



San Francisco Assessor-Recorder
Carmen Chu, Assessor-Recorder
DOC- 2018-K656939-00

Acct 28-SFCC Board of Supervisors
Friday, AUG 17, 2018 11:35:14
Ttl Pd \$0.00 Rcpt # 0005857974
oes/ES/1-270

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

Angela Calvillo
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City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

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APN: LOT 006, BLOCK 8719; LOT 062, BLOCK 9900; LOT 046, BLOCK 9900
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Recorder's Stamp

DEVELOPMENT AGREEMENT

BETWEEN

THE CITY AND COUNTY OF SAN FRANCISCO

AND

SEAWALL LOT 337 ASSOCIATES, LLC

RELATING TO DEVELOPMENT OF CITY LAND

UNDER THE JURISDICTION OF

THE PORT COMMISSION OF SAN FRANCISCO

FOR THE MISSION ROCK PROJECT

Reference Date: August 15, 2018

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TABLE OF CONTENTS

	<u>Page</u>
1. DEFINITIONS.....	3
2. CERTAIN TERMS.....	4
2.1. Effective Dates.....	4
2.2. DA Term	4
2.3. Subdivision Maps.....	4
2.4. Relationship to DDA.....	4
2.5. Recordation and Effect	4
2.6. Relationship to Project.....	5
3. GENERAL RIGHTS AND OBLIGATIONS.....	6
3.1. Project	6
3.2. Timing of Development.....	6
3.3. Dedication of Horizontal Improvements	6
3.4. Private Undertaking	7
4. DEVELOPER OBLIGATIONS	7
4.1. Associated Public Benefits	7
4.2. Delivery; Failure to Deliver	9
4.3. Payment of Planning Costs	9
4.4. Indemnification of City.....	9
4.5. Costa-Hawkins Waiver	10
4.6. Other Requirements	11
4.7. Developer Mitigation Measures.....	11
5. VESTING AND CITY OBLIGATIONS.....	11
5.1. Vested Rights	11
5.2. Existing City Laws.....	13
5.3. New City Laws	15
5.4. Fees and Exactions.....	18
5.5. Limitations on City’s Future Discretion	21
5.6. Exceptions.....	21
5.7. Other Exceptions.....	22
5.8. Future City Approvals.....	23
5.9. Public Financing	27

6.	NO DEVELOPMENT OBLIGATION.....	28
7.	MUTUAL OBLIGATIONS.....	28
	7.1. Other Regulators	29
	7.2. Third-Party Challenge.....	29
	7.3. Estoppel Certificates	30
	7.4. Cooperation to Obtain Other Regulatory Approvals	30
8.	PERIODIC COMPLIANCE REVIEW.....	30
	8.1. Initiation or Waiver of Review	30
	8.2. Required Information from Developer	31
	8.3. City Review	31
	8.4. Certificate of Compliance	31
	8.5. Public Hearings	31
	8.6. Effect on Transferees	32
	8.7. Notice and Cure Rights.....	32
	8.8. No Limitation on City’s Rights After Event of Default	32
9.	DEFAULTS AND REMEDIES	32
	9.1. Meet and Confer	32
	9.2. DA Defaults	33
	9.3. Remedies for DA Defaults.....	33
	9.4. New City Laws	34
10.	AMENDMENT OR TERMINATION	34
	10.1. .. Amendment.....	34
	10.2. .. Termination.....	34
	10.3. .. Notice of Termination.....	34
11.	TRANSFERS, CONVEYANCES, AND ENCUMBRANCES.....	35
	11.1. .. DA Successors’ Rights	35
	11.2. .. Effect of Transfer or Assignment	35
	11.3. .. Applicable Lender Protections Control Lender Rights.....	35
	11.4. .. Requests for Notice.....	36
	11.5. .. No Third-Party Beneficiaries	36
12.	DEVELOPER REPRESENTATIONS AND WARRANTIES	36
	12.1. .. Due Organization and Standing	36
	12.2. .. No Inability to Perform; Valid Execution.....	37

12.3. .. Other Documents	37
12.4. .. No Bankruptcy	37
13. CITY REQUIREMENTS	37
14. MISCELLANEOUS	37
14.1. .. Notices	37
14.2. .. Construction of Agreement.....	38
14.3. .. Attachments	38

APPENDIX

DEPARTMENTAL CONSENTS

Consent to Development Agreement (Port Commission)

Consent to Development Agreement (SFMTA)

Consent to Development Agreement (SFPUC)

EXHIBITS

DA Exhibit A:	Project Site (legal description and diagram)
DA Exhibit B:	Site Plan
DA Exhibit C:	Project Approvals
DA Exhibit D:	Chapter 56 as of the DA Ordinance Effective Date

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DEVELOPMENT AGREEMENT

Mission Rock Project at
Seawall Lot 337 and Pier 48

This **DEVELOPMENT AGREEMENT** (“**Development Agreement**”) is between the City and County of San Francisco, a political subdivision and municipal corporation of the State of California (including its agencies and departments, the “**City**”), and Seawall Lot 337 Associates, a Delaware limited liability company (“**Developer**”) (each, a “**Party**”), and is dated as of the Reference Date in relation to the proposed Mission Rock Project (the “**Project**” or “**Mission Rock**”) at the Project Site, including Seawall Lot 337 (“**SWL 337**”) and Pier 48. This Development Agreement is entered into in conjunction with the Disposition and Development Agreement (the “**DDA**”) between the City, acting by and through the San Francisco Port Commission (the “**Port Commission**” or “**Port**”), and Developer, which establishes the Port’s and Developer’s respective rights and obligations for the Project.

RECITALS

A. The Port owns about 7 miles of tidelands and submerged lands along San Francisco Bay, including approximately 28 acres that include the Project Site, under Port jurisdiction in the central waterfront area of San Francisco. The Project Site is bounded generally by China Basin to the north, San Francisco Bay to the east, Mission Rock Street to the south, and Third Street to the west, and is more particularly described in **DA Exhibit A**.

B. Seawall lots are tidelands that were filled and cut off from the waterfront by the construction of the great seawall in the late 19th and early 20th centuries, and by the construction of the Embarcadero roadway which lies, in part, over a portion of the great seawall. Seawall Lot 337, the largest of the designated seawall lots, is located just south of China Basin and for years has been used as a surface parking lot.

C. Through legislation commonly known as SB 815, as amended by AB 2797, the California Legislature found that the revitalization of Seawall Lot 337 is of particular importance to the State of California. Under SB 815, the Port is authorized to ground lease portions of Seawall Lot 337 to permit development of Improvements that may be used for nontrust uses to enable higher economic development and revenues. Some of the revenues from these leases will be advanced to pay for public infrastructure serving the Project Site, then repaid with Project-generated lease revenues, special taxes, and property taxes. The Port will use revenues from leases permitting nontrust uses, as well as its return on funds advanced for infrastructure investment, to preserve its historic resources and for other public trust consistent uses permitted under SB 815.

D. Following a public solicitation process to implement goals and objectives developed through a multi-year community process, the Port Commission awarded Developer the opportunity to negotiate exclusively for the lease, construction, and operation of the Project Site in 2010. Negotiations resulted in a Term Sheet that the Port Commission and the Board of Supervisors endorsed in 2013.

E. The Project will be a new mixed-use neighborhood created on a site now used principally to provide parking for the Ballpark. The Project will complement and link Mission Bay to the urban fabric of the City. At build-out, the Project would include approximately

3,600,000 gsf of above-grade development and create approximately 8 acres of new and expanded parks and shoreline access.

F. SWL 337 will be divided into 12 Development Parcels shown on the Site Plan (**DA Exhibit B**). The Project will be developed in Phases, consisting of one to four Development Parcels each, under the DDA. Eleven of the parcels will provide a mix of commercial/office, retail, and market rate and affordable residential uses. The precise combination of uses will be determined by market demands as the Project progresses. A parking facility will be built on Development Parcel D2, and an additional underground parking facility may be built under Mission Rock Square. Parking on the Project Site will serve new development and other nearby uses, including San Francisco Giants baseball games and other events at the Ballpark. Most new buildings will have ground floor retail or neighborhood-serving uses.

G. Developer is the master developer for the Project Site and is responsible for subdividing and improving the Project Site with Horizontal Improvements needed or desired to serve vertical development. In accordance the DDA, the Port and Developer will enter into a Master Lease for the Project Site (except Pier 48). Under the DDA, Developer has an Option to develop Vertical Improvements on developable parcels known as Option Parcels. Each Development Parcel that the Port conveys to a Vertical Developer by a Parcel Lease will be released from the Master Lease. Horizontal and vertical development of the Project will conform to applicable provisions of the SUD, which refers to the Design Controls, the Waterfront Plan, and the DA Requirements.

H. The Port will lease Pier 48 to Developer under a separately negotiated interim lease for continued use for parking, events, and other compatible miscellaneous uses. The Port and Developer will work cooperatively to identify a long-term tenant to implement a historic rehabilitation and development plan for Pier 48 that will include a mix of uses to meet public trust requirements, including continued maritime operations on the south apron and public access.

I. On November 3, 2015, San Francisco voters approved the *Mission Rock Affordable Housing, Parks, Jobs and Historic Preservation Initiative* (Proposition D), which authorized increased height limits on SWL 337 and established a City policy to encourage development of the Project Site with the major features listed below. Proposition D amended the Zoning Map and added Section 291 to the Planning Code. Proposition D specifically provides that it is intended to encourage and implement the lease and development of the Project Site as described in SB 815 to support the purposes of the Burton Act, especially the preservation of historic piers and historic structures and construction of waterfront plazas and open space.

J. The Project is the culmination of many years of community-based planning and coordination with State Regulatory Agencies. The Project will create a vibrant mixed-use community, woven into the fabric of the surrounding Mission Bay and South Beach neighborhoods, without displacing any current residents or businesses. The Project will include between 1,000 and 1,950 new housing units, all of which are expected to be rental and 40% of which will be affordable to low- and middle-income households.

K. The Project will create approximately eight acres of major new and expanded parks, pedestrian plazas and rehabilitated public piers and wharves, and will also provide a

dynamic range of space for shops, restaurants, cafés, neighborhood-serving retail uses, such as a grocery store, and community spaces as well as commercial/office and light industrial space.

L. The Project will implement a Sustainability Strategy that provides leadership in long-term sustainability planning and design. Resilient design strategies will be implemented to respond to climate change and resulting sea level rise. The development of the under-utilized Project Site will generate significant revenues to the City and its Port, estimated at more than \$1 billion over the life of Mission Rock, including increased rent payable to the Port of San Francisco, increased property, parking and sales taxes, and development fees, as described below.

M. The Project will create an estimated 13,500 temporary construction jobs and 11,000 permanent jobs on and off-site. Planning, design, and construction work for the Project will provide substantial contracting opportunities for local contractors and professional service firms as well as many businesses, employers, and organizations.

N. To strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development, the Legislature of the State adopted the DA Statute, which authorizes the City to enter into a development agreement with any person having a legal or equitable interest in real property regarding the development of such property. Under the DA Statute, the City adopted Chapter 56, establishing procedures and requirements for entering into a development agreement under the DA Statute. The Parties are entering into this Development Agreement in accordance with the DA Statute and Chapter 56. This Development Agreement is consistent with the requirements of Chapter 56, which requires a development agreement to state its duration, permitted uses of the property, the density and intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes.

O. The Project Approvals listed on **DA Exhibit C** entitle Developer's proposed Project, and authorize Developer to proceed with development in accordance with the Project Requirements under the DDA, which include this Development Agreement. The Parties intend for all acts referred to in this Development Agreement to comply with CEQA law, the DA Statute, Chapter 56, the DA Ordinance, the SUD Amendments, and all other applicable laws in effect on the DA Ordinance Effective Date. This Development Agreement does not limit either the City's obligation to comply with CEQA Laws before taking any further discretionary action regarding the Project Site or Developer's obligation to comply with all applicable laws in the development of the Project.

AGREEMENT

1. DEFINITIONS

The attached **Appendix**, which includes *Part A, Standard Provisions and Rules of Interpretation* and pertinent definitions in *Part B, Glossary of Defined Terms*, is an integral part of this Development Agreement.

2. CERTAIN TERMS

2.1. Effective Dates. Under Administrative Code section 56.14(f), this Development Agreement will be effective on the date on which it is fully executed. The DA Ordinance authorizing this Development Agreement became effective on April 5, 2018.

2.2. DA Term. The DA Term will begin on the effective date of this Development Agreement and continue through the DDA Term, subject to the following.

(a) Horizontal Development. An extension of the DDA Term under *DDA art. 4 (Excusable Delay)* or termination under *DDA art. 11 (Material Breaches and Termination)* as to any portion of a Phase, the Project, or the Project Site, will cause the DA Term to be extended or terminated as to the same portion of the Phase, the Project, or the Project Site automatically, without any action of the Parties. Likewise, the expiration of the DDA Term will cause the expiration of the DA Term.

(b) Vertical Development. An extension of the schedule of performance of the construction and completion of the Vertical Improvement under *VDDA § 12.1(b) (Required Commencement and Completion Dates for the Vertical Project)*, or termination of the Vertical DDA under *VDDA § 15.3 (Port Remedies for Vertical Developer Default)* as to any Vertical Improvement, will cause the DA Term to be extended or terminated as to the same Vertical Improvement or Vertical DDA automatically, without any action of the Parties. Likewise, the expiration of the term of a Vertical DDA will cause the expiration of the DA Term as to any Vertical Improvement or Vertical DDA.

2.3. Subdivision Maps. The term of a Tentative Map will extend to the end of the DA Term. But the term of a Tentative Map that is approved less than five years before the DA Term ends will be extended for the maximum period permitted under Subdivision Code section 1333.3(b).

2.4. Relationship to DDA.

(a) DDA Parameters. The City has approved this Development Agreement and granted other Project Approvals listed in **DA Exhibit C** to entitle the Project. This Development Agreement is a Transaction Document under the DDA, and this Development Agreement and the DDA are included in all references to the Transaction Documents. This Development Agreement incorporates by reference the DDA, including the Infrastructure Plan and all other exhibits. The DDA and its exhibits describe certain Associated Public Benefits that Developer is required to provide and obligations that Developer is required to perform under the DDA, which include all obligations described in **Article 4** (Developer Obligations). The DDA and its exhibits are subject to modification according to their terms without Board of Supervisors approval, except for changes that would be Material Changes.

(b) Development. As specified in **Article 6** (No Development Obligation), this Development Agreement does not obligate Developer to construct any Improvements at the Project Site, nor does it govern construction activities at the Project Site.

2.5. Recordation and Effect.

(a) Recordation. The Clerk of the Board of Supervisors will present this Development Agreement and any later amendments to the Assessor-Recorder for recordation in the Official Records within 10 days after receiving fully executed and

acknowledged original documents in compliance with section 65868.5 of the DA Statute and Administrative Code section 56.16.

(b) Binding Covenants. In accordance with section 65868.5 of the DA Statute, subject to **Section 11.2** (Effect of Transfer or Assignment), upon recordation of this Development Agreement:

(i) it will be binding on and inure to the benefit of the Parties and their respective successors; and

(ii) its provisions will be enforceable as equitable servitudes and will be covenants and benefits running with the land under applicable law, including California Civil Code section 1468.

(c) Constructive Notice. This Development Agreement, when recorded:

(i) gives constructive notice to every person; and

(ii) will be binding on, and burden and benefit, any Interested Person to the extent of its interest in the Project Site.

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

2.6. Relationship to Project.

(a) Planning as Regulator. Planning is the City Agency primarily responsible for monitoring and enforcing compliance with this Development Agreement. Under this Development Agreement, Planning will act in its regulatory capacity with respect to the Project.

(b) Port as Regulator. Under the DDA, the Port will act in its regulatory capacity to:

(i) issue construction permits, certificates of occupancy, and certificates of completion for the Project;

(ii) coordinate City Agency review of Improvement Plans for Horizontal Improvements and Subdivision Maps for the Project Site in accordance with the DDA and the ICA;

(iii) coordinate City Agency review of Improvement Plans for Vertical Improvements, Deferred Infrastructure, and associated facilities and improvements in accordance with the SUD Amendments and the Design Controls; and

(iv) monitor, in coordination with Other City Agencies, Developer's compliance with the Project Requirements, including Impact Fees and Exactions.

(c) Port as Fiduciary. The City has appointed the Port to act in a fiduciary capacity as the IFD Agent responsible for implementing the IFD Financing Plan, the Financing Plan, and the Acquisition Agreement and has agreed to undertake CFD Formation Proceedings to establish the CFD and appoint the Port to act in a fiduciary capacity as the CFD Agent responsible for implementing the RMA, the Financing Plan, and the Acquisition Agreement.

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

(e) City Agencies. The Board of Supervisors intends for the City to perform under this Development Agreement through its City Agencies and has contemporaneously approved interagency Transaction Documents for the Project that describe the respective roles of the Port and Other City Agencies.

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

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

3. GENERAL RIGHTS AND OBLIGATIONS

3.1. Project.

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

(b) Project Approvals. The Parties acknowledge that, subject to any required Later Approvals, Developer:

(i) has obtained all Project Approvals from the City required to begin construction of the Project; and

(ii) may proceed with the construction in accordance with the DDA after the Entitlement Date and, upon completion, use and occupy the Project Site as a matter of right.

3.2. Timing of Development. The DDA permits the development of the Project Site in Phases. The Phasing Plan and Schedule of Performance, respectively, each as modified in accordance with the DDA, will govern the construction phasing and timing of the Project. Compliance with Impact Fees and Exactions imposed by this Development Agreement will be coordinated with schedules under the DDA and the Vertical DDAs.

3.1. Dedication of Horizontal Improvements. Development of the Project Site requires Horizontal Improvements to support the development and operation of all Development Parcels.

(a) ICA Procedures. Under the ICA, Developer will take all steps necessary to construct and dedicate Horizontal Improvements that will be under the jurisdiction of Other Acquiring Agencies to public use in accordance with the Subdivision Code, as modified by the DA Ordinance.

(b) DDA Procedures. Under the DDA, Developer will take all steps necessary to construct and dedicate Public Spaces and other public facilities that will be

under Port jurisdiction to public use in accordance with *DDA § 14.7 (Acceptance of Port Facilities)*.

3.2. Private Undertaking. Developer's proposed development of the Project Site is a private undertaking. Under the DDA, the Master Lease, the Pier 48 Lease, Vertical DDAs, and Parcel Leases, Developer or Vertical Developers will have possession and control of the Project Site, subject only to obligations and limitations imposed by those Transaction Documents and this Development Agreement.

4. DEVELOPER OBLIGATIONS

4.1. Associated Public Benefits.

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

(b) Consideration for Benefits.

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

(ii) Developer acknowledges that:

(1) the benefits it will receive provide adequate consideration for its obligation to deliver the Associated Public Benefits; and

(2) the Port would not be willing to enter into the DDA, and the City would not be willing to enter into this Development Agreement, without Developer's agreement to provide the Associated Public Benefits.

(c) Associated Public Benefits. Developer and Vertical Developers will deliver the following Associated Public Benefits under the DDA and other Transaction Documents in connection with the development of the Project.

(i) The Project will include a total of approximately eight acres of new or expanded parks, open spaces, streets, plazas, shoreline area improvements and associated publicly accessible facilities and improvements at build-out, as described generally in **DA Exhibit B** (Site Plan) and more specifically in the Infrastructure Plan and the Design Controls.

(i) At least 40% of the Residential Units developed at the Project Site will be Inclusionary Units affordable to low- and moderate-income households in compliance with the Housing Plan (*DDA Exh B5*).

(ii) Developer and Vertical Developers will implement the Transportation Exhibit (*DDA Exh B7*), including the following.

(1) Vertical Developers will pay the Transportation Fee described in **clause (i) of Subsection 5.4(b)(i)** (Impact Fees and Exactions). As indicated in the SFMTA Consent, SFMTA has agreed to apply the Total Fee Amount towards transit, bicycle, and pedestrian

improvements consistent with Planning Code section 411A.7, including Improvements that will improve transportation access and mobility in the neighborhoods surrounding the Project Site.

(2) Developer and Vertical Developers will also implement the TDM Plan in accordance with the MMRP and Transportation Plan to reduce estimated one-way vehicle trips by at least 20% from the number of trips estimated in the Project's Transportation Impact Study at Project build-out.

(iii) As described in the Sustainability Strategy (*DDA Exh B8*), Developer will:

(1) develop the Project Site with sustainable measures in accordance with the Design Controls, Infrastructure Plan, and TDM Plan, to enhance livability, health and wellness, mobility and connectivity, ecosystem stewardship, climate protection, and resource efficiency; and

(2) submit a report with each Phase Submittal for Phases after Phase 1 that describes the Project's performance towards achieving the goals and implementing the requirements and recommendations in the Sustainability Strategy.

(iv) Developer will comply with training and hiring goals for San Francisco residents and formerly homeless and economically disadvantaged individuals for temporary construction and permanent jobs under the Workforce Development Plan (*DDA Exh B6-A*), which includes a mandatory local hiring participation level of 30% per trade consistent with the policy in Administrative Code section 6.22(g)(3)(B).

(v) Vertical Developers will be required to provide opportunities for local business enterprises to participate in the economic opportunities created by the vertical development of the Project Site in compliance with the Local Business Enterprise Utilization Program (*DDA Exh B6-B*) for the Project.

(vi) The Port will be asking the Board to establish a community facilities district over the Project Site to provide a funding source for long-term management and maintenance of Public Spaces and certain portions of the Public ROWs through Services Special Taxes levied on Taxable Parcels.

(vii) Under **clause (ii) of Subsection 5.4(b) (Impact Fees and Exactions)**, in lieu of Jobs/Housing Linkage Fees, each Vertical Developer of a Commercial Project will pay Jobs/Housing Equivalency Fees that will be used to subsidize development of Inclusionary Units in accordance with the Housing Plan.

(viii) The Project design reflects strategies to respond to anticipated sea level rise.

4.2. Delivery; Failure to Deliver.

(a) Conditions to Delivery. Developer's obligation to deliver Associated Public Benefits is expressly conditioned upon each of the following conditions precedent, unless Developer's actions or inaction causes the failure of condition.

(i) Developer is not obligated to deliver Associated Public Benefits to be provided in a Phase until Regulatory Agencies have issued all Later Approvals required to begin construction of Phase Improvements.

(ii) To the extent that an Associated Public Benefit is specific to or dependent on vertical development of a Development Parcel, the applicable Vertical Developer will not be obligated to deliver the Associated Public Benefit until Regulatory Agencies have issued all Later Approvals required to begin construction of Vertical Improvements on the parcel.

(iii) All obligations to provide Associated Public Benefits will be subject to Excusable Delay under the DDA or the applicable Vertical DDA.

(b) Port's Rights if Not Delivered. If Associated Public Benefits are not delivered when required, Developer or the applicable Vertical Developer will be in default of its obligations, and the Port will be entitled to exercise its remedies under the DDA or the applicable Vertical DDA.

4.3. Payment of Planning Costs. Under the DDA, Developer will reimburse the City for Port Costs and Other City Costs. Planning will comply with *FP § 9.2 (Port Accounting and Budget)* and *ICA § 3.6 (Cost Recovery)* as a condition to obtaining reimbursement of Planning's Other City Costs. More specifically, Planning will provide quarterly statements for payment to Developer through the Port, which will be responsible for disbursing reimbursement payments from Developer, in accordance with *FP § 9.2 (Port Accounting and Budget)*.

4.4. Indemnification of City.

(a) Failure to Comply with DA Requirements. To the extent provided under the DDA, Developer agrees to indemnify the City Parties from Losses arising directly or indirectly from:

(i) any third-party claim arising from a DA Default by Developer;

(ii) Developer's failure to comply with any Project Approval or Other Regulatory Approval;

(iii) any dispute between Developer and its contractors or subcontractors relating to construction of any part of the Project; and

(iv) any dispute between Developer and any DA Successor relating to any DA Assignment or obligations under this Development Agreement.

(b) Construction Obligations. To the extent provided under the DDA and Master Lease, Developer as to the Horizontal Improvements, and to the extent provided under its Vertical DDA and Parcel Lease, each Vertical Developer as to the pertinent Vertical Improvements, agrees to indemnify the City Parties from Losses arising from:

(i) the failure of any Improvements constructed at the Project Site to comply with all applicable laws, including any New City Laws permitted under this Development Agreement; and

(ii) any accident, bodily injury, death, personal injury, or loss or damage to property caused by the construction by Developer or any DA Successor, or their agents or contractors, of any Improvements on the Project Site, or outside of the Project Site in connection with Project activities.

(c) Exclusions. Developer's and DA Successors' obligations will not apply to the extent that:

(i) the indemnification obligations are found unenforceable by a final judgment; or

(ii) the Loss is the result of the gross negligence or willful misconduct of City Parties or the breach by any City Party under a Transaction Document.

(d) Survival. The indemnification obligations under this Section will survive the DA Term.

4.5. Costa-Hawkins Waiver.

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

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

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

contribution and other forms of public assistance, the Parties understand and agree that the Costa-Hawkins Act does not apply to any Inclusionary Unit developed at the Project Site.

4.6. Other Requirements. Subject to the DA Ordinance, Developer agrees to comply with all other applicable Port and City requirements, some of which are summarized *DDA Exh A6 (Other City Requirements)*, which is incorporated by reference under **Subsection 2.4(a)** (DDA Parameters).

4.7. Developer Mitigation Measures.

(a) Monitoring. Under the DDA, Developer is obligated to implement Developer Mitigation Measures identified in the MMRP. Planning may agree to undertake monitoring Developer's compliance with specified Developer Mitigation Measures on behalf of and at the request of the Port.

(b) Transportation Measures. Developer will enter into a Transit Mitigation Agreement with SFMTA that will obligate Developer to make a fair share contribution to the cost of providing additional bus service or otherwise improving service in accordance with Mitigation Measures M-TR-4.1 and M-TR-4.4. Upon execution, the Transit Mitigation Agreement will be incorporated by reference into this Development Agreement. Developer and SFMTA may modify the Transit Mitigation Agreement consistent with the MMRP without amending this Development Agreement.

5. VESTING AND CITY OBLIGATIONS

5.1. Vested Rights.

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

(b) Effect of Final EIR. The Final EIR prepared for development of the Project Site contains a thorough analysis of the Project and possible alternatives in compliance with CEQA. The Project Approvals include resolutions by the Port Commission and the Board of Supervisors adopting CEQA Findings, including a statement of overriding considerations in accordance with CEQA Guidelines section 15093 for those significant impacts that could not be mitigated to a less than significant level.

(i) Based on the scope of review in the Final EIR, the City does not intend to conduct any further environmental review or require further mitigation under CEQA for any aspect of the Project that is vested under this Development Agreement. The City will rely on the Final EIR to the greatest extent permissible under CEQA with respect to all Later Approvals for the Project.

(ii) Developer acknowledges that the City's reliance on the Final EIR does not limit its discretion to:

(1) conduct additional environmental review in connection with any Later Approvals if required by applicable laws or unforeseen circumstances;

(2) impose conditions on any Later Approval that the City determines are necessary to mitigate adverse environmental impacts of Material Changes identified through the CEQA process or otherwise required to address significant environmental impacts in accordance with CEQA; and

(3) require additional environmental review and additional Mitigation Measures due to New City Laws or changes to the Project.

(iii) Developer will comply with all Mitigation Measures imposed as applicable to each Project component identified in the MMRP as the responsibility of the “owner” or the “project sponsor,” except for any Mitigation Measures that are expressly identified as the responsibility of a different person in the MMRP.

(c) Effect of General Plan Consistency Findings.

(i) In Motion No. 20019 adopting General Plan Consistency Findings for the Project, the Planning Commission specified that the findings also would support all Later Approvals that are consistent with the Project Approvals. To the maximum extent practicable, Planning will rely exclusively on Motion No. 20019 when processing and reviewing all Later Approvals requiring General Plan determinations.

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

(d) Vested Elements. Developer will have the vested right to develop the Project in accordance with the Project Approvals, which include the following elements (collectively, the “**Vested Elements**”):

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

(e) Applicable Laws. The Vested Elements are subject to and will be governed as specified in **Subsection 5.2(a)** (Agreement to follow Existing Policy). The expiration of a construction permit or other Project Approval will not limit the Vested Elements during the DA Term. Developer will have the right to seek and obtain Later Approvals at any time during the DA Term.

(f) Later Approvals.

(i) Each Later Approval, once granted and final, will be deemed to be a Project Approval that is automatically incorporated in, governed by, and vested under this Development Agreement.

(ii) Subject to **Subsection 5.2(f)** (Subdivision Code and Map Act), **Subsection 5.3(e)** (Circumstances Not Causing Conflict), and **Section 5.6** (Exceptions), this Development Agreement will prevail over any conflict with a Later Approval or amendment to a Project Approval, unless the Parties agree otherwise.

5.2. Existing City Laws.

(a) Agreement to Follow Existing Policy.

(i) Except as expressly provided in this Development Agreement or other Transaction Documents, during the DA Term and to the extent that the City then has jurisdiction over Later Approvals, the City will process, consider, and review all Later Approvals in accordance with the following (collectively the “**DA Requirements**”):

- (1) the Project Approvals;
- (2) the Transaction Documents; and
- (3) all applicable Existing City Laws, subject to **Section 5.3** (New City Laws).

(ii) The City agrees not to exercise its discretionary authority as to any application for a Later Approval in a manner that would change the policy decisions reflected in the DA Requirements or otherwise prevent or delay development of the Project as approved, subject to **Subsection 5.1(b)** (Effect of Final EIR).

(b) Chapter 56. The text of Chapter 56 on the DA Ordinance Effective Date is attached as **DA Exhibit D**. Chapter 56, as amended by the DA Ordinance for the Project, is an Existing City Law under this Development Agreement that will prevail over any conflicting amendments to Chapter 56 unless Developer elects otherwise under **Subsection 5.3(c)** (Developer Election).

(c) TDM Plan.

(i) In Section 169, the Board of Supervisors has expressed a strong preference that development agreements should include similar provisions that meet the goals of the TDM Program. (Planning Code § 169.1(h))

(ii) Mitigation Measure M-AQ-2.3 requires a Transportation Demand Management (TDM) Plan with a goal of reducing estimated one-way vehicle trips by 20% compared to the total number of one-way vehicle trips estimated in the Project’s Transportation Impact Study at Project build-out.

(iii) Developer’s TDM Plan is a Developer Construction Obligation under the DDA (*TP Schedule 2 to DDA Exh B7*). The TDM Plan meets the

requirements of Mitigation Measure M-AQ-2.3 and incorporates many of the strategies described in Section 169.

(iv) The City has determined that the TDM Plan will meet or exceed the goals under Section 169. Accordingly, as stated in the DA Ordinance, the Project and Project Site will be exempt from separately complying with Section 169, as long as Developer implements and complies with the TDM Plan for the required compliance period.

(v) The Zoning Administrator will arrange for the Assessor-Recorder to record a notice of the TDM Plan in accordance with Planning Code section 169.4(e).

(d) Construction Codes. Nothing in this Development Agreement will preclude the City or the Port from applying then-current Construction Codes applicable to Horizontal Improvements and Vertical Improvements as a condition to issuing any construction permit at the Project Site.

(e) Utility Infrastructure Improvements Code.

(i) Nothing in this Development Agreement will preclude the City or the Port from applying to the Project Site then-current City Laws for Utility Infrastructure for each Phase, so long as:

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

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

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

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

(iii) If the Parties are unable to agree on whether the application of then-current standards for Utility Infrastructure would cause Developer or the Vertical Developer to incur a Material Cost Increase, the Parties will submit the matter to dispute resolution procedures as described in *DDA art. 9 (Resolution of Certain Disputes)*.

(f) Subdivision Code and Map Act.

(i) The DDA authorizes Developer to file Subdivision Map applications to subdivide, reconfigure, or merge parcels in the Project Site as necessary or desirable to develop the Project. This Development Agreement does not:

(1) relieve Developer of the requirement to file Subdivision Map applications when required to obtain Later Approvals from Public Works;

(2) authorize Developer to subdivide or use any part of the Project Site for any purpose that conflicts with the Map Act or with the Subdivision Code;

(3) prevent the City from applying procedural changes for processing Subdivision Maps that do not conflict with Project Approvals; or

(4) limit the Board of Supervisors' discretionary authority to consider, consistent with the DA Requirements, any appeal of a Later Approval for any Subdivision Maps that Developer submits for the Project Site.

(ii) The Parties acknowledge that the Port, in its proprietary capacity as land owner of the Project Site, will:

(1) approve any modifications to the specific boundaries that Developer proposes for Development Parcels (subject to Planning Code section 291); and

(2) execute all Final Maps for the Project Site.

5.3. New City Laws.

(a) Applicability. All New City Laws will apply to the Project and the Project Site except to the extent that they conflict with the DA Requirements. In the event of any conflict between a New City Law and the DA Requirements, the DA Requirements will prevail, subject to **Subsection 5.3(e)** (Circumstances Not Causing Conflict) and **Section 5.6** (Exceptions).

(b) Circumstances Causing Conflict. Any New City Law will be deemed to conflict with the DA Requirements and be a Material Change if the change would:

(i) revise the DA Term;

(ii) impede or delay the timely implementation of the Project in accordance with the DA Requirements, including:

(1) Developer's rights and obligations under the Financing Plan and the Acquisition Agreement; and

(2) the rate, timing, phasing, or sequencing of Site Preparation or construction of Horizontal Improvements for the Project Site;

(iii) limit or reduce:

- (1) the density or intensity of uses of the Project or permitted under the DA Requirements on any part of the Project Site;
 - (2) the square footage, number, or change the location of proposed Vertical Improvements; or
 - (3) change any Horizontal Improvement from that permitted for the Project under the DA Requirements;
 - (iv) limit or change the height or bulk of any part of the Project, or otherwise require any reduction in the height or bulk of individual proposed Vertical Improvements from that permitted under the DA Requirements;
 - (v) limit or change the location of vehicular access or parking or the number and location of parking or loading spaces at the Project Site from that permitted under the DA Requirements;
 - (vi) limit or change any land uses for the Project from those permitted under the DA Requirements;
 - (vii) limit or change the Project Approvals or Transaction Documents;
 - (viii) decrease the Associated Public Benefits required under this Development Agreement, reduce the Impact Fees and Exactions or otherwise materially alter the rights, benefits or obligations of the City under this Development Agreement;
 - (ix) require the City or the Port to issue Later Approvals other than those required under DA Requirements, except as otherwise provided in **Section 5.4 (Fees and Exactions)**;
 - (x) limit, change, or control the availability of public utilities, services, or facilities or any privileges or rights to public utilities, services, or facilities for the Project as contemplated by the DA Requirements;
 - (xi) materially and adversely limit the processing of applications for or procuring of Later Approvals that are consistent with the Project Approvals;
 - (xii) increase or impose any new Impact Fees or Exactions for the Project, except as permitted under **Section 5.4 (Fees and Exactions)**;
 - (xiii) preclude Developer's or any Vertical Developer's performance of or compliance with DA Requirements or result in a Material Cost Increase to the Project for Developer or any Vertical Developer;
 - (xiv) increase the contracting and employment obligations of Developer, any Vertical Developer, or their contractors or subtenants above those in the Workforce Development Plan; or
 - (xv) require amendments or revisions to the forms of Vertical DDA or Parcel Lease, or to the Other City Requirements, except as set forth in **Subsection 5.3(e) (Circumstances Not Causing Conflict)**.
- (c) Non-City Standard Horizontal Improvements. The limitations in **clause (ii) and clause (iii) of Subsection 5.3(b) (Circumstances Causing Conflict)** must

not be interpreted to deem the City's and Port's Later Approvals of final design for non-City standard Horizontal Improvements, as identified in the Infrastructure Plan, to be a conflict with the Project Approvals and the Transaction Documents or be a Material Change under **Subsection 5.3(b)** (Circumstances Causing Conflict).

(d) Developer Election.

(i) Developer may elect to have a New City Law that conflicts with the DA Requirements applied to the Project by giving the City notice of Developer's election. Developer's election notice will cause the New City Law to be deemed to be an Existing City Law.

(ii) If the application of the New City Law would cause a Material Change to the City's rights or obligations under this Development Agreement, the application of such New City Laws will require the concurrence of the affected City Agencies. In no event will Developer be entitled to elect the application of a New City Law to the Project that would:

(1) decrease the Associated Public Benefits required under this Development Agreement, reduce the Impact Fees and Exactions, or otherwise materially alter the rights, benefits, or obligations of the City under this Development Agreement; or

(2) require the City or the Port to issue Later Approvals other than those required under the DA Requirements, except as otherwise provided in **Section 5.4** (Fees and Exactions);

(iii) Nothing in this Development Agreement will preclude:

(1) the City from applying any New City Law to any development that is not a part of the Project; or

(2) Developer from challenging the application of any New City Laws to any part of the Project.

(e) Circumstances Not Causing Conflict. The Parties expressly agree that the Port will be entitled to amend the forms approved at Project Approval and update the Other City Requirements to incorporate a Change to Existing City Laws if:

(i) the Change to Existing City Laws is related to building or reconstructing the seawall, protecting Port property from or adapting Port property to sea level rise, or environmental protection measures that are directly related to the waterfront location of the Project; and

(ii) the Change to Existing City Laws would not:

(1) result in a Material Cost Increase to the construction or operation of Vertical Improvements; or

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

(f) Port Role. The Port does not have the authority to approve a New City Law that is solely an exercise of the City's police powers, with or without Developer's consent under this Section. The City will obtain the Port's concurrence before applying any New City Law to the Project Site or other land under Port jurisdiction that does not have citywide application.

5.4. Fees and Exactions.

(a) Generally.

(i) The Project will be subject only to the Impact Fees and Exactions and Administrative Fees listed in this Section. The City will not impose any new Administrative Fees, Impact Fees, or Exactions on the Project or impose new conditions or requirements for the right to develop the Project Site except as set forth in the Transaction Documents.

(ii) The Parties acknowledge that the provisions contained in this Section are intended to implement their intent that:

(1) Developer will have the right to develop the Project in accordance with specified and known criteria and rules; and

(2) the City will receive benefits from the Project Site's development without abridging the City's right to exercise its powers, duties, and obligations, except as specifically provided in this Development Agreement.

(iii) Developer acknowledges that:

(1) this Section does not limit the City's discretion if Developer requests changes under *DDA § 3.7 (Changes to Phase)* or *DDA § 3.8 (Changes to Project)*; and

(2) the Chief Harbor Engineer may require proof of payment of applicable Impact Fees then due and payable as a condition to issuing certain construction permits.

(b) Impact Fees and Exactions. Developer (or Vertical Developers as applicable) will satisfy the following Exactions and pay the following Impact Fees for the Project.

(i) Transportation Fee.

(1) Each Vertical DDA for a nonresidential use will require the Vertical Developer to pay a site-specific Transportation Fee as provided in the Transportation Exhibit (*DDA Exh B7*), a copy of which is attached to the SFPUC Consent. In light of this requirement, the Transit Impact Fee under Planning Code sections 411.1-411.9 and the Transportation Sustainability Fee under Planning Code sections 411A.1-411A.8 will apply to the Project only as specified in the Transportation Exhibit.

(2) The Transportation Exhibit describes:

(A) the manner in which the Vertical Developer will pay the Transportation Fee;

(B) transportation projects in the vicinity of the Project Site that are eligible uses for Transportation Fees; and

(C) procedures that SFMTA will use to allocate an amount equal to or greater than the Total Fee Amount for eligible transportation projects.

(3) The amount of the Transportation Fee payable will be equal to the Transportation Sustainability Fee listed on the current San Francisco Citywide Development Impact Fee Register for the same land use category with annual escalation in accordance with the methodology currently provided in Section 409 to the date that the Port issues the first construction permit for the applicable Vertical Improvement. For example, the Transportation Sustainability Fee in effect on the DA Ordinance Effective Date for residential buildings with up to 99 units is \$8.60/gsf, and \$9.71/gsf of residential use in all dwelling units at and above the 100th unit in the building.

(ii) Jobs/Housing Equivalency Fee.

(1) Each Vertical DDA for a nonresidential use will require the Vertical Developer to pay to the Port the “**Jobs/Housing Equivalency Fee**” described in this Section. In consideration of these payments, the City has waived the Jobs/Housing Linkage Fee for the Project. Port will administer and use the Jobs/Housing Equivalency Fee for purposes specified in the Housing Plan in consultation with MOHCD.

(2) The Jobs/Housing Equivalency Fee listed on the current San Francisco Citywide Development Impact Fee Register for the same land use category, with annual escalation in accordance with the methodology currently provided in Section 409 to the date that the Port issues the first construction permit for each Vertical Improvement. For example, the Jobs/Housing Equivalency Fee in effect on the DA Ordinance Effective Date for net additional gsf of office use is \$26.95/gsf.

(3) Developer’s Phase Submittal will include an estimate of the Jobs/Housing Equivalency Fee payable for each Commercial Parcel and each Flex Parcel expected to be developed for commercial use. Through the Phase Budget process, the Port and Developer will establish the minimum Jobs/Housing Equivalency Fee payable for those parcels, even if the use of the designated parcels later changes.

(iii) Affordable Housing. Residential development on the Project Site will comply with the Housing Plan. In light of these requirements, Planning Code sections 415.1–415.11 will not apply to the Project.

(iv) Child Care. Each VDDA for a nonresidential use will require the Vertical Developer to pay to the Port the “**Childcare Equivalency Fee**” described in this clause. In light of this requirement, the City has waived the application of

the Child Care Fee under Planning Code sections 414.1–414.15 and sections 414A.1–414A.8 to the Project.

(1) The Child Care Equivalency Fee will be \$1.57 per gsf, with annual escalation in accordance with the methodology currently provided in Section 409 to the date that the Port issues the first construction permit for the applicable Vertical Improvement.

(2) The Child Care Equivalency Fee will be used to assist one or more Vertical Developers or their tenants to provide childcare facilities within the Project generally consistent with the purposes and intent of on-site options for commercial buildings under Planning Code section 414. Any fees collected by the Port and not used within the Project upon completion of the Project will be paid by the Port to the City's Child Care Capital Fund.

(v) Public Art. Under the DDA, public art will be provided as part of the Horizontal Improvements as described in the Design Controls. Accordingly, no Exaction or Impact Fee related to public art is required.

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

(vii) Community Facilities. Developer may offer through a Phase Submittal, or the City may request during a Phase Submittal review process, to include in one or more Phases up to a Project-wide total of 15,000 gsf of space for community facilities consistent with the approved Phase Submittal under *clause (viii) of DDA § 3.2(c)(Narrative Statement)*. Developer, in its sole discretion, may designate the location of any community facility space, which may be distributed among two or more buildings.

(c) Utility Fees.

(i) SFPUC Wastewater Capacity Charge. Each Vertical Developer will pay the SFPUC Wastewater Capacity Charge in effect on the connection or other applicable date specified by SFPUC, subject to appropriate adjustment if the Project includes a district system.

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

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

(d) Administrative Fees Generally. Developer will timely pay the City all Administrative Fees when due. Administrative Fees for the Project will be limited to the

Administrative Fees in effect on a citywide basis when Developer applies for any Later Approval for which the fee is payable. Administrative Fees are not Other City Costs.

(e) Administrative Fees for Environmental Review. If further environmental review is required for a Later Approval, Developer will reimburse the City or pay directly all reasonable and actual costs to hire consultants and perform studies necessary for the review. The City will make final decisions regarding the following matters, but before engaging any consultant or authorizing related expenditures under this provision, will consult with Developer in an effort to agree to:

- (i) the scope of work to be performed;
- (ii) the projected costs associated with the work; and
- (iii) the particular consultant that would be engaged to perform the work.

5.5. Limitations on City's Future Discretion.

(a) Extent of Limitation. In accordance with **Section 5.3** (New City Laws), the City in granting the Project Approvals and, as applicable, vesting the Project through this Development Agreement is limiting its future discretion with respect to the Project and Later Approvals to the extent that they are consistent with DA Requirements. For elements included in a request for a Later Approval that have not been reviewed or considered by the applicable City Agency previously (including additional details or plans for Horizontal Improvements or Vertical Improvements), the reviewing City Agency will exercise its discretion consistent with the Planning Code section 249.80, the other DA Requirements, and otherwise in accordance with customary practice and *App ¶ A.3.3 (Good Faith and Fair Dealing)*.

(b) Consistency with Prior Approvals. In no event will a City Agency deny issuance of a Later Approval based upon items that are consistent with the DA Requirements and matters previously approved. Consequently, the City will not use its discretionary authority to change the policy decisions reflected by the DA Requirements, or to deny a Later Approval based on items that are consistent with the DA Requirements and previously approved Later Approvals.

(c) Matters Not Limited. Nothing in this Development Agreement will limit the City's discretion with respect to:

- (i) any proposed Later Approval that would be a Material Change; or
- (ii) the Board of Supervisors' approvals of Subdivision Maps, as required by law, not contemplated by the Project Approvals.

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

5.6. Exceptions.

(a) City's Exceptions. Each City Agency having jurisdiction over the Project has police power authority to exercise its discretion with respect to Later Approvals in a

manner that is consistent with the public health, safety, and welfare and take any action that is:

(i) necessary to protect the physical health and safety of the public (the “**Public Health and Safety Exception**”); or

(ii) reasonably calculated and narrowly drawn to comply with applicable changes in federal or state law affecting the physical environment (the “**Federal or State Law Exception**”).

(b) Application of Exceptions. A City Agency will have the authority to condition or deny a Later Approval or to adopt a New City Law applicable to the Project so long as the condition, denial, or New City Law is:

(i) limited solely to addressing a specific and identifiable issue in each case required to protect the physical health and safety of the public or required to comply with a federal or state law and in each case not for independent discretionary policy reasons that are inconsistent with the DA Requirements; and

(ii) in either case applicable citywide or portwide, as applicable, to the same or similarly situated uses and applied in an equitable and nondiscriminatory manner.

(c) Amendments to Comply with Federal or State Law Changes. If a change in federal or state law that becomes effective after the DA Ordinance Effective Date materially and adversely affects either Party’s rights, benefits, or obligations under this Development Agreement, or would preclude or prevent either Party’s compliance with any provision of the DA Requirements to which it is a Party, the Parties may agree to amend this Development Agreement. Any amendment under this Subsection will be limited to the extent necessary to comply with the law, subject to **Subsection 5.6(a)** (City’s Exceptions), **Subsection 5.6(b)** (Application of Exceptions), and **Section 10.1** (Amendment).

(d) Meet and Confer; Right to Dispute.

(i) City retains sole discretion with regard to the adoption of any New City Laws that fall within the Public Health and Safety Exception. Except for emergency measures, however, the City will meet and confer with Developer before taking action under such exception to the extent feasible.

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

5.7. Other Exceptions

(a) Changes to DA Statute. The Parties have entered into this Development Agreement in reliance on the DA Statute in effect on the DA Ordinance Effective Date, a copy of which is attached as **DA Exhibit D**. Any amendment to the DA Statute that would affect the interpretation or enforceability of this Development Agreement or increase either Party’s obligations, diminish Developer’s development rights, or diminish

the City's benefits will not apply to this Development Agreement unless specifically required by law or a final judgment.

(b) Adverse Effect on Project. If adoption of any New City Law that falls within the Public Health and Safety Exception or the Federal or State Law Exception would cause a Material Change that would cause a Material Cost Increase or would cause a material and adverse effects on construction, development, use, operation, or occupancy, or impede the delivery of or decrease the Associated Public Benefits of the Project under the DA Requirements to render the Project economically infeasible, then the following will apply.

(i) Either Developer or the Port may deliver a Requested Change Notice to the other (with a copy to the City) under *DDA § 3.8 (Changes to Project)*. The notice will initiate a 90-day meet-and-confer period, subject to extension by agreement, during which Developer's obligations under this Development Agreement will be tolled except to the extent that the City, the Port, and Developer expressly agree otherwise.

(ii) If the Port and Developer agree on amendments to the Transaction Documents (or other solutions) that would maintain the benefit of the bargain during the negotiation period under *DDA § 3.8 (Changes to Project)*, the City will reasonably consider conforming changes to this Development Agreement and other Project Approvals if required. If the Port and Developer cannot resolve the issue during the 90-day period, then they will engage in nonbinding arbitration under *DDA § 9.5 (Nonbinding Arbitration)*.

(iii) If the matter remains unresolved, then either Developer or the City may terminate this Development Agreement on 30 days' prior notice to the other Party. If the Port exercises its termination right under *DDA § 3.8(e) (Failure to Agree or Approve)* or *DDA § 11.4 (Termination as Remedy)* as to any portion of the Project Site, then this Development Agreement will terminate to the same extent, as specified in **Section 2.2 (DA Term)**.

(iv) The obligation to provide Associated Public Benefits tied to any Development Parcel for which the Port has issued a construction permit and the Vertical Developer has begun construction of the Vertical Improvement will survive termination under this Subsection.

5.8. Future City Approvals.

(a) Later Approvals.

(i) City Agencies will process any Later Approval requiring City action in accordance with this Development Agreement (including Existing City Law), the ICA, the DDA, and this Section, as applicable, with due diligence.

(ii) Acquiring Agencies will process and approve amendments to the Infrastructure Plan (*DDA Exh B3*) and the Transportation Exhibit (*DDA Exh B7*) in accordance with the DDA and the *ICA § 9.2 (Amendments to ICA, Infrastructure Plan and Transportation Plan)*, subject to limitations imposed by this Development Agreement.

(b) Office Development.

(i) An Office Development Authorization from the Planning Commission under Planning Code sections 321 and 322 is not required for new office development on land under the jurisdiction of the Port Commission. But new office development on land under the jurisdiction of the Port Commission will count against the annual maximum limit under Planning Code section 321.

(ii) For the purposes of the Project, the amount of office development located on the Project Site to be applied against the annual maximum set in Planning Code section 321(a)(1) will be based on the approved building drawings for each office development. To provide for the orderly development of new office space citywide, office development for the Project will be subject to the schedule and criteria described in *DDA Exh A4 (Provisions for Office Development)*.

(c) No Actions to Impede. Except to the extent required under **Section 5.6** (Exceptions), the City will not take any action under this Development Agreement or impose any condition on the Project that would conflict with the DA Requirements due to any of the circumstances identified in **Subsection 5.3(b)** (Circumstances Causing Conflict).

(d) Standard of Review Generally. City Agencies:

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

(ii) will consider each application for a Later Approval in accordance with its customary practices, subject to the requirements of the DA Requirements and the ICA;

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

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

(e) Denial. Any City Agency that denies an application for a Later Approval will specify in writing the reasons for denial and suggest modifications required for approval, consistent with the DA Requirements. The City Agency will approve a revised or re-submitted application if it:

(i) corrects or mitigates the stated reasons for the earlier denial in a manner that is consistent and compliant with the DA Requirements; and

(ii) does not include new or additional information that does not meet the DA Requirements.

(f) SFPUC Power.

(i) In accordance with Administrative Code chapter 99, the SFPUC has performed a feasibility study and has determined that it will be able to provide electric power to the Project. SFPUC agrees that applicable SFPUC service will be reasonably available to meet the Project's needs and Developer's schedule, and

that the projected price for applicable SFPUC service and related Utility Infrastructure cost allocations are comparable to rates in San Francisco for comparable service. SFPUC will work with Developer to provide applicable SFPUC service for temporary construction and permanent use pursuant to SFPUC *Rules and Regulations for Electric Service*.

(ii) Developer understands and agrees that all applicable SFPUC service for the Project Site will be provided by SFPUC Power under the terms of an ESA to be completed between SFPUC Power and Developer. Among other things, the ESA, in addition to the ESA's standard terms and conditions, will address some or all of the following:

- (1) development schedules and milestones for applicable SFPUC service;
- (2) termination rights and costs;
- (3) offsite Utility Infrastructure requirements, development, costs, and any cost allocation;
- (4) onsite Utility Infrastructure requirements, development, costs, and cost allocations; and
- (5) Developer-provided space for SFPUC electric facilities.

(iii) The Parties agree to act in good faith to finalize the ESA within 180 days after the Reference Date. If the Parties' good faith efforts do not result in a final ESA within 180 days, the Parties will agree to a reasonable extension of time to complete the ESA. If the Parties' diligent good faith negotiations to enter into an ESA as set forth above are unsuccessful, Developer may elect to pursue alternative service arrangements.

(g) Parks Plan. The Mission Rock Public Spaces will be designed and operated with the primary goals of broad public access and a robust program of public activation. The City and Developer have agreed preliminarily on limitations that will apply to Public Spaces at the Project Site, subject to refinements adopted by the Port Commission. No later than its approval of the Phase 1 Budget, the Port Commission will adopt a Parks Plan that will include at least the following:

- (i) a proposed parks management entity responsible for maintenance, security, management, operations, programming, concessions, leasing, revenue development, and general activation of the Public Spaces, which may be a nonprofit public benefits district, community facilities district, master association, or a City Agency;
- (ii) operating budget, organization chart, operational plan, procedures and guidelines for permitting public events, maintenance plan, funding plan, security strategy, park rules and regulations, and any other information related to the successful management of the Public Space; and
- (iii) programming, activation plan, and special events plan that encourage programmed events and activities that are free and open to the

public while placing limitations on the number, type, and duration of events that may occur in each park per year.

(h) Limitations on Events. The Port Commission will adopt a Parks Plan limiting events in Public Spaces substantially in accordance with this Subsection.

(i) Events with a footprint larger than 10,000 square feet are generally limited in duration to 10 consecutive days, including setup and breakdown. The Port Director may grant exemptions for seasonal and periodic attractions or amusements that provide public or cultural benefits, such as ice skating rinks, holiday fairs, rides, and art installations.

(ii) Unless the Port Director grants an exemption in the public interest, the number and type of permitted annual events per Public Space are limited as follows:

(1) Free Public Events:

(A) unlimited Event Days of Small Events;

(B) up to 100 Event Days of Medium Events at China Basin Park not to exceed four weekend days per month; and

(C) up to 100 Event Days of Medium or Large Events at Mission Rock Square not to exceed six weekend days per month.

(2) Ticketed Public Events: 24 Event Days per year per Public Space of the 100 Event Days of free Medium Event Days at China Basin Park and 100 Free Medium Event Days at Mission Rock Square.

(3) Promotional Activations: a cumulative maximum of 5,000 square feet per year, in no more than four locations within a Public Space can occur up to 50 Event Days per year; and

(4) Private Events: a maximum of 18 Event Days per year of Small Events or Medium Events.

(5) No more than two unrelated Small Events that collectively occupy more than 10,000 square feet will be permitted to occur simultaneously in a Public Space.

(iii) The Port permitting process will:

(1) be streamlined and provide for annual permits for certain categories of events;

(2) to the extent feasible under Port regulations and BCDC permit requirements, require continuous public access to all Public Spaces, including the Bay Trail;

(iv) provide access for public group or individual reservations and City programming or activities such as Recreation and Parks Department

camp and group gatherings, a public means of reserving amenities such as ballfields, picnic tables and other areas which may be reserved within the Public Spaces through Port or Recreation and Parks Department reservation system, and a mechanism for city departments to advertise their programs;

(v) be consistent with applicable regulations for amplified sound; and

(vi) to the extent applicable, be consistent with Mission Rock Workforce Development Plan requirements.

(i) Public ROWs.

(i) The Parties will prepare and adopt an On-Site Event Management Plan to manage on-site event related travel and ensure street safety. The implementation of the Transportation Plan (and the On-Site Event Management Plan) will include Later Approvals, such as street closures of the Shared Public Way and a portion of Exposition Street to vehicular traffic in connection with identified events. Street closures will be subject to ISCOTT or any superseding permitting procedures for street closures as applicable.

(ii) Developer and Vertical Developers may submit one or more annual street closure permit applications to the City for any set of street closures involving consistent uses and event management strategies.

(iii) Developer acknowledges that:

(1) the right to use Public ROWs is not exclusive and that the City or Port may issue permits to other persons for use and occupancy, including events, with or without the consent of Developer; and

(2) the Port and City will require licensees to cover the costs of maintenance and operation attributable to any use or occupancy as a condition to issuing use permits.

5.9. Public Financing.

(a) Financing Districts. The Project Approvals include formation of Sub-Project Areas I-1 through I-13. Later Approvals will include the formation of the CFDs as described in the Financing Plan. The City agrees not to:

(i) initiate proceedings for any new or increased special tax or special assessment that is targeted or directed at the Project Site except as provided in the Financing Plan; or

(ii) take any other action that would impede implementation of the Financing Plan or the Tax Allocation MOU without Developer's consent.

(b) Limitation on New Districts. The City will not form any new financing or assessment district over any portion of the Project Site unless the new district applies to similarly-situated property citywide or Developer consents to or requests the proceedings.

(c) Permitted Assessments. Nothing in this Development Agreement limits the City's ability to impose new or increased taxes or special assessments, any equivalent

or substitute tax or assessment, or assessments for the benefit of districts formed by a vote of the affected property owners.

6. NO DEVELOPMENT OBLIGATION

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

7. MUTUAL OBLIGATIONS

7.1. Standards of Conduct.

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

(b) Standards in DDA. In addition, the Parties expressly agree that DDA § 5.5(a) (*Covenant of Good Faith and Fair Dealing*), DDA § 5.5(b) (*Cooperation and Non-Interference*), DDA § 5.5(c) (*Commercial Reasonableness*), and DDA § 5.5(e) (*Specificity of Approval*) apply to this Development Agreement, and references in those sections to the DDA will be interpreted to be similarly applicable to their actions under this Development Agreement.

(c) City.

(i) Through the procedures in the DDA and the ICA, the Port and the City have agreed to process Developer's applications for horizontal development diligently and to facilitate an orderly, efficient approval process that avoids delay and redundancies. Section 249.80 specifies procedures for design review of vertical development, with reference to the Design Controls.

(ii) The Port and the City, acting through the Treasurer-Tax Collector and the Controller, have entered into the Tax Allocation MOU, which establishes procedures to implement provisions of the Financing Documents that apply to future levy, collection, and allocation of Mello-Roos Taxes and Tax Increment and to the issuance of Bonds for use at the Project Site.

(d) Developer. Developer agrees to provide all documents, applications, plans, and other information necessary for the City to comply with its obligations under the Transaction Documents as reasonably requested in connection with any Developer

submittal or application, consistent with the design review process for vertical development in Section 249.80 and for horizontal development in the DDA and the ICA.

7.2. Other Regulators. The Port's obligations with respect to Other Regulatory Approvals that Developer and Vertical Developers will obtain for Horizontal Improvements and Vertical Improvements are addressed in *DDA § 14.4 (Regulatory Approvals)* and *VDDA §§ 5.3 (Regulatory Approvals for Vertical Project) & 12.9 (Regulatory Approvals)*, respectively.

7.3. Third-Party Challenge.

(a) Effect. A Third Party Challenge will not delay or stop the development, processing, or construction of the Project or the issuance of Later Approvals unless the third party obtains a court order enjoining the activity.

(b) Cooperation in Defense. The Parties agree to cooperate in defending any Third-Party Challenge to the validity or performance by any person in furtherance of the Project Approvals or Later Approvals. The City will notify Developer promptly after being served with any Third-Party Challenge filed against the City.

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

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

(e) Developer's Termination Option.

(i) Developer may elect to terminate this Development Agreement (and the DDA under *DDA § 11.5 (Mutual Termination Right)*) by delivering a notice to the City, with a copy to the Port, specifying a termination date at least 10 days after the notice at any time after a Third-Party Challenge is filed or a final judgment is entered limiting Developer's right to proceed with the Project under the DDA.

(ii) If Developer elects to terminate, the Parties will promptly cooperate to file a request for dismissal. Developer's and the City's obligations to cooperate in defending the Third-Party Challenge, and Developer's responsibility to reimburse the City's defense costs, will end on the Termination Date. But Developer must indemnify the City from any other liability caused by the Third-Party Challenge, including any award of attorneys' fees or costs.

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

7.4. Estoppel Certificates.

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

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

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

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

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

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

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

(d) **Cooperation to Obtain Other Regulatory Approvals.** Certain portions of the Project may require Other Regulatory Approvals. The City will reasonably cooperate with requests by Developer in connection with Developer's efforts to obtain Other Regulatory Approvals necessary or desirable for the Project.

8. PERIODIC COMPLIANCE REVIEW

8.1. Initiation or Waiver of Review.

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

(b) No Waiver. The City's failure to timely complete an Annual Review in any year during the DA Term will not waive the City's right to do so at a later date.

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

(i) For administrative convenience, the Planning Director may designate the annual date during the term of this Development Agreement when each Annual Review will begin (the “**Annual Review Date**”).

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

8.2. Required Information from Developer.

(a) Contents of Report. At the time specified under **Subsection 8.1(c)** (Planning Director’s Discretion), Developer will submit a letter to the Planning Director setting forth in reasonable detail the status of Developer’s compliance with its obligations under **Article 4** (Developer’s Obligations) and **Article 7** (Mutual Obligations). Developer will provide the requested letter within 60 days after each Annual Review Date, unless the Planning Director specifies otherwise. The letter to the Planning Director will attach appropriate supporting documentation, which may include an estoppel certificate from the Port in a form acceptable to the Port, the Planning Director, and Developer.

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

8.3. City Review. The Annual Review will be limited to determining Developer’s compliance with **Article 4** (Developer Obligations) and **Article 7** (Mutual Obligations) and whether a Prospective Default has occurred and is continuing.

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

8.5. Public Hearings. Planning will hold a public hearing under Administrative Code section 56.17(c) if: (a) the Planning Director finds that Developer is not in compliance or a public hearing is in the public interest; or (b) a member of the Planning Commission or the Board of Supervisors requests a public hearing on Developer’s compliance.

8.6. Effect on Transferees. If Developer has Transferred its rights and obligations under the DDA and this Development Agreement: (a) each Transferee will provide a separate letter reporting compliance with its obligations; and (b) the procedures, rights, and remedies under this Article and Chapter 56 will apply separately to Developer and any Transferee, each only to the extent of and to obligations attaching to each Phase for which it is obligated. This requirement does not apply to Vertical Developers.

8.7. Notice and Cure Rights.

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

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

(c) Cure Period. The Breaching Party will have a reasonable opportunity to cure its noncompliance. The cure period will not be less than 30 days and will in any case provide a reasonable amount of time for Developer to effect a cure. If Developer fails to effect a cure within the cure period under **Subsection 8.7(b)** (Required Findings) the City may begin proceedings to modify or terminate this Development Agreement under Administrative Code section 56.17(f) or section 56.18.

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

9. DEFAULTS AND REMEDIES

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

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

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

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

9.2. DA Defaults.

(a) Specific Events. The occurrence of any of the following will be a “**DA Default**” under this Development Agreement.

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

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

(b) Notice. Any notice of default given by a Party will specify the nature of the alleged failure and, where appropriate, the manner in which said failure satisfactorily may be cured, if at all.

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

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

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

9.3. Remedies for DA Defaults.

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

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

(i) Monetary damages are an inappropriate remedy for any DA Default other than nonpayment under this Development Agreement.

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

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

(c) Material Breach under DDA. For any Material Breach that results in the termination of the DDA in whole or in part, the City's exclusive remedy under this Development Agreement will be automatic and concurrent termination under **Section 2.2** (DA Term).

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

(e) Associated Public Benefits. If Associated Public Benefits are not delivered when required, the City's remedies will be enforced through the Port's rights under the DDA, outlined below.

(i) Under *DDA § 14.6 (SOP Compliance)*, the Port may withhold a determination that Developer has finally completed Phase Improvements that include Associated Public Benefits to be provided in a Phase.

(ii) The Port may declare Developer to be in Material Breach under *DDA § 11.2(h) (Development Agreement)* if Developer is found to be in noncompliance under **Article 8** (Periodic Compliance Review).

(iii) The Port may declare an event of default by a Vertical Developer under its Vertical DDA or Parcel Lease, as applicable, if it fails to meet the schedule for required delivery of an Associated Public Benefit after notice and an opportunity to cure.

9.4. New City Laws. Under section 65865.4 of the DA Statute, either Party may enforce this Development Agreement regardless of any New City Laws unless this Development Agreement has been terminated by agreement under **Article 10** (Amendment or Termination), by termination proceedings under Chapter 56, or by termination under **Section 2.2** (DA Term) or **Subsection 9.3(c)** (Material Breach under DDA).

10. AMENDMENT OR TERMINATION

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

10.2. Termination. This Development Agreement may be terminated in whole or in part by: (a) the Parties' agreement or as specifically provided otherwise in this Development Agreement, the DA Statute, or Chapter 56; or (b) by termination under **Section 2.2** (DA Term) or **Subsection 9.3(c)** (Material Breach under DDA).

10.3. Notice of Termination. At the request of either Party, the Parties will execute a recordable notice of the early termination of this Development Agreement as to any affected part

of the Project Site. The requesting Party will be responsible for presenting the acknowledged notice for recordation in the Official Records.

11. TRANSFERS, CONVEYANCES, AND ENCUMBRANCES

11.1. DA Successors' Rights. Applicable provisions of this Development Agreement will apply to Developer's and a Vertical Developer's transferees (each, a "**DA Successor**") under *DDA art. 6 (Transfers)* and *VDDA art. 19 (Transfers and Assignments)*. Each DA Successor will be assigned specified rights and obligations under this Development Agreement by an Assignment and Assumption Agreement in the form of *DDA Exh B11* or by provisions in the Vertical DDA (each, a "**DA Assignment**"). Each DA Assignment will be recorded in accordance with the DDA or Vertical DDA, as applicable. Each DA Assignment will provide for Developer or the pertinent Vertical Developer to be released from obligations under this Development Agreement to the extent assumed by the DA Successor.

11.2. Effect of Transfer or Assignment. After the effective date of a DA Assignment, the following will apply.

(a) Direct Enforcement Against Successor. The City will have the right to enforce directly against the DA Successor every obligation under this Development Agreement that the DA Successor assumed under the DA Assignment.

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

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

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

11.3. Applicable Lender Protections Control Lender Rights.

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

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

(c) City's Rights and Obligations.

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

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

(iii) Subject to **Subsection 11.3(d)** (Foreclosure Purchaser), no breach by Developer, a Vertical Developer, or a DA Successor of any obligation secured by an Encumbrance will defeat or otherwise impair the Parties' rights or obligations under this Development Agreement.

