File No. 221172 **Committee Item No.** 2
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

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Completed by: Brent Jalipa **Date** November 22, 2022
Completed by: Brent Jalipa **Date** _____

[Loan Amendment - Maceo May Apts, L.P. - 100% Affordable Housing at 55 Cravath Street (formerly 401 Avenue of the Palms) - Not to Exceed $39,238,000]

Resolution approving and authorizing the execution of a First Amendment to the Amended and Restated Loan Agreement with Maceo May Apts, L.P., a California limited partnership, to increase the loan amount by $14,983,000 for a new total loan amount not to exceed $39,238,000 to finance additional construction costs and loss of permanent financing related to the 100% affordable, 105 unit multifamily rental housing development (plus one staff unit) for low and moderate income veteran households located at 55 Cravath Street (formerly 401 Avenue of the Palms) on Treasure Island ("Maceo Project"); and adopting findings that the First Amendment to the Amended and Restated Loan Agreement is consistent with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

WHEREAS, The City and County of San Francisco, acting through the Mayor's Office of Housing and Community Development ("MOHCD"), administers a variety of housing programs that provide financing for the development of new housing and the rehabilitation of single and multi-family housing for low and moderate income households in San Francisco; and

WHEREAS, MOHCD enters into loan agreements with affordable housing developers and operators; administers loan agreements; reviews annual audits and monitoring reports; monitors compliance with affordable housing requirements in accordance with capital funding regulatory agreements; and if necessary, takes appropriate action to enforce compliance; and

WHEREAS, The Treasure Island Development Authority ("TIDA") acquired real property from the United States Navy at Treasure Island and Yerba Buena Island for the purpose of developing residential and commercial building, including the development of 435

units of affordable housing by members of the Treasure Island Homeless Development Initiative (the “Project”); and

WHEREAS, A Finding of Suitability was approved on February 15, 2006, and a Final Environmental Impact Report (“EIR”) for the Treasure Island/Yerba Buena Island Redevelopment Project was certified on April 21, 2011, by the Board of Supervisors under Resolution No. 246-11, which is on file with the Clerk of the Board of Supervisors in File No. 110328, and incorporated herein by this reference; and

WHEREAS, Mitigation measures were identified in the Treasure Island and Yerba Buena Island Mitigation Monitoring and Reporting Program for the Project; and

WHEREAS, The Planning Commission determined that the Project, and the various actions being taken by the City and TIDA to approve and implement the Project, are consistent with the General Plan, and with the eight priority policies of City Planning Code, Section 101.1, and made findings in connection therewith (the "General Plan Consistency Determination"), a copy of which is on file with the Clerk of the Board of Supervisors in File No. 110228 and is incorporated into this Resolution by reference; and

WHEREAS, The Board of Supervisors adopted findings contained in the General Plan Consistency Determination as its own under Resolution No. 241-11, and said findings of consistency with the City's General Plan are on file with the Clerk of the Board of Supervisors in File No. 110228, and incorporated into this Resolution by reference; and

WHEREAS, TIDA and Treasure Island Community Development, LLC, entered into that certain Disposition and Development Agreement dated June 28, 2011 (the “DDA”), and pursuant to the Housing Plan (Exhibit E) of the DDA, TIDA is committed to the development of affordable housing;

WHEREAS, TIDA is the fee owner of Assessor's Parcel C3.2, San Francisco, also known by its street address as "55 Cravath Street (formerly 401 Avenue of the Palms) " (the "Property"), a land parcel with approximately 32,203 square feet area; and

WHEREAS, Under Resolution No. 29-20, the Board of Supervisors approved an Amended and Restated Loan Agreement between the City and Maceo May Apts, L.P., a California limited partnership ("Sponsor"), with Chinatown Community Development Corporation and Swords to Plowshares Veterans Rights Organization as general partners, a copy of which is on file with the Clerk of the Board of Supervisors in File No. 191300, and a loan in the amount of $24,255,000 (the "Loan") to the Sponsor for development and construction of a 100% affordable, supportive housing project with approximately 105 rental units for low-income veteran households on the Property (the "Maceo Project"); and

WHEREAS, On April 1, 2020, TIDA and Maceo May Apts, L.P. entered into a Ground Lease Agreement for the purpose of development and construction of the Maceo Project on the Property; and

WHEREAS, On April 28, 2020, the Sponsor closed construction and permanent financing for the Maceo Project, which included tax exempt multifamily revenue bonds issued by the City and low-income housing tax credits, and commenced construction of the Maceo Project in May 2020; and

WHEREAS, In October 2021, an atmospheric river storm severely damaged the Maceo Project while under construction, which caused a six and one-half (6.5) month construction delay while the storm damaged units were being repaired; and

WHEREAS, Because of the construction delay and damage from the atmospheric river storm, the construction cost of Maceo Project were increased by $35,820,035, an increase in interest rates have reduced the senior permanent loan by $8,120,232, and tax credit equity financing was decreased by $1,239,207; and

WHEREAS, To complete construction of the Maceo Project, the Sponsor requires additional funding to cover part of the increased construction costs and replace the decrease in senior permanent loan and tax credit equity financing; and

WHEREAS, The Citywide Affordable Housing Loan Committee, consisting of MOHCD, Department of Homeless and Supportive Housing, Office of Community Investment and Infrastructure, and the Controller's Office of Public Finance recommended approval to the Mayor of a loan increase for the Maceo Project in an amount not to exceed $14,983,000; and

WHEREAS, MOHCD desires to increase the Loan by an amount not to exceed $14,983,000 ("Additional Loan"), for a total loan to the Sponsor in the amount of $39,238,000, pursuant to a First Amendment to the Amended and Restated Loan Agreement ("First Amendment") in substantially the form on file with the Clerk of the Board of Supervisors in File No. 221172, and in such final form as approved by the Director of MOHCD and the City Attorney; and

WHEREAS, The material terms of the First Amendment include: (i) a minimum term of 55 years; (ii) no interest will accrue on the Additional Loan; (iii) annual repayment of the loan through residual receipts from the Maceo Project; (iv) the Maceo Project shall be restricted for the life of the Maceo Project as affordable housing to low- and moderate-income veteran households with annual maximum rent and income established by MOHCD; (v) the Additional Loan shall be secured by the deed of trust currently recorded against the Sponsor's leasehold interest in the Property; now, therefore, be it

RESOLVED, That the Board of Supervisors hereby finds that the Maceo Project is consistent with the General Plan, and with the eight priority policies of Planning Code, Section 101.1 for the same reasons as set forth in the General Plan Consistency Determination; and, be it

FURTHER RESOLVED, That the Board of Supervisors hereby approves the First Amendment and authorizes the Mayor and the Director of MOHCD or his designee to enter into any amendments or modifications to the First Amendment (including, without limitation, preparation and attachment or, or changes to, any of all of the exhibits and ancillary agreements) and any other documents or instruments necessary in connection therewith that the Director determines, in consultation with the City Attorney, are in the best interest of the City, do not materially increase the obligations or liabilities for the City or materially diminish the benefits of the City, are necessary or advisable to effectuate the purposes and intent of this Resolution and are in compliance with all applicable laws, including the City Charter; and, be it

FURTHER RESOLVED, That the Board of Supervisors hereby authorizes and delegates to the Mayor and Director of MOHCD, and his designee, the authority to undertake any actions necessary to protect the City's financial security in the Maceo May Property and enforce the affordable housing restrictions, which may include, curing the default under a senior loan; and, be it

FURTHER RESOLVED, That all actions authorized and directed by this Resolution and heretofore taken are hereby ratified, approved and confirmed by this Board of Supervisors; and be it

FURTHER RESOLVED, That within thirty (30) days of the First Amendment being fully executed by all parties, MOHCD shall provide the final First Amendment to the Clerk of the Board for inclusion into the official file.

RECOMMENDED:

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Eric D. Shaw, Director

Mayor's Office of Housing and Community Development

Item 2 Files 22-1172	Department: Mayor's Office of Housing and Community Development (MOHCD)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve the First Amendment to the Amended and Restated Loan Agreement with Maceo May Apts, L.P. to increase the loan amount by $14,983,000 to $39,238,000 to finance additional construction costs and loss of permanent financing for the Maceo May Apartments, a 100% affordable, 105-unit multifamily rental housing development for low- and moderate-income veteran households.

Key Points

- In January 2020, the Board of Supervisors approved a loan agreement between the City and Maceo May Apts, L.P., to provide $24,255,000 in permanent gap financing for the Maceo May Apartments Project. The project sponsor is now requesting an additional $14,983,000 in gap financing to address increased costs and loss of permanent financing.
- On October 20, 2021, an "atmospheric river" rainstorm hit the Bay Area and caused damage to the project. Because the units already had finished materials in place (such as flooring, cabinetry, etc.) and the permanent roof was not yet installed when the storm hit, the high volume of water and high winds caused severe damage. Estimated project completion was delayed by six and a half months from July 20, 2022 to January 31, 2023 due to the demolition and rebuilding work, resulting in a reduction in tax credit equity of over $1.2 million and increased financing costs.
- The project sponsors submitted a builder's risk insurance claim, which may cover most of the costs associated with the storm damage, but total insurance proceeds are not known at this time. The loan amount may be reduced if the amount of the permanent loan or the amount of insurance proceeds exceed estimates.
- Repayment of an existing bridge loan to the City would be waived under the proposed amended and restated loan to allow the $1,040,000 loan from the Federal Home Loan Bank to fund project costs.

Fiscal Impact

- Total development costs have increased by approximately $35.8 million (48 percent) from $74.5 million to $110.3 million due to increases in hard and soft costs associated with damage from the storm and the resulting delay of project completion.
- Based on the proposed increase to the existing loan, the City subsidy is $373,695 per unit, which is $112,245 greater than the average subsidy per unit of recent MOHCD projects.

Recommendations

- Amend the resolution to request a report from MOHCD by May 1, 2023 regarding the final loan amount and any actions the Department has taken to mitigate development risks identified in this project for other City-funded affordable housing developments.
- Approve the resolution, as amended.

MANDATE STATEMENT

City Charter Section 9.118(b) states that any contract entered into by a department, board or commission that (1) has a term of more than ten years, (2) requires expenditures of $10 million or more, or (3) requires a modification of more than $500,000 is subject to Board of Supervisors approval.

BACKGROUND

Affordable Housing on Treasure Island

The City is funding affordable housing development on Treasure Island as part of the Treasure Island/Yerba Buena Island Redevelopment Plan. The Treasure Island/Yerba Buena Development Project (Project) is part of the Treasure Island Development Authority's (TIDA) ongoing project to transition Treasure Island and a portion of Yerba Buena Island from a former military base to a residential and commercial development. In 2011, the Board of Supervisors approved the Development Agreement between the City and Treasure Island Community Development, LLC (TICD), the principal developer for the Treasure Island development project, and the Disposition and Development Agreement (DDA) between TIDA and TICD (Files 11-0226 and 11-0291).

The DDA's Housing Plan requires approximately 8,000 new residential units, including up to 2,173 units (27 percent) affordable to low- and moderate-income households. According to the Housing Plan, up to 1,866 units are 100 percent affordable housing projects, and the balance (307 units) are below market rate inclusionary rental or ownership units; of the 1,866 affordable housing units, a minimum of 435 are reserved for homeless households, including 250 replacement units for current Treasure Island households who were formerly homeless and who would be displaced by the Treasure Island/Yerba Buena Development Project. The 250 replacement units must be developed before any new affordable units are developed.

The DDA allows the master developer and TIDA to select development partners for the Treasure Island/Yerba Buena Island Development Project. In 2018, four nonprofits[1] were authorized to develop affordable housing projects, including selecting development partners. Swords to Plowshares was the first project selected to proceed and it selected Chinatown Community Development Center as its development partner for the Maceo May Apartments project.[2]

The Maceo May Apartments Project

The Maceo May Apartments will be a six-story building, with 104 units of income-restricted housing and one resident manager unit. The 105-unit building will consist of 24 studios, 47 one-

[1] The four non-profit supportive housing operators selected by the master developer were Swords to Plowshares, HomeRise (formerly Community Housing Partnership), Catholic Charities, and HealthRight360.

[2] Catholic Charities was the second project selected to proceed, and it selected Mercy Housing California as its development partner for the 78 Johnson Street project. The third and fourth affordable housing projects will replace the remaining units for formerly homeless Treasure Island residents (HealthRight 360 and HomeRise units).

bedroom units and 34 two-bedroom units. Of these units, 39 will serve as replacement housing for Swords to Plowshares and 33 of the 39 replacement units are for existing veteran households on the island. In addition to the replacement housing, the Maceo May Apartments will add 65 new units for homeless and formerly homeless veterans in units supported by project-based Veterans Affairs Supportive Housing (VASH) vouchers.[3] All units (except the manager's unit) are income restricted to households that earn less than 80 percent MOHCD Area Median Income (AMI).

In January 2020, the Board of Supervisors approved a loan agreement between the City, acting through MOHCD, and Maceo May Apts, L.P., to provide $24,255,000 in permanent gap financing for the project (File 19-1300). The project sponsor is now requesting an additional $14,983,000 in gap financing to address increased costs largely due to a storm in October 2021 that damaged several units and delayed completion of the project by six and a half months from July 20, 2022 to January 31, 2023.

Acquisition of Land and Ground Lease

TIDA acquired the property from the United States Navy for the purpose of residential and commercial development. In April 2020, TIDA and Maceo May Apts, L.P. entered into a 99-year ground lease that provides for annual rent consisting of $15,000 base rent and residual rent in the event that the project generates net revenues.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would: (1) approve and authorize the execution of a First Amendment to the Amended and Restated Loan Agreement with Maceo May Apts, L.P., a California limited partnership consisting of Chinatown Community Development Center and Swords to Plowshares, to increase the loan amount by $14,983,000 to $39,238,000 to finance additional construction costs and loss of permanent financing for the Maceo May Apartments, a 100% affordable, 105-unit multifamily rental housing development for low and moderate income veteran households, and (2) confirm that the amended loan agreement is consistent with the City's General Plan.

Increased Costs and Loss of Permanent Financing

On October 20, 2021, an "atmospheric river" rainstorm hit the Bay Area and caused damage to the Maceo May Apartments Project. Because the project was constructed with factory built modular units with finished materials in place to save costs and the permanent roof was not yet installed when the storm hit, the high volume of water and high winds caused severe damage according to the MOHCD loan evaluation memo. Before the general contractor could begin rebuilding, the contractor had to: (a) strip almost all drywall, insulation, cabinetry, flooring, and

[3] The federal Department of Housing and Urban Development (HUD) allocates housing vouchers to local housing authorities, including tenant-based vouchers to subsidize households' rent in the private market, and project-based vouchers to subsidize specific housing units. The Veterans Affairs Supportive Housing (VASH) project-based vouchers subsidize supportive housing for veterans based on fair market rents, while resident veterans pay 30% of their income in rent.

other fixtures to allow the wood framing to dry; and (b) complete the roof and building envelope that was in progress at the time of the storm.

The projected completion of the Project was delayed by six and a half months from July 20, 2022 to January 31, 2023 due to the demolition and rebuilding work. Because of the delay, the project faces a reduction in tax credit equity of over $1.2 million and loss of the rate-lock on its construction loan and permanent loan interest rates, increasing financing costs.

The proposed $14,983,000 increase in the City loan includes:

- $7,750,255 related to the reduction in the permanent loan due to increased interest rates and changes in the operating expenses; and
- $7,232,745 in additional storm damaged unit repair costs not covered by insurance based on MOHCD's conservative estimates for the loan request.

Under the existing loan agreement, Maceo May Apts, L.P. is required to have builder's risk insurance during construction for 100 percent of the replacement value of City property and completed improvements. However, the claims process is ongoing as of this writing, and it is not known at this time how much of the project's increased costs will be reimbursed. The proposed increase to the City's loan is based on estimated insurance proceeds that would cover 85 percent of hard costs to repair rainstorm damaged units and 41 percent of associated soft costs.

Loan Agreement

The original loan agreement provided by MOHCD in 2018 was for $6,562,000 for predevelopment costs. In 2020, MOHCD amended the original loan agreement to increase the loan amount by $17,693,000 to complete development and construction, including permanent financing. MOHCD proposes to amend the loan agreement a second time to increase the loan amount by $14,983,000 to address increased costs and loss of permanent financing associated with the storm damage. Under the proposed amended loan agreement, the total loan amount to Maceo May Apts L.P. would increase to $39,238,000.

Maceo May Apts L.P. must repay the loan by the later of: (a) the 57th anniversary date of the deed of trust or (b) the 55th anniversary of the date on which construction financing is converted into permanent financing. The proposed additional loan would have a zero percent interest rate.

Loan Disbursement

Section 4.9 of the proposed amended and restated loan agreement establishes certain conditions for loan disbursement and potential reductions to the City's loan based on MOHCD's evaluation of the permanent loan and insurance proceeds. MOHCD would distribute $7,232,745 to pay off the construction contract, prevent further project delays, and to cover soft costs approved by MOHCD. MOHCD would distribute up to $7,750,255 in additional funding as needed to fund conversion of the senior construction loan subject to approval by MOHCD of all costs and sources, including insurance proceeds. The loan amount may be reduced if the amount of the permanent loan or the amount of insurance proceeds exceed estimates.

Waived Repayment of Bridge Loan

Under the existing loan agreement, a portion of the funding provided by the City's Affordable Housing Fund was a bridge loan funded by Affordable Housing Inclusionary fees, pending receipt of expected loan funds from the Federal Home Loan Bank Affordable Housing Loan Program (AHP). The sponsors secured a $1,040,000 AHP loan in August 2021. However, repayment of the bridge loan to the City would be waived under the proposed amended and restated loan. Instead, the unpaid principal balance of the AHP bridge loan would be repaid from residual receipts and due at the maturity date of the amended loan.

FISCAL IMPACT

Total Development Costs

As of November 2022, the total development cost for the 105 units of housing is $110,278,060, as shown in Exhibit 1 below. Of the approximate $110.3 million, $39.2 million (36%) are City funds, $10.0 million (9%) are State funds, and the remaining $61.0 million (55%) are private funds.

Exhibit 1: Total Development Sources and Uses of Funds

	April 2020 Budget	November 2022 Budget (Proposed)	Change	Percent Change
Sources				
MOHCD Loans	$24,255,000	$39,238,000	$14,983,000	62%
State Veterans Housing & Homelessness Prevention (VHHP)	10,000,000	10,000,000	0	0%
Federal Home Loan Bank Affordable Housing Program Loan*	0	1,040,000	1,040,000	
General Partner Equity	500,000	1,100,000	600,000	120%
Permanent Loan	10,108,000	1,987,768	(8,120,232)	-80%
Equity Contribution for Sale of 4% Low Income Housing Tax Credits	28,764,209	27,525,002	(1,239,207)	-4%
Deferred Developer Fee	830,816	800,000	(30,816)	-4%
Estimated Insurance Proceeds	0	28,587,290	28,587,290	
Total Sources	**$74,458,025**	**$110,278,060**	**$35,820,035**	**48%**
Uses				
Soft Costs	11,625,808	15,873,206	4,247,398	37%
Construction Costs	58,105,949	89,659,309	31,553,360	54%
Reserves	1,226,268	1,245,545	19,277	2%
Developer Fees	3,500,000	3,500,000	0	0%
Total Uses	**$74,458,025**	**$110,278,060**	**$35,820,035**	**48%**

Source: MOHCD

* Under the proposed amended and restated loan, the City would waive repayment of the Affordable Housing Program bridge loan provided under the existing loan agreement and the $1,040,000 amount would remain in the project.

Budget Changes

As shown above, total development costs have increased by approximately $35.8 million (48 percent) due to increases in hard and soft costs associated with damage from the storm and the resulting delay of project completion, including:

- A $31.6 million (54 percent) increase in construction costs associated with repair of the storm-damaged units, including demolition and abatement costs and replacement costs for all fixtures and finishes that were in place and damaged;[4] and
- A $4.2 million (37 percent) increase in soft costs driven by a $2.1 million increase in builder's risk insurance to extend the policy through the duration of construction and a $1.7 million increase in financing costs due to increases in the construction loan interest and bond issuer fees.

In addition, the project lost the following sources of permanent financing due to the six and a half-month delay in project completion and other factors:

- $8.1 million (80 percent) estimated reduction in the permanent loan from California Community Reinvestment Corporation due to: (a) loss of the locked interest rate of 3.28 percent on the loan and a new estimated loan interest rate of 5.9 percent—2.62 percent higher than the prior locked interest rate; as well as (b) an increase in operating expenses[5] without a corresponding increase in operating income, reducing the available amount for loan repayment; and
- $1.2 million (4 percent) reduction in the equity contribution for sale of 4% Low Income Housing Tax Credits due to a delay in the date that the tax credit investor may claim the credits, which is based on the occupancy date of the project.

Increased costs and loss of permanent financing are addressed by the following:

- An estimated $28.6 million in insurance proceeds which would cover 85 percent of hard costs to repair rainstorm damaged units and 41 percent of associated soft costs;
- The proposed $14,983,000 increase in the MOHCD loan;
- Proposed waived repayment of the City's $1,040,000 Affordable Housing Program bridge loan, included in the existing loan agreement; and
- A $600,000 increase in general partner equity from additional amounts secured by the project sponsors from the Home Depot Foundation and the National Equity Fund.

[4] According to the MOHCD loan evaluation memo, the estimated repair costs are based on a rough order of magnitude provided by Cahill Contractors, the project's general contractor, on May 18, 2022 and include a 5% contingency. MOHCD does not have comparable projects to compare the estimates but determined costs were reasonable based on completion of the remediation work and consultation with the Department of Building Inspection (DBI).

[5] The project's operating expenses have increased due to: (a) a $317,000 increase in annual property insurance costs based on insurance rates for other large, wood-framed, affordable housing projects; and (b) $42,000 in annual Master Association Fees, which are required fees for new construction on Treasure Island but were not included in the previous budget.

Builder's Risk Insurance Claim

According to MOHCD, the project sponsors submitted a builder's risk insurance claim, which may cover most of the costs associated with the storm damage. The insurer makes payments once costs are incurred and approved by the claims adjuster, which may involve multiple rounds of review. The Sponsors have already been approved for $20 million in insurance payments, with additional payments pending submission of invoices, and the project budget assumes a total of $28.6 million in insurance proceeds. Insurance proceeds in excess of $28.6 million would result in a reduction to the MOHCD loan amount, as mentioned above.

Funding Sources

Sources of funds for the proposed amended and restated MOHCD loan of $39,238,000 are shown in Exhibit 2 below.

Exhibit 2: MOHCD Loans to Maceo May Project

City Sources	Previously Committed City Funds	Proposed Additional City Funds	Total Proposed City Funds
Excess Educational Revenue Augmentation Fund (ERAF)	$11,000,000		$11,000,000
Affordable Housing Fund Inclusionary Housing Fees	7,951,128		7,951,128
Affordable Housing Fund Condo Conversion Fees	2,200,000		2,200,000
Low and Moderate Income Housing Fund	2,000,000	2,000,000	4,000,000
Residential Hotel Preservation Fund	1,103,872		1,103,872
2019 General Obligation Bonds		11,983,000	11,983,000
TIDA Developer Housing Subsidy		1,000,000	1,000,000
Total City Sources	**$24,255,000**	**$14,983,000**	**$39,238,000**

Source: MOHCD

The $14,983,000 increase in the City loan would be funded by:

- $11,983,000 in 2019 General Obligation Bond Funds;[6]
- $2.0 million in additional Low and Moderate Income Housing Funds;[7] and
- $1.0 million in TIDA's Developer Housing Subsidy.[8]

[6] In November 2019, San Francisco voters approved Proposition A, which provided for the issuance of up to $600 million in general obligation funds to finance the acquisition, rehabilitation, and construction of affordable housing.

[7] Low and Moderate Income Housing Fund monies are from repayment of loans previously made by former redevelopment agency housing assets transferred to the City and County of San Francisco.

[8] The Developer Housing Subsidy are funds received from the principal developer, TICD. According to the DDA, TICD is required to provide a payment of $17,500 per market-rate unit at the transfer of a market rate lot to a vertical developer to subsidize the affordable units

The City's Subsidy per Housing Unit

The total per housing unit City subsidy is $373,695 based on the proposed increase to the existing loan, as shown in Exhibit 3 below. This reflects an increase of $142,695 per unit based on the existing loan, and the proposed subsidy per unit is $112,245 greater than the average subsidy per unit of recent projects in the MOHCD pipeline according to MOHCD staff. The total development cost per unit increased from $709,124 in April 2020 to $1,050,267 in November 2022 due to the storm damage and associated project delays.

Exhibit 3: City Subsidy for Affordable Housing Units

	Existing Loan	Proposed Amended Loan	Change
Number of Units	105	105	
Total residential area (sq. ft.)	68,488	68,488	
Total City subsidy	$24,255,000	$39,238,000	$14,983,000
City Subsidy per unit	$231,000	$373,695	$142,695
City Subsidy per sq. ft.	$354	$573	$219

Source: MOHCD

Operating Revenues and Expenses

According to the 20-year cash flow analysis for the Maceo May Apartments project, the project will have sufficient revenues to cover operating expenses, operating reserves, construction loan payments, management fees, and partial principal payments on the MOHCD and California Department of Housing and Community Development loan. Project revenues consist of tenant rents, income from project-based Veterans Affairs Supportive Housing vouchers allocated by the San Francisco Housing Authority and Continuum of Care funding, administered through the Department of Homelessness and Supportive Housing. The Maceo May Apartments project is not expected to generate sufficient net revenues to make residual rent payments under the proposed Ground Lease.

RECOMMENDATIONS

- Amend the resolution to request a report from MOHCD by May 1, 2023 regarding the final loan amount and any actions the Department has taken to mitigate development risks identified in this project for other City-funded affordable housing developments.
- Approve the resolution, as amended.

FIRST AMENDMENT TO SECOND AMENDED AND RESTATED
LOAN AGREEMENT
(Treasure Island C3.2 – Maceo May)

This First Amendment to the Amended and Restated Loan Agreement ("First Amendment") is made as of [Month] [Date], 2022, by and between the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation, represented by the Mayor, acting by and through the Mayor's Office of Housing and Community Development (the "City"), and **MACEO MAY APTS, L.P.**, a California limited partnership (the "Borrower").

RECITALS

A. The City previously loaned Twenty-Four Million Two Hundred Fifty-Five Thousand and No/100 Dollars ($24,255,000.00) (the "Original Loan") to Borrower to finance development of the property located on Treasure Island in San Francisco on 55 Cravath Street (formerly 401 Avenue of the Palms) (the "Site"), on which the Borrower is constructing a 105-unit (including one manager's unit) multifamily rental housing development known as "Maceo May" (the "Project"). The Loan is evidenced by the following documents: (1) an Amended and Restated Loan Agreement dated January 28, 2020 (the "Loan Agreement"); (2) a Third Amended and Restated Secured Promissory Note made by Borrower in an amount of Six Million Five Hundred Sixty-Two Thousand and No/100 ($6,562,000.00) to the order of the City dated January 28, 2020 (the "Predevelopment Note"); (3) a Secured Promissory Note made by Borrower in an amount of Seventeen Million Six Hundred Ninety-Three Thousand and No/100 ($17,693,000.00) to the order of the City dated January 28, 2020 (the "Construction Note"); (4) a Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated January 28, 2020, and recorded on April 28, 2020 as DOC-2020-K927155-00 of Official Records (the "Deed of Trust"); and (5) a Declaration of Restrictions dated January 28, 2020, and recorded on April 28, 2020 as DOC-2020-K927154-00 of Official Records (the "Declaration"). All initially capitalized terms used but not defined in this First Amendment have the meanings given to those terms in the Agreement.

B. The Borrower has requested an additional loan of Funds ("Additional Loan") from the City in the principal amount not to exceed Fourteen Million Nine Hundred Eighty-Three Thousand and No/100 Dollars ($14,983,000)("Additional Funding Amount") because of increased construction cost from damage in the October 2021 atmospheric river storm and the loss of permanent sources due to the reduction of permanent loan by an estimated $8,120,232 and reduction in equity investment by an estimated $1,239,207. The City has reviewed Borrower's application for the Additional Loan and, in reliance on the accuracy of the statements in that application, has agreed to increase the Original Loan by the Additional Funding Amount to finance the additional construction costs and replace the loss of permanent financing sources.

C. On October 24, 2022, TIDA agreed to provide $1,000,000 in Developer Housing Subsidy (the "TIDA Developer Housing Subsidy") for the Project as one of the sources for the Additional Loan. In addition, obligations of the TIDA Developer Housing Subsidy funds requires MOHCD to share a prorata amount of the Residual Receipts with TIDA.

D. The Borrower and the City now desire to amend the Agreement in accordance with this First Amendment to increase the Original Loan, update the sources of the Funds, and clarify the Residual Receipts payment split between HCD and the City. Concurrently with this First Amendment, the Parties are also entering into a Secured Promissory Note (Additional Loan) and a First Amendment to the Deed of Trust to reflect such changes under this First Amendment.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth in the City Documents, the City and the Borrower agree as follows:

1. Amendments to Agreement. The Agreement is hereby amended as follows:

(a) Cover Page, first paragraph, is hereby amended as follows (additions in double underline; deletions in ~~strikethrough~~):

AMENDED AND RESTATED LOAN AGREEMENT
(CITY AND COUNTY OF SAN FRANCISCO LMIHAF; AFFORDABLE HOUSING FUND INCLUSIONARY; AFFORDABLE HOUSING PROGRAM CONDOMINIUM CONVERSION; ERAF AFFORDABLE HOUSING PRODUCTION AND PRESERVATION FUND; ~~AND~~ RESIDENTIAL HOTEL PRESERVATION FUND ACCOUNT; 2019 GENERAL OBLIGATION BOND FOR AFFORDABLE HOUSING; AND TIDA DEVELOPER HOUSING SUBSIDY FUNDS)

(b) Cover Page, list of City loan sources of funding and amounts, is hereby amended as follows (additions in double underline; deletions in ~~strikethrough~~):

MACEO MAY APARTMENTS
Treasure Island Parcel
C3.2 Temp address: 401 Avenue of the Palms, San Francisco
$39,238,000
(Predevelopment L~~l~~oan: $6,562,000)
(Construction Loan: $17,693,000)
(Additional Loan: $14,983,000)
LMIHAF: ~~$2,000,000~~$4,000,000
AHF – Condominium Conversion: $2,200,000
AHF – INCLUSIONARY: $7,951,128
ERAF: $11,000,000
PRESERVATION FUND: $1,103,872
2019 General Obligation Bond: $11,983,000
TIDA Developer Housing Subsidy: $1,000,000

(c) Recitals L and M are hereby added to the Agreement as follows:

L. On November 5, 2019, the voters of the City and County of San Francisco approved Proposition A (Ordinance 168-19), which provided for the issuance of up to $600 million in general obligation bonds to finance the construction,

acquisition, improvement, rehabilitation, preservation, and repair of certain affordable housing improvements (the "2019 GO Bond"). To the extent permitted by law, the City intends to reimburse with proceeds of the Bond amounts disbursed under this Agreement to Borrower for the development of affordable housing. The funds provided under this Agreement from the proceeds of the 2019 GO Bond shall be referred to herein as the "2019 Go Bond Funds".

M. Under Resolution No. 241-11, adopted by the Board of Supervisors on June 7, 2011, the City and County of San Francisco approved the Disposition and Development Agreement (the "DDA") between TIDA and Treasure Island Community Development, LLC ("TICD" or the "Principal Developer"), including the attached Exhibit E (the "Housing Plan"), which describes and defines the use of a certain subsidy provided by the Principal Developer for the development of housing units on Treasure Island and Yerba Buena Island ("Developer Housing Subsidy"). Pursuant to the DDA and Housing Plan, the Developer Housing Subsidy shall be "paid by Principal Developer to the Authority for the development of Authority Housing Units on the Authority Housing Lots and the implementation of the Transition Housing Rules and Regulations." Since it is determined that the Project, defined in Recital I, meets the criteria and definition of Authority Housing Units as defined by the DDA and Housing Plan, and therefore is an eligible use of the Developer Housing Subsidy. TIDA has agreed to dedicate $1,000,000 of its accrued Developer Housing Subsidy balance to be available to the Project. The funds provided from the Developer Housing Subsidy under this Agreement shall be referred to herein as the "TIDA Developer Housing Subsidy Funds," and together with the LMIHAF, Inclusionary Funds, Condo Fees, the Preservation Fund, ERAF Fund and 2019 Go Bond Funds collectively, the "Funds."

(d) Recital I is hereby amended as follows (additions in double underline; deletions in ~~strikethrough~~)

I. The City has reviewed Borrower's application for Funds for the construction of the Project and, in reliance on the accuracy of the statements in that application, has agreed to make a loan of Funds (the "Construction Loan") in the principal amount of Seventeen Million Six Hundred Ninety-Three Thousand and No/100 Dollars ($17,693,000) (the "Construction Funding Amount~~,"~~ ~~and together with the Predevelopment Funding Amount, the "Funding Amount"~~). The Construction Funding Amount is comprised of (i) ERAF Funds in the amount of Eleven Million and No/100 Dollars ($11,000,000.00); (ii) Preservation Fund Account funds in the amount of One Million One Hundred Three Thousand Eight Hundred Seventy-Two and No/100 Dollars ($1,103,872.00); and (iii) the Affordable Housing Fund (Inclusionary Fees) in the amount of Five Million Five Hundred Eighty-Nine Thousand One Hundred Twenty-Eight and No/100 Dollars ($5,589,128). ~~The aggregate amount of the Funding Amount is Twenty-Four Million Two Hundred Fifty-Five Thousand and No/100 ($24,255,000).~~

(e) Recital O is hereby added to the Recitals of the Agreement as follows:

O. The City has reviewed Borrower's application for an additional loan

of Funds for the repair of storm damaged units and additional permanent financing related to the loss of tax credit equity and reduced permanent loan due to a six and one-half month construction delay while the stormed damaged units were being repaired and, in reliance on the accuracy of the statements in that application, has agreed to make a loan of Funds (the "Additional Loan") in the principal amount of Fourteen Million Nine Hundred Eighty-Three Thousand and No/100 Dollars ($14,983,000) (the "Additional Funding Amount," and together with the Predevelopment Funding and Construction Funding Amount, the "Funding Amount"). The Additional Funding Amount is comprised of (i) LMIHAF in the amount of Two Million and No/100 Dollars ($2,000,000.00); (ii) the 2019 GO Bond Funds in the amount of Eleven Million Nine Hundred Eighty-Three Million and No/100 Dollars ($11,983,000.00); and (iv) the TIDA Housing Developer Subsidy Funds in the amount of One Million and No/100 Dollars ($1,000,000). The aggregate amount of the Funding Amount is Thirty-Nine Million Two Hundred Thirty-Eight Thousand and No/100 ($39,238,000).

(f) Recital J is hereby amended as follows (additions in double underline; deletions in ~~strikethrough~~)

J. Borrower has secured the following additional financing for the Project (as defined below):

1. an issuance of multifamily housing revenue bonds to finance the construction Project in the amount of **Forty-Three Million Seven Hundred Four Thousand and No/100 Dollars $43,704,000**with a commitment from Silicon Valley Bank to purchase the bonds, the proceeds of which shall be lent to the Project;

2. a construction loan from Silicon Valley Bank which shall be purchased by California Community Reinvestment Corporation for a permanent loan in the approximate amount of **One Million Nine Hundred Eighty Seven Thousand Seven Hundred Sixty Eight and No/100 Dollars ($1,987,768.00)** ~~**Nine Million Four Hundred Forty-One Thousand Four and No/100 Dollars ($9,441,000)**~~;

3. a commitment from HUD for rental assistance payments under a Project Rental Assistance Contract/Housing Assistance Payment ("HAP") contract and budget authority for sixty-five (65) Veterans Affairs Supportive Housing ("VASH") project-based vouchers respectively;

4. Veterans Homeless Housing Program (VHHP) through a State of California Housing and Community Development ("HCD") Firm Commitment letter dated January 30, 2020, providing for VHHP funding in the amount of Ten Million and No/100 Dollars ($10,000,000.00);

5. an equity contribution from the sale of 4% tax credits in the amount of approximately **Twenty-Seven Million Five Hundred Twenty Five Thousand Two and No/100 Dollars ($27,525,002.00);** ~~**Twenty-Nine**~~

~~**Million One Hundred Fifty-Four Thousand Three Hundred Thirty-Four and No/100 Dollars ($29,154,334.00).**~~

6. an equity contribution from the Borrower's general partner in the amount of **One Million One Hundred Thousand and No/100 Dollars ($1,100,000.00);** and ~~approximately **Five Hundred Thirteen Thousand Six Hundred Forty-One and No/100 Dollars ($513,641.00)**~~.

7. a permanent loan from the Federal Home Loan Bank of San Francisco in the amount of **One Million Forty Thousand and No/100 Dollars ($1,040,000.00).**

(g) The definitions under Section 1.1 (Defined Terms) of the Agreement are hereby amended as follows (additions in double underline; deletions in ~~strikethrough~~):

"Additional Funding Note" means the secured promissory note executed by Borrower in favor of the City in the original principal amount of the Additional Funding Amount.

"Agreement" means this Amended and Restated Loan Agreement, including any written amendments executed by the parties.

"City Documents" means this Agreement, the Predevelopment Note, the Construction Note, the Additional Funding Note, the Deed of Trust, the Declaration of Restrictions, and any other documents executed or, delivered in connection with this Agreement.

"Deed of Trust" means the deed of trust executed by Borrower granting the City a lien on the Site and the Project to secure Borrower's performance under this Agreement, the Predevelopment Note, the Additional Funding Note, and the Construction Note, in form and substance acceptable to the City.

"Development Proceeds" means the sum of: (a) funds contributed or to be contributed to Borrower by Borrower's limited partner as capital contributions, equity or for any other purpose under Borrower's limited partnership agreement; (b) all insurance proceeds from Borrower's insurers related to damage to the modular units of the Project; and (~~b~~c) the proceeds of all other financing for the Project.

"Funds" has the meaning set forth in Recital ~~E~~M and supersedes the meaning set forth in Recital E.

"Funding Amount" has the meaning set forth in Recital ~~J~~O.

"Loan" means collectively the Predevelopment Loan, Additional Loan, and the Construction Loan.

"Note" means collectively the Predevelopment Note (as set forth in **Recital H**), the Additional Funding Note (as set forth in **Recital O**), and the Construction Note (as set forth in **Recital I**), ~~both~~ each executed by Borrower in favor of the City.

(h) Section 3.3 (Interest) of the Agreement is hereby amended as follows (additions in double underline):

3.3 Interest. Except as set forth in subparagraph (c) pertaining to the Additional Loan, below and Section 3.4, interest will accrue on the Loan as follows:

(a) Interest will accrue on the principal balance outstanding under the Predevelopment Loan will continue to accrue at the rate of three percent (3%) per annum, simple interest.

(b) Interest will accrue on the principal balance outstanding under the Construction Loan, from time to time at the rate of one half of a percent (0.5%) per annum, simple interest, from the date of the close of escrow through the date of full payment of all amounts owing under the City Documents.

(c) No interest will accrue on the principal balance outstanding under the Additional Loan.

Interest will be calculated on the basis of actual days elapsed and a 360-day year, which will result in higher interest charges than if a 365-day year were used.

(i) Section 3.5 (Repayment of Principal and Interest) of the Agreement is hereby amended as follows (additions in double underline; deletions in ~~strikethrough~~):

3.5 Repayment of Principal and Interest. Except as set forth in Section 3.7 below, the outstanding principal balance of the Loan, together with all accrued and unpaid interest, if any, will be due and payable on the Maturity Date according to the terms set forth in full in the applicable Note. ~~Notwithstanding the foregoing, if Borrower is awarded AHP funding, Borrower shall repay the AHP Bridge Loan to the City on the date that Borrower closes such loan for AHP funding and the AHP funds are disbursed to Borrower; provided, however, that if Borrower is not awarded AHP funding or receives AHP funding sufficient for only partial repayment of the AHP Bridge Loan,~~ Notwithstanding anything to the contrary in the Construction Note, the City hereby waives repayment of the AHP Bridge Loan from the AHP funding. The City and Borrower agree that the unpaid principal balance of the AHP Bridge Loan ~~and unpaid costs and fees incurred~~ shall be repaid from Residual Receipts and due and payable at the Maturity Date according to the terms set forth in full in the Construction Note.

(j) Section 3.7 (Notification and Repayment of Excess Proceeds) of the Agreement is hereby amended as follows (additions in double underline; deletions in ~~strikethrough~~):

3.7 Notification and Repayment of Excess Proceeds. Borrower must notify the City in writing within thirty (30) days after the later of the date on which Borrower receives its Form 8609 from the California Tax Credit Allocation Committee or the date on which Borrower receives Excess Proceeds from its limited partner or other financing sources. In addition, Borrower must notify the City in writing when a final coverage determination of Borrower's insurance claim and all respective loss amounts submitted that relate to the damage of the modular units of the Project is received from the Borrower's responding insurers. Borrower must repay all Excess Proceeds to the City no later than sixty (60) days after receipt of such notification, unless the City has elected to waive such payment. The City must use such Excess Proceeds to reduce the balance of the Additional Loan ~~Predevelopment Loan and Construction Loan on a pro rata basis~~.

(k) Section 4.9 (Disbursement of Additional Loan) is hereby added to the Agreement as follows:

Section 4.9 Disbursement of Additional Loan. In addition to the conditions precedent under Section 4.5, the City's obligation to approve any expenditure of the Additional Funding Amount is subject to Borrower's satisfaction of the following conditions precedent:

(a) MOHCD will only disburse up to $7,232,745 of the Additional Funding Amount funds to pay off the Construction Contract, prevent mechanics liens against the Project, and cover soft costs approved by MOHCD in writing. The remaining amount of the Additional Funding Amount, if needed will be disbursed as part of the permanent loan conversion and through the permanent loan closing escrow. No less than sixty (60) days prior to permanent loan conversion, Borrower must deliver to MOHCD an updated MOHCD and Borrower's proforma to allow MOHCD to reevaluate the Project's operating expenses and determine whether the Project can support the estimated senior permanent loan. If the senior permanent loan is increased, the Additional Funding Amount shall be decreased by an equivalent amount.

(b) Once a SFHA-executed HAP showing SFHA approved VASH rents is received by Borrower, the remaining 39 non-VASH rents will be increased to 2022 and the entire first-year operating budget and 20-year cash flow will be updated and finalized. The entire first-year operating budget and 20-year cash flow will be re-evaluated by MOHCD, and Borrower must have the permanent loan resized by California Community Reinvestment Corporation. Any increases to such permanent loan will reduce an equivalent amount of the Additional Loan to be disbursed. After the Conversion Date, any amount of the Additional Loan that has not been disbursed will be disencumbered by the City. If the Additional Loan has been fully disbursed on the Conversion Date, the Sponsor shall use any proceeds, including insurance proceeds, and/or other cost savings from construction of the Project to repay the Additional Loan.

(c) Once 95% occupancy is achieved, Borrower must provide the stabilized occupancy calculation to MOHCD within forty-five (45) days, and

Borrower must provide MOHCD copies of the monthly stabilized occupancy calculations that Borrower is required to provide to the permanent lender until four-months of stabilized occupancy is achieved.

(d) Borrower must allow MOHCD to verify all costs and sources no later than thirty (30) days prior to the Conversion Date. MOHCD will only disburse up to $7,750,255 of the Additional Funding Amount as needed to fund conversion of the senior construction loan after approval by MOHCD of such costs and sources. All Development Proceeds, including, but not limited to insurance proceeds, and Development Expenses must be approved by MOHCD. In addition, all cost and sources verified must be approved by MOHCD before payment of the At-Risk Developer Fee of $1,069,184.00, as defined in the Developer Fee Agreement between MOHCD and Developer dated February 1, 2020.

(l) EXHIBIT B-1 – Table of Sources and Uses of Funds, is deleted in its entirety and replaced with the new Exhibit B-1, attached hereto as Attachment 1.

2. Secured Promissory Note. Concurrently herewith, Borrower will execute a Secured Promissory Note (Additional Loan) in favor of the City (the "Additional Funding Note"), in form and substance acceptable to the City. A copy of the Additional Funding Note is attached to this First Amendment as Attachment 2.

3. First Amendment to Deed of Trust. Concurrently herewith, Borrower will execute a First Amendment to Deed of Trust in form and substance acceptable to the City. A copy of the First Amendment to Deed of Trust is attached to this First Amendment as Attachment 3.

4. Residual Receipts Split with HCD. During negotiations of the Agreement, the City, inclusive of the TIDA Housing Developer Subsidy, anticipates that it will split residual receipts with HCD. The City will receive residual receipt repayment of the Loan and the balance of the Loan available to receive residual receipts payments will be $39,238,000. The City's residual receipts split with HCD is as shown below.

50/50 Residual Receipts Split Analysis			
Name of Residual Receipts	**Initial Loan Amount**	**Residual Share %**	**Net Cash Flow %**
HCD Residual Receipts	$10,000,000	10.15%	20.31%
City & County of San Francisco	$39,238,000	39.85%	79.69%
Total of City & HCD Residual Receipts	**$49,238,000**	**50.00%**	**100.00%**

Further, MOHCD and TIDA have agreed to proportionally split residual receipts payments received by MOHCD when TIDA funds are part of the City loan sources. For this Project, and only this Project, TIDA Developer Housing Subsidy Funds is 2.55% of the Loan.

5. Representations and Warranties.

(a) All of the representations and warranties made by Borrower to the City in the Agreement and other City Documents continue to be true and complete as of the date of this First Amendment.

(b) No event has occurred and is continuing that constitutes an event of default or potential event of default under the Agreement, Note, or any other City Documents.

6. Miscellaneous.

(a) References. No reference to this First Amendment is necessary in any instrument or document at any time referring to the Agreement. Any reference to such documents will be deemed a reference to the Agreement as amended by this First Amendment.

(b) No Other Amendments. Except as amended by this First Amendment, the Agreement will remain unmodified and in full force and effect.

(c) Counterparts. This First Amendment may be executed in two or more counterparts, each of which will be deemed an original, but all of which when taken together will constitute one and the same instrument.

(d) Successors and Assigns. The terms, covenants, and conditions contained in this First Amendment will bind and inure to the benefit of Borrower and the City and, except as otherwise provided herein, their personal representatives and successors and assigns.

(e) Further Instruments. The parties hereto agree to execute such further instruments and to take such further actions as may be reasonably required to carry out the intent of this First Amendment.

Signatures Appear on Following Page

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment at San Francisco, California as of the date first written above.

THE CITY:

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation

By: _____
London N. Breed
Mayor

By: _____
Eric D. Shaw
Director, Mayor's Office of Housing and Community Development

APPROVED AS TO FORM:

DAVID CHIU
City Attorney

By: _____
Keith Nagayama
Deputy City Attorney

BORROWER:

MACEO MAY APT, L.P., a California limited partnership,

By: CCDC-Maceo May Apts LLC,
a California limited liability company,
its co-general partner

By: Chinatown Community Development Center, Inc.,
a California nonprofit public benefit corporation,
its sole member/manager

By _____
Malcolm Yeung,
Executive Director

By: Swords-Maceo May Apts LLC,
a California limited liability company,
its co-general partner

By: Swords to Plowshares: Veterans Rights Organization,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Michael Blecker,
Executive Director

Attachment 1

Exhibit B-1: Sources & Uses of Funds

See Attached.

Application Date: **# Units:** 105
Project Name: Maceo May Apartments **# Bedrooms:** 138
Project Address: 55 CRAVATH **# Beds:**
Project Sponsor: Chinatown CDC, Swords to Plowshares

												Total Sources	Comments
SOURCES	**24,255,000**	**14,983,000**	**1,987,768**	**10,000,000**	**1,040,000**	**800,000**	**-**	**-**	**1,100,000**	**27,525,002**	**28,587,290**	**110,278,060**	
Name of Sources:	MOHCD/OCII	New City Loan #3	TE Perm Bond	HCD VHHP	AHP Loan	Deferred Dev Fee			GP Equity	LP Equity	Insurance Proceeds		
USES													
ACQUISITION													
Acquisition cost or value												0	
Legal / Closing costs / Broker's Fee												0	
Holding Costs												0	
Transfer Tax												0	
TOTAL ACQUISITION	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	
CONSTRUCTION (HARD COSTS)													
* Unit Construction/Rehab	17,843,607	12,350,542		5,431,809	1,040,000				0	18,952,128	26,857,756	82,475,842	Water instruion Damage Repairs (hard cost) $31.5MM
* Commercial Shell Construction												0	
* Demolition												0	
Environmental Remediation												0	
* Onsight Improvements/Landscaping												0	
* Offsite Improvements												0	
* Infrastructure Improvements												0	
Parking												0	
GC Bond Premium/GC Insurance/GC Taxes												0	0.0%
GC Overhead & Profit	1,612,832		356,855									1,969,687	2.3%
CG General Conditions			27,397	2,424,195								2,451,592	2.8%
Sub-total Construction Costs	*19,456,439*	*12,350,542*	*384,252*	*7,856,004*	*1,040,000*	*0*	*0*	*0*	*0*	*18,952,128*	*26,857,756*	*86,897,121*	
Design Contingency (remove at DD)												0	5% up to $30MM HC, 4% $30-$45MM, 3% $45MM+ 0.0%
Bid Contingency (remove at bid)												0	5% up to $30MM HC, 4% $30-$45MM, 3% $45MM+ 0.0%
Plan Check Contingency (remove/reduce during Plan Review)												0	4% up to $30MM HC, 3% $30-$45MM, 2% $45MM+ 0.0%
Hard Cost Construction Contingency										2,762,188		2,762,188	5% new construction / 15% rehab 3.2%
Sub-total Construction Contingencies	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*2,762,188*	*0*	*2,762,188*	
TOTAL CONSTRUCTION COSTS	**19,456,439**	**12,350,542**	**384,252**	**7,856,004**	**1,040,000**	**0**	**0**	**0**	**0**	**21,714,316**	**26,857,756**	**89,659,309**	

Construction line item costs as a % of hard costs

SOFT COSTS													
Architecture & Design													
Architect design fees	2,290,488	9,094	478,007								54,600	2,832,189	$63k arch design + subs soft cost water intrusion add
Design Subconsultants to the Architect (incl. Fees)	242,485											242,485	
Architect Construction Admin												0	
Reimbursables												0	
Additional Services	0											0	
Sub-total Architect Contract	*2,532,973*	*9,094*	*478,007*	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*54,600*	*3,074,674*	
Other Third Party design consultants (not included under Architect contract)	50,023	32,000	391,014									473,037	$32k Water intrusion testing/inspection soft cost add
Total Architecture & Design	**2,582,996**	**41,094**	**869,021**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**54,600**	**3,547,711**	
Engineering & Environmental Studies													
Survey	1,500									16,500		18,000	
Geotechnical studies	66,628											66,628	
Phase I & II Reports	18,240											18,240	
CEQA / Environmental Review consultants												0	
NEPA / 106 Review												0	
CNA/PNA (rehab only)												0	
Other environmental consultants												0	Name consultants & contract amounts
Total Engineering & Environmental Studies	**86,368**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**16,500**	**0**	**102,868**	
Financing Costs													
Construction Financing Costs													
Construction Loan Origination Fee	15,000		203,520									218,520	
Construction Loan Interest		979,295								1,791,469	654,886	3,425,650	$1.6MM add for water intrusion construction delay add
Title & Recording			100,000									100,000	
CDLAC & CDIAC fees			20,296									20,296	
Bond Issuer Fees		79,044								261,986		341,030	$79k increase cost for Issuer and Trustee fees
Other Bond Cost of Issuance	27,999									54,184		82,183	*Lender Expenses $18k, COI Contingency $22k, Trustee fee $13k*
Other: Owner's Rep, Misc. Syndication Cost, City FA	4,400											4,400	
Sub-total Const. Financing Costs	*47,399*	*1,058,339*	*323,816*	*0*	*0*	*0*	*0*	*0*	*0*	*2,107,639*	*654,886*	*4,192,079*	
Permanent Financing Costs													
Permanent Loan Origination Fee			87,720									87,720	
Credit Enhance. & Appl. Fee												0	
Title & Recording			10,000									10,000	
Sub-total Perm. Financing Costs	*0*	*0*	*97,720*	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*97,720*	
Total Financing Costs	**47,399**	**1,058,339**	**421,536**	**0**	**0**	**0**	**0**	**0**	**0**	**2,107,639**	**654,886**	**4,289,799**	
Legal Costs													
Borrower Legal fees	38,363	140,000								53,887	20,000	252,250	$160k legal water intrusion add
Land Use / CEQA Attorney fees												0	
Tax Credit Counsel										35,000		35,000	
Bond Counsel			92,350									92,350	
Construction Lender Counsel			150,000									150,000	
Permanent Lender Counsel												0	
* City Attorney/Issuer Counsel			20,000									20,000	
Total Legal Costs	**38,363**	**140,000**	**262,350**	**0**	**0**	**0**	**0**	**0**	**0**	**88,887**	**20,000**	**549,600**	
Other Development Costs													
Appraisal	6,500									8,500		15,000	
Market Study	6,000									1,500		7,500	
* Insurance	1,072,184	1,297,928	50,609								831,952	3,252,673	BDR policy extended after exp. 2/28/22 ($2.1MM)
* Property Taxes												0	
Accounting / Audit		5,000								50,000		55,000	$5K for add'l audit related to water intrusion
* Organizational Costs												0	
Entitlement / Permit Fees	425,770		0	1,529,146								1,954,916	
* Marketing / Rent-up										179,021		179,021	
* Furnishings			0	614,850								614,850	$2,000/unit; See MOHCD U/W Guidelines on: http://sfmohcd.org/documents-reports-and-forms
PGE / Utility Fees												0	
TCAC App / Alloc / Monitor Fees	33,333	216								35,187		68,736	$216 added TCAC fees
* Financial Consultant fees	46,300									59,300		105,600	
Construction Management fees / Owner's Rep	142,453	5,000								76,997	30,000	254,450	$35k water intrusion add
Security during Construction												0	
* Relocation												0	
Services Set-Up										68,987		68,987	
Other: Green (50% of Total) MEP Peer Refview	160,895											160,895	
Other (specify)												0	
Total Other Development Costs	**1,893,435**	**1,308,144**	**50,609**	**2,143,996**	**0**	**0**	**0**	**0**	**0**	**479,492**	**861,952**	**6,737,628**	
Soft Cost Contingency													
Contingency (Arch, Eng, Fin, Legal & Other Dev)		65,604		0	0	0	0	0	0	441,900	138,096	645,600	Soft cost contingency Water intrusion add $203k
TOTAL SOFT COSTS	**4,648,561**	**2,613,181**	**1,603,516**	**2,143,996**	**0**	**0**	**0**	**0**	**0**	**3,134,418**	**1,729,534**	**15,873,206**	

Total Soft Cost Contingency as % of Total Soft Costs 4.2%

RESERVES													
* Operating Reserves		19,277								546,268		565,545	$19.2k increase due to perm int. rate
Replacement Reserves												0	
* Tenant Improvements Reserves												0	
* Subsidy Transition Reserve										680,000		680,000	
* Other (specify)												0	
* Other (specify)												0	
TOTAL RESERVES	**0**	**19,277**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**1,226,268**	**0**	**1,245,545**	
DEVELOPER COSTS													
Developer Fee - Cash-out Paid at Milestones	150,000									500,000		650,000	
Developer Fee - Cash-out At Risk										950,000		950,000	
Commercial Developer Fee												0	
Developer Fee - GP Equity (also show as source)									1,100,000			1,100,000	
Developer Fee - Deferred (also show as source)						800,000						800,000	
Development Consultant Fees												0	Need MOHCD approval for this cost, N/A for most projects
Other (specify)												0	
TOTAL DEVELOPER COSTS	**150,000**	**0**	**0**	**0**	**0**	**800,000**	**0**	**0**	**1,100,000**	**1,450,000**	**0**	**3,500,000**	
TOTAL DEVELOPMENT COST	**24,255,000**	**14,983,000**	**1,987,768**	**10,000,000**	**1,040,000**	**800,000**	**0**	**0**	**1,100,000**	**27,525,002**	**28,587,290**	**110,278,060**	
Development Cost/Unit by Source	231,000	142,695	18,931	95,238	9,905	7,619	0	0	10,476	262,143	272,260	1,050,267	
Development Cost/Unit as % of TDC by Source	22.0%	13.6%	1.8%	9.1%	0.9%	0.7%	0.0%	0.0%	1.0%	25.0%	25.9%	100.0%	
Acquisition Cost/Unit by Source	0	0	0	0	0	0	0	0	0	0	0	0	
Construction Cost (inc Const Contingency)/Unit By Source	185,299	117,624	3,660	74,819	9,905	0	0	0	0	206,803	255,788	853,898	
Construction Cost (inc Const Contingency)/SF	167.04	106.03	3.30	67.45	8.93	0.00	0.00	0.00	0.00	186.43	230.58	769.76	

**Possible non-eligible GO Bond/COP Amount:* 18,962,091
City Subsidy/Unit 231,000

Tax Credit Equity Pricing: 0.996
Construction Bond Amount: 43,704,000
Construction Loan Term (in months): 48 months
Construction Loan Interest Rate (as %): 2.82%

Attachment 2

Secured Promissory Note (Additional Loan)

See Attached.

SECURED PROMISSORY NOTE
(Additional Loan)
(City and County of San Francisco LMIHAF; 2019 General Obligation Bond for Affordable Housing; and TIDA Developer Housing Subsidy)

Principal Amount: $14,983,000 San Francisco, CA

Date: _____, 2022

FOR VALUE RECEIVED, the undersigned, **MACEO MAY APTS, L.P.**, a California limited partnership ("Maker"), hereby promises to pay to the order of the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation, or holder (as the case may be, "Holder"), the principal sum of **FOURTEEN MILLION NINE HUNDRED EIGHTY-THREE THOUSAND** and No/100 Dollars ($14,983,000) (the "Additional Funding Amount"), or so much of the Additional Funding Amount as may be disbursed from time to time pursuant to the Agreement described in **Section 1** below as provided in this Note.

1. Agreement. Holder is making a loan of Fourteen Million Nine Hundred Eighty-Three Thousand and No/100 Dollars ($14,983,000) (the "Additional Loan") to Maker for units damaged in the October 2021 atmospheric river storm and to cover the reduction in permanent loan and tax credit equity financing because of a six and one-half (6.5) month construction delay while the storm damaged units were being repaired on the multifamily rental housing development comprised of a 105-unit multifamily rental housing development (including one manager unit) affordable to low-income veteran households. This Note is given under the terms of the Amended and Restated Loan Agreement by and between Maker and Holder dated January 28, 2020, as amended by that certain First Amendment to the Amended and Restated Loan Agreement dated concurrently herewith (collectively, the "Agreement"), which Agreement is incorporated herein by reference. Maker's obligations under this Note and the Agreement are secured by that certain Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated January 28, 2020, made by Maker for the benefit of Holder, and recorded on April 28, 2020, as Document No. DOC-2020-K927155-00, as amended by that certain First Amendment to Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated as of the date of this Note (collectively, "Deed of Trust"). Definitions and rules of interpretation set forth in the Agreement apply to this Note. In the event of any inconsistency between the Agreement and this Note, this Note will control.

2. Interest. Except as set forth in Section 3, no interest will accrue on the principal balance outstanding under this Note.

3. Default Interest Rate. Upon the occurrence of an Event of Default under any City Document, interest will be deemed to have accrued on the outstanding principal balance of the Loan at a compounded annual rate equal to the lesser of: (a) ten percent (10%); or (b) the maximum lawful rate of interest, commencing on the Event of Default through the earlier of: (x) the date on which the Event of Default is cured; or (y) the date on which all amounts due under the City Documents are paid to Holder. Maker acknowledges and agrees that the default interest that must be paid in the event of an Event of Default pursuant to this Section represents a reasonable sum considering all the circumstances existing on the date of this Note and represents a fair and reasonable estimate of the costs that will be sustained by Holder if Maker defaults. Maker further agrees that proof of actual damages would be costly and inconvenient and that default interest will be paid without prejudice to Holder's right to collect any other amounts to be paid or to exercise any of its other rights or remedies under any City Document.

4. Repayment of Additional Loan.

4.1 Subject to Section 13.4 of the Agreement, Maker must make annual payments of principal and interest (each, a "Payment") in an amount equal to the Residual Receipts, if any, attributable to the prior calendar year, beginning on the first July 1st after the end of the calendar year of the Completion Date, and continuing each July 1st thereafter up to and including the Maturity Date, as defined below (each, a "Payment Date"). All Payments will be applied to the following in the following order: (a) costs and fees incurred and unpaid; (b) accrued and unpaid interest; and (c) reduction of the principal balance of the Loan. The unpaid principal balance of the Loan, together with all accrued and unpaid interest and unpaid costs and fees incurred, will be due and payable on the date that is the later (a) the fifty seventh (57th) anniversary of the date the Deed of Trust is recorded in the Recorder's Office of San Francisco County or (b) the fifty fifth (55th) anniversary of the Conversion Date (the "Maturity Date"). Any Payment Date, including any Excess Proceeds Payment Date and the Maturity Date, that falls on a weekend or holiday will be deemed to fall on the next succeeding business day.

4.2 Subject to Section 13.4 of the Agreement, Maker must make payments of principal and interest (each, an "Excess Proceeds Payment") in an amount equal to the Excess Proceeds, if any, on the date that is thirty (30) days after the later of the date on which Maker receives its Form 8609 from the California Tax Credit Allocation Committee or the date on which Maker receives Excess Proceeds from its limited partner or other financing sources, including, but not limited to insurance proceeds related to the storm damaged modular units (the "Excess Proceeds Payment Date"), in accordance with HCD if applicable. In addition, Borrower must notify the City in writing when a final coverage determination of Borrower's insurance claim and all respective loss amounts submitted that relate to the damage of the modular units of the Project is received from the Borrower's responding insurers. All Excess Proceeds Payments will be applied to the following in the following order: (a) costs and fees incurred and unpaid; (b) accrued and unpaid interest; and (c) reduction of the principal balance of the Additional Loan.

5. Security. Maker's obligations under this Note are secured by the Deed of Trust.

6. Terms of Payment.

6.1 All Payments must be made in currency of the United States of America then lawful for payment of public and private debts.

6.2 All Payments must be made payable to Holder and mailed or delivered in person to Holder's office at One South Van Ness Avenue, 5th Floor, San Francisco, CA 94103, or to any other place Holder from time to time designates.

6.3 In no event will Maker be obligated under the terms of this Note to pay interest exceeding the lawful rate. Accordingly, if the payment of any sum by Maker pursuant to the terms of this Note would result in the payment of interest exceeding the amount that Holder may charge legally under applicable state and/or federal law, the amount by which the payment exceeds the amount payable at the lawful interest rate will be deducted automatically from the principal balance owing under this Note.

6.4 Maker waives the right to designate how Payments will be applied pursuant to California Civil Code Sections 1479 and 2822. Holder will have the right in its sole discretion to determine the order and method of application of Payments to obligations under this Note.

6.5 Except as otherwise set forth herein or in the Agreement, no prepayment of this Note shall be permitted without Holder's prior written consent.

7. Default.

7.1 Any of the following will constitute an Event of Default under this Note:

(a) Maker fails to make any Payment required under this Note within ten (10) days of the date it is due; or

(b) the occurrence of any other Event of Default under the Agreement or other instrument securing the obligations of Maker under this Note or under any other agreement between Maker and Holder with respect to the Project.

7.2 Upon the occurrence of any Event of Default, without notice to or demand upon Maker, which are expressly waived by Maker (except for notices or demands otherwise required by applicable laws to the extent not effectively waived by Maker and any notices or demands specified in the City Documents), Holder may exercise all rights and remedies available under this Note, the Agreement or otherwise available to Holder at law or in equity. Maker acknowledges and agrees that Holder's remedies include the right to accelerate the Maturity Date by declaring the outstanding principal balance of the Loan, together with all accrued and unpaid interest and unpaid fees and costs incurred, due and payable immediately, in which case, the Maturity Date will be superseded and replaced by the date established by Holder.

7.3 Notwithstanding Section 7.2 and subject to this Section, Holder will not seek or obtain judgment against Maker for the payment of any amounts due under this Note following a judicial or nonjudicial foreclosure of the Deed of Trust, and Holder's sole recourse against Maker for any default under this Note will be limited to the collateral for the Loan, provided, however, that this Section will be deemed void and of no effect if Maker challenges Holder's right to foreclose following an Event of Default in any legal proceeding on the grounds that the City Documents are not valid and enforceable under California law. This provision does not limit in any way Holder's right to recover sums arising under any obligation of Maker to indemnify Holder of sums incurred by Holder as a result of Maker's fraud, willful misrepresentation, misapplication of funds (including Loan Funds and Rents (as defined in the Deed of Trust)), waste or negligent or intentional damage to the collateral for the Loan.

Notwithstanding anything to the contrary contained herein, Holder hereby agrees that any cure of any default made or tendered by Maker's limited partner shall be accepted or rejected on the same basis as if made or tendered by Maker.

8. Waivers.

8.1 Maker expressly agrees that the term of this Note or the date of any payment due hereunder may be extended from time to time with Holder's consent, and that Holder may accept further security or release any security for this Note, all without in any way affecting the liability of Maker.

8.2 No extension of time for any Payment made by agreement by Holder with any person now or hereafter liable for the payment of this Note will operate to release, discharge, modify, change or affect the original liability of Maker under this Note, either in whole or in part.

8.3 The obligations of Maker under this Note are absolute, and Maker waives any and all rights to offset, deduct or withhold any Payments or charges due under this Note for any reason whatsoever.

9. Miscellaneous Provisions.

9.1 All notices to Holder or Maker must be given in the manner and at the addresses set forth in the Agreement, or to the addresses Holder and/or Maker hereafter designate in accordance with the Agreement.

9.2 In the event of any legal proceedings arising from the enforcement of or a default under this Note or in any bankruptcy proceeding of Maker, the non-prevailing party promises to pay all reasonable costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the proceeding, as provided in the Agreement.

9.3 This Note may be amended only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

9.4 This Note is governed by and must be construed in accordance with the laws of the State of California, without regard to the choice of law rules of the State.

9.5 Time is of the essence in the performance of any obligations hereunder.

"MAKER"
Maceo May Apts, L.P.,
a California limited partnership

By: CCDC-Maceo May Apts LLC,
a California limited liability company,
its co-general partner

By: Chinatown Community Development Center, Inc.,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Malcolm Yeung,
Executive Director

By: Swords-Maceo May Apts LLC,
a California limited liability company,
its co-general partner

By: Swords to Plowshares: Veterans Rights Organization,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Michael Blecker,
Executive Director

Attachment 3

First Amendment to Deed of Trust

See Attached.

Free Recording Requested Pursuant to
Government Code Section 27383 and 27388.1

When recorded, mail to:
Mayor's Office of Housing and Community Development
City and County of San Francisco
1 South Van Ness Ave., 5th Floor
San Francisco, California 94103
Attn: Agnes Defiesta

Lot 032; Block 0224

----------Space Above This Line for Recorder's Use----------

FIRST AMENDMENT TO DEED OF TRUST, ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING
(Property Address: 401 Avenue of the Palms)

This First Amendment to Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing ("First Amendment to Deed of Trust") dated as of _____, 2022, is attached to and made a part of that certain Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated January 28, 2020, and recorded April 28, 2020, as Document Number DOC-2020-K927155-00 (the "Deed of Trust"). The Deed of Trust secures a loan in the amount of (the "Loan") made by the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation represented by the Mayor and acting through the Mayor's Office of Housing and Community Development ("City" or "Beneficiary"), to MACEO MAY APTS, L.P.,, a California Limited Partnership ("Borrower" or "Trustor"), whose address is 1525 Grant Ave., San Francisco, CA 94109, for development expenses associated with the real property described in the attached **Exhibit A**.

The Loan was evidenced by that certain Amended and Restated Loan Agreement dated January 28, 2020, by and between Trustor and Beneficiary (the "Loan Agreement") and by that certain Third Amended and Restated Promissory Note (Predevelopment) dated January 28, 2020 (the "Predevelopment Note"), a Secured Promissory Noted (Construction) dated January 28, 2020 (the "Construction Note"), Declaration of Restrictions dated as of January 28, 2020 (the "Declaration") and the Deed of Trust.

Pursuant to that certain First Amendment to the Amended and Restated Loan Agreement, Beneficiary agreed to increase the Loan ("Additional Loan") by Fourteen Million Nine Hundred Eighty-Three Thousand and No/100 Dollars ($14,983,000) (the "Additional Funding Amount"), as evidenced by that certain Secured Promissory Note executed by Borrower, each dated as of the date set forth above. The new aggregate amount of the Loan is $39,238,000.

