

San Francisco Bay Conservation and Development Commission

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Agenda Item #10

November 8, 2019

Staff Recommendation

Pier 70 Mixed-Use Development

(For Commission consideration on November 21, 2019)

Permit Application Number:	2018.008.00
Applicants:	FC Pier 70, LLC, and Port of San Francisco
Project Description:	Develop a 28-acre mixed-use development project, including a waterfront park.
Location:	Within the 100-foot shoreline band, in the approximately 28-acre area generally located between 20th Street, Michigan Street, 22nd Street, and the Bay, in the City and County of San Francisco.
Application Filed Complete:	August 30, 2019
Deadline for Commission Action:	November 30, 2019
Staff Contact:	Ethan Lavine (415/352-3618; ethan.lavine@bcdc.ca.gov)
Staff Recommendation:	APPROVAL WITH CONDITIONS

Basis for Recommendation

The staff recommends approval of the application as conditioned in the recommended resolution, below. The project would consist of an approximately 28-acre mixed-use development near Pier 70, on the southern waterfront of the City and County of San Francisco. The proposed use is not in conflict with any Priority Use Areas established by the Bay Plan. Among other things, the recommend resolution includes special conditions to:

- Guarantee the 2.6-acre Waterfront Park as required public access.
- Require a Bay Trail connection along 20th Street, to provide a continuous Bay Trail route to the Waterfront Park.
- Provide for regular Special Event programming within the Waterfront Park, allowing a mix of free and low-cost events and classes open to all members of the public, limiting closures for private and very large events, and keeping the Bay Trail open at all times.



- Ensure that lower-lying public access areas (including the lower Shoreline Path and historic Craneway piers) continue to function as public access until they are subject to sea level rise-driven flooding requiring closure on 10 days during a calendar year, at which time adaptation measures, including possibly managed retreat, would be developed and implemented.
- Require that a Sea Level Rise Adaptation Plan be completed prior to the time that any public access areas are subject to flooding on a regular basis.
- Establish view corridors down the major streets running perpendicular to the Bay.

Recommended Resolution and Findings

The staff recommends the Commission adopt the following resolution:

I. Authorization

A. **Authorized Project.** Subject to the conditions, stated below, the permittees, FC Pier 70, LLC, and the Port of San Francisco (“Port”), are granted permission to do the following in the approximately 28-acre area generally located between 20th Street, Michigan Street, 22nd Street, and the Bay, in the City and County of San Francisco:

1. Within the 100-foot Shoreline Band

- a. **At Various Locations.** Prior to installing permanent improvements, conduct the following site preparation activities:
 - (1) **Demolition.** Demolish and remove all existing paving (except on the Craneway piers), vegetation, utilities, and fencing within an approximately 121,860-square-foot area.
 - (2) **Geotechnical Improvements.** Construct, use and maintain in-kind geotechnical improvements in accordance with the “Geotechnical Full Report” provided as part of the permit application, consisting of one or more of the following methods: surcharge, controlled low strength material backfill, deep soil mixing, soil cement columns, or structural support piles to strengthen the soil and structures, within an approximately 121,860-square-foot area.
 - (3) **Placement of Fill.** Place, use, and maintain in-kind new fill where geotechnically required with clean fill material to raise the grade of the shoreline up to an elevation of +15.5 feet NAVD88 within an approximately 121,860-square-foot area.
 - (4) **Utilities.** Install underground utilities, including recycled and potable water, sewer, storm drain, gas, telecom and electrical.
 - (5) **Stormwater Outfalls.** Restore or replace in-kind stormwater outfalls.

- b. **At the “Waterfront Promenade.”** Within an approximately 47,783-square-foot area, along a 516-foot-long segment of the shoreline:
- (1) **Bay Trail.** Construct, use, and maintain in-kind a minimum 20-foot-wide, approximately 473-foot-long Bay Trail segment (approximately 9,454 square feet).
 - (2) **Shoreline Path.** Construct, use, and maintain in-kind a minimum 6-foot-wide, approximately 259-foot-long Shoreline Path and associated landscaping (approximately 2,074 square feet).
 - (3) **Picnic, Seating, and Plaza.** Construct, use, and maintain in-kind approximately 9,910 square feet of picnic, seating, and plaza areas. (Approximately 469 square feet is located outside the Commission’s permitting jurisdiction for a total of approximately 10,379 square feet.)
 - (4) **Pavilion and Decks.** Construct, use, and maintain in-kind an approximately 750-square-foot viewing pavilion (the “22nd Street Pavilion”), approximately 50 feet long by 15 feet wide by 18 feet high, positioned on top of an approximately 1,492-square-foot deck.
 - (5) **Historic Craneway Structures.** Refurbish, use, and maintain in-kind historic Craneways 7, 8, and 9 (totaling approximately 5,182 square feet) with interpretive signage and site furnishings.
 - (6) **Planted Areas.** Install, use, and maintain in-kind approximately 7,738 square feet of landscape plantings on the sloped areas leading down to the Shoreline Path and along the Bay Trail. (Approximately 5 square feet is located outside the Commission’s permitting jurisdiction for a total of approximately 7,743 square feet.)
 - (7) **Shoreline Protection Repair.** Repair, use and maintain in-kind portions of a rock riprap revetment within an approximately 6,785-square-foot area above the high tide line elevation of +7.4 feet NAVD88.
 - (8) **Café Seating Terraces.** Construct, use, and maintain in-kind terraced café seating areas within an approximately 5,148-square-foot area (the remainder of which extends outside of the Commission's jurisdiction).
- c. **At the “Slipways Waterfront.”** Within an approximately 30,183-square-foot area, along a 278-foot-long segment of the shoreline:
- (1) **Bay Trail.** Construct, use, and maintain in-kind a minimum 20-foot-wide, approximately 147-foot-long Bay Trail segment (approximately 2,931 square feet). (Approximately 154 linear feet and 3,073 square feet of the Bay Trail is located outside the Commission’s jurisdiction, totaling approximately 6,004 square feet.)

- (2) **Shoreline Path.** Construct, use, and maintain in-kind a minimum 6-foot-wide, approximately 143-foot-long Shoreline Path (approximately 1,149 square feet).
 - (3) **Slipways Lawn.** Construct, use, and maintain in-kind an approximately 6,624-square-foot portion of a public lawn. (Approximately 1,824 square feet is located outside the shoreline band for a total of approximately 8,448 square feet.)
 - (4) **Pavilion and Decks.** Construct, use, and maintain in-kind an approximately 1,226-square-foot viewing pavilion (the “Craneway Pavilion”), approximately 123 feet long by 10 feet wide by 30 feet high, positioned on top of an approximately 2,785-square-foot deck on the north side of the lawn, and an approximately 402-square-foot portion of a deck on the south side of the lawn. (Approximately 573 square feet of the south deck is located outside of the Commission’s jurisdiction, totaling approximately 975 square feet.)
 - (5) **Historic Craneway Structures.** Refurbish, use, and maintain in-kind historic Craneways 5 and 6 (approximately 6,941 square feet) with interpretive signage and furnishings.
 - (6) **Shoreline Protection Repair.** Repair, use, and maintain in-kind portions of a rock riprap revetment within an approximately 1,299-square-foot area above the high tide line elevation of +7.4 feet NAVD88.
 - (7) **Café Seating Terraces.** Construct, use, and maintain in-kind terraced café seating areas within an approximately 1,432-square-foot area within the shoreline band (the remainder of which extends outside of the Commission's jurisdiction).
 - (8) **Picnic, Seating, and Plaza Areas.** Construct, use, and maintain in-kind approximately 6,411 square feet of picnic, seating and plaza areas. (An additional approximately 582-square-foot area is located outside the Commission’s jurisdiction, for a total of approximately 6,993 square feet.)
 - (9) **Planted Areas.** Install, use, and maintain in-kind approximately 209 square feet of landscape plantings between the Slipways Lawn and Bay Trail. (An additional approximately 3-square-foot area is located outside the Commission’s jurisdiction, for a total of approximately 212 square feet.)
- d. **At the “Waterfront Terrace.”** Within an approximately 43,894-square-foot area, along a 503-foot-long segment of the shoreline:
- (1) **Bay Trail.** Construct, use, and maintain in-kind a minimum 20-foot-wide, approximately 379-foot-long Bay Trail segment (approximately 7,618 square feet). (Approximately 67 linear feet and 1,309 square feet is located outside of the shoreline band for a total of approximately 8,927 square feet.)

- (2) **Shoreline Path.** Construct, use, and maintain in-kind a minimum 6-foot-wide, approximately 467-foot-long Shoreline Path (approximately 3,050 square feet).
 - (3) **Picnic, Seating, and Plaza Areas.** Construct, use, and maintain in-kind approximately 4,992 square feet of picnic, seating, and plaza areas. (Approximately 372 square feet is located outside the Commission's jurisdiction, totaling approximately 5,364 square feet.)
 - (4) **Lawn Areas.** Construct, use, and maintain in-kind two lawn areas (approximately 5,062 square feet).
 - (5) **Shoreline Protection.** Repair, use, and maintain in-kind portions of a rock riprap revetment within an approximately 7,089-square-foot area above the high tide line elevation of +7.4 feet NAVD88.
 - (6) **Pavilion and Deck.** Construct, use, and maintain in-kind an approximately 525-square-foot viewing pavilion (Building 6 Pavilion), approximately 35 feet long by 15 feet wide by 25 feet high, positioned on top of an approximately 1,862-square-foot deck.
 - (7) **Waterfront Street.** Construct, use, and maintain in-kind a portion of an approximately 6,701-square-foot paved area for shared vehicular, bicycle, and pedestrian use (the remainder of which extends outside of the Commission's jurisdiction).
 - (8) **Café Seating Terraces.** Construct, use, and maintain in-kind terraced cafe seating areas within an approximately 2,526-square-foot area within the shoreline band (the remainder of which extends outside of the Commission's jurisdiction).
 - (9) **Planted Areas.** Install, use, and maintain in-kind an approximately 4,994 square feet of landscape plantings. As required to ensure public safety, a low-rise and transparent landscape barrier fence may be erected within the planted area approximately 20 feet south of the Building 6 structure.
- B. **Permit Application Date.** This authority is generally pursuant to and limited by the application dated December 27, 2018, including all accompanying and subsequently submitted correspondence and exhibits, subject to the modifications required by conditions herein.
- C. **Deadlines for Commencement and Completion of Authorized Activities.** Work authorized herein must commence prior to December 1, 2022, or this permit will lapse and become null and void. All work authorized herein must be completed by December 31, 2037, unless an extension of time is granted by amendment of the permit.

The project will be constructed in phases according to the "Schedule of Performance" included in the "Disposition and Development Agreement between the City and County of San Francisco, Acting by and Through the San Francisco Port Commission and FC Pier



70, LLC, a Delaware Limited Liability Company: 28-Acre Site Project” (“Disposition and Development Agreement,” pursuant to City and County of San Francisco Board of Supervisors Resolution No. 401-17). Once commenced, all work within a particular phase must be diligently pursued to completion and must be completed within five years of commencement, unless an extension of time is granted by amendment of the permit.

- D. **Project Summary.** The Pier 70 project (also known as the “28-Acre Site” project) develops a mixed-use district on a formerly industrial area along the southeast San Francisco shoreline. The project is to be built in phases over an anticipated period of approximately 10 to 15 years. The project includes a new mixed-use district, street grid, parks and open spaces, and associated utilities and infrastructure. At full build-out, up to 11,250 people could use the site daily.

The project involves development both within and outside the Commission’s permitting jurisdiction. The majority of the site, including the residential and commercial development components of the project, are located outside the Commission’s permitting jurisdiction. Within the Commission’s 100-foot shoreline band, the project consists primarily of a waterfront park, as well as a portion of a street, and areas reserved for outside dining. The project does not involve any work in the Commission’s Bay jurisdiction, and results in no Bay fill.

- E. **Public Access.** At present, the project site is inaccessible to the public and no shoreline access exists. The project will develop approximately 2.6 acres (114,265 square feet) of new shoreline public access areas, including 2.4 acres (106,053 square feet) within the Commission’s 100-foot shoreline band jurisdiction and 0.2 acres (8,212 square feet) outside of the Commission’s permitting jurisdiction. The project will also develop an additional approximately 4.4 acres of open spaces elsewhere on the interior of the project site.

