MEMORANDUM

October 6, 2023

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Willie Adams, Vice President
Hon. Gail Gilman
Hon. Ed Harrington
Hon. Steven Lee

FROM: Elaine Forbes
Executive Director

SUBJECT: Request approval of (1) Phase 1 Revised Final Budget; (2) Contribution of Port Capital; and (3) Parcel Lease Amendment, for the Mission Rock Project at Seawall Lot 337, bounded by China Basin Channel, Third Street, Mission Rock Street and San Francisco Bay.

DIRECTOR'S RECOMMENDATION: Approve Attached Resolution No. 23-46

EXECUTIVE SUMMARY

The Mission Rock Project's development is governed by the Disposition and Development Agreement ("DDA") and related agreements between the Port and the Developer, which were executed in August 2018. On September 24, 2019, by Resolution No. 19-39, the Port Commission approved the $145 million Mission Rock Phase 1 budget. Subsequently, despite significant constraints due to the COVID-19 pandemic, the project team successfully obtained the Phase 1 Street Improvement Permit ("SIP"), Phase 1 Final Map, and Phase 1 Notice to Proceed. On August 10, 2021, by Resolution No. 21-33, the Port Commission approved the revised Phase 1 budget reflecting increased cost for construction and regulatory oversight, and cost-saving measures to ensure Phase 1 feasibility, including a revised schedule for the construction of China Basin Park inland and shoreline components.

On September 12, 2023, Port staff provided the Port Commission with an informational presentation including a Phase 1 budget update, an overview of a proposed Port Capital investment in the project, a discussion of City Cost increases, and a preview of additional Phase 1 cost increases expected to be required in order to complete Phase 1. The presentation also previewed a proposed amendment to the Parcel Lease template. The informational item on September 12th was accompanied by an informational item and action item seeking approval to authorize the issuance of bonds through the Board of Supervisors. Legislation was introduced to the Board of Supervisors on October 3, 2023 to seek such authorization.

Today, Port staff seeks approval of these items as highlighted in this staff report, with some of these required in order to seek final approval of the bonds. The specific items include an increase in the Phase 1 budget, approval of the Port Capital contribution (subject to future appropriation), and approval of the technical Parcel Lease amendment. Note that the following report includes all of the information from the September 12, 2023 informational presentation with all new information shown in underline and all deletions shown in ~~strikethrough~~.

Despite numerous design, environmental, and economic challenges, the Mission Rock project team is nearing completion of a successful Phase 1. Phase 1 vertical construction includes four buildings: 2 primarily residential (totaling 537 units) and 2 commercial office/life science. Three of the four Phase 1 buildings have received a Temporary Certificate of Occupancy (TCO), an important milestone for the completion of the base buildings. The first residential building, The Canyon, received its first residents on June 1, 2023.

The utilities, streets, and sidewalks supporting the Phase 1 buildings have been substantially completed to support the achievement of the TCO and the waterfront park construction is ongoing, with construction completion anticipated in Q1 2024. While the project teams are proud of the progress made to date, there are anticipated budget increases required to complete Phase 1 Horizontal Improvements.

The project team has been expecting that due to several factors, the project budget would eventually need to be increased to account for the underestimated cost of City, Port, and consultant costs associated with such a large-scale, complex, and uniquely designed project. Specific to these City costs, through Phase 1 completion in 2024, including contingency to account for any carryover work in 2025, the project budget will need to increase by $16.5 million to account for this work. Port staff has reviewed, approved, and subsequently projected the remaining balance of this scope as necessary and accurate. Port staff is proposing to exercise its option to fund this budget increase as a Port Capital contribution, which earns the Port a return on its investment once repaid.

~~Although not detailed in this report,~~ In addition to the increased City and Port costs mentioned above and, in order to eventually finalize the Phase 1 budget and complete construction, the Developer notified Port staff this past July of the other remaining cost increases it expects needed to complete Phase 1. The DDA sets forth an approval process for increases to horizontal development costs provided that the costs are reasonable to fulfill the obligations of the DDA, and sufficient funding sources are anticipated to repay the Developer for these costs. These other remaining budget costs ~~are being~~ have been reviewed by the Port and its consultant. ~~will be presented in detail to the Port Commission at a subsequent meeting.~~ The Developer estimates these additional costs are expected to increase the budget by an additional ~~$13.4 -~~ $17.8 million. The funding of these other project costs is proposed to be covered through incremental developer capital, not Port Capital. Consistent with the August 2021 Phase 1 budget approval, this budget increase will rely on future phase repayment sources to repay both the Developer Capital and the proposed Port Capital.

The Developer is recommending proceeding with a total budget of $218,470,335. This budget reflects an overall budget increase from the 2021 Approved Budget of $34,374,872. Of the increase, $13,368,598 is attributable to hard costs increasing from $108,074,322 to $121,442,920. In a prior analysis shared with the Port and the Port's consultant, Hollins Consulting Inc., the Developer presented a range of hard cost increases. After additional discussion with the Developer and confirmed by Port's consultant, Port staff recommends selecting an amount equal to $13,368,598 from the range previously presented as $12,335,002 to $14,766,402.

In total, the Port staff expects the budget will need to be increased by ~~$30.0 million~~ $34.4 million to complete the Horizontal Phase 1 Improvements. This would result in a total Phase 1 Budget of ~~$214.1 million~~ $218,470,335 million as shown in **Table 1** below.

Table 1 – Expected Final Budget

Cost Item	2019 Port Approved Budget	2021 Port Approved Budget	~~Revised Budget (low)~~	Revised Budget ~~(high)~~
Hard Costs				
Hard Costs	$52,659,913	$69,385,516	~~$77,240,266~~	$78,198,463
Inland CBP	27,397,300	33,395,979	~~39,184,050~~	40,657,253
Owner Costs[1]	9,688,437	5,292,826	~~2,587,204~~	2,587,204
Total Hard Costs	89,745,650	108,074,322	~~119,011,520~~	121,442,920
Soft Costs				
General	$33,583,205	$48,476,902	~~$49,463,907~~	$50,158,218
City Costs[2]	$5,000,000	5,000,000	~~19,577,000~~	19,577,000
Developer Items	$13,461,848	$18,907,674	~~23,774,409~~	23,787,637
Open Space	$1,652,500	$1,652,500	~~1,004,580~~	1,004,580
Soft Cost Contingency	$1,984,086	$1,984,086	~~1,250,000~~	2,500,000
Total Soft Costs	$55,681,639	$76,021,161	~~95,069,896~~	97,027,435
Totals	145,427,289	184,095,483	**~~214,081,416~~**	**218,470,355**

1. *Owner Costs include contingency funds for hard costs. As the project progressed, these funds were reallocated to the Hard Costs and Inland CBP line items, which is why Owner Costs decreased over time.*
2. *In the 2019 Approved Budget, City costs were included in the General Soft Costs line item.*

Both the increased City/Port costs of $16.5 million and the other estimated project costs increases are primarily attributable to 1) sequencing complexity and project time extensions, impacting both hard and soft costs; 2) unforeseen conditions related to soils, dewatering and underground utilities; 3) enhanced security improvements and reinforcing of concrete in China Basin Park; 4) inflation and cost increases of labor and resources; and 5) increased Developer, City, and Port staff costs required to implement the project, including coordination of unique design features.