The Trustor agrees that the following covenants, terms, and conditions shall be part of and shall modify or supplement the Deed of Trust and that in the event of any inconsistency or conflict between the covenants, terms, and conditions of the Deed of Trust, as amended by this First Amendment to Deed of Trust, the following covenants, terms, and conditions shall control and prevail:

1. Obligations Secured. The parties agree that the Deed of Trust is hereby amended as follows:

1.1 Section 2 is hereby deleted in its entirety and replaced with the following:

2. Obligations Secured. This Deed of Trust is given for the purpose of securing the following (collectively, the "Secured Obligations"):

(a) performance of all present and future obligations of Trustor set forth in the Agreement, specifically compliance with certain restrictions on the use of the Property recited in that certain Declaration of Restrictions executed by Trustor, dated as of the date of and being recorded concurrently with this Deed of Trust, as it may be amended from time to time, that certain Third Amended and Restated Secured Promissory Note (Predevelopment Loan) dated January 28, 2020, made by Trustor to the order of Beneficiary (as it may be amended from time to time, the "Predevelopment Note"), that certain Secured Promissory Note (Construction Loan) dated January 28, 2020, made by Trustor to the order of Beneficiary (as it may be amended from time to time, the "Construction Note"), and that certain Secured Promissory Note (Additional Loan) dated _____, 2022, made by Trustor to the order of Beneficiary (as it may be amended from time to time, the "Additional Funding Note") and performance of each agreement incorporated by reference, contained therein, or entered into in connection with the Agreement, as amended;

(b) payment of the indebtedness evidenced by the Agreement as amended by that certain First Amendment to Amended and Restated Loan Agreement and the Predevelopment Note in the original principal amount of Six Million Five Hundred Sixty-Two Thousand and No/100 ($6,562,000.00), with interest, if any, according to the terms of the Agreement and the Note;

(c) payment of the indebtedness evidenced by the Agreement as amended by that certain First Amendment to Amended and Restated Loan Agreement and the Construction Note in the original principal amount of Seventeen Million Six Hundred Ninety-Three Thousand and No/100 ($17,693,000.00), with interest, if any, according to the terms of the Agreement and the Note;

(d) payment of the indebtedness evidenced by the Agreement as amended by that certain First Amendment to Amended and Restated Loan Agreement and the Additional Funding Note in the original principal amount of Fourteen Million Nine Hundred Eighty-Three Thousand and No/100 Dollars ($14,983,000), with interest, if any, according to the terms of the Agreement and the Note; and

(c) payment of any additional sums Trustor may borrow or receive from Beneficiary, when evidenced by another note (or any other instrument) reciting that payment is secured by this Deed of Trust.

2. No Other Change. Except as specifically modified or amended by this Amendment, all other terms and conditions of the Deed of Trust remain the same.

Remainder of Page Intentionally Left Blank; Signatures Appear on Following Page

BENEFICIARY:

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, represented by the Mayor, acting by and through the Mayor's Office of Housing and Community Development

By: _____
Eric D. Shaw
Director, Mayor's Office of Housing and Community Development

SIGNATURE ABOVE MUST BE NOTARIZED

APPROVED AS TO FORM:

DAVID CHIU
City Attorney

By: _____
Deputy City Attorney

"TRUSTOR:"

MACEO MAY APT, L.P., a California limited partnership,

By: CCDC-Maceo May Apts LLC,
a California limited liability company,
its co-general partner

By: Chinatown Community Development Center, Inc.,
a California nonprofit public benefit corporation,
its sole member/manager

By _____
Malcolm Yeung,
Executive Director

By: Swords-Maceo May Apts LLC,
a California limited liability company,
its co-general partner

By: Swords to Plowshares: Veterans Rights Organization,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Michael Blecker,
Executive Director

ALL SIGNATURES MUST BE NOTARIZED

EXHIBIT A
Legal Description of the Land

A LEASEHOLD INTEREST IN THE FOLLOWING LAND SITUATED IN THE CITY OF SAN FRANCISCO, COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

Street Address: 401 Avenue of the Palms

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of the document.

State of California)
County of San Francisco)

On _____, _____, before me, Jennifer M. Collins, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

(Seal)

This document is exempt from payment of a recording fee pursuant to California Government Code Section 27383

RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:

Treasure Island Development Authority
c/o Office of Economic and Workforce Development
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102
Attention: Treasure Island Project Director

Recorder's Stamp

DISPOSITION AND DEVELOPMENT AGREEMENT

(TREASURE ISLAND/YERBA BUENA ISLAND)

by and between

TREASURE ISLAND DEVELOPMENT AUTHORITY,
a California non-profit public benefit corporation

and

TREASURE ISLAND COMMUNITY DEVELOPMENT, LLC,
a California limited liability company

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LIST OF EXHIBITS

Exhibits highlighted in grey will be attached to DDA upon agreement of the parties in accordance with terms of Section 28.38 the DDA. The Infrastructure Plan (Exhibit FF) and the Parks and Open Space Plan (Exhibit GG) are not included in the recorded version of the DDA, but such Exhibits shall be kept on file with the Authority and available to the public in accordance with Section 28.35 of the DDA.

Exhibit	Description
Ex. A	Definitions
Ex. B-1	The Project Site/Excluded Properties (Map showing NSTI and Excluded Properties (job corps, coast guard and Caltrans))
Ex. B-2	Legal Description of Project Site
Ex. C	Project MMRP
Ex. D	The Land Use Plan
Ex. E	The Housing Plan
Ex. F	The Community Facilities Obligations
Ex. G:	The Public Property
Ex. H	Approved Vertical DDA Form
Ex. I	Approved Vertical LDDA Form
Ex. J	Intentionally Omitted
Ex. K	Intentionally Omitted
Ex. L	Site 12 Redesign Site
Ex. M	Ground Lease
Ex. N	Transportation Plan Obligations
Ex. O	Sustainability Obligations
Ex. P	Treasure Island Jobs and Equal Opportunity Policy
Ex. Q	Pre-Approved Arbiters List
Ex. R	Reversionary Quitclaim Deed
Ex. S	Summary Proforma
Ex. T	Auction Bidder Selection Guidelines for Commercial Lots
Ex. U	Qualified Appraisal Pool
Ex. V-1	Appraisal Instructions (Non-Critical Commercial Lots)
Ex. V-2	Appraisal Instructions (Residential Lots)
Ex. W	Auction Bidder Selection Guidelines for Residential Auction Lots
Ex. X	Guidelines for Residential Auction Lot Selection
Ex. Y-1	Form of Guaranty (Base Security)
Ex. Y-2	Form of Guaranty (Adequate Security other than Base Security)
Ex. Z	Architect's Certificate
Ex. AA	Authority Quitclaim Deed
Ex. BB	Certificate of Completion
Ex. CC	DRDAP
Ex. DD	Engineer's Certificate
Ex. EE	Financing Plan

Ex. FF	Infrastructure Plan
Ex. GG	Parks and Open Space Plan
Ex. HH	Permit to Enter
Ex. II	Phasing Plan
Ex. JJ	Schedule of Performance

LIST OF ATTACHMENTS

The Attachments are not included in the recorded version of the DDA, but such Attachments shall be kept on file with the Authority and available to the public in accordance with Section 28.35 of the DDA.

Att. 1	Form of Public Trust Exchange Agreement
Att. 2	Form of Navy Economic Development Conveyance Memorandum of Agreement

DISPOSITION AND DEVELOPMENT AGREEMENT (TREASURE ISLAND/YERBA BUENA ISLAND)

This DISPOSITION AND DEVELOPMENT AGREEMENT (TREASURE ISLAND/YERBA BUENA ISLAND) (including all Exhibits and Attachments as amended from time to time, this "**DDA**" or this "**Agreement**") dated for reference purposes only as of June 28, 2011 (the "**Reference Date**"), is made by and between Developer and the Authority. The terms defined in Exhibit A that are used in this DDA have the meanings given to them in Exhibit A.

RECITALS

Developer and the Authority enter into this DDA with reference to the following facts and circumstances:

Overview

A. Naval Station Treasure Island ("**NSTI**") is a former United States Navy base located in the City and County of San Francisco ("**City**"), that consists of the following two islands connected by a causeway: (1) Treasure Island, comprised of approximately 409 acres of level filled land, and (2) an approximately 90 acre portion of Yerba Buena Island, a natural rock outcropping, steeply sloped and highly vegetated, with elevations rising to over 300 feet above the water. NSTI also includes approximately 316 acres of unfilled tidal and submerged lands lying adjacent to Treasure Island in San Francisco Bay and approximately 234 acres of unfilled tidal and submerged lands lying adjacent to Yerba Buena Island in San Francisco Bay (the "**Submerged Lands**").

B. The land within NSTI that is the subject of this Agreement is shown on Exhibit B-1, attached hereto, and more particularly described in Exhibit B-2, attached hereto (the "**Project Site**"). For purposes of this Agreement, the term "NSTI" excludes the portions of NSTI that are occupied by the United States Department of Labor Jobs Corps, the United States Coast Guard and the California Department of Transportation (collectively, the "**Excluded Properties**"). The Excluded Properties are also shown on Exhibit B-1, attached hereto.

C. During World War II, NSTI was used as a center for receiving, training, and dispatching service personnel. After the war, NSTI was used primarily as a naval training and administrative center. In 1993, Congress and the President selected NSTI for closure and disposition by the Base Realignment and Closure Commission acting under Public Law 101-510, 10 U.S.C. §2687 and its subsequent amendments. The Department of Defense subsequently designated the City, and later the Authority, as the Local Reuse Authority ("**LRA**") responsible for the conversion of NSTI under the federal disposition process.

D. In 1994, a Citizen's Reuse Committee ("**CRC**"), representing a broad spectrum of community interests, was formed to (1) review reuse planning efforts for NSTI by

the San Francisco Planning Department and the San Francisco Redevelopment Agency, and (2) make recommendations to the City's Planning Commission and Board of Supervisors.

E. In July 1996, after an extensive community planning effort, the City's Mayor, Board of Supervisors, Planning Commission and the CRC unanimously endorsed the Draft Reuse Plan (the "**Reuse Plan**") for NSTI. The Reuse Plan served as the basis for the preliminary redevelopment plan for NSTI. Since adoption of the Reuse Plan, the Authority has undertaken an extensive public process to further refine the land use plan for NSTI.

F. In 1996, the City negotiated the Base Closure Homeless Assistance Agreement (the "**Original TIHDI Agreement**") with the Treasure Island Homeless Development Initiative, a California non-profit corporation ("**TIHDI**"), which represents a number of non-profit member organizations. TIHDI was formed in 1994 to develop the homeless component of the Reuse Plan. The Original TIHDI Agreement would, among other things, (1) give TIHDI certain rights to participate in economic development opportunities at NSTI, (2) facilitate implementation of a permanent employment program related to activities occurring at NSTI, (3) give TIHDI certain rights to both temporary and permanent housing in support of TIHDI's programs, and (4) provide TIHDI with certain financial support. The United States Department of Housing and Urban Development approved the Original TIHDI Agreement on November 26, 1996. The Original TIHDI Agreement was updated and superseded in its entirety by the Amended and Restated Base Closure Homeless Assistance Agreement (the "**TIHDI Agreement**") that was approved by Authority on April 21, 2011, and by the Board of Supervisors concurrently with its approval of this Agreement.

G. The Authority was created in 1997 to serve as the entity responsible for the reuse and development of NSTI. Under the Treasure Island Conversion Act of 1997, which amended Section 33492.5 of the California Health and Safety Code and added Section 2.1 to Chapter 1333 of the Statutes of 1968 (as amended from time to time, the "**Conversion Act**"), the California Legislature (1) authorized the Board of Supervisors to designate the Authority as a redevelopment agency under the California Community Redevelopment Law (California Health and Safety Code §33000 et seq.) ("**CCRL**") with authority over NSTI, and (2) with respect to those portions of NSTI that are subject to the Public Trust, vested in the Authority the authority to administer the Public Trust as to such property in accordance with the terms of the Act.

H. The Board of Supervisors designated the Authority as a redevelopment agency with powers over NSTI under the Conversion Act in Resolution No. 43-98, dated February 6, 1998.

I. After completion of a competitive master developer selection process, the Authority and Developer entered into the Exclusive Negotiating Agreement dated as of June 1, 2003. The Exclusive Negotiating Agreement was amended and restated in its entirety pursuant to the Amended and Restated Exclusive Negotiating Agreement dated as of September 14, 2005, as further amended by the Amendment to Schedule of Performance Set Forth in the Amended and Restated Exclusive Negotiating Agreement dated as of July 1, 2006, the Second Amendment to the Amended and Restated Exclusive Negotiating Agreement dated as of March 12, 2008, the Third Amendment to the Amended and Restated Exclusive Negotiating Agreement dated as of February 10, 2010, and the Fourth Amendment to Exclusive Negotiating Agreement dated as of

June 22, 2011 (collectively, the "**ENA**"). The ENA sets forth the terms and conditions under which the Authority and Developer are willing to negotiate the transaction documents for the conveyance, management and redevelopment of NSTI, including a schedule of performance for major milestones.

J. One of the key milestones under the ENA was the completion of a term sheet summarizing the key policy goals, basic development guidelines, financial framework and other key terms and conditions that formed the basis for the negotiation and completion of the final transaction documents.

K. On October 24, 2006, the Treasure Island/Yerba Buena Island Citizens Advisory Board ("**TICAB**") voted 16-0-1 to endorse the Development Plan and Term Sheet for the Redevelopment of Naval Station Treasure Island (the "**2006 Development Plan**"). On October 30, 2006, the Authority Board voted 6-0 to adopt Resolution No. 06-59-10/30 endorsing the 2006 Development Plan. On December 12, 2006, the Board of Supervisors voted 10-1 to adopt Resolution No. 699-06 endorsing the 2006 Development Plan, subject to the terms and conditions of Resolution No. 699-06.

L. The 2006 Development Plan was updated pursuant to the Update to Development Plan and Term Sheet (the "**Development Plan Update**) that (i) the TICAB voted 15 to 1, with one abstention, to endorse on April 6, 2010, (ii) the Authority Board voted 7 to 0 to endorse on April 7, 2010, and (iii) the Board of Supervisors voted 11 to 0 to endorse on May 18, 2010. The 2006 Development Plan and the Development Plan Update are collectively referred to in this Agreement as the "**Development Plan**."

M. On October 13, 2007, the Governor approved SB 815 (Migden) and on October 11, 2009, the Governor approved SB 833 (Leno). SB 815 and SB 833 both amended the Treasure Island Public Trust Exchange Act (as amended, the "**Exchange Act**"), which is the State legislation authorizing an exchange of Public Trust lands between Treasure Island and Yerba Buena Island, to be consistent with the proposed reuse and development program for the Project Site.

N. On September 26, 2008, the Governor approved AB 981 (Leno), which authorized (i) the creation of the Treasure Island Transportation Management Agency ("**TITMA**"), (ii) implementation of a congestion management pricing program as part of the redevelopment of NSTI, and (iii) collection and distribution of parking, transit pass and congestion management pricing revenues as part of an overall transit demand management program for the proposed redevelopment of NSTI.

O. The United States of America, acting by and through the Department of the Navy ("**Navy**"), and the Authority have negotiated an Economic Conveyance Memorandum of Agreement (as amended and supplemented from time to time, the "**Conveyance Agreement**") that governs the terms and conditions for the transfer of NSTI from the Navy to the Authority. Under the Conveyance Agreement, the Navy will convey NSTI to the Authority in phases after the Navy has completed environmental remediation and issued a Finding of Suitability to Transfer ("**FOST**") for specified parcels of NSTI or portions thereof.

P. The Development Plan contemplated that a Redevelopment Plan would be adopted under CCRL for NSTI, and the Project Site would be included in a Redevelopment Project Area. The Development Plan also contemplated that tax increment financing as provided in CCRL would be available to finance certain costs related to the Project Site. As a result of potential changes to CCRL, the Parties have determined to proceed with development of the Project Site using the Infrastructure Financing District ("**IFD**") mechanism provided under the Infrastructure Financing District Act (California Government Code Section 53395 et seq.) ("**IFD Act**"), as amended from time to time.

Q. The purpose of this Agreement is to provide for the disposition and development of the Project Site after the Navy's transfer of NSTI to the Authority in accordance with the Conveyance Agreement. This Agreement provides for a mixed-use development that is in furtherance of the Reuse Plan, the Development Plan and the TIHDI Agreement, and is consistent with the City's General Plan and the Eight Priority Planning Policies.

R. The Project, which is more particularly described in Section 1 has been presented and reviewed by the Treasure Island community and other stakeholders at numerous public meetings, including those held before the Authority Board, the TICAB, the Board of Supervisors, the Planning Commission and in other local forums.

S. This Agreement describes those elements of the Project that Developer is permitted, and in some cases obligated, to construct. As described in Section 1.4 below, this Agreement contemplates that certain proposed improvements will be developed by parties other than Developer.

T. The Project Site has a unique and special importance to the Authority and to the City because of its location, the nature of the improvements and the uses contemplated for the Project Site. The Authority desires to advance the socioeconomic interests of the City and its residents by promoting the productive use of underdeveloped, former military base property and encouraging quality development and economic growth, thereby enhancing housing and employment opportunities for residents and expanding the City's property tax base. The Authority also desires to obtain the community benefits of the Project, which are in addition to those dedications, conditions and exactions required by laws or regulations, and which advance the reuse and development objectives of the Authority and provide benefits to the City and its residents.

U. The Authority has determined that by entering into this Agreement: (i) the Authority will ensure the productive use of underdeveloped, former military base property and foster orderly growth and quality development of the Project Site; (ii) development will proceed in accordance with the goals and policies set forth in the Reuse Plan, the Development Plan, the General Plan and the City's Eight Priority Planning Principles; (iii) over time, the City will receive substantially increased tax revenues; (iv) the City will benefit from increased economic development and employment opportunities that the Project will create for City residents; and (v) the City will receive the community benefits that the Project will provide for City residents. The Project proposed under this Agreement and the fulfillment generally of this Agreement (A) are in the best interests of the Authority, the City, and the health, safety, morals and welfare of its

residents; and (B) are in accordance with the public purposes and provisions of applicable federal, state and local laws and requirements.

V. The residential component of the Project will consist of a maximum of 8,000 Residential Units including a minimum of 2,000 below market rate units. The below market rate units, constituting a minimum of 25% of the total number of Residential Units, are an integral part of the development meeting the varied housing needs of the community. Development of both the market rate and the below market rate units is essential to the feasibility and completion of the reuse and development of NSTI.

W. The City and the Authority have analyzed potential environmental impacts of the Project and identified mitigation measures in the Environmental Impact Report for Treasure Island and Yerba Buena Island (the "**Project EIR**") and a Mitigation Monitoring and Reporting Program attached hereto as Exhibit C (the "**Project MMRP**"), in accordance with the requirements of CEQA. On April 21, 2011, the Planning Commission and the Authority Board certified the Project EIR.

X. The Parties wish to enter into this DDA to set forth the terms and conditions under which the Project will be developed.

AGREEMENT

ACCORDINGLY, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, Developer and the Authority agree as follows:

1. The Project.

1.1 Overview. This DDA contemplates a project (the "**Project**") under which the Authority acquires the Project Site from the Navy and conveys portions of the Project Site to Developer for the purposes of (i) alleviating blight in the Project Site through development of Improvements consistent with the Development Requirements, (ii) geotechnically stabilizing the Project Site, (iii) constructing Infrastructure and Stormwater Management Controls to support the Project and other proposed uses on NSTI, such as roads and utilities, and including Infrastructure and Stormwater Management Controls to support the construction of Affordable Housing Units, (iv) constructing and improving certain public parks and open spaces, (v) remediating certain existing Hazardous Substances, and (vi) selling and ground leasing Lots to Vertical Developers who will construct Units and commercial and public facilities thereon, all as more particularly described in this DDA.

1.2 Vertical Disposition and Development Agreements and Lease Disposition and Development Agreements. This Agreement grants to Developer (i) the right to acquire portions of the Project Site and (ii) the right, and upon the satisfaction of certain conditions, the obligation, to develop the Infrastructure and Stormwater Management Controls and the Required Improvements. While this Agreement applies primarily to Infrastructure and Stormwater Management Controls, it also includes certain terms and conditions that will apply to Vertical Improvements. In connection with the sale of Lots to Vertical Developers in accordance with Article 17, Developer, the Authority and each Vertical Developer will enter into a Vertical

Disposition and Development Agreement (**"Vertical DDA**") for Lots that are not subject to the Public Trust. Because Public Trust property may not be sold in fee, development of certain of the Public Trust Parcels will be subject to a Lease Disposition and Development Agreement ("**Vertical LDDA**") that sets forth the terms under which the applicable Public Trust Parcels will be developed for commercial purposes in accordance with Article 17 below. For clarity, the Vertical DDA and the Vertical LDDA, as applicable, will include all of the terms and conditions that will apply to Vertical Improvements, and they will incorporate by reference certain Attachments and Exhibits to this Agreement that will apply to both Infrastructure and Stormwater Management Controls and Vertical Improvements.

1.3 Improvements. The primary Improvements constituting the Project are listed below and are more particularly described in the Land Use Plan, the Infrastructure Plan, the Parks and Open Space Plan, the Transportation Plan, the Community Facilities Plan, the Housing Plan, the Schedule of Performance, the Phasing Plan, the SUD and the Design for Development. Developer and Vertical Developers shall design, construct and complete the Infrastructure and Stormwater Management Controls and the Vertical Improvements, and Qualified Housing Developers shall design, construct and complete the Authority Housing Units, all at the times and subject to the conditions set forth in this DDA and the Vertical DDA/LDDAs, as applicable. In accordance with the terms of this DDA and the Vertical DDA/LDDAs, Developer and Vertical Developers shall have the right and, with regard to certain Improvements identified in this DDA and upon the satisfaction of certain conditions set forth in this DDA, the obligation, to develop the Project shown on the Land Use Plan attached hereto as Exhibit D, in accordance with the Development Requirements, including, without limitation, the Project components listed below, excepting certain improvements to be constructed on NSTI, including the Project Site, for which Developer is not responsible as described in Section 1.4 hereof.

(a) Geotechnical stabilization of certain portions of Treasure Island and the causeway connecting it to Yerba Buena Island, and addition of fill to raise the surface elevation on those portions of Treasure Island that are to be developed to address flood protection and potential future sea level rise as more particularly described in the Infrastructure Plan;

(b) Up to 6,316 Developer Residential Units, of which approximately 5% percent will be Inclusionary Units constructed in accordance with the Housing Plan attached hereto as Exhibit E and more specifically defined in Exhibit A (the "**Housing Plan**") (with up to an additional 1,684 below market rate Residential Units to be designed, constructed and completed by Qualified Housing Developers on behalf of the Authority and TIHDI in accordance with the Housing Plan), provided however, that the total percentage of below-market rate Residential Units, including Inclusionary Units, may be adjusted upwards from 25% to 30% in accordance with Article 9 of the Housing Plan;

(c) Up to approximately 140,000 square feet of new commercial and retail space with accessory parking;

(d) Up to approximately 100,000 square feet of new office space with accessory parking;

(e) Adaptive reuse of Buildings 1, 2, and 3 on Treasure Island with up to 311,000 square feet of commercial/flex space (the adaptive reuse would include approximately 67,000 square feet of additional retail, which, when combined with the 140,000 square feet of new retail, yields a total of 207,000 square feet of retail space proposed on the Islands) with accessory parking;

(f) Adaptive reuse of certain of the historic buildings on Yerba Buena Island;

(g) Up to approximately 500 hotel rooms or Fractional Interest Units;

(h) New and/or upgraded public and community facilities, including a new joint police/fire station and funding for upgraded school facilities on Treasure Island, and Developable Lots for the development by Authority or third parties of the Treasure Island Sailing Center, an Environmental Education Center and other community facilities, as more particularly described in the Community Facilities Obligations attached hereto as Exhibit F;

(i) New and/or upgraded public utilities, including the water distribution system, wastewater collection system, recycled water storage and distribution system, storm water collection and Stormwater Management Controls, Developable Lots to accommodate the Wastewater Treatment Facility and other SFPUC improvements, as more particularly described in the Infrastructure Plan;

(j) Up to approximately 300 acres of parks and public open space, as more particularly described in the Parks and Open Space Plan;

(k) New and/or upgraded streets and public ways as more particularly described in the Infrastructure Plan;

(l) Bicycle, transit, and pedestrian facilities as more particularly described in the Infrastructure Plan;

(m) Landside services for the Marina as more particularly described in the Infrastructure Plan and Section 8.3 hereof, and

(n) A ferry quay/bus intermodal transit center ("**Transit Hub**") as more particularly described in the Infrastructure Plan; and

(o) Such additional environmental remediation work more particularly described in the Infrastructure Plan after issuance of one or more FOST(s) for the Project Site.

The Parties acknowledge and agree that the density and intensity of development as set forth in this Section 1.3 form the basis of Developer's financial expectations for the Project and the Proforma. The particular land uses and locations are shown in the Land Use Plan and defined more particularly in the SUD, the Area Plan and the Design for Development. Design controls governing the Project are set forth in the SUD and Design for Development. The Land Use Plan is provided for the purposes of indicating the general type, pattern and location of development as shown, but shall not be construed as a regulating document with regard to land

uses or development standards, both of which are regulated and controlled by the Area Plan, SUD and the Design for Development.

1.4 Project Development. The Project contemplates the development of improvements within NSTI, including the Project Site, by parties other than Developer and Vertical Developers entering into Vertical DDA/LDDAs with Developer and the Authority. Such other improvements include (i) the Authority Housing Units to be developed by Qualified Housing Developers, as more particularly described in the Housing Plan, (ii) the Marina to be developed by the Marina Developer as a separate project in accordance with a separate Disposition and Development Agreement between the Authority and the Marina Developer, (iii) elements of the parks and open space system as described in the Parks and Open Space Plan (including without limitation, the regional sports facilities), (iv) the Wastewater Treatment Facility to be developed by the San Francisco Public Utilities Commission ("**SFPUC**"), as described in the Infrastructure Plan, and (vi) those projects as more particularly described in the Community Facilities Obligations for which Developer is obligated to provide a Developable Lot but which are to be transferred by the Authority to other Vertical Developers.

1.5 Developer's Role Generally. Except as otherwise described in Section 1.4, Developer shall be the master developer for the Project, orchestrating development of the Project Site in cooperation with the Authority, the City, Vertical Developers, TIHDI, Qualified Housing Developers, the Marina Developer and others. Developer has the right and obligation to develop Major Phase 1 (the "**Initial Major Phase**"), and to develop the remaining Major Phases itself or to assign the development rights to third parties subject to the further terms and conditions of this Agreement. However, in addition to the Developer's rights and obligations under this DDA attendant to each Major Phase and its related Sub-Phases, Developer, as the "**Master Developer**", remains obligated to Authority throughout all Major Phases for payment of Authority Costs, City Costs, Subsidies and the Navy Payment (collectively, the "**Financial Obligations**"), and (ii) development of each of those items identified on the Schedule of Performance attached hereto under the heading of "Community Facility."

1.6 Development Process Generally. As more particularly described in Article 3, the Project will be developed in a series of Major Phases, and within each Major Phase in a series of Sub-Phases, under the following process, as and to the extent required under this DDA, the DRDAP and the Vertical DDA/LDDAs.

(a) a Substantially Complete Major Phase Application must be submitted to the Authority for each Major Phase before the applicable Outside Date;

(b) Each Major Phase Application shall include a Site Plan showing proposed Sub-Phases within the applicable Major Phase;

(c) following (or simultaneously with) a Major Phase Approval, Developer shall submit a Sub-Phase Application to the Authority for each Sub-Phase within that Major Phase before the applicable Outside Date, which Sub-Phase Application shall be a Complete or Substantially Complete Sub-Phase Application;

(d) following (or simultaneously with) submittal of each Sub-Phase Application, Developer shall seek approvals of Tentative Subdivision Maps for the development of that Sub-Phase in accordance with the Treasure Island/Yerba Buena Island Subdivision Code (each a "**Tentative Subdivision Map**");

(e) following each Sub-Phase Approval, approval of the applicable Tentative Subdivision Map and satisfaction (or waiver) of the conditions for conveyance as more particularly set forth in Article 10 hereof, the Authority shall convey certain real property it owns or acquires within the Sub-Phase to Developer and Developer shall Commence and Complete the Infrastructure and Stormwater Management Controls and Required Improvements for that Sub-Phase before the applicable Outside Dates;

(f) following recordation of a Final Subdivision Map obtained in accordance with the Treasure Island/Yerba Buena Island Subdivision Code, Developer shall seek to Transfer each Lot to a Vertical Developer, which may include Developer and its Affiliates to the extent permitted under Article 17 and Section 21.3 below, for the construction of Vertical Improvements, and in connection with such Transfer enter into a Vertical DDA and/or Vertical LDDA with such Vertical Developer;

(g) if not previously obtained, each Vertical Developer shall obtain a Vertical Approval for the proposed Vertical Improvements on the Lot it acquires; and

(h) each Vertical Developer shall have the right to proceed with the construction of Vertical Improvements consistent with its Vertical Approval, its Vertical DDA and/or Vertical LDDA and the Development Requirements.

1.7 Proportionality. Because the Project will be built over a long time period, the Parties have carefully structured the amount and timing of public and community benefits to coincide with the amount and timing of the development of Market Rate Units and other commercial opportunities. The public and community benefits have been described and apportioned as set forth in (i) the Phasing Plan and the Schedule of Performance, with respect to the Associated Public Benefits for each Major Phase and Sub-Phase, (ii) the Housing Plan, with respect to the delivery of the Authority Housing Lots, the production of Inclusionary Units and the delivery of the Developer Housing Subsidy described therein and in Section 13.3.4 hereof, (iii) the Infrastructure Plan with respect to the Completion of Infrastructure and Stormwater Management Controls; (iv) the Parks and Open Space Plan, with respect to the Completion of parks and open space and subsidy payments described in Section 13.3.1 hereof; (v) the Transportation Plan Obligations, with respect to certain transportation improvements, benefits and subsidy payments described in Section 13.3.2 hereof; (vi) the Community Facilities Obligations, with respect to certain community facilities and subsidy payments described in Section 13.3.3 hereof; and (vii) the Transition Housing Rules and Regulations, with respect to the provision of certain transition housing benefits described therein. If Developer or a Vertical Developer requests changes to the amount or timing of public and community benefits as set forth above in any Application, then such changes shall be subject to the Approval of the Authority Director or Authority Board in accordance with the DRDAP and Section 3.6 below.

1.8 Phase Boundaries; Associated Public Benefits; Order of Development.

(a) The preliminary boundaries of Major Phases and Sub-Phases are set forth in the Phasing Plan. Developer may request changes to the boundaries of any Major Phase or Sub-Phase, which changes will be subject to the Approval of the Authority as set forth in the DRDAP and Section 3.6 below.

(b) "**Associated Public Benefits**" are public parks, open space, Required Improvements, affordable housing obligations and other public and community benefits as described in the Phasing Plan, Housing Plan and the Schedule of Performance that Developer must Complete on or before the applicable Outside Date. Developer may request changes to the Associated Public Benefits for any Major Phase or Sub-Phase consistent with the principle of proportionality set forth in Section 1.7, which changes will be subject to the Approval of the Authority as set forth in the DRDAP.

(c) Major Phase Applications and Sub-Phase Applications must be submitted in the order described in Section 3.5. Developer may request changes to such order, which changes will be subject to the Approval of the Authority as set forth in Section 3.6 and the DRDAP.

1.9 Schedule of Performance/Expiration of Schedule of Performance. This DDA contemplates that the submission of Substantially Complete Major Phase Applications and Sub-Phase Applications, the Commencement and Completion of Infrastructure and Stormwater Management Controls within Sub-Phases, the Commencement and Completion of the Required Improvements and certain other identified obligations will be Commenced or Completed by the applicable Outside Dates. Developer may request changes or additions to the Schedule of Performance, which changes will be subject to the Approval of the Authority as set forth in the DRDAP. For the convenience of the Parties, following a Transfer under this DDA, the Authority, Developer and the Transferee may agree to maintain a separate Schedule of Performance related to the obligations of such Transferee under this DDA. Any such separate Schedule of Performance will be maintained by the Authority in accordance with Section 28.35. Notwithstanding anything in this Section 1.9 or elsewhere in this Agreement, none of the Outside Dates in the Schedule of Performance shall apply to Developer's obligations under this Agreement from and after Completion by Developer of all items identified in the Schedule of Performance as "Community Facilities" and payment in full of the Subsidies and the Navy Payment.

2. Term of this DDA. The term of this DDA (the "**Term**") shall commence upon the Effective Date and shall terminate, unless earlier terminated as provided below, on the date that is the earlier of: (i) the thirtieth (30^{th}) anniversary of the Effective Date; and (ii) the last Certificate of Completion for the Project (including all Improvements contemplated under this DDA as of the Reference Date or Approved by the Authority at any time thereafter). This DDA shall also terminate, in whole or in part, to the extent provided under Section 3.8, Article 10, Section 11.4, and Article 16. Upon Developer's request, the Authority shall cause the lien of this Agreement to be released as to a particular Lot concurrently with the first sale of that Lot to a Vertical Developer, to be replaced by Vertical DDA/LDDA(s) in accordance with Section 4; provided, that (i) such Vertical DDA/LDDA may include the obligation to complete Transferable

Infrastructure (or, with Authority approval, other Infrastructure and Stormwater Management Controls) that has not been completed as of the first sale of the Lot, but (ii) Developer shall not be released of its obligation under this DDA to complete such Infrastructure and Stormwater Management Controls. Indemnities and other obligations that are intended to survive partial release, expiration or termination will survive any partial release, expiration or termination.

3. Project Phasing.

3.1 Phased Development Generally. The Project Site has been divided into four (4) "**Major Phases**" and, within each Major Phase, various "**Sub-Phases**", each of which is conceptually illustrated on the Phasing Plan. Subject to the terms and conditions in this DDA, the Authority shall convey portions of the Project Site owned or acquired by the Authority as provided in this DDA to Developer, and such portions shall be developed by Developer in phases under this DDA.

3.2 Phasing Goals. The phasing goals of the Project are intended to achieve an economically feasible project while balancing a number of competing interests, including ensuring that (i) the Associated Public Benefits are provided proportionately with the development of the Market Rate Units and in accordance with the Development Requirements; (ii) public right of ways, Infrastructure and Stormwater Management Controls are developed in an orderly manner consistent with the Infrastructure Plan, finished portions of the Project are generally contiguous, and isolated pockets of development are not surrounded by construction activity; (iii) the amount of Infrastructure and Stormwater Management Controls constructed is appropriate for the amount of Vertical Improvements constructed and the need to provide continuous reliable service to existing residents and businesses; (iv) unsold inventory of Market Rate Lots is minimized; (v) development can respond effectively to the Navy's schedule for environmental remediation or the Navy's conveyances of real property to the Authority; (vi) the returns to the Authority, the Navy and Developer are maximized; (vii) the value of the Project is maximized in order to maximize the public and community benefits that the Project can deliver; and (viii) the phases can be adjusted to respond to market conditions, cost and availability of financing and economic feasibility (collectively, the "**Phasing Goals**").

3.3 Major Phases. The Parties intend that Major Phases allow for planning of large mixed-use areas or neighborhoods within the Project Site. The Authority's consideration and Approval of each Major Phase Application in the manner set forth in the DRDAP (each, as amended from time to time, a "**Major Phase Approval**") is required before, or concurrently with, the Authority's consideration of and grant of a Sub-Phase Approval for any Sub-Phase in that Major Phase.

3.4 Sub-Phases. The Parties intend that Sub-Phases allow for more detailed planning of smaller-scale areas within the Major Phase, subject to adjustment in accordance with the DRDAP and Section 3.6 below. Sub-Phase boundaries shall correspond to the boundaries in the applicable Tentative Subdivision Map or as otherwise set forth in the Sub-Phase Approval. The Authority's consideration and Approval of each Sub-Phase Application in the manner set forth in the DRDAP (each, as amended from time to time, a "**Sub-Phase Approval**") is required before (i) the Authority's consideration and grant of Approval of any Vertical DDAs/LDDAs for that Sub-Phase and (ii) the submittal of an Application to the Planning Department for a Vertical

Approval for any Vertical Improvements for that Sub-Phase in accordance with the Vertical DDA/LDDAs.

3.5 Applications for, Approval of and Sequencing of Major Phases and Sub-Phases. During the Term, Developer shall apply for, and the Authority shall consider and grant or deny Approvals of, Major Phases and Sub-Phases in the manner and subject to the terms and conditions set forth in this DDA and the DRDAP. Applications for Major Phase Approvals (each, a "**Major Phase Application**") and for Sub-Phase Approvals (each, a "**Sub-Phase Application**") shall be submitted on or before the Outside Dates in the order set forth in the Phasing Plan (as the same may be updated from time to time as provided in Section 3.6 below). The "**Initial Sub-Phases**" collectively refer to the first two Sub-Phases on Treasure Island (Sub-Phase 1A and Sub-Phase 1B) and the first Sub-Phase on Yerba Buena Island (Sub-Phase YA), as described in the first Sub-Phase Application. The Initial Sub-Phases must include the Developable Lots on which the Replacement Housing Units triggered by the demolition of any existing housing units in the Initial Major Phase will be constructed as described in the Housing Plan. Developer shall submit Sub-Phase Applications for the Initial Sub-Phases on or before the applicable Outside Date set forth in the Schedule of Performance.

3.6 Changes to Phasing Plan. The Phasing Plan illustrates the size, order and duration of the Project's Major Phases and Sub-Phases given the Phasing Goals described above, and the parties' best estimates of the conditions forecast for the expected development period. The parties acknowledge and agree that many factors, including, but not limited to, general economic conditions, the local housing market, capital markets, general market acceptability, the adequacy of on-island services, and local tax burdens will determine the rate at which various Product Types within the Project can be developed and absorbed. Developer may request changes to the Phasing Plan (including changes to the Schedule of Performance that are necessary to reflect the revised phasing) consistent with the Phasing Goals as part of each Major Phase Application and/or Sub-Phase Application, and any such requested changes will be subject to the Approval of the Authority in accordance with the DRDAP. In determining whether to grant its Approval of the updated Phasing Plan (including changes to the Schedule of Performance that are necessary to reflect the revised phasing), the Authority may consider whether the updated Phasing Plan is consistent with the Phasing Goals; provided, however, with respect to a requested change in the order of Sub-Phases within a Major Phase, the Authority shall Approve such change if it reasonably determines that (i) the Associated Public Benefits will be developed proportionately with the development of the Market Rate Units and in accordance with the Development Requirements; (ii) the change in order will not impair the ability to comply with the Replacement Housing Obligation or any of the Authority's obligations under the TIHDI Agreement, the Transition Housing Rules and Regulations or the Public Trust Exchange Agreement; (iii) the development of the public right of ways, Infrastructure and Stormwater Management Controls will be orderly, finished portions of the Project will be generally contiguous, and isolated pockets of development will not be surrounded by construction activity; and (iv) the amount of Infrastructure and Stormwater Management Controls constructed is appropriate for the amount of Vertical Improvements constructed and the need to provide continuous reliable service to existing residents and businesses. The Authority also may request changes to the order of Major Phase Applications and Sub-Phase Applications, and any such requested changes will be subject to the Approval of Developer in its sole and absolute discretion. In determining whether to grant its Approval of such requested changes,

Developer may consider, among other matters, how such changes would affect Project Costs and ability to achieve the Developer Return.

3.7 Phasing of Conveyances to Developer. Following the Approval of a Sub-Phase Application and the applicable Tentative Subdivision Map and the satisfaction (or waiver by the Authority) of all conditions to the Authority's obligation to convey real property to Developer as set forth in Article 10, the Authority shall either (i) convey to Developer all or a portion of the property the Authority owns (or acquires as contemplated herein) that is part of that Sub-Phase, other than the "**Public Property**," which includes, without limitation, the Authority Housing Lots, the Community Facilities Lots, the Open Space Lots, the Police and Fire Station Lot, the Wastewater Treatment Facility Lot, the PUC Lot, the School Lot, the Sailing Center Lot, the Delancey Street Life Learning Center Lot (as all of the foregoing Lots are generally shown on Exhibit G attached hereto), the Submerged Lands and the public right of ways and other real property intended to be owned permanently by Governmental Entities, or (ii) upon the mutual agreement of Developer and the Authority, convey to Developer all or a portion of the property the Authority owns (or acquires as contemplated herein) that is part of that Sub-Phase (other than the Public Trust Parcels), subject to Developer's obligation to convey the Public Property back to the Authority as it directs. If Authority conveys any of the Public Property to Developer, then any conveyance of such Public Property from Developer back to the Authority shall be free and clear of any title exceptions or encumbrances other than those (1) that existed at the time of the conveyance from the Authority to Developer, (2) permanent recorded restrictions or covenants that are required as a part of Developer's obligations hereunder (and not including any mechanics or other liens or security instruments) or under the Development Requirements, (3) for ad valorem property taxes or assessments related to the period after Developer's ownership, or (4) requested by the Authority. All mapping and legal descriptions required for conveyances from the Authority to Developer under this DDA shall be prepared by Developer and Approved by the Authority Director and the Director of the Department of Public Works consistent with the Treasure Island/Yerba Buena Island Subdivision Code. Developer shall be responsible for all closing costs described in Section 10.4.3, including any title insurance premiums for a title insurance policy obtained by the Authority, with respect to such Public Property conveyances.

3.8 Effect of Failure to File Major Phase or Sub-Phase Applications in a Timely Manner; Right of the Authority to Offer Development Opportunity to Others.

3.8.1 If Developer fails to submit a Substantially Complete Major Phase or Sub-Phase Application to the Authority by the applicable Outside Date, then the Authority may notify Developer that the Authority intends to terminate Developer's right to obtain Approval of such Substantially Complete Major Phase or Sub-Phase Application and some or all future Major Phase Applications and Sub-Phase Applications. If Developer does not respond to such notice by filing the overdue Substantially Complete Major Phase Application or Sub-Phase Application within ninety (90) days after receipt of such notice, the Authority may set a date for a public meeting on such termination and notify Developer of the meeting date, after which the Authority may, with the Approval of the Authority Board following the public meeting (and subject to Section 3.8.2), (i) terminate Developer's rights to obtain Approval of such Major Phase Application or Sub-Phase Application, and (ii) terminate Developer's right to submit all future Major Phase Applications and Sub-Phase Applications, in each case by notifying

Developer before the date that Developer submits such overdue Major Phase Application or Sub-Phase Application. Upon any such termination, Developer's rights and obligations under this DDA for the affected real property shall, subject to Section 3.8.2, terminate and the Authority shall have the right to record a Notice of Termination as set forth in Section 28.36.

3.8.2 The Parties acknowledge that Project Site development will take place over many years and that the circumstances affecting such development may change during that period. Excluding the Initial Major Phase, if Developer reasonably determines that the development of any Major Phase or Sub-Phase in accordance with this DDA has become commercially infeasible for reasons other than the financial condition of Developer, then before the applicable Outside Date for Developer's submission of a Substantially Complete Major Phase or Sub-Phase Application, Developer may notify the Authority that Developer is willing to proceed with the applicable Major Phase Application or Sub-Phase Application only if the Authority agrees to specified changes to the requirements of this DDA to make the proposed development commercially feasible (the "**Requested Change Notice**"). The Requested Change Notice shall include a detailed description of all the terms and conditions of this DDA that Developer proposes to change and the reasons why Developer believes that development is infeasible without the proposed changes. If Developer submits a Requested Change Notice and there is no uncured Material Breach by Developer (other than the failure to submit a Substantially Complete Major Phase or Sub-Phase Application with reference to the Major Phase or Sub-Phase as to which a Requested Change Notice is timely given), then the Authority shall not terminate all or any part of this DDA under Section 3.8.1 until the Parties have negotiated proposed changes to this DDA for a period of not less than nine (9) months, subject to any extensions agreed to by Developer and the Authority (each in its sole discretion) and subject to Developer's cure of any then-existing Events of Default within the required cure period (other than the failure to submit a Substantially Complete Major Phase or Sub-Phase Application with respect to the Major Phase or Sub-Phase as to which a Requested Change Notice is given). If the Authority staff and Developer are able to agree to changes, then they shall promptly prepare a proposed amendment to this DDA, including an extension of the Schedule of Performance permitting Developer a reasonable time to submit Applications or amend existing Applications, for review and consideration by the Authority Board. Any such changes shall be subject to the Approval of the Authority in its sole and absolute discretion, following, if required, additional environmental analysis and review. The City, through its Board of Supervisors, in approving this DDA, has delegated to the Authority the power to make such modifications as are necessary and desirable to amend this DDA in accordance with this Section 3.8.2; provided, however, Material Modifications to this DDA shall require the approval of the Board of Supervisors, which the Board of Supervisors may give or withhold in its sole and absolute discretion. If the Authority staff and Developer are unable to agree on the changes to this DDA within the time period set forth above, or if either the Authority Board or the Board of Supervisors to the extent required does not Approve the proposed changes to this DDA, then the Authority may exercise its termination rights as set forth in Section 3.8.1.

3.8.2.1 Notwithstanding Section 3.8.2, Developer has reasonably determined in accordance with Section 3.8.2 that development of the Project in accordance with this Agreement with the level of Infrastructure and Associated Public Benefits required hereunder requires a change to the IFD Act that would increase the availability of tax increment for Project Infrastructure and Associated Public Benefits, including affordable housing. In

recognition thereof, commencing on the Reference Date, the Authority and Developer shall use diligent and good faith efforts to obtain State legislation to change the existing IFD Act to extend the date by which all tax allocation to any IFD formed on the Project Site will end, from 30 years from the adoption of the ordinance forming the IFD under the existing IFD Act to 40 years from that date under the amended IFD Act (the "**IFD Amendment**").

If the IFD Amendment has not occurred by the later of (i) five (5) years from the Effective Date or (ii) the Initial Closing under the Conveyance Agreement, then the provisions of Section 3.8.2 shall apply; provided, however, that any changes agreed upon by Developer and Authority staff in response to a renegotiation under this Section 3.8.2.1 shall be subject to the Approval of the Authority, not to be unreasonably withheld, and the Board of Supervisors in its sole and absolute discretion.

3.8.3 If Developer's right to submit Major Phase Applications or Sub-Phase Applications is terminated under Section 3.8.1 (following compliance with Section 3.8.2, if applicable), the Authority may in its sole discretion offer the development opportunity that was terminated (the "**Development Opportunity**") to other qualified developers under a request for proposals or other process determined by the Authority in its sole discretion. The Authority may require that the Development Opportunity conform to the material requirements of this DDA with respect to the applicable real property or may make such changes to the Development Opportunity as the Authority determines are appropriate under the circumstances; provided, that (i) if the Authority offers the Development Opportunity to others following termination under Section 3.8.1, the Authority must do so as part of an open and competitive process and, so long as Developer is not in Material Breach, Developer shall have the right to participate in the competitive process, and (ii) in formulating the Development Opportunity, the Authority will not permit uses that are incompatible with Developer's development rights under any portion of this DDA that has not been terminated. So long as the Authority offers the Development Opportunity under an open and competitive process that is consistent with the foregoing sentence and does not exclude Developer's participation as set forth above, Developer shall have no right to challenge, limit or contest the Authority's process or the offering of the Development Opportunity to others as set forth in this Section 3.8.3.

3.8.4 Upon any termination under Section 3.8.1, (i) the termination shall be without any cost reimbursement or other obligation to Developer except as provided in Sections 3.8 and 6.3 of the Financing Plan, and (ii) the Authority shall release Developer from all obligations that relate to the terminated portions of this DDA, including all Infrastructure and Stormwater Management Controls obligations and Associated Public Benefits that relate to the Major Phases or Sub-Phases at issue, but excluding any indemnities, Financial Obligations or other obligations that survive termination.

3.8.5 All references to "Developer" in this Section 3.8 shall be deemed to include all Affiliates of Developer, if applicable, but shall not include Third Parties.

3.9 Proforma, Summary Proforma and Proforma Updates. As of the Effective Date, Developer has prepared initial projections of its Project Costs and anticipated sources and uses of funds to pay Project Costs (as revised by Developer from time to time, the "**Proforma**") and Developer has delivered to the Authority a copy of the Proforma. The Proforma has been

placed on file at the Authority. Attached hereto as Exhibit S is a Summary Proforma that meets the requirements of Section 5.9.2 of the Conveyance Agreement. At the time Developer submits each Major Phase Application and Sub-Phase Application to the Authority, Developer shall deliver to the Authority for the Authority's Approval, with a copy to the Navy, an updated Proforma and updated Summary Proforma, in substantially the same form as the original Proforma and the Summary Proforma, respectively. In reviewing any Proforma, or Summary Proforma, the Authority will have the right to request that Developer provide additional documents or other information that is reasonably required to support its projections, methodology, and underlying assumptions.

4. Vertical DDA and Vertical LDDAs; Vertical Approvals.

4.1 Vertical DDAs and Vertical LDDAs. Following recordation of a Final Subdivision Map and Developer has Completed, or provided Adequate Security to the Authority for the Completion in accordance with the Schedule of Performance of, the Infrastructure and Stormwater Management Controls required by the Infrastructure Plan to service a particular Lot, Developer shall seek to Transfer Lots in accordance with Article 17 and enter into a Vertical DDA and/or Vertical LDDA with each Vertical Developer (including Developer and Affiliates of Developer) and the Authority that must be in substantially the form of the Vertical DDA or the Vertical LDDA to be Approved by Developer and the Authority prior to Developer's submittal of the first Major Phase Application. As a condition of Approval for the Initial Major Phase Application, the Parties shall have agreed upon the form of the Vertical DDA to be appended hereto as Exhibit H, and the form of Vertical LDDA to be appended hereto as Exhibit I (the "**Approved Vertical DDA Form**" and the "**Approved Vertical LDDA Form**", or collectively, the "**Approved DDA/LDDA Form**"), and the form of Ground Lease, as referenced in Section 10.1.2 hereof, to be appended hereto as Exhibit M ("**Ground Lease**"). Each Vertical DDA/LDDA must include (a) a legal description of the Lots subject to the Vertical DDA/LDDA; (b) a detailed description of the Vertical Developer's rights and obligations, including but not limited to the assumption by Vertical Developer of applicable obligations under the Community Facilities Obligations; (c) any obligations under this DDA that are assumed by Vertical Developer and, if applicable, from which Developer will be released; (d) the Indemnification obligations and releases of Vertical Developer as set forth in Article 11 and in the Developer Consent attached to the Interagency Cooperation Agreement; (e) if such Lots will contain Community Facilities Space, an undertaking by Vertical Developer to construct the applicable Community Facilities Space in accordance with the Community Facilities Obligations; (f) if such Lots will contain a Residential Project, an obligation by Vertical Developer to construct the number of Inclusionary Units allocated to the Lot or Lots in the Vertical DDA pursuant to the Housing Plan, if and when the Vertical Improvements are constructed and comply with other applicable requirements of the Housing Plan; (g) an agreement and covenant by Vertical Developer not to challenge the enforceability of any of the provisions or requirements of this DDA or the Vertical DDA/LDDA, including, if such Lots will contain a Residential Project, an agreement and covenant by Vertical Developer for the benefit of the Authority and Developer regarding the non-applicability of the Costa-Hawkins Act as set forth in Section 10 of the Housing Plan; (h) if the Infrastructure and Stormwater Management Controls for the Lots are not Completed, either (A) an assumption of the obligation to Complete the Infrastructure and Stormwater Management Controls in accordance with the Schedule of Performance, or (B) if Developer is retaining the obligation to complete the Infrastructure and Stormwater Management

Controls, an assumption of the risk of non-Completion and a waiver and release for the benefit of the Authority and the City regarding any failure to Complete the Infrastructure and Stormwater Management Controls; (i) if applicable, the obligation to pay Excess Land Appreciation in accordance with Section 1.3(k)of the Financing Plan; (j) if the Vertical DDA/LDDA will allow the development of Fractional Interest Units, the Vertical DDA/LDDA must include a mechanism establishing a Transient Occupancy in-lieu fee running with the land, payable in the same manner and subject to the same terms and conditions as the City's Tax on Transient Occupancy of Hotel Rooms (San Francisco Business and Tax Regulations Code, Article 7 (as it may be amended from time to time)); (k) a requirement to pay the Art Fee and the Jobs-Housing Linkage Fee in accordance with the terms and conditions of the Vertical DDA/LDDA; (l) the maximum number of off-street parking spaces that may be permitted on each Lot subject to the Vertical DDA/LDDA; (m) a requirement that the Vertical Developer obtain the Authority's Approval of any proposed amendments to the Design for Development prior to submitting the proposed amendments to the Planning Department; (n) a prohibition on submitting Vertical Applications to the Planning Department until the Authority has approved the applicable Sub-Phase Application; (o) a requirement that the Vertical Developer comply with the applicable requirements of the Jobs EOP; (p) the obligation to comply with the applicable Mitigation Measures as and when required by the Project MMRP; (q) an agreement to cooperate in effecting any required boundary adjustments as described in Section 10.5 hereof; and (r) such other matters as are deemed appropriate by Developer and are Approved by the Authority Director. Each such Vertical DDA/LDDA must be in recordable form and shall be Approved by the Authority Director provided the Vertical DDA/LDDA is substantially in the form of the Approved Vertical DDA Form or the Approved Vertical LDDA Form, as applicable, and is consistent with this DDA and the Development Requirements. Notwithstanding the foregoing, if Developer is then in Material Breach of any of its obligations in the applicable Sub-Phase, the Authority Director may elect, in his or her sole discretion, not to Approve such Vertical DDA/LDDA unless (i) if the Material Breach relates to the payment of any Financial Obligations, Developer cures the Material Breach, and (ii) for other Material Breaches, the Vertical DDA/LDDA includes a condition precedent in Authority's favor, requiring Developer, Vertical Developer and the Authority to have executed escrow instructions for the applicable Lot directing the escrow holder to hold the sale or transfer proceeds, less Developer's reasonable and customary closing costs paid through escrow, in a segregated account until (A) the Material Breach is cured and the Authority instructs escrow holder to release the funds, or (B) the Authority or Developer obtains a final and unappealable judgment in its favor regarding the Material Breach and the funds to be released from escrow. The Vertical DDA/LDDA shall also require the escrow instructions to direct the escrow holder to release the withheld funds to the applicable party in accordance with any such final non-appealable judgment. Any Material Modifications to the forms of the Vertical DDA or Vertical LDDA must be Approved by the Authority Board in its sole and absolute discretion. If a Vertical DDA/LDDA requires the Vertical Developer to Complete specified items of Infrastructure and Stormwater Management Controls, the Authority shall reasonably consider (taking into account the ability of Developer to provide such access without crossing real property owned by the Authority) any request by the applicable Vertical Developer to enter into one (1) or more Permits to Enter with such Vertical Developer to provide necessary access to the Lot(s) by crossing real property owned by the Authority. On or prior to the closing of the Transfer of such Lot, Developer shall record the

Vertical DDA/LDDA in the Official Records and promptly following the closing shall deliver an original copy of the Vertical DDA/LDDA to the Authority.

4.2 Off-Street Vehicle Parking. Standards for off-street parking accessory to development of Vertical Improvements is governed by Planning Code Section 249.52 (the Treasure Island / Yerba Buena Island Special Use District) (the "**SUD**") and included in the Design for Development. As shown on Figure 10 of the SUD, the maximum number of off-street car parking spaces is 1 for each dwelling unit calculated on an aggregate basis for all dwelling units constructed within the Project Site, but in no event more than 8,000 residential accessory spaces. The SUD provides for varying ratios of commercial parking that is also calculated on an aggregate basis Project-wide, except for off-street parking accessory to the Marina, which will be allocated pursuant to a separate Disposition and Development Agreement between the Authority and the Marina Developer.

Although the parking ratio is set on an aggregate basis Islands-wide, Planning Code Section 249.52(g)(iv)(D)(iv) disallows any new off-street parking to cumulatively exceed the applicable ratios, taking into account both built and entitled but not-yet-built Vertical Improvements at the following increments: every 2,000 net new housing units and every 100,000 gross square feet of non-residential uses in new or rehabilitated buildings (each, a "**Development Increment**"); provided, however, that for the first two Development Increments, a 10% exceedance will be allowed. In order to ensure that no Vertical DDAs/LDDAs are approved that would cause these parking ratios to be exceeded, this Section of the DDA provides for a mechanism for the Authority to approve, and Developer to allocate, off-street parking for Vertical Development.

4.2.1 Major Phase Applications Parking Data.

(a) Information to be Provided. Developer shall submit to the Authority with each Major Phase Application, a Parking Data Table consistent with the requirements of the DRDAP. The Parking Data Table will include the following information at a minimum:

(i) the total number of off-street parking spaces to be allocated to the Major Phase;

(ii) for any Major Phase after the Initial Major Phase, the total number of off-street parking spaces allocated in previously approved Major Phase Applications that have not yet been built or for which a Notice of Special Restrictions or equivalent instrument consistent with Section 4.2.3(c) below has not been recorded (subsections 4.2.1(a)(i) and (ii) collectively, the "**Allocated Parking**");

(iii) for any Major Phase Application after the Initial Major Phase, the number of off-street parking spaces that have been built and for which a Notice of Special Restrictions or equivalent instrument consistent with Section 4.2.3(c) below has been recorded, showing the number of parking spaces actually developed (any such parking, the "**Developed Parking**");

(iv) taking into account previously Allocated Parking, Developed Parking and unallocated parking for Authority Housing Lots as agreed by the Parties in accordance with Section 7.3 of the Housing Plan, the number of parking spaces for each land use that Developer may construct within that Major Phase in order to comply with Section 249.52(g)(iv)(D)(iv) (the "**Development Increment Remainder Parking**"). In evaluating the Parking Data Table and authorizing Applications for Vertical Approvals to be submitted to the Planning Department, the number of Development Increment Remainder Parking spaces available shall not include any unused or unallocated parking associated with Authority Housing Lots unless and until Authority has determined that such spaces shall not be constructed or reallocated to other Authority Housing Lots and the Parties have reached agreement on their reallocation to Developer in accordance with Section 7.3 of the Housing Plan.

As of the date of the first Major Phase Application, the Development Increment Remainder Parking will include the total number of off-street parking spaces for each land use that Developer is permitted to construct under the SUD within the Project Site up to the applicable Development Increment. For subsequent Major Phases the Development Increment Remainder Parking will be determined by calculating the total number of spaces allowed in that Development Increment for each land use that Developer is permitted to construct minus all Allocated Parking for each land use. To the extent that all Lots in any prior Sub-Phase have been fully developed with Vertical Improvements, Development Increment Remainder Parking shall also include the number by which the Allocated Parking approved in the applicable Sub-Phase Application exceeds the Developed Parking in that completed Sub-Phase, if any. Development Increment Remainder Parking will also include any unallocated parking for Authority Housing Lots as agreed by the Parties in accordance with Section 7.3 of the Housing Plan.

(b) Review and Approval. The Authority shall review the information submitted by Developer in the Parking Data Table and shall approve the off-street parking proposed by Developer for a Major Phase unless the amount of off-street parking proposed for the Major Phase would exceed the balance of the Development Increment Remainder Parking by more than 10% for the first two Major Phases, and not exceed the balance of the Development Increment Remainder Parking by any amount for subsequent Major Phases.

4.2.2 Sub-Phase Applications Parking Data. Developer shall submit as part of each Sub-Phase Application an updated Parking Data Table that will indicate how many off-street parking spaces are to be allocated to Vertical Developers on each Lot that is part of the Sub-Phase, including any off-street parking spaces that will be provided outside of a Lot to be located in a centralized parking facility. For any Lot in the Sub-Phase that is allocated fewer off-street parking spaces than the maximum number that would be permitted based on the off-street parking ratios specified in the SUD for the uses proposed on the Lot, the Developer shall have the right to assign those unallocated parking spaces to other Lots in the Sub-Phase or to other Sub-Phases of that Major Phase. In no event shall the number of Developed Parking spaces in a Sub-Phase exceed the number of Allocated Parking spaces for the Sub-Phase.

4.2.3 Vertical Development.

(a) Each Vertical DDA/LDDA shall establish the maximum number of off-street parking spaces that may be permitted on each Lot subject to the Vertical DDA/LDDA. The maximum number of off-street parking spaces permitted on any single Lot shall be the number of Allocated Parking spaces for that Lot approved in the applicable Sub-Phase Application.

(b) Vertical Development will be subject to the design review and approval process set forth in Planning Code Section 249.52.

(c) Upon the issuance of a Certificate of Occupancy for each Vertical Improvement constructed pursuant to a Vertical DDA/LDDA, the Vertical Developer shall record a notice of special restrictions or equivalent instrument against the Lot on which the Vertical Improvement is located, permanently restricting the number of off-street parking spaces permitted on the Lot, whether self-park, valet, stacked or other space efficient means, to the lesser of the Allocated Parking or the Developed Parking on the Lot. Vertical Developer shall record the notice of special restrictions or equivalent instrument within forty-five (45) days following issuance of the Certificate of Occupancy for the Vertical Improvement. The obligations of this Section 4.2.3(c) shall also apply to the Authority with respect to Authority Housing Units constructed by or caused to be constructed by the Authority, TIHDI, or Qualified Housing Developers.

4.2.4 Authority Housing Units. Parking for Authority Housing Lots shall be allocated in accordance with Section 7.3 of the Housing Plan. As provided therein, within each Major Phase, if and to the extent the Authority or a Qualified Housing Developer (including a Qualified Housing Developer selected by TIHDI with Authority Approval) does not wish to construct the full allotment of Parking Spaces permitted on an Authority Housing Lot and does not wish to use this permitted allotment on another Authority Housing Lot or on other Authority property in the Major Phase, then Developer shall have the right to use the unused parking allotment for a Market Rate Lot subject to terms and conditions agreed upon by the Parties.

4.3 Vertical Applications and Approvals. Developer or Vertical Developers shall submit Vertical Applications in the manner set forth in the SUD. Before Commencing a Vertical Improvement, Vertical Developers shall have entered into a Vertical DDA/LDDA in accordance with Section 4.1 and obtained all required Vertical Approvals necessary to commence construction of such Vertical Improvement in accordance with the SUD and, to the extent applicable, the DRDAP.

4.4 Conditions for Vertical Approvals. The Authority Director shall have no obligation to grant a Vertical Approval on Public Trust property, or to authorize submittal of an Application for a Vertical Approval on non-Public Trust property to the Planning Department, unless and until (i) the Authority has first granted the applicable Sub-Phase Approval, (ii) Developer has Completed, or provided Adequate Security to the Authority for the Completion of, the Infrastructure and Stormwater Management Controls required by the Infrastructure Plan to service the Lot in accordance with the Schedule of Performance, (iii) a Tentative Subdivision

Map that includes the applicable Lot has been approved in accordance with the TI/YBI Subdivision Code, and (iv) the applicable Vertical Developer is in compliance with its Vertical DDA/LDDA. The Authority shall enter into Vertical LDDAs with TIHDI and Qualified Housing Developers governing the construction of Authority Housing Units on the Authority Housing Lots to ensure that development on the Authority Housing Lots is consistent with the SUD and the Design for Development. Notwithstanding anything to the contrary above, there shall be no Vertical DDA/LDDA or Vertical Approval for the Public Property except that for Lots to be transferred to third parties for Vertical Improvements, including without limitation, the Sailing Center, the Environmental Education Center, the Wastewater Treatment Facility, the Cultural Park and the waterside improvements for the Marina, the Authority shall enter into appropriate agreements that will ensure consistency of development on the Public Property with the SUD, the Design for Development and this Agreement, as applicable. As set forth in the SUD, Authority must review and approve submittals to the Planning Department of Vertical Approval applications for compliance with applicable provisions of the Vertical DDA or in the absence of a Vertical DDA, is otherwise in compliance with the DDA and other applicable Development Requirements.

5. Reserved.

6. Land Acquisition. Developer will construct those portions of the Project for which it is entitled or obligated to construct on the Project Site. The Parties anticipate that the land in the Project Site will be acquired or otherwise made available in the manner described below.

6.1 Trust Exchange.

6.1.1 To implement the Exchange Act and to effectuate the planned reconfiguration of lands within the Project Site that are or may be held subject to (a) the public trust for commerce, navigation, and fishery, (b) a statutory trust imposed by the Conversion Act, or (c) both the public trust and a statutory trust (collectively, the "**Public Trust**"), the Authority agrees to enter into a separate title settlement, public trust exchange and boundary line agreement substantially in the form attached hereto as Attachment 1 (the "**Public Trust Exchange Agreement**"), subject to the approval of the California State Lands Commission ("**State Lands**"), the Authority Board and the City acting by and through the Board of Supervisors. The Public Trust Exchange Agreement provides that the Public Trust exchange as described therein (the "**Public Trust Exchange**") will occur in a series of phased closings (each, a "**Trust Exchange Closing Phase**") upon the satisfaction of certain conditions. The lands to be included in the Public Trust Exchange lie within Treasure Island and Yerba Buena Island, as described more fully in the Public Trust Exchange Agreement. A map showing the areas of Treasure Island that will be removed from the Public Trust and the areas of Yerba Buena Island that will become subject to the Public Trust as part of the Public Trust Exchange is attached to the Public Trust Exchange Agreement in Attachment 1. The Authority and Developer shall each use reasonable efforts to satisfy the conditions and diligently and timely complete the Public Trust Exchange under the Public Trust Exchange Agreement to achieve a configuration of Public Trust and non-Public Trust lands substantially similar to that set forth in the Public Trust Exchange Agreement as and when needed to enable Developer to satisfy its obligations under this DDA in accordance with the Schedule of Performance, and as otherwise consistent with Sub-Phase

Approvals. Without limiting the foregoing, Developer shall initiate and complete, at no cost to the Authority, all mapping and legal descriptions and take such additional actions as may be needed to effectuate the necessary Trust Exchange Closing Phase to allow for the timely closing of each Trust Exchange Closing Phase. The Parties acknowledge that, in accordance with the Public Trust Exchange Agreement, the governing body of State Lands (the State Lands Commission) must approve the Public Trust Exchange Agreement and certain conditions required by the Exchange Act must be satisfied prior to each Trust Exchange Closing Phase. Neither Developer nor the Authority shall engage in any activities that would be reasonably expected to jeopardize the Authority's ability to satisfy the conditions for the Public Trust Exchange or any Trust Exchange Closing Phase as set forth in the Exchange Act or the Public Trust Exchange Agreement.

6.1.2 The Public Trust Exchange Agreement anticipates that the first Trust Exchange Closing Phase (the "**Initial Closing Phase**") will include, among other things, the "**Phase 1 Area**" described and depicted in the Public Trust Exchange Agreement. Developer and the Authority shall each use reasonable efforts to cause the applicable parties to complete the Initial Closing Phase promptly following close of escrow for the first conveyance under the Conveyance Agreement.

6.1.3 After the Initial Closing Phase, and except as may otherwise be provided in the Public Trust Exchange Agreement, Authority shall initiate subsequent Trust Exchange Closing Phases (each, a "**Subsequent Closing Phase**") promptly upon the Authority obtaining the requisite land and otherwise being in a position to satisfy all closing conditions under the Public Trust Exchange Agreement and in the order and timing needed to correlate to Developer's phased development, as described in the Phasing Plan and any applicable Major Phase Approval. The Authority shall diligently prosecute the Subsequent Closing Phase to close; provided, that subject to satisfaction of the forgoing conditions, in no event shall Authority initiate a Subsequent Closing Phase later than thirty (30) days after Developer has submitted a Major Phase Application for the real property to be received by the Authority as part of that Subsequent Closing Phase. The Authority shall not be required to complete a Subsequent Closing Phase before it has acquired all necessary real property to be conveyed by the Authority as part of that Subsequent Closing Phase, and Developer has: (1) completed all mapping, surveys and legal descriptions necessary for the Subsequent Closing Phase, (2) paid or committed to pay all costs required under the applicable Public Trust Exchange Agreement to effectuate that Subsequent Closing Phase, and (3) submitted a Major Phase Application for the real property to be received by the Authority as part of that Subsequent Closing Phase.

6.1.4 The Public Trust Exchange Agreement would require the Authority to undertake certain non-native vegetation removal projects on Yerba Buena Island ("**Required Vegetation Removal**"). Developer shall cooperate with the Authority to ensure the timely completion of the Required Vegetation Removal consistent with the Authority's obligations under the Public Trust Exchange Agreement, and the costs of undertaking and completing the Required Vegetation Removal shall be a Project Cost.

6.2 Acquisition from the Navy. The Authority agrees to enter into the Conveyance Agreement with the Navy substantially in the form attached hereto as **Attachment 2**, subject to the approval of the Navy, the Authority Board and the City acting by and through

the Board of Supervisors. The Authority shall make commercially reasonable efforts to consummate the timely acquisition of the Project Site from the Navy in accordance with the Conveyance Agreement. The Authority and Developer shall use commercially reasonable and diligent efforts to complete the conveyances under the Conveyance Agreement. Without limiting the generality of any other conditions precedent to the Authority's obligation to convey real property under this DDA, the Parties agree it is a condition precedent to the Authority's obligation to convey any real property at the Project Site to Developer, and for Developer to take title to the same, that the applicable conveyance from the Navy under the Conveyance Agreement has been completed, and that all applicable Trust Exchange Closing Phases for the property have been completed. The Parties further understand and agree that the Project Site may be subject to deed restrictions and other regulatory agency requirements relating to the presence of any Hazardous Substances subject to Developer's rights set forth in Section 6.2.1 below.

6.2.1 Developer Rights to Comment on FOSTs. Section 3.4.1 of the Conveyance Agreement affords the Authority certain rights to comment upon any proposed FOSTs. The Parties agree that the Authority shall provide Developer the opportunity to comment on the proposed FOSTs and will incorporate Developer's comments and/or objections within the Authority's comments unless the Authority determines the comments are not reasonable.

6.2.2 Authority's Compliance with Conveyance Agreement. Authority shall diligently undertake all of its obligations under the Conveyance Agreement in a timely manner. In exercising its rights and carrying out its obligations under the Conveyance Agreement, Authority shall consult and coordinate closely with Developer and provide Developer with reasonable prior notice of all dispute resolution procedures occurring pursuant to Article 27 of the Conveyance Agreement, as well as all material meetings and conversations regarding the Conveyance Agreement, including the Major Phase Decisions, and shall allow Developer to participate in all such meetings except to the extent prohibited by the Navy. Developer shall reasonably cooperate with the Authority in connection with the Authority's enforcement of its rights and undertaking of its obligations under the Conveyance Agreement, including, without limitation, responding to Navy objections and participating in any conferences between the Authority and the Navy under Article 27 of the Conveyance Agreement.

