

**Material Amendment No. Eleven  
Permit No. 1985.019.09B  
Scott's Jack London Seafood, Inc.  
and  
Port of Oakland**

Adrienne Klein, Chief of Enforcement

Marc Zeppetello, Chief Counsel

October 19, 2017



*Making San Francisco Bay Better*

# Presentation

- Two permits govern the project area
- Violations
  - Unauthorized construction of the replacement public pavilion
  - Unauthorized use of the replacement public pavilion
- Material amendment to legalize unauthorized construction and special conditions



**Jack London Square, Oakland**

# Permit No. 1985.019.22A

## “The Port’s permit”

- Covers all of Jack London Square except the public pavilion
- Entire shoreline is dedicated public access including the 20,000-square-foot Franklin Street Plaza
- To be administratively (non-materially) amended
  - Clarify Port’s **retained** public access obligations in Franklin Street Plaza
  - Transfer Port’s permit requirements from Scott’s permit to Port’s permit
  - Separate action by Executive Director



**Franklin Street Plaza and Public Pavilion**

# Existing Permit No. 1985.019.09B

## “The Scott’s Permit”

- Authorized to construct 4,400-square-foot public pavilion in Franklin Street Plaza
- Authorized to enclose public pavilion with hanging canvas fabric panels for interim private use
- Requires no fewer than 292 public use days and no more than 73 private use days
- Issued to the Port and Scott’s

# Violations

- 2004-2014 – Unauthorized private use of the pavilion (more than 73 events/ year resulting in fewer than 292 public days/year)
- 2012 – Unauthorized construction of a new public pavilion enclosure system (hard walls vs. fabric panels)

# Status of Enforcement Case

- Cease and Desist and Civil Penalty Order No. CDO 2017.01
- Commission Vote - April 6, 2017
- Effective Date - April 7, 2017
- Issued solely to Scott's
- Agreed to by Scott's

# Cease and Desist Order

- Confirms that Scott's cannot hold more than 73 private events per year and must provide required public access improvements
- Requires Scott's to submit monthly reports to BCDC about prior month's private pavilion use
- Requires Scott's to submit application to amend its permit to authorize existing illegal pavilion enclosure system, including a new public access plan
- Prohibits Scott's from requesting more private pavilion use days as part of this application

# Civil Penalty Order

- Penalty of \$395,360
- Pay in 3 annual installments by May 7, 2016 (paid), 2017, and 2018
- 15% reduction (\$59,304) for full compliance with the Order
- By September 1, 2017, Executive Director to determine status of Scott's compliance with the Order
  - Determination of noncompliance with monthly reporting requirement

