

San Francisco Bay Conservation and Development Commission

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September 29, 2017

TO: Commissioners and Alternates

FROM: Lawrence J. Goldzband, Executive Director (415/352-3653; larry.goldzband@bcdc.ca.gov)
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SUBJECT: Staff Recommendation on BCDC Permit Application No. 2016.006.00 for Crane Cove Park Project at the Port of San Francisco, in the City and County of San Francisco
(For Commission consideration on October 5, 2017)

Recommendation Summary

The San Francisco Bay Conservation and Development Commission (“Commission” or “BCDC”) staff recommends approval, as conditioned herein, of BCDC Permit Application No. 2016.006.00 by the Port of San Francisco (“Port”) to implement the Crane Cove Park project, which will allow the following primary activities with public benefits:

1. In the Commission’s Bay jurisdiction, the removal of debris and excavation of the shoreline, and the placement of fill mainly to create a sandy beach and cap a contaminated in-water area resulting in a net increase of Bay volume of 45 cy and a 7,398-square-foot net increase in existing Bay fill coverage. The fill will create habitat benefits and allow for the general public visiting the park to access the water;
2. Within the Commission’s 100-foot shoreline band, the construction of a 2.5-acre section of a public park, including an 1,500-foot-long San Francisco Bay Trail (“Bay Trail”), a sandy beach, lawn and plaza areas, and repurposed industrial site features, including a concrete ship-building slipway (“Slipway 4”) that allows access directly to and above the Bay; and
3. Within the Commission’s Bay and 100-foot shoreline band jurisdiction, Port of San Francisco-hosted special events—including free, ticketed, and private events—at dedicated public areas on specific days and times.

Bay Fill: The removal of debris (8,500-square-foot area) and the placement of material for shoreline protection, beach creation, and a cap on contaminated sediment will result in a net increase of Bay volume of 45 cy and a net increase in square footage of fill by approximately 22,515-square-feet. The filled area will be primarily at the Bay floor and an area that will become a sandy beach. No mitigation is proposed to offset this increase in Bay fill since the activity has significant public benefits, i.e., public access and natural resource enhancement. Further, through the excavation of material in the Commission's 100-foot shoreline band, the Bay will increase in size by approximately 7,398 square feet. (See Table 1, below)

| Table 1: Fill Totals | | |
|-----------------------------|--------------------------------------|--------------------------------------|
| Purpose of Fill | Square Feet (approximate) | Cubic Yards (approximate) |
| Removal of debris | -8,500 | -4,500 |
| Remediation Cap | 8,810 | 780 |
| Beach Creation | 19,700 | 3,250 |
| Shoreline Protection | 2,490 | 420 |
| Safety Buoys | 15 | 5 |
| Sub Total | 22,515 | -45 |

Public Access: Crane Cove Park will cover a total area of 8.4 acres, including an approximately 111,156-square-foot (2.5-acre) area in the Commission's jurisdiction, as shown in Table 2, below, which will be a requirement in Permit No. 2016.006.00.

Table 2: Public Access in the Commission's Jurisdiction

| Amenity | Square Feet |
|---------------------|----------------------------|
| Beach | 44,700 |
| Pathways | 15,029 |
| Landscaping | 11,846 |
| Plazas and Terraces | 6,470 |
| Slipway 4 | 33,111 |
| Total | 111,156 (2.5 acres) |

Staff Recommendation

The Commission staff recommends that the Commission adopt the following resolution to be authorized as conditioned herein:

I. Authorization

A. In the Bay:

1. Remove approximately 4,500 cubic yards (cy) of solid fill within an approximately 8,500-square-foot area to facilitate remediation and reconfiguration of the shoreline;
2. Place, use, and maintain in-kind approximately 780 cy of solid fill (primarily gravel and rock) within an approximately 8,810-square-foot contaminated area to cap contaminated sediment;
3. Place, use, and maintain in-kind approximately 3,250 cy of material at an approximately 19,700-square-foot area to create a sandy beach, including an approximately 180-square-foot universal beach access mat;
4. Install, use, and maintain in-kind an approximately 2,490-square-foot shoreline protection system mainly comprised of approximately 420 cy of rock riprap material;
5. Install, use, and maintain in-kind five safety buoys located adjacent to the drydock ship repair area, totaling approximately 15 square feet (five cy);
6. Repair, use, and maintain in-kind an approximately 10,281-square-foot area of Slipway 4 (resulting in no new or additional fill in the Bay); and
7. Conduct water-oriented special events at the beach and ticketed public events, and associated set-up, dismantling, clean-up, and maintenance activities strictly during periods, as specified herein.

B. Within the 100-foot Shoreline Band:

1. Construct, use, and maintain in-kind an approximately 101,055-square-foot (2.32-acre) area of Crane Cove Park, including: excavation of an approximately 7,398-square-foot-area, grading, landscaping (approximately 11,846 square feet), public plazas and terraces (approximately 6,470 square feet), public pathways (approximately 15,029 square feet), a public vehicle loading area (approximately 3,200 square feet), a universally-accessible beach mat (approximately 270 square feet), seating, guardrails, picnic tables, and infrastructure (e.g., curbs, utilities, stormwater management facilities, and irrigation);
2. At Slipway 4, repair and use an approximately 22,830-square-foot area, including the restoration of two craneways and associated features (e.g., rails and utility racks), the relocation and restoration of an approximately 115-foot-tall crane (Crane No. 14), and the installation of an approximately 800-square-foot pedestrian ramp, bollards, guardrails, seating, a barrier at the end of the slipway between mean high water and mean higher high water, and interpretive facilities, and maintain in-kind said facilities;

3. Install, use, and maintain in-kind an approximately 25,000-square-foot area of a public beach and an associated approximately 45,970-square-foot shoreline protection system (approximately 3,355 cy of riprap material);
 4. Install, use, and maintain in-kind an approximately 1,000-square-foot private outdoor dining area at the Ramp Restaurant and an approximately 1,500-square-foot private outdoor dining area located adjacent to the public vehicle loading area at Building 49; and
 5. Conduct special events (i.e., free public events, such as farmer's markets, ticketed public events, such as music festivals, and private events, such as weddings), including set-up, dismantling, and cleaning/maintenance.
- C. **Permit Application Date.** This authority is generally pursuant to and limited by the permit application signed and dated August 11, 2016, including all accompanying and subsequently submitted correspondence and exhibits, subject to the modifications required by conditions herein.
- D. **Deadlines for Commencement and Completion of Authorized Activities.** The work authorized herein must commence by December 1, 2018, and be completed within six years or by December 1, 2024, whichever comes earlier. If the work authorized herein is not commenced and/or completed by these dates, the permit will lapse and become null and void unless an extension of time is granted through an amendment to this permit. In-kind repair and maintenance of the development authorized herein is allowed as long as the facilities and uses authorized herein remain in place. The permittee is allowed to conduct special events, as authorized and conditioned herein, starting at the date of project (Crane Cove Park) completion for a period of up to five (5) years subject to the terms of Special Condition II.C.6.f.

II. Special Conditions

The authorization made herein shall be subject to the following special conditions, in addition to the Standard Conditions contained herein:

- A. **Construction Document(s).** The improvements authorized herein shall be built generally in conformance with the following documents:
1. **Original Permit:** "Crane Cove Park -- Construction Package 2 -- Park Improvements," prepared by AECOM, dated May 5, 2017.

The permittee is responsible for assuring that all construction documents accurately and fully reflect the terms and conditions of this permit and any legal instruments submitted pursuant to this authorization. No substantial changes shall be made to these construction documents without prior review and written approval by or on behalf of the Commission through plan review or a permit amendment.

- B. Construction Document(s) Review and Approval.** No work whatsoever shall commence pursuant to this permit until final construction documents regarding authorized activities are approved in writing by or on behalf of the Commission. All documents are reviewed within 45 days of receipt. To save time, preliminary documents may be submitted prior to the submittal of final documents. If final construction document review is not completed by or on behalf of the Commission within the 45-day period, the permittee may carry out the project authorized herein in a manner consistent with the plans referred to in Special Condition II.A of this permit.
- 1. Document Details.** All construction documents shall be labeled with: the Mean High Water line and the tidal datum reference (NAVD88 or, if appropriate, Mean Lower Low Water (MLLW)); the corresponding 100-foot shoreline band; property lines; the location, types, and dimensions of materials, structures, and project phases authorized herein; grading limits; and the boundaries of public access areas required herein. Documents on shoreline protection, sandy beach, and the contamination cap must be dated and include the preparer's certification of project safety and contact information. No substantial changes shall be made to these documents without prior review and written approval by or on behalf of the Commission through plan review or a permit amendment.
 - 2. Conformity with Final Approved Documents.** All authorized improvements and uses shall conform to the final documents. Prior to use of the facilities authorized herein, the appropriate professional(s) of record shall certify in writing that the work covered by the authorization has been implemented in accordance with the approved criteria and in substantial conformance with the approved documents. No substantial changes shall be made to these documents without prior review and written approval by or on behalf of the Commission through plan review or a permit amendment.
 - 3. Discrepancies between Approved Plans and Special Conditions.** In case of a discrepancy between final approved documents and the special conditions of this permit or legal instruments, the special condition shall prevail.
 - 4. Reconsideration of Plan Review.** The permittee may request reconsideration of a plan review action taken pursuant to this special condition within 30 days of a plan review action by submitting a written request for reconsideration to the Commission's Executive Director. Following the Executive Director's receipt of such a request, the Executive Director shall respond to the permittee with a determination on whether the plan review in question shall remain unchanged or an additional review and/or action shall be performed by or on behalf of the Commission, including, but not limited to, an amendment to the permit and/or consultation with the Commission Design Review Board.

