
  - (3) [INTENTIONALLY OMITTED]
  - (4) [INTENTIONALLY OMITTED]
  - (5) [INTENTIONALLY OMITTED]
  - (6) Where a project proposes to construct new Non-Residential Uses or increase the area of existing Non-Residential Uses, for which the project has not identified specific uses at the time of project approval by the Planning Department or Planning Commission, the project shall provide the amount of non-residential bicycle parking required for Retail Sales per Table 155.2.

| USE  | MINIMUM NUMBER OF CLASS 1 SPACES REQUIRED  | MINIMUM NUMBER OF CLASS 2 SPACES REQUIRED   |  |  |  |  |  |  |
|--|--|---|--|--|--|--|--|--|
| RESIDENTIAL USES   | RESIDENTIAL USES   |   |  |  |  |  |  |  |
| Dwelling Units (on lots with 3 units or less)  | No racks required. Provide secure, weather protected space meeting dimensions set in Zoning Administrator Bulletin No. 9, one per unit, easily accessible to residents and not otherwise used for automobile parking or other purposes.  | None.   |  |  |  |  |  |  |
| Dwelling Units (including SRO Units and Student Housing that are Dwelling Units)                             | One Class 1 space for every Dwelling Unit. For buildings containing more than 100 Dwelling Units, 100 Class 1 spaces plus one Class 1 space for every four Dwelling Units over 100. Dwelling Units that are also considered Student Housing shall provide 50 percent more spaces than would otherwise be required. | One per 20 units. Dwelling Units that are also considered Student Housing shall provide 50 percent more spaces than would otherwise be required.  |  |  |  |  |  |  |
| Group Housing (including SRO Units and Student Housing that are Group Housing; Homeless Shelters are exempt) | One Class 1 space for every four beds. For buildings containing over 100 beds, 25 Class 1 spaces plus one Class 1 space for every five beds over 100. Group housing that is also considered Student Housing per Section 102.36 shall provide 50 percent more spaces than would otherwise be required.              | Minimum two spaces. Two Class 2 spaces for every 100 beds. Group Housing that is also considered Student Housing shall provide 50 percent more spaces than would otherwise be required. |  |  |  |  |  |  |
| Senior Housing or Dwelling Units dedicated to persons with physical disabilities                             | One Class 1 space for every 10 units or beds, whichever is applicable.   | Minimum two spaces. Two Class 2 spaces for every 50 units or beds, whichever is applicable.   |  |  |  |  |  |  |
| NON-RESIDENTIAL USES   |  |   |  |  |  |  |  |  |
| Agricultural Uses Category   |  |   |  |  |  |  |  |  |
| Agricultural Uses  | One Class 1 space for every 40,000 square feet.  | None.   |  |  |  |  |  |  |
| Automotive Uses Category   |  |   |  |  |  |  |  |  |
| Automotive Uses not listed below   | One class 1 space for every 12,000 square feet of Occupied Floor Area, except not less than two Class 1 spaces for any use larger than 5,000 occupied square feet.   | Minimum of two spaces. Four Class 2 spaces for any use larger than 50,000 occupied square feet.   |  |  |  |  |  |  |
| Private Parking Garage or Lot, Public Parking Garage or Lot, Vehicle Storage Garage or Lot                   | None are required. However, if Class 1 spaces that can be rented on an hourly basis are provided, they may count toward the garage's requirement for Class 2 spaces.   | One Class 2 space for every 20 car spaces, except in no case less than six Class 2 spaces.  |  |  |  |  |  |  |
| Entertainment, Arts and Recreation Uses Category   |  |   |  |  |  |  |  |  |
| Entertainment, Arts and Recreation Uses not listed below   | Five Class 1 spaces for facilities with a capacity of less than 500 guests; 10 Class 1 spaces for facilities with capacity of greater than 500 guests.   | One Class 2 space for every 500 seats or for every portion of each 50 person capacity.  |  |  |  |  |  |  |
| Arts Activities  | Minimum two spaces or one Class 1 space for every 5,000 square feet of Occupied Floor Area.  | Minimum two spaces or one Class 2 space for every 2,500 square feet of publicly accessible or exhibition space.   |  |  |  |  |  |  |

| USE  | MINIMUM NUMBER OF CLASS 1 SPACES REQUIRED  | MINIMUM NUMBER OF CLASS 2 SPACES REQUIRED  |
|--|--|--|
| Sports Stadium, Arena, Amphitheater, or other venue of public gathering with a capacity of greater than 2,000 people | One Class 1 space for every 20 Employees during events.  | Five percent of venue capacity excluding Employees. A portion of these must be provided in Attended Facilities as described in Section 155.1(b)(3).  |
| Industrial Uses Category   |  |  |
| Industrial Uses  | One Class 1 space for every 12,000 square feet of Occupied Floor Area, except not less than two Class 1 spaces for any use larger than 5,000 occupied square feet. | Minimum of two spaces. Four Class 2 spaces for any use larger than 50,000 occupied square feet.  |
| Institutional Uses Category  |  |  |
| Child Care Facility  | Minimum two spaces or one space for every 20 children.   | One Class 2 space for every 20 children.   |
| Community Facility, Private Community Facility, Public Facility  | Minimum two spaces or one Class 1 space for every 5,000 square feet of Occupied Floor Area.  | Minimum two spaces or one Class 2 space for every 2,500 occupied square feet of publicly-accessible or exhibition area.  |
| Hospital   | One Class 1 space for every 15,000 square feet of Occupied Floor Area.   | One Class 2 space for every 30,000 square feet of Occupied Floor Area, but no less than four located near each public pedestrian entrance.   |
| Medical Cannabis Dispensary  | One Class 1 space for every 7,500 square feet of Occupied Floor Area.  | Minimum two spaces. One Class 2 space for every 2,500 square feet of Occupied Floor Area. For uses larger than 50,000 occupied gross square feet, 10 Class 2 spaces plus one Class 2 space for every additional 10,000 occupied square feet. |
| Philanthropic Administrative Service, Social Service or Philanthropic Facility                                       | One Class 1 space for every 5,000 square feet of Occupied Floor Area.  | Minimum two spaces for any use greater than 5,000 square feet of Occupied Floor Area, and one Class 2 space for each additional 50,000 occupied square feet.   |
| Post-Secondary Educational Institution or Trade School   | One Class 1 space for every 20,000 square feet of Occupied Floor Area.   | Minimum two spaces. One Class 2 space for every 10,000 square feet of Occupied Floor Area.   |
| Religious Facility   | Five Class 1 spaces for facilities with a capacity of less than 500 guests; 10 Class 1 spaces for facilities with a capacity of greater than 500 guests.           | One Class 2 space for every 500 seats or for every portion of each 50 person capacity.   |
| Residential Care Facility  | None required.   | Minimum two spaces. Two Class 2 spaces for every 50 units or beds, whichever is applicable.  |
| School   | Four Class 1 spaces for every classroom.   | One Class 2 space for every classroom.   |

| USE  | MINIMUM NUMBER OF CLASS 1 SPACES REQUIRED  | MINIMUM NUMBER OF CLASS 2 SPACES REQUIRED  |  |  |  |  |  |
|--|--|--|--|--|--|--|--|
| Sales and Services Use Category  |  |  |  |  |  |  |  |
| Retail Sales and Services Uses not listed below  | One Class 1 space for every 7,500 square feet of Occupied Floor Area.  | Minimum two spaces. One Class 2 space for every 2,500 sq. ft. of Occupied Floor Area. For uses larger than 50,000 occupied square feet, 10 Class 2 spaces plus one Class 2 space for every additional 10,000 occupied square feet. |  |  |  |  |  |
| Eating and Drinking Uses, Personal Services, Financial Services  | One Class 1 space for every 7,500 square feet of Occupied Floor Area.  | Minimum two spaces. One Class 2 space for every 750 square feet of Occupied Floor Area.  |  |  |  |  |  |
| Health Service   | One Class 1 space for every 5,000 square feet of Occupied Floor Area.  | One Class 2 space for every 15,000 square feet of Occupied Floor Area, but no less than four located near each public pedestrian entrance.   |  |  |  |  |  |
| Hotel, Motel   | One Class 1 space for every 30 rooms.  | Minimum two spaces. One Class 2 space for every 30 rooms -plus- One Class 2 space for every 5,000 square feet of Occupied Floor Area of conference, meeting or function rooms.   |  |  |  |  |  |
| Mortuary   | None.  | None.  |  |  |  |  |  |
| Retail space devoted to the handling of bulky merchandise such as motor vehicles, machinery or furniture, excluding grocery stores | Minimum two spaces. One Class 1 space for every 15,000 square feet of Occupied Floor Area.   | Minimum two spaces. One Class 2 space for every 10,000 square feet of Occupied Floor Area.   |  |  |  |  |  |
| Self-Storage   | One Class 1 space for every 40,000 square feet.  | None.  |  |  |  |  |  |
| Trade Shop, Retail Greenhouse or Nursery   | One Class 1 space for every 12,000 square feet of Occupied Floor Area, except not less than two Class 1 spaces for any use larger than 5,000 occupied square feet. | Minimum of two spaces. Four Class 2 spaces for any use larger than 50,000 occupied square feet.  |  |  |  |  |  |
| Non-Retail Sales and Services not listed below   | One Class 1 space for every 12,000 square feet of Occupied Floor Area, except not less than two Class 1 spaces for any use larger than 5,000 occupied square feet. | Minimum of two spaces. Four Class 2 spaces for any use larger than 50,000 gross square feet.   |  |  |  |  |  |
| Commercial Storage, Wholesale Storage  | One Class 1 space for every 40,000 square feet of Occupied Floor Area.   | None.  |  |  |  |  |  |
| Office   | One Class 1 space for every 5,000 square feet of Occupied Floor Area.  | Minimum two spaces for any Office Use greater than 5,000 square feet of Occupied Floor Area, and one Class 2 space for each additional 50,000 occupied square feet.  |  |  |  |  |  |
| Utility and Infrastructure Uses Category   |  |  |  |  |  |  |  |
| Utility and Infrastructure Uses non listed below   | None required.   | None required.   |  |  |  |  |  |

# SECTION 155.4. REQUIREMENTS FOR SHOWER FACILITIES AND LOCKERS

# (c) Requirements.

| USES  | MINIMUM SHOWER FACILITY AND LOCKERS REQUIRED   |
|---|--|
| Entertainment, Arts and Recreation Uses; Industrial Uses; Institutional Uses; Non-Retail Sales and Services Uses; Utility and Infrastructure Uses; Small Enterprise Workspace; and Trade Shop | - One shower and six clothes lockers where the Occupied Floor Area exceeds 10,000 square feet but is no greater than 20,000 square feet, |
|   | - Two showers and 12 clothes lockers where the Occupied Floor Area exceeds 20,000 square feet but is no greater than 50,000 square feet, |
|   | - Four showers and 24 clothes lockers are required where the Occupied Floor Area exceeds 50,000 square feet.                             |
| Retail Sales and Services Uses, except as listed above  | - One shower and six clothes lockers where the Occupied Floor Area exceeds 25,000 square feet but is no greater than 50,000 square feet, |
|   | - Two showers and 12 clothes lockers where the Occupied Floor Area exceeds 50,000 square feet.   |

#### SECTION 166. CAR SHARING

- (a) Findings. The Board hereby finds and declares as follows: One of the challenges posed by new development is the increased number of privately-owned automobiles it brings to San Francisco's congested neighborhoods. Growth in the number of privately-owned automobiles increases demands on the City's limited parking supply and often contributes to increased traffic congestion, transit delays, pollution and noise. Car-sharing can mitigate the negative impacts of new development by reducing the rate of individual car-ownership per household, the average number of vehicle miles driven per household and the total amount of automobile-generated pollution per household. Accordingly, car-sharing services should be supported through the Planning Code when a car-sharing organization can demonstrate that it reduces:
  - (1) the number of individually-owned automobiles per household;
  - (2) vehicle miles traveled per household; and
  - (3) vehicle emissions generated per household.
- (b) Definitions. For purposes of this Code, the following definitions shall apply:
  - (1) A "car-share service" is a mobility enhancement service that provides an integrated citywide network of neighborhood-based motor vehicles available only to members by reservation on an hourly basis, or in smaller intervals, and at variable rates. Car-sharing is designed to complement existing transit and bicycle transportation systems by providing a practical alternative to private motor vehicle ownership, with the goal of reducing over-dependency on individually owned motor vehicles. Car-share vehicles must be located at unstaffed, self-service locations (other than any incidental garage valet service), and generally be available for pick-up by members 24 hours per day. A car-share service shall provide automobile insurance for its members when using car-share vehicles and shall assume responsibility for maintaining car-share vehicles.
  - (2) A "certified car-share organization" is any public or private entity that provides a membership-based car-share service to the public and manages, maintains and insures motor vehicles for shared use by individual and group members. To qualify as a certified car-share organization, a car-share organization shall submit a written report prepared by an independent third party academic institution or transportation consulting firm that clearly demonstrates, based

- on a statistically significant analysis of quantitative data, that such car-sharing service has achieved two or more of the following environmental performance goals in any market where they have operated for at least two years: (A) lower household automobile ownership among members than the market area's general population; (B) lower annual vehicle miles traveled per member household than the market area's general population; (C) lower annual vehicle emissions per member household than the market area's general population; and (D) higher rates of transit usage, walking, bicycling and other nonautomobile modes of transportation usage for commute trips among members than the market area's general population. This report shall be called a Carsharing Certification Study and shall be reviewed by Planning Department staff for accuracy and made available to the public upon request. The Zoning Administrator shall only approve certification of a car-share organization if the Planning Department concludes that the Certification Study is technically accurate and clearly demonstrates that the car-share organization has achieved two or more of the above environmental performance goals during a twoyear period of operation. The Zoning Administrator shall establish specific quantifiable performance thresholds, as appropriate, for each of the three environmental performance goals set forth in this subsection.
- (3) The Planning Department shall maintain a list of certified car-share organizations that the Zoning Administrator has determined satisfy the minimum environmental performance criteria set forth in subsection 166(b)(2) above. Any car-share organization seeking to benefit from any of the provisions of this Code must be listed as a certified car-share organization.
- (4) An "off-street car-share parking space" is any parking space generally complying with the standards set forth for the district in which it is located and dedicated for current or future use by any car-share organization through a deed restriction, condition of approval or license agreement. Such deed restriction, condition of approval or license agreement must grant priority use to any certified car-share organization that can make use of the space, although such spaces may be occupied by other vehicles so long as no certified car-share organization can make use of the dedicated car-share spaces. Any off-street car-share parking space provided under this Section must be provided as an independently accessible parking space. In new parking facilities that do not

provide any independently accessible spaces other than those spaces required for disabled parking, off-street car-share parking may be provided on vehicle lifts so long as the parking space is easily accessible on a self-service basis 24 hours per day to members of the certified car-share organization. Property owners may enact reasonable security measures to ensure such 24-hour access does not jeopardize the safety and security of the larger parking facility where the car-share parking space is located so long as such security measures do not prevent practical and ready access to the off-street car-share parking spaces.

- (5) A "car-share vehicle" is a vehicle provided by a certified car-share organization for the purpose of providing a car-share-service.
- (6) A "property owner" refers to the owner of a property at the time of project approval and its successors and assigns.
- (c) Generally Permitted. Car-share spaces shall be generally permitted in the same manner as residential accessory parking. Any residential or commercial parking space may be voluntarily converted to a car-share space.
- (d) Requirements for Provision of Car-Share Parking Spaces.
  - (1) Amount of Required Spaces. In newly constructed buildings containing residential uses or existing buildings being converted to residential uses, if parking is provided, car-share parking spaces shall be provided in the amount specified in Table 166. In newly constructed buildings containing parking for non-residential uses, including non-accessory parking in a garage or lot, carshare parking spaces shall be provided in the amount specified in Table 166.

| NUMBER OF RESIDENTIAL UNITS   | NUMBER OF REQUIRED CAR-SHARE PARK-<br>ING SPACES |
|---|--|
| 0 - 49  | 0  |
| 50 - 200  | 1  |
| 201 or more   | 2, plus 1 for every 200 dwelling units over 200  |
|   |  |
| NUMBER OF PARKING SPACES PROVIDED<br>FOR NON-RESIDENTIAL USES OR IN A<br>NON-ACCESSORY PARKING FACILITY | NUMBER OF REQUIRED CAR-SHARE PARK-<br>ING SPACES |
| FOR NON-RESIDENTIAL USES OR IN A  |  |
| FOR NON-RESIDENTIAL USES OR IN A<br>NON-ACCESSORY PARKING FACILITY                                      | ING SPACES                                       |

Table 166: REQUIRED CAR-SHARE PARKING SPACES

- (2) Availability of Car-Share Spaces. The required car-share spaces shall be made available, at no cost, to a certified car-share organization for purposes of providing car-share services for its car-share service subscribers. At the election of the property owner, the car-share spaces may be provided
  - (A) on the building site, or
  - (B) on another off-street site within 800 feet of the building site.
- (3) Off-Street Spaces. If the car-share space or spaces are located on the building site or another off-street site:
  - (A) The parking areas of the building shall be designed in a manner that will make the car-share parking spaces accessible to non-resident subscribers from outside the building as well as building residents;
  - (B) Prior to Planning Department approval of the first building or site permit for a building subject to the car-share requirement, a Notice of Special Restriction on the property shall be recorded indicating the nature of requirements of this Section and identifying the minimum number and location of the required car-share parking spaces. The form of the notice and the location or locations of the car-share parking spaces shall be approved by the Planning Department;
  - (C) All required car-share parking spaces shall be constructed and provided at no cost concurrently with the construction and sale of units; and
  - (D) if it is demonstrated to the satisfaction of the Planning Department that no certified car-share organization can make use of the dedicated car-share parking spaces, the spaces may be occupied by non-car-share vehicles; provided, however, that upon ninety (90) days of advance written notice to the property owner from a certified car-sharing organization, the property owner shall terminate any non car-sharing leases for such spaces and shall make the spaces available to the car-share organization for its use of such spaces.
- (e) Substitution for Required Parking. Provision of a required car-share parking space shall satisfy or may substitute for any required residential parking; however,

- such space shall not be counted against the maximum number of parking spaces allowed by this Code as a principal use, an accessory use, or a conditional use.
- (f) List of Car-Share Projects. The Planning Department shall maintain a publicly-accessible list, updated quarterly, of all projects approved with required off-street car-share parking spaces. The list shall contain the Assessor's Block and Lot number, address, number of required off-street car-share parking spaces, project sponsor or property owner contact information and other pertinent information, as determined by the Zoning Administrator.
- (g) Optional Car-Share Spaces.
  - (1) Amount of Optional Spaces. In addition to any permitted or required parking that may apply to the project, the property owner may elect to provide additional car-share parking spaces in the maximum amount specified in Table 166A; provided, however, that the optional car-share parking spaces authorized by this subsection (g) are not permitted for a project that receives a Conditional Use authorization to increase parking. Additional car-share parking spaces shall be allowed beyond the maximum amount specified in Table 166A, to the extent needed, when such additional car-share parking spaces are part of a Development Project's compliance with the Transportation Demand Management Program set forth in Section 169 of the Planning Code.

| NUMBER OF RESIDENTIAL UNITS                       | MAXIMUM NUMBER OF OPTIONAL CAR-<br>SHARE PARKING SPACES |
|---|---|
| 10- 24  | 2   |
| 25 - 49   | 3   |
| 50 or more  | 5   |
|   |   |
| AMOUNT OF SQUARE FOOTAGE FOR NON-RESIDENTIAL USES | MAXIMUM NUMBER OF OPTIONAL CAR-<br>SHARE PARKING SPACES |
|   |   |
| NON-RESIDENTIAL USES                              | SHARE PARKING SPACES                                    |

Table 166A: OPTIONAL CAR-SHARE PARKING SPACES

The optional car-share spaces shall not be counted against the maximum number of parking spaces allowed by this Code as a principal use, an accessory use, or a conditional use.

- (2) Requirements for Optional Car-Share Spaces. All car-share spaces are subject to the following:
  - (A) They shall meet the provisions of this Section 166.
  - (B) The car-share parking spaces shall be deed-restricted and dedicated for car-sharing, and must be offered and maintained in perpetuity.
  - (C) At project entitlement, the property owner must submit a letter of intent from a certified car-share organization that articulates the car-share organization's intent to occupy the requested car-share spaces under this Subsection (g).
  - (D) Use of the car-share vehicles shall not be limited to residents of the building.
  - (E) If an additional car-share space is built, and a certified car-share organization chooses not to place vehicles in that space, the owner of the project may not sell, rent, or otherwise earn fees on the space but may use it for (i) bicycle parking, or (ii) permitted storage and other permitted uses but not for parking of any motorized vehicle; provided, however, that upon ninety (90) days of advance written notice to the property owner from a certified car-sharing organization, the property owner shall terminate any non car-sharing use for such space and shall make the space available to the car-share organization for its use of such space.
  - (F) A sign shall be placed above or next to each car-share parking space stating that the parking space is for car-sharing and cannot be used for private automobile parking. The sign shall meet the Department's design specifications and shall include the name and contact information of a person to call for enforcement of this requirement and such other information as the Department requires. An informational plaque shall also be placed on the outside of the building location, which shall meet the design, location and information requirements established by the

#### Department.

(3) Existing Car-Share Spaces Located on Gas Stations Sites and Surface Parking Lots. If the number of car-share spaces located on a gas station, surface parking lot, or other similar site for at least one year exceeds the total number of required and/or optional car-share parking spaces as provided for under Table 166 and Table 166A, the developer may retain those car-share spaces if the site is redeveloped without reducing the permitted levels of private parking; provided, however, that a property owner cannot seek additional optional car-share parking spaces per Table 166A.

# SEC. 181. NONCONFORMING USES: ENLARGEMENTS, ALTERATIONS AND RECONSTRUCTION.

The following provisions shall apply to nonconforming uses with respect to enlargements, alterations and reconstruction:

- (a) Increases in Nonconformity. A nonconforming use, and any structure occupied by such use, shall not be enlarged, intensified, extended, or moved to another location, with the exception of the construction of a mezzanine within a Live/Work Unit and expansion of Dwelling Units in PDR Districts, unless the result will be elimination of the nonconforming use, except as provided below and in Section 186.1 of this Code. A nonconforming use shall not be extended to occupy additional space in a structure, or additional land outside a structure, or space in another structure, or to displace any other use, except as provided in Sections 182 and 186.1 of this Code.
- (b) Permitted Alterations. A structure occupied by a nonconforming use shall not be constructed, reconstructed or altered, unless the result will be elimination of the nonconforming use, except as provided in Section 186.1 of this Code and in Subsections (a) above and (d), (e), (f), (g), (h) and (i) below, and except as follows:
- (1) Ordinary maintenance and minor repairs shall be permitted where necessary to keep the structure in sound condition, as well as minor alterations, where such work is limited to replacement of existing materials with similar materials placed in a similar manner.
- (2) Minor alterations shall be permitted where ordered by an appropriate public official to correct immediate hazards to health or safety, or to carry out newly enacted retroactive requirements essential to health or safety.
- (3) Alterations otherwise allowed by this Code shall be permitted for any portion of the structure that will not thereafter be occupied by the nonconforming use, provided the nonconforming use is not enlarged, intensified, extended, or moved to another location.
- (4) All other alterations of a structural nature shall be permitted only to the extent that the aggregate total cost of such other structural alterations, as estimated by the Department of Building Inspection, is less than  $\frac{1}{2}$  of the assessed valuation of the improvements prior to the first such alteration, except that structural alterations required to reinforce the structure to meet the

standards for seismic loads and forces of the Building Code shall be permitted without regard to cost.

- (c) Dwellings Nonconforming as to Density. N/A
- (d) Structures Damaged or Destroyed by Calamity. Notwithstanding the foregoing provisions of this Section 181, a structure occupied by a nonconforming use that is damaged or destroyed by fire, or other calamity, or by Act of God, or by the public enemy, may be restored to its former condition and use; provided that such restoration is permitted by the Building Code, and is started within eighteen months and diligently prosecuted to completion. The age of such a structure for the purposes of Sections 184 and 185 shall nevertheless be computed from the date of the original construction of the structure. Except as provided in Subsection (e) below, no structure occupied by a nonconforming use that is voluntarily razed or required by law to be razed by the owner thereof may thereafter be restored except in full conformity with the use limitations of this Code.

For purposes of this Subsection (d), "started within eighteen months" shall mean that within eighteen months of the fire or other calamity or Act of God, the structure's owner shall have filed a building permit application to restore the structure to its former condition and use.

- (e) Unreinforced Masonry Buildings. In order that major life safety hazards in structures may be eliminated as expeditiously as possible, a structure containing nonconforming uses and constructed of unreinforced masonry that is inconsistent with the requirements of the UMB Seismic Retrofit Ordinance, Ordinance No. 227-92, may be demolished and reconstructed with the same nonconforming use or a use as permitted by Planning Code Section 182; provided that:
- (1) there is no increase in any nonconformity, or any new nonconformity, with respect to the use limitations of this Code;
- (2) the current requirements of the Building Code, the Housing Code and other applicable portions of the Municipal Code are met; and
- (3) such restoration or reconstruction is started within one year after razing or other demolition work on the structure and diligently prosecuted to completion.

- (f) Nighttime Entertainment Uses in Certain Mixed-Use Districts. N/A
- (g) Automotive Sales and Service Signs in the Automotive Special Use District. N/A
- (h) Dwellings in PDR and M-2 Districts. N/A
- (i) Nonconforming Non-Residential Uses in the Eastern Neighborhoods Mixed Use, PDR-1-D, and PDR-1-G Districts. N/A

#### SEC. 182. NONCONFORMING USES: CHANGES OF USE.

The following provisions shall apply to nonconforming uses with respect to changes of use:

- (a) A nonconforming use shall not be changed or modified so as to increase the degree of nonconformity under the use limitations of this Code, with respect to the type of use or its intensity except as provided in Section 181 for Nighttime Entertainment uses within the RSD, MUG, MUR, or SLR Districts. The degree of nonconformity shall be deemed to be increased if the new or modified use is less widely permitted by the use districts of the City than the nonconforming use existing immediately prior thereto. For purposes of this Section, intensification of a Formula Retail use as defined in Section 178(c) is determined to be a change or modification that increases the degree of nonconformity of the use.
- (b) Except as limited in this Subsection, a nonconforming use may be reduced in size, extent or intensity, or changed to a use that is more widely permitted by the use districts of the City than the existing use, subject to the other applicable provisions of this Code. Except as otherwise provided herein, the new use shall still be classified as a nonconforming use.
- (1) Nonconforming Commercial and Industrial uses in a Residential or Residential Enclave District shall be subject to the requirements of Section 186.
- (2) A nonconforming use in a Neighborhood Commercial District may be changed to another use as provided in Subsections (c) and (d) below or as provided in Section 186.1 of this Code.
- (3) A nonconforming use in any South of Market Mixed Use District may not be changed to an Office, Retail, Bar, Restaurant, Nighttime Entertainment, Adult Entertainment, Hotel, Motel, inn, hostel, or Movie Theater use in any district where such use is otherwise not permitted or conditional, except as provided in Subsection (f) below.
- (c) A nonconforming use may be changed to a use listed as a conditional use for the district in which the property is located, only upon approval of a Conditional Use application pursuant to the provisions of Article 3 of this Code, and the new use may thereafter be continued as a permitted conditional use, subject to the limitation of Section 178(b) of this Code.

- (d) A nonconforming use may be changed to a use listed as a principal use for the district in which the property is located, subject to the other applicable provisions of this Code, and the new use may thereafter be continued as a permitted principal use.
- (e) A nonconforming use may be converted to a Dwelling Unit and to two or more Dwelling Units with Conditional Use authorization, in a district where such use is principally permitted, without regard to the requirements of this Code with respect to residential density or required off-street parking, and the Zoning Administrator may provide relief from certain other standards specified in Section 307(h) through the procedures of that Section, provided the nonconforming use is eliminated by such conversion, provided further that the structure is not enlarged, extended or moved to another location, and provided further that the requirements of the Building Code, the Housing Code and other applicable portions of the Municipal Code are met.
- (f) Once a nonconforming use has been changed to a principal or conditional use permitted in the district in which the property is located, or brought closer in any other manner to conformity with the use limitations of this Code, the use of the property may not thereafter be returned to its former nonconforming status, except that within any South of Market Mixed Use District, any area occupied by a nonconforming Office use that is changed to an arts, home and/or business service use falling within the definition of an Arts Activity in Section 102 or zoning categories 816.42 through 816.47 or a wholesale, storage, or light manufacturing use falling within zoning categories 816.64 through 816.67 shall be allowed to return to its former nonconforming Office use. Upon restoration of a previous nonconforming use as permitted above, any modification, enlargement, extension, or change of use, from circumstances that last lawfully existed prior to the change from office use, shall be subject to the provisions of this Article, and the restored nonconforming use shall be considered to have existed continuously since its original establishment, prior to the change to Office use, for purposes of this Article.
- (g) If a nonconforming use has been wrongfully changed to another use in violation of any of the foregoing provisions, and the violation is not immediately corrected when required by the Zoning Administrator, the wrongful change shall be deemed to be a discontinuance or abandonment of the nonconforming use

under Section 183 of this Code.

- (h) If a nonconforming use is a Formula Retail use in a District that prohibits Formula Retail uses, the Formula Retail use is deemed abandoned if it is discontinued for a period of 18 months or more, or otherwise abandoned. The Formula Retail use shall not be restored.
- (1) Change of one nonconforming Formula Retail use to another Formula Retail use that is determined to not be an enlargement or intensification of use, as defined in Subsection 178(c), is subject to the Commission's adopted Performance-Based Design Guidelines tor Formula Retail, which may be applied and approved administratively by the Planning Department. Non-conformance with the Performance-Based Design Guidelines tor Formula Retail as required by the Department may result in termination of the nonconforming Formula Retail use.
- (2) Change of one nonconforming Formula Retail use to another Formula Retail use that is determined to be an enlargement or intensification of use, as defined in Subsection 178(c), is not permitted.

#### SEC. 183. NONCONFORMING USES: DISCONTINUANCE AND ABANDONMENT.

- (a) Discontinuance and Abandonment of a Nonconforming Use, Generally. Whenever a nonconforming use has been changed to a conforming use, or discontinued for a continuous period of three years, or whenever there is otherwise evident a clear intent on the part of the owner to abandon a nonconforming use, such use shall not after being so changed, discontinued, or abandoned be reestablished, and the use of the property thereafter shall be in conformity with the use limitations of this Code for the district in which the property is located. Where no enclosed building is involved, discontinuance of a nonconforming use for a period of six months shall constitute abandonment. Where a Massage Establishment is nonconforming for the reason that it is within 1,000 feet of another such establishment or because it is no longer permitted within the district, discontinuance for a continuous period of three months or change to a conforming use shall constitute abandonment.
- (b) Discontinuance or Abandonment of a Nonconforming Formula Retail Use. Notwithstanding subsection (a) of this Section, when a nonconforming Formula Retail use has been changed to a conforming use or discontinued for a period of 18 months, or whenever there is otherwise evident a clear intent on the part of the owner to abandon a nonconforming Formula Retail use, such use shall not be reestablished after being so changed, discontinued or abandoned, and the use of the property thereafter shall be in conformity with the use limitations of this Code for the district in which the property is located.
- (c) Discontinuance or Abandonment of Self-Storage Use Due to City and County Occupancy. Adoption of the Western South of Market Area Plan resulted in certain land uses, including Self-Storage, that were previously permitted no longer being permitted. The purpose of this subsection 183(c) is to establish a process by which the owner of property with a Self-Storage use that was established and is operating without the benefit of a required change of use permit may seek and obtain the required permit, lease the property to the City and County of San Francisco for a public safety-related purpose, and re-establish a legal nonconforming Self-Storage use after the City vacates the property.
- (1) Legitimization of Existing Self-Storage Use; Notice and Discretionary Review of the Building Permit. In the case of a Self-Storage use that was

- established and has been operating without the benefit of a required change of use permit, the property owner may seek and be granted such permit notwithstanding the limitation of No. 846.48 in Table 846 of this Code, the permit application shall not be subject to the notification requirements of Section 312 or other notification requirements of this Code, and no requests for discretionary review of the building permit shall be accepted by the Planning Department or heard by the Planning Commission provided that:
- (A) the permit application is filed for a property located within (i) the Service/Arts/Light Industrial Zoning District and (ii) 1,000 feet of the South Of Market Special Hall Of Justice Legal Services District; and
- (B) the Zoning Administrator has determined that the existing Self-Storage use (i) has been regularly operating or functioning prior to the effective date of this subsection 183(c) and (ii) is not accessory to any other use; and
- (C) prior to issuance of the building permit to legitimize the existing Self-Storage use, the property owner pays the Transit Impact Development Fee required by Planning Code Section 411et seq. in the amount that was in effect and would have been due at the time of the original establishment of the existing Self-Storage use; and
- (D) the building permit to legitimize the existing Self-Storage use is issued prior to the earlier of (i) commencement of occupancy by the City for a public-safety related purpose or (ii) issuance of a building permit to establish the public safety-related use.

If the property owner has not applied for a building permit to legitimize an existing Self-Storage use and the permit is not issued as set forth in this subsection (c)(1), the Self-Storage use shall be deemed irrevocably abandoned and may not be re-established.

(2) Change of Use from a Self-Storage Use to Public Use; Notice and Discretionary Review of the Building Permit. Any building permit that is required for the City's occupancy of the property for a public-safety related purpose classified as a Public Use under Section 890.80of this Code shall not be subject to the notification requirements of Section 312 or other notification requirements of this Code, and no requests for discretionary review of the

building permit shall be accepted by the Planning Department or heard by the Planning Commission.

- (3) Re-establishment of Self-Storage Use; Notice and Discretionary Review of the Building Permit. An existing nonconforming Self-Storage use or a Self-Storage use that is legitimized pursuant to subsection (c)(1), that in either case is changed to a public safety-related use due solely to occupancy by the City and County of San Francisco acting through any of its departments, shall not be considered discontinued or abandoned for purposes of subsection (a) above or any other provision of this Code and the property owner may resume use of the premises as a Self-Storage use after the City vacates the property, provided that:
- (A) the City's occupancy was for a public safety-related purpose classified as a Public Use under Section 890.80 of the Planning Code;
- (B) if the pre-existing Self-Storage use had been established and was operating without the required change of use permit, the property owner applied for and was granted a building permit to legitimize the pre-existing Self-Storage Use pursuant to subsection (c)(1); and
- (C) the property owner resumes the pre-existing Self-Storage use within two years from the later of (i) the date the City vacated the property or (ii) the date the City's lease for the property was terminated.

The property owner shall apply for and obtain any permits required to resume the pre-existing Self-Storage use within one year from the date the City vacates the property. If the application for a permit is limited to re-establishment of the pre-existing Self-Storage use, the application shall not be subject to the notification requirements of Section 312 or other notification requirements of this Code, and no requests for discretionary review of the building permit shall be accepted by the Planning Department or heard by the Planning Commission.

#### (4) Extensions of Time.

(A) If a permit to resume the pre-existing Self-Storage use is issued but delayed due to an action before the Board of Appeals or other City agency, or a case in any court of competent jurisdiction, the time to resume such pre-existing use shall be extended by the amount of time final action on the permit

was delayed.

- (B) The Zoning Administrator may grant one or more extensions of the time within which the pre-existing Self-Storage use must be resumed if the owner or owners of the property have made a good-faith effort to comply but are unable to do so for reasons that are not within their control.
- (5) Notice to Property Owner. The Planning Department shall provide written notice to the owner of record of any property that is within the scope of Section 183(c) of any proposed ordinance to substantively amend this Section 183(c) prior to a hearing thereon by the Planning Commission, provided that the property owner has sent a written request for said notice to the Zoning Administrator.

# SEC. 188. NONCOMPLYING STRUCTURES: ENLARGEMENTS, ALTERATIONS AND RECONSTRUCTION.

- (a) Within the limitations of this Article 1.7, and especially Sections 172 and 180 hereof, a noncomplying structure as defined in Section 180may be enlarged, altered or relocated, or undergo a change or intensification of use in conformity with the use limitations of this Code, provided that with respect to such structure there is no increase in any discrepancy, or any new discrepancy, at any level of the structure, between existing conditions on the lot and the required standards for new construction set forth in this Code, and provided the remaining requirements of this Code are met.
- (b) A noncomplying structure that is damaged or destroyed by fire, or other calamity, or by Act of God, or by the public enemy, may be restored to its former condition; provided that such restoration is permitted by the Building Code, and is started within eighteen months and diligently prosecuted to completion. Except as provided in Subsection (c) below, no noncomplying structure that is voluntarily razed or required by law to be razed by the owner thereof may thereafter be restored except in full conformity with the requirements of this Code.

For purposes of this Subsection (b), "started within eighteen months" shall mean that within eighteen months of the fire or other calamity or Act of God, the structure's owner shall have filed a building permit application to restore the structure to its former condition and use.

- (c) In order that major life safety hazards in noncomplying structures may be eliminated as expeditiously as possible, a noncomplying structure constructed of unreinforced masonry that is inconsistent with the requirements of the UMB Seismic Retrofit Ordinance, Ordinance No. 227-92, may be demolished and reconstructed to the same level of noncompliance; provided that:
- (1) The current requirements of the Building, Housing and Fire Codes and, as applicable, Planning Code are met, provided that the Zoning Administrator may, and is hereby empowered to, permit minor modifications to Planning Code requirements (which may include permitting an increase in the building envelope or a reduction in the number of parking spaces) to the extent necessary and required to bring the replacement building up to such applicable Code requirements and to allow replacement of the demolished building with a building which contains a comparable amount of square footage or the same

- number of residential units as that of the demolished building. The Zoning Administrator shall provide a written determination regarding such permitted Planning Code modifications; and
- (2) Such restoration or reconstruction is started within one year after razing or other demolition work on the structure and diligently prosecuted to completion.
- (d) Notwithstanding Subsection (a) of this Section, a noncomplying structure as defined in Section 180, may add nonusable space. "Nonusable space" is space not used for living, sleeping, eating, cooking or working. Public corridors, mechanical space, fire stairs and similar areas, are nonusable space. The enlargement must:
- (1) Facilitate the adaptive reuse or the rehabilitation of a landmark site or contributory structure within a Historic District designated under Article 10 of this Code or a significant structure or contributory structure within a Conservation District designated under Article 11 of this Code; and
- (A) Be necessary to comply with Building Code, Fire Code or Planning Code requirements; or
- (B) Enhance the life safety aspects of the building and/or mechanical, environmental control systems; or
- (2) Be located within a C-3 District, and:
- (A) Be necessary to comply with Building Code, Fire Code or Planning Code requirements; or
  - (B) Enhance aesthetic qualities and/or character; or
- (C) Enhance the life safety aspects of the building and/or mechanical, environmental control systems; or
- (D) Accommodate rooftop features exempted from height limits under Section 260(b) or as provided for under Sections 270, 271 or 272 of this Code.
- (3) Application for enlargement of a non-complying structure under Subsection (d)(1) shall be considered as part of an application for a Certificate of Appropriateness under Article 10 or a Permit to Alter under Article 11 of

this Code. Any application to enlarge a noncomplying structure under Article 11 shall be considered as a major alteration under Section 1111 of the Planning Code. Application to alter a noncomplying structure not designated an Article 11 significant or contributory building under Subsection (d)(2) shall be considered under the provisions of Section 309(b) of this Code. These applications shall be subject to the following additional criteria:

- (A) That the enlargement promote the health, safety and welfare of the public; and
- (B) That the enlargement not cause significant shadows or wind impacts on public sidewalks and parks; and
- (C) That the structure provides an appropriate transition to adjacent properties, as necessary; and
- (D) That the interior block open space formed by the rear yards of abutting properties will not be adversely affected; and
- (E) That the access of light and air to abutting properties will not be significantly affected; and
  - (F) That public view corridors not be significantly affected; and
- (4) The City Planning Commission, subject to the same application procedures of Section 188(d)(3) above, may grant an exception to the Planning Code requirements rather than expansion of the structure to accommodate the Planning Code requirements. The exception of the Planning Code requirement shall be subject to the criteria below:
- (A) That the exception promote the health, safety and welfare of the public; and
- (B) That the exception result in an increased benefit to the public and the adjacent properties over the increase in nonconformance; and
- (C) That the exception not be detrimental to either the occupants of the proposed project or to the neighborhood.
- (e) Historic Movie Theater Marquees and Projecting Signs. Notwithstanding Subsection (a) of this Section, and in order that certain character-defining

architectural elements of Qualified Movie Theaters be preserved and enhanced, a noncomplying Historic Movie Theater Projecting Sign, as defined in Section 602, and/or a noncomplying Historic Movie Theater Marquee, as defined in Section 602, may be preserved, rehabilitated, or restored. A noncomplying Historic Movie Theater Projecting Sign or a noncomplying Historic Movie Theater Marquee removed from a Qualified Movie Theater prior to or in absence of an application for replacement may be reconstructed.

- (1) For the purposes of this Section, "Qualified Movie Theater" shall mean a building that: (A) is currently or has been used as a Movie Theater; and (B) is listed on or eligible for listing on the National Register of Historic Places or the California Register of Historical Resources, designated a City Landmark or a contributor to a City Landmark District under Article 10, or designated as a Significant or Contributory Building under Article 11.
- (2) Any preservation, rehabilitation, restoration, or reconstruction permitted under this Section shall be in strict conformity with the overall design, scale, and character of the existing or previously existing Historic Movie Theater Sign or Historic Movie Theater Marquee and:
- (A) For a Qualified Movie Theater that retains its Historic Movie Theater Projecting Sign and/or Historic Movie Theater Marquee, the signage features shall be limited to the following:
- (i) On a Historic Movie Theater Projecting Sign, the historic name associated with a previous theater occupant;
- (ii) On a Historic Movie Theater Marquee, the historic name associated with a previous theater occupant and, where applicable, on the signboard, other information that is an Identifying Sign, as defined in Section 602, provided such information shall be contained within the signboard, shall not consist of any logos, and shall be in the character of lettering historically found on Movie Theater signboards in terms of size, font, and detail.
- (B) For a Qualified Movie Theater where the Historic Movie Theater Projecting Sign and/or Historic Movie Theater Marquee has been removed and is proposed to be reconstructed, the overall design and signage features shall be limited to the following:

- (i) On a Historic Movie Theater Projecting Sign, the historic name associated with a previous theater occupant:
- (ii) On a Historic Movie Theater Marquee, the historic name associated with a previous theater occupant and, where applicable, on the signboard, other information that is an Identifying Sign, as defined in Section 602, provided such information shall be contained within the signboard, shall not consist of any logos, and shall be in the character of lettering historically found on Movie Theater signboards in terms of size, font, and detail.
- (C) Any application to reconstruct shall include evidence of the dimensions, scale, materials, placement, and features of the previously existing Historic Movie Theater Projecting Sign and/or Historic Movie Theater Marquee, as well as any other information required by the Zoning Administrator.
- (D) General advertising signs shall not be permitted on either a Historic Movie Theater Projecting Sign or a Historic Movie Theater Marquee.
- (f) Notwithstanding Subsection (a) of this Section 188, a secondary structure that is noncomplying with respect to the maximum floor area ratio limit may be removed, in whole or in part, and reconstructed pursuant to the criteria below. For purposes of this Subsection (f), a secondary structure means a structure located on a lot with two or more structures that has no more than one-quarter of the gross floor area of the primary structure on the lot.
- (1) The proposed removal and reconstruction shall:
  - (A) Be located within a C-3-R District on Block 295, Lot 16;
  - (B) Promote and enhance the C-3-R District as a retail destination;
- (C) Result in an increased benefit to the public and the adjacent properties;
  - (D) Enhance the aesthetic qualities and/or character of the lot;
- (E) Result in a net decrease of gross floor area of all structures on the subject property;
- (F) Result in a structure that more closely conforms to the floor area ratio limit;

- (G) Not result in an adverse impact to a historic resource;
- (H) Not cause significant shadows or wind impacts on public sidewalks or parks;
  - (I) Not obstruct significant public view corridors; and
  - (J) Not significantly impair light and air to abutting properties.
- (2) An application for removal and reconstruction of a non-complying secondary structure shall be considered under the provisions of Section 309(b) of this Code.
- (g) Notwithstanding subsection (a) of this Section 188, Terrace Infill, defined as floor area or building volume located within an existing terrace that is already framed by no less than one wall, may be permitted to be enclosed on a noncomplying structure, as defined in Planning Code Section 180, notwithstanding otherwise applicable height, floor area ratio and bulk limits. where the noncomplying structure is designated as a Significant Building under Article 11 of this Code and is located on Assessor's Block 0316. An application for Terrace Infill shall be considered a Major Alteration under Section 1111.1 of this Code and shall be subject to the applicable provisions of Article 11 of this Code, including but not limited to the requirement to apply for and procure a Permit to Alter. As part of the Historic Preservation Commission's consideration of such application, in addition to other requirements set forth in this Code, the facts presented must establish that the Terrace Infill (1) would not be visible from the primary building frontage, and (2) would not exceed 1,500 net new square feet per building. Unless the Board of Supervisors adopts an ordinance extending the term of this Subsection 188(g), it shall expire by operation of law on January 31, 2019. After that date, the City Attorney shall cause this Subsection 188(g) to be removed from the Planning Code.

### SECTION 205.1. TEMPORARY USES: SIXTY-DAY LIMIT

A temporary use may be authorized for a period not to exceed 60 days for any of the following uses:

- (a) Neighborhood carnival, exhibition, celebration or festival sponsored by an
  organized group of residents in the vicinity or, in Neighborhood Commercial, Mixed
  Use, PDR, C, or M Districts, sponsored by property owners or businesses in the
  vicinity;
- (b) Booth for charitable, patriotic or welfare purposes;
- (c) Open air sale of agriculturally produced seasonal decorations, including, but not necessarily limited to, Christmas trees and Halloween pumpkins

### SECTION 205.2. TEMPORARY USES: ONE- OR TWO-YEAR LIMIT

A temporary use may be authorized for a period not to exceed two years for any of the following uses:

- (a) Temporary structures and uses incidental to the construction of a group of buildings on the same or adjacent premises;
- (b) Rental or sales office incidental to a new residential development, not including the conduct of a general real estate business, provided that it be located within the development, and in a temporary structure or part of a dwelling. A temporary use may be authorized for a period not to exceed one year (including any extensions) for the following year.
- (c) In any M-1 or M-2 District, an Automobile Wrecking use as defined in Section 102 of this Code, provided if the operation would be a conditional use in the district in question, that the Zoning Administrator determines the operation will meet within 90 days of commencing operation all conditions applicable to such use in that district.
- (d) Temporary Wireless Telecommunications Services (WTS) Facilities for a period of up to one year if the following requirements are met:
  - (1) the Zoning Administrator determines that the Temporary WTS Facility shall be sited and constructed so as to:
    - (A) avoid proximity to residential dwellings to the maximum extent feasible;
    - (B) comply with the provisions of Article 29 of the Police Code;
    - (C) be no taller than needed;
    - (D) be screened to the maximum extent feasible: and
    - (E) be erected for no longer than reasonably required.
  - (2) Permits in excess of 90 days for Temporary WTS Facilities operated for commercial purposes shall be subject to Section 311 and 312 of this Code, where applicable.
  - (3) The Planning Department may require, where appropriate, notices along street frontages abutting the location of the Temporary WTS Facility indicating the nature of the facility and the duration of the permit.

(e) Temporary Cannabis Retail Use for a period of up to one year, as provided by Section 191, to be authorized no earlier than January 1, 2018 and to expire on January 1, 2019.

#### SECTION 205.3. TEMPORARY USES: TWENTY-FOUR-HOUR LIMIT

Within the PDR, C, M, Neighborhood Commercial, or Mixed Use Districts, a temporary use may be authorized for a period not to exceed 24 hours per event once a month for up to 12 events per year per premises for any of the following uses:

- (a) A performance, exhibition, dance, celebration or festival requiring a liquor license, entertainment police permit and/or other City permit when sponsored by an organized group of residents and/or business operators in the neighborhood; or
- (b) A performance, dance or party requiring a liquor license, entertainment and/ or other City permit, an art exhibit, or other similar exhibition in each case if sponsored by a residential or commercial tenant or group of tenants or owneroccupants of the property or structure in which the temporary use is authorized.

When multiple events are proposed within the allowable annual time limit and City permits are to be issued to a particular applicant and premises, only one permit need be granted per annual time period.

#### SECTION 205.4. TEMPORARY USES: INTERMITTENT ACTIVITIES

An intermittent activity is an outdoor use which, while occasional, occurs with some routine or regularity. Intermittent activities include, but are not limited to, the following uses: mobile food facilities, farmers markets, and open-air craft markets. Such uses typically require additional authorization(s) from other City Departments. An intermittent activity may be authorized as a temporary use for a period not to exceed one year.

- (a) In all Districts other than RH, RM, RED, and RTO Districts an intermittent activity is permissible if it satisfies all of the following conditions:
  - (1) It shall not be located within a Building as defined in Section 102 of this Code.
  - (2) It shall not be located on the property for more than either: (i) 6 calendar days for longer than 12 hours per day in any 7-day period; or (ii) 3 calendar days for longer than 24 hours per day in any 7-day period. At the time of application, the applicant shall designate in writing which of the foregoing options shall apply to the activity. No changes shall be made during the authorization period without first filing a new application.
    - (A) The time periods referenced in Subsection (a)(2) each constitute complete calendar days and apply without regard to whether the activity is open to the public or whether the activity is located on the subject property for consecutive days.
    - (B) Days of unused authorization cannot be stored or credited, and any portion of a day that the intermittent activity is located at the subject property shall count toward the 12-hour or the 24-hour limit of Subsection (a)(2).
    - (C) This Subsection (a)(2) shall not apply to any Mobile Food Facility located within a Public (P) District that together with any directly adjoining P District(s) contains more than one acre.
  - (3) It shall be open for business only during the hours of operation permitted as a principal use for the District in which it is located, if any such hourly limits exist.
  - (4) If located in a District that is subject to any of the neighborhood notification requirements as set forth in Section 312 of this Code, notification pursuant to Section 312 shall be required as follows:

- (A) Notification shall be required if the vending space, as defined below, would exceed 300 square feet.
- (B) Notification shall be required if any portion of the vending space would be located within 50 feet of an RH, RM, RED, or RTO District. Distances to RH, RM, RED, and RTO Districts shall be measured from the extreme perimeter of any vending space to the nearest property line of any parcel which is partially or wholly so zoned.
- (C) For purposes of this Section, "Vending Space" shall be defined as the entire area within a single rectangular perimeter formed by extending lines around the extreme limits of all carts, vehicles, tables, chairs, or other equipment associated with all intermittent activities located on the parcel.
- (D) Notwithstanding Subsections (4)(A) and (B) above, and in order to eliminate redundant notification, notification shall not be required for the resumption of an intermittent activity or the extension of time for an intermittent activity when all of the following criteria are met: (i) an intermittent activity is currently authorized on the property or has been authorized on the property within the 12 months immediately preceding the filing of an application for resumption or extension; (ii) the existing or recent intermittent activity lawfully exceeds or exceeded the thresholds of Subsections (4)(A) and/or (B), above, and was the subject of neighborhood notice under Section 312 at the time of its establishment; and (iii) the intermittent activity would not further exceed the thresholds of Subsections (4)(A) and/or (B), above.
- (b) An intermittent activity is allowed in a RH, RM, RED, and RTO District only if it: (1) satisfies all the conditions set forth in Subsection (a); and (2) is located on a parcel that contains or is part of a Hospital, as defined in Section 102 or a Post-Secondary Educational Institution, as defined in Section 102. An intermittent activity authorized under this Subsection shall not operate between the hours of 10:00 p.m. to 7:00 a.m.