A waterfront park would be constructed running along the approximately 1,380-foot-long shoreline. The waterfront park would include a minimum 20-foot-wide segment of the San Francisco Bay Trail (Bay Trail) along the perimeter of the project site, as well as a secondary 6- to 8-foot-wide Shoreline Path running at a lower elevation closer to the water. It would also feature several large recreational lawns, sitting and picnic areas, and pavilion structures. The historic Craneway piers at the site, a remnant of the ship repair facilities formerly at Pier 70, would be rehabilitated to serve as viewing platforms.

II. Special Conditions

The authorization made herein shall be subject to the following special conditions, in addition to the standard conditions in Part IV:

A. Plan Review and Approval

1. **Construction Documents.** The development authorized herein shall be built generally in conformance with those figures found in Exhibits 1 through 19 to this permit.



The permittees are 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 documents without prior review and written approval by or on behalf of the Commission through plan review or a permit amendment.

2. **Document Review and Approval.** No work whatsoever shall commence pursuant to this permit until final construction documents regarding authorized activities and required improvements are approved in writing by or on behalf of the Commission. Documents submitted shall be accompanied by a written request for plan approval, identifying the type of plans submitted, the portion of the project involved, and indicating whether the plans are final or preliminary. All documents will be reviewed within 60 calendar days of receipt. If final construction document review is not completed by or on behalf of the Commission within the 60-day period, the permittees may carry out the project authorized herein in a manner consistent with the plans referred to in Special Condition II.A.1 of this permit.

It is anticipated that some plan review may be conducted at the staff level, with the Commission's Design Review Board (DRB) reviewing site-specific public access and open space plans for each development phase as determined necessary by BCDC staff based on the scope of potential design changes. Preliminary documents may be required to be submitted for review by or on behalf of the DRB prior to the submittal of construction documents for final approval. Submittal of preliminary documents should be coordinated with the Schematic Design Application to the Port as outlined in Section 13.6 ("Schematic Design Review of Park Parcels") of the "Disposition and Development Agreement between the City and County of San Francisco, Acting by and Through the San Francisco Port Commission and FC Pier 70, LLC, a Delaware Limited Liability Company: 28-Acre Site Project" ("Disposition and Development Agreement," pursuant to City and County of San Francisco Board of Supervisors Resolution No. 401-17).

- a. **Document Details.** All construction documents shall be labeled with: the Mean High Water line or the upland extent of marsh vegetation no higher than +5 feet above Mean Sea Level 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 and view corridor(s) required herein. Documents for shoreline protection projects 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.

- b. **Conformity with Final Approved Documents.** All authorized development 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.
- c. **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.
- d. **Reconsideration of Plan Review.** The permittees 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 within 30 days with a determination on whether the plan review action 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.

B. Public Access

1. Area

- a. **Overall Public Access Area.** The approximately 2.6-acre (114,265-square-foot) area, along approximately 1,380-linear feet of shoreline as generally shown on Exhibits 2 and 3 shall be made available exclusively to the public for unrestricted public access for walking, bicycling, sitting, viewing, fishing, picnicking, and related purposes.

The overall proposal for public access for this project includes:

- New public access within the 100-foot shoreline band: 2.4 acres (106,053 square feet)
 - New public access outside of the 100-foot shoreline band: 0.2 acres (8,212 square feet)
- b. **Restrictions Within Overall Public Access Area.** Restrictions on public access are permissible only in locations where use is more specifically prescribed, as identified in Special Condition II.B.4 ("Improvements within the Total Public Access Area") below. If the permittees wish to use the public access area for other than public access purposes, they must obtain prior written approval by or on behalf of the Commission, except to conduct Special Events as authorized in Special Condition II.C ("Special Events") below.

- c. **Shoreline Adaptation Area.** An approximately 0.8-acre (33,569-square-foot) portion of the overall 2.6-acre area, which is anticipated to be subject to occasional and/or regular coastal flooding during the functional life of the project authorized herein, is identified on Exhibit 18 as “Shoreline Adaptation Area.” Within the Shoreline Adaptation Area, public access is to be provided according to the terms of this permit so long as the area is not subject to regular flooding that requires frequent closure of the public access. Periodic closure of this area (e.g., through installation of temporary barriers or signage) as determined to be necessary to protect public safety is permitted in response to occasional flood events. When flooding becomes regular, this area may be permanently closed to public access and allowed to function as an area within which flooding adaptation measures may be implemented (e.g., installation of shoreline protective devices or other flood control measures). The exact nature of the adaptation measures to be installed within this area, and the timeline for implementing such measures, shall be established by the Sea Level Rise Adaptation Plan to be developed as required by Special Condition II.D (“Sea Level Rise and Flooding”), below.
2. **Permanent Guarantee.** No later than 12 months (or 18 months in Phase 1) following occupancy of any residential unit or commercial space associated with a particular phase of work, the permittees shall, by instrument or instruments acceptable to counsel for the Commission, dedicate to a public agency or otherwise permanently guarantee such rights for the public access areas associated with that phase of the project, according to the schedule outlined in Section II.B.8 (“Public Access Phasing” below). The instrument(s) shall create rights in favor of the public which shall commence no later than after completion of construction of any public access improvements required by this authorization and prior to the use of any structures authorized herein. Such instrument shall be in a form that meets recordation requirements of the City and County of San Francisco and shall include a legal description of the property being restricted and a map that clearly shows the shoreline (Mean High Water Line or 5 feet above Mean Sea Level if marsh is present), the property being restricted for public access, the legal description of the property and of the area being restricted for public access, and other appropriate landmarks and topographic features of the site, such as the location and elevation of the top of bank of any levees, any significant elevation changes, and the location of the nearest public street and adjacent public access areas. Approval or disapproval of the instrument shall occur within 30 days after submittal for approval and shall be based on the following:
 - a. Sufficiency of the instrument to create legally enforceable rights and duties to provide the public access area required by this authorization;
 - b. Inclusion of an exhibit to the instrument that clearly shows the area to be reserved with a legally sufficient description of the boundaries of such area; and

- c. Sufficiency of the instrument to create legal rights in favor of the public for public access that will run with the land and be binding on any subsequent purchasers, licensees, and users.

The Disposition and Development Agreement, Section 15.8(c) and (e), establishes how the Port Commission will accept the public access areas as Port facilities upon final completion of construction and that the documents the Port will record have the effect of transferring ownership of the public access areas to the Port. Documents evidencing acceptance of improvements by the Port shall be sufficient to meet this condition provided they are otherwise consistent with the terms of this section.

3. **Recordation of the Instrument.** Within 30 days after approval of the instrument, the permittee(s) shall record the instrument on all parcels affected by this instrument and shall provide evidence of recording to the Commission. No changes shall be made to the instrument after approval without the express written consent by or on behalf of the Commission.
4. **Improvements Within the Total Public Access Area.** No later than 12 months (or 18 months in Phase 1) following the occupancy of any residential unit or commercial space associated with a particular phase of work, the permittees shall install and open and make available to the public the public access improvements associated with that phase of work (see Special Condition II.B.8, “Public Access Phasing,” below). Such improvements shall be consistent with the plans approved pursuant to Special Condition II.A of this authorization and substantially conform to the improvements depicted in Exhibits 1 through 19 to this permit. A suitable number and type of site furnishings including, but not necessarily limited to seating, trash receptacles, lighting, railings, Bay Trail and “Public Shore” signs, and drinking fountains shall be provided within the public access areas, consistent with Exhibits 1 through 19 to this permit and the BCDC Design Review Board Package, dated February 26, 2018, on file in the Commission’s offices. Improvements shall generally include the following:
 - a. **Waterfront Promenade Area**
 - (1) **Bay Trail.** A minimum 20-foot-wide, approximately 473-foot-long paved Bay Trail segment (approximately 9,454 square feet).
 - (2) **Plaza, Picnic, and Seating.** Approximately 10,379-square feet of plaza (including the plaza at the terminus of 22nd Street), picnic, and seating areas with furnishings that include picnic tables, benches, and chaise lounges. Seating will accommodate all accessibility needs.
 - (3) **Shoreline Path.** A minimum 6-foot-wide, approximately 259-foot-long universally accessible, paved Shoreline Path and associated shoreline planting (approximately 2,074 square feet). Accessible connections between the Shoreline Path and Craneways include one accessible sloped walkway

with a minimum 48 inches of clear space, and stairs with a minimum width of 8 feet with uniform and ADA-compliant riser heights and tread width, ADA-compliant nosings, and ADA-compliant handrails.

- (4) **Pavilions and Decks.** An approximately 750-square-foot steel viewing pavilion (the “22nd Street Pavilion”), approximately 50 feet long by 15 feet wide by 18 feet high, with a thickness generally consistent with that shown on the renderings on Exhibits 9 and 10, positioned on top of an approximately 1,492-square-foot wood deck with stepped seating connecting to the lower Shoreline Path.
- (5) **Historic Craneway Structures.** The refurbishment of the historic Craneways 7, 8, and 9 (totaling approximately 5,182 square feet) with appropriate paving, railings, lighting, interpretive signage, furnishings and amenities to provide for fishing, gathering, seating, and Bay viewing.
- (6) **Planted Area.** Approximately 7,743 square feet of landscape plantings on the sloped areas leading down to the Shoreline Path and along the Bay Trail.

b. **Slipways Waterfront**

- (1) **Bay Trail.** A minimum 20-foot-wide, approximately 301-foot-long paved Bay Trail segment of (approximately 6,004 square feet).
- (2) **Plaza, Picnic, and Seating.** Approximately 6,993 square feet of plaza, picnic, and seating areas, mainly located between the Bay Trail and the lower Shoreline Path, with furnishings that include picnic table(s), benches, and chaise lounges. Seating will accommodate all accessibility needs.
- (3) **Shoreline Path.** A minimum 6-foot-wide, approximately 143-foot-long universally accessible Shoreline Path (approximately 1,149 square feet). Accessible connections between the Shoreline Path and Craneways include one accessible sloped walkway with a minimum 48 inches of clear space and ADA-compliant guardrail when the height difference exceeds 42 inches, with handrail integrated, and stairs with a minimum width of 8 feet with uniform and ADA-compliant riser heights and tread width, ADA-compliant nosings, and ADA-compliant handrails.
- (4) **Pavilions and Decks.** An approximately 1,226-square-foot viewing pavilion (the “Craneway Pavilion”), approximately 123 feet long by 10 feet wide by 30 feet high, with a thickness generally consistent with that shown on the renderings on Exhibits 4 and 5, positioned on top of an approximately 2,785-square-foot deck on the north side of the lawn, and an approximately 975-square-foot wood deck on the south side of the lawn.
- (5) **Slipways Lawn.** An approximately 8,448-square-foot public lawn at a uniform grade to allow for flexible uses and activities and furnishings including seating.

- (6) **Historic Craneway Structures.** The retention of the historic Craneways 5 and 6 (approximately 6,941 square feet) with interpretive signage and appropriate furnishing to provide for fishing, gathering, seating, and Bay viewing.
- (7) **Planted Area.** Approximately 212 square feet of landscape plantings between the Slipways Lawn and Bay Trail.

c. **Waterfront Terrace**

- (1) **Bay Trail.** A minimum 20-foot-wide, approximately 446-foot-long Bay Trail segment (approximately 8,927 square feet) that connects to the 20th Street Bay Trail segment, required in Section II.B.13.
 - (2) **Plaza, Picnic, and Seating.** Approximately 5,364 square feet of plaza, picnic, and seating areas, mainly located between the Bay Trail and the lower Shoreline Path, and furnishings that include picnic tables and bench(es). Seating will accommodate all accessibility needs.
 - (3) **Shoreline Path.** A minimum 6-foot-wide, approximately 467-foot-long Shoreline Path (approximately 3,050 square feet). Accessible connections between the Shoreline Path and Craneways include one accessible ramp with a minimum 48 inches of clear space and one sloped walkway with a minimum 48 inches of clear space and ADA-compliant guardrail when the height difference exceeds 42 inches, with handrail integrated.
 - (4) **Pavilion and Deck.** An approximately 525-square-foot viewing pavilion (the "Building 6 Pavilion"), approximately 35 feet long by 15 feet wide by 25 feet high, with a thickness generally consistent with that shown on the renderings on Exhibits 6 and 7, positioned on top of an approximately 1,862-square-foot deck.
 - (5) **Lawn.** An approximately 5,064-square-foot public lawn at a uniform, relatively flat grade to allow for flexible uses and activities.
 - (6) **Planted Area and Safety Fencing.** Approximately 4,994 square feet of sloped lawn and meadow plantings. As required to ensure public safety, a low-rise and transparent landscape barrier fence may be erected within the planted area approximately 20 feet south of the Building 6 structure.
5. **Maintenance.** The areas and improvements within the total 2.6-acre Overall Public Access Area shall be permanently maintained by and at the expense of the permittees or their 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; 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; and assuring that the public

access signs remain in place and visible. Within 30 days after notification by staff, the permittees shall correct any maintenance deficiency noted in a staff inspection of the site.