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

11.4. Requests for Notice.

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

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

11.5. No Third-Party Beneficiaries. Except for DA Successors with vested rights and obligations at the Project Site and to the extent of any Interested Person's rights under the DDA, any Vertical DDA, Parcel Lease, or this Development Agreement, the City and Developer do not intend for this Development Agreement to benefit or be enforceable by any other persons.

12. DEVELOPER REPRESENTATIONS AND WARRANTIES

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

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

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

12.4. No Bankruptcy. Developer represents and warrants to the City that Developer has neither filed nor is the subject of any Insolvency petition or and, to the best of Developer's knowledge, no action is threatened.

13. CITY REQUIREMENTS

The City acknowledges that Developer and Vertical Developers are required to comply the MMRP (*DDA Exh A5*), Other City Requirements (*DDA Exh A6*), the Workforce Development Plan and Local Business Enterprise Utilization Plan (*DDA Exh B6-A&B*), the Transportation Exhibit (*DDA Exh B7*), and other DDA requirements that further City policies and that the Port, in coordination with Other City Agencies, will be responsible for primarily responsible for monitoring compliance, subject to **Article 8** (Periodic Compliance Review).

14. MISCELLANEOUS

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

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

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

With a copy to: Dennis J. Herrera, Esq.
 City Attorney
 City Hall, Room 234
 1 Dr. Carlton B. Goodlett Place
 San Francisco, CA 94102
 Attn: Land Use Team

To Developer: Seawall Lot 337 Associates, LLC
c/o San Francisco Giants
24 Willie Mays Plaza
San Francisco, CA 94107
Attn: Jack Bair, General Counsel

Telephone: (415) 972-1755
Facsimile: (415) 972-2317
Email:jbair@sfgiants.com

14.2. Construction of Agreement. In the event of a conflict between any provision of this Development Agreement and Chapter 56, this Development Agreement will control. All other provisions of Appendix Part A (Standard Provisions and Rules of Interpretation) apply to this Development Agreement.

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

EXHIBITS

DA Exhibit A:	Project Site (legal description and diagram)
DA Exhibit B:	Site Plan
DA Exhibit C:	Project Approvals
DA Exhibit D:	Chapter 56 as of the DA Ordinance Effective Date

[Remainder of page intentionally left blank.]

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

DEVELOPER:

SEAWALL LOT 337 ASSOCIATES, LLC,
a Delaware limited liability company

CITY:

**CITY AND COUNTY OF SAN
FRANCISCO,** a municipal corporation

By Giants Development Services, LLC
Its Member

By: Laurence M. Baer
Laurence M. Baer
Its: President and Chief Operating Officer

Date: July 30, 2018

SIGNED IN COUNTERPART

By: _____
John Rahaim
Director of Planning

Date: _____

Authorized by Ordinance No. 33-18.

APPROVED AND AGREED:

By: _____
Naomi Kelly
City Administrator

By: _____
Mohammad Nuru,
Director of Public Works

APPROVED AS TO FORM:

Dennis J. Herrera, City Attorney

By: _____
Deputy City Attorney

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 John Rahaim
 Director of Planning

Date: July 30, 2018

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By: _____
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Date: _____

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City Administrator

By: SIGNED IN COUNTERPART
Mohammad Nuru,
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Date: _____

By: SIGNED IN COUNTERPART
John Rahaim
Director of Planning

Date: _____

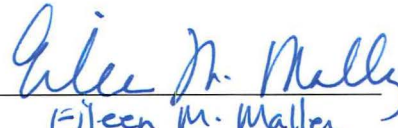
Authorized by Ordinance No. 33-18.

APPROVED AND AGREED:

By: SIGNED IN COUNTERPART
Naomi Kelly
City Administrator

By: SIGNED IN COUNTERPART
Mohammad Nuru,
Director of Public Works

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

By: 
Eileen M. Malley
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.

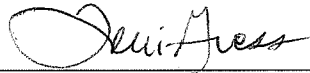
State of California)
County of San Francisco)

On JULY 30, 2018, before me, TERRI GUESS, a Notary Public, personally appeared Laurence M. Baer, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature





without executing an amendment. A Party may impose reasonable conditions on an extension of the other Party's time to cure a default. No extension of time will release any of the obligations subject to the extension or waive the granting Party's rights in relation to any other term, covenant, or condition of or any other default in the performance or breach of the Transaction Document under which the extension is granted.

(ii) Any extension of time requiring Port Commission approval must be made by a resolution adopted at a noticed public meeting. All other extensions will be made by a countersigned writing.

(c) No Deemed Approval or Consent Without Notice. Unless expressly and unequivocally stated in any Transaction Document or other agreement between the Parties, deemed approval or consent will only occur on the following conditions.

(i) The Party seeking consent must send notice by electronic mail, addressed to one or more line staff responsible for the specific matter for which consent is sought at least five, but no more than seven, business days before the response period has ended, stating in the subject line, "*Immediate Action Required To Avoid Deemed Consent*" or words to the same effect.

(ii) If the electronic mail notice under **clause (i)** is not delivered timely, the responding Party will not be deemed to have consented until the sixth business day after the notice is delivered. The response may be delivered by the addressee or other person authorized to act on the responding Party's behalf.

(d) Waivers. Unless otherwise specified in a Transaction Document, none of the following circumstances will waive an Aggrieved Party's rights or remedies with respect to an Event of Default or Material Breach, including its right to prosecute any actions it deems necessary to enforce its rights or remedies.

(i) Party's failure to give notice or delay in giving notice or asserting any of its rights or remedies as to an Event of Default or Material Breach will not waive or delay the date on which the Event of Default or Material Breach occurs.

(ii) A Party's waiver as to a specific Event of Default, Material Breach, right, or remedy will not be a waiver of any other Event of Default, Material Breach, right, or remedy.

(e) Responsibility for Costs. The Party on which any obligation is imposed in any Transaction Document will be solely responsible for paying all costs incurred in performing the obligation, unless specifically provided otherwise.

2.3. Successors. The Parties are entering into the Transaction Documents only for the protection and benefit of the Parties and their successors, subject to **DDA art. 6** (Transfers), **DDA art. 17** (Lender Rights), **DA art. 11** (Transfers, Conveyances, and Encumbrances), and correlating provisions in any other Transaction Documents.

2.4. Third Party Beneficiaries. Developer is an explicitly recognized third-party beneficiary under the ICA and the Tax Allocation MOU. Transferees and Vertical Developers are third-party beneficiaries to the extent that they acquire development rights under the DDA. Interested Persons have rights as specified in the Applicable Lender Protections. No other persons have third-party rights under any Transaction Document.

2.5. No Limitation on Unrelated Rights. The rights and remedies under the Transaction Documents do not supersede or preclude any Party's exercise of its rights and remedies under other agreements and documents, or of the City, the Port, or any other Regulatory Agency to require compliance with any Regulatory Approval or other entitlement granted for the Project.

1.6. Other Necessary Acts. Each Party will execute, acknowledge, and deliver to the other all other documents and take other actions that are reasonably necessary to implement, and provide each Party with all of its rights under, any Transaction Document.

1.7. Enforceability. Developer and the Port each represents and warrants to the other that its execution and delivery of, and the performance of its obligations under the Transaction Documents have been duly authorized by all necessary action, and will not conflict with, result in any violation of, or be a default under, any provision of any agreement or other instrument binding on or applicable to it, or any present law or court decree. If Developer signs as a corporation, limited liability company, or a partnership, each of the persons executing the Transaction Documents on behalf of Developer represents and warrants that Developer is a duly authorized and existing entity, that Developer has and is qualified to do business in California, that Developer has full right and authority to enter into the Transaction Documents, and that each of the persons signing on Developer's behalf is authorized to do so. At the Port's request, Developer must provide the Port with evidence satisfactory to the Port confirming these representations and warranties.

1.8. No Gift or Dedication. Unless explicitly stated otherwise, no Transaction Document will be deemed to be a gift or dedication of any portion of the Project Site to the general public, for the general public, or for any public use or purpose. Developer has the right to prevent or prohibit the use of any portion of the Project Site it owns or controls, including common areas and buildings and improvements, by any persons for any purpose inimical to the operation of a private, integrated mixed-use project as contemplated by the Transaction Documents.

2. PARTIES AND PERFORMANCE.

2.1. Joint and Several Liability. If Developer consists of more than one person, then the obligations of each under any Transaction Document to which it is a Party will be joint and several, but in no event will any Developer be jointly and severally liable with any other Developer under any Transaction Document.

2.2. Performance Generally.

(a) Time.

(i) Time is of the essence in the performance of all of the terms and conditions of each Transaction Document.

(ii) Subject to this Paragraph, all required performance dates including cure deadlines, expire at 5:00 p.m. Pacific Standard or Daylight Savings Time, as applicable, on the stated date, unless extended under the Transaction Document under which performance is due. Any reference to a week, quarter, or month without reference to a specific day will mean the last day in the period.

(iii) If a Party must give notice or take any other action within a specified minimum number of days that would not fall on a business day, then the Party must take the action on the preceding business day. For example, if a Party is required to give at least five days' prior notice of an action and the fifth day before the desired action falls on a Sunday, the Party must give notice by the preceding business day.

(iv) In all other cases, if the last day of any period to take an action occurs on a day that is not a business day, then the last day for undertaking the action is extended to the next business day. For example, if a Party has 30 days to cure an Event of Default, and the 30th day is a Saturday, the Party would have until the next business day to effect the cure.

(b) Extensions of Time.

(i) Each Party to a Transaction Document, acting in its sole discretion, may agree to extend the date for the other Party's performance of any term, covenant, or condition, or the other Party's exercise of any rights under the Transaction Document,

PART A: STANDARD PROVISIONS AND RULES OF INTERPRETATION

This Appendix consists of **Part A** (standard provisions and rules of interpretation) and **Part B** (glossary of defined terms). **Part A** is an integral part of the DDA and other Transaction Documents for the Mission Rock Project. **Part B** provides defined terms for the DDA and certain other Transaction Documents.

1. TRANSACTION DOCUMENTS.

1.1. Entire Agreement. The Transaction Documents collectively (including this Appendix and all preamble paragraphs, recitals, exhibits, schedules, other attachments, and Consents) contain all of the representations and warranties and the entire agreement, and supersede all prior correspondence, memoranda, agreements, warranties, and representations, between the Parties with respect to the matters they address. No prior drafts of any Transaction Document or changes from those drafts to the executed versions may be introduced as evidence in any litigation or other dispute resolution proceeding by any person, and no court or other body may consider those drafts in interpreting any Transaction Document.

1.2. Counterparts. The Transaction Documents may be executed in multiple counterparts, each of which will be deemed to be an original and that together will be one instrument. Parties may deliver their counterparts by electronic mail or other electronic means of transmission.

1.3. Exhibits and Schedules. This Appendix and each exhibit are a part of the Transaction Document to which they are attached or into which they are expressly incorporated by reference. Each schedule attached to a Transaction Document is provided for reference when implementing the Project. The Parties agree that this Appendix and all attachments may be revised from time to time by agreement based on changed circumstances and experience in the course of the Project. Each Party (including any applicable affected Transferee) will confirm its agreement by signing the revised document in counterparts, which will be deemed to be attached to each counterpart of the revised document and will supersede the document being revised.

1.4. Advance Writings Required.

(a) Amendments and Waivers. Any amendment or waiver of any provision of any Transaction Document must be in writing and signed on behalf of each Party by a person authorized to do so. Material modifications to Transaction Documents may require the approval of either or both the Port Commission and the Board of Supervisors, each of which may give or withhold approval in its sole discretion unless explicitly stated otherwise.

(b) Approvals and Waivers. Whenever a Party's approval or waiver is required: (i) the approval or waiver must be obtained in advance and in writing; and (ii) except as specified otherwise, the Party whose approval or waiver is sought must not unreasonably withhold, condition, or delay its approval or waiver, as applicable.

(c) Specific Application. A Party's waiver or consent in reference to another Party's performance of or any condition to its obligations under a Transaction Document will not be a waiver of or consent to any other performance or condition.

1.5. Technical Changes. The applicable Parties may correct any inadvertent error in any Transaction Document that is contrary to their mutual intention in the identification or characterization of or any reference to any title exception, legal description, boundaries of any parcel, map or drawing, or the text, or otherwise agree to minor changes that do not affect the delivery of Associated Public Benefits. Any agreed change will be effected by a signed memorandum or initialed replacement pages, neither of which will be deemed an amendment of a Transaction Document as long as any adjustments are relatively minor and do not result in a material change as determined by the Port in consultation with counsel. A change memorandum or replacement pages will become a part of the affected Transaction Document when fully executed or initialed.

16.1.	Calendar Periods.....	9
16.2.	Business Days	9
17.	STATUTORY REFERENCES.....	9
18.	NO PARTY DRAFTER.....	9

5.3.	Effective Date.....	6
5.4.	Interested Persons.....	6
5.5.	Change of Address	6
5.6.	Convenience Copies.....	6
6.	PAYMENT DEMANDS	6
6.1.	Application	6
6.2.	Demand	7
6.3.	Time for Payment.....	7
7.	USAGE GUIDELINES FOR DEFINED TERMS.....	7
7.1.	Definitions in Glossary.....	7
7.2.	Capitalization.....	7
7.3.	Correlating Terms Included	7
7.4.	Definitional Context.....	7
8.	INCONSISTENT PROVISIONS.....	7
8.1.	General Rule	7
8.2.	Examples	7
9.	HEADINGS AND REFERENCES.....	8
9.1.	Headings.....	8
9.2.	References Generally	8
9.3.	Within Transaction Documents	8
9.4.	To Other Documents	8
10.	ATTRIBUTED AND DELEGATED ACTS AND OBLIGATIONS	8
10.1.	Delegated Actions	8
10.2.	Transferred Obligations.....	8
10.3.	Successor Public Bodies	8
10.4.	Successor Public Officials	8
11.	TRANSFERRED RIGHTS	9
12.	RECITALS	9
13.	WORDS OF INCLUSION.....	9
14.	GENDER AND NUMBER	9
15.	NUMERALS	9
16.	TIME PERIODS.....	9

TABLE OF CONTENTS

	<u>Page</u>
1. TRANSACTION DOCUMENTS	1
1.1. Entire Agreement	1
1.2. Counterparts	1
1.3. Exhibits and Schedules	1
1.4. Advance Writings Required	1
1.5. Technical Changes	1
1.6. Other Necessary Acts	2
1.7. Enforceability	2
1.8. No Gift or Dedication	2
2. PARTIES AND PERFORMANCE	2
2.1. Joint and Several Liability	2
2.2. Performance Generally	2
2.3. Successors	3
2.4. Third Party Beneficiaries	3
2.5. No Limitation on Unrelated Rights	3
2.6. No Joint Venture or Partnership	4
2.7. Survival	4
3. GOVERNING LAW	4
3.1. Construction of Transaction Documents	4
3.2. Countervailing Law	4
3.3. Good Faith and Fair Dealing	4
4. ACTIONS	4
4.1. Attorneys' Fees	4
4.2. Jurisdiction and Venue	5
4.3. Severability	5
4.4. Limitations on Liability of the Parties	5
5. NOTICES	6
5.1. Manner of Delivery	6
5.2. Required Information	6

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**CITY AND COUNTY OF SAN FRANCISCO
LONDON N. BREED, MAYOR**

**APPENDIX TO TRANSACTION DOCUMENTS
FOR THE
MISSION ROCK PROJECT**

**ELAINE FORBES
EXECUTIVE DIRECTOR**

SAN FRANCISCO PORT COMMISSION

**KIMBERLY BRANDON, PRESIDENT
WILLIE ADAMS, VICE PRESIDENT
GAIL GILMAN, COMMISSIONER
VICTOR MAKRAS, COMMISSIONER
DOREEN WOO HO, COMMISSIONER**

AUGUST ____, 2018

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APPENDIX

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Copied

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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 San Francisco)

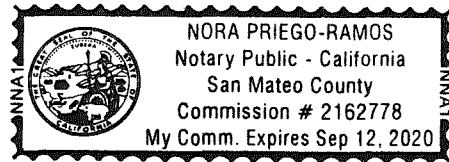
On July 30, 2018, before me, Nora Priego-Ramos, a Notary Public, personally appeared John Rahaim, who proved to me on the basis of satisfactory evidence to be the person~~s~~ whose name~~s~~ ~~is~~ are subscribed to the within instrument and acknowledged to me that he~~she~~ they executed the same in his~~her~~ their authorized capacity~~(ies)~~, and that by his~~her~~ their signature~~s~~ on the instrument the person~~s~~, or the entity upon behalf of which the person~~s~~ acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Nora Priego-Ramos



2.6. No Joint Venture or Partnership. Nothing in any Transaction Document to which Developer is a Party, or in any document Developer executes in connection with the Transaction Documents, will create a joint venture or partnership between the City and Developer or between the Port and Developer. Developer is not acting as the agent of the City or the Port, nor is the City or the Port acting as the agent of Developer or any Vertical Developer in any respect under any Transaction Document. Developer is not a state or governmental actor with respect to any of its activities under the Transaction Documents.

2.7. Survival. Except as provided otherwise, termination or expiration of the DDA or any other Transaction Document will not affect: (a) any obligation to indemnify under any Transaction Document; (b) any provision of any Transaction Document that expressly survives expiration or termination; (c) rights and obligations as to Adequate Security for an obligation arising before termination or expiration; or (d) rights and obligations under the Financing Plan or the Acquisition Agreement to the extent related to an obligation arising before termination or expiration of the DDA.

3. GOVERNING LAW.

3.1. Construction of Transaction Documents. The Transaction Documents are governed by and must be construed under the laws of the State of California and the Charter. All references in the Transaction Documents to local, regional, state, or federal laws means those laws as amended from time to time, except as limited by the Development Agreement or to the extent explicitly stated otherwise.

3.2. Countervailing Law. If any applicable state or federal law prevents or precludes compliance with any material provision of a Transaction Document, **App ¶ A.4.3** (Severability) will apply. Alternatively, the Parties may agree to modify, amend, or suspend the affected Transaction Document to the extent necessary to comply with law in a manner that preserves to the greatest extent possible the intended benefits to the City, the Port, and Developer.

3.3. Good Faith and Fair Dealing. In all situations arising under the Transaction Documents, each Party must attempt to avoid and minimize the damages resulting from the other's conduct and take all reasonably necessary measures to implement the Transaction Documents. The Transaction Documents are subject to the covenant of good faith and fair dealing applicable to contracts under California law. Accordingly, Developer and the Port each covenants, on behalf of itself and its successors, to take all actions and to execute, with acknowledgment or affidavit if required, all documents necessary to achieve the objectives of the Transaction Documents to the extent consistent with applicable law.

4. ACTIONS.

4.1. Attorneys' Fees.

(a) Prevailing Party.

(i) Should any Party file an action permitted or required under any Transaction Document, the prevailing Party will be entitled to recover its reasonable costs, including attorneys' fees, plus interest at the maximum amount allowed under law, from the losing Party.

(ii) The ICA and the Tax Allocation MOU are specifically excepted from this prevailing party provision.

(b) Fee Schedules. For attorneys in the Office of the City Attorney, attorney fee rates will be based on the fees regularly charged by private attorneys with an equivalent number of years of professional experience (calculated by reference to earliest year of admission to the bar of any state) who practice in San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney. For in-house counsel, attorney fee rates will be based on the same criteria, with amounts based on law firm rates where the office of in-house counsel is located.

4.2. Jurisdiction and Venue. All obligations under each Transaction Agreement are to be performed in the City and County of San Francisco. Each Party, by executing a Transaction Document, agrees that venue is proper in and consents to the jurisdiction of the Superior Court for the City and County of San Francisco.

4.3. Severability. Unless specifically provided otherwise, a final judgment invalidating any provision of any Transaction Document, or its application to any person, will not affect any other provision of the Transaction Document or its application to any other person or circumstance. All other provisions of the Transaction Document will continue in full force and effect, except to the extent that enforcement of the Transaction Document as affected by the final judgment would be unreasonable or grossly inequitable under all the circumstances or would frustrate a fundamental purpose of the Transaction Documents.

4.4. Limitations on Liability of the Parties.

(a) No Personal Liability of City Parties. Under no circumstances will any individual board member, director, commissioner, officer, employee, official, or agent of the City or the Port be personally liable to Developer for any Event of Default by a City Party or for any amount payable to a Developer Party under any Transaction Document.

(b) No Personal Liability of Developer Parties. Under no circumstances will any individual board member, director, officer, employee, official, partner, employee, or agent of Developer or any Affiliate of Developer be personally liable to any City Party for any Event of Default by a Developer Party or for any amount payable to a City Party under any Transaction Document. DA Successors are specifically recognized as Developer Parties for the purpose of this provision.

(c) No Consequential, Punitive, or Special Damages. Developer, the Port, and the City would not have entered into the Transaction Documents to which they are Parties if they could be liable for indirect or consequential, punitive, or special damages. Accordingly, Developer, the Port, and the City each waives any Claims against, and covenants not to sue, the other Party to any Transaction Document for indirect, consequential, punitive, or special damages, including loss of profit, loss of business opportunity, or damage to goodwill.

(d) No Effect on Other Rights. This Paragraph will not affect any Party's right to recover actual damages and attorneys' fees awarded by an Arbiter's decision or a court's final judgment for a Claim arising from a Breaching Party's failure to: (i) pay any sum when due under any Transaction Document; or (ii) satisfy an indemnity under any Transaction Document. The right to enforce a final decision or judgment will not be limited by **subparagraph (e)** of this Paragraph.

(e) Project Payment Sources. Except as otherwise provided in any Transaction Document, Developer agrees that its rights to payment in the implementation of the Project are limited as follows.

(i) All obligations of the Port or the City arising out of or related to each Transaction Document are special and limited obligations of the Port and the City, as applicable. The Port's and the City's respective obligations to make payments to implement any Transaction Document are restricted strictly to Project Payment Sources described in the Financing Plan, and only to the extent those sources are available.

(ii) More specifically, in no event may Developer compel: (1) the City to use funds in or obligate the City's General Fund; or (2) the Port to use funds in or obligate the Port Harbor Fund except as described in the Financing Plan, in either case to reimburse Developer's Horizontal Development Costs, pay any other costs associated with the Project, or satisfy any Developer Claim under any Transaction Document.

(f) Liability of Others. Unless specifically provided otherwise, the Parties agree that no Agents of the Port or of the City or of their successors or assigns will be personally liable to Developer or any Vertical Developer, and no Agents of Developer or any Vertical Developer or of

their successors or assigns will be personally liable to the Port or the City, for any default or breach or for any payment or performance that becomes due under any Transaction Document. This Subsection does not release or waive the obligations of any person with a direct legal obligation under applicable law, such as the general partner of a limited partnership or any Obligor providing Adequate Security for a specified obligation.

5. NOTICES.

5.1. Manner of Delivery. Unless otherwise specified in a Transaction Document, any notices (including notice of approval or disapproval, demands, waivers, and responses to any of them) required or permitted under any Transaction Document must be delivered by: (a) hand delivery; (b) first class United States mail, postage prepaid, return receipt requested; or (c) overnight delivery by a nationally recognized delivery service or the United States Postal Service, delivery charges prepaid.

5.2. Required Information. To be effective, a notice must be in writing or be accompanied by a cover letter that, to the extent applicable:

- (a) cites the section of the Transaction Document under which the notice is given;
- (b) indicates whether a response or other action is required and, if so, the period of time within which the recipient must respond or otherwise act;
- (c) for a Prospective Default or Prospective Breach, is prominently marked "*Notice of Default*" or "*Notice of Material Breach*" and specifies the cure period;
- (d) is clearly marked "*Request for Approval*" if approval is being requested;
- (e) if denying or objecting to a request for approval, states with particularity the reasons for the disapproval or objection; and
- (f) if explicitly permitted under the Transaction Document, states that failure to respond to the notice within the stated time period will be deemed to be the recipient's approval of the subject matter of the notice.

5.3. Effective Date. Subject to **App ¶ A.2.2(a)** (Time), a notice will be deemed to be delivered and effective:

- (a) on the date personal delivery actually occurs;
 - (b) on the business day after the business day it is deposited for overnight delivery;
- or
- (c) on the date of actual delivery or on which delivery is refused as shown on the return receipt if mailed.

5.4. Interested Persons. Interested Persons may request copies of notices that the Port or the City delivers to Developer by providing notice to the Port or the City. Developer will have the sole responsibility for providing information to any Interested Person desiring notice. Neither the Port nor the City will incur liability for failure to provide notice to any Interested Person.

5.5. Change of Address. Notices must be delivered to the addresses for notice as specified in the Transaction Documents, unless superseded by a notice of a change in address for notices that is delivered in accordance with **App ¶ A.5.1** (Manner of Delivery).

5.6. Convenience Copies. Except as explicitly permitted under specific circumstances, a Party must not give notice by facsimile or electronic mail, but any Party may deliver a copy of a notice by facsimile or electronic mail as a courtesy or for convenience. The effective date of a notice will not be affected by delivery of a convenience copy by facsimile or electronic mail.

6. PAYMENT DEMANDS.

6.1. Application. The following procedures will apply to any demand from one Party to the other Party for payment whenever payment procedures are not specified in the Transaction Document

under which demand is made. These procedures do not apply to Payment Requests made under the Acquisition Agreement.

6.2. Demand. The Party seeking payment must deliver its demand for payment to the other Party together with proof of payment. The Party obligated to pay will have the right to engage a CPA to review the other Party's claimed costs, and the Party seeking payment must cooperate in providing information necessary for the review. The Party conducting the review will bear its own costs unless the review reveals that the other Party's costs are overstated by 5% or more, in which case, the amount of the reimbursement will be reduced by the amount of the review costs.

6.3. Time for Payment. Except when other procedures are specified in a Transaction Document, or during any period of review or dispute resolution, the Party obligated to make payment must satisfy the payment demand within 30 days after receipt of the demand for payment.

7. USAGE GUIDELINES FOR DEFINED TERMS.

7.1. Definitions in Glossary. The glossary in **Appendix Part B** contains definitions for terms used in the primary Transaction Documents, or specifies the Transaction Document where terms are defined.

7.2. Capitalization. Defined terms that are not capitalized in this Appendix are not capitalized when used in the Transaction Documents.

7.3. Correlating Terms Included. Each defined term must be interpreted to encompass all correlating plural and singular nouns, verb tenses and forms, adjectives, adverbs, and other forms of the term. The following examples of the application of definitions to correlating terms are illustrative only and are not intended to limit the application of the examples used or the meaning of this Paragraph.

- "Assign" applies to "Assignment," "Assignee," "Assignor," and "Assigned."
- "Begin construction" applies to "began to construct," "beginning construction," and "has begun to construct."
- "Indemnify" applies to "indemnity," "indemnification," and "indemnitor."
- "substantial completion" applies to "Substantially Complete."
- "Third party" applies to "third-party" and "third parties."
- "Waive" applies to "waiver," "waivers," "waived," and "waiving."

7.4. Definitional Context. In some instances, defined terms apply only to certain circumstances or may have different meanings in different contexts. In those instances, the definition will be identified as specific to a situation. The following examples are illustrative only and are not intended to limit the application of the examples used or the meaning of this Paragraph.

- "final completion" and "substantial completion" as used in reference to Horizontal Improvements and Vertical Improvements incorporate conditions specific to each type of Improvement.
- The "Parties" to one Transaction Document may be different from the "Parties" to another Transaction Document.

8. INCONSISTENT PROVISIONS.

8.1. General Rule. Developer and the City Parties intend for any Transaction Document addressing specific rights and obligations to prevail over any inconsistent provisions in any other any Transaction Document for the Project. This general rule will apply to the primary Transaction Document as amended from time to time, whether or not the amendment is reflected in the Appendix.

8.2. Examples. The following examples are illustrative only and are not intended to limit the application of the examples used or the meaning of this Paragraph.

- Financing provisions in the Financing Plan will prevail over conflicting provisions regarding Project Payment Sources in any other Transaction Document that is not specific to a Project Payment Source.

- The RMA will prevail over conflicting provisions in any other Transaction Document, including the Financing Plan, with respect to rates and methods of assessing Mello-Roos Taxes.
- An RMA amendment revising the definition of "Tax-Exempt Parcel" will prevail over an inconsistent definition in this Appendix as applied to the levy of Mello-Roos Taxes.
- Review periods for Improvement Plans in the ICA will prevail over conflicting review periods in any other Transaction Document.

9. HEADINGS AND REFERENCES.

9.1. Headings. The headings preceding the articles, sections, and other parts of each Transaction Document and in the applicable table of contents have been inserted for convenience of reference only and must be disregarded in the construction and interpretation of the Transaction Documents.

9.2. References Generally. Any reference to a provision "in the [Transaction Document]," "herein," "hereof," or similar terms will be deemed to refer to any reasonably related provisions of the Transaction Document in which the reference appears in the context of the reference, unless the reference refers solely to a specific provision of the Transaction Document.

9.3. Within Transaction Documents.

(a) Unless otherwise specified, whenever a Transaction Document, including all exhibits, schedules, and attachments, refers to the table of contents or any article, section, exhibit, attachment, or defined term, the reference is deemed to refer to the article, section, exhibit, attachment, or defined term of the Transaction Document or the referenced exhibit or attachment and all of the subsections, subparagraphs, clauses, exhibits, and attachments.

(b) The word "this" when used to refer to any document, article, section, paragraph, clause, or other distinct provision in a document means the referenced document or provision. For example, "this Paragraph" means **App ¶ A.9.3**, and "this subparagraph" means **App ¶ A.9.3(b)**.

9.4. To Other Documents. Unless otherwise specified, all references to a Transaction Document or a specific exhibit, attachment, schedule, supplement, Consent, addendum, or other document attached or deemed attached to a Transaction Document means the entire document as amended, replaced, supplemented, clarified, corrected, or superseded at any time while any obligations under the Transaction Document are outstanding.

10. ATTRIBUTED AND DELEGATED ACTS AND OBLIGATIONS.

10.1. Delegated Actions. References in any Transaction Document to a Party's acts or omissions mean acts or omissions by the Party and its Agents unless the context requires or specifically stated otherwise.

10.2. Transferred Obligations. References in any Transaction Document to a Party's obligations also mean the Party's obligation to ensure that its successors, Agents, and Transferees comply with all applicable obligations.

10.3. Successor Public Bodies. References to any public body acting in its regulatory or proprietary capacity also mean the named body or any successor public body designated by or under law to act in the same capacity.

10.4. Successor Public Officials. References to elected and appointed officials of public bodies also mean their duly appointed or elected, as applicable, successors to the extent authorized to act in the same capacity, and designees to the extent authorized to take specific actions on behalf of the named officials.

11. TRANSFERRED RIGHTS.

All references to Developer in a Transaction Document pertaining to any right under that Transaction Document also mean a Transferee to the extent set forth in an Assignment and Assumption Agreement in form and content consistent with **DDA art. 6** (Transfers).

12. RECITALS.

Recitals are included to provide context for the Parties' agreement as set forth in the Transaction Document in which they appear and are not binding with respect to the Parties' rights and obligations. If the recitals conflict with other provisions of the Transaction Document, the other provisions will prevail.

13. WORDS OF INCLUSION.

The words "including," "such as," or similar terms when following any general term must not be construed to limit the term to the specific terms that follow, whether or not followed by language of non-limitation, such as "without limitation," "including, but not limited to," or similar words, but will be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of the term and to be followed by the phrase "without limitation" or "but not limited to."

14. GENDER AND NUMBER.

Wherever the context requires, gender-specific and gender-neutral references are deemed to include the masculine, feminine, and gender-neutral, and references to the singular are deemed to include the plural and vice versa.

15. NUMERALS.

For purposes of calculations under any Transaction Document, fractions will not be rounded up or down. A numeral will prevail over any conflicting spelled out number.

16. TIME PERIODS.

16.1. Calendar Periods. References to days, months, quarters, and years mean calendar days, months, quarters, and years unless otherwise specified.

16.2. Business Days. References to a business day means a day other than a Saturday, Sunday, or a holiday recognized by the City. A business day begins at 8 a.m. and ends at 5 p.m., Pacific Standard Time or Pacific Daylight Savings Time, whichever is in effect on the date in question.

17. STATUTORY REFERENCES.

References to specific code sections mean San Francisco Municipal Ordinances unless otherwise specified or required by context. References to any law mean the law as in effect on the Reference Date and as amended at the time in question, unless specifically stated otherwise.

18. NO PARTY DRAFTER.

The Transaction Documents have 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 the Transaction Documents must be construed as a whole according to their common meaning to achieve the Parties' intent and purpose, without any presumption (under Cal. Civ. Code §§ 1649, 1654, or otherwise) against the Party responsible for drafting any part of any Transaction Document.

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PART B: GLOSSARY OF DEFINED TERMS

The following terms have the meanings given to them below. Defined terms that are not capitalized below are not capitalized when used in Transaction Documents.

"100-year flood" means a flood having a 1% chance of occurrence in a given year.

"AA" is an acronym for the Acquisition Agreement.

"AA Allocation" means the allocation of Horizontal Development Costs paid under a Payment Request to specific Horizontal Improvements or Components.

"AB 2797" means Assembly Bill 2797 (stats. 2016, ch. 529), which amended SB 815.

"Acceptance and Maintenance Memorandum of Agreement" is defined in **ICA § 4.7(g)** (Standard and Procedures for Acceptance) and means an agreement that City Agencies will enter into specifying the extent of each City Agency's responsibility for maintenance and liability and related matters.

"Acquiring Agency" means the City Agency (the Port, SFPUC, or Public Works) that will acquire Horizontal Improvements under the Acquisition Agreement.

"Acquisition Agreement" means the Acquisition and Reimbursement Agreement between Developer and the Port in the form of **FP Exh A** that lists Horizontal Improvements that Acquiring Agencies will purchase from Developer, establishes the Acquisition Prices of Horizontal Improvements, and provides forms and procedures for Developer to request inspection of and payment for Horizontal Improvements.

"Acquisition Price" means the amount that the Port will pay Developer on behalf of Acquiring Agencies to purchase Horizontal Improvements under the Acquisition Agreement, which will be the sum of the Horizontal Development Costs incurred and accrued Developer Return to the date of payment.

"Acquisition Cost Update" means one or more updates to the Phase Improvements, Components, and the preliminary Horizontal Development Cost estimates in **AA Exh B** that Developer submits to the Port.

"action" when used in reference to any Claim or Loss means any administrative, judicial, quasi-judicial, or nonjudicial proceeding, including any alternative dispute resolution proceeding, and includes any complaint, cross-complaint, counterclaim, bankruptcy case, adversary proceeding, and appeal.

"active use" means a use that by its nature does not:

- (i) require non-transparent walls facing a public street; or
- (ii) involve the storage of goods or vehicles.

"actual damages" means the exact amount of any sum due and owing, together with interest until paid and all costs of collection.

"ADA" is an acronym for the Americans with Disabilities Act and all other applicable federal, state, and local disability rights laws.

"Additional Developer Return" means the portion of Developer Return that exceeds the Interest Cost Limitation.

"Additional Port Return" means the portion of Port Return that exceeds the Interest Cost Limitation.

"Additional Return" means Additional Developer Return or Additional Port Return or both, as applicable.

"Adequate Security" means all Phase Security and Loss Security that Developer provides to the Port under the DDA:

- (i) to secure the faithful performance or payment, or both, of Developer Construction Obligations and Developer Reimbursement Obligations under **DDA art. 16** (Security for Project Activities);
- (ii) issued by a person that meets the Obligor Net Worth Requirement and is approved by the Port Director;
- (iii) that includes the Port's costs of enforcement in the Obligor's liability; and
- (iv) that is in form and substance proposed by Developer and approved by the Port Director, such as guaranties, bonds, letters of credit, certificates of deposit.

"Adequate Security Requirements" means Developer's obligations under **DDA art. 16** (Security for Project Activities).

"Adequate Security Requirements" *exclude* security required by the Subdivision Code.

"Adjacent Parcel" means:

- (i) Parcel D1 in reference to the Parcel D2 Garage; and
- (ii) Mission Rock Square and Parcels B, C, E, F, I, and J in reference to the Mission Rock Square Garage.

"Adjusted Gross Income" means Gross Income less Adjustments.

"Adjustments" when used in reference to Adjusted Gross Income means:

- (i) all Impositions (as defined in the Parcel Lease) paid by Tenant, allocated on a straight-line basis during the Lease Year in which the Imposition was paid;
- (ii) utility charges paid by Tenant, including water, gas, oil, sanitary and storm sewer, and electricity; and
- (iii) insurance premiums for insuring the Improvements in compliance with the Master Lease, allocated on a straight-line basis during the Lease Year in which the insurance premium was paid.

"Administrative Delay" means an Excusable Delay caused when:

- (i) a Regulatory Agency fails to act on a Developer request or application within the time specified in the ICA, the Development Agreement, or the DDA, or, if no time is specified, within a reasonable time under the agency's standard practices;
- (ii) an appeal body or court determines that a Regulatory Agency's act or failure to act on an application was improper following a challenge by Developer or a Vertical Developer Affiliate; or
- (iii) for any matter that requires the execution and delivery of a Vertical DDA or Parcel Lease, a Vertical Developer has delivered the partially executed agreement to the Port, but the Port has failed to execute and deliver the fully executed agreement to the Vertical Developer.

"Administrative Delay" *excludes* any delay caused by Developer's failure to meet any Outside Date or to submit timely all required and requested information supporting a request or application.

"Administrative Fee" means:

- (i) a fee imposed citywide (or portwide, for Port fees) in effect and payable when a developer submits an application for any permit or approval, intended to cover

only the estimated actual costs to the City or the Port of processing the application, addressing any related hearings or other actions, and inspecting work under the permit or approval; and

- (ii) amounts that Developer or a Vertical Developer must pay to the City or the Port under any Transaction Document to reimburse the City or the Port for its administrative costs in processing applications for any permits or approvals required under the Project Requirements.

“Administrative Fee” excludes any Impact Fee or Exaction.

“ad valorem tax” means an ad valorem tax levied on a taxable real property interest under article XIII A of the California Constitution.

“Advance” means a loan of a Parcel DRP or Port Capital that the Port makes to the Mission Rock CFD under **FP art. 7** (Port Advances).

“Affiliate” means:

- (i) in general, any person that directly or indirectly controls, is controlled by, or is under common control with, another person or a partner or managing or other member of the other person; and
- (ii) in reference to Developer, a Transferee Affiliate and a Vertical Developer Affiliate.

“Affordability Covenant” means the agreement of each Vertical Developer of a Residential Parcel to meet permanent affordable housing requirements applicable to the parcel, which will be documented in a recorded Declaration of Restrictions.

“affordable housing” means Residential Units at the Project Site that will be affordable to households with income ranges specified in the Housing Plan.

“Affordable Housing Cost” means a monthly rental charge, including the Utility Allowance, for a Residential Unit that does not exceed 30% of the maximum Area Median Income permitted for the applicable type of Residential Unit, based upon Household Size.

“Affordable Housing Fund” means the segregated account in the Special Fund Trust Account to hold Jobs/Housing Equivalency Fees that will be used to provide Affordable Housing Subsidies to Residential Developers in compliance with the Housing Plan.

“Affordable Housing Overage” means the amount by which available Jobs/Housing Equivalency Fees exceeds the Affordable Housing Subsidy allocated to Residential Developers in a Phase.

“Affordable Housing Shortfall” means the amount by which the Affordable Housing Subsidy allocated to Residential Developers in a Phase exceeds available Jobs/Housing Equivalency Fees.

“Affordable Housing Subsidy” means the amount of Jobs/Housing Equivalency Fees allocated to Residential Developers through the Phase Approval process.

“Affordable Housing Subsidy Plan” means the methodology for allocating Affordable Housing Subsidies to Residential Developers approved in the Phase Approval process for Phase 1.

“AGI” is an acronym for Adjusted Gross Income.

“Agent” means any officer, director, employee, legal or other authorized representative, attorney, or contractor of any person and any of their respective Agents.

“agree” means an accord, mutual consent, or binding decision reached by two or more persons.

“agree” *excludes any unilateral decision.*

“Aggrieved Party” means the Party alleging that a Breaching Party has committed an Event of Default or is in Material Breach under the DDA, the DA, or other Transaction Document.

“alcoholic beverage” is defined in California Business and Professions Code section 23004.

“all-gender toilet facility” means a toilet that is not restricted to use by persons of a specific sex or gender identity by means of signage, design, or the installation of fixtures.

“Allocated Tax Increment” means the portion of Gross Tax Increment from Project Area I that the City has agreed to allocate to the IFD for use in Project Area I by approving Appendix I.

“Allocation Period” means the period ending on October 17 each year for Prop M purposes.

“allonge” means a document that is affixed to and is a part of a negotiable instrument.

“Allowed Developer Return” means the portion of Developer Return that accrues at a rate equal to the Interest Cost Limitation.

“Allowed Port Return” means the portion of Port Return that accrues at a rate equal to the Interest Cost Limitation.

“Allowed Return” means Allowed Developer Return or Allowed Port Return or both, as applicable.

“ALTA” is an acronym for the American Land Title Association.

“Alternative Developer Return” means the portion of Developer Return accruing at the Alternative Return Rate.

“Alternative Port Return” means the portion of Port Return accruing at the Alternative Return Rate.

“Alternative Return” means Alternative Developer Return or Alternative Port Return or both, as applicable.

“Alternative Return Balance” means the sum of unreimbursed Alternative Return Costs and accrued Alternative Return owing to Developer or the Port or both, as applicable, on the date of determination.

“Alternative Return Cost” means a cost that is to bear Alternative Return under any Transaction Document, consisting on the Reference Date of:

- (i) the amount of any Phase 1 Overage funded by a Port Capital Advance under **clause (i) of FP § 2.7(c)** (Port Election);
- (ii) up to \$10 million of any Phase 1 Overage funded by Developer Capital under **clause (ii) of FP § 2.7(c)** (Port Election);
- (iii) the amount of any Affordable Housing Shortfall funded by Developer Capital under **clause (ii)** or a Port Capital Advance under **clause (iii) of FP § 2.8(f)** (Affordable Housing Shortfall); and
- (iv) the amount of any Affordable Housing Subsidy funded by Developer Capital or a Port Capital Advance under **FP § 2.8(g)** (Affordable Housing Fund Delays).

"Alternative Return Rate" means the lesser of:

- (i) LIBOR published on the date that an Alternative Return Cost is paid, plus 400 basis points; and
- (ii) the annual rate of 9 %.

"Alternative Return Rent Credits" means rent credits provided to Master Lease Tenant under **FP § 2.6(c)** (Alternative Treatment of Costs).

"Amendment Action" means a discretionary action to approve a termination by agreement or an amendment, supplement, or addition to any of the Transaction Documents or Project Requirements.

"AMI" is an acronym for Area Median Income.

"AMI Percentage" means the percentage multiple of AMI applicable to an Inclusionary Unit.

"Annual Allocated Tax Increment" means the Allocated Tax Increment that the Port receives, as IFD Agent, in a City Fiscal Year.

"Annual Cost Budget" means the amount of Port Costs and Other City Costs that the Port and Developer agree will be payable by Project Payment Sources in each City Fiscal Year during the DDA Term.

"Annual Ground Rent" means ground rent for an Option Parcel that is payable to the Port in annual installments over the Parcel Lease term.

"Annual Review" means the periodic review of whether Developer has complied in good faith with the Development Agreement required under section 65865.1 of the Development Agreement Statute and Administrative Code section 56.17.

"Annual Review Date" means the date established by Administrative Code section 56.17 by which the Annual Review must begin, as amended by **DA § 8.1(c)** (Planning Director's Discretion).

"App" is a term used in the Transaction Documents to refer to this Appendix.

"Appendix I" means the Project-specific infrastructure financing plan for Project Area I that the Board of Supervisors approved by Ordinance No. 34-18, which is attached as Appendix I to the IFD Financing Plan.

"Applicable Lender Protections" means provisions under **DDA art. 17** (Lender Rights), **Vertical DDA art. 16** (Financing; Rights of Lenders), and **PL art. 40** (Mortgages) that protect the rights of Lenders making loans to Borrowers to finance Improvements at the Project Site.

"Applicable New Law" means, individually or collectively:

- (i) a Change in City Law amending the Construction Codes;
- (ii) a Change in City Law adding or amending any other Existing City Law to protect the public health and safety; and
- (iii) changes in federal or state law that apply to the Project as described in **DA art. 5** (Vesting and City Obligations).

"Applicable Port Laws" means the Burton Act, as amended by SB 815, and Charter Appendix B.

"applicable service" means electric service that SFPUC Power will provide to the Project Site under one or more Electric Service Agreements.

"Appraisal Instructions" means directions to Qualified Appraisers substantially in the form of **DDA Exh D4** for Option Parcels to be developed for residential use or **DDA Exh D5** for Option Parcels to be developed for commercial-office.

"Appraisal Notice" means a notice from Developer to the Port initiating the appraisal process for an Option Parcel under **DDA § 7.3** (Parcel Put).

"Approved Arbiters Pool" means **DDA Sch 1**, as revised under **DDA § 9.1** (Arbiters).

"Approved Payment" means, individually or collectively as appropriate in the context, the final Entitlement Cost Statement, an Approved Payment Request, or an Approved Requisition.

"Approved Payment Request" means a Payment Request in the form of **AA Exh C** for Horizontal Development Costs of Horizontal Improvements that the Chief Harbor Engineer has approved or is deemed to have approved, in either case under **AA § 4.2** (Processing Payment Requests).

"Approved Requisition" means a Requisition in the form of **FP Exh E** for costs that the Port Director has approved under **FP § 2.2(c)** (Entitlement Sum Statement and Requisitions).

"Approved Phase" means a Phase of the Project that the Port has approved.

"Arbiter" means an arbitrator who will preside over any arbitration proceeding.

"Arbitration Notice" means the notice that one Party delivers to the other Party to initiate a proceeding under **DDA art. 9** (Resolution of Certain Disputes).

"Arbitration Start Date" means the date on which a selected Arbiter confirms in writing to the Parties that the Arbiter is available and willing to serve.

"Architect" means the licensed architect of record for any Improvements.

"Architect's Certificate" means a certificate signed by the Architect in the form of **Vertical DDA Exh P** verifying that a Vertical Developer has completed the specified Vertical Improvement under the Improvement Plans.

"Area Median Income" means, for the Inclusionary Units, unadjusted median income for the San Francisco area as published from time to time by HUD, adjusted solely for Household Size.

"Army Corps" means the Army Corps of Engineers.

"As-Built Drawings" means design and Improvement Plans and specifications in their final form and as-built field documents prepared during the course of construction.

"Assessed Parcel" means a Taxable Parcel that meets all of the following conditions:

- (i) one or more buildings have been constructed or rehabilitated on the Taxable Parcel for which the Port has issued a TCO;
- (ii) the buildings have been finally assessed;
- (iii) the Assessor has levied ad valorem taxes on the Taxable Parcel covering a full City Fiscal Year.

"Assessed Parcel Credit Report" means a report that the CFD Administrator will prepare for the Treasurer-Tax-Collector that specifies the amount of the Development Special Tax Credit to be applied to Assessed Parcels.

"Assessment Shortfall" means, on the date of determination, any amount by which Allocated Tax Increment generated by the levy of the ad valorem tax on a Taxable Parcel's Baseline Assessed Value (if paid in full), as escalated by any annual increases or reassessments following a change in ownership or later Improvements, exceeds Allocated Tax Increment generated by the levy of the ad valorem tax on the Taxable Parcel (if paid in full) after a Value Reduction.

"Assessor" and **"Assessor-Recorder"** mean the Assessor-Recorder of the City and County of San Francisco.

"Assignment and Assumption Agreement" means an agreement in the form of **DDA Exh D4** and otherwise consistent with **DDA art. 6** (Transfers).

"Associated Public Benefits" means public benefits that the Project will provide, including:

- (i) Horizontal Improvements such as shoreline improvements, Public ROWs, new and expanded Public Spaces, and other public facilities to serve the Project Site;
- (ii) Inclusionary Units required under the Housing Plan, and an activated ground-floor environment with space for shops, restaurants, cafes, neighborhood-serving retail, and community activities serving the public trust; and
- (iii) benefits associated with development, such construction and permanent jobs, contracting opportunities for local businesses, and public art installations.

"Associated Public Benefits" *excludes* public facilities provided by any City Agency.

"attorneys' fees" means reasonable attorneys' fees and related costs incurred in an action or as otherwise indicated in the DDA, including all costs of litigation, such as fees and related costs of attorneys, consultants, testing, and experts, litigation costs of the action, and costs for document copying, exhibit preparation, carriers, postage, and communications.

"audited financial statements" means financial statements prepared by an independent CPA that include the CPA's opinion that the financial statements are fairly stated in all material respects.

"Available Tax Increment" means the amount of Allocated Tax Increment that the City has allocated to the IFD and is available on the date of calculation.

"AWSS" is an acronym for the City's auxiliary water supply system.

"AWSS Plan" means Developer's proposed AWSS design for associated Horizontal Improvements.

"Backbone Infrastructure" means all Horizontal Improvements except Deferred Infrastructure.

"Ballpark" means the stadium and related facilities currently known as AT&T Park, located at 24 Willie Mays Plaza, San Francisco, California.

"Barrier Removal Funds" means the portion of the CBO Funds that will be used to fund community-based organizations that provide services to reduce barriers to employment for individuals within at-risk populations.

"base flood" is a term used to describe a 100-year flood.

"Baseline Assessed Value" means:

- (i) while any First Tranche Bonds are outstanding and before Second Tranche Bonds are issued, the greater of (1) the initial assessed value of a Taxable Parcel in Project Area I in the first City Fiscal Year in which the assessed value reflects the full cash value of the initial Improvements constructed on the Taxable Parcel for which the Port has issued a TCO, after all rights to appeal have expired or been exhausted, as escalated by annual increases or (2) the initial assessed value of a Taxable Parcel in Project Area I in the first City Fiscal Year in which the assessed value reflects any change in ownership or later Improvements, after all rights to appeal have expired or been exhausted, as escalated by annual increases; and
- (ii) after all First Tranche Bonds are defeased and Second Tranche Bonds are issued, the assessed value of a Taxable Parcel in the first City Fiscal Year in which the assessed value reflects any change in ownership or later Improvements, after all rights to appeal have expired or been exhausted.

"Baseline Revenue" means the average annual revenue that the Port received from Seawall Lot 337 between January 1, 2003, and December 31, 2007, adjusted for inflation.

"Base Rent" is defined in the Master Lease.

"Base Value" means, on the date of determination, the sum of the following to the extent Transferred directly or indirectly by a Triggering Event:

- (i) the Developer Balance;
- (ii) any remaining Unrecovered Rent Credits under the Master Lease; and
- (iii) if the Participation Threshold has been met on the date of the Triggering Event, the net present value, calculated at a discount rate of 8.5%, of the then-projected Developer Participation from any Parcel Leases under the Participation Agreement.

"Basis of Design" means the documents described in ICA Exh E (Mission Rock Basis of Design).

"BCDC" is an acronym for the San Francisco Bay Conservation and Development Commission.

"begin construction" means to start the physical improvement of a site as part of a sustained and continuous building plan.

"Board of Supervisors" means the legislative branch of the City and County of San Francisco with all powers and authority granted under the Charter and state law.

"Bond" means any bond or other form of indebtedness secured by Mello-Roos Taxes or Tax Increment or both issued on behalf of the Mission Rock CFD or Project Area I to implement the Financing Documents.

"Books and Records" means books and records that Developer and the Port will prepare and maintain under FP § 9.5 (Books and Records).

"Borrower" means:

- (i) Developer, a Vertical Developer, or a Transferee with rights and obligations under the DDA directly or through a Parcel Lease or an Assignment and Assumption Agreement when used in reference to a Deed of Trust; and
- (ii) a person with a direct or indirect controlling interest in Developer, a Vertical Developer, or a Transferee with rights and obligations under the DDA directly or through a Parcel Lease or an Assignment and Assumption Agreement when used in reference to a Security Interest.

"Breaching Party" means a Party alleged to have committed an Event of Default or to be in Material Breach under the DDA, the Development Agreement, or other Transaction Document.

"Broadcast Services" means the electronic capture or live transmission on-site of video, digital, or audio content for Commercial Purposes through the use of a remote production or satellite truck on-site by individuals that may include a technical director, video controller, assistant director, and stage manager, as well as individuals engaged in the following functions: audio; camera; capture and playback; graphics; and utility.

"Budget Guidelines" means the guidelines applicable to each Phase Budget, which are listed in DDA § 3.3(a) (Budget Guidelines).

"Burton Act" means Assembly Bill 190 (stats. 1968, ch. 1333), authorizing the State to grant tidelands and submerged lands comprising San Francisco Harbor to San Francisco under the management and control of the Port Commission.

"Capital Cost" means, as applicable:

- (i) a Horizontal Development Cost funded by Developer Capital or Port Capital or both;
- (ii) any other cost funded by Developer Capital or Port Capital or both that is reimbursable under the Financing Plan;
- (iii) Horizontal Development Costs funded by Developer Pass-Throughs;
- (iv) accrued Developer Return or accrued Port Return or both; and
- (v) Minimum Phase Return and Minimum Developer Return as applicable.

"cash" means United States currency delivered in legal tender or other forms of immediately available funds.

"CBO Funds" means one-half of the Workforce Job Readiness and Training Funds, which will be used as Barrier Removal Funds and Job Readiness Training Funds.

"Central Plant" means a central water treatment plan or a central energy plant, each as described in the Sustainability Strategy.

"Central Plant Feasibility Studies" means studies that Developer will submit under **DDA § 3.2(b)** (Phase 1 Submittal) examining the feasibility of the construction and operation of Central Plants.

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

"CEQA Findings" means findings adopted by the Planning Commission, the Port Commission, and the Board of Supervisors under CEQA, the CEQA Guidelines, and the CEQA procedures.

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

"CEQA law" means CEQA, the CEQA Guidelines, and the CEQA procedures.

"CEQA procedures" means Administrative Code chapter 31.

"Certificate of Compliance" means certificate signed by the Director of Public Works that is affixed to a Final Map to indicate that a subdivider has met all conditions of approval to the Final Map in accordance with the Subdivision Code.

"CFD" is an acronym for City and County of San Francisco Special Tax District No. [TBD] (Mission Rock), which will consist of a Facilities CFD and a Services CFD, that the Port will ask the Board to establish by CFD Formation Proceedings.

"CFD Administrative Costs" means the reasonable costs that the Port, as CFD Agent, actually incurs and pays for:

- (i) services of any Indenture Trustee (including its counsel) for any Bonds that the City issues for the Mission Rock CFD;
- (ii) marketing or remarketing Bonds; and
- (iii) all other administrative services provided by the Port, the CFD Administrator, the City, the Special Fund Trustee, and any other third-party professionals necessary for the Port to perform its duties under the DDA, Tax Allocation MOU, Special Fund Administration Agreement, and the RMA.

- "CFD Administrator"** means the Port's special tax consultant or any other person that the Port Director designates to administer Mello-Roos Taxes from the Mission Rock CFD according to the RMA.
- "CFD Agent"** means the Port, acting on behalf of the Mission Rock CFD, which the Port will ask the Board to authorize in the CFD Formation Proceedings.
- "CFD Formation Proceedings"** means the Board of Supervisors resolution by which the Board of Supervisors will establish the Mission Rock CFD.
- "CFD Goals"** means the *Local Goals and Policies for Community Facilities Districts*, approved by Board of Supervisors Resolution No. 387-09 on October 6, 2009, as amended from time to time solely to the extent required under CFD Law or other controlling state or federal law.
- "CFD Law"** means the San Francisco Special Tax Financing Law (Admin. Code ch. 43, art. X), which incorporates the Mello-Roos Community Facilities Act of 1982 (Cal. Gov't Code §§ 53311-53368).
- "CFD Report"** means the annual report that the Mission Rock CFD must file with the Treasurer-Tax Collector under CFD Law.
- "Change in City Law"** means a change to an Existing City Law, or a new law, plan, or policy, adopted by the City or the Port or by voter initiative after the DA Ordinance Effective Date that would conflict with the Project Approvals, the Transaction Documents, or Applicable Port Laws as specified in **DA § 5.3** (Change in City Law).
- "Change in City Law" excludes regulations, plans, and policies that change only procedural requirements of an Existing City Law.*
- "Change in Law"** means a Change in City Law or a new or amended federal or state law that materially and adversely affects the feasibility of the Project or the delivery of the Associated Public Benefits.
- "Change Negotiating Period"** means a period of nine months during which specified Outside Dates will be tolled to allow the Parties to negotiate possible changes to Developer Construction Obligations or other elements of the Project to address changed circumstances under the DDA.
- "Chapter 12T"** means Administrative Code chapter 12T (Criminal History In Hiring And Employment Decisions).
- "Chapter 56"** means Administrative Code chapter 56, which the Board of Supervisors adopted under the Development Agreement Statute, as amended by the DA Ordinance.
- "Chapter 82"** means the Local Hiring Policy for Construction (Admin. Code ch. 82).
- "Chapter 83"** means the First Source Hiring Program (Admin. Code ch. 83).
- "Charter"** means the Charter of the City and County of San Francisco adopted on November 7, 1995, as amended and in effect on the Reference Date.
- "Chief Harbor Engineer"** means the Port's Deputy Director, Engineering.
- "Child Care Equivalency Fee"** means the Impact Fee payable under **clause (iv) of DA § 5.4(b)** (Impact Fees and Exactions) in lieu of the Child Care Fee.
- "Child Care Fee"** means the Impact Fee payable under Planning Code sections 414.1-414.15 and sections 414 A.1-414 A.8.
- "City"** means the City and County of San Francisco, a charter city and municipal corporation, subject to **DA § 2.6(d)** (City and Port).

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

"City Delay Notice" means a notice given under **DDA Exh A4** (Provisions for Office Development) from Planning to the Port that the City has reasonably determined that delaying office development in the Project Site is necessary to allow the City to balance its planning objectives for Pending Projects elsewhere in the City.

"City Engineer" means the Public Works employee responsible for infrastructure matters on City property.

"City Fiscal Year" means the period beginning on July 1 of any year and ending on the following June 30.

"City General Fund" means San Francisco's general operating fund, into which taxes are deposited, excluding dedicated revenue sources for certain municipal services, capital projects, and debt service.

"City Law" means any City ordinance or Port code provision and implementing regulations and policies governing zoning, subdivisions and subdivision design, land use, rate of development, density, building size, public improvements and dedications, construction standards, new construction and use, design standards, permit restrictions, development impacts, terms and conditions of occupancy, and environmental guidelines or review at the Project Site, including, as applicable:

- (i) the Waterfront Plan and the Design Controls;
- (ii) the Construction Codes, applicable provisions of the Planning Code, including the SUD and the Zoning Maps, the Subdivision Code, the General Plan;
- (iii) local Environmental Laws and the Health Code; and
- (iv) the Other City Requirements.

"City Party" means the Port, the City, City Agencies, and their respective Agents.

"City Req" refers to the Other City Requirements (**DDA Exh A11**).

"City-standard" means a public facility meeting the specifications of an Other City Agency.

"citywide" means all real property within the territorial limits of San Francisco, not including any property owned or controlled by the United States or the State that is exempt from City Laws.

"Claim" means a demand made in an action or in anticipation of an action for money, mandamus, or any other relief available at law or in equity for a Loss arising directly or indirectly from acts or omissions occurring in relation to the Project or at the Project Site during the DDA Term.

"Claim" excludes any demand made to an insurer under an insurance policy or to an Obligor of Adequate Security.

"Close of Escrow," "Close Escrow," and "Closing" mean that all conditions to a Port conveyance of a Development Parcel have been satisfied or waived and actions required to effect the conveyance are complete.

"Closing Date" means the date on which a Port conveyance of a Development Parcel becomes effective by execution and delivery of a Parcel Lease.

"Closing Deadline" means the date by which a Vertical Developer must Close Escrow on a Parcel Lease or as otherwise specified in a Public Offering document, as extended under the applicable document.

"CLTA" is an acronym for the California Land Title Association.

"CMD" is an acronym for the Contract Monitoring Division of the City's General Services Agency.

"CM-GC" is an acronym for construction manager-general contractor in a GMP contract.

"Commencement of Construction" is defined in **DA § 4.2(a)** (Obligation to Provide).

"Commercial Parcel" means:

- (i) a Development Parcel that is designated in Section 249.80 for primarily Commercial Mixed Use; and
- (ii) a Flex Parcel that is designated in a Phase Approval for primarily Commercial Mixed Use.

"Commercial Purposes" for purposes of Administrative Code section 21C.9 means an operation of Broadcast Services for profit.

"Commercial Purposes" excludes *instances where the capture and transmission of video, digital, or audio content is performed by or on behalf of a governmental entity.*

"Commercial Tenant" means a tenant under a lease or other occupancy contract for commercial space at a Vertical Improvement in the Project Site.

"Commercial Vehicle" means a vehicle that:

- (i) is used or maintained primarily for the transportation of materials, goods, or products;
- (ii) has six wheels or more; and
- (iii) displays or is required to display a California Department of Motor Vehicles weight decal under the Commercial Vehicle Registration Act (Cal. Veh. Code §§ 9400 et seq.)

"Commercial Vehicle" excludes *a vehicle used exclusively for food catering purposes, meaning its exclusive purpose on a particular trip is for the transport of food and beverages to be served at a Show or Special Event, the transport of equipment for the preparation and service of food and beverages at a Show or Special Event, or both.*

"common control" means that:

- (i) a person directly or indirectly controls another person; or
- (ii) one or more persons are controlled by the same third person.

"Component" as defined in the CFD Law means:

- (i) for a Horizontal Improvement with an estimated cost of over \$1 million, a discrete portion or phase that may be financed whether or not the Component is capable of serviceable use; or
- (ii) for a Horizontal Improvement with an estimated cost of \$1 million or less, a discrete portion or phase that may be financed when the Component is capable of serviceable use.

“Conditions of Approval” means specified conditions to approval of a final Subdivision Map.

“Conditions to Commencement” means the conditions to beginning construction of Horizontal Improvements specified in **DDA art. 14** (Horizontal Development).

“conflict” means any circumstance described in **DA § 5.3(b)** (Circumstances Causing Conflict).

“Consent” means Developer’s or a City Agency’s executed approval of its agreement with the Transaction Document to which the Consent is attached.

“Consistency Determination” means the Port’s finding that Developer’s proposed submittal to a City Agency complies and is consistent with prior approvals and Project Requirements.

“Consolidated Response Date” means three business days after the Chief Harbor Engineer or Public Works receives review comments on an Improvement Plan Submittal from all Other City Agencies for purposes of **ICA § 4.6(h)** (Delivery of Compiled Comments).

“Construction Codes” means the Port Building Code and all Municipal Codes regulating construction of new Improvements and alteration or rehabilitation of existing Improvements, including the International Building Code and the California Building Code to the extent incorporated and as modified by the Port Commission or the Board of Supervisors.

“construction permit” means any permit that Developer and each Vertical Developer must obtain from the Port or any Other City Agency before beginning any physical work at the Project Site, including demolition, excavation, grading, site, and building/site permits and addenda.

“Construction Training Resources” means any portion of the OEWD Funds that OEWD chooses to use to support programs that train disadvantaged workers and local residents in the field of construction work.

“contractor” means a general contractor, including a CM-GC, or subcontractor, as appropriate in the context, licensed by the Contractors State License Board.

“control” means that a person has one or more of the following:

- (i) direct or indirect ownership of more than 50% of the profits or capital of another person;
- (ii) the right to dictate the controlled person’s major decisions, subject to the rights of other owners;
- (iii) the right to appoint 50% or more of the controlled person’s managers or directors.

“Controller” means the Controller of the City and County of San Francisco.

“controlling interest” means the interest that a controlling person holds in the controlled person.

“Convention” means an organized association of persons with a common interest, including a professional, commercial, political, social, cultural, vocational, recreational, or fraternal interest, most of whom are from outside of San Francisco, who meet in a hotel, convention center, or other building to discuss or act on matters affecting their common interest or to participate in activities related to their common interest.

“convey” means to transfer an interest in real property by Parcel Lease, deed, or other instrument.

“Coordination Agreement” means a contract between Developer and Vertical Developers that addresses matters necessary to coordinate horizontal and vertical construction in an orderly manner.

"Core Benefits" is defined in Administrative Code section 12B.1(b).

"Cost Allocation Proposal" means Developer's proposed allocation of Horizontal Development Costs under **AA § 4.1(d)** (Cost Allocation).

"Costa-Hawkins Act" means the Costa-Hawkins Rental Housing Act (Cal. Civ. Code §§ 1954.50-1954.535).

"costs" means actual and reasonable expenses, fees, and other charges directly arising from or relating to the matter giving rise to a right to payment.

"County Surveyor" means the Office of the City and County of San Francisco Surveyor.

"CPA" is an acronym for an independent certified public accounting firm approved by the Port and Developer.

"CPI" is an acronym for the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose region (base period 1982-1984=100) that the United States Department of Labor, Bureau of Labor Statistics, publishes in February, April, June, August, October, and December of each year. If the index is changed after the Reference Date to use a different base year, CPI will be calculated using the published conversion factor. If publication is discontinued and not replaced, the Parties will confer to reach agreement on a substitute measure.

"Credit Bid" means a Vertical Developer Affiliate's deemed Development Rights Payment to the Port, subject to the limitations and conditions of **FP § 3.5** (Right to Credit Bid), and the act of making the deemed payment when used as a verb.

"Credit Bid Determination Date" means the 30th day after a Final Appraisal is issued under **DDA art. 7** (Parcel Leases).

"Cumulative IRR" means Developer's cumulative internal rate of return in a Current Phase and any Prior Phase, calculated through the date of determination, excluding Developer Capital spent on any Later Phase.

"Current Assessed Value" means a Taxable Parcel's Baseline Assessed Value, as escalated or reassessed by the Assessor under applicable law, on the date of determination.

"Current Phase" means the Phase of the Project during which an event or determination occurs.

"Current Parcel" means an Assessed Parcel in the Mission Rock CFD that is identified in the Payment Report as being current on payment of ad valorem taxes.

"DA" is an acronym for the Development Agreement between the City and Developer specifying the entitlement rights that the City agreed to vest in Developer for development of the Project Site by adoption of the DA Ordinance.

