

## MEMORANDUM

May 9, 2014

**TO:** MEMBERS, PORT COMMISSION  
Hon. Leslie Katz, President  
Hon. Willie Adams, Vice President  
Hon. Kimberly Brandon  
Hon. Mel Murphy  
Hon. Doreen Woo Ho

**FROM:** Monique Moyer  
Executive Director

**SUBJECT:** Request approval of a Special Event in excess of 90-days at Port property at Seawall Lot 337 pursuant to Lease No. L-14980 between Port and China Basin Ballpark Company, LLC (Resolution No. 14-34); and Request approval of Revocable License No. 15810 for Port property at Terry A. Francois Blvd. between the Port and China Basin Ballpark Company, LLC to be used as a parklet for public benefit. (Resolution No. 14-35), both activities to be coterminous with Lease No. L-14980

**DIRECTOR'S RECOMMENDATION:** Approve Attached Resolutions

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### **Executive Summary**

Port staff is seeking approval of a multiple year special event at Seawall Lot 337 ("SWL 337") pursuant to the provisions of existing Port Lease No. L-14980 ("Lease") with China Basin Ballpark Company, LLC ("CBBC"). The Lease generally allows special events, but requires Port Commission approval for special events that exceed 90 days. The proposed special event would commence June 1, 2014 and end upon expiration or earlier termination of the Lease. The special event would utilize approximately 18,400 square feet (or 3%) of Seawall Lot 337 as shown on the attached Exhibit A.

Port staff also seeks approval for Revocable License No. 15810 with CBBC to allow for the use of Port property as a parklet for public benefit ("License"). The parklet comprises approximately 1,760 square feet of paved space along approximately 220 linear feet of curb space ("License Area") and approximately 8,048 square feet of paved space within Terry A. Francois Blvd ("Expanded License Area") as shown on the attached Exhibit B. Port staff proposes a fee waiver for the License as the parklet will provide a public amenity that benefits the Public Trust.

**THIS PRINT COVERS CALENDAR ITEM NO. 12B**

## **Background**

On October 25, 2011, the Port Commission approved Resolution No. 11-68, approving the Lease which allows surface parking, special events and signage at SWL 337. CBBC is a tenant in good standing pursuant to Port Commission policy. The Board of Supervisor's approved the Lease by Resolution No. 85-12 and it became effective on April 1, 2012. The Lease expires on March 31, 2017.

CBBC now proposes modest surface improvements for portions of SWL 337 and Terry A. Francois Blvd. in support of a special event and parklet as further described below. SWL 337 currently provides surface parking for commuters, baseball games and other events at AT&T Park. Terry A. Francois Blvd. provides on-street metered parking except at times when there are events at AT&T Park during which periods the Municipal Transportation Agency closes Terry A. Francois Blvd. as a traffic control and public safety measure.

## **Proposed Special Event**

CBBC's proposed special event ("Activation") will include temporary retail opportunities, including quick serve food and locally-made products, and an enhanced public realm with public seating, landscaping, and restrooms. The Activation will be subject to all the terms of the Lease and will be coterminous with the Lease. The following elements are proposed:

- Approximately 17,000 square feet of open space and landscaping to create a new public pedestrian area.
- Approximately 4,500 square feet of interior space for retailers and the public within two levels of repurposed shipping containers.
- An approximately 3,000 square foot deck and adjacent seating area, which will be open to the public. Some portion of the deck may be closed for ticketed events from time to time.

The Activation's total footprint at SWL 337 is approximately 18,400 square feet, or 3% of SWL 337. It will displace 70 parking spaces. The hours of operation of the Activation will depend on the day of the week, but will not begin earlier than 7:00 a.m. or end later than 11:00 p.m. consistent with the Port's good neighbor policy. Food and beverages will be sold, including beer and wine in designated areas only. The capacity of the Activation area will be approximately 700 persons.

The Activation will include four distinct areas:

1. a coffee and street food patio;
2. a pop-up local retail area;
3. a beer garden with substantial food offerings; and
4. an upstairs outdoor deck.