C. Public Access

1. **Area.** The approximately 111,156-square-foot (2.5-acre) area, as generally shown on Exhibit A of this permit, shall be made available exclusively to the public for unrestricted public access (i.e., walking, bicycling, sitting, viewing, fishing, picnicking, small hand-launch boating, swimming). If the permittee intends to use this area for other purposes, except as allowed in Special Condition II.C.6 (below), it must obtain prior written approval by or on behalf of the Commission.
2. **Improvements Within the BCDC-Required Public Access Area.** Prior to the use of any structure or improved structure authorized herein, the permittee shall install the following improvements, as generally shown on Exhibit A:
 - (a) An approximately 1,500 foot-long, 15 to 18-foot-wide San Francisco Bay Trail pathway located through the park and connected to Illinois Street and to a relocated 19th street, approximately 680-foot-long section located within the Commission's 100-foot shoreline band;
 - (b) An approximately 44,700-square foot sandy beach with a 450-square-foot universally-accessible beach mat in the Commission's Bay and 100-foot shoreline band jurisdiction;
 - (c) An approximately 7,000-square-foot lawn located west of the beach partly in the Commission's 100-foot shoreline band jurisdiction;
 - (d) Landscaping throughout the 2.5 acre public access area;
 - (e) An approximately 33,100-square-foot area at Slipway 4, within the Commission's 100-foot shoreline band jurisdiction;
 - (f) Approximately 6,470 square feet of public plazas within the Commission's 100-foot shoreline band jurisdiction;
 - (g) An approximately 3,200 square foot vehicle turnaround within the Commission's 100-foot shoreline band jurisdiction;
 - (h) Three picnic tables located north of the beach within the Commission's jurisdiction;
 - (i) A minimum of three (3) public access and, if appropriate, San Francisco Bay Trail signs, one located at the entry of each path at Crane Cove Park site inside and outside of the Commission's jurisdiction; and
 - (j) Up to five (5) safety buoys to separate beach users from the adjacent drydock activities within the Commission's jurisdiction.

All improvements shall be consistent with the plans approved pursuant to Condition II.A. of this authorization and substantially conform to the plans entitled "Crane Cove Park -- Construction Package 2 -- Park Improvements," dated May 5, 2017, prepared by AECOM.

3. **Maintenance.** The areas and improvements within the total 111,156-square-foot (2.5-acre) shall be permanently maintained by and at the expense of the permittee or its assignees. Such maintenance shall include, but is not limited to, repairs to all path surfaces; replacement of any trees or other plant materials that die or become unkempt; re-nourishment of the beach and riprap, repairs or replacement as needed of any public access amenities, such as signs, benches, drinking fountains, trash containers and lights; periodic cleanup of litter and other materials deposited within the access areas; removal of any encroachments into the access areas; maintenance and repairs of damage due to flooding; and assuring that the public access signs remain in place and visible. Within 30 days after notification by staff, the permittee shall correct any maintenance deficiency noted in a staff inspection of the site.
4. **Assignment.** The permittee shall transfer maintenance responsibility to a public agency or another party acceptable to the Commission at such time as the property transfers to a new party in interest but only provided that the transferee agrees in writing, acceptable to counsel for the Commission, to be bound by all terms and conditions of this permit.
5. **Reasonable Rules and Restrictions.** The permittee may impose reasonable rules and restrictions for the use of the public access areas to correct particular problems that may arise. Such limitations, rules, and restrictions shall have first been approved by or on behalf of the Commission upon a finding that the proposed rules would not significantly affect the public nature of the area, would not unduly interfere with reasonable public use of the public access areas, and would tend to correct a specific problem that the permittee has both identified and substantiated. Rules may include restricting hours of use and delineating appropriate behavior.
6. **Special Events.** The permittee shall conduct special events within public access areas required herein, which are located within the Commission's Bay and 100-foot shoreline band jurisdiction, subject to the following restrictions, as generally shown on Exhibit B:¹
 - a. **Areas.** Special events are allowed at the following areas:
 - **Beach:** Within an area not to exceed approximately 22,350 square feet of the total 44,700-square-foot beach area, representing half of the beach in the Bay and within the 100-foot shoreline band, as shown in Exhibit B.
 - **Lawn (located west of the beach):** Within an area not to exceed approximately 3,500 square feet of the total 7,000-square-foot lawn area, representing half of the lawn, as shown in Exhibit B.
 - **Slipway 4 West Craneway:** Within an area not to exceed 1,800 square feet of the west craneway area; and
 - **Slipway 4 East Craneway:** Within an area not to exceed 1,000 square feet of the east craneway.

¹ BCDC Permit No. M1996.013.03 does not apply to the project authorized by this permit.

- b. **Schedule and Related Activity.** The permittee shall host special events within the Commission's jurisdiction at areas described above in Special Condition II.C.6.a for no more than a total of fifty (50) days per calendar year, which includes a maximum of two (2) weekend days (Saturday and Sunday) per month. An event, or multiple events, held within any portion of a 24-hour period shall be considered as an event day. An event day is used whether an event is held in one of the areas described above in Special Condition II.C.6.a, in multiple areas, or in all areas. All event set-up, dismantling, cleanup, and maintenance shall occur within the event's 24-hour/one-day period. Any equipment, garbage, waste or other event-related items left in a public access area before and/or after the day of the event, shall be counted as an additional event day(s).
- c. **Type.** Special events authorized and further described herein are limited to the following activities and subject to requirements described below and herein (see Table 3, below):
- (1) **Non-Ticketed and No-Fee Public Events.** Open and free to the general public (e.g., a farmer's market) without a ticket or fee. A total of fifty (50) days per calendar year (as described and allowed above) may be used for such events.
 - (2) **Ticketed Public Events.** Open to the general public but requiring a ticket or fee to participate (e.g., a music festival). Of the fifty (50) calendar days allowed herein, a maximum of twelve (12) days may be used for such events.
 - (3) **Private Events.** Closed to the general public (e.g., a wedding or corporate retreat). No private events are allowed at the 2.5-acre public access area required herein except at the lawn located west of the Bay, and Slipway 4 east and west craneways. Of the fifty (50) calendar days, a maximum of twelve (12) days may be used at the previously-specified areas. All private events are limited to a four-hour period only, excluding set up and breakdown. No private events are allowed at the public beach. The closure of an area for a private event shall be posted at three locations on site for at least one week prior to the event.
 - (4) **Beach Events.** Of the fifty (50) calendar days, a maximum of twelve (12) days may be used to hold events at the beach and events are restricted to water-oriented uses only, e.g., boating or swimming.

| Table 3: Special Events Program Number of Special Event Days (of 50 Calendar Days) | | | |
|---|---|---|-----------------------|
| Areas | Non-Ticketed/No-Fee Public Events | Ticketed Public Events | Private Events |
| Beach | 12 of 50 days (water-oriented uses only) | 12 of 50 days (water-oriented uses only) | None |
| Lawn | 50 of 50 days | 12 of 50 days | 12 of 50 days |
| West Craneway | 50 of 50 days | 12 of 50 days | 12 of 50 days |
| East Craneway | 50 of 50 days | 12 of 50 days | 12 of 50 days |

- d. **Special Events Restrictions.** No special events held pursuant to this Special Condition shall encroach upon public pathways within the Commission's jurisdiction or along the Bay Trail located outside of the Commission's jurisdiction or otherwise diminish the open and free public nature of such areas. No tents, barricades or fences may be erected as part of any private event, except if approved by, or on behalf of, the Commission through prior plan review pursuant to Special Condition II.B of this permit.
- e. **Other Special Events.** The permittee may request approval for additional events not provided for in Special Condition II.C in any area of the Commission's jurisdiction at least 30 days prior to the event by seeking plan review approval by, or on behalf of the Commission, pursuant Special Condition II.B of this authorization.
- f. **Notice, Monitoring, and Term of Special Events:**
 - (1) **Fourteen-Day Notice.** Prior to holding a special event as allowed herein, the permittee shall submit written notice to the Commission's staff, identifying the event's duration, location, purpose, type, description of any structures proposed for the event, and the location of the notice posted at the site. Additionally, the Fourteen-Day Notice shall include the sum of the events held in that calendar year, organized by type as described in Special Condition II.C.6(c).
 - (2) **Annual Reporting.** No later than January 30 of each calendar year, the permittee shall submit a written report describing the prior year's special event program, including all events, including events outside of the Commission's jurisdiction, specifically the duration, location, purpose, and type of events, and the approximate participant or visitor numbers of each event. The report shall document any complaints received by the public in response to the events, distinguish the complaints for each of the three types of events and describe any issues the permittee encountered in staging for, managing, or cleaning up after the events. The report shall analyze the success of the events in promoting use of the public access areas by the public or any identified adverse impacts and mitigating steps that were or could in the future be implemented.
 - (3) **Five-Year Limitation.** The permittee is allowed to conduct special events, as described and restricted herein, for a period of five (5) years total, commencing from the official opening of the waterfront park (Crane Cove Park). No more than 180 days prior to the expiration of the five-year special events period, the permittee may request an amendment to this permit to extend the duration for holding special events at the project site. Authorization of an extension of special events will be based, in part, on the information contained in the above-referenced annual reports and an assessment, including, if deemed necessary, a public space public life study, as to whether the program has been successful or needs to be modified.