6.2.3 Major Phase Decisions. Prior to or concurrently with each Major Phase Application or Sub-Phase Application, as applicable, the decisions described in Sections 6.2.3(a) through (d) below (collectively, the "**Major Phase Decisions**") shall be agreed upon by the Authority and the Developer in accordance with Section 5.6 of the Conveyance Agreement and Authority shall provide notice thereof to the Navy as more fully described in Section 5.7 of the Conveyance Agreement. The Authority shall also provide the Navy with notice of and the opportunity to approve any amendments or modifications to the Major Phase Decisions in connection with each Sub-Phase Application and during the course of each Sub-Phase, to the extent approved by Authority under the DRDAP. The Authority's approval shall be conditioned upon receipt of the Navy's approval of any such amendment or modification in accordance with Section 5.6 of the Conveyance Agreement. Any dispute between Authority and Developer with regard to a Major Phase Decision shall be resolved pursuant to the Expedited Arbitration

Procedure described in Section 15.1.2 hereof. The Major Phase Decisions consist of the following:

(a) Prior to Approval of each Major Phase, the proposed location of Residential Auction Lots within that Major Phase as shown on a revised land plan for that Major Phase showing the distribution of various Product Types.

(b) Prior to Approval of each Major Phase, the qualifications of Residential Auction Lot bidders by Product Type for that Major Phase based on the applicable Auction Bidder Selection Guidelines.

(c) Prior to Approval of each applicable Sub-Phase, minimum bid prices for the Residential Auction Lots for the Residential Auction Lots, the Non-Developer Critical Commercial Lots and the Non-Critical Commercial Lots located within that Sub-Phase, which shall be based on the Proforma, as updated prior to the submittal of each Sub-Phase Application, as well as any Re-Setting of the Minimum Bid Price, as described above.

(d) Prior to the Approval of each Major Phase, the Excess Land Appreciation Structure for that Major Phase for each Product Type in such Major Phase, as well as any re-evaluation of the Excess Land Appreciation Structure during any Major Phase that may occur in connection with the submittal of Sub-Phase Applications or the sale of Lots. For purposes of this Agreement and the Conveyance Agreement, the "**Excess Land Appreciation Structure**" is defined as the structure, procedures and metrics of the then-prevailing, industry standard market based participation in price appreciation greater than forecast at the time of such Lot sale (if any) for horizontal development land sellers.

6.2.4 Navy Caretaker Office. From and after conveyance of any Sub-Phase that includes the Navy Office as described in Article 13 of the Conveyance Agreement, Developer shall assume Authority's obligations to provide the Navy Office or a relocation premises provided in accordance with Article 13 of the Conveyance Agreement. In addition, Developer shall cooperate with the Authority's reasonable request to relocate the Navy Office prior to conveyance of the Sub-Phase that includes the Navy Office.

6.2.5 Redesign Trigger Event.

(a) The Parties anticipate that the environmental remedies selected by the Navy in Final Records of Decision for certain real property in the Project Site will require the imposition of land use and activity restrictions on such property. Such land use restrictions will be contained in quitclaim deeds from the Navy for such property or in other enforceable restrictions imposed on such property. The Parties acknowledge and agree that the Project described in Section 1.3 is the basis for Developer's financial expectations for development of the Project Site and the Authority's expectations for Associated Public Benefits. However, the Conveyance Agreement contemplates both (i) a scenario in which the Navy's Record of Decision for the Site 12 Development Parcel reflects environmental restrictions that would prohibit the timely development of the Site 12 Development Parcel (as defined in Section 4.2.2 of the Conveyance Agreement) in accordance with Project described in Section 1.3, and (ii) a termination of the Conveyance Agreement for failure to meet certain other closing conditions

(each, a "**Redesign Trigger Event**", as more particularly described in the Conveyance Agreement). If a Redesign Trigger Event occurs, then Developer shall comply with the procedures set forth in this Section 6.2.5.

(b) If a Redesign Trigger Event occurs, as described in Section 4.2.3 of the Conveyance Agreement, Developer shall have the right to seek such necessary third-party approvals or modifications to restrictions (including, without limitation, State legislation if necessary) to re-entitle, redesign and rebuild portions of the Project on portions of Site 24 and the surrounding area that will be freed of the Public Trust (identified on Exhibit L, attached hereto, as the "**Site 12 Redesign Site**") that are mutually agreed upon by the Parties, or on such other mutually agreed upon sites elsewhere on Treasure Island, in a manner that would permit the type of development proposed for the property that is the subject to the Redesign Trigger Event (including, without limitation, residential development of the type and density contemplated in the Design for Development) (the "**Redesign Plan**"). The Authority shall reasonably cooperate with Developer in such actions. The scope of the Redesign Plan shall be to the extent reasonably necessary, as determined by the Developer, to recapture the lost value to the Project resulting from the Redesign Trigger Event. The primary goal of any Redesign Plan shall be to recover an equivalent amount of development value attributable to the applicable parcel based on the level of development permitted by the Project and Developer's financial projections, or if the parcel is an open space parcel, based upon the lost value to the Project resulting from the redesign of the affected open space, while balancing the appropriate level of Associated Public Benefits. The Redesign Plan shall address the rebuilding of already constructed Infrastructure and Stormwater Management Controls to the extent necessary to accommodate the redesign, and shall identify the incremental level of additional Infrastructure and Stormwater Management Controls, if any, required as a result of the redesign.

(c) Work Program and Budget. Upon the occurrence of a Redesign Trigger Event, Developer and the Authority shall meet and confer to mutually agree on a work program and budget (the "**Work Program**" and the "**Redesign Budget**") for a Redesign Plan to be submitted to the Navy no later than one hundred eighty (180) days after a Redesign Trigger Event (as such date may be extended by the Navy in accordance with the terms of the Conveyance Agreement). The Work Program shall set forth the anticipated work program and schedule necessary to prepare, entitle and implement the Redesign Plan. The Redesign Budget shall estimate the anticipated costs necessary to prepare, entitle and implement the Redesign Plan (the "**Redesign Costs**"). Redesign Costs shall include, without limitation, all soft costs related to the Redesign Plan, including without limitation, costs associated with any subsequent environmental review that is required pursuant to CEQA, and hard costs related to the rebuilding, replacing, relocating or incremental cost of additional Infrastructure and Stormwater Management Controls as necessary to accommodate the Redesign Plan. If after Navy's ninety (90) day review process under Section 4.2.4 of the Conveyance Agreement, the Navy objects to the Work Program and Redesign Budget, Developer shall fully participate in the Authority's discussions with the Navy unless the Navy prohibits such participation, and the Authority shall consult and coordinate closely with Developer and provide Developer with reasonable prior notice of all dispute resolution proceedings pursuant to the terms of the Conveyance Agreement.

(d) Upon the Navy's approval of the Work Program and Redesign Budget, Developer shall diligently proceed with the planning, design and entitlement

activities reasonably necessary to implement the Redesign Plan. If, despite such efforts, Developer has not obtained all such necessary third-party approvals or modifications by the Outside Date for submittal of a Major Phase Application that includes the property subject to the Redesign Trigger Event, then such Outside Date shall be automatically extended by such further time as reasonably necessary to complete all aspects of redesign, including any further CEQA review, to a final binding, non-appealable result; provided, that Developer is diligently proceeding to obtain all such necessary third-party approvals or modifications. Developer shall thereafter submit a Major Phase Application for the applicable Major Phase that is consistent with the applicable third-party approvals, land use restrictions and modifications thereto that Developer obtains, if any. Following the Major Phase Approval thereof, if any, the Parties shall make adjustments to this DDA (including the Land Use Plan and other Exhibits) and use their respective commercially reasonable efforts to make adjustments to the Development Requirements, in each case to the extent necessary to enable development consistent with such Major Phase Approval.

7. Construction of Infrastructure.

7.1 Related Infrastructure; Unrelated Infrastructure.

7.1.1 Related Infrastructure. "**Related Infrastructure**" is Infrastructure and Stormwater Management Controls that are designated in the Infrastructure Plan or the Phasing Plan as part of or relating to development of a particular Sub-Phase, as it may be changed in a Major Phase Approval or Sub-Phase Approval (as set forth in the DRDAP), and may include Infrastructure or Stormwater Management Controls located outside of the Sub-Phase. Developer shall (i) following each Sub-Phase Approval and Developer acquisition of the required real property under Article 10 or otherwise, Commence the Related Infrastructure for the Sub-Phase on or before the Outside Date and (ii) diligently and continuously prosecute the Related Infrastructure to Completion in accordance with this Article 7, and in any event before the applicable Outside Date (the "**Infrastructure Obligations**").

7.1.2 Unrelated Infrastructure. "**Unrelated Infrastructure**" is Infrastructure and Stormwater Management Controls contemplated by the Infrastructure Plan but not yet required for development of a Sub-Phase for which Developer has obtained Sub-Phase Approval. Developer may elect to construct Unrelated Infrastructure before receipt of any particular Sub-Phase Approval upon applying to and receiving Approval to do so from the Authority Director. Such Approval may be withheld by the Authority Director if he or she reasonably determines that such construction will materially interfere with the Phasing Plan or with the timing of the availability of tax increment for other development within the Project Site. In connection with any such Approval, the Authority shall reasonably consider any request by Developer to enter into one (1) or more Permits to Enter under which Developer may construct the Unrelated Infrastructure.

7.2 Transferable Infrastructure.

7.2.1 Definition. "**Transferable Infrastructure**" means items of Related Infrastructure consisting of (1) final, primarily behind the curb, right-of-way improvements, including, sidewalks, light fixtures, street furniture, landscaping, and driveway

cuts**,** and (2) utility laterals serving the applicable Lot, including storm, sewer, water, reclaimed water, dry utilities and utility boxes.

7.2.2 Transferable Infrastructure. The purpose of this Section is to minimize the risk of damage to Infrastructure and Stormwater Management Controls from construction of Vertical Improvements on Market Rate Lots and to allow Developer and Vertical Developers to coordinate their respective construction. Developer may elect to Transfer any Lot to a Vertical Developer before Completion of Infrastructure and Stormwater Management Controls associated with the Lot unless the Lot is an Authority Housing Lot (which is governed by the Housing Plan) or Public Property. Any such Transfer shall not extend the Schedule of Performance for Completion of Infrastructure and Stormwater Management Controls for the applicable Sub-Phase except as otherwise provided in this Section. If Developer Transfers any Lot prior to Completion of applicable Transferable Infrastructure, then Developer shall have the right to transfer the obligation to Complete any or all items of Transferable Infrastructure to the Vertical Developer under the Vertical DDA/LDDA, provided, however, that no such transfer shall release Developer of its Infrastructure and Stormwater Management Controls obligations hereunder. If the Transfer of the Lot(s) occurs prior to the Infrastructure Completion date for that Sub-Phase, as shown on the Schedule of Performance, then notwithstanding the Schedule of Performance, the applicable Transferable Infrastructure shall be Completed upon the earliest of (i) issuance of a Certificate of Occupancy for the applicable Vertical Improvement, (ii) twenty-four months after the date of Transfer, or (iii) twelve (12) months after the Infrastructure Completion date for that Sub-Phase. For any Lots that have not been Transferred prior to the Infrastructure Completion date for that Sub-Phase, Developer may request that the date for Completion of Transferable Infrastructure for such Lots be extended concurrent with Vertical Development, which consent may be given or withheld in Authority's sole discretion. In addition, Developer may request Authority's approval to transfer the obligation for any other item of Infrastructure and Stormwater Management Controls other than Transferable Infrastructure to a Vertical Developer, which consent may be given or withheld by Authority in its sole discretion.

7.2.3 Security for Transferable Infrastructure. If Developer transfers the obligation to Complete Transferable Infrastructure, or subject to Authority approval, other Infrastructure and Stormwater Management Controls, to a Vertical Developer, then (i) Developer shall have the right to assign the applicable public improvement agreement to the applicable Vertical Developer consistent with such corresponding rights allowed under the Interagency Cooperation Agreement, and (ii) with Authority's Approval, Vertical Developer may provide Adequate Security to replace Developer's Adequate Security for the applicable items of Transferable Infrastructure so long as the replacement Adequate Security is equivalent to the Adequate Security to be released as reasonably determined by Authority, in which case Authority shall promptly release Developer's applicable Adequate Security.

7.3 Compliance with Standards. Developer shall Complete, or cause to be Completed, all Infrastructure and Stormwater Management Controls (i) in accordance with this DDA (including the Infrastructure Plan, the Transportation Plan Obligations, the Sustainability Obligations, the Community Facilities Obligations, the Housing Plan, the Project MMRP, the Phasing Plan, the Schedule of Performance and Section 7 of the Public Trust Exchange Agreement), and (ii) in a good and workperson-like manner, without material defects, in

accordance with the Construction Documents and all applicable Authorizations and the TI/YBI Subdivision Code. Without limiting the foregoing, the Infrastructure and Stormwater Management Controls located on and serving the Public Property and the Authority Housing Lots must be equivalent in quality, sizing, capacity and all other features to the Infrastructure and Stormwater Management Controls located on and serving the Market Rate Lots and the Commercial Lots, subject to any variations specifically set forth in the Infrastructure Plan and any reasonable variations related to physical conditions (such as sloping), use, or intensity of development.

7.4 Authority Conditions to Developer's Commencement of Infrastructure. The following conditions precedent shall be satisfied before Developer may Commence any Infrastructure and Stormwater Management Controls, unless expressly waived by the Authority in accordance with Section 7.5:

7.4.1 Developer shall have obtained (i) a Major Phase Approval and a Sub-Phase Approval for the real property on which the Infrastructure and Stormwater Management Controls are to be constructed (except for Unrelated Infrastructure and Related Infrastructure outside of the Sub-Phase), and (ii) all other Authorizations required herein from the Authority or any other Governmental Entities to Commence such Infrastructure and Stormwater Management Controls;

7.4.2 Developer shall have recorded in the Official Records a Transfer Map covering the real property on which the Infrastructure and Stormwater Management Controls are to be constructed (except for Unrelated Infrastructure and Related Infrastructure outside of the Sub-Phase) or has otherwise complied with the Subdivision Map Act, and Developer shall have received approval of a Tentative Subdivision Map covering the real property on which the Infrastructure and Stormwater Management Controls are to be constructed (except for Unrelated Infrastructure and Related Infrastructure outside of the Sub-Phase);

7.4.3 Developer shall have performed its obligations under the Financing Plan related to the applicable Sub-Phase as and when required, subject to the Authority having performed its obligations as and when required under the Financing Plan;

7.4.4 Developer shall have submitted to the Authority the Construction Documents for such Infrastructure and Stormwater Management Controls and such Construction Documents shall have been reviewed and Approved under the DRDAP;

7.4.5 any demolition or grading permit required in order to Commence the Infrastructure and Stormwater Management Controls shall have been issued by the City;

7.4.6 Developer shall not be in Material Breach of this DDA with respect to any obligations arising in the applicable Sub-Phase or with respect to Developer's Infrastructure and Stormwater Management Controls Obligations in the applicable Major Phase related to the Infrastructure and Stormwater Management Controls being constructed;

7.4.7 to the extent such Infrastructure and Stormwater Management Controls are to be located outside the Sub-Phase boundaries or on portions of the Project Site that the Navy has not yet transferred to the Authority, Developer shall have acquired all

easements, leases or licenses or otherwise made such arrangements with the Navy and the Authority as are necessary (and reasonably satisfactory to the Authority) to Commence and Complete such Infrastructure and Stormwater Management Controls; and

7.4.8 Developer shall have provided the Reversionary Quitclaim Deed to the extent required under Article 16 hereof, and Developer shall have provided, and the Authority Director shall have Approved, Adequate Security for Completion of the Related Infrastructure, and any Unrelated Infrastructure associated with the applicable Sub-Phase that Developer has elected to construct in accordance with Section 7.1.2, in favor of the Authority and, to the extent required under the TI/YBI Subdivision Code, the City.

7.5 Conditions for Benefit of the Authority. The conditions set forth in Section 7.4 are solely for the benefit of the Authority and may be waived only by the Authority Director (except that the condition in Section 7.4.2 shall not be waivable). Provided that Developer has not committed a Material Breach that remains uncured beyond any applicable cure period, the Authority shall take such actions as are required of the Authority under the DRDAP and this DDA to review, consider and grant Developer's request for necessary Approvals to satisfy the above conditions. If any of the conditions are not timely satisfied, they may be waived by the Authority Director or the Authority may extend the time for satisfaction of the conditions, as Approved by the Authority Director in his or her sole discretion (except that the condition in Section 7.4.2 shall not be waivable).

7.6 Developer Efforts to Satisfy Authority Conditions. Provided that the Authority has not committed a Material Breach that remains uncured beyond any applicable cure period, Developer shall use its diligent and reasonable efforts, and otherwise take such actions as are required under this DDA to cause the conditions set forth in Section 7.4 to be satisfied in sufficient time to enable Developer to meet the Outside Dates set forth in the Schedule of Performance; provided, that the foregoing shall not require Developer to pay any sum of money not otherwise required under this DDA.

7.7 Effect of Failure of Condition. The Parties expressly acknowledge and agree that a failure of condition in favor of the Authority for one Major Phase, Sub-Phase, Lot or Vertical Project shall not by itself be deemed the failure of a condition for any other Major Phase, Sub-Phase, Lot or Vertical Project except to the extent that such failure directly pertains to the other Major Phase, Sub-Phase, Lot or Vertical Project (e.g., the failure to satisfy a condition may prevent subsequent Sub-Phase Approvals if the Infrastructure and Stormwater Management Controls needed to service the proposed Sub-Phase has not Commenced), nor shall such failure relieve Developer or the Authority of an obligation that arose before the failure of such condition. The failure of a condition shall not, in and of itself, be an Event of Default; provided, that (i) the failure of Developer to comply with Section 7.6 may, following notice and the cure period set forth in Article 16, be an Event of Default, and (ii) the failure of the Authority to act upon an Application as and when required under the DRDAP shall not be a Material Breach but shall give rise to an Excusable Delay.

7.8 Completion of Developable Lots. As part of its Infrastructure obligations, Developer shall Complete all work necessary to create Developable Lots within the Project Site. To be a "**Developable Lot**", the following conditions shall be met:

7.8.1 a Final Subdivision Map creating a separate legal parcel for the Lot has been Approved and recorded in the Official Records;

7.8.2 The Lot has been graded and soil compacted in accordance with the applicable grading permit and in conformance with the geotechnical recommendations of the site as certified by Developer's geotechnical engineer;

7.8.3 the Lot is served by the Infrastructure and Stormwater Management Controls described in the Infrastructure Plan with respect to the Lot, except to the extent that items of Transferable Infrastructure remain outstanding and will be constructed by the applicable Vertical Developer or Completed after the Vertical Improvements, as described in Section 7.2 of this Agreement and Section 2.8 of the Housing Plan;

7.8.4 For a Lot for which the Navy has issued a FOST, the condition of the Lot shall, to the extent such compliance is within the control of Developer, comply with all applicable requirements in the FOST, Petroleum Corrective Action Plan, Management Plan (including operation and maintenance requirements applicable at the time the Developable Lot is created by the Developer) and any applicable restrictions in deeds or covenants;

7.8.5 all other obligations outside the boundaries of the Lot as required by applicable Governmental Entities have been fulfilled, or appropriate guarantees, bonds and/or subdivision improvement agreements acceptable to the City and the Authority are in place, as necessary to enable the issuance of a Building Permit to Commence construction on the Lot; and

7.8.6 for the Open Space Lots, Developer shall Complete the surface Improvements in accordance with the Parks and Open Space Plan, the Conceptual Parks and Open Space Master Plan (as defined in the DRDAP) and the applicable Major Phase and Sub-Phase Approvals.

7.9 ICT Rights. Developer shall have the right through private contracts with Vertical Developers to provide information and communications technology ("**ICT**") design, site development, installation, operations and services for all Vertical Improvements at the Project Site, excluding the Authority Housing Units and other Public Property (the "**ICT Rights**"). In connection with the ICT Rights, Developer shall have the right to install equipment related to the ICT in or on the real property that is or will become public right of way, subject to City and Authority Approvals in accordance with the Applicable Regulations. Developer's right shall not restrict the City or regulated entities (including certificated telecommunications carriers and franchised video providers) from installing communications and other facilities in or on the real property that is or will become public right of way. The ICT Rights shall be transferable by Developer and, to the extent that Developer Transfers portions of the Project Site to Vertical Developers as permitted in this DDA, Developer shall have the right to impose ICT requirements on the Vertical Improvements. The ICT Rights shall mean the right to: (i) define and establish the high level ICT designs, standards, architectures, plans, minimum specifications for all equipment, including any Internet Protocol ("**IP**") enabled devices, that may connect to the regulated public communications networks and fiber optic networks, whether wireless or fixed line, in buildings and common areas, excluding regulated telecommunications services ("**ICT Design**"); (ii) define and establish functional equipment standards for all ICT hardware and

software products and solutions, including any IP enabled devices ("**ICT Products and Solutions**"), compliant with the ICT Design; and (iii) review and approve any ICT Products and Solutions for compliance with the ICT Design. Notwithstanding anything to the contrary in this Section 7.9, a termination of this DDA by the Authority shall terminate Developer's rights under this Section 7.9 with respect to any portion of the Project Site as to which Developer's development rights are terminated. Nothing in this Section 7.9 shall prevent an Owner/Occupant or tenant of any Owner/Occupant at the Project Site from purchasing communications, video and other IP services from regulated entities including certificated telecommunications carriers and franchised video providers.

7.10 Wastewater Treatment Plant. The parties acknowledge that the Infrastructure Plan contemplates that the SFPUC will provide a new or upgraded wastewater treatment plant as needed to meet the flow and treatment requirements of the Project projected for each Major Phase. The Authority shall use commercially reasonable efforts to negotiate a Memorandum of Understanding with the SFPUC (the "**SFPUC MOU**") that includes the following provisions, subject to approval of the SFPUC MOU by the SFPUC Commission, the Authority Board and, if required, the Board of Supervisors: (i) the terms upon which SFPUC will provide a new or upgraded wastewater treatment plant for which the SFPUC will be responsible for the financing and construction; (ii) a process for SFPUC to provide a service plan in response to each Major Phase Application, setting forth SFPUC's planned upgrades or new improvements to the wastewater treatment operations for that Major Phase, as well as milestones during that Major Phase, such as target dates for planning, design, regulatory approvals and entitlements and permits necessary to meet the proposed service plan; (iii) a meet and confer process among the Authority, Master Developer and the SFPUC if the SFPUC fails to meet the milestones in the SFPUC MOU in order to discuss the applicable milestones and what actions may be needed to achieve the identified service upgrades; and (iv) a meet and confer process among the Authority, Master Developer and the SFPUC if at any time the SFPUC conditions its approval of any Subdivision Map or Building Permit application upon the completion of new or upgraded wastewater treatment facilities that are the responsibility of SFPUC under the PUC MOU, or if SFPUC comments as part of the Major Phase or Sub-Phase Application process that it will require such conditions, in order to develop a strategy to avoid or minimize any delays in issuance of any Subdivision Maps or Vertical Approvals resulting from the SFPUC's failure to meet its obligations under the SFPUC MOU. A potential strategy could include providing Master Developer with certain rights to undertake the development of the required wastewater treatment facilities (including the option of constructing separate facilities), on terms mutually agreed upon by Master Developer, SFPUC and the Authority. Authority and SFPUC's failure to execute the PUC MOU consistent with this Section 7.10 prior to submittal of the first Major Phase Application, or SFPUC's failure to meet its material obligations thereunder to construct wastewater treatment improvements in a timely manner, shall be grounds entitling Developer to submit a Requested Change Notice and invoke the procedures of Section 3.8.2.

8. Construction of Vertical Improvements/Required Improvements.

8.1 Vertical Improvements. Upon receipt of a Vertical Approval, the applicable Vertical DDA/LDDA will provides the Vertical Developer the right to Commence and construct the applicable Vertical Improvements at any time. The Vertical DDA/LDDAs provide that the Vertical Developer and the Authority must at all times comply with the

provisions of the SUD, the Design for Development and the DRDAP with respect to the Vertical Improvements.

8.2 Required Improvements. Developer shall Commence and Complete the Required Improvements in accordance with the Schedule of Performance. As described in Section 10.1.3, the Required Improvements to be constructed by Developer on land owned by the Authority that has not been conveyed to Developer by Quitclaim Deed or Ground Lease (i.e., the police/fire station and the ferry terminal), will be pursuant to a Permit to Enter between Authority and Developer. Developer's obligation for the five thousand (5,000) square foot interim grocery store consists of a grocery store, which may be located within an existing building or a new building, to provide basic grocery needs to Island residents. Developer's obligation for the fifteen thousand (15,000) square foot grocery store (the "**Required Retail**"), consists of Completion of a Developable Lot and core and shell building improvements (which may include retrofit or rehabilitation of existing buildings, or construction of new buildings) adequate to accommodate the Required Retail and the execution of a sublease with one or more qualified grocery tenants for operation of the Required Retail by the Outside Date for Completion of the Required Retail. Developer shall use commercially reasonable efforts to attract a grocery store tenant(s) that sell staples, fresh meat and fresh produce and includes a pharmacy. If despite its commercially reasonable efforts, Developer is unable to attract a grocery tenant that includes a pharmacy, then Developer in connection with its retail program elsewhere within the Project Site shall use commercially reasonable efforts to attract a pharmacy and/or medical clinic tenant. For purposes of attracting a pharmacy or medical clinic, "commercially reasonable efforts" means a targeted marketing program, which may be through established retail brokers, reasonably designed to attract pharmacies or medical clinics at then-prevailing market rents for suitable retail space constructed on the Project Site. In no event shall the provision of a pharmacy be considered a "Required Improvement" hereunder.

8.3 Marina Landside Improvements. Developer shall commence construction of the following Marina-related improvements within five (5) years after the Effective Date: such improvements needed for the following: pedestrian and vehicular access, utilities, parking, loading, sanitary facilities and showers for Marina users (which may be located in temporary facilities until permanent facilities are constructed) and other improvements as are reasonably required for both construction and permanent operations of the Marina functionally equivalent to those contemplated in the Marina Term Sheet, and, to the extent that such improvements or facilities are located on areas of the Project Site owned by or under Ground Lease to Developer, Developer shall grant the Marina access rights to such areas (including easements, licenses or otherwise) (collectively, the "Marina Access Improvements"). If Developer has not Commenced the Marina Access Improvements within five (5) years from the Effective Date (subject to Excusable Delay), the Authority may, in its sole discretion and as its sole remedy, terminate Developer's right to construct the Marina Access Improvements and the Authority shall work with the Marina Developer in connection with the Marina Developer's construction of the Marina Access Improvements at Developer's sole cost and expense and in accordance with the Design for Development. In such case, the Authority, Developer and the Marina Developer shall meet and confer regarding reasonable rights for access, utilities, loading and otherwise as are reasonably required for both construction and permanent operations of the Project by the Developer. Developer's obligation to the Marina Developer for the Marina Landside Improvements are limited to those obligations set forth in this Section 8.3; provided, however,

that nothing herein is intended to diminish the rights and obligations of the Marina Developer under the Marina Term Sheet. The Parties acknowledge that the Project Site does not include the Marina area shown on Exhibit B-1 and excluded from the legal description in Exhibit B-2. If the final description of the Marina property described in the final disposition and development agreement for the Marina executed in accordance with the Marina Term Sheet differs from that shown, the parties will prepare and record a replacement legal description reflecting the final boundaries of the Marina waterside area.**Issuance of Authorizations; Issuance of Certificates of Completion**.

9.1 Authorizations.

9.1.1 Developer and Vertical Developer, as applicable, must obtain from any City Agency or other Governmental Entity having jurisdiction over all or a portion of the Project Site any permit, approval, entitlement, agreement, permit to enter, utility service, subdivision map (including under the TI/YBI Subdivision Code), Building Permit or other authorization for the work they are required to perform under this DDA or the Vertical DDA/LDDA and as may be necessary or desirable to effectuate and implement such work (each, an "**Authorization**"). Authorizations required for the Project from the Authority or a City Agency shall be consistent with the Applicable Regulations and the Development Agreement. The Authority will reasonably cooperate with Developer and Vertical Developers upon request in obtaining these Authorizations, including, without limitation, executing any such Authorizations to the extent the Authority is required to execute the same as co-applicant or co-permittee, or as otherwise Approved by the Authority Director so long as such Authorizations are consistent with this DDA or the Vertical DDA/LDDA, as applicable. None of the Authority, Developer or any Vertical Developer will agree to the imposition of any conditions or restrictions in connection with obtaining any such Authorization if the same would create any obligations on the Authority's part not otherwise contemplated under this DDA or the Vertical DDA/LDDA, as applicable, without the Approval of the Authority, which may be given or withheld in the Authority's sole discretion. A signature by the Authority staff on any Authorization or application for an Authorization shall be conclusive evidence that the content of such application or Authorization is consistent with the Development Requirements, except to the extent the signature is based on material error or incorrect information supplied by the applicant.

9.1.2 Developer, with respect to Infrastructure and Stormwater Management Controls, and Vertical Developers, with respect to Vertical Improvements constructed by them, at no cost or expense to the Authority, shall be solely responsible for ensuring that the design and construction of their respective Improvements complies with any and all applicable laws and conditions or restrictions imposed by any City Agency or other Governmental Entity in connection with any Authorization, whether such conditions are to be performed on the Project Site or require the construction of Improvements or other actions off the Project Site. Any fines, penalties or corrective actions imposed as a result of the failure of Developer or a Vertical Developer to comply with the terms and conditions of any such Authorization shall be paid or otherwise discharged by Developer or Vertical Developer, as the case may be, and (i) the Authority shall have no liability, monetary or otherwise, for such fines and penalties, and (ii) such fines or penalties shall not be Project Costs.

9.1.3 Application for Building Permits shall be made in accordance with the SUD and the DRDAP.

9.1.4 Notwithstanding anything to the contrary above, the Authority shall have no obligation to execute any application for any Authorization that would impose costs or fees on the Authority unless the applicant arranges a reimbursement arrangement Approved by the Authority.

9.2 Issuance of Certificates of Completion.

9.2.1 Generally. When (i) Developer reasonably believes that it has Completed Related Infrastructure, or a portion thereof, or Unrelated Infrastructure, or a portion thereof, Developer shall request the Engineer to issue an Engineer's Certificate verifying that Developer has Completed the specified Infrastructure and Stormwater Management Controls in accordance with the Construction Documents or (ii) with respect to Vertical Improvements that are Required Improvements, Developer shall request the Architect to issue an Architect's Certificate verifying that Developer has Completed the specified Required Improvements in accordance with the Construction Documents. Upon issuance, Developer shall deliver to the Authority the Engineer's Certificate or Architect's Certificate, as applicable. Within twenty (20) days after the Authority's receipt of any such Engineer's Certificate or Architect's Certificate, as applicable (or any resubmittal pursuant to Section 9.2.4 hereof), the Authority shall either issue to Developer a Certificate of Completion for the applicable Infrastructure and Stormwater Management Controls or Required Improvements or provide to Developer a statement of the reasons for the failure to issue the Certificate of Completion as more particularly set forth in Section 9.2.4.

9.2.2 Effect of Certificate of Completion on Developer and Vertical Developer. For purposes of this DDA or the applicable Vertical DDA/LDDA only, the issuance of a Certificate of Completion shall be a conclusive determination of the Completion of the applicable Infrastructure and Stormwater Management Controls or Required Improvements in accordance with this DDA or the applicable Vertical DDA/LDDA, including without limitation with respect to the obligations to Commence and Complete the Infrastructure and Stormwater Management Controls or Required Improvements, as applicable, in accordance with the Construction Documents; provided, however, such determination shall not impair the Authority's right to indemnity under Article 22 or the City's or the Authority's right to require correction of any defects in accordance with the TI/YBI Subdivision Code. Developer or a Vertical Developer shall record the Certificate of Completion within forty-five (45) days following receipt thereof.

9.2.3 Effect of Certificate of Completion on any Person. Following recordation of the Certificate of Completion, any Person then owning or later purchasing, leasing or otherwise acquiring any interest in the applicable Major Phase, Sub-Phase, Lot or Vertical Project shall not, solely by virtue of such ownership, purchase, lease, or acquisition, or by virtue of such Person's actual or constructive knowledge of the contents of this DDA or the Vertical DDA/LDDA, as applicable, incur any obligation or liability under this DDA or the Vertical DDA/LDDA, as applicable for the construction, operation, restoration or rehabilitation of the Infrastructure and Stormwater Management Controls or Vertical Improvements for which the Certificate of Completion has been recorded; provided, that such Person shall be subject to any

Vertical DDA/LDDA to which it is a party, obligations of record and the Development Requirements. The Authority's issuance of any Certificate of Completion shall not relieve Developer, Vertical Developer or any other Person from any applicable building, fire or other construction code requirement, conditions to occupancy of any Improvement, or other applicable laws.

9.2.4 Authority Refusal to Issue a Certificate of Completion. If the Authority refuses or fails to issue a Certificate of Completion in accordance with Section 9.2.1, then the Authority shall provide to Developer or Vertical Developer, as applicable, a written statement setting forth the basis for such refusal or failure and the reasonable acts or measures that must be taken by Developer or Vertical Developer, as applicable, to obtain a Certificate of Completion. Developer or the Vertical Developer (as the case may be) may resubmit their request for a Certificate of Completion at any time after completion of such acts or measures required to obtain a Certificate of Completion.

9.2.5 Authority and City Cooperation Regarding Certain Certificates of Completion. The Parties acknowledge and agree that the Authority will forward all Engineer's Certificates for Infrastructure and Stormwater Management Controls that constitute public improvements under the TI/YBI Subdivision Code (the "**Public Improvements**") and the results of any inspection thereof to the Department of Public Works for its review and potential acceptance of such Public Improvements in accordance with the TI/YBI Subdivision Code and any applicable subdivision improvement agreement entered into by Developer and the City. The Authority shall use commercially reasonable efforts to cause the Department of Public Works to expeditiously review and the Board of Supervisors to accept such Public Improvements. The Parties acknowledge and agree that the Authority will forward all Architect's Certificates for Vertical Improvements and the results of any inspection thereof to DBI for its review in accordance with applicable City Authorizations. The Authority will use commercially reasonable efforts to cause DBI to expeditiously review and Approve the Vertical Improvements.

9.2.6 Use of Public Improvements Prior to Certificate of Completion. The Parties acknowledge and agree that Developer shall not be obligated to allow use of any Public Improvements by any Person, including the Authority, any City Agencies, any other Governmental Entity or any Third Parties, prior to the acceptance of such Public Improvements by the City and the issuance of a Certificate of Completion for such Public Improvements by the Authority.

9.2.7 Certain Certificates of Completion. Issuance of a Certificate of Completion by the Authority may be conditioned upon the following:

(a) for a Lot, on the Authority's determination that such Lot is a Developable Lot;

(b) for an Open Space Lot, on the Authority's determination that such Open Space Lot is a Developable Lot and that Developer has Completed all surface Improvements for such Open Space Lot in accordance with the Parks and Open Space Plan, the Conceptual Parks and Open Space Master Plan and the applicable Major Phase and Sub-Phase Approvals;

(c) for Public Improvements, on receipt of a certificate of completion from the City Engineer with respect to such Public Improvements delivered in accordance with any applicable subdivision improvement agreement; and

(d) for Required Improvements, a Temporary Certificate of Occupancy.

9.3 Substantial Completion. When (i) Developer reasonably believes that it has Substantially Completed Related Infrastructure, or a portion thereof, Unrelated Infrastructure, or a portion thereof, or the Required Improvements, or a portion thereof, (ii) Vertical Developer reasonably believes that it has Substantially Completed Required Improvements, or a portion thereof, or Transferable Infrastructure or a portion thereof, then such Person may request the Authority to determine that Substantial Completion of such Improvements has occurred; such request shall be accompanied by appropriate documentation to support such belief. Within sixty (60) days after the Authority's receipt of such request, the Authority shall take such actions as are reasonably necessary to reasonably determine whether such Improvements satisfy the applicable requirements for Substantial Completion set forth in the definition thereof and either issue to Developer or such Vertical Developer, as applicable, a notice of Substantial Completion of such Improvements or provide to Developer or such Vertical Developer a statement of the reasons for the failure to issue such notice. Any notice of disapproval shall set forth the basis for such disapproval and the reasonable acts or measures that must be taken by Developer or Vertical Developer, as applicable, to obtain such notice of Substantial Completion.

10. Terms for Conveyances to Developer.

10.1 General.

10.1.1 Fee Conveyances. Subject to receipt of applicable Sub-Phase Approvals and the terms of this DDA, including the satisfaction or waiver of the conditions set forth in Section 10.3, (a) the Authority shall convey to Developer, on a phased basis, certain real property owned or acquired by the Authority, as more particularly set forth in Section 3.7; and (b) Developer agrees to acquire such real property from the Authority, to cause Completion of the Infrastructure and Stormwater Management Controls and sell Lots to Vertical Developers, all to the extent required under and consistent with this DDA for land that is not subject to the Public Trust. Any real property conveyance from the Authority to Developer under this DDA shall be by an Authority Quitclaim Deed.

10.1.2 Ground Lease Conveyances. Subject to the terms of this DDA, upon satisfaction or waiver of the conditions set forth in Section 10.3, Authority shall enter into LDDAs and Ground Leases for the conveyance and development of the Critical Commercial and Non-Critical Commercial Lots located on Public Trust property, in accordance with the further terms and conditions of Section 17.2.1 hereof, which LDDAs shall be substantially consistent with Exhibit I, and which Ground Leases shall be substantially consistent with Exhibit M, attached hereto.

10.1.3 Permit to Enter. For all Infrastructure and Stormwater Management Controls and Required Improvements to be constructed by Developer on land owned by the Authority that has not been conveyed to Developer by Quitclaim Deed or Ground Lease, the Authority shall enter into a Permit to Enter with Developer. For any property still owned by the Navy that is reasonably required by Developer for staging or constructing Infrastructure and Stormwater Management Controls or Required Improvements, Authority shall coordinate with Navy to assign its rights to enter into a Permit to Enter onto Navy property to the extent permitted under the Navy Conveyance Agreement.

10.2 Escrow and Title.

10.2.1 Escrow. No later than sixty (60) days before the first scheduled conveyance from the Authority to Developer, Developer shall establish an escrow ("**Escrow**") in the City with the Title Company and shall promptly notify the Authority in writing of the Escrow number and contact person.

10.2.2 Title. The Authority agrees that it shall not cause to be created any exceptions to title other than exceptions created on behalf of or approved by Developer ("**Authority's Title Covenant**"). Promptly after Escrow opens, Developer shall cause the Title Company to deliver to the Authority and Developer preliminary title reports or commitments for title insurance for the property to be so conveyed, together with copies of all documents relating to title exceptions shown in the "Title Report" (collectively, a "**PTR Package**"). Other than exceptions existing at the time the Navy conveyed such property to the Authority (the "**Existing Navy Exceptions**") or created on behalf of Developer or with Developer's approval (which exceptions shall be deemed to include a Reversionary Quitclaim Deed delivered under Section 16.5 and deed restrictions required as part of a real property conveyance from the Navy, the Mitigation Measures or under the Housing Plan), Developer may object to any exceptions shown on the PTR Package that would materially and adversely affect Developer's ability to finance and use the real property as permitted under this DDA (excluding any Public Trust exception that will be removed in connection with a Public Trust Exchange). Developer must notify the Authority in writing of any such objection within twenty (20) days after Developer receives the complete PTR Package (the "**Title Objection Period**"). If Developer fails to so object within the twenty (20) day period, then all of the exceptions shown on the PTR Package will be deemed to be Permitted Exceptions. If Developer does so object within the twenty (20) day period, the Authority at its cost may, in its sole and absolute discretion, elect to remove or otherwise cause the Title Company not to show any exception to which Developer objected on the owner's title insurance policy to be issued to Developer at close of Escrow. If the Authority does so elect, it will notify Developer within thirty (30) days after receipt of Developer's objection. If the Authority elects not to remove the exception or fails to respond within the thirty (30) day period, then Developer shall have the right to (i) terminate this DDA as to the Lot or Lots affected by such exception, by notice to the Authority delivered within ten (10) days after Developer receives the Authority's notice that it has elected not to remove the exception or expiration of the thirty (30) day period, whichever occurs earlier, in which case the Authority can proceed to market the property to others without any cost reimbursement or other obligation to Developer except as provided in Section 6.3 of the Financing Plan, (ii) upon written notice provided to Authority within ten (10) days of Authority's election not to remove the exception or failure to respond, diligently proceed to take such actions necessary to remove the exception, which may

include obtaining an endorsement insuring over such exception subject to such conditions and requirements imposed by Title Company (and so long as Developer is diligently proceeding with removal of the title exception, such delay in close of Escrow shall be considered an event of Excusable Delay), or (iii) accept title to the real property subject to such exception. In any of the foregoing circumstances, if the title exception is a result of the Authority's breach of the Authority's Title Covenant, such breach shall be subject to the terms of Section 16.2.2(d). If Developer fails to so terminate or elect to cure within the ten (10) day period, then it shall be deemed to have elected to accept title as set forth in clause (iii) above. Exceptions that the Authority elects not to remove, or is deemed to have elected not to remove, and that Developer elects to accept, or is deemed to have accepted, will also be deemed to be Permitted Exceptions.

10.2.3 Quiet Title Action. The Authority, with Developer's cooperation and at Developer's cost, shall complete an action under the "**Destroyed Land Records Relief Law**" (California Code of Civil Procedure § 751.01 et seq., commonly referred to as the McEnerney Act) to remove any exception for claims by reason of the record title to the land not having been established and quieted under the provisions of the Destroyed Land Records Relief Law that show on the PTR Package and to which Developer timely objected under Section 10.2.2 (the "**Quiet Title Action**"). In the event that Developer accepts title subject to exceptions that would be eliminated by such Quiet Title Action, the Authority, with Developer's cooperation, shall complete the Quiet Title Action as soon as commercially reasonable and the Parties shall then undertake to cause the issuance of the title insurance prescribed above, or an amendment or endorsement, reflecting the elimination of such exceptions. At each close of Escrow, the Authority shall convey to Developer all of its right, title and interest to the property that is the subject of such close of Escrow by an Authority Quitclaim Deed or Ground Lease, as applicable, subject to the Authority's rights under the Reversionary Quitclaim Deed.

10.2.4 Title Policy. It is a condition to Developer's obligation to close Escrow on conveyances from the Authority to Developer that the Title Company shall be irrevocably committed to issue to Developer a CLTA owner's title insurance policy (or at Developer's option an ALTA owner's title insurance policy), with such endorsements, reinsurance and direct access agreements as Developer shall reasonably designate and the Title Company shall accept. The title policy will be in an amount designated by Developer and acceptable to the Title Company, and will insure that fee title to the property at issue and all appurtenant easements are vested in Developer, subject only to the Permitted Exceptions. If Developer elects to obtain an ALTA owner's policy, Developer shall be responsible for securing any and all surveys, engineering studies and other documents required to obtain an ALTA owner's policy, in sufficient time to permit close of Escrow as required by this DDA.

10.2.5 New Title Matters. If after the Title Objection Period has expired a new title exception not shown on the PTR Package arises that would materially and adversely affect Developer's use of the real property in question or the Project Site and that is not a Permitted Exception and is not caused by Developer or its Affiliates, then Developer may object to such new exception by notice to the Authority given within five (5) Business Days after Developer receives written notice from the Title Company of the new exception. If Developer fails to object within such period, then the new exception will be deemed to be a Permitted Exception. If Developer does object then the Authority may elect in the Authority's sole and absolute discretion, at its cost, to remove any new exceptions created by the Authority that are

not Permitted Exceptions before the close of Escrow, or to remove or otherwise cause the Title Company not to show any other new exception on the owner's title insurance policy to be issued to Developer at close of Escrow. If the Authority does so elect, it will notify Developer within thirty (30) days after receipt of Developer's objection. If such exception is caused by the Authority's breach of the Authority's Title Covenant set forth in Section 10.2.2 above, such breach shall be subject to the terms of Section 16.2.2(d) below. If the Authority elects not to remove the exception, or fails to respond within the thirty (30) day period, then Developer shall have the right to (i) terminate this DDA as to the affected property by notice to the Authority delivered within ten (10) days after Developer receives the Authority's notice that it has elected not to remove the exception or expiration of the thirty (30) day period, whichever occurs earlier, in which case the Authority can proceed to market the property to others without any cost reimbursement or other obligation to Developer except as specifically provided in Section 6.3 of the Financing Plan, (ii) upon written notice provided to Authority within ten (10) days of Authority's election not to remove the exception or failure to respond, diligently proceed to take such actions necessary to remove the exception, which may include obtaining an endorsement insuring over such exception subject to such conditions and requirements imposed by Title Company (and so long as Developer is diligently proceeding with removal of the title exception, such delay in close of Escrow shall be considered an event of Excusable Delay), (iii) accept title to the property in question subject to such exception. If Developer fails to so terminate or elect to cure within the ten (10) day period, then it shall be deemed to have elected clause (iii) above. Exceptions that the Authority elects not to remove, or is deemed to have elected not to remove, and that Developer elects to accept, or is deemed to have accepted, are also Permitted Exceptions.

10.3 Conditions Precedent to Close of Escrow for Real Property Conveyances from the Authority to Developer.

10.3.1 Developer Conditions to Close of Escrow or Enter Into LDDAs for Critical Commercial Lots. The following are conditions precedent to Developer's obligation to close Escrow for the conveyance of real property from the Authority to Developer (or, with respect to the Critical Commercial Lots on Trust Property, Developer's obligation to enter into an LDDA for the Critical Commercial Lots), to the extent not expressly waived by Developer by notice to the Authority.

(a) The Authority shall have performed all obligations under this DDA required to be performed by the Authority on or before the date for close of Escrow for such property and that affect the development of the applicable property; and

(b) The Authority shall not be in Material Breach under this DDA.

10.3.2 Authority Conditions to Close of Escrow. The following are conditions precedent to the Authority's obligation to close Escrow for the conveyance of real property from the Authority (or, with respect to Trust Property, the Authority's obligation to enter into an LDDA and Ground Lease for the applicable Trust Property to the extent such condition precedent is applicable), to the extent not expressly waived by the Authority by notice to Developer:

(a) Developer shall have performed all obligations under this DDA and the Schedule of Performance required to be performed by Developer on or before the date for close of Escrow for such property, including, without limitation, (i) paying on behalf of the Authority the Initial Consideration (as defined in the Conveyance Agreement) and any other sums then due and owing from the Authority to the Navy under the Conveyance Agreement as and when due under the Conveyance Agreement as set forth in Section 1.3(a) of the Financing Plan, (ii) paying all Financial Obligations then due and owing from Developer to the Authority, (iii) providing a Guaranty or other form of Adequate Security covering Developer's obligations in the Sub-Phase as set forth in Section 26.4, and (iv) executing and delivering the Reversionary Quitclaim Deed and irrevocable instructions from Developer to the Title Company to the extent required by Section 16.5.

(b) unless previously Approved by the Authority, Developer shall have provided, and the Authority shall have Approved, a detailed construction cost estimate for the Infrastructure and Stormwater Management Controls prepared by a cost estimator Approved by the Authority;

(c) all of the Authority's conditions to Commence the Infrastructure and Stormwater Management Controls as set forth in Section 7.4 shall have been satisfied or waived by the Authority;

(d) Developer shall have furnished certificates of insurance or duplicate originals of insurance policies and/or insurance binders that will provide the required coverage effective as of the date of Developer's ownership, as and to the extent required under the Insurance Requirements;

(e) The Authority has Approved for consistency with this Agreement, the form of the Master Covenants, Conditions and Restrictions ("**Master CC&Rs**") or the document annexing the Sub-Phase to the property encumbered by the Master CC&Rs, as applicable, which Master CC&Rs at a minimum must (i) include provisions requiring all occupants of Market Rate Units to purchase a monthly transit pass, as more particularly described in the Transportation Plan Obligations, (ii) obligate the master homeowner's association, or the applicable Lot owner or individual residential project homeowner's association, to provide for maintenance of the Neighborhood Parks (as shown in the Parks and Open Space Plan) and publicly accessible open space, landscaping and improvements, (iii) obligate the master homeowner's association, or the applicable Lot owner or individual residential project homeowner's association, to maintain all Stormwater Management Controls required to meet SFPUC stormwater management requirements to treat runoff from private development (buildings, courtyards, parks and open space, private alleys, etc.) in accordance with Section 12.3 of the Infrastructure Plan (Proposed Stormwater Treatment System); and (iv) obligate the master homeowner's association to comply with Section 6.3 of the Jobs EOP relating to "Covered Services" described in the Jobs EOP; and

(f) Developer shall not be in Material Breach of this DDA and the Authority shall not have delivered notice of an Event of Default by Developer, unless that Event of Default has been cured as set forth in Article 16.

10.3.3 Mutual Conditions to Close of Escrow. The following are conditions precedent to both Parties' obligations to close Escrow for each conveyance of real property from the Authority to Developer (or, with respect to the Critical Commercial Lots, Developer's and the Authority's obligation to enter into an LDDA for the Critical Commercial Lots to the extent such condition precedent is applicable), to the extent not expressly waived by both Developer and the Authority in writing (although the provisions of paragraphs (a) through (c) are not waivable):

(a) the Authority and State Lands shall have executed the Public Trust Exchange Agreement and the conditions in Article 6 regarding any applicable Public Trust Exchange have been met;

(b) the Authority and the Navy shall have executed the Conveyance Agreement;

(c) the City has approved, and the Authority with Developer's Approval has recorded, a Transfer Map for the applicable property or has otherwise complied with the California Subdivision Map Act and Developer shall have received approval of a Tentative Subdivision Map covering the real property to be conveyed within the Sub-Phase (except for Unrelated Infrastructure and Related Infrastructure outside of the Sub-Phase);

(d) this DDA shall not have terminated as to such real property;

(e) the Authority shall have fee title to the real property being conveyed;

(f) the Title Company shall be irrevocably committed to issue to Developer, upon Developer's payment of the premium, the title insurance required by Section 10.2.4 for the real property, although Developer may elect to take title subject to completion of the Quiet Title Action necessary to remove the exceptions subject to those actions, in which event the Authority and Developer will complete the Quiet Title Action as soon as commercially reasonable following close of Escrow;

(g) the Authority and Developer shall have agreed on the minimum bid price for the Residential Auction Lots and the Non-Critical Commercial Lots within the real property to be conveyed (the "**Minimum Bid Price**") and, if applicable, the Excess Land Appreciation Structure, either as part of a Major Phase Approval, or in connection Sub-Phase Application requesting a change to a previously approved Minimum Bid Price or Excess Land Appreciation Structure, which change has been approved by the Navy to the extent required under the Conveyance Agreement;

(h) in the event there are tenants or other occupants that are actually and lawfully occupying any portion of the property in the applicable Sub-Phase who are entitled under the Transition Housing Rules and Regulations or by applicable law to relocation assistance, such tenants or occupants have been provided Transition Benefits to which they are entitled in accordance with the Transition Housing Rules and Regulations or such applicable law

(the "**Transition Requirements**"), or this condition has otherwise been satisfied in accordance with the procedures set forth in Section 8.4(c) of the Housing Plan.

10.4 Close of Escrow.

10.4.1 Closing Deliveries. At least fifteen (15) days before the date specified for close of Escrow for each real property conveyance from the Authority to Developer, each Party shall furnish the Title Company with appropriate Escrow instructions consistent with, and sufficient to implement the terms of, this Article 10, and will contemporaneously furnish a copy of these instructions to the other Party. At least two (2) Business Days before the date specified for the applicable close of Escrow, each Party shall deposit into Escrow all documents and instruments it is obligated to deposit under this DDA, and at least one (1) Business Day before the date specified for close of Escrow, Developer shall deposit into Escrow all funds it is obligated to deposit under Section 10.4.3.

10.4.2 Conveyance of Title and Delivery of Possession. Provided that the conditions to the Authority's obligations and the conditions to Developer's obligations for the conveyance of the real property have been satisfied or expressly waived by the applicable Party, each as set forth herein, and the mutual conditions have been satisfied or mutually waived (subject to the limitation on waiver set forth in Section 10.3.3), the Authority shall convey to Developer, and Developer shall accept, the applicable real property at the close of Escrow.

10.4.3 Closing Costs and Prorations. Developer shall pay to the Title Company or the appropriate payee all title insurance premiums and endorsement charges, transfer taxes, recording charges and any and all Escrow fees in connection with each conveyance to Developer. Ad valorem taxes and assessments, if any, shall be prorated as of the applicable close of Escrow. Any such taxes and assessments, including supplemental taxes and escaped assessments, levied, assessed, or imposed for any period up to recordation of the Authority Quitclaim Deed or the Ground Lease, shall be borne by the Authority to the extent applicable.

10.4.4 Outside Closing Dates. Each of Developer and the Authority will use commercially reasonable efforts to satisfy the closing conditions set forth in Section 10.3 that are in its control, and will reasonably cooperate with the other Party (not including, unless otherwise required under this DDA, the expenditure of funds) to satisfy conditions that are in the other Party's control. The Authority in its sole and absolute discretion may terminate this DDA as to a particular Sub-Phase without cost or liability by notice to Developer if the Conveyance Agreement has been terminated as to the particular Sub-Phase; provided, however, that to the extent that such termination is subject to arbitration or judicial challenge under the terms of the Conveyance Agreement, such termination has been upheld by an arbitrator and not appealed by Authority, or has been upheld by a court of competent jurisdiction and such decision is final, binding and non-appealable. Upon such termination, the Parties shall have no further rights or obligations to each other under this DDA, except for rights and obligations that are expressly stated to survive termination of this DDA.

10.5 Post-Closing Boundary Adjustments. The Parties acknowledge that as development of the Project Site advances, the description of each parcel of real property may

require further refinements, which may require minor boundary adjustments between the Authority Housing Lots or other property the Authority owns (or acquires as contemplated herein) and parcels conveyed to Developer. The Parties agree to cooperate in effecting any such boundary adjustments required, consistent with this DDA and the Vertical DDA. The Authority and Developer shall include this provision in all agreements with Vertical Developers, TIHDI and Qualified Housing Developers, requiring such parties to cooperate with Developer and the Authority in such boundary adjustments.

10.6 Title Clearance. If the title policy issued to Developer upon the close of Escrow contains exceptions that would adversely affect the development of the real property or the Completion of the Infrastructure and Stormwater Management Controls as required under this DDA, and such exceptions may be removed by means of a Quiet Title Action or street vacation, then the Parties agree to take reasonable actions to eliminate such exceptions, at Developer's sole cost, by means of Quiet Title Action or a supplemental street vacation ordinance.

10.7 Conditions Precedent for Transfers of Lots to Vertical Developers. The following are conditions precedent to Developer's right to convey Lots to Vertical Developers (including entering into Vertical LDDAs for Lots located on Public Trust property to the extent the condition is applicable), unless waived by the Authority Director, although the provisions of paragraphs (a), (d), (e) and (f) shall not be waivable):

(a) the Authority Director shall have Approved the Vertical DDA/LDDA to be executed by Developer, the Authority and Vertical Developer, together with any agreements or documents required by this DDA to be incorporated in the Vertical DDA/LDDA, in accordance with Article 4; provided, however, that Authority Director shall not disapprove any Vertical DDA/LDDA that is substantially in the form of the Vertical DDA/LDDA Form and in compliance with this DDA, including Section 4.1, and all applicable exhibits attached hereto;

(b) Developer shall have satisfied the then current obligations under this DDA and the Schedule of Performance, including the Financing Plan, Housing Plan and the Community Facilities Obligations for the Lot;

(c) Developer shall have recorded the Master CC&Rs against the Lot, which shall be in the form Approved by the Authority in accordance with Section 10.3.2(e).

(d) If Developer is in Material Breach under this DDA, Developer shall have complied with the terms and conditions of Section 4.1 hereof;

(e) for the Transfer of any Lot under Section 17.2 or 17.3, Authority and Developer have complied with the procedures under Sections 17.4 and 17.5; and

(f) Developer shall have recorded in the Official Records a Final Subdivision Map covering the Lot.

11. Property Condition.

11.1 As Is.

11.1.1 The Parties acknowledge that the Authority will receive the Project Site in phases by quitclaim deeds from the Navy under the Conveyance Agreement. Subject to the provisions of Article 10, the Authority shall convey any and all property to be conveyed by the Authority to Developer under this DDA strictly in its "as is, where is" condition with all faults and defects and neither party shall take any actions that materially exacerbate the environmental condition of such property between the date the Navy conveys to the Authority and the date the Authority conveys to Developer. Subject to the provisions of Article 10, Developer agrees to accept the Project Site in its condition at the close of Escrow, acknowledges that notwithstanding anything to the contrary in Article 6 the Authority makes no express or implied representation or warranty as to the condition or title of any real property to be conveyed by the Authority to Developer under this DDA and acknowledges that all necessary physical and title due diligence shall be performed by Developer in accordance with this DDA.

11.1.2 Developer has been given the opportunity to investigate the Project Site fully, using experts of its own choosing, and the Authority shall continue to give Developer such opportunity under a Permit to Enter, with such reasonable conditions as the Authority may impose for any testing. In connection with such investigations, the Authority, at no cost to the Authority, shall cooperate reasonably with Developer and shall afford Developer access, upon not less than five (5) days' prior notice to the Authority, and otherwise at all reasonable times, to such non-privileged books and records as the Authority shall have in its possession or control relating to the prior use and/or ownership of the Project Site.

11.1.3 Developer acknowledges that no City Party has made any representation or warranty, express or implied, with respect to the Project Site, and Developer expressly releases the City Parties from all Losses (as defined in Section 22.1 below) arising out of or relating to the condition of any improvements, the size, suitability or fitness of the land, the existence of Hazardous Substances, compliance with any Environmental Laws, or otherwise affecting or relating to the condition, development, use, value, occupancy or enjoyment of the Project Site, excluding any Losses arising from any Release of a Hazardous Substance to the extent that it is caused, contributed to or exacerbated by a City Party. Nothing in this Agreement shall be construed as a release by Developer of any claims against the United States for any Losses, including without limitation any Losses arising from the Navy's violation of an Environmental Law or its failure to comply with a requirement of the Conveyance Agreement or the Federal Facility Site Remediation Agreement. Developer expressly understands that the portions of the Project Site conveyed by the Authority to Developer are being conveyed strictly in their "as is, where is" condition with all faults and defects. The provisions of this Section 11.1.3 shall survive the close of Escrow.

Developer acknowledges that it is familiar with Section 1542 of the California Civil Code, which provides as follows:

> 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.

Developer waives and relinquishes any right or benefit that it has or may have under Section 1542 of the California Civil Code or any similar or successor provision of law pertaining to the foregoing release.

11.1.4 After the close of Escrow, Developer shall comply with all provisions of Environmental Laws applicable to the real property conveyed to Developer, although Developer shall only be obligated to perform Environmental Remediation as follows:

(a) except as provided in paragraph (b) below, Developer shall perform all Environmental Remediation that may be required under any Environmental Law or this DDA, during the time of Developer's ownership, the cost of which shall be deemed a Project Cost, subject to the applicable limitations set forth in the Financing Plan; and

(b) Notwithstanding any other provision of this Agreement, Developer shall have no obligation to perform any Environmental Remediation that is the Navy's responsibility under the Conveyance Agreement, the Federal Facility Site Remediation Agreement, or applicable Law.

11.1.5 Except as set provided in Section 11.1.4(b), Developer shall perform such Environmental Remediation as may be required to perform its obligations under this DDA in accordance with the Schedule of Performance, the Infrastructure Plan, the Housing Plan, the Parks and Open Space Plan, the Sustainability Obligations, the Community Facilities Obligations, the Transportation Plan Obligations and the Phasing Plan.

11.1.6 The Authority releases Developer, its partners, Affiliates and owners, and the officers, partners, agents, employees and members of each of them (each, a "**Developer Party**"), for any Losses suffered by the Authority relating to (i) the Navy's violation of any Environmental Law or the Navy's failure to comply with a requirement of the Conveyance Agreement or the Federal Facility Site Remediation Agreement, or (ii) any Release of a Hazardous Substance, or any pollution, contamination or Hazardous Substance-related nuisance on, under or from the Project Site, or any other physical condition on the Project Site, to the extent the Release, pollution, contamination, nuisance or physical condition occurred or existed before the conveyance of such property to Developer; provided, however, that this release does not extend to Losses caused by: (A) any Release of a Hazardous Substance to the extent that it is caused, contributed to or exacerbated by a Developer Party or (B) breach of obligations assumed by a Developer Party under any agreement (including this DDA) under which the Developer Party assumes responsibility for any Environmental Remediation. The Authority reserves its rights to enforce Developer's obligations under this DDA and any and all of the foregoing agreements and to take such additional actions as may be set forth in such agreements.

The Authority acknowledges that it is familiar with Section 1542 of the California Civil Code, which provides as follows:

> 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.

The Authority waives and relinquishes any right or benefit that it has or may have under Section 1542 of the California Civil Code or any similar or successor provision of law pertaining to the foregoing release.

11.2 Hazardous Substance Indemnification.

11.2.1 In addition to the Indemnifications set forth in Section 22, Developer shall Indemnify the City Parties from and against any and all Losses incurred by or asserted against any City Party in connection with, arising out of, or in response to, or in any manner relating to:

(a) Developer's breach of any obligation under this DDA with respect to Hazardous Substances;

(b) Developer's violation of any Environmental Law on or relative to the Project Site;

(c) a City Party's indemnification of the State under the Public Trust Agreement Exchange Agreement for the environmental condition of certain land conveyed to the State; provided that if this DDA is terminated for any reason, Developer's Indemnification under this clause (c) with respect to any real property for which Developer did not obtain a Sub-Phase Approval shall terminate on the earlier of (i) the date that the Authority enters into a new disposition and development agreement or similar agreement with a developer that covers the applicable real property, and (ii) four (4) years following the date of termination of this DDA with respect to such real property;

(d) any Release or threatened Release of a Hazardous Substance, or any condition of pollution, contamination or Hazardous Substance-related nuisance on, under or from real property at the Project Site (including any Public Property) to the extent the Release, threatened Release, condition, contamination or nuisance commenced or was created during the period of Developer's ownership of such real property or was caused, contributed to, or exacerbated by Developer or others for whom Developer is responsible; provided, that this clause (d) shall not apply as to a City Party to the extent such violation, Release, threatened Release, condition, contamination or nuisance commenced or was created by or caused, contributed to or exacerbated by a City Party.

In addition, notwithstanding the termination language in clause (c) of the foregoing sentence, Developer's Indemnification under this Section 11.2.1 shall not terminate (x) with

respect to the real property for which Developer obtained a Sub-Phase Approval or (y) to the extent the indemnification obligation is covered under clauses (a), (b), or (d) of this Section 11.2.1. Subject to the foregoing, Developer's obligations under this Section 11.2.1 shall: (1) apply regardless of the availability of insurance proceeds; and (2) survive the expiration or other termination of this DDA and the Authority's issuance of the Certificate of Completion for all of the Infrastructure and Stormwater Management Controls related to such Lot.

However, if it is reasonable to assert that a claim for Indemnification under this Section 11.2.1 is covered by a pollution liability insurance policy or the indemnification provisions of Section 330 of the Fiscal Year 1993 National Defense Authorization Act (P.Law 102-484), pursuant to which the Authority and/or such City Party is an insured party or a potential claimant, then the Authority shall reasonably cooperate with Developer in asserting a claim or claims under such insurance policy or indemnity but without waiving any of its rights under this Section 11.2.1. Developer specifically acknowledges and agrees that it has an immediate and independent obligation to defend the City Parties from any claim that may reasonably fall or is otherwise determined to fall within the indemnification provision of this Section 11.2.1, even if the allegations are or may be groundless, false or fraudulent. Developer's obligation to defend under this Section 11.2.1 shall arise at the time such claim is tendered to Developer and shall continue at all times thereafter. Notwithstanding the foregoing, if a City Party is a named insured on a pollution liability insurance policy obtained by the Developer, such City Party will not seek indemnification from Developer under this Section 11.2.1 unless it has asserted and diligently pursued a claim for insurance under such policy and until any limits from the policy are exhausted, on condition that (i) Developer pays any self-insured retention amount required under the policy, and (ii) nothing in this sentence requires any City Party to pursue a claim for insurance through litigation prior to seeking indemnification from Developer.

11.2.2 In addition to the Indemnifications set forth in Section 22, Vertical Developers shall each Indemnify the City Parties from and against any and all Losses incurred by or asserted against any City Party in connection with, arising out of, in response to, or in any manner relating to (i) such Vertical Developer's violation of any Environmental Law on or relative to the Project Site or (ii) any Release or threatened Release of a Hazardous Substance, or any condition of pollution, contamination or Hazardous Substance-related nuisance on, under or from real property at the Project Site (including any Public Property) to the extent the Release, threatened Release, condition, contamination or nuisance occurred during the period of such Vertical Developer's ownership thereof or was caused, contributed to, or exacerbated by such Vertical Developer or others for whom such Vertical Developer is responsible, except, as to a City Party, to the extent such violation, Release, threatened Release, condition, contamination or nuisance was caused, contributed to or exacerbated by a City Party. A Vertical Developer's obligations under this Section 11.2.2 shall (1) apply regardless of the availability of insurance proceeds and (2) survive the expiration or termination of this DDA and the Authority's issuance of the Certificate of Completion for all of the Vertical Improvements for such Vertical Developer. However, if it is reasonable to assert that a claim for Indemnification under this Section 11.2.2 is covered by a pollution liability insurance policy or the indemnification provisions of Section 330 of the Fiscal Year 1993 National Defense Authorization Act (P.Law 102-484), under which the Authority and/or such other City Party is an insured party or a potential claimant, then the Authority shall reasonably cooperate with Vertical Developer in asserting a claim or claims under such insurance policy but without waiving any of its rights

under this Section 11.2.2. Each Vertical Developer shall specifically acknowledge and agree that it has an immediate and independent obligation to defend the City Parties from any claim that may reasonably fall or is otherwise determined to fall within the indemnification provision of this Section 11.2.2, even if allegations are or may be groundless, false or fraudulent. A Vertical Developer's obligation to defend shall arise at the time such claim is tendered to such Vertical Developer and shall continue at all times thereafter. Notwithstanding the foregoing, if a City Party is a named insured on a pollution liability insurance policy, such City Party will not seek indemnification from Vertical Developer under this Section 11.2.2 unless it has asserted and diligently pursued a claim for insurance under such policy and until any limits from the policy are exhausted, on condition that (i) Vertical Developer pays any self-insured retention amount required under the policy, and (ii) nothing in this sentence requires any City Party to pursue a claim for insurance through litigation prior to seeking indemnification from Vertical Developer.

11.2.3 The term "**Hazardous Substance**" means any material, waste, chemical, compound, substance, mixture, or byproduct that is identified, defined, designated, listed, restricted or otherwise regulated under Environmental Laws as a "hazardous constituent", "hazardous substance", "hazardous waste constituent", "infectious waste", "medical waste", "biohazardous waste", "extremely hazardous waste", "pollutant", "toxic pollutant", or "contaminant", or any other designation intended to classify substances by reason of properties that are deleterious to the environment, natural resources, wildlife or human health or safety, including, without limitation, ignitability, infectiousness, corrosiveness, radioactivity, carcinogenicity, toxicity and reproductive toxicity. Hazardous Substance includes, without limitation, any form of natural gas, petroleum products or any fraction thereof, asbestos, asbestos-containing materials, polychlorinated biphenyls ("**PCBs**"), PCB-containing materials, and any substance that, due to its characteristics or interaction with one or more other materials, wastes, chemicals, compounds, substances, mixtures or byproducts, damages or threatens to damage the environment, natural resources, wildlife or human health or safety.

11.2.4 The term "**Environmental Laws**" includes all applicable present and future federal, State and local laws, statutes, rules, regulations, ordinances, standards, directives, and conditions of approval, all administrative or judicial orders or decrees and all permits, license approvals or other entitlements, or rules of common law pertaining to Hazardous Substances, the protection of the environment, natural resources, wildlife, human health or safety, or employee safety or community right-to-know requirements related to the work being performed under this DDA or a Vertical DDA.

11.2.5 The term "**Release**" means any accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the air, soil gas, land, surface water, groundwater or environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any Hazardous Substance). The term includes a threatened "Release" but does not include any passive migration of a Hazardous Substance through the air, soil gas, land, surface water or ground water after the Hazardous Substance has been previously spilled, leaked, pumped, poured, emitted, discharged, injected, escaped, leached, dumped or disposed into the air, soil, gas, land, surface water or groundwater.

11.3 Environmental Insurance. The Parties shall obtain, at Developer's sole cost, pollution legal liability insurance as specified in the Insurance Requirements, except to the extent insurance meeting such specifications cannot be obtained for a commercially reasonable premium, in which case the failure to obtain such pollution legal liability insurance shall not be an Event of Default hereunder, but shall be considered an event of Force Majeure. The Authority and Developer each will use commercially reasonable efforts to obtain the environmental insurance policy proceeds when applicable, and will reasonably cooperate with each other in connection with pursuing claims under the policies.

11.4 Damage and Destruction. From and after the Effective Date, Developer shall assume all risk of damage to or destruction of real property to be conveyed to Developer under this DDA, subject to the terms of this Section 11.4. Since Developer plans to develop the Project Site, any existing improvements that are not required by a Major Phase Approval to remain do not have significant value for Developer, and therefore damage to or destruction of such improvements will not affect the Parties' rights and obligations under this DDA, which will continue in full force and effect without any modification except as set forth below. If permitted by applicable law, the Authority shall assign to Developer at close of Escrow any and all unexpended insurance proceeds and any uncollected claims and rights under insurance policies covering such damage or destruction, if any. But, if solely as a result of an earthquake, flood, other act of God or other casualty event outside of Developer's reasonable control occurring after the Effective Date but before close of Escrow for the real property in a Sub-Phase, the estimated cost to construct the Infrastructure and Stormwater Management Controls for the Sub-Phase, net of any available insurance proceeds, exceeds Developer's then current construction cost estimates (without reference to the damage or destruction) by more than twenty percent (20%), Developer shall have the right, as its sole remedy, to terminate this DDA as to the Sub-Phase in question by notice to the Authority; provided, however, that prior to termination, Developer may deliver a Requested Change Notice to the Authority in accordance with Section 3.8.2. In addition, if an earthquake or other event referenced above occurs, Developer will arrange with commercially reasonable promptness, in light of the circumstances, to have an updated construction cost estimate for the Infrastructure and Stormwater Management Controls for such Sub-Phase, and applicable Major Phase, prepared by a construction cost estimator Approved by the Authority Director. The updated construction cost estimate will reflect any additional costs caused by the earthquake or other event referenced above, and the estimator shall be instructed to deliver copies of its estimate to Developer and the Authority, each of whom will confirm receipt by notice to the other. If the updated construction cost estimate exceeds Developer's most recent prior construction cost estimate by at least the percentage specified above, then Developer may terminate this DDA for the real property in question by notice to the Authority within one hundred twenty (120) days after receipt of the updated estimate. If the updated estimate does not exceed the prior construction cost estimate by such percentage, Developer does not elect to terminate, or Developer fails to respond within such one hundred twenty (120) day period, the Parties' rights and obligations under this DDA will not be affected and this DDA shall continue in full force and effect without regard to such damage or destruction, provided, that Developer and the Authority shall reasonably revise the Schedule of Performance to reflect any additional time Developer may need to make adjustments to the Infrastructure and Stormwater Management Controls or other plans for the applicable property. The Authority will have no obligation to repair any improvements on the Project Site or have any liability for their damage or destruction, however caused.