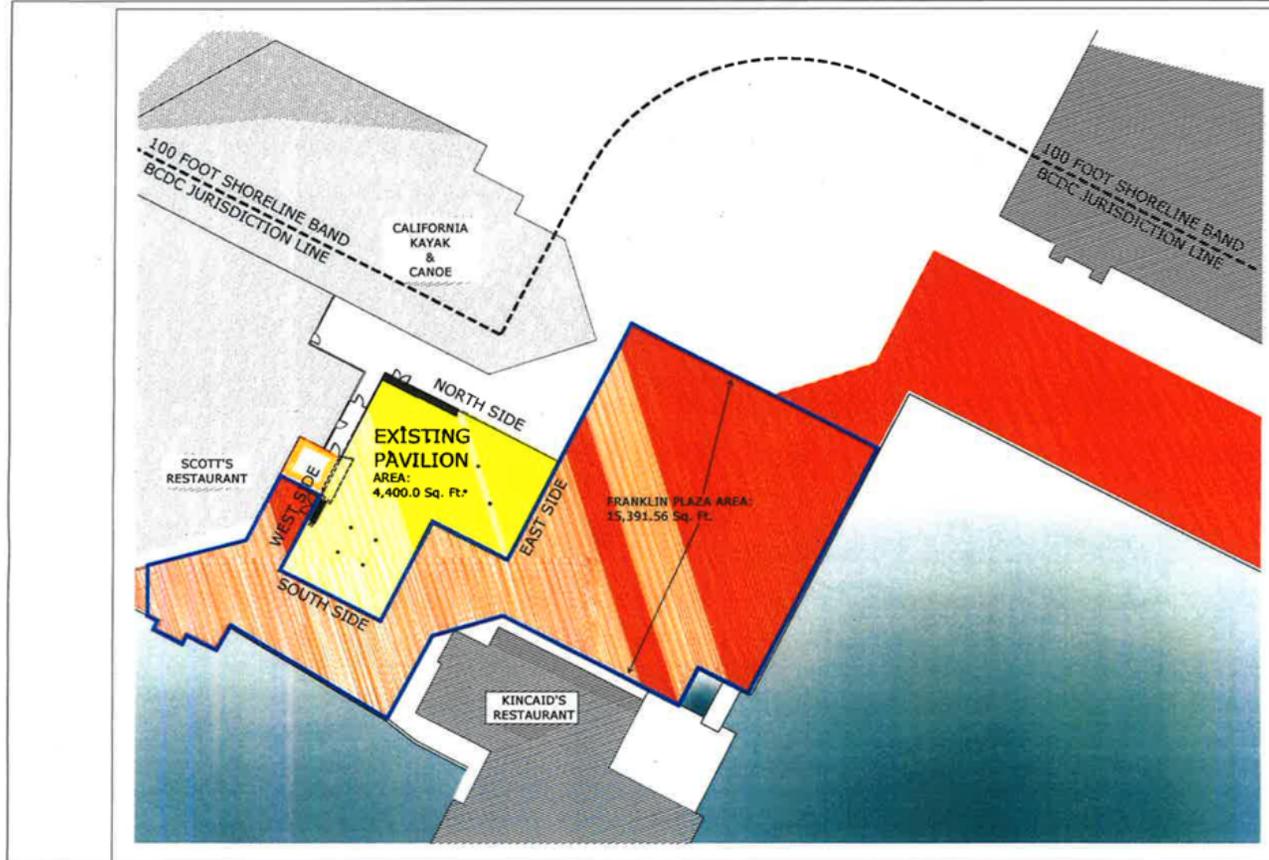
# What Is Not Pending Now

- Not considering any changes to amount of private use
  - Separate action by Commission at a future date if Scott's requests another material amendment
- Not considering 15% penalty reduction
  - Executive Director's decision

# Material Amendment

## Part 1 of 4

- Two permittees --> One permittee
- Permit area expanded to include entire Franklin Street Plaza
  - Purpose: To provide maximum feasible public access consistent with the project
  - Size:  $4,400 + 15,391 = 20,000$  square feet
- Losing 418 square feet of dedicated public access due to unauthorized construction of pavilion walls and storage area



RUBIO  
BOWDEN  
Design  
ARCHITECTS  
PLANNERS  
&  
LANDSCAPE ARCHITECTS

EXHIBIT C-1

PAVILION  
JACK LONDON SQUARE

JOB NO.	050107
DATE	11/29/2013
REVISION	
DATE	BY
05/27/2014	BCDC

PUBLIC ACCESS PLAN

SCALE: AS NOTED

Sheet Number: A.0.2

LEGEND

- Public Access required by BCDC Permit No. 1985.019.022A
- Public Access required by BCDC Permit No. 1985.019.011B
- Expanded Area of Permit No. 1985.019.11B
- 255-square-foot Dedicated Public Access Area → To Become a Storage Area

