

File No. 181225

Committee Item No. 8

Board Item No. 12

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Sub-Committee

Date March 20, 2019

Board of Supervisors Meeting

Date April 2, 2019

Cmte Board

- | | | |
|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Contract/Agreement |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Public Correspondence |

OTHER (Use back side if additional space is needed)

- | | | |
|-------------------------------------|-------------------------------------|---|
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Treasure Island Development Authority Resolution</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Power Point Presentation</u> |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |

Completed by: Linda Wong

Date March 15, 2019

Completed by: Linda Wong

Date March 25, 2019

AMENDED IN COMMITTEE
3/20/2019

FILE NO. 181225

RESOLUTION NO.

1 [Lease Agreement - Treasure Island Enterprises - Treasure Island Marina - \$90,000 Initial
2 Annual Base Rent]

3 **Resolution approving a lease agreement between the Treasure Island Development**
4 **Authority and Treasure Island Enterprises, LLC, a California limited liability company**
5 **for the development and management of Treasure Island Marina for a term of 66 years**
6 **following Board approval for an initial annual base rent of \$90,000 with rent increases**
7 **adjusted annually by the Consumer Price Index, as defined herein; making findings**
8 **under the California Environmental Quality Act, adopting a Mitigation Monitoring and**
9 **Reporting Program for the marina project, and confirming the Planning Department's**
10 **determination that no additional environmental impacts that were not previously**
11 **identified, would occur as a result of the proposed lease.**

12
13 WHEREAS, Naval Station Treasure Island is a former military base located on
14 Treasure Island and Yerba Buena Island (together, the "Base"); and,

15 WHEREAS, The Base was selected for closure and disposition by the Base
16 Realignment and Closure Commission in 1993, acting under Public Law 101-510, and its
17 subsequent amendments; and

18 WHEREAS, On May 2, 1997, the Board of Supervisors passed Resolution No. 380-97,
19 authorizing the Mayor's Treasure Island Project Office to establish a nonprofit public benefit
20 corporation known as the Treasure Island Development Authority (the "Authority") to act as a
21 single entity focused on the planning, redevelopment, reconstruction, rehabilitation, reuse and
22 conversion of the Base for the public interest, convenience, welfare and common benefit of
23 the inhabitants of the City and County of San Francisco; and
24
25

1 WHEREAS, Under the Treasure Island Conversion Act of 1997 (the "Act"), which
2 amended Section 33492.5 of the California Health and Safety Code and added Section 2.1 to
3 Chapter 1333 of the Statutes of 1968, the California Legislature (i) designated the Authority as
4 a redevelopment agency under California redevelopment law with authority over the Base
5 upon approval of the City's Board of Supervisors, and (ii) with respect to those portions of the
6 Base which are subject to the Tidelands Trust, vested in the Authority the authority to
7 administer the public trust for commerce, navigation and fisheries as to such property; and

8 WHEREAS, On February 6, 1998, the Board of Supervisors adopted Resolution No.
9 43-98 approving the designation of the Authority as a redevelopment agency for Treasure
10 Island and Yerba Buena Island; and

11 WHEREAS, On January 24, 2012, the Board of Supervisors rescinded designation of
12 the Authority as the redevelopment agency for Treasure Island under California Community
13 Redevelopment Law in Resolution No. 11-12; although such rescission does not affect
14 Authority's status as the Local Reuse Authority for Treasure Island or the Tidelands Trust
15 trustee for the portions of Treasure Island subject to the Tidelands Trust, or any other powers
16 or authority of the Authority; and

17 WHEREAS, The Authority, together with the San Francisco Planning Department, are
18 the Lead Agencies responsible for the implementation of the California Environmental Quality
19 Act ("CEQA") for this area and have undertaken a planning and environmental review process
20 for the development and expansion of the Treasure Island Marina (the "Project") and provided
21 for appropriate public hearings before the respective Commissions; and

22 WHEREAS, On June 22, 1999, the Authority Board of Directors approved the
23 Exclusive Negotiating Agreement ("ENA") with Treasure Island Enterprises, LLC, a California
24 limited liability company ("TIE"), pursuant to which the parties agreed, among other things, to
25 negotiate in good faith with each other to enter into a lease disposition and development

1 agreement and ground lease and any necessary transaction documents for the Project, as
2 well as a sublease for the interim operation of the Treasure Island Marina; and

3 WHEREAS, On August 23, 2003, the Planning Department and Authority released for
4 public review and comment the Draft Environmental Impact Report for the Transfer and
5 Reuse of Naval Station Treasure Island (Planning Department File No. 94.448E), which
6 includes both a program-level analysis of the transfer of the portions of the former base from
7 the United States Navy to the City and County of San Francisco and a project-level analysis
8 for the marina development; and

9 WHEREAS, The Planning Commission and the Authority Board of Directors held a joint
10 public hearing on October 2, 2003, on the Draft Environmental Impact Report and received
11 written public comments until October 21, 2003, for a total of 60 days of public review; and,

12 WHEREAS, The Planning Department and Authority prepared a Final Environmental
13 Impact Report ("2006 FEIR") for the Transfer and Reuse of Naval Station Treasure Island
14 consisting of the Draft Environmental Impact Report, the comments received during the
15 review period, any additional information that became available after the publication of the
16 Draft Environmental Impact Report, and the Comments and Responses, all as required by
17 law, a copy of which is on file with the Planning Department under Case No. 94.448E, which
18 is incorporated into this motion by this reference; and

19 WHEREAS, On May 5, 2005, the Planning Commission, by Motion No. 17020, and the
20 Authority Board of Directors, by Resolution No. 05-017-5105, as co-lead agencies, certified
21 the 2006 FEIR and made certain environmental findings under CEQA; and

22 WHEREAS, On July 12, 2010, the Planning Department and Authority released for
23 public review and comment the Draft Environmental Impact Report for the Treasure
24 Island/Yerba Buena Island Project (Planning Department Case No. 2007.0903E), which
25 analyzed the impacts of the proposed master development, including an analysis of the new

1 and upgraded landside and waterside facilities for the existing Treasure Island Sailing Center,
2 located adjacent the marina at Clipper Cove, to the east, and landside services and
3 improvements for the proposed expanded marina; and

4 WHEREAS, The Planning Commission and the Authority Board of Directors held a joint
5 public hearing on August 12, 2010, on the Draft Environmental Impact Report and received
6 written public comments until August 26, 2010, for a total of 45 days of public review; and

7 WHEREAS, The Planning Department and Authority prepared a Final Environmental
8 Impact Report ("2011 FEIR") for the Treasure Island/Yerba Buena Island Project consisting of
9 the Draft Environmental Impact Report, the comments received during the review period, any
10 additional information that became available after the publication of the Draft Environmental
11 Impact Report, and the Draft Summary of Comments and Responses, all as required by law,
12 a copy of which is on file with the Planning Department under Case No. 2007.0903E, which is
13 incorporated into this motion by this reference; and

14 WHEREAS, On April 21, 2011, the Planning Commission by Motion No. 18325, and
15 the Authority Board of Directors, by Resolution No. 11-14-04/21, as co-lead agencies, certified
16 the completion of the 2011 FEIR, and unanimously approved a series of entitlement and
17 transactional documents, including certain environmental findings under CEQA and a
18 Mitigation Monitoring and Reporting Program ("MMRP"); and

19 WHEREAS, On June 7, 2011, in Motion No. M11-0092, the Board of Supervisors
20 unanimously affirmed certification of the 2011 FEIR, and on that same date, the Board of
21 Supervisors, in Resolution No. 246-11, adopted CEQA findings and the MMRP, and made
22 certain environmental findings under CEQA; and

23 WHEREAS, Subsequent to the certification of the 2006 FEIR and the 2011 FEIR, TIE
24 proposed several updates to the Project due to: (1) the evolution and modernization of marina
25 design, (2) the United States Navy requirements involving the hazardous materials clean-up

1 efforts at Clipper Cove, and (3) conformance with the Division of Boating and Waterways
2 (DBW) Guidelines for Marina Berthing Facilities that receive state funding.; and

3 WHEREAS; The Planning Department prepared a Case File Memorandum on July 5,
4 2017 (the "2017 Memorandum"), which identified the proposed revisions to the Project and
5 concluded that the proposed revisions to the Project would result in no additional
6 environmental impacts, that the severity of impacts already-identified in the 2006 EIR and the
7 2011 EIR would not increase, and that no additional environmental analysis would be required
8 under CEQA; and

9 WHEREAS; Pursuant to California Public Resources Code, Section 21166 and CEQA
10 Guidelines, Section 15162, the Planning Department concluded that a subsequent or
11 supplemental environmental impact report is not required; and

12 WHEREAS, The Planning Department and Authority prepared proposed Findings, as
13 required by CEQA, regarding the alternatives, mitigation measures and significant
14 environmental impacts analyzed in the 2006 FEIR, 2011 FEIR, and overriding considerations
15 for approving the Project, attached as Attachment A-1, including a the MMRP, which was
16 made available to for Authority's review and consideration (collectively, the "CEQA Findings");
17 and

18 WHEREAS, Following further consultation, TIE reduced the proposed footprint of the
19 Marina to 724 lineal feet by 718 lineal feet of dock area and approximately 220 proposed
20 slips, and the Board of Supervisors adopted Resolution No. 173-18, finding that the footprint
21 of the new marina is consistent with the vision of marina development in the Reuse Plan for
22 Treasure Island Naval Station approved by the Board of Supervisors and further finding this
23 footprint upholds the principle that marina redevelopment in Clipper Cove should not diminish
24 the character of existing public recreation and public education on Clipper Cove, including
25 most interim uses; and

1 WHEREAS, On October 30, 2017, the Authority Board of Directors ("Authority Board"),
2 approved Resolution No. 17-30-10/30 adopting CEQA Findings, adopting the MMRP, and
3 confirming the San Francisco Planning Department's determination that no additional
4 environmental impacts would occur as a result of project implementation and no additional
5 environmental analysis other than the Planning Department's July 5, 2017, Case File
6 memorandum is required under CEQA; and

7 WHEREAS, Authority Board Resolution No. 17-36-10/30 also approved and authorized
8 the execution of a 66-year lease agreement between the Authority and TIE for the
9 development and management of the Treasure Island Marina, subject to the approval of the
10 Board of Supervisors, and subject to all mitigation measures detailed in the MMRP relevant to
11 the Project; and

12 WHEREAS, Authority staff and TIE have negotiated a 66-year lease, (the "Lease"),
13 whereby TIE would develop and manage the Treasure Island Marina consisting of
14 approximately 724 lineal feet by 718 lineal feet of dock area and approximately 220 proposed
15 slips in Clipper Cove, and the Authority will also provide nonexclusive use / access to the
16 common water areas of Clipper Cove and to the adjacent landside areas; and

17 WHEREAS, Under the Lease, TIE would construct a new Treasure Island Marina in
18 three phases, at an estimated project cost of \$19,457,677; existing Marina slip holders would
19 have an opportunity to relocate into the new slips that are created in the first two phases; and
20 slip rental rates in the redeveloped Marina will be set at market-rate based on comparable
21 rents charged at other marinas within the greater San Francisco Bay Area; and

22 WHEREAS, Slip holders in the existing Treasure Island Marina will be given the
23 opportunity to occupy slips in the new Marina; and
24
25

1 WHEREAS, If a slip holder's vessel is smaller than the available slip, they will be
2 placed in the smallest available slip and charged a market rate based on the actual length of
3 their vessel rather than the size of the slip occupied; and

4 WHEREAS, Under the Lease, TIE will pay a minimum base rent of \$7,500.00 per
5 month or \$90,000 annually, with future Consumer Price Index adjustments, and an annual
6 percentage rent based upon gross receipts, if such amount is higher than the minimum base
7 rent under the formula set forth in the Lease; and

8 WHEREAS, The Board of Supervisors Resolution establishing the Authority, AB 699
9 and TIDA's Bylaws require that the Authority obtain Board of Supervisors approval of any
10 agreements having a term in excess of ten (10) years or anticipated revenues of \$1,000,000
11 or more; and

12 WHEREAS, On July 11, 2018, the Authority Board of Directors, having reviewed and
13 considered the 2006 FEIR, 2011 FEIR and the 2017 Memorandum, approved Resolution 18-
14 31-0711, adopting the CEQA Findings, confirming the San Francisco Planning Department's
15 determination that no additional environmental impacts would occur as a result of project
16 implementation and no additional environmental analysis other than the 2017 Memorandum
17 would be required and approving the Lease subject to the approval of the Board of
18 Supervisors, and subject to all mitigation measures detailed in the MMRP considered relevant
19 to the Project; and

20 WHEREAS, In Resolution No. 173-18 approving the footprint of the marina, the Board
21 of Supervisors resolved that "Marina redevelopment in Clipper Cove should not cause
22 diminished water depth in other areas of the Cove" and that "TIDA should be responsible for
23 addressing siltation in these areas"; and,

24 WHEREAS, The Board of Supervisors also resolved in Resolution No. 172-18 that
25 TIDA should develop a plan to mitigate the risk of siltation in other areas of the Cove; and,

1 WHEREAS, Clipper Cove has not required maintenance dredging since it was acquired
2 by TIDA in the late 1990s; and

3 WHEREAS, The TIE shall perform or cause the performance of dredging in Clipper
4 Cove necessary for the use and ongoing operation of the Marina including the navigation
5 channel providing public access into Clipper Cove; and

6 WHEREAS, The Authority has indicated that it will perform bathymetric surveys of
7 areas outside of the Marina area every five years; and,

8 WHEREAS, The Authority will, when necessary, perform dredging necessary to
9 maintain depths required for the programs of the Treasure Island Sailing Center, as outlined in
10 File No. 181226; and,

11 WHEREAS, The Authority has indicated that it will, when necessary, perform dredging
12 outside of the Marina area to maintain current depths within six inches, as to not diminish the
13 character of existing public recreation and public education on Clipper Cove; and,

14 WHEREAS, The Authority has indicated that it will set aside funds from the Community
15 Facilities District to perform maintenance dredging in the Cove; and,

16 WHEREAS, Because the cumulative term of the Lease exceeds ten years and
17 anticipated revenues exceed \$1,000,000, the Authority is requesting that the Board of
18 Supervisors approve the Lease between the Authority and Treasure Island Enterprises; now,
19 therefore, be it

20 RESOLVED, That the Board of Supervisors has reviewed and considered the 2006
21 FEIR, 2011 FEIR and the 2017 Memorandum, and hereby adopts the CEQA Findings; and,
22 be it

23 FURTHER RESOLVED, That the Board of Supervisors confirms the Planning
24 Department's determination that no additional environmental impacts would occur as a result
25

1 of the proposed Lease and no additional environmental analysis is required under CEQA at
2 this time; and, be it

3 FURTHER RESOLVED, That the Authority submit an annual written report to the
4 Board of Supervisors in June of each year on the status of the marina project financing,
5 construction of the improvements, leasing of boating slips, dredging costs, and operational
6 revenues and expenses; and, be it

7 FURTHER RESOLVED, That the Board of Supervisors hereby approves and
8 authorizes the Treasure Island Director or his designee to execute and enter into the Lease
9 with Treasure Island Enterprises LLC, a California limited liability company, in substantially the
10 form filed with the Clerk of the Board of Supervisors in File No. 181225, and any additions,
11 amendments or other modifications to such Lease (including, without limitation, its exhibits)
12 that the Treasure Island Director or his designee determines, in consultation with the City
13 Attorney, are in the best interests of the Authority, that do not materially increase the
14 obligations or liabilities of the Authority or materially reduce the rights of the Authority, and are
15 necessary or advisable to effectuate the purpose and intent of this resolution; and, be it

16 FURTHER RESOLVED, That within thirty (30) days of the Lease Agreement being fully
17 executed by all parties the Treasure Island Development Authority shall provide copies of the
18 Lease Agreement to the Clerk of the Board for inclusion into the official file.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

RECOMMENDED:



Bob Beck, Director, Treasure Island Development Authority

<p>Item 8 File 18-1225</p>	<p>Department: Treasure Island Development Authority (TIDA)</p>
--	--

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve a lease between Treasure Island Development Authority (TIDA) and Treasure Island Enterprises, LLC for the development and management of Treasure Island Marina, for a term of 66 years and initial minimum annual base rent of \$90,000.
- The proposed resolution would also make findings under the California Environmental Quality Act (CEQA), adopt a mitigation monitoring and reporting program for the marina project, and confirm the Planning Department’s determination that no additional environmental impacts that were not previously identified would occur from the lease.

Key Points

- Treasure Island Enterprises has operated the 110-slip Treasure Island Marina through an interim sublease since 2000. Through the process of transferring Treasure Island from the United States Navy to the City and County of San Francisco, TIDA and the City Planning Department have prepared two Environmental Impact Reports (EIRs) analyzing the expansion of the Marina to 400 slips and master development of Treasure Island. Due to modernization of marina design and federal and state regulatory requirements, Treasure Island Enterprises reduced the scale of the marina design to 313 slips.
- In June 2018, the Board of Supervisors approved a resolution responding to the marina expansion proposal and reaffirming San Francisco’s commitment to public recreation, preservation of public open space, and social equity. After discussions with stakeholders, Treasure Island Enterprises further reduced the marina to 220 slips.
- The proposed resolution would approve a lease between TIDA and Treasure Island Enterprises for the development and management of the marina, for a term of 66 years and initial annual base rent of \$90,000. Treasure Island Enterprises would pay the greater of base rent or percentage rent based on gross revenues.

Fiscal Impact

- Over the 66-year term of the lease, Treasure Island Enterprises would pay at least \$12,127,381 in base rent. The base rent is adjusted annually based on the Consumer Price Index, with an annual increase minimum of two percent and maximum of four percent.
- Treasure Island Enterprises would receive a rent credit up to \$5,995,000 on percentage rent (exceeding the base rent) for dredging expenses and previous deposits.

Recommendations

- Amend the proposed resolution to require an annual written report to the Board of Supervisors in June each year on the status of the marina project financing, construction of the improvements, leasing of boating slips, and operational revenues and expenses.
- Approve the proposed resolution as amended.

MANDATE STATEMENT

City Charter Section 9.118(c) states that any modification, amendment or termination of a lease that had an initial term of ten years or more, including options to extend, or that had anticipated revenues of \$1 million or more is subject to Board of Supervisors approval.

BACKGROUND

In 1998, the Treasure Island Development Authority (TIDA) issued a Request for Proposals (RFP) for the proposed development and operation of Treasure Island Marina. Treasure Island Enterprises, LLC was deemed the highest scoring responsive and responsible proposer among three finalists. In June 1999, the TIDA Board of Directors approved an Exclusive Negotiating Agreement (ENA) with Treasure Island Enterprises. The ENA has been amended eight times. Treasure Island Enterprises has operated the 110-slip marina since 2000 in an interim sublease and currently pays \$90,000 per year in base rent. According to Mr. Richard Rovetti, TIDA Commercial Property Manager, the sublease did not require Board of Supervisors approval because it was on a month-to-month basis.

The TIDA and Planning Department prepared two Environmental Impact Reports (EIRs) regarding the proposed transfer of Treasure Island and Yerba Buena Island from the United States Navy to the City and County of San Francisco. The 2006 EIR included a program-level analysis of the transfer of the former base to the City, with a project-level analysis of the expansion of the marina. The 2011 EIR analyzed the master development of Treasure Island, including landside services and improvements for the marina. Both documents envisioned a 400-slip marina with a waterside length of approximately 1,700 lineal feet. After certifications of the EIRs, Treasure Island Enterprises proposed changes to the marina, reducing the slip count to 313 and waterside length to approximately 882 feet, due to modernization of marina design and federal and state regulatory requirements.

In June 2018, the Board of Supervisors approved a resolution responding to the marina expansion proposal and reaffirming San Francisco's commitment to public recreation, public education, environmental protection, preservation of public open space, and social equity (File 18-0331, Resolution 173-18). Following discussions with stakeholders, Treasure Island Enterprises decided to further reduce the marina to 220 slips. In July 2018, the TIDA Board of Directors approved the marina lease with Treasure Island Enterprises.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve the lease between TIDA and Treasure Island Enterprises for the development and management of Treasure Island Marina, for a term of 66 years and initial annual base rent of \$90,000. Under the agreement, Treasure Island Enterprises would develop the marina, a project cost currently estimated at approximately \$19.5 million. Construction would be required to begin by December 31, 2022, with completion within eight years after construction begins. The marina would be built in no more than three phases, with approximately 90-120 slips built in each phase over approximately 16 months. Treasure Island

Enterprises would pay the greater of the minimum base rent, as adjusted annually based on the Consumer Price Index (CPI), or percentage rent based on gross revenues. After construction is complete, Treasure Island Enterprises would receive a rent credit on percentage rent (in excess of minimum base rent) of \$200,000 for deposits it has paid to TIDA and for dredging expenses, up to \$5,995,000 total. The key provisions of the lease are shown in Table 1 below.

Table 1: Key Provisions of Marina Lease

Premises	Approximately 724 lineal feet by 718 lineal feet of dock area in Clipper Cove, approximately 220 slips
Term	66 years, beginning with construction no later than December 31, 2022
Initial Base Rent	\$90,000 per year (\$7,500 per month)
Rent Adjustment	Annually based on CPI, minimum annual increase of 2%, maximum annual increase of 4%
Percentage Rent (of Gross Revenues)	Slip rent, dry storage, live aboard fees: 5% for Years 1-3, 10 % for Years 4-5, 15% for Years 6+; Food service: 3.5%; Other revenues: 5%
Rent Credit	\$200,000 for previous deposits and actual cost of dredging expenses, up to a total credit of \$5,995,000 (credit on percentage rent in excess of base rent)
Security Deposit	\$15,000, adjusted annually to two times the monthly minimum base rent

According to Mr. Robert Beck, TIDA Director, the 66-year term of the lease is due to the amortization of the tenant’s initial capital investment. However, since the premises are subject to the California Tidelands Trust, the lease term cannot exceed 66 years.

The proposed resolution would also make findings under the California Environmental Quality Act (CEQA), adopt a mitigation monitoring and reporting program for the marina project, and confirm the Planning Department’s determination that no additional environmental impacts that were not previously identified would occur from the lease.

FISCAL IMPACT

According to Mr. Rovetti, the base rent of \$90,000 in the first year of the lease is fair market rent based on an October 30, 2018 commercial leasing valuation appraisal conducted by Clifford Advisory, LLC. Over the 66-year term of the lease, TIDA will receive at least \$12,127,381 in minimum base rent based on an annual CPI increase in the base rent of 2 percent. According to Mr. Rovetti, TIDA expects to receive percentage rent, which would exceed the base rent.

Financial Capacity to Develop New Marina

As noted above, Treasure Island Enterprises would develop the marina at an estimated cost of \$19,457,677. According to Mr. Rovetti, Treasure Island Enterprises would finance the marina through a combination of private equity capital, grant proceeds from a Boating Infrastructure Grant (BIG)¹, loan proceeds from the State of California Division of Boating and Waterways

¹ The Boating Infrastructure Grant is a U.S. Fish and Wildlife program administered by the California Division of Boating and Waterways.

(DBW), and preferred mezzanine debt² or similar financing. The initial sources of capital will be sourced through the BIG grant totaling \$1.9 million as well as from private equity capital, totaling approximately \$1 million, and preferred mezzanine debt or similar financing totaling approximately \$2.6 million as needed to fill any financing gaps, totaling approximately \$5.5 million. Once the initial capital is sourced from those sources, the Division of Boating and Waterways loan proceeds totaling \$4.2 million will be used to fund additional marina development costs. Additional tranches of preferred mezzanine debt or other conventional construction financing or additional private equity capital, totaling in the aggregate approximately \$5.7 million as may be needed will be used to fund the completion of the construction of the new 200-slip marina.

Rent Credits

According to the proposed lease, TIDA would apply rent credits of up to \$5,995,000 total to percentage rent that exceeds the minimum base rent. These rent credits equal (1) the sum of the deposits paid by Treasure Island Enterprises to TIDA for the RFP deposit, the transaction cost deposit, and extension cost deposit under the Exclusive Negotiating Agreement, totaling \$200,000, and (2) the actual costs of dredging, estimated at \$4,725,000. Total deposit and estimated dredging costs are \$4,925,000, or \$1,070,000 less than rent credits of \$5,995,000. According to Mr. Rovetti, total rent credits of \$5,995,000 exceed total deposit and estimated dredging costs by \$1,070,000 because the pro-forma provided by Treasure Island Enterprises uses a low-end estimate for dredging costs. The pro-forma estimates dredging costs at \$35 per cubic yard, but TIDA staff believes that the actual cost could be as high as \$45-50 per cubic yard. The estimated volume of 135,000 cubic yards dredged is uncertain as well. TIDA used an estimated cost of approximately \$43 per cubic foot, which equals \$5,995,000 for approximately 139,400 cubic yards, to allow for a buffer in case actual dredging costs exceed \$4,725,000.

Board of Supervisors Resolution

The Board of Supervisors resolution responding to the proposed Treasure Island Marina (File 18-0331) (a) found that the footprint of the proposed marina is consistent with the Reuse Plan for Treasure Island; (b) resolved that the proposed marina project should not harm the existing environment and be evaluated by environmental regulatory agencies; and (c) called for further financial analysis of the project.

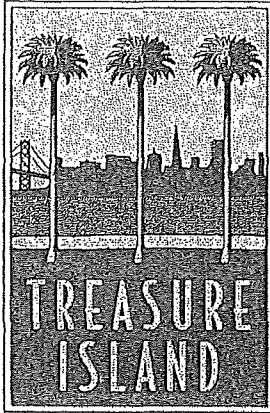
The proposed resolution makes findings under the CEQA, adopts a mitigation monitoring and reporting program for the marina project, and confirms the Planning Department's determination that no additional environmental impacts that were not previously identified would occur from the lease. As noted above, two EIRs regarding the proposed transfer of Treasure Island and Yerba Buena Island from the Navy to the City, including the impact of a proposed marina, were previously certified. The Planning Department in a letter from July 2017 stated that no additional environmental impacts would occur as a result of project implementation and no additional environmental analysis would be required under CEQA.

² "Preferred mezzanine debt" is a form of subordinate debt, in which the lender has a claim on the facility's assets.

Because the Board of Supervisors has previously found that a marina on Treasure Island is consistent with the Reuse Plan, the Budget and Legislative Analyst recommends approval of the proposed resolution. To ensure that the Board of Supervisors has sufficient information on the financing and completion of the marina project, the proposed resolution should be amended to require an annual written report to the Board of Supervisors in June each year on the status of the marina financing, construction of the improvements, leasing of boating slips, and operational revenues and expenses.

RECOMMENDATIONS

1. Amend the proposed resolution to require an annual written report to the Board of Supervisors in June each year on the status of the marina project financing, construction of the improvements, leasing of boating slips, and operational revenues and expenses.
2. Approve the proposed resolution as amended.



MARINA LEASE No. 1,007

between

TREASURE ISLAND DEVELOPMENT AUTHORITY

as Landlord

and

TREASURE ISLAND ENTERPRISES, LLC
a California limited liability company

as Tenant

For the Lease of Treasure Island Marina

Treasure Island Naval Station
San Francisco, California

_____, 2018

TREASURE ISLAND MARINA LEASE

Table of Contents

<u>Section</u>	<u>Page</u>
1. BASIC SUBLEASE INFORMATION.....	2
2. PREMISES.....	13
3. TERM.....	17
4. RENT.....	18
5. TAXES, ASSESSMENTS AND OTHER EXPENSES.....	27
6. USE; COVENANTS TO PROTECT PREMISES.....	30
7. CONDITIONS TO START OF INITIAL IMPROVEMENTS.....	33
8. INITIAL IMPROVEMENTS.....	35
9. APPROVAL OF FINANCING AND CONSTRUCTION CONTRACT.....	48
10. NO LIENS.....	50
11. SUBSEQUENT IMPROVEMENTS / ALTERATIONS.....	51
12. MAINTENANCE AND REPAIR.....	52
13. COMPLIANCE WITH LAWS.....	56
14. LIENS AND LEASEHOLD MORTGAGES.....	58
15. DAMAGE OR DESTRUCTION.....	64
16. CONDEMNATION.....	65
17. TRANSFER - ASSIGNMENT – SUBLEASE.....	68
18. DEFAULT; REMEDIES.....	73
19. RELEASE AND WAIVER OF CLAIMS; INDEMNIFICATION.....	78
20. INSURANCE.....	81
21. ACCESS BY LANDLORD.....	85
22. SURRENDER.....	86
23. HAZARDOUS MATERIALS.....	88
24. GENERAL PROVISIONS.....	89
25. SPECIAL PROVISIONS.....	95

LIST OF EXHIBITS:

EXHIBIT A – Navy Deed

EXHIBIT A-1 – Diagram of Premises

EXHIBIT A-2 – Legal Description (Clipper Cove)

EXHIBIT B – Master Developer Improvements

EXHIBIT C – San Francisco Board of Supervisors Resolution No. 173-18, File No. 180331

EXHIBIT D-1 – Covenant to Restrict Use of Property (CRUP)

EXHIBIT D-2 - Mitigation Monitoring and Reporting Program

EXHIBIT E – Percentage Rent: Percentages of Gross Income

EXHIBIT F – Rent Credits

EXHIBIT G – Rules and Regulations
EXHIBIT H – Approved Operating Standards
EXHIBIT I – Final Development Concept and Description of Initial Improvements
EXHIBIT J – Schedule of Performance
EXHIBIT K – Bellingham Marine and Anchor QEA Plans/Schematic Drawings
EXHIBIT L – Certificate of Architect/Engineer
EXHIBIT M – Insurance Requirements
EXHIBIT N – Certificate of Completion
EXHIBIT O – Tenant's Ownership Structure
EXHIBIT P – Jobs EOP San Francisco Board of Supervisors

TREASURE ISLAND MARINA LEASE

THIS TREASURE ISLAND MARINA LEASE (this "Lease" or this "Agreement"), dated for reference purposes only as of _____, 2017, is by and between the TREASURE ISLAND DEVELOPMENT AUTHORITY, a California public benefit nonprofit corporation ("Landlord"), and TREASURE ISLAND ENTERPRISES, LLC, a California limited liability company ("Tenant"). From time to time, Landlord and Tenant together shall be referred to herein as the "Parties".

This Lease is made with reference to the following facts and circumstances:

A. Landlord owns portions of the property known as the Naval Station Treasure Island, including the Premises described in Recital B. Landlord acquired the property from the U.S. Navy in accordance with the deed attached hereto as **Exhibit A** (the "Navy Deed"). Landlord leases other portions of the Naval Station Treasure Island, but intends to acquire such portions from the Navy in accordance with Economic Development Conveyance Memorandum of Agreement Between the United States of America, acting through the Navy, and Treasure Island Development Authority, dated July 2, 2014 (the "EDC").

B. Under the Treasure Island Conversion Act of 1997 (AB 699), the California legislature, among other things, granted Landlord the right to lease that certain real property that consists of the water area located in Clipper Cove, as well as unrestricted water access into and out of Clipper Cove more commonly known as the Treasure Island Marina, as shown on the diagram attached hereto and incorporated herein as **Exhibit A-1** and described in **Exhibit A-2** (the "Premises"). The Premises shall also include, to the extent required, a license for the use of areas held by Landlord for required utility lines and individual and vehicular access to the Premises, including water, pedestrian and vehicular access into and out of Clipper Cove and a license over roadways and other public access areas as needed to provide nonexclusive landside access to the Premises (the "License").

C. The Premises has been previously developed as a small recreational craft marina for approximately one hundred ten (110) boats and shoreline facilities.

D. Landlord and Tenant have entered into an interim sublease for the Premises dated September 2, 1998 (the "Interim Sublease"). On the Lease Commencement Date, the Interim Sublease shall automatically terminate.

E. Landlord and Treasure Island Community Development, LLC, a California limited liability company ("TICD" or "Master Developer"), entered into that certain Disposition and Development Agreement dated as of June 28, 2011, as recorded in the Official Records of the City and County of San Francisco and as subsequently amended (as amended

from time to time, the "DDA"). The DDA grants to Master Developer the right to acquire and develop portions of the property and, upon satisfaction of certain conditions, the obligation to develop Infrastructure and Stormwater Management Controls and the Required Improvements, as such terms are defined in the DDA (the "Master Developer Project"). The Master Developer Project site is adjacent to, but does not include, the Premises. Tenant has reviewed the DDA, including the Land Use Plan, the Transportation Plan, the Infrastructure Plan and the Schedule of Performance.

F. Tenant and Master Developer intend to enter into an agreement regarding certain landside improvements, adjacent to the Premises, to be completed by Master Developer, as described in **Exhibit B** (the "Master Developer Improvements"), including utility hook-ups, access, and parking areas. Nothing in this Lease, however, gives Tenant any rights against Landlord as a result of TICD's performance or nonperformance under any agreement between Tenant and Master Developer.

G. The San Francisco Board of Supervisors reviewed the Tenant's marina plan on June 5, 2018, and unanimously passed Resolution Number 173-18, File Number 180331, finding the footprint of the new marina consistent with the development Reuse Plan and marina redevelopment does not diminish existing public recreation in Clipper Cove. A true and correct copy of the Board's Resolution, including a map of the final Marina Plan is attached hereto as **Exhibit C**.

H. Landlord desires to lease the Premises to Tenant and Tenant desires to lease the Premises from Landlord upon the terms and conditions contained in this Lease.

NOW THEREFORE, Landlord and Tenant hereby agree as follows:

1. BASIC LEASE INFORMATION

The following is a summary of basic lease information (the "Basic Lease Information"). Each item below shall be deemed to incorporate all of the terms of this Lease pertaining to such item. In the event of any conflict between the information in this Section and any more specific provision of this Lease, the more specific provision shall control.

Lease Reference Date: _____, 2017

Landlord: TREASURE ISLAND DEVELOPMENT AUTHORITY, a California public benefit nonprofit corporation

Tenant: TREASURE ISLAND ENTERPRISES, LLC, a California limited liability company

Premises
(Section 2.1):

The area that is shown on Exhibit A-1; license for nonexclusive use / access to the common water areas of Clipper Cove; and license for nonexclusive use and access to the adjacent landside areas, Treasure Island, San Francisco, California, all as more particularly shown on **Exhibit A-1** and described in **Exhibit A-2** attached hereto and made a part hereof.

Effective Date
(Section 3.1):

The Effective Date of this Agreement shall be the date that the Agreement is executed and delivered by the parties, following approval by the Authority's Board of Directors and the City's Board of Supervisors (the "Effective Date"). From the Effective Date to the Lease Commencement Date, this Agreement shall function as a lease disposition and development agreement, and Tenant shall use good faith efforts to cause all conditions to be satisfied to obtain a Notice of Proceed with the Initial Improvements, as set forth in Section 7.1.

Lease Commencement Date: The first day of the calendar month during which Tenant receives the Notice to Proceed with the Initial Improvements. Landlord shall confirm the Lease Commencement Date in writing.

Term (Section 3.1):

The term of the Lease shall be for a period of Sixty Six (66) years following the Lease Commencement Date, as set forth in Section 3.1.

Expiration Date: Sixty Six (66) years following the Lease Commencement Date, but in no event later than December 31, 2088.

If Tenant has not started construction of the Initial Improvements by December 31, 2022, then Landlord shall have the right to terminate this Agreement by delivery of sixty (60) days prior written notice to Tenant, and this Agreement shall automatically terminate six (6) month thereafter (the "Termination Date") unless Tenant fulfills all conditions needed to obtain the Notice to Proceed with the Initial Improvements and actually begins construction of the Initial Improvements before the Termination Date (subject to any extension that may be agreed to by Landlord in its sole

discretion). On the Lease Commencement Date, the Interim Sublease shall automatically terminate without further action by either party. Nothing in this Lease impacts Landlord's rights under the Interim Lease before the Lease Commencement Date, including the right to terminate for default in accordance with its terms.

Base Rent (Section 4.1): Minimum Base Rent from the Effective Date shall be Ninety Thousand Dollars (\$90,000.00) per year (the "Minimum Base Rent"). Tenant shall make monthly payments of Minimum Base Rent, on or before the tenth (10th) day of each calendar month, initially in the amount of Seven Thousand and Five Hundred Dollars (\$7,500.00).

Rent Adjustments (Section 4.2): Starting January 1, 2022 and each January 1 thereafter, Minimum Base Rent will increase by percentage increases in CPI, but not less than two percent (2%) or more than four percent (4%), as set forth in Section 4.2. Until the new Minimum Base Rent is finally determined, Tenant shall continue to pay the previous amount, and pay any difference between what has been paid and what is owed within thirty (30) days following the final determination.

Percentage Rent (Section 4.3): For calendar year 2022 and each year thereafter (including any partial year, if any), Tenant shall pay to Landlord the higher of: (a) the then current Minimum Base Rent (as increased pursuant to the provisions of Section 4.2); or (b) the Percentage Rent (as set forth in Section 4.3). Percentage Rent shall be paid in arrears at the end of each calendar year during the Term, and for the last year, at the time of expiration or termination.

Rent Credit (Section 4.5): For so long as Tenant is not in default under this Lease, Tenant shall receive a Rent Credit for certain costs relating to the Initial Improvements as set forth in Section 4.5.

Participation Rent (Section 4.6): Tenant shall pay Participation Rent upon certain triggering events, as set forth in Sections 4.6.

Use (Section 6.1): Permitted Uses. Tenant agrees that the Premises shall be used only for an approximately 220-slip marina, open for

rental to the general public, and related uses approved by Landlord. Landlord approves the following uses:

- (a) rental of boat slips to the public, ("Boat Slip Renters") for monthly boaters; up to twenty two (22) live-aboard boaters or ten percent (10%) of total boat slips constructed may be live-aboard boaters, whichever is less in conformance with the Bay Conservation and Development Commission regulations and Regulatory Approvals but subject to the prior approval of the TIDA Director following the adoption of guidelines for such use, which approval shall not be unreasonably withheld, conditioned or delayed;
- (b) short term mooring for water taxi service and recreational boats, boat storage, boat and other light water craft launching, buoy and mooring rentals, boat fuel sales, and transient boat moorage;
- (c) rental of dock lockers or other facilities to Boat Slip Renters only for boat owner's storage of personal boating paraphernalia;
- (d) boat launching and retrieving services for Boat Slip Renters and the general public;
- (e) minor marine services, defined as the sale and installation of small boat parts and components, and minor boat services and labor, inclusive of minor boat repairs, maintenance, cleaning, renovation, and similar minor services, to Boat Slip Renters only (neither Tenant nor any subtenant or licensee shall operate a boat repair business at the Premises without Landlord's prior written consent);
- (f) day use rental of small craft boats and kayaks;
- (g) telecommunication and cable services for the marina;

(h) installation and use of vending machines ancillary to the marina, food, catering, beverage and alcoholic beverage services;

(i) guest boater and transient boater short-term use moorage with accessibility for the general public

Tenant shall charge market rates for slip fees, berth fees, dry stack storage fees and other moorage fees and services and goods sold from the Premises that are comparable to the market rates charged by other area marina operators in the San Francisco Bay Area.

TICD Property. Subject to Tenant reaching an agreement with TICD, approved by Landlord, for Tenant's use of TICD space adjacent to the Premises, Tenant may use such space for: (a) parking only for Boat Slip Renters, marina customers and guests; (b) marina gathering spaces (including boat club), offices for marina management, restrooms and public convenience facilities; and (c) food and beverage services.

Prohibited Uses: Boat Slip Renters may list their boat for sale, but Tenant shall not engage in the sale of boats from the Premises as part of this Lease. Boat Slips are to be used by sea-worthy vessels only.

Security Deposit
(Section 22.4):

Fifteen Thousand Dollars (\$15,000.00), as increased on each Adjustment Date to two times (2x) the then-applicable Minimum Base Rent.

Notice Address of
Landlord (Section 21.1):

Treasure Island Development Authority
Treasure Island Project Office
One Avenue of Palms
Building 1, 2nd Floor
Treasure Island
San Francisco, CA 94130

Attn: Robert P. Beck
Treasure Island Director
Fax No.: 415-274-0299
with a copy to:

Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Attn: Charles Sullivan
Fax No.: (415) 554-4755

Notice Address of Tenant (Section 21.1): Treasure Island Enterprises, LLC
1215 K Street, Suite 1150
Sacramento, CA 98514
Attn: Darius Anderson, Managing Member

Phone No. 916-443-8891
Fax No. 916-443-8913
Email. dwa@platinumadvisors.com

with a copy to:

Jay Wallace
1215 K Street, Suite 1150
Sacramento, CA 95814
Phone No. 916-443-8913
Fax No.: 916-443-8913

Definitions. Initially capitalized terms used in this Agreement shall have the meanings given to them in this Section (or in the referenced section of this Agreement):

Additional Rent means any and all sums that may become due or be payable by Tenant under this Lease including all costs, fees, interest, charges, expenses, reimbursements and obligations of every kind and nature relating to the Premises that may arise or become due during the Term of, or in connection with, this Lease, whether foreseen or unforeseen.

Adjustment Date means the annual date for adjusting the Minimum Base Rent as specified in Basic Lease Information.

Adjustment Index is defined in Section 4.2(a).

Annual Statement is defined in Section 4.10.

Agents means, when used with reference to either party to this Lease or any other person or party so designated, the members, officers, directors, commissioners, employees, agents, contractors and vendors of such party or other person, and their respective heirs, legal representatives, successors and assigns.

Alterations is defined in Section 11.1.

Annual Percentage Rent Report is defined in Section 4.3.

Assign is defined in Section 17.1.

Assigned Rents is defined in Section 14.8.

Assignments mean any assignment, encumbrance, pledge or otherwise transfer of any part of Tenant's interest in or rights with respect to the Premises or its leasehold estate hereunder.

Attorneys' Fees and Costs means reasonable attorneys' fees, costs, expenses and disbursements, including, but not limited to, expert witness fees and costs, travel time and associated costs, transcript preparation fees and costs, document copying, exhibit preparation, courier, postage, facsimile, long-distance and communications expenses, court costs and other reasonable costs and fees associated with any other legal, administrative or alternative dispute resolution proceeding, including such fees and costs associated with execution upon any judgment or order, and costs on appeal.

Authority means the Treasure Island Development Authority, a California nonprofit public benefit corporation, or any successor entity.

Authority Director means the person designated by the Authority as the Authority Director or the TIDA Director, as may change from time to time.

Beginning Index is defined in Section 4.2 (a).

Bona Fide Institutional Lender means any one or more of the following, whether acting in its own interest and capacity or in a fiduciary capacity for another person: a savings bank, a savings and loan association, a commercial bank or trust company or branch thereof, an insurance company, a governmental agency, a real estate investment trust, an employees' welfare, benefit, pension or retirement fund or system, an investment banking, merchant banking or brokerage firm, or any other person or persons which, at the time of a Mortgage is recorded, has (or is controlled by a person having) assets of at least \$300 million in the aggregate (or the equivalent in foreign currency), and is regularly engaged in the financial services business.

Budget is defined in Section 9.1(a).

Certified Construction Costs is defined in Section 8.15(b).

City means the City and County of San Francisco, a municipal corporation.

Completed and Completion are defined in Section 8.20(c).

Construction Contract is defined in Section 9.1(f).

Construction Documents is defined in Section 8.5.

Construction Schedule is defined in Section 8.13.

Default Rate is defined in Section 4.8.

Deferred Items is defined in Section 8.20(b).

Disabled Access Laws means the Americans With Disabilities Act of 1990 and Title 24 of the California Code of Regulations and all other applicable federal, state, local and administrative laws, rules, regulations, orders and requirements intended to provide equal accessibility for persons with disabilities.

EDC MOA means that Economic Development Conveyance Memorandum of Agreement between the United States of America, acting through the Department of the Navy, and the Authority, dated as of July 2, 2014, as may be amended from time to time, governing the terms and conditions of the conveyance of Treasure Island and Yerba Buena Island to the Authority and certain retained rights of the Navy.

Effective Date is defined in Section 3.1(a).

Encumber means create any Mortgage.

Event of Default is defined in Section 18.1.

Expiration Date is defined in Section 3.1(b).

First Source Hiring Agreement is in the form attached to the Jobs EOP (Exhibit P), as may be updated from time to time consistent with applicable City requirements.

Force Majeure means the occurrence of an event that results in a delay in a party's performance of its obligations hereunder due to causes beyond that party's control and not caused by the acts or omissions of that party, such as acts of nature or of the public enemy, fires, floods, earthquakes, strikes, freight embargoes, and unusually severe weather; an action or proceeding challenging or a judgment entered limiting Tenant's right to construct the Initial Improvements or any material portion thereof under this Agreement including the City's actions taken pursuant to CEQA; delays of contractors or subcontractors due to any of these causes; the presence of Hazardous Materials or other concealed conditions on the Premises that would substantially delay or materially and adversely impair the ability to construct on the Premises; substantial interruption of work because of other construction by third parties in the immediate vicinity of the Premises; archeological finds on the Premises; strikes, delay in the granting of permits and other governmental approvals beyond reasonable time periods and substantial interruption of work because of labor disputes or economic infeasibility due to current market conditions; inability to obtain materials or reasonably acceptable substitute materials (provided that such materials were ordered on a timely basis and the party is not otherwise at fault for such inability to obtain materials). Force Majeure does not include any event that could have been avoided by exercising that standard of foresight and due diligence that any ordinary, prudent and competent person would exercise under the circumstances. In the event of the occurrence of any such delay, the time or times for performance of the obligations will be extended for the period of the delay; provided, however, (i) within thirty (30) days after the beginning of any such delay, the party shall have first notified the other party in writing of the cause or causes of such delay and claimed an extension for the

reasonably estimated period of the delay, and (ii) such party cannot, through commercially reasonable and diligent efforts (not including the incurring of overtime premiums or the like), make up for the delay. No Force Majeure delay in construction activities or otherwise shall extend the Term of this Lease.

Hazardous Material means any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health or safety or to the environment. Hazardous Material includes, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended, (42 U.S.C. Sections 9601 *et seq.*) or under Sections 25281 or 25316 of the California Health & Safety Code; any "hazardous waste" as defined in Section 25117 or listed under Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials whether or not such materials are part of the structure of any existing Improvements on the Premises, any Improvements to be constructed on the Premises by or on behalf of Tenant, or are naturally occurring substances on, in or about the Premises, and petroleum, including crude oil or any fraction, and natural gas or natural gas liquids, and lead containing materials.

Hazardous Material Claims means any and all enforcement, Investigation, Remediation or other governmental or regulatory actions, agreements or orders threatened, instituted or completed under any Hazardous Materials Laws, together with any and all Losses made or threatened by any third party against City, relating to damage, contribution, cost recovery compensation, loss or injury resulting from the presence, release or discharge of any Hazardous Materials, including, without limitation, Losses based in common law. Hazardous Material Claims include, without limitation, Investigation and Remediation costs, fines, natural resource damages, damages for decrease in the value of the Premises or any Improvements, the loss or restriction of the use or any amenity of the Premises or any Improvements, and Attorneys' Fees and Costs.

Hazardous Material Laws means any present or future federal, state or local Laws relating to Hazardous Material (including, without limitation, its Handling, transportation or Release) or to human health and safety, industrial hygiene or environmental conditions in, on, under or about the Premises (including the Improvements), including, without limitation, soil, air, air quality, water, water quality and groundwater conditions. Hazardous Materials Laws include, but are not limited to, City's Pesticide Ordinance (Chapter 39 of the San Francisco Administrative Code).

Impositions means all taxes, assessments, liens, levies, charges or expenses of every description, levied, assessed, confirmed or imposed on the Premises, any of the improvements or personal property located on the Premises, Tenant's leasehold estate, any subleasehold estate, or any use or occupancy of the Premises hereunder.

Improvements means all buildings, structures, fixtures and other improvements erected, built, placed, installed or constructed upon or within the Premises, including, but not limited to, the Initial Improvements.

Indemnify means indemnify, defend, protect, reimburse, and hold harmless forever.

Indemnified Parties means Landlord, the City, and their respective employees, officers, commissioners, members and Agents.

Index is defined in Section 4.2 (a).

Initial Improvements has the meaning set forth in Section 8.1(a).

Initial Improvements Requirements has the meaning set forth in Section 8.5(c).

Investigate or Investigation when used with reference to Hazardous Material means any activity undertaken to determine the nature and extent of Hazardous Material that may be located in, on, under or about the Premises, any Improvements or any portion of the site or the Improvements or which have been, are being, or threaten to be Released into the environment. Investigation shall include, without limitation, preparation of site history reports and sampling and analysis of environmental conditions in, on, under or about the Premises or any Improvements.

Invitees when used with respect to Tenant means the customers, patrons, invitees, guests, members, licensees, assignees and subtenants of Tenant and the customers, patrons, invitees, guests, members, licensees, assignees and sub-tenants of subtenants.

Jobs EOP is the Jobs and Equal Opportunity Program attached as **Exhibit P**.

Law or Laws means any one or more present and future laws, ordinances, statutes, rules, ordinances, regulations, permits, authorizations, orders or decrees of any municipal, county, state or federal government or other governmental or regulatory authority with jurisdiction over the Premises, or any portion thereof, to the extent applicable to the parties or to the Premises or to Tenant's use of the Premises, including the orders and citations of any regulatory authority with jurisdiction over life and safety issues concerning the Premises, whether or not in the present contemplation of the parties. Applicable Law includes all Regulatory Approvals, Planning Code section 249.52 (Treasure Island/Yerba Buena Island Special Use District), the June 28, 2011 Design for Development, and measures duly adopted by the Treasure Island Development Authority in its regulatory capacity such as the Master Signage Program, any approved mitigation measures, shoreline improvement plans, infrastructure plans, and stormwater control plans, each as may be amended from time to time.

Lease Commencement Date is defined in Section 3.1(b).

Loss or Losses when used with reference to any Indemnity means any and all claims, demands, losses, liabilities, costs, damages (including foreseeable and unforeseeable consequential damages), liens, obligations, interest, injuries, penalties, fines, lawsuits, and other proceedings, judgments and awards and costs and expenses (including, without

limitation, reasonable Attorneys' Fees and Costs, and consultants' fees and costs) of whatever kind or nature, known or unknown, contingent or otherwise.

Minimum Base Rent is defined in Section 4.1.

Minor Alterations is defined in Section 11.2.

MMRP means the Mitigation Monitoring and Reporting Program attached as **Exhibit D-2**.

Mortgage means any mortgage, deed of trust, assignment of rents, fixture filing, security agreement, or similar security instrument, or other lien or encumbrance.

Mortgagee means the holder or holders of a Mortgage and, if the Mortgage is held by or for the benefit of a trustee, agent or representative of one or more financial institutions, the financial institutions on whose behalf the Mortgage is being held, and shall include, but not be limited to the State of California, Division of Boating and Waterways. Multiple financial institutions participating in a single financing secured by a single Mortgage shall be deemed a single Mortgagee for purposes of this Lease.

Net Worth Floor means \$ 2,000,000.00

Operating Budget is defined in Section 9.1(c).

Participation Rent is defined in Section 4.6.

Percentage Rent is defined in Section 4.3.

Premises has the meaning set forth in Recital B, and is more particularly described in **Exhibit A-1**.

Proposed Transferee is defined in Section 17.9.

Public Trust is defined in Section 2.2(k).

Regulatory Approval means any zoning, authorization, approval or permit required by any governmental agency having jurisdiction over the Premises or construction on or use of the Premises, including, but not limited to, City commissions and departments, the Treasure Island Development Authority (acting in its regulatory capacity or as trustee of the Public Trust), the Board of Supervisors, and various federal and state agencies.

Release when used with respect to Hazardous Material means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into or inside any existing improvements or any Improvements constructed under this Lease by or on behalf of Tenant, or in, on, under or about the Premises or any portion thereof.

Remediate or Remediation when used with reference to Hazardous Materials means any activities undertaken to clean up, remove, transport, dispose, contain, treat, stabilize, monitor or otherwise control Hazardous Materials located in, on, under or about the Premises or which have been, are being, or threaten to be Released into the environment. Remediation

includes, without limitation, those actions included within the definition of “remedy” or “remedial action” in California Health and Safety Code Section 25322 and “remove” or “removal” in California Health and Safety Code Section 25323.

Rent means the sum of Minimum Base Rent and any Percentage Rent and Additional Rent. “Rent” shall also include Additional Rent.

Rent Credit is defined in Section 4.5(a).

Reserve Account is defined in Section 12.2.

Reserve Maximum is defined in Section 12.2.

Restore and Restoration mean the restoration, replacement, or rebuilding of the Improvements (or the relevant portion thereof) in accordance with all Laws then applicable (including code upgrades) to substantially the same condition they were in immediately before an event of damage or destruction, or in the case of a Taking, the restoration, replacement, or rebuilding of the Improvements to an architectural whole.

Significant Change means (i) Tenant files, or is the subject of, a petition for bankruptcy, or makes a general assignment for the benefit of its creditors, (ii) a receiver is appointed on account of Tenant’s insolvency, (iii) a writ of execution or attachment or any similar process is issued or levied against any bank accounts of Tenant, or against any property or assets of Tenant, or (iv) a final non-appealable judgment is entered against Tenant in an amount in excess of Five Million Dollars (\$5,000,000.00), and Tenant is unable to either satisfy or bond the judgment.

Sublease means any lease, sublease, license, concession or other agreement by which Tenant leases, subleases, demises, licenses or otherwise grants to any person in conformity with the provisions of this Lease, the right to occupy or use any portion of the Premises (whether in common with or to the exclusion of other persons). Sublease shall not include the renting of individual boat slips as contemplated by this Lease.

Subtenant means any person or entity leasing, occupying or having the right to occupy any portion of the Premises under and by virtue of a Sublease.

Tenant’s Personal Property means all fixtures, furniture, furnishings, equipment, machinery, supplies, software and other tangible personal property, whether now or hereafter located in, upon or about the Premises, belonging to Tenant and/or in which Tenant has or may hereafter acquire an ownership interest, acquired by Tenant without expense to Landlord, and that can be removed without structural or other damage to the Premises.

Term is defined in Section 3.1(b).

Termination Date is defined in Section 3.1(c).

2. PREMISES

2.1. Premises. Subject to the terms, covenants and conditions of this Lease, Landlord leases to Tenant the Premises so long as this Lease remains in effect. Tenant shall also have a License to the extent required for utility lines and access, as set forth in the Recitals and the Basic Lease Information, for so long as this Lease remains in effect. Except under a valid lease or other use agreement, Tenant shall not use or occupy space outside the Premises without the prior written consent of the Authority Director. If Tenant uses or occupies space outside the Premises without the prior written consent of Landlord, then Tenant shall immediately vacate such space upon Landlord's request. Without waiving Landlord's additional remedies, Landlord shall have the right to charge Tenant for each day of any such unauthorized use in an amount equal to the higher of the (a) highest rental rate then approved by Landlord's Board of Directors for the applicable land area on a per square foot basis, or (b) then current fair market rent for such area as reasonably determined by Landlord. Landlord shall also impose an administrative penalty, in amount determined by the Authority Director, for any notice to vacate unauthorized space sent by Landlord to Tenant. In no event shall acceptance by Landlord of this charge or administrative penalty be deemed a consent by Landlord to the use or occupancy by Tenant or be deemed a waiver of any and all other rights and remedies of Landlord under this Lease. Tenant's indemnity obligations under this Lease shall include any damage, loss or injury occurring in a space that Tenant uses or occupies without Landlord's consent.

2.2. As Is Condition of Premises.

(a) Inspection of Premises. Tenant represents and warrants that Tenant has, either independently or through its Agents, conducted a thorough and diligent inspection and investigation of the Premises and the suitability of the Premises for Tenant's intended use. Tenant is fully aware of the needs of its operations and has determined, based solely on its own investigation, that the Premises are suitable for its operations and intended uses. As part of its inspection of the Premises, Tenant acknowledges its receipt and review of the DDA and all associated documents and the EDC MOA and all associated documents.

(b) As Is; Disclaimer of Representations. Tenant acknowledges and agrees that the Premises are being leased and accepted in their "AS IS, WITH ALL FAULTS" condition, without representation or warranty of any kind, and subject to all applicable Laws. Without limiting the foregoing, this Lease is made subject to any and all covenants, conditions, restrictions, easements and other title matters affecting the Premises, or any portion thereof, whether or not of record. Tenant acknowledges and agrees that Landlord, the City and their Agents have not made, and hereby disclaim, any and all representations or warranties, express or implied, concerning (i) title or survey matters affecting the Premises, (ii) the physical, geological, seismological or environmental condition of the Premises, including, without limitation, all of the matters described in DDA and all associated documents and EDC MOA and all associated documents, (iii) the quality, nature or adequacy of any utilities serving the Premises, (iv) the feasibility, cost or legality of constructing any of the Initial Improvements on

the Premises, (v) the safety of the Premises, whether for the use by Tenant or any other person, including Tenant's Agents or Invitees, or (vi) any other matter whatsoever relating to the Premises or their use, including, without limitation, any implied warranties of merchantability or fitness for a particular purpose.

(c) Seismic Report. Without limiting Section 2.2(b) above, Tenant expressly acknowledges for itself and Tenant's Agents that it has received and read seismic reports prepared by and/or for TIDA and its Master Developer or that Tenant has had an adequate opportunity to review the relevant seismic reports with expert consultants of its own choosing.

(d) Navy Deed. Tenant understands that the Navy has transferred all of the Premises to Landlord pursuant to the Navy Deed and that this Lease will be subject to the certain disclosures and retained certain rights in and to the Premises, as set forth in the Navy Deed. Pursuant to the Navy Deed, the Navy has the obligation and right to perform remedial actions that may be necessary to protect human health and the environment with respect to any hazardous substance in or around the Premises in accordance with the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. Section 9620(h)(3)(A)(ii)(I), and has the right to take some or all of the Premises as may be needed in connection therewith. This Lease is subject and subordinate to the Navy's rights under the Navy Deed and the EDC MOA, and Tenant acknowledges that Landlord shall have the right to suspend or terminate this Lease, without payment to Tenant, if Navy requires use of the Premises as set forth in the Navy Deed, provided, however, that during any such time that the Lease is suspended as to any material portion of the Premises, Tenant shall not be obligated to pay the Base Rent for such portion (as determined on a square foot basis) to the extent of the interference. Furthermore, nothing in this Lease shall extinguish or terminate any ongoing Navy obligations as set forth in the Navy Deed or pursuant to its obligations under CERCLA or any other applicable law or regulation.

(e) CRUP/Inspections and Monitoring. At the time of recordation of the Navy Deed, there was recorded against the Premises a Covenant To Restrict Use of Property (Environmental Restriction) (the "CRUP"), attached hereto as **Exhibit D-1** and incorporated into this Lease) that restricts uses of the Premises to protect human health, safety, and the environment. The CRUP addresses the remaining lead shot contamination at the Premises as documented in the Final Remedial Action Completion Report, Installation Restoration Site 27, Former Clipper Cove Skeet Range, Former Naval Station Treasure Island, San Francisco, California (Tetra Tech EC, Inc. December 2014). Under the Final Land Use Control Remedial Design, Installation Restoration Site 27, Naval station Treasure Island, San Francisco, California (Tetra Tech EM, Inc. May 2013) and the Final Land Use Control Remedial Design Addendum, Installation Restoration Site 27 for Former Naval Station Treasure Island, San Francisco, California (Multimedia Environmental Compliance Group April 2015) (the "LUC RD"), notice and restrictions are required to prevent the potential exposure of ecological receptors to lead shot remaining at the Premises and to maintain the integrity of the Navy's

remedy consistent with the restrictions set forth in Article IV of the CRUP. Tenant agrees to comply at all times with the CRUP and the LUC RD, and acknowledges and understands that a Site Management Plan acceptable to the Navy and DTSC will be required as set forth in the CRUP. Tenant further agrees to perform all maintenance, monitoring, inspection and reporting obligations required by the CRUP, the Navy Deed, and the MMRP, and any regulator with jurisdiction over the Premises or Tenant's use of the Premises. Tenant shall provide a copy to Landlord of all annual and other inspection and monitoring reports not less than fifteen (15) days before the date it is required to be submitted to a regulator, for review and comment, and Landlord shall have the option of co-signing any report if Landlord chooses to do so. Tenant shall provide to Landlord, within five (5) business days following receipt, a copy of all correspondence from any federal, state or local regulator relating to the condition of the Premises or the use of or operations on the Premises. Tenant shall Indemnify Landlord against any breach or violation of the requirements of this subsection.

(f) No Subsurface Rights. Nothing in this Lease gives Tenant any right to any subsurface rights, including but not limited to any mineral, oil, gas, water, or other rights relative to the land.

(g) Accessibility Inspection Disclosure. California law requires commercial landlords to disclose to tenants whether the property being leased has undergone inspection by a Certified Access Specialist ("CASp") to determine whether the property meets all applicable construction-related accessibility requirements, but the law does not require landlords to have the inspections performed. Tenant is hereby advised that the Premises have not been inspected by a CASp.

(h) Disability Access. Tenant acknowledges that before the execution of this Lease, City provided Tenant with, and Tenant signed, the Disability Access Obligations Notice described in Section 38.3 of the San Francisco Administrative Code. Landlord makes no representations regarding the current condition of the Premises as it relates to disability access, and Tenant agrees that the Initial Improvements will satisfy all disability access requirements.

(i) DDA. Tenant has reviewed the DDA, including the Land Use Plan, the Transportation Plan, the Infrastructure Plan and the Schedule of Performance. Tenant is aware of the potential impacts on the Premises of the proposed development under the DDA. Tenant understands and agrees that Landlord and Master Developer may amend the DDA and related transaction documents, each in their discretion, and that no such amendment shall require the approval of Tenant. Upon request, Landlord agrees to keep Tenant informed as to material matters relating to the development of the Project Site under the DDA.

(j) Treasure Island Development. Tenant understands that Master Developer is performing significant work on and around the Premises as required under the DDA, including constructing, repairing, replacing, operating and maintaining storm drain and sewer

improvements, site grading, and completing geotechnical work and other improvements (collectively, the “DDA Work”), and that the DDA Work may impact Tenant’s use of the Premises during construction. Tenant agrees to cooperate with Master Developer in the performance of the DDA Work, and shall not take any action to interfere with Master Developer’s ability to complete the DDA Work. Tenant agrees to provide access to the Premises as needed by Master Developer to complete the DDA Work and as approved by the Authority Director, as more particularly set forth in Section 21.1(d). Tenant’s refusal to cooperate or to provide access as required in this section shall be deemed a material default, and Landlord shall have the right to take back such portion of the Premises as may be required from time to time to allow Master Developer to complete the DDA Work. Any costs incurred by Landlord in exercising its rights under this section shall become Additional Rent, payable within 30 days following Landlord’s delivery of an invoice of such costs.

(k) Public Trust. Tenant understands that Landlord entered into a Compromise Title Settlement and Land Exchange Agreement for Treasure Island and Yerba Buena Island, recorded on January 14, 2015, with the State of California, acting by and through the State Lands Commission (the “Trust Exchange Agreement”), pursuant to the Treasure Island Public Trust Exchange Act, Chapter 543, Statutes of 2004 as amended by Chapter 660, Statutes of 2007, Chapter 208, Statutes of 2009, and Chapter 429, Statutes of 2011, and the Treasure Island Conversion Act of 1997, Chapter 898, Statutes of 1997, as amended. In accordance with the Trust Exchange Agreement, the Premises are subject to the public trust for purposes of commerce, navigation and fisheries (the “Public Trust”), as administered by the Treasure Island Development Authority as trustee. Tenant’s use of the Property is at all times subject to and limited by the Public Trust, and any operation on the Premises must be consistent with the Public Trust, as determined by Landlord. Tenant shall not take or allow any act that violates the Public Trust. The Treasure Island Development Authority has determined that the use of the Premises as a marina is consistent with the Public Trust, although it reserves the right to limit or prohibit specific uses, in form or duration, that are not compliant with the Public Trust.

3 TERM

3.1 Term of Lease.

(a) Effective Date; LDDA Period. The Lease shall be effective on the date that all of the following have occurred: (i) it is signed and delivered by the parties, (ii) it is approved by the Authority’s Board and the City’s Board of Supervisors, and (iii) such approvals are effective and operative (the “Effective Date”). From the Effective Date until the Lease Commencement Date, Tenant shall take all actions as needed to prepare Construction Documents, obtain financing for the Initial Improvements, obtain all Regulatory Approvals for the Initial Improvements, and take such actions as needed to satisfy all conditions for Landlord to issue the Notice to Proceed with the Initial Improvements, as set forth in Section 7.1. In other words, from and after the Effective Date but before the Lease Commencement Date, this Agreement shall function as a lease disposition and development agreement and Tenant shall

continue to occupy the Premises under the Interim Sublease. On the Lease Commencement Date, the Interim Sublease shall automatically terminate and the Term of the Lease shall commence. Nothing in this Lease shall limit Landlord's or Tenant's rights under the Interim Lease, including Landlord's right to take any enforcement action and to terminate the Interim Lease in accordance with its terms.

(b) Term; Commencement and Expiration Dates. The initial term of this Lease (the "Initial Term") shall be for a period of sixty six (66) years commencing on the first day of the calendar month following the Effective Date during which Landlord delivers the Notice to Proceed with Initial Improvements as set forth in Section 7.1 (the "Lease Commencement Date") and, unless sooner terminated as herein provided, shall expire on the last day of the sixtieth (66th) year thereafter at 11:59 p.m., but in no event later than December 31, 2088 (the "Expiration Date"). For example, if the Lease Commencement Date is June 1, 2019, then the Expiration Date will be May 31, 2085. On or after the Lease Commencement Date, Landlord shall deliver to Tenant a written statement confirming the actual Lease Commencement Date, but Landlord's failure to do so shall not affect the date.

(c) Landlord Termination Right. If Tenant has not started construction of the Initial Improvements by December 31, 2021, then Landlord shall have the right to terminate this Lease by delivery of sixty (60) days' prior written notice to Tenant, and this Agreement shall automatically terminate on the expiration of such 60 day period (the "Termination Date") unless Tenant fulfills all conditions needed to obtain the Notice to Proceed with the Initial Improvements and actually begins construction of the Initial Improvements before the Termination Date. On the Termination Date, Landlord shall also have the right to terminate the Interim Sublease.

4. RENT

4.1 Rent. Throughout the Term, beginning on the Lease Commencement Date, Tenant shall pay to Landlord Rent as set forth in this Section and in the Basic Lease Information. For each Extension Term, Rent shall be determined as set forth in Section 3.2. Rent shall be paid to Landlord without prior demand and without any deduction, setoff, or counterclaim whatsoever. Minimum Base Rent shall be payable on or before the fifth (5th) day of each calendar month, in advance, at the Notice Address of Landlord provided in Section 24.1 or such other place as Landlord may designate in writing, and Percentage Rent and Participation Rent shall be paid as set forth below in this Article 4. Beginning on the Effective Date, Tenant shall pay Landlord minimum annual rent in the amount of Ninety Thousand Dollars (\$90,000.00) (the "Minimum Base Rent"), with said Minimum Base Rent paid monthly in the amount of Seven Thousand Five Hundred Dollars (\$7,500.00) per month.). If this Lease terminates on a day other than the last day of a calendar month, then the monthly payment of Rent for such fractional month shall be prorated based on a thirty (30) day month. In the event that the California Division of Boating and Waterways (DBW) provides a loan or loans to

Tenant for construction of the marina, DBW, as Lender shall not be obligated to pay the Rent, and loan proceeds will be used for construction only. Tenant shall remain liable for Rent due and owing during construction.

4.2. Minimum Rent Adjustments. Starting on January 1, 2022 and each January 1 thereafter (each, an "Adjustment Date"), the Minimum Base Rent payable under this Lease shall be increased as follows:

(a) Index. The Consumer Price Index Urban Wage Earners and Clerical Workers (base years 1982-1984 = 100) for San Francisco-Oakland-San Jose area published by the United States Department of Labor, Bureau of Labor Statistics ("Index") published most immediately preceding the Adjustment Date ("Adjustment Index"), shall be compared with the Index published most immediately preceding the Commencement Date ("Beginning Index").

(b) Adjustment Amount. If the Adjustment Index has increased over the Beginning Index, the Base Rent payable on and after the Adjustment Date shall be set by multiplying the Base Rent by a fraction, the numerator of which is the Adjustment Index and the denominator of which is the Beginning Index. In no event shall the monthly Base Rent on or after the Adjustment Date be less than one hundred two percent (102%) or more than one hundred four percent (104%) of the monthly Base Rent in effect immediately prior to the Adjustment Date.

(c) Potential Conversion. If the Index is changed so that the base year differs from that used as of the date most immediately preceding the Commencement Date, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised during the Term, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

4.3 Percentage Rent. Throughout the Term, beginning on the Lease Commencement Date, and each year thereafter (including any partial year, if any), Tenant shall pay to Landlord the higher of: (a) the then current Minimum Base Rent; or (b) the Percentage Rent. The term "Percentage Rent" shall be the percent of total Gross Income for each year set forth in **Exhibit E** (or such percent as determined under Section 3.2 for an Extension Term). Percentage Rent shall be calculated on an annual basis. The accounting year shall be twelve (12) calendar months commencing January 1 and ending December 31. Percentage Rent shall be calculated in accordance with generally accepted accounting principles, and shall be reported by Tenant in an annual report (the "Annual Percentage Rent Report"), certified as true and correct and complete by Tenant under penalty of perjury, and certified by an independent third party accountant, which shall include the following:

a. The total gross income for the accounting year (or portion thereof), itemized as to each of the business categories for which a separate Percentage Rent rate is established.

b. The related itemized amounts of Percentage Rent computed, as herein provided, and the total thereof.

c. The total Minimum Base Rent previously paid by Tenant for the accounting year within which the preceding month falls.

d. The amount of Percentage Rent above the Minimum Base Rent, if any, that is due and payable to Landlord. Starting on the January 1, 2022 and thereafter on or before January 1st of each calendar year, Tenant shall deliver to Landlord the Annual Percentage Rent Report as set forth above. Percentage Rent shall be paid annually, in arrears, but only to the extent Percentage Rent exceeds the Minimum Base Rent previously paid by Tenant for that year and no rent credit is owed to Tenant. Concurrently with the delivery of the Annual Percentage Rent Report, Tenant shall pay the amount of Percentage Rent due and owing for the previous calendar year. If the Term ends before the end of a calendar year, Tenant shall deliver the Annual Percentage Rent Report for the final year within thirty (30) days following the end of the Term, and pay the amount due and owing at the time of delivery of the Annual Percentage Rent Report. Landlord shall have the right to review and audit such final payment consistent with the terms of this Lease.

4.4 Gross Income. The term "Gross Income" upon which the Percentage Rent is based shall include all income received by Tenant resulting from occupancy or use of the Premises in any manner, whether by Tenant, its subtenants or concessionaires, or parties operating through Tenant, its subtenants, or concessionaires, from whatever source derived, and whether for cash or credit. Gross Income shall include any manufacturer's or importer's excise tax included in the prices of the goods sold, even though the manufacturer or importer is also the retailer thereof, and it is immaterial whether the amount of such excise tax is stated as a separate charge. Gross Income, however, shall not include any of the following: (1) sales of United States postage; (2) any sales or excise taxes payable by Tenant to any governmental agency as a direct result of operations under this Lease, provided that the amount of such taxes is shown on the books and records elsewhere herein required to be maintained; (3) gratuities paid directly to on-site employees or individuals, and not paid to Tenant, provided the customer voluntarily determines the amount of said gratuity to be paid, or the customer is aware that the Tenant has added a pre-established gratuity to the charge for the services rendered and said additional amount is segregated and identified as a gratuity on the billing to the customer; (4) security deposits held in trust by Tenant (provided, however, in the event any security deposit is applied by the Landlord towards any rent due the Landlord, such security deposit shall, upon any such application, be treated as gross income subject to percentage rent); (5) any income, savings or receipts derived from Tenant's investments that are not in accounts held for the operation or maintenance of the Premises; (6) proceeds of loans to the Tenant (provided, Tenant shall not borrow any funds for any purpose other than to invest in the Premises, and shall use any such loan proceeds for improvements to the Premises or expenses relating to the Premises); (7) funds invested in the Tenant by Tenant's members; and (8) amounts paid by slip licensees or renters for utilities supplied to such licensee's boat slip or boat to the extent such

amounts are charged to the boater in accordance with rates charged by the utility provider and there is no markup to Tenant. Further, refunds for goods returned shall be deducted from current gross income upon their return.

4.5 Rent Credits.

(a) Amount of Rent Credits. Upon the Completion of the Initial Improvements, and provided Tenant is not in default under this Lease, Tenant shall receive a credit against Percentage Rent for the following: (i) the sum of the Request for Proposal Deposit, the Transaction Cost Deposit and any Extension Cost Deposit paid by Tenant to Landlord pursuant to that certain Exclusive Negotiating Agreement (“ENA”) between Landlord and Tenant dated November 8, 2000 in the amount of \$200,000.00 and (ii) the actual costs of the dredging performed in connection with the Initial Improvements, without interest, all as described in **Exhibit F**, to the extent any of such costs and interest have been approved in advance by Landlord in writing (collectively the “Rent Credits” and each individually a “Rent Credit”); provided, in no event shall the Rent Credits exceed Five Million Nine Hundred Ninety Five Thousand Dollars (\$5,995,000.00). Tenant shall perform or cause the performance of the dredging in Clipper Cove necessary for the construction of the Initial Improvements and the operation of its business. Landlord shall not be required to incur any dredging or other expenses in conjunction with this Lease or the marina development other than as part of the Rent Credits. Further, any additional future dredging (after the initial dredging for which Tenant is given a rent credit as set forth above) and other costs relating to this Lease or Tenant’s operations shall be Tenant’s sole responsibility without any credit, deduction, or offset therefor. Landlord shall be responsible for dredging areas of Clipper Cove that are outside of the Premises in accordance with the Board of Supervisors Resolution No. 173-18, except that Tenant shall be responsible for dredging the channel and areas of Clipper Cove that are outside of the Premises and are necessary for Tenant’s access to its facilities.

(b) Approval of Costs. The Rent Credits shall not become effective until: (i) Tenant submits invoices to Landlord detailing each Rent Credit cost item incurred by Tenant, together with appropriate backup documentation; and (ii) Landlord approves the invoices, which approval shall not be unreasonably withheld or delayed. Upon approval, Landlord shall send a notice to Tenant confirming the amount of the approved Rent Credit. Once determined, all Rent Credits will be applied prospectively against future Rent due and owing until the Rent Credit has been received by Tenant as set forth in this Lease.

(c) Rollover Until Credits Received. If the amount of the Rent Credits exceeds the amount of the Percentage Rent due for a year, the balance of the Rent Credits shall be carried over and deducted from each following year’s Percentage Rent, without interest, until all Rent Credits have been fully accounted for. If this Lease terminates for any reason before all Rent Credits have been received by Tenant, then the Rent Credits shall be lost and Landlord shall have no obligation to pay to Tenant the amount of an unused Rent Credit.

4.6 Participation Rent. In addition to the Minimum Base Rent and Percentage Rent specified in this Article 4, Tenant shall pay Landlord such amount or amounts as may be calculated and determined to be due as and for participation rent in connection with refinancings, sales, assignments or subleases of the Premises (collectively, "Participation Rent") pursuant to, at the times and in the manner specified in this Section.

(a) Definitions. As used in this Section, the following terms shall have the meaning set forth below:

"Capital Costs" shall mean the sum of: (i) the actual hard and soft costs incurred by Tenant of constructing the Initial Improvements, as approved by Landlord, (ii) the actual hard costs incurred by Tenant in connection with any subsequent capital improvements to the Premises approved by Landlord (collectively, the "Hard Costs"), and (iii) the actual Soft Costs incurred by Tenant in connection with the Hard Costs not to exceed ten percent (10%) of the Hard Costs; minus (iv) any Rent Credits, grant proceeds, or other sums for which Tenant receives reimbursement;

"Excess Proceeds" shall mean:

(i) with respect to any refinancing of any debt incurred by Tenant for Capital Costs and secured by Tenant's interest in this Lease under Article 14, all proceeds from the refinancing less the sum of: (A) in the case of the first refinancing, the Preferred Return plus all Capital Costs and, in the case of any subsequent refinancing, the greater of (1) the gross proceeds from the prior refinancing, or (2) the Preferred Return plus all Capital Costs; (B) any and all reasonable and customary fees and costs incurred by Tenant in connection with the new encumbrance; (C) reasonable prepayment penalties, if any, incurred by Tenant; and (D) the outstanding amount of all encumbrances being paid and any new improvements made and paid for as part of the refinancing;

(ii) with respect to any sale or transfer of forty five percent (45%) or more (the "Trigger Percentage") of Tenant's interests as set forth in Section 17.6, all proceeds from the combined sales or transfers less the sum of: (A) in the case of the first sale or sales that meets the Trigger Percentage, the Preferred Return plus all Capital Costs and, in the case of any subsequent sale, the greater of (1) the gross proceeds from the prior sales, or (2) Preferred Return plus all Capital Costs; (B) any and all reasonable and customary closing costs and fees incurred by Tenant in connection with the sales or transfers; (C) reasonable prepayment penalties, if any, incurred by Tenant; and (D) the outstanding amount of all encumbrances being paid as part of the sale or transfer; and

(iii) with respect to any Sublease or Assignment, all rent or other consideration realized by Tenant under any such assignment or sublease in excess of the Rent payable by Tenant hereunder (or the amount thereof proportionate to the portion of the Premises subject to such assignment or sublease), after Tenant has recovered: (A) the Preferred Return plus all Capital

Costs; (B) any verifiable, customary and reasonable cost of any leasehold improvements that Tenant has actually incurred in connection with such assignment or sublease; (C) any verifiable, customary and reasonable costs and expenses incurred by Tenant in effectuating a sublease or assignment, including but not limited to marketing costs, brokerage commissions, attorneys' fees and disbursements, and fees paid to Landlord pursuant to this Lease with respect to such sublease or assignment; and (D) the outstanding amount of all encumbrances being paid as part of the sublease or assignment.

"Net Operating Income" shall mean all Gross Income (including any expense reimbursements received from grants), received by or on account of Tenant from the Premises, less (i) all reasonable operating expenses actually incurred by Tenant (including but not limited to the amount of any Rent paid to Landlord hereunder, and all reasonable costs for taxes, subleases or leases for landside space needs, financing costs and charges, and operational costs necessary to operate the marina), and (ii) any refunds made by Tenant to its Subtenants for amounts overpaid by Subtenants;

"Preferred Return" shall mean for any applicable refinancing, sale, assignment or sublease, the sum of: (i) the Capital Costs plus a ten percent (10%) rate of return per annum, simple interest, and (ii) any capital contributions by equity holders of Tenant for accrued net operating losses of Tenant; less any Net Operating Income for any year before such refinancing, sale, assignment or sublease which has not been previously deducted from the Capital Costs. The Preferred Return shall be cumulative and accrued, less distributions made to equity holders of Tenant, and calculated and reported to Landlord annually regardless of whether there has been any refinancing, sale, assignment or sublease hereunder; and

"Soft Costs" shall mean all indirect costs paid by Tenant in connection with the Hard Costs, which are not properly categorized as capital expenditures in accordance with generally accepted accounting principles, consistently applied, and may be reasonably and customarily characterized as soft costs. Subject to the foregoing, Soft Costs shall include, without limitation, reasonable and customary fees paid to attorneys, architects, engineers, accountants, consultants and other professionals, and salaries for employees at the construction site or employed by Tenant solely to work on the construction or modernization of improvements on the Premises, or any portion thereof (but not including salaries of any employee of Tenant who works part time on the construction of improvements on the Premises and part-time on other projects of Tenant, unless Tenant demonstrates to Landlord's reasonable satisfaction that the allocation of such employee's salary between the construction of improvements on the Premises, and such other projects, is reasonable). To the extent that any Soft Cost represents payment made to Tenant or any entity or person which controls or is controlled by Tenant, the amount of such payment must not exceed the amount which would have reasonably been paid to an unrelated third party in an arms-length transaction, with no control relationship with Tenant. Soft Costs shall not include any cost or expense incurred by Tenant for or in connection with routine maintenance, repair or replacement of worn equipment (even if such equipment is upgraded in the process), or other upkeep or modernization of all or any portion

of the Premises, or improvements thereon, which Tenant would have been likely to incur with or without the construction.

(b) Refinancing Debt. If Tenant refinances the debt secured by this Lease per Article 14, and in addition to all other sums payable by Tenant to Landlord under this Lease, Tenant shall pay Landlord as Participation Rent, fifty percent (50%) of the Excess Proceeds from a refinancing, including as a result of increases in the principal amount borrowed. Any Participation Rent due under this Section shall be paid promptly upon the close of escrow established for such refinance.

(c) Sale of Interests in Tenant. If Tenant sells or transfers more than forty nine percent (49%) or more cumulatively (as set forth in Section 17.6) of Tenant's interests, by operation of law or otherwise, and in addition to all other sums payable by Tenant to Landlord under this Lease, Tenant shall pay Landlord as Participation Rent, fifty percent (50%) of the Excess Proceeds from any such sale or transfer. Any Participation Rent due under this Section shall be paid promptly upon the close of escrow or escrows established in connection with such sales or transfers.