#### SECTION 260. HEIGHT LIMITS: MEASUREMENT

- (b) Exemptions. In addition to other height exceptions permitted by this Code, the features listed in this subsection (b) shall be exempt from the height limits established by this Code, in an amount up to but not exceeding that which is specified.
  - (1) The following features shall be exempt provided the limitations indicated for each are observed; and provided further that the sum of the horizontal areas of all features listed in this subsection (b)(1) shall not exceed 20% of the horizontal area of the roof above which they are situated, or, in C-3 Districts and in the Rincon Hill Downtown Residential District, where the top of the building has been separated into a number of stepped elements to reduce the bulk of the upper tower, of the total of all roof areas of the upper towers; and provided further that in any R, RC-3, or RC-4 District the sum of the horizontal areas of all such features located within the first 10 feet of depth of the building, as measured from the front wall of the building, shall not exceed 20% of the horizontal area of the roof in such first 10 feet of depth.

As an alternative, the sum of the horizontal areas of all features listed in this subsection (b)(1) may be equal to but not exceed 20% of the horizontal area permitted for buildings and structures under any bulk limitations in Section 270 of this Code applicable to the subject property.

Any such sum of 20% heretofore described may be increased to 30% by unroofed screening designed either to obscure the features listed under (A) and (B) below or to provide a more balanced and graceful silhouette for the top of the building or structure.

- (A) Mechanical equipment and appurtenances necessary to the operation or maintenance of the building or structure itself, including chimneys, ventilators, plumbing vent stacks, cooling towers, water tanks, panels or devices for the collection of solar or wind energy, and window-washing equipment, together with visual screening for any such features. This exemption shall be limited to the top 10 feet of such features where the height limit is 65 feet or less, and the top 16 feet of such features where the height limit is more than 65 feet.
- (B) Elevator, stair and mechanical penthouses, fire towers, skylights and dormer windows. This exemption shall be limited to the top 10 feet of

such features where the height limit is 65 feet or less, and the top 16 feet of such features where the height limit is more than 65 feet. However, for elevator penthouses, the exemption shall be limited to the top 16 feet and limited to the footprint of the elevator shaft, regardless of the height limit of the building. The design of all elevator penthouses in Residential Districts shall be consistent with the "Residential Design Guidelines" as adopted and periodically amended for specific areas or conditions by the City Planning Commission.

The Zoning Administrator may, after conducting a public hearing, grant a further height exemption for an elevator penthouse for a building with a height limit of more than 65 feet but only to the extent that the Zoning Administrator determines that such an exemption is required to meet state or federal laws or regulations. All requests for height exemptions for elevator penthouses located in Residential or Neighborhood Commercial Districts shall be subject to the neighborhood notification requirements of Sections 311 and 312 of this Code.

- (C) Stage and scenery lofts.
- (D) Ornamental and symbolic features of public and religious buildings and structures, including towers, spires, cupolas, belfries and domes, where such features are not used for human occupancy.
- (E) In any C-3 District, enclosed space related to the recreational use of the roof, not to exceed 16 feet in height.
- (F) Rooftop enclosures and screening for features listed in subsections (b)(1)(A) and (B) above that add additional building volume in any C-3 District except as otherwise allowed in the S-2 Bulk district according to subsection (M) below, Eastern Neighborhoods Mixed Use Districts, or South of Market Mixed Use District. The rooftop enclosure or screen creating the added volume:
  - (i) shall not be subject to the percentage coverage limitations otherwise applicable to this Section 260(b) but shall meet the requirements of Section 141;
    - (ii) shall not exceed 20 feet in height, measured as provided in

subsection (a) above:

- (iii) may have a volume, measured in cubic feet, not to exceed three-fourths of the horizontal area of all upper tower roof areas multiplied by the maximum permitted height of the enclosure or screen;
- (iv) shall not be permitted within the setbacks required by Sections 132.1, 132.2, and 132.3;
- (v) shall not be permitted within any setback required to meet the sun access plane requirements of Section 146; and
- (vi) shall not be permitted within any setback required by Section 261.1.
- (G) In any C-3 District except as otherwise allowed in the S-2 Bulk district according to subsection (M) below, vertical extensions to buildings, such as spires, which enhance the visual appearance of the structure and are not used for human occupancy may be allowed, pursuant to the provisions of Section 309, up to 75 feet above the height otherwise allowed. The extension shall not be subject to the percentage coverage limitations otherwise applicable to this subsection, provided that the extension is less than 100 square feet in cross-section and 18 feet in diagonal dimension.
- (H) In the Rincon Hill Downtown Residential District, enclosed space related to the recreational use of the roof, not to exceed 16 feet in height.
- (I) In the Rincon Hill Downtown Residential District, additional building volume used to enclose or screen from view the features listed under Subsections (b)(1)(A) and (b)(1)(B) above. The rooftop form created by the added volume shall not be subject to the percentage coverage limitations otherwise applicable to this subsection but shall meet the requirements of Section 141, shall not exceed 10 percent of the total height of any building taller than 105 feet, shall have a horizontal area not more than 85 percent of the total area of the highest occupied floor, and shall contain no space for human occupancy. The features described in (b)(1)(B) shall not be limited to 16 feet for buildings taller than 160 feet, but shall be limited by the permissible height of any additional rooftop volume allowed by this Subsection.

- (J) In the Van Ness Special Use District, additional building volume used to enclose or screen from view the features listed under Subsections (b)(1)(A) and (b)(1)(B) above and to provide additional visual interest to the roof of the structure. The rooftop form created by the added volume shall not be subject to the percentage coverage limitations otherwise applicable to this Subsection, but shall meet the requirements of Section 141 and shall not exceed 10 feet in height where the height limit is 65 feet or less or 16 feet where the height limit is more than 65 feet, measured as provided in Subsection (a) above, and may not exceed a total volume, including the volume of the features being enclosed, equal to 3/4 of the horizontal area of all upper tower roof areas of the building measured before the addition of any exempt features times 10 where the height limit is 65 feet or less or times 16 where the height limit is more than 65 feet.
- (K) In the Northeast China Basin Special Use District, light standards for the purpose of lighting the ballpark.
- (L) In the C-3-G District, on sites fronting on Van Ness Avenue in the 120-X height district, additional building volume used to enclose or screen from view the features listed under subsections (b)(1)(A) and (b) (1)(B) above, to allow increased roof height for performance and common space, and to provide additional visual interest to the roof of the structure. The rooftop form created by the added volume shall not be subject to the percentage coverage limitations otherwise applicable to this subsection (b) (1)(L), but shall meet the requirements of Section 141 and shall not exceed 16 feet in height, measured as provided in subsection (a) above. Buildings that are eligible for this exemption are also eligible for exceptions to any quantitative standards set forth in Article 1.2 of this Code through Section 309 of this Code.
- (M) In any S-2 Bulk District for any building which exceeds 550 feet in height, unoccupied building features including mechanical and elevator penthouses, enclosed and unenclosed rooftop screening, and unenclosed architectural features not containing occupied space that extend above the height limit, only as permitted by the Planning Commission according to the procedures of Section 309 and meeting all of the following criteria:

- (i) such elements are demonstrated to not add more than insignificant amounts of additional shadow compared to the same building without such additional elements on any public open spaces as deemed acceptable by the Planning Commission; and
- (ii) such elements are limited to a maximum additional height equivalent to 7.5 percent of the height of the building to the roof of the highest occupied floor, except that in the case of a building in the 1,000-foot height district such elements are not limited in height, and any building regardless of building height or height district may feature a single spire or flagpole with a diagonal in cross-section of less than 18 feet and up to 50 feet in height in addition to elements allowed according to this subsection (M); and
- (iii) such elements are designed as integral components of the building design, enhance both the overall silhouette of the building and the City skyline as viewed from distant public vantage points by producing an elegant and unique building top, and achieve overall design excellence.
- (2) The following features shall be exempt, without regard to their horizontal area, provided the limitations indicated for each are observed:
  - (A) Railings, parapets and catwalks, with a maximum height of four feet.
  - (B) Open railings, catwalks and fire escapes required by law, wherever situated.
  - (C) Unroofed recreation facilities with open fencing, including tennis and basketball courts at roof level, swimming pools with a maximum height of four feet and play equipment with a maximum height of 10 feet.
  - (D) Unenclosed seating areas limited to tables, chairs and benches, and related windscreens, lattices and sunshades with a maximum height of 10 feet.
  - (E) Landscaping, with a maximum height of four feet for all features other than plant materials.

- (F) Short-term parking of passenger automobiles, without additional structures or equipment other than trellises or similar overhead screening for such automobiles with a maximum height of eight feet.
- (G) Amusement parks, carnivals and circuses, where otherwise permitted as temporary uses.
- (H) Flagpoles and flags, clothes poles and clotheslines, and weathervanes.
- (I) Wireless Telecommunications Services Facilities and other antennas, dishes, and towers and related screening elements, subject to any other applicable Planning Code provisions, including but not limited to applicable design review criteria and Planning Code Section 295.
- (J) Warning and navigation signals and beacons, light standards and similar devices, not including any sign regulated by this Code.
  - (K) Public monuments owned by government agencies.
- (L) Cranes, scaffolding and batch plants erected temporarily at active construction sites.
- (M) Structures and equipment necessary for the operation of industrial plants, transportation facilities, public utilities and government installations, where otherwise permitted by this Code and where such structures and equipment do not contain separate floors, not including towers and antennae for transmission, reception, or relay of radio, television, or other electronic signals where permitted as principal or conditional uses by this Code.
- (N) Buildings, structures and equipment of the San Francisco Port Commission, where not subject to this Code due to provisions of the San Francisco Charter or State law.
- (O) Additional building height, up to a height of five feet above the otherwise applicable height limit, where the uppermost floor of the building is to be occupied solely by live/work units located within a South of Market District.

- (P) Enclosed recreational facilities up to a height of 10 feet above the otherwise applicable height limit when located within a 65-U Height and Bulk District and either an MUO or SSO District, and only then when authorized by the Planning Commission as a Conditional Use pursuant to Section 303 of this Code, provided that the project is designed in such a way as to reduce the apparent mass of the structure above a base 50 foot building height.
- (Q) Historic Signs and Vintage Signs permitted pursuant to Article 6 of this Code.
- (R) In the Eastern Neighborhoods Mixed Use Districts, enclosed utility sheds of not more than 100 square feet, exclusively for the storage of landscaping and gardening equipment for adjacent rooftop landscaping, with a maximum height of 8 feet above the otherwise applicable height limit.
- (S) Hospitals, as defined in this Code, that are legal non-complying structures with regard to height, may add additional mechanical equipment so long as the new mechanical equipment 1) is not higher than the highest point of the existing rooftop enclosure, excluding antennas; 2) has minimal visual impact and maximum architectural integration; 3) is necessary for the function of the building; and 4) no other feasible alternatives exist. Any existing rooftop equipment that is out of service or otherwise abandoned must be removed prior to installation of new rooftop equipment.

#### SECTION 602. SIGN DEFINITIONS

The following definitions shall apply to this Article 6, in addition to such definitions elsewhere in this Code as may be appropriate.

#### Area (of a Sign).

- (a) All Signs Except on Windows, Awnings and Marquees. The entire area within a single continuous rectangular perimeter formed by extending lines around the extreme limits of writing, representation, emblem, or any figure of similar character, including any frame or other material or color forming an integral part of the display or used to differentiate such Sign from the background against which it is placed; excluding the necessary supports or uprights on which such Sign is placed but including any Sign Tower. Where a Sign has two or more faces, the area of all faces shall be included in determining the Area of the Sign, except that where two such faces are placed back to back and are at no point more than two feet from one another, the Area of the Sign shall be taken as the area of one face if the two faces are of equal area, or as the area of the larger face if the two faces are of unequal area.
- (b) On Windows. The Area of any Sign painted directly on a window shall be the area within a rectangular perimeter formed by extending lines around the extreme limits of writing, representation, or any figure of similar character depicted on the surface of the window. The Area of any Sign placed on or behind the window glass shall be as described above in subsection (a).
- (c) On Awnings or Marquees. The Area of any Sign on an Awning or Marquee shall be the total of all signage on all faces of the structure. All sign copy on each face shall be computed within one rectangular perimeter formed by extending lines around the extreme limits of writing, representation, or any figure of similar character depicted on the surface of the face of the awning or marquee.

Attached to a Building. Supported, in whole or in part, by a building.

**Business Sign.** A Sign which directs attention to the primary business, commodity, service, industry or other activity which is sold, offered, or conducted on the premises upon which such Sign is located, or to which it is affixed. Where a number of businesses, services, industries, or other activities are conducted on the premises, or a number of commodities, services, or other activities with different brand names or symbols are sold on the premises, up to one-third of the area of a Business Sign, or 25

square feet of Sign area, whichever is the lesser, may be devoted to the advertising of one or more of those businesses, commodities, services, industries, or other activities by brand name or symbol as an accessory function of the Business Sign, provided that such advertising is integrated with the remainder of the Business Sign, and provided also that any limits which may be imposed by this Code on the area of individual Signs and the area of all Signs on the property are not exceeded. The primary business, commodity, service, industry, or other activity on the premises shall mean the use which occupies the greatest area on the premises upon which the Business Sign is located, or to which it is affixed.

**Directly Illuminated Sign.** A Sign designed to give forth artificial light directly (or through transparent or translucent material) from a source of light within such Sign, including but not limited to neon and exposed lamp signs.

Freestanding. In no part supported by a building.

**Freeway.** A highway, in respect to which the owners of abutting lands have no right or easement of access to or from their abutting lands or in respect to which such owners have only limited or restricted right or easement of access, the precise route for which has been determined and designated as a Freeway by an authorized agency of the State or a political subdivision thereof. The term shall include the main traveled portion of the trafficway and all ramps and appurtenant land and structures. Trans-Bay highway crossings shall be deemed to be Freeways within the meaning of this definition for purposes of this Code.

**General Advertising Sign.** A Sign, legally erected prior to the effective date of Section 611 of this Code, which directs attention to a business, commodity, industry or other activity which is sold, offered or conducted elsewhere than on the premises upon which the Sign is located, or to which it is affixed, and which is sold, offered or conducted on such premises only incidentally if at all.

**Height (of a Sign).** The vertical distance from the uppermost point used in measuring the Area of a Sign, as defined in this Section 602, to the ground immediately below such point or to the level of the upper surface of the nearest curb of a Street, Alley or highway (other than a structurally elevated roadway), whichever measurement permits the greater elevation of the Sign.

Historic Movie Theater Projecting Sign. A projecting Business Sign attached to a Qualified Movie Theater, as defined in Section 188(e)(1), when such sign was originally constructed in association with the Qualified Movie Theater or similar historic use. Such Signs are typically characterized by (a) perpendicularity to the primary facade of the building, (b) fixed display of the name of the establishment, often in large lettering descending vertically throughout the length of the Sign; (c) a narrow width that extends for a majority of the vertical distance of a building's facade, typically terminating at or slightly above the Roofline, and (d) an overall scale and nature such that the Sign comprises a significant and character defining architectural feature of the building to which it is attached. Elimination or change of any lettering or other inscription from a Historic Movie Theater Projecting Sign, such as that which may occur with a change of ownership, change of use, or closure does not preclude classification of the Sign under this Section. For specific controls on the preservation, rehabilitation, or restoration of these signs, refer to Section 188(e) of this Code.

Historic Movie Theater Marquee. A Marquee, as defined in Section 102, attached to a Qualified Movie Theater, as defined in Section 188(e)(1), when such Marquee was originally constructed in association with a Movie Theater or similar historic use. Elimination or change of any lettering or other inscription from a Historic Movie Theater Marquee, such as that which may occur with a change of ownership, change of use or closure, does not preclude classification of the Marquee under this Section. For specific controls on the preservation, rehabilitation, or restoration of these Signs, refer to Section 188(e) of this Code.

**Historic Sign.** An Historic Sign is any Sign identified on its own or as one of the character defining features of a property listed or eligible for the National Register of Historic Places or the California Register of Historical Resource, or designated in any manner under Articles 10 or 11 of the Planning Code.

Identifying Sign. A Sign for a use listed in Article 2 of this Code as either a principal or a conditional use permitted in an R District, regardless of the district in which the use itself may be located, which Sign serves to tell only the name, address, and lawful use of the premises upon which the Sign is located, or to which it is affixed. With respect to shopping malls containing five or more stores or establishments in NC Districts, and shopping centers containing five or more stores or establishments in NC-S Districts or in the City Center Special Sign District, Identifying Signs shall include Signs which tell

the name of and/or describe aspects of the operation of the mall or center. Shopping malls, as that term is used in this Section, are characterized by a common pedestrian passageway which provides access to the businesses located therein.

**Indirectly Illuminated Sign.** A Sign illuminated with a light directed primarily toward such Sign and so shielded that no direct rays from the light are visible elsewhere than on the lot where said illumination occurs. If not effectively so shielded, such sign shall be deemed to be a Directly Illuminated Sign.

**Landscaped Freeway.** Any part of a Freeway that is now or hereafter classified by the State or a political subdivision thereof as a Landscaped Freeway, as defined in the California Outdoor Advertising Act. Any part of a Freeway that is not so designated shall be deemed a nonlandscaped Freeway.

**Nameplate.** A sign affixed flat against a wall of a building and serving to designate only the name or the name and professional occupation of a person or persons residing in or occupying space in such building.

**Nonilluminated Sign.** A Sign which is not illuminated, either directly or indirectly.

**Projection.** The horizontal distance by which the furthermost point used in measuring the Area of a Sign, as defined in this Section 602, extends beyond a Street Property Line or a building setback line. A Sign placed flat against a wall of a building parallel to a Street or Alley shall not be deemed to project for purposes of this definition. A Sign on an Awning, Canopy or Marquee shall be deemed to project to the extent that such Sign extends beyond a Street Property Line or a building setback line.

**Roofline.** The upper edge of any building wall or parapet, exclusive of any Sign Tower.

**Roof Sign.** A Sign or any portion thereof erected or painted on or over the roof covering any portion of a building, and either supported on the roof or on an independent structural frame or Sign Tower, or located on the side or roof of a penthouse, roof tank, roof shed, elevator housing or other roof structure.

**Sale or Lease Sign.** A Sign which serves only to indicate with pertinent information the availability for sale, lease or rental of the lot or building on which it is placed, or some part thereof.

**Sign.** Any structure, part thereof, or device or inscription which is located upon, attached to, or painted, projected or represented on any land or right-of-way, or on the outside of any building or structure including an Awning, Canopy, Marquee or similar appendage, or affixed to the glass on the outside or inside of a window so as to be seen from the outside of the building, and which displays or includes any numeral, letter, word, model, banner, emblem, insignia, symbol, device, light, trademark, or other representation used as, or in the nature of, an announcement, advertisement, attention-arrester, direction, warning, or designation by or of any person, firm, group, organization, place, commodity, product, service, business, profession, enterprise or industry.

A "Sign" is composed of those elements included in the Area of the Sign as defined in this Section 602, and in addition the supports, uprights and framework of the display. Except in the case of General Advertising Signs, two or more faces shall be deemed to be a single Sign if such faces are contiguous on the same plane, or are placed back to back to form a single structure and are at no point more than two feet from one another. Also, on Awnings or Marquees, two or more faces shall be deemed to be a single Sign if such faces are on the same Awning or Marquee structure.

**Sign Tower.** A tower, whether attached to a building, Freestanding, or an integral part of a building, which is erected for the primary purpose of incorporating a Sign, or having a Sign attached thereto.

**Street Property Line.** For purposes of this Article 6 only, "street property line" shall mean any line separating private property from either a Street or an Alley.

**Video Sign.** A Sign that displays, emits, or projects or is readily capable of displaying, emitting or projecting a visual representation or image; an animated video, visual representation, or image; or other video image of any kind onto a building, fabric, screen, sidewalk, wall, or other surface through a variety of means, including, but not limited to: camera; computer; digital cinema, imaging, or video; electronic display; fiber optics; film; internet; intranet; light emitting diode screen or video display; microprocessor or microcontrolled based systems; picture frames; plasma display; projector; satellite; scrolling display; streaming video; telephony; television; VHS; wireless transmission; or other technology that can transmit animated or video images.

**Vintage Sign.** A Sign that depicts a land use, a business activity, a public activity, a social activity or historical figure or an activity or use that recalls the City's historic past, as further defined in Section 608.14 of this Code, and as permitted by Sections 303 and 608.14 of this Code.

**Wall Sign.** A Sign painted directly on the wall or placed flat against a building wall with its copy parallel to the wall to which it is attached and not protruding more than the thickness of the sign cabinet.

**Wind Sign.** Any Sign composed of one or more banners, flags, or other objects, mounted serially and fastened in such a manner as to move upon being subjected to pressure by wind or breeze.

**Window Sign.** A Sign painted directly on the surface of a window glass or placed behind the surface of a window glass.

# E. No PG&E Sub-area Scenario

This D4D includes standards, guidelines, and considerations for the redevelopment of the entire PG&E Sub-area as shown in Figure 1.2.1. However, the PG&E Sub-area redevelopment is subject to PG&E's long-range facilities planning. Portions of the PG&E Sub-area may or may not ultimately be redeveloped. The following figures depict how the site's land use, ground-floor uses, streets, pedestrian network, heights, and setbacks would change in the scenario in which the PG&E Sub-area is not redeveloped.

Figure E.13.1 Land Use Plan



Figure E.13.2 Bicycle Network

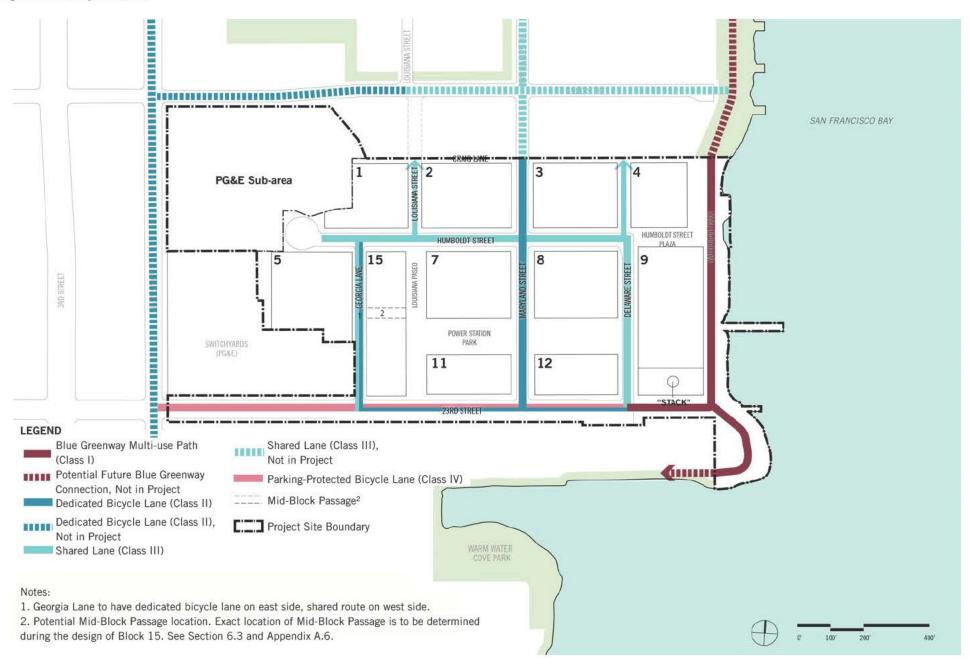


Figure E.13.3 Ground-Floor Uses

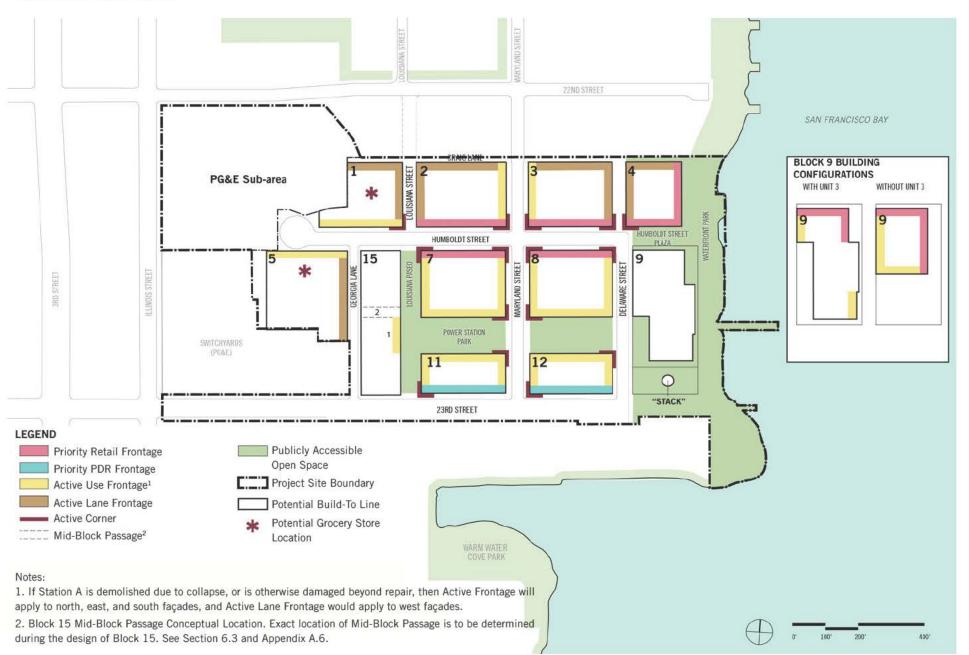


Figure E.13.4 Building Height Plan



Figure E.13.5 Pedestrian Network

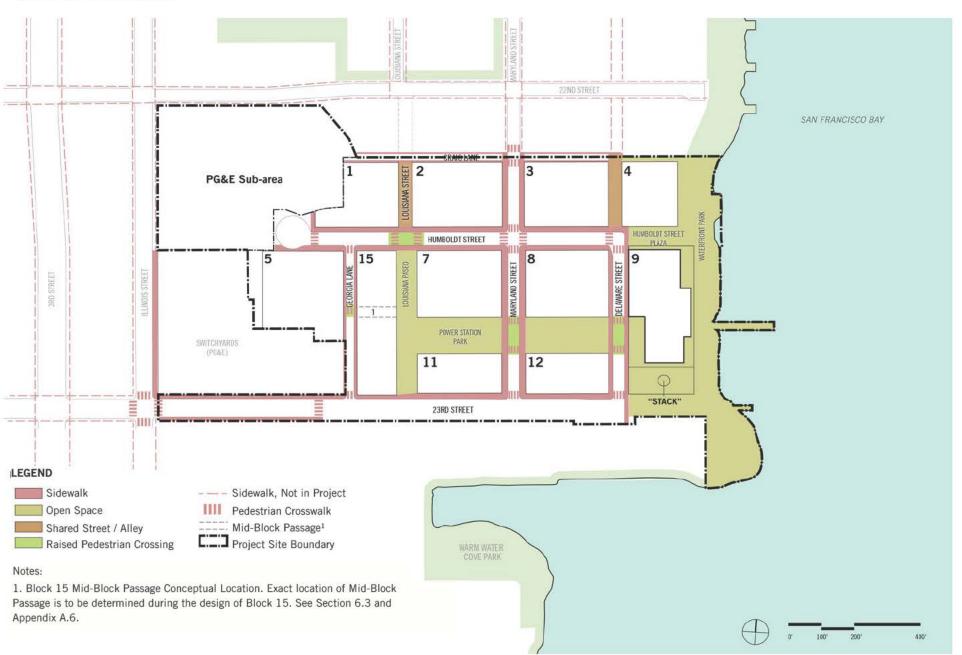
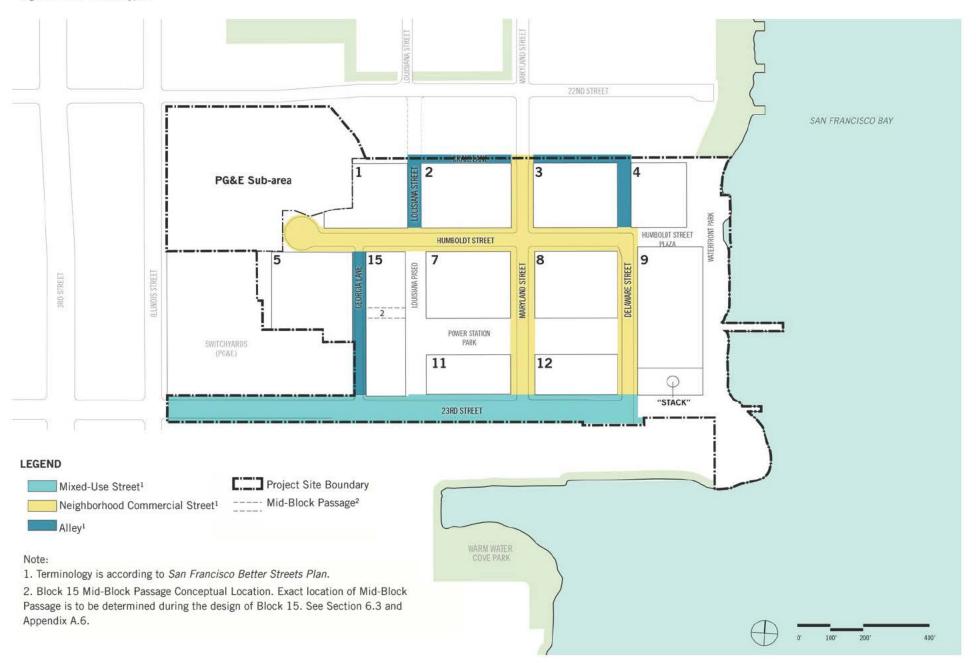


Figure E.13.6 Building Setbacks



Figure E.13.7 Street Types



# F. Historic Resource Evaluation, Part 2 Excerpt (Character Defining Features)

This section provides lists of character-defining features identified in Page & Turnbull's HRE Part 1 for all historic resources, including Station A, the Meter House, the Gate House, the Compressor House, Unit 3, and the Boiler Stack. A separate table contains character-defining features of the Third Street Industrial District, as inferred from the Central Waterfront DPR 523D form authored by Kelley & VerPlanck and Page & Turnbull in 2008.

For a property to be eligible for national, state, or local designation under one of the significance criteria, the essential physical features (or character-defining features) that enable the property to convey its historic identity must be evident. To be eligible, a property must clearly contain enough of those characteristics, and these features must also retain a sufficient degree of integrity. Characteristics can be expressed in terms such as form, proportion, structure, plan, style, or materials.

Station A—inclusive of the Turbine Hall, Machine Shop, Machine Shop Office, and Switching Center—is primarily referenced as one resource throughout the HRE Part 1, with the exception of the Buildings Table, where the portions of Station A are described chronologically by date of construction. Rather than retain the chronological order featured in the HRE Part 1, the character defining features table below groups the physical portions of Station A one after another for clarity. The Meter House, Gate House, Compressor House, Unit 3, and Boiler Stack follow. All numbers in the left column are referenced in the site plan (Figure 5), which is included in the HRE Part 1.

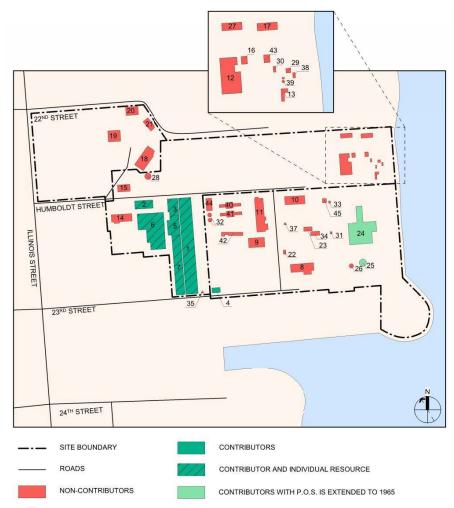


Figure F.13.1 Site map with buildings, structures, and features at Potrero Power Station, showing Third Street Industrial District contributors and non-contributors.

Note: Map is not drawn to scale. Source: San Francisco Property Information Map, edited by Page & Turnbull.

#### Note

This Appendix F contains an excerpt from the Historic Resource Evaluation, Part 2 prepared for the Potrero Power Station on Feb 2, 2018.

 Table F.13.2
 Potrero Power Station Historic Buildings: Character-Defining Features

| NO. | APEARANCE   | BUILDING INFO.   | CHARACTER-DEFINING FEATURES  |
|-----|---|--|--|
| 1   | East façade of Turbine Hall. The two left (west) bays constitute the adjacent Station A Switching Center, built in 1930-31.  North façade of Turbine Hall  The two left (west) bays constitute the adjacent Station A Switching Center, built in 1930-31. | Name: Station A Turbine Hall  Date of Construction: 1901-02; 1903  APN: 4175/017 | Rectangular plan Built out to lot lines between 23rd and Humboldt streets Four stories tall Massive brick masonry construction Classical decorative brick quoin patterning Multi-lite steel-sash windows at the north façade, deeply recessed Multi-lite steel-sash windows at the south façade Symmetrical window pattern at north and south facades; irregular window pattern at east façade (west façade not visible) Slightly pitched gable roof with steel trusses; corrugated metal roof material at northern portion High volume and industrial character of interior |

| NO. | APEARANCE  | BUILDING INFO.   | CHARACTER-DEFINING FEATURES   |
|-----|--|--|---|
| 3   | North façade of Machine Shop Office with addition to the right (west)  | Name: Station A Machine Shop Office  Date of Construction: ca. 1911  APN: 4175/017 | <ul> <li>Rectangular plan</li> <li>One story tall</li> <li>Reinforced concrete construction</li> <li>Flat roof</li> <li>Greek Revival features at the primary façade, including: gabled pediment; pedestrian entrance and full-height windows with corbels and triangular and arched pedimented hoods; pilasters topped with Doric capitals and egg and dart molding; and dentil cornice</li> <li>Concrete stairs parallel to facade</li> </ul> |
| 5   | Machine Shop shown left and center, with the north façade of the Switching Center in the background and the east façade of Compressor House at right | Name: Station A Machine Shop  Date of Construction: ca. 1915  APN: 4175/017        | <ul> <li>Irregular plan</li> <li>Tall single story</li> <li>Reinforced concrete construction with brick cladding</li> <li>Corbelled brick detailing at parapet</li> <li>Decorative brick quoin patterning</li> <li>Flat roof</li> </ul>   |

| NO. | APEARANCE   | BUILDING INFO.  | CHARACTER-DEFINING FEATURES  |  |  |
|-----|---|---|--|--|--|
| 7   | West façade of Switching Center (south façade pictured above with the Turbine Hall) | Name:<br>Station A Switching Center  Date of Construction: 1930-31  APN: 4175/017 | <ul> <li>Rectangular plan</li> <li>Four stories tall</li> <li>Concrete construction with brick cladding</li> <li>Multi-lite steel-sash windows</li> <li>Flat roof</li> <li>Corbelled brick detailing at parapet</li> <li>Decorative quoin patterning</li> <li>Engraved signage reading "Station A" and "Pacific Gas and Electric Company"</li> </ul> |  |  |

| NO. | APEARANCE  | BUILDING INFO.  | CHARACTER-DEFINING FEATURES  |
|-----|--|---|--|
| 2   | West façade of Meter House  South façade of Meter House  East (left) and north (center) façades of Meter House | Name: Meter House; Gas Meter Shop  Date of Construction: ca.1902  APN: 4175/017 | <ul> <li>Rectangular plan</li> <li>One story</li> <li>Brick masonry construction</li> <li>Multi-lite wood-sash windows with concrete sill and brick arched lintel</li> <li>Multi-lite wood-sash lunette windows at the gable peaks of the west and east façades</li> <li>Rhythmic brick pilasters and cornice</li> <li>Dentil cornice</li> <li>Steel truss gable roof with a raised central monitor</li> <li>Partially glazed metal pedestrian doors</li> <li>Loading door opening at the west façade [metal roll-up door not historic]</li> <li>Volume and industrial character of interior</li> <li>Shortened north façade due to raised street grade</li> </ul> |

| NO. | APEARANCE   | BUILDING INFO.   | CHARACTER-DEFINING FEATURES  |
|-----|---|--|--|
| 4   | East façade of Gate House  North façade of Gate House  South façade of Gate House | Name: Gate House  Date of Construction: ca.1914  APN: 4175/017 | Rectangular plan Single story Brick masonry construction Flat roof Simple decorative brick cornice Rectilinear wood-sash transomed windows Brick window and door surrounds |

| NO. | APEARANCE   | BUILDING INFO.   | CHARACTER-DEFINING FEATURES   |
|-----|---|--|---|
| 6   | West façade of Compressor House   | Name: Compressor House  Date of Construction: ca.1924  APN: 4175/017 | <ul> <li>L-shaped plan</li> <li>Tall one story</li> <li>Brick masonry construction</li> <li>Multi-lite steel-sash windows with decorative brick surround</li> <li>Brick parapet (partial stepped parapet at the east façade)</li> </ul>   |
|     | North façade of Compressor House  |  | <ul> <li>Corbeled brick cornice</li> <li>Brick quoin patterning</li> <li>Round openings</li> <li>Loading door openings at all façades [metal roll-up doors not historic]</li> <li>Slightly pitched concrete gable roof with steel trusses</li> <li>Two monitor roof skylights</li> <li>Volume and industrial character of interior</li> </ul> |
|     | East façade of Compressor House (at image right). Machine Shop at image left. |  |   |

| NO. | APEARANCE              | BUILDING INFO.  | CHARACTER-DEFINING FEATURES  |
|-----|------------------------|---|--|
| 24  | West façade of Unit 3  | Name: Unit 3 Power Block:<br>Generator, Turbine, Boiler, and<br>Unit 3 Office | Eight-story steel frame structure, primarily exposed     Concrete elevator shaft                               |
|     |                        | Date of Construction: 1965  | Control room and offices of concrete construction     Metal panel cladding and glazing of south office portion |
|     |                        | <b>APN:</b> 4232/006  | Industrial character with remnants of equipment  |
|     | infrastructure         | infrastructure  |  |
|     | North façade of Unit 3 |   |  |
|     | South façade of Unit 3 |   |  |

| NO. | APEARANCE   | BUILDING INFO.             | CHARACTER-DEFINING FEATURES      |
|-----|---|----------------------------|----------------------------------|
| 24  | South (left) and east (right) façade of Unit 3 Office |                            |                                  |
| 25  | Boiler Stack, view looking southeast                  | Name: Boiler Stack         | Reinforced concrete construction |
|     |   | Date of Construction: 1965 | Tapered form                     |
|     |   | <b>APN:</b> 4232/006       | • 300-foot height                |
|     |   |                            | Exterior metal ladder            |

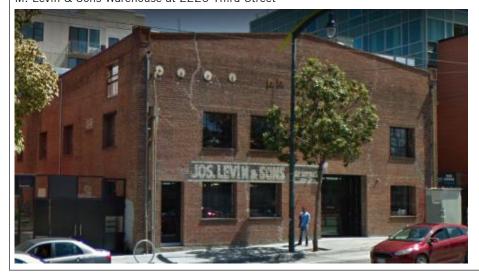
 Table F.13.3
 Third Street Industrial District: Character-Defining Features

## REPRESENTATIVE SAMPLE OF CONTRIBUTORS WITH HISTORIC USES

Alberta Candy Company at 2201-2203 Third Street



M. Levin & Sons Warehouse at 2225 Third Street



### DETAIL INFO.

**Location:** primarily along Third Street between 18th and 24th streets, with Potrero Power Station and Western Sugar Refinery Warehouse buildings to the east on 23rd Street.

Years Constructed: primarily during the first half of the twentieth century

#### **Character-Defining Features:**

- Linear character of district along Third Street, with exception of Potrero Power Station site and Western Sugar Refinery Warehouses, which make the district L-shaped
- High concentration of manufacturing, repair, and processing plants and warehouses of industrial character
- Historic location of industries dependent on nearby waterfront and freight-hauling
   Santa Fe Railroad trains that ran along Illinois Street
- Buildings with the following typical features:
  - Brick and concrete construction
  - One to four stories in height
  - Flat roofs
  - Ornamented parapets
  - Steel-sash and wood-sash windows
  - Rectilinear and arched window openings
  - American Commercial style

## REPRESENTATIVE SAMPLE OF CONTRIBUTORS WITH HISTORIC USES

DETAIL INFO.

Mixed-use commercial and boarding house at 2290 Third Street



American Can Co. Building on Third Street between 20th and 22nd streets



## REPRESENTATIVE SAMPLE OF CONTRIBUTORS WITH HISTORIC USES

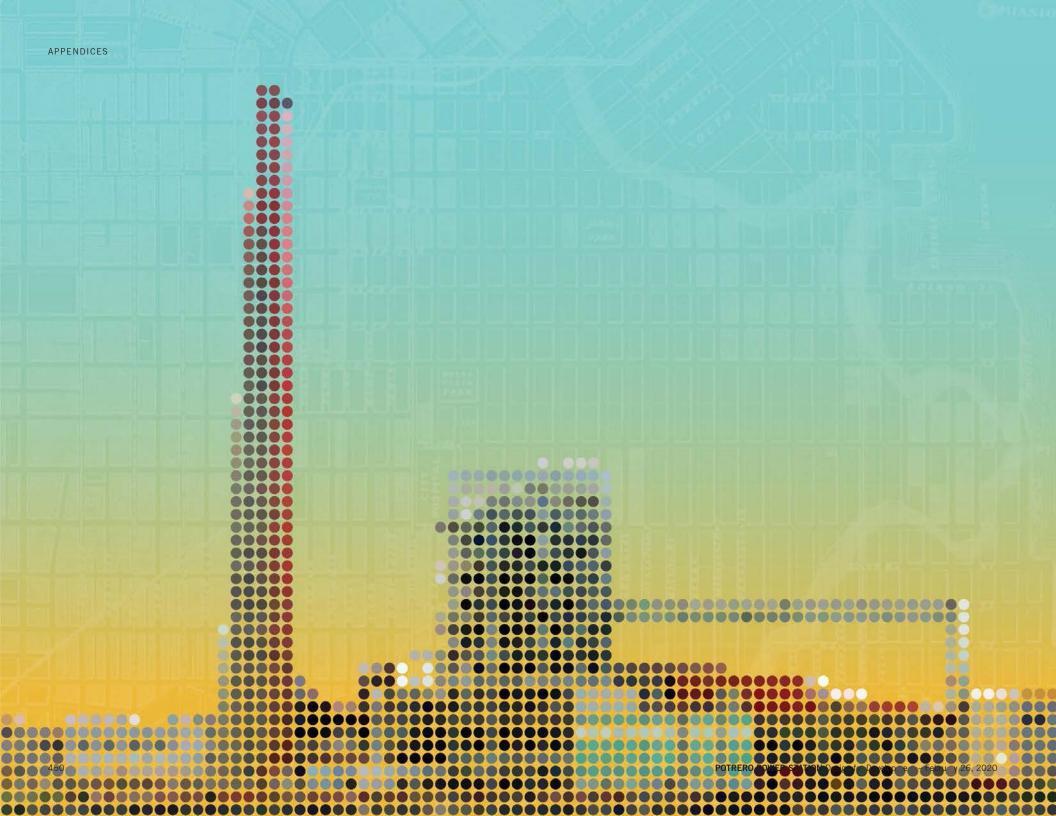
**DETAIL INFO.** 

American Can Co. Building Third Street between 20th and 22nd streets



American Can Co. Building Third Street between 20th and 22nd streets





### **EXHIBIT P**

### Form of Guaranty Agreement

### **GUARANTY AGREEMENT**

| This GUARANTY AGREEMENT (this "Guaranty") is made by [], a [] ("Guarantor"), to and for the benefit of the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, operating by and through the SAN FRANCISCO PORT COMMISSION ("Port"), as of, 20 (the "Effective Date").  This Guaranty is made with reference to the following facts and circumstances:   |
|--|
| RECITALS   |
| A. Port and [], a [] ("Tenant"), are party to that certain Ground Lease (No. L-16662), dated as of March 15, 2021 (as amended and as it may be further amended from time to time, the "Lease"). All initially capitalized terms used but not otherwise defined in this Guaranty shall have the meanings given to them in the Lease.  |
| B. Pursuant to section 9.5(a)(iii) of the Lease, Tenant is required to deliver to Port Adequate Security for each Phase of the Initial Improvements before Commencing such Phase.  |
| C. Tenant desires to Commence the [] Phase of the Initial Improvements, as more particularly described in the Lease (the "Subject Phase").1  |
| D. Guarantor will derive material financial benefit from the Lease and the taking of actions in accordance with the Lease under which the obligation to provide Adequate Security for the Subject Phase arose. In accordance with section 9.5(a)(iii) of the Lease, Guarantor is willing to provide this Guaranty to Port as Adequate Security for the Subject Phase.  |
| AGREEMENT  |
| ACCORDINGLY, in consideration of the matters described in the above Recitals, and for other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, Guarantor agrees as follows:  |
| 1. Guaranty  |
| 1.1 <u>Guaranty</u> . Guarantor unconditionally and irrevocably guarantees to Port the performance of the Guaranteed Obligations (as defined below), as and when the same shall become due and/or payable, on the terms provided in this Guaranty. In addition, Guarantor shall pay, and upon Port's request shall reimburse Port promptly for, all reasonable costs and expenses actually incurred by Port to enforce Port's rights, powers or remedies under this Guaranty (including reasonable collection charges and Attorneys' Fees and Costs) (the "Reimbursement Amount"). |

NTD: Conform as needed once the description of the Initial Improvements in the Lease are final.

- **1.2** <u>Definition of Guaranteed Obligations</u>. As used herein, "Guaranteed Obligations" means Tenant's obligation under the Lease to Complete, once Commenced, the Subject Phase by the date that is five (5) years following the date on which Tenant Commences such Subject Phase, subject to Excusable Delay and, without duplication, any other extension of time permitted under the DA; provided, however, that under no circumstances shall the aggregate liability of Guarantor for the Guaranteed Obligations, excluding the Reimbursement Amount, exceed \$[\_\_\_\_] (the "Secured Amount").<sup>2</sup>
- **1.3** Reduction of Guaranty. This Guaranty (including the Secured Amount) shall be proportionately reduced upon partial satisfaction of the Guaranteed Obligations to the extent reasonably approved by Port and, if requested by Tenant or Guarantor, Port shall provide a written confirmation of such reduction promptly (and, in any event, within five (5) Business Days) following such request.
- **1.4** Acknowledgments by Guarantor. Guarantor acknowledges, confirms, and agrees that: (a) it has received fair and adequate consideration for its execution of this Guaranty; (b) it derived material financial benefit from Port's execution of the Lease and Port's actions under which the obligation to provide this Guaranty arose; and (c) there are no conditions to the full effectiveness of this Guaranty other than those expressly set forth in this Guaranty.
- **1.5** <u>Independent Obligations; Continuing Guaranty</u>. This Guaranty is a primary and original performance obligation of Guarantor and is absolute, unconditional, continuing and irrevocable.

### 2. Waivers by Guarantor

Waivers. Guarantor hereby waives: (a) notice of acceptance of this Guaranty; 2.1 (b) demand of payment, notice of nonperformance, notice of dishonor, presentation, protest, and indulgences and (except as specifically provided in this Guaranty) notices of any kind whatsoever; (c) any right to assert or plead any statute of limitations relating to this Guaranty and the Lease (and Guarantor agrees that any act that tolls any statute of limitations applicable to the Lease will operate similarly to toll the statute of limitations applicable to Guarantor's liability hereunder); (d) any right to require Port to proceed against Tenant or any other person or entity liable to Port except to the extent expressly set forth in the Lease; (e) any right to require Port to apply to the cure of any default any letter of credit or other security it may hold under the Lease, except to the extent expressly set forth in the Lease; (f) until the Guaranteed Obligations have been satisfied in full, any right of subrogation; (g) any right to require Port to pursue or enforce any remedy that Port now has or may later have against Tenant or any other person or entity; (h) any right to participate in any letter of credit or other security now or later held by Port; and (i) any defense that may arise by the reason of: (1) the incapacity, lack of authority, death, disability or other defense of Tenant or any other person or entity; (2) the revocation or repudiation of this Guaranty by Guarantor; (3) failure of Port to file or enforce a claim against the estate (either in administration, bankruptcy or any other proceeding) of Tenant or any others; (4) any election by Port in any proceeding instituted under the United States Bankruptcy Code, as amended (11 U.S.C. §§ 101, et seq.); (5) any borrowing or granting of a security interest under section 364 of the United

NTD: Insert the estimated cost of Completion of the Subject Phase determined in accordance with the Lease.

States Bankruptcy Code; (6) Port's election of any remedy against Guarantor or Tenant or any other party to the extent permitted hereunder or under the Lease; (7) Port's taking, modification, or releasing of any collateral or guarantees, or any failure to perfect any security interest in, or the taking of or failure to perfect any other action with respect to any collateral securing performance of obligations under the Lease; (8) any amendment or modification of the Lease or related documents, whether or not known or consented to by Guarantor; or (9) any offset by Guarantor against any obligation now or later owed to Guarantor by Tenant or any other person or entity, it being the intention of this Guaranty that Guarantor remain liable to the full extent set forth in this Guaranty until the full performance of each and every term, condition and covenant of the Lease to be performed with respect to the Guaranteed Obligations, notwithstanding any act, omission or thing that might otherwise operate as a legal or equitable discharge of Guarantor. Without limiting the generality of the foregoing, Guarantor expressly waives any and all benefits under California Civil Code sections 2809, 2810, 2819, 2839, 2845, 2846, 2848, 2849, 2850, 2855, 2899 and 3433.