Vertical development has progressed faster than obligated through the Vertical Disposition and Development agreements. This has had a positive impact on the repayment sources available to the project, helping to partially offset the impact of the higher Phase 1 Budget. The in-place vertical development value has served as collateral for the issuance of $108.2 million in CFD / IFD bonds issued to date, a future bond issuance of up to $60M planned for fall 2023, and the earlier availability of tax increment to serve as repayment sources. The timing of the upcoming bond issuance is a key driver of project economics - for example, assuming an issuance with ~$40 million in available bond proceeds, each month after issuance saves nearly $500K of developer return accrual (and, conversely, each month of delay to a bond issuance would cause the project to incur $500K of additional accrued return).

In addition to the focus on completing Phase 1, the Port and the Developer continue to evaluate the conditions for commencing the project's second phase. While acknowledging the current market creates challenges to a feasible Phase 2, important initial steps have been taken in pursuit of future development and the team is considering all available options that increase feasibility. These steps include the development of a Basis of Design for the infrastructure required to support the Phase, the preparation of a Garage Report defining the parameters of the Phase 2 parking garage, and the Vertical Developer investment in preliminary massing studies. These initial steps ensure the team is prepared to take swift advantage of forward momentum once key economic indicators again point to a rebounding market or upon the identification of unique demand drivers such as pre-leasing. The remainder of the staff report includes the following sections:

- Project Overview and Status
- Phase 1 Increased City Costs and Budget Increase
- Cost Management
- Port Capital Contribution
- Parcel Lease Technical Amendments
- Phase 2 Update
- Next Steps

PROJECT OVERVIEW AND STATUS

Project Overview

At full build-out, the Mission Rock Project will include up to 1,200 units of new, rental housing, 1.4 million square feet of new commercial and office space, and rehabilitation of historic Pier 48, as well as space for small-scale manufacturing, retail, and neighborhood services, eight acres of parks and open spaces, and public infrastructure. Forty percent (40%) of the residential units in Mission Rock will be below market rate.

Phase 1 of the Project includes four buildings: two primarily residential apartment buildings (Parcel A, “The Canyon”, and Parcel F) totaling 537 units, and two commercial office/life science buildings (Parcel B and Parcel G) totaling approximately 620,000 square feet. Parcel G will serve as Visa’s global headquarters. Phase 1 also features nearly five acres of parks and open spaces, including pedestrian paseos and China Basin Park. The Project’s district-scale private utility systems – a blackwater recycling system and a thermal energy system – have also been constructed in Phase 1.

<u>Project Status</u>
Phase 1 horizontal and vertical improvements are nearing completion. **Table 2** below illustrates the construction progress milestones (Temporary Certificate of Occupancy) and expected occupancy dates of the four Phase 1 vertical buildings and the open space elements within the Phase.

Table 2 - Construction Status

Parcel	TCO Date	Occupancy Date	Comments
Parcel G	Jan-23	1Q24	VISA TI Work ongoing.
Parcel A	May-23	2Q23	Market rate and BMR leasing ongoing. BMR lottery occurred on 6/20/23.
Parcel B	Jun-23	TBD	Leasing ongoing.
Parcel F	Projected Jun-24	3Q24	The building is on schedule for delivery in 2Q 2024.
Horizontal - SIP	NOC: Projected Q2 2024	N/A	Improvements nearing completion and supported TCO of 3 vertical buildings.
Horizontal - CBP	NOC: Projected Q2 2024	1Q24	Park landscaping and flatwork progressing toward park opening in early 2024.

Following Port Commission approval of the Phase 1 budget in September 2019, as amended in 2021, the Project team has accomplished the following milestones:

1. Issuance of the SFPW Director’s Order authorizing the use of lightweight cellular concrete (LCC) in the project’s streets
2. Approval of project-wide Tentative Map and Phase 1 Final Map
3. Approval of China Basin Park Schematic Design
4. Issuance of Phase 1 Street Improvement Permit (SIP)
5. Issuance of Port Building Permit for China Basin Park
6. Issuance of Notice to Proceed with the installation of horizontal infrastructure
7. Secured Bond Financing for District Utilities
8. Closed on all four Phase 1 Parcel Leases
9. Approval of new street names honoring Dr. Maya Angelou and Toni Stone
10. Successful preparation, marketing, and sale of $108.2 million CFD/IFD bonds through two (2) separate issuances
11. Awarded more than $163 million in contracts to LBE partners on the project as of June 2023
12. Commenced construction of Phase 1 horizontal infrastructure, including streets, paseos, and the inland portion of China Basin Park
13. Commenced construction of all four Phase 1 vertical buildings

14. Successfully recruited, trained, and hired a diverse group for the first all women's cohort of building trade apprentices
15. Submitted Phase 2 Basis of Design to City Departments
16. Submitted Phase 2 Application to Port, including a Garage Report establishing the parameters for the Phase 2 garage structure
17. Received TCO for Buildings A, B, and G
18. Topped out structural elements of Building F and on track to receive TCO in June 2024
19. Commissioned district-scale thermal energy plant and blackwater recycling plant
20. Began market rate and BMR leasing, and welcomed first residents to The Canyon (Parcel A)
21. Signed first 5 Mission Rock retail leases
22. <u>Signed a new office lease in Parcel A</u>
23. <u>Received Port Commission authorization to seek the Board of Supervisors's approval to seek a third bond issuance</u>

The significant progress that has been made during the last four years has not come easily. The approval process for the use of lightweight cellular concrete to mitigate the settlement of the streets delayed the commencement of the horizontal infrastructure. The impacts of this delay continue to be felt today as horizontal and vertical construction has overlapped and created significant coordination challenges on the space-constrained Phase 1 site. The complexity of the ongoing public-private partnership and the infrastructure design and construction has contributed to schedule and cost impacts beyond what was originally anticipated by the project team. The site conditions, which are the product of the site's industrial history on land constructed by filling in the Bay, have also been more challenging than anticipated with soils, groundwater, and unknown underground utilities complicating construction. Most notably, construction continued throughout the entire COVID-19 pandemic, with impacts on labor and supply chains that have disrupted the construction of the project. The impacts of the pandemic have also been shocking to the real estate and capital markets, bringing commercial and residential development in San Francisco to a standstill.

Despite these conditions, the project team has outperformed the market and other comparable projects in the region. The infrastructure design and construction team has minimized design changes to the extent possible. The Port and Developer have efficiently managed park permitting and construction and were successful in cost-effectively mitigating significant groundwater impacts during the excavation of the park. The project team also started construction on Parcel F in March 2022 due to the unique financial structure of the project, including the payment of Jobs Housing Equivalency Fees by the office projects to subsidize the below-market rate housing.