6. **Assignment.** The permittees 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.
7. **Reasonable Rules and Restrictions.** The permittees 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 permittees have both identified and substantiated. Rules may include restricting hours of use and delineating appropriate behavior.
8. **Public Access Phasing and Implementation Deadlines.** The permanent public access improvements required pursuant to Special Condition II.B.4 shall be installed in phases in association with the construction of the adjacent development area according to the schedule below. Any changes to the phasing of the development blocks may be approved by or on behalf of the Commission through the plan review process established in Special Condition II.A upon a finding that the public access provided at each stage of development is proportionate to the vertical development.
 - a. **Phase 1.** Phase 1 includes development of shoreline protection in Craneways 5 and 6, and the Slipway Waterfront public access area, and shall be completed no later than 18 months following issuance of a Temporary Certificate of Occupancy for a building on Parcel E2, or prior to December 2023, whichever is earlier.
 - b. **Phase 2.** Phase 2 includes development of shoreline protection in Craneways 7 and 8, and the Waterfront Promenade public access area north of Craneway 9, and shall be completed no later than 12 months following a Temporary Certificate of Occupancy for a building on Parcel E3, or prior to December 2030, whichever is earlier.
 - c. **Phase 3a.** Phase 3a includes development of the Waterfront Promenade shoreline protection and public access area south of Craneway 9, and shall be completed no later than 12 months following a Temporary Certificate of Occupancy for a building on Parcel H2, or prior to December 2037, whichever is earlier.

- d. **Phase 3b.** Phase 3b includes development of the Waterfront Terrace shoreline protection and public access area north of Craneway 5, and shall be completed no later than 12 months following a Temporary Certificate of Occupancy for a building on Parcel B, or prior to December 2037, whichever is earlier.
9. **Public Access, Wayfinding and Interpretive Signage.** Prior to construction of any improvements authorized herein, the permittees shall submit for review and approval by or on behalf of the Commission a final comprehensive public access, wayfinding, and interpretive sign program based upon the “Pier 70 SUD Open Space Parks Signage Schematic Design,” prepared by Kate Keating Associates, Inc., dated February 9, 2018, and submitted as part of the application for this project. The sign program shall be designed to maximize public recognition, use, and enjoyment of the site’s public access improvements. The sign program shall provide detail on the location, quantity, and design of wayfinding, interpretive, “Public Shore,” and Bay Trail signs. The sign program shall provide for installation of directional signs to the shoreline and Bay Trail at the intersections of 20th Street and Illinois Street and 22nd Street and Illinois Street. The sign program will be reviewed through the plan review process established in Special Condition II.A above.
10. **Public Art Plan.** Prior to installing any permanent or temporary public art installations within any public access area required herein, the permittees shall submit for review and approval by or on behalf of the Commission a public art plan that will identify design and siting criteria for public art installations. The public art plan will be reviewed to ensure design and siting criteria are adequate to provide for use of public access areas by a wide range of users and maintain important views of the Bay.
11. **View Corridors.** The permittees shall generally limit development within the view corridors on 20th Street, 21st Street, Slipways Commons, and 22nd Street as shown on Exhibit 12 to that development described within the “Pier 70 SUD Design for Development,” dated May 22, 2018, unless otherwise approved by or on behalf of the Commission upon a finding that said development will not prevent a view to the Bay within the area of the relevant view corridor.
12. **Bay Trail Connections to Neighboring Parcels.** The permittees shall provide a public access Bay Trail connection along 20th Street from Waterfront Terrace to Georgia Street as shown on Exhibit 2. The Bay Trail segment in this area shall be designed pursuant to the parameters established in the Pier 70 SUD Design for Development dated May 28, 2018 (Section 1.3, Section 4.5., and Section 4.11), and the Streetscape Master Plan dated April 1, 2019 (Section 2.1, Section 2.3.2, Section 3.1, Section 3.2, and Section 3.3). This requirement for public access along 20th Street shall be vacated without a requirement to provide equivalent public access if a future adjacent project reroutes the Bay Trail to travel along the shoreline on the parcel to the north of the project site.

The permittees shall coordinate with possible future BCDC permit applicants and the Commission to enable the construction of future public access connections between their property and the neighboring parcels to the north and south to facilitate the completion of any future extension of the Bay Trail. Within six months of commencement of construction of any shoreline public access area on a neighboring parcel, the permittees shall provide BCDC with plans for improvements, as needed, to create one or more physical connections to the adjacent public access area at the north and south ends of the site. At such time, the permittee shall reasonably coordinate the design, construction and maintenance with the permittee of the adjacent parcel to create a continuous and seamless transition between the public access areas, including planting and paving.

- C. **Special Events.** Within the public access areas required of this permit, Special Events may be conducted subject to the following requirements (see Exhibit 20 for a summary):

1. **General Restrictions on Special Events**

- a. **Event Areas.** All events would be limited to those “Event Areas” shown on Exhibits 15 through 17. No closure of public access areas for a Special Event is permitted outside these defined areas, except as allowed in the “Exceptions” section, below. The public access areas within which Special Events may occur are to be constructed in phases, according to the schedule found in Special Condition II.B.8. The Event Areas are defined for each distinct phase of the project on Exhibits 15 (Phase 1), 16 (Phase 2), and 17 (Phase 3).
- b. **Event Size, Frequency, and Duration.** The Event Sizes—i.e., what constitutes a “Small Event,” “Medium Event,” or “Large Event”—are established for each phase in the “Event Sizes” section below. Events are limited in frequency and duration as described more specifically below in the sections on “Event Sizes” and “Event Categories.” For the purposes of this permit, an “Event Day” is the calendar day during which an event occurs that requires closure to a required public access area or restrictions on the general public’s use of a required public access area.
- c. **Setup and Teardown.** Setup and teardown for an event shall be conducted as expeditiously as possible, and generally shall not extend longer than 12–18 hours prior to or following an event. Public access areas shall be actively managed during setup and teardown to minimize disruption or loss of public access areas.

For Small Events, setup and teardown shall not exceed 12 hours prior to or following an event. Setup and teardown for a Small Event does not count as an Event Day.

For Medium Events and Large Events:

- Setup and teardown that occurs within a period not to exceed 18 hours prior to or following an event shall not count as an Event Day.



- If the setup or teardown requires closure of a public access area for a period exceeding 18 hours prior to the start of an event or following the end of an event, then each calendar day during which the public access area is closed will count as an Event Day.
 - Calendar days used for setup and teardown shall not count toward any of the maximum established number of Event Days in the “Event Categories” section below, but shall count toward the maximum established number of Event Days in the “Event Sizes” section below.
- d. **Circulation During Events.** All appropriate measures shall be employed to ensure that primary pedestrian and bicycle circulation areas remain passable at all times. No event shall be held within the minimum 20-foot-wide San Francisco Bay Trail, the lower Shoreline Path, or at universally accessible access points to the lower Shoreline Path.
- e. **Organized Races and Walks.** The Bay Trail may be used for occasional pedestrian walking or running events (e.g., races, fun runs, etc.) so long as support and event structures are limited to defined Event Areas and the Bay Trail remains open to the general public during the race event at all times.
- f. **Exceptions.** The permittees may request authorization from the Commission’s Executive Director for occasional use of required public access areas for events that do not conform to the limitations on Special Events established herein, as well as seasonal and periodic attractions or amusements, such as ice skating rinks, holidays, fairs, rides, and art installations. The Executive Director may grant such exceptions, provided that the activities provide an overall public access benefit and will be conducted in a manner that ensures that the Bay Trail remains open and accessible at all times.
- g. **Interim Activation Events.** During the construction of the project, interim events held in areas that have not yet been open to the public will not be subject to the Special Event restrictions established by this Special Condition.
- h. **Monitoring and Reporting.** Commencing on January 30 of the calendar year following the first Special Event held pursuant to this authorization (excluding Interim Activation Events), and every subsequent calendar year by January 30, the permittees shall submit a written annual report describing the prior year’s Special Event program. The annual report shall also include a preliminary schedule for Medium Events and Large Events for the following 12 months. The annual report shall list each Special Event that was held within the public access areas required of this permit.

For each individual event, the annual report shall identify: (i) the event name, (ii) event date (including dates for the event itself and setup and teardown), (iii) event start and end time, (iv) the purpose and type of event (i.e., free public

event, free public ticketed event, paid ticketed event, or private event), (v) the location of the event and its approximate footprint, (vi) the approximate number of participants or visitors associated with the event, (vii) the cost of admittance to the event (if applicable), (viii) documentation of any known complaints received from members of the public in response to the event, and (ix) note of any damage and repairs required to public access areas as a result of the event.

Each annual report shall also include an overall assessment of the Special Events, including: (i) a qualitative assessment of the overall performance of the public access areas during Special Events, including an analysis of whether the Special Events promoted or deterred use of the public access areas by different segments of the public, and (ii) recommendations as to any operating procedures that could be implemented to correct an identified problem.

- i. **Term of Authorization for Special Events.** The permittees are authorized to conduct Special Events within public access areas required of this permit consistent with the terms of this permit for a period of 5 years total, commencing from the opening to the public of the public access areas required for Phase 1 of the project. No more than 1 year prior to the expiration of the 5-year term of this authorization for Special Events, the permittees may request a renewal of their authorization to conduct Special Events within the required public access areas. Renewal of authorization to conduct Special Events within the required public access areas may be granted by or on behalf of the Commission upon a finding that the Special Events will be consistent with the relevant Commission law and policies at that time. Analysis of the decision to grant or deny renewal of the Special Event authorization will be informed, in part, on the information contained in the monitoring and reporting on Special Events that will be submitted on an annual basis.

2. Event Sizes

- a. **Event Day Allowances for Small, Medium and Large Events.** Small Events may be held on any day, subject to the limitations established below. Medium and Large Events shall be held on no more than 100 days total during a calendar year, on no more than four weekend days total in any given month, and as subject to the limitations established below.

(1) Small Events

- (a) **Total Area.** Small Events are a single event or any combination of events that occupies no more than 25 percent of the Event Areas that are open to the public at the time of the event. This total area includes any Micro Events and Small Fee-Based Classes (defined in “Event Type” section below), each of which take up no more than 1,600 square feet, provided that no combination of events collectively occupies more than 25 percent of the open Event Areas.

- (b) **Frequency.** Small Events may be held on a daily basis, subject to any additional limitations established for “Event Categories,” below.
- (c) **Duration.** Small Events shall be limited in duration to one Event Day, excluding setup and teardown.

(2) **Medium Events**

- (a) **Total Area.** Medium Events are a single event or any combination of events that occupy between 25 percent and no more than 50 percent of the Event Areas that are open to the public at the time of the event.
- (b) **Frequency.** Medium Events may be held on up to 100 Event Days, provided there are no more than 100 combined Event Days for Medium Events and Large Events during a calendar year, and as subject to any additional limitations established for “Event Categories,” below.
- (c) **Duration.** Medium Events shall be limited in duration to a maximum of 10 consecutive Event Days, excluding setup and teardown.

(3) **Large Events**

- (a) **Total Area.** Large Events are a single event or any combination of events that occupy between 50 percent and 100 percent of the Event Areas that are open to the public at the time of the event.
- (b) **Frequency.** Large Events may be held on no more than 16 Event Days during a calendar year, and on no more than four weekend days per month.
- (c) **Duration.** Large Events shall be limited in duration to a maximum of 10 consecutive Event Days, excluding setup and breakdown.