PUBLIC ACCESS PLAN

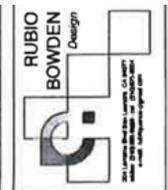
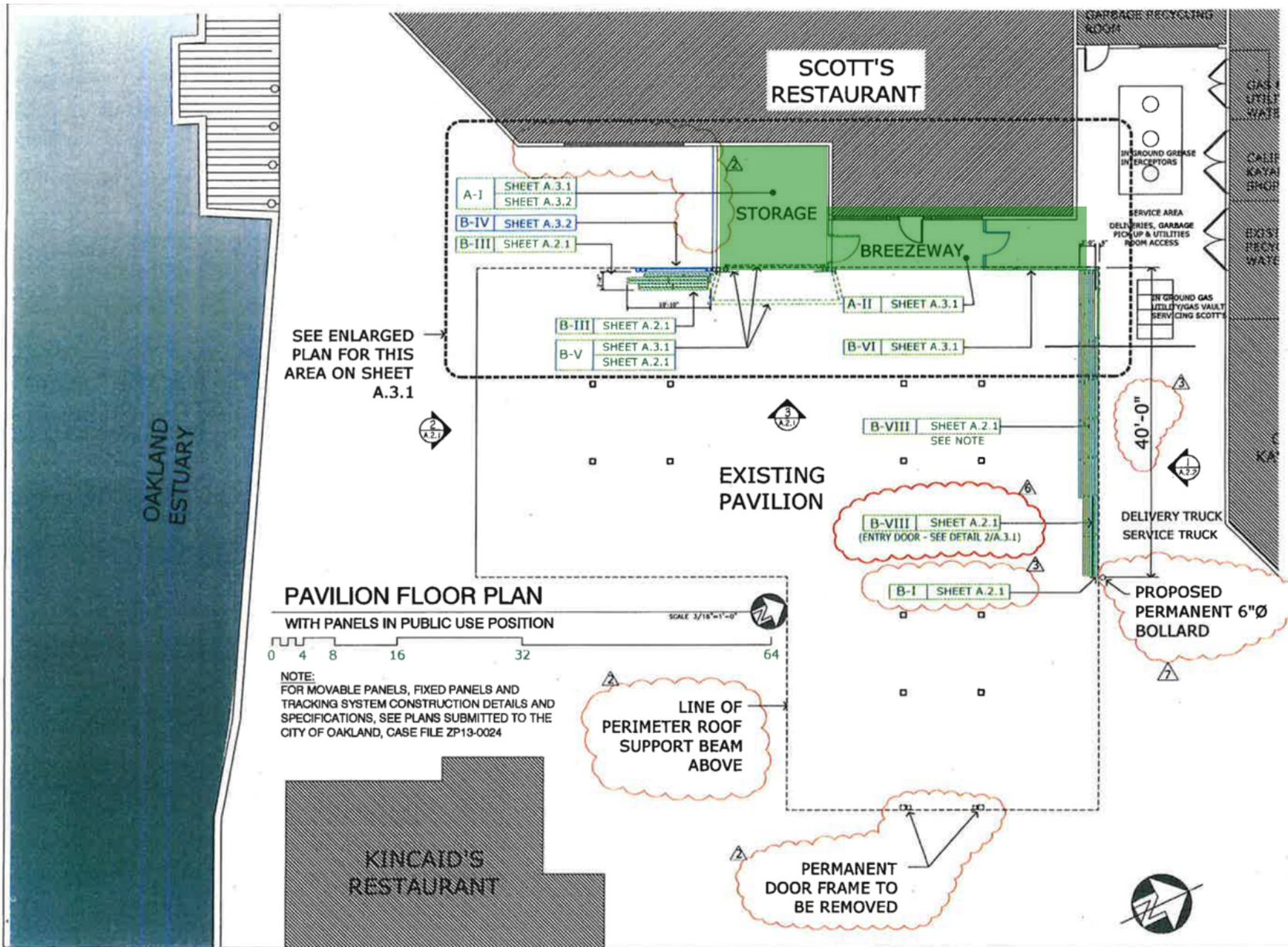


**Area Covered by Material Amendment No. Eleven  
and 418 square feet of lost public access**

# Material Amendment

## Part 2 of 4

- East side: Remove metal entry doorway and install 4 bollards (1 permanent and 3 temporary)
- North side: Authorize existing 40' long wall and panel storage
- West side: Authorize existing 60' long series of structures
  - 13' long wall and panel storage
  - 255 sf storage area
  - 20' long wall and roof to create breezeway