"DA Assignment" is defined in **DA § 11.1** (DA Successors' Rights).

"DA Default" is defined in **DA § 9.2(a)** (Specific Events).

"DA Ordinance" means Ordinance No. 033-18 approving the Development Agreement, incorporating by reference the General Plan Consistency Findings, authorizing the Planning Director and other City officials to execute the Development Agreement on behalf of the City, and waiving the application of certain Municipal Code provisions to aspects of the Project.

"DA Ordinance Effective Date" is defined in **DA § 2.1** (Effective Dates).

"DA Requirements" is defined in **DA § 5.2(a)** (Agreement to Follow Existing Policy).

"DA Statute" means California Government Code sections 65864-65869.5.

"DA Successor" is defined in **DA § 12.1** (DA Successors' Rights).

"DA Term" is defined **DA § 2.2** (DA Term).

"DA Waivers" means, collectively, all Municipal Code waivers in the DA Ordinance.

"DDA" is an acronym for the Disposition and Development Agreement between the Port and Developer specifying the terms and conditions for Developer's master development of the Project Site.

"DDA Term" means the period beginning on the Reference Date and ending when the DDA expires by its own terms or by early termination.

"debt" means, when required by the context, financial obligations as defined in section 53395.1 and section 53395.8(c)(4) of the IFD Law.

"debt service" means the principal and interest payable on Bonds under an Indenture.

"debt service" *excludes* capitalized interest, funding requirements (such as coverage), and any other amounts that are funded from gross Bond proceeds under an Indenture before net Bond proceeds are available for disbursement.

"Declaration of Restrictions" means a document in the form attached to the Housing Plan to be recorded against a Development Parcel developed for rental residential use requiring that designated Inclusionary Units remain affordable in accordance with the Housing Plan.

"Deed of Trust" means a mortgage, deed of trust, or other security instrument encumbering a Development Parcel or a leasehold interest in a Development Parcel or a Security Interest to secure a Borrower's repayment obligation to a Lender.

"defend" when used in reference to a Claim means the defense, compromise, or other resolution of the Claim in or outside of an action.

"Deferred Infrastructure," subject to further discussion and the City Agencies' prior agreement as described in **ICA Exh D**, means Improvements that would be Horizontal Improvements built or installed by Developer but for the Port's agreement through a Phase Approval to require Vertical Developers to construct one or more of the following:

- (i) Utility Infrastructure;
- (ii) Public ROW Improvements; and
- (iii) fixtures installed between right-of-way curbs and the boundaries of a Development Parcel, such as sidewalks and curb cuts, lighting, street furnishings, landscaping, and utility boxes and laterals serving the parcel.

"Deferred Infrastructure" *excludes* utility Improvements and fixtures customarily installed as part of a Vertical Improvement.

"Deferred Infrastructure Zone," subject to further discussion and agreement as described in **ICA Exh D**, means one or more of the following:

- (i) the area between back-of-curb and the adjacent Development Parcel boundary or the adjacent Public Space, as applicable;
- (ii) bands up to 40 feet along the outer boundaries of Public Spaces adjacent to Development Parcels; 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.

"Delay Event" means the event causing a claimed Excusable Delay.

"Delay Event Date" means the date on which the Delay Event occurred or the date on which the Party claiming Excusable Delay discovered the Delay Event.

"Demolition and Utility Relocation Plan" means one of a Permit Set of Improvement Plans for Site Preparation.

"Design Advisory Committee" means a body of qualified design professionals designated by the Port Director in consultation with the Planning Director to make design recommendations regarding public realm Improvements to the Port Commission.

"Design Controls" means the Mission Rock Design Controls that the Port Commission and the Planning Commission approved.

"Developer" means Seawall Lot 337 Associates, LLC, and its successors under **App ¶ A.2.3** (Successors) and **App ¶ A.11** (Transferred Rights).

"Developer Audit" means a financial review performed by a CPA on behalf of Developer under **FP § 9.4(b)** (Developer Audit).

"Developer Balance" means, as shown on the Developer Capital Schedule on the date of determination, the sum of:

- (i) Developer's unreimbursed Horizontal Development Costs;
- (ii) Developer's unreimbursed Alternative Return Costs;
- (iii) accrued and unpaid Developer Return; and
- (iv) if applicable, the amount required for Developer to receive Minimum Phase Return under **clause (ii)** or Minimum Developer Return under **clause (iii)** of **FP § 2.5(c)** (Developer Return).

"Developer Balance" excludes any part of vertical development costs and sums arising in any Later Phase before the applicable Phase Approval.

"Developer Capital" means funds available to Developer that are not subject to restrictions or limitations under the Financing Plan.

"Developer Capital Schedule" means an accounting schedule that Developer maintains to record the Developer Balance for all Phases of the Project individually and in the aggregate.

"Developer Construction Obligations" means Developer's duty under the DDA to perform or provide, in accordance with applicable Project Requirements, for:

- (i) construction of the Horizontal Improvements for each Phase of the Project;
- (ii) Developer Mitigation Measures associated with horizontal development; and
- (iii) Associated Public Benefits associated with horizontal development.

"Developer Construction Obligations" excludes any Deferred Infrastructure that Vertical Developers will construct.

"Developer Contingency" means the separate allowances to cover additional Soft Costs and Hard Costs in a Phase Budget.

"Developer Market Rate Return" means return on Developer Capital accruing at the annual rate of 18%, compounded quarterly, on unreimbursed Horizontal Development Costs (excluding Alternative Return Costs), as adjusted under **clause (ii)** and **clause (iii)** of **FP § 2.5(c)** (Developer Return).

"Developer Marketing Costs" means costs associated with marketing the Project, including interim activation, events associated with openings of public improvements and other activities that benefit Project land and user absorption, overall Project branding and recognition, subject to a maximum for each Phase in the amount of \$325,000 for Phase 1 and \$250,000 for each subsequent Phase; provided, however, that:

- (i) the maximum dollar amounts referenced above are stated in 2018 dollars, and are subject to adjustment on each anniversary of the Reference Date by the percentage change in the CPI, subject to a floor of no change and a maximum increase of 4.5%; and
- (ii) the maximum dollar amounts referenced above may be subject to further increase if the Developer demonstrates to the Port's reasonable satisfaction that such increase is appropriate and expected to generate a net benefit to the Port.

"Developer Marketing Costs" *exclude* expenditure of funds received from the Master Marketing Fee.

"Developer Mitigation Measure" means any Mitigation Measure in the MMRP (DDA Exh A5) that is to be performed by Developer in connection with horizontal development.

"Developer Participation" means the amount of Annual Participation Revenue payable to Developer under the Participation Agreement.

"Developer Party" means Developer and its direct and indirect partners, members, shareholders, officers, Affiliates (including Vertical Developer Affiliates), individually or collectively.

"Developer pass-through" means a Horizontal Development Cost that a Payment Agent is authorized by an Approved Payment to disburse to one or more of Developer's contractors, consultants, or suppliers.

"Developer Reimbursement Obligations" means Developer's duty under the DDA to indemnify the City Parties and pay Port Costs and Other City Costs.

"Developer Reimbursement Obligations" *excludes* Developer's use of Developer Capital to finance Horizontal Improvements.

"Developer Return" means any combination of Additional Developer Return, Allowed Developer Return, Developer Market Rate Return, Alternative Developer Return, and Reduced Return payable to Developer under the Financing Plan.

"Development Account" means the segregated account within the Special Tax Fund that the Port establishes with the Special Fund Trustee to receive, administer, and disburse Development Special Taxes.

"Development Agreement" means the agreement that the City entered into with Developer under Administrative Code chapter 56 and the Development Agreement Statute.

"Development Agreement Statute" means California Government Code sections 65864-65869.5.

"Development Opportunity" means Developer's development rights under the DDA that the Port terminates under DDA § 11.7 (Effects of Termination on Development Rights).

"Development Parcel" means any parcel in Seawall Lot 337 designated for vertical development.

"Development Rights Payment" means a lump sum payment to the Port at the Closing of a Parcel Lease in the amount of:

- (i) Fair Market Value if the Option Parcel is conveyed by a Prepaid Lease; or
- (ii) an agreed portion of Fair Market Value, with the balance of Fair Market Value paid as Annual Ground Rent under a Parcel Lease, calculated by multiplying the

difference between Fair Market Value and the Parcel DRP by the Rent Conversion Factor.

- “Development Special Tax Credit”** means the amount by which the Potential Development Special Tax Levy for a Current Parcel in the Mission Rock CFD will be reduced by the application of Allocated Tax Increment under **FP § 6.6** (Tax Increment Credit).
- “Development Special Taxes”** means the portion of Facilities Special Taxes that the City levies in a City Fiscal Year on Taxable Parcels in the Mission Rock CFD to finance Horizontal Improvements and for other eligible purposes, subject to Port Commission and Board of Supervisors approval, an amount per square foot intended to be equivalent to 0.65% of the parcel’s Baseline Assessed Value as projected for the CFD Formation Proceedings.
- “Director of Public Finance”** means the director of the Public Finance Division of the Controller’s Office.
- “Director of Public Works”** means the Director of San Francisco Public Works.
- “Director of Transportation”** means the Director of San Francisco Municipal Transportation Agency.
- “Disputed Value”** means a challenged Fair Market Value or Rent Conversion Factor in an appraisal that is subject to arbitration under **DDA § 7.5** (Appraisal Disputes).
- “Disputing Party”** means a person affected by a dispute that is subject to **DDA art. 9** (Resolution of Certain Disputes).
- “Down Market”** means a period of economic and other conditions meeting one or more criteria under **DDA § 4.4(b)** (Existence of Down Market).
- “Down Market Delay”** means an Excusable Delay meeting one or more criteria under **DDA § 4.4(b)** (Existence of Down Market).
- “Down Market Test”** means the procedures in **DDA § 4.4** (Down Market Delay Procedures) by which the Parties have agreed to determine whether a Down Market exists.
- “Down Market Test Budget”** means a hypothetical Phase Budget that Developer submits under **DDA § 4.4(a)** (Timing) as part of a Down Market Test.
- “Down Market Test Date”** means the date that the existence of a Down Market is established under the DDA.
- “DRP”** is an acronym for a Development Rights Payment.
- “DRP Advance”** means a loan of a Parcel DRP that the Port makes to the Mission Rock CFD under **FP art. 7** (Port Advances).
- “DRP Advance Proceeds Account”** means the segregated accounts within the Mello-Roos Fund and the Tax Increment Fund that the Port establishes with the Special Fund Trustee to receive, administer, and disburse Allocated Tax Increment and Development Special Taxes to pay the Mission Rock CFD’s obligations under the Promissory Note.
- “DRP Fund”** means the segregated account within the Special Fund Trust Account described in **FP § 4.3** (Special Fund for Special Taxes), which will hold Development Rights Payments for future use under the Financing Plan.
- “DTSC”** is an acronym for the California Department of Toxic Substances Control.
- “Early Mello-Roos Bonds”** means Mello-Roos Bonds that the City issues on behalf of the Mission Rock CFD to finance Phase Improvements at the Port’s request early in a Phase.
- “Electrical Service Agreement”** means the agreement between SFPUC Power and a customer specifying the terms on which SFPUC Power will provide applicable SFPUC service.

"eligible" when used in reference to Horizontal Development Costs or Horizontal Improvements means Hard Costs and Soft Costs for which the use of special tax financing or tax increment financing is authorized under Governing Law and Policy.

"Eligible Occupant" means, for any Inclusionary Unit, a household with a Gross Annual Income that does not exceed the result of the following:

- (i) identify the applicable AMI, adjusted for Household Size;
- (ii) multiply the AMI from **clause (i)** by the AMI Percentage applicable to that Inclusionary Unit; and
- (iii) add 5% to the product of **clause (ii)**.

"ENA" is an acronym for the Exclusive Negotiation Agreement dated as of May 25, 2010, effective as of September 15, 2010, as amended and restated as of the Reference Date.

"Encumbered Property" means, as applicable:

- (i) the real property interest in a Development Parcel and any other assets that are the collateral under a permitted Deed of Trust; or
- (ii) the personal property interest in Borrower and any other assets that are the collateral under a permitted Security Interest.

"Encumbrance" means a Deed of Trust or Security Interest.

"Engineer" means the engineer of record for Horizontal Improvements, who must be licensed by the California Board for Professional Engineers, Land Surveyors, and Geologists.

"Entitlement Cost Statement" means Developer's report on Entitlement Costs, prepared by a third party or subject to third-party review, under **FP § 2.4(a)** (Preliminary Entitlement Cost Statement).

"Entitlement Costs" are Soft Costs that the Parties incurred between May 25, 2010, and June 30, 2018, to entitle the Project, including:

- (i) preliminary planning and design work;
- (ii) environmental review under CEQA;
- (iii) negotiating the financial and other terms of the Transaction Documents; and
- (iv) obtaining Project Approvals.

"Entitlement Costs" *exclude costs of planning and design work specifically related to the Phase Submittal for Phase 1 incurred after April 19, 2018, which shall be considered Soft Costs of Phase 1 rather than Entitlement Costs.*

"Entitlement Date" means the date on which all of the following are final:

- (i) BCDC approval of a major permit for the development of the Project Site (excluding Pier 48), which was issued on June 29, 2018;
- (ii) State Lands approvals required under SB 815, which were granted on April 19, 2018; and
- (iii) DTSC's approval of a variance to, modification of, or substitute for the existing Environmental Covenants.

"Entitlement Sum" means the sum of Entitlement Costs plus accrued Developer Return up to the Reference Date.

"Environmental Covenants" means recorded deed restrictions, as may be in effect from time to time, which impose conditions under which certain land uses will be permitted at designated portions of the Project Site.

"Environmental Delay" means an Excusable Delay caused when:

- (i) the Port or the City is required to conduct additional environmental review or prepare additional environmental documents after the Reference Date;
- (ii) a third party files an action challenging the certification or sufficiency of the Final EIR or any other additional environmental review, even if development activities are not stayed, enjoined, or otherwise prohibited;
- (iii) the unanticipated need to investigate, remediate, or otherwise correct environmental or geotechnical conditions on or affecting any portion of the Project Site, but only if the conditions or the need to investigate, remediate, or otherwise correct were not reasonably foreseeable in light of Developer's due diligence before the Reference Date, including its knowledge of the Pre-Existing Hazardous Materials; or
- (iv) the unanticipated need to comply with any Mitigation Measures adopted for the Project for conditions on or affecting any portion of the Project Site, but only if the conditions were not reasonably discoverable before the Reference Date and by their nature require a delay or work stoppage for investigation, remediation, or related activities, as long as the Party claiming delay is proceeding in a diligent manner to resolve the unforeseen issues.

"Environmental Law" means any law pertaining to handling, release, or remediation of Hazardous Materials, conditions in the environment, including structures, soil, air, bay water, and groundwater, the protection of the environment, natural resources, wildlife, and human health and safety, industrial hygiene and employee safety, and community right-to-know requirements, including CEQA, the Mitigation Measures, and the Environmental Covenants, applicable to the Project Site or related to the work being performed under the DDA or any Parcel Lease.

"Environmental Regulatory Action" means any inquiry, investigation, enforcement, remediation, agreement, order, consent decree, compromise, or other action that is threatened, instituted, filed, or completed by an Environmental Regulatory Agency in relation to a release of Hazardous Materials.

"Environmental Regulatory Agency" means the United States Environmental Protection Agency, the United States Occupational Safety and Health Administration, the United States Department of Labor, any California Environmental Protection Agency board, department, or office, including DTSC and the Water Board, the California Division of Occupational Safety & Health, Department of Industrial Relations, the Bay Area Air Quality Management District, the San Francisco Department of Public Health, SFPD, SFPUC, the Port, and any other Regulatory Agency now or later authorized to regulate Hazardous Materials.

"Environmental Regulatory Approval" means any approval, license, registration, permit, or other Regulatory Approval required or issued by any Environmental Regulatory Agency, including any hazardous waste generator identification numbers relating to operations at any portion of the Project Site and any closure permit.

"ESA" is an acronym for Electrical Service Agreement.

"Escrow" and **"Escrow Account"** mean an account established with an Escrow Agent for the delivery, recordation, and distribution as applicable of title documents, funds, and any other items necessary to Close a conveyance of a real property interest.

"Escrow Agent" means a local branch of a title company on the approved list maintained by the Real Estate Division of the San Francisco General Services Agency selected to handle a conveyance under the DDA.

"Escrow Closing Costs" means the Escrow costs customarily assigned to the buyer or ground lessee, such as escrow and associated fees, title insurance premiums and endorsement charges, transfer taxes, ad valorem taxes and assessments, if any, prorated as of the applicable Closing Date.

"Estimated Construction Duration" means Developer's projected construction periods for Components of Phase Improvements in each Phase Submittal.

"Estimated Construction Schedule" means Developer's projected schedule for pre-construction and construction of Phase Improvements in each Phase Submittal, which will be based on the Estimated Construction Duration.

"Event Day" means a calendar day during which an event is held in a Public Space, excluding time allowed for setup and breakdown of the event in the event permit.

"Event Management Plan" means **TP Sch 4 to DDA Exh B7** (Transportation Exhibit), which includes an anticipated approach to managing pedestrian activity, vehicle flows, and bicycle parking in and near the Project before, during, and after events at the Ballpark, event venues in the Project Site, and other nearby event venues, such as Chase Center, where the event promoter has a parking agreement with the Garage operator to provide parking for patrons of the event.

"Event of Default" means a Breaching Party's failure to cure a noticed breach within any cure period specified in **DDA §§ 10.2** (Events of Default by Developer) or **10.3** (Events of Default by the Port), **DA § 9.2** (DA Defaults), or as otherwise specified in any Transaction Document, including all incorporated implementation plans and documents.

"Exacerbate" when used in reference to Hazardous Materials means any act or omission that increases the quantity or concentration or potential for human exposure 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, it being understood that the mere discovery of Hazardous Materials does not cause **"Exacerbation"**. **"Exacerbate"** also includes the disturbance, removal or generation of Hazardous Materials in the course of Developer's operations, Investigations, maintenance, repair, and construction of Horizontal Improvements. **"Exacerbate"** also means failure to comply with the Soil Management Plan or Environmental Covenants. **"Exacerbation"** has a correlative meaning.

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

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

"Excluded Transfer" means any of the following:

- (i) any Lender's exercise of remedies;
- (ii) the removal of a general partner or managing member by the exercise of remedies under any form of operating agreement;

- (iii) the sale, transfer, or issuance of stock listed on a national or internationally recognized stock exchange; or
- (iv) a change resulting from death or legal incapacity of an individual.

“Excusable Delay” means an allowed delay in performance, or an extension of an Outside Date, as a result of the occurrence of an event of Force Majeure.

“Excusable Delay” excludes:

- (1) *Developer’s lack of Developer Capital needed for a Phase;*
- (2) *Developer’s Insolvency; and*
- (3) *an Administrative Delay or Environmental Delay if the Party claiming delay fails to take required actions or make good faith efforts to resolve the issues causing delay in a timely manner.*

“Exempt Parcel” means, depending on the context:

- (i) any assessor’s parcel of a real property interest that is exempt either in whole or in part from property taxation under California law; and
- (ii) any assessor’s parcel of a real property interest that is exempt from Mello-Roos Taxes under an RMA.

“Exempt Parcel” excludes any parcel that:

- (1) *the Port or any other Regulatory Agency acquires by gift, devise, negotiated transaction, or foreclosure;*
- (2) *the Port acquires under the DDA; or*
- (3) *is in private use for taxable purposes.*

“Exhibit, Display, or Trade Show Work” means the on-site installation, set-up, assembly, and dismantling of temporary exhibits, displays, booths, modular systems, signage, drapery, specialty furniture, floor coverings, or decorative materials in connection with or related to a Special Event.

“Existing City Law” means any City Law in effect on the DA Ordinance Effective Date, including Planning Code section 291, which was added by Proposition D.

“Existing Geotechnical Condition” means the physical, geotechnical condition of the Project Site, including soils and groundwater conditions, before Developer or its Affiliate first took possession of the Project Site.

“Existing Geotechnical Condition” excludes the Existing Hazardous Material Condition of the Project Site.

“Existing Hazardous Material Condition” means the presence or release of Hazardous Materials in, on, or about any portion of the Project Site that occurred before Developer or its Affiliate first took possession of the Project Site.

“Experience Requirement” means the Port’s requirement that a proposed Transferee have substantial experience (in the Port’s reasonable judgment), either directly or through any of its Affiliates or its project team, as a developer of mixed-use projects comparable to the Project.

“Exposition” means a large-scale public exhibition with a primary though not necessarily exclusive purpose of promoting one or more products, services, or businesses.

“extensive renovation” means any renovation where the construction cost exceeds 50% of the cost of providing all-gender toilet facilities.

“Facilities CFD” means the part of the Mission Rock CFD to be formed to finance Horizontal Improvements, Shoreline Adaptation Studies, Shoreline Protection Facilities, and other public facilities as approved by the Port Commission and the Board of Supervisors.

“Facilities CFD Administrative Costs” means CFD Administrative Costs payable from Facilities Special Taxes.

“Facilities Special Taxes” means one or more of Development Special Taxes, Office Special Taxes, and Shoreline Special Taxes.

“Fair Market Value” means the value conclusion for a Development Parcel in the Project Site reached according to procedures described in the DDA, expressed as the price that a prospective buyer with reasonable knowledge of the relevant facts would be willing to pay on the open market for the leasehold interest.

“FAR” is an acronym for floor area ratio.

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

“FEHA” is an acronym for the Fair Employment and Housing Act (Cal. Gov’t Code §§ 12900-12996).

“FEMA” is an acronym for the Federal Emergency Management Agency.

“final” when used to refer to any Project Approval or Later Approval means that:

- (i) no administrative or judicial appeal has been filed by the applicable deadline;
- (i) if an administrative or judicial appeal has been timely filed, the Project Approval or Later Approval has been upheld by a final decision; or
- (ii) the Board of Supervisors has certified the results of an election under the Elections Code at which a referendum petition regarding a Project Approval is rejected.

“Final Appraisal” means the appraisal report that will be used for the conveyance of any Option Parcel, which can be either the Joint Appraisal as provided in **DDA § 7.4(g)** (Joint Appraisal) or the result of a dispute resolution process under **DDA § 7.5** (Appraisal Disputes).

“Final Audit” means Developer’s final financial report for the Project as described in **FP § 9.3(b)** (Final Audit).

“Final Audit Date” means the due date for the Final Audit under **FP § 9.3(b)** (Final Audit).

“Final Certificate of Occupancy” means a certificate of occupancy and completion that the Chief Harbor Engineer issues in the form of **Vertical DDA Exh Q** after accepting an Architect’s Certificate verifying that a Vertical Developer has finally completed a Vertical Improvement.

“final completion” means that Developer has completed all aspects of a Horizontal Improvement for which City Agency approval is required in compliance with the approved Improvement Plans and the Project Requirements by the Outside Date in the applicable Schedule of Performance in accordance with **DDA § 14.6** (SOP Compliance).

“Final EIR” means the environmental impact report for the Project that the Planning Department certified by Motion No. 20018 on October 5, 2017.

“final judgment” means an order, judgment, award, settlement, consent decree, stipulated judgment, or other partial or complete termination of an action with respect to a Claim or a Loss issued by an administrative, judicial, quasi-judicial, or nonjudicial body that is effective and binding after any appeal is finally adjudicated and all rights to appeal have been exhausted, or the time to appeal has expired.

"Final Map" means a final Subdivision Map meeting the requirements of the Subdivision Code and the Map Act, subject to amendments made by the DA Ordinance, which map has been approved by the Board of Supervisors.

"Final Phase" means the last Phase of development of Seawall Lot 337.

"Final Port Report" means the Port's final financial report for the Project as described in **FP § 9.2(d)** (Reporting).

"Final Value" means the Fair Market Value or Rent Conversion Factor conclusion that is in a Joint Appraisal or reached by the appraisal dispute resolution procedures in **DDA § 7.5** (Appraisal Disputes).

"Financing Document" means one or more of the Financing Plan, the Acquisition Agreement, the Special Fund Administration Agreement, the Participation Agreement, Appendix I, the RMA, the Tax Allocation MOU, the CFD Formation Proceedings, the IFD Formation Proceedings, and all related ordinances and resolutions that the Board of Supervisors adopt in connection with the formation of Project Area I and the Mission Rock CFD.

"Financing Plan" means **DDA Exh C1**, the part of the DDA that will govern the application of Project Payment Sources to meet the Project Payment Obligation and other matters relating to financing the Project and revenue-sharing.

"Fire Safety Infrastructure" means Improvements that will be under SFFD jurisdiction when accepted.

"First Scheduled Closing Date" shall mean the originally scheduled Closing Date set forth in the Vertical DDA in effect for the first Development Parcel anticipated to be conveyed in a Phase, as such Closing Date may be extended under **DDA § 7.7(d)** (Final Map).

"First Source Hiring Agreement" means **WDP Att A**.

"First Submittal" means the set of Improvement Plans submitted before the Second Submittal under **ICA § 4.6(c)** (Plans Submittals).

"First Tranche Bonds" means Bonds that are payable from Allocated Tax Increment, the proceeds of which are used to finance the Project Payment Obligation.

"Flex Parcel" means Development Parcels designated as Flex, for which either Commercial or Residential Mixed Use is permitted as the primary land use under Section 249.80.

"Flexible Street Improvements" means Public ROWs that are not supported by Structured Street Superstructure.

"Flexible Utility Connections" means utility connections that are flexible to accommodate differential settlement where structured streets interface with Flexible Street Improvements.

"Floodplain Management Plan" means the document described in Port Building Code §§ 104A.2.1.1-104A.2.1.2.

"Floodplain Ordinance" means the law (Admin. Code art. XX) regulating construction in flood-prone areas of San Francisco and authorizing the City's participation in the National Flood Insurance Program.

"Force Majeure" means an Administrative Delay, Environmental Delay or Down Market Delay or any other event that is not caused by and is outside the reasonable control of the Party claiming an Excusable Delay and includes:

- (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;
- (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 Project Site;
- (v) government action or inaction after the Reference Date that precludes or substantially increases Developer's cost to perform or comply with any provision of the DDA;
- (vi) delays in any Closing under a Vertical DDA as a result of the Port's acts or omissions;
- (vii) any Vertical Developer's failure to perform an obligation on or before the time specified for performance; and
- (viii) litigation or written threat of litigation.

"Foreclosure Purchaser" means a person, including a Lender, that acquires a property interest by a Foreclosure Sale or that person's successor.

"Foreclosure Sale" means a Lender or its nominee taking title to Encumbered Property under its Deed of Trust or Security Interest through a foreclosure proceeding, a conveyance or other action in lieu of foreclosure, or its exercise of any other power of sale or other remedy.

"FP" is an acronym for **DDA Exh C1**, the Financing Plan.

"Free Public Event" means an event in a Public Space that:

- (i) is open to the general public; and
- (ii) does not require the purchase of a ticket for entry to the event, but may require a ticket or registration to manage the number of attendees.

"Funding Goals" means the Parties' financial objectives under **FP § 1.2** (Funding Goals).

"FY" is an acronym for "fiscal year" in reference to a City Fiscal Year.

"FYE" is an acronym for "fiscal year end," which occurs on June 30 of each City Fiscal Year.

"GAAP" means generally accepted accounting principles consistently applied.

"Garage" means a parking structure that Developer builds on the Project Site as permitted under the SUD and the DDA.

"Garage Parcel" means a Development Parcel designated for construction of a Garage, consisting of Parcel D2, the Mission Rock Square Garage Parcel, or both, as required in the context.

"Garage Phase" means an optional Phase between Phase 1 and Phase 2 (or possibly later, under **DDA § 2.5(a)** (Garage Phasing)) during which Developer may construct a Garage and associated Horizontal Improvements.

"Garage Put Notice" means a notice that the Port will deliver if it elects to exercise its rights under **DDA § 7.3** (Parcel Put) with respect to Parcel D2.

- “Garage REA”** means the reciprocal easement agreement that the Vertical Developer of any Garage Parcel must enter into with the Vertical Developer of any Adjacent Parcel under **DDA § 2.5(f)** (Garage REA).
- “Garage Recommendations”** means the written recommendations that the Director of Planning or the Director of Transportation, or both, provide to Developer regarding the development and operation of a Garage and possible refinements to the parking management plan under **DDA § 2.5(c)** (Garage Recommendations).
- “Garage Report”** means the report that Developer must prepare and submit to specified City Agencies for any proposed Garage under **DDA § 2.5(b)** (Garage Report).
- “Garage Space”** means a parking space in a Garage.
- “General Plan”** means goals, policies, and programs for the future physical development of the City, as adopted by the Planning Commission and approved by the Board of Supervisors, taking into consideration social, economic, and environmental factors.
- “General Plan Consistency Findings”** means findings made by the Planning Commission by Motion No. 20019 that the Project as a whole and in its entirety is consistent with the objectives, policies, general land uses, and programs specified in the General Plan and the planning principles in Planning Code section 101.1.
- “Giants”** means the holder of the San Francisco Giants National League franchise.
- “Giants Affiliate”** means a person controlling, controlled by, or under common control with the Giants on the Reference Date or the effective date of a Transfer.
- “GMP contract”** means a guaranteed maximum price contract or negotiated contract described in **DDA § 13.4(c)** (Guaranteed Maximum Price Contract).
- “Governing Law and Policy”** when referring to Public Financing Sources collectively or individually as applicable, means the CFD Law, the IFD Law, the Tax Code, the CFD Goals, and the Port IFD Guidelines.
- “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.
- “Gross Annual Income”** means pre-tax money earned annually by a household, including overtime pay, commissions, dividends, and any other source of income.
- “Gross Income”** means Master Lease Tenant’s revenues under the Master Lease, as defined in greater detail in the Master Lease.
- “Gross Tax Increment”** means 100% of the property and possessory interest taxes that the City actually receives in a City Fiscal Year by application of the 1% ad valorem tax against the increase in assessed value of Taxable Parcels in Project Area I above their values in the base year of Project Area I.
- “Ground Improvement Plan”** means a Permit Set of Improvement Plans for Site Preparation.
- “gsf”** is an acronym for gross square feet in any structure, as measured under applicable provisions of the Planning Code.
- “handle”** when used in reference to Hazardous Materials means to use, generate, process, manufacture, produce, package, treat, transport, store, emit, discharge, or dispose of a Hazardous Material.

“Hard Cost” means any cost incurred after the Reference Date, including, without duplication:

- (i) construction labor and materials for Horizontal Improvements;
- (ii) Port permit fees;
- (iii) fees for Adequate Security; and
- (iv) any other amount specifically identified in a Transaction Document as a Hard Cost or a category of Hard Costs.

“Hard Costs” excludes:

- (1) *Soft Costs; and*
- (2) *costs incurred before the Reference Date.*

“Hazardous Material” 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 Material,” “hazardous waste constituent,” “infectious waste,” “medical waste,” “biohazardous waste,” “extremely hazardous waste,” “pollutant,” “toxic pollutant,” or “contaminant,” or any other designation intended to classify substances by properties deleterious to the environment, natural resources, wildlife, or human health or safety, including:

- (i) ignitability, infectiousness, corrosiveness, radioactivity, carcinogenicity, toxicity, and reproductive toxicity;
- (ii) any form of natural gas or petroleum products;
- (iii) asbestos, asbestos-containing materials, and presumed asbestos-containing materials;
- (iv) PCBs, PCB-containing materials; and
- (v) any other 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.

“Hazardous Material Claim” means any Environmental Regulatory Action or any Claim made or threatened by any third party against the Indemnified Parties, the State Lands Indemnified Parties, or the Premises relating to contribution, cost recovery compensation, Losses resulting from the Release or Exacerbation of any Hazardous Materials, including Losses based in common law. Hazardous Material Claims include Investigation and Remediation costs, fines, natural resource damages, damages for decrease in value of the Master Lease Premises or other Port property, the loss or restriction of the use or any amenity of the Premises or other Port property, Attorneys’ Fees and Costs and fees and costs of consultants and experts.

“Hazardous Material Condition” means the Release or Exacerbation, or threatened Release or Exacerbation, of Hazardous Materials in, on, or under the Master Lease Premises or emanating from the Master Lease Premises, or from off-site conditions or events affecting receptors or the environmental condition in, on, over, or under, the Master Lease Premises, or from any vehicles Tenant, or its Agents and Invitees use in, on, or under the Master Lease Premises during the Master Lease Term or the DDA Term.

“HCAO” means the Health Care Accountability Ordinance (Administrative Code chapter 12Q).

“HDPE” means high-density polyethylene pipe.

"Historic Tax Credits" means tax credits available under the Historic Preservation Tax Incentives Program jointly administered by the National Park Service and the State Historic Preservation Offices, codified at Tax Code section 47.

"horizontal development" means the Horizontal Improvements and Associated Public Benefits that Developer is obligated to provide under the DDA.

"Horizontal Development Costs" means Hard Costs and Soft Costs.

"Horizontal Development Costs" excludes:

- (1) *any claimed costs that are not verified by proof of payment;*
- (2) *the portion of any cost that is commercially unreasonable as of the date incurred;*
- (3) *costs that are not eligible for reimbursement under the Financing Plan;*
- (4) *costs that would be Horizontal Development Costs but for exclusions under a Transaction Document, such as costs described in **DDA § 2.6(c)(iii)** (Second Garage Adjustments); and*
- (5) *costs of Vertical Improvements built by Vertical Developers except an Affordable Housing Shortfall or an Affordable Housing Subsidy funded by Developer Capital or a Port Capital Advance.*

"Horizontal Improvements" means public capital facilities and infrastructure built or installed at or near the Project Site, including Site Preparation, Shoreline Improvements, Public Space, Public ROWs, Utility Infrastructure, Deferred Infrastructure to the extent permitted, and work in Third Street to comply with Developer Mitigation Measure M-TR-6.

"Horizontal Improvements" excludes Vertical Improvements.

"household" means one or more related or unrelated individuals who live together in a Residential Unit as their primary dwelling.

"Household Size" means the total number of bedrooms in a Residential Unit plus one, used solely for the purpose of establishing rents and not for limiting occupancy.

"Housing Data Table" means a table that Developer submits in the report with detailed information about Developer's progress toward meeting inclusionary housing requirements for the Project.

"Housing Plan" means **DDA Exh B5**, which sets forth certain requirements for Residential Parcels, including inclusionary housing requirements.

"HP" is an acronym for the Housing Plan.

"HSH" is an acronym for the Department of Homelessness and Supportive Housing.

"HUD" is an acronym for the United States Department of Housing and Urban Development.

"ICA" is an acronym for "interagency cooperation agreement" that is used to refer to the Memorandum of Understanding regarding Interagency Cooperation.

"IFD" is an acronym for Infrastructure Financing District No. 2 (Port of San Francisco), formed by Ordinance No. 27-16.

"IFD Administrative Costs" means the reasonable costs that the Port, as IFD Agent, actually incurs and pays for:

- (i) services of any Indenture Trustee (including its counsel) for any Bonds that the IFD issues;
- (ii) marketing or remarketing Bonds; and

- (iii) all other administrative services provided by the Port, the IFD Administrator, the City, the Special Fund Trustee, and third-party professionals necessary for the Port to perform its duties under the DDA, Tax Allocation MOU, Special Fund Administration Agreement, and Appendix I, including the City's costs under section 53369.5 of the IFD Law.

"IFD Administrator" means the Port's tax increment consultant or any other person that the Port Director designates to administer Tax Increment from Project Area I in accordance with Appendix I.

"IFD Agent" means the Port, acting on behalf of the IFD with respect to Project Area I, as authorized by Board of Supervisors Resolution No. 45-18.

"IFD Financing Plan" means the infrastructure financing plan for the IFD, including all appendices implementing project-specific infrastructure financing plans for project areas.

"IFD Formation Proceedings" means Ordinance No. 34-18 and Board of Supervisors Resolution No. 45-18.

"IFD Law" means California law governing infrastructure financing districts, beginning at Government Code section 53395.

"IFD Termination Date" means, for each Sub-Project Area in Project Area I, date on which all allocations to the IFD of Tax Increment from that Sub-Project Area, and the IFD's authority to repay indebtedness with Tax Increment from that Sub-Project Area end under Appendix I in accordance with IFD Law, which is no later than 45 years after the IFD actually receives \$100,000 in Tax Increment from that Sub-Project Area.

"Impact Fee" means any fee that the City imposes as a condition of approval to mitigate the impacts of increased demand for public services, facilities, or housing caused by the development project that may or may not be an impact fee governed by the Mitigation Fee Act, including a fee paid in lieu of complying with an Exaction.

"Impact Fee" excludes any Administrative Fee, school district fee, or federal, state, or regional fee, or tax, special tax, or assessment.

"Implementing Manuals" is defined in the Housing Plan.

"Improvement Bonds" means bonds that Developer will be required to provide to Public Works in connection with the subdivision of the Project Site.

"Improvement Plan Submittal" means each packet of Improvement Plans submitted for review and approval under the DDA or **ICA § 4.6(d)** (Plan Submittals).

"Improvement Plans" means design and engineering plans for the Infrastructure Plan and MUPs, usually consisting principally of the Basis of Design Report, the First Submittal, the Second Submittal, and the Permit Set, submitted for Horizontal Improvements for purposes of the DDA or **ICA § 4.6** (Processing Improvement Plans and Issuance of Construction Permits).

"Improvements" means all physical changes required or permitted to be made to the Project Site under the DDA, including Horizontal Improvements and Vertical Improvements.

"Inclusionary Milestone" means the Inclusionary Obligation under each approved Phase Application allowing for the development of Residential Units in compliance with **HP § 3.1** (Inclusionary Housing Requirements).

"Inclusionary Obligation" means Developer's obligation to deliver 40% of all Residential Units as Inclusionary Units in compliance with **HP § 3.1** (Inclusionary Housing Requirements).

"Inclusionary Unit" means a Residential Unit, which may be a TAY Unit, that is available to and occupied by households with incomes between 45% and 150% of AMI and rented at an

Affordable Housing Cost to the eligible household in accordance with **HP § 3.1** (Inclusionary Housing Requirements).

"Income Certification" means the form that a potential tenant must submit to determine income eligibility for an Inclusionary Unit under the Housing Plan.

"Income Recertification" means the form that an existing tenant must submit to determine continuing income eligibility for an Inclusionary Unit under the Housing Plan.

"Incomplete" when used in reference to a Phase means that the Phase Improvements are not substantially complete.

"Indemnified Party" means, as applicable, a City Party, a Developer Party, or a Vertical Developer Party with the right to indemnification by an Indemnitor under the specific Transaction Document in which the term is used.

"Indemnify" means reimburse, indemnify, defend, and hold harmless.

"Indemnitor" means, as applicable, a City Party, a Developer Party, or a Vertical Developer Party with an indemnification obligation under the specific Transaction Document in which the term is used.

"Indenture" means one or more indentures, trust agreements, fiscal agent agreements, financing agreements, or other documents containing the terms of any Bonds secured by a pledge of and to be paid by any combination of Mello-Roos Taxes and Allocated Tax Increment.

"Indenture Trustee" means the fiscal agent or trustee under an Indenture.

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

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

"Individual" when referring to a person means a human.

"Infrastructure Acceptance & Maintenance MOA" means a memorandum of understanding that Public Works, SFMTA, SFPUC, and the Port will negotiate in accordance with **clause (ii) of ICA § 4.6(b)** (Design Standards, Exceptions and Design Modifications) to identify the applicable Acquiring Agencies and other entities that will be responsible for maintenance of and liability for completed Horizontal Improvements, maintenance funding sources, anticipated exceptions and design modifications to the Subdivision Code, and any special inspection and training procedures required for City-standard and Non-Standard Infrastructure.

"Infrastructure Plan" means **DDA Exh B1**, which contains descriptions and Improvement Plans for Horizontal Improvements proposed to be built or installed at or to serve the Project Site, and each Master Utility Plan when approved by the applicable City Agency.

"Initial Benchmarks" means the following:

- (i) the Port's issuance of an SOP Compliance Determination for Phase 1 and a TCO for the Parcel D2 Garage; and
- (ii) the Port's determination, in consultation with the Director of Public Works, that the Shared Public Way is substantially complete.

"Initial Transfer" means a Transfer meeting the requirements of **DDA § 6.2(b)** (Initial Transfer).

“Initial Transferee” means the Transferee in an Initial Transfer under **DDA § 6.2(b)** (Initial Transfer).

“Initial Transferee Affiliate” means an Affiliate of the Initial Transferee.

“Insolvency” means a person’s financial condition that results in any of the following:

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

“Inspection Request” means Developer’s written request that the Chief Harbor Engineer arrange for the applicable Acquiring Agency to inspect Horizontal Improvements or Components for compliance with Project Requirements and City Laws.

“Insurance Requirements” means the obligations of Developer to obtain and maintain insurance coverage in accordance with **ML art. 20** (Insurance), which is incorporated into **DDA art. 15** (Insurance) and **PL art. 20** (Insurance).

“Interest Cost Limitation” means the statutory limit on the amount of interest that an infrastructure financing district is authorized to pay to acquire infrastructure under IFD Law section 53395.2, specifically, “a rate of interest not to exceed the bond buyer index rate on the day that the agreement to repay is entered into.”

“Interest on DRP Advances” means annual rate of 4.48%, compounded quarterly until paid, the rate at which interest accrues on the principal amount of Promissory Note.

“Interest Rate” means an annual rate equal to the greater of:

- (i) ten %; and
- (ii) the Prime Rate in effect on the date payment is due, plus 5%.

“Interested Person” means a person that acquires a property interest or security interest in any portion of the Project Site by Parcel Lease, Assignment and Assumption Agreement, or Encumbrance.

“Interested Pier 48 User” means a creditworthy person with a demonstrated interest in a long-term lease of a significant portion of a rehabilitated Pier 48, identified under **DDA § 7.10** (Pier 48).

“investigate” when used with reference to Hazardous Materials means any activity undertaken to determine and characterize the nature and extent of Hazardous Materials that have been, are being, or are threatened to be released in, on, under, or about any portion of the Project Site, other Port property, or the environment, including:

- (i) preparation and publication of site history;
- (ii) sampling, and monitoring reports;
- (iii) performing equipment and facility testing such as testing the integrity of secondary containment and above and underground tanks; and
- (iv) sampling and analysis of environmental conditions before, during, and after remediation begins and continuing until the appropriate Environmental

Regulatory Agency has issued a no further action letter, lifted a clean-up order, or taken similar action.

"Invitee" means a person's clients, customers, invitees, patrons, guests, members, licensees, permittees, concessionaires, vendors, suppliers, assignees, tenants and subtenants, any other person whose rights arise through them, and members of the general public present on any property under the person's possession and control.

"IPM Ordinance" means Environment Code chapter 3.

"IPM Plan" means the Port's integrated pest management plan.

"IPM Policy" means the policy described in Environment Code chapter 3.

"IRS" is an acronym for the Internal Revenue Service.

"ISCOTT" is an acronym for the Interdepartmental Staff Committee on Traffic and Transportation.

"issue" when used in reference to any form of indebtedness in the Financing Plan means to complete all actions required to obtain the proceeds for authorized uses under the Financing Plan.

"Janitorial Services" means maintenance and cleaning services on property owned or leased by the City.

"JHEF" is an acronym for Jobs/Housing Equivalency Fee.

"Job Readiness Training Funds" means the portion of the CBO Funds that will be used to fund community-based organizations that provide services to provide job-readiness training for individuals within at-risk populations.

"Jobs/Housing Equivalency Fee" mean the Impact Fee payable under **DA § 5.4(b)** (Impact Fees and Exactions) in lieu of the Jobs/Housing Linkage Fee.

"Jobs/Housing Linkage Fee" means the Impact Fee due under Planning Code sections 413.1-413.11.

"Joint Appraisal" means the appraisal report that a Qualified Appraiser delivers to both Parties under **DDA § 7.4(g)** (Joint Appraisal).

"Land Use Plan" means **DDA Exh A3**, which consists of a map showing Developer's proposed land uses and intensity of vertical development at the Project Site.

"Land Use Table" means the chart in **DDA § 1.5** (Land Use Table) with principal land uses for Development Parcels, as anticipated on the Reference Date.

"Land Value Indicator" means dollar value per usable square foot within the building envelope assumed in the Final EIR for each Option Parcel for its proposed use, initially based on the Land Use Plan attached to the DDA and the residual land values in the Summary Proforma attached to the Financing Plan on the Reference Date, which will be used solely for a Down Market Test under **DDA art. 4** (Excusable Delay).

"Large Event" means an event occupying at least 30%, but no more than 70%, of the footprint of a Public Space.

"Later Approval" means any Regulatory Approval required after the Reference Date to implement the Project or to begin Site Preparation or construction of Improvements.

"Later Phase" means the Phase following a Current Phase.

“law” means any of the following validly in effect as of the Reference Date and as later amended, supplemented, clarified, corrected, or replaced during the DDA Term, whether or not within the present contemplation of the Parties:

- (i) federal, state, regional, or local constitution, charter, law, statute, ordinance, code, rule of common law, resolution, rule, regulation, standard, directive, requirement, proclamation, order, decree, and policy (including the Waterfront Plan and Port and City construction requirements);
- (ii) judicial order, injunction, writ, or other decision interpreting any law;
- (iii) requirement or condition of any Regulatory Approval of a Regulatory Agency affecting any portion of the Project Site; and
- (iv) recorded covenants, conditions, or restrictions affecting any portion of the Project Site.

“LBE” is an acronym for a local business enterprise as defined in Administrative Code chapter 14B.

“Lead Parcel” means any Option Parcel in Phase 1 that will be subject to a Prepaid Lease under **DDA § 7.1(c)** (Lead Parcels).

“Lease Year” is defined in the Master Lease.

“Leasing Costs” means customary and usual costs incurred by a landlord with respect to leased property, such as costs associated with tenant defaults, costs of collection, vacancies, assignments and subleases, estoppel certificates, nondisturbance agreements, and Insolvency.

“Legislature” means the legislative branch of the State.

“Lender” means:

- (i) a financial institution that makes a loan to a Borrower to finance Project-related costs, secured by a real property interest in the Project Site; and
- (ii) an entity that makes a loan to a Borrower to finance Project-related costs, secured by a Security Interest.

“LIBOR” means the London Interbank Offered Rate, based on a 365-day year, for interbank loans of U.S. dollars with one-year maturities, published as daily rates for USD ICE LIBOR by the Intercontinental Exchange Administration Limited, or a replacement rate for short-term lending mutually acceptable to the Parties.

“Local Hiring Agreement” means **WDP Att B**.

“Local Hiring Policy for Construction” means the hiring policies for San Francisco described in Administrative Code chapter 82.

“LOSP” means the San Francisco Local Operating Subsidy Program, which is an anticipated source of funding for operating TAY Units.

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

“Loss Security” means Adequate Security that Developer is required to provide to secure the Developer Reimbursement Obligations for each Phase.

"Loss Security End Date" means the date that is the earliest to occur of the following:

- (i) issuance of a SOP Compliance Determination for all Phase Improvements within a Phase;
- (ii) the expiration or termination of the DDA with respect to Developer; or
- (iii) the expiration or termination of all of Developer's rights to develop or submit Phase Submittal applications to develop any portion of the Project Site.

"Maintained Facilities" means Port- or City-owned Horizontal Improvements, Outfall Infrastructure, and Relocated Outfall Infrastructure in or serving the Mission Rock CFD that will be listed in the RMA.

"Maintenance and Repair Security" means Adequate Security that the Port may require under **DDA § 14.9 (e)** (Maintenance as Soft Costs).

"Management Control" means that a person has major decision rights regarding the Phase Submittal and Phase Budget for a Phase under an operating or similar agreement.

"Map Act" means the Subdivision Map Act of California (Cal. Gov't Code §§ 66410-66499.37).

"Marketing and Operations Plan" means, for the Inclusionary Units in a Residential Project, the Vertical Developer's MOHCD-approved:

- (i) marketing plan, including any preferences under Administrative Code chapter 47;
- (ii) rental charges conforming to the Housing Plan; and
- (iii) eligibility and income qualifications of renters, together with any supplemental information required under the Implementing Manuals.

"Market-Rate Unit" means a Residential Unit in a Residential Parcel that is not subject to any affordability requirements under the Housing Plan.

"Mass Grading Plan" means a Permit Set of Improvement Plans for Site Preparation.

"Mass Participation Sports Event" mean a participatory sporting event such as a marathon, running race, or bicycle race or tour with anticipated participation by 150 or more participants.

"Master Association" means the entity that Developer will form to administer the Master CC&Rs.

"Master CC&Rs" means conditions, covenants, and restrictions relating to Ongoing Maintenance Obligations to be recorded against all Taxable Parcels in the Project Site.

"Master Lease" means an interim lease for a portion of the Project Site in the form of **DDA Exh B10** that allows Developer to take possession of the Master Lease Premises and construct Horizontal Improvements approved under the DDA and to conduct other uses as provided therein.

"Master Lease Premises" means the area subject to the Master Lease at the time in question.

"Master Lease Tenant" means the tenant under the Master Lease at the time in question.

"Master Marketing Fee" means a private fee collected from each Vertical Developer in the amount and in accordance with the terms set forth in **Vertical DDA § 12.16** (Master Marketing Fee).

"Master Utilities Plan" means a set of plans and detailed specifications for the following Utility Infrastructure, which will be deemed incorporated into the Infrastructure Plan when approved:

- (i) low-pressure water system;

- (ii) non-potable water system;
- (iii) auxiliary water supply system;
- (iv) grading, sanitary sewer, and separate stormwater systems;
- (v) dry utilities joint trench; and
- (vi) electrical system.

“Material Breach” means the occurrence of any of the events described in **DDA art. 11** (Material Breaches and Termination).

“Material Change” means any circumstance that would create a conflict between a Change in City Law and the Project Approvals that is described in **DA § 5.3(b)** (Circumstances Causing Conflict).

“Material Cost Increase” means a material increase in the hard costs or soft costs of any Horizontal Improvement or Vertical Improvement, as applicable.

“Material Modification” means an amendment to a Transaction Document that would materially increase an Acquiring Agency’s costs of ownership or impair the operations of Horizontal Improvements, or that would materially decrease the benefits to the Port or the City, as determined by the Port Director under **DDA § 3.8(c)** (Amendments).

“Maximum Special Tax Rate” means the highest rate at which any category of Mello-Roos Taxes is authorized to be levied on a Taxable Parcel under the RMA.

“McEnerney Act” means the Destroyed Land Records Relief Law (Cal. Code of Civ. Proc. §§ 751.01-751.28).

“McEnerney action” means a lawsuit under the McEnerney Act.

“meal” means “prepared food” as defined in Environment Code section 1602(l).

“Medium Event” means an event occupying more than 10,000 square feet, but less than 30% of the footprint of a Public Space.

“Medium Event Day” means an Event Day during which a Medium Event is held.

“Mello-Roos Bond Proceeds” means proceeds of Mello-Roos Bonds, including Early Mello-Roos Bonds and Mello-Roos-only Bonds if appropriate in the context, issued under CFD Law that are available for disbursement after funding the costs of issuance, capitalized interest, reserves, and any other amounts specified in the applicable Indenture.

“Mello-Roos Bonds” means one or more series of taxable or tax-exempt bonds, including refunding bonds, or any other debt (as defined in CFD Law) that the City issues for the Facilities CFD, secured by a pledge of Development Special Taxes or Allocated Tax Increment, or both, for any purpose authorized under Governing Law and Policy.

“Mello-Roos Bonds Debt Service Requirement” means the debt service due on Mello-Roos Bonds in any City Fiscal Year before the next expected Receipt Date of Mello-Roos Taxes.

“Mello-Roos Improvement Fund” means the funds or accounts, however denominated, that an Indenture Trustee establishes to hold, administer, and disburse Mello-Roos Bond Proceeds to be used to finance Horizontal Development Costs, Shoreline Protection Facilities, or for any other purpose authorized under the Indenture.

“Mello-Roos-only Bonds” means one or more series of taxable or tax-exempt bonds, including refunding bonds, or any other debt (as defined in CFD Law) that the City issues for the Facilities CFD, secured solely by a pledge of Development Special Taxes for any purpose authorized under Governing Law and Policy.

- "Mello-Roos Taxes"** means special taxes that the City levies in a City Fiscal Year on Taxable Parcels in the Mission Rock CFD in accordance with the RMA, including delinquent special taxes collected at any time by payment or through foreclosure.
- "Memorandum of Understanding (Levy and Allocation of Taxes)"** means an interagency agreement between the City, through the Controller and the Treasurer-Tax Collector, and the Port, establishing procedures for levying Mello-Roos Taxes, allocating Mello-Roos Taxes to the Mission Rock CFD, and allocating Tax Increment to the IFD, and related matters, as authorized by Port Commission Resolution No. 18-09 and the MOU Resolution under Charter section B7.340.
- "Memorandum of Understanding regarding Interagency Cooperation"** means an interagency agreement between the City, through the Mayor, the Controller, the City Administrator, and the Director of Public Works, with the Consents of SFMTA and SFPUC, and the Port, establishing procedures for interagency cooperation in City Agency review of Improvement Plans, inspection of Horizontal Improvements, and related matters, as authorized by Port Commission Resolution No. 18-07 and the MOU Resolution and Board of Supervisors Resolution No. 44-18 under Charter section B7.340.
- "Minimum Affordable Percentage"** is defined in **HP § 2.1** (Development Program).
- "Minimum Developer Return"** means the sum of \$40.5 million payable to Developer under the conditions specified in **FP § 2.5(c)** (Developer Return).
- "Minimum JHEF"** means the amount of the Jobs/Housing Equivalency Fee assigned to each Development Parcel under **FP § 2.8** (Jobs/Housing Equivalency Fee), which the Parties may agree to adjust through the Phase Budget approval process.
- "Minimum Phase Return"** means the minimum amount of Developer Return that the Port is obligated to pay to Developer under the conditions specified in **FP § 2.5(c)** (Developer Return).
- "Minimum Price"** means the minimum price that the Port will accept in a Public Offering for an Option Parcel under **DDA § 7.8** (Public Offering Procedures).
- "Mission Rock"** means the master-planned portion of the Project and the Project Site that will encompass SWL 337 and the expansion of China Basin Park.
- "Mission Rock CFD"** is a term used to refer to the CFD for the Project, if and when formed.
- "Mission Rock On-Site Event Management Plan"** means the plan required under **ICA § 4.11(c)**.
- "Mission Rock Parks Plan"** means Port regulations and policies to govern the management, programming, and operations of Public Spaces in the Project Site.
- "Mission Rock Square Garage"** means the underground parking garage that the Parties may agree to include in the Project under **DDA § 2.6** (Mission Rock Square Garage).
- "Mission Rock Square Garage Parcel"** means the underground air parcel that will be created under Mission Rock Square on conditions described in **DDA § 2.6** (Mission Rock Square Garage).
- "Mitigation Fee Act"** means California Government Code sections 66000-66025.
- "Mitigation Measure"** means any measure identified in the MMRP required to minimize or eliminate material adverse environmental impacts of the Project and any additional measures necessary to mitigate adverse environmental impacts that are identified through the CEQA process for any Later Approval.
- "MMRP"** is an acronym for the Mitigation Monitoring and Reporting Program adopted for the Project.

“**MOD**” is an acronym for the Mayor’s Office of Disability.

“**MOHCD**” is an acronym for the Mayor’s Office of Housing and Community Development.

“**MOU Resolution**” is a term used to refer to Board of Supervisors Resolution No. 45-18, approving under Charter section B7.340 the Tax Allocation MOU and the Port’s designation as the City’s agent for the term of the Tax Allocation MOU for:

- (i) the Mission Rock CFD;
- (i) Project Area I;
- (ii) the administration of Mello-Roos Taxes and any proceeds of Bonds secured by Mello-Roos Taxes; and
- (iii) the administration of Allocated Tax Increment and any proceeds of Bonds secured by Tax Increment.

“**MUNI**” means the municipal public transit systems operated by SFMTA.

“**Municipal Code**” means, collectively, the Charter and ordinances adopted by the Board of Supervisors and by San Francisco voters through initiatives.

“**MUP**” is an acronym for Master Utilities Plan.

“**Net Consideration**” means the consideration that a Selling Member receives for the Transfer of its interests in Developer after deducting the appropriate transaction costs associated with the Transfer, subject to confirmation by the Port.

“**net present value**” means the difference between the present value of the future cash flows from an investment, calculated by discounting the future cash flows at the required rate of return, and the amount of investment.

“**Net Proceeds**” means a Vertical Developer’s proceeds from a transfer of any part of its interest in an Option Parcel or from refinancing any indebtedness associated with its acquisition or construction costs after deducting the costs of acquisition, financing, development, and capital improvement for the parcel.

*“**Net Proceeds**” excludes any loan proceeds that are designated for additional investment and actually are invested in capital improvement of an Option Parcel.*

“**Net Transfer Proceeds**” means the proceeds of a Vertical Developer’s transfer of its rights under a Vertical DDA as described in **Vertical DDA § 19.1** (Before Close of Escrow).

“**Net Worth**” when used in reference to a Transfer means the equity of an entity’s owners (e.g., equity interest of shareholders of a corporation or members of a limited liability company) calculated in accordance with GAAP or the income tax basis of accounting consistently applied.

“**Net Worth Requirement**” when used in reference to a Transfer means, for each Transfer of one or more Transferred Phases in which Phase Improvements are not complete, either:

- (i) a Net Worth of at least \$27.5 million, increased automatically by 10% on each fifth anniversary of the Reference Date for the remainder of the DDA Term, unless otherwise approved by the Port Director; or
- (ii) written evidence satisfactory to the Port Director that a person directly or indirectly holding Significant Ownership in Developer after the Transfer would have a legally binding obligation to fund Developer’s anticipated Developer Capital requirements in amounts sufficient to satisfy the Developer Construction Obligations for the Phase.

- "Neutral Appraisal"** means any appraisal report that the Parties jointly obtain under **DDA § 7.5(b)** (Dispute Resolution Procedures).
- "New Hazardous Material"** means a Hazardous Material that is not a Pre-existing Hazardous Material.
- "Non-Standard Infrastructure"** means, collectively, Horizontal Improvements that are not built to City standard specifications, and includes the Structured Street Superstructure, interfaces with existing perimeter streets, Shared Public Ways, and the use of HDPE throughout the Project Site.
- "nontrust revenues"** means the Port's revenues from Development Parcels from which the public trust use restrictions have been lifted temporarily under SB 815 and Project-based revenues outside of the Port Harbor Fund that are available for the Project, such as Mello-Roos Taxes, Tax Increment, and proceeds of Bonds secured by either or both, credits that may be applied to offset any portion of Impact Fees or Exactions that would otherwise be due, and proceeds of general obligation bonds.
- "notice"** means a written notification, demand, request for information or consent, or response to a request delivered in accordance with **App ¶ A.5** (Notices) and any other requirements specified in a Transaction Document.
- "Noticed Party"** means the Party receiving a notice.
- "Noticing Party"** means the Party delivering a notice to the Noticed Party.
- "Nutritional Standards Requirements"** means the food and beverage nutritional standards and calorie labeling requirements set forth in Administrative Code section 4.9-1(c).
- "Obligor"** means the person contractually obligated to perform under any form of Adequate Security provided under **DDA art. 16** (Security for Project Activities).
- "Obligor Net Worth"** when used in reference to Adequate Security means the issuer's net worth (shareholder equity for a corporation or member equity for a limited liability company), calculated in accordance with GAAP or the income tax basis of accounting consistently applied.
- "Obligor Net Worth Requirement"** when used in reference to Adequate Security means an Obligor with a Net Worth greater than the Secured Amount, and in no event less than \$27.5 million, subject to an automatic increase of 10% on the fifth anniversary of the Reference Date and every succeeding fifth year during the DDA Term or as otherwise approved by the Port Director.
- "OEWD"** is an acronym for the Office of Economic and Workforce Development.
- "OEWD Funds"** means the portion of the Workforce Job Readiness and Training Funds that will be used to fund OEWD programs that train economically disadvantaged adults, workers, and local residents in the fields of construction, end use operations, and hospitality.
- "Office Account"** means the segregated account within the Special Tax Fund that the Port establishes with the Special Fund Trustee to receive, administer, and disburse Office Special Taxes.
- "Office Development Authorization"** means Planning Commission approval of an application for a large office allocation.
- "Office Special Taxes"** means Facilities Special Taxes that the City levies in a City Fiscal Year, in addition to Development Special Taxes, on Taxable Parcels in Commercial Parcels in the Mission Rock CFD under the RMA, in an amount per square foot intended to be equivalent to 0.25% of the parcel's Baseline Assessed Value as projected for the CFD Formation Proceedings.

“Official Records” means the documents and maps that the recorder’s office function of the Assessor-Recorder’s Office records and maintains.

“OLSE” is an acronym for the Office of Labor Standards Enforcement of the San Francisco Department of Administrative Services.

“Ongoing Maintenance Costs” means maintenance and capital repair costs of Maintained Facilities that will be paid by Services Special Taxes, Master Association fees, or Developer Capital (under **DDA § 14.9(e)** (Maintenance as Soft Costs) until Services Special Taxes are available), including:

- (i) landscaping and irrigation systems and other equipment directly related to maintaining and replacing landscaped areas and water features;
- (ii) maintenance and replacement as needed of parks, public access areas, and streets, right-of-ways, shared public ways, and sidewalks (including street cleaning and paving);
- (iii) lighting, rest rooms, trash receptacles, park benches, planting containers, picnic tables, and other furniture and fixtures;
- (iv) insurance;
- (v) replacement reserves; and
- (vi) Port and City personnel, administrative, and overhead costs related to maintenance or to contracting for and managing third-party maintenance.

“On-site” for purposes of Administrative Code chapter 21C means the site of a Special Event, which may occur in enclosed space or open space or both, and includes:

- (i) open space within 150 feet of primary site if the primary site is enclosed space; and
- (ii) public right-of-ways, including a street or sidewalk, as to which a City permit (ISCOTT or Port) has been issued in connection with the Special Event.

“Operations Training Resources Funds” means any portion of the OEWD Funds that OEWD chooses to use to support programs that provide end-use-operations job-training programs for economically disadvantaged adults, including individuals designated as a targeted population by the San Francisco Workforce Development Board, as an individual who is, or is at risk of, relying upon, or returning to, public assistance, including unemployment benefits, formerly incarcerated, homeless, veterans, out-of-school youth, pregnant or parenting teens, youth in the juvenile justice or foster care systems, people with disabilities, limited English populations, dislocated workers, or residents of public housing.

“Option” means development rights granted to Developer for Option Parcels under the DDA.

“Option Notice” means Developer’s notice to the Port, delivered in accordance with **App ¶ A.5** (Notices) and **DDA § 18.1** (Notices), that Developer will exercise its Option for an Option Parcel at its Fair Market Value.

“Option Parcel” means a Development Parcel that is subject to the appraisal process for Option Parcels under **DDA art. 7** (Parcel Leases), including Lead Parcels.

“Optioned Parcel” means an Option Parcel for which Developer has exercised its Option under **DDA § 7.1** (Developer Option).

“Other Acquiring Agency” means an Acquiring Agency other than the Port.

“Other City Agency” means a City Agency other than the Port.

"Other City Costs" means costs that Other City Agencies incur to perform their obligations under the ICA, the Development Agreement, and the Tax Allocation MOU to implement or defend actions arising from the Project, including staff costs determined on a time and materials basis, third-party consultant fees, attorneys' fees, and costs to administer the Mission Rock CFD and the IFD to the extent not paid by Public Financing Sources.

"Other City Costs" excludes Port Costs, Administrative Fees, Impact Fees, and Exactions.

"Other City Parties" means the City, acting by and through the Mayor, the Board of Supervisors, the Controller, the City Administrator, the Director of Public Works, the San Francisco Municipal Transportation Agency, the San Francisco Fire Department, and the San Francisco Public Utilities Commission.

"Other City Requirements" means ordinances and policies described in **DDA Exh A6** and **DA Exh E** and approved plans to implement City and Port ordinances and policies, including those attached to the DDA at **DDA Exh Tab E**.

"Other Regulatory Approval" means a Regulatory Approval given by a Regulatory Agency that is not a City Agency.

"Outfall Infrastructure" means 30-inch and 12-inch outfalls and related Improvements for stormwater drainage existing on the Project Site on the Reference Date.

"Outside Date" means the last date by which Developer must perform identified obligations for the Project, as specified in the Schedule of Performance, or for a Phase, as specified in the Phase Schedule.

"ownership change" means any change in the direct or indirect ownership of Developer.

"paid for in whole or part out of public funds" is defined in and subject to exclusions and further conditions under California Labor Code sections 1720-1720.6.

"Parcel D2 Garage" means the Garage on Parcel D2 Garage that is shown in Developer's Phasing Plan on the Reference Date.

"Parcel DRP" means the amount of the Development Rights Payment that is paid for a specific Option Parcel.

"Parcel Increment Amount" means the amount of Tax Increment collected in the current City Fiscal Year from an Assessed Parcel in the Mission Rock CFD, as shown in the Payment Report.

"Parcel Lease" means a contract in the form of **DDA Exh D2** by which the Port will convey a leasehold interest in an Option Parcel to a Vertical Developer.

"Parcel Lease Option" means the Port's right to elect to convey an Option Parcel in a Current Phase by a Prepaid Lease under **FP § 3.7** (Parcel Leases).

"Parcel Lease Quitclaim Deed" means a deed in the form attached as an exhibit to each Parcel Lease by which the applicable Vertical Developer disavows any right or interest in an Option Parcel subject to a Parcel lease, which the Port may record in the Official Records after the Parcel Lease expires or is terminated.

"Parks Plan" means a plan for managing events at Public Spaces consistent with **DDA § 12.5(a)** (Approval of Parks Plan) and **DA § 5.9** (Parks Plan) that the Port Commission will adopt before or in conjunction with its consideration of the Schematic Design Application for Public Spaces in Phase 1 of the Project.

"Participating Parcel" means a Development Parcel on which a Vertical Developer has Closed Escrow on a Parcel Lease either:

- (i) before the Participating Parcel Termination Date; or
- (ii) after the Participating Parcel Termination Date, but only if the parcel was subject to a Vertical DDA before the Participating Parcel Termination Date.

