

San Francisco Bay Conservation and Development Commission

455 Golden Gate Avenue, Suite 10600, San Francisco, California 94102 tel 415 352 3600 fax 415 352 3606

June 15, 2018

TO: Commissioners and Alternates

FROM: Lawrence J. Goldzband, Executive Director (415/352-3653; larry.goldzband@bcdc.ca.gov)
Ethan Lavine, Chief of Bay Resources and Permits (415/352-3618; ethan.lavine@bcdc.ca.gov)

SUBJECT: **Staff Recommendation on BCDC Permit Application No. 2017.004.00 for “Mission Rock” Mixed-Use Development**
(For Commission consideration on June 21, 2018)

Recommendation Summary

The staff recommends approval of BCDC Permit Application No. 2017.004.00 by Seawall Lot 337 Associates, LLC and the Port of San Francisco (“Port”) for the “Mission Rock” mixed-use development project, which, as conditioned, will authorize the following activities within the Commission’s permitting jurisdiction:

1. Redevelop and expand China Basin Park, including new facilities such as a public access dock;
2. Redevelop Terry Francois Boulevard as a “shared street” with a separated Bay Trail; and
3. Construct a public access plaza on a portion of the Pier 48 ½ marginal wharf.

Project development is scheduled to commence as early as 2019 and would be constructed in four phases over a period of approximately 10 years. The project, as conditioned, will result in improvements to approximately 2.11 acres of existing dedicated public access areas, approximately 1.53 acres of new dedicated public access within the Commission’s jurisdiction, and approximately 2.97 acres of new dedicated public access outside of the Commission’s jurisdiction. The project would also result in a small amount of Bay fill (approximately 1,500 square feet) for a public access dock.



Staff Recommendation

The staff recommends that the Commission adopt the following resolution:

I. Authorization

- A. Subject to the conditions stated below, the permittees, Seawall Lot 337 Associates, LLC and Port of San Francisco (“Port”) are granted permission to do the following at Seawall Lot 337, in the City and County of San Francisco:

At China Basin Park:

In the Bay:

1. **Public Dock.** Construct, use, and maintain in-kind an approximately 1,500-square-foot public access dock and boat launch for non-motorized watercraft.

In the Bay and within the 100-foot Shoreline Band:

1. **Picnic Area on Pier 48 “Knuckle Wharf”.** Construct, use, and maintain in-kind an approximately 5,022-square-foot improved picnic area.

Within the 100-foot Shoreline Band:

1. **Site Preparation Activities.** Demolish and remove existing structures and facilities to facilitate redevelopment of China Basin Park;
2. **Geotechnical Improvements.** Conduct geotechnical improvements (such as deep dynamic compaction, deep soil mixing, construction of deep soil cement columns, and construction of structural support piles to strengthen soil and structures) within an approximately 88,832-square-foot area;
3. **Placement of Fill.** Place approximately 4,560 cubic yards of clean fill material over an approximately 88,832-square-foot area to elevate the grade of the site;
4. **Utilities.** Install, use, and maintain-in kind underground utilities, including systems for recycled and potable water, sewer, storm drain, and electrical service;
5. **Bay Trail and Secondary Multi-Use Trails and Pedestrian Circulation Areas.** Construct, use, and maintain in-kind a minimum 16-foot-wide paved segment of the San Francisco Bay Trail, a network of minimum 6-foot-wide secondary trails, overlook(s), and pedestrian circulation areas within an approximately 32,924-square-foot area;
6. **Gateway Plaza.** Construct, use, and maintain in-kind approximately 8,119 square feet of a hardscape plaza, including seating, bicycle parking, public art, and wayfinding;
7. **Active Recreation Area.** Construct, use, and maintain in-kind approximately 4,982 square feet of a lawn area, including pathways, seating, other site furnishings, and plantings;
8. **Great Lawn.** Construct, use, and maintain in-kind an approximately 17,388-square-foot lawn area, including trees and plantings;
9. **Stormwater Treatment Planters.** Construct, use, and maintain in-kind planted stormwater treatment planters within an approximately 18,261-square-foot area;

10. **Café.** Construct, use, and maintain in-kind an approximately 2,135-square-foot portion of a café structure; and
11. **Riprap Revetment.** Maintain in-kind approximately 13,402 square feet of rock riprap shoreline protection.

At Terry Francois Boulevard:

Within the 100-foot Shoreline Band:

1. **Interim Improvements.** Pave and restripe up to 66,100 square feet of roadway to provide interim vehicular, pedestrian, and bicycle access prior to construction of the redesigned shared street;
2. **Site Preparation Activities.** Demolish and remove the existing roadway and utilities to facilitate redevelopment of the street;
3. **Geotechnical Improvements.** Conduct geotechnical improvements (such as deep dynamic compaction, deep soil mixing, construction of deep soil cement columns, and construction of structural support piles to strengthen soil and structures) within an approximately 66,101-square-foot area;
4. **Utilities.** Install underground utilities including recycled and potable water, sewer, storm drain, and electrical service;
5. **Bay Trail.** Construct, use, and maintain in-kind an approximately 1,180-foot-long, minimum 16-foot-wide segment of the San Francisco Bay Trail within an approximately 22,505-square-foot area;
6. **Shared Public Way.** Construct, use, and maintain in-kind a paved area for shared vehicular, bicycle and pedestrian use within an approximately 25,770-square-foot area, including tactile warning paving and bollards to delineate vehicular and pedestrian-only areas;
7. **Pedestrian Walkways.** Construct, use, and maintain in-kind paved sidewalks within an approximately 11,871-square-foot area;
8. **Passenger Loading Zone.** Construct, use, and maintain in-kind a paved area for passenger loading and unloading within an approximately 1,510-square-foot area, including tactile warning paving and bollards to delineate vehicular and pedestrian-only areas;
9. **Pedestrian Plaza.** Construct, use, and maintain in-kind an approximately 2,119-square-foot pedestrian plaza, including seating, bicycle parking, and wayfinding;
10. **Elevated Pedestrian Walkways.** Construct, use, and maintain in-kind elevated pedestrian walkways along building frontages within an approximately 567-square-foot area;
11. **Commercial Loading Zones.** Construct, use, and maintain in-kind paved commercial loading zone areas within an approximately 1,503-square-foot area, including tactile warning paving and bollards to delineate vehicular and pedestrian-only areas; and
12. **Active Edge.** Construct, use, and maintain in-kind an approximately 256-square-foot area for commercial uses such as outdoor retail, cafes, restaurants, and entertainment, including seating, tables, and associated development.

At Channel Wharf (Pier 48 ½):

In the Bay and within the 100-foot Shoreline Band:

1. **Channel Wharf Plaza.** Construct, use, and maintain in-kind an approximately 6,700-square-foot public access plaza, including benches, seating areas, and trash receptacles.

In All Areas of the Commission’s Shoreline Band Jurisdiction:

1. **Temporary and Interim Uses and Improvements.** During project construction only, construct, use and maintain temporary and interim uses and improvements, such as temporary roads and recreational trails and staging areas; and
 2. **Special Events.** Conduct special events including set-up, dismantling, and associated cleaning and maintenance, subject to limitations (see “Special Events” below).
- B. **Permit Application Date.** This authority is generally pursuant to and limited by the application dated November 21, 2017, including all accompanying and subsequently submitted correspondence and exhibits, subject to the modifications required by conditions herein.
- C. **Deadlines for Commencement and Completion of Authorized Activities.** Work authorized herein must commence prior to July 1, 2023, or this permit will lapse and become null and void. All work authorized herein must be completed by 2048 unless an extension of time is granted by amendment of the permit.

The project will be constructed in phases according to the “Schedule of Performance” included as Exhibit B2 to the “Disposition and Development Agreement” for the Mission Rock Project pursuant to City and County of San Francisco Board of Supervisors’ Resolution No. 42-18. Once commenced, all work within a particular phase must be diligently pursued to completion and must be completed within five years of commencement, unless an extension of time is granted by amendment of the permit.

Ongoing in-kind repair and maintenance of the facilities authorized herein is allowed as long as these facilities remain in place and for the uses described herein.

- D. **Bay Fill.** The project results in the placement of approximately 1,500 square feet of new Bay fill to allow for the construction of a public access dock and boat launch.
- E. **Public Access.** The project results in the construction of approximately 6.61 acres of new or improved public access areas. This includes an approximately 3.64-acre area within the Commission’s permitting jurisdiction, and an approximately 2.97-acre area outside the Commission’s permitting jurisdiction. Of the 6.61 acres of public access, approximately 2.11 acres are already permanently guaranteed by existing BCDC permits as public access areas.

II. Special Conditions

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

A. Plan Review and Approval

1. **Construction Document(s).** The improvements authorized and required herein shall be built generally in conformance with the following documents: Exhibits A through M to this permit, and the Mission Rock Design Controls, as adopted by Port Commission Resolution No. 18-04.

The permittees are responsible for assuring that all construction documents accurately and fully reflect the terms and conditions of this permit and any legal instruments submitted pursuant to this authorization. Any substantial changes to these documents shall be submitted for review and written approval by or on behalf of the Commission through plan review or a permit amendment. Because the plans reflect conceptual level designs, the Commission acknowledges that revisions may occur as design detail develops and only material changes shall require a permit amendment.

With respect to the Mission Rock Square and Channel Lane public access areas, no construction documents must be submitted for review by or on behalf of the Commission provided that the public access areas are constructed in significant conformance with the Mission Rock Design Controls.

2. **Preliminary Plan Review.** The permittees may provide preliminary plans for public access areas associated with each phase of development for review and comments by or on behalf of the Commission prior to submittal of construction documents for final approval pursuant to Special Condition II.A.3. The Executive Director may direct the Commission's Design Review Board to review and comment upon any material revisions to the plans referred to in Special Condition II.A.1 of this permit.
3. **Final Construction Document(s) Review and Approval.** No work whatsoever shall commence pursuant to this permit until final construction documents regarding authorized and required activities for that portion of the work are approved in writing by or on behalf of the Commission. All documents are reviewed within 60 days of receipt. If final construction document review is not completed by or on behalf of the Commission within the 60-day period, the permittees may carry out the project authorized herein in a manner consistent with the plans referred to in Special Condition II.A.1 of this permit.
 - a. **Document Details.** Final construction documents shall be accompanied by a letter requesting plan approval, identifying the type of plans submitted, and the portion of the project involved.

All construction documents shall be labeled with: the Mean High Water line or the upland extent of marsh vegetation no higher than +5 feet above Mean Sea Level and the tidal datum reference (NAVD88 or, if appropriate, Mean Lower Low Water (MLLW)); the corresponding 100-foot shoreline band; property lines; the location, types, and dimensions of materials, structures, and project phases authorized and required herein; grading limits; and the boundaries of public access areas and view corridor(s) required herein. 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 improvements and uses shall conform to the final 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, and within 30 days, the Executive Director shall respond to the permittees 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's Design Review Board.

B. Public Access

1. **Area.** The approximately 6.61-acre area shown on Exhibits A through M shall be made available exclusively to the public for unrestricted public access for walking, bicycling, sitting, viewing, fishing, picnicking, boat launching, swimming, and related purposes. Restrictions on public access are permissible only in locations where use is more specifically prescribed, as identified in Special Condition II.B.4 ("Improvements within the Total Public Access Area") below. If the permittees wish to use the public access area for other than public access purposes they must obtain prior written approval by or on behalf of the Commission, except to conduct special events as authorized in in Special Condition II.B.9 ("Special Events") below.

Required public access for this project includes:

- New public access within the Commission's jurisdiction: Approximately 66,647 square feet (1.53 acres).
 - New public access outside of the Commission's jurisdiction: Approximately 129,373 square feet (2.97 acres).
 - Previously dedicated public access to be improved: Approximately 91,912 square feet (2.11 acres) (BCDC Permits Nos. 1997.010, M1997.004, and M1996.058).
2. **Permanent Guarantee.** No later than 12 months following occupancy of any residential unit or commercial space associated with a particular phase of work, the permittees shall, by instrument(s) acceptable to counsel for the Commission, dedicate to a public agency or otherwise permanently guarantee such rights for the public to the public access areas associated with that development phase in a manner consistent with the terms of this permit. The instrument(s) shall create rights in favor of the public. Such instrument(s) 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, 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 eleva-

tion changes, and the location of the nearest public street and adjacent public access areas. Approval or disapproval of the instrument shall occur within 30 days after submittal for approval and shall be based on the following:

- a. Sufficiency of the instrument to create legally enforceable rights and duties to provide the public access area required by this authorization;
- b. Inclusion of an exhibit to the instrument that clearly shows the area to be reserved with a legally sufficient description of the boundaries of such area; and
- c. Sufficiency of the instrument to create legal rights in favor of the public for public access that will run with the land and be binding on any subsequent purchasers, licensees, and users.