Without limiting the foregoing, Guarantor understands and acknowledges that if Port exercises any rights under the Lease or any related agreements, then the exercise of such rights could impair or destroy any ability that Guarantor may have to seek reimbursement, contribution or indemnification from Tenant or others based on any right Guarantor may have of subrogation, reimbursement, contribution or indemnification for any amounts paid or cost incurred by Guarantor under this Guaranty. Guarantor further understands and acknowledges that in the absence of this Section 2.1, such potential impairment or destruction of Guarantor's rights, if any, may entitle Guarantor to assert a defense to this Guaranty based on law or in equity, including, in the case of any real property security, section 580d of the California Code of Civil Procedure as interpreted in Union Bank v. Gradsky, 265 Cal. App. 2d 40 (1968). By executing this Guaranty, Guarantor freely, irrevocably, absolutely and unconditionally: (i) waives and relinquishes that defense and agrees that Guarantor will be fully liable under this Guaranty even though Port may exercise any right or remedy under the Lease, including any act judicially or nonjudicially against any real property security; (ii) agrees that Guarantor will not assert that defense in any action or proceeding which Port may commence to enforce this Guaranty; (iii) agrees that the rights and defenses waived by Guarantor under this Guaranty include any right or defense that Guarantor may have or be entitled to assert based on or arising out of law or equity, including any one or more of sections 580a, 580b, 580d or 726 of the California Code of Civil Procedure; (iv) waives notice of default, acceleration, protest or dishonor; (v) waives any notice of sale or other disposition of any security; (vi) waives notice of acceptance of this Guaranty and of the existence, creation or incurring of new or additional guaranteed obligations, and all other notices of any kind with respect to any Guaranteed Obligations except for any notice required to be given to Guarantor under this Guaranty; and (vii) agrees that Port relied on these waivers in entering into the Lease and taking the actions under which the obligation to provide this Guaranty arose and that these waivers are a material part of the consideration that Port is receiving in connection with such acts.

**2.2** <u>Waiver of Subrogation</u>. Subject to the waivers set forth in <u>Section 2.1</u>, upon satisfaction in full of all of the Guaranteed Obligations, Guarantor shall be subrogated to the rights of Port against Tenant or others with respect to the Guaranteed Obligations, and Port agrees to take such steps as Guarantor may reasonably request to implement such subrogation (provided Guarantor shall pay Port all costs actually incurred with respect thereto pursuant to the Lease and that Port shall not incur any liabilities in taking any such steps).

### 3. Consents by Guarantor

- 3.1 Consents; No Discharge of Obligations. Without releasing, discharging, impairing, or otherwise affecting any obligations of Guarantor under this Guaranty or the validity or enforceability of this Guaranty, Port, by action or inaction, in its sole and absolute discretion and without notice to Guarantor, may refuse or fail to enforce all or any portion of Port's rights, powers or remedies under this Guaranty, the Lease or any related documents. Port, in its sole and absolute discretion and without notice to Guarantor may additionally: (a) compromise, settle, extend the time for performance of all or any part of the Guaranteed Obligations; and (b) deal in all respects with Guarantor as if this Guaranty were not in effect. It is the intent of Guarantor and Port that Guarantor shall remain liable for the performance of the Guaranteed Obligations (including payment of the Reimbursement Amount) and all other obligations guaranteed hereby to the extent set forth herein, notwithstanding any act or thing that might otherwise operate as a legal or equitable discharge of a surety.
- 3.2 Payments to Other Persons. Port shall be under no obligation to marshal any assets in favor of Guarantor or against, or in payment or performance of, any or all of the Guaranteed Obligations. If all or any part of any payment to or for the benefit of Port in respect of the Guaranteed Obligations is invalidated, declared to be fraudulent or preferential, set aside, or required for any reason to be repaid or paid over to a trustee, receiver or other person (a "trustee") under any insolvency law or any other law or rule of equity (collectively, "set aside"), to the extent of that payment or repayment, the Guaranteed Obligations (or the part thereof) intended to have been satisfied shall be revived and continued in full force and effect as if that payment had not been made, and Guarantor shall be primarily liable for that obligation, provided that nothing hereunder shall preclude Guarantor from obtaining a refund from a trustee.
- **3.3** Additional Rights. This Guaranty is in addition to, and not in substitution for or in reduction of, any other guaranty by Guarantor, or any obligation of Guarantor under any other agreement or applicable law that may now or hereafter exist in favor of Port. Except as may be expressly provided to the contrary in the Lease, the liability of Guarantor under this Guaranty shall not be contingent upon the enforcement of any lien or realization upon the security, if any, Port may at any time possess with respect to the Guaranteed Obligations. Nothing herein shall limit the obligations of Tenant or others under the Lease.
- **3.4** Recourse. Port shall have the right to seek recourse against Guarantor to the full extent provided for in this Guaranty, which right shall be absolute and shall not in any way be impaired, deferred, or otherwise diminished by reason of any inability of Port to claim any amount of such Guaranteed Obligation from Guarantor or Tenant or others as a result of bankruptcy or otherwise, including any limitation on Port's claim from Guarantor or Tenant or others under section 502(b)(6) of the United States Bankruptcy Code. No election to proceed in one form of action or proceeding, or against any person or entity, or on any obligation, will constitute a waiver of Port's right to proceed in any form of action or proceeding or against other persons or entities unless Port has expressly waived that right in writing.

### 4. Representations and Warranties of Guarantor

- **4.1** Representations and Warranties. Guarantor represents and warrants to Port that Guarantor has full power and authority to execute, deliver and perform its obligations under this Guaranty, and that execution, delivery and performance have been duly authorized by all requisite action on its part.
- **4.2** <u>Independent Investigation</u>. Guarantor represents and warrants to Port that Guarantor has performed its own independent investigation as to the matters covered by this Guaranty.

### 5. Termination of Guaranty

**5.1** Termination and Partial Reduction. Guarantor's liability under this Guaranty shall be terminated, discharged and satisfied, and Guarantor shall be relieved of any and all further obligations under this Guaranty, upon the earlier to occur of (i) the Completion of the Subject Phase and payment in full of any outstanding Reimbursement Amount owed by Guarantor in accordance with this Guaranty and (ii) the termination of the Lease in its entirety or with respect to the Subject Phase, but only if the Subject Phase has not Commenced.

Guarantor's liability under this Guaranty shall also be terminated, discharged and satisfied in whole or in applicable part, and Guarantor shall be relieved of any and all further obligations under this Guaranty for all or the applicable part if Tenant substitutes this Guaranty, or any portion thereof, with another form of Adequate Security that meets all of the requirements or Approvals needed for it to be Adequate Security under the Lease, including any substitute Adequate Security delivered pursuant to section 9.7 of the Lease.

**5.2** Evidence of Termination. Following any such termination and upon Guarantor's request, Port shall confirm in writing the fact of termination of this Guaranty and promptly return this Guaranty to Guarantor (or, if requested by Guarantor, to Tenant).

### 6. Notices

by Guarantor or Port to the other shall be in writing, except as otherwise provided herein. All notices, demands, consents and requests to be provided hereunder shall be deemed to have been properly given on the date of receipt if served personally on a day that is a Business Day (or on the next Business Day if served personally on a day that is not a Business Day), or, if mailed, on the date that is three (3) days after the date when deposited with the U.S. Postal Service for delivery by United States registered or certified mail, postage prepaid, in either case, addressed to the addresses stated below, or at such other place or places in the United States as each such party may from time to time designate by written notice to the other in accordance with the provisions hereof. For convenience of Guarantor and Port, copies of notices may also be given by email to the email addresses provided from time to time; however, neither Guarantor nor Port may give official or binding notice by email.

- **6.2** Form and Effect of Notice. Every notice given under this Guaranty must state (or shall be accompanied by a cover letter that states):
- (a) the Section of this Guaranty pursuant to which the notice is given and the action or response required, if any;
- (b) if applicable, the period of time within which the recipient of the notice must respond thereto; and
- (c) if approval is being requested, that it is a "Request for Approval under Guaranty Agreement".

In no event shall a recipient's approval of or consent to the subject matter of a notice be deemed to have been given by its failure to object thereto if such notice (or the accompanying cover letter) does not comply with the requirements of this <u>Section 6.2</u>.

### 7. General Provisions

- **7.1** <u>Successors and Assigns</u>. This Guaranty shall be binding upon, and inure to the benefit of, Guarantor and Port and their respective successors, heirs, administrators and assigns.
- **7.2** <u>Amendments</u>. This Guaranty may be amended or modified only by a written instrument executed by Port and Guarantor.
- **7.3** <u>Waivers</u>. No action taken pursuant to this Guaranty by Port shall be deemed to be a waiver by Port of Guarantor's compliance with any of the provisions hereof. No waiver by Port of any breach of any provision of this Guaranty shall be construed as a waiver by Port of any subsequent or different breach. No forbearance by Port to seek a remedy for noncompliance hereunder or breach by Guarantor shall be construed as a waiver by Port of any right or remedy with respect to such noncompliance or breach.
- **7.4** Governing Law; Selection of Forum. This Guaranty shall be governed by and construed in accordance with the laws of the State of California. As part of the consideration for the Lease and Port's actions under which the obligation to provide this Guaranty arose, Guarantor agrees that all actions or proceedings arising directly or indirectly under this Guaranty may, at the sole option of Port, be litigated in courts located within the State of California, and Guarantor expressly consents to the jurisdiction of any such local, state or federal court, and consents that any service of process in such action or proceeding may be made by personal service upon Guarantor wherever Guarantor may then be located, or by certified or registered mail directed to Guarantor at the address set forth in this Guaranty for the delivery of notices.
- 7.5 Merger of Prior Agreements. Guarantor and Port intend that this Guaranty shall be the final expression of their agreement with respect to the subject matter hereof and may not be contradicted by evidence of any prior or contemporaneous oral or written agreements or understandings. Guarantor and Port further intend that this Guaranty shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including prior drafts or changes therefrom) may be introduced in any judicial, administrative or other legal proceeding involving this Guaranty.
- Guaranty reference is made to any Section, or any defined term, the reference shall be deemed to refer to the Section or defined term of this Guaranty. Any reference to a Section includes all subsections and subparagraphs of that Section. The use in this Guaranty of the words "including", "such as" or words of similar import when following any general term, statement or matter shall not be construed to limit such statement, term or matter to the specific items or matters, whether or not language of non-limitation, such as "without limitation" or "but not limited to", or words of similar import, is used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such statement, term or matter. In the event of a conflict between the Recitals and the remaining provisions of the Guaranty, the remaining provisions shall prevail. Any titles of the several parts and Sections of this Guaranty are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions. The masculine, feminine or neutral gender and the singular and plural forms include the others whenever the context requires. References to days, months

and years mean calendar days, months and years unless otherwise specified. References to any law, specifically or generally, will mean the law as amended, supplemented or superseded from time to time. The provisions of this Guaranty shall be construed as a whole according to their common meaning and not strictly for or against either Guarantor or Port in order to achieve the objectives and purposes of Guarantor and Port, regardless of who drafted this Guaranty.

- Attorneys' Fees and Costs. Should either Guarantor or Port institute any action 7.7 or proceeding in court to enforce any provision hereof or for damages by reason of an alleged breach of any provision of this Guaranty, the prevailing party shall be entitled to receive from the losing party all costs and expenses incurred by the prevailing party on account of such default and/or in enforcing or establishing its rights hereunder, including Attorneys' Fees and Costs. Any such Attorneys' Fees and Costs incurred by either party in enforcing a judgment in its favor under this Guaranty shall be recoverable separately from and in addition to any other amount included in such judgment, and such Attorneys' Fees and Costs obligation is intended to be severable from the other provisions of this Guaranty and to survive and not be merged into any such judgment. For purposes of this Guaranty, the reasonable fees of attorneys of City's Office of City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City in law firms with approximately the same number of attorneys as employed by the City Attorney's Office. If Guarantor utilizes services of in-house counsel, then, for purposes of this Guaranty, the reasonable fees of such in-house counsel shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the in-house counsel's services were rendered who practice in the City in full service law firms.
- **7.8** Severability. Invalidation of any provision of this Guaranty, or of its application to any person, entity or circumstance, by judgment or court order, shall not affect any other provision of this Guaranty or its application to any other person, entity or circumstance, and the remaining portions of this Guaranty shall continue in full force and effect, unless enforcement of this Guaranty as invalidated would be unreasonable or grossly inequitable under all the circumstances or would frustrate the purposes of this Guaranty.
- 7.9 Notification of Events. If at any time during the period this Guaranty is in effect, the Net Worth of Guarantor falls below the then-applicable Net Worth Requirement under the Lease, then Guarantor shall notify Port and Tenant within three (3) Business Days after any officer of Guarantor obtains knowledge thereof. Additionally, if a Material Change to Guarantor occurs with respect to Guarantor, Guarantor shall notify Port and Tenant as soon as reasonably practicable and in any event within three (3) Business Days after the occurrence of such Material Change to Guarantor. Failure to give such notice shall not relieve Guarantor of its obligations hereunder.
- **7.10** Net Worth Requirement; Material Change. For avoidance of doubt, it shall be a default of Tenant under the Lease if at any time during the period this Guaranty is in effect (a) the Net Worth of Guarantor falls below the then applicable Net Worth Requirement under the Lease or (b) a Material Change to Guarantor occurs with respect to Guarantor, such failure to meet the Net Worth Requirement or Material Change to Guarantor is not reversed or voided, and Tenant fails to provide substitute Adequate Security within twenty (20) days after the occurrence of such

failure to meet the Net Worth Requirement or Material Change to Guarantor as provided in section 9.7 of the Lease.

- 7.11 <u>Continuation and Survival of Covenants</u>. All covenants by Guarantor contained herein shall be deemed to be material and shall survive any termination of the Lease or portion thereof if the Guaranteed Obligations have arisen and not been satisfied as of the date of any such termination.
- **7.12** <u>Counterparts</u>. This Guaranty may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.
- 7.13 No Third Party Beneficiaries. No person or entity other than Port (and any successor to Port under the Lease) and Guarantor shall have or acquire any right or action of any kind based upon the provisions of this Guaranty.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

| and delivered this Guaranty as of the Effective Date. |  |
|---|--|
| <u>GUARANTOR</u> :                                    |  |
|   |  |
| By:   |  |
| Name:   |  |

IN WITNESS WHEREOF, Guarantor and Port, each being duly authorized, have executed

[SIGNATURES CONTINUE ON NEXT PAGE]

Title:

### **ACCEPTED AND AGREED**:

|                                      | PORT:  |
|--------------------------------------|--|
| APPROVED AS TO FORM:                 | CITY AND COUNTY OF SAN   |
| DENNIS J. HERRERA, City Attorney By: | FRANCISCO,<br>a municipal corporation, operating by and<br>through the San Francisco Port Commission |
| Name: Rona Sandler                   | By:  |
| Title: Deputy City Attorney          | Name: Rebecca Benassini  |
|                                      | Title: Deputy Director, Real Estate  |

### **EXHIBIT Q**

## Mitigation and Improvement Measures

[attached]

# MITIGATION MONITORING AND REPORTING PROGRAM

### **Section 1: Contents of MMRP**

This Mitigation Monitoring and Reporting Program (MMRP) for the Potrero Power Station Mixed Use Development project consists of two separate tables:

- **Table A**, Mitigation Measures Adopted as Conditions of Approval for the Proposed Project and Project Variant, and
- Table B, Improvement Measures Adopted as Conditions of Approval for the Proposed Project and Project Variant.

The tables provide the following information: the environmental issue areas for which mitigation or improvement measures are identified; the required measure(s); the timeframe for implementing, monitoring, and reporting on the measure(s); the responsible implementing, monitoring and reporting parties; and the actions needed to verify compliance/completion of the measure(s).

The Final EIR¹ for this project describes and analyzes two variations of the project at an equal level of detail—referred to as the "proposed project" and the "project variant." Therefore, Tables A and B serve as the MMRP for both the proposed project and project variant. Unless otherwise noted, all mitigation and improvement measures in Tables A and B apply to both the proposed project and project variant. In four measures in Table A only, the table distinguishes between measures that would be unique to the proposed project and project variant with distinct sub-titles.

### Section 2: Implementation and Enforcement of Measures

This MMRP includes all mitigation measures identified in the Final EIR that would lessen the severity of significant adverse impacts and are required to be implemented as conditions of project approval. In addition, this MMRP includes improvement measures, which were identified in the Final EIR as feasible measures that would lessen the severity of less-than-significant impacts, and the project sponsor has agreed to implement all improvement measures as conditions of project approval.

The MMRP tables identify the mitigation schedule and the parties responsible for implementing, monitoring and reporting on the implementation of the measures, as listed in Tables A and B.

City and County of San Francisco, *Potrero Power Station Mixed Use Development Project Final EIR*, San Francisco Planning Department Case No 20 7 0 878ENV, State Clearinghouse No 20 7 2005, December , 20 9

As the CEQA lead agency for the project, the City of San Francisco is principally responsible for MMRP monitoring and enforcement. In addition, as provided in CEQA Guidelines section 15097(a), the City may delegate MMRP monitoring responsibilities to other public agencies; either working with other local governments through their permitting or regulatory authorities, or through memoranda of understanding that the City enters into with other entities. Accordingly, the MMRP identifies specific departments within the City, including the San Francisco Municipal Transportation Agency (SFMTA), the San Francisco Public Utilities Commission (SFPUC), the San Francisco Department of Building Inspection, the San Francisco Public Works, the San Francisco Planning Department, the San Francisco Entertainment Commission, or other public agencies such as the San Francisco Bay Regional Water Quality Control Board, and the Bay Area Air Quality Management District (BAAQMD) where such delegation is known or anticipated.

If any mitigation and improvement measures are not implemented as required, the City may, in conjunction with other entities listed above, pursue corrective actions including, but not limited to, the following: (1) a written notification and request for compliance; (2) withholding of permits; (3) administrative fines; (4) a stop-work order; (5) criminal prosecution and/or administrative fines; (6) forfeiture of security bonds or other guarantees; and (7) revocation of permits or other entitlements.

### **Section 3: Changes to Mitigation Measures**

Any substantive change in the MMRP made by City staff shall be reported in writing to the Environmental Review Officer (ERO). City staff may modify or substitute mitigation measures subject to one of the following findings, documented by substantial evidence:

a. The mitigation measure included in the Final EIR and the MMRP is no longer required because the significant environmental impact identified in the Final EIR has been found not to exist, or to occur at a level which makes the impact less than significant as a result of changes in the project, changes in conditions of the environment, or other factors.

OR

b. The modified or substitute mitigation measure either provides corrections to text without any substantive change in the intention or meaning of the original mitigation measure, or provides a level of environmental protection equal to or greater than that afforded by the mitigation measure included in the Final EIR and the MMRP; and

The modified or substitute mitigation measures do not have significant adverse effects on the environment in addition to or greater than those which were considered by the relevant agencies in their decisions on the Final EIR and the proposed project or project variant; and

The modified or substitute mitigation measures are feasible, and the City, through measures included in the MMRP or other City procedures, can ensure their implementation.

Documentation supporting the findings involving modifications to mitigation measures shall be maintained in the project file with the MMRP and shall be made available to the public upon request.

### List of Abbreviations

ADRP Archeological Data Recovery Program

AMP Archeological Monitoring Program

ATP Archeological Testing Program

BAAQMD Bay Area Air Quality Management District

CDFW California Department of Fish and Wildlife

CEQA California Environmental Quality Act

D for D Design for Development

dBA A-weighted decibel

ERO Environmental Review Officer

HABS Historic American Building Survey

HAER Historic American Engineering Record

MMRP Mitigation Monitoring and Reporting Program

MOU Memorandum of Understanding

NA Not Applicable

NAHC Native American Heritage Commission

NOx oxides of nitrogen

PDR Production, Distribution and Repair

PPV peak particle velocity

R&D Research and Development

RMS root mean square

ROG reactive organic gases
SEL sound exposure level

SFMTA San Francisco Municipal Transportation Agency

SF Public Works San Francisco Department of Public Works

SUD Special Use District

TACs toxic air contaminants

TDM Transportation Demand Management

U.S. EPA United States Environmental Protection Agency

 $\mu g/m^3$  microgram per cubic meter VOC volatile organic compounds

TABLE A

MITIGATION MEASURES ADOPTED AS CONDITIONS OF APPROVAL FOR THE PROPOSED PROJECT AND PROJECT VARIANT

| Mitigation Measure   | Responsibility for<br>Implementation  | Mitigation Schedule  | Monitoring/<br>Reporting<br>Responsibility   | Monitoring Actions/<br>Schedule and Verification<br>of Compliance   |
|--|---|--|--|---|
| EIR Section 4.D Historic Architectural Resources   |   |  |  |   |
| Mitigation Measure M-CR-5a: Documentation  Before any demo t on or rehab tat on act vites within the project site, the project sponsor shall retain a profession on who meets the Secretary of the Interior's Professiona. Qualification of Station A, the Compressor House, the Meter House, the Gate House, the Boier Stack, and Unit 3. The documentation shall be prepared based on the National Park Service's Historic American Building of Survey (HABS)/H storic American Engineering Record (HAER) Historican Report Guidenes. The HABS/HAER package shall jointy document the Third Street Industrian District contributors and not vidually eight of the solid provided the state of the state | Project sponsor and qua f ed h stor c preservat on profess ona who meets the standards for h story, arch tectura h story, or arch tecture (as appropr ate), as set forth by the Secretary of the Interior's Professional Qualification Standards (36 Code of Federa Regu at ons, Part 61) | Pror to the ssuance of a s te perm t, demo t on perm t, or any other perm t from the Department of Bu d ng Inspect on n connect on wth Stat on A, the Compressor House, the Meter House, the Gate House, the Bo er Stack, and Un t 3 | P ann ng Department Preservat on Techn ca Spec a st to rev ew and approve HABS/ HAER documentat on | Cons dered comp ete upor subm tta of f na HABS/HAER documentat on to the Preservat on Techn ca Spec a st and determ nat on from the Preservat on Techn ca Spec a st that documentat on s comp ete |

| Mitigation Measure   | Responsibility for Implementation   | Mitigation Schedule  | Monitoring/<br>Reporting<br>Responsibility   | Monitoring Actions/<br>Schedule and Verification<br>of Compliance  |
|--|---|--|--|--|
| EIR Section 4.D Historic Architectural Resources (cont.)   |   |  |  | **   |
| Pub c L brary, San Franc sco Her tage, Internet Arch ve, the Ca forn a H stor ca Soc ety, the Potrero H Arch ves Project, and the Northwest Informat on Center of the Ca forn a H stor ca Informat on Resource System. A documentat on w be reviewed and approved by the San Franc sco P ann ng Department's Preservat on staff pr or to grant ng any demo t on or s te perm t.  |   |  |  |  |
| Mitigation Measure M-CR-5b: Video Recordation  Pr or to any demo t on or substant a a terat on of an nd v dua h stor ca resource or contr butor to a h stor c d str ct on the project s te, the project sponsor sha retan a qua f ed profess ona to undertake v deo documentat on of the affected h stor ca resource and ts setting. The documentation sha be conducted by a profess ona v deographer with experience recording architectura resources. The profess ona v deographer sha provide a storyboard of the proposed video recordation for review and approva by Planning Department preservation staff. The documentation sha be narrated by a qualified profess ona who meets the standards for history, architectural history, or architecture (as appropriate), as set forth by the Secretary of the linter or's Profess ona Qualification of Catalogue (36 Code of Federa Regulations, Part 61). The documentation shall not ude as much information as possible using visuals in combination with narration about the materials, construction methods, current condition, historical use, and historic context of the historic resources.  Archivation of the video documentation shall be submitted to the Planning Department, and to repositories including the San Francisco Planning Department, the Port of San Francisco, the San Francisco Planning Department, and the Northwest Information Center of the California Historical Information Resource System. This in tigat on measure would supplement the traditional HABS documentation, and would enhance the colection of reference materials that would be available to the public and inform future research.  The video documentation shall be reviewed and approved by the San Francisco Planning Department's preservation staff prior to ssuance of a demo to nipermit or site permit or ssuance of any Building Permits for the project. | Project sponsor, profess ona v deographer, and qua f ed narrator who meets the standards for h story, arch tectura h story, or arch tecture (as appropr ate), as set forth by the Secretary of the Interior's Professional Qualification Standards (36 Code of Federa Regu at ons, Part 61) | Pror to the ssuance of a s te perm t, demo t on perm t, or any other perm t from the Department of Bu d ng Inspect on n connect on w th Stat on A, the Compressor House, the Meter House, the Bo er Stack, and Un t 3, or other contr butor to a h stor c d str ct | P ann ng Department Preservat on Techn ca Spec a st  | Cons dered comp ete upon submitta of final video documentation to the Preservation Technical Special strand determination from the Preservation Technical Special strand documentation is completed. |
| Mitigation Measure M-CR-5c: Public Interpretation and Salvage  Pr or to any demoton or rehabitation activities that would remove character defining features of an individual historical resource or contributor to a historical distriction the project site, the project sponsor shall consult with planning department preservation staff as to whether any such features may be salvaged, in whole or in part, during demotion/a teration. The project sponsor shall make a good faith effort to salvage materials of historical netrest to be ut it zed as part of the interpretative program. This could include reuse of the Greek Revival façade of the Machine Shop Office, Gate House or a port on of the Unit 3 Power Block. Following any demotion or rehabitation activities within the project site, the project sponsor shall provide within public ylaccess be areas of the project site alpermanent display(s) of interpretive materials concerning the history and architectural features of the individual historical resources.  | Project sponsor, qua f ed arch tectura h stor an or h stor an who meets the Secretary of the Interior's Professional Qualification Standards, and an exh b t des gner or andscape arch tect w th h stor ca nterpretat on des gn exper ence.   | Adequacy of co ect on conf rmed by the P ann ng Department Preservat on Techn ca Spec a st pr or to demo t on or rehab tat on act v t es. Interpretat ve d sp ay to be nsta ed pr or to the ssuance of a Cert f cate of Occupancy                                  | P ann ng Department<br>Preservat on<br>Techn ca Spec a st<br>to rev ew and<br>approve sa vaged<br>mater a and<br>nterpret ve d sp ay | Cons dered comp ete upon nsta at on of d sp ay   |

| Mitigation Measure   | Responsibility for<br>Implementation   | Mitigation Schedule  | Monitoring/<br>Reporting<br>Responsibility  | Monitoring Actions/<br>Schedule and Verification<br>of Compliance  |
|--|--|--|---|--|
| EIR Section 4.D Historic Architectural Resources (cont.)   |  | *  |   | ko   |
| and Th rd Street Industr a D str ct. The content of the Interpret ve d sp ay(s) sha be coord nated and consistent with the site wide Interpret very paint prepared in coordination with planning department preservation staff, and may include the display of sa vaged features recovered through the process described above. The specific location, media, and other characteristics of such interpret very display sha be presented to planning department preservation staff for review prior to any demoit on or removal activities. The historic interpretation plan shall be prepared in coordination with an architectural historian or historian who meets the Secretary of the Interior's Professional Qualification Standards and an exhibit designer or landscape architect with historical interpretation designes experience. As feasibility, as feasibility, and the street industrial Distriction of viduality of the interpretation designes are street in the street industrial Distriction of viduality of the interpretation of the street industrial Distriction of viduality of v |  |  |   |  |
| Mitigation Measure M-CR-5d: Rehabilitation of the Boiler Stack  Pr or to the ssu ng of bu d ng perm ts assoc ated w th mod f cat ons to the exter or of the Bo er Stack, p ann ng department preservat on staff sha rev ew the proposed des gn and conf rm that t conforms to the Secretary of the Inter or's Standards for Rehab tat on and the Des gn for Deve opment standards and gu de nes.   | Project sponsor and<br>qua f ed arch tectura<br>h stor an who meets the<br>Secretary of Interior's<br>Professional<br>Qualification Standards<br>(36 Code of Federa<br>Regu at ons Part 61   | Pr or to the ssuance of<br>a s te perm t, demo t on<br>perm t, or any other<br>perm t from the<br>Department of Bu d ng<br>Inspect on n connect on<br>w th the Bo er Stack                           | P ann ng<br>Department<br>Preservat on<br>Techn ca Spec a st<br>to rev ew and<br>approve des gn   | Cons dered comp ete upon<br>des gn approva from the<br>Preservat on Techn ca<br>Spec a st                                    |
| Mitigation Measure M-CR-5e: (Dependent on approval of Proposed Project OR Project Variant)  Proposed Project:  Mitigation Measure M-CR-5e: Historic Preservation Plan and Review Process for Alteration of the Boiler Stack  Pr or to the approva of the first building permit for construction of Phase 1, a historic preservation plan establishing protective measures shall be prepared and implemented to a din preserving and protecting the Boiler Stack, which would be retained as part of the project. The historic preservation plan shall be prepared by a qualified architectural historian who meets the Secretary of Interior's Professional Qualification Standards (36 Code of Federal Regulations Part 61). The plan shall establish measures to protect the   | Project sponsor and a<br>qua f ed arch tectura<br>h stor an who meets the<br>Secretary of Interior's<br>Professional<br>Qualification Standards<br>(36 Code of Federa<br>Regu at ons Part 61 | Construct on spec f cat ons to be deve oped pr or to the ssuance of a s te perm t, demo t on perm t, or any other perm t from the Department of Bu d ng Inspect on n connect on w th the Bo er Stack | P ann ng Department Preservat on Techn ca Spec a st to rev ew and approve preservat on and protect on p an, spec f cat ons, mon tor ng schedu e, and other support ng documents | Cons dered comp ete upon acceptance by P ann ng Department of construct on spec f cat ons to avo d damage to the Bo er Stack |

| Mitigation Measure   | Responsibility for<br>Implementation  | Mitigation Schedule  | Monitoring/<br>Reporting<br>Responsibility  | Monitoring Actions/<br>Schedule and Verification<br>of Compliance  |  |  |  |
|--|---|--|---|--|--|--|--|
| EIR Section 4.D Historic Architectural Resources (cont.)   |   |  |   |  |  |  |  |
| reta ned character def n ng features dur ng construct on of the project, such as avo d ng construct on equ pment nadvertent y com ng n contact w th the Bo er Stack, to m n m ze construct on re ated damage to the Bo er Stack, and to ensure that any such damage s documented and repa red. If deemed necessary upon further cond t on assessment of the resource, the p an sha nc ude stab zat on of the Bo er Stack pr or to construct on to prevent deter orat on or damage. Where p e dr v ng and other construct on act v t es nvo v ng the use of heavy equ pment wou d occur n prox m ty to the Bo er Stack, the project sponsor sha undertake a v brat on mon tor ng program as descr bed n M t gat on Measure M NO 4a, nc ud ng estab sh ng a max mum v brat on eve that sha not be exceeded based on ex st ng cond t ons, character def n ng features, so s cond t ons, and ant c pated construct on pract ces n use at the t me. The project sponsor sha ensure that the contractor fo ows these p ans. The preservat on and protect on p an, spec f cat ons, mon tor ng schedu e, and other support ng documents sha be ncorporated nto the bu d ng or s te perm t app cat on p an sets. The documentat on sha be rev ewed and approved by P ann ng Department Preservat on staff.  |   |  |   |  |  |  |  |
| Mitigation Measure M-CR-5e (Variant): Historic Preservation Plan and Review Process for Alteration of Station A and the Boiler Stack  Pr or to the approva of the f rst bu d ng perm t for construct on of Phase 1, a h stor c preservat on p an estab sh ng protect ve measures sha be prepared and mp emented to a d n preserv ng and protect ng port ons of Stat on A and the Bo er Stack, which would be retained as part of the project. The historic preservation p an sha be prepared by a qualified architectural historian who meets the Secretary of Interior's Professional Qualification Standards (36 Code of Federal Regulations Part 61). The plan shale estab shim easures to protect the retained character defining features during construction of the project, such as avoiding construction equipment inadvertently coming in contact with Station A and the Boler Stack, to minimize construction related damage to Station A and the Boler Stack, and to ensure that any such damage is documented and repaired. If deemed necessary upon further condition assessment of the resource, the plan shale ncide stability and the Boler Stack priority to construct on to prevent deterioration or damage. Where ple driving and other construction activities not prevent deterioration or damage. Where ple driving and other construction activities not prevent deterioration or damage. Where ple driving and other construction activities not prevent deterioration or damage. Where ple driving and other construction activities not prevent deterioration or damage. Where ple driving and other construction activities not prevent deterioration or damage. Where ple driving and other construction activities not prevent deterioration or damage. Where ple driving and other construction activities not prevent deterioration or damage. Where ple driving and other support necessary upon the project sponsor shale in the stable and the second of the supporting documents and protect on plan, specifications, monitoring schedule, and other supporting documents have be necessary | Project sponsor and a qua f ed arch tectura h stor an who meets the Secretary of Interior's Professional Qualification Standards (36 Code of Federa Regu at ons Part 61 | Construct on spec f cat ons to be deve oped pr or to the ssuance of a s te perm t, demo t on perm t, or any other perm t from the Department of Bu d ng Inspect on n connect on w th Stat on A and the Bo er Stack | P ann ng Department Preservat on Techn ca Spec a st to rev ew and approve preservat on and protect on p an, spec f cat ons, mon tor ng schedu e, and other support ng documents | Cons dered comp ete upor acceptance by P ann ng Department of construct or spec f cat ons to avo d damage to Stat on A and the Bo er Stack |  |  |  |

| Mitigation Measure  | Responsibility for<br>Implementation                        | Mitigation Schedule   | Monitoring/<br>Reporting<br>Responsibility   | Monitoring Actions/<br>Schedule and Verification<br>of Compliance                                |  |  |  |  |
|---|---|---|--|--|--|--|--|--|
| EIR Section 4.D Historic Architectural Resources (cont.)  |   |   |  |  |  |  |  |  |
| Mitigation Measure M-CR-6: Design Controls for New Construction  The Spec a Use D str ct (SUD) and Des gn for Deve opment (D for D) sha contain des gn standards and guide nes that ensure that new construction and site deve opment within the SUD sha be compatible with the character of the Third Street Industria D strict. Beyond the site wide standards and guide nes developed for open space, buildings, and streetscapes in the D for D, the D for D sha contain design controls for the Third Street Industria D strict, as out ned below (see site wide design controls below). | Project sponsor and a<br>qua f ed arch tectura<br>h stor an | Rev ew of new<br>construct on p ans pr or<br>to the ssuance of<br>bu d ng perm ts | P ann ng Department and P ann ng Department staff and Preservat on Techn ca Spec a st to rev ew and approve des gn | Cons dered comp ete upon<br>des gn approva from the<br>P ann ng Department<br>Preservat on staff |  |  |  |  |
| Add t ona des gn standards sha app y to the western façades of new bu d ngs front ng I no s Street, the southern façades of new bu d ngs front ng 23rd Street, and the eastern and/or southern façades of new bu d ngs front ng the Bo er Stack (see b ock and frontage spec f c des gn contro s be ow and <b>Figure M-CR-6</b> , <b>Site Frontages Subject to Design Controls</b> ). These façades wou d a face contr butors to the Th rd Street Industr a D str ct. The add t ona des gn standards that sha app y spec f ca y to those frontages are nc uded be ow.                         |   |   |  |  |  |  |  |  |
| 13  |   |   |  |  |  |  |  |  |
| Figure M-CR-6 S te Frontages Subject to Des gn Contro s  These des gn contro s n the D for D sha be compat be with the Secretary of the Inter or Standards for Rehabilitation, Standard 9. Standard 9 states that new work sha be different ated from the oid and sha be compatible with the massing, size, scale, and architectural features to protect the integrity of the historic district and its environment.  |   |   |  |  |  |  |  |  |

| Mitigation Measure   | Responsibility for<br>Implementation | Mitigation Schedule | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |  |  |
|--|--------------------------------------|---------------------|--|---|--|--|
| EIR Section 4.D Historic Architectural Resources (cont.)   |                                      |                     |  |   |  |  |
| Review Process   |                                      |                     |  |   |  |  |
| New construct on n the Spec a Use D str ct w be subject to adm n strat ve des gn rev ew pr or to the ssu ng of bu d ng perm ts. P ann ng staff a ong w th Preservat on staff w rev ew new projects to ensure compat b ty w th the Th rd Street Industr a D str ct as determ ned n the above standards and gu de nes and dent f ed n the D for D.   |                                      |                     |  |   |  |  |
| The D for D sha contain the following Third Street Industrial D strict Frontage Design Controls:   |                                      |                     |  |   |  |  |
| <ul> <li>Block and Frontage Specific Design Controls Ground Floor Height for Blocks 11 12 and 13:<br/>For Ground Floor of Blocks 11 and 12 facing 23rd Street Sugar Warehouses and Block 13<br/>facing American Industrial Center all ground floor spaces shall have a minimum floor to floor<br/>height of 15 feet as measured from grade</li> </ul>  |                                      |                     |  |   |  |  |
| <ul> <li>Height + Massing along 23rd and Illinois street frontages In order for 23rd and Illinois streets to appear balanced on either side new construction shall respect existing heights of contributors to the Third Street Industrial District by referencing their heights with an upper level 10 foot setback at approximately 65 feet</li> </ul>   |                                      |                     |  |   |  |  |
| • Awnings on Blocks 10 11 12 and 13 An awning shall be provided on the southern facades of Blocks 10 11 and 12 that face 23rd Street at a height of 15 to 25 feet above sidewalk grade to reference the industrial awning at the westernmost Sugar Refinery Warehouse Awnings at this location may project up to 15 feet into the public realm Should the southern façade of Station A be retained an awning on Block 10 would not be required For Block 13 frontages facing Illinois Street canopies and awnings should only be located at the retail land use at the corner of Illinois and 22nd streets |                                      |                     |  |   |  |  |
| The character, des gn and mater a s used for such awn ngs sha be ndustra n character and des gn, suggest ons are the fo ow ng:   |                                      |                     |  |   |  |  |
| <ul> <li>They shou d be f at or p tched, and shou d not be arched. The funct ona support ng<br/>structure and/or t eback rods shou d be c ear y read [.e., rema n apparent to the<br/>observer].</li> </ul>  |                                      |                     |  |   |  |  |
| <ul> <li>Mater a s used for canop es and awn ngs shou d be ut tar an. Suggested mater a s nc ude wood, stand ng seam or ouvered meta pane s, and corrugated meta.</li> </ul>   |                                      |                     |  |   |  |  |
| <ul> <li>Openings along 23<sup>rd</sup> and Illinois street frontages. To the extent a owed by the Department of Pub c Hea th, arge doors, such as s d ng or ro up doors that fac tate the movement of peop e, equ pment, and goods n and out of the ground f oor of new construct on on B ocks 10 13 sha be ncorporated a ong 23rd Street and I no s Street.</li> </ul>   |                                      |                     |  |   |  |  |
| <ul> <li>Special Corners on Block 12. To frame the v ew of the con c Bo er Stack, the northeast corner of B ock 12 shou d nc ude the use of h gh qua ty mater a s, such as br ck, concrete, copper, stee, g ass, and wood, and n add t on sha nc ude:</li> </ul>   |                                      |                     |  |   |  |  |

| M  | litigation Measure   | Responsibility for<br>Implementation | Mitigation Schedule | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |
|----|--|--------------------------------------|---------------------|--|---|
| EI | IR Section 4.D Historic Architectural Resources (cont.)  |                                      |                     |  | -0  |
|    | <ul> <li>Vo umetr c shap ng of the area of a bu d ng w th n 15 feet of the northeastern corner of<br/>B ock 12 w th arch tectura treatments nc ud ng but not m ted to chamfers, round<br/>edges, setbacks, and/or protrus ons to h gh ght v ews or re ate to the shape of the<br/>Bo er Stack from the pub c rea m.</li> </ul>   |                                      |                     |  |   |
| •  | Special Corners Block 9 without Unit 3. To create an open and nv t ng entrance to Waterfront Park and Stack P aza from De aware Street and Power Stat on Park, the southwest corner of B ock 9 w thout Un t 3 shou d use h gh qua ty mater a s, such as br ck, concrete, copper, stee, g ass, and wood, and n add t on sha nc ude:   |                                      |                     |  |   |
|    | <ul> <li>Vo umetr c shap ng of any bu d ng n the area w th n 15 feet of the southwest corner of<br/>B ock 9 w th arch tectura treatments nc ud ng but not m ted to chamfers, round edges,<br/>setbacks, and/or protrus ons to h gh ght v ews or re ate to the shape of the Bo er Stack<br/>from the pub c rea m.</li> </ul>  |                                      |                     |  |   |
| •  | Block 9 without Unit 3. For deference to the h stor c Stack, and to create more phys ca space between the Stack and new construct on, the bu d ng of B ock 9 w thout Un t 3 sha be designed such that the overal bulk is reduced by at east 10 percent from the max mum permitted foor area, with a focus along the southern façade of the new bull ding, facing the Stack. A potential distribution of bulk reduction, for example, could result in an 8 percent reduction along the southern façade with a 2 percent reduction elsewhere.                                |                                      |                     |  |   |
|    | The bu d ng shou d interact mean ngfu y with the Bo er Stack, such as referencing the existing relationship between it and Unit 3 (i.e., the simple, conic form of the Boiler Stack in contrast to the highly complex, detailed form of the Unit 3 Power Block). Retain the existing exhaust infrastructure connecting the Unit 3 Power Block with the Boiler Stack and incorporating it into the new structure as feasible. Consider preserving other elements of the Unit 3 Power Block, such as portions of the steeling grid ded frame structure, in new construction. |                                      |                     |  |   |
| •  | Architectural Features on Blocks 10 11 12 and 13. Regu ar y spaced structura bays should be expressed on the exterior of the lower massing through the use of rectangular columns or plasters, which reference the rhythm of loading docks on the Western Sugar Refinery Warehouses and American Industrial Center. Bay widths shall be no larger than 30 feet on center.  |                                      |                     |  |   |
|    | Arch tectura features such as corn ce nes, be t courses, arch tectura tr m, or change n mater a ty or co or should be norporated nto the building design to reference heights and massing of the Western Sugar Refinery Warehouses on 23rd Street and American Industria Center on I nois Street at areas of the façade that are not required to be set back.  |                                      |                     |  |   |
| •  | Third Street District Fenestration. Operable windows shall be single or double hung wood sash, or awning, pivot, or other industrial style stee or aluminum fenestration. Casement windows shall be avoided at lower building massing. Divided it ewindows are appropriate.  |                                      |                     |  |   |
|    | Ground eve g az $ng$ sha $ncorporate$ transom $w$ $ndows$ $f$ $not$ $ut$ $z$ $ng$ $ro$ $up$ or $fu$ $he$ $ght$ $s$ $d$ $ng$ doors.   |                                      |                     |  |   |

| N | itigation Measure   | Responsibility for<br>Implementation | Mitigation Schedule | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |
|---|---|--------------------------------------|---------------------|--|---|
| E | IR Section 4.D Historic Architectural Resources (cont.)   |                                      |                     | 46   |   |
|   | Upper eve g az ng sha cons st of regu ar repeated punched open ngs wth d v ded tes. Punched open ngs sha be rectangu ar n proport on; an except on s the use of segmenta y arched open ngs f the bu d ng mater a s br ck.   |                                      |                     |  |   |
| • | Third Street District Building Rooftops. Rooftops sha refect the h stor c industrial character of the district and include flat, monitor, or shalow shed roofs. Gable or hipped roofs shalbe avoided as primary features.   |                                      |                     |  |   |
| T | he D for D shall contain the following Site Wide Design Controls:   |                                      |                     |  |   |
| ٠ | Recommended Materials Recommended mater a s should be incorporated into building design. Recommended mater a sinclude brick, concrete, copper, steeling, glass, smooth stuccoland wood. Avoid using veneer masonry panels except as described in the Depth of Façade, below. Avoid using smooth, flat, or min maily detailed glass curtain wais; highly reflective glass; coarse sand finished stuccolas a primary sid ng materia; bamboo wood sid ng as a primary sid ng materia; am nated timber panels; or back and dark materias should not be used as a predominate materia. Where meta is used, selection should favor metais with naturally occurring patina such as copper, steeling roots. Metais should be mattein finish. Where shiny materials are used, they should be accent elements rather than dominant materials, and are generally not encouraged. |                                      |                     |  |   |
| • | Depth of Façade The façade should be designed to create a sense of durability and substantial ty, and to avoid althin or veneer like appearance. Full brick or masonry is a preferred material. If thin brick or masonry or pane systems are used, these materials should read as having a volumetricle by that is appropriate to their thickness. For example, masonry should turn the corner at a depth that is consistent with the typical depth of a brick.   |                                      |                     |  |   |
|   | W ndows and other open ngs are an opportun ty to re nforce the vo umetr c eg b ty of the façade, w th an appropr ate depth that re ates to the mater a se ected. For examp e, the depth of the bu d ng frame to the g az ng shou d be suff c ent y deep to convey a substant a exter or wa, and mater a s shou d turn the corner into a window revea.   |                                      |                     |  |   |
| • | Quality and Durability Exter or f n shes should have the qualities of permanence and durability found n s m ar contextual building materials used on neighboring sites and nother Central Waterfront. Materials should be low maintenance, we suited to the specific martime microcimate of the neighborhood, and able to naturally weather over time without extensive maintenance and upkeep. Materials characteristic of the surrounding context, such as brick, concrete, stone, wood, and glass, and, are envisioned on site and are good candidates to meet durability the surrounding context.   |                                      |                     |  |   |
| 7 | he D for D shall contain the following Street and Open Spaces Design Controls:  |                                      |                     |  |   |
| • | Stack Plaza. No more than one third of the area within 45 feet of the Boller Stack shall be planted. Paving and hardscape elements shall incorporate industrial elements and materials into the design. Design elements should use simple geometric forms, regular or repeating paving patterns and ut it arian materials such as simple masonry pavers or salvaged masonry units if feasible and safe for public use.  |                                      |                     |  |   |

| Mitigation Measure   | Responsibility for<br>Implementation | Mitigation Schedule | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |
|--|--------------------------------------|---------------------|--|---|
| EIR Section 4.D Historic Architectural Resources (cont.)   |                                      |                     |  | ts  |
| Stack P aza des gn e ements, such as p anters and nat ve p ant ng, shou d be kept ow to the ground to comp ement and not d stract from the Bo er Stack. Surfaces shou d not be des gned w th e aborate y app ed patterns. Any pattern ng shou d be the pragmat c resu t of the use of un t pavers or concrete score jo nts.  |                                      |                     |  |   |
| <ul> <li>23rd Street Streetscape. The streetscape des gn of 23rd Street shou d ba ance the h stor c ut tar an character of the Th rd Street Industr a D str ct w th we com ng des gn gestures for th s mportant entrance to the Potrero Power Stat on deve opment. To that end, the fo ow ng gu de nes sha be fo owed:</li> </ul>  |                                      |                     |  |   |
| <ul> <li>Landscape e ements should fee add tive to the industrial streetscape. Examples not ude potted or otherwise designed raised beds of plants and trees that are placed onto paved surfaces; small tree we siw thin paved surfaces; green wais; and raised or owered bedsiedged with industrial materials such as brick, low grante curbs, or stee.</li> </ul>  |                                      |                     |  |   |
| <ul> <li>Tree p ant ng ocat ons shou d be rregularly spaced or placed in small groupings along<br/>the street, in contrast with standard Better Street P an requirements, in order to provide<br/>better compatible ty with the historic district.</li> </ul>  |                                      |                     |  |   |
| <ul> <li>A tree and vegetat on pa ette shou d be used that does not detract from the industrial character. Green wais, planter boxes, and vegetation should be considered rather than trees for storm water management.</li> </ul>   |                                      |                     |  |   |
| <ul> <li>Pub c art nsta at ons, such as mura s, are encouraged.</li> </ul>   |                                      |                     |  |   |
| <ul> <li>Transit Bus Shelter The bus she ter should be ut tar an in material ty and design to reflect the industrial nature of the nearby Western Sugar Reflect Warehouse buildings. The bus she ter shall be coordinated with the building design on Block 12.</li> </ul>   |                                      |                     |  |   |
| 23rd Street and Illinois Paving. S dewa k pav ng at 23rd Street and I no s Street shou d be more ndustra n character compared to s dewa k pav ng at other port ons of the s te. Cons der vary ng s dewa k concrete score jo nt patterns or pavers from b ock to b ock. Des gn must be rev ewed and approved by San Franc sco Pub c Works and San Franc sco Mun c pa Transportat on Agency as part of the Street Improvement P ans.   |                                      |                     |  |   |
| 23rd Street Transit Island Paving. Pavement at the trans t board ng s and shou d ncorporate concrete or stone pavers or enhanced cast n p ace concrete with smaller scale joint patterns for a more refined appearance. Integral color and decorative aggregates may be selected for aesthetic quality and shall meet access be design requirements for significant parts. Design must be reviewed and approved by San Francisco Public Works and San Francisco Municipal Transportation Agency as part of the Street Improvement Plans. |                                      |                     |  |   |
| <ul> <li>Signage. Tenant s gnage fac ng contr but ng bu d ngs to the Th rd Street Industr a D str ct<br/>shou d be ut tar an n des gn and mater a ty to refect the adjacent h stor c resources and<br/>strengthen the 23rd Street streetscape. Back t s gnage shou d be avo ded.</li> </ul>  |                                      |                     |  |   |

| Mitigation Measure   |   |  | Responsibility for<br>Implementation  | Mitigation Schedule   | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance   |
|--|---|--|---|---|--|---|
| EIR Section 4.E Transportation and Circ  | culation  |  | Š   |   |  |   |
| Mitigation Measure M-TR-5: (Dependent Proposed Project:  Mitigation Measure M-TR-5: Implem Performance Standard. The project stransportation demand management (generated vehicle it psice that the project stransportation demand management (generated vehicle it psice it psic | tent Measures to Red sponsor sha be responsor sha be submitted with nithe same counts of the sha be submitted in 30 days of the data corred by the TDM P an (for the responsor sha be submitted in 30 days of the data corred by the TDM P an (for the responsor sha be submitted in 30 days of the data corred by the TDM P an (for the responsor sha be submitted in 30 days of the data corred by the TDM P an (for the responsor sha be submitted in 30 days of the data corred by the TDM P an (for the responsor sha be submitted in the true that the same bunts sha be submitted in the true that the true | uce Transit Delay Inside the number of project form of 89 percent of the EIR Interpretation of the EIR Interpretat | Project sponsor, a qua f ed transportat on consu tant approved by the SFMTA | W th n one year of ssuance of the project's frst cert f cate of occupancy: the f rst mon tor ng of da y and p.m. peak per od (4 p.m. to 7 p.m.) veh c e tr ps n accordance w th an SFMTA and San Franc sco P ann ng Department agreed upon mon tor ng and report ng p an.  Ongo ng: A document w th the resu ts of the annua veh c e counts sha be subm tted to the Env ronmenta Rev ew Off cer and the SFMTA for rev ew w th n 30 days of the data co ect on, or w th the project's annua TDM mon tor ng report as required by the TDM P an (f the atter s preferab e to ERO n consultation with the SFMTA). | P ann ng Department<br>staff and SFMTA     | Cons dered comp ete whee e ght consecut ve report not per ods show that the fury burt project has met the performance standard, or untrexpration of the project's development agreement, whichever is ear er. |