3. **Events Categories**

a. **Free Public Events**

- (1) **Definition.** Free Public Events are open to the general public and do not require the purchase of a ticket for entry to the event or advanced registration, and generally do not require restricting access (e.g., barriers, fencing).
- (2) **Event Size.** Free Public Events may be Small Events, Medium Events, or Large Events.
- (3) **Frequency.** Free Public Events that are Small Events are allowed on an unlimited number of Event Days. Free Public Events that are Medium Events are allowed on up to 100 Event Days each calendar year. Free Public Events that are Large Events are allowed on up to 16 Event Days each calendar year.

b. Free Public Ticketed Events

- (1) **Definition.** Free Public Ticketed Events are open to the general public and require a ticket or advanced registration to manage the number of attendees. Tickets and advanced registration for Free Public Ticketed Events shall be offered to all members of the public on a first-come-first-serve basis, and may allow for restrictions on access (e.g., barriers, fencing).
- (2) **Event Size.** Free Public Ticketed Events may be Small Events, Medium Events, or Large Events.
- (3) **Frequency.** Free Public Ticketed Events that are Small Events are allowed on up to 100 Event Days each calendar year. Free Public Ticketed Events that are Medium Events are allowed on up to 25 Event Days each calendar year. Free Public Ticketed Events that are Large Events are allowed on up to 8 Event Days each calendar year.

c. Paid Ticketed Events

- (1) **Definition.** Paid Ticketed Events are open to the general public and require the purchase of a ticket for entry. Tickets for Paid Ticketed Events shall be offered to all members of the public on a first-come-first-serve basis, and generally require restrictions on access (e.g., barriers, fencing).
- (2) **Event Size.** Paid Ticketed Events may be Small Events, Medium Events, or Large Events.
- (3) **Frequency.** Paid Ticketed Events may be held on up to 14 Event Days each calendar year. No more than four of the 14 Event Days for Paid Ticketed Events may be Large Events.

d. Private Events

- (1) **Definition.** Private Events are not open to the general public and may or may not require the purchase of a ticket for entry.
- (2) **Event Size.** Private Events may be Small Events or Medium Events, and do not include Micro Events or Small Fee-Based Classes defined below.
- (3) **Frequency.** Private Events may be held on up to 12 Event Days each calendar year.

e. Micro Events and Small Fee-Based Classes

- (1) **Micro Events Definition.** Paid Ticketed Events and Private Events, outlined above, do not include Micro Events, which are defined as small, private activities, such as birthday parties, weddings, picnics, or other small gatherings where individuals from the public are allowed to reserve the use of small areas, such as picnic tables, on a first-come-first-serve basis for private or personal events of no more than 1,600 square feet. Any fees for

Micro Events shall generally be affordable and comparable to reservation rates for similar facilities at other park facilities in the City and County of San Francisco.

- (2) **Small Fee-Based Classes Definition.** Paid Ticketed Events and Private Events, outlined above, also do not include Small Fee-Based Classes, such as a yoga, boot camp, pet training, arts, or other exercise or sports classes that take up no more than approximately 1,600 square feet. Small Fee-Based Classes shall be affordable and may range in price depending on class type. A general fee schedule for classes shall be submitted for review and approval pursuant to Special Condition II.A prior to holding any classes within required public access areas and updated only as needed, to reflect any changes to the fee schedule.

D. **Sea Level Rise and Flooding**

1. **Flooding Reports.** If any portion of the required public access area is subject to coastal flooding that results in its closure in whole or in part, the permittees shall submit to the Commission a written report within 60 days after the flooding documenting the flood event. Coastal flooding is defined as Bay overtopping of the shoreline during tides, storms, or both. The written report shall include: the date and duration of the closure; the location of the affected site; the recorded water levels during the closure period; the source of flooding (e.g., coastal flooding or stormwater backup or overland flow); the resulting damage or cleanup; and illustrative photographs with site details.
2. **Five-Year Monitoring Report.** Within 180 days of the first instance of coastal flooding that results in closure of a required public access area in whole or in part, the permittees shall submit a monitoring report generally based on the Pier 70 Shoreline Improvement Design Criteria and Sea Level Risk Assessment, (“M&N Sea Level Rise Report”) prepared by Moffat and Nichol, for review by or on behalf of the Commission. The monitoring report will be revised and resubmitted for review by or on behalf of the Commission every 5 years thereafter. Each 5-year report shall:
 - Reflect the best-available science and include: up-to-date sea level rise projections; global projections of sea level rise based on downscaled Global Climate Models; sea level rise projections for the San Francisco Bay Area; tidal datum and extreme tides datum; updated modeling in tidal dynamics and Bay hydrological process; tide gauge data over the subject 5-year period; and a comparison of updated projections on sea level rise versus projections cited in the M&N Sea Level Rise Report.
 - Provide a summary of all flooding events during the 5-year period to any public access area that results in their closure, including the following detail: the date and duration of the public access closure; the location of

the affected site; the recorded water levels during the closure period; the source of the flooding; the resulting damage and/or cleanup; and representative photographs of the flooding event.

- Include data based on observations of water levels at the shoreline adjacent to the public access areas, including measurements of water levels over the subject 5-year monitoring period and photographic evidence (with date, location, hour and actual tide levels recorded at tide gauges) of completed and planned public access areas during King Tide events.
- Provide a review of the M&N Sea Level Rise Report, including a recommendation as to whether it should be revised based on site conditions, sea level rise and storm projections, updated policy guidance, or other findings.

The monitoring report shall be reviewed for adequacy and may be approved pursuant to the plan review process identified in Special Condition II.A.

3. **Sea Level Rise Adaptation Planning and Implementation**

- a. **Lower-Lying Public Access Areas (i.e., Shoreline Path and Craneways).** For areas within the “Shoreline Adaptive Area” as defined in Special Condition II.B.1.c and identified in Exhibit 18: When flooding requires closure in whole or part of any of public access area on at least 10 days (consecutive or non-consecutive) during a calendar year, the permittees shall initiate a planning process to select and implement adaptation measures for this area. Within 180 days of notifying the Commission of such conditions the permittees shall provide a sea level rise adaptation plan. The plan shall be reviewed by or on behalf of the Commission pursuant to Special Condition II.A. Within 12 months of approval of the adaptation plan by or on behalf of the Commission, the permittees shall commence and diligently proceed to implement the measures described in the plan to completion according to an implementation timeline outlined in the plan, including through any necessary Commission permits or amendments to permits. Appropriate adaptation measures may include managed retreat (i.e., removal of improvements within portions of the entirety of the area), installation of shoreline protection or other flood control measures, some combination of the two, or another method acceptable to the Commission.
- b. **Elevated Public Access Areas (i.e., Bay Trail and the Majority of the Shoreline Park).** For public access areas required in Special Condition II.B.1.a outside the “Shoreline Adaptive Area”: Based on the assessment contained in the required 5-year monitoring report, when mean sea level increases by 54 inches NAVD88 compared to 2000 levels at the project site, the permittees shall initiate an adaptation planning process to protect the public access from flooding. Within 180 days of notifying the Commission of such conditions the permittees shall

provide a plan describing the adaptation approach for review and approval by or on behalf of the Commission. Within 12 months of Commission approval of the adaptation plan, the permittees shall commence and diligently proceed to implement the measures described in the plan to completion, including through any necessary Commission permits or amendments to permits. Appropriate adaptation measures may include, but are not limited to, raising the elevation of the public access, installing a flood protection device (e.g., a barrier wall or guardrail), or another method acceptable to the Commission. Any adaptation measures implemented shall not result in a reduction of the size or usability of the public access areas. If reduction to the size or usability of the public access required herein is unavoidable, equivalent access (in area and functionality) must be provided nearby.

- E. **Recording.** The permittees shall record this permit on all parcels affected by this permit with the City and County of San Francisco within 30 days after execution of the permit issued pursuant to this authorization and shall, within 30 days after recordation, provide the original recordation to the Commission.
- F. **Certificate of Occupancy or Use.** Prior to occupancy or use of any of the improvements authorized herein, the permittees shall submit the Notice of Completion and Compliance required herein and request in writing an inspection of the project site by the Commission staff. Within 30 days of receipt of the written request for an inspection, the Commission's staff will: (1) review all permit conditions; (2) inspect the project site; and (3) provide the permittee with written notification of all outstanding permit compliance problems, if any. The permittees shall not occupy or make use of any improvements authorized herein until the staff has confirmed that the identified permittee compliance problems have been satisfactorily resolved and has provided the permittee with a Certificate of Occupancy or Use. Failure by the staff to perform such review and inspection and notify the permittee of any deficiencies of the project within this 30-day period shall not deem the project to be in compliance with the permit, but the permittees may occupy and use the improvements authorized herein.
- G. **Hold Harmless and Indemnify.** The permittees shall hold harmless and indemnify the Commission, all Commission members, Commission employees, and agents of the Commission from any and all claims, demands, losses, lawsuits, and judgments accruing or resulting to any person, firm, corporation, governmental entity, or other entity who alleges injuries or damages caused by work performed in accordance with the terms and conditions of this permit. This condition shall also apply to any damage caused by flooding of or damage to property that is alleged to be caused as a result of some action or lack of action by the Commission growing out of the processing of and issuance of this permit.

III. Findings

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 San Francisco Waterfront Special Area Plan (San Francisco Waterfront SAP), the California Environmental Quality Act (CEQA), and the Commission's amended coastal zone management program for San Francisco Bay for the following reasons:

- A. **Use.** The Bay Plan designates those areas that should be reserved for priority land uses on the Bay shoreline. Bay Plan Map No. 5 shows the project site, and does not designate the site for a priority use. The Bay Plan policies on Other Uses of the Bay and Shoreline state, in part, that "Shore areas not proposed to be reserved for a priority use should be used for any purpose (acceptable to the local government having jurisdiction) that uses the Bay as an asset and in no way affects the Bay adversely. This means any use that does not adversely affect enjoyment of the Bay and its shoreline by residents, employees, and visitors within the site area itself or within adjacent areas of the Bay or shoreline" (Policy No. 1). As no priority use is designated for the project site, the project is allowable in terms of its use of the shoreline.
- B. **Public Access.** The Commission finds that the project, as conditioned, is consistent with McAteer-Petris Act, Bay Plan, and San Francisco Waterfront SAP policies related to public access for the following reasons:

1. **Maximum Feasible Public Access**

- a. **Applicable Policies.** Section 66602 of the McAteer-Petris Act states, in part, that "maximum feasible public access, consistent with a proposed project, should be provided," and Section 66632.4 states, in part, that "[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."

Bay Plan policies on Public Access state, in part, that "[a] proposed fill project should increase public access to the Bay to the maximum extent feasible" (Policy No. 1), "maximum feasible access to and along the waterfront and on any permitted fills should be provided in and through every new development in the Bay or on the shoreline" (Policy No. 2), and "[w]henver public access to the Bay is provided as a condition of development, on fill or on the shoreline, the access should be permanently guaranteed" (Policy No. 6).

The McAteer-Petris Act and Bay Plan policies must be read in light of court decisions that have established that a public agency must show a nexus, or essential connection, between any requirements included as a condition of a permit and the public burden created by a private development project, and that the condition must be roughly proportional to the burden.

b. Analysis

(1) **Public Access Demand Generated by Project.** In assessing whether a project increases public access to the Bay and its shoreline, the Commission considers a number of factors, including the demand on existing public access areas and the need for additional public access generated by the employment and housing associated with the project. The shoreline at the project site is currently inaccessible to the public. Additionally, a very limited amount of improved public access currently exists within the vicinity of the project site. A major new shoreline park, Crane Cove Park, is being developed by the Port approximately 0.25 miles north of the project site. Another shoreline park, Warm Water Cove Park, is located approximately 0.3 miles south of the project site.

The project is projected to bring approximately 10,300 to 11,250 people to the project site daily once the project reaches full buildout. The ratio of residents to employees will vary depending upon the mix of uses ultimately constructed as part of the project. The projected range for the future residential population is approximately 2,500 to 4,880 residents, and the commercial uses are anticipated to bring a workforce of 5,440 to 8,755 employees to the site.

(2) **Public Access Area Provided by Project.** The project will provide a series of shoreline public access areas interlinked by the Bay Trail and secondary circulation paths. The details of the design and amenities of these public access areas are discussed below. Of the 28 acres comprising the project site, approximately 7 acres will be developed as open space, roads, and walkways. Of the 2.8-acre portion of the project site within the Commission's 100-foot shoreline band jurisdiction, 2.4 acres will be dedicated for public access purposes. An additional area of 0.2 acres outside of the Commission's permitting jurisdiction will be dedicated for public access purposes, for a total of 2.6 acres (103,720 square feet), or approximately 9 percent of the total project area.