The “Disposition and Development Agreement between the City and County of San Francisco, Acting by and Through the San Francisco Port Commission and Seawall Lot 337 Associates, LLC, a Delaware Limited Liability Company: Mission Rock Project” (“Disposition and Development Agreement,” pursuant to City and County of San Francisco Board of Supervisors Resolution No. 42-18), Section 14.7, establishes that the Port Commission will record documents to accept certain of the public access areas as Port facilities upon final completion of construction. Other public access areas will be dedicated to the City and County and accepted by the Board of Supervisors in connection with the subdivision process. Documents evidencing acceptance of improvements by either the Port or Board of Supervisors, as applicable, shall be sufficient to meet this condition provided they are otherwise consistent with the terms of this section.

3. **Recordation of the Instrument.** Within 30 days after approval of the instrument, the permittees shall record the instrument on all parcels affected by this instrument and shall provide evidence of recording to the Commission. No changes affecting the public access areas shall be made to the instrument after approval without the express written consent by or on behalf of the Commission.
4. **Improvements Within the Total Public Access Area.** No later than 12 months following occupancy of any residential unit or commercial space associated with a particular phase of work, the permittees shall open the public access improvements associated with that phase of work (see Special Condition II.B.5 below, “Public Access Phasing”). Such improvements shall be consistent with the plans approved pursuant to Special Condition II.A of this authorization and substantially conform to the improvements depicted in Exhibits A through M. A suitable number and type of site furnishings including, but not necessarily limited to seating, trash receptacles, lighting, railings, Bay Trail and Public Shore signs, and drinking fountains shall be provided within the public access areas, consistent with the Mission Rock Design Controls as adopted by Port Commission Resolution No. 18-04. Improvements shall generally include the following:
 - a. **China Basin Park**
 - (1) **Gateway Plaza.** An approximately 20,020-square-foot area including paths, open paved areas, seating, bicycle parking, public art, and wayfinding.

- (2) **Bay Trail and Secondary Multi-Use Trails and Pedestrian Circulation Areas.** A minimum 16-foot-wide clear paved segment of the San Francisco Bay Trail, a network of secondary minimum 6-foot-wide multi-use trails, a minimum 12-foot-clear Pedestrian Promenade, overlook(s), and pedestrian circulation areas covering an approximately 49,668-square-foot area.
 - (3) **Picnic Area.** An approximately 5,022-square-foot area at the Pier 48 “knuckle wharf,” including picnic tables, site furnishings, benches, and trash and recycling receptacles.
 - (4) **Active Recreation.** An approximately 30,836-square-foot active recreation area, including a lawn area, pathways, seating, recreational facilities (such as a baseball field, with appropriate safety enclosures and offsets from paths), seating and other site furnishings, and planted areas.
 - (5) **Great Lawn.** An approximately 42,310-square-foot open passive lawn area, including trees and planted areas.
 - (6) **Public Dock.** An approximately 1,500-square-foot public access dock suitable for launching of small non-motorized watercraft.
 - (7) **Public Restroom.** At least one public restroom facility, located within a café or another structure.
 - (8) **Stormwater Treatment Planters.** Approximately 18,261 square feet of stormwater treatment planters, including plantings selected and maintained to provide ecological benefit and to be resilient to flood events.
- b. **Terry Francois Boulevard**

- (1) **Bay Trail.** A minimum 16-foot-wide, approximately 1,180-foot-long paved multi-use trail, covering approximately 22,505 square feet, and adjacent seating, lighting, and public art.
- (2) **Pedestrian Walkways.** Approximately 16,564 square feet of paved walkways, including site furnishings and lighting fixtures.
- (3) **Pedestrian Plaza.** An approximately 2,119-square-foot paved plaza with seating, bicycle parking, and wayfinding.

The following facilities would function as public access areas available for pedestrian and bicycles when not in use by vehicular traffic, deliveries, loading/unloading, etc.

- (4) **Shared Public Way.** An approximately 26,285-square-foot paved area for shared vehicular, bicycle, and pedestrian use, including tactile warning paving and bollards separating vehicular areas from pedestrian areas.
- (5) **Passenger Loading Zone.** An approximately 1,510-square-foot paved area with tactical warning paving and bollards separating vehicular areas from pedestrian areas.

- c. **Channel Wharf (Pier 48 ½)**
 - (1) **Channel Wharf Plaza.** An approximately 6,700-square-foot plaza with benches, seating areas and trash receptacles.
 - d. **Mission Rock Square**
 - (1) **Mission Rock Square Public Access Area.** An approximately 33,786-square-foot public access area including space for passive recreation, public plaza and gathering areas, circulation areas, site furnishings, and planted areas.
 - (2) **Stormwater Treatment Planter.** An approximately 6,000-square-foot planted stormwater treatment planter.
 - (3) **Public Restroom.** At least one public restroom facility, located within a café or another structure.
 - e. **Channel Lane**
 - (1) **Channel Lane Plaza and Waterfront Passage.** An approximately 4,910-square-foot public circulation plaza and associated planted areas.
5. **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, as follows: (1) Phase 1 includes development blocks A, B, G, and K, and China Basin Park (except the public dock facility); (2) Phase 2 includes development blocks C, D1 and D2, the public dock, and improvements at Channel Wharf; (3) Phase 3 includes development blocks E and F, Mission Rock Square, and Channel Lane; (4) Phase 4 includes development blocks H, I and J and the reconstruction of Terry Francois Boulevard. Public access improvements associated with each phase shall be provided no later than 12 months following occupancy of any residential unit or commercial space associated with a particular phase of work. The phasing of development blocks may change. These changes 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.
6. **Maintenance.** The areas and improvements within the total 6.61-acre area shall be permanently maintained by and at the expense of the permittees or their assignees. Such maintenance shall include, but is not limited to, repairs to all path surfaces; replacement of any trees or other plant materials that die or become unkempt; repairs or replacement as needed of any public access amenities such as signs, benches, drinking fountains, trash containers and lights; periodic cleanup of litter and other materials deposited within the access areas; removal of any encroachments into the access areas; assuring that the public access signs remain in place and visible; and any repairs required by flood damage. Within 30 days after notification by staff, the permittees shall correct any maintenance deficiency noted in a staff inspection of the site.

7. **Assignment.** The permittees shall transfer maintenance responsibility to a public agency or another party acceptable to the Commission at such time as the property transfers to a new party in interest but only provided that the transferee agrees in writing, acceptable to counsel for the Commission, to be bound by all terms and conditions of this permit.
8. **Reasonable Rules and Restrictions.** Initial rules for the use of public access areas may be approved by or on behalf of the Commission through the plan review process established in Special Condition II.A. Following the opening of any of the public access areas, the permittees may impose reasonable rules and restrictions for the use of the public access area to correct particular problems that may arise. Such limitations, rules, and restrictions shall have first been approved by or on behalf of the Commission upon a finding that the proposed rules would not significantly affect the public nature of the area, would not unduly interfere with reasonable public use of the public access areas, and would tend to correct a specific problem that the permittees have both identified and substantiated. Rules may include restricting hours of use and delineating appropriate behavior.
9. **Special Events.** The permittees are authorized to conduct special events within public access areas identified in Special Condition II.B.4 above (i.e., China Basin Park, Terry Francois Boulevard, Channel Wharf, Mission Rock Square, and Channel Lane). All special events shall be conducted in conformance with those restrictions established in Section 5.8(h) (“Limitations on Events”) of the “Development Agreement Between the City and County of San Francisco and Seawall Lot 337 Associates, LLC Relating to Development of City Land Under Jurisdiction of the Port of San Francisco for the Mission Rock Project” (“Development Agreement”) pursuant to City and County of San Francisco Ordinance No 33-18. The authorization for special events is limited as follows:
 - a. **Term of Authorization.** The permittees are authorized to conduct special events within China Basin Park and other public access areas within the Commission’s 100-foot shoreline band jurisdiction (i.e., Channel Wharf and Terry Francois Boulevard), as described and restricted herein, for a period of 10 years total, commencing from the Port’s acceptance of China Basin Park, or if acceptance has not yet occurred, the granting of interim public access through a license, permit to enter, or similar instrument (the “opening” for purposes of this section). The authorization shall automatically extend for a period of 10 years on a reoccurring basis from the anniversary of the opening of the park (i.e., on the ten-year anniversary, the twenty-year anniversary, the thirty-year anniversary, and so forth), unless the Executive Director determines that modifications to the authorization are required to improve the public’s use of and movement through the public access areas. The Executive Director’s determination shall be informed by the monitoring and reporting on special events as described in Special Condition II.B.9.b (“Monitoring and Reporting”) below and the relative demand for shoreline public access at that time. If the Executive Director determines that the authorization for special events requires modifications, s/he will inform the permittees in writing no later than twelve months prior to the date of automatic renewal that the authorization will expire if a permit amendment is not obtained to correct the identified public access impacts.

This permit does not limit the term of the authorization for special events located in public access areas outside China Basin Park and the Commission's permitting jurisdiction (i.e., Mission Rock Square and Channel Lane).

- b. **Monitoring and Reporting.** Commencing on January 30 following the opening of China Basin Park, and every subsequent year by January 30, the permittees shall submit a written annual report describing the prior year's special event program. The report shall list each special event that was held within China Basin Park and other public access areas within the Commission's 100-foot shoreline band jurisdiction (i.e., Channel Wharf and Terry Francois Boulevard). For each event, the report shall identify: (1) the name and purpose of the event, (2) the duration of the event, (3) the location of the event and its approximate footprint, (4) the approximate number of participants or visitors associated with the event, (5) the cost of admittance to the event (if applicable), and (6) documentation of any known complaints received from members of the public in response to the event. The annual report shall also include 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 recommendations as to any operating procedures that could be implemented to correct an identified problem.
- c. **Special Events within China Basin Park.** Within China Basin Park only, special events shall be conducted subject to the following limitations:
 - (1) **Circulation During Events.** All appropriate measures shall be employed to ensure that primary pedestrian and bicycle circulation areas remain passable at all times. No event may be held within the minimum 16-foot-wide San Francisco Bay Trail, the minimum 12-foot-clear Park Promenade, or any of the primary pedestrian circulation areas identified on Exhibit K to this permit. Clear space along the perimeter of pedestrian circulation areas shall be provided during medium to large events in adjacent areas as depicted in Exhibit K to this permit. Exclusion fencing or similar barriers shall be installed in association with larger events as necessary to ensure that the primary circulation areas and offsets remain clear of congestion or obstructions.
 - (2) **Setup and Teardown.** Setup and teardown for an event shall be conducted as expeditiously as possible, and generally shall not extend longer than 12-18 hours prior to or following an event. Public access areas shall be actively managed during setup and teardown to minimize disruption or loss of public access areas.
 - (3) **Small Events.** Small events may be held on a daily basis. Any event or combination of events that simultaneously occupies more than 10,000 square feet during any given day is considered a "medium to large" event and subject to additional limitations as established in Special Condition II.B.9.c.(5) ("Medium to Large Events") below.
 - (4) **Medium to Large Events.** Medium to large events are defined as those events exceeding 10,000 square feet of total area. Medium to large events shall be held on no more than 100 days during a calendar year, and on no more than four weekend days per month. No medium to large event shall occupy more than

57,500 square feet within China Basin Park (or 30 percent of the park's total area). Medium to large events shall be limited in duration to a maximum of 10 consecutive days. Medium to large events shall be free and open to the general public, with the following exceptions:

- i. **Paid Ticketed Events.** No more than 24 events during a calendar year may require members of the public to purchase tickets for entry. Available tickets must be offered on a first-come-first-serve basis and widely advertised to the public.
- ii. **Private Events.** No more than 18 events during a calendar year may be private events restricted to the general public.

(5) **Exceptions.** The permittees may request authorization for occasional use of China Basin Park and other public access areas within the Commission's 100-foot shoreline band jurisdiction (i.e., Channel Wharf and Terry Francois Boulevard) for events that do not conform to the limitations on special events established herein. Authorization for such special events may be granted by or on behalf of the Commission upon a finding that such events provide a public benefit and that the primary public circulation areas remain open at all times.