"Participating Parcel Termination Date" means the Termination Date as to any part of the DDA as a result of the Port's election to terminate following a Material Breach by either:

- (i) Developer under **DDA art. 11** (Material Breaches and Termination); or
- (ii) a Transferee under **DDA art. 11** (Material Breaches and Termination) if Developer has failed to exercise its cure rights under **DDA § 6.8(d)** (Developer's Cure Rights).

"Participation Agreement" means the agreement in **FP Exh D** under which the Port and Developer will share Participation Revenue or any replacement agreement executed under **FP § 1.8(b)** (Separate Agreement by Request).

"Participation Period" means the period beginning with the City Fiscal Year immediately after Participation Revenue exceeds the Participation Threshold for two consecutive City Fiscal Years and continuing until the earliest of:

- (i) 75 years; or
- (ii) when the last Parcel Lease at the Project Site expires; or
- (iii) the occurrence of the Participating Parcel Termination Date for all Parcel Leases.

"Participation Revenue" means the portion of Annual Ground Rent equal to the sum of:

- (i) Annual Ground Rent and Percentage Rent paid to the Port from all Participating Parcels; and
- (ii) Shoreline Taxes collected in a City Fiscal Year from all Participating Parcels outside of Zone 1.

"Participation Revenue" excludes the Port's revenues from capital events described in PL Exh D, § 3.6 (Port Participation in Sale Proceeds) and § 3.7 (Port Participation in Refinancing Proceeds).

"Participation Threshold" means \$2.5 million, unescalated.

"Party" means the private or public persons named in the preamble to a Transaction Document.

"Party Appraisal" means a Developer Appraisal or a Port Appraisal that either Party obtains under **DDA § 7.5(b)** (Dispute Resolution Procedures).

"Payment Agent" means an Escrow Agent, an Indenture Trustee, or the Special Fund Trustee that will disburse funds for Approved Payments as directed by the Port Finance Director.

"Payment Report" means a report prepared by the Treasurer-Tax Collector in each City Fiscal Year that:

- (i) specifies the Parcel Increment Amount for each Assessed Parcel; and
- (ii) identifies each Current Parcel in the Mission Rock CFD.

"Payment Request" means Developer's written request to the Port in the form of **AA Exh C** for payment under the Acquisition Agreement.

"PBC" is an acronym for the Port Building Code.

"PCBs" is an acronym for polychlorinated biphenyls.

"PCO" is an acronym for a parking control officer, generally an employee of SFMTA who directs traffic.

"Peak Developer Equity" means the highest balance of Developer Capital outstanding over the course of a Phase.

"Pending Project" means any of the following:

- (i) an office development project for which a large office allocation application (50,000 gsf or more) has been submitted to the Planning Department that has not received an Office Development Authorization by the end of the Allocation Period;
- (ii) additional office space located in a structure owned or otherwise under the jurisdiction of the State, the United States, or any state, federal, or regional Regulatory Agency that is exempt from Planning Code section 321 or section 322; and
- (iii) a new office development project for 50,000 gsf or more on Port land outside of the Project Site for which the Port has entered into a vertical disposition and development agreement, ground lease, or purchase and sale agreement, but has not issued a building permit by the end of the Allocation Period.

"Percentage Rent" means additional rent that will be payable under Parcel Leases, determined as specified in **DDA § 7.6(b)** (Percentage Rent) or through a Public Offering process.

"per diem wages" is defined in California Labor Code section 1773.1.

"Permit Set" is a subset of Improvement Plans described in **ICA § 4.6(c)** (Plan Submittals).

"Permitted Change" means any of the following:

- (i) a Transfer, including an Initial Transfer, that occurs before Developer achieves the Initial Benchmarks, if a Giants Affiliate holds Significant Ownership and Management Control of all Phases of the Project after the Transfer closes; and
- (ii) a Transfer that occurs after Developer achieves the Initial Benchmarks, if a Giants Affiliate or an Initial Transferee Affiliate holds Significant Ownership and Management Control of the Current Phase and Later Phases after the Transfer closes.

"Permitted Exceptions" means exceptions to title with respect to any Option Parcel that Developer accepts under **ML § 1.2(a)** (Permitted Encumbrances).

"Permitting Agency" means the Chief Harbor Engineer or the Director of Public Works, as applicable, in relation to either's role in issuing construction permits and determining whether Improvements are complete in compliance with applicable Project Requirements and City Laws.

"person" means any individual, corporation (including any business trust), limited liability entity, partnership, trust, joint venture, or any other entity or association, or governmental or other political subdivision or agency.

"personal injury" means any physical or emotional trauma or injury to or death of any individual.

"Phase" means one of the integrated stages of horizontal and vertical development for the Project Site as shown in the Phasing Plan.

"Phase 1" means the first Phase of development under the Phasing Plan.

"Phase 1 Overage" means the amount by which the Horizontal Development Costs of Phase 1 exceed the amounts provided therefor, (including contingency), in the Phase Budget in effect at Commencement of Construction.

- "Phase Account"** means a bookkeeping account for any Phase as described in **FP § 9.1(a)** (Phase Accounts).
- "Phase Approval"** means the Port Director's approval of a Phase Submittal and the Port Commission's approval of a Phase Budget.
- "Phase Approval Date"** means the date of the public hearing at which the Port Commission adopts a resolution approving a Phase Submittal.
- "Phase Area"** means the Development Parcels and other land in the Project Site that are to be developed in a Phase.
- "Phase Audit"** means Developer's final financial report for a Phase as described in **FP § 9.3(a)** (Phase Audit).
- "Phase Audit Date"** means the due date for each Phase Audit under **FP § 9.3(a)** (Phase Audit).
- "Phase Budget"** means the proforma for a Phase, based on the Summary Proforma attached to the Financing Plan and included in each Phase Submittal under **DDA art. 3** (Phase Approval), as approved by the Port Commission. An inserted number will mean the Phase Budget for the Phase given the inserted number (e.g., "Phase 1 Budget").
- "Phase Closing Date"** means the date on which the Port accepts a Phase Audit under **FP § 9.3(a)** (Phase Audit).
- "Phase Completion Certificate"** means a document that the Port Executive Director will deliver to Developer after all Phase Improvements have been completed that, when recorded, will release the Phase Area from the lien of the DDA.
- "Phase Construction Schedule"** means Developer's projected schedule for construction of Phase Improvements and related spending in any Phase Budget.
- "Phase Final Map"** means a Final Map for a Phase Area.
- "Phase Improvements"** means Horizontal Improvements that are to be constructed in a Phase and includes Site Preparation and any Deferred Infrastructure that Vertical Developers will build in accordance with the DDA.
- "Phase Proforma"** means the Proforma that was included in a Phase Submittal, as approved and updated under **DDA art. 3** (Phase Approval).
- "Phase Quarterly Report"** means a quarterly financial report on a Current Phase as described in **FP § 9.1(b)** (Phase Quarterly Reports).
- "Phase Quitclaim Deed"** means a deed in the form attached as an exhibit to the Master Lease by which Developer disavows any real property interest in any part of a Phase Area under the Master Lease, which the Port will be entitled to record in the Official Records after issuing an SOP Compliance Determination for the Phase.
- "Phase Schedule"** means the schedule of performance for a Phase established in the Phase Approval process, including the Estimated Construction Duration and Estimated Construction Schedule.
- "Phase Security"** means Adequate Security for any specific Phase that meets the requirements of **DDA art. 16** (Security for Project Activities).
- "Phase Submittal"** means Developer's application for Port Commission approval of a proposed Phase under **DDA art. 3** (Phase Approval).
- "Phase Transferee"** means a person to which Developer Transfers its Developer Construction Obligations and related rights for a Phase in accordance with **DDA art. 6** (Transfers).

"Phasing Goals" means measures and objectives described in **DDA § 2.4** (Phasing Goals) to which the Parties have agreed to achieve their mutual goal of an economically feasible project that balances competing policy interests.

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

"PIA" is an acronym for any Public Improvement Agreement that Developer is required to execute under the Subdivision Code.

"Pier 48" means a 212,500 square-foot facility located in the Embarcadero Historic District with two main pier sheds, Shed A and Shed B, connected by a connector shed, Shed C, at the east end of the pier, containing collectively 181,200 square feet of enclosed warehouse space and a 31,300 square-foot valley between the Shed A and Shed B.

"Pier 48 Development Lease" means a long-term lease of Pier 48 that would implement a Pier 48 Rehabilitation Plan.

"Pier 48 Lease" means the interim lease for Pier 48 as authorized by Port Commission Resolution No. 18-10 and Board of Supervisors Resolution No. 43-18.

"Pier 48 Negotiation Notice" means a Party's notice to the other Party that the Noticing Party seeks to enter into exclusive negotiations based on a proposed Pier 48 Rehabilitation Plan.

"Pier 48 Rehabilitation Plan" means a plan for the historic rehabilitation of Pier 48 in accordance with the Secretary's Standards under a long-term ground lease, developed under **DDA § 7.10** (Pier 48)

"Pier 48 Solicitation" means a request for proposals or similar public solicitation of proposals for the rehabilitation of Pier 48 in accordance with a Pier 48 Rehabilitation Plan under a Pier 48 Development Lease.

"Pile Driver Training Funds" means any portion of the OEWD Funds that OEWD chooses to use to support the development and implementation of a pile-driving training program for disadvantaged workers and local residents, including individuals who have formerly been incarcerated or are experiencing homelessness.

"PIT Threshold" means the amount of possessory interest taxes levied against the Master Lease Premises that are deemed to be attributable to the use of the the Master Lease Premises for parking and Special Events, as determined under **FP § 8.1(b)** (PIT Threshold). Possessory interest taxes levied against the Master Lease Premises in excess of the PIT Threshold are considered Soft Costs.

"PL" is an acronym for the form of Parcel Lease.

"Planning" means the San Francisco Planning Commission, acting by motion or resolution or by delegation of its authority to the Planning Department and the Planning Director.

"Planning Commission" means the San Francisco Planning Commission.

"Planning Department" means staff of the City's Planning Department.

"Planning Director" means the City's Director of Planning.

"Pledge Agreement" means a pledge of Allocated Tax Increment to Mello-Roos Bonds under a pledge agreement between the Port, as IFD Agent, CFD Agent, or both, and the Indenture Trustee for the Mello-Roos Bonds.

"Pledged Tax Increment" means Allocated Tax Increment that is actually pledged as security for an issue of Mello-Roos Bonds.

- “Port”** means the San Francisco Port Commission, acting by resolution or by delegation of its authority to the Port Director and other Port staff.
- “Port Application”** means a Port request for Planning assistance in the Port’s review of any submittal under the Design Controls or schematic design application under Section 249.80.
- “Port Audit”** means a financial review performed by a CPA on behalf of the Port under **FP § 9.4(a)** (Port Audit).
- “Port Balance”** means, on the date of determination, the sum of any unreimbursed Port Capital Advances for Horizontal Development Costs and related accrued and unpaid Port Return.
- “Port Balance” excludes** any *DRP Advances and related Interest on DRP Advances*.
- “Port Capital”** means Port funds and other assets that are not subject to restrictions or limitations under the Financing Plan.
- “Port Capital Advance”** means a Port loan of Port Capital to the Mission Rock CFD to pay for Horizontal Development Costs.
- “Port Capital Plan”** means the Port’s most recent 10-year capital plan as adopted or amended by the Board of Supervisors under Administrative Code sections 3.20-3.21.
- “Port Capital Schedule”** means an accounting schedule that the Port maintains that shows the inflows and outflows for all Phases of the Project individually and in the aggregate for the Port Balance.
- “Port Consent”** means the Consent to Development Agreement signed by the Port Director as authorized by Port Commission Resolution No. 18-06.
- “Port Costs”** means costs that the Port incurs to perform its obligations to Developer and otherwise implement the DDA and the Master Lease, including:
- (i) staff costs on a time and materials basis;
 - (ii) costs paid to the Port’s attorneys, consultants, and other professionals; and
 - (iii) costs to administer the Mission Rock CFD and the IFD to the extent not paid by Public Financing Sources.
- “Port Costs” excludes** *Other City Costs, DRP Advances, and Port Capital Advances*.
- “Port Director”** means the Port Director of the Port.
- “Port Facilities”** means Public Spaces and other Horizontal Improvements that the Port will own when accepted.
- “Port Finance Director”** means the Port’s Deputy Director, Finance and Administration.
- “Port FY Budget”** means the City Fiscal Year budget that the Port will submit to the Board of Supervisors annually for approval specifying the amount of Public Financing Sources, DRP Payments, and Port Capital that the Port expects to use to satisfy the Port’s payment obligations to Developer under the Financing Plan.
- “Port Harbor Fund”** means the harbor trust fund that the Port must maintain in compliance with section 4 of the Burton Act, SB 815, the Agreement Regarding the Transfer of the Port of San Francisco from the State of California to the City and County of San Francisco, and Charter section B6.406.
- “Port IFD Guidelines”** means the *Guidelines for the Establishment and Use of an Infrastructure Financing District with Project Areas on Land under the Jurisdiction of the San Francisco*

Port Commission, adopted April 23, 2013, by Board of Supervisors Resolution No. 123-13.

"Port Market Rate Return" means Port Return accruing at the annual rate of 10%, compounded quarterly, on unreimbursed Port Capital Advances for Horizontal Development Costs (excluding Alternative Return Costs).

"Port Master Indenture" means the Indenture of Trust dated as of February 1, 2010, as supplemented by a First Supplement to Indenture of Trust, dated as of February 1, 2010, a Second Supplement to Indenture of Trust, dated as of May 1, 2014, and as further supplemented from time to time.

"Port Quarterly Report" means any of the Port's periodic reports to Developer on Port Costs, Other City Costs, and Project Payment Sources under **FP § 9.2(d)** (Reporting).

"Port Return" means one or more of Additional Port Return, Allowed Port Return, Port Market Rate Return, and Alternative Port Return, as applicable.

"Port Revenue Bonds" means Port Commission of the City and County of San Francisco Revenue Bonds Series 2010A (Non-AMT Tax-Exempt), Series 2010B (Taxable), Series 2014A (Non-AMT Tax-Exempt), and Series 2014B (Taxable).

"Port Share" means 10% of the Sale Profit from any Triggering Event.

"Port Title Covenant" means the Port's agreement not to create or consent to any new exceptions to title with respect to any Option Parcel other than the Permitted Exceptions.

"portwide" means any matter relating to all real property under the jurisdiction of the Port Commission.

"Potential Development Special Tax Levy" means the amount of the Development Special Tax levy on each Assessed Parcel:

- (i) after applying capitalized interest, delinquency collections, and other sources in the RMA; and
- (ii) before applying the Development Special Tax Credit.

"Pre-existing Hazardous Materials" means any Hazardous Material existing in, on, or under the Master Lease Premises on the Reference Date and identified in Master Lease Exhibit Q (List of Pre-Existing Hazardous Materials) documents or the Environmental Covenants.

"pre-filing conference" means one or more optional meetings under Subdivision Code section 1320 between the County Surveyor and a person proposing to subdivide land in San Francisco to discuss preliminary Subdivision Maps and other subdivision matters before the subdivider formally submits a Subdivision Map application.

"Preliminary Entitlement Cost Statement" means Developer's preliminary estimate of Entitlement Costs through December 31, 2017, attached as **FP Sch 2**.

"Premises" means the area subject to a Parcel Lease.

"Prepaid Lease" means a Parcel Lease under which a Vertical Developer makes a Parcel DRP in the amount of an Option Parcel's Fair Market Value to the Port at the Close of Escrow.

"prepared food" as defined in Environment Code section 1602(l) means food or beverages prepared within San Francisco for individual customers or consumers in a form commonly understood to be a breakfast, lunch, or dinner.

"pre-Phase conference" means one or more meetings between Developer and the Port under **DDA § 3.1** (Presubmittal Activities) to discuss Phase Improvements before Developer submits a Phase Submittal.

“preservative-treated wood containing arsenic” means wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including chromated copper arsenate preservative, ammoniac copper zinc arsenate preservative, or ammoniacal copper arsenate preservative.

“Prevailing Rate of Wages” and **“Prevailing Wage”** mean:

- (i) the highest general prevailing rate of wage plus per diem wages and wages paid for overtime and holiday work paid in private employment in the City for the various crafts and kinds of labor employed in the construction of Improvements; or
- (ii) the rate of compensation determined under Administrative Code chapter 21C.7 for the categories of employment specified in Administrative Code chapter 21C.

“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 no longer published, a mutually acceptable third-party rate and publication.

“Principal Payment Date” means:

- (i) before Bonds are issued, September 1 of each year; and
- (ii) after Bonds are issued, the date on which principal or sinking fund payments are due in each year until the Bonds are defeased.

“Prior Phase” means the Phase for which Developer obtained Phase Approval before any Current Phase.

“Priority Facilities CFD Administrative Costs” means Facilities CFD Administrative Costs permitted to be paid first from Facilities Special Taxes under the Financing Plan.

“Priority Services CFD Administrative Costs” means Services CFD Administrative Costs permitted to be paid first from Services CFD Special Taxes under the Financing Plan.

“Private Event” means an event in a Public Space that is not open to the general public and may or may not require the purchase of a ticket for entry.

“Product Type” when used in reference to a Development Parcel to be developed for residential use means a building with a typical unit count and building typology that allows for general assumptions regarding construction costs, which may differ between Residential Units for rent and for sale. Examples of Product Types are townhomes, low-rise (heights to 70 feet), and mid-rise (71- to 90-foot heights).

“Proforma” means the Parties’ financial projections for Horizontal Improvements.

“Project” means the horizontal and vertical development of the Project Site in accordance with the Project Requirements and the Port’s interim lease of Pier 48 to Developer.

“Project Approval” means a Regulatory Approval that is necessary to entitle the Project and grant Developer a vested right to begin Site Preparation and construction of Horizontal Improvements, including:

- (i) Regulatory Approvals listed in **DA Exh C** granted by City Agencies and any Transaction Documents approved by those Regulatory Approvals;
- (ii) Regulatory Approvals by BCDC, State Lands, and DTSC by the Entitlement Date; and
- (iii) Later Approvals.

“Project Area I” means the area within the IFD covering the Project Site formed by Ordinance No. 34-18.

"Project Assignment" means a contractual assignment of all of Developer's rights under a consulting contract with a Project Consultant, including any rights to use the Project Consultant's work product.

"Project Consultant" means any architect, engineer, or other consultant that provided Project Materials for the Project.

"Project Coordinator" means a third-party consultant that the City may engage to assist in the implementation of the ICA under **ICA § 6.2** (Role of Horizontal Improvements Project Coordinator).

"Project Materials" means all public, final, and material studies, applications, reports, permits, plans, drawings, and similar work product, including Structural Materials, prepared by Developer's Project Consultants.

"Project Office Allowance" means the amount of office use allowed in each Phase of the Project under **DDA Exh A4**.

"Project Payment Obligation" means the Port's contractual obligation on terms described in the Financing Plan to pay each Party's Capital Costs.

"Project Payment Sources" means separately or collectively, DRP Advances, Public Financing Sources, and Port Capital Advances, each applied as specified in the Financing Plan.

"Project Requirements" means all of the following:

- (i) Developer's obligations for the Project under the DDA, the Development Agreement, and the other Transaction Documents, including the Developer Construction Obligations and the Developer Reimbursement Obligations;
- (ii) Vertical Developers' obligations for the Project under their respective Parcel Leases;
- (iii) construction of all Improvements in a competent manner, without material defects, in strict accordance with approved Improvement Plans and all Regulatory Requirements; and
- (iv) diligent compliance with the Outside Dates specified in the Schedule of Performance, each Phase Schedule, or each Parcel Lease as applicable.

"Project Site" means the area consisting of SWL 337, 3.53 acres of Terry A. Francois Boulevard from Third Street to Mission Rock Street, and ½ acre to the east of Terry A. Francois Boulevard between Pier 48 and Pier 50, as more particularly described in **DDA Exh A1**.

"Project Street Design Criteria" means design criteria for the Structured Street System or any alternative proposal to be developed in accordance with **clause (ii) of ICA § 4.3(a)** (Development of Design Criteria).

"Project Tax Revenues" means Mello-Roos Taxes and Allocated Tax Increment that are deposited in the Special Tax Fund and the Tax Increment Fund of the Special Fund Trust Account in accordance with the Financing Plan.

"Projected AGI" means Adjusted Gross Income projected in a proforma for a Vertical Improvement in the year in which building rents are projected to reach stabilization and used to establish Percentage Rent under **DDA § 7.6(b)** (Percentage Rent).

"Promissory Note" means a promissory note in the form of **FP Exh B**, under which the Mission Rock CFD promises to repay DRP Advances to the Port with Interest on DRP Advances, as described in **FP § 7.2(b)** (Promissory Note).

"Promotional Activation" means an activity in a Public Space that draws attention to one or more particular products that are not being sold onsite as part of the activation.

“proof of payment” means a cancelled check, a wire confirmation demonstrating delivery of a direct transfer of funds, an executed and acknowledged unconditional lien release, statements or invoices marked “paid” by the billing person, or other reasonably satisfactory evidence verifying that the person seeking payment actually incurred the claimed costs.

“property contracts” is defined in Administrative Code sections 12B.2 and 12C.2.

“property damage” means any injury to or impairment or destruction of any property or other pecuniary interest of any person, including goodwill, intellectual property, and business and leasing opportunities.

“Prop M Constraint” means that the total square footage available for Pending Projects exceeds the then-current total square footage available for large office allocation projects at the end of an Allocation Period.

“Prop M Draw Down” means the amount of office space on the Project Site to be applied against the City’s annual maximum limit under Planning Code section 321(a)(1), based on approved building drawings, which the Port will report to Planning when the Port issues a site or building permit for an office development project in the Project Site.

“Proposition D” and **“Prop D”** mean the *Mission Rock Affordable Housing, Parks, Jobs, and Historic Preservation Initiative*, which San Francisco voters approved on November 3, 2015.

“Proposition M” and **“Prop M”** mean, for purposes of the DDA, Planning Code sections 320-325, approved by voters as the *Planning Initiative* in November 1986.

“proprietary public offering” means a public solicitation for offers to enter into a Parcel Lease with the Port for any Development Parcel that is not subject to the procedures in **DDA § 7.8** (Public Offering Procedures).

“pro rata” means the proportion that each part of a sum bears to the sum.

“Prospective Breach” means an event that with notice and the passage of time would be a Material Breach if not timely cured.

“Prospective Default” means an event that with notice and the passage of time would be an Event of Default if not timely cured.

“PTR Package” is a term used to refer to a preliminary title report, together with copies of all documents relating to title exceptions shown in the preliminary title report.

“Public Art” means installations at the Project Site under **Design Controls § 2.11**.

“Public Benefit Cost” means the following:

- (i) funds paid to SFMTA for specified transit costs in compliance with Mitigation Measures M-TR-4.1 and M-TR-4.4; and
- (ii) Developer’s contribution to the City’s system-wide AWSS improvements proposed in the vicinity of the Project Site, as set forth in **clause (iii)** of **DA § 5.4(c)** (AWSS).

“Public Benefit Cost” *excludes* any cost incurred by a Vertical Developer.

“Public Financing Sources” means, separately or collectively, any source of financing for the Project under CFD Law and IFD Law, including Mello-Roos Taxes, Allocated Tax Increment, and net proceeds of Bonds.

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

"public improvement" when used in reference to the requirement to pay prevailing wages means:

- (i) a public work or improvement as defined in Administrative Code section 6.1, including:
 - (1) construction work performed on real property that the City leases to another person or that the City sells for a project that includes the construction, expansion, or rehabilitation of three or more residential units; and
 - (2) all projects for "public works" as defined in California Labor Code section 1720 for which prevailing wages must be paid under section 1782, as required under Administrative Code section 6.22(e) and section 23.61(b); and
- (ii) all contracts described in Administrative Code chapter 21C.

"Public Improvement Agreement" means an agreement between the City and Developer with respect to requirements under the Subdivision Code.

"Public Offering" means a public solicitation for offers for the right to enter into a Parcel Lease with the Port for an Option Parcel, using procedures described in **DDA § 7.8** (Public Offering Procedures).

"Public Off-Street Parking Lot, Garage, or Automobile Storage Facility" means any off-street parking lot, garage, or automobile storage facility that is operated on property owned or leased by the City.

"Public ROWs" means Horizontal Improvements consisting of public streets, sidewalks, shared public ways, bicycle lanes, and other paths of travel, associated landscaping and furnishings, and related amenities.

"Public Space" means any Horizontal Improvement for public enjoyment, such as a public park, public recreational facility, public access, open space, and other similar public amenities, which may be a rooftop facility.

"Public Space Parcel" means any parcel designated in the Land Use Plan and Infrastructure Plan for Public Space.

"Public Space Plans" means a Permit Set of Improvement Plans for one or more Public Spaces.

"public trust" means, collectively, the common law public trust for commerce, navigation, and fisheries and the statutory trust created by the Burton Act.

"Public Trust Study" means the study determining land uses and the location of those uses within Seawall Lot 337 and Piers 48 and 50, analyzing the need to retain public trust uses within Seawall Lot 337, and reserving areas along the northern and eastern sides of Seawall Lot 337 to accommodate needed public trust uses, which the Port Commission approved by Resolution No. and forwarded to State Lands for its approval of the conclusions of the study in compliance with Section 6(b) of SB 815.

"public work" is defined in and subject to exclusions and further conditions under California Labor Code sections 1720-1720.6.

"Public Works" means the San Francisco Public Works Department.

"Put Exercise Period" means the period ending 15 days after the Port delivers a Put Notice to Developer under **DDA § 7.3** (Parcel Put).

"Put Notice" means a notice that the Port delivers to Developer under **DDA § 7.2** (Phase 1 Put Option) or **DDA § 7.3** (Parcel Put) in accordance with **App ¶ A.5** (Notices).

“Put Option” means the Port’s rights under **DDA § 7.2** (Phase 1 Put Option) and **DDA § 7.3** (Parcel Put).

“Put Parcel” means any Option Parcel that is subject to the Port’s Put Notice.

“Qualified Appraiser” means an appraiser who meets the qualifications of **DDA § 7.4(c)** (Appraiser Qualifications).

“Qualified Appraiser Pool” means the list of Qualified Appraisers attached as **DDA Sch 2** and as revised from time to time under **DDA § 7.4(d)** (Qualified Appraiser Pool).

“Qualified Bidder” means a bidder at a Public Offering that meets the qualifications of **DDA § 7.8(c)** (Bidder Prequalification).

“Qualified Broker” means a licensed real estate broker with at least five years’ experience in the San Francisco Bay Area market for commercial or multifamily residential sales and leasing, or both.

“Qualified Broker Pool” means the list of Qualified Brokers attached as **DDA Sch 3** and as revised from time to time under **DDA § 7.8(a)** (Broker-Managed Offerings).

“Rate and Method of Apportionment” means a Financing Document that the Board of Supervisors will adopt by the CFD Formation Proceedings that prescribes how and at what rates the City will levy and collect Mello-Roos Taxes from taxpayers in the Mission Rock CFD.

“RCRA” is an acronym for the Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 et seq.).

“Reassessment” means a proceeding that a taxpayer initiates under the California Revenue and Taxation Code that results in a Value Reduction of a Taxable Parcel in the Project Site.

“Receipt Date” means each date that the Port, as agent of the IFD, the Facilities CFD, or the Services CFD, receives Allocated Tax Increment or Mello-Roos Taxes from the City by the deposit of funds into the Special Fund Trust Account.

“Reduced Return” means interest at the annual rate of 12%, compounded quarterly.

“Reduced Value Parcel” means a Taxable Parcel that Developer or a Vertical Developer Affiliate holds by Parcel Lease on which the assessed value is lowered through a Value Reduction.

“Reference Date” means the date as of which the DDA, the Financing Plan, and the Master Lease are fully executed, as set forth on the cover sheet of the DDA.

“Regulatory Action” means any inquiry, investigation, enforcement, agreement, order, consent decree, compromise, or other administrative or judicial action that is threatened, instituted, filed, or completed by a Regulatory Agency in relation to any alleged failure to comply with or direct violation of any Regulatory Approval or any laws, including those relating to access.

“Regulatory Agency” means a City Agency or federal, state, or regional body, administrative agency, commission, court, or other governmental or quasi-governmental organization with jurisdiction over any aspect of the Project or the Project Site.

“Regulatory Approval” means any motion, resolution, ordinance, permit, approval, license, registration, permit, utility services agreement, Final Map, or other action, agreement, or entitlement required or issued by any Regulatory Agency with jurisdiction over any portion of the Project Site, as finally approved.

"Regulatory Requirement" means an obligation imposed by law or policy on development, occupancy, and use of the Project Site, subject to the Port's authority as trustee under the Burton Act as amended by SB 815, including:

- (i) the conditions of Project Approvals and other Regulatory Approvals;
- (ii) Existing City Laws applied to the Project by the Development Agreement and Project Approvals;
- (iii) Changes in Law to the extent permitted under the DDA and the Development Agreement;
- (iv) current Impact Fees and Exactions and any new or changed Impact Fees and Exactions to the extent permitted under the Development Agreement; and
- (v) Environmental Laws, the SUD, the Design Controls, the Waterfront Plan, and the Other City Requirements.

"related" when used to refer to an event in a Public Space that is subject to the Event Management Plan means an installation that has a relationship to other installations for the event, such as a concert event with a stage and areas for seating, concessions, and merchandise.

"Related Third Party" means any Agent of Developer or Master Lease Tenant.

"Release" when used in reference to Hazardous Materials means any accidental, actual, imminent or intentional spilling, introduction, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the air, soil gas, land, surface water, groundwater, or environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any Hazardous Material).

"Relocated Outfall Infrastructure" means the Outfall Infrastructure from the date that Developer begins work to modify any portion of the Outfall Infrastructure until the modified Outfall Infrastructure is accepted by the Acquiring Agency.

"remediate" when used in reference to Hazardous Materials means to clean up, abate, contain, treat, stabilize, monitor, remediate, remedy, remove, or otherwise control Hazardous Materials, or to restore the affected area to the standard required by the applicable Environmental Regulatory Agency under applicable Environmental Laws and any additional Port requirements.

"Rent" means Annual Ground Rent, Percentage Rent, and other amounts Master Lease Tenant must pay to the Port under the Master Lease.

"Rent Conversion Factor" means the formula specified in a Final Appraisal that is used to convert Fair Market Value to Annual Ground Rent.

"Rental Market-Rate Unit" means a Residential Unit that is not subject to affordability requirements under the Housing Plan.

"Requested Change Notice" means Developer's notice to the Port requesting changes to the Phasing Plan under **DDA § 3.8** (Changes to Project).

"Required Element" means a substantial and material element of any Improvement Plans requiring Port approval under **DDA art. 12** (Improvement Plans).

"Requisition" means a payment request for Horizontal Development Costs (other than for Horizontal Improvements) and Developer Return in the form of **FP Exh E** that Developer submits to the Port for payment under **FP § 2.2(c)** (Entitlement Sum Statement and Requisitions).

- “Reserve Rent”** means a minimum of \$3.5 million in Annual Ground Rent.
- “Reserve Rent Allocation”** means the portion of Reserve Rent allocated to each Option Parcel, as determined in the Phase 1 approval process.
- “Residential Developer”** means a Vertical Developer of Residential Parcel identified through the Phase Approval process.
- “Residential Parcel”** means:
- (i) a Development Parcel that is designated in Section 249.80 primarily for Residential Mixed Use; or
 - (ii) a Flex Parcel designated for primarily Residential Mixed Use in a Phase Approval.
- “Residential Project”** means a Development Parcel that is developed for residential use.
- “Residential Unit”** means a dwelling on a developed Residential Parcel that is designed for residential occupancy for 32 consecutive days or more and includes any apartment unit, condominium or cooperative unit, senior unit, assisted living unit, hotel or motel room, or other structure containing toilet facilities that is designed and available under applicable law for use and occupancy as a residence by one household.
- “restaurant”** is defined in Health Code section 451(s) and includes any coffee shop, cocktail lounge, sandwich stand, public school cafeteria, in-plant or employee eating establishment, and any other eating establishment that gives or offers for sale food that requires no further preparation to the public, guests, patrons, or employees for consumption on or off the premises.
- “Retail Program”** means Developer’s plans to develop and retain a ground-floor mix that activates the Project Site and includes a full menu of public trust uses for the area, including public parks, walkways, roadways, restaurants, hotels, maritime training, sales and rentals, waterfront visitor serving retail services, and other trust uses.
- “RMA”** is an acronym for the Rate and Method of Apportionment.
- “Sale Profit”** means any amount by which the Net Consideration received by the Selling Member exceeds the Selling Member’s Share.
- “saltwater immersion”** means a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.
- “San Francisco Bay Area”** means the area consisting of the counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma.
- “SB 815”** means Senate Bill 815 (stats. 2007, ch. 660), as amended by AB 2797.
- “SB 815 Baseline Revenue”** means the average annual revenues that the Port received from Seawall Lot 337 during the period between January 1, 2003, and December 31, 2007, adjusted for inflation.
- “Schedule of Performance”** means **DDA Exh B2**, which specifies certain performance time frames for the Project, including dates by which Developer is required to submit a Phase Submittal for each Phase and to begin construction of Phase Improvements, as supplemented by dates for completion of Phase Improvements established in the Phase Approval process.
- “Schematic Design Application”** means a complete set of Improvement Plans for a Public Space Parcel that includes the following information:
- (i) a written narrative describing the overall conceptual design, including the park program, design elements, and facilities provided for each Public Space Parcel;

- (ii) an illustrative site plan to scale showing: (1) conceptual circulation systems (vehicular, bicycle and pedestrian), including parking; (2) conceptual grading and drainage; (3) generalized locations of active and passive recreational areas, park elements, and facilities; (4) generalized locations and conceptual layout for landscaping and hardscape areas, including tree plantings and any stormwater treatment areas; and (5) generalized locations for furnishings, lighting, public art, signage, comfort facilities, stairs, ramps, and railings;
- (iii) illustrative sections and perspectives representative of the overall conceptual design, including key relationships between programmatic areas, design elements, and defining park features and facilities;
- (iv) image boards showing proposed concepts, detailed studies, and precedents for site furnishings, paving materials, site architectural elements, lighting, public art, signage, comfort facilities, stairs, ramps, and railings, tree species and alternate species, and species palette concepts for major landscaping areas; and
- (v) A public realm signage program, if not previously approved, setting forth signage standards and guidelines for Public Spaces and along public realm streets and rights-of-way identified in **Design Controls, Chapters 2 through 4**.

"Second Garage Adjustments" means adjustments to the Transaction Documents and ancillary documents that will be required if the Parties agree that Developer will build both the Parcel D2 Garage and the Mission Rock Square Garage under **DDA § 2.6** (Mission Rock Square Garage).

"Second Garage Notice" means Developer's notice of its proposal to include the development of the Mission Rock Square Garage as part of the Project under **DDA § 2.6** (Mission Rock Square Garage).

"Second Submittal" means the packet of Improvement Plans submitted for review and approval after the First Submittal and before the Permit Set.

"Second Tranche Bonds" means Bonds that are payable from Allocated Tax Increment, the proceeds of which are used to finance the Shoreline Protection Project.

"Secretary's Standards" means the *Secretary of the Interior's Standards for the Treatment of Historic Properties*, as supplemented by the *Port of San Francisco Historic Preservation Review Guidelines for Pier and Bulkhead Wharf Substructures*.

"Section 1.126" means Campaign and Governmental Conduct Code section 1.126.

"Section 169" means Planning Code sections 169-169.6 describing the City's TDM Program.

"Section 249.80" means Planning Code section 249.80, including Table 249.80-MR1 and Figure 249.80-MR1, and related zoning maps, which established the Mission Rock Special Use District and provide zoning and other land use limitations for the Project Site and procedures for design review of Vertical Improvements.

"Section 291" means Planning Code section 291, which establishes height limits and parcel boundaries for the Project Site and procedures for their modification.

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

"Section 415" means Planning Code section 415.

"Secured Amount" means, unless specified otherwise in the DDA, the sum of the following amounts for each Phase:

- (i) 100% of a secured obligation to pay money; and

- (ii) 100% of the estimated cost to complete any secured Horizontal Improvements as evidenced by Developer's construction contracts or estimates, subject to both the Port Director's and Developer's prior approval, less the face amount of security for the same obligations provided to the City under Subdivision Code section 1370.

"Security Interest" means a security instrument encumbering a personal property interest in or held by a Borrower to secure the Borrower's repayment obligation to a Lender.

"self-perform" means a contractor's use of its own labor force, instead of subcontractors, to perform certain areas of construction.

"Selling Member" means:

- (i) any Giants Affiliate that holds a direct or indirect interest in Developer on the Reference Date;
- (ii) any Giants Affiliate that holds a direct or indirect interest in Developer before a Transfer that occurs before Developer has achieved the Initial Benchmarks; and
- (iii) any of the above in which a Significant Change has occurred.

"Selling Member's Share" means the portion of Base Value that is attributable to the interest being Transferred by the Selling Member.

"Services Account" means a segregated account that the Port will establish with the Special Fund Trustee to receive, hold, and administer Services Special Taxes.

"Services CFD" means the part of the Mission Rock CFD formed to finance Ongoing Maintenance.

"Services CFD Administrative Costs" means CFD Administrative Costs payable from Services Special Taxes.

"Services Special Taxes" means Mello-Roos Taxes that the City levies in a City Fiscal Year on Taxable Parcels in the Mission Rock CFD to fund Ongoing Maintenance Costs.

"SFFD" is an acronym for the San Francisco Fire Department.

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

"SFMTA Consent" means either:

- (i) the Consent of the San Francisco Municipal Transportation Agency that is attached to and incorporated in the DA; or
- (ii) the Consent of the San Francisco Municipal Transportation Agency that is attached to and incorporated in the ICA.

"SFPD" is an acronym for the San Francisco Police Department.

"SFPUC" is an acronym for the San Francisco Public Utilities Commission.

"SFPUC Consent" means either:

- (i) the Consent of the Public Utilities Commission of the City and County of San Francisco that is attached to and incorporated in the DA; or
- (ii) the Consent of the Public Utilities Commission of the City and County of San Francisco that is attached to and incorporated in the ICA.

"SFPUC Utility Infrastructure" means Utility Infrastructure that will be under SFPUC jurisdiction after City acceptance.

- "SFPUC Power"** means the SFPUC operating division that provides electrical service to ratepayers in accordance with the Charter.
- "SFPUC Wastewater Capacity Charge"** means the wastewater capacity charge and connection charge imposed by the SFPUC.
- "SFPUC Water Capacity Charge"** means the water capacity charge and connection charge imposed by the SFPUC.
- "Shared Public Street"** generally means a curbless Public ROW that emphasizes pedestrian traffic over vehicular traffic, as described in the City's Better Streets Plan and, for the Project, in the Infrastructure Plan and Design Controls.
- "Shared Public Way"** means the curbless street described in **Design Controls § 4.2** to be constructed as part of the Project.
- "Shoreline Adaption Studies"** means analysis and planning to characterize the preferred and Shoreline Protection Project and alternatives, including pre-entitlement planning and design work, environmental review, negotiation, and Regulatory Approvals related to the Shoreline Protection Facilities.
- "Shoreline Improvements"** means Horizontal Improvements such as stone columns, pilings, secant walls, other structures to stabilize the seawall or shoreline, and all other permitted uses of the Waterfront Set-Aside.
- "Shoreline Protection Account"** means the segregated account in the Special Tax Fund that the Port will establish with the Special Fund Trustee to receive, hold, and administer Zone 2 Shoreline Special Taxes under the Special Fund Administration Agreement.
- "Shoreline Protection Facilities"** means future Improvements to protect the San Francisco Bay shoreline from perils associated with seismic events and climate change, including sea level rise and floods, and other public improvements approved by the Port Commission and the Board of Supervisors.
- "Shoreline Protection Project"** means planning, design, and construction of Shoreline Protection Facilities.
- "Shoreline Special Taxes"** means the portion of Facilities Special Taxes that the City levies in a City Fiscal Year to fund Horizontal Development Costs (Zone 1 only), Shoreline Adaption Studies, the Shoreline Protection Project after environmental review is complete, and other authorized costs, an amount per square foot intended to be equivalent to 0.10% of the parcel's initial Baseline Assessed Value as projected for the CFD Formation Proceedings.
- "Show"** means any live act, play, review, pantomime, scene, music, song, dance act, song and dance act, or poetry recitation provided in front of a live audience or recorded for the purpose of later presentation.
- "Show" excludes** *an event where a person solely plays pre-recorded music or pre-recorded performances so long as no other live performance is provided.*
- "Significant Adverse Change"** means that Developer or a Transferee no longer meets the Net Worth Requirement.
- "Significant Change"** means any change in the ownership of Developer that is not a Permitted Change.
- "Significant Change" excludes** *any Excluded Transfer.*
- "Significant Change to Obligor"** means that an Obligor no longer meets the Obligor Net Worth Requirement.

“significant environmental impact” means a significant effect on the environment as defined in CEQA section 21068 and CEQA Guidelines section 15382.

“Significant Ownership” means that a person holds a direct or indirect ownership interest (i) of 10% or more of the membership interests in Developer or (ii) which entitles such person to 10% or more of Developer's profits or capital.

“Site Preparation” means physical work to prepare and secure the Project Site for installation and construction of Horizontal Improvements, such as demolition of existing structures, excavation and removal of contaminated soils, fill, grading, soil compaction, and construction fencing and other security measures, and temporary Improvements for interim uses before vertical development begins.

“Site Preparation Plans” means Improvement Plans for Site Preparation.

“Small Event” means a single event or related events occupying less than 10,000 square feet in the footprint of a Public Space.

“Soft Costs” means any costs incurred in connection with Horizontal Improvements or implementation of Developer's obligations under the DDA that are not Hard Costs, including, without duplication:

- (i) architectural, engineering, consultant, attorney, and other professional fees, including the cost of any Qualified Appraiser and the costs of consultants related to public financing to the extent not reimbursed by Public Financing Sources;
- (ii) property insurance (including general liability, automobile liability, worker's compensation, personal property, flood, pollution legal liability, comprehensive personal liability, watercraft liability, marine general liability, vessel pollution liability, builder's risk, and professional services insurance);
- (iii) construction management fees, project management costs, and asset management costs paid to or by Developer, a Transferee, or their respective Affiliates, limited in the aggregate to 15% of Hard Costs, subject to Developer's right to request reimbursement above this threshold, which the Port will not unreasonably disapprove if Developer demonstrates that the additional costs are commercially reasonable;
- (iv) regulatory fees other than building and site permit fees;
- (v) Developer Mitigation Measures and any additional environmental review required for horizontal development;
- (vi) Impact Fees associated with Horizontal Improvements;
- (vii) Port Costs and Other City Costs;
- (viii) possessory interest taxes payable for the Master Lease Premises above the PIT Threshold determined as set forth in **FP § 8.1(b)** (PIT Threshold);
- (ix) costs to use sources other than the Project Payment Sources to the extent not otherwise reimbursed;
- (x) Facilities Special Taxes and any other taxes, assessments, or fees levied by the City and paid by Developer as Tenant under the Master Lease, excluding any penalties or interest assessed due to Developer's failure to make payment before delinquency;
- (xi) security required under the DDA or otherwise in connection with the Horizontal Improvements, including any Adequate Security;
- (xii) safety and security measures;

- (xiii) community outreach associated with the Project Site;
- (xiv) maintenance of parks, streets, and public areas to the extent not paid by Services Special Taxes;
- (xv) third-party costs to prepare and store Phase Quarterly Reports, Phase Audits, Final Audits, and Developer's Books and Records;
- (xvi) Alternative Return Costs, Developer Marketing Costs, and Public Benefit Costs;
- (xvii) the Entitlement Sum;
- (xviii) costs incurred after June 30, 2018 up until the Reference Date that would have been considered Entitlement Costs if incurred prior to June 30, 2018; and
- (xix) any other amount specifically identified in a Transaction Document as a Soft Cost or a category of Soft Costs.

"Soft Costs" excludes:

- (1) *Hard Costs;*
- (2) *Losses that Developer pays to any third party to the extent recovered from insurance proceeds or other third parties;*
- (3) *Developer's (or any Affiliate's) corporate office, personnel, and overhead costs, subject to **clause (iii)** in the definition of Soft Costs;*
- (4) *costs incurred to lobby for the Project or for any political campaign, including costs related to any ballot measure affecting the Project;*
- (5) *construction financing costs (loan fees and interest) for Horizontal Improvements;*
- (6) *costs of vertical development, including Deferred Infrastructure if not paid by Developer; and*
- (7) *any other amount specifically excluded from Soft Costs in a Transaction Document.*

"Soil Management Plan" means that certain Soil Management Plan for the Project Site, approved by Port, DPH, and DTSC. The Soil Management Plan has not yet been approved as of the Reference Date.

"SOP Compliance Determination" means a recordable certificate that the Chief Harbor Engineer issues when granting Developer's SOP Compliance Request confirming that Developer has completed Phase Improvements by the applicable Outside Date in the Schedule of Performance.

"SOP Compliance Request" means a request made under **DDA § 3.6** (Phase Completion) or **DDA § 14.6** (SOP Compliance) for an SOP Compliance Determination.

"Special Debt Service" means the portion of the debt service on, or replenishment of reserve funds for, CFD Bonds secured by Development Special Taxes in the Mission Rock CFD that is equal to the Development Special Taxes levied on Taxable Parcels in the CFD.

"Special Event" means:

- (i) any Trade Show, Convention, Exposition, or other Temporary Event with the characteristics of a Trade Show, Convention, or Exposition, that involves Exhibit, Display, or Trade Show Work; and
- (ii) any Mass Participation Sports Event.

- “Special Facility”** means the Project Site and any other Port facility designated as such under the Port Master Indenture.
- “Special Facility Revenue”** means revenue that the Port earns from or with respect to any Special Facility designated in the Port Master Indenture.
- “Special Facility Revenue Bonds”** means Bonds issued by or on behalf of the Mission Rock CFD or the IFD that are secured by a pledge of Special Facility Revenue.
- “Special Fund Administration Agreement”** means an agreement between the Port in its proprietary capacity, as CFD Agent, and as IFD Agent, and the Special Fund Trustee authorizing the trustee to receive, administer, and disburse funds in the Special Fund Trust Account to implement the Financing Plan.
- “Special Fund Trust Account”** means, collectively, the DRP Fund, the Special Tax Fund, and the Tax Increment Fund, including segregated accounts within each fund.
- “Special Fund Trustee”** means a bank, national banking association, or a trust company having a combined capital (exclusive of borrowed capital) and surplus of at least \$50 million, and that is subject to supervision or examination by federal or state authority.
- “Special Tax Fund”** means the segregated accounts within the Special Fund Trust Account; including the Facilities Account, the Shoreline Reserve Account, the Shoreline Protection Account, and the Services Account, that the Port, as CFD Agent, establishes with the Special Fund Trustee to receive, administer, and disburse Mello-Roos Taxes on behalf of the Mission Rock CFD through the Special Fund Administration Agreement as described in FP § 2.3(b) (Disbursements from Special Fund Trust Account).
- “Special Tax Requirement”** means the amount that Facilities Taxes and Services Special Taxes, as applicable, must fund in any City Fiscal Year, as established by approved Phase Budgets.
- “State”** means the State of California.
- “State Lands”** means the California State Lands Commission.
- “Statement of Indebtedness”** means the annual report that the IFD must file with the Treasurer-Tax Collector under IFD Law and the Port IFD Guidelines.
- “Street Segment”** means any portion of a street described as such in the Schedule of Performance.
- “Structural Consultant”** means any Project Consultant who prepared Structural Materials.
- “Structural Materials”** means Project Materials relating to structural strengthening, maintenance, and repair of the substructure and superstructure of piers and wharves, Horizontal Improvements for, and subsurface stabilization of, any part of the Project Site.
- “Structured Street”** means a Public ROW that is pile-supported.
- “Structured Street Criteria”** means design criteria for the Structured Street System to be developed by Developer, in coordination and consultation with the Port, the Port’s independent third party engineer, and Other City Agencies.
- “Structured Street Drainage”** means the drainage system for Structured Streets, which may include sump pumps.
- “Structured Street Superstructure”** means pile-supported U-shaped corridors and associated subdrains that support the Structured Streets that the Port or the City will acquire.
- “Structured Street System”** means Structured Street Superstructure and associated Structured Street Drainage, Flexible Utility Connections, and Flexible Street Improvements, as more specifically described in the Infrastructure Plan.

“subcontracts to contracts” is defined in Administrative Code sections 12B.2 and 12C.2.

“Subdivision Code” means the San Francisco Subdivision Code, as amended by the DA Ordinance, and Subdivision Regulations adopted by Public Works.

“Subdivision Map” means any map that Developer submits for the Project Site under the Map Act and the Subdivision Code.

“Sub-Project Area” means a sub-project area that the Board of Supervisors established in Project Area I.

“Subsequent Assessed Value” means the assessed value of a Taxable Parcel in any City Fiscal Year after the most recent Baseline Assessed Value was established.

“Subsequent VDDA Closing Date” shall mean the originally scheduled Closing Date set forth in a Vertical DDA in effect for any Development Parcel in a Phase other than the Vertical DDA that establishes the First Scheduled Closing Date as such Closing Date may be extended under **DDA § 7.7(d)** Final Map.

“substantial completion” means:

- (i) when used in reference to Horizontal Improvements, that the Chief Harbor Engineer has determined, or is deemed to have determined, that the Horizontal Improvements meet the conditions in **DDA § 14.6** (SOP Compliance); and
- (ii) when used in reference to Vertical Improvements, that the Vertical Improvements have been Completed (as such term is defined in the Vertical DDA).

“SUD” is an acronym for the area subject to Section 249.80 and related zoning maps, which established the Mission Rock Special Use District and zoning and other land use limitations for the Project Site.

“SUD Amendments” means, collectively, Section 249.80 and related amendments to the Planning Code and zoning maps adopted by Ordinance No. 31-18.

“Summary Proforma” means the detailed document that Developer prepared to provide an accurate summary of the Proforma, a copy of which is attached to the Financing Plan as **FP Sch 1**, and any superseding or revised summaries prepared from time to time in accordance with the DDA.

“Sustainability Strategy” means **DDA Exh B8**, which contains:

- (i) strategies to develop the Project Site to balance San Francisco’s plans for future growth within the context of the State’s requirements to reduce greenhouse gas emissions and the City’s goals to reduce water consumption, reduce waste, and enhance community-scale energy resources; and
- (ii) targets that Developer will track and report on to Planning regularly throughout the Project’s development.

“SWL 337” is a term used to refer the Port property located south of Mission Creek/China Basin Channel, bordered by Third Street on the west, Mission Rock Street on the south, and Terry A. Francois Boulevard on the east, as reconfigured in accordance with AB 2797.

“Task Force” means a team of third-party professionals and Public Works staff that Public Works is authorized to assemble to assist the City and the Port in implementing the ICA.

“Tax Allocation Bonds” means Bonds issued on behalf of the IFD with respect to Project Area I, including obligations incurred under a Pledge Agreement, secured by a pledge of or otherwise payable from Allocated Tax Increment.

“Tax Allocation Bonds” excludes any Mello-Roos Bonds.

- “Tax Allocation MOU”** is a term used to refer to the Memorandum of Understanding (Levy and Allocation of Taxes).
- “Tax Code”** means the Internal Revenue Code of 1986, as amended, together with applicable temporary and final regulations promulgated, and applicable official public guidance published, under the United States Internal Revenue Code.
- “Tax Increment”** refers to Allocated Tax Increment or Gross Tax Increment, as appropriate in the context.
- “Tax Increment Fund”** means the segregated accounts within the Special Fund Trust Account that the Port, as IFD Agent, establishes with the Special Fund Trustee to receive, administer, and disburse Annual Allocated Tax Increment on behalf of the IFD through the Special Fund Administration Agreement.
- “Tax Increment Limit”** means the maximum dollar amount of Tax Increment that the City agreed to allocate to the IFD for each Sub-Project Area in Project Area I under Appendix I.
- “Taxable Commercial Parcel”** means a Taxable Parcel that is not residential.
- “Taxable Parcel”** means an assessor’s parcel of real property or other real estate interest created by each Phase Final Map that is not an Exempt Parcel, which may include leased space occupied for private use in an Exempt Parcel.
- “Taxable Residential Unit”** means a Taxable Parcel that is a residential condominium unit.
- “TAY”** is an acronym for Transition Age Youth.
- “TAY Unit”** means an Inclusionary Units set aside to house an individual transitioning out of a public system such as the foster care system.
- “TAY Unit Occupancy Plan”** means an HSH-approved plan for lease-up and occupancy of the TAY Units that the Vertical Developer will submit to the Port at least 120 days before the Vertical Developer expects to begin marketing for Market-Rate Units in a Residential Project that includes TAY Units.
- “TDM”** is an acronym for Transportation Demand Management.
- “TDM Measures”** means the measures to implement the TDM Plan.
- “TDM Plan”** means the Transportation Demand Management Plan that is included in **TP Sch 2 to DDA Exh B7** (Transportation Exhibit) and prepared in compliance with EIR Mitigation Measure M-AQ-2.3 (**TP Sch 3 to DDA Exh B7** (Transportation Exhibit)), except as specified in the Transportation Exhibit.
- “TDM Program”** means the City’s Transportation Demand Management Program, which is described in Section 169.
- “Temporary Certificate of Occupancy”** means a certificate of occupancy that the Chief Harbor Engineer issues under the Port Building Code allowing a discrete portion of a building to be occupied or conditional occupancy of a building, generally for no longer than 90 days.
- “Temporary Event”** means an event lasting no more than six months.
- “Temporary Use”** as defined in Planning Code section 249.80(f)(4) means a single or recurring use at the Project Site that is allowed under any Port lease or license for a period not to exceed 90 days, subject to extension by the Port Director. Examples include booths for charitable, patriotic, or welfare purposes; markets; exhibitions, festivals, circuses, musical and theatrical performances, and other forms of live entertainment including setup/load-in and demobilization/load-out; athletic events; open-air sales of agriculturally-produced seasonal decorations such as Christmas trees and Halloween pumpkins; meeting rooms

and event staging; mobile food and temporary retail establishments; and automobile and truck parking and loading associated with any authorized temporary use.

"Tenant" means the named tenant and any permitted successor under a Parcel Lease.

"Tentative Map" means a Tentative Transfer Map, Vesting Tentative Transfer Map, Tentative Map, or Vesting Tentative Map as defined in the Subdivision Code.

"Terminated Phase" means a Phase that is terminated under **DDA art. 11** (Material Breaches and Termination).

"Termination Date" means the date on which a termination under **DDA art. 11** (Material Breaches and Termination) becomes effective.

"Termination Notice" means a notice given under **DDA § 11.6** (Termination Procedures).

"Test Parcel" means an Option Parcel that will be subject to a Down Market Test against the applicable Land Value Indicator under **DDA art. 4** (Excusable Delay).

"third party" means a person that is not Developer, the Port, the City, or any of their Agents or Affiliates.

"Third-Party Challenge" means an action challenging the validity of any provision of the DDA or DA, the Project, any Project Approval or Later Approval, the adoption or certification of the Final EIR, other actions taken under CEQA, or any other Project Approval.

"Ticketed Public Event" means an event in a Public Space that is open to the general public and requires the purchase of a ticket for entry.

"Time-Sensitive Matter" means a Party's obligations that are due at a specific time under the DDA, in particular under the Schedule of Performance, any Phase Schedule, and the Financing Plan, but excluding obligations to process Payment Requests under the Acquisition Agreement or Requisitions under the Financing Plan.

"tobacco product" is defined Health Code section 1010(b).

"Total Fee Amount" means Transportation Fees paid for each development project on the Project Site.

"Trade Show" means a gathering in which:

- (i) one or more businesses or association of businesses in one or more industries or professions show their products or services to possible customers or patrons; or
- (ii) there are exhibits, displays, or demonstrations of specific products or services or that highlight all or part of an industry or profession.

"Transaction Document" means any of the following, individually or collectively:

- (i) the DDA, including the Financing Plan, the Participation Agreement, this Appendix, and all attached exhibits, schedules, and implementing agreements and plans;
- (ii) the DA and the ICA;
- (iii) each Assignment and Assumption Agreement governing a Transferee's obligations for the Project;
- (iv) the Master Lease;
- (v) each fully executed Vertical DDA and Parcel Lease; and
- (vi) any other agreement governing the Parties' respective rights and obligations with respect to the development or operation of any portion of the Project Site.

“Transfer” means an assignment of any portion of Developer’s horizontal development rights and obligations under the DDA under an Assignment and Assumption Agreement or through a Significant Change or an Initial Transfer.

“Transfer” excludes:

- (1) *a Deed of Trust or Security Interest given to a Lender;*
- (2) *an agreement under which a Vertical Developer is required to build Deferred Infrastructure; and*
- (3) *an Excluded Transfer.*

“Transferee” means any person to which Developer’s rights and corresponding obligations relating to any portion of a Phase are Transferred under **DDA art. 6** (Transfers).

“Transferee” excludes the transferee in an Excluded Transfer.

“Transferee Affiliate” means a Transferee that is:

- (i) an Affiliate of Developer;
- (ii) as to any Transfer occurring before Developer has achieved the Initial Benchmarks, a person in which a Giants Affiliate holds Significant Ownership and Management Control of all Phases of the Project; or
- (iii) as to any Transfer occurring after Developer has achieved the Initial Benchmarks, a person in which a Giants Affiliate or an Initial Transferee Affiliate holds Significant Ownership and Management Control of the Current Phase and each Later Phase of the Project.

“Transit Mitigation Agreement” means a future agreement between Developer and SFMTA that will obligate Developer to make a fair share contribution to the cost of providing additional bus service or otherwise improving service in accordance with Mitigation Measure M-TR-4.1 and Mitigation Measure M-TR-4.4.

“Transition Age Youth” means young adults, ages 18–24, who are transitioning from public systems like foster care or are at risk of not making a successful transition to adulthood.

“Transportation Exhibit” means **DDA Exh B7**, which includes the TDM Plan and the Transportation Exhibit, among other things.

“Transportation Fee” means the Impact Fee that each Vertical Developer will pay to SFMTA under the **DA § 5.4(b)** (Impact Fees and Exactions) for uses described in the Transportation Exhibit.

“Transportation Infrastructure” means Improvements and technology necessary for transportation and public transit services on or serving the Project Site, including traffic control devices (traffic signs, roadway and curb paint, traffic signals, signal communication conduits or network devices, message signs, traffic video cameras); transit-related infrastructure (shelters, bathrooms, signs and mountings), overhead lines, power, and related conduits and ducts, transit signs and signals), parking infrastructure (public parking garages, lots, and related communications devices), parking and traffic enforcement infrastructure, bicycle parking and sharing facilities, protected bikeways, pedestrian facilities, bus boarding islands and bus bulbs, street striping and curb demarcations, lighting supports, wayside control and communications systems and devices, and electrical substations, junction boxes, underground conduit, and duct banks.

“Transportation Plan” refers to the Mission Rock Transportation Plan attached as **TP Sch 1** to the Transportation Exhibit, which contains strategies that Developer is required to implement to address movement in and around the Project Site.

“Transportation-Related Mitigation Measure” means any Mitigation Measure that SFMTA is responsible for implementing or monitoring.

“Treasurer-Tax Collector” means the Treasurer and Tax Collector of the City and County of San Francisco.

“Triggering Event” means any Transfer that is not a Permitted Change or an Excluded Transfer.

“unbundled” when used in reference to a Garage Space in a Residential Project means that the space is available for rent separately from the applicable Residential Units.

“Unrecovered Rent Credits” means Alternative Return Rent Credits against Base Rent under the Master Lease that Master Lease Tenant has not exhausted as of the effective date of the applicable Triggering Event, documented by Developer to the Port’s reasonable satisfaction.

“Unrelated Transferee” means a Transferee that is not an Affiliate of Developer, a Transferee Affiliate, or any of their respective Affiliates.

“Utility Allowance” means the dollar amount established periodically by the San Francisco Housing Authority based on HUD standards for cost of basic utilities for Households.

“Utility Infrastructure” means Horizontal Improvements for utilities serving the Project Site, such as electricity, gas, water, sanitary sewer, and storm drainage.

“Utility Infrastructure” *excludes telecommunications infrastructure.*

“Utility-Related Mitigation Measure” means any Mitigation Measure that SFPUC is responsible for implementing or monitoring.

“Value Reduction” means a reduction in assessed value of a Taxable Parcel obtained through a proceeding that the pertinent taxpayer initiates under the California Revenue & Taxation Code.

“VDDA Notice” means the Port’s notice to Planning that the Port is prepared to enter into a Vertical DDA with a Vertical Developer that will have the right to build an office development project on an Option Parcel in the Project Site.

“vending machine” is defined in Administrative Code section 4.2(a) and means an automated machine dispensing products or services, including food, beverages, tobacco products, newspapers, and periodicals.

“Vertical Application” means the design documents that are required to begin the entitlement process for vertical improvements under the SUD.

“Vertical Coordination Agreement” means an agreement between Developer and Vertical Developer as generally described in **DDA § 7.9** (Vertical Cooperation Agreement).

“Vertical DDA” means a disposition and development agreement that the Port will enter into with each Vertical Developer in accordance with the DDA.

“Vertical Developer” means a party to a Parcel Lease and a Vertical DDA providing for construction of Vertical Improvements on a Development Parcel.

“Vertical Developer Affiliate” means a Vertical Developer in which Developer, or any person with a direct or indirect ownership in Developer, directly or indirectly holds any ownership interests or rights to capital or profits.

“Vertical Developer Party” means any Vertical Developer, its Affiliates, their Agents, and Invitees to the Project Site, individually or collectively.

“vertical development” means planning, design, and construction or rehabilitation of buildings and other structures on legal parcels.

- “Vertical Improvement”** means a new building that is built at the Project Site.
- “Vested Element”** means a specific component of the land use entitlements granted to Developer by the Project Approvals, including the locations and numbers of buildings, permitted land uses, height and bulk limits, and parking, as described in **DA § 5.1(b)** (Vested Elements).
- “Water Board”** means the San Francisco Bay Regional Water Quality Control Board of the California Water Resources Control Board.
- “Waterfront Plan”** means the Port’s Waterfront Land Use Plan, including its Waterfront Design and Access Element, as amended by Port Commission Resolution No. 18-05 to incorporate the Design Controls.
- “Waterfront Set-Aside”** means a minimum of 20% of Annual Allocated Tax Increment from Project Area I, which the IFD must spend “solely on shoreline restoration, removal of bay fill, or waterfront public access to or environmental remediation of the San Francisco waterfront” to comply with IFD Law.
- “WDP”** is an acronym for the Workforce Development Plan.
- “Workforce Development Plan”** means **DDA Exh B6**.
- “Workforce Job Readiness and Training Funds”** means \$1 million that Vertical Developers at the Project Site will contribute to OEWD to support workforce job readiness and training through OEWD’s CityBuild and First Source Hiring programs and qualified local community-based organizations in accordance with the Workforce Development Plan.
- “Zone”** as described in **ICA Exh D** means, subject to further discussion and agreement in accordance with the ICA, a Deferred Infrastructure Zone.
- “Zone 1”** means the Taxable Parcels in the Phase 1 Area of the Project Site.
- “Zone 1 Shoreline Special Taxes”** means the Shoreline Special Taxes levied on and actually collected from Zone 1.
- “Zone 2”** means the Taxable Parcels in the Mission Rock CFD outside of the Phase 1 Area.
- “Zone 2 Shoreline Special Taxes”** means the Shoreline Special Taxes levied on and actually collected from Zone 2.

CONSENT TO DEVELOPMENT AGREEMENT
Port Commission

The Port Commission of the City and County of San Francisco has reviewed this Development Agreement between the City and Developer relating to the proposed development project at Seawall Lot 337 to which this Consent to Development Agreement ("**Port Consent**") is attached and incorporated. Capitalized terms used in this Port Consent have the meanings given to them in this Development Agreement or the Appendix.

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

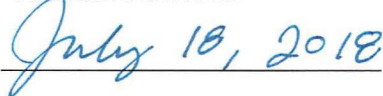
1. The Port Commission, at a duly noticed public hearing adopted the CEQA Findings, including the Statement of Overriding Considerations, and the MMRP, including Mitigation Measures for which the Port is the responsible agency.
2. At the meeting, the Port Commission considered and consented to this Development Agreement as it relates to matters under Port jurisdiction and agreed to adopt a Parks Plan incorporating the elements of **Subsection 5.8(g)** (Parks Plan), subject to refinements it deems advisable to further its mission under Applicable Port Laws.
3. The Port Commission also authorized Port staff to take any measures reasonably necessary to assist the City in implementing this Development Agreement in accordance with Port Resolution No. 18-06.

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

PORT:

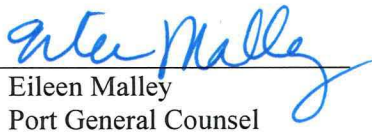
CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, operating by and through
the San Francisco Port Commission

By: 
Elaine Forbes,
Executive Director

Date: 

Authorized by Port Resolution No. 18-06
and Board of Supervisors Ordinance No. 33-18.

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

By: 
Eileen Malley
Port General Counsel

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CONSENT TO DEVELOPMENT AGREEMENT
San Francisco Municipal Transportation Agency

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

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

1. The SFMTA Board of Directors, after considering at a duly noticed public hearing the CEQA Findings for the Project, including the Statement of Overriding Considerations and the MMRP contained or referenced therein, consented to and agreed to be bound by this Development Agreement as it relates to matters under SFMTA jurisdiction, and delegated to the Director of Transportation or his designee any future SFMTA approvals under this Development Agreement, subject to Applicable Laws, including the City Charter.
2. The SFMTA Board of Directors also:
 - a. approved the Infrastructure Plan, including street widths, subject to specified conditions;
 - b. approved Mitigation Measure M-AQ-2.3, which:
 - i. requires “a Transportation Demand Management (TDM) Plan with a goal of reducing estimated daily one-way vehicle trips by 20% compared to the total number of one-way vehicle trips identified in the project’s Transportation Impact Study at project build-out;” and
 - ii. is a Developer Mitigation Measure under the MMRP and a Developer Construction Obligation under the DDA;
 - c. approved Developer’s TDM Plan and the Mission Rock Transportation Plan, both of which are attached to the DDA Transportation Exhibit (**DDA Exhibit B7**), and found that the TDM Plan meets the requirements of Mitigation Measure M-MQ-2.3 and incorporates many of the TDM Program strategies described in Section 169;
 - d. directed the Director of Transportation to administer and direct the allocation and use of Transportation Fees; and
 - e. concurred with all of the transportation-related mitigation measures.
3. The SFMTA Board of Directors also authorized SFMTA staff to take any measures reasonably necessary to assist the City in implementing the Development Agreement in accordance with SFMTA Resolution No. 180206-025, including the Transportation Exhibit and Transportation-Related Mitigation Measures.

