

ICA ATTACHMENT C:

DEVELOPER'S PROPOSED DEFERRED INFRASTRUCTURE CONCEPT

(DRAFT – FOR DISCUSSION PURPOSES ONLY)

This example describes how the Developer proposes to implement Deferred Infrastructure, subject to Developer's attainment of all required City approvals. The City has not reviewed or approved this proposal. Developer is obligated to construct all of the Horizontal Improvements for the 28-Acre Site that are described in the Infrastructure Plan, as amended by the Streetscape Master Plan when approved, but may assign responsibility for Deferred Infrastructure to Vertical Developers consisting of a limited amount of work adjacent to and/or serving their building development. Vertical Developer will perform under a contract with Developer and will be obligated to meet performance timelines tied to the occupancy of its buildings, but in no case later than the outside date of the DDA Schedule of Performance for the work. Certain types of Deferred Infrastructure, such as deferred laterals, may require an exception to the Subdivision Regulations to be granted by the Director of Public Works in accordance with the Subdivision Code, subject to City approval and possible conditions.

Developer will remain responsible for the construction and completion of the applicable Deferred Infrastructure until such time as the applicable Permitting Agency has approved the rights and obligations of Vertical Developer to construct and complete the Deferred Infrastructure separately from the rest of the associated Horizontal Improvements.

Developer shall remain the responsible party seeking reimbursement for Deferred Infrastructure as provided for in the Acquisition Agreement. Developer shall also remain the responsible party seeking formal acceptance of Deferred Infrastructure by the Board of Supervisors, except for Deferred Infrastructure located in Public Spaces.

Limitation of the scope of Deferred Infrastructure

Port allows for a limited amount of Deferred Infrastructure within Deferred Infrastructure Zones, per DDA Section 15, consisting of the following:

- (i) the area between back-of-curb and the adjacent Development Parcel boundary (or if none, the adjacent Public Spaces);
- (ii) bands up to 40 feet of Public Spaces and Mid-Block Passages adjacent to Development Parcels, and the entire portion of Market Square (OS-2) that will be built in the air parcel above Parcel D; and
- (iii) the area adjacent to Development Parcels for the installation of service infrastructure, including laterals, traps, air vents, clean-outs, meter boxes, irrigation facilities and associated pedestals, pull boxes, and secondary conduits.

Identification of Deferred Infrastructure within an application

Developer will identify elements of Deferred Infrastructure with the Basis of Design Report submitted for each Phase. With respect to the Deferred Infrastructure proposed in the Basis of Design Report, the City Agencies having regulatory jurisdiction will evaluate the proposed scope of work, limits of work (the “Deferred Infrastructure Zone” or “Zone”), and required time constraints. City Agencies, through the permitting agency, will conditionally approve with reasonable conditions, or disapprove the proposed Deferred Infrastructure. Any disapproval must be accompanied with a letter describing the reason for disapproval.

Design of Deferred Infrastructure

Improvement Plans will propose a code compliant, Streetscape Master Plan-consistent design. Design of Deferred Infrastructure that is conditionally approved in the Basis of Design Report application will continue to be developed in successive submittals of the Improvement Plans per the ICA. The limits of work for Deferred Infrastructure will be shown as “Not-in-Permit” in the Improvement Plans. The assigned Vertical Developer will then be obligated to obtain a permit for Deferred Infrastructure within the Zone. Vertical Developers may make adjustments to driveways, trees, service laterals, or other Deferred Infrastructure with the consent of Developer and subject to City approval prior to permitting.

Permitting of Deferred Infrastructure

There will be two permit reviews for Deferred Infrastructure – one in the Improvement Plans shown as Not-in-Permit, and the second in the Vertical building application. Vertical building applications will be referred to City Agencies having jurisdiction over the work and include the requirement for a street improvement permit if the work involves “back of curb” or “service” infrastructure. For efficiency, the same reviewers of the improvement plans should also review these building permit applications. Permit applications for third party utility services such as from PG&E gas, and the telecom companies will need to be included in Vertical building applications.

Construction of Deferred Infrastructure

Since the Deferred Infrastructure will be permitted by Vertical Developer, the construction will be sequenced much like an in-fill project, with the Deferred Infrastructure being built in the last quarter of those projects. Developer and Vertical Developer will execute a Vertical Coordination Agreement that includes provisions for Developer review and consent process for final Deferred Infrastructure plans, schedule of performance, Vertical Developer access to the Zone, and requirements for protections of improvements that have been previously installed by Developer, but not yet accepted. Final Inspection of Horizontal Improvements including Deferred Infrastructure will be performed by City in accordance with the formal acceptance process.