(d) Subleases and Assignments. If Tenant Subleases all or a portion of the Premises or Assigns all or part of its interest in this Lease, and in addition to all other sums payable by Tenant to Landlord under this Lease, Tenant shall pay Landlord as Participation Rent, fifty percent (50%) of any Excess Proceeds from any such Sublease or Assignment. Any Participation Rent due under this Section in connection with a Sublease or Assignment on the date that the applicable sublease or assignment documents are executed and delivered by the parties. Tenant shall provide to Landlord not less than thirty (30) days written notice of a Sublease or Assignment, with an accounting of the Participation Rent that will become due and payable as a result of the transaction, including all backup documentation required for Landlord to verify the Participation Rent amount due and owing.

(e) Cap On Amount Equal to Rent Credits. Notwithstanding anything to the contrary in this Section 4.6, the total amount of Participation Rent to be paid by Tenant to Landlord from the proceeds of any refinancings, sales, transfers, assignments or subleases of the Lease as set forth above shall be limited to the total amount of Rent Credits received by Tenant under this Lease. Once Landlord has received the full value of the Rent Credits as Participation Rent, then this Section 4.6 shall have no further force or effect and Landlord shall not be entitled to any additional Participation Rent in connection with subsequent refinancings, Subleases, Assignments or transfers of interests in Tenant.

4.7 Payments to Landlord.

(a) Payments. All payments and statements required under this Article 4 shall be made by Tenant to Landlord in lawful money of the United States of America at the address for notices to Landlord specified in this Lease, or to such other person or at such other place as

Landlord may from time to time designate by notice to Tenant. Checks shall be made payable to the Treasure Island Development Authority. Landlord may change the designated place of payment and filing at any time upon ten (10) days' written notice to Tenant. Tenant assumes all risk of loss and responsibility for late charges, as hereinafter described, if payments are made by mail. Rent shall be due and payable at the times provided in this Lease, provided that if no date for payment is otherwise specified, or if payment is stated to be due "upon demand," "promptly following notice," "upon receipt of invoice," or the like, then such Rent shall be due twenty (20) days following the giving by City of such written demand, notice, invoice or the like to Tenant specifying that such sum is presently due and payable.

(b) Net Lease. It is the purpose of this Lease and intent of Landlord and Tenant that, except as expressly stated to the contrary in this Lease, all Rent shall be absolutely net to Landlord, so that this Lease shall yield to Landlord the full amount of the Rent at all times during the Term, without deduction, abatement or offset. Except as otherwise expressly set forth in this Lease, under no circumstances, whether now existing or hereafter arising, and whether or not beyond the present contemplation of the Parties shall Landlord be expected or required to incur any expense or make any payment of any kind with respect to this Lease or Tenant's use or occupancy of the Premises, including any improvements, except for Rent Credits as provided in this Article 4.

4.8 Late Payments. Tenant hereby acknowledges that late payment by Tenant to Landlord of Rent and other sums due hereunder will cause Landlord to incur costs not contemplated by this Lease. Accordingly, in the event Tenant is delinquent in rendering to Landlord an accounting of Percentage Rent due or in remitting the Rent due in accordance with the provisions of this Lease, Tenant shall pay, in addition to the unpaid Rent, five percent (5%) of the delinquent amount. The parties hereby agree that said late charge is appropriate to compensate Landlord for loss resulting from payment delinquency including, without limitation, lost interest, opportunities, legal costs, and the cost of servicing the delinquent account. In addition to the late charge, any Rent, if not paid within ten (10) days following the due date, shall bear interest from the due date until paid. If any Rent is not paid within twenty (20) days following written demand for payment of such Rent, such unpaid amount shall bear interest from the date due until paid at an annual interest rate (the "Default Rate") equal to the greater of (i) ten percent (10%) or (ii) five percent (5%) in excess of the rate the Federal Reserve Bank of San Francisco charges, as of the date payment is due, on advances to member banks and depository institutions under Sections 13 and 13a of the Federal Reserve Act; provided, in no event shall the Default Rate exceed any applicable usury or similar Law. Payment of late charges or interest shall not excuse any default by Tenant, and acceptance of any portion of the late payment by Landlord shall in no event constitute a waiver of Tenant's default with respect to such overdue amount, nor prevent Landlord from exercising any of its other rights and remedies. Landlord shall have the right to waive for good cause any late charges or interest upon written application of Tenant for any such delinquency period.

4.9 Landlord Acceptance Not a Waiver. All payments by Tenant to Landlord shall be by a good and sufficient check in U.S. Dollars. No payment made by Tenant or receipt or acceptance by Landlord of a lesser amount than the correct amount of rent due under this Lease shall be deemed to be other than a payment on account of the earliest Rent or other amounts due hereunder, nor shall any endorsement or statement on any check or any letter accompanying any check or payment be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance or pursue any other available remedy.

4.10 Books and Records. Tenant shall, at all times during the term of this Lease, keep or cause to be kept, accurate and complete records and double entry books of account of all financial transactions in the operation of all business activities, of whatever nature, conducted in pursuance of the rights granted herein, in accordance with generally accepted accounting principles. The records must be supported by source documents of original entry such as sales invoices, cash register tapes, bank depository documentation, purchase invoice or other pertinent supporting documents. Reviewed financial statements (a balance sheet, income/expense statement and cash flow statement) based upon the double entry books of account, shall be prepared not less than annually and copies thereof delivered to Landlord within ninety (90) days following the end of each calendar year during the Term of this Lease and ninety (90) days following the end of the Term. The annual records sent to Landlord shall include, at a minimum, an itemized statement of income and expenditures by Tenant for such year, which statement shall set forth income and expenditures for the year just concluded broken down by category and a cash flow table that itemizes expenditures on staff and consultant salaries, utilities and maintenance, capital improvements, and the like (the "Annual Statement"), certified as correct by an officer of Tenant and in form delivered to Tenant's members or board of directors, or if no such form which such detail was delivered to Tenant's members or board of directors, in a form satisfactory to Landlord. In addition, Tenant shall promptly provide to City a copy of its annual tax return.

4.11 Registers. All retail sales shall be recorded by means of cash registers, except as expressly provided for herein. All cash registers shall be equipped with sales totalizer counters for all sales categories, as herein provided, which counters are locked in, constantly accumulating, and which cannot be reset. Said registers shall further contain tapes upon which sales details are imprinted. Beginning and ending sales totalizer counter readings shall be made a matter of daily record. Retail sales may be recorded by a system other than cash registers, provided such system is first approved in writing by Landlord but only for the time period specified as approved by Landlord.

4.12 Audit Rights. All Tenant's books of account, records, financial statements, and documentation related to this Lease or to business operations conducted within or from the Premises, shall be kept either at the Premises or at such other locations as are reasonably acceptable to Landlord, which alternate locations shall include Tenant's principal place of business within San Francisco so long as Tenant has provided Landlord with written notice

thereof. Landlord shall have the right at any and all times to examine and audit said books, records, financial statements, and documentation, without restriction, for the purpose of determining the accuracy thereof, the accuracy of the annual statements of gross income submitted, and the accuracy of the Rent paid to the Landlord. Tenant agrees to make its books and records available to Landlord, or any auditor or representative designated by Landlord, for the purpose of examining such books and records to determine the accuracy of Tenant's earnings and expenses and statements. Such books and records shall be kept for four (4) years following the end of each calendar year and shall be maintained and/or made available in San Francisco to City's representative for the purpose of auditing or re-auditing. In the event that the Tenant's business operations conducted within or from the Premises are part of a larger business operation of the Tenant, and any part of the books, records, financial statements and documentation required herein is prepared only for the larger operation, and not solely for the business operations of the Premises, then the Landlord shall also have the right to examine and audit that part of said books, records, financial statements, and documentation of the larger business operation that relate to the business operations of the Premises. Tenant's failure to keep such books of account, records, financial statements, and documentation and make them available for inspection by Landlord is a material breach of this Lease. Landlord shall have the discretion to require the installation of any additional, commercially reasonable accounting methods or controls Landlord may deem reasonably necessary, subject to prior written notice.

4.13. Audit Discrepancies. Additionally, if an audit reveals a discrepancy of more than five percent (5%) between the amounts due as reported by Tenant and the amounts due as determined by the audit, or Tenant has failed to maintain complete and accurate books of account, records, financial statements, and documentation in accordance with this Lease, then Tenant shall pay the cost of the audit, as reasonably determined by Landlord, plus the amounts determined to have been underpaid. In addition, should Tenant fail to pay the amounts due within thirty (30) days after written notice from Landlord, then Tenant shall pay an additional fee of ten percent (10%) of the unpaid amounts as compensation to Landlord for administrative costs and lost interest, along with the amount determined to have been underpaid. Furthermore, if the audit reveals that amounts due to Landlord is less than five percent (5%) of the amount reported and previously paid by Tenant, and should Tenant fail to pay such amount due within thirty (30) days after written notice from Landlord, then Tenant shall pay an additional fee of ten percent (10%) of the unpaid amount as compensation to Landlord for administrative costs as set forth above, along with the amount determined to have been underpaid. Tenant agrees to pay such amounts and further agrees that the specific late charges represent a fair and reasonable estimate of the costs that Landlord will incur from Tenant's late payment. Acceptance of late charges and any portion of the late payment by Landlord without receipt of the applicable overdue amount shall in no event constitute a waiver of Tenant default with respect to late payment, nor prevent Landlord from exercising any of the other rights and remedies granted in this Lease. Landlord shall have the right to waive for good cause any late charges upon written application of Tenant for any such delinquency period.

5. TAXES, ASSESSMENTS AND OTHER EXPENSES

5.1 Taxes and Assessments, Licenses, Permit Fees and Liens.

(a) Payment Responsibility. Tenant shall pay any and all real and personal property taxes, including, but not limited to, possessory interest taxes, general and special assessments, excises, licenses, permit fees and other charges and impositions of any kind whatsoever, general or special, ordinary or extraordinary, foreseen or unforeseen, levied on or assessed against the Premises, the Initial Improvements, any Alterations, Tenant's Personal Property, or Tenant's use of the Premises during the Term. Tenant shall make all such payments directly to the charging authority when due and payable. However, with respect to real property taxes and assessments levied on or assessed against the Premises for which Landlord receives the tax bill directly from the taxing authority, Tenant shall reimburse Landlord for payment of such sums immediately upon demand.

(b) Taxability of Possessory Interest. Without limiting the foregoing, Tenant recognizes and agrees that this Lease will create a possessory interest subject to property taxation and that Tenant will be subject to the payment of Possessory Interest taxes levied on such interest. Tenant shall pay any and all possessory interest taxes lawfully levied upon Tenant's interest pursuant to an assessment lawfully made by City's Assessor; provided, that Tenant shall have the right to contest the validity, applicability or amount of any such taxes as set forth below. San Francisco Administrative Code Sections 23.38 and 23.39 require that Landlord report certain information relating to this Lease, and any renewals thereof, to the Tax Assessor within sixty (60) days after any such transaction, and that Tenant report certain information relating to any assignment of or sublease under this Lease to the Tax Assessor within thirty (30) days after such assignment or sublease transaction. Tenant agrees to comply with these requirements

(c) Other Impositions. Tenant shall pay or cause to be paid all Impositions to the full extent of installments or amounts payable or arising during the Term, which may be legally assessed, levied, confirmed or imposed on or in respect of or be a lien upon the Premises, any of the improvements or personal property now or hereafter located thereon, the leasehold estate created hereby, or any subleasehold estate permitted hereunder, including any taxable possessory interest which Tenant, or any subtenant or any other person may have acquired pursuant to this Lease. Tenant shall pay all Impositions directly to the taxing authority, prior to delinquency, provided that if any applicable Law permits Tenant to pay any such Imposition in installments, Tenant may elect to do so in which event only those installments that are due and payable prior to the expiration or earlier termination of the Lease shall be payable by Tenant. In addition, Tenant shall pay any fine, penalty, interest or cost as may be assessed for nonpayment or delinquent payment of any such Imposition. Impositions shall include all such taxes, assessments, fees and other charges whether general or special, ordinary or extraordinary, foreseen or unforeseen, or hereinafter levied or assessed in lieu of or in substitution of any of the foregoing of every character. The foregoing or subsequent provisions

notwithstanding, Tenant shall not be responsible for any Impositions arising from or related to, the Authority's interest as landlord under this Lease.

(d) Prorations. All Impositions imposed for the tax years in which the Commencement Date occurs or during the tax year in which this Lease terminates shall be apportioned and prorated between Landlord and Tenant on a daily basis.

(e) No Liens. Tenant shall not allow or suffer a lien for any taxes payable by Tenant hereunder to be imposed upon the Premises or upon any equipment or other property located thereon without discharging the same as soon as practicable, and in no event subsequent to delinquency.

(f) Reporting Information. Tenant agrees to provide such information as Landlord may request to enable Landlord to comply with any possessory interest tax or other reporting requirements applicable to this Lease.

5.2 Evidence of Payment. Tenant shall, upon Landlord's request, furnish to Landlord within ten (10) days after the date when any charges are due and payable, official receipts of the appropriate taxing authority or other evidence reasonably satisfactory to Landlord, evidencing payment thereof.

5.3 Right of Tenant to Contest Impositions and Liens. Tenant shall have the right to contest the amount, validity or applicability, in whole or in part, of any possessory interest tax, property tax, or other Imposition or other lien, charge or encumbrance, against or attaching to the Premises or any portion of, or interest in, the Premises, including any lien, charge or encumbrance arising from work performed or materials provided to Tenant or other person to improve the Premises or any portion of the Premises, by appropriate proceedings conducted in good faith and with due diligence. Tenant shall give notice to Landlord within a reasonable period of time of the commencement of any such contest and of the final determination of such contest. Nothing in this Lease shall require Tenant to pay any Imposition as long as it contests the validity, applicability or amount of such Imposition or Law in good faith, and so long as it does not allow the portion of the Premises affected by such Imposition or Law to be forfeited to the entity levying such Imposition as a result of its nonpayment. If any Law requires, as a condition to such contest, that the disputed amount be paid under protest, or that a bond or similar security be provided, Tenant shall be responsible for complying with such condition as a condition to its right to contest. Tenant shall be responsible for the payment of any interest, penalties or other charges which may accrue as a result of any contest, and Tenant shall provide a statutory lien release bond or other security reasonably satisfactory to Landlord in connection with any such contest. Tenant shall Indemnify Landlord for any such fines, penalties, costs, expenses or fees, including Attorneys' Fees and Costs, resulting from Tenant's failure to pay any Imposition or Tenant's contest of an Imposition.

6. USE; COVENANTS

6.1 Tenant's Permitted Use.

(a) Permitted Uses. Tenant agrees that the Premises shall be used only and exclusively for a marina consistent with the footprint shown on Exhibit A-1, open for rental to the general public and related operations as described in the Basic Lease Information, subject to and in accordance with applicable Laws. Tenant shall not use or permit the Premises to be used for any other uses or purposes whatsoever unless approved by Landlord in writing. No use of the Premises shall be made which may be prohibited or is not permitted under California Statutes 1917, Chapter 594, as said statute may, from time to time, be amended. Tenant shall be entitled to charge market rates for slip fees, berth fees, dry stack storage fees and other moorage fees and services and goods sold from the Premises that are comparable to the market rates charged by other area marina operators operating in the San Francisco Bay Area.

(b) Payments for Unauthorized Uses. In addition to any rights and remedies available to Landlord under this Lease, if Tenant uses the Premises for any use or service that is not permitted, Tenant shall pay Landlord One Hundred (100%) of the gross receipts from such use or service. This payment is subject to the due date for Rent and the provisions for delinquent rent provided in Article 4. The existence of the One Hundred (100%) charge in this Section 6.1 and the payment of this charge does not constitute an authorization for a particular service or use, and does not waive any Landlord rights or remedies following any unauthorized use of the Premises.

6.2 Tenant's Access to the Premises. Subject to Section 2.2(j) and Section 22.1, Landlord shall not interfere with Tenant access to the Premises, which is intended to be available to Tenant on a twenty four (24) hours per day, seven (7) days per week basis; provided, there shall be no rent abatement if access is temporarily interrupted for short periods of time for any reason. If DDA Work prevents access to the Premises or renders the Premises unusable by Tenant for a period of sixty (60) days or more, then Tenant shall have the right to a rent abatement for the period during which Tenant is denied access or the Premises remain unusable.

6.3 Rules and Regulations. Tenant agrees to adhere to all rules and regulations regarding the Premises attached as Exhibit G, and any additional rules regarding security, ingress, egress, safety and sanitation applicable to the Premises or Treasure Island, as such rules and regulations may be reasonably prescribed by Landlord from time to time. Tenant agrees that no banners, pennants, flags, spinners, or other advertising devices, nor any temporary signs, shall be flown, installed, placed, or erected on the Premises without Landlord's prior written approval, which approval shall not be unreasonably withheld.

6.5 No Interference with Navy or Master Developer Operations. Tenant shall not conduct operations, nor make any Alterations, that would interfere with or otherwise restrict (1) Navy's operations or environmental clean-up or restoration actions by the Navy, Landlord, the Environmental Protection Agency, the State of California or their contractors, or (2) the DDA Work performed by Master Developer. Environmental clean-up, restoration or testing activities and DDA Work by these parties shall take priority over Tenant's use of the Premises in the event of any conflict; provided, however, in such event, Navy, Landlord and Master Developer, as applicable, shall use their best efforts to minimize any disruption of Tenant's operation.

6.6 No Unlawful Uses, Nuisances or Waste. Without limiting the foregoing, Tenant shall not use, occupy or permit the use or occupancy of any of the Premises in any unlawful manner or for any illegal purpose, or permit any offensive, noisy or hazardous use or any waste on or about the Premises. Tenant shall eliminate any nuisances or hazards relating to its activities on or about the Premises. Tenant shall not conduct any business, place any sales display, or advertise in any manner in areas on or about the Treasure Island property outside of the Premises.

6.7 Use Obligation, Use Interruption and Force Majeure. Tenant shall actively and continuously seek to entitle, construct, use and operate the Premises for the particular Uses provided for herein, subject to Force Majeure.

6.8 Operating Covenants.

(a) Continuous Use; Full Program. Tenant shall continuously use, repair, maintain and operate the entire Premises, or cause the entire Premises to be continuously used, repaired, maintained and operated, for the Permitted Uses, and shall not allow the Premises or major areas within the Premises to remain unoccupied or unused without Landlord's prior written consent, which Landlord may give or withhold in its reasonable discretion. Tenant shall use the Premises in a professional manner, commensurate with the standard of use and operation of other marina facilities in the San Francisco Bay Area, and shall use diligent and good faith steps to provide a full program of boating operations, including Tenant's charitable program with TIHDI described in Section 6.1(e) of the Basic Lease Terms. Tenant shall use reasonable diligence to maximize revenues.

(b) Approved Operating Standards. All Tenant's operations on the Premises shall be conducted in accordance with the Approved Operating Standards set forth in **Exhibit H**, as the same may be modified from time to time by the TIDA Director.

(d) Management, Staffing and Funding. Tenant shall provide appropriate management and development staff for the operation of the Premises, shall adequately fund the use, maintenance and operation of the Premises consistent with Tenant's obligations under this

Lease, including maintaining a reasonable annual repair and capital plan and budget and sufficient reserves to fund such plan in accordance with the budget.

(e) Management and Operational Plans. Prior to the Effective Date Tenant submitted to Landlord a management and operation plan for the Premises. Not less frequently than once every five (5) years Tenant shall provide to Landlord an updated management and operation plan or a management agreement. If the TIDA Director has reasonable concerns that the updated management and operation plan or management agreement is not consistent with the requirements of this Lease or will not realistically allow Tenant to comply with the maintenance and operational requirements of this Lease, Landlord shall provide Tenant with written notice of such concerns, and Tenant will meet and confer with the TIDA Director as needed to address such concerns.

(f) Security Matters. Tenant at all times shall be responsible for on-site security in and about the Premises. Tenant shall have an affirmative obligation to use and operate the Premises in a safe and secure manner for all patrons and staff.

(g) Disabled Access. Tenant acknowledges that the Disabled Access Laws require that the programs, services and other activities provided at the Premises must be accessible to the disabled public. Without limiting Tenant's obligations under this Lease to comply with applicable Laws, Tenant warrants that it will fulfill that obligation, and that it will not discriminate against disabled persons in the provision of services, benefits or activities pursuant to this Lease.

6.9 Property Management. Tenant shall not, without the prior written consent of the Authority Director, which consent shall not be unreasonably withheld or delayed, contract for the management or operation of the whole or any part of the Premises. Any contract for management services, including to any affiliate or related entity of Tenant, shall be at fair market rates. Tenant shall, in connection with any request for consent, provide a copy of the proposed contract together with a statement of the fair market rate for the covered services and appropriate backup documentation regarding the market rate. Any such management or operation contract must contain a provision allowing Tenant to terminate the contract without penalty upon no more than thirty (30) days' notice. Landlord will provide written notice to Tenant of any determination that such contractor has failed to operate and manage the Premises in substantial accordance with this Lease. If the contractor has not cured the failure within a reasonable time period, as determined by Landlord, Tenant agrees to exercise its right of termination immediately and make immediate arrangements for continuous and continuing performance of the functions required for continuous operation of the Premises, subject to Landlord's approval. Landlord approves Almar Management, Inc. as Tenant's initial marina manager.

6.10 Signage. At any time and from time to time during the Term, Tenant shall have the right to submit for the Authority Director's written approval, not to be unreasonably withheld, a proposed signage program for the Premises (upon approval, the "Approved Signage Program"). Any signage program must comply with the Master Signage Program prepared by Master Developer and approved by Landlord, as the same may be amended. Tenant may not place any advertisements or signs on the Premises except in compliance with applicable Law and an Approved Signage Program. Nothing in this Section shall prohibit installation or maintenance of the signage included in the Initial Improvements or in approved Alterations.

7. CONDITIONS TO START OF INITIAL IMPROVEMENTS

7.1 Conditions to Start of Initial Improvements. As set forth in Section 3.1, this Agreement is first a lease disposition and development agreement. Accordingly, from and after the Effective Date, Tenant agrees to use good faith efforts to cause the following conditions to be satisfied as soon as reasonably possible, and these conditions must be satisfied by Tenant before it may begin to construct the Initial Improvements:

(i) No uncured default exists on Tenant's part under this Lease, and all of Tenant's representations and warranties made in this Lease shall remain true and correct;

(ii) Landlord shall have approved the Construction Documents and the construction contractor for the Initial Improvements as set forth in Article 8, and Tenant's construction contractor shall have provided evidence of compliance with City contracting requirements set forth in this Lease, including a certification of compliance with San Francisco Administrative Code Chapters 12B and 12C (Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form CMD-12B-101)) and a first source hiring agreement in the form attached to the Jobs EOP (**Exhibit P**) (the "First Source Hiring Agreement");

(iii) Tenant shall have provided, and Landlord shall have approved, the Budget and evidence of sufficient financing to complete the Initial Improvements, as set forth in Section 9.1;

(iv) Tenant shall have provided, and Landlord shall have approved, evidence of all required Regulatory Approvals needed to begin the work;

(v) Tenant shall have provided, and Landlord shall have approved, the Master Developer Improvements agreement as set forth in Recital F;

(vi) Tenant and/or its contractors shall have in place all insurance required under this Lease and shall have provided evidence of same to Landlord;

(vii) Tenant or its contractor shall have provided payment and performance bonds for the work, or other security approved by Landlord, from an issuer approved by Landlord, as required under the Treasure Island Subdivision Code;

(viii) Tenant shall have provided, and Landlord shall have approved, a community benefits program to provide sailing opportunities to disadvantaged community and youth at Treasure Island. The community benefits program will be reviewed and updated, subject to TIDA Director approval, each 5 years during the Term.

On the date that Tenant has satisfied all of the foregoing conditions, Landlord shall issue to Tenant a notice to proceed with the Initial Improvements (the 'Notice to Proceed with the Initial Improvements'). The Notice to Proceed with the Initial Improvements may include conditions relative to the DDA Work, if needed to ensure the non-interference with the DDA Work. If Tenant has not received the Notice to Proceed with the Initial Improvements and started construction of the Initial Improvements on or before December 31, 2020, Landlord shall have the right to terminate this Agreement by delivery of a sixty (60) day notice of termination, and this Agreement will automatically terminate six months thereafter if Tenant has not satisfied the conditions for the start of construction and actually commenced construction within the sixty (60) day period, unless extended by Landlord. On the Termination Date, Landlord shall also have the right to terminate the Interim Sublease.

7.2 Regulatory Approvals.

(a) Landlord Acting in its Proprietary Capacity. Tenant understands and agrees that Landlord is entering into this Lease in its capacity as a landowner with a proprietary interest in the Premises and not as a regulatory agency with certain police powers. Tenant understands and agrees that neither entry by Landlord into this Lease nor any approvals given by Landlord under this Lease shall be deemed to imply that Tenant has obtained or will obtain any required approvals from City departments, boards or commissions which have jurisdiction over the Premises or the work, or by Treasure Island Development Authority acting in its regulatory capacity or in its capacity as trustee of the Public Trust. By entering into this Lease, Landlord is in no way modifying or limiting the obligations of Tenant to develop the Initial Improvements in accordance with all Laws, as provided in this Lease.

(b) Tenant Sole Responsibility for Obtaining Regulatory Approvals. Tenant understands that construction of the Initial Improvements will require approvals, authorizations and permits from governmental agencies with jurisdiction, which may include, without limitation, the Treasure Island Development Authority, the City's Planning Commission, BCDC, State Lands Commission, Army Corps of Engineers, and others. Tenant shall use good faith efforts to obtain and shall be solely responsible for obtaining any Regulatory Approvals as required. Tenant shall not seek any Regulatory Approval without first notifying Landlord. Throughout the permit process for any Regulatory Approval, Tenant shall consult and

coordinate with Landlord in Tenant's efforts to obtain such permits. Landlord shall cooperate reasonably with Tenant in its efforts to obtain such permits, including executing any letters of authorization as owner of the Premises. However, Tenant shall not agree to the imposition of conditions or restrictions in connection with its efforts to obtain a permit from any other regulatory agency if Landlord is required to be a co-permittee under such permit and the conditions or restrictions could create any obligations on the part of Landlord, or the conditions or restrictions could otherwise encumber, restrict or change the use of the Premises, unless in each instance Landlord has previously approved such conditions in writing and in Landlord's sole and absolute discretion. No such approval by Landlord shall limit Tenant's obligation to pay its share of the costs of complying with such conditions under this Section.

(c) Tenant to Pay All Costs. Tenant shall bear all costs associated with applying for and obtaining any necessary Regulatory Approval. Tenant shall comply with any and all conditions or restrictions imposed by regulatory agencies as part of a Regulatory Approval, whether such conditions are on-site or require off-site improvements. Tenant shall have the right to reasonably appeal or contest any adverse decision and/or imposition of any condition in any manner permitted by Law imposed upon any such Regulatory Approval. Tenant shall pay or discharge any fines, penalties or corrective actions imposed as a result of the failure of Tenant to comply with the terms and conditions of any Regulatory Approval. Without limiting any other indemnification provisions of this Lease, Tenant shall Indemnify Landlord and the other City Indemnified Parties from and against any and all Losses which may arise in connection with Tenant's failure to seek to obtain in good faith, or to comply with, the terms and conditions of any Regulatory Approval or to pursue in good faith the appeal or contest of any conditions of any Regulatory Approval initiated in connection with the construction of the Initial Improvements or any subsequent improvements or alterations, except to the extent such Losses are caused by the gross negligence or willful misconduct of Landlord acting in its proprietary capacity. The provisions of this Section shall survive any termination of this Lease.

8. INITIAL IMPROVEMENTS

8.1 Tenant's Construction Obligations.

(a) Final Development Concept; Schedule of Performance. Tenant shall construct or cause to be constructed improvements on the Premises within the times and in the manner set forth in this Article 8 and as more particularly set forth in the Final Development Concept attached hereto as Exhibit I, the Schedule of Performance attached hereto as Exhibit J, and the Schematic Drawings and the approved Construction Documents, collectively, the "Initial Improvements". The Initial Improvements shall be consistent with the SUD and the Design for Development, to the extent applicable.

(b) Timing and Extensions. The satisfaction of the matters set forth in the Schedule of Performance by the required completion dates is an essential part of this Lease, time being of the essence. Tenant shall use its best efforts to complete the milestone tasks, including, without limitation, commencing and completing construction of each part of the Initial Improvements by the respective dates specified in the Schedule of Performance or within such extension of time, if any, as Landlord may grant in writing or as otherwise permitted by this Lease.

(c) Force Majeure. The Schedule of Performance shall be extended for delay caused by Force Majeure.

(i) If Tenant determines that Force Majeure will or may prevent Tenant from commencing or completing construction in accordance with the Schedule of Performance or performing any other act in accordance with the Schedule of Performance, then Tenant shall notify City in writing of the event or condition constituting Force Majeure and shall propose equitable adjustments to the Schedule of Performance, together with a written explanation of how the proposed adjustments were calculated.

(ii) Within thirty (30) days after receipt of Tenant's written notice, City shall provide a written response to Tenant either (1) requesting additional information as reasonably required to analyze Tenant's request, or (2) agreeing with or disputing Tenant's determination of the occurrence of Force Majeure, and, in the event City agrees with Tenant's determination of Force Majeure, either approving Tenant's requested adjustments to the Schedule of Performance or proposing alternative adjustments to the Schedule of Performance. Provided that Tenant is not in default of its obligations under this Lease and City agrees with Tenant's determination of the occurrence of Force Majeure, then City shall approve a reasonable, equitable adjustment to the Schedule of Performance. If City fails or declines to respond to Tenant within thirty (30) day period described above, then Tenant may at Tenant's election provide written notice to City that no notice was received, and provided that such notice displays prominently on the envelope enclosing such notice and the first page of such notice, substantially the following words: "REQUEST TO EXTEND SCHEDULE OF PERFORMANCE FOR MARINA IMPROVEMENTS; IMMEDIATE ATTENTION REQUIRED; FAILURE TO RESPOND COULD RESULT IN THE REQUEST BEING DEEMED APPROVED," the requested adjustment to the Schedule of Performance shall be deemed approved if City does not respond in writing within twenty (20) days after such notice.

(iii) If City requests additional information, Tenant shall promptly provide such information, together with a renewed request for an adjustment to the Schedule of Performance, and the provisions of the foregoing subsection shall apply to such renewed request. If Tenant and City disagree on the occurrence, duration or impact of Force Majeure or on the proposed adjustments to the Schedule of Performance, then Tenant and City shall attempt in good faith to meet no less than two (2) times during the thirty (30) day period

following City's written response to Tenant, at a mutually agreed upon time and place, to attempt to resolve any such disagreement. During any such period, each Party shall promptly provide the other with additional information on request.

(iv) If Tenant and City are unable to resolve any disagreement over the occurrence or duration of Force Majeure or the reasonable adjustments to the Schedule of Performance required in connection therewith, then Tenant and City, by mutual agreement, may submit such dispute to non-binding arbitration, mediation or other alternate dispute resolution mechanism ("ADR") of non-judicial dispute resolution. The Party requesting ADR shall give written notice of its request, specifying the requested ADR procedure, to the other Party, who shall notify the requesting Party of its agreement or refusal to proceed within a reasonable time after receipt of the requesting notice. If the parties agree to proceed, they shall select a mutually acceptable individual, with qualifications appropriate to the subject matter of the dispute, to conduct the designated ADR, or, if the parties cannot agree on such individual, they shall submit the dispute for the applicable ADR to a commercial ADR service. In all events, the proceedings shall be conducted only in a manner acceptable to both Parties. The parties may enter into operating memoranda from time to time to establish procedures for the initiation and conduct of such ADR mechanisms. Within thirty (30) days after selection of the individual conducting the ADR, such individual shall determine the resolution of the matter. In making this determination, such individual's review shall be confined to (a) the applicable terms and conditions of this Lease; (b) the parties' written notices to each other, as required by this Section, and (c) any additional written information and correspondence exchanged between the parties during consultation period following City's decision to propose alternative adjustments to the Schedule of Performance.

(v) Amendments and extensions to the Schedule of Performance contemplated under this Section may be processed and approved administratively by the TIDA Director, and shall not require the approval of the Authority Board or other legislative body, provided that the TIDA Director shall not have the right to extend the commencement date or completion date by more than twelve (12) months without approval of the Authority Board. The granting of an extension of any date therein shall not be deemed to be a waiver of any other rights under this Lease or imply the extension of any other dates.

8.2 Construction Standards.

(a) Good Construction Practices. All construction with respect to the Initial Improvements shall be accomplished expeditiously, diligently within the time frames set forth in the Schedule of Performance and in accordance with good construction and engineering practices and applicable Laws. Tenant shall undertake commercially reasonable measures to minimize damage, disruption or inconvenience caused by such work and make adequate provision for the safety and convenience of all persons affected by such work. Dust, noise and other effects of such work shall be controlled using commercially reasonable methods

customarily used to control deleterious effects associated with construction projects in populated or developed urban areas. Tenant, while performing any construction with respect to the Initial Improvements, shall undertake commercially reasonable measures in accordance with good construction practices to minimize the risk of injury or damage to the Premises and the Initial Improvements and the surrounding property, or the risk of injury to members of the public, caused by or resulting from the performance of such construction.

(b) Asbestos-Containing Materials. Without limiting Section 23.1 (No Hazardous Materials), in the event that asbestos-containing materials ("ACM") are determined to exist in or about the Premises, Tenant shall ensure that all Alterations and any asbestos related work, as defined in California Health & Safety Code Section 25914.1(b), is performed in compliance with all laws relating to asbestos, including but not limited to California Occupational Safety and Health (OSHA) regulations found in Title 8 of the California Code of Regulations, Sections 1502 and 1529. Additionally, Tenant shall distribute notifications to all employees and contractors as required pursuant to California Health & Safety Code Section 25915 et seq. informing them of the existence of ACM and that moving, drilling, boring, or otherwise disturbing ACM may present a health risk and should not be attempted by an unqualified employee. No Alterations affecting ACM-containing areas or any asbestos related work shall be performed without Landlord's prior written consent in each instance.

(c) Tenant's Alterations that Disturb or Remove Lead Based Paint. Tenant shall comply with all requirements of the San Francisco Building Code, Section 3407, and all other applicable Laws, including, without limitation, the California and United States Occupational Health and Safety Acts and their implementing regulations, when an Alteration disturbs or removes exterior lead-based or "presumed" lead-based paint (as defined below). Tenant shall give Landlord three (3) business days prior written notice of any disturbance or removal of exterior lead-based or presumed lead-based paint. Further, Tenant, when disturbing or removing exterior lead-based or presumed lead-based paint, shall not use or cause to be used any of the following methods: (a) acetylene or propane burning and torching; (b) scraping, sanding or grinding without containment barriers or a High Efficiency Particulate Air filter ("HEPA") local vacuum exhaust tool; (c) hydroblasting or high pressure wash without containment barriers; (d) abrasive blasting or sandblasting without containment barriers or a HEPA vacuum exhaust tool; and (e) heat guns operating above 1,100 degrees Fahrenheit. Paint on the exterior of buildings built before December 31, 1978, is presumed to be lead-based paint unless lead-based paint testing, as defined in Section 3407 of the San Francisco Building Code, demonstrates an absence of lead-based paint on the exterior surfaces of such buildings. Under this Section, lead based paint is "disturbed or removed" if the work of improvement or alteration involves any action that creates friction, pressure, heat or a chemical reaction upon any lead-based or presumed lead-based paint on an exterior surface so as to abrade, loosen, penetrate, cut through or eliminate paint from that surface. Notice to Landlord under this Lease shall not constitute notice to the City's Department of Building Inspection required under Section 3407 of the San Francisco Building Code.

8.3 Costs. Tenant shall bear any and all costs of the Initial Improvements, including any and all cost overruns in relation to the Budget. Without limiting the foregoing, Tenant shall be responsible for performing all site preparation work necessary for the construction of the Initial Improvements. Such preparation shall include, among other things, any required investigation and remediation of Hazardous Materials required for development or operation of the Initial Improvements, and all structure and substructure work.

8.4 Utilities. Tenant, at its sole expense, shall arrange for the provision and construction of all on-site and off-site utilities necessary to construct the Initial Improvements, and the cost thereof shall be included in the Budget.

8.5 Construction Documents.

(a) Preparation of Documents. Developer shall prepare all Construction Documents for Landlord's review and approval. The Construction Documents shall consist of the following:

(i) Schematic Drawings prepared by Bellingham Marine, dated February 1, 2017 and Anchor QEA dated 22, 2017, as more particularly described on **Exhibit K**, which generally include, without limitation (a) perspective drawings sufficient to illustrate the Initial Improvements, and (b) a site plan at appropriate scale showing relationships of the Initial Improvements with their respective uses, and designating public access areas, open space areas, walkways, loading areas and adjacent uses, sufficient to describe the development proposal for the Initial Improvements, and the location and size of uses, of the Initial Improvements. Landlord has approved the Schematic Drawings.

(ii) Preliminary Construction Documents in sufficient detail and completeness to show the Initial Improvements and the construction thereof in compliance with the Initial Improvements Requirements (as defined below), and which shall generally include, without limitation, (a) site plans at appropriate scale showing the piers, slips, improvements and open spaces, with all land uses designated and all site development details and bounding streets, and points of vehicular and pedestrian access shown, (b) all building plans and elevations at appropriate scale, (c) building sections showing all typical cross sections at appropriate scale, (e) public access areas, (f) outline specifications for materials, finishes and methods of construction, (g) exterior signage and exterior lighting plans, (h) material and color samples, and (i) mechanical and other equipment, if any. The Preliminary Construction Documents shall be in conformance with the Schematic Drawings, and shall incorporate conditions, modifications and changes specified by Landlord or required as a condition of Regulatory Approvals.

(iii) Final Construction Documents, which shall include all plans and specifications required under applicable Laws to be submitted with an application for a Building Permit. The Final Construction Documents shall be a final development of, and be based upon and conform to, the approved Preliminary Construction Documents. The Final Construction Documents shall incorporate conditions, modifications and changes required by Landlord for approval. The Final Construction Documents shall include all drawings, specifications and documents necessary for the Initial Improvements to be constructed and completed in accordance with this Lease.

(b) Licensed Architect or Engineer. The Construction Documents shall be prepared by or signed by an architect or engineer duly licensed to practice in and by the State of California. A California licensed architect or engineer shall coordinate the work of any associated design professionals, including engineers and landscape architects, and shall inspect all construction and shall provide a certificate in the form of the Certificate attached hereto as **Exhibit L** when required by Landlord. A California licensed structural engineer shall review and certify all final structural plans and the sufficiency of structural support elements to support the Initial Improvements under applicable Laws.

(c) Requirements. The Construction Documents shall conform to and be in compliance with applicable requirements of (i) this Lease, including the Final Development Concept, the Schematic Drawings and the Special Provisions in Article 25, (ii) any mitigation measures identified through environmental review, (iii) the City's Building Code, the SUD and the Design for Development, (iv) any required Regulatory Approvals, and (v) the Preliminary Construction Documents (collectively, the "Initial Improvements Requirements").

8.6 Submission of Construction Documents.

(a) Construction Documents. Construction Documents shall be prepared as provided in accordance with the Final Development Concept and at the time or times established in the Schedule of Performance. As to all stages of the Construction Documents, each of the Construction Document stages is intended to constitute a further development and refinement from the previous stage. Thus, the Preliminary Construction Documents shall be in substantial conformance with the Schematic Drawings and the Final Development Concept, and shall incorporate conditions, modifications and changes specified by City or required as a condition of Regulatory Approvals as approved by Landlord. The Design Development Drawings and the Preliminary Construction Documents shall be in sufficient detail and completeness to show that the Initial Improvements will be in compliance with the Initial Improvements Requirements and matters previously approved. The Final Construction Documents shall be a final development of, and be based upon and conform to, the approved Preliminary Construction Documents. The Final Construction Documents shall incorporate conditions, modifications and changes required by City or Tenant for the approval of the Preliminary Construction Documents. The Final Construction Documents shall include all

drawings, specifications and documents necessary for the Initial Improvements to be constructed and completed in accordance with this Lease.

(b) Updated Budgets and Financing Plans. Within thirty (30) days of Tenant's receipt of the Preliminary Construction Documents and of the Final Construction Documents, Tenant shall submit to Landlord for Landlord's review and approval an updated estimated Budget of total development costs for the Initial Improvements, prepared at a level of detail commensurate with the stage of design expressed in the drawings then under review, and to the extent the Budget differs from the Budget previously submitted, shall also submit to City, for City's information, an updated Financing Plan setting forth anticipated sources and uses of funds within of the updated Budget.

8.7 Document Review Procedures.

(a) Role of Staff. Landlord's review and approval of Construction Documents means and requires review and approval of required Construction Documents by City staff or consultants designated to review the Construction Documents by the TIDA Director ("Staff"). Notwithstanding any other provision of this Lease or the Lease to the contrary, approval of the Schematic Drawings and the site plan is in no manner intended to, and shall not, evidence or be deemed to evidence approval of the Preliminary Construction Documents or the Final Construction Documents by Landlord or any other entity.

(b) Method of Tenant Action/Prior Approvals for Construction Documents. Landlord shall use good faith efforts to review and reasonably approve, disapprove or approve conditionally Construction Documents in writing within forty five (45) days after submittal, so long as the applicable documents are properly submitted, complete and satisfy the requirements of this Lease.

(c) Timing of Tenant Disapproval/Conditional Approval and Resubmissions. If Landlord disapproves of any of the Construction Documents in whole or in part, Landlord in the written disapproval shall state the reason or reasons and may recommend changes and make other recommendations. If Landlord conditionally approves the Construction Documents in whole or in part, the conditions shall be stated in writing and a reasonable time shall be stated for satisfying the conditions. Tenant shall make a resubmittal as expeditiously as possible. Tenant may continue making resubmissions until the approval of the submissions or the later of (i) the time specified in any conditional approval or (ii) the date specified in the Schedule of Performance, as either may be extended under the terms hereof. Failure to have a submission approved by such outside date will permit termination of this Lease by Tenant on thirty (30) days' written notice to Tenant, unless Tenant cures such failure within such thirty (30)-day period.

(d) Approval of Changes in Construction Documents. Tenant shall not make or cause to be made any material changes in any approved Construction Documents without the express written approval of Landlord. Prior to making any changes that Tenant considers to be nonmaterial, Tenant shall notify Landlord in writing or verbally at the progress meetings of the proposed changes. If Landlord in its reasonable discretion determines that such noticed changes are material, then such changes shall be subject to Landlord's prior written approval.

(e) Approval by Landlord or Tenant. Landlord shall not withhold its approval, where otherwise required under this Lease, of elements of the Construction Documents or changes in Construction Documents required by any governmental body with jurisdiction over the Initial Improvements if all of the following have occurred: (i) Landlord receives written notice of the required change; and (ii) Landlord is afforded at least thirty (30) days to discuss such element or change with the governmental body having jurisdiction over the Initial Improvements and requiring such element or change; and (iii) Tenant's modifications are limited as may be required to obtain the approval of the governmental body with jurisdiction.

8.11 Selection of Contractor. Tenant's general contractor for the Initial Improvements shall (1) have substantial recent experience in the construction of similar improvements, (2) be licensed by the State of California (as evidenced by Tenant's submission to Landlord of Tenant's contractor's state license number), and (3) have the capacity to be bonded by a recognized surety company to assure full performance of the construction contract for the work shown on the Final Construction Documents (as evidenced by Tenant's submission to Landlord of a commitment or other writing satisfactory to Landlord issued by a recognized surety company confirming that Tenant's contractor is bondable for construction projects having a contract price not less than the contract price under the construction contract for the Initial Improvements).

8.12 Progress Meetings/Consultation. During the preparation of Construction Documents and during the construction of the Initial Improvements, Staff and Tenant shall hold periodic progress meetings to consider Tenant's progress, and to coordinate the preparation of, submission to, and review of Construction Documents by Tenant. Staff and Tenant will communicate and consult informally as frequently as is reasonably necessary to assure that the formal submittal of any Construction Documents to Landlord and any matters regarding Construction can receive prompt and speedy consideration subject to the terms of this Lease. Tenant shall keep Landlord reasonably informed of all meetings taking place in connection with construction and shall give Landlord the opportunity to attend and participate in such meetings. Landlord may at its own cost, but is not obligated to, have one or more individuals present on the Premises at any time and from time to time during construction, to observe the progress of construction and to monitor Tenant's compliance with this Lease and any other approved submittals.

8.13 Construction of the Initial Improvements. Upon receipt of the Notice to Proceed with the Initial Improvements, Tenant shall construct all of the Initial Improvements, and demolish and remove existing improvements on the Premises, in compliance with the Construction Documents and the construction schedule approved by Landlord (the "Construction Schedule").

8.14 Construction Schedule. Tenant shall use its best efforts to commence, prosecute and complete all construction within the times specified in the Construction Schedule or within such extension of time as Landlord may reasonably grant in writing or as otherwise permitted by the Lease, subject to Force Majeure. During periods of construction Tenant shall submit written progress reports to Landlord, and if requested by Landlord, related or supporting information, in form and detail as may be required reasonably by Landlord, but at least on a quarterly basis. The satisfaction of the matters set forth in the Schedule of Performance by the required completion dates is an essential part of this Agreement, time being of the essence. If the Authority grants an extension of any such date, the Authority shall not be deemed to be waiving any other rights under this Agreement or implying the extension of any other dates.

8.15 Submittals After Completion.

(a) **As Built Documents.** Tenant shall furnish Landlord as-built plans and specifications with respect to the Premises within ninety (90) days after completion of the Initial Improvements. As used in this Section "as-built plans and specifications" means as-built field plans prepared during the course of construction. If Tenant fails to provide as-built plans and specifications to Landlord within such period of time, Landlord after giving notice to Tenant shall have the right, but not the obligation, to cause the preparation by an architect of Landlord's choice of final as-built plans and specifications, at Tenant's sole cost, to be paid by Tenant to Landlord within thirty (30) days after Landlord's request therefor.

(b) **Certified Construction Costs.** Within ninety (90) days after completion of the Initial Improvements, Tenant shall furnish Landlord with an itemized statement of all Construction Costs incurred by Tenant in connection with the construction of the Initial Improvements in accordance with the final construction drawings, certified as true and accurate by a certified public accountant (the "Certified Construction Costs"). Tenant shall keep accurate books and records of all Construction Costs incurred in accordance with accounting principles generally accepted in the construction industry. Landlord shall have the right to inspect Tenant's records regarding the construction of the Initial Improvements and the costs incurred in connection therewith. If Landlord disagrees with the statement of Certified Construction Costs, Landlord may request that such records may be audited by an independent certified public accounting firm. Such audit shall be binding on the Parties, except in the case of fraud, corruption or undue influence. The entire cost of the audit shall be paid by Landlord unless the audit discovers that Tenant has overstated the Construction Costs by more than five percent (5%), in which case Tenant shall pay the entire cost of the audit.

8.16 Insurance Requirements. During construction of the Initial Improvements, Tenant shall maintain or cause to be maintained the insurance set forth in **Exhibit M**. After five (5) days' written notice to Tenant, Landlord has the right, but not the obligation, to obtain, and thereafter continuously to maintain, any insurance required by this Lease that Tenant fails to obtain or maintain, and to charge the cost of obtaining and maintaining that insurance to Tenant; provided, however, if Tenant reimburses Landlord for any premiums and subsequently provides such insurance satisfactory to Landlord, then Landlord agrees to cancel the insurance it obtained and to credit Tenant with any premium refund.

8.17 Landlord Right of Access. Landlord and its agents will have the right of access to the Premises to the extent necessary to carry out the purposes of this Lease, including, but not limited to, the inspection of Tenant's maintenance of the Premises and inspection of the work being performed by Tenant in constructing the Initial Improvements. To the extent reasonably practicable, Landlord shall take reasonable action to minimize any interference with Tenant's construction activities. Landlord will not be estopped from taking any action (including, but not limited to, later claiming that the construction of the Initial Improvements is defective, unauthorized or incomplete) nor be required to take any action as a result of any such inspection.

8.18 Prevailing Wages and Working Conditions; Local Hire.

(a) Any undefined, initially-capitalized term used in this subsection shall have the meaning given to such term in San Francisco Administrative Code Section 23.61. Tenant shall require its Contractors and Subcontractors performing (i) labor in connection with a "public work" as defined under California Labor Code Section 1720 et seq. (which includes certain construction, alteration, maintenance, demolition, installation, repair, carpet laying, or refuse hauling work if paid for in whole or part out of public funds) or (ii) Covered Construction, at the Premises to (1) pay workers performing such work not less than the Prevailing Rate of Wages, (2) provide the same hours, working conditions and benefits as in each case are provided for similar work performed in San Francisco County, and (3) employ Apprentices in accordance with San Francisco Administrative Code Section 23.61 (collectively, "Prevailing Wage Requirements"). Tenant agrees to cooperate with Landlord and the City in any action or proceeding against a Contractor or Subcontractor that fails to comply with the Prevailing Wage Requirements.

Tenant shall include, and shall require its subtenants, and Contractors and Subcontractors (regardless of tier) to include, the Prevailing Wage Requirements and the agreement to cooperate in Landlord or City enforcement actions in any Construction Contract with specific reference to San Francisco Administrative Code Section 23.61. Each such Construction Contract shall name the Landlord, the City and County of San Francisco, affected workers, and employee organizations formally representing affected workers as third party

beneficiaries for the limited purpose of enforcing the Prevailing Wage Requirements, including the right to file charges and seek penalties against any Contractor or Subcontractor in accordance with San Francisco Administrative Code Section 23.61. Tenant's failure to comply with its obligations under this Section shall constitute a material breach of this Lease. A Contractor's or Subcontractor's failure to comply with this Section will enable the City to seek the remedies specified in San Francisco Administrative Code Section 23.61 against the breaching party. For the current rates, see www.sfgov.org/olse/prevailingwages or call the City's Office of Labor Standard Enforcement.

(b) Tenant shall also pay, and shall require its subtenants, and contractors and subcontractors (regardless of tier) to pay, prevailing wages, including fringe benefits or the matching equivalents thereof, to persons performing services for the following activity on the Premises to the extent required by San Francisco Administrative Code Chapter 21C: a Public Off-Street Parking Lot, Garage or Storage Automobile Facility (as defined in Section 21C.3), a Show (as defined in Section 21C.4), a Special Event (as defined in Section 21C.8), Broadcast Services (as defined in Section 21C.9), Commercial Vehicles, Loading and Unloading for Shows and Special Events (as defined in Section 21C.10), and Security Guard Services for Events (as defined in Section 21C.11). If Tenant, or its subtenants, contractors, and subcontractors fail to comply with the applicable obligations in San Francisco Administrative Code Chapter 21C, Landlord shall have all available remedies set forth in Chapter 21C and the remedies set forth in this Lease. Landlord may inspect and/or audit any workplace, job site, books and records pertaining to the applicable services and may interview any individual who provides, or has provided, such services. Tenant shall provide to Landlord (and to require any subtenant, contractor or subcontractor who maintains such records to provide to City) immediate access to all workers' time sheets, payroll records, and paychecks for inspection on request to the extent they relate to such services.

If Tenant, or its subtenants, contractors, and subcontractors fail to comply with the applicable obligations in San Francisco Administrative Code Chapter 21C, City shall have all available remedies set forth in Chapter 21C and the remedies set forth in this Lease. City may inspect and/or audit any workplace, job site, books and records pertaining to the applicable services and may interview any individual who provides, or has provided, such services. Tenant shall provide to City (and to require any subtenant, contractor or subcontractor who maintains such records to provide to City) immediate access to all workers' time sheets, payroll records, and paychecks for inspection on request to the extent they relate to such services.

(c) In connection with any Construction, Tenant shall comply with the local hire requirements set forth in Section 22.25.

8.19 Construction Signs and Barriers. Tenant shall provide appropriate construction barriers and construction signs and post the signs on the Premises during the period of construction. The size, design and location of such signs and the composition and appearance

of any non-moveable construction barriers must be submitted to Landlord for approval before installation, which approval may not be withheld, conditioned or delayed unreasonably.

8.20 Certificate of Completion.

(a) Tenant Request for Certificate. After Tenant has completed the construction of the Initial Improvements in accordance with this Lease, Tenant may request a Certificate of Completion in writing. Landlord shall act on Tenant's request within forty-five (45) days of receipt. Landlord's issuance of any Certificate of Completion does not relieve Tenant or any other person from any obligations to secure or comply with any Regulatory Approval of any agency (including Landlord) that may be required for the occupancy or operation of the Improvements of the Initial Improvements. Tenant shall comply with all such requirements or conditions separately.

(b) Deferred Items; Issuance. If there remain uncompleted (i) customary punch list items, (ii) landscaping, or (iii) any other item that Landlord approves in writing that has not yet been completed (collectively "Deferred Items"), Landlord may reasonably condition approval of a Certificate of Completion upon provision of security or other assurances in form, substance and amount satisfactory to Landlord that all the Deferred Items will be completed in a timely fashion. Such security may include a letter of credit (in a form and issued by an institution acceptable to Landlord) or funds in an escrow account acceptable to Landlord (with joint escrow instructions acceptable to both Parties) in the amount of one hundred ten percent (110%) of the cost of completion of the Deferred Items as reasonably determined by Landlord. The obligations set forth in this subsection shall survive a termination of this Lease.

(c) Definition of Completion. For purposes of this Lease, "Completed" and "Completion" mean completion of construction by Tenant of all aspects of the Initial Improvements in accordance with the approved Construction Documents, and in compliance with all Regulatory Approvals, or provision of security satisfactory to Landlord for Deferred Items, and final building permit sign off. Completion shall be evidenced by Landlord's issuance of a Certificate of Completion.

(d) Certification of Completion. The Certificate of Completion will be in the form of **Exhibit N** attached hereto. For purposes of this Lease, the Certificate of Completion will be a conclusive determination of Completion of the Initial Improvements (except for completion of Deferred Items) and of the right of Tenant to occupy all of the Initial Improvements in accordance with the terms of the Lease. The Certificate of Completion is not a notice of completion as referred to in Section 3093 of the California Civil Code.

(e) Failure to Issue. If Landlord refuses or fails to furnish a Certificate of Completion, Landlord shall, within forty-five (45) days, provide Tenant with a written statement specifying the reasons Landlord refused or failed to furnish the Certificate of

Completion and identifying the items Tenant shall complete or requirements it shall satisfy to obtain a Certificate of Completion.

8.21 Termination of Agreement Before Completion.

(a) Delivery of Reports and Information. Upon any termination of this Lease before Completion of the Initial Improvements, Tenant shall assign and deliver to Landlord any and all copies of reports and studies in its possession of Tenant or Tenant's agents, employees, contractors, architects, engineers or consultants or reasonably obtainable by Tenant or reports and studies prepared by or for Tenant regarding the Premises and all Construction Documents in the of Tenant or Tenant's agents, employees, contractors, architects, engineers or consultants or possession reasonably obtainable by Tenant, or prepared for Tenant, for the development of the Premises within thirty (30) days after written demand from Landlord, in each case if and to the extent assignable. Landlord may use said reports, studies and Construction Documents for any purpose whatsoever relating to the Premises, without cost or liability therefor to Tenant or any other person or entity; provided, however, Landlord shall release Tenant and Tenant's contractor, architect, engineer, agents, employees and other consultants from any Losses arising out of Landlord's use of such reports and Construction Documents except to the extent such contractor, architect, engineer, agent, employee or other consultant is retained by Landlord to complete construction. Tenant shall include in all contracts and authorizations for services pertaining to the planning and design of the Initial Improvements an express agreement by the contractor performing such services that the Landlord may use such reports, studies or Construction Documents as provided in this Section without compensation or payment from the Landlord in the event such reports, studies or Construction Documents are delivered to the Landlord under the provisions of this Section, provided that the Landlord agrees (i) not to remove the name of the preparer of such reports of Construction Documents without the preparer's written permission and (ii) to remove it at their written request.

(b) Property Condition. If this Agreement terminates due to an Event of Default by Tenant before completion of the Initial Improvements, Tenant shall, at its sole expense, return the Premises to Landlord in a condition not less safe than the condition of the Premises on the Effective Date, and unless otherwise requested by Landlord, shall remove all loose building materials and debris present at the Premises resulting from Tenant's Construction activities. In the event that Tenant is required to return the Premises as provided above in this Section, Tenant shall obtain those permits customary and necessary to enter upon the Premises in order to complete such work and shall otherwise comply with applicable Law. In such event, Landlord shall cooperate with Tenant in Tenant's efforts to obtain such permits, provided that Landlord will not be required to expend any money or undertake any obligations in connection therewith. The provisions of this Section shall survive any termination of this Agreement.

8.22 Ownership of Initial Improvements / Alterations. The Initial Improvements and any Alterations shall be and remain Tenant's property during the Term. Upon the termination of this Lease, Tenant shall return the Premises, including the Initial Improvement and any Alterations, in good condition as set forth in Article 22; provided, Landlord shall have the right to require Tenant to remove any of the Initial Improvements or Alterations that Landlord determines is not in good condition or has not been maintained as required under this Lease, and Landlord's failure to insist on a higher standard of maintenance shall not limit Landlord's right to require removal at the end of the Term. Any of the Initial Improvements or Alterations that Landlord does not require Tenant to remove shall automatically become Landlord's property, without payment to Tenant, on the expiration or sooner termination of this Lease. If Landlord elects to require the removal of the Initial Improvements or Alterations, Tenant shall remove such structures, buildings, installations, and/or improvements within ninety (90) days after Landlord's notification to Tenant. Tenant agrees to repair any and all damage occasioned by any such removal.

8.23 Tenant's Personal Property. Tenant's Personal Property shall be and shall remain the property of Tenant and shall be removed by Tenant, subject to the provisions of Article 22. Tenant shall be solely responsible for providing any security or other protection of or maintenance to Tenant's Personal Property.

9. APPROVAL OF FINANCING AND CONSTRUCTION CONTRACT

9.1 Required Submittals. For evidence of financing required to begin construction of the Initial Improvements, Tenant shall submit the items listed below.

(a) Development Budget. A final budget of total development costs for the Initial Improvements (the "Budget") in accordance with (i) the Final Construction Documents or the Preliminary Construction Documents if Tenant is using the Site Permit process and (ii) the Final Development Concept. The Budget shall include, but not be limited to, line items for all pre-development costs, permits and fees, architectural and engineering costs, financing costs, hard construction costs, furniture, fixtures and equipment costs, and costs of all improvements to be constructed by Tenant.

(b) Sources and Uses. A statement and appropriate supporting documents certified by Tenant to be true and correct and in form reasonably satisfactory to Landlord showing sources and expected uses of funds and sufficient to demonstrate that (i) Tenant has or will have adequate funds to complete each phase of the Initial Improvements in accordance with the Budget and (ii) such funds have been spent for uses described in the Budget or are committed and available for that purpose.

(c) Operating Budget. An operating budget, including all anticipated Gross Income, all anticipated expenses, including required deposits into the Capital Maintenance

Account, as required by the Lease, and including an estimate of net revenues anticipated to be realized for the period covered by such operating budget (the "Operating Budget"). The Operating Budget must also project expenses, Gross Income and net revenues for the two (2) year period after the initial budget year and must be approved by Landlord. The scope of Landlord's review for such approval shall include whatever Landlord reasonably determines is necessary to conclude that the Initial Improvements are financially feasible.

(d) Debt Financing. With regard to all debt financing, a copy of a bona fide commitment or commitments, with no conditions other than standard and customary conditions (or as otherwise approved by Landlord in its reasonable discretion) and no provisions requiring anything contrary to the terms of this Lease, for the financing of each phase of that portion of the Budget intended to be borrowed by Tenant, certified by Tenant to be a true and correct copy or copies thereof. In evaluating the proposed Budget, Landlord may consider whether the proposed Budget reflects a reasonable maximum loan to value ratio. The commitment or commitments shall be obtained from a Bona Fide Institutional Lender (or Lenders), and, if required by any construction lenders(s), shall include commitments for permanent financing. Tenant covenants and agrees to perform any and all conditions to funding in accordance with such commitments.

(e) Tenant Equity Investment. With regard to all paid capital contributions or equity, a written statement with appropriate supporting documents certified by Tenant to be true and correct and in a form reasonably satisfactory to Landlord showing actual receipt of contributions.

(f) Construction Contract. Evidence of a guaranteed maximum price contract or a stipulated sum contract for construction of each phase of the Initial Improvements consistent with the approved Budget and the financing for each phase of the Initial Improvements in form reasonably acceptable to Landlord with a contractor reasonably acceptable to Landlord (a "Construction Contract"). Except as otherwise specifically agreed by the TIDA Director in writing, the Construction Contract shall be a contract on commercially reasonable terms for construction of the Initial Improvements described in the Final Construction Documents: (A) with a contract sum or guaranteed maximum price consistent with the approved Budget and financing, (B) requiring Tenant or contractor to obtain performance and payment bonds guaranteeing in full the contractor's performance and payment of subcontractors under the Construction Contract; (C) naming Landlord and the City and their respective boards, commissions, directors, officers, agents, and employees as co-indemnities with respect to Tenant's contractor's obligation to indemnify and hold harmless Tenant from all Losses arising out of the Construction Contract; (D) requiring Tenant and Contractor (as applicable) to obtain and maintain insurance coverages reasonably acceptable to Landlord, including general liability and builder's risk insurance coverage that names City and its directors, officers, agents, and employees as additional insureds under the terms of the policies, (E) identifying Landlord as an intended third party beneficiary of the Construction Contract, with the right to enforce the

terms and conditions of the Construction Contract and pursue all claims thereunder as if it were an original party thereto; (F) consenting to the assignment of the Construction Contract to Landlord, in whole or in part, including but not limited to the assignment of (i) all express and implied warranties and guarantees from the contractor, all subcontractors and suppliers, (ii) all contractual rights related to the correction of nonconforming work, and (iii) the right to pursue claim(s) for patent and latent defects in the work and the completed project; and (G) providing for the contractor's(s') obligation, for a period of at least one (1) year after the final completion of construction of the Initial Improvements, to correct, repair, and replace any work that fails to conform to the Final Construction Documents (as the same may be revised during construction pursuant to properly approved change orders) and damage due to: (i) faulty materials or workmanship; or (ii) defective installation by such contractor(s) of materials or equipment manufactured by others.

(g) Adequate Security. Evidence of a performance bond or other security approved by Landlord, in 100% of the cost of construction of each phase of the Initial Improvements. A performance bond must be issued by a responsible surety company licensed to do business in California and acceptable to Landlord.

The foregoing submissions may be in substantially final form (including the pricing under the Construction Contract) at the time of initial submission by Tenant, but must be noted as such at the time of such submission and all material changes to such submission thereafter must be resubmitted to Landlord for approval with all additions and deletions clearly noted by Tenant. All such submissions must be in final form by no later than ten (10) days before the proposed start of construction.

9.2 Approval Process. Within thirty (30) days after Tenant's submission of all of the documents described in Section 9.1, Landlord will notify Tenant in writing of its approval or disapproval (including the reasons for disapproval) of the evidence of financing, provided that at least forty-five (45) days before the date of such request for approval, Landlord shall have received Preliminary Construction Documents in sufficient detail to allow Landlord to obtain a cost estimator's report if Landlord, in its sole discretion and at its sole cost and expense, determines to obtain such a report.

10. NO LIENS

10.1 Construction Liens. Tenant shall keep the Premises, this Lease, and any improvements thereon free from any liens arising out of any work performed, materials furnished or obligations incurred by Tenant or its agents. If Tenant does not, within twenty (20) days following the imposition of any such lien, cause the same to be released of record or sufficiently bonded over in Landlord's reasonable determination, it shall be a material default under this Lease, and Landlord shall have, in addition to all other remedies provided by this Lease or by Law, the right but not the obligation to cause the same to be released by such

means as it shall deem proper, including without limitation, payment of the claim giving rise to such lien. All sums paid by Landlord for such purpose and all reasonable expenses incurred by Landlord in connection therewith shall be payable to Landlord by Tenant within thirty (30) days following written demand by Landlord. Landlord shall keep the Premises and any Improvements thereon free from any liens arising out of any work performed, materials furnished or obligations incurred by Agents of Landlord. Without limiting the foregoing, Tenant shall Indemnify Landlord for any and all Losses resulting from any liens against the Premises or any improvements thereon.

10.2 Contests. Tenant may contest the validity or amount of any tax, assessment, encumbrance or lien related to the Premises and to pursue any remedies associated with such contest; provided, however, such contest and pursuit of remedies does not subject the Premises or any portion of it to forfeiture or sale and such contest shall be subject to all of the terms and conditions of the Lease, including, but not limited to, the provision of security.

11. SUBSEQUENT IMPROVEMENTS / ALTERATIONS

11.1 Subsequent Improvements / Alterations. Following Completion of the Initial Improvements, Tenant shall not construct, install, make or permit to be made any alterations, installations or additions in, to or about the Premises costing in excess of One Hundred Fifty Thousand Dollars (\$150,000) over the course of any twenty-four (24) month period ("Alterations") without Landlord's prior written consent in each instance, which consent shall not be unreasonably withheld, conditioned or delayed. Subject to Landlord's consent as provided above, any Alterations shall be done at Tenant's sole expense (i) in strict accordance with plans and specifications approved in advance by Landlord in writing, (ii) by Tenant or by duly licensed and bonded contractors or mechanics approved by Landlord, (iii) in a good and professional manner, (iv) in strict compliance with all Laws, and (v) subject to all other conditions that Landlord may reasonably impose. In no event shall the construction, installation or the making of any Alterations impair the use or operation of the Treasure Island property, or any portion thereof, or Landlord's access thereto. Prior to the commencement of any work on the Premises to construct any Alterations, Tenant, at its sole expense, shall procure all Regulatory Approvals and shall promptly upon receipt deliver copies of all such documents to Landlord. All construction related requirements for Alterations, including without limitation Landlord's review and approval of Construction Documents, the contractor, insurance, bonding, financing and other construction requirements shall be as set forth in Article 8 and Article 9; provided, Landlord shall have the right to waive any such requirements in its sole discretion. No material change from the plans and specifications for any Alterations approved by Landlord may be made without Landlord's prior consent. Landlord and Landlord's Agents shall have the right to inspect the course of construction on the Premises at all times.

(a) Material Changes. Once approved, any and all material changes to such plans for Alterations must be approved by Landlord, which approval shall not be unreasonably withheld, conditioned or delayed.

(b) Landlord Notification. Tenant shall notify Landlord before submitting an application to any governmental regulatory agency for a Regulatory Approval for Alterations. Tenant shall also provide Landlord with a copy of all such applications within five (5) days of submittal, along with copies of all any plan submitted as part of the application. Tenant shall also provide Landlord, within ten (10) days of Tenant's receipt, a copy of all permits, licenses, or other authorizations subsequently issued.

(c) Construction. Upon satisfaction of all conditions, Tenant shall construct the Alterations, at Tenant's cost, in accordance with the requirements set forth in Article 8. Upon completion, Tenant shall provide to Landlord as-built plans of the Alterations.

11.2 Minor Alterations. Tenant may construct, install, make or permit to be made any alterations, installations or additions in, to or about the Premises costing less than One Hundred Fifty Thousand Dollars (\$150,000) over the course of any twenty-four (24) month period ("Minor Alterations") without Landlord's prior written consent. Any Minor alterations shall be performed at Tenant's sole expense by Tenant or by duly licensed and bonded contractors or mechanics, and in a good and professional manner. In no event shall the construction, installation or the making of any Minor Alterations impair the use or operation of the Treasure Island property, or any portion thereof, or Landlord's access thereto. Prior to the commencement of any work on the Premises to construct any Minor Alterations, Tenant, at its sole expense, shall procure all Regulatory Approvals and shall promptly upon receipt deliver copies of all such documents to Landlord. The requirements of Section 8.2 [Construction Standards], 8.4 [Utilities], 8.17 [Landlord Right of Access], 8.18 [Local Hire and Wages and Working Conditions], 8.19 [Construction Signs and Barriers], 8.23 [Ownership of Initial Improvements/Alterations, and 8.24 [Tenant's Personal Property] shall apply to all Minor Alterations.

11.3 Landlord's Alterations. Landlord reserves the right at any time to make alterations, additions, repairs, deletions or improvements to the common areas or any other part of Treasure Island without Tenant's prior written consent provided that any such alterations or improvements shall not materially adversely affect the functional utilization of the Premises for the purposes stated herein or materially interfere with Tenant's access to the Premises.

12. MAINTENANCE AND REPAIR

12.1 Tenant Responsibility

(a) Tenant Maintenance. Tenant shall assume full responsibility for operation and maintenance of the Premises throughout the Term at no cost to Landlord. Tenant shall perform

all maintenance, which includes all painting, repairs, and replacements necessary to maintain and preserve the Premises in a good, safe, healthy, and sanitary condition, satisfactory to Landlord and in compliance with all applicable Laws. Tenant shall make such repairs with materials, apparatus and facilities at least equal in quality, appearance and durability to the materials, apparatus and facilities repaired or replaced. Without limiting the foregoing, Tenant shall promptly make all such repairs and replacements: (a) at no cost to City, (b) by licensed contractors or qualified mechanics; and (c) in accordance with any applicable Laws. Tenant shall provide approved containers for trash and garbage and keep the Premises free and clear of rubbish, litter, and any other fire hazards, and encourage maximum waste diversion consistent with City policies. By March 1 of each year, Tenant shall develop and implement a preventive maintenance schedule and provide a copy to Landlord. Tenant shall also contract with qualified independent contractors, paying prevailing wages, for the maintenance and repair of items that is not performed by regular maintenance employees.

(b) No Landlord Duty. Landlord shall not, as a result of this Lease, have any obligation to make repairs or replacements of any kind or maintain the Premises or the Clipper Cove Marina in any manner. Tenant waives all rights to make repairs at the expense of Landlord, as provided in Section 1942 of the California Civil Code, and all rights provided by Section 1941 of said Code.

(c) Notice. Tenant shall deliver to Landlord, promptly after receipt, a copy of any notice which Tenant may receive from time to time: (i) from any governmental authority having responsibility for the enforcement of any applicable Laws, asserting that the Premises is in violation of applicable Laws; or (ii) from the insurance company issuing or responsible for administering one or more of the insurance policies maintained by Tenant under this Lease, asserting that the requirements of such insurance policy or policies are not being met. Landlord shall deliver to Tenant, promptly after receipt, a copy of any notice which Landlord may receive from time to time from any governmental authority having responsibility for the enforcement of any applicable Laws, asserting that the Premises is in violation of such Laws.

12.2 Reserve Account.

(a) Reserve Accounts. To ensure adequate funding for capital repairs and maintenance and for future dredging, Tenant shall maintain a segregated interest-bearing reserve depository account (the "Capital Reserve Account") to pay for ongoing repairs and capital expenditures approved by Landlord and a segregated interest-bearing reserve depository account (the "Dredge Reserve Account") to pay for future dredge costs approved by Landlord. On the 181st day of each year, commencing in 2020, Tenant shall deposit into the Capital Reserve Account an amount equal to Twenty Five Thousand Dollars (\$25,000) until the Capital Reserve Account holds One Hundred Thousand Dollars (\$100,000) (the "Reserve Account Maximum") and shall deposit an amount equal to Twenty Five Thousand Dollars (\$25,000) into the Dredge Reserve Account until that account holds Two Hundred Thousand

Dollars (\$200,000) (the "Reserve Account Maximum"). Tenant may use funds in the Reserve Accounts from time to time for expenditures approved by the Treasure Island Director, which approval will not be unreasonably withheld or delayed. As funds are disbursed from the Reserve Accounts, Tenant shall replenish the Reserve Accounts annually until the Reserve Accounts Maximum is reached. During the last four (4) years of the Term, Tenant shall not be required to make any contributions to the Reserve Accounts. Upon the expiration or termination of this Agreement, all funds remaining in the Reserve Accounts shall be paid to the Landlord.

(b) Inspection Reports. Not less frequently than once every ten (10) years, Tenant shall conduct an inspection and physical needs assessment for the Premises to identify replacements and repairs required to maintain the Premises in good order and repair and to keep the Improvements from deteriorating, and shall cause to be prepared a written report (the "Inspection Report") detailing the results of such inspection and assessment. The Inspection Report shall identify capital repairs and improvements which are reasonably required to preserve, repair or replace capital improvements, fixtures or equipment located on or used in connection with the operation of the Premises as well as routine maintenance and repairs. The Inspection Report shall inform the use of the Reserve Account.

12.3 Landlord Inspection. For the purpose of keeping the Premises in a good, safe, healthy, and sanitary condition, Landlord always shall have the right but not the duty to enter, view, inspect, determine the condition of, and protect its interests in the Premises, provided that Landlord or its representatives shall: (a) conduct such entry in a manner that causes the least inconvenience and disruption to Tenant's operation as practicable; (b) occurs after reasonable notice to Landlord; and (c) comply with all reasonable safety and security requirements of Tenant. Tenant's safety and security requirements cannot be used to bar Landlord's right of inspection.

12.4 Tenant Work Following Landlord Notification. If Landlord determines, following inspection, that the Premises are not in the condition required herein, Landlord shall notify Tenant of the same, together with the reasons for Landlord's determination and a statement of work that Tenant should complete in order to bring the Premises into compliance ("Landlord's Work Notice"). Tenant shall, within fifteen (15) days of receiving Landlord's Work Notice, notify Landlord that it intends to complete the work or, if Tenant believes that some or all of the work set forth in Landlord's Work Notice is not required, Tenant shall notify Landlord of the same and the reasons the specified work is not required. The parties agree to meet and confer in good faith for not less than sixty (60) days to agree upon an acceptable scope of work and schedule. Tenant shall begin the necessary work within ninety (90) days following the meet and confer period and diligently prosecute the same to completion. If Regulatory Approvals are required to start the work, then Tenant will begin the work within ninety (90) days following receipt of the necessary Regulatory Approval. Tenant shall not be in default of

this Lease if Tenant commences the work within the above periods and diligently prosecutes same to completion.

12.5 Landlord Not Responsible For Maintenance or Dredging. Notwithstanding anything in this Lease to the contrary, Landlord shall not be required to perform any maintenance, including painting, repairs, or replacements; or to make any improvements whatsoever in or around the Premises. Landlord shall not be responsible for any dredging of Clipper Cover or surrounding areas. Any dredging required for Tenant's use of the Premises shall be performed by Tenant at its sole cost.

12.6 Landlord's Self-Help Rights. In the event Tenant fails to maintain, repair or make any repairs or replacements as required, Landlord may, but shall not be required, upon not less than thirty (30) days prior written notice (or in the case of an emergency, notice of not less than the time period which would be reasonable in light of the nature of the emergency) and Tenant's failure to timely remedy any maintenance item properly noticed, or make any repair or replacement properly noticed, undertake the maintenance, repair or replacement noticed and the actual out-of-pocket cost thereof (including, but not limited to, the cost of labor overhead, materials and equipment) shall be charged to Tenant and payable by Tenant to Landlord as additional rent within thirty (30) days following delivery by Landlord to Tenant of a statement (with supporting invoices to the extent available) setting forth in reasonable detail the cost of such maintenance, repair or replacement. Landlord's rights reserved in this Article 12 shall not create or increase any Landlord obligations in this Lease.

12.7 Utilities. Landlord shall provide connection points to the basic electricity, water and sewer utilities to the Premises. Tenant shall be responsible for obtaining, and paying for, any utilities or services that Tenant may need for its use of the Premises. Tenant shall pay, without set off or counterclaim, all amounts due and owing for such utilities and services at the rates charged by the utility provider. Tenant understands and acknowledges that existing utility lines at Treasure Island are old and in need of repair and replacement, and any interruption in, or failure or inability to provide any utility shall not constitute an eviction of Tenant, constructive or otherwise, or impose upon Landlord or the City any liability whatsoever. Tenant agrees, with respect to any public utility services provided to the Premises by Landlord or the City (if applicable), that no act or omission of Landlord or the City in its capacity as a provider of public utility services shall abrogate, diminish, or otherwise affect the respective rights, obligations and liabilities of Tenant under this Lease, or entitle Tenant to terminate this Lease or to claim any abatement or diminution of Rent. Further, Tenant covenants not to raise as a defense to its obligations under this Lease, or assert as a counterclaim or cross-claim in any litigation or arbitration between Tenant and Landlord relating to this Lease, any losses arising from or in connection with the provision (or failure to provide) public utility services. If and to the extent utility services are provided by the SFPUC, Tenant agrees to purchase such services from the SFPUC at the standard rates charged to tenants and property owners.

12.8 Other Services. Tenant shall provide all janitorial services for the Premises at no cost to Landlord. Tenant shall provide and pay for all pest control services required within the Premises, and shall keep the Premises free of all pests at all times in compliance with Laws. Tenant shall deposit all trash into designated containers in the Premises in compliance with the Rules and Regulations. Tenant shall pay for the removal of trash from the designated containers. Tenant shall abide by all rules established by Landlord for the handling of trash.

12.9 No Right to Repair and Deduct. Tenant expressly waives the benefit of any existing or future Laws or judicial or administrative decision that would otherwise permit Tenant to make repairs or replacements at Landlord's expense, or to terminate this Lease because of Landlord's failure to keep the Premises or any part of Treasure Island in good order, condition or repair, or to abate or reduce any of Tenant's obligations hereunder on account of the Premises or any part thereof being in need of repair or replacement. Without limiting the foregoing, Tenant expressly waives the provisions of California Civil Code Sections 1932, 1941 and 1942 or any similar Laws with respect to any right of Tenant to terminate this Lease and with respect to any obligations of Landlord hereunder or any right of Tenant to make repairs or replacements and deduct the cost thereof from Rent.

12.10 Water and Energy Conservation; Mandatory or Voluntary Restrictions. If any law, ordinance, code or governmental or regulatory guideline imposes mandatory or voluntary controls on Landlord or the Premises or any part thereof, relating to the use or conservation of energy, water, gas, light or electricity or the reduction of automobile or other emissions, or the provision of any other utility or service provided with respect to this Lease, or in the event Landlord is required or elects to make alterations to any part of the Premises in order to comply with such mandatory or voluntary controls or guidelines or to save power, water or other utility charges, such compliance and the making of such alterations shall in no event entitle Tenant to any damages, relieve Tenant of the obligation to pay the full Rent hereunder or to perform each of its other covenants hereunder or constitute or be construed as a constructive or other eviction of Tenant, provided that Landlord shall consult with Tenant prior to the construction of any such alterations in order to minimize the effect of any such improvement on the operations of Tenant under this Lease.

13. COMPLIANCE WITH LAWS

13.1. Compliance with Laws. Tenant shall promptly, at its sole expense, maintain the Premises and Tenant's use and operations thereon in strict compliance at all times with all present and future Laws relating to the Premises or the use or occupancy thereof, whether foreseen or unforeseen, ordinary as well as extraordinary, and with any and all recorded covenants, conditions and restrictions affecting the Treasure Island property or any portion thereof. Such Laws shall include, without limitation, all Laws relating to health and safety and disabled accessibility including, without limitation, the Americans with Disabilities Act, 42 U.S.C. §§ 12101 et seq. and Title 24 of the California Code of Regulations, all present and

future Hazardous Materials Laws (as defined in this Lease below), and all applicable provisions of the San Francisco Environment Code. Tenant acknowledges that the Permitted Uses do not limit Tenant's responsibility to obtain Regulatory Approvals for such uses, including but not limited to, building permits. No occurrence or situation arising during the Term, nor any present or future Law, whether foreseen or unforeseen, and however extraordinary, shall give Tenant any right to seek redress against Landlord for failing to comply with any Laws. Tenant's obligation to comply with all Laws provided herein is a material part of the bargained for consideration under this Lease. Tenant waives any rights now or hereafter conferred upon it by any existing or future Law to terminate this Lease, to receive any abatement, diminution, reduction or suspension of payment of Rent, or to compel City to make any repairs to comply with any such Laws, on account of any such occurrence or situation.

13.2. Regulatory Approvals; Responsible Party. Tenant understands and agrees that Tenant's use of the Premises and construction of any Alterations permitted hereunder may require authorizations, approvals or permits from governmental regulatory agencies with jurisdiction over the Premises. Tenant shall be solely responsible for obtaining any and all such regulatory approvals, including without limitation, any liquor permits or approvals. Tenant shall not seek any regulatory approval without first obtaining the written consent of Landlord. Tenant shall bear all costs associated with applying for, obtaining and maintaining any necessary or appropriate regulatory approval and shall be solely responsible for satisfying any and all conditions imposed by regulatory agencies as part of a regulatory approval. Any fines or penalties levied as a result of Tenant's failure to comply with the terms and conditions of any regulatory approval shall be immediately paid and discharged by Tenant, and Landlord shall have no liability, monetary or otherwise, for any such fines or penalties. Tenant shall Indemnify Landlord and City, including their respective Agents, against any and all Losses arising in connection with Tenant's failure to obtain or comply with the terms and conditions of any regulatory approval.