10. **Public Restrooms.** Public restrooms shall be provided within China Basin Park and Mission Rock Square. If the restrooms are constructed within a structure that contains other uses (e.g., café or retail establishment), the public restrooms shall have a dedicated entryway separate from the entrance to a café or retail establishment. "Public Restroom" signage shall be provided at the entrance to the restroom and shall indicate hours of operation and a phone number to call for maintenance.
11. **Public Access and Wayfinding Signage.** No later than 12 months following occupancy of any residential unit or commercial space associated with Phase 1 of the project, the permittees shall submit for review and approval by or on behalf of the Commission a comprehensive public access sign program 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 will be reviewed through the plan review process established in Special Condition II.A above.
12. **Public Art Plan.** Prior to installing any permanent or temporary public art installations within China Basin Park or any public access area within the Commission's jurisdiction (i.e., Terry Francois Boulevard or Channel Wharf), 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.
13. **Channel Street View Corridor.** The permittees shall generally limit development on Channel Street to that described within Section 3.7 of the Mission Rock Design Controls as adopted by Port Commission Resolution No. 18-04, unless otherwise approved by or on behalf of the Commission upon a finding that said development will not prevent a view to the Bay from Third Street.

14. **Interim Public Access at Terry Francois Boulevard.** No later than 12 months following occupancy of any residential unit or commercial space associated with Phase 2 of the project, the permittees shall install interim bicycle and pedestrian improvements to Terry Francois Boulevard, which may consist of repaving, restriping, and pavement markings. The permittees shall submit construction documents for the interim improvements for review and approval by or on behalf of the Commission through the plan review process established in Special Condition II.A above.
15. **Public Access During Project Construction.** At least 30 days prior to commencing construction for a particular phase of work, the permittees shall submit for approval by the Executive Director a plan identifying measures to maximize public access (including physical access and visual access) to and along the shoreline to the greatest feasible extent during construction activities. The plan will be reviewed as established in Special Condition II.A above.
 - a. **Construction Areas.** The plan shall identify all construction areas, staging areas, storage areas, construction access corridors, and existing public access areas. The plan shall specify all methods to be used to keep the construction areas separated from public access areas.
 - b. **Construction Methods and Timing.** The plan must ensure that all areas within which construction activities, staging, and storage are to take place shall avoid encroachment on or interference with public access areas to the maximum extent feasible. Where encroachment or interference of construction activities on public access areas cannot be avoided, the plan shall identify measures to minimize these impacts to the maximum extent possible, including through signage, detours, and by limiting the duration of public access area closure.
 - c. **Bay Trail.** The plan shall ensure that the San Francisco Bay Trail shall remain available for public use at all times during construction. When construction activities require that the Bay Trail be detoured from its normal alignment, a signed detour shall be provided. The route for the detour shall be chosen in order to maximize user safety and comfort and provide for the closest feasible alignment of the detour to the Bay shoreline.
 - d. **Construction Closure of China Basin Park.** China Basin Park shall remain closed for redevelopment for a period not to exceed 12 months. In the event that construction activities require closure of China Basin Park for a period to exceed 12 months, a limited extension may be granted by the Executive Director. In such an event, the permittees shall mitigate for the public access closure by providing in-lieu public access elsewhere or providing another public access improvement near the project site. The could include developing a smartphone audio tour highlighting cultural, historical, and ecological information about the nearby San Francisco Waterfront, or submittal of a fee in the amount of \$25,000 to the San Francisco Bay Trail or another entity acceptable to the Executive Director to develop the audio tour or another public access improvement nearby the project site.

C. Sea Level Rise and Flooding

1. **Five-Year Monitoring Report.** Upon opening of China Basin Park or five years following the date of permit issuance, whichever is later, the permittees shall submit a monitoring report generally based on the Sea Level Rise Risk Assessment and Adaptation Strategy (“Assessment and Strategy”) prepared by Moffat and Nichol, dated November 21, 2017 (revised February 16, 2018), for review by or on behalf of the Commission. The report will be revised and resubmitted for review by or on behalf of the Commission every five years thereafter. The report shall reflect the best available science and include: up-to-date sea level rise projections; global projections of sea level rise based on downscaled Global Climate Models; sea level rise projections for the San Francisco Bay Area; tidal datum and extreme tides datum; updated modeling in tidal dynamics and Bay hydrological process; tide gauge data over the subject five-year period; and a comparison of updated projections on sea level rise versus projections cited in the Assessment and Strategy document. In addition, the monitoring report shall:
 - a. Provide a summary of all flooding events during the five-year period to any public access area that results in their closure, including the following detail: the date and duration of the public access closure; the location of the affected site; the recorded water levels during the closure period; the source of the flooding; the resulting damage and/or cleanup; and representative photographs of the flooding event;
 - b. Include data based on observations of water levels at the shoreline adjacent to the public access areas, including measurements of water levels over the subject five-year monitoring period and photographic evidence (with date, location, hour and actual tide levels recorded at tide gauges) of completed and planned public access areas during King Tide events; and
 - c. Provide a review of the Assessment and Strategy report, including a recommendation as to whether it should be revised based on site conditions, sea level rise and storm projections, updated policy guidance, and other findings.
2. **Sea Level Rise Adaptation Planning and Implementation.** The permittees shall plan and implement a two-phased sea level rise strategy as follows:
 - a. **Intermediate-Term Adaptation Measures.** Based on information contained in the required five-year monitoring report, when mean sea level increases by 8 inches NAVD88 compared to 2000 levels at the shoreline public access areas, the permittees shall initiate an adaptation planning process to protect the public access from flooding. Within 180 days of notifying the Commission of such conditions, the permittees shall provide a plan describing the adaptation approach for review and approval by or on behalf of the Commission. Within twelve months of Commission approval of the adaptation plan, including through any necessary Commission permits or amendments to permits, the permittees shall commence and diligently proceed to implement the measures described in the plan to completion.
 - b. **Long-Term Adaptation Measures.** Based on information contained in the required five-year monitoring report, when mean sea level increases by 36 inches NAVD88 compared to 2000 levels at the shoreline public access areas, the permittees shall initiate an adaptation planning process to protect the public access from flooding.

Within 180 days of notifying the Commission of such conditions, the permittees shall provide a plan describing the adaptation approach for review and approval by or on behalf of the Commission. Within twelve months of Commission approval of the adaptation plan, including through any necessary Commission permits or amendments to permits, the permittees shall commence and diligently proceed to implement the measures described in the plan to completion.

Any flooding adaptation measures proposed pursuant to the planning process required in this condition shall not result in a reduction of the size or usability of the public access areas required herein, except for occasional inundation to stormwater treatment planters. 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. The permittees shall obtain additional Commission review and approval of any such changes to the public access required herein.

D. Construction in the Bay

1. **Construction Operations and Debris Removal.** All construction operations shall be performed so as to minimize turbidity and the roiling of waters, to prevent construction materials from falling, washing, or blowing into any tidal areas of the Bay or drifting and presenting a navigation or pollution hazard. In the event that any such material is placed or escapes into any area subject to tidal action of the Bay, the permittees, their assigns or successors in interest, or the owner of the improvements shall immediately retrieve and remove such material at its expense. All construction debris shall be removed to an authorized location outside the Commission's jurisdiction.
2. **Water Quality and Habitat Protection.** The work authorized herein shall be performed so as to prevent any significant adverse impact on any tidal marsh, tidal flat, eelgrass habitat or other sensitive Bay resources. If any unforeseen adverse impacts occur to any such area as a result of the activities authorized herein, the permittees shall restore the area to or improve the area above its previous condition.

Work in the Bay, including any future in-kind repairs and maintenance, shall only use construction material that is approved by the Commission in consultation with the Regional Water Quality Control Board and the California Department of Fish and Wildlife for use in San Francisco Bay. Construction shall only occur during those months of the year, as approved by the Commission in consultation with resource agencies such as U.S. Fish and Wildlife Service, Department of Fish and Wildlife and National Marine Fisheries Service, that avoid or minimize potential impacts to fish and wildlife. BCDC staff should be contacted to confirm current restrictions.

Prior to commencement of work in the Bay, the permittees shall provide a copy of the Water Quality Certification for review by or on behalf of the Commission following issuance and receipt of said document from the California Regional Water Quality Control Board, San Francisco Bay Region. If said Water Quality Certification requires the permittees to perform work within the Commission's jurisdiction that is not specifically authorized by this permit, the permittees shall obtain authorization for that work from

the Commission through an amendment to this permit. The permittees shall also employ all measures described in the Water Quality Certification to ensure that effects to water quality from construction activities are minimized.

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

III. Findings and Declarations

This authorization is given on the basis of the Commission's findings and declarations that the work authorized herein is consistent with the McAteer-Petris Act, the San Francisco Bay Plan (Bay Plan), the 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. Project Location

1. **Site Description and Existing Use.** The approximately 21-acre project site is located in the Mission Bay neighborhood of the City and County of San Francisco. The site is bounded by Mission Creek to the north, the Bay to the east, Mission Rock Street to the south, and Third Street to the west. The project site is known as Seawall Lot 337. Seawall lots are former tidelands that were filled after being cut off from the Bay with the construction of the City and County of San Francisco's Great Seawall in the early 1900s. Historically the site was used as a railroad yard and for other activities supporting the

maritime uses at the adjacent Piers 48 and 50. Today the site includes AT&T Park's "Lot A" parking lot, China Basin Park, the "knuckle wharf" located between China Basin Park and Pier 48, the Pier 48 ½ marginal wharf, and Terry Francois Boulevard.

- a. **Lot A.** Lot A is a parking lot that accommodates roughly 2,170 vehicles. The lot primarily serves visitors to AT&T Park on game and event days, as well as a smaller number of commuters who use the lot on a daily basis. A portion of the lot is used for occasional special events, such as the circus or equestrian shows. In recent years, the Giants have operated "The Yard at Mission Rock" within a small portion of the parking lot adjacent to Third Street, which includes shipping containers repurposed for cafes, public open space, and event spaces.
 - b. **China Basin Park.** China Basin Park is a shoreline park located within the northern approximately 2.1 acres of the project site. The park includes a tree-lined lawn, a paved shoreline pathway, benches, picnic areas, a small baseball diamond, a statue of former Giants' player Willie McCovey, and plaques related to the history of the Giants. China Basin Park is a permanently guaranteed public access area pursuant to BCDC Permit No. 1997.010, which also authorized the construction of AT&T Park.
 - c. **Pier 48 Knuckle Wharf.** An approximately 3,000-square-foot wharf structure is located at the eastern edge of China Basin Park, adjacent to the Pier 48 shed building. The wharf structure is a permanently guaranteed public access area pursuant to BCDC Permits Nos. M1997.004 and M1996.058, and is used primarily for Bay viewing.
 - d. **Pier 48 ½.** Pier 48 ½ is a marginal wharf that bridges the area between the Pier 48 and Pier 50 shed buildings. It is primarily used for vehicle parking and equipment storage. A narrow public access corridor is located outside the project boundary on the southern portion of Pier 48 ½ adjacent to ATWater Tavern, a restaurant located adjacent to Pier 50.
 - e. **Terry Francois Boulevard.** Terry Francois Boulevard is a two-lane street with striped bicycle lanes. Terry Francois Boulevard runs north-south along the perimeter of the project site between Mission Rock Street to China Basin Park. At China Basin Park, it jogs to an east-west orientation, running between Lot A and China Basin Park, ultimately connecting to Third Street.
2. **Immediate Vicinity of Project Site.** Other development within the immediate vicinity of the project site that do and can be expected to continue to influence the use of its shoreline and public access facilities include: the Golden State Warriors' basketball arena (Chase Center, currently under construction); the Giants' ballpark (AT&T Park); and the Port-owned Piers 48 and 50.
- a. **Chase Center.** The new Warriors' basketball arena, the Chase Center, is under construction at Terry Francois Boulevard and South Street approximately 0.5 miles south of the project site. The Chase Center is anticipated to open in 2019. The Chase Center will be the venue for Warriors' home games, as well as concerts, family shows, sporting events, cultural events, conferences, and conventions. According to the project's EIR, the center would be used for up to approximately 225 events per year, with events ranging in capacity from approximately 3,000 patrons up to about 18,500 patrons.

- b. **AT&T Park.** The Giants' ballpark opened in 2000. The Commission authorized construction of the portion of the ballpark within its permitting jurisdiction through BCDC Permit No. 1997.010. Besides the ballpark itself, the permit authorized several large pedestrian plazas and a shoreline promenade with belvederes along Mission Creek, as well as China Basin Park.

According to the permittees, Giants games at AT&T Park occur 83 times per season, from April through October each year, with up to 42,000 attendees at each game. Additional games may be played if the Giants reach the postseason. Other events occur regularly at AT&T Park, including large concerts approximately four times a year that draw up to 42,000 attendees each. Within China Basin Park and other public access areas adjacent to AT&T Park, the large influx of people for games and large events are observed predominantly within an hour or two around the start and end of an event.

- c. **Piers 48 and 50.** The Port-owned Piers 48 and 50, as well as a marginal wharf structure known as Pier 48 ½, are located on the shoreline immediately east of Terry Francois Boulevard. A portion of Pier 48 ½ is within the bounds of the project area, while Piers 48 and 50 are not. Pier 48 is used primarily as a parking area during ballpark events or for special events hosted by the Giants, and the south apron supports maritime berthing for Westar Marine harbor service vessels. The southern portion of the shed is used for storage by the City and County of San Francisco's Department of Elections. Pier 50 is used for maritime and industrial activities, including Westar Marine harbor services and berthing, and the Port's maintenance operations center.