Occasional small-scale entertainment events, such as art performances, cinema-in-the-park, live or recorded music or stand-up comedy, may also occur within the Activation area (subject to regulatory permitting). Landscape elements and public areas will be

oriented to provide views of the Bay, and offer areas for passive or active recreation, family picnics and small gatherings. Public restroom facilities, including ADA accessible facilities, will be provided. The Activation area will be secured by a perimeter fence, and necessary back-of-house areas will be provided for waste stream sorting, storage, and other operational needs.

### **Proposed Parklet – open to public at all times**

In order to facilitate the Activation, the Port and CBBC have negotiated License No. 15810, starting on June 1, 2014 with a term coterminous with the Lease. The License provides for approximately 1,760 square feet of Terry A. Francois Blvd. to be used as a parklet solely for public access. The parklet would consist of movable platforms within an area now occupied by 11 metered parking spaces on the south side of Terry A. Francois Boulevard ("License Area"). These moveable platforms will be improved with landscaping, seating and gathering spaces, similar to the City's "parklet" program.

During events at AT&T Park, the moveable platforms will be moved out into the adjacent approximately 8,048 square foot portion of Terry A. Francois Boulevard ("Expanded License Area"). Terry A. Francois Boulevard is currently closed to traffic before, during and after events at the AT&T Park, except for emergency ingress/egress. Under the Activation, a San Francisco Fire Department-approved emergency access lane will be maintained at all times, including when the Expanded License Area is in use. As with the proposed special event, under the License CBBC will maintain these improvements and indemnify the Port against any and all loss or liability.

### **Analysis**

#### *Placemaking*

The primary goal of the Activation and parklet is to introduce a lively, year-round neighborhood presence south of the Mission Creek Channel. The growing Mission Bay and Central Waterfront community will benefit from this enhanced year round public asset, and Giants fans will enjoy the unique waterfront setting on game days. The Activation area will serve as a hub for visitors to meet up with friends, enjoy views of the ballpark and the Bay, and enjoy food and beverages in an intimate, uniquely San Francisco setting. The Activation and parklet areas will serve as a central gathering place for neighborhood residents and the South of Market/UCSF office community, and a happy hour destination for workers commuting from the peninsula using the nearby Caltrain station. The Activation and parklet will also provide cultural programming and opportunities for active recreation for weekend visitors, including families, picnickers and bicyclists.

#### *Transportation and Parking*

Access to the Activation area is and will continue to be provided via Third Street and Terry A. Francois Boulevard. Bridges located at the Third Street and Fourth Street crossings over Mission Creek provide pedestrian, bicycle, San Francisco Municipal Railway and vehicle access from the SOMA area and the Fourth and King Streets Caltrain station to the Activation area. Parking will be available on SWL 337, which is already used for paid public parking.

### *Security and Maintenance*

The Activation and parklet will bring employees, visitors, vendors and others to SWL 337 on a daily basis between the hours of 7 a.m. and 11 p.m. serving to activate an isolated portion of the waterfront and enhance the safety of the area. CBBC currently employs around the clock security for both AT&T Park and SWL 337 and will continue to provide security to the Activation and parklet sites. CBBC will also maintain, operate and program the Activation and parklet areas at its own expense to ensure a safe and inviting environment. Use of the Activation area will be subject to the Rules for Special Events (good neighbor policies) and the Zero Waste Events and Activities Policy and all other requirements and obligations of the Lease.

### *Fee Proposal*

#### **Special Event**

The Lease provides that CBBC shall propose and the Executive Director shall thereafter reasonably determine, the fee for any special event exceeding 90 days. At a minimum, the fee cannot be less than the Port Commission's minimum parameter rental rate for paved land, which for this site is approximately \$77,000 per year. In addition to meeting this minimum requirement, the Lease requires that CBBC perform due diligence to Port's satisfaction, that the special event does not displace parking revenue the Port could otherwise have expected to receive from the 70 parking spaces displaced by the special event, which CBBC has determined is approximately \$70,000 per year.

CBBC has analyzed the anticipated increase in parking revenues to the Port from patrons choosing to drive to the Activation site and park in SWL 337. These anticipated new parking revenues total \$150,000 per year. In light of these findings, Port staff has determined the Activation will not reduce existing Port revenues. However, recognizing the speculative basis of the anticipated parking revenues, in no event shall annual incremental Port revenues be less than the \$77,000 minimum parameter rental rate.

