

San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510, San Francisco, California 94105 tel 415 352 3600 fax 888 348 5190

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Agenda Item #9

July 3, 2020

Staff Recommendation

Potrero Power Station Mixed-Use Development

(For Commission consideration on July 16, 2020)

Permit Application Number:	2019.006.00
Applicants:	California Barrel Company, LLC, and Port of San Francisco
Project Description:	Develop a 29-acre mixed-use residential neighborhood, including a waterfront park.
Location:	In the Bay and within the 100-foot shoreline band, at Illinois Street, between 22nd Street and 23rd Street, in the City and County of San Francisco.
Application Filed Complete:	June 2, 2020
Deadline for Commission Action:	August 31, 2020
Staff Contact:	Yuri Jewett (415/352-3616; yuriko.jewett@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 will consist of an approximately 29-acre mixed-use development south of 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 San Francisco Bay Plan. Among other things, the recommended resolution includes special conditions to:

- Guarantee 2.86 acres of required public access, including a Waterfront Park;
- Require a Bay Trail/Blue Greenway connection along the Waterfront Park from Pier 70 to 23rd Street;
- Provide for Special Event programming within the required public access area, keeping the Bay Trail/Blue Greenway and access to the waterfront open at all times;
- Ensure that the technical feasibility of the recreational dock associated with the Waterfront Park is appropriately evaluated for potential future construction;
- Require the implementation of a Sea Level Rise Adaptive Management Plan prior to the time that any public access areas are subject to flooding on a regular basis; and
- 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

The Port of San Francisco owns approximately 1.6 acres of the project site along the shoreline (see Exhibit B), which it has leased to California Barrel Company, LLC pursuant to City and County of San Francisco Board of Supervisors Resolution No. 164-20. California Barrel Company, LLC owns the remaining approximately 21 acres of the project site. The Port of San Francisco and California Barrel Company, LLC are co-permittees and jointly responsible for all aspects of the project on lands owned by the Port of San Francisco and leased to California Barrel Company, LLC. California Barrel Company, LLC is the permittee and solely responsible for all aspects of the project on lands owned by California Barrel Company, LLC.

Subject to the conditions stated below, the permittees, California Barrel Company, LLC and the Port of San Francisco are granted permission to do the following in the Bay and within the 100-foot shoreline band, at Illinois Street, between 22nd Street and 23rd Street, in the City and County of San Francisco, each as described more thoroughly in Exhibits A through H to this permit.

In the Bay:

1. Shoreline Protection Repair

Repair and replace approximately 455 cubic yards of riprap (approximately 3,213 square feet) along approximately 465 linear feet of shoreline.

2. Bay Overlook Terrace at Unit 3

Construct, use, and maintain in-kind an approximately 1,299-square-foot portion of an approximately 4,049-square-foot public access wharf (the "Bay Overlook Terrace"), including approximately twenty-four 24-inch-diameter concrete or steel pipe piles, of which up to fourteen (96 cubic yards) would be located in the Bay below the deck terrace.

3. Recreational Dock

Construct, use, and maintain in-kind a recreational public dock consisting of a fixed gangway approximately 100 feet long and 6-feet 7-inches wide (approximately 650 square feet), a floating dock approximately 120 feet long and 24 feet wide (approximately 2,880 square feet), and four 42-inch diameter steel piles (approximately 38 square feet and 100 cubic yards).

Within the 100-foot Shoreline Band:

4. Site Preparation

Prior to installing permanent improvements, conduct the following site preparation activities:

a. Seawall Retrofit

Construct, use, and maintain in-kind an approximately 185-foot-long, 16-foot-high reinforced concrete wall (approximately 1,300 square feet) with approximately twenty 24-inch-diameter steel or concrete piles. Demolish and remove approximately 240 cubic yards of an existing brick seawall to increase the Bay jurisdiction by approximately 1,038 square feet.

b. Grading

Place and grade approximately 16,000 cubic yards (97,100 square feet) of fill material to raise the site to a minimum elevation of +17.5 feet NAVD88.

c. Site Stabilization

Construct and maintain-in kind geotechnical improvements within approximately 113,097 square feet of area consisting of one or more of the following methods: deep dynamic compaction, deep soil mixing, soil cement columns, or structural support piles to strengthen the soil and structures.

d. Riprap Repairs

Conduct and maintain in-kind spot-repairs to existing riprap (totaling approximately 21,714 square feet of repaired area).

e. Utilities

Demolish existing structures and subsurface utilities within the shoreline band. Install, use, and maintain in-kind aboveground and subsurface utilities, including potable, non-potable, and emergency water facilities, wastewater and stormwater collection and conveyance, and natural gas and electricity distribution.

f. During Construction Only

Stage equipment, construction materials, and construction debris as needed in the shoreline band.

5. Waterfront Park

a. Bay Trail/Blue Greenway

Construct, use, and maintain in-kind a minimum 20-foot-wide, approximately 753-foot-long (approximately 16,000-square-foot) paved segment of the Bay Trail/Blue Greenway.

b. Public Access Plaza at Block 4

Construct, use, and maintain in-kind an approximately 3,635-square-foot public plaza at the east end of the waterfront park.

- c. Outdoor Dining/Publicly Accessible Plaza at Block 4*
Install, use, and maintain in-kind an approximately 4,395-square-foot publicly accessible plaza in front of Block 4, of which up to 60% may be used for outdoor dining.
 - d. Multiuse Lawn*
Construct, use, and maintain in-kind an approximately 8,260-square-foot public open turf area located east of the Bay Trail/Blue Greenway.
 - e. Bay Overlook Terrace at Unit 3*
Construct, use, and maintain in-kind an approximately 2,750-square-foot portion of an approximately 4,049-square-foot public plaza (“Bay Overlook Terrace”) on the wharf near Unit 3.
 - f. Bay Overlook Terrace at Humboldt Street Plaza*
Construct, use, and maintain in-kind an approximately 2,180-square-foot public plaza terrace east of the Bay Trail/Blue Greenway, near Humboldt Street Plaza.
 - g. Stormwater Management*
Construct and maintain-in kind an approximately 450-square-foot bioretention treatment area.
 - h. Bay Shore Planting and Paths*
Install, use, and maintain-in kind approximately 8,955 square feet of planted areas, including a diverse palette of Bay-appropriate native plants with minimum 6-foot-wide pedestrian pathways.
 - i. Access Path to Pier 70*
Construct, use, and maintain-kind a minimum 6-foot-wide ADA-accessible path connecting the Bay Trail/Blue Greenway to the adjacent Pier 70 site.
 - j. Access Path, Stairway, and Dock Landing*
Construct, use, and maintain in-kind an approximately 6-foot-wide ADA-accessible path, stairway, and landing area for the recreational dock.
 - k. Art Installations and Interpretive Information*
Install permanent and/or temporary public art installations within the waterfront park.
 - l. Kiosks and Carts*
Allow for approximately 600 square feet of commercial kiosks and carts in areas such as the Bay overlooks and lawn.
- 6. The Point**
- a. Bay Trail/Blue Greenway Extension*
Construct, use, and maintain in-kind a minimum 20-foot-wide, approximately 225-foot-long (3,235-square-foot) paved segment of the Bay Trail/Blue Greenway along the western edge of the Point.

d. Stormwater Management

Construct, use, and maintain in-kind approximately 790 square feet of bioretention treatment areas.

e. Art Installations and Interpretive Information

Allow for the installation of permanent and/or temporary public art within Turbine Plaza.

9. Humboldt Plaza

a. Plaza

Construct, use, and maintain in-kind an approximately 2,350-square-foot public plaza, which includes a 26-foot clear width for emergency vehicle access extending between Blocks 4 and 9 from Delaware Street to the eastern edge of the building faces at Blocks 4 and 9.

b. Art Installations and Interpretive Information

Allow for installation of permanent and/or temporary public art within Humboldt Plaza.

c. Kiosks and Carts

Allow for approximately 600 square feet of semi-permanent kiosks in carts within the Bay overlooks and lawn.

B. Permit Application Date

This authority is generally pursuant to and limited by the application dated December 16, 2019, including all accompanying and subsequently submitted correspondence and exhibits, subject to the modifications required by conditions herein.

C. Deadlines for Commencing and Completing Authorized Work

Work authorized herein must commence prior to September 1, 2024, or this permit will lapse and become null and void. All work authorized herein must be completed by July 31, 2036, unless an extension of time is granted by amendment of the permit.

The project will be constructed in “Development Phases” as defined in Exhibit H, “Phasing Plan” of the Development Agreement by and between the City and County of San Francisco and the California Barrell Company, LLC, approved by the San Francisco Board of Supervisors on April 24, 2020, as may be amended from time to time.

Once commenced, all work within a Development Phase authorized or required by this permit must be diligently pursued to completion and must be completed within 5 years of commencement, unless an extension of time is granted by amendment of the permit.

D. Project Summary

The Potrero Power Station Project will redevelop an approximately 29-acre formerly industrial site along San Francisco's Southern Waterfront, with a variety of uses including residential, commercial office, life/science office, retail, community facilities, light industrial, a boutique hotel, parks, outdoor recreation and public assembly uses.



The project is to be built in phases over approximately 10 to 16 years. At build-out, approximately 11,335 residents and employees will use the site daily, in addition to members of the public.

The project involves work both within and outside the Commission's jurisdiction. The majority of the site, including the residential and commercial development components of the project, are located outside the Commission's jurisdiction. Within the Commission's 100-foot shoreline band, the project involves construction of a Waterfront Park, as well as the relocation of an existing sea wall, removing approximately 1,038 square feet of existing upland fill and expanding the Bay. In the Bay, the project includes repair of existing shoreline protection, as well as construction of a new wharf for a Bay overlook area and, if feasible, a new recreational dock. Three dedicated view corridors will provide visual connections through the development to the shoreline.

1. **Bay Fill**

The project will result in approximately 7,025 square feet and 1,076 cubic yards of net Bay fill. The project includes approximately 3,213 square feet (455 cubic yards) of fill for shoreline protection work, the majority of which is to repair existing riprap revetments. Fill is also authorized to construct an approximately 1,299-square-foot pile-supported overlook terrace within the Waterfront Park. Finally, if determined feasible, the project will include construction of an approximately 3,551-square-foot pile-supported public recreational dock.