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

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, acting by and through the
SAN FRANCISCO MUNICIPAL TRANSPORTATION
AGENCY

By: _____



EDWARD D. REISKIN,
Director of Transportation

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____



for Name: Susan Cleveland-Knapp
SFMTA General Counsel

SFMTA Resolution No. 180206-025

Adopted: February 6, 2018

Attachments: Mission Rock Transportation Plan and TDM Plan

Transportation Plan and TDM Plan

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"Mission Rock Transportation Plan"

additional detail about how the other TDM measures will leverage the website for marketing and communications.

Mission Rock will create a site-wide website with a dynamic and engaging section dedicated to transportation information and services, with specific portals for each user type (or the state-of-the-practice equivalent to this measure, per changes in technology by the time of first occupancy).

Implementation Examples

NEMA (Market Street, San Francisco) has a "resident portal" where residents can submit work orders, track packages, pay rent, alert the valet, and communicate with management regarding car charging, car share, bike share, and bike repair.

❖ Signage and Wayfinding across Modes

Signage and wayfinding to indicate points of connection between different modes, as well as estimated travel times and directions by mode, can help increase people's understanding of travel options. Clear signage is also important for ensuring safety for all types of users, differentiating spaces for different users within shared public spaces. Signage will also indicate the nature and location of nearby bicycle routes. Mission Rock will coordinate with the City on the project's overall signage and wayfinding program to ensure the project conforms to City standards. Chapter 3 provides additional detail about how the other TDM measures will leverage signage and wayfinding for marketing and communications.

Mission Rock will design and install signage and wayfinding at key points throughout the development, including signage for safety along the shared streets.

Implementation Examples

Interactive signage and wayfinding has been instituted in a variety of cities, academic institutions, and transportation hubs.

❖ Improved Walking Conditions

As described in the Mission Rock Design Controls, the development will add over half a mile of complete streets, including new and improved sidewalks and pedestrian crossings. Complete streets are streets designed and operated to enable safe access for users of all ages, abilities, and transportation modes with the ultimate goal of fostering more livable communities. Today, many sidewalks in Mission Bay are narrow or missing in areas. The new streets within Mission Rock will greatly improve the overall walking conditions of the neighborhood and facilitate safer and more convenient pedestrian connections. A pedestrian-oriented urban design is essential for residents, employees, and visitors to fully take advantage of the other TDM measures, supporting access to all of the available transportation options and programs throughout the site and nearby. These improvements help shape the environment for the other TDM measures to succeed.

Mission Rock has integrated high-quality pedestrian design features (high connectivity, wide sidewalks, highly visible crossings, and others) into its design.

Mission Rock will restrict 40% of on-site units to inclusionary affordable housing, to be provided in a balanced manner throughout the phasing of the development.

ALL-REALM MEASURES

❖ On-Site Transportation Staff

The Mission Rock team aims to hire at least one on-site transportation staff person proficient in the planning and implementation of a TDM program, with an annual budget for TDM staffing, communications, and programs. The site-wide transportation staff will provide customized travel guidance to residents and employees, helping raise awareness and understanding of transportation options and ensuring that site users can find non-auto transportation options that meet their unique travel needs. They may also provide resources to support employers, such as helping them enrolled in pre-tax benefits and/or San Francisco's Emergency Ride Home program, setting up flexible work schedules, developing employee mobility management programs and organizing sitewide marketing and incentive campaigns. Other staff, such as the in-building concierge or those tasked with organizing bike events and maintaining the bike resource room, could also provide similar targeted information and facilitate discussions around using different modes. This dedicated transportation staff would act as a centralized transportation resource to the in-building concierges, providing up-to-date transportation information and expert support to front-line staff that are less likely to have the same depth of knowledge of the transportation system.

The on-site transportation staff will also support efforts to collect data to evaluate the effectiveness of the overall TDM program and to understand opportunities to adjust the program to meet changing needs of Mission Rock residents, employees, and visitors. Chapter 3 provides additional detail about how the other TDM measures will leverage the transportation staff for marketing and communications.

Mission Rock will hire and task dedicated transportation staff with providing individualized advice and information on transportation options to residents and employees.

Implementation Examples

This would likely be a new measure, as other developments have not explicitly instituted and integrated transportation information with residential or employee services. Several cities have used something similar to this measure at a neighborhood level. Portland, Ore. has seen notable mode shifts from its Smart Trips program, which provides targeted marketing and information on non-auto transportation options in particular neighborhoods.

❖ Mobile-Friendly Mission Rock Transportation Website

A mobile-friendly website oriented toward all residents, employees, and visitors providing online access to concierge services and transportation programs can help raise awareness and visibility of transportation options and facilitates connections among transportation modes. The transportation information on the Mission Rock site will likely include but not be limited to real-time transit information and a transportation tab with all nearby options (e.g. Muni, car share, scooter share, ride-sourcing apps) showing locations and availability. Chapter 3 provides

Implementation Examples

NEMA (Market Street, San Francisco) has a business lounge with Apple computers, printers, fax machines, and scanners, and a board room with phone, touch screen monitor, and computer hook-ups. Many newer residences also offer Wi-Fi throughout all common areas.

Figure 9 Co-Working Space



Source: Wikimedia, Chris Gallegos

❖ Convenient Elevator Design

By designing elevators that easily accommodate bicycles, strollers, and wheelchairs, Mission Rock will be able to increase the visibility and communicate the importance of bicycling and improve the family friendliness and accessibility of the project. Building codes already require elevators to be large enough to accommodate a variety of users, but the project will also aim to provide appropriate wayfinding and signage for elevators to educate residents about using the appropriate elevators to transport bicycles and other wheeled conveyances.

Mission Rock will work with vertical developers to implement this measure and meet building code requirements.

Implementation Examples

Many residential developments have gone to great lengths to design their facilities as bicycle friendly, but none have specifically called out adaptations to their elevations as an accommodation or amenity.

❖ On-Site Affordable Housing

Residents living in affordable housing typically own fewer cars per household than residents of market-priced units. They are more likely to use transit and are less likely to require parking, reducing overall vehicle trip generation.

❖ Convenient Loading Zones

While the site does not contain on-street parking, Mission Rock is planning to dedicate a portion of the site's curb space for loading and deliveries of goods and people to reduce the need to make personal vehicle trips. Curb designations will be consistent with City of San Francisco regulations. Under those regulations, taxis, transportation network companies, and private vehicles may drop off along any curb space not designated by a red curb or marked otherwise. Vehicles may not idle in these locations as per San Francisco Transportation Code Section 7.2.86. As noted earlier, the project team will work with the City to develop a loading management plan during a future phase of project development.

Drop-off locations for seniors and people with disabilities will be located near building entrances, elevators, and at corners with curb ramps. The location of loading zones will also take into consideration the moving needs of residents and businesses. See the Mission Rock Transportation Plan and the Design Controls for more detail on the planned location of loading and delivery zones and for more information on Americans with Disabilities Act (ADA) accessibility on the site.

Mission Rock is integrating loading zones into the site's overall street design.

❖ ❖ Childcare Facilities and Services

Providing childcare services on site at Mission Rock would break down a key barrier for parents to taking non-auto modes to work by bringing such services within walking distance and near the many commute options around the Mission Rock site. Mission Rock will aim to attract a childcare provider, likely on the ground floor of a northern parcel, near China Basin Park.

Mission Rock will aim to attract a provider of on-site childcare services and facilities to ensure easy access for Mission Rock residents and employees.

Implementation Examples

Many residential developments in major cities provide childcare services as part of their amenities; NEMA on Market Street provides childcare, and North Beach Place provides day care and children's play areas. A housing development at 8th and Market instituted unbundled parking to free up space for an on-site childcare center. Parkmerced includes a Montessori School on its premises, with full daycare and after-school care.

❖ Collaborative Work Space

A business services room can help encourage and facilitate working from home, which can have a direct impact on reducing trips to and from the site. Such an amenity is a typical part of large rental buildings, though the size and specific services included vary.

At Mission Rock, work spaces could include rentable work rooms that can be reserved in advance, equipped with video conferencing equipment, high-speed internet connections, projectors, white boards, basic office supplies, and printing, scanning, and faxing services. For residents interested in using this work space long term, dedicated mailboxes for businesses could be set aside and located nearby. Vertical developers will ultimately be responsible for developing and maintaining these business services rooms and ensuring that they are equipped with appropriate equipment.

Mission Rock will work with vertical developers to implement this measure.

MISSION ROCK TRANSPORTATION DEMAND MANAGEMENT PLAN
Seawall Lot 337 Associates, LLC

vendors and consumers. This measure could also have marketing benefits and reinforce the site's overall message about sustainability. Initial conversations about bringing a farmers' market to Mission Rock have yielded a cost estimate of approximately \$75,000 to \$100,000 annually for Mission Rock to manage it in-house. Alternatively, hiring a farmers market management company could reduce costs to as low as \$15,000. However, providing a farmers market may result in generating more trips rather than it offsets; as such, a partnership with a local CSA might be more cost-effective.

Mission Rock will coordinate with local CSAs to provide group deliveries, and continue exploring the possibility of hosting regular farmers' markets on the premises.

Implementation Examples

This would be a new measure; although there are multiple farmers' markets throughout San Francisco, they are not specific to a certain development or community, nor were they started with a specific development's needs in mind.

❖ Cold and Dry Delivery Storage Space

Providing storage space for groceries, laundry, and other packages can have a direct effect on reducing trips by encouraging and facilitating online ordering. A centralized storage facility within each building can also consolidate delivery trips by enabling delivery vehicles to only make one stop for multiple recipients instead of several. Where this type of measure has been implemented without direct staff monitoring at all times, building residents typically access deliveries through a locker system with unique pick-up codes that include the locker number and access times for the delivery recipient.

Mission Rock will work with the vertical developers to provide storage space near the concierge and elevators to store packages, perishables, laundry, and other deliveries.

Implementation Examples

Presidio Landmark has a wine cellar with climate controlled lockers; separate storage lockers are also provided.

❖ Family Supportive Amenities

Providing secure storage space for personal car seats, strollers, athletic or other extracurricular gear, and other large equipment can address challenges families face while traveling. Locating this space near car share parking spaces make it easier for families to travel without feeling a personal vehicle is necessary. If this measure is implemented without direct staff monitoring at all times, building residents can access the space with an access code or key card.

Mission Rock will provide storage space for family-related equipment near car share parking spaces.

BUILDING MEASURES

❖ In-Building Concierge Services

In-building concierge services and/or multi-purpose front-desk staff can facilitate valet parking, farm-to-table produce delivery, cold and dry storage for grocery or produce delivery, and secure package delivery. Concierge staff could also provide information about the nearest stores and services like dry cleaning and laundry service, as well as pickup/delivery services from local merchants. Residents would pay for all services.

This concierge will be supported by the site-wide transportation staff who would provide centralized transportation support to the in-building concierges (see section on the site-wide transportation staff below). The combination of these services will consolidate or eliminate the need for additional trips and could be a resource for residents, providing targeted travel information. In buildings where a concierge service isn't feasible, the site-wide transportation staff will provide this service to the building tenants.

Mission Rock will encourage vertical developers to appoint an in-building concierge to provide information about local merchants and coordinate/facilitate delivery services for residents.

Implementation Examples

Though many residential buildings provide a concierge, explicitly pairing in-building concierge staff with a transportation specialist would be a new measure for reducing trips and demand for parking. Crafting and marketing the concierge's role as such may increase the program's effectiveness.

❖ Coordinated Delivery Services

Mission Rock will aim to partner with online personal service providers (i.e. Instacart, Postmates, Taskrabbit) or facilitate other ways of making ordering in, instead of making separate trips off the property for daily needs, more appealing and reduce vehicle trips in the process. One potential way to do this would be to offer direct ordering through the Mission Rock website. Each building would manage these services individually as needed.

Mission Rock will aim to establish site-wide partnerships with internet delivery services companies.

Implementation Examples

NEMA on Market Street facilitates local organic produce and wine delivery, which is part of its overall suite of concierge services. This type of amenity could be coupled with an app-based ordering system, such as Instacart or Postmates, or Mission Rock may want to develop one specific to its services.

❖ CSA Partnerships

Partnering with local community-supported agriculture (CSA) organizations has the potential to reduce greenhouse gas emission and vehicle-trips by providing project residents convenient access to locally sourced food, reducing the number of trips and vehicle miles traveled by both

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Mission Rock will install dynamic displays (or use another state-of-the-practice price-information sharing measure) to show real-time parking price and availability information, and will endeavor to make this information available through other channels like a Mission Rock transportation website; this will require installing technology and associated information systems to automatically monitor parking usage.

Figure 8 Dynamic Parking Signage, SoMa



Implementation Examples

All City-owned garages that participate in the demand-based parking pricing program, *SFPark*, provide real-time pricing and availability information on the *SFPark* website; there are several dynamic message signs at key intersections in SoMa that indicate the number of parking spaces available and general wayfinding to those garages.

MISSION ROCK TRANSPORTATION DEMAND MANAGEMENT PLAN

Seawall Lot 337 Associates, LLC

oriented neighborhood where it is possible to live well with only one car, or even no car, per household. Unbundling parking costs changes parking from a required purchase to an optional amenity, so that households can freely choose how many spaces they wish to lease.

Unbundling parking tends to reduce demand for parking by specifically calling out and making optional the previously hidden cost of “free” parking. This in turn allows developers to provide less parking, which increases the developable area for more lucrative land uses such as additional housing units. For this measure to work optimally for office users, the users of parking – not their employers – must be the ones who ultimately pay daily or monthly costs.

Mission Rock will unbundle parking costs from all residential, commercial, and retail leases and ensure that the users of parking are the ones who ultimately pay for it.

❖ Reduced Parking Supply

Overbuilding parking supply leads to increased automobile use, contributing to more vehicle trips, traffic congestion, higher housing costs, and greenhouse gas emissions. Providing parking at a rate below the surrounding neighborhood reduces the parking supply from what would be typically provided for this kind of development, which in turn reduces the number of trips the development may generate. Given the large number of households with no vehicle and the demand for housing in San Francisco, a limited supply of parking could be expected to attract a high proportion of residents without vehicles, which in turn would result in fewer vehicle trips from the development. Mission Rock is within a few blocks of frequent high-quality transit to downtown and is in a neighborhood that is already facing vehicular congestion, which further discourages driving and parking.

Mission Rock will establish maximum parking ratios that are lower than the neighborhood average; if anticipated needs related to AT&T Park require providing parking at a rate higher than the neighborhood average, Mission Rock will still price parking at or above market rates for northern Mission Bay or SoMa, rather than reducing prices to fill the facility.

❖ Real-time Parking Pricing and Availability Information

This programmatic measure consists of providing real-time parking pricing and availability information to Mission Rock residents, employees, and visitors who utilize the off-street parking facilities on-site. Information could be displayed on signs outside of the parking garage, and could also be accessible on the mobile-friendly Mission Rock website. For market-based parking pricing to be truly effective, the dynamic between price and availability must be clearly communicated to drivers. Making such information readily available to potential drivers, particularly at parking garage entrances, decreases the likelihood of drivers’ circling for parking or potentially increases the possibility of choosing other modes.

Real-time availability information for an overall facility can be derived from the access control of the parking garage, calculated based on the number of entries and exits at any given time. To provide garage floor-specific information on where spaces are available, each parking space needs a sensor (typically embedded in the floor) that communicates wirelessly with a central system to sense when the space is occupied.

PARKING MEASURES

❖ Parking Pricing

The price of parking has been shown to be a highly effective mechanism in changing parking and travel behavior. Demand-responsive pricing involves altering the cost of parking according to the level of demand. During times of higher demand, parking has a higher price and thus encourages both a higher rate of turnover and the use of other modes; during times of lower demand, parking has a lower price. Prices generally do not change in real time based on current occupancy, but instead might automatically increase by a pre-set amount during peak periods, based on typical demand patterns, or for scheduled events. Prices might be adjusted overall a few times a year based on recent occupancy data. By refining the price of parking periodically, it is possible to keep parking occupancy rates relatively close to the optimal level, typically around 90% for off-street parking. Researchers have found that parking facilities function efficiently (i.e. without requiring excessive parking-search time) up to roughly this level of occupancy.⁴

At the time when the site is fully built out, Mission Rock's parking facilities will be priced to keep demand below a threshold occupancy rate and to encourage site users to avoid parking during AT&T Park events. Non-event rates will be comparable to off-street parking prices at other facilities in SoMa and Northern Mission Bay.

Implementation Examples

Demand-based parking pricing has been implemented to various degrees in multiple cities. The *SFPark* program in San Francisco regulates parking prices for off-street as well as on-street parking facilities, adjusting hourly parking rates every three months based on the parking demand at each garage during five different time bands throughout the day. When occupancy exceeds 80%, hourly rates for the following three-month period are increased by 50 cents. Unlike approach planned for Mission Rock, *SFPark* also decreases prices when occupancy falls below a low-end threshold of 40%. When it was first implemented, the program also adjusted early bird parker time requirements and added off-peak discounts to discourage commuting at peak hours, reducing congestion around the garages. Since implementation, San Francisco has seen higher garage occupancy at lower prices overall, resulting in a marginal increase in revenue.

❖ Unbundled Parking

"Unbundling" parking means that the cost for parking is separate from the cost of residential and commercial units. It is an increasingly common practice in urban areas; the City of San Francisco requires residential developments to unbundle parking. Thirty percent of San Francisco households do not own a vehicle⁵ and unbundled parking makes housing more affordable those who do not need a parking space. This approach provides a cost savings to households who decide to dispense with one of their cars, and it can help attract households who wish to live in a transit-

⁴ See: Levy, Nadav, Karel Martens, and Itzhak Benenson. Exploring Cruising Using Agent-Based and Analytical Models of Parking. *Transportmetrics*, DOI: 10.1080/18128602.2012.664575, 2012. AND Millard-Ball, Adam, Rachel Weinberger, and Robert Hampshire. Is the curb 80% full or 20% empty? Assessing the impacts of San Francisco's parking pricing experiment. *Transportation Research Part A: Policy and Practice*, No 63, 2014, pp. 76-92.

⁵ U.S. Census, American Community Survey 2013, 5-year estimates

❖ On-site Car Share Parking Spaces

According to San Francisco Zoning Code³, Mission Rock is required to provide 31 to 38 car share spaces. Research indicates that a single car-share vehicle can remove as many as 20 private cars from the transportation network. Spaces will be located in high-visibility parking spots within the publicly-accessible parking garage, with clear exterior signage to increase visibility and emphasize the convenience of car share. City Car Share offers electric vehicles which appear to be equally popular, though others have found barriers to adoption as people are still becoming comfortable with using the technology; this may not be the case in five years. Depending on the car share vendor provided, additional partnerships with ChargePoint may be required to provide infrastructure for electric vehicle charging.

Exceeding this code requirement, Mission Rock will negotiate an agreement with one or more local car share vendors to provide 50 designated car share spaces in initial design with flexibility to increase over time in response to demand. Mission Rock will also consider partnering with ChargePoint to provide electrical hookups adjacent to spaces to allow for the potential for electric shared vehicles, with the ability to increase over time in response to demand.

Case Studies

Fox Plaza (San Francisco) has 443 units with a 0.77 parking ratio and provides 14 car share vehicles on site, with 12 additional spaces located within 1/4 mile. Madera Apartments (Mountain View) has 203 units with a 1.37 parking ratio and provides two car share vehicles on site, with two additional Zipcar locations within 1/4 mile. The Uptown (Oakland) has 665 units with a 0.80 parking ratio and provides one car share vehicle on site, with an additional four car share locations within a 1/4 mile.

❖ Car Share Memberships

New residents will receive a car share membership for their first year of residency to help establish new behavioral patterns upon moving in (opt-out allowed, but default to providing for all). Pairing access to car sharing vehicles with car sharing memberships is also shown to be more effective than implementing one or the other on its own.

Mission Rock will offer memberships to all households for their first year of residency. Depending on the agreement with the on-site car share vendor, membership fees will likely be reduced or waived and some rental credit may be provided.

Implementation Examples

Several Bay Area residential projects cover the full price of car share memberships for residents (New Californian - Berkeley; Madera Apartments - Mountain View; Fruitvale Transit Village - Oakland; Fox Plaza - San Francisco; The Uptown - Oakland). Many of these developments have parking ratios of less than one per unit, and all of them have seen parking utilization rates of well below capacity.

³ San Francisco Planning Code Section 166, Table 166.

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Providing scooter share access to residents on-site will magnify the effectiveness of offering Scoot memberships. The parking garage would accommodate space for a scooter dock, which the scooter share vendor would provide and maintain.

Mission Rock will reserve off-street parking space for 20 scooters (approximately six car parking spaces), and will pursue a potential marketing partnership opportunity with a provider of scooter share (e.g. Scoot) or a similar service.

Implementation Examples

This would be a new measure.

Figure 7 Scoot Networks



Source: Flickr, Marcin Wichary

❖ Electric Scooter Share Memberships

Like a bike share membership, a scooter share membership for Mission Rock residents can help establish new travel behavior patterns upon move-in. This measure would entail partnering with Scoot or another electric scooter share vendor to provide free memberships in exchange to reserving space for electric scooter parking on-site.

Mission Rock will offer a one-year membership for Scoot or a similar service to all new residents aged 21 and over who meet the scooter share provider's membership requirements, and will offer on-site scooter orientation (provided by Scoot Networks or a similar provider).

Implementation Examples

Offering scooter share memberships would be a new measure.

will serve as a common, secure bike room, where residents or employees can use a key or access card (often the same card used to access an elevator or parking garage). Moreover, public bike parking is often considered secure when it is situated in well-lit, highly visible areas.

Exceeding the bike parking required by City code, Mission Rock will construct 1 Class I bike parking space per dwelling unit, an additional 511 (under the High Residential Scenario) or 667 (under the High Commercial Scenario) Class I spaces for commercial development, and 675 (under the High Commercial Scenario) or 692 (under the High Residential Scenario) Class II bike parking spaces and will work with vertical developers to set aside necessary square footage for secure bike parking in the ground floor or another convenient area of each building.

Implementation Examples

As it is required by San Francisco zoning code, any new construction, including the addition of new units or an increase of off-street vehicle parking capacity, must include bicycle parking spaces. For residential development, one Class I (secure) space per unit is required; for buildings with more than 100 units, 100 spaces plus one space per every four units over 100 are required. The requirements for commercial development vary; retail development must provide one Class I (secure) space for every 7,500 square feet of occupied floor area, and office developments must provide one space for every 5,000 square feet.

❖ Showers and Lockers for Employees

Following San Francisco Zoning Code Section 155.4, specific land uses exceeding a certain square footage threshold are required to provide shower and clothes locker facilities for tenants and employees. Offices (including childcare, business services, and light manufacturing) that exceed 10,000 square feet must provide at least one shower and six clothes lockers; for facilities between 20,000 and 50,000 square feet, the building must provide two shower and 12 lockers. Those exceeding 50,000 square feet must provide four showers and 24 lockers. Retail sales and restaurants exceeding 25,000 square feet must provide one shower and six clothes lockers; those exceeding 50,000 square feet must provide at least two showers and 12 lockers.

Mission Rock will work with the vertical developers to meet this requirement.

Implementation Examples

San Francisco first implemented this requirement in 1998, and amended it to include office land uses in 2013.

PERSONAL MOTORIZED VEHICLE MEASURES

❖ On-site Shared Scooters

Electric scooters are highly convenient in a dense urban environment and may have additional marketing value, given the cache scooters carry among certain population segments. The main company providing scooter share services is called Scoot, providing access to both single-rider scooters and quad vehicles, which have four wheels and can carry up to two people. One of the benefits of Scoot's network is the ability to travel point-to-point, instead of needing to return scooters to their point of origin. Scoot already has pods within about a half-mile of Mission Rock.

Figure 6 Bike Center, Millenium Park, Chicago



Source: Flickr, Brian Kusler

❖ Bike Parking

Following San Francisco Zoning Code Section 155, Table 155.2, the Mission Rock project is required to provide at least 710 secure bike parking spaces (Class I), in addition to at least 371 spaces for bikes in publicly-accessible locations (Class II), under the Maximum Commercial Scenario. Under the Maximum Residential Scenario, the Mission Rock project is required to provide at least 765 Class I spaces, and 388 Class II spaces.

Given the importance of non-motorized transportation to the site's overall design concept, this measure goes above that requirement to provide one Class I space per dwelling unit, one Class I space per 2,500 square feet of commercial development, one Class I space per 3,750 square feet of retail, and one Class I space per 5,000 square feet of open space, in addition to around 700 Class II spaces. Class I parking consists of secure long-term bicycle parking, including bicycle lockers, bike cages, and bike rooms. Class II bike parking refers to more short-term bicycle parking, including on-street bike racks. The site's location on a Class I north-south bicycle facility and in a flat part of San Francisco implies a strong potential for very high rates of bicycle usage, and this should be encouraged through easy access to ample, convenient bicycle parking. Bike parking facilities will also accommodate various types of bicycles including those with cargo and trailer attachments.

There are several methods of providing secure (Class I) bicycle parking spaces for residents and employees. Bike cages can be placed at convenient locations within buildings or on sidewalks in the area, and bike owners who qualify can receive a key or access card to use the cages. This space

and prizes. Integrating bicycling into the social fabric of the Mission Rock community will raise the profile of bicycling as a viable mode of transportation and encourage people to try biking for a portion of trips.

Through the site transportation staff, Mission Rock will host regular bike parties or happy hours for the bicycling community, potentially paired with gear giveaways.

Implementation Examples

Although private and non-profit organizations such as the San Francisco Bike Coalition often host these types of events, bike event programming led by a mixed-use development would be a new measure. Some Bay Area employers, such as LinkedIn and Google, sponsor special events around Bike to Work Day paired with regular giveaways and bike valet.

❖ Bicycle Resource Center

A bicycle resource center can provide a dedicated space for residents and employees to get information about bicycling as well as tools and parts for bike repairs and maintenance. A dedicated space contributes to social acceptance of bicycling and reduces one key barrier associated with owning a bike – concern about complications related to ongoing maintenance – by providing tools and parts through a vending machine at low prices. This measure will also include working to incorporate a bicycle store in the site retail plan and establishing a resource center containing a vending machine for bicycle parts, a “fix-it” work station with basic tools, and bicycle pumps somewhere else within the site at an easily accessible location.

Mission Rock will establish bicycle maintenance space near a major secure bike parking area within each building with resources like a bike stand, a workbench, tools, and a basic repair kit. This space will be available over the life of the project. The team will work to include a bike store as part of the site retail plan.

Implementation Examples

In Seattle, Via6 is a 654-unit mixed-use apartment complex that provides a bike wash station for residents, as well as a bike shop on the ground floor that is owned and operated separately from the development. The Velo Room at Solera (Denver) provides tools, bike stands, work benches, air pumps, tubes, and other supplies, as well as gel packs, energy bars, and bike trail maps. Several university campuses, including Ponce Health Science University in Portland and the University of California-Davis, have bicycle repair stations in key facilities.

Implementation Examples

While many property owners partner with bike share services to locate bike share docks nearby, offering a bike share membership to residents would be a new measure. Multiple tech companies in the Bay Area, such as Microsoft and Facebook, partner with Bikes Make Life Better, a company that specializes in bicycle program management, to develop and administer their bike programs.

❖ Space for On-Site Bike Share

This measure would involve partnering with Ford GoBike to locate one or more bike share docks in Mission Rock. The system is primarily concentrated in downtown San Francisco, but has recently expanded to Oakland and Berkeley. In May 2017, they announced their plans to establish 7,000 GoBikes across San Francisco, San Jose, Oakland, Berkeley, and Emeryville by 2018. As bike share placement is most effective every 1,000 feet, Mission Rock should examine where Ford GoBike is already planning to establish bike docks near the development and consider sponsoring at least one dock within the site itself. Currently, there is one bike station planned at Terry Francois Boulevard and 3rd Street. Prominently located bike share docks can increase awareness of bike share as a viable transportation option while also facilitating convenient use. Each bicycle dock would be provided and maintained by Ford GoBike, but sponsoring a bicycle dock would allow control over the specific siting and design of the dock, including incorporation of developer-specific branding on the bikes, docks, and other materials.

Mission Rock will establish a high visibility space for a Ford GoBike (or similar provider) dock, with the possibility of additional docks depending on the bike share provider's intended Mission Bay expansion. If sponsorship is necessary, Mission Rock will take it into consideration.

❖ Bike Valet

Complementing the bike parking available on a daily basis, bike valet services during special events can encourage people to travel to and from events by bicycle by eliminating the challenge of finding safe and convenient bike parking in an area crowded with event attendees. These services also raise public acceptance and support for non-motorized transportation by building connections with visitors.

Mission Rock will provide free bike valet services for all on-site events, as required by code.

Implementation Examples

San Francisco Administrative Code Section 2.76 requires that events that require a street closure and anticipate over 2,000 attendees provide monitored bicycle parking. Currently, the San Francisco Bicycle Coalition provides these services for many events, including those at AT&T Park.

❖ Bike Community Programming

Bike-oriented programs and events encourage bicycling by raising public acceptance and support for non-motorized transportation and building connections between residents who regularly bike, making biking a fun, social activity. These events could include evening bike parties, bike-oriented happy hours, periodic bike gear giveaways, and bicycle campaigns that involve contests

BICYCLE MEASURES

Figure 5 Ford GoBike Bike Share Dock



❖ Bike Share Memberships

Members of Ford GoBike can take free, unlimited 30-minute one-way bike rides between bike share stations. Once the system's expansion is complete (planned for November 2016 through 2018), annual memberships will cost \$149 per year. Providing residents and employees with bike share memberships could help tenants with minimal experience bicycling in San Francisco a low-cost and low-obligation opportunity to try cycling, and it would provide residents with a quick and easy way to get to the Transbay Transit Center and Market Street, for BART connections and a variety of other transit options and recreational activities.

Mission Rock will offer bike share memberships for all residents 18 years and older for one year upon move-in.

Implementation Examples

Parkmerced, the largest apartment community in San Francisco, began a partnership in 2014 with TransitScreen, a company that provides this service. TransitScreen is working with the Metropolitan Transportation Commission to modernize transit displays in over 46 locations throughout the San Francisco Bay Area. Another residential development, NEMA, provides real-time transit information on their resident app and website.

❖ One-Time Transit Subsidies

The Clipper card is the Bay Area's transit fare payment card and can be used on more than 20 of the region's transit agencies, including BART, Muni, and the ferries. Providing a one-time transit subsidy in the form of Clipper cards upon move-in can increase residents' awareness of nearby transit options and increases the ease with which they can start using it. Clipper cards through a bulk purchase through the Metropolitan Transportation Commission, the regional public agency that manages Clipper. A custom-designed Clipper card can help tie the Mission Rock brand more closely to lifestyles that incorporate frequent transit use.

Providing Clipper cards increases the ease of using transit for employees and residents who currently do not have Clipper. For individuals who already have cards, the one-time financial subsidy could help lower one barrier to increased transit use.

Mission Rock will provide a one-time transit subsidy in the form of a Clipper card pre-loaded with \$50 cash value to all residents over the age of 18 upon move-in, and will require that business tenants offer employees the same.

Implementation Examples

The City TDM Ordinance lists one-time financial incentives paired with outreach to employees and residents as a possible measure. Although other residential developments in the Bay Area have provided free/discounted monthly transit passes to residents, providing a Clipper Card with a set value pre-loaded would be a new measure.

Some TDM measures like parking pricing have a more direct effect on travel behavior, while others like facilitating delivery services play a more supportive role. For another example, providing car share membership leverages the potential impact of providing easily accessible car share spaces. In other words, the effectiveness of these combined measures is more than the sum of the parts.

The importance of monitoring cannot be overstated; regular monitoring enables management to effectively address and adjust these measures over time in response to changing residential and employee needs.

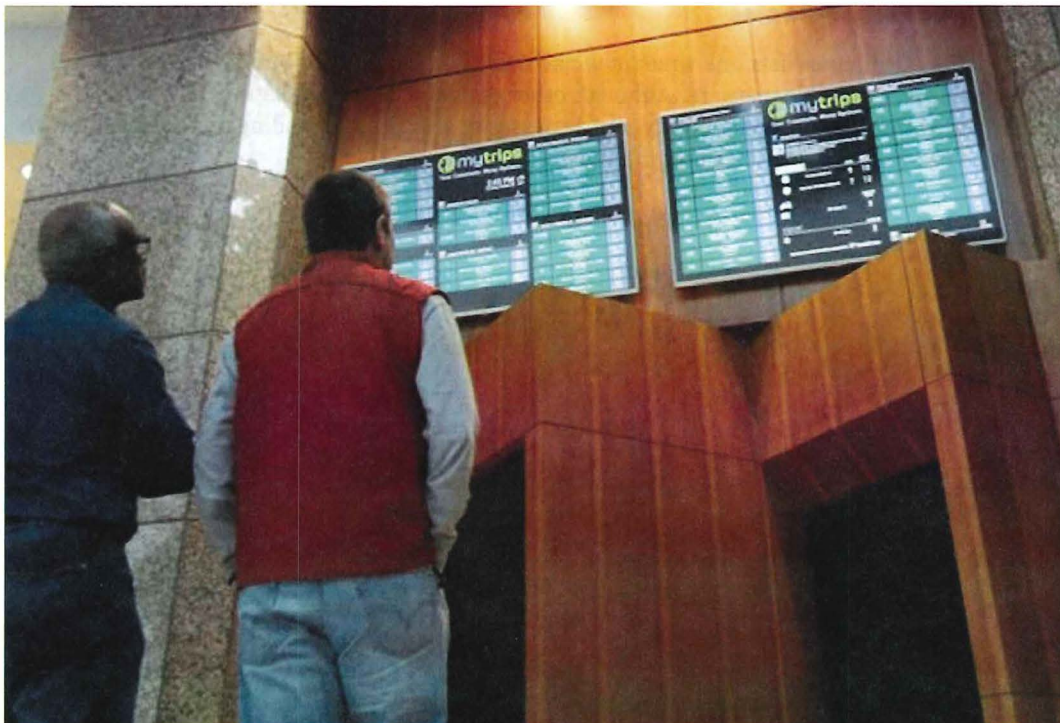
TRANSIT MEASURES

❖❖ Real-time Transit Information and Marketing Screens

This programmatic measure consists of providing real-time transit information to Mission Rock residents, employees, and visitors. Information will be displayed on screens in lobbies (see Figure 3) and other high traffic areas, such as the collaborative work space or the childcare facilities. Making such information readily available increases residents' awareness of local transit options and facilitates efficient trip planning and use of other modes.

Mission Rock will display dynamic transit information and transportation marketing in building lobbies or use a similar approach based on state-of-the-practice technology at the time of occupancy.

Figure 4 TransitScreen Display in an Office Lobby



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Mode	Measure Type	TDM Program Measures	Responsible Party	Target Audience for Measure			Communication Channels Used			Page Reference
				Residents	Employees	Visitors	Mobile-Friendly, Site-Wide Website	Signage and Wayfinding	Site-Wide Transportation Staff	
All Areas	✦	Intuitive signage and wayfinding for trip planning across all modes	Horizontal Developer	X	X	X	-	●	-	27
All Areas	✦	Improved walking conditions to, from, and within Mission Rock	Horizontal Developer	X	X	X	-	●	-	27

MISSION ROCK TRANSPORTATION DEMAND MANAGEMENT PLAN
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Mode	Measure Type	TDM Program Measures	Responsible Party	Target Audience for Measure			Communication Channels Used			Page Reference
				Residents	Employees	Visitors	Mobile-Friendly, Site-Wide Website	Signage and Wayfinding	Site-Wide Transportation Staff	
Buildings	❖	Partnerships with CSAs	Horizontal Developer	X	X		●	⦿	○	23
Buildings	❖	Cold, dry storage space for grocery and package delivery	Vertical Developer	X			-	●	-	23
Buildings	❖	Family supportive amenities	Vertical Developer	X			-	●	-	23
Buildings	❖	Convenient loading zones	Horizontal Developer	X	X	X	-	●	-	24
Buildings	❖❖	Childcare services and facilities	Vertical Developer	X	X		●	○	-	24
Buildings	❖	Collaborative work space with business services	Vertical Developer	X			●	○	-	24
Buildings	❖	Convenient elevator design for bicycles, strollers, wheelchairs, etc.	Vertical Developer	X	X	X	-	○	-	25
Buildings	❖	On-site affordable housing	Vertical Developer	X			●	-	○	26
All Areas	❖	Site-wide transportation staff	Vertical Developer	X	X	X	⦿	-	●	26
All Areas	❖	Mobile-friendly Mission Rock transportation website	Horizontal Developer	X	X	X	●	-	-	27

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Mode	Measure Type	TDM Program Measures	Responsible Party	Target Audience for Measure			Communication Channels Used			Page Reference
				Residents	Employees	Visitors	Mobile-Friendly, Site-Wide Website	Signage and Wayfinding	Site-Wide Transportation Staff	
Personal Motorized Transport	❖	On-site shared scooters	Horizontal Developer	X	X	X	●	●	○	16
Personal Motorized Transport	❖	Electric scooter share memberships	Vertical and Horizontal Developers	X			○	-	○	17
Personal Motorized Transport	❖	On-site car share parking spaces	Horizontal Developer	X	X	X	●	●	○	18
Personal Motorized Transport	❖	Car share memberships	Vertical Developer	X			◉	-	●	18
Parking	❖	Market-based off-street parking pricing	Garage Developer	X	X	X	◉	◉	◉	19
Parking	❖	Unbundled parking	Vertical and Horizontal Developers	X	X		○	-	●	19
Parking	❖	Reduced parking supply	Horizontal Developer	X	X	X	◉	●	-	20
Parking	❖	Real-time information on parking pricing and availability	Vertical and Garage Developers	X	X	X	●	●	-	20
Buildings	❖	In-building concierge services	Vertical Developer	X	X		-	-	◉	22
Buildings	❖	Delivery coordination for online personal services	Horizontal Developer	X	X		●	-	○	22

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Figure 3 Summary of Planned TDM Measures by Mode

● = High Impact ○ = Medium Impact ○ = Low Impact Infrastructural = ♦ Operational = ♦

Mode	Measure Type	TDM Program Measures	Responsible Party	Target Audience for Measure			Communication Channels Used			Page Reference
				Residents	Employees	Visitors	Mobile-Friendly, Site-Wide Website	Signage and Wayfinding	Site-Wide Transportation Staff	
Transit	♦♦	Real-time transit information and marketing screens	Vertical Developer	x	x	x	●	○	-	10
Transit	♦	One-time transit subsidies	Vertical Developer	x			●	-	●	11
Bicycle	♦	Bike share memberships	Vertical Developer	x			●	-	○	12
Bicycle	♦	Space for on-site bike share	Horizontal Developer	x	x	x	●	●	-	13
Bicycle	♦	Bicycle valet	Horizontal Developer			x	●	●	-	13
Bicycle	♦	Bike community programming with periodic giveaways	Vertical and Horizontal Developers	x	x		●	●	●	13
Bicycle	♦	Bicycle resource center, including vending machine with parts and tools and fix-it station	Horizontal Developer	x	x		○	●	○	14
Bicycle	♦	Secure bike parking in buildings and along desire lines	Vertical and Horizontal Developers	x	x	x	○	●	-	14
Bicycle	♦	Showers and clothes lockers for employees	Vertical Developer		x		○	●	○	16

2 PLANNED MEASURES

The Mission Rock TDM Plan consists of a package of measures that will work together to effect behavioral change in a way that is both cost effective and highly marketable. Measures include incentives, programs, and infrastructure improvements, and they include many that have been successfully implemented in other mixed-use and urban environments; those case studies are cited as possible below each measure.

The measures balance the desire to provide innovative transportation amenities with the need to maintain a cost-effective program and an acknowledgement that Seawall Lot 337 Associates, LLC will not hold a primary relationship with site tenants over the long term – vertical developers or the management companies that take ownership of individual buildings once they are developed will ultimately play this role, and will be required to be responsible for any relevant ongoing programs. As such, programs that necessitate ongoing operational expenditures are included but deemphasized in favor of one-time, up-front investments that give new tenants and visitors immediate experiences with and exposure to the array of non-auto transportation options available to them. These will form lifelong patterns of choosing sustainable transportation options. Figure 2 gives an overview of the measures included in the Plan, and identifies the likely responsible party for implementing the measure, the target audience for the measure, the communication channels used and associated level of impact. The remaining chapter provides further detail. As in the table's column headings, colors are used to differentiate infrastructural (🌟) and operational (🌟) measures in the text below. A few of these recommendations have been directly integrated into the design of Mission Rock, as codified in the Design Controls and other design documents.

MISSION ROCK TRANSPORTATION DEMAND MANAGEMENT PLAN

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Genentech implemented an aggressive TDM strategy in 2006 that included programs such as shuttle service and parking cash-out accompanied by comprehensive marketing and communications through an online employee portal. Since implementation, drive-alone mode share has decreased by almost 30%, decreasing carbon emissions from 4.5 tons per employee to 1.9. Similarly, Stanford University's extensive TDM program, which has for years included meaningfully priced parking, transit subsidies, and incentive programs, has effected a substantial decrease in SOV commuting, from 72% in 2002 to 46% in 2011. Moreover, these programs serve campuses that grew rapidly during the periods noted, but this growth was not accompanied by substantial increases in parking.

In a similarly urban environment, the City of Cambridge implemented a parking and TDM ordinance in 1998, made permanent in 2006. In the Kendall Square area, which predominantly houses large biotechnology firms and research and academic institutions, such as the Massachusetts Institute of Technology, the ordinance has been particularly effective. Although the neighborhood has added 4.6 million square feet of commercial and institutional development over the past 10 years, automobile traffic has *decreased* on major streets, with vehicle counts decreasing as much as 14 percent.² In this way, citywide TDM measures in Cambridge have not deterred the development market while still having a positive impact on quality of life and the environment.

Given these successes, robust TDM programs are becoming expected aspects of new developments, in central cities and suburbs alike. San Francisco is no exception. The City has established a TDM ordinance that would require developers to establish TDM programs scaled to the amount of parking they plan to build on-site. This ordinance reinforces existing multimodal policies, such as the city's Transit First Policy, which was established in 1973 and amended to include pedestrians and bicyclists in 1999. New residents and office tenants increasingly demand convenient access to quality multimodal infrastructure, and in urban areas like San Francisco, they assume that parking will be treated as a limited commodity that will be priced based on occupancy levels and market rates. The Mission Rock TDM Plan reflects the values outlined in City policies by striving to maximize user satisfaction and foster travel choices that are sustainable in all senses of the word.

PLAN OVERVIEW

This Plan is comprised of the following chapters:

- Chapter 2 presents a slate of recommended TDM measures for Mission Rock to reduce SOV trip and parking demand for the development.
- Chapter 3 presents the marketing and communications strategy for Mission Rock's TDM program, discussing the interplay between the primary communication mechanisms, the TDM measures, and the various user groups of Mission Rock.
- Chapter 4 presents Mission Rock's approach to monitoring the TDM Plan's implementation to ensure that it achieves the 20% vehicle-trip reduction target.

This TDM Plan will be incorporated into the Transportation Plan for Mission Rock, which will coordinate daily circulation of people, bicycles, and vehicles to, from, and around the site.

² Moskowitz, Eric. "Car-free commuting push pays off in Kendall Square." *The Boston Globe*. July 25, 2012. <https://www.bostonglobe.com/metro/2012/07/24/kendall-square-car-traffic-falls-even-workforce-soars/C4Fio7IKZnwEMAw7y4cJgN/story.html>

MISSION ROCK TRANSPORTATION DEMAND MANAGEMENT PLAN
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Figure 2 Estimated Vehicle Trip Generation and Trip Reduction Goal¹

Scenario	Proposed Development Components (approximate)	Aggregate Daily One-Way Vehicle Trips (a)	Number of Trips to be Reduced (b = a * 20%)	Target Threshold (c = a - b)
High Commercial, Low Residential	<ul style="list-style-type: none"> ▪ 1,048 dwelling units ▪ 1.4 million square feet (sf) office ▪ 130,000 sf retail ▪ 86,000 sf sit-down restaurant ▪ 37,000 sf quick service restaurant ▪ 5 acres park ▪ 190,000 sf brewery ▪ 11,000 sf brewery retail ▪ 11,000 sf brewery restaurant 	7,615	1,523	6,092
Low Commercial, High Residential	<ul style="list-style-type: none"> ▪ 1,579 dwelling units ▪ 980,000 square feet (sf) office ▪ 130,000 sf retail ▪ 84,000 sf sit-down restaurant ▪ 36,000 sf quick service restaurant ▪ 5 acres park ▪ 190,000 sf brewery ▪ 11,000 sf brewery retail ▪ 11,000 sf brewery restaurant 	7,242	1,448	5,794

WHY TRANSPORTATION DEMAND MANAGEMENT

This TDM Plan reaffirms Mission Rock's commitment to sustainability and inclusivity. It encourages the site's residents, employees, and visitors to use the most environmentally friendly and spatially efficient mode possible for each trip, with an emphasis on cycling, walking, and shared rides.

The measures outlined below are designed to work together to affect site users' travel habits. Targeted programs strengthen the benefits of investments in bicycle and pedestrian infrastructure and the site's proximity to major transit nodes by reinforcing awareness of these options, breaking down barriers to incorporating them in travel routines, and incentivizing habitual use.

The site plan and TDM program are consistent with several decades of City of San Francisco climate and sustainability policies that aim to encourage the use of transit and other non-auto modes of transportation. It is also consistent with the City's efforts to manage the transportation impacts of new development. The Plan was developed with San Francisco's new TDM Ordinance in mind, and the Mission Rock team used the Ordinance's framework to scale the site's programs appropriately.

Many campuses have implemented similar TDM programs to reduce single-occupancy vehicle (SOV) travel and find the optimal balance of transportation modes to accommodate growth.

¹ Seawall Lot 337 and Pier 48 Mixed-Use Project Environmental Impact Report, Appendix 4-1 – Transportation Impact Analysis, April 2017. Pg. 486.

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- High visibility sidewalks, bulb-outs, and raised pedestrian crossings
- Completion of the portion of the Blue Greenway that runs through the site, with a 16-foot-wide shared bike and pedestrian right-of-way running along Terry Francois Boulevard and the northern edge of China Basin Park
- Designated bicycle lanes or bicycle-friendly low-traffic blocks on all internal roadways
- Bicycle treatments at internal intersections

Mission Rock will also provide important neighborhood amenities – groceries, childcare, personal services – establishing destinations that are easily accessible by all modes of transportation. The existing and future transportation infrastructure in the area (see Figure 1) will further promote the use of all modes of active transportation.

Figure 1 Mission Rock Context Map



Figure 2 summarizes Mission Rock's development components, associated vehicle trip estimates, and the anticipated trip reduction goal, per commitments made in the project's Environmental Impact Report (EIR).

1 OVERVIEW

The development context and overall design profile of Mission Rock make it a prime candidate for robust and effective transportation demand management (TDM). Travel demand generated by Mission Rock will be affected by locational and land use factors, such as proximity to high quality transit, the presence of transit-supportive land use densities, and mixed land use patterns.

This TDM Plan describes measures that will enable Mission Rock to actively manage travel demand through a variety of up-front infrastructure investments and ongoing programs, including unbundled parking, pedestrian- and bicycle-friendly design, transportation marketing, vehicle share facilities and memberships, and others. Ultimately, implementing a robust TDM program will reinforce the forward-thinking vision and brand of Mission Rock as an active and vibrant district that is inclusive and safe for all users.

DEVELOPMENT CONTEXT AND DESIGN PROFILE

Establishing new and enhanced links to and along San Francisco's waterfront, Mission Rock's mixed-used, multi-phase development will be a dynamic addition to the Mission Bay neighborhood. Encompassing approximately 27 acres, Mission Rock is slated to include 11 parcels of residential, office, and retail development as well as a refurbished and reactivated Pier 48, an expanded China Basin Park, and a variety of smaller open space areas. Including Pier 48, Mission Rock will include approximately 1,000 to 1,500 dwelling units, 1.4 to 1.8 million square feet of commercial development, and more than five acres of new open space, for a total of approximately 3.9 million gross square feet of development and eight acres of open space. The site plan calls for a tight and highly walkable urban street grid, with more than half a mile of complete streets. In addition, between 2,400 and 3,000 parking spaces could be provided in off-street facilities.

Mission Rock is located near a busy, increasingly congested part of San Francisco and is readily accessible via car, transit, walking, and bicycling. The site is accessible to I-280 and US-101/I-80 through SoMa's urban street grid, with bicycle connections to the north via the Embarcadero bike route as well as to the south via the Blue Greenway. More importantly, the project is well served by transit, both local and regional. Multiple lines of Muni bus and light rail are within a quarter-mile of the site, with moderate to high frequency of service for most of the day and late into the evening.

Although narrow sidewalks, missing crosswalks, long blocks, and the amount of on-going construction in the surrounding area all currently challenges for pedestrians and bicyclists, the Mission Rock development includes multiple street design improvements to create a safe and inviting environment, such as:

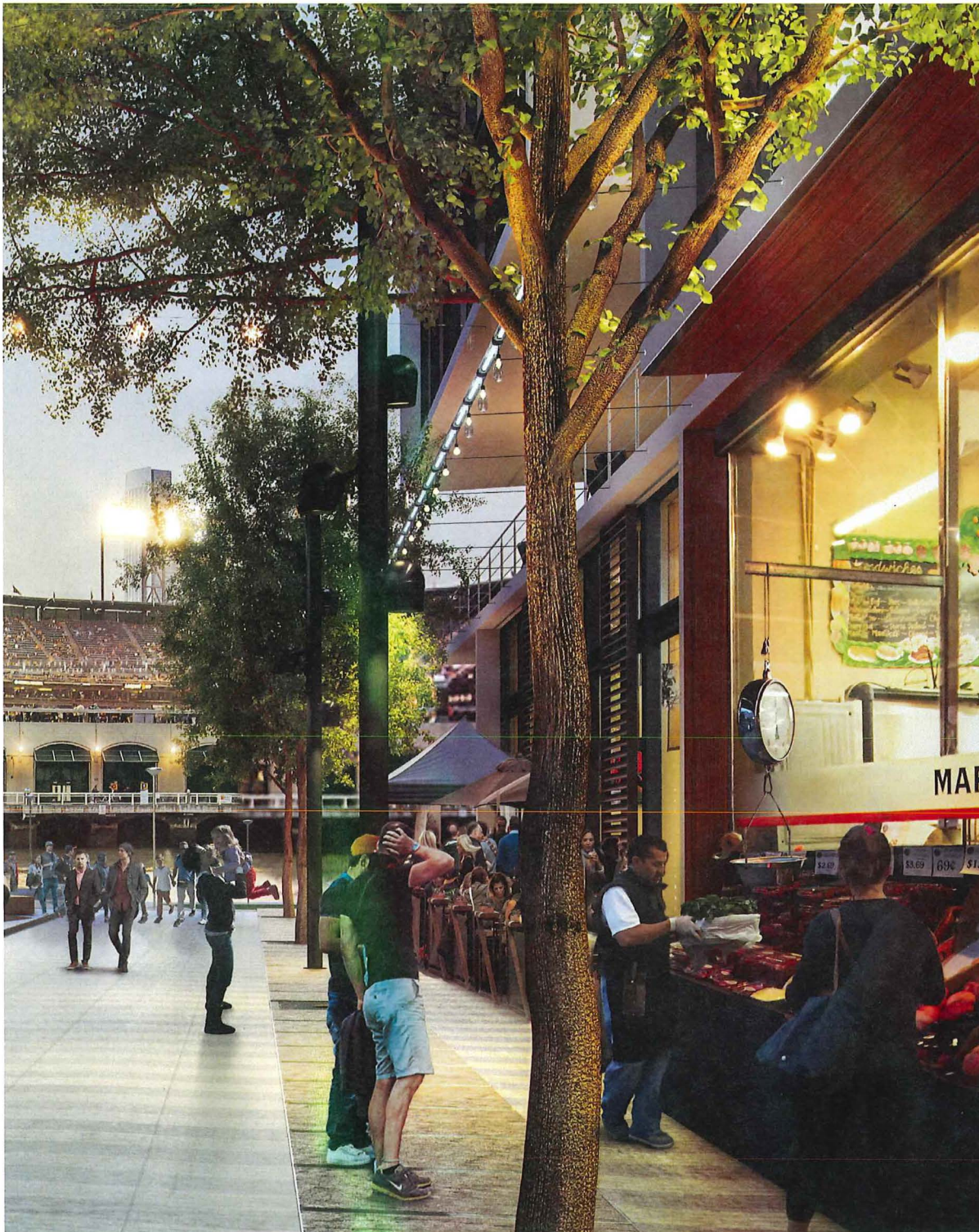
- A highly connective grid of internal streets
- Sidewalks that are to be between 12 and 15 feet wide throughout the project site



MISSION ROCK

TRANSPORTATION
PLAN





MISSION ROCK

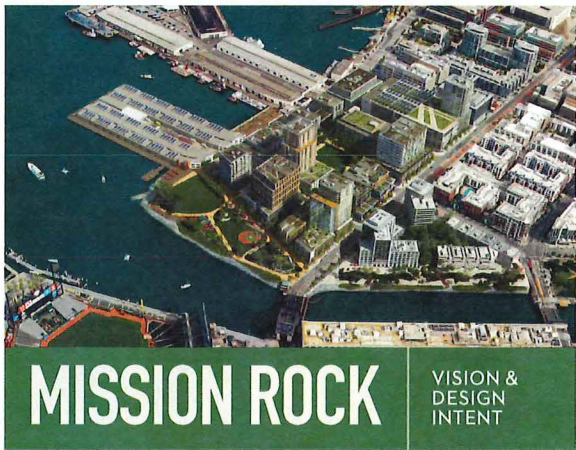
TRANSPORTATION PLAN

01 INTRODUCTION	7
Overview	8
Goals	9
Strategy	10
02 PROJECT CONTEXT	13
Trends in Policy and Travel Behavior	
Nearby Networks	14
Technology-Based Transportation	22
03 GETTING AROUND AT MISSION ROCK	25
Non-Motorized Circulation	26
Transit Access	31
Vehicular Circulation	32
Conclusions	35
04 TRANSPORTATION DEMAND MANAGEMENT	39
Planned Strategies	40
Marketing and Communications	50
Conclusions	53
05 EVENT MANAGEMENT	55
Primary Events	58
Secondary Events	61
On-Site Events	61
Conclusions	65

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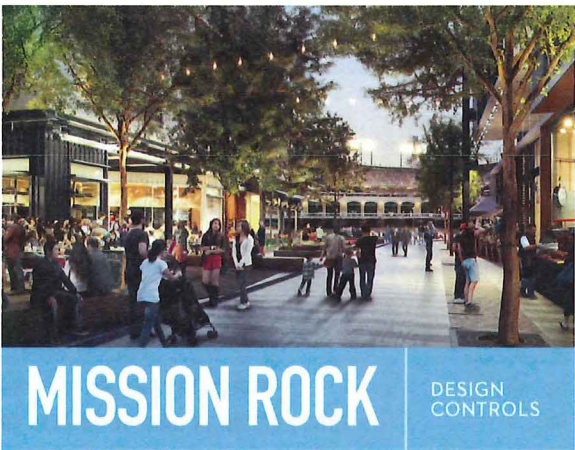
MISSION ROCK DESIGN DOCUMENTS

The Transportation Plan comprises the fifth in a set of five documents which together describe the requirements for the development of Mission Rock.



MISSION ROCK VISION & DESIGN INTENT

This document contains the big picture thinking and aspirations that will guide the process for the design and implementation of Mission Rock.



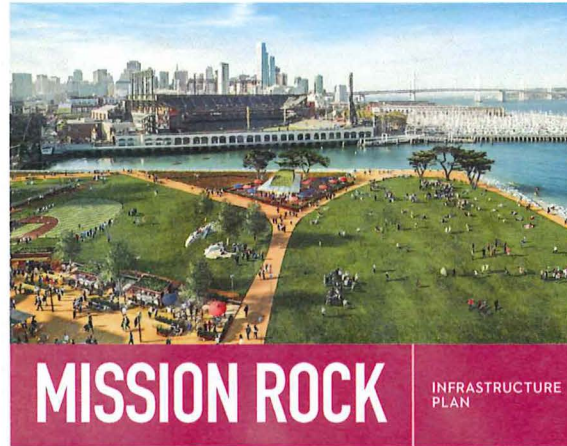
MISSION ROCK DESIGN CONTROLS (DC)

This document guides the development of the open spaces, streets, and buildings at Mission Rock. The DC ensures that the site will be developed in a way that is consistent with the vision as defined in the Mission Rock Vision and Design Intent document.



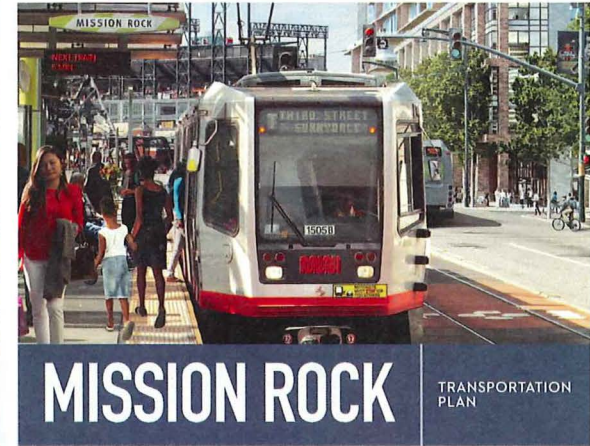
MISSION ROCK SUSTAINABILITY STRATEGY

This document identifies the high level sustainability goals for Mission Rock, details the requirements for the horizontal and vertical development and summarizes the anticipated reduction in greenhouse gas (GHG) emissions resulting from the district's approach to sustainable design.



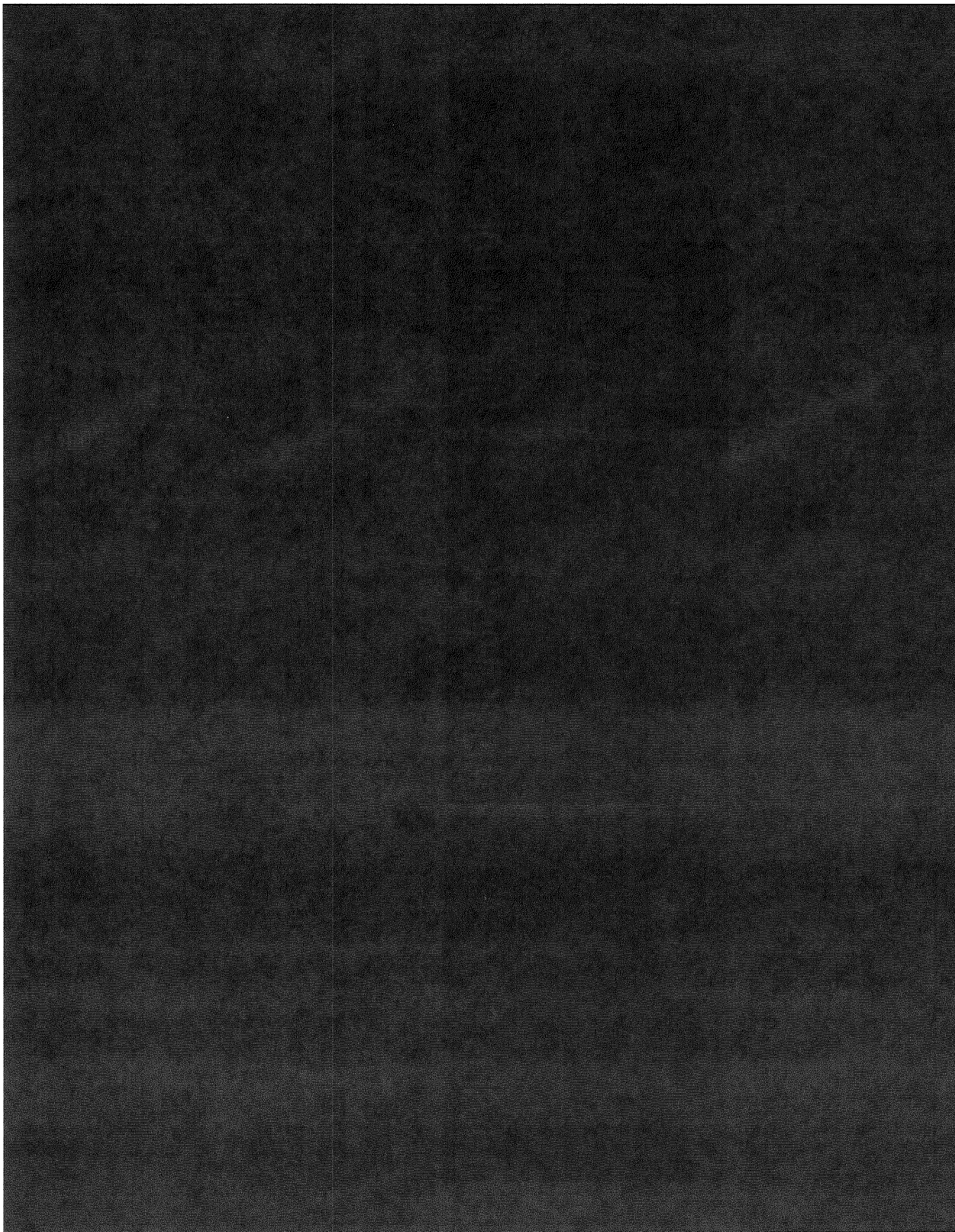
MISSION ROCK INFRASTRUCTURE PLAN

The design of the landscape, buildings, and sustainability strategies will be closely coordinated with the infrastructure planning at Mission Rock. This plan regulates the complex coordination of streets, utilities, and services.



MISSION ROCK TRANSPORTATION PLAN

This plan describes the ways in which the site will be designed to support the mobility choices of all users, with a special emphasis on safe and comfortable conditions for pedestrians and cyclists.



01

INTRODUCTION

Located just steps from the center of the Bay Area's transportation system and along one of the premiere bicycle and pedestrian routes in the region, Mission Rock is poised to be a model for sustainable transportation. With a multitude of mobility choices built directly into the site's DNA, it will be one of the first true 21st Century developments in San Francisco.

Small, walkable blocks, wide sidewalks, and a diverse mix of uses will make it easy for those who live or work at Mission Rock to avoid traveling far to eat or shop for everyday necessities. A range of cycling facilities will ensure that cyclists of all ages and skill levels are comfortable navigating the site on two wheels. The opening of the Central Subway will mean frequent, rapid service to Market Street and downtown is just

steps away via the T-Third Muni Metro line, and access to the Peninsula and South Bay is just a few minutes further at Caltrain's 4th and King Street terminal. Supplemented by a suite of services and incentives that will make it easy to choose any mode, this wide range of mobility options mean the site will truly be a good fit for any modern lifestyle.

1.1 OVERVIEW

This document details how Mission Rock will achieve this vision. It starts by laying out the elements of the project's context that make it an ideal fit for a moment in which San Franciscans are choosing to accomplish more and more each year by a range of modes (Chapter 2). It walks through plans for the design of the site's internal streets, describing how bikes, pedestrians, and vehicles will circulate through the site and connect to its surroundings (Chapter 3). Mission Rock is committed to a robust set of infrastructure investments and ongoing programs that will make it easy to choose modes like walking, biking, and taking transit, and Chapter 4 details the planned package of transportation demand management (TDM) programs. With AT&T Park just steps away from the site, event-related travel will have an important impact on circulation patterns. Chapter 5 walks through how circulation will be managed around events to help reduce impacts on residents and employees, both on the site and in the surrounding neighborhood.

Note that this document focuses on the site's transportation programs at full build-out. The Infrastructure Plan discusses how the project will be phased and implications for the site's physical infrastructure, including transportation.