CBBC will make a significant investment in the improvements required for the Special Event and associated parklet. This investment is anticipated to be recovered from Activation revenues during the third year of operations and subsequently, CBBC will pay to Port 25% of all net annual Activation revenues in excess of the \$77,000 minimum parameter rental rate. Net Revenue is defined as all payments, revenues, fees or amounts received by CBBC for the use of the Activation area less the cost of possessory interest taxes. CBBC will include information about revenues from the Activation in its regular monthly and annual reports under the Lease.

#### **License**

With respect to the License for the parklet, CBBC has requested (and Port staff concurs) that the monthly license fee should be waived as the parklet will provide a benefit to the Public Trust based on the following: (1) the 11 displaced parking meters currently cannot be used during events at AT&T Park and do not otherwise generate significant revenue compared to the value of the proposed public amenities; (2) there are no other uses for the License Area or Expanded License Area that would generate rent to the Port; (3) no other uses would be displaced; (4) CBBC will not use the space for either commercial or exclusive use; (5) the Port will not be expending any harbor fund resources or revenues to support this use; and (6) there is direct benefit to the

Public Trust in that the parklet use will enliven the area, enhance the neighborhood area by attracting people to the waterfront, and provide public access and raise awareness of the waterfront and its public benefits and amenities.

*California Environmental Quality Act and Chapter 31 Appeal Rights*

On May 8, 2014, the San Francisco Planning Department issued a Class 3(c) categorical exemption from environmental analysis pursuant to the California Environmental Quality Act (“CEQA”) for the Activation and the parklet activities. If the Port Commission approves the proposed special event and License through the attached Resolutions based on this categorical exemption, its action constitutes the “Approval Action” (as defined in S.F. Administrative Code Chapter 31, as amended, Board of Supervisors Ordinance Number 161-13). As such, the CEQA decision prepared in support of this Approval Action will be subject to appeal within the time frame specified in S.F. Administrative Code Section 31.16. Typically, an appeal must be filed within 30 calendar days of the Approval Action (for information on filing an appeal under Chapter 31, contact the Clerk of the Board of Supervisors at City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102, or call 415-554-5184).

With respect to the special event and License, the Planning Department’s Environmental Review Officer has deemed the activities to be exempt from further environmental review and an exemption determination has been prepared and can be obtained on-line at <http://sf-planning.org/index.aspx?page=3447>. Under CEQA, in a later court challenge, a litigant may be limited to raising only those issues previously raised at a hearing on the project or in written correspondence delivered to the Board of Supervisors, Planning Commission, Planning Department or other City board, commission or department at, or prior to, such hearing, or as part of the appeal hearing process on the CEQA decision.

**License Terms**

The License uses the Port’s standard form agreement and contains all current provisions regarding defaults and remedies, compliance with laws, insurance, indemnity and exculpation, and hazardous materials. Basic terms are shown below:

**BASIC LICENSE INFORMATION**

<i>License Number:</i>	<b>15810</b>
<i>Licensee:</i>	China Basin Ballpark Company, LLC, a Delaware Limited Liability Company.
<i>License Area:</i>	<u>Parcel A</u> : Approximately 1,760 square feet of paved curb space in Terry A. Francois Blvd. and; <u>Parcel B (“the Expanded License Area”)</u> : Approximately 8,048 square feet of paved street space in Terry A. Francois Blvd.

<i>Commencement Date:</i>	June 1, 2014
<i>Expiration Date:</i>	This License shall expire upon the expiration (March 31, 2017) or earlier termination of Lease No. L-14980 between Port and Licensee.
<i>Background:</i>	The parklet will be created and operated under this License in connection with a special event to be held on Seawall Lot 337 pursuant to Lease No. L-14980 between Port and Licensee. Provided that Licensee complies with all the terms of this License, the Port waives the use fees for use of the space because: (1) the 11 displaced parking meters currently cannot be used during events at the AT&T Park and do not otherwise generate significant revenue compared to the value of the proposed public amenities; (2) there are no other uses for the License Area or Expanded License Area that would generate rent to the Port; (3) no other uses would be displaced; (4) CBBC will not use the space for either commercial or exclusive use; (5) the Port will not be expending any trust resources or revenues to support this use; and (6) there is direct benefit to the Public Trust in that the parklet use will enliven the area, enhance the neighborhood area by attracting people to the waterfront, provide public access and raise awareness of the waterfront and its public benefits and amenities.
<i>Security Deposit:</i>	Covered by security deposit under Lease No. L-14980.
<i>Permitted Activity:</i>	The License Area shall be used solely for the installation, maintenance, operation and removal of a moveable platform parklet that provides temporary fully accessible public open space and for no other purpose. During periods when Terry A. Francois Boulevard is closed to accommodate events at AT&T Park, the parklet may be moved into the Expanded License Area for the same purposes.
<i>Additional Prohibited Uses:</i>	Licensee will be prohibited from using the License Area for any of the following activities: (a) Retail sales, sale or consumption of alcohol, and parking; (b) in any manner which unreasonably interferes with the use of any roadway or sidewalk not within the License Area by the public, other Port tenants or the Port; and