2. **Public Access**

At present, the project site is inaccessible to the public and no shoreline public access exists. The project will develop approximately 2.86 acres (124,877 square feet) of new shoreline public access areas along the approximately 1,293-foot-long shoreline. This includes 0.24 acres (10,603 square feet) in the Bay, 2.05 acres (89,422 square feet) within the 100-foot shoreline band, and 0.57 acres (24,852 square feet) outside of the Commission's permitting jurisdiction. Based on a forthcoming feasibility analysis, the recreational dock, if constructed, will result in an additional 0.08 acres (3,551 square feet) of dedicated public access in the Bay, for a total of approximately 2.95 acres (128,431 square feet) of dedicated public access areas. The project will also develop approximately 4 acres of open spaces elsewhere within the interior of the project site. The shoreline public access includes three major areas connected by the Bay Trail/Blue Greenway:

- An approximately 0.8-acre Waterfront Park, that includes an approximately 753-foot-long segment of the Bay Trail/Blue Greenway, a public plaza, Bay overlooks, a large recreational lawn area, a naturalistic planted area, pathways, and seating, trash receptacles, and other amenities. If feasible, a recreational dock will be constructed within the Waterfront Park.

- An approximately 0.5-acre nature-based recreation area, The Point, that includes an approximately 225-foot-long segment of the Bay Trail/Blue Greenway, a picnic area, play areas, pathways, a public access pier atop an existing intake structure, public artwork, and seating, trash receptacles, and other amenities.
- An approximately 0.6-acre public plaza, Stack Plaza, around an approximately 300-foot-tall historic smokestack constructed as part of the former power plant, that includes an approximately 48-foot-long Bay Trail/Blue Greenway extension, public artwork, and seating, trash receptacles, and other amenities

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. **Specific Plans and Plan Review**

1. **Construction Documents**

The development authorized herein shall be built generally in conformance with the plan set entitled “Potrero Power Station Shoreline Infrastructure Improvements,” prepared by Simpsom, Gumpertz and Heger, dated June 3, 2019 (the “Construction Documents”), which are generally in conformance with the “Potrero Power Station Design for Development,” dated February 26, 2020 as submitted as part of the application for this project, and those figures found in Exhibits A through H to this permit.

The permittees are responsible for assuring that the 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. **Documents Review and Approval**

No work whatsoever shall commence pursuant to this permit until final construction documents regarding authorized activities are approved in writing by or on behalf of the Commission. All documents are reviewed within 60 days of receipt. To save time, preliminary documents may be submitted prior to the submittal of final documents. If final construction document review is not completed by or on behalf of the Commission within the 60-day period, the permittees may carry out the project authorized herein in a manner substantially 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.

a. Document Details

Construction documents shall be labeled, as appropriate, 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. Construction 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. Public Access and Publicly Accessible Areas

a. Overall Public Access Area

In the Bay, an approximately 2.86-acre (124,877-square-foot) area or 2.95-acre (128,431-square-foot) area if the recreational dock is constructed and along the approximately 1,293-linear feet of shoreline as generally shown on Exhibit A 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 Bay jurisdiction:
0.24 acres (10,603 square feet)
- New public access within the 100-foot shoreline band:
2.05 acres (89,422 square feet)
- New public access outside of the 100-foot shoreline band:
0.57 acres (24,852 square feet)

b. Publicly Accessible Plaza at Block 4

The approximately 4,395-square-foot plaza area adjacent to Block 4 (labeled “Outdoor Dining” on Exhibit C) may include an area of up to 2,637 square feet (60 percent) reserved for exclusive use by eating and drinking establishments during business hours. The remaining at least 1,758-square-foot usable area (40 percent) shall be made available exclusively to the public for unrestricted public access purposes. To maximize the public nature of the plaza, the minimum 4,395-square-foot publicly accessible portion of the plaza shall: (1) consist of a single contiguous area of the plaza; (2) be sited directly adjacent to another required public access area with complementary uses; and (3) maintain a minimum clearance of 10-feet wide for pedestrians.

c. Public Recreational Dock

Based on a forthcoming feasibility analysis, the recreational dock, if constructed, the approximately 3,551-square-foot recreational dock as shown on Exhibit A shall be made available exclusively to the public for unrestricted public access for short-term recreational vessel berthing, fishing, walking, sitting, viewing, and related purposes. If the dock is determined by the permittees to be infeasible and not constructed, then provision of a public dock as public access is not required by this permit.

d. Restrictions Within Overall Public Access Area, Publicly Accessible Plaza at Block 4, and Public Recreational Dock

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”) or Special Condition II.B.8 (“Outdoor



Kiosks”) 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.

2. **Permanent Guarantee**

Prior to the commencement of any grading or construction activity of any residential unit or commercial space associated with a particular phase of work (as defined in Special Condition II.B.12, “Public Access Phasing,” below), 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 Overall Public Access Areas so long as the authorized use is in place (see Special Condition II.B.1.a above). The instrument(s) shall create rights in favor of the public which shall commence no later than 12 months following Certificate of Occupancy after completion of construction of any residential or commercial use associated with public access improvements required by this authorization and prior to the use of any structures authorized herein, consistent with II.B.4, below. 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.

3. **Recordation of the Instrument**

Within 30 days after approval of the instrument, the permittees 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 express written consent by or on behalf of the Commission.

4. **Improvements Within the Total Public Access Area**

Within 12 months following the certificate of occupancy of any residential unit or commercial space associated with each particular phase of work (as described in Special Condition II.B.12, “Public Access Phasing” below), the permittees shall install and open and make available to the public the public access improvements associated with that phase of work. Such improvements shall be consistent with the plans approved pursuant to Special Condition II.A of this authorization and comply with the requirements as generally illustrated in Exhibits A through H to this permit. The exact location and design of the improvements will be determined during detailed design of the spaces in which such improvements are located. 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, and one public restroom shall be provided within the public access areas, consistent with Exhibits A through H to this permit and the “Potrero Power Station Design for Development,” dated February 26, 2020, on file in the Commission’s offices. Improvements shall generally include the following:

a. *Waterfront Park*

- (1) **Bay Trail/Blue Greenway.** A minimum 20-foot-wide, approximately 753-foot-long (approximately 16,000-square-foot) paved segment of the Bay Trail/Blue Greenway;
- (2) **Plaza at Block 4.** An approximately 5,102-square-foot public plaza at the east end of the waterfront park adjacent to Block 4 which may include benches, trash receptacles, drinking fountains, and other site furnishings as needed;
- (3) **Multiuse Lawn.** An approximately 8,260-square-foot public open lawn area located east of the Bay Trail/Blue Greenway;
- (4) **Bay Overlook Terrace at Unit 3.** An approximately 4,049-square-foot public plaza terrace on the wharf near Unit 3 with benches, trash receptacles, and other site furnishings as needed;
- (5) **Bay Overlook Terrace at Humboldt Plaza.** An approximately 2,180-square-foot overlook east of the Bay Trail/Blue Greenway, near Humboldt Street Plaza with benches, trash receptacles, and other site furnishings as needed;
- (6) **Bay Shore Planting and Paths.** Approximately 8,955 square feet of planted areas, including seating and a network of minimum 6-foot-wide pedestrian pathways;
- (7) **Access Path to Pier 70.** A minimum 6-foot-wide ADA-accessible path connecting the Bay Trail/Blue Greenway to the adjacent Pier 70 site; and
- (8) **Art Installations and Interpretive Information.** Installation of permanent and/or temporary public art installations and/or interpretive exhibits within the waterfront park.

b. *The Point*

- (1) **Bay Trail/Blue Greenway.** A minimum 20-foot-wide, approximately 225-foot-long (approximately 4,400 square feet) paved segment of the Bay Trail/Blue Greenway adjacent to the warehouse building owned by others;
- (2) **Bay Shore Planting and Recreation Area.** A 15,871-square-foot area, including 722 square feet outside of BCDC jurisdiction and a network of minimum 5-foot-wide pedestrian pathways, natural play elements, reservable picnic tables with a minimum of 50% of tables always available for public use, benches, trash receptacles, drinking fountains and other site furnishings, including art and/or interpretive exhibits, as needed; and
- (3) **Bay Overlook at 23rd Street.** An approximately 1,408-square-foot concrete public access pier on top of an existing power plant intake with benches, trash receptacles, and other site furnishings as needed.

c. *Stack Plaza*

Plaza. An approximately 26,365 square foot public plaza, approximately 2,200 square feet of which is reserved for stormwater treatment areas, and approximately 5,985-square-foot portion of a minimum 20-foot wide Bay Trail/Blue Greenway extension. Art and/or exhibit installations, bike racks, kiosks, benches, trash receptacles, drinking fountains and other site furnishings shall be included as needed.

5. **Passenger Loading Zone**

The permittees shall construct and make available at all times two publicly accessible “white curb” passenger loading zones along Delaware Street adjacent to Block 9 and Turbine Plaza to allow for members of the public to access the waterfront open space. One of these loading zones shall serve as a curbside pull out along the right-of-way for general passenger loading and unloading. A second zone, a one-way driveway-style turnout, shall be provided to serve as an ADA-accessible passenger loading zone. Both of these areas shall be clearly designated as publicly accessible using signage, curb painting, and other guidelines as described within the “Potrero Power Station Design for Development,” dated February 26, 2020. An ADA-accessible route shall be designated from the passenger loading zone to the waterfront, as generally shown in Exhibit D, and shall be available for public use at all times.

6. **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 comprehensive public access, wayfinding, and interpretive sign program generally consistent with the criteria established by the “Potrero Power Station Design for Development,” dated February 26, 2020 and submitted as part of the application. 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 the Blue Greenway/Bay Trail from 23rd Street between Illinois Street and the waterfront; Humboldt Street; and Craig Lane up to the northern property limit from approximately the eastern two-thirds of Block 1. The sign program will be reviewed through the plan review process established in Special Condition II.A above.

7. Public Art Plan

Prior to installing any permanent or temporary public art installations within any public access area or view corridor required by this permit, 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. The plan will be reviewed through the plan review process established in Special Condition II.A above and must be generally consistent with the “Potrero Power Station Design for Development,” dated February 26, 2020. No art installations are permitted in the view corridors required under Special Condition II.D unless the Executive Director determines the impacts to view corridors will not be significant.

8. Outdoor Kiosks

Outdoor kiosks shall be generally restricted to areas within the Overall Public Access Area as shown on Exhibit G (“Site Amenities”) and as described within the “Potrero Power Station Design for Development,” dated February 26, 2020. The overall height of a kiosk shall not obstruct views to the waterfront.