The proposed project, aerial view simulation from the northwest

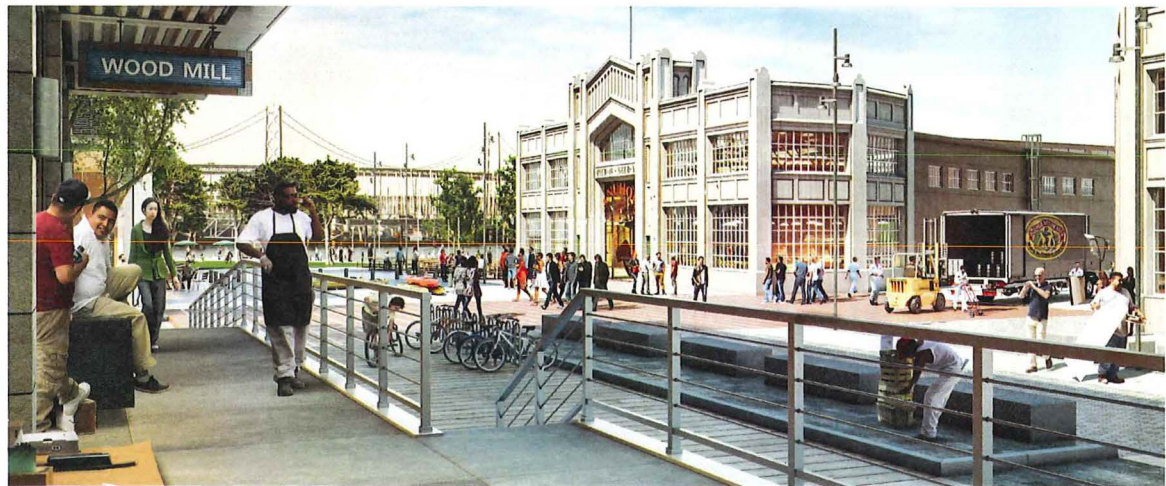
1.2 GOALS

Mission Rock aims to do the following through its transportation program:

1. Facilitate lifestyles low in vehicle miles traveled (VMT) by providing a robust set of sustainable choices for movement to and from the site
2. Create a vibrant, pedestrian-oriented, and visually interesting public realm within the site
3. Connect seamlessly to the site's broader context, including the City's growing bike network, the Mission Bay neighborhood's developing network of streets and sidewalks, and the city and region's transit systems
4. Ensure that the site is adaptable to new transportation technologies and changing travel habits over time
5. Play a productive role in the City's efforts to manage event-related travel



Shared Public Way, the shared street that will serve as the primary north-south pedestrian route through the site

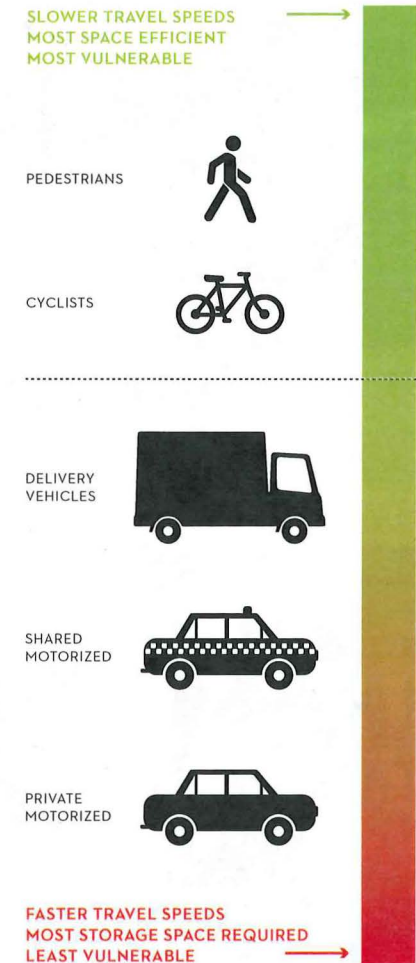


Terry A. Francois Boulevard, another shared street, will have a more maritime-industrial character

1.3 STRATEGIES

The project will accomplish those goals through the following primary strategies:

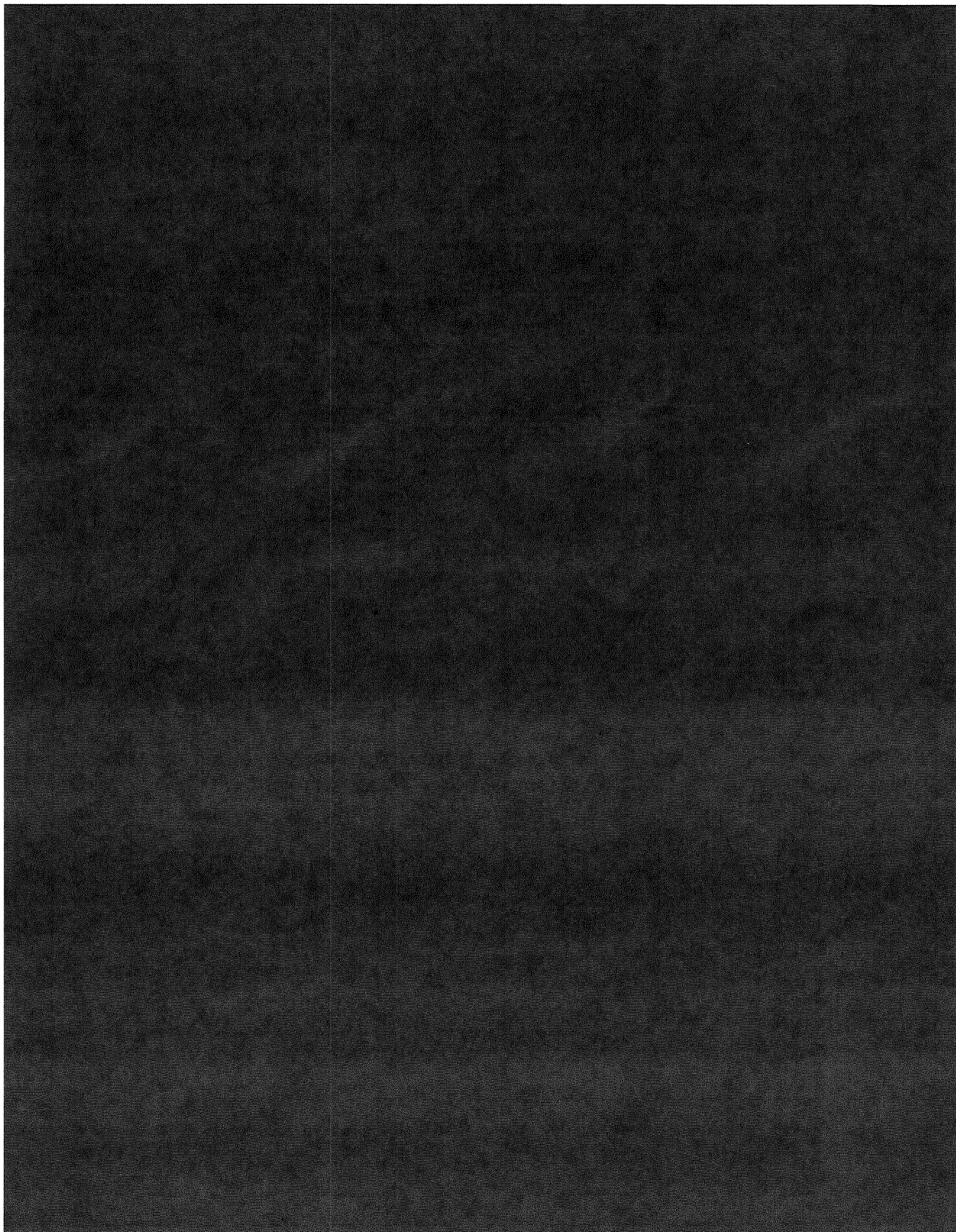
- ▶ Prioritize movement on-site using a modal hierarchy that puts the focus on the most space-efficient and environmentally sustainable modes
- ▶ Encourage walking, biking, and taking transit through convenience and meaningful incentives
- ▶ Design a highly connective street grid with generous and active pedestrian areas
- ▶ Allow for a diverse mix of uses that enables residents and employees to avoid long trips for daily necessities
- ▶ Design for safety through smart deployment of traffic calming strategies on internal streets
- ▶ Facilitate bike connectivity by adding an important link to City and regional bike networks through the site and providing safe and comfortable routing options for people of all cycling skill levels
- ▶ Create generous curb-side loading areas to:
 - ▶ Facilitate site access for people with mobility limitations and for families with small children
 - ▶ Facilitate the use of taxis and ride hail services, which can help obviate the need to bring a personal automobile to the site
 - ▶ Help site users avoid vehicle trips by facilitating convenient delivery of goods
- ▶ Actively manage parking to ensure it is used efficiently as part of the larger multimodal network
- ▶ Work in concert with neighborhood groups to help in responsibly managing event-related travel



A modal hierarchy for travel through Mission Rock

The figure on this page shows the site's urban street grid and mixed land-use plan. The site plan and approach to circulation are two key ingredients in making the transportation vision come to life.





02

PROJECT CONTEXT

Mission Rock's location, mix of uses, density, and design approach are all consistent with regional trends in land use and transportation and supportive of Bay Area planning agencies' efforts to direct new housing toward urban infill locations near transit stations.

The site's mix of uses, including residential, commercial, and retail, will make it easy for residents and employees to take care of most needs within a short walk, and the project's location will naturally facilitate the use of transit and other shared modes for longer-distance trips.

This chapter details the context into which Mission Rock fits. It looks at the broader trends and policy context, as well as the array of local transportation resources that will help make the site's sustainable, multimodal vision come to life.

2.1 TRENDS IN POLICY AND TRAVEL BEHAVIOR

Mission Rock fits into a larger context of city, regional, and state policy encouraging transit-oriented mixed-use development, as well as the emergence of new transportation options that are changing the way Bay Area residents travel to work and play. The project is poised to both take advantage of the new mobility options and further encourage these shifts.

2.1.1 STATE, REGIONAL, AND CITY POLICIES

Starting in 2006, the State of California began laying out a constellation of policies aimed at reducing the state's carbon footprint. Assembly Bill (AB) 32, signed into law in 2006, required that the state reduce greenhouse gas emissions to 1990 levels by 2020, a 15 percent reduction relative to expected trends. Senate Bill (SB) 375 was the first major policy aimed at implementing AB 32. It required that each major region in the state create a "sustainable communities strategy" that would use a combination of land use and transportation planning to create more sustainable development patterns. Furthermore, the City of San Francisco's Climate Action Strategy specifically calls for shifting 80% of all trips to non-automobile trips by 2030.

Plan Bay Area is this Bay Area's sustainable communities strategy, and concentrating growth around the existing transit system is a key pillar of the plan. The plan identified Priority Development Areas with strong transit access and higher existing densities, and Mission Rock sits along a major axis of priority development areas along the eastern edge of San Francisco.

Infill and transit-oriented development are the two most important strategies for developing in a more sustainable fashion. When projects are located in areas that are already developed, they generally allow their inhabitants to travel shorter distances to reach jobs,

grocery stores, and other daily destinations. When located near existing transit networks, they make transit the default mobility option.

Infill development has long been a priority for the City of San Francisco, and the City has an array of policies aimed at aligning the transportation system to denser development patterns. Policies include the city's long-standing "transit first" policy, a 20% bicycle mode share goal, and a collection of recent policy changes – known as the Transportation Sustainability Program – that aim to further invest in transit, bike, and pedestrian network improvements, align the environmental review process for development with other city policies, and shift travel behavior toward non-motorized or shared modes while ensuring access and mobility. Mission Rock's transportation program is consistent with this approach.

With these policies in the background, travel behavior in San Francisco seems to be steadily shifting toward transit and non-motorized modes, and the market for developments that enable transit-, bicycle-, and pedestrian-oriented lifestyles has strengthened. The last few years have seen increases in transit ridership (including record ridership levels on BART and Caltrain in recent years) and major increases in cycling, particularly for commutes.

2.1.2 THE IMPACT OF TECHNOLOGY

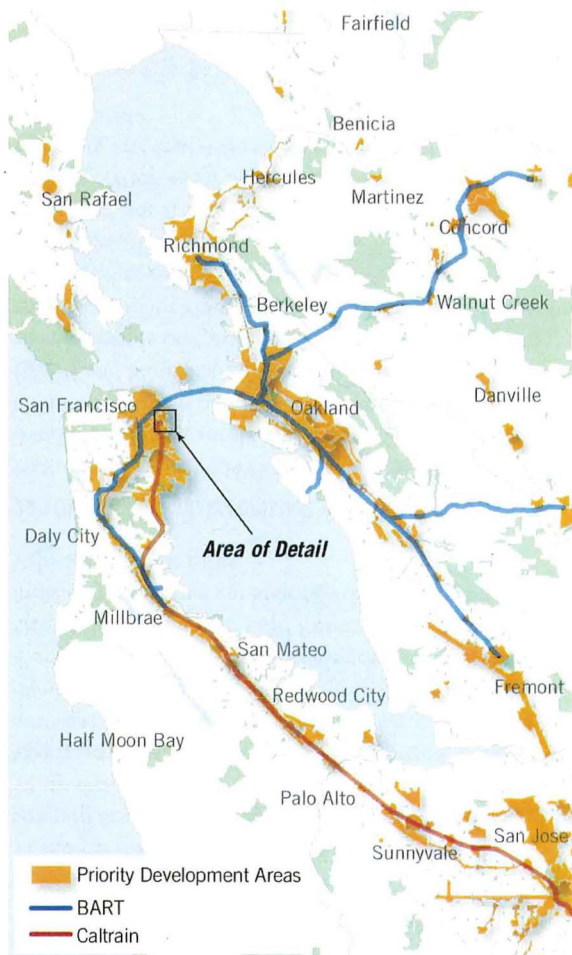
New technology-enabled travel options have also emerged, making it easier to routinely travel longer distances or make trips that do not align well to the transit network without owning a car. Car share companies like Zipcar and City Car Share have made it easy to rent vehicles, stored conveniently in small pods across the city, for short periods. This allows people who



SFMTA has installed "red carpet" transit-only treatments around the city in recent years (SFMTA)



Cycling rates have increased dramatically in recent years (FLICKR USER RICHARD MASONER)



Plan Bay Area's Priority Development Areas (PDAs) and regional transit connections

do not own a car to conveniently accomplish errands that require hauling more than one can carry on transit or a bicycle. Transportation network companies (TNCs) like Uber and Lyft and taxi hailing apps like Flywheel have made it far easier and more convenient to hail rides for trips the transit system is less well set up to handle – across town or late at night.

These trends and the new suite of travel options seem to be affecting people's behavior. A recent study showed that newcomers to the city began taking advantage of them as they emerged, with nine in 10 net new households in the city since 2000 not owning an automobile, according to data from the U.S. Census Bureau. Additional evidence from the Shared Use Mobility Center (TCRP Report 188) shows that individuals who use car sharing frequently tend to own vehicles at lower rates.

2.1.3 THE FUTURE OF TRANSPORTATION

More dramatic changes could be in the offing. In the middle of 2016, several companies announced the first limited public use of autonomous vehicles, in Pittsburgh (Uber) and Singapore (nuTonomy). Google has been developing its own autonomous vehicles and testing them around its Mountain View headquarters for several years, and several other major Bay Area companies are also working hard – sometimes in partnership with more traditional auto companies – to develop their own models. When autonomous vehicles emerge in large numbers, the Bay Area is likely to be an area that adopts them quickly.

The precise effects self-driving cars will have on urban environments is unclear, given that the technology

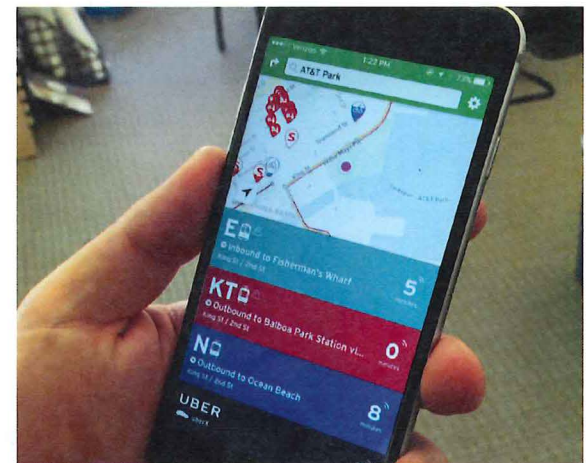
is still in the early stages of development. What is clear, though, is that they have the potential to dramatically change the way we get around, as the advent of motorized mobility did 100 years ago. Indeed, the emergence of automobiles in the early 1900s reshaped the economics and urban space needs of the transportation system.

If autonomous vehicles are used mainly as shared mobility resources, rather than privately held ones in the pattern of the vast majority of small vehicles today, they could lead to shifts like a major drop in parking demand and a major increase in the need for passenger loading space. Even if they emerge as privately owned mobility resources, though, the urban parking footprint is likely to go down. For example, if autonomous vehicles are able to communicate with each other while parking, they could theoretically squeeze together more efficiently, in much the same way as cars parked by valet can be lined up and parked in more narrow columns than can self-parked cars.

Mission Rock is set up to weather these changes well. As Chapter 3 describes, the site's curbs prioritize loading and delivery activities, which have already taken on increasing importance with growth in online shopping and, more recently, the earliest releases of new mobility technologies. The ways in which the site's transportation program has been shaped by its location will also help its design stay current in a world of changing mobility patterns. As detailed in the following sections, Mission Rock is located at the heart of the region's bicycle, pedestrian, transit, and roadway networks, giving future residents, employees, and visitors a wide range of natural options for getting around, even in the absence of new technologies.



Google's autonomous vehicle prototype (WIKIMEDIA COMMONS, USER GREDELKIAN)



Smartphones have revolutionized access to transportation information (NELSONNYGAARD)

2.2 NEARBY NETWORKS

2.2.1 NON-MOTORIZED NETWORKS

Pedestrian

Most trips begin or end on foot, so safe and robust pedestrian space is the backbone of any high quality transportation system.

The Embarcadero, 3rd Street, and Fourth Street are the major pedestrian routes between Mission Rock and the jobs and transit connections in SoMa and Downtown San Francisco. Pedestrian facilities on the Embarcadero are wide and spacious, while sidewalks through SoMa are typically more narrow and less well maintained. The City's Central Corridor Plan aims to steadily improve pedestrian conditions as the area grows and changes in the coming years. Mission Bay's street network is also in the process of being built out. Once the area's development is complete, all streets in the area will have sidewalks on both sides that are six feet wide, and in many places 10 or 12 feet.

Bicycle

San Francisco continues to build bicycle lanes of various class distinctions throughout San Francisco as part of its implementation of the 2009 San Francisco Bicycle Plan. In Mission Bay, dedicated bicycle lanes exist on Terry A. Francois Boulevard, Fourth Street, and 16th Street. The facilities on Terry A. Francois Boulevard will soon be improved to a full two-way cycle track as part of the larger San Francisco Bay Trail, which will ultimately be a high quality bicycle and pedestrian route along the entire bay-front. New or improved bicycle facilities are slated for multiple streets running north to Market Street, including 2nd, 3rd, and 5th streets.



Mission Rock's connections to the broader bicycle network and planned routes

2.2.2 TRANSIT NETWORKS

Mission Rock is served by several local and regional transit networks within a half-mile walk, including bus, light rail, and commuter rail. More regional connections are available a bit further to the north, along Market Street, the Embarcadero and in eastern SoMa, where there are additional regional rail, bus, and ferry options.

Local Transit – Muni

Muni provides local transit service throughout San Francisco. The following Muni routes have stops within a quarter-mile of Mission Rock:

- ▶ **Light Rail** – N-Judah, T-Third, and E-Embarcadero
- ▶ **Bus** – 10-Townsend, 30-Stockton, 45-Union-Stockton, 47-Van Ness, 55-16th Street, 81X-Caltrain Express, 83X-Mid-Market Express

Notable investments and plans underway by SFMTA include:

The Central Subway project will place the T-Third line in a subway along Fourth Street north of Bryant Street and along Stockton Street, extending it 1.7 miles north through the SoMa, Union Square, and Chinatown neighborhoods. This will provide a more direct connection between the Mission Bay neighborhood and BART at Powell Station, as well as transit-, job-, and destination-rich neighborhoods near and north of Market Street. The project is due to open to the public in 2019.

Muni Forward is a comprehensive update to Muni routes and service plans. A subset of lines called the Rapid Network is receiving particular attention through the project, including increases in service frequency and other improvements. Service along 16th Street, through

the Mission and into Mission Bay, will see notable improvements through the project, including transit-only lanes, stop consolidation, transit signal priority, and additional transit bulbs and islands. An early Muni Forward improvement that directly affected Mission Bay was the implementation of the 55-16th Street bus, creating a direct connection between the BART station at 16th and Mission streets and the center of Mission Bay, at 3rd and Mission Bay Boulevard North. In several years, that route will be replaced by a re-routed 22-Fillmore, a trolley bus that provides crosstown connections along 16th Street through the Mission and north along Church and Fillmore streets to the Lower Height, Fillmore, Pacific Heights, and the Marina. Other routes in the vicinity of the project that will see updates include the 10-Townsend and the 12-Folsom/Pacific (the latter will be replaced by the 11-Downtown Connector).

Regional Transit

Caltrain

Caltrain provides commuter rail service between San Francisco and the South Bay, with stops along the Peninsula, into San Jose and, during peak periods, south to Gilroy. Caltrain offers local, limited stop and “baby bullet” express routes which all serve San Francisco. Caltrain’s northernmost station is located about a quarter mile from the Mission Rock site at the intersection of 4th and King streets in San Francisco and is the busiest in the Caltrain system.

Notable planned Caltrain investments include:

- ▶ **Caltrain electrification** will replace the existing diesel service with electrified service between San Francisco and San Jose by 2020, allowing for increased speeds and service levels along the



Caltrain (CALTRAIN)



SF Bay Ferry (Flickr User PHOCA2004)

Peninsula corridor. The electrification project will also accommodate shared use of the corridor by Caltrain and planned high-speed rail service.

- Caltrain's **Downtown Extension** would connect Caltrain to the new Transbay Transit Center. The alignment of the extension is still being determined and is among the items being advanced in the Planning Department's Railyard Alternatives and I-280 Boulevard Feasibility Study.

BART (Bay Area Rapid Transit)

BART provides regional transit service to the East Bay, Peninsula, and other parts of San Francisco. The closest stations to Mission Rock – Embarcadero and Montgomery – are a little more than one mile from the neighborhood. When it opens, the Central Subway will provide a rapid light rail connection between the site and Powell Station. BART is the region's rail spine, and it operates every 5 to 15 minutes on lines serving downtown San Francisco during the afternoon peak and every 20 minutes during non-peak times, including weekends.

Ferries

SF Bay Ferry (operated by the Water Emergency Transportation Authority, or WETA) and Golden Gate Ferry provide daily ferry service between the San Francisco Ferry Building and the North and East Bay. Aside from services at the San Francisco Ferry Building, the nearest terminal is currently just beyond AT&T Park's center field gate, where ferries provide service to and from home baseball games. WETA and the City are exploring the potential for a new terminal in Mission Bay near 16th Street, though planning is in the very initial stages.



Local transit connections as of 2017

Transbay Transit Center: Regional Bus and High Speed Rail

The under-construction Transbay Transit Center is located approximately one mile northeast of Mission Rock and will be open by the time the development is built out. The Transit Center will provide bus connections to regional destinations, as well as access to Greyhound and Amtrak Thruway Connection buses. Once the Downtown Extension is complete, the center will also be the terminal for California High-Speed Rail and Caltrain. Upon completion, the terminal will be served by 11 transit systems: AC Transit, BART, Caltrain, Golden Gate Transit, Greyhound, Muni, SamTrans, WestCAT Lynx, Amtrak, Paratransit, and High Speed Rail.

2.2.3 VEHICULAR CIRCULATION AND PARKING

Mission Rock is located near the center of the Bay Area's auto network, providing easy access to the region's freeway system but also exposing drivers in the area to congestion resulting from the large number of daily trips to, from, and through northeast San Francisco.

Local Streets

Third, 4th, and 16th streets are the key arterials providing vehicular access to and from Mission Rock and the broader Mission Bay neighborhood. Lefty O'Doul Bridge is also a drawbridge that is used several times per day, causing traffic congestion at one of the key access/egress points for the site on 3rd Street. The bridge is a historic landmark for which major structural modification is not an option, though the city is planning to realign lanes traveling across the bridge in the



Local street network

coming years to make space along its the eastern edge for bicycle and pedestrian facilities as part of the San Francisco Bay Trail.

Regional Connections

For connections to the region, ramps to Interstate-80 and access to the East Bay are located approximately a half mile north of the site, via 4th and 5th streets. Interstate 280 provides the main connection to the South Bay, and ramps are located less than a half mile of the site to the west, via King Street, or slightly further to the southwest, at Mariposa Street.

Parking

As of SFMTA's most recent parking inventory in 2011, the Mission Bay and the Central Waterfront area (bound by the Bay to the east, Mission Creek Channel to the north, 7th Street and Iowa Street to the west, and Pier 80 to the south) had approximately 7,000 off-street parking spaces, and SoMa (bound by the Bay, Market Street, 7th Street, and the Channel) had an additional 26,000 spaces. Many of the spaces in Mission Bay are reserved for the users of specific sites like University of California, San Francisco's hospital and medical campus, but a sizable share of the spaces in SoMa are in paid publicly accessible lots and garages. Parking supplies in that area have shrunk somewhat in recent years, as surface parking lots have been redeveloped.

Many streets in SoMa and Mission Bay also have on-street parking. A large share of the on-street parking in both neighborhoods is currently metered per SFpark pricing policies to manage demand during nearby special events.



Parking facilities near Mission Rock (2015)

2.3 TECHNOLOGY-BASED TRANSPORTATION

As noted earlier, technology-based transportation companies offering car share, bike share, and app-based ride hailing (e.g. Lyft and Uber) are changing the way people travel. Although it has yet to be determined how ride hailing trips affect the number of overall driving trips, these innovative services have enjoyed early and growing adoption by Bay Area residents, particularly San Franciscans, and they are widely available in the areas around the project.

Car-share has emerged as a strong mobility option for households without cars. Efforts to quantify the impacts of car sharing have found that car share members drive 40% fewer miles than the average driver and take 46% more public transit trips, 10% more bicycle trips, and 26% more walking trips. The average household reduces its vehicle ownership by 50% after joining a car-share service.

Bike share provides another short-term mobility option, offering hourly rental of bicycles. Unlike car share programs offered in San Francisco, bike share allows for one-way rentals. Bay Area Bike Share is poised to expand dramatically throughout San Francisco by the



City Car Share (WIKIMEDIA COMMONS, USER MARIORDO)



Bay Area Bike Share (WIKIMEDIA COMMONS, USER MARIORDO)



Scoot (FLICKR USER MARTIN WICHARY)



Water taxi service in Chicago (FLICKR USER LUKE GORDON)

time Mission Rock opens, with a plan to expand to 7,000 bicycles by 2018.

Scooter sharing is another service that has emerged in San Francisco in recent years. Scoot offers \$3 one-way rentals of its fleet of more than 400 small two- and four-wheeled vehicles. The two-wheelers travel as fast as 30 miles per hour, and the four-wheeled “mini-cars” travel 25 miles per hour. Users of the service find nearby vehicles and unlock them using the company’s smartphone app.

TNCs like Lyft and Uber provide on-demand booking of one-way car trips via smart phone app, and have recently expanded to facilitate shared vehicle trips (through Lyft Line and UberPool).

The rest of the private transit market is an evolving landscape, consisting of long-distance employer shuttles, short-distance institutional and transportation management association (TMA) shuttles, on-demand commuter shuttles, and other services.

Long-distance employer-sponsored shuttles currently make trips to many office campuses outside of San Francisco (e.g. technology companies in the South Bay). An SFMTA program that designated certain Muni bus stop and other designated curb locations is ongoing.

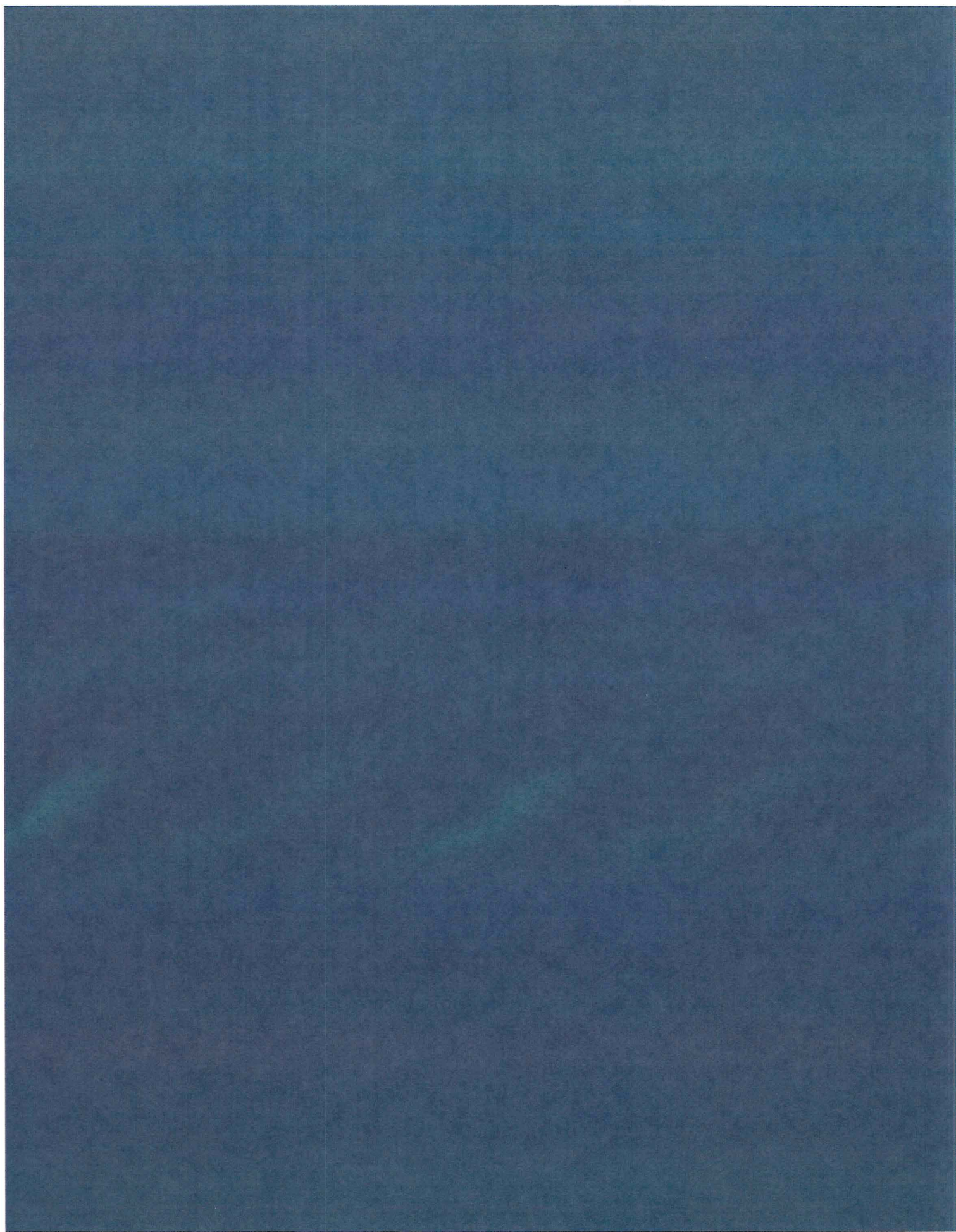
There are a number of **short-distance shuttles** in operation in the project area. Currently, the Mission Bay TMA operates five routes from Mission Bay to Market Street and points throughout SoMa. Most of the routes operate only during peak periods Monday through Friday. Numerous companies and institutions also offer shuttle service within San Francisco. For example, Levi’s operates a shuttle between Caltrain and BART stations and the company’s headquarters in Levi’s Plaza.

Chariot, which offers a **demand-responsive microtransit service** using 14-passenger vans, operated nine public routes during the morning and evening commute periods as of August 2017. The service typically utilizes white curb loading zones for passenger drop-off and pick-up. Chariot recently expanded many of its routes

and now serves points in the South Bay and East Bay, in addition to intra-San Francisco routes.

Two **water taxi** companies currently run limited service between points along the Bay, including the San Francisco Ferry Building. Over time, water taxi operations may expand with growing demand, and there is potential for a landing at Pier 48 and, with the exception of winter, at AT&T Park’s ferry dock.

These evolving transportation services provide people in San Francisco with new options to move around the city and the region, further supporting a multimodal lifestyle not dependent upon ownership or use of a private vehicle.



03

GETTING AROUND AT MISSION ROCK

Mission Rock will be designed to give all users high quality choices for how they move about the site and how they get to and from it.

The site will feature generous and active pedestrian areas throughout, and the bicycle network will give cyclists of different ages and skill levels high quality options. Wide sidewalks and wayfinding will help people find the variety of nearby transit options, and Mission Rock's entire street grid will provide comfortable access

to the waterfront and, at Pier 48, a variety of water transportation options as well.

This chapter expands on these ideas, laying out the vision for how people will get around Mission Rock. Note that the project's Design Controls go into more detail on dimensions and materials.

3.1 NON-MOTORIZED CIRCULATION

Mission Rock's streets will be designed with the site's modal hierarchy in mind, prioritizing the safe and comfortable movement of pedestrians. Streets will include a variety of features that will help ensure that pedestrians feel safe and comfortable moving throughout the site by keeping vehicle speeds slow and ensuring that those on foot or on bicycles are highly visible to motorists.

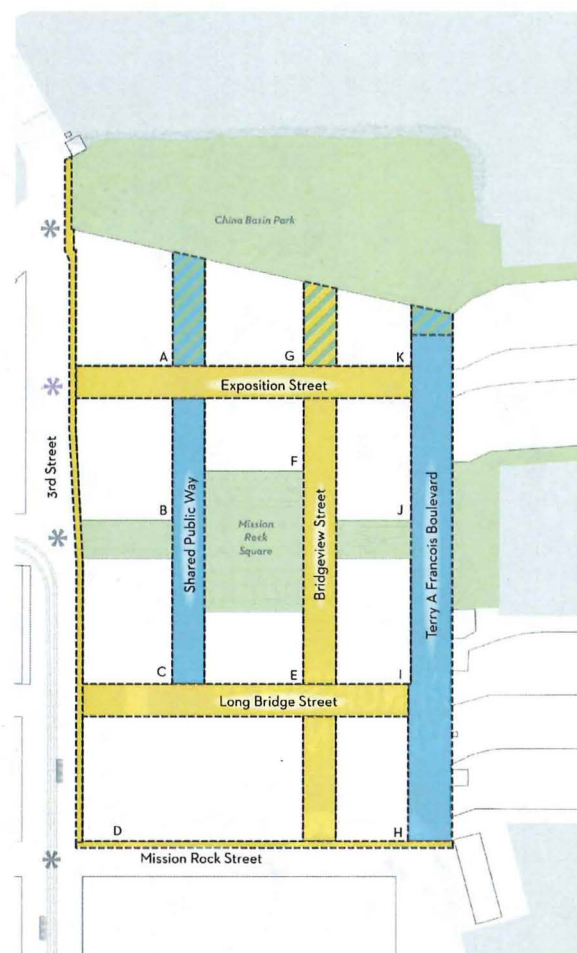
As specified in the Design Controls, all crossings will be marked using high visibility paint and other treatments, and all curbs will include ramps to facilitate accessible paths of travel. Some will be reinforced by bulbouts that bring curbs to the edge of travel lanes, shortening crossing distances and making pedestrians who are readying to cross more visible to drivers. At others, "tabletop" treatments will bring the roadway to sidewalk level and change paving materials through intersections. The changes in grade and visual treatment have been shown to make motorists instinctively slow down through these sensitive zones.

On the site's curbed streets, a combination of street furnishings, lighting treatments, and generous sidewalks will make pedestrian space vibrant, inviting, and comfortable even when pedestrian volumes are higher before and after events. Lighting will be at a pedestrian scale, and furnishings like benches and planters will create variety and a sense of protection from vehicle flows between the curbs. All three north-south streets will transition seamlessly into China Basin Park via vehicle-free zones at their northern ends.

3.1.1 SHARED STREETS

Shared streets, in which all modes mix across the entire street cross-section, will form the backbone of north-south pedestrian circulation, strategically placed along key paths of travel. These streets will be curbless, following street design approaches seen in Europe along key walking corridors and high streets. Visual and tactile cues like changes in the color or texture of pavers, bollards, street furniture, light fixtures, plantings, and tactile warning strips will differentiate between areas dedicated to pedestrian movement and areas shared by pedestrians, bicycles, and vehicles. These types of streets are somewhat rare in San Francisco, but the Mission Rock team has worked closely with the City to design the streets in a way that works with local norms and regulations. The Design Controls document describes the design of these streets in more detail.

The Shared Public Way will be a key retail corridor through the site, creating a vibrant connection between AT&T Park to the north and the ballpark's main parking facility at the southern end of Mission Rock. Lined with ground-floor shops and cafes, the street will feature



Street types on the Mission Rock site

patio seating and displays that extend the ground-floor uses into the right-of-way, creating “street rooms” that invite people to stroll and linger. The street will only allow northbound vehicle movement, and entrances to the zone will feature signs and other visual cues to make clear that vehicle access is for drop-off, pick-up, and deliveries only.

Terry A. Francois Boulevard, along the eastern edge of the site, will be a slightly different shared street, mixing the area’s maritime history with a newer identity as a place where people come together for all kinds of activities. The boulevard will feature a slow two-way, plaza-like shared zone for all modes between wide zones reserved for walking, biking, and loading. The San Francisco Bay Trail will extend through the site on the east side of the street, and the west side will allow pedestrian and loading access to ground-floor maker spaces, which will be raised slightly above street level in an ode to traditional industrial and warehouse building vocabulary.

3.1.2 BICYCLE FACILITIES AND CIRCULATION

In keeping with the rest of the transportation program, Mission Rock’s approach to bicycle circulation is about providing a multitude of choices, with facilities designed for leisurely riders along the waterfront and higher speed facilities along more direct routes to SoMa, Downtown, and other points north of the site.

Even in cities with higher rates of bicycle commuting like San Francisco, researchers estimate that a considerable number of additional people might consider cycling if there were a network of slower, more protected facilities that made them feel safe and comfortable while riding. Mission Rock will provide routes to and through the site that speak to this need, and these facilities will connect to a large and growing network of bicycle facilities in the surrounding area.

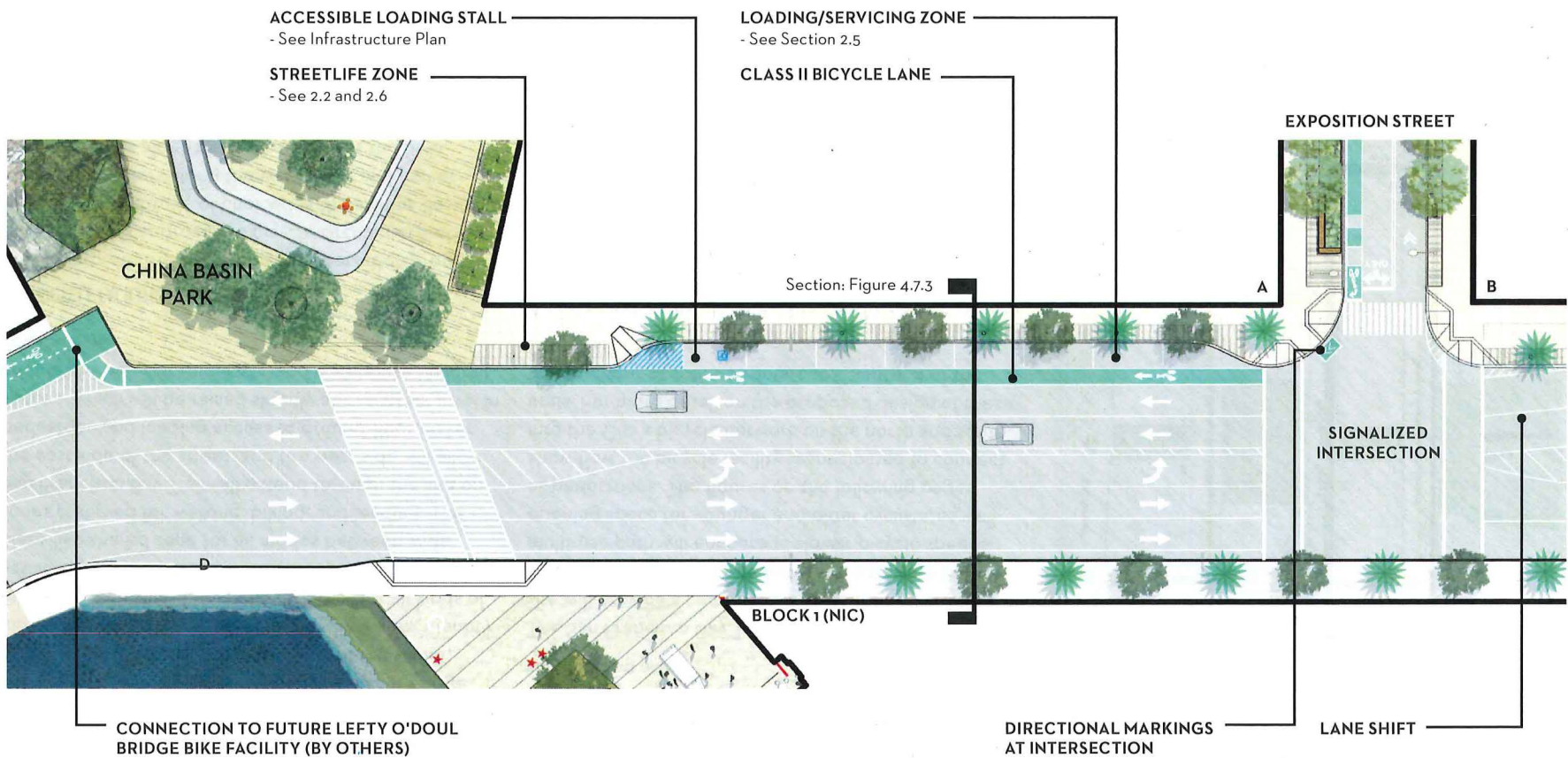
The San Francisco Bay Trail’s connection through the site will provide a comfortable route for cyclists of all ages. Visual cues at north and south gateways to the multi-use path will encourage slower bicycle speeds, opening space for younger and older cyclists, as well as pedestrians. The figures on the following pages show how the bicycle facility is anticipated to connect into the City’s bicycle network on the north and south ends. For more detail on the proposed design of these intersections or other streets, see Chapter 4 of the Design Controls.

A cycle track route along Bridgeview Street will provide a higher speed connection between the Embarcadero and points south of the site for commuters and more

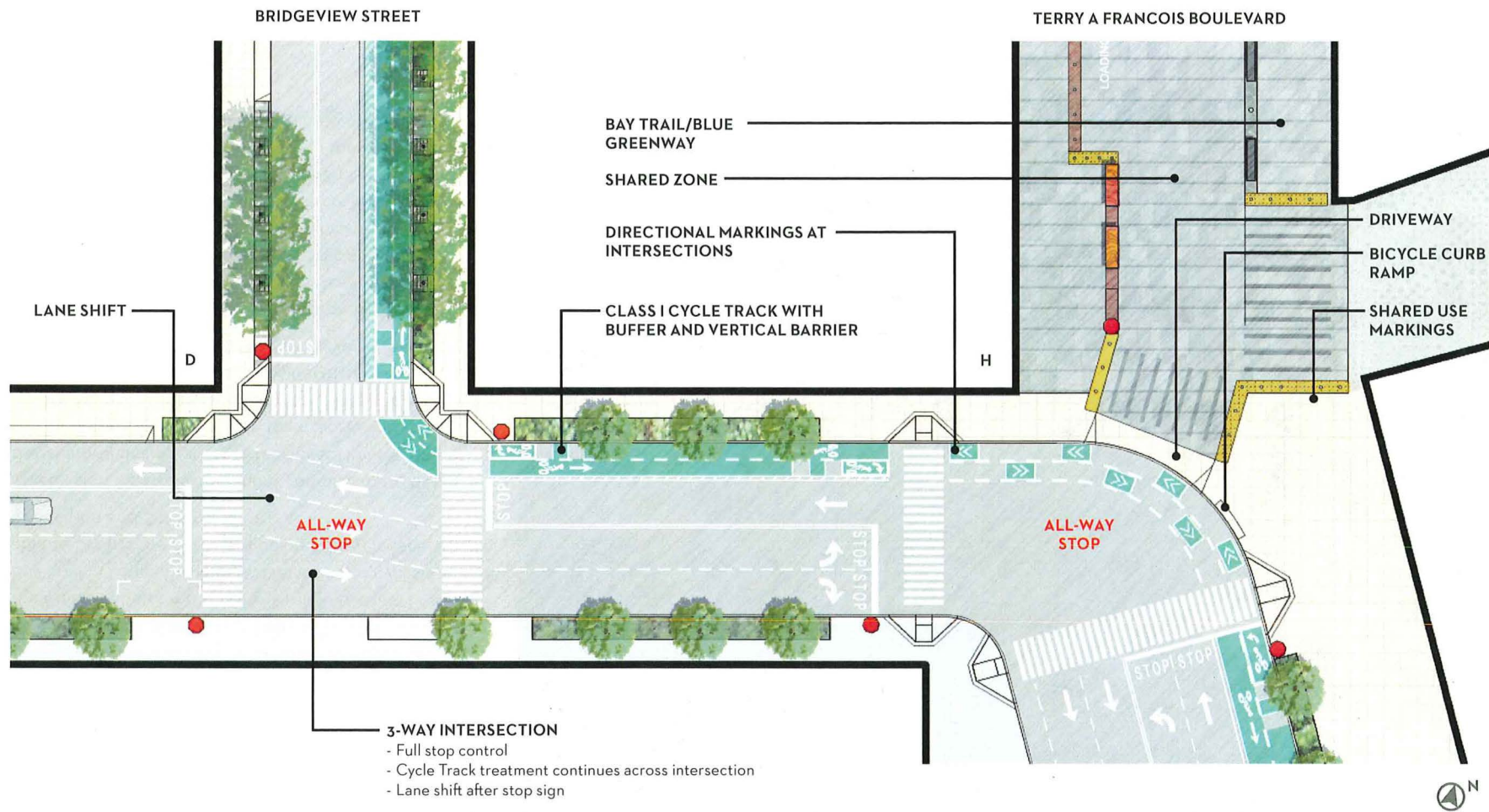
-  Planned Bike Path (Class I/IV)
-  Planned Bike Lane (Class II)
-  Planned Bike Route (Class III)
-  Existing Signal Location
-  Planned Signal Location
-  Access to Below-Grade Parking (if provided)



Bicycle circulation concept



A northbound buffered bicycle lane would provide commuters an alternative to traveling through China Basin Park to connect to a planned two-way cycle track across Lefty O'Doul Bridge.



Cyclists on a planned two-way cycle track along Terry A. Francois Boulevard to the south will have two high quality options at the southeastern corner of Mission Rock. Some may choose to continue on Terry A. Francois Boulevard, but those seeking a faster route will be able to connect seamlessly to a two-way cycle track on Bridgeview Street via Mission Rock Street.

experienced cyclists. A raised and green-painted two-way track protected by a painted buffer zone and soft-hit posts or another buffering approach will clearly reserve a piece of the right-of-way for cyclists. A two-way stop will control cross-traffic on Long Bridge Street to enable a faster and smoother ride for north- and south-bound cyclists. The intersection will be raised to the level of the cycle track to slow cars as they approach and move through the intersection. To connect to high quality bicycle facilities planned for Lefty O'Doul Bridge and the Embarcadero, the route will rejoin the San Francisco Bay Trail in China Basin Park. Northbound cyclists will be able to bypass the park via a painted bicycle lane along Exposition and 3rd streets.

The Design Controls document contains more detail on the planned design of these facilities. That document will be updated as the design team works with the City to ensure that bicycle facilities on the site connect seamlessly to improved facilities north and south of the site, to be implemented in the next several years.

For cyclists with destinations in Mission Rock, the site will provide a variety of bicycle storage options, including a network of spaces in public areas and conveniently located secure spaces inside the site's residential and office buildings. The project team anticipates that an existing bike share provider will install at least one bike share pod on the site, connecting to the much expanded bike share network that hit San Francisco streets in 2017.



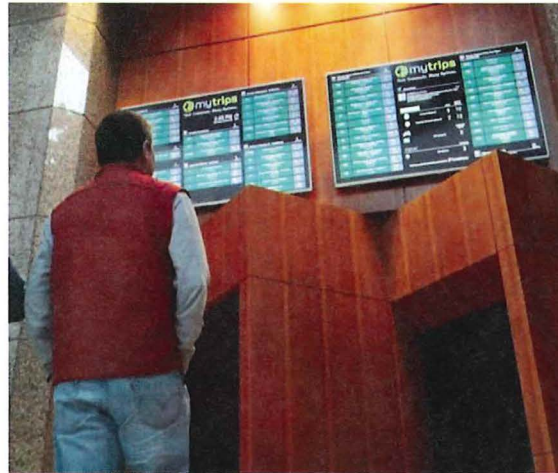
Bridgeview Street imagined, with a two-way cycle track providing a faster option for commuters.

3.2 TRANSIT ACCESS

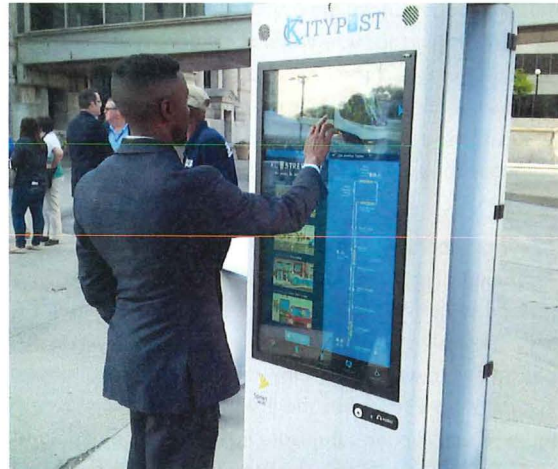
The Mission Rock site offers close, comfortable connections to several fast, high frequency, and high capacity transit options. By the time Mission Rock opens for occupancy, the T-Third Muni light rail line will have begun providing quick access to Market Street via 4th Street and the Central Subway (Mission Rock Station is located adjacent to the site, at the intersection of 3rd and Mission Rock streets). Caltrain's San Francisco terminal is a 10-minute walk from the site at 4th and King streets, and BART will be a 20-minute walk or quick T-Third ride away. Bay Area Bike Share will also provide a fast and convenient way to get to transit nodes like Market Street's subway stations and the Transbay Terminal.

The project team will implement a multi-pronged signage and wayfinding strategy to ensure that residents, employees, and visitors understand just how convenient it is to access these high quality mobility options. Outdoor static wayfinding will show basic directions and distances to nearby transit stops, and interactive information kiosks in key places on the site will provide access to more specific directions and real-time transit service information. For residents and employees, a Mission Rock website and screens in building lobbies will both show real-time transit information.

Elements of the site's transportation demand management program will also encourage transit use. See Chapter 4 and the Mission Rock TDM Strategy for more information on transit-supportive programs and incentives.



Transit screens set up in an office lobby (TRANSITSCREEN.COM)



Interactive information kiosk (USDOT)



Wayfinding signage in Amsterdam (FLICKR, ANDREY KARMATSKY)



Directional wayfinding to transit (FLICKR, CHRIS HEATHCOTE)

3.3 VEHICULAR CIRCULATION

Mission Rock's street network will be dense, highly connective, and strongly tied into its surroundings. The interior street grid will link up with the developing Mission Bay street network at several points, continuing east-west and north-south streets that currently dead-end at the edges of the project site. Bridgeview Way, which today runs between South Street and the southern border of the project site at Mission Rock Street, will continue as Bridgeview Street through the site to China Basin Park. Long Bridge Street, which today links Third and Fourth Streets will extend to the waterfront at Terry A. Francois Boulevard.

Most vehicles will enter the site from 3rd Street, the main north-south vehicular route through Mission Bay. The figures on this page show estimated relative vehicle flows through the site at peak periods, extrapolated from traffic modeling done for the Transportation Impact Study.

The site's approach to providing parking would place a single garage near the southwestern corner of the project site, which would keep most private vehicle traffic at the southern and western edges of the site. The project's entitlement documents also include an alternative parking approach that would distribute the site's parking supply between an above-ground facility at the site's southwest corner and a smaller facility under Mission Rock Square.

Vehicular circulation through the rest of the site should mostly consist of delivery vehicles and cars dropping off

or picking up passengers. Mission Rock will proactively manage commercial delivery activity, discouraging deliveries during commute periods and encouraging them instead in the early morning hours or late at night. The Mission Rock team will put together a detailed loading management plan for each phase of the project. The team will also work with tenants that are likely to regularly receive large-truck deliveries, such as potential tenants in Pier 48, to ensure that individual deliveries are appropriately staffed to maintain safe conditions for other street users.

As specified in the Design Controls, passenger loading spaces on the Shared Public Way, Bridgeview Street, Long Bridge Street, and Terry A. Francois Boulevard each have curb conditions that meet the standards of the Americans with Disabilities Act, for pick-up and drop-off of passengers with mobility limitations. During specified hours, parcel delivery will be concentrated around commercial loading zones on 3rd, Exposition, and Long Bridge streets and Terry A. Francois Boulevard. Outside of those hours, these spaces would open up to use by private cars picking up and dropping off passengers and for-hire passenger vehicles like taxis and TNCs.

The shared streets – Shared Public Way and Terry A. Francois Boulevard – are expected to see very low traffic volumes, consisting mainly of loading for passengers with mobility limitations. "Traffic calming" treatments like changes in paving materials and changes in roadway grades will help ensure that volumes and speeds stay low

(see the Design Controls for more detail). If all parking is concentrated in a single facility at the southwest corner of the site, Channel Lane and Channel Street will each be closed to vehicle traffic. If the project ultimately includes a parking facility under Mission Rock Square, one or both streets may provide vehicle access to the facility.

3.3.1 INTERSECTION CONTROLS

Most internal intersections will be controlled by all-way stop signs. As noted earlier, one intersection along Bridgeview Street will only stop cross traffic on Long Bridge Street to allow for smooth and efficient cycling along the route.

Third Street's interfaces with Mission Rock and Channel streets will be controlled by traffic signals, as they are today. A signal that currently controls the intersection of 3rd Street and Terry A. Francois Boulevard and halts traffic when Lefty O'Doul Bridge is raised for boat traffic entering Mission Creek is anticipated to remain where it is, allowing for signalized control of what will be an important pedestrian and bicycle connection between China Basin Park and a linear park on the west side of 3rd Street. An additional signal is planned at the intersection of 3rd and Exposition streets. The exact sequence of signals along 3rd Street will be determined by the San Francisco Municipal Transportation Agency and the Department of Public Works.

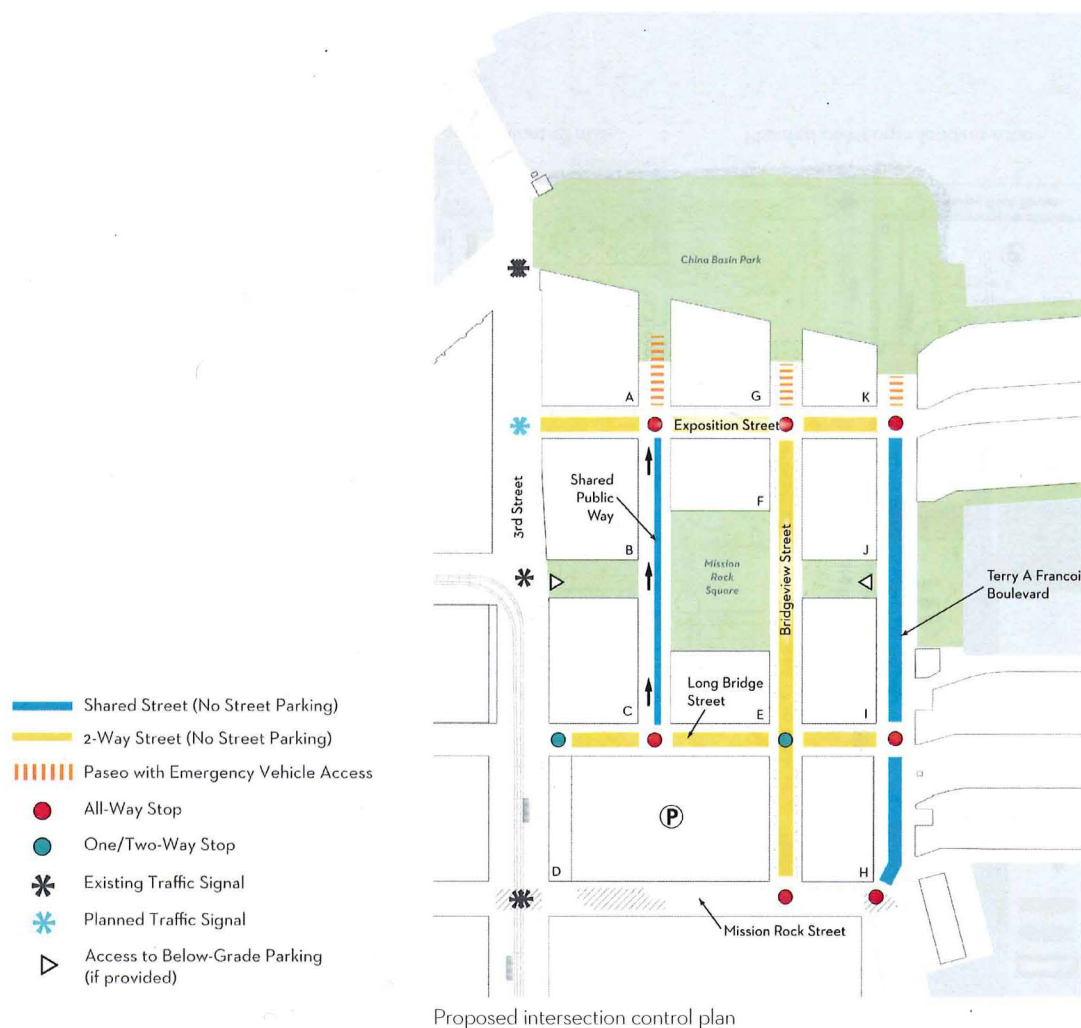
In keeping with the way major entries and exits from AT&T Park's main parking lot are managed before and after events today, intersections around the site's



Relative parking-related vehicle flows and garage access control plan (one-garage scenario)



Planned passenger loading zones



parking garage may be controlled by traffic control personnel (also known as parking control officers, or PCOs) before and after events. The number and location of PCOs will be identified in the project's development agreement with the City. See Chapter 5 for more on traffic control before and after major events.

3.3.2 PARKING

Strategic parking management is a cornerstone of the Mission Rock transportation program. A parking garage on the site's southwestern parcel will be the site's main parking facility, with 2,300 to 3,000 of the maximum of 3,100 parking spaces allowed on-site, per the development's entitlement documents. The garage will be used to serve the needs of both users of Mission Rock and users of AT&T Park, replacing the surface parking lot that currently covers the entire site. The site's entitlement documents include an alternative parking approach that could reduce the size of the main garage and locate some of the site's parking supply in a smaller facility under Mission Rock Square.

The site's parking supply will be managed around major AT&T Park events in much the same way as the surface lot is today: To ensure that there is adequate space available for event attendees, prices will be raised around event times to clear the garage at the site's southwest corner. When there is not an AT&T Park event on the calendar, available capacity in the facility could serve the needs of some users of Chase Center (the Golden State Warriors' planned arena and event center at 16th and 3rd streets) as well.

Outside of event times, most parking at Mission Rock will be a resource shared flexibly by all of the users of the site. This arrangement is an alternative to the traditional suburban model of requiring that a certain number of spaces be reserved for each individual use (i.e. office, residential, retail, or restaurant), with enough to accommodate each use's estimated peak demand. Sharing allows a more limited number of spaces to go further by taking advantage of the fact that different uses have different peak periods. For example, peak demand for parking related to office uses tends to take place in the late morning or early afternoon, while peak demand for residential uses is typically overnight. One set of parking spaces can serve both needs. The figures at the right illustrate how this approach to parking management typically results in the need for fewer spaces.

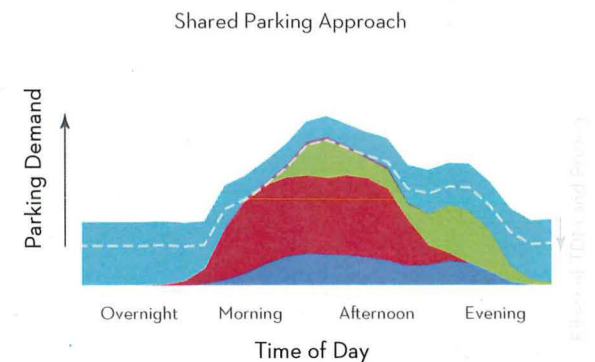
While most spaces will be designed for a typical self-park arrangement, with parking stall widths of eight to nine feet and vehicle circulation lanes, a portion of the spaces for long-term users could be in more

space-efficient vehicle stackers. Approximately 60 of the vehicle spaces will also be reserved for car share and scooter share vehicles (see additional information about vehicle sharing programs in Chapter 4).

3.3.2.1 Parking Pricing

The price of parking has been shown to be a highly effective mechanism in changing parking and travel behavior. Parking prices at Mission Rock will be set according to levels of demand: During times with higher levels of typical demand, parking might have a higher price, encouraging the use of other modes. Prices would not change in real time based on current occupancy, but might be adjusted overall a few times a year based on recent occupancy data. Prices might automatically increase by a pre-set amount during peak periods, based on typical demand patterns, or for scheduled events.

Given the project's desire to encourage people to the most sustainable mode that fits their lifestyle, hourly, daily, and monthly parking prices will be set based



These figures illustrate how the concept of shared parking often results in reduced parking supplies overall. Because different uses see peak demand at different times, the total parking needed at any given time in a shared arrangement can be as much as one third less than what would be needed if each use had to accommodate peak demand separately. Pricing and TDM can reduce demand further.

on market prices in the surrounding neighborhood. Disseminating pricing and availability information is critical to ensuring that users are able to change behavior in response to changes in price. Real-time parking information will be shared in a variety of ways, including the Mission Rock website and dynamic signs at entrances to the site.

The price of parking at Mission Rock will be unbundled from residential and commercial leases, which means parking will not be included in rental agreements by default – residents and employees will need to purchase a daily or monthly parking permit separately. This approach is in-line with City of San Francisco policy and ensures that site users who do not own a car or do not plan to commute to the site by single-occupancy vehicle are not burdened with the price of parking they do not plan to use.

3.3.3 EMERGENCY ACCESS

All of Mission Rock's streets have been designed to provide appropriate clearance for emergency vehicles like large fire trucks. Corners have also been designed to accommodate the turning needs of large vehicles. The site's highly connective street grid will help facilitate emergency access to all of the site's buildings. Streets closed to general vehicle traffic will be made accessible to emergency vehicles as needed. The Infrastructure Plan contains further detail on the streets' technical specifications that allow for the safe circulation of emergency and other larger vehicles.



Dynamic parking information board (NELSON\WYGAARD)

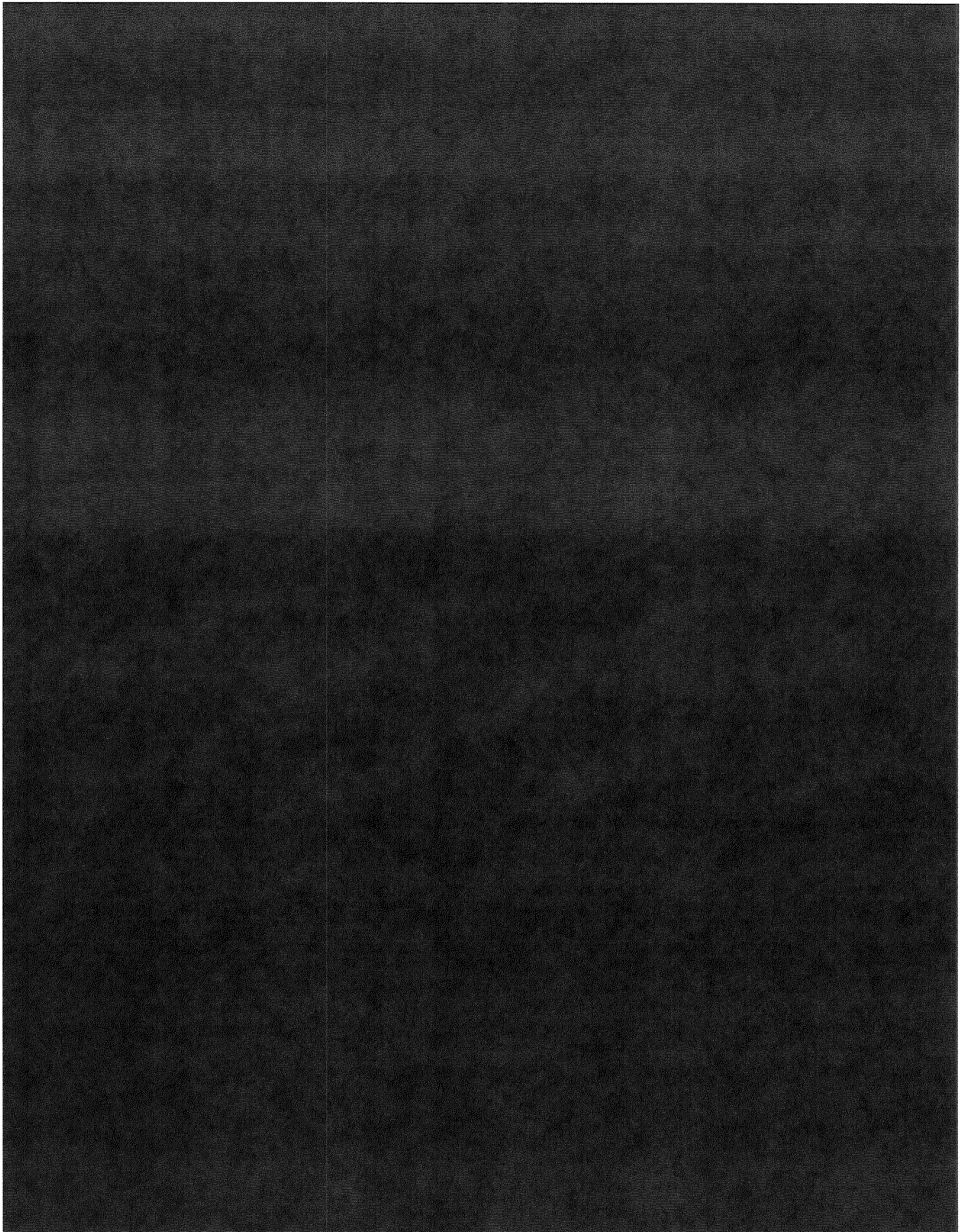


Car stacker (SAEPARKINGSOLUTIONS.COM.AU)

3.4 CONCLUSIONS

Mission Rock's design reflects the future of transportation in San Francisco. More and more, people count on having convenient access to several ways of getting around, and Mission Rock provides comfortable facilities for all kinds of lifestyles. Mission Rock is designed to be safe and comfortable to pedestrians and cyclists, to create easy paths of access to the wealth of nearby public transit options, and to ensure that those who rely on motorized transportation can be dropped off or picked up in convenient locations around the site.

Of course, circulation infrastructure is only part of the program. The next chapter details the strategies and up-front investments that will help further provide incentives for the use of sustainable, space-efficient modes of transportation.



Mission Rock's transit-rich context and its bicycle and pedestrian-oriented approach make the site a prime candidate for robust and effective transportation demand management (TDM).