3. **San Francisco Waterfront Planning Area.** The project site is located within the planning area of the Commission's San Francisco Waterfront Special Area Plan (SAP), adopted in April 1975 and last amended in April 2012. The SAP states that "[f]ew cities have the opportunity to create the kind of varied and dynamic waterfront that can be achieved in San Francisco," and that "[t]he San Francisco waterfront is a vitally important regional resource that can support port and related maritime facilities, public access, open space, recreational sites, and water-oriented commercial recreation." The SAP divides the waterfront into three geographic vicinities: Fisherman's Wharf, the Northeastern Waterfront, and the Southern Waterfront. The subject site is located at the intersection of the Northeastern Waterfront and Southern Waterfront.

The Northeastern Waterfront, extending from Pier 35 to China Basin, is described by the SAP as "a regional recreation and scenic resource." It is characterized by the remaining historic pier bulkhead buildings and sheds, some of which remain in use for maritime industrial uses and others of which have been adaptively reused and rehabilitated. As envisioned by the SAP, and through parallel efforts by the Port and the City and County of San Francisco, planning for the Northeastern Waterfront in recent decades has been focused on reuniting the Bay shoreline to the rest of the City and realizing the waterfront's potential as a focal point for recreation, as well as civic and commercial activities. New public transportation, shoreline parks, and other amenities have been developed to make it more appealing as a public recreation destination.

The Southern Waterfront, extending from China Basin south to India Basin, is the area of the San Francisco waterfront with the greatest concentration of industrial maritime activity. This area of the waterfront has most of San Francisco's facilities for major cargo handling, ship repair, and other seaport uses. However, the Southern Waterfront is in the midst of a period of significant transformation. The redevelopment of the Mission Bay neighborhood as a mixed-use district for 11,000 residents and job center with approximately 30,000 employees began in the late 1990s and is now largely complete. (Portions of the Mission Bay redevelopment are authorized by BCDC Permit No. 2000.005.) The residential population of the Southern Waterfront is anticipated to grow by more than 30,000 over the next 20 years (source: San Francisco Parks Alliance). In addition to the subject project, other sizable residential and commercial mixed-use development projects are proposed on the Southern Waterfront at Pier 70, the historic Potrero Power Plant Station, India Basin, and the former Hunters Point shipyard.

There has historically been limited public access to the Bay along the Southern Waterfront, however numerous shoreline access projects have been completed in recent years. The Mission Bay redevelopment project resulted in 41 acres of public parks and open space. The 5.4-acre Bayfront Park, the last of the shoreline parks to be constructed as part of the Mission Bay redevelopment, is set to begin construction 0.3 miles south of the project site, adjacent to the Warriors' Arena and the Port's proposed Mission Bay Ferry Terminal. The Port's 9-acre Crane Cove Park, authorized by the Commission in 2017 under BCDC Permit No. 2016.006, is under construction one mile south of the subject site. Other new or enhanced shoreline access projects developed in recent years on the Southern Waterfront include: Warm Water Cove Park, Tulare Park, Heron's Head Park, a shoreline trail and access area at the former PG&E power plant site, and Candlestick Point State Recreation Area. The aforementioned proposed mixed-use developments, if developed as currently proposed, would each include several acres of new shoreline parks and open spaces.

The Port and the City and County of San Francisco, in partnership with the San Francisco Parks Alliance, have also developed the Blue Greenway, a 13-mile-long public open space network through the Southern Waterfront extending to the southern city limit, which would incorporate planned open spaces in the Mission Rock project. The Blue Greenway includes both the Bay Trail and San Francisco Bay Water Trail. An interactive map of the Blue Greenway and existing and proposed open spaces along the Southern Waterfront is available online.

B. Project Background

1. **SB 815 and AB 2797.** The Port has worked with the State Lands Commission in recent years to develop a strategy to generate increased revenue that it can rely on to finance critical and costly projects, including repair of the City's Great Seawall, its historic finger piers, and decaying infrastructure. Part of this strategy involved identifying properties within the Port's jurisdiction that no longer are considered to be critical for maritime operations and could be leased for non-maritime uses that would generate increased economic returns for the Port.

The project site, Seawall Lot 337, is the largest of the properties identified by the Port for this purpose. However, as the subject site is filled tidelands, it was subject to restrictions on use under the Public Trust doctrine that would generally prevent development of the residential and office components of this project. The project site also carried certain restrictions in use as established in BCDC planning documents, including the San Francisco Bay Plan (Bay Plan), the San Francisco Waterfront SAP, and the San Francisco Bay Area Seaport Plan (Seaport Plan). To resolve potential land use conflicts arising from development of the Mission Rock project, the Port successfully sought state legislation—Senate Bill (SB) 815, as amended by Assembly Bill (AB) 2797 on September 23, 2016. The Commission was briefed on AB 2797 prior to its enactment and voted unanimously to take a neutral position regarding the legislation.

The legislation allows the Port to lease any portion of Seawall Lot 337 free from Public Trust use restrictions for a term not to exceed 75 years if approved by the State Lands Commission (SLC). Pursuant to the legislation, revenues generated from non-trust leases in excess of baseline revenue must be deposited in a separate fund and used for the preservation of the Port's historic piers and other historic structures, the construction and maintenance of waterfront plazas and open space recognized in BCDC's San Francisco Waterfront SAP, or Port advances for construction of infrastructure serving the project.

In addition, AB 2797 modified land use designations within the Bay Plan, San Francisco Waterfront SAP, and Seaport Plan applicable to the project site. The three plans had designated approximately 6 acres in the eastern portion of Seawall Lot 337 as a Port Priority Use Area, where allowable uses were generally limited to maritime cargo shipping, public access, small boat dock facilities, and a limited amount of commercial recreation. AB 2797 removed the Port Priority Use Area designation from Seawall Lot 337, Pier 48, and the Pier 48 ½ marginal wharf. AB 2797 also extended the boundary of the Northeastern Waterfront as defined in the San Francisco Waterfront SAP to include Pier 48, which would allow the Commission to authorize rehabilitation of Pier 48 for a wide variety of uses consistent with the Public Trust, a project that the permittees plan to pursue in the future. The legislation does not otherwise alter the applicable policies or standards by which the Commission is to review a project proposed for the site. AB 2797 states:

“Nothing in this act is intended to limit the authority and discretion of BCDC to approve or deny permits for the mixed-use development on Pier 48 and the marginal wharf between Pier 48 and Pier 50 generally described in this act in a manner consistent with the McAteer-Petris Act or the policies of the bay plan and the special area plan, as those policies are modified by subdivisions (a) and (b), including the authority and discretion of BCDC to impose conditions on the permits for the project. This act shall not limit the authority and discretion of BCDC to enforce permits issued for the projects described in this act.”

2. **Project Planning Process and Objectives.** The Port has engaged in a decade-long planning process for both the subject project and an anticipated future project phase involving rehabilitation of Pier 48 (see below). Among the project objectives identified through the planning process (and as summarized in the project’s EIR) are: creating a waterfront neighborhood that invites diverse public use and retains an authentic waterfront character; achieving a density and program to achieve a vibrant all-day, all-season destination; developing parks and open spaces that complement and add variety to the adjacent neighborhood, including a central open space that can accommodate assembly and special-event uses; providing an inviting waterfront and prominent segment of the Bay Trail/Blue Greenway, while preserving access for industrial users of Piers 48 and 50 along Terry Francois Boulevard; and generating substantial incremental revenue to the Port for waterfront needs (preserving historic piers and other historic structures, constructing and maintaining waterfront plazas, and establishing open space).

According to the permittees, the planning process and public participation effort for the projects at Seawall Lot 337 and Pier 48 resulted in the overall design for public access that is presented as part of the subject application: “One of the first ideas to gain traction with the public was to vacate the northern stub of Terry Francois Boulevard to allow for the creation of a major waterfront open space along the China Basin Channel that would be improved and almost twice the size of the current China Basin Park. The community also expressed a strong desire to make the waterfront open space a destination, safe and actively programmed to draw the public. Given its importance, [the Port and Seawall Lot 337 Associates, LLC] have agreed to shoulder this significant financial burden fully in the project’s first phase alone even though it benefits all four phases of the project, including [the anticipated future development at] Pier 48.”

The City and County of San Francisco prepared and certified a final Environmental Impact Report (EIR)—certified by its Planning Commission on October 5, 2017 and affirmed by the Board of Supervisors on February 13, 2018—for all aspects of the multi-phased Mission Rock development, including both those activities described in the subject permit application and those envisioned to occur at Pier 48 at a future date. The permittees state that the broad scope of the EIR was designed to comport with the requirements of the California Environmental Quality Act (CEQA), as the scope of environmental documentation required under CEQA is not confined to the particular development activities that will be undertaken by a specific entity.

3. **Planned Future Project Phase at Pier 48.** While it is not proposed as part of the subject permit application, the permittees envision that the Pier 48 shed and bulkhead buildings, the pier’s aprons, and the Pier 48 ½ marginal wharf will be redeveloped at some future point as a phase of the Mission Rock project.

The permittees had previously anticipated that Pier 48 would be redeveloped in partnership with an anchor tenant that would operate a brewery facility. The plan to reuse Pier 48 for the brewery operation is uncertain at this time and may not come to fruition. The permittees are therefore considering alternative uses that may be appropriate in its place. While the future uses of Pier 48 are unknown at present, they could include

water-oriented uses, non-water-oriented uses, or some mix of the two. Continued industrial use and maritime berthing along the aprons may or may not be included as part of a future development proposal.

The permittees state that the design of the subject project is influenced by the possible future redevelopment of Pier 48. Public access authorized herein was designed to be compatible with and complement future reuse of Pier 48. While the tenant for a rehabilitated Pier 48 is unknown at this time, the permittees envision that the public access provided as part of the subject permit would function in harmony with reuse of the pier structure. The permittees envision some amount of additional public access will be provided at the pier and on its apron and marginal wharf to the extent that it could be provided in a manner compatible with industrial maritime uses should they continue. All other elements of the combined public access plan that were developed by the permittees through the combined planning process for the projects at Seawall Lot 337 and Pier 48 are to be constructed as part of the project authorized herein.¹

Any future project proposed at Pier 48 would require authorization by the Commission and would be evaluated for consistency with the Commission's law and policies at that time. However, because the landside public access improvements were designed to satisfy both the project before the Commission and the envisioned future redevelopment of Pier 48, it is expected that additional public access improvements that might be associated with a future Pier 48 rehabilitation project would be provided exclusively within the Pier 48 bulkhead and shed buildings, on its apron, and on a portion of the adjacent Pier 48 ½ marginal wharf. No additional off-site public access is expected. Full rehabilitation of Pier 48 would provide opportunities to develop public access areas with significant public benefits, including access to the pier aprons (except where incompatible with maritime industrial uses), a Bayside History Walk, and an expanded and improved public plaza at the Pier 48 ½ marginal wharf (Channel Wharf). Smaller-scale new interim uses within Pier 48 could also provide opportunities to achieve some of these public access benefits. With such improvements provided as part of a future Pier 48 rehabilitation project, the project could be found to have provided the maximum feasible public access without any additional public access improvements elsewhere within the Mission Rock project area or as in-lieu access at another location.

- C. **Allowable Fill.** 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

¹ The Commission's advisory Design Review Board reviewed and commented upon an earlier iteration of the combined public access plan at its December 5, 2016 meeting, as discussed more below (see "Design Review Board").

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.

Bay Plan policies on Filing for Public Trust Uses on Publicly-Owned Property Granted in Trust to a Public Agency by the Legislature state, in part: "Filing should be approved... if the Commission finds that the filling and use proposed on the fill are consistent with the Public Trust Doctrine, the terms of the legislative trust grant, and with a Special Area Plan for the area that the Commission has found: a. Is necessary to the health, safety, and welfare of the public in the entire Bay Area; and b. Provides for major shoreline parks, regional access facilities, removal of existing pile-supported fill, open water basins, increased safety of fills, mechanisms for implementation, enhanced public views of the Bay, and other benefits to the Bay, all of which exceed the benefits that could be accomplished through BCDC's permit authority for individual projects through the application of other Bay Plan policies."

The project involves construction of a floating public dock and boat launch for public use that results in filling approximately 1,500 square feet of the Bay. The footprint of the launch is minimal and of a size appropriate for the anticipated level of use. No dredging is required, and the design of the launch does not require installation of piles.