9. 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 permittee has both identified and substantiated. Rules may include restricting hours of use and delineating appropriate behavior.

10. Hours of Operation

Unless otherwise restricted pursuant to Special Condition II.B.9 (“Reasonable Rules and Restrictions”) or Special Condition II.C (“Special Events”), The Point, Waterfront Park, and the portions of the public open space areas that function as primary pedestrian paths of travel, bicycle and/or vehicular travel, including the Bay Trail/Blue Greenway (as shown on Exhibit D) shall be open to the public at all times (i.e., 24 hours a day).



Stack Plaza shall be open from at least 5 a.m. to 12 a.m. daily, except when otherwise restricted for special events as permitted by in Special Condition II.C (“Special Events”) and pursuant to Special Condition II.B.9 (“Reasonable Rules and Restrictions”).

11. Publicly Accessible Circulation Route Through Humboldt Plaza

Upon the opening of Humboldt Plaza (Exhibit H), the permittees shall provide at all times a Publicly Accessible Circulation Route within Humboldt Plaza between Delaware Street and the Bay Trail/Blue Greenway. The Publicly Accessible Circulation Route may be located within any portion of Humboldt Plaza provided that it maintains a minimum width of 20 feet and extends the entire length of the plaza between Delaware Street and the Bay Trail/Blue Greenway. No private uses or Special Events may occur within the Publicly Accessible Circulation Route.

12. Public Access Phasing

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 and as shown in Exhibit H. 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 1A

The Point shall be completed no later than the City’s issuance of the first certificate of occupancy of the first 500,000 square feet of building space associated with the project or prior to July 31, 2036, whichever is earlier.

b. Phase 1C

(1) Stack Plaza shall be completed no later than the City’s issuance of the first certificate of occupancy for Block 9 or prior to July 31, 2036, whichever is earlier.

(2) Turbine Plaza shall be completed no later than the City’s issuance of the first certificate of occupancy for Block 9 or prior to July 31, 2036, whichever is earlier.

(3) Humboldt Street Plaza shall be completed no later than the City’s issuance of the first certificate of occupancy for Block 9 or prior to July 31, 2036, whichever is earlier.

c. Phase 3B

Waterfront Park (South) shall be completed prior to the City’s issuance of the first certificate of occupancy for the Building representing 3 million square feet of total development or prior to July 31, 2036, whichever is earlier.



d. Phase 4D

Waterfront Park (North and West) shall be completed prior to the City's issuance of the first certificate of occupancy for Block 4 or prior to July 31, 2036, whichever is earlier.

13. Maintenance

The areas and improvements within the total 2.86-acre Overall Public Access Area, the 4,395 square-foot Publicly Accessible Plaza at Block Four, and, based on a forthcoming feasibility analysis, the Public Recreational Dock, if constructed, 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. One operator shall be selected to maintain all public access areas required and conditioned in this permit in order to provide consistency in the overall maintenance program of the waterfront. Within 30 days after notification by staff, the permittees shall correct any maintenance deficiency noted in a staff inspection of the site.

14. Assignment

The permittees shall transfer maintenance responsibility to a public agency or another party reasonably 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. The Commission acknowledges that the Development Agreement anticipates that the permittees' maintenance obligations under this permit may be transferred to a common interest management association governed by conditions, covenants, and restrictions ("CC&Rs").

C. Special Events

Within the public access areas required of this permit, Special Events may be conducted subject to the following requirements:

1. General Requirements for Special Events

a. Limited to Event Zones

Special Events may occur only within those Event Zones shown on Exhibit E, as subject to the limitations established below. No closure of public access areas required of this permit may occur outside these defined areas, except for "Organized Races and Walks" and "Other Exceptions" as allowed below. Events at Turbine Plaza and Humboldt Street Plaza, which are not required public access areas of this permit, are not subject to the requirements of this Special Condition except as it relates to "Circulation During Events" below.



b. Circulation During Events

All appropriate measures shall be employed to ensure that the Circulation and identified Clear Space Offset areas shown on Exhibit E remain passable at all times, including Special Events that occur outside of public access areas required of this permit.

c. Organized Races and Walks

The Bay Trail/Blue Greenway 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.

d. Other 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. 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/Blue Greenway remains open and accessible at all times.

e. Ongoing Monitoring and Reporting

Commencing on January 30 of the calendar year following the first Special Event held pursuant to this authorization, and every subsequent calendar year by January 30, the permittees shall submit a written Annual Report describing the prior year's Special Event program.

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.

f. 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 beginning with the completion of Phase 1C of the public access improvement requirements. Special Events conditions shall be subject to future re-authorization for additional five-year periods by or on behalf of the Commission. 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 for another 5 year period upon a finding that the Special Events will be consistent with the Commission's relevant law and policies at that time. Analysis justifying 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. Requirements by Event Zone

a. The Point

Total Area: Special Events shall be restricted to an area not to exceed approximately 17,233 square feet (50 percent) of "The Point" Event Zone shown on Exhibit E. No single event or combination of events may occupy the entirety of the area immediately adjacent to the Bay shoreline.

Events Allowed: All Special Events shall be free and open to the general public on a first-come-first-serve basis (i.e., do not require a ticket for entry or advanced registration), and shall generally not require restricting access (e.g., barriers, fencing).

Frequency and Duration. Special Events shall occur on no more than 2 weekend days and 8 weekdays per any given month. Special Events are limited to 72 hours per event, including setup and teardown.

b. Waterfront Park

Total Area: Special Events shall be restricted to an area not to exceed approximately 32,027 square feet (50 percent) of the "Waterfront Park" Event Zone shown on Exhibit E. No single event or combination of events may occupy the entirety of the area immediately adjacent to the Bay shoreline.

Events Allowed: All Special Events shall be free and open to the general public on a first-come-first-serve basis (i.e., do not require a ticket for entry or advanced registration), and shall generally not require restricting access (e.g., barriers, fencing).

Frequency and Duration: Special Events shall occur on no more than 2 weekend days and 8 weekdays per any given month. Special Events are limited to 72 hours per event, including setup and teardown.

c. *Stack Plaza*

Total Area: Special Events shall be restricted to an area not to exceed approximately 15,819 square feet (60 percent) of the “Stack Plaza” Event Zone shown on Exhibit E.

Events Allowed:

- Free Unrestricted Events: These are Special Events which are free and open to the general public on a first-come-first-serve basis (i.e., do not require a ticket for entry or advanced registration), and shall generally not require restricting access (e.g., barriers, fencing).
- Ticketed Public Events: These are Special Events that require a ticket for entry or advanced registration, and which generally require restricting access (e.g., barriers, fencing).

Frequency and Duration:

- Free Unrestricted Events are allowed on a daily basis.
- Ticketed Public Events shall occur on no more than 6 occasions per year, with up to 1 event per month, and shall be limited to 48 hours in duration including setup and teardown.

D. View Corridors

The permittees shall not construct buildings within the following view corridors, both within and outside of BCDC’s jurisdiction, as required by the “Potrero Power Station Design for Development,” dated February 26, 2020, 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. Locations of the view corridors are shown in Exhibit F (“View Corridors”) and are described below:

- 23rd Street between Illinois Street and the waterfront (including a portion of Stack Plaza)
- Humboldt Street between a location just west of Georgia Street extending to the waterfront (including all of Humboldt Plaza); and
- Craig Lane up to the Potrero Power Station northern property limit from approximately the eastern two-thirds of Block 1.

E. Flooding and Adaptation

1. Adaption Planning Process

a. Initial Plan Preparation

Within five years of the issuance of a certificate of occupancy for any portion of the project authorized herein, the permittees shall submit a Sea Level Rise Adaptive Management Plan (“SLR Adaptive Mangement Plan” or “Plan”) for review and approval by or on behalf of the Commission.

b. Five-Year Plan Revisions

For as long any of the improvements authorized herein remain in place, the SLR Adaptive Mangement Plan shall be revised on an ongoing basis beginning in 2050, and shall be resubmitted for review and reapproval by or on behalf of the Commission. The Plan shall be resubmitted to the Commission’s office at least every five years starting from the anniversary of Commission’s approval of the initial SLR Adaptive Mangement Plan.

c. Review and Approval Process

The initial Plan and subsequent revisions shall conform to the requirements in Special Condition II.E.2, below. The plan shall be reviewed by or on behalf of the Commission, pursuant to the Plan Review process identified in Special Condition II.A.2. The Plan may be approved upon a finding that it provides measures sufficient to ensure that the public access areas required in Special Condition II.B.1 shall remain safe, available for use, resilient, and if warranted, be adapted to avoid impacts from flooding.

d. Plan Implementation

Upon approval of the Plan, and according to the implementation timeline outlined for any given measure in the Plan, the permittees shall commence and diligently proceed to implement the measures described in the Plan to completion. Depending on the actions required to implement the Plan, the permittees may be required to obtain a permit or permit amendment from the Commission.

2. Sea Level Rise Adaptive Management Plan Requirements

The SLR Adaptative Management Plan shall include at least the following elements: (a) an Ongoing Monitoring Program, and (b) a Decision-Making Framework and Implementation Program.

a. Ongoing Monitoring Program

The Ongoing Monitoring Program shall identify existing and anticipated future flood risk of the project site, containing at least the following information:

- **Flooding Reports.** A report of all flooding events during the previous 5-year period to any public access area that resulted in its 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.

- **Vulnerability Assessment.** The Vulnerability Assessment contained in the “Sea Level Risk Assessment and Strategy Memorandum,” dated April 9, 2019, prepared by CBG, and submitted as part of the permit application (“CBG Memorandum”), will be updated based on the best-available science available at the time of the Plan’s publication, including: 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 report of updated projections on sea level rise.

b. Decision-Making Framework and Implementation Program

Based on the findings of the Ongoing Monitoring Plan timeline, the Decision-Making Framework and Implementation Program shall identify necessary adaptation measures to ensure the public access areas required in Special Condition II.B.1 shall be adequately protected from flooding, and will include at least the following:

- **Adaptive Measures.** A list of adaptive measures available to address both anticipated near-term and future flood risk, including those adaptive measures identified in the CBG Memorandum and others may be proposed to achieve the objectives of the Plan. The Plan shall identify pertinent information regarding each measure, including the following: what level of protection from flooding the measure would achieve; the anticipated amount of time that would be required to design, permit, and construct necessary improvements; projected costs to implement the measure; and availability of Community Facilities District (“CFD”) or other funds to implement the measure. Any adaptation measures proposed 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.
- **Implementation Actions.** A timeline and work program shall be established to implement the required adaptation measures that will ensure that the project addresses the impacts of flooding and storm activities, and that the required public access remains viable and is not subject to regular flooding events at any time.