Port staff and the Developer team are proud of the progress in delivering Phase 1 despite numerous headwinds and continue to work together on ways to support a successful commercial outcome in Phase 1. The success of Phase 1 directly impacts the ability to progress Phase 2 in the future. The team is actively working towards the successful occupancy and operation of the Phase and is excited for the anticipated opening of the public realm of the project - the park and paseos, streets and street rooms, and initial retailers by mid-2024.

Contracting
The Mission Rock project was one of the City's first development projects to commit to a Local Business Enterprise ("LBE") participation goal. Throughout Phase 1, the project team has worked collaboratively with the different General Contractors, City agencies, Community leaders, and businesses, to both address and implement various barrier mitigation strategies to help identify and assist local and historically underrepresented businesses to be competitive during the bid and awarding process. The recent LBE report includes $35,387,174.84 (21.6% of total LBE awards) in contracts awarded to women-owned small businesses based in San Francisco and $71,306,252.64 (43.6% of total LBE awards) in contracts awarded to minority-owned small businesses based in San Francisco. In total, $163,482,494.69 (18.3% of total awards) of contract dollars were awarded to LBE businesses. The project has awarded contracts to one of the first certified LGBTQ-certified LBE partners, Anco Iron and Construction, in addition to minority-owned partners:
AJS Painting (Interior Painting), Min Design (Street room design), Montez Group Inc. (Engineering), Micro-LBE Southeast Electric (Electrical). The project team continues to invest in the LBE partners at Mission Rock beyond these contracts. There are micro-LBEs that have worked closely with the team and grown, and Mission Rock Partners continues to offer additional support through sponsorship of technical training and business consulting support.

PHASE 1 INCREASED CITY COSTS AND BUDGET INCREASE

Phase 1 Increased City Costs
Throughout the Mission Rock project from the entitlement process continuing through today, the Port and Mission Rock Partners team has collaborated with the City agencies to help plan, review, and implement the project, particularly concerning the Project as follows:

- San Francisco Public Works ("SFPW")
- City Attorney's Office ("CAO")
- "Other" includes:
  - San Francisco Public Utilities Commission ("SFPUC")
  - San Francisco Municipal Transportation Agency ("SFMTA")
  - Misc. City Agencies

The Phase 1 Budget revision approved in 2021 included $5M for costs from City agencies for their role in reviewing and approving project infrastructure design and related documents and agreements. Since 2021, as construction on Phase 1 progressed but as the delivery schedule and acceptance schedule were extended, the project team worked through numerous technical issues with City agencies, several of which were unanticipated, including the following:

- Unique project design and materials to address projected sea level rise including the use of Lightweight Cellular Concrete ("LCC") in the project's streets
- Infrastructure design modifications
- Unforeseen subsurface conditions
- Complex contract documents requiring extensive legal review, such as the Recycled Water Purchase Agreement and the forthcoming Park Lease

- Staffing and legal support for multiple bond issuances
- Coordination and agreements to allow for utility services and opening of streets prior to acceptance
- Additional staff review of unique project conditions and specifications
- Coordination and documentation for Notice of Completion and Acceptance of City and Port improvements
- Impact of Covid-19 (specifically, supply chain and labor issues)

This broad scope of technical challenges resulted in a significant increase in City and Port staff, including their consultants and legal resources, which are involved in the review and approval of Phase 1 infrastructure. The following tables show the cost impact of this additional required staffing and resources.

Table 3A – City Agency Budgeted Amounts through Phase 1 Completion

CITY / PORT COSTS								*Total*
City Agency	**2019**	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**Phase 1**
SFPW	241,457	865,845	1,141,191	1,052,610	998,561	1,007,315	300,563	**5,607,541**
Port Staff	78,664	373,518	480,966	622,154	858,292	785,267	806,925	**4,005,787**
Consultants	276,323	668,254	559,909	513,473	1,052,271	626,977	236,320	**3,933,527**
City Attorney	666,304	262,979	1,222,911	367,420	199,976	341,463	282,961	**3,344,014**
Other	172,846	384,291	443,027	505,952	449,439	497,371	232,138	**2,685,064**
Annual Total	1,435,594	2,554,888	3,848,005	3,061,609	3,558,540	3,258,392	1,858,906	**19,575,933**

Note: FY' 23 is 3/4th actual vs. projected; FY' 24 & 25 is 100% projected

As shown in **Table 3A** above, through the completion of Phase 1 in 2024, City costs are now estimated to be $19.6M, which is nearly four times greater than estimated in the 2021 project budget. The allocation by department/type is shown in **Table 3B**:

Table 3B – Expense Allocation

CITY AGENCY	PHASE 1 TOTAL	%
SFPW	5,607,541	29%
Port Staff	4,005,787	20%
Consultants	3,933,527	20%
City Attorney	3,344,014	17%
Other	2,685,064	14%
Total	**19,575,933**	

The project DDA contemplated Phase 1 costs potentially exceeding Phase 1 sources of funds. This is because Phase 1 is burdened with much more than its share of the project's overall horizontal costs. Phase 1 includes 4 of the 12 vertical parcels, but nearly 40% of the project's horizontal improvement areas, including the inland portion of the project's signature waterfront park. Phase 1 must also support sitewide entitlement costs, a sitewide infrastructure basis of design, a project-wide Tentative Map, approval of lightweight cellular concrete, and significant precedential documentation.

Phase 1 Budget Increase
Since the Port Commission approved the updated Phase 1 budget nearly two years ago, costs anticipated to complete and close out the Phase 1 construction work have exceeded the previously approved contingency amount for the above reasons. The immediate budget increase request of $16.5 million represents an increase of approximately nine percent (9%) above the prior approved budget.

As mentioned above, the Port expects the final budget request to require an increase of ~~$30.0 million -~~ $34.45 million (inclusive of the $16.5 million for City costs). The specifics of the balance of the remaining ~~$13.4 million -~~ $17.8 million are presented below ~~will be presented in detail once finally~~ and have been reviewed and confirmed by Port staff and its consultants~~, which is actively underway~~.

The Developer recommends proceeding with a total budget of $218,470,335. This budget reflects an overall budget increase from the 2021 Approved Budget of $34,374,872. Of the increase, $13,368,598 is attributable to hard costs increasing from $108,074,322 to $121,442,920. In a prior analysis shared with the Port and the Port's consultant, Hollins Consulting Inc., the Developer presented a range of hard cost increases. After additional discussion with the Developer and as confirmed by Port's consultant, Port staff recommends selecting an amount of $13,368,598 from within the range of $12,335,002 to $14,766,402. Additionally, Port staff has reviewed the proposed associated soft costs of $4,480,899 and determined this is an appropriate projection of the necessary soft costs associated with the hard costs needed to complete the Phase. By taking the above budget increase of $17,849,497 (hard plus soft costs) along with the $16,525,375 previously presented to the Port Commission and in this staff report as the expected City Cost increase needed to complete the Phase, the Developer and Port project budget increase of $34,374,872 is appropriate.