7. **Public Pathways to the Shoreline.** Public pathways located at the total project site, including areas outside of the Commission's jurisdiction, shall remain unobstructed and open to the general public at all times except as allowed through the *Reasonable Rules and Restrictions* condition contained herein.
 8. **Picnic Table Reservations.** One of the three picnic tables (required in Special Condition II.C.2) may be reserved for use by the public for up to five hours in the morning or afternoon of a single day, pursuant to a reservation program to be developed by the permittee and which will be approved by or on behalf of the Commission prior to the reservation of picnic tables through the plan review provisions described in Special Condition II.C.5 of this permit. The permittee shall ensure that the remaining two picnic tables remain free to and available for public use without a reservation requirement at all times of the year.
 9. **Private Outdoor Dining.** No tables, chairs, or other restaurant or café equipment associated with the private outdoor dining areas (a total of 2,500 square feet) and uses authorized herein shall impede or extend into any public access area required and described herein.
 10. **Flooding, Commission Report(s), and Adaptation Strategy.** If any portion of the required public access area (2.5 acres) located in the Commission's jurisdiction is subject to flooding that results in a closure of any area, the permittee shall submit to the Commission a written report within 30 days after the closure of the public access area with documentation of: the date of the closure and duration; the location of the affected site; the recorded water levels during the closure period; the source of flooding (e.g., Bay overtopping of shoreline or stormwater backup or overland flow); and the resulting damage or cleanup; and illustrative photographs with site details. No permanent restrictions or closures of required public access areas may take place without additional approval by or on behalf of the Commission, and the permittee shall provide equivalent public access to ensure public access to and along the shoreline in the event of permanent restrictions or closures contingent in part on the Commission's review and approval of such a project and/or special condition modification.
- D. **Shoreline Protection Material, Placement, and Maintenance.** Riprap material shall be either quarry rock or specially cast or carefully selected concrete pieces free of reinforcing steel and other extraneous material and conforming to quality requirements for specific gravity, absorption, and durability specified by the California Department of Transportation or the U. S. Army Corps of Engineers. The material shall be generally spheroid-shaped. The overall thickness of the slope protection shall be no more than three feet measured perpendicular to the slope. Use of dirt, small concrete rubble, concrete pieces with exposed rebar, large and odd shaped pieces of concrete, and asphalt concrete as riprap is prohibited. Riprap material shall be placed so that a permanent shoreline with a minimum amount of fill is established by means of an engineered slope not steeper than two (horizontal) to one (vertical) unless slope is keyed at the toe. The slope shall be created by the placement of a filter layer protected by riprap material of sufficient size to withstand wind and wave generated forces at the site.

The shoreline protection improvements authorized herein shall be regularly maintained by and, at the expense of, the permittee, lessee, assignee or other successor in interest to the project. Maintenance shall include the collection of riprap material that becomes dislodged, the in-kind replacement of damaged or missing riprap material and associated filter fabric or other material, and the removal of debris on riprap. Within 30 days of notification by or on behalf of the Commission, the permittee or any successor in interest shall correct any identified maintenance deficiency. This condition shall not apply to the fill authorized herein for the beach and containment cap.

- E. **Monitoring of Containment Cap.** Upon completion and prior to the use of the development in the Bay authorized herein, the permittee shall submit an operation and monitoring plan of the contamination cap, in coordination with the San Francisco Bay Regional Water Quality Control Board (“RWCB”), for review and approval by or on behalf of the Commission, which will be used by the permittee to operate and monitor the activities authorized herein to remediate and contain contaminants at the project site. The monitoring plan shall include post-construction inspections of the fill every two-years following construction of the contamination cap, and, subsequently, every five-years thereafter. The monitoring plan shall include corrective measures in the event the fill authorized herein can no longer ensure safe conditions for in-water access by the general public; if deemed necessary to implement, such measures shall be reviewed and approved by or on behalf of the Commission prior to commencement of work.
- F. **Construction Measures to Protect Fish.** To minimize disturbance to fish, the permittee shall conduct activities authorized herein occurring in the Commission’s Bay jurisdiction in compliance with restrictions identified in the related NOAA Fisheries (NMFS) Endangered Species Act (ESA) Section 7 Concurrence Letter and Magnuson-Stevens Fishery Conservation Management Act Essential Fish Habitat Response dated September 23, 2016, including the restriction to limited all in-water work between June 1 and November 30 of any calendar year.
- G. **Water Quality Protection.** The permittee shall ensure that activities authorized herein occurring in the Commission’s Bay jurisdiction fully comply with the San Francisco Bay Regional Water Quality Control Board (“RWQCB”) Water Quality Certification dated May 17, 2017.

III. Findings And Declarations

This authorization is given on the basis of the Commission’s findings and declarations that the work authorized herein is consistent with the McAteer-Petris Act, the *San Francisco Bay Plan* (Bay Plan), the California Environmental Quality Act (CEQA), and the Commission’s amended coastal zone management program for San Francisco Bay for the following reasons:

- A. **Fill.** The Commission may allow fill only when it meets the requirements identified in Section 66605 of the McAteer-Petris Act, which state, in part, that: (a) the public benefit of the fill should exceed the public detriment and the fill should be limited to water-oriented uses (such as recreation or public assembly) or be “minor” for improving shoreline appearance and public access; (b) fill should be approved only when “no alternative upland location” is available; (c) fill should be “the minimum amount

necessary to achieve the [project] purpose”; (d) “the nature, location, and extent of any fill should be such that it will minimize harmful effects” to the Bay’s resources, e.g., the volume, surface area or circulation of water, water quality, and fertility of marshes; (e) “fill [would] be constructed in accordance with sound safety standards which will afford reasonable protection to persons and property against the hazards of unstable geologic or soil conditions or of flood or storm waters...” and (g) “fill should be authorized when the applicant has such valid title to the properties in question....”

1. **Public Benefit v. Detriment and Water-Oriented Use.** The approximately 800-foot-long shoreline at the project site is comprised mainly of debris: deteriorated seawalls, discarded concrete, metal, and asphalt, and a concrete and asphalt pad supported by a substructure of metal drums with wood framing. An investigation conducted by the Port of San Francisco in 2015 determined that soil and groundwater contaminants associated with the site’s former industrial use, including metals, polycyclic aromatic hydrocarbons (PAHs), polychlorinated biphenyls (PCBs), posed a potential risk to human health under certain settings, including wading and small boat use. Based on public input during the Commission’s Design Review Board (DRB) meetings on the project, small recreational boaters, including kayakers, expressed a preference for direct access at the site because conditions are less muddy compared to other areas along the San Francisco shoreline; further, a beach at the site could support facilities (e.g., a universally-accessible beach mat) allowing access to persons with disabilities.

The Port commissioned the preparation of a San Francisco Bay Regional Water Quality Control Board-approved *Feasibility Study and Remedial Action Plan* (“Remediation Plan,” 2015) that concluded a rock and gravel cap should be placed at the contaminated areas, including in the Bay and along the shoreline, to ensure safe conditions for human contact.² The contamination cap to be constructed at the site is not the subject of an order from the Department of Toxic Substance Control (DTSC), but rather a voluntary remediation project on the part of the Port to facilitate direct water access.

The Port will remove debris (4,500 cy of solid fill), including contaminants, within an approximately 8,500-square-foot area. The Port will place 780 cy of solid material at an approximately 8,810-square-foot area to cap remaining contaminated sediments at the Bay floor.