F. Protection of Bay Resources

The permittees shall reduce impacts to water quality, fish, wildlife, and habitat at the site by implementing the following measures. Minor modifications to the below requirements may be approved by the Executive Director upon a finding that they are no less protective of Bay resources.

1. Work Window

In-water work shall only occur between June 1-November 30 of each year.

2. Water Quality Protection

The permittees shall conduct work consistent with the Regional Water Quality Control Board (RWQCB) Water Quality Certification issued on May 29, 2020 (or subsequent amendments to such certification approved by the RWQCB) and shall implement the following measures to protect water quality during construction:

- Best Management Practices shall be implemented during construction and maintenance activities to avoid impacts to Bay resources such as debris or construction-related materials or wastes entering the Bay.
- All staging shall occur on adjacent access roads or previously-disturbed areas. Any stockpiling of materials shall be conducted pursuant to Special Condition II.H.
- No fueling, cleaning, maintenance, or storage of vehicles or equipment shall take place within or immediately adjacent to the Bay, or within areas where accidental discharge of pollutants to the Bay may occur.
- A Stormwater Pollution Prevention Plan (SWPPP) shall be implemented for the project to address any potential for runoff impacting the waters of the Bay.

3. Mitigation Measures During Pile Driving

The permittees shall conduct work consistent with the National Marine Fisheries Service (NMFS) Biological Opinion issued May 22, 2020 and shall implement the following to reduce potential impacts from noise due to pile-driving:

- A vibratory hammer will be used to start the installation of each steel pile, and will continue as long as geotechnical conditions permit.
- Underwater sound monitoring will be performed during impact hammer driving of steel piles.
- Impact hammers will only be used during daylight hours.
- A soft start shall be employed at the start of impact hammer driving each day, or following a break of more than one hour.

- A bubble curtain will be used during pile driving operations that use an impact hammer for driving steel piles.

G. Shoreline Protection Material, Placement, and Maintenance

Riprap material shall be either quarry rock or specially cast or carefully selected concrete pieces free of reinforcing steel and other extraneous material and conforming to quality requirements for specific gravity, absorption, and durability specified by the California Department of Transportation or the U. S. Army Corps of Engineers. The material shall be generally spheroid-shaped. The overall thickness of the slope protection shall be no more than three feet measured perpendicular to the slope. Use of dirt, small concrete rubble, concrete pieces with exposed rebar, large and odd shaped pieces of concrete, and asphalt concrete as riprap is prohibited. Riprap material shall be placed so that a permanent shoreline with a minimum amount of fill is established by means of an engineered slope not steeper than two (horizontal) to one (vertical) unless slope is keyed at the toe. The slope shall be created by the placement of a filter layer protected by riprap material of sufficient size to withstand wind and wave generated forces at the site.

The shoreline protection improvements authorized herein shall be regularly maintained by and, at the expense of, the permittees, lessee, assignee or other successor in interest to the project. Maintenance shall include the collection of riprap material that becomes dislodged, the in-kind replacement of damaged or missing riprap material and associated filter fabric or other material, and the removal of debris on riprap. Within 30 days of notification by or on behalf of the Commission, the permittees or any successor in interest shall correct any identified maintenance deficiency.

H. Stockpiling and Materials near the Shoreline

Prior to stockpiling any materials within the area of the Commission's jurisdiction, the permittees shall submit a stockpiling plan for review and approval by or on behalf of the Commission, pursuant to Special Condition II.A. The plan shall be signed by a qualified engineer and shall demonstrate that the shoreline can physically support stockpiling at the proposed location(s), and that the stockpiling will not result in adverse impacts to the Bay or the public access required by this permit.

I. Recording

The permittees shall record this permit or a notice specifically referring to 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 a copy of the recorded permit to the Commission.

J. Certification of Contractor Review

Prior to commencing any grading, demolition, or construction, the general contractor or contractors in charge of that portion of the work shall submit written certification that s/he has reviewed and understands the requirements of the permit and the final BCDC-approved plans, particularly as they pertain to any Public Access Areas or open space required herein, or environmentally sensitive areas.

K. 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 permittees 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 permittees compliance problems have been satisfactorily resolved and has provided the permittees with a Certificate of Occupancy or Use. Failure by the staff to perform such review and inspection and notify the permittees 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.

L. 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. Bay Fill

Applicable Policies

Section 66605 of the McAteer-Petris Act provides that further filling of the Bay may be authorized by the Commission only when public benefits from fill clearly exceed public detriment from the loss of water areas, and is limited to water-oriented uses or minor fill for improving shoreline appearance or public access to the Bay. Additionally, fill of the Bay should be authorized only if: no alternative upland location is available for such purpose; the water area authorized to be filled is the minimum necessary to achieve the purpose of the fill; harmful effects to the Bay and its waters are minimized; the fill is constructed in accordance with sound safety standards; the fill establishes, to the maximum extent feasible, a permanent shoreline; and, the applicant has valid title to the property in question.

1. Authorized Fill

The project involves new Bay fill through the placement of riprap for shoreline protection, the construction of a portion of a public access wharf, and, if determined feasible, the construction of a recreational dock and gangway. In total, the project will result in a net increase in Bay fill of approximately 7,025 square feet and 1,076 cubic yards with the construction of the dock and gangway, or 4,578 square feet and 880 cubic yards of Bay fill without the construction of the dock and gangway.

a. Riprap Placement

The project involves the placement of approximately 455 cubic yards of riprap over an approximately 3,279-square-foot area to stabilize and maintain the functionality of existing shoreline protection, as well as to address potential flooding due to future sea level rise. The riprap will be placed at various locations along the shoreline, over existing riprap, gravel, or rubble, and would replace or otherwise be integrated with existing shoreline protection.

b. Bay Overlook Terrace at Unit 3.

In the Bay, the project includes construction of an approximately 1,299-square-foot portion of an approximately 2,750-square-foot public access wharf in the Waterfront Park near the Unit 3 building. This new wharf (the Bay Overlook Terrace) will be supported by 24 concrete or steel pipe piles, of which 14 piles (approximately 28 square feet and 96 cubic yards of solid fill) will be placed in the Bay.

c. Recreational Public Dock

If determined feasible based on subsequent evaluation, as described further in Findings Section II.B.1.c, the project will include construction of a recreational public dock system with an approximately 650-square-foot fixed gangway and an approximately 2,880-square-foot floating dock, supported by four 42-inch diameter steel piles (approximately 38 square feet and 100 cubic yards of solid fill). The public dock is to be used for Bay viewing, temporary berthing, fishing, and other water-oriented recreational uses by the public.

2. Public Benefit v. Detriment and Water-Oriented Use

McAteer-Petris Act Section 66605 provides that fill should be limited to water-oriented uses, including recreation and public assembly, or minor fill to improve shoreline appearance or public access. The fill authorized for this project will provide for shoreline stabilization and water-oriented recreational use at the site. The purpose of the riprap is to stabilize existing shoreline protection, and thus would be for a water-oriented use. The Bay Overlook Terrace at Unit 3 will be a continuation of the Waterfront Park plaza and provide contiguous circulation along the shoreline, allowing the public to view and enjoy the Bay over the water. The dock system will provide water-oriented recreational opportunities for a variety of users in a location where no water access currently exists. The public access provided by the Bay Overlook Terrace at Unit 3 and the dock system provides water-oriented recreational opportunities and create substantial public benefits, which exceeds the public detriment from the increase in Bay fill.

3. Alternative Upland Location

The authorized fill serves water-oriented uses, including shoreline stabilization and creation of water-oriented recreational opportunities. The purpose of the riprap is to provide stabilization for existing shoreline protection and the purpose of the pile-supported fill for the Bay Overlook Terrace at Unit 3 and the dock system is to provide water-oriented Bay viewing and opportunities for recreational access to the Bay itself. There is no alternative upland location for the fill that would serve its intended purpose.

4. Minimum Amount Necessary

The riprap placement would repair and replace existing shoreline protection with no net loss of open water area. Special Condition II.F includes requirements for the design of the riprap, to ensure that the shoreline protection is constructed consistent with the application and is the minimum fill necessary for this work. The footprint of the dock system will be of a size appropriate for the anticipated use, while the fill for the Bay Overlook Terrace at Unit 3 is minimal. Special Condition II.A, which requires final plan review approval, will ensure that these public access features are constructed consistent with the application and to minimize fill.

5. **Effects on Bay Resources**

In addition to Section 66605(d) of the McAtter-Petris Act regarding the impacts of fill on Bay resources, the Bay Plan contains related policies, cited below.

a. Fish and Wildlife

The Bay Plan Fish, Other Aquatic Organisms and Wildlife Policy No. 4 states, in part, that “[t]he Commission should consult with the California Department of Fish and [Wildlife] and the U.S. Fish and Wildlife Service or the National Marine Fisheries Service whenever a proposed project may adversely affect an endangered or threatened plant, fish, other aquatic organism or wildlife species...and give appropriate consideration of (their) recommendations in order to avoid possible adverse impacts of a proposed project on fish, other aquatic organisms and wildlife habitat.”

On May 22, 2020, the National Marine Fisheries Service (NMFS) issued an Endangered Species Act Section 7(a)(2) Biological Opinion and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Response for the project. NMFS determined that the project “would adversely affect the EFH [Essential Fish Habitat] for various federally managed fish species under the Pacific Coast Salmon, Pacific Groundfish, and Coastal Pelagics Fishery Management Plans,” primarily due to temporary impacts during construction (e.g., increased turbidity, suspension of contaminants, sound levels from pile driving) and placement of fill (e.g., pile installation, shading from overwater structures). NMFS indicates that “[t]here are no practical EFH Conservation Recommendations to provide because impacts to EFH are expected to be minor, temporary, localized, or addressed through avoidance and minimization measures.” The NMFS Biological Opinion also anticipates that take of threatened green sturgeon will occur as part of the project, due to sound impacts from pile driving. The permittees are required by NMFS to avoid and minimize impacts from pile driving on listed marine species, including use of a marine energy attenuator (bubble curtain) during impact driving, developing a hydroacoustic monitoring plan, and use of pile driving work windows.

b. Water Quality

Bay Plan Water Quality Policy No. 1 states, in part, that “[b]ay water pollution should be prevented to the greatest extent feasible. The Bay’s tidal marshes, tidal flats, and water surface area and volume should be conserved and, whenever possible, restored and increased to protect and improve water quality.” Policy No. 2 states, in part, that “[w]ater quality in all parts of the Bay should be maintained at a level that will support and promote the beneficial uses of the Bay...” and “[t]he policies, recommendations, decisions, advice and authority of the State Water Resources Control Board and the Regional Board, should be the basis for carrying out the Commission’s water quality

responsibilities.” Additionally, Policy No. 3 states, in part, that “[n]ew projects should be sited, designed, constructed and maintained to prevent or, if prevention is infeasible, to minimize the discharge of pollutants into the Bay by: (a) controlling pollutant sources at the project site; (b) using construction materials that contain nonpolluting materials; and (c) applying appropriate, accepted and effective best management practices...”