For both City costs and the other remaining project costs, the Developer team and Port staff are committed to continuing to manage the remaining construction activities efficiently and improving budget confidence over the months ahead.

PHASE 1 COST MANAGEMENT

Throughout the design and construction of the Phase, Port staff and the Developer have worked together to evaluate potential cost reductions for delivering Phase 1, including the efforts summarized at the time of the 2021 Budget Approval. A summary of those efforts and outcomes is included in the following **Table 4**.

Table 4 – Update of Phase 1 Value Engineering Efforts and Outcomes

Description	Projected Savings in Staff Report	Actual Savings	Notes
Reduce scope of improvements			
Reduced the interim improvements at Channel Street and south of Parcel F	$300K-$600K	$50K	Given the delay of the Phase 2 improvements, approximately $250K of interim improvements have been included in the 2023 budget update to provide for steps, ramping and repairs of the areas of the asphalt in Lot A.
Pursue lower-cost design alternatives			
Requested and got a State approved variance to allow LPW line to route below an existing NPW line rather than full reroute	$100K	$100K	Variance request was approved. The plan to route the LPW below an existing NPW line was acceptable, and the additional costs to fully reroute were mitigated. These savings were realized by excluding this scope from the GMP.
Developed a less expensive pavement design for the Toni Stone Crossing transition to Terry A. Francois Blvd.	$75K	$75K	Saving were realized by utilizing an all-asphalt pavement section, in lieu of a standard DPW section for the Phase 1 temporary transition from Toni Stone to Terry A. Francois Blvd. Some savings in Phase 1, and some savings in future phases with less demo to remove and rebuild permanent grade transition.
Redesign of Blackwater recycling plant sanitary sewer system discharge to existing City sewer in Third St.	~$500k	~$500k	The original sanitary sewer connection from the blackwater recycling plant in Building B to the sewer main in Third St. was originally planned to be a gravity system, but was in conflict with PG&E existing high voltage electrical duct bank in Third St. Rather than incur a large electrical dect bank rerouting cost, the project design team worked with SFPUC to generate a workable sewer force main option and Mission Rock Utilities – the private district utility for Mission Rock – agreed to accept ownership of improvements to make the lower-cost option acceptable to SFPUC.
Convert some paver/site concrete to landscaping	$30K	$30K	Some areas of hardscape were converted to landscaping planter areas
Reduce structural soil extents while maintaining healthy growing conditions for trees –	$100K-200K	$0k	Final tree locations required some larger areas of structural soil, but to maintain load offsets the structural soil depth had to be reduced, so no net reduction in volume or costs.

Change streetscape finishes from unit pavers to decorative concrete • Savings of $2.0M for converting pavers to cast-in-place concrete • Savings of $1.0M for converting lifted grove wood decking to cast-in-place concrete	$3.0M	$1.5M ($1M for paver to CIP concrete, and $0.5M to remove wood decking at lifted grove)	Both VE decisions yielded savings, but the final cost of the cast-in-place paving was higher than originally estimated so cost savings were less than anticipated.
Eliminate stone columns and use permeable LCC at China Basin Park to reduce ground improvement cost • Savings of $2-3M for stone columns • Savings of $1-2 M for permeable LCC and related savings in earthwork excavation/disposal	$3M-$5M	$3M-$5M	The decision to not install stone columns in the Park saved $2M+, and the reduced excavation and offhaul costs associated with the use of permeable LCCPLCC saved $1M+. These savings were realized by excluding this scope from the GMP.

While unanticipated issues arise during construction, the Port staff and Developer have worked collaboratively to mitigate cost impacts in select situations. One significant example is the China Basin Park groundwater management process. The tidal influences of the groundwater encountered during park excavation challenged the team's dewatering efforts and stalled construction. Extensive walls to block the inflow of groundwater were prohibitively expensive, so the Developer and Port worked together to instead reduce the depth of the required excavation and to incorporate a new lightweight fill material, Foamed Glass Aggregate, to allow a lightweight subgrade fill to be placed in the groundwater in lieu of the planned LCC fill that could not be poured in groundwater. While there were costs associated with the timing delays, this allowed the entire schedule to restart and saved extreme cost exposures involved with cutoff walls and an additional dewatering treatment plant. Another example where the Port and Developer have worked together to mitigate cost increases to the horizontal Phase 1 Budget is related to the security enhancement scope. The Developer worked with the adjacent Vertical Developer to directly cover up to $1.1 million of cost associated with the security enhancements included in the paseo.

Drawing upon their extensive international experience in development projects, the Master Developer is poised to effectively tackle supply chain challenges. Their successful management of Phase 1 involved intricate coordination with a diverse global supplier network, and they are committed to implementing best practices and lessons learned in future phases of the project. As it relates to planning for future phases, we've incorporated an appropriately conservative amount of escalation on our hard cost estimates to account for either direct increases in costs or increases in costs due to supply chain issues (5%+ annually on top of current hard cost estimates).

At this point, well over 90% of the SIP scope had been completed and well over 60% of the China Basin Park scope has been completed, so relatively few opportunities remain for impactful value engineering. Nevertheless, the Developer and Port teams have identified additional hard and soft cost management opportunities which are reflected in the budget request:

- $325k - Defer Street Room #5 to Phase 2
- $75k - Reduce the number of wayfinding signs
- $30k – Do not add enhancements to the Third St. bike lane, and build to permit requirements (After the permit was issued, SFMTA requested the bike lane on 3rd Street to be striped green, different from the plans)
- $100k – Resolve PG&E manhole/curb conflict without relocating the manhole (PG&E has currently rejected the request to install a curb/sidewalk plate cover over their 3rd street manhole in conflict with the curb line. The additional cost is not known to relocate the MH or the MH lid).
- $50k – Efficiently manage roadway reconstruction in partnership with SFMTA (SFMTA has not approved the 3rd Street roadway reconstruction plans yet. They have mentioned that full lane closures potentially need a police officer or a traffic control guard to support overnight closures - this approach would materially increase costs for this work).
- Expedite City NOC and Acceptance process, including reduced warranty, punch work, and insurance/security costs. This includes the timely release of outstanding Payments and Performance bonds held by SFDPW as project improvements are completed. In addition, an efficient acceptance process could limit or reduce the City-reimbursable time billed to the Project.
- Expedite City review and approval of Traffic Signal IB13 design update and corresponding shop drawings. This would allow this work to proceed and reduce requirements for incremental contractor time, developer time, and insurance coverage periods.

Since the majority of the construction has been completed and the risk associated with permitting reviewing and timing is largely in the past, there is a higher level of cost certainty captured in the full budget request. A portion of the budget modification request addresses the uncertainty that remains in the completion signoff and acceptance process that will begin with the Port and City Agencies in early 2024 for the completed improvements. Developer soft costs such as insurance, legal/professional services and carry costs will be impacted by the timing and process associated with this acceptance of improvements by the City and Port. The City Reimbursable costs will also reflect the reasonable outcome of this process. The Port and Developer have been working diligently with the City to prepare for that acceptance process and improve the confidence it will be conducted within the anticipated timing.