	(c) Licensee may wash the License Area, but is prohibited from discharging any materials into the San Francisco Bay, including potable water, and must direct all wash water to the sewer.
<i>Improvements</i>	<p>Licensee anticipates installing the parklet improvements by August 1, 2014 Licensee will pay the entire cost for the parklet and will not receive or seek compensation or consideration for any improvements.</p> <p>The parklet Improvements shall be attractive and of good quality. Licensee shall not place any Improvements within the License Area without Port's and, at Port's election, the Waterfront Design Advisory Committee's, written approval of the design, size, color, position and method of attachment or installation of such improvements. All such improvements shall be designed, installed, operated and maintained so as to prevent any unreasonable interference with general pedestrian use of the sidewalk and to minimize any potential tripping or other hazards.</p>
<i>Signage</i>	Any signage is limited to that which provides public education or public information. No advertising or branding signage shall be allowed. All signage will undergo review and approval by the Port and may include acknowledgement of Port and License Area to produce the parklet but no other advertising, branding or business promotional purpose.
<i>Cure Period:</i>	24 Hours
<i>Utilities, Services Maintenance and Repair:</i>	Sole responsibility of Licensee--no exceptions

**Recommendation**

Port staff recommends that the Port Commission approve the attached Resolutions approving the Activation and License 15810 with China Basin Ballpark Company, LLC, a Delaware limited liability corporation, on such terms and conditions as described in this staff report.

By: Phil Williamson, Senior Project Manager  
For: Byron Rhett, Director of Planning and Development

Exhibit A Activation Area  
Exhibit B License Area and Expanded License Area

**PORT COMMISSION  
CITY AND COUNTY OF SAN FRANCISCO  
RESOLUTION NO. 14-34**

- WHEREAS, Charter Section B3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of the City and County of San Francisco; and
- WHEREAS, pursuant to Port Commission Resolution No. 11-68 and Board of Supervisor's Resolution No. 85-12, on April 1, 2012, Port and China Basin Ballpark Company, LLC, ("CBBC") entered into Lease No. L-14980 ("Lease") for a five-year term for surface parking and special events at Seawall Lot 337 ("SWL 337") which Lease requires Port Commission approval for special events exceeding ninety days; and
- WHEREAS, CBBC proposes to hold a special event for greater than 90 days on approximately 18,400 square feet (or 3%) of SWL 337 that would serve as a central gathering place and provide retail and cultural programming opportunities for neighborhood residents and visitors; and
- WHEREAS, the fee structure proposed by CBBC pursuant to Lease No. L-14980 has been determined by the Executive Director to be consistent with the Lease; and
- WHEREAS, upon CBBC's recovery of installation costs, Port will receive 25% of net revenues from the special event on the terms described in the Memorandum dated May 9, 2014 accompanying this Resolution; and
- WHEREAS, the S.F. Planning Department issued a Categorical Exemption for the special event on May 8, 2014 in compliance with the California Environmental Quality Act (CEQA) and the proposed action is the Approval Action as defined by S.F. Administrative Code Chapter 31; now, therefore be it
- RESOLVED, that the Port Commission approves the special event described in the Memorandum dated May 9, 2014 accompanying this Resolution and authorizes the Executive Director to take such actions (including the execution of agreements) as she deems necessary and advisable, in consultation with the City Attorney, to effectuate this approval and the purpose and intent of this Resolution, as conclusively evidenced by the Executive Director's actions, including allowing an expansion of the Activation area consistent with the terms of this Resolution.