The project may have temporary water quality impacts during construction, including during placement of riprap and installation of piles, as well as impacts from stormwater runoff due to impervious surfaces constructed or replaced as part of the development. The San Francisco Bay Regional Water Quality Control Board (RWQCB) issued a Water Quality Certification for the proposed project on May 29, 2020. The Water Quality Certification determined that the project would impact 0.08 acres of waters of the State, and requires measures to protect water quality, including through stormwater control measures.

Special Condition II.F is included to ensure that the permittees implement measures to protect Bay resources and water quality during construction. Special Condition II.F.1 requires that in-water work be limited to the work window of June 1 to November 30, to minimize impacts to listed species consistent with the NMFS approval. Special Condition II.F.2 is necessary to ensure that measures are used to avoid and minimize impacts on Bay resources from pile driving, and that the project construction is conducted consistent with the NMFS approval. Special Condition II.F.3 is included to ensure that the permittees implement Best Management Practices and measures to protect water quality and is consistent with the RWQCB Water Quality Certification for the project.

6. Safety of Fills and Permanent Shoreline

Applicable Policies

In addition to Sections 66605(e) and 66605(f) of the McAteer-Petris Act regarding safety of fills and the establishment of a permanent shoreline, the Bay Plan contains related policies, including Shoreline Protection policies which state in part: “(b) the type of the protective structure is appropriate for the project site, the uses to be protected, and the causes and conditions of erosion and flooding at the site; (c) the project is properly engineered to provide erosion control and flood protection for the expected life of the project based on a 100-year flood event that takes future sea level rise into account; (d) the project is properly designed and constructed to prevent significant impediments to physical and visual public access;” (Policy No. 1) also, that “Riprap revetments... should be constructed of properly sized and placed material that meet sound engineering criteria for durability, density, and porosity.” (Policy No. 3) And lastly, the Commission’s Safety of Fills policy partially states: “New projects on fill or near the shoreline should either be set back from the edge of the shore so that the project will not be subject to dynamic wave energy...” (Policy No. 4).



Analysis

To stabilize and maintain the functionality of existing riprap and address flooding due to future sea level rise, the project includes 455 cubic yards of Bay fill to fortify the shoreline. Riprap would be placed at various locations along the shoreline that lack sufficient stabilizing material, covering areas of existing riprap, gravel, or rubble. A minor amount of Bay fill (approximately 1,365 square feet and 196 cubic yards) will also be required to construct the pile-supported structures in the public access areas, including the Bay Overlook Terrace at Unit 3 and the recreational dock. These pile-supported structures will need to be engineered to support a future dock system that can be raised as part of the sea level rise adaptation plan which is further discussed in Findings III.E, below.

The project will also construct an approximately 1,300-square-foot concrete seawall. The existing seawall along the shoreline has deteriorated beyond repair and will need to be reconstructed as part of the project. The existing seawall will be demolished and a new one constructed approximately 5 feet inland of the existing location, creating a new permanent shoreline that will act as a unique edge condition for the Waterfront Park. Sound engineering and design will be implemented to eliminate erosion behind the seawall due to wave overtopping, including a splash apron (i.e., riprap underlain by geotextile fabric), concrete pavement with proper drainage, cement-soil mixing with asphalt pavement and other best engineering practices. Therefore, the reinforced concrete wall, supported on 20 24-inch-diameter steel or concrete piles, will be installed in dry land above the current elevation of MHW. The outside edge of the piles and seawall will be the new location of MHW once complete.

The permittees initially evaluated a living shoreline design for the project but determined this scenario was not feasible. The wave climate at the site has significant wave heights up to five feet and wave run-up up to seven feet. The permittees reserached projects with soft bank protection that have been successful in the San Francisco Bay with similar conditions of severe wave climate and none could be identified. Furthermore, study shows that it takes multiple years for erosion control plants to take root and provide effective erosion control. Even after the plants take root, they are not likely to provide stable and reliable shoreline at this site.

7. Valid Title

The Port of San Francisco owns the portion of the project site in the Bay, which was conveyed to the Port by the State of California via the Burton Act of 1968. The permittees therefore have valid title to the property where fill is authorized herein.

For the reasons discussed above, the Commission therefore finds that the project, as conditioned, is consistent with the Commission's law and related policies on allowable Bay fill.

C. 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

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.

Analysis

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 Port-operated shoreline park, Warm Water Cove Park, is located just south of the project site. Besides Warm Water Cove Park, a very limited amount of improved public access currently exists within the vicinity of the project site. A major new waterfront park at the adjacent Pier 70 site is anticipated to be constructed in phases over the coming years. Further to the north, the Port of San Francisco is developing the future Crane Cove Park.

Approximately 11,335 people are expected to be on the project site daily once the project reaches full build-out. 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 5,904 residents, and the commercial uses are anticipated to bring a workforce of approximately 5,431 employees to the site.

Public Access Provided by Project

The project will provide a series of waterfront public access areas interlinked by the Bay Trail/Blue Greenway and secondary circulation paths. These improvements include an extension of the San Francisco Bay Trail/Blue Greenway; a Waterfront Park; a picnic and nature-based recreation area (“The Point”); and a public plaza (“Stack Plaza”) that is anchored by the smokestack from the site’s historic power plant facility. The details of the design and amenities of these public access areas are discussed below.

Of the 29-acre project site, approximately 6.9 acres will be developed as parks and open space. A total of 2.86 acres (124,877 square feet) of the shoreline, which makes up approximately 10 percent of the project site, will be dedicated as public access areas. This 2.86-acre area includes 0.24 acres in the Bay, 2.05 acres within the 100-foot shoreline band, and 0.57 acres outside of the Commission’s permitting jurisdiction. Based on a forthcoming feasibility analysis, the recreational dock, if constructed, is authorized and will result in an additional 0.8 acres (3,551 square feet) of dedicated public access in the Bay, for a total of 2.95 acres (128,431 square feet) of guaranteed public access areas. Special Condition II.B requires the 2.86-acre public access area (or 2.95 acres, if the dock is constructed) to be permanently guaranteed as public access and made 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 Findings Section III.C “Special Events”).

In addition to permanently guaranteed public access areas along the shoreline, an approximately 4,395-square-foot Publicly Accessible Plaza will be provided adjacent to Block 4, which will provide for a mix of private restaurant outdoor dining areas and unrestricted publicly accessible areas.

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 three 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. 2000.005.00	41,000	305 acres	17.20 acres	5.6%	18 sf
Mission Rock Mixed-Use Development, BCDC Permit No. 2017.004.00	9,390	21 acres	6.61 acres	31.4%	30 sf
Pier 70 Development, BCDC Permit No. 2018.008.00	11,250	28 acres	2.6 acres	9.2%	10 sf
Potrero Power Station Project, BCDC Permit No. 2019.006.00	11,335	29 acres	2.86 acres	9.8%	11 sf

The three comparison projects, the Mission Bay Redevelopment (BCDC Permit No. 2000.005.00), Mission Rock Mixed-Use Development (BCDC Permit No. 2017.004.00), and Pier 70 Development (BCDC Permit No. 2018.008.00) are dense urban infill projects similar in character to the Potrero Power Station project. The Potrero Power Station project provides a roughly comparable proportion of shoreline public access area to the Mission Bay project—9.8 percent of its total project area (versus 5.6 percent for Mission Bay) and 11 square feet of public access for each of its projected 11,335 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 (31.4 percent) and more area per each projected resident and worker (30 square feet). However, the Potrero Power Station 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 Pier 70 and Potrero Power Station projects provide a comparable amount of public access in terms of both area and in relation to the relative scale of each project.



2. **Public Access Improvements and Amenities**

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.”

Analysis

Improvements Provided by Project

Shoreline public access areas provided as part of the project are grouped into three general areas: (1) the “Waterfront Park; (2) the “Point”; and (3) “Stack Plaza.” The public access improvements provided in these spaces are designed to include diverse Bay-related activities and different waterfront experiences, including everyday passive and active recreational uses such as picnicking, and active uses such as walking, biking, and fishing. These spaces will also accommodate on a limited basis public outdoor events, such as cultural events, outdoor fairs, festivals and markets.

Waterfront Park

The largest public access area provided by the project is the Waterfront Park, which will be connected by the Bay Trail/Blue Greenway to the planned shoreline park associated with the Pier 70 Development Project directly north of the project site. The Waterfront Park includes passive and active recreation areas, waterfront viewing terraces, and possibly a recreational boat dock (see Findings Section III.C “Public Recreational Dock”).

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

- **Bay Trail/Blue Greenway.** A minimum 20-foot-wide, approximately 753-foot-long (approximately 16,000-square-foot) paved segment of the Bay Trail/Blue Greenway.
- **Public Plaza at Block 4.** An approximately 5,102-square-foot public plaza at the east end of the waterfront park adjacent to Block 4 will include benches, trash receptacles, drinking fountains, and other site furnishings and amenities.
- **Access Path to Pier 70.** A minimum 6-foot-wide ADA-accessible path connecting the Bay Trail/Blue Greenway to the adjacent Pier 70 redevelopment project.
- **Bay Overlook Terrace at Humboldt Plaza.** An approximately 2,180-square-foot overlook east of the Bay Trail/Blue Greenway, near Humboldt Street Plaza will include benches, trash receptacles, and other site furnishings and amenities.
- **Multiuse Lawn.** An approximately 8,260-square-foot public open lawn area located east of the Bay Trail/Blue Greenway.
- **Bay Overlook Terrace at Unit 3.** An approximately 4,049-square-foot public plaza terrace on the wharf near Unit 3 will include benches, trash receptacles, and other site furnishings and amenities.
- **Bay Shore Planting and Paths.** Approximately 8,955 square feet of planted areas, including a diverse palette of Bay-appropriate plants with minimum 6-foot-wide pedestrian pathways and seating.