At an approximately 19,700-square-foot area (3,250 cy of solid fill), the Port will create a sandy public beach. The beach will be built on top of gravel and rock base layers designed to contain underlying remnant contaminants. Approximately 420 cy of rock rip rap material within a 2,490-square-foot area will be placed to protect the shoreline from erosion and contain any remnant contaminants in that area. Within the Commission’s 100-foot shoreline band jurisdiction, debris will be removed and the shoreline reconfigured resulting in an enlargement of the Bay by approximately 7,398 square feet.

² Report prepared by Langan-Treadwell-Rollo, dated March 31, 2015.

At Slipway 4 located south of the beach, the Port will repair and repurpose a 10,281-square-foot area for public park use. This activity will not constitute new Bay fill. A minor amount of solid fill (5 cy) for safety buoys will be placed at a location in the water to separate beach users from adjacent drydock activities.

The McAteer-Petris Act provides that fill should be limited to water-oriented uses or for minor fill to improve shoreline appearance or public access. The fill, including to remediate contaminated sediment, protect and improve the shoreline, and provide public access to the Bay, meets these criteria by providing water-oriented recreational use at the site. This area of San Francisco's waterfront, which is deteriorated and mainly occupied by industrial uses, lacks a large public park and opportunities for in-water access. Crane Cove Park will serve that purpose to visitors of varying interests and abilities.

Further, the project will provide habitat benefits from the remediation of contaminated sediments impacting foraging fish. The contaminants at the site impact the benthic species that reside in the existing Bay mud. According to National Marine Fisheries Service (NMFS), benthic organisms will likely reestablish once the construction of the fill is complete, but organisms will shift from mud-adapted polychaetes, amphipods, and clams to similar species adapted to sediments associated with the gravel and rock of the contamination cap. The project will result in a change in habitat that provides a net habitat benefit from the fill associated with the project. As discussed in more detail below, the project would not result in any impacts to sedimentation in the Bay, water circulation, or wave action. As a result, the project will not adversely impact the Bay's natural resources. The resource agencies reviewing the project did not recommend resource mitigation for the project.

The project will result in a decrease of volume of Bay fill (45 cy) and an approximately 22,515-square-foot increase in square-footage, primarily along the bottom of the Bay. Excavation within the Commission's 100-foot shoreline band jurisdiction will increase water surface area by approximately 7,398 square feet.

Special Condition II.D provides standards for riprap placed pursuant to this authorization and requires maintenance to ensure the riprap is safely constructed and properly maintained. Special Condition II.E requires a monitoring plan for the containment cap, based on recommendations in the Port's Remediation Plan (2015), to ensure the remediation cap remains in place and the public benefits of the fill, including allowing safe use of the water by people, are achieved. Special Condition II.F and II.G are included to ensure the project is built consistent with the concurrence from NMFS and the water quality certification from the RWQCB. In addition, Special Condition II.A and II.B are included to ensure the fill is constructed consistent with the McAteer-Petris Act and the San Francisco Bay Plan.

The public benefits of the project authorized by this permit exceed the public detriments of the fill, and therefore are consistent with the requirements of the McAteer-Petris Act and the San Francisco Bay Plan.

2. **Alternative Upland Location.** The subject fill activities serve water-oriented uses, including public recreation and shoreline protection. The deteriorated and contaminated shoreline area requires fill to create a public park and ensure safe public access to the Bay. The fill associated with the shoreline protection system, beach, and containment cap is designed based on the hydrodynamic conditions of the site to provide erosion protection and ensure public access to the water. The Port explored alternatives to the contamination cap approach in its remediation plan (2015). An alternative was analyzed that involved dredging the area to remove the contaminated material. However, this approach would have required capping material as contaminated sediment cannot be completely removed.

The riprap system is designed to contain contaminants but also to stabilize the shoreline and prevent erosion to the beach. The Port's 2014 *Coastal Engineering Analysis, Remediation Concept Design and Impact Analysis*³ found that there is natural wave action at this area and, further, wake action associated with the adjacent drydock operations. The riprap and beach design is based on this analysis with the goal of designing a beach where sediment, including any remnant contaminated material, will remain despite expected wave and wake action.

The advantage of creating a sandy beach at the site—as opposed to other types of access involving fill, e.g., a boat launch or dock—is that the project will facilitate Bay swimming and small human-powered boat use, as well as sunbathing. The opportunity for these types of public recreation are limited within the vicinity of the project site and throughout the City of San Francisco.

Consequently, the subject fill activities do not have alternative upland locations, consistent with the requirements of the McAteer-Petris Act and the San Francisco Bay Plan.

3. **Minimum Amount Necessary.** The subject fill will not increase solid fill in the water. However, these activities will result in an approximately 22,515-square-foot net increase of filled area in the Bay. The design includes the initial removal of approximately 8,500 square feet of debris (4,500 cy of solid fill) to allow reconfiguration of the shoreline. Subsequently, fill will be placed to cap contaminants, construct a shoreline protection system, and develop a public beach. The reconstruction of the shoreline, which includes excavation in upland areas, will introduce tidal action to new areas and increase the Bay surface area.

The Port's Remediation Plan (2015) evaluated three alternatives to protect the public from contaminant contact and to facilitate water access at the site while minimizing fill in the Bay. The "no action" alternative would not have accommodated water access at the site, depriving the public of this unique recreational opportunity. The Port's remediation plan also analyzed an alternative that involved dredging contaminated sediment to four feet below the mudline.

³ "Coastal Engineering Analysis, Remediation Concept Design and Impact Analysis," prepared by Coast & Harbor Engineering, dated November 4, 2014.

While dredging would have removed most of the contaminants in the area, the study found that complete removal would not be possible since some contaminants, such as lead and mercury, are found in higher concentrations at lower depths beyond four feet. As a result, the dredging alternative would have required fill in the form of a rock cap at the dredged footprint to contain remnant contaminants. Additionally, according to the Remediation Plan, the cost of dredging and capping was higher than other alternatives.

The subject remediation alternative involves the placement of a contamination cap over a layer of treatment material. The design uses an “activated carbon hybrid cap” comprised of a carbon-based treatment material (called “Sedimite”) placed atop the contaminated sediment area and held in place by multiple layers of gravel and rock. (A variant of this plan was originally considered, which involved installing a different treatment material underlying gravel and rock layers.) When compared to the other options, the selected alternative involving the use of a thinner layer of material below the cap—1.0 to 2.0 inches thick instead of a one-foot-thick layer—also treats a wider range of contaminants, ensures greater protection of wildlife, and is less costly.

The riprap system authorized herein is designed to be the minimum fill necessary to contain contaminants along the shoreline but also stabilize the shoreline and prevent erosion. The Port’s 2014 *Coastal Engineering Analysis, Remediation Concept Design and Impact Analysis* found that there is wave action at this area of the shoreline, and wake action is caused by the existing drydock operations. As a result, the riprap and beach design is based on this analysis with the goals of designing a beach where the sediment, including any remnant contaminated material, will not erode away due to wave action or be transported to the open water. The advantage of a beach over other forms of access involving fill, e.g., a boat launch or dock, is that the site will allow for swimming, the launching of small human-powered boats, and sunbathing.

As a result, the fill authorized by this permit is the minimum amount necessary for the project consistent with the requirements of the McAteer-Petris Act and the San Francisco Bay Plan.

4. **Effects on Bay Resources.** In addition to Section 66605(d) of the McAteer-Petris Act regarding the impacts of fill on Bay resources, the Bay Plan contains related policies, cited below.
 - a. **Fish and Wildlife.** The Bay Plan Fish, Other Aquatic Organisms and Wildlife Policy No. 4 states, in part, that “[t]he Commission should consult with the California Department of Fish and [Wildlife] and the U.S. Fish and Wildlife Service or the National Marine Fisheries Service whenever a proposed project may adversely affect an endangered or threatened plant, fish, other aquatic organism or wildlife species... and give appropriate consideration of (their) recommendations in order to avoid possible adverse impacts of a proposed project on fish, other aquatic organisms and wildlife habitat.”

On September 23, 2016, the National Marine Fisheries Service (NMFS) issued a concurrence letter for the fill associated with the project, concluding that these activities would not likely adversely affect species protected under the federal Endangered Species Act, including anadromous salmonids and green sturgeon. The Bay bottom consists of mud and debris remaining from the former use industrial uses. NMFS determined that contamination at the site likely has an effect on benthic organisms, thereby impacting the food chain.

NMFS determined that essential habitat for various life stages of fish specified in the Pacific Groundfish Fish Management Plan and the Coastal Pelagic Fish Management Plan would be adversely affected, but the subject activities include measures to avoid, minimize, mitigate, or offset such effects, including excavating debris along the shoreline at low tide and limiting in-water work to the period of June 1 through November 30 of any calendar year. Further, NMFS determined that the subject remediation plan would eliminate contaminated fish food sources. According to NMFS, benthic organisms will likely reestablish once the construction is complete, but organisms will shift from mud-adapted polychaetes, amphipods, and clams to similar species adapted to sediments associated with the gravel and rock of the contamination cap. NMFS stated that nearby fish foraging areas will not be affected by the project and the project will not result in an impact on fish foraging habits.