The Master Developer will work closely with the General Contractor to proactively identify any potential deviations from the approved hard cost budget. The Master Developer will also track unanticipated scopes of work and schedule delays that may drive soft costs higher. The Master Developer will dedicate a portion of weekly Port calls and meetings to discuss various budgetary concerns. This may include but is not limited to scope changes, schedule delays, interagency communication and strategy, and any other growing concerns. The Master Developer utilizes a cost management software called PMWeb to facilitate budget tracking and will utilize outputs from this software to inform the budget detail in addition to the quarterly reports. The Master Developer will provide commentary on budget exposures on a quarterly basis, as part of the current quarterly reporting package prepared for Port staff to share as appropriate with the Port Commission.

PORT CAPITAL CONTRIBUTION

Under the terms of the DDA, both the Developer and the Port may invest at-risk capital to fund project costs. While the Port may elect to make this investment, the Developer must fund horizontal costs with Developer equity if public financing or land proceeds are not available.

~~Port staff is proposing to fund up to $16.5 million of City Costs through investment of Port Capital. This will fully fund the necessary budget increase associated with the City Costs. The remaining proposed budget increase of up to $17.8 million will be funded by Developer Capital. Each of these Port Capital Advances receives up to 10 percent interest from the effective date.~~

~~Staff is currently working with its third-party consultant to project a potential repayment schedule alongside other Phase 2 scenarios and will present that at the Port Commission meeting on October 10, 2023~~

Due to Phase 1 budget challenges, partially driven by City Costs, Port staff examined the potential benefits to the Project and Port revenues of a Port Capital investment of up to $16.53 million. While that total amount may be made, through discussion with the Developer, it is currently expected only $14.67 million will be needed to be carried as an ongoing Port Capital contribution, which is the amount already appropriated as an expenditure in Port budgets through June 30, 2024. It is expected the first $1.86 million of the Port Capital contribution will be immediately repaid by existing project sources on hand at the time the Port Capital contribution has been made (likely available tax increment as the source). If so, that will avoid any potential opportunity cost in the upcoming FY'25 Port operating budget as that will be immediately reimbursed. However, if immediately repaid as intended, the $1.86 million won't earn any return either.

The Port Capital contribution, which is expected to be made beginning in the summer of 2024, would fund the final costs to complete Phase 1 of the Project up to the approved budget of $218.45 million. As part of the agreement to provide this funding, the Port and Developer agree that this Port Capital receives a return of 10 percent from the date the Port contributes the funds. The DDA currently provides for a return of "up to 10 percent" in some instances, so the Port and Developer may need to amend that agreement accordingly in favor of the Port to account for both the fixed 10 percent and the prioritization of repayment of the first approximately $1.86 million of Port Capital. The balance of outstanding Port Capital and associated return will be repaid from project sources prior to the reimbursement of expenses in subsequent phases. **Table 5** shows how and when the Phase 1 budget is expected to be funded.

Table 5*

	Phase 1 Budget	
	Developer Payment	Port Capital
Jun-23	146,860,386	
Sep-23	7,899,086	
Dec-23	15,356,901	
Mar-24	2,802,352	
Jun-24	2,837,715	
Sep-24	26,164,974	13,869,314
Dec-24		796,730
Mar-25		711,294
Jun-25		600,425
Sep-25		271,832
Dec-25		275,780
	201,921,414	16,525,375
Total:	**$**	**218,446,789**

*Numbers and timing in the above table are approximate.

The Port Capital contribution has benefits for both the Project and the Port. Port Capital earns a lower return than Developer Capital (10% vs. 18% respectively), and therefore reduces overall return and costs for the Project. Additionally, the Port will earn a 10 percent return on this investment until it is repaid.

The following **Table 6** illustrates a potential repayment of Port Capital based upon a hypothetical Phase 2 start date of March 2026.

Table 6

Return on Port Capital					
Quarter	Port Capital Contributions	Beginning Principal	Distributions		Cumulative Interest
Sep-24	13,869,314	-			-
Dec-24	796,730	12,806,713	(1,859,331)		334,440
Mar-25	711,294	13,518,007			696,157
Jun-25	600,425	14,118,432			1,066,597
Sep-25	271,832	14,390,264			1,445,969
Dec-25	275,780	14,666,044			1,834,489
Mar-26	-	14,666,044			2,232,377
Jun-26	-	14,666,044	(2,639,861)		
	16,525,375			$	2,232,377
					+
	Amount Paid to Port 4 2024				1,859,331
	Amount Paid Port Q2 2026				16,898,421
	Port Capital + 10% Return			**$**	**18,757,752**

While the Port is earning a return of nearly $2.64 million under this payback scenario, it is also beneficial to the Project as a whole. If Developer Capital were to be used and repaid accordingly in lieu of Port Capital, the interest expense to the Project would be approximately $4.88 million. Thus, a Port Capital contribution also saves the Project an estimated $2.24 million. If the start date of Phase 2 is later than the Developer assumption of March 2026, the return on Port Capital and the net benefit to the Project of using Port Capital vs. Developer Capital will also increase.

At this time, Port Development and Finance staff support a Port Capital Contribution of up to $16.53 million, with an expectation that only $14.67 million will be needed to be held as outstanding as the $1.86 million is expected to be immediately repaid by available project sources. Upon approval by the Port Commission and to the extent necessary, Port staff will seek an appropriation (likely a supplemental appropriation due to timing constraints) of these funds through the Board of Supervisors.

PARCEL LEASE ~~TECHNICAL~~ AMENDMENTS

Developer, on behalf of its vertical parcel master tenant affiliates, has requested and Port staff recommend approval of three issues to revise the existing and future parcel leases for the Mission Rock development. Because the proposed changes are material to the Port, the proposed changes can only be approved by the Port Commission and Board of Supervisors. Each proposed change is described below.

a. Revised Definition of “Net Refinancing Proceeds”

Developer requests revising the definition of “Net Refinancing Proceeds” in each of the existing parcel leases so that new loan proceeds used to pay off prior loans are excluded from the definition of Net Refinancing Proceeds. The impact of the definition change is to decrease the Net Refinancing Proceeds; the Port is entitled to receive one and one-half percent of New Refinancing Proceeds under the parcel leases.