The Point

The Point is designed to serve as a quieter place and will feature natural planted areas, informal discovery play, and casual seating and picnicking. A Bay overlook terrace at the terminus of 23rd Street will be built upon the existing footprint of a decommissioned power plant intake structure, allowing for visitors to take advantage of the panoramic views of the Bay. The Point also includes a section of Bay Trail/Blue Greenway that will allow for the future connection of the trail along the shoreline ultimately connecting to Warm Water Cove Park. The Point will include public art and/or elements of an interpretive program, subject to the conditions for Public Art provided by Special Condition II.B.7.

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

- **Bay Trail/Blue Greenway.** A minimum 20-foot-wide, approximately 225-foot-long (approximately 4,400 square feet) paved segment of the Bay Trail/Blue Greenway adjacent to the warehouse building owned by others.
- **Bay Shore Planting and Recreation Area.** An approximately 15,871 square foot area, including 722 square feet outside of the Commission’s jurisdiction and a network of minimum 5-foot-wide pedestrian pathways, natural play elements, reservable picnic tables with a minimum of 50% of tables always available for public use, benches, trash receptacles, drinking fountains and other site furnishings, including art and/or interpretive exhibits, as needed.
- **Bay Overlook at 23rd Street.** An approximately 1,408-square-foot concrete public access pier on top of an existing power plant intake with benches, trash receptacles, and other site furnishings as needed.

Stack Plaza

Stack Plaza is designed around the 300-foot-tall smokestack from the historic power plant station. The smokestack is an icon in the neighborhood and visible from many vantage points throughout the city. The plaza will be designed as a formal civic space that provides a sense of arrival to the waterfront.

More specifically, Special Condition II.B.4 requires that the following improvements be constructed and provided within Stack Plaza: An approximately 26,365-square-foot public plaza with approximately 2,200 square feet of which is reserved for stormwater treatment areas and including approximately 5,985 square feet of a minimum 20-foot wide Bay Trail/Blue Greenway extension. Art and/or exhibit installations, bike racks, kiosks, benches, trash receptacles, drinking fountains and other site furnishings will be included as needed.

Publicly Accessible Plaza at Block 4

The approximately 4,395-square-foot plaza adjacent to Block 4 (labeled “Outdoor Dining” on Exhibit C) may serve a dual use as an area for outdoor dining space for restaurants located in the adjacent building, and as a public plaza for general use. The final design of the plaza may allow for up to 60 percent of the plaza to be used for outdoor dining purposes during business hours, with the remaining 40 percent to be dedicated for public access purposes at all times. Special Condition II.B.1.b is included to ensure that the public access areas of the plaza are designed in a manner that feels welcoming and is connected to the

other public access areas associated with the project. To maximize the public nature of the plaza, Special Condition II.B.1.b requires that the final design concentrate the public (non-dining) areas within a contiguous area of the plaza and be a minimum of 10-feet wide in any location. The publicly accessible plaza must also be directly adjacent to a complementary park use, such as the Bay Trail or the other public access area located in front of Block 4. Finally, pursuant Special Condition II.B.13 the Publicly Accessible Plaza must be maintained by the same management entity responsible for the other public access areas provided as part of this project.

Public Recreational Dock

Construction of an approximately 3,551-square-foot recreational dock is authorized by this permit. The dock would extend out approximately 100 feet into the Bay, would be sited in waters of a suitable depth for vessel navigation even at extremely low tides, would not require dredging, and would be of a size sufficient to accommodate berthing of vessels up to 45 feet in length. However, the dock would be located in an area subject to strong southerly waves and potential storm surge, which mean that occasional closure of the dock might be required when conditions are not well suited for recreational use. Given this situation, the Port of San Francisco has required that a forthcoming independent third-party technical review and feasibility study be conducted prior to construction of the facility. The feasibility study will consider whether conditions of the Bay at this location have the potential to require prolonged closure of the dock to an extent that would diminish the recreational benefit it would provide. For instance, if the dock were to be subject to prolonged closure, the cost of construction might not justify the restricted recreational benefits it would provide. The permittees indicate they will not construct the dock if they subsequently determine it is infeasible on this basis. However, if found feasible and ultimately constructed as part of the project, Special Condition II.B.1.c is included to require that the dock be provided as public access for Bay viewing, fishing, and temporary berthing for recreational vessels. If installed, the dock would also be maintained in perpetuity.

Special Events within Public Access

The permittees anticipate that public programming will be held within portions of the public access areas, including within the Waterfront Park, The Point, and Stack Plaza. This programming will include Special Events designed to draw users to the shoreline public access areas who might not otherwise visit. The Commission's advisory Public Access Design Guidelines encourage a mix of programmed activities and passive recreation in parks that are suited to accommodate such a mix of activities. The 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 plan for Special Events within public access areas at the Potrero Power Plant site is designed to allow for regular event programming, while still ensuring that the open space areas retains a public character and at all times provides opportunities for visitors not participating in a Special Event. 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.

Special Events are restricted to defined Event Zones (as shown on Exhibit C) to ensure that they do not interfere with general circulation through the park or along the shoreline. Events are generally prohibited from occurring on or directly adjacent to the Bay Trail. Special Events may not occupy more than half of the area of the Waterfront Park or The Point, and may not occupy the entire length of the shoreline in either of these areas. Special Events at Stack Plaza may not occupy more than 60 percent of that space. Most events will be free and open to the public with unrestricted access, including all events held at the Waterfront Park and The Point. A small share of the events held at Stack Plaza (no more than 6 per year, or 1 in any given month) may require the purchase of a ticket or advanced registration. However, tickets and registration for such events will be open to all members of the public. No private events will be permitted within required public access areas. The frequency and duration of events is also limited by Special Condition II.C to ensure that ample opportunity exists for unprogrammed, passive recreational uses of the shoreline.

The 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 2B of the project as shown on Exhibit G. 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.

Project Phasing for Public Access Areas

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 July 2036.

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 and open to the public in conjunction with occupancy of residential units or commercial spaces associated with a particular phase of work.

Barrier-Free Access

The public access areas will be constructed to meet Americans with Disabilities Act (ADA) accessibility requirements, including circulation and recreation features on the site. 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, recreation opportunities and circulation and flow throughout the site permit barrier-free access. Special Condition II.A, which requires final plan review approval, will ensure review of the final construction plans for public access improvements to ensure their design provides barrier-free access to the maximum feasible extent consistent with the measures described in the permit application.

Ongoing Maintenance

Ongoing maintenance of open spaces, including the proposed public access areas and publicly accessible areas, will be administered by a Master Association. The Master Association will be funded by a tax assessment of commercial and residential buildings on the property. As conditioned in II.B.13, one operator will be selected to maintain all public access areas required and conditioned by this permit in order to

provide consistency in the overall maintenance program of the waterfront. 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.

Signage and Interpretation

General and wayfinding signage design standards and guidelines are provided in the “Potrero Power Station Design for Development,” dated February 26, 2020. Conceptual-level site-wide and shoreline interpretation information was also included in the project application. Special Condition II.B.6 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 approval through the plan review process 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.

Public Safety and Hazardous Materials

Hazardous materials have been identified in the soil and groundwater as a result of the former industrial uses of the project site. To address the concern of groundwater rise due to climate change, PG&E, the lead entity responsible for cleanup of the site, has completed numerous subsurface investigations at the site to identify constituents of potential concern (COPC) in groundwater.

Periodic and consistent flooding, including groundwater rise, would increase damage to public access areas, which can then require additional fill to repair, raise maintenance costs, and cause greater disturbance and displacement of the site's natural resources. Risks to public health and safety from sea level rise and shoreline flooding may require new shoreline protection to be installed or existing shoreline protection to be modified, which may impede physical and visual access to the Bay.

Due to the risk of potential exposure to COPCs in groundwater (as well as soil and soil vapor), PG&E conducted feasibility studies to consider various remedial alternatives to achieve the site cleanup, including the shoreline and its associated open spaces, that are at risk for sea level rise and groundwater rise. Each of the alternatives that were considered included an analysis of potential impacts to the remedy for sea level rise.

These feasibility studies were reviewed and approved by the Regional Water Quality Control Board (RWQCB). For areas along the shoreline within the projected zone of future sea level inundation, the selected remedy included:

- Installation of a durable cover on the ground surface to create a physical barrier that isolates COPCs in the underlying soil from the public;

- Upland in-situ soil stabilization to immobilize impacted soil below the water table (completed in 2018);
- A shoreline Interim Remedial Measure revetment (completed in 2010);
- An offshore revetment cap interfaced with the Interim Remedial Measure revetment, in conjunction with a reactive core-mat cap that provides physical and chemical isolation from underlying PAHs in the groundwater and sediment (completed in 2019); and
- Land Use Controls that restrict the use of the property to commercial/industrial uses and require compliance with a Risk Management Plan, which specifies that engineering and administrative controls may be implemented to allow for residential and daycare uses and protect the remedy components during future construction.

Rising groundwater level due to sea level rise will result in a decrease in the effective stresses in the soil so settlement will not occur from a rising groundwater table (extraction of water which lowers the groundwater causes consolidation). Settlement from raising the site grade is mitigated with the ground improvement plan that has been developed.

3. Circulation to and Along the Shoreline

Applicable Policies

On waterfront trails, such as the Bay Trail/Blue Greenway proposed as part of the project, 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).

Analysis

Bay Trail/Blue Greenway

The Bay Trail/Blue Greenway will be open all day, every day for public use. The Bay Trail/Blue Greenway transverses the Waterfront Park to the west connecting the site to another mixed-use development project to the north, Pier 70. The permittees indicate they have engaged in numerous coordination meetings with the Pier 70 development project, particularly to address the grade change between the two parcels to ensure that the Bay Trail/Blue Greenway will connect seamlessly across the two sites. Near the south end of the Waterfront Park, the Bay Trail/Blue Greenway turns onto 23rd Street, a major arterial street that runs perpendicular to the waterfront and connects to Illinois Street, a key connection that ultimately ties into the City of San Francisco’s larger transportation framework. The project also includes a spur of the Bay Trail/Blue Greenway at The Point. At this location, the spur trail will connect to a shoreline path that runs along the perimeter of a warehouse building on the neighboring parcel to the south. If a future development, by others, occurs that would allow for a continuous shoreline path between the project site and Warm Water Cove Park, the spur trail could become the officially designated Bay Trail/Blue Greenway and allow for a continuous shoreline path connecting these waterfront parks.