04

TRANSPORTATION DEMAND MANAGEMENT

This chapter summarizes a comprehensive TDM program that will enable Mission Rock to actively manage travel demand through a variety of up-front infrastructure investments and ongoing programs. Ultimately, a robust

TDM program will reinforce Mission Rock's forward-thinking vision and its aspirations to be an active and vibrant district that is inclusive and safe for all users.

4.1 PLANNED STRATEGIES

Cities and campuses alike have implemented TDM programs to reduce single-occupancy vehicle (SOV) travel and find the optimal balance of transportation modes to accommodate growth. New residents and office tenants increasingly demand convenient access to quality multimodal infrastructure, and in urban areas like San Francisco, they assume that parking will be treated as a limited commodity that will be priced based on occupancy levels and market rates. The Mission Rock TDM Plan is in line with these expectations and exceeds them in important ways to maximize user satisfaction and foster travel choices that are sustainable in all senses of the word.

As summarized in this chapter, the Mission Rock TDM Plan consists of a package of cost-effective strategies that will work together to affect behavioral change. Strategies include incentives, programs, and infrastructure improvements, and they include many that have been successfully implemented in other mixed-use and urban environments. The package of strategies aims to reduce the number of daily SOV trips to the project site (as projected in the site's environmental impact report) by 20%.

The tables on this and the opposite page give an overview of the individual programs that comprise the site's overall TDM Plan. The text that follows provides some information on these programs; complete operational details are included in a separate TDM Plan document. A few of these recommendations have also been directly integrated into the design of Mission Rock, as codified in the Design Controls and other design documents.

Note that TDM programs work together to reduce demand, providing users with a complete package of incentives and infrastructure that can allow them the flexibility to use the mode that makes the most sense for them on a given day. This is in-line with the overall approach to transportation at Mission Rock - providing a variety of high quality mobility choices.

The collection of programs has been thoughtfully crafted into the cohesive strategy outlined in this chapter and further detailed in the TDM Plan document. While some TDM strategies like parking pricing have a more direct effect on travel behavior, others like facilitating delivery services play a more supportive role. Individual strategies would be unlikely to have the same impact in the absence of other strategies.

3.4 CONCLUSIONS

Mission Rock's design reflects the future of transportation in San Francisco. More and more, people count on having convenient access to several ways of getting around, and Mission Rock provides comfortable facilities for all kinds of lifestyles. Mission Rock is designed to be safe and comfortable to pedestrians and cyclists, to create easy paths of access to the wealth of nearby public transit options, and to ensure that those who rely on motorized transportation can be dropped off or picked up in convenient locations around the site.

Of course, circulation infrastructure is only part of the program. The next chapter details the strategies and up-front investments that will help further provide incentives for the use of sustainable, space-efficient modes of transportation.

04

TRANSPORTATION DEMAND MANAGEMENT

Mission Rock's transit-rich context and its bicycle and pedestrian-oriented approach make the site a prime candidate for robust and effective transportation demand management (TDM).

This chapter summarizes a comprehensive TDM program that will enable Mission Rock to actively manage travel demand through a variety of up-front infrastructure investments and ongoing programs. Ultimately, a robust

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MEASURE TYPE	INFRASTRUCTURE AND POLICY	OPERATIONAL	
4.1.1 TRANSIT	4.1.1.1 Real-Time Transit Information and Marketing Screens	4.1.1.1 Dynamic Transportation Information	4.1.1.2 Transit Subsidies
4.1.2 BICYCLE	4.1.2.1 On-Site Bike Share 4.1.2.5 Bicycle Parking 4.1.2.6 Showers and Lockers	4.1.2.2 Bike Share Memberships 4.1.2.3 Bicycle Community Programming	4.1.2.4 Bicycle Resource Centers 4.1.2.7 Bicycle Valet
4.1.3 MOTORIZED TRANSPORT	4.1.3.1 On-Site Shared Scooters 4.1.3.3 On-Site Car Share Parking Spaces	4.1.3.2 Scooter Share Memberships	4.1.3.4 Car Share Memberships
4.1.4 PARKING	4.1.4.3 Unbundled Parking	4.1.4.1 Parking Pricing 4.1.4.2 Real-time Parking Pricing and Availability Information	
4.1.5 BUILDINGS	4.1.5.4 Cold and Dry Delivery Storage Space 4.1.5.5 Convenient Zones for Loading and Building Servicing 4.1.5.6 Childcare Facilities 4.1.5.7 Collaborative Work Space 4.1.5.8 Affordable Housing	4.1.5.1 In-Building Concierge Services 4.1.5.2 Coordinated Delivery Services	4.1.5.3 CSA Partnerships 4.1.5.6 Childcare Services
4.1.6 ALL AREAS	4.1.6.1 Signage & Wayfinding Across Modes 4.1.6.4 Improved Walking Conditions	4.1.6.2 Mobile-Friendly Mission Rock Transportation Website 4.1.6.3 Site-wide transportation staff	

4.1.1 TRANSIT STRATEGIES

4.1.1.1 Real-time Transit Information and Marketing Screens

Dynamic transit information and transportation marketing to residents, employees, and visitors will be displayed on screens in building lobbies, or a similar approach will be used based on state-of-the-practice technology at the time of occupancy. Information will be also displayed in other high traffic areas, such as collaborative work spaces inside residential and office buildings around the site or childcare facility entrances. Making such information readily available can increase residents' awareness of local transit options and facilitate efficient trip planning.

4.1.1.2 Transit Subsidies

Clipper Cards pre-loaded with some cash value will be provided to all residents upon move-in, and business tenants will be required to offer employees the same. Clipper is the Bay Area's transit fare payment card and can be used on more than 20 of the region's transit agencies, including BART, Muni, and the ferries. Providing Clipper Cards upon move-in can increase residents' awareness of nearby transit options and increases the ease with which they can start using it. Clipper Cards can also be customized through a bulk purchase through the Metropolitan Transportation Commission, helping site users further associate Mission Rock with transit access.

Providing Clipper Cards could increase the ease of using transit for employees and residents who currently do not have Clipper. For individuals who already have cards, the one-time financial subsidy could help lower

one barrier to increased transit use.

4.1.2 BICYCLE STRATEGIES

4.1.2.1 On-Site Bike Share

At least one high visibility space will be made available for a Ford GoBike dock on-site, with the possibility of additional docks depending on Ford GoBike's intended Mission Bay expansion. Prominently located bike share docks can increase awareness of bike share as a viable transportation option while also facilitating use. Each bicycle dock would be provided and maintained by the Ford GoBike management company, Motivate, and the project team will work with the company to identify appropriate dock locations on the Mission Rock site.

4.1.2.2 Bike Share Memberships

Single-year Ford GoBike memberships will be offered to all residents 18 years or older upon move-in. Members of Ford GoBike can take free, unlimited 45-minute one-way bicycle rides between bike share stations.

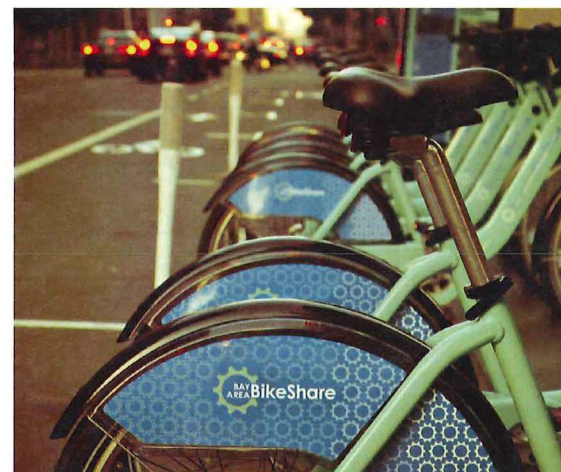
Providing residents with bike share memberships could help tenants with minimal experience cycling in San Francisco a low-cost and low-obligation opportunity to try cycling, and it would provide residents with a quick and easy way to get to the Transbay Transit Center and Market Street, for BART connections and a variety of other transit options and recreational activities.

4.1.2.3 Bicycle Community Programming

Through the site transportation staff, regular bicycle parties or happy hours for the bicycling community will be hosted at Mission Rock, potentially paired with gear giveaways. Bicycle-oriented programs and events encourage bicycling by raising public acceptance and



Real-time transit information in Seattle (FLICKR USER ORAN VIRIYINCY)



Bay Area Bike Share (FLICKR USER DAVID GOERING)

support for non-motorized transportation and building connections between residents who regularly bicycle, making biking a fun, social activity. Integrating bicycling into the social fabric of the Mission Rock community will raise the profile of bicycling as a viable mode of transportation and encourage people to try biking for a portion of trips.

4.1.2.4 Bicycle Resource Centers

Each building's secure bicycle parking area will be equipped with a bicycle maintenance space, with resources like a bicycle stand, a workbench, tools, and a basic repair kit. These dedicated spaces contribute to social acceptance of bicycling and reduce one key barrier associated with owning a bicycle – concern about complications related to ongoing maintenance – by providing tools and parts through a vending machine at low prices.

This measure will also include working to incorporate a bicycle store in the site retail plan and establishing a resource center containing a vending machine for bicycle parts, a “fix-it” work station with basic tools, and bicycle pumps somewhere else within the site at an easily accessible location.

4.1.2.5 Bicycle Parking

Given the importance of non-motorized transportation to the site's overall design concept, more bicycle parking will be provided than is required by San Francisco City Code. This will include secure Class I parking spaces in residential and office buildings and a network of Class II bicycle parking spaces throughout public areas.

Class I parking consists of secure long-term bicycle parking, including bicycle lockers, bicycle cages, and bicycle rooms. Class II bicycle parking refers to more short-term bicycle parking, including on-street bicycle racks. The site's location in a flat part of San Francisco and the numerous planned bicycle facilities through the site imply a strong potential for very high rates of bicycle usage, and this will be encouraged through easy access to ample, convenient bicycle parking. Bicycle parking facilities will also be available to accommodate various types of bicycles including those with cargo and trailer attachments.

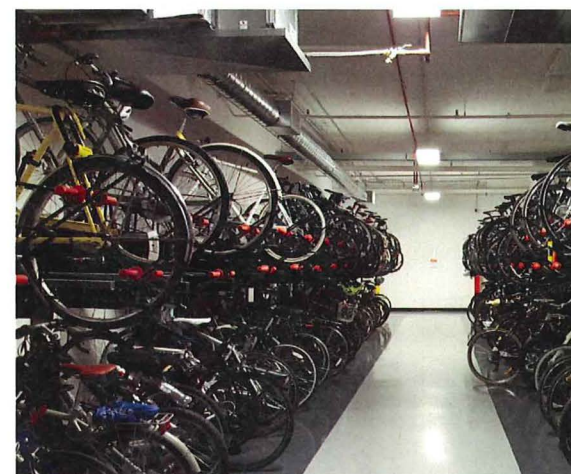
There are several methods of providing secure (Class I) bicycle parking spaces for residents and employees. The site will employ approaches that reflect best practices regarding secure short-term and long-term bicycle parking. For instance, one approach may be to locate bicycle cages at convenient locations within buildings, and bicycle owners who qualify can receive a key or access card to use the cages for a set period of time (e.g. during work hours). The access card can be the same as one used to access an elevator or parking garage. Public bicycle parking is often considered secure when it is situated in well-lit, highly visible areas.

4.1.2.6 Showers and Lockers

The site will meet the San Francisco Code requirement to provide shower and clothes locker facilities for tenants and employees in buildings with certain uses. Offices (including childcare, business services, and light manufacturing) that exceed 10,000 square feet must provide at least one shower and six clothes lockers;



Bicycle fix-it station (Flicker User Joe)



Bicycle room (Class I parking) (Nelson Nygaard)

for facilities between 20,000 and 50,000 square feet, the building must provide two showers and 12 lockers. Those exceeding 50,000 square feet must provide four showers and 24 lockers. Retail sales and restaurants exceeding 25,000 square feet must also provide one shower and six clothes lockers; those exceeding 50,000 square feet must provide at least two showers and 12 lockers.

4.1.2.7 Bicycle Valet

Free bicycle valet services will be provided for large on-site events (per code requirements). Complementing the bicycle parking available on a daily basis, bicycle valet services during special events can encourage people to travel to and from events by bicycle by eliminating the challenge of finding safe and convenient bicycle parking in an area crowded with event attendees. These services also raise public acceptance and support for non-motorized transportation by building connections with visitors.

4.1.3 MOTORIZED VEHICLE STRATEGIES

4.1.3.1 On-Site Shared Scooters

Off-street parking spaces will be reserved for 15 to 20 shared scooters (approximately six car parking spaces in total). These spaces will be made available to scooter share companies at no cost. Electric scooters are highly convenient in a dense urban environment and may have additional marketing value, given the cache scooters carry among certain population segments. Scoot is a current provider of this type of service. One of the benefits of Scoot's network is the ability to travel point-to-point, instead of needing to return scooters

to their point of origin. Scoot already has pods within a short walk of Mission Rock. The parking garage would accommodate space for a scooter dock, which the scooter share vendor would provide and maintain.

4.1.3.2 Electric Scooter Memberships

Pending a partnership with Scoot Networks, a one-year Scoot membership will be offered to all new residents, and Scoot Networks could provide its scooter orientation on-site. Like a bike share membership, a scooter share membership could help establish new travel behavior patterns upon move-in. This measure would entail forming a partnership with Scoot or another electric scooter share vendor to provide free memberships in exchange to reserving space for electric scooter parking on-site.

4.1.3.3 On-Site Car Share Parking Spaces

Designated car share spaces will be provided in the parking garage, with flexibility to increase over time in response to demand. The number of spaces provided will exceed the amount required by the San Francisco Zoning Code. These spaces will be made available to car share companies at no cost.

Research indicates that a single car-share vehicle can remove as many as 20 private cars from the transportation network. Spaces will be located in high-visibility parking spots within the parking garage, which will be publicly accessible. Clear exterior signage will increase these spaces' visibility and emphasize the convenience of car share. Depending on the car share vendor provided, additional partnerships with ChargePoint may be required to provide infrastructure



SF Bicycle Coalition bicycle valet AT&T Park (NELSON/RYGAARD)

for electric vehicle charging.

4.1.3.4 Car Share Memberships

Car share memberships will be offered to all households for their first year of residency. Depending on specifics of agreements with car share vendors, membership fees could be reduced or waived and some rental credit could be provided. These memberships could help establish new behavioral patterns upon moving in. Pairing access to car sharing vehicles with car sharing memberships is also shown to be more effective than implementing one or the other on its own.

4.1.4 PARKING STRATEGIES

Priced and actively managed parking is a cornerstone of the Mission Rock transportation program. The following measures will ensure that driving is not the default choice for access to the site.

4.1.4.1 Parking Pricing

The price of parking has been shown to be a highly effective mechanism in changing travel behavior, and as such, parking will be priced strategically at Mission Rock. During times of higher demand, parking might have a higher price, encouraging a higher rate of turnover and the use of other modes. Prices will not change in real time based on current occupancy, but instead might automatically increase by a pre-set amount during peak periods, based on typical demand patterns, or for scheduled events. Prices might be adjusted overall a few times a year based on recent occupancy data.

By refining the price of parking periodically, it would be possible to keep parking occupancy rates relatively close to the optimal level, typically around 90% for off-street parking. Researchers have found that parking facilities function efficiently (i.e. without requiring excessive parking-search time) up to roughly this level of occupancy. Demand-responsive pricing has been successfully piloted in San Francisco, Berkeley, Los Angeles, and other cities, and the AT&T Park lot on which Mission Rock will be built currently employs a form of this concept.

4.1.4.2 Real-Time Parking Pricing and Availability Information

Dynamic displays (or another state-of-the-practice price-information sharing strategy) will be installed to show real-time parking price and availability information. This information will also be made available through other channels like a Mission Rock transportation website; this will require installing technology and associated information systems to automatically monitor parking usage. For market-based parking pricing to be truly effective, the dynamic between price and availability must be clearly communicated to drivers. Making such information readily available to potential drivers, particularly at parking garage entrances, decreases the likelihood of drivers' circling for parking or potentially increases the possibility of choosing other modes.

4.1.4.3 Unbundled Parking

Parking costs will be unbundled from all residential, commercial, and retail leases and ensure that the users of parking are the ones who ultimately pay for it. In other words, individuals desiring parking will be required to pay the cost of parking themselves, and the price of parking will not be included in the leases of any residential or commercial tenants. "Unbundling" parking means that the cost for parking is separate from the cost of residential and commercial units. It is an increasingly common practice in urban areas, and it is required in San Francisco. Thirty percent of San Francisco households do not own a vehicle, and unbundled parking makes housing more affordable, particularly for those who do not need a parking space.



Car share spaces (NELSON\NYGAARD)



Parking pricing information sign (NELSON\NYGAARD)

This approach provides financial savings to households who decide to dispense with one of their cars, and it can help attract households who wish to live in a transit-oriented neighborhood where it is possible to live well with only one car, or even no car, per household. Unbundling parking costs changes parking from a required purchase to an optional amenity, so that households can freely choose how many spaces they wish to lease.

Unbundling parking tends to reduce demand for parking by specifically calling out and making optional the previously hidden cost of “free” parking. This in turn allows developers to provide less parking, which increases the area that can be developed with more lucrative land uses such as additional housing units. For this measure to work optimally for office users, the users of parking – not their employers – must be the ones who ultimately pay daily or monthly costs.

4.1.5 BUILDING STRATEGIES

4.1.5.1 In-Building Concierge Services

Mission Rock will work with the managers of individual buildings to appoint an in-building concierge to provide information about local merchants and coordinate/facilitate delivery services for residents. In-building concierge services and/or multi-purpose front-desk staff can facilitate valet parking, farm-to-table produce delivery, cold and dry storage for grocery or produce delivery, and secure package delivery. Concierge staff could also provide information about the nearest stores and services like dry cleaning and laundry service, as well as pickup/delivery services from local merchants.

Residents would pay for all services.

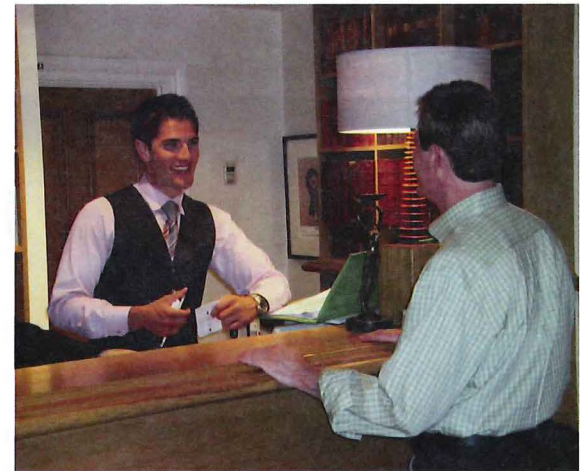
The site-wide transportation staff would provide centralized transportation support to the in-building concierges. The combination of these services will provide targeted travel information, consolidating or eliminating the need for additional trips.

4.1.5.2 Coordinated Delivery Services

Mission Rock will consider partnering with delivery service companies, in addition to establishing a centralized staging location for parcel delivery and a distribution system that relies on non-motorized transportation to deliver packages to the various buildings within the development. In the absence of an official partnership, ways of making ordering in more appealing instead of making separate trips off the property for daily needs would be facilitated, thus reducing vehicle trips in the process. One potential way to do this would be to offer direct ordering through the Mission Rock website. Each building would manage these services individually as needed.

4.1.5.3 Community-Supported Agriculture Partnerships

Local community-supported agriculture (CSA) deliveries will be coordinated. Fostering the use of local CSA organizations has the potential to reduce greenhouse gas emission and vehicle-trips by providing project residents convenient access to locally sourced food, reducing the number of trips and vehicle miles traveled by both vendors and consumers. This measure could also have marketing benefits and reinforce the site’s overall message about sustainability.



In-building concierge (FLICKR USER ALAN LIGHT)



CSA box (FLICKR USER NIKI SUBLIME)

4.1.5.4 Cold and Dry Delivery Storage Space

Mission Rock will work with individual building managers to provide storage space near the concierge and elevators to store packages, perishables, laundry, and other deliveries. Storage should be family friendly, including room to store car seats and strollers and near to car share locations. Providing storage space for groceries, laundry, and other packages can have a direct effect on reducing trips by encouraging and facilitating online ordering. A centralized storage facility within each building can also consolidate delivery trips by enabling delivery vehicles to only make one stop for multiple recipients instead of several.

4.1.5.5 Convenient Zones for Loading and Building Servicing

Passenger loading and building servicing zones are integrated into Mission Rock's overall street design. These zones will reduce the need for personal vehicle trips by facilitating deliveries and also enabling easy pick-up and drop-off of seniors and people with disabilities by locating them near elevators and at corners with curb ramps.

4.1.5.6 Childcare Facilities and Services

Mission Rock will aim to attract a provider of on-site childcare services and facilities to ensure easy access for Mission Rock residents and employees. Ensuring that childcare services are provided on-site at Mission Rock would break down a key barrier for parents to taking non-auto modes to work by bringing such services within walking distance and near the many commute options around the Mission Rock site. The

childcare services could be provided on the ground floor of a northern parcel, near China Basin Park. Other family-friendly amenities will also be established, including storage spaces with room to store car seats, strollers, and other family-related equipment.

4.1.5.7 Collaborative Work Space

Mission Rock will work with the developers of individual parcels to establish a collaborative work space in each residential building. A typical offering in residential buildings today, business services rooms can help encourage and facilitate working from home, which can directly reduce trips to and from the site.

Work spaces could include for-rent work rooms that can be reserved in advance, equipped with video conference equipment, high-speed internet connections, projectors, white boards, basic office supplies, and printing, scanning, and faxing services. For residents interested in using this work space long term, dedicated mailboxes for businesses could be set aside and located nearby. The developers and managers of individual buildings will ultimately be responsible for developing and maintaining these business services rooms and ensuring that they are equipped with appropriate equipment.

4.1.5.8 Affordable Housing

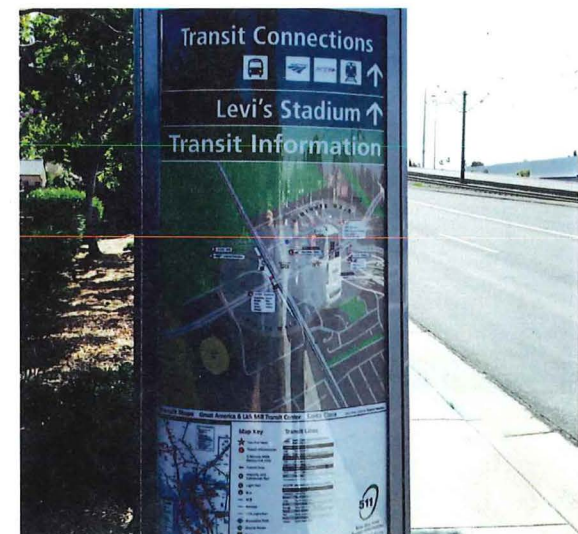
Forty percent of on-site units will be restricted to inclusionary affordable housing, to be provided in a balanced manner throughout the phasing of the development. Affordable units are generally associated with lower rates of auto trip-making, as residents living in affordable housing typically own fewer cars

per household than residents of market-priced units. They are more likely to use transit and are less likely to require parking, reducing overall vehicle trip generation.

4.1.6 ALL-REALM STRATEGIES

4.1.6.1 Signage and Wayfinding across Modes

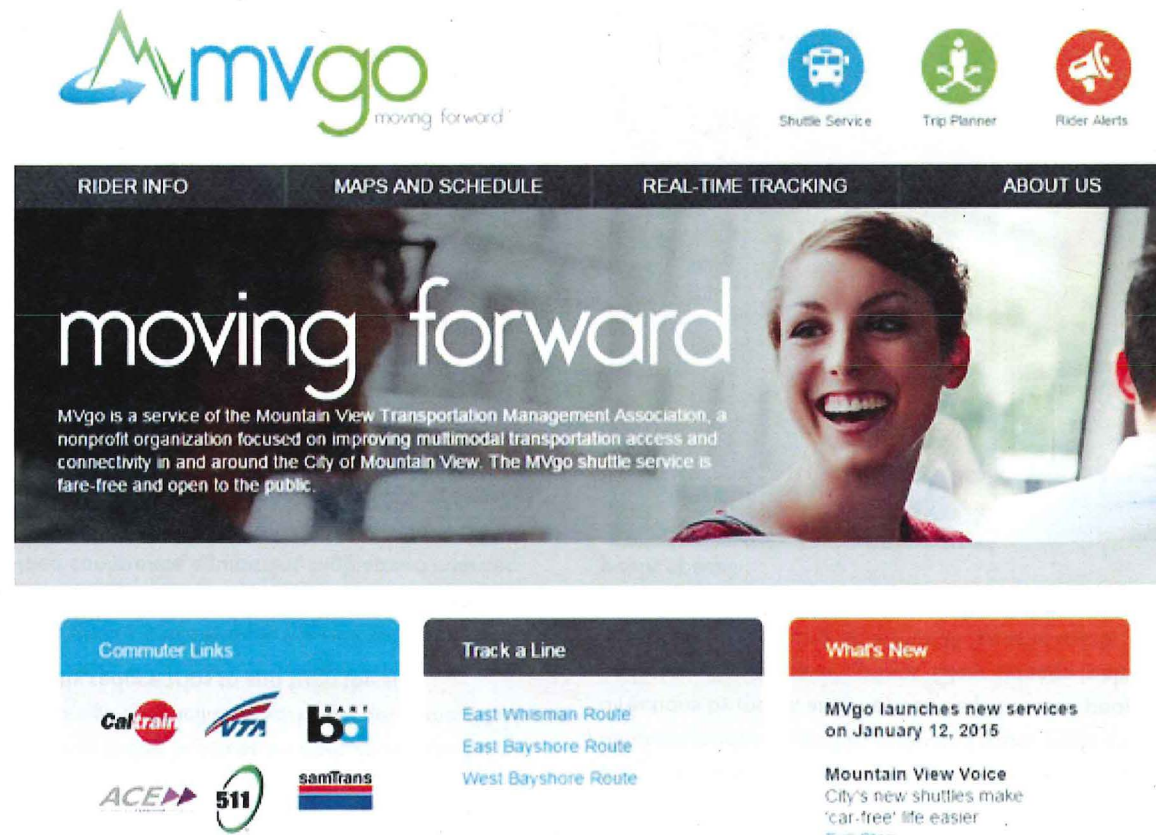
ADA compliant signage and wayfinding will be installed at key points throughout the development. Signs can help indicate points of connection between different modes, as well as estimated travel times and directions by mode, and they can help increase people's understanding of travel options. Clear signage is also important for ensuring safety for all types of users, differentiating spaces for different users within shared public spaces.



Transit-focused wayfinding (NELSON\NYGAARD)

4.1.6.2 Mobile-Friendly Mission Rock Transportation Website

An ADA compliant site-wide website will be maintained with a dynamic and engaging section dedicated to transportation information and services, with specific portals for each user type (or the state-of-the-practice equivalent to this measure, per changes in technology by the time of first occupancy). A mobile-friendly website oriented toward all residents, employees, and visitors providing online access to concierge services and transportation programs can help raise awareness and visibility of transportation options and facilitates connections among transportation modes. The transportation information on the website will likely include but not be limited to real-time transit information and a transportation tab with all nearby options (e.g. Muni, car share, scooter share, ride-sourcing apps) showing locations and availability.



The informative website of a TMA in Mountain View. The site is mobile-friendly, as the images on the next page show.

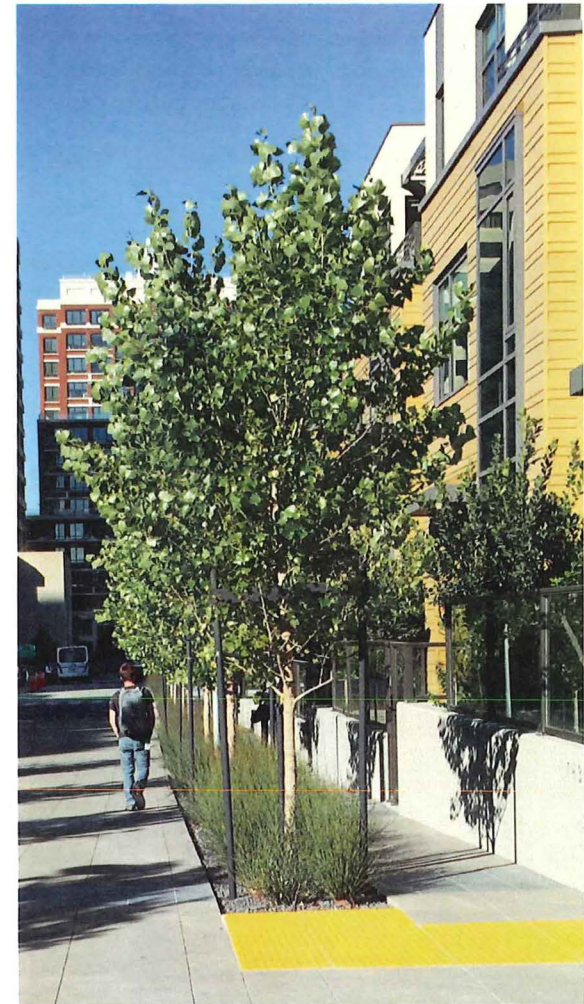
4.1.6.3 On-Site Transportation Staff

A site-wide, dedicated transportation staff will be hired and tasked with providing individualized advice and information on transportation options to residents and employees. This can help raise awareness and understanding of transportation options and ensure that site users can find non-auto transportation options that meet their unique travel needs.

Other staff, such as the in-building concierge or those tasked with organizing bicycle events and maintaining the bicycle resource room, could also provide similar targeted information and facilitate discussions around using different modes. This dedicated transportation staff would act as a centralized transportation resource to the in-building concierges, providing up-to-date transportation information and expert support to front-line staff that are less likely to have the same depth of knowledge of the transportation system. Staff responsibilities may include active campaigns encouraging sustainable trip-making.

4.1.6.4 Improved Walking Conditions

High-quality pedestrian design features (high connectivity, wide sidewalks, highly visible crossings, and others) are directly integrated in the design of Mission Rock. As described in the Mission Rock Design Controls, the development will add over half a mile of complete streets, including new and improved sidewalks and pedestrian crossings. Today, many sidewalks in Mission Bay are narrow or missing in areas. The new streets within Mission Rock will greatly improve the overall walking conditions of the neighborhood and facilitate safer and more convenient pedestrian connections. A pedestrian-oriented urban design is essential for residents, employees, and visitors to fully take advantage of the other TDM strategies, supporting access to all of the available transportation options and programs throughout the site and nearby. These improvements help shape the environment for the other TDM strategies to succeed.



High-quality design for pedestrians (NELSON\NYGAARD)

4.2 MARKETING AND COMMUNICATIONS

A strong communication strategy is critical to the success of any TDM program, ensuring that residents, employees, and visitors receive information about relevant resources and incentives at appropriate times and through channels that are easily accessible. Incorporating consistent branding into all communications can help create a sense of place and establish a cohesive identity for the transportation program. Branding can be used to support marketing and communication efforts, particularly on signage and wayfinding, to emphasize that residents, employees, and visitors can travel seamlessly through the area.

The TDM strategies cited in the chapter include three main channels for transportation-related communications: its site-wide transportation staff, a mobile-friendly web portal for site users, and physical signage and other wayfinding mechanisms on site. This section includes examples of communication tactics and channels to illustrate how specific channels can help reach target audiences.

4.2.1 SITE-WIDE TRANSPORTATION STAFF

Led by a coordinator, Mission Rock transportation staff would be responsible for maintaining information about TDM programs and acting as a point of contact to assist residents, employees, and visitors with transportation-related questions, concerns, or general assistance. The transportation coordinator would have the authority to implement TDM strategies, oversee the management and marketing of all measures, manage the TDM program budget, and monitor success of the TDM program.

The transportation staff might also be responsible for compiling a print and/or electronic transportation handbook to be distributed to residents on move-in and employees on hiring. This handbook could include information on transportation programs, policies, and service options, in addition to the following information:

- ▶ Transportation staff contact information, including information for the in-building concierges (if relevant)
- ▶ How to access transportation information in other media and locations, such as the website, relevant mobile applications, and real-time screens
- ▶ Commute trip planning information, including links to the regional 511 Rideshare program
- ▶ Clipper Card and vehicle (including car, bicycle, and scooter) share membership subsidies and parking policies
- ▶ Information on accessing other TDM program details and amenities, such as the in-building storage facilities
- ▶ Walking and biking routes within the area, estimated walking and cycling times to key locations, including transit hubs, and a link to the San Francisco bicycle map
- ▶ Local transit options and schedules, including links to Muni, BART, and Caltrain schedules, route maps, and existing trip planner mobile applications

The handbook would be distributed to all prospective residential tenants and all prospective employees who receive an offer to work within the development as part of welcome packets or employee orientation, or posted



Signage that combines directional and map-based wayfinding (NELSONNYGAARD)

in prominent locations for all residents and employees.

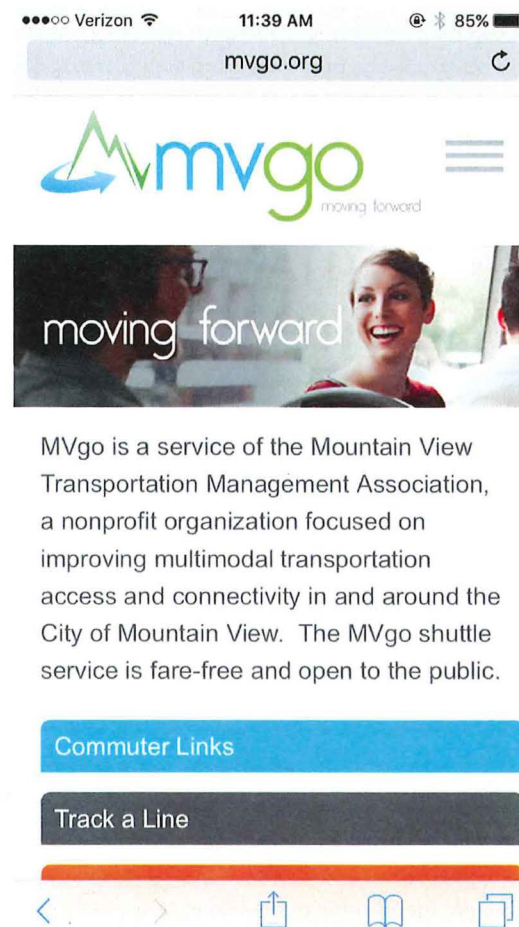
To make sure information stays useful to residents and employees over time, transportation staff will endeavor to keep all information and materials up to

date and relevant. Staff may also consider developing other transportation tools in addition to or instead of a handbook as appropriate, drawing on available best practices.

4.2.2 MOBILE-FRIENDLY WEBSITE

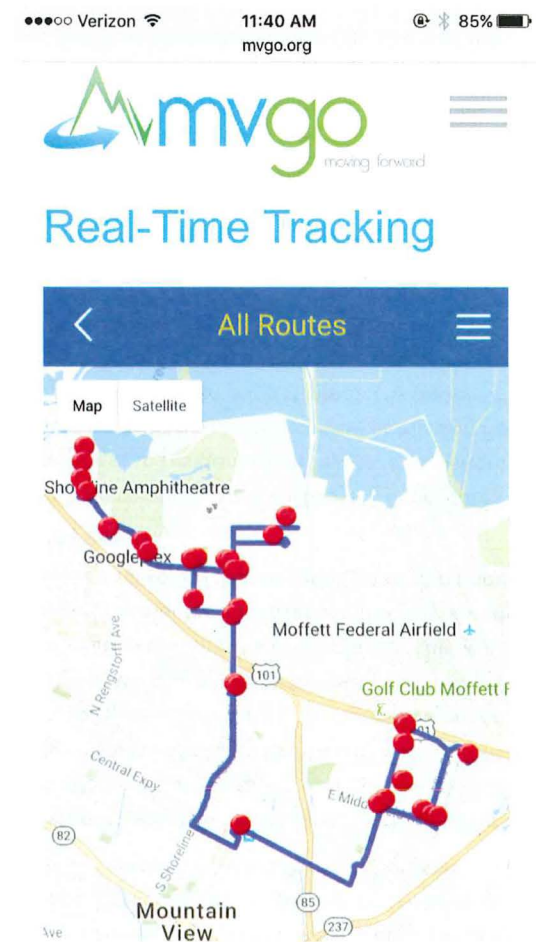
Mobile-friendly websites are a way to create a dynamic and engaging repository for transportation information, point-to-point navigation tools, travel suggestions, user engagement campaigns, and other efforts to raise awareness of alternatives to drive-alone travel options and residents, employees, and visitors to use them. In addition to supporting the information already provided in the resident and employee handbook, this website could include the following:

- ▶ Real-time transit information
- ▶ Real-time parking pricing and availability information
- ▶ Notifications of upcoming transportation-related events, such as bicycle parties and farmers' markets, and alerts
- ▶ Integration with internet delivery services for ordering
- ▶ Registration for car share, bicycle share, and/or scooter share memberships
- ▶ Room reservations for the collaborative workspace
- ▶ On-site childcare services enrollment
- ▶ Specific pages or portals for residents, employees, and visitors so that each of these audiences has access to the appropriate and relevant travel information



MVgo is a service of the Mountain View Transportation Management Association, a nonprofit organization focused on improving multimodal transportation access and connectivity in and around the City of Mountain View. The MVgo shuttle service is fare-free and open to the public.

The mobile-friendly version of the Mountain View TMA's website. The TMA offers real-time transit information and links to a variety of other resources.



- Functionality which allows for tracking travel behavior and enables gamification for incentives

This website will be ADA/Section 508 compliant to ensure that users of all abilities are able to easily access this information. Establishing specific portals for each audience can allow for the delivery of targeted, individualized TDM information for each of the audience groups. Each of the portals could also provide specific information on costs and multimodal options available for traveling to and from Mission Rock, as well as information on nearby attractions and services and links to citywide or regional information. The images on the previous pages show an example of computer and mobile-friendly versions of landing pages for this type of website.

4.2.3 SIGNAGE AND WAYFINDING

Clear, consistent, and predictable signage and wayfinding can help residents, employees, and visitors navigate the site easily. Signage can also bring awareness to important information such as parking prices and availability, bicycle parking locations, estimates of bicycle and pedestrian travel times, and other information on Mission Rock programs or services. Simply providing information on non-motorized travel prominently can increase the likelihood that people will select biking or walking as their mode of transportation.

The efficacy of signage and wayfinding is dependent on the design and placement of signs. Signage should be clear and provide relevant information at key decision points in people's journeys, in areas that are highly

visible, and in clear lines of sight. For instance, when entering the site, cyclists should be able to clearly understand their route options through the site. This signage will be especially important for safety along the shared public ways, to ensure that users understand the encouraged forms of travel and appropriate behavior on each mode. Temporary signage may be used in areas more highly trafficked by residents or employees, to provide information on specific events or programs, such as CSA pick up locations.

Wayfinding examples throughout the chapter show how it can be used in vibrant, mixed-use areas. Some signs offer clear guidance for the nearby area at several scales while providing clear directional guidance to nearby transportation hubs and popular destinations.

For further information on the design considerations that will be accounted for in designing signage for the Mission Rock site, see section 2.10 of the Design Controls.

4.2.3.1 Transportation Information Kiosks

Transportation information kiosks in the public realm can provide centralized locations for relevant transportation information for trips within Mission Rock and to nearby services and attractions. These kiosks could be placed throughout the site, at strategic decision-making locations where residents, employees, and visitors might need the information, such as the intersection of Terry A. Francois Boulevard and Mission Rock Street, China Basin Park, and Mission Rock Square. The kiosks could include transit schedules and fare information, walking and cycling routes, real-time

transit information, and Bay Area Bike Share dock locations and bicycle availability.

It is recommended that these kiosks be digital, interactive displays (as shown in the accompanying image) to allow information to be updated easily and regularly. These boards would be maintained and updated as needed by the transportation staff.

While the information kiosks can provide detailed information on transportation options to visitors and others new or unfamiliar with Mission Rock and the surrounding area, real-time transit screen technology is designed to offer an opportunity to understand transportation options at a quick glance. This would be particularly useful for employees and residents, those who make recurring trips frequently and don't need detailed guidance.

Each of the communication-based TDM measures are pertinent to residents, employees, and visitors at different times during their life cycle at Mission Rock. As such, it is critical to think strategically about when to share what with each of these key segments to reach certain groups of users.

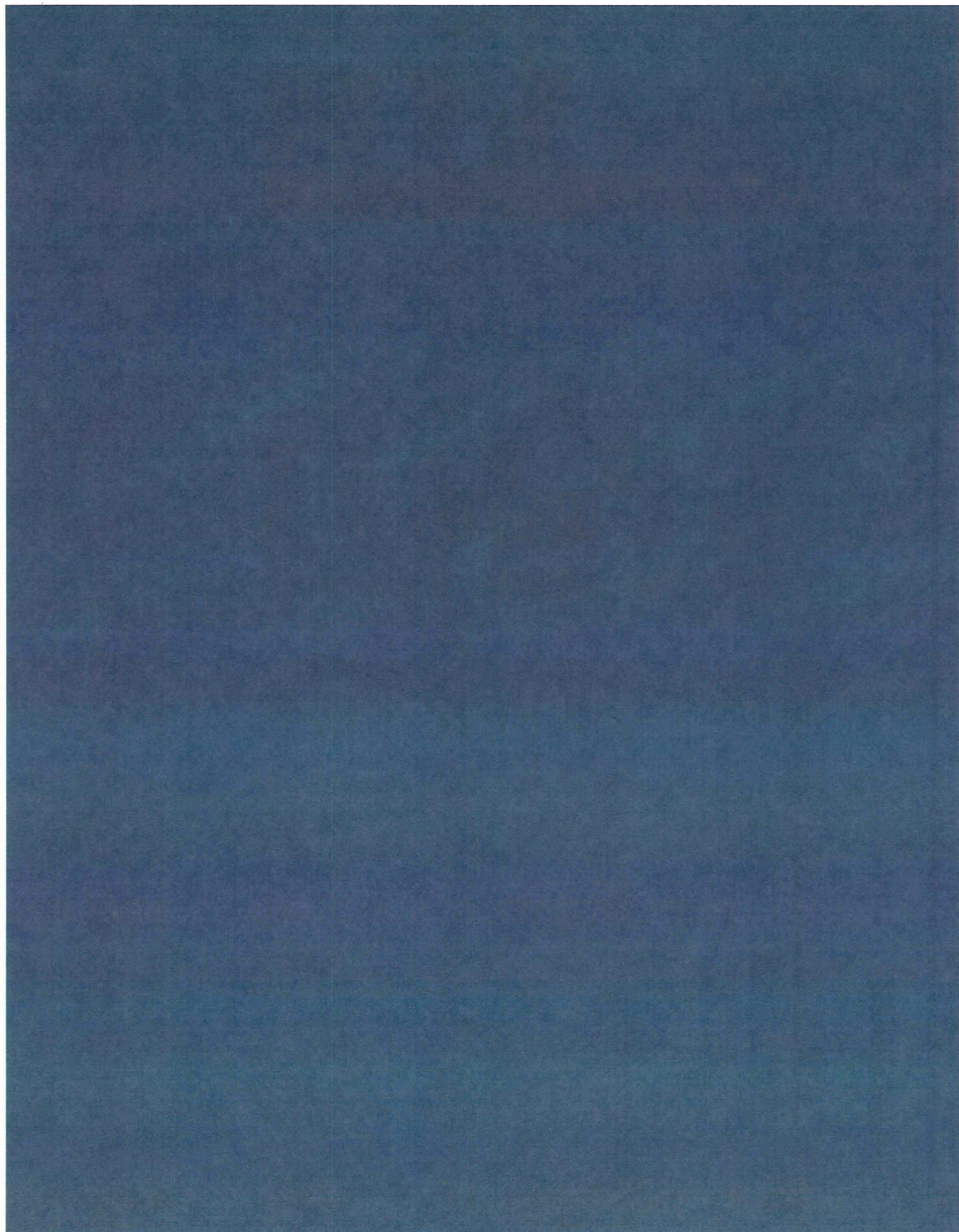
The mobile-friendly Mission Rock website will be an important avenue for sharing information about programs, policies, and services. It is reasonable to assume that the website will act as a front-line communications vehicle to reach all of those who have or may be interested in having a connection with the site. Signage and wayfinding will be seen on a daily basis and is an important element for users of the development to efficiently navigate Mission Rock.

4.3 CONCLUSIONS

Establishing a robust TDM program reaffirms Mission Rock's commitment to sustainability and inclusivity. The program will encourage the site's residents, employees, and visitors to use the most environmentally friendly and spatially efficient mode possible for each trip, with an emphasis on cycling, walking, and shared rides.

TDM MEASURE	TARGET AUDIENCE		
	RESIDENT	EMPLOYEE	VISITOR
4.1.1.1 Real-Time Transit Information			
4.1.1.2 Clipper Cards			
4.1.2.2 Bike Share Memberships			
4.1.2.1 On-Site Bike Share			
4.1.2.7 Bicycle Valet			
4.1.2.3 Bicycle Community Programming			
4.1.2.4 Bicycle Resource Centers			
4.1.2.5 Bicycle Parking			
4.1.2.6 Showers and Lockers			
4.1.3.1 On-Site Shared Scooters			
4.1.3.2 Scooter Share Memberships			
4.1.3.4 On-Site Car Share			
4.1.3.4 Car Share Memberships			
4.1.4.1 Parking Pricing			
TDM MEASURE (CONT'D)	TARGET AUDIENCE		
	RESIDENT	EMPLOYEE	VISITOR
4.1.4.2 Real-Time Parking information			
4.1.4.3 Unbundled Parking			
4.1.5.1 In-Building Concierge Services			
4.1.5.2 Coordinated Delivery Services			
4.1.5.3 CSA Partnerships			
4.1.5.4 Cold and Dry Delivery Storage Space			
4.1.5.5 Convenient Zones for Loading			
4.1.5.6 Childcare Services			
4.1.5.7 Collaborative Work Space			
4.1.5.8 Affordable Housing			
4.1.6.2 Mobile-Friendly Website			
4.1.6.3 Site-Wide Transportation Staff			
4.1.6.1 Signage and Wayfinding			
4.1.6.4 Improved Walking Conditions			

Target audience for each TDM program



05

EVENT MANAGEMENT

The energy and excitement generated by people visiting parks and event venues will be part of what makes Mission Rock a fun and interesting place to live, work, and play.

These visitors will bring the area to life throughout the year. Mission Rock will be designed and actively managed to maximize the best aspects of festivities in these spaces while responsibly managing the potential inconveniences that large crowds can cause. This

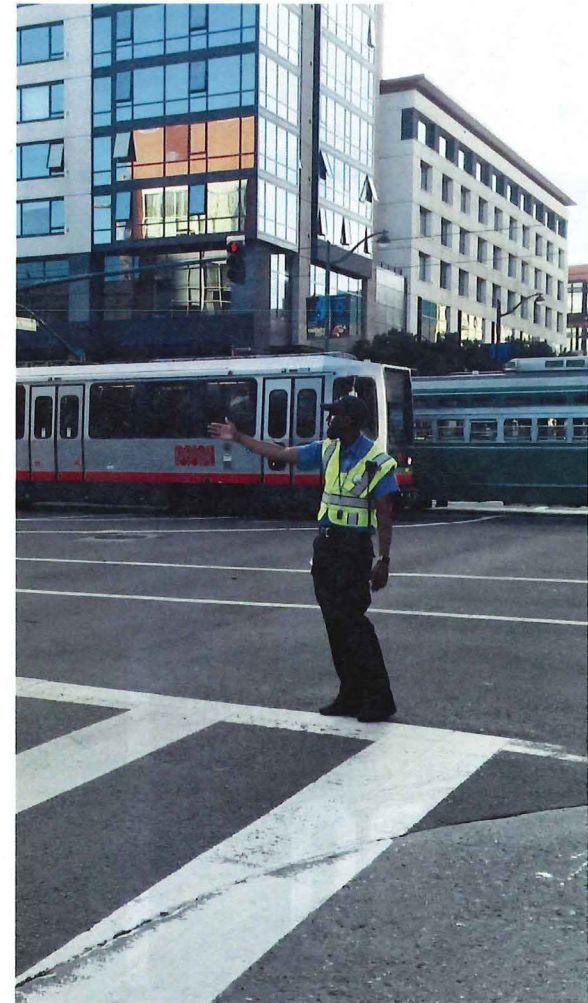
chapter outlines the basic site's anticipated approach to managing pedestrian activity, vehicle flows, and bicycle parking around them to ensure that residents and employees can enjoy the energy without the hassle.

As the team has since it moved to AT&T Park in 2000, the San Francisco Giants will continue to work closely with the City and with citizens advisory committees in the area to manage the effects of event crowds on surrounding neighborhoods, through measures like deploying traffic control officers (known in San Francisco as parking control officers, or PCOs). In addition to such measures, the Mission Rock transportation staff might also be empowered to take additional actions like closing on-site streets or individual lanes to vehicle traffic and encouraging the use of non-auto modes for travel to on-site events.

This chapter describes how these types of strategies might be combined for three scenarios, representing the likely range of common events: A primary event at AT&T Park (35,000+ attendees), a secondary event at AT&T Park (15,000 to 35,000 attendees), and on-site events in China Basin Park, Mission Rock Square, or potential event venues in Pier 48 or Block E (500 to 4,000 attendees). A more detailed Event Management

Plan will be developed in concert with City agencies before construction of the first phase of the project, and it will be updated ahead of each subsequent phase of the site's build-out. The Event Management Plan will include the topics listed in the table of contents referenced below.

Given their storage-space needs, automobiles naturally pose challenges for organizers of any large event. As such, most scenarios include some restrictions on vehicle movement through the site, and the TDM Plan's efforts to reduce reliance on single-occupancy vehicles for travel to and from the site will be particularly crucial during these times. However, some vehicle movement will be accommodated. An up-to 3,000-space parking garage at the southwest corner of the site will serve as AT&T Park's main parking facility, replacing the surface lot on which Mission Rock will be built. During AT&T Park and Mission Rock events, curb space around the site will also provide important capacity for passenger loading.



Parking control officers (PCOs) (NELSON\NYGAARD)

EVENT MANAGEMENT PLAN TOPICS

An Event Management Plan will be developed for submission and approval as part of the first phase application for the Mission Rock site, then updated and submitted (for informational purposes) as part of each subsequent phase application. The plan will cover all events on-site at Mission Rock. Section V will identify the full universe of potential TDM and traffic management strategies. The subsets of such strategies that will apply to different events (by size/type and location) will also be identified in Section V.

I. Introduction

- a. Purpose of the Document
- b. Goals of the Mission Rock Event Management Program

II. Mission Rock Project Update

- a. Description of Current Phase Land Use
- b. Description of Cumulative Project To Date
- c. Interim Transportation Network (Phases 1-3 only)

III. Transportation Context

- a. Transit Network
- b. Bicycle and Pedestrian Networks
- c. Key Local and Regional Roadways
- d. Parking Facilities

IV. Events at Mission Rock

- a. On-Site Event Venues
- b. Characteristics of Potential Event Types (would include: location, event format/type, number of attendees, likely days of week, likely times of day, attendee arrival/departure windows and concentrations, estimated attendee trips linked with other nearby events/land uses, and likely frequency)
- c. Project Phasing & Implications for Events
 - i. Phase I
 - ii. Phase II
 - iii. Phase III
 - iv. Phase IV

d. Relationship with Other Venues and Potential Events in the Area

- i. Other Venues and Event Types
 - 1. AT&T Park
 - 2. Chase Center

ii. Concurrent Events: Type and Frequency of Overlaps

V. Managing On-Site Event-Related Travel Demand

- a. Desired Outcomes
 - i. Ensure Safe Conditions for Pedestrians and Cyclists
 - ii. Avoid Transit Delays Related to Garage Queuing Impacts
 - iii. Minimize Mission Bay Traffic Impacts during Sensitive Times

b. Universe of Event-Specific TDM and Traffic Management Tools

- i. Transportation Demand Management Strategies (e.g. communications/information distribution, temporary or permanent multimodal wayfinding, incentives/disincentives for using particular modes at particular times, etc.)
- ii. Traffic Control Strategies (e.g. curb management, the use of temporary or permanent static and/or dynamic signs, PCOs, traffic flow/lane adjustments, other strategies to prevent transit delays on T-Third & support safety of all users, etc.)

c. Matrix: Event Types + Tools/Strategies To Be Used + Responsible Party/ies + Additional Considerations

d. Event-Specific Nuances (as applicable; e.g. differences in the location of PCOs, differences in the use of dynamic or temporary signage, differences for events on different days/at different times, at different phases of build-out, etc.)

e. Emergency Vehicle Access/Circulation On-Site

f. Event-Related Loading & Servicing

g. Managing Concurrent Event Scenarios: Coordinating with Other Venues through Ballpark Mission Bay Transportation Coordinating Committee (BMBTCC) and/or Other Applicable Body

VI. Implementation and Refinement

a. Mission Rock Transportation Coordinator Responsibilities

b. Coordinating with City Agencies

- i. Port of San Francisco (e.g. manage efforts to involve relevant city agencies, staff-level approval with rest of relevant phase application materials)
- ii. San Francisco Municipal Transportation Agency (e.g. involved in development of initial content, involved in approval process)

c. Coordinating with Venue Managers and Neighborhood through BMBTCC and/or Other Applicable Body

d. Monitoring and Plan Refinement

* Note that while this plan will focus on events on-site at Mission Rock, there is a separate event-management plan in place to manage traffic associated with AT&T Park.

5.1 PRIMARY EVENTS

AT&T Park, 35,000 to 40,000+ Attendees

A primary event at AT&T Park will be the most common scenario, occurring between 80 and 100 times per year, depending on whether the Giants make the playoffs and on how many non-baseball events (like concerts or other sporting events) AT&T Park hosts.

5.1.1 MANAGEMENT STRATEGIES

Parking Pricing

As noted in Chapter 4, it is anticipated that the Mission Rock garage will be actively managed around event times to ensure that there is space available for AT&T Park event attendees. To encourage regular users of the garage to find alternative ways to get to the site on event days, parking prices could be raised during a period covering a few hours before and after AT&T Park events. This approach has already been successfully employed to manage parking demand in the existing main AT&T Park lots, Lot A and Pier 48. People arriving at the garage around event times could pay a flat event rate that might amount to a total that is higher than typical hourly rates would be (i.e. if the event period is six hours long, the flat event rate would exceed the total cost of parking for six hours at typical hourly rates).

Vehicle Flows and Curb Space

Vehicular circulation through Mission Rock could be restricted during primary events in anticipation of high pedestrian volumes through the site. The Shared Public Way is a particularly critical north-south pedestrian route, providing the most direct path of travel between the main garage and the ballpark. As such, it is anticipated that the street would be closed



Giants games at AT&T Park regularly sell out, bringing a festive atmosphere to the neighborhood

to vehicle traffic around major event times. Right turns from Mission Rock Street to 3rd Street could also be prohibited before events, to reduce volumes on Mission Rock Street in front of the Public Safety Building. Left turns into and out of the site at 3rd Street's intersections with Long Bridge will be prohibited at all times. The eastern-most lane on 3rd Street between Exposition and King streets will also likely be closed before and after events, as it is today, to facilitate the movement of large volumes of pedestrians near the ballpark.

Traffic flows will be actively managed through PCOs and strategically placed signs, and garage entrances and exits will be managed to allow for efficient processing of major vehicle flows. To ensure that emergency vehicles have clear access to Public Safety Building driveways on the south side of Mission Rock Street, keep clear zones will be maintained and could be reinforced by one or more PCOs. Traffic flows on Mission Rock Street could also be managed to maintain an open lane for potential emergency vehicle movement. Event vehicles will also be encouraged, via signs and PCOs strategically located at points south of

the site, to enter and exit the area via Terry A. Francois Boulevard. Specific PCO locations will be determined by the SFMTA with the goal of supporting pedestrian safety, limiting impacts on transit, and keeping intersections clear of vehicles.

Most vehicular circulation through the site is expected to be for passenger pick-up and drop-off. Key passenger loading locations will include the north side of Exposition Street and the east side of the block of 3rd Street just north of Exposition Street. Primary loading zones for people with mobility limitations include the east side of 3rd Street north of Exposition Street and an accessible loading zone on Exposition Street between the Shared Public Way and Bridgeview Street.

To manage vehicle movement at points of potential conflict between modes, this plan recommends the use of PCOs in key places along 3rd Street and through the site, including the intersections of Mission Rock and 3rd, Mission Rock and Bridgeview, and Mission Rock and Terry A. Francois Boulevard, and the 3rd Street crossing just south of Lefty O'Doul Bridge.

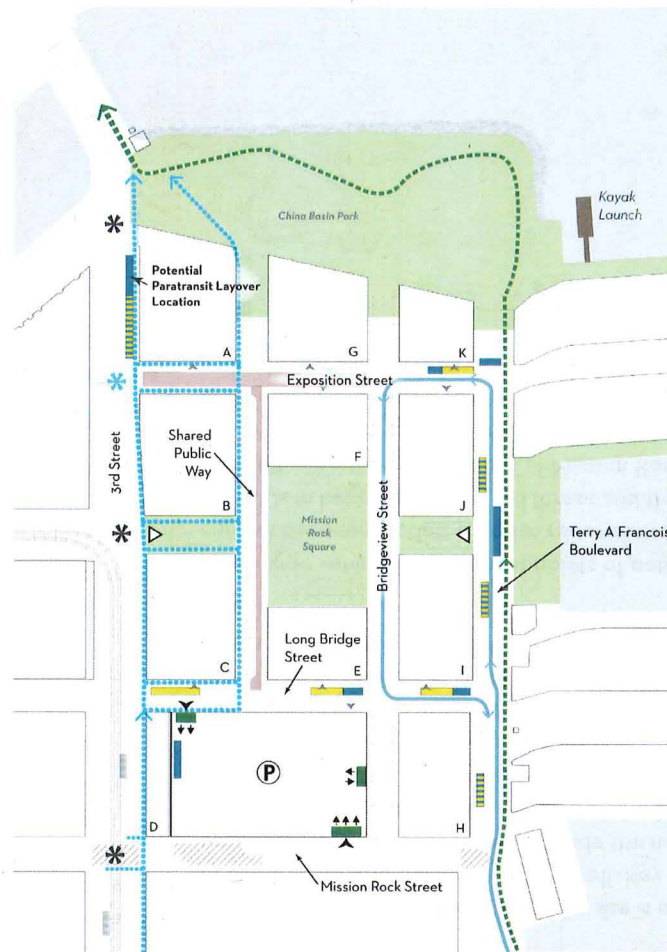
Pedestrians

It is anticipated that all pedestrian paths of travel will be open, but pedestrian activity is likely to concentrate along the Shared Public Way and 3rd Street, the two key north-south routes between Long Bridge Street and the ballpark.

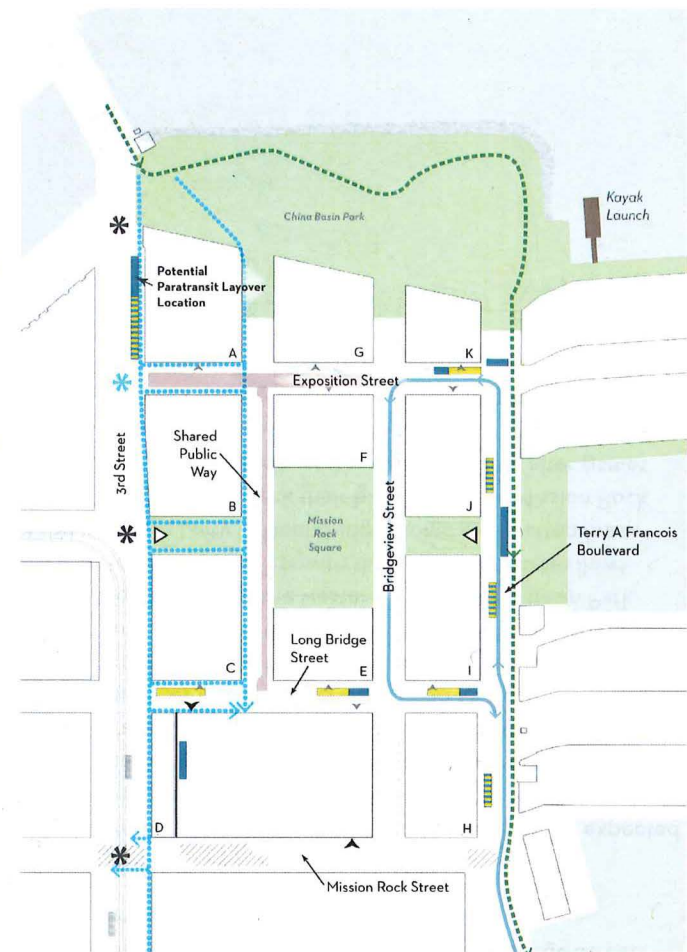
Bicycles

Primary bicycle flows south of China Basin are expected to be along the San Francisco Bay Trail to and from bicycle parking facilities immediately around AT&T Park. Some cyclists may also use Bridgeview Street, but they might be less likely to do so than in normal conditions due to larger numbers of vehicles turning into and out of the garage. Cyclists will be encouraged to dismount at the western end of China Basin Park to reduce conflicts with the heavy pedestrian flows across Lefty O'Doul Bridge. Some event attendees will also likely lock their bicycles on the Mission Rock site, to visit on-site restaurants before or after games or to avoid crowds closer to the venue. An additional ballpark bicycle valet facility could also be located on the Mission Rock site, if usage of the main valet facility warrants it.

- Key Pedestrian Routes
- Primary Bicycle Route
- ← Primary Passenger Loading Flow
- ADA-Accessible Loading
- Commercial Deliveries Only
- ▨ Time-Limited Commercial Loading
- Closed to Vehicular Traffic
- ✱ Existing Traffic Signal
- ✱ Planned Traffic Signal
- ⬮ Potential Traffic Control Officer Location
- ⬮ Garage Lanes
- ▲ Planned Driveway
- ▲ Potential Driveway
- ▨ Keep Clear Zone
- ▷ Access to Below-Grade Parking (if provided)



Pre-event circulation patterns



Post-event circulation patterns

5.2 SECONDARY EVENTS

AT&T Park, 15,000 to 35,000 Attendees

Circulation patterns at Mission Rock are anticipated to be similar around smaller events at AT&T Park. The Shared Public Way could be closed, and the relative intensity of different vehicle flows should be consistent with the basic patterns seen for the biggest events at the ballpark, though overall flows should be much smaller. Bicycle and pedestrian circulation patterns are also expected to be consistent with those anticipated for larger events.

Given lower levels of expected parking demand, it is anticipated that the garage at the southwest corner of the site would generally not need to use flat-rate event pricing around secondary events. Event attendees would be able to park in available spaces as long as spaces are available. However, communications related to AT&T Park events would likely still encourage the use of other modes to access the ballpark, in the interest of reducing congestion and parking demand overall.



Concert at AT&T Park (FLICKR USER REBECCA WILLIAMSON)



Stern Grove concert series (HELSON/NYGAARD)

5.3 ON-SITE EVENTS

Mission Rock, 500 to 4,000 Attendees

Mission Rock will have two spaces equipped to host large events. The Great Lawn in China Basin Park will have room to host concerts, movie nights, and other large gatherings. Mission Rock Square will likely host a broader range of events, from staged performances to farmers markets or craft fairs, with thousands of people flowing through the space over a several-hour period.













The garage at the southwest corner of the site's parking prices could be converted to event rates for a period covering several hours before and after the biggest events, to discourage use by regular users.

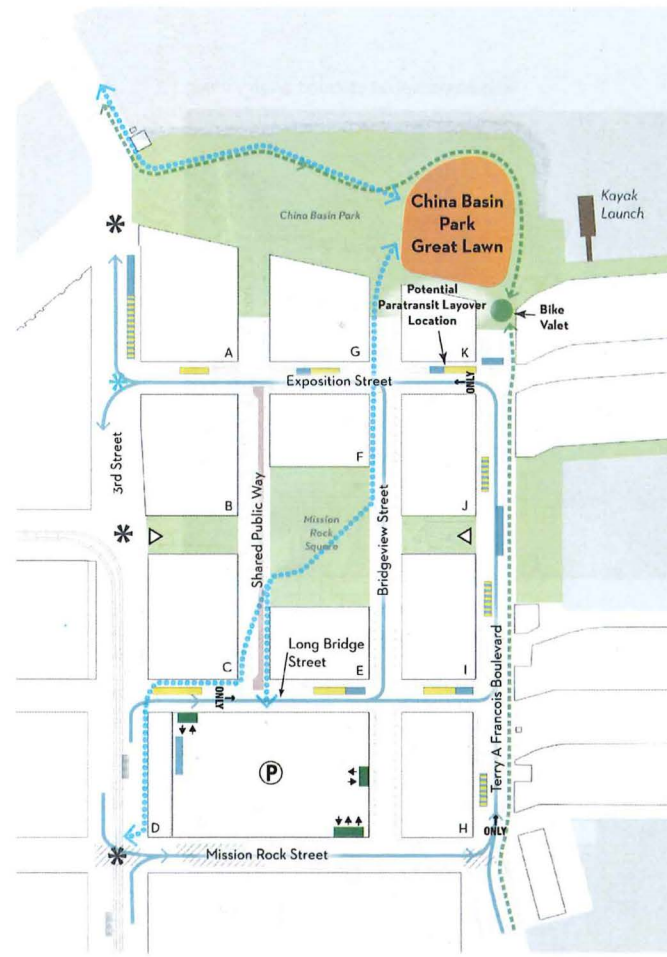
5.3.1 CHINA BASIN PARK EVENT

5.3.1.1 Vehicle Circulation and Passenger Loading

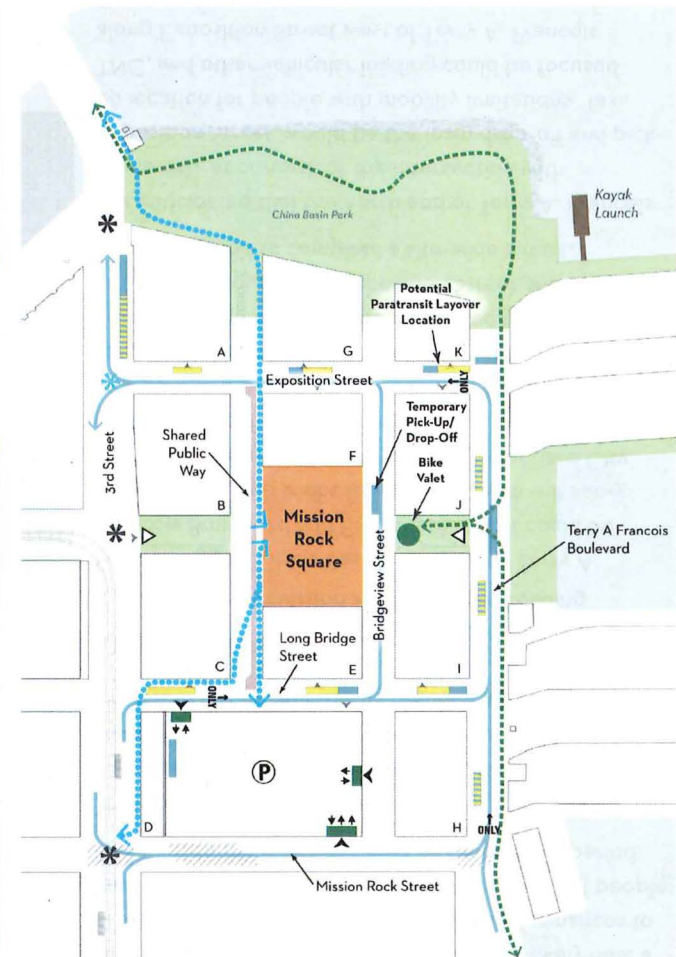
For the biggest China Basin Park events, Terry A. Francois Boulevard and Exposition Street could be closed to through traffic (the project team will apply for street closure permits through the standard City process), with the streets reserved for event-related pick-up and drop-off. To make vehicle flows predictable for pedestrians crossing these key streets, Terry A. Francois Boulevard could be converted to a one-way street northbound, and Exposition Street could be one-way westbound to complete a site-wide circuit.