As required by Special Condition II.B, the 2.6-acre area dedicated as public access is to be available exclusively to the public for unrestricted access for walking, biking, sitting, viewing, fishing, picnicking, and related purposes. Certain restrictions may be placed on public use of the public access areas, such as during Special Events. Special Events entail time-limited restrictions of the public's use of a public access area, but may also help to draw visitors to the waterfront and provide for a variety of activities on the waterfront that help to serve the needs of a diverse population (see "Special Events" section below).

The public access improvements for the project will be constructed in phases over an anticipated period of approximately 10 to 15 years. The dedicated public access areas are owned in fee by the Port and will continue to be owned by the Port. According to the Disposition and Development Agreement pursuant to City and County of San Francisco Board of Supervisors Resolution No. 401-17, the Port will record documents to accept the public access areas as public facilities upon completion of construction by the Master Developer. These documents shall be sufficient to meet the Commission’s requirements to demonstrate that the area has been permanently guaranteed.

- (3) **Comparable Projects Approved by the Commission.** The Commission considers its previous actions on comparable project to help inform a decision about whether public access proposed as part of a project represents the maximum feasible scope and type consistent with the project. The Commission has approved two comparable redevelopment projects on the San Francisco waterfront, as described in Table 1.

Table 1. Public Access Provided in Comparable Projects

Project Name and BCDC Permit No.	Number of Residents and Workers	Total Project Area	Public Access Area Required	Public Access as a Percentage of Total Project Area	Area of Public Access Provided Per Resident/Worker
Mission Bay Development, BCDC Permit No. 2000.005	41,000	305 acres	17.20 acres	6%	18 sf
Mission Rock Mixed-Use Development, No 2017.004	9,390	21 acres	6.61 acres	30%	30 sf
Pier 70 Project	11,250	28 acres	2.6 acres	9%	10 sf

The two comparison projects, the Mission Bay Redevelopment (BCDC Permit No. 2000.005) and Mission Rock Mixed-Use Development (BCDC Permit No. 2017.004), are dense urban infill projects similar to the subject Pier 70 project, though the Mission Bay Redevelopment covered a larger area and provided for a significantly larger number of residents and workers. The Pier 70 project provides a roughly comparable proportion of shoreline public access area to the Mission Bay project—9 percent of its total project area (versus 6 percent for Mission Bay) and 10 square feet of public access for each of its projected 11,250 new residents and workers (versus 18 square feet for Mission Bay). The Mission Rock project provided



a greater portion of its site as dedicated shoreline public access (30 percent) and more area per each projected resident and worker (30 square feet). However, the Pier 70 project differs somewhat from the Mission Rock project in that it provides new access to the shoreline where none previously existed, whereas access previously existed at Mission Rock where the approximately 2-acre China Basin Park was improved and expanded as part of the project. The projects are therefore roughly comparable in terms of the proportional area of public access provided in association with a dense urban infill project.

2. Public Access Improvements and Amenities

- a. **Applicable Policies.** The Bay Plan establishes that “waterfront parks should be provided wherever possible” and that “[d]iverse and accessible water-oriented recreational facilities...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” (Recreation Policy No. 1). “To capitalize on the attractiveness of their bayfront location, parks should emphasize,” among other things, “bicycling,” “picnic facilities,” “environmental, historical and cultural education and interpretation, viewpoints, beaches, and fishing facilities” (Recreation Policy No. 2).

Within public access areas, “improvements provided as a condition of any approval” should, among other things, “be designed and built to encourage diverse Bay-related activities and movement to and along the shoreline,” “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 Policy No. 7). In addition, “[i]nterpretive information describing natural, historical and cultural resources should be provided in waterfront parks where feasible” (Recreation Policy No. 2.a(8)).

Public access improvements should also “provide for the public’s safety and convenience” (Public Access Policy No. 7). “When approving a project in an area polluted with toxic or hazardous substances, the Commission should coordinate with appropriate local, state and federal agencies to ensure that the project will not cause harm to the public, to Bay resources, or to the beneficial uses of the Bay” (Water Quality Policy No. 4).

- b. **Analysis**

- (1) **Improvements Provided by Project.** Open spaces along the shoreline as part of the project are grouped into three general areas: (1) the “Waterfront Promenade”; (2) the “Slipways Waterfront”; and (3) the “Waterfront Terrace.” As described in the BCDC permit application, public access improvements provided in these spaces are designed to include diverse Bay-related activities and different waterfront experiences, including everyday

passive and active uses such as picnicking and grilling, and active and recreational uses such as walking, biking, and fishing. These spaces will also accommodate public outdoor events, such as art exhibitions, theater performances, cultural events, outdoor fairs, festivals and markets, outdoor film screenings, night markets, food events, street fairs, and lectures.

- (i) **Waterfront Promenade.** The Waterfront Promenade will be located along the southern portion of the shoreline, at the future terminus of 22nd Street, providing views of the San Francisco Bay and access to the retained Pier 70 Craneway structures. The Waterfront Promenade will encompass approximately 43,109 square feet of area (42,635 square feet within the shoreline band and 474 square feet outside BCDC's jurisdiction). It will extend from the southern property boundary north to the midpoint of Craneways 6 and 7, and vary in width from approximately 60 feet to 120 feet. The Waterfront Promenade will include a new approximately 473-foot-long and 20-foot-wide section of the Bay Trail and Blue Greenway pedestrian and bicycle promenade providing the opportunity for people to stroll, run, and bike adjacent to the Bay.

The Waterfront Promenade will include plaza, picnic, and seating areas. Within the hardscaped and lawn public open space areas will be park furnishings such as seating, lounging, and picnicking areas with views of the Bay. In the eastern portion of the Waterfront Promenade, a 6-foot-wide Shoreline Path will be located along the water's edge to provide park users the opportunity to access the retained Pier 70 Craneway structures along the water's edge. The retained Craneway structures will offer opportunities for fishing and passive recreation, including access to views of San Francisco Bay and the Pier 70 historic buildings.

The Waterfront Promenade will include an approximately 750-square-foot viewing pavilion (the "22nd Street Pavilion") over an approximately 1,492-square-foot deck along the water's edge. This viewing pavilion is a large-scale architectural feature reflecting the large-scale industrial structures that permeated the waterfront during the Pier 70 28-Acre Site's manufacturing period. As part of the Union Iron Works Historic District, the Pier 70 28-Acre Site played a prominent role in the evolution of industrial architecture in San Francisco. The viewing pavilions at the Waterfront Project are intended to pay homage to the large-scale structures that permeated the waterfront in this area for decades. The 22nd Street Pavilion will be designed to emphasize the view of the horizon as well as accommodate a variety of public program uses such as cultural events and gatherings.

More specifically, Special Condition II.B.4 requires that the following improvements be constructed and provided within the Waterfront Promenade area:

- **Bay Trail.** A minimum 20-foot-wide, approximately 473-foot-long paved Bay Trail segment (approximately 9,454 square feet).
 - **Plaza, Picnic, and Seating.** Approximately 10,379-square feet of plaza (including the plaza at the terminus of 22nd Street), picnic, and seating areas with furnishings that include picnic tables, benches, and chaise lounges. Seating will accommodate all accessibility needs.
 - **Shoreline Path.** A minimum 6-foot-wide, approximately 259-foot-long universally accessible, paved Shoreline Path and associated shoreline planting (approximately 2,074 square feet). Accessible connections between the Shoreline Path and Craneways include one accessible sloped walkway with a minimum 48 inches of clear space, and stairs with a minimum width of 8 feet with uniform and ADA-compliant riser heights and tread width, ADA-compliant nosings, and ADA-compliant handrails.
 - **Pavilions and Decks.** An approximately 750-square-foot steel viewing pavilion (the “22nd Street Pavilion”), approximately 50 feet long by 15 feet wide by 18 feet high, with a thickness generally consistent with that shown on the renderings on Exhibits 9 and 10, positioned on top of an approximately 1,492-square-foot wood deck with stepped seating connecting to the lower Shoreline Path.
 - **Historic Craneway Structures.** The refurbishment of the historic Craneways 7, 8, and 9 (totaling approximately 5,182 square feet) with appropriate paving, railings, lighting, interpretive signage, furnishings and amenities to provide for fishing, gathering, seating, and Bay viewing.
 - **Planted Area.** Approximately 7,743 square feet of landscape plantings on the sloped areas leading down to the Shoreline Path and along the Bay Trail.
- (ii) **Slipways Waterfront.** The Slipways Waterfront area will be approximately 34,806 square feet (0.8 acre) (28,751 square feet within the shoreline band and 6,055 square feet outside BCDC’s jurisdiction) within the central portion of the site. It will extend from the midpoint of Craneways 6 and 7, north to the northern edge of Craneway 5, and vary

in width from approximately 60 to 268 feet. This area will be designed as the most flexible, multi-purpose open space, intended to accommodate passive recreation opportunities such as walking, lounging, picnicking, gathering with friends and family, and relaxing. The area will also accommodate community gatherings, performances, and nighttime and cultural events.

The primary feature of the Slipways Waterfront is the Slipways Lawn, a multi-function commons containing a large, approximately 8,448-square-foot (6,624 square feet inside and 1,824 square feet outside BCDC's jurisdiction) vegetated lawn area surrounded by plazas, and two decks and a pavilion: an approximately 1,226-square-foot viewing pavilion (the "Craneway Pavilion") will sit atop an approximately 2,785-square-foot deck to the north; an approximately 975-square-foot (approximately 402 square feet inside, and 573 square feet outside the shoreline band) wooden deck will be located along the Slipways Lawn's southern boundary.

Slipways Lawn and the Craneway Pavilion will provide views of the San Francisco Bay, Downtown San Francisco, the Ship Repair Docks, and the Bay Bridge. The lower Shoreline Path within the Slipways Waterfront will provide access to Craneways 5 and 6, each providing direct passive access to the shoreline. No direct roadway access will be provided within this central public access space in order to maximize recreational use of the park and encourage pedestrian and bicycle travel. The Slipways Waterfront will include a new approximately 301-foot-long segment of the Bay Trail and Blue Greenway.

More specifically, Special Condition II.B.4 requires that the following improvements be constructed and provided within Slipways Waterfront area:

- **Bay Trail.** A minimum 20-foot-wide, approximately 301-foot-long paved Bay Trail segment of (approximately 6,004 square feet).
- **Plaza, Picnic, and Seating.** Approximately 6,993 square feet of plaza, picnic, and seating areas, mainly located between the Bay Trail and the lower Shoreline Path, with furnishings that include picnic table(s), benches, and chaise lounges. Seating will accommodate all accessibility needs.
- **Shoreline Path.** A minimum 6-foot-wide, approximately 143-foot-long universally accessible Shoreline Path (approximately 1,149 square feet). Accessible connections between the Shoreline Path and Craneways include one accessible sloped

walkway with a minimum 48 inches of clear space and ADA-compliant guardrail when the height difference exceeds 42 inches, with handrail integrated, and stairs with a minimum width of 8-foot with uniform and ADA-compliant riser heights and tread width, ADA-compliant nosings, and ADA-compliant handrails.

- **Pavilions and Decks.** An approximately 1,226-square-foot viewing pavilion (the “Craneway Pavilion”), approximately 123 feet long by 10 feet wide by 30 feet high, with a thickness generally consistent with that shown on the renderings on Exhibits 4 and 5, positioned on top of an approximately 2,785-square-foot deck on the north side of the lawn, and an approximately 975-square-foot wood deck on the south side of the lawn.
 - **Slipways Lawn.** An approximately 8,448-square-foot public lawn at a uniform grade to allow for flexible uses and activities and furnishings including seating.
 - **Historic Craneway Structures.** The retention of the historic Craneways 5 and 6 (approximately 6,941 square feet) with interpretive signage and appropriate furnishing to provide for fishing, gathering, seating, and Bay viewing.
 - **Planted Area.** Approximately 212 square feet of landscape plantings between the Slipways Lawn and Bay Trail.
- (iii) **Waterfront Terrace.** The Waterfront Terrace will be located along the northernmost portion of the site, and is designed to orient users toward views of the shipbuilding activities to the north. The Waterfront Terrace will be approximately 36,350 square feet (0.83 acres) (34,667 square feet within and 1,683 square feet outside the shoreline band) and vary in width from approximately 82 to 177 feet extending from the northern edge of Craneway 5 to the northern property boundary.