Publicly Accessible Circulation Route through Humboldt Plaza

In order to provide a continuous pedestrian network throughout the site and allow for regular pedestrian connections to the shoreline, a Publicly Accessible Path of Travel will be available at all times through Humboldt Plaza – the east-west publicly accessible plaza at the north end of the Waterfront Park. Maintaining a public pathway through this plaza provides a means of pedestrian access to the Waterfront Park in addition to those provided on 23rd Street and Craig Lane. Special Condition II.B.11 is included to require that the Publicly Accessible Circulation Route maintains a minimum width of 20 feet and extends the entire length of the plaza between Delaware Street and the Bay Trail/Blue Greenway. No private uses or Special Events may occur within the Publicly Accessible Circulation Route.

Passenger Loading Zone

The Potrero Power Station Development is a dense urban infill development project, and it is anticipated that most visitors to the shoreline park will arrive by public transportation, as pedestrians, or by bicycle. Paid garage parking and on-street parking will be available away from the shoreline for those who arrive by car. For members of the public who will arrive by car and require an accessible passenger

loading zone and accessible route to the shoreline, these will be provided from a loading zone located adjacent to Delaware Street, as shown on Exhibit D. The ADA-accessible passenger loading zone will connect to nearby Stack Plaza via Unit 3, through which an accessible route (Exhibit D) will be provided to connect to the Bay Trail. This accessible route will be made available at all times, including during Special Events.

Shuttle and Public Transit Access to the Shoreline

The Transportation and Demand Management Plan (TDM) for the project includes a sustainable approach to transit and guidelines to minimize traffic congestion. The project will provide a shuttle service with connections to the 16th Street BART station and the 22nd Street Caltrain Station. The San Francisco Municipal Transportation Agency (SFMTA) has approved the 55 Dogpatch Muni line, that would parallel the east-west route, and the agency is planning significant service increases on the T-Third streetcar line over the long term that would obviate the need for supplemental north-south service. This will provide sufficient service to meet the needs of residents, employees, and visitors, and complement Muni service. The 55 Dogpatch route is scheduled to go into effect once the construction of a related project, the 16th Street Improvement Project, is complete.

4. Scenic Views

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).

Analysis

New Shoreline Views

The project creates views of the Bay where none were previously publicly accessible, as views from adjacent public streets were blocked by the former PG&E power plant facility, which was fenced off and prevented public access and a clear visual connection to the shoreline. Along the shoreline, the project will provide for unrestricted views of the Bay, and will include several Bay overlooks, including at Humboldt Plaza, Unit 2, and 23rd Street.



To provide for uninterrupted views of the Bay from inland areas, Special Condition II.D is included to establish dedicated View Corridors, within which no development that would result in visual obstructions of the Bay would be permitted. The View Corridors area located along the major East-West connections through the project site, at the following locations (see Exhibit F):

- 23rd Street between Illinois Street and the waterfront (including a portion of Stack Plaza);
- Humboldt Street just west of Georgia Street extending to the waterfront (including all of Humboldt Plaza); and
- Craig Lane up to the northern property limit from approximately the eastern two-thirds of Block 1.

Special Condition II.D requires that any development conducted within the View Corridors, whether inside or outside the Commission's permitting jurisdiction, conforms to the design controls contained in the project's Design for Development document. The parameters established by this document ensure that no development will occur which would jeopardize future uninterrupted views of the Bay along these major thoroughfares.

D. Environmental Justice and Social Equity

Applicable Policies

Bay Plan policies on Environmental Justice and Social Equity state, in part: "Equitable, culturally-relevant community outreach and engagement should be conducted by local governments and project applicants to meaningfully involve potentially impacted communities for major projects and appropriate minor projects in underrepresented and/or identified vulnerable and/or disadvantaged communities, and such outreach and engagement should continue throughout the Commission review and permitting processes. Evidence of how community concerns were addressed should be provided. If such previous outreach and engagement did not occur, further outreach and engagement should be conducted prior to Commission action." (Policy No. 3) "If a project is proposed within an underrepresented and/or identified vulnerable and/or disadvantaged community, potential disproportionate impacts should be identified in collaboration with the potentially impacted communities. Local governments and the Commission should take measures through environmental review and permitting processes, within the scope of their respective authorities, to require mitigation for disproportionate adverse project impacts on the identified vulnerable or disadvantaged communities in which the project is proposed." (Policy No. 4)

As it relates to engaging the community in the design of shoreline public access, the Bay Plan policies on Public Access state, in part, that: "Public access that substantially changes the use or character of the site should be sited, designed, and managed based on meaningful community involvement to create public access that is inclusive and welcoming to all and embraces local multicultural and indigenous history and presence.



In particular, vulnerable, disadvantaged, and/or underrepresented communities should be involved. If such previous outreach and engagement did not occur, further outreach and engagement should be conducted prior to Commission action.”

Analysis:

Community Profile

The Commission has developed a Community Vulnerability Mapping Tool to help inform its analysis of how socioeconomic indicators and contamination burdens contribute to a community’s vulnerability. The mapping tool collects information at the level of Census blocks and tracts, and is used by the Commission to help identify certain disadvantaged and vulnerable communities. These communities include those disproportionately affected by environmental pollution and hazards that can lead to negative public health effects, exposure, or environmental degradation, as well as with higher concentrations of people with socioeconomic characteristics indicative of a higher degree of social vulnerability. The mapping tool thus helps inform the Commission on how and where community engagement should occur, and what issues might be of particular relevance in the Commission’s review.

The project site is located within an historically industrial area of the waterfront, which is near established residential communities. However, at present, there are relatively few residents living in the very nearby vicinity of the project site itself (a total population of approximately 1,123 residents is identified within the approximately 224-acre area of the census tract, or approximately 5 residents per acre). In terms of the aggregated socioeconomic indicators that the Commission considers to evaluate disadvantaged and vulnerable communities, the Community Vulnerability Mapping Tool identifies the surrounding community as having “Low Social Vulnerability.” However, on the basis of contamination vulnerability indicators (including hazardous cleanup activities, groundwater threats, hazardous waste facilities, impaired water bodies, and solid waste facilities), the tool shows that the site is within an area subject to “High Contamination Vulnerability.” The score is reflective of the historic industrial nature of the project site. As noted elsewhere, portions of the site and neighboring properties have been remediated in recent years in order to address historic sources of contamination.

Community Outreach and Engagement

The project is a major shoreline project subject to the Commission’s requirements for equitable culturally-relevant community outreach and engagement. Prior to applying for a BCDC permit, the permittees conducted extensive community engagement for the project, which informed the design of the public access proposed for the project.

The permittees hosted approximately 169 community outreach events, including 10 public workshops, 62 public site tours, and 57 presentations to neighborhood groups to discuss the project. The project developer held an “office hours” program where stakeholders were invited to meet at their local coffee shop or food establishment to discuss opinions regarding the project. According to the permittees, key points of

concern that the community raised during these outreach efforts included: the desire for more housing, particularly the inclusion of affordable housing; the desire for more community facilities such as a recreation center; an active waterfront space; retention of the historic smokestack structure; and inclusion of neighborhood-serving retail, such as a grocery store and bank. While many of these key concerns are mainly relevant for elements of the project outside of the Commission's purview, such as affordable housing; several relate to the development of public access facilities subject to the Commission's review.

The overall project includes a number of elements that the permittees believe are responsive to the concerns raised during the community outreach process. Approximately 30 percent of the 2,600 residential units proposed for the mixed-income development will be affordable. The permittees have partnered with the Homeless Prenatal Program, and the project is dedicating 36 residential units to serve as transitional housing for homeless and formerly homeless women and their families. The project developer intends to partner with the YMCA, an organization with a successful track record of serving underrepresented communities and will provide an approximately 25,000-square-foot recreation facility for the project.

The permittees indicate that the decision to retain the historic smokestack structure and to develop the Stack Plaza public access area, an approximately 26,365-square-foot public plaza near the waterfront, was influenced by design input provided through the community engagement process. Also responsive to community input are other features of the public access areas along the shoreline to allow for both passive and active recreation such as walking, bicycling, sitting, viewing, fishing, and picnicking.

The engagement process with both the community and partnering agencies, such as the San Francisco Planning Department and San Francisco Municipal Transit Authority, along with review by the Commission's Design Review Board, led to design revisions that included locating walking trails within the Waterfront Park closer to the water's edge and reconsidering how and where to locate programming within the open spaces so that the site design is more cohesive. Thus, input from community organizations, partnering agencies, and individuals were taken into account when creating the public open spaces permitted as part of the project consistent with the Bay Plan policies relating to Environmental Justice and Social Equity identified above.

E. Flooding and Sea Level Rise

Applicable Policies

The Bay Plan Climate Change policies state, in part: "When planning shoreline areas or designing larger shoreline projects, a risk assessment should be prepared by a qualified engineer and should be based on the estimated 100-year flood elevation that takes into account the best estimates of future sea level rise and current flood protection and planned flood protection that will be funded and constructed when needed to provide protection for the proposed project or shoreline area. A range of sea level rise projections for mid-century and end of century based on the best scientific data



available should be used in the risk assessment. Inundation maps used for the risk assessment should be prepared under the direction of a qualified engineer. The risk assessment should identify all types of potential flooding, degrees of uncertainty, consequences of defense failure, and risks to existing habitat from proposed flood protection devices.” (Policy No. 2) The policies also state: “To protect public safety and ecosystem services, within areas that a risk assessment determines are vulnerable to future shoreline flooding that threatens public safety, all projects—other than repairs of existing facilities, small projects that do not increase risks to public safety, interim projects and infill projects within existing urbanized areas—should be designed to be resilient to a mid-century sea level rise projection. If it is likely the project will remain in place longer than mid-century, an adaptive management plan should be developed to address the long-term impacts that will arise based on a risk assessment using the best available science-based projection for sea level rise at the end of the century.” (Policy No. 3). The Commission’s Safety of Fills policies also state, in part: New projects on fill or near the shoreline should either be set back from the edge of the shore [and] be built so the bottom floor level of structures will be above a 100-year flood elevation that takes future sea level rise into account for the expected life of the project, be specifically designed to tolerate periodic flooding, or employ other effective means of addressing the impacts of future sea level rise and storm activity.” (Policy No. 4).