13.3. Compliance with Landlord's Risk Management Requirements. Tenant shall not do anything, or permit anything to be done, in or about the Premises or to any Alterations permitted hereunder that would create any unusual fire risk, and shall take commercially reasonable steps to protect Landlord from any potential premises liability. Tenant shall faithfully observe, at its expense (i) any and all reasonable requirements of Landlord's Risk Manager with respect thereto, and (ii) the requirements of any policies of commercial general liability, all risk property or other policies of insurance at any time in force with respect to the Premises and any Alterations.

14. LIENS AND LEASEHOLD MORTGAGES

14.1 No Liens on Landlord's Fee Interest.

Tenant may not under any circumstance engage in any financing or other transaction creating any mortgage, lien or other encumbrance on Landlord's fee interest in the Premises. Landlord's fee interest in the Premises shall not be subordinated under any circumstance whatsoever to any Mortgage allowed under this Lease.

14.2 Leasehold Encumbrances.

(a) Tenant's Right to Mortgage Leasehold. Except as expressly permitted in this Article 14, Tenant shall not Encumber Tenant's leasehold interest in the Premises, the Initial Improvements or Alterations, or this Lease. Any Mortgage that is not permitted hereunder shall be deemed to be a violation of this Lease on the date of its execution or filing of record regardless of whether or when it is foreclosed or otherwise enforced. Pursuant to the terms and to the extent permitted by this Section, Tenant shall have the right to Encumber Tenant's leasehold estate created by this Lease by way of a leasehold Mortgage, including a loan or loans from the California Division of Boating and Waterways; provided that, (i) notwithstanding any foreclosure thereof, Tenant shall remain liable for the payment of Rent and for the performance of all other obligations under this Lease, and (ii) no Mortgage shall secure debt that exceeds seventy percent (70%) of the cost of the Initial Improvements without the prior written approval of the Authority Director. Tenant shall promptly notify Landlord of any lien or encumbrance of which Tenant has knowledge and which has been recorded against or attached to the Premises, the Initial Improvements or Alterations, or Tenant's leasehold estate hereunder whether by act of Tenant or otherwise. In no event will Landlord's fee interest in the Premises (including, without limitation Landlord's right to receive rent hereunder) be encumbered or subordinated as a result of any Mortgage entered into by Tenant.

(b) Leasehold Mortgage Subject to this Lease. With the exception of the rights expressly granted to Mortgagees in this Lease, the execution and delivery of a Mortgage shall not give or be deemed to give a Mortgagee any greater rights than those granted to Tenant hereunder. Notwithstanding anything herein to the contrary, any rights given to Mortgagees under this Lease shall not apply to more than one Mortgagee at any one time. If at any time there is more than one Mortgage constituting a lien on any portion of the Premises, the lien of the Mortgage prior in time to all others shall be vested with the rights under this Article 14 to the exclusion of the holder of any junior Mortgage. In the event that the California Division of Boating and Waterways (DBW) provides a loan or loans to Tenant for construction of the marina, Landlord agrees that in the event of a Tenant default under this Lease DBW, as Lender shall not be obligated to pay the Base Rent or any Percentage Rent to Landlord and the obligation to pay the Base Rent and any Percentage Rent shall be the sole obligation of Tenant.

(i) No Invalidation of Mortgage by Tenant Default. No failure by Tenant or any other party to comply with the terms of any Mortgage, including, without limitation, the use of any proceeds of any debt, the repayment of which is secured by the

Mortgage, shall be deemed to invalidate, defeat or subordinate the lien of the Mortgage. Neither the occurrence of any default under a Mortgage, nor any foreclosure action or conveyance in-lieu-of foreclosure, nor any action taken by a Mortgagee as permitted under the terms of the Mortgage or to cure any default of Tenant under this Lease, shall, by itself, constitute an Event of Default under this Lease.

(ii) Purpose of Mortgage; Protections Limited to Permitted Mortgagees. A Mortgage may be given only to a Bona Fide Institutional Lender, or to any other lender approved by Landlord in its sole discretion. A Mortgage shall be made only to finance the Initial Improvements or any approved Alterations, or for the purpose of refinancing a permitted Mortgage, and shall not be cross-collateralized or cross defaulted with any other debt of Tenant or any other party. Tenant shall not be permitted to refinance a permitted Mortgage in order to take out cash for application to property other than the Premises or for application to the obligations of Tenant other than those created under this Lease.

(iii) Rights Subject to Lease; Restoration Obligations. All rights acquired by the Mortgagee under a Mortgage shall be subject to each and all of the covenants, conditions and restrictions set forth in this Lease, and to all rights of Landlord hereunder. None of such covenants, conditions and restrictions is or shall be waived by Landlord by reason of the giving of the Mortgage, except as expressly provided in this Lease or otherwise specifically waived by Landlord in writing. Except as set forth below, no Mortgagee shall be obligated to restore any damage to the Premises; provided, however, (i) that nothing in this Section shall be deemed or construed to permit or authorize any such holder to devote the Premises or any part thereof to any uses, or to construct any improvements thereon, other than those uses or improvements permitted under this Lease, and (ii) in the event that the Mortgagee obtains title to the leasehold and chooses not to complete or restore the improvements where Tenant otherwise has the obligation to so restore, it shall so notify Landlord in writing of its election within forty-five (45) days following its acquisition of the tenancy interest in this Lease and shall sell its tenancy interest with reasonable diligence to a purchaser that shall be obligated to restore the improvements as required under this Lease, but in any event the Mortgagee shall cause such sale to occur within six (6) months following the Mortgagee's written notice to Landlord of its election not to restore. If Mortgagee fails to sell its tenancy interest using good faith efforts within such six (6) month period, it shall not constitute a default hereunder, but the Mortgagee shall be obligated by the provisions of this Lease to restore the improvements to the extent Tenant is required under this Lease to so restore, and all such work shall be performed in accordance with all the requirements set forth in this Lease.

(iv) Required Notice Provision in Mortgage. Tenant agrees to have any Mortgage provide: (a) that the Mortgagee shall by registered or certified mail give a copy of each written notice to Landlord of the occurrence of any event of default under the Mortgage; (b) that Landlord shall be given notice at the time any Mortgagee initiates any foreclosure action; and (c) that the disposition and application of insurance and condemnation awards shall be in accordance with the provisions of this Lease.

14.3 Notices to Mortgagee.

(a) Copies of Notices. Subject to subsection (b) below, Landlord shall give a copy of each default notice Landlord gives to Tenant from time to time of the occurrence of a default or an Event of Default, to a Mortgagee that has given to Landlord written notice substantially in the form provided in subsection (b). Copies of such notices shall be given to the Mortgagee at the same time as notices are given to Tenant by Landlord, addressed to the Mortgagee at the address last furnished to Landlord. Landlord's delay or failure to give such notice to the Mortgagee shall not be deemed to constitute a default by Landlord under this Lease, but such delay or failure shall extend for the number of days until such notice is given, the time allowed to the Mortgagee to cure any default by Tenant. Any such notices to Mortgagee shall be given in the same manner as provided in Section 24.1 [Notices].

(b) Notice From Mortgagee to Landlord. The Mortgagee shall be entitled to receive notices from time to time given to Tenant by Landlord under this Lease in accordance with subsection (a) above, provided such Mortgagee shall have delivered a notice to Landlord in substantially the following form:

"The undersigned does hereby certify that it is the Mortgagee, as such term is defined in that certain Lease entered into by and between Landlord and County of San Francisco, as landlord, and _____, as tenant (the "Lease"), of Tenant's interest in the Lease of the premises known as the Treasure Island Marina/Clipper Cove, a legal description of which is attached hereto as Exhibit A-2. The undersigned hereby requests that copies of any and all default notices from time to time given under the Lease by Landlord to Tenant be sent to the undersigned at the following address:

14.4 Mortgagee's Right to Cure.

If Tenant shall enter into a Mortgage in compliance with the provisions of this Lease, then, so long as any such Mortgage shall remain unsatisfied of record, the following provisions shall apply:

(a) Cure Periods. In the case of any notice of default given by Landlord to Tenant, the Mortgagee shall each have the same concurrent cure periods as are given Tenant under this Lease for remedying a default or causing it to be remedied plus an additional fifteen (15) days thereafter for a monetary default or an additional thirty (30) days thereafter for a nonmonetary default, and Landlord shall accept such performance by or at the instance of the Mortgagee as if the same had been made by Tenant within the applicable cure periods under the Lease.

(b) Foreclosure. Notwithstanding anything contained in this Lease to the contrary, upon the occurrence of an Event of Default, other than an Event of Default due to a default in the payment of money or other default reasonably susceptible of being cured before Mortgagee obtaining possession, Landlord shall take no action to effect a termination of this Lease if, within thirty (30) days after notice of such Event of Default is given to Mortgagee, a

Mortgagee shall have (x) obtained possession of the Premises (including possession by a receiver), or (y) notified Landlord of its intention to institute foreclosure proceedings or otherwise acquire Tenant's interest under the Lease, and thereafter promptly commences and prosecutes such proceedings with diligence and dispatch and completes such proceedings no later than six (6) months thereafter. A Mortgagee including DBW, upon acquiring Tenant's interest under this Lease, shall be required promptly to cure all monetary defaults and all other defaults then reasonably susceptible of being cured by such Mortgagee. The foregoing provisions of this subsection (b) are subject to the following: (i) no Mortgagee shall be obligated to continue possession or to continue foreclosure proceedings after the defaults or Events of Default hereunder referred to shall have been cured; (ii) nothing herein contained shall preclude Landlord, subject to the provisions of this Section, from exercising any rights or remedies under this Lease (other than a termination of this Lease to the extent otherwise permitted hereunder) with respect to any other Event of Default by Tenant during the pendency of such foreclosure proceedings; and (iii) the Mortgagee shall agree with Landlord in writing to comply during the period Landlord forebears from terminating this Lease with the terms, conditions and covenants of this Lease that are reasonably susceptible of being complied with by the Mortgagee. Notwithstanding anything to the contrary, the Mortgagee shall have the right at any time to notify Landlord that it has relinquished possession of the Premises to Tenant, or that it will not institute foreclosure proceedings or, if such foreclosure proceedings have commenced, that it has discontinued them, and, in such event, the Mortgagee shall have no further rights or liability from and after the date it delivers such notice to Landlord, and, thereupon, Landlord shall be entitled to seek the termination of this Lease and/or any other available remedy as provided in this Lease. If Mortgagee is prohibited by any process or injunction issued by any court having jurisdiction of any bankruptcy or insolvency proceedings involving Tenant from commencing or prosecuting foreclosure or other appropriate proceedings in the nature thereof, the times specified above for commencing or prosecuting such foreclosure or other proceedings shall be extended for the period of such prohibition, provided that Mortgagee shall (i) have fully cured any Event of Default due to a default in the payment of money, (ii) continue to pay currently such monetary obligations as and when the same become due, and (iii) perform all other obligations of Tenant under this Lease to the extent that they are reasonably susceptible of being performed by the Mortgagee.

Notwithstanding anything herein to the contrary, to the extent the Mortgagee is not reasonable capable of performing an obligation under this Lease, such obligations shall apply to and remain effective on a prospective basis to any assignee or transferee of the Mortgagee notwithstanding Mortgagee's inability to perform. Notwithstanding anything to the contrary above, if the Premises are not used by Tenant or Mortgagee or a designee of Mortgagee as required by this Lease and such non-use continues for a period of twelve (12) months, then Landlord shall have the right to terminate this Lease by providing thirty (30) days' notice of termination, subject to Tenant's and/or Mortgagee's right to cure by commencing operations during the thirty (30) day period and continuing thereafter in accordance with this Lease.

(c) Construction. Subject to subsection (b) above, if an Event of Default occurs following any damage but before restoration of the Initial Improvements or Alterations,

the Mortgagee, either before or after foreclosure or action in lieu thereof, shall not be obligated to restore the improvements beyond the extent necessary to preserve or protect the improvements or construction already made, unless the Mortgagee expressly assumes Tenant's obligations to Landlord by written agreement reasonably satisfactory to Landlord, to restore, in the manner provided in this Lease, the improvements. Upon assuming Tenant's obligations to restore, the Mortgagee or any transferee of Mortgagee shall not be required to adhere to the existing construction schedule, but instead all dates set forth in this Lease for such restoration or otherwise agreed to shall be extended for the period of delay from the date that Tenant stopped work on the restoration to the date of such assumption.

(d) New Lease. In the event of the termination of this Lease before the expiration of the Term, except as a result of damage or destruction to the Premises as set forth in Article 15 or a Taking as set forth in Article 16, Landlord shall serve upon the Mortgagee written notice that this Lease has been terminated, together with a statement of any and all sums which would at that time be due under this Lease but for such termination, and of all other defaults, if any, under this Lease then known to Landlord. The Mortgagee shall thereupon have the option to obtain a New Lease (a "New Lease") in accordance with and upon the following terms and conditions:

(i) Upon the written request of the Mortgagee, within thirty (30) days after service of such notice that this Lease has been terminated, Landlord shall enter into a New Lease of the Premises with the Mortgagee within such period or its designee, subject to the provisions set forth in this Section and provided that the Mortgagee assumes all of Tenant's obligations under any subleases or contracts affecting the Premises then in effect; and

(ii) Such New Lease shall be entered into at the sole cost of the Mortgagee, shall be effective as of the date of termination of this Lease, and shall be for the remainder of the Term of this Lease and at the Rent and upon all the agreements, terms, covenants and conditions hereof, in substantially the same form as this Lease (provided however, that Mortgagee shall not be required to comply with any Laws or ordinances adopted by Landlord after the Commencement Date hereof to the extent that such Laws or ordinances would not have been applicable to Tenant under this Lease). Such New Lease shall require the Mortgagee to perform any unfulfilled obligation of Tenant under this Lease. Upon the execution of such New Lease, the Mortgagee shall pay any and all sums which would at the time of the execution thereof be due under this Lease but for such termination, and shall pay all expenses, including Attorneys' Fees and Costs incurred by Landlord in connection with such defaults and termination, the recovery of possession of the Premises, and the preparation, execution and delivery of the New Lease. Effective upon the commencement of the term of any New Lease, any sublease or contract then in effect shall be assigned and transferred to Mortgagee.

(e) Nominee. Any rights of a Mortgagee under this Article 14 may be exercised by or through its nominee or designee (other than Tenant) which is an affiliate of the Mortgagee; provided, however, no Mortgagee shall acquire title to the Lease through a

nominee or designee which is not a person otherwise permitted to become Tenant hereunder; provided, further that the Mortgagee may acquire title to the Lease through a wholly owned (directly or indirectly) subsidiary of the Mortgagee.

(f) Limited to Permitted Mortgagees. Notwithstanding anything herein to the contrary, the provisions of this Article 14 shall inure only to the benefit of the holder of a Mortgage which is permitted hereunder.

(g) Consent of Mortgagee. No material modification, termination or cancellation of this Lease (herein, a "change") shall be effective as against a permitted Mortgagee unless a copy of the proposed change shall have been delivered to the Mortgagee and such Mortgagee shall have approved the change in writing, which approval shall not be unreasonably withheld, conditioned or delayed. Any Mortgagee shall either approve or disapprove the proposed modification, termination, cancellation or surrender, as applicable, with specified reasons for any disapproval together with reasonable requirements that if satisfied would obtain Mortgagee's approval, in writing within thirty (30) days after delivery of a copy thereof. Mortgagee's failure to deliver an approval or disapproval notice within such thirty (30) day period shall be deemed approval.

(h) Limitation on Liability of Mortgagee. Notwithstanding anything herein to the contrary, no Mortgagee shall be liable to perform Tenant's obligations under this Lease unless and until the Mortgagee acquires Tenant's rights under this Lease.

14.5 Assignment by Mortgagee.

The foreclosure of any Mortgage, or any sale thereunder, whether by judicial proceedings or by virtue of any power contained in the Mortgage, or any conveyance of the leasehold estate hereunder from Tenant to any Mortgagee or its designee through, or in lieu of, foreclosure or other appropriate proceedings in the nature thereof, shall not require the consent of Landlord or constitute a breach of any provision of or a default under this Lease, and upon such foreclosure, sale or conveyance Landlord shall recognize the Mortgagee or other transferee in connection therewith as the tenant under this Lease. Such Mortgagee's or transferee's right thereafter to transfer, assign or sublet this Lease or a New Lease shall be subject to the restrictions of Article 17.

14.6 Transfer of Mortgage.

Landlord hereby consents to the transfer of a Mortgage, provided such transfer is to a Bona Fide Institutional Lender and otherwise satisfies the requirements of this Lease, and in the event of any such transfer, the new holder of the Mortgage shall have all the rights of its predecessor Mortgagee hereunder until such time as the Mortgage is further transferred or released from the leasehold estate.

14.7 Memorandum of Lease.

In the event the recordation of a memorandum of this Lease (a "Memorandum of Lease") is necessary in connection with a Mortgage permitted under this Lease, Tenant shall have the right to at its sole cost to record a Memorandum of Lease confirming the existence of

this Lease, and commencement and expiration dates and option dates, and referencing the actual Lease for all other provisions. In such event, Landlord agrees to prepare, execute and acknowledge such Memorandum of Lease in recordable form, and deliver the Memorandum of Lease to Tenant for Tenant's execution and recordation at Tenant's cost. If such a Memorandum of Lease is recorded, then upon expiration or earlier termination of this Lease, Tenant agrees promptly to execute, acknowledge and deliver to Landlord, upon written request by Landlord, a termination of such Memorandum of Lease in such form as Landlord may reasonably request, for the purpose of terminating any continuing effect of the previously recorded Memorandum of Lease as a cloud upon title to the Premises, and Tenant shall Indemnify Landlord from and against any and all Losses (including, without limitation, Attorneys' Fees and Costs) arising out of or in connection with Tenant's failure to so promptly execute such termination of Memorandum of Lease.

14.8 Assignment of Rents.

Tenant hereby assigns to Landlord, as security for Tenant's performance of its obligations under this Lease, all of Tenant's right, title and interest in and to all rents and fees due or to become due from any present or future subtenant, licensee, concessionaire, or other person occupying or providing services or goods on or to the Premises (collectively, "Assigned Rents"), but such assignment shall be subject to the right of Tenant to collect such rents until the date of any default hereunder. Landlord shall apply amount collected hereunder to the Rent due under this Lease. The foregoing assignment shall be subject and subordinate to any assignment made to a Mortgagee under Section 14.2 of which Landlord has been made aware in writing until such time as Landlord has terminated this Lease, at which time the rights of Landlord in all rents and other payments assigned pursuant to this Section shall become prior and superior in right. Such subordination shall be self-operative. However, in confirmation thereof, Landlord shall, upon the request of a Mortgagee, execute a subordination agreement reflecting the subordination described in this Section in form and substance reasonably satisfactory to such Mortgagee and to Landlord. Notwithstanding the foregoing, if this Lease terminates by reason of an Event of Default, any Mortgagee which actually collected any rents from any Subtenants pursuant to any assignment of rents or subleases made in its favor shall promptly remit to Landlord the rents so collected (less the actual and reasonable cost of collection) to the extent necessary to pay Landlord any Rent, through the date of termination of this Lease.

15. DAMAGE OR DESTRUCTION

15.1 Damage or Destruction to the Premises. In the case of damage to or destruction of the Premises by earthquake, fire, flood or any other casualty, which (i) is not caused by Tenant or Tenant's Agents or Tenant's Invitees, (ii) is not covered by the insurance required to be held by Tenant under this Lease, (iii) prevents Tenant from operating the Premises for the purposes stated herein, and (iv) costs more to repair than the Repair amount set forth in the Basic Lease Information, either party may terminate this Lease upon sixty (60) days prior written notice and

upon any such termination Tenant shall surrender the Premises in accordance with Article 22 [Surrender] (except, notwithstanding anything in this Lease to the contrary, Tenant shall be required to restore the Premises to a safe condition, clear of debris and garbage, even when Tenant is not required to repair casualty damage). If neither Party terminates this Lease as provided in this Section, then Tenant shall, at its sole cost, promptly restore, repair, replace or rebuild the Premises to the condition the Premises were in before such damage or destruction, to the extent possible in accordance with then applicable Laws. All insurance proceeds received by Tenant for the repair or rebuilding of the Premises shall be used by Tenant for the repair or rebuilding of the Premises. All restoration performed by Tenant shall be in accordance with the procedures set forth in Article 11 relating to Alterations and shall be at Tenant's sole expense. Under no circumstances shall Landlord have any obligation to repair, replace or rebuild the Premises in the event of a casualty.

15.2 Termination. Upon any termination under Section 15.1, Tenant shall promptly pay or cause to be paid to Landlord such insurance proceeds recoverable by Tenant, if any, relating to the damage or destruction, after first reimbursing any Mortgagee for the outstanding balance of any loan used to fund the cost of constructing the Initial Improvements or Alterations. Upon such termination, the Parties shall be released thereby without further obligations to the other party as of the effective date of such termination subject to payment to Landlord of accrued and unpaid Rent, up to the effective date of such termination; provided, however, that the Indemnification provisions hereof shall survive any such termination with respect to matters arising before the date of any such termination. City's right to receive insurance proceeds under this Lease shall survive the termination or expiration of the Lease.

15.3 No Abatement in Rent. In the event of any damage or destruction to the Premises, and if neither party terminates this Lease as provided in Section 15.1, there shall be no abatement in the Rent payable hereunder.

15.4 Waiver. The Parties understand and agree that the foregoing provisions of this Section are intended to govern fully the rights and obligations of the Parties in the event of damage or destruction to the Premises, or the Initial Improvements, Alterations, or Minor Alterations, and Landlord and Tenant each hereby waives and releases any right to terminate this Lease in whole or in part under Sections 1932.2 and 1933.4 of the Civil Code of California or under any similar Laws now or hereafter in effect, to the extent such rights are inconsistent with the provisions hereof.

16. CONDEMNATION

16.1 Definitions.

(a) "Taking" means a taking or damaging, including severance damage, by eminent domain, inverse condemnation or for any public or quasi-public use under law. A Taking may

occur pursuant to the recording of a final order of condemnation, or by voluntary sale or conveyance in lieu of condemnation or in settlement of a condemnation action.

(b) "Date of Taking" means the earlier of (i) the date upon which title to the portion of the Premises taken passes to and vests in the condemnor, or (ii) the date on which Tenant is dispossessed.

(c) "Award" means all compensation, sums or anything of value paid, awarded or received for a Taking, whether pursuant to judgment, agreement, settlement or otherwise.

(d) "Improvements Pertaining to the Realty" means improvements or fixtures or equipment installed for use on the Premises that cannot be removed without a substantial economic loss or without substantial damage to the property on which it is installed, regardless of the method of installation, but excluding all of Tenant's Personal Property. In determining whether particular property can be removed "without a substantial economic loss," the value of the property in place considered as part of the realty should be compared with its value if it were removed and sold.

16.2 General. If during the Term or during the period between the execution of this Lease and the Commencement Date, there is any Taking of all or any part of the Premises or any interest in this Lease, the rights and obligations of the parties hereunder shall be determined pursuant to this Section. Landlord and Tenant intend that the provisions hereof govern fully in the event of a Taking and accordingly, the parties each hereby waive any right to terminate this Lease in whole or in part under Sections 1265.110, 1265.120, 1265.130 and 1265.140 of the California Code of Civil Procedure or under any similar law now or hereafter in effect.

16.3 Total Taking; Automatic Termination. If there is a total Taking of the Premises, then this Lease shall terminate as of the Date of Taking.

16.4 Partial Taking; Election to Terminate.

(a) If there is a Taking of any portion (but less than all) of the Premises, then this Lease shall terminate in its entirety under either of the following circumstances: (i) if all of the following exist: (A) the partial Taking renders the remaining portion of the Premises untenable or unsuitable for continued use by Tenant, or the Taking is of areas that are necessary for Tenant to derive sufficient income to perform its obligations hereunder, and (B) Tenant elects to terminate; or (ii) if there is a partial Taking of a substantial portion of the Premises, then Landlord shall have the right to terminate this Lease in its entirety; provided, however, that this Lease shall not terminate if Tenant agrees to, and does, fully perform all of its obligations hereunder.

(b) Either party electing to terminate under the provisions of this Section shall do so by giving the other party written notice to the other party before or within thirty (30) days after the Date of Taking, and thereafter this Lease shall terminate upon the later of the thirtieth (30th) day after such written notice is given or the Date of Taking.

16.5 Rent; Award. Upon termination of this Lease pursuant to an election under Section 16.4, Landlord shall be entitled to the entire Award in connection therewith (including, but not limited to, any portion of the Award made for the value of the leasehold estate created by this Lease and any Improvements Pertaining to the Realty), and Tenant shall have no claim against Landlord for the value of any unexpired term of this Lease, provided that (i) Mortgagee shall be entitled to a portion of the amount, as agreed to by Landlord and Mortgagee or as determined by the applicable court, but not more than the existing debt secured by the Mortgage, and (ii) Tenant shall receive any Award made specifically to Tenant for Tenant's relocation expenses or the interruption of or damage to Tenant's business or damage to Tenant's Personal Property.

16.6 Partial Taking; Continuation of Lease. If there is a partial Taking of the Premises under circumstances where this Lease is not terminated in its entirety under Section 16.4, then this Lease shall terminate as to the portion of the Premises so taken, but shall remain in full force and effect as to the portion not taken, and the rights and obligations of the parties shall be as follows: (a) any Award shall be payable first to Tenant to be applied to the restoration or repair of the balance of the Premises not taken, to the extent required to render such portion of the Premises tenantable, and (b) Landlord shall be entitled to that portion of the balance of the Award attributable to this Lease or the Premises (including, but not limited to, any portion of the Award made for the value of the leasehold estate created by this Lease), and Tenant shall have no claim against Landlord for the value of any unexpired term of this Lease, provided that Tenant may make a separate claim for compensation, and Tenant shall receive any Award made specifically to Tenant, for Tenant's relocation expenses or the interruption of or damage to Tenant's business or damage to Tenant's Personal Property.

16.7 Temporary Takings. Notwithstanding anything to contrary in this Section, if a Taking occurs with respect to all or any part of the Premises for a limited period of time not in excess of one hundred eighty (180) consecutive days, this Lease shall remain unaffected thereby, and Tenant shall continue to perform all of the terms, conditions and covenants of this Lease; provided that Tenant shall be relieved from all obligations under this Lease requiring possession of that portion of the Premises so condemned for the period of such temporary Taking. In the event of such temporary Taking, Tenant shall be entitled to receive that portion of any Award representing compensation for the Tenant's use or occupancy of the Premises during the applicable Taking and Landlord shall be entitled to receive that portion of the Award representing compensation for Landlord's use or occupancy of the Premises (if any) during the applicable Taking.

17. TRANSFER - ASSIGNMENT - SUBLEASE

17.1 Assignments. Except as otherwise expressly permitted in Article 14 [Mortgages] or in Section 17.7 [Subleases], Tenant shall not transfer, assign, hypothecate, pledge, encumber, sell (by merger or otherwise), in whole or in part ("Assign") this Lease or the Premises without Landlord's prior written consent, which consent may be withheld by Landlord in its sole discretion before Completion of the Initial Improvements, and which consent shall not be unreasonably withheld following Completion of the Initial Improvements. Notwithstanding anything to the contrary set forth in this Lease, the Premises shall remain subject to this Lease regardless of any Assignment made at any time or from time to time. Landlord's consent to one Assignment shall not be deemed a consent to subsequent Assignments. Except as set forth in Article 14 [Mortgages], any Assignment made without Landlord's consent shall constitute an Event of Default hereunder and shall be voidable at Landlord's election. Notwithstanding the foregoing, Landlord's consent shall not be required for any: (a) rental or licensing of boat slips in compliance with Section 6.1 and the Basic Lease Information; (b) leasing or rental by Tenant of equipment in compliance with Section 6.1 and the Basic Lease Information; (c) occupancy of said Premises by an employee or business invitee of Tenant in the ordinary course of Tenant's business; or (d) any change or reorganization of Tenant that does not trigger the need for Landlord consent under Section 17.6.

17.2 No Release. In no event will Landlord's consent to an Assignment be deemed to be a release of Tenant as primary obligor hereunder unless expressly evidenced by Landlord in writing. Landlord's release of Tenant as primary obligor may be given or withheld in Landlord's sole discretion.

17.3 Conditions of Consent. Any Assignment is further subject to the satisfaction of the following conditions precedent, each of which is hereby agreed to be reasonable:

(a) any proposed assignee, by instrument in writing, for itself and its successors and assigns, and expressly for the benefit of Landlord, must expressly assume all of the obligations of Tenant under this Lease, and any other agreements or documents entered into by and between Landlord and Tenant relating to the Premises, and must agree to be subject to all of the conditions and restrictions to which Tenant is subject;

(b) the Assignment is made for a legitimate business purpose and not to deprive Landlord of the benefits of this Lease. It is the intent of this Lease, to the fullest extent permitted by Law and equity and excepting only in the manner and to the extent specifically provided otherwise in this Lease, that no Assignment of this Lease, or any interest therein, however effected or occurring, and whether voluntary or involuntary, by operation of Law or otherwise, foreseen or unforeseen, shall operate, legally or practically, to deprive or limit Landlord of the value of its interest in this Lease, or with respect to any rights or remedies or

controls provided in or resulting from this Lease relating to the Premises and the construction of the Initial Improvements that Landlord would have had, had there been no such Assignment;

(c) all instruments and other legal documents involved in effecting the Assignment shall have been submitted to Landlord for review, including the agreement of sale, transfer, or equivalent, and Landlord shall have approved such documents, which approval shall not be unreasonably withheld, delayed or conditioned;

(d) there shall be no Event of Default or Unmatured Event of Default on the part of Tenant under this Lease or any of the other documents or obligations to be assigned to the proposed assignee, nor shall there have been more than one (1) Event of Default during the immediately prior twelve (12) month period;

(e) the proposed assignee (A) has demonstrated to Landlord's reasonable satisfaction that it is reputable and capable, financially and otherwise, of performing each of Tenant's obligations under this Lease and any other documents to be assigned, (B) is not forbidden by applicable Law from transacting business or entering into contracts with Landlord; (C) is subject to the jurisdiction of the courts of the State of California, (D) is not in default with respect to any obligations that it has to Landlord, and (E) can demonstrate a net worth no less than (i) the Net Worth Floor, if such requested assignment is to be effective before Completion of the Initial Improvements, or (ii) an amount reasonably satisfactory to Landlord if such requested assignment is to be effective from or after Completion of the Initial Improvements.

17.4 Delivery of Executed Assignment. Subject to Article 14 [Mortgages], no Assignment of any interest in this Lease made with Landlord's consent, or as herein otherwise permitted, will be effective unless and until there has been delivered to Landlord, within thirty (30) days after Tenant entered into such Assignment, an executed counterpart of the agreement effecting the Assignment containing an agreement, in recordable form, executed by Tenant and the assignee, wherein and whereby such assignee assumes performance of all of the obligations on Tenant's part to be performed under this Lease, and the other assigned documents to and including the end of the Term (provided, however, that the failure of any assignee to assume this Lease, or to assume one or more of Tenant's obligations under this Lease, will not relieve such assignee from such obligations or limit Landlord's rights or remedies under this Lease or under applicable Law). The form of such instrument of Assignment shall be subject to Landlord's approval, which approval shall not be unreasonably withheld, delayed or conditioned.

17.5 Scope of Prohibitions on Assignment. The prohibitions on Assignments provided in this Section will not be deemed to prevent the granting of Subleases, provided as such subletting is done in accordance with the provisions of this Lease.

17.6 Changes in Tenant. The Parties understand and agree that the personal qualifications of the persons controlling Tenant are a part of the consideration for granting this Lease. Such persons do hereby specifically agree, except as prohibited as a result of death or disability, to maintain active control and supervision of the operations conducted on the Premises. The merger of Tenant with any other entity or the transfer of any controlling ownership interest in Tenant, or the assignment or transfer of a substantial portion of the assets of Tenant, whether or not located on the Premises, shall constitute an Assignment. Without limiting the generality of the foregoing, if Tenant is a partnership, a withdrawal or change, voluntary, involuntary or by operation of Law of the partner or partners owning more than forty-nine percent (49%) or more of the partnership, or the dissolution of the partnership, shall be deemed an Assignment. If Tenant is a corporation or limited liability company, any dissolution, merger, consolidation or other reorganization of Tenant, or the sale or other transfer of a controlling percentage of the capital stock or membership interests of Tenant, or the sale of more than forty nine percent (49%) of the value of the assets of Tenant, shall be deemed an Assignment. The phrase "controlling percentage" means the ownership of, and the right to vote, stock or interests possessing at least forty nine percent (49%) of the total combined voting power of all classes of Tenant's capital stock or interests issued, outstanding and entitled to vote for the election of directors. Tenant must promptly notify Landlord of any and all changes that could trigger an Assignment under this Section, and the percentages set forth above shall be calculated cumulatively (i.e., Tenant cannot avoid a trigger by transferring interests in a serial manner over time). At such time or times as Landlord may reasonably request, Tenant must furnish Landlord with a statement, certified as true and correct by an officer of Tenant, setting forth all of the constituent members of Tenant and the extent of their respective holdings, any transfers of membership interests, and in the event any other Persons have a beneficial interest in Tenant, their names and the extent of such interest. Tenant's furnishing of such information, however, will not relieve Tenant from liability for its failure to comply with the provisions of this Lease. Any Assignments resulting from a change in Tenant as provided in this subsection shall be subject to Landlord's prior written consent, which consent may be withheld by Landlord in its sole discretion before Completion of the Initial Improvements, and which consent shall not be unreasonably withheld following Completion of the Initial Improvements. The members of Tenant and their controlling interests as of the Effective Date are set forth in **Exhibit O**.

17.7 Subleases. Tenant will not sublease all or part of the Premises without the prior written consent of the Authority Director. The Authority Director's consent to a proposed sublease may be subject to reasonable conditions, which conditions may include, without limitation, that: (a) the proposed uses are consistent with this Lease; (b) the proposed sublease is consistent with and expressly subject and subordinate to, all the terms and provisions of this Lease and incorporates all necessary provisions of this Lease, (c) the proposed subtenant demonstrates, to Authority Director's reasonable satisfaction, that it has the financial ability and otherwise is capable of fulfilling all of its obligations under the sublease; (d) the term of the sublease does not extend beyond the term of this Lease, and requires the subtenant to leave

the Premises, without payment, upon any termination of this Lease; (e) there exists no default by Tenant under this Lease; (f) the proposed subtenant indemnifies Landlord and the City for any Losses arising in connection with the sublease in form reasonably satisfactory to Landlord; (g) Tenant remains liable under this Lease; (h) the proposed subtenant provides liability and other insurance reasonably requested by Landlord, naming Landlord and the City as an additional insured, in form and amounts reasonably approved by Landlord; (i) contains rental rates that are not below fair market rental rates, as reasonably determined by Landlord if the sublease (1) is not pursuant to a bona fide arm's-length transaction as reasonably determined by Landlord based upon information reasonably requested and obtained by City; or (2) is with an related entity or affiliate of Tenant; or (3) is with a proposed subtenant having an existing relationship with Tenant; and (j) if the proposed subtenant intends to use the Premises for any purpose not directly related to marina and boating uses, including without limitation food and beverage, then Landlord can condition its consent to such proposed subtenant on receiving from Tenant, after negotiation with City, a concession-like rent for those areas.

17.8 Tenant to Pay Costs. If Tenant requests Landlord's consent to an Assignment or Sublease, hereinafter referred to as a "transaction," Tenant shall reimburse Landlord for all Landlord's reasonable costs and expenses actually incurred that are associated with the transaction. Said costs shall include reasonable legal fees and disbursements relating to or arising out of any such transaction, regardless of whether such transaction is consummated.

17.9 Proposed Transferee. In connection with the Landlord's consideration of any request for its consent to an Assignment or Sublease, Landlord may consider the financial condition of the proposed assignee ("Proposed Transferee"), the Proposed Transferee's experience in the operation and management of the property of the type subject to this Lease and the character and reputation of the Proposed Transferee. In connection with the foregoing, at such time as the Tenant shall request Landlord's consent, Tenant shall provide Landlord with appropriate financial statements, including balance sheets and profit and loss statements, demonstrating the Proposed Transferee's financial condition for the preceding three (3) years. In addition, the Tenant shall provide Landlord with such additional information as may be reasonably requested by Landlord to determine the character and reputation of the Proposed Transferee, as well as the Proposed Transferee's experience in the operation and maintenance of property similar to the Premises.

17.10 Additional Considerations. The following standards are to apply to proposed transactions requiring Landlord's consent under this Article 17, and shall be considered by Landlord in determining whether to give consent. These standards and conditions are not to apply to (i) a Mortgagee, or (ii) the transfer of the leasehold in connection with a foreclosure or transfer in lieu of foreclosure of a Mortgage, but will apply to the first transfer by that party after it acquires the leasehold through a foreclosure or a transfer in lieu of foreclosure and any subsequent transfers.

(a) The Proposed Transferee must have a net worth determined to be sufficient in relation to the financial obligations of the Tenant under the Lease (equal to at least three (3) times the total Minimum Base Rent due to Landlord for the most recent fiscal year). A letter of credit, cash deposit, guarantee from a parent entity or participating individual(s) having sufficient net worth or similar security satisfactory to the Landlord may be substituted for the net worth requirement. If the Proposed Transferee's net worth is materially less than the transferor's, Landlord may disapprove the assignment or require additional security such as that described in the previous sentence.

(b) The Proposed Transferee must have significant experience in the construction (if contemplated), operation and management of the type of improvements existing on or to be constructed on the Premises, or provide evidence of contractual arrangements for these services with providers of such services reasonably satisfactory to the Landlord. Changes in the providers of such services and changes to the contractual arrangements must be approved by Landlord.

(c) The individual or individuals who will acquire Tenant's interest in this Lease or the Premises, or own the entity that will so acquire Tenant's interest, irrespective of the tier at which individual ownership is held, must be of good character and reputation and, in any event, shall have neither a history of, nor a reputation for: (1) discriminatory employment practices which violate any federal, state or local law; or (2) non-compliance with Hazardous Materials Laws, or any other legal requirements or formally adopted ordinances or policies of Landlord.

(d) The price to be paid in connection with the transaction shall not result in a financing obligation which jeopardizes the Proposed Transferee's ability to meet its rental obligations under the Lease. Market debt service coverage ratios and leasehold financial performance, at the time of the proposed transfer, will be used by Landlord in making this analysis.

(e) If the Proposed Transferee is an entity, rather than an individual, the structure of the proposed transferee must be such that (or the assignee must agree that) the Landlord will have reasonable approval rights regarding any future direct or indirect transfers of interests in the entity or the Lease as required or contemplated under this Lease (excluding any excluded transfer); provided however, that a transfer of ownership of a publicly held parent corporation of Tenant that is not done primarily as a transfer of this leasehold will not be subject to Landlord approval.

(f) The terms of the proposed assignment will not detrimentally affect the efficient operation or management of the leasehold, the Premises or any improvements thereon.

17.11 No Landlord Consent Required. Notwithstanding anything to the contrary contained in this Article 17, the following shall not be considered a transaction requiring Landlord's consent:

(a) A transfer to a spouse in connection with a property settlement agreement or decree of dissolution of marriage or legal separation, or a transfer by a member directly to a spouse, sibling or descendant;

(b) A transfer to a living trust, where the beneficiaries of the trust are limited to the transferor and the transferor's spouse and descendants, together with the subsequent transfer to such beneficiaries;

(c) A mere change in the form of Tenant, or the ownership of interests in Tenant that does not exceed a fifty percent (50%) or more of the Tenant's interest in that entity;

(d) In the event of the death of any natural person who owns a beneficial interest in Tenant, a transfer to any decedent or any trust for such decedent, by way of gift, devise, intestate succession or operation of law; provided, however, that Landlord shall have the right to approve the person or management company proposed to manage the Premises following such a transfer.

18. DEFAULTS AND REMEDIES

18.1 Tenant Defaults. The occurrence of any one (1) or more of the following events shall constitute an event of default (each, an "Event of Default") by Tenant:

(a) Tenant abandons the Premises within the meaning of California Civil Code Section 1951.3 (or its successor), which abandonment is not cured within fifteen (15) days after notice of belief of abandonment or vacation from City;

(b) Failure by Tenant to pay, when due, any Rent or other amounts due hereunder, where such failure continues for a period of ten (10) days after written notice from Landlord; provided (i) Landlord shall not be required to give such notice more than three (3) times during any calendar year, and failure to pay Rent or other amounts when due thereafter shall be an immediate default without need for further notice, and (ii) any notice provided in this Section shall be in lieu of, and not in addition to, any notice required under Section 1161 of the California Code of Civil Procedure;

(c) Tenant violates any other covenant, or fails to perform any other obligation to be performed by Tenant under this Lease at the time such performance is due, and such violation or failure continues without cure for more than thirty (30) days after written notice

from Authority specifying the nature of such violation or failure, or, if such cure cannot reasonably be completed within such thirty (30)-day period, if Tenant does not within such thirty (30)-day period commence such cure, or having so commenced, does not diligently prosecute such cure to completion within a reasonable time thereafter;

(d) Subject to any restrictions or limitations placed on Landlord by applicable laws governing bankruptcy, Tenant's: (a) applying for, consenting to, or suffering the appointment of a receiver, trustee, or liquidation of all or a substantial portion of its assets; (b) making a general assignment for the benefit of creditors; (c) admitting in writing its inability to pay its debts or its willingness to be adjudged a bankrupt; (d) becoming unable to, or failing to, pay its debts as they mature; (e) being adjudged a bankrupt; (f) filing a voluntary petition or suffering an involuntary petition under any bankruptcy, arrangement, reorganization, or insolvency law (unless in the case of an involuntary petition, the same is dismissed within thirty (30) days of such filing); (g) convening a meeting of its creditors, or any class thereof, for purposes of effecting a moratorium, extension, or composition of its debts; or (h) suffering, or permitting to continue unstayed and in effect for ten (10) consecutive days, any attachment, levy, execution, or seizure of all or a substantial portion of Tenant's assets or of Tenant's interest in this Lease;

(e) A writ of execution is levied on the leasehold estate which is not released within sixty (60) days, or a receiver, trustee or custodian is appointed to take custody of all or any material part of the property of Tenant, which appointment is not dismissed within one hundred sixty (60) days;

(f) Tenant fails to maintain any insurance required to be maintained by Tenant under this Lease, which failure continues without cure for ten (10) days after written notice from Authority of such failure;

(g) Tenant suffers or permits an Assignment, Sublease or other transfer of this Lease or any interest therein to occur in violation of this Lease, which event is not cured by Tenant within thirty (30) days after written demand by Authority by an effective rescission of the Assignment, Sublease or transfer or through Authority's consent; or

(h) Tenant engages in or allows any use not permitted hereunder which event is not cured by Tenant within ten (10) days after written demand by Authority, or, if such cure cannot reasonably be completed within such ten (10)-day period, if Tenant does not within such ten (10)-day period commence such cure, and having so commenced, does not diligently prosecute such cure to completion within a reasonable time thereafter and in all events within sixty (60) days.

18.2 Landlord's Remedies Generally. Upon the occurrence and during the continuance of an Event of Default under this Lease, Landlord shall have all rights and remedies provided in this Lease or available at law or equity that are not otherwise specifically waived or limited

pursuant to the terms of this Lease. All of Landlord's rights and remedies granted pursuant to this Lease shall be cumulative, and except as may be otherwise provided by applicable Law or specifically limited pursuant to this Lease, the exercise of any one or more rights shall not preclude the exercise of any others.

18.3 Right to Keep Lease in Effect.

(a) Continuation of Lease. Upon the occurrence of an Event of Default hereunder, Landlord may continue this Lease in full force and effect pursuant to Civil Code Section 1951.4.

(b) No Termination. No act by Landlord allowed by this Article 18, nor any appointment of a receiver upon Landlord's initiative to protect its interest under this Lease, nor any withholding of consent to a subletting or assignment or termination of a subletting or assignment in accordance herewith, shall terminate this Lease, unless and until Landlord notifies Tenant in writing that Landlord elects to terminate this Lease.

(c) Application of Proceeds of Reletting. In the event of any such subletting, rents received by Landlord from such subletting shall be applied (i) first, to the payment of the costs of maintaining, preserving, altering and preparing the Premises for subletting, the other costs of subletting, including but not limited to brokers' commissions, Attorneys' Fees and Costs, and expenses of removal of Tenant's Personal Property, trade fixtures and alterations; (ii) second, to the payment of Rent then due and payable hereunder; (iii) third, to the payment of future Rent as the same may become due and payable hereunder; and (iv) fourth, the balance, if any, shall be paid to Tenant upon (but not before) expiration of the term of this Lease. If the rents received by Landlord from such subletting, after application as provided above, are insufficient in any month to pay the rent due and payable hereunder for such month, Tenant shall pay such deficiency to Landlord monthly upon demand. Notwithstanding any such subletting for Tenant's account without termination, Landlord may at any time thereafter, by written notice to Tenant, elect to terminate this Lease by virtue of a previous Event of Default.

18.4 Right to Perform Tenant's Covenants. Landlord may cure the Event of Default at Tenant's expense, it being understood that such performance shall not waive or cure the subject Event of Default. If Landlord pays any sum or incurs any expense in curing the Event of Default, Tenant shall reimburse Landlord upon demand for the amount of such payment or expense with interest at the Interest Rate from the date the sum is paid or the expense is incurred until Landlord is reimbursed by Tenant. Any amount due Landlord under this subsection shall constitute additional rent hereunder. Without limiting any other provision of this Lease, and in addition to any other rights or remedies available to Landlord under this Lease, if at any time Tenant fails to pay any sums required to be paid by Tenant pursuant to this Lease to any person other than Landlord, or if Tenant fails to perform any obligation on Tenant's part to be performed under this Lease, which failure continues without cure following any applicable cure period specified above, then Landlord may, at its sole option, but shall not be obligated to, pay such sum or perform such obligation for and on behalf of Tenant.

18.5 Right to Terminate Lease.

(a) Damages. Landlord may terminate this Lease at any time after the occurrence (and during the continuation) of an Event of a Default by giving written notice of such termination. Termination of this Lease shall thereafter occur on the date set forth in such notice. Acts of maintenance or preservation, and any appointment of a receiver upon Landlord's initiative to protect its interest hereunder shall not in any such instance constitute a termination of Tenant's right to possession. No act by Landlord other than giving notice of termination to Tenant in writing shall terminate this Lease. On termination of this Lease, Landlord shall have the right to recover from Tenant all sums allowed under California Civil Code Section 1951.2, including, without limitation, the following: (i) the worth at the time of the award of the unpaid Rent which had been earned at the time of termination of this Lease; (ii) the worth at the time of the award of the amount by which the unpaid Rent which would have been earned after the date of termination of this Lease until the time of the award exceeds the amount of the loss of Rent that Tenant proves could have been reasonably avoided; (iii) the worth at the time of the award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of the loss of Rent that Tenant proves could have been reasonably avoided; and (iv) any other amount necessary to compensate Landlord for all detriment proximately caused by the default of Tenant, or which in the ordinary course of things would be likely to result therefrom. "The worth at the time of the award" shall be computed by allowing interest at a rate per annum equal to the Default Rate; provided, however, for purposes of subclause (iii) above only, "the worth at the time of the award" shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus one percent (1%).

(b) Interest. Rent not paid within twenty (20) days following written demand for payment of such Rent shall bear interest from the date due until paid at the Default Rate.

(c) Waiver of Rights to Recover Possession. If Landlord terminates Tenant's right to possession of the Premises, and if such termination is contested by Tenant and Landlord successfully prevails, and in any appeal thereof, Tenant hereby waives any rights to recover or regain possession of the Premises under any rights of redemption to which it may be entitled by or under any present or future Law, including, without limitation, California Code of Civil Procedure Sections 1174 and 1179 or any successor provisions.

(d) No Rights to Transfer or Sublet. Upon the occurrence and continuation of an Event of Default, Tenant shall have no right to Assign or Sublease the Premises in whole or in part or to enter into any Event Permits without Landlord's written consent, which may be given or withheld in Landlord's sole and absolute discretion.

18.6 Equitable Relief. In addition to the other remedies provided in this Lease, Landlord shall be entitled at any time after a default or threatened default by Tenant to seek injunctive relief, an order for specific performance, or any other equitable relief, where appropriate to the circumstances of such default.

18.7 Continuation of Subleases and Agreements. If this Lease is terminated before the expiration date, and subject to any non disturbance agreements entered into by Landlord pursuant to the terms of this Agreement, Landlord shall have the right, at its sole option, but not the obligation, to assume any and all agreements by Tenant for the use or maintenance or operation of the Premises, including any Subleases. Landlord may, at its option, require Tenant to terminate any such agreements and take appropriate action to deliver the Premises to Landlord free of such agreements or obligations. Tenant hereby further covenants that, upon request of Landlord following an Event of Default and termination of Tenant's interest in this Lease, Tenant shall execute, acknowledge and deliver to Landlord such further instruments as may be necessary or desirable to vest or confirm the continuation or the termination of such or agreements, as above specified.

18.8 Waiver of Notice. Tenant hereby expressly waives, so far as permitted by Law, the service of any notice of intention to enter or re-enter provided for in any statute, or of the institution of legal proceedings to that end, and Tenant, for and on behalf of itself and all persons claiming through or under Tenant, also waives any right of redemption or relief from forfeiture under California Code of Civil Procedure Sections 1174 or 1179, or under any other present or future Law, if Tenant is evicted or Landlord takes possession of the Premises by reason of any default by Tenant hereunder.

18.9 No Accord or Satisfaction. No submission by Tenant or acceptance by Landlord of full or partial Rent or other sums during the continuance of any failure by Tenant to perform its obligations hereunder shall waive any of Landlord's rights or remedies hereunder or constitute an accord or satisfaction, whether or not Landlord had knowledge of any such failure. No endorsement or statement on any check or remittance by or for Tenant or in any communication accompanying or relating to such payment shall operate as a compromise or accord or satisfaction unless the same is approved as such in writing by Landlord. Landlord may accept such check, remittance or payment and retain the proceeds thereof, without prejudice to its rights to recover the balance of any Rent, including any and all Additional Rent, due from Tenant and to pursue any right or remedy provided for or permitted under this Lease or in Law or at equity. No payment by Tenant of any amount claimed by Landlord to be due as Rent hereunder (including any amount claimed to be due as Additional Rent) shall be deemed to waive any claim which Tenant may be entitled to assert with regard to the making of such payment or the amount thereof, and all such payments shall be without prejudice to any rights Tenant may have with respect thereto, whether or not such payment is identified as having been made "under protest" (or words of similar import).

18.10 Default by Landlord. Landlord shall be deemed to be in default hereunder only if Landlord fails to perform or comply with any material obligation on its part hereunder and (i) such failure shall continue for more than the time of any cure period provided herein, or, (ii) if no cure period is provided herein, for more than sixty (60) days after written notice thereof from Tenant, or, (iii) if such default cannot reasonably be cured within such applicable cure period, subject to Force Majeure, Landlord shall not within such period commence the

cure of such default, or, having so commenced, shall thereafter fail to diligently prosecute such cure. Upon the occurrence of default by Landlord as described above, which default substantially and materially interferes with Tenant's use of the Premises, Tenant shall have the exclusive right (a) to offset or deduct only from the Rent becoming due hereunder, the amount of actual damages incurred by Tenant as a direct result of Landlord's default, but only after obtaining a judgment in a court of competent jurisdiction for such damages, or (b) to seek equitable relief in accordance with applicable Laws; provided, however, (i) in no event shall Tenant be entitled to offset from all or any portion of the Rent becoming due hereunder or to otherwise recover or obtain from Landlord or its Agents any damages (including, without limitation, any consequential, incidental, punitive or other damages proximately arising out of a default by Landlord hereunder) or Losses other than Tenant's actual damages as described in the foregoing clause (a), and (ii) Tenant agrees that, notwithstanding anything to the contrary herein or pursuant to any applicable Laws, Tenant's remedies hereunder shall constitute Tenant's sole and absolute right and remedy for a default by Landlord hereunder.

19. RELEASE AND WAIVER OF CLAIMS; INDEMNIFICATION

19.1 Release and Waiver of Claims. Except for the United States Navy's continuing indemnity obligations under Section 330 of Public Law 102-484, as amended, and other ongoing Navy CERCLA and other hazardous remediation obligations, Tenant, on behalf of itself and Tenant's Agents, covenants and agrees that the Indemnified Parties shall not be responsible for or liable to Tenant for, and, to the fullest extent allowed by any Laws, Tenant hereby waives all rights against the Indemnified Parties and releases them from, any and all Losses, including, but not limited to, incidental and consequential damages, relating to any injury, accident or death of any person or loss or damage to any property, in or about the Premises, from any cause whatsoever, including without limitation, partial or complete collapse of the Premises due to an earthquake or subsidence, except this release and waiver does not apply to such Losses that are caused solely by the gross negligence or willful misconduct of the Indemnified Parties. Without limiting the generality of the foregoing:

(a) Tenant expressly acknowledges and agrees that the Rent payable hereunder does not take into account any potential liability of the Indemnified Parties for any consequential or incidental damages including, but not limited to, lost profits arising out of disruption to Tenant's uses hereunder. Landlord would not be willing to enter into this Lease in the absence of a complete waiver of liability for consequential or incidental damages due to the acts or omissions of the Indemnified Parties, and Tenant expressly assumes the risk with respect thereto. Accordingly, without limiting any indemnification obligations of Tenant or other waivers contained in this Lease and as a material part of the consideration for this Lease, Tenant fully RELEASES, WAIVES AND DISCHARGES forever any and all claims, demands, rights, and causes of action for consequential and incidental damages and covenants not to sue the Indemnified Parties for such damages arising out of this Lease or the uses

authorized hereunder, including, without limitation, any interference with uses conducted by Tenant pursuant to this Lease regardless of the cause.

(b) Without limiting any indemnification obligations of Tenant or other waivers contained in this Lease and as a material part of the consideration for this Lease, Tenant fully RELEASES, WAIVES AND DISCHARGES forever any and all claims, demands, rights, and causes of action against, and covenants not to sue the Indemnified Parties under any present or future Laws, statutes, or regulations, including, but not limited to, any claim for inverse condemnation or the payment of just compensation under the law of eminent domain, or otherwise at equity, in the event that Landlord terminates this Lease because of such claim for inverse condemnation or eminent domain.

(c) As part of Tenant's agreement to accept the Premises in its "As Is" condition as provided herein, and without limiting such agreement and any other waiver contained herein, Tenant on behalf of itself and its successors and assigns, waives its right to recover from, and forever RELEASES, WAIVES AND DISCHARGES, the Indemnified Parties from any and all Losses, whether direct or indirect, known or unknown, foreseen and unforeseen, that may arise on account of or in any way be connected with the physical or environmental condition of the Premises and any related improvements or any Laws or regulations applicable thereto or the suitability of the Premises for Tenant's intended use.

(d) Tenant acknowledges that it will not be a displaced person at the time this Lease is terminated, and Tenant fully RELEASES, WAIVES AND DISCHARGES the Indemnified Parties from any and all Losses and any and all claims, demands or rights against any of the Indemnified Parties under any present and future Laws, including, without limitation, any and all claims for relocation benefits or assistance from the Indemnified Parties under federal and state relocation assistance laws.

(e) Without limiting any other waiver contained herein, Tenant, on behalf of itself and its successors and assigns, hereby waives its right to recover from, and forever RELEASES, WAIVES AND DISCHARGES, the Indemnified Parties from any and all Losses, whether direct or indirect, known or unknown, foreseen and unforeseen, that may arise on account of or in any way connected with the Indemnified Parties' decision to Lease the Premises to Tenant, regardless of whether or not such decision is or may be determined to be an act of gross negligence or willful misconduct of the Indemnified Parties.

(f) Tenant covenants and agrees never to file, commence, prosecute or cause to be filed, commenced or prosecuted against the Indemnified Parties any claim, action or proceeding based upon any claims, demands, causes of action, obligations, damages, losses, costs, expenses or liabilities of any nature whatsoever encompassed by the waivers and releases set forth in this Lease.

(g) In executing these waivers and releases, Tenant has not relied upon any representation or statement other than as expressly set forth herein, and has consulted with its own counsel.

(h) Tenant had made such investigation of the facts pertaining to these waivers and releases as it deems necessary and assumes the risk of mistake with respect to such facts. These waivers and releases are intended to be final and binding on Tenant regardless of any claims of mistake.

(i) In connection with the foregoing releases, Tenant acknowledges that it is familiar with Section 1542 of the California Civil Code, which reads:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

Tenant acknowledges that the releases contained herein include all known and unknown, disclosed and undisclosed, and anticipated and unanticipated claims. Tenant realizes and acknowledges that it has agreed upon this Lease in light of this realization and, being fully aware of this situation, it nevertheless intends to waive the benefit of Civil Code Section 1542, or any statute or other similar law now or later in effect. The waivers and releases contained herein shall survive any termination of this Lease.

19.2 Tenant's Indemnity. Except for the Navy's ongoing indemnity obligations under Section 330 of Public Law 102-484, as amended, or its other continuing CERCLA and other hazardous remediation obligations, Tenant, on behalf of itself and Tenant's Agents, shall Indemnify the Indemnified Parties from and against any and all Losses arising out of Tenant's use of the Premises, including but not limited to, any Losses arising directly or indirectly, in whole or in part, out of: (a) any damage to or destruction of any property owned by or in the custody of Tenant or Tenant's Agents or Tenant's Invitees; (b) any accident, injury to or death of a person, including, without limitation, Tenant's Agents and Tenant's Invitees, howsoever or by whomsoever caused, occurring in, on or about the Premises; (c) any default by Tenant in the observation or performance of any of the terms, covenants or conditions of this Lease to be observed or performed on Tenant's part; (d) the use, occupancy, conduct or management, or manner of use, occupancy, conduct or management by Tenant, Tenant's Agents or Tenant's Invitees or any person or entity claiming through or under any of them, of the Premises; (e) any matter relating to the condition of the Premises caused by Tenant or any of its Assignees, Subtenants, Agents or Invitees; (f) any construction or other work undertaken by Tenant on or about the Premises, or the performance of any labor or services or the furnishing of any materials or other property in respect of the Premises or any part thereof by Tenant or any of its Assignees, Subtenants, Agents or Invitees; (g) any legal actions or suits initiated by any user or

occupant of the Premises; and (h) any acts, omissions or negligence of Tenant, Tenant's Agents or Tenant's Invitees, in, on, or about the Premises or any Alterations; except to the extent that such Indemnity is void or otherwise unenforceable under any applicable Laws in effect on or validly retroactive to the date of this Lease and further except only to the extent such Losses are caused solely by the gross negligence or intentional wrongful acts and omissions of the Landlord, the City, or their respective Agents. The foregoing Indemnity shall include, without limitation, Attorneys Fees and Costs. Tenant specifically acknowledges and agrees that it has an immediate and independent obligation to defend Landlord and the other Indemnified Parties from any claim which actually or potentially falls within this indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to Tenant by Landlord and continues at all times thereafter. Tenant's obligations under this Section shall survive the expiration or sooner termination of this Lease. The insurance requirements and other provisions of this Lease shall not limit Tenant's indemnification obligations under this Lease.

19.3. Defense. Tenant shall, at its option but subject to the reasonable consent and approval of Landlord, be entitled to control the defense, compromise, or settlement of any indemnified matter through counsel of the Tenant's own choice (so long as such counsel is reasonably satisfactory to Landlord); provided, however, in all cases Landlord shall be entitled to participate in such defense, compromise, or settlement at its own expense. If Tenant shall fail, however, in Landlord's reasonable judgment, within a reasonable time following notice from Landlord alleging and describing in reasonable detail the nature of such failure, to take reasonable and appropriate action to defend such suit or claim, Landlord shall have the right promptly to use the San Francisco City Attorney or to hire outside counsel to carry out such defense, at Tenant's sole expense, which expense shall be due and payable to Landlord within thirty (30) days after receipt by the Tenant of an invoice therefore.

20. INSURANCE

20.1 Tenant's Insurance. Tenant shall procure and maintain throughout the Term for the mutual benefit of Landlord and Tenant, or shall obtain from its third party consultants or providers, the following insurance, at no cost to Landlord:

(a) **Professional Liability Insurance.** Professional Liability insurance with limits not less than \$1,000,000 each claim and aggregate, including coverage for negligent acts, errors or omissions arising out of professional services performed under this Agreement for architectural, engineering and geotechnical services, with any deductible not to exceed \$25,000 each claim.

(b) **Property Insurance.** Excluding the existing 100+ slip marina, property insurance on an ISO "special form" (excluding earthquake and flood) with any exposures for reconstruction loss of rents up to 12 months included in the aggregate limit. The loss of rents

coverage shall have a deductible of no more than \$5,000 per occurrence. The deductible will be no greater than \$50,000 per occurrence for property related losses only. Any vacancy clause will be waived or extended to no less than 3 days. The limit of coverage will be full replacement cost or a stop loss limit that covers at least 35% of the total insurable value of all covered rentable units.

(c) Builders Risk Insurance. At all times during construction of any Alterations, Tenant shall maintain, on a form reasonably approved by Landlord, builders' risk insurance in the amount of 100% of the completed value of all new construction, insuring all new construction, including all materials and equipment incorporated in, on or about the Premises, and in transit or storage off-site, that are or will be part of the Improvements, against "all risk" or "special form" hazards, including an additional insured City with any deductible (other than earthquake and flood) not to exceed Fifty Thousand Dollars (\$50,000).

(d) Environmental Pollution Insurance. Limited Sudden & Accidental Pollution Insurance, with limits not less than \$1,000,000 each occurrence, including coverage for pollution or contamination, with any deductible not to exceed \$50,000 each occurrence.

(e) Commercial General Liability Insurance. Commercial General Liability Insurance shall be written on an occurrence and on a site-specific basis with coverage equal to or better than the ISO form CG-OOI. Primary limits shall be \$2,000,000 Combined Single Limit (CSL) per occurrence and \$5,000,000 aggregate. A deductible, per claim, of no greater than \$10,000 will be acceptable. Coverage should include within the policy limits: Personal Injury, Independent Contractors, Contractual liability, Products and Completed operations and a Severability of interests' clause. (Explosion, collapse and underground coverage shall not be included, but shall be included in coverages obtained by Tenant's third party contractors on a case-by-case basis.) An excess policy increasing the total limit to \$10,000,000 will be required. Said excess policy may be an umbrella or a following form excess contract.

(f) Workers Compensation Insurance. Worker's compensation insurance with statutory limits as required by California law, and Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness.

(g) Automobile Liability Insurance. Automobile liability insurance with limits not less than \$1,000,000 each occurrence combined single limit for bodily injury and property damage, including owned and non-owned and hired vehicles, if Subtenant uses or causes to be used automobiles in connection with its use of the Premises. Such insurance shall provide coverage at least as broad as provided under ISO F01111 Number CA-00-01.

(h) Watercraft and Aircraft Insurance. For any aircraft or watercraft used by Tenant in performance of its activities under this Agreement, insurance for such operations, in amount,

form and with insurers reasonably satisfactory to the Authority, shall be obtained, paid for, and maintained by Tenant throughout such operations.

(i) Employee Fidelity Bonds. Fidelity bond insurance coverage for on-site employees with a \$1,000,000 limit and \$1,000 deductible.

(j) Professional Liability. Tenant shall require all architectural, design, engineering, geotechnical, and environmental professionals under contract with Tenant for the Initial Improvements or any Alterations to maintain professional liability (errors and omissions) insurance, with limits not less than One Million And No/100 Dollars (\$1,000,000.00) each claim and aggregate, with respect to all professional services provided to Tenant therefore and a deductible of not more than Ten Thousand Dollars (\$10,000) per claim, during any period for which such professional services are engaged and for five (5) years following the completion of any such professional services.

(k) Environmental Liability Insurance. During the course of any Hazardous Materials Remediation activities, Tenant shall maintain, or cause its contractor or consultant to maintain, environmental pollution or contamination liability insurance, on an occurrence form, with limits of not less than Two Million Dollars (\$2,000,000) each occurrence combined single liability for Bodily Injury, Property Damage and clean-up costs, with the prior written approval of City (such approval not to be unreasonably withheld, conditioned or delayed).

(l) Other Insurance. Tenant shall obtain such other insurance, or increase the insurance coverage amounts, as may be reasonably requested by City's Risk Manager and is reasonably customary for similar property or uses in the San Francisco Bay Area.

20.2 General Requirements. All insurance provided for under this Agreement shall be effected under valid enforceable policies issued by insurers with ratings comparable to A-, VIII or higher that are authorized to do business in the State of California.

(a) Claims Made Form. Should any of the required insurance be provided under a claims made form, Tenant shall maintain such coverage continuously throughout the Term and, without lapse, for a period of five (5) years beyond the expiration or termination of this Agreement, to the effect that, should occurrences during the Term give rise to claims made during the one year period after expiration or termination of this Agreement, such claims shall be covered by such claims made policies.

(b) Endorsements. All insurance policies shall be endorsed to provide the following:

(i) The Authority and the City shall be named as an additional named insured and loss payee on liability and property coverages as its interest may appear, if necessary. Tenant

shall be first named insured. All liability insurance policies required to be maintained by Tenant hereunder shall contain a cross-liability clause, shall name as additional insureds the "THE TREASURE ISLAND DEVELOPMENT AUTHORITY, CITY AND COUNTY OF SAN FRANCISCO, AND THEIR OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS," shall be primary to any other insurance available to the additional insureds with respect to claims arising under this Lease, and shall provide that such insurance applies separately to each insured against whom complaint is made or suit is brought except with respect to the limits of the company's liability.

(ii) Any other insurance carried by the Authority, which may be applicable, shall be deemed excess insurance and Tenant's insurance shall be deemed primary for all purposes. Tenant's policies shall also provide for severability of interest provisions.

(iii) Tenant shall give thirty (30) days' prior written notice of cancellation, non-renewal or material change in coverage to Landlord. Ten (10) days' prior written notice will be acceptable for notice of non-payment.

(c) On or before the Commencement Date, Tenant shall deliver to Landlord certificates of insurance and additional insured policy endorsements in form and with insurers satisfactory to Landlord, evidencing the coverages required hereunder, and Tenant shall provide Landlord with certificates thereafter at least ten (10) days before the expiration dates of expiring policies. In the event Tenant shall fail to procure such insurance, or deliver such certificates, Landlord may, at its option, after providing five (5) days' prior written notice of the Landlord's intention to do so, procure the same for the account of Tenant and the cost thereof shall be paid to Landlord within five (5) days after delivery to Tenant of an invoice for such cost. Tenant shall, upon Landlord's request, promptly furnish Landlord with a complete copy of any insurance policy required hereunder.

20.3 No Limitation on Indemnities. Tenant's compliance with the provisions of this Article 20 shall in no way relieve or decrease Tenant's indemnification obligations herein or any of Tenant's other obligations or liabilities under this Agreement.

20.4. Tenant's Personal Property. Tenant shall be responsible, at its expense, for separately insuring Tenant's Personal Property.

20.5 Landlord Entitled to Participate. Landlord shall be entitled to participate in and consent to any settlement, compromise or agreement with respect to any claim for any loss in excess of Fifty Thousand and No/100 Dollars (\$50,000.00) covered by the insurance required to be carried hereunder, but only to the extent that its interest may appear; provided, however, that Landlord's consent shall not be unreasonably withheld.

20.6 Insurance of Others. If Tenant requires liability insurance policies to be maintained by Subtenants, contractors, subcontractors or others in connection with their use or occupancy of, or their activities on, the Premises, Tenant shall require that such policies name Tenant and Landlord and City as additional insureds. Notwithstanding the foregoing, Tenant shall require all contractors and sub-contractors performing work in, on, under, around, or about the Premises and all operators and Subtenants of any portion of the Premises to carry the insurance coverages required by the respective construction contract, sublease, or other agreement governing such party's activities that was approved by Landlord, if applicable.

20.7 Landlord's Self Insurance. Tenant acknowledges that Landlord self-insures against casualty, property damage and public liability risks and agrees that Landlord may at its sole election, but shall not be required to, carry any third party insurance with respect to the Premises.

20.8 Waiver of Subrogation. Notwithstanding anything to the contrary contained herein, the Landlord and Tenant (each a "Waiving Party") each hereby waives any right of recovery against the other party for any loss or damage sustained by such other party with respect to the Premises, whether or not such loss is caused by the fault or negligence of such other party, to the extent such loss or damage is covered by insurance which is required to be purchased by the Waiving Party under this Agreement or is actually covered by insurance obtained by a Waiving Party. Each Waiving Party agrees to cause its insurers to issue appropriate waiver of subrogation rights endorsements to all policies relating to the Premises; provided, the failure to obtain any such endorsement shall not affect the above waiver.

21. ACCESS BY LANDLORD

21.1 Access to Premises by Landlord.

(a) **General Access.** Landlord reserves for itself and Landlord's Agents, the right to enter the Premises and any portion thereof at all reasonable times upon not less than twenty-four (24) hours oral or written notice to Tenant (except in the event of an emergency) for any purpose. In addition, Landlord covenants and agrees that it will use good faith efforts to require that the Master Developer coordinate and cooperate with Tenant regarding Master Developer's access to the Premises or to the landside adjacent to the Premises so as to (i) provide notice to Tenant of Master Developer's development and construction activities and (ii) to minimize adverse impacts to Tenant's operations.

(b) **Emergency Access.** In the event of any emergency, as determined by Landlord, Landlord may, at its sole option and without notice, enter the Premises and alter or remove any improvements or Tenant's Personal Property on or about the Premises that impede Landlord's ability to respond to such emergency. Landlord shall have the right to use any and all means Landlord considers appropriate to gain access to any portion of the Premises in an emergency.

In such case, Landlord shall be responsible for any damage or injury to the extent required by applicable Law. Any such emergency entry shall not be deemed to be a forcible or unlawful entry onto or a detainer of, the Premises, or an eviction, actual or constructive, of Tenant from the Premises or any portion thereof.

(c) Landlord Reservation. Notwithstanding anything to the contrary in this Lease, Landlord reserves and retains the right to grant future easements, permits and rights of way over, across, under, in and upon the Premises as Landlord shall determine to be in the public interest, including for the installation, operation, maintenance, and repair of equipment for cellular telephone, radio or other telecommunications services, provided that any such easement, permit or right-of-way shall be conditioned upon the grantee's assumption of liability to Tenant for damage to its property that Tenant may sustain hereunder as a result of the grantee's use of such easement, permit or right of way, and provided further that any such easement, permit or right-of-way shall not materially interfere with Tenant's use of the Premises.

(d) Master Developer Access for Improvements. Tenant shall provide reasonable access in, on, under and across the Premises to Landlord, Master Developer and their respective Agents, including unimpaired access to the shoreline, for the DDA Work, provided that Landlord or Master Developer have (i) provided Tenant with at least forty-eight (48) hours advance written notice; (ii) minimize adverse impacts to Tenant's operations to the extent possible consistent with the DDA Work; and (iii) conduct their activities thereon in a manner that does not unreasonably interfere with Tenant's use of the Premises and its conduct of business thereat. Tenant shall reasonably cooperate and coordinate its construction and all other related activities with the construction and related activities of Landlord and Master Developer and their respective Agents. Landlord and Master Developer shall access the Premises and conduct their activities thereon in a manner that does not unreasonably interfere with Tenant's use of the Premises.

(e) No Liability. Landlord shall not be liable in any manner, and Tenant hereby waives any claims, for any inconvenience, disturbance, loss of business, nuisance or other damage arising out of Landlord's entry onto the Premises, except damage resulting directly and exclusively from the gross negligence or willful misconduct of Landlord or Landlord's Agents and not contributed to by the acts, omissions or negligence of Tenant, Tenant's Agents or Tenant's Invitees.

22. SURRENDER

22.1 Condition of Premises. Upon the expiration or other termination of this Lease, Tenant shall quit and surrender to Landlord the Premises, with the Initial Improvements and all Alterations, in good order and condition, free and clear of all liens, but with reasonable wear and tear (consistent with Tenant's maintenance obligations under this Lease), casualty and

condemnation, if applicable, excepted. Tenant hereby agrees to execute all documents as Landlord may deem necessary to evidence or confirm any such other termination. Upon expiration or termination of this Lease, Tenant and its Agents shall have the right to remove their respective Personal Property, but any damage to the Premises or the Initial Improvements or Alterations that is caused by their removal shall be repaired at Tenant's expense. Tenant shall also remove, at no cost to City, any Personal Property belonging to Tenant that remains on the Premises. In connection with any removal, Tenant shall obtain any and all necessary permits and approvals. Tenant's obligations under this Section shall survive the termination of this Lease. Any items of Tenant's Personal Property remaining on or about the Premises after the termination of this Lease may, at Landlord's option and after thirty (30) days written notice to Tenant, be deemed abandoned and in such case Landlord may dispose of such property in accordance with Section 1980, et seq., of the California Civil Code or in any other manner allowed by Law.

22.2 Termination of Subleases. Upon the expiration or any termination of this Lease, any and all Subleases or other rights of parties acting by and through Tenant shall terminate without further action unless Landlord takes an action to assume the agreements as set forth in Section 18.7.

22.3 No Holding Over. If Tenant fails to surrender the Premises to Landlord as required by this Section, Tenant shall Indemnify Landlord against all Losses resulting therefrom, including, without limitation, Losses made by a succeeding Tenant resulting from Tenant's failure to surrender the Premises. Tenant shall have no right to hold over without the prior written consent of Landlord, which consent may be withheld in Landlord's sole and absolute discretion. If Tenant holds over the Premises or any part thereof after expiration or earlier termination of this Lease, such holding over shall be terminable upon written notice by Landlord, and the Minimum Base Rent shall be increased to two hundred percent (200%) of the Minimum Base Rent in effect immediately before such holding over, and such holdover shall otherwise be on all the other terms and conditions of this Lease. This Section shall not be construed as Landlord's permission for Tenant to hold over. Acceptance of any holdover Base Rent by Landlord following expiration or termination of this Lease shall not constitute an extension or renewal of this Lease.

22.4 Security Deposit. Tenant shall pay to Landlord upon execution of this Lease a security deposit in the amount set forth in the Basic Lease Information as security for the faithful performance of all terms, covenants and conditions of this Lease. The security deposit shall be increased on each Adjustment Date to equal the then-applicable Minimum Base Rent. Tenant agrees that Landlord may (but shall not be required to) apply the security deposit in whole or in part to remedy any damage to the Premises caused by Tenant, Tenant's Agents or Tenant's Invitees, or any failure of Tenant to perform any other terms, covenants or conditions contained in this Lease, without waiving any of Landlord's other rights and remedies hereunder or at Law or in equity. Should Landlord use any portion of the security deposit to cure any

Event of Default by Tenant hereunder, Tenant shall immediately replenish the security deposit to the original amount, and Tenant's failure to do so within five (5) days of Landlord's notice shall constitute a material Event of Default under this Lease. Landlord's obligations with respect to the security deposit are solely that of debtor and not trustee. Landlord shall not be required to keep the security deposit separate from its general funds, and Tenant shall not be entitled to any interest on such deposit. The amount of the security deposit shall not be deemed to limit Tenant's liability for the performance of any of its obligations under this Lease. To the extent that Landlord is not entitled to retain or apply the security deposit pursuant to this Section, Landlord shall return such security deposit to Tenant within forty-five (45) days of the termination of this Lease.

23. HAZARDOUS MATERIALS

23.1 No Hazardous Materials. Except for the United States Navy's Section 330 of Public Law 102-484, as amended, Indemnity Obligations and other continuing CERCLA and other hazardous remediation obligations, Tenant covenants and agrees that neither Tenant nor any of its Agents or Invitees shall cause or permit any Hazardous Material to be brought upon, kept, used, stored, generated or disposed of in, on or about the Premises or transported to or from the Premises without the prior written approval of Landlord, which approval may be withheld in Landlord's sole and absolute discretion. Tenant shall immediately notify Landlord if and when Tenant learns or has reason to believe there has been any release of Hazardous Material in, on or about the Premises. Landlord may from time to time request Tenant to provide adequate information for Landlord to determine that any Hazardous Material permitted hereunder is being handled in compliance with all Hazardous Materials Laws, and Tenant shall promptly provide all such information. Landlord and its Agents shall have the right to inspect the Premises for Hazardous Material and compliance with the provisions hereof at all reasonable times upon reasonable advance oral or written notice to Tenant (except in the event of an emergency). Tenant agrees that it shall comply, without limiting the foregoing, with the provisions of Article 21 of the San Francisco Health Code including, without limitation, regarding obtaining and complying with the requirements of an approved hazardous materials management plan. Tenant agrees that it shall comply with the restrictions or limitations set forth in the Navy Deed, the Covenant to Restrict Use of Property (the "CRUP", if any relate to the Premises), and any additional requirements imposed by regulators with jurisdiction over the Premises. Tenant shall be permitted to handle and store waste oil, paint, batteries, fuel and other Hazardous Materials in compliance with Hazardous Materials Laws and in the ordinary course of its operations in order to keep the same from being improperly discarded by Boat Slip Renters.

23.2 Tenant's Environmental Indemnity. Except for liability or costs associated with the United States Navy's continuing CERCLA and other hazardous remediation obligations, if Tenant breaches any of its obligations contained in this Article 23 or if any act or omission or negligence of Tenant or its Agents or Invitees results in any Release of Hazardous Material in,

on, under or about the Premises or the Treasure Island property, without limiting Tenant's general Indemnity contained in this Lease, Tenant, on behalf of itself and its Agents, shall Indemnify the Indemnified Parties, and each of them, from and against any and all Hazardous Materials Claims arising during or after the Term of this Lease and relating to such Release. The foregoing Indemnity includes, without limitation, all costs associated with the investigation and remediation of Hazardous Material and with the restoration of the Premises or the Treasure Island property to its prior condition including, without limitation, fines and penalties imposed by regulatory agencies, natural resource damages and losses, and revegetation of the Premises or other Landlord property. Without limiting the foregoing, if Tenant or any of Tenant's Agents or Invitees, causes or permits the Release of any Hazardous Materials in, on, under or about the Premises or the Treasure Island property, Tenant shall, immediately, at no expense to Landlord, take any and all appropriate actions to return the Premises or other Landlord property affected thereby to the condition existing before such Release and otherwise investigate and remediate the Release in accordance with all Hazardous Materials Laws. Tenant shall provide Landlord with written notice of and afford Landlord a full opportunity to participate in any discussions with governmental regulatory agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree, permit, approvals, or other compromise or proceeding involving Hazardous Material.

23.3 Acknowledgment of Receipt of EBS and FOST. Tenant hereby acknowledges for itself and its Agents that, before the execution of this Lease, Tenant has received and reviewed the Environmental Baseline Survey ("EBS") and the Finding of Suitability to Transfer ("FOST") issued by the U.S. Navy. California law requires landlords to disclose to tenants the presence or potential presence of certain Hazardous Materials. Accordingly, Tenant is hereby advised that occupation of the Premises may lead to exposure to Hazardous Materials such as, but not limited to, gasoline, diesel and other vehicle fluids, vehicle exhaust, office maintenance fluids, tobacco smoke, methane and building materials containing chemicals, such as formaldehyde. Further, there are Hazardous Materials located on the Premises as described in the EBS and the FOST. In addition, California's Proposition 65, Health and Safety Code Section 25249.6 et seq., requires notice that some of these Hazardous Materials are known by the State of California to cause cancer or reproductive harm. By execution of this Lease, Tenant acknowledges that the notices and warnings set forth above satisfy the requirements of California Health and Safety Code Sections 25249.6 et seq., 25359.7 and related statutes.

24. GENERAL PROVISIONS

24.1 Notices. Except as otherwise expressly provided in this Lease, any notice given hereunder shall be effective only in writing and given by delivering the notice in person, or by sending it first class mail or certified mail with a return receipt requested or reliable commercial overnight courier, return receipt requested, with postage prepaid, to the appropriate addresses set forth in the Basic Lease Information. Any Party hereunder may designate a new address for notice purposes hereunder at least ten (10) days before the effective date of such

change. Any notice hereunder shall be deemed to have been given two (2) days after the date when it is mailed if sent by first class or certified mail, one day after the date it is made, if sent by commercial overnight carrier, or upon the date personal delivery is made, and any refusal by either Party to accept the attempted delivery of any notice, if such attempted delivery is in compliance with this Section and applicable Laws, shall be deemed receipt of such notice.