11.5 Proportionality. If Developer's proposed termination of a Sub-Phase under Section 11.4 would result in a violation of the proportionality principle set forth in Section 1.7, as reasonably determined by the Authority Director, then the Authority Director shall so notify Developer and the Parties shall negotiate in good faith for a proposed resolution that maintains the benefit of the bargain for both Parties. The period of such good faith negotiations shall be Administrative Delay. If the Parties are unable to reach agreement within one hundred twenty (120) days after Developer's receipt of the Authority's notice, then either Developer or the Authority may submit the matter to arbitration under Section 15.2.

11.6 Deed Restrictions. The Parties anticipate that the environmental remedies selected by the Navy in Final Records of Decision for certain real property in the Project Site will require the imposition of land use and activity restrictions on such property. Such land use restrictions will be contained in quitclaim deeds from the Navy for such property or in other enforceable restrictions imposed on such property.

12. Amendments to Transaction Documents. The Authority shall not approve, recommend, or forward to the Board of Supervisors or any City Agency or Governmental Entity for approval any termination of or amendment, supplement, or addition to any component of the Transaction Documents or Development Requirements (an "**Amendment Action**") unless consistent with this Section 12.

12.1 Before Issuance of the Last Certificate of Completion. Before issuance of the last Certificate of Completion for the Project (including all Horizontal and Vertical Improvements contemplated under this DDA as of the Reference Date or Approved by the Authority at any time thereafter), the Authority may only take an Amendment Action without Developer's Consent if such Amendment Action would be permitted under the Development Agreement.

12.2 Following Issuance of the Last Certificate of Completion. Following issuance of the last Certificate of Completion for the Project (including all Improvements contemplated under this DDA as of the Reference Date or at any time thereafter) within the Project Site, the Authority may take an Amendment Action without Developer's Consent if the Amendment Action would be permitted under the Development Agreement. The provisions of this Section 12.2 shall survive the termination of this DDA.

12.3 Prior to Completion of Reimbursements under Financing Plan or Acquisition and Reimbursement Agreement. To the extent that the Authority has any outstanding obligations to Developer under the Financing Plan or any Acquisition and Reimbursement Agreement, the Authority may not without Developer's Consent take an Amendment Action that would adversely affect in any material respect (i) the continuing rights and obligations of Developer under this DDA, (ii) the Authority's ability to satisfy its obligations to Developer under this DDA (including, but not limited to, the Financing Plan and any Acquisition and Reimbursement Agreement) or (iii) the amount or timing of any payments due to Developer from the Funding Sources under this DDA (including the Financing Plan and any Acquisition and Reimbursement Agreement) unless such Amendment Action would be permitted under the Development Agreement.

12.4 Developer's Consent. As used in this Article 12, "**Developer's Consent**" means the prior written consent of Treasure Island Community Development, LLC, acting as Master Developer, except to the extent that the right to provide such consent (i) has been Transferred under Section 21.3, in which case Developer's Consent shall mean the prior written consent of the applicable Transferee, or (ii) has been pledged to a Mortgagee, in which case Developer's Consent shall also mean the prior written consent of the Mortgagee to the extent the Mortgage documentation so requires or (iii) has been granted to a Vertical Developer under a Vertical DDA/LDDA, in which case Developer's Consent shall mean the prior written consent of the applicable Vertical Developer; provided, that Developer's Consent shall only apply to a Party if that Party is affected by the proposed Amendment Action. Any Person entitled to give Developer's Consent shall have the right to grant or deny such consent in its sole discretion. Developer's Consent shall not be required of a Person that is then in Material Breach or has committed an Event of Default unless and until the Material Breach or Event of Default has been cured.

12.5 Notice Regarding Amendment Action. At least fifteen (15) Business Days before proposing or taking any Amendment Action, the Authority shall provide notice of such Amendment Action to Developer and each Vertical Developer, including the text of any such Amendment Action.

13. Compliance with Plans and Policies; Payment of Subsidies.

13.1 Compliance with Plans and Obligations. Developer and the Authority shall each at all times comply with the applicable provisions of the following Plans and Obligations, which are attached hereto and incorporated herein by this reference:

13.1.1 the Financing Plan

13.1.2 the Housing Plan;

13.1.3 those provisions of the Community Facilities Plan set forth in Exhibit F attached hereto (the "**Community Facilities Obligations**");

13.1.4 the Parks and Open Space Plan (including the provisions of the Habitat Management Plan incorporated therein);

13.1.5 the provisions of the Transportation Plan set forth in Exhibit N attached hereto (the **"Transportation Plan Obligations"**);

13.1.6 the Infrastructure Plan; and

13.1.7 those provisions of the Sustainability Plan set forth in Exhibit O attached hereto (the "**Sustainability Obligations**").

13.1.8 Jobs and Equal Opportunity Program. Developer, the Authority and, to the extent required in its Vertical DDA/LDDA, each Vertical Developer, shall at all times comply with the Treasure Island Jobs and Equal Opportunity Program attached hereto as Exhibit P (the "**Jobs EOP**").

13.2 Relocation Plans. The Authority shall consult with the Developer regarding, and the Authority and Developer shall cooperate in effecting, any relocations required pursuant to the Transition Requirements in an efficient manner and in accordance with relocation plans prepared by Developer and Approved by the Authority, including but not limited to the Transition Housing Rules and Regulations. Notwithstanding the foregoing, any and all relocation obligations shall be performed and satisfied in accordance with applicable law.

13.3 Developer Subsidies. Developer shall pay to Authority the following subsidies (collectively, the "**Subsidies**"):

13.3.1 Open Space Annual Subsidy: Developer shall pay to the Authority a subsidy for the costs of operating and maintaining Improvements constructed pursuant to the Parks and Open Space Plan in accordance with Section 2.7 of the Financing Plan.

13.3.2 Transportation Subsidies:

(a) Developer shall pay to the Authority a subsidy for the costs of the operation of transit facilities as provided for in the Transportation Plan in accordance with this Section (the "**Annual Transportation Subsidy**"). Developer shall pay the Annual Transportation Subsidy in annual installments (each, an "**Annual Transportation Subsidy Payment**") commencing on June 30 of the year that operation of the first new on-island shuttle, AC Transit bus or ferry begins service to or within the Project Site and each year thereafter (each a "**Transportation Subsidy Payment Date**"), provided, however, that for the first year only, the Annual Transportation Subsidy Payment shall be paid within thirty (30) days after the first new on-island shuttle, AC Transit bus or ferry begins service if service commences after June 30 of that year.

(b) Starting with the Reference Date, Authority shall be credited with a non-cash "**Transportation Subsidy Account**" balance of Thirty Million Dollars ($30,000,000). The amount of each Annual Transportation Subsidy Payment shall be the lesser of (i) the amount of subsidy needed for transit facility operations as shown in the annual budget adopted by the Treasure Island Transportation Management Agency ("**TITMA**"), and (ii) an "**Annual Transportation Subsidy Maximum Amount**" of Four Million Dollars ($4,000,000.00). If the Annual Transportation Subsidy Payment in any year is less than the Annual Transportation Subsidy Maximum Amount, then the unused amount shall be applied to the Annual Transportation Subsidy Maximum Amount for the subsequent year, and such amount shall become the new Transportation Subsidy Maximum Amount for that year.

(c) The Annual Transportation Subsidy Payment shall reduce the Transportation Subsidy Account balance by a corresponding amount. At the end of each Authority Fiscal Year, commencing at the end of the Authority Fiscal Year in which the Reference Date occurs, the Transportation Subsidy Account balance remaining after the Annual Transportation Subsidy Payment has been made shall be credited with interest based on the increase in the Index over the prior twelve month period (except that the first interest credit shall be based on the period from the Reference Date to the end of the Authority Fiscal Year in which the Reference Date occurs). Developer's obligation to pay the Annual Transportation Subsidy shall cease when the Transportation Subsidy Account balance has been exhausted. Developer

shall have no obligation to increase the available balance in the Transportation Subsidy Account at any time after the account is first established.

(d) If upon Completion of the southern breakwater, as described in the Infrastructure Plan, there remains an unused balance in the Transportation Subsidy Account, Developer, upon Authority's written request, shall pay all unused amounts to Authority.

(e) Authority shall assign all Transportation Subsidy Payments to TITMA to the extent required, provided, however, that in all events such funds shall be restricted to use for operating transit and maintaining transportation facilities in accordance with TITMA's governing documents and approved budget. Commencing in the year prior to the first year in which the Transportation Subsidy Payment occurs and each year thereafter, Authority shall meet and confer with Developer and the TITMA to review a preliminary budget and transit service plan anticipated for the upcoming year. This meet and confer process shall be coordinated with the TITMA's budgeting process and any consultations by TITMA with the Water Emergency Transit Agency, AC Transit, or other transit providers. Developer shall have the right to comment on the preliminary budget and service plan, and propose revisions reasonably designed to achieve cost savings, efficiencies or better transportation operations. Authority shall cooperate with Developer and the TITMA in good faith to implement such reasonable revisions proposed by Developer, other than as a result of the accrual of interest earnings set forth herein.

(f) Transportation Capital Contributions Subsidy: Developer shall pay Authority a "**Transportation Capital Contributions Subsidy**" in accordance with this Section. Starting on the Reference Date, Authority shall be credited with a non-cash "**Transportation Capital Contribution Account**" balance of One Million Eight Hundred Thousand Dollars ($1,800,000), adjusted annually at the end of each Authority Fiscal Year by the increase in the Index over the prior twelve month period (except that the first interest credit shall be based on the period from the Reference Date to the end of the Authority Fiscal Year in which the Reference Date occurs). Upon request by the SFMTA when required to pay for the purchase of a Muni bus necessary to serve the Project, Developer shall pay SFMTA the lesser of (i) 20% of the cost of the SFMTA bus, or (ii) Three Hundred Thousand Dollars ($300,000) adjusted by the percentage increase, if any, between the Index published in the month prior to the Reference Date and the Index published for the month prior to the applicable payment (or if no Index is published for the applicable month, the Index for the closest preceding month for which the Index is published). Each SFMTA bus payment shall reduce the Transportation Capital Contribution Account balance. If at the time SFMTA purchases its sixth bus, there remains an unused balance in the Transportation Capital Contribution Account, Developer upon Authority's written request, shall pay all unused amounts to SFMTA.

(g) Additional Transportation Subsidy. Notwithstanding anything in this Agreement to the contrary, after the first certificate of occupancy (whether temporary or final) has been issued for the 4,000th dwelling unit on the Project Site, the Authority and the San Francisco County Transportation Authority ("**SFCTA**") shall have the right in accordance with the process described in this Section 13.3.2(g) to require further

commitments from Developer to reduce automobile car trips during the peak hour and improve transit usage.

(i) Within one year after the issuance of the certificate of occupancy for the 4000th dwelling unit on the Project Site, the Authority shall (x) prepare, at Developer's cost, a report that analyzes the travel behavior of island residents, (y) hold a duly noticed public meeting of the Authority's Board of Directors on the report, and (z) make a recommendation to the SFCTA regarding the need to implement additional transportation demand management programs to reduce automobile car trips during the peak hour and improve transit usage.

(ii) In the event that the report shows the residential transit mode share, measured as a percentage of residential transit trips out of the total residential off-Island person-trips, during the weekday morning and evening peak hour is 50% or less, then, within ninety (90) days of the report and the Authority's recommendation to the Clerk of the SFCTA, the SFCTA may require that the Developer pay to TITMA an additional transportation subsidy (the "**Additional Transportation Subsidy**") in the total amount of $5 million, in five (5) consecutive annual installments of $1 million each. The annual installments of the Additional Transportation Subsidy shall commence on June 30 of the year that the SFCTA requires the Additional Transportation Subsidy, provided that for the first year only, the annual Additional Transportation Subsidy payment shall be paid within thirty (30) days of the SFCTA's demand. The Additional Transportation Subsidy shall accrue interest in the same manner as provided in this Section 13.3.2 with respect to the Annual Transportation Subsidy.

13.3.3 Community Facilities Subsidy:

(a) As part of each Major Phase Application and Approval, the Developer and the Authority shall meet and confer to determine which Community Facility Obligations (as set forth in Exhibit F) will be met within that Major Phase and related Sub-Phases with the final determination to be made by the Authority as part of the Major Phase Approval. The Authority and the Developer will meet and confer to discuss whether the physical space for the applicable community facility will be developed by Developer in connection with its development of an identified Sub-Phase or if Developer will pay a subsidy to the Authority for the Authority to provide such space within the identified Sub-Phase (in either case, the "**Community Facilities Subsidy**"), with the final determination to be made by the Authority as part of the Major Phase Approval.

(b) If the Major Phase Approval provides that Developer will develop the community facility, then in connection with the Sub-Phase Application that contains the applicable community facility, Developer shall submit to Authority for its review and Approval a budget and program description detailing the use of the funds for the applicable community facility and the proposed size of the community facility. If Developer is to pay the Community Facilities Subsidy to Authority, then in connection with the Sub-Phase Approval that contains the applicable community facility, Authority shall submit to Developer for its review and Approval a budget and program description detailing the use of the funds for the applicable community facility. It shall be reasonable for the applicable reviewing Party to withhold its Approval if the proposed community facility is inconsistent with the Community Facility

Obligation, if the amounts requested are budgeted for programming and/or operations, as opposed to capital expenditures, or if the proposed budget amount would exceed the Major Phase Community Facilities Maximum Amount (as described in the following paragraph).

(c) Starting with the Reference Date, Authority shall be credited with a non-cash Community Facilities account balance of Twelve Million Dollars ($12,000,000), which includes a Two Million Five Hundred Thousand Dollars ($2,500,000) subsidy for the child-care facility described in the Community Facilities Obligations. If the Major Phase Approval requires Developer to develop the community facility, Developer shall develop the community facility as part of the applicable Sub-Phase. If the Major Phase Approval requires Developer to pay the Community Facilities Subsidy to Authority, it shall do so within thirty (30) days after Authority's request made at any time after Commencement of the applicable Sub-Phase. In either case, the maximum amount of the applicable Community Facilities Subsidy that Developer is obligated to pay (i.e. either the maximum amount to be expended by Developer on all hard and soft costs for its development of the Community Facility or the maximum amount to be paid to Authority if Authority is to construct the Community Facility) shall be the lesser of (i) the amount of subsidy Approved by Parties as part of the Sub-Phase Application, and (ii) a "**Major Phase Community Facilities Maximum Amount**" of Two Million Three Hundred Seventy Five Thousand Dollars ($2,375,000.00), excluding the amount for the child-care facility. If the Community Facilities Subsidy in any Major Phase is less than the Major Phase Community Facilities Maximum Amount for that Major Phase, then the unused amount shall be applied to the Major Phase Community Facilities Maximum Amount for the next Major Phase for which an Application is submitted to the Authority, and such amount shall become the new Major Phase Community Facilities Maximum Amount for that Major Phase.

(d) Each Community Facilities Subsidy payment (i.e., the amount either paid by Developer to Authority, or the actual amount expended by Developer for reasonable and customary hard and soft costs for construction of the applicable Community Facility as evidenced by invoices, proofs of payment and other reasonably satisfactory evidence submitted to Authority of total hard and soft costs incurred by Developer upon Completion of the applicable community facility) shall reduce the Community Facilities account balance by the corresponding amount. Each year, the Community Facilities account balance remaining after a Community Facilities Subsidy payment has been made shall be credited with interest based on the increase in the Index over the prior twelve month period (except that the first interest credit shall be based on the period from the Reference Date to the end of the Authority Fiscal Year in which the Reference Date occurs). Developer's obligation to pay the Community Facilities Subsidy shall cease when the Community Facilities account balance has been exhausted. Developer shall have no obligation to increase the available balance in the Community Facilities account at any time after the account is first established, other than as a result of the accrual of interest as set forth herein.

(e) If, upon Approval of the Major Phase Application of Major Phase 4, there remains a balance in the Community Facilities account, Developer, upon Authority's written request, shall pay an amount equal to the unused balance to Authority for uses consistent with the Community Facilities Plan.

13.3.4 Developer Housing Subsidy. Developer shall pay to the Authority a subsidy for the development of Authority Housing Units on the Authority Housing Lots and the implementation of the Transition Housing Rules and Regulations (the **"Developer Housing Subsidy**"). The Developer Housing Subsidy shall be paid over time as set forth in the Housing Plan, and shall equal the total number of Market Rate Units allowed to be constructed on each Market Rate Lot as set forth in the Vertical DDA for such Lot multiplied by Seventeen Thousand Five Hundred Dollars ($17,500), subject to the minimum and maximum requirements set forth in Section 6.1(b) of the Housing Plan. In addition, Developer shall pay to the Authority the Housing Costs payment described in Section 3.6 of the Financing Plan.

13.3.5 School Improvement Payment:

(a) Developer shall pay to the Authority a Five Million Dollar ($5,000,000) subsidy to be used only for the refurbishment of school facilities on Treasure Island (the "**School Subsidy**"). Commencing on the Reference Date, Authority shall be credited with a non-cash School Subsidy account balance of Five Million Dollars ($5,000,000). At the end of each Authority Fiscal Year, commencing at the end of the Authority Fiscal Year in which the Reference Date occurs, the School Subsidy account balance shall be credited with interest based on the percentage increase in the Index over the prior twelve (12) months (except that the first interest credit shall be based on the period from the Reference Date to the end of the Authority Fiscal Year in which the Reference Date occurs). Developer shall have no obligation to replace the available balance in the School Subsidy account at any time after the account is first established, other than as a result of the accrual of interest as set forth herein.

(b) The School Subsidy shall be payable to Authority for use by the San Francisco Unified School District ("**SFUSD**") or the Authority (through a qualified school of its choosing), if SFUSD or the Authority (through a qualified school of its choosing) undertakes the refurbishment of the existing school on Treasure Island for use as a K-5 or K-8 school by obtaining a building permit and commencing work. Notwithstanding the foregoing, if SFUSD or the Authority has not obtained a building permit and commenced work on the school prior to issuance of a building permit for the 2,500th Residential Unit, then at any time thereafter prior to SFUSD or the Authority obtaining a building permit to commence refurbishment work of the existing school facilities for a K-5 or K-8 school, Developer shall be entitled to identify a qualified school operator subject to the Authority's Approval to enter into an LDDA and a Ground Lease with the Authority for the refurbishment of the existing school facilities as a K-5 or K-8 school, or at such other location on the Project Site as Approved by the Authority. Such Ground Lease shall be at no rent and on such other terms as are mutually agreed-upon by the parties, and the School Subsidy shall be applied to the refurbishment of the existing school by the applicable school operator for use as a K-5 or K-8 school.

13.3.6 Ramps/Viaduct Subsidy. Developer shall pay a subsidy to the Authority for reimbursement for the costs of construction of ramps and viaduct improvements on Yerba Buena Island (the "**Ramps Subsidy")**. The Ramps Subsidy shall be equal the "TIDA Reimbursement Obligation" due from the Authority to the SFCTA in accordance with Section 4 of the Memorandum of Agreement for Project Management and Oversight, Engineering and Environmental Services for the Yerba Buena Improvements Project dated July 1, 2008, as amended (the "**SFCTA MOA**"). The Ramps Subsidy shall be payable to the Authority (or at the

Authority's request, directly to the SFCTA) as a City Cost, in accordance with Section 19.8 hereof, and the amounts and the due dates for payment of the Ramps Subsidy shall be consistent with the TIDA Reimbursement Obligation under Section 4 of the SFCTA MOA, as amended.

13.3.7 Fill Payment: Developer shall have the right to use dirt from the fill stockpile located on a portion of the Project Site that is the subject of the agreement between Authority and D.A. McCosker Construction Co., dated June 8, 2010 (the **"Soil Stockpile**"), from time to time during construction of Infrastructure and Stormwater Management Controls. Developer's use of the fill shall be pursuant to a Permit to Enter. Developer shall pay Authority for the use of the fill at the rate of Three Dollars and Fifty Cents ($3.50) per cubic yard as such fill is removed from the Soil Stockpile in accordance with the Permit to Enter. If any fill remains in the Soil Stockpile after December 31, 2015, Developer shall pay Authority a fill removal subsidy based on the remaining amount of fill times $3.50 per cubic yard, in three (3) equal annual installments commencing on February 1, 2016, up to a maximum amount of One Million Dollars ($1,000,000).

13.3.8 TIHDI Job Broker Program Subsidy. Developer shall pay the TIHDI Job Broker Program Subsidy to fund the TIHDI Job Broker program in accordance with the terms of Section 9 of the Jobs EOP.

14. [Reserved].

15. Resolution of Certain Disputes.

15.1 Arbitration Matters and Expedited Issues.

15.1.1 Each of the following is an "**Arbitration Matter**" following notice from one Party to another Party that a dispute exists as to such matter: (i) disapproval by the Authority of Construction Documents for Infrastructure and Stormwater Management Controls, but not the failure of the Authority to grant a Certificate of Completion (and any consent necessary from the Department of Public Works or any other City Agency shall not be governed by this DDA); (ii) the Parties' failure to reach agreement under Section 11.5 [Proportionality]; (iii) the failure of the Authority Director to Approve a Vertical DDA or Vertical LDDA; (iv) disputes under Articles 17 [Sale of Lots], Article 24 [Excusable Delay]; (v) the sufficiency of Adequate Security provided under Article 26, but not any disputes regarding the right to call or act upon Adequate Security or the failure of an obligor of Adequate Security to perform its obligations under the Adequate Security; (vi) disputes related to the Work Program and Redesign Budget described in Section 6.2.5; and (vii) disputes under provisions set forth in Exhibits to this DDA that call for or permit arbitration and do specify a specific arbitration process.

15.1.2 Each of the following is an "**Expedited Arbitration Matter**" following notice from on Party to another Party that a dispute exists as to such matter: (i) Major Phase Decisions; (ii) proposed amendments to appraisal instructions (pursuant to Section 17.4.2); (iii) proposed additions or subtractions to the Qualified Appraiser Pool (pursuant to Section 17.4.1); or (iv) proposed additions or subtractions to the Pre-Approved Arbiters List (pursuant to Section 15.3.1).

15.1.3 Any other provision of this Agreement notwithstanding, (i) Expedited Arbitration Matters shall be resolved by binding arbitration in accordance with the expedited dispute resolution procedure set forth in Section 15.3.2, (ii) Arbitration Matters shall be resolved by non-binding arbitration in accordance with the non-binding arbitration procedures set forth in Section 15.3.3, and (iii) such other disputes under this Agreement shall be resolved either by non-binding arbitration in accordance with the non-binding arbitration procedures set forth in Section 15.3.3 if the Parties mutually agree, or barring such mutual agreement as to a particular other dispute, in accordance with this Agreement and all applicable laws.

15.2 Good Faith Meet and Confer Requirement.

15.2.1 With respect to any dispute regarding an Arbitration Matter or an Expedited Arbitration Matter, the Parties shall make a good faith effort to resolve the dispute prior to submitting the dispute to arbitration. Within five (5) Business Days after a request to confer regarding an identified matter, representatives of the Parties who, if permissible, are vested with decision-making authority shall meet to resolve the dispute. If the Parties are unable to resolve the dispute at the meeting (or such longer time as each Party may agree each in its sole discretion), the matter shall immediately be submitted to the expedited dispute resolution process set forth in Section 15.3.2 for Expedited Arbitration Matters and the general dispute resolution process set forth in Section 15.3.3 for Arbitration Matters.

15.2.2 With respect to any other dispute arising hereunder this DDA, the Parties shall make a good faith effort to resolve the dispute in the most expeditious manner possible. Within five (5) Business Days after receipt of the notice of dispute, representatives of the affected Parties shall meet to resolve the dispute. If the Parties are unable to resolve the dispute in good faith within ten (10) Business days after receipt of the notice of dispute, the Parties shall either agree within ten (10) Business Days after receipt of the notice of dispute to proceed with the non-binding arbitration procedures set forth in Section 15.3.3, or barring such agreement, either Party may proceed unilaterally as permitted by this Agreement or by law. Notwithstanding the foregoing, if Developer or the Authority Director (but not the Authority Board) fails to Approve a matter as to which it is required by this DDA to be reasonable, the Party who requested the Approval shall have the right to submit the matter of whether the failure to Approve was reasonable to the arbitration procedures set forth in Section 15.3.3.

15.3 Dispute Resolution Procedures.

15.3.1 Arbiters. The arbitrator ("**Arbiter**") of Arbitration Matters and Expedited Arbitration Matters will be selected by mutual agreement of the parties to be determined no later than thirty (30) days prior to the Initial Closing under the Conveyance Agreement from a list of pre-approved Arbiters attached hereto as Exhibit Q (the "**Pre-Approved Arbiters List**"). The Arbiter will hear all disputes under this Agreement unless the Arbiter is not available to meet the time schedule set forth herein, in which case the Parties may agree to direct the dispute to another Arbiter on the Pre-Approved Arbiters List. If none of the Arbiters listed is able or willing to serve, the parties shall mutually agree on the selection of an Arbiter to serve for the purposes of this dispute. The Arbiter appointed must meet the Arbiters' Qualifications. The "**Arbiter's Qualifications**" shall be defined as at least ten (10) years experience in a real property professional capacity, such as a real estate appraiser, broker, real

estate economist, or attorney, in the Bay Area. The Parties shall review the Pre-Approved Arbiters List on an annual basis, determine the continued availability and willingness to serve of each Arbiter, and may at that time or from time to time, seek to add or subtract arbiters from the Pre-Approved Arbiter List, by notice in writing to the other Party. Any such notice will be accompanied by supporting documentation of the new proposed Arbiter's qualifications or with the reasons for seeking to remove an Arbiter from the Pre-Approved Arbiters List, as applicable. The other Party shall have fifteen (15) Business Days to respond in writing to such request, and failure to respond shall be deemed consent so long as the notice shall include a statement providing that the failure to respond in such fifteen (15) Business Day period shall be deemed consent. If the other Party objects, the Parties shall confer pursuant to Section 15.2.2 and thereafter such disputes (if still unresolved after conferring) shall be referred to arbitration pursuant to Section 15.3.2. Notwithstanding the foregoing, if based upon the annual review or at any time during the Term, the Parties become aware that an Arbiter has become unavailable to serve in any prospective Arbitration or has expressed an unwillingness to continue to serve, the Parties shall replace that Arbiter with a new Arbiter mutually agreed-upon by the Parties.

15.3.2 Expedited Dispute Resolution Procedure. The Party(ies) disputing any Expedited Arbitration Matter shall, within fifteen (15) Business Days after submittal of the dispute to arbitration, submit a brief with all supporting evidence to the Arbiter with copies to all Parties. Evidence may include, but is not limited to, expert or consultant opinions, any form of graphic evidence, including photos, maps or graphs and any other evidence the Parties may choose to submit in their discretion to assist the Arbiter in resolving the dispute. In either case, any interested Party may submit an additional brief within five (5) Business Days after distribution of the initial brief. The Arbiter thereafter shall hold a telephonic hearing and issue a decision in the matter promptly, but in any event within twenty-five (25) Business Days after the initiation of the arbitration, unless the Arbiter determines that further briefing is necessary, in which case the additional brief(s) addressing only those items or issues identified by the Arbiter shall be submitted to the Arbiter (with copies to all Parties) within ten (10) Business Days after the Arbiter's request, and thereafter the Arbiter shall hold a telephonic hearing and issue a decision promptly but in any event within ten (10) Business Days after submission of such additional briefs, and no later than forty-five (45) Business Days after the initiation of the arbitration. The decision of the Arbiter will be final, binding on the Parties and non-appealable.

15.3.3 Non-Binding Arbitration Process for Other Disputes.

(a) Election to Participate in Non-Binding Arbitration. For Arbitration Matters and other disputes under this DDA that the parties agree to arbitrate in accordance with Section 15.2.2, the Parties shall submit the dispute to non-binding arbitration by notifying the Arbiter (selected as described in Section 15.3.1) of the dispute within ten (10) Business Days after expiration of the good faith meet and confer provisions of Section 15.2. Thereafter, within ten (10) Business Days, each Party to the dispute shall submit to the Arbiter and serve on the other Party to the non-binding arbitration a short statement of the dispute and a proposed discovery and hearing schedule.

(b) Preliminary Hearing. Within twenty (20) Business Days after notice of the election to participate in non-binding arbitration, the Arbiter shall conduct, either telephonically or in-person, a preliminary hearing. At the preliminary hearing the Arbiter

shall decide discovery and briefing issues and set dates, including a hearing date. In resolving discovery issues, the Arbiter shall consider expediency, cost effectiveness, fairness, and the needs of the Parties for adequate information with respect to the dispute.

(c) Retention of Consultants. The Parties by mutual agreement may retain consultants to assist the Arbiter in the course of Arbitration, if requested by the Arbiter. In his or her request, the Arbiter shall provide to all Parties to the dispute an explanation for the need for the consultant, the consultant's identity, hourly rate, and the estimated costs of the service. All Parties to the dispute must approve the retention of the consultant and, if retention of the consultant is approved, how the Parties will share the cost of the consultant. The consultant's cost shall not exceed $10,000 without the prior written consent of the Parties to the dispute.

(d) Commencement of Non-Binding Arbitration. The non-binding arbitration hearing shall commence no later than sixty (60) days after the initial preliminary hearing, unless the Parties to the dispute mutually agree to extend the date or the Arbiter extends the date.

(e) Additional Procedural Requirements. The procedural rules of the non-binding arbitration under Section 15.3.3 shall be supplemented by any non-conflicting non-binding arbitration procedures of other alternative dispute resolution providers as may be mutually agreed upon by the Parties from time to time, applicable to commercial non-binding arbitration, and may be modified by agreement of the Parties.

(f) Decision of Arbiter. The Arbiter shall make a written non-binding advisory decision, specifying the reasons for the decision, within twenty (20) calendar days after the hearing. Each Party will give due consideration to the Arbiter's decision prior to pursuing further legal action, which decision to pursue further legal action shall be made in each Party's sole and absolute discretion.

(g) Time Period to Complete Non-binding Arbitration. The non-binding arbitration shall be completed within eighty (80) calendar days of the preliminary hearing, unless the parties to the dispute mutually agree to extend the date or the Arbiter extends the date.

15.3.4 Additional Provisions Governing Non-binding Arbitration of Disputes.

(a) Disputes Involving Arbitrability of Disputes. The Arbiter shall decide any dispute involving either the right to have a disputed matter submitted to non-binding arbitration or whether the matter is properly the subject of the expedited dispute resolution procedure pursuant to Section 15.3.2. The Parties to such dispute shall provide notice of the dispute and submit in writing their respective positions regarding the dispute to the Arbiter. No such submission shall exceed ten double spaced pages. The Arbiter shall make his or her decision within five (5) days of the last submission.

(b) No Res Judicata or Collateral Estoppel Effect. Any determination or finding of any non-binding arbitration conducted pursuant to this Article shall

not have any res judicata or collateral estoppel effect in any other non-binding arbitration conducted pursuant to this Article, or in any other action commenced by any person(s) or entity(ies) whomsoever in state or federal court, whether or not Parties to this Agreement.

(c) No Ex Parte Communications. No Party or anyone acting on its behalf shall have any ex parte communication with the Arbiter with regard to any matters in issue. Communications concerning procedural matters such as scheduling shall not be included in this prohibition.

(d) Submission. Unless otherwise directed by the Arbiter or agreed by the Parties to a given dispute, the Parties involved in the dispute shall strive to make joint submissions to the Arbiter. The Arbiter shall determine the schedule for the Parties' submissions, the page and form limitations for the submissions, and the schedule and form of any hearing(s).

16. Event of Default; Remedies.

16.1 General. Except as otherwise provided in Article 15, if a Party breaches any of its obligations under this DDA, the Party to whom the obligation was owed (the "**Notifying Party**") may notify the breaching Party of such breach. The notice shall state with reasonable specificity the nature of the alleged breach, the provisions under which the breach is claimed to arise and the manner in which the failure of performance may be satisfactorily cured. Failure to cure such breach within the time period specified in Section 16.2 shall be an "**Event of Default**" by the breaching party; provided, an Event of Default by Developer or an Affiliate of Developer shall be, at the Authority's option, an Event of Default by Developer and all of Developer's Affiliates; but provided further, that notwithstanding Section 21.10 (Liability for Default) (A) no Event of Default by Developer or an Affiliate of Developer with respect to the Infrastructure and Stormwater Management Controls, Required Improvements and other horizontal obligations of Developer under this DDA (i.e., all obligations other than Developer or an Affiliate of Developer acting in its capacity as a Vertical Developer, if applicable) shall be deemed to be an Event of Default by Developer or an Affiliate of Developer in its capacity as a Vertical Developer with respect to Developable Lots, and (B) no Event of Default by a Vertical Developer (including Developer and Affiliates of Developer when acting as a Vertical Developer) shall be deemed to be an Event of Default by Developer or an Affiliate of Developer with respect to its Infrastructure and Stormwater Management Controls obligations under this DDA unless such Event of Default relates to a Vertical Developer's failure to complete Transferable Infrastructure obligations that were transferred to the Vertical Developer in accordance with Section 7.2 and Developer fails to cure such Event of Default.

16.1.1 Upon delivery of a notice of breach, the Notifying Party and the breaching Party shall promptly meet to discuss the breach and the manner in which the breaching Party can cure the same. If before the end of the applicable cure period the breach has been cured to the reasonable satisfaction of the Notifying Party, the Notifying Party shall issue a written acknowledgement of the other Party's cure of the matter which was the subject of the notice of breach.

16.1.2 If the alleged breach has not been cured or waived within the time permitted for cure, the Notifying Party may (i) extend the applicable cure period or (ii) institute such proceedings and/or take such action as is permitted in this DDA with reference to such breach.

16.2 Particular Breaches by the Parties.

16.2.1 Event of Default by Developer . The Parties agree that each of the following shall be deemed to be an Event of Default by Developer under this DDA:

(a) Developer knowingly causes or allows to occur, as to itself, a Significant Change or a Transfer not permitted under this DDA, or inadvertently causes or allows to occur such a Significant Change or Transfer and in any case the Significant Change or Transfer is not reversed or voided within thirty (30) days following receipt of notice from the Authority by Developer;

(b) following a Sub-Phase Approval, Developer fails to Commence or Complete the Infrastructure and Stormwater Management Controls in the Sub-Phase by the applicable Outside Dates for Commencement and Completion, or abandons its work on such Infrastructure and Stormwater Management Controls without the Approval of the Authority Director for more than sixty (60) consecutive days, or a total of one hundred and twenty (120) days, and such failure or abandonment continues for a period of forty-five (45) days following Developer's receipt of notice from the Authority;

(c) Developer defaults under the provisions of any Exhibit and fails to cure the same within the time provided in such Exhibit or, if not so provided, within thirty (30) days following receipt of notice from the Authority, or if such default is not susceptible of cure within thirty (30) days, if Developer fails to promptly commence such cure within thirty (30) days after its receipt of such notice and thereafter diligently prosecute the same to completion within a reasonable time;

(d) Developer fails to pay any amount required to be paid to the Authority under this DDA (including all Exhibits), and such failure continues for a period of thirty (30) days following receipt of notice of such non-payment from the Authority to Developer;

(e) Developer fails to submit any Substantially Complete Major Phase Application or Sub-Phase Application by the applicable date set forth in the Schedule of Performance, and such failure continues for a period of thirty (30) days following receipt of notice from the Authority to Developer;

(f) Developer fails to provide Adequate Security, including the Base Security, as required under this DDA, or once it has provided Adequate Security fails to maintain the same as required under this DDA (including, but not limited to, the failure of a Guarantor to meet the Minimum Net Worth Requirement or the occurrence of a Significant Change to Guarantor under any Guaranty), and such failure continues for forty-five (45) days following receipt of notice from the Authority to Developer (provided, that Developer shall immediately, upon receiving notice from the Authority Director to such effect, suspend all

activities (other than those needed to preserve the condition of improvements or as necessary for health or safety reasons) on affected portions of the Project Site during any period during which Adequate Security is not maintained as required by this DDA);

(g) the obligor of any Adequate Security, including the Base Security, commits a default under the applicable security instrument or revokes or refuses to perform as required under the Adequate Security, and Developer does not replace the Adequate Security within forty-five (45) days following Developer's receipt of notice from the Authority; provided, that (i) Developer shall immediately, upon receiving notice from the Authority Director to such effect, suspend all activities (other than those needed to preserve the condition of improvements or as necessary for health or safety reasons) on affected portions of the Project Site during any period during which the Adequate Security is not maintained as required by this DDA, (ii) any cure period for a default under the Adequate Security shall run concurrently with the above forty-five (45) day period, (iii) such default may be cured by the obligor to the extent provided under the terms of the Adequate Security; and (iv) upon receipt by the Authority of any replacement Adequate Security, the Authority shall return the original Adequate Security;

(h) Developer fails to perform its obligations relating to the Housing Plan and such failure continues for sixty (60) days following Developer's receipt of notice from the Authority, or if such failure is not susceptible to cure within sixty (60) days, if Developer fails to promptly commence such cure within sixty (60) days after its receipt of such notice and thereafter diligently prosecutes the same to completion within a reasonable time;

(i) Developer fails to convey to the Authority or to another Governmental Entity any of the Public Property as and when required under this DDA, and such failure continues for thirty (30) days following Developer's receipt of notice from the Authority;

(j) Developer fails to Commence or Complete the Required Improvements by the Outside Dates for Commencement and Completion set forth in the Schedule of Performance, or abandons its work on such Required Improvements without the Approval of the Authority Director for more than sixty (60) consecutive days, or a total of one hundred and twenty (120) days, and such failure or abandonment continues for a period of forty-five (45) days following Developer's receipt of notice from the Authority; or

(k) Developer fails to perform any other agreement or obligation to be performed by Developer under this DDA, and such failure continues past any cure period specified in this DDA, or if no such cure period is specified, then within sixty (60) days after receipt by Developer of notice from the Authority (and, for a failure that is not susceptible of cure within sixty (60) days, if Developer fails to promptly commence such cure within thirty (30) days after its receipt of such notice and thereafter diligently prosecute the same to completion within a reasonable time).

16.2.2 Event of Default by the Authority. The Parties agree that each of the following shall be deemed an Event of Default by the Authority under this DDA:

(a) the Authority fails to convey real property to Developer as and when required by this DDA, and such failure continues for a period of thirty (30) days

following the Authority's receipt of notice from Developer (and, for a failure that is not susceptible of cure within thirty (30) days, if the Authority fails to promptly commence such cure within thirty (30) days following its receipt of such notice and thereafter diligently prosecute the same to completion);

(b) the Authority fails to perform its obligations under the Financing Plan or any Acquisition and Reimbursement Agreement, including but not limited to a failure to make payments owing to Developer from the Funding Sources in accordance with the terms of the Financing Plan or any Acquisition and Reimbursement Agreement, and such failure continues for a period of thirty (30) days following the Authority's receipt of notice from Developer (and, for a failure that is not susceptible of cure within thirty (30) days, if the Authority fails to promptly commence such cure within thirty (30) days following its receipt of such notice and thereafter diligently prosecutes the same to completion);

(c) the Authority defaults under any agreement attached to this DDA to which it is a party (including the Interagency Cooperation Agreement or any of the Land Acquisition Agreements), and fails to cure such default within thirty (30) days following the receipt of notice from Developer that the time given for cure in such agreement has expired, or if such default is not susceptible of cure within thirty (30) days, the Authority fails to promptly commence such cure within thirty (30) days following its receipt of such notice and thereafter diligently prosecutes the same to completion; or

(d) the Authority fails to perform any other agreement or obligation to be performed by the Authority under this DDA, and such failure continues past any cure period specified in this DDA, or if no such cure period is specified, then within sixty (60) days after receipt by the Authority of notice from Developer, and, for a failure that is not susceptible of cure within sixty (60) days, if the Authority fails to promptly commence such cure within thirty (30) days after its receipt of such notice and thereafter diligently prosecute the same to completion within a reasonable time.

16.2.3 Material Breach. "**Material Breach**" means:

(a) for the Authority, an Event of Default that materially adversely affects Developer's or a Vertical Developer's ability to proceed timely with the Project or any significant portion thereof without substantially increased costs, including an Event of Default by the Authority arising from the failure to make payments from the Funding Sources in accordance with the Financing Plan or any Acquisition and Reimbursement Agreement;

(b) for Developer, an Event of Default under Section 16.2.1(a) [Unpermitted Transfers], or Section 16.2.1(b) [Infrastructure], or Section 16.2.1(j) (Required Improvements);

(c) for the Authority and Developer**,** an Event of Default that culminates in an arbitration or judicial action that results in a final judgment for payment or performance (beyond any applicable appeal period), and the Party against whom the judgment was made fails to make the required payment or perform the required action in accordance with

the judgment within sixty (60) days following the final, unappealable judgment or any longer period as may be specified in the judgment itself; and

(d) for the Developer, the failure to pay any Financial Obligations and Indemnification obligations as and when such payments are due and such failure continues for a period of thirty (30) days following receipt of notice of such non-payment from the Authority to Developer. The Parties acknowledge and agree that the Authority shall not be required to obtain a final judgment for a Material Breach under this Section 16.2.3(d) as a condition to pursuing remedies under 16.3.3(e).

16.3 Remedies.

16.3.1 Specific Performance. Upon an Event of Default, the aggrieved Party may institute proceedings to compel injunctive relief or specific performance to the extent permitted by law (except as otherwise limited by or provided in this DDA) by the Party in breach of its obligations, including without limitation, seeking an order to compel payment of amounts due under this DDA (including under the Financing Plan, the Housing Plan, the Community Facilities Obligations, the Transportation Plan Obligations, the Parks and Open Space Plan, the Infrastructure Plan, the Schedule of Performance and Article 19). Nothing in this Section 16.3.1 shall require a Party to postpone instituting any injunctive proceeding if it believes in good faith that such postponement will cause irreparable harm to such Party.

16.3.2 Limited Damages. The Parties have determined that except as set forth in this Section 16.3.2, (i) monetary damages are generally inappropriate, (ii) it would be extremely difficult and impractical to fix or determine the actual damages suffered by any Party as a result of a breach hereunder and (iii) equitable remedies and remedies at law not including damages are particularly appropriate remedies for enforcement of this DDA. Except as otherwise expressly provided below to the contrary (and then only to the extent of actual damages and not consequential, punitive or special damages, each of which is hereby waived by the Parties), no Party would have entered into or become a Party to this DDA if it were to be liable in damages under this DDA. Consequently, the Parties agree that no Party shall be liable in damages to any other Party by reason of the provisions of this DDA, and each covenants not to sue the other for or claim any damages under this DDA and expressly waives its right to recover damages under this DDA, except as follows: actual damages only shall be available as to breaches that arise out of (a) the failure to pay sums as and when due (1) under this DDA (including under the Financing Plan, the Housing Plan, the Transition Housing Rules and Regulations, Community Facilities Obligations, the Transportation Plan Obligations, the Parks and Open Space Plan, the Infrastructure Plan, the Schedule of Performance and Article 19), but subject to any express conditions for such payment set forth in this DDA or (2) under any Acquisition and Reimbursement Agreement, but subject to any express conditions for such payment as set forth therein, (b) the failure to make payment due under any indemnity in this DDA, (c) the requirement to pay attorneys' fees and costs as set forth in Section 28.5, or when required by a arbitrator or a court with jurisdiction, and (d) to the extent damages are expressly permitted under any agreement among or between any of the Parties other than this DDA, including but not limited to any Permit to Enter. For purposes of the foregoing, "actual damages" shall mean the actual amount of the sum due and owing under this DDA, with interest

as provided by law, together with such judgment collection activities as may be ordered by the judgment, and no additional sums.

16.3.3 Certain Exclusive Remedies. The exclusive remedy:

(a) for the failure to submit any Substantially Complete Major Phase Application or any Substantially Complete Sub-Phase Application, or to obtain any Major Phase Approval or Sub-Phase Approval, shall be the remedies of the Authority set forth in Sections 3.8.1, 3.8.2 and 3.8.3;

(b) for the failure to Commence Infrastructure and Stormwater Management Controls or to provide Adequate Security upon such Commencement, shall be the remedy of the Authority set forth in Section 16.4 or Section 16.5;

(c) for the failure to Complete Infrastructure and Stormwater Management Controls that has been Commenced, shall be (1) first, an action on the Adequate Security for that Infrastructure and those Stormwater Management Controls to the extent still available, and (2) thereafter, if the Authority is unable to recover upon such Adequate Security within a reasonable time (including by causing the obligor of any Adequate Security to Commence and Substantially Complete such Infrastructure and Stormwater Management Controls), the remedies in Sections 16.4 and 16.5 (and the Authority shall return any unused portion of the Adequate Security relating to such Infrastructure and Stormwater Management Controls following the Authority's exercise of its remedies under Sections 16.4 and 16.5);

(d) for the failure to pay money (other than the Financial Obligations, which failure shall be subject to Section 16.3.3(e)), shall be a judgment (in arbitration or a competent court) to pay such money (with interest as provided by law), together with such costs of collection as are awarded by the judge or arbitrator, subject to Section 16.2.3(c); and

(e) for the failure to pay Financial Obligations, the Developer must make payments under protest while the Parties are pursuing mediation, arbitration or judicial resolution of the dispute. If Developer fails to pay any such amounts under protest as required under this Section 16.3.3(e), the Authority shall have the remedies in Sections 16.4 and 16.5, in addition to any remedies provided under the Financing Plan for such Material Breach.

16.4 Termination. Upon the occurrence of a Material Breach by Developer or an Affiliate of Developer, the Authority may, subject to the last sentence of Section 16.1, terminate this DDA in whole or in part as to Developer and/or one or more Affiliates of Developer upon an Authority Board determination to terminate following a public meeting. Upon the occurrence of a Material Breach by the Authority, Developer, or an Affiliate of Developer, as the case may be, may terminate this DDA as to the terminating Party only. The Party alleging a Material Breach shall provide a Notice of Termination to the breaching Party, which Notice of Termination shall state the Material Breach, the portions of the real property covered by this DDA (or the Major Phases and Sub-Phases) to be terminated, and the effective date of the termination (which shall, in no event, be sooner than ninety (90) days from the date of delivery of the Notice of Termination); provided, that the Authority Director may give this

Notice of Termination before the date of the Authority Board action on the proposed termination so that the Authority termination notice period may run simultaneously with the public notice period for the Authority Board action. If such termination occurs, neither the breaching Party nor the Notifying Party shall have any further rights against or liabilities to the other under this DDA as to the terminated portions of this DDA except as set forth in Section 28.29. By way of illustration of the foregoing sentence, if on the date of termination by the Authority Developer is constructing Infrastructure and Stormwater Management Controls in a Sub-Phase and the Material Breach is not related to that Sub-Phase, then Developer shall have the right to Complete such Infrastructure and Stormwater Management Controls and to hold and sell the Lots in the Sub-Phase to which such Infrastructure and Stormwater Management Controls relates in accordance with the terms of this DDA.

16.5 Authority's Exercise of Reversion Right upon Failure to Substantially Complete Infrastructure; Release of Rights of Reverter.

16.5.1 A condition precedent to the Authority's obligation to close Escrow for the conveyance of fee title to or a ground leasehold interest in real property from the Authority to Developer after Sub-Phase Approval shall be Developer's execution and delivery to the Title Company of a recordable quitclaim deed in the form attached hereto as Exhibit R (with only such changes as may be Approved by Developer and the Authority Director, the "**Reversionary Quitclaim Deed**") conveying fee title to or the ground leasehold interest in, the applicable property from Developer to the Authority. The Reversionary Quitclaim Deed shall be delivered with irrevocable instructions from Developer to the Title Company, in a form Approved by the Authority, directing the Title Company to comply with the Authority's direction to record the Reversionary Quitclaim Deed upon receipt of the Reversionary Recordation Notice and releasing and indemnifying the Title Company from any and all liability resulting from the Title Company's compliance with such instructions. Notwithstanding the foregoing, if prior to close of Escrow for a Sub-Phase, Developer increases the amount of Adequate Security for the applicable Sub-Phase to meet the requirements of Section 16.5.4 hereof, then Developer shall have no obligation to deliver a Reversionary Quitclaim Deed for the applicable Sub-Phase and such delivery shall not be a condition precedent to Authority's obligation to convey fee title to or the ground leasehold interest in, the applicable property.

(a) The Authority's right to exercise the right of reverter remedy contained in this Section 16.5 (the "**Right of Reverter**") shall be as follows:

(i) shall be limited to an Event of Default under Sections 16.2.1(b), 16.2.1(j) and 16.2.3(d) (a "**Reversionary Default**");

(ii) shall not become operative until the Authority has delivered notice (the "**Reversionary Cure Notice**" which may be coupled with a Notice of Termination) to Developer and all affected Mortgagees, as the case may be, or their successors for whom the Authority has been provided an address, detailing the facts and circumstances of the Reversionary Default and providing all such Persons with a concurrent period of ninety (90) days from the delivery of such notice to commence to cure, or cause Developer to cure, the Reversionary Default; provided, that the Authority may not direct the Title Company to record the Reversionary Quitclaim Deed if Developer or such Persons commence the cure within the

ninety (90) day period specified above and continue to diligently prosecute the cure without interruption to Substantial Completion (provided, that the Authority may exercise such right if the Reversionary Default is not cured within one hundred eighty (180) days following the date on which the Reversionary Cure Notice was sent by the Authority);

(iii) shall be subject to the provisions of Article 20, although any cure periods provided in Article 20 shall run concurrently with the ninety (90) day cure period provided above;

(iv) shall be subject to Section 16.5.4 regarding the Developer's right to cause a release of the Right of Reverter; and

(v) with respect to a Reversionary Default under Section 16.2.1(b) or Section 16.2.1(j) shall automatically and without further documentation terminate upon the earliest to occur of:

(A) Substantial Completion of the applicable Infrastructure and Stormwater Management Controls or Required Improvement;

(B) issuance of the applicable Certificate of Completion;

(C) as provided in paragraph (b) below; and

(D) as provided in paragraph (c) below.

(b) With respect to a Reversionary Default under Section 16.2.1(b) or Section 16.2.1(j) , the Authority Director shall have the right, in his or her sole discretion, to release a Reversionary Quitclaim Deed and terminate the Authority's rights under this Section 16.5 upon (i) the Completion of a significant portion of the Infrastructure and Stormwater Management Controls or the Required Improvements, as applicable, within the real property described in the Reversionary Quitclaim Deed, as determined by the Authority Director following receipt of appropriate backup information from Developer, including a certificate from the Engineer or DBI with respect to the Required Improvements confirming the degree of Completion, or (ii) the Authority holding Adequate Security for the Completion of the applicable Infrastructure and Stormwater Management Controls or Required Improvements, in form and content satisfactory to the Authority Director and consistent with the requirements of Section 16.5.4.

(c) Notwithstanding any other provision of this Article 16, following a Reversionary Default, the Authority shall not be entitled to cause the Reversionary Quitclaim Deed to be recorded if (1) the Authority recovers the cost of causing the Infrastructure and Stormwater Management Controls or the Required Improvements to be Completed from the Adequate Security provided by Developer for that purpose or (2) the obligor of any Adequate Security Commences to cure the Reversionary Default within sixty (60) days following demand by the Authority and such Infrastructure and Stormwater Management Controls or Required Improvements, as applicable, is diligently prosecuted and Substantially Completed within a reasonable time thereafter. In the event that the Authority elects not to pursue such Adequate

Security or pursues such Adequate Security but is unable, in the normal course and utilizing good faith efforts, to achieve the results in clause (1) or clause (2) above within a reasonable time, then the Authority may record the Reversionary Quitclaim Deed in accordance with this Section 16.5 and the Authority shall thereafter release and return the unused portion of any Adequate Security upon the expiration of the Reversionary Contest Period (if there has been no challenge or contest to such recordation) or upon or in accordance with a final, unappealable judicial determination (if there has been such a challenge or contest to the Authority's recordation of the Reversionary Quitclaim Deed).

(d) Subject to paragraph (a) above, if the Authority believes that it is entitled to exercise the right to direct the Title Company to record the Reversionary Quitclaim Deed, then, with the Approval of the Authority Board following a public meeting (which meeting may be the same as an Authority Board meeting for declaring a Material Breach and authorizing a Notice of Termination), the Authority may send to the Title Company a notice that Developer has committed a Reversionary Default for the property in question, with a copy to Developer and to any Mortgagee that has requested notice as set forth in Section 20.4, and direct the Title Company to record the appropriate Reversionary Quitclaim Deed and provide a conformed copy of such recorded Reversionary Quitclaim Deed to the Authority, such Mortgagee and Developer (such notice, the "**Reversionary Recordation Notice**").

(e) If the Authority's right to direct the Title Company to record a Reversionary Quitclaim Deed terminates for any reason, then the Authority shall, upon Developer's request, promptly instruct the Title Company to return the Reversionary Quitclaim Deed to Developer.

(f) The Title Company's recordation of the Reversionary Quitclaim Deed shall not affect in any manner the rights of any Mortgagee or Developer to contest the Authority's right to exercise the remedy contained in this Section 16.5. No Mortgagee or Developer shall have any rights against the Title Company for recording the Reversionary Quitclaim Deed following receipt of the Reversionary Recordation Notice. However, Developer or any affected Mortgagee must bring any action contesting the Authority's right to exercise the remedy contained in this Section 16.5 (f) in any judicial proceeding concerning such recordation initiated by the Authority prior to the recordation, if Developer and the affected Mortgagee (if it requested notice under Section 20.4) receive notice of such action as set forth in Section 20.4 (i.e., any Mortgagee that fails to request notice under Section 20.4 cannot complain about its failure to receive notice, and shall be treated as if it had received notice for purposes of this Section 16.5), or (ii) if no such action is initiated by the Authority, then within sixty (60) days following recordation of the Reversionary Quitclaim Deed (in either case, the "**Reversionary Contest Period**"); otherwise, Developer and the affected Mortgagees shall be precluded from challenging the Authority's action. In the event that the Authority's recordation of the Reversionary Quitclaim Deed is denied through legal proceedings initiated by Developer or any Mortgagee, (1) the Authority shall promptly take corrective action to abrogate the effect of the Reversionary Quitclaim Deed, (2) the Schedule of Performance shall be equitably adjusted, (3) Developer or the Mortgagee shall thereafter prosecute to Completion the applicable Infrastructure and Stormwater Management Controls or Required Improvements in accordance with the terms of this DDA and the Vertical DDA/LDDA applicable to the Infrastructure and Stormwater Management Controls and Required Improvements, and (4) the

Authority's right to cause the recordation of the Reversionary Quitclaim Deed shall terminate upon Substantial Completion of the Infrastructure and Stormwater Management Controls or the Required Improvements, as applicable, as set forth in paragraph (a) above, provided that such termination shall not diminish the Authority's right to exercise any and all other remedies available to the Authority hereunder, including, without limitation, looking to the Adequate Security, if Developer fails to Complete the applicable Infrastructure and Stormwater Management Controls or Required Improvements.

16.5.2 Payment of Special Taxes Following Recordation of Reversionary Quitclaim Deed. Following the recordation of any Reversionary Quitclaim Deed, the property covered thereby shall remain a Taxable Parcel, notwithstanding the Authority's ownership of such property, and the Authority shall pay any ad valorem taxes, Project Special Taxes, or other taxes or fees used to secure or pledged for payment of debt service with respect to any Public Financing as and when such taxes are due for such property or would have been due but for the Authority's recordation of the Reversionary Quitclaim Deed.

16.5.3 Resale of Property Following Recordation of Reversionary Quitclaim Deed. Following recordation of a Reversionary Quitclaim Deed and either (i) the expiration of the Reversionary Contest Period without Developer or any affected Mortgagee having contested the Authority's right to record the Reversionary Quitclaim Deed or (ii) if such contest is filed, the entry of a final, non-appealable judgment upholding such recordation or the expiration of any relevant appeal periods without an appeal having been filed, the Authority shall diligently market and sell the property acquired pursuant to the Reversionary Quitclaim Deed to any Qualified Buyer for not less than the fair market value of such property, as determined by the Authority Director after due inquiry. The proceeds of any such sale shall be distributed in the following order of priority: (1) to the Authority to the extent of its actual costs and expenses incurred in connection with the Reversionary Default and marketing of the property; (2) to pay any Project Special Taxes and other taxes or fees due and owing with respect to such property, up to the date of sale; (3) to repay the amounts due under each Mortgage applicable to such property in the priority of their liens on such property before the recordation of the Reversionary Quitclaim Deed; (4) to the Authority to the extent of any unpaid Authority Costs; (5) to Developer in accordance with the formula set forth in Section 6.3 of the Financing Plan, if applicable; and (6) the remainder, if any, to the Authority for use within the Project Site. This Section 16.5.3 shall survive the termination of this DDA until all proceeds of sale have been distributed in accordance herewith.

16.5.4 Release of Right of Reverter. At any time prior to the occurrence of a Reversionary Default, Developer shall have the right to cause the Authority to release the Right of Reverter as to any Sub-Phase by increasing the Secured Amount of the Adequate Security as follows: (i) if securing an obligation to pay money, one hundred twenty-five percent (125%) of the amount of such secured payment, and (ii) if securing an obligation to construct, one hundred twenty-five percent (125%) of the estimated cost of Completion of such construction as such cost is Approved by the Authority Director and Developer with reference to the applicable construction contracts entered into by Developer providing additional Adequate Security for the Sub-Phase (the "**Increased Adequate Security**"). Developer shall be relieved of its obligation to provide the Reversionary Quitclaim Deed for a particular Sub-Phase if Developer provides the Increased Adequate Security prior to close of Escrow for that Sub-Phase.

Developer shall also have the right to cause the Authority to release the Right of Reverter as to any Sub-Phase upon a showing that the amount of Adequate Security held by Authority for that Sub-Phase equals at least one hundred twenty-five percent (125%) of the remaining construction costs and monetary obligations within the Sub-Phase. For example, if the Secured Amount for Developer's obligations within a Sub-Phase were $12,500,000 and Authority held Adequate Security for $12,500,000, then Developer shall have the right to cause the Authority to release the Right of Reverter as to that Sub-Phase upon Substantial Completion and payment of $2,500,000 of the obligations secured by the Adequate Security, so long as the Adequate Security of $12,500,000 remained in place. If Developer elects to cause the Right of Reverter to be released in accordance with this Section 16.5.4, Developer shall deliver to the Authority the increased Adequate Security for the Sub-Phase or evidence reasonably satisfactory to Authority that the Adequate Security held by Authority equals at least one hundred twenty-five percent (125%) of the remaining cost of the secured obligations. Upon such delivery, the Authority shall send to the Title Company, with a copy to the Developer, a notice that Developer has complied with the provisions of this Section 16.5.4, together with an executed and recordable Release of Rights of Reverter (the "**Reverter Release**") releasing the Authority's Right of Reverter as to the Sub-Phase for which the Increased Adequate Security has been provided. The notice shall direct the Title Company to record the appropriate Reverter Release and provide a conformed copy of such recorded Reverter Release to the Authority, any Mortgagee requested by Developer, and Developer (such notice, the "**Reverter Release Recordation Notice**").

16.6 Independence of Major Phases, Sub-Phases and Vertical Improvements. Subject to the Authority's termination rights as set forth in Sections 3.8.1, 3.8.2, 3.8.3, 16.3.3 and 16.4, the Parties expressly recognize and agree that (i) an Event of Default as to one Sub-Phase shall not by itself be the basis for an Event of Default for other Sub-Phases for which Developer or an Affiliate of Developer has obtained a Sub-Phase Approval and (ii) an Event of Default for a Vertical Developer shall not be an Event of Default for Developer, an Affiliate of Developer or other Vertical Developers. Notwithstanding the foregoing, an Event of Default pertaining to the failure to Commence or to Complete Infrastructure and Stormwater Management Controls or Required Improvements in a Major Phase or Sub-Phase will be deemed an Event of Default for all future Major Phases for which there has not been a Major Phase Approval and all Sub-Phases for which there has not been a Sub-Phase Approval, provided, that this sentence shall not apply to a Major Phase that has been Transferred to a Third Party pursuant to an Assignment and Assumption Agreement that was Approved by the Authority Director. Nothing in this Article 16 shall be deemed to supersede or preclude the rights and remedies of the City or the Authority to require compliance with any Approval, Authorization, or other entitlement granted for the development or use of the Major Phase, Sub-Phase or Vertical Improvement, which rights and remedies shall be in addition to the rights and remedies under this Article 16.

16.7 Reserved.

16.8 Rights and Remedies Cumulative. Except as expressly limited by this DDA (such as in Sections 16.3.2 and 16.3.3), the rights and remedies of the Parties contained in this DDA shall be cumulative, and the exercise by any Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies contained in this DDA for the same breach by the applicable Party. In addition, the remedies provided in this DDA do not limit the remedies provided in other agreements and

documents. Otherwise, except as provided in this Section 16.8, neither Party shall have any remedies for a breach of this DDA by the other Party except to the extent such remedy is expressly provided for in this DDA.

16.9 No Implied Waiver. No waiver made by a Party for the performance or manner or time of performance (including an extension of time for performance) of any obligations of the other Party or any condition to its obligations under this DDA shall be considered a waiver of the rights of the Party making the waiver for a particular obligation of the other Party or condition to its own obligation beyond those expressly waived in writing.

17. Transfer and Development of Lots.

17.1 In General. Developer will Transfer Lots to Vertical Developers (including Affiliates of Developer, when acting as a Vertical Developer) who will construct Vertical Improvements on such Lots in accordance with the terms of the Vertical DDA or LDDA. Developer will be entitled to Transfer Lots to Vertical Developers prior to issuance of a Certificate of Completion for the Infrastructure and Stormwater Management Controls, so long as Developer retains ultimate responsibility for Completion of the Infrastructure and Stormwater Management Controls in accordance with the Schedule of Performance and Authority holds Adequate Security therefore. The Parties acknowledge that except as otherwise provided for certain Commercial Lots described in Section 17.2 hereof, and Required Improvements, there shall be no Outside Date for the Transfer or Vertical Development of Market Rate Lots and Commercial Lots.

17.2 Commercial Lots. Certain Lots designated for commercial use or development in the Land Use Plan (collectively, the "**Commercial Lots**") will be divided into two groups. The first group (the "**Critical Commercial Lots**"), consists of Blocks M-1A and M-1B and Buildings 1, 2 and 3 identified on the Land Use Plan. The second group **(**the "**Non-Critical Commercial Lots**") consists of Blocks C2-H, Y1-H and the Senior Officers Quarters Historic District ("**SOQHD**") identified on the Land Use Plan, and any of the Critical Commercial Lots that Developer elects not to develop under Section 17.2.1.

17.2.1 Developer Rights and Timing for Development of Critical Commercial Lots. Developer by itself or in joint ventures with other development partners ("**Developer Commercial JVs**"**)** shall have the right, but not the obligation, to develop the Critical Commercial Lots, subject to the timing set forth in this Section 17.2.1; provided, Developer shall have the obligation to develop the Required Improvements in accordance with the Schedule of Performance. Except as may otherwise be provided under the Schedule of Performance for Required Improvements, there shall be no Outside Date for development or Transfer of Blocks M-1A and M-1B; provided, however, that if Developer elects not to develop Block M-1A or M-1B, then it shall Auction the Lot in accordance with Section 17.2.6 and enter into a Vertical DDA with the successful bidder. For Buildings 1, 2 or 3, except as may otherwise be provided under the Schedule of Performance for Required Improvements and the Community Facilities Obligations, Developer shall have entered into an LDDA and Ground Lease with Authority for uses consistent with the Development Requirements including this DDA within ten (10) years for Buildings 1 and 2, and fifteen (15) years for Building 3, after the Major Phase Approval is granted for the Major Phase in which the Critical Commercial Lot is located, or if it

has elected not to develop the applicable Lot, shall have Auctioned the LDDA and Ground Lease opportunity within the same time periods in accordance with Section 17.2.6. Failure to meet the timeframes established in this Section 17.2.1 (excluding timeframes set forth in the Schedule of Performance for Required Improvements or Community Facilities Obligations) shall not be a default under this DDA, but Authority shall thereafter have the right to develop or market and ground lease the applicable Critical Commercial Lot to third parties for development, subject to the restrictions on use set forth in Section 21.12, and Developer shall no longer have any rights to such applicable Critical Commercial Lots under this Agreement.

17.2.2 Development and Timing of Non-Critical Commercial Lots. Developer shall Auction the vertical development and ground lease rights to Block C2-H in accordance with Section 17.2.6 at such time as is deemed appropriate by Developer, in its sole discretion. Developer shall Auction the vertical development and ground lease rights to Block Y1-H and the SOQHD in accordance with Section 17.2.6 no later than five (5) years after the Outside Date in the Schedule of Performance for Completion of Infrastructure and Stormwater Management Controls related to the applicable Lot (or at such earlier time as is provided in the following sentence with respect to the SOQHD, or at such earlier or later time as is mutually agreed-upon by the Parties, each in their sole discretion). If Developer has not offered Block Y1-H or the SOQHD for Auction within the time required hereunder, or with respect to the SOQHD, prior to such date the Authority identifies an economically viable user that will renovate all or a portion of the SOQHD in accordance with the Secretary of Interior Standards, then Authority shall thereafter have the right to develop or market and ground lease the applicable Non-Critical Commercial Lot to third parties for development, subject to the restrictions on use set forth in Section 21.12, and Developer shall no longer have any rights to such applicable Critical Commercial Lot under this Agreement.

17.2.3 Transfer of Non-Critical Commercial Lots. Developer shall Transfer by Auction in accordance with Section 17.2.6 any Non-Critical Commercial Lot through a Vertical DDA, or with respect to a Non-Critical Commercial Lot on Public Trust property, a Vertical LDDA. The Authority shall enter into a Vertical DDA or LDDA with the Developer, provided the Authority has not exercised it right to develop or market and ground lease such Lot in accordance with Section 17.2.1 or Section 17.2.2 above, and the successful bidder for the applicable Non-Critical Commercial Lot, which Vertical DDA or Vertical LDDA shall include such additional terms and conditions, including a scope of development, that reflect the uses and financial offer negotiated with the successful bidder, which terms shall be Approved by Authority and Developer. The applicable Non-Critical Commercial Lots on Public Trust property shall be ground leased directly by the Authority to the Vertical Developers.

17.2.4 Revenues from Critical Commercial Lots. If Developer by itself or through a Developer Commercial JV develops the Critical Commercial Lots, the sales price or capitalized ground lease rent (as the case may be) for the Critical Commercial Lots purchased by or ground leased to Developer or the Developer Commercial JVs (the "**Critical Commercial Lots Payment**") shall be derived from the Proforma (including the financial model of any Vertical Development that requires subsidy) prepared by Developer and Approved by the Authority in connection with the Approval of the Sub-Phase Application that contains the applicable Critical Commercial Lot, showing reasonable detail of projected revenues, expenses, subsidies and/or target returns associated with the Critical Commercial Lots, acknowledging that

to the extent that the Critical Commercial Lots require subsidy for development as reasonably determined by Developer, which determination must be supported by the independent appraiser letter report described below, the Critical Commercial Lots Payment may be zero dollars ($0.00). Developer will provide this information derived from the Proforma to an independent appraiser having at least ten (10) years experience in the San Francisco retail leasing market mutually agreed upon by Developer and the Authority, and shall provide to the Navy and the Authority a letter report confirming the appropriateness of Developer's assumptions related to the Critical Commercial Lots. No potential or actual investor or lender shall be prohibited by an exclusivity agreement between the Developer and other investors or lenders from participating in any financing of any Commercial Lot or any other commercial product type developed by parties other than Developer.

17.2.5 Transfer by Developer of Developed Critical Commercial Lots. Developer or a Developer Commercial JV may, in its sole discretion, subsequently convey any of the developed Critical Commercial Lots (the "**Developed Critical Commercial Lots**") to a third party; provided, however, that any and all revenues received by Developer or a Developer Commercial JV arising from or associated with the conveyance of the Developed Commercial Lots shall be included in Gross Revenues. Transfer of the Developed Critical Commercial Lots shall be by sale, or by sub-Ground Lease or assignment of Ground Lease in accordance with the terms thereof, provided, however, with respect to the first transfer of a Ground Lease by Developer or a Developer Commercial JV, the transferee shall be required to pay a transfer price based upon the fair market value for the right to occupy the applicable Developed Critical Commercial Lot on the terms and conditions of the Ground Lease, including the ground rent under the Ground Lease of zero dollars ($0.00), if applicable. If Developer elects to transfer a Developed Critical Commercial Lot to a Developer Commercial JV, the transfer price shall be determined in accordance with the Appraisal Process described in Section 17.4 hereof. If Developer or a Developer Commercial JV elects to transfer a Developed Critical Commercial Lot to a non-Affiliated third-party entity (such parcel, a "**Non-Developer Critical Commercial Lot**"), the transfer price shall be determined by Auction pursuant to the Auction process applicable to Commercial Lots, as set forth in Section 17.2.6 below.