The fill is for a public access facility for which public benefits of the fill will exceed any detriment. No upland alternative location exists for floating boat launches. The fill authorized is the minimum amount necessary to achieve the purpose of the fill. Special Condition II.D has been included to assure that project construction, materials and the improvements themselves will not adversely affect the Bay's natural resources, water quality or navigation, as required by the San Francisco Bay Plan policies on Fish, Other Aquatic Organisms, and Wildlife, Tidal Marshes and Tidal Flats, and Water Quality. As conditioned, the project is therefore consistent with the Commission's law and related policies on placement of fill.

- D. **Maximum Feasible Public Access.** Section 66602 of the McAteer-Petris Act states, in part, that "...existing public access to the shoreline and waters of the...[Bay] is inadequate and that maximum feasible public access, consistent with a proposed project, should be provided." Bay Plan Public Access Policy No. One states: "A proposed fill project should increase public access to the Bay to the maximum extent feasible, in accordance with the policies for Public Access to the Bay." Bay Plan Public Access Policy No. Two states, in part: "...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..."
1. **Public Access Impacts and Benefits.** In assessing whether a proposed project increases public access to the Bay and its shoreline, the Commission considers the existing conditions at the project site, the proposed public access improvements provided by a project, and the existing and future demand for public access facilities. The McAteer-Petris Act and Bay Plan policies must be read in light of court decisions that have established 1) 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 2) that the condition must be roughly proportional to the burden.

In this case, the Commission must evaluate the demand for public access that the Mission Rock project will generate and its anticipated impact on the existing and proposed public access at and near the project site.

- a. **Anticipated Public Access Demand.** The employment, housing and population growth associated with the Mission Rock project is expected to generate greater demand for public access on the Bay shoreline at and in the vicinity of the project site. At buildout, the Mission Rock project could accommodate more than 9,000 residents and employees at the project site, as follows:
- Between 2,350 and 3,570 residents (assumes a citywide average of 2.35 persons per household and between 1,000 and 1,600 residential units).
 - Between 4,260 and 5,820 employees in commercial space (office, retail, hotel, etc.) or on-site housing.

These estimates do not reflect short-term visitors at the park or to the retail and commercial establishments. No estimate has been provided as to the number of shoppers and visitors to the site anticipated as a result of the new 1.4 million gross square feet of office and retail space.

Use of the public access areas is expected to increase sharply during the hour or two before and after games and events at AT&T Park (capacity of approximately 40,000 patrons), and to a lesser extent at the Chase Center (capacity of approximately 18,500 patrons). Some portion of the 3,100-space shared parking garage would be used by patrons of these facilities during games and events.

Finally, special events are to be held within the public access areas. These will include smaller events that could be attended by up to 2,500 people during the course of a day within each of the various public access areas, though it is not anticipated that events of that size would occur every day. Medium to large events, which may be held up to 118 days per year, could be attended by up to 10,000 people during the course of a day. Certain limitations on special events have been established to ensure that members of the public not attending an event could use at least some portion of each of the various public access areas at any given time. These limitations are discussed in more detail below (see “Special Events”).

- b. **Existing Public Access at the Subject Site.** Public access to and along the shoreline exists at the subject site, including a shoreline park (China Basin Park) and a segment of the Bay Trail that runs through China Basin Park and along Terry Francois Boulevard.

China Basin Park is an approximately 92,000-square-foot (2.1-acre) public park that contains a large lawn, trees, a paved shoreline pathway (the Bay Trail), benches, picnic areas, a small baseball diamond, a statue, and interpretive elements. The park was authorized and required as a condition of the Commission’s approval of BCDC Permit No. 1997.010, which also authorized the construction of AT&T Park on the opposite side of Mission Creek. The Pier 48 “knuckle wharf,” which is a part of China Basin Park and used primarily for Bay viewing, constitutes approximately 3,000 to 4,000 square feet of BCDC-required public access (authorized and required under

BCDC Permits Nos. M1997.004 and M1996.058). China Basin Park is used primarily for Bay viewing, picnicking, passive recreation, walking, jogging, bicycling, and youth baseball games. Use of the park is highest before and after baseball games and events at AT&T Park.

The Bay Trail along Terry Francois Boulevard consists of striped bicycle lanes and no dedicated pedestrian facilities. The bicycle lanes are authorized and required pursuant to BCDC Permit No. M1996.058, which also authorized maintenance facilities at Pier 48. The Bay Trail is used primarily by pedestrians, dog walkers, bicycle commuters and bicyclists on leisurely rides.

The Mission Rock project will replace the existing public access facilities at the project site. China Basin Park will be roughly doubled in size. However, within the public access areas at China Basin Park that are at present available for free and unrestricted use by the public, approximately 18,261 square feet (0.42 acres) along the shoreline will be converted to stormwater treatment planters. The stormwater treatment planters will be attractively landscaped, but inaccessible to the public. An additional approximately 2,135 square feet of existing public access area will be converted to use as a retail café structure. The Bay Trail's alignment will change within China Basin Park, moving inland away from the shoreline in places, and the trail width will be increased from approximately 10 feet to a minimum of 16 feet. Along the redesigned Terry Francois Boulevard, the Bay Trail will be expanded and improved as a minimum 16-foot-wide separated trail.

- c. **Existing Public Access Near the Subject Site.** Other public access exists nearby the subject site outside the boundaries of the project site. These facilities can reasonably be expected to see an increased level of use as a result of the addition of the new residents, employees, and visitors generated by the Mission Rock project. Along the shoreline, and within approximately 0.5 miles of the project site (about a 10-minute walk for most people), the following public access facilities exist or are planned:
- South Beach Park, including a playground and pedestrian breakwater structure (BCDC Permit No. 1984.002).
 - The "Portwalk" shoreline promenade and plazas adjacent to AT&T Park (BCDC Permit No. 1997.010).
 - Mission Creek Park and shoreline promenade areas, including Fifth Street Square Neighborhood Park, Pumphouse Park, sports facilities, and the UCSF public boat launch (BCDC Permits Nos. 1976.011 and 2000.005).
 - An approximately 2,200-square-foot public access area for Bay viewing adjacent to ATWater Tavern on the Pier 48 ½ marginal wharf structure (BCDC Permit No. M2014.042).
 - Bayfront Park, under construction at time of publication of this application summary (BCDC Permit No. 2000.005).

- d. **Proposed Public Access Areas.** The Mission Rock project involves construction or improvements to approximately 6.61 acres of public spaces, including parks, planted open space areas, pedestrian paseos, and squares, as proposed and required by Special Condition II.B.1. This represents approximately 30 percent of the 21-acre project site. The project will provide approximately 30 square feet of shoreline public access for each new resident and worker anticipated at the site as a result of the project.

Within the Commission's jurisdiction, the project involves construction of public access improvements at China Basin Park, along Terry Francois Boulevard, and at the Pier 48 ½ marginal wharf (Channel Wharf). Outside the Commission's jurisdiction, the project involves construction of public access improvements at China Basin Park, Mission Rock Square, and Channel Lane.

The following is a brief summary of newly constructed or improved public access areas for the Mission Rock project:

- *Expansion of and Improvements to China Basin Park.* China Basin Park will be roughly doubled in size, from 2.1 to 4.4 acres in size (approximately 3.85 acres of which would be for public access and planted areas, and 0.57 acres of which would be utilized for retail, cafes, shoreline protection, and other non-public access purposes). Program elements of the existing park will be retained, though they will be redesigned and/or relocated. These program elements include a shoreline promenade, passive lawn, a junior baseball diamond (or other similar active recreation facilities), picnic facilities, seating, and a Bay overlook at the knuckle wharf. New program elements will include public plazas, a public dock, planted areas, a public restroom, permanent or temporary public art installations, and public programming and special events.
- *Improvements to Terry Francois Boulevard.* At Terry Francois Boulevard, the Class II bicycle lanes that currently constitute the Bay Trail will be replaced by a separated 16-foot-wide multi-use trail lined with furnishings, lighting, and pavement markers. The remainder of the street will be redesigned as a shared street that could accommodate pedestrian and bicycle traffic when not in use by vehicles, including trucks accessing businesses at Piers 48 and 50. Traffic calming measures will be incorporated at the south end of Terry Francois Boulevard at the Mission Rock Street intersection. The north end of Terry Francois Boulevard will terminate in a pedestrian plaza at the foot of China Basin Park. At the plaza, emergency vehicle access and short-term passenger and cargo loading and unloading will be provided. Terry Francois will be redeveloped in Phase 4 of the project. In the interim, pavement markings and striping will be installed in Phase 2 to better delineate areas of public access (such as bike lanes).
- *New Public Plaza at Pier 48 ½.* At Pier 48 ½, a new, approximately 6,700-square-foot public plaza (Channel Wharf) will be provided in Phase 2, including benches, seating areas and trash receptacles. The plaza will end several feet inland from the edge of the marginal wharf, as the edge of the wharf is in need of structural repair that is expected to occur as part of a future project to rehabilitate Pier 48.

- *New Mission Rock Square Park and Plaza.* The approximately 1.02-acre Mission Rock Square will be constructed at the center of the project site and feature a large lawn or other central gathering area and plaza. The park will include a large multi-use area at the center of the square to accommodate large events. A sculpture or small structure will be included in the square and serve as a meeting spot. An open view to the Bay through Mission Rock Square from Third Street will be preserved by the park's design. Mission Rock Square will also feature a stormwater treatment garden, spaces with seating and furnishings, and a small permanent retail and food structure that will contain public restrooms.
- *New Channel Lane Pedestrian Plaza.* Channel Lane will be constructed as an approximately 4,910-square-foot pedestrian-only plaza area connecting Mission Rock Square to Terry Francois Boulevard, and Channel Wharf beyond it. It will form part of the axis that provides a direct east-west pedestrian connection between Third Street and the Bay.

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.5 is included to require that public access improvements associated with each phase shall be provided no later than 12 months following occupancy of any residential unit or commercial space associated with a particular phase of work.

2. **Comparable Projects Approved by the Commission.** The Commission considers its previous actions on comparable projects 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 redevelopment projects at a scale similar to the Mission Rock project (Table 1): the redevelopment of Treasure Island/Yerba Buena Island and the Mission Bay neighborhood in the City and County of San Francisco, and the Brooklyn Basin redevelopment project in the City of Oakland, Alameda County.
 - The Treasure Island/Yerba Buena Island Redevelopment Project (BCDC Permit No. 2016.005) involved a high-density mixed-use community, housing approximately 18,640 residents and accommodating 2,920 workers. The permit required approximately 55 acres (2,399,902 square feet) of public access within the Commission's jurisdiction. For each resident and worker utilizing the site on a daily basis, the project provided approximately 108 square feet of shoreline public access area.
 - The Mission Bay Redevelopment Project (BCDC Permit No. 2000.005) involved the redevelopment of the Mission Bay neighborhood in San Francisco—the larger district within which the subject Mission Rock project is being developed—into a high-density mixed-use community, housing approximately 11,000 residents and accommodating 30,000 workers. The permit required approximately 16.7 acres (729,232 square feet) of shoreline public access both inside and outside of the Commission's jurisdiction, in a series of parks along Mission Creek and the Bay

shoreline. For each new resident and worker generated by the Mission Bay Redevelopment Project, the project provided approximately 18 square feet of shoreline public access area.

- The Brooklyn Basin Development Project (BCDC Permit No. 2006.007) involved the redevelopment of an industrial area at the Port of Oakland. The Brooklyn Basin project included housing and retail space for approximately 5,061 residents and workers. The permit required approximately 22 acres (965,000 square feet) of shoreline public access both inside and outside of the Commission’s jurisdiction in a series of large-scale parks along the Oakland Estuary. For each resident and worker utilizing the site on a daily basis, the project provided approximately 192 square feet of shoreline public access area.

The Mission Rock project is an urban infill project within a 21-acre area. The subject project is smaller than the comparison cases in terms of its overall project area, and it provides the least total area of public access. However, when expressed as a proportion of the overall project site, the Mission Rock project provides a roughly comparable amount of public access area to the Brooklyn Basin Development Project in Oakland. Of the 21-acre site, approximately 30 percent is provided as new or improved public access, compared to 36 percent of Brooklyn Basin’s 62-acre project site. The Mission Rock project provides a far greater percentage of its overall project area as guaranteed shoreline public access than the Treasure Island/Yerba Buena Island and Mission Bay Redevelopment Projects. Those projects involved redevelopment of several hundred acres, including large areas located some distance inland of the shoreline. Thus, a smaller share of the total project area is expected to be provided as shoreline public access for those projects compared to the subject project.