The Waterfront Terrace will include a new public street at Waterfront Street, which connects a future extension of 20th Street with a future extension of 21st street via a designated pedestrian and vehicular/shared zone. The Waterfront Terrace also includes the northern portion of the 20-foot-wide Bay Trail and Blue Greenway (approximately 7,618 square feet inside the shoreline band, and approximately 1,309 square feet outside the shoreline band), to provide an approximately 446-foot-long new segment of the Bay Trail. Special Condition II.B.12 is included to require provision of the Bay Trail along 20th Street to Louisiana Street, the edge of the project site.

The Waterfront Terrace also includes an approximately 525-square-foot pavilion atop an approximately 1,862-square-foot deck, integrated with public open space comprised of both vegetated park and unvegetated plaza. Amenities provided in the Waterfront Terrace public open space areas will include picnic furnishings and other traditional seating areas along the margins of the vegetated park open space.

For public safety reasons, a landscape barrier fence may be erected within the northern most portion of the Waterfront Terrace due to the presence of unsafe conditions related to the deterioration of the building located just outside of the project boundary to the north (Building 6). Future plans for this structure are uncertain and it is possible that portions of the building could deteriorate and collapse. To protect the public from this potential safety hazard, the landscape barrier fence would be placed no more than 20 feet south of the structure, with the 20-foot buffer appropriately landscaped to provide a transition between the Waterfront Terrace and the properties to the north.

More specifically, Special Condition II.B.4 requires that the following improvements be constructed and provided within the Waterfront Terrace area:

- **Bay Trail.** A minimum 20-foot-wide, approximately 446-foot-long Bay Trail segment (approximately 8,927 square feet) that connects to the 20th Street Bay Trail segment, required in Section II.B.13.
- **Plaza, Picnic, and Seating.** Approximately 5,364 square feet of plaza, picnic, and seating areas, mainly located between the Bay Trail and the lower Shoreline Path, and furnishings that include picnic tables and bench(es). Seating will accommodate all accessibility needs.
- **Shoreline Path.** A minimum 6-foot-wide, approximately 467-foot-long Shoreline Path (approximately 3,050 square feet). Accessible connections between the Shoreline Path and Craneways include one accessible ramp with a minimum 48 inches of clear space and one sloped walkway with a minimum 48 inches of clear space and ADA-compliant guardrail when the height difference exceeds 42 inches, with handrail integrated.
- **Pavilions and Decks.** An approximately 525-square-foot viewing pavilion (the “Building 6 Pavilion”), approximately 35 feet long by 15 feet wide by 25 feet high, with a thickness

generally consistent with that shown on the renderings on Exhibits 6 and 7, positioned on top of an approximately 1,862-square-foot deck.

- **Lawns.** An approximately 5,064-square-foot public lawn at a uniform, relatively flat grade to allow for flexible uses and activities.
- **Planted Areas.** Approximately 4,994 square feet of sloped lawn and meadow plantings. As required to ensure public safety, a low-rise and transparent landscape barrier fence may be erected within the planted area approximately 20 feet south of the Building 6 structure.

(iv) **Special Events within Public Access.** The permittees anticipate that public programming of the public access areas will occur to complement the everyday passive and recreational uses that occur there. The permittees state:

“The goal of programming is to draw people to the waterfront, extend their stays once there, and give them reason to come back. Programming with a wide array of activities that appeal to different groups will help bring people to the spaces who otherwise may not spend time there and attract them at varying times of day. The more visitors a space draws and retains, the more it is seen as inviting by other potential users; not only will the spaces be more attractive, they’ll also be safer. Since the Pier 70 waterfront has not been publicly accessible for generations, activation events will also serve to educate the larger community about the availability of the new open space resources in the Central San Francisco waterfront.”

The Commission’s advisory Public Access Design Guidelines state: “While some shoreline areas are best suited for quiet and contemplative public spaces, others lend themselves to be used for large public gatherings, such as festivals, outdoor markets or exhibits... Within every project, public access should be designed to respect all visitors’ experience of the Bay. Highly active uses should always be balanced with opportunities for passive activities, such as strolling, viewing and relaxing.”

The Commission has, in the past, authorized Special Events within public access areas at various locations along the Bay shoreline, including on the San Francisco Waterfront, that it found lent themselves to large public gatherings. The Commission has generally imposed special conditions

upon its authorization for such events in order to provide reasonable limitations on the scope, size, duration, or type of events allowed, always with the objective of maintaining usable and functional public access areas for a wide range of users, regardless of whether or not they wish to participate in Special Events.

Special Condition II.C is included to establish certain limitations on the number, type, and duration of events that may occur within required public access areas, in order to achieve the general objectives of allowing for regular programming to activate the shoreline and provide opportunities that might attract new visitors, while also ensuring that others who may wish to visit the shoreline always have the opportunity to do so regardless of whether they are participating in a Special Event.

The permittees intend to program Special Events at public access areas throughout the site and on a year-round basis. Events are limited to within defined sections of the required public access areas, which are shown on Exhibits 15 through 17, and labeled “Event Areas.” Establishing the Event Areas ensures that the Bay Trail, Shoreline Path, and other important connections through the site remain available to all users even during a Special Event.

Most events will be free and open to the public with unrestricted access. Some events may require payment or request a donation to an instructor or performer and some free events may require advance reservations to limit attendance. All other public events with restricted access for safety or security reasons (such as movie nights and theater performances) will be open to the public on a first-come-first-serve basis.

A smaller share of the permitted Special Events would consist of either ticketed public events or private events. Examples of public ticketed events may include food festivals, fundraisers, and performances. Private events are those that are not open to the general public and which may or may not require the purchase of a ticket for entry. Special Condition II.C establishes the maximum number of days that are allowed for events which require obtaining or purchasing a ticket, or which are allowed for use for private events.

Special Condition II.C distinguishes between events based on the amount of public access area each would occupy. Small Events are allowed to occur at the site every day of the year, provided that they collectively do not occupy more than 25 percent of the established Event Areas any given day. In addition, small donation or fee-based classes and “micro” events—where individuals or groups can reserve use of small areas for birthday parties, weddings, or other small gatherings—are also allowed every day of the year, provided no such event occupies an area of more

than 1,600 square feet. The cost for fee-based classes and reservation fees for micro events shall be affordable to ensure that they are widely accessible to members of the public.

A smaller number of Medium Events (which alone or collectively occupy up to 50 percent of the Event Areas in a given day) and Large Events (which alone or collectively occupy up to 100 percent of the Event Areas in a given day) are allowed to occur on up to 100 days per calendar year. These larger activations are intended to be for festivals and larger activities that bring large numbers of people to the shoreline, including some who might not otherwise visit the shoreline for typical passive recreational uses. Large Events are limited to 16 of the total 100 Event Days dedicated to Medium and Large Events. In addition, Medium and Large Events may occur on no more than four weekend days per month to ensure that there is an opportunity for less programmed activities during any given month.

This authorization for Special Events in this permit provides the permittees with ample opportunities to program the public access areas. The Commission anticipates that the public programming permitted herein will be successful in drawing visitors with different interests to the shoreline, while still providing for more traditional passive and active park uses and opportunities to view and enjoy the Bay for those members of the public who are not interested in a particular event. However, it will be necessary to evaluate on an ongoing basis the success of the Special Event program in balancing these objectives in a way that maximizes public access to the shoreline. Therefore, Special Condition II.C requires annual reporting on the program to the Executive Director. Special Condition II.C limits the term of authorization for Special Events to 5 years from the opening of the public access areas in Phase 1 of the project. The permittees may seek reauthorization following this term. Renewal of authorization to conduct Special Events within the required public access areas may be granted by or on behalf of the Commission upon a finding that the Special Events will be consistent with the relevant Commission law and policies at that time. Analysis of the decision to grant or deny renewal of the Special Event authorization will be informed, in part, on the information contained in the monitoring and reporting on Special Events that will be submitted on a yearly basis.

Finally, Special Condition II.C allows for the permittees to conduct events to activate the shoreline in the period before the public access areas are constructed. These events would allow shoreline access when none would normally be accessible. It is anticipated that these interim

activation events will inform the eventual public programming of the project site, once the public access areas have been constructed and opened to the public.

- (v) **Project Phasing and Interim Public Access Conditions.** The project is to be developed in multiple phases over an anticipated period of approximately 10 to 15 years, with the completion of the final phase of shoreline open space to be provided no later than December 2037. The public access improvements—as proposed and required by Special Condition II.B.4—are to be constructed in phases in association with nearby development of residential and commercial buildings. Public access is to be provided in a timely manner and available as new residents and workers come to the site. Therefore, Special Condition II.B.8 is included to require that public access improvements associated with each phase shall be provided within 12 to 18 months (depending on the phase) of occupancy of any residential unit or commercial space associated with a particular phase of work. As discussed above, Special Condition II.C also allows for interim events to activate the shoreline in areas in the period before public access areas have been constructed and opened to the public.
- (vi) **Barrier-Free Access.** The public access areas will be constructed to meet Americans with Disabilities Act (ADA) accessibility requirements. ADA accessible parking spaces will be located throughout the project site, including in proximity to the waterfront areas, though the exact location of the parking spaces will be determined as the streets are designed. General passenger loading spaces within and adjacent to public access areas will have curb conditions that meet the standards of the ADA for pick-up and drop-off of passengers with mobility limitations. In addition, a shuttle service is also anticipated to be implemented as part of the overall project's Transportation Demand Management Plan. Special Condition II.A requires review and approval of final construction documents, in part to ensure that public access improvements constructed as part of the project permit barrier-free access to the maximum extent feasible.
- (vii) **Ongoing Maintenance Program.** A Services Special Taxes Community Financing District (CFD) will be formed to provide funding in perpetuity for the maintenance of all the public open spaces within the project site, including those required herein. The Port or its assignee is responsible for conducting ongoing maintenance per the terms of the Development Agreement between the City and County of San Francisco and the project developer. Special Condition II.B.5 is included to require that the public

access improvements authorized and required herein be properly maintained at all times by and at the expense of the permittees or their assignees.

(viii) **Signage and Interpretation.** A general signage and wayfinding plan was provided as part of the application for this project. The signage and wayfinding plan details sign typologies that will help visitors orient and navigate to public spaces with an emphasis on directing people to the waterfront and key historic buildings. Sign typologies will include the following: Vehicular Wayfinding, Pedestrian Pylon Wayfinding, Pedestrian Building Wayfinding, Bicycle Signage, Bay Trail Signage, Street Identification, and Placemaking Paving Graphics. Special Condition II.B.9 is included to ensure that prior to the start of construction of any phase of the work authorized herein, final signage plans are developed and submitted for review and approval to ensure that the location, quantity, and design of the wayfinding, interpretive, "Public Shore," and Bay Trail signs are adequate to maximize public recognition, use, and enjoyment of the site's public access improvements.

(ix) **Public Safety and Hazardous Materials**

(a) **Hazardous Materials.** Hazardous materials have been identified in the soil and groundwater as a result of the historic industrial uses of the project site. The San Francisco Bay Regional Water Quality Control Board is the lead agency overseeing implementation of Remedial Action and Risk Management Plans related to remediation and ongoing operation in this historically contaminated area.

According to the application for the project, hydrocarbon-based dense non-aqueous phase liquid (DNAPL) has been identified within some portions of the fill material adjacent to and beneath the southernmost portion of the Slipways in the southern portion of the Waterfront Project area, adjacent to the former Potrero Power Plant. PG&E has been identified as the responsible party for the remediation of these hazardous waste areas, and is in the process of conducting remediation activities pursuant to a RWQCB-approved Remedial Action Plan (RAP) (Resolution No. R2-2016-0027). PG&E's remediation of the DNAPL area within the project site will include excavating and backfilling excavations with clean fill. The RWQCB has also required a deed restriction be imposed on this property, limiting future land uses. The remediation activities by PG&E have been authorized in BCDC Permit No. M2017.005. Development of this area of the project is required to be completed in coordination and in compliance with the requirements of the RWQCB in association with these remediation efforts. The EIR for the project includes a

mitigation measure that project construction on parcels H1, H2, and E3 and the adjacent open spaces will not begin until remediation activities in the PG&E Responsibility Area have been completed to the satisfaction of the RWQCB.