17.2.6 Auction Process for Commercial Lots. The Auction for any Non-Critical Commercial Lot to the extent required hereunder shall require a mutually agreed upon minimum bid price based on the Proforma prepared by the Developer and Approved by the Authority in connection with the Approval of the Sub-Phase Application that contains the applicable Non-Critical Commercial Lot. The minimum bid price shall be set and confirmed by an independent appraiser letter according to the process described in Section 17.2.4 no sooner than three (3) months prior to the commencement of the Auction period. The Non-Critical Commercial Lot subject to the Auction will be submitted for offer for a reasonable period of time, as determined by Developer and the Authority, through licensed commercial real estate brokers having at least five (5) years experience in Bay Area commercial real estate selected by Developer. The pool of qualified bidders in the Auction of any Non-Critical Commercial Lots or any Non-Developer Critical Commercial Lots shall be determined by the Authority and Developer prior to the applicable Auction based on the Auction Bidder Selection Guidelines applicable to Commercial Lots (attached hereto as Exhibit T). The pool of qualified bidders in the Auction of any Non-Critical Commercial Lot or any Non-Developer Critical Commercial Lot and the minimum bid price for the Auction of the Non-Developer Critical Commercial Lots shall

be provided to the Navy and the Authority at least ten (10) days prior to the applicable Auction. If no minimum bids from qualified bidders are received for the Non-Critical Commercial Lots at the close of the Auction period, Developer and/or its Affiliates will have the option, to be exercised by written notice within sixty (60) days after the close of the Auction period, to purchase such Non-Critical Commercial Lots based upon an appraisal in accordance with Section 17.4 hereof. If Developer does not timely exercise the option to purchase unsold Non-Critical Commercial Lots, the Authority and Developer shall within one hundred twenty (120) days after the expiration of the Auction period, mutually agree upon a new minimum bid price to be used in a new Auction, which may take the form of adjustment to the Proforma minimum bid price or an appraisal. If the Parties are unable to agree on a new minimum bid price within the allotted time, the matter shall be submitted to the dispute resolution procedure of Section 15.3.2 (Expedited Dispute Resolution Procedure). Within six (6) months after establishment of the new minimum bid price, Developer shall re-bid the Non-Critical Commercial Lot. If no qualified bids are received for the Non-Developer Critical Commercial Lots that are acceptable to Developer, Developer shall reserve the right to withdraw the Non-Developer Critical Commercial Lot from sale and re-bid the Non-Developer Critical Commercial Lot at such future time as Developer's deems appropriate in its reasonable judgment, but in no event later than two (2) years after the prior Auction.

17.3 Sale of Market Rate Lots. Developer has the right to purchase Market Rate Lots for up to sixty percent (60%) of the Market Rate Units (the "**Developer Lots**"), at a purchase price established by the Appraisal Process described in Section 17.4. Market Rate Lots for approximately twenty percent (20%) of the Market Rate Units shall be available for purchase at a purchase price established by the Appraisal Process by joint ventures in which the Developer or its Affiliates have no more than a fifty percent (50%) ownership interest and under which a non-Affiliated joint venture partner exercises management control as the "managing partner" (or member, as the case may be) of the joint venture entity (collectively, the "**JV Lots**"). In order to ensure that the Developer Lots and JV Lots are sold at fair market value, Market Rate Lots for approximately twenty percent (20%) of the Market Rate Units will be offered for sale via Auction (collectively, the "**Residential Auction Lots**") in accordance with Section 17.5. No potential or actual investor or lender shall be prohibited by an exclusivity agreement between the Developer and other investors or lenders from participating in any financing of any Market Rate Lot or any other residential product type developed by parties other than Developer.

17.3.1 Developer Lots. Unless otherwise agreed upon by the Parties in their reasonable discretion, no more than one-third of the Developer Lots (which also equals 20% of the Market Rate Lots) can be sold directly to Developer, and the balance of the Developer Lots may be sold to an entity or entities comprised of some or all of the same partners as Developer, but having a materially different capital structure than Developer, in accordance with the Appraisal Process. Concurrent with the sale of any Developer Lot to an entity or entities comprised of some or all of the same partners as Developer, but having a materially different capital structure than Developer, a duly authorized officer of Developer shall provide the Authority and the Navy with a certified statement that the prospective purchaser has a materially different capital structure than Developer. For purposes hereof, an entity having a "materially different capital structure" means an entity comprised of some or all of the same partners as Developer but one in which there has been a cumulative change of at least 25% in the capital positions of all the partners, and at least one of the partners has changed its capital

position by at least 15%. Before the close of escrow for any Sub-Phase, the Developer will provide to the Authority and the Navy a list of equity investors for that Sub-Phase. During the implementation of any Sub-Phase, Developer will provide to the Authority and the Navy immediately prior to the sale of any parcels to an Affiliate of Developer or the equity investors of that Major Phase, a notice of such Affiliate sale which notice shall describe why the sale is permitted under the terms of this Agreement. Prior to the close of any sale directly to Developer, Developer shall provide to the Authority and the Navy a letter from a real estate broker or licensed real estate professional familiar with the Bay Area market who is not an Affiliate of Developer and has no equity investment in Developer in such Sub-Phase, finding that the acquisition and development of the Market Rate Lot by Developer is appropriate in the context of then-existing market conditions. The basis of such findings could include, but is not limited to, establishing a new product type, initiating or establishing a new product type, initiating or establishing the development of a new phase in the Project, responding to changes in market conditions, or other similar market-based factors. Any disputes arising out of this Section 17.3.1 shall be referred to the arbitration process for Expedited Arbitration Matters set forth in Section 15.3.2 hereof.

17.4 Appraisal Process. The process described in this Section 17.4 (the "**Appraisal Process**") shall apply to the Developer Lots, the JV Lots, those Developed Critical Commercial Lots for which an appraisal is required under Section 17.2.5, and those Non-Critical Commercial Lots for which an appraisal is required under Section 17.2.6. The Authority and Developer shall confer and select an appraiser from the Qualified Appraiser Pool for each such Developed Critical Commercial Lot, Non-Critical Commercial Lot, Developer Lot or JV Lot to be appraised. An appraisal used for the purpose of determining the parcel sale price (or Ground Lease rent, if applicable) shall be updated if a sales contract (or Ground Lease) for such parcel has not been executed within one (1) year from the date of the appraisal.

17.4.1 Qualified Appraiser Pool. Appraisals of any Developed Critical Commercial Lots required to be appraised by Section 17.2.5, Non-Critical Commercial Lots for which an appraisal is required under Section 17.2.6, the Developer Lots and JV Lots shall be conducted by a qualified appraiser, which for purposes of this DDA shall be defined as an appraiser (i) licensed in the State of California as a Certified General Appraiser and holding the MAI designation from the Appraisal Institute, (ii) practicing or working for at least ten (10) years in either a national firm, or regional firm based in California, (iii) who is not an Affiliate of the Developer and has no equity investment in the Developer or the Project investors, (iv) who has particular experience with coastal California real property transactions involving the Product Type that is the subject of the appraisal, and (v) who has no conflict of interest as evidenced by contractual relationships with Developer either existing or in the immediately prior twenty-four (24) months, unless a conflict waiver is obtained from the Authority (and, if required under the Conveyance Agreement, the Navy). The Parties have agreed upon a list of pre-qualified appraisers, which list is attached hereto as Exhibit U (the "**Qualified Appraiser Pool**"). From time to time, either Party may propose in writing to add or subtract additional persons meeting the above qualifications. If the Parties disagree on a proposed addition or subtraction, then the Parties shall follow the dispute resolution procedure for Expedited Arbitration Matters set forth in Section 15.3.2.

17.4.2 Appraisal Instructions. The selected appraiser shall appraise the applicable Developer Lot, JV Lot, Developed Critical Commercial Lot (to the extent subject to appraisal by Section 17.2.5), or Non-Critical Commercial Lot (to the extent subject to appraisal by Section 17.2.6) utilizing appraisal instructions substantially in the form of those attached hereto as Exhibit V, as the Parties hereto may agree to amend from time to time which agreement shall not be unreasonably withheld, conditioned or delayed. If an Excess Land Appreciation Structure is established in a Major Phase by Product Type, such structure will be deemed to apply to all Market Rate Lots of that Product Type in the applicable Major Phase, and the appraisal instructions shall incorporate such terms. If an Excess Land Appreciation Structure established for a Major Phase is later revised in connection with a Sub-Phase Approval in accordance with Section 6.2.3(d) hereof, then such structure will be deemed to apply to all Market Rate Lots in the applicable Sub-Phase and the appraisal instructions shall incorporate such terms. If material changes are proposed to appraisal instructions, including assumptions, special assumptions, limiting conditions, hypothetical conditions, and other special instructions, the requesting Party shall propose such amendment in writing, and, if the Parties disagree, they shall follow the dispute resolution procedure for Expedited Arbitration Matters set forth in Section 15.3.2.

17.4.3 Notification of Appraisal. Developer, on behalf of the Authority, shall provide to the Navy, with a copy to the Authority, documentation of appraiser selection and appraisal instructions prior to the commencement of an appraisal, and shall provide a copy of the complete appraisal promptly following completion of such appraisal.

17.5 Auction Process for Residential Auction Lots. The Authority and Developer prior to the approval of any Major Phase Application, shall jointly determine the pool of qualified bidders for each Auction of a Residential Auction Lot based on the Auction Bidder Selection Guidelines for Residential Auction Lots (attached hereto as Exhibit W) set forth for each Product Type, as agreed upon by the Parties. In the event no qualified third party bids are received at or above the minimum bid price for the Residential Auction Lots (as determined in the Major Phase Decisions described in Section 6.2.3), Developer and/or its Affiliates will have the option by written notice within sixty (60) days after the close of the Auction period to purchase such Residential Auction Lots at the minimum bid price and any Residential Auction Lots so acquired by Developer shall not be deemed to apply against the percentage limits otherwise applicable to the Developer Lots or the JV Lots. If Developer does not timely exercise the option to purchase unsold Residential Auction Lots, then the Authority and Developer shall within one hundred twenty (120) days after the expiration of the Auction period mutually agree upon a new minimum bid price to be used in a new Auction (the "**Re-Setting of the Minimum Bid Price**"). If the Parties are unable to agree on a new minimum bid price within the allotted time, the matter shall be submitted to the dispute resolution procedure for Expedited Arbitration Matters set forth in Section 15.3.2. The Re-Setting of the Minimum Bid Price may take the form of adjustment to the Proforma minimum bid price or an appraisal.

17.5.1 Timing of Residential Auction Lots Selection. The Residential Auction Lots will be selected by mutual agreement by the Authority and the Developer prior to approval of each Major Phase Application, as such selection may be revised in a subsequent approved Sub-Phase Application. The Residential Auction Lots will be offered for sale at such time as reasonably deemed appropriate by Developer in light of then-current market conditions

and such sale shall be subject to Completion of Infrastructure and Stormwater Management Controls serving the applicable Residential Auction Lot.

17.5.2 Residential Auction Lots as Benchmarks. The Residential Auction Lot sales prices, as deemed appropriate by the appraisers, and other relevant market data shall be used as comparables in the appraisal process for the Developer Lots and the JV Lots. The mix of Product Types of the Market Rate Lots subject to Auction shall roughly mirror that of the Market Rate Lots to be allocated and sold in that Major Phase, with a goal of selecting at least one representative parcel for each Market Rate Lot Product Type offered in that Major Phase. For the purposes of this DDA, "**Product Types**" are defined as a residential building with a typical unit count and building typology that allows general assumptions of construction costs. Examples of such Product Types are townhomes; low rise (up to 70' in height); mid rise (above 70' and up to 125' in height); and towers (above 125' in height).

17.5.3 Guidelines for Residential Auction Lots Selection. The distribution and selection of the Residential Auction Lots shall be based on a principle of nondiscrimination. The selected Residential Auction Lots shall be generally representative of the average advantages and disadvantages of the Market Rate Lots to be developed in that Major Phase. Factors to be considered in such selection include, but are not limited to, parcel size, views, proximity to parks, proximity to the transit center, proximity to the Job Corps site, proximity to the Bay Bridge, proximity to the retail core and exposure to wind (collectively, the "**Guidelines for Residential Auction Lot Selection**"), attached hereto as Exhibit X.

17.5.4 Conveyance Agreement Exhibits. Exhibits Q, T, U, V, W and X referenced in this Article 17 are also exhibits to the Conveyance Agreement and, subject to Section 28.38 hereof, will be attached to this DDA in the form attached to the executed version of the Conveyance Agreement.

18. Mitigation Measures.

18.1 Mitigation Measures. Developer and the Authority agree that the construction and subsequent operation of the Infrastructure and Stormwater Management Controls, Vertical Improvements and Required Improvements, if applicable, shall be in accordance with the mitigation measures identified in the Project MMRP (the "**Mitigation Measures**"). Developer shall comply with and perform the Mitigation Measures as and when required by the Project MMRP except for those Mitigation Measures or portions of Mitigation Measures for which the performance obligations are expressly obligations of the Authority, the City or another Governmental Entity. The responsibility to implement applicable Mitigation Measures shall be incorporated by Developer or the Authority, as applicable, into any applicable contract or subcontract for the construction or operation of the Improvements, including the Vertical DDA/LDDAs. The Authority shall comply with and perform the Mitigation Measures or portions of Mitigation Measures that are the obligation of the Authority as and when required, and shall use good faith efforts, consistent with the Interagency Cooperation Agreement, to cause the necessary City Agencies to comply with and perform the Mitigation Measures or portions of Mitigation Measures that are the obligations of the City as and when required.

19. Authority Costs.

19.1 Authority Costs and Revenues.

19.1.1 "**Authority Costs**" means all costs and expenses actually incurred and paid by the Authority in accordance with the Authority's annual budget approved by the Authority Board and the Board of Supervisors (the "**Annual Authority Budget**"), including costs and expenses relating to performing the Authority's obligations under this DDA, other Authority contracts and grants, and the Conversion Act.

19.1.2 "**Authority Revenues**" means all revenues payable to Authority for each applicable year, including projected Interim Lease Revenues, Marina Revenues and any other sources of revenue received by Authority from any sources whatsoever other than Developer or Vertical Developers.

19.1.3 The Parties acknowledge that the Annual Authority Budget shall comply with applicable requirements of the Conversion Act, the Public Trust, the Conveyance Agreement and the City's Charter.

19.2 Annual Budget. Within ninety (90) days after the Effective Date, the Authority and Master Developer shall meet and confer to create a base line budget ("**Base Line Budget**") that includes projected Authority Costs and Authority Revenues. On or before May 1 with respect to Fiscal Year 2012-13 and each subsequent Authority Fiscal Year during the term of this DDA, the Authority and Master Developer shall meet and confer regarding the Authority Costs reasonably expected to be incurred and Authority Revenues reasonably expected to be received during that succeeding Authority Fiscal Year. Prior to such meetings, the Authority shall prepare a preliminary budget (the "**Annual Preliminary Budget**") estimating the anticipated Authority Cost and Authority Revenues. The preliminary budget of Authority Costs shall include (i) the staff positions for all Authority staff, (ii) a general description of the duties of each such staff person relative to the Project, (iii) an identification of each third-party professional expected to be paid by the Authority during such year together with a description of the expected duties of such professional, the method of compensation and the expected total cost of such professional for such year, (iv) a general description of the costs and expenses related to the operation and maintenance of NSTI, including compliance with the terms of the TIHDI Agreement to provide assistance to TIHDI and TIHDI Member Organizations, subject to Section 19.3 below, and (v) a general description of the costs and expenses related to the management and implementation of the Project. The Annual Preliminary Budget shall include a projection of anticipated revenues payable to Authority for the year, including projected Authority Revenues. Based on such meetings and other relevant information available to the Authority, the Authority shall update such Annual Preliminary Budget for Authority Costs for such Authority Fiscal Year, broken down by fiscal quarter and including the information set forth in clauses (i) through (v) above (an "**Annual Authority Draft Budget**") and deliver the same to Master Developer. The Parties acknowledge that the Annual Authority Draft Budget is subject to review and approval by the Authority Board and the Board of Supervisors in their sole and absolute discretion. The Parties further acknowledge and agree that the Annual Authority Budget may need to be modified by the Authority and the Board of Supervisors from time to time during the Authority Fiscal Year.

19.3 Community Service Costs. The Parties acknowledge that the Base Line Budget will include certain line items to provide community services consistent with the amounts and types of Authority's existing practice on NSTI. If Authority proposes in any Authority Fiscal Year to make any material increase to the scope or funding levels of such services, prior to including any such material changes in the Annual Authority Draft Budget, the Authority shall provide Master Developer with a list of all changes, including types and amounts of funding proposed, with a written justification describing the need, the amount, the benefit to the community and an explanation as to why such need is unlikely to be met without the amount of additional funding requested. Authority shall meet and confer with Master Developer to discuss the proposed increase.

19.4 Reporting. Within ninety (90) days following the end of each calendar quarter during the term of this DDA, the Authority Director shall deliver to Developer a summary of Authority Costs and Revenues incurred during such quarter together with a comparison of the Authority Costs and Revenues incurred with those set forth in the relevant Annual Authority Budget (an "**Authority Costs and Revenue Report**"). Each Authority Costs and Revenue Report shall contain a certification by the Authority Director that such Authority Costs and Revenue Report, to his or her knowledge, is complete and complies with the terms of this Article 19. The summary shall be in a reasonably detailed form and shall include (i) a general description of the services performed and Authority Costs incurred, (ii) the fees and costs incurred and paid by the Authority under the Interagency Cooperation Agreement, (iii) the fees and costs of third-party professionals and copies of invoices from such third-party professionals; and (iv) all other costs and expenses of Authority in carrying out its duties. The Authority shall provide such additional information and supporting documentation as Developer may reasonably request regarding Authority Costs incurred. The Authority and Developer shall cooperate with one another to develop a reporting format that satisfies the reasonable informational needs of Developer without divulging any privileged or confidential information of the Authority, the City, or their respective contractors. The Authority Costs and Revenue Report shall be binding on Developer in the absence of error demonstrated by Developer within six (6) months of Developer's receipt of the same.

19.5 Payment of Authority Costs. The Authority may from time to time establish a fee for service mechanism for Authority Costs incurred by it pursuant to this DDA, although such mechanism may not result in higher Authority Costs than if the system outlined in Section 19.2 were observed. Any such fees collected shall be shown in the Authority Costs and Revenue Report for purposes of determining the Authority Costs due and owing from Developer under this DDA.

19.6 Payment for Shortfall in Authority Costs. In each calendar quarter, Authority shall apply all Authority Revenues against all Authority Costs described in each Authority Costs and Revenues Report in accordance with the requirements of applicable laws, including the Conversion Act and the City's Charter. Developer shall reimburse Authority for the amount by which the Authority Costs exceed Authority Revenues and reasonable reserves for that quarter, as shown in the Authority Costs and Revenues Report, no later than sixty (60) days after the receipt of the Authority Costs and Revenue Report from the Authority. The Parties shall meet and confer in good faith to resolve any disputes regarding an Authority Costs and Revenue Report. In addition to the other remedies provided in this DDA, the Authority shall

have the right to terminate or suspend any work for a Party under this DDA upon such Party's failure to pay amounts due and owing hereunder, and continuing until such Party makes payment in full to the Authority. No such failure to pay by a Party shall affect the Authority's obligations to any other Party under this DDA.

19.7 Interim Lease Revenues. The Authority shall collect and distribute Interim Lease Revenues in accordance with the priority set forth in Section 6.1 of the Financing Plan.

19.8 Payment of City Costs and Ramps Payment. Under the Development Agreement and the Interagency Cooperation Agreement, City Agencies must submit quarterly invoices for all City Costs incurred by the City Agency for reimbursement under the Development Agreement, which invoices shall be gathered by Authority. Authority shall gather all such invoices so as to submit one combined City bill to Developer each quarter. As described in the Development Agreement and the Interagency Cooperation Agreement, Developer shall pay City for all City Costs during the Term within thirty (30) days following receipt of a written invoice. Developer shall not be obligated for the payment of any City Cost that is not invoiced to Developer within twelve (12) months from the date the City Cost was incurred. Amounts due for the Ramps Subsidy in accordance with the SFCTA MOA, as amended (as more particularly described in Section 13.3.6 hereof), shall be invoiced within thirty (30) days prior to each due date thereunder, and shall be payable as a City Cost to the SFCTA or the Authority, as directed.

20. Financing; Rights of Mortgagees.

20.1 Right to Mortgage. Developer and any Person to whom any of them Transfers its respective interest in this DDA, as permitted under this DDA (collectively and individually, as the case may be, a "**Mortgagor**") shall have the right, at any time and from time to time during the term of this DDA, to grant a mortgage, deed of trust or other security instrument (each a "**Mortgage**") encumbering all or a portion of such Mortgagor's respective ownership interest in all or a portion of the Project Site, together with such Mortgagor's interest in any Project Accounts relating to such portions of the Project Site (including the right to receive payments from the Funding Sources or other revenue emanating from the Project Site) for the benefit of any Person (together with its successors in interest, a "**Mortgagee**") as security for one or more loans related to the Project Site made by such Mortgagee to the Mortgagor to pay or reimburse costs incurred in connection with obligations under this DDA, subject to the terms and conditions contained in this Article 20. Without limiting the foregoing, no Mortgage shall be granted to secure obligations unrelated to the Project Site or to provide compensation or rights to a Mortgagee in return for matters unrelated to the Project Site. A Mortgagee may Transfer all or any part of or interest in any Mortgage without the consent of or notice to any Party; provided, however, that the Authority shall have no obligations under this DDA to a Mortgagee unless the Authority is notified of such Mortgagee. Furthermore, the Authority's receipt of notice of a Mortgagee following the Authority's delivery of a notice or demand to Developer or to one or more Mortgagees under Section 20.4 shall not result in an extension of any of the time periods in this Article 20, including the cure periods specified in Section 20.5.

20.2 Certain Assurances. The Authority agrees to cooperate reasonably with each Mortgagor or prospective Mortgagor in confirming or verifying the rights and obligations of the Mortgagee.

20.3 Mortgagee Not Obligated to Construct. Notwithstanding any other provision of this DDA, including those that are or are intended to be covenants running with the land, a Mortgagee, including any Person who obtains title to all or any portion of or any interest in the Project Site as a result of foreclosure proceedings, or conveyance or other action in lieu thereof, or other remedial action, including (a) any other Person who obtains title to real property in the Project Site or such portion from or through such Mortgagee or (b) any other purchaser at foreclosure sale, shall in no way be obligated by the provisions of this DDA, to Commence or Complete Infrastructure and Stormwater Management Controls or Required Improvements or to provide any form of Adequate Security for such Commencement or Completion. Nothing in this Section 20.3 or any other Section or provision of this DDA, shall be deemed or construed to permit or authorize any Mortgagee or any other Person to devote all or any portion of the Project Site to any uses, or to construct any improvements, other than uses or Improvements consistent with the Development Requirements.

20.4 Copy of Notice of Default and Notice of Failure to Cure to Mortgagee. Whenever the Authority shall deliver any notice or demand to a Mortgagor for any breach or default by such Mortgagor in its obligations or covenants under this DDA, the Authority shall at the same time forward a copy of such notice or demand to each Mortgagee having a Mortgage on the portion of the Project Site or any interest in the revenues therefrom or related thereto that is the subject of the breach or default who has previously made a written request to the Authority for a copy of any such notices. The Authority's notice shall be sent to the address specified by such Mortgagee in its most recent notice to the Authority. In addition, if such breach or default remains after any cure period permitted under this DDA, as applicable, has expired, the Authority shall deliver a notice of such failure to cure such breach or default to each such Mortgagee at such applicable address. A delay or failure by the Authority to provide such notice required by this Section 20.4 shall extend, for the number of days until notice is given, the time allowed to the Mortgagee for cure.

20.5 Mortgagee's Option to Cure Defaults. Before or after receiving any notice of failure to cure referred to in Section 20.4, each Mortgagee that has received interest in real property shall have the right (but not the obligation), at its option, to commence within the same period as Developer to cure or cause to be cured any Event of Default, plus an additional period of (a) thirty (30) days to cure a monetary Event of Default and (b) sixty (60) days to cure a non-monetary Event of Default that is susceptible of cure by the Mortgagee without obtaining title to the applicable real property. If an Event of Default is not cured within the applicable cure period (or cannot be cured by the Mortgagee without obtaining title to the applicable real property), the Authority nonetheless shall refrain from exercising any of its remedies for the Event of Default and shall permit the cure by Mortgagee of such Event of Default if, within the Mortgagee's applicable cure period: (i) the Mortgagee has a recorded security interest in the applicable real property and notifies the Authority in writing that the Mortgagee intends to proceed with due diligence to foreclose the Mortgage or otherwise obtain title to the subject real property; (ii) the Mortgagee commences foreclosure proceedings within sixty (60) days after giving such notice, and diligently pursues such foreclosure to completion; and (iii) after obtaining title, the

Mortgagee diligently proceeds to cure those Events of Default: (A) that are susceptible of cure by the Mortgagee; and (B) of which the Mortgagee has been given written notice by the Authority under Section 20.4 or thereafter. Notwithstanding the foregoing, no Mortgagee shall be required to cure any Event of Default that is personal to the Mortgagor (by way of example and not limitation, such Mortgagor's bankruptcy, failure to submit required information in the possession of such Mortgagor), and the completion of a foreclosure and acquisition of title to the applicable real property by the Mortgagor shall be deemed to be a cure of such Events of Default. Although no Mortgagee is obligated to do so, any Mortgagee that directly or indirectly obtains title and that properly Completes the Infrastructure and Stormwater Management Controls or Improvements relating to the applicable portion of Project Site in accordance with this DDA shall be entitled, upon written request made to the Authority, to a Certificate of Completion.

20.6 Mortgagee's Obligations with Respect to the Property. Except as set forth in this Article 20, no Mortgagee shall have any obligations or other liabilities under this DDA unless and until it acquires title by any method to all or some portion of or interest in the Project Site (referred to as "**Foreclosed Property**") and expressly assumes Developer's rights and obligations under this DDA in writing. A Mortgagee (or its designee) that acquires title to any Foreclosed Property (a "**Mortgagee Acquisition**") shall take title subject to all of the terms and conditions of this DDA to the extent applicable to the Foreclosed Property, including any claims for payment or performance of obligations that are due as a condition to enjoying the benefits under this DDA from and after the Mortgagee Acquisition. Upon completion of a Mortgagee Acquisition and written assumption of Developer's rights and obligations under this DDA, the Authority shall recognize the Mortgagee as the Developer under this DDA. The Authority shall have no right to enforce any obligation under this DDA personally against any Mortgagee unless such Mortgagee expressly assumes and agrees to be bound by this DDA in a form Approved by the Authority. However, the Authority shall have the right to (i) terminate this DDA with respect to the Foreclosed Property if the Mortgagee does not agree to assume the rights and obligations of Developer relating to the Foreclosed Property in writing within ninety (90) days following a Mortgagee's acquisition of title to the Foreclosed Property, and (ii) exercise its rights under Section 16.5 with respect to Foreclosed Property (regardless of whether there has been a foreclosure) in the event that a Mortgagee does not cure a Reversionary Default within the time permitted for cure herein. If a Mortgagee or any Person who acquires title to real property in the Project Site from a Mortgagee assumes obligations to construct Improvements under this DDA, the Schedule of Performance with respect to the Foreclosed Property shall be extended as needed to permit such construction.

20.7 No Impairment of Mortgage. No default by a Mortgagor under this DDA shall invalidate or defeat the lien of any Mortgagee. Neither a breach of any obligation secured by any Mortgage or other lien against the mortgaged interest nor a foreclosure under any Mortgage shall defeat, diminish, render invalid or unenforceable or otherwise impair Developer's rights or obligations or constitute, by itself, a default under this DDA.

20.8 Multiple Mortgages. If at any time there is more than one Mortgage constituting a lien on a single portion of the Project Site or any interest therein, the lien of the Mortgagee prior in time to all others on that portion of the mortgaged property shall be vested with the rights under this Article 20 to the exclusion of the holder of any other Mortgage;

provided, however, that if the holder of a senior Mortgage fails to exercise the rights set forth in this Article 20, each holder of a junior Mortgage shall succeed to the rights set forth in this Article 20 only if the holders of all Mortgages senior to it have failed to exercise the rights set forth in this Article 20 and holders of junior Mortgages have provided written notice to the Authority under Section 20.4. No failure by the senior Mortgagee to exercise its rights under this Article 20 and no delay in the response of any Mortgagee to any notice by the Authority shall extend any cure period or Developer's or any Mortgagee's rights under this Article 20. For purposes of this Section 20.8, in the absence of an order of a court of competent jurisdiction that is served on the Authority, a title report prepared by a reputable title company licensed to do business in the State and having an office in City, setting forth the order of priorities of the liens of Mortgages on real property may be relied upon by the Authority as conclusive evidence of priority.

20.9 Cured Defaults. Upon the curing of any Event of Default by a Mortgagee within the time provided in Section 20.5, the Authority's right to pursue any remedies for the cured Event of Default shall terminate.

21. Transfers and Assignment.

21.1 Developer's Right to Transfer Major Phases and Sub-Phases. Developer shall have the right to Transfer to a Transferee, in each case upon compliance with the provisions of this Section 21.1: (i) the right to submit Major Phase Applications for one or more Major Phases, excluding the Initial Major Phase; (ii) the right to submit Sub-Phase Applications within any Major Phase(s), excluding the Initial Sub-Phases within the Initial Major Phase; (iii) the right to develop any Major Phases for which a Major Phase Approval has been obtained, excluding the Initial Major Phase; and (iv) the right to develop any Sub-Phase within a Major Phase for which a Sub-Phase Approval has been obtained, excluding the Initial Sub-Phases within the Initial Major Phase. The Authority Board's Approval shall be required for a Transfer pursuant to this Section 21.1. Such Approval will not be unreasonably withheld, delayed or conditioned if the Transferee or Persons Controlling the Transferee:

(a) have experience acting as the developer of projects similar in size and complexity to the development opportunity being Transferred (the "**Experience Requirement**"), as determined by the Authority Board in its reasonable discretion;

(b) satisfy the Net Worth Requirement;

(c) if the Transfer is under clause (i) or clause (ii) above, commit to submit a Major Phase Application and all Sub-Phase Applications for the development opportunity being Transferred, no later than the Outside Date for submission of the Major Phase Application or Sub-Phase Application, as applicable, or (B) ninety (90) days following the Authority's Approval of the proposed Transfer if the Authority's Approval occurs within the ninety (90) day period before the Outside Date for submission of the Major Phase Application or Sub-Phase Application, as applicable;

(d) enter into an Approved Assignment and Assumption Agreement, as set forth in Section 21.6, provided that (i) for a Transfer under clause (ii) or (iv) the Approved

Assignment and Assumption Agreement does not release Developer of its obligations hereunder as to the applicable Sub-Phase, and (ii) as to a Transfer under clause (i) or (iii), the Approved Assignment and Assumption Agreement does not release Master Developer of its obligations under Section 1.5 as Master Developer;

(e) provide Base Security and any Adequate Security as and to the extent required under Article 26, which shall apply to the obligations assumed by the Transferee unless replacement Base Security or Adequate Security is provided by the Transferee and Approved by the Authority Director; and

(f) have not been suspended, disciplined, debarred or prohibited from contracting with the City or the Authority.

Developer and any proposed Transferee shall provide detailed information to the Authority to demonstrate the Transferee's satisfaction of the above requirements, a proposed Assignment and Assumption Agreement, and such additional documents and materials as are reasonably requested by the Authority Director. Upon the Authority Director's receipt of the foregoing, the Authority Director shall submit the proposed Transfer to the Authority Board at the next regularly-scheduled meeting of the Authority Board for which an agenda has not yet been finalized and for which the Authority can prepare and submit a staff report in keeping with Authority standard practices. The Authority Board shall Approve or disapprove a request for Transfer. The consideration, if any, paid by the Transferee to Developer in connection with the proposed Transfer shall be treated as Gross Revenues.

21.2 Developer's Right to Transfer Lots. Subject to satisfaction of the conditions set forth in Section 10.7, Developer (and any Transferee) shall have the right without separate Approval of Authority pursuant to this Article 21 to Transfer Lots to Vertical Developers in accordance with the requirements of this DDA, including Article 17.

21.3 Developer Affiliate Transfers; Reorganizations. Developer shall have the right at any time to Transfer all or a portion of its rights and corresponding obligations under this DDA without the Approval of the Authority (except as set forth in this Section 21.3) if (i) Developer is not then in Material Breach, (ii) the Transferee is Controlled by Developer or by a Person that Controls Developer, or the Transferee is Approved by the Authority Director if the Transferee is an Affiliate of Developer that is not Controlled by Developer or by a Person that Controls Developer, and (iii) the Transferee or Persons Controlling the Transferee satisfy the Experience Requirement. Any such Transfer may be effected by the consolidation or merger of Developer into or with any other business organization whether or not Developer is the surviving entity under applicable law if the foregoing requirements are otherwise met. Any Transferee under this Section 21.3 shall be deemed an Affiliate of Developer, and therefore a Developer Party, under this DDA, and accordingly, (A) Developer's Base Security and any Adequate Security shall apply to the obligations assumed by the Transferee unless replacement Base Security or Adequate Security is provided by the Transferee and Approved by the Authority Director, and (B) the cross-default provisions set forth in Sections 3.8, 16.1 and 16.4 shall apply to Events of Default by Developer and the Transferee. Notwithstanding the foregoing, Developer may request that the cross-default provisions of this DDA not apply as between Developer and the Transferee in connection with any Transfer to an Affiliate under this Section

21.3, provided, that any such request shall be subject to review and Approval by the Authority Board in its sole discretion.

21.4 One Developer Retains Responsibility for All Infrastructure Within Each Major Phase. Before the receipt of a Major Phase Approval, Developer may Transfer all of its rights and obligations as Developer (but not as Master Developer) under this DDA for the entirety of a Major Phase (other than the Initial Major Phase) to a Transferee subject to the Authority Board's Approval as set forth in Section 21.1. Following a Major Phase Approval, Developer (or a Transferee, if applicable) shall have the right to Transfer the obligation for submitting all Sub-Phase Applications (other than the Initial Sub-Phases in the Initial Major Phase) and Completing any or all Infrastructure and Stormwater Management Controls for Sub-Phases within that Major Phase (other than the Initial Sub-Phases in the Initial Major Phase and excluding any Transferable Infrastructure within a Lot that is to be constructed by a Vertical Developer), to a Transferee subject to the Authority Board's Approval as set forth in Section 21.1, provided, however, that Developer and the Transferee of that Major Phase, if applicable shall not be released from the obligations hereunder to submit Sub-Phase Applications and to Complete all Infrastructure and Stormwater Management Controls within that Major Phase, and shall remain ultimately responsible for Completion of all Infrastructure and Stormwater Management Controls within that Major Phase. Developer may enter into construction contracts and similar agreements with third parties as may be needed to assist Developer or the Transferee of that Major Phase, as applicable, in satisfying the foregoing obligations, which contracts or agreements shall not be subject to Approval by the Authority under Section 21.1 or 21.5, provided, however, that no such contract or agreement shall serve to release Developer from its obligations to submit Sub-Phase Applications and to Complete all Infrastructure and Stormwater Management Controls within that Major Phase.

21.5 Authority's Approval of a Transfer. In addition to the Transfers permitted by Sections 21.1 through 21.3, Developer may Transfer some or all of its interest in this DDA with the Approval of the Authority Board, which the Authority Board may give or withhold in its sole discretion. Developer may also Transfer a portion of its interest in this DDA that is less than an entire Major Phase but includes the remainder of an entire Major Phase, together with the corresponding rights and obligations of Developer under this DDA, if the Authority Board Approves the proposed Transferee and the proposed Assignment and Assumption Agreement, which Approval shall not be unreasonably withheld if the Transferee, or Persons Controlling the Transferee, satisfy the Net Worth Requirement and the Experience Requirement, and the Assignment and Assumption Agreement meets the applicable requirements of Section 21.6.

21.6 Assignment and Assumption Agreement; Release.

21.6.1 Any Transfer described in Sections 21.1 and 21.3 through 21.5 (other than a transfer of the obligation to complete Transferable Infrastructure in accordance with Section 7.2) shall be under an Assignment and Assumption Agreement that includes: (a) a legal description of any real property being Transferred; (b) a detailed description of the rights and obligations under this DDA to be assigned to and assumed by Transferee, which must include all of the Indemnifications and releases by Developer in this DDA and in the Developer consent attached to the Interagency Cooperation Agreement and shall expressly recite any obligations of Developer that will not be Transferred (e.g., the Parties understand and agree that upon any such

assignment and assumption, all references to Developer in this DDA, excluding references in Sections 1.5 and 21.13 shall include the Transferee except as expressly noted in the Assignment and Assumption Agreement); (c) the obligations under this DDA that are assumed by the Transferee; (d) the Transferee's obligations under the Housing Plan, and an acknowledgement of the Authority's rights if Inclusionary Milestones under the Housing Plan are not satisfied with respect to the Project as a whole; (e) an agreement and covenant by the Transferee not to challenge the enforceability of any of the provisions or requirements of this DDA, including, if such Lots will contain a Residential Project, an agreement and covenant by the Transferee for the benefit of the Authority and Developer regarding the non-applicability of the Costa-Hawkins Act as set forth in Section 10 of the Housing Plan; (f) if the Infrastructure and Stormwater Management Controls for any adjoining real property is not Completed, an assumption of the risk of non-Completion and a waiver and release for the benefit of the Authority and the City regarding any failure to Complete the Infrastructure and Stormwater Management Controls; and (g) such other matters as are deemed appropriate by Developer and are Approved by the Authority Director. Each such Assignment and Assumption Agreement must be in recordable form and Approved by the Authority Director, although the Authority Director may elect, in his or her sole discretion, not to Approve any Assignment and Assumption Agreement (i) that does not include the items listed above, or (ii) if Developer is then in Material Breach of its obligations under this DDA.

21.6.2 Upon the consummation of any Transfer described in Sections 21.1(i), 21.1(iii), 21.3, or 21.5, including receipt of the Approved Assignment and Assumption Agreement, the Authority shall provide to Developer or other transferor a written release from any obligations under this DDA that are permitted to be released under this DDA and are expressly Transferred to and assumed by the Transferee under the Approved Assignment and Assumption Agreement (subject to the terms of approval by Authority), including in such release any obligations of Developer that accrued before the date of the Transfer to the extent the same are expressly assumed by the Transferee in the Assignment and Assumption Agreement. The release shall be provided within thirty (30) days after the effective date of such Transfer in a form prepared and Approved by the Authority, consistent with this Section 21.6.2. Except as provided in Sections 16.1 and 16.6 and as may otherwise be contained in an Assignment and Assumption Agreement Approved by the Authority Board, nothing in this Section 21.6 shall limit the Authority's right to take action against all Affiliates of Developer upon an Event of Default by an Affiliate of Developer as set forth in this DDA.

21.7 Exceptions. The provisions of this Article 21 shall not be deemed to prohibit or otherwise restrict Developer's (i) grant of easements, leases, subleases, licenses or permits to facilitate the development, operation and use of the Project Site, in whole or in part, (ii) grant or creation of a Mortgage permitted under Article 20, (iii) sale or transfer of all or any portion of the Project Site or any interest in the Project Site pursuant to a foreclosure or the exercise of a power of sale contained in such a Mortgage or any other remedial action in connection with the Mortgage, or a conveyance or transfer in lieu of foreclosure or exercise of such power of sale, or (iv) any Transfer to the Authority, the City, or any other Governmental Entity contemplated by this DDA. In addition, nothing in this Article 21 shall require the Authority to Approve any Transfer (excluding a Transfer of Lots subject to the satisfaction of the conditions set forth in Section 10.7 of this DDA) by Developer if Developer is in Material Breach.

21.8 Notice of Transfer. For any Transfer permitted under this Article 21 (but not including under Section 21.2) without the Approval of the Authority, Developer shall provide the Authority with notice of any Transfer not less than thirty (30) days before the effective date of the Transfer (unless a shorter period is Approved by the Authority Director in his or her sole discretion). Developer shall include with such notice the identity, address, contact person and telephone number of the proposed Transferee, the proposed Assignment and Assumption Agreement, including a clear statement of the assumed obligations of Developer under this DDA and satisfactory evidence that the proposed Transferee possesses the required qualifications. Developer shall also provide any additional information and materials reasonably requested by the Authority Director. This provision shall not create any obligation on or duty of a Mortgagee other than as set forth in Article 20.

21.9 Transfer of DDA Obligations and Interests in Property. Other than with respect to a Mortgagee whose security does not include real property, (i) Developer's rights and obligations under this DDA may be Transferred only in conjunction with the Transfer of the portion of the real property (or the right to acquire such real property on the terms of this DDA) to which the rights and obligations apply and (ii) the Transferee shall succeed to all of Developer's rights (including without limitation the right to Transfer) and obligations under this DDA that relate to the property or development opportunity Transferred. Developer may effectuate a Transfer of real property through a ground lease transaction, subject to the Authority Director's Approval in his or her sole discretion. Nothing herein shall prohibit Developer from Transferring its rights and obligations for a Sub-Phase separately from Developer's rights to Vertical Development within such Sub-Phase, subject to compliance with the terms and conditions hereof.

21.10 Liability for Default/Step-in Meet and Confer.

21.10.1 Liability for Default. No Third Party Transferee shall be liable for the default by Developer or another Transferee in the performance of its respective obligations under this DDA, and Developer shall not be liable for the default by any Third Party Transferee in the performance of its respective obligations; provided, that the foregoing provision shall not (i) be applicable to either a Transferee or Developer to the extent either has assumed such obligation under the terms of the applicable Assignment and Assumption Agreement or retained such obligation in accordance with Section 21.4 of this DDA, or (ii) limit the Authority's right to proceed against Developer and Affiliates of Developer upon an Event of Default by Developer or any Affiliate of Developer. Except as provided in this Section 21.10 and in Sections 3.8 and 16.4, a failure to submit an Application or an Event of Default by Developer or a Transferee shall not entitle the Authority to terminate this DDA, or otherwise affect any rights under this DDA, for any portion of the Project Site that is not owned or Controlled by the Person that is in default.

21.10.2 Step-in Meet and Confer. If a Transferee of a Major Phase commits a Material Breach hereunder that results in the termination of the Major Phase, Developer may notify the Authority that Developer is willing to step-in and proceed with the applicable Major Phase and any Sub-Phases within that Major Phase that have not been previously conveyed. Upon such request, the Parties shall meet and confer on the terms of an Assumption Agreement whereby Developer would assume all obligations of Developer for that

Major Phase and any remaining Sub-Phases of the Major Phase, including proposed changes to the Schedule of Performance. Notwithstanding the foregoing, Authority shall not be obligated to negotiate exclusively with Developer, shall have no obligation to enter into an Assignment and Assumption Agreement for the applicable Major Phase with Developer and may Transfer the applicable Major Phase to a Third Party Transferee at any time.Restrictions on Speculation. No Sub-Phase or Lot may be Transferred by Developer until Developer (or the Transferee in accordance with Sections 21.1(e) or 21.4) has provided, and continues to maintain, Adequate Security for the performance of its obligations to Complete the Infrastructure and Stormwater Management Controls in that Sub-Phase until Completion of such Infrastructure and Stormwater Management Controls.

21.12 Restrictions on Transfer by the Authority. The Parties acknowledge that pursuant to the terms of the Conversion Act, the City and County of San Francisco and the San Francisco Port Commission (the "**Port**") may succeed to certain interests of the Authority in the event of the dissolution of the Authority. Developer agrees to be bound by all of the terms of this Agreement should the City and/or the Port succeed to the interest of Authority by operation of law or otherwise, and it is the intent of the Parties hereto that this Agreement shall continue to be of full force and effect and binding on both Developer and any successor to the Authority by operation of law or otherwise in accordance with all of its terms and conditions. Except as may be expressly permitted by the foregoing during the Term, the Authority shall not Transfer any portion of the Project Site to any Person where such Transfer would materially adversely impair Developer's performance under this DDA or the uses, densities, rights or intensity of development contemplated under this DDA. The foregoing shall not preclude the grant of easements, leases, subleases, licenses or permits to facilitate the development, operation and use of the Project Site as contemplated by this DDA or the Marina Term Sheet. The Authority may Transfer the Authority Housing Lots only to Qualified Housing Developers and only for the development of Authority Housing Projects as set forth in the Housing Plan. Prior to the issuance of the final Certificate of Completion for all Improvements contemplated hereunder, except as otherwise provided herein, the Authority shall retain all Public Property designated for parks or open space. The Authority shall have the right to Transfer all or any portion of NSTI that is not included in the Project Site, and any of the Authority's rights and obligations under this DDA by operation of law, without the Approval of Developer; provided, however, that Authority shall provide under the terms of any such Transfer that development of such area is performed consistent with the Development Requirements. In addition, so long as TICD remains the Master Developer, the Authority shall further provide under the terms of any such Transfer that development of the Transferred area comply with zoning and development standards equal to or more stringent than those applicable to the Project Site under the SUD and the Design for Development as of the Effective Date hereof.

21.13 Certain Recordkeeping. Developer and its Transferees are treated as one for purposes of the sharing of Net Cash Flow under Section 1.3 of the Financing Plan. Developer shall require each Transferee to create and maintain, with respect to its development at the Project Site (excluding any Vertical Improvements), the same reports, records and information that Developer is required to create and maintain with respect to its development at the Project Site. Developer shall gather and compile all such information and prepare an integrated Annual Report for purposes of all accounting and record keeping under the Financing Plan, including but not limited to maintaining records of the Project Accounts, Project Costs,

Distributions and Funding Sources in accordance with Section 1.6 of the Financing Plan. The Authority shall have the same audit rights against all Transferees as the Authority has against Developer, and all applicable reports, records and information of Transferees shall be made available to the Authority at its request in accordance with the Financing Plan.

22. General Developer and Vertical Developer Indemnification; Insurance.

22.1 General Developer Indemnification. Developer shall Indemnify the Authority and the City and their respective commissioners, supervisors, officers, employees, attorneys, contractors and agents (each, a "**City Party**") from and against all claims, demands, losses, liabilities, damage, liens, obligations, interest, injuries, penalties, fines, lawsuits or other proceedings, judgments and awards and costs and expenses (including reasonable attorneys' fees and costs, consultant fees and costs and court costs) of whatever kind or nature, known or unknown, contingent or otherwise, including the reasonable costs to the Authority of carrying out the terms of any judgment, settlement, consent, decree, stipulated judgment or other partial or complete termination of an action or procedure that requires the Authority to take any action (collectively "**Losses**") arising from or as a result of, except to the extent such Losses are directly or indirectly caused by the act or omission of a City Party, (a) the non-compliance of the Infrastructure and Stormwater Management Controls constructed by or on behalf of Developer with any federal, State or local laws or regulations, including those relating to access, or any patent or latent defects therein, (b) during the period of time that Developer holds title to any portion of the Project Site, the death of any person or any accident, injury, loss or damage whatsoever caused to any person or to the property of any person that shall occur in such portion of the Project Site and (c) the death of any person or any accident, injury, loss or damage whatsoever caused to any person or to the property of any person that shall occur in or around the Project Site to the extent caused by the act or omission of Developer or its agents, servants, employees or contractors.

In addition to the foregoing, Developer shall Indemnify the City Parties from and against all Losses (if a City Party has been named in any action or other legal proceeding) and all Authority Costs incurred by a City Party (if the City Party has not been named in the action or legal proceeding) arising directly or indirectly out of or connected with contracts or agreements (i) to which no City Party is a party and (ii) entered into by Developer in connection with its performance under this DDA, any Assignment and Assumption Agreement and any dispute between parties relating to who is responsible for performing certain obligations under this DDA (including any record keeping or allocation under the Financing Plan), except to the extent such Losses were caused by the act or omission of a City Party. For purposes of the foregoing sentence, no City Party shall be deemed to be a "party" to a contract solely by virtue of having Approved the contract under this DDA (e.g., an Assignment and Assumption Agreement).

22.2 General Vertical Developer Indemnification. The Vertical DDA and Vertical LDDA will require each Vertical Developer to Indemnify the City Parties from and against all Losses, except to the extent such Losses are caused by the act or omission of a City Party, arising from or resulting from (a) the non-compliance of the Vertical Improvements and any Infrastructure and Stormwater Management Controls constructed by Vertical Developer with any federal, State or local laws or regulations, including those relating to access, or any patent or latent defects therein, (b) during the period of time that Vertical Developer holds title to any

portion of the Project Site, the death of any person or any accident, injury, loss or damage whatsoever caused to any person or to the property of any person that shall occur in such portion of the Project Site and (c) the death of any person or any accident, injury, loss or damage whatsoever caused to any person or to the property of any person in and around the Project Site to the extent caused by the act or omission of Vertical Developer or its agents, servants, employees or contractors.

22.3 Other Remedies. The agreements to Indemnify set forth in Sections 22.1 and 22.2 are in addition to, and in no way shall be construed to limit or replace, any other obligations or liabilities that Developer may have to the Authority under this DDA, except as may be limited by the provisions of Article 16.

22.4 Defense of Claims. The Authority agrees to give prompt notice to Developer or Vertical Developer (as the case may be, the "**Indemnifying Party**") with respect to any suit filed or claim made against the Authority (or, upon the Authority's discovery thereof, against any City Party that the Authority believes in good faith is covered by any Indemnification given by Developer or Vertical Developer under this DDA) no later than the earlier of (a) ten (10) days after valid service of process as to any filed suit or (b) fifteen (15) days after receiving notification of the assertion of such claim, which the Authority has good reason to believe is likely to give rise to a claim for Indemnification hereunder by the Indemnifying Party. The failure of the Authority to give such notice within such timeframes shall not affect the rights of the Authority or obligations of the Indemnifying Party under this DDA except to the extent that the Indemnifying Party is prejudiced by such failure. The Indemnifying Party shall, at its option but subject to Approval by the Authority, be entitled to control the defense, compromise or settlement of any such matter through counsel of the Indemnifying Party's choice; provided, that in all cases the Authority shall be entitled to participate in such defense, compromise or settlement at its own expense. If the Indemnifying Party shall fail, however, in the Authority's reasonable judgment, within a reasonable time following notice from the Authority alleging such failure, to take reasonable and appropriate action to defend, compromise or settle such suit or claim, the Authority shall have the right promptly to hire counsel to carry out such defense, compromise or settlement, and the reasonable expense of the Authority in so doing shall be due and payable to the Authority within fifteen (15) days after receipt by the Indemnifying Party of a properly detailed invoice for such expense.

22.5 Limitations of Liability. It is understood and agreed that no commissioners, members, officers, agents, or employees of the Authority (or of its successors or assigns) shall be personally liable to Developer or any Vertical Developer, nor shall any direct or indirect partners, members or shareholders of Developer or Vertical Developer or its or their respective officers, directors, agents or employees (or of their successors or assigns) be personally liable to the Authority, in the event of any default or breach of this DDA by the Authority, Developer or any Vertical Developer or for any amount that may become due to Developer, any Vertical Developer or the Authority or any obligations under the terms of this DDA; provided, that the foregoing shall not release obligations of a Person that otherwise has liability for such obligations, such as (i) the general partner of a partnership that, itself, has liability for the obligation or (ii) the obligor under any Adequate Security covering such obligation. Further, notwithstanding anything to the contrary set forth in this Article 22, the Indemnifications by Developer in Article 22 shall exclude any Losses relating to Hazardous

Substances, which shall be instead governed by the Land Acquisition Agreements, Permits to Enter and Article 11.

22.6 Insurance Requirements. As a part of each Major Phase Application, Developer shall propose the form, amount, type, terms and conditions of insurance coverages required of Developer in connection with such Major Phase, including those required under Section 11.3, and the final insurance requirements shall be included in each Major Phase Approval (the "**Insurance Requirements**").

23. Authority Indemnification.

23.1 Indemnification. The Authority shall Indemnify Developer and its owners and the members, directors, officers, partners, employees, agents, successors and assigns of each of them from and against all Losses arising from or as a result of Authority's non-compliance with applicable Replacement Housing Obligations, except to the extent that such Losses are directly or indirectly caused by the negligent or willful act of Developer, including Developer's failure to comply with its obligations under the Housing Plan.

23.2 Other Remedies. The agreement to Indemnify set forth in Section 23.1 is in addition to, and in no way shall be construed to limit or replace, any other obligations or liabilities that the Authority may have to Developer under this DDA, except as may be limited by the provisions of Article 16.

24. Excusable Delay; Extension of Times of Performance.

24.1 Excusable Delay. In addition to the specific provisions of this DDA, a Party shall not be deemed to be in default under this DDA, including all Exhibits, on account in any delay in such Party's performance to the extent the delay results from any of the following (each, "**Excusable Delay**"):

24.1.1 "**Force Majeure**", which means: war; acts of terrorism; insurrection; strikes or lock-outs not caused by, or outside the reasonable control of, the Party claiming an extension; riots; floods; earthquakes; fires; casualties; acts of nature; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation not caused by, or outside the reasonable control of, the Party claiming an extension; failure or delay in delivery of utilities serving the Project Site not caused by, or outside the reasonable control of, the Party claiming an extension, existing environmental conditions affecting the Project Site that are not the responsibility of Developer under a Remediation Agreement, and previously unknown environmental conditions discovered on or affecting the Project Site or any portion thereof, in each case including any delay caused or resulting from the investigation or remediation of such conditions; existing unknown or newly discovered geotechnical conditions affecting the Project Site, including any delay caused or resulting from the investigation or remediation of such conditions, or litigation that enjoins construction or other work on the Project Site or any portion thereof, causes a lender to refuse to fund, disburse or accelerate payment on a loan, or prevents or suspends construction work on the Project Site except to the extent caused by the Party claiming an extension; unusually severe weather; inability to secure necessary labor, materials or tools (provided that the Party claiming Force Majeure has taken

reasonable action to obtain such materials or substitute materials on a timely basis); a development moratorium, as defined in Section 66452.6(f) of the California Government Code, extending the expiration date of a tentative subdivision map; the occurrence of a Conflicting Law; a breach of Authority's Title Covenant, including any delay caused or resulting from the ensuing time necessary for Authority or Developer to remove such title exception, including litigation arising therefrom; and any other causes beyond the reasonable control and without the fault of the Party claiming an extension of time to perform.

24.1.2 "**Economic Delay**", means either (1) any period of time in which Developable Lots that are Market Rate Lots ("**Developable Market Rate Lots**") containing thirty percent (30%) or more of the number of Market Rate Units as set forth in the Housing Data Table approved for any given Sub-Phase remain unsold at or above the Minimum Bid Price(s) set forth in the Proforma submitted by Developer at the commencement of the applicable Major Phase (as such Proforma may be updated at a subsequent Sub-Phase in accordance with this DDA), for a period of no less than four (4) months after the last Market Rate Developable Lot in the Sub-Phase has been completed, notwithstanding commercially reasonable and diligent efforts by Developer to market and sell such Developable Market Rate Lots (a "**Sub-Phase Event**"); or (2) any period of time in which Developable Market Rate Lots containing thirty percent (30%) or more of the number of Market Rate Units as set forth in the Housing Data Tables for all Sub-Phases approved to date remain unsold at or above the Minimum Bid Price(s) set forth in the Proforma submitted by Developer at the commencement of the most recent Major Phase (as such Proforma may be updated at a subsequent Sub-Phase in accordance with this DDA), for a period of no less than four (4) months after the last Developable Market Rate Lot in the applicable Sub-Phase has been completed, notwithstanding commercially reasonable and diligent efforts by Developer to market and sell such Developable Market Rate Lots (a "**Cumulative Sub-Phase Event**"). The foregoing notwithstanding, Developable Market Rate Lots designated in the Housing Data Table approved at the commencement of any given Sub-Phase to accommodate buildings over 240 feet in height (each, a "**High Rise Lot**") and realized land sales attributable to those Developable Market Rate Lots shall be excluded from calculations of both a Sub-Phase Event and a Cumulative Sub-Phase Event for a period of time equal to the first six (6) years after the date of approval of the first Sub-Phase Application in the Initial Major Phase. From and after the sixth anniversary of the date of approval of the first Sub-Phase Application in the Initial Major Phase, all Developable Market Rate Lots in any given Sub-Phase, including High Rise Lots, shall be included in any calculations determining a Cumulative Sub-Phase Event, but shall not be included in any calculations for determining a Sub-Phase Event. Notwithstanding the foregoing, if the sole reason for Economic Delay is due to the inclusion of unsold High Rise Lots in a Cumulative Sub-Phase Event and such condition remains for more than four (4) years, the Developer, at its option, shall either waive the Economic Delay or, if it elects not to waive the Economic Delay, Developer may deliver a Requested Change Notice regarding a redesign of the High Rise Lots as necessary to reposition the Project for market acceptance.

24.1.3 "**Administrative Delay**", which means: (i) any Governmental Entity's failure to act within a reasonable time, in keeping with standard practices for such Governmental Entity, or within the time contemplated in the Interagency Cooperation Agreement, the Development Agreement, any of the Land Acquisition Agreements, any Acquisition and Reimbursement Agreement or this DDA (after a timely request to act or when a duty to act arises); (ii) the taking of any action, or the failure to act, by any Governmental Entity

where such action or failure to act is challenged by Developer or a Vertical Developer and the Governmental Entity's act or failure to act is determined to be wrong or improper; provided, that delays caused by an applicant's failure to submit Complete Applications or provide required information shall not, by itself, be an Administrative Delay; and (iii) any delay that by the express terms of this DDA is an Administrative Delay. Without limiting the foregoing, Administrative Delay shall include the period of delay, if any, between the anticipated date for Initial Closing as set forth in the Conveyance Agreement approved by the Authority and the City as of the Reference Date and the actual date for the Initial Closing as set forth in the fully executed final Conveyance Agreement.

24.1.4 "**CEQA Delay**", which means: (i) such period as may be required to complete any additional environmental review required under CEQA after the certification of the Project EIR by the Planning Commission and the Authority Board and the filing of a notice of determination following approval of the Project by the Board of Supervisors; (ii) any time during which there are litigation or other legal proceedings pending involving the certification or sufficiency of the Project EIR or any other additional environmental review, regardless of whether development activities are subject to a stay, injunction or other prohibition on development action; (iii) any time required to comply with any Mitigation Measures imposed on the Project relating to previously unknown conditions or conditions that could not have been reasonably anticipated and that, by their nature require a delay or stoppage in work, including investigation and remediation activities required thereby, provided that the Party claiming delay is taking such required actions and resolving the issues causing delay in a timely and diligent manner; and (iv) any time required by the Authority or City to prepare additional environmental documents in response to a pending Application or other request for an Approval by the City or the Authority that requires additional environmental review; provided that the Party claiming delay has timely taken reasonable actions to obtain any such Approval or action.

Notwithstanding anything to the contrary in this Section 24.1, the following shall not be Excusable Delay: (1) the lack of credit or financing, unless such lack is the result of Economic Delay; or (2) the appointment of a receiver to take possession of the assets of Developer, an assignment by Developer for the benefit of creditors, or any other action taken or suffered by Developer**,** under any insolvency, bankruptcy, reorganization, moratorium or other debtor relief act or statute.

24.2 Period of Excusable Delay. The period of an Excusable Delay shall commence to run from the time of the commencement of the cause. Except for CEQA Delay, the Party claiming Excusable Delay shall provide notice to the other applicable Parties of such Excusable Delay within a reasonable time following the commencement of the cause. If, however, notice by the Party claiming such extension is sent to the other Parties more than sixty (60) days after the commencement of the cause, the period shall commence to run only sixty (60) days before the giving of such notice, provided that the Party claiming the extension gives notice within a reasonable time following the commencement of the cause.

24.2.1 Each extension for Excusable Delay shall cause all future dates in the Schedule of Performance, or other date for performance occurring after the date of the notice, to be extended (in each case as they may otherwise be extended), although Developer shall not be entitled (A) to abandon any portion of the Project Site that it owns or where it has

Commenced Infrastructure and Stormwater Management Controls without first taking appropriate measures to leave the property in good and safe condition, (B) to extend the Outside Dates for the Completion of Infrastructure and Stormwater Management Controls or other Improvements that have Commenced to the extent that Excusable Delay is not related to such activities, (C) to cease paying taxes or assessments on any real property it owns within the Project Site, (D) to avoid the obligation to maintain in effect Adequate Security or other financial assurances, (E) to avoid or delay its obligations to construct the Required Improvements, except to the extent an Excusable Delay relates to Developer's obligations for such construction, or (F) to avoid or delay its Financial Obligations (except to the extent such payments are tied to the dates for the Completion of Improvements). In addition, Developer shall not be entitled to an Economic Delay extension to extend the date for Completion of the Infrastructure and Stormwater Management Controls for the Authority Housing Lot designated for satisfaction of the Replacement Housing Obligation related to demolition of the existing Yerba Buena Island units.

24.2.2 Times of performance under this DDA may also be extended in writing by the Authority and Developer for the Infrastructure and Stormwater Management Controls and the other obligations of Developer or the Authority hereunder, each acting in its respective sole and absolute discretion.

24.3 Developer Extension.

24.3.1 Upon receipt of each of the first three Major Phase Approvals, Developer shall obtain a "**Developer Extension**" equal to two (2) years. Upon receipt of the fourth Major Phase Approval, Developer shall obtain a Developer Extension equal to three (3) years. On any occasion in its sole discretion, Developer shall have the right to apply the Developer Extension subject to the following limitations and procedures: (i) Developer may apply the Developer Extension only by notifying the Authority to such effect, specifying the duration of such extension; (ii) by notice to the Authority Developer may extend the duration of the extension, so long as it remains within the then unused Developer Extension, and may reduce the duration of the extension upon notification that there is an applicable Excusable Delay and Developer intends to rely on the Excusable Delay instead of the Developer Extension; (iii) subject to the limitations in Section 24.3.2 below, each extension notice shall have the effect of extending (or reducing, as the case may be) all of the Outside Dates in the Schedule of Performance or other date for performance occurring after the date of the notice (in each case as they may otherwise be extended) by the duration of such extension (or reduction); (v) no such extension may be for a period longer than the unused portion of the then current Developer Extension; and (vi) any unused portion of a Developer Extension obtained upon a Major Phase Approval shall expire upon Completion of the Infrastructure and Stormwater Management Controls for that Major Phase. Extensions pursuant to this Section 24.3 are independent of Excusable Delay and any other ground for extension permitted in this DDA.

24.3.2 A Developer Extension shall cause all future dates in the Schedule of Performance, or other date for performance occurring after the date of the notice, to be extended (in each case as they may otherwise be extended), although Developer shall not be entitled (A) to abandon any portion of the Project Site that it owns or where it has Commenced Infrastructure and Stormwater Management Controls without first taking appropriate measures to

leave the property in good and safe condition, (B) to cease paying taxes or assessments on any real property it owns within the Project Site, (C) to avoid the obligation to maintain in effect Adequate Security or other financial assurances, (D) to extend the dates for performance for the Required Improvements, (E) to extend the date for Completion of the Infrastructure and Stormwater Management Controls for the Authority Housing Lot designated for satisfaction of the Replacement Housing Obligation related to demolition of the existing YBI units, or (F) to avoid or delay its Financial Obligations (except to the extent such payments are tied to the dates for the Completion of Improvements).

24.4 Park Extension. Developer and the Authority wish to avoid damaging the Improvements to the parks and open space during construction of adjacent Improvements, and to avoid the Completion of such parks and open space Improvements before the Completion of the Infrastructure and Stormwater Management Controls serving the parks and open space. Accordingly, subject to compliance with the Mitigation Measures, Developer shall have the right to apply for an extension of the applicable Outside Date for a specified parks and open space by one (1) year (the "**Park Extension**") by submitting request for such extension to the Authority on or before the applicable Outside Date. Approval for such extension shall not be unreasonably withheld if Developer satisfactorily demonstrates that such extension is necessary to avoid damaging the Improvements to the parks and open space during construction of adjacent Improvements, and to avoid the Completion of such parks and open space Improvements before the Completion of the Infrastructure and Stormwater Management Controls serving the parks and open space.

24.5 Limitations. In the event that an Excusable Delay exceeds twelve (12) months (except as set forth in the last sentence of this Section 24.5), the Parties shall meet and confer in good faith on mutually acceptable changes to the Project that will allow development of the Project to proceed to the extent possible notwithstanding the event or events causing such Excusable Delay. Notwithstanding anything to the contrary in this DDA, in no event shall an Excusable Delay extend for a period greater than (i) for litigation, three (3) months after a final, non-appealable judgment is issued or affirmed and (ii) for all other events other than Administrative Delay, CEQA Delay, Economic Delay or Force Majeure triggered by earthquake or flood, forty-eight (48) months after the start of the Excusable Delay. There shall be no cutoff date for an Administrative Delay, new environmental conditions, CEQA Delay (except as provided in clause (i) above), Economic Delay (except as provided in Section 24.1.2) or Force Majeure triggered by earthquake or flood.

24.6 Extensions for Delay under Land Acquisition Agreements. The Parties acknowledge and agree that the Navy's schedule for the phased conveyances of the Project Site to the Authority is revised from time to time by the Navy to reflect the Navy's progress in remediating such property. Upon Developer's request, the Authority Director will consider, in his or her reasonable discretion, changes to the Schedule of Performance to extend the applicable Outside Dates so as to avoid having Applications submitted significantly in advance of when necessary based upon the anticipated date of conveyances by the Navy (or other parties under other Land Acquisition Agreements), but still far enough in advance to permit Developer to Commence Infrastructure and Stormwater Management Controls when the applicable real property will be available; provided, this potential extension of the Schedule of Performance

shall not be used or applied for delays under the Land Acquisition Agreements caused by Developer.

25. Cooperation and Assistance.

25.1 Interagency Cooperation Agreement. The Authority shall perform its obligations under the Interagency Cooperation Agreement and shall use commercially reasonable efforts to cause the City Agencies to perform their respective obligations under the Interagency Cooperation Agreement**.**

25.2 Authority and Developer Rights and Obligations Under Land Acquisition Agreements. As a part of the land acquisition required or contemplated for the Project, the Authority plans to enter into the Conveyance Agreement and the Public Trust Exchange Agreement (collectively, the "**Land Acquisition Agreements**"). In furtherance of the foregoing, the Authority shall, to the extent Developer continues to have rights under this DDA with respect to the affected real property: (a) use good faith efforts to include Developer in any meetings between the Authority and any of the parties to the Land Acquisition Agreements with respect to the subject matter thereof, and deliver to Developer a copy of any material written notice sent or received by the Authority under any of the Land Acquisition Agreements; (b) consult with Developer regarding any material written notice that the Authority desires to deliver under any Land Acquisition Agreement; (c) not send any material written notice that the Authority desires to deliver under any Land Acquisition Agreement without the Approval of Developer; (d) coordinate with Developer regarding any closing or other material actions under any of the Land Acquisition Agreements; (e) closely coordinate with Developer in connection with any dispute resolution process under the Conveyance Agreement; and (e) not take any actions under any of the Land Acquisition Agreements that would materially adversely impact Developer without the Approval by Developer (unless the failure to take such action would result in an Authority breach of the Land Acquisition Agreement), including any termination or material amendment of a Land Acquisition Agreement. The Authority shall make available to Developer upon written request any written notices or third-party communications, and any non-privileged materials, in the Authority's possession regarding the Land Acquisition Agreements. Developer agrees to reasonably cooperate with the Authority and to perform all acts required of Developer in order to effectuate the closings contemplated by the Land Acquisitions Agreements.

25.3 Cooperation Regarding Land Acquisition Agreements. The Authority will use commercially reasonable efforts to enforce its rights under the Land Acquisition Agreements; provided, that the Authority shall not be required to spend funds for such efforts unless Approved by the Authority Board and, if applicable, the Board of Supervisors. Developer will reasonably cooperate with the Authority in such efforts, including by providing access to the Authority, the Navy and their designated representatives and promptly delivering to the Authority any non-privileged materials in Developer's possession that may be required under the Land Acquisition Agreements.

26. Adequate Security

26.1 Certain Definitions. As used herein:

"**Adequate Security**" means any security provided by Developer in accordance with this DDA that (i) secures the faithful performance or payment of the obligation secured thereby, (ii) is issued by a Person Approved by the Authority Director (and that meets the Guarantor Net Worth Requirement, if applicable), (iii) provides that the maximum liability of the obligor thereunder shall be equal to the Secured Amount plus the costs of enforcing such Adequate Security, and (iv) is in a form determined by Developer and Approved by the Authority Director, including, but not limited to a Guaranty, bonds, letters of credit, certificates of deposit or any other form that provides reasonable assurances regarding the obligations secured thereby. Any Adequate Security required by the TI/YBI Subdivision Code in connection with a final subdivision map shall conform to the requirements of the TI/YBI Subdivision Code.

"**Guaranty**" means a guaranty in the form attached hereto as Exhibit Y-1 or Y-2, as applicable, with only such changes as may be Approved by Developer and the Authority Director in their respective sole and absolute discretion that is executed by a Person(s) (i) with a Net Worth greater than the Secured Amount, and in no event less than Fifty Million Dollars ($50,000,000) (such $50,000,000 amount to be increased, automatically, by ten percent (10%) on each five (5) year anniversary of the Effective Date) (the "**Guarantor Net Worth Requirement**") and (ii) that is otherwise Approved by the Authority Director (each, a "**Guarantor**").

"**Secured Amount**" means, unless otherwise specifically provided in this DDA, including Section 16.5.4, (i) if securing an obligation to pay money, one hundred percent (100%) of the amount of such secured payment and (ii) if securing an obligation to construct, one hundred percent (100%) of the estimated cost of Completion of such construction as such cost is Approved by the Authority Director and Developer with reference to the applicable construction contracts entered into by Developer.