Table 1. Public Access Provided in Comparable BCDC-Approved 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
Treasure Island/Yerba Buena Island Redevelopment, BCDC Permit No. 2013.005	21,560	461 acres	55.09 acres	11%	108 sf
Mission Bay Redevelopment, BCDC Permit No. 2000.005	41,000	305 acres	17.20 acres	6%	18 sf
Brooklyn Basin Development, BCDC Permit No. 2006.007	5,061	62 acres	22.15 acres	36%	192 sf
Mission Rock Project	9,390	21 acres	6.61 acres	30%	30 sf

The subject Mission Rock project is among the densest large urban infill projects ever considered by the Commission. It will provide housing and workplaces for potentially more than 9,000 people at full build-out. For each of the new residents and workers at the project site, an area of approximately 30 square feet would be provided as new or improved shoreline public access. This is far less area per person than the equivalent provided at Treasure Island/Yerba Buena Island and Brooklyn Basin, where 108 and 192 square feet of shoreline public access area respectively was provided per new resident or worker. However, these projects differ in that they are located within comparatively less dense urban environments. The Mission Bay Redevelopment Project, the larger district within which the Mission Rock project is located, is a better comparison. The Mission Bay project provided a roughly comparable proportion of shoreline public access area—18 square feet for each of its projected new residents and workers. In comparison, the Mission Rock project provides approximately 30 square feet of new or improved shoreline public access for each new resident and worker anticipated at the site as a result of the project.

The Mission Rock project also differs from the comparison projects in that in addition to construction of new public access areas, it involves improvements to (and expansion of) an existing required shoreline park. The majority of the Mission Rock project is located outside of the Commission's jurisdiction. Within the Commission's jurisdiction, most of the Mission Rock project includes public access, a shared public way (Terry Francois Boulevard), and limited commercial space.

3. **Permanent Guarantee.** Bay Plan Public Access Policy No. Six states, in part: "Whenever public access to the Bay is provided as a condition of development, on fill or on the shoreline, the access should be permanently guaranteed." Permanently guaranteed public access areas for the Mission Rock Project include China Basin Park, Terry Francois Boulevard, Channel Wharf (Pier 48 ½), Mission Rock Square, and Channel Lane.

The Commission typically requires that public access required as a condition of development be made available exclusively to the public for unrestricted access for walking, bicycling, sitting, viewing, fishing, picnicking, and related purposes. In some cases, the Commission has permitted certain restrictions on public use of public access areas, such as during special events. Special events entail time-limited restrictions of the public's use of a public access area, but may also help to draw visitors to the waterfront and provide for a variety of activities on the waterfront that help to serve the needs of a diverse population (see "Special Events" section below).

Some public access areas do not lend themselves to unrestricted public access. Planted areas, if attractively designed, provide a benefit to the public but do not provide for walking, bicycling, sitting, viewing, fishing, picnicking, and related purposes. China Basin Park includes roughly 18,261 square feet of stormwater treatment plantings at the shoreline that will not be available for unrestricted public access. Mission Rock Square also includes roughly 6,000 square feet of stormwater treatment plantings that will not be available for unrestricted public access.

Portions of Terry Francois Boulevard are subject to limitations on public use, as well. The drive aisle and loading zones on the “shared” street function essentially as an extension of the Bay Trail except during periods when being used for vehicular traffic, loading/unloading, and deliveries to Piers 48 and 50 and the mixed-use buildings lining the inland side of the street.

Therefore, of the public access areas included as part of the subject project, approximately 5.42 acres is provided for unrestricted public access uses, except as limited for special events as detailed below. Another 1.23 acres is not available for unrestricted public access, but still serves some public benefit, either because the area provides for an attractive public space (e.g., planted stormwater gardens) or doubles as public access area when not in use for another purpose (e.g., the “shared” street).

The public access improvements for the Mission Rock project will be constructed in phases over an anticipated period of 10 years. According to the Disposition and Development Agreement pursuant to City and County of San Francisco Ordinance No. 33-18, the Port will lease the land upon which these improvements are to be constructed to Seawall Lot 337 Associates, LLC, the project developer, until such time as the construction of the public access areas is complete. Upon final completion of construction of each public access area, the Port will terminate that portion of the lease, and the Port and City and County of San Francisco will record documents to accept the public access areas as public facilities. These documents shall be sufficient to meet the Commission’s requirements to demonstrate that the area has been permanently guaranteed. Special Conditions II.B.2 and II.B.3 are included to ensure that public access areas required as a condition of approval of this permit are permanently guaranteed.

4. **Special Events.** The permittees intend to use public programming to draw people to the waterfront and public access areas, extend their stay once there, and to provide reasons for visitors to return. The application for the Mission Rock project states:

“Programming with a wide array of activities that appeal to different groups of people will help to bring people to the spaces who otherwise may not spend time there, and attract them at varying times of day. The more visitors a space draws and retains, the more it is seen as inviting by other potential users; not only will the spaces be more attractive, but they’ll also be safer. Programming and events will be especially important in China Basin Park, which is intended to be a regional serving facility. On ballpark event and game days, programming in China Basin Park should complement the uses around the ballpark, and tailor programming to accommodate event attendees. On days when events are not being held at the ballpark, programming will bring people who seek unique experiences and an active outdoor environment to Seawall Lot’s public realm. It is particularly important to generate rich programming and amenities to serve populations in the region that lack sufficient open space and services within open spaces.”

The Commission’s advisory Public Access Design Guidelines for the San Francisco Bay 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' experiences of the Bay. Highly active uses should always be balanced with opportunities for passive activities, such as strolling, viewing and relaxing." The Commission has authorized special events within public access areas at various locations around the Bay shoreline, including on the San Francisco Waterfront, that it found lent themselves to large public gatherings. The Commission has generally imposed special conditions upon its authorization for such events in order to somehow limit the scope, size, duration or type of events allowed, always with the objective of maintaining useable and functional public access area for a wide range of users regardless of whether or not they wish to participate in special events.

As part of the Mission Rock project, the permittees will program special events in any of the public access areas at the project site throughout the year. Examples of special events envisioned by the permittees are free outdoor movies, free or paid fitness classes (e.g., yoga, tai chi, boot camps), live music (e.g., free or paid concerts), children's programming (e.g., puppet shows, story hours, paid music classes), picnicking festivities, and pre-game sports events. Most of the special events envisioned will be open to the general public, though some will require advanced registration or tickets. Some events will be free, while others will require payment or encourage a donation from participants.

A smaller share of the special events envisioned are not public events and entry would be allowed only upon invitation. These might include private use of public access areas by attendees of large conferences, charity events, and so forth. The permittees also envision that regular use of public access areas will occur for promotional activities for products or events. These might include kiosks, mobile marketing tours, or events sponsored by a company promoting a product.

The permittees have established certain limitations on the number, type, and duration of events that may occur in each public access area (i.e., China Basin Park, Mission Rock Square, Terry Francois Boulevard, Channel Wharf, Channel Lane). The limitations are as follows:

- Events with a footprint larger than 10,000 square feet are generally limited in duration to 10 consecutive days, including setup and breakdown. The Port Director may grant exemptions for seasonal and periodic attractions or amusements that provide public or cultural benefits, such as ice skating rinks, holidays, fairs, rides, and art installations.
- Free public events that are "small"—meaning they occupy less than 10,000 square feet of a public access area—may occur on any given day. No more than two unrelated small events that collectively occupy more than 10,000 square feet of any given public access area may occur simultaneously.
- Free public events that are "medium"—meaning they occupy more than 10,000 square feet but less than 30 percent of a public access area—may occur on up to 100 days during the year, provided they do not exceed four weekend days per month within China Basin Park or six weekend days per month at Mission Rock Square.

- Ticketed public events (which may be free or require purchase of a ticket) may occur on 24 of the 100 “medium” event days within China Basin Park and Mission Rock Square.
- Promotional activations may occur within any public access area on up to 50 days per year, but are limited to a total maximum of 5,000 square feet in no more than four locations.
- Private events may occur a maximum of 18 days per year.

The primary goal of public access required by the Commission is to enhance opportunities to access and enjoy the Bay. Some amount of special event programming can be incidental to more general public access use if it is in keeping with the basic character of the park and will not obstruct public access to and enjoyment of the Bay. To ensure special events are compatible with more general public access use, certain additional limitations are appropriate for events within China Basin Park, as established in Special Condition II.B.9.c. To ensure that public shoreline paths and major pedestrian circulation areas remain passable at all times, events are not permitted on the Bay Trail and other primary circulation routes. During larger events, clear space along the edge of the trail and exclusion fencing or similar barriers may also be necessary. Setup and teardown for events shall be limited to a period that is generally not to exceed 12 to 18 hours prior to or following an event. Medium to larger events are permitted with certain restrictions on their length and the area of the park they may occupy, in order to ensure that portions of the park are available to other users at all times, and that most days the space will be used for its primary function as a shoreline public park for a wide variety of users. To ensure that all segments of the public can benefit from the programming at the park, the number of private and paid ticketed events are limited, and public ticketed events are to be widely advertised in advance of the event with available tickets offered on a first-come-first-serve basis.

This authorization for special events in this permit provides the permittees with ample opportunities to program the public access areas at China Basin Park. 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.B.9.b is included to require annual reporting on the program to the Executive Director. Special Condition II.B.9.a limits the term of authorization for special events to 10 years from the opening of the first public access area, China Basin Park. The authorization will be automatically renewed every 10 years unless it is determined by the Executive Director that modifications are required to correct an identified issue or otherwise ensure that the shoreline public access areas can accommodate the level of use produced by the events and the demands of a growing population. If the Executive Director does determine that modifications are required to the program, s/he will communicate this determination in writing to the permittees no later than twelve

months prior to the automatic renewal of the program. The permittees may then apply for approval by or on behalf of the Commission for a revised program that addresses the issues identified by the Executive Director.

5. **Interim Public Access Impacts and Improvements.** The project is to be developed in multiple phases over a period of approximately ten years. During construction, existing public access facilities at the project site, including China Basin Park and the Pier 48 knuckle wharf, will be closed for some period of time to allow for construction activities. The Bay Trail will also need to be closed and/or rerouted to permit for construction activities. These activities will result in temporal loss of shoreline public access. Detours and associated signage are to be provided during closures required by construction activities.

Special Condition II.B.15 requires the permittees to submit a construction plan in association with each phase of work that identifies measures to be undertaken to maximize public access (including physical and visual public access) to and along shoreline to the greatest possible extent during construction activities. The plan shall identify construction locations and methods, identify a detour for the Bay Trail along the closest feasible alignment to the Bay shoreline, and establish the schedule for construction activities affecting public access areas. China Basin Park is not to remain closed for construction for a period exceeding 12 months. However, should construction require closure of the park for a period longer than 12 months, the Executive Director may grant a limited time extension. In such an event, to offset the temporal loss of shoreline public access, the permittees shall provide in-lieu public access elsewhere or another public access improvement near the project site. This could include developing a smartphone audio tour highlighting cultural, historical, and ecological information about the nearby San Francisco Waterfront. The permittees may alternatively submit a fee to the San Francisco Bay Trail or another entity acceptable to the Executive Director to develop the audio tour or another equivalent public access improvement nearby the project site.

The redevelopment of Terry Francois Boulevard is part of the final project phase, Phase 4. Prior to construction of Phase 4, the permittees propose temporary improvements to Terry Francois Boulevard in the area between Mission Rock Street and China Basin Park to enhance the Bay Trail. These improvements would be minimal and consist of repaving, restriping, and pavement markings to designate bike and pedestrian circulation corridors. Special Condition II.B.14 is included to require that interim improvements to Terry Francois Boulevard are reviewed by or on behalf of the Commission to ensure they are appropriately designed to maximize user safety and comfort, and that construction is completed no later than 12 months following occupancy of any residential unit or commercial space associated with Phase 2 of the Mission Rock project.

6. **Sea Level Rise and Flooding.** Regarding the potential effects of sea level rise on public access, Bay Plan Public Access Policy No. Four states: "Public access should be sited, designed, managed, and maintained to avoid significant adverse impacts from sea level rise and shoreline flooding." Public Access Policy No. Six states: "...Any public access

provided as a condition of development should either be required to remain viable in the event of future sea level rise or flooding, or equivalent access consistent with the project should be provided nearby.”

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

The subject permit application includes a Sea Level Rise Risk Assessment and Adaptation Strategy (“Assessment and Strategy”) prepared by Moffat and Nichol, dated November 21, 2017 (revised February 16, 2018). This memorandum includes a risk assessment and adaptation strategies based on sea level rise projections that are consistent with the recommendations found in the recently updated State of California Sea-Level Rise Guidance (State Guidance), which represents the current best available scientific data available found on sea level rise projections. The State Guidance recommends use of probabilistic projections to understand and address potential sea-level rise impacts, which associate a likelihood of occurrence with sea-level rise heights and rates tied to a range of emissions scenarios. The memorandum includes conservative sea-level rise projections that assume large scale ice melt on the basis that the development represents a large new urban neighborhood and the risk of regular inundation would be high.