At the time the Parcel Lease was executed in 2020, ~~the~~ Port staff and Developer acknowledged the ~~need~~ desire to modify the Parcel Lease form in the future with respect to the Port Participation calculation. The revision to the Port Participation calculation requires approval by both the Port Commission and the Board of Supervisors, and there was no time for that process before Parcel Lease execution to occur in 2020. The current timing of this requested revision is tied to the ~~ability of the~~ Developer and its affiliates ~~to~~ seek permanent financing for completed Phase 1 Vertical Parcels, a process that is anticipated to begin in late 2023 in a challenging commercial real estate financing market. The Port ~~intends to~~ seek approval to revise the language to clarify that proceeds used to pay off the prior financing are not included in the definition of “Net Financing Proceeds”. The Port will still ~~already~~ participate alongside the Developer in the Net Refinancing Proceeds and thus, Port staff believe this amendment ~~technica~~l correction is appropriate.

b. Revised Definition of “Tenant’s Purchase Price”

Developer requests revising the definition of “Tenant’s Purchase Price” in the event that a project lender successfully forecloses on a parcel with a credit bid. In the case of such a foreclosure, the Tenant’s Purchase Price would revert to either the acquisition price under the Vertical DDA or the most recent sale price, whichever is greater.

Changing the definition of “Tenant’s Purchase Price” would impact the Port’s participation in sale proceeds under the parcel lease because the Tenant’s Purchase Price is deducted from the sale proceeds to determine before the Port’s one and one-half percent of the proceeds are calculated.

c. Revised Definition of “Total Development Costs”

Developer requests revising the definition of “Total Development Costs” for each Phase I parcel leases to account for the “Jobs/Housing Equivalency Fees” (referred to as the Affordable Housing Fee), which were paid or received by the applicable vertical master tenant.

Rent for each of the four vertical parcels in Phase I was fully prepaid at parcel lease execution. The prepaid rent for each parcel equals the appraised value of the parcel and each appraisal was performed in accordance with the DDA and accounted for the Affordable Housing Fee to be paid or received by the applicable vertical parcel master tenant.

The proposed amendment would count the payment of the Affordable Housing Fee as a cost for the non-residential parcels with a corresponding offset of costs for residential parcels. In other words, Total Development Costs would increase for Parcel B and Parcel G to account for the Affordable Housing Fee, and Total Development Costs would decrease for Parcel A and Parcel F by the same amount.

Changing the definition of “Total Development Costs” would impact the Port’s participation in future sales of the individual parcels because the Port’s participation in Net Sales Proceeds occurs after Total Development Costs are subtracted from Gross Sales Proceeds. In other words, the Port’s participation in Net Sales Proceeds for future transfers of (i) commercial parcel leases will decrease and (ii) residential leases will likely increase.

While these amendment requests were brought forward by the Developer for the Port’s consideration, Port staff is fully supportive of these as commercially reasonable or otherwise agreed to as to the intent of the parties.

Upon approval by the Port Commission, Port staff will seek authorization from the Board of Supervisors to amend the Parcel Leases.

~~In addition to this modification, throughout development and initial leasing, the Developer identified a few other recommended changes to provide clarity requested by commercial, retail, and residential subtenants and lenders. The Port is considering these requests and~~

~~to the extent any require Port Commission approval, Port staff will present those in detail along with the technical correction at a future Port Commission meeting and seek approval, which could be as soon as this October.~~

PHASE 2 UPDATE

As required pursuant to the Port Commission's 2021 approval of the revised Phase 1 budget, on December 28, 2022, Developer sent the Port its Phase 2 Submittal. Since Phase 2 will include the parking garage, the Developer also submitted the Garage Report on October 14, 2022. This report was reviewed and signed off by SFMTA and Planning, for inclusion in the Phase 2 Submittal.

As part of this submittal, a Basis of Design was completed and submitted in November 2022. The work done to date on Phase 2 feasibility allows the Master Developer to evaluate alternatives and the optimal programming for the Phase, with minimum additional spending. The Master Developer will continue to actively analyze Phase 2 feasibility options in collaboration with Port Staff while taking into consideration broader macroeconomic headwinds as well as San Francisco-specific market challenges. Fundamentally, the feasibility of Phase 2 will depend on some or all of these factors:

- Reduce project costs – Developer and the Port will work together to manage horizontal costs by working more efficiently through permitting, subdivision mapping and construction administration, and by reducing the scope of improvements required to support the Phase. The Port and Developer can reduce vertical development costs by efficiently managing the vertical parcel transactions, entitlements and permitting for each building. The Port and Developer will also evaluate other project requirements that may be modified to bring down development and operational costs.

- Promote leasing and increase project revenues – The Port and Developer will seek opportunities to make the project as competitive as possible. The team has already identified amendments to the Parcel Lease that could be pursued to make transactions with lenders and tenants less burdensome and more commercially competitive. The Port and Developer are also collaborating to make retail leasing more attractive by streamlining the permitting process for construction and the use of outdoor space for restaurants. The Port and Developer will evaluate other project requirements that may be modified to increase leasing activity and revenues for the project.

- The Master Developer worked collaboratively with the Port to identify potential changes to the model that would benefit the Phase. Some of these examples include: incorporating 15-year bond issuances later in the IFD to help pay down accruing returns, assuming fully escalated issuances throughout the Phase (increasing proceeds and therefore reducing outstanding returns faster), pulling forward Phase 2 bond issuance supported by Development Special Tax (as successfully executed in Phase 1), incorporating Phase 2 Shoreline Taxes to support an issuance in 2028, and various other changes. Incorporating Shoreline Taxes in Phase 2 generates an additional $26M (net of issuance costs) in 2028 and another $28M later in the IFD Period (~2050; Only applicable if accrued return remains outstanding to be repaid later in the IFD period).

Regarding the Phase 2 budget and preparation of Phase 2 Fair Market Valuation appraisals, the Developer has previewed with Port Staff that current market conditions (the current combination of high interest rates, high construction costs, and high commercial vacancy) do not support the minimum land values required for a viable Phase 2 budget and as such, the Developer has indicated that this element of the submittal will be deferred pending improving real estate market conditions.

Likewise, a full analysis and detailed financial model for Phase 2 is deferred and the details for Port's Ground Rent, the potential for prepaid leases as Project Sources, and other financial feasibility data, will be presented once the Fair Market Valuation process has been completed and there is increased certainty around the timing of the Phase. Prior to a Phase 2 budget, costs incurred by the Developer for Phase 2 will continue to be at the Developer's risk. Additionally, the Developer team has incurred vertical costs to support the refinement of building massing to position Phase 2 once it is financially feasible.

In addition to the Phase 2 Submittal, on November 18, 2022, the Developer submitted a Basis of Design (BOD) for Phase 2 infrastructure that leveraged the engineering and construction experience from Phase 1. It is intended that critical design assumptions will be approved by the relevant city agencies as part of the BOD submittal. The Developer has met with relevant City agencies to facilitate the City's review of the Phase 2 BOD. As many aspects of the Phase 2 BOD were reviewed and approved for Phase 1, the review process for Phase 2 and future phases is anticipated to be more efficient.

The Port Staff and Developer have been in continued communication regarding the path to Phase 2 feasibility. The Developer team has committed to monitoring the market environment that influences the timing of Phase 2, including the following macro factors influencing development:

- Construction Cost Environment: Construction cost escalation has far outpaced rent growth over the last 5 years in San Francisco and has put downward pressure on land values and project viability. The developer team has continued to engage with contractor teams on both the vertical and horizontal scopes to monitor changes in the environment.