The U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife did not issue concurrence or other consultation documentation for the subject project.

Special Condition II.F requires the project to be constructed consistent with the NMFS concurrence letter dated September 23, 2016. As required in Special Condition II.E, the permittee shall submit to the Commission a monitoring plan that will monitor the remediation area annually for the first two years and every five years thereafter to monitor the integrity of the contamination cap to ensure there are no adverse impacts to the environment.

As conditioned, the fill authorized by this permit is consistent with the McAteer-Petris Act requirements and the San Francisco Bay Plan policies related to fish, other aquatic organisms, and wildlife.

- b. **Subtidal Areas and Water Surface Area.** The Bay Plan policies on subtidal areas states, in part, “[a]ny proposed filling...project in a subtidal area should be thoroughly evaluated to determine the local and Bay-wide effects of the project on: (a) the possible introduction or spread of invasive species; (b) tidal hydrology and sediment movement; (c) fish, other aquatic organisms and wildlife; (d) aquatic plants; and (e) the Bay's bathymetry. Projects in subtidal areas should be designed to minimize and, if feasible, avoid any harmful effects.” In addition, the Bay Plan policies on water surface area and volume state, “[t]he surface area of the Bay and the total volume of water should be kept as large as possible in order to maximize active oxygen interchange, vigorous circulation, and

effective tidal action. Filling and diking that reduce surface area and water volume should therefore be allowed only for purposes providing substantial public benefits and only if there is no reasonable alternative.”

According to the Port's Remediation Plan (2015) and the NMFS concurrence letter dated September 23, 2016, the subtidal area at the site contains contaminated sediment at an approximately 8,810-square-foot area, which has been determined to be harmful to organisms. NMFS concluded that the contamination likely affects benthic organisms, which serve as food for fish. NMFS determined that benthic organisms will likely re-establish once remediation is completed, although the type of organisms will shift from mud-adapted species to species suited to the newly created rock and gravel Bay bottom. As a result, although the project involves an increase in square footage of fill in the Bay, the project will result in a net benefit to subtidal habitat.

The Port's Coastal Engineering Analysis (2014) concluded that the remediation cap will have no significant impact on sediment transport or the sedimentation patterns at this site. The beach sediment will remain in place once armored with shoreline riprap along the sides of the beach. The contamination cap will not deprive the system of significant sediment. The project will not magnify the sedimentation rates at the navigation area serving the neighboring drydock and, therefore, will not result in future dredging. According to the Port, nourishment of the beach will not be necessary. The Port's Coastal Engineering Analysis conducted an analysis of wave action along the shoreline, including boat wake from the dry dock operation to the east, and concluded that the fill associated with the project would not have a significant impact on wave action along the shoreline.

The removal of debris at the shoreline will expand the Bay surface area by approximately 7,398 square feet. The majority of the fill will be located at the Bay bottom, and there will be no net increase in volume of solid fill. Special Condition II.F requires a monitoring plan to survey the integrity of the contamination cap, thereby ensuring that the fill authorized by the permit does not adversely impact sedimentation or adjacent subtidal areas.

As conditioned, the project authorized by this permit is consistent with the McAteer-Petris Act requirements and the Bay Plan policies related to subtidal areas and water surface area and volume.

- c. **Water Quality.** The Bay Plan policies on water quality state, in part, that “[w]ater quality in all parts of the Bay should be maintained at a level that will support and promote the beneficial uses of the Bay as identified in the San Francisco Bay Regional Water Quality Control Board’s (RWQCB) Basin Plan....[and] the policies, recommendations, decisions, advice, and authority of the State Water Resources Control Board and the Regional Board should be the basis for carrying out the Commission’s water quality responsibilities.”

On May 17, 2017, the RWQCB issued a water quality certification for the riprap, beach, and contamination cap, finding that the removal of debris and capping of a contaminated area will improve water quality, reduce risk to human health and safety, and improve the functions and values of aquatic resources. The RWQCB did not require mitigation for the project. Special Condition II.G requires the project to be constructed consistent with the RWQCB certification.

As conditioned, the project authorized by this permit is consistent with the requirements of the McAteer-Petris Act and the Bay Plan policies on Water Quality.

- d. **Mitigation.** BCDC Bay Plan Mitigation Policy No. 1 states, “[p]rojects should be designed to avoid adverse environmental impacts to Bay natural resources such as to water surface area, volume, or circulation and to plants, fish, other aquatic organisms and wildlife habitat, subtidal areas, or tidal marshes or tidal flats. Whenever adverse impacts cannot be avoided, they should be minimized to the greatest extent practicable. Finally, measures to compensate for unavoidable adverse impacts to the natural resources of the Bay should be required.”

The Port did not propose mitigation for the project since it was designed to avoid or minimize adverse environmental impacts. The Port’s Coastal Engineering Analysis (2014) concluded that the cap design, riprap, and beach will have no impact on water circulation or sedimentation in the area. According to the Port's Remediation Plan (2015) and the NMFS concurrence letter dated September 23, 2016, the subtidal area at the site contains contaminated sediment, which likely affects benthic organisms used as food for fish. As a result, the remediation of the site with a sediment cap will result in a food supply for fish that is less contaminated once benthic organisms re-establish at the site. The project will not have adverse impacts on water volume, circulation, vegetation and wildlife, subtidal areas, or tidal marsh.

Mitigation is not required by the RWQCB or recommended by NMFS because these agencies found that the project will improve water quality and habitat values at the site. As discussed previously, the project will result in a net increase of 22,515 square feet in area of Bay fill, primarily at the bay bottom, and will not result in an increase in volume of Bay fill. As a result of the excavation of debris along the shoreline and the restructuring of the shoreline with riprap and a beach, the water surface area of the Bay will increase by approximately 7,398 square feet as a result of the project. The project avoids adverse impacts on the Bay, and therefore no mitigation is required by this permit.

5. **Sound Safety Standards.** In addition to Section 66605(e) of the McAteer-Petris Act regarding the seismic and flooding standards by which fill is designed and constructed, the Bay Plan contains the following related policies.

The Bay Plan Safety of Fills Policy No. 1 states, in part, “[t]he Commission has appointed the Engineering Criteria Review Board [ECRB]...to:...review all except minor projects for the adequacy of their specific safety provisions, and make recommendations concerning these provisions....” Safety of Fills Policy No. 4 states, in part, that “[a]dequate measures should be provided to prevent damage from sea level rise and storm activity that may occur on fill or near the shoreline over the expected life of a project.... New projects on fill or near the shoreline should...be built so the bottom floor level of structures will be above a 100-year flood elevation that takes future sea level rise into account for the expected life of the project.”

The Bay Plan policies on shoreline protection, state, in part: “...shoreline protection projects...should be authorized if: (a) the project is necessary to provide flood or erosion protection for... (b) the type of the protective structure is appropriate for the project site, the uses to be protected, and the erosion and flooding conditions at the site; (c) the project is properly engineered to provide erosion control and flood protection for the expected life of the project based on a 100-year flood event that takes future sea level rise into account; (d) the project is properly designed and constructed to prevent significant impediments to physical and visual public access; and (e) the protection is integrated with current or planned adjacent shoreline protection measures.” In addition, “[r]iprap revetments...should be constructed of properly sized and placed material that meet sound engineering criteria for durability, density, and porosity....”

The Bay Plan Climate Change Policy No. 2 states, in part: “...a risk assessment should be prepared...based on the estimated 100-year flood elevation that takes into account the best estimates of future sea level rise and current flood protection and planned flood protection that will be funded and constructed when needed to provide protection for the proposed project or shoreline area. A range of sea level rise projections for mid-century and end-of-century based on the best scientific data available should be used in the risk assessment....” Climate Change Policy No. 3 state, in part, “...within areas that a risk assessment determines are vulnerable to future shoreline flooding that threatens public safety, all projects...should be designed to be resilient to a mid-century sea level rise projection.” Climate Change Policy No. 7 states, in part, that “...the Commission should evaluate each project proposed in vulnerable areas on a case-by-case basis to determine the project’s public benefits, resilience to flooding, and capacity to adapt to climate change impacts. The following specific types of projects have regional benefits, advance regional goals, and should be encouraged, if their regional benefits and their advancement of regional goals outweigh the risk from flooding... [including] a public park.”

The Commission’s ECRB did not review the project because the Commission staff determined that the fill did not raise significant seismic safety issues. Special Conditions II.A and II.B require the Port to submit and receive approval of project plans to, among other things, certify that the fill authorized herein will be constructed to comply with sound safety standards.