- a. **Vulnerability of Project Site.** The subject permit application includes a memorandum prepared by Moffat and Nichol, dated November 21, 2017 (revised February 16, 2018), which evaluates coastal flooding and sea level rise risk at the project site today, at 2030, at mid-century (2050), and at the end of the century (2100). According to the memorandum, at present day, “existing conditions, even extreme high tides, including the 100-yr return period combined tide and storm surge, do not pose a threat to the site because site grades are higher. However, the freeboard (distance above the 100-yr water level) is small, and storm waves combined with high tides could result in temporary wave overtopping along shoreline areas. With future sea level rise, the freeboard would be reduced even further, and the overtopping would become more frequent.”

The project site has grades that vary in elevation from +8.3 to +11.8 feet NAVD88, with most development in an area that has an existing elevation of about +10.3 feet NAVD88. The Base Flood Elevation (BFE) at the project site is +9.7 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 potential therefore exists for isolated flooding in limited low-lying areas, though this would only occur during an extreme flood event.

With regards to risk of flooding as a result of future sea level rise, the memorandum includes projections for future sea level rise, including estimates that assume large-scale ice melt. The inundation mapping of the project site provided as part of the memorandum shows that with 12 inches of sea level rise the site would experience no daily flooding, but during a 100-year storm event, large-scale flooding of the site would occur. With 36 inches of sea level rise, there would be some limited flooding of the site at low-lying areas on a daily basis, and the site would be fully inundated during a 100-year storm event.

- b. **Overall Project Resiliency and Proposed Adaptation Response.** The memorandum outlines a sea level rise adaptation strategy for the project site centered around raising grades to accommodate projected end-of-century sea level rise estimates. All of the development blocks (which are outside the Commission's jurisdiction) and interior public access areas (e.g., Mission Rock Square) are to be raised to an elevation of +15.2 feet NAVD88, an elevation at which no adaptations would be required to avoid inundation from flooding at end of century, assuming sea level rise of 66 inches. Portions of China Basin Park will also be raised as high as +15.2 feet NAVD88 and would slope down to existing grade.

Other areas of the project site, including Terry Francois Boulevard, would remain at or near the current grade to maintain connections to existing City streets and Piers 48 and 50. Street grades at low-lying connection points would be raised in the future as necessary if the grades of adjacent streets are raised. The adaptation plan includes triggers for implementation of identified adaptation measures.

- c. **China Basin Park Resiliency and Proposed Adaptation Response.** China Basin Park will be constructed at a grade that would protect the majority of the park from regular flooding during a storm event and assuming 66 inches of sea level rise. The grade of China Basin Park will be elevated to +15.3 NAVD88 at its highest point, along the pedestrian-only Park Promenade along the south edge of the park. The Bay Trail and most of the rest of China Basin Park will be raised to an elevation of at least +13.3 feet NAVD88, which would not be inundated even in a 100-year storm until around 2075 based on the projections utilized in the memorandum. The portions of the park Bayward of the Bay Trail (primarily stormwater treatment gardens) could be overtopped by waves or flooded under extreme storm conditions beginning at around 42 inches of sea level rise. The southeast portion of China Basin Park would be subject to inundation in the area where the grade lowers to meet Terry Francois Boulevard during an extreme storm event with 12 inches of sea level rise (around 2030 in the high sea level rise scenarios established in the memorandum). The permittees propose a two-phased adaptation strategy for China Basin Park, with the first phase to address the flooding of the low-lying areas near Terry Francois Boulevard and the second phase to address flooding that could occur after mid-century:

- “Adaptation Phase 1: When 8-inches of SLR has occurred, planning for Phase 1 of Adaptation would be initiated to address potential flooding from the northern portion of [Terry Francois Boulevard]. Simple adaptations such as raising the portion of [Terry Francois Boulevard] north of the entrance to Pier 48 or building an accessible berm at the end of [Terry Francois Boulevard] would be implemented to protect against an additional 30-inches of SLR. Based on the NRC worst-case projections, there would be about 9 years between when SLR increases from 8-inches to 12-inches, which would be sufficient to plan, permit, and build the minor adaptation in this reach. Over this 9-year period, if extreme high tides and storms were to occur simultaneously (tides much larger than King Tides couples with strong winds), the southeastern portion of the Park would experience very minor, storm-duration wave overtopping.”
- “Adaptation Phase 2: When 36-inches of SLR has occurred, planning for Phase 2 of Adaptation would be initiated to identify areas of concern where flooding is adversely affecting public uses and to develop potential adaptation measures. Simple adaptations such as raising the trail in place by 24-inches or building seat-wall barriers (walls that function as public seating areas) along the Bay side of the trail would be adequate to protect against end-of-century SLR estimates of 66-inches. Based on the NRC worst-case projections, there would be about 7 years between when SLR increases from 36” to 42”, which would be sufficient to plan, permit, and build the minor trail improvements that are foreseen as adaptations along the Park perimeter. Over this 7-yr period, if extreme high tides and storms were to occur simultaneously (tides much larger than King Tides coupled with strong winds), the Park would experience very minor, storm-duration wave overtopping.”

The permittees indicate that occasional inundation of flood waters would occur in the stormwater treatment planters that would be Bayward of where shoreline protection proposed for Adaptation Phase 2 would be installed. However, the permittees will plant saline-tolerant or climate-appropriate plant species within the stormwater treatment planters so that they would survive and continue to function in the case of inundation.

- d. **Terry Francois Boulevard Resiliency and Proposed Adaptation Response.** The permittees propose to maintain Terry Francois Boulevard at its existing elevation of approximately +11 feet NAVD88 due to the need to maintain connectivity to Piers 48 and 50. The Moffat and Nichol memorandum indicates that the elevation of the roadway is high enough that significant flooding would not occur until sea level rise of about 12 inches has occurred. Because the permittees anticipate that Pier 48 will be redeveloped at a future date, the adaptation strategy for Terry Francois Boulevard includes two variants: a two-phased adaptation response in the event that Pier 48 is not redeveloped or redeveloped at a later time than currently anticipated, and an alternative adaptation response in the event Pier 48 is rehabilitated in the near future:

- “Adaptation Phase 1 (without Pier 48 Rehabilitation): When 8-inches of SLR has occurred, interim adaptation measures along the eastern edge of [Terry Francois Boulevard] and in the vicinity of the Mission Rock St/[Terry Francois Boulevard] intersection will be implemented. Measures will entail construction of seat-wall barriers along Channel Wharf and the overlook structures at the north end of Pier 48 (or elevating the trail by 24-inches), installing flood-gates at the entrances to Pier 48 for continued access, and installing flood-gates across [Terry Francois Boulevard] near the Mission Rock St/[Terry Francois Boulevard] intersection. The intent will be to protect against a total of 36-inches of SLR. The 9-yr period that would be available between when SLR increases from 8-inches to 12-inches would be adequate for planning, designing, and implementing the adaptations. Over this 9-yr period, if extreme high tides and storms were to occur simultaneously (tides much larger than King Tides coupled with strong winds), [Terry Francois Boulevard] would experience minor, storm-duration wave overtopping.”
 - “Adaptation Phase 2 (without Pier 48 Rehabilitation): If Pier 48 is not rehabilitated by the time a SLR of 36-inches has occurred, it may not be practical to have commercial or other uses in the Pier continue because it could be flooded frequently. Therefore, adaptation for this scenario assumes building an elevated trail along where the historic seawall exists, with a seat-wall barrier on top of the elevated trail to provide viewing corridors and to protect against 66-inches of SLR.”
 - Adaptation (with Pier 48 Rehabilitation): If Pier 48 were to be rehabilitated, the design for that project would have to have to comply with the Commission’s sea level rise law and policies at that time and any required adaptations would need to be designed to complement and tie in with other improvements on-site. Depending on design features of the Pier 48 project, required adaptations for the SWL 337 project could include raising the ends of the internal streets where they intersect with Terry Francois Boulevard.
- e. **Mechanism to Fund Future Adaptation Responses.** The City and County of San Francisco established a Mello-Roos Community Facilities District (CFD) for the Mission Rock development area on February 13, 2018. Long-term financing for sea level rise adaptation measures would be provided at least in part by funds generated by the CFD, which will have an account dedicated to fund the cost of implementing such measures.

In addition to, and to reinforce, the permittees’ measures to plan for and adapt to sea level rise, special conditions are included to ensure that public access areas remain viable in the event of future sea level rise and flooding. Special Condition II.C.1 requires ongoing monitoring of sea level rise and flood risk to public access areas, consistent with the strategy proposed in the Sea Level Rise Risk Assessment and Adaptation Strategy (“Assessment and Strategy”). As conditioned, every five years the permittees will submit a revised version of the Assessment and Strategy for review by or on behalf of the Commission. The revised Assessment and Strategy would be based on best available climate science and sea level rise projections, and it would include observations of

water levels at the shoreline adjacent to public access areas (including during King Tide events) and recommendations for revisions to the adaptation strategy based on site conditions, sea level rise and storm projections, updated policy guidance, and other findings.

Special Condition II.C.2 requires implementation of a strategy along the lines proposed by the permittees (see above), as modified over time based on the results of the five-year revisions to the Assessment and Strategy. Special Condition II.C.2 requires that any flooding adaptation measures ultimately proposed shall not result in a reduction of the size or usability of the public access required by this permit. Though this outcome is not anticipated, it is possible that the adaptation plan required by this permit could result in the permittees potentially constructing adaptation measures in the shoreline band that result in a loss of available public access area. Therefore, Special Condition II.C.2 states that if reduction to the size or usability of a required public access area is unavoidable, equivalent access (in area and functionality) must be provided nearby. Future adaptation measures within the Commission's jurisdiction would require review by or on behalf of the Commission.

7. **Barrier-Free Access.** Bay Plan Public Access Policy No. Four states in part: "Public access improvements provided as a condition of any approval... should permit barrier free access for persons with disabilities to the maximum feasible extent..."

The pathway and park areas authorized herein comply with all legal requirements for accessible design, including ADA requirements. Primary circulation routes to and within China Basin Park are designed to be universally accessible, and ADA-compliant means of access are to be provided to all park users. For example, in China Basin Park, key connections such as the Bay Trail and Park Promenade include sloped walks instead of ramps, and exterior grading coordinated with building finish floor elevations to enable smooth transitions at ground-level entrances. Paving on the Bay Trail is of materials that are designed to be comfortable for walking running, bicycling, and stroller and wheelchair use. Terry Francois Boulevard will be reconstructed as a curbless shared public way. Special paving such as truncated domes and planted features will provide a continuous detectable warning or separation between pedestrian paths and the roadway. Accessibility ramps will link the sidewalks and shared public way to building frontages along Terry Francois Boulevard. Special Condition II.A requires review and approval of final construction documents in part to ensure that public access improvements constructed as part of the project permit barrier free access to the maximum extent feasible.

8. **Movement to and Along the Shoreline.** Bay Plan Public Access Policy No. Seven states, in part: "Public access improvements provided as a condition of any approval...should be designed and built to encourage...movement to and along the shoreline." Bay Plan Public Access Policy No. Nine states, in part: "Access 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..." Bay Plan Public Access Policy No. Ten states, in part: "Roads near the edge of the water should be designed as scenic parkways for slow-moving, principally

recreational traffic. The road-way 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...”

The authorized project will result in a new public street grid of 11 blocks, most of which will be less than 200 feet in length. Two new public rights-of-way (Exposition Street and Long Bridge Street) will be established connecting Third Street to Terry Francois Boulevard. Bridgeview Street will be extended from Mission Rock Street to China Basin Park, and another north-south shared public way will run between China Basin Park and the parking garage at the southwest corner of the project area. Channel Street is an east-west pedestrian connection with direct access to the edge of Channel Wharf. The permittees indicate that a clear view from Third Street to the Bay will be provided at Channel Street. Special Condition II.B.13 is included to ensure that Channel Street is constructed in the manner proposed in the Mission Rock Design Controls so as to maintain a view corridor to the water through the axis formed by Channel Street, Mission Rock Square, Channel Lane, and Channel Wharf.

At the east end of the project site, Terry Francois Boulevard will be redesigned as a waterfront shared public way to allow a mix of commercial vehicular traffic, loading and unloading zones, and shared bicycle and pedestrian access. The street level will be maintained at existing grade and connect the Bay Trail with China Basin Park to the north. The Bay Trail will be separated from the shared multi-use public way by furnishings, lighting, contrasting paving, and other visual or tactile detection cues, yet remain flush to the roadway to create a continuous public realm. The north end of the Boulevard will terminate in a paseo and transition into China Basin Park. At the paseo area, emergency vehicle access and short-term passenger and cargo loading and unloading will be provided. Traffic calming measures will be incorporated at the south end of Terry Francois Boulevard at the Mission Rock Street intersection.