***I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of May 13, 2014.***

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Secretary



**PORT COMMISSION  
CITY AND COUNTY OF SAN FRANCISCO**

**RESOLUTION NO. 14-35**

- WHEREAS, Charter Section B3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of the City and County of San Francisco; and
- WHEREAS, Pursuant to Port Commission Resolution No. 11-68 and Board of Supervisor's Resolution No. 85-12, on April 1, 2012, Port and China Basin Ballpark Company, LLC, ("CBBC") entered into Lease No. L-14980 ("Lease") for surface parking and special events at Seawall Lot 337 ("SWL 337"); and
- WHEREAS, Pursuant to Port Commission Resolution No. 14-34, on May 13, 2014, the Port Commission approved a special event known as the "Activation" on SWL 337; and
- WHEREAS, In connection with the Activation, CBBC proposes to install and operate a parklet, including landscaping, seating and gathering spaces on a moveable platform for the public's benefit and enjoyment on a portion of Terry A. Francois Boulevard; and
- WHEREAS, Port staff has negotiated a revocable license with CBBC, for a license area of approximately 1,760 square feet along Terry Francois Boulevard, expanding by 8,048 square feet in a portion of Terry A. Francois Boulevard when the street is closed for AT&T events ("License"); and
- WHEREAS, CBBC has sought and Port staff agrees that the fees for the License should be waived as the parklet will provide a benefit to the Public Trust based on the following: (1) the 11 displaced parking meters currently cannot be used during events at the AT&T Park and do not otherwise generate significant revenue compared to the value of the proposed public amenities; (2) there are no other uses for the area that would generate rent to the Port; (3) no other uses would be displaced; (4) CBBC will not use the space for either commercial or exclusive use; (5) the Port will not be expending any Public Trust resources or revenues to support this use; and (6) there is direct benefit to the Public Trust in that the parklet use will enliven the area, enhance the neighborhood area by attracting people to the waterfront, and provide public access and raise awareness of the waterfront and its public benefits and amenities; and

WHEREAS, The S.F. Planning Department issued a Categorical Exemption for the License on May 8, 2014 in compliance with the California Environmental Quality Act (CEQA) and the proposed action is the Approval Action as defined by S.F. Administrative Code Chapter 31; now, therefore be it

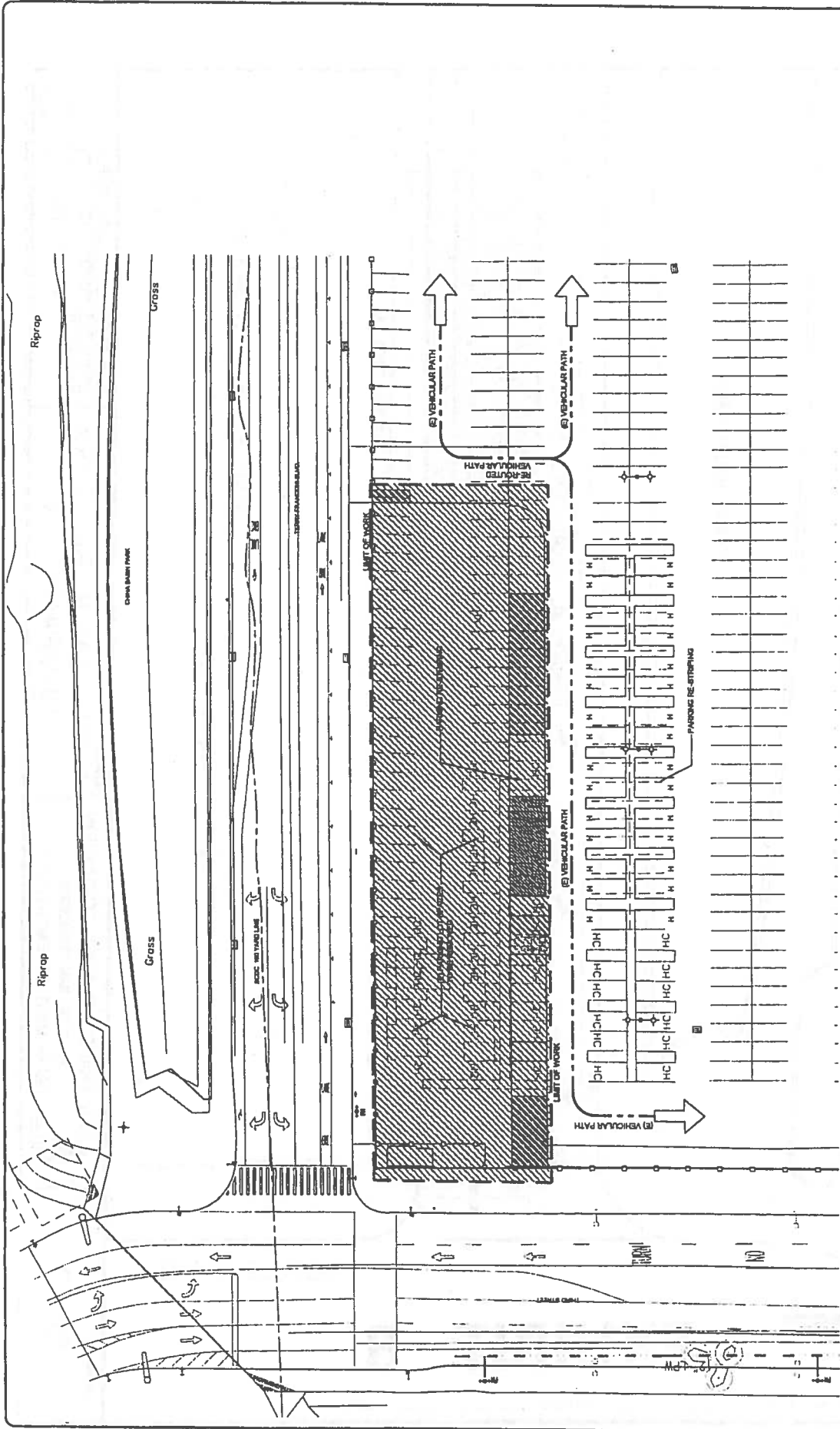
RESOLVED, that the Port Commission approves the License and authorizes the Executive Director or her designee to execute the License; and, be it further

RESOLVED, that the Port Commission authorizes the Executive Director or her designee to enter into any additions, amendments or other modifications to the License that the Executive Director, in consultation with the City Attorney, determines are in the best interest of the Port, do not materially increase the obligations or liabilities of the City or Port or materially decrease the benefits to the City or Port, and are necessary or advisable to complete the transactions which the License contemplates and effectuate the purpose and intent of this Resolution, such determination to be conclusively evidenced by the execution and delivery by the Executive Director or her designee of the License, and any such amendments thereto.

***I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of May 13, 2014.***

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Secretary



 3300 20th ST San Francisco, CA 94110 Tel: 415.424.2200 Fax: 415.424.2202	<b>LOT A ACTIVATION PLAN</b> San Francisco, California		 NORTH FULL SCALE 1" = 20'-0" 22" X 34" PAPER HALF SCALE 1" = 40'-0" 11" X 17" PAPER	DATE: 03/14/14 ISSUE DESCRIPTION: DESIGN DEVELOPMENT CONTRACTOR: COPEL	DRAWING NAME: <b>PARKING LOT RECONFIGURATION</b>	DRAWING NO: <b>G0.03</b> SHEET 5 OF 34

**EXHIBIT A**

McCOVEY COVE

CHINA BASIN PARK

TERRY A. FRANCOIS BLVD

PARCEL B

PARCEL A

EXISTING FENCE LINE

SWL 337 PARKING LOT

PARCEL A = 1,760 Sq Ft

PARCEL B = 8,048 Sq Ft

THIRD STREET



# EXHIBIT B

INITIALS: PORT: \_\_\_\_\_ LICENSEE: \_\_\_\_\_ DATE: \_\_\_\_\_

DRAWN BY: EDC DATE: MAY 8, 2014

CHECKED BY: P. WILLIAMSON SCALE: 1" = 40'

PLACE CODE NO. 4033-00 SHEET NO. \_\_\_\_\_ OF \_\_\_\_\_ SHEETS

LICENSEE

CHINA BASIN BALLPARK  
COMPANY, LLC.

SAN FRANCISCO PORT COMMISSION  
PORT OF SAN FRANCISCO  
DEPARTMENT OF ENGINEERING

LICENSE NO.

15810