The Port designed the contamination cap to ensure that in-water access remains safe for recreational use. The shoreline revetment system is designed to prevent erosion and contain contaminated sediment. As designed, the riprap will gradually slope towards the on-land area and connect to seawalls located at the north end of the beach and the south end of the beach at Slipway 4. Special Condition II.D requires the Port to construct the shoreline protection system so that it complies with common engineering standards in the Bay. The riprap will not impede physical or visual access.

The fill associated with the contamination cap is located at the Bay floor and is designed to be submerged at all times by the tide. The design elevations of the beach and shoreline riprap will protect the upland Crane Cove Park area from sea level rise impacts through 2050. As sea level rises over time, the mean higher high water (MHHW) level will incrementally rise at the beach, but will not flood the upland park area. The shoreline riprap system is designed to make the park resilient to 22 inches of sea level rise at mean higher high water (MHHW) through 2065 and will itself remain resilient. The riprap is not designed to protect against flooding from today's 100-year storm events. As a result, the park will flood during a 100-year storm event, which has a 1% chance of occurring every year. The riprap design considers extreme storm events, as it would remain in place and continue to provide erosion control during a 100-year storm event. Special Condition II.C.9 requires reporting in the event the riprap is overtopped and the public access areas required by this permit are flooded.

The fill associated with the project supports development of Crane Cove Park, which will achieve regional goals of public access to the Bay and improved water access. The project involves a public park that provides regional benefits, including the redevelopment of an unused waterfront industrial area to provide a public park in an area along the shoreline lacking public access amenities. Although the park will flood during a 100-year storm event, which has a 1% chance of occurring every year, the regional benefits of the project and advancement of regional goals by the park outweigh the risk of temporary closures from flooding in an extreme storm event.

As a result, the project is consistent with the requirements of the McAteer-Petris Act and with the Bay Plan policies on Shoreline Protection, Safety of Fills and Climate Change.

6. **Valid Title.** The project site, including the area located upland of the Bay, is held in the public trust and is administered by the Port of San Francisco and, therefore, the permittee holds valid title to the subject site.

As conditioned, the project is consistent with the requirements of the McAteer-Petris Act and the San Francisco Bay Plan policies related to Bay fill.

- B. **Public Access.** In assessing whether a project provides maximum feasible public access consistent with activities proposed, the Commission has relied on the McAteer-Petris Act, the Bay Plan, access requirements of similar previously-permitted projects, and relevant court decisions. When the activity under consideration is proposed by a public agency, such as the Port of San Francisco, the Commission also evaluates whether the public access is reasonable in light of project scope.

Section 66602 of the McAteer-Petris Act states, in part, that “...existing public access to the shoreline and waters of the...[Bay] is inadequate and that maximum feasible public access, consistent with a proposed project, should be provided.” Section 66632.4 of the McAteer-Petris Act states, “[w]ithin any portion or portions of the shoreline band that are located outside the boundaries of water-oriented priority land uses...the Commission may deny an application for a permit for a proposed project only on the grounds that the project fails to provide maximum feasible public access, consistent with the proposed project, to the bay and its shoreline.”

- **Public Access** policies of the Bay Plan state, in part, that: “[a] proposed fill project should increase public access to the Bay to the maximum extent feasible...” ; “[a]ccess to and along the waterfront should be provided by walkways, trails, or other appropriate means and connect to the nearest public thoroughfare where convenient parking or public transportation may be available.”; “the improvements should be designed and built to encourage diverse Bay-related activities and movement to and along the shoreline, should permit barrier free access for persons with disabilities to the maximum feasible extent, should include an ongoing maintenance program, and should be identified with appropriate signs.”; “Public access should be sited, designed, managed and maintained to avoid significant adverse impacts from sea level rise and shoreline flooding.”; and “Any public access provided as a condition of development should either be required to remain viable in the event of future sea level rise or flooding, or equivalent access consistent with the project should be provided nearby.” Public Access Policy No. 12 states, in part, “[t]he Design Review Board should advise the Commission regarding the adequacy of the public access proposed.”
- **Recreation** policies of the Bay Plan state, in part: “Diverse and accessible water-oriented recreational facilities, such as marinas, launch ramps, beaches, and fishing piers, should be provided to meet the needs of a growing and diversifying population, and should be well distributed around the Bay and improved to accommodate a broad range of water-oriented recreational activities for people of all races, cultures, ages and income levels;” “[a]ccess for non-motorized small boats can be provided at launch ramps, beaches, fishing piers, marinas and waterfront parks, and by providing access through or over shoreline protection (e.g., ramps or stairs).” In addition, “New beaches should be permitted if the site conditions are suitable for sustaining a beach without excessive beach nourishment”; “[t]o capitalize on the attractiveness of their bayfront location, parks should emphasize hiking, bicycling, riding trails, picnic facilities, swimming,

environmental, historical and cultural education and interpretation, viewpoints, beaches, and fishing facilities”; “[b]ecause of the need to increase the recreational opportunities available to Bay Area residents, small amounts of Bay fill may be allowed for waterfront parks and recreational areas that provide substantial public benefits and that cannot be developed without some filling.”

- **Appearance, Design and Scenic Views** policies in the Bay Plan state, in part: “[a]ll bayfront development should be designed to enhance the pleasure of the user or viewer of the Bay”; and “[t]owers, bridges, or other structures near or over the Bay should be designed as landmarks that suggest the location of the waterfront when it is not visible, especially in flat areas. But such landmarks should be low enough to assure the continued visual dominance of the hills around the Bay.”

1. **Maximum Feasible Public Access.** A majority of the project site, including the water, is fenced and inaccessible to the public due to hazardous conditions and the presence of contaminated sediment. The fencing along Illinois Street prevents the public from seeing the shoreline and the Bay at the project site. Within the northern boundary of the site, an approximately 2,400-square-foot area with picnic tables exists in part for the public.⁴

Crane Cove Park will cover an approximately 8.4-acre area, including area located outside of the Commission’s jurisdiction. Within the Commission’s jurisdiction, the park will occupy an approximately 111,156-square-foot (2.5-acre) area. As authorized herein, the Port will undertake a variety of activities related to the development of the park, including the removal of the debris, the placement of fill to construct a sandy beach, the construction of a riprap shoreline stabilization system, the placement of a containment cap to remediate contaminated sediments, and the repair of Slipway 4. This permit authorizes Phase I of Crane Cove Park. An additional phase (Phase II) located to the east of Phase I will be the subject of a separate permit action in the future.

Other amenities at the park site include an open lawn, an 18-foot-wide Bay Trail, a vehicle turnaround and drop-off area for pedestrians and boaters, public plazas, and a sandy beach. Park amenities are designed to meet universal access criteria and, thus, will be barrier free to persons with disabilities. North of the beach area, three picnic tables will be installed one of which will be available by reservation, as outlined in Special Condition II.C.9 contained herein. Pedestrian and bicycle pathways will provide access from Illinois Street. A reconstructed 19th street (located outside of the Commission’s jurisdiction) will serve as a park entrance. Historic industrial elements will be rehabilitated and repurposed (e.g., Slipway 4) for public use.

⁴ An 1,994-square-foot section of this area is available to the general public per BCDC Permit No. M1986.061.09. Public access requirements and conditions contained in BCDC Permit No. 2016.006.00 will supercede this public access requirement of BCDC Permit M1986.061.09.

Two shipbuilding cranes will remain as landmark structures. Crane 14, which is currently located at the upland end of Slipway 4 (outside of the Commission's jurisdiction) will be relocated to the Commission's 100-foot shoreline band jurisdiction. The public will see Crane 14 from 18th street. Crane 30 will be rehabilitated and remain outside of the Commission's jurisdiction. Historic rails and utility racks will be repaired and repurposed as interpretive elements at the park. The Slipway 4 center area will allow for direct public access to the Bay.

Outside of the Commission's jurisdiction, Building 49 will be repurposed as an aquatic center with kayak storage, a public restroom, and a café or retail operation. The café will have a private outdoor dining area with capacity for up to 100 people located within the Commission's 100-foot shoreline band jurisdiction. At the northern boundary of the park, an approximately 2,400-square-foot area (located adjacent to the Ramp Restaurant) will also be a private outdoor dining area with a capacity for 65 people within the Commission's 100-foot shoreline band jurisdiction. Special Condition II.C.7 is included herein to ensure that these outdoor dining areas will not encroach on public access areas.

Upon its initial opening scheduled in 2018, the Port anticipates approximately 60 visitors per day with an annual visitation of approximately 22,000 people. As the public becomes aware of the park, the Port expects visitor numbers to increase. The permittee will hold special events outside of the 100-foot shoreline band. These events could impact the public's use of the shoreline within the 100-foot shoreline band by excluding the public from the special events areas and crowding the public access areas adjacent to the special event areas, thereby inhibiting circulation to and along the shoreline. As a result, Special Condition II.C requires public access amenities within the Commission's Bay and 100-foot shoreline band jurisdiction to provide maximum feasible public access consistent with the project consistent with the requirements of the McAteer-Petris Act and the San Francisco Bay Plan. Special Condition II.C.1 requires the entire area of the park within the Commission's jurisdiction as public access. Special Condition II.C.2 requires specific improvements throughout the public access area. Special Condition II.C.3 and II.C.4 requires maintenance of the public access amenities required herein, including maintenance from flood damage and assignment of the permit if maintenance responsibility is transferred to another party. Special Condition II.C.5 provides for reasonable rules and conditions to be imposed by the Port subject to approval by or on behalf of the Commission. The Port will hold limited special events authorized within these required public access areas, as discussed below.