24.2 No Implied Waiver. No failure by Landlord to insist upon the strict performance of any obligation of Tenant under this Lease or to exercise any right, power or remedy arising out of a breach thereof, irrespective of the length of time for which such failure continues, no acceptance of full or partial payment of Rent due hereunder during the continuance of any such breach, and no acceptance of the keys to or possession of the Premises before the expiration of the Term by any Agent of Landlord, shall constitute a waiver of such breach or of Landlord's right to demand strict compliance with such term, covenant or condition or operate as a surrender of this Lease. No express written waiver of any default or the performance of any provision hereof shall affect any other default or performance, or cover any other period of time, other than the default, performance or period of time specified in such express waiver. One or more written waivers of a default or the performance of any provision hereof shall not be deemed to be a waiver of a subsequent default or performance. The consent of Landlord given in any instance under the terms of this Lease shall not relieve Tenant of any obligation to secure the consent of Landlord in any other or future instance under the terms of this Lease.

24.3 Amendments. Neither this Lease nor any term or provision hereof may be changed, waived, discharged or terminated, except by a written instrument signed by the Parties hereto.

24.4 Authority. If Tenant signs as a corporation, a partnership or a limited liability company, each of the persons executing this Lease on behalf of Tenant does hereby covenant and warrant that Tenant is a duly authorized and existing entity, that Tenant has and is qualified to do business in California, that Tenant has full right and authority to enter into this Lease, and that each and all of the persons signing on behalf of Tenant are authorized to do so. Upon Landlord's request, Tenant shall provide Landlord with evidence reasonably satisfactory to Landlord confirming the foregoing representations and warranties. Without limiting the generality of the foregoing, Tenant represents and warrants that it has full power to make the waivers and releases, indemnities and the disclosures set forth herein, and that it has received independent legal advice from its attorney as to the advisability of entering into a Lease containing those provisions and their legal effect.

24.5 Joint and Several Obligations. The word "Tenant" as used herein shall include the plural as well as the singular. If there is more than one Tenant, the obligations and liabilities under this Lease imposed on Tenant shall be joint and several.

24.6 Interpretation of Lease. The captions preceding the articles and sections of this Lease and in the table of contents have been inserted for convenience of reference only and such

captions shall in no way define or limit the scope or intent of any provision of this Lease. This Lease has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein and shall be interpreted to achieve the intents and purposes of the Parties, without any presumption against the party responsible for drafting any part of this Lease. Provisions in this Lease relating to number of days shall be calendar days, unless otherwise specified, provided that if the last day of any period to give notice, reply to a notice or to undertake any other action occurs on a Saturday, Sunday or a bank or Landlord holiday, then the last day for undertaking the action or giving or replying to the notice shall be the next succeeding business day. Use of the word "including" or similar words shall not be construed to limit any general term, statement or other matter in this Lease, whether or not language of non-limitation, such as "without limitation" or similar words, are used. Unless otherwise provided herein, whenever the consent of Landlord is required to be obtained by Tenant hereunder, Landlord may give or withhold such consent in its sole and absolute discretion.

24.7 Successors and Assigns. Subject to the provisions of Article 14 [Leasehold Mortgages] and Article 17 [Transfers], the terms, covenants and conditions contained in this Lease shall bind and inure to the benefit of Landlord and Tenant and, except as otherwise provided herein, their personal representatives and successors and assigns.

24.8 Brokers. Neither party has had any contact or dealings regarding the leasing of the Premises, or any communication in connection therewith, through any licensed real estate broker or other person who could claim a right to a commission or finder's fee in connection with the Lease contemplated herein. In the event that any broker or finder perfects a claim for a commission or finder's fee based upon any such contact, dealings or communication, the party through whom the broker or finder makes a claim shall be responsible for such commission or fee and shall indemnify the other party from any and all Losses incurred by the indemnified party in defending against the same. The provisions of this Section shall survive any termination of this Lease.

24.9 Severability. If any provision of this Lease, or its application to any person or circumstance, is held invalid by any court, the invalidity or inapplicability of such provision shall not affect any other provision of this Lease or the application of such provision to any other person or circumstance, and the remaining portions of this Lease shall continue in full force and effect, unless enforcement of this Lease as so modified by and in response to such invalidation would be grossly inequitable under all of the circumstances, or would frustrate the fundamental purposes of this Lease, in which case, the parties will negotiate in good faith a replacement provision which is not invalid to accomplish substantially the same intention as the provision held invalid.

24.10 Governing Law. This Lease shall be construed and enforced in accordance with the Laws of the State of California and the federal government.

24.11 Entire Agreement. This instrument (including the exhibits hereto, which are made a part of this Lease) contains the entire agreement between the Parties and supersedes all prior written or oral negotiations, discussions, understandings and agreements. The Parties further intend that this Lease shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including prior drafts of this Lease and any changes therefrom) may be introduced in any judicial, administrative or other legal proceeding involving this Lease. Tenant hereby acknowledges that neither Landlord nor Landlord's Agents have made any representations or warranties with respect to the Premises or this Lease except as expressly set forth herein, and no rights, easements or licenses are or shall be acquired by Tenant by implication or otherwise unless expressly set forth herein.

24.12 Attorneys' Fees. If either party hereto fails to perform any of its respective obligations under this Lease or if any dispute arises between the parties hereto concerning the meaning or interpretation of any provision of this Lease, then the defaulting party or the party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party on account of such default and/or in enforcing or establishing its rights hereunder, including, without limitation, reasonable Attorneys' Fees and Costs. Any such Attorneys' Fees and Costs incurred by either party in enforcing a judgment in its favor under this Lease shall be recoverable separately from and in addition to any other amount included in such judgment, and such Attorneys' Fees and Costs obligation is intended to be severable from the other provisions of this Lease and to survive and not be merged into any such judgment. For purposes of this Lease, reasonable fees of attorneys in the Office of the San Francisco City Attorney (Landlord's General Counsel) shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City and County of San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney. Further, for purposes of this Lease, the term "Attorneys' Fees" shall mean the fees and expenses of counsel to the Parties, which may include printing, duplicating and other expenses, air freight charges, hiring of experts, and fees billed for law clerks, paralegals, librarians and others not admitted to the bar but performing services under the supervision of an attorney. The term "Attorneys' Fees" shall also include, without limitation, all such fees and expenses incurred with respect to appeals, mediations, arbitrations, and bankruptcy proceedings; and whether or not any action is brought with respect to the matter for which such fees and costs were incurred. The "prevailing party" shall be determined based upon an assessment of which party's major arguments or positions taken in the action or proceeding could fairly be said to have prevailed (whether by compromise, settlement, abandonment by the other party of its claim or defense, final decision, after any appeals, or otherwise) over the other party's major arguments or positions on major disputed issues. Any Attorneys' Fees incurred in enforcing a judgment shall be recoverable separately from any other amount included in the judgment and shall survive and not be merged in the judgment. The Attorneys' Fees shall be deemed an "actual pecuniary loss"

within the meaning of Bankruptcy Code Section 365(b) (1) (B), and notwithstanding the foregoing, all Fees incurred by either party in any bankruptcy case filed by or against the other party, from and after the order for relief until this Lease is rejected or assumed in such bankruptcy case, will be "obligations of the debtor" as that phrase is used in Bankruptcy Code Section 365(d) (3).

24.13 Time of Performance. (a) All performance dates (including cure dates) expire at 5:00 p.m., San Francisco, California time, on the performance or cure date. (b) A performance date which falls on a Saturday, Sunday or City holiday is deemed extended to 5:00 pm on the next business day. For purposes of this Lease, a business day means any day except Saturday, Sunday, or a day on which City and County of San Francisco is closed for business. (c) All periods for performance or notices specified herein in terms of days shall be calendar days, and not business days, unless otherwise provided herein. (d) Time is of the essence with respect to each provision of this Lease, including, but not limited, the provisions for the exercise of any option on the part of Tenant hereunder and the provisions for the payment of Rent and any other sums due hereunder.

24.14 Cumulative Remedies. All rights and remedies of either party hereto set forth in this Lease shall be cumulative, except as may otherwise be provided herein.

24.15 Survival of Indemnities. Termination of this Lease shall not affect the right of either party to enforce any and all indemnities and representations and warranties given or made to the other party under this Lease, nor shall it affect any provision of this Lease that expressly states it shall survive termination hereof. Tenant specifically acknowledges and agrees that, with respect to each of the indemnities contained in this Lease, Tenant has an immediate and independent obligation to defend Landlord and the other Indemnified Parties from any claim which actually or potentially falls within the indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to Tenant by Landlord and continues at all times thereafter.

24.16 No Joint Venture; Relationship of Parties. Tenant shall have complete control over its employees in the method of performing their work under this Lease. Subject to the requirements of this Lease, Tenant retains the right to exercise full control and supervision of the services and full control of the employment, direction, compensation and discharge of all its employees and Tenant agrees to be solely responsible for all matters relating to its employees. All personnel employed by Tenant shall be employees of Tenant and not of Landlord. Landlord is not, and none of the provisions in this Lease shall be deemed to render Landlord, a partner in Tenant's business, or joint venturer or member in any joint enterprise with Tenant. The subject of this Lease is a lease with neither party acting as the Agent of the other party in any respect. This Lease is not intended nor shall it be construed to create any third party beneficiary rights in any third party, unless otherwise expressly provided. The

granting of this Lease by Landlord does not constitute authorization or approval by Landlord of any activity conducted by Tenant on, in or relating to the Premises.

24.17 Non-Liability of Indemnified Parties' Officials, Employees and Agents. No elective or appointive board, commission, member, officer or employee of any of the Indemnified Parties shall be personally liable to Tenant, its successors and assigns, in the event of any default or breach by Landlord or for any amount which may become due to Tenant, its successors and assigns, or for any obligation of Landlord under this Lease.

24.18 Counterparts. This Lease may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

24.19 Authority Consent. Unless stated to the contrary, wherever this Lease requires or permits the giving by Landlord of its consent or approval, or whenever a waiver, notice, or other instrument or document is to be executed by or on behalf of Landlord, the Authority Director shall be authorized to give or withhold such consent or approval or execute such document on behalf of Landlord, except as otherwise required by applicable Law or Landlord's formation documents.

24.20 Tenant Representations. Tenant represents, warrants and covenants to Landlord as follows, as of the date hereof and as of the Commencement Date:

(a) Valid Existence, Good Standing. Tenant is a limited liability company duly organized and validly existing under the laws of the State of California. Tenant has the requisite power and authority to own its property and conduct its business as presently conducted. Tenant is in good standing in the State of California.

(b) Authority. Tenant has the requisite power and authority to execute and deliver this Lease and the agreements contemplated hereby and to carry out and perform all of the terms and covenants of this Lease and the agreements contemplated hereby to be performed by Tenant.

(c) No Limitation on Ability to Perform. Neither Tenant's articles of organization or operating agreement, nor any applicable Law, prohibits Tenant's entry into this Lease or its performance hereunder. No consent, authorization or approval of, and no notice to or filing with, any governmental authority, regulatory body or other person is required for the due execution and delivery of this Lease by Tenant and Tenant's performance hereunder, except for consents, authorizations and approvals which have already been obtained, notices which have already been given and filings which have already been made. There are no undischarged judgments pending against Tenant, and Tenant and its members have not received notice of the filing of any pending suit or proceedings which might materially adversely affect Tenant's ability to perform under this Lease.

(d) Valid Execution. The execution and delivery of this Lease and the performance by Tenant hereunder have been duly and validly authorized. When executed and delivered by Landlord and Tenant, this Lease will be a legal, valid and binding obligation of Tenant.

(e) Defaults. The execution, delivery and performance of this Lease (i) do not and will not violate or result in a violation of, contravene or conflict with, or constitute a default by Tenant under (A) any agreement, document or instrument to which Tenant is a party or by which Tenant is bound, (B) any law, statute, ordinance, or regulation applicable to Tenant or its businesses, or (C) the articles of incorporation or bylaws of Tenant, and (ii) do not result in the creation or imposition of any lien or other encumbrance upon the assets of Tenant, except as contemplated hereby.

(f) Financial Matters. Except to the extent disclosed to Landlord in writing, neither Tenant nor any of its members (i) have knowledge of a material default under, or received notice asserting that it is in default under, any lease or management agreement or the like, (ii) have filed a petition for relief under any chapter of the U.S. Bankruptcy Code, and (iii) have suffered any material adverse change to its financial condition that could reasonably effect its ability to perform its obligations under this Lease.

The representations and warranties herein shall survive any termination of this Lease to the extent specified in this Lease.

25. SPECIAL PROVISIONS

25.1 Transportation Plan. Tenant acknowledges that the Treasure Island Mobility Management Agency ("TIMMA") is authorized to implement the Treasure Island Transportation Plan attached to the DDA, as may be amended (the "Transportation Plan"), including implementing congestion pricing, a mandatory transit pass system, transportation demand management programs, and other fees and programs. Tenant acknowledges that the Premises are and will be subject to the Transportation Plan and the jurisdiction, fees and programs implemented by the TIMMA. TIMMA will develop, implement, operate, and administer strategies and programs to manage transportation resources in the entirety of Treasure Island and Yerba Buena Island. Tenant shall cooperate with TIMMA and impose such obligations on each user and renter at the Premises, as shall be required by TIMMA in order to implement the Transportation Plan and the fees associated therewith. Tenant shall establish and carry on during the Term a program to encourage maximum use of public transportation by personnel of Tenant employed on the Premises, including, without limitation, the distribution to such employees of written materials explaining the convenience and availability of public transportation facilities adjacent or proximate to the Premises and encouraging use of such facilities, all at Tenant's sole expense. Without limiting the foregoing, Tenant shall comply with all applicable requirements of the Transportation Plan.

25.2 Jobs EOP and TIHDI Job Broker. Tenant shall comply, and require its contractors, subcontractors and consultants to comply, with the Jobs EOP, including the First Source Hiring and the TIHDI Job Broker and Economic Development Opportunities programs.

25.3 Non-Discrimination in City Contracts and Benefits Ordinance.

(a) **Covenant Not to Discriminate.** In the performance of this Lease, Tenant covenants and agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability, weight, height or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee of, any City employee working with, or applicant for employment with, Tenant in any of Tenant's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Tenant.

(b) **Subleases and Other Subcontracts.** Tenant shall include in all Subleases and other subcontracts relating to the Premises a non-discrimination clause applicable to such subtenant or other subcontractor in substantially the form of subsection (a) above. In addition, Tenant shall incorporate by reference in all subleases and other subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subtenants and other subcontractors to comply with such provisions. Tenant's failure to comply with the obligations in this subsection shall constitute a material breach of this Lease.

(c) **Non-Discrimination in Benefits.** Tenant does not as of the date of this Lease and will not during the Term, in any of its operations or in San Francisco or with respect to its operations under this Lease elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

(d) **CMD Form.** As a condition to this Lease, Tenant shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form CMD-12B-101) with supporting documentation and secure the approval of the form by the San Francisco City Administrator's Contract Monitoring Division (the "CMD"). Tenant hereby represents that before execution of this Lease, (i) Tenant executed and submitted to the CMD Form CMD-12B-101 with supporting documentation; and (ii) the CMD approved such form.

(e) **Incorporation of Administrative Code Provisions by Reference.** The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the lease of City property are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Tenant shall comply fully with and be bound by all of the provisions that apply to this Lease under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Tenant understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of Fifty Dollars (\$50.00) for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Lease may be assessed against Tenant and/or deducted from any payments due Tenant.

25.4 MacBride Principles - Northern Ireland. The City urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1, et seq. The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Tenant acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

25.5 Tropical Hardwood and Virgin Redwood Ban. The City urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood product. Except as expressly permitted by the application of Section 802(b) and 803(b) of the San Francisco Environment Code, Tenant shall not provide any items to the construction of tenant improvements or Alterations in the Premises, or otherwise in the performance of this Lease, which are tropical hardwoods, tropical hardwood wood products, virgin redwood, or virgin redwood wood products. In the event Tenant fails to comply in good faith with any of the provisions of Chapter 8 of the San Francisco Environment Code, Tenant shall be liable for liquidated damages for each violation in an amount equal to Tenant's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greater.

25.6 Prohibition of Alcoholic Beverage Advertising. Except in connection with authorized Uses, Tenant acknowledges and agrees that no advertising of alcoholic beverages is allowed on the Premises. For purposes of this section, "alcoholic beverage" shall be defined as set forth in California Business and Professions Code Section 23004, and shall not include cleaning solutions, medical supplies and other products and substances not intended for drinking. This advertising prohibition includes the placement of the name of a company producing, selling or distributing alcoholic beverages or the name of any alcoholic beverage in any promotion of any event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit or other entity designed to (i) communicate the health hazards of alcoholic beverages, (ii) encourage people not to drink alcohol or to stop

drinking alcohol, (iii) provide or publicize drug or alcohol treatment or rehabilitation services or (iv) in connection with an authorized Use.

25.7 Prohibition of Tobacco Sales and Advertising. Tenant acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on any real property owned by or under the control of Landlord or the City, including the Premises and the Treasure Island property. This advertising prohibition includes the placement of the name of a company producing, selling or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local or nonprofit entity designed to communicate the health hazards of cigarettes and tobacco products or to encourage people not to smoke or to stop smoking.

25.8 Pesticide Prohibition. Tenant shall comply with the provisions of Section 308 of Chapter 3 of the San Francisco Environment Code (the "Pesticide Ordinance") which (i) prohibit the use of certain pesticides on City property, (ii) require the posting of certain notices and the maintenance of certain records regarding pesticide usage and (iii) require Tenant to submit to Landlord an integrated pest management ("IPM") plan that (a) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Tenant may need to apply to the Premises during the terms of this Lease, (b) describes the steps Tenant will take to meet the City's IPM Policy described in Section 300 of the Pesticide Ordinance and (c) identifies, by name, title, address and telephone number, an individual to act as Tenant's primary IPM contact person with the City. In addition, Tenant shall comply with the requirements of Sections 303(a) and 303(b) of the Pesticide Ordinance.

25.9 Sunshine Ordinance. In accordance with Section 67.24(e) of the San Francisco Administrative Code, contracts, contractors' bids, leases, agreements, responses to Requests for Proposals, and all other records of communications between City departments and persons or firms seeking contracts will be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract, lease, agreement or other benefit until and unless that person or organization is awarded the contract, lease, agreement or benefit. Information provided which is covered by this Section will be made available to the public upon request.

25.10 Conflicts of Interest. Through its execution of this Lease, Tenant acknowledges that it is familiar with the provisions of Section 15.103 of the San Francisco Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 *et seq.* and Section 1090 *et seq.* of the Government Code of the State of California, and certifies that it does not know of any facts which would constitute a violation of said provisions, and agrees that if Tenant becomes aware of any such fact during the Term of this Lease, Tenant shall immediately notify Landlord.

25.11 Charter Provision. This Lease is governed by and subject to the provisions of the Charter of the City and County of San Francisco.

25.12 Requiring Health Benefits for Covered Employees. Unless exempt, Tenant agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of Chapter 12Q are incorporated herein by reference and made a part of this Lease as though fully set forth. The text of the HCAO is available on the web at <http://www.sfgov.org/olse/hcao>. Capitalized terms used in this Section and not defined in this Lease shall have the meanings assigned to such terms in Chapter 12Q.

(e) For each Covered Employee, Tenant shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Tenant chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.

(f) Notwithstanding the above, if Tenant is a small business as defined in Section 12Q.3(d) of the HCAO, it shall have no obligation to comply with Subsection (a) above.

(g) Tenant's failure to comply with the HCAO shall constitute a material breach of this Lease. Landlord shall notify Tenant if such a breach has occurred. If, within thirty (30) days after receiving City's written notice of a breach of this Lease for violating the HCAO, Tenant fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty (30) days, Tenant fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, Landlord shall have the right to pursue the remedies set forth in Section 12Q.5(f)(1-5). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to Landlord.

(h) Any Subcontract entered into by Tenant shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Tenant shall notify City's Purchasing Department when it enters into such a Subcontract and shall certify to the Purchasing Department that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Tenant shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the Landlord may pursue the remedies set forth in this Section against Tenant based on the Subcontractor's failure to comply, provided that Landlord has first provided Tenant with notice and an opportunity to obtain a cure of the violation.

(i) Tenant shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying Landlord with regard to Tenant's compliance or anticipated compliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

(j) Tenant represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

(k) Tenant shall keep itself informed of the current requirements of the HCAO.

(l) Tenant shall provide reports to Landlord in accordance with any reporting standards promulgated by Landlord under the HCAO, including reports on Subcontractors and Tenants, as applicable.

(m) Tenant shall provide Landlord with access to records pertaining to compliance with the HCAO after receiving a written request from Landlord to do so and being provided at least five (5) business days to respond.

(n) Landlord may conduct random audits of Tenant to ascertain its compliance with HCAO. Tenant agrees to cooperate with Landlord when it conducts such audits.

(o) If Tenant is exempt from the HCAO when this Lease is executed because its amount is less than Twenty-Five Thousand Dollars (\$25,000) (or [Fifty Thousand Dollars (\$50,000) if Tenant is a qualified nonprofit]), but Tenant later enters into an agreement or agreements that cause Tenant's aggregate amount of all agreements with Landlord to reach Seventy-Five Thousand Dollars (\$75,000), all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Tenant and the Contracting Department to be equal to or greater than Seventy-Five Thousand Dollars (\$75,000) in the fiscal year.

25.13 Notification of Limitations on Contributions. Through its execution of this Lease, Tenant acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City or a state agency on whose board an appointee of a City elective officer serves, for the selling or leasing of any land or building to or from the City or a state agency on whose board an appointee of a City elective officer serves, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or a board on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later

of either the termination of negotiations for such contract or six (6) months after the date the contract is approved. Tenant acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Tenant further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Tenant's board of directors; Tenant's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Tenant; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Tenant. Additionally, Tenant acknowledges that Tenant must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Tenant further agrees to provide Landlord the name of each person, entity or committee described above.

25.14 Preservation-Treated Wood Containing Arsenic. As of July 1, 2003, Tenant may not purchase preservative-treated wood products containing arsenic in the performance of this Lease unless an exemption from the requirements of Environment Code Chapter 13 is obtained from the Department of Environment under Section 1304 of the Environment Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniac copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Tenant may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of Environment. This provision does not preclude Tenant from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

25.15 Resource Efficient City Buildings and Pilot Projects. Tenant acknowledges that the City and County of San Francisco has enacted San Francisco Environment Code Sections 700 to 707 relating to resource-efficient City buildings and resource-efficient pilot projects. Tenant hereby agrees that it shall comply with all applicable provisions of such code sections.

25.16 Food Service Waste Reduction. Tenant agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in the San Francisco Environment Code, Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Lease as though fully set forth. This provision is a material term of this Lease. By entering into this Lease, Tenant agrees that if it breaches this provision, Landlord will suffer actual damages that will be impractical or extremely difficult to determine; further, Tenant agrees that the sum of One Hundred Dollars (\$100.00) liquidated damages for the first breach, Two Hundred Dollars (\$200.00) liquidated damages for the second breach in the same year, and Five Hundred Dollars (\$500.00) liquidated damages for subsequent breaches in the

same year is a reasonable estimate of the damage that Landlord will incur based on the violation, established in light of the circumstances existing at the time this Lease was made. Such amounts shall not be considered a penalty, but rather agreed monetary damages sustained by Landlord because of Tenant's failure to comply with this provision.

25.17 Estoppel Certificates. At any time and from time to time, within ten (10) days after Landlord's request, Tenant will execute, acknowledge and deliver to Landlord a statement certifying the following matters: (a) the Commencement Date and Expiration Date of this Lease; (b) that this Lease is unmodified and in full force and effect (or if there have been modifications, that this Lease is in full force and effect as modified and the date and nature of such modifications); (c) the dates to which the Rent has been paid; (d) that there are no Events of Default under this Lease (or if there are any Events of Default, the nature of such Event of Default); and (e) any other matters reasonably requested by Landlord. Landlord and Tenant intend that any such statement delivered pursuant to this paragraph may be relied upon by any assignee of Landlord's interest in the Lease, any mortgagee or any purchaser or prospective purchaser of the building or land on which the Premises are located. Tenant irrevocably appoints Landlord, as Tenant's agent, to execute and deliver in the name of Landlord any such instrument if Tenant fails to do so, which failure shall also be an Event of Default under this Lease.

25.18 Addendum. The terms of the Addendum, if any, attached to this Lease are incorporated into the Lease by reference. In the event of any inconsistency between the Lease and the Addendum, the terms of the Addendum shall control.

25.19 Cooperative Drafting. This Lease has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the Lease reviewed and revised by legal counsel. No party shall be considered the drafter of this Lease, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Lease.

25.20 Criminal History in Hiring and Employment Decisions

(a) Unless exempt, Tenant agrees to comply with and be bound by all of the provisions of San Francisco Administrative Code Chapter 12T (Criminal History in Hiring and Employment Decisions; "Chapter 12 T"), which are hereby incorporated as may be amended from time to time, with respect to applicants and employees of Tenant who would be or are performing work at the Premises.

(b) Tenant shall incorporate by reference the provisions of Chapter 12T in all Leases of some or all of the Premises, and shall require all subtenants to comply with such provisions. Tenant's failure to comply with the obligations in this subsection shall constitute a material breach of this Lease.

(c) Tenant and subtenants shall not inquire about, require disclosure of, or if such information is received base an Adverse Action on an applicant's or potential applicant for employment, or employee's: (1) Arrest not leading to a Conviction, unless the Arrest is undergoing an active pending criminal investigation or trial that has not yet been resolved; (2) participation in or completion of a diversion or a deferral of judgment program; (3) a Conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise rendered inoperative; (4) a Conviction or any other adjudication in the juvenile justice system; (5) a Conviction that is more than seven years old, from the date of sentencing; or (6) information pertaining to an offense other than a felony or misdemeanor, such as an infraction.

(d) Tenant and subtenants shall not inquire about or require applicants, potential applicants for employment, or employees to disclose on any employment application the facts or details of any conviction history, unresolved arrest, or any matter identified in subsection (c) above. Tenant and subtenants shall not require such disclosure or make such inquiry until either after the first live interview with the person, or after a conditional offer of employment.

(e) Tenant and subtenants shall state in all solicitations or advertisements for employees that are reasonably likely to reach persons who are reasonably likely to seek employment with Tenant or subtenant at the Premises, that the Tenant or subtenant will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.

(f) Tenant and subtenants shall post the notice prepared by the Office of Labor Standards Enforcement ("OLSE"), available on OLSE's website, in a conspicuous place at the Premises and at other workplaces within San Francisco where interviews for job opportunities at the Premises occur. The notice shall be posted in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the Premises or other workplace at which it is posted.

(g) Tenant and subtenants understand and agree that upon any failure to comply with the requirements of Chapter 12T, the City shall have the right to pursue any rights or remedies available under Chapter 12T or this Lease, including but not limited to a penalty of \$50 for a second violation and \$100 for a subsequent violation for each employee, applicant or other person as to whom a violation occurred or continued, termination or suspension in whole or in part of this Lease.

(h) If Tenant has any questions about the applicability of Chapter 12T, it may contact the City's Real Estate Division for additional information. City's Real Estate Division may consult with the Director of the City's Office of Contract Administration who may also grant a waiver, as set forth in Section 12T.8.

22.21 Local Hiring Requirements.

Any undefined, initially-capitalized term used in this Section shall have the meaning given to such term in San Francisco Administrative Code Section 23.62 (the "Local Hiring Requirements"). Improvements and Alterations (as defined in Section 7.1) are subject to the Local Hiring Requirements unless the cost for such work is (i) estimated to be less than \$750,000 per building permit or (ii) meets any of the other exemptions in the Local Hiring Requirements. Tenant agrees that it shall comply with the Local Hiring Requirements to the extent applicable. Before starting any construction, Tenant shall contact City's Office of Economic Workforce and Development ("OEWD") to verify if the Local Hiring Requirements apply to the work (i.e., whether the work is a "Covered Project").

Tenant shall include, and shall require its subtenants to include, a requirement to comply with the Local Hiring Requirements in any contract for a Covered Project with specific reference to San Francisco Administrative Code Section 23.62. Each such contract shall name Landlord and the City and County of San Francisco as a third party beneficiary for the limited purpose of enforcing the Local Hiring Requirements, including the right to file charges and seek penalties. Tenant shall cooperate, and require its subtenants to cooperate, with the City in any action or proceeding against a contractor or subcontractor that fails to comply with the Local Hiring Requirements when required. Tenant's failure to comply with its obligations under this Section shall constitute a material breach of this Lease. A contractor's or subcontractor's failure to comply with this Section will enable the City to seek the remedies specified in San Francisco Administrative Code Section 23.62 against the breaching party.

- (1) For each contractor and subcontractor performing Tenant improvements in amounts exceeding the Threshold Amount for a Covered Project, Tenant and its subtenants shall comply with the applicable mandatory participation levels for Project Work Hours performed by Local Residents, Disadvantaged Workers, and Apprentices set forth in Administrative Code §6.22(G)(4).
- (2) For Covered Projects estimated to cost more than \$1,000,000, before commencement of any work subject to the Local Hiring Policy, Tenant and its subtenants shall prepare and submit to Landlord and the City's Office of Economic and Workforce Development (OEWD) for approval a "local hire plan" for the project in accordance with Administrative Code §6.22(G)(6).
- (3) Tenant and its subtenants shall comply with applicable recordkeeping and reporting requirements and shall cooperate in City inspections and audits for compliance with the Local Hiring Policy, including allowing access to employees of its contractors and subcontractors and other witnesses at the Premises.
- (4) Tenant agrees that (i) Tenant shall comply with all applicable requirements of the Local Hiring Policy; (ii) the provisions of the Local Hiring Policy are reasonable and achievable by

Tenant and its subtenants; and (iii) Tenant and its subtenants have had a full and fair opportunity to review and understand the terms of the Local Hiring Policy.

(5) Tenant further agrees to use good faith efforts to hire residents of the City and County of San Francisco at all levels of Tenant's personnel needs and to contract with local businesses for Tenant's purchase of supplies, materials, equipment or services.

25.22 Local Hiring Requirements for Special Events.

Unless exempt, if Tenant has a special event on the premises, Tenant must comply with all applicable provisions of the San Francisco Local Hiring Policy in the performance of construction activities during the set-up, execution and strike of Events of four (4) or more consecutive or non-consecutive days. Before starting any Construction Work for Special Events covered under the Local Hiring Policy, Event Sponsor shall contact the City's Office of Economic Workforce and Development ("OEWD") to verify the Local Hiring Policy requirements that apply to the Special Event, and Event Sponsor shall comply with all such requirements. Failure to comply with the obligations in this subsection shall constitute a material breach and may subject Event Sponsor to the consequences of noncompliance specified in the Local Hiring Policy, including but not limited to penalties.

(1) For construction work on events covered by the Local Hiring Policy that exceed \$400,000, a budget of construction activities must be submitted with this application for review by OEWD.

(2) Contractors shall comply with the applicable mandatory participation levels for Project Work Hours performed by Local Residents, Disadvantaged Workers, and Apprentices as set forth in Section 6.22(G)(4).

(3) Contractors shall comply with applicable recordkeeping and reporting requirements and shall cooperate in City inspections and audits for compliance with the Local Hiring Policy, including allowing access to employees of its contractors and subcontractors and other witnesses at the Premises.

25.23. San Francisco Packaged Water Ordinance. Tenant agrees to comply with San Francisco Environment Code Chapter 24 ("Chapter 24"). Tenant shall not sell, provide or otherwise distribute Packaged Water, as defined in Chapter 24 (including bottled water), in the performance of this Agreement or on City property unless Tenant obtains a waiver from the City's Department of the Environment. If Tenant violates this requirement, the City may exercise all remedies in this Agreement and the Director of the City's Department of the Environment may impose administrative fines as set forth in Chapter 24.

25.24 Supervision of Minors.

(a) Records Request. If any person applies for employment or for a volunteer position with Tenant, or any subtenant or subcontractor, in which such applicant would have supervisory or disciplinary power over a minor or any person under such applicant's care, then Tenant, and any subtenant or subcontractors providing services at the Premises, shall request from the California Department of Justice records of all convictions or any arrest pending adjudication of such applicant involving the offenses listed in Welfare and Institution Code Section 15660(a), in accordance with the procedures established in California Penal Code Section 11105.3.

(b) Restriction on Hires. If Tenant, or any subtenant or subcontractor, is providing services under this Lease for recreational uses, Tenant shall not hire, and shall prevent its subcontractors from hiring, any person for employment or a volunteer position to provide supervisory or disciplinary power over a minor or any person under his or her care if that person has been convicted of an offense listed in Welfare and Institution Code Section 15660(a). Tenant shall further comply, and cause its subtenants and subcontractors to comply, with Penal Code Section 11105.3(c) and provide written notice to the parents or guardians of any minor who will be supervised or disciplined by the employee or volunteer not less than ten (10) days prior to the day the employee or volunteer begins his or her duties or tasks.

25.25 Employee Signature Authorization Ordinance. San Francisco Administrative Code Sections 23.50-23.56 requires employers in hotel or restaurant projects with more than fifty (50) employees to enter into a "card check" agreement with a labor union regarding the preference of employees to be represented by a labor union to act as their exclusive bargaining representative, if the City has a proprietary interest in the hotel or restaurant project. Tenant acknowledges and agrees that Tenant shall comply, and it shall cause Tenant's subtenants to comply, with the requirements of these requirements if Tenant operates a restaurant at the Premises.

25.26. Vending Machines: Nutritional Standards and Calorie Labeling Requirements. Tenant shall not install or permit any vending machine on the Premises without the prior written consent of the TIDA Director. Any permitted vending machine must comply with the food and beverage nutritional standards and calorie labeling requirements set forth in San Francisco Administrative Code section 4.9-1(c), as may be amended from time to time (the "Nutritional Standards Requirements"). Tenant agrees to incorporate the Nutritional Standards Requirements into any contract for the installation of a vending machine on the Premises or for the supply of food and beverages to that vending machine. Failure to comply with the Nutritional Standards Requirements or to otherwise comply with this [Section 28.48] shall be deemed a material breach of this Lease. Without limiting Landlord's other rights and remedies under this Lease, Landlord shall have the right to require the immediate removal of any vending machine on the Premises that is not permitted or that violates the Nutritional Standards Requirements. In addition, any restaurant located on the Premises is encouraged to ensure that

at least 25% of Meals offered on the menu meet the nutritional standards set forth in San Francisco Administrative Code section 4.9-1(e), as may be amended.

25.27. All-Gender Toilet Facilities

If applicable, Tenant shall comply with San Francisco Administrative Code Section 4.1-3 requiring at least one all-gender toilet facility on each floor of any new building on City-owned land and within existing buildings leased by the City where extensive renovations are made. An “all-gender toilet facility” means a toilet that is not restricted to use by persons of a specific sex or gender identity by means of signage, design, or the installation of fixtures, and “extensive renovations” means any renovation where the construction cost exceeds 50% of the cost of providing the toilet facilities required by this section. If Tenant has any question about applicability or compliance, Tenant should contact the [Director of Property] for guidance.

Landlord and Tenant have executed this Lease as of the date first written above.

TENANT:

**Treasure Island Enterprises, LLC, a
California limited liability company**

By: _____
Darius W. Anderson
Its: Managing Member

By: _____
Its: _____

LANDLORD:

**TREASURE ISLAND DEVELOPMENT
AUTHORITY**

By: _____
Robert P. Beck
Treasure Island Director

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____
Charles R. Sullivan, Deputy City Attorney

Lease Prepared By: Richard A. Rovetti, Deputy Director of Real Estate _____
(initial)

EXHIBIT A

NAVY DEED

EXHIBIT A-1

DIAGRAM OF PREMISES

PRELIMINARY - NOT FOR CONSTRUCTION



NO.	DATE	DESCRIPTION	BY
15	5-15-18	Revised (Reduced) Dock Plan per Jay Wallace	DD
REVISIONS			

Bellingham
Marina
 The World's Most Comprehensive
 Marine Supplier
 Southwest Division
 6115 Sandring Lane
 Dallas, CA 95620
 TEL: (916) 878-2345
 FAX: (916) 878-1760

This drawing contains
 proprietary information which
 is the property of Bellingham
 Marina Industries, Inc. and
 shall not be copied,
 reproduced or made available
 to third parties without prior
 written permission from
 Bellingham Marina Industries,
 Inc. UNLESS
 OTHERWISE said to Bellingham
 Marina Industries, Inc.

SITE IMPROVEMENT PLAN			
ACCEPTED BY:	CITY ENGINEER	R.C.E.	EXP. DATE
ACCEPTED BY:	CITY ENGINEER	R.C.E.	EXP. DATE

PROJECT NUMBER:	15-3-833
ENGINEER / DESIGNER:	
PROJECT MANAGER:	T.B.D.
CHECKED BY:	

TREASURE ISLAND MARINA
 San Francisco, CA

OVERALL SITE PLAN- MARINA
 Reduced Marina Footprint 4 (5-29-18)

SCALE:	See Graphic Scale (Sheet Size 24" x 36")
DRAWN BY:	DD
DATE:	5-29-18
SHEET NO.:	01
DRAWING:	SP1.7.1

EXHIBIT A-2

LEGAL DESCRIPTION
(Clipper Cove)

EXHIBIT B

MASTER DEVELOPER IMPROVEMENTS

1. TICD shall collaborate with TIE to provide adequate access to the marina for TIE's tenants and equipment during TICD's construction of the public improvements along Clipper Cove
2. TICD shall provide at no cost to TIE the ability to connect to TICD-installed utility connections and Island-wide infrastructure constructed on Treasure Island, provided that TIE shall be responsible for its own costs of connecting to all utility connections and Island-wide infrastructure.
3. TIE, upon making its connection to the utility system at Treasure Island, shall be solely responsible for paying the market-rate rates charged at Treasure Island by the utility system providers
4. TICD shall be responsible for constructing the Clipper Cove promenade at its sole and exclusive expense.
5. TIE shall be responsible for its own janitorial and garbage removal services and shall coordinate its garbage removal services with TICD and TIDA so as to not interfere with Island-wide activities.
6. TIE may rent from TICD or other third parties commercial space in close proximity to the marina for TIE's office and bathroom and shower facilities, not to exceed 20,000 square feet, at the market-rate rates for such commercial space.
7. TICD shall construct on-street parking and loading zones and off-street parking, in both temporary and permanent configurations, including adequate parking to accommodate the marina's needs at 0.6 per 1 slip in accordance with the Design for Development. TIE's marina tenants may rent any such available parking stalls at the posted market rates charged to all other parking users on Treasure Island.

EXHIBIT C

San Francisco Board of Supervisors Resolution
No. 173-18, File No. 180331

EXHIBIT D-1

COVENANT TO RESTRICT USE OF PROPERTY (CRUP)

EXHIBIT D-2

Mitigation Monitoring and Reporting Program

EXHIBIT E

**PERCENTAGE RENT:
PERCENTAGES OF GROSS INCOME**

<u>Gross Income Source</u>	<u>Yr. 1 - 3</u>	<u>Yr. 4 - 5</u>	<u>Yr. 6+</u>
Slip Rentals, Dry Storage, and Live Aboard Fees	5.0%	10%	15%
Food and Beverage Services	3.5%	3.5%	3.5%
Other Revenues: guest fees, merchandise sold, kayak, or other recreational rental fees, launch fees and all other non-defined revenues from lawful Uses.	5.0%	5.0%	5.0%

EXHIBIT F

RENT CREDITS

Tenant shall receive a Rent Credit in the full amount of the following dollar amounts spent, expended or incurred in connection with performing the Lease:

1. The amount of Two Hundred Thousand Dollars (\$200,000.00) which represents the total of the Request for Proposal Deposit, the Transaction Cost Deposit and the Extension Cost Deposits paid by Tenant to Landlord pursuant to the Exclusive Negotiating Agreement and Section 4.5(a)(i) of the Lease.
2. The costs and expenses of the Dredging as set forth in Section 4.5(a)(ii) of the Lease.

EXHIBIT G

RULES AND REGULATIONS

1. Tenant and its agents and contractors shall comply with the use provisions and restrictions in the Lease, and shall not permit any unauthorized use of the Premises.
2. Except as approved as part of any Construction Documents or the Lease's signage requirements, no signs, advertisements, or notices shall be attached to, or placed on or about, the Premises without prior written approval of Landlord.
3. Tenant's contractors and invitees, while on the Premises, shall be subject to these Rules and Regulations, and will be subject to direction from Landlord, but will not be an agent or contractor of the Landlord. Tenant's contractors shall be licensed by the State, insured and bonded at the amount requested by the Landlord.
4. Tenant shall install and maintain at Tenant's expense, any life safety equipment required by governmental rules, regulations or laws to be kept on the Premises. Tenant shall comply with the directives of the Fire Marshall and U.S. Coast Guard.
5. Tenant shall not block access to any public areas in or about the Premises.
6. Tenant shall not use or keep in the Premises any kerosene, gasoline or flammable, combustible or noxious fluid or materials except as required in connection with the normal operation and maintenance of the marina. Tenant shall not use, keep or permit or suffer the Premises to be occupied or used in a manner offensive to Landlord or other occupants of Treasure Island by reason of noise, odors, and/or vibrations.
7. Tenant shall operate the Premises in accordance with the Approved Operating Standards, as they may be amended and updated from time to time.
8. Tenant shall not sponsor or permit any fireworks displays originating from the Premise without the prior written consent of Landlord.
9. Other than the Initial and all approved Improvements, Tenant shall not install any antenna, lighting or loudspeaker on the Premises without the prior written consent of Landlord.
10. Tenant shall store all its trash and garbage within the Premises in a clean and secure location at all times until removal of the same. Tenant shall maintain an appropriate number of trash receptacles as needed to prevent garbage from accumulating on the Premises and adjacent properties.
11. Tenant assumes all responsibility for protecting its Premises from theft, robbery and pilferage.
12. These Rules and Regulations are in addition to, and shall not be construed in any way to modify, alter or amend, in whole or part, the terms, covenants, agreements and conditions

of the Lease.

13. Landlord reserves the right to make such other and reasonable rules and regulations as in its judgment may from time to time be needed for the safety, care and cleanliness of the Premises, and for the preservation of good order on Treasure Island.
14. Tenant shall be responsible for the observance of these Rules and Regulations by Tenant's employees, agents, clients, customers, invitees and guests.

EXHIBIT H

APPROVED OPERATING STANDARDS

1. Tenant and its agents and contractors shall, at all times during the Term of this Lease, comply with all of the terms and conditions of the Lease, including but not limited to the, the use provisions and restrictions in the Lease, and shall not permit any unauthorized use of the Premises.
2. Tenant shall, at all times during the Term of this Lease, operate its approved Uses at the Premises in a professional manner and shall observe all requirements and regulations of the City and TIDA pertaining to the approved Uses at the Premises.
3. Tenants shall, at all times during the Term of this Lease, ensure that the Premises is adequately secured, maintained in a professional manner, free of pests and that its trash is properly secured and removed.
4. Tenant shall, at all times during the Term of this Lease, cooperate with TIDA and the Master Developer in accordance with the terms of this Lease.
5. Except as approved as part of any Construction Documents or the Lease's signage requirements, no signs, advertisements, or notices shall be attached to, or placed on or about, the Premises without prior written approval of Landlord.
6. Tenant's contractors and invitees, while on the Premises, shall be subject to these Rules and Regulations, and will be subject to direction from Landlord, but will not be an agent or contractor of the Landlord. Tenant's contractors shall be licensed by the State, insured and bonded at the amount requested by the Landlord.
7. Tenant shall install and maintain at Tenant's expense, any life safety equipment required by governmental rules, regulations or laws to be kept on the Premises. Tenant shall comply with the directives of the Fire Marshall and U.S. Coast Guard.
8. Tenant shall not block access to any public areas in or about the Premises.
9. Tenant shall not use or keep in the Premises any kerosene, gasoline or flammable, combustible or noxious fluid or materials except as required in connection with the normal operation and maintenance of the marina. Tenant shall not use, keep or permit or suffer the Premises to be occupied or used in a manner offensive to Landlord or other occupants of Treasure Island by reason of noise, odors, and/or vibrations.
10. Tenant shall not sponsor or permit any fireworks displays originating from the Premise without the prior written consent of Landlord.
11. Other than the Initial and all approved Improvements, Tenant shall not install any antenna, lighting or loudspeaker on the Premises without the prior written consent of Landlord.

12. Tenant shall store all its trash and garbage within the Premises in a clean and secure location at all times until removal of the same. Tenant shall maintain an appropriate number of trash receptacles as needed to prevent garbage from accumulating on the Premises and adjacent properties.
13. Tenant assumes all responsibility for protecting its Premises from theft, robbery and pilferage.
14. These Approved Operating Standards are in addition to, and shall not be construed in any way to modify, alter or amend, in whole or part, the terms, covenants, agreements and conditions of the Lease.
15. Landlord reserves the right to make such other and reasonable rules and regulations as in its judgment may from time to time be needed for the safety, care and cleanliness of the Premises, and for the preservation of good order on Treasure Island.
16. Tenant shall be responsible for the observance of these Approved Operating Standards by Tenant's employees, agents, clients, customers, invitees and guests.
17. Tenant shall, at all times during the Term of this Lease, operate the Premises in accordance with these Approved Operating Standards, as they may be amended and updated from time to time.

EXHIBIT I

FINAL DEVELOPMENT CONCEPT AND DESCRIPTION OF INITIAL IMPROVEMENTS

The Initial Improvements shall be constructed in no more than three (3) phases, with multiple sub-phases consisting of construction of approximately 90-120 slips per phase, with each phase occurring over approximately 16 months:

- Marina Slips. Demolition of the existing marina and construction of a new boat marina consistent with the footprint shown on Exhibit A-1 consisting of approximately 220 slips with energy conservation metering, telephone and cable services. The slip lengths will range in size from 35 feet to 90 feet in order to provide flexibility for servicing all types of boats.
- Temporary and Permanent Landside Facilities. Tenant shall enter into separate commercial arrangements with Master Developer or other property owners to provide, at no cost to Landlord, temporary and permanent landside restrooms, showers, laundry facilities, marina operations offices and such other temporary landside improvements as are reasonably necessary for use and enjoyment of the Premises.
- Off Site Access and Utility Improvements. Tenant shall work with Master Developer to provide, at no cost to Landlord, temporary and permanent offsite improvements as needed to connect into and provide utilities (water, sewer, electricity, and telecommunications) and access to the Premises and the Initial Improvements. Tenant shall ensure that the improvements include conservation metering and telecommunication services.
- Dredging. Tenant shall perform or cause the performance of the dredging in Clipper Cove necessary for the use and ongoing operation of the Premises consistent with this Lease ("Dredging"). Landlord shall cooperate with Tenant in all aspects of the permitting process or loan application process for Dredging activities, provided that all costs of Dredging shall be borne solely and exclusively by Tenant and Landlord shall not be required to incur any costs in connection with its cooperation with Tenant. Tenant shall be entitled to a Rent Credit for Dredging to the extent provided in the Lease.

Demolition. Tenant shall remove all existing improvements on the Premises, except those (if any) that the Director agrees can remain, and discard all equipment, materials and construction debris in a clean and safe manner in accordance with applicable Law, including the San Francisco Environment Code.

The Initial Improvements shall begin on the Commencement Date and shall be completed no later than eight (8) years thereafter, unless extended due to a Force Majeure Event.

A copy of the schematic design plans are attached to Exhibit K, which follows.

EXHIBIT J

SCHEDULE OF PERFORMANCE

<u>Schedule Item</u>	<u>Responsible Party</u>	<u>Performance</u>
1. Provide guaranty of Lease obligations satisfactory to Landlord	Tenant	On or before Effective Date
2. Payment of Security Deposit	Tenant	On or before Effective Date
3. Submittal of Job Broker Agreement with TIHDI for Initial Improvements	Tenant	90 days before construction of Initial Improvements starts
4. Submittal and approval and deposit of management agreement with Manager	Tenant	60 days before construction of Initial Improvements starts
5. Record final subdivision map for the Premises (if needed)	Tenant	10 days before construction of Initial Improvements starts
6. Submission and approval of Construction Documents for Initial Improvements	Tenant	Per Article 8.
7. Obtain Building and Site permits and any Regulatory Approvals from Treasure Island Development Authority, City and applicable regulatory agencies (e.g., BCDC, Army Corps of Engineers, DTSC, Regional Water Quality Control Board) for the Initial Improvements	Tenant	Per Article 8 and 9
8. Provide to Landlord evidence of all insurance required to start the Initial Improvements	Tenant	Per Article 8 and 9
9. Satisfy all other conditions for the start of the Initial Improvements	Tenant	Per Article 8 and 9
10. Start construction of Initial Improvements	Tenant	Per Article 8 and 9
11. Complete first phase of Initial Improvements	Tenant	No later than December 31, 2021

- | | | |
|--|--------|--|
| 12. Start second phase of Initial Construction | Tenant | No later than 48 months following completion of first phase |
| 13. Start third phase of Initial Construction | Tenant | No later than 48 months following completion of second phase |
| 14. Completion of all Initial Improvements | Tenant | No later than eight years following the Effective Date |

EXHIBIT K

BELLINGHAM MARINE AND ANCHOR OEA PLANS/SCHEMATIC DRAWINGS

EXHIBIT L

CERTIFICATE OF ARCHITECT/ENGINEER

DATE:

TO: Treasure Island Development Authority

Attention: _____

FROM:

RE: [Description of Improvements] (the "Improvements")

This Certificate is being provided pursuant to Section 8.5 of that certain Treasure Island Marina Lease by and between the Treasure Island Development Authority, a California nonprofit public benefit corporation (the "Authority"), and Treasure Island Marina, LLC ("Tenant") dated for reference purposes as of _____ (the "Lease"). Capitalized terms used but not otherwise defined in this Certificate have the meanings given to them in the Lease.

As the [Engineer/Architect] for the design and construction of the Improvements, I visited the Improvements site at intervals appropriate to the state of construction to become generally familiar with the progress and quality of the construction completed and to determine in general if the construction was being performed in a manner indicating that the construction when completed would be in accordance with the Construction Documents and applicable code. My opinions and statements provided in this certificate are limited to my on-site inspections. I am not required to make nor have I made exhaustive or continuous on-site inspections of the Improvements. I neither retained nor exercised control over or charge of, nor am I responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the construction of the Improvements.

I shall not be responsible for the contractor's schedules or failure to carry out the work in accordance with the Construction Documents. I neither have nor have had control over or charge of acts or omissions of any contractor, subcontractor or their agents or employees, or of any other person performing portions of the construction.

As the [Engineer/Architect] for the construction of the Improvements and subject to the limitations set forth above, I hereby certify to the best of my knowledge, information and belief, in my professional opinion, as follows:

1. I have observed the construction of the Improvements as set forth above.
2. Construction of the Improvements has been performed in a good and work person-like manner and in accordance with the Construction Documents, except as may be noted on the attachment hereto.
3. Construction of the Improvements has been completed in accordance with all applicable building laws, regulations and ordinances.

[Engineer/Architect]

By:

Name:

Title:

EXHIBIT M

INSURANCE REQUIREMENTS (Treasure Island- Marina Lease)

A. Definitions:

1. **“Approval”** means the Authority’s approval, not to be unreasonably withheld, as determined by the Authority Director.
2. **“City Parties”** means, collectively, the Authority, the City and County of San Francisco, and their respective supervisors, commissioners, officers, agents and employees.
3. **“Completed”** has the meaning set forth in the Lease.
4. **“Construction Contractor”** means any person, corporation, partnership, trust, company or any other entity that is acting as a general contractor in a direct or indirect contract with Tenant for a Specific Project.
5. **“Construction Subcontractor”** means any person, corporation, partnership, trust, company, or any other entity that is in direct contract with a Construction Contractor for the performance of a Specific Project.
6. **“Design Consultant”** means any person, corporation, partnership, trust, company or any other entity that has a direct contract with Tenant for architectural services, engineering, landscape architectural services or any other professional design services for a Specific Project.
7. **“Design-Build Contractor”** means as any person, corporation, partnership, trust, company, or any other entity that has a contract to perform any design services and Work for a Specific Project.
8. **“Improvements”** means Initial Improvements or Alterations, as defined in the Lease.
9. **“Pollution Work”** means, collectively, any Work that involves disturbance of soil, groundwater, lead-based paint, asbestos containing materials or the removal, transportation and disposal of Hazardous Substances, as defined in the Lease.
10. **“Project”** means the construction of the Initial Improvements or Alterations under the Lease.
11. **“Specific Project”** means a portion of the Work that is under construction.
12. **“Work”** means the furnishing of any physical construction or labor for the Initial Improvements or any subsequent Alterations.

B. Insurance Requirements:

Tenant shall procure and maintain, or cause to be procured and maintained, throughout the Lease, the insurance policies set forth herein. Tenant is permitted to obtain or substitute any of the insurance required with project-specific insurance, including Owner

Controlled Insurance Programs (OCIPs) and Contractor Controlled Insurance Programs (CCIPs), if such project-specific insurance meets each of the requirements set forth in the following sections.

1. Workers' Compensation and Employers' Liability Insurance:

(a) Minimum Scope and Limits. Worker's Compensation Insurance with Employer's Liability insurance with limits of the following (or any higher limits as required by applicable law):

Coverage A. Statutory Benefits - State of Hire

Coverage B. Employers' Liability limits of:

Bodily Injury by accident	\$1,000,000 each accident
Bodily Injury by disease	\$1,000,000 policy limit
Bodily Injury by disease	\$1,000,000 each employee

(b) Policy Term. The policy shall be maintained for the duration of the Specific Project or such longer period as may be required by law.

(c) Waiver of Subrogation. Tenant shall obtain an endorsement that requires the insurer to waive all rights of subrogation against the City Parties for losses arising from work performed by or on behalf of Tenant. Tenant shall waive all rights against the City Parties for loss or damage to the extent covered by the Worker's Compensation Insurance or Employers' Liability Insurance. If the policies of insurance referred to in this Section require an endorsement or consent of the insurance company to provide for continued coverage where there is a waiver of subrogation, the owners of such policies will cause them to be so endorsed or obtain such consent.

2. Automobile Liability Insurance:

(a) Minimum Scope. Insurance Services Office form number CA 00 01 covering Automobile Liability.

(b) Minimum Limits. \$1,000,000 combined single limit per accident for bodily injury and property damage.

(c) Policy Term. The policy shall be maintained for the duration of the Specific Project.

(d) Acceptability. Tenant shall ensure that the insurance is placed with insurers with a then current A.M. Best's rating of no less than "A(-):VIII" or higher, licensed to do business in the State of California or, if not rated by A.M. Best, then a comparable rating from a nationally recognized rating agency approved by the Authority Director.

(e) Additional Insureds. The City Parties are to be covered as additional insureds with respect to liability arising out of the automobiles owned, leased, hired or borrowed by Tenant for the Specific Project, or that are otherwise used in connection with the Specific Project.

(f) Primary Coverage. For claims arising out of work on the Specific Project, Tenant's insurance coverage shall be primary insurance with respect to the City Parties. Any insurance or self-insurance maintained by the City Parties shall be excess of Tenant's insurance and shall not contribute to it or limit the amounts payable by Tenant's insurer.

(g) Waiver of Subrogation. Tenant shall obtain an endorsement that requires the insurer to waive all rights of subrogation against the City Parties. Tenant shall waive all rights against the City Parties for loss or damage to the extent covered by the Automobile Liability Insurance. If the policies of insurance referred to in this Section require an endorsement or consent of the insurance company to provide for continued coverage where there is a waiver of subrogation, the owners of such policies will cause them to be so endorsed or obtain such consent.

3. Commercial General Liability Insurance:

(a) Minimum Scope. Insurance Services Office ("ISO") Commercial General Liability coverage (occurrence form CG 0001 or its equivalent) combined single limit for bodily injury and property damage, including coverage for Contractual Liability, independent contractors, Explosion, Collapse, and Underground ("XCU"), Personal Injury, Broad-Form Property Damage to apply to products, and completed operations or its equivalent.

(b) Minimum Limits. Tenant shall maintain limits no less than: Each Occurrence: \$5,000,000; General Aggregate: \$5,000,000; Products/Completed Operations Aggregate: \$5,000,000; and such amounts increased to \$7,000,000 if claims, investigation or legal defense costs are included in the maximum. Limits may be satisfied by utilizing a primary insurance policy and an umbrella/excess liability insurance policy.

(c) Policy Term. The insurance shall be maintained for the duration of the Specific Project and either for (i) ten (10) years from the date of Substantial Completion of the Specific Project or (ii) such insurance shall have Products and Completed Operations coverage for ten (10) years from the date of Substantial Completion of the Specific Project.

(d) Form. Coverage must be on an "occurrence" form for the General Liability Insurance.

(e) Additional Insureds. Additional Insured Endorsement(s) will be issued covering the City Parties.

(f) Coverage. Premises and Operations coverage and liability to cover Tenant's liability arising out of Work performed by Construction Contractors and Construction Subcontractors.

(g) Deductibles and Self-Insured Retentions. Any deductibles or SIRs greater than \$100,000 will be approved by the Authority Director and will be the

responsibility of Tenant and/or Construction Contractors or Construction Subcontractors to pay.

(h) Primary Coverage. For claims arising out of or relating to work on the Specific Project, Tenant's insurance coverage shall be primary insurance with respect to the City Parties. Any insurance or self-insurance maintained by the City Parties shall be excess of Tenant's insurance and shall not contribute to it or limit the amounts payable by Tenant's insurer.

(g) Waiver of Subrogation. Tenant shall obtain an endorsement that requires the insurer to waive all rights of subrogation against the City Parties. Tenant shall waive all rights against the City Parties for loss or damage to the extent covered by the Commercial General Liability Insurance. If the policies of insurance referred to in this Section require an endorsement or consent of the insurance company to provide for continued coverage where there is a waiver of subrogation, the owners of such policies will cause them to be so endorsed or obtain such consent.

(i) Application. Tenant's insurance shall apply separately to each insured person or entity against whom a claim is made or suit is brought, except with respect to the aggregate limits of the insurer's liability, and rights or duties specifically assigned to the first or other named insureds.

(j) Tenant may structure the Commercial General Liability insurance program as an Owner (or Contractor) Controlled Insurance Program ("OCIP" or "CCIP") for all of the Specific Projects. Any OCIP or CCIP shall be Approved by the Authority Director.

4. Excess Liability Insurance:

(a) Excess liability coverage on a follow-form basis, in excess to the Commercial General Liability coverage stated above, with limits for each occurrence and in the aggregate to be determined by Tenant with the Approval of the Authority Director as part of the applicable Sub-Phase Application. The limits will be dependent on a variety of factors, including, among other things, the size and nature of the Specific Project, the amount and type of Improvements and Stormwater Management Controls to be Completed (e.g., amount and type of transportation or park improvements), the risk involved and the then current insurance market.

(b) Tenant may structure the Commercial General Liability insurance program as an Owner (or Contractor) Controlled Insurance Program ("OCIP" or "CCIP") for all of the Specific Projects.

5. Other Insurance Provisions for the Workers Compensation and Employers' Liability; Automobile Liability and Commercial General Liability Insurance Coverages:

(a) Cancellation. The policies will have standard cancellation/non-renewal clauses, conforming to the California Insurance Code, and meeting the requirements set forth in Section 1(g) above.

(b) Primary and Excess Coverage. All required limits of insurance may be purchased or placed through a combination of primary and excess insurance policies.

(c) Acceptability. Tenant shall ensure that the insurance is placed with insurers with a then current A.M. Best's rating of no less than "A(-):VIII" or higher, licensed to do business in the State of California or, if not rated by A.M. Best, then a comparable rating from a nationally recognized rating agency approved by the Authority Director.

(d) Verification of Coverage. Tenant must furnish the Authority with certificates of insurance evidencing coverage and satisfy the other requirements set forth in Section 13(d) below.

6. Professional Liability Insurance:

Professional Liability Insurance or Errors and Omissions Insurance will be required to be carried by Design Consultants and Design-Build Contractors or, in the alternative, any of their subcontractors or subconsultants.

(a) Minimum Scope. Professional Liability or Errors and Omissions insurance shall include prior acts coverage, at least back to commencement of services for the Specific Project, to cover their specific services and contractual liability under the applicable contracts, to the extent such liability is insurable under Professional Liability or Errors and Omissions insurance.

(b) Minimum Limits. The limits of any Professional Liability or Errors and Omissions shall not be less than \$1,000,000 per claim/\$2,000,000 aggregate, or the applicable Design Consultant's standard limit carried, whichever is higher, with a deductible or SIR amount not greater than \$100,000.

(c) Policy Term. The policy shall be maintained for the duration of the Design Consultant's and Design-Build Contractor's contracts and for a period of five (5) years after Substantial Completion of the applicable Design Consultant's or Design-Build Contractor's services.

(d) Other Insurance Requirements.

(1) Acceptability. Tenant shall require its Design Consultants and Design-Build Contractors to ensure that the insurance is placed with a then current A.M. Best rating of not less than "A(-):VIII" or higher, licensed to do business in the State of California or, if not rated by A.M. Best, then a comparable rating from a nationally recognized rating agency approved by the Authority Director.

(2) Verification of Coverage. Tenant shall require its Design Consultants and Design-Build Contractors to furnish Tenant, and the Authority, with certificates of insurance evidencing coverage. All certificates and endorsements are to be received by Tenant and the Authority before the Design Consultant begins services relating to Work for the Specific Project.

7. Construction Contractors', Design-Build Contractors' and Design Consultants' Insurance Coverages:

Tenant will require Construction Contractors (and their Construction Subcontractors), Design-Build Contractors and Design Consultants to procure and maintain the following insurance for work and services performed at the Project.

(a) Workers' Compensation and Employers' Liability.

(1) Minimum Scope and Limits. Workers' Compensation in statutory amounts with Employers' Liability insurance with limits of the following (or any higher limits as required by applicable law):

Coverage A. Statutory Benefits- State of Hire

Coverage B. Employers' Liability limits of:

Bodily Injury by accident	\$1,000,000 each accident
Bodily Injury by disease	\$1,000,000 policy limit
Bodily Injury by disease	\$1,000,000 each employee

(2) Policy Term. The policy shall be maintained for the duration of the contracts with Construction Contractors (and their Construction Subcontractors), Design-Build Contractors and Design Consultants for a Specific Project, or such longer period as required by applicable law.

(3) Waiver of Subrogation. Tenant shall require its Construction Contractors (and their Construction Subcontractors), Design-Build Contractors and Design-Consultants to waive all rights of subrogation in favor of Tenant, the City Parties and each other for loss or damage to the extent covered by Workers' Compensation, Employers' Liability insurance, or any other employment-related insurance applicable to the Work, except such rights as they may have to the proceeds of such insurance. Each such party will waive all rights against each other, and against Tenant and the City Parties, for loss or damage to the extent covered by the Workers' Compensation, Employers' Liability insurance, or other employment-related insurance applicable to the Work. If the policies of insurance referred to in this Section require an endorsement or consent of the insurance company to provide for continued coverage where there is a waiver of subrogation, the owners of such policies will cause them to be so endorsed or obtain such consent.

(b) Automobile Liability Insurance.

(1) Minimum Scope. Insurance Services Office form number CA 00 01 covering Automobile Liability.

(2) Minimum Limits. \$1,000,000 combined single limit per accident for bodily injury and property damage.

(3) Policy Term. The policy shall be maintained for duration of the contracts with Construction Contractors (and their Construction Subcontractors), Design-Build Contractors and Design Consultants for a Specific Project.

(4) All Autos Covered. Tenant and the City Parties are to be covered as insured with respect to liability arising out of the automobiles owned, leased, hired, or borrowed by Construction Contractors (and their Construction Subcontractors), Design-Build Contractors and Design Consultants for the Specific Project or used to access the Specific Project.

(5) Primary Coverage. For claims arising out of services relating to the Specific Project, Construction Contractors' (and their Construction Subcontractors') Design-Build Contractors' and Design Consultants' insurance coverage shall be primary insurance with respect to the City Parties. Any insurance or self-insurance maintained by the Authority or the City Parties shall be excess of Construction Contractors' (and their Construction Subcontractors') Design-Build Contractors' and Design Consultants' insurance and shall not contribute with it.

(c) Commercial General Liability Insurance. The following Commercial General Liability insurance shall be required for (i) Construction Contractors (their Construction Subcontractors), Design-Build Contractors, and Design Consultants that are (i) not enrolled in an OCIP or CCIP for the Specific Project for their on-site or off-site Work, and (ii) for Construction Contractors (or their Construction Subcontractors) Design-Build Contractors and Design Consultants that are enrolled in an OCIP or CCIP for the Specific Project for their off-site Work:

(1) Minimum Scope. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).

(2) Minimum Limits. Each Occurrence: \$1,000,000; General Aggregate: \$2,000,000; Products/Completed Operations Aggregate: \$2,000,000; and Personal and Advertising Injury: \$1,000,000.

(3) Policy Term. The policy shall be maintained for the duration of the contracts with Construction Contractors (and their Construction Subcontractors) and Design-Build Contractors for a Specific Project until either (i) five (5) years from the date of Substantial Completion of the Specific Project or (ii) such insurance shall have Products and Completed Operations coverage for five (5) years from the date of Substantial Completion of the Specific Project. The policy shall be maintained for the duration of the contracts with each Design Consultant until two (2) years from date of completion of its services on the Specific Project.

(4) Form. Coverage must be on an "occurrence" form.

(5) An Additional Insured Endorsement(s). Additional Insured Endorsement(s) shall be issued to cover the City Parties and Tenant. The policy shall stipulate that the insurance afforded to the Additional Insureds (Tenant and all the City Parties) shall apply as primary insurance and that any other insurance

carried by Tenant and the City Parties (and any other entity and individual required to be named as additional insured) will be excess only and will not contribute with this insurance. The policy shall contain substantially similar language to the following: "Such coverage as is afforded by this policy for the benefit of the additional insured(s) is primary for claims and or damages arising out of the project then under construction and any other coverage maintained by such additional insured(s) shall be non-contributing with the coverage provided under this policy."

(6) Premises and Operations coverage with no explosions, collapse, or underground damage exclusion.

(7) Independent Contractors' Liability to cover Contractor's liability arising out of work performed by its subcontractors.

(8) Broad-Form Property Damage.

(9) The policy may not be subject to a SIR that exceeds \$25,000. Any and all SIRs must be susceptible of being satisfied under the policy through payments by the named insured or its agents, and any additional insureds or co-insureds. If a SIR applies, the Allocated Loss Adjustment Expense (including defense costs) shall satisfy the SIR.

8. **Other Insurance Provisions for all Commercial General Liability, Workers' Compensation and Automobile Liability Insurance Coverages for Construction Contractors (and their Construction Subcontractors), Design-Build Contractors and Design Consultants:**

(a) **Cancellation.** The policies will all have standard reduction/cancellation/non-renewal clauses, conforming to the California Insurance Code.

(b) **Primary and Excess Coverage.** All required limits of insurance may be purchased or placed through a combination of primary and excess insurance policies.

(c) **Acceptability.** Tenant shall require its Construction Contractors (and their Construction Subcontractors), Design-Build Contractors and Design Consultants to ensure that the insurance is placed with insurers with a then current A.M. Best's rating of no less than "A(-):VIII" or higher, licensed to do business in the State of California or, if not rated by A.M. Best, then a comparable rating from a nationally recognized rating agency approved by the Authority Director.

(d) **Verification of Coverage.** Construction Contractors (and their Construction Subcontractors), Design-Build Contractors and Design Consultants must furnish Tenant and, upon request, the Authority, with certificates of insurance evidencing coverage and satisfy the other requirements set forth in Section 13(d) below. All certificates and endorsement are to be received by Tenant before Work or services commence on the Specific Project.

(e) Construction Contractors' (and their Construction Subcontractors'), Design-Build Contractors' and Design Consultants' insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability, and rights or duties specifically assigned to the first or other named insured.

9. Property Insurance for Construction Contractors (and their Construction Subcontractors) and Design-Build Contractors:

(a) Minimum Scope and Limits. "Special Cause of Loss" property insurance (commonly referred to as "all risk" or "special perils" coverage) in an amount equal to the full replacement cost of Construction Contractor's (their Construction Subcontractor's and Design-Build Contractor's property for which it has title and/or risk of loss. All policy proceeds shall be used for the repair or replacement of the property damaged or destroyed.

(1) Policy Term. The policy shall be maintained for the duration of the contracts with Construction Contractors (and their Construction Subcontractors) and Design-Build Contractors for a Specific Project and continue until the property is delivered to Tenant.

(2) Waiver of Subrogation. Tenant will require its Construction Contractors (and their Construction Subcontractors) and Design-Build Contractors to include a waiver of rights of recovery clause in favor of Tenant and the City Parties for losses arising from work or services performed for a Specific Project. Construction Contractor (and their Construction Subcontractors) and Design-Build Contractors will waive all rights against each other and against Tenant, the City Parties and all other subcontractors for loss or damage to the extent covered by All-risk Property insurance or any other property or equipment insurance applicable to the work or services, except such rights as they may have to the proceeds of such insurance. If the policies of insurance referred to in this Section require an endorsement or consent of the insurance company to provide for continued coverage where there is a waiver of subrogation, the owners of such policies will cause them to be so endorsed or obtain such consent.

10. Contractors Pollution Insurance:

In connection with any Pollution Work, Tenant will or shall require its Construction Contractors and Design-Build Contractors or in the alternative their subcontractors or subconsultants that will be performing the Pollution Work (collectively, "Pollution Contractors") to obtain the following insurance coverages:

(a) Minimum Scope and Limits. Contractors Pollution Liability insurance applicable to Pollution Work with limits of not less than Two Million Dollars (\$2,000,000) for each claim or occurrence and Two Million Dollars (\$2,000,000) aggregate, per policy period of one year, or for the duration of the Pollution Work if longer than one year. If such activity involves or may involve lead-based paint or asbestos identification / remediation, such insurance shall not contain lead-based paint or asbestos exclusions.

(b) Policy Term. The policy shall be maintained for the duration of the Pollution Contractors' contract and for a period of at least five (5) years after completion of the Pollution Work.

(c) Self-Insured Retentions. Any Contractors Pollution Liability insurance policy containing a SIR greater than One Hundred Thousand Dollars (\$100,000) shall be disclosed to Tenant and the Authority and shall be subject to the Authority's Approval. If any policy is subject to a SIR, then such SIR shall contain or be endorsed to provide that the SIR may be satisfied by (i) the named insured, or (ii) Tenant, or (iii) the City Parties and its successors and assigns. If a SIR applies the Allocated Loss Adjustment Expense (including defense costs), shall satisfy the SIR.

(d) Claims Made Forms. The Contractors Pollution Liability coverages may be written on a claims made or occurrence form, but in either case shall meet the following requirements.

(1) The retroactive date must be shown, and must be before the effective date of the contract or subcontract of the Pollution Contractor or the date such Pollution Work commences, whichever is later.

(2) If coverage is reduced, canceled or non-renewed, and not replaced with another claims made or occurrence policy form with a retroactive date before the effective date of the contract or subcontract of the Pollution Contractor or the date such Pollution Work commences, whichever is later, the Pollution Contractor must purchase an extended period coverage for a minimum of five (5) years after completion of such Pollution Work.

(e) Endorsements. All Contractors Pollution Liability insurance shall be endorsed to provide the following:

(1) The City Parties are to be covered as additional insureds.

(2) Such Contractors Pollution Liability policies are primary insurance to any other insurance available to the additional insureds, with respect to any claims arising out of the Specific Project and the Pollution Contractor's contract. Such policies shall also provide for severability of interests. For any claims that may arise from or in connection with the Specific Project, Pollution Contractor's insurance shall be primary insurance with respect to Tenant and City Parties. Any insurance or self-insurance maintained by Tenant or City Parties shall be excess of Pollution Contractor's insurance and shall not contribute with it.

(3) Non-Owned Disposal Site coverage.

(4) Cancellation. Thirty (30) days' advance written notice of reduction or cancellation in coverage or ten (10) days' advance written notice in case of non-payment.

(f) Claims Requirements. A copy of the claims reporting requirements must be submitted to Tenant before any Pollution Work commences.

(g) Primary and Excess Coverage. All required limits of insurance may be purchased or placed through a combination of primary and excess insurance policies.

(h) Acceptability. Tenant shall require its Pollution Contractors to ensure that the insurance is placed with insurers with a then current A.M. Best's rating of no less than "A(-):VIII" or higher, licensed to do business in the State of California or, if not rated by A.M. Best, then a comparable rating from a nationally recognized rating agency approved by the Authority Director.

(i) Verification of Coverage. Tenant must furnish the Authority with certificates of insurance evidencing coverage and satisfy the other requirements set forth in Section 13(d) below. All certificates and endorsement are to be received by the Authority before the Pollution Work commences on the Specific Project.

11. Waiver and Adjustments to Insurance Requirements:

(a) Waiver of Tenant's Insurance Requirements. Tenant and the City Parties understand that the design and construction of the Project may take years, and that there are community benefits objectives for the Project, including but not limited to, the hiring of local Construction Subcontractors and Design Consultants. In addition, the availability of commercially reasonable insurance coverages is dependent upon the market at the time of the Specific Project. Based upon the foregoing, Developer may, from time to time, request a waiver from or amendment to the insurance that it or its Construction Contractors, Construction Subcontractors, Design-Build Contractors and/or Design Consultants are required to carry under these Insurance Requirements. The Authority shall use good faith efforts to respond to Developer's waiver or amendment request in an expeditious manner. The Authority Director may issue a waiver in any specific instance, or may in appropriate circumstances bring the matter to the Authority Board for consideration.

12. Miscellaneous:

(a) Minimum Limits. The insurance limits set forth in these Insurance Requirements are minimum limits, scopes and requirements of insurance only. Nothing herein should be construed to limit the actual limits, scopes, types or requirements of the insurance that Tenant may acquire or that Tenant will require of any of its Construction Contractors, Construction Subcontractors, Design-Build Contractors, Design Consultants, or any other person performing any services or Work or providing any materials or supplies for the Project, the Sub-Phase or any Specific Project. Tenant, in its sole and absolute discretion, can require additional limits, scopes, types and requirements of insurance without notice to the Authority provided that the minimum requirements set forth herein are met, or a written waiver has been received. If additional limits and/or coverages are obtained, to the extent permitted, such insurance shall also be for the benefit of the Authority.

(b) Increases. Not more often than every five (5) years and upon not less than sixty (60) days prior written notice, the Authority may require Tenant to increase the insurance limits set forth above if the Authority finds in its reasonable judgment that it is the general commercial practice in San Francisco to carry insurance in amounts substantially greater than those amounts carried by Tenant with respect to risks comparable to those associated with Tenant's activities. Before requiring any increase in insurance, the Authority and Tenant shall meet and confer in good faith to determine whether such increase is necessary.

(c) No Limitation on Other Coverage. Tenant's compliance with the provisions of these Insurance Requirements shall in no way relieve or decrease Tenant's other obligations under the Lease (including any indemnification obligation) or under any other agreement relating to the Project.

(d) Verification of Coverage. Tenant (and, upon request, each Construction Contractor, Construction Subcontractor, Design-Build Contractor and Design Consultant) must furnish the Authority with certificates of insurance and with endorsements evidencing coverage required by these Insurance Requirements. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All Tenant's certificates and endorsements are to be received before the applicable Work or services commence (or before the applicable Work or service is performed by a Construction Contractor, Construction Subcontractor, Design-Build Contractor, or Design Consultant, when a copy of the certificate or endorsement is requested). The Authority reserves the right to require, and Tenant (and each Construction Contractor, Construction Subcontractor, Design-Build Contractor and Design Consultant) agrees to provide, complete, certified copies of all required insurance policies, including endorsements, demonstrating the coverage required by these specifications in connection with any loss, claim, lawsuit, or denial of coverage.

(e) Tenant's Requirements for Environmental Insurance. Tenant's requirements for Environmental Insurance will be addressed at the time that Tenant performs any Pollution Work.

EXHIBIT N

CERTIFICATE OF COMPLETION

This Certificate of Completion is made by the Treasure Island Development Authority, a California nonprofit public benefit corporation (the "Authority"), pursuant to Section 8.20 of that certain Treasure Island Marina Lease by and between the Authority and Treasure Island Marina, LLC ("Tenant") dated for reference purposes as of _____ (the "Lease"). Capitalized terms used but not otherwise defined in this Certificate have the meanings given to them in the Lease.

WHEREAS, the Authority has conclusively determined that the construction obligations of Tenant as specified in the Lease with respect to the Initial Improvements have been fully performed in accordance with the Construction Documents; and

WHEREAS, the Authority's determination regarding the above construction obligations is not directed to, and the Authority assumes no responsibility for, engineering or structural matters, latent defects, or compliance with building codes and regulations or applicable law regarding construction standards; and

NOW, THEREFORE, as provided in the Lease and subject to the foregoing provisions hereof, the Authority does hereby certify that the Initial Improvements have been fully performed and completed by Tenant as set forth above [except for the following _____].

Nothing contained in this instrument shall modify in any other way any other provisions of the Lease, including the survival provisions contained therein.

IN WITNESS WHEREOF, the Authority has executed this Certificate of Completion as of _____, 20__.

AUTHORITY:

TREASURE ISLAND DEVELOPMENT
AUTHORITY,
a California nonprofit public benefit
corporation

By: _____
Name: _____
Title: Executive Director

EXHIBIT O

TENANT'S OWNERSHIP STRUCTURE

Tenant is a California limited liability company. It is wholly owned by Treasure Island Marina, LLC, a California limited liability company. Darius Anderson is the majority owner of Treasure Island Marina, LLC and Treasure Island Enterprises, LLC.

TREASURE ISLAND ENTERPRISES, LLC, a California limited liability company, a wholly owned affiliate of Treasure Island Marina, LLC, a California limited liability company

The actual ownership interests in those entities will be provided to Landlord in writing prior to the Commencement Date and updated on a regular basis thereafter.