Fill material throughout the project site has been found to contain naturally occurring asbestos. According to the application for the project, the extent of these materials has been evaluated and a Risk Management Plan (“RMP”) has been developed and approved by the RWQCB, and the implementation the RMP will also be overseen by the RWQCB. The Port has recorded a deed restriction on the project site that incorporates the information and requirements of the Pier 70 RMP described above, and includes the following restrictions on uses within the project site: native soil may not be used for growing produce for human consumption; uses involving regular exposure to native soil are not permitted; hospitals are prohibited; and no groundwater wells or groundwater uses are allowed for purposes other than construction dewatering. The RMP also specifies notifying requirements for ground-disturbance activities that disturb larger areas of soils, risk-management measures that must be implemented during construction and maintenance, and post-development measures to prevent human exposure to the soil. Such measures can include covering soil with new or existing roadways and sidewalks, new and existing hardscapes, shoreline revetments, 6 inches of gravel overlaying a demarcation layer, or landscaped areas covered with a minimum of 2 feet of clean imported soil. The RMP also requires an Operation and Maintenance Plan for the durable cover, with specific requirements for long-term maintenance and monitoring as well as an emergency response plan for circumstances including flooding, fire, and vandalism.

With regards to the potential risks associated with future sea level rise in an area with known contamination, the application states that “[m]obilization of remaining site contaminants with projected sea level rise is not anticipated. All areas that are at risk of inundation from future sea level rise will be raised to elevations above sea level rise estimates through approximately the year 2090...[and] these raised areas will be subject to the terms and conditions of the Risk Management Plan (RMP) that has been reviewed by the [RWQCB].” Further, as discussed below, Special Conditions are included to require adaptive measures to the raised areas of the site prior to the time in which flooding from tides or regular flooding associated with sea level rise would occur. The application states further that “[t]he associated risk of future toxic material mobilization is not a concern

since contaminants have low or no solubility and are typically long-chained heavily degraded hydrocarbons or heavy metals with minimal or no ability to migrate.”

(b) **Building 6 Perimeter Fence.** For public safety reasons, a landscape barrier fence may be erected within the northern most portion of the Waterfront Terrace due to the presence of unsafe conditions related to the deterioration of the building located just outside of the project boundary to the north (Building 6). Future plans for this structure are uncertain and it is possible that portions of the building could deteriorate and collapse. The landscape barrier fence would be placed no more than 20 feet south of the structure, with the 20-foot buffer appropriately landscaped to provide a transition between the Waterfront Terrace and the properties to the north. Special Condition II.B.4 stipulates that the fence be of a design that is low and visually transparent.

c. **Circulation to and Along the Shoreline**

(1) **Applicable Policies.** On waterfront trails, Bay Plan policies state, in part, “[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” (Public Access Policy No. 9). Within waterfront parks, “[t]rails that can be used as components of the San Francisco Bay Trail...[should be] located near the shoreline” (Recreation Policy No. 2.a(6)).

On the design of roads near the shoreline, Bay Plan policies state, in part, “[r]oads near the edge of the water should be designed as scenic parkways for slow-moving, principally recreational traffic. The roadway and right-of-way design should maintain and enhance visual access for the traveler, discourage through traffic, and provide for safe, separated, and improved physical access to and along the shore. Public transit use and connections to the shoreline should be encouraged where appropriate” (Public Access Policy No. 10).

On parking in waterfront parks, Bay Plan policies state, “[p]ublic parking should be provided in a manner that does not diminish the park-like character of the site. Traffic demand management strategies and alternative transportation systems should be developed where appropriate to minimize the need for large parking lots and to ensure parking for recreation uses is sufficient” (Recreation Policy No. 2.a(7)). With some exceptions, “parking areas should be located away from the shoreline” (Appearance, Design, and Scenic Views Policy No. 4).

On the use of public transportation, Bay Plan policies state, in part, “[p]ublic transit use and connections to the shoreline should be encouraged where appropriate” (Public Access Policy No. 10). “Bus stops, kiosks and other facilities to accommodate public transit should be provided in waterfront parks to the maximum extent feasible” (Policy No. 2.a(7)).

(2) Analysis

- (i) **Bay Trail and Connections to the Site.** The project creates shoreline trails to run the entire length of the approximately 1,380-foot-long shoreline within the project area. Circulation routes to the shoreline public access areas from upland areas will be provided through the site via 20th Street, 21st Street, and 22nd Street, with pedestrian access also available from Maryland Street through Slipway Commons.

Within the shoreline public access areas, a minimum 20-foot-wide Bay Trail segment will run the length of the shoreline, which provides adequate width to accommodate a variety of users. At its northern terminus along the shoreline, the Bay Trail will transition to a sidewalk and Class 1 bike lane running along 20th Street to Georgia Street. Special Condition II.B.12 requires that this connection be provided according to the design standards for the Bay Trail established in the Pier 70 SUD Design for Development document, and the project’s Streetscape Master Plan. If in the future, a new shoreline alignment for the Bay Trail is constructed at the adjacent property—which is currently a maritime industrial facility that is closed to the public—then this permit’s requirement to provide the Bay Trail connection along 20th Street will be vacated. However, until such time, the Bay Trail connection is a requirement of this permit, and shall be provided according to the standards established in the special condition.

At its southern terminus along the shoreline, the Bay Trail is expected to ultimately connect to a new segment of the Bay Trail, which is anticipated to be constructed in association with a proposed mixed-use development at the former Potrero Power Plant site. To facilitate the completion of any future extension of the Bay Trail, Special Condition II.B.12 requires that the permittees coordinate with neighboring land owners on construction of Bay Trail segments on parcels neighboring the project site to the north and south should they be proposed to enable construction of public access connections between their respective properties.

In addition to the Bay Trail, a narrower, minimum 6-foot-wide path (the “Shoreline Path”) will run immediately adjacent to the shoreline along much of the length of the shoreline. The Shoreline Path will be developed at roughly the existing grade of the shoreline, whereas the Bay Trail and most of the rest of the project site is to be built at a higher grade to

account for the risk of flooding from rising sea levels. The flood risk and potential adaptation or managed retreat options for the Shoreline Path are discussed in the section on Sea Level Rise below. However, in the time before regular flooding is expected to impact the Shoreline Path, it will provide a more intimate shoreline experience suitable for pedestrians. While at a lower elevation than much of the rest of the project site, it will be accessible by stairs and ADA-accessible sloped walkways placed at a regular interval, and it will provide a direct means of access to the historic Craneway structures, which will likewise be at a lower elevation than the rest of the project site.

- (ii) **Shoreline Parking Spaces and Public Transit Access.** The permittees state that the project was designed to encourage use of public transit and reduce single-occupancy automotive trips in and out of the project site. Metered on-street parking will be provided throughout the project site, including in close proximity to the waterfront public access areas, to encourage turnover of parking spaces and discourage long-term use of the on-street parking spaces. Residential parking permits will not be allowed to ensure that local residents do not occupy all on-street parking, and to discourage personal automobile ownership among residents. With regular turnover of parking spaces, metered parking spaces will be available for those visiting the public access areas that are unable to use public transit or other alternative modes of transportation. ADA-accessible parking spaces will also be located throughout the project site, including in proximity to the shoreline public access areas. In addition, the public will have access to parking within the commercial buildings developed within the project site.

Bus and shuttle service will be provided to accommodate transit access to the shoreline public access areas. The shoreline public access areas are in proximity to an existing Muni bus route (48 bus) on Illinois Street. A new bus route is proposed on 22nd Street, which will be a short walk from the shoreline open space areas. A shuttle will also be established as part of the project, with stops anticipated at Maryland or Louisiana Streets, which would allow for access to the waterfront via the Slipway Commons area.

d. **Scenic Views**

- (1) **Applicable Policies.** Bay Plan policies on scenic views state, in part that “[a]ll bayfront development should be designed to enhance the pleasure of the user or viewer of the Bay,” with “[m]aximum efforts...made to provide, enhance, or preserve views of the Bay and shoreline” (Appearance, Design, and Scenic Views Policy No. 2). “Structures and facilities that do not take advantage of or visually complement the Bay should be located and designed

so as not to impact visually on the Bay and shoreline. In particular, parking areas should be located away from the shoreline” (Appearance, Design, and Scenic Views Policy No. 4). “Shoreline developments should be built in clusters, leaving open area around them to permit more frequent views of the Bay” (Appearance, Design, and Scenic Views Policy No. 8). The San Francisco Waterfront Special Area Plan states, in part, that “[i]mportant Bay views along The Embarcadero and level inland streets should be preserved and improved” (General Policy No. 7).

- (2) **Analysis.** The project creates views of the Bay where none were previously publicly accessible, as views from adjacent public streets were blocked by structures or fences. The nearest inland street running parallel to the Bay is Illinois Street. Along Illinois Street, the project will establish two view corridors through which the Bay will be visible, along 20th and 22nd Streets. The project street grid achieves the objective of building the development in clusters to permit more frequent views of the Bay. Within the project site, views will be available from several blocks back from Slipway Commons as well as along the newly developed 21st Street. Special Condition II.B.11 is included to ensure that the view corridors shown on Exhibit 12 are provided in perpetuity. Within these view corridors, future development must be conducted consistent with the controls contained in the project’s Design for Development document, which ensures development will be conducted within parameters that ensure continuous views of the Bay along these major thoroughfares.

The project incorporates large architectural pieces made of reclaimed metal to frame key views at three locations along the shoreline. The 22nd Street Pavilion, within the Waterfront Promenade area at the terminus of 22nd Street, frames views over the Bay to the East Bay on the horizon. The Craneway Pavilion, within the Slipways Waterfront area, frames a view of the downtown San Francisco skyline. The Building 6 Pavilion, within the Waterfront Terrace area, frames a view of the ship repair dry-dock to the north. These viewing pavilions are designed to have a thin profile in order to ensure that they do not detract from views, and instead are intended to create visual interest and draw the eye to the shoreline and the Bay beyond them. Special Condition II.A is included, in part, to ensure that final plans are submitted for review and approval on behalf of the Commission in order to ensure that the ultimate design of these pavilions is generally consistent with those designs depicted in the application and presented to the Commission’s Design Review Board.

e. **Flooding and Sea Level Rise**

- (1) **Applicable Policies.** Regarding the potential effects of sea level rise on public access, Bay Plan Public Access Policy No. 5 states: “Public access should be sited, designed, managed, and maintained to avoid significant adverse impacts from sea level rise and shoreline flooding.” Public Access Policy No. 6 states: “...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.”

Within its 100-foot shoreline band jurisdiction and outside a Priority Use Area, the Commission may deny an application for a permit only on the grounds that the project fails to provide maximum feasible public access, consistent with the project, to the Bay and shoreline. Therefore, the Commission has limited authority regarding sea level rise over most shoreline development. For example, for this and other projects, the Commission does not have the authority to review the developed areas, such as buildings and other private areas, for issues related to seismic safety or potential impacts from future sea level rise. Sea level rise resilience and adaptation requirements imposed by the Commission must pertain to the public access areas. To ensure maximum feasible public access is provided as part of the project, public access must remain safe, available for use, resilient, and if warranted, be adapted as sea level rises over the life of the project.

In analyzing a project’s risk of flooding as a result of sea level rise, the Commission currently relies on the sea level rise estimates provided in the 2018 California Sea Level Rise Guidance from the Ocean Protection Council and Natural Resources Agency (“State Guidance”), which as of the date of this report represents the best available science. The State Guidance recommends use of probabilistic projections to understand and address potential sea level rise impacts, which associate a likelihood of occurrence with projected sea level increases and rates tied to a range of emission scenarios.

(2) **Analysis**

- (i) **Flood Risk.** As part of the application, the permittees provided a memorandum entitled “Pier 70 Shoreline Improvement Design Criteria and Sea Level Risk Assessment,” (M&N Sea Level Rise Report) prepared by Moffat and Nichol, which includes a risk assessment examining existing and anticipated future flood risk at the project site, as well as proposed adaptation strategies to ensure ongoing resilience of the site to flooding.

The M&N Sea Level Rise Report makes use of the State Guidance's projections for future sea level rise. The State Guidance encourages that decisions about which sea-level rise projections to select be based on factors including location, lifespan of the given project or asset, sea level rise exposure and associated impacts, adaptive capacity, and risk tolerance or risk aversion. It also establishes categories of risk tolerance that align with different sea level rise projections. A "low risk aversion projection" would be appropriate for projects that are easily adapted, or for which flooding would be of low consequence. An "extreme risk aversion projection" would be called for when planning projects where no adaptive capacity exists, it would be prohibitively costly to relocate or repair the asset, or considerable health, safety, or environmental impacts might occur as a result of flooding.