26.2 Base Security.

26.2.1 Base Security. Developer shall provide one or more Guaranties or other Adequate Security for (i) the payment of Financial Obligations, (ii) the payment and performance of Indemnifications under this DDA, including Indemnification obligations set forth in Section 22.1 hereof relating to the construction of Infrastructure, Stormwater Management Controls, Associated Public Benefits and Required Improvements and in Section 11.2 relating to Hazardous Substances, and (iii) all obligations secured under the Original Project Guaranty (the "**Base Security**"). The Base Security shall include a cap on the obligors' liability covered by all Base Security in the aggregate amount of Ten Million Dollars ($10,000,000), provided such amount shall be increased automatically by ten percent (10%) on each five (5) year anniversary of the Reference Date (the "**Base Security Cap**").

26.2.2 Effect of Transfer. Unless otherwise Approved by the Authority Board in its sole discretion in connection with its Approval of a Transfer, a Transfer by Developer to a Transferee under this DDA (and the provision of Base Security from more than one Person) shall not decrease the Base Security Cap under Base Security previously provided to the Authority.

26.2.3 Delivery by Developer. Within sixty (60) days after the Reference Date, (i) Developer shall provide up to two separate Guaranties, substantially in the form attached hereto as Exhibit Y-1 (or other form of Adequate Security), each from a Guarantor that meets the Guarantor Net Worth Requirement, in the aggregate amount of the Base Security Cap, with only such changes as may be mutually Approved by the Authority Director and Developer, and such Adequate Security shall be, collectively, Developer's Base Security. Promptly following the full execution and delivery of such Base Security, the Authority shall release and return the Original Project Guaranty to Developer. If requested by Developer or the applicable obligor, the Authority shall provide a written confirmation of such release and return. If more than one (1) form of Base Security is provided, the Adequate Security shall not be cross-defaulted and liability thereunder shall be several and not joint, but such Guaranties shall be subject to the replenishment requirement under Section 26.2.5. In the event that a claim or demand may be made against more than one instrument of Base Security, the Authority shall have the right to proceed against all such Base Security instruments simultaneously or in such order as may be determined by the Authority in its sole discretion. Notwithstanding the foregoing, if a CEQA Delay has occurred within sixty (60) days after the Reference Date, then the Guaranties provided shall add up to a collective total of Five Million Dollars ($5,000,000), and shall be replaced by Guaranties meeting the requirements of this Section 26.2.2 adding up to a collective total of the Base Security Cap upon the earlier of (i) sixty days after the expiration of the CEQA Delay; or (ii) the Initial Closing of the FOST Parcel under the Conveyance Agreement. Concurrently with the execution and delivery of such replacement Guaranties, the Authority shall release and return the prior Guaranty Agreement(s) to the applicable Guarantor.

26.2.4 Delivery by Transferees. No later than the effective date of a Transfer by Developer under Article 21, either (i) Developer and the obligor(s) under Developer's Base Security shall confirm in a manner acceptable to the Authority Director that Developer's Base Security secures all obligations of the Transferee described in Section 26.2.1, or (ii) the Transferee shall provide to the Authority new Base Security that secures all obligations of the Transferee as described in Section 26.2.1 and is Approved by the Authority Director. The effectiveness of the Authority Board's Approval of any Transfer under Article 21 shall be conditioned upon the Authority's receipt of such Base Security or such confirmation.

26.2.5 Replenishment. No payment or performance made by the obligor under any Base Security shall reduce or eliminate the requirement that Developer provide and maintain Base Security at all times during this DDA until the applicable Base Security Termination Date. Accordingly, upon any payment or performance by an obligor under Base Security, Developer shall provide, within thirty (30) days following such payment or performance, either replacement Base Security or an amendment to the applicable existing Base Security (in each case meeting all of the requirements for the Base Security as set forth in this DDA) to confirm that the Base Security Cap under all Base Security remains, collectively, Ten Million Dollars ($10,000,000), as increased by ten percent (10%) on each five (5) year anniversary of the Reference Date (plus the costs of enforcing the Base Security).

26.2.6 Release. The Authority shall promptly release and return any unused portion of any Base Security five (5) years following the earliest to occur of the following events: (i) the issuance of the last Certificate of Completion for all Infrastructure and Stormwater Management Controls to be Completed by all of the Parties whose obligations are

secured thereby and the payment of all Financial Obligations and accrued Indemnification obligations that are to be paid by all of the Parties whose obligations are secured thereby; or (ii) the expiration or termination of both this DDA and the ENA with respect to such Parties (the "**Base Security Termination Date**") and, if requested by Developer or the applicable obligor, provide a written confirmation of such release and return.

26.3 Net Worth Requirement/Significant Change/Substitute SecurityNet Worth Requirement. Each Guaranty shall provide that the Guarantor thereunder shall, at the Authority's request to such Guarantor and Developer from time to time, provide reasonably satisfactory evidence to the Authority that such Guarantor satisfies the Guarantor Net Worth Requirement as of the date of such request; provided that the Authority shall not make such request more than once in any calendar year unless the Authority reasonably believes that the Guarantor Net Worth Requirement is not then being satisfied. Any such evidence shall include a copy of the most recent audit of such Person, which audit must be dated no more than thirteen (13) months before the date of the Authority's request and must have been performed by an independent third-party auditor and must include the opinion of the auditor indicating that the financial statements are fairly stated in all material respects. If such Guarantor or Developer does not or is unable to provide such evidence within twenty (20) days following such request, Developer shall within another twenty (20) days deliver to the Authority a new Guaranty (or other Adequate Security) that satisfies the requirements of this Article 26 from a Person who satisfies the Guarantor Net Worth Requirement.

26.3.2 Significant Change to Guarantor. Any of the following shall be considered a "**Significant Change to Guarantor**" under the Guaranty: (i) Guarantor files a petition for bankruptcy, or makes a general assignment for the benefit of its creditors, (ii) a receiver is appointed on account of Guarantor's insolvency, (iii) a writ of execution or attachment or any similar process is issued or levied against any bank accounts of Guarantor, or against any property or assets of Guarantor being used or required for use in the development of the Infrastructure, Stormwater Management Controls, Associated Public Benefits and Required Improvements or against any substantial portion of any other property or assets of Guarantor, (iv) a final non-appealable judgment is entered against Guarantor in an amount in excess of ten percent of the Guarantor's Net Worth and Guarantor does not satisfy or bond the judgment or (v) without the consent of Guarantor, an application for relief is filed against Guarantor under any federal or state bankruptcy law, unless the application is dismissed within ninety (90) days. If a Significant Change to Guarantor occurs, Developer shall notify the Authority as soon as reasonably practicable and within twenty (20) days after the occurrence of the Significant Change to Guarantor, deliver to the Authority a new Guaranty (or other Adequate Security) that satisfies the requirements of this Article 26 from a Person who satisfies the Guarantor Net Worth Requirement and would not be within the definition of a Significant Change to Guarantor.

26.4 Requirement for Adequate Security Prior to Sub-Phases.

26.4.1 Delivery; Secured Amount. As set forth in the DRDAP, Developer shall provide with each Sub-Phase Application one or more forms of Guaranty or other forms of Adequate Security that, collectively, secure all of Developer's obligations with respect to that Sub-Phase (the "**Sub-Phase Security**"), including Developer's obligation to Complete all of the Infrastructure, Stormwater Management Controls, Required Improvements

and Associated Public Benefits associated with that Sub-Phase, which obligations include but are not limited to all hard and soft costs relating to construction of such Infrastructure, Stormwater Management Controls, Required Improvements and Associated Public Benefits, and all work required to be performed by Developer to Complete such Infrastructure, Stormwater Management Controls, Required Improvements and Associated Public Benefits such as land assembly, mapping, and performance under the Land Acquisition Agreements (collectively, the "**Sub-Phase Construction Obligations**"), but excluding the payment of the Financial Obligations and all Indemnification obligations, each of which are secured by the applicable Base Security. The Sub-Phase Security shall provide that the maximum liability of the obligor(s) for the Sub-Phase Construction Obligations shall be, collectively, one hundred percent (100%), or to the extent Developer has provided Increased Adequate Security under Section 16.5.4, one hundred twenty-five percent (125%), of the estimated cost of Completion of the applicable Sub-Phase Construction Obligations as such cost is Approved by the Authority Director, with reference to any construction contracts entered into by Developer on or before the date of issuance of the Sub-Phase Security (the "**Sub-Phase Construction Secured Amount**") plus the costs of enforcing such Sub-Phase Security. Developer shall provide fully effective Sub-Phase Security in the form(s) as set forth in its Sub-Phase Application and the applicable Sub-Phase Approval no later than thirty (30) days after the Authority Director grants the applicable Sub-Phase Approval. The effectiveness of any Sub-Phase Approval shall be conditioned upon the Authority's receipt of such fully effective Sub-Phase Security.

26.4.2 Relationship Between Multiple Sub-Phase Security Instruments. If more than one instrument of Sub-Phase Security is provided for a Sub-Phase, then such Sub-Phase Security shall not be cross-defaulted and liability thereunder shall be several and not joint. In the event that a claim or demand may be made against more than one instrument of Sub-Phase Security, the Authority shall have the right to proceed against any or all of such Sub-Phase Security instruments simultaneously or in such order as may be determined by the Authority in its sole discretion.

26.4.3 Relationship with Base Security. The Parties acknowledge and agree that Developer's Indemnification obligations and obligations for payment of Financial Obligations under this DDA that arise out of a Sub-Phase are secured by Developer's Base Security and not by the applicable Sub-Phase Security. If the Authority pursues a claim or demand against any Adequate Security for payment and performance of Developer's Indemnification obligations or obligations for payment of Financial Obligations under this DDA that arise out of a Sub-Phase, it shall only pursue such claim or demand under the applicable Base Security.

26.5 Reduction, Return and Release of Sub-Phase Security. Any Sub-Phase Security provided by Developer in accordance with this DDA shall be proportionately reduced upon partial satisfaction of the Sub-Phase Construction Obligations secured thereby, to the extent Approved by the Authority or provided in such Sub-Phase Security, or upon notice by Developer in accordance with Section 16.5.4, be retained by the Authority to the extent necessary to satisfy the requirements for recordation of the Reverter Release. Except as may otherwise be required to support the Reverter Release under Section 16.5.4, any Sub-Phase Security shall be released upon the complete satisfaction of the obligation secured thereby, as evidenced by the issuance of Developer's last Certificate of Completion with respect to such Sub-Phase; provided that if the

Authority terminates this DDA with respect to such Sub-Phase before the issuance of Developer's last Certificate of Completion for that Sub-Phase, the Sub-Phase Security shall be released when the Sub-Phase Construction Obligations that relate to the period before such termination have been Completed (or, if applicable, upon and in accordance with a final, unappealable judicial determination). Notwithstanding anything to the contrary set forth in this DDA, to the extent that any Sub-Phase Security provided herein is given in accordance with the TI/YBI Subdivision Code for the purpose of securing Sub-Phase Construction Obligations required under an approved Subdivision Map, such Sub-Phase Security shall be reduced and released by the City in accordance with the TI/YBI Subdivision Code. Upon any release of any Sub-Phase Security under this DDA, the Authority shall promptly (and in any event within thirty (30) days following such release) return such released Sub-Phase Security and, if requested by Developer or the applicable obligor, provide a written confirmation of such release and return.

26.6 Substitution of Adequate SecurityDeveloper shall have the right to substitute any Adequate Security (including any Base Security) provided to the Authority hereunder, or any portion thereof, for another form of Adequate Security that meets all of the requirements or Approvals needed for it to be Adequate Security as defined in this DDA. Without limiting the generality of the foregoing, upon providing any security in the form required pursuant to the TI/YBI Subdivision Code for Infrastructure and Stormwater Management Controls as and when required thereby, any prior Sub-Phase Security provided by Developer for that Infrastructure and Stormwater Management Controls obligation shall be released or reduced to the extent of such required security.

27. Special Provisions. The following Ordinances of the City and County of San Francisco, as the same are in effect as of the Effective Date of the DDA and as amended or updated to the extent permitted under the Development Agreement, apply to the Project and the Work.

27.1 Non-Discrimination in City Contracts and Benefits Ordinance.

(a) Covenant Not to Discriminate. In the performance of this Agreement, Developer 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 or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), weight, height, association with members of classes protected under this chapter or in retaliation for opposition to any practices forbidden under Chapter 12 of the San Francisco Administrative Code against any employee of Developer or any City and County employee working with Developer, any applicant for employment with Developer, or any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Developer in the City and County of San Francisco.

(b) Subleases and Other Contracts. Developer shall include in all subleases and other contracts relating to the Project Site to which Developer is a signing party a non-discrimination clause applicable to such subtenant or other contractor in substantially the form of Section 27.1(a) above. In addition, Developer shall incorporate by reference in all Subleases and other contracts 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. Developer's failure to comply with the obligations in this Section 27.1(b) shall constitute a material breach of this Agreement.

(c) Non-Discrimination in Benefits. Developer does not as of the Reference Date and will not during the Term, in any of its operations in San Francisco or where the work is being performed for the City, 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 (collectively "**Core Benefits**") as well as any benefits other than the Core Benefits 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 of the San Francisco Administrative Code.

(d) HRC Form. On or prior to the Effective Date, Developer shall execute and deliver to the Authority the "Nondiscrimination in Contracts and Benefits" form approved by the San Francisco Human Rights Commission.

(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. Developer shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Developer understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of $50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Developer and/or deducted from any payments due Developer.

27.2 Jobs and Equal Opportunity Program. Developer shall comply with the Jobs EOP, including the requirements relating to Developer's compliance with the City's First Source Hiring Program (San Francisco Administrative Code Section 83.1 et. seq.).

27.3 Labor Representation (Card Check). San Francisco Administrative Code Chapter 23, Article VI shall apply to (i) hotel and restaurant operators that employ more than fifty (50) employees on the Project Site, and (ii) grocery operators that employ more than fifty (50) employees on the Project Site. Hotel operators shall also be required to utilize the TIHDI Job Broker for job referrals as described in and consistent with the Jobs EOP.

27.4 Wages and Working Conditions. Developer agrees that any person performing Construction Work (as defined in the Jobs EOP) shall be paid not less than the highest prevailing rate of wages as required by Section 6.22(E) of the San Francisco Administrative Code, shall be subject to the same hours and working conditions, and shall receive the same benefits as in each case are provided for similar work performed in San Francisco, California. Developer shall include in any contract for Construction Work a

requirement that all persons performing labor under such contract shall be paid not less than the highest prevailing rate of wages for the labor so performed. Developer shall require any Construction Contractor to provide, and shall deliver to the Authority and City upon request, certified payroll reports with respect to all persons performing labor in connection with the construction.

27.5 Requiring Health Benefits for Covered Employees. Unless exempt, Developer 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 (Chapter 12Q), including the implementing regulations as the same may be amended or updated from time to time. The provisions of Chapter 12Q are incorporated herein by reference and made a part of this Agreement as though fully set forth herein. The text of the HCAO is currently available on the web at www.sfgov.org. Capitalized terms used in this Section 27.5 and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12Q.

(a) For each Covered Employee Developer shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO.

(b) Notwithstanding the above, if Developer meets the requirements of a "small business" by the City pursuant to Section 12Q.3(d) of the HCAO, it shall have no obligation to comply with Section 27.8(a) above.

(c) Developer understands and agrees that the failure to comply with the requirements of the HCAO shall constitute a material breach by Developer of this Agreement.

(d) If, within 30 days after receiving written notice of a breach of this Agreement for violating the HCAO, Developer fails to cure such breach or, if such breach cannot reasonably be cured within such 30-day period, Developer fails to commence efforts to cure within such period, or thereafter fails to diligently pursue such cure to completion, the City shall have 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 the City and the Authority.

(e) Any sublease or contract regarding services to be performed on the Project Site entered into by Developer shall require the subtenant or contractor and subcontractors, as applicable, to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in Chapter 12Q of the Administrative Code. Developer shall notify the City's Purchasing Department when it enters into such a sublease or contract and shall certify to the Purchasing Department that it has notified the subtenant or contractor of the obligations under the HCAO and has imposed the requirements of the HCAO on the subtenant or contractor through written agreement with such subtenant or contractor. Developer shall be responsible for ensuring compliance with the HCAO for each subtenant, contractor and subcontractor performing services on the Project Site. If any subtenant, contractor or subcontractor fails to comply, the City or the Authority may pursue the remedies set forth in Section 12Q.5 of the Administrative Code against Developer based on the

subtenant's, contractor's, or subcontractor's failure to comply, provided that the Authority has first provided Developer with notice and an opportunity to cure the violation.

(f) Developer shall not discharge, reprimand, penalize, reduce the compensation of, or otherwise discriminate against, any employee for notifying the City of any issue relating to the HCAO, for opposing any practice proscribed by the HCAO, for participating in any proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

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

(h) Developer shall keep itself informed of the requirements of the HCAO, as they may change from time to time.

(i) Upon request, Developer shall provide reports to the City and the Authority in accordance with any reporting standards promulgated by the City under the HCAO, including reports on subtenants, contractors, and subcontractors.

(j) Within five (5) business days of any request, Developer shall provide the City and the Authority with access to pertinent records relating to any Developer's compliance with the HCAO. In addition, the City and its agents may conduct random audits of Developer at any time during the Term. Developer agrees to cooperate with City and the Authority in connection with any such audit.

(k) If a contractor or subcontractor is exempt from the HCAO because the amount payable to such contractor or subcontractor under all of its contracts with the City or relating to City-owned property is less than $25,000.00 (or $50,000.00 for nonprofits) in that fiscal year, but such contractor or subcontractor later enters into one or more agreements with the City or relating to City-owned property that cause the payments to such contractor or subcontractor to equal or exceed $75,000.00 in that fiscal year, then all of the contractor's or subcontractor's contracts with the City and relating to City-owned property shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements to equal or exceed $75,000.00 in the fiscal year.

27.6 Developer Conflicts of Interest. Through its execution of this Agreement, Developer acknowledges that it is familiar with the provisions of Section 15.103 of the San Francisco Charter, Article III, Chapter 2 of the 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, certifies that it knows of no facts which would constitute a violation of such provisions and agrees that if Developer becomes aware of any such fact during the Term Developer shall immediately notify the Authority. Developer further certifies that it has made a complete disclosure to the Authority of all facts bearing on any possible interests, direct or indirect, which Developer believes any officer or employee of the City or the Authority presently has or will have in this Agreement or in the performance thereof or in any portion of the profits thereof. Willful failure by Developer to make such disclosure, if any, shall constitute grounds for the Authority's termination and cancellation of this Agreement.

27.7 Prohibition of Political Activity with City Funds. In accordance with San Francisco Administrative Code Chapter 12.G, no funds appropriated by the Authority for this Agreement may be expended for organizing, creating, funding, participating in, supporting, or attempting to influence any political campaign for a candidate or for a ballot measure (collectively, "**Political Activity**"). The terms of San Francisco Administrative Code Chapter 12.G are incorporated herein by this reference. Accordingly, an employee working in any position funded under this Agreement shall not engage in any Political Activity during the work hours funded hereunder, nor shall any equipment or resource funded by this Agreement be used for any Political Activity. In the event Developer, or any staff member in association with Developer, engages in any Political Activity, then (i) Developer shall keep and maintain appropriate records to evidence compliance with this section, and (ii) Developer shall have the burden to prove that no funding from this Agreement has been used for such Political Activity. Developer agrees to cooperate with any audit by the Authority, the City or its designee in order to ensure compliance with this section. In the event Developer violates the provisions of this section, the City or the Authority may, in addition to any other rights or remedies available hereunder, (i) terminate this Agreement and any other agreements between Developer and the Authority, (ii) prohibit Developer from bidding on or receiving any new City or Authority contract for a period of two (2) years, and (iii) obtain reimbursement of all funds previously disbursed to Developer under this Agreement.

27.8 Notification of Limitations on Contributions. Through its execution of this Agreement, Developer acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code (the "**Conduct Code**") which prohibits 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. Developer 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. Developer further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Developer's board of directors; Developer's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Developer; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Developer. Additionally, Developer acknowledges that Developer must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Developer further agrees to provide the Authority the name of each person, entity or committee described above.

27.9 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 the Authority 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.

27.10 MacBride Principles - Northern Ireland. The City and the Authority urge companies doing business in Northern Ireland to move towards 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 the Authority also urge San Francisco companies to do business with corporations that abide by the MacBride Principles. Developer acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

27.11 Tropical Hardwood and Virgin Redwood Ban. The City and the Authority urge companies not to import, purchase, obtain or use for any purpose, any tropical hardwood or tropical hardwood wood product, or any virgin redwood or virgin redwood wood product. Developer agrees that, except as permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, Developer shall not use or incorporate any tropical hardwood or virgin redwood in the construction of the Improvements. Developer shall not provide any items to the construction of the Project, or otherwise in the performance of this Agreement which are tropical hardwoods, tropical hardwood wood products, virgin redwood, or virgin redwood wood products. In the event Developer fails to comply in good faith with any of the provisions of Chapter 8 of the San Francisco Environment Code, Developer shall be liable for liquidated damages for each violation in any amount equal to the contractor's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greater.

27.12 Resource-Efficient Facilities and Green Building Requirements. Developer acknowledges that the City and County of San Francisco has enacted San Francisco Environment Code Sections 700 to 710 relating to resource-efficient buildings and green building design requirements. Developer hereby agrees it shall comply with the applicable provisions of such code sections.

27.13 Tobacco Product Advertising Prohibition. Developer acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on any real property owned by or under the control of the City or the Authority, including the Project Site. This 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, or on any sign. The foregoing prohibition shall 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.

27.14 Drug-Free Workplace. Developer acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1988 (41 U.S.C. Sections 701 et. seq.), the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City or Authority premises. Developer and its agents or assigns shall comply with all terms

and provisions of such Act and the rules and regulations promulgated thereunder. Developer agrees that any violation of this prohibition by Developer, its agents or assigns shall be deemed a material breach of this Agreement.

27.15 Pesticide Ordinance. Developer 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 or Authority property, (ii) require the posting of certain notices and the maintenance of certain records regarding pesticide usage and (iii) require Developer to submit to the Authority an integrated pest management ("**IPM**") plan that (a) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Developer may need to apply to the Project Site during the Term, (b) describes the steps Developer 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 Developer's primary IPM contact person with the City or the Authority. In addition, Developer shall comply with the requirements of Sections 303(a) and 303(b) of the Pesticide Ordinance. Through the Authority, Developer may seek a determination from the City's Commission on the Environment that Developer is exempt from complying with certain portions of the Pesticide Ordinance with respect to this Agreement, as provided in Section 307 of the Pesticide Ordinance. The Authority shall reasonably cooperate with Developer, at Developer's sole cost and expense, if Developer seeks in good faith an exemption under the Pesticide Ordinance.

27.16 Preservative Treated Wood Containing Arsenic. Developer may not purchase preservative-treated wood products containing arsenic in the performance of this Agreement unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the 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, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Developer may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Developer 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.

27.17 Compliance with Disabled Access Laws. Developer acknowledges that, pursuant to the Disabled Access Laws, programs, services and other activities provided by a public entity to the public, whether directly or through Developer or contractor, must be accessible to the disabled public. Developer shall not discriminate against any person protected under the Disabled Access Laws in connection with the use of all or any portion of the Property and shall comply at all times with the provisions of the Disabled Access Laws.

27.18 Protection of Private Information. Developer agrees to comply fully with and be bound by all of the provisions of Chapter 12M of the San Francisco Administrative Code (the "**Protection of Information Ordinance**"), including the remedies provided therein. The provisions of the Protection of Private Information Ordinance are incorporated herein by

reference and made a part of this Agreement as though fully set forth. Capitalized terms used in this Section 27.18 and not defined in this Agreement shall have the meanings assigned to such terms in the Protection of Private Information Ordinance. Consistent with the requirements of the Protection of Private Information Ordinance, Developer agrees to all of the following:

(a) Neither Developer nor any of its contractors or subcontractors who receive Private Information from the City or the Authority in the performance of a contract may disclose that information to a subcontractor or any other person or entity, unless one of the following is true:

(i) The disclosure is authorized by this Agreement;

(ii) Developer received advance written approval from the Authority to disclose the information; or

(iii) The disclosure is required by judicial order.

(b) Any disclosure or use of Private Information authorized by this Agreement shall be in accordance with any conditions or restrictions stated in this Agreement or the Authority's approval and shall not be used except as necessary in the performance of the obligations under the contract. Any disclosure or use of Private Information authorized by the Authority shall be in accordance with any conditions or restrictions stated in the approval.

(c) "**Private Information**" shall mean any information that (1) could be used to identify an individual, including without limitation name, address, social security number, medical information, financial information, date and location of birth, and names of relative; or (2) the law forbids any person from disclosing.

(d) Any failure of Developer to comply with the Protection of Private Information Ordinance shall be a material breach of this Agreement. In such an event, in addition to any other remedies available to it under equity or law, the Authority may terminate this Agreement, debar Developer, or bring a false claim action against Developer.

27.19 Graffiti Removal. Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with the Authority's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and County and its residents, and to prevent the further spread of graffiti.

Developer shall remove all graffiti from any real property owned or leased by Developer in the City and County of San Francisco within forty-eight (48) hours of the earlier of Developer's (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti

from the Department of Public Works or the Authority. This Section 27.19 is not intended to require Developer to breach any lease or other agreement that it may have concerning its use of the real property. The term "graffiti" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" shall not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code, or the San Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code Sections 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.).

Any failure of Developer to comply with this Section 27.19 shall constitute a Developer Event of Default.

27.20 Food Service Waste Reduction Ordinance. Developer agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in 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 Agreement as though fully set forth herein. This provision is a material term of this Agreement. By entering into this Agreement, Developer agrees that if it breaches this provision, the Authority and City will suffer actual damages that will be impractical or extremely difficult to determine; further, Developer 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 the Authority and City will incur based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amounts shall not be considered a penalty, but rather agreed monetary damages sustained by the Authority and City because of Developer's failure to comply with this provision.

27.21 Charter Provisions. This Agreement is governed by and subject to the provisions of the Charter of the City and County of San Francisco, including the budgetary and fiscal provisions of the City's Charter. Notwithstanding anything to the contrary contained in this Agreement, there shall be no obligation for the payment or expenditure of money by the Authority or City under this Agreement unless the Controller of the City and County of San Francisco first certifies, pursuant to Section 3.105 of the City's Charter, that there is a valid appropriation from which the expenditure may be made and that unencumbered funds are available from the appropriation to pay the expenditure. Developer acknowledges that in no event shall the City’s General Fund have any liability for any of the Authority’s obligations under this Agreement.

27.22 Incorporation. Each and every provision of the San Francisco Administrative Code or any other San Francisco Code specifically described or referenced in this

Agreement is hereby incorporated by reference, as it exists on the Effective Date as though fully set forth herein.

28. Miscellaneous Provisions.

28.1 Incorporation of Exhibits and Attachments. Each Exhibit is hereby incorporated into and made a part of this DDA. Each Attachment is attached for reference and the convenience of the Parties.

28.2 Notices. Any notice or other communication given under this DDA by a Party must be given or delivered (i) by hand, (ii) by registered or certified mail, postage prepaid and return receipt requested, or (iii) by a recognized overnight carrier, such as Federal Express, in any case addressed as follows:

28.2.1 in the case of a notice or communication to the Authority,

Treasure Island Development Authority
c/o Office of Economic and Workforce Development
City Hall, Rm. 448
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102
Attn: Treasure Island Project Director

and

Office of the City Attorney
City Hall, Rm. 234
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102
Attn: Real Estate/Finance

28.2.2 in the case of a notice or communication to Developer,

Treasure Island Community Development, LLC
c/o UST Lennar HW Scala SF Joint Venture
One California Street, Suite 2700
San Francisco, CA 94111
Attn: Kofi Bonner

and

Gibson Dunn & Crutcher LLP
555 Mission Street, Suite 3000
San Francisco, CA 94105
Attn: Mary G. Murphy

To be effective, every notice given to a Party under the terms of this DDA must be in writing and must state (or must be accompanied by a cover letter that states) substantially the following:

(a) the Section of this DDA under which the notice is given;

(b) if applicable, the action or response required;

(c) if applicable, the period of time within which the recipient of the notice must respond thereto;

(d) if applicable, the period of time within which the recipient of the notice must cure an alleged breach;

(e) if applicable, that the failure to object to the notice within a stated time period will be deemed to be the equivalent of the recipient's approval or disapproval of the subject matter of the notice;

(f) if approval is being requested, shall be clearly marked "Request for Approval"; and

(g) if a notice of a disapproval or an objection that requires reasonableness, shall specify with particularity the reasons for the disapproval or objection.

Any mailing address may be changed by a Party at any time by giving notice of such change in the manner provided above, and any such change shall be effective ten (10) days thereafter (or such later date as is set forth in such notice). All notices under this DDA shall be deemed given, received, made or communicated on the date personal receipt actually occurs or, if mailed, on the delivery date or attempted delivery date shown on the return receipt.

28.3 Time of Performance.

28.3.1 All performance (including cure) dates expire at 5:00 p.m. on a Business Day (San Francisco, California time) on the applicable date for performance (including cure), as such date may be extended pursuant to the effect of Article 24 or any other extension of time permitted in this DDA.

28.3.2 Where the Outside Date (or other date set forth in this DDA) set forth in the Schedule of Performance is a calendar month without reference to a specific day in such month, or a year without reference to a specific month in such year, then the Outside Date shall be the last day in such month or year, as applicable.

28.3.3 Time is of the essence in the performance of all the terms and conditions of this DDA.

28.4 Extensions of Time.

28.4.1 The Authority or Developer may extend the time for the performance of any term, covenant or condition of this DDA by a Party owing performance to the extending party, or permit the curing of any related default, upon such terms and conditions as it determines appropriate; provided, however, any such extension or permissive curing of any particular default shall not operate to release any of the obligations of the Party receiving the extension or cure rights or constitute a waiver of the granting Party's rights with respect to any other term, covenant or condition of this DDA or any other default in, or breach of, this DDA.

28.4.2 In addition to matters set forth in Section 28.4.1, the Parties may extend the time for performance by any of them of any term, covenant or condition of this DDA by a written instrument signed by authorized representatives of such Parties without the execution of a formal recorded amendment to this DDA, and any such written instrument shall have the same force and effect and impart the same notice to third parties as a formal recorded amendment to this DDA.

28.5 Attorneys' Fees.

28.5.1 Should any Party institute any action or proceeding in court or other dispute resolution mechanism permitted or required under this DDA, the prevailing party shall be entitled to receive from the losing party the prevailing party's reasonable costs and expenses incurred including, without limitation, expert witness fees, document copying expenses, exhibit preparation costs, carrier expenses and postage and communication expenses, and such amount as may be awarded to be reasonable attorneys' fees and costs for the services rendered the prevailing party in such action or proceeding. Attorneys' fees under this Section 28.5.1 shall include attorneys' fees on any appeal.

28.5.2 For purposes of this DDA, reasonable fees of attorneys and any in-house counsel shall be based on the average fees regularly charged by private attorneys with an equivalent number of years of professional experience in the subject matter area of the law for which the in-house counsel's services were rendered who practice in the City in law firms with approximately the same number of attorneys as employed by the City.

28.6 Eminent Domain. The exercise by the Authority of its eminent domain power, if applicable, with regard to any portion of the Project Site owned by Developer or any Vertical Developer in a manner that precludes or substantially impairs performance by Developer or any Vertical Developer of any of its material obligations (or would otherwise give rise to a default by Developer) hereunder shall constitute a Material Breach by the Authority.

28.7 Successors and Assigns; No Third-Party Beneficiary. Subject to the provisions of Article 21, this DDA shall be binding upon and inure to the benefit of the Mortgagees and transferees of Developer and any transferee of the Authority, including, without limitation, the San Francisco Port Commission and the City and County of San Francisco, if applicable. This DDA is made and entered into only for the protection and benefit of the Parties and their successors and assigns. No other Person shall have or acquire any right or action of

any kind based upon the provisions of this DDA except as explicitly provided to the contrary in this DDA.

28.8 Estoppel Certificates. Any Party, within twenty (20) days after notice from any other Party, shall execute and deliver to the requesting Party and, if requested, any Mortgagee or prospective Mortgagee, an estoppel certificate stating:

28.8.1 whether or not this DDA is unmodified and in full force and effect. If there has been a modification of this DDA, the certificate shall state that this DDA is in full force and effect as modified, and shall set forth the modification, and if this DDA is not in full force and effect, the certificate shall so state; and

28.8.2 whether or not the responding Party is aware of any Event of Default (or event which, with notice or the passage of time or both, could be an Event of Default) by any other Party under this DDA in any respect and, if so, describing the same in detail.

28.9 Counterparts. This DDA may be executed in multiple counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same instrument. Such counterparts may be delivered by facsimile, electronic mail or other similar means of transmission.

28.10 Authority and Enforceability. Developer and the Authority each represents and warrants that the execution and delivery of this DDA, and the performance of its obligations hereunder, have been duly authorized by all necessary action, and will not conflict with, result in any violation of, or constitute a default under, any provision of any agreement or other instrument binding upon or applicable to it, or any present law or governmental regulation or court decree.

28.11 References. Wherever in this DDA the context requires, references to the masculine shall be deemed to include the feminine and the neuter and vice-versa, and references to the singular shall be deemed to include the plural and vice versa.

28.12 Correction of Technical Errors. If by reason of inadvertence, and contrary to the intention of Developer and the Authority, errors are made in this DDA in the identification or characterization of any title exception, in a legal description or the reference to or within any Exhibit with respect to a legal description, in the boundaries of any parcel (provided such boundary adjustments are relatively minor and do not result in a material change as determined by the Authority's counsel), in any map or drawing which is an Exhibit, or in the typing of this DDA or any of its Exhibits, Developer and the Authority by mutual agreement may correct such error by memorandum executed by both of them and replacing the appropriate pages of this DDA, and no such memorandum or page replacement shall be deemed an amendment of this DDA.

28.13 Brokers. Developer and the Authority each represents to the other that it has not employed a broker or a finder in connection with the execution and delivery of this DDA, and agrees to Indemnify the other from the claims of any broker or finder asserted through such Party.

28.14 Governing Law. This DDA shall be governed by and construed in accordance with the laws of the State of California. All references in this DDA to California or federal laws and statutes shall mean such laws, regulations and statues as they may be amended from time to time, except to the extent a contrary intent is stated.

28.15 Effect on Other Party's Obligation. If Developer's or the Authority's performance is excused or the time for its performance is extended under Article 24, the performance of the other Party that is conditioned on such excused or extended performance is excused or extended to the same extent.

28.16 Table of Contents; Headings. The Table of Contents is for the purpose of convenience of reference only and is not to be deemed as a part of this DDA or as supplemental hereto. Section and other headings are for the purpose of convenience of reference only and are not intended to, nor shall they, modify or be used to interpret the provisions of this DDA.

28.17 Numbers.

(a) Generally. For purposes of calculating a number under this DDA, any fraction equal to or greater than one half (1/2) shall be rounded up to the nearest whole number and any fraction less than one half (1/2) shall be rounded down to the nearest whole number.

(b) Number of Days. References in this DDA to days shall be to calendar days, unless otherwise specified; provided, that if the last day of any period to give notice, reply to a notice, meet a deadline or to undertake any other action occurs on a day that is not a Business Day, then the last day for undertaking the action or giving or replying to the notice shall be the next succeeding Business Day.

28.18 No Gift or Dedication. Except as otherwise specified in this DDA, this DDA shall not be deemed to be a gift or dedication of any portion of the Project Site to the general public, for the general public, or for any public use or purpose whatsoever. Developer shall have the right to prevent or prohibit the use of any portion of the property owned by it, including common areas and buildings and improvements, by any Persons for any purpose inimical to the operation of a private, integrated mixed-use project as contemplated by this DDA. Any dedication must be evidenced by an express written offer of dedication to and written acceptance by the Authority, the City, the SFPUC, CFD or other Governmental Entity, as applicable, for such purposes by a recorded instrument executed by the owner of the property dedicated.

28.19 Severability. Except as is otherwise specifically provided for in this DDA for Conflicting Laws, invalidation of any provision of this DDA, or of its application to any Person, by judgment or court order shall not affect any other provision of this DDA or its application to any other Person or circumstance, and the remaining portions of this DDA shall continue in full force and effect, except to the extent that enforcement of this DDA as invalidated would be unreasonable or grossly inequitable under all the circumstances or would frustrate a fundamental purpose of this DDA.

28.20 Entire Agreement. This DDA contains all of the representations and warranties and the entire agreement between the Parties with respect to the subject matter of this DDA. Any prior correspondence, memoranda, agreements, warranties or representations between the parties relating to such subject matter are incorporated into and superseded in total by this DDA. Notwithstanding the foregoing, this DDA shall not supersede the ENA, which shall remain in full force and effect according to its terms; provided, however, that so long as the DDA is in full force and effect, the terms of the DDA shall control in the event of any inconsistency. No prior drafts of this DDA or changes from those drafts to the executed version of this DDA shall be introduced as evidence in any litigation or other dispute resolution proceeding by Developer, the Authority or any other Person, and no court or other body shall consider those drafts in interpreting this DDA.

28.21 No Party Drafter; Captions. Although certain provisions of this DDA were drawn by the Authority and certain provisions were drawn by Developer, (i) the provisions of this DDA shall be construed as a whole according to their common meaning and not strictly for or against any Party in order to achieve the objectives and purposes of the Parties, and (ii) no Party nor its counsel shall be deemed to be the drafter of any provision of this DDA.

28.22 Conduct; Covenant of Good Faith and Fair Dealing. In all situations arising out of this DDA, subject to the provisions of Article 16, Developer and the Authority shall each attempt to avoid and minimize the damages resulting from the conduct of the other and shall take all reasonably necessary measures to achieve the provisions of this DDA. This DDA is subject to the covenant of good faith and fair dealing applicable under California law.

28.23 Further Assurances. Each of Developer and the Authority covenants, on behalf of itself and its successors, heirs and assigns, to take all actions and to do all things, and to execute, with acknowledgment or affidavit if required, any and all documents and writings that may be necessary or proper to achieve the purposes and objectives of this DDA. The Authority Director is authorized to execute and deliver on behalf of the Authority any closing or similar documents and any contracts, agreements, memoranda or similar documents with State, regional and local entities or enter into any tolling agreement with any Person if the Authority Director determines that such execution and delivery are necessary or proper to achieve the purposes and objectives of this DDA and in the Authority's best interests.

28.24 Approvals.

(a) As used herein, "**Approval**" and any variation thereof (such as "**Approved**" or "**Approve**") refers to the prior written consent of the applicable Party or other Person. When used with reference to a Governmental Entity such terms are intended to refer to the particular form of consent or approval required from such Governmental Entity in order to obtain the Authorization being sought.

(b) Whenever Approval is required of Developer, the Authority, the Authority Board or the Authority Director under this DDA, it shall not be unreasonably withheld, conditioned or delayed unless the Approval is explicitly stated in this DDA to be within the "sole discretion" (or words of similar import) of the Party whose Approval is sought. The reasons for failing to grant Approval, or for giving a conditional Approval, shall be stated in reasonable

detail in writing, except by the Authority Board, which as a public body will grant or deny Approval in open session at a duly held and noticed public meeting in accordance with applicable public meeting laws. Approval by Developer or the Authority to or of any act or request by the other shall not be deemed to waive or render unnecessary Approval to or of any similar or subsequent acts or requests. The requirements for Approvals under this DDA shall extend to and bind the partners, officers, directors, shareholders, trustees, beneficiaries, agents, elective or appointive boards, commissions, employees and other authorized representatives of Developer and the Authority, and each such Person shall make or enter into, or take any action in connection with, any Approval in accordance with these requirements. In determining whether to give an Approval, no Party shall require changes from or impose conditions inconsistent with (i) the Development Requirements or (ii) matters it has previously Approved with respect to the matter at issue.

(c) Unless otherwise provided in this DDA, whenever Approval or any other action is required by the Authority Board, the Authority Director shall upon the request of Developer submit such matter to the Authority Board at the next regularly-scheduled meeting of the Authority Board for which an agenda has not yet been finalized and for which the Authority can prepare and submit a staff report in keeping with Authority standard practices.

(d) Unless otherwise provided in this DDA, Approvals or other actions of the Authority (as opposed to the Authority Director or the Authority Board) will be given or undertaken, as applicable, by the Authority Director.

(e) Developer shall from time to time by notice to the Authority designate the Persons who may act as its "**Developer Representative**". Approvals or other actions of Developer shall be given or undertaken, as applicable, by Developer's Representative or such other Person that provides evidence reasonably acceptable to the Authority Director that such Person is duly authorized to act on behalf of Developer.

28.25 Cooperation and Non-Interference. Developer and the Authority shall each refrain from doing anything that would render its performance under this DDA impossible, and subject to Article 16 each shall do everything which this DDA contemplates that the Party shall do to accomplish the objectives and purposes of this DDA.

28.26 Interpretation. Unless otherwise specified, whenever in this DDA, including its Exhibits, reference is made to the Table of Contents, any Article, Section, Exhibit, Attachment or any defined term, the reference shall be deemed to refer to the Table of Contents, Article, Section, Exhibit, Attachment or defined term of this DDA. Any reference to an Article or a Section includes all subsections and subparagraphs of that Article or Section. The use in this DDA of the words "including", "such as" or words of similar import when following any general term, statement or matter shall not be construed to limit such statement, term or matter to the specific statements, terms or matters, whether or not language of non-limitation, such as "without limitation" or "but not limited to", or words of similar import, is used with reference thereto. In the event of a conflict between the Recitals and the remaining provisions of this DDA, the remaining provisions shall prevail.

28.27 Legal Representation. Developer and the Authority each acknowledges, warrants and represents that it has been fully informed with respect to, and represented by counsel of its choice in connection with the rights and remedies of and waivers by it contained in this DDA and after such advice and consultation has presently and actually intended, with full knowledge of its rights and remedies otherwise available at law or in equity, to waive and relinquish those rights and remedies to the extent specified in this DDA, and to rely solely on the remedies provided for in this DDA with respect to any breach of this DDA by the other, or any other right that either Developer or the Authority seeks to exercise.

28.28 Recordation; Run with the Land. It is understood and agreed by Developer and the Authority that after execution by Developer and the Authority, this DDA will be recorded by the Authority; provided that the recordation shall affect only Developer's and the Authority's interest in the Project Site (including any real property acquired by either of them after the Effective Date). If this DDA is terminated in accordance with its terms, Developer or the Authority may record a Notice of Termination as provided in Section 28.36. Before any such termination of this DDA by the terms hereof, and subject to release of the lien of this Agreement in accordance with Section 2 hereof, the covenants and agreements of Developer and the Authority contained herein shall be covenants running with any land conveyed from the Authority to Developer shall bind every Person having any interest in such real property, and shall be binding upon and inure to the benefit and burden of Developer and the Authority and their respective heirs, successors and assigns. This DDA shall not burden or bind any other property in the Project Site that is not acquired by the Authority or Developer under this DDA.

28.29 Survival. Termination of this DDA shall not affect (i) the right of any Party to enforce any and all Indemnifications or Adequate Security (including any Guaranty) to the extent they relate to the period before termination, (ii) any provision of this DDA that, by its express term, is intended to survive the expiration or termination of this DDA, or (iii) the rights and obligations under the Financing Plan or under any Acquisition and Reimbursement Agreement, including Developer's right to receive reimbursements, to the extent they relate to the period before termination or are intended to survive the expiration or termination of the Financing Plan or Acquisition and Reimbursement Agreement, as applicable. Notwithstanding the foregoing, all Indemnification obligations under this DDA shall expire five (5) years after the earlier to occur of (a) the Authority's issuance of a Certificate of Completion with respect to the Improvements for which the Certificate of Completion was issued or (b) the termination of this DDA with respect to the portion of the Project Site to such termination relates; provided, that the foregoing expiration shall not apply as to (i) any Indemnification obligation under Section 11.2, which shall expire as set forth in Section 11.2, (ii) any Indemnification obligation as to which the Authority has given notice in accordance with the first sentence of Section 22.4 on or before the date of such expiration, and (iii) any Indemnification Obligation under Sections 22.1(b), 22.1(c), 22.2(b) and 22.2(c), which shall expire five (5) years after Developer Transfers the applicable portion of the Project Site. No termination under Section 3.8.1 shall (1) affect Developer's rights under this DDA for any then-existing Sub-Phase Approval or (2) prevent the Authority, in its sole discretion, from later accepting and/or Approving any Major Phase Application or Sub-Phase Application from Developer.

28.30 Nondiscrimination.

28.30.1 There shall be no discrimination against or segregation of any person or group of persons on any basis listed in subdivision (a) or (d) of Section 12955 of the California Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the California Government Code, or on the basis of age, race, color, creed, sex, sexual orientation, gender identity, marital or domestic partner status, disabilities (including AIDS or HIV status), religion, national origin or ancestry by Developer or any occupant or user of the Project Site in the sale, lease, rental, sublease, transfer, use, occupancy, tenure or enjoyment of the Project Site, or any portion thereof. Neither Developer itself (nor any person or entity claiming under or through it), nor any occupant or user of the Project Site or any Transferee, successor, assign or holder of any interest in the Project Site or any person or entity claiming under or through such Transferee, successor, assign or holder, shall establish or permit any such practice or practices of discrimination or segregation in connection with the Project Site, including without limitation, with reference to the selection, location, number, use or occupancy of buyers, tenants, vendees or others. But Developer shall not be in default of its obligations under this Section 28.30 where there is a judicial action or arbitration involving a bona fide dispute over whether Developer is engaged in discriminatory practices and Developer promptly acts to satisfy any judgment or award against Developer.

28.30.2 Any Transferee, successor, assign, or holder of any interest in the Project Site, or any occupant or user thereof, whether by contract, lease, rental, sublease, license, deed, deed of trust, Mortgage or otherwise, and whether or not any written instrument or oral agreement contains the above prohibitions against discrimination, shall be bound by, and shall not violate in whole or in part, directly or indirectly, the nondiscrimination requirements set forth above. The covenants in this Section 28.30 shall be covenants running with the land and they shall be: (i) binding for the benefit and in favor of the Authority, as beneficiary, and the City and the owner of any other land or of any interest in any land in the Project Site (as long as such land remains subject to the land use requirements and restrictions of the SUD and the Design for Development), as beneficiary, and their respective successors and assigns; and (ii) binding against Developer, its successors and assigns to or of the Project Site and any improvements thereon or any portion thereof or any interest therein, and any party in possession or occupancy of the Project Site or the improvements thereon or any portion thereof.

28.30.3 In amplification, and not in restriction, of the provisions of Sections 28.30.1 and 28.30.2, the Authority, the City and their respective successors and assigns, as to the covenants provided in this Section 28.30 of which they are stated to be beneficiaries, shall be beneficiaries both for and in their own right and also for the purposes of protecting the interest of NSTI and other parties, public or private, and without regard to whether the Authority or the City has at any time been, remains, or is an owner of any land or interest therein to which, or in favor of which, such covenants relate. The Authority, the City and their respective successors and assigns shall have the right, as to any and all of such covenants of which they are stated to be beneficiaries, to exercise all the rights and remedies, and to maintain, any actions at law or suits in equity or other proper proceedings, to enforce such covenants to which it or any other beneficiaries of such covenants may be entitled including without limitation, restraining orders, injunctions and/or specific enforcement, judicial or administrative.

28.31 Lead-Based Paint Prohibition. Developer shall comply with the regulations issued by the Secretary of HUD set forth in 37 C.F.R. 22732-3 and all applicable rules and orders prohibiting the use of lead-based paint in residential structures undergoing federally-assisted construction or rehabilitation and requiring the elimination of lead-based paint hazards.

28.32 Modifications; Waiver. Any modification or waiver of any provision of this DDA must be in writing and signed by a Person having authority to do so, on behalf of both the Authority and Developer. Material Modifications to this DDA shall require the approval of the Board of Supervisors, which the Board of Supervisors may give or withhold in its sole and absolute discretion.

28.33 Relationship of the Parties. The Authority is not, and none of the provisions in this DDA shall be deemed to render the Authority, a partner in Developer's or any Vertical Developer's business, or a joint venturer or member in any joint enterprise with Developer or any Vertical Developer. No Party shall have the right to act as the agent of any other Party in any respect hereunder.

28.34 ENA. After the Reference Date and before the expiration or termination of the ENA in accordance with its terms, in the event of a conflict between the ENA and this DDA, the provisions of this DDA shall prevail. Notwithstanding the foregoing, with respect to conflicts between the DDA and the ENA relating to Authority's Transaction Costs as defined in the ENA as further described in Section 3.2(b) thereof, the terms of Section 3.2(b) of the ENA shall control.

28.35 Plans on Record with Authority. The most recent versions of the Exhibits to this DDA, as such Exhibits may be amended or supplemented from time to time in accordance with this DDA or the terms of such Exhibits, shall not be required to be recorded but shall be kept on file with the Authority. In addition, as of the Reference Date the Proforma is on file with the Authority and upon each submittal of a Major Phase Application and Sub-Phase Application in accordance with the DRDAP, the updated Proforma as Approved by Developer and the Authority shall be similarly kept on file with the Authority. The Authority Director and Developer shall update or supplement the Schedule of Performance from time to time to reflect changes to the same as permitted in this DDA. Full color copies of all recorded documents are also on file with the Authority. All documents on file with the Authority shall be made available to members of the public at reasonable times in keeping with the Authority's standard practices.

28.36 Notice of Termination. In the event of any termination of this DDA in whole or in part in accordance with the terms of this DDA, the terminating Party shall provide the other Parties and any applicable Mortgagee with a copy of any proposed Notice of Termination at least fifteen (15) days before recording the same. After the expiration of such fifteen (15) days, the terminating Party may cause the Title Company to record such Notice of Termination in the Official Records. Any "**Notice of Termination**" shall be in recordable form and describe the portion of the Project Site to which such termination pertains. Following the recordation of any Notice of Termination, the terminating Party shall promptly provide a conformed copy of such recorded Notice of Termination to the Authority, Developer, and any applicable Mortgagee, and any applicable Vertical Developer. The recordation of a Notice of

Termination shall not affect in any manner the rights of the Authority, Developer, or any applicable Mortgagee, or Vertical Developer to contest the terminating Party's right to cause such recordation.

28.37 Developer Termination Rights. Developer shall have the right to terminate this DDA, together with the ENA, if a lawsuit is initiated to challenge the Authority's approval of this DDA or the Project, and Developer elects to not continue to reimburse the Authority for all of Authority's Costs and City Costs relating to such lawsuit; provided that any such termination shall not release Developer for the Authority's Costs and City Costs (including any attorney's fees that may be awarded to the initiator of the lawsuit) for the period before such termination.

28.38 Execution of Certain Attachments and Exhibits. The Parties acknowledge and agree that as of the Reference Date Attachment 1 (Public Trust Exchange Agreement), Attachment 2 (Conveyance Agreement) and Exhibit Q (Pre-Approved Arbiters List), Exhibit T (Auction Bidder Selection Guidelines for Commercial Lots), Exhibit U (Qualified Appraisal Pool), Exhibit V (Appraisal Instructions by Appropriate Product Type), Exhibit W (Auction Bidder Selection Guidelines for Residential Auction Lots) and Exhibit X (Guidelines for Residential Auction Lots), have not been completed and, in certain cases, Approved by the applicable Governmental Entities or executed and delivered by the Parties thereto. Accordingly, the Parties have attached drafts of such Attachments and Exhibits. Upon completion or Approval of such Attachments and Exhibits, Developer and the Authority shall substitute the final Attachments and Exhibits for such drafts and confirm such substitution in writing. Upon completion, Exhibit H (Approved Vertical DDA Form), Exhibit I (Approved Vertical LDDA Form) and Exhibit M (Ground Lease) shall be appended to this Agreement in accordance with Section 4.1 hereof and Developer and the Authority shall confirm such addition in writing.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the Authority and Developer have each caused this DDA to be duly executed on its behalf as of the Reference Date.

"AUTHORITY"

TREASURE ISLAND DEVELOPMENT AUTHORITY,
a California non-profit public benefit corporation

By: _____
Name: Rich Hillis
Its: Treasure Island Project Director

Approved as to form:

DENNIS J. HERRERA,
City Attorney

By: _____
Name: Eileen M. Malley
Deputy City Attorney

Authorized by Authority Resolution No. 11-18-04/21
adopted April 21, 2011

Authorized by Board of Supervisors Resolution No. 241-11
Adopted June 7, 2011

"DEVELOPER" AND "MASTER DEVELOPER"

TREASURE ISLAND COMMUNITY DEVELOPMENT, LLC,
a California limited liability company

By: UST Lennar HW Scala SF Joint Venture,
a Delaware general partnership
its co-Managing Member

By: _____
Name: Kofi Bonner
Its: Authorized Representative

IN WITNESS WHEREOF, the Authority and Developer have each caused this DDA to be duly executed on its behalf as of the Reference Date.

"AUTHORITY"

TREASURE ISLAND DEVELOPMENT AUTHORITY,
a California non-profit public benefit corporation

By:_____
Name: Rich Hillis
Its: Treasure Island Project Director

Approved as to form:

DENNIS J. HERRERA,
City Attorney

By: _____
Name: _____
Deputy City Attorney

Authorized by Authority Resolution No. 11-18-04/21
adopted April 21, 2011

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"DEVELOPER" AND "MASTER DEVELOPER"

TREASURE ISLAND COMMUNITY DEVELOPMENT, LLC,
a California limited liability company

By: UST Lennar HW Scala SF Joint Venture,
a Delaware general partnership
its co-Managing Member

By: _____
Name: Kofi Bonner
Its: Authorized Representative

By: KSWM Treasure Island, LLC,
a California limited liability company
its co-Managing Member

By: WMS Treasure Island Development I, LLC,
a Delaware limited liability company
its Member

By: Wilson Meany Sullivan LLC,
a California limited liability company
its Sole Member and Manager

By: _____
Name: Christopher Meany
Title: Managing Member

STATE OF CALIFORNIA)
) ss
COUNTY OF SAN FRANCISCO)

On June 29, 2011, before me, Christine M. Silva, Notary Public, personally appeared Rich Hillis, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument, and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity(~~ies~~), and that by ~~his/her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Christine M Silva
Notary Public

(Seal)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

State of California

County of San Francisco

On June 28, 2011 (Date) before me, Michael J. P. Mercado (Here Insert Name and Title of the Officer),

personally appeared Kofi Sampaney Bonner (Name(s) of Signer(s)),

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

MICHAEL J.P. MERCADO
Commission # 1914059
Notary Public - California
San Francisco County
My Comm. Expires Nov 21, 2014

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____ (Signature of Notary Public)

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer — Title(s): _____

☐ Individual

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer's Name: _____

☐ Corporate Officer — Title(s): _____

☐ Individual

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

STATE OF CALIFORNIA)
) ss
COUNTY OF SAN FRANCISCO)

On June 28, 2011, before me, Jane Robertson, Notary Public, personally appeared Christopher Meany, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Jane Robertson
Notary Public

(Seal)

EXHIBIT A
DEFINITIONS

"**2006 Development Plan**" shall have the meaning set forth in Recital K of the DDA.

"**Acquisition and Reimbursement Agreement**" shall have the meaning set forth in the Financing Plan.

"**Additional Transportation Subsidy**" shall have the meaning set forth in Section 13.3.2(g) of the DDA.

"**Adequate Security**" shall have the meaning set forth in Section 26.1 of the DDA.

"**Administrative Delay**" shall have the meaning set forth in Section 24.1.3 of the DDA.

"**Affiliate**" means any Person that directly or indirectly Controls, is Controlled by or is under Common Control with, a Party (or a partner or managing or other member of a Party, as the case may be).

"**Affordable Housing Units**" shall have the meaning set forth in the Housing Plan.

"**Agreement**" shall have the meaning set forth in the Introductory Paragraph of the DDA.

"**Allocated Parking**" shall have the meaning set forth in Section 4.2.1(a)(ii) of the DDA.

"**Amendment Action**" shall have the meaning set forth in Section 12 of the DDA.

"**Annual Authority Budget**" shall have the meaning set forth in Section 19.1.1 of the DDA.

"**Annual Authority Draft Budget**" shall have the meaning set forth in Section 19.2 of the DDA.

"**Annual Preliminary Budget**" shall have the meaning set forth in Section 19.2 of the DDA.

"**Annual Transportation Subsidy**" shall have the meaning set forth in Section 13.3.2(a) of the DDA.

"**Annual Transportation Subsidy Maximum Amount**" shall have the meaning set forth in Section 13.3.2(b) of the DDA.

"**Annual Transportation Subsidy Payment**" shall have the meaning set forth in Section 13.3.2(a) of the DDA.

"**Applications**" shall have the meaning set forth in the DRDAP.

"**Applicable Regulations**" shall have the meaning set forth in the Development Agreement.

"**Appraisal Process**" shall have the meaning set forth in Section 17.4 of the DDA.

"**Approval**" shall have the meaning set forth in Section 28.24(a) of the DDA.

"**Approved DDA/LDDA Form**" has the meaning set forth in Section 4.1 of the DDA.

"**Approved Vertical DDA Form**" shall have the meaning set forth in Section 4.1 of the DDA.

"**Approved Vertical LDDA Form**" shall have the meaning set forth in Section 4.1 of the DDA.

"**Arbiter**" shall have the meaning set forth in Section 15.3.1 of the DDA.

"**Arbiter's Qualifications**" shall have the meaning set forth in Section 15.3.1 of the DDA.

"**Arbitration Matter**" shall have the meaning set forth in Section 15.1.1 of the DDA.

"**Architect**" means the licensed architect of record, if any, for any Vertical Improvement as selected by a Vertical Developer.

"**Architect's Certificate**" means a certificate issued by the Architect in accordance with Section 9.2 that is in the form attached hereto as Exhibit Z with only such changes as may be Approved by Vertical Developer and the Authority Director.

"**Art Fee**" shall have the meaning set forth in the Development Agreement.

"**Associated Public Benefits**" shall have the meaning set forth in Section 1.8(b) of the DDA.

"**Assignment and Assumption Agreement**" means an assignment and assumption agreement between Developer and a Transferee for a Transfer of rights and corresponding obligations under this DDA, consistent with the requirements of this DDA and, to the extent required under this DDA, in the form Approved by the Authority Director.

"**Attachments**" means, individually or collectively as the context requires, each of the attachments to this DDA listed on the List of Attachments, including any attachments thereto, as they may be amended or supplemented from time to time in accordance with the terms thereof and of this DDA.

"**Auction**" shall mean the process of offering Lots for sale or ground lease to qualified bidders at the minimum bid price and selling the Lot to the highest qualified bidder, in accordance with Article 17.

"**Authority**" means the Treasure Island Development Authority, a California non-profit public benefit corporation, or any successor public agency designated by or under law, which may include the City and County of San Francisco or the San Francisco Port Commission, authorized as the Authority's successors under the terms of the Conversion Act.

"**Authority Housing Units**" shall have the meaning set forth in the Housing Plan.

"**Authority Board**" means the Board of Directors of the Authority, or any successor governing body of the Authority designated by or under law.

"**Authority Costs**" shall have the meaning set forth in Section 19.1.1 of the DDA.

"**Authority Costs and Revenue Report**" shall have the meaning set forth in Section 19.4 of the DDA.

"**Authority Director**" means the Executive Director of the Authority, or any successor executive officer of the Authority designated by or under law.

"**Authority Fiscal Year**" means July 1 through June 30 of each year, or such other Authority Fiscal Year as is adopted from time to time.

"**Authority Housing Lots**" shall have the meaning set forth in the Housing Plan.

"**Authority Quitclaim Deed**" means a deed substantially in the form of Exhibit AA or as otherwise Approved by Developer and the Authority Director in their respective sole and absolute discretion.

"**Authority Revenues**" shall have the meaning set forth in Section 19.1.2 of the DDA.

"**Authority's Title Covenant**" shall have the meaning set forth in Section 10.2.2 of the DDA.

"**Authorization**" shall have the meaning set forth in Section 9.1.1 of the DDA.

"**Base Line Budget**" shall have the meaning set forth in Section 19.2 of the DDA.

"**Base Security**" shall have the meaning set forth in Section 26.2.1 of the DDA.

"**Base Security Cap**" shall have the meaning set forth in Section 26.2.1 of the DDA.

"**Base Security Termination Date**" shall have the meaning set forth in Section 26.2.6 of the DDA.

"**Board of Supervisors**" means the Board of Supervisors of the City, or any successor governing body of the City designated by or under law.

"**Building Permit**" means a building permit issued by DBI.

"**Business Day**" means a day other than a Saturday, Sunday or holiday recognized by the Authority.

"**CCRL**" shall have the meaning set forth in Recital G.

"**CEQA**" means the California Environmental Quality Act, California Public Resources Code section 21000 et seq., and the Guidelines for the California Environmental Quality Act, California Code of Regulations, Title 14 section 15000 et seq., as amended from time to time.

"**CEQA Delay**" shall have the meaning set forth in Section 24.1.4 of the DDA.

"**Certificate of Completion**" means a certificate issued by the Authority in accordance with Section 9.2 that is substantially in the form attached hereto as Exhibit BB.

"**Certificate of Occupancy**" means an instrument issued by DBI certifying that a Unit or non-residential Project is fit for occupancy or use in accordance with the San Francisco Building Code.

"**CFD**" shall have the meaning set forth in the Financing Plan.

"**City**" means, as the context requires, (i) the City and County of San Francisco, a charter city of the State, or (ii) the territorial jurisdiction of the foregoing.

"**City Agency**" means, individually or collectively as the context requires, all departments, agencies, boards, commissions and bureaus of the City with subdivision or other permit, entitlement or approval authority or jurisdiction over any Major Phase, Sub-Phase or Lot in any portion of the Project Site, including but not limited to the San Francisco Port Commission, the Department of Public Works, the Public Utilities Commission, the Planning Commission, the Municipal Transportation Authority, the Building Inspection Commission, the Public Health Commission, the Fire Commission and the Police Commission, or any successor public agency.

"City Costs" shall mean the actual and reasonable costs incurred by a City Agency in performing its obligations under this Agreement, the Interagency Cooperation Agreement or the Development Agreement as determined on a time and materials basis,

including any defense costs as set forth in Section 6.3.2 of the Development Agreement, but excluding work and fees covered by Administrative Fees (as defined in the Development Agreement).

"**City Party**" shall have the meaning set forth in Section 22.1 of the DDA.

"**Commence**" and any variation thereof means the commencement of substantial physical construction as part of a sustained and continuous construction plan.

"**Commercial Lot**" shall have the meaning set forth in Section 17.2 of the DDA.

"**Community Facilities Lot**" shall have the meaning set forth in the Community Facilities Plan.

"**Community Facilities Obligations**" means Developer's obligations under this Agreement to develop or subsidize certain community facilities, attached hereto as Exhibit F.

"**Community Facilities Plan**" means that certain Community Facilities Plan and related Needs Assessment, prepared for the Authority, dated as of June 28, 2011, which outlines a community facility program for Treasure Island, as such plan may be amended or supplemented from time to time in accordance with the terms of this DDA.

"**Community Facilities Space**" shall have the meaning set forth in the Community Facilities Plan.

"**Community Facilities Subsidy**" shall have the meaning set forth in Section 13.3.3(a) of the DDA.

"**Complete**" and any variation thereof means, as applicable, that: (i) a specified scope of work has been completed in accordance with Approved plans and specifications; (ii) Governmental Entities with jurisdiction have issued all Authorizations required for the contemplated use and, with respect to Vertical Improvements, occupancy of the work including, if applicable, Certificates of Occupancy; (iii) the site has been cleaned and all equipment, tools and other construction materials and debris have been removed; and (iv) with respect to Public Property and Public Improvements, (a) all bills for the work have been (x) paid and any obligor of Adequate Security has consented to final payment or (y) releases have been obtained from all mechanics and material suppliers or bonds have been provided to secure such liens in a form and amount required by law to cause any such lien to be removed from the applicable portion of the Project Site, (b) no mechanics', materialmen's or other liens have been recorded (unless they have been bonded as provided in (a)(y) above) and the period for recording such liens have expired and (c) all as-built plans and warranties, guaranties, operating manuals, operations and maintenance data, certificates of completed operations or other insurance, and all other close-out items required under any applicable Authorization or Approval have been provided to the Authority.

"**Complete Application**" shall have the meaning set forth in the DRDAP.

"**Complete Major Phase Application**" shall have the meaning set forth in the DRDAP.

"**Complete Sub-Phase Application**" shall have the meaning set forth in the DRDAP.

"**Conduct Code**" shall have the meaning set forth in Section 27.8 of the DDA.

"**Conflicting Law**" means legislation enacted by the Congress of the United States, by the legislature of the State or the enactment of a regulation or statute by any Governmental Entity (other than a City Party) with jurisdiction that precludes or substantially increases the cost of performance or compliance with any provision of this DDA by Developer.

"**Construction Documents**" consist of the documents and materials described for Construction Documents in Exhibit 2 of the DRDAP for a specific Improvement.

"**Construction Work**" shall have the meaning set forth in the Jobs EOP.

"**Construction Contractor**" shall have the meaning set forth in the Jobs EOP.

"**Control**" means the ownership (direct or indirect) by one Person and/or such Person and its Affiliates of day-to-day control of the activities of a Person coupled with a significant and voting interest in such Person.

"**Common Control**" means that two Persons are both Controlled by the same other Person or Persons. "**Controlled**", "**Controlling Interest**" and "**Controlling**" have correlative meanings.

"**Conversion Act**" shall have the meaning set forth in Recital G of the DDA.

"**Conveyance Agreement**" shall have the meaning set forth in Recital O of the DDA.

"**Core Benefits**" shall have the meaning set forth in Section 27.1(c) of the DDA.

"**CRC**" shall have the meaning set forth in Recital D of the DDA.

"**Critical Commercial Lots**" shall have the meaning set forth in Section 17.2 of the DDA.

"**Critical Commercial Lots Payment**" shall have the meaning set forth in Section 17.2.4 of the DDA.

"**Cumulative Sub-Phase Event**" shall have the meaning set forth in Section 24.1.2 of the DDA.

"**DBI**" shall mean the San Francisco Department of Building Inspection.

"**DDA**" shall have the meaning set forth in the Introductory Paragraph of the DDA.

"**Department of Public Works**" means the Department of Public Works of the City, or any successor public agency designated by or under law.

"**Design for Development**" means the Treasure Island and Yerba Buena Island Design for Development approved by the Planning Commission and the Authority, dated June 28, 2011, as amended from time to time consistent with Section 12.

"**Destroyed Land Records Relief Law**" shall have the meaning set forth in Section 10.2.3 of the DDA.

"**Developable Lot**" shall have the meaning set forth in Section 7.8 of the DDA.

"**Developable Market Rate Lots**" shall have the meaning set forth in Section 24.1.2 of the DDA.

"**Developed Critical Commercial Lots**" shall have the meaning set forth in Section 17.2.5 of the DDA.

"**Developed Parking**" shall have the meaning set forth in Section 4.2.1(a)(iii) of the DDA.

"**Developer**" means Treasure Island Community Development, LLC, a California limited liability company, or its successors and assigns of all or substantially all of its rights and corresponding obligations under this DDA, as and to the extent permitted in accordance with the terms of this DDA.

"**Developer Commercial JVs**" shall have the meaning set forth in Section 17.2.1 of the DDA.

"**Developer Extension**" shall have the meaning set forth in Section 24.3.1 of the DDA.

"Developer Housing Subsidy" shall have the meaning set forth in Section 13.3.4 of the DDA.

"**Developer Lot(s)**" shall have the meaning set forth in Section 17.3 of the DDA.

"**Developer Party**" shall have the meaning set forth in Section 11.1.6 of the DDA.

"**Developer Residential Units**" shall have the meaning set forth in the Housing Plan.

"**Developer Representative**" shall have the meaning set forth in Section 28.24(e) of the DDA.

"**Developer Return**" shall have the meaning set forth in the Financing Plan.

"**Developer's Consent**" shall have the meaning set forth in Section 12.4 of the DDA.

"Development Agreement" means that certain Development Agreement entered into by and between the City and County of San Francisco and Developer, dated as of June 28, 2011.

"**Development Fees or Exactions**" has the meaning set forth in the Development Agreement.

"**Development Increment**" shall have the meaning set forth in Section 4.2 of the DDA.

"**Development Increment Remainder Parking**" shall have the meaning set forth in Section 4.2.1(a)(iv) of the DDA.

"**Development Opportunity**" shall have the meaning set forth in Section 3.8.3 of the DDA.

"**Development Plan**" shall have the meaning set forth in Recital L of the DDA.

"**Development Plan Update**" shall have the meaning set forth in Recital L of the DDA.

"**Development Requirements**" means (i) the Project Approvals, (ii) the Transaction Documents and (iii) the documents approved under the DRDAP and the SUD, as they may be amended from time to time.

"**Distributions**" shall have the meaning set forth in the Financing Plan.

"**DRDAP**" means the design review and document approval procedures for the Project Site attached to this DDA as Exhibit CC, as may be amended or supplemented from time to time.

"**Economic Delay**" shall have the meaning set forth in Section 24.1.2 of the DDA.

"**Effective Date**" means the date that this DDA becomes effective, which shall be the later of (i) the date this DDA is executed and delivered by the Parties, or (ii) the date the Board of Supervisors Ordinance approving the Development Agreement is effective.

"**ENA**" shall have the meaning set forth in Recital I of the DDA.

"**Engineer**" means the licensed engineer of record for Infrastructure as selected by Developer and Approved by the Authority Director.

"**Engineer's Certificate**" means a certificate issued by the Engineer in accordance with Section 9.2 that is in the form attached hereto as Exhibit DD with only such changes as may be Approved by Developer and the Authority Director.

"**Entitled Units**" means, individually or collectively as the context requires, the maximum number of Units permitted for the Project Site pursuant to the SUD, which number is, as of the Effective Date, eight thousand (8,000).

"**Environmental Laws**" shall have the meaning set forth in Section 11.2.4 of the DDA.