EXHIBIT P

JOBS EOP San Francisco Board of Supervisors

Table 2-3
 Summary of Significant Environmental Impacts and Mitigations from the Marina No Action
 and Marina Development Alternatives

Resource Category	No Action Marina Alternative	Proposed Marina: Maximum Development Marina Alternative	Medium Development Marina Alternative	Minimum Development Marina Alternative
Land Use	No impacts are expected.	No significant impacts are expected.	No significant impacts are expected.	No significant impacts are expected.
Visual Resources and Aesthetics	No impacts are expected.	No significant impacts are expected.	No significant impacts are expected.	No significant impacts are expected.
Population, Employment, and Housing	No significant impacts are expected.	No significant impacts are expected.	No significant impacts are expected.	No significant impacts are expected.
Cultural Resources	No impacts are expected.	<p>Significant and Mitigable Impacts</p> <p><i>Impact: Incompatible new construction from Marina Development could result in indirect impacts to significant historical resources.</i> Elements of the proposed Clipper Cove Marina could adversely affect the historic setting of historic resources on Treasure Island. As delineated in Tables 4-5 and 4-6, incompatible construction could result in indirect impacts to buildings that have been determined to be historical resources owing to changes to their settings, under the Maximum Development Marina Alternative. Development of the marina project may impact the areas immediately adjacent to Buildings 1, 2, and 3 in several ways. Incompatible new construction could constitute a potentially significant indirect impact to historical resources.</p> <p>The expansion of the marina is proposed throughout the length of Clipper Cove's northern shoreline on Treasure Island. The proposed marina would change the character of the cove through expansion of the number of slips and services available. The cove originally was conceived as a terminal for large amphibian passenger aircraft that were to use the island airport after the exposition closed. Changes during the Navy years obscured this connection, and the cove itself thus is not considered an historical resource or historic property. The installation of additional floats and slips to expand the existing marina, and expanded or developed walkways along the shoreline, would not be visually prominent features, would not diminish the historic setting or affect the characteristics that make Buildings 1, 2 and 3 eligible for the National Register. The buildings were considered significant for their association with the exposition and for their achievement in Art Deco and Moderne design,</p>	<p>Significant and Mitigable Impacts</p> <p>Like the marina development under the Maximum Development Marina Alternative, implementation of the Medium Development Marina Alternative could result in significant and mitigable impacts. Development of the marina project may impact the areas immediately adjacent to Buildings 1, 2, and 3 in several ways. Incompatible new construction could constitute a potentially significant indirect impact to historical resources. Most development would take place within the waters of Clipper Cove and along the Treasure Island shores and could result in significant impacts related to the loss of potentially significant archaeological resources. The mitigation measures for potential significant impacts to historical and archaeological impacts would be the same as those described for the Maximum Development Marina Alternative. Implementing the mitigation measures would reduce these impacts to a less-than-significant level.</p>	<p>Significant and Mitigable Impacts</p> <p>Like the marina development under the Maximum and Medium Development Marina Alternatives, implementation of the marina development under the Minimum Development Marina Alternative could result in significant and mitigable impacts. Development of the marina project may impact the areas immediately adjacent to Buildings 1, 2, and 3 in several ways. Incompatible new construction could constitute a potentially significant indirect impact to historical resources. Most development would take place within the waters of Clipper Cove and along the Treasure Island shores and could result in significant impacts related to the loss of potentially significant archaeological resources. The mitigation measures for potential significant impacts to historical and archaeological impacts would be the same as those described for the Maximum Development Alternative. Implementing the mitigation measures would reduce these impacts to a less-than-significant level.</p>

959

Table 2-3
 Summary of Significant Environmental Impacts and Mitigations from the Marina No Action
 and Marina Development Alternatives (continued)

Resource Category	No Action Marina Alternative	Proposed Marina: Maximum Development Marina Alternative	Medium Development Marina Alternative	Minimum Development Marina Alternative
Cultural Resources (cont'd)		<p>neither of which would be significantly impacted by the marina development. The Clipper Cove Marina waterside development therefore would not result in significant indirect impacts to these buildings or their setting.</p> <p>The proposed development of the Clipper Cove Marina includes construction of modern buildings and parking that could be incompatible in appearance and scale with adjacent historic buildings. This could result in indirect visual impacts to the buildings and their historic setting. The final development plan for the proposed marina calls for construction of three buildings (restaurant, marina operations, and restrooms) on the north side of the proposed promenade (see Figure 2-5, and Figures 2-5b and 2-5c). Building 180, located between Building 1 and Building 2, a non-historic building, would be demolished as part of the reuse alternatives. The current rendering suggests that the proposed buildings are sympathetic to the design, colors and massing of Buildings 1, 2 and 3 (see rendering provided in Figure 4-4a). The proposed buildings are lower and substantially smaller than historic Buildings 1, 2 and 3, would not be visually intrusive, would be located in an area where other modern buildings have been constructed, and would have no direct construction impact on them. Proposed parking areas around the historic buildings would not result in a significant impact to the existing setting because the buildings are already surrounded by hard surfaced areas. These areas, while not listed as contributing elements to the buildings they surround, were meant to provide room for amphibian airliners to maneuver. However, if the parking areas were heavily landscaped with large trees or substantial intervening vegetation, which could be inconsistent with the historic setting of these buildings, there may be visual impacts on the historic buildings' setting. Implementing the following mitigation measure will reduce this impact to a less-than-significant level.</p> <ul style="list-style-type: none"> • <i>Mitigation.</i> Any project, such as a building, structure, parking, or landscaping, associated with the proposed Clipper Cove Marina 		

096

Table 2-3
 Summary of Significant Environmental Impacts and Mitigations from the Marina No Action
 and Marina Development Alternatives (continued)

Resource Category	No Action Marina Alternative	Proposed Marina: Maximum Development Marina Alternative	Medium Development Marina Alternative	Minimum Development Marina Alternative
Cultural Resources (cont'd)		<p>Development that would be located within 240 feet of Building 1, 2, or 3 shall be evaluated by an architectural historian meeting the professional standards for Architectural History or Historic Architecture of the Secretary of the Interior's Standards and Guidelines. The architectural historian will submit a copy of the draft evaluation of consistency report to the Landmarks Preservation Advisory Board (LPAB) and the Environmental Review Officer (ERO). The LPAB may provide comments on the report to the ERO. Following the determination of the evaluation of consistency report that the project is consistent with the Secretary of the Interior's Standards, the ERO shall accept the report as final.</p> <p>Implementation of this mitigation measure would reduce the potential for new construction associated with the Clipper Cove Marina Development to have indirect adverse effects on historical resources (Building 1, 2, or 3) to a less-than-significant level.</p> <p><i>Impact: Incompatible construction for Marina promenade could result in indirect impacts to significant historical resources.</i> The Maximum Development Marina Alternative includes construction of a promenade along the north side of Clipper Cove, including palm trees and other large landscape features. The promenade would be one of the most prominent aspects of the project. The final plan calls for landscaped parking (trees) with a landscaped area of rolling surface, and a palm-lined pedestrian and bicycle path along the waterfront. There is no such avenue or open way at the location as currently configured. The proposed promenade would have no direct impact on the historic buildings, but would alter the visual setting of the area. The proposed palm tree promenade would be similar to the Avenue of Palms on the west side of Treasure Island. This might falsely suggest to the public that the new trees are contemporaneous to the Exposition, and were part of the original plan, and thus would alter the integrity of the historic setting</p>		

961

Table 2-3
 Summary of Significant Environmental Impacts and Mitigations from the Marina No Action
 and Marina Development Alternatives (continued)

Resource Category	No Action Marina Alternative	Proposed Marina: Maximum Development Marina Alternative	Medium Development Marina Alternative	Minimum Development Marina Alternative
Cultural Resources (cont'd)		<p>of the Exposition. Implementing the following mitigation measure would reduce this impact to a less-than-significant level.</p> <ul style="list-style-type: none"> • <i>Mitigation.</i> The promenade's effect on the setting of the historic buildings can be mitigated through the installation of informational signage or plaques that explain the history of the Golden Gate International Exposition, the original configuration of the area along the southern edge of Treasure Island, and inform the public that the current design and condition of the promenade is meant to suggest the feeling of the exposition era. The plaques would explain which structures or design features are new, which are original, and how the new promenade was meant to reflect the original Avenue of Palms on the west side of the island. <p><u>Impact: Loss of potentially significant archaeological resources.</u> The Clipper Cove Marina development under the Maximum Development Marina Alternative is considered here as project-level development, as specific project level plans have been developed. Most development would take place within the waters of Clipper Cove and along the Treasure Island shores. Maritime archaeological remote sensing survey of the waters of Clipper Cove identified two potential archaeological features, as described in Section 3.4. Both features were assessed as not eligible to the CRHR based on lack of historic significance or lack of integrity. Any impacts to these historic archaeological features would be less-than-significant impacts of the project. Because the cove has been subject to underwater archaeological survey and investigation and no historical resources have been identified, the archaeological mitigation measure below shall apply to development within the waters of Clipper Cove. Implementation of the following mitigation measure would reduce the potential effects of projects proposed within Treasure Island or associated with the proposed Clipper Cove Marina development on significant</p>		

962

Table 2-3
 Summary of Significant Environmental Impacts and Mitigations from the Marina No Action
 and Marina Development Alternatives *(continued)*

Resource Category	No Action Marina Alternative	Proposed Marina: Maximum Development Marina Alternative	Medium Development Marina Alternative	Minimum Development Marina Alternative
Cultural Resources (cont'd)		<p>archaeological resources to a less-than-significant-level.</p> <ul style="list-style-type: none"> <i>Mitigation.</i> The following mitigation measure is required to avoid any potential adverse effect from the project on accidentally discovered buried or submerged historical resources as defined in <i>CEQA Guidelines</i> Section 15064.5(a)(c). The project sponsor shall distribute the Planning Department archeological resource "ALERT" sheet to the project prime contractor; to any project subcontractor (including demolition, excavation, grading, foundation, pile driving, etc. firms); or utilities firm involved in soils or Bay bottom-disturbing activities within the project site. Prior to any soils or Bay bottom-disturbing activities being undertaken each contractor is responsible for ensuring that the "ALERT" sheet is circulated to all field personnel, including machine operators, field crew, pile drivers, supervisory personnel, etc. The project sponsor shall provide the Environmental Review Officer (ERO) with a signed affidavit from the responsible parties (prime contractor, subcontractor(s), and utilities firm) to the ERO confirming that all field personnel have received copies of the Alert Sheet. <p>Should any indication of an archaeological resource be encountered during any soils or Bay bottom-disturbing activity of the project, the project Head Foreman and/or project sponsor shall immediately notify the ERO and shall immediately suspend any soils or Bay bottom-disturbing activities in the vicinity of the discovery until the ERO has determined what additional measures should be undertaken.</p> <p>If the ERO determines that an archaeological resource may be present within the project site, the project sponsor shall retain the services of a qualified archaeological consultant. The archaeological consultant shall advise the ERO as to whether the discovery is an archaeological</p>		
Cultural Resources		resource, retains sufficient integrity, and is of		

896

Table 2-3
 Summary of Significant Environmental Impacts and Mitigations from the Marina No Action
 and Marina Development Alternatives (continued)

Resource Category	No Action Marina Alternative	Proposed Marina: Maximum Development Marina Alternative	Medium Development Marina Alternative	Minimum Development Marina Alternative
(cont'd)		<p>potential scientific/historical/cultural significance. If an archaeological resource is present, the archaeological consultant shall identify and evaluate the archaeological resource. The archaeological consultant shall make a recommendation as to what action, if any, is warranted. Based on this information, the ERO may require, if warranted, specific additional measures to be implemented by the project sponsor.</p> <p>Measures might include: preservation in situ of the archaeological resource; an archaeological monitoring program; or an archaeological testing program. If an archaeological monitoring program or archaeological testing program is required, it shall be consistent with the Major Environmental Analysis (MEA) division guidelines for such programs. The ERO may also require that the project sponsor immediately implement a site security program if the archaeological resource is at risk from vandalism, looting, or other damaging actions.</p> <p>The project archaeological consultant shall submit a Final Archaeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archaeological resource and describing the archaeological and historical research methods employed in the archaeological monitoring/data recovery program(s) undertaken. Information that may put at risk any archaeological resource shall be provided in a separate removable insert within the final report.</p> <p>Copies of the Draft FARR shall be sent to the ERO for review and approval. Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archaeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Major Environmental Analysis division of the Planning Department shall receive three</p>		

964

Table 2-3
Summary of Significant Environmental Impacts and Mitigations from the Marina No Action
and Marina Development Alternatives (*continued*)

Resource Category	No Action Marina Alternative	Proposed Marina: Maximum Development Marina Alternative	Medium Development Marina Alternative	Minimum Development Marina Alternative
Cultural Resources (cont'd)		copies of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest or interpretive value, the ERO may require a different final report content, format, and distribution than that presented above.		
Transportation, Circulation, and Parking	No significant impacts are expected.	<p>Significant and Mitigable Impacts</p> <p><i>Impact: Increased volumes on SFOBB Yerba Buena Island eastbound on-ramp (east side).</i> During the weekend mid-day peak hour, the Maximum Development Marina Alternative would contribute 27 new trips to the eastbound on-ramp. This would not be considered a significant impact for the Maximum Development Marina Alternative, but would represent six percent of the total ramp volumes under the Maximum Development Alternative. The marina contribution would be considered a substantial contribution to a cumulatively significant impact.</p> <ul style="list-style-type: none"> • <i>Mitigation.</i> In the event the marina project is approved prior to the adoption of a TMP for Treasure Island, the Marina shall implement measures to ensure as high a level of public transit ridership as feasible and shall in no event contribute more than five percent (5%) to the total vehicle volumes on the mainline SFOBB during the weekday AM and PM peak period and the weekend midday peak period of traffic impacts discussed and identified in this EIR. The Marina shall implement some or all of the following transportation systems management (TSM) measures included in the mitigation measures identified for the maximum development alternative of Treasure Island: <ul style="list-style-type: none"> • Restrict visitor and employee parking • Provide incentives to employees to reduce vehicular demand • Establish parking restrictions 	<p>Significant and Unavoidable Impacts</p> <p><i>Impact: Increased volumes on SFOBB Yerba Buena Island westbound on-ramp (west side).</i> During the weekend mid-day peak hour, the Medium Development Marina Alternative would contribute 42 new trips to the on-ramp. The total ramp volumes would be less than the ramp capacity. While this would not constitute a significant transportation impact when just the marina development is taken into account, it would represent approximately 19 percent of the total new trips generated under the Medium Development Alternative and would therefore constitute a substantial contribution to a cumulatively significant impact generated by the total Treasure Island development under the Medium Development Alternative.</p> <ul style="list-style-type: none"> • <i>Mitigation.</i> In the event the marina project is approved prior to the adoption of a TMP for Treasure Island, the Marina shall implement measures to ensure as high a level of public transit ridership as feasible and shall in no event contribute more than five percent (5%) to the total vehicle volumes on the mainline SFOBB during the weekday AM and PM peak period and the weekend midday peak period of traffic impacts discussed and identified in this EIR. The Marina shall implement some or all of the following transportation systems management (TSM) measures included in the mitigation measures identified for the maximum development alternative of Treasure Island: 	No significant impacts are expected.

965

Table 2-3
Summary of Significant Environmental Impacts and Mitigations from the Marina No Action
and Marina Development Alternatives (continued)

Resource Category	No Action Marina Alternative	Proposed Marina: Maximum Development Marina Alternative	Medium Development Marina Alternative	Minimum Development Marina Alternative
Transportation, Circulation, and Parking (cont'd)		<ul style="list-style-type: none"> • Prohibit free parking for employees and visitors • Make parking costs visible by charging for parking • Establish goals for vehicle trip reduction • Designate an on-site transportation coordinator • Provide van or shuttle bus service to supplement Muni and AC Transit service • Provide subsidized transit passes for employees and users • Evaluate the use of remote parking facilities off-island • Require facilities for bicycles in structures and any van or shuttle services <p>In addition, in recognition of the critical and on-going need for transportation services to meet demand generated by development on NSTI, the Marina shall be required to pay its pro rata share of costs to implement the TMP by contributing to a newly created assessment district or other similar funding mechanism once it is formed. Such funding mechanism(s) could include, without limitation, an assessment district, imposition of reasonable and appropriate fees to fund necessary transportation services, or provision of transportation services directly for NSTI. The Marina shall be obligated to participate in such funding mechanism as NSTI is developed, the TMP is implemented and the effectiveness of the TMP and transportation services is assessed by the TCC and TIDA.</p> <p>The mitigation measures would need to be put in place prior to development occurring on Treasure Island to mitigate the impacts to a less-than-significant level.</p>	<ul style="list-style-type: none"> • Restrict visitor and employee parking • Provide incentives to employees to reduce vehicular demand • Establish parking restrictions • Prohibit free parking for employees and visitors • Make parking costs visible by charging for parking • Establish goals for vehicle trip reduction • Designate an on-site transportation coordinator • Provide van or shuttle bus service to supplement Muni and AC Transit service • Provide subsidized transit passes for employees and users • Evaluate the use of remote parking facilities off-island • Require facilities for bicycles in structures and any van or shuttle services <p>In addition, in recognition of the critical and on-going need for transportation services to meet demand generated by development on NSTI, the Marina shall be required to pay its pro rata share of costs to implement the TMP by contributing to a newly created assessment district or other similar funding mechanism once it is formed. Such funding mechanism(s) could include, without limitation, an assessment district, imposition of reasonable and appropriate fees to fund necessary transportation services, or provision of transportation services directly for NSTI. The Marina shall be obligated to participate in such funding mechanism as NSTI is developed, the TMP is implemented and the effectiveness of the TMP and transportation services is assessed by the TCC and TIDA.</p> <p>The mitigation measures would need to be put in place prior to development occurring on Treasure Island to ensure that alternative modes of travel are</p>	

996

Table 2-3
 Summary of Significant Environmental Impacts and Mitigations from the Marina No Action
 and Marina Development Alternatives (continued)

Resource Category	No Action Marina Alternative	Proposed Marina: Maximum Development Marina Alternative	Medium Development Marina Alternative	Minimum Development Marina Alternative
Transportation, Circulation, and Parking (cont'd)			<p>promoted and available. These measures would reduce the projects' contribution to the significant impacts, but not to a less-than-significant level.</p> <p><i>Impact: Increased volumes on SFOBB Yerba Buena Island eastbound off-ramp (west side).</i> During the PM peak hour, the Medium Development Marina Alternative would contribute approximately three new trips to the eastbound off-ramp, which does not constitute a substantial increase. The marina development would contribute approximately seven percent of the total Medium Development Alternative trips on the eastbound off-ramp during the PM peak hour. This would result in a substantial contribution by the marina development to the cumulatively significant impact associated with the Medium Development Alternative.</p> <ul style="list-style-type: none"> • <i>Mitigation.</i> In the event the marina project is approved prior to the adoption of a TMP for Treasure Island, the Marina shall implement measures to ensure as high a level of public transit ridership as feasible and shall in no event contribute more than five percent (5%) to the total vehicle volumes on the mainline SFOBB during the weekday AM and PM peak period and the weekend midday peak period of traffic impacts discussed and identified in this EIR. The Marina shall implement some or all of the following transportation systems management (TSM) measures included in the mitigation measures identified for the maximum development alternative of Treasure Island: <ul style="list-style-type: none"> • Restrict visitor and employee parking • Provide incentives to employees to reduce vehicular demand • Establish parking restrictions • Prohibit free parking for employees and visitors • Make parking costs visible by charging for parking • Establish goals for vehicle trip reduction 	
Transportation, Circulation, and			<ul style="list-style-type: none"> • Designate an on-site transportation coordinator 	

967

Table 2-3
 Summary of Significant Environmental Impacts and Mitigations from the Marina No Action
 and Marina Development Alternatives (continued)

Resource Category	No Action Marina Alternative	Proposed Marina: Maximum Development Marina Alternative	Medium Development Marina Alternative	Minimum Development Marina Alternative
Parking (cont'd)			<ul style="list-style-type: none"> • Provide van or shuttle bus service to supplement Muni and AC Transit service • Provide subsidized transit passes for employees and users • Evaluate the use of remote parking facilities off-island • Require facilities for bicycles in structures and any van or shuttle services <p>In addition, in recognition of the critical and on-going need for transportation services to meet demand generated by development on NSTI, the Marina shall be required to pay its pro rata share of costs to implement the TMP by contributing to a newly created assessment district or other similar funding mechanism once it is formed. Such funding mechanism(s) could include, without limitation, an assessment district, imposition of reasonable and appropriate fees to fund necessary transportation services, or provision of transportation services directly for NSTI. The Marina shall be obligated to participate in such funding mechanism as NSTI is developed, the TMP is implemented and the effectiveness of the TMP and transportation services is assessed by the TCC and TIDA.</p> <p>These measures would reduce the impacts but not to a less-than-significant level.</p> <p>Significant and Mitigable Impacts</p> <p><i>Impact: Increased volumes on SFOBB Yerba Buena Island eastbound on-ramp (east side).</i> During the weekend mid-day peak hour, the Medium Development Marina Alternative would contribute 41 new trips to the eastbound on-ramp. This would not be considered a substantial increase for the Medium Marina Development Alternative, but would represent 14 percent of the total traffic under the Medium Development Alternative for all</p>	
Transportation, Circulation, and Parking (cont'd)			of Treasure Island. The Marina contribution would be considered a substantial contribution to a cumulatively significant impact caused by total	

896

Table 2-3
Summary of Significant Environmental Impacts and Mitigations from the Marina No Action
and Marina Development Alternatives (continued)

Resource Category	No Action Marina Alternative	Proposed Marina: Maximum Development Marina Alternative	Medium Development Marina Alternative	Minimum Development Marina Alternative
			<p>Treasure Island development under the Medium Development Alternative.</p> <ul style="list-style-type: none"> • <i>Mitigation.</i> In the event the marina project is approved prior to the adoption of a TMP for Treasure Island, the Marina shall implement measures to ensure as high a level of public transit ridership as feasible and shall in no event contribute more than five percent (5%) to the total vehicle volumes on the mainline SFOBB during the weekday AM and PM peak period and the weekend midday peak period of traffic impacts discussed and identified in this EIR. The Marina shall implement some or all of the following transportation systems management (TSM) measures included in the mitigation measures identified for the maximum development alternative of Treasure Island: <ul style="list-style-type: none"> • Restrict visitor and employee parking • Provide incentives to employees to reduce vehicular demand • Establish parking restrictions • Prohibit free parking for employees and visitors • Make parking costs visible by charging for parking • Establish goals for vehicle trip reduction • Designate an on-site transportation coordinator • Provide van or shuttle bus service to supplement Muni and AC Transit service • Provide subsidized transit passes for employees and users • Evaluate the use of remote parking facilities off-island • Require facilities for bicycles in structures and any van or shuttle services 	
Transportation, Circulation, and Parking (cont'd)			<p>In addition, in recognition of the critical and on-going need for transportation services to meet demand generated by development on NSTI, the Marina shall be required to pay its pro rata share of costs to implement the TMP by</p>	

696

Table 2-3
Summary of Significant Environmental Impacts and Mitigations from the Marina No Action
and Marina Development Alternatives (continued)

Resource Category	No Action Marina Alternative	Proposed Marina: Maximum Development Marina Alternative	Medium Development Marina Alternative	Minimum Development Marina Alternative
			<p>contributing to a newly created assessment district or other similar funding mechanism once it is formed. Such funding mechanism(s) could include, without limitation, an assessment district, imposition of reasonable and appropriate fees to fund necessary transportation services, or provision of transportation services directly for NSTI. The Marina shall be obligated to participate in such funding mechanism as NSTI is developed, the TMP is implemented and the effectiveness of the TMP and transportation services is assessed by the TCC and TIDA.</p> <p>The mitigation measures would mitigate the impact to a less-than-significant level.</p> <p><i>Impact: Increased volumes on SFOBB Yerba Buena Island westbound on-ramp (east side).</i> During the weekend mid-day peak hour, the Medium Development Marina alternative would generate an additional 14 new trips at the westbound on-ramp. These trips would not cause the ramp volumes to exceed the capacity and would not be considered a substantial increase. The marina development would generate approximately 16 percent of the total new trips generated by the Medium Development Alternative; therefore the marina contribution would be considered a substantial contribution to the significant impact caused by total Treasure Island development under the Medium Development Alternative.</p> <ul style="list-style-type: none"> <i>Mitigation.</i> In the event the marina project is approved prior to the adoption of a TMP for Treasure Island, the Marina shall implement measures to ensure as high a level of public transit ridership as feasible and shall in no event contribute more than five percent (5%) to the total vehicle volumes on the mainline SFOBB 	
Transportation, Circulation, and Parking (cont'd)			<p>during the weekday AM and PM peak period and the weekend midday peak period of traffic impacts discussed and identified in this EIR. The Marina shall implement some or all of the following transportation systems management (TSM) measures included in the mitigation</p>	

970

Table 2-3
 Summary of Significant Environmental Impacts and Mitigations from the Marina No Action
 and Marina Development Alternatives (continued)

Resource Category	No Action Marina Alternative	Proposed Marina: Maximum Development Marina Alternative	Medium Development Marina Alternative	Minimum Development Marina Alternative
			<p>measures identified for the maximum development alternative of Treasure Island:</p> <ul style="list-style-type: none"> • Restrict visitor and employee parking • Provide incentives to employees to reduce vehicular demand • Establish parking restrictions • Prohibit free parking for employees and visitors • Make parking costs visible by charging for parking • Establish goals for vehicle trip reduction • Designate an on-site transportation coordinator • Provide van or shuttle bus service to supplement Muni and AC Transit service • Provide subsidized transit passes for employees and users • Evaluate the use of remote parking facilities off-island • Require facilities for bicycles in structures and any van or shuttle services <p>In addition, in recognition of the critical and on-going need for transportation services to meet demand generated by development on NSTI, the Marina shall be required to pay its pro rata share of costs to implement the TMP by contributing to a newly created assessment district or other similar funding mechanism, once it is formed. Such funding mechanism(s) could include, without limitation, an assessment district, imposition of reasonable and appropriate fees to fund</p>	
Transportation, Circulation, and Parking (cont'd)			<p>necessary transportation services, or provision of transportation services directly for NSTI. The Marina shall be obligated to participate in such funding mechanism as NSTI is developed, the TMP is implemented and the effectiveness of the TMP and transportation services is assessed by the TCC and TIDA.</p> <p>The mitigation measures would mitigate the impact</p>	

971

Table 2-3
 Summary of Significant Environmental Impacts and Mitigations from the Marina No Action
 and Marina Development Alternatives (*continued*)

Resource Category	No Action Marina Alternative	Proposed Marina: Maximum Development Marina Alternative	Medium Development Marina Alternative	Minimum Development Marina Alternative
			to a less-than-significant level.	
Air Quality	No impacts are expected.	<p>Significant and Unavoidable Impacts</p> <p><i>Impact: Transportation-related air pollutant emissions.</i> Personal vehicle trips generated by the expanded marina would produce emissions of ozone precursors (reactive organic compounds and nitrogen oxides) and PM₁₀ (direct PM₁₀ emissions plus organic compounds and nitrogen oxides, which are precursors of the portion of PM₁₀ formed through chemical reactions).</p> <ul style="list-style-type: none"> • <i>Mitigation.</i> Mitigation would be the same as those described for this impact under the Maximum Development Alternative for the Reuse Plan. <p>Implementing this mitigation measure may not reduce traffic-related emissions to less than 15 tons per year (BAAQMD impact significance thresholds for projects under CEQA). Thus, ozone and PM₁₀ precursor emissions from the Maximum Development Marina Alternative would be a significant impact that can be reduced but may not be eliminated through mitigation.</p>	<p>Significant and Unavoidable Impacts</p> <p>The Medium Development Marina Alternative would have a significant and unavoidable impact similar to that identified for the Maximum Development Marina Alternative: transportation-related air pollutant emissions. Personal vehicle trips generated by this marina alternative would produce air pollutant emissions; while the waterside component would be 100 to 275 slips larger than under the Maximum Development Marina Alternative, the landside development under this alternative is less intensive, with existing buildings being reused. Air quality impacts would likely be the same as or less than impacts associated with the Maximum Development Marina Alternative. Mitigation would be the same as described for this impact under the Maximum Development Alternative for the Reuse Plan. Implementing this mitigation measure may not reduce traffic-related emissions to less than 15 tons per year. Thus, ozone and PM₁₀ precursor emissions from the Medium Development Marina Alternative would be a significant impact that can be reduced but may not be eliminated through mitigation.</p>	<p>Significant and Unavoidable Impacts</p> <p>The Minimum Development Marina Alternative would have a significant and unavoidable impact similar to that identified for the Maximum Development Marina Alternative: transportation-related air pollutant emissions. Personal vehicle trips generated by this marina alternative would produce air pollutant emissions, but since the development under this alternative is less intensive, the impact would be less than under other marina alternatives. Mitigation would be the same as described for this impact under the Maximum Development Alternative for the Reuse Plan. Implementing this mitigation measure may not reduce traffic-related emissions related to the new yacht club to less than 15 tons per year. Thus, ozone and PM₁₀ precursor emissions from the Minimum Development Marina Alternative would be a significant impact that can be reduced but may not be eliminated through mitigation.</p>

972

Table 2-3
 Summary of Significant Environmental Impacts and Mitigations from the Marina No Action
 and Marina Development Alternatives (continued)

Resource Category	No Action Marina Alternative	Proposed Marina: Maximum Development Marina Alternative	Medium Development Marina Alternative	Minimum Development Marina Alternative
Air Quality (cont'd)		<p>Significant and Mitigable Impacts</p> <p><i>Impact: Construction and demolition.</i> The Maximum Development Marina Alternative proposes the construction of a pedestrian promenade and two new buildings (marina operations and restaurant buildings) as well as two new restroom facilities.</p> <p>Construction, demolition, and remodeling activities associated with the marina expansion would be sources fugitive dust and vehicle emissions. Site preparation for new building construction and the pedestrian promenade and roadway reconstruction would be the primary emission-generating activities. Construction-related emissions would be temporary and limited to the construction period.</p> <p>Construction-related emissions are a potentially significant and mitigable impact that can be reduced to acceptable levels by following proper dust control measures. The BAAQMD (1996) considers implementation of the following types of dust control measures to be adequate mitigation for general construction-related air quality impacts.</p> <ul style="list-style-type: none"> • <i>Mitigation.</i> Mitigation would be the same as those described for this impact under the Maximum Development Alternative for the Reuse Plan. <p>Implementing this mitigation measure would reduce the impact to a less-than-significant level.</p>	<p>Significant and Mitigable Impacts</p> <p>The Medium Development Marina Alternative would have an air quality impact associated with construction and demolition, similar to that identified for the Maximum Development Marina Alternative. The Medium Development Marina Alternative proposes no new building construction, but proposes the renovation and reuse of an existing facility, and construction of additional slips. Demolition and remodeling activities associated with the marina expansion would be sources fugitive dust and vehicle emissions. Building remodeling and roadway reconstruction would be the primary emission-generating activities. This impact would be less than the Maximum Development Marina Alternative since there is less construction and demolition activity. Mitigation would be the same as described for this impact under the Maximum Development Alternative for the Reuse Plan. Implementing this mitigation measure would reduce the impact to a less-than-significant level.</p>	<p>Significant and Mitigable Impacts</p> <p>The Minimum Development Marina Alternative would not increase the size of the waterside components of the marina. It proposes the construction of a new 20,000-square-foot building as the major landside component. Construction activities associated with the marina expansion in this alternative would be sources of fugitive dust and vehicle emissions. Roadway reconstruction would be the primary emission-generating activities. The Minimum Development Marina Alternative would have construction and demolition air quality impacts similar to but less intense than the Maximum Development Marina Alternative since there would be less construction and demolition activity.</p> <p>Mitigation would be the same as described for this impact under the Maximum Development Alternative for the Reuse Plan. Implementing this mitigation measure would reduce the impact to a less-than-significant level.</p>

973

Table 2-3
Summary of Significant Environmental Impacts and Mitigations from the Marina No Action
and Marina Development Alternatives (continued)

Resource Category	No Action Marina Alternative	Proposed Marina: Maximum Development Marina Alternative	Medium Development Marina Alternative	Minimum Development Marina Alternative
Noise	No impacts are expected.	<p>Significant and Mitigable Impacts</p> <p><i>Impact: Construction and demolition noise.</i> The Maximum Development Marina Alternative would require the expansion of the boat slip area to accommodate a total of 403 boat slips and the construction of 5 new buildings and a pedestrian promenade. Construction, demolition, pile-driving, and dredging activities would cause temporary disturbance to adjacent land uses. Construction and demolition activities would occur intermittently over an extended period. Construction noise would become a significant impact only when areas close to noise-sensitive land uses are developed. Construction noise impacts can generally be mitigated by restricting construction activities to daytime periods and by providing temporary noise barriers where necessary.</p> <p>Noise impacts on wildlife would result from temporary changes in noise levels during construction and from possible permanent changes in noise level from increased pedestrian, vehicle, and vessel traffic after the project is implemented. Wildlife in the project area is adapted to this urban setting, but the noise from construction activities may temporarily displace individuals or disrupt behavior patterns near active construction sites. Night herons are active at night and roost during the daytime. Therefore, daytime construction activity and noise could disturb roosting night herons in the project vicinity, causing them to temporarily abandon roosting sites. The marina expansion project may require removal of the trees near the marina that are utilized by roosting night herons. Therefore, noise impacts from construction and demolition activities are significant and mitigable.</p> <ul style="list-style-type: none"> <i>Mitigation.</i> Mitigation would be the same as that described for this impact under the Maximum Development Alternative for the Reuse Plan. <p>Implementing these mitigation measures would reduce the impact to a less-than-significant level.</p>	<p>Significant and Mitigable Impacts</p> <p>The Medium Development Marina Alternative would require the expansion of the boat slip area to accommodate a range of 500 to 675 boat slips and the reuse of existing facilities. The Medium Development Marina Alternative would result in similar significant and mitigable impacts identified for the Maximum Development Marina Alternative. However, because the development intensity would be less under the Medium Development Marina Alternative, the impacts would be less. Mitigation would be the same as those described for this impact under the Maximum Development Marina Alternative. Implementing these mitigation measures would reduce the impact to a less-than-significant level.</p>	<p>Significant and Mitigable Impacts</p> <p>The Minimum Development Marina Alternative would require the construction of a new 20,000-square-foot building. The Minimum Development Marina Alternative would result in similar significant and mitigable impacts identified for the Maximum Development Marina Alternative. However, because the development intensity would be less under the Minimum Development Marina Alternative, the impacts would be less. Mitigation would be the same as those described for this impact under the Maximum Development Marina Alternative. Implementing these mitigation measures would reduce the impact to a less-than-significant level.</p>
Biological	No impacts are expected.	<p>Significant and Mitigable Impacts</p>	<p>Significant and Mitigable Impacts</p>	<p>Significant and Mitigable Impacts</p>

974

Table 2-3
 Summary of Significant Environmental Impacts and Mitigations from the Marina No Action
 and Marina Development Alternatives (*continued*)

Resource Category	No Action Marina Alternative	Proposed Marina: Maximum Development Marina Alternative	Medium Development Marina Alternative	Minimum Development Marina Alternative
Resources		<p><i>Impact: Mudflat Habitat Disturbance.</i> Significant impacts to mudflat habitat could occur as a result of increased pedestrian and boating activity at the Clipper Cove marina under the Maximum Development Alternative (see Figure 3-14). Mudflats are important foraging habitat for shorebirds. Under the Maximum Development Marina Alternative, the enlarged marina would add approximately 303 new boat slips to the existing 100 slips and would quadruple boat traffic in Clipper Cove. This would increase the potential for mudflat habitat disturbance, especially during low tides when recreational boating traffic could erode nearshore sediment, which could directly affect invertebrate prey species in shallow water. Additionally, the development of the restaurant, marina operations building, and restroom facilities would result in increased pedestrian activity in the Clipper Cove marina. This is likely to result in more people exploring the mudflats during low tide, which could disturb this sensitive habitat.</p> <p>Although the project area is not under BCDC jurisdiction as a Navy facility, conversion to a nonfederal facility would place it within the jurisdiction of BCDC. BCDC would need to approve of any dredging and would need to issue a permit for upland development within 100 feet of the shore. Expanding the marina or constructing a yacht harbor, new docks, or other structures that would cover the surface of the water could impact eelgrass areas. Such activities would constitute "fill," as defined by BCDC, and would require an approval from BCDC and a Section 404 permit from the COE.</p> <ul style="list-style-type: none"> • <i>Mitigation.</i> Mitigation would be the same as that described for this impact on under the Maximum Development Alternative for the Reuse Plan. <p>Implementing these mitigation measures would eliminate or reduce the impact to a less-than-significant level.</p>	<p>The Medium Development Marina Alternative would result in similar significant and mitigable impacts identified as for the Maximum Development Marina Alternative. Biological impacts resulting from increased boat traffic would likely be greater because of the larger number of boat slips that would be available and the associated traffic. This would include increased mudflat disturbance and impacts to sensitive bird species. Mitigation would be the same as those described for this impact under the Maximum Development Marina Alternative. Implementing these mitigation measures would reduce the impacts to a less-than-significant level.</p>	<p>The Minimum Development Marina Alternative would result in similar but reduced significant and mitigable impacts identified for the Maximum Development Marina Alternative. Biological impacts resulting from increased boat and pedestrian traffic would be less than that anticipated for the Maximum Development Marina Alternative because of the reduced size of the Minimum Development Marina Alternative. Mitigation would be the same as described for this impact under the Maximum Development Marina Alternative. Implementing these mitigation measures would reduce the impacts to a less-than-significant level.</p>
Biological Resources (cont'd)		<p><i>Impact: Pedestrian and Boating Impacts on Wading Shorebirds.</i> Increased pedestrian and boating activity</p>		

975

Table 2-3
Summary of Significant Environmental Impacts and Mitigations from the Marina No Action
and Marina Development Alternatives (continued)

Resource Category	No Action Marina Alternative	Proposed Marina: Maximum Development Marina Alternative	Medium Development Marina Alternative	Minimum Development Marina Alternative
		<p>around Clipper Cove could have a significant impact on shorebirds by affecting mudflats where shorebirds forage. The enlarged marina would quadruple boat traffic in Clipper Cove, increasing the potential for disturbing mudflat habitat and for eroding nearshore sediments, especially during low tides, which could affect invertebrate prey species in shallow water. This effect on invertebrates, which are prey for the shorebirds, could result in a decrease in foraging success and thus an increase to the birds' energy expenditure. This activity, in addition to increased pedestrian activity that could impact mudflats during low tide, could disturb shorebird-breeding areas in Clipper Cove. The combined effect could result in a significant impact to bird species in the Clipper Cove area, such as the black-crowned night heron, Brandt's and pelagic cormorants, and the black oystercatcher. The federally listed western snowy plover is not expected to occur at the project area and therefore would not be affected. Any individual plovers that may be present would be protected by the measures described below.</p> <ul style="list-style-type: none"> • <i>Mitigation.</i> Mitigation would be the same as those described for this impact on under the Maximum Development Alternative for the Reuse Plan. <p>Implementing this mitigation measure would reduce the impacts on identified avian species to a less-than-significant level. The acquiring entity or entities would be responsible for implementing these mitigation measures, which would reduce the impacts on identified bird species to a less-than-significant level. It is noted that the regional office of the USFWS, in a letter to the Navy (see Appendix A) recommended that a covenant for the protection of birds protected under the Migratory Bird Treaty Act be included in the deed conveying ownership of the property. The Navy, in the absence of statutory authority, is without legal authority to impose such restrictions.</p>		
Soils, Geology, and Seismicity	No impacts are expected.	<p>Significant and Mitigable Impacts</p> <p><i>Impact: Seismic shaking.</i> Seismic shaking at Treasure Island would result in a significant and mitigable</p>	<p>Significant and Mitigable Impacts</p> <p>This alternative would result in significant and mitigable impacts similar to those described for the</p>	<p>Significant and Unavoidable Impacts</p> <p><i>Impact: Dike failure, liquefaction and differential settlement.</i> The potential for dike failure, liquefaction, and</p>

976

Table 2-3
 Summary of Significant Environmental Impacts and Mitigations from the Marina No Action
 and Marina Development Alternatives (continued)

Resource Category	No Action Marina Alternative	Proposed Marina: Maximum Development Marina Alternative	Medium Development Marina Alternative	Minimum Development Marina Alternative
		<p>impact on the safety of workers, and visitors at the marina and would present a hazard to structures. A maximum credible earthquake centered on the northern segment of the Hayward Fault (Mercalli scale intensity IX at NSTI, ABAG 1995a) would cause major damage to the marina structures.</p> <ul style="list-style-type: none"> <i>Mitigation.</i> Mitigation would be the same as that described for this impact under the Maximum Development Alternative for the Reuse Plan. <p>Implementing these mitigation measures would reduce the impact to a less-than-significant level.</p> <p><u>Impact: Liquefaction and differential settlement.</u> Significant and mitigable impacts on structures and infrastructure would occur from liquefaction and differential settlement in a major earthquake. Treasure Island is designated a SHZ by the CDMG (now known as CGS) because of its high liquefaction potential. During a strong earthquake, liquefaction and differential settlement would be likely throughout Treasure Island. Liquefaction and differential settlement can damage foundations, tilt or buckle structural supports causing catastrophic structural failures, and misalign horizontal features, such as doorways, utility connections, roadways, or other rigid elements. These impacts may affect life safety.</p> <ul style="list-style-type: none"> <i>Mitigation.</i> Mitigation would be the same as that described for this impact under the Maximum Development Alternative for the Reuse Plan. <p>Implementing the mitigation measures would reduce the impact to a less-than-significant level.</p> <p><u>Impact: Lateral spreading-unsupported structures and infrastructure.</u> The potential for lateral spreading at the perimeter of Treasure Island would result in a significant and mitigable impact on unsupported structures and infrastructure. The proposed perimeter stabilization measures included in</p>	<p>Maximum Development Marina Alternative. However, because there is less construction proposed for this alternative and overall buildout is less, the magnitude of the geologic impacts described for the Maximum Development Marina Alternative would be reduced because a smaller worker and visitor population would be exposed geologic hazards.</p>	<p>differential settlement under the Minimum Development Marina Alternative would be significant, even with dike reinforcement/stabilization along a portion of the Treasure Island Shoreline in Clipper Cove, because this reinforcement is limited for the reasons described for the reuse alternatives (not likely to be economically feasible given the limited extent of development). The Clipper Cove area would be subject to flooding and other hazards associated with causeway failure, which could also affect the marina.</p> <ul style="list-style-type: none"> <i>Mitigation.</i> Mitigation measures would be the same as those identified for lateral spreading impacts under the Maximum Development Marina Alternative. <i>Mitigation.</i> Mitigation measures would be the same as those identified under the Maximum Development Alternative. <p>Due to the limited proposed perimeter stabilization in the Clipper Cove area in this alternative, impacts related to dike failure, liquefaction and differential settlement would be reduced but potentially not to a less-than-significant level. They would therefore remain significant and unavoidable.</p> <p><u>Impact: Lateral spreading – Supported and unsupported structures and infrastructure.</u> For reasons similar to those described under <i>Dike Stability</i>, there would be limited shoreline protection in the Clipper Cove area, an area subject to liquefaction. The Clipper Cove area would therefore be subject to lateral spreading under the Minimum Development Marina Alternative. Absent the more extensive perimeter and seismic stabilization improvement identified for the Maximum and Medium Development Marina Alternatives, this impact would remain significant and unavoidable, even though less new construction is proposed.</p>
Soils, Geology, and Seismicity (cont'd)		<p>Maximum Development Alternative for the Reuse Plan would protect the island from large-scale lateral spreading. Residual lateral spreading could be reduced to less than 1 foot (0.3 m). However,</p>		<p>Significant and Mitigable Impacts</p> <p><u>Impact: Seismic shaking and settlement.</u> This alternative would result in significant and mitigable impacts</p>

977

Table 2-3
 Summary of Significant Environmental Impacts and Mitigations from the Marina No Action
 and Marina Development Alternatives (continued)

Resource Category	No Action Marina Alternative	Proposed Marina: Maximum Development Marina Alternative	Medium Development Marina Alternative	Minimum Development Marina Alternative
		<p>this level of lateral spreading could cause significant damage to unsupported structures and infrastructure on the perimeter of Treasure Island. This damage could be mitigated by implementing the measure below.</p> <ul style="list-style-type: none"> ▪ <i>Mitigation.</i> Mitigation would be the same as those described for this impact under the Maximum Development Alternative for the Reuse Plan. <p>Implementing these mitigation measures would reduce the impact to a less-than-significant level.</p> <p><i>Impact: Settlement.</i> Significant and mitigable impacts would occur from overall settlement due to new construction of the on-site fill sediments or the underlying Bay muds as these materials adjust to new loading from heavy buildings, mat foundations, or other new fills (e.g., as required to eliminate ponding, see Section 4.10.2, Hydrology and Water Quality, ponding impacts from high tides) and drains. Although most of the potential at existing loadings at Treasure Island has already occurred, gradual area-wide settlement could be accelerated and could continue for many more years, resulting in local ponding, increased flooding potential, or water-logging of soils.</p> <ul style="list-style-type: none"> ▪ <i>Mitigation.</i> Mitigation would be the same as that described for this impact under the Maximum Development Alternative for the Reuse Plan. <p>Implementing these mitigation measures would reduce the impact to a less-than-significant level.</p>		<p>related to seismic shaking and settlement similar to those described for the Maximum Development Marina Alternative. No buildings are proposed for reuse; therefore, mitigation measures identified for the Maximum Development Marina Alternative would reduce these impacts to a less-than-significant level. Because less construction is proposed for this alternative, and overall buildout is less, the magnitude of the geologic impacts described for the Maximum Development Marina Alternative would be reduced because a smaller worker and visitor population would be exposed to seismic hazards.</p>

978

Table 2-3
 Summary of Significant Environmental Impacts and Mitigations from the Marina No Action
 and Marina Development Alternatives (continued)

979

Resource Category	No Action Marina Alternative	Proposed Marina: Maximum Development Marina Alternative	Medium Development Marina Alternative	Minimum Development Marina Alternative
Hydrology and Water Quality	No significant impacts are expected.	<p>Significant and Mitigable Impacts</p> <p><i>Impact: Flooding from dike overtopping.</i> Flooding caused by dike overtopping during storms could be a significant impact. High tide could reach about 13 to 14 feet NGVD. As the existing perimeter dike is at elevations ranging from about 7.7 to 13.8 feet NGVD, events of this magnitude would result in waves overtopping the dike in some areas.</p> <p>Sea level rise could increase potential flooding problems in the Clipper Cove marina area. Predictions of future accelerated sea level rise due to global warming vary widely. The effect of sea level rise is increased on a land mass that is concurrently subsiding. The US Environmental Protection Agency (EPA) projects a 50 percent likelihood that sea levels would rise about 4 inches (an average of 0.14 inches/year) by 2025 and about 8 inches (an average of 0.16 inches/year) by 2050. Such increases are the middle range of sea level rise estimates, which range from zero to over 18 inches (an average of 0.03 foot/year) by 2050 (US EPA 1995).</p> <p>When the highest current tide (approximately 6.4 feet) is superimposed on the US EPA's estimates for rise in sea level (approximately 8 inches), high tides could reach approximately 7 feet and 1 inch NGVD. Such estimates do not include compounding caused by high storm waves of approximately 7.5 feet occurring simultaneously with high tides. They also do not include the effects of continued settlement of the island, which has been estimated to be on the order of approximately 1 foot over the next 50 years (Treadwell and Rollo 1995). Therefore, significant flooding could still occur, even with raised dikes. This is considered a significant and mitigable impact.</p> <ul style="list-style-type: none"> <i>Mitigation.</i> Mitigation would be the same as that described for this impact under the Maximum Development Alternative for the Reuse Plan. 	<p>Significant and Mitigable Impacts</p> <p>Significant and mitigable impacts for the Medium Development Marina Alternative would be the same as those described for the Maximum Development Marina Alternative. The level of intensity of impacts from flooding from dike overtopping would likely be similar. However, because the marina expansion for the Medium Development Marina Alternative would include more boat slips requiring a larger area of dredging and potentially disrupting more of the IR 27 site, impacts to groundwater quality would likely be greater than those for the Maximum Development Marina Alternative.</p>	<p>Significant and Mitigable Impacts</p> <p>Significant and mitigable impacts for the Minimum Development Marina Alternative would be the same as those described for the Maximum Development Marina Alternative. The level of intensity of impacts from flooding from dike overtopping would likely be similar. However, because this alternative does not propose to expand the existing marina, it would require a smaller area of dredging. Impacts to groundwater quality would be less since there would be less of a chance of disrupting more of the IR 27 site, impacts to groundwater quality would likely be greater than those for the Maximum Development Marina Alternative. This alternative would dredge approximately 81,000 cubic yards of material, about 65,000 cubic yards less than the Maximum Development Marina Alternative. Dredging operations would still create turbidity that may affect eelgrass beds, though the duration of the impacts would be less. Mitigation would be the same as those described for this impact under the Maximum Development Marina Alternative. Implementing these mitigation measures would reduce the impact to a less-than-significant level.</p>

Table 2-3
 Summary of Significant Environmental Impacts and Mitigations from the Marina No Action
 and Marina Development Alternatives (continued)

Resource Category	No Action Marina Alternative	Proposed Marina: Maximum Development Marina Alternative	Medium Development Marina Alternative	Minimum Development Marina Alternative
Hydrology and Water Quality (cont'd)		<p>Implementing this mitigation measure would reduce the impact to a less-than-significant level.</p> <p><i>Impact: Groundwater quality.</i> Most of the Installation Restoration Program (IRP) sites identified in Section 3.12, Hazardous Materials and Waste, have soil and groundwater contaminated with petroleum hydrocarbons due to past activities. The Navy is undertaking remediation actions at NSTI to achieve environmental restoration. Several actions are planned at sites identified with groundwater contamination, including implementing an interim groundwater treatment system, removing floating product from the groundwater, and removing soil to reduce the contaminant source and to remediate the soil.</p> <p>Construction activities could cause residual contaminated groundwater to migrate to the areas where stone columns or piles might be installed. Extensive subsurface excavation may also require dewatering to maintain adequate construction conditions. Pumping water from excavation pits or dewatering wells at construction sites could release contaminated groundwater. These are considered significant and mitigable impacts.</p> <ul style="list-style-type: none"> • <i>Mitigation.</i> Prior to undertaking any subsurface excavation for seismic stabilization measures, foundation construction, pile driving, dewatering activities, or development activities, obtain groundwater information from testing or other existing data to identify the location and extent of contaminated groundwater and to determine if groundwater contamination would spread during such activities in a manner that could exacerbate existing conditions. If possible groundwater contamination is identified, the owner shall implement preventative measures, such as appropriate dewatering measures and freshwater recharge in the construction zone, or installation of barriers/grouting to minimize migration of contaminated groundwater. Potential methods include containment (to limit the volume of water that could enter an excavation), pumping, or a combination of both. 		

086

Table 2-3
 Summary of Significant Environmental Impacts and Mitigations from the Marina No Action
 and Marina Development Alternatives (*continued*)

Resource Category	No Action Marina Alternative	Proposed Marina; Maximum Development Marina Alternative	Medium Development Marina Alternative	Minimum Development Marina Alternative
Hydrology and Water Quality (cont'd)		<p>• <i>Mitigation.</i> It is anticipated that most groundwater removed during dewatering activities would be discharged to the on-site wastewater treatment plant. Any contaminated water not treatable by the plant would be disposed of in an appropriately permitted facility. Discharge of the removed groundwater into the on-site system should be allowed only after obtaining a City discharge permit. In reviewing the permit for discharge, the City would ensure that contaminant levels would be reduced to the extent required to be protective of the Bay and in compliance with applicable permits from the RWQCB. If direct discharge to surface water is determined as the appropriate method for disposal of groundwater removed during dewatering, permits issued by the RWQCB under the NPDES program would be required. Therefore, potential effects on the Bay would be reduced to acceptable levels.</p> <p>Implementing these mitigation measures would reduce the impacts to a less-than-significant level.</p> <p><i>Impact: Dredging.</i> The Maximum Development Marina Alternative would dredge approximately 146,000 cubic yards of material to accommodate 403 boat slips. Dredging associated with this alternative could disturb and disperse sediments, including any contaminated sediments, into the water column, reducing dissolved oxygen and increasing suspended particulates (COE 1992). Dredging also would cause temporary increases in water column sediment and turbidity as the sediments are raised through the water column. Contaminants released by dredging activities could significantly degrade water quality at or near the dredge sites. As discussed in Section 4.8 (Biological Resources), increased suspended sediments may affect eelgrass located along the shore of Yerba Buena island. The extent of this potential impact would depend on the type of dredges used (e.g., bucket or suction dredges), current patterns during the dredging operations,</p>		
Hydrology and Water Quality		and whether sediment plumes generated during these operations would impact the shoreline in this		

981

Table 2-3
 Summary of Significant Environmental Impacts and Mitigations from the Marina No Action
 and Marina Development Alternatives (continued)

Resource Category	No Action Marina Alternative	Proposed Marina: Maximum Development Marina Alternative	Medium Development Marina Alternative	Minimum Development Marina Alternative
(cont'd)		<p>area.</p> <p>If contaminants are identified at concentrations capable of causing adverse water quality effects, precautionary measures would need to be evaluated and adopted prior to undertaking dredging. Dredging contaminated sediments requires use of special dredging equipment, such as environmental or closed buckets, high solids slurry pumps, marine excavators, and silt curtains. The site must be dredged using appropriate dredging technology suitable to the site-specific conditions and in accordance with future permit requirements placed by the appropriate regulatory agencies.</p> <p>Dredging operations typically do not cause significant short- or long-term fluctuations in salinity, temperature, or pH. However, temporary turbidity increases occur when the scow receiving the dredged materials is allowed to overflow with sediment-laden water so that it can be filled to capacity.</p> <p>Sediment sampling conducted in late January through early February 1996 at the former Clipper Cover Skeet Range indicated that there are contaminated sediments in the marina area with high levels of lead and polychlorinated aromatic hydrocarbons (PAHs) (US Navy 1996g). In addition, the Navy conducted limited sampling in the cove near storm drain outfalls. These samples were not determined to be contaminated based on CERCLA standards. In 1992, bioassay testing for maintenance dredging was conducted by Tetra Tech (1992). This sampling was conducted around Navy Pier 503 and areas to the southwest. These tests showed that sediments in these areas were suitable for aquatic disposal at the Alcatraz site. However, for purposes of marina development for the project more recent and appropriate testing would be required as described below.</p> <p>Dredging would require permits/approvals from the San Francisco Bay Conservation and</p>		
Hydrology and Water Quality		Development Commission (BCDC), San Francisco Bay RWQCB, and the US Army Corps of Engineers (COE). Prior to dredging, and in		

982

Table 2-3
 Summary of Significant Environmental Impacts and Mitigations from the Marina No Action
 and Marina Development Alternatives (continued)

Resource Category	No Action Marina Alternative	Proposed Marina: Maximum Development Marina Alternative	Medium Development Marina Alternative	Minimum Development Marina Alternative
(cont'd)		<p>compliance with Section 404 of the Clean Water Act, 33 U.S.C. §1344, all materials proposed for excavation and dredging must be tested for heavy metals, hydrocarbons, polychlorinated biphenyls (PCBs), tributyltin, pesticides, and any other contaminants of concern to the RWQCB. Careful delineation and segregation of any contaminated material would minimize the volume of contaminated sediments generated.</p> <p>In an attempt to improve efficiency and coordination, the Dredged Material Management Office (DMMO) reviews applications for dredging in San Francisco Bay. This office coordinates requests for dredging with a regulatory committee composed of the primary agencies listed above, and reviews all sediment sampling plans and testing results. All proposed dredging, including the dredging for the Clipper Cove Marina project described in Section 2.4.2, would be submitted to the DMMO for its review and approval.</p> <p>Prior to project implementation, the project sponsor would also be applying for project approval directly from BCDC, the U.S. Army Corps of Engineers and the RWQCB. These agencies would, in turn, receive advice from the California State Lands Commission, California Department of Fish and Game, the National Marine Fisheries Service, the U.S. Fish and Wildlife Service and the U.S. Environmental Protection Agency. Based on the results of these reviews, the state and federal authorizations for the proposed dredging would include the appropriate conditions to assure that the project would have no significant adverse affect on water quality and biology. These conditions commonly include, but are not limited to: (1) the requirement to obtain a water quality certification, after sampling and testing of dredge material in order to prevent resuspension and in-Bay disposal of contaminated materials; (2) restrictions on the timing of dredging and dredged material disposal to prevent adverse</p>		
Hydrology and Water Quality (cont'd)		<p>impacts to fish and other species using the Bay; and (3) strict limitations on the location, depths and quantities of dredging. The project sponsor would</p>		

886

Table 2-3
 Summary of Significant Environmental Impacts and Mitigations from the Marina No Action
 and Marina Development Alternatives (continued)

Resource Category	No Action Marina Alternative	Proposed Marina: Maximum Development Marina Alternative	Medium Development Marina Alternative	Minimum Development Marina Alternative
		<p>fully carry out the conditions imposed as a part of the project.</p> <p>When dredging in any identified contaminated areas, precautionary regulatory measures would be required to contain resuspended sediments to the area of dredging. These measures could include the use of "environmental" or closed dredge buckets, use of high solids slurry pumps, and silt curtains.</p> <ul style="list-style-type: none"> • <i>Mitigation.</i> As described under Biological Resources, eelgrass could be affected adversely by decreased light and siltation from suspended sediments. Silt curtains should be used to contain turbidity plumes so as to not reach eelgrass beds near Yerba Buena Island. Also as described under biological resources, increased turbidity could affect herring spawning in the Clipper Cove. Mitigation outlined in the biological resources section would include avoidance of the dredging during the spawning season. <p>Implementing the regulatory measures and the above mitigation measure would reduce the impacts to a less-than-significant level.</p>		

984

Table 2-3
 Summary of Significant Environmental Impacts and Mitigations from the Marina No Action
 and Marina Development Alternatives (continued)

Resource Category	No Action Marina Alternative	Proposed Marina: Maximum Development Marina Alternative	Medium Development Marina Alternative	Minimum Development Marina Alternative
Public Services and Utilities	No impacts are expected.	<p>Significant and Mitigable Impacts</p> <p><i>Impact: Public Services and Utilities impacts.</i> The development of additional marina facilities would likely increase the number of visitors and workers to the Clipper Cove area. The increased number of visitors and workers would increase the need for fire protection, police protection, and emergency medical services to the area. Additionally, construction of the marina facilities would result in increased potable water demand on the order of about 21,000 gallons per day (gpd) and associated wastewater production on the order of 16,800 gpd; disturb ground areas and increase the potential for soil erosion; increase energy and telecommunications demand and the generation of solid waste. Potential adverse effects and mitigation measures would be the same as those listed above for the Maximum Development Alternative for the Reuse Plan.</p> <ul style="list-style-type: none"> <i>Mitigation.</i> Mitigation for impacts to fire protection, police protection, emergency medical services, potable water distribution, wastewater collection and treatment, stormwater collection, energy, telecommunications, and solid waste would be the same as those described under the Maximum Development Alternative for the Reuse Plan. <p>Implementing these mitigation measures would reduce the impacts to a less-than-significant level.</p>	<p>Significant and Mitigable Impacts</p> <p><i>Impact: Public Services and Utilities impacts.</i> Under the Medium Development Marina Alternative, a marina with a range of 500 to 675 boat slips would be constructed. The marina development would also include the reuse of existing facilities for a conference/reception center or bed and breakfast. Like the Maximum Development Marina Alternative, the Medium Development Marina Alternative would increase the need for fire protection, police protection, and emergency medical services to the area since there would be additional visitors and workers at Clipper Cove. Additionally, the expanded marina and new facilities would result in increased potable water demand and associated wastewater production; disturb ground areas and increase the potential for soil erosion; increase energy and telecommunications demand and the generation of solid waste. Potential adverse effects and mitigation measures would be the same as those listed for the Maximum Development Marina Alternative. However, impacts to the public services and utilities would be less for this alternative because it proposes less development.</p> <ul style="list-style-type: none"> <i>Mitigation.</i> Mitigation for impacts to fire protection, police protection, emergency medical services, potable water distribution, wastewater collection and treatment, stormwater collection, energy, telecommunications, and solid waste would be the same as those described under the Maximum Development Alternative for the Reuse Plan. <p>Implementing these mitigation measures would reduce the impacts to a less-than-significant level.</p>	<p>Significant and Mitigable Impacts</p> <p><i>Impact: Public Services and Utilities impacts.</i> Under the Minimum Development Alternative, the existing marina would be retained, but not expanded. A new building of 20,000 square feet for the yacht club would be constructed. The construction of the new building and the revitalization of the existing marina would likely attract an increased number of visitors and workers to the Clipper Cove area, resulting in an increased need for fire protection, police protection, and emergency medical services to the area. Additionally, the new building and revitalized marina would result in increased potable water demand and associated wastewater production; disturb ground areas and increase the potential for soil erosion; increase energy and telecommunications demand and the generation of solid waste. Potential adverse effects and mitigation measures would be the same as those listed for the Maximum Development Marina Alternative.</p> <ul style="list-style-type: none"> <i>Mitigation.</i> Mitigation for impacts to fire protection, police protection, emergency medical services, potable water distribution, wastewater collection and treatment, stormwater collection, energy, telecommunications, and solid waste would be the same as those described under the Maximum Development Alternative for the Reuse Plan. <p>Implementing these mitigation measures would reduce the impacts to a less-than-significant level.</p>

985

Table 2-3
 Summary of Significant Environmental Impacts and Mitigations from the Marina No Action
 and Marina Development Alternatives (continued)

Resource Category	No Action Marina Alternative	Proposed Marina: Maximum Development Marina Alternative	Medium Development Marina Alternative	Minimum Development Marina Alternative
Hazardous Materials and Waste	No impacts are expected.	<p>Significant and Mitigable Impacts</p> <p><i>Impact: Exposure to residual chemical constituents.</i> The Maximum Development Marina Alternative would require construction activities such as foundation excavation, pile installation, and construction dewatering. These types of construction activities could result in both human and ecological exposure to potential residual contaminants in soil and groundwater. After construction, potential human health impacts could occur if marina workers and visitors are exposed to elevated levels of residual constituents in the soil and groundwater.</p> <p>Lead in sediments off-shore from a former skeet range at IR 27 was identified as contaminants of concern. Sediment sampling conducted in late January through early February 1996 at the former Clipper Cove Skeet Range (IR 27) indicates that there are contaminated sediments in the marina area with elevated levels of lead and PAHs. The proposed Treasure Island Marina Development Plan would require dredging, and contaminated sediments may be encountered. During excavation to construct building foundations, workers could encounter contaminated soils and groundwater if construction occurs below remediated zones, in areas not sampled as part of the IRP, in soils not tested under the IRP containing lead from painted structures, or in fill material containing chemicals.</p> <p>Construction workers could be exposed to residual contamination through inhaling airborne contaminated dust or direct contact with contaminated soil or groundwater. Below-grade soil excavation or trenching activities that require dewatering could potentially encounter contaminated groundwater. Pumping water from excavation pits or dewatering wells at construction sites could release contaminated groundwater, exposing construction workers or the public. Further dewatering activities potentially could spread groundwater contamination left in place.</p> <p>Disrupting soil during construction activities also could expose ecological receptors to chemical</p>	<p>Significant and Mitigable Impacts</p> <p>The significant and mitigable impacts would be similar to those described under the Maximum Development Marina Alternative. The total development would be less than that for the Maximum Development Marina Alternative, and combined employee and visitor populations would be less than the Maximum Development Marina Alternative. Overall exposure to residual chemical constituents and previously unidentified subsurface hazards would be approximately the same for this alternative as for the Maximum Development Marina Alternative.</p>	<p>Significant and Mitigable Impacts</p> <p>The significant and mitigable impacts would be similar to those described under the Maximum Development Marina Alternative. The total development would be less than that for the Maximum Development Marina Alternative, and combined employee and visitor populations would be less than the Maximum Development Marina Alternative. Overall exposure to residual chemical constituents and previously unidentified subsurface hazards would be lower for this alternative than for the Maximum Development Marina Alternative due to the lesser amount of construction and smaller boat slip area.</p>

986

Table 2-3
 Summary of Significant Environmental Impacts and Mitigations from the Marina No Action
 and Marina Development Alternatives (*continued*)

Resource Category	No Action Marina Alternative	Proposed Marina: Maximum Development Marina Alternative	Medium Development Marina Alternative	Minimum Development Marina Alternative
Hazardous Materials and Waste (cont'd)		<p>constituents. One pathway for the transport of chemicals to the Bay is surface water runoff from construction sites. Runoff that travels over potentially contaminated soil could transport dissolved organic chemicals, inorganic chemicals, and sediment to sensitive ecological receptors. Dredging Clipper Cove to expand the marina also may disturb contaminated sediments in Bay water, increasing suspended sediment and reducing dissolved oxygen.</p> <p>The potential for human and ecological exposure to residual contamination is considered a significant impact that could be mitigated by implementing the following measures:</p> <ul style="list-style-type: none"> • <i>Mitigation.</i> Mitigation measures for this impact would be the same as those described for the Maximum Development Alternative for the Reuse Plan. <p>Implementing these mitigation measures would reduce the impact to a less-than-significant level.</p> <p><u>Impact: Exposure to previously unidentified subsurface hazards.</u> There is a potential risk associated with unidentified old or abandoned USTs, or buried hazardous debris in the Clipper Cove area. If an unidentified UST (which could contain hazardous materials or vapors) or buried hazardous debris were uncovered or disturbed during or after build-out of the Maximum Development Marina Alternative, workers, visitors, or occupants of nearby buildings could experience adverse health effects. The potential for exposure to unidentified hazards is considered a significant impact that could be mitigated by implementing the following:</p> <ul style="list-style-type: none"> • <i>Mitigation.</i> Mitigation measures for this impact would be the same as those described for the Maximum Development Alternative for the Reuse Plan. <p>Implementing these mitigation measures would reduce the impact to a less-than-significant level.</p>		
Shadow and Wind	No impacts are expected.	No significant impacts are expected.	No significant impacts are expected.	No significant impacts are expected.
Cumulative Impacts				

987

Table 2-3
Summary of Significant Environmental Impacts and Mitigations from the Marina No Action
and Marina Development Alternatives (continued)

Resource Category	No Action Marina Alternative	Proposed Marina; Maximum Development Marina Alternative	Medium Development Marina Alternative	Minimum Development Marina Alternative
Cumulative Land Use	No significant impacts are expected.	<i>Impact: Cumulative land use impacts.</i> No significant impacts are expected.	Not required for CEQA analysis.	Not required for CEQA analysis.
Cumulative Visual Resources and Aesthetics	No significant impacts are expected.	<i>Impact: Cumulative visual resources and aesthetics impacts.</i> No significant impacts are expected.	Not required for CEQA analysis.	Not required for CEQA analysis.
Cumulative Population, Employment, and Housing	No significant impacts are expected.	<i>Impact: Cumulative employment, population, and housing impacts.</i> No significant impacts are expected.	Not required for CEQA analysis.	Not required for CEQA analysis.
Cumulative Cultural Resources	No significant impacts are expected.	<i>Impact: Cumulative impact on historic structures and lost of potentially significant archeological resources.</i> No significant impacts are expected.	Not required for CEQA analysis.	Not required for CEQA analysis.
Cumulative Transportation, Circulation, and Parking	No significant impacts are expected.	<i>Impact: Cumulative traffic impacts associated with the proposed marina.</i> The traffic analysis presented in Section 4.5 takes into account the proposed marina traffic, traffic associated with the reuse alternatives, and traffic associated with cumulative 2020 growth forecasts for San Francisco and the Bay Area. The contribution of the reuse alternatives, including the proposed marina, to significant unavoidable cumulative transportation, circulation and parking impacts has been determined to be a small increment but is nevertheless considered cumulatively considerable. The proposed marina contributes even less traffic to these cumulatively significant impacts. Marina traffic is expected is expected to add 38 new trips to the westbound on-ramp (west side), 27 new trips to the eastbound on-ramp (east side), and 10 trips to the westbound on-ramp (east side) during the weekend midday peak hour. The proposed marina's contribution of traffic would represent approximately 5 percent, 7 percent, and 5 percent of the total new trips generated under the reuse alternatives. The marina's seven percent contribution to significant impacts at the eastbound on-ramp (east side) would be considered a substantial contribution to a significant impact, and therefore the marina's contribution would be cumulatively considerable. The marina's contribution to cumulative traffic	Not required for CEQA analysis.	Not required for CEQA analysis.

886

Table 2-3
Summary of Significant Environmental Impacts and Mitigations from the Marina No Action
and Marina Development Alternatives (continued)

Resource Category	No Action Marina Alternative	Proposed Marina: Maximum Development Marina Alternative	Medium Development Marina Alternative	Minimum Development Marina Alternative
Cumulative Transportation, Circulation, and Parking (cont'd)		congestion and increased parking demand at East Bay ferry terminals is currently not known with certainty and this analysis therefore concludes, as does the cumulative impact analysis for the reuse alternatives, that the impact is significant and unavoidable. The marina's contribution to significant impacts could therefore be cumulatively considerable as well. The marina's contribution to cumulative congestion could be reduced but may not be eliminated via the mitigation measures identified in Section 4.5, Transportation, Circulation, and Parking.		
Cumulative Air Quality	No significant impacts are expected.	<i>Impact: Cumulative impact on air quality.</i> The proposed marina would result in an increase in boat and vehicular traffic associated with the expanded marina. This would, in turn, increase traffic-related emissions and contribute to the region's nonattainment problems, which are cumulatively significant. Mitigation identified in Section 4.6 may not reduce this impact to a less than significant level. The marina's contribution to this cumulatively significant impact is not completely mitigable and is considered cumulatively considerable.	Not required for CEQA analysis.	Not required for CEQA analysis.
Cumulative Noise	No significant impacts are expected.	<i>Impact: Cumulative impact on noise.</i> Construction activities associated with the proposed marina in combination with SFOBB construction could result in cumulatively significant temporary noise impacts. It is unlikely but possible that the marina's contribution to this noise impact would be cumulatively considerable, depending on the simultaneous construction activity being undertaken (and probably limited to pile driving activities).	Not required for CEQA analysis.	Not required for CEQA analysis.
Cumulative Biological Resources	No significant impacts are expected.	<i>Impact: Cumulative impacts on biological resources.</i> No significant impacts are expected.	Not required for CEQA analysis.	Not required for CEQA analysis.
Cumulative Hydrology and Water Quality	No significant impacts are expected.	<i>Impact: Cumulative impacts on hydrology and water quality.</i> No significant impacts are expected.	Not required for CEQA analysis.	Not required for CEQA analysis.
Cumulative Public Services and Utilities	No significant impacts are expected.	<i>Impact: Cumulative impacts on public services and utilities.</i> No significant impacts are expected.	Not required for CEQA analysis.	Not required for CEQA analysis.

686

Table 2-3
 Summary of Significant Environmental Impacts and Mitigations from the Marina No Action
 and Marina Development Alternatives *(continued)*

Resource Category	No Action Marina Alternative	Proposed Marina: Maximum Development Marina Alternative	Medium Development Marina Alternative	Minimum Development Marina Alternative
Cumulative Hazardous Materials and Waste	No significant impacts are expected.	<u>Impact: Cumulative impacts on hazardous materials and waste.</u> No significant impacts are expected.	Not required for CEQA analysis.	Not required for CEQA analysis.

066



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

DATE: July 5, 2017
TO: Case File No. 2007.0903ENV-02
FROM: Rachel A. Schuett, Environmental Planning
RE: Clipper Cove Marina Expansion

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Background

The marina expansion at Clipper Cove involves the demolition of the existing 108-slip marina, and the construction of a new, larger marina on the same site. The marina expansion has already been subject to environmental review under the California Environmental Quality Act (CEQA), as described in further detail, below. However, the final design for the marina expansion has been revised since the environmental analysis was completed. The purpose of this memorandum is to highlight the proposed revisions to the marina expansion project and identify whether or not the revisions would result in additional environmental impacts or require further analysis. All referenced figures are included as Attachment A.

As joint lead agencies pursuant to CEQA and the State CEQA Guidelines, 14 California Code of Regulations Sections 15000 et seq. (the "CEQA Guidelines"), the Treasure Island Development Authority ("TIDA"), and the San Francisco Planning Department ("Planning Department"), prepared two separate Environmental Impact Reports analyzing the proposed transfer of Treasure Island and Yerba Buena Island, in the San Francisco Bay, from the United States Navy ("the Navy") to the City and County of San Francisco (the "City"), as well as the subsequent redevelopment of the land.

2006 EIR. The Transfer and Reuse of Naval Station Treasure Island Final Environmental Impact Report (FEIR) was certified on May 5, 2005¹ (State Clearinghouse No. 1996092073) ("2006 EIR"). The 2006 EIR includes both a program-level analysis of the transfer of portions of the former base from the U.S. Navy to the City, and a project-level analysis of the expansion of the marina at Clipper Cove. A description of what was analyzed is included under "Original Project" below.

2011 EIR. The Treasure Island/Yerba Buena Island Redevelopment Project Final Environmental Impact Report was certified on April 21, 2011 (State Clearinghouse No. 20080012105) ("2011 EIR").² The 2011 EIR analyzed the impacts of the redevelopment of the portions of the Naval

¹ The EIR, consisting of the Draft EIR and the Responses to Comments document, which technically comprises the Final EIR was certified on May 5, 2005. The FEIR, which formally combines the DEIR (as revised based on public comment and staff-initiated text changes), and the Responses to Comment was published on June 1, 2006.

² In accordance with Sections 15063 and 15082 of the CEQA Guidelines, the Planning Department and TIDA, prepared a Notice of Preparation of the 2011 EIR and conducted scoping meetings. Written and oral comments received on the NOP are included in the Draft Environmental Impact Report ("2011 DEIR"). The 2011 DEIR was published on July 12, 2010, for a 45 day comment period, which was extended once to

Station Treasure Island (NSTI) that were still owned by the Navy, after the land was transferred to the TIDA. The proposed program of development ("master development") for the island included: residential, commercial, retail, office, hotel, cultural, museum, recreational, and flex space uses. The document included analysis of new or upgraded public facilities and utilities, streets and public ways; bicycle, transit, and pedestrian facilities, parks and open space, including shoreline access, a new Ferry Terminal and intermodal Transit Hub, and rehabilitation of historic buildings. The master development would be undertaken by Master Developer, Treasure Island Community Development, LLC ("Master Developer"). The 2011 EIR also analyzed new and upgraded landside and waterside facilities for the existing Treasure Island Sailing Center, located adjacent the marina at Clipper Cove, to the east, and landside services and improvements for the expanded marina. A description of what was analyzed is included under "Original Project" below. The waterside improvements associated with the marina expansion, were not further analyzed in the 2011 EIR.

Project Description

As mentioned above, the 2006 EIR analyzed both landside and waterside improvements associated with the proposed marina expansion. Subsequent to the publication of the 2006 EIR, and prior to the approval of the waterside improvements, the landside improvements proposal was rescinded. However, the landside services and improvements for the expanded marina were then included as part of the master development plan and were analyzed in the 2011 EIR.³

Subsequent to the publication of the 2011 EIR, the proposed marina expansion project design was updated due to: (1) the evolution and modernization of marina design, (2) the United States Navy requirements involving the hazardous materials clean-up efforts at the marina, and (3) conformance with the Division of Boating and Waterways (DBW) Guidelines for Marina Berthing Facilities that receive state funding. A description of what is currently proposed is included under "Proposed Revisions" below.

September 10, 2010, for a total of 60 days, and notices of the availability of the document were distributed to the public in a newspaper of general circulation and advertised, mailed, or otherwise delivered to a list of persons requesting it. TIDA and the Planning Commission held a joint public hearing on August 12, 2010, at which opportunity for public comment was given, and public comment was received on the 2011 DEIR. The 2011 EIR contains all of the comment letters received during the public comment period, as well as a transcript of the public hearing held on August 12, 2010. The 2011 EIR also contains responses to those comments, which the Planning Commission prepared in accordance with CEQA and the CEQA Guidelines. TIDA and the Planning Commission reviewed the comments received and the responses thereto and found that the 2011 EIR provides adequate, good faith, and reasoned responses to those comments. On April 21, 2011, TIDA and the Planning Commission certified the 2011 EIR as required by CEQA and adopted CEQA Findings related to the Project.

³ The 2011 EIR also analyzed new and upgraded landside and waterside facilities for the existing Treasure Island Sailing Center.

Original Project

Waterside Component. The waterside component of the original project was evaluated under the "Maximum Development Alternative" in the 2006 EIR. The waterside component would include deconstruction of the existing 108-slip marina and construction of eight mainwalks (piers) (400 to 750 feet in length) with 403 slips (35 to 80 feet in length). The area of the piers would total 132,801 square feet.

A 14,760-square-foot, accessible floating breakwater/wave attenuator/public pedestrian pier would be constructed to protect Clipper Cove from waves. The floating breakwater/wave attenuator/public pedestrian pier would extend approximately 820 feet into Clipper Cove and would provide public access to the water. The public pier would be equipped to permit manually-launched, non-motorized light watercraft, such as kayaks and canoes.

A convenience counter, a pump-out station, and a possible fuel station may be housed at the floating breakwater/wave attenuator/public pedestrian path. Temporary side ties would be available for public access uses, including use by the Treasure Island Sailing Center.

The marina layout would follow the long, narrow shape of the Clipper Cove basin, and would include energy conservation metering, telephone and cable services, and security features.⁴ Approximately 119,650 square feet of bay surface area would be covered by the construction of the piers and breakwater, and approximately 146,000 cubic yards of material would be dredged to create a navigable channel for all users of Clipper Cove.

Live-aboard boats would be allowed at a ratio of no more than ten percent of the total authorized boat berths, for a maximum of 40 live-aboard boats. The split between sailboats and powerboats would be about 68 and 32 percent, respectively. For sailboats the split between gas-powered and diesel-powered boats would be about 30 and 70 percent, respectively. For powerboats, the split between gas-powered and diesel-powered powerboats would be about 50 percent and 50 percent.

Landside Component. As described in the 2011 EIR, landside improvements would include restrooms, laundry facilities, and other improvements designed to serve marina tenants as well as the existing Treasure Island Sailing Center, a separate facility that also uses Clipper Cove. Per the 2011 EIR, these landside improvements would be constructed regardless of whether or not the marina is expanded.

Two hundred and thirty five parking spaces (at a ratio of 0.6 parking spaces per slip) would be provided for the marina uses.

Proposed Revisions

As under the original project, the existing 108-slip marina would be replaced with an expanded marina. However, the proposed modifications would reduce the number of boat slips from 404 to 313, 90 fewer slips than under the original project. Further, a dual-purpose, single-loaded A Dock, featuring slips on the westerly plane and wave attenuation and dock space on the easterly plane would replace the previously proposed and studied stand-alone wave attenuator and transient dock included in the original project.

⁴ Security features would include a locked gate with entry restricted by use of an electronic key card.

July 5, 2017

Clipper Cove Marina Expansion

Page 4

The overall length of the marina would be 882 feet from its westerly edge to its easterly edge with an additional 185 foot "dogleg" to the A Dock that protrudes into Clipper Cove. A site plan is included as Figure 1.

As shown on Figure 2, as under the original project, the marina layout would follow the long narrow shape of the Clipper Cove basin. The floating docks are designed to comply with the requirements of the federal Americans with Disabilities Act, and state and local regulations, and would include modern pump-out facilities, modern utilities, energy conservation metering, telephone and cable services, other telecommunications systems, and a secured entry via keycard-accessible gate. However, a fuel station would not be included, and no fuel sales would be permitted within the marina. The revised design would allow more open-water for the public as a result of the reduction in the marina's overall waterside footprint. As noted above, the new A Dock would have a dual purpose: boat slips on the westerly side and short-term transient docks, and occasional day-use docks on the easterly side. Day use anchorage would continue to take place in the open water areas of Clipper Cove.

Approximately 131,028 square feet of bay surface would be covered by the construction of piers and the A Dock wave attenuator/transient dock, an increase of 11,378 square feet of coverage from the original project. The revised project would include dredging of approximately 133,358 cubic yards of material for the navigable channel, a reduction of 12,642 cubic yards compared to the original project. The conceptual dredging plan and section elevations are included on Figures 3 through 6.

Live-aboard boats would be allowed at the Division of Boating and Waterways ("DBW") and San Francisco Bay Conservation and Development Commission's ("BCDC") allowed ratio of no more than 10 percent of the total authorized boat berths, for a maximum of 31 live-aboard boats. The split between sailboats and powerboats at the marina would change from about 68 to 86 percent sailboats (an increase of 18 percent) and from about 32 percent to 14 percent powerboats (a decrease of 18 percent). The anticipated split between diesel powered and gas powered boats would remain the same as under the original project.

The proposed marina expansion no longer includes any newly built structures or landscaping on the landside areas adjacent to Clipper Cove, as all of those responsibilities are now a part of the obligations of the Master Developer and were analyzed in the 2011 EIR for the development of Treasure Island. The marina operator's landside functions, such as harbormaster's office, restrooms and other office and business needs would now be accommodated in buildings constructed by the Master Developer on the landside adjacent to Clipper Cove and rented to Treasure Island Enterprises, LLC, or other third-party providers of services. The landside elements analyzed in the 2011 EIR have not changed.

Parking for the marina would be accommodated in short-term parking spaces along Clipper Cove and in off-site surface areas and garages, all of which were studied in the 2011 EIR for the development of Treasure Island. The proposed number of parking spaces needed for marinas is 0.6 spaces for each slip, and accordingly, the 313-slip marina would require only 188 parking spaces, less than the 235 spaces that were analyzed in the 2011 EIR for the development of Treasure Island. This decrease in demand would not result in fewer parking spaces being constructed; instead, the 47 parking spaces would be allocated to other uses.

July 5, 2017

Clipper Cove Marina Expansion

Page 5

Operations. The marina would be operated by full-time, on-site staff, in a manner that is consistent with both the 2006 and the 2011 EIRs. The project sponsor would operate the marina pursuant to the terms of a 66-year lease between TIDA as lessor, and Treasure Island Enterprises, LLC, as lessee. The lease would give the project sponsor exclusive rights to use of the marina and non-exclusive rights to operate in Clipper Cove.

Approved uses for the revised project have not changed from the original project and would include:

- Rental of boat slips to the public for monthly boaters, and live-aboard boaters, in conformity with BCDC requirements and other approvals to be granted by TIDA.
- Short-term mooring for water taxi service and recreational boats, boat storage, boat and other light watercraft launching, buoy and mooring rentals, and transient boat moorage.
- Rental of dock lockers or other facilities to slip renters for storage of personal boating items.
- A community benefits program to provide Bay experiences and opportunities to disadvantaged community youth at Treasure Island, including Treasure Island Homeless Development Initiative residents.
- Boat launching and retrieving services.
- Minor marine services.
- Day use rentals of small craft and kayaks.
- Telecommunications and cable services for the marina.
- Food and beverage services for the marina.
- Guest boater and transient boater short-term moorage.

The uses identified for the revised project would be the same as those identified for the original project, and there are no proposed revisions to the operation of the expanded marina.

Construction Phasing. The construction of the marina expansion project would be undertaken in three non-overlapping phases, each phase would take 12 to 16 months. The A Dock and its adjacent dock, the B Dock, would be constructed in Phase 1, and the C Dock and D Docks would be constructed in Phase 2. In Phase 3, the existing 108-slip marina would be deconstructed and the last dock, the E Dock, would be constructed.

Dredging would be expected to occur during Phase 1. Prior to conducting dredging activities, all materials proposed for dredging would be tested for heavy metals, hydrocarbons, PCBs, tributyltin, pesticides, and any other contaminants of concern to the Regional Water Quality Control Board. The results of the sediment sampling would determine the disposal options including on-site re-use or upland disposal. Disposal would be conducted in compliance with the Long Term Management Strategy described in the 2006 EIR. No revisions to the construction phasing are proposed.