Analysis

Project Design and Existing Flood Risk

As part of the application, the permittees provided a memorandum entitled “Sea Level Risk Assessment and Strategy”, dated April 9, 2019, prepared by Carlson, Barbee & Gibson, Inc. (CBG Memorandum). The CBG Memorandum includes a vulnerability and 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 Mean High Water elevation at the project site is +6.17 NAVD88, and the stillwater elevation at a King Tide (1-year storm event) is +8.06 NAVD88. According to the Federal Emergency Management Agency (“FEMA”), current Base Flood Elevation (BFE) for the project site is +12.0 feet NAVD88. BFE is the elevation to which flood waters are anticipated to rise during a 100-year flood event, which has a 1 percent chance of occurrence in any given year.

The project’s design raises the grade of the majority of the project area to an elevation of +17.5 feet NAVD88. This area includes the majority of the public access areas, including the Bay Trail/Blue Greenway. The raised portions of the site are to be 11.3 feet above the Mean High Tide, 9.4 feet above a King Tide, and 5.5 feet above the BFE.

A smaller portion of the site, which consists of the approach to the recreational dock, will be at located at a lower elevation, approximately +11.5 feet NAVD88 at its lowest point. This area is to be 5.3 feet above the Mean High Tide, 3.4 feet above a King Tide, and 0.5 feet below BFE.



Thus, a small portion of the overall site would be vulnerable to an extreme (1-percent annual chance) flood event today; however, this infrequent event would impact only the approach to the recreational dock, which would be expected to be closed during a storm event. The great majority of the site would not experience flooding during extreme storm events.

Sea Level Rise Projections

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 ("2018 State Guidance"), which represents the best available science. The 2018 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.

The 2018 State Guidance outlines an approach to planning that requires establishing the level of risk aversion that can be tolerated for the project given the consequences of future flooding, then making use of probabilistic projections of sea level rise that relate to the chosen degree of risk aversion. 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. In analyzing this project, the Commission relies on the "medium-to-high" risk aversion scenario. According to the 2018 State Guidance, this planning scenario is 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 (e.g., coastal housing development)."

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, 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 level during a 100-year (1 percent likelihood) storm would be +11.7 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.

Resilience to Mid-Century Sea Level Rise

Employing the 2018 State Guidance's medium-to-high risk aversion scenario, the analysis plans for 1.9 feet of sea level rise by 2050. In this scenario, the water levels during a 100-year (1 percent likelihood) storm would be approximately +11.7 feet NAVD88 at 2050. No public access areas are anticipated to experience regular flooding by 2050, though the approach to the recreational dock is anticipated to experience flooding during extreme storms.

The majority of the project site, including the Bay Trail/Blue Greenway and most shoreline public access areas, will be constructed at an elevation of at least +17.5 feet NAVD88, approximately 5.8 feet above the anticipated water levels during a 100-year storm event at 2050. The lower-lying approach to the recreational dock would be anticipated to experience approximately 2.4 feet of flooding during a 100-year storm event by 2050. The in-water dock system itself would rise on its guide piles with increasing water levels and is designed to accommodate more than 10 feet of sea level rise, so the impact would be only felt during storm events when the approach to the dock would be inaccessible. Given these projections, the approach to the recreational dock would remain viable by 2050 during non-storm conditions and milder storm events, although wave runup has the potential to overtop the lower-lying areas even during less extreme storm events, which may require temporary closure of the recreational dock.

Resilience to End of Century Sea Level Rise

Employing the same medium-to-high risk aversion scenario, the analysis plans for 6.9 feet of sea level rise at 2100. The Bay Trail/Blue Greenway and most shoreline public access areas, will be constructed at an elevation of at least +17.5 feet NAVD88, would be 4.43 feet above the Mean High Tide, and 2.54 feet above the King Tide. These areas are projected to experience storm driven flooding only during an extreme storm event in 2100. The majority of the site provides protection from over 5 feet of sea level rise above the 100-year BFE coastal flood elevation, which is projected to occur between 2080 and 2090.

The lower-lying areas including the recreational dock, which will be constructed at +11.5 feet NAVD88, would be anticipated to experience daily flooding at 2100 under the projected scenario.

Adaptation Planning and Implementation

The Bay Plan requires that for projects that will remain in place longer than mid-century, an adaptive management plan be developed to address the long-term impacts based on a risk assessment using the best available science-based projections for sea level rise at the end of the century.

The project's primary approach to adapting to sea level rise involves raising the majority of the site to 11.3 feet above today's Mean High Tide. Behind these high points, there are localized areas around the existing structures to be preserved (Unit 3 and the

historic smokestack) that will remain at existing elevations of approximately +14 feet NAVD88. While protected largely by the adjacent higher ground, these lower areas will also have an interior drainage system that includes components such as a local pump station, backflow protection from extreme tidal waters, and stormwater collection.

In addition to the primary strategy of raising the site's elevation, as sea levels rise, the project has the capacity to implement a number of adaptation measures. The CBG Memorandum identifies the following possible future adaptive measures:

- Shoreline perimeter designs that provide the ability to be adapted in the future if future sea levels rise exceed the built-in protection. This may include capacity to increase elevations along the shoreline through construction of small berms, low floodwalls or other similar measures without requiring fill within the Bay.
- The southern sidewalk along 23rd Street will be constructed and elevated in coordination with the adaption of adjacent properties to the south. This will be in conjunction with these adjacent properties because these existing structures have existing loading docks along the south side of 23rd Street.
- Separated storm drain system designs that provide the ability to be adapted in the future if nuisance or hazard flooding becomes more frequent. This may include integrating a sea level rise pump station or other similar measures.
- The lower deck of the recreational dock is currently set at an elevation of +11.5 feet (NAVD88), which is 4 feet above King Tide (1-year storm event). In order to accommodate sea level rise, the pile-supported lower deck will be designed to allow for construction of a higher deck on top of the lower deck in the future. The lower deck and piles are to be designed to carry additional weight of the future adapted higher deck and associated concrete frame.
- Create a monitoring program to periodically review sea level rise guidance from Local, State and Federal regulatory agencies.
- Create a reporting program to document monitoring of sea level rise and any recommended improvements to address increased sea levels causing nuisance and more frequent flooding.
- Create a funding mechanism for the monitoring and reporting program as well as shoreline and stormwater system adaptive improvements.

- Use of materials in areas of future inundation, such as The Point, that will be supportive of future underwater habitat and/or address wave action.

Given the anticipated potential for flooding at the project site, particularly with regard to the recreational dock and surrounding areas, Special Condition II.E is included so that necessary planning and implementation occur to ensure the public access areas are adapted and remain viable for public use over time.

Special Condition II.E outlines an Adaptation Planning Process that will commence with the preparation of a Sea Level Rise Adaptive Management Plan (“SLR Adaptive Management Plan”) within 5 years of the occupancy of the first phase of the project. Every 5 years thereafter, the permittees will submit a revised version of the SLR Adaptive Management Plan for review by or on behalf of the Commission. Revisions would be based on best available climate science and sea level rise projections. The revised report would include observations of any reported flooding events impacting public access areas and recommendations for revisions to the adaptation strategy based on site conditions, sea level rise and storm projections, updated policy guidance, and other findings.

Ongoing 5-year revisions of the Plan beginning in 2050 are intended to provide for ongoing sea level rise planning and allow for implementation of specific adaptation actions for the site before flooding causes regular impacts to any required public access areas. Special Condition II.E requires that the adaptation plan achieve the objective to protect the required public access areas from flooding through necessary adaptation measures. These measures might include reconstructing or elevating public access areas, such as the approach to the recreational dock system. Special Condition II.E.2 further requires that the adaptation plan establish an implementation timeline to ensure the project’s adaptability to sea level rise and that the required public access remains viable and not subject to regular flooding events. The application indicates that funding for necessary adaptation measures would be established through a funding mechanism, likely a special project tax designed to pay for monitoring and flood protection administered through Community Facilities District (CFD), which is being established for the project.

For the reasons discussed above, the Commission therefore finds that the project, as conditioned, is consistent with the Commission’s law and Bay Plan policies related to sea level rise and flooding.

F. Public Trust Uses

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.



G. 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 April 9, 2018 and March 11, 2019.

At the Board’s initial hearing on the project on April 9, 2018, Board members asked for additional clarification and asked how the unique industrial heritage of the site could be better revealed during its design development. The Board also expressed that the character of the proposed industrial site should feel different from the Pier 70 development yet maintain the Bay Trail/Blue Greenway connection to tie the two projects together. Related to this comment, the Board spoke favorably of retaining the Stack, but also stressed the importance to understand the connection between retaining Unit 3 and the Stack in relation to the 23rd Street view corridor. Lastly, the Board expressed that more could be done to enhance program activities and bring the public closer to experience the Bay.

At the Board’s second hearing on the project on March 11, 2019, Board members expressed approval of the evolution of the design since its first meeting. The Board spoke favorably of addressing the Pier 70 connection with the addition of an interpretive masterplan. The Board also approved of the proposed accessible route leading to the public recreational dock. However, one Board member expressed concern for the feasibility of the recreational dock, stating that while it may work as depicted in the concept drawings, he was concerned about the complex motions that would occur with the southerly waves, which could cause the dock to be unusable at times. He encouraged analysis and evaluation continue as construction documents move forward. Finally, the Board spoke favorably of the overlooks and opportunities presented in the design to bring the public closer to the water’s edge.

H. 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.

I. Environmental Review

Pursuant to the California Environmental Quality Act (CEQA), an Environmental Impact Report (EIR) was prepared for the Potrero Power Station Mixed-Used District Project, which included the entire Potrero Power Station Special Use District, including the “29-Acre Site” that is the subject of this permit. The Potrero Power Station EIR was certified by the San Francisco Planning Commission on January 30, 2020 and affirmed by the San Francisco Board of Supervisors on April 24, 2020.

J. 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 permittees 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 permittees 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 permittees/transferrors 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 permittees 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 of the permit. The Commission may revoke the permit for such violation after a public hearing held on reasonable notice to the permittees 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 permittees 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 permittees 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 permittees 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 permittees, their 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 permittees, their assignees, 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 permittees shall immediately retrieve and remove such material at their 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 permittees shall contact Commission staff to confirm current restricted periods for construction.