The M&N Sea Level Rise Report analyzes the Pier 70 project under the state's "medium-high risk aversion projection," the middle category of risk tolerance outlined in the memorandum. The State Guidance states that the medium-to-high risk aversion projections are appropriate to provide "[a] precautionary protection that can be used for less adaptive, more vulnerable projects or populations that will experience medium to high consequences as a result of underestimating sea-level rise...." The medium to high risk aversion scenario is therefore appropriate in analyzing this project as the public access developed as part of this project represents an important public asset on the shoreline adjacent to a dense urban neighborhood where there are limited options for managed retreat, or alternative options to providing equivalent shoreline access.

Employing the medium-to-high risk aversion scenario at the project site, where the Mean Higher High Water (MHHW) level is +6.4 feet NAVD88 and the water levels during the 100-year (1 percent likelihood) storm event is +9.8 feet NAVD88, the following water levels would be planned for:

- At 2050, with an anticipated rise in sea level of 1.9 feet, the MHHW level would be +8.3 feet NAVD88. The water levels during a 100-year (1 percent likelihood) storm would be +11.7 feet NAVD88.
- At 2070, assuming a high-emissions scenario, with an anticipated sea level of approximately 3.5 feet, the MHHW level would be +9.9 feet NAVD88. The water levels during a 100-year (1 percent likelihood) storm would be +13.3 feet NAVD88.

- At 2100, assuming a high-emissions scenario, with an anticipated rise of sea level of approximately 6.9 feet, the MHHW level would be +13.3 feet NAVD88. The water levels during a 100-year (1 percent likelihood) storm would be +16.7 feet NAVD88.

The project's design raises the grade of a majority of the project area to an elevation of +15.5 feet NAVD88, which accommodates up to 5.5 feet of sea level rise above the present-day Base Flood Elevation before any flooding would be anticipated to occur at these locations. A smaller portion of the site, which consists of the existing historic Craneway structures and the lower Shoreline Path, will be at roughly the existing grade of the site, around +11.5 feet NAVD88. Therefore, while flooding does not impact the project site today, it will be anticipated that some flooding risk to lower-lying areas will occur by 2050, and that adaptation measures may be necessary to account for flood risk at some point during the life of the project.

- (ii) **Resilience to Mid-Century Sea Level Rise.** Employing the State Guidance's medium-to-high risk aversion scenario, the analysis plans for 1.9 feet of sea level rise at 2050. In this scenario, the water levels during a 100-year (1 percent likelihood) storm would be approximately +11.7 feet NAVD88 at 2050. The public access areas are not anticipated to experience regular flooding by 2050, though flooding to lower-lying portions of the project site (the Craneways and Shoreline Path) is anticipated during extreme storms.

The majority of the project site, including the Bay Trail and most shoreline public access areas, will be constructed at an elevation of at least +15.5 feet NAVD88, well above the anticipated water levels during the 100-year storm anticipated by the medium-to-high risk aversion scenario. The lower-lying Craneways and Shoreline Path, which will remain at the approximate grade of the existing site, at +11.5 feet NAVD88, would be anticipated to experience flooding during an extreme 100-year flood event around 2050, with water levels projected at +11.7 feet NAVD88. In addition, wave runup has the potential to overtop these lower lying areas during extreme storm events, in which case they may be temporarily closed during storm events.

To address the potential public safety concerns should the Shoreline Path be flooded, the permittees indicate they will install temporary barriers to limit access to the lower-lying Craneways and Shoreline Path in advance of large storm events with the potential to flood these areas. Exhibit 19 shows the locations where temporary barriers might be placed to limit access to the shoreline during these periods. Should wave runup cause or storm-driven floods result in any damage to the lower-lying shoreline

areas, Special Condition II.B.5 is included to ensure that timely maintenance occur to repair flood damage within the required public access areas.

- (iii) **Adaptive Capacity and Adaptation Measures.** The medium-to-high risk aversion scenario plans for an anticipated rise of sea level of approximately 6.9 feet at 2100. Under this scenario, the MHHW level would be +13.3 feet NAVD88. The water levels during a 100-year (1 percent likelihood) storm would be +16.7 feet NAVD88. Using these projections, flooding of the lower-lying Craneways and Shoreline Path would become more frequent after mid-century, and eventually these areas would be subject to daily flooding. Additional measures would be required at the end of the century to protect the portions of the site constructed at an elevation of +15.5 feet NAVD 88 from flooding during extreme storm events.

The M&N Sea Level Rise Report considers the potential impacts of flooding to the site and methods of possible future adaptation to flooding. For instance, along the Shoreline Path, conceivable measures could include constructing short parapet walls or raised curbs to extend the useful life of the path, or alternatively converting the path into an area where intertidal habitat could be established. The Bay Trail, which the projections suggest would be subject to flooding during an extreme storm event around 2090, could be adapted by raising the grade of the trail, or by establishing a new shoreline edge condition.

To fund future adaptive measures required by both sea level rise and seismic risk, the project will establish a Shoreline Special Tax Community Facilities District (CFD) to fund future shoreline improvements. The Disposition and Development Agreement between the City and FC Pier 70, LLC requires that the CFD would fund improvements as determined necessary by the Port of San Francisco through future technical study of the shoreline protection needs at the project site.

- (iv) **Adaptation Planning and Implementation.** The M&N Sea Level Rise Report outlines measures that could be implemented to ensure the ongoing resilience of the public access areas provided by the project over time, and also identifies a mechanism by which adaptation measures could be funded. However, the report does not establish when planning for adaption must commence so that the ongoing viability of the public access areas can be assured. Therefore, Special Condition II.D is included to establish the timeline and requirements for the future sea level rise adaptation planning effort and its successful implementation.

Special Condition II.D requires ongoing monitoring of sea level rise and flood risk to public access areas. The permittees are required to monitor the site for flooding and submit a report to the Executive Director of any coastal flooding event that requires full or partial closure of any required public access area. It also requires ongoing monitoring of sea level rise and flood risk to public access areas, consistent with the strategy proposed in the M&N Sea Level Rise Report. Every 5 years following the first instance of coastal flooding to affect the site, the permittees will submit a revised version of the M&N Sea Level Rise Report for review by or on behalf of the Commission. Revisions to the M&N Sea Level Rise Report would be based on best available climate science and sea level rise projections. The revised report would include observations of water levels at the shoreline adjacent to public access areas (including during King Tide events) and recommendations for revisions to the adaptation strategy based on site conditions, sea level rise and storm projections, updated policy guidance, and other findings.

It is recognized that certain portions of the public access area that are lower-lying—including the Craneways and Shoreline Path—are anticipated to flood earlier and with greater frequency than the majority of the public access area which is being constructed at a higher elevation. Special Condition II.D requires implementation of a strategy along the lines proposed by the permittees, as modified over time based on the results of the five-year revisions to the M&N Sea Level Rise Report. The report identifies two separate strategies, one for the lower-lying areas including the Craneways and Shoreline Path, and another for the elevated public access areas, including the Bay Trail and the majority of the Shoreline Park. The lower-lying areas may be retrofitted to prolong access to the area (e.g., through installation of a short parapet wall or raised curb), or they may be removed or converted into another use (for instance, as intertidal habitat or as shoreline armoring).

Special Condition II.D requires that the majority of the public access areas provided by this project—i.e., those required public access areas outside of the “Shoreline Adaptive Area”—be maintained as public access areas and protected from flooding so long as the Pier 70 development remains in place. The permittees are to initiate a process to develop a sea level rise adaptation plan when 54 inches of sea level rise has occurred at the project site, compared to 2000 levels, as indicated by the results of the ongoing 5-year monitoring plans. According to M&N, this trigger will conservatively allow for a 10-year period in which to plan and implement sea level rise adaptation measures before these public access areas are subject to flood risk. The sea level rise adaptation plan will identify measures to protect these areas from coastal flooding, such as raising the

elevation of the public access or installing a flood protection device. Special Condition II.D requires that any adaptation measures ultimately proposed and implemented shall not result in a reduction of the size or usability of the public access areas (outside the “Shoreline Adaptive Area”). Though this outcome is not anticipated, it is possible that the adaptation plan required by this permit could result in the permittees potentially constructing adaptation measures within the shoreline band that result in a loss of available public access area. Therefore, Special Condition II.D states that if reduction to the size or usability of the public access required is unavoidable, the plan must identify how equivalent access (in area and functionality) will be provided nearby.

- C. **Public Trust.** The activities authorized herein are located on filled former tidelands subject to the public trust. The project is consistent with public trust needs for the area, as it provides recreation and open space improvements.
- D. **Design Review Board.** Bay Plan Public Access Policy No. 12 states that Commission’s “Design Review Board should advise the Commission regarding the adequacy of the public access proposed” and that its advisory “Public Access Design Guidelines should be used as a guide to siting and designing public access consistent with a proposed project.” The Board reviewed the project at its meetings on October 17, 2016 and February 26, 2018.

At the Board’s initial hearing on the project on October 17, 2016, members asked for additional clarification and thought from the applicant to various aspects of the project, including how the public access areas would be used by the public (and by specific segments of the public, such as children and people with dogs), how operations and maintenance of the public access areas would occur, how clearly the project would provide a connection to the shoreline from the Dogpatch neighborhood, and how the project would incorporate elements to educate the public on the history of the site. The Board also commented on the viewing pavilions, mostly favorably, with one member cautioning that it would be important to carefully design the pavilions if they were to maintain the beautiful, subtle profile shown on the submitted renderings.

At the Board’s second hearing on the project on February 26, 2018, which it held jointly with the Port of San Francisco’s Mission Rock–Pier 70 Design Advisory Committee, Board members expressed approval of the evolution of the design since its first meeting. The Board discussed historic interpretation elements of the design, and generally found the interpretation to be well done and appropriate to the site. Additional comments were provided about the design of the viewing pavilions, which Board members overall found were compatible with maintaining Bay views. The Board expressed approval of maintaining the lower-lying Craneways and Shoreline Path at the existing grade of the site, even though in doing so they would be subject to flooding earlier than those other portions of the site. This design was felt to provide a closer sense of connection to the waterfront in the several decades before regular flooding of

these areas is anticipated to occur, though the Board cautioned that the design of the materials used for the Shoreline Path would need to be able to withstand occasional flooding.

- E. **Coastal Zone Management Act.** The Commission further finds, declares, and certifies that the activity or activities authorized herein are consistent with the Commission's Amended Management Program for San Francisco Bay, as approved by the Department of Commerce under the Federal Coastal Zone Management Act of 1972, as amended.
- F. **Environmental Review.** Pursuant to the California Environmental Quality Act (CEQA), an Environmental Impact Report (EIR) was prepared for the Pier 70 Mixed-Used District Project, which included the entire Pier 70 Special Use District, including the "28-Acre Site" that is the subject of this permit. The Pier 70 EIR was certified by the San Francisco Planning Commission on August 24, 2017 and affirmed by the San Francisco Board of Supervisors on October 24, 2017. An Addendum to the Pier 70 EIR was issued on May 2, 2018 that analyzed three changes to the 28-Acre Site Project: phasing assumption revisions, childcare use locations, and a phasing change for construction of the 20th Street Pump Station.
- G. **Enforcement Program and Civil Penalties.** The Commission has an enforcement program that reviews its permits for compliance. The Commission may issue cease and desist and civil penalty orders if violations are discovered. The McAteer-Petris Act provides for the imposition of administrative civil penalties ranging from \$10 to \$2,000 per day up to a maximum of \$30,000 per violation. The Act also provides for the imposition of court-imposed civil penalties of up to \$30,000 in addition to any other penalties, penalties for negligent violations of between \$50 and \$5,000 per day, knowing and intentional penalties of between \$100 and \$10,000 per day, and exemplary penalties, which are supplemental penalties, in an amount necessary to deter future violations. In addition, anyone who places fill, extracts materials, or makes any substantial change in use of any water, land or structure within the area of the Commission's jurisdiction without securing a permit from the Commission is guilty of a misdemeanor.

IV. Standard Conditions

- A. **Permit Execution.** This permit shall not take effect unless the permittee(s) 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.
- C. **Permit Assignment.** The rights, duties, and obligations contained in this permit are assignable. When the permittee(s) transfer 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(s)/transferors and the transferees 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 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(s) 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(s) 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(s) 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(s) 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(s) 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(s), 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(s) shall contact Commission staff to confirm current restricted periods for construction.