Special Condition II.B.11 is included to require review and approval by or on behalf of the Commission for a Public Access and Wayfinding Sign Plan. The sign plan would ensure the installation of wayfinding, interpretive, “Public Shore,” and Bay Trail signs at appropriate locations and in the appropriate quantity.

9. **Diverse Bay-Related Activities.** Bay Plan Public Access Policy No. Seven states, in part: “Public access improvements provided as a condition of any approval... should be designed and built to encourage diverse Bay-related activities....”

The project authorized herein requires redevelopment of the existing public access facilities that exist at the project site. The Bay Trail will be widened to a minimum 16-foot-wide multi-use trail through China Basin Park and along Terry Francois Boulevard. At China Basin Park, existing facilities—including a shoreline promenade, passive lawn, seating areas, and junior baseball diamond—will be replaced by upgraded and in some cases enlarged facilities to accommodate additional users.

The Mission Rock project provides new public access improvements that encourage new Bay-related uses at the project site. These facilities include a public access dock and boat launch, which would allow for access to the Bay that does not currently exist at the project site.

10. **Ongoing Maintenance.** Bay Plan Public Access Policy No. Seven states, in part: “Public access improvements provided as a condition of any approval... should include an ongoing maintenance program...”

Responsibility for maintenance of all public infrastructure, including public access facilities, falls to either the Port or the project developer, Seawall Lot 337 Associates, LLC, according to the terms of the Master Lease (City and County of San Francisco Board of Supervisors Resolution No. 42-18). Upon the acceptance of public infrastructure by the Port, maintenance and future capital improvements to the public access areas would be paid for through funds generated by a Mello-Roos Community Facilities District established for the Mission Rock development area or other funds. The Port may establish a trustee to manage and disperse funds for maintenance activities. Special Condition II.B.6 requires 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.

The Commission finds that, as conditioned, the public access required by this permit is the maximum feasible public access consistent with the project and is otherwise consistent with the Bay Plan policies on Public Access.

- E. **Recreation.** Bay Plan Recreation Policy No. One states, in part: “Diverse and accessible water-oriented recreational facilities, such as launch ramps, beaches, and fishing piers, should be provided to meet the needs of a growing and diversifying population, and should be well distributed around the Bay and improved to accommodate a broad range of water-oriented recreational activities for people of all races, cultures, ages and income levels...”

Bay Plan Recreation Policy No. Four speaks to facilities that should be provided in waterfront parks such as China Basin Park. The policy states: “Recreational facilities that do not need a waterfront location, e.g., golf courses and playing fields, should generally be placed inland, but may be permitted in shoreline parks if they are part of a park complex that is primarily devoted to water-oriented uses, or are designed to provide for passive use and enjoyment of the Bay when not being used for sports.... Public launching facilities for a variety of boats and other water-oriented recreational craft, such as kayaks, canoes and sailboards, should be provided in waterfront parks where feasible... [L]imited commercial recreation facilities, such as small restaurants, should be permitted within waterfront parks provided they are clearly incidental to the park use, are in keeping with the basic character of the park, and do not obstruct public access to and enjoyment of the Bay.... Trails that can be used as components of the San Francisco Bay Trail...should be developed in waterfront parks. San Francisco Bay Trail segments should be located near the shoreline unless that alignment would have significant adverse effects on Bay resources...”

The Mission Rock project provides the following new or improved facilities for water-oriented recreation: a public access dock and boat launch, Bay viewing areas, a picnic area, a minimum 16-foot-wide segment of the Bay Trail along the perimeter of the project site, a network of secondary multi-use and pedestrian trails, active recreation facilities (including a small baseball diamond or similar facilities), a lawn, public plazas, bicycle parking, and seating areas. Public restroom facilities will be provided within China Basin Park and Mission Rock Square. Because these restroom facilities may be located within a structure that also contains a café or retail establishment, Special Condition II.B.10 is included to require that

the restrooms are signed as “Public Restrooms” and have a dedicated entryway separate from the entrance to a commercial establishment. The dedicated entrance ensures that the restroom will remain available to the public in the event that the retail establishment is ever closed or otherwise unavailable to the general public for a period of time.

Within China Basin Park, the permittees propose to include an active recreation area that might include a small baseball diamond. Baseball diamonds do not require a waterfront location, though inclusion of a baseball diamond within a waterfront park is consistent with the Bay Plan Recreation policies related to waterfront parks as it is part of a complex that is primarily devoted to water-oriented uses. The baseball diamond would be constructed with appropriate safety enclosures and offsets from paths. Special Condition II.A requires that final construction documents be submitted for review on the Commission’s behalf, allowing for review to ensure that recreational facilities are designed to consistent with the measures proposed in the project application.

The project includes an approximately 3,000-square-foot waterfront café and retail kiosks within China Basin Park that, while not recreation facilities per se, are incidental to the park use and will be sited so as to not interfere with the use of the park for recreational users. Special events within China Basin Park may place recreational areas off-limits to general use by the public, however Special Condition II.B.9 limits such events to 30 percent of the total area of the park so that some areas remain available for recreational users at all times.

The Commission therefore finds that, as conditioned, the project authorized herein is consistent with Bay Plan policies on Recreation.

- F. **Appearance, Design, and Scenic Views.** Bay Plan Appearance, Design, and Scenic Views Policy No. Two states, in part: “All Bayfront development should be designed to enhance the pleasure of the user or viewer of the Bay. Maximum efforts should be made to provide, enhance, or preserve views of the Bay and shoreline, especially from public areas, from the Bay itself, and from the opposite shore...”

Appearance, Design, and Scenic Views Policy No. Four states, in part: “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...”

Appearance, Design, and Scenic Views Policy No. Five states: “To enhance the maritime atmosphere of the Bay Area, ports should be designed, whenever feasible, to permit public access and viewing of port activities by means of (a)-view points (e.g., pier, platforms, or towers), restaurants, etc., that would not interfere with port operations, and (b)-openings between buildings and other sites that permit views from nearby roads.”

Appearance, Design, and Scenic Views Policy No. Eight states, in part: “Shoreline developments should be built in clusters, leaving areas open around them to permit more frequent views of the Bay...”

Appearance, Design, and Scenic Views Policy No. Fourteen states, in part: “Views of the Bay from vista points and from roads should be maintained by appropriate arrangements and heights of all developments and landscaping between the view areas and the water...”

The Mission Rock project has been designed to concentrate development on small dense blocks within a network of new internal streets and pedestrian ways that lead to the shoreline. Therefore, while the project would result in the construction of tall residential and commercial buildings, views of the Bay from Third Street—the nearest existing public street inland of Terry Francois Boulevard—would still be provided. The public access areas that are provided by the project are either located directly along the shoreline, as with China Basin Park and Channel Wharf, or along view corridors to the shoreline, as with Mission Rock Square and Channel Lane.

The permit application states: “From the Project site, AT&T Park is a focal point facing north, as well as surrounding development west and south of the Project site. East of the Project site, views of the Bay, the Bay Bridge, and Yerba Buena Island can be seen, as well as views of the East Bay Hills and Oakland skyline in the background. The Project was designed in the context of BCDC’s policies, and preserves, and enhances specific viewpoints of the San Francisco Bay and shoreline. Sweeping views of the Bay would be provided within China Basin Park and consideration would be given to the selection of trees and placement of park structures. Channel Lane and Mission Rock Square would provide visual connectivity between Third Street and the Bay. Along Terry A. Francois Boulevard, views would alternate between pier buildings and long views to the Bay.”

The project is to be designed consistent with the Mission Rock Design Controls, as adopted by Port Commission Resolution No. 18-04, which include measures to ensure that views to the water are provided within China Basin Park and from Third Street, particularly along the corridor consisting of Channel Street, Mission Rock Square, and Channel Lane. Trees and site furnishings are permitted within this corridor and are important features to provide for user comfort and mitigate the effect of wind. Per Special Condition II.A, no additional plan review is required for Mission Rock Square and Channel Lane provided that the final design is not materially different from that contained in the Mission Rock Design Controls. Special Condition II.B.13 is included to ensure that a view corridor is maintained through the Channel Street corridor as envisioned in the Mission Rock Design Controls. The corridor may occasionally be blocked for tents in association with special events in Mission Rock Square, and other minor exceptions to the Mission Rock Design Controls may be found acceptable by or on behalf of the Commission if in generally in keeping with the objective of maintaining a view corridor from Third Street to the Bay.

Special Condition II.B.12 is included to allow for review by or on behalf of the Commission of a Public Art Plan, which shall detail the design and siting criteria for public art installations in China Basin Park and within the Commission’s jurisdiction in order to ensure the public art program takes appropriate measures to avoid adverse impacts to scenic views and is generally compatible with public use of the public access areas.

The Commission therefore finds that the project, as conditioned, is consistent with Bay Plan policies on Appearance, Design, and Scenic Views.

- G. **Public Trust.** Bay Plan Public Trust Policy No. One states: “When the Commission takes any action affecting lands subject to the public trust, it should assure that the action is consistent with the public trust needs for the area and, in case of lands subject to legislative grants, should also assure that the terms of the grant are satisfied, and the project is in furtherance of statewide purposes.”

The project site includes lands located both within the Bay and on former tidelands that were filled in the early 1900s. In 1968, the State transferred control of the San Francisco waterfront, in trust, to the City and its Port Commission pursuant to the Burton Act. The Port therefore administers the tidelands granted to its control. As discussed above (see “SB 815 and AB 2797”), the Port has worked with the State Lands Commission in recent years to identify properties, such as the subject site, that could be leased for non-maritime uses that would generate increased economic returns for the Port. This coordination resulted in legislation allowing the Port to lease any portion of Seawall Lot 337 free from Public Trust use restrictions for a term not to exceed 75 years if approved by the State Lands Commission. On April 19, 2018, the State Lands Commission, considering the Mission Rock project, found reuse of the site to be in the best interests of the State and to benefit the public trust, as well as consistent with the Port’s fiduciary duty as a trustee.

Within the Commission’s jurisdiction, the project would consist of the redeveloped China Basin Park, including development of a new public dock suitable for non-motorized boats, the redevelopment of Terry Francois Boulevard into a shared street and separated Bay Trail, and the creation of a public plaza on the Pier 48 ½ marginal wharf. The Commission finds that the development of these public access areas within its jurisdiction are consistent with the public trust needs for the area, the terms of the Burton Act, and in furtherance of statewide purposes, and therefore the project, as conditioned, is consistent with Bay Plan Public Trust policies.

- H. **Design Review Board.** The Design Review Board (Board) reviewed the project on two occasions. In its initial review, at its December 5, 2016 meeting, the Board saw a design that included both a new mixed-use neighborhood at Seawall Lot 337 and the rehabilitation and reuse of Pier 48 for a commercial or industrial tenant (including concepts for public access areas on the pier aprons). The Board’s comments at this meeting were focused mostly on the need for additional information regarding aspects of the project’s design. Some Board members expressed that aspects of the design might need refinement. There were questions posed as to how the shared street at Terry Francois Boulevard would ensure safety for pedestrians and bicyclists when in use by heavy trucks. Board members also asked questions related to the siting of recreational facilities within China Basin Park, such as how compatible a baseball diamond would be with planned adjacent uses.

The Board reviewed a revised design for the project a second time at its November 6, 2017 meeting. The project design had been revised at this point and did not include the elements previously proposed at Pier 48. The Board considered whether the facilities proposed would be adequate to accommodate the anticipated number of users, occupants, and employees that would make use of the project site. Overall the Board felt the facilities were appropriate, but some members questioned if there would be adequate space for circulation during big events, and whether the spaces would be durable enough to withstand influx of visitors from large gatherings. In terms of amenities in the park, the Board expressed general support for the types of facilities included, though one Board member commented there may be the need for safety features to be designed into the baseball diamond area to avoid conflicts among users. The Board also considered the complexities involved in future sea level rise adaptation of an urban infill site, but did not recommend changes to the design or adaptation measures proposed.

- I. **Environmental Review.** On February 5, 2017, the City and County of San Francisco, the lead agency, certified an Environmental Impact Report (EIR) for the project in accordance with the California Environmental Quality Act (CEQA).

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/transferors and the transferee shall execute and submit to the Commission a permit assignment form acceptable to the Executive Director. An assignment shall not be effective until the assignee executes and the Executive Director receives an acknowledgment that the assignee has read and understands the permit and agrees to be bound by the terms and conditions of the permit, and the assignee is 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. The Commission may revoke any permit for such violation after a public hearing held on reasonable notice to the permittees or their assignee 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 assignee 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 assignee 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.