"**Environmental Remediation**" means the undertaking of any activities to determine the nature and extent of Hazardous Substances that may be located in, on, under or about real property or that has been, are being or threaten to be Released into the environment, and to clean up, remove, contain, treat, stabilize, monitor or otherwise control such Hazardous Substance.

"**Escrow**" shall have the meaning set forth in Section 10.2.1 of the DDA.

"**Event of Default**" shall have the meaning set forth in Section 16.1 of the DDA.

"**Exchange Act**" shall have the meaning set forth in Recital M of the DDA.

"**Excess Land Appreciation Structure**" shall have the meaning set forth in Section 6.2.3(d) of the DDA.

"**Excluded Properties**" shall have the meaning set forth in Recital B of the DDA.

"**Existing Navy Exceptions**" shall have the meaning set forth in Section 10.2.2 of the DDA.

"**Excusable Delay**" shall have the meaning set forth in Section 24.1 of the DDA.

"**Exhibit**" means, individually or collectively as the context requires, each of the exhibits to this DDA listed in the Table of Contents, including any exhibits thereto, as they may be amended or supplemented from time to time in accordance with the terms thereof or of this DDA.

"**Expedited Arbitration Matter**" shall have the meaning set forth in Section 15.1.2 of the DDA.

"**Experience Requirement**" shall have the meaning set forth in Section 21.1(a) of the DDA.

"**Federal Facility Site Remediation Agreement**" means the September 29, 1992 "Federal Facility Site Remediation Agreement for Treasure Island Naval Station", executed by the U.S. Department of the Navy, the California Environmental Protection

Agency, the California Department of Toxics Substances Control, and the California Regional Water Quality Control Board for the San Francisco Bay Region.

"**Final Subdivision Map**" shall have the meaning set forth in Section 1.6(d) of the DDA.

"**Financial Obligations**" shall have the meaning set forth in Section 1.5.

"**Financing Plan**" means the plan attached hereto as Exhibit EE as such plan may be amended or supplemented from time to time in accordance with the terms of this DDA.

"**Force Majeure**" shall have the meaning set forth in Section 24.1.1 of the DDA.

"**Foreclosed Property**" shall have the meaning set forth in Section 20.6 of the DDA.

"**FOST**" shall have the meaning set forth in Recital O of the DDA.

"**Funding Sources**" shall have the meaning set forth in the Financing Plan.

"**Fractional Interest Unit(s)**" means any apartment, condominium or cooperative unit, cabin, lodge, hotel or motel room, or other private or commercial structure containing toilet facilities therein that is designed and available, pursuant to applicable law, for use and occupancy as a residence by one or more individuals, and which is subject to any plan whereby a purchaser, in exchange for consideration, receives ownership rights in or the right to use accommodations for a period of less than a full year during any given year, on a recurring basis for more than one year, but not necessarily for consecutive years.

"**Governmental Entity**" means any court, administrative agency or commission, or other governmental or quasi governmental organization with jurisdiction.

"**Gross Revenues**" shall have the meaning set forth in the Financing Plan.

"**Ground Lease**" shall have the meaning set forth in Section 4.1 of the DDA.

"**Guarantor Net Worth Requirement**" shall have the meaning set forth in Section 26.1 of the DDA.

"**Guarantor**" shall have the meaning set forth in Section 26.1 of the DDA.

"**Guaranty**" shall have the meaning set forth in Section 26.1 of the DDA.

"**Guidelines for Residential Auction Lot Selection**" shall have the meaning set forth in Section 17.5.3 of the DDA.

"**Hazardous Substance**" shall have the meaning set forth in Section 11.2.3 of the DDA.

"**HCAO**" shall have the meaning set forth in Section 27.5 of the DDA.

"**High Rise Lot**" shall have the meaning set forth in Section 24.1.2 of the DDA.

"**Housing Data Table**" shall have the meaning set forth in the Housing Plan.

"**Housing Plan**" means the plan attached hereto as Exhibit E, as such plan may be amended or supplemented from time to time in accordance with the terms of this DDA.

"**ICT**" shall have the meaning set forth in Section 7.9 of the DDA.

"**ICT Design**" shall have the meaning set forth in Section 7.9 of the DDA.

"**ICT Products and Solutions**" shall have the meaning set forth in Section 7.9 of the DDA.

"**ICT Rights**" shall have the meaning set forth in Section 7.9 of the DDA.

"**IFD**" shall have the meaning set forth in Recital P of the DDA.

"**IFD Act**" shall have the meaning set forth in Recital P of the DDA.

"**IFD Amendment**" shall have the meaning set forth in Section 3.8.2.1 of the DDA.

"**Improvements**" means all physical improvements required or permitted to be made to the Project Site under this DDA, including Infrastructure and Stormwater Management Controls and Vertical Improvements.

"**Inclusionary Units**" shall have the meaning set forth in the Housing Plan.

"**Increased Adequate Security**" shall have the meaning set forth in Section 16.5.4 of the DDA.

"**Increment**" shall have the meaning set forth in the Financing Plan.

"**Indemnify**" means reimburse, indemnify, defend, and hold harmless. "**Indemnification**" has a correlative meaning.

"**Indemnifying Party**" shall have the meaning set forth in Section 22.4 of the DDA.

"**Index**" means the Consumer Price Index (CPI) for All Urban Consumers in the San Francisco-Oakland-San Jose region (base years 1982-1984 = 100) published by the Bureau of Labor Statistics of the United States Department of Labor, but in no event shall any increase adjusted by the Index hereunder be less than two percent (2%) per annum or greater than five percent (5%) per annum.

"**Infrastructure**" means those items identified in the Infrastructure Plan including open space improvements (including park improvements and restrooms), streets, rails, sewer and storm drainage systems, water systems, street improvements (including freeway ramps or other demolition), traffic signal systems, dry utilities, transit facilities, associated public buildings and structures, and other improvements any of which are to be constructed in or for the benefit of the applicable real property or any other matters described in the Infrastructure Plan, and shall include such work as is necessary to deliver real property to the State Lands Commission in the condition required under the Public Trust Exchange Agreement, or otherwise so as to create Developable Lots as set forth in Section 7.8. Infrastructure does not include Stormwater Management Controls.

"**Infrastructure Obligations**" shall have the meaning set forth in Section 7.1.1 of the DDA.

"**Infrastructure Plan**" means the document attached hereto as Exhibit FF, as such document may be amended from time to time in accordance with the terms of this DDA.

"**Initial Closing Phase**" shall have the meaning set forth in Section 6.1.2 of the DDA.

"**Initial Major Phase**" shall have the meaning set forth in Section 1.5 of the DDA.

"**Initial Major Phase Application"** shall mean the Major Phase Application for the Initial Major Phase.

"**Initial Sub-Phases**" shall have the meaning set forth in Section 3.5 of the DDA.

"**Insurance Requirements**" shall have the meaning set forth in Section 22.6 of the DDA.

"**Interagency Cooperation Agreement**" means that certain Interagency Cooperation Agreement (Treasure Island/Yerba Buena Island) entered into in connection with the Project between the Authority and the City and attached hereto as Attachment 3, as amended from time to time.

"**Interim Lease Revenues**" shall have the meaning set forth in the Financing Plan.

"**IP**" shall have the meaning set forth in Section 7.9 of the DDA.

"**IPM**" shall have the meaning set forth in Section 27.15 of the DDA.

"**Jobs EOP**" shall have the meaning set forth in Section 13.1.8 of the DDA.

"**Jobs-Housing Linkage Fee**" shall have the meaning set forth in the Development Agreement.

"**JV Lots**" shall have the meaning set forth in Section 17.3 of the DDA.

"**Land Acquisition Agreements**" shall have the meaning set forth in Section 25.2 of the DDA.

"**Losses**" shall have the meaning set forth in Section 22.1 of the DDA.

"**Lot**" means a parcel of land within the Project Site that is a legal lot shown on a Subdivision Map.

"**LRA**" shall have the meaning set forth in Recital C of the DDA.

"**Major Phase 1**" means the area identified as Major Phase 1 in the Phasing Plan.

"**Major Phase 4**" means the area identified as Major Phase 4 in the Phasing Plan.

"**Major Phases**" shall have the meaning set forth in Section 3.1 of the DDA.

"**Major Phase Application**" shall have the meaning set forth in Section 3.5 of the DDA.

"**Major Phase Approval**" shall have the meaning set forth in Section 3.3 of the DDA

"**Major Phase Community Facilities Maximum Amount**" shall have the meaning set forth in Section 13.3.3(c) of the DDA.

"**Major Phase Decisions**" shall have the meaning set forth in Section 6.2.3 of the DDA

"**Management Plan**" means a Soil and Groundwater Management Plan approved by the applicable regulatory agencies.

"**Marina**" means the waterside Marina improvements to be developed by Treasure Island Enterprises, LLC, or such other successor party, as more particularly described in the Marina Term Sheet.

"**Marina Access Improvements**" shall have the meaning set forth in Section 8.3 of the DDA.

"**Marina Developer**" means Treasure Island Enterprises, LLC, or such other successor party developing the Marina.

"**Marina Revenues**" means all revenues received by Authority attributable to or in any way related to the Marina operations from the Marina Developer or any party other than Developer.

"**Marina Term Sheet**" means the Term Sheet for the Redevelopment, Expansion and Operation of the Treasure Island Marina between the Authority and Treasure Island

Enterprises, LLC dated November 8, 2000, as amended by that certain Addendum dated November 10, 2004, and that Second Addendum to Term Sheet dated October 10, 2007.

"**Market Rate Lots**" shall have the meaning set forth in the Housing Plan.

"**Market Rate Units**" shall have the meaning set forth in the Housing Plan.

"**Master CC&Rs**" shall have the meaning set forth in Section 10.3.2(e) of the DDA.

"**Master Developer**" shall have the meaning set forth in Section 1.5 of the DDA.

"**Material Breach**" shall have the meaning set forth in Section 16.2.3 of the DDA.

"**Material Modifications**" means amendments or modifications to this DDA or any of its Attachments that would materially increase the burdens and responsibilities of the Authority or materially decrease the benefits to the Authority, as reasonably determined by the Authority Director. Notwithstanding the foregoing, amendments or modifications to the Infrastructure Plan that modify construction standards, materials, practices or specifications for Infrastructure shall not require approval by the Board of Supervisors unless the Authority Director and, with respect to any Infrastructure and Stormwater Management Controls to be owned or maintained by the City, the Director of Public Works, reasonably determine that such amendment or modification under the circumstances, would significantly increase costs to the City or Authority of ownership.

"**Minimum Bid Price**" shall have the meaning set forth in Section 10.3.2(g) of the DDA.

"**Mitigation Measures**" shall have the meaning set forth in Section 18.1 of the DDA.

"**Mortgage**" shall have the meaning set forth in Section 20.1 of the DDA.

"**Mortgagee**" shall have the meaning set forth in Section 20.1 of the DDA.

"**Mortgagee Acquisition**" shall have the meaning set forth in Section 20.6 of the DDA.

"**Mortgagor**" shall have the meaning set forth in Section 20.1 of the DDA.

"**Navy**" shall have the meaning set forth in Recital O of the DDA.

"**Navy Payment**" means that Initial Consideration and Additional Consideration as those terms are defined in the Conveyance Agreement.

"**Net Worth**" means net worth calculated using generally accepted accounting principles ("**GAAP**"). In the case of a corporation, "**Net Worth**" shall mean

shareholders' equity calculated in accordance with GAAP. Any reference in this DDA to a minimum Net Worth or a Net Worth Requirement shall mean that the Net Worth must be satisfied and maintained at all times. Upon the Authority's request, a Person required to maintain a minimum Net Worth under this DDA shall provide to the Authority reasonable evidence that it satisfies the Net Worth Requirement, including a copy of the most recent audit of such Person (which shall in no event be dated more than thirteen (13) months before the date of the Authority's request). Any such audit must have been performed by an independent third-party auditor and must include the opinion of the auditor indicating that the financial statements are fairly stated in all material respects.

"**Net Worth Requirement**" means (i) for Transfer of a Major Phase or portions of a Major Phase that cumulatively equal or exceed a land area of seventy percent (70%) or more of the Major Phase, a Net Worth equal to or more than Seventy Five Million Dollars ($75,000,000), increased automatically by ten percent (10%) on each five (5) year anniversary of the Effective Date and (ii) for Transfers of one or more Sub-Phases that cumulatively equal less than seventy percent (70%) of the land area in a Major Phase, a Net Worth equal to or more than the higher of (A) Twenty Five Million Dollars ($25,000,000), increased automatically by ten percent (10%) on each five (5) year anniversary of the Effective Date or (B) the amount determined under clause (i) above times the percentage of the total land area in the Major Phase that is being Transferred. Any entity required to satisfy the Net Worth Requirement can do so either by either meeting the Net Worth Requirement itself or by providing a Guaranty, covering all of that entity's obligations under this DDA without limitation, from an entity that meets the Net Worth Requirement.

"**Non-Critical Commercial Lots**" shall have the meaning set forth in Section 17.2 of the DDA.

"**Non-Developer Critical Commercial Lot**" shall have the meaning set forth in Section 17.2.5 of the DDA.

"**Notice of Termination**" shall have the meaning set forth in Section 28.36 of the DDA.

"**Notifying Party**" shall have the meaning set forth in Section 16.1 of the DDA.

"**NSTI**" shall have the meaning set forth in Recital A of the DDA.

"**Official Records**" means the Official Records of the City and County of San Francisco maintained by the City's Recorder's Office.

"**Open Space Lot**" means a Lot primarily used for Improvements constructed in accordance with the Parks and Open Space Plan.

"**Original Project Guaranty**" means that certain Guaranty provided by Lennar in connection with the ENA, dated as of June 1, 2003.

"**Original TIHDI Agreement**" shall have the meaning set forth in Recital F of the DDA.

"**Outside Date**" means the last date by which a particular obligation may be satisfied, as such date is set forth in the Schedule of Performance.

"**Owner/Occupant**" means for a Lot, Unit or commercial condominium in the Project Site, as applicable, the Person holding fee title thereto.

"**Park Extension**" shall have the meaning set forth in Section 24.4 of the DDA.

"**Parking Data Table**" shall have the meaning set forth in Section 4.2.1(a) of the DDA.

"**Parks and Open Space Plan**" means the plan attached hereto as Exhibit GG, as such plan may be amended or supplemented from time to time in accordance with the terms of this DDA.

"**Party**" means, individually or collectively as the context requires, Developer, the Authority and any Transferee that is made a Party to this DDA under the terms of an Assignment and Assumption Agreement Approved by the Authority Director.

"**PCBs**" shall have the meaning set forth in Section 11.2.3 of the DDA.

"**Permit to Enter**" means, initially, the document attached to this DDA as Exhibit HH, as such document may be revised from time to time by the Authority upon notice thereof to Developer. The Authority may from time to time amend the attached form of Permit to Enter and impose such insurance, bond, guaranty and indemnification requirements as the Authority determines are necessary or appropriate to protect its interests, consistent with the Authority's custom and practice and in a manner that will not unnecessarily interfere with or materially increase the cost or risk of Developer's ability to perform under this DDA or if it would unnecessarily interfere with or materially increase the cost or risk, such amendment must be consistent with commercial industry practice.

"**Permitted Exceptions**" means permitted title exceptions at a close of Escrow as set forth in Section 10.2.

"**Person**" means one or more natural persons or corporations, partnerships, trusts, limited liability companies, limited liability partnerships or other entities.

"**Pesticide Ordinance**" shall have the meaning set forth in Section 27.15 of the DDA.

"**Petroleum Corrective Action Plan**" means the Final Corrective Action Plan, Sites 06, 14/22, 15, and 25, Naval Station Treasure Island dated June 28, 2002, prepared by Tetra Tech EM Inc. for the Department of the Navy, and the Corrective Action Plan,

Inactive Fuel Lines, Naval Station Treasure Island dated December 2003, prepared by Tetra Tech, Inc. for Department of Navy, as amended from time to time.

"**Phase 1 Area**" shall have the meaning set forth in Section 6.1.2 of the DDA.

"**Phasing Goals**" shall have the meaning set forth in Section 3.2 of the DDA.

"**Phasing Plan**" means the map attached hereto as Exhibit II, as such map may be amended from time to time in accordance with the terms of this DDA.

"**Planning Commission**" shall have the meaning set forth in the DRDAP.

"**Police and Fire Station Lot**" shall have the meaning set forth in the Community Facilities Plan.

"**Political Activity**" shall have the meaning set forth in Section 27.7 of the DDA.

"**Port**" shall have the meaning set forth in Section 21.12 of the DDA.

"**Pre-Approved Arbiters List**" shall have the meaning set forth in Section 15.3.1 of the DDA.

"**Private Information**" shall have the meaning set forth in Section 27.18(c) of the DDA.

"**Product Types**" shall have the meaning set forth in Section 17.5.2 of the DDA.

"**Proforma**" shall have the meaning set forth in Section 3.9.

"**Project**" shall have the meaning set forth in Section 1.1 of the DDA.

"**Project Account**" shall have the meaning set forth in the Financing Plan.

"**Project Approvals**" shall mean the Project Approvals listed in Exhibit C to the Development Agreement.

"**Project Cost**" shall have the meaning set forth in the Financing Plan

"**Project EIR**" shall have the meaning set forth in Recital W of the DDA.

"**Project MMRP**" shall have the meaning set forth in Recital W of the DDA.

"**Project Site**" shall have the meaning set forth in Recital B of the DDA.

"**Project Special Taxes**" shall have the meaning set forth in the Financing Plan.

"**Project Subsidies**" shall have the meaning set forth in Section 13.3 of the DDA.

"**Protection of Information Ordinance**" shall have the meaning set forth in Section 27.18 of the DDA.

"**PTR Package**" shall have the meaning set forth in Section 10.2.2 of the DDA.

"**Public Financing**" shall have the meaning set forth in the Financing Plan.

"**Public Improvements**" shall have the meaning set forth in Section 9.2.5 of the DDA.

"**Public Property**" shall have the meaning set forth in Section 3.7 of the DDA.

"**Public Trust**" shall have the meaning set forth in Section 6.1.1 of the DDA.

"**Public Trust Exchange**" shall have the meaning set forth in Section 6.1.1 of the DDA.

"**Public Trust Exchange Agreement**" shall have the meaning set forth in Section 6.1.1 of the DDA.

"**Public Trust Parcels**" shall mean portions of the Project Site that are subject to the Public Trust upon completion of a Public Trust Exchange.

"**Qualified Appraiser Pool**" shall have the meaning set forth in Section 17.4.1 of the DDA.

"**Qualified Buyer**" means a third-party buyer (i) who is not an Affiliate of Developer and is reasonably creditworthy given the obligations it is assuming, and (ii) the principals of which have at least five (5) years of experience in developing the kind of housing or commercial product to be developed on the Lot the Qualified Buyer is seeking to purchase.

"**Qualified Housing Developer**" shall have the meaning set forth in Exhibit E.

"**Quiet Title Action**" shall have the meaning set forth in Section 10.2.3 of the DDA.

"**Ramps Subsidy**" shall have the meaning set forth in Section 13.3.6 of the DDA

"**Redesign Plan**" shall have the meaning set forth in Section 6.2.5(b) of the DDA.

"**Redesign Budget**" shall have the meaning set forth in Section 6.2.5(c) of the DDA.

"**Redesign Costs**" shall have the meaning set forth in Section 6.2.5(c) of the DDA.

"**Redesign Trigger Event**" shall have the meaning set forth in Section 6.2.5(a) of the DDA.

"**Reference Date**" shall have the meaning set forth in the Introductory Paragraph of the DDA.

"**Related Infrastructure**" shall have the meaning set forth in Section 7.1.1 of the DDA.

"**Release**" shall have the meaning set forth in Section 11.2.5 of the DDA.

"**Remainder Parking**" shall have the meaning set forth in Section 4.2.1(a)(iv) of the DDA.

"**Remediation Agreement**" means an agreement, not contained in this DDA, between Developer and another Person relating to the remediation of Hazardous Substances on some or all of the Project Site.

"**Replacement Housing Obligation**" shall have the meaning set forth in the Housing Plan.

"**Replacement Housing Units**" shall have the meaning set forth in the Housing Plan.

"**Requested Change Notice**" shall have the meaning set forth in Section 3.8.2 of the DDA.

"**Required Improvements**" means the police/fire station as described in the Community Facilities Obligations, the ferry terminal and quay, as described in the Infrastructure Plan, and the grocery store consisting of 15,000 s.f., as described in the Community Facilities Obligations.

"**Required Retail**" shall have the meaning set forth in Section 8.2 of the DDA.

"**Required Vegetation Removal**" shall have the meaning set forth in Section 6.1.4 of the DDA.

"**Residential Auction Lot**" shall have the meaning set forth in Section 17.3 of the DDA.

"**Re-Setting of the Minimum Bid Price**" shall have the meaning set forth in Section 17.5 of the DDA.

"**Residential Auction Lots**" shall have the meaning set forth in Section 17.3 of the DDA.

"**Residential Developable Lot**" shall have the meaning set forth in Exhibit E.

"**Residential Project**" means a Vertical Project that is consistent with the Development Requirements and contains Units and other consistent uses, if any.

"**Residential Unit**" shall have the meaning set forth in the Housing Plan.

"**Reuse Plan**" shall have the meaning set forth in Recital E of the DDA.

"**Reversionary Contest Period**" shall have the meaning set forth in Section 16.5.1(f) of the DDA.

"**Reversionary Cure Notice**" shall have the meaning set forth in Section 16.5.1(a)(ii) of the DDA.

"**Reversionary Default**" shall have the meaning set forth in Section 16.5.1(a)(i) of the DDA.

"**Reversionary Quitclaim Deed**" shall have the meaning set forth in Section 16.5.1of the DDA.

"**Reversionary Recordation Notice**" shall have the meaning set forth in Section 16.5.1(d) of the DDA.

"**Reverter Release**" shall have the meaning set forth in Section 16.5.4 of the DDA.

"**Reverter Release Recordation Notice**" shall have the meaning set forth in Section 16.5.4 of the DDA.

"**Right of Reverter**" shall have the meaning set forth in Section 16.5.1(a) of the DDA.

"**Secured Amount**" shall have the meaning set forth in Section 26.1 of the DDA.

"**Schedule of Performance**" means the schedule of performance attached hereto as Exhibit JJ, as such schedule of performance may be updated under the terms of this DDA, including Article 3, amended upon the Approval by Developer and the Authority, or extended by Excusable Delay.

"**School Subsidy**" shall have the meaning set forth in the Section 3.3.6(a) of the DDA.

"SFCTA" means the San Francisco County Transportation Authority

"**SFCTA MOA**" as defined in Section 13.3.6 of the DDA.

"SFPUC" means the San Francisco Public Utilities Commission.

"SFUSD" means the San Francisco Unified School District.

"**Significant Change**" means (i) Developer 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 Developer's insolvency, (iii) a writ of execution or attachment or any similar process is issued or levied against any bank accounts of Developer, or against any property or assets of Developer being used or required for use in the

development of the Infrastructure and Stormwater Management Controls or against any substantial portion of any other property or assets of Developer, or (iv) a final non-appealable judgment is entered against Developer in an amount in excess of Five Million Dollars ($5,000,000.00), and the party against whom judgment is entered is unable to either satisfy or bond the judgment.

"**Significant Change to Guarantor**" as defined in Section 26.3.2 of the DDA.

"**Soil Stockpile**" shall have the meaning set forth in Section 13.3.7 of the DDA.

"**SOQHD**" shall have the meaning set forth in Section 17.2 of the DDA.

"**State**" means, as the context requires, (i) the State of California, or (ii) the territorial jurisdiction of the foregoing.

"**State Lands**" shall have the meaning set forth in Section 6.1.1 of the DDA.

"**Stormwater Management Controls**" means the facilities, both those to remain privately-owned and those to be dedicated to the City, that comprise the infrastructure and landscape system that is intended to manage the stormwater runoff associated with the Project, as required by the San Francisco stormwater management standards, the applicable NPDES permit, and/or state and federal law, and as described in the Infrastructure Plan. Stormwater Management Controls include but are not limited to: (i) swales and bio-swales (including plants and soils), (ii) bio-retention and bio-filtration systems (including plants and soils), (iii) constructed ponds and/or wetlands (vi) permeable paving systems, and (v) other facilities performing a stormwater control function constructed to comply with the San Francisco stormwater management standards, the applicable NPDES permit, and/or state and federal law. Stormwater Management Controls shall not mean Infrastructure that is part of the traditional collection system such as catch basins, stormwater pipes, stormwater pump stations, outfalls, and other such facilities that are located in the public right-of-way.

"**Sub-Phases**" shall have the meaning set forth in Section 3.1 of the DDA.

"**Sub-Phase Application**" shall have the meaning set forth in Section 3.5 of the DDA.

"**Sub-Phase Event**" shall have the meaning set forth in Section 24.1.2 of the DDA.

"**Sub-Phase Approval**" shall have the meaning set forth in Section 3.4 of the DDA.

"**Subdivision Map**" means a subdivision map as defined in the TI/YBI Subdivision Code.

"**Submerged Lands**" shall have the meaning set forth in Recital A of the DDA.

"**Subsequent Closing Phase**" shall have the meaning set forth in Section 6.1.3 of the DDA.

"**Subsidies**" shall mean those Subsidies described in Section 13 hereof.

"**Substantial Completion**" and any variation thereof means (A) for Infrastructure and Stormwater Management Controls, that the Authority Director determines, in his or her reasonable discretion following consultation with the Department of Public Works, that (i) the work has been substantially completed in accordance with the Construction Documents, and (ii) the Infrastructure and Stormwater Management Controls has been Completed except for (x) customary punch list work that does not prevent a Vertical Developer from constructing Vertical Improvements and (y) work customarily not Completed until Vertical Improvements have been substantially Completed in order to avoid damage to such work or to achieve customary sequencing of the work (e.g., testing that requires Vertical Improvements to be in place) and (B) for Vertical Improvements, that the Authority Director determines, in his or her reasonable discretion following consultation with DBI, that the applicable Vertical Improvements are substantially complete and that the life safety systems within the applicable Vertical Improvement have been installed and are fully functional.

"**Substantially Complete Application,**" "**Substantially Complete Major Phase Application**" or "**Substantially Complete Sub-Phase Application**" means a Major Phase or Sub-Phase Application, as applicable that has been submitted to Authority in accordance with the DRDAP along with substantially all of the required submittal materials, but Authority has not fully accepted the Application as Complete pending Developer's submittal of additional information or materials determined by Authority as reasonably necessary to accept the Application as Complete.

"**Summary Proforma**" means the summary proforma attached to the DDA as Exhibit S, as it may be amended from time to time in accordance with Section 3.9 of the DDA.

"**SUD**" shall have the meaning set forth in Section 4.2 of the DDA.

"**Sustainability Obligations**" shall have the meaning set forth in Section 13.1.7 of the DDA.

"**Taxable Parcel**" shall have the meaning set forth in the Financing Plan.

"**Tentative Subdivision Map**" shall have the meaning set forth in Section 1.6(d) of the DDA.

"**Term**" shall have the meaning set forth in Section 2 of the DDA.

"**Third Party**" means a Person other than Developer and its Affiliates.

"**TI/YBI Subdivision Code**" means the Subdivision Code of the City and County of San Francisco for Treasure Island and Yerba Buena Island and the regulations promulgated thereunder, as each may be amended from time to time.

"**TICAB**" shall have the meaning set forth in Recital K of the DDA.

"**TICD**" means Treasure Island Community Development, LLC, a California limited liability company.

"**TIHDI**" shall have the meaning set forth in Recital F of the DDA.

"**TIHDI Agreement**" shall have the meaning set forth in Recital F of the DDA.

"**TIHDI Job Broker Program Subsidy**" shall have the meaning set forth in Section 9.1 of the Jobs EOP.

"**TIHDI Member Organizations**" shall have the meaning set forth in the TIHDI Agreement.

"**Title Company**" means Chicago Title Company, or such other reputable title company determined by Developer and Approved by the Authority Director, licensed to do business in the State and having an office in the City.

"**Title Objection Period**" shall have the meaning set forth in Section 10.2.2 of the DDA.

"**TITMA**" shall have the meaning set forth in Recital N of the DDA.

"Transaction Documents" means (1) this DDA, the Vertical Disposition and Development Agreements, Lease Disposition and Development Agreements and Ground Leases, and related conveyance agreements governing the development of the Project Site in accordance with the DDA, (2) the Land Acquisition Agreements, (4) the Interagency Cooperation Agreement, and (4) other necessary transaction documents for the conveyance, management and redevelopment of the Project Site.

"**Transfer**" means to convey, transfer, sell, or assign as and to the extent permitted under this DDA.

"**Transfer Map**" means a Transfer Map as defined in the Treasure Island/Yerba Buena Island Subdivision Code.

"**Transferable Infrastructure**" shall have the meaning set forth in Section 7.2.1 of the DDA.

"**Transferee**" means any Person to whom Developer Transfers any rights and corresponding obligations under this DDA relating to a Major Phase, Infrastructure and Stormwater Management Controls or horizontal development, as permitted under this DDA, including Transfers to Affiliates of Developer. Vertical Developers, or any

transferee of the right to apply for or to construct Vertical Improvements, shall not be deemed to be Transferees as such term is used in this DDA.

"**Transportation Capital Contribution Account**" shall have the meaning set forth in Section 13.3.2(f) of the DDA.

"**Transportation Plan**" means that certain Treasure Island Transportation Implementation Plan, approved by the Authority on April 21, 2011 by Resolution No. 11-17-04/21, which outlines the transportation program for Treasure Island and Yerba Buena Island, as such plan may be amended or supplemented from time to time in accordance with the terms of this DDA.

"**Transportation Subsidy Account**" shall have the meaning set forth in Section 13.3.2(b) of the DDA.

"**Transient Occupancy**" means occupancy for a period of less than thirty (30) consecutive calendar days.

"**Transient Occupancy In-Lieu Fee**" shall have the meaning set forth in the Development Agreement.

"**Transit Hub**" shall have the meaning set forth in Section 1.3(n) of the DDA.

"Transition Housing Rules and Regulations" means those Transition Housing Rules and Regulations for the Villages at Treasure Island, adopted by the Authority on April 21, 2011.

"**Transition Requirements**" shall have the meaning set forth in Section 10.3.3(h) of the DDA.

"**Transportation Capital Contributions Subsidy**" shall have the meaning set forth in Section 13.3.3 of the DDA.

"Transportation Plan Obligations" means those obligations of the Transportation Plan for which Developer is responsible, as described in Exhibit N attached hereto.

"**Transportation Subsidy Payment Date**" shall have the meaning set forth in Section 13.3.2(a) of the DDA.

"**Trust Exchange Closing Phase**" shall have the meaning set forth in Section 6.1.1 of the DDA.

"**Unrelated Infrastructure**" shall have the meaning set forth in Section 7.1.2 of the DDA.

"**Vertical Application**" shall have the meaning set forth in the DRDAP.

"**Vertical Approval**" shall have the meaning set forth in the DRDAP.

"**Vertical Developer**" means for a particular Lot or Vertical Improvement, the Person that is a party to the applicable Vertical DDA related thereto.

"**Vertical Development**" means the development of Vertical Improvements.

"**Vertical Improvement**" means an Improvement to be developed under this DDA that is not Infrastructure and Stormwater Management Controls or Improvements required to be Completed by Developer for the Parks and Open Spaces.

"**Vertical DDA**" shall have the meaning set forth in Section 1.2 of the DDA.

"**Vertical LDDA**" shall have the meaning set forth in Section 1.2 of the DDA.

"**Vertical Project**" means the process of designing, Commencing and Completing a Vertical Improvement under a Vertical DDA.

"**Wastewater Treatment Facility**" shall have the meaning set forth in the Infrastructure Plan.

"**Work Program**" shall have the meaning set forth in Section 6.2.5(c) of the DDA.

MACEO MAY GROUND LEASE

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MACEO MAY GROUND LEASE

This Ground Lease is dated as of, _____ 20___, by and between the TREASURE ISLAND DEVELOPMENT AUTHORITY, a public body, corporate and politic of the State of California (the "**TIDA**" or "**Landlord**"), , and MACEO MAY APTS, L.P., a California limited partnership, as tenant (the "**Tenant**").

RECITALS

A. The TIDA is the fee owner of the land described in Attachment 1 and the existing improvements located thereon ("**Site**").

B. "TIDA" or "Landlord" is the public agency responsible for the oversight of the development of certain property on Treasure Island, San Francisco, and administers the property that is subject to the Tidelands Trust in accordance with the land use restrictions set forth in the Treasure Island Conversion Act of 1997 (amending Section 33492.5 of the California Health and Safety Code and added Section 2.1 to Chapter 1333 of the Statutes of 1968). In June 2011, TIDA entered into a Disposition and Development Agreement with Treasure Island Community Development, LLC, a Delaware limited partnership, dated as of June 28, 2011, and recorded in the Official Records of the City and County of San Francisco (the "**Official Records**") on August 10, 2011 as Document No. No. 2011-J235239-00 Reel K457, Image 142, as subsequently amended by that certain First Amendment to Disposition and Development Agreement (Treasure Island/Yerba Buena Island), dated as of October 23, 2015 and recorded in the Official Records on November 5, 2015 as Document No. 2015-K153304 , as assigned pursuant to that certain Assignment and Assumption Agreement, dated as of November 24, 2015 and recorded in the Official Records on _____ as Document No. _____, and as further amended by that certain Second Amendment to Disposition and Development Agreement (Treasure Island/Yerba Buena Island), dated as of January 22, 2018 and recorded in the Official Records on _____ as Document No. _____ (as amended, the "DDA") for the development of such property. The DDA and its attached Exhibits guide and regulate the implementation of the redevelopment of Treasure Island and includes the Land Use Plan, Housing Plan, Community Facilities Obligation, and other critical policy and implementation documents. Concurrently with the DDA, TIDA and the Treasure Island Homeless Development Initiative, Inc., a California nonprofit public benefit corporation ("TIHDI"), entered into the Amended and Restated Base Closure Homeless Assistance Agreement ("Homeless Assistance Agreement") regarding the relocation of formerly homeless veterans and existing residents of Treasure Island and replacement of housing units.

C. On November 15, 2019, the Citywide Affordable Housing Loan Committee approved MOHCD's selection of Chinatown Community Development Corporation, Inc.,a California nonprofit public benefit corporation, with Swords to Plowshares, a California nonprofit public benefit corporation, to develop the Site into 105 units of affordable housing for formerly homeless veterans and low-income veterans (the "**Project**").

D. On March 14, 2018, the TIDA and the Tenant entered into that certain Option to Lease Agreement pursuant to which TIDA granted Tenant an option to ground lease the Site (the "**Option**") that expires on June 30, 2021 with an extension option for one additional six-month period.

E. The Tenant is now exercising its Option to enter this Ground Lease, pursuant to which TIDA will lease the Site to Tenant to develop the Project. It is the Tenant's intent to serve the needs of the formerly homeless and low-income veteran population by

providing rents for all units not to exceed thirty percent (30%) of eighty percent (80%) of Area Median Income.

NOW THEREFORE, in consideration of the mutual obligations of the parties to this Ground Lease, the TIDA hereby leases to Tenant, and Tenant hereby leases from the TIDA, the Site, for the Term (as defined in ARTICLE 2), and subject to the terms, covenants, agreements, and conditions set forth below, each and all of which the TIDA and Tenant mutually agree.

ARTICLE 1 DEFINITIONS

Terms used herein have the meanings given them when first used or as set forth in this ARTICLE 1, unless the context clearly requires otherwise.

1.01 **Agreement Date** means the date first set forth above.

1.02 **Annual Rent** has the meaning set forth in the Section 4.01(a).

1.03 **Area Median Income** (or **AMI**) means median income as published annually by MOHCD, for the City and County of San Francisco, derived in part from the area median income determined by the United States Department of Housing and Urban Development for the San Francisco area, adjusted solely for household size, but not high housing cost area, also referred to as "Unadjusted Median Income".

1.04 **Change** has the meaning set forth in Section 12.02.

1.05 **City** means the City and County of San Francisco

1.06 "**Development Agreement**" means that certain Development Agreement between City and Treasure Island Community Development, LLC; a Delaware limited partnership, dated as of June 28, 2011, recorded in the Official Records as Document 2011-J235240-00 on August 10, 2011.

1.07 **Effective Date** means the date the TIDA records the Memorandum of Ground Lease against the Site.

1.08 **First Lease Payment Year** means the year in which the Project receives a Certificate of Occupancy for all residential units.

1.09 **First Mortgage Lender** means any lender and its successors, assigns, designees, and participants or other entity holding the first deed of trust on the Leasehold Estate. As of the Effective Date, Silicon Valley Bank is the First Mortgage Lender.

1.10 **Ground Lease** means this Ground Lease, as amended from time to time.

1.11 **HCD** means the California Department of Housing and Community Development.

1.12 **HUD** means the U.S. Department of Housing and Urban Development.

1.13 **Improvements** means all physical construction, including all structures, fixtures, and other improvements, to be constructed on the Site.

1.14 **Laws** means all statutes, laws, ordinances, regulations, rules, orders, writs, judgments, injunctions, decrees, or awards of the United States or any state, county, municipality, or governmental agency.

1.15 **Lease Year** means each calendar year during the Term, beginning on January 1 and ending on December 31, provided that the "First Lease Year" will commence on the Effective Date and continue through December 31st of that same calendar year. Furthermore, the "Last Lease Year" will end upon the expiration of the Term.

1.16 **Leasehold Estate** means the estate held by the Tenant created by and pursuant to this Ground Lease.

1.17 **Leasehold Mortgage** means any mortgage, deed of trust, trust indenture, letter of credit, or other security instrument, and any assignment of the rents, issues, and profits from the Site, or any portion thereof, that constitutes a lien on the Leasehold Estate and is approved in writing by the TIDA.

1.18 **Lender** means any entity holding a Leasehold Mortgage. and its successors, assigns, designees and participants..

1.19 **Loan Documents** means those certain loan agreements, notes, deeds of trust, declarations, and any other documents executed and delivered in connection with the predevelopment, construction, and permanent financing for the Project.

1.20 **MOHCD** means the Mayor's Office of Housing and Community Development for the City.

1.21 **Permitted Limited Partner** means RJ MT Maceo May Apts L.L.C., a Florida limited liability company, as investor limited partner and its successors and assigns as approved by TIDA.

1.22 **Premises** means the Site and all Improvements.

1.23 **Personal Property** means all fixtures, furniture, furnishings, equipment, machinery, supplies, software and other tangible personal property that is located in, on, or about the Premises and that can be removed from the Premises without substantial economic loss to the Premises or substantial damage to the Premises and that is incident to the ownership, development, or operation of the Improvements on the Premises, belonging to Tenant, any Residential Occupant, any Non-residential Occupant, or any subtenant or other occupant of the Premises and/or in which Tenant, Residential Occupant, Non-residential Occupant, or any subtenant or other occupant has an ownership interest, together with all present and future attachments, replacements, substitutions, and additions thereto or therefor.

1.24 **Project** means the new construction of 105 units of housing for veterans and formerly homeless veterans.

1.25 **Project Expenses** means the following costs, which may be paid from Project Income to the extent of available Project Income: (a) all charges incurred in the operation of the Project for utilities, real estate and/or possessory interest taxes, assessments, and liability, fire, and other hazard insurance premiums; (b) salaries, wages, and other compensation due and payable to the employees or agents of Tenant who maintain, administer, operate, or provide services in connection with the Project, including all withholding taxes, insurance premiums, Social Security payments and other payroll taxes or payments required for such employees; (c) MOHCD annual monitoring fee and payments of required interest, principal, or annual servicing fees, if any, or other amounts owing on any construction or permanent financing secured by the Project; (d) all other expenses actually incurred by Tenant to cover routine operating and services provision costs of the Project, including maintenance and repair and the reasonable fee of any managing agent, as well as any budgeted supportive services costs for the Project; (e) annual Base Rent payments; (f) any extraordinary expenses as approved in advance by the TIDA; and (g) deposits to reserves accounts required to be established under the Loan Documents and/or as required by the Permitted Limited Partner.

1.26 **Project Fees** means (i) a combined annual asset management and partnership management fee in the amount of $46,910, increasing by 3.5% annually, payable to the Tenant's general partner, and (ii) an annual investor services fee in the amount of $5,000 payable to the Tenant's limited partner. Notwithstanding the foregoing, for so long as HCD is providing financing to the Project, HCD maximums shall apply to the total allowed Project Fees.

1.27 **Project Income** means all revenue, income receipts, and other consideration actually received from the operation of leasing the Improvements and Project, including non-residential uses of the Site. Project Income includes, but is not limited to: all rents, fees, and charges paid by Residential Occupants, Non-residential Occupants or users of any portion of the Site; Section 8 or other rental subsidy payments received for the dwelling units; supportive services funding, if applicable; deposits forfeited by tenants; all cancellation fees, price index adjustments and any other rental adjustments to leases or rental agreements; proceeds from vending and laundry room machines; and the proceeds of business interruption or similar insurance. Project Income does not include tenants' security deposits, loan proceeds, capital contributions, or similar advances.

1.28 **Residential Occupant** means any person or entity authorized by Tenant to occupy a residential unit on the Site, or any portion thereof.

1.29 **Residential Unit** has the meaning set forth in Section 9.01.

1.30 **Site** means the real property as more particularly described in the Site Legal Description, Attachment 1.

1.31 **Subsequent Owner** means any successor (including a Lender or an affiliate or assignee of a Lender as applicable) to the Tenant's interest in the Leasehold Estate and the Improvements who acquires such interest as a result of a foreclosure, deed in lieu of foreclosure, or transfer from a Lender, its affiliate, and any successors to any such person or entity.

1.32 **Surplus Cash** means all Project Income in any given Lease Year remaining after payment of Project Expenses and Project Fees. The amount of Surplus Cash will be based on figures contained in audited financial statements. All permitted uses and distributions of Surplus Cash will be governed by Section 6.02(g) of this Ground Lease.

1.33 **Tenant** means Maceo May Apts, L.P., a California limited partnership and its successors and assigns (or a Subsequent Owner, where appropriate).

1.34 **Very Low-Income Households** means: (a) for a term of 99 years from the date on which a certificate of occupancy is issued for the Project, a tenant household with combined initial income that does not exceed eighty percent (80%) of Area Median Income; and (b) for any period of the Term (or extended term) thereafter, a tenant household with combined initial income that does not exceed eighty percent (80%) of Area Median Income.

1.35 Whenever an Attachment is referenced, it means an attachment to this Ground Lease unless otherwise specifically identified. Whenever a section, article, or paragraph is referenced, it is a reference to this Ground Lease unless otherwise specifically referenced.

ARTICLE 2 TERM AND RELEASE OF DDA AND DA

2.01 Initial Term. The term of this Ground Lease will commence upon the Effective Date and will end ninety-nine (99) years from the Effective Date ("**Term**").

2.02 Release of DDA and DA. On the Effective Date, the TIDA shall execute and will record in the Official Records a Release, Quitclaim and Notice and Partial Termination of the Development Agreement and Horizontal DDA, pursuant to which the Horizontal DDA and the Development Agreement are terminated as to the Site.

ARTICLE 3 FINANCIAL ASSURANCE

Tenant will submit to the TIDA in accordance with the dates specified in the Schedule of Performance, Attachment 2, for approval by the TDA, evidence satisfactory to the TIDA that Tenant has sufficient equity capital and commitments for construction and permanent financing, and/or such other evidence of capacity to proceed with the construction of the Improvements in accordance with this Ground Lease, as is acceptable to the TIDA. TIDA hereby acknowledges that as of the Agreement Date, Tenant has satisfied this requirement.

ARTICLE 4 RENT

4.01 Annual Rent.

4.01(a) Tenant will pay to the TIDA fifteen thousand Dollars ($15,000.00) (the "**Annual Rent**") per year for each year of the Term of this Ground Lease. Annual Rent consists of Base Rent and Residual Rent, as defined in Section 4.02 below, without offset of any kind (except as otherwise permitted by this Ground Lease) and without necessity of demand, notice or invoice. Annual Rent will be re-determined on the fifteenth (15th) anniversary of the date of the first payment of Base Rent pursuant to Section 4.02(a) below and every fifteen (15) years thereafter, and will be equal to ten percent (10%) of the appraised fair market value of the

Site as determined by an MAI appraiser selected by and at the sole cost of the Tenant. Any such adjustment will be made to the Residual Rent and not to the Base Rent.

4.02 Base Rent.

4.02(a) "**Base Rent**" means, in any given Lease Year, Fifteen Thousand Dollars ($15,000) per annum; provided, however, that if the Tenant or any Subsequent Owner fails, after notice and opportunity to cure, to comply with the provisions of Section 9.01, then Base Rent will be increased to the full amount of Annual Rent. Base Rent will be due and payable in arrears on January 31st of each Lease Year; but no Base Rent will be due until after the earlier of (i) the date a certificate of occupancy for the Project is issued or (ii) the third anniversary of the Effective Date. The first Base Rent payment will be due on the January 31st of the calendar year following the First Lease Payment Year. Additionally, if a Subsequent Owner elects under Section 27.06(b) to operate the Project without being subject to Section 9.01, then Annual Rent will be adjusted as provided in Section 27.07.

4.02(b) If the Project does not have sufficient Project Income to pay Base Rent in any given Lease Year after the payment of (a) through (d) in the definition of Project Expenses, above, and the TIDA has received written notice from Tenant regarding its inability to pay Base Rent from Project Income at least sixty (60) days before the Base Rent due date, along with supporting documentation for Tenant's position that it is unable to pay Base Rent from Project Income, then the unpaid amount will be deferred and all deferred amounts will accrue without interest until paid ("**Base Rent Accrual**"). The Base Rent Accrual will be due and payable each year from and to the extent, Surplus Cash is available. Any Base Rent Accrual will be due and payable upon the earlier of (i) sale of the Project (but not a refinancing or foreclosure of the Project); or (ii) termination of this Ground Lease (unless a new lease is entered into with a mortgagee under Section 27.09 below).

4.02(c) If Tenant has not provided TIDA with the required written notice and documentation under Section 4.02(b)in connection with its claim that it cannot pay Base Rent due to insufficient Project Income, and/or the TIDA has reasonably determined that Tenant's claim that it is unable to pay Base Rent is not supported by such documentation, the TIDA will assess a late payment penalty of two percent (2%) for each month or any part thereof that any Base Rent payment is delinquent. This penalty will not apply to Base Rent Accrual that has been previously approved by the TIDA under Section 4.02(b). The Tenant may request in writing that the TIDA waive such penalties by describing the reasons for Tenant's failure to pay Base Rent and Tenant's proposed actions to ensure that Base Rent will be paid in the future. The TIDA may, in its sole discretion, waive in writing all or a portion of such penalties if it finds that Tenant's failure to pay Base Rent was beyond Tenant's control and that Tenant is diligently pursuing reasonable solutions to such failure to pay.

4.03 Residual Rent. "**Residual Rent**" means, in any given Lease Year, Eight Hundred Twenty-Five Thousand and No/100 ($825,000.00) subject to any periodic adjustments under Section 4.01(a). Residual Rent will be due in arrears thirty business days following the City's receipt of the Annual Monitoring Report, but no later thank July 1st following each Lease Year. Except as otherwise provided in Section 27.07(a), Residual Rent will be payable only to the extent of Surplus Cash as provided in Section 6.02(g) below, and any unpaid Residual Rent will

not accrue. In the event that in any year Surplus Cash is insufficient to pay the full amount of the Residual Rent, Tenant will certify to the TIDA in writing by May 15 that available Surplus Cash is insufficient to pay Residual Rent and Tenant will provide to TIDA any supporting documentation reasonably requested by TIDA to allow TIDA to verify the insufficiency.

4.04 Triple Net Lease. This Ground Lease is a triple net lease and the Tenant will be responsible to pay all costs, charges, taxes, impositions, and other obligations related to the Premises accruing after the Effective Date. If the TIDA pays any such amounts, whether to cure a default or otherwise protect its interests hereunder, the TIDA will be entitled to be reimbursed by Tenant the full amount of such payments as additional rent within thirty (30) days of written demand by TIDA. Failure to timely pay the additional rent will be a default by Tenant of this Ground Lease. No occurrence or situation arising during the Term, or any Law, whether foreseen or unforeseen, and however extraordinary, relieves Tenant from its liability to pay all of the sums required by any of the provisions of this Ground Lease, or otherwise relieves Tenant from any of its obligations under this Ground Lease, or gives Tenant any right to terminate this Ground Lease in whole or in part.

ARTICLE 5 TIDA COVENANTS

The TIDA is duly created, validly existing and in good standing under the Law, and has full right, power and authority to enter into and perform its obligations under this Ground Lease. TIDA covenants and warrants that the Tenant and its tenants will have, hold and enjoy, during the Term, peaceful, quiet and undisputed possession of the Site leased without hindrance or molestation by or from anyone so long as the Tenant is not in default under this Ground Lease.

ARTICLE 6 TENANT COVENANTS

Tenant covenants and agrees for itself and its successors and assigns to or of the Site, or any part thereof, that:

6.01 Authority. Tenant is a California limited partnership and has full rights, power, and authority to enter into and perform its obligations under this Ground Lease.

6.02 Use of Site and Rents. During the Term of this Ground Lease, Tenant and its successors and assigns will comply with the following requirements:

6.02(a) Permitted Uses. Except as provided in Sections 27.06 and 27.07 of this Ground Lease, Tenant will devote the Site to, exclusively and in accordance with, the uses specified in this Ground Lease, as specified in ARTICLE 9 below, which are the only uses permitted by this Ground Lease. Tenant acknowledges that that a prohibition on the change in use contained in Section 9.01 is expressly authorized by California Civil Code section 1997.230 and is fully enforceable.

6.02(b) Non-Discrimination. Tenant will not discriminate against or segregate any person or group of persons on account of race, color, creed, religion, ancestry, national origin, sex, gender identity, marital or domestic partner status, sexual orientation, or disability (including HIV or AIDS status) in the sale, lease, rental, sublease, transfer, use, occupancy, tenure, or enjoyment of the Site or the Improvements, or any part thereof, and Tenant

or any person claiming under or through it will not establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy, of Residential Occupants Non-residential Occupants, subtenants or vendees on the Site or Improvements, or any part thereof, except to the extent permitted by Law or required by funding source. Tenant will not discriminate against tenants with certificates or vouchers under the Section 8 program or any successor rent subsidy program.

6.02(c) Non-Discriminatory Advertising. All advertising (including signs) for sublease of the whole or any part of the Site must include the legend "Equal Housing Opportunity" in type or lettering of easily legible size and design, or as required by applicable Law.

6.02(d) Access for Disabled Persons. Tenant will comply with all applicable Laws providing for access for persons with disabilities, including, but not limited to, the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973.

6.02(e) Equal Opportunity Marketing Plan. Tenant will submit a Fair Housing Marketing Plan to be approved by the TIDA. Any Fair Housing Marketing Plan must follow the TIDA's marketing requirements for such plans.

6.02(f) Lead Based Paint. Tenant agrees to comply with the regulations set forth in 24 CFR Part 35 and all applicable rules and orders issued thereunder which prohibit the use of lead-based paint in certain residential structures undergoing federally assisted construction and require the elimination of lead-based paint hazards.

6.02(g) Permitted Uses of Surplus Cash. All annual Project Income, before the calculation of Surplus Cash, will be used to pay Project Expenses, including but not limited to Base Rent, and Project Fees. If the Tenant is in compliance with all applicable requirements and agreements under this Ground Lease, Tenant will then use any Surplus Cash to make the following payments in the following order of priority:

i. First to Base Rent Accrual payments, if any;

ii. Second, to replenish the operating reserve account, if necessary, up to the amount required by Lenders;

iii. Third, so long as there is an unpaid deferred developer fee and Tenant is in compliance with the MOHCD Loan documents and MOHCD's policies, then (A) fifty percent (50%) of remaining Surplus Cash to the MOHCD and HCD on a pro rata basis beginning on the initial Payment Date (as such term is defined in the MOHCD Loan documents) until and including the earlier of the year (i) of the fifteenth (15th) Payment Date, or (ii) in which all deferred developer fees have been paid to Developer and (B) fifty percent (50%) to the deferred developer fee;..

iv. Fourth, earlier of the year (i) of the fifteenth (15th) Payment Date, or (ii) in which all deferred developer fees have been paid to Developer, for so long as the MOHCD Loan remains unpaid, then (A) two-third (2/3) of remaining

Surplus Cash to MOHCD and HCD as Lenders, on a pro rata basis, in accordance to the terms of the MOHCD loan documents, and after the loans have been repaid, then any remaining Surplus Cash to annual Residual Rent and (B) one-third (1/3) of remaining Surplus Cash to the General Partners on a pro rata basis;

v. ; and

vi. Then, any remaining Surplus Cash may be used by Tenant for any purposes permitted under the amended and restated limited partnership agreement of Tenant, as it may be amended from time to time.

Notwithstanding the foregoing, Tenant and TIDA agree that the distribution of Surplus Cash may be modified based on the requirements of Lenders.

6.03 TIDA Deemed Beneficiary of Covenants. In amplification, and not in restriction, of the provisions of the preceding subsections, it is intended and agreed that the TIDA will be deemed beneficiary of the agreements and covenants provided in this ARTICLE 6 for in its own right and also for the purposes of protecting the interests of the community and other parties, public or private, in whose favor or for whose benefit such agreements and covenants have been provided. Those agreements and covenants will run in favor of the TIDA for the entire term of those agreements and covenants, without regard to whether the TIDA has at any time been, remains, or is an owner of any land or interest therein, or in favor of, to which such agreements and covenants relate. The TIDA will have the exclusive right, in the event of any breach of any such agreements or covenants, in each case, after notice and the expiration of cure periods, to exercise all the rights and remedies and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach of covenants, to which it or any other beneficiaries of such agreements or covenants may be entitled.

ARTICLE 7 ANNUAL INCOME COMPUTATION, AND CERTIFICATION

Forty-five (45) days after recordation of an NOC (as defined in Section 10.15) by the Tenant for the Improvements, Tenant will furnish to the TIDA a list of the persons who are and Residential Occupants of the Improvements, the specific unit that each person occupies, the household income of the Residential Occupants of each unit, the household size and the rent being charged to the Residential Occupants of each unit along with an income certification, in the form set forth in Attachment 6, for each Residential Occupant. In addition, each Residential Occupant must be required to provide any other information, documents, or certifications deemed necessary by the TIDA to substantiate the Residential Occupant's income. If any state or federal agency requires an income certification for Residential Occupants of the Improvements containing the above-referenced information, the TIDA agrees to accept such certification in lieu of Attachment 6 as meeting the requirements of this Ground Lease. In addition to such initial and annual list and certification, Tenant agrees to provide the same information and certification to the TIDA regarding each Residential Occupant of the Improvements not later than twenty (20) business days after such Residential Occupant commences occupancy.

ARTICLE 8 CONDITION OF SITE—"AS IS"

8.01 Acknowledgement, Representations and Warranties. Tenant acknowledges and agrees that Tenant is familiar with the Premises, the Premises is being leased and accepted in its

"as-is" condition, without any improvements or alterations by the TIDA, without representation or warranty of any kind, and subject to all applicable Laws governing their use, development, occupancy, and possession. Tenant further represents and warrants that Tenant has investigated and inspected, either independently or through agents of Tenant's own choosing, the condition of the Premises and the suitability of the Premises for Tenant's intended use. Tenant acknowledges and agrees that neither TIDA nor any of its agents have made, and TIDA hereby disclaims, any representations or warranties, express or implied, concerning the rentable area of the Premises, the physical or environmental condition of the Premises, or the present or future suitability of the Premises for Tenant's use, or any other matter whatsoever relating to the Premises, including, without limitation, any implied warranties of merchantability or fitness for a particular purpose; it being expressly understood that the Premises is being leased in an "AS IS" condition with respect to all matters.

8.02 Accessibility Disclosure. California Civil Code Section 1938 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. 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.

8.03 */*Presence of Hazardous Substances. California law requires landlords to disclose to tenants the presence of certain Hazardous Substances. Tenant is advised that the Premises may contain Prop 65 list/ known contaminants.*/*

ARTICLE 9 PERMITTED AND PROHIBITED USES

9.01 Permitted Uses and Occupancy Restrictions. The permitted uses of the Project are limited to 104 units of affordable rental housing (plus one manager's unit) (collectively, the "**Residential Units**") ,and common areas. Upon the completion of construction, one hundred percent (100%) of the Residential Units, with the exception of the manager's unit, in the Project will be occupied or held vacant and available for rental by Low Income Households. In addition, Tenant has executed a Section 8 Project-Based Voucher Program Housing Assistance Payments Contract with the San Francisco Housing Authority for sixty five (65) Residential Units (the "AHAP"), and such Residential Units will be subject to the terms of the AHAP and applicable law. Residential Units must be occupied and rented in accordance with all applicable restrictions imposed on the Project by this Ground Lease and by Lenders for so long as the restrictions are required by the applicable Lender.

9.02 Prohibited Uses. Tenant agrees that the following activities, by way of example only and without limitation, and any other use that is not a Permitted Use (in each instance, a "**Prohibited Use**" and collectively, "**Prohibited Uses**"), are inconsistent with this Ground Lease, are strictly prohibited and are considered Prohibited Uses:

9.02(a) any activity, or the maintaining of any object, that is not within the Permitted Use;

9.02(b) any activity, or the maintaining of any object, that will in any way increase the existing rate of, affect or cause a cancellation of, any fire or other insurance policy covering the Premises, any part thereof or any of its contents;

9.02(c) any activity or object that will overload or cause damage to the Premises;

9.02(d) any activity that constitutes waste or nuisance, including, but not limited to, the preparation, manufacture or mixing of anything that might emit any objectionable odors, noises, or lights onto adjacent properties, or the use of loudspeakers or sound or light apparatus that can be heard or seen outside the Premises;

9.02(e) any activity that will in any way injure, obstruct, or interfere with the rights of owners or occupants of adjacent properties, including, but not limited to, rights of ingress and egress;

9.02(f) Omitted;

9.02(g) any vehicle and equipment maintenance, including but not limited to, fueling, changing oil, transmission or other automotive fluids;

9.02(h) the storage of any and all excavated materials, including but not limited to, dirt, concrete, sand, asphalt, and pipes, except to the extent necessary during construction of the Project;

9.02(i) the storage of any and all aggregate material, or bulk storage, such as wood or of other loose materials, except to the extent necessary during construction of the Project; or

9.02(j) the washing of any vehicles or equipment, except to the extent necessary during construction of the Project; and

9.02(k) bars, retail liquor sales, marijuana sales, or any other uses that cater exclusively to adults.

ARTICLE 10 SUBDIVISION; CONSTRUCTION OF IMPROVEMENTS

10.01 Schedule of Performance. Tenant agrees to undertake and complete all physical construction on the Site, if any, as approved by the TIDA, in accordance with the Schedule of Performance, Attachment 2

10.02 Reserved.

10.03 General Requirements and Rights of TIDA. All construction documents, including but not limited to preliminary and final plans and specifications for the construction of the Improvements by Tenant (collectively the "**Construction Documents**") must be prepared by a person registered in and by the State of California to practice architecture and must be in conformity with this Ground Lease, including any limitations established in the TIDA's

reasonable approval of the schematic drawings, if any, preliminary construction documents, and final construction documents for the Premises, and all applicable Laws. The architect will use, as necessary, members of associated design professions, including engineers and landscape architects. Notwithstanding anything to the contrary contained in this ARTICLE 10, the TIDA hereby acknowledges that for purposes of this Ground Lease, the Final Construction Documents for the Project have been approved as of the Agreement Date.

10.04 TIDA Approvals and Limitation Thereof. The Construction Documents must be approved by the TIDA in the manner set forth below:

10.04(a) Compliance with Ground Lease. The TIDA's approval with respect to the Construction Documents is limited to determination of their compliance with this Ground Lease. The Construction Documents will be subject to general architectural review and guidance by the TIDA as part of this review and approval process.

10.04(b) TIDA Does Not Approve Compliance with Construction Requirements. The TIDA's approval is not directed to engineering or structural matters or compliance with local building codes and regulations, the Americans with Disabilities Act, or any other applicable Law relating to construction standards or requirements. Tenant further understands and agrees that TIDA is entering into this Ground Lease in its capacity as a property owner with a proprietary interest in the Premises and not as a regulatory agency with police powers. Nothing in this Ground Lease will limit in any way Tenant's obligation to obtain any required approvals from City officials, departments, boards, or commissions having jurisdiction over the Premises. By entering into this Ground Lease, TIDA is in no way modifying or limiting Tenant's obligation to cause the Premises to be used and occupied in accordance with all applicable Laws.

10.05 Construction to be in Compliance with Construction Documents and Law.

10.05(a) Compliance with TIDA Approved Documents. The construction must be in compliance with the TIDA-approved Construction Documents.

10.05(b) Compliance with Local, State and Federal Law. The construction must be in strict compliance with all applicable Laws. Tenant understands and agrees that Tenant's use of the Premises and construction of the Improvements permitted under this Ground Lease will require authorizations, approvals, or permits from governmental regulatory agencies with jurisdiction over the Premises, including, without limitation, City agencies. Tenant will be solely responsible for obtaining any and all such regulatory approvals. Tenant may not seek any regulatory approval without first obtaining the written consent of TIDA as Landlord under this Ground Lease. Tenant will bear all costs associated with applying for and obtaining any necessary or appropriate regulatory approval and will be solely responsible for satisfying any and all conditions imposed by regulatory agencies as part of a regulatory approval; provided, however, any such condition that could affect use or occupancy of the Project or TIDA's interest therein must first be approved by TIDA in its sole discretion. Any fines or penalties levied as a result of Tenant's failure to comply with the terms and conditions of any regulatory approval will be immediately paid and discharged by Tenant, and TIDA will have no liability, monetary or otherwise, for any such fines or penalties. Tenant will indemnify, defend, and hold harmless the

TIDA and the other Indemnified Parties hereunder against all Claims (as such terms are defined in ARTICLE 22 below) arising in connection with Tenant's failure to obtain or failure by Tenant, its agents, or invitees to comply with the terms and conditions of any regulatory approval, except to the extent such Claims are caused by TIDA's or an Indemnified Party's (acting in its or their proprietary capacity as or related to TIDA as Landlord under this Lease) gross negligence or willful misconduct.

10.06 Approval of Construction Documents by TIDA. Tenant will submit and TIDA will approve or disapprove the Construction Documents referred to in this Ground Lease within the times established in the Schedule of Performance, so long as each set of the applicable Construction Documents are complete and properly submitted within the time frames set forth in the Schedule of Performance. Failure by TIDA either to approve or disapprove within the times established in the Schedule of Performance will entitle Tenant to a day for day extension of time for completion of any activities delayed as a direct result of TIDA's failure to timely approve or disapprove the Construction Documents. TIDA hereby acknowledges that, as Landlord under this Ground Lease, as of the Agreement Date, TIDA has approved the Construction Documents for the Project.

10.07 Disapproval of Construction Documents by TIDA. If the TIDA disapproves the Construction Documents in whole or in part as not being in compliance with this Ground Lease, Tenant will submit new or corrected Construction Documents which are in compliance within thirty (30) days after written notification to it of disapproval, and the provision of this section relating to approval, disapproval and re-submission of corrected Construction Documents will continue to apply until the Construction Documents have been approved by the TIDA; provided, however, that in any event Tenant must submit satisfactory Construction Documents (*i.e.*, approved by TIDA) no later than the date specified therefor in the Schedule of Performance.

10.08 Issuance of Building Permits. Tenant will have the sole responsibility for obtaining all necessary building permits and will make application for such permits directly to the City's Department of Building Inspection. The TIDA understands and agrees that Tenant may use the Fast Track method of permit approval for construction of the Improvements.

10.09 Performance and Payment Bonds. Before commencement of construction of the Improvements, Tenant will deliver to TIDA performance and payment bonds, each for the full value of the cost of construction of the Improvements, which bonds will name the TIDA as co-obligee, or such other completion security which is acceptable to the TIDA. The payment and performance bonds may be obtained by Tenant's general contractor and name Tenant and TIDA as co-obligees.

10.10 Reserved.

10.11 Times for Construction. Tenant agrees for itself, and its successors and assigns to or of the Leasehold Estate or any part thereof, that Tenant and such successors and assigns will promptly begin and diligently prosecute to completion the construction of the Improvements upon the Site, and that such construction will be completed no later than the dates specified in the Schedule of Performance, subject to force majeure, unless such dates are extended by the TIDA.

10.12 Force Majeure. For the purposes of any of the provisions of this Ground Lease, and notwithstanding anything to the contrary, neither the TIDA nor Tenant, as the case may be, will be considered in breach or default of its obligations, and there will not be deemed a failure to satisfy any conditions with respect to the beginning and completion of construction of the Improvements, or progress in respect thereto, in the event of enforced delay in the performance of such obligations or satisfaction of such conditions, due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to, acts of God, acts of the public enemy, terrorism, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, general scarcity of materials, unusually severe weather, or delays of subcontractors due to unusual scarcity of materials or unusually severe weather; terrorism, it being the purposes and intent of this provision that the time or times for the satisfaction of conditions to this Ground Lease including those with respect to construction of the Improvements, will be extended for the period of the enforced delay; provided, however, that the party seeking the benefit of the provisions of this paragraph must have notified the other party of the delay and its causes in writing within thirty (30) days after the beginning of any such enforced delay and requested an extension for the reasonably estimated period of the enforced delay; and, provided further, that this paragraph does apply to, and nothing contained in this paragraph will extend or will be construed to extend, the time of performance of any of Tenant's obligations to be performed before the commencement of construction, and the failure to timely perform pre-commencement of construction obligations will not extend or be construed to extend Tenant's obligations to commence, prosecute, and complete construction of the Improvements in the manner and at the times specified in this Ground Lease.

10.13 Reports. Commencing when construction of the Improvements commences and continuing until completion of construction of the Improvements, Tenant will make a report in writing to the TIDA every month, in such detail as may reasonably be required by the TIDA, as to the actual progress of the Tenant with respect to the construction. The MOHCD Monthly Project Update required under the MOHCD Loan Documents will satisfy this requirement.

10.14 Access to Site. As of the Effective Date and until the City issues a Certificate of Completion (as defined in Section 11.01 below), Tenant will permit access to the Site to the TIDA whenever and to the extent necessary to carry out the purposes of the provisions of this Ground Lease, at reasonable times and upon reasonable advance notice, and on an emergency basis without notice whenever TIDA believes that emergency access is required. After the City's issuance of a Certificate of Completion, access to the Premises will be governed by ARTICLE 25, below.

10.15 Notice of Completion. Promptly upon completion of the construction of the Improvements in accordance with the provisions of this Ground Lease, Tenant will file a Notice of Completion ("**NOC**") and record the approved NOC in the San Francisco Recorder's Office. Tenant will provide the TIDA with a copy of the recorded NOC.

10.16 Completion of Improvements by New Developer. In the event a Lender or a successor thereto forecloses, obtains a deed in lieu of foreclosure, or otherwise realizes upon the Premises and undertakes construction of the Improvements ("**New Developer**") (a) the New Developer will not be bound by the provisions of the Schedule of Performance with respect to any deadlines for the completion of the Improvements but will only be required to complete the

Improvements with due diligence and in conformance with a new Schedule of Performance as agreed upon by the New Developer and the TIDA, (b) the New Developer will only be required to complete the Improvements in accordance with all applicable building codes and ordinances, and the approved Construction Documents with such changes that are mutually agreed upon by the TIDA and the New Developer under the following clause (c); and (c) TIDA and New Developer will negotiate in good faith such reasonable amendments and reasonable modifications to ARTICLE 10 of this Ground Lease as the parties mutually determine to be reasonably necessary based upon the financial and construction conditions then existing.

ARTICLE 11 COMPLETION OF IMPROVEMENTS

11.01 Certificate of Completion—Issuance. After completion of the construction of the Improvements in accordance with the provisions of this Ground Lease, if requested by Tenant together with reasonable supporting documentation, including an architect's certification of completion, the City will furnish Tenant with an appropriate instrument so certifying (the "**Certificate of Completion**"). The City's Certificate of Completion will be a conclusive determination of satisfaction and termination of the agreements and covenants of this Ground Lease regarding Tenant's obligation to construct the Improvements in accordance with TIDA-approved Construction Documents. The Certificate of Completion will include the dates of the beginning and completion of construction of the Improvements, but the Certificate of Completion will not constitute evidence of compliance with or satisfaction of Tenant's obligations to any Lender, or any insurer of a mortgage, securing money loaned to finance the construction or any part thereof; provided further, that City's issuance of a Certificate of Completion does not relieve Tenant or any other person or entity from any and all City requirements, regulatory approvals, or conditions relating to the Subdivision or construction or occupancy of the Improvements, which requirements or conditions must be complied with separately.

11.02 [Insert title.] City may elect to issue Tenant a Certificate of Completion if no events of default by Tenant are then existing under this Ground Lease and Tenant has completed the Improvements in accordance with this Ground Lease, except for: (1) punch list items; (2) landscaping and other outside areas of the Improvements; and (3) other items that do not adversely affect or impair Tenant's use and occupancy of the Improvements for the purposes contemplated by this Ground Lease and that do not preclude the City's issuance of a certificate of occupancy or other certificate or authorization of Tenant's use and occupancy of the Improvements. Certifications to be Recordable. The Certificate of Completion will be in a form that permits it to be recorded with the Recorder of the City.

11.03 Certification of Completion—Non-Issuance Reasons. If City refuses or fails to provide a Certificate of Completion in accordance with the provisions of Section 11.01, the TIDA will provide Tenant with a written statement indicating in adequate detail in what respects Tenant has failed to complete the construction of the Improvements in accordance with the provisions of this Ground Lease or is otherwise in default hereunder and what measures or acts will be necessary, in the opinion of the TIDA, for Tenant to take or perform in order to obtain a Certificate of Completion.