**PAVILION**  
JACK LONDON SQUARE

**EXHIBIT C-3**

JOB #: 00103  
DATE: 11/20/2013

NO.	DATE	BY	REVISION
1	05/27/2014	BCDC	
2	09/01/2014	BCDC	
3	03/09/2017	BCDC	
4	7/27/2017	BCDC	
5	8/17/2017	BCDC	

**PAVILION FLOOR PLAN**  
WITH PANELS IN PUBLIC USE POSITION

SCALE: AS NOTED

**A.1.2**

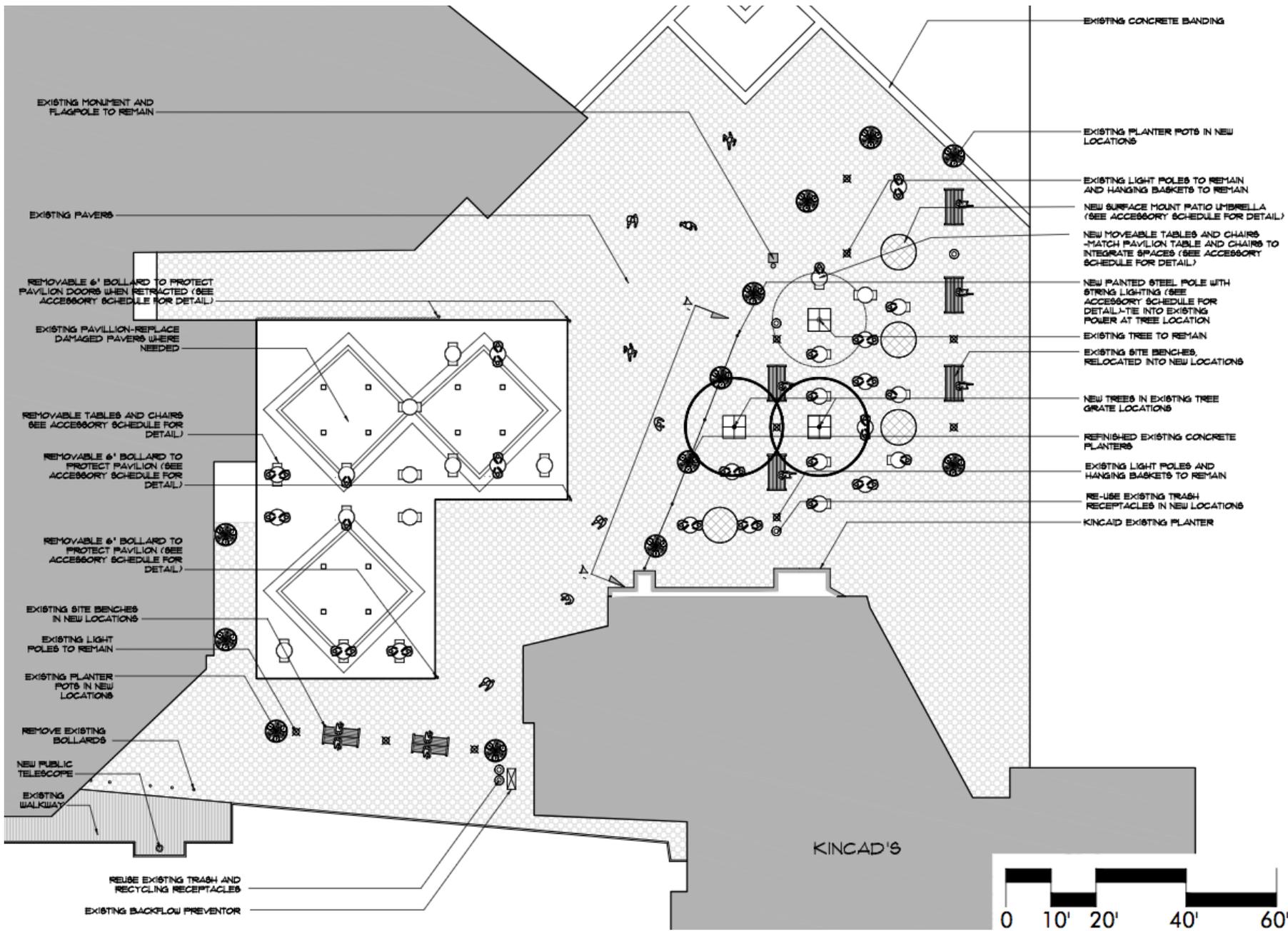
**Private Improvements at Pavilion**

# Material Amendment

## Part 3 of 4

- Improve layout of public furnishings to establish “procession” through plaza
- Refurbish existing furnishings to be re-used
- Install new furnishings
  - Matching tables and chairs in plaza and pavilion
  - Lighting to define procession at night
  - Tivoli lanterns and uplighting in pavilion
- Carry over existing public shore signage requirement





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**SCOTT'S/JACK LONDON SQUARE**  
 2 Broadway  
 Oakland, CA



LANDSCAPE PLAN

REVISIONS:  
 .....  
 DATE: 05/15/2017  
 SCALE: 1"=20'-0"  
 JOB: 17-011  
 SHEET

**L.2.0**

**Public Access Proposal (New Permit Exhibit C-1)**

# Material Amendment

## Special conditions

### Part 4 of 4

- Define “day”
- Modify event reporting
  - Eliminate quarterly reports of scheduled events
  - Create an online calendar of scheduled and actually-held events for Port and BCDC
  - Every month, submit report of private events held prior month and cumulative total for year
- Minimize public access impacts before and after private events
- Authorization expires on August 31, 2041

# Errata Sheet

- Add: Option to cover versus remove stage backdrop via plan review process (SC II.A & II.F)
- Change: Due date from December 15, 2017 to February 28, 2018
  - Special Condition II.E, Remove Unauthorized Metal Entry Doorway and Complete Construction of Pavilion
  - Special Condition II.F, Remove Permanent Stage Backdrop and Use Temporary Backdrop as Needed
- Add: Provision that ED may extend due date for good cause and, if Scott's fails to comply, no private events allowed until requirements of special conditions have been met.