In its original request for a permit for the subject project, the Port asked that the Commission provide "credit" for the development of Crane Cove Park towards a future undetermined project in need of a public access offset or benefit. However, the McAteer-Petris Act and the San Francisco Bay Plan do not contain a framework to approve such a proposal through a permit. As a result, the Port modified its proposal and requested that the Commission and the Port establish a "a public access bank," subject to the Commission's later approval potentially within the

context of a San Francisco Waterfront Special Area Plan (SAP) amendment or a Memorandum of Understanding between the two bodies—details of either strategy have yet to be outlined and are not memorialized in the subject permit. This permit describes the potential benefits of the park that could be a basis for the program, such as, but not limited to, the linear feet of shoreline access, the area of public access, facilities to support the Bay Area Water Trail, and the capital costs used for the public access. These potential benefits may be recognized in a future “public access bank” proposal.

2. **Design Review Board.** The Commission’s Design Review Board (DRB) together with the Port’s Waterfront Design Advisory Committee (“WDAC”) reviewed the project on five occasions between January 2013 through July 2014. Although joint review by the DRB and WDAC (“advisory boards”) is not required in the San Francisco Waterfront Special Area Plan for projects at this location, the Port and Commission staff agreed that this type of review would result in a more efficient design process.

At the meeting of January 7, 2013, the advisory boards requested that the Port clarify the impact on the park resulting from other proposed development nearby and outside of the Commission’s jurisdiction. The advisory boards also asked that the Port explore design concepts to “pull the site together,” reconsider the design of plaza areas, refine treatment of the Bay edge, provide a clear and continuous shoreline path, and maintain the industrial feel of the site. Other issues concerning stormwater treatment, public safety, elevated views from areas outside of the Commission’s jurisdiction, and potential sea level rise impacts were discussed. Additional information was requested about boating facilities and project phasing.

At the meeting of June 10, 2013, when considering a revised project design, the boards requested that the Port address “fragmentation of the design,” simplify the design of Slipway 4, emphasize the maritime use and history of the site, and clarify the proposal for the related development site (Phase II of the subject project and not the subject of this authorization). Subsequently, the Port simplified the overall design, emphasizing the land-water connections and incorporating water overlooks. Also, the Port redesigned the open space adjacent to Slipway 4.

At the meeting of September 9, 2013, the boards expressed concern about the adjacent site proposed for development located outside of the Commission’s jurisdiction (Phase II), and its potential impact on Crane Cove Park. In addition, the boards recommended that the Port consider phasing the project to prioritize development of the northern shoreline, which includes the beach, lawn, and northern plazas that are a part of the subject project. The Port altered the phasing of the park, moving the development site to Phase II.

At the final meeting of July 14, 2014, the boards expressed support of the revised project—the project design reflected in the subject authorized project (also known as “Phase I”). The boards emphasized the need to program the park to promote use by the public, raise public awareness of the facility to enhance its use, and provide safety benefits.

Although, the boards recommended the park be programmed for special events to raise awareness about the facility, they did not review the Port’s special events plan, discussed in the following section.

3. **Special Events.** The Port will host special events within and outside of the Commission’s jurisdiction at Crane Cove Park. The park is located at a remote location and does not experience significant pedestrian traffic or commercial activity—activities that otherwise would draw the public to the park.

Special Condition II.C.6 allows special events at four areas in the required public access area. These special events may be held without additional design plan review approval by, or on behalf of, the Commission subject to the terms of Special Condition II.C.6. Special events may be held at these areas for up to fifty (50) days per calendar year, including no more than two (2) weekend days per month. Special Condition II.C.6 imposes additional restrictions on the type of events allowed at each special events area and additional limits on the number of days provided for ticketed public events and private events. Special Condition II.C.6 requires the permittee to monitor special events to ensure the special events do not encroach upon public access areas. The Port will notice the Commission prior to holding an event, and will report to the Commission on the special events program annually, pursuant to Special Condition II.C.6.

Special Condition II.C.6 limits the special event program to a 5-year duration only until and unless the Port seeks additional consideration by the Commission through an amendment to this permit based on the previous reporting and monitoring of the special events program and an assessment of the success of the special events program that includes a “public life study.” A public space “public life study” of the park conducted during the first five years would provide valuable feedback on the challenges and opportunities for the programming and maintenance of the park. This type of study could help identify how the special events add value and/or impact the park and public access areas, and provide valuable information for the continuation of special events within the park if the special events are successful in activating the area.

Special Condition II.C.6 provides that additional special events could be held in other areas of the park. In particular, the Port states that it may seek to hold special events at an approximately 6,000-square-foot area in the center of Slipway 4. As described in Special Condition II.C.6, these additional events would be approved by, or on behalf of, the Commission through plan review as provided in Special Condition II.B. The additional authorization to seek plan review for additional special events will allow the Port flexibility to increase public engagement with the new park through events.

Special Condition II.C.6 provides that no special events may encroach upon or diminish the public open and free nature of areas not designated specifically for special events including, but not limited to, the remaining open areas at the beach, lawn, Slipway 4, and public pathways throughout Crane Cove Park including those located outside of the Commission's jurisdiction. Special Condition II.C.6 and Special Condition II.C.8 additionally provides that all public pathways to the shoreline, not limited to the Bay Trail required by Special Condition II.C.2, shall be free of obstructions. This ensures that events held outside of the Commission's jurisdiction will not inhibit public use of the shoreline.

4. **Comparable BCDC-Permitted Projects.** The development of Crane Cove Park is a voluntary effort and not a requirement to offset a public access impact of a permitted or future project. Nevertheless, the Commission must determine whether the activities would provide maximum feasible public access consistent with the project.

The Commission issued a permit for the construction of India Basin Park (Permit No. 1993.010.03) to the City and County of San Francisco. India Basin Park is similar to the Crane Cove Park in that it involved the restoration of a shoreline through excavation of material and installation of riprap to facilitate access. The India Basin Park project, which involved Bay fill (approximately 25,000 square feet), provided approximately 1,500 linear feet of shoreline access, including approximately 13,748 square feet of pathways and approximately 255,400 square feet of landscaping.

BCDC Permit No. M1996.013.03 allows the Port to hold special events throughout the San Francisco Waterfront, not including the Crane Cove Park site. The permit allows public markets and special events, including construction of tents and other facilities, for up to 180 days per year as long as prior plan review and approval is obtained through the Commission staff.

BCDC Permit No. 2000.006.00 authorizes special events (with prior plan review and approval) to occur at Rincon Park at the San Francisco waterfront. The permit does not limit the number of special events at the site. BCDC Permit No. 2005.004.01, which authorized the construction of two restaurants within Rincon Park, allows the required public access space between two outdoor dining areas to be used for a total of five 24-hour events and fifteen 12-hour events each calendar year; events can occur for up to two consecutive days. The permit places limitations on the height of event structures, and includes an event reporting schedule requirement and pre-event noticing requirement. These special events can include use of the public access area for private restaurant activities.

BCDC Permit No. 1976.011.09 authorizes special events within a public access area at China Basin in the City of San Francisco. The permittee is allowed to close a public access area to conduct private events for a total of 30 days a year. The permit limits authorization of such special events for a two-year period and is required to submit event reports to the Commission staff prior to obtaining a time extension for such activities.

5. **Sea Level Rise and Flooding.** The shoreline riprap system, the beach, and the park located within the Commission's 100-foot shoreline band jurisdiction are designed to be resilient to flooding from sea level rise beyond 2050. The public access within the Commission's jurisdiction will be resilient to a projection of 22 inches of sea level rise at Mean Higher High Water, which will make the public access resilient beyond mid-century to approximately 2065. The Port anticipates that access restrictions will be in place at some portions of the park beginning in 2065 and increased maintenance will be necessary. However, public pathways to the Bay and along the shoreline will exist through the upland areas of the park up to a projected four feet of sea level rise by end-of-century, providing equivalent public access over the life of the park even when areas closer to the shoreline are flooded.