ARTICLE 12 CHANGES TO THE IMPROVEMENTS

12.01 Post-Completion Changes. The TIDA has a particular interest in the Project and in the nature and extent of the permitted changes to the Improvements. Accordingly, it imposes the following control on the Site and on the Improvements: during the term of this Ground Lease, neither Tenant, nor any voluntary or involuntary successor or assign, may make or permit any Change (as defined in Section 12.02) in the Improvements, unless the express prior written consent for any change has been requested in writing from the TIDA and received, and, if received, upon such terms and conditions as the TIDA may reasonably require. The TIDA agrees not to unreasonably withhold or delay its response to such a request.

12.02 Definition of Change. "**Change**" means any alteration, modification, addition, and/or substitution of or to the Site, the Improvements, and/or the density of development that differs materially from that which existed upon the completion of construction of the Improvements in accordance with this Ground Lease, and includes, without limitation, the exterior design and exterior materials and tenant improvements in the Commercial Space. For purposes of the foregoing, "exterior" includes the roof of the Improvements. "Change" does not include any repair, maintenance, cosmetic interior alterations (e.g., paint, carpet, installation of moveable equipment and trade fixtures, and hanging of wall art) in the normal course of operation of the Project, or as may be required in an emergency to protect the safety and well-being of the Project's Residential Occupants.

12.03 Enforcement. Subject to ARTICLE 20 hereof, TIDA will have any and all remedies in law or equity (including, without limitation, restraining orders, injunctions, and/or specific performance), judicial or administrative, to enforce the provisions of this ARTICLE 12, including, without limitation, any threatened or actual breach or violation of this Section.

ARTICLE 13 TITLE TO IMPROVEMENTS

TIDA acknowledges that fee title to the Improvements will be vested in Tenant for the Term of this Ground Lease. It is the intent of the Parties that this Ground Lease and the Memorandum of Lease will create a constructive notice of severance of the Improvements from the land without the necessity of a deed from Lessor to Lessee. TIDA and Tenant hereby agree that fee title to the Improvements will remain vested in Tenant during the Term, subject to Section 15.01 below; provided, however, that, subject to the rights of any Lenders and as further consideration for the TIDA entering into this Ground Lease, at the expiration or earlier termination of this Ground Lease, fee title to all the Improvements will vest in the TIDA without further action of any party, without any obligation by the TIDA to pay any compensation to Tenant, and without the necessity of a deed from Tenant to the TIDA. Notwithstanding the foregoing, if requested by the TIDA, upon expiration or sooner termination of this Ground Lease, Tenant will execute and deliver to the TIDA an acknowledged and good and sufficient grant deed conveying to the TIDA Tenant's fee interest in the Improvements. Tenant shall have the exclusive right to deduct, claim, retain and enjoy any and all rental income appreciation, gain, depreciation, amortization and tax credits for federal and state tax purposes relating thereto, substitution therefor, fixtures therein and other property relating thereto.

ARTICLE 14 SPECIAL PROVISIONS

14.01 Standards. Planning Code Section 249.52 (the Treasure Island / Yerba Buena Island Special Use District) (the "SUD") establishes the basic land use standards for vertical

development at the Site and sets forth the process and requirements for review and approval of design and construction documents related to vertical development. As authorized under the SUD, the TIDA and the City's Planning Commission approved the Treasure Island and Yerba Buena Island Design for Development dated June 28, 2011, as amended from time to time (the "Design for Development"), that sets forth design standards and design guidelines that will apply to vertical development on the Site. The SUD, together with the Subdivision Map, and the Design for Development (including the Green Building Specifications) are referred to as the "Development Documents".

14.02 Project MMRP. In order to mitigate the environmental impacts of the Project, the construction and subsequent operation of all or any part of the Improvements shall be in accordance with all applicable Environmental Laws and the mitigation measures imposed by the Development Requirements or otherwise imposed as a condition to any development entitlement (including those measures relating to archeological investigation, study and removal) and including, the Project MMRP, as included in the Development Requirements for the Project. To the extent required by the Project MMRP, such mitigation measures shall be incorporated by Tenant into any contract or subcontract for any environmental investigations.

14.03 Amendment of Development Requirements. Tenant shall comply at all times with the Development Requirements with respect to the Project. Tenant shall not seek any amendment to the Design for Development under Section 249.52(d) of the SUD or to the SUD under Section 302 of the Planning Code without obtaining the prior written consent of the TIDA, which consent may be given or withheld in the TIDA's sole discretion. In its application for an Authorization, Tenant shall expressly identify in writing any elements of its proposed construction that requires an amendment to the Development Requirements, and state the reason for the proposed amendment. No TIDA consent that requires an amendment to the Development Requirements shall be effective with respect to such items if an amendment was not clearly sought by Tenant in writing and such amendment was not approved by the TIDA.

ARTICLE 15 ASSIGNMENT, SUBLEASE, OR OTHER CONVEYANCE

15.01 Assignment, Sublease, or Other Conveyance by Tenant. Tenant may not sell, assign, convey, sublease, or transfer in any other mode or form all or any part of its interest in this Ground Lease or in the Improvements or any portion thereof, other than to Lender(s) or affiliates of Lender(s) as provided in this Ground Lease, or allow any person or entity to occupy or use all or any part of the Site, other than leases to Residential Occupants in the ordinary course of business, and it may not contract or agree to do any of the same, without the prior written approval of the TIDA, which approval will not be unreasonably withheld or delayed. Tenant will provide any background or supporting documentation that the TIDA may require in assessing Tenant's request for approval.

15.02 Assignment, Sublease, or Other Conveyance by TIDA. The parties acknowledge that any sale, assignment, transfer, or conveyance of all or any part of the TIDA's interest in the Site, the Improvements, or this Ground Lease, is subject to this Ground Lease. The TIDA will require that any purchaser, assignee, or transferee expressly assume all of the obligations of the TIDA under this Ground Lease by a written instrument recordable in the Official Records of the City. This Ground Lease will not be affected by any such sale, and Tenant will attorn to any such purchaser or assignee.

ARTICLE 16 TAXES

Subject to any available exemption, Tenant agrees to pay, or cause to be paid, before delinquency to the proper authority, any and all valid taxes, assessments, and similar charges on the Site that become effective after the Effective Date of this Ground Lease, including all taxes levied or assessed on the possession, use or occupancy, as distinguished from the ownership, of the Site. Tenant will not permit any such taxes, charges, or other assessments to become a defaulted lien on the Site or the Improvements thereon; provided, however, that in the event any such tax, assessment, or similar charge is payable in installments, Tenant may make, or cause to be made, payment in installments; and, provided further, that Tenant may contest the legal validity or the amount of any tax, assessment ,or similar charge, through such proceedings as Tenant considers necessary or appropriate, and Tenant may defer the payment thereof so long as the validity or amount thereof is contested by Tenant in good faith and without expense to the TIDA. If Tenant contests a tax, assessment, or other similar charge, then Tenant will protect, defend, and indemnify the TIDA against all Claims resulting therefrom, and if Tenant is unsuccessful in any such contest, Tenant will immediately pay, discharge, or cause to be paid or discharged, the tax, assessment, or other similar charge. The TIDA will furnish such information as Tenant may reasonably request in connection with any such contest, provided that such information is in the TIDA's possession or control or is otherwise available to the public. TIDA hereby consents to and will reasonably cooperate and assist with Tenant applying for and obtaining any applicable exemptions from taxes or assessments levied on the Site, the Improvements, or on Tenant's interest therein. Tenant will have no obligation under this Section before the Effective Date, including but not limited to any taxes, assessments, or other charges levied against the Site that are incurred before the Effective Date.

ARTICLE 17 UTILITIES

From and after the Effective Date, Tenant will procure water and sewer service from the City and electricity, telephone, natural gas, and any other utility service from the City or utility companies providing such services, and will pay all connection and use charges imposed in connection with such services. From and after the Effective Date, as between the City and Tenant, Tenant will be responsible for the installation and maintenance of all facilities required in connection with such utility services to the extent not installed or maintained by the City or the utility providing such service. All electricity necessary for operations in the Premises must be purchased from San Francisco Public Utilities Commission ("**SFPUC**"), at SFPUC's standard rates charged to third parties, unless SFPUC determines, in its sole judgment, that it is not feasible to provide such service to the Premises. SFPUC is the provider of electric services to TIDA property, and the Interconnection Services Department of SFPUC's Power Enterprise coordinates with Pacific Gas and Electric Company and others to implement this service. To arrange for electric service to the Premises, Tenant will contact the Interconnection Services Department in the Power Enterprise of the SFPUC.

ARTICLE 18 MAINTENANCE AND OPERATION

18.01 Maintenance. Tenant, at all times during the Term, will maintain or cause to be maintained the Premises in good condition and repair to the reasonable satisfaction of the TIDA, including the exterior, interior, substructure, and foundation of the Improvements and all fixtures, equipment, and landscaping from time to time located on the Premises or any part thereof. The TIDA will not be obligated to make any repairs, replacements, or renewals of any kind, nature, or description whatsoever to the Site or any buildings or improvements now or

hereafter located thereon. Tenant hereby waives all rights to make repairs at the TIDA's expense under Sections 1932(1), 1941 and 1942 of the California Civil Code or under any similar Law now or hereafter in effect.

18.02 TIDA's Consent for Work Requiring a Permit. Tenant will not make, or cause or suffer to be made, any repairs or other work for which a permit is required by any applicable building code, standard, or regulation without first obtaining the TIDA's prior written consent and a permit therefor.

18.03 Facilities Condition Report. Every five (5) years beginning on the fifth anniversary date of the issuance of the Certificate of Completion, Tenant will deliver to the TIDA a facilities condition report for the Premises, prepared by a qualified team of construction professionals acceptable to Tenant and the TIDA, describing at a minimum the condition and integrity of the Premises, the Improvements, the foundation and structural integrity of the building, and all utilities systems serving the building (the "**Facilities Condition Report**"). Tenant will provide with its submittal of the Facilities Condition Report, an anticipated schedule of and budget for, the repairs identified in the Facilities Condition Report. If the TIDA reasonably believes the Facilities Condition Report does not adequately describe the condition and integrity of the listed items or the timing of required repairs, then the TIDA will notify Tenant of the deficiency and Tenant will revise the Facilities Condition Report to address the TIDA's concerns. If Tenant fails to provide a Facilities Condition Report to TIDA every five (5) years, then the TIDA after giving thirty (30) days' notice to Tenant will have the right, but not the obligation, to cause a Facilities Condition Report to be prepared by a team of construction professionals of the TIDA's choice, at Tenant's sole cost. Tenant will perform the repairs within the timeframe set forth in the Facilities Condition Report approved by the TIDA.

18.04 TIDA's Right to Inspect. Without limiting ARTICLE 25 below, the TIDA may make periodic inspections of the Premises and other areas for which Tenant has obligations and may advise Tenant when maintenance or repair is required, but such right of inspection will not relieve Tenant of its independent responsibility to maintain the Premises, Improvements, and other areas as required by this Ground Lease in a condition as good as, or better than, their condition at the completion of the Improvements, excepting ordinary wear and tear.

18.05 TIDA's Right to Repair. If Tenant fails to maintain or to promptly repair any damage as required by this Ground Lease, the TIDA may repair the damage at Tenant's sole cost and expense and Tenant will immediately reimburse the TIDA for all costs of the repair.

18.06 Operation. Following completion of the Improvements, Tenant will maintain and operate the consistent with the maintenance and operation of a safe, clean, well-maintained project located in San Francisco. Tenant will be exclusively responsible, at no cost to TIDA, for the management and operation of the Premises and Residential Units. In connection with managing and operating the Premises and Residential Units, Tenant will provide (or require others to provide), services as necessary and appropriate to the uses to which the Project are put, including (a) repair and maintenance of the Improvements; (b) utility and telecommunications (including internet/Wi-Fi) services to the extent, if any, customarily provided by equivalent projects located in San Francisco; (c) cleaning, janitorial, pest extermination, recycling, composting, and trash and garbage removal; (d) landscaping and groundskeeping; (e) security

services with on-site personnel for the Premises; and (f) sufficient lighting at night for pedestrians along pathways. Tenant will use commercially reasonable efforts to ensure that all of the Premises are used continuously during the Term for the Permitted Use and not allow any portion of the Premises to remain unoccupied or unused without the prior written consent of TIDA, which consent may be withheld in TIDA's sole and absolute discretion.

ARTICLE 19 LIENS

Tenant will use its best efforts to keep the Site free from any liens arising out of any work performed or materials furnished by itself or its subtenants. If Tenant does not cause a lien to be released of record or bonded around within twenty (20) days following written notice from the TIDA of the imposition of the lien, the TIDA will have, in addition to all other remedies provided in this Ground Lease and by Law, the right (but not the obligation) to cause the lien to be released by any means as it deems proper, including payment of the claim giving rise to such lien. All sums paid by the TIDA for such purpose, and all reasonable expenses incurred by it in connection therewith, will be payable to the TIDA by Tenant on demand. Notwithstanding the foregoing, Tenant will have the right, upon posting of an adequate bond or other security, to contest any lien, and the TIDA will not seek to satisfy or discharge the lien unless Tenant has failed so to do within ten (10) days after the final determination of the validity of the lien. If Tenant contests a lien, then Tenant will protect, defend, and indemnify the TIDA against all Claims resulting therefrom. The provisions of this Section will not apply to any liens arising before the Effective Date that are not the result of Tenant's contractors, consultants, or activities.

ARTICLE 20 GENERAL REMEDIES

20.01 Application of Remedies. The provisions of this ARTICLE 20 govern the parties' remedies for breach of this Ground Lease.

20.02 Breach by TIDA. If Tenant believes that the TIDA has materially breached this Ground Lease, Tenant must first notify the TIDA in writing of the purported breach, giving the TIDA sixty (60) days from receipt of such notice to cure the breach. If the TIDA does not cure the breach within the 60-day period, or, if the breach is not reasonably susceptible to cure within that sixty (60) day period, begin to cure within sixty (60) days and diligently prosecute then cure to completion, then Tenant will have all of its rights at law or in equity by taking any or all of the following remedies: (i) terminating in writing this entire Ground Lease with the written consent of each Lender; (ii) prosecuting an action for damages; (iii) seeking specific performance of this Ground Lease; or (iv) any other remedy available at law or equity.

20.03 Breach by Tenant.

20.03(a) Default by Tenant

Subject to the notice and cure rights under Sections 20.03(b) and 20.04, the following events each constitute a basis for the TIDA to take action against Tenant:

(i) Tenant fails to comply with the Permitted Uses and Occupancy Restrictions set forth in Section 9.01;

(ii) Tenant voluntarily or involuntarily assigns, transfers, or attempts to transfer or assign this Ground Lease or any rights in this Ground Lease, or in the Improvements, except as permitted by this Ground Lease or otherwise approved by the TIDA;

(iii) From and after the Effective Date, Tenant, or its successor in interest, fails to pay real estate taxes or assessments on the Premises or any part thereof before delinquency, or places on the Site any encumbrance or lien unauthorized by this Ground Lease, or suffers any levy or attachment, or any material supplier's or mechanic's lien or the attachment of any other unauthorized encumbrance or lien, and the taxes or assessments have not been paid, or the encumbrance or lien removed or discharged within the time period provided in ARTICLE 19; provided, however, that Tenant has the right to contest any tax or assessment or encumbrance or lien as provided in ARTICLE 16 and ARTICLE 19;

(iv) Tenant is adjudicated bankrupt or insolvent or makes a transfer to defraud its creditors, or makes an assignment for the benefit of creditors, or brings or is brought against Tenant any action or proceeding of any kind under any provision of the Federal Bankruptcy Act or under any other insolvency, bankruptcy, or reorganization act and, in the event such proceedings are involuntary, Tenant is not dismissed from the proceedings within sixty (60) days thereafter; or, a receiver is appointed for a substantial part of the assets of Tenant and such receiver is not discharged within sixty (60) days;

(v) Tenant breaches any other material provision of this Ground Lease;

(vi) Tenant fails to pay any portion of Annual Rent when due in accordance with the terms and provisions of this Ground Lease.

20.03(b) Notification and TIDA Remedies. Upon the happening of any of the events described in Section 20.03(a) above, and before exercising any remedies, the TIDA will notify Tenant, the Permitted Limited Partners, and each Lender in writing of the Tenant's purported breach, failure, or act in accordance with the notice provisions of ARTICLE 39, giving Tenant sixty (60) days from the giving of the notice to cure such breach, failure, or act. The TIDA agrees to accept cure by the Permitted Limited Partner as if such cure were made by Tenant. If Tenant, the Permitted Limited Partner or any Lender does not cure or, if the breach, failure, or act is not reasonably susceptible to cure within that sixty (60) day period, begin to cure within sixty (60) days and diligently prosecute such cure to completion, then, subject to the rights of the Permitted Limited Partner and any Lender and subject to Section 20.04 and ARTICLE 27, the TIDA will have all of its rights at law or in equity, including, but not limited to

(i) the remedy described in Section 1951.4 of the California Civil Code (a landlord may continue the lease in effect after a tenant's breach and abandonment and recover rent as it becomes due, if the tenant has the right to sublet and assign subject only to reasonable limitations) under which it may continue this Ground Lease in full force and effect and the TIDA may enforce all of its rights and remedies under this Ground Lease, including the right to collect rent when due. During the period Tenant is in default, the TIDA may enter the Premises without terminating this Ground Lease and relet them, or any part of them, to third parties for Tenant's account. Tenant will be liable immediately to the TIDA for all reasonable costs that the TIDA incurs in reletting the Premises, including, but not limited to, broker's commissions, expenses of remodeling the Premises required by the reletting and like costs. Reletting can be for a period shorter or longer than the remaining Term, at such rents and on

such other terms and conditions as the TIDA deems advisable, subject to any restrictions applicable to the Premises. Tenant will pay the TIDA the rent due under this Ground Lease on the dates the rent is due, less the rent the TIDA receives from any reletting. If the TIDA elects to relet, then rentals received by the TIDA from the reletting will be applied in the following order: (1) to reasonable attorneys' and other fees incurred by the TIDA as a result of a default and costs if suit is filed by the TIDA to enforce its remedies; (2) to the payment of any costs of maintaining, preserving, altering, repairing, and preparing the Premises for reletting, the other costs of reletting, including but not limited to brokers' commissions, attorneys' fees and expenses of removal of Tenant's Personal Property and Changes; (3) to the payment of rent due and unpaid; (4) the balance, if any, will be paid to Tenant upon (but not before) expiration of the Term. If that portion of the rentals received from any reletting during any month that is applied to the payment of rent, is less than the rent payable during the month, then Tenant must pay the deficiency to the TIDA. The deficiency will be calculated and paid monthly. No act by the TIDA allowed by this Section will terminate this Ground Lease unless the TIDA notifies Tenant that the TIDA elects to terminate this Ground Lease. After Tenant's default and for as long as the TIDA does not terminate Tenant's right to possession of the Premises by written notice, if Tenant obtains the TIDA's consent Tenant will have the right to assign or sublet its interest in this Ground Lease, but Tenant shall not be released from liability and the assignment or subletting will not serve to cure the default;

(ii) the TIDA may terminate Tenant's right to possession of the Premises at any time following a default by Tenant pursuant to Section 20.03(a) and expiration of applicable notice and cure periods. No act by the TIDA other than giving notice of termination to Tenant will terminate this Ground Lease. Acts of maintenance, efforts to relet the Premises, or the appointment of a receiver on the TIDA's initiative to protect the TIDA's interest under this Ground Lease will not constitute a termination of Tenant's right to possession. If the TIDA elects to terminate this Ground Lease, then the TIDA has the rights and remedies provided by California Civil Code Section 1951.2 (damages on termination for breach), including the right to terminate Tenant's right to possession of the Premises and to recover the worth at the time of award of the amount by which the unpaid Annual Rent and any additional charges for the balance of the Term after the time of award exceeds the amount of rental loss for the same period that Tenant proves could be reasonably avoided, as computed pursuant to subsection (b) of such Section 1951.2. The TIDA's efforts to mitigate the damages caused by Tenant's breach of this Ground Lease will not waive the TIDA's rights to recover damages upon termination;

(iii) The right to have a receiver appointed for Tenant upon application by the TIDA to take possession of the Premises and to apply any rental collected from the Premises and to exercise all other rights and remedies granted to the TIDA under this Ground Lease;

(iv) seeking specific performance of this Ground Lease; or

(v) in the case of default under Section 20.03(a)(i), increasing the Base Rent to the full amount of the Annual Rent.

Notwithstanding the foregoing, during the 15-year tax credit "compliance period" (as defined in Section 42 of the Internal Revenue Code, as amended) for the Project, the TIDA may only terminate this Ground Lease for a default by Tenant under Section 20.03(a)(vi) above

(subject to the applicable notice and cure provisions) that remains uncured after expiration of the applicable cure period; provided however, that the City will have the right to seek specific performance for any default by Tenant under Section 20.03(a)(i) that remains uncured after expiration of the applicable cure period.

20.04 Rights of Permitted Limited Partner.

20.04(a) If a Permitted Limited Partner cannot cure a default due to an automatic stay in Bankruptcy court because the general partner of the Tenant is in bankruptcy, any cure period will be tolled during the pendency of such automatic stay.

20.04(b) Notwithstanding Section 20.03(b), the TIDA will not exercise its remedy to terminate this Ground Lease if a Permitted Limited Partner is attempting to cure the default and the cure requires removal of the managing general partner, so long as the Permitted Limited Partner is proceeding diligently to remove the managing general partner in order to effect a cure of the default.

20.04(c) Unless otherwise provided for in this Ground Lease, any limited partner that is not the Permitted Limited Partner identified in ARTICLE 39 wishing to become a Permitted Limited Partner must provide five (5) days written notice to the TIDA in accordance with the notice provisions of this Ground Lease, setting forth a notice address and providing a copy of such notice to the Tenant and all of the Tenant's partners. The limited partner will become a Permitted Limited Partner upon the expiration of the five-day period. A limited partner will not be afforded the protections of this Section with respect to any default occurring before the limited partner becomes a Permitted Limited Partner.

20.04(d) The TIDA may not exercise its remedies under this Ground Lease for a default by the Tenant unless and until: (i) the TIDA has given written notice of any such default, in accordance with the notice provision of Article 38, to Tenant and Permitted Limited Partners who have requested notice as set forth below, and (ii) such default has not been cured within sixty (60) days or such longer period as may be set forth herein, following the giving of such notice or, if such default cannot be cured within such 60-day period, such longer period as is reasonably necessary to cure such default, provided that such cure has been commenced within such 60-day period and is being prosecuted diligently to completion.

20.04(e) The TIDA will not exercise its remedy to terminate this Ground Lease if a Permitted Limited Partner is attempting to cure the default and such cure requires removal of the defaulting general partner, so long as the Permitted Limited Partner is proceeding diligently to remove the defaulting general partner in order to effect a cure of such default.

20.05 TIDA's Right to Cure Tenant's Default. If Tenant defaults in the performance of any of its obligations under this Ground Lease, the TIDA may at any time thereafter after notice and expiration of the applicable cure period (except in the event of an emergency as determined by the TIDA, in which case the may act when the TIDA determines necessary), and subject to Lenders' right to cure pursuant to Article 27 of this Ground Lease, remedy the default for Tenant's account and at Tenant's expense. Tenant will pay to the TIDA as additional Base Rent, promptly upon demand, all sums expended by the TIDA, or other costs, damages, expenses, or liabilities incurred by the TIDA, including reasonable attorneys' fees, in remedying or attempting

to remedy the default. Tenant's obligations under this Section will survive the termination of this Ground Lease. Nothing in this Section implies any duty of the TIDA to do any act that Tenant is obligated to perform under any provision of this Ground Lease, and the TIDA's cure or attempted cure of Tenant's default will not constitute a waiver of Tenant's default or any rights or remedies of the TIDA on account of the default.

20.06 Waiver of Redemption. Tenant hereby waives, for itself and all persons claiming by and under Tenant, redemption or relief from forfeiture under California Code of Civil Procedure Sections 1174 and 1179, or under any other pertinent present or future Law, in the event Tenant is evicted or the TIDA takes possession of the Premises by reason of any default of Tenant hereunder.

20.07 Remedies Not Exclusive. The remedies set forth in Section 20.03(b) are not exclusive; they are cumulative and in addition to any and all other rights or remedies of the TIDA now or later allowed by Law. Tenant's obligations hereunder will survive any termination of this Ground Lease.

ARTICLE 21 DAMAGE AND DESTRUCTION

21.01 Insured Casualty. If the Improvements or any part thereof are damaged or destroyed by any cause covered by any policy of insurance required to be maintained by Tenant under this Ground Lease, Tenant will promptly commence and diligently complete the restoration of the Improvements as nearly as possible to the condition thereof before such damage or destruction; provided, however, that if more than fifty percent (50%) of the Improvements are destroyed or are damaged by fire or other casualty and if the insurance proceeds do not provide at least ninety percent (90%) of the funds necessary to complete the restoration, then Tenant, with the written consent of Lender and the Permitted Limited Partner, may terminate this Ground Lease within thirty (30) days after the later of (i) the date of such damage or destruction, or (ii) the date on which Tenant is notified of the amount of insurance proceeds available for restoration. If Tenant is required or elects to restore the Improvements, then all proceeds of any policy of insurance required to be maintained by Tenant under this Ground Lease will, subject to any applicable rights of Lenders (in order of their priority) and the Permitted Limited Partner, be used by Tenant for that purpose and Tenant will make up from its own funds or obtain additional financing as reasonably approved by the TIDA any deficiency between the amount of insurance proceeds available for the work of restoration and the actual cost. If Tenant elects to terminate this Ground Lease as provided under this Section 21.01, or elects not to restore the Improvements, then the insurance proceeds will be divided in the order set forth in Section 21.03.

21.02 Uninsured Casualty. If (i) more than 50% of the Improvements are damaged or destroyed and ten percent (10%) or more of the cost to complete the restoration is not covered by insurance required to be carried under this Ground Lease; and (ii) in the reasonable opinion of Tenant, the undamaged portion of the Improvements cannot be completed or operated on an economically feasible basis; and (iii) there is not available to Tenant any feasible source of third party financing for restoration reasonably acceptable to Tenant; then Tenant may, with the written consent of each Lender, other than the TIDA, terminate this Ground Lease upon ninety (90) days written notice to the TIDA. If it appears that the provisions of this Section 21.02 may

apply to a particular event of damage or destruction, Tenant will notify the TIDA promptly and not consent to any settlement or adjustment of an insurance award without the TIDA's written approval, which approval will not be unreasonably withheld or delayed. If Tenant terminates this Ground Lease under this Section 21.02, then all insurance proceeds and damages payable by reason of the casualty will be divided among TIDA, Tenant, and Lenders in accordance with the provisions of Section 21.03. If Tenant does not have the right, or elects not to exercise the right, to terminate this Ground Lease as a result of an uninsured or underinsured casualty, then Tenant will promptly commence and diligently complete the restoration of the Improvements as nearly as possible to their condition before the damage or destruction in accordance with the provisions of Section 21.01 and will, subject to any applicable rights of Lenders (in the order of their priority), be entitled to all available insurance proceeds to do so.

21.03 Distribution of the Insurance Proceeds. If Tenant elects to terminate and surrender as provided in either Sections 20.01 or 20.02, then the priority and manner for distribution of the proceeds of any insurance policy required to be maintained by Tenant hereunder will be as follows:

21.03(a) First to the Lenders, in order of their priority, to control, disburse or apply to any outstanding loan amounts in accordance with the terms their respective Leasehold Mortgages and other Loan Documents, and applicable Law;

21.03(b) Second, to pay for the cost of removal of all debris from the Site or adjacent and underlying property, and for the cost of any work or service required by any Law, for the protection of persons or property from any risk, or for the abatement of any nuisance, created by or arising from the casualty or the damage or destruction caused thereby;

21.03(c) Third, to compensate TIDA for any diminution in the value (as of the date of the damage or destruction) of the Site caused by or arising from the damage or destruction; and

21.03(d) The remainder to Tenant.

21.04 Clean-up of Housing Site. If Tenant terminates this Ground Lease under the provisions of Sections 21.01 or 21.02, then Tenant must clean up and remove all debris from the Site and adjacent and underlying property and leave the Site in a clean and safe condition and in compliance with all Laws upon surrender, as described in Section 21.03(b). If the proceeds of any insurance policy are insufficient to pay the clean-up and other costs described in Section 21.03(b), then Tenant must pay the portion of the costs not covered by the insurance proceeds after payment of all outstanding loan amount secured by the Leasehold Mortgages (in the order of their priority).

21.05 Waiver. Tenant and the TIDA intend that this Ground Lease fully govern all of their rights and obligations in the event of any damage or destruction of the Premises subject to the terms of the Leasehold Mortgages and other Loan Documents. Accordingly, the TIDA and Tenant each hereby waive the provisions of Sections 1932(2), 1933(4), 1941 and 1942 of the California Civil Code, as such sections may from time to time be amended, replaced, or restated.

ARTICLE 22 DAMAGE TO PERSON OR PROPERTY; HAZARDOUS SUBSTANCES; INDEMNIFICATION

22.01 Damage to Person or Property—General Indemnification. TIDA will not in any event whatsoever be liable for any injury or damage to any person happening on or about the Site, for any injury or damage to the Premises, or to any property of Tenant, or to any property of any other person, entity, or association on or about the Site, unless arising from the active gross negligence or willful misconduct of the TIDA or any of its commissioners, officers, agents, or employees. Tenant will defend, hold harmless, and indemnify the TIDA including, but not limited to, its boards, commissions, commissioners, departments, agencies, and other subdivisions, officers, agents, and employees (each, an "**Indemnified Party**" and collectively the "**Indemnified Parties**"), of and from all claims, loss, damage, injury, actions, causes of action, and liability of every kind, nature and description (collectively, "**Claims**") incurred in connection with or directly or indirectly arising from the Site, this Ground Lease, Tenant's tenancy, its or their use of the Site, including adjoining sidewalks and streets, and any of its or their operations or activities thereon or connected thereto; all regardless of the active or passive negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on, the Indemnified Parties, except to the extent that the indemnity is void or otherwise unenforceable under applicable Law in effect on or validly retroactive to the date of this Ground Lease and further excepting to the extent such Claims are caused exclusively by the willful misconduct or active gross negligence of the Indemnified Parties. The foregoing indemnity will include, without limitation, reasonable fees of attorneys, consultants, and experts and related costs and the TIDA's costs of investigating any Claim. Tenant specifically acknowledges and agrees that it has an immediate and independent obligation to defend the TIDA from any claim that actually or potentially falls within any indemnity provision set forth in this Ground Lease 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 the TIDA and continues at all times thereafter. Tenant's obligations under this Article will survive the termination or expiration of this Ground Lease. Notwithstanding the foregoing, this Article 22.01 shall not be deemed or construed to and shall not impose any obligation to indemnify and save harmless the Indemnified Parties from any claim, loss, damage, liability or expense of any nature whatsoever, arising from or in any way related to or connected with any willful misconduct or gross negligence by an Indemnified Party.

22.02 Hazardous Substances—Indemnification.

22.03 [Insert Section.]Tenant will indemnify, defend, and hold the Indemnified Parties harmless from and against any and all Claims of any nature whatsoever (including, without limitation, the reasonable fees and disbursements of counsel and engineering consultants) incurred by or asserted against any Indemnified Party in connection with, arising out of, in response to, or in any manner relating to violation of any Environmental Law, or any Release, threatened Release, and any condition of pollution, contamination or Hazardous Substance-related nuisance on, under or from the Site. Notwithstanding the foregoing, this Article 22.02 shall not be deemed or construed to and shall not impose any obligation to indemnify and save harmless the Indemnified Parties from any claim, loss, damage, liability or expense of any nature whatsoever, arising from or in any way related to or connected with any willful misconduct or gross negligence by an Indemnified Party.

22.03(a) reserved

22.03(b) For purposes of this Section 22.02, the following definitions apply:

(i) "**Hazardous Substance**" has the meaning set forth in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended as of the date of this Ground Lease, 42 U.S.C. 9601(14), and in addition includes, without limitation, petroleum (including crude oil or any fraction thereof) and petroleum products, asbestos, asbestos-containing materials, polychlorinated biphenyls ("**PCBs**"), PCB-containing materials, all hazardous substances identified in the California Health & Safety Code 25316 and 25281(d), all chemicals listed under the California Health & Safety Code 25249.8, and any substance deemed a hazardous substance, hazardous material, hazardous waste, or contaminant under Environmental Law. The foregoing definition does not include substances that occur naturally on the Site or commercially reasonable amounts of hazardous materials used in the ordinary course of construction and operation of a residential development, provided they are used and stored in accordance with all applicable Laws.

(ii) "**Environmental Law**" means all Laws applicable to the Premises governing hazardous waste, wastewater discharges, drinking water, air emissions, Hazardous Substance releases or reporting requirements, Hazardous Substance use or storage, and employee or community right-to-know requirements related to the work being performed under this Ground Lease.

(iii) "**Release**" means any spillage, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any Hazardous Substance.

22.04 Exculpation and Waiver. Tenant, as a material part of the consideration to be rendered to the TIDA, hereby waives any and all Claims (but limited to those Claims for which the Indemnified Parties are indemnified for in Section 22.01). including without limitation all Claims arising from the joint or concurrent, active or passive, negligence of the Indemnified Parties, but excluding any Claims caused solely by the Indemnified Parties' willful misconduct or active gross negligence. The Indemnified Parties will not be responsible for or liable to Tenant, and Tenant hereby assumes the risk of, and waives and releases the Indemnified Parties from all Claims for, any injury, loss, or damage to any person or property in or about the Premises by or from any cause whatsoever including, without limitation, (a) any act or omission of persons occupying adjoining premises or any part of the Premises adjacent to or connected with the Premises, (b) theft, (c) explosion, fire, steam, oil, electricity, water, gas or rain, pollution or contamination, (d) stopped, leaking, or defective building systems, (d) construction or Site defects, (f) damages to goods, wares, goodwill, merchandise, equipment, or business opportunities, (g) Claims by persons in, upon or about the Premises or any other TIDA property for any cause arising at any time, (h) alleged facts or circumstances of the process or negotiations leading to this Ground Lease before the Effective Date and (i) any other acts, omissions, or causes.

22.05 [Insert section] Tenant understands and expressly accepts and assumes the risk that any facts concerning the Claims released in this Ground Lease might be found later to be other than or different from the facts now believed to be true, and agrees that the releases in this Ground Lease will remain effective. Therefore, with respect to the Claims released in this Ground Lease, Tenant waives any rights or benefits provided by Section 1542 of the Civil Code, which reads as follows:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT IF KNOWN BY HIM OR HER WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Tenant specifically acknowledges and confirms the validity of the release made above and the fact that Tenant was represented by counsel who explained the consequences of the release at the time this Ground Lease was made, or that Tenant had the opportunity to consult with counsel, but declined to do so.

22.06 Insurance. The Indemnification requirements under this Ground Lease, or any other agreement between the TIDA and Tenant, will in no way be limited by any insurance requirements under any such agreements.

22.07 Survival. The provisions of ARTICLE 22 will survive the expiration or earlier termination of this Ground Lease as related to losses accruing during the period that Tenant is in possession of the Premises and subsequent losses related to Tenant's possession of the Premises. No Lender who acquires title to the Tenant's interest in the Ground Lease shall have any obligation or liablity beyond its interest as Tenant under the Ground Lease. and liability under the indemnification provisions of this Ground Lease shall only apply to such Lender for any covered issues that arise during the time such Lender holds title to the Tenant's interest in the Ground Lease.

ARTICLE 23 INSURANCE

23.01 Insurance. The Tenant must maintain insurance meeting the requirements of this Article.

23.01(a) Insurance Requirements for Tenant. During the term of this Ground Lease, Tenant will procure and maintain insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of any work hereunder by the Tenant, its agents, representatives, employees or subcontractors and the Tenant's use and occupancy of the Site and the Improvements.

23.01(b) Minimum Scope of Insurance. Coverage must be at least as broad as:

(i) Insurance Services Office Commercial General Liability coverage (form CG 00 01—"Occurrence") or other form approved by the City's Risk Manager.

(ii) Insurance Services Office Automobile Liability coverage, code 1 (form CA 00 01—"Any Auto") or other form approved by the City's Risk Manager.

(iii) Workers' Compensation insurance as required by the State of California and Employer's Liability insurance.

(iv) Professional Liability Insurance: Tenant will require that all architects, engineers, and surveyors for the Project have liability insurance covering all negligent acts, errors, and omissions. Tenant will provide the TIDA with copies of consultants' insurance certificates showing that coverage.

(v) Insurance Services Office Property Insurance coverage (form CP 10 30 60 95—"Causes of Loss—Special Form") or other form approved by the City's Risk Manager.

(vi) Crime Policy or Fidelity Bond covering the Tenant's officers and employees against dishonesty with respect to the use of TIDA funds.

23.01(c) Minimum Limits of Insurance. Tenant must maintain limits no less than:

(i) General Liability: Commercial General Liability insurance with no less than One Million Dollars ($1,000,000) combined single limit per occurrence and Two Million Dollars ($2,000,000) annual aggregate limit for bodily injury and property damage, including coverage for blanket contractual liability (including tort liability and of another party and Tenant's liability of injury or death to persons and damage to property set forth in Section 22.01 above); personal injury; fire damage legal liability; advertisers' liability; owners' and contractors' protective liability; products and completed operations; broad form property damage; and explosion, collapse and underground (XCU) coverage during any period in which Tenant is conducting any activity on, alteration or improvement to the Site with risk of explosion, collapse, or underground hazards.

(ii) Automobile Liability: Business Automobile Liability insurance with no less than One Million Dollars ($1,000,000) combined single limit per accident for bodily injury and property damage, including owned, hired, and non-owned auto coverage, as applicable.

(iii) Workers' Compensation and Employers Liability: Workers' Compensation, in statutory amounts, with Employers' Liability limits not less than One Million Dollars ($1,000,000) each accident, injury, or illness.

(iv) Professional Liability: Professional Liability insurance of no less than One Million Dollars ($1,000,000) per claim and Two Million Dollars ($2,000,000) annual aggregate limit covering all negligent acts, errors, and omissions of Tenant's architects, engineers, and surveyors. If the Professional Liability Insurance provided by the architects, engineers, or surveyors is "claims made" coverage, Tenant must assure that these minimum limits are maintained for no less than three (3) years beyond completion of the construction or remodeling.

(v) Crime Policy or Fidelity Bond: Crime Policy or Fidelity Bond of no less than Seventy-Five Thousand Dollars ($75,000) each loss, with any deductible not to exceed Five Thousand Dollars ($5,000) each loss.

(vi) Pollution Liability and/or Asbestos Pollution Liability: Pollution Liability and/or Asbestos Pollution Liability applicable to the work being performed, with a limit no less than $1,000,000 per claim or occurrence and $2,000,000 aggregate per policy period of one year; this coverage must be endorsed to include Non-Owned Disposal Site coverage. This policy may be provided by the Tenant's contractor, provided that the policy must be "claims made" coverage and Tenant must require Tenant's contractor to maintain these minimum limits for no less than three (3) years beyond completion of the Project.

(vii) Property Insurance:

(1) Before construction:

a. Property insurance, excluding earthquake[and flood], in the amount no less than One Hundred Percent (100%) of the then-current replacement cost of all improvements before commencement of construction and TIDA property in the care, custody, and control of the Tenant or its contractor, including coverage in transit and storage off-site; the cost of debris removal and demolition as may be made reasonably necessary by such perils, resulting damage and any applicable Law; start up, testing and machinery breakdown including electrical arcing; and with a deductible not to exceed Ten Thousand Dollars ($10,000) each loss, including the TIDA and all subcontractors as loss payees.

b. During the course of construction:

i. Builder's risk insurance, special form coverage, excluding earthquake[and flood], for one hundred percent (100%) of the then-current replacement cost of all completed improvements and TIDA property in the care, custody, and control of the Tenant or its contractor, including coverage in transit and storage off-site; the cost of debris removal and demolition as may be made reasonably necessary by such covered perils, resulting damage and any applicable Law; start up, testing and machinery breakdown including electrical arcing, copy of the applicable endorsement to the Builder's Risk policy, if the Builder's Risk policy is issued on a declared-project basis; and with a deductible not to exceed Ten Thousand Dollars ($10,000) each loss, including the TIDA and all subcontractors as loss payees.

ii. Performance and payment bonds of contractors, each in the amount of One Hundred Percent (100%) of contract amounts, naming the TIDA and Tenant as dual obligees or other completion security approved by the TIDA in its sole discretion.

(2) Upon completion of construction:

a. Property insurance, excluding earthquake, in the amount no less than One Hundred Percent (100%) of the then-current replacement value of all improvements and TIDA property in the care, custody, and control of the Tenant or its contractor. For rehabilitation/construction projects that are unoccupied by Residential

Occupants[or Non-Residential Occupants], Tenant must obtain Property Insurance by the date that the project receives a Certificate of Substantial Completion.

b. Boiler and machinery insurance, comprehensive form, covering damage to, loss or destruction of machinery and equipment located on the Site that is used by Tenant for heating, ventilating, air-conditioning, power generation, and similar purposes, in an amount not less than one hundred percent (100%) of the actual then-current replacement value of such machinery and equipment.

23.01(d) Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions in excess of $25,000 must be declared to and approved by City's Risk Manager. At the option of City's Risk Manager, either: the insurer will reduce or eliminate the deductibles or self-insured retentions with respect to the City and County of San Francisco, and their respective commissioners, members, officers, agents, and employees; or the Tenant must procure a financial guarantee satisfactory to the City's Risk Manager guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

23.01(e) Other Insurance Provisions. The policies must contain, or be endorsed to contain, the following provisions:

(i) General Liability and Automobile Liability Coverage: The "TIDA and their respective commissioners, members, officers, agents, and employees" are to be covered as additional insured with respect to: liability arising out of activities performed by or on behalf of the Tenant related to the Project; products and completed operations of the Tenant, premises owned, occupied or used by the Tenant related to the Project; and automobiles owned, leased, hired, or borrowed by the Tenant for the operations related to the Project. The coverage may not contain any special limitations on the scope of protection afforded to the TIDA and its Commissioners, members, officers, agents, or employees.

(ii) Workers' Compensation and Property Insurance: The insured will agree to waive all rights of subrogation against the "TIDA and City and County of San Francisco, and their respective commissioners, members, officers, agents, and employees" for any losses in connection with this Project.

(iii) Claims-made Coverage: If any of the required insurance is provided under a claims-made form, Tenant will maintain such coverage continuously throughout the term of this Ground Lease and, without lapse, for a period of three years beyond the expiration of this Ground Lease, to the effect that, if occurrences during the contract term give rise to claims made after expiration of the Ground Lease, then those claims will be covered by the claims-made policies.

(iv) All Coverage. Each insurance policy required by this Article must:

(1) Be endorsed to state that coverage will not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice has been given to TIDA, except in the event of suspension for nonpayment of premium, in which case ten (10) days' notice will be given.

(2) Contain a clause providing that the TIDA and its officers, agents and employees will not be liable for any required premium.

(3) For any claims related to this Ground Lease, the Tenant's insurance coverage will be primary insurance with respect to the TIDA and its commissioners, members, officers, agents, and employees. Any insurance or self-insurance maintained by the TIDA or its commissioners, members, officers, agents, or employees will be in excess of the Tenant's insurance and will not contribute with it.

(4) The Tenant's insurance will 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.

(5) Any failure to comply with reporting provisions of the policies will not affect coverage provided to the TIDA and its commissioners, members, officers, agents, or employees.

(6) Approval of Tenant's insurance by the TIDA will not relieve or decrease the liability of Tenant under this Ground Lease.

(7) The TIDA reserves the right to require an increase in insurance coverage if the TIDA determines that conditions (including, but not limited to, property conditions, market conditions, or commercially reasonable practice) show cause for an increase, unless Tenant demonstrates to the TIDA's satisfaction that the increased coverage is commercially unreasonable and unavailable to Tenant.

23.01(f) Acceptability of Insurers. All insurers must have a Best's rating of no less than A-VIII or as otherwise approved by the City's Risk Manager.

23.01(g) Verification of Coverage. Tenant will furnish TIDA with certificates of insurance and with original endorsements effecting coverage required by this clause at the commencement of this Ground Lease and annually thereafter. 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. TIDA reserves the right to require complete, certified copies of all required insurance policies, including endorsements demonstrating the coverage required by these specifications at any time.

23.01(h) Contractor, Subcontractors, and Consultants Insurance. Tenant must include all subcontractors and consultants as additional insureds under its policies or furnish separate certificates and endorsements for each. Tenant will require the subcontractor(s) and consultants to provide all necessary insurance and to name the TIDA, and their respective commissioners, members, officers, agents, and employees and the Tenant as additional insureds. All coverage for subcontractors and consultants will be subject to all of the requirements stated herein unless otherwise approved by the City's Risk Manager.

ARTICLE 24 COMPLIANCE WITH SITE-RELATED AND LEGAL REQUIREMENTS

24.01 Compliance with Legal Requirements. From and after the Effective Date, Tenant will at its cost and expense, promptly comply with all applicable Laws now in force or that may later be in force, including, without limitation, the requirements of the fire department or other similar body now or later constituted and with any direction or occupancy certificate issued under any Law as any of them may relate to or affect the condition, use, or occupancy of the Site. If Tenant contests any of the foregoing, Tenant will not be obligated to comply therewith to the extent that the application of the contested Law is stayed by the operation of law or administrative or judicial order and Tenant indemnifies, defends, and holds harmless the Indemnified Parties against all Claims resulting from noncompliance.

24.02 Regulatory Approvals. Tenant understands and agrees that the TIDA is entering into this Ground 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 the TIDA into this Ground Lease nor any approvals given by the TIDA under this Ground Lease will be deemed to imply that Tenant has thereby obtained any required approvals from City departments, boards, or commissions that have jurisdiction over the Premises. By entering into this Ground Lease, the TIDA is in no way modifying or limiting the obligations of Tenant to develop the Project in accordance with all Laws and as provided in this Ground Lease.

Tenant understands that the construction of the Improvements on the Premises and development of the Project will require approval, authorization, or permit by governmental agencies with jurisdiction, which may include the City's Planning Commission and/or Zoning Administrator and the Department of Building Inspection. Tenant must use good faith efforts to obtain and will be solely responsible for obtaining any approvals required for the Project in the manner set forth in this Section. Tenant will not seek any regulatory approval without first obtaining MOHCD's approval, which approval may not be unreasonably withheld or delayed. Throughout the permit process for any regulatory approvals, Tenant will consult and coordinate with MOHCD in Tenant's efforts to obtain permits. MOHCD will cooperate reasonably with Tenant in its efforts to obtain permits; provided, however, Tenant may not agree to the imposition of conditions or restrictions in connection with its efforts to obtain a permit from any other regulatory agency if the TIDA is required to be a co-permittee under the permit or the conditions or restrictions could create any financial or other material obligations on the part of the TIDA whether on or off of the Premises, unless in each instance MOHCD has approved the conditions previously in writing and in MOHCD's reasonable discretion. No approval by MOHCD will limit Tenant's obligation to pay all the costs of complying with conditions under this Section. Tenant must bear all costs associated with applying for and obtaining any necessary regulatory approval, as well as any fines, penalties or corrective actions imposed as a result of Tenant's failure to comply with the terms and conditions of any regulatory approval.

With MOHCD's prior written consent, Tenant will have the right to appeal or contest any condition in any manner permitted by Law imposed upon any regulatory approval. In addition to any other indemnification provisions of this Ground Lease, Tenant must indemnify, defend, and hold harmless the TIDA and its commissioners, officers, agents or employees from and against any and all Claims that may arise in connection with Tenant's failure to obtain or comply with the terms and conditions of any regulatory approval or with the appeal or contest of any conditions of any regulatory approval, except to the extent damage arises out of the active gross negligence or willful misconduct of the TIDA or its agents.

ARTICLE 25 ENTRY

25.01 [Insert title.] The TIDA reserves for itself and its authorized representatives the right to enter the Site at all reasonable times during normal business hours upon not less than forty-eight (48) hours' written notice to Tenant (except in the event of an emergency), subject to the rights of the occupants, tenants, and others lawfully permitted on the Site, for any of the following purposes:

25.01(a) to determine whether the Premises is in good condition and to inspect the Premises (including soil borings or other Hazardous Substance investigations);

25.01(b) to determine whether Tenant is in compliance with its Ground Lease obligations and to cure or attempt to cure any Tenant default;

25.01(c) to serve, post, or keep posted any notices required or allowed under any of the provisions of this Ground Lease;

25.01(d) to do any maintenance or repairs to the Premises that the TIDA has the right or the obligation, if any, to perform hereunder; and

25.01(e) to show the Premises to any prospective purchasers, brokers, Lenders, or public officials, or, during the last year of the Term of this Ground Lease, exhibit the Premises to prospective tenants or other occupants, and to post any reasonable "for sale" or "for lease" signs in connection therewith.

25.02 In the event of any emergency, as reasonably determined by the TIDA, at its sole option and without notice, the TIDA may enter the Premises and alter or remove any Improvements or Tenant's personal property on or about the Premises as reasonably necessary, given the nature of the emergency. The TIDA will have the right to use any and all means the TIDA considers appropriate to gain access to any portion of the Premises in an emergency, in which case, the TIDA will not be responsible for any damage or injury to any property, or for the replacement of any property, and no emergency entry may 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.

25.03 The TIDA will not be liable in any manner for any inconvenience, disturbance, loss of business, nuisance, or other damage arising out of the TIDA's entry onto the Premises, except to the extent damage arises out of the active gross negligence or willful misconduct of the TIDA or its agents. The TIDA will be responsible for any losses resulting from its active gross negligence or willful misconduct and will repair any resulting damage promptly.

25.04 Tenant will not be entitled to any abatement in Annual Rent if the TIDA exercises any rights reserved in this Section, subject to Section 25.03 above.

25.05 The TIDA will use its reasonable good faith efforts to conduct any activities on the Premises allowed under this Section in a manner that, to the extent practicable, will minimize any disruption to Tenant's use of the Premises as permitted by this Ground Lease.

ARTICLE 26 MORTGAGE FINANCING

26.01 No Encumbrances Except for Development Purposes. Notwithstanding any other provision of this Ground Lease and subject to the prior written consent of the TIDA in the form attached hereto as Attachment 3, which consent will not be unreasonably withheld, conditioned, or delayed, Leasehold Mortgages are permitted to be placed upon the Leasehold Estate only for the purpose of securing loans of funds to be used for financing the acquisition of the Project; refinancing of financing used to acquire or rehabilitate the Project; design, construction, renovation, or reconstruction of the Improvements; and any other expenditures reasonably necessary and appropriate to acquire, own, develop, construct, renovate, or reconstruct the Improvements under this Ground Lease and in connection with the operation of the Improvements; and costs and expenses incurred or to be incurred by Tenant in furtherance of the purposes of this Ground Lease. The TIDA, acting solely in its capacity as landlord under this Ground Lease , hereby acknowledges and accepts Silicon Valley Bank ("SVB") as a Lender, and California Community Reinvestment Corporation ("CCRC") as a Lender, and consents to the Leasehold Mortgage and other loan documents associated with each such Lender's construction and permanent loan to Tenant for the Project, and acknowledges and agrees that SVB and CCRC shall be entitled to all protections hereunder that are afforded to Lenders, Holders, and the First Mortgage Lender, and accordingly, based on this acknowledgement, Attachment 3 is not necessary for the SVB and CCRC Leasehold Mortgages.

26.02 .

26.03 Holder Not Obligated to Construct. The holder of any mortgage, deed of trust, or other security interest authorized by Section 26.01 ("**Holder**"), including the successors or assigns of the Holder, is not obligated to complete any construction of the Improvements or to guarantee such completion; and no covenant or any other provision of this Ground Lease may be construed.to obligate the Holder. However, if the Holder undertakes to complete or guarantee the completion of the construction of the Improvements, except as provided in Section 27.06(b), nothing in this Ground Lease will be deemed or construed to permit or authorize the Holder or its successors or assigns to devote the Site or any portion thereof to any uses, or to construct any Improvements on the Site, other than those uses or Improvements authorized under Section 9.01 and any reasonable modifications in plans proposed by the Holder or its successors in interest proposed for the viability of the Project and approved by the TIDA in its reasonable discretion under Section 10.16. Except as provided in Section 27.06(b), to the extent any Holder or its successors in interest wish to change such uses or construct different improvements, Holder or its successors in interest must obtain the advance written consent of the TIDA.

26.04 Failure of Holder to Complete Construction. In any case where six (6) months after assumption of obligations under Section 26.03~~26.02~~ above, a Lender, having first exercised its option to complete the construction, has not proceeded diligently with completion of the construction, the TIDA will have all the rights against the Holder it would otherwise have against Tenant under this Ground Lease for events or failures occurring after such assumption; subject to any extensions of time granted under Section 10.16 of this Ground Lease.

26.05 Default by Tenant and TIDA's Rights.

26.05(a) Right of TIDA to Cure a Default or Breach by Tenant under a Leasehold Mortgage. In the event of a monetary default or monetary breach by Tenant under any Leasehold Mortgage, and Tenant's failure to timely commence or diligently prosecute cure of such monetary default or monetary breach, the TIDA may, at its option, cure such monetary breach or default for the period of sixty (60) days after the date that the Lender delivers to TIDA written notice of such monetary default or monetary breach (provided, however, that the cure period granted to TIDA in this Section 26.04(a) shall in no way inhibit, preclude or prevent a Lender, during such 60-day cure period, from otherwise exercising its rights and remedies under its applicable Loan Documents as a result of such monetary default or monetary breach by Tenant under such Leasehold Mortgage). In such event, the TIDA will be entitled to reimbursement from Tenant of all costs and expenses reasonably incurred by the TIDA in curing the monetary default or monetary breach. The TIDA will also be entitled to a lien upon the Leasehold Estate or any portion thereof to the extent such costs and disbursements are not reimbursed by Tenant. Any such lien will be subordinate to the lien of any then-existing Leasehold Mortgage authorized by this Ground Lease, including any lien contemplated because of advances yet to be made.

26.05(b) omitted.

26.05(c) Notice of Default to TIDA. Tenant will use its best efforts to require Lender to give the TIDA prompt written notice of any default or breach of the Leasehold Mortgage and each Leasehold Mortgage will provide for that notice to the TIDA and s contain the TIDA's right to cure as above set forth.

26.06 Cost of Mortgage Loans to be Paid by Tenant. Tenant covenants and affirms that it will bear all of the costs and expenses in connection with (a) the preparation and securing of any Leasehold Mortgage, (b) the delivery of any instruments and documents and their filing and recording, if required, and (c) all taxes and charges payable in connection with any Leasehold Mortgage.

ARTICLE 27 PROTECTION OF LENDER

27.01 Notification to TIDA. Promptly upon the creation of any Leasehold Mortgage and as a condition precedent to the existence of any of the rights set forth in this ARTICLE 27, Tenant will cause each Lender to give written notice to the TIDA of the Lender's address and of the existence and nature of its Leasehold Mortgage. Execution of Attachment 3 will constitute TIDA's acknowledgement of Lender's having given such notice as is required to obtain the rights and protections of a Lender under this Ground Lease. The TIDA hereby acknowledges that each of Silicon Valley Bank as construction lender and California Community Reinvestment Corporation as the permanent lender is the First Mortgage Lender and are deemed to have given such written notice as First Mortgage Lenders.

27.02 Lender's Rights to Prevent Termination. Each Lender has the right, but not the obligation, at any time before termination of this Ground Lease and without payment of any penalty other than the interest on unpaid rent, to pay all of the rents due under this Ground Lease,

to effect any insurance, to pay any taxes and assessments, to make any repairs and improvements, to do any other act or thing required of Tenant or necessary and proper to be done in the performance and observance of the agreements, covenants and conditions of this Ground Lease to prevent a termination of this Ground Lease to the same effect as if the same had been made, done, and performed by Tenant instead of by Lender.

27.03 Lender's Rights When Tenant Defaults. If any event of default under this Ground Lease occurs and is continuing, and is not cured within the applicable cure period, the TIDA will not terminate this Ground Lease or exercise any other remedy unless it first gives written notice of the event of default to Lender; and

27.03(a) If the event of default is a failure to pay a monetary obligation of Tenant, Lender will have sixty (60) days from the date that the written notice from the TIDA to Lender is received by Lender to cure the default; or

27.03(b) If the event of default is not a failure to pay a monetary obligation of Tenant, Lender will have sixty (60) days of receipt of the written notice, to either (a) to remedy such default; or (b) to obtain title to Tenant's interest in the Site in lieu of foreclosure; or (c) to commence foreclosure or other appropriate proceedings in the nature thereof (including the appointment of a receiver) and thereafter diligently prosecute such proceedings to completion, in which case such event of default will be remedied or deemed remedied in accordance with Section 27.04 below.

27.03(c) All rights of the TIDA to terminate this Ground Lease as the result of the occurrence of any uncured event of default is subject to, and conditioned upon, the TIDA having first given Lender written notice of the event of default and Lender having failed to remedy such default or acquire Tenant's Leasehold Estate or commence foreclosure or other appropriate proceedings in the nature thereof as set forth in and within the time specified by this Section 27.03, and upon the Permitted Limited Partners having failed to proceed as permitted under Sections 20.04(b) or 27.06(b).

27.04 Default That Cannot be Remedied by Lender. Any event of default under this Ground Lease that in the nature thereof cannot be remedied by Lender will be deemed to be remedied as it pertains to Lender or any Subsequent Owner if (a) within sixty (60) days after receiving notice from the TIDA setting forth the nature of such event of default, Lender has acquired Tenant's Leasehold Estate or has commenced foreclosure or other appropriate proceedings in the nature of foreclosure, (b) Lender is diligently prosecuting any such proceedings to completion, (c) Lender has fully cured any event of default arising from failure to pay or perform any monetary obligation in accordance with Section 27.03, and (d) after gaining possession of the Improvements, Lender diligently proceeds to perform all other obligations of Tenant as and when due in accordance with the terms of this Ground Lease.

27.05 Court Action Preventing Foreclosure. If Lender is prohibited by any process or injunction issued by any court or because of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving Tenant from commencing or prosecuting foreclosure or other appropriate proceedings in the nature of foreclosure, the times specified in Sections 27.03 and 27.04 above for commencing or prosecuting such foreclosure or other

proceedings will be extended for the period of such prohibition. If this Ground Lease is terminated or rejected by Tenant in bankruptcy, then the TIDA agrees to enter into a new ground lease with the Lender on the same terms set forth in this Ground Lease. For purpose of this Article, if there is more than one Lender, the TIDA will offer the new lease to each Lender in the order of priority until accepted.

27.06 Lender's Rights to Record, Foreclose, and Assign. The TIDA hereby agrees with respect to any Leasehold Mortgage, that:

27.06(a) the Lender may cause its Leasehold Mortgage to be recorded and enforced, following foreclosure or acceptance of deed-in-lieu thereof, sell and assign the Leasehold Estate to an assignee from whom it may accept a purchase price; subject, however, to Lender's first securing written approval from TIDA, which approval will not be unreasonably withheld, and if the Subsequent Owner has elected to maintain the use restrictions of ARTICLE 9, the Subsequent Owner must be controlled by a California nonprofit public benefit corporation exempt from tax under Section 501(c)(3) of the Internal Revenue Code so that the Premises receive an exemption from state property taxes as provided under Section 214 of the California Revenue and Taxation Code (to the extent such exemption is then generally available). Furthermore, Lender may acquire title to the Leasehold Estate in any lawful way, and if the Lender becomes the assignee, then Lender may sell and assign said Leasehold Estate subject to TIDA approval (which may not be unreasonably withheld) and to the TIDA's rights under Section 26.05~~26.04~~.

27.06(b) each Subsequent Owner must take said Leasehold Estate subject to all of the provisions of this Ground Lease, and must, so long as and only so long as it is the owner of the Leasehold Estate, except as provided elsewhere in this Ground Lease, assume all of the obligations of Tenant under this Ground Lease; provided, however, that, subject to the rent provisions of Section 27.07 below, the Subsequent Owner may operate and maintain ___ residential units without any limitations on the rents charged or the income of the occupants thereof, subject to any applicable regulatory agreement, restrictive covenant, or other encumbrance;

27.06(c) the TIDA will mail or deliver to any Lender that has an outstanding Leasehold Mortgage a duplicate copy of all notices that the TIDA may give to Tenant under this Ground Lease; and

27.06(d) any Permitted Limited Partners of Tenant will have the same rights as any Lender under Sections 27.02, 27.03, and 27.06(c), and any reference to a Lender in those sections will be deemed to include the Permitted Limited Partners ; provided, however, that the rights of the Permitted Limited Partners are subordinate to the rights of any Lender.

27.07 Ground Lease Rent after Lender Foreclosure or Assignment. From and after the time that the Subsequent Owner acquires title to the Leasehold Estate, Annual Rent will be set as follows:

27.07(a) Any accrued Annual Rent at the time of foreclosure will be forgiven by the TIDA, and will not be an obligation of the Lender, its assignee, or the

Subsequent Owner. After foreclosure or assignment of the Leasehold Estate to the Lender in lieu of foreclosure, if the Lender continues to operate the Project subject to the use and occupancy restrictions of Section 9.01, then Annual Rent otherwise due may, at the option of the Lender, be deferred until the earlier of the date of the Lender's sale or assignment of the Project to a Subsequent Owner that does not agree to operate the Project subject to such restrictions or the date that is sixty (60) days after Lender ceases to operate the Project in accordance with those restrictions. All deferred Annual Rent will accrue, with simple interest at six percent (6%) per annum until paid.

27.07(b) If the Subsequent Owner exercises its rights under Section 27.06(b) to operate the Project without being subject to Section 9.01, then Annual Rent will be set at the then fair market rental value taking into account any affordability restrictions agreed to by the Subsequent Owner, if any, and the Base Rent will be increased to the new fair market rent under this Section 27.07(b) and the provisions of Section 6.02(g) will be suspended; provided, however, that the TIDA will be entitled to reduce Annual Rent by any dollar amount (but not below zero) in its sole discretion and, in such case, the Subsequent Owner will be required to reduce rent charged to tenants on a dollar for dollar basis, with respect to such aggregate units occupied by Low Income Households as the TIDA and the Subsequent Owner may agree. The fair market rental value will be determined by a jointly-commissioned appraisal (instructions prepared jointly by the Subsequent Owner and the TIDA, with each party paying one half of the appraiser's fee) that will include a market land valuation, as well as a market land lease rent level. Absent a market land lease rent determination, the Annual Rent will be set at an amount equal to ten percent (10%) of the then appraised market land value. If the parties cannot agree on the joint appraisal instructions, either party may invoke a neutral third-party process to set the Annual Rent at fair market rent in accordance with the then-prevailing practice for resolving similar rent determination disputes in San Francisco or, in the event that there is no then-prevailing practice, in accordance with the rules of the American Arbitration Association. But, after the neutral third party process, the Lender, in its sole discretion, may rescind its written notification of intent to not comply with Section 9.01 of this Ground Lease.

27.08 Permitted Uses After Lender Foreclosure. Notwithstanding the above, in the event of a foreclosure and transfer to a Subsequent Owner, the Premises must be operated in accordance with the uses specified in the building permit with all addenda, as approved by the City's Department of Building Inspection.

27.09 Preservation of Leasehold Benefits. Until such time as a Lender notifies the TIDA in writing that the obligations of the Tenant under its loan documents have been satisfied, the TIDA agrees:

27.09(a) That subject to Section 20.03(b) the TIDA will not voluntarily cancel or surrender this Ground Lease, or accept a voluntary cancellation or surrender of this Ground Lease by Tenant, or amend this Ground Lease to materially increase the obligations of the Tenant or the rights of the TIDA under this Ground Lease, or amend any provision of Articles 26 and 27 , or any other provision of this Ground Lease, that affects any Lender's interests, without the prior written consent of the Lender (which may not be unreasonably withheld or delayed);

27.09(b) That the TIDA will not enforce against a Lender any waiver or election made by the Tenant under this Ground Lease that has a material adverse effect on the value of the Leasehold Estate without the prior written consent of the Lender (which will not be unreasonably withheld or delayed);

27.09(c) That, if a Lender makes written request to the TIDA for a new ground lease within fifteen (15) days after Lender receives written notice of termination of this Ground Lease, then the TIDA will enter a new ground lease with the Lender commencing on the date of termination of this Ground Lease and ending on the normal expiration date of this Ground Lease, on substantially the same terms and conditions as this Ground Lease and subject to the rent provisions set forth in Section 27.07, and with the same priority as against any subleases or other interests in the Premises; so long as the Lender cures all unpaid monetary defaults under this Ground Lease, through the date of such termination;

27.09(d) That the TIDA will provide reasonable prior notice to each Lender of any proceedings for adjustment or adjudication of any insurance or condemnation claim involving the Premises and will permit each Lender to participate the proceedings as an interested party.

27.10 No Merger. The Leasehold Estate will not merge with the fee interest in the Site, notwithstanding ownership of the leasehold and the fee by the same person, without the prior written consent of each Lender.

27.11 TIDA Bankruptcy.

27.11(a) If a bankruptcy proceeding is filed by or against the TIDA, the TIDA will immediately notify each Lender of the filing and will deliver a copy of all notices, pleadings, schedules, and similar materials regarding the bankruptcy proceedings to each Lender.

27.11(b) The TIDA acknowledges that (i) the Tenant seeks to construct improvements on the Premises using proceeds of the loans provided by the Lenders, and (ii) it would be unfair to both the Tenant and the Lenders to sell the Premises free and clear of the Leasehold Estate. Therefore, the TIDA waives its right to sell the TIDA's fee interest in the Site under section 363(f) of the Bankruptcy Code, free and clear of the Leasehold Estate.

27.11(c) If a bankruptcy proceeding is filed by or on behalf of the TIDA, the TIDA agrees as follows:

(i) the Tenant will be presumed to have objected to any attempt by the TIDA to sell the fee interest free and clear of the Leasehold Estate;

(ii) if Tenant does not so object, each Lender will have the right to so object on its own behalf or on behalf of the Tenant; and

(iii) in connection with any such sale, the Tenant will not be deemed to have received adequate protection under section 363(e) of the Bankruptcy Code, unless it has received and paid to each Lender the outstanding balance under its respective loan.

27.11(d) TIDA recognizes that the Lenders are authorized on behalf of the Tenant to vote, participate in, or consent to any bankruptcy, insolvency, receivership, or court proceeding concerning the Leasehold Estate.

ARTICLE 28 CONDEMNATION AND TAKINGS

28.01 Parties' Rights and Obligations to be Governed by Agreement. If, during the term of this Ground Lease, there is any condemnation of all or any part of the Premises or any interest in the Leasehold Estate is taken by condemnation, the rights and obligations of the parties will be determined under this ARTICLE 28, subject to the rights of any Lender. Accordingly, Tenant waives any right to terminate this Ground Lease upon the occurrence of a partial condemnation under Sections 1265.120 and 1265.130 of the California Code of Civil Procedure, as those sections may from time to time be amended, replaced, or restated

28.02 Notice. In case of the commencement of any proceedings or negotiations that might result in a condemnation of all or any portion of the Premises during the Term, the party learning of such proceedings will promptly give written notice of the proceedings or negotiations to the other party. The notice will describe with as much specificity as is reasonable, the nature and extent of such condemnation or the nature of such proceedings or negotiations and of the condemnation that might result, as the case may be.

28.03 Total Taking. If the Site is totally taken by condemnation, this Ground Lease will terminate on the date the condemnor has the right to possession of the Site.

28.04 Partial Taking. If any portion of the Site is taken by condemnation, this Ground Lease will remain in effect, except that Tenant may, with First Mortgage Lender's written consent, elect to terminate this Ground Lease if, in Tenant's reasonable judgment, the remaining portion of the Improvements is rendered unsuitable for Tenant's continued use of the Site. If Tenant elects to terminate this Ground Lease, Tenant must exercise its right to terminate under this paragraph by giving notice to the TIDA within thirty (30) days after the TIDA notifies Tenant of the nature and the extent of the taking. Tenant's termination notice must include the date of termination, which date may not be earlier than thirty (30) days or later than six (6) months after the date of Tenant's notice; except that this Ground Lease will terminate on the date the condemnor has the right to possession of the Site if that date falls on a date before the date of termination as designated by Tenant. If Tenant does not terminate this Ground Lease within the thirty (30) day notice period, this Ground Lease will continue in full force and effect.

28.05 Effect on Rent. If any portion of the Improvements is taken by condemnation and this Ground Lease remains in full force and effect, then on the date of taking the rent will be reduced by an amount that is in the same ratio to the rent as the value of the area of the portion of the Improvements taken bears to the total value of the Improvements immediately before the date of the taking.

28.06 Restoration of Improvements. If there is a partial taking of the Improvements and this Ground Lease remains in full force and effect under Section 28.04, then Tenant may, subject to the terms of the First Mortgage Lender's Leasehold Mortgage, use the proceeds of the taking to accomplish all necessary restoration to the Improvements.

28.07 Award and Distribution. Any compensation awarded, paid, or received on a total or partial condemnation of the Site or threat of condemnation of the Site will belong to and be distributed in the following order:

28.07(a) First, to pay the balance due on any outstanding Leasehold Mortgages (first to the Leasehold Mortgage with first lien priority, until paid in full, and then in the order of relative priority thereafter) and other outstanding or unpaid obligations and/or liabilities, including but not limited to, trade accounts, taxes, payroll accruals, and lease residuals, to the extent provided therein; and

28.07(b) Second, to the Tenant in an amount equal to the then fair market value of Tenant's interest in the Improvements and its leasehold interest in the Site (including, but not limited to, the value of Tenant's interest in all subleases to occupants of the Site), such value to be determined as it existed immediately preceding the earliest taking or threat of taking of the Site; and;

28.07(c) Third, to the Landlord.

28.07(d) Notwithstanding anything to the contrary set forth in this Section, any portion of the compensation awarded that has been specifically designated by the condemning authority or in the judgment of any court to be payable to the TIDA or Tenant on account of any interest in the Premises or the Improvements separate and