It is anticipated that the north end of Terry A. Francois Boulevard, at or north of the intersection with Exposition Street, would be the main drop-off and pick-up location for people with mobility limitations. Taxi, TNC, and other vehicular loading could be focused along Exposition Street west of Terry A. Francois Boulevard.

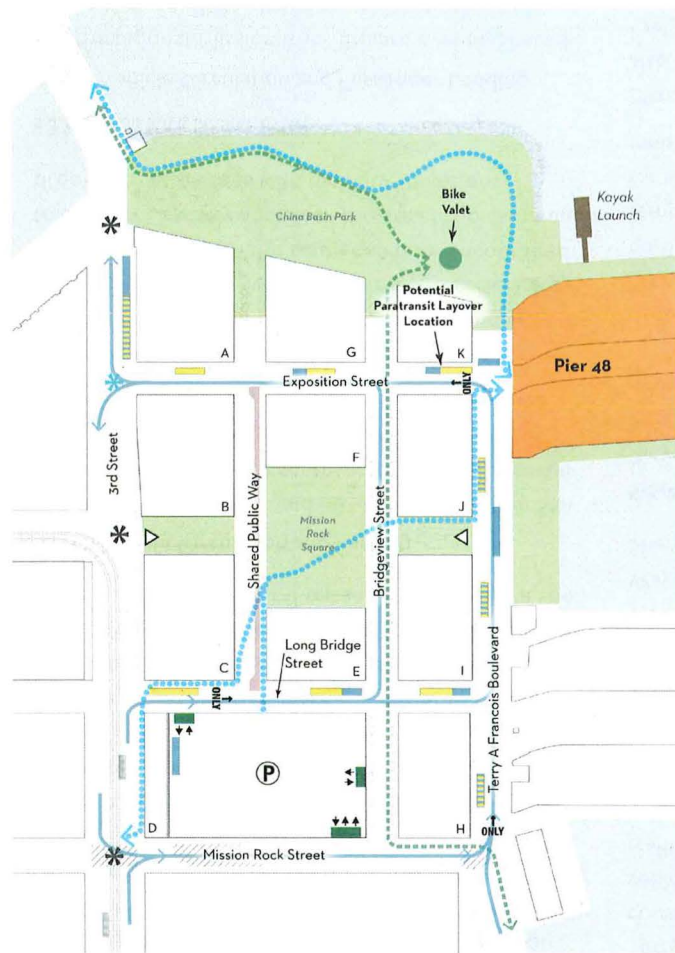
-  Passenger Pickup & Dropoff
-  ADA-Accessible Loading
-  Commercial Deliveries Only
-  Closed to Vehicular Traffic
-  Existing Traffic Signal
-  Potential Traffic Signal
-  Garage Entry Lane Open
-  Garage Exit Lane Open
-  Planned Driveway
-  Potential Driveway
-  Keep Clear Zone
-  Access to Below-Grade Parking (if provided)



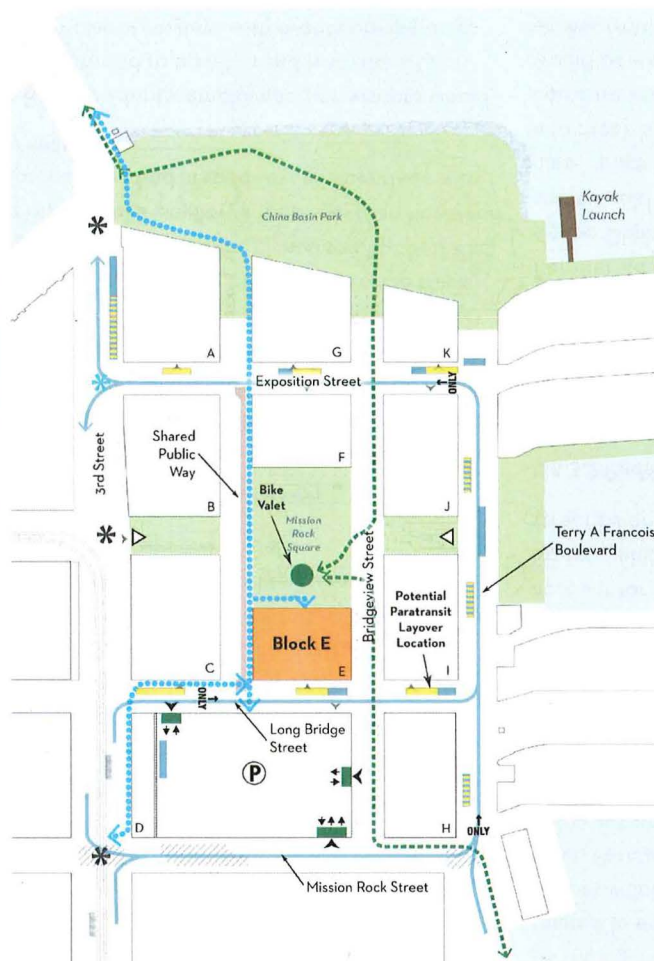
China Basin Park event circulation patterns



Mission Rock Square event circulation patterns



Event circulation patterns for potential event venue at Pier 48



Event circulation patterns for potential event venue at Block E

- Passenger Pickup & Dropoff
- ADA-Accessible Loading
- Commercial Deliveries Only
- Closed to Vehicular Traffic
- Existing Traffic Signal
- Potential Traffic Signal
- Garage Entry Lane Open
- Garage Exit Lane Open
- Planned Driveway
- Potential Driveway
- Keep Clear Zone
- Access to Below-Grade Parking (if provided)

5.3.1.2 Pedestrian Circulation

Pedestrian traffic is likely to focus along two major routes: 1) through China Basin Park and up 3rd Street to/from the Caltrain terminal at 4th and King streets and toward BART on Market Street, and 2) through the site to/from the parking garage and the Muni light rail station on 3rd Street south of Channel Lane. Flows through the site can be expected to concentrate on Bridgeview Street north of Mission Rock Square, in the square, and along the Shared Public Way and Long Bridge Street, en-route to the parking facility and the Muni station at the southwestern corner of the site. PCOs may be helpful on Exposition Street at Shared Public Way and Bridgeview Street, to enable vehicles picking up or dropping off passengers to exit the site.

5.3.1.3 Bicycle Circulation and Parking

Bicycle valet facilities could be located along the San Francisco Bay Trail, just southeast of the event space, and cyclists will also be able to use the network of public bicycle parking spaces throughout the site.

Cyclists from the north could be encouraged to dismount at the edge of China Basin Park and walk their bicycles around the event space to the bicycle valet facility. Cyclists from the south could be encouraged to dismount as they approach the area for pick-up and drop-off of attendees with mobility limitations.

5.3.2 MISSION ROCK SQUARE EVENT

5.3.2.1 Vehicle Circulation and Passenger Loading

For the biggest Mission Rock Square events, Shared Public Way could be closed to vehicle traffic (with

appropriate City permits), and Bridgeview Street between Long Bridge and Exposition streets will be closed to all but pick-up and drop-off of people with mobility limitations. As for China Basin Park events, Terry A. Francois Boulevard and Exposition Street could create a one-way loop for taxi, TNC, and other vehicular drop-off, and they could be closed to through traffic.

5.3.2.2 Pedestrian Circulation

Major pedestrian flows to transit nodes north and northwest of the site are anticipated to follow the Shared Public Way through China Basin Park to 3rd Street. Flows southwest to the main garage and the T-Third Muni light rail stop would follow Shared Public Way to the south and Long Bridge Street between Shared Public Way and 3rd Street.

5.3.2.3 Bicycle Circulation and Parking

Bicycle valet could be located on Channel Lane east of Mission Rock Square. The main flows of cyclists from points south would follow the San Francisco Bay Trail to Channel Lane. Temporary signage at the north end of the site would encourage cyclists to follow the San Francisco Bay Trail to Channel Lane. The cycle track on Bridgeview Street could be closed to bicycle traffic temporarily, to make way for large pedestrian flows and for the primary loading area for event attendees with mobility limitations.

Mission Rock residents, employees, and visitors would also be encouraged to travel to and from the site on foot, bike, or transit on days with events on-site or at AT&T Park. Site transportation staff would keep and

prominently display a calendar of major events as a planning resource for regular users of the site.

5.3.3 EVENTS IN POTENTIAL VENUES AT PIER 48 AND BLOCK E

As the figures on page 63 show, circulation patterns related to events at potential Pier 48 and Block E event venues would be similar to those for events at China Basin Park and Mission Rock Square respectively. The following subsections describe slight differences.

5.3.3.1 Vehicle Circulation and Passenger Loading

For events at Pier 48, vehicular circulation through the site are anticipated to be the same as for events at China Basin Park. For events at Block E, paratransit loading could be moved to Long Bridge Street. To account for increased flows of cyclists along Bridgeview Street, vehicles could be discouraged from using that street by on-site personnel or temporary signs.

5.3.3.2 Pedestrian Circulation

Pedestrian flows are expected to be broadly similar to those for China Basin Park (Pier 48 events) and Mission Rock Square (Block E events).

5.3.3.3 Bicycle Circulation and Parking

For Pier 48 events, bicycle valet services could be sited on the China Basin Park Great Lawn. Cyclists from the south could be encouraged to use Bridgeview Street, to clear space for pedestrian circulation between Pier 48 and Block K. For Block E events, bicycle valet services could be sited in Mission Rock Square, and cyclists would be expected to gravitate to Bridgeview Street for access from both north and south.

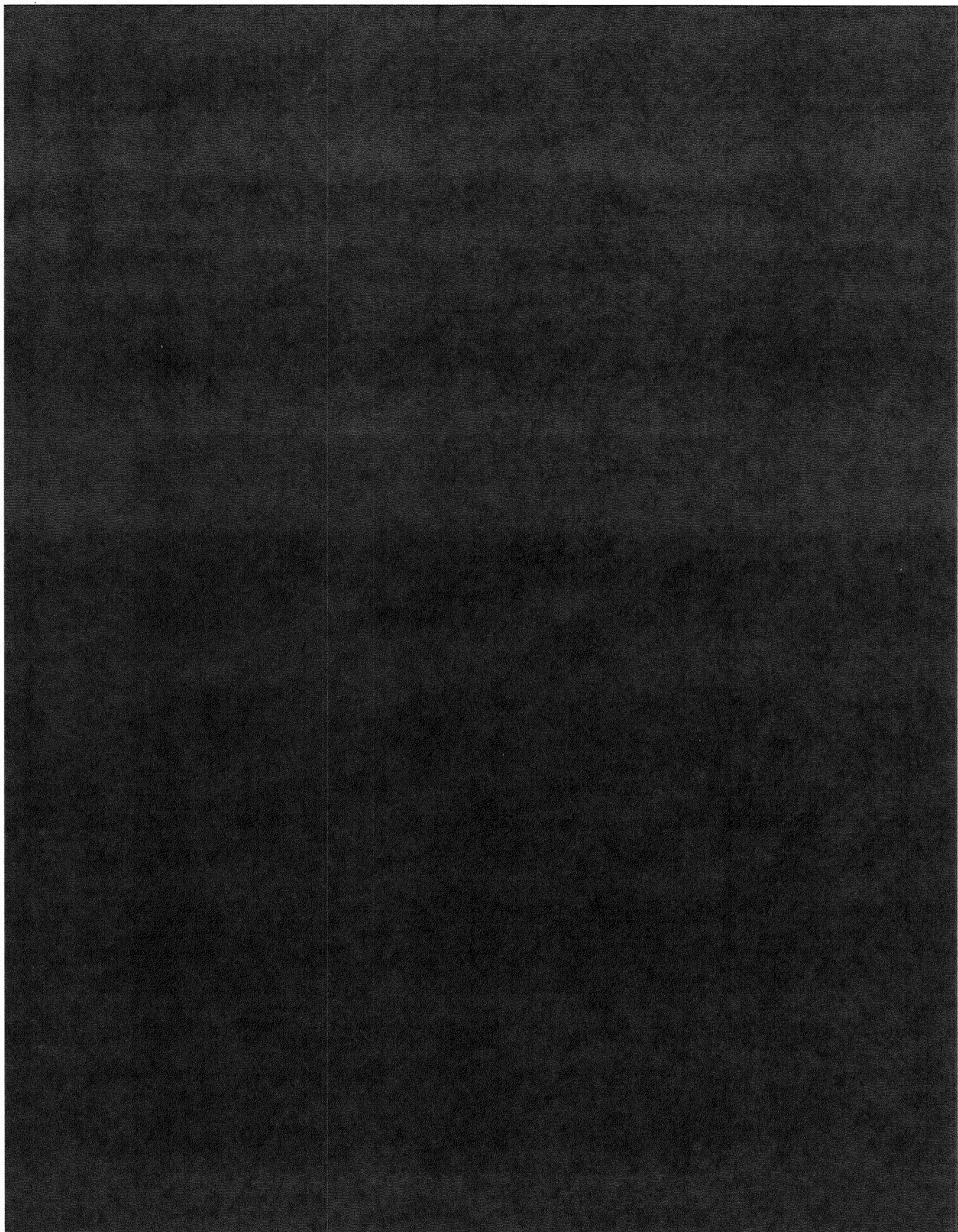
5.4 CONCLUSIONS

Those who live and work near AT&T Park enjoy the exciting, festive atmosphere created by such a premiere urban event space, and they also know it takes some extra planning to make trips to and from the area as smooth as possible. The Giants and the transportation staff at Mission Rock will work hard to aid in this planning by providing users of the site ready access to an abundance great information and a range of travel choices.

In the same spirit, the Giants and the Mission Rock team are committed to working with neighborhood organizations to responsibly manage event-related transportation conditions and make sure inconveniences related to events are kept to a minimum.



AT&T Park and Mission Rock



"TDM Plan"

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MISSION ROCK TRANSPORTATION DEMAND MANAGEMENT PLAN

December 2017



MISSION ROCK TRANSPORTATION DEMAND MANAGEMENT PLAN
Seawall Lot 337 Associates, LLC

Table of Contents

	Page
1 Overview.....	1
Development Context and Design Profile	1
Why Transportation Demand Management	3
Plan Overview.....	4
2 Planned Measures	5
Transit Measures	10
Bicycle Measures.....	12
Personal Motorized Vehicle Measures	16
Parking Measures	19
Building Measures.....	22
All-Realm Measures.....	26
3 Marketing and Communications.....	28
Site-Wide Transportation Staff.....	28
Mobile-Friendly Mission Rock Website	29
Signage and Wayfinding.....	30
Communication Timeline.....	33
4 Monitoring and Compliance with SF TDM Ordinance.....	37
San Francisco TDM Ordinance Compliance.....	37
TDM Plan Monitoring and Reporting	40

Table of Figures

	Page
Figure 1 Mission Rock Context Map.....	2
Figure 2 Estimated Vehicle Trip Generation and Trip Reduction Goal.....	3
Figure 3 Summary of Planned TDM Measures by Mode.....	6
Figure 4 TransitScreen Display in an Office Lobby	10
Figure 5 Ford GoBike Bike Share Dock.....	12
Figure 6 Bike Center, Millenium Park, Chicago.....	15
Figure 7 Scoot Networks	17
Figure 8 Dynamic Parking Signage, SoMa.....	21
Figure 9 Co-Working Space	25
Figure 10 Sample Site-Wide Transportation Website, Mountain View Transportation Management Association (TMA)	30
Figure 11 Area Wayfinding Signage – London, UK.....	31
Figure 12 Bike Route and Parking Signage.....	32
Figure 13 Residential Communications Touch Points	34
Figure 14 Employee Communications Touch Points	35
Figure 15 Visitor Communications Touch Points	36
Figure 16 Comparing Mission Rock TDM Measures to Ordinance Measures, with Estimated Point Values	38

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TDM PLAN MONITORING AND REPORTING

With the 20% trip reduction goal in mind, Mission Rock will monitor vehicle trips to and from the site for all buildings that have received a Certificate of Occupancy, and compare these vehicle trips to the aggregate daily one-way vehicle trips anticipated for the those buildings based on the trip generation rates specified in the EIR supporting documents.

Monitoring will include the following elements:

- **Trip counts and intercept surveys.** This will consist of site-wide counts of persons and vehicles arriving and leaving the project site on a non-ballgame or major event day. Counts will take place over at least two days between 6 a.m. and 8 p.m.
- **Travel demand information.** The trip count and intercept survey data will provide the key inputs to calculating travel demand for the site in line with the San Francisco Planning Department's transportation impact analysis guidelines.
- **Documentation of Plan implementation.** Mission Rock transportation staff will document the implementation of the TDM Plan's elements.

Timeframe for Monitoring

Per commitments made under the EIR, Mission Rock transportation staff will monitor and adjust the TDM Plan accordingly until 1) the Development Agreement expires, or 2) the site meets the reduction goal for up to eight consecutive reporting periods, whichever comes first. This monitoring will begin 18 months after the completion and commencement of operation of the proposed parking garage. After that point, the site transportation staff will submit annual monitoring reports until five consecutive reporting periods show that the reduction goal has been reached. After this point, staff will submit monitoring reports every three years.

If the TDM Plan's measures are not achieving the reduction goal after three consecutive reporting periods, Mission Rock will work with the Planning Department to adjust the program as necessary, which may include refining or removing existing measures, or adding new measures. If Mission Rock has adjusted the TDM program and has not met the reduction goal for up to eight consecutive reporting periods, the project may pay an additional emissions offset fee to address any shortfall in meeting the TDM Plan reduction target. At that point, monitoring and reporting requirements will be lifted.

Program	Ordinance Category	Estimated Point Values by Use		
		Res	Office	Retail
Reduced parking supply				
Real-time information on parking pricing and availability				
In-building concierge services	DELIVERY-1	1	1	
Delivery coordination for online personal services	DELIVERY-1	Covered	Covered	
Partnerships with CSAs				
Cold, dry storage space for grocery and package delivery	DELIVERY-1	Covered		
Family supportive amenities	FAM-1	1		
Convenient loading zones				
Childcare services and facilities	FAM-2	2	2	
Collaborative work space with business services				
Convenient elevator design for bicycles, strollers, wheelchairs, etc.				
On-site affordable housing	LU-2	2		
Site-wide transportation staff	INFO-3	4	4	1
Mobile-friendly Mission Rock transportation website				
Intuitive signage and wayfinding for trip planning across all modes	INFO-1	1	1	1
Improved walking conditions to, from, and within Mission Rock	ACTIVE-1	1	1	1
		21	20	12

There are several measures recommended in this Plan that do not clearly align with any of those specified in documents related to the Ordinance. As noted earlier, many of these measures play important roles in supporting programs that might more directly affect travel behavior. Others may deserve recognition in the City's framework. Regardless, the specifics of Mission Rock's TDM monitoring will be worked out through discussions with the City.

implement measures worth a total of nine points, and each additional two spaces will require another point.

Figure 16 estimates how the Mission Rock TDM Plan rates against the City's TDM Menu of Options and the range of associated point values. As the table shows, the measures included in this Plan are expected to garner 21 points for the residential component of the project, 20 points for the office component, and 12 points for the retail/restaurant component.

Figure 16 Comparing Mission Rock TDM Measures to Ordinance Measures, with Estimated Point Values

Program	Ordinance Category	Estimated Point Values by Use		
		Res	Office	Retail
Real-time transit information and marketing screens	INFO-2	1	1	1
One-time transit subsidies				
Bike share memberships	ACTIVE-4			
Space for on-site bike share				
Bicycle valet beyond code requirements	ACTIVE-7			1
Bike community programming with periodic giveaways				
Bicycle resource center, including vending machine with parts and tools and fix-it station	ACTIVE-5a	2	2	
Secure bike parking in buildings and along desire lines beyond code requirements	ACTIVE-2	2	2	2
Showers and clothes lockers for employees	ACTIVE-3		1	
On-site shared scooters	CSHARE-1	Covered	Covered	Covered
Electric scooter share memberships				
On-site car share parking spaces beyond code requirements	CSHARE-1	2	2	2
Car share memberships				
Market-based off-street parking pricing				
Unbundled parking	PKG-1	2	3	3

4 MONITORING AND COMPLIANCE WITH SF TDM ORDINANCE

A robust monitoring program that allows the site's transportation team to adjust offerings over time is key to the success of the Mission Rock TDM Plan. Monitoring will allow the Mission Rock team to better understand the effects of different measures on travel behavior and determine how programs are meeting the needs of residents, employees, and visitors.

The objectives of an annual monitoring program are:

1. To measure progress toward achieving, or retaining, compliance with the TDM's goal of reducing estimated aggregate daily one-way vehicle trips by 20%⁶; and
2. To identify the most and least effective TDM measures, so that the former can be strengthened and the later can be replaced or significantly improved.

This chapter describes the tools the transportation team will use to effectively monitor the program and ensure that the program complies with City of San Francisco monitoring requirements. It starts with a look at how the TDM Plan compares to the San Francisco TDM Ordinance.

USING THE SAN FRANCISCO TDM ORDINANCE AS GUIDANCE

San Francisco adopted a citywide TDM Ordinance that created a TDM Program for new development in 2017. The goal of the Program is to reduce driving trips associated with new development. The Ordinance calls for development projects negotiated through Development Agreements, such as Mission Rock, to comply with the spirit of the Program, allowing that there may be unique opportunities because of project scale and mixes of use to meet the goals of the Program. Mission Rock's TDM Plan aims to reduce anticipated driving trips by 20% compared with what is estimated without TDM.

At the heart of the Ordinance is a menu of potential TDM measures, with points or credits assigned to different measures based on their documented effectiveness. Developers are required to implement measures that get them to a point total established based on the number of net new parking spaces planned as part of a given project. For example, residential and office projects with 20 or fewer parking spaces (including zero) need to implement measures with point values adding up to 13 points; each additional 10 spaces require projects to generate an additional point through additional TDM efforts. Retail projects with four or fewer spaces (including zero) need to

⁶ This goal is a 20% reduction compared to the aggregate daily one-way vehicle trips identified in Mission Rock's travel demand memo prepared by Advant Consulting, dated June 30, 2015.

MISSION ROCK TRANSPORTATION DEMAND MANAGEMENT PLAN
Seawall Lot 337 Associates, LLC

Figure 15 Visitor Communications Touch Points

	Planning Trip to Site	(For Event Attendees) Purchase Tickets	Arrive on Site	Ongoing Time Spent on Site	Planning to Leave Site
Website	Use of public-facing website, including embedded trip-planning tools and parking pricing and availability information	Opportunity to receive tailored point-to-point trip suggestions and information emphasizing parking pricing and limited parking availability at time of ticket purchase	Use mobile-friendly website to understand transportation options, parking pricing and availability information, and maps of site		Use mobile-friendly website to plan onward journey from site
Wayfinding & Signage			Use of dynamic parking pricing and availability signage; use of wayfinding and signage, including kiosks, to navigate to specific destination	Use of wayfinding and signage to navigate to additional destinations	Use of wayfinding and signage, including kiosks, to understand options for onward journey from site and navigate to nearby transit options, as applicable
Site-wide Transportation Staff	Coordinate with retailers and restaurants to post latest transportation information on their websites; maintain site website to ensure any updates to transportation information are readily available				

MISSION ROCK TRANSPORTATION DEMAND MANAGEMENT PLAN
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Figure 14 Employee Communications Touch Points

	Employer Signs Lease at Mission Rock	Employer Move-in Period	Employee Move-In Period	Ongoing: With Employer	Ongoing: With Employees	Ongoing: New Hires
Website	Promote website and all web-based transportation tools through pages or portal aimed at prospective tenants	Receipt of access to special "employer-only" website pages/portals	Employees receive access to special "employees-only" website pages/portal Plan frequent trips and learn about transportation options, sign up for available subsidies or complimentary memberships, as applicable	Ongoing references of website for trip planning tools, information on events and program memberships	Ongoing use of trip planner on website and other website tools	Receipt of access to special "employees-only" website pages/portals Ongoing use of trip planner on website and other website tools
Wayfinding & Signage	View wayfinding and signage when touring site	Presentation regarding available wayfinding	Use of wayfinding and signage to learn about nearby transportation options	Ongoing use of wayfinding and signage	Ongoing use of wayfinding and signage	Presentation regarding available wayfinding
Site-wide Transportation Staff	Discussion of transportation handbook, nearby transportation options, amenities or subsidies as applicable, promotion of trip-planning assistance	Distribution of transportation handbook, one-on-one assistance in planning commute or other trip options, or signing up for transportation programs/memberships	Distribution of transportation handbook One-on-one assistance in planning commute options is made available to new employees	Presentations to share new web or wayfinding functionality, employee-focused TDM programs, and ongoing support structures	Available for questions as they arise	Distribution of transportation handbook Additional one-on-one support is available to plan new routes, etc.

MISSION ROCK TRANSPORTATION DEMAND MANAGEMENT PLAN
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Figure 13 Residential Communications Touch Points

	Pre-Move In & Lease Signing Period	Move-in Period	Establishing Transportation Patterns	Ongoing	Life Change: New Job	Life Change: Family
Website	Promote website and all web-based transportation tools through pages or portal aimed at prospective tenants	Receipt of access to special "residents-only" website pages/portals	Visit website to plan frequent trips and learn about transportation options, sign up for any available subsidies or complimentary memberships, as applicable	Ongoing use of website for trip planning tools, information on events, and program memberships	Return to trip planning tools and information on website	Return of trip planning tools and information on website
Wayfinding & Signage	View wayfinding and signage when touring site	Gain deeper familiarity with the site and surroundings through signage and wayfinding	Use of dynamic wayfinding (kiosks and transit screens) to deepen understanding of nearby transportation options and develop time/schedule patterns	Ongoing use of wayfinding and signage	Renewed use of dynamic wayfinding to deepen understanding of new transportation options given new destination	Renewed use of dynamic wayfinding to deepen understanding of new transportation options given new destination; use of signage pointing to family transportation resources
Site-wide Transportation Staff	Discussion of transportation handbook, nearby transportation options, amenities or subsidies as applicable, promotion of trip-planning assistance	Distribution of transportation handbook, one-on-one assistance in planning commute or other trip options, or signing up for transportation programs/memberships	One-on-one assistance in planning commute or other trip options	Available for questions as they arise	Additional one-on-one support to plan new routes, etc. as needed	Additional one-on-one support to plan new routes, understand family-friendly resources on site, as needed

and the surrounding area, real-time transit screen technology is designed to offer an opportunity to understand transportation options at a quick glance. This would be particularly useful for employees and residents, those who make recurring trips frequently and don't need detailed guidance.

COMMUNICATION TIMELINE

Each of the communication-based TDM measures are pertinent to residents, employees, and visitors at different times during their lifecycle at Mission Rock. As such, it is critical to think strategically about when to share what with each of these key segments.

The mobile-friendly Mission Rock website will be an important avenue for sharing information about programs, policies, and services. It is reasonable to assume that the website will act as a front-line communications vehicle to reach all of those who have or may be interested in having a connection with the site. Signage and wayfinding will be seen on a daily basis and is an important element for users of the development to efficiently navigate Mission Rock. The site-wide transportation staff will provide key information for residents and employees at the time of move-in or hire, and will provide as needed services over time. See Figure 12 through Figure 14 for more detail on the progression of anticipated touch points for transportation-related communication for residents, employees, and visitors of Mission Rock.

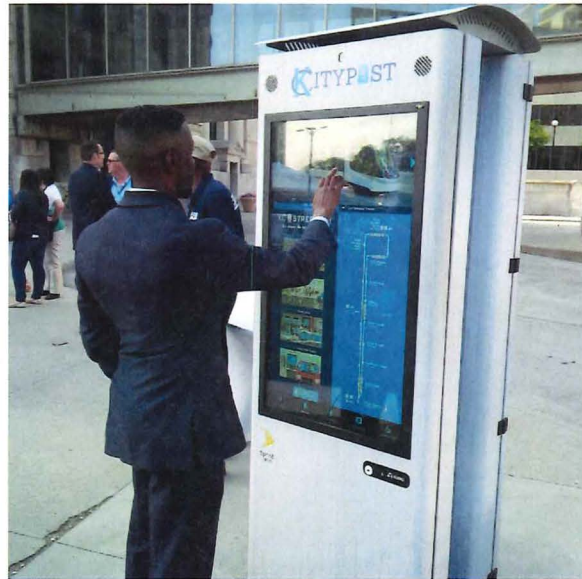
Figure 12 Bike Route and Parking Signage



Source: Nelson\Nygaard, signal-tech.com

Transportation Information Kiosks

Transportation information kiosks can provide centralized locations for relevant transportation information for trips within Mission Rock and to nearby services and attractions. These kiosks could be placed throughout the site, at strategic decision-making locations where residents, employees, and visitors might need the information. For instance, kiosks located at the primary entrances to Mission Rock such as the intersection of Terry Francois Boulevard and Mission Rock Street could include all information necessary to navigate to specific places throughout the site. Similarly, kiosks could be placed in and around primary points of congregation on the site, including China Basin Park and Mission Rock Square. The kiosks could include transit schedules and fare information, walking and cycling routes, real-time transit information, and Ford GoBike dock locations and bike availability.



Source: Kansas City example from transit.dot.gov

It is recommended that these kiosks be digital, interactive displays (as shown in the accompanying image) to allow information to be updated easily and regularly. These boards would be maintained and updated as needed by the transportation staff.

Real-time transit information signage, such as the technology provided by TransitScreen, would be a similar dynamic information-distribution mechanism aimed mostly at residents, employees, and their visitors, located in the site's residential and office building lobbies (see more information on this measure in Chapter 2). While the information kiosks can provide detailed information on transportation options to visitors and others new or unfamiliar with Mission Rock

MISSION ROCK TRANSPORTATION DEMAND MANAGEMENT PLAN
Seawall Lot 337 Associates, LLC

appropriate behavior on each mode. Temporary signage may be used in areas more highly trafficked by residents or employees, to provide information on specific events or programs, such as CSA pick up locations.

Figure 10 and Figure 11 are examples of wayfinding signage used in vibrant, mixed-use areas. The wayfinding signage in Figure 10 offers clear guidance for the nearby area at two different scales while providing clear directional guidance to nearby transportation hubs and popular destinations. Figure 11 offers examples of bike directional signage, as well as digital, dynamic parking availability signage.

Figure 11 Area Wayfinding Signage – London, UK



Source: Andrew Nash, Flickr Creative Commons

MISSION ROCK TRANSPORTATION DEMAND MANAGEMENT PLAN
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should Mission Rock choose to develop a centralized delivery facility. Each of the portals could also provide specific information on costs and multimodal options available for traveling to and from Mission Rock, as well as information on nearby attractions and services and links to citywide or regional information. Figure 9 shows an example of a landing page for this type of website. Advantages of a webpage similar to that shown in the figure include prominent links to a trip planning service, alerts for riders, and individual operator websites for more information.

Figure 10 Sample Site-Wide Transportation Website, Mountain View Transportation Management Association (TMA)



SIGNAGE AND WAYFINDING

Clear, consistent, and predictable signage and wayfinding can help residents, employees, and visitors navigate the site easily. Signage can also bring awareness to important information such as parking prices and availability, bike parking locations, estimates of bike and pedestrian travel times, and other information on Mission Rock programs or services. Simply providing information on non-motorized travel prominently can increase the likelihood that people will select biking or walking as their mode of transportation.

The efficacy of signage and wayfinding is dependent of the design and placement of signs. Signage should be clear and provide relevant information at key decision points in people's journeys, in areas that are highly visible, and in clear lines of sight. For instance, when entering the site, cyclists should be able to clearly understand the route options along Terry Francois Boulevard, Exposition Street, and Bridgeview Street. This signage will be especially important for safety along the shared public ways, to ensure that users understand the encouraged forms of travel and

MISSION ROCK TRANSPORTATION DEMAND MANAGEMENT PLAN

Seawall Lot 337 Associates, LLC

- Commute trip planning information, including links to the regional 511 Rideshare program
- Clipper card and vehicle (including car, bike, and scooter) share membership subsidies and parking policies
- Information on accessing other TDM program details and amenities, such as the in-building storage facilities
- Walking and biking routes within the area, estimated walk and bike times to key locations, including transit hubs, and a link to the San Francisco bike map
- Local transit options and schedules, including links to Muni, BART, and Caltrain schedules, route maps, and existing trip planner mobile applications

It is envisioned that this handbook would be distributed to all prospective residential tenants and all prospective employees who receive an offer to work within the development. It might also be included as a component of resident and employee welcome packets or employee orientation. The information provided in the handbook, as well as relevant website addresses, may also be posted in prominent locations for all residents and employees, such as apartment lobbies or lunchrooms. Print materials with information on various programs, maps, and amenities could also be provided to the in-building concierge staff for easy distribution when questions arise.

The transportation coordinator will also be responsible for supporting employers by providing information and guidance regarding tools and programs for flex work or telecommuting.

To make sure information stays useful to residents and employees over time, it is important that Mission Rock transportation staff keep all information and materials up to date and relevant.

MOBILE-FRIENDLY MISSION ROCK WEBSITE

Mobile-friendly websites are an easy way to create a dynamic and engaging repository for transportation information, point-to-point navigation tools, travel suggestions, user engagement campaigns, and other efforts to raise awareness of alternatives to drive-alone travel options and residents, employees, and visitors to use them. In addition to supporting the information already provided in the resident and employee handbook, this website could include the following:

- Real-time transit information
- Real-time parking pricing and availability information
- Notifications of upcoming transportation-related events, such as bike parties and farmers' markets, and alerts
- Integration with internet delivery services for ordering
- Registration for car share, bike share, and/or scooter share memberships
- Room reservations for the collaborative workspace
- On-site childcare services enrollment
- Specific pages or portals for residents, employees, and visitors so that each of these audiences has access to the appropriate and relevant travel information
- Functionality which allows for tracking travel behavior and enables gamification for incentives

Establishing specific portals for each audience can allow for the delivery of targeted, individualized TDM information for each of the audience groups. For example, the resident and employee portals could have features to receive notifications for coordinated delivery services,

3 MARKETING AND COMMUNICATIONS

A strong communication measure is critical to the success of any TDM program, ensuring that residents, employees, and visitors receive information about relevant resources and incentives at appropriate times and through channels that are easily accessible. Incorporating consistent branding into all communications can help create a sense of place and establish a cohesive identity for the transportation program. Branding can be used to support marketing and communication efforts, particularly on signage and wayfinding, to emphasize that residents, employees, and visitors can travel seamlessly through the area.

The Plan anticipates that Mission Rock will likely have three main channels for transportation-related communications: Its site-wide transportation staff, a mobile-friendly web portal for site users, and physical signage and other wayfinding mechanisms on site. This section includes examples of communication tactics and channels to illustrate how specific channels can help reach target audiences. Given the diverse mix of ways different people process information, any good communications plan relies on a mix of measures and channels. The Communications Timeline section matches the mix of channels outlined in this section to the key audiences for the information: residents, employees, and visitors.

Communications technology and norms are changing rapidly, and as such, this portion of the Plan will necessarily be updated as the projects approaches first occupancy. As such, the details for each of these measures are presented as a set of recommendations. Regardless of how they are implemented, these measures remain part of the TDM Plan.

SITE-WIDE TRANSPORTATION STAFF

Mission Rock transportation staff would be responsible for maintaining information about TDM programs and acting as a point of contact to assist residents, employees, and visitors with transportation-related questions, concerns, or general assistance. The Mission Rock team envisions that a transportation coordinator would have the authority to implement TDM measures, oversee the management and marketing of all measures, and monitor success of the TDM program. Whether the coordinator would need support from additional staff and how large the team would be will be figured out as the communications measure is solidified closer to occupancy.

Transportation staff might also be responsible for compiling a print and/or electronic transportation handbook to be distributed to residents on move-in and employees on hiring. This handbook could include information on transportation programs, policies, and service options, in addition to the following information:

- Transportation staff contact information, including information for the in-building concierges (if relevant)

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CONSENT TO DEVELOPMENT AGREEMENT
San Francisco Public Utilities Commission

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

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

1. The SFPUC, after considering at a duly noticed public hearing the CEQA Findings for the Project, including the Statement of Overriding Considerations and the MMRP, and consented to and agreed to be bound by this Development Agreement as it relates to matters under SFPUC jurisdiction.

2. The SFPUC affirmed that Vertical Developers will be required to pay the SFPUC Wastewater Capacity Charge and the SFPUC Water Capacity Charge, each at rates in effect on the applicable connection dates.

3. The SFPUC approved:

- a. Developer’s Infrastructure Plan, subject to stated conditions; and
- b. SFPUC acceptance of \$1.5 million as Developer’s fair share contribution to the City’s offsite AWSS system consistent with the Infrastructure Plan, the terms and timing of payment to be established as a condition of approval to the Tentative Map for the Project Site.

4. SFPUC Power.

a. In accordance with Administrative Code chapter 99, the SFPUC has performed a feasibility study and has determined that it will be able to provide electric power to the Project. SFPUC agrees that applicable SFPUC service will be reasonably available to meet the Project’s needs and Developer’s schedule, and that the projected price for applicable SFPUC service and related Utility Infrastructure cost allocations are comparable to rates in San Francisco for comparable service. SFPUC will work with Developer to provide applicable SFPUC service for temporary construction and permanent use pursuant to SFPUC *Rules and Regulations for Electric Service*.

b. Developer understands and agrees that all applicable SFPUC service for the Project Site will be provided by SFPUC Power under the terms of an ESA to be completed between SFPUC Power and Developer. Among other things, the ESA, in addition to the ESA’s standard terms and conditions, will address some or all of the following:

- i. development schedules and milestones for applicable SFPUC service;
- ii. termination rights and costs;
- iii. offsite Utility Infrastructure requirements, development, costs, and any cost allocation;


iv. onsite Utility Infrastructure requirements, development, costs, and cost allocations; and

v. Developer-provided space for SFPUC electric facilities.

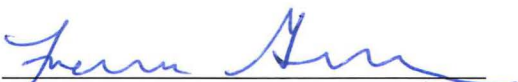
c. The Parties agree to act in good faith to finalize the ESA within 180 days after the Reference Date. If the Parties' good faith efforts do not result in a final ESA within 180 days, the Parties will agree to a reasonable extension of time to complete the ESA. If the Parties' diligent good faith negotiations to enter into an ESA as set forth above are unsuccessful, Developer may elect to pursue alternative service arrangements.

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

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, acting by and through the
SAN FRANCISCO PUBLIC UTILITIES COMMISSION

By: 
HARLAN KELLY,
General Manager

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

By: 
Name: _____
SFPUC General Counsel

San Francisco Public Utilities Commission
Resolution No. 18-0014
Adopted: January 23, 2018

DA EXHIBIT A

Project Site (legal description and diagram)

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LEGAL DESCRIPTION

"MISSION ROCK PROJECT BOUNDARY"

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

A PORTION OF PARCEL "A", AS SAID PARCEL IS SHOWN ON THAT MAP ENTITLED, "MAP OF LANDS TRANSFERRED IN TRUST TO THE CITY AND COUNTY OF SAN FRANCISCO", FILED IN BOOK "W" OF MAPS, PAGES 66 THROUGH 72, INCLUSIVE, OFFICIAL RECORDS OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, AND AS PARCEL "A" IS FURTHER DESCRIBED IN THAT DOCUMENT RECORDED MAY 14, 1976, IN BOOK C169, PAGE 573, OFFICIAL RECORDS OF THE CITY AND COUNTY OF SAN FRANCISCO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT OF INTERSECTION OF THE FORMER WESTERLY LINE OF THIRD STREET (100.00 FEET WIDE) WITH THE FORMER SOUTHWESTERLY LINE OF FOURTH STREET (102.50 FEET WIDE), AS SAID STREET LINES ARE SHOWN ON THAT CERTAIN MAP ENTITLED "AMENDED RECORD OF SURVEY MAP OF MISSION BAY" RECORDED JUNE 3, 1999, IN BOOK "Z" OF MAPS AT PAGES 74-94 INCLUSIVE, IN THE OFFICE OF THE RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO; THENCE ALONG THE PROLONGATION OF SAID LINE OF THIRD STREET N03°10'56"W 88.38 FEET; THENCE N86°49'04"E 88.50 FEET TO AN ANGLE POINT IN THE CURRENT EASTERLY LINE OF THIRD STREET, SAID ANGLE POINT BEING THE TRUE POINT OF BEGINNING; THENCE ALONG SAID EASTERLY LINE OF THIRD STREET N03°10'56"W 1246.87 FEET; THENCE N60°29'05"E 30.88 FEET; THENCE N30°57'35"W 8.34 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHEAST WHOSE RADIUS POINT BEARS S41°05'18"E 69.10 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 43°44'43", AN ARC LENGTH OF 52.75 FEET; THENCE N86°53'23"E 559.17 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST WHOSE RADIUS POINT BEARS S18°03'44"E 94.45 FEET; THENCE EASTERLY AND SOUTHEASTERLY ALONG SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 70°31'42", AN ARC LENGTH OF 116.26 FEET; THENCE S08°44'08"E 121.53 FEET; THENCE N88°56'13"E 46.81 FEET; THENCE S02°57'20"E 79.53 FEET; THENCE N82°56'35"E 602.28 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST WHOSE RADIUS POINT BEARS S26°27'39"W 18.66 FEET; THENCE ALONG SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 64°51'25", AN ARC LENGTH OF 21.12 FEET; THENCE S07°00'11"E 351.44 FEET; THENCE S82°56'35"W 636.37 FEET; THENCE S03°05'29"E 241.14 FEET; THENCE S86°49'04"W 89.91 FEET; THENCE S03°10'56"E 452.85 FEET TO THE EASTERLY PROLONGATION OF THE NORTHERLY LINE OF FUTURE MISSION ROCK STREET (65.25 FEET WIDE); THENCE ALONG SAID EASTERLY PROLONGATION AND ALONG SAID NORTHERLY LINE OF FUTURE MISSION ROCK STREET S86°49'04"W 688.87 FEET TO THE EASTERLY LINE OF THIRD STREET; THENCE ALONG SAID EASTERLY LINE OF THIRD STREET N03°10'56"W 23.36 FEET TO AN ANGLE POINT THEREIN; THENCE ALONG SAID EASTERLY LINE OF THIRD STREET S86°49'04"W 12.50 FEET TO THE TRUE POINT OF BEGINNING.

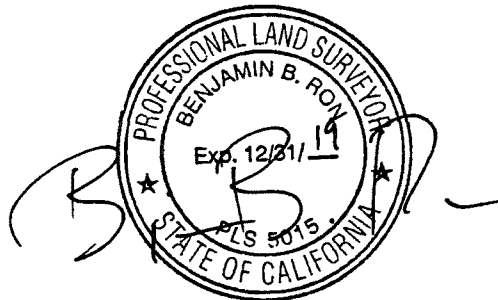
CONTAINING 1,212,853 SQ.FT. OR 27.843 ACRES, MORE OR LESS.

THE BASIS OF BEARINGS FOR THE ABOVE DESCRIPTION IS THE THIRD STREET MONUMENT LINE TAKEN TO BE N03°10'56"W AS SHOWN ON THAT CERTAIN "FINAL MAP" FILED FOR RECORD ON MAY 31, 2005, IN BOOK BB OF MAPS, AT PAGES 6-10 INCLUSIVE, IN THE OFFICE OF THE RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO.

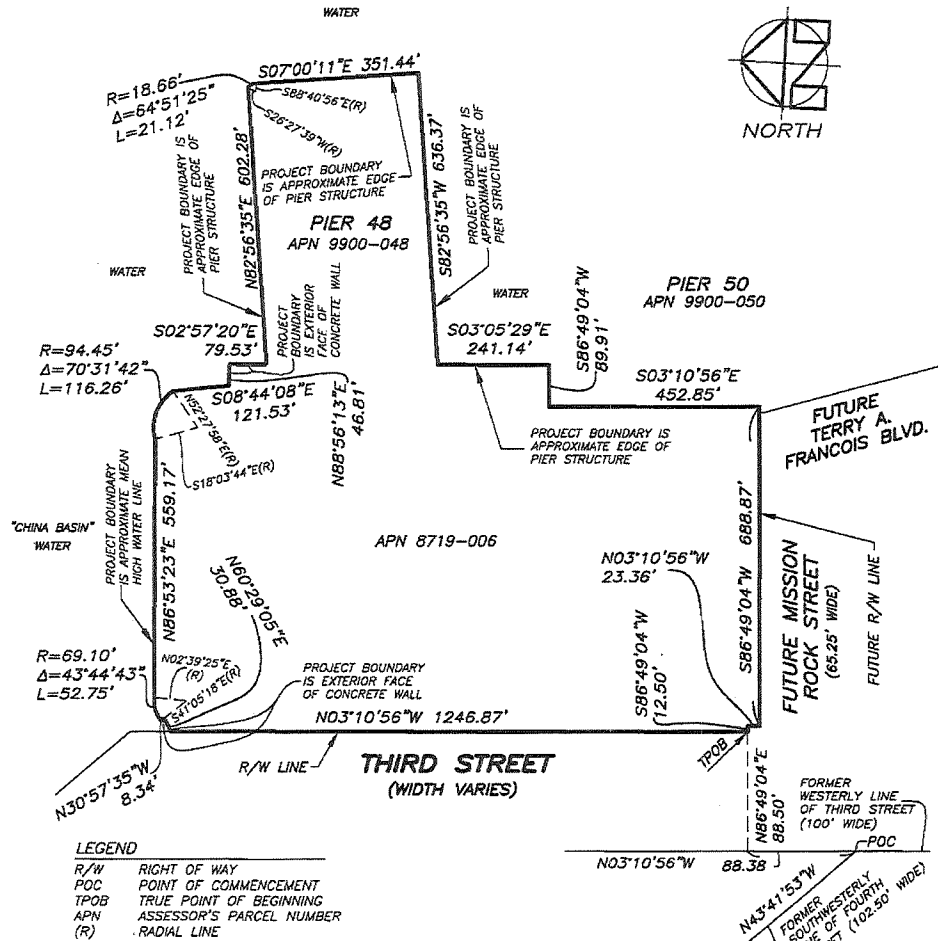
EXCEPTING THEREFROM, ALL SUBSURFACE MINERAL DEPOSITS, INCLUDING OIL AND GAS DEPOSITS, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS ON SAID LAND FOR EXPLORATION, DRILLING AND EXTRACTION OF SUCH MINERAL, OIL AND GAS DEPOSITS, AS EXCEPTED AND RESERVED BY THE STATE OF CALIFORNIA IN THAT CERTAIN ACT OF THE LEGISLATURE ("THE BURTON ACT") SET FORTH IN CHAPTER 1333 OF THE STATUTES OF 1968 AND AMENDMENTS THERETO, AND UPON TERMS AND PROVISIONS SET FORTH THEREIN.

AND FURTHER EXCEPTING THEREFROM:

UNTO THE STATE OF CALIFORNIA, ITS SUCCESSORS, AND ASSIGNS, FOREVER, ALL MINERALS AND MINERAL RIGHTS OF EVERY KIND AND CHARACTER NOW KNOWN TO EXIST OR HEREAFTER DISCOVERED IN THE HEREINAFTER DESCRIBED PORTION OF THE ABOVE DESCRIBED REAL PROPERTY INCLUDING, BUT NOT LIMITED TO, OIL AND GAS AND RIGHTS THERETO, TOGETHER WITH THE SOLE, EXCLUSIVE, AND PERPETUAL RIGHT TO EXPLORE FOR, REMOVE AND DISPOSE OF THOSE MINERALS BY ANY MEANS OR METHODS SUITABLE TO THE STATE OF CALIFORNIA OR TO ITS SUCCESSORS AND ASSIGNS, BUT WITHOUT ENTERING UPON OR USING THE SURFACE OF THE LANDS CONVEYED AND IN SUCH MANNER AS NOT TO DAMAGE THE SURFACE OF THE LANDS CONVEYED, OR TO INTERFERE WITH THE USE THEREOF BY THE CITY AND COUNTY OF SAN FRANCISCO, ITS SUCCESSORS AND ASSIGNS, PROVIDED, HOWEVER, THAT THE STATE OF CALIFORNIA, ITS SUCCESSORS AND ASSIGNS, WITHOUT THE PRIOR WRITTEN PERMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO, ITS SUCCESSORS AND ASSIGNS, SHALL NOT CONDUCT ANY MINING ACTIVITIES OF ANY NATURE WHATSOEVER ABOVE A PLANE FIVE HUNDRED FEET (500') BELOW THE SURFACE OF THE HEREINAFTER DESCRIBED PORTION OF THE ABOVE DESCRIBED REAL PROPERTY, AS RESERVED IN THAT CERTAIN PATENT FROM THE STATE OF CALIFORNIA TO THE CITY AND COUNTY OF SAN FRANCISCO, A CHARTER CITY AND COUNTY, RECORDED JULY 19, 1999, IN REEL H429, IMAGE 518, AS INSTRUMENT NO. G622166, OFFICIAL RECORDS OF THE CITY AND COUNTY OF SAN FRANCISCO, AND AS SET FORTH IN CHAPTER 1143, STATUTES OF 1991, AND AMENDMENTS THERETO UPON THE TERMS AND PROVISIONS SET FORTH THEREIN SUCH PORTION OF THE ABOVE DESCRIBED REAL PROPERTY.



PLAT TO ACCOMPANY LEGAL DESCRIPTION



SUBJECT: **MISSION ROCK PROJECT BOUNDARY**

BY JG CHKD. BR DATE 8/28/17 SCALE 1"=250' SHEET 1 OF 1 JOB NO. S-9229

MARTIN M. RON ASSOCIATES, INC.
LAND SURVEYORS

859 HARRISON STREET
SAN FRANCISCO, CA. 94107
(415) 543-4500

S-9229-BNDY PLAT.DWG

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DA EXHIBIT B

Site Plan

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DA EXHIBIT B Land Use Site Plan

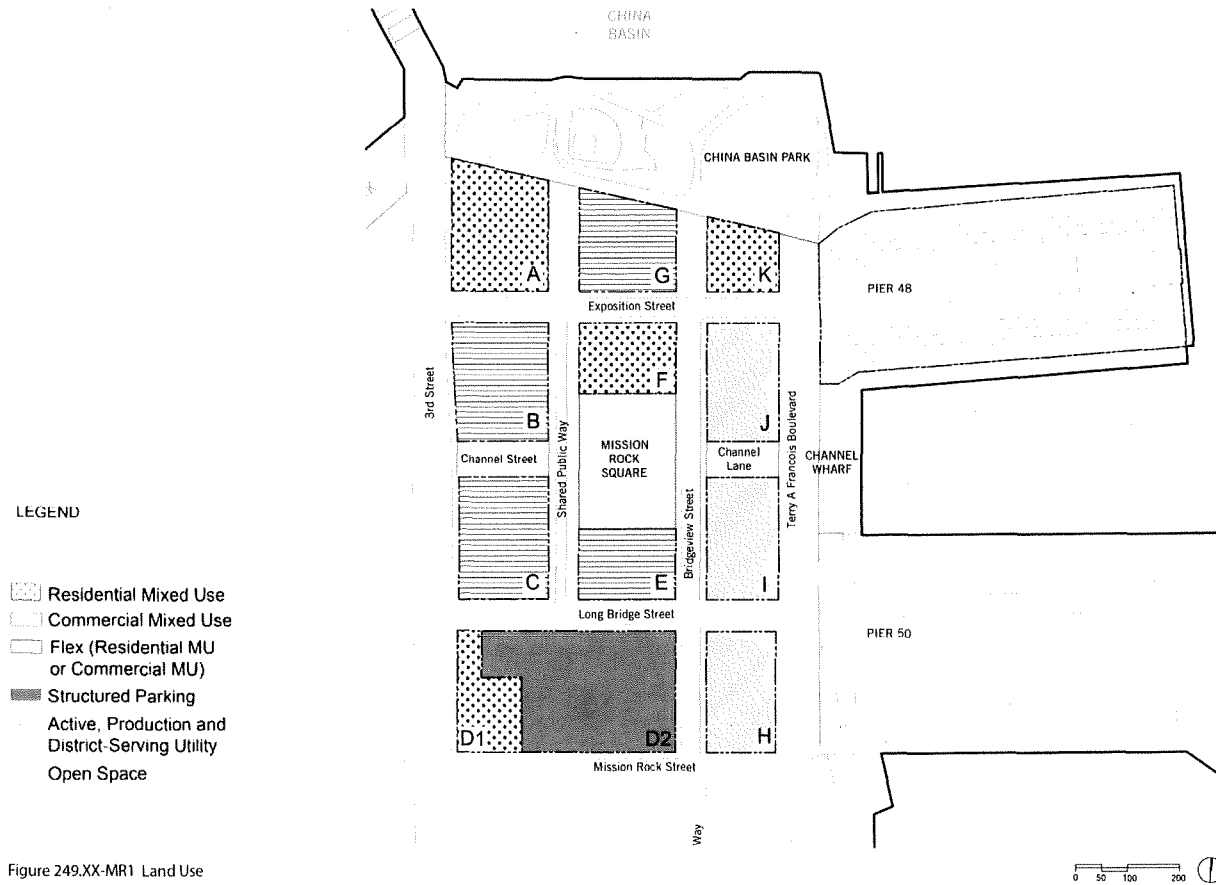


Figure 249.XX-MR1 Land Use

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DA EXHIBIT C

Project Approvals

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DA EXHIBIT C
Project Approvals

1. **Final Environmental Impact Report** (Planning Dept. Case No. 2013.0208ENV)
 - Certify FEIR and adopt CEQA Findings: Planning Commission Motion No. 20017 and Motion No. 20018, October 5, 2017
 - Adopt CEQA Findings and MMRP: Port Resolution No. 18-03, January 30, 2018
 - Affirm Planning Commission's certification of FEIR and adopt CEQA Findings and MMRP: Board of Supervisors Resolution No. 36-18, February 13, 2018
2. **Planning Code and Zoning Map amendments**
 - Recommend: Planning Commission Resolution No. 20019, October 5, 2017
 - Consent: Port Resolution No. 18-04, January 30, 2018
 - Approve: Board of Supervisors Ordinance No. 31-18, February 27, 2018
3. **Development Agreement and amendments and waivers of specified provisions of the Administrative and Subdivision Codes**
 - Recommend: Planning Commission Resolution No. 20020, October 5, 2017
 - Consent: Port Resolution No. 18-06, January 30, 2018
 - Consent: SFPUC Resolution No. 18-0014, January 23, 2018
 - Consent: SFMTA Resolution No. 180206-025, February 6, 2018,
 - Approve: Board of Supervisors Ordinance No. 33-18, February 27, 2018
4. **Mission Rock Design Controls**
 - Approve: Planning Commission Motion No. 20021, October 5, 2017
 - Approve: Port Resolution No. 18-04, January 30, 2018
5. **Master Lease**
 - Adopt public trust findings, approve, and recommend: Port Resolution No. 18-03, January 30, 2018
 - Adopt public trust findings and approve under Charter § 9.118: Board of Supervisors Resolution No. 42-18, February 12, 2018
6. **Disposition and Development Agreement and Development Plan**
 - Adopt public trust findings, approve, and recommend: Port Resolution No. 18-03, January 30, 2018
 - Approve under Charter § 9.118: Board of Supervisors Resolution No. 42-18, February 12, 2018
7. **Waterfront Land Use Plan / Waterfront Design and Access Element amendments**
 - Adopt public trust findings and approve: Port Resolution No. 18-03 (Public Trust Findings) January 30, 2018, and Resolution No. 18-05 (Waterfront Land Use Plan), January 30, 2018

8. **Infrastructure Financing District Project Area I and Sub-Project Areas**
 - Adopt public trust findings, approve, and recommend: Port Resolution No. 18-08, January 30, 2018
 - Approve: Board of Supervisors Ordinance Nos. 34-18, February 27, 2018
9. **Memorandum of Understanding re Interagency Cooperation**
 - Approve and recommend: Port Resolution No. 18-07, January 30, 2018
 - Adopt CEQA Findings and consent: SFMTA Board Resolution No. 180206-025, February 6, 2018
 - Adopt CEQA Findings and consent: SFPUC Resolution No. 18-0014, January 23, 2018
 - Approve: Board of Supervisors Resolution No. 44-18, February 13, 2018
10. **Memorandum of Understanding re Collection and Allocation of Taxes**
 - Approve and recommend: Port Resolution No. 18-09, January 30, 2018
 - Approve: Board of Supervisors Resolution No. 45-18, February 13, 2018
11. **Mission Rock South Redevelopment Plan Amendment, OPA Amendment, and Design for Development Plan Amendment**
 - Approve: OCII Commission Resolution Nos. 39-2017, 40-2017, 41-2017 and 42-2017, all October 17, 2017
 - Approve: Board of Supervisors Ordinance No. 32-18, February 27, 2018

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Chapter 56 as of Reference Date

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CHAPTER 56: DEVELOPMENT AGREEMENTS

- Sec. 56.1. Findings.
- Sec. 56.2. Purpose and Applicability.
- Sec. 56.3. Definitions.
- Sec. 56.4. Filing of Application; Forms; Initial Notice and Hearing.
- Sec. 56.5. Form of Agreement.
- Sec. 56.6. Signatories to the Development Agreement.
- Sec. 56.7. Contents of Development Agreement.
- Sec. 56.8. Notice.
- Sec. 56.9. Rules Governing Conduct of Hearing.
- Sec. 56.10. Development Agreement Negotiation Report and Documents.
- Sec. 56.11. Collateral Agreements.
- Sec. 56.12. Irregularity in Proceedings.
- Sec. 56.13. Determination by Commission.
- Sec. 56.14. Decision by Board of Supervisors.
- Sec. 56.15. Amendment and Termination of an Executed Development Agreement by Mutual Consent.
- Sec. 56.16. Recordation of Development Agreements Amendment or Termination.
- Sec. 56.17. Periodic Review.
- Sec. 56.18. Modification or Termination.
- Sec. 56.19. Limitation on Actions.
- Sec. 56.20. Fee.

SEC. 56.1. FINDINGS.

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

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

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

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

SEC. 56.2. PURPOSE AND APPLICABILITY.

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

economic cost to the public, and to ensure community participation in determining an equitable distribution of the benefits and costs associated with development.

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

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

SEC. 56.3. DEFINITIONS.

The following definitions shall apply for purposes of this Chapter:

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

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

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

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

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

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

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

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

timing, phasing, method of performance or parties involved; or (9) any other terms or conditions of the development agreement if the development agreement provides that amendment of said specified term or condition would be a material modification.

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

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

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

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

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

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

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

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

SEC. 56.5. FORM OF AGREEMENT.

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

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

SEC. 56.6. SIGNATORIES TO THE DEVELOPMENT AGREEMENT.

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

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

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

SEC. 56.7. CONTENTS OF DEVELOPMENT AGREEMENT.

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

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

(c) Nondiscrimination/Affirmative Action Requirements.

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

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

(i) Apprenticeship where approved programs are functioning, and other on-the-job training for a nonapprenticeable occupation;

(ii) Classroom preparation for the job when not apprenticeable;

(iii) Preapprenticeship education and preparation;

(iv) Upgrading training and opportunities;

(v) The entry of qualified women and minority journeymen into the industry; and

(vi) Encouraging the use of contractors, subcontractors and suppliers of all ethnic groups, and encouraging the full and equitable participation of minority and women business enterprises and local businesses (as defined in Section 12D of this Code and implementing regulations) in the provision of goods and services on a contractual basis.

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

(i) A compliance monitor who is not an agent or employee of the applicant/developer be designated to report to the Director regarding the applicant/developer's compliance with the nondiscrimination and affirmative action requirements;

(ii) The applicant/developer permit the compliance monitor or the Director or his designee reasonable access to pertinent employment and contracting records, and other pertinent data and records, as specified in the Development Agreement for the purpose of ascertaining compliance with the nondiscrimination and affirmative action provisions of the development agreement;

(iii) The applicant/developer annually file a compliance report with the compliance monitor and the Director detailing performance pursuant to its affirmative action program, and the compliance monitor annually reports its findings to the Director; such reports shall be included in and subject to the periodic review procedure set forth in Sec. 56.17.

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

SEC. 56.8. NOTICE.

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

(a) Form of Notice.

(1) The time and place of the hearing;

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

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

(b) Time and Manner of Notice.

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

Commission on the development agreement shall be included on the next Commission calendar to be mailed following the date of publication of notice in the official newspaper.

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

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

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

SEC. 56.9. RULES GOVERNING CONDUCT OF HEARING.

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

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

SEC. 56.10. DEVELOPMENT AGREEMENT NEGOTIATION REPORT AND DOCUMENTS.

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

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

(c) **Update of Report, Documents, and Correspondence List.** The Director shall update the negotiation session report and the correspondence list, and continue to maintain a file of documents exchanged between the applicant/developer and the City until a development agreement is finally approved. The Director shall make the updated report, correspondence list, and documents available to the public at least five working days before each public hearing on the proposed development agreement.

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

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

SEC. 56.11. COLLATERAL AGREEMENTS.

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

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

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

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

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

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

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

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

(d) Applicant/Developer Disclosure of Collateral Agreements.

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

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

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

SEC. 56.12. IRREGULARITY IN PROCEEDINGS.

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

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

SEC. 56.13. DETERMINATION BY COMMISSION.

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

(b) **Recommendations to Board of Supervisors.** Following the public hearing, the Commission may approve or disapprove the proposed development agreement, or may modify the proposed development agreement as it determines appropriate. The Commission shall make its final recommendation to the Board of Supervisors which shall include the Commission's determination of whether the development agreement proposed is consistent with the objectives, policies, general land uses and

programs specified in the general plan and any applicable area or specific plan, and the priority policies enumerated in City Planning Code Section 101.1. The decision of the Commission shall be rendered within 90 days from the date of conclusion of the hearing; failure of the Commission to act within the prescribed time shall be deemed to constitute disapproval.

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

SEC. 56.14. DECISION BY BOARD OF SUPERVISORS.

(a) **Action by Board of Supervisors.** The Board of Supervisors shall hold a public hearing on the proposed development agreement approved by the Commission. After the Board of Supervisors completes its public hearing, it may approve or disapprove the proposed development agreement recommended by the Commission. If the Commission disapproves the proposed development agreement, that decision shall be final unless the applicant/developer appeals the Commission's determination to the Board of Supervisors. The applicant/developer may appeal by filing a letter with the Clerk of the Board of Supervisors within 10 days following the Commission's disapproval of the proposed development agreement. The procedures for the Board's hearing and decision shall be the same as those set forth in City Planning Code Sections 308.1(c) and 308.1(d) with respect to an appeal of a Commission disapproval of a City Planning Code amendment initiated by application of one or more interested property owners.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 56.17. PERIODIC REVIEW.

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

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

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

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

public hearing scheduled before the Commission at least 30 days prior to the date of the hearing, and (2) a copy of the Director's report to the Commission on the date the report is issued.

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

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

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

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

SEC. 56.18. MODIFICATION OR TERMINATION.

(a) If the Commission, upon a finding pursuant to Subdivision (f) of Section 56.17, determines that modification of the agreement is appropriate or that the agreement should be terminated, the Commission shall notify the applicant/developer in writing 30 days prior to any public hearing by the Board of Supervisors on the Commission's recommendations.

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

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

SEC. 56.19. LIMITATION ON ACTIONS.

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

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

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

SEC. 56.20. FEE.

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

(a) **Cost Estimate and Application Report.** The reasonable costs to the various departments of the City and County of San Francisco including, but not limited to, the Planning Department, the Department of Public Works, the Mayor's Office of Housing, the Real Estate Department and the City Attorney's Office for staff time, necessary consultant services and associated costs of materials and administration will vary according to the size and complexity of the project. Accordingly, upon receipt of an application for a development agreement, the Planning Department, after consultation with the applicant/developer, any

other parties identified in the application as parties to the proposed development agreement, and the affected City and County departments, shall prepare an estimated budget of the reasonable costs to be incurred by the City and County (1) in the preparation and adoption of the proposed development agreement, and (2) in the preparation of related documents where the costs incurred are not fully funded through other City fees or funds; provided, however, that if the projected time schedule exceeds one year, then the estimated budget shall be prepared for the initial 12-month period only, and the estimated budgets for any subsequent 12-month time periods shall be prepared prior to the end of the prior 12-month period.

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

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

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

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

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

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

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

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