| Mitigation Measure   | Responsibility for<br>Implementation | Mitigation Schedule | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |  |  |  |  |
|--|--------------------------------------|---------------------|--|---|--|--|--|--|
| EIR Section 4.E Transportation and Circulation (cont.)   |                                      |                     |  |   |  |  |  |  |
| The project sponsor sha begin submitting monitoring reports to the Planning Department 18 months following 75 percent occupancy of the first phase. Thereafter, annual monitoring reports shall be submitted (referred to as "reporting periods") until eight consecutive reporting periods show that the fully built project has met the performance standard, or until expiration of the project's development agreement, whichever is earlier.  |                                      |                     |  |   |  |  |  |  |
| If the C ty f nds that the project exceeds the stated performance standard for any deve opment phase, the project sponsor shall select and implement add tona TDM measures in order to reduce the number of project generated vehicle trips to meet the performance standard for that deve opment phase. These measures could include expansion of measures a ready included in the project's proposed TDM P an (e.g., providing add tonal project shuttle routes to a ternative destinations, increases in talored transportation marketing services, etc.), other measures dentified in the C ty's TDM Program Standards Appendix A (as such appendix may be amended by the P anning Department from time to time) that have not yet been included in the project's approved TDM P an, or, at the project sponsor's discretion, other measures not included in the C ty's TDM Program Standards Appendix A that the C ty and the project sponsor agree are likely to reduce peak period driving trips.               |                                      |                     |  |   |  |  |  |  |
| For any deve opment phase where add t ona TDM measures are required, the project sponsor shall have 30 months to demonstrate a reduction in vehicle the performance standard. If the performance standard is not met within 30 months, the project sponsor shall submit to the Environmental Review Officer and the SFMTA a memorandum documenting proposed methods of enhancing the effectiveness of the TDM measures and/or additional feasible TDM measures that would be implemented by the project sponsor, along with annual monitoring of the project generated vehicle trips to demonstrate their effectiveness in meeting the performance standard. The comprehensive monitoring and reporting program shall be terminated upon the earlier of () expiration of the project's development agreement, or () eight consecutive reporting periods showing that the fully built project has met the performance standard. However, compliance reporting for the City's TDM Program shall continue to be required. |                                      |                     |  |   |  |  |  |  |
| If the add t ona TDM measures do not ach eve the performance standard, then the C ty sha mpose add t ona measures to reduce veh c e tr ps as prescr bed under the deve opment agreement, which may no ude on site or off site capital mprovements intended to reduce vehicle trips from the project. Capital measures may no ude, but are not imited to, peak period or all day transitionly anes (e.g., along 22nd Street), turn pockets, bus builds, queue jumps, turn restrictions, preipaid boarding pass machines, and/or boarding is ands, or other measures that support sustainable trip making.   |                                      |                     |  |   |  |  |  |  |
| The mon tor ng and report ng p an descr bed above may be mod f ed by the Env ronmenta Rev ew Off cer n coord nat on w th the SFMTA to account for trans t route or transportat on network changes, or major changes to the deve opment program. The mod f cat on of the mon tor ng and report ng p an, however, sha not change the performance standard set forth n th s m t gat on measure.   |                                      |                     |  |   |  |  |  |  |

| itigation Measure   |  |  |  |   | Responsibility for<br>Implementation  | Mitigation Schedule                                 | Monitoring/<br>Reporting<br>Responsibility  | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |
|---|--|--|--|---|---|---|---|---|
| R Section 4.E Trans   | sportation and Cir   | culation (cont.  | )  |   |   |   |   |   |
| Project Variant:  Mitigation Measure M-TR-5 (Variant): Implement Measures to Reduce Transit Delay  Performance Standard. The project sponsor sha be respons be for mp ementing transportation demand management (TDM) measures to mit the number of project generated vehicle trips during the p.m. peak hour to a max mum of 89 percent of the EIR est mated values of each of the phases of project development (performance standard), as shown in the table below. The number of vehicle trips by phase to meet the above stated performance standard shall be included in the approved TDM Plan. |  |  |  | Project sponsor, a<br>qua f ed transportat on<br>consu tant approved by<br>the SFMTA  | ssuance of the project's frst cert f cate of occupancy: the f rst mon tor ng of da y and p.m. peak per od (4 p.m. to 7 p.m.) veh c e tr ps n accordance w th an SFMTA and San | P ann ng Department<br>staff and SFMTA              | Cons dered comp ete whee eight consecutive reporting periods show that the fully built project has met the performance standard, or until expiration of the project's development agreement, whichever is ear er. |   |
|   | Max  | imum P.M. Pea  | k Hour Vehicle T   | rips  |   | Franc sco P ann ng<br>Department agreed             |   |   |
| Project   | Project  | ariant No PG&E Subarea Scenario  |  |   | upon mon tor ng and report ng p an.  Ongo ng: A document with the results of the annual vehicle counts  |   |   |   |
| Development<br>Phase  | elopment Running Running   |  |  |   |   |   |   |   |
| Phase 1   | 370  | 370  | 370  | 370   |   | sha be submitted to the                             |   |   |
| Phase 2   | 440  | 810  | 440  | 810   |   | Env ronmenta Rev ew<br>Off cer and the SFMTA        |   |   |
| Phase 3   | 250  | 1,060  | 250  | 1,060   |   | for rev ew w th n 30 days of the data co ect on, or |   |   |
| Phase 4   | 630  | 1,690  | 670  | 1,730   |   | w th the project's annua                            |   |   |
| Phase 5   | 240  | 1,930  | 240  | 1,970   |   | TDM mon tor ng report<br>as required by the TDM     |   |   |
| Phase 6   | 280  | 2,210  | NA   | NA  |   | Pan (f the atter s                                  |   |   |
|   | oject sponsor sha<br>leg n mon tor ng da<br>le w th an SFMTA are<br>lort ng p an, which sho<br>lore ct on sha included<br>internal streets at the<br>led data for the three<br>led are controlled in the controlled<br>led annual vehicle controlled in the controlled in the<br>led annual vehicle controlled in the controll | retain a quaifer y and p.m. peand San Francischa be nouded le counts of the residuate extraction with a thought of the peand of the red by the TDM | d transportat on cook per od (4 p.m. to P ann ng Depart as a part of the appumber of veh c es son 22nd, I no s, s esday, Wednesday e same month annubm tted to the Envelope of the atter series of the atter s | nsu tant approved<br>o 7 p.m.) veh c e<br>iment agreed upon<br>proved TDM P an.<br>enter ng and ext ng<br>and 23rd streets for<br>or Thursday) sha<br>ua y. A document<br>ronmenta Rev ew<br>w th the project's |   | preferable to ERO in consultation with the SFMTA).  |   |   |

| Mitigation Measure  | Responsibility for<br>Implementation | Mitigation Schedule | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |
|---|--------------------------------------|---------------------|--|---|
| EIR Section 4.E Transportation and Circulation (cont.)  |                                      |                     |  | - <b>t</b> s  |
| The project sponsor sha begin submitting monitoring reports to the Planning Department 18 months following 75 percent occupancy of the first phase. Thereafter, annual monitoring reports shall be submitted (referred to as "reporting periods") until eight consecutive reporting periods show that the fully built project has met the performance standard, or until expiration of the project's development agreement, whichever is earlier.   |                                      |                     |  |   |
| If the C ty f nds that the project exceeds the stated performance standard for any deve opment phase, the project sponsor shall select and implement add tonal TDM measures in order to reduce the number of project generated vehicle trips to meet the performance standard for that development phase. These measures could include expansion of measures a ready included in the project's proposed TDM P an (e.g., providing add tonal project shuttle routes to a ternative destinations, increases in tailored transportation marketing services, etc.), other measures dentified in the City's TDM Program Standards Appendix A (as such appendix may be amended by the P anning Department from time to time) that have not yet been included in the project's approved TDM P an, or, at the project sponsor's discretion, other measures not included in the City's TDM Program Standards Appendix A that the City and the project sponsor agree are likely to reduce peak period diving trips.             |                                      |                     |  |   |
| For any deve opment phase where add t ona TDM measures are required, the project sponsor shall have 30 months to demonstrate a reduction in vehicle the performance standard. If the performance standard is not met within 30 months, the project sponsor shall submit to the Environmenta Review Officer and the SFMTA a memorandum documenting proposed methods of enhancing the effect veness of the TDM measures and/or add tional feasible TDM measures that would be implemented by the project sponsor, along with annual monitoring of the project generated vehicle trips to demonstrate their effect veness in meeting the performance standard. The comprehensive monitoring and reporting program shall be terminated upon the earlier of () expiration of the project's development agreement, or () eight consecutive reporting periods showing that the fully built project has met the performance standard. However, compliance reporting for the City's TDM Program shall continue to be required. |                                      |                     |  |   |
| If the add t ona TDM measures do not ach eve the performance standard, then the C ty sha mpose add t ona measures to reduce veh c e tr ps as prescr bed under the deve opment agreement, which may no ude on site or off site capital improvements intended to reduce vehicle trips from the project. Capital measures may no ude, but are not imited to, peak period or all day transition y lanes (e.g., along 22nd Street), turn pockets, bus builds, queue jumps, turn restrictions, preipad boarding pass machines, and/or boarding is ands, or other measures that support sustainable trip making.   |                                      |                     |  |   |
| The mon tor ng and report ng p an descr bed above may be mod f ed by the Env ronmenta Rev ew Off cer n coord nat on w th the SFMTA to account for trans t route or transportat on network changes, or major changes to the deve opment program. The mod f cat on of the mon tor ng and report ng p an, however, sha not change the performance standard set forth n th s m t gat on measure.  |                                      |                     |  |   |

| Mitigation Measure  | Responsibility for<br>Implementation | Mitigation Schedule                            | Monitoring/<br>Reporting<br>Responsibility                 | Monitoring Actions/<br>Schedule and Verification<br>of Compliance   |  |
|---|--------------------------------------|--|--|---|--|
| EIR Section 4.E Transportation and Circulation (cont.)  |                                      | <u>,                                      </u> |  | l.  |  |
| Mitigation Measure M-TR-7: Improve Pedestrian Facilities at the Intersection of Illinois Street/22nd Street   | Project sponsor and SFMTA            | Ongo ng dur ng project construct on            | ERO or other<br>P ann ng Department                        | Cons dered comp ete when intersect on                               |  |
| In the event that the P er 70 M xed Use D str ct project does not mp ement improvements at the intersection of I in o s Street/22nd Street, as part of the proposed project's s dewalk improvements on the east side of I in o s Street between 22nd and 23rd streets, the project sponsor shall work with SFMTA to implement the following improvements:   |                                      |  | staff a ong w th<br>SFMTA                                  | mprovement s comp ete   |  |
| <ul> <li>Insta a traff c s gna, nc ud ng pedestr an countdown s gna heads at the ntersect on of<br/>I no s Street/22nd Street.</li> </ul>   |                                      |  |  |   |  |
| <ul> <li>Str pe marked crosswa ks in the continental design.</li> </ul>   |                                      |  |  |   |  |
| <ul> <li>Construct/reconstruct ADA comp ant curb ramps at the four corners, as necessary.</li> </ul>  |                                      |  |  |   |  |
| In the event that the P er 70 M xed Use D str ct project does not mp ement these mprovements, the project sponsor sha be respons be for costs assoc ated with design and implementation of these mprovements. The SFMTA sha determine whether the SFMTA or the project sponsor would implement these improvements.  |                                      |  |  |   |  |
| EIR Section 4.F Noise and Vibration   |                                      |  |  |   |  |
| Mitigation Measure M-NO-1: Construction Noise Control Measures  | Project sponsor and                  |  | Bu d ng Inspect on<br>(as requested<br>and/or on comp a nt | Cons dered comp ete at<br>the comp et on of project<br>construct on |  |
| The project sponsor sha mp ement construct on no se contro s as necessary to ensure comp ance with the No se Ordinance imits and to reduce construction no seleve s at sensitive receptor locations to the degree feasible. No se reduction strategies that could be implemented not ude, but are not imited to, the following:   |                                      |  |  |   |  |
| <ul> <li>Require the general contractor to ensure that equipment and trucks used for project construction ut it ze the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoust cally attenuating shields or shrouds).</li> </ul>  |                                      |  |  |   |  |
| <ul> <li>Require the general contractor to locate stationary noise sources (such as the rock/concrete crusher, or compressors) as far from adjacent or nearby sensitive receptors as possible, to muffle such noise sources, and/or to construct barriers around such sources and/or the construction is te, which could reduce construction noise by as much as 5 dBA. To further reduce noise, the contractor shall ocate stationary equipment in pit areas or excavated areas, to the maximum extent practicable.</li> </ul> |                                      |  |  |   |  |
| • Require the general contractor to use impact too s (e.g., jack hammers, pavement breakers, and rock dr s) that are hydrau cally or electrically powered wherever possible to avoid no se associated with compressed air exhaust from pneumatically powered tools. Where use of pneumatic tools is unavoidable, an exhaust muffier on the compressed air exhaust shall be used, along with external noise jackets on the tools, which would reduce noise evels by as much as 10 dBA.   |                                      |  |  |   |  |

| Mitigation Measure   | Responsibility for<br>Implementation | Mitigation Schedule | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |
|--|--------------------------------------|---------------------|--|---|
| EIR Section 4.F Noise and Vibration (cont.)  | Į.                                   |                     | 40   | <b>3</b>  |
| Inc ude no se contro requ rements for construct on equ pment and too s, nc ud ng spec f ca y concrete saws, n spec f cat ons prov ded to construct on contractors. Such requ rements cou d nc ude, but are not m ted to, erect ng temporary p ywood no se barr ers around a construct on s te, part cu ar y where a s te adjo ns no se sens t ve uses; ut z ng no se contro b ankets on a bu d ng structure as the bu d ng s erected to reduce no se eve s emanat ng from the construct on s te; perform ng a work n a manner that m n m zes no se; us ng equ pment w th effect ve muff ers; undertak ng the most no sy act v t es dur ng t mes of east d sturbance to surround ng res dents and occupants; and se ect ng hau routes that avo d res dent a uses.   |                                      |                     |  |   |
| • Pr or to the ssuance of each bu d ng perm t, a ong w th the subm ss on of construct on documents, subm t to the P ann ng Department and Department of Bu d ng Inspect on or the Port, as appropr ate, a p an to track and respond to comp a nts perta n ng to construct on no se. The p an sha nc ude the fo ow ng measures: (1) a procedure and phone numbers for not fy ng the San Franc sco Department of Bu d ng Inspect on or the Port, the Department of Pub c Hea th, and the Po ce Department (dur ng regu ar construct on hours and off hours); (2) a s gn posted ons te descr b ng perm tted construct on days and hours, no se comp a nt procedures, and a comp a nt hot ne number that sha be answered at a t mes dur ng construct on; (3) des gnat on of an ons te construct on comp ance and enforcement manager for the project; and (4) not f cat on of ne ghbor ng res dents and non res dent a bu d ng managers w th n 300 feet of the project construct on area at east 30 days n advance of extreme no se generat ng act v t es (such as p e dr v ng and b ast ng) about the est mated durat on of the act v ty. |                                      |                     |  |   |
| <ul> <li>Wherever p e dr v ng or contro ed rock fragmentat on/rock dr ng s proposed to occur, the construct on no se contro s sha nc ude as many of the fo ow ng contro strateg es as feas b e:</li> </ul>   |                                      |                     |  |   |
| <ul> <li>Imp ement "qu et" p e dr v ng techno ogy such as pre dr ng p es where feas b e to<br/>reduce construct on re ated no se and v brat on.</li> </ul>   |                                      |                     |  |   |
| <ul> <li>Use p e dr v ng equ pment w th state of the art no se sh e d ng and muff ng dev ces.</li> </ul>   |                                      |                     |  |   |
| <ul> <li>Use pre dr ed or son c or v bratory dr vers, rather than mpact dr vers, wherever<br/>feas b e (nc ud ng s pways) and where v brat on nduced quefact on wou d not occur.</li> </ul>  |                                      |                     |  |   |
| <ul> <li>Schedu e p e dr v ng act v ty for t mes of the day that m n m ze d sturbance to res dents<br/>as we as commerc a uses ocated ons te and nearby.</li> </ul>  |                                      |                     |  |   |
| <ul> <li>Erect temporary p ywood or s m ar so d no se barr ers a ong the boundar es of each<br/>project b ock as necessary to shed affected sens t ve receptors.</li> </ul>  |                                      |                     |  |   |
| <ul> <li>Imp ement other equ va ent techno og es that emerge over t me.</li> </ul>   |                                      |                     |  |   |
| If contro ed rock fragmentat on (nc ud ng rock dr s) were to occur at the same t me as p e dr v ng act v t es n the same area and n prox m ty to no se sens t ve receptors, p e dr vers shou d be set back at east 100 feet wh e rock dr s shou d be set back at east 50 feet (or v ce versa) from any g ven sens t ve receptor.   |                                      |                     |  |   |

| Mitigation Measure   | Responsibility for<br>Implementation                                  | Mitigation Schedule  | Monitoring/<br>Reporting<br>Responsibility  | Monitoring Actions/<br>Schedule and Verification<br>of Compliance  |  |  |  |  |
|--|---|--|---|--|--|--|--|--|
| EIR Section 4.F Noise and Vibration (cont.)  |   |  |   |  |  |  |  |  |
| <ul> <li>If b ast ng s done as part of contro ed rock fragmentat on, use of b ast ng mats and<br/>reduc ng b ast s ze sha be mp emented to the extent feas b e n order to m n m ze<br/>no se mpacts on nearby sens t ve receptors.</li> </ul>  |   |  |   |  |  |  |  |  |
| Mitigation Measure M-NO-4a: Construction Vibration Monitoring  The project sponsor sha undertake a mon tor ng program to ensure that construct on re ated v brat on does not exceed 0.5 n/sec PPV at the Bo er Stack, the Amer can Industr a Center South bu dng, and the Western Sugar Warehouses as required pursuant to Mitigation Measures M NO 4b (V bration Contro Measures During Contro ed B asting and P e Driving), M NO 4c (V bration Contro Measures During Use of V bratory Equipment), and M CR 5e (H storic Preservation P an and Review Process for A teration of the Boiler Stack). The monotoring program sha include the following components:  • Provide to any controled biasting, pied riving, or use of v bratory construction equipment (v bration inducing construction), the project sponsor shall engage a historic architection qualified historic preservation profess on a and a qualified acoustical v bration consultant or structural engineer to undertake a pre construction survey of the Boiler Stack, the American Industria Center South building, and the Western Sugar Warehouses to document and photograph the building riving review of the structural engineer or other qualified entity shall establish a maximum viving that shall not be exceeded based on existing conditions, character defining features, so is conditional and anticipated construction practices in use at the time. The qualified consultant shall conducing construction practices in use at the time. The qualified consultant shallowed process for A teration of the Boiler Stack.  • Provide the start of any vibration inducing construction, the qualified acoustic of vibration inducing construction. The qualified process for A teration of the Boiler Stack.  • Provide the start of any vibration inducing construction, the qualified acoust calified to such vibration inducing construction. The qualified process for A teration of the Boiler Stack.  • Provide the start of any vibration inducing construction, the qualified acoust calified process for A teration of the Boiler s | Project sponsor,<br>structura eng neer, and<br>preservat on arch tect | Pre Construct on Assessment and V brat on Management and Mon tor ng P an to be comp eted pr or to ssuance of s te perm t, demo t on perm t, or any other construct on perm t from the Department of Bu d ng Inspect on n connect on w th the Bo er Stack, the Amer can Industr a Center South bu d ng, and the Western Sugar Warehouses.  Mon tor ng to occur dur ng the per od of major structura project construct on act v ty, nc ud ng demo t on and excavat on. If mon tor ng detects v brat on eve s n excess of the standard, sponsor to not fy the P ann ng Department w th n 5 work ng days.  Mon tor ng reports to be subm tted at a frequency estab shed n the mon tor ng p an. | P ann ng Department Preservat on Techn ca Spec a st sha rev ew and approve the V brat on Management and Mon tor ng P an and per od c mon tor ng reports | Cons dered comp ete upon subm tta to P ann ng Department of report on the V brat on Management and Mon tor ng P an and effects, f any, on adjacent h stor ca resources, after a major structura project construct on act v ty, nc ud ng demo t on and excavat on |  |  |  |  |

| Mitigation Measure   | Responsibility for<br>Implementation                    | Mitigation Schedule                                       | Monitoring/<br>Reporting<br>Responsibility                              | Monitoring Actions/<br>Schedule and Verification<br>of Compliance   |  |  |  |  |
|--|---|---|---|---|--|--|--|--|
| EIR Section 4.F Noise and Vibration (cont.)  |   |   |   |   |  |  |  |  |
| construct on techn ques put in practice, to the extent feas bie. For example, smaller, ighter equipment might be able to be used or preidir led pies could be substituted for driven pies, if so conditions a low.   |   |   |   |   |  |  |  |  |
| Mitigation Measure M-NO-4b: Vibration Control Measures During Controlled Blasting and Pile Driving   | Project sponsor and construct on contractor             | Dur ng p e dr v ng and re ated construct on               | P ann ng<br>Department,   | Cons dered comp ete at the comp et on of project                    |  |  |  |  |
| V brat on controls shalp be specified to ensure that the vibration imit of 0.5 in/sec PPV can be met at a linear posterior structures when a potential construction related vibration sources (onsite and offsite) are considered. These controls could include smaller charges zes if controlled basting slused, preidring pieholes, using the pulse plasma fragmentation technique, or using smaller vibratory equipment. This vibration imit shalp be coordinated with vibration imits required under Mitigation Measure MiBI 4, Fish and Marine Mamma. Protection during Pie Driving, to ensure that the lowest of the specified vibration imits sluttmately implemented.  |   | Department of<br>Bu d ng Inspect on                       | construct on  |   |  |  |  |  |
| Mitigation Measure M-NO-4c: Vibration Control Measures During Use of Vibratory Equipment   | Project sponsor,<br>geotechn ca eng neer,               | P an submitted to ERO prior to use of vibratory equipment | ERO, P ann ng<br>Department, and<br>Department of<br>Bu d ng Inspect on | Cons dered comp ete at<br>the comp et on of project<br>construct on |  |  |  |  |
| In areas with a "very high" or "high" suscept bity for vibration induced induced quefact on or different a settlement risks, as part of subsequent site specific geotechnical investigations, the project's geotechnical engineer shall specify an appropriate vibration imit based on proposed construction activities and proximity to inquefact on suscept bity zones. At a minimum, the vibration imit shall not exceed 0.5 in/sec PPV, unless the geotechnical engineer demonstrates, to the satisfaction of the Environmental Review Officer (ERO), that a higher vibration imit would not result in building damage. The geotechnical engineer shall specify construction practices (such as using smaller equipment or preid in giple holes) required to ensure that construction related vibration does not cause quefaction hazards at nearby structures. The project sponsor shall ensure that a construction contractors comply with these specified construction practices. This vibration imit shall be coordinated with vibration imits required under Mitigation Measure Mitigation in the suit material protection during Pie Driving, to ensure that the lowest of the specified vibration imits suit material materi | geotechn ca eng neer,<br>and construct on<br>contractor |   |   |   |  |  |  |  |
| Mitigation Measure M-NO-5: Stationary Equipment Noise Controls   | Project sponsor and                                     | Pr or to approva of a                                     | ERO, P ann ng   | Cons dered comp ete at  |  |  |  |  |
| For a stat onary equipment on the project site, no se attenuation measures shall be incorporated into the design of fixed stat onary no se sources to ensure that the no seleve simeet section 2909 of the San Francisco Police Code. A qualified acoustical engineer or consultant shall verify the ambient no seleve based on no seleve no toring and shall design the stat onary equipment to ensure that the following requirements of the no seleve name error.   | qua f ed acoust ca<br>eng neer or consu tant            | bu d ng perm t  | Department, and<br>Department of<br>Bu d ng Inspect on                  | the comp et on of project<br>construct on                           |  |  |  |  |
| <ul> <li>F xed stat onary equ pment sha not exceed 5 dBA above the amb ent no se eve at the property p ane at the c osest res dent a uses (B ocks 1, 5 8, 13 and poss b y B ocks 4, 9, 12, and 14, depend ng on the use u t mate y deve oped) and 8 dBA on b ocks where commerc a / ndustr a uses are deve oped (B ocks 2, 3, 10, 11, and poss b y B ocks 4, 12, and 14, depend ng on the use u t mate y deve oped);</li> </ul>  |   |   |   |   |  |  |  |  |

| Mitigation Measure  | Responsibility for<br>Implementation                    | Mitigation Schedule  | Monitoring/<br>Reporting<br>Responsibility           | Monitoring Actions/<br>Schedule and Verification<br>of Compliance          |
|---|---|--|--|--|
| EIR Section 4.F Noise and Vibration (cont.)   |   |  |  |  |
| Stat onary equipment shall be designed to ensure that the interior noise levels at adjacent or nearby sensitive receptors (residently, hotel, and childcare receptors) do not exceed 45 dBA.  |   |  |  |  |
| No se attenuat on measures could include installation of critical grade's encers, sound traps on rad ator exhaust, provision of sound enclosures/barriers, addition of roof parapets to block noise, increasing setback distances from sensitive receptors, provision of intake ouvers or ouvered ventiopenings, location of ventiopenings away from adjacent residential uses, and restriction of generator testing to the daytime hours.  |   |  |  |  |
| The project sponsor sha demonstrate to the sat sfact on of the Env ronmenta Rev ew Off cer (ERO) that no se attenuat on measures have been ncorporated nto the design of a fixed stat onary no se sources to meet these im ts prior to approva of a building permit.  |   |  |  |  |
| Mitigation Measure M-NO-8: (Dependent on approval of Proposed Project OR Project Variant)   | Project sponsor and qua f ed acoust ca consu tant       | Pr or to ssuance of a bu d ng perm t for vert ca construct on of a res dent a bu d ng or a bu d ng wth ch dcare                              | San Franc sco<br>Department of<br>Bu d ng Inspect on | Cons dered comp ete upon approva of f na project des gn for bu d ngs       |
| Proposed Project:   |   |  |  |  |
| Mitigation Measure M-NO-8: Design of Future Noise-Sensitive Uses  |   |  |  |  |
| Pr or to ssuance of a bu d ng perm t for vert ca construct on of a res dent a bu d ng or a bu d ng w th ch dcare or hote uses, a qua f ed acoust ca consu tant sha conduct a no se study to determ ne the need to ncorporate no se attenuat on features into the building design in order to meet a 45 dBA interior no se mt. This evaluation sha be based on no se measurements taken at the time of the building permit application and the future cumulative traffic (year 2040) no seleve sieved on roadways ocated on or adjacent to the project site (i.e., 67 dBA on I no sistreet, 66 dBA on 22nd Street, 60_dBA on Humbo dt Street, and 64 dBA on 23rd Street at 50 feet from roadway center nes) to dentify the STC ratings required to meet the 45 dBA interior no seleve. The noise study and its recommendations and attenuation measures shall be incorporated into the final design of the building and shall be submitted to the San Francisco Department of Building Inspection for review and approval. The project sponsor shall mplement recommended noise attenuation measures from the approved noise study as part of final project design for buildings that would include residential, hotely and children uses. |   | bu ding with childcare or hote uses  |  |  |
| Project Variant:  Mitigation Measure M-NO-8 (Variant): Design of Future Noise-Sensitive Uses  Pr or to ssuance of a bu d ng perm t for vert ca construct on of a res dent a bu d ng or a bu d ng w th ch dcare or hote uses, a qua f ed acoust ca consu tant sha conduct a no se study to determ ne the need to ncorporate no se attenuat on features nto the bu d ng des gn n order to meet a 45 dBA nter or no se m t. Th s eva uat on sha be based on no se measurements taken at the t me of the bu d ng perm t app cat on and the future cumu at ve traff c (year 2040) no se eve s expected on roadways ocated on or adjacent to  | Project sponsor and<br>qua f ed acoust ca<br>consu tant | Pr or to ssuance of a<br>bu d ng perm t for<br>vert ca construct on of a<br>res dent a bu d ng or a<br>bu d ng w th ch dcare<br>or hote uses | San Franc sco<br>Department of<br>Bu d ng Inspect on | Cons dered comp ete upon<br>approva of f na project<br>des gn for bu d ngs |

|   | Responsibility for Implementation              | Mitigation Schedule   | Monitoring/<br>Reporting<br>Responsibility   | Monitoring Actions/<br>Schedule and Verification<br>of Compliance  |
|---|--|---|--|--|
| EIR Section 4.F Noise and Vibration (cont.)   |  |   |  |  |
| the project s te (.e., 67 dBA on I no s Street, 66 dBA on 22nd Street, 61 dBA on Humbo dt Street, and 64 dBA on 23rd Street at 50 feet from roadway center nes) to dent fy the STC rat ngs required to meet the 45 dBA nterior no seleve. The no selstudy and its recommendations and attenuation measures shall be incorporated into the final design of the building and shall be submitted to the San Francisco Department of Building Inspection for review and approva. The project sponsor shall mplement recommended no selattenuation measures from the approved no selstudy as part of final project design for buildings that would include resident a , hote , and childcare uses. |  |   |  |  |
| EIR Section 4.G Air Quality   |  |   |  |  |
| The project sponsor or the project sponsor's contractor shall comply with the following:  | Project sponsor and construct on contractor(s) | Pr or to ssuance of a s te perm t, demo t on perm t, or any other perm t from the Department of Bu d ng Inspect on, w th ongo ng comp ance w th the Construct on Em ss ons M n m zat on P an throughout the construct on per od | ERO to rev ew and approve Construct on Em ss ons M n m zat on P an; project sponsor and construct on contractor to comp y w th, and document comp ance w th, Construct on Em ss ons M n m zat on P an as required by the ERO | Construct on Em ss ons M n m zat on P an cons dered comp ete upon ERO rev ew and acceptance of P an; measure cons dered comp ete upon comp et on of project construct on and subm tta to ERO of required documentation |

| Mit                                 | igation Measure   | Responsibility for<br>Implementation | Mitigation Schedule | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |  |  |  |
|-------------------------------------|---|--------------------------------------|---------------------|--|---|--|--|--|
| EIR Section 4.G Air Quality (cont.) |   |                                      |                     |  |   |  |  |  |
| В.                                  | Waivers.  |                                      |                     |  |   |  |  |  |
|                                     | The ERO may wa ve the equipment requirements of Subsection (A)(1) f: a particular piece of off road equipment is technically not feasible; the equipment would not produce desired emissions reduction due to expected operating modes; installation of the equipment would create a safety hazard or impaired visible typically for the operator; or, there is a compelling emergency need to use other off road equipment. If the ERO grants the waiver, the contractor must use the next cleanest piece of off road equipment, according to the table below.                                       |                                      |                     |  |   |  |  |  |
|                                     | The ERO may wa ve the equipment requirements of Subsection (A)(2) f: a particular piece of off road equipment with an engine meeting T er 4 F nailem ss on standards is not regionally available to the satisfaction of the ERO. If seeking a waiver from this requirement, the project sponsor must demonstrate to the satisfaction of the ERO that the health risks from existing sources, project construction and operation, and cumulative sources do not exceed a total of $10 \mu g/m3$ or $100 excess$ cancer risks for any onsite or offs te receptor.                                       |                                      |                     |  |   |  |  |  |
|                                     | The ERO may wa ve the equipment requirements of Subsection (A)(3) $f$ : an application has been submitted to init ate on site electrical power, portable diese engines may be temporarly operated for a period of up to three weeks until on site electrical power can be initiated or, there is a compelling emergency.  |                                      |                     |  |   |  |  |  |
| C.                                  | <b>Construction Emissions Minimization Plan.</b> Before start ng ons te construct on act v t es, the contractor sha subm t a Construct on Em ss ons M n m zat on P an to the ERO for rev ew and approva. The p an sha state, n reasonable detal, how the contractor we meet the requirements of Section A, Engine Requirements.   |                                      |                     |  |   |  |  |  |
|                                     | 1. The Construct on Em ss ons Mnm zat on P an shan not ude est mates of the construct on time ne by phase, with a description of each piece of off road equipment required for every construction phase. The description may not ude, but is not imited to: equipment type, equipment manufacturer, equipment dentification number, engine mode year, engine certification (T er rating), horsepower, engine ser a number, and expected fue jusage and hours of operation. For off road equipment using a ternative fue s, the description shall also specify the type of a ternative fue being used. |                                      |                     |  |   |  |  |  |
|                                     | <ol> <li>The project sponsor shall ensure that a lapscable requirements of the Construction<br/>Emissions Minimization P an have been incorporated into the contract specifications.<br/>The plan shall include a certification statement that the contractor agrees to comply fully with the plan.</li> </ol>  |                                      |                     |  |   |  |  |  |
|                                     | 3. The contractor sha make the Construct on Em ss ons Mnm zat on Pan ava abe to the public for review onsite during working hours. The contractor shall post at the construction site aliegible and visible sign summarizing the pan. The sign shall also state that the public may ask to inspect the pan for the project at any time during working hours and shall explain how to request to inspect the pan. The contractor shall post at least one copy of the sign in a visible location on each side of the construction site facing a public right of way.                                    |                                      |                     |  |   |  |  |  |

| Mitigation Measure   | Responsibility for<br>Implementation            | Mitigation Schedule   | Monitoring/<br>Reporting<br>Responsibility                | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |  |  |  |
|--|---|---|---|---|--|--|--|
| EIR Section 4.G Air Quality (cont.)  |   |   |   |   |  |  |  |
| D. Monitoring. After start of construct on act v t es, the contractor sha subm t quarter y reports to the ERO document ng comp ance w th the Construct on Em ss ons M n m zat on P an. After comp et on of construct on act v t es and pr or to rece v ng a f na cert f cate of occupancy, the project sponsor sha subm t to the ERO a f na report summar z ng construct on act v t es, nc ud ng the start and end dates and durat on of each construct on phase, and the spec f c nformat on required in the pian.  | Project sponsor and construct on contractor (s) | Quarter y, after start of construct on act v t es, and w th n s x months of comp et on of construct on act v ty | Project sponsor/<br>contractor(s) and<br>the ERO          | Cons dered comp ete upon acceptance of the f na report by the ERO |  |  |  |
| Mitigation Measure M-AQ-2b: Diesel Backup Generator Specifications  To reduce NOx assoc ated w th operat on of the proposed project, the project sponsor sha mp ement the fo owng measures.  | where a generator s                             | Ongo ng by the project<br>sponsor, and each<br>fac ty operator where a<br>generator s ocated                    | San Franc sco<br>P ann ng<br>Department ERO<br>and BAQQMD | Ongo ng for the fe of each generator                              |  |  |  |
| <ul> <li>A. A new dese backup generators sha:</li> <li>1. Have eng nes that meet or exceed Ca forn a Ar Resources Board Ter 4 off road em ss on standards which have the lowest NOx em ss ons of commercially available generators; and</li> </ul>   |   |   |   |   |  |  |  |
| <ol> <li>Be fue ed w th renewab e d ese, f commerc a y ava ab e<sup>2</sup>, wh ch has been<br/>demonstrated to reduce NOx em ss ons by approx mate y 10 percent.</li> </ol>   |   |   |   |   |  |  |  |
| B. A new d ese backup generators sha have an annua mantenance testing imit of<br>50 hours, subject to any further restrictions as may be imposed by the Bay Area Air Quality<br>Management District in its permitting process.   |   |   |   |   |  |  |  |
| C. For each new d ese backup generator perm t subm tted to Bay Area A r Quality Management D strict for the project, the project sponsor shall submit the anticipated ocation and engine specifications to the San Francisco P anning Department environmental review officer for review and approval prior to issuance of a permit for the generator from the San Francisco Department of Building Inspection. Once operational, and dese backup generators shall be maintained in good working order for the felofithe equipment and any future replacement of the diese backup generators shall be required to be consistent with these emissions specifications. The operator of the facility at which the generator is ocated shall be required to maintain records of the testing schedule for each diese backup generator for the felofithat diese backup generator and to provide this information for review to the planning department within three months of requesting such information. |   |   |   |   |  |  |  |
| Mitigation Measure M-AQ-2c: Promote Use of Green Consumer Products   | Project sponsor                                 | Pr or to cert f cate of f na  | San Franc sco   | Ongo ng   |  |  |  |
| The project sponsor sha provide educational programs and/or materials for residential and commercial tenants concerning green consumer products. Prior to receipt of any certificate of final occupancy and every five years thereafter, the project sponsor shall work with the San Francisco Department of Environment to develope electronic correspondence to be distributed by emalannually to residential and/or commercial tenants of each building on the project site that  |   | occupancy and every<br>f ve years thereafter  | Department of<br>Env ronment                              |   |  |  |  |

Neste MY renewable Diesel is available in the Bay Area through Western States Oil

| Mitigatio                       | on Measure   | Responsibility for<br>Implementation                                 | Mitigation Schedule   | Monitoring/<br>Reporting<br>Responsibility  | Monitoring Actions/<br>Schedule and Verification<br>of Compliance  |
|---------------------------------|--|--|---|---|--|
| EIR Sect                        | tion 4.G Air Quality (cont.)   |  | 2   |   | <b>.</b>   |
| The corre                       | ges the purchase of consumer products that generate ower than typ ca VOC em ss ons. espondence sha encourage env ronmenta y preferab e purchas ng and sha nc ude nformat on and webs te nks to SF Approved (www.sfapproved.org). This webs te a so used as an informat ona resource by bus nesses and residents.   |  |   |   |  |
| Mitigatio                       | on Measure M-AQ-2d: Electrification of Loading Docks   | Project sponsor and  | Pr or to approva of a   | Department of   | Cons dered comp ete at   |
| that w r                        | ect sponsor sha ensure that oad ng docks for reta, ght ndustra, or warehouse uses rece ve de ver es from refr gerated transport trucks ncorporate e ectr f cat on hook ups portat on refr gerat on un ts to avo d em ss ons generated by d ng refr gerated transport   | construct on contractor  | bu d ng perm t  | Bu d ng Inspect on  | the comp et on of project<br>construct on  |
| Mitigatio                       | on Measure M-AQ-2e: Additional Mobile Source Control Measures  | Project sponsor  | Pr or to approva of a bu d ng perm t, or approva of des gn of d str ct park ng garage, wh chever s f rst Ongo ng dur ng operat on of car share programs | Department of<br>Bu d ng Inspect on<br>for approva of<br>d str ct park ng<br>garage | Cons dered comp ete at<br>the comp et on of d str ct<br>park ng garage<br>construct on<br>Ongo ng dur ng operat ons<br>of car share programs |
|                                 | w ng Mob e Source Contro Measures from the Bay Area Ar Qua ty Management 2010 C ean Ar P an sha be mp emented:   | approva of de<br>d str ct park ng<br>wh chever is f<br>Ongo ng dur n |   |   |  |
| to en                           | note use of c ean fue eff c ent veh c es through preferent a (des gnated and prox mate ntry) park ng and/or nsta at on of charg ng stat ons beyond the eve required by the s Green Bu d ng code, from 8 to 20 percent.   |  |   |   |  |
| e ect<br>seco                   | note zero em ss on veh c es by request ng that any car share program operator nc ude tr c veh c es w th n ts car share program to reduce the need to have a veh c e or and veh c e as a part of the TDM program that wou d be required of a new e opments.   |  |   |   |  |
| Mitigatio<br>Variant)           | on Measure M-AQ-2f: (Dependent on approval of Proposed Project OR Project  | Project Sponsor  | Upon comp et on of construct on, and pr or to ssuance of cert f cate of occupancy; (w th n s x  |   | Comp ete upon acceptance of fee by BAAQMD  |
| Propose                         | ed Project:  |  |   |   |  |
| Mitig                           | gation Measure M-AQ-2f: Offset Construction and Operational Emissions  |  | months of comp et on of   |   |  |
| Phas                            | r to ssuance of the final certificate of occupancy for the final building associated with se 1, the project sponsor, with the oversight of the Environmental Review Officer O), shall either:  |  | the offset project for<br>ver f cat on)   |   |  |
| 6<br>6<br>6<br>1<br>1<br>1<br>5 | Directly fund or implement a specific offset project within San Francisco to ach everequive a ent to a one time reduction of 13 tons per year of ozone precursors. This offset is intended to offset the combined emissions from construction and operations remaining above significance levels after implementing the other mitigation measures discussed. To qualify under this mitigation measure, the specific emissions offset project must result in emission reductions within the San Francisco Bay Area Air Basin that would not otherwise be achieved through compliance with existing regulatory requirements. A preferred offset project would be one implemented ocally within the City and County of San Francisco. Prior to implementing the offset project, it must be approved by the ERO. The project sponsor shall not fy the ERO within six (6) months of completion of the offset project for verification; or |  |   |   |  |

| Mitigation Measure   | Responsibility for<br>Implementation | Mitigation Schedule | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |  |  |  |  |
|--|--------------------------------------|---------------------|--|---|--|--|--|--|
| EIR Section 4.G Air Quality (cont.)  |                                      |                     |  |   |  |  |  |  |
| (2) <b>Pay mitigation offset</b> fees to the Bay Area A r Qua ty Management D str ct Bay Area C ean A r Foundat on. The mt gat on offset fee, current y est mated at approx mate y \$30,000 per we ghted ton, p us an adm n strat ve fee of no more than 5 percent of the tota offset, sha fund one or more em ss ons reduct on projects wth n the San Franc sco Bay Area A r Bas n. The fee w be determ ned by the p ann ng department, the project sponsor, and the a r d str ct, and be based on the type of projects ava ab e at the t me of the payment. This fee is ntended to fund emissions reduct on projects to ach eve reductions of 13 tons of ozone precursors per year, which is the amount required to reduce emissions below significance evels after mplementation of other dentified mitigation measures as currently calculated.  |                                      |                     |  |   |  |  |  |  |
| The offset fee sha be made pr or to ssuance of the f na cert f cate of occupancy for the f na bu d ng assoc ated w th Phase 1 of the project (or an equ va ent of approx mate y 360,000 square feet of res dent a , 176,000 square feet of off ce, 16,000 square feet of reta , 15,000 square feet of PDR, 240,000 square feet of hote , and 25,000 square feet of assemb y) when the comb nat on of construct on and operat ona em ss ons s pred cted to f rst exceed 54 pounds per day. Th s offset payment sha tota the pred cted 13 tons per year of ozone precursors above the 10 ton per year threshod after mp ementat on of M t gat on Measures M AQ 2a though M AQ 2e and M TR 5.   |                                      |                     |  |   |  |  |  |  |
| The tota em ss on offset amount was ca cu ated by summing the max mum daily construction and operational em ss ons of ROG and NOX (pounds/day), multiplying by 260 work days per year for construction and 365 days per year for operation, and converting to tons. The amount represents the total est mated operational and construction related ROG and NOx emissions offsets required.   |                                      |                     |  |   |  |  |  |  |
| (3) Additional mitigation offset fee. The need for an add t ona mtgat on offset payment sha be determ ned as part of the performance standard assessment of Mtgat on Measure MTR 5. If at that t me, t s determ ned that mp ementation of Mtgat on Measure MTR 5 has successfuly achieved to targeted trip reduction at project buildout, or the project sponsor demonstrates that the project's emissions upon the earlier of: (a) full buildout or (b) termination of the Development Agreement are essistant the 10 ton per year thresholds for ROG and NOx, then no further instalment shabe required. However, if the performance standard assessment determines that the trip reduction goal has not been achieved, and the project sponsor is unable to demonstrate that the project's emission upon the earlier of: (a) full buildout or (b) termination of the Development Agreement are essithan the 10 ton per year thresholds for ROG and NOx, then an additional offset payment shall be made in an amount reflecting the difference in emissions, in tons per year of ROG and NOx, represented by the shortfall in the production. |                                      |                     |  |   |  |  |  |  |

| Mitigation Measure   | Responsibility for<br>Implementation | Mitigation Schedule   | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |
|--|--------------------------------------|---|--|---|
| EIR Section 4.G Air Quality (cont.)  |                                      | ×   |  | **  |
| Documentation of mit gat on offset payments, as applicable, shall be provided to the planning department.  |                                      |   |  |   |
| When pay ng a m t gat on offset fee, the project sponsor shall enter into a memorandum of understanding (MOU) with the Bay Area Air Quality Management District Clean Air Foundation. The MOU shall not ude details regarding the funds to be paid, the administrative fee, and the timing of the emissions reductions project. Acceptance of this fee by the air district shall serve as acknowledgment and a commitment to (1) implement an emissions reduction project(s) within a time frame to be determined, based on the type of project(s) selected, after receipt of the mitigation fee to achieve the emissions reduction objectives specified above and (2) provide documentation to the planning department and the project sponsor describing the project(s) funded by the mitigation fee, including the amount of emissions of ROG and NOx reduced (tons per year) within the San Francisco Bay Area Air Basin from the emissions reduction project(s). To qualify under this mitigation measure, the specific emissions reduction project must result in emission reductions within the basin that are real, surplus, quantifiable, and enforceable and would not otherwise be achieved through compliance with existing regulatory requirements or any other legal requirement. The requirement to pay such mitigation offset fee shall terminate if the project sponsor is able to demonstrate that the project's emission supon the earlier erosic. (a) full build out or (b) termination of the Development Agreement are less than the 10 ton per year thresholds for ROG and NOx. |                                      |   |  |   |
| <ul> <li>Mitigation Measure M-AQ-2f (Variant): Offset Construction and Operational Emissions</li> <li>Pr or to ssuance of the final certificate of occupancy for the final building associated with Phase 1, the project sponsor, with the oversight of the Environmental Review Officer (ERO), shall either:</li> <li>(1) Directly fund or implement a specific offset project within San Francisco to achieve equivalent of a one time reduction of 14 tons per year of ozone precursors. This offset is intended to offset the combined emissions from construction and operations remaining above significance evels after implementing the other mitigation measures discussed. To qualify under this mitigation measure, the specific emissions offset project must result in emission reductions within the San Francisco Bay Area Air Basin that would not otherwise be achieved through compliance with existing regulatory requirements. A preferred offset project would be one implemented ocally within the City and County of San Francisco. Prior to implementing the offset project, it must be approved by the ERO. The project sponsor shall not fy the ERO within six (6) months of completion of the offset project for verification; or</li> </ul>  | Project Sponsor                      | Upon comp et on of construct on, and pr or to ssuance of cert f cate of occupancy; (w th n s x months of comp et on of the offset project for ver f cat on) | ERO  | Comp ete upon acceptance of fee by BAAQMD                         |

| Mitigation Measure  | Responsibility for<br>Implementation | Mitigation Schedule | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |
|---|--------------------------------------|---------------------|--|---|
| EIR Section 4.G Air Quality (cont.)   |                                      |                     |  | **  |
| (2) Pay mitigation offset fees to the Bay Area A r Quality Management D strict Bay Area C ean A r Foundation. The mitigation offset fee, currently estimated at approximately \$30,000 per weighted ton, plus an administrative fee of no more than 5 percent of the total offset, shall fund one or more emissions reduction projects within the San Francisco Bay Area A r Basin. The fee will be determined by the planning department, the project sponsor, and the air district, and be based on the type of projects available at the time of the payment. This fee is intended to fund emissions reduction projects to achieve reductions of 14 tons of ozone precursors per year, which is the amount required to reduce emissions below significance evels after mitigation of other dentified mitigation measures as currently calculated.  |                                      |                     |  |   |
| The offset fee sha be made pr or to ssuance of the f na cert f cate of occupancy for the f na bu d ng assoc ated w th Phase 1 of the project (or an equ va ent of approx mate y 360,000 square feet of res dent a, 176,000 square feet of off ce, 16,000 square feet of reta, 15,000 square feet of PDR, 240,000 square feet of hote, and 25,000 square feet of assemb y) when the comb nat on of construct on and operat ona em ss ons s pred cted to f rst exceed 54 pounds per day. Th s offset payment sha tota the pred cted 14 tons per year of ozone precursors above the 10 ton per year threshod after mp ementat on of M t gat on Measures M AQ 2a though M AQ 2e and M TR 5.   |                                      |                     |  |   |
| The tota em ss on offset amount was ca cu ated by summ ng the max mum da y construct on and operat ona em ss ons of ROG and NOX (pounds/day), mu t p y ng by 260 work days per year for construct on and 365 days per year for operat on, and convert ng to tons. The amount represents the tota est mated operat ona and construct on re ated ROG and NOx em ss ons offsets required.  |                                      |                     |  |   |
| (3) Additional mitigation offset fee. The need for an add t ona mt gat on offset payment sha be determ ned as part of the performance standard assessment of Mt gat on Measure MTR 5. If at that t me, t s determ ned that mp ementat on of Mt gat on Measure MTR 5 has successfu y ach eved ts targeted tr p reduct on at project bu dout, or the project sponsor demonstrates that the project's em ss ons upon the ear er of: (a) fu bu d out or (b) term nat on of the Deve opment Agreement are ess than the 10 ton per year thresho ds for ROG and NOx, then no further nsta ment sha be required. However, if the performance standard assessment determ nes that the trip reduct on goal has not been ach eved, and the project sponsor is unable to demonstrate that the project's em ss ons upon the ear er of: (a) fu bu d out or (b) term nat on of the Deve opment Agreement are ess than the 10 ton per year thresho ds for ROG and NOx, then an add t ona offset payment shall be made in an amount reflecting the difference in emissions, in tons per year of ROG and NOx, represented by the shortfall in the project on. |                                      |                     |  |   |
| Documentat on of m t gat on offset payments, as app cabe, sha be provided to the p ann ng department.   |                                      |                     |  |   |

| Mitigation Measure  | Responsibility for<br>Implementation | Mitigation Schedule  | Monitoring/<br>Reporting<br>Responsibility         | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |
|---|--------------------------------------|--|--|---|
| EIR Section 4.G Air Quality (cont.)   |                                      |  |  |   |
| When pay ng a m t gat on offset fee, the project sponsor shall enter into a memorandum of understanding (MOU) with the Bay Area Air Quality Management District Clean Air Foundation. The MOU shall not ude details regarding the funds to be paid, the administrative fee, and the timing of the emissions reductions project. Acceptance of this fee by the air district shall serve as acknowledgment and a commitment to (1) implement an emissions reduction project(s) within a time frame to be determined, based on the type of project(s) selected, after receipt of the mitigation fee to achieve the emissions reduction objectives specified above and (2) provide documentation to the planning department and the project sponsor describing the project(s) funded by the mitigation fee, including the amount of emissions of ROG and NOx reduced (tonsiper year) within the San Francisco Bay Area Air Basin from the emissions reduction project(s). To qualify under this mitigation measure, the specific emissions reduction project must result in emission reductions within the basin that are real, surplus, quantifiable, and enforceable and would not otherwise be achieved through compliance with existing regulatory requirements or any other legal requirement. The requirement to pay such mitigation offset fee shalterminate if the project sponsor is able to demonstrate that the project's emissions upon the earlier of the project sponsor is able to demonstrate that the project's emissions upon the earlier of the project sponsor is able to demonstrate that the project's emissions upon the earlier of the project sponsor is able to demonstrate that the project's emissions upon the earlier of the project sponsor is able to demonstrate that the project's emissions upon the earlier of the project sponsor is able to demonstrate the project sponsor are thresholds for ROG and NOx. |                                      |  |  |   |
| Mitigation Measure AQ-4: Siting of Uses that Emit Toxic Air Contaminants  For new deve opment nc ud ng R&D/ fe sc ence uses and PDR use or other uses that wou d be expected to generate tox c a r contam nants (TACs) as part of everyday operations, prior to ssuance of the certificate of occupancy, the project sponsor shall obtain written verification from the Bay Area Air Quality Management District either that the facility has been ssued a permit from the air district, firequired by aw, or that permit requirements do not apply to the facility. However, since air district could potent air y ssue multiple separate permits to operate that could cumulatively exceed an increased cancer risk of 10 nione mon, the project sponsor shall also submit written verification to the San Francisco Planning Department that increased cancer risk associated with a such uses does not cumulatively exceed 10 nione mon at any onsite receptor. This measure shall be applicable, at a min mum, to the following uses and any other potent aluses that may emit TACs: gas dispensing facilities, auto body shops; metain pating shops; photographic processing shops; appliance repair shops; mechanical assembly cleaning; printing shops; medical circles, and biotechnology research facilities.   |                                      | Pr or to ssuance of the cert f cate of occupancy for new deve opment wou d be expected to generate TACs, (such as R&D uses and PDR uses) | BAAQMD and San<br>Franc sco P ann ng<br>Department | Cons dered comp ete at the comp et on of project construct on     |
| Mitigation Measure AQ-5: Include Spare the Air Telecommuting Information in Transportation Welcome Packets  The project sponsor sha nc ude d ssem nat on of information on Spare The Air Days within the San Francisco Bay Area Air Basin as part of transportation we come packets and ongoing transportation marketing campaigns. This information sha encourage employers and employees, as a lowed by their workplaces, to telecommute on Spare The Air Days.   | Project sponsor                      | Pr or to and dur ng<br>occupancy of<br>commerc a uses  | ERO  | Ongo ng   |

| Mitigation Measure  | Responsibility for<br>Implementation                                      | Mitigation Schedule   | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |
|---|---|---|--|---|
| EIR Section 4.H Wind and Shadow   |   |   |  |   |
| Mitigation Measure M-WS-2: Identification and Mitigation of Interim Hazardous Wind Impacts Pr or to the approva of bu d ng p ans for construct on of any proposed bu d ng, or a bu d ng wth n a group of bu d ngs to be constructed s mu taneous y, at a he ght of 85 feet or greater, the project sponsor (nc ud ng any subsequent deve oper) sha subm t to the San Franc sco P ann ng Department for review and approva a wind mpact analys s of the proposed buildings. The wind mpact analys s of whether the buildings and the second of a qualative analys s of whether the buildings and the second of a qualative analys s of whether the buildings and the second of the proposed buildings and second of the second | Project sponsor, or<br>bu d ng deve oper, and<br>qua f ed w nd consu tant | Pr or to the approva of bu d ng p ans for construct on of any proposed bu d ng, or a bu d ng with n a group of bu d ngs to be constructed s mu taneous y, at a he ght of 85 feet or greater. San Franc sco P ann ng Department and ERO to review and approve scope of work pr or to any wind mpact analys sor wind tunne testing. | San Franc sco P ann ng Department and ERO  | Cons dered comp ete at the comp et on of project construct on     |

| Mi   | tigation Measure   | Responsibility for<br>Implementation                                   | Mitigation Schedule   | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance   |                          |  |  |  |  |  |  |  |  |  |  |  |  |  |  |   |
|--|--|--|---|--|---|--------------------------|--|--|--|--|--|--|--|--|--|--|--|--|--|--|---|
| EII  | R Section 4.I Biological Resources   |  |   |  | ··  |                          |  |  |  |  |  |  |  |  |  |  |  |  |  |  |   |
| The project engager shall require that a construction contractors malement the following |  | Project sponsor,<br>construct on contractors,<br>and qua fed b o og st | Not more than 14 days<br>pr or to vegetat on<br>remova and grad ng<br>act v t es that occur<br>between January 15 and | ERO  | Comp ete upon comp et on of preconstruct on nest ng b rd surveys or comp et on of vegetat on remova and grad ng activities outside of |                          |  |  |  |  |  |  |  |  |  |  |  |  |  |  |   |
| 1.   | To the extent feas b e, conduct in tai project act vit es outs de of the nesting season (January 15 August 15). These act vit es include, but are not imited to: vegetat on removal, tree trimming or removal, ground disturbance, building demoit on, site grading, and other construction act vit es that may impact nesting birds or the success of their nests (e.g., controlled rock fragmentation, biasting, or pie driving).  | S.   |   | August 15                                  |   | the b rd breed ng season |  |  |  |  |  |  |  |  |  |  |  |  |  |  |   |
| 2.   | For construct on act vt es that occur dur ng the brd nest ng season, a quafed wd fe boogst <sup>3</sup> sha conduct pre construct on nest ng surveys wth n 14 days pror to the start of construct on or demoton at areas that have not been previously disturbed by project act vt es or after any construct on breaks of 14 days or more. Surveys sha be performed for su table habitat wth n 100 feet of the project stein order to ocate any active passer ne (perching brd) nests and wthin 100 feet of the project stein ocate any active raptor (brds of prey) nests, waterbird nesting pars, or colonies.   |  |   |  |   |                          |  |  |  |  |  |  |  |  |  |  |  |  |  |  |   |
| 3.   | If act ve nests protected by federa or state aw <sup>4</sup> are ocated during the preconstruction bird nesting surveys, a qualified biologist shall evaluate if the schedule of construction activities could affect the active nests and if so, the following measures would apply:  |  |   |  |   |                          |  |  |  |  |  |  |  |  |  |  |  |  |  |  |   |
|  | a. If construct on s not key to affect the act ve nest, construct on may proceed w thout restrict on; however, a qual field biologist shall regularly monitor the nest at a frequency determined appropriate for the surrounding construction activity to confirm there is no adverse effect. The qual field biologist would determine spot check monitoring frequency on a nest by nest basis considering the particular construction activity, duration, proximity to the nest, and physical barriers that may screen activity from the nest. The qual field biologist may revise his/her determination at any time during the nesting season in coordination with the Environmental Review Officer (ERO). |  |   |  |   |                          |  |  |  |  |  |  |  |  |  |  |  |  |  |  |   |
|  | b. If t s determ ned that construct on may affect the act ve nest, the qua f ed b o og st sha estab sh a no d sturbance buffer around the nest(s) and a project work sha hat w th n the buffer unt a qua f ed b o og st determ nes the nest s no onger n use.  |  |   |  |   |                          |  |  |  |  |  |  |  |  |  |  |  |  |  |  | of preconstruct on nest ng<br>b rd surveys or comp et on<br>of vegetat on remova and<br>grad ng act v t es outs de of |
|  | G ven the deve oped cond t on of the s te, n t a buffer d stances are 100 to 250 feet for passer nes and 100 to 500 feet for raptors; however, the qua f ed b o og st may adjust the buffers based on the nature of proposed act $v$ t es or $s$ te spec f c cond t ons.   |  |   |  |   |                          |  |  |  |  |  |  |  |  |  |  |  |  |  |  |   |