Areas of the park will flood during a 100-year storm event under current conditions. These events are short-term events, usually lasting a few hours, and have a 1% chance of occurring each year. As sea levels rise, a 100-year storm event will flood more area of the park. By the end-of-century, with a sea level rise projection of approximately four feet, a 100-year storm event will likely flood most of the park and upland areas of the City beyond Illinois Street. As conditioned, the public access required by this permit is viable in the event of future sea level rise and equivalent access will be provided at upland areas of the park in the event of flooding from storms. Special Condition II.C.3 requires maintenance of the public access, including repairing damage due to flooding. Special Condition II.C.9 requires reporting of flooding in the required public access areas. Special Condition II.C.9 requires that any permanent closures or significant access restrictions must be subject to approval by or on behalf of the Commission, including, but not limited to, by amendment to this permit. Although the park will flood toward the end-of-century in extreme storm events, there are upland areas of the park where equivalent access will be provided to ensure circulation along the shoreline and access to the Bay. Special Condition II.C.9 requires that in the event of any permanent closure in a required public access area, the permittee will provide equivalent public access at or near the site to allow public access to and along the shoreline.

As a result, although the park is expected to flood in extreme storm events, it is designed to avoid significant impacts from that flooding consistent with the requirements of the Bay Plan Public Access policies. As conditioned, the public access remains viable to flooding from sea level rise and storms beyond mid-century, and equivalent access is provided in upland areas of the park. Furthermore, the project supports development of Crane Cove Park, which will achieve regional goals of public access to the Bay and improved water access. The project involves a public park that provides regional benefits, including the redevelopment of an unused waterfront industrial area to provide a public park in an area along the shoreline lacking public access amenities. Although the park will likely flood during a 100-year storm event, which has a 1% chance of occurring every year, the regional benefits of the project and advancement of regional goals by the park outweigh the risk of temporary closures from flooding in an extreme storm event.

As conditioned, the project authorized herein is consistent with the McAteer-Petris sections and relevant San Francisco Bay Plan policies regarding Public Access, Recreation, and Appearance, Design, and Scenic Views.

C. Review Boards

1. **Engineering Criteria Review Board.** The Commission's ECRB did not review the project because the Commission staff determined that the fill does not raise significant seismic safety issues.
2. **Design Review Board.** The Commission's DRB (and the Port's Waterfront Design Advisory Committee) reviewed the project on five occasions between January 2013 and July 2014.

- D. **Environmental Review.** On October 5, 2015, the City of San Francisco, as the lead agency, certified that the project was exempt from the requirement to prepare environmental documentation since the project qualified for the Community Plan Categorical Exemption (CEQA Guidelines Section 15183) and is located in the Eastern Neighborhoods Community Plan Area, for which the City's Planning Commission certified the *Eastern Neighborhoods Rezoning and Area Plans Final EIR* (FEIR).⁵ The Planning Department determined that the project would not have any additional or significant adverse effects that had not been examined in the subject FEIR, nor had any new or additional information come to light that would alter the conclusions of the FEIR.
- E. **Conclusion.** For all the above reasons, the Commission finds, declares, and certifies that, subject to the Special Conditions stated herein, the project authorized herein is consistent with the McAteer-Petris Act, the *San Francisco Bay Plan*, the Commission's Regulations, the California Environmental Quality Act, and the Commission's Amended Management Program for the San Francisco Bay segment of the California coastal zone.

IV. Standard Conditions

- A. **Permit Execution.** This permit shall not take effect unless the permittee execute the original of this permit and return it to the Commission within ten days after the date of the issuance of the permit. No work shall be done until the acknowledgment is duly executed and returned to the Commission.
- B. **Notice of Completion.** The attached Notice of Completion and Declaration of Compliance form shall be returned to the Commission within 30 days following completion of the work in each phase.
- C. **Permit Assignment.** The rights, duties, and obligations contained in this permit are assignable. When the permittee transfers any interest in any property either on which the activity is authorized to occur or which is necessary to achieve full compliance of one or more conditions to this permit, the permittee/transferor and the transferee shall execute and submit to the Commission a permit assignment form acceptable to the Executive Director. An assignment shall not be effective until the assignees execute and the Executive Director receives an acknowledgment that the assignees have read and

⁵ Planning Department Case No.2004.0160E and State Clearinghouse No. 2005032048.

understand the permit and agree to be bound by the terms and conditions of the permit, and the assignees are accepted by the Executive Director as being reasonably capable of complying with the terms and conditions of the permit.

- D. **Permit Runs With the Land.** Unless otherwise provided in this permit, the terms and conditions of this permit shall bind all future owners and future possessors of any legal interest in the land and shall run with the land.
- E. **Other Government Approvals.** All required permissions from governmental bodies must be obtained before the commencement of work; these bodies include, but are not limited to, the U. S. Army Corps of Engineers, the State Lands Commission, the Regional Water Quality Control Board, and the city or county in which the work is to be performed, whenever any of these may be required. This permit does not relieve the permittee of any obligations imposed by State or Federal law, either statutory or otherwise.
- F. **Built Project must be Consistent with Application.** Work must be performed in the precise manner and at the precise locations indicated in your application, as such may have been modified by the terms of the permit and any plans approved in writing by or on behalf of the Commission.
- G. **Life of Authorization.** Unless otherwise provided in this permit, all the terms and conditions of this permit shall remain effective for so long as the permit remains in effect or for so long as any use or construction authorized by this permit exists, whichever is longer.
- H. **Commission Jurisdiction.** Any area subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission under either the McAteer-Petris Act or the Suisun Marsh Preservation Act at the time the permit is granted or thereafter shall remain subject to that jurisdiction notwithstanding the placement of any fill or the implementation of any substantial change in use authorized by this permit. Any area not subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission that becomes, as a result of any work or project authorized in this permit, subject to tidal action shall become subject to the Commission's "bay" jurisdiction.
- I. **Changes to the Commission's Jurisdiction as a Result of Natural Processes.** This permit reflects the location of the shoreline of San Francisco Bay when the permit was issued. Over time, erosion, avulsion, accretion, subsidence, relative sea level change, and other factors may change the location of the shoreline, which may, in turn, change the extent of the Commission's regulatory jurisdiction. Therefore, the issuance of this permit does not guarantee that the Commission's jurisdiction will not change in the future.
- J. **Violation of Permit May Lead to Permit Revocation.** Except as otherwise noted, violation of any of the terms of this permit shall be grounds for revocation. The Commission may revoke any permit for such violation after a public hearing held on reasonable notice to the permittee or their assignees if the permit has been effectively assigned. If the permit is revoked, the Commission may determine, if it deems appropriate, that all or part of any fill or structure placed pursuant to this permit shall be removed by the permittee or their assignees if the permit has been assigned.

- K. **Should Permit Conditions Be Found to be Illegal or Unenforceable.** Unless the Commission directs otherwise, this permit shall become null and void if any term, standard condition, or special condition of this permit shall be found illegal or unenforceable through the application of statute, administrative ruling, or court determination. If this permit becomes null and void, any fill or structures placed in reliance on this permit shall be subject to removal by the permittee or their assignees if the permit has been assigned to the extent that the Commission determines that such removal is appropriate. Any uses authorized shall be terminated to the extent that the Commission determines that such uses should be terminated.
- L. **Permission to Conduct Site Visit.** The permittee shall grant permission to any member of the Commission's staff to conduct a site visit at the subject property during and after construction to verify that the project is being and has been constructed in compliance with the authorization and conditions contained herein. Site visits may occur during business hours without prior notice and after business hours with 24-hour notice.
- M. **Abandonment.** If, at any time, the Commission determines that the improvements in the Bay authorized herein have been abandoned for a period of two years or more, or have deteriorated to the point that public health, safety or welfare is adversely affected, the Commission may require that the improvements be removed by the permittee, its assignees or successors in interest, or by the owner of the improvements, within 60 days or such other reasonable time as the Commission may direct.
- N. **Best Management Practices**
1. **Debris Removal.** All construction debris shall be removed to an authorized location outside the jurisdiction of the Commission. In the event that any such material is placed in any area within the Commission's jurisdiction, the permittee, its assigns, or successors in interest, or the owner of the improvements, shall remove such material, at their expense, within ten days after they have been notified by the Executive Director of such placement.
 2. **Construction Operations.** All construction operations shall be performed to prevent construction materials from falling, washing or blowing into the Bay. In the event that such material escapes or is placed in an area subject to tidal action of the Bay, the permittee shall immediately retrieve and remove such material at its expense.
- O. **In-Kind Repairs and Maintenance.** Any in-kind repair and maintenance work authorized herein shall not result in an enlargement of the authorized structural footprint and shall only involve construction materials approved for use in San Francisco Bay. Work shall occur during periods designated to avoid impacts to fish and wildlife. The permittee shall contact Commission staff to confirm current restricted periods for construction.
- P. **Certification of Contractor Review.** Prior to commencing any grading, demolition, or construction, the general contractor or contractors in charge of that portion of the work shall submit written certification that s/he has reviewed and understands the requirements of the permit and the final BCDC-approved plans, particularly as they pertain to any public access or open space required herein, or environmentally sensitive areas.