- Commercial Office Leasing: The commercial office market in San Francisco continues to face significant headwinds from the pandemic-related work-from-home policies which have influenced the recent demand for office space, leading to higher vacancy rates, stagnant rents, and increased capital outlay related to leasing. Recent leasing and momentum around AI and the continued return to work shifts have the potential to improve market sentiment quite rapidly.

- Interest Rates and Financing Environment: The drastic increase in interest rates over the past 18 months has impacted the cost and availability of capital to support real estate development. The higher interest rate environment has also reduced the bond proceeds supported in future issuances, reducing the available repayment sources.

Port staff have engaged a third-party consultant for this purpose. ~~This~~The results of these efforts will continue to be presented in ~~more~~ detail to the Port Commission at ~~a~~ subsequent meetings and will be formally advanced during the future Phase 2 budget approval process.

NEXT STEPS

~~Staff will return to the Port Commission to seek approval of the Port Capital contribution and the initial $16.5 million budget increase. As Port staff continues to analyze the revised budget estimates the Developer needs to complete the Phase, it will also review the proposed technical amendments to the Parcel Lease before returning to the Port Commission with a recommendation on those items, which is expected to occur as soon as October 10, 2023.~~

With Port Commission approval of the attached Resolution No. 23-47, Port Staff will: 1. Finalize materials required to support the bond issuance described in this staff report and seek Board of Supervisors approval; 2. Work with the Port Finance Director to seek any needed appropriation of Port Capital as described in this staff report; 3. Seek approval from the Board of Supervisors for an amendment to the Parcel Lease as described in this staff report; 4. Continue to monitor market and financing conditions to determine the financial feasibility of Phase 2 and the Project as a whole; and 5. Monitor project costs and budgets, including preparing reports of sufficient detail for recurring presentations to the Port Commission and regular quarterly updates.

Prepared by:	Phil Williamson, Senior Project Manager
Through:	Josh Keene, Waterfront Development Manager
For:	Michael Martin, Assistant Port Director

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 23-46

WHEREAS, In January 2018, by Resolution No. 18-03, the Port Commission approved the terms of a Disposition and Development Agreement ("DDA") between the Port and the Seawall Lot 337 Associates, LLC, a Delaware limited liability company ("Developer"), and related transaction documents that are incorporated into the DDA, including but not limited to, a Financing Plan, Appendix, and a form of Parcel Lease, for the development of approximately 28-acres located along the Port's Central Waterfront and commonly referred to as "Mission Rock" (the "Project"), comprised of (1) Seawall Lot 337, bounded by Third Street on the west, Mission Rock Street on the south, Pier 48 to the east, and China Basin Park on the north; (2) Pier 48; (3) China Basin Park; (4) the marginal wharf between Pier 48 and Pier 50; and (5) Parcel P20 (collectively, the "Site"); Capitalized terms not otherwise defined herein shall have the meaning set forth in the Appendix to the DDA; and

WHEREAS, Developer is a limited liability company, which is wholly owned by TSCE 2007 Mission Rock, L.L.C. and Giants Development Services, LLC, the former is an affiliate of Tishman Speyer Properties, L.P., and the latter is an affiliate of San Francisco Baseball Associates, LLC, the Major League Baseball franchise holder of the San Francisco Giants; and

WHEREAS, In February 2018, the Board of Supervisors approved the DDA by Resolution No. 42-18, and approved the Development Agreement for the Project by Resolution No. 33-18; and

WHEREAS, On April 4, 2019, Developer submitted to the Port its "Phase Submittal" for "Phase 1" of the Project and in September 2019, by Resolution No. 19-39, the Port Commission approved the Phase 1 Budget of $145 million; and

WHEREAS, In April 2021, pursuant to the requirements in the DDA, Developer notified the Port of Phase 1 budget increases of $39.2 million (not including the "in-water" work being delayed to a later phase), and on August 10, 2023, by Resolution 21-33, the Port Commission approved a new Phase 1 Budget of $184.2 million; and

WHEREAS, In July 2023, pursuant to the requirements in the DDA, Developer notified the Port of an additional Phase 1 budget increase totaling up to $218,470,335 million; and

WHEREAS, City Costs are projected to total up to $19,575,933 million for Phase 1, significantly more than anticipated in the original budget; and

WHEREAS, The Port has the option to contribute a Port Capital Advance to fund the Mission Rock Project, and

WHEREAS, A Port Capital contribution of up to $16,525,375 million will offset increased City Costs and improve the financial feasibility of Mission Rock Phase 2; and

WHEREAS, This Port Capital Advance will earn ten percent (10%) interest and be repaid from Project Payment Sources before any Phase 2 Developer Capital or other Phase 2 costs; and

WHEREAS, Port staff and its consultant have reviewed the Developer's second Phase 1 Budget increase and determined that it meets the requirements for Port Commission approval under DDA Section 3.5(e), as further described in the memorandum accompanying this resolution, in that it: (1) is consistent with funding goals, the project requirements and satisfies the project's budget guidelines; (2) is based on reasonable projections; (3) provides for sources sufficient to fund Phase 1; (4) would not adversely affect Project Payment Sources available to satisfy the Project Payment Obligation for any Later Phases and the Project as a whole; and (5) would not impair the Port's fiduciary obligations under applicable Port laws; and

WHEREAS, Port staff believes increasing the Phase 1 Budget will not adversely affect Project Payment Sources and Project Payment Obligations for Later Phases and the Project as a whole because without this budget increase, Phase 1 has added risk of not being complete, and in any event would likely materially delay the Phase 1 completion, which would add time and cost to the Phase and the Project, resulting in significantly less likelihood of Later Phases progressing, thus resulting in no future Project Payment Sources if that is to occur; and

WHEREAS, Acknowledging the importance of future Project Phases to the Project's overall success and pursuant to the DDA, the Developer submitted the Phase 2 Submittal prior to December 31, 2022; and

WHEREAS, Because Phase 2 is not currently financially feasible, Port and Developer staff mutually agreed earlier this year to decelerate work on Phase 2 while waiting for macroeconomic conditions to improve; and

WHEREAS, Port and Developer staff will continue to work together to analyze all scenarios for a possible Phase 2 to improve the financial feasibility of the Phase and the Project as a whole, to complete the Phase 2 Submittal Process and then seek approval of the Phase 2 Budget by the Port Commission; and

WHEREAS, The actions contemplated in this resolution are within the scope of the project for which the Port Commission (Resolution No. 18-06) and the Board of Supervisors (Resolution No. 33-18) adopted on January 30, 2018 and March 6, 2018, respectively, affirmed the Planning Commission's certification of the Final Environmental Impact Report for the Seawall Lot 337 and Pier 48 Mixed-Use Project (Planning Commission Motion No. 20018) and made findings in accordance with the California Environmental Quality Act (California Public Resources Code section 21000 et. seq.) and Administrative Code Chapter 31, which resolutions are incorporated herein by reference; and