Typical experience requirements for a "qualified biologist" include a minimum of four years of academic training and professional experience in biological sciences and related resource management activities and a minimum of two years of experience conducting surveys for each species that may be present within the project area

These would include species protected by FESA MBTA CESA and California Fish and Game Code and does not apply to rock pigeon house sparrow or European starling USFWS and CDFW are the federal and state agencies respectively with regulatory authority over protected birds and are the agencies who would be engaged with if nesting occurs onsite and protective buffer distances and/or construction activities within such a buffer would need to be modified while a nest is still active

| Mitiga  | ation Measure   | Responsibility for<br>Implementation                       | Mitigation Schedule   | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance   |
|---|---|--|---|--|---|
| EIR S   | Section 4.I Biological Resources (cont.)  |  |   |  | **  |
| C.  | Mod fy ng nest buffer d stances, a ow ng certa n construct on act v t es w th n the buffer, and/or mod fy ng construct on methods n prox m ty to act ve nests sha be done at the d scret on of the qual field b o og st and in coord nation with the ERO, who would not fy CDFW.  |  |   |  |   |
| d.  | . Any work that must occur with n established no disturbance buffers around active nests shall be monitored by a qualified biologist. If the qualified biologist observes adverse effects in response to project work with n the buffer that could compromise the active nest, work within the noid sturbance buffer(s) shall halt until the nest occupants have fiedged.   |  |   |  |   |
| e.  | With some exceptions, birds that begin nesting within the project area amid construction activities are assumed to be habituated to construct on related or similar noise and disturbance levels. Exclusion zones around such nests may be reduced or eight nated in these cases as determined by the qualified biologist in coordination with the ERO, who would not fy CDFW. Work may proceed around these active nests as onglas the nests and their occupants are not directly impacted.  |  |   |  |   |
| A qua<br>samp<br>consu<br>hab ta<br>under<br>No fui<br>hab ta | ation Measure M-BI-3: Avoidance and Minimization Measures for Bats  a fed b o og st <sup>5</sup> who s exper enced w th bat survey ng techn ques (nc ud ng aud tory ng methods), behav or, roost ng hab tat, and dent f cat on of oca bat spec es sha be uted pr or to demo t on or bu d ng rehab tat on act v t es to conduct a pre construct on at assessment of the project s te (focus ng on bu d ngs to be demo shed or rehab tated the project) to character ze potent a bat hab tat and dent fy potent a y act ve roost s tes. In the ract on s required should the pre construct on hab tat assessment not dent fy bat at or s gns of potent a y act ve bat roosts with not the project s te (e.g., guano, ur ne stain ng, bats, etc.). | Project sponsor,<br>contractors, and qua f ed<br>b o og st | Not more than 14 days<br>pr or to bu d ng<br>demo t on or<br>rehab tat on | ERO  | Comp ete upon comp et on of preconstruct on roost ng bat surveys or comp et on of bu d ng demo t on or rehab tat on |
| bat ro  | o owing measures shall be implemented should potent a roosting habitation potent all yactive tosts be identified during the habitat assessment in buildings to be demolished or attending the proposed project:   |  |   |  |   |
| de<br>pe  | n areas dent f ed as potent a roost ng hab tat dur ng the hab tat assessment, nt a bu d ng emo ton or rehab tat on sha occur when bats are act ve, approx mate y between the er ods of March 1 to Apr 15 and August 15 to October 15, to the extent feas be. These ates avo d the bat matern ty roost ng season and per od of w nter <i>torpor</i> . 6  |  |   |  |   |
| CC  | repend ng on tempora gu dance as def ned be ow, the quaffed boogst sha conduct preconstruct on surveys of potent a bat roost sites dentified during the initial habitat assessment of more than 14 days prior to building demoit on or rehabitation.  |  |   |  |   |

Typical experience requirements for a qualified biologist include a minimum of four years of academic training and professional experience in biological sciences and related resource management activities and a minimum of two years of experience conducting surveys for each species that may be present within the project area

Torpor refers to a state of decreased physiological activity with reduced body temperature and metabolic rate

| M   | itigation Measure   | Responsibility for<br>Implementation   | Mitigation Schedule  | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |
|---|---|--|--|--|---|
| EI  | R Section 4.I Biological Resources (cont.)  |  |  |  |   |
| 3.  | f act ve bat roosts or ev dence of roost ng s dent fed dur ng pre construct on surveys, the qua fed boog st sha determine, f possible, the type of roost and species. A no disturbance buffer sha be established around roost sites until the qualfed boog st determines they are no onger active. The size of the noid sturbance buffer would be determined by the qualfed boog st and would depend on the species present, roost type, existing screening around the roost site (such as dense vegetation or a building), as we last the type of construction activity that would occur around the roost site.  |  |  |  |   |
| 4.  | If spec a status bat spec es or matern ty or h bernat on roosts are detected during these surveys, appropriate species and roost specific avoidance and protection measures shalbe developed by the qualified biologist in coordination with the California Department of Fish and Wid fe. Such measures may include postponing the removal of buildings or structures, establishing exclusionary work buffers while the roost is active (e.g., 100 foot noid sturbance buffer), or other avoidance measures.   |  |  |  |   |
| 5.  | The qualified biologist shall be present during building demolition or rehabilitation if potential bat roosting habitation active bat roosts are present. Buildings with active roosts shall be disturbed only under clear weather conditions when precipitation is not forecast for three days and when dayt me temperatures are at least 50 degrees Fahrenheit.   |  |  |  |   |
| 6.  | The demo ton or rehabilitation of buildings containing or suspected to contain bat roosting habitation active bat roosts shall be done under the supervision of the qualified biologist. When appropriate, buildings shall be part aligned to significantly change the roost conditions, causing bats to abandon and not return to the roost, kely in the evening and after bats have emerged from the roost to forage. Under noic roumstances shall active maternity roosts be disturbed until the roost disbands at the completion of the maternity roosting season or otherwise becomes inactive, as determined by the qualified biologist.  |  |  |  |   |
| M   | itigation Measure M-BI-4: Fish and Marine Mammal Protection during Pile Driving   | Project sponsor and  | Pr or to the start of any  | P ann ng Department                        | Comp ete upon comp et on  |
| sh<br>pr<br>co<br>to<br>wa<br>ac<br>no<br>m<br>1, | or to the start of any n water construct on that would require pield or ving, the project sponsor a prepare a National Marine Fisher es Service approved sound attenuation monitoring pian to otect fish and marine mammais, and the approved pian shalp be implemented during instruction. This pian shalp provide detail on the sound attenuation system, detail methods used monitor and verify sound levels during pield riving activities (if required based on projected in atterior ose levels), and describe best management practices to reduce impact pield riving not the quatic environment to an intensity level less than 183 dB (sound exposure level, SEL) impulse ose level for fish at a distance of 33 feet, and 160 dB (root mean square pressure level, RMS) puise noise level or 120 dB (RMS) continuous noise level for marine mammais at a distance of 640 feet. The pian shall incorporate, but not be imited to, the following best management actices: | construct on contractors,<br>and qua f ed acoust ca<br>eng neer w th exper ence<br>n f sh and mar ne<br>mamma no se protect on | n water construct on that<br>wou d requ re p e<br>dr v ng, dur ng the work<br>w ndow between June 1<br>and November 30 | and Nat ona Mar ne<br>F sher es Serv ce    | of n water construct on that requires pie driving                 |
| _   | w ndow between June 1 and November 30, designed to avoid potent a impacts to fish species.  | À  | 44   |  | 53  |

| Mitigation Measure  | Responsibility for Implementation  | Mitigation Schedule | Monitoring/<br>Reporting<br>Responsibility               | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |   |
|---|--|---------------------|--|---|---|
| EIR Section 4.I Biological Resources (cont.)  |  | <u>,</u>            |  |   |   |
| To the extent feas b e v bratory p e dr vers sha be used for the nsta p es. V bratory p e dr v ng sha be conducted fo ow ng the U.S. Army "Proposed Procedures for Perm tt ng Projects that w Not Adverse y A Spec es n Ca forn a." U.S. F sh and W d fe Serv ce and Nat ona Ma Serv ce comp eted sect on 7 consu tat on on th s document, wh ch est procedures for m n m z ng mpacts to natura resources assoc ated w t adjacent to jur sd ct ona waters.  | Corps of Engineers Affect Se ected L sted ar ne F sher es ab shes genera   |                     |  |   |   |
| <ul> <li>A soft start techn que to mpact hammer p e dr v ng sha be mp emer<br/>each work day or after a break n mpact hammer dr v ng of 30 m nute<br/>and mar ne mamma s an opportun ty to vacate the area.</li> </ul>  |  |                     |  |   |   |
| If dur ng the use of an impact hammer, established National Marine Fidriving thresholds are exceeded, a bubble curtain or other sound atter described in the National Marine Fisheries Service approved sound at planishable be ut ized to reduce sound evelone be owithe criterial described Marine Fisheries Service sound evelone trerial exceeded with the methods, a National Marine Fisheries Service approved biological moderate about the strength of the sound of the strength of the st | nuat on method as ttenuat on mon tor ng ed above. If Nat ona se use of attenuat on in tor sha be the work zone and is specified by the |                     |  |   |   |
| <ul> <li>The safety zones estab shed in the sound monitoring p an for the<br/>mamma s are maintained.</li> </ul>  | protect on of mar ne   |                     |  |   |   |
| <ul> <li>Work act v t es are ha ted when a mar ne mamma enters a safety ze after the an ma has been gone from the area for a m n mum of 15 n</li> </ul>   |  |                     |  |   |   |
| This no seleve imit shalp be coordinated with vibration imits required und Measures M NO 4a, Construction V bration Monitoring, M NO 4b, V bration During Controlled Blasting and Pie Driving, and M NO 4c, V bration Controlled of V bratory Equipment, to ensure that the lowest of the specified v bruit mately implemented.   | on Contro Measures<br>ro Measures Dur ng   |                     |  |   |   |
| Mitigation Measure M-BI-7: Compensation for Fill of Jurisdictional W  | aters Project sponsor  | Pr or to project    | ERO and regu atory                                       | Cons dered comp ete when  |   |
| The project sponsor sha provide compensatory mitigation for placement of maintenance or installation of new structures in the San Francisco Bay as the regulatory agencies with authority over the bay during the permitting p  | further determ ned by  |                     | the perm tt ng process author ty over the bay dur ng the | author ty over the  | bay re ated f perm ts are<br>ssued and compensatory<br>m t gat on accepted by |
| Compensation may include onsite or offs to shore neighborhood of chemical characteristic or not enhancements along San Francisco's waterfront through removal of chemical characteristic (e.g., plangs, decking, etc.) by puling, cutting, or breaking off plemud neighborhood of other unengineered debristic.   | ca y treated wood<br>s at east 1 foot be ow  |                     | permitting process                                       | regu atory agenc es   |   |

| Mitigation Measure  | Responsibility for<br>Implementation  | Mitigation Schedule   | Monitoring/<br>Reporting<br>Responsibility   | Monitoring Actions/<br>Schedule and Verification<br>of Compliance   |  |  |  |
|---|---|---|--|---|--|--|--|
| Initial Study E.3 Cultural Resources  |   |   |  |   |  |  |  |
| Based on a reasonab e presumpt on that archeo og ca resources may be present w th n the project s te n ocat ons determ ned to have moderate or h gh archeo og ca sens t v ty, the fo ow ng measures sha be undertaken to avo d any potent a y s gn f cant adverse effect from the proposed project on bur ed or submerged h stor ca resources. The project sponsor sha retan the serv ces of an archeo og ca consu tant from the San Franc sco rotat ona Department Qua f ed Archeo og ca Consu tants L st ma nta ned by the San Franc sco P ann ng Department archeo og st. The project sponsor sha contact the department archeo og st to obtan the names and contact nformat on for the next three archeo og ca consu tants on the st. The archeo og ca consu tant sha undertake an archeo og ca test ng program as spec f ed here n. In add t on, the consu tant sha be ava ab e to conduct an archeo og ca mon tor ng and/or data recovery program f required pursuant to this measure. The archeo og ca consu tant's work sha be conducted n accordance with this measure at the direct on of the City's appointed project Environmenta Review Officer (ERO). A pians and reports prepared by the consultant as specified here nisha be submitted first and directly to the ERO for review and comment, and sha be considered draft reports subject to revision until final approva by the ERO. Archeo og ca monitoring and/or data recovery programs required by this measure could suspend construction of the project for up to a max mum of four weeks. At the direct on of the review officer, the suspension of construction can be extended beyond four weeks only fished a suspension is the only feas be means to reduce to a essithan significant every potent a effects on a significant archeo og ca resource as defined in CEQA Guide nes section 15064.5 (a) and (c). | Project sponsor and P ann ng Department archeo og st or a qua f ed archeo og ca consu tant from the P ann ng Department poo (archeo og ca consu tant) | Archeo og ca consu tant<br>sha be reta ned pr or to<br>ssuance of s te perm t<br>from the Department of<br>Bu d ng Inspect on | Project sponsor to reta n a qua f ed archeo og ca consu tant who sha report to the ERO.  Qua f ed archeo og ca consu tant w scope archeo og ca test ng program w th ERO and P ann ng Department staff archeo og st | Cons dered comp ete when archeo og ca consu tant has approved scope from the ERO for the archeo og ca test ng program |  |  |  |
| Consultation with Descendant Communities: On d scovery of an archeological site assoc ated with descendant Native Americans, the Overseas Chinese, or other potentially nterested descendant group an appropriate representative of the descendant group and the review officer shall be contacted. The representative of the descendant group shall be given the opportunity to monitor archeological field investigations of the site and to offer recommendations to the review officer regarding appropriate archeological treatment of the site, of recovered data from the site, and, if applicable, any interpretative treatment of the associated archeological site. A copy of the Final Archeological Resources Reportishall be provided to the representative of the descendant group.   | Project sponsor and/or archeo og ca consu tant  | Throughout the durat on of ground d sturb ng act v t es   | Project sponsor<br>and/or archeo og ca<br>consu tant to subm t<br>record of<br>consu tat on as part<br>of F na<br>Archeo og ca<br>Resources Report, f<br>app cab e   | Cons dered comp ete upon<br>subm tta to ERO of F na<br>Archeo og ca Resources<br>Report, f app cab e                  |  |  |  |

The term archeological site is intended here to minimally include any archeological deposit feature burial or evidence of burial

An appropriate representative of the descendant group is here defined to mean in the case of Native Americans any individual listed in the current Native American Contact List for the City and County of San Francisco maintained by the California Native American Heritage Commission and in the case of the Overseas Chinese the Chinese Historical Society of America An appropriate representative of other descendant groups should be determined in consultation with the Department archeologist

| Mitigation Measure   | Responsibility for<br>Implementation   | Mitigation Schedule   | Monitoring/<br>Reporting<br>Responsibility  | Monitoring Actions/<br>Schedule and Verification<br>of Compliance  |
|--|--|---|---|--|
| Initial Study E.3 Cultural Resources (cont.)   |  | <u> </u>  |   |  |
| Archeological Testing Program. The archeo og ca consultant shall prepare and submit to the review officer for review and approva an archeo og ca testing plan. The archeological testing program shall be conducted in accordance with the approved archeological testing plan. The archeological testing plan shall dentify the property types of the expected archeological resource(s) that potent alignment you do be adversely affected by the proposed project, the testing method to be used, and the locations recommended for testing. The purpose of the archeological testing program with being to determine to the extention possible the presence or absence of archeological resources and to dentify and to evaluate whether any archeological resource encountered on the site constitutes and storical resource under CEQA.  | Project sponsor/<br>archeo og ca consu tant<br>at the d rect on of the<br>ERO. | Pr or to any so s<br>d sturb ng act v t es on<br>the project s te.                                      | Consu tant Archeo og st sha prepare and subm t draft ATP to the ERO. ATP to be subm tted and rev ewed by the ERO pr or to any so s d sturb ng act v t es on the project s te. | Date ATP submitted to the ERO:  Date ATP approved by the ERO:  Date of nta so s d sturb ng act vt es:  |
| At the comp et on of the archeo og ca test ng program, the archeo og ca consu tant sha subm t a wr tten report of the findings to the review officer. If based on the archeological testing program the archeological consultant finds that significant archeological resources may be present, the review officer in consultant on with the archeological consultant shall determine field tional measures are warranted. Add tional measures that may be undertaken include add tional archeological testing, archeological monitoring, and/or an archeological data recovery program. No archeological data recovery shall be undertaken without the prior approval of the review officer or the planning department archeological title review officer determines that a significant archeological resource is present and that the resource could be adversely affected by the proposed project, at the discretion of the project sponsorie them: | at the direction of the at the direction of the archeological Testing Program. | Archeo og ca Test ng  | Archeo og ca<br>consu tant sha<br>subm t report of the<br>f nd ngs of the ATP<br>to the ERO.  | Date archeo og ca f nd ngs report subm tted to the ERO:  ERO determ nat on of s gn f cant archeo og ca resource present?  Y N  Wou d resource be |
| A. The proposed project shall be relief designed so as to avoid any adverse effect on the significant archeological resource; or   |  |   |   | adverse y affected? Y N  |
| B. A data recovery program sha be mp emented, un ess the rev ew off cer determ nes that the archeo og ca resource s of greater interpretive than research significance and that interpretive use of the resource is feasible.  |  |   |   | Add t ona m t gat on to be undertaken by project sponsor?  Y N   |
| Archeological Monitoring Program. If the review officer in consultation with the archeological consultant determines that an archeological monitoring program shall be implemented the archeological monitoring program shall minimally include the following provisions:  | Project sponsor/<br>archeo og ca consu tant/<br>archeo og ca mon tor/          | ERO and archeo og ca<br>consu tant sha meet<br>pr or to commencement                                    | Project sponsor/<br>archeo og ca<br>consu tant/<br>archeo og ca<br>mon tor/<br>contractor(s) sha<br>mp ement the AMP,<br>f requ red by the<br>ERO.                            | AMP required? Y N  |
| • The archeo og ca consu tant, project sponsor, and rev ew off cer sha meet and consu t on the scope of the archeo og ca mon tor ng p an reasonab y pr or to any project re ated so s d sturb ng act v t es commenc ng. The rev ew off cer n consu tat on w th the archeo og ca consu tant sha determ ne what project act v t es sha be archeo og ca y mon tored. In most cases, any so s d sturb ng act v t es, such as demo t on, foundat on remova, excavat on, grad ng, ut t es nsta at on, foundat on work, dr v ng of p es (foundat on, shor ng, etc.), s te remed at on, etc., sha require archeo og ca mon toring because of the risk these act v t es pose to potent a archeo og ca resources and to the rideposit on a context;  | contractor(s), at the d rect on of the ERO.                                    | of so s d sturb ng act v ty. If the ERO determ nes that an Archeo og ca Mon tor ng Program s necessary, |   | Date:  Date AMP subm tted to the ERO:  Date AMP approved by the ERO:   |

December 2019

| Mitigation Measure   | Responsibility for<br>Implementation            | Mitigation Schedule   | Monitoring/<br>Reporting<br>Responsibility  | Monitoring Actions/<br>Schedule and Verification<br>of Compliance                                  |
|--|---|---|---|--|
| Initial Study E.3 Cultural Resources (cont.)   |   |   |   | ·  |
| <ul> <li>The archeo og ca consu tant sha adv se a project contractors to be on the a ert for ev dence of the presence of the expected resource(s), of how to dent fy the ev dence of the expected resource(s), and of the appropr ate protoco n the event of apparent d scovery of an archeo og ca resource;</li> </ul>  |   |   |   | Date AMP mp ementat on comp ete:  Date wr tten report  |
| <ul> <li>The archeo og ca mon tor(s) sha be present on the project s te according to a schedule agreed upon by the project sponsor, archeo og ca consultant, and the Environmenta Review Officer (ERO) until the review officer has, in consultation with project archeological consultant, determined that project construct on activities could have no effects on significant archeological deposits;</li> </ul>  |   |   |   | regard ng f nd ngs of the<br>AMP rece ved:   |
| <ul> <li>The archeo og ca mon tor sha record and be author zed to co ect so samp es and<br/>art factua /ecofactua mater a as warranted for ana ys s;</li> </ul>  |   |   |   |  |
| • If an ntact archeo og ca depost s encountered, a so s d sturb ng act vtes n the vcnty of the depost shall cease. The archeo og calmon tor shall be empowered to temporar y redirect demoit on/excavation/pie driving/construction act vtes and equipment until the deposit sieval uated. If in the case of pie driving or deep foundation act vtes (foundation, shoring, etc.), the archeological monitor has cause to be even that the pie driving or deep foundation act vtes may affect an archeological resource, the pie driving or deep foundation act vtes shall be terminated until an appropriate evaluation of the resource has been made in consultation with the review officer. The archeological consultant shall mimed ately not fy the review officer of the encountered archeological deposit. The archeological consultant shall make a reasonable effort to assess the dentity, integrity, and significance of the encountered archeological deposit, and present the findings of this assessment to the ERO.   |   |   |   |  |
| Whether or not s gn f cant archeo og ca resources are encountered, the archeo og ca consu tant sha subm t a wr tten report of the f nd ngs of the mon tor ng program to the ERO.   |   |   |   |  |
| Archeological Data Recovery Program. The archeo og ca data recovery program sha be conducted n accord with an archeo og ca data recovery plan. The archeo og ca consultant, project sponsor, and ERO sha meet and consult on the scope of the archeo og ca data recovery plan prior to preparation of a draft plan. The archeo og ca consultant sha submit a draft plan to the ERO. The archeo og ca data recovery plan sha dent fy how the proposed data recovery program with preserve the significant information the archeo og ca resource is expected to contain. That is, the archeo og ca data recovery plan with dent fy what so entities of the scope of the archeo og ca resource is expected to contain. That is, the archeo og ca data recovery plan with dent fy what is called the scope of the sco | Archeo og ca consu tant, as d rected by the ERO | If there s a determ nat on that an ADRP program s required, conduct ADRP throughout a so s disturbing activities. | Project sponsor/<br>archeo og ca<br>consu tant/<br>archeo og ca<br>mon tor/<br>contractor(s) sha<br>prepare an ADRP f<br>requ red by the ERO. | ADRP required? Y N Date:  Date of scoping meeting for ARDP:  Date Draft ARDP submitted to the ERO: |

| Mitigation Measure   | Responsibility for<br>Implementation  | Mitigation Schedule                                     | Monitoring/<br>Reporting<br>Responsibility  | Monitoring Actions/<br>Schedule and Verification<br>of Compliance   |
|--|---|---|---|---|
| Initial Study E.3 Cultural Resources (cont.)   |   |   |   | ***   |
| The scope of the archeo og ca data recovery p an sha nc ude the fo ow ng e ements:   |   |   |   | Date ARDP approved by   |
| <ul> <li>Field Methods and Procedures Descr pt ons of proposed f e d strateg es, procedures, and<br/>operat ons.</li> </ul>  |   |   |   | the ERO:  |
| <ul> <li>Cataloguing and Laboratory Analysis Description of selected cataloguing system and<br/>artifact analysis procedures.</li> </ul>   |   |   |   | Date ARDP   |
| <ul> <li>Discard and Deaccession Policy Description of and rationale for field and post field discard<br/>and deaccess on policies.</li> </ul>   |   |   |   | mp ementat on comp ete:   |
| <ul> <li>Interpretive Program Cons derat on of an ons te/offs te pub c nterpret ve program dur ng the course of the archeo og ca data recovery program.</li> </ul>   |   |   |   |   |
| <ul> <li>Security Measures Recommended secur ty measures to protect the archeo og ca resource<br/>from vanda sm, oot ng, and non ntent ona y damag ng act v t es.</li> </ul>   |   |   |   |   |
| <ul> <li>Final Report Description of proposed report format and distribution of results.</li> </ul>  |   |   |   |   |
| <ul> <li>Curation Description of the procedures and recommendations for the curation of any recovered data having potential research value, identification of appropriate curation facties, and a summary of the accession policies of the curation facties.</li> </ul>  |   |   |   |   |
| Human Remains, Associated or Unassociated Funerary Objects. The treatment of human rema ns and of assoc ated or unassoc ated funerary objects d scovered dur ng any so s d sturb ng act v ty sha comp y w th app cable state and federal aws, not und ng mmed ate not fication of the Office of the Chief Medical Examiner of the City and County of San Francisco and in the event of the medical examiner's determination that the human remains are Native American remains, not fication of the California State Native American Heritage Commission who sha appoint a Most Like y Descendant (Public Resource Code section 5097.98). The ERO sha also be immediately not field upon discovery of human remains. The archeological consultant, project sponsor, ERO, and almost key descendant shall have up to but not beyond six days after the discovery to make a reasonable efforts to develop an agreement for the treatment of human remains and associated or unassociated funerary objects with appropriate dignity (CEQA Guide nesisection 15064.5(d)). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, curation, possession, and final disposition of the human remains and associated or unassociated funerary objects. Nothing in existing state regulations or in this mitigation measure compessible project sponsor and the ERO to accept recommendations of a most key descendant. The archeological consultant shall retain possession of any Native American human remains and associated or unassociated burial objects until completion of any scientification and secondary. The archeological consultant shall retain possession of any Native American human remains and associated or unassociated burial objects until completion of any scientification and secondary the first possession of any Native American human remains and associated or unassociated burial objects until completion of any scientification of any secondary transportation of the human remains and associated burial objects with appropriated disconsidir | Project sponsor,<br>contractor, P ann ng<br>Department's<br>archeo og st or<br>archaeo og ca<br>consu tant, and ERO | Throughout the durat on of ground d sturb ng act v t es | Project sponsor to<br>not fy ERO, Coroner,<br>and, f app cab e,<br>NAHC of any<br>d scovery of human<br>rema ns | Cons dered comp ete upon comp et on of ground d sturb ng act v t es |

| Mitigation Measure   | Responsibility for<br>Implementation  | Mitigation Schedule  | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance   |
|--|---|--|--|---|
| Initial Study E.3 Cultural Resources (cont.)   |   |  |  |   |
| Final Archeological Resources Report. The archeo og ca consultant shall submit a Draft Final Archeological Resources Report to the ERO that evaluates the historical significance of any discovered archeological resource and describes the archeological and historical research methods employed in the archeological testing/recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the final report.   | Archeo og ca consu tant   | Pr or to the ssuance of<br>the ast cert f cate of<br>occupancy for the<br>proposed project   | ERO  | Cons dered comp ete upon<br>subm tta to ERO and other<br>repos tor es dent f ed n<br>m t gat on measure of F na<br>Archeo og ca Resources<br>Report |
| Once approved by the ERO, cop es of the F na Archeo og ca Resources Report sha be d str buted as fo ows: Ca forn a H stor ca Resource Informat on System Northwest Informat on Center sha rece ve one (1) copy and the ERO sha rece ve a copy of the transm tta of the report to the Northwest Informat on Center. The San Franc sco P ann ng Department Env ronmenta P ann ng D v s on sha rece ve one bound, one unbound and one un ocked, searchab e PDF copy on CD of the report a ong w th cop es of any forma s te recordat on forms (Ca forn a Department of Parks and Recreat on 523 form) and/or documentat on for nom nat on to the Nat ona Reg ster of H stor c P aces/Ca forn a Reg ster of H stor ca Resources. In nstances of h gh pub c nterest n or the h gh nterpret ve va ue of the resource, the ERO may require a different final report content, format, and distribution than that presented above.  |   |  |  |   |
| Mitigation Measure M-CR-3: Tribal Cultural Resources Interpretive Program  If the ERO determ nes that a s gn f cant archeo og ca resource s present, and f n consu tat on with the aff ated Native American tribal representatives, the review officer determines that the resource constitutes a tribal cultural resource and that the resource could be adversely affected by the proposed project, the proposed project shall be redesigned so as to avoid any adverse effect on the significant tribal cultural resource, if feasible. If the ERO, in consultation with the affiliated Native American tribal representatives, determines that preservation in place of the tribal cultural resources is not a sufficient or feasible option, the project sponsor shall mplement an interpretive program of the tribal cultural resource in consultation with affiliated tribal representatives. An interpretive plan produced in consultation with the ERO and affiliated tribal representatives, at a minimum, and approved by the ERO would be required to mplement the interpretive program. The plan shall dentify, as appropriate, proposed locations for installations or displays, the proposed content and materials of those displays or installation, the producers or artists of the displays or installation, and a long terminal trepretation, and educational panels or other informational displays. | Project sponsor n consu tat on w th tr ba representat ve(s), as d rected by the ERO | If d rected by the ERO to mp ement an nterpret ve program, approva of nterpret ve p an pr or to the ssuance of the cert f cate of occupancy for the proposed bu d ng affect ng the re evant Tr ba Cu tura Resource | ERO  | Cons dered comp ete upon mp ementat on of any requ red interpret ve program   |

| Mitigation Measure   | Responsibility for<br>Implementation                           | Mitigation Schedule                               | Monitoring/<br>Reporting<br>Responsibility | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |  |  |
|--|--|---|--|---|--|--|
| Initial Study E.13 Geology and Soils   |  |   |  | <u> </u>  |  |  |
| Mitigation Measure M-GE-6: Paleontological Resources Monitoring and Mitigation Program  Pr or to ssuance of a bu d ng permt for construct on act vt es that would disturb the deep f area, where P e stocene aged sed ments, which may include Colma Formation, bay mud, bay clay, and or deribeach deposits (based on the site specific geotechnical investigation or other available information) may be present, the project sponsor shall retain the services of a qualified paleontological consultant having expertise in California paleontology to design and implement a Paleontological Resources Monitoring and Mitigation Program. The program shall specify the | Project sponsor and a<br>qua f ed pa eonto og ca<br>consu tant | Pr or to ssuance of a demo t on or bu d ng perm t | ERO  | Cons dered comp ete upon comp et on of project construct on       |  |  |
| t m ng and spec f c ocat ons where construct on mon tor ng wou d be required; nadvertent d scovery procedures; samping and data recovery procedures; procedures for the preparation, dent f cation, analysis, and curation of foss is specimens and data recovered; preconstruction coordination procedures; and procedures for reporting the results of the monitoring program. The program shall be consistent with the Society for Vertebrate Paleontology Standard Guidelines for the mitigation of construction related adverse impacts to paleontological resources and the requirements of the designated repository for any foss is collected.                       |  |   |  |   |  |  |
| Dur ng construct on, earth mov ng act v t es that have the potent a to d sturb prev ous y und sturbed nat ve sed ment or sed mentary rocks sha be mon tored by a qua f ed pa eonto og ca consu tant hav ng expert se n Ca forn a pa eonto ogy. Mon tor ng need not be conducted when construct on act v t es wou d encounter art f c a f , Young Bay Mud, or non sed mentary rocks of the Franc scan Comp ex.  |  |   |  |   |  |  |
| If a pa eonto og car esource sid scovered, construction activities in an appropriate buffer around the discovery site shall be suspended for a max mum of 4 weeks. At the direction of the Environmenta Review Officer (ERO), the suspension of construction can be extended beyond four (4) weeks if needed to implement appropriate measures in accordance with the program, but only if such a suspension is the only feasible means to prevent an adverse impact on the paleontological resource.  |  |   |  |   |  |  |
| The pa eonto og ca consultant's work shall be conducted at the direction of the City's environmental review officer. Plans and reports prepared by the consultant shall be submitted first and directly to the ERO for review and comment, and shall be considered draft reports subject to revision unit if na approva by the ERO.  |  |   |  |   |  |  |

TABLE B
IMPROVEMENT MEASURES ADOPTED AS CONDITIONS OF APPROVAL

| Improvement Measure   | Responsibility for<br>Implementation  | Mitigation Schedule   | Monitoring/<br>Reporting<br>Responsibility       | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |
|---|---|---|--|---|
| EIR Section 4.E Transportation and Circulation  |   | an -  |  | 90  |
| <ul> <li>Construction Management Plan         The project sponsor w deve op and, upon review and approva by the San Francisco Municipal participation of the project sponsor wide op and, upon review and approva by the San Francisco Public Works, mplement a Construction Management Plan, addressing transportation related circulation, access, staging and hours of delivery. The Construction Management Plan would disseminate appropriate information to contractors and affected agencies with respect to coordinating construction activities to minimize overa disruption and ensure that overa circulation in the project area is maintained to the extentitions being with particular focus on ensuring transiting the project area is maintained to the extentitions being with particular focus on ensuring transiting the project area is maintained to the extentitions being with particular focus on ensuring transiting the project area is maintained to the extentitions being with particular focus on ensuring transiting trans</li></ul> | Project sponsor,<br>construct on<br>contractor, SFMTA,<br>SF Pub c Works, as<br>d rected by the ERO | Pr or to the ssuance of<br>a s te perm t, demo t on<br>perm t, or any other<br>perm t from the<br>Department of Bu d ng<br>Inspect on | SFMTA, SF Pub c<br>Works, P ann ng<br>Department | Cons dered comp ete upon comp et on of project construct on       |
| <ul> <li>Carpool, Bicycle, Walk, and Transit Access for Construction Workers To mnm ze park ng demand and vehicle to right park of the Construction workers, the construction contractor wind no reduce as part of the Construction Management P an methods to encourage carpooing, bicycle, walk and transit access to the project site by construction workers. These methods could not ude providing secure bicycle parking spaces, participating in free to employee and employer right demands and program from www.511.org, participating in the emergency right home program through the City of San Francisco (www.sferh.org), and providing transit information to construction workers.</li> <li>Project Construction Updates for Nearby Businesses and Residents. To min mize construction impacts on access to nearby residences and businesses, the project sponsor with providing project construction, no uding construction activities, peak construction vehicle activities, trave and cosures, and parking and and sidewalk cosures (e.g., via the project's website). A regular emain notice with be distributed by the project sponsor that would provide current construction inquiries or concerns.</li> </ul>  |   |   |  |   |

# TABLE B (CONTINUED) IMPROVEMENT MEASURES ADOPTED AS CONDITIONS OF APPROVAL

| Improvement Measure  | Responsibility for<br>Implementation                                       | Mitigation Schedule  | Monitoring/<br>Reporting<br>Responsibility   | Monitoring Actions/<br>Schedule and Verification<br>of Compliance   |
|--|--|--|--|---|
| EIR Section 4.E Transportation and Circulation (cont.)   |  |  |  |   |
| Improvement Measure I-TR-B: Monitoring and Abatement of Queues  As an improvement measure to reduce the potent a for queuing of vehicles accessing the project garages, it will be the responsibility of the project sponsor to ensure that recurring vehicle queues or vehicle conflicts do not occur adjacent to garage entries. A vehicle queue is defined as one or more vehicles blocking any port on of adjacent sidewalks, blocycle anes, or trave anes for a consecutive period of three minutes or onger on a daily and/or weekly basis.  If recurring queuing occurs, the owner/operator of the facility will employ abatement methods as needed to abate the queue. Appropriate abatement methods will vary depending on the character stics and causes of the recurring queue, as we as the character stics of the parking facility, the street(s) to which the facility connects, and the associated and uses (if applicable).  Suggested abatement methods include, but are not imited to the following: redesign of facility to mprove vehicle circuit on and/or onsite queue capacity; employment of parking attendants; installation of "GARAGE FULL" signs with active management by parking attendants; use of valety parking or other space efficient parking techniques; use of other garages on the project site; use of parking occupancy sensors and signaged directing drivers to available spaces; trave demand management strategies; and/or parking demand management strategies such as parking time imits, paid parking, time of day parking surcharge, or validated parking.  If the planning department will not facility to project sponsor in writing. Upon request, the owner/operator will him a qualified transportation consultant to evaluate the conditions at the site for no essithan sevenidays. The consultant will prepare a monitoring report to be submitted to the planning department for review. If the planning department determines that a recurring queue or | Project sponsor, qua fed transportat on consu tant, as d rected by the ERO | Ongo ng dur ng project<br>operat on; f/when a<br>veh c e queue s<br>dent f ed as reoccurr ng | ERO or other<br>P ann ng Department<br>staff   | Mon tor ng of the pub c r ght of way wou d be on go ng by the owner/operator of off street park ng operat ons; cons dered comp ete upon abatement of the recurr ng queue or conf ct |
| conf ct does ex st, the project sponsor w have 90 days from the date or the written determination to abate the recurring queue or confict.   |  |  |  |   |
| EIR Section 4.F Noise and Vibration  |  |  |  |   |
| <ul> <li>Improvement Measure I-NO-A, Nighttime Construction Noise Control Measures</li> <li>The fo owng sha occur to reduce potent a conficts between night me construction activities on the project site and residents of the Pierr 70 project:</li> <li>Night me construction noise shalp be mitted to 10 dBA above ambient levels at 25 feet from the edge of the Power Station project boundary.</li> <li>Temporary noise barriers installed in the line of sight between the location of construction and any occupied resident aluses.</li> <li>Construction contractor(s) shalp be required to make best efforts to complete the loudest construction activities before 8 p.m. and after 7 a.m.</li> </ul>   | Project sponsor and construct on contractor                                | Dur ng the construct on  | P ann ng Department, Department of Bu d ng Inspect on (as requested and/or on comp a nt bas s) | Cons dered comp ete at<br>the comp et on of project<br>construct on   |

# TABLE B (CONTINUED) IMPROVEMENT MEASURES ADOPTED AS CONDITIONS OF APPROVAL

| Improvement Measure |   | Responsibility for<br>Implementation                                | Mitigation Schedule  | Monitoring/<br>Reporting<br>Responsibility                     | Monitoring Actions/<br>Schedule and Verification<br>of Compliance   |
|---------------------|---|---|--|--|---|
| EII                 | R Section 4.F Noise and Vibration (cont.)   |   |  |  |   |
| •                   | Further, not ces sha be provided to be majed or, if possible, emajed to residents of the Pier 70 project at least 10 days prior to the date any night me construction activities are scheduled to occur and again within three days of commencing such work. Such notice sha include:   |   |  |  |   |
|                     | . a descr pt on of the work to be performed;  |   |  |  |   |
|                     | . two 24 7 emergency contact names and ce phone numbers;  |   |  |  |   |
|                     | . the exact dates and t mes when the n ght work w be performed;   |   |  |  |   |
|                     | v. the name(s) of the contractor(s); and  |   |  |  |   |
|                     | v. the measures that the contractor w perform to reduce or m t gate n ght no se.  |   |  |  |   |
| •                   | In add t on to the forego ng, the Deve oper sha work with building managers of occupied resident a buildings in the Pier 70 project to post a notification with the aforement oned information in the lobby and other public meeting areas in the building.   |   |  |  |   |
| lm                  | provement Measure I-NO-B: Avoidance of Residential Streets  | Project sponsor and   | Dur ng the construct on  | P ann ng<br>Department,<br>Department of<br>Bu d ng Inspect on | Cons dered comp ete at<br>the comp et on of project<br>construct on   |
| p a<br>on           | ucks shou d be required to use routes and queuing and loading areas that avoid existing and anned resident a luses to the max mum extent feasible, including existing resident a development. Third Street (north of 23rd Street), existing resident a development on I inois Street (north of th Street), and planned Pier 70 resident a development (north of 22nd Street).   | construct on contractor   |  |  |   |
|                     | provement Measure I-NO-C: Design of Future Noise-Generating Uses near Residential ies:  | Project sponsor and acoust ca des gn                                | Pr or to approva of a bu d ng perm t for                                 | P ann ng<br>Department,  | Cons dered comp ete at the comp et on of project construct on (a. and b.), and for (c), upon comp et on of the Covenants, Cond t ons, and Restr ct ons app cab e to the project s te document |
| Pe                  | e fo owing improvement measures will be implemented to reduce the potential for disturbance of er 70 residents from other traffic related, no seigenerating activities located near the northern PS is to boundary:   | northern s te be<br>(adjacent to P e<br>(a. and b.)<br>Ongo ng (c.) | deve opment a ong the<br>northern's te boundary<br>(adjacent to P er 70) | Department of<br>Bu d ng Inspect on,<br>and SFMTA              |   |
| a.                  | Design of Building Loading Docks and Trash Enclosures. To m n m ze the potent a for s eep d sturbance at any potent a adjacent res dent a uses, exter or fac t es such as oad ng areas / docks and trash enc osures assoc ated w th any non res dent a uses a ong Cra g Lane, sha be ocated on s des of bu d ngs fac ng away from ex st ng or p anned Res dent a or Ch d Care uses, f feas b e. If nfeas b e, these types of fac t es assoc ated w th non res dent a uses a ong Cra g Lane sha be enc osed. |   |  |  |   |
|                     | If res dent a uses ex st or are p anned on Cra g Lane, on street oad ng act v t es on Cra g Lane sha occur between the hours of 7:00 a.m. and 8:00 p.m. on weekdays, and 9:00 a.m. to 8:00 p.m. on Saturdays, Sundays, and federa ho days. Off street oad ng outs de of these hours sha on y be perm tted on y f such oad ng occurs ent re y w th n enc osed bu d ngs.  |   |  |  |   |
| b.                  | Design of Above Ground Parking Structure. Any park ng structure sha be designed to she d ex sting or planned resident a luses from no se and light associated with parking cars.  |   |  |  |   |
| C.                  | Restrict Hours of Operation of Loading Activities on Craig Lane. To reduce potent a conf cts between oad ng act vt es for commerc a uses and potent a res dent a uses, the project  |   |  |  |   |

# TABLE B (CONTINUED) IMPROVEMENT MEASURES ADOPTED AS CONDITIONS OF APPROVAL

| Improvement Measure  | Responsibility for<br>Implementation                         | Mitigation Schedule                    | Monitoring/<br>Reporting<br>Responsibility                                | Monitoring Actions/<br>Schedule and Verification<br>of Compliance |
|--|--|--|---|---|
| EIR Section 4.F Noise and Vibration (cont.)  |  |  |   | **  |
| sponsor w seek to restrict oading activities on Craig Lane to occur only between the hours of 7 a.m. and 8 p.m. In the event Craig Lane is a private street, such restriction may be included in the Covenants, Conditions, and Restrictions applicable to the project site. If San Francisco Public Works accepts Craig Lane, the project sponsor will seek to have SFMTA impose these restrictions.  |  |  |   |   |
| EIR Section 4.H Wind and Shadow  |  |  |   |   |
| Improvement Measure I-WS-1: Wind Reduction Features for Block 1  As part of the schemat c des gn of bu d ng(s) on B ock 1, the project sponsor and the B ock 1 arch tect(s) should consult with a qualified wind consultant regarding design treatments to min mize pedestrian level winds created by development on Block 1, with a focus on the southwest corner of the block. Design treatments could not ude, but need not be mitted to, no us on of podium setbacks, terraces, architectural canopies or screens, vertical or horizontal fins, chamfered corners, and other articulations to the building façade. If such building design measures are found not to be effective, and scaping (trees and shrubs), street furniture, and ground level fences or screens may be considered. If recommended by the qualified wind consultant, the project sponsor should subject the building(s) proposed for this block to wind tunne testing prior to the completion of schematic design. The goal of this measure is to improve pedestrian wind conditions resulting from the development of Block 1. The project sponsor should incorporate into the design of the Block 1 building(s) any wind reduction features recommended by the qualified wind consultant. | Project sponsor,<br>arch tect and qua fed<br>w nd consu tant | Pr or to Des gn<br>Approva for B ock 1 | P ann ng<br>Department,<br>Department of<br>Bu d ng Inspect on,<br>or ERO | Cons dered comp ete upon<br>ssuance of B ock 1 Des gn<br>Approva  |

#### **EXHIBIT R**

#### **Operations Plan**

[attached]

## **Operations Plan**

\_\_\_\_\_, 2020

# **The Power Station**

#### **Table of Contents**

| 1.0 | INTRODUCTION   | 3  |
|-----|--|----|
| 2.0 | GENERAL OPERATIONS   | 3  |
| 2.1 | KEY STAFF  | 3  |
| 2.2 | KEY LOCATIONS AND ACTIVITIES                                       | 3  |
| 2.3 | USE OF WATERFRONT PARK AND THE POINT – PROTECTING THE BAY          | 4  |
| 3.0 | DESCRIPTION OF OPERATIONS  | 6  |
| 3.1 | FLOATING DOCKS AND BERTHED VESSELS                                 | 6  |
| 3.2 | FOOD SERVICES  | 8  |
| 3.3 | RESTRICTED ACTIVITIES.   | 8  |
| 4.0 | REGULATORY/PERMITS SECTION   | 8  |
| 4.1 | CITY AND COUNTY OF SAN FRANCISCO                                   |    |
| 4.2 | STATE OF CALIFORNIA  | 9  |
| 4.3 | FEDERAL  | 10 |
| 5.0 | SECURITY   | 10 |
| 6.0 | WASTE AND CUSTODIAL MANAGEMENT                                     | 11 |
| 7.0 | APPENDICES   | 11 |
| 7.1 | APPENDIX A – SUMMARY OF BEST MANAGEMENT PRACTICES                  | 11 |
| 7.2 | APPENDIX B - SPILL RESPONSE  | 12 |
| 7.3 | APPENDIX C – SELECT MARITIME RULES & REGULATIONS                   | 13 |
| 7.4 | APPENDIX D – SELECT PERMITTED & REGULATED ACTIVITY – SUMMARY TABLE | 16 |
| 7.5 | APPENDIX E – FIRE DEPARTMENT PERMIT LIST                           | 18 |

#### **The Power Station**

#### **Operations Plan**

#### TEMPLATE - [DATE]

| California Barrel Company LLC,  | , a Delaware limited liability company (" <b>Tenant</b> "), has prepared |  |  |  |  |
|---|--|--|--|--|--|
| this Operations Plan, dated   |  |  |  |  |  |
| Ground Lease (No. L-[   | ]) (as may be amended from time to time, the "Lease").                   |  |  |  |  |
| Tenant may, from time to time, amend this Operations Plan with Port's reasonable approval, as |  |  |  |  |  |
| provided in Section 7.1(b) of the   | ne Lease. Port may, from time to time, review Tenant's                   |  |  |  |  |
| Operations Plan and make reco   | ommendations for amendments, as provided in Section 7.1(b) of            |  |  |  |  |
| the Lease.  |  |  |  |  |  |

#### 1.0 INTRODUCTION

This Operations Plan (including its appendices which are hereby incorporated) covers conditions and requirements related to stewardship and protection of the environment. This Operations Plan sets forth various requirements, for activities consistent with the Lease, followed by a description of the major operations at the Project. With each operation, protocols are discussed and then distilled into a series of Best Management Practices or BMPs. Following this is a review of the major regulatory requirements that pertain to the Tenant's operations, which exclude fueling, maintenance, and use and storage of hazardous materials. Last is a series of appendices that includes a consolidation of operational BMPs, pertinent Port Rules and Regulations and additional supporting documents. In the event of any conflict between the provisions of this Operations Plan and the Lease, the terms and provisions of the Lease shall prevail.

Definitions used in this Operations Plan are found in the specified locations in this Operations Plan or are set forth in Appendix H. Other capitalized terms are defined in the Lease.

#### 2.0 GENERAL OPERATIONS

#### 2.1 Key Staff

In the event of an emergency, the following staff are primary points of contact. Tenant may update these points of contact from time to time upon notice to Port.

**TABLE 1: Key Staff** 

| NAME         | TITLE        | PHONE        | EMAIL                         |
|--------------|--------------|--------------|-------------------------------|
| Dave Hansell | Site Manager | 415-796-8945 | dh@associatecapital.com       |
| PPS Security | PPS Security | 628-999-7727 | security@associatecapital.com |
|              |              |              |                               |
|              |              |              |                               |
|              |              |              |                               |
|              |              |              |                               |

#### 2.2 Key Locations and Activities

A wide variety of activities will occur throughout the term of the Lease. These will vary by location and time. The following table lists several locations and activities that are planned or that are being considered at these locations. This information shall be updated as needed throughout the term of the Lease.

**TABLE 2: Locations and Activities** 

| Figure 1)       |  |
|-----------------|--|
| Waterfront Park | Vessel berthing and marine operations for the vessel(s) permitted under the Lease to occur along the recreational dock facility; use of floats and ramps; vessel provisioning; overnight berthing; passenger loading and unloading; public seating; general circulation of pedestrians, cyclists; active and passive recreation to occur on the multi-purpose fitness lawn, micro-retail sales and other activities to support such micro-retail operations (including loading/unloading of goods), interpretive exhibits, and public art; drinking fountain(s). |
| The Point       | General circulation; interpretive exhibits; picnicking and public seating;   |

Figure 1



# 2.3 Use of Waterfront Park and the Point – Protecting The Bay

As described in Sections 15 and 16 of the Infrastructure Plan, Waterfront Park and the Point are within the eastern watershed that is connected to a separated storm drain system. Stormwater runoff in these areas will be treated in compliance with the City of San Francisco Storm Water Management Requirements before being discharged into the San Francisco Bay. However, materials that are released in Waterfront Park or The Point could ultimately be released into the Bay. Materials, especially trash, can also be conveyed to the Bay by stormwater or wind. Even materials that are spilled in the dry summer months can be washed into the Bay with the winter rains.

#### TABLE 3A: POTENTIAL POLLUTANTS AND ACTIVITIES OF CONCERN

| POTENTIAL POLLUTANTS | ACTIVITIES OF CONCERN  |
|----------------------|--|
| Trash / Debris       | Recreational dock facility; use of floats and ramps; vessel        |
|                      | provisioning; active and passive recreation to occur on the multi- |
|                      | purpose fitness lawn, micro-retail sales and other activities to   |
|                      | support such micro-retail operations                               |
| Vehicle Fluids       | Parking, Deliveries/Provisioning                                   |

#### TABLE 3B: PORT FACILITIES AND ENVIRONMENTAL RISKS

| PORT FACILITY TYPE     | ENVIRONMENTAL RISKS                                |
|------------------------|--|
| Port Shoreline Rip-Rap | Discharge via sheet flow or storm drains to SF Bay |
| and Seawall            | Wind carries debris into SF Bay                    |

The two most important Best Management Practice (BMP) when at the Waterfront Park or The Point are:

- 1) Be aware of the potential to pollute the Bay.
- 2) Train staff to protect the Bay.

The following Port of San Francisco's Best Management Practices (BMPs) shall be used as general guidelines. The Port acknowledges that the Tenant utilizes ISO 14001 management plans, and undergoes internal and external audits. The Tenant may deploy specific plans whose BMPs may differ at times even though they adhere to the intent of the Port's BMPs.

#### BMPs - General Use of Port Facilities

- 1. **BE AWARE**: Be aware of the potential to pollute the Bay.
- 2. **TRAIN STAFF**: Train staff to be partners in protecting the Bay.
- 3. **DEBRIS MANAGEMENT**: Place trash and debris in the proper containers.
- 4. **END OF DAY CLEAN-UP**: At the end of the day or when activities are over, conduct a general clean-up to remove debris, trash, and inspect for spills.
- 5. **SWEEP**: When practical, use dry cleaning methods rather than pressure washing surfaces.
- 6. **CLEAN SPILLS IMMEDIATELY**: Keep equipment clean. Avoid excessive build-up of oil and grease.

Consistent with the City and County of San Francisco's targets for achieving zero waste, the Tenant will disseminate information regarding Best Management Practices electronically, or as part of the Project's signage and/or interpretive program.

#### 3.0 DESCRIPTION OF OPERATIONS

#### **GENERAL**

This section describes the Tenant's operations and activities that are authorized by the Lease. These operations and activities shall be conducted in accordance with this Operations Plan. Operations that that are not part of the Permitted Use or otherwise approved by Port shall be prohibited.

If the Tenant would like to conduct new activities and operations, it shall submit a revised Operations Plan to the Port for approval in accordance with the Lease to the extent that the existing Operations Plan does not cover such new activities and operations. A revised Operations Plan shall specify at a minimum:

- Proposed new activities.
- Additional venues for activities approved elsewhere.
- New permit requirements (new permits and modifications to existing permits).
- BMPs that will be employed.
- Other information reasonably required by Port.
- Any required/applicable environmental review and approval

The Port will respond promptly to any request to revise the Operations Plan.

# 3.1 Floating Docks and Berthed Vessels

All vessels using Port property or temporary floating docks identified in Table 2 shall comply with all applicable laws and regulations, including maritime rules & regulations set forth by the Port, as required under the Lease.

#### **GENERAL PROHIBITION ON DISCHARGES**

Discharges or releases of any kind are prohibited in the San Francisco Bay, unless specifically authorized under a state or federal permit. All vessels are prohibited from releasing ballast water into San Francisco Bay unless authorized under governing state or federal law. All vessels are prohibited from releasing into San Francisco Bay sewage, gray water, hazardous waste, solid waste, fuel, or oil-related substances. Discharges from Type II Marine Sanitation Devices are also prohibited in the Bay. These prohibitions include incidental discharges.

#### **Prohibited Discharges**

- Ballast Water (without authorization)
- Sewage
- Gray Water

- Hazardous Waste
- Solid Waste
- Fuel
- Oil-Related Substances
- Type II Marine Sanitation Device Contents

#### **EMERGENCY PLANNING**

Although use of hazardous materials is prohibited, information in the event of an emergency will be made available. Additionally, Tenant must report spills of any of the above-listed materials to the required governmental agencies listed in the spill response call plan identified in Appendix B.

Each temporary floating dock shall be equipped with spill response resources.

#### **Spill Response Resources**

- Absorbent spill pads and socks
- Absorbent material (e.g. solvent absorbent, vermiculite, etc.)
- Hydrophobic mop (i.e. a mop that absorbs oil, but not water)
- Safety gloves (that are appropriate for oils, and other petroleum)
- 5-20 gallon disposal bucket/drum with lid
- Hazardous Waste Labels

If absorbent materials are used, they must be removed and disposed promptly.

#### **VESSEL MAINTENANCE SERVICES AND OPERATIONS**

Vessel maintenance services will not be provided at Waterfront Park or the Point. However, information regarding vessel maintenance will be made available electronicly, and/or with posted signs where practical and feasible, consistent with the City and County of San Francisco's targets for achieving zero waste. Maintenance services such as bilge pump-out, and sewage pump-out will not be allowed at the Premises. Vessel operators who require these services will need to contact one of the marinas in the San Francisco Bay to arrange for these services.

**TABLE 5: Marina Services and Locations in San Francisco** 

| SERVICE                   | LOCATION                               | PHONE          |
|---------------------------|--|----------------|
| Sewage Pump Out Station   | Hyde Street Harbor                     | (415) 274-0513 |
|                           | Pier 39 Marina                         | (415) 705-5500 |
|                           | SF Marina, West Harbor & Gashouse Cove | (415) 831-6322 |
|                           | South Beach Harbor                     | (415) 495-4911 |
| Port-a-Potty Dump Station | SF Marina, West Harbor & Gashouse Cove | (415) 831-6322 |
| Bilge Pumpout Station     | Hyde Street Harbor                     | (415) 274-0513 |

| Marine Battery Disposal    | South Beach Harbor                       | (415) 495-4911 |
|----------------------------|--|----------------|
| <b>Used Oil Collection</b> | Hyde Street Harbor                       | (415) 274-0513 |
|                            | • SF Marina, West Harbor & Gashouse Cove | (415) 831-6322 |
|                            | South Beach Harbor                       | (415) 495-4911 |

For additional locations and services, Tenant may consult the **San Francisco Bay Area Clean Boating Map**, which is also available online.

http://www.coastal.ca.gov/ccbn/SF\_Bay\_Clean\_Boating\_Map.pdf.

#### 3.2 Food Services

Port facilities that will be used as a temporary food establishment or for the serving of food and/or drinks, shall be subject to the Port's *Rules and Regulations for Restaurants* (see Appendix F).

### 3.3 Restricted Activities.

Sediment along the shoreline of the Project has been impacted by waste from historic power plant operations. In 2018-2019 PG&E implemented remediation that reduced the potential risk to people or aquatic organisms to less than signicifant level. Remediation included placement of sediment treatment and cap materials. Typical recreational use of the shoreline and bay water, such as short-term anchoring, stepping in/out of a kayak, or swimming in shallow water, should not disturb remediated sediment or affect post-remediation conditions. However, intrusive activity, such as sediment sampling, pile installation or removal, trenching for utility installation, or dredging to accommodate vessel berthing or navigation, may pose a risk of impact to sediment remediation measures.

Consequently, Tenant must notify the Port, the Water Board, and PG&E in advance of any intrusive activity, and allow review of the proposed activity with respect to post-remediation sediment conditions. Tenant would also need authorization from the Port, BCDC, PG&E, Water Board and U.S. Army Corps of Engineers. PG&E's responsibility for long-term monitoring and maintenance of post-remediation sediment conditions, restrictions on intrusive activities, and process for authorizing intrusive activities are described in detail in PG&E's Risk Management and Monitoring Plan (insert date).

# 4.0 REGULATORY/PERMITS SECTION

Several local, state, and federal agencies might have jurisdiction over the Tenant's activities. This section provides a summary of some of these agencies and their regulatory requirements. A summary table of these select requirements can be found in Appendix D. Tenant is responsible for determining the full range of Laws applicable to its operations and compliance with such Laws.

# 4.1 City and County of San Francisco

Several City and County of San Francisco agencies exercise jurisdiction over the activities of tenants on Port property. These include:

- Department of Public Health Hazardous Material Unified Public Agency
- Department of Public Health Food Service Establishments
- Public Utilities Commission Fats, Oils, and Grease (FOG) Control
- Public Utilities Commission Industrial Waste Water (sewer discharges)
- Fire Department Flammable Materials, Hot Works, etc.

Tenant shall be responsible for complying with the requirements of these and other local agency requirements at locations listed in Table 2.

#### SAN FRANCISCO FIRE DEPARTMENT

Tenant will obtain all necessary permits from the San Francisco Fire Department. The SF Fire Department issues several types of permits that might pertain to the Tenant's activities. Commonly issued permits pertain to the storage and use of flammable materials, hazardous chemicals and compressed gases, burning removal of paint, spray painting, hot works and welding, battery systems, and places of assembly for occupancy. A complete list of SF Fire Department permits is provided in Appendix G.

#### HAZARDOUS MATERIALS UNIFIED PROGRAM AGENCY - (HMUPA)

Tenant will obtain a permit from the San Francisco Department of Public Health Hazardous Materials Unified Program Agency (HMUPA). The HMUPA permit includes six program elements that involve the storage and use of Hazardous Materials, including the generation of hazardous waste.

#### CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

As described in the Lease, the San Francisco Planning Department certified a Final Environmental Impact Report (FEIR) pursuant to the California Environmental Quality Act. Notwithstanding anything to the contrary, all operations shall comply with all the conditions of the FEIR.

#### **TARIFF**

The Port of San Francisco Tariff No. 5 establishes the rules, regulations, rates, and other provisions applying to the services and for the use of the wharfinger facilities under the jurisdiction of the Port Commission. Tenant must comply with those provisions of the Tariff described in Appendix C.

# 4.2 State of California

#### CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH (CAL-OSHA)

California Division of Occupational Safety and Health (Cal-OSHA) is the regulator agency for

pressure vessel permitting as well as employee health and safety standards.

#### **DEPARTMENT OF TOXIC SUBSTANCES CONTROL (DTSC)**

Department of Toxic Substances Control is the regulatory agency for hazardous wastes recycling and disposal.

#### **CALIFORNIA HIGHWAY PATROL (CHP)**

As part of the Federal Department of Transportation permit requirements, California Highway Patrol (CHP) routinely inspects commercial vehicles.

#### DEPARTMENT OF RESOURCES, RECYCLING, AND RECOVERY (DRRR)

DRRR oversees the states waste management and recycling programs.

#### STATE WATER BOARDS

The State Water Resources Control Board (SWRCB) and the Regional Water Quality Control Board are charged with protection of the water quality of the state waters. As required by these agencies, the Tenant shall file a Notice of Intent for coverage under the *National Pollutant Discharge Elimination System – General Permit for Discharges of Storm Water Associated With Industrial Activities* (Industrial General Permit) for its operations at Piers 31.5 and 33. The Industrial General Permit is required of all activities that include material handling equipment, or activities, raw materials, immediate products, final products, waste materials, by-products, or industrial machinery that are exposed to storm water. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate produce, finished product, by-product, or waste product. Tenant's Waste Discharger Identification Number will be incorporated into this Operations Plan when issued.

Additionally, the Tenant's Project is subject to a conditional water quality certification pursuant to Section 401 of the Clean Water Act 33 U.S.C. §1251 et seq. as issued by the Regional Water Quality Control Board. Tenant and Tenant's employees, agents, guests, vendors and contractors shall comply with all conditions of this authorization.

#### CALIFORNIA DEPARTMENT OF FISH & WILDLIFE (DF&W)

The California Department of Fish and Wildlife (DF&W) maintains jurisdiction over commercial and recreational activities that can affect fish, wildlife, and natural habitats.

# 4.3 Federal

#### FEDERAL DEPARTMENT OF TRANSPORTATION (DOT)

The Federal DOT authority includes regulating the transportation of Hazardous Materials.

#### 5.0 **SECURITY**

Tenant shall provide a copy of its security plan for the Premises in accordance with CFR 105, Subpart D-Facility Security Plan (FSP) or an Alternative Security Program (ASP) in accordance

with 33 CFR 105.140. Tenant must operate in full compliance with, and as directed by the Port's Director or his or her designee, the FSP or ASP and any amendments thereto as required by the Maritime Transportation Security Act of 2002.

#### 6.0 WASTE AND CUSTODIAL MANAGEMENT

As documented in the Design for Development, the Tenant has committed to including a three-stream waste system in all of its open spaces, including Waterfront Park and the Point. Waste receptacles will be located at areas of high pedestrian traffic and near seating areas and picnic areas, and outside of paths-of-travel. Receptacles will accommodate landfill waste, recycling, and compost, and be rain protected, tamper and vermin proof, and possess side-opening for collection.

Tenant shall provide a copy of its waste and custodial management plan, which will be developed by the Tenant reasonably approved by the Port prior to the opening of Waterfront Park and/or the Point. The plan will address, at a minimum, the following:

- Method for containing waste, including trash and recycling options.
- Handling of waste containers, including frequency of service to containers.
- Waste removal and storage procedure that keeps waste storage and sorting out of public areas.
- Waste pick-up procedure.
- Frequency of waste removal and pick up.
- Procedures for sorting recyclables and minimizing waste diverted to landfill.
- Procedures for keeping waste out of the Bay.
- A list of custodial services to be provided for the Premises, both indoors and outdoors, and public and private.
- Schedules for the custodial services to be provided to ensure the Premises is clean, waste and debris is minimized, and well stocked with supplies.
- Procedure for handling possible hazardous waste, biological waste, needles, etc. that may be found on the Premises.
- Procedure for responding to emergency custodial needs.

#### 7.0 APPENDICES

# 7.1 Appendix A – Summary of Best Management Practices

#### **General Use of Port Facilities**

- **BE AWARE**: Be aware of the potential to pollute the Bay.
- **TRAIN STAFF**: Train staff to be partners in protecting the Bay.
- **DEBRIS MANAGEMENT**: Place trash and debris in the proper containers.

- **END OF DAY CLEAN-UP**: At the end of the day or when activities are over, conduct a general clean-up to remove debris, trash, and inspect for spills.
- **SWEEP**: Use dry cleaning methods rather than pressure washing surfaces.
- **CLEAN SPILLS IMMEDIATELY**: Keep equipment clean. Avoid excessive build-up of oil and grease.

#### **Floating Docks and Berthed Vessels**

- **EDUCATION**: Provide educational resources to all vessel operators berthing at Port facilities.
  - Notice-To-Boaters
  - Select Maritime Rules & Regulations
  - Emergency Response Resources
  - Prohibition on discharges
- SPILL RESPONSE: Maintain Oil Spill Response Resources including:
  - Clean up Equipment
  - Emergency Notification Contacts
- **VESSEL SERVICES**: Ensure vessel owners/operators know where to obtain services.
- **BOAT CLEANING**: Educate vessel owners/operators on proper boat cleaning.
- **ZERO WASTE**: Assist Vessel owners with compliance with the Zero Waste Plan.
- PETS WASTE: Pet waste must be cleaned up and disposed in the garbage.

#### **Spill Kit Contents**

Each temporary floating dock shall be equipped with the following spill response resources:

- Absorbent spill pads and socks
- Absorbent material (e.g. solvent absorbent, vermiculite, etc.)
- Hydrophobic mop (i.e. a mop that absorbs oil, but not water)
- Safety gloves (that are appropriate for oils, and other petroleum)
- 5 20 gallon bucket/drum with lid
- Hazardous Waste Labels

# 7.2 Appendix B – Spill Response

In the event of a significant spill or release the following steps will be taken immediately.

- **SAFETY FIRST!** Ensure the safety of personnel.
- **STOP SPILL** Stop spill at the source if safe to do so.

CONTAIN – Initiate containment activities.

• **REPORT** — Report the spill to emergency and regulatory agencies.

• **CLEAN UP** – Initiate cleanup activities.

**NOTIFICATION:** in case of an oil spill, the Emergency Coordinator will call:

Will Call: National Response Center 800-424-8802

SF Department of Public Health 415-252-3900 California Office of Emergency Services 800-852-7550

Will Call: SF Department of Public Works 415-695-2020

(When Hazardous Materials/waste spills/leaks into a sewer)

Port of San Francisco 415-274-0400

(Ask for environmental staff)

#### Information to be reported includes:

1. **LOCATION** – Location of spill and company name.

2. **TIME** — Time of spill, or time first observed.

3. **SOURCE** – Note the source of spill, if known.

4. **MATERIAL** – Note type of material spilled.

5. **AMOUNT** – Estimate of amount spilled.

6. **WEATHER** – Describe the on-scene weather.

7. **HAZARDS** – Describe any known fire or health hazards posed by the spill.

8. **DESTINATION** – Where is the spill going and affected waters. Sensitive receptors?

9. **ACTION** – Acton being taken to contain and clean up the spill.

10. **ADDITIONAL** – Any information requested by the agency, so long as the information is

known to be factual. Do not guess regarding the cause of potential

impacts of spill.

# 7.3 Appendix C - Select Maritime Rules & Regulations

These Maritime Rules and Regulations are adapted from the Port Tariff. For the full Tariff, go to the following internet link:

http://www.sfport.com/modules/showdocument.aspx?documentid=2987

#### FIRE, WELDING, AND OPEN FLAMES, RULES GOVERNING

Fire will not be used on board any vessel to heat flammable substances, while such vessel is in any slip, basin, channel, or canal, or moored to any wharf without the approval of the Fire Marshal, Chief Wharfinger, or Wharfinger.

(b) No bonfire nor open fire for the burning of rubbish or refuse materials, or for any other purpose, except as provided in this Item, will be allowed on any of the city property under the

jurisdiction of the Port Commission.

(c) No welding or open fire will be allowed on any wharf, or upon any vessel in any slip, channel, basin or canal without the approval of the Fire Marshal, Chief Wharfinger, or Wharfinger. No such work shall be commenced until an operational permit therefore is approved. When "hot work" is to be conducted, operations shall conform to the current requirements of Chapter 26 of the SF Municipal Fire Codes.

#### FIRE EXTINGUISHERS REQUIRED

All tenants of the Port are required to furnish, maintain and service portable fire extinguishers in their leased or licensed areas in accordance with the S.F. Municipal Fire Code and U.S. Coast Guard regulations.

#### LIGHTING OF VESSELS - RULE GOVERNING

All vessels lying at anchor or moored within this port shall show lights in accordance with the applicable Federal, State, and municipal laws, rules, and regulations.

# MOORING AT ANY WHARF, DOCK OR LANDING WITHOUT THE CONSENT OF THE EXECUTIVE DIRECTOR

It shall be unlawful for any person to make any vessel fast, or to cause or permit any vessel to be made fast, to any wharf, dock or landing, or to cause or permit any vessel to remain fastened to any wharf, dock or landing, or to be or remain moored immediately in front thereof, without the consent of the Executive Director of the Port (Executive Director) or her designee. It shall be unlawful for any vessel to remain fastened to any wharf, dock or landing, or to remain moored immediately in front thereof, after the consent to so remain fastened or moored has been revoked or withdrawn by the Executive Director. Any vessel made fast to or moored in front of any wharf, dock or landing, or remaining fastened to moored in front of any wharf, dock or landing shall be guilty of a misdemeanor or an infraction and further shall be subject to removal by or at the order of the Executive Director and at the expense of such vessel, and its agent or owner, to such other place as the Executive Director may direct.

#### **OBSTRUCTING NAVIGATION**

- (a) "Every person who unlawfully obstructs the navigation of any navigable waters is guilty of a misdemeanor." (Harbors and Navigation Code, Sec. 131.)
- (b) "Every person who, within the anchorage of any port, harbor, or cove of this State, into which vessels may enter for the purpose of receiving or discharging cargo, throws overboard from any vessel all or any part of the ballast, or who otherwise places or causes to be placed in such port, harbor, or cove, any obstructions to navigation, is guilty of a misdemeanor." (Harbors and Navigation Code, Section 132.)
- (c) Every person, who deposits or causes to be deposited, in the waters of the harbor of San Francisco, which are subject to the jurisdiction of the Port Commission, any substance which will sink and form an obstruction to navigation, without first obtaining permission, in writing, of the Port Commission is guilty of a misdemeanor. (Sec. 1605, Part 2, Ch. 8, S.F. Muni. Code)

(d) No substance that will sink or form an obstruction to navigation or become a nuisance shall be deposited in the waters of San Francisco Harbor.

#### PETROLEUM PRODUCTS ON WHARVES-RULES GOVERNING

- (a) The storage or keeping of gasoline, distillate, or other liquid petroleum products on wharves, except at such localities as may be specifically designated therefore, is strictly prohibited; and at such localities as may be designated therefor, the handling of gasoline, distillate, or other liquid petroleum products must conform to the applicable municipal, State and Federal laws.
- (b) Deliveries of gasoline or distillate, in bulk, to vessels will be allowed only after the Chief Wharfinger and the Fire Marshal have been notified, and the necessary protective fire apparatus provided, and other required precautions taken. Trucks making such deliveries must comply fully with all applicable laws and the directions of the Wharfinger.
- (c) Empty gasoline or distillate drums must be removed from wharves immediately.

#### PROHIBITED AREA FOR VESSEL OPERATION

Except for the purpose of entering or leaving a berth or slip, vessels shall not operate, run, or navigate within five hundred (500) feet of the pier head line.

#### **LAW ENFORCEMENT**

As a condition to the use by any vessel of any property under the jurisdiction of the Port Commission, the Police must be permitted to board any vessel for police purposes. No person shall hinder or molest any one so authorized, or refuse to allow him to go aboard any vessel for the purpose specified in this rule.

# 7.4 Appendix D - Select Permitted & Regulated Activity - Summary Table

| CITY & COUNTY OF SAN FRANCISCO | CISCO  |                              |         |                |
|--------------------------------|--|------------------------------|---------|----------------|
| AGENCY                         | REGULATED ACTIVITY                               | REQUIREMENT                  | APPLIES | PERMIT NO.     |
| Port of San Francisco          | <ul><li>– Post-Construction Stormwater</li></ul> | Stormwater Control Plan      | YES     |                |
| SF Department of Public        | <ul><li>Hazardous Materials Storage</li></ul>    | Hazardous Materials Business | ON      |                |
| Health – Hazardous Materials   | <ul><li>– Hazardous Waste</li></ul>              | Plan                         |         |                |
| Unified Program Agency         | <ul> <li>Aboveground Storage Tanks</li> </ul>    |                              |         |                |
| (HMUPA)                        | <ul> <li>Underground Storage Tanks</li> </ul>    |                              |         |                |
|                                | – Cellular Antennae                              | Review/Approval of Proposal  | YES     |                |
| SF PUC                         | <ul><li>Industrial Wastewater</li></ul>          | Industrial Discharge Permit  | NO      |                |
|                                | – Fats, Oils, Grease Control                     | FOG Control Compliance       |         |                |
|                                | <ul><li>Chemical toilets, etc.</li></ul>         |                              |         |                |
| SF Fire Department             | <ul><li>– Open Flame (e.g. Barbecue/</li></ul>   |                              | YES     |                |
|                                | Outdoor Grill )                                  |                              |         |                |
|                                | 1  |                              |         |                |
| SF Planning Department         | <ul><li>Project subject to CEQA</li></ul>        | CEQA conditions              | YES     | 2017-011878ENV |
| STATE OF CALIFORNIA            |  |                              |         |                |
| AGENCY                         | ACTIVITY   | REQUIREMENT                  | APPLIES | PERMIT NO.     |
| DTSC                           | Hazardous Waste Generation                       | EPA ID Numbers               | NO      |                |
| WATER BOARDS                   | – Industrial                                     |                              | ON      |                |
|                                | – Construction                                   |                              | YES     |                |
|                                | <ul><li>– Post-Construction</li></ul>            |                              | NO      |                |
|                                | <ul><li>In-Water Activities</li></ul>            | Conditions of 401 Permit     | YES     |                |
| Department of Resources,       | <ul><li>– Waste Tire Program</li></ul>           |                              | NO      |                |
| Recycling, and Recovery        |  |                              |         |                |
| Highway Patrol                 | <ul> <li>Required Vehicle and Driver</li> </ul>  |                              | NO      |                |
|                                | <ul> <li>Record Inspections</li> </ul>           |                              |         |                |
| CA PUC                         | <ul><li>Carry Passengers</li></ul>               |                              | NO      |                |
|                                | <ul> <li>Issuance of Livery Plates</li> </ul>    |                              |         |                |
|                                | <ul><li>Certain Transit Routes</li></ul>         |                              |         |                |
|                                |  |                              |         | _              |

# TEMPLATE - [DATE]

|                             | – Reviews Passenger Rates                      |                                |         |            |
|-----------------------------|--|--------------------------------|---------|------------|
| Cal-OSHA                    | - Employee Health and Safety                   |                                | YES     |            |
| Fish & Wildlife – Office Of | - Fueling Over Water                           | Certificate of Financial       | ON      |            |
| Spill Prevention & Response | <ul><li>– Yachts &gt; 300 gross tons</li></ul> | Responsibility                 |         |            |
| BCDC                        |  |                                | YES     |            |
| FEDERAL                     |  |                                |         |            |
| AGENCY                      | ACTIVITY                                       | REQUIREMENT                    | APPLIES | PERMIT NO. |
| DOT                         |  |                                | ON      |            |
| Army Corps                  | <ul><li>Permanent structures in</li></ul>      | Rivers and Harbors Act Section | YES     |            |
|                             | navigable waters                               | 10 Permit                      |         |            |
|                             | – Dredging                                     |                                | NO      |            |
|                             | -  |                                |         |            |

# 7.5 Appendix E – Fire Department Permit List

Not yet available - To Be Provided By Tenant; however, signed memo discussing emergency access from the San Francisco Fire Department is included.

#### **EXHIBIT S**

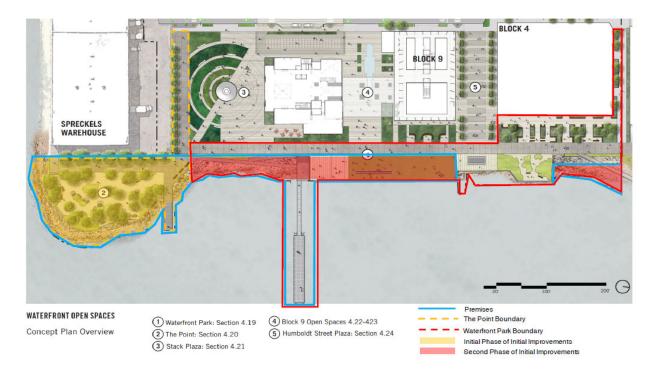
#### **Scope of Development**

The initial Phase of the Initial Improvements is comprised of those portions of the Point open space located within the Premises. A minimum 20-foot-wide section of the Blue Greenway will be integrated into the design of the initial Phase of the Initial Improvements along the western edge of the Point. Picnic areas with picnic tables and benches, discovery play features, seating, lighting, outdoor grills, and waste receptacles will be provided as part of the initial Phase of the Initial Improvements. Tenant is not required to construct the Bay Overlook at 23rd Street.

The second Phase of the Initial Improvements is comprised of those portions of Waterfront Park located within the Premises. An accessible path connecting the Blue Greenway to a lowered bayside platform, the Bay Overlook Terrace at Unit 3, a natural turf area, the Bay Overlook Terrace at Humboldt Street Plaza, and planting areas will be constructed as part of the second Phase of the Initial Improvements. Permanent public seating should be provided at overlook terraces and along the Blue Greenway as part of the second Phase of the Initial Improvements.

The foregoing is more particularly described in the Design for Development and will be finally designed and approved pursuant to the Project Approvals and as required hereby.

All initially capitalized terms used but not defined in this Exhibit S or the Lease are more particularly defined in the Design for Development.



# **EXHIBIT T**

# **Workforce Agreement**

[attached]

#### TABLE OF CONTENTS

| I.                         | PROJE  | CT BACKGROUND   | 1           |  |  |
|----------------------------|--|---|-------------|--|--|
| II.                        | PURPO  | OSE OF THE WORKFORCE AGREEMENT  | 1           |  |  |
| III.                       | WORK   | FORCE AGREEMENT   | 2           |  |  |
|                            | A.   | A. DEFINITIONS  |             |  |  |
|                            | B.   | CONSTRUCTION WORK   | 5           |  |  |
|                            |  | <ol> <li>Application</li> <li>Local Hiring Requirements</li> <li>First Source Hiring Program for Construction Work</li> <li>Local Business Enterprise Requirements</li> <li>Obligations; Limitations on Liability</li> <li>Prevailing Wages and Working Conditions</li> </ol> | 5<br>5<br>5 |  |  |
|                            | C.   | PROJECT OPERATIONS  | 6           |  |  |
|                            |  | <ol> <li>Application</li></ol>  |             |  |  |
|                            | D.   | WORKFORCE JOB READINESS AND TRAINING FUNDS  | 6           |  |  |
|                            | E.   | 1. Application  | 6778899     |  |  |
|                            |  | <ol> <li>Third Party Beneficiaries</li> <li>Flexibility</li> <li>Exclusivity</li> </ol>   | 10          |  |  |
|                            | F.   | DISPUTE RESOLUTION.   | 10          |  |  |
|                            |  | 1. Meet and Confer  |             |  |  |
| Attach<br>Attach<br>Attach | nment A-1<br>nment A-2<br>nment B<br>nment C |   |             |  |  |

# WORKFORCE AGREEMENT (POTRERO POWER STATION)

I. Project Background. The development plan for the Project Site under the Development Agreement provides for the development of a new publicly accessible network of improved parkland and open space and a mixed-use urban neighborhood, all as more particularly described therein (as defined in the Development Agreement, the "Project"). Construction by Developer under the Development Agreement will include development of Developer Property, as well as construction by Developer of a series of contiguous, integrated waterfront parks, including on City-owned and/or Port-owned property.

This Workforce Agreement sets forth the activities Developer shall undertake, and require its Construction Contractors (as defined below), Covered Contractors (as defined in Attachment B), Contractors (as defined in Attachment C), Consultants (as defined in Attachment C), Subcontractors (as defined below), Subconsultants (as defined in Attachment C), and Permanent Employers (as defined below), as applicable, to undertake, to support workforce development in the construction and operation of the Project, all as and to the extent required under this Workforce Agreement. Without limiting Section E.4, compliance with this Workforce Agreement shall satisfy the requirements of Administrative Code Chapters 82 (Local Hiring Requirements) and 83 (First Source Hiring Program) with respect to Port Sub-Area and the City Sub-Area, provided, however, that to the extent there are Covered Operations developed on the Port Sub-Area or the City Sub-Area under the Development Agreement, then such Covered Operations shall be required to comply with the Operations Workforce Requirements as provided herein.

II. Purpose of the Workforce Agreement. This Workforce Agreement sets forth the employment and contracting requirements for the construction and operation of the Project. This Workforce Agreement has been jointly prepared by the City and Developer (on behalf of itself and its successors under the Development Agreement with respect to the Workforce Improvements covered hereby), in consultation with others, including OEWD and other relevant City Agencies.

The purpose of this Workforce Agreement is to ensure training, employment and economic development opportunities are part of the construction and operation of the Project. This Workforce Agreement creates a mechanism to provide employment and economic development opportunities for economically disadvantaged persons and San Francisco residents. The City and Developer agree that job creation and equal opportunity contracting opportunities in all areas of employment are an essential part of the development of the Project Site under the Development Agreement. The City and Developer agree that it is in the best interests of the Project and the City for a portion of the jobs and contracting opportunities of the Project to be directed, to the extent possible based on the type of work required, and subject to collective bargaining agreements, to local, small and economically disadvantaged companies and individuals whenever there is a qualified candidate.

This Workforce Agreement identifies goals for achieving this objective and outlines certain measures that will be undertaken in order to help ensure that these goals and objectives are successfully met. In recognition of the unique circumstances and requirements surrounding the Project, the City, including through OEWD, and Developer have agreed that this Workforce Agreement will constitute the exclusive workforce requirements for the Project.

This Workforce Agreement requires the following, all as more particularly described herein:

• Permanent Employers that occupy more than 25,000 gross square feet of space for Commercial Activity that meets the requirements of a Covered Operation will enter into a First Source Hiring Agreement for Operations (in the form attached as Attachment A-1). Developer will also include in its applicable contracts with such

Permanent Employers provisions that require Permanent Employers to identify a single point of contact and contact OEWD's Business Services team to discuss its obligations under the First Source Hiring Agreement.

- Developer will enter into a Memorandum of Understanding with the City's First Source Hiring Administration in the form attached as Attachment A-2.
- Developer will meet the hiring and Apprenticeship goals with respect to Local Residents (as defined in Attachment B) and Disadvantaged Workers (as defined in Attachment B) for certain Construction Work (as defined below) on the Port Sub-Area and the City Sub-Area, as set forth in Attachment B (Local Hiring Requirements).
- Developer will meet the utilization and outreach goals with respect to Local Business Enterprises for certain Construction Work, as set forth in Attachment C (LBE Utilization Plan).
- The Project will fund certain job readiness and training programs run by CityBuild, as more particularly described in Section D.

The foregoing summary is provided for convenience and for informational purposes only.

#### **III.** Workforce Agreement.

#### A. **DEFINITIONS**

The following terms specific to this Workforce Agreement have the meanings given to them below or are defined where indicated. Other initially capitalized terms are defined elsewhere in the Development Agreement. All references to the Development Agreement include this Workforce Agreement unless explicitly stated otherwise.

"Apprentice" means any worker who is enrolled in or otherwise committed to a construction apprenticeship program that maintains current registration with the State of California's Division of Apprenticeship Standards.

"Apprenticeship" shall mean a work experience that combines formal job-related technical instruction with structured on-the-job learning experiences. Apprentices are hired by an employer at the outset of a training program, and the training program is pre-approved by the US Department of Labor ("USDOL") or California Division of Apprenticeship Standards ("DAS"). Apprentices receive progressive wages commensurate with their skill attainment throughout an apprenticeship training program. Upon successful completion of all phases of on-the-job learning and related instruction components, Apprentices receive nationally recognized certificates of completion issued by the USDOL or DAS.

"Biotechnology Occupations" means positions that are held by biotechnology professionals who develop products from living systems. Biotechnology commonly refers to genetically derived materials, but can also refer to developments based in microbiology, molecular biology and cell biology. Biotechnologists strive to understand the workings of biological organisms, from the genes at the molecular level and the processes occurring at the cellular level, all the way up to entire organisms and how they perform their functions. Biotechnologists can find themselves working in a number of fields, but almost all positions will be highly focused on performing research in laboratory settings.

"Building" means each new building to be constructed or existing building to be rehabilitated on the Project Site under the Development Agreement.

"Chapter 83" is defined in Section III.C.2.

"CityBuild" means the OEWD construction training program commonly known as CityBuild.

"Commercial Activity" means retail sales and services, restaurant, hotel, education and office uses, technology and biotechnology business, and any other for-profit commercial uses permitted under the Project SUD that are conducted within a Building. For the avoidance of doubt, Commercial Activity shall not include the operation of standalone affordable housing buildings or community, childcare or arts facilities.

"Construction Contractor" means a construction contractor hired by or on behalf of Developer who performs Construction Work on the Developer Property.

"Construction Work" means, as applicable, (a) the initial construction of all Public Improvements, (b) the initial construction of Privately-Owned Community Improvements, (c) the initial construction of all Buildings to be carried out by Developer and (d) initial tenant improvement work within any Building undertaken within the first year after the initial certificate of occupancy is issued with respect to such Building, in each case under the Development Agreement. For the avoidance of doubt, Construction Work shall not include any (i) repairs, maintenance, renovations or other construction work performed on a Building after the City issues a certificate of occupancy for the applicable portion of the Building, (ii) specialized labor, (iii) work performed as a result of a threat to life, limb or property or other emergency or circumstances requiring immediate action, (iv) work required to be performed by employees of a vendor or manufacturer (or a specialty contractor retained by a vendor or manufacturer) to protect a manufacturer's or vendor's warranty or guarantee, (v) construction of standalone affordable housing buildings or community, childcare or arts facilities or (vi) construction of residential owner-contracted improvements in for-sale residential units.

#### "Construction Workforce Requirements" is defined in Section III.B.1.

"Covered Operations" means (i) Commercial Activity that results in the expansion of entry and apprentice level positions that are located within a newly constructed Building or an addition, or alteration thereto, where the Building (or addition or alteration thereto) contains more than 25,000 gross square feet in floor area, and (ii) the operation in a Building of a residential project containing more than 25,000 gross square feet or more than 10 market-rate residential units. Covered Operations do not include (a) any operations or activities conducted by tenants, subtenants or owners of residential units, (b) residential projects containing less than 25,000 gross square feet or fewer than 10 market-rate residential units, (c) Buildings containing less than 25,000 gross square feet or (d) activities or operations conducted by tenants, subtenants and other occupants of less than 25,000 gross square feet of space within a Building. Covered Operations are limited to the period that starts at the initial certificate of occupancy for the applicable space and ends on the date that is 10 years thereafter.

"Covered Project" means Construction Work on the Port Sub-Area or the City Sub-Area with an estimated cost in excess of the Threshold Amount.

"Developer" is defined in the Development Agreement.

- "Development Agreement" means the Development Agreement to which this Workforce Agreement is attached and made a part thereof, as the same may be amended, modified and supplemented from time to time pursuant to its terms.
  - "FSHA" means the City's First Source Hiring Administration.
- "Horizontal Improvements" means (a) the initial construction of all Public Improvements and (b) the initial construction of Privately-Owned Community Improvements, in each case under the Development Agreement.
- "Local Business Enterprise(s)" or "LBE" means a firm that has been certified as an LBE as set forth in Administrative Code Chapter 14B (Local Business Enterprise Utilization and Non Discrimination in Contracting Ordinance).
- "Local Resident" means an individual who is domiciled, as defined by Section 349(b) of the California Election Code, within the City at least seven (7) days prior to commencing work on the project.
  - "OEWD" means the City's Office of Economic & Workforce Development.
  - "OLSE" means the City's Office of Labor Standards Enforcement.
  - "Operations Workforce Requirements" is defined in Section III.C.1.
- "**Permanent Employer**" means each employer that occupies more than 25,000 gross square feet of space for Commercial Activity(ies) in a Covered Operation.
- "Subcontractor" is defined (i) with respect to any Construction Contractor, in Attachment A-2, (ii) with respect to any Covered Contractor, in Attachment B, and (iii) with respect to any Contractor, in Attachment C.
- "Technology-Enabled Occupations" means positions that require skills related to Information, Media and ICT Literacy as highlighted in California's Digital Literacy definition, "[one's capacity] for using digital technology, communications tools, and/or networks in creating, accessing, analyzing, managing, integrating, evaluating, and communicating information in order to function in a knowledge-based economy and society." Technology- Enabled Occupations require the ability to analyze, access and work with common computing and communications devices, operating systems, networking systems and applications. These occupations require the ability to understand and use ICT computing, communications and information technologies; use technologies for advance research, analysis and administrative operations. These occupations also require the ability to create, interpret and work with an increasing variety of digital media.
- "Technology Occupations" means positions that require core competencies in information and communication technology ("ICT") systems and solutions. These occupations develop and deploy technologies and infrastructures to both support their enterprise and product users. Additionally, technology occupations require skills in research, design, development and analysis of custom technological products; including software, web, application, and cloud-based products. Technology occupations also include, but are not limited to, positions that are related to the sales, marketing and engineering of these technology-based products. Technology Occupations typically occur in the major industry clusters as defined by the North American Industry Classification System (NAICS): Software Publishers; Wired Telecommunications; Wireless Telecommunications; Satellite Communications; Data

Processing, Hosting and Related Services; Internet Publishing and Broadcasting and Web Search Portals; and Computer Systems Design. Major Technology Occupation clusters as identified by the Bureau of Labor Statistics include information support and services; network systems; program and software development; and web and digital communications.

"Threshold Amount" is defined in section 6.1 of the San Francisco Administrative Code, as amended as of the date of determination to the extent that such amendments apply to the Project pursuant to the Development Agreement.

#### B. CONSTRUCTION WORK

- 1. Application. Developer and Construction Contractors, Covered Contractors and Contractors shall comply with the applicable provisions of this **Section III.B** (the "Construction Workforce Requirements") during construction of Horizontal Improvements and Buildings.
- **2. Local Hiring Requirements.** Developer and Covered Contractors (and their subcontractors regardless of tier) must comply with the Local Hiring Requirements set forth on Attachment B with respect to Covered Projects.
- 3. First Source Hiring Program for Construction Work. Prior to the Commencement of Construction of the first Horizontal Improvements or Building on the Developer Property, Developer will enter into a Memorandum of Understanding with the City's First Source Hiring Administration in the form attached as Attachment A-2 under which Developer must include in its contracts with Construction Contractors for Construction Work on the Developer Property a requirement that the applicable Construction Contractor enter into a First Source Hiring Agreement for Construction in the form attached to Attachment A-2 as Exhibit A thereto, and must provide a signed copy of the relevant Form exhibits to the FSHA, as more particularly described therein.
- **4. Local Business Enterprise Requirements.** Developer and its Contractors and Consultants must comply with the Local Business Enterprise Utilization Program set forth in Attachment C.
- 5. Obligations; Limitations on Liability. Developer shall use good faith efforts, working with OEWD or its designee, to enforce the applicable Construction Workforce Requirements with respect to its Construction Contractors, Covered Contractors, Contractors and Consultants, and each Construction Contractor, Covered Contractor, Contractor and Consultant, as applicable, shall use good faith efforts, working with OEWD or its designee, to enforce the Construction Workforce Requirements with respect to its Subcontractors and Subconsultants (regardless of tier). However, Developer shall not be liable for the failure of its Construction Contractors, Covered Contractors, Contractors and Consultants, and Construction Contractors, Covered Contractors, Contractors and Consultants shall not be liable for the failure of their respective Subcontractors and Subconsultants.
- **6. Prevailing Wages and Working Conditions**. Developer and other applicable parties shall pay prevailing wage as required under the Development Agreement and, to the extent applicable, the Port Lease.

#### C. PROJECT OPERATIONS

- **1. Application**. Covered Operations within the Project will be subject to the applicable First Source Hiring Program requirements set forth in this <u>Section III.C</u> (collectively, the "**Operations Workforce Requirements**").
- space for Covered Operations will comply with the operational requirements of Administrative Code Chapter 83 ("Chapter 83") by undertaking the following: (i) such Developer will include in all leases, subleases or other occupancy contracts for Covered Operations (each, a "Commercial Lease") a requirement that the Permanent Employer enter into a First Source Hiring Agreement for Operations in the form attached as <a href="Attachment A-1">Attachment A-1</a>; (ii) such Developer will provide the executive(s) contact information within 10 days of execution of, or, if available, prior to execution of the applicable Commercial Lease, and will provide updated contact information annually thereafter; and (iii) with the execution of each applicable Commercial Lease, such Developer will require the tenant to notify OEWD Business Services of such execution.

#### D. WORKFORCE JOB READINESS AND TRAINING FUNDS

Developer shall pay to OEWD up to One Million Dollars (\$1,000,000) ("**Total Contribution**") for apprenticeship and job training programs and/or grants focused on construction, small contractor support, environmental sustainability, and open space maintenance, as well as biotech and technology for end-use commercial activity (and OEWD shall use such funds solely for such purpose), payable in various installments, as described below.

- **1. Application**. Developer will provide OEWD with the Total Contribution to support apprenticeship and job training and readiness programs run by OEWD as more particularly set forth in this **Section III.D.1** (all funds required under this Section III.D.1, the "**Job Readiness and Training Funds**"). The funding requirements under Section III.D.2, III.D.3 and III.D.6 will be binding on Developer. The funding requirements under Sections III.D.4 and III.D.5 will be binding on Developer or may be assigned to future Lessees.
- 2. CityBuild Program. The Project will pay a total of \$360,000 across the first three Development Phases in accordance with this Section III.D.2 that the City will use to fund CityBuild programs.
  - a. Purpose and Amount. The Project will pay the City such total of \$360,000, from the Total Contribution, which the City will use to fund CityBuild programs run by OEWD's Workforce Development Division. Funds will be allocated in OEWD's discretion, but programs funded with this payment may include the CityBuild Academy, an 18-week pre-apprenticeship training program that prepares citywide residents for entry into the trades; the Construction Administration & Professional Service Academy, an 18-week program offered at City College of San Francisco that prepares San Francisco residents for entry-level careers as professional construction office administrators; or the CityBuild Women's Mentorship Program, a volunteer program that connects women construction leaders with experienced professional and mentors.
  - b. Manner and Timing of Payment. Developer will pay such total of \$360,000 in accordance with the following schedule:

Phase 1: Developer will pay the City \$120,000 within sixty (60) days after the Development Phase 1 Approval is Finally Granted.

Phase 2: Developer will pay the City \$120,000 within sixty (60) days after the Development Phase 2 Approval is Finally Granted.

Phase 3: Developer will pay the City \$120,000 within sixty (60) days after the Development Phase 3 Approval is Finally Granted.

- **3. CityBuild Services.** The Project will pay a total of \$90,000, from the Total Contribution, that will be used to remove barriers to permanent employment.
  - a. Purpose and Amount. The Project will pay such total of \$90,000 to fund the delivery of services to assist individuals, interested in entering CityBuild or the trades, with addressing barriers to employment. The services will offer case management and supportive services (driver license, housing, union dues, tools, uniform/boots). The resources will be primarily for residents of zip codes 94107, 94124, 94103, 94110, 94112, and 94134, and for other disadvantaged job seekers citywide. The participants will be assessed for their appropriateness to work in construction and will be provided services to assist them with entering a career in construction.
  - b. Manner and Timing of Payment. Developer will pay such total of \$90,000 to OEWD within sixty (60) days after the Development Phase 1 Approval is Finally Granted.

#### 4. Biotechnology.

- Purpose and Amount. The Project will pay a total of \$225,000, from the Total a. Contribution, associated with commercial-office development in Development Phase 1 and in future Development Phases, in accordance with this Section III.D.4 to fund the delivery of training and barrier removal services to assist individuals interested in entering the biotechnology industry. The curriculum will prepare participants to work in entry level positions in the field of biotechnology in high-tech industry and research institutions. This is an interdisciplinary program including courses and practical training in math, chemistry, biology, computer skills, and English. Emphasis is placed on program participants developing competency for working in a laboratory environment, including performing basic and advanced laboratory techniques, collecting, documenting, and analyzing data, and participating in short-term independent projects. Fundamental skills and workplace competencies are a focus, with an emphasis on practical laboratory skills combined with training in a working laboratory setting. Potential career pathways include Technician or Research Associate in R&D, or biotechnology manufacturing in a research lab or biotech company.
- b. <u>Manner and Timing of Payment</u>. Developer will pay such total of \$225,000 to the City within sixty (60) days after the Phase Approval is Finally Granted for the first Development Phase that includes a life science-related office-commercial Building.
- 5. TechSF Bridge Training for Dogpatch/BVHP Communities & Targeted End Use Jobs. The Project will pay a total of \$225,000, from the Total Contribution, associated

with commercial-office development in Development Phase 1 and in future Development Phases, in accordance with this Section III.D.5.

- a. Purpose and Amount. The Project will be required to pay such total of \$225,000 to OEWD that will be used to support moderate-skilled job training and education programs that prepare residents for technology and technology-enabled positions. Examples of such positions include but are not limited to IT administrators, data scientists, and also include office administration positions for tenant's new employee hiring and incumbent employee advancement offered through the TechSF initiative or OEWD-identified partners. Programming will target residents of zip codes 94107, 94124, 94103, 94110, 94112, and 94134, and other disadvantaged job seekers citywide. OEWD will customize technology training based on the types of tenant leasing space within the Development Phase.
- b. <u>Manner and Timing of Payment.</u> Developer will pay such total of \$225,000 in accordance with the following schedule:

First Relevant Phase: Developer will pay \$112,500 to the City within sixty (60) days after the issuance of the First Construction Document for the first Vertical Improvements within the first Development Phase for which a Development Phase Approval has been Finally Granted and that includes a life science-related office-commercial Building.

Second Relevant Phase: Developer will pay \$112,500 to the City within sixty (60) days after the issuance of the First Construction Document for the first Vertical Improvements within the second Development Phase for which a Development Phase Approval has been Finally Granted and that includes a life science-related office-commercial Building.

- 6. Contractor Development Program. The Project will pay a total of \$100,000, from the Total Contribution, to support the City's efforts to assist certified Local Business Enterprise contractors in removing barriers that face small businesses. The City's Contractor Development Program includes training, one-on-one counseling and group workshops in the areas that include (1) technical assistance on business management, estimating, financial analysis and project scheduling, (2) Assistance with Surety Bonding, (3) a Mentor Protégé Program that pairs micro-LBEs with business mentors and (4) Contractor Accelerated Payment Program (CAPP) and loan guarantee. OEWD will transfer, to the City and County of San Francisco's Contract Monitoring Division, these funds to support the Contract Monitoring Division's Contractor Development Program.
  - a. <u>Manner and Timing of Payment</u>. Developer will pay such total of \$100,000 in accordance with the following schedule:

Phase 1: Developer will pay \$50,000 to OEWD within sixty (60) days after the Development Phase 1 Approval is Finally Granted.

Phase 2: Developer will pay \$50,000 to OEWD within sixty (60) days after the Development Phase 2 Approval is Finally Granted.

7. Workforce System Engagement. Each Developer of commercial space for Covered Operations agrees to include in any Commercial Lease with a Permanent Employer that

employs primarily Technology Occupations, Technology-Enabled Occupations and Biotechnology Occupations in the applicable Covered Operation a requirement that such Permanent Employer enter into a First Source Hiring Agreement for Operations in the form attached as <u>Attachment A-1</u> requiring that the Permanent Employer dedicates employer time and resources to support curriculum development and direct engagement with workforce participants, consisting of working in good faith with OEWD in:

- a. Reviewing and providing input into biotechnology- and information technology-focused workforce development curricula.
- b. Hosting on-site training opportunities, including open houses, workplace/industry showcases, and job shadowing for workforce system participants.
- c. Participating in workforce development events targeted to increasing career awareness and readiness for technology, biotechnology, and tech/biotechnologyenabled careers such as employer spotlights at workforce development centers, classroom lectures, career panels, resume workshops, mock interviews, mentoring, student showcases or other supportive activities.
- d. Hiring participants from OEWD sponsored workforce programs that offer direct employment opportunities. This may include:
  - i. paid work experience/internships for OEWD biotechnology and information technology trainees for careers such as biotechnicians, research associates, and tech positions to gain exposure to the workforce.
  - ii. Entering into such First Source Hiring Agreement for Operations covering the above training programs outlined above, which includes obligations related to disseminating job opportunities, as well recruiting candidates from the workforce development system with a particular focus on tech and bio-tech training and employment services, all as more particularly described therein.
- **8. Accounting.** Developer will have no right to challenge the appropriateness of or the amount of any expenditure of the Job Readiness and Training Funds, so long as the Job Readiness and Training Funds are used in accordance with the provisions of this Section III.D. The Job Readiness and Training Funds may be commingled with other funds of the City for purposes of investment and safekeeping, but the City shall maintain records as part of the City's accounting system to account for all the expenditures for a period of four (4) years following the date of the expenditure, and make such records available upon Developer's request.
- 9. Board Authorization. By approving the Development Agreement, including this Workforce Agreement, the Board of Supervisors authorizes the City (including OEWD) to accept and expend the Job Readiness and Training Funds paid by Developer as set forth herein. The Board of Supervisors also agrees that any interest earned on any the Job Readiness and Training Funds shall remain in designated accounts for use by OEWD for workforce readiness and training consistent with this Section III.D and shall not be transferred to the City's general fund.

#### E. GENERAL PROVISIONS

- 1. Enforcement. OEWD shall have the authority to enforce the Construction Workforce Requirements and the Operations Workforce Requirements. OEWD shall cause its staff to work cooperatively to create efficiencies and avoid redundancies and to implement this Workforce Agreement and the First Source Hiring Agreements in good faith, and to work with all of the Project's stakeholders, including Developer, Construction Contractors, Covered Contractors and Contractors (and Subcontractors) and Permanent Employers, in a fair, nondiscriminatory and consistent manner.
- 2. Third Party Beneficiaries. Each contract for Construction Work or Covered Operations and each Commercial Lease shall provide that OEWD shall have third party beneficiary rights thereunder for the limited purpose of enforcing the requirements of this Workforce Agreement applicable to such party, directly against such party.
- 3. Flexibility. Some jobs will be better suited to meeting or exceeding the hiring goals than others, hence all workforce hiring goals hereunder will be cumulative, not individual, goals for any Construction Contractor, Covered Contractor, Contractor or Permanent Employer. In addition, Developer shall have the right to reasonably spread the workforce goals, in different percentages, among separate Construction Contracts and Commercial Leases so long as the cumulative goals among all of the Construction Contracts and Commercial Leases at any given time meet the requirements of this Workforce Agreement. The parties shall make such modifications to the applicable First Source Hiring Agreements consistent with Developers' allocation. This acknowledgement does not alter in any way the requirement that Developer, Construction Contractors, Covered Contractors, Contractors and Permanent Employers comply with good faith effort obligations to meet their respective participation goals for the Construction Work and Covered Operations under their respective First Source Hiring Agreements.
- 4. Exclusivity. In recognition of the unique circumstances and requirements surrounding the Project, the City, including through OEWD, and Developer have agreed that this Workforce Agreement will constitute the exclusive workforce requirements for the Project. Without limiting the generality of the foregoing, if the City implements or modifies any workforce development policy or requirements after the Reference Date, whether relating to construction or operations, that would otherwise apply to the Project, and Developer asserts that such change as applied to the Project would be prohibited by the foregoing or the Development Agreement (including an increase in the obligations of Developer or its contractors under any provisions of the Development Agreement), and the City disputes such assertion, then the parties shall resolve the issue through the dispute resolution procedures of Section III.F below.

#### F. DISPUTE RESOLUTION.

1. Meet and Confer. In the event of any dispute under this Workforce Agreement (including as to compliance with this Workforce Agreement), the parties to such dispute shall meet and confer in an attempt to resolve the dispute in good faith for a period of 10 Business Days after request therefor from the complaining party; provided that the complaining party may proceed immediately to the arbitration provisions of <a href="Attachment D">Attachment D</a> (Dispute Resolution) attached, without engaging in such a conference or negotiations, if the facts could reasonably be construed to support the issuance of a temporary restraining order or a preliminary injunction.

| 2. | <b>Arbitration</b> . Disputes arising under this Workforce Agreement may be submitted to the provisions of Attachment D (Dispute Resolution) if the meet and confer provision of Section III.F.l above does not result in resolution of the dispute within the time period described therein. |
|----|---|
|    |   |
|    |   |
|    |   |
|    |   |
|    |   |



#### **Attachment A-1: First Source Hiring Agreement** For Business, Commercial Operations, and Lease Occupancy of the Building

| This F<br>(the "Effective                            | First Source Hiring Agreement (this "Agreeme e Date") by and between  | ent") is made as of, a   |   |
|--|---|--|---|
| and the First 5                                      | RECITALS  | incenvery the Tarties.   |   |
| to that certain<br>municipal corp<br>Developer is re | REAS, pursuant to that certain Workforce Agree Development Agreement between [Developer poration (the "City"), dated as of [  | and the City and County of, 2020] (the "Development that the Permanent | San Francisco, a ent Agreement"), Employers enter |
| pursuant to the, 20] (the                            | REAS, Lessee has plans to occupy a portion of at certain [] between Lesse "Contract"), which requires the execution of a rekforce Agreement; and                                      | ee and [Developer], dated as   | of  |
| agreed to exec<br>Economic and                       | REAS, as a material part of the consideration g cute this Agreement and participate in the W Workforce Development ("OEWD") as establinanter 83 of the San Francisco Administrative C | Vorkforce System managed lished by the City and County                 | by the Office of of San Francisco                 |
|  | THEREFORE, in consideration of the mutual ideration, the receipt and sufficiency of which as ws:  |  | •   |
| 1. DEFIN   | NITIONS   |  |   |
|  | of this Agreement, initially capitalized terms shall not otherwise defined herein shall have the m  |  |   |
| a.   | "Building" means each new building to<br>rehabilitated on the Project Site under and as   |  | •   |

- "Commercial Activity" means retail sales and services, restaurant, hotel, education and office uses, technology and biotechnology business, and any other for-profit commercial uses permitted under the Project SUD (as defined in the Development Agreement) that are conducted within a Building. For the avoidance of doubt, Commercial Activity shall not include the operation of standalone affordable housing buildings or community, childcare or arts facilities.
- "Commercial Lease" means all leases, subleases or other occupancy contracts for Covered c. Operations.



b.

- d. "Covered Operations" means (i) Commercial Activity that results in the expansion of entry and apprentice level positions that are located within a newly constructed Building or an addition, or alteration thereto, where the Building (or addition or alteration thereto) contains more than 25,000 gross square feet in floor area, and (ii) the operation in a Building of a residential project containing more than 25,000 gross square feet or more than 10 market-rate residential units. Covered Operations do not include (a) any operations or activities conducted by tenants, subtenants or owners of residential units, (b) residential projects containing less than 25,000 gross square feet or fewer than 10 market-rate residential units, (c) Buildings containing less than 25,000 gross square feet or (d) activities or operations conducted by tenants, subtenants and other occupants of less than 25,000 gross square feet of space within a Building. Covered Operations are limited to the period that starts at the initial certificate of occupancy for the applicable space and ends on the date that is 10 years thereafter.
- e. "Developer" means *insert name of applicable Developer*, including any successor during the term of this Agreement.
- f. "Entry Level Position: Any non-managerial position that requires less than two (2) years of training or specific preparation, and shall include temporary, permanent, trainee and intern positions.
- g. "Local Resident" means an individual who is domiciled, as defined by Section 349(b) of the California Election Code, within the City at least seven (7) days prior to commencing work on the project.
- h. "Permanent Employer" means each employer that occupies more than 25,000 gross square feet of space for Commercial Activity(ies) in a Covered Operation.
- i. "Referral" means a member of the Workforce System who has been identified by OEWD as having the appropriate training, background and skill sets for a Lessee specified Entry Level Position.
- j. "Workforce Improvement" means Buildings that are subject to Chapter 83.
- k. "Workforce System" means the First Source Hiring Administration, established by the City and County of San Francisco and managed by OEWD.

#### 2. OEWD WORKFORCE SYSTEM PARTICIPATION

a. Lessee shall notify OEWD's Business Services Team of every available Entry Level Position and refrain from advertising each such position to the general public for ten (10) days after providing notice to OEWD to allow OEWD time to recruit and refer qualified candidates to Lessee. For each Entry Level Position, Lessee shall provide a report to OEWD no later than ten (10) business days after the position is filled, in which Lessee discloses the name of any Referral that is hired and his or her position title, starting salary, employment start date, names of Referrals interviewed for the position, and reasons why Lessee declined to hire or interview Referrals. Lessee shall have the sole discretion to interview any Referral by OEWD. Hiring decisions shall be entirely at the discretion of Lessee.



- b. If Lessee employs primarily Technology Occupations, Technology-Enabled Occupations, or Biotechnology Occupations (as each such term is defined in the Workforce Agreement) in the applicable Covered Operations, Lessee shall dedicate employer time and resources to support curriculum development and direct engagement with workforce participants, consisting of working in good faith with OEWD in:
  - i. Reviewing and providing input into biotechnology- and information technology-focused workforce development curricula.
  - ii. Hosting on-site training opportunities, including open houses, workplace/industry showcases, and job shadowing for workforce system participants.
  - iii. Participating in workforce development events targeted to increasing career awareness and readiness for technology, biotechnology, and tech/biotechnology-enabled careers such as employer spotlights at workforce development centers, classroom lectures, career panels, resume workshops, mock interviews, mentoring, student showcases or other supportive activities.
  - iv. Hiring participants from OEWD sponsored workforce programs that offer direct employment opportunities. This may include: paid work experience/internships for OEWD biotechnology and information technology trainees for careers such as biotechnicians, research associates, and tech positions to gain exposure to the workforce.
- c. Notwithstanding anything to the contrary herein, nothing in this Agreement precludes Lessee from immediately advertising and filling an Entry Level Position that performs essential functions of its operation provided, however, the obligations of this Agreement to make good faith efforts to fill such vacancies permanently with Local Residents remains in effect. For these purposes, "essential functions" means those functions absolutely necessary to remain open for business. If Lessee has an immediate need to fill an Entry Level Position that performs essential functions, Lessee shall provide OEWD notice of such position, and the fact that there is an immediate need to fill such position, on or before the date such position is advertised to the general public.
- d. Notwithstanding anything to the contrary herein, nothing in this Agreement limits or imposes any requirements on Lessee's ability to fill, or the process by which Lessee fills, an Entry Level Position with an internal promotion (an "Internal Promotion") or an existing employee of Lessee or an affiliate from a place of employment operated by Lessee or its affiliate outside of the Premises (an "Internal Transfer"). For the avoidance of doubt, hiring a trainee or intern as a permanent employee to fill an Entry Level Position shall not constitute an Internal Promotion, and interns and trainees shall not constitute existing employees for purposes of an Internal Transfer.
- e. This Agreement shall be in full force and effect until the date that is ten (10) years following the commencement of Lessee's operations at the Premises or earlier termination of the Contract, unless extended by Lessee upon notice to OEWD in Lessee's discretion (but no longer than throughout the Lessee's occupancy of the Building).
- 3. GOOD FAITH EFFORT TO COMPLY WITH ITS OBLIGATIONS HEREUNDER



Lessee will make good faith efforts to comply with its obligations under this Agreement. Determination of good faith efforts shall be based on all of the following:

- a. Lessee executes this Agreement and OEWD's standard *First Source Employer's Projection of Entry Level Positions* form upon entering into the Contract. Lessee also accurately completes and submits the *First Source Employer's Projection of Entry Level Positions* form annually to reflect employment conditions.
- b. Lessee agrees to and does register with OEWD's Referral Tracking System upon execution of this Agreement.
- c. Lessee notifies OEWD's Business Services Team of all available Entry Level Positions ten (10) days prior to posting with the general public, subject to the provisions of Section 2 above. The Lessee identifies a single point of contact responsible for communicating to OEWD Entry Level Positions and takes active steps to ensure continuous communication with OEWD's Business Services Team.
- d. Lessee accurately completes and submits the *First Source Employer's Projection of Entry-Level Positions* form, or its equivalent in the Referral Tracking System, to OEWD's Business Services Team upon execution of this Agreement.
- e. Lessee attempts to fill at least 50% of open Entry Level Positions with Local Residents. Specific hiring decisions shall be made in the sole discretion of the Lessee.
- f. If applicable, Lessee dedicates time and resources to support curriculum development and direct engagement with workforce participants as provided in Section 2(b) above.
- g. Notwithstanding anything to the contrary contained herein, any of Lessee's obligations hereunder may be waived by FSHA upon Lessee's request if FSHA reasonably determines for good cause shown by Lessee that the applicable requirement is not relevant to the particular situation, would cause undue hardship or that an alternative approach would better meet the goals of this FSHA Operations Agreement.

Nothing in this Agreement shall be interpreted to prohibit the continuation of existing workforce training agreements or to interfere with consent decrees, collective bargaining agreements, project labor agreements, project stabilization agreements, existing employment contracts or other labor agreements or labor contracts (collectively, "Collective Bargaining Agreements"). In the event of a conflict between this Agreement and a Collective Bargaining Agreement, the terms of the Collective Bargaining Agreement shall supersede this Agreement.

Lessee's failure to meet the criteria set forth in Sections 3(a)-(f) does not impute "bad faith", but may trigger review of the Lessee's referral process and the Lessee's compliance with this Agreement. Noncompliance with this Agreement may result in penalties as defined in SF Administrative Code Chapter 83, to the extent provided therein. By executing this Agreement, Lessee acknowledges that Lessee has reviewed San Francisco Administrative Code Chapter 83 and understands its requirements.

#### 4. NOTICE

All notices to be given under this Agreement shall be in writing and sent via mail or email as follows:

If to OEWD:



| ATTN: Business Services, Office of Economic and Workforce Developmen |
|--|
| 1 South Van Ness Avenue, 5th Floor, San Francisco, CA 94103          |
| Email: Business.Services@sfgov.org                                   |

| If to Le | ssee: |  |  |
|----------|-------|--|--|
|          |       |  |  |
|          |       |  |  |
|          |       |  |  |

#### 5. ENTIRE AGREEMENT

This Agreement contains the entire agreement between the Parties and shall not be modified in any manner except by an instrument in writing executed by the Parties or their respective successors or permitted assignees. If any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall not be affected. If this Agreement is executed in one or more counterparts, each shall be deemed an original and all, taken together, shall constitute one and the same instrument. Section titles and captions contained in this Agreement are inserted as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of any of its provisions.

#### 6. PRIVACY.

Nothing contained in this Agreement requires Lessee to provide any personal identifying information or any other information about any person to OWED, FSHA or any other person or entity unless FSHA has (i) obtained a waiver from such person allowing Lessee to provide such information to such person or entity and (ii) provided evidence of such waiver to Lessee.

#### 7. APPLICABLE LAW AND VENUE.

This Agreement has been executed and delivered in and shall be interpreted, construed, and enforced in accordance with the laws of the State of California. All references in this Agreement to California or federal laws, regulations and statutes shall mean such laws, regulations and statutes as they may be amended from time to time, except to the extent a contrary intent is stated. Local laws, statutes and regulations applicable to this Agreement shall be the Applicable Standards (and, for the avoidance of doubt, any New City Laws that conflict with this Agreement shall not be applicable to the matters covered hereby). Venue for any proceeding related to this Agreement shall be solely in courts located in the City. Each party hereby consents to the jurisdiction of the State or Federal courts located in the City. Each party hereby waives any and all rights that it may have to make any objections based on jurisdiction or venue to any suit brought to enforce this Agreement in accordance with the foregoing provisions.

[Signature Page Follows]





IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

| Lessee:                     |         |
|-----------------------------|---------|
| a                           |         |
| [INSERT SIGNATURE BLO       | OCK]    |
| FSHA:                       |         |
| First Source Hiring Adminis | tration |
| INSERT SIGNATURE BLO        | CK]     |



## Attachment A-2:

Memorandum of Understanding

### City and County of San Francisco

### First Source Hiring Program



Office of Economic and Workforce Development Workforce Development Division

### **Attachment A-2: Memorandum of Understanding**

### MEMORANDUM OF UNDERSTANDING

| This Memorandum of Understanding ("MOU") is entered into as of  |
|---|
| WHEREAS, Project Sponsor, as developer, proposes to construct a new publicly accessible               |
| network of improved parkland and open space and a mixed-use urban neighborhood (the "Project") under  |
| that certain Development Agreement entered into by and between Project Sponsor and the City, dated as |
| of [ , 2020] (the "Development Agreement"), all as more particularly described therein;               |

WHEREAS, the Administrative Code of the City provides at Chapter 83 for a "First Source Hiring Program" which has as its purpose the creation of employment opportunities for qualified Economically Disadvantaged Individuals (as defined in Exhibit A); and

capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the

WHEREAS, the Project requires a building permit for a commercial activity of greater than 25,000 gross square feet and/or is a residential project greater than ten (10) units and therefore falls within the scope of the Chapter 83 of the Administrative Code, the applicable requirements of which have been implemented through the Workforce Agreement attached to the Development Agreement; and

WHEREAS, Project Sponsor wishes to make a good faith effort to comply with the City's First Source Hiring Program and enters into this MOU in satisfaction of its requirements under the Development Agreement.

Therefore, the parties to this MOU agree as follows:

Development Agreement (including its Workforce Agreement); and

- A. Project Sponsor, upon entering into a contract with a Construction Contractor for Construction Work after the date of this MOU, will include in that contract a provision requiring the Construction Contractor to enter into a First Source Hiring Agreement for Construction in the form attached as Exhibit A. It is the Project Sponsor's responsibility to provide a signed copy of such First Source Hiring Agreement to FSHA and CityBuild within 10 Business Days (as defined in the Development Agreement) of execution.
- B. CityBuild shall represent FSHA and shall provide referrals of Qualified (as defined in Exhibit A) Economically Disadvantaged Individuals for employment on the Construction Work as required under Chapter 83 and the First Source Hiring Agreements.
- C. The owners or residents of the residential units within the Project shall have no obligations under this MOU or any First Source Hiring Agreement.

- D. FSHA shall advise Project Sponsor, in writing, of any alleged breach on the part of the Project's contractor and/or tenant(s) with regard to participation in the First Source Hiring Program at the Project prior to seeking an assessment of liquidated damages pursuant to Section 83.12 of the Administrative Code or the applicable First Source Hiring Agreement.
- E. If Project Sponsor fulfills its obligations as set forth in the Workforce Agreement and this MOU, it shall not be held responsible for the failure of a contractor or commercial tenant to comply with the requirements of Chapter 83 or any First Source Hiring Agreement.
- F. This MOU is an approved "First Source Hiring Agreement" as referenced in Section 83.11 of the Administrative Code. The parties agree that this MOU may be executed in counterparts, each of which shall be considered an original and all of which taken together shall constitute one and the same instrument.
- G. Neither Project Sponsor nor City shall assign this MOU without the consent of the other; provided, however, that if Project Sponsor Transfers its right, title and interest under the Development Agreement to a Transferee in accordance therewith, it shall contemporaneously assign this MOU to such Transferee to the extent of such Transfer (without the requirement of any consent of City hereunder). Upon execution and delivery of the assignment and assumption agreement with respect to such Transfer, the assignor thereunder shall be automatically released from any liability or obligation under this MOU to the extent Transferred thereunder.
- H. Without limiting the Development Agreement, this MOU, including the preamble, Recitals and Exhibits, and the agreements between the parties specifically referenced in this MOU, constitutes the entire agreement between the parties with respect to the subject matter contained herein. Prior drafts of this MOU and changes from those drafts to the executed version of this MOU shall not be introduced as evidence in any litigation or other dispute resolution proceeding by the parties or any other Person, and no court or other body shall consider such drafts or changes in interpreting this MOU.
- I. This MOU is not intended, and shall not be construed, to benefit or be enforceable by any Person other than the parties whatsoever.
- J. This MOU has been executed and delivered in and shall be interpreted, construed, and enforced in accordance with the laws of the State of California. All references in this MOU to California or federal laws, regulations and statutes shall mean such laws, regulations and statues as they may be amended from time to time, except to the extent a contrary intent is stated. Local laws, statutes and regulations applicable to this MOU shall be the Applicable Standards (and, for the avoidance of doubt, any New City Laws that conflict with this MOU shall not be applicable to the matters covered hereby). Venue for any proceeding related to this MOU shall be solely in courts located in the City. Each party hereby consents to the jurisdiction of the State or Federal courts located in the City. Each party hereby expressly waives any and all rights that it may have to make any objections based on jurisdiction or venue to any suit brought to enforce this MOU in accordance with the foregoing provisions.
- K. The parties have mutually negotiated the terms and conditions of this MOU, and its terms and provisions have been reviewed and revised by legal counsel for both the City and Project Sponsor. Accordingly, no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this MOU.

Therefore, each party waives the effect of section 1654 of the California Civil Code, which interprets uncertainties in a contract against the party that drafted the contract. Language in this MOU shall be construed as a whole and in accordance with its true meaning. Each reference in this MOU to this MOU, the Plan Documents or any of the Approvals shall be deemed to refer to this MOU, the other Plan Documents or the Approvals as amended from time to time, whether or not the particular reference refers to such possible amendment. Wherever in this MOU the context requires, references to the masculine shall be deemed to include the feminine and the neuter and vice-versa, and references to the singular shall be deemed to include the plural and vice versa. Unless otherwise specified, whenever in this MOU, including its Exhibits, reference is made to any Recital, Article, Section, Exhibit, Schedule or defined term, the reference shall be deemed to refer to the Recital, Article, Section, Exhibit, Schedule or defined term of this MOU. Any reference in this MOU to a Recital, an Article or a Section includes all subsections and subparagraphs of that Recital, Article or Section. Section and other headings and the names of defined terms in this MOU are for the purpose of convenience of reference only and are not intended to, nor shall they, modify or be used to interpret the provisions of this MOU. Except as otherwise explicitly provided herein, the use in this MOU of the words "including", "such as" or words of similar import when accompanying any general term, statement or matter shall not be construed to limit such term, statement or matter to such specific terms, statements or matters. In the event of a conflict between the Recitals and the remaining provisions of this MOU, the remaining provisions shall prevail. Statements and calculations in this MOU beginning with the words "for example" or words of similar import are included for the convenience of the parties only, and in the event of a conflict between such statements or calculations and the remaining provisions of this MOU, the remaining provisions shall prevail. Words such as "herein", "hereinafter", "hereof," "hereby" and "hereunder" and the words of like import refer to this MOU, unless the context requires otherwise. Unless the context otherwise specifically provides, the term "or" shall not be exclusive and means "or, and, or both".

- L. Any notice or communication required or authorized by this MOU (as, for example, where a party is permitted or required to "notify" the other, but not including communications made in any meet and confer or similar oral communication contemplated hereunder) shall be in writing and be delivered as provided under the Development Agreement.
- M. If any term, provision, covenant, or condition of this MOU is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this MOU shall continue in full force and effect, except to the extent that enforcement of the remaining provisions of this MOU would be unreasonable or grossly inequitable under all the circumstances or would frustrate the fundamental purpose of this MOU.

[Signature page follows]

| CITY AND COUNTY OF SAN FRANC<br>a municipal corporation, acting by and the | CISCO, rough the FIRST SOURCE HIRING ADMINISTRATION |
|--|---|
| By:  |   |
| Name:  |   |
| Title:   |   |
| APPROVED AS TO FORM:   |   |
| By:  |   |
| Name:  |   |
| Title:   |   |
| PROJECT SPONSOR:   |   |
| CALIFORNIA BARREL COMPANY a Delaware limited liability company             | LLC,  |
| By:  |   |
| N  |   |

**CITY**:

Title:

### Exhibit A: First Source Hiring Agreement for Construction

| This First Source Hiring Agreement (this "Agreement"), is made as of                        | , 20        |
|---|-------------|
| (the "Effective Date"), by and between the City and County of San Francisco, a municipal co | orporation, |
| acting by and through its First Source Hiring Administration (the "FSHA"), and the ur       | ndersigned  |
| contractor ("Contractor"):  |             |

### **RECITALS**

| WHEREAS, Contractor has executed or will execute an agreement (the "Contract") to construct or oversee a portion of the Construction Work for a new publicly accessible network of improved parkland and open space and a mixed-use urban neighborhood (such portion of the Construction Work, the "Project"), all as more particularly described therein, at, Lots in Assessor's Block, San Francisco California; |
|--|
| WHEREAS, pursuant to that certain Workforce Agreement attached to that certain Development Agreement between [Developer] ("Developer") and the City and County of San Francisco, a municipal corporation (the "City"), dated as of [   |

WHEREAS, pursuant to the MOU, Developer is required to include in contracts with a Construction Contractor for Construction Work a requirement that such Construction Contractors enter into a First Source Hiring Agreement, as more particularly described in the MOU; and

WHEREAS, as a material part of the consideration given by Contractor under the Contract, Contractor has agreed to execute this Agreement and participate in the San Francisco Workforce Development System managed by the Office of Economic and Workforce Development ("OEWD") as established by the City pursuant to Chapter 83 of the San Francisco Administrative Code ("Chapter 83") as more particularly described below.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows:

#### 1. **DEFINITIONS**

For purposes of this Agreement, initially capitalized terms shall be defined as follows:

- a. Contractor's "core" or "existing" workforce shall consist of any worker who appears on the Contractor's active payroll for at least 60 days of the 100 working days prior to the execution and delivery of the Contract.
- b. "Economically Disadvantaged Individual". An individual who is either (a) eligible for services under the Workforce Investment Act of 1998 (29 U.S.C.A. 2801, *et seq.*), as may be amended from time to time, or (b) designated as "economically disadvantaged" by FSHA pursuant to the Applicable Standards as an individual who is at risk of relying upon, or returning to, public assistance.
- c. "First Opportunity". Consideration by Contractor of Local Residents for filling hiring opportunities prior to recruitment and hiring of non-Local Residents job applicants.

- d. "Hiring opportunity". When a Contractor adds workers to its existing workforce for the purpose of performing Project Work, a "hiring opportunity" is created. For example, if the carpentry subcontractor has an existing crew of five carpenters and needs seven carpenters to perform the Project Work, then there are two hiring opportunities for carpentry.
- e. "Job Classification". Categorization of employment opportunity or position by craft, occupational title, skills, and experience required, if any.
- f. "Local Resident". An individual who is domiciled, as defined by Section 349(b) of the California Election Code, within the City at least seven (7) days prior to commencing work on the Project.
- g. "New hire". A "new hire" is any worker who is hired by Contractor for the Project Work and is not a member of Contractor's core or existing workforce.
- h. "Project Work" means the initial construction of the Project under the Contract.
- i. "Publicize". Advertise or post available employment information, including participation in job fairs or other forums.
- j. "Qualified". An Economically Disadvantaged Individual that is a Local Resident who meets the minimum bona fide occupational qualifications provided by Contractor to the System in the job availability notices required under this Agreement.
- k. "Referral". A referral is an individual member of the CityBuild Referral Program who has been identified by CityBuild as having received training appropriate to entering the construction industry workforce.
- 1. "Subcontractor". A person or entity who has a direct contract with Contractor to perform a portion of the Project Work under the Contract.
- m. "System". The San Francisco Workforce Development System established by the City and County of San Francisco, and managed by OEWD, for maintaining (1) a pool of Qualified individuals, and (2) the mechanism by which such individuals are certified and referred to prospective employers covered by the First Source Hiring Program requirements under Chapter 83 of the San Francisco Administrative Code. Under this Agreement, CityBuild will act as the representative of the System.
- n. "System Referrals". Referrals by CityBuild of Qualified applicants from the System for hiring opportunities.

### 2. PARTICIPATION OF CONTRACTOR IN THE SYSTEM

a. The Contractor agrees to work in good faith with OEWD's CityBuild Program ("CityBuild") to attempt to achieve the goal that 50% of new hires for hiring opportunities be Local Residents.

The Contractor shall provide CityBuild the following information about the Contractor's employment needs under the Contract:

i. On the CityBuild Workforce Projection Form 1 attached hereto, Contractor will prior to the start of demolition and/or construction constituting Project Work

provide a detailed numerical estimate of journey and apprentice level positions to be employed on the Project Work for each trade.

- ii. Contractor is required to ensure that a CityBuild Workforce Projection Form 1 is also completed by each of its Subcontractors.
- iii. Contractor will collaborate with CityBuild staff to identify, by trade, the number of core workers at project start for the Project Work and the number of workers at project peak for the Project Work; and the number of positions that will be required to meet the local hiring goal set forth in Section 2.a above.
- iv. Contractor and Subcontractors will provide documented verification that its "core" employees for the Contract meet the definition listed in Section l.a.
- b. The Contractor shall perform the following in its good faith efforts to meet the local hiring goal set forth in Section 2.a above:
  - i. Contractor must (A) give good faith consideration to all Referrals, (B) review the resumes of all such Referrals, (C) conduct interviews for posted hiring opportunities in accordance with the non-discrimination provisions of the Contract, and (D) notify CityBuild of any new hiring opportunities.
  - ii. Contractor must provide constructive feedback to CityBuild on all System Referrals in accordance with the following:
    - (A) If Contractor meets the criteria in Section 5(a) below that establishes "good faith efforts" of Contractor, Contractor must only respond orally to follow-up questions asked by the CityBuild account executive regarding each System Referral; and
    - (B) After Contractor has filled at least 5 hiring opportunities under this Agreement, if Contractor is unable to meet the criteria in Section 5(a) below that establishes "good faith efforts" of Contractor, Contractor will be required to provide written comments on all System Referrals.
- c. Contractor must provide timely notification to CityBuild as soon as the hiring opportunity is filled, and identify by whom.

### 3. CONTRACTOR RETAINS DISCRETION REGARDING HIRING DECISIONS

Contractor agrees to offer the System the first opportunity to provide qualified applicants for employment consideration in hiring opportunities, subject to any enforceable Collective Bargaining Agreements. Contractor shall consider all applications of qualified System Referrals for employment in hiring opportunities. Provided Contractor utilizes nondiscriminatory screening criteria, Contractor shall have the sole discretion to interview and hire any System Referrals or other persons.

#### 4. COMPLIANCE WITH COLLECTIVE BARGAINING AGREEMENTS

Notwithstanding any other provision hereunder, if Contractor is subject to any Collective Bargaining Agreement(s) requiring compliance with a pre-established applicant referral process, Contractor's only obligations with regards to any available new hires or hiring opportunities

subject to such Collective Bargaining Agreement(s) during the term of the Contract shall be the following:

- a. Contractor shall notify the appropriate union(s) of the Contractor's local hiring obligations under this Agreement and request their assistance in referring qualified Local Residents for the hiring opportunities to the extent such referral can conform to the requirements of the Collective Bargaining Agreement(s).
- b. Contractor shall use any "name call" privileges, in accordance with the terms of the applicable Collective Bargaining Agreement(s) to seek Qualified applicants from the System for the hiring opportunities.
- c. Contractor shall sponsor qualified apprenticeship applicants that are System Referrals for applicable union membership.

# 5. CONTRACTOR'S GOOD FAITH EFFORT TO COMPLY WITH ITS OBLIGATIONS HEREUNDER

Contractor will make good faith efforts to comply with its obligations to participate in the System under this Agreement. Determinations of Contractor's good faith efforts shall be in accordance with the following:

- a. Contractor shall be deemed to have used good faith efforts if Contractor accurately completes and submits prior to the start of demolition and/or construction constituting Project Work CityBuild Workforce Projection Form 1.
- b. Contractor's failure to meet the criteria set forth from Section 5(c) to 5(m) does not impute "bad faith." Failure to meet the criteria set forth in Section 5(c) to 5(m) may trigger a review of the referral process and the Contractor's efforts to comply with this Agreement. Such review shall be conducted by FSHA in accordance with Section 11(c) below.
- c. Meet with the Project's owner, developer, general contractor, or CityBuild representative to review and discuss Contractor's plan to meet Contractor's local hiring obligations under this Agreement.
- d. Contact a CityBuild representative to review Contractor's hiring projections and goals for the Project. The Project developer and/or Contractor must take active steps to advise all of its Subcontractors of the local hiring obligations on the Project, including, but not limited to, providing CityBuild access and presentation time at each pre-bid, each pre-construction, and if necessary, any progress meeting for the Project held throughout the term of this Agreement.
- e. Submit to CityBuild a CityBuild Workforce Projection Form 1 or other formal written notification specifying Contractor's expected hiring needs during the Project's duration.
- f. Notify Contractor's respective union(s) of the Contractor's local hiring obligations under this Agreement and request their assistance in referring qualified Local Residents for any hiring opportunities to the extent such referral can conform to the requirements of the Collective Bargaining Agreement(s).

- g. Use any "name call" privileges, in accordance with the terms of the applicable Collective Bargaining Agreement(s) to seek Qualified applicants from the System for the hiring opportunities.
- h. Provide CityBuild with up-to-date list of all trade unions affiliated with any Project Work in a timely matter in order to facilitate CityBuild's notification to these unions of the Project's workforce requirements.
- i. Submit a "Job Request" in the CityBuild Job Notice Form attached as Form 3 to CityBuild for each apprentice level hiring opportunity that arise throughout the duration of the Project Work, including openings that arise from layoffs of original crew. Please allow a minimum of 3 business days for CityBuild to provide appropriate candidate(s). Contractor should simultaneously contact its union about the position as well, and let them know that it has contacted CityBuild as part of its local hiring obligations.
- j. Contractor has an ongoing, affirmative obligation and must advise each of its Subcontractors of their ongoing obligation to notify CityBuild of each apprentice level hiring opportunity that arise throughout the duration of the Project Work, including openings that arise from layoffs of original crew. Contractor shall not exercise discretion in informing CityBuild of any given position; rather, CityBuild is to be universally notified, and a discussion between the Contractor and CityBuild can determine whether a CityBuild graduate would be an appropriate placement for any given apprentice level position.
- k. Hire qualified Referrals (but without limiting Section 3). In the event of the firing/layoff of any CityBuild graduate performing Project Work, Contractor must notify CityBuild staff within two days of the decision and provide reasons for the layoff; ideally, Project developer and/or Contractor will request a meeting with the Project's employment liaison as soon as any issue arises with a CityBuild placement in order to remedy the situation before termination becomes necessary.
- 1. Provide the reports required pursuant to Section 11.
- m. Maintain accurate records of Contractor's efforts to meet the steps and requirements listed above. Such records may also include records of any new hire made by the Contractor through a San Francisco community-based organization. Any further efforts or actions agreed upon by CityBuild staff and the Project developer and/or Contractor on a project-by-project basis.

### 6. COMPLIANCE WITH THIS AGREEMENT OF SUBCONTRACTORS

In the event that Contractor subcontracts a portion of the work under the Contract, Contractor shall determine how many, if any, of the hiring opportunities are to be employed by its Subcontractor(s) using CityBuild Workforce Projection Form 1 and the City's online project reporting system (currently Elation), provided, however, that Contractor shall retain the primary responsibility for meeting the requirements imposed on it under this Agreement. Contractor shall ensure that this Agreement is incorporated into and made applicable to such subcontract.

### 7. EXCEPTION FOR ESSENTIAL FUNCTIONS; WAIVER

Nothing in this Agreement precludes Contractor from using temporary or reassigned existing employees to perform essential functions of its operation; provided, however, the obligations of

this Agreement to make good faith efforts to fill hiring opportunities permanently with Local Residents remains in effect. For these purposes, "essential functions" means those functions absolutely necessary to perform work under the Contract.

Notwithstanding anything to the contrary contained herein, any of Contractor's obligations hereunder may be waived by FSHA upon Contractor's request if FSHA reasonably determines for good cause shown by Contractor that the applicable requirement is not relevant to the particular situation, would cause undue hardship or that an alternative approach would better meet the goals of this Agreement.

### 8. CONTRACTOR'S COMPLIANCE WITH EXISTING EMPLOYMENT AGREEMENTS

Nothing in this Agreement shall be interpreted to prohibit the continuation of existing workforce training agreements or to interfere with consent decrees, collective bargaining agreements, project labor agreements, project stabilization agreements, existing employment contracts or other labor agreements or labor contracts (collectively, "Collective Bargaining Agreements"). In the event of a conflict between this Agreement and a Collective Bargaining Agreement, the terms of the Collective Bargaining Agreement shall supersede this Agreement.

### 9. HIRING GOALS EXCEEDING OBLIGATIONS OF THIS AGREEMENT

Nothing in this Agreement shall be interpreted to prohibit the adoption of hiring and retention goals, first source hiring and interviewing requirements, notice and job availability requirements, monitoring, record keeping, and enforcement requirements and procedures which exceed the requirements of this Agreement.

### 10. OBLIGATIONS OF CITYBUILD

Under this Agreement, CityBuild shall:

- a. Upon Contractor's submission of the CityBuild Workforce Projection Form 1, immediately initiate recruitment and pre-screening activities;
- b. Recruit Qualified individuals to create a pool of applicants for jobs who match Contractor's Job Request and to the extent appropriate train applicants for jobs that will become available through the First Source Hiring Program;
- c. Screen and refer applicants according to qualifications and specific selection criteria submitted by Contractor;
- d. Provide funding for City-sponsored pre-employment, employment training, and support services programs;
- e. Follow up with Contractor on outcomes of System Referrals and initiate corrective action as necessary to maintain an effective employment/training delivery system;
- f. Provide Contractor with reporting forms for monitoring the requirements of this Agreement; and
- g. Monitor the performance of this Agreement by examination of records of Contractor as submitted in accordance with the requirements of this Agreement.

### 11. CONTRACTOR'S REPORTING AND RECORD KEEPING OBLIGATIONS

#### Contractor shall:

- a. Maintain accurate records demonstrating Contractor's compliance with this Agreement, including, but not limited to, the following:
  - (1) Applicants
  - (2) Job offers
  - (3) Hires
  - (4) Rejections of applicants
- b. Submit completed reporting forms applicable to the Project Work based on Contractor's records to CityBuild quarterly, unless more frequent submittals are reasonably required by FSHA (for example, if significant number of positions are to be filled during a given period or other circumstances warrant).
- c. If based on complaint, failure to report, or other cause, FSHA has a credible reason to question Contractor's good faith effort, Contractor shall demonstrate to the reasonable satisfaction of the City that it has exercised good faith to satisfy its obligations under this Agreement.
- d. Nothing contained in this Agreement requires Contractor to provide any personal identifying information or any other information about any person to OWED, FSHA or CityBuild unless OEWD has (i) obtained a waiver from such person allowing Contractor to provide such information to OWED, FSHA and CityBuild and (ii) provided evidence of such waiver to Contractor.

### 12. DURATION OF THIS AGREEMENT

This Agreement shall be in full force and effect throughout the term of the Contract with respect to the Project Work. Upon expiration of the Contract, or its earlier termination, with respect to the Project Work this Agreement shall terminate and it shall be of no further force and effect on the parties.

### 13. NOTICE

All notices to be given under this Agreement shall be in writing and sent by: certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid in the United States Mail, a nationally recognized overnight courier, in which case notice shall be deemed delivered one (1) business day after deposit with that courier, or hand delivery, in which case notice shall be deemed delivered on the date received, all as follows:

| If to FSHA:            | First Source Hiring Administration OEWD, 1 South Van Ness 5 <sup>th</sup> Fl. San Francisco, CA 94103 |
|------------------------|---|
|                        | Attn: Ken Nim, Compliance Manager,  |
|                        | ken.nim@sfgov.org   |
|                        | Attn: Ken Nim   |
| If to CityBuild:       | CityBuild Compliance Manager  |
| •                      | OEWD, 1 South Van Ness 51h Fl.  |
|                        | San Francisco, CA 94103   |
|                        | Attn: Ken Nim, Compliance Manager,  |
|                        | ken.nim@sfgov.org   |
| If to Developer:       |   |
|                        |   |
|                        | Attn:   |
| If to Contractor:      |   |
|                        |   |
|                        |   |
|                        | Attn:   |
| a. Any party may chang | e its address for notice purposes by giving the other parties notice of                               |

- a. Any party may change its address for notice purposes by giving the other parties notice of its new address as provided herein. A "business day" is any day other than a Saturday, Sunday or a day in which banks in San Francisco, California are authorized to close.
- b. Notwithstanding the forgoing, any reports required of Contractor under this Agreement (collectively, "Contractor Reports") shall be delivered to the address of FSHA pursuant to this Section via first class mail, postage paid, and such Contractor Reports shall be deemed delivered two (2) business days after deposit in the mail in accordance with this Section 13.
- c. A copy of any notice delivered hereunder by Contractor or the City shall be contemporaneously delivered for informational purposes only to the applicable Developer under the Development Agreement.

### 14. ENTIRE AGREEMENT

This Agreement contains the entire agreement between the parties to this Agreement and shall not be modified in any manner except by an instrument in writing executed by the parties or their respective successors in interest.

### 15. SEVERABILITY

If any term or provision of this Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement shall not be affected.

### 16. COUNTERPARTS

This Agreement may be executed in one or more counterparts. Each shall be deemed an original and all, taken together, shall constitute one and the same instrument.

### 17. SUCCESSORS

This Agreement shall inure to the benefit of and shall be binding upon the parties to this Agreement and their respective heirs, successors and assigns. If there is more than one person comprising Contractor hereunder, their obligations shall be joint and several.

### 18. HEADINGS

Section titles and captions contained in this Agreement are inserted as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of any of its provisions

### 19. APPLICABLE LAW AND VENUE.

This Agreement has been executed and delivered in and shall be interpreted, construed, and enforced in accordance with the laws of the State of California. All references in this Agreement to California or federal laws, regulations and statutes shall mean such laws, regulations and statutes as they may be amended from time to time, except to the extent a contrary intent is stated. Local laws, statutes and regulations applicable to this Agreement shall be the Applicable Standards (and, for the avoidance of doubt, any New City Laws that conflict with this Agreement shall not be applicable to the matters covered hereby). Venue for any proceeding related to this Agreement shall be solely in courts located in the City. Each party hereby consents to the jurisdiction of the State or Federal courts located in the City. Each party hereby expressly waives any and all rights that it may have to make any objections based on jurisdiction or venue to any suit brought to enforce this Agreement in accordance with the foregoing provisions.

[Signature Page Follows]

|  | IN | WITNESS | WHEREOF. | the | parties have | executed thi | is Agreement | as of the | e Effective | Date. |
|--|----|---------|----------|-----|--------------|--------------|--------------|-----------|-------------|-------|
|--|----|---------|----------|-----|--------------|--------------|--------------|-----------|-------------|-------|

# **CITY**:

# CITY AND COUNTY OF SAN FRANCISCO,

a municipal corporation, acting by and through the FIRST SOURCE HIRING ADMINISTRATION

| By:                  |
|----------------------|
| Name:                |
| Title:               |
| APPROVED AS TO FORM: |
| By:                  |
| Name:                |
| Title:               |
|                      |
| CONTRACTOR:          |
| a [                  |
| By:                  |
| Name:                |
| Title                |



### FIRST SOURCE HIRING PROGRAM

EXHIBIT A-1 - CITYBUILD CONSTRUCTION CONTRACTS

SAN FRANCISCO
Office of Economic and Workforce Development

CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF ECONOMIC AND WORKFORCE DEVELOPMENT

### FORM 1: CITYBUILD WORKFORCE PROJECTION

### **Instructions**

CITYBUILD PROGRAM

- The Prime Contractor must complete and submit Form 1 prior to the start of demolition and/or construction constituting Project Work.
- All subcontractors with contracts in excess of \$100,000 must complete Form 1 and submit to the Prime Contractor prior to the start of the subcontracted demolition and/or construction constituting Project Work.
- The Prime Contractor is responsible for collecting all completed Form 1's from all subcontractors.
- It is the Prime Contractor's responsibility to ensure completed Form 1's from all subcontractors are submitted to CityBuild in the specified time and keep a record of these forms.

| Construction Project Name:            |                | Construction Project Address:   |                 |
|---------------------------------------|----------------|---------------------------------|-----------------|
| Projected Start Date:                 |                | Contract Duration:              | (calendar days) |
| Contractor Name:                      |                | Contractor Address:             |                 |
| Main Contact Name:                    |                | Main Phone Number:              |                 |
| Main Contact Email:                   |                |                                 |                 |
| Name of Person with Hiring Authority: |                | Hiring Authority Phone Number:  |                 |
| Hiring Authority<br>Email:            |                |                                 |                 |
|                                       |                |                                 |                 |
| Name of Authorized                    | Representative | Signature of Authorized Represe | ntative* Date   |

| Table 1: Briefly summarize your contracted or subcontracted scope of work on the Project |  |  |  |  |
|--|--|--|--|--|
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

### **Table 2: Complete on the following page**

- List the construction trade crafts that are projected to perform work on the Project. Do not list Project Managers, Engineers, Administrative, and any other non-construction trade employees.
- Total Number of Workers on the Project: The total number of workers projected to work on the Project per construction trade.
- This number will include existing workers and new hires. For union contractors this total will also include union dispatches. Total Number of New Hires: List the projected number of New Hires that will be employed on the Project. For union contractors, New Hires will also include union dispatches.

Table 2: List all construction trades projected to perform work

| Construction Trades | Journey or<br>Apprentice | Union (Yes<br>or No) | Total<br>Work<br>Hours | Total<br>Number of<br>Workers on<br>the Project | Total Number<br>of New Hires |
|---------------------|--------------------------|----------------------|------------------------|---|------------------------------|
|                     | J 🗌 A 🗌                  | J 🗌 A 📗              |                        |   |                              |
|                     | J 🗌 A 🗌                  | J 🗌 A 📗              |                        |   |                              |
|                     | J 🗌 A 🗌                  | J 🗌 A 📗              |                        |   |                              |
|                     | J 🗌 A 🗌                  | J 🗌 A 📗              |                        |   |                              |
|                     | J 🗌 A 🗌                  | J 🗌 A 📗              |                        |   |                              |
|                     | J 🗌 A 🗌                  | J 🗌 A 📗              |                        |   |                              |
|                     | J 🗌 A 🗌                  | J 🗌 A 📗              |                        |   |                              |
|                     | J 🗌 A 🗌                  | J 🗌 A 📗              |                        |   |                              |

Table 3: List your core or existing employees projected to work on the Project

- Please provide information on your projected core or existing employees that will perform work on the Project.
- "Core" or "existing" workers are defined as any worker who appears on the Contractor's active payroll for at least 60 days of the 100 working days prior to the execution and delivery of the Contract. If necessary, continue on a separate sheet.

| Name of Core or Existing   |                           | Journey or              |      |          |
|----------------------------|---------------------------|-------------------------|------|----------|
| Employee                   | <b>Construction Trade</b> | Apprentice              | City | Zip Code |
|                            |                           | J A                     |      | _        |
|                            |                           | J 🗌 A 📗                 |      |          |
|                            |                           | J 🗌 A 📗                 |      |          |
|                            |                           | J A                     |      |          |
|                            |                           | J 🗌 A 📗                 |      |          |
|                            |                           | J 🗌 A 📗                 |      |          |
|                            |                           | J 🗌 A 📗                 |      |          |
|                            |                           | J 🗌 A 📗                 |      |          |
|                            |                           | J 🗌 A 📗                 |      |          |
|                            |                           | J 🗌 A 📗                 |      |          |
|                            |                           | J 🗌 A 📗                 |      |          |
|                            |                           | J $\square$ A $\square$ |      |          |
|                            |                           | J $\square$ A $\square$ |      |          |
|                            |                           | J $\square$ A $\square$ |      |          |
|                            |                           | J $\square$ A $\square$ |      |          |
|                            |                           | J $\square$ A $\square$ |      |          |
|                            |                           | J $\square$ A $\square$ |      |          |
|                            |                           | J $\square$ A $\square$ |      |          |
|                            |                           | J $\square$ A $\square$ |      |          |
| FOR CITY USE ONLY: City Bu | ıild Staff:               | Approved: Yes           | No   | Date:    |
| Reason:                    |                           |                         |      |          |

### **FORM 3: CITYBUILD JOB NOTICE FORM**

**INSTRUCTIONS**: To meet the requirements of the First Source Hiring Program (San Francisco Administrative Code Chapter 83), the Contractor shall notify CityBuild of all new hiring opportunities with a minimum of 3 business days prior to the start date.

- 1. Complete the form and fax to CityBuild 415-701-4896 or EMAIL: workforce.development@sfgov.org
- Contact Workforce Development at415-701-4848 or by email: local.hire.ordinance@sfgov.org
   OR call the main line of the Office of Economic and Workforce Development (OEWD) at 415 701-4848 to confirm receipt of fax or email.

ATTENTION: Please also submit this form to your union or hiring hall if you are required to do so under your collective bargaining agreement or contract. CityBuild is not a Dispatching Hall, nor does this form act as a Request for Dispatch. All formal Requests for Dispatch will be conducted through your union or hiring hall.

# **Section A. Job Notice Information** Trade # of Journeymen # of Apprentices Start Time Start Date Job Duration Brief description of your scope of work on the Project: Section B. Union Information (Union contractors complete Section B. Otherwise, leave Section B blank) Local # Union Contact Name Union Phone # **Section C. Contractor Information** Project Name: Jobsite Location: Contractor: Prime Sub 🗌 Contractor Address: Contact Name: \_\_\_\_\_ Title: \_\_\_\_\_ Office Phone: \_\_\_\_ Cell Phone: \_\_\_\_ Email: \_\_\_\_ Alt. Contact: Phone #: \_\_\_\_\_ Contractor Contact Signature Date

OEWD USE ONLY Able to Fill Yes \( \square\) No \( \square\)

# Attachment B

# Local Hiring Requirements

[see attached]

### WORKFORCE AGREEMENT- ATTACHMENT B

### LOCAL HIRING PLAN FOR CONSTRUCTION ON PORT SUB-AREA & CITY SUB-AREA

#### 1.1 SUMMARY

- A. This <u>Attachment B</u> ("**Local Hiring Plan**") governs the obligations of the Project to comply with the City's Local Hiring Policy for Construction pursuant to Chapter 82 of the San Francisco Administrative Code (the "**Policy**"). In the event of any conflict between Administrative Code Chapter 82 and this Attachment B, this Attachment B shall govern.
- B. The provisions of this Local Hiring Plan are hereby incorporated as a material term of the Development Agreement. Developer shall require any Covered Contractor to agree that (i) the Covered Contractor shall comply with all applicable requirements of this Local Hiring Plan; (ii) the provisions of this Local Hiring Plan and the Policy are reasonable and achievable by the Covered Contractor and its Subcontractors; and (iii) the Covered Contractor has had a full and fair opportunity to review and understand the terms of this Local Hiring Plan.
- C. OEWD is responsible for administering this Local Hiring Plan and will be administering its applicable requirements. For more information on the Policy and its implementation, please visit the OEWD website at: www.workforcedevelopmentsf.org.
- D. Capitalized terms not defined herein shall have the meanings ascribed to them in the Development Agreement (for the avoidance of doubt, including the Workforce Agreement) or the Policy, as applicable.
- 1.2 DEFINITIONS. For purposes of this Attachment B, the following definitions apply:
  - A. "AMI" means the current unadjusted median income for the San Francisco area as published by HUD, adjusted solely for Household Size, or as otherwise agreed by Developer and MOHCD pursuant to the Housing Plan.
  - B. "Covered Contractor" means a prime contractor, general contractor, or construction manager contracted by a Developer who performs Construction Work on a Covered Project.
  - C. "Covered Project" means Construction Work on the Port Sub-Area or the City Sub-Area with an estimated cost in excess of the Threshold Amount.
  - D. "Disadvantaged Worker" means a Local Resident who: (i) resides in a census tract within the City with a rate of unemployment in excess of 150% of the City unemployment rate, as reported by the State of California Employment Development Department; (ii) at the time of commencing work on a Covered Project has a household income of less than 80% of the AMI; or (iii) faces or has overcome at least one of the following barriers to employment: being homeless; being a custodial single parent; receiving public assistance; lacking a GED or high school diploma; participating in a vocational English as a second language program; or having a criminal record or other involvement with the criminal justice system.
  - E. "Job Notification" means the written notice of any Hiring Opportunity from a Covered Contractor to CityBuild. Covered Contractor shall provide Job Notifications to CityBuild with a minimum of 3 Business Days' notice. For purposes of the foregoing, a "Hiring Opportunity" is created when a Covered Contractor adds workers to its existing workforce for the purpose of performing Construction Work on a Covered Project. For example, if the carpentry subcontractor has an existing crew of five carpenters and

needs seven carpenters to perform the Construction Work on the Covered Project, then there are two Hiring Opportunities for carpentry for such Construction Work.

- F. "Non-Covered Project" means any construction project other than a Covered Project.
- G. "Project Work" means Construction Work performed as part of a Covered Project.
- H. "Project Work Hours" means the total onsite work hours worked on a construction contract for a Covered Project by all Apprentices and journey-level workers, whether those workers are employed by the Covered Contractor or any Subcontractor.
- I. "Subcontractor" means any person, firm, partnership, owner operator, limited liability company, corporation, joint venture, proprietorship, trust, association, or other entity that contracts with a Covered Contractor or another subcontractor to provide services to a Covered Contractor or another subcontractor in fulfillment of the Covered Contractor's or that other subcontractor's obligations arising from a contract for Construction Work on a Covered Project.
- J. "Targeted Worker" means any Local Resident or Disadvantaged Worker.
- K. "Threshold Amount" is defined in Section 6.1 of the San Francisco Administrative Code, as amended as of the date of determination to the extent that such amendments apply to the Project pursuant to the Development Agreement.

### 1.3 LOCAL HIRING REQUIREMENTS

- A. Total Project Work Hours By Trade. For all construction contracts for Covered Projects, the mandatory participation level in terms of Project Work Hours within each trade to be performed by Local Residents is 30%, with a goal of no less than 15% of Project Work Hours within each trade to be performed by Disadvantaged Workers. The mandatory participation levels required under this Local Hire Program will be determined by OEWD for each Development Phase under the Development Agreement, and in no event shall be greater than 30%; however, the Parties acknowledge that Developer intends to require each construction contract for Covered Projects to meet the mandatory participation levels on an individual contract level.
- B. Apprentices. For all construction contracts for Covered Projects, at least 30% of the Project Work Hours performed by Apprentices within each trade is required to be performed by Local Residents, with an aspirational goal of achieving 50%. Hiring preferences shall be given to Apprentices who are referred by the CityBuild program. This document also establishes a goal of no less than 25% of Project Work Hours performed by Apprentices within each trade to be performed by Disadvantaged Workers.
- C. Out-of-State Workers. For all Covered Projects, Project Work Hours performed by residents of states other than California will not be considered in calculation of the number of Project Work Hours to which the local hiring requirements apply. Covered Contractors and Subcontractors shall report to OEWD the number of Project Work Hours performed by residents of states other than California.
- D. Pre-construction or other Local Hire Meeting. Prior to commencement of Construction Work on Covered Projects, Covered Contractor and its Subcontractors whom have been engaged by contract and identified in the Local Hiring Forms as contributing toward the mandatory local hiring requirement shall attend a preconstruction or other Local Hire meeting(s) convened by OEWD staff. Representatives from Covered Contractor and the Subcontractor(s) who attend the pre-construction or other Local Hire meeting must

have hiring authority. Covered Contractor and its Subcontractors who are engaged after the commencement of Construction Work on a Covered Project shall attend a future preconstruction meeting or meetings as mutually agreed by Covered Contractor and OEWD staff.

- E. This Local Hiring Plan does not limit Covered Contractor's or its Subcontractors' ability to assess qualifications of prospective workers, and to make final hiring and retention decisions. No provision of this Local Hiring Plan shall be interpreted so as to require a Covered Contractor or Subcontractor to employ a worker not qualified for the position in question, or to employ any particular worker.
- F. For the avoidance of doubt, Construction Work for Non-Covered Projects may be subject to the First Source Hiring Program for Construction Work in accordance with Section III.B.3 of the Workforce Agreement.

### 1.4 CITYBUILD WORKFORCE DEVELOPMENT PROGRAM: EMPLOYMENT NETWORKING SERVICES

- A. OEWD administers the CityBuild Program. Subject to any collective bargaining agreements in the building trades and applicable law, CityBuild shall be a primary resource available for Covered Contractor and Subcontractors to meet Covered Contractors' local hiring requirements under this Local Hiring Plan. CityBuild has two main goals:
  - 1. Assist with local hiring requirements under this Local Hiring Plan by connecting Covered Contractors and Subcontractors with qualified journey-level, Apprentice, and pre-Apprentice Local Residents.
  - 2. Promote training and employment opportunities for disadvantaged workers of all ethnic backgrounds and genders in the construction work force.
- B. Where a Covered Contractor's or its Subcontractors' preferred or preexisting hiring or staffing procedures for a Covered Project do not enable Covered Contractor to satisfy the local hiring requirements of this Local Hiring Plan, the Covered Contractor or Subcontractor shall use other procedures to identify and retain Targeted Workers, including the following:
  - 1. Requesting to connect with workers through CityBuild, with qualifications described in the request limited to skills directly related to performance of job duties.
  - 2. Considering Targeted Workers networked through CityBuild within three Business Days of CityBuild's receipt of the applicable Job Notification and who meet the qualifications described in the Job Notification. Such consideration may include in-person interviews. All workers networked through CityBuild will qualify as Disadvantaged Workers under this Local Hiring Plan. Neither Covered Contractor nor its Subcontractors are required to make an independent determination of whether any such worker is a "Disadvantaged Worker" as defined above.

### 1.5 CONDITIONAL WAIVER FROM LOCAL HIRING REQUIREMENTS

A. Covered Contractor or the Subcontractor may use one or more of the following pipeline and retention compliance mechanisms to receive a conditional waiver from the Local Hiring Requirements of Section 1.3 for the applicable Covered Project. All requests for conditional waivers must be submitted to OEWD for approval, which shall be promptly granted if the criteria specified below is met.

- 1. <u>Specialized Trades</u>: OEWD has published a list of trades designated as "Specialized Trades" for which the local hiring requirements of this Local Hiring Plan will not apply. The list is available on the OEWD website. Covered Contractor and its Subcontractors shall report to OEWD the Project Work Hours utilized in each designated Specialized Trade and in each OEWD-approved project-specific Specialized Trade.
- 2. <u>Credit for Hiring on Non-Covered Projects</u>: Covered Contractor and its Subcontractors may accumulate credit hours for hiring Targeted Workers on Non-Covered Projects in the nine-county San Francisco Bay Area and apply those credit hours to contracts for Covered Projects to meet the mandatory local hiring requirement. For hours performed by Targeted Workers on Non-Covered Projects, the hours shall be credited toward the local hiring requirement for this Contract provided that:
  - a. the Targeted Workers are paid the prevailing wages or union scale for work on the Non-Covered Projects; and
  - b. such credit hours shall be committed to by the Covered Contractor on future projects to satisfy any short fall the Covered Contractor may have on a Covered Project. Such commitment shall be in writing by the Covered Contractor, shall extend for a period of time negotiated between the Covered Contractor and OEWD, and shall commit to satisfying any assessed penalties should Covered Contractor fail to achieve the required credit hours.
- 3. Sponsoring Apprentices: Covered Contractor or a Subcontractor may agree to sponsor an OEWD-specified number of new Apprentices in trades in which noncompliance is likely and retaining those Apprentices for the period of Covered Contractor's or a Subcontractor's work on the project. OEWD will verify with the California Department of Industrial Relations that the new Apprentices are registered and active Apprentices. Covered Contractor will be required to write a sponsorship letter on behalf of the identified candidate to the appropriate Local Union and will make the necessary arrangements with the Union to hire the candidate as soon as s/he is indentured.
- 4. <u>Direct Entry Agreements</u>: OEWD is authorized to negotiate and enter into direct entry agreements with apprenticeship programs that are registered with the California Department of Industrial Relations' Division of Apprenticeship Standards. Covered Contractor may avoid assessment of penalties for non-compliance with this Local Hiring Plan by Covered Contractor or its Subcontractors hiring and retaining Apprentices who are enrolled through such direct entry agreements. Covered Contractor may also utilize OEWD-approved organizations with direct entry agreements with Local Unions, including District 10 based organizations to hire and retain Targeted Workers. To the extent that Covered Contractor or its Subcontractors have hired Apprentices or Targeted Workers under a direct entry agreement entered into by OEWD or reasonably approved by OEWD, OEWD will not assess penalties for non-compliance with this Local Hiring Plan.
- 5. <u>Corrective Actions</u>: Should local employment conditions be such that adequate Targeted Workers for a craft, or crafts, are not available to meet the requirements and Covered Contractor can document their efforts to achieve the requirements through the mechanisms and processes in this document, a corrective action plan must be negotiated between Covered Contractor and OEWD.

### 1.6 LOCAL HIRING FORMS

- A. Utilizing the City's online Project Reporting System, Covered Contractors for Covered Projects shall submit the following forms to OEWD:
  - 1. <u>Form 1: Local Hiring Workforce Projection</u>. OEWD Form 1 (Local Hiring Workforce Projection), a copy of which is attached hereto, shall be initially submitted prior to the start of construction of a Covered Project and updated quarterly by the Covered Contractor until all subcontracting for the Covered Project is completed.
  - 2. <u>Form 2: Local Hiring Plan</u>. For Covered Projects estimated to cost more than \$1,000,000, Covered Contractor shall prepare and submit to OEWD for approval OEWD Form 2, a copy of which is attached hereto. This Form 2 shall be initially submitted prior to the start of construction of the Covered Project and updated quarterly by the Covered Contractor until all subcontracting for the Covered Project is completed.
  - 3. <u>Job Notifications</u>. Upon commencement of work on a Covered Project, Covered Contractor and its Subcontractors may submit Job Notifications to CityBuild to connect with local trades workers.
  - 4. <u>Form 4: Conditional Waivers</u>. If a Covered Contractor or a Subcontractor believes the local hiring requirements cannot be met, it may submit OEWD Form 4 (Conditional Waiver), a copy of which is attached hereto, as more particularly described in Articles 1.4 and 1.5 above.

### 1.7 ENFORCEMENT, RECORD KEEPING, NONCOMPLIANCE AND PENALTIES

- A. <u>Subcontractor Compliance</u>. Each Covered Contractor and Subcontractor shall ensure that all of its Subcontractors agree to comply with applicable requirements of this document. All Subcontractors agree as a term of participation on a Covered Project that the City shall have third party beneficiary rights under all contracts under which Subcontractors are performing Project Work. Such third-party beneficiary rights shall be limited to the right to enforce the requirements of this Local Hiring Plan directly against the Subcontractors. All Subcontractors on a Covered Project shall be responsible for complying with the recordkeeping and reporting requirements set forth in this Local Hiring Plan. Subcontractors with work in excess of the Threshold Amount shall be responsible for ensuring compliance with the Local Hiring Requirements set forth in Section 1.3 of this Local Hiring Plan based on Project Work Hours performed under their Subcontracts, including Project Work Hours performed by lower tier Subcontractors with work less than the Threshold Amount.
- B. <u>Reporting</u>. Covered Contractor shall submit certified payrolls to the City electronically using the Project Reporting System. OEWD and will monitor compliance with this Local Hiring Plan electronically.
- C. <u>Recordkeeping</u>. Covered Contractor and each Subcontractor shall keep, or cause to be kept, for a period of four years from the date of Substantial Completion of Construction Work, certified payroll and basic records, including time cards, tax forms, and superintendent and foreman daily logs, for all workers within each trade performing Construction Work on a Covered Project.
  - 1. Such records shall include the name, address and social security number of each worker who worked on the Covered Project, his or her classification, a general description of the work each worker performed each day, the Apprentice or journey-level status of each worker, daily and weekly number of hours worked, the self-identified race, gender, and ethnicity of each worker, whether or not the worker was a Local Resident, and the referral source or method through which

the Covered Contractor or Subcontractor hired or retained that worker for work on the Covered Project (e.g., core workforce, name call, union hiring hall, City-designated referral source, or recruitment or hiring method) as allowed by law.

- 2. Covered Contractor and Subcontractors may verify that a worker is a Local Resident by following OEWD's domicile policy (Administrative Code Chapter 83.4).
- 3. All records described in this subsection shall at all times be open to inspection and examination by the duly authorized officers and agents of the City, including representatives of the OEWD.
- D. <u>Monitoring</u>. From time to time and in its sole discretion, OEWD may monitor and investigate compliance of Covered Contractor and Subcontractors working on a Covered Project with requirements of this Local Hiring Plan. Covered Contractor shall allow representatives of OEWD, in the performance of their duties, to engage in random inspections of Covered Projects. Covered Contractor and all Subcontractors shall also allow representatives of OEWD to have access to employees of the Covered Contractor and Subcontractors and the records required to be maintained under this document as allowed by law.
- E. <u>Noncompliance and Penalties</u>. Failure of Covered Contractor and/or its Subcontractors to comply with the requirements of this Local Hiring Plan and the obligations set forth in this Local Hiring Plan may subject Covered Contractor to the consequences of noncompliance, including but not limited to the assessment of penalties, but only if City determines that the failure to comply results from willful actions of Covered Contractor and/or its Subcontractors, and not by reason of unavailability of sufficient qualified Local Residents and Disadvantaged Workers to meet the goals required hereunder. The assessment of penalties for noncompliance shall not preclude the City from exercising any other rights or remedies to which it is entitled.
  - 1. **Penalties Amount.** If any Covered Contractor or Subcontractor fails to satisfy the Local Hiring Requirements of this Local Hiring Plan applicable to Project Work Hours performed by Local Residents, and the applicable Covered Contractor or Subcontractor is unable to provide evidence reasonably satisfactory to the City that such failure arose solely due to unavailability of qualified Local Residents despite Covered Contractors or Subcontractors good faith efforts in accordance with this Local Hiring Program, then the Covered Contractor, and in the case of any Subcontractor so failing, and Subcontractor shall jointly and severally forfeit to the City, an amount equal to the Journeyman or Apprentice prevailing wage rate, as applicable, with such wage as established by the Board of Supervisors or the California Department of Industrial Relations under subsection 6.22(e)(3) of the Administrative Code, for the primary trade used by the Covered Contractor or Subcontractor on the Covered Project for each hour by which the Covered Contractor or Subcontractor fell short of the Local Hiring Requirement. The assessment of penalties under this subsection shall not preclude the City from exercising any other rights or remedies to which it is entitled.
  - 2. **Assessment of Penalties**. OEWD shall determine whether a Covered Contractor and/or any Subcontractor has failed to comply with the Local Hiring Requirements of this Local Hiring Plan. If after conducting an investigation, OEWD determines that a violation has occurred, it shall issue and serve an assessment of penalties to the Covered Contractor and/or any Subcontractor that sets forth the basis of the assessment and orders payment of penalties in the amounts equal to the Journeyman or Apprentice prevailing wage rates, as applicable, for the primary trade used by the Covered Contractor or Subcontractor on the Project for each hour by which the Covered Contractor or Subcontractor fell short of the Local Hiring Requirement. Assessment of penalties under this subsection shall be made only upon an investigation by OEWD and upon written notice

to the Covered Contractor or Subcontractor identifying the grounds for the penalty and providing the Covered Contractor or Subcontractor with the opportunity to respond pursuant to the recourse procedures prescribed in this Local Hiring Plan.

- 3. **Recourse Procedure**. If the Covered Contractor or Subcontractor disagrees with the assessment of penalties, then the following procedure applies:
  - a. The Covered Contractor or Subcontractor may request a hearing in writing within 15 days of the date of the final notification of assessment. The request shall be directed to the City Controller. Failure by the Covered Contractor or Subcontractor to submit a timely, written request for a hearing shall constitute concession to the assessment and the forfeiture shall be deemed final upon expiration of the 15- day period. The Covered Contractor or Subcontractor must exhaust this administrative remedy prior to commencing further legal action.
  - b. Within 15 days of receiving a proper request, the Controller shall appoint a hearing officer with knowledge and not less than five years' experience in labor law, and shall so advise the enforcing official and the Covered Contractor or Subcontractor, and/or their respective counsel or authorized representative.
  - c. The hearing officer shall promptly set a date for a hearing. The hearing must commence within 45 days of the notification of the appointment of the hearing officer and conclude within 75 days of such notification unless all parties agree to an extended period.
  - d. Within 30 days of the conclusion of the hearing, the hearing officer shall issue a written decision affirming, modifying, or dismissing the assessment. The decision of the hearing officer shall consist of findings and a determination. The hearing officer's findings and determination shall be final.
  - e. The Covered Contractor or Subcontractor may appeal a final determination under this by filing in the San Francisco Superior Court a petition for a writ of mandate under California Code of Civil Procedure Section 1084 *et seq.*, as applicable and as may be amended from time to time.

### 1.8 COLLECTIVE BARGAINING AGREEMENT

Nothing in this Local Hiring Plan shall be interpreted to prohibit the continuation of existing workforce training agreements or to interfere with consent decrees, collective bargaining agreements, project labor agreements, project stabilization agreements, existing employment contracts or other labor agreements or labor contracts (collectively, "Collective Bargaining Agreements"). In the event of a conflict between this Local Hiring Plan and any Collective Bargaining Agreement, the terms of the Collective Bargaining Agreement shall supersede this Local Hiring Plan.

END OF DOCUMENT

# Attachment C

# LBE Utilization Plan

[see attached]

### WORKFORCE AGREEMENT ATTACHMENT C • LBE UTILIZATION PLAN

- 1. Purpose and Scope. This Attachment C ("LBE Utilization Plan") governs the Local Business Enterprise obligations of the Project pursuant to San Francisco Administrative Code Section 14B.20 and satisfies the obligations of each Developer and its Contractors and Consultants for a LBE Utilization Plan as set forth therein. Capitalized terms not defined herein shall have the meanings ascribed to them in the Workforce Agreement or Section 14B.20 as applicable. Developer will seek to, whenever practicable, conduct outreach to contracting teams that reflect the diversity of the City and include participation of both businesses and residents from the City's most disadvantaged communities such as the 94107, 94124, and 94134 zip codes. In the event of any conflict between Administrative Code Chapter 14B and this LBE Utilization Plan, this LBE Utilization Plan shall govern.
- 2. <u>Roles of Parties</u>. In connection with the design and construction phases of all Construction Work, the Project will provide community benefits designed to foster employment opportunities for disadvantaged individuals by offering contracting and consulting opportunities to local business enterprises ("LBEs"). Each Developer shall participate in a local business enterprise program as provided herein, and the City's Contract Monitoring Division will serve the roles as set forth below.
- 3. <u>Definitions</u>. For purposes of this LBE Utilization Plan, the definitions shall be as follows:
  - "CMD" shall mean the Contract Monitoring Division of the City Administrator's Office.
  - "Consultant" shall mean a Person that has entered into a professional services contract for monetary consideration with a Developer to provide advice or services to the Developer directly related to the architectural or landscape design, physical planning, and/or civil, structural or environmental engineering of an LBE Improvement.
  - "Contract(s)" shall mean an agreement, whether a direct contract or subcontract, for Consultant or Contractor services for all or a portion of an LBE Improvement.
  - "Contracting Party" means a Developer, a Contractor or a Consultant retained to work on LBE Improvements, as the case may be.
  - "Contractor" shall mean a prime contractor, general contractor, or construction manager contracted by a Developer who performs Construction Work on an LBE Improvement.
  - "Follow-on Tenant Improvements" means tenant improvements within commercial spaces in residential or commercial buildings (office, retail) (excluding community, childcare or arts facilities and PDR spaces) which are 25,000 gross square feet (per square footage on building permit application) and above that are constructed pursuant to an approved building permit or site permit/addenda issued after the building permit or site permit/addenda for the Initial Tenant Improvements.
  - "Good Faith Efforts" shall mean procedural steps taken by the Developer, Contractor or Consultant with respect to the attainment of the LBE participation goals, as set forth in Section 6 below.
  - "Initial Tenant Improvements" means tenant improvements within commercial spaces in residential or commercial buildings (office, retail) (excluding community, childcare or arts facilities

- and PDR spaces) that are constructed pursuant to the first building permit or site permit/addenda issued for such spaces after completion of building core and shell and undertaken within the first year after the initial certificate of occupancy is issued with respect to such building, in each case under the Development Agreement.
- "Local Business Enterprise" or "LBE" means a business that is certified as an LBE under Administrative Code Chapter 14B.3.
- "LBE Liaison" shall mean the Developer's or Contractor's, whichever is applicable, primary point of contact with CMD regarding the obligations of this LBE Utilization Plan.
- "LBE Improvements" means, as applicable, (a) all Horizontal Improvements required or permitted to be made to the Project Site and carried out by Developer under the Development Agreement and (b) Workforce Buildings. LBE Improvements shall not include any (i) repairs, maintenance, renovations or other construction work performed on a Workforce Building after the City issues a certificate of occupancy for the applicable portion of the Workforce Building, (ii) specialized labor, (iii) work performed as a result of a threat to life, limb or property or other emergency or circumstances requiring immediate action, (iv) work required to be performed by employees of a vendor or manufacturer (or a specialty contractor retained by a vendor or manufacturer) to protect a manufacturer's or vendor's warranty or guarantee, (v) the construction of City-sponsored standalone affordable housing buildings or community, childcare or arts facilities or (vi) residential owner-contracted improvements in for-sale residential units.
- "Subconsultant" shall mean a Person that has a direct contract with a Consultant to perform a portion of the Consultant's work for an LBE Improvement under such Consultant's Contract.
- "Subcontractor" shall mean a Person that has a direct contract with a Contractor to perform a portion of the Contractor's work for an LBE Improvement under such Contractor's Contract.
- "Workforce Buildings" means the following: (i) residential buildings, including associated residential units, common space, amenities, parking and back of house construction; (ii) commercial office, retail, parking buildings core & shell; and (iii) Initial Tenant Improvements for all commercial spaces in residential or commercial buildings (office, retail) which are 25,000 gross square feet (per square footage on building permit application) and above; in each case to be made to the Project Site to be carried out by Developer under the Development Agreement. Developer will use good faith efforts to hire LBEs for ongoing service contracts (e.g. maintenance, janitorial, landscaping, parking management, security etc.) within Workforce Buildings and advertise such contracting opportunities with CMD except to the extent impractical or infeasible. If a master association is responsible for the operation and maintenance of publicly owned improvements within the Project Site, CMD shall refer LBEs to such association for consideration with regard to contracting opportunities for such improvements. Such association will consider, in good faith such LBE referrals, but hiring decisions shall be entirely at the discretion of such association.
- 4. <u>LBE Participation Goal</u>. Developer agrees to participate in this LBE Utilization Plan and CMD agrees to work with Developer in this effort, as set forth in this LBE Utilization Plan. As long as

this LBE Utilization Plan remains in full force and effect, each Developer shall make good faith efforts as defined below to achieve an overall LBE participation goal of seventeen percent (17%) of the total cost of all Contracts for an LBE Improvement awarded to LBE Contractors, Subcontractors, Consultants or Subconsultants that are Small and Micro-LBEs, as set forth in Administrative Code Section 14B.8(A). Up to 2% of the aforementioned 17% LBE participation goal can be met with SBA-LBEs. Notwithstanding the foregoing, CMD's Director may, in his or her discretion, provide for a downward adjustment of the LBE participation requirement, depending on LBE participation data presented by the Developer and its team in quarterly and annual reports and meetings. Where, based on reasonable evidence presented to the Director by a party attempting to achieve the LBE participation goals, that there are not sufficient qualified Small and Micro-LBEs available, the Director may authorize the applicable party to satisfy the LBE participation goal through the use of Small, Micro or SBA-LBEs (as each such term is defined is employed in Chapter 14B of the Administrative Code), or may set separate subcontractor participation requirements for Small and Micro-LBEs, and for SBA-LBEs.

- 5. Developer Obligations. For each LBE Improvement, the Developer shall comply with the requirements of this LBE Utilization Plan as follows: upon entering into a Contract with a Contractor or Consultant, each Developer will include in each such Contract a provision requiring the Contractor or Consultant to comply with the terms of this LBE Utilization Plan, and setting forth the applicable percentage goal for such Contract, and provide a signed copy thereof (or a certification to OEWD regarding such compliance and percentage) to CMD within 10 business days of execution. Such Contract shall specify the notice information for the Contractor or Consultant to receive notice pursuant to Section 16. Each Developer shall identify a "LBE Liaison" as its main point of contact for outreach/compliance concerns. The LBE Liaison shall be a LBE Consultant with the experience in and responsible for making recommendations on how to maximize engagement of local small businesses/LBEs from disadvantaged communities including the 94124, 94134 and 94107 zip codes. The LBE Liaison shall be available to meet with CMD staff on a regular basis or as necessary regarding the implementation of this LBE Utilization Plan. For the term of the Development Agreement (or until the Contracts for all of a Developer's LBE Improvements have been executed and delivered), at least once per year, each Developer shall hold a public workshop for applicable contractor communities to publicize anticipated contracting opportunities for LBE Improvements for the succeeding year, which workshops may be held independently or in conjunction with each other (provided that no such workshop shall be required if no such opportunities are anticipated during such succeeding year). Each Developer will use good faith efforts to hire Small, Micro or SBA-LBEs for ongoing service contracts including janitorial, security and parking management contracts and advertise these contracting opportunities with the CMD except to the extent impractical or infeasible (e.g., a parking management contract cannot be broken down to allow two parking operators). Developer agrees to use good faith efforts to work with CMD to target qualified micro-LBEs contractors for appropriate opportunities to participate as consultants/contractors to Developer. If a Developer fulfills its obligations as set forth in this Section 5 and otherwise cooperates in good faith at CMD's request with respect to any meet and confer process or enforcement action against a non-compliant Contractor, Consultant, Subcontractor or Subconsultant, then it shall not be held responsible for the failure of a Contractor, Consultant, Subcontractor or Subconsultant or any other person or party to comply with the requirements of this LBE Utilization Plan.
- 6. <u>Good Faith Efforts.</u> City acknowledges and agrees that each Developer, Contractor, Subcontractor, Consultant and Subconsultant shall have the sole discretion to qualify, hire or not hire LBEs. If a Developer, Contractor, Subcontractor, Consultant or Subconsultant does not meet the LBE hiring

goal set forth above, it will nonetheless be deemed to satisfy the good faith effort obligation of this Section 6 and thereby satisfy the requirements and obligations of this LBE Utilization Plan if the Developer, Contractor, Subcontractor, Consultant or Subconsultant, as applicable, perform the good faith efforts set forth in this Section 6 with respect to LBE Improvements as follows:

- a. Advance Notice. Notify CMD in writing of all upcoming solicitations of proposals for work under a Contract at least 15 days before issuing such solicitations to allow opportunity for CMD to identify and outreach to any LBEs that it reasonably deems may be qualified for the Contract scope of work.
- b. Contract Size. Where practicable, the Developer, Contractor, Consultant, Subcontractor or Subconsultant, in their sole discretion, may divide the work in order to encourage maximum LBE participation or, encourage joint venturing. The Contracting Party will identify specific items of each Contract that may be performed by Subcontractors.
- c. Advertise. The Developer, Contractor, Consultant, Subcontractor or Subconsultant will advertise for at least 30 days prior to the opening of bids or proposals for professional services and contracting opportunities by publication through media focused on small businesses including through the City's SF City Partners Website (<a href="https://sfcitypartner.sfgov.org/pages/index.aspx">https://sfcitypartner.sfgov.org/pages/index.aspx</a>). The Developer, Contractor, Consultant, Subcontractor or Subconsultant may advertise in local and trade publications focused on small businesses, allow subcontractors to attend outreach events, pre-bid meetings, and invite LBEs to submit bids to Developer or its prime Contractor or Consultant, as applicable. As Contractor deems necessary, convene pre-bid or pre-solicitation meetings no less than 15 days prior to the opening of bids and proposals for LBEs to ask questions about the selection process and 'technical specifications/requirements.
- d. CMD Invitation. If a pre-bid meeting or other similar meeting is held with proposed Contractors, Subcontractors, Consultants or Subconsultants, invite CMD to the meeting to allow CMD to explain proper LBE utilization.
- e. Public Solicitation. The Developer or its prime Contractor(s) and/or Consultants, as applicable, will work with CMD to follow up on initial solicitations of interest by contacting LBEs to determine with certainty whether they are interested in performing specific items in a project.
- f. Outreach and Other Assistance. The Developer or its prime Contractor (s) and/or Consultants, as applicable, will a) provide LBEs with plans, specifications and requirements for all or part of the project; b) notify LBE trade associations that disseminate bid and contract information and provide technical assistance to LBEs. The designated LBE Liaison(s) will work with CMD to conduct outreach to LBEs for all consulting/contracting opportunities in the applicable trades and services in order to encourage them to participate on the project.
- g. Contacts. Make contacts with LBEs, associations or development centers, or any agencies, which disseminate bid and contract information to LBEs and document any other efforts undertaken to encourage participation by LBEs.
- h. Good Faith/Nondiscrimination. Make good faith efforts to enter into Contracts with selected LBEs and give good faith consideration to bids and proposals submitted by LBEs.

Use nondiscriminatory selection criteria (for the purpose of clarity, exercise of subjective aesthetic taste in selection decisions for architect and other design professionals shall not be deemed discriminatory and the exercise of its commercially reasonable judgment in all hiring decisions shall not be deemed discriminatory).

- i. Incorporation into contract provisions. Developer shall include in Contracts provisions that require prospective Contractors and Consultants that will be utilizing Subcontractors or Subconsultants to follow the above good faith efforts to subcontract to LBEs, including the overall LBE participation goal and any LBE percentage that may be required under such Contract. (Note: Developer/applicable tenants shall follow this program's Good Faith Efforts for Follow-on Tenant Improvements and services, but such work is not subject to the numerical LBE goal).
- j. Monitoring. Allow LBE Contract Compliance Unit to monitor Consultant/Contractor selection processes and, when necessary give suggestions as to how best to maximize LBEs ability to complete and win procurement opportunities.
- k. Maintain Records and Cooperation. Maintain records of LBEs that are awarded Contracts, not discriminate against any LBEs, and, if requested, meet and confer with CMD as reasonably required in addition to the meet and confer sessions described in Section 9 below to identify a strategy to meet the LBE goal;
- 1. Quarterly and Annual Reports. During construction, the LBE Liaison(s) shall prepare a quarterly and annual report of LBE participation goal attainment and submit to CMD as required by Section 12 herein; and
- m. Meet and Confer. Attend the meet and confer process described in Section 9.
- 7. Good Faith Outreach. Good faith efforts shall be deemed satisfied solely by compliance with Section 6. Contractors and Consultants, and Subcontractors and Subconsultants as applicable shall also work with CMD to identify from CMD's database of LBEs those LBEs who are most likely to be qualified for each identified opportunity under Section 6.a, and following CMD's notice under Section 8.a, shall undertake reasonable efforts at CMD's request to support CMD's outreach identified LBEs as mutually agreed upon by CMD and each Contractor or Consultant and its Subcontractors and Subconsultants, as applicable.
- 8. CMD Obligations. The following are obligations of CMD to implement this LBE Utilization Plan:
  - a. During the fifteen (15) day notification period for upcoming Contracts required by Section 6.a, CMD will work with the Developer and its Contractor and/or Consultant as applicable to send such notification to qualified LBEs to alert them to upcoming Contracts.
  - b. Provide assistance to Contractors, Subcontractors, Consultants and Subconsultants on good faith outreach to LBEs.
  - c. Review quarterly reports of LBE participation goals; when necessary give suggestions as to how best to maximize LBEs ability to compete and win procurement opportunities.

- d. Perform other tasks as reasonably required to assist the Developer and its Contractors, Subcontractors, Consultants and Subconsultants in meeting LBE participation goals and/or satisfying good faith efforts requirements.
- e. Insurance and Bonding. Recognizing that lines of credit, insurance and bonding are problems common to local businesses, CMD staff will be available to explain the applicable insurance and bonding requirements, answer questions about them, and, if possible, suggest governmental or third party avenues of assistance.
- 9. <u>Meet and Confer Process</u>. Commencing with the first Contract that is executed for an LBE Improvement, and every six (6) months thereafter, or more frequently if reasonably requested by either CMD, Developer or a Contractor or Consultant and the CMD shall engage in an informal meet and confer to assess compliance of such Contractor and Consultants and its Subcontractors and Subconsultants as applicable with this LBE Utilization Plan. When deficiencies are noted, meet and confer with CMD to ascertain and execute plans to increase LBE participation.
- 10. <u>Prohibition on Discrimination</u>. Developers shall not discriminate in its selection of Contractors and Consultants, and such Contractors and Consultants shall not discriminate in their selection of Subcontractors and Subconsultants against any person on the basis of race, gender, or any other basis prohibited by law. As part of its efforts to avoid unlawful discrimination in the selection of Subconsultants and Subcontractors, Contractors and Consultants will undertake the Good Faith Efforts and participate in the meet and confer processes as set forth in Sections 6 and 9 above.
- 11. <u>Collective Bargaining Agreements</u>. Nothing in this LBE Utilization Plan shall be interpreted to prohibit the continuation of existing workforce training agreements or to interfere with consent decrees, collective bargaining agreements, project labor agreements, project stabilization agreements, existing employment contracts or other labor agreements or labor contracts (collectively, "Collective Bargaining Agreements"). In the event of a conflict between this LBE Utilization Plan and a Collective Bargaining Agreement, the terms of the Collective Bargaining Agreement shall supersede this LBE Utilization Plan.
- 12. Reporting and Monitoring. Each Contractor, Consultant, and its Subcontractors and Subconsultants as applicable shall maintain accurate records demonstrating compliance with the LBE participation goals, including keeping track of the date that each response, proposal or bid that was received from LBEs, including the amount bid by and the amount to be paid (if different) to the non-LBE contractor that was selected, documentation of any efforts regarding good faith efforts as set forth in Section 6. Developers shall create a reporting method for tracking LBE participation. Data tracked shall include the following (at a minimum):
  - Name/Type of Contract(s) let (e.g. civil engineering contract, environmental consulting, etc.)
  - Name of Contractors (including identifying which are LBEs and non-LBEs)
  - Name of Subcontractors (including identifying which are LBEs and non-LBEs)
  - Scope of work performed by LBEs (e.g. under an architect, an LBE could be procured to provide renderings)
  - Dollar amounts associated with both LBE and non-LBE Contractors at both prime and Subcontractor levels.
  - Total LBE participation is defined as a percentage of total Contract dollars.

- Outcomes with respect to Developer's efforts to engage (hire) local small businesses/LBEs from disadvantaged communities including the 94124, 94134 and 94107 zip codes.
- 13. Written Notice of Deficiencies. If based on complaint, failure to report, or other cause, the CMD has reason to question the good faith efforts of a Developer, Contractor, Subcontractor, Consultant or Subconsultant, then CMD shall provide written notice to the Developer, each affected Contractor or Consultant and, if applicable, also to its Subcontractor or Subconsultant. The Contractor or Consultant and, if applicable, the Subcontractor or Subconsultant, shall have a reasonable period, based on the facts and circumstances of each case, to demonstrate to the reasonable satisfaction of the CMD that it has exercised good faith to satisfy its obligations under this LBE Utilization Plan. When deficiencies are noted CMD staff will work with the appropriate LBE Liaison(s) to remedy such deficiencies.
- 14. <u>Remedies.</u> Notwithstanding anything to the contrary in the Development Agreement (including Attachment D to the Workforce Agreement), the following process and remedies shall apply with respect to any alleged violation of this LBE Utilization Plan:
  - a. Mediation and conciliation shall be the administrative procedure of first resort for any and all compliance disputes arising under this LBE Utilization Plan. The Director of CMD shall have power to oversee and to conduct the mediation and conciliation.
  - b. Non-binding arbitration shall be the administrative procedure of second resort utilized by CMD for resolving the issue of whether a Developer, Contractor, Consultant, Subcontractor or Subconsultant discriminated in the award of one or more LBE Contracts to the extent that such issue is not resolved through the mediation and conciliation procedure described above. Obtaining a final judgment through arbitration on LBE contract related disputes shall be a condition precedent to the ability of the City or the Developer, Contractor, Consultant, Subcontractor or Subconsultant to file a request for judicial relief.
  - c. If a Developer, Contractor, Consultant, Subcontractor or Subconsultant is found to be in willful breach of the obligations set forth in this LBE Utilization Plan, assess against the noncompliant Developer, Contractor, Consultant, Subcontractor or Subconsultant liquidated damages not to exceed \$25,000 or 5% of the Contract, whichever is less, for each such willful breach. In determining the amount of any liquidated damages to be assessed within the limits described above, the arbitrator or court of competent jurisdiction shall consider the financial capacity of the Developer, Contractor, Consultant, Subcontractor or Subconsultant. For purposes of this paragraph, "willful breach" means a knowing and intentional breach.
  - d. For all other violations of this LBE Utilization Plan, the sole remedy for violation shall be specific performance, without the limits with respect thereto in Section 9.3 of the Development Agreement.
- 15. <u>Duration of this Agreement</u>. This LBE Utilization Plan shall terminate (i) as to each work of Horizontal Improvement where work has commenced under the Development Agreement, upon Completion (as defined in the Development Agreement) of such Horizontal Improvement; (ii) as to each Workforce Building, upon the issuance of the initial certificate of occupancy for such Workforce Building (i.e., upon completion of the Workforce Building); (iii) as to all Initial Tenant

Improvements and Follow-on Tenant Improvements, ten (10) years after issuance of the first temporary certificate of occupancy for the Workforce Building in which the Initial Tenant Improvements or Follow-on Tenant Improvements are located; and (iv) as to any Horizontal Improvements or Workforce Building for which construction has not commenced before the termination of the Development Agreement, upon the termination of the Development Agreement. Upon such termination, this LBE Utilization Plan shall be of no further force and effect.

16. <u>Notice</u>. All notices to be given under this LBE Utilization Plan to Developer shall be delivered as provided under the Development Agreement. All other notices shall be in writing and sent by: certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid in the United States Mail, a nationally recognized overnight courier, in which case notice shall be deemed delivered one (1) business day after deposit with that courier, or hand delivery, in which case notice shall be deemed delivered on the date received, all as follows:

| If to CMD:        |       |
|-------------------|-------|
|                   | Attn: |
| If to Contractor: |       |
|                   | Attn: |
| If to Consultant: |       |
|                   | Attn: |

Any party may change its address for notice purposes by giving the other parties notice of its new address as provided herein. A "business day" is any day other than a Saturday, Sunday or a day in which banks in San Francisco, California are authorized to close.

### **Attachment D**

### **Dispute Resolution**

### Arbitration

Any dispute involving the alleged breach or enforcement of this Workforce Agreement (excluding disputes relating to a First Source Hiring Agreement or the applicable City ordinances, which shall be resolved in accordance with their respective terms) shall be submitted to arbitration in accordance with this Attachment D.

The arbitration shall be submitted to the American Arbitration Association, San Francisco, California office ("AAA") which will use the Commercial Rules of the AAA then applicable, but subject to the further revisions. If there is a conflict between the Commercial Rules of the AAA and the arbitration provisions in this Attachment D, the arbitration provisions of this Attachment D shall govern. The arbitration shall take place in the City and County of San Francisco.

### Demand for Arbitration

The party seeking arbitration shall make a written demand for arbitration ("Demand for Arbitration"). The Demand for Arbitration shall contain at a minimum: (1) a cover letter demanding arbitration under this provision and identifying the entities believed to be involved in the dispute; (2) a copy of the notice of default, if any, sent from one party to the other; (3) any written response to the notice of default; and (4) a brief statement of the nature of the alleged default.

### Parties' Participation

All persons or entities affected by the dispute (including, as applicable, OEWD, Developer, Construction Contractor, Covered Contractor or Contractor and their respective Subcontractors) shall be made "**Arbitration Parties**". Any such person or entity not named as an Arbitration Party in the Demand for Arbitration may intervene as an Arbitration Party and in turn may name any other such affected person or entity as an Arbitration Party; provided that, upon request by any party, the arbitre may dismiss such party if it is not reasonably affected by the dispute.

### OEWD Request to AAA

Within seven (7) Business Days after service or receipt of a Demand for Arbitration, OEWD shall transmit to AAA a copy of the Demand for Arbitration and any written response thereto from an Arbitration Party. Such material shall be made part of the arbitration record.

### Selection of Arbitrator

One arbitrator shall arbitrate the dispute. The arbitrator shall be selected from the panel of arbitrators from AAA by the Arbitration Parties in accordance with the AAA rules. The parties shall act diligently in this regard. If the Arbitration Parties fail to agree on an arbitrator within seven (7) Business Days from the receipt of the panel, AAA shall appoint the arbitrator. A condition to the selection of any arbitrator shall be the arbitrator's agreement to: (i) submit to all Arbitration Parties the disclosure statement required under California Code of Civil Procedure Section 1281.9; and (ii) render a decision within thirty (30) days from the date of the conclusion of the arbitration hearing.

### Setting of Arbitration Hearing

A hearing shall be held within ninety (90) days of the date of the filing of the Demand for Arbitration with AAA, unless otherwise agreed by the Arbitration Parties. The arbitrator shall set the date, time and place for the arbitration hearing(s) within the prescribed time periods by giving notice by hand delivery or first class mail to each Arbitration Party.

### **Discovery**

In arbitration proceedings hereunder, discovery shall be permitted in accordance with Code of Civil Procedure §1283.05 as it may be amended from time to time.

### California Law Applies

California law, including the California Arbitration Act, Code of Civil Procedure Part 3, Title 9, §§ 1280 through 1294.2, shall govern all arbitration proceedings in the Workforce Agreement.

### **Arbitration Remedies and Sanctions**

The arbitrator may impose only the remedies and sanctions set forth below:

- a. Order specific, reasonable actions and procedures to mitigate the effects of the non-compliance and/or to bring any non-compliant Arbitration Party into compliance with the Workforce Agreement.
- b. Require any Arbitration Party (other than Developer) to refrain from entering into new contracts related to work covered by the applicable sections of the Workforce Agreement, or from granting extensions or modifications to existing contracts related to services covered by the applicable sections of the Workforce Agreement, other than those minor modifications or extensions necessary to enable completion of the work covered by the existing contract.
- Direct any Arbitration Party to cancel, terminate, suspend or cause to be cancelled, c. terminated or suspended, any contract or portion(s) thereof for failure of any Arbitration Party to comply with any of the requirements in this Workforce Agreement. Contracts may be continued upon the condition that a program for future compliance is approved by OEWD. If any Arbitration Party is found to be in willful breach of its obligations hereunder, the arbitrator may impose a monetary sanction not to exceed Twenty Five Thousand Dollars (\$25,000.00) or five percent (5%) of the base amount of the breaching party's contract, whichever is less, provided that, in determining the amount of any monetary sanction to be assessed, the arbitrator shall consider the financial capacity of the breaching party. No monetary sanction shall be imposed pursuant to this paragraph for the first willful breach of the Workforce Agreement unless the breaching party has failed to cure after being provided written notice and a reasonable opportunity to cure. Monetary sanctions may be imposed for subsequent uncured willful breaches by any Arbitration Party whether or not the breach is subsequently cured. For purposes of this paragraph, "willful breach" means a knowing and intentional breach.
- d. Direct any Arbitration Party to produce and provide to OEWD any records, data or reports which are necessary to determine if a violation has occurred and/or to monitor the performance of any Arbitration Party.

### 10. Arbitrator's Decision

The arbitrator will normally make his or her award within twenty (20) days after the date that the hearing is completed but in no event past thirty (30) days from the conclusion of the arbitration hearing; provided that where a temporary restraining order is sought, the arbitrator shall make his or her award not later than twenty-four (24) hours after the hearing on the motion. The arbitrator shall send the decision by certified or registered mail to each Arbitration Party and shall also copy all Arbitration Parties by email (if email addresses are provided).

### 11. Default Award; No Requirement to Seek an Order Compelling Arbitration

The arbitrator may enter a default award against any person or entity who fails to appear at the hearing, provided that: (1) the person or entity received actual written notice of the hearing; and (2) the complaining party has a proof of service for the absent person or entity. In order to obtain a default award, the complaining party need not first seek or obtain an order to arbitrate the controversy pursuant to Code of Civil Procedure§1281.2.

### 12. Arbitrator Lacks Power to Modify

Except as expressly provided above in this <u>Attachment D</u>, the arbitrator shall have no power to add to, subtract from, disregard, modify or otherwise alter the terms of the Workforce Agreement or to negotiate new agreements or provisions between the parties.

### 13. Jurisdiction/Entry of Judgment

The inquiry of the arbitrator shall be restricted to the particular controversy which gave rise to the Demand for Arbitration. A decision of the arbitrator issued hereunder shall be final and binding upon all Arbitration Parties. The prevailing Arbitration Party(ies) shall be entitled to reimbursement for the arbitrator's fees and related costs of arbitration. If a Subcontractor is the losing party and fails to pay the fees within 30 days, then the applicable Construction Contractor, Covered Contractor or Contractor (for whom that Subcontractor worked) shall pay the fees. Each Arbitration Party shall pay its own attorneys' fees, provided, however, those attorneys' fees may be awarded to the prevailing party if the arbitrator finds that the arbitration action was instituted, litigated, or defended in bad faith. Judgment upon the arbitrator's decision may be entered in any court of competent jurisdiction.

### 14. Exculpation

Except as set forth in Section 13 of this Attachment D, each Arbitration Party shall expressly waive any and all claims against OEWD and the City for costs or damages, direct or indirect, relating to this Workforce Agreement or the arbitration process in this Attachment D, including but not limited to claims relating to the start, continuation and completion of construction.