Approvals. The proposed project would require approval by the San Francisco Board of Supervisors TIDA Board, as well as approvals from BCDC, the Regional Water Quality Control Board, and the U.S. Army Corps of Engineers, Joint Aquatic Resource Permitting Application.

TIDA Actions. The actions of TIDA in connection with the marina expansion include:

- Adoption of CEQA Findings and a Mitigation Monitoring and Reporting Program (MMRP)
- Approval of a 66-year Treasure Island Marina Lease by and between TIDA and Treasure Island Enterprises, LLC in support of the expansion and operation of the marina at Clipper Cove
- Endorsement and recommendation to the Board of Supervisors for approval of the CEQA findings, the MMRP and a 66-year Treasure Island Marina Lease by and between TIDA and Treasure Island Enterprises, LLC

The project approvals and TIDA actions are the same as under the original project. No revisions are proposed.

Analysis of Potential Environmental Impacts

As discussed above, the proposed modifications to the Clipper Cove Marina would reduce the number of boat slips and parking spaces, reduce the quantity of dredging, reduce the number of live-aboard boats, and eliminate the fuel station. Overall, these modifications would reduce both the construction and operational impacts of the marina expansion in comparison with the original project evaluated in the 2006 EIR. Therefore, as summarized in Table 1, below, the updates to the final design of the marina expansion project would not result in new or substantially more severe individual or cumulative impacts than were previously identified in the 2006 EIR.

While the proposed modifications would generally reduce the scale of the marina expansion and related impacts, the proposed modifications to the piers and A Dock wave attenuator/transient dock would increase the amount of bay coverage by 11,378 square feet, resulting in a corresponding increase in potential impacts on biological resources related to bay coverage. The 2006 EIR found that compliance with state and federal regulatory requirements would ensure that impacts related to bay surface coverage would be less than significant. The modified project would be subject to the same regulatory requirements, which would ensure that the increase of 11,378 square feet of bay coverage from 119,650 square feet under the original project would not result in new or substantially more severe impacts than were identified in the 2006 EIR. As such, the increase in the amount of bay surface coverage is not a substantial change to the marina expansion project that would result in a substantial increased impact to biological resources. Therefore, because the modified project would have fewer slips, fewer parking spaces, would require less dredging, and would result in fewer vehicle trips than the original project, the transportation-related and cumulative air quality impacts would be less than previously analyzed.

Table 1. Proposed Revisions			
Design Feature	Original Project	Modified Project	Change to Impact Analysis
Number of slips	403 slips	313 slips	None. A reduction of 90 slips would reduce potential impacts to mudflat habitats such as eelgrass beds and to shorebirds that forage in the mudflats, by reducing boat traffic in Clipper Cove.
Parking ratio (spaces/slip)	0.6	0.6	No change.
Number of parking spaces	240 spaces	188 spaces	None. A reduction of 52 parking spaces does not change the parking ratio of 0.6 spaces per slip, thus there would be no change to the impact analysis.
Bay Coverage	119,650 sf	131,028sf	None. Compliance with state and federal regulatory requirements would ensure that the increase in bay surface coverage of 11,378 sf would not result in substantially greater impacts than previously identified including impacts to eelgrass beds.
Wave attenuation	Stand-alone wave attenuator	Eastern plane of the single-loaded A Dock	None. No impacts related to wave attenuation were identified.
Dredging	146,000 cubic yards	133,358 cubic yards	None. The impacts related to dredging would were found to be less than significant with mitigation, and the mitigation identified in the 2006 EIR would continue to apply. Thus, a reduction of 12,642 cubic yards of dredging would not change the impact analysis or findings.
Sailboat/Powerboat split	68% sailboats and 32% powerboats	86% sailboats and 14% powerboats	None. No impacts related to the split between sailboats and powerboats were identified; thus, an 18% increase in sailboats, and 18% decrease in powerboats would result in lower air quality impacts than were identified in the 2011 EIR.
Sailboat Fuel	30% Gas-powered 70% Diesel-powered	30% Gas-powered 70% Diesel-powered	No change.
Powerboat Fuel	50% Gas-powered 50% Diesel-powered	50% Gas-powered 50% Diesel-powered	No change.
Fuel Station	Possibly included	Not included	None. No impacts related to the possible provision of a fuel station were identified.

Sources: 2006 EIR, 2011 EIR

Naval Base Closure Remediation Requirements

Prior to the transfer of Naval Station Treasure Island ("NSTI") to the TIDA, the Navy is required to identify, analyze, and clean up any releases of hazardous materials and wastes associated with past operations. This effort is undertaken according to a procedures manual known as the Base Redevelopment and Realignment Manual, which was prepared by the United States Department of Defense ("DOD").

The Installation Restoration Program ("IR Program") is an ongoing DOD-administered program for identifying, evaluating, and remediating contaminated sites on Federal lands under DOD control. Thirty-one Installation Restoration sites ("IR Site") were identified on Treasure Island in the 2006 EIR. The only IR Site identified in the 2006 EIR that directly impacts the marina expansion project is IR Site 27, a fan-shaped area located in Clipper Cove.

Site 27 encompasses approximately 19 off-shore acres and one acre of onshore land at Treasure Island. From 1979 to 1989 a portion of this area was used as a naval skeet range where lead shot was used to fire at targets. As a result lead shot and clay targets were deposited within the submerged sediment in the cove resulting in contamination from lead (from the shot) and polycyclic aromatic hydrocarbons (from the clay targets). Remediation activities were undertaken to remove and backfill contaminated sediment and a cap was placed over the area to prevent waterfowl from coming into contact with contaminants, see Figure 7.

Since publication of the 2006 EIR and the 2011 EIR, the United States Navy has completed its remediation of Clipper Cove, IR Site 27, resulting in a Finding of Suitability to Transfer ("FOST"). A Covenant to Restrict Use of Property ("CRUP") entered into by the Navy and the California Department of Toxic Substances Control was finalized and recorded against the property on September 20, 2016.⁵ The CRUP is included as part of the lease agreement between Treasure Island Enterprises, LLC, and TIDA. The CRUP includes a requirement for a "no wake zone" speed limit of 5 mph, or less, and additional operational restraints to further eliminate any adverse effects on IR Site 27. The marina expansion is designed, and would be operated, in a manner which meets all of the CRUP requirements.

The remediation of IR Site 27 was anticipated in the 2006 EIR as a separate activity by the Navy. The environmental impacts of the remediation were not analyzed within the 2006 EIR. The 2011 EIR acknowledged the remediation activities, again, as a separate activity by the Navy, and the analysis therein was based on the assumption that the remediation activities would be completed as planned. Restrictions on the design of the marina and operational constraints, as part of the CRUP, were predicted in both documents. Therefore, the contents of the CRUP do not constitute substantial new information, or a change in circumstances for the marina expansion.

⁵ Department of the Navy. Base Realignment and Closure Program. *Covenant to Restrict the Use of Property Environmental Restriction. Site 27 Parcel (Clipper Cove) within Former Naval Station Treasure Island, San Francisco, California [Site Code: 202042]*. September 20, 2016. This document is available for review at the San Francisco Planning Department, 1650 Mission Street, Suite 400, San Francisco, as part of Case File No. 2007.0903ENV-02.

Conclusion

Section 31.19(c)(1) of the San Francisco Administrative Code states that a modified project must be reevaluated and that, "If, on the basis of such reevaluation, the Environmental Review Officer determines, based on the requirements of CEQA, that no additional environmental review is necessary, this determination and the reasons therefor shall be noted in writing in the case record, and no further evaluation shall be required by this Chapter."

Based on review of the proposed revisions to the marina expansion project, the Environmental Review Officer has determined that the revised project is within the overall scope of the 2006 EIR (waterside), and the 2011 EIR (landside) projects, there have not been any substantial changes with respect to the circumstances under which development of Treasure Island, including the modified project, would be undertaken, nor has new information of substantial importance come to light that would alter the impact findings in or require major revisions to the 2006 and/or 2011 EIRs. As such, pursuant to California Public Resources Code Section 21166, the conditions which would require the preparation of a subsequent or supplemental environmental impact report have not been met.

No additional environmental impacts would occur as a result of project implementation and no additional environmental analysis would be required under CEQA.

July 5, 2017
Clipper Cove Marina Expansion
Page 10

Attachment A: Project Figures



Cove Area
(3,533,820 Sq.Ft.)

NO.	DATE	DESCRIPTION	BY
A	8-13-17	Figure 1	DD
REVISIONS			

Bellingham
MARINA
The World's Most Comprehensive
Marina Solutions, Inc. and
Southwest Division
8419 Sandley Lane
Olson, CA 94020
TEL: (707) 878-2245
FAX: (707) 878-1750

This drawing contains
proprietary information which
is the property of Bellingham
Marina Solutions, Inc. and
shall not be copied,
reproduced or made available
in third parties without prior
written permission from
Bellingham Marina Solutions,
INC. UNIFORMATE,
LINDSEY and G Bellingham
Marina Solutions, Inc.

SITE IMPROVEMENT PLAN			
ACCEPTED BY:	CITY ENGINEER	R.C.E.	EXP. DATE
ACCEPTED BY:	CITY ENGINEER	R.C.E.	EXP. DATE

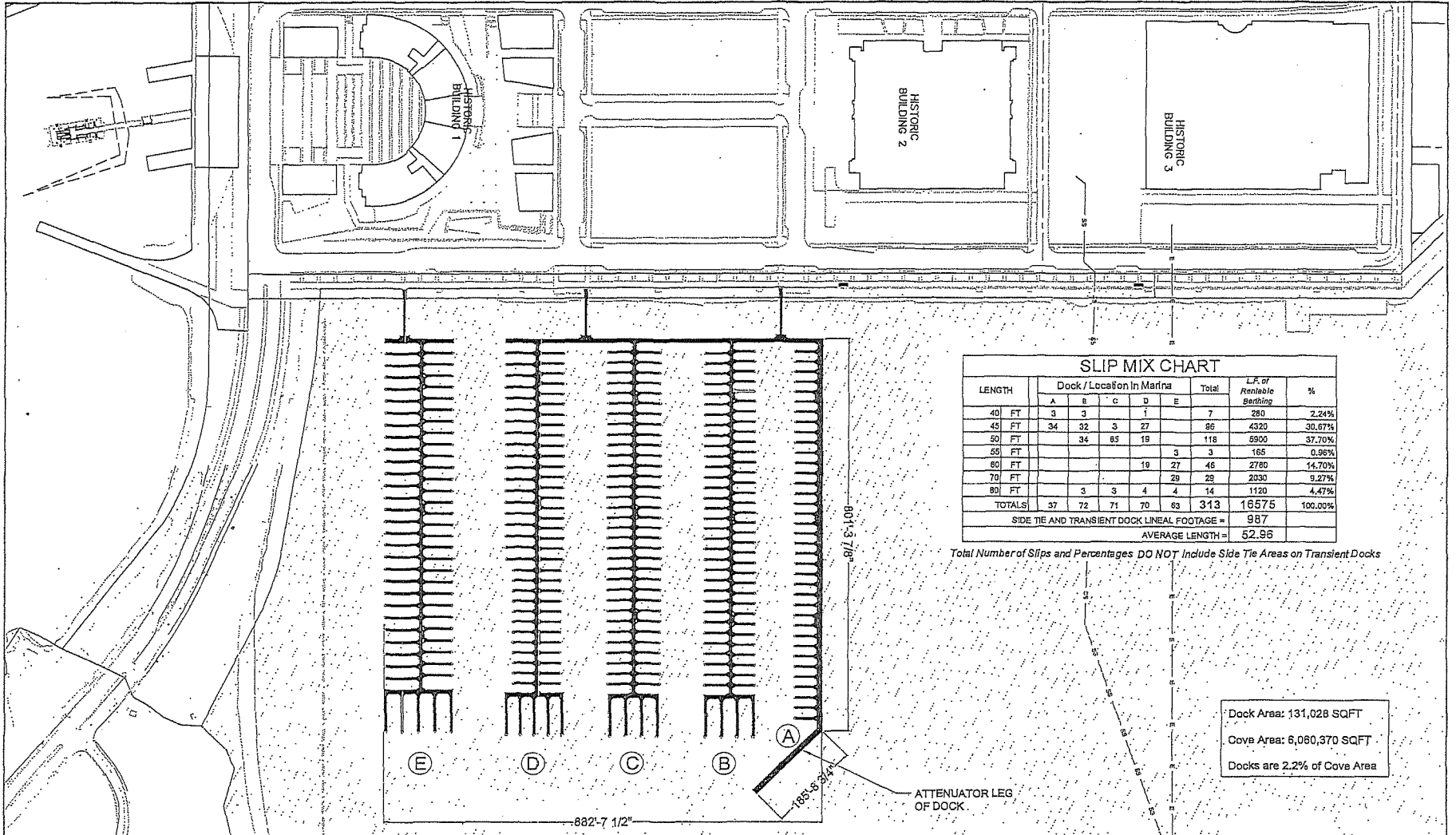
PROJECT NUMBER:	15-3-833
ENGINEER / DESIGNER:	
PROJECT MANAGER:	T.B.C.
CHECKED BY:	

TREASURE ISLAND MARINA San Francisco, CA
OVERALL SITE PLAN- MARINA

FIGURE 1-
Marina Site Plan

SCALE: See Graphic Scale (Sheet Size 24" x 36")
DRAWN BY: DD
DATE: 6-13-17
SHEET No.: 01
DRAWING: SP1.5

PRELIMINARY - NOT FOR CONSTRUCTION



NO.	DATE	DESCRIPTION	BY
		REVISIONS	

Bellingham
 The Marina Shed Corporation
 Harbor Shelter
 Southwest Division
 8410 Spaulding Lane
 Orem, UT 84058
 TEL: (707) 878-2348
 FAX: (707) 878-1780

This drawing contains proprietary information which is the property of Bellingham Marina Industries, Inc. and shall not be copied, reproduced or made available to third parties without prior written permission from Bellingham Marina Industries, Inc. UNIFLAG, UNIFLAG, UNIFLAG and Bellingham Marina Industries, Inc.

SITE IMPROVEMENT PLAN

ACCEPTED BY: CITY ENGINEER R.C.E. EXP. DATE

ACCEPTED BY: CITY ENGINEER R.C.E. EXP. DATE

PROJECT NUMBER: 15-3-833

ENGINEER / DESIGNER: REDPOINT STRUCTURES

PROJECT MANAGER: T.B.D.

CHECKED BY:

TREASURE ISLAND MARINA
 San Francisco, CA

Approximate Dock Area & Cove Area

FIGURE 2- Proposed Marina Configuration

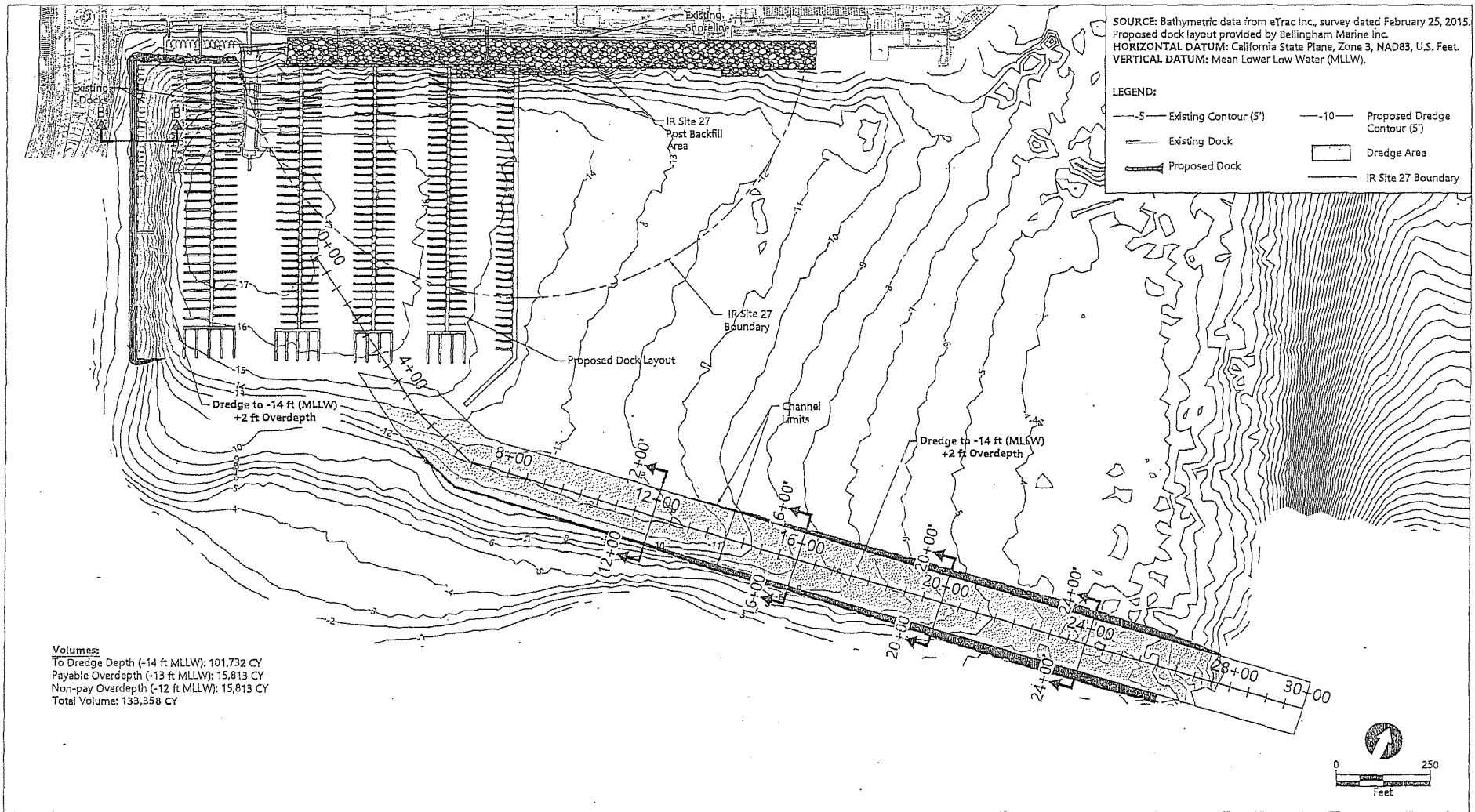
SCALE: Not to Scale (Sheet Size 24" x 36")

DRAWN BY: DD

DATE: 6-13-17

SHEET NO.: -

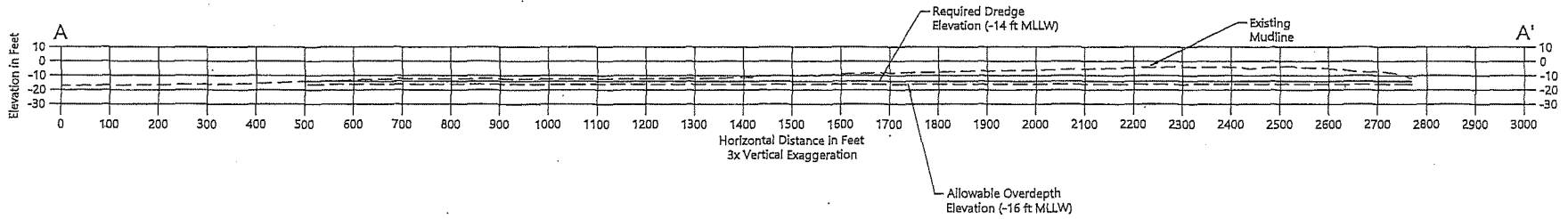
DRAWING:



Publish Date: 2017/06/19 12:29 PM | User: mpratschner
 Filepath: K:\Projects\1320-Treasure Island\Treasure Island\1320-IR-002-14 DREDGE.dwg Figure 3



Figure 3
 Conceptual Dredging Plan
 Conceptual Dredging
 Treasure Island Marina



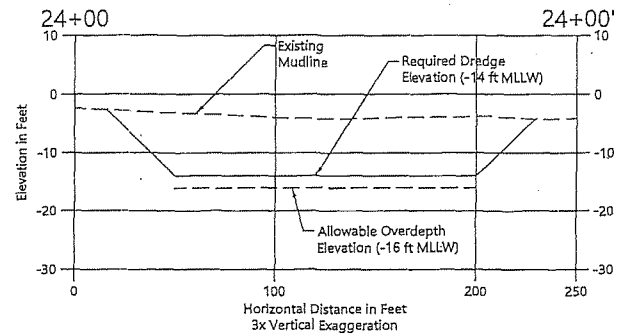
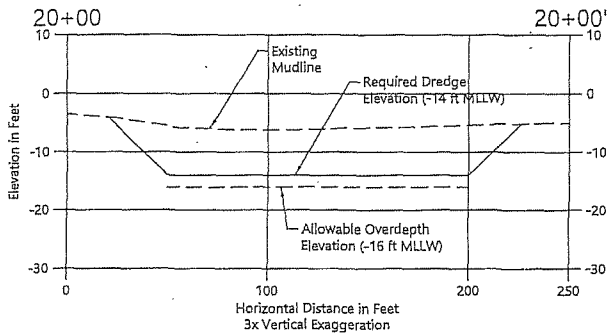
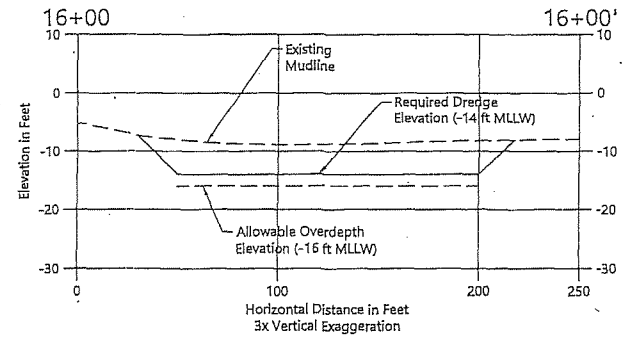
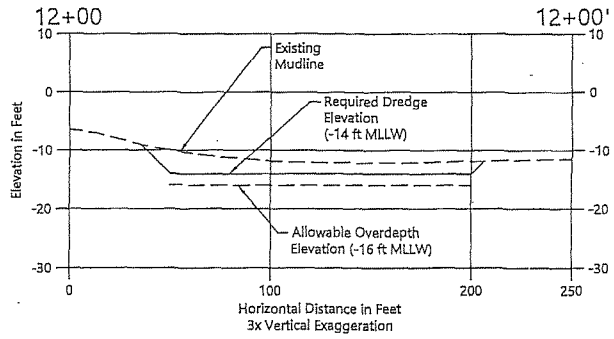
SOURCE: Bathymetric data from eTrac Inc, survey dated February 25, 2015.
HORIZONTAL DATUM: California State Plane, Zone 3, NAD83, U.S. Feet.
VERTICAL DATUM: Mean Lower Low Water (MLLW).



Publish Date: 2017/06/19 12:41 PM | User: mprabochner
Filepath: K:\Projects\1320-Treasure Island\Treasure Island\1320-RP-002 -14 DREDGE.dwg Figure 4



Figure 4
Conceptual Dredging Elevation - Section A-A'
Conceptual Dredging
Treasure Island Marina



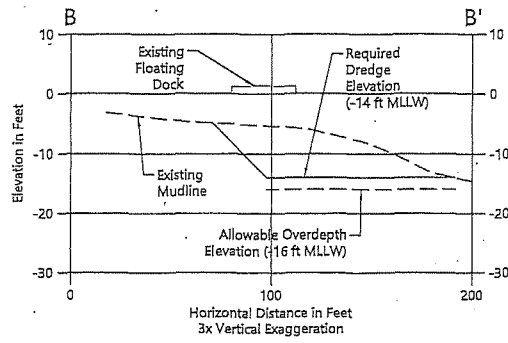
SOURCE: Bathymetric data from eTrac Inc., survey dated February 25, 2015.
 HORIZONTAL DATUM: California State Plane, Zone 3, NAD83, U.S. Feet.
 VERTICAL DATUM: Mean Lower Low Water (MLLW).



Publish Date: 2017/06/19 1:00 PM | User: mpratschner
 Filepath: K:\Projects\1320-Treasure Island\Treasure Island\1320-RP-002-14 DREDGE.dwg Figure 5



Figure 5
 Conceptual Dredging Detail - Sections 12+00 - 24+00
 Conceptual Dredging
 Treasure Island Marina



SOURCE: Bathymetric data from eTrac Inc., survey dated February 25, 2015.
HORIZONTAL DATUM: California State Plane, Zone 3, NAD83, U.S. Feet.
VERTICAL DATUM: Mean Lower Low Water (MLLW).



Publsh Date: 2017/05/19 1:01 PM | User: mpratschner
Filepath: K:\Projects\1320-Treasure Island\Treasure Island\1320-RP-002 -14 DREDGE.dwg Figure 6

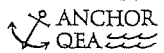
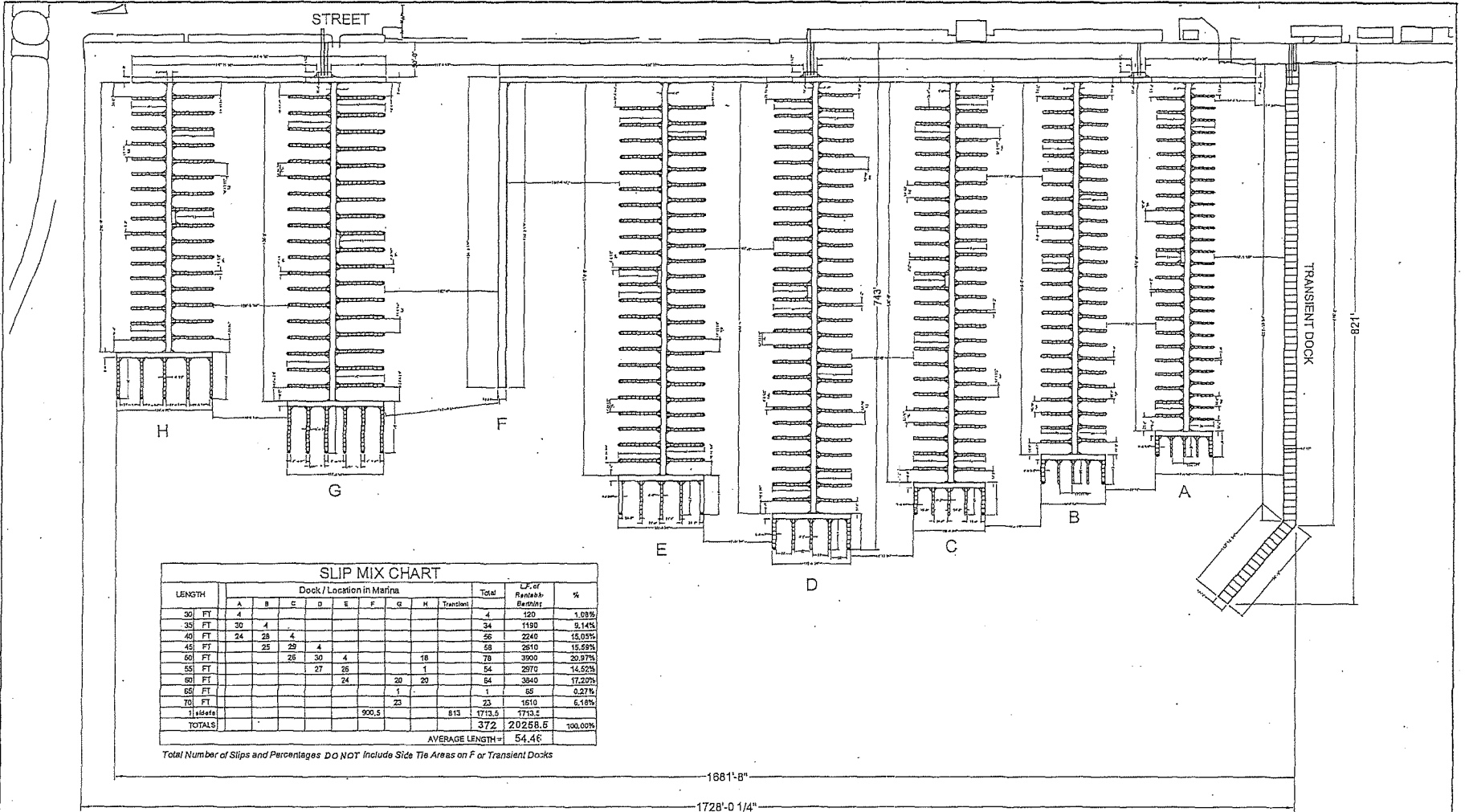


Figure 6
Conceptual Dredging Elevation - Section B-B'
Conceptual Dredging
Treasure Island Marina

PRELIMINARY - NOT FOR CONSTRUCTION

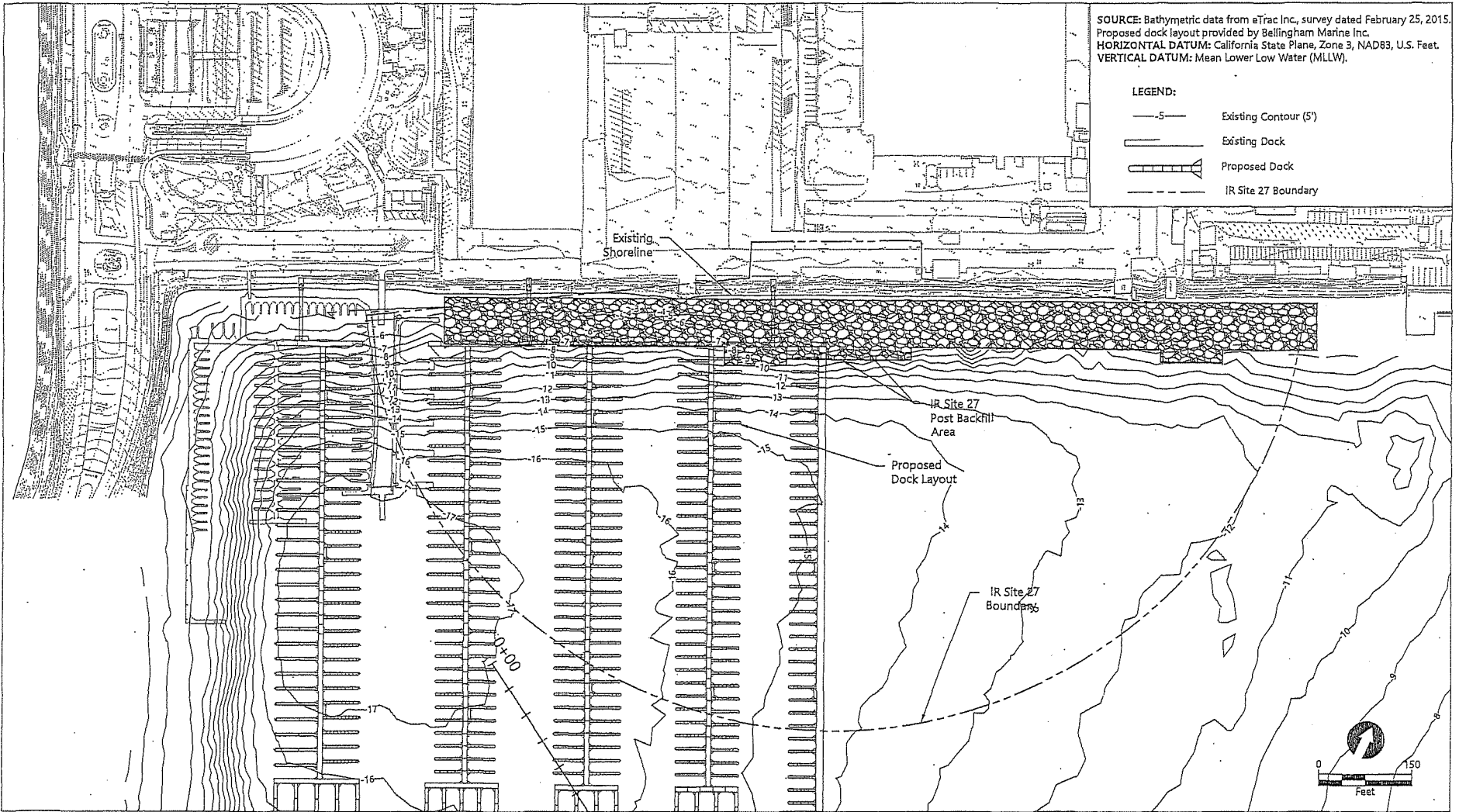


LENGTH	Dock / Location in Marina								Total	L _F of Berths	%
	A	B	C	D	E	F	G	H			
30 FT	4								4	120	1.08%
35 FT	30	4							34	1190	9.14%
40 FT	24	28	4						56	2240	18.05%
45 FT		25	29	4					58	2610	19.59%
50 FT			26	30	4			18	70	3500	23.97%
55 FT				27	26			1	54	2970	14.52%
60 FT					24		20	20	64	3840	17.20%
65 FT							1		1	65	0.27%
70 FT								23	23	1610	6.18%
1 sideft						900.5		813	1713.5	1713.2	
TOTALS									372	20258.8	100.00%

AVERAGE LENGTH = 54.48'

Total Number of Slips and Percentages DO NOT Include Side Tie Areas on F or Transient Docks

<p>Bellingham The World's Most Comprehensive Marine Builder Southwest Division 2510 Quarry Lane Dues, CA 95023 TEL: (925) 878-7295 FAX: (925) 878-1763</p>		<p>SITE IMPROVEMENT PLAN</p> <p>ACCEPTED BY: CITY ENGINEER R.C.E. EXP. DATE</p>		<p>PROJECT NUMBER: 15-3-833</p> <p>ENGINEER / DESIGNER:</p>		<p>TREASURE ISLAND MARINA San Francisco, CA</p>		<p>FIGURE 7- Proposed Marina Plan (2006 EIR)</p>		<p>SCALE: Not to Scale (Sheet Size 24" x 36")</p> <p>DRAWN BY: DD</p> <p>DATE: 8-13-17</p> <p>SHEET NO.: 7</p> <p>DRAWING: MP0</p>	
<p>NO. DATE DESCRIPTION BY</p> <p>REVISIONS</p>		<p>ACCEPTED BY: CITY ENGINEER R.C.E. EXP. DATE</p>		<p>PROJECT MANAGER: T.B.D.</p> <p>CHECKED BY:</p>		<p>Proposed Marina Plan (2006 EIR)</p>					



Publish Date: 2017/06/19 1:41 PM | User: mpratschner
 Filepath: K:\Projects\1320-Treasure Island\Treasure Island\1320-RP-005 IR 27.dwg Figure 8

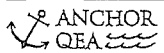


Figure 8
 IR Site 27
 Conceptual Dredging
 Treasure Island Marina

**Treasure Island Development Authority
City and County of San Francisco**

Resolution (i) making CEQA Findings and adopting a Mitigation Monitoring and Reporting Program (MMRP) for the marina project and confirming the San Francisco Planning Department's determination that no additional environmental impacts that were not previously identified would occur as a result of the proposed lease; and (ii) approving a sixty six (66) year lease for the development and management of Treasure Island Marina between the Treasure Island Development Authority and Treasure Island Enterprises, LLC, a California limited liability company.

SUMMARY OF PROPOSED ACTION

This item seeks approval and authorization of the execution of a sixty six (66) year lease between the Treasure Island Development Authority and Treasure Island Enterprises, LLC, a California limited liability company, for the development and management of the Treasure Island Marina (the "Lease").

BACKGROUND

On June 22, 1999, the Treasure Island Development Authority (the "Authority") Board of Directors approved an Exclusive Negotiating Agreement (the "Marina ENA") with Treasure Island Enterprises, LLC, a California limited liability company ("TIE"), pursuant to which the parties agreed, among other things, to negotiate in good faith with each other for a disposition and development agreement and ground lease, and any other necessary transaction documents (collectively the "Transaction Documents"), for the proposed development and operation of the Treasure Island Marina (the "Marina"). The Marina ENA has been amended eight times over the years.

TIE has operated the current 110-slip Marina since 2000 under an Interim Sublease with the Authority, and is a tenant in good standing. Marina staff provides regular logistical support to TIDA's monitoring of the Clipper Cove Special Use Area. TIE participates in many Island-wide activities including participation in the One Treasure Island Job Broker Program, collaboration with the Treasure Island Sailing Center, and making the Marina available to a variety of water and boating activities through partnerships with the TI Yacht Club and other Bay Area recreational boating clubs and marinas.

As joint lead agencies pursuant to CEQA and the State CEQA Guidelines, 14 California Code of Regulations Sections 15000 et. seq., the Authority and the San Francisco Planning Department ("Planning Department") prepared two separate Environmental Impact Reports analyzing the proposed transfer of Treasure Island and Yerba Buena Island from the United States Navy ("U.S. Navy") to the City and County of San Francisco ("City"): (1) the 2006 Environmental Impact Report (EIR), which includes a program-level analysis of the transfer of the former base from the U.S. Navy to the City, and a project-level analysis of the expansion of the Marina, and (2) the

2011 EIR, which analyzes the master development of Treasure Island, and landside services and improvements for the expanded Marina.

The original Marina plan, developed in 1998-2000 under the terms of the ENA, was for a 400-slip marina with an approximate waterside facility length of 2,013 feet (running east/west) on Clipper Cove. On May 5, 2005, the Planning Commission, by Motion No. 17020, and the Authority Board of Directors, by Resolution 05-017-5105, as co-lead agencies, certified the Final Environmental Impact Report for the Transfer and Reuse of Naval Station Treasure Island (the "2006 FEIR") and made certain environmental findings under CEQA. The 2006 FEIR project description includes a Marina with a slip count of 400 and a waterside length of approximately 1,723 lineal feet on Clipper Cove.

On April 21, 2011, the Planning Commission by Motion No. 18325, and the Authority Board of Directors, by Resolution No. 11-14-04/21, as co-lead agencies, certified the completion of the Final Environmental Impact Report ("2011 FEIR") for the Treasure Island/Yerba Buena Island Project and unanimously approved a series of entitlement and transactional documents, including certain environmental findings under CEQA and a Mitigation Monitoring and Reporting Program ("MMRP"). The 2011 FEIR project description includes a Marina with a slip count of 400 and a waterside length of approximately 1,681 lineal feet on Clipper Cove.

On June 7, 2011, in Motion No. M11-0092, the Board of Supervisors unanimously affirmed certification of the 2011 FEIR, and on that same date, the Board of Supervisors, in Resolution No. 246-11, adopted CEQA findings and the MMRP, and made certain environmental findings under CEQA.

Subsequent to the certification of the 2006 FEIR and the 2011 FEIR, TIE proposed several updates to the project due to: (1) evolution and modernization of marina design, (2) United States Navy and California regulatory requirements relating to the cleanup work that was performed by the Navy at the Treasure Island Marina, and (3) conformance with the Division of Boating and Waterways (DBW) Guidelines for Marina Berthing Facilities that receive state funding; and fulfilling accommodations requested by the Treasure Island Sailing Center ("TISC") and organizations not formally affiliated with TISC between 2015 and 2017 on behalf of the Sailing Center's youth sailing program.

The Planning Department prepared a Case File Memorandum on July 5, 2017 (the "2017 Memorandum"), which evaluated the proposed revisions to the project at that time, which included a slip count of 313 and a waterside length of approximately 882 lineal feet on Clipper Cove. In the 2017 Memorandum, the Planning Department concluded that the proposed revisions to the project would result in no additional environmental impacts, that the severity of impacts already-identified in the 2006 EIR and the 2011 EIR would not increase, and that no additional environmental analysis would be required under CEQA.

As such, pursuant to California Public Resources Code Section 21166 and CEQA Guidelines Section 15162, the Planning Department concluded that a subsequent or supplemental environmental impact report is not required. The 2017 Memorandum states that:

“Based on review of the proposed revisions to the marina expansion project, the Environmental Review Officer has determined that the revised project is within the overall scope of the 2006 EIR (waterside), and the 2011 EIR (landside) projects, there have not been any substantial changes with respect to the circumstances under which development of Treasure Island, including the modified project, would be undertaken, nor has new information of substantial importance come to light that would alter the impact findings in or require major revisions to the 2006 and/or 2011 EIRs. As such, pursuant to the California Public Resources Code Section 21166, the conditions which would require the preparation of a subsequent or supplemental environmental impact report have not been met. No additional environmental impacts would occur as a result of project implementation and no additional environmental analysis would be required under CEQA.”

The Planning Department proposed, and TIE agreed to incorporate and comply with, a Mitigation Monitoring and Reporting Program (the “MMRP”).

Subsequent to the issuance of the 2017 Memorandum, the Board of Supervisors introduced Resolution 173-18, which prompted additional consultation between TIE and other stakeholders. Through these consultations, TIE further reduced the proposed footprint of the marina to 220 slips.

In adopting Resolution 173-18, the Board of Supervisors found “that the footprint of the new marina is consistent with the vision of marina development in the Reuse Plan for Treasure Island Naval Station approved by the Board of Supervisors and further (found) this footprint upholds the principle that marina redevelopment in Clipper Cove should not diminish the character of existing public recreation and public education on Clipper Cove, including most interim uses”.

Resolution 173-18 included several additional Further Resolved clauses, including:

1. Marina redevelopment should not harm the existing environmental resources of Clipper Cove, particularly the eelgrass beds in the Cove.
2. Marina redevelopment should not cause diminished water depth in other areas of the Cove, and TIDA should develop a plan to mitigate this risk.
3. Marina redevelopment should provide consideration for current tenants in small and medium berths.
4. Calling upon City agencies and regulatory bodies to ensure appropriate environmental review is completed for the project.
5. Calling for a financial analysis of the proposed financing, projected revenue, and projected expenses of the marina development.

Subsequent to the adoption of Resolution 173-18, the Authority and TIE renegotiated the Lease and again consulted with the Planning Department. The Planning Department determined that re-issuing an update to its 2017 Memorandum was unnecessary concluding that, due to the footprint of the updated proposal actually decreasing, there were no substantial changes to evaluate. The findings adopted in July are the same as initially prepared by the Planning

Department. Furthermore, the updated proposal demonstrates its intent to address the Further Resolved clauses of Resolution 173-18 as follows:

1. Mitigations to ensure protection of Clipper Cove's existing environmental resources are conditions of the EIR and will be further vetted in the project's Bay Conservation and Development Commission Permit application process.
2. While it is not anticipated that the Marina development project will cause diminished water depth in Clipper Cove, the Authority has engaged consultants to perform further bathymetry surveys and siltation analysis to further understand existing conditions.
3. Slip rental rates in the redeveloped Marina will be set at linear-foot market-rate. Accommodations will be made for existing slip holders' transition to the new Marina facility.
4. Further review of the reduced project footprint by the San Francisco Planning Department has led to Planning's conclusion that the decrease in project size does not equate to increased project impacts.
5. A revised project pro-forma has been received by the Authority, who has also contracted with a third-party firm to provide a commercial leasing valuation appraisal of the existing Clipper Cove site. The appraisal report, finalized October 30, 2018 assigns a Fair Market Rental Value of \$90,000 to the property.

On July 11, 2018, the Authority Board of Directors, having reviewed and considered the 2006 FEIR, 2011 FEIR and the 2017 Memorandum, approved Resolution 18-31-0711, (a) adopting the CEQA Findings, confirming the San Francisco Planning Department's determination that no additional environmental impacts would occur as a result of project implementation and no additional environmental analysis other than the 2017 Memorandum would be required, and (b) approving the Lease subject to the approval of the Board of Supervisors and all mitigation measures detailed in the MMRP considered relevant to the project.

AGREEMENT:

Resolution 17-36-10/30 also approved and authorized the execution of a sixty six (66) year lease agreement between the Authority and TIE for the development and management of the Treasure Island Marina, subject to the approval of the Board of Supervisors, and subject to all mitigation measures detailed in the MMRP relevant to the project.

The parties have negotiated a 66-year Lease (the "Lease") for TIE to develop and manage the Marina, with a Premises consisting of 724 lineal feet by 718 lineal feet of dock area and approximately 220 proposed slips located in the common water areas known as Clipper Cove. This Lease provides TIE nonexclusive use and access to the adjacent common water areas of Clipper Cove and to the adjacent landside areas of Treasure Island.

The Lease includes standard disposition and development agreement provisions, including that if TIE has not started construction of the Initial Improvements by December 31, 2022 then the Authority has the right to terminate the Lease unless TIE fulfills all conditions and actually begins construction of the Initial Improvements within sixty (60) days of the Authority's notice. The Initial Improvements shall be completed no later than eight (8) years after construction begins, unless extended due to a force majeure event. The total project development cost is estimated to be \$19,457,677.

The Lease includes a Minimum Base Rent of \$7,500.00 per month or \$90,000 annually, to then be adjusted according to the Consumer Price Index ("CPI") each January 1 starting January 1, 2022. For calendar year 2022 and each year thereafter, TIE pays to the Authority the higher of: (a) the then current Minimum Base Rent; or (b) the Percentage Rent. Percentage Rent is determined based on a percentage of gross revenues (with different percentages for different sources of revenue), and will be paid in arrears at the end of each calendar year during the Term to the extent that it exceeds the Minimum Base Rent for that year.

Upon the completion of the Initial Improvements, TIE will receive a credit against Percentage Rent in excess of the Minimum Base Rent for the following: (a) \$200,000, which represents the sum of the request for proposal deposit, the transaction cost deposit and the extension cost deposit paid by TIE pursuant to the ENA; and (b) the actual costs of the dredging performed by TIE in connection with the Initial Improvements, up to a total maximum rent credit of \$5,995,000.00.

TIE will perform or cause the performance of all dredging in Clipper Cove necessary for the construction of the Initial Improvements and the ongoing operation of its business during the Lease term. The Authority will not be required to incur any dredging or other expenses in conjunction with the Lease or the marina development (other than as part of the rent credits).

TIE proposes to implement marina development in no more than three (3) phases, with multiple sub-phases consisting of construction of approximately 90-120 slips per phase, with each phase occurring over approximately 16 months. Upon completion of phase 1 and 2, the existing marina facilities are demolished to allow completion of third phase activities.

Existing Marina slip holders will continue to occupy the existing marina facilities and will have an opportunity to relocate into new slips created in Phases 1 and 2. Slip rental rates in the redeveloped Marina will be set at market-rate, based on comparable rents charged at other marinas within the greater San Francisco Bay Area. The slip mix of the new marina will be comprised of 40, 50, 60, 70 and 80+ foot slips with an average size of 53 feet, and smaller vessels will also be accommodated at the new marina.

The salient terms and conditions of the proposed Lease include the following:

- 1.) **Premises:** Approximately 724 lineal feet by 718 lineal feet of dock area and approximately 220 proposed slips located in the common water areas known as Clipper Cove.; license for nonexclusive use / access to the common water areas of Clipper Cove; and license for

nonexclusive use and access to the adjacent landside areas, Treasure Island, San Francisco, California.

2.) **Effective Date:** The date that the Lease is executed and delivered by the parties, following approval by the Authority’s Board of Directors and the City’s Board of Supervisors. From the Effective Date to the Lease Commencement Date, the Lease functions as a lease disposition and development agreement, and TIE uses good faith efforts to cause all conditions to be satisfied to obtain a Notice of Proceed with the Initial Improvements.

3.) **Lease Commencement Date:** The first day of the calendar month during which TIE receives the Notice to Proceed with the Initial Improvements.

4.) **Lease Expiration Date:** Sixty Six (66) years following the Lease Commencement Date, but in no event later than 2086.

5.) **Lease Term:** Sixty Six (66) years following the Lease Commencement Date. If TIE has not started construction of the Initial Improvements by December 31, 2022, then the Authority may terminate the Lease unless TIE fulfills all conditions needed to obtain the Notice to Proceed with the Initial Improvements and actually begins construction of the Initial Improvements within 60 days of Authority’s notice or such time as is extended by Authority. On the termination date, Authority has the right to terminate the existing Interim Sublease between TIE and the Authority. On the Lease Commencement Date, the Interim Sublease automatically terminates.

6.) **Base Rent:** Minimum Base Rent from the Effective Date is \$90,000 per year. TIE makes monthly payments of Minimum Base Rent, on or before the tenth (10th) day of each calendar month, initially in the amount of \$7,500.00. Minimum Base Rent is paid monthly throughout the Term.

7.) **Rent Adjustments:** Starting January 1, 2022 and each January 1 thereafter, Minimum Base Rent will increase by percentage increases in CPI, but not by less than 2% or more than 4%.

8.) **Percentage Rent:** For calendar year 2022 and each year thereafter, TIE pays to The Authority the higher of: (a) the then current Minimum Base Rent; or (b) the Percentage Rent. Percentage Rent is based on the following percentages of Gross Income:

Gross Income Source	Yr. 1 - 3	Yr. 4 - 5	Yr. 6+
Slip Rent/Dry Storage live aboard fees	5.0%	10%	15%
Food Service, if any	3.5%	3.5%	3.5%

*Other Revenues: guest fees,
merchandise sold, kayak,
bicycle or other recreational
rental fees, launch fees and
all other non-defined revenues

from lawful Uses. 5.0% 5.0% 5.0%

Percentage Rent is paid if it is higher than the Minimum Base Rent in arrears at the end of each calendar year during the Term, and for the last year, at the time of expiration or termination.

9.) **Rent Credit:** TIE receives a Rent Credit for prior payments made to the Authority and certain costs relating to the Initial Improvements including related dredging expenses. In no event will the Rent Credits exceed \$5,995,000.00:

10.) **Dredging:** TIE will perform or cause the performance of all dredging in Clipper Cove necessary for the construction of the Initial Improvements and the operation of its business. The Authority is not required to incur any dredging or other expenses in conjunction with the Lease or the marina development other than as part of the Rent Credits. Any additional future dredging (after the initial dredging for which TIE is given a rent credit) and other costs relating to the Lease or TIE's operations are TIE's sole responsibility without any credit, deduction, or offset.

11.) **Permitted Use:** An approximately 220-slip marina, open for rental to the general public, and related uses approved by the Authority. The Authority approves the following uses:

- (a) rental of boat slips to the public, ("Boat Slip Renters") for monthly boaters; up to twenty two (22) live-aboard boaters or ten percent (10%) of total boat slips constructed may be live-aboard boaters, whichever is less in conformance with the Bay Conservation and Development Commission regulations and Regulatory Approvals but subject to the prior approval of the TIDA Director following the adoption of guidelines for such use, which approval shall not be unreasonably withheld, conditioned or delayed;
- (b) short term mooring for water taxi service and recreational boats, boat storage, boat and other light water craft launching, buoy and mooring rentals, boat fuel sales, and transient boat moorage;
- (c) rental of dock lockers or other facilities to Boat Slip Renters only for boat owner's storage of personal boating paraphernalia;
- (d) boat launching and retrieving services for Boat Slip Renters and the general public;
- (e) minor marine services, defined as the sale and installation of small boat parts and components, and minor boat services and labor, inclusive of minor boat repairs, maintenance, cleaning, renovation, and similar minor services, to Boat Slip Renters only. Neither TIE nor any subtenant or licensee will operate a boat repair business at the Premises without the Authority's prior written consent;
- (f) day use rental of small craft boats and kayaks;
- (g) telecommunication and cable services for the marina;

(h) food, catering, beverage and alcoholic beverage services;

(i) guest boater and transient boater short-term use moorage with accessibility for the general public

TIE will charge market rates for slip fees, berth fees, dry stack storage fees and other moorage fees and services and goods sold from the Premises that are comparable to the market rates charged by other area marina operators in the San Francisco Bay Area.

TICD Property. Subject to TIE reaching an agreement with Treasure Island Community Development LLC (“TICD”), approved by the Authority, for TIE’s use of TICD space adjacent to the Premises, TIE may use such space for: (a) parking only for Boat Slip Renters, marina customers and guests; and (b) marina gathering spaces (including boat club), offices for marina management, restrooms and public convenience facilities, and (c) food and beverage services, including vending machines

12.) Security Deposit: \$15,000.00, as increased on each Adjustment Date to two times (2x) the then-applicable monthly Minimum Base Rent.

Pursuant to the Board of Supervisors Resolution establishing the Authority, AB 699 and TIDA's Bylaws, Board of Supervisors approval is required of any contract or agreement entered into by the Authority with a term longer than ten years or revenues in excess of One Million Dollars. Because the term of the proposed Lease will exceed ten years, the Authority requests approval of the Lease from the Board of Supervisors.

RECOMMENDATION

Confirm the San Francisco Planning Department’s determination that no additional environmental impacts that were not previously identified would occur as a result of the proposed lease; and approve the proposed Lease between the Treasure Island Development Authority and Treasure Island Enterprises, LLC, a California limited liability company, for the development and management of Treasure Island Marina.

Robert P. Beck, Treasure Island Director

*File # 181225
Received in Committee
3/20/19
fw*

Treasure Island Development Program

Treasure Island Marina Lease

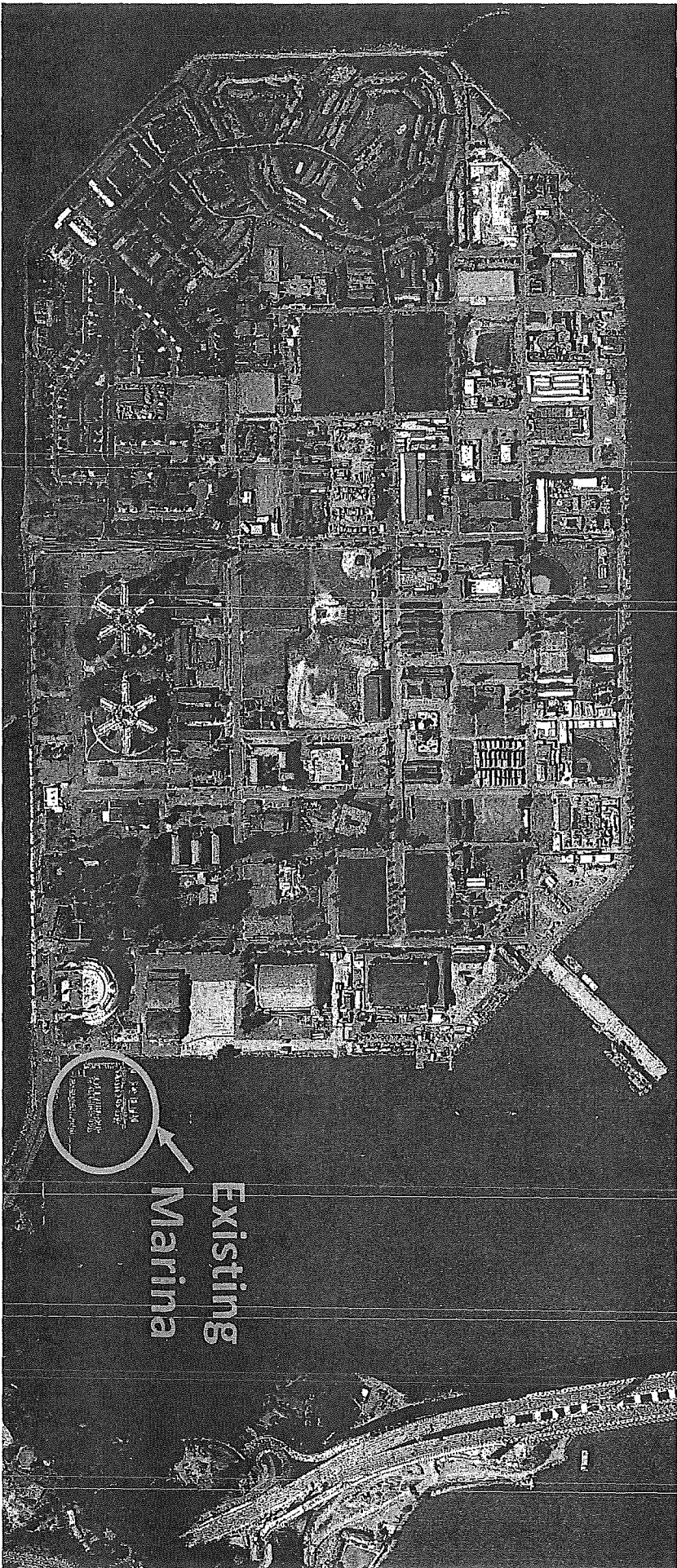
March 20, 2019

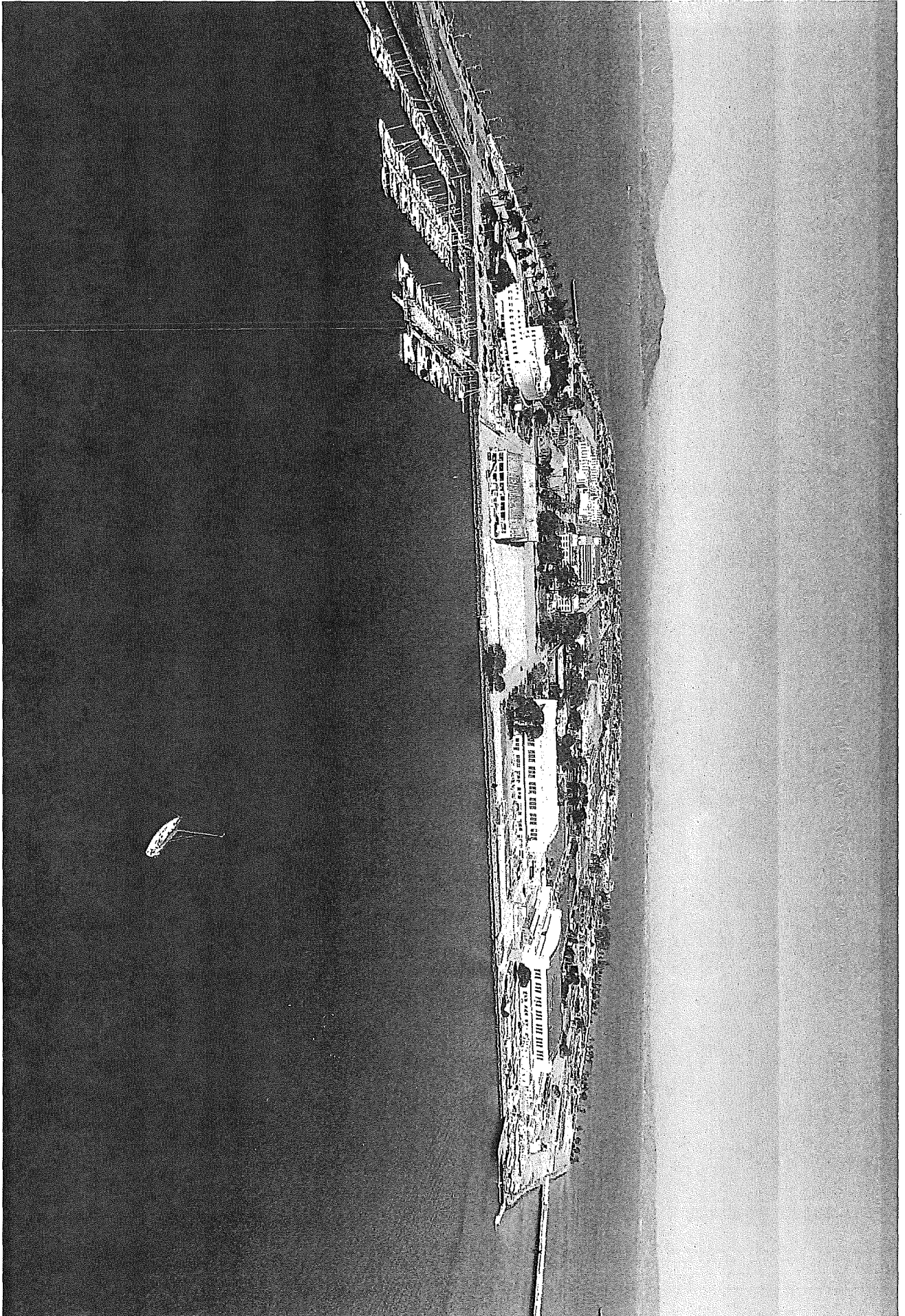


Treasure Island Marina History

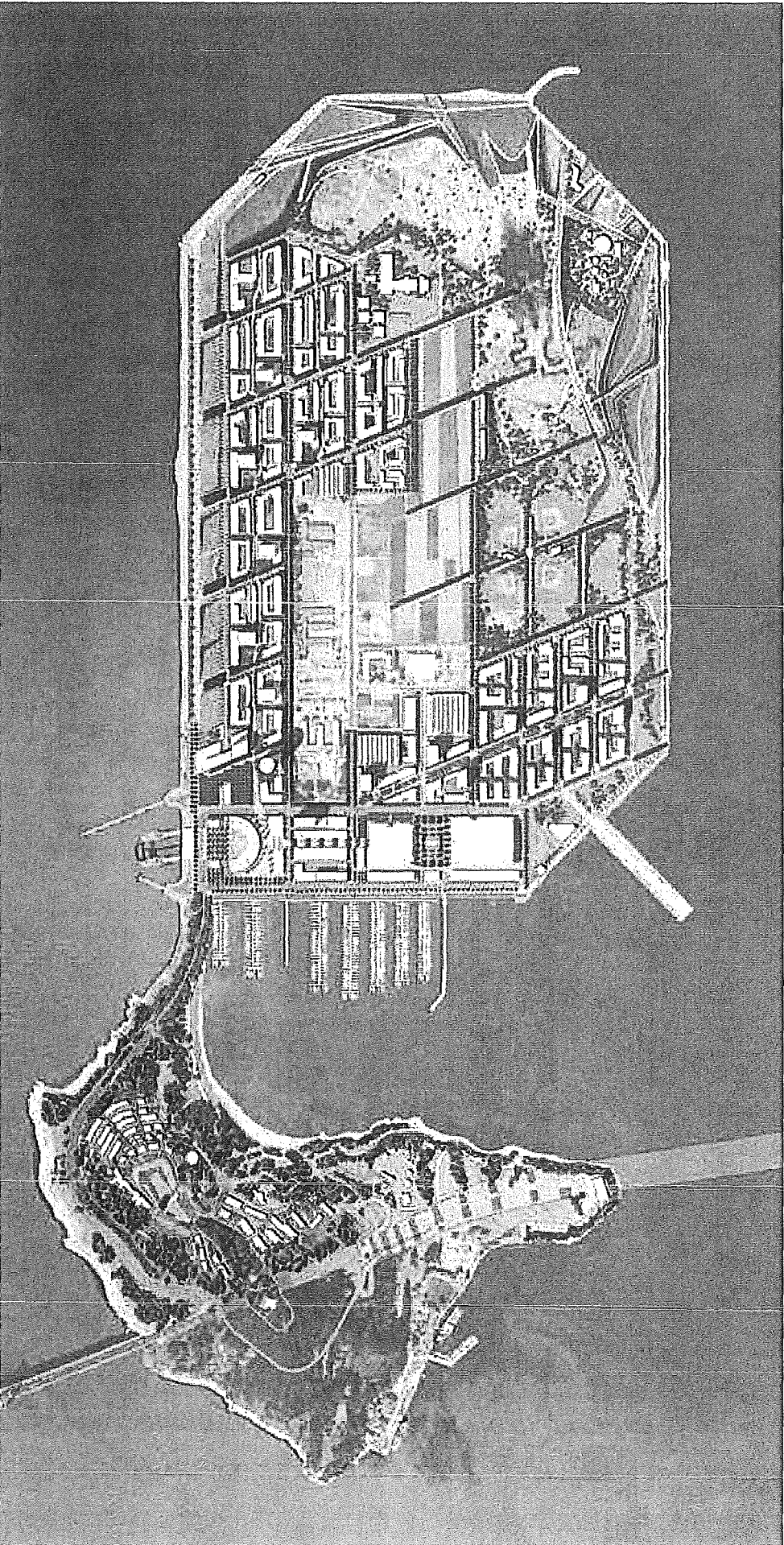
- The Treasure Island Yacht Club (formerly the Treasure Island Sailing Club) was created in 1966 and the Navy dedicated piers for use as a marina
- An improved and expanded marina was originally proposed in the initial 1996 Base Reuse Plan and has been part included in planning and programming since that time
- In 1999, TIDA entered into an initial lease with Treasure Island Enterprises (TIE) to operate the marina and an Exclusive Negotiating Agreement (ENA) for its replacement/expansion

Clipper Cove





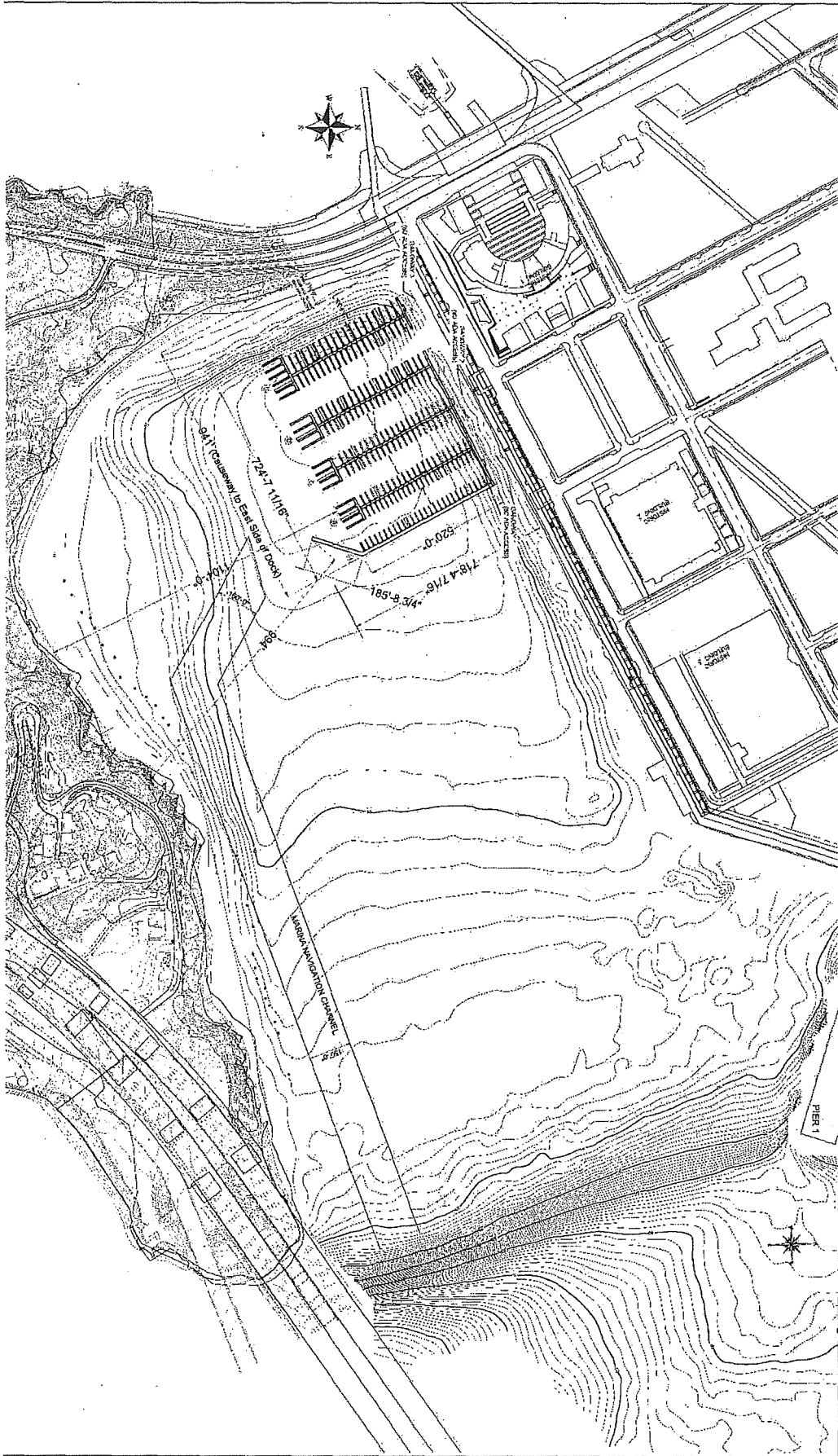
Originally Proposed Expansion



Proposed Marina Footprint

- Beginning in January 2015 there have been discussions about how the proposed marina expansion might be modified to better support the training programs of TISC and other activities in the Cove
- Several members of the Board of Supervisors, led by Supervisor Kim, helped facilitate these discussions
- On June 5, 2018 the Board of Supervisors adopted Resolution 173-18 on an 11-0 vote including a reduced marina development footprint

Resolution 173-18, Exhibit A



Resolution 173-18

The San Francisco Board of Supervisors finds that the footprint of the new marina is consistent with the vision of marina development in the Reuse Plan for Treasure Island Naval Station approved by the Board of Supervisors and further finds this footprint upholds the principle that marina development in Clipper Cove should not diminish the character of existing public recreation and public education on Clipper Cove, including most interim uses

Resolution 173-18

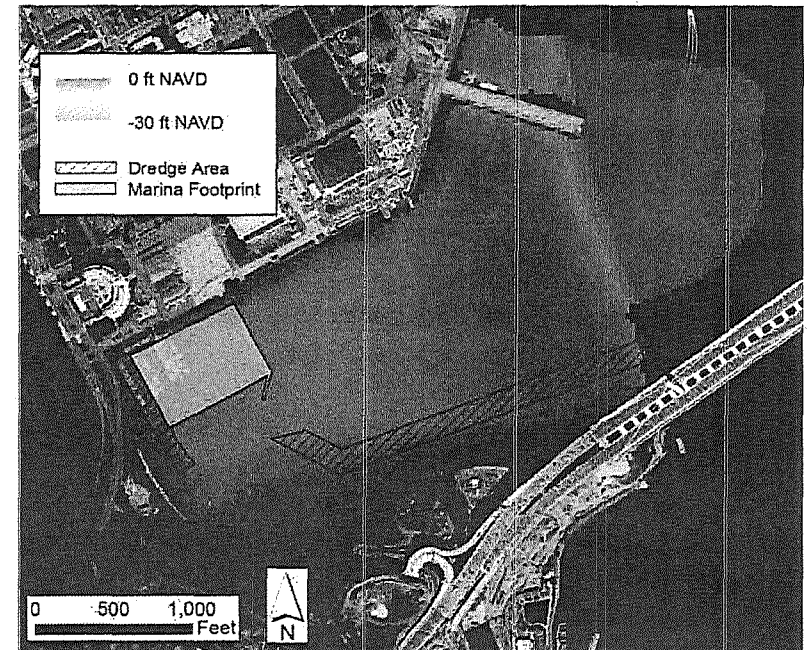
1. Marina redevelopment should not harm the existing environmental resources of Clipper Cove, particularly the eelgrass beds in the Cove
2. Marina redevelopment should not cause diminished water depth in other areas of the Cove
3. Marina redevelopment should provide consideration for current tenants in small and medium berths
4. City agencies and regulatory bodies should ensure appropriate environmental review is completed
5. Calling for a financial analysis of the proposed financing, projected revenue, and projected expenses of the marina development

Resolution 173-18

1. Marina redevelopment should not harm the existing environmental resources of Clipper Cove, particularly the eelgrass beds in the Cove
2. Marina redevelopment should not cause diminished water depth in other areas of the Cove
3. Marina redevelopment should provide consideration for current tenants in small and medium berths
4. City agencies and regulatory bodies should ensure appropriate environmental review is completed
5. Calling for a financial analysis of the proposed financing, projected revenue, and projected expenses of the marina development

Marina Development & Dredging

- TIDA commissioned a study by AECOM of potential impacts of Marina development on sedimentation rates and eelgrass bed habitat in Clipper Cove
- Concluded that the marina project would not change sedimentation patterns in the cove in a way that diminishes water depths
- Concluded that the marina project would not result in negative effects on eelgrass beds



Environmental Review

- The waterside impacts of the development of a 400 slip marina were evaluated in the 2006 EIR
- The marina's land use program was reevaluated in the 2011 EIR due to significant changes in the overall land use plan
 - 2011 EIR relied upon waterside 2006 analysis as proposed marina improvements were materially unchanged
- City Planning has reviewed the currently proposed marina configuration and concluded that the project is within the overall scope of the 2006 and 2011 EIRs

Existing Leaseholders

- Existing Marina slip holders will have the opportunity to relocate into the new slips that are created in the first two phases
- Slip rental rates will be set at market-rate based on comparable rents charged at other marinas within the greater San Francisco Bay Area
- If an existing slip holder's vessel is smaller than the available slips, they will be placed in the smallest available slip and charged a market rate based on the actual length of their vessel rather than the size of the slip occupied

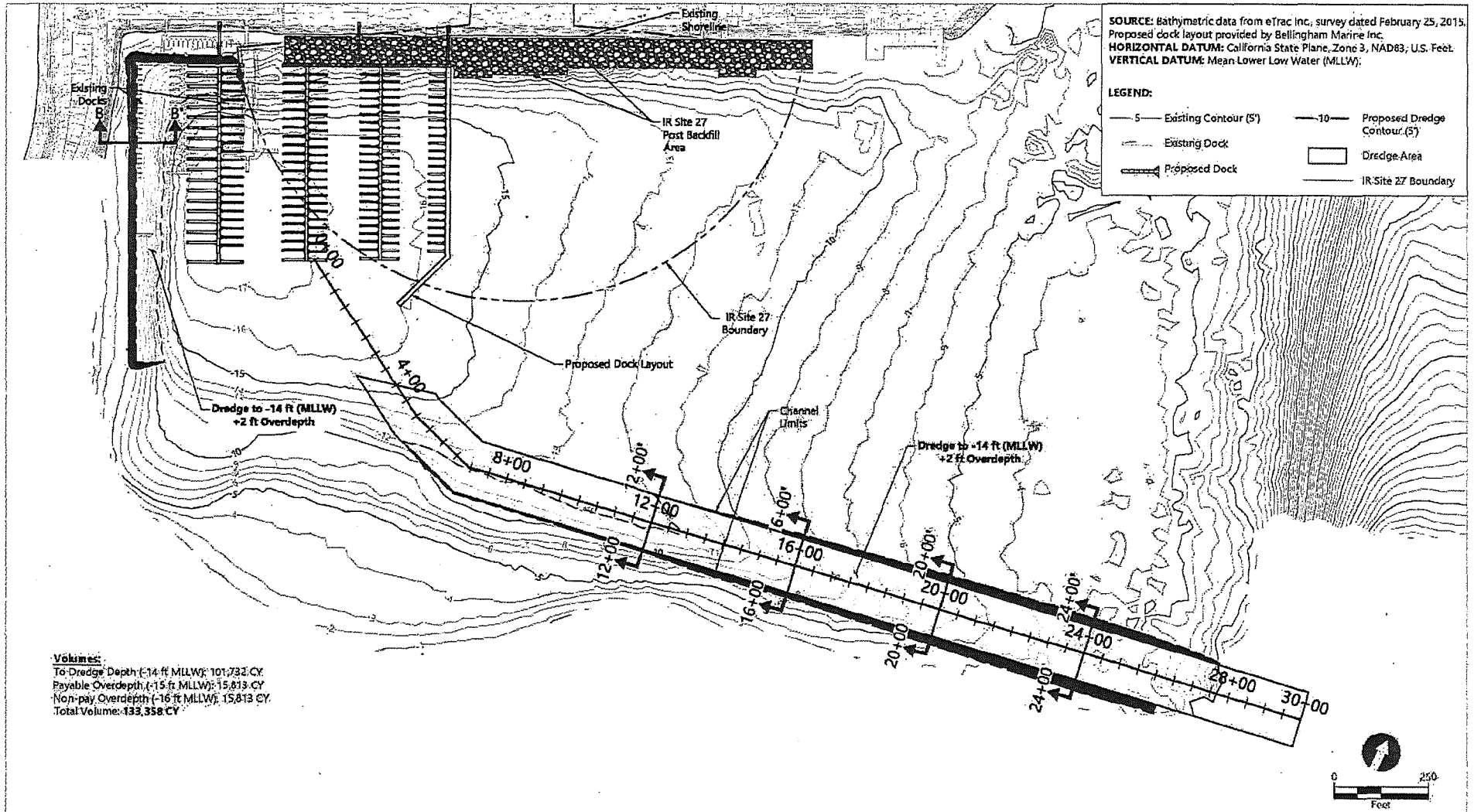
Fiscal Analysis

- TIE has provided an updated proforma based upon the footprint
- Through the Department of Real Estate, TIDA commissioned an appraisal by Clifford Advisory, LLC, for the fair market value of the marina leasehold
 - Set a market rent valuation at \$90,000 per month.
- These materials were provided to the Budget Analyst's Office in preparing their report

Lease Terms

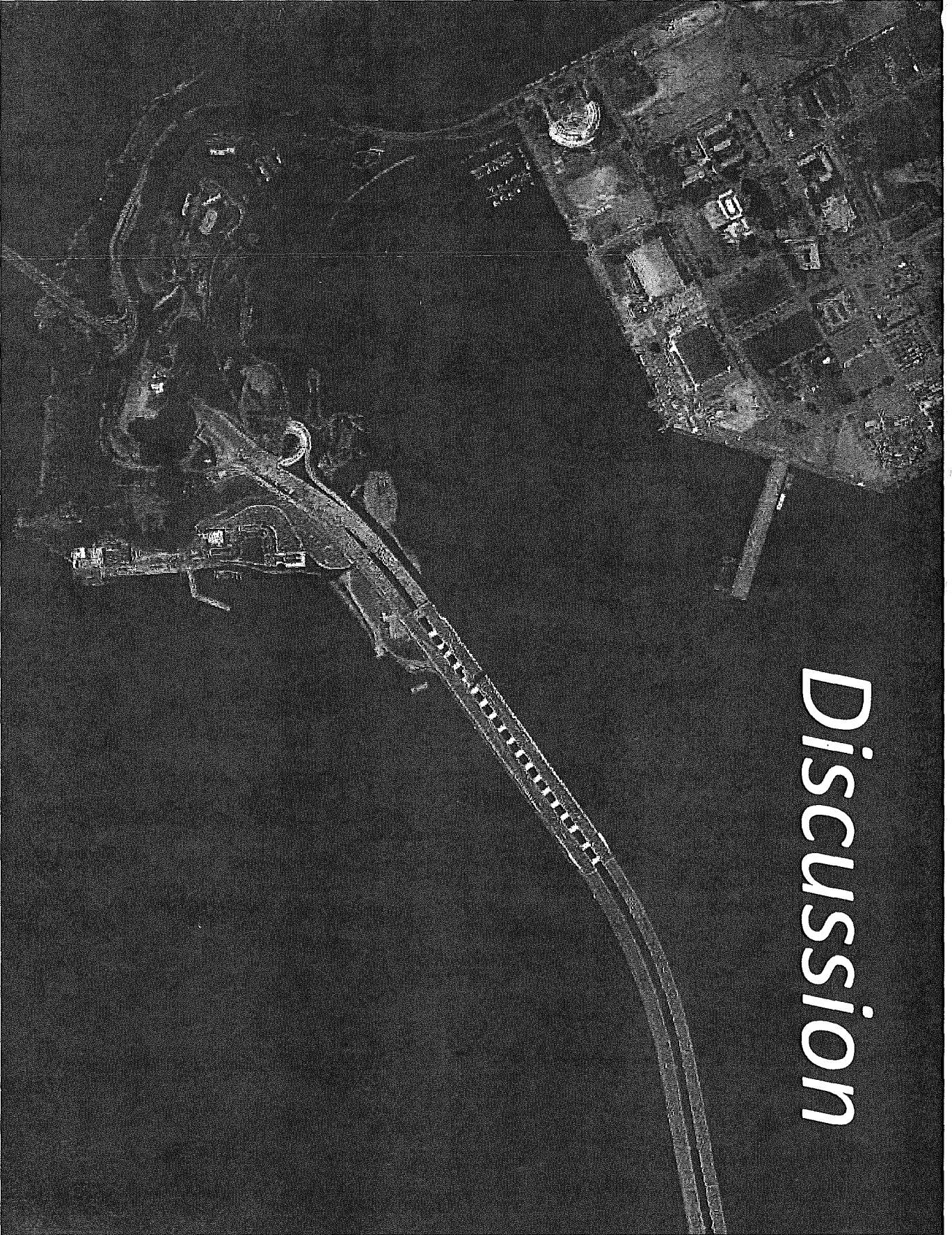
- Premises: Approximately 724 lineal ft. by 718 lineal ft. of dock space capable of supporting up to 220 slips
- Base Rent: Initial base rent of \$90,000 per year
 - Annually adjusted based on CPI, subject to min & max adjustment
- Percentage Rent: Slip rentals, dry storage, live aboard fees, food service, and other gross revenues
 - Rent Credits against percentage rent for initial dredging; future maintenance dredging is leaseholder's exclusive responsibility
- Schedule of Performance:
 - TIE has up to eight years to complete all marina improvements

Initial Dredging



Proposed Resolution

- Would authorize the Authority to enter into the proposed marina lease with TIE and adopt previous environmental findings/MMRP
- Marina expansion will require Joint Aquatic Resources Permit Application (JARPA) review culminating in Bay Conservation and Development Commission (BCDC) consideration
 - Army Corps of Engineers, Regional Water Board, Fish & Game



Discussion



United Brotherhood of Carpenters
and Joiners of America
LOCAL UNION NO. 22

February 1, 2019

President Norman Yee
San Francisco Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

RE: Support for Treasure Island Marina

Dear President Yee and fellow Supervisors,

On behalf of Carpenters Local Union 22, representing more than 3,650 workers in San Francisco, we are writing to urge you to support the Treasure Island Enterprises (TIE) marina lease when it comes before the Board of Supervisors in the near future.

As you may know, Carpenters Union Local 22 has been involved with the redevelopment of Treasure Island for many years. We have supported the TI project and the TIE marina on many occasions and were pleased when the marina developer, Board of Supervisors (in its June 2018 Resolution No. 173-18, approved 11-0), Treasure Island Development Authority (TIDA) and other community stakeholders reached a compromise reducing the size and location of the TIE marina. This ensures that the Treasure Island Sailing Center, its youth and other community sailing programs are protected and the marina project can move forward.

Considering the marina project has been a part of the overall redevelopment of Treasure Island since 1998;
the developer, with the Board of Supervisors direction, has made significant compromises to reduce the size and scope of the marina project. It is time for the TIE marina project to advance and the Board's approval of the lease is the next step.

Based on these facts, we are writing to urge the Board to approve the lease for the marina when it comes before you in the near future, and want to thank you for your anticipated support for the TIE marina project. Please contact me if you have any questions concerning this letter.

Sincerely,

Todd Williams
Senior Field Representative

cc: London Breed
Board Clerk Angela Calvillo

sko/opeciu29/afl-cio



18 - 31 - 07/11

1 [TREASURE ISLAND ENTERPRISES – MARINA LEASE AND CEQA FINDINGS]

2 Resolution (i) making CEQA Findings and adopting a Mitigation Monitoring and
3 Reporting Program (MMRP) for the marina project and confirming the San Francisco
4 Planning Department's determination that no additional environmental impacts would
5 occur as a result of project implementation and no additional environmental analysis
6 other than the Case File memorandum attached as Exhibit A would be required under
7 CEQA; and (ii) approving and authorizing the execution of a sixty six (66) year lease
8 agreement between the Treasure Island Development Authority and Treasure Island
9 Enterprises, LLC, a California limited liability company, for the development and
10 management of the Treasure Island Marina.

11 WHEREAS, Naval Station Treasure Island is a military base located on Treasure Island
12 and Yerba Buena Island (together, the "Base"), which is currently owned by the United States
13 of America ("the Federal Government"); and,

14 WHEREAS, The Base was selected for closure and disposition by the Base
15 Realignment and Closure Commission in 1993, acting under Public Law 101-510, and its
16 subsequent amendments; and,

17 WHEREAS, On May 2, 1997, the Board of Supervisors passed Resolution No. 380-97,
18 authorizing the Mayor's Treasure Island Project Office to establish a nonprofit public benefit
19 corporation known as the Treasure Island Development Authority (the "Authority") to act as a
20 single entity focused on the planning, redevelopment, reconstruction, rehabilitation, reuse and
21 conversion of the Base for the public interest, convenience, welfare and common benefit of
22 the inhabitants of the City and County of San Francisco; and,

23 WHEREAS, Under the Treasure Island Conversion Act of 1997 (the "Act"), which
24 amended Section 33492.5 of the California Health and Safety Code and added Section 2.1 to
25

1 Chapter 1333 of the Statutes of 1968, the California Legislature (i) designated the Authority as
2 a redevelopment agency under California redevelopment law with authority over the Base
3 upon approval of the City's Board of Supervisors, and (ii) with respect to those portions of the
4 Base which are subject to the Tidelands Trust, vested in the Authority the authority to
5 administer the public trust for commerce, navigation and fisheries as to such property; and,

6 WHEREAS, On February 6, 1998, the Board of Supervisors adopted Resolution No.
7 43-98 approving the designation of the Authority as a redevelopment agency for Treasure
8 Island and Yerba Buena Island; and,

9 WHEREAS, On January 24, 2012, the Board of Supervisors rescinded designation of
10 the Authority as the redevelopment agency for Treasure Island under California Community
11 Redevelopment Law in Resolution No. 11-12; although such rescission does not affect
12 Authority's status as the Local Reuse Authority for Treasure Island or the Tidelands Trust
13 trustee for the portions of Treasure Island subject to the Tidelands Trust, or any other powers
14 or authority of the Authority; and

15 WHEREAS, The Authority, together with the San Francisco Planning Department, are
16 the Lead Agencies responsible for the implementation of the California Environmental Quality
17 Act ("CEQA") for this area and have undertaken a planning and environmental review process
18 for the development and expansion of the Treasure Island Marina (the "Project") and provided
19 for appropriate public hearings before the respective Commissions; and,

20 WHEREAS, On June 22, 1999, the Authority Board of Directors approved the
21 Exclusive Negotiating Agreement ("ENA") with Treasure Island Enterprises, LLC, a California
22 limited liability company ("TIE"), pursuant to which the parties agreed, among other things, to
23 negotiate in good faith with each other to enter into a lease disposition and development
24
25

1 agreement and ground lease and any necessary transaction documents for the Project, as
2 well as a sublease for the interim operation of the Treasure Island Marina; and,

3 WHEREAS, Since the execution of the ENA, TIE has operated the Treasure Island
4 Marina consisting of 110 boat slips, and has participated in many Treasure Island related
5 activities and collaborated with many Treasure Island groups, such as One Treasure Island,
6 Treasure Island Sailing Center, and Treasure Island Yacht Club, in order to better understand
7 the needs of the community for the Project; and,

8
9 WHEREAS, On October 30, 2017, the Authority Board of Directors adopted the CEQA
10 Findings and Mitigation Monitoring and Reporting Program, and approved a 66 year Lease
11 with TIE for the development and management of a 313-slip marina; and,

12 WHEREAS, Certain organizations objected to the size of the Authority - approved
13 marina expansion, and in in-response to these concerns, Supervisor Kim introduced a
14 resolution calling for further refinement of the proposed project; and,

15
16 WHEREAS, TIE met with concerned stakeholders and negotiated further reductions to
17 the size of the TIE marina; and on June 5, 2018, the San Francisco Board of Supervisors
18 reviewed the TIE's May 2018 marina plan, and unanimously passed Supervisor Kim's
19 modified resolution, Number 173-18, File Number 180331, finding (i) the footprint of the May
20 2018 marina plan consistent with the development Reuse Plan; (ii) the marina redevelopment
21 does not diminish existing public recreation in Clipper Cove; and (iii) made other findings
22 consistent with the May 2018 marina plan; and,

23
24 WHEREAS, The revised plan shrinks the footprint of the marina as described in the
25 lease approved by the Authority Board last October to a footprint of approximately 941 feet by

1 718 feet and reduces the number of proposed berths from 313 to approximately 220 slips;

2 and,

3 WHEREAS, Authority and TIE have been working for almost two decades to plan for
4 the reuse and redevelopment of Treasure Island, including the proposed Project, and have
5 conducted environmental review under CEQA; and,

6 WHEREAS, On August 23, 2003, the Planning Department and Authority released for
7 public review and comment the Draft Environmental Impact Report for the Transfer and
8 Reuse of Naval Station Treasure Island (Planning Department File No. 94.448E), which
9 includes both a program-level analysis of the transfer of the portions of the former base from
10 the United States Navy to the City and County of San Francisco and a project-level analysis
11 for the marina development; and,

12
13 WHEREAS, The Planning Commission and the Authority Board of Directors held a joint
14 public hearing on October 2, 2003 on the Draft Environmental Impact Report and received
15 written public comments until October 21, 2003, for a total of 60 days of public review; and,

16
17 WHEREAS, The Planning Department and Authority prepared a Final Environmental
18 Impact Report ("2006 FEIR") for the Transfer and Reuse of Naval Station Treasure Island
19 consisting of the Draft Environmental Impact Report, the comments received during the
20 review period, any additional information that became available after the publication of the
21 Draft Environmental Impact Report, and the Comments and Responses, all as required by
22 law, a copy of which is on file with the Planning Department under Case No. 94.448E, which
23 is incorporated into this motion by this reference; and,
24
25

1 WHEREAS, On May 5, 2005, the Planning Commission, by Motion No. 17020, and the
2 Authority Board of Directors, by Resolution 05-017-5105, as co-lead agencies, certified the
3 2006 FEIR and made certain environmental findings under CEQA; and,

4 WHEREAS, On July 12, 2010, the Planning Department and Authority released for
5 public review and comment the Draft Environmental Impact Report for the Treasure
6 Island/Yerba Buena Island Project (Planning Department Case No. 2007.0903E), which
7 analyzed the impacts of the proposed master development, including an analysis of the new
8 and upgraded landside and waterside facilities for the existing Treasure Island Sailing Center,
9 located adjacent the marina at Clipper Cove, to the east, and landside services and
10 improvements for the proposed expanded marina; and,

12 WHEREAS, The Planning Commission and the Authority Board of Directors held a joint
13 public hearing on August 12, 2010 on the Draft Environmental Impact Report and received
14 written public comments until August 26, 2010, for a total of 45 days of public review; and,

15 WHEREAS, The Planning Department and Authority prepared a Final Environmental
16 Impact Report ("2011 FEIR") for the Treasure Island/Yerba Buena Island Project consisting of
17 the Draft Environmental Impact Report, the comments received during the review period, any
18 additional information that became available after the publication of the Draft Environmental
19 Impact Report, and the Draft Summary of Comments and Responses, all as required by law,
20 a copy of which is on file with the Planning Department under Case No. 2007.0903E, which is
21 incorporated into this motion by this reference; and,

22 WHEREAS, On April 21, 2011, the Planning Commission by Motion No. 18325, and
23 the Authority Board of Directors, by Resolution No. 11-14-04/21, as co-lead agencies, certified
24
25

1 the completion of the 2011 FEIR, and unanimously approved a series of entitlement and
2 transactional documents, including certain environmental findings under CEQA and a
3 Mitigation Monitoring and Reporting Program ("MMRP"); and,

4 WHEREAS, On June 7, 2011, in Motion No. M11-0092, the Board of Supervisors
5 unanimously affirmed certification of the 2011 FEIR, and on that same date, the Board of
6 Supervisors, in Resolution No. 246-11, adopted CEQA findings and the MMRP, and made
7 certain environmental findings under CEQA; and,

8
9 WHEREAS, Subsequent to the certification of the 2006 FEIR and the 2011 FEIR, TIE
10 proposed several updates to the Project due to: (1) evolution and modernization of marina
11 design, (2) United States Navy and California regulatory requirements relating to the cleanup
12 work that was performed by the Navy at the Treasure Island Marina, and (3) conformance
13 with the Division of Boating and Waterways (DBW) Guidelines for Marina Berthing Facilities
14 that receive state funding; and,

15
16 WHEREAS; The Planning Department prepared a Case File Memorandum on July 5,
17 2017 (the "2017 Memorandum"), which identified the proposed revisions to the Project and
18 concluded that the proposed revisions to the Project would result in no additional
19 environmental impacts, that the severity of impacts already-identified in the 2006 EIR and the
20 2011 EIR would not increase, and that no additional environmental analysis would be required
21 under CEQA. As such, pursuant to California Public Resources Code Section Section 21166
22 and CEQA Guidelines Section 15162, the Planning Department concluded that a subsequent
23 or supplemental environmental impact report is not required; and,
24
25

1 WHEREAS, The 2006 FEIR, the 2011 FEIR, the 2017 Memorandum and other Project-
2 related files have been made available for review by the Planning Commission, the Planning
3 Department, the Authority Board of Directors and the public, and those files are part of the
4 record before Authority; and,

5 WHEREAS, The Planning Department and Authority prepared proposed Findings, as
6 required by CEQA, regarding the alternatives, mitigation measures and significant
7 environmental impacts analyzed in the 2006 FEIR, 2011 FEIR, and overriding considerations
8 for approving the Project, attached as Attachment A-1, including a the MMRP, which was
9 made available to for Authority's review and consideration (collectively, the "CEQA Findings");
10 and,
11

12 WHEREAS, Authority staff and TIE have negotiated a sixty-six (66) year lease, a copy
13 of which is in the Authority Board file (the "Lease"), whereby TIE would develop and manage
14 the Treasure Island Marina consisting of approximately 220-slips in Clipper Cove, and the
15 Authority will also provide nonexclusive use / access to the common water areas of Clipper
16 Cove and to the adjacent landside areas; and,
17

18 WHEREAS, Under the Lease, (1) TIE would construct a new Treasure Island Marina in
19 three phases, at an estimated project cost of \$22,500,000, (2) existing boat slip holders would
20 have an opportunity to relocate into the new slips that are created in the first two phases, and
21 (3) rents to be charged to boat slip holders for the new Treasure Island Marina will be
22 comparable to other premium marinas in the greater San Francisco Bay Area; and,
23

24 WHEREAS, Under the Lease, TIE will pay a minimum monthly base rent of \$7,500.00
25 per month or \$90,000 annually, with future CPI adjustments, and an annual percentage rent

1 based upon gross receipts, if such amount is higher than the minimum base rent under the
2 formula set forth in the Lease; now, therefore be it

3 RESOLVED, That the Authority Board of Directors has reviewed and considered the
4 2006 FEIR, 2011 FEIR and the 2017 Memorandum, and hereby adopts the CEQA Findings;
5 and be it

6 FURTHER RESOLVED, That the Authority Board of Directors confirms the San
7 Francisco Planning Department's determination that no additional environmental impacts
8 would occur as a result of project implementation and no additional environmental analysis
9 other than the Case File memorandum attached hereto as Exhibit A would be required under
10 CEQA; and be it

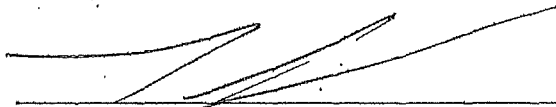
11 FURTHER RESOLVED, That the Authority Board of Directors approves the Lease,
12 substantially in the form on file with the Secretary of the Board, subject to the approval of the
13 Board of Supervisors, and subject to all mitigation measures detailed in the MMRP included in
14 Exhibit A-1 herein that are relevant to the Project, and determines that the development of the
15 Treasure Island Marina proposed under the Lease is in the best interests of Authority, the
16 City, and the health, safety, morals and welfare of its residents, and is in accordance with the
17 public purposes and provisions of applicable federal, state and local laws and requirements;
18 and be it

19 FURTHER RESOLVED, That the Board of Directors hereby authorizes the Treasure
20 Island Director to execute and perform the Authority's obligations under the Lease, and to
21 enter into any additions, amendments or other modifications to the Lease that the Treasure
22 Island Director determines in consultation with the City Attorney are in the best interests of the
23
24
25

1 Authority, that do not materially increase the obligations or liabilities of the Authority, that do
2 not materially reduce the rights of the Authority, or are necessary or advisable to complete the
3 preparation and approval of the Agreement, such determination to be conclusively evidenced
4 by the execution and delivery by the Treasure Island Director of the documents and any
5 amendments thereto.

6
7
8
9 **CERTIFICATE OF SECRETARY**

10 I hereby certify that I am the duly elected Secretary of the Treasure Island
11 Development Authority, a California nonprofit public benefit corporation, and that the
12 above Resolution was duly adopted and approved by the Board of Directors of the
13 Authority at a properly noticed meeting on July 11, 2018.

14
15 

16
17 **Mark Dunlop, Secretary**

Wong, Linda (BOS)

From: Board of Supervisors, (BOS)
Sent: Tuesday, February 12, 2019 4:32 PM
To: Wong, Linda (BOS)
Subject: FW: Support Letters for Treasure Island Marina--February 7, 2019
Attachments: SKM_C554e19020718210.pdf

From: Jay Wallace <jwallace@jaywallaceassociates.com>
Sent: Thursday, February 07, 2019 6:18 PM
To: Yee, Norman (BOS) <norman.yee@sfgov.org>; Fewer, Sandra (BOS) <sandra.fewer@sfgov.org>; Stefani, Catherine (BOS) <catherine.stefani@sfgov.org>; Safai, Ahsha (BOS) <ahsha.safai@sfgov.org>; Peskin, Aaron (BOS) <aaron.peskin@sfgov.org>; Ronen, Hillary <hillary.ronen@sfgov.org>; Mar, Gordon (BOS) <gordon.mar@sfgov.org>; Brown, Vallie (BOS) <vallie.brown@sfgov.org>; Haney, Matt (BOS) <matt.haney@sfgov.org>; Mandelman, Rafael (BOS) <rafael.mandelman@sfgov.org>; Walton, Shamann (BOS) <shamann.walton@sfgov.org>; Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Cc: Breed, Mayor London (MYR) <mayorlondonbreed@sfgov.org>; Beck, Bob (MYR) <bob.beck@sfgov.org>
Subject: Re: Support Letters for Treasure Island Marina--February 7, 2019

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear President Yee and Supervisors:

Enclosed please find several letters of support for the Treasure Island Marina. Please include these letters, along with the prior letters submitted, in the Board's packet for this matter. Thank you.

Jay Wallace
Kenwood Investments, LLC
Platinum Advisors, LLC
170 Columbus Avenue, #240
San Francisco, CA 94133
415-601-2081
jwallace@jaywallaceassociates.com



February 7, 2019

Supervisor Norman Yee, President
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

RE: Support for Treasure Island Marina Project

Dear President Yee and Fellow Supervisors:

One Treasure Island (formerly known as the Treasure Island Homeless Development Initiative) and its members have participated in the development planning for Treasure Island for since the Naval Station was slated for decommissioning about 25 years ago. The development plan has always included a new marina since the existing marina was not deemed to be viable over time.

The purpose of this letter is to urge you to support the Treasure Island Enterprises' new marina project.

Over 13 years have passed since the marina was first approved by TIDA as part of the 2006 Final Environmental Impact Report and this project has been vetted in public many times over the years. The new marina is ready for its final approvals and One Treasure Island urges you to support the project when it comes before the Board.

Treasure Island Enterprises has proven to be a supporter for an inclusive Treasure Island and for the Treasure Island community in general, making their lease compatible with the long-term vision for the island.

We sincerely hope you will support the new marina,

Very truly yours,

A handwritten signature in black ink, appearing to read "N. Bonnewit".

Natalie Bonnewit

Acting Executive Director

CC: Bob Beck, TIDA Director
Supervisor Brown
Supervisor Fewer
Supervisor Haney
Supervisor Mandelman
Supervisor Mar
Supervisor Peskin
Supervisor Ronen
Supervisor Safai
Supervisor Stefani
Supervisor Walton

LABORERS' INTERNATIONAL UNION OF NORTH AMERICA

LOCAL UNION NO. 261

February 5, 2019

Via Email to Each Supervisor

President Norman Yee and Supervisors City Hall, Room 244
1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102

RE: Support for Treasure Island Marina

Dear President Yee and fellow Supervisors:


On behalf of LIUNA Local Union 261, representing more than 5000 workers in San Francisco, we are writing to urge you to support the Treasure Island Enterprises (TIE) marina lease when it comes before you in the near future.

As you may know, Laborers' Local Union 261 has been involved with the redevelopment of Treasure Island for many years. We have supported the TI project and the TIE marina on many occasions and were pleased when the marina developer, the Board of Supervisors (in its June 2018 Resolution No. 173-18, approved 11-0), the Treasure Island Development Authority (TIDA) and other community stakeholders reached a compromise reducing the size and location of the TIE marina to ensure that the Treasure Island Sailing Center and its youth and other community sailing programs are protected and the marina can move forward.

Given that the marina project has been a part of the overall redevelopment of Treasure Island since 1998 and the developer, with the Board of Supervisor's direction, made compromises by reducing the size and scope of the marina project, it is time to get TIE's marina project moving, and the Board's approval of the lease is the next step.

Based on these facts, we are writing to urge the Board to approve the lease for the marina when it comes before you in the near future and want to thank you for your anticipated support for the TIE marina project. Please contact me if you have any questions concerning this letter.

Sincerely,



RAMON HERNANDEZ
BUSINESS MANAGER

CC: Mayor London Breed
Board Clerk Angela Calvillo



RAMON HERNANDEZ
Business Manager

DAVID DE LA TORRE
Secretary-Treasurer

JESUS VILLALOBOS
President

JAVIER FLORES
Vice President

VINCE COURTNEY
Recording Secretary

OSCAR DE LA TORRE
Executive Board

JOSE DE LA MORA
Executive Board

SAN FRANCISCO

3271 18th Street
San Francisco, CA 94110
Phone: (415) 826-4550
Fax: (415) 826-1948

SAN MATEO COUNTY

200 7th Avenue
San Mateo, CA 94401
Phone: (650) 344-7168
Fax: (650) 344-5357

MARIN COUNTY

4174 Redwood Highway
San Rafael, CA 94913
Phone: (415) 492-0936
Fax: (415) 492-8233

Becky Hogue
Treasure Island
San Francisco, CA
Becky.hogue123@yahoo.com

February 6, 2019

Via Email:

Re: Support for Treasure Island Marina

President Norman Yee and Supervisors:
City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Dear President Yee and Fellow Supervisors:

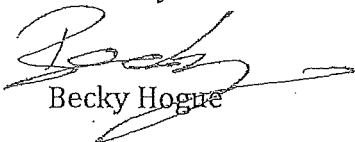
I am writing to let you know that I support the Treasure Island Marina and my hope that you will approve the marina and the marina lease when it comes before the Board in the near future.

Some of you know me from my long service to the community, but you may not know that I have been a Treasure Island resident for more than 15 years and a member of the Treasure Island Citizens Advisory Board (TI CAB) for just as long. My commitment to Treasure Island has been and remains unwavering.

Towards that end, I have participated in planning the future of the TI marina and Clipper Cove for more than a decade. During that time, the marina has been reduced in size from 400 slips down to 200 slips. The developer of the marina, Treasure Island Enterprises, LLC (TIE) has made many concessions, as directed by prior Board of Supervisors' actions, that have reduced the size of the marina in an effort to promote the Sailing Center and other community users in Clipper Cove while maintaining a viable marina. That is the plan before you now and one that should be approved.

I hope that the Board of Supervisors will support the current marina plan and the marina lease when it comes before you soon. After so many years of planning for Treasure Island in general, and the marina, in particular, it is time now to approve the marina and to continue on the path to the future at Treasure Island. Thank you for your consideration of my views in support of the TI Marina.

Sincerely


Becky Hogue

SPRINKLER FITTERS AND APPRENTICES

LOCAL 483

OF THE UNITED ASSOCIATION OF PLUMBERS,
PIPEFITTERS AND SPRINKLER FITTERS OF THE
UNITED STATES AND CANADA AFL-CIO

Stanley M. Smith
Business Manager

Jeffrey M. Dixon
John Medina
Organizers

Dylan M. Boldt
Tony Rodriguez
Dan Torres
Business Agents

Rik Drury
Market Development
Representative

February 6, 2019

Via Email to Each Supervisor

President Norman Yee and Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco CA 94102

Reference: Support for Treasure Island Marina

Dear President Yee and fellow Supervisors:

On behalf of Sprinkler Fitters, UA Local 483, representing more than 1200 workers in San Francisco, we are writing to urge you to support the Treasure Island Enterprises (TIE) Marina lease when it comes before you in the near future.

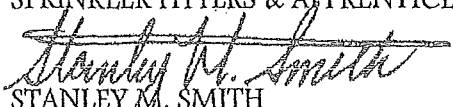
Sprinkler Fitters, Local 483 has been involved with the redevelopment of Treasure Island for many years. We have supported the TI project and the TIE marina in the past and were pleased when the marina developer, the BOS (in its June 2018 Resolution No. 173-18), the TIDA and other community stakeholders reached a compromise to ensure that the Treasure Island Sailing Center and its youth and other community sailing programs are protected and the marina can move forward.

Given that the marina project has been a part of the overall redevelopment of Treasure Island since 1998 and the developer, with the Boards of Supervisor's direction, made compromises by reducing the size and scope of the marina project, it is time to get TIE's marina project moving, and the Board's approval of the lease is the next step.

Based on these facts, we are writing to urge the Board to approve the lease for the marina when it comes before you in the near future. Thank you in advance for your anticipated support for the TIE marina project.

Sincerely,

SPRINKLER FITTERS & APPRENTICES


STANLEY M. SMITH
Business Manager/Financial Secretary

cc: Mayor London Breed
Board Clerk Angela Calvillo

SMS/sw
OPEIU-29-AFL-CIO

2525 Barrington Court • Hayward, California 94545

Telephone (510) 785-8483 • Fax (510) 785-8508

www.sprinklerfitters483.org



United Brotherhood of Carpenters
and Joiners of America
LOCAL UNION NO. 22

003-11
83F Clerk
File No. 18/225

February 1, 2019

President Norman Yee
San Francisco Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

RE: Support for Treasure Island Marina

Dear President Yee and fellow Supervisors,

On behalf of Carpenters Local Union 22, representing more than 3,650 workers in San Francisco, we are writing to urge you to support the Treasure Island Enterprises (TIE) marina lease when it comes before the Board of Supervisors in the near future.

As you may know, Carpenters Union Local 22 has been involved with the redevelopment of Treasure Island for many years. We have supported the TI project and the TIE marina on many occasions and were pleased when the marina developer, Board of Supervisors (in its June 2018 Resolution No. 173-18, approved 11-0), Treasure Island Development Authority (TIDA) and other community stakeholders reached a compromise reducing the size and location of the TIE marina. This ensures that the Treasure Island Sailing Center, its youth and other community sailing programs are protected and the marina project can move forward.

Considering the marina project has been a part of the overall redevelopment of Treasure Island since 1998; the developer, with the Board of Supervisors direction, has made significant compromises to reduce the size and scope of the marina project. It is time for the TIE marina project to advance and the Board's approval of the lease is the next step.

Based on these facts, we are writing to urge the Board to approve the lease for the marina when it comes before you in the near future, and want to thank you for your anticipated support for the TIE marina project. Please contact me if you have any questions concerning this letter.

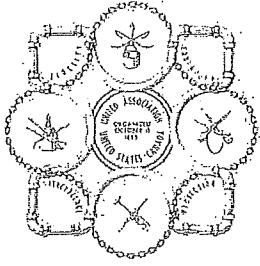
Sincerely,

Todd Williams
Senior Field Representative

cc: London Breed
Board Clerk Angela Calvillo

sko/opeiu29/afl-cio





**UNITED ASSOCIATION OF JOURNEYMEN AND APPRENTICES
OF THE PLUMBING AND PIPE FITTING INDUSTRY**

LOCAL UNION NO. 38

1621 MARKET STREET • SAN FRANCISCO, CA 94103

February 5, 2019

Via Email to Each Supervisor

President Norman Yee and Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

RE: Support for Treasure Island Marina

Dear President Yee and fellow Supervisors:

On behalf of Plumbers & Pipefitters Local Union 38, representing more than 2500 workers in San Francisco, we are writing to urge you to support the Treasure Island Enterprises (TIE) marina lease when it comes before you in the near future.

As you may know, Plumbers & Pipefitters Local Union 38 has been involved with the redevelopment of Treasure Island for many years. We have supported the TI project and the TIE marina on many occasions and were pleased when the marina developer, the Board of Supervisors (in its June 2018 Resolution No. 173-18, approved 11-0), the Treasure Island Development Authority (TIDA) and other community stakeholders reached a compromise reducing the size and location of the TIE marina to ensure that the Treasure Island Sailing Center and its youth and other community sailing programs are protected and the marina can move forward.

Given that the marina project has been a part of the overall redevelopment of Treasure Island since 1998 and the developer, with the Board of Supervisor's direction, made compromises by reducing the size and scope of the marina project, it is time to get TIE's marina project moving, and the Board's approval of the lease is the next step.

Based on these facts, we are writing to urge the Board to approve the lease for the marina when it comes before you in the near future and want to thank you for your anticipated support for the TIE marina project. Please contact me if you have any questions concerning this letter.

Sincerely,

LARRY MAZZOLA, JR
Bus.Mgr. & Fin.Secty-Treas.

CC: Mayor London Breed
Board Clerk Angela Calvillo

Wong, Linda (BOS)

From: Board of Supervisors, (BOS)
Sent: Tuesday, February 05, 2019 1:09 PM
To: BOS-Supervisors; Wong, Linda (BOS)
Subject: FW: Treasure Island Enterprises Support Letter
Attachments: TIE Support Letter.pdf

Importance: High

From: Marlene Mares <mmares@ualocal38.org>
Sent: Tuesday, February 05, 2019 12:37 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Treasure Island Enterprises Support Letter
Importance: High

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

On behalf of Larry Mazzola, Jr.~

Good Afternoon Clerk Angela Calvillo,

Please see the attached support letter.

Thank you!

Wong, Linda (BOS)

From: Board of Supervisors, (BOS)
Sent: Tuesday, February 05, 2019 10:53 AM
To: Wong, Linda (BOS)
Subject: FW: Letter of Support - TIE marina
Attachments: Letter of Support - TIE Marina.pdf

Linda is this yours? File No. 181225

From: Jacob Adiarte <JAdiarte@nccrc.org>
Sent: Monday, February 04, 2019 5:47 PM
To: Yee, Norman (BOS) <norman.yee@sfgov.org>; Peskin, Aaron (BOS) <aaron.peskin@sfgov.org>; Mar, Gordon (BOS) <gordon.mar@sfgov.org>; Brown, Vallie (BOS) <vallie.brown@sfgov.org>; Haney, Matt (BOS) <matt.haney@sfgov.org>; Safai, Ahsha (BOS) <ahsha.safai@sfgov.org>; Ronen, Hillary <hillary.ronen@sfgov.org>; Fewer, Sandra (BOS) <sandra.fewer@sfgov.org>; Walton, Shamann (BOS) <shamann.walton@sfgov.org>; Stefani, Catherine (BOS) <catherine.stefani@sfgov.org>; Mandelman, Rafael (BOS) <rafael.mandelman@sfgov.org>
Cc: Breed, Mayor London (MYR) <mayorlondonbreed@sfgov.org>; Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: RE: Letter of Support - TIE marina

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

resident Yee and fellow Supervisors:

Please find attached a letter of support from Carpenters Local Union 22 in regards to the Treasure Island Marina.

All the best,

Jacob Adiarte
Lead Field Representative

This message and any attachments may be privileged, confidential or proprietary. If you are not the intended recipient of this email or believe that you have received this correspondence in error, please contact the sender through the information provided above and permanently delete this message.

Wong, Linda (BOS)

From: Board of Supervisors, (BOS)
Sent: Wednesday, February 06, 2019 5:35 PM
To: BOS-Supervisors; Wong, Linda (BOS)
Subject: FW: Support Letters for Treasure Island Marina
Attachments: SKM_C554e19020610470.pdf

From: Jay Wallace <jwallace@jaywallaceassociates.com>
Sent: Wednesday, February 06, 2019 3:23 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Fwd: Support Letters for Treasure Island Marina

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Clerk Cavallo: Attached below are letters of support for the Treasure Island Marina. Please provide these letters to the Board members and the committee assigned to this matter when appropriate. Thank you, Jay

Jay Wallace
Kenwood Investments, LLC
Platinum Advisors, LLC
170 Columbus Avenue, #240
San Francisco, CA 94133
415-601-2081
jwallace@jaywallaceassociates.com

Begin forwarded message:

From: Jay Wallace <jwallace@jaywallaceassociates.com>
Subject: Support Letters for Treasure Island Marina
Date: February 6, 2019 at 3:16:31 PM PST
To: norman.yee@sfgov.org, sandra.fewer@sfgov.org, catherine.stefani@sfgov.org,
ahsha.safai@sfgov.org, aaron.peskin@sfgov.org, Hillary.Ronen@sfgov.org, gordon.mar@sfgov.org,
vallie.brown@sfgov.org, matt.haney@sfgov.org, rafael.mandelman@sfgov.org,
shamann.walton@sfgov.org, angela.cavillo@sfgov.org
Cc: MayorLondonBreed@sfgov.org, Bob Beck <bob.beck@sfgov.org>

Dear President Yee and Supervisors: Enclosed please find several letters of support for the Treasure Island Marina and the lease approval that will be coming before you in the near future. Included in this group of letters is a letter from former Supervisor John Avalos who supports the marina after having helped craft the original compromise for the marina with the TI Sailing Center, the marina developer, and others. Please feel free to contact me if you have any questions. Thank you, Jay Wallace

Jay Wallace
Kenwood Investments, LLC
Platinum Advisors, LLC

170 Columbus Avenue, #240
San Francisco, CA 94133
415-601-2081
jwallace@jaywallaceassociates.com

John Avalos

679 Naples St, San Francisco, CA 94112, johnavalos11@gmail.com

February 2, 2019

Via Email: angelo.cavillo@sfgov.org
[For Distribution to All Supervisors]

President Norman Yee and Board Members
City Hall, Room 244
1 Dr. Carleton B. Goodlett Place
San Francisco, CA 94102

Re: Support for Treasure Island Marina

Dear President Yee and Board Members:

I am writing to urge you to support the Treasure Island Marina lease when it comes before you in the near future.

As you may know, in 2016, along with Supervisor Kim's office, I actively participated in crafting a compromise between the marina developer, the Treasure Island Sailing Center and community groups. To better address the Sailing Center's and other community concerns, the compromise substantially reduced the size of the marina. At that time, I believed the issue of the size and importance of the marina as part of TI was settled, and I was pleased that the parties had agreed on the compromise we crafted. A copy of my November 2016 correspondence to the parties on this issue is attached.

Notwithstanding the 2016 compromise, I am aware that in June 2018, the Board of Supervisors unanimously approved Resolution 173-18 which imposed additional restrictions on the new marina, again following good faith negotiations with and support from key stakeholders, including the SF Sierra Club.

I have recently learned that there may be an effort to upset the latest compromises that the Board and parties labored to achieve. I hope that does not occur because the plan before you is the result of good-faith negotiations and compromises that the marina developer, the community and the Board agreed upon. Other colleagues and I worked hard on crafting this newest compromise for the marina, and I firmly believe it's appropriate for the Board to now implement the commitments to the marina it has made over the years.

Accordingly, I urge this Board to approve the marina and the lease when it comes before you. Thank you for your consideration of this matter.

Sincerely



John Avalos
Former Member, 2009-2017

From: Avalos, John (BOS) [john.avalos@sfgov.org]
Sent: Saturday, November 05, 2016 8:12 PM
To: Carisa Harris-Adamson
Cc: Kim, Jane (BOS); Dave Guinther; Rubenstein, Beth (BOS); Lopez, Barbara (BOS); Jay Wallace; Darius Anderson; Ivy Lee (ivy.lee@sfgov.org)
Subject: Re: Thank you for your support

I'm glad it worked out. TISC is a great and unique program.

Congrats,

John

Supervisor John Avalos

Sent from an electronic mobile communication device

On Nov 5, 2016, at 4:39 PM, Carisa Harris-Adamson <carisa.harris-adamson@tisailing.org> wrote:

Dear Supervisor Avalos and Supervisor Kim,

I am happy to share that TISC and TIE have come to an agreement on the footprint and location of the marina at Clipper Cove. Following our meeting on Wednesday October 19th, where we submitted 2 plans to TIE for review, TIE committed to moving forward with the A25C footprint that we presented.

This week, TIE provided the attached plan ("OVERALL SITE PLAN - MARINA - Adjusted Slip Configuration dated 11-2-16" http://tisailing.org/images/02_News_Press/ti_dock_site_plan-1.4.3-161102-color.pdf) which respects the critical dimensions we had outlined; the wave attenuator location of 1144' east from the mean low water line at the causeway, at a length of 789' with a 236' dog leg angled at 45 degrees. While this footprint will reduce the range and depth of some our programs, it does provide the minimum space that we need to access the beach and continue all of our current programs in the cove. We are happy that we have reached an

agreement and appreciate the meaningful changes that TIE has made that will allow our programs to continue.

Although we understand this layout is not a final engineering drawing and that locations of gangways, docks and slips may change, we agreed that the eastern limits on the transient/attenuator dock and the southern limits on the transient dock extension are maximum dimensions. In return, TISC has agreed to publicly support this plan at upcoming meetings including meetings at the Division of Boating and Waterways, TIDA meetings, Board of Supervisor and BCDC.

I really want to thank you all for your support these last few months which enabled us to come to this compromise. Your involvement truly made the difference.

Sharing sailing with kids from all backgrounds, including all of the opportunities that come with it, has been a passion of mine for some time because I personally know how influential it can be in ones life. Thank you for making sure we will continue to help kids grow and thrive.

Please know that you have an open invitation to visit us and our programs so you can personally see the benefits of your support. And, feel free to contact me anytime if you or your staff would like a sail on the Bay.

Best Regards,
Carisa

--

Carisa Harris- Adamson
Chair, Board of Directors
carisa.harris-adamson@tisailing.org
415-640-0563



United Brotherhood of Carpenters
and Joiners of America
LOCAL UNION NO. 22

February 1, 2019

President Norman Yee
San Francisco Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

RE: Support for Treasure Island Marina

Dear President Yee and fellow Supervisors,

On behalf of Carpenters Local Union 22, representing more than 3,650 workers in San Francisco, we are writing to urge you to support the Treasure Island Enterprises (TIE) marina lease when it comes before the Board of Supervisors in the near future.

As you may know, Carpenters Union Local 22 has been involved with the redevelopment of Treasure Island for many years. We have supported the TI project and the TIE marina on many occasions and were pleased when the marina developer, Board of Supervisors (in its June 2018 Resolution No. 173-18, approved 11-0), Treasure Island Development Authority (TIDA) and other community stakeholders reached a compromise reducing the size and location of the TIE marina. This ensures that the Treasure Island Sailing Center, its youth and other community sailing programs are protected and the marina project can move forward.

Considering the marina project has been a part of the overall redevelopment of Treasure Island since 1998; the developer, with the Board of Supervisors direction, has made significant compromises to reduce the size and scope of the marina project. It is time for the TIE marina project to advance and the Board's approval of the lease is the next step.

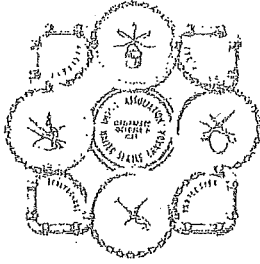
Based on these facts, we are writing to urge the Board to approve the lease for the marina when it comes before you in the near future, and want to thank you for your anticipated support for the TIE marina project. Please contact me if you have any questions concerning this letter.

Sincerely,

Todd Williams
Senior Field Representative

cc: London Breed
Board Clerk Angela Calvillo

sko/opeiu29/afl-cio



**UNITED ASSOCIATION OF JOURNEYMEN AND APPRENTICES
OF THE PLUMBING AND PIPE FITTING INDUSTRY**

LOCAL UNION NO. 38

1621 MARKET STREET • SAN FRANCISCO, CA 94103

February 5, 2019

Via Email to Each Supervisor

President Norman Yee and Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

RE: Support for Treasure Island Marina

Dear President Yee and fellow Supervisors:

On behalf of Plumbers & Pipefitters Local Union 38, representing more than 2500 workers in San Francisco, we are writing to urge you to support the Treasure Island Enterprises (TIE) marina lease when it comes before you in the near future.

As you may know, Plumbers & Pipefitters Local Union 38 has been involved with the redevelopment of Treasure Island for many years. We have supported the TI project and the TIE marina on many occasions and were pleased when the marina developer, the Board of Supervisors (in its June 2018 Resolution No. 173-18, approved 11-0), the Treasure Island Development Authority (TIDA) and other community stakeholders reached a compromise reducing the size and location of the TIE marina to ensure that the Treasure Island Sailing Center and its youth and other community sailing programs are protected and the marina can move forward.

Given that the marina project has been a part of the overall redevelopment of Treasure Island since 1998 and the developer, with the Board of Supervisor's direction, made compromises by reducing the size and scope of the marina project, it is time to get TIE's marina project moving, and the Board's approval of the lease is the next step.

Based on these facts, we are writing to urge the Board to approve the lease for the marina when it comes before you in the near future and want to thank you for your anticipated support for the TIE marina project. Please contact me if you have any questions concerning this letter.

Sincerely,

LARRY MAZZOLA, JR
Bus.Mgr. & Fin.Secty-Treas.

CC: Mayor London Breed
Board Clerk Angela Calvillo



LOCAL UNION 6

International Brotherhood of Electrical Workers

55 FILLMORE STREET • SAN FRANCISCO, CA. 94117 • (415) 861-5752 • FAX (415) 861-0734

February 5, 2019

President Norman Yee and Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco CA 94102

Re: Support for Treasure Island Marina

Dear President Yee and fellow Supervisors:

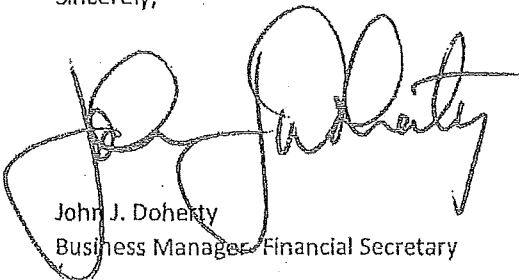
On behalf of the International Brotherhood of Electrical Workers Local 6 representing more than 2800 workers in San Francisco, we are writing to urge you to support the Treasure Island Enterprises (TIE) marina lease when it comes before you in the near future.

As you may know, the International Brotherhood of Electrical Workers Local 6 has been involved with the redevelopment of Treasure Island for many years. We have supported the TI project and the TIE marina on many occasions and were pleased when the marina developer, the Board of Supervisors (in its June 2018 Resolution No. 173-18, approved 11-0), the Treasure Island Development Authority (TIDA) and other community stakeholders reached a compromise reducing the size and location of the TIE marina to ensure that the Treasure Island Sailing Center and its youth and other community sailing programs are protected and the marina can move forward.

Given that the marina project has been a part of the overall redevelopment of Treasure Island since 1998 and the developer, with the Board of Supervisor's direction, made compromises by reducing the size and scope of the marina project, it is time to get TIE's marina project moving, and the Board's approval of the lease is the next step.

Based on these facts, we are writing to urge the Board to approve the lease for the marina when it comes before you in the near future and want to thank you for your anticipated support for the TIE marina project. Please contact me if you have any questions concerning this letter.

Sincerely,



John J. Doherty
Business Manager / Financial Secretary

Cc: Jay Wallace
Mayor London Breed
Board Clerk Angela Calvillo

From: Danny Campbell **Sent:** Tuesday, February 5, 2019 8:50 PM **To:** 'norman.yee@sfgov.org'; 'sandra.fewer@sfgov.org'; 'catherine.stefani@sfgov.org'; 'Aaron.Peskin@sfgov.org'; 'marstaff@sfgov.org'; 'vallie.brown@sfgov.org'; 'matt.haney@sfgov.org'; 'rafael.mandelman@sfgov.org'; 'hillary.ronen@sfgov.org'; 'shamann.walton@sfgov.org'; Safai, Ahsha (BOS) (ahsha.safai@sfgov.org) **Cc:** 'board.of.supervisors@sfgov.org'; Jay Wallace (jwallace@jaywallaceassociates.com) **Subject:** Suport for the Treasure Island Marina

Dear Board President Yee and fellow Supervisors,

On behalf of the Sheet Metal Workers' Local Union 104, representing more than 2,100 workers in San Francisco, we are writing to urge you to support the Treasure Island Enterprise (TIE) marina lease when it comes before you in the near future.

The Sheet Metal Workers' Local 104 has been involved with the redevelopment of Treasure Island for many years. We have supported the TI project and the TIE marina in the past and were pleased when the marina developer, the BOS (in its June 2018 Resolution No. 173-18), the TIDA and other community stakeholders reached a compromise to ensure that the Treasure Island Sailing Center and its youth and other community sailing programs are protected and the marina can move forward.

Given that the marina project has been a part of the overall redevelopment of Treasure Island since 1989, and the developer made compromises by reducing the size and scope of the marina project, with the BOS' direction, it's time to get the TIE's marina project going, and the BOS' approval of the lease is the next step.

Therefore, we are writing to urge the BOS to approve the lease for the marina when it come before you in the near future and want to thank you for your anticipated support for the TIE marina project.

Respectfully,

Danny Campbell
Business Representative, District 1
Sheet Metal Workers Local Union No. 104
1939 Market Street, Suite A
San Francisco, CA 94103
Phone (415) 621-2930 / Fax (415) 621-2554



Wong, Linda (BOS)

From: Board of Supervisors, (BOS)
Sent: Wednesday, February 06, 2019 2:55 PM
To: Wong, Linda (BOS)
Subject: FW: Support for the Treasure Island Marina

From: Danny Campbell <DannyC@smw104.org>
Sent: Tuesday, February 05, 2019 8:50 PM
To: Yee, Norman (BOS) <norman.yee@sfgov.org>; Fewer, Sandra (BOS) <sandra.fewer@sfgov.org>; Stefani, Catherine (BOS) <catherine.stefani@sfgov.org>; Peskin, Aaron (BOS) <aaron.peskin@sfgov.org>; Marstaff (BOS) <marstaff@sfgov.org>; Brown, Vallie (BOS) <vallie.brown@sfgov.org>; Haney, Matt (BOS) <matt.haney@sfgov.org>; Mandelman, Rafael (BOS) <rafael.mandelman@sfgov.org>; Ronen, Hillary <hillary.ronen@sfgov.org>; Walton, Shamann (BOS) <shamann.walton@sfgov.org>; Safai, Ahsha (BOS) <ahsha.safai@sfgov.org>
Cc: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>; Jay Wallace (jwallace@jaywallaceassociates.com) <jwallace@jaywallaceassociates.com>
Subject: Support for the Treasure Island Marina

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Board President Yee and fellow Supervisors,

On behalf of the Sheet Metal Workers' Local Union 104, representing more than 2,100 workers in San Francisco, we are writing to urge you to support the Treasure Island Enterprise (TIE) marina lease when it comes before you in the near future.

The Sheet Metal Workers' Local 104 has been involved with the redevelopment of Treasure Island for many years. We have supported the TI project and the TIE marina in the past and were pleased when the marina developer, the BOS (in its June 2018 Resolution No. 173-18), the TIDA and other community stakeholders reached a compromise to ensure that the Treasure Island Sailing Center and its youth and other community sailing programs are protected and the marina can move forward.

Given that the marina project has been a part of the overall redevelopment of Treasure Island since 1989, and the developer made compromises by reducing the size and scope of the marina project, with the BOS' direction, it's time to get the TIE's marina project going, and the BOS' approval of the lease is the next step.

Therefore, we are writing to urge the BOS to approve the lease for the marina when it come before you in the near future and want to thank you for your anticipated support for the TIE marina project.

Respectfully,

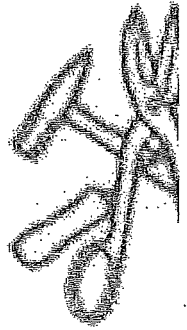
Danny Campbell

*Business Representative, District 1
Sheet Metal Workers Local Union No. 104
.939 Market Street, Suite A
San Francisco, CA 94103
Phone (415) 621-2930*

Fax (415) 621-2554

SHEET METAL | AIR | RAIL | TRANSPORTATION

SMART.



Local Union No. 104

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. This message contains confidential information and is intended only for the individual named. If you are not the named addressee you should not disseminate, distribute or copy this e-mail. Please notify the sender immediately by e-mail if you have received this e-mail by mistake and delete this e-mail from your system. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.

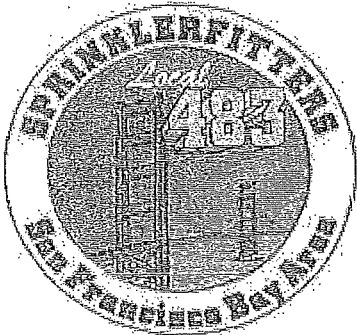
Wong, Linda (BOS)

From: Board of Supervisors, (BOS)
Sent: Wednesday, February 06, 2019 2:26 PM
To: Wong, Linda (BOS)
Subject: FW: Support for the Treasure Island Marina
Attachments: 20190206134831562.pdf

From: Sis Wenquist <sis@sprinklerfitters483.org>
Sent: Wednesday, February 06, 2019 2:05 PM
To: Yee, Norman (BOS) <norman.yee@sfgov.org>; Fewer, Sandra (BOS) <sandra.fewer@sfgov.org>; Stefani, Catherine (BOS) <catherine.stefani@sfgov.org>; Peskin, Aaron (BOS) <aaron.peskin@sfgov.org>; Marstaff (BOS) <marstaff@sfgov.org>; Brown, Vallie (BOS) <vallie.brown@sfgov.org>; Haney, Matt (BOS) <matt.haney@sfgov.org>; Mandelman, Rafael (BOS) <rafael.mandelman@sfgov.org>; Ronen, Hillary <hillary.ronen@sfgov.org>; Walton, Shamann (BOS) <shamann.walton@sfgov.org>; Safai, Ahsha (BOS) <ahsha.safai@sfgov.org>
Cc: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>; jwallace@jaywallaceassociates.com
Subject: Support for the Treasure Island Marina

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Sis Wenquist, Administrative Assistant
Sprinkler Fitters & Apprentices, UA Local 483
2525 Barrington Court
Hayward, California 94545
(O) 510.785.8483
(F) 510.785.8508



SPRINKLER FITTERS AND APPRENTICES

LOCAL 483

OF THE UNITED ASSOCIATION OF PLUMBERS,
PIPEFITTERS AND SPRINKLER FITTERS OF THE
UNITED STATES AND CANADA AFL-CIO



February 6, 2019

Stanley M. Smith
Business Manager

Jeffrey M. Dixon
John Medina
Organizers

Dylan M. Boldt
Tony Rodriguez
Dan Torres
Business Agents

Rik Drury
Market Development
Representative

Via Email to Each Supervisor

President Norman Yee and Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco CA 94102

Reference: Support for Treasure Island Marina

Dear President Yee and fellow Supervisors:

On behalf of Sprinkler Fitters, UA Local 483, representing more than 1200 workers in San Francisco, we are writing to urge you to support the Treasure Island Enterprises (TIE) Marina lease when it comes before you in the near future.

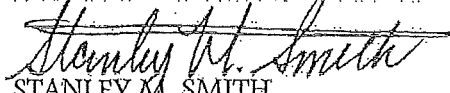
Sprinkler Fitters, Local 483 has been involved with the redevelopment of Treasure Island for many years. We have supported the TI project and the TIE marina in the past and were pleased when the marina developer, the BOS (in its June 2018 Resolution No. 173-18), the TIDA and other community stakeholders reached a compromise to ensure that the Treasure Island Sailing Center and its youth and other community sailing programs are protected and the marina can move forward.

Given that the marina project has been a part of the overall redevelopment of Treasure Island since 1998 and the developer, with the Boards of Supervisor's direction, made compromises by reducing the size and scope of the marina project, it is time to get TIE's marina project moving, and the Board's approval of the lease is the next step.

Based on these facts, we are writing to urge the Board to approve the lease for the marina when it comes before you in the near future. Thank you in advance for your anticipated support for the TIE marina project.

Sincerely,

SPRINKLER FITTERS & APPRENTICES


STANLEY M. SMITH
Business Manager/Financial Secretary

cc: Mayor London Breed
Board Clerk Angela Calvillo

SMS/sw
OPEIU-29-AFL-CIO

2525 Barrington Court • Hayward, California 94545
Telephone (510) 785-8483 • Fax (510) 785-8508

www.sprinklerfitters483.org

Wong, Linda (BOS)

From: Karunaratne, Kanishka (MYR)
Sent: Wednesday, February 20, 2019 1:53 PM
To: Somera, Alisa (BOS); Wong, Linda (BOS)
Subject: FW: Support Letters for Treasure Island Marina--February 19 2019
Attachments: AFT Local 212 Support Letter.pdf; TI YMCA letter for marina.pdf; Abdo Nasser TIE Support Letter.pdf; Bay Crossings-TI Support Letter-02-13-2019.pdf

Good Afternoon,

Please add these support letters to BOS Files 181226 and 181225.

Thank you,
Kanishka

Kanishka Karunaratne Cheng 程嘉敏
Mayor's Liaison to the Board of Supervisors
Office of Mayor London N. Breed
415.554.6696 | Kanishka.cheng@sfgov.org

From: Jay Wallace <jwallace@jaywallaceassociates.com>

Sent: Tuesday, February 19, 2019 3:05 PM

To: Yee, Norman (BOS) <norman.yee@sfgov.org>; Fewer, Sandra (BOS) <sandra.fewer@sfgov.org>; Stefani, Catherine (BOS) <catherine.stefani@sfgov.org>; Safai, Ahsha (BOS) <ahsha.safai@sfgov.org>; Peskin, Aaron (BOS) <aaron.peskin@sfgov.org>; Ronen, Hillary <hillary.ronen@sfgov.org>; Mar, Gordon (BOS) <gordon.mar@sfgov.org>; Brown, Vallie (BOS) <vallie.brown@sfgov.org>; Haney, Matt (BOS) <matt.haney@sfgov.org>; Mandelman, Rafael (BOS) <rafael.mandelman@sfgov.org>; Walton, Shamann (BOS) <shamann.walton@sfgov.org>; Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>

Cc: Breed, Mayor London (MYR) <mayorlondonbreed@sfgov.org>; Beck, Bob (MYR) <bob.beck@sfgov.org>

Subject: Re: Support Letters for Treasure Island Marina--February 19 2019

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear President Yee and Supervisors: Attached below is a third set of letters from supporters of the TI Marina, including one from the AFT Local 2121 who was previously opposed the project, but, as stated in its letter, is now in support following the compromise reached by the marina and the Board of Supervisors last year. Please include these letters, along with the prior letters submitted, to the Board's file on this matter, and please feel free to contact me if you have any questions. Thank you, Jay Wallace

Jay Wallace
Kenwood Investments, LLC
Platinum Advisors, LLC
170 Columbus Avenue, #240
San Francisco, CA 94133
415-601-2081
jwallace@jaywallaceassociates.com

2/19/2019

President Norman Yee and Members
Of the San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall
San Francisco, CA 94102

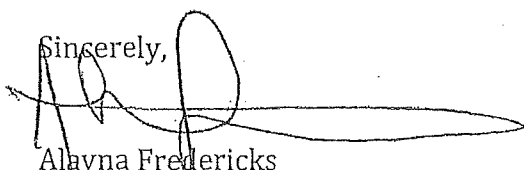
RE: Treasure Island Marina

Dear President Yee and Members of the Board:

We are writing to inform you that we are extremely pleased with latest plans for the Treasure Island Marina. As you may know, we initially opposed the TI Marina because we were concerned that its size would have a negative impact on the District's 4th grade STEM program that has utilized Clipper Cove successfully for many years now.

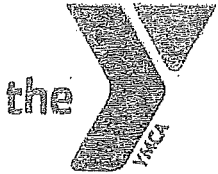
With the new plan for the marina, we believe that the District's STEM programs can continue to flourish, the new marina can be built, and the Board's and the developer's commitments can be implemented. Thank you for your leadership on this issue and for your consideration of our views in support of the Treasure Island Marina.

Sincerely,



Alayna Fredericks
Executive Directors

CC: Mayor London Breed



FOR YOUTH DEVELOPMENT[®]
FOR HEALTHY LIVING
FOR SOCIAL RESPONSIBILITY

Via Email

President Norman Yee and
Members of the Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall
San Francisco, CA 94102

RE: SUPPORT FOR TREASURE ISLAND MARINA

Dear President Yee and Board Members:

The Treasure Island YMCA, a long-time member of the Treasure Island community serving the needs of the resident population, would like to voice our support for the current marina project.

We are aware of the fact that the marina developer made many significant changes to the marina and we support the marina as it is now planned. We hope you will support the TI community and the new marina project and lease when those matters come before the Board in the near future.

Thank you for your consideration of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Shiante Lewis', written over a horizontal line.

Shiante Lewis

Director, Treasure Island Community YMCA and Youth Programs

Abdo Nasser
Island Cove Market
800 Avenue H
Treasure Island
San Francisco, CA 04133

President Norman Yee and Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall
San Francisco, CA 94102

RE: Support for the Treasure Island Marina

Dear President Yee and Supervisors:

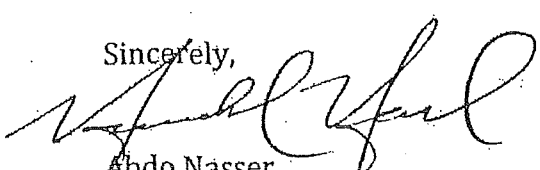
I am the owner of the Island Cove Market on Treasure Island and a long-time active member of the Treasure Island community having operated this business on Island for more than 10 years.

I have participated from time to time in the discussions regarding the Marina and would like to voice my support for the project. I am personally aware that the Marina developers have lived up to their commitments to reduce the size of the marina to 200 slips and to ensure that the community, especially the TI Sailing Center, can enjoy the Cove as well. I do not believe that the marina will adversely impact community sailing programs in the Cove, especially since the marina developer has reduced the size of the marina in accordance with the Board of Supervisors 2018 Resolution.

I urge you to support the TIE Marina and lease when it comes before you for a vote.

Thank you.

Sincerely,



Abdo Nasser

Owner, Island Cove Market

BAY CROSSINGS

"The Voice of the Waterfront"

13 February 2019

President Norman Yee and Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall
San Francisco, CA 94102

RE: Support for Treasure Island Marina

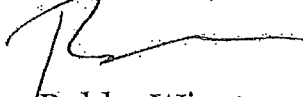
Dear President Yee and Supervisors:

I am writing to express my support for the Treasure Island Marina project and the lease that will be coming before you soon.

I have been an active participant in the redevelopment of Treasure Island for more than twenty years, both individually and in my capacity as the owner and founder of *Bay Crossings*. Since the inception of the plans for TI, a new marina has been an important part of the plans. I am aware of the long, but successful, Board negotiations that occurred in 2017 and 2018 regarding the reduction in size of the marina in order to accommodate the Sailing Center and other uses in Clipper Cove. I think now that the size of the marina has been agreed upon, its time to approve the project and lease, and I urge you to do so when the project comes before you in the near future.

Thank you.

Very truly yours,


Bobby Winston

File # 181225
Received in Committee
3/20/19
for

Statement by Hunter Cutting
San Francisco Board of Supervisors - Budget and Finance Committee
Hearing on Treasure Island Sailing Center Lease and Clipper Cove Marina lease
20 March 2019

Good morning Supervisors.

I am Hunter Cutting, volunteer coordinator for the Save Clipper Cove coalition.

Today I am representing the members of the coalition: The Sierra Club, the Friends of the Sailing Center, US Sailing (the national governing body for the sport of Sailing the United States), San Francisco Baykeeper, Marina Tenants for Balanced Expansion, the Raft-up Community for Clipper Cove, and others.

Across the board, coalition members believe enormous progress is being made here today. We are particularly pleased to see the Sailing Center lease finally move forward.

We are deeply grateful for the work of Supervisor Haney and his staff in championing the Sailing Center lease and reforming the marina proposal.

As you know, last year a stakeholder agreement was reached to guide marina redevelopment in Clipper Cove. That agreement was upheld by the Board of Supervisors in Resolution #173-18 that set out 5 requirements for expansion of the Clipper Cove marina.

Unfortunately, the proposal forwarded by the Office of the Mayor only met one of those five requirements.

The amendment suggested by Supervisor Haney today would move us much further along, meeting two more of the requirements: a plan to mitigate the threat of marina redevelopment causing Clipper Cove to fill-in and provision of consideration to current tenants with small boats who would otherwise be de-facto excluded from the new marina.

However, two of the Board's requirements for marina redevelopment still have not meet met. TIDA has not provided the financial analysis called for by the Board to determine the financial risk this project may pose to the City. Further TIDA continues to insist on deferring environmental review of impact project dredging will have on the Cove's eelgrass habitat, despite the Board's call for all appropriate environmental review.

The lack of robust fiscal analysis is disturbing. The state of California has clearly identified this project as a default risk. While the state's financing requirements will project the state's interests, they will not protect the City's interests. As a result in the

event of a default, City taxpayers could be on the hook for hundreds of thousands of dollars annually to meet expense that the project would no longer cover.

In addition, the Budget and Legislative Analyst office makes clear that only half of the financing for the project has been identified, and the prospects for much that first financing is speculative.

Because the project is designed to be built in phases, there is a significant possibility that this project will not be finished. And because construction will start with the outermost structures first, the full footprint of the marina will be established immediately, and the City could end up stuck with a half-built private marina blocking public access to valuable public waters of Clipper Cove.

The failure of TIDA to conduct full environmental review is also disturbing. The eelgrass habitat is particularly sensitive and valuable. As lead agency, the City has the responsibility under CEQA to conduct all necessary environmental review.

The City should not engage in a process by which the City approves a project and signs a 66-year lease with the view that environmental analysis will be done later.

The FEIR for the Clipper Cove marina project; "Transfer and Reuse of Naval Station Treasure Island Final EIR June 2006" states

"The closest eelgrass-vegetated area to potential dredging and in water activities is on the southeastern side of Clipper Cove. It is approximately 1,200 feet away from the proposed dredging area in Clipper Cove (Figure 3-14). This distance is great enough to prevent dredging from disturbing eelgrass. Dredging is not proposed in or near eelgrass beds. However, were dredging or pile driving to occur on the southeastern side of Clipper Cove, eelgrass beds could be damaged, which would adversely affect essential fish habitat."

(page 4-168)

However, in the proposal before us today, the project has been revised to re-locate the marina entrance such that it runs immediately adjacent to the eelgrass habitat.

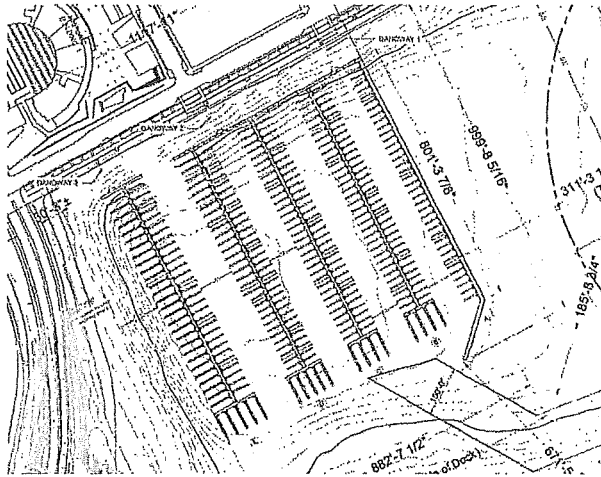
This is clearly a significant change in the project. However, the July 5, 2017 Planning Department memo submitted by TIDA fails to identify the relocation of the marina entrance channel as among the proposed revisions in the project (Table 1 Proposed Revisions). And the Planning Department failed to analysis the impact of this proposed change.

There is a difference of opinion among stakeholder about the best way to address these outstanding issues.

So, from this point onward, I speak only as an individual.

I believe the marina lease as amended by Supervisor Haney should move forward, and in that process the Board of Supervisors should work to ensure that the two remaining requirements for marina redevelopment are met.

TREASURE ISLAND MARINA FEASIBILITY REPORT



Proposed Site Plan



Existing Facility

Treasure Island Enterprises, LLC

\$4,200,000 Private Recreational Marina Loan

SUMMARY

The Boating and Waterways Commission is being asked to provide Advice and Comment on the Treasure Island Enterprises, LLC (TIE) request for a \$4,200,000, Private Marina Loan from the Harbors and Watercraft Revolving Fund (HWRF) for construction of Phase 1 which would add 109 slips, Docks "A" and "B", to the existing marina at Clipper Cove on Treasure Island. If approved, DBW loan funding would reimburse TIE for construction costs of the slips and related revenue-generating facilities only. This is the third iteration this project has been brought before the Commission. This report outlines TIE's revised plan for developing and repaying this potential Phase 1 loan.

The total cost for development of Phase 1 is now approximately \$18.1 million. This estimate includes costs for engineering and permitting; construction dredging; construction of 109 slips (noted above), utilities, gangway, security gates and access system; installation of wi-fi; entitlements, and other related features, such as trash and other amenities.

The currently proposed marina development at Clipper Cove would be constructed in three phases and would have 313 slips instead of the 336 slips proposed in November. The existing 106 wooden slips would be removed during Phase 3.

Background: In FY2015/16, TIE requested that the State include a budget item of a \$4,200,000 loan for construction of the first phase of a 400-slip marina. This request was included in the State's budget in FY15/16, and although this funding authorization expired, the same amount was included in the FY16/17 budget. TIE brought its budget request to the Boating and Waterways Commission in May 2016 and November 2016, at which times DBW expressed concerns and asked TIE for more information.

In November 2016, TIE proposed construction of a 336-slip marina that addressed some of the DBW concerns, and today, TIE is proposing a further-reduced project, totaling 313 slips, which is estimated to cost \$31 million.

Status Update: At the November 2016 Commission presentation, various financial, lease, public support, and permitting issues remained outstanding. DBW requested that all outstanding documentation be provided to DBW by March 1, 2017. Supporting documentation for TIE's updated project proposal was received by DBW on March 1. Additional items were supplied, with staff's permission on March 8, 2017, and both are the basis for this updated review except where noted.

Due to DBW's obligation to safeguard public funds and the difficulties involved with recovering those funds in the event of a default from a business without easily liquid collateral, staff recommended at the November, 2016 Commission meeting that if the Commission advised DBW to move forward with this loan, TIE must meet certain conditions to DBW's satisfaction no later than March 1, 2017. The status of each of these conditions is as follows:

1. "Final lease agreement with Treasure Island Development Authority (TIDA) shall be provided and shall include a provision that in the event TIE defaults on its loan with DBW, that DBW shall have no obligation to make any lease payments to TIDA."

Status: DBW received proposed new language for the lease from TIE. However, the new language does not fully address default conditions as it relates to offered collateral, specifically the lease-lease back instrument. At the time of this report, DBW is still working with TIE on this requirement. Harbors and Navigation Code (HNC) Section 76.6(b) directs DBW to require collateral in a minimum amount of 110% of the loan as a condition of any private loan.

2. "Provides documentation confirming that the entirety of Phase 1 is fully funded."

Status: On March 8, DBW received a letter from TIE's managing partner stating up to \$13.8 million of his and his partners' private equity would be provided to cover Phase 1 costs not covered by the DBW loan. Because the letter references partners who are not personally verifying their commitment to the project, and because the division of commitment between partners is not made clear in the letter, DBW does not consider full funding of Phase 1 to be confirmed. California Code of Regulations (CCR) Title 14, Section 5172(a)(9) requires that the funding plan, including sources of additional construction funds, be identified.

3. "Marina design shall to be adaptable to National Oceanic and Atmospheric Administration's (NOAA's) 50-year sea level rise projections."

Status: TIE has stated its understanding of this condition and intent to comply. Ongoing compliance will be monitored by DBW.

4. "Prior to issuance of loan funding, TIE shall complete a study to determine estimated accumulation of siltation of the new proposed marina design, the estimated dredge expense, and the estimated rate of occurrence required to maintain a viable marina. This study would determine how much money shall be annually budgeted for this expense and placed into a Maintenance Dredging Reserve Escrow account for ongoing maintenance dredging."

-
- a) Annual reserve payments of the amount determined by the study shall be deposited into the Maintenance Dredging Reserve Account. Payments shall begin the third year after the construction dredging is complete (currently 2022).
 - b) Two years of annual payments shall be placed into the Maintenance Dredging Reserve Escrow account prior to issuance of any loan funds. The Maintenance Dredging Reserve Escrow account shall be available for loan payments in the event of default."

Status: On March 1, DBW received a consultant's report that addressed short-term construction dredging needs. However, the consultant's study did not discuss future dredging needs. TIE, in its submittals to DBW, also stated it "is unable to provide DBW with a cost estimate or rate of occurrence for future dredging given the fact that it is impossible to know how slow or fast siltation may occur at Clipper Cove and other intangibles that will only be proven over time."

TIE proposes to fund a reserve dredging account in the amount of \$25,000 annually, up to a maximum of \$225,000. TIE has not provided DBW a basis for estimating the cost of dredging to be \$25,000 per year, but the draft TIDA/TIE lease agreement requires TIE to make a minimum annual contribution of \$25,000 to a dredging reserve fund. Staff is concerned TIE's \$25,000 estimate may be inadequate given that TIE's initial estimate for maintenance dredging was \$374,000 annually, and San Francisco Marina West Harbor, for example, is currently spending \$500,000 annually for maintenance dredging.

5. "\$640,000 shall be placed in an additional and separate Payment Reserve Escrow Account which must remain funded until TIE demonstrates that the marina can maintain a minimum Debt Service Coverage Ratio (DSCR) of 1.25 through the remaining term of the loan."

Status: Based on uncertainties discussed in this report, DBW believes there is still a compelling need for this reserve account to exist until a 1.25 DSCR can be maintained. TIE's strategy for generating the revenues needed to support the 1.25 DSCR involves renting up to 20 slips for liveaboards and charging a flat fee starting at \$3,250 monthly, which, if successful, could provide an increase in revenue from those slips that would strengthen the DSCR. This is an unusual approach, and if it is not as successful as TIE anticipates, the project may not meet this threshold for the first nine years of the loan repayment period. As reminders, this 1.25 DSCR threshold was set by the Commission for public loans in May 2009. Requiring two years of loan payments be held in a reserve account when this threshold isn't expected to be met is a method of gaining additional security when excess risk is involved. This method has been used multiple times for DBW loans, most recently with San Francisco Marina West.

The Department of Parks and Recreation, Division of Boating and Waterways (DBW) seeks Commission Advice and Comment to this proposed \$4,200,000 loan (HWRP) to Treasure Island Enterprises, LLC for the improvements described in this April 5, 2017 Feasibility Report, and recommends that if the Commission advises the Department to proceed with the requested loan, conditions be written into the loan agreement. Staff's recommendations for these conditions are as follows:

1. No loan funds shall be available until DBW receives the final lease agreement between TIDA and TIE that incorporates the collateral requirements (specifically the lease-lease

back) of this loan and includes a provision that in the event TIE defaults on its loan with DBW, DBW shall have no obligation to make any lease payments to TIDA.

2. As customary with DBW loans, loan funding will be provided on a reimbursement basis only.
3. No loan funds shall be available for construction until engineers from the Department of Parks and Recreation, Division of Acquisition and Development confirm that the project design is compatible with 50-year sea level rise projections.
4. No loan funds shall be available for construction until TIE funds a \$300,000 Maintenance Dredging Reserve Escrow Account.
5. No loan funds shall be available until \$640,000 is placed in an additional and separate Payment Reserve Escrow Account which must remain funded until TIE demonstrates that the marina can maintain a minimum Debt Service Coverage Ratio of 1.25 throughout the remaining term of the loan.
6. TIE must agree to fund a maintenance reserve account at the customary level of 2% of the marina's gross annual revenues.
7. No loan funds shall be made available until TIE obtains DBW's prior written approval of the agreement between TIE's equity partners that confirms how they will fund Phase 1 construction. This is in compliance with CCR Title 14, Section 5172(a)(9) which requires that the funding plan, including sources of additional construction funds, be identified. This will also ensure that funding used is not borrowed and subject to debt burden.

LOAN APPLICANT AND PREVIOUS COMMISSION ACTION

Loan Applicant

The loan applicant for this project is Treasure Island Enterprises, LLC.

Commission Site Visit

On May 10, 2016 the Commission visited the site as part of the Boating and Waterways Commission Meeting tour.

Previous Commission Action

During the May 11, 2016 Commission meeting, the Commission vote did not advise approval or rejection for \$4.2 million in FY2015/16 state funding for Phase 1 of this project. The FY2015/16 state funding was not encumbered and has reverted.

On November 9, 2016, the Commission heard a project status update, and opted to calendar this project for action at a future meeting.

GENERAL LOCATION AND AREA

Location

The Marina is located in Clipper Cove, on Treasure Island, in San Francisco. From Sacramento head west on Interstate 80 for 82 miles, exit at Treasure Island Road and follow the signage to Treasure Island Marina.

Area and History

The construction of Treasure Island began in February 1936 and was completed in January 1939. To build the 403 acre island, 29 million cubic yards of sand and gravel were transported to or dredged from the Bay and the Sacramento River Delta. Approximately 259 thousand tons of rock was used to create a rock wall to contain the Island.

In February, 1941, as American involvement in World War II was becoming more certain, the island was leased from the City of San Francisco by the United States Government. On April 1st, 1941, it became a military base known as Naval Station Treasure Island which also included portions of Yerba Buena Island. It became the headquarters of the 12th Naval District. The islands served as the "Gateway to the Pacific" in the battle of the Pacific.

In 1996 Treasure Island was decommissioned and opened to public control, under stipulations. Treasure Island is now part of District 6 of the City and County of San Francisco.

Clipper Cove was retained by the Navy for remediation efforts arising from former Navy skeet shooting activity. The Navy has completed that work and has transferred title of the property to the Treasure Island Development Authority (TIDA).

The draft lease agreement indicates TIDA intends to lease the marina property to TIE for 66 years. However, this lease agreement has not yet been executed.

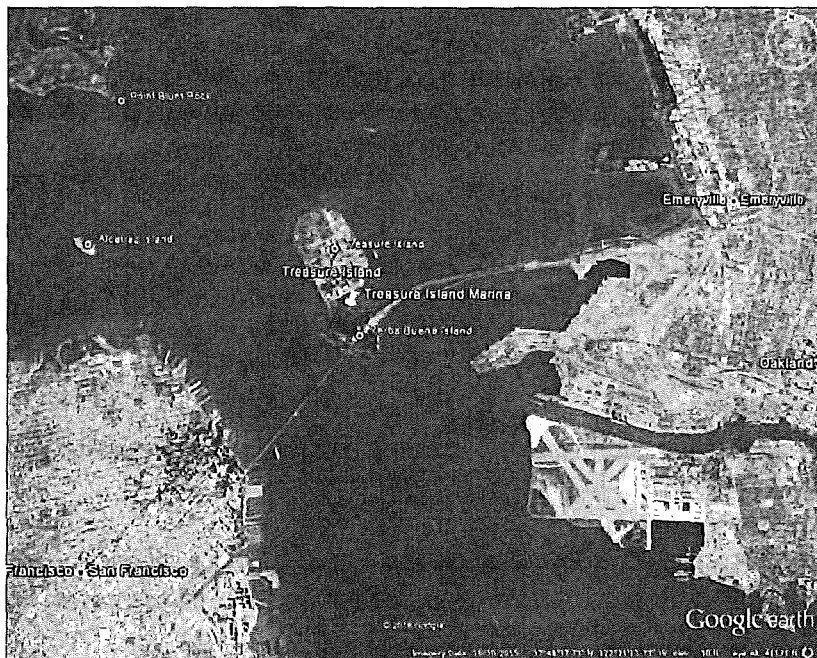


Figure 1, Source: Google Earth

Existing Conditions

Treasure Island Marina currently has three floating wood docks with 106 slips. Slip sizes range from 15 to 55 feet in length. The existing docks would remain in use until the final phase of marina construction (approximately 2022).

PROJECT DESCRIPTION

The requested funding for Phase 1 would construct Docks A and B, the rightmost docks in Figure 2 below. This addition would add 109 new slips of the sizes outlined in Table 1 to the existing 106 slip marina for a total of 215 slips when Phase 1 is complete.

The existing wooden docks would remain in place until Phase 3, which is planned for construction in approximately 2022, at which time they would be removed and replaced with new, reconfigured concrete docks as shown in Figure 2.

<u>Length (feet)</u>	<u>Slips</u>
40	6
45	66
50	34
80	3
Total Phase 1 slips:	109

Source: Treasure Island Enterprises, 3/7/17

Project Scope

Concrete Docks and Wave Attenuator

New concrete Docks A and B would be constructed in a configuration identified in Figure 2 below. A wave attenuator would be built into the east side of Dock A and would extend 185 feet past the end of Dock A, angled inward toward the other marina docks.

Utilities

All new utilities would be installed, including electric, communications (telephone, wireless internet, and cable), potable water, and fire suppression systems.

Piles

New concrete piles would be installed and would be engineered to account for anticipated sea level rise.

Dredging

TIE anticipates dredging a navigation channel and part of the basin during Phase 1 in 2018 and 2019. The estimated expense for this dredging is \$6 million.

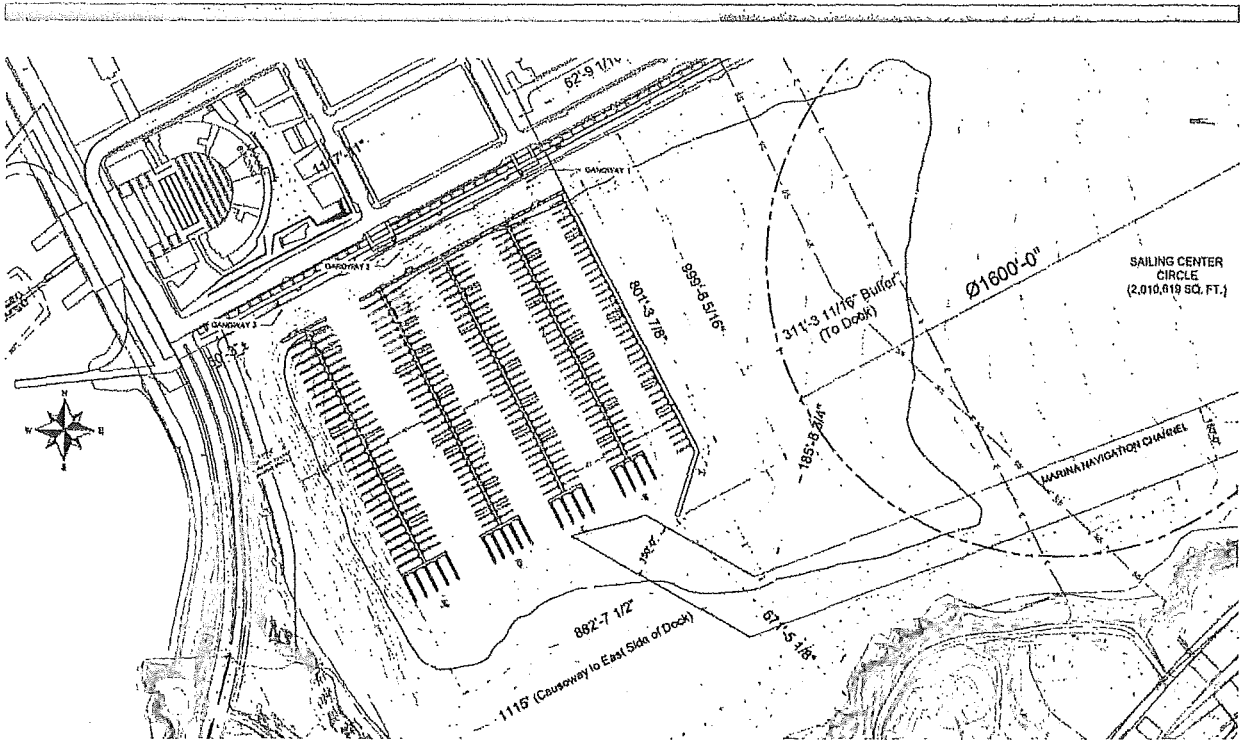


Figure 2, Site Plan, Source: TIE submission package dated 3/7/17

Sea Level Rise Consideration

According to projections by the National Oceanic and Atmospheric Administration (NOAA), large portions of Treasure Island may be permanently submerged within the next 50 years. Therefore the Marina must be designed to be adaptable to the 50 year expected rise in sea level. This is a recommended condition of this loan.

Cost Estimate

Per TIE’s revised cost estimate, project engineering, entitlements, Phase 1 construction, and related activities are expected to cost approximately \$18.1 million. If approved, \$4,200,000 would be funded by this requested DBW loan, and the remaining balance would be funded, according to TIE, by the private equity capital of TIE’s general manager and his partners.

Project components and DBW’s proposal for dividing responsibility for paying the costs of each component are identified in Table 2 below. DBW proposes to only allow loan funds to be used to reimburse a portion of expenses of constructing Phase 1 slips and related revenue-generating facilities only.

Table 2: Phase 1 Tasks, Costs, and Funding Sources

	Estimated cost	Funding source	
		DBW loan	TIE
Mobilization and demobilization	\$ 75,000		\$ 75,000
Phase 1 slips	\$ 5,967,627	\$ 4,200,000	\$ 1,767,627
Dock A, transient dock and wave attenuator	\$ 3,671,640		\$ 3,671,640
Marginal walkway	\$ 181,187		\$ 181,187
Utilities	\$ 275,000		\$ 275,000
Gangway, abutment, and gates	\$ 165,000		\$ 165,000
Marina Wi-Fi	\$ 125,000		\$ 125,000
Security access system	\$ 33,333		\$ 33,333
Channel marker buoys	\$ 100,000		\$ 100,000
Dredging	\$ 5,997,600		\$ 5,997,600
Landscaping	\$ 33,334		\$ 33,334
Engineering and permits	\$ 580,000		\$ 580,000
Entitlements	\$ 100,000		\$ 100,000
Payment and performance bond	\$ 250,000		\$ 250,000
Contingency	\$ 219,720		\$ 219,720
Development fee	\$ 292,960		\$ 292,960
Total	\$ 18,067,401	\$ 4,200,000	\$ 13,867,401

Source: Treasure Island Enterprises cost estimate and DBW analysis

Project Status

Project work has not begun. A long term lease of the project area from TIDA to TIE is set for hearing in April 2017. TIE expects permits to be acquired during the remainder of 2017.

Timeline

TIE anticipates construction of Phase 1 to occur in 2018. Construction of Phases 2 and 3 are planned for completion in 2020 and 2022 respectively.

Engineering Feasibility

Upon preliminary review, the project appears feasible from an engineering perspective.

Access

To satisfy a condition of all DBW loans, the Treasure Island Marina shall make facilities available to all on equal and reasonable terms according to that which is consistent with general commercial business practices, per HNC section 76.3(b), including future restroom and shower facilities serving the marina.

Environmental Impact and Permits

DBW has received a copy of the certification of an Environmental Impact Report for the transfer and reuse of Naval Station Treasure Island and expansion of the Marina from 2005. According

to TIE, permits from Bay Conservation and Development Commission, Regional Water Quality Control Board, and the US Army Corps are necessary but have not yet been acquired. If this loan is approved, loan provisions require submission of permits to DBW.

Public Opposition

Since the May 11, 2016 Commission meeting where the public and Commission members expressed concern regarding balancing uses of Clipper Cove. TIE and the Treasure Island Sailing Center (TISC) have continued negotiations of a marina design to meet the needs of both organizations. As of October 25, 2016, a final design was fully agreed on by TIE and TISC. Recent additional changes to the final design appear to DBW staff to be favorable for TISC.

ECONOMIC ANALYSIS

Three typical factors used by DBW to determine economic feasibility of a proposed loan are the following: One, the borrower demonstrates that adequate capital is available to finance the project to completion. Two, the borrower demonstrates that revenues will be sufficient to operate and maintain the project area, including the repayment of any debt. Three, the borrower proposes adequate collateral for the loan.

Capital

As identified above, TIE estimates the cost of marina design, entitlements, construction of Phase 1, and related activities to be approximately \$18.1 million. To date, only the \$4.2 million DBW loan has been specifically identified by TIE for Phase 1. TIE's managing partner has stated his and his partners' private equity capital would be used to fully fund Phase 1 of the TIE marina project up to the anticipated total capital amount needed to pay for costs beyond those covered by the loan.

When construction is not fully funded by the DBW loan, CCR Title 14, Section 5172(a)(9) requires that the funding plan, including sources of additional construction funds, be identified. In addition, CCR Title 14 Section 5175 (g) prohibits the subordination of DBW's loan to any future loan.

Because the letter from the managing partner references partners who have not personally verified their commitment to the project, and because the division of commitment between partners is was not made clear in the letter, DBW does not consider full funding of Phase 1 to be confirmed. Additionally, staff recommends that DBW review the terms of partner's equity agreement to confirm that funding used is not borrowed and subject to debt burden.

For example, in a past partner equity agreement, unrelated to subject of this report, DBW discovered that the initial investment and what was termed "partner equity" was, in reality, a loan from the equity partners that was expected to be repaid through marina operations at an interest rate of 12%. This kind of funding condition is a type of "subordination" which is prohibited. This is why staff recommends that no loan funds shall be made available until TIE obtains DBW's prior written approval of the agreement between TIE's equity partners that confirms how they will fund Phase 1 construction.

Slip Fee Revenue

Per TIE's revised proposal, expected slip fees for the proposed marina, in 2019 dollars, are somewhat commensurate to surrounding marinas except for 80 foot slips; see Table 3. In addition, according to the most recent documentation submitted, TIE estimates that slip fees

would increase by 2% annually. Based on the fees shown in Table 3, a 45 foot boat berthed at Treasure Island Marina would pay a monthly slip fee of \$755.10 in 2019.

Table 3: Slip Fee Comparison, 2019

Slip Sizes	40'	45'	50'	80'
Berkeley Marina	\$ 11.39	\$ 11.39	\$ 12.08	\$ 14.37
San Francisco Marina	\$ 16.63	\$ 16.63	\$ 17.00	\$ 17.35
Treasure Island Marina	\$ 13.26	\$ 16.78	\$ 18.30	\$ 32.64

Note: Berkeley and San Francisco prices based on 2016-17 quotes, increased 2% annually for two years

Liveaboard Revenue

TIE expects to start allowing liveaboard boaters in 2019. TIE anticipates having 20 liveaboard slips at the conclusion of Phase 1, eventually increasing to 30 once all phases are complete. TIE’s marina management company will charge TIE a “live aboard surcharge” fee for managing the liveaboard program. According to TIE, this expense will not vary based on liveaboard occupancy or TIE’s liveaboard revenue.

TIE intends to charge a fee of \$3,250 per month for liveaboards at the marina in 2018, with this fee increasing to \$3,315 per month in 2019 and 2% per year thereafter. TIE has informed DBW the liveaboard fee will represent the entire berth fee for liveaboards; it will not be an additional charge on top of the normal slip fee.

According to DBW staff research, other Bay area marinas that allow liveaboards charge a monthly liveaboard fee in additional to the regular slip fee. Table 4 below lists a sampling of current liveaboard fees in the Bay area.

Table 4: Current and Proposed Liveaboard Fees

Marina	Location	Slip Rental Fee	Monthly Liveaboard Fee	Total Monthly Fee for
		for 45' Boat		Two People on 45' Boat
Berkeley Marina	Berkeley	\$492.75	\$200.00	\$692.75
Pier 39 Marina	San Francisco	\$545.00	\$200 as of 2014 (not currently taking apps)	\$745.00
Marina Bay Yacht Harbor	Richmond	\$559.98	\$200.00	\$759.98
Brickyard Cove Marina	Richmond	\$575.75	\$175.00 first person, \$100.00 additional	\$850.75
Westpoint Harbor	Redwood City	\$500.00	\$375.00	\$875.00
Marina Village Yacht Harbor	Alameda	\$652.00	\$350.00	\$1,002.00
Treasure Island Marina (TIE proposed fee for liveaboard berths, 2019)	San Francisco	no slip fee for liveaboards	\$3,315.00 flat fee	\$3,315.00

Source: DBW research and TIE slip revenue forecast dated 3/6/17
Note: All fees besides Treasure Island Marina's were advertised online as of 3/29/17 unless noted.

TIE is proposing a liveaboard fee that is more akin to the rental of an apartment. According to TIE, its projected liveaboard fee “is based on TIE’s expectation that future liveaboards will view the new marina as a unique, and premium live aboard program that is unmatched in the Bay Area given its proximity to the master development activities of TIDA and its master developer

program at Treasure Island. There is no comparable for that offering anywhere in the Bay Area.” TIE has informed DBW it expects the first phase of master development activities to be completed in 2019. However, until that development occurs, DBW is uncertain whether TIE can command liveaboard rates at the level proposed.

Although TIE's ordinary slip rental fees, as illustrated in Table 3, appear reasonable compared to nearby marinas, the subset of slips that will carry the higher liveaboard fees are significantly above market. Harbors and Navigation Code Sections 76.7 (c) and (d) forbids private loan recipients from charging unreasonably high boat berthing fees, and requires DBW to monitor the berthing fees of private marina owners receiving loans to ensure rates are reasonable and not exorbitant. Staff is concerned the proposed fee may be exorbitant. Staff is also concerned that if TIE cannot collect this fee, the project will not generate sufficient revenues to repay the proposed loan (as discussed below).

Occupancy

TIE expects occupancy rates of existing slips to remain at current levels, and occupancy rates of new slips after construction to begin at 50% and increase to 90% by 2026. Berkeley Marina, which has a combination of recently renovated and older slips, is currently experiencing occupancy rates of approximately 80%. San Francisco Marina West Harbor, which was recently renovated, has occupancy rates of 92%. DBW has used TIE's assumptions, including its projections of increasing occupancy rates, in the revenue projections in Tables 5 and 6.

Revenue

A project's financial feasibility partly depends on whether there would be sufficient revenue to pay for project expenses on an annual basis, including the repayment of the proposed DBW loan. Slip fees, liveaboard fees, and occupancy rates are all significant drivers for TIE's revenue estimates.

The pro formas submitted by TIE include revenue and expense forecasts based on completion of the entire 313-slip project. However, since funding for future phases is not guaranteed, DBW's financial analysis must consider only the incremental funding currently being requested. Tables 5 and 6 include footnotes that list assumptions DBW has made to assess whether the proposed Phase 1 loan will provide sufficient revenue for operations and loan repayment in the event that no planned construction work after Phase 1 is completed.

Due to TIE's liveaboard fee proposal, and the difficulties in predicting how a private entity will react if it does not realize the profits it hopes to generate from an investment, it is difficult to determine whether TIE's business model is sustainable. Therefore, staff has included two financial analyses with this report; one with the liveaboard program fully realized and one with no liveaboard element:

- Table 5 adopts most of TIE's revenue assumptions, including those associated with its liveaboard program and the increase of liveaboard revenue by 2% each year after 2019, the year in which Phase 1 is scheduled for completion.

Table 5 assumes TIE can command the fees it expects for its liveaboard program. However, if the liveaboard fee needs to be reduced to the point it becomes competitive with other nearby marinas, the expense of the liveaboard program will exceed the revenues TIE would collect at even 100% occupancy. In that case, DBW's financial analysis assumes TIE never initiates the program and avoids its related expense, as shown in Table 6.

-
- Table 6 makes all the same assumptions as Table 5, except it entirely removes the liveaboard program's revenues (and expenses) from the analysis.

Expenses

Tables 5 and 6 identify anticipated expenses based on TIE's most recent pro forma, except the annual maintenance dredging expense and the maintenance reserve as discussed below. Table 6 removes liveaboard-specific expenses (and revenues) for the reasons discussed above.

Maintenance Dredging Reserve

As the rate of sediment accumulation is unknown at this time, staff previously recommended that TIE complete a study to determine estimated accumulation of siltation of the new proposed marina, the estimated dredging expense, and the estimated rate of occurrence required to maintain a viable marina. This study was intended to determine how much money shall be budgeted for this expense and placed into a Maintenance Dredging Reserve Escrow account annually (adjusted for inflation) for ongoing maintenance dredging.

TIE has informed DBW it will not provide this analysis, stating: "TIE is unable to provide DBW with a cost estimate or rate of occurrence for future dredging given the fact that it is impossible to know how slow or fast siltation may occur at Clipper Cove and other intangibles that will only be proven over time. TIE will, however, pay all maintenance dredging costs as they may arise in the future. TIE will put aside a total of \$25,000.00 annually into a dedicated future dredge reserve fund, up to a total of \$225,000."

While DBW hopes the actual need for dredging ends up being as low as TIE's estimates indicate, we cannot ignore the possibility that actual costs could be higher and that two other DBW loans in the bay area have defaulted due to improper budgeting for siltation. In the absence of new data from TIE, DBW continues to use the same \$150,000 estimate for annual maintenance dredging it used in its November 2016 report, and DBW recommends funding a dredging reserve account up to a maximum of \$300,000 be a condition of the loan.

DBW Reserve Account

TIE's most recent pro forma does not include a DBW-required reserve account for unforeseen expenses as required by CCR Title 14, Section 5175(a). TIE proposes to set aside \$25,000 annually for maintenance, but this is below DBW's established minimum requirement of 2% of gross revenues for all loans. This reserve level has been in place for more than 15 years. DBW 2% reserve requirement is included in Tables 5 and 6. The 2% contribution will be a condition of the loan.

Collateral

TIE proposes the collateral for the proposed loan would "be the rents from the marina, the marina personal property and the leasehold interest in the marina." The collateral documents would include a lease-lease back, security agreement, recorded collateral assignments of rents and leases, and ongoing UCC-1 filings:

The minimum collateral amount required by the Harbors and Navigation Code section 76.6(b) is 110% of the loan. The proposed improvements meet that minimum requirement. However, in the event of default, the lease-lease back would make DBW liable for the annual lease payments to TIDA. According to documentation supplied by TIE, the currently agreed base rent is \$100,000.

In November 2016, staff recommended as a condition of the loan that a provision be included in the TIDA lease that confirms the State will not be required to make any lease payments to TIDA in the event of a TIE default. This has not yet occurred. The latest lease language does not fully address default conditions as it relates to offered collateral, specifically the lease-lease back instrument. Staff recommends that proof of this provision, specifically as it relates to offered collateral, be included in the lease and that this be a condition of the loan.

FINANCIAL MEASURES

Income Expense Ratio

Since 2009, it has been DBW's practice to require a 1.2:1 income to expense ratio. Table 5 indicates the project meets this requirement in all years after 2018 if the liveaboard program is successful, while Table 6 indicates that the project does not meet this requirement until 2021 if the liveaboard program is not implemented.

Debt Service Coverage Ratio

The Debt Service Coverage Ratio (DSCR) is a measure of an entity's capacity to not only maintain operations, but also to afford debt. The minimum DSCR established by the Commission at its May 2009 meeting was 1.25 for public marina loans. A separate DSCR for private loans has not been established by the Commission, but due to the increased risk of private marina loans, staff recommends a higher DSCR be considered for private marina loans. The calculation for determining this ratio is:

$$\text{DSCR} = \text{Net Operating Income} / \text{Total Debt Service.}$$

TIE's success in implementing the premium liveaboard program it proposes appears essential for the project to meet this ratio. As Table 5 shows, if TIE generates the demand it anticipates for liveaboards at the proposed monthly fee and occupancy level, TIE will consistently meet DBW's DSCR requirement after 2018. However, as Table 6 shows, if TIE determines that the liveaboard program cannot be profitably implemented, the DSCR will be below 1.25 from 2018 through 2027, even if TIE incurs no liveaboard-specific expenses. And if TIE runs the liveaboard program at a loss for any length of time, its ability to meet the ratio may be further impacted.

Due to the number of variables that could affect TIE's ability to cover debt, staff continues to recommend requiring capitalization of a separate Payment Reserve Escrow Account which must be funded with no less than two years loan payments totaling approximately \$640,000 that would remain in the escrow account until TIE demonstrates to DBW that the marina can maintain a minimum DSCR of 1.25 through the remaining term of the loan.

CONCLUSION

The Department of Parks and Recreation, Division of Boating and Waterways (DBW) seeks Commission Advice and Comment to this proposed \$4,200,000 loan (HWRP) to Treasure Island Enterprises, LLC for the improvements described in this April 5, 2017 Feasibility Report, and recommends that if the Commission advises the Department to proceed with the requested loan, conditions be written into the loan agreement. Staff's recommendations for these conditions are as follows:

-
1. No loan funds shall be available until DBW receives the final lease agreement between TIDA and TIE that incorporates the collateral requirements (specifically the lease-lease back) of this loan and includes a provision that in the event TIE defaults on its loan with DBW, DBW shall have no obligation to make any lease payments to TIDA.
 2. As customary with DBW loans, loan funding will be provided on a reimbursement basis only.
 3. No loan funds shall be available for construction until engineers from the Department of Parks and Recreation, Division of Acquisition and Development confirm that the project design is compatible with 50-year sea level rise projections.
 4. No loan funds shall be available for construction until TIE funds a \$300,000 Maintenance Dredging Reserve Escrow Account.
 5. No loan funds shall be available until \$640,000 is placed in an additional and separate Payment Reserve Escrow Account which must remain funded until TIE demonstrates that the marina can maintain a minimum Debt Service Coverage Ratio of 1.25 throughout the remaining term of the loan.
 6. TIE must agree to fund a maintenance reserve account at the customary level of 2% of the marina's gross annual revenues.
 7. No loan funds shall be made available until TIE obtains DBW's prior written approval of the agreement between TIE's equity partners that confirms how they will fund Phase 1 construction. This is in compliance with California Code of Regulations Title 14, Section 5172(a)(9) which requires that the funding plan, including sources of additional construction funds, be identified. This will also ensure that funding used is not borrowed and subject to debt burden.

COMMISSION ADVICE AND COMMENT

DBW seeks Commission Advice and Comment on Treasure Island Enterprises' request for a \$4,200,000 loan from the Harbors and Watercraft Revolving Fund and staff's recommended conditions for the improvements described in this April 5, 2017 feasibility report.

**TABLE 5: TREASURE ISLAND MARINA
CASH FLOW PROJECTIONS AND DEBT SERVICE COVERAGE RATIO WITH TIE'S PROPOSED LIVEABOARD REVENUES AND EXPENSES
CY 2017 THROUGH CY 2038
(Figures in Thousands)**

	Current year, estimated by TIE	Phase 1 Construction, partial occupancy	Phase 1 First full year after construction	All reus & exps per TIE pro forma except where noted, adjusted for Phase 1 development only, and assume 2%/yr fee & cost increases after 2019																		
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038
REVENUES																						
Berths - Regular (1)		862	898	904	1,014	1,128	1,221	1,246	1,271	1,296	1,322	1,348	1,375	1,403	1,431	1,459	1,489	1,518	1,549	1,580	1,611	1,644
Berths - Guest Revenue (2)		16	45	45	51	56	61	62	64	65	66	67	69	70	72	73	74	76	77	79	81	82
Berths - Liveaboards (3)		0	557	609	745	760	775	791	806	823	839	856	873	890	908	926	945	964	983	1,003	1,023	1,043
Transient Dock (2)		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Dry Storage - Dinghy (2)		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal: Slip Rent/Dry Storage		878	1,500	1,558	1,810	1,945	2,057	2,099	2,140	2,183	2,227	2,272	2,317	2,363	2,411	2,459	2,508	2,558	2,609	2,661	2,715	2,769
Laundry/Vending (2)		6	14	15	15	16	16	16	17	17	17	18	18	18	19	19	19	20	20	21	21	21
Electricity (2)		77	78	80	83	85	86	88	90	92	93	95	97	99	101	103	105	107	110	112	114	116
Subtotal: Ad'l Revenue		83	92	95	98	100	102	104	106	109	111	113	115	117	120	122	125	127	130	132	135	138
TOTAL REVENUES	349	961	1,592	1,652	1,908	2,045	2,160	2,203	2,247	2,292	2,338	2,384	2,432	2,481	2,530	2,581	2,633	2,685	2,739	2,794	2,850	2,907
EXPENSES																						
Rent (per Ground Lease) (4)	90	100	102	104	106	108	110	113	115	117	120	122	124	127	129	132	135	137	140	143	146	149
Percentage Rent (5)																						
Salaries & Fringe (Sal + Payroll Tax + Ins.)	83	231	242	247	252	257	262	267	273	278	284	289	295	301	307	313	319	326	332	339	346	353
Insurance/Ad'l Legal	33	42	43	44	45	46	47	47	48	49	50	51	52	53	55	56	57	58	59	60	61	63
Direct Operating Expenses (6)	45	194	199	203	207	211	215	220	224	229	233	238	243	247	252	257	263	268	273	279	284	290
Office to Rent	14	74	75	77	78	80	81	83	84	86	88	90	91	93	95	97	99	101	103	105	107	109
Possessions/Property Tax	5	19	19	121	124	126	129	131	134	137	139	142	145	148	151	154	157	160	163	167	170	173
Utilities	3	19	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	62	63	64
Overhead/Management/Almar	29	46	114	116	119	121	123	126	128	131	134	136	139	142	145	147	150	153	156	160	163	166
Liveaboard Surcharge (7)	0	0	177	181	184	188	192	195	199	203	207	212	216	220	224	229	234	238	243	248	253	258
Maintenance Dredge Reserve (8)	0	0	0	0	150	150	150	150	150	150	150	150	150	150	150	150	150	150	150	150	150	150
DBW req'd maintenance reserve (9)	18	22	32	32	38	41	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58
Subtotal Operating Expenses:	302	844	1,147	1,170	1,198	1,374	1,400	1,425	1,451	1,476	1,504	1,530	1,558	1,586	1,615	1,644	1,674	1,704	1,736	1,767	1,800	1,833
NET OPERATING INCOME	47	117	445	482	710	671	760	777	796	815	834	854	874	895	916	937	959	981	1,003	1,026	1,050	1,074
Less: DBW DEBT SERVICE (\$4.2 MILLION LOAN, 4.5% INTEREST RATE, 20 YEAR REPAYMENT TERM)		160	320	320	320	320	320	320	320	320	320	320	320	320	320	320	320	320	320	320	320	320
Less: Ad'l DEBT SERVICE (10)																						
NET INCOME	47	(43)	125	162	390	351	440	457	476	495	514	534	554	575	596	617	639	661	683	706	730	914
DBW INCOME/EXPENSE RATIO (min. 1.2:1 req'd)	1.16	1.14	1.39	1.41	1.59	1.49	1.54	1.55	1.55	1.55	1.55	1.56	1.56	1.56	1.57	1.57	1.57	1.58	1.58	1.58	1.58	1.59
DEBT SERVICE COVERAGE RATIO (min. 1.25 req'd)	N/A	0.73	1.39	1.51	2.22	2.10	2.37	2.43	2.49	2.55	2.61	2.67	2.73	2.80	2.86	2.93	3.00	3.06	3.14	3.21	3.28	3.71

NOTES:

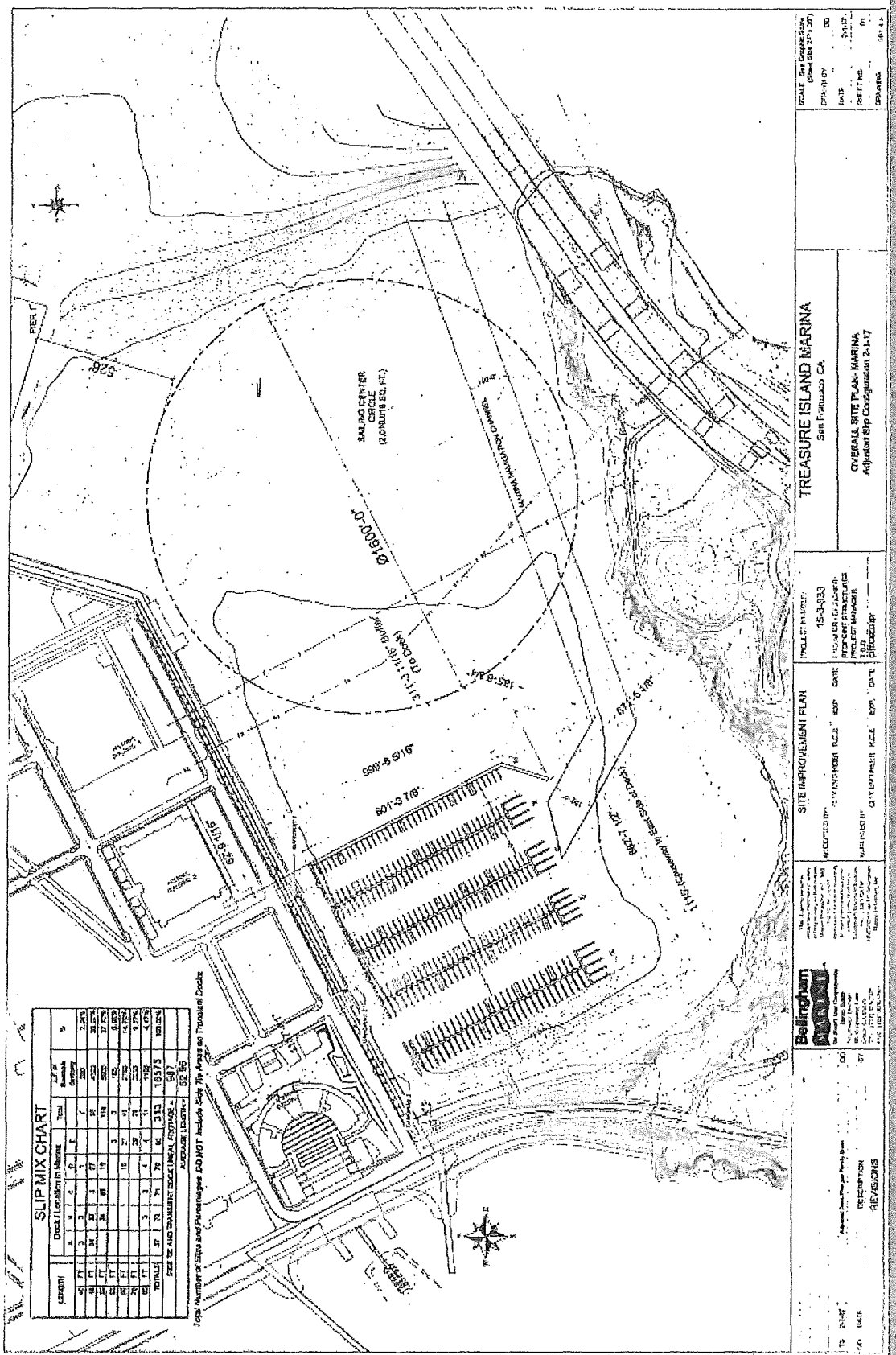
- Berth revenue projections submitted by TIE for new slips are based on forecasted slip mix, occupancy projections, and rental rates computed by Almar Management. Construction occurring 2018 with first full year of occupancy in 2019, and occupancy increasing at rates forecasted by TIE but adjusted by DBW to reflect only Phase 1 being developed. In this forecast, DBW assumes maintenance of current occupancy levels for existing fold slips, and 2%/yr increases on monthly fees for those slips.
- Future revenue estimated by TIE, graduating 2% annually after 2019, which is the first full year after construction. Guest revenue is expected to be 5% of slip revenue.
- TIE's proposal for liveaboard assumes 20 liveaboard slips, occupancy of 70% in 2019 increasing to 90% in 2024; monthly charge of \$3,315 ea/mo. in 2019, increasing 2% annually thereafter. This table adopts that proposal and assumes 20 45-foot berths will be used as liveaboard slips.
- Ground rent of \$100,000 per year, forecasted to increase annually by 2%. Percentage rent will be offset by a credit in the lease agreement for construction dredging.
- Per the TID/TIE lease agreement, percentage rent is to be offset by \$6 million in credits for construction dredging. Due to difficulties in forecasting this item, DBW has excluded it from this analysis.
- Direct operating expenses are Contractor Expenses less salary, payroll tax and insurance.
- According to its most recently-submitted financial documents, TIE he used the "liveaboard surcharge" line item in its expenses as the place where TIE captures the added costs of operating and maintaining the liveaboard boaters in the marina. TIE proposed a \$177,000 expense for the liveaboard surcharge in 2019. DBW has adopted TIE's proposal in this table.
- Maintenance Dredge Reserve - estimated \$150,000 payment to begin the third year (2022) after construction dredging is complete (2019). TIE intends to only provide \$25,000 annually up to a \$225,000 maximum, but has submitted no justification for this estimate, which DBW considers unrealistically low.
- DBW Maintenance Reserve per Exhibit A, Art. 2, Definition Q, of DBW's standard Loan Agreement. DBW standard reserve is 2% of Project Area Gross Revenues. TIE proposes a \$25,000 annual asset reserve fund, but this would not comply with DBW requirements.
- DBW has not yet identified any additional debt service, but DBW has not verified the private equity available for this project, and it is possible the private partners could finance this equity through additional loans.

**TABLE 6: TREASURE ISLAND MARINA
CASH FLOW PROJECTIONS AND DEBT SERVICE COVERAGE RATIO WITHOUT LIVEBOARD REVENUES AND EXPENSES
CY 2017 THROUGH CY 2038
(Figures in Thousands)**

REVENUES	Current year, estimated by TIE	Phase 1 Construction, partial occupancy	Phase 1/First full year after construction	All revs & exps per TIE pro forma except where noted, adjusted for Phase 1 development only, and assume 2%/yr fee & cost increases after 2019																		
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038
Berths - Regular (1)		862	997	997	1,127	1,263	1,378	1,406	1,434	1,463	1,482	1,522	1,552	1,583	1,615	1,647	1,680	1,714	1,748	1,783	1,818	1,855
Berths - Guest Revenue (2)		16	50	50	56	63	69	70	72	73	75	76	78	79	81	82	84	86	87	89	91	93
Berths - Liveboards (3)		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Transient Dock (2)		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Dry Storage - Dredge (2)		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal: Slip Rent/Dry Storage		878	1,047	1,046	1,184	1,326	1,447	1,476	1,506	1,536	1,566	1,598	1,630	1,662	1,695	1,729	1,764	1,799	1,835	1,872	1,909	1,948
Laundry/Vending (2)		6	14	15	15	16	16	16	17	17	17	18	18	18	19	19	19	20	20	21	21	21
Electricity (2)		77	78	80	83	85	86	88	90	92	93	95	97	99	101	103	105	107	110	112	114	116
Subtotal: Ad'l Revenue		83	92	95	98	100	102	104	106	109	111	113	115	117	120	122	125	127	130	132	135	138
TOTAL REVENUES	349	961	1,139	1,141	1,282	1,426	1,549	1,580	1,612	1,644	1,677	1,711	1,745	1,780	1,815	1,852	1,889	1,926	1,965	2,004	2,044	2,085
EXPENSES																						
Rent (per Ground Lease) (4)	90	100	102	104	106	108	110	113	115	117	120	122	124	127	129	132	135	137	140	143	146	149
Percentage Rent (5)																						
Salaries & Fringe (Sal + Payroll Tax + Ins.)	83	231	242	247	252	257	262	267	273	278	284	289	295	301	307	313	319	326	332	339	346	353
Insurance/Accot/Legal	33	42	43	44	45	46	47	47	48	49	50	51	52	53	55	56	57	58	59	60	61	63
Direct Operating Expenses (6)	45	194	199	203	207	211	215	220	224	229	233	238	243	247	252	257	263	268	273	279	284	290
Office to Rent	14	74	75	77	78	80	81	83	84	86	88	90	91	93	95	97	99	101	103	105	107	109
Possessory/Property Tax	5	119	119	121	124	126	129	131	134	137	139	142	145	148	151	154	157	160	163	167	170	173
Utilities	3	18	18	18	19	19	19	19	20	20	20	21	21	22	22	23	23	24	24	25	25	26
Overhead/Management/Almar	23	46	46	46	47	48	49	49	50	51	52	53	54	55	56	57	58	59	60	62	63	64
Liveboard Surcharge (7)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Maintenance Dredge Reserve (8)	0	0	0	0	0	150	150	150	150	150	150	150	150	150	150	150	150	150	150	150	150	150
DBW req'd maintenance reserve (9)	18	23	23	23	26	29	31	32	32	33	34	34	35	36	36	37	38	39	39	40	41	42
Subtotal Operating Expenses:	302	844	961	980	1,001	1,174	1,196	1,218	1,239	1,260	1,283	1,305	1,328	1,352	1,376	1,401	1,426	1,451	1,477	1,504	1,531	1,558
NET OPERATING INCOME	47	117	179	161	281	253	353	363	373	384	394	405	416	428	439	451	463	475	488	501	514	527
Less: DBW DEBT SERVICE (\$4.2 MILLION LOAN, 4.5% INTEREST RATE, 20 YEAR REPAYMENT TERM)		160	320	320	320	320	320	320	320	320	320	320	320	320	320	320	320	320	320	320	320	160
Less: Ad'l DEBT SERVICE (10)																						
NET INCOME	47	(43)	(141)	(159)	(39)	(67)	33	43	53	64	74	85	96	108	119	131	143	155	168	181	194	367
DBW INCOME/EXPENSE RATIO (min. 1.2:1 req'd)	1.16	1.14	1.19	1.16	1.28	1.22	1.30	1.30	1.30	1.30	1.31	1.31	1.31	1.32	1.32	1.32	1.32	1.33	1.33	1.33	1.34	1.34
DEBT SERVICE COVERAGE RATIO (min 1.25 req'd)	N/A	0.73	0.56	0.50	0.89	0.79	1.16	1.13	1.17	1.20	1.23	1.27	1.30	1.34	1.37	1.41	1.45	1.49	1.52	1.56	1.61	3.29

NOTES:

- Berth revenue projections submitted by TIE for new slips are based on forecasted slip mix, occupancy projections, and rental rates computed by Almar Management. Construction occurring in 2018 with first full year of occupancy in 2019; and occupancy increasing at rates forecasted by TIE but adjusted by DBW to reflect only Phase 1 being developed. In this forecast, DBW assumes maintenance of current occupancy levels for existing/old slips, and 2%/yr increases on monthly fees for those slips.
- Future revenue estimated by TIE, graduating 2% annually after 2019, which is the first full year after construction. Guest revenue is expected to be 5% of slip revenue.
- TIE's proposal for liveboard assumes 20 liveboard slips, occupancy of 70% in 2019 increasing to 90% in 2024; monthly charge of \$3,315 ea/mo, in 2019, increasing 2% annually thereafter. This table assumes TIE will not attract enough liveboards at that fee to justify the expense for the liveboard program, in which case the decision most favorable to TIE in this analysis will be to not have a liveboard program and to rent the liveboard slips at normal berthing rates.
- Ground rent of \$100,000 per year, forecasted to increase annually by 2%. Percentage rent will be offset by a credit in the lease agreement for construction dredging.
- Per the TIDA/TIE lease agreement, percentage rent is to be offset by \$6 million in credits for construction dredging. Due to difficulties in forecasting this item, DBW has excluded it from this analysis.
- Direct operating expenses are Contractor Expenses less salary, payroll tax and insurance.
- According to its most recently-submitted financial documents, TIE used the "liveboard surcharge" line item in its expenses as the place where TIE captures the added costs of operating and maintaining the live board boats in the marina. TIE proposed a \$177,000 expense for the liveboard surcharge in 2019. Because DBW's analysis determined TIE cannot recoup this cost from liveboard fees without setting them far above market, DBW's analysis in this Table excludes liveboard-specific revenues and expenses.
- Maintenance Dredge Reserve - estimated \$150,000 payment to begin the third year (2022) after construction dredging is complete (2019). TIE intends to only provide \$25,000 annually up to a \$225,000 maximum, but has submitted no justification for this estimate, which DBW considers unrealistically low.
- DBW Maintenance Reserve per Exhibit A, Art. 2, Definition G, of DBW's standard Loan Agreement. DBW standard reserve is 2% of gross revenues. TIE proposes a \$25,000 annual asset reserve fund, but this would not comply with DBW requirements starting in 2021.
- DBW has not yet identified any additional debt service, but DBW has not verified the private equity available for this project, and it is possible the private partners could finance this equity through additional loans.



SLIP MIX CHART

LOCATION	Deck Location in Marina				Total	% of Total Slips
	A	B	C	D		
01	1	1	1	1	4	2.0%
02	1	1	1	1	4	2.0%
03	1	1	1	1	4	2.0%
04	1	1	1	1	4	2.0%
05	1	1	1	1	4	2.0%
06	1	1	1	1	4	2.0%
07	1	1	1	1	4	2.0%
08	1	1	1	1	4	2.0%
09	1	1	1	1	4	2.0%
10	1	1	1	1	4	2.0%
11	1	1	1	1	4	2.0%
12	1	1	1	1	4	2.0%
13	1	1	1	1	4	2.0%
14	1	1	1	1	4	2.0%
15	1	1	1	1	4	2.0%
16	1	1	1	1	4	2.0%
17	1	1	1	1	4	2.0%
18	1	1	1	1	4	2.0%
19	1	1	1	1	4	2.0%
20	1	1	1	1	4	2.0%
21	1	1	1	1	4	2.0%
22	1	1	1	1	4	2.0%
23	1	1	1	1	4	2.0%
24	1	1	1	1	4	2.0%
25	1	1	1	1	4	2.0%
26	1	1	1	1	4	2.0%
27	1	1	1	1	4	2.0%
28	1	1	1	1	4	2.0%
29	1	1	1	1	4	2.0%
30	1	1	1	1	4	2.0%
31	1	1	1	1	4	2.0%
32	1	1	1	1	4	2.0%
33	1	1	1	1	4	2.0%
34	1	1	1	1	4	2.0%
35	1	1	1	1	4	2.0%
36	1	1	1	1	4	2.0%
37	1	1	1	1	4	2.0%
38	1	1	1	1	4	2.0%
39	1	1	1	1	4	2.0%
40	1	1	1	1	4	2.0%
41	1	1	1	1	4	2.0%
42	1	1	1	1	4	2.0%
43	1	1	1	1	4	2.0%
44	1	1	1	1	4	2.0%
45	1	1	1	1	4	2.0%
46	1	1	1	1	4	2.0%
47	1	1	1	1	4	2.0%
48	1	1	1	1	4	2.0%
49	1	1	1	1	4	2.0%
50	1	1	1	1	4	2.0%
51	1	1	1	1	4	2.0%
52	1	1	1	1	4	2.0%
53	1	1	1	1	4	2.0%
54	1	1	1	1	4	2.0%
55	1	1	1	1	4	2.0%
56	1	1	1	1	4	2.0%
57	1	1	1	1	4	2.0%
58	1	1	1	1	4	2.0%
59	1	1	1	1	4	2.0%
60	1	1	1	1	4	2.0%
61	1	1	1	1	4	2.0%
62	1	1	1	1	4	2.0%
63	1	1	1	1	4	2.0%
64	1	1	1	1	4	2.0%
65	1	1	1	1	4	2.0%
66	1	1	1	1	4	2.0%
67	1	1	1	1	4	2.0%
68	1	1	1	1	4	2.0%
69	1	1	1	1	4	2.0%
70	1	1	1	1	4	2.0%
71	1	1	1	1	4	2.0%
72	1	1	1	1	4	2.0%
73	1	1	1	1	4	2.0%
74	1	1	1	1	4	2.0%
75	1	1	1	1	4	2.0%
76	1	1	1	1	4	2.0%
77	1	1	1	1	4	2.0%
78	1	1	1	1	4	2.0%
79	1	1	1	1	4	2.0%
80	1	1	1	1	4	2.0%
81	1	1	1	1	4	2.0%
82	1	1	1	1	4	2.0%
83	1	1	1	1	4	2.0%
84	1	1	1	1	4	2.0%
85	1	1	1	1	4	2.0%
86	1	1	1	1	4	2.0%
87	1	1	1	1	4	2.0%
88	1	1	1	1	4	2.0%
89	1	1	1	1	4	2.0%
90	1	1	1	1	4	2.0%
91	1	1	1	1	4	2.0%
92	1	1	1	1	4	2.0%
93	1	1	1	1	4	2.0%
94	1	1	1	1	4	2.0%
95	1	1	1	1	4	2.0%
96	1	1	1	1	4	2.0%
97	1	1	1	1	4	2.0%
98	1	1	1	1	4	2.0%
99	1	1	1	1	4	2.0%
100	1	1	1	1	4	2.0%
TOTAL	100	100	100	100	400	100%

SIZE OF AND NUMBER OF SLIP MIX CHARTS = 507
 SURFACE LEGEND = 52, 56

Note: Number of Slips and Percentages DO NOT Include Slip Areas on Transient Docks

PRELIMINARY - NOT FOR CONSTRUCTION

TREASURE ISLAND MARINA
 San Francisco, CA

OVERALL SITE PLAN - MARINA
 Adjusted Slip Configuration 2-1-17

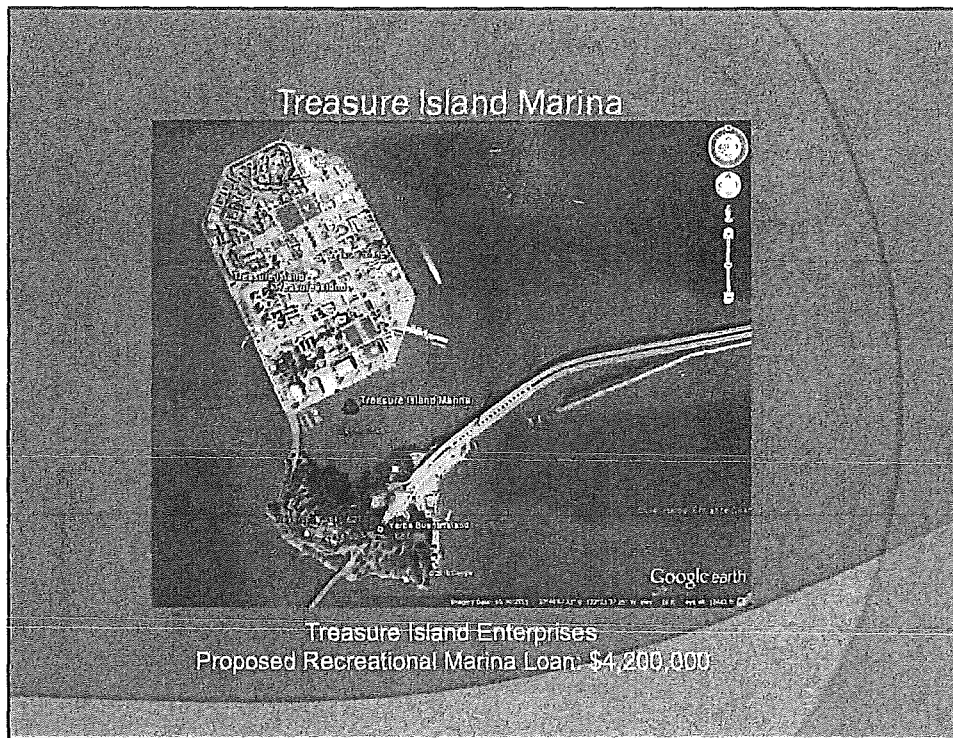
SCALE: See Project Data (Scale 20' = 1" @ 24")
 DATE: 10/17/17
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 PROJECT NO.: [Number]

PROJECT NUMBER: 15-3-933
 TITLE: OVERALL SITE PLAN - MARINA
 PROJECT MANAGER: [Name]
 DATE: 10/17/17

APPROVED BY: [Name]
 DATE: 10/17/17

DATE: 10/17/17

REVISIONS



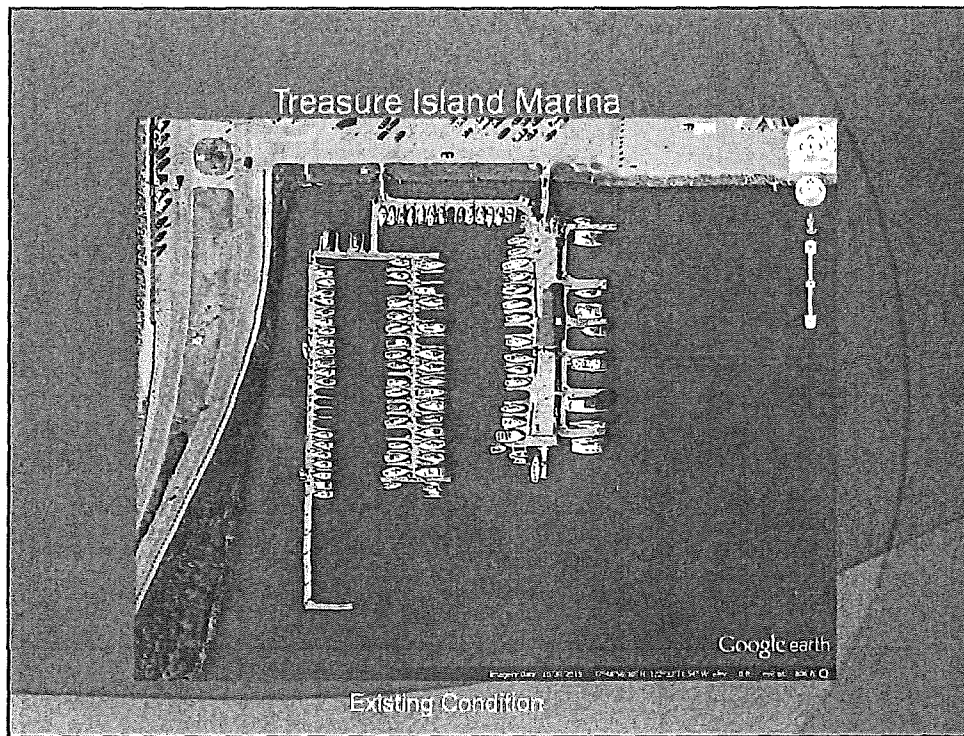
Good Morning Vice Chair Madueno, fellow Commissioners, Chief Deputy McGuirk, and Deputy Director Sadler.

My name is Keren Dill, Chief of the Boating Facilities Development and Financing Unit and I will be presenting staff's analysis of the Treasure Island Enterprises' request for a \$4.2 million loan for the proposed phase 1 construction of the Treasure Island Marina.

Here to represent Treasure Island Enterprises, also known as TIE, is Mr. Jay Wallace who will speak at the end of this presentation.

Staff is seeking Commission's advice and comment on the requested \$4.2 million Loan.

To reorient you, the Treasure Island Marina is located at clipper cove between treasure island and yerba Buena island in the San Francisco Bay.

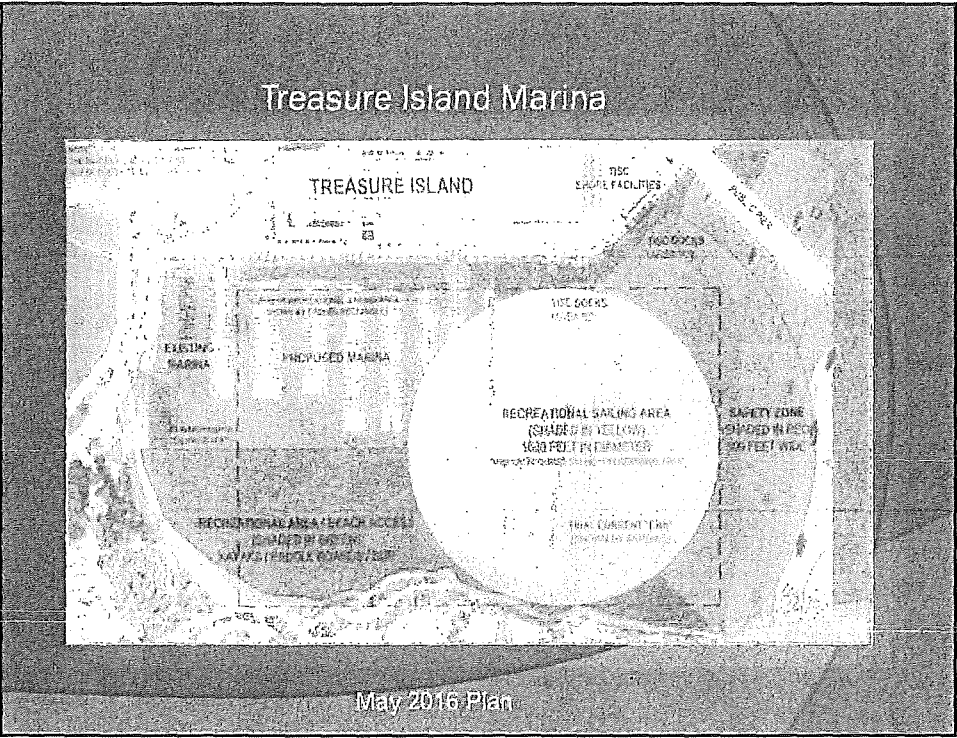


As you may recall, the Commission has heard this project twice before. The first time was in May 2016 when the Commission toured the facility and the second time was last November.

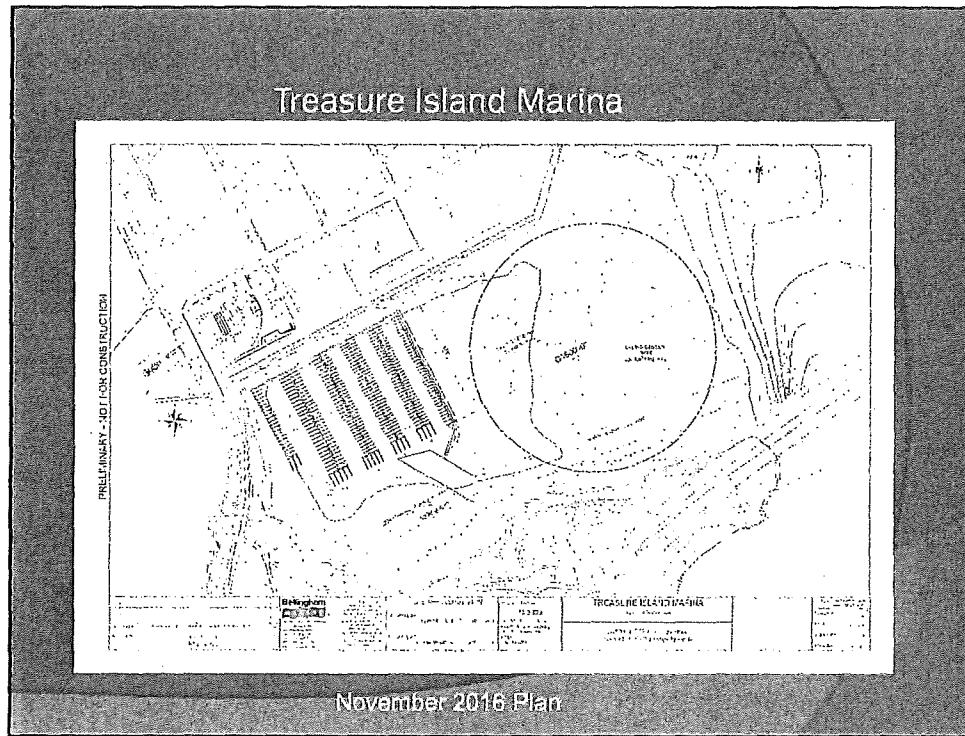
As you saw in the tour, Treasure Island Marina has 106 wooden slips ranging in size from 16 to 55 feet.

Since November, the Navy has transferred title of the property to the Treasure Island Development Authority. The Development Authority is anticipating entering into a long term lease agreement with Treasure Island Enterprises for development and management of this Marina.

To remind you, the Environmental Impact Report was certified in 2005 for the expansion of the Marina. As an additional reminder, DBW's role is as a potential lender for the project. Permitting agencies, such as BCDC, have authority for acceptance of the Environmental Impact Report, granting dredging and construction permits, approving liveaboard plans, and to rule in the event of usage conflicts.

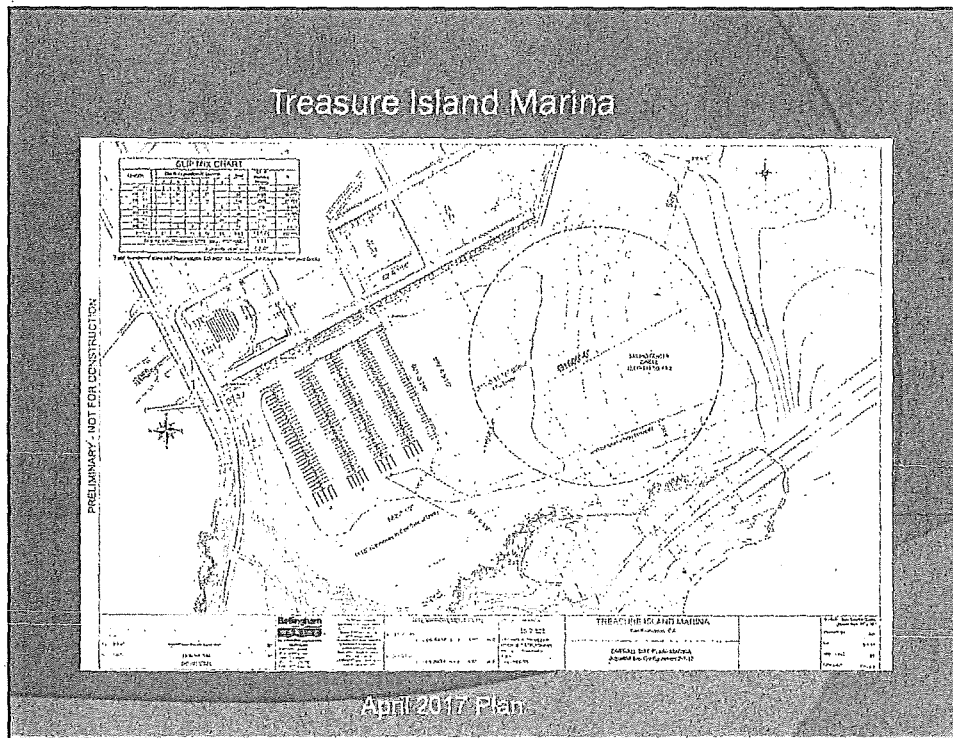


At the May meeting, This was the intended project plan. It included 400 slips and there was contention regarding its layout and encroachment into the area used by students of the treasure Island Sailing Center depicted here by the large yellow circle.



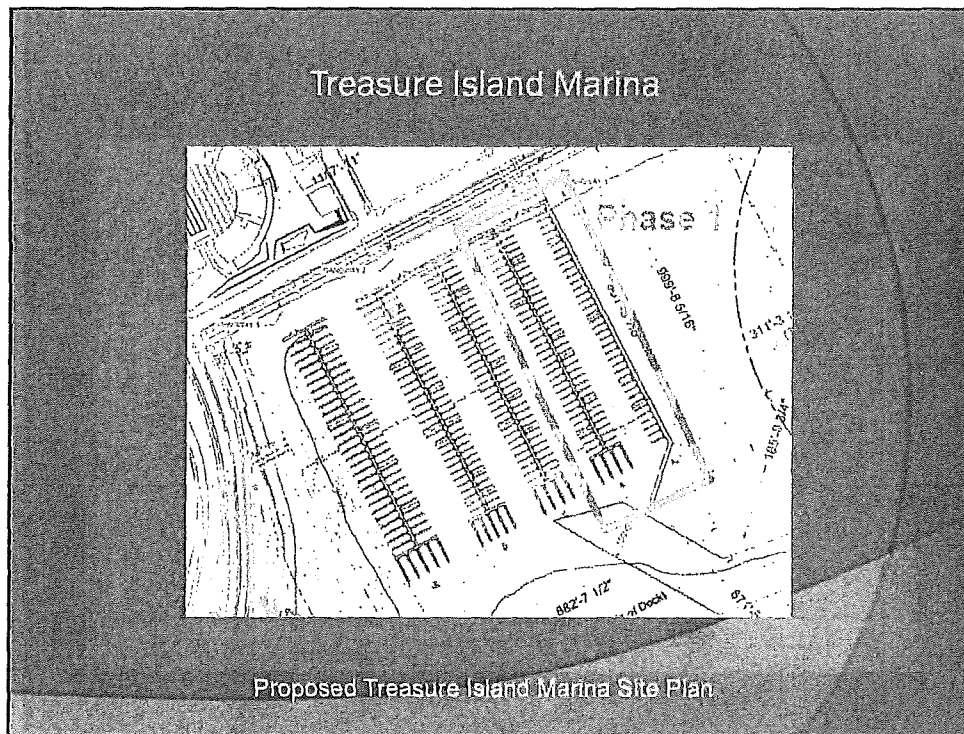
At November's meeting, the Marina was reduced in size to 336 slips, the slips were shifted to the west (left) in relation to the large circle, to allow sailing students sufficient area to safely learn. At the meeting, Treasure Island Sailing Center indicated support for this plan.

The new plan, on the next slide, eliminates the westernmost dock (here) and further shifts the marina an additional 100 feet to the west to make more room for the students of the Sailing Center.



This is the new plan. It includes a total of 313 slips for boats from 40 feet to 80 feet in length.

If funding is approved, it is anticipated the proposed Marina expansion would be constructed in three phases.



The first phase is identified here in green. It includes construction of docks A and B, dredging of the entrance channel and basin, and landside infrastructure improvements.

Docks A and B would add 109 new concrete slips, utilities, and piles to the existing facility, which would remain intact until construction of phase 3. Earlier presentations identified Dock A (here) as being partially funded by the US fish and Wildlife's Boating Infrastructure Grant for transient vessels. TIE has informed DBW that it is no longer seeking grant funding for this dock.

The anticipated cost for the proposed marina engineering, permits, dredging, and phase 1 construction is \$18.1 million

Treasure Island Enterprises is seeking a \$4.2 million loan from Boating and Waterways for this Phase 1 construction. As noted in the Feasibility report, the source of funding for the remaining \$13.8 million needed to complete phase 1 has been identified by TIE as coming from TIE's managing partner's equity and that of his partners. However, the letter does not specify who those partners are or the level of funding any individual has committed to the project.

Regulations (CCR Title 14 section 5172 (a)(9) require that that the funding plan,

[slide 6 notes cont.]

including sources of additional construction funds be identified. Other regulations (title 14, section 5175 (g)) prohibits the subordination of DBW's loan to any future loan. Therefore, Staff recommends that no loan funds shall be made available until TIE obtain DBW's prior written approval of the agreement between TIE's equity partners that confirms how they will fund Phase 1 construction.

Example if needed: ...past partner equity agreement DBW reviewed, discovered that the initial investment and what was termed "partner equity" was in fact a loan from the equity partners that was expected to be repaid through marina operations at an interest rate of 12%. This kind of funding condition is a type of subordination which is prohibited.

Treasure Island Marina

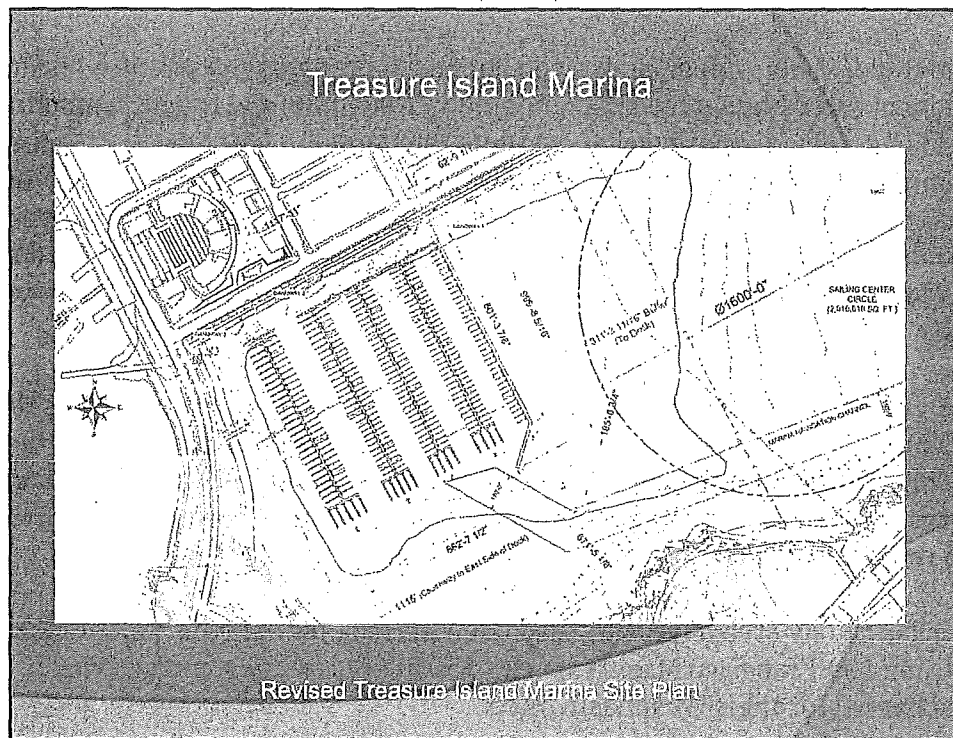
Table 1: Phase 1 Development

<u>Length (feet)</u>	<u>Slips</u>
40	6
45	66
50	34
80	3

Total Phase 1 slips: 109

Source: Treasure Island Enterprises, 3/7/17

If approved, this Phase 1 would construct slips in these sizes



As noted in previous presentations, Dock A will include a built-in wave attenuator designed to slow down wave energy and protect the marina docks. This wave slow-down typically results in the deposition of silt, as we have seen at San Francisco Marina.

A recommended condition in DBW's staff report, is for TIE to fund a Maintenance Dredging Reserve Escrow account to deal with that deposition of silt. Staff recommended at the November meeting that a \$300,000 Maintenance Dredge Escrow Account be funded prior to issuance of loan funding. In addition, staff estimated an annual budget amount of \$150,000 for maintenance dredging .

To remind the Commission, in TIE's December 2015 proforma, TIE estimated a maintenance dredging budget of \$374,000 annually. In subsequent proforma's provided by TIE, this budget amount has dropped to the current maintenance dredging budget of \$25,000 annually.

At November's meeting, TIE disagreed with staff's recommended reserve and budget estimate for ongoing maintenance dredging. As a result of this disagreement, DBW asked for a study to be completed that would give an educated estimate of the cost and occurrence of maintenance dredging to keep the entrance channel open.

[slide 8 notes cont.]

TIE completed a study which addressed short term dredging needs. As a result, TIE modified its phase 1 budget from \$2.6 million in November to today's estimate of \$6 million. That study did not however estimate the potential cost or occurrence of maintenance dredging based on the new marina design as DBW requested. TIE has stated that it "is unable to provide DBW with a cost estimate or rate of occurrence for future dredging given the fact that it is impossible to know how slow or fast siltation may occur at Clipper Cove and other intangibles that will only be proven over time"

This slide with the new design shows the existing contour of the land under the marina. You see here the Marina Navigation Channel bringing boaters into the marina. This channel and the basin will be dredged as a part of phase 1 construction. But, if silt is allowed to accumulate in this navigation channel it could have dire effects to the financial viability of this marina.

Two loans in the bay area have defaulted due to lack of funding for maintenance dredging, and San Francisco Marina spends \$500,000 annually to keep their entrance channel for their West basin open.

Due to the lack of documentation to substantiate a lower reserve amount, staff continues to recommend budgeting of \$150,000 for annual maintenance dredging beginning the third year after construction dredging is complete, and has again used this estimate in its financial analysis.

Staff also continues to recommend as a condition of the loan that \$300,000 (equaling two years of dredge reserve payments) be placed in a maintenance dredge escrow account prior to issuance of loan funding.

Treasure Island Marina

**TABLE 5: TREASURE ISLAND MARINA
CASH FLOW PROJECTIONS AND DEBT SERVICE COVERAGE RATIO WITH TIE'S PROPOSED LIVEBOARD REVENUES AND EXPENSES
OF 2019 THROUGH FY 2026
(Express in Thousands)**

Category	Phase 1		Phase 2		Phase 3		Phase 4		Phase 5		Phase 6		Phase 7		Phase 8		Phase 9		Phase 10	
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038
REVENUES																				
Boat Slip Rental (1)	662	690	720	750	780	810	840	870	900	930	960	990	1020	1050	1080	1110	1140	1170	1200	1230
Boat Slip Rental (2)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Dockside Liveboard (1)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Dockside Liveboard (2)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Transient Dock (1)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Transient Dock (2)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal Slip Rental Storage	662	690	720	750	780	810	840	870	900	930	960	990	1020	1050	1080	1110	1140	1170	1200	1230
Liveboard (1)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Liveboard (2)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal ADP Revenue	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL REVENUES	662	690	720	750	780	810	840	870	900	930	960	990	1020	1050	1080	1110	1140	1170	1200	1230
EXPENSES																				
Fixed Cost Operations (1)	90	90	90	90	90	90	90	90	90	90	90	90	90	90	90	90	90	90	90	90
Fixed Cost Operations (2)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Variable Cost Operations (1)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Variable Cost Operations (2)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Operating Expenses (1)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Operating Expenses (2)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal Operating Expenses	90	90	90	90	90	90	90	90	90	90	90	90	90	90	90	90	90	90	90	90
DEBT SERVICE COVERAGE RATIO (min. 1.25 req'd)	7.33	7.67	8.00	8.33	8.67	9.00	9.33	9.67	10.00	10.33	10.67	11.00	11.33	11.67	12.00	12.33	12.67	13.00	13.33	13.67

This slide is difficult to read on screen, which is why you have it included in the back of the feasibility report. Table 5 is shown here to show you what areas to reference for this next discussion.

When reviewing phased funding of a project, the financial merits of each phase must be evaluated on a stand alone basis as future construction funding is not guaranteed. Therefore, staff analysis after construction of phase 1, shown here and included in the feasibility report, evaluated revenue and expenses for the existing 106 wooden slips and the additional 109 slips only without the assumption of subsequent phases.

Per TIE's estimates, construction of phase 1 will be complete at the end of 2018 and occupancy of the new slips will graduate from 50% to 90% beginning 2019 through 2026. The revenue projections shown follow TIE's assumptions.

As noted in the feasibility report:

- TIE's most recent expense projections appear to DBW to be more reasonable than those previously submitted, particularly related to salaries and benefits.
- However, there is new uncertainty related to revenue projections, due to unusual aspects of TIE's proposed liveboard program.

Treasure Island Marina

Table 4: Current and Proposed Liveaboard Fees

<u>Marina</u>	<u>Location</u>	<u>Slip Rental Fee</u>		<u>Total Monthly Fee for</u>
		<u>for 45' Boat</u>	<u>Monthly Liveaboard Fee</u>	<u>Two People on 45' Boat</u>
Berkeley Marina	Berkeley	\$492.75	\$200.00	\$692.75
Pier 39 Marina	San Francisco	\$545.00	\$200 as of 2014 (not currently taking apps)	\$745.00
Marina Bay Yacht Harbor	Richmond	\$559.98	\$200.00	\$759.98
Brickyard Cove Marina	Richmond	\$575.75	\$175.00 first person, \$100.00 additional	\$850.75
Westpoint Harbor	Redwood City	\$500.00	\$375.00	\$875.00
Marina Village Yacht Harbor	Alameda	\$652.00	\$350.00	\$1,002.00
Treasure Island Marina (TIE proposed fee for liveaboard berths, 2019)	San Francisco	no slip fee for liveabords	\$3,315.00 flat fee	\$3,315.00

Source: DBW research and TIE slip revenue forecast dated 3/6/17

Note: All fees besides Treasure Island Marina's were advertised online as of 3/29/17 unless noted.

As shown at the bottom of this Table, TIE is proposing to charge \$3,315 a month for liveaboard boats in 2019. This is substantially higher than other marina's offering liveabords in the area as shown here. Most marina's in the area charge a slip fee plus an additional liveaboard fee. The combination of these, assuming a 45' slip, is depicted on the right. TIE is proposing a flat fee for both which is over three times as much as the most expensive competitor.

TIE's rationale for charging more, which Mr. Wallace may explain in more detail, is that Treasure Island Marina will provide a unique liveaboard opportunity in light of its location and new development surrounding the marina, with no comparable liveaboard options to benchmark against. The new development at Treasure Island is estimated to begin in 2019.

Due to the novelty of TIE's pricing proposal, it is difficult for DBW to predict its likelihood of success or the timing of when boaters would be willing to pay the quoted fee's. Particularly if development of Treasure Island is delayed. However, these questions are crucial to DBW's financial analysis of this project.

Additionally, Harbors and Navigation Code sections 76.7 (c) and (d) forbids private loan recipients from charging unreasonably high boat berthing fees and requires DBW to monitor the berthing fees of private marina owners

[slide 10 notes cont.]

receiving loans to ensure rates are reasonable and not exorbitant. Staff is concerned these rates may be exorbitant.

Treasure Island Marina

**TABLE 6: TREASURE ISLAND MARINA
CASH FLOW PROJECTIONS AND DEBT SERVICE COVERAGE RATIO WITH TIE'S PROPOSED LIVEBOARD REVENUE AND EXPENSES
BY YEAR THROUGH FISCAL YEAR 2038
(Values in Thousands)**

	2017	2018	Phase 1 Development (Phase 1)		Phase 2 Development (Phase 2)		Phase 3 Development (Phase 3)		Phase 4 Development (Phase 4)		Phase 5 Development (Phase 5)		Phase 6 Development (Phase 6)		Phase 7 Development (Phase 7)		Phase 8 Development (Phase 8)		Phase 9 Development (Phase 9)		Phase 10 Development (Phase 10)	
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038
REVENUES																						
Marina Property (1)	0	0	269	250	253	253	254	255	256	257	258	259	260	261	262	263	264	265	266	267	268	269
Marina Liveboard (2)	0	0	301	1,611	1,611	1,611	1,611	1,611	1,611	1,611	1,611	1,611	1,611	1,611	1,611	1,611	1,611	1,611	1,611	1,611	1,611	1,611
Marina Liveboard (3)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Marina Liveboard (4)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Marina Liveboard (5)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Marina Liveboard (6)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Marina Liveboard (7)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Marina Liveboard (8)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Marina Liveboard (9)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Marina Liveboard (10)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
EXPENSES																						
Marina Property (1)	0	0	18	18	18	18	18	18	18	18	18	18	18	18	18	18	18	18	18	18	18	18
Marina Liveboard (2)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Marina Liveboard (3)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Marina Liveboard (4)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Marina Liveboard (5)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Marina Liveboard (6)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Marina Liveboard (7)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Marina Liveboard (8)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Marina Liveboard (9)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Marina Liveboard (10)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NET REVENUE																						
Marina Property (1)	0	0	251	232	235	236	237	238	239	240	241	242	243	244	245	246	247	248	249	250	251	252
Marina Liveboard (2)	0	0	301	1,611	1,611	1,611	1,611	1,611	1,611	1,611	1,611	1,611	1,611	1,611	1,611	1,611	1,611	1,611	1,611	1,611	1,611	1,611
Marina Liveboard (3)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Marina Liveboard (4)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Marina Liveboard (5)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Marina Liveboard (6)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Marina Liveboard (7)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Marina Liveboard (8)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Marina Liveboard (9)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Marina Liveboard (10)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
DEBT SERVICE COVERAGE RATIO																						
Marina Property (1)	0	0	13.9	13.1	13.5	13.6	13.7	13.8	13.9	14.0	14.1	14.2	14.3	14.4	14.5	14.6	14.7	14.8	14.9	15.0	15.1	15.2

TIE's Anticipated liveboard revenue is in the top highlighted row. TIE assumes it will achieve 70% occupancy of liveboards in 2019 while charging a liveboard rate of \$3,315 per month. The fee will then increase 2% annually, while liveboard occupancy is expected to reach 90% by 2026. TIE anticipates having 20 liveboard slips at the end of Phase 1, eventually increasing to 30 once the project is fully built out.

The second row of highlighted cells depicts the expenses specifically related to the liveboard program. TIE has informed DBW that the marina management company will charge this flat rate regardless of liveboard occupancy.

If TIE's projections are accurate, liveboard revenues will routinely exceed expenses, and the debt service coverage ratio will continuously exceed the Commissions recommended minimum of 1.25, as shown in the third highlighted row of cells – even factoring in a \$150,000 per year dredging expense estimate.

As a reminder the debt Service Coverage ratio is a measure of an entities ability to afford debt. The Commission established a minimum ratio of 1.25 for public marina loans.

[slide 11 notes cont.]

While DBW hopes TIE's liveaboard strategy proves to be successful and sustainable, we have been unable to find evidence of such an expensive program ever having been offered in the Bay Area.

Treasure Island Marina

Collateral

- Lease – Lease Back
- Security Agreement
- Recorded Collateral Assignments of Rents and Leases
- Ongoing UCC-1 filing

As noted in the Feasibility Report, collateral for the loan is identified here. Per statute (HNC76.6 (b)), the value of collateral shall be no less than 110%. This level of collateral can be reached with these instruments.

The Lease – Lease back is a mechanism used historically for marina loans which allows DBW to take over the property in the event of default. Treasure Island Development Authority would enter into an agreement with DBW and DBW would enter into an agreement with Treasure Island Enterprises. In the event of Default, DBW could evict TIE from the premises and either take over operations or place another operator in its place.

Staff recommends that DBW's lease with the Development authority include a "zero payment" provision for DBW in the event of a TIE's default and eviction. In more direct terms, this means that if TIE defaults, DBW would not have to make rent payments.

A Security agreement gives a lender security interest in the asset.

The Collateral assignment of rents and leases is a recorded agreement that entitles DBW to any income generated from the property in the event of default.

The ongoing UCC-1 filing allows DBW to take possession of the material assets, such

[slide 14 notes cont.]

as the docks, gangways, etc.

Treasure Island Marina

Cost Estimate

Table 2: Phase 1 Tasks, Costs, and Funding Sources

	Estimated cost	Funding source	
		DBW loan	TIE
Mobilization and demobilization	\$ 75,000		\$ 75,000
Phase 1 slips	\$ 5,967,627	\$ 4,200,000	\$ 1,767,627
Dock A, transient dock and wave attenuator	\$ 3,671,640		\$ 3,671,640
Marginal walkway	\$ 181,187		\$ 181,187
Utilities	\$ 275,000		\$ 275,000
Gangway, abutment, and gates	\$ 165,000		\$ 165,000
Marina Wi-Fi	\$ 125,000		\$ 125,000
Security access system	\$ 33,333		\$ 33,333
Channel marker buoys	\$ 100,000		\$ 100,000
Dredging	\$ 5,997,600		\$ 5,997,600
Landscaping	\$ 33,334		\$ 33,334
Engineering and permits	\$ 580,000		\$ 580,000
Entitlements	\$ 100,000		\$ 100,000
Payment and performance bond	\$ 250,000		\$ 250,000
Contingency	\$ 219,720		\$ 219,720
Development fee	\$ 292,960		\$ 292,960
Total	\$ 18,067,401	\$ 4,200,000	\$ 13,867,401

Source: Treasure Island Enterprises cost estimate and DBW analysis

This is a summary of TIE's most recent cost estimate. DBW would limit use of the loan funds to construction of Phase 1 slips. Loan funds would be provided on a reimbursement basis after the slips are constructed and TIE has paid its contractor for the work. TIE would be responsible for paying for all other Phase 1 costs.

Treasure Island Marina

RECOMMENDED CONDITIONS:

1. No loan funds shall be available until DBW receives the final lease agreement that incorporates the collateral requirements (specifically the lease-lease back) of this loan and includes a provision that in the event TIE defaults on its loan with DBW, DBW shall have no obligation to make any lease payments to TIDA.
2. As customary with DBW loans, no loan funds will be advanced by DBW to TIE.
3. No loan funds shall be available for construction until engineers from the Department of Parks and Recreation, Division of Acquisition and Development confirm that the project design is compatible with 50 year sea level rise projections.
4. No loan funds shall be available for construction until TIE funds a \$300,000 Maintenance Dredging Reserve Escrow Account.

Due to ongoing uncertainties, if the Commission advises the Division to move forward with approving this loan, staff recommends the conditions identified in the feasibility report listed here.

1.No loan funds shall be available until DBW receives the final lease agreement that incorporates the collateral requirements (specifically the lease-lease back) of this loan and includes a provision that in the event TIE defaults on its loan with DBW, DBW shall have no obligation to make any lease payments to TIDA.

2. As customary with DBW loans, no loan funds will be advanced by DBW to TIE.

3.No loan funds shall be available for construction until engineers from the Department of Parks and Recreation, Division of Acquisition and Development confirm that the project design is compatible with 50 year sea level rise projections.

4.No loan funds shall be available for construction until TIE funds a \$300,000 Maintenance Dredging Reserve Escrow Account.

Treasure Island Marina

RECOMMENDED CONDITIONS (continued)

5. No loan funds shall be available until \$640,000 is placed in an additional and separate Payment Reserve Escrow Account which must remain funded until TIE demonstrates that the marina can maintain a minimum Debt Service Coverage Ratio of 1.25 throughout the remaining term of the loan.
6. TIE must agree to fund a maintenance reserve account at a level of 2% of the marina's gross annual revenues.
7. No loan funds shall be made available until TIE obtains DBW's prior written approval of the agreement between TIE's equity partners that confirms how they will fund Phase 1 construction. This is in compliance with CCR Title 14, Section 5172 (a)(9) which requires that the funding plan, including sources of additional construction funds, be identified. This will also ensure that funding used is not borrowed and subject to debt burden.

5. No loan funds shall be available until \$640,000 is placed in an additional and separate Payment Reserve Escrow Account which must remain funded until TIE demonstrates that the marina can maintain a minimum Debt Service Coverage Ratio of 1.25 throughout the remaining term of the loan.
6. TIE must agree to fund a maintenance reserve account at a level of 2% of the marina's gross annual revenues.
7. No loan funds shall be made available until TIE obtains DBW's prior written approval of the agreement between TIE's equity partners that confirms how they will fund Phase 1 construction. This is in compliance with CCR Title 14, Section 5172 (a)(9) which requires that the funding plan, including sources of additional construction funds, be identified. This will also ensure that funding used is not borrowed and subject to debt burden.

Treasure Island Marina

CONDITIONS PENDING RESOLUTION

No. 1. No loan funds shall be available until DBW receives the final lease agreement that incorporates the collateral requirements (specifically the lease-lease back) of this loan and includes a provision that in the event TIE defaults on its loan with DBW, DBW shall have no obligation to make any lease payments to TIDA.

No. 4. No loan funds shall be available for construction until TIE funds a \$300,000 Maintenance Dredging Reserve Escrow Account.

No. 5. No loan funds shall be available until \$640,000 is placed in an additional and separate Payment Reserve Escrow Account which must remain funded until TIE demonstrates that the marina can maintain a minimum Debt Service Coverage Ratio of 1.25 throughout the remaining term of the loan.

No. 7. No loan funds shall be made available until TIE obtains DBW's prior written approval of the agreement between TIE's equity partners that confirms how they will fund Phase 1 construction. This is in compliance with CCR Title 14, Section 5172 (a)(9) which requires that the funding plan, including sources of additional construction funds, be identified. This will also ensure that funding used is not borrowed and subject to debt burden.

In summary, of the seven recommended conditions, TIE has expressed reservations regarding these four related to guarantee's adequately protecting boaters money.

- Number 1. Lease agreement with TIDA incorporating the collateral requirements which include a no-payment obligation in the event TIE defaults.
- Number 4. \$300,000 Maintenance Dredging Reserve Escrow Account
- Number 5. \$640,000 Payment Reserve Escrow Account
- Number 7. Prior written approval of the agreement between TIE's partners confirming how they will fund the remaining balance of construction funding for Phase 1.

Staff seeks Commission advice and comment on these recommended conditions and the requested loan to TIE.

At this time, I'd like to introduce Mr. Jay Wallace who is here on behalf of TIE to discuss the proposed loan and staff's recommended conditions.

Treasure Island Marina

California State Parks, Division of Boating and Waterways seeks advice and comment on Treasure Island Enterprises' request for a \$4,200,000 Recreation Marina Loan for the Treasure Island Marina and staff's recommended conditions as described in the April 5, 2017 Feasibility Report.

At this time, [read slide]

**FORM SFEC-126:
NOTIFICATION OF CONTRACT APPROVAL**
(S.F. Campaign and Governmental Conduct Code § 1.126)

City Elective Officer Information <i>(Please print clearly.)</i>	
Name of City elective officer(s): Members, Board of Supervisors	City elective office(s) held: Members, Board of Supervisors

Contractor Information <i>(Please print clearly.)</i>	
Name of contractor: Treasure Island Enterprises, LLC	
Please list the names of (1) members of the contractor's board of directors; (2) the contractor's chief executive officer, chief financial officer and chief operating officer; (3) any person who has an ownership of 20 percent or more in the contractor; (4) any subcontractor listed in the bid or contract; and (5) any political committee sponsored or controlled by the contractor. Use additional pages as necessary.	
<p>(1) Treasure Island Enterprises, LLC (TIE) is a limited liability company and does not have a board of directors. Darius Anderson is the Manager.</p> <p>(2) TIE, LLC's Manager is Darius Anderson</p> <p>(3) Darius Anderson and Jay Wallace.</p> <p>(4) No subcontractors</p> <p>(5) None</p>	
Contractor address: 1215 K Street STE 1150, Sacramento CA 95814	
Date that contract was approved:	Amount of contract: Lease base rent minimum \$90,000/annually
Describe the nature of the contract that was approved: Sixty six (66) year lease agreement for the development and management of Treasure Island Marina between the Treasure Island Development Authority and Treasure Island Enterprises, LLC, a California limited liability company.	
Comments:	

This contract was approved by (check applicable):

the City elective officer(s) identified on this form

a board on which the City elective officer(s) serves San Francisco Board of Supervisors
Print Name of Board

the board of a state agency (Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority) on which an appointee of the City elective officer(s) identified on this form sits

Print Name of Board

Filer Information <i>(Please print clearly.)</i>	
Name of filer: Angela Calvillo, Clerk of the Board	Contact telephone number: (415) 554-5184
Address: City Hall, Room 244, 1 Dr. Carlton B. Goodlett Pl., San Francisco, CA 94102	E-mail: Board.of.Supervisors@sfgov.org

Signature of City Elective Officer (if submitted by City elective officer)

Date Signed

Signature of Board Secretary or Clerk (if submitted by Board Secretary or Clerk)

Date Signed

OFFICE OF THE MAYOR
SAN FRANCISCO



LONDON N. BREED
MAYOR

RECEIVED
12/11/2018 5:03 PM
S

TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Kanishka Karunaratne Cheng *KKC*
RE: Lease Agreement - Treasure Island Enterprises
DATE: December 11, 2018

Resolution (i) making CEQA Findings and adopting a Mitigation Monitoring and Reporting Program (MMRP) for the marina project and confirming the San Francisco Planning Department's determination that no additional environmental impacts that were not previously identified would occur as a result of the proposed lease; and (ii) approving a sixty six (66) year lease agreement for the development and management of Treasure Island Marina between the Treasure Island Development Authority and Treasure Island Enterprises, LLC, a California limited liability company.

Should you have any questions, please contact Kanishka Karunaratne Cheng at 415-554-6696.