WHEREAS, If necessary, Port staff may need to seek the approval of a Supplemental Appropriation Ordinance from the Board of Supervisors to make a not-to-exceed $16,525,375 million Port Capital Advance; and

WHEREAS, The Port has executed four parcel leases with Tenants that are affiliates of Developer, including:

1. that certain Lease No. L-16703 (Mission Rock – Phase 1, Parcel A/Lot 1) Between The City And County Of San Francisco Operating By And Through The San Francisco Port Commission as Landlord and Mission Rock Parcel A Owner, L.L.C. as Tenant Dated As of October 6, 2020 (the "Parcel A Lease"), as evidenced by that certain Memorandum of Lease, dated as of October 6, 2020, by Port and Tenant Developer affiliate, and recorded in the Official Records of the City and County of San Francisco (the "Official Records") on October 7, 2020 as Document Number 2020027130 (the "Memo of Parcel A Lease"); and

2. that certain Lease No. L-16704 (Mission Rock – Phase 1, Parcel B/Lot 2) Between The City And County Of San Francisco Operating By And Through The San Francisco Port Commission as Landlord and Mission Rock Parcel B Owner, L.L.C. as Tenant Dated As of October 6, 2020 (the "Parcel B Lease"), as evidenced by that certain Memorandum of Lease, dated as of October 6, 2020, by Port and Tenant Developer affiliate, and recorded in the Official Records on October 7, 2020 as Document Number 2020027137 (the "Memo of Parcel B Lease"); and

3. that certain Lease No. L-16706 (Mission Rock – Phase 1, Parcel F/Lot 4) Between The City And County Of San Francisco Operating By And Through The San Francisco Port Commission as Landlord and Mission Rock Parcel F Owner, L.L.C. as Tenant Dated As of October 6, 2020 (the "Parcel F Lease"), as evidenced by that certain Memorandum of Lease, dated as of October 6, 2020, by Port and Tenant Developer affiliate, and recorded in the Official Records on October 7, 2020 as Document Number 2020027143 (the "Memo of Parcel F Lease"); and

4. that certain Lease No. L-16705 (Mission Rock – Phase 1, Parcel G/Lot 3) Between The City And County Of San Francisco Operating By And Through The San Francisco Port Commission as Landlord and Mission Rock Parcel G Owner, L.L.C. as Tenant Dated As of June 25, 2020 (the "Parcel G Lease"), as evidenced by that certain Memorandum

of Lease, dated as of June 25, 2020, by Port and Tenant Developer affiliate, and recorded in the Official Records on June 26, 2020 as Document Number 2020-K944596-00 (the “Memo of Parcel G Lease”); and together the Tenants of Parcel A Lease, Parcel B Lease, Parcel F Lease, and Parcel G Lease are referred to as “Developer Affiliate Tenants” for purposes of this resolution; and

WHEREAS, The Port and Developer, on behalf of Developer Affiliate Tenants, have negotiated a form amendment to revise the approved form of Parcel Lease and to amend Parcel A Lease, Parcel B Lease, Parcel F Lease, and Parcel G Lease, which form amendment would:

1. revise the definition of “Net Refinancing Proceeds” to reduce the Net Refinancing Proceeds to which Port is entitled percentage participation by the value of prior loans paid off by the refinancing; and
2. revise the definition of “Tenant’s Purchase Price” so that in the event a project lender successfully forecloses on a parcel lease with a credit bid, the value of the credit bid is discarded and either the acquisition price under the Vertical DDA or the most recent sale price is used when calculating Port’s participation in future sale proceeds; and
3. revise the definition of “Total Development Costs” for the Parcel A Lease, Parcel B Lease, Parcel F Lease, and Parcel G Lease to reflect the value of the Affordable Housing Fee that was paid for non-residential parcels (Parcel B and Parcel G) and received by residential parcels (Parcel A and Parcel F); and

together the three amendments described above are referred to as the “Parcel Lease Amendments” for purposes of this resolution and are more particularly described in the memorandum accompanying this resolution; and

WHEREAS, The Port concludes that the Parcel Lease Amendments are commercially reasonable and in the best interest of the project; now, therefore be it

RESOLVED, That the Port Commission approves the $34,374,872 million Phase 1 budget increase and finds in accordance with DDA Section 3.5(e) and for the reasons described in this resolution, that it: (1) is consistent with the funding goals and project requirements and satisfies the budget guidelines; (2) is based on reasonable projections; (3) provides for sources sufficient to fund the Phase; (4) would not adversely affect Project Payment Sources available to satisfy the Project Payment Obligation for any Later Phases; (5) would not impair the Port’s fiduciary obligations under applicable Port laws; and be it further

RESOLVED, That the Port Commission approves up to a $16,525,375 million Port Capital Advance; and be it further

RESOLVED, That, to the extent required, the Port Commission supports staff seeking the ~~approval~~ adoption of a Supplemental Appropriation Ordinance from the Board of Supervisors ~~to make~~for a not-to-exceed $16,525,375 million Port Capital Advance; and be it further

RESOLVED, The Port Commission approves ~~of~~ the Parcel Lease Amendments and, subject to the approval of the Board of Supervisors, authorizes the Executive Director, or the Executive Director's designee to execute any and all documents reasonably necessary to incorporate the Parcel Lease Amendments into the form of Parcel Lease and to amend Parcel A Lease, Parcel B Lease, Parcel F Lease, and Parcel G Lease, including but not limited to amendments to the parcel leases, and to execute and record amendments to the Memo of Parcel A Lease, Memo of Parcel B Lease, Memo of Parcel F Lease, and Memo of Parcel G Lease

RESOLVED, Port staff is directed to seek any and all necessary approvals from the Board of Supervisors to amend the form of Parcel Lease, and to amend Parcel A Lease, Parcel B Lease, Parcel F Lease, and Parcel G Lease to incorporate the Parcel Lease Amendments, as described in this Resolution; and

RESOLVED, That the Port Commission authorizes the Executive Director of the Port, or the Executive Director's designee, to enter into any amendments or modifications to the form of Parcel Lease and to Parcel A Lease, Parcel B Lease, Parcel F Lease, and Parcel G Lease that the Executive Director determines, in consultation with the City Attorney, are in the best interests of the Port, do not materially decrease the benefits to or materially increase the obligations or liabilities of the Port, and are in compliance with all applicable laws; and

RESOLVED, This Port Commission finds that (1) because the Phase 1 budget increase does not cause new significant impacts not identified in the FEIR, no new mitigation measures are necessary to reduce significant impacts; (2) no new information has become available and no changes in circumstances have occurred showing the Project would cause new significant environmental impacts or increase the severity of previously identified significant impacts; and (3) as a result, no additional environmental review is required beyond the environmental review previously conducted.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of October 10, 2023.

DocuSigned by:

Jenica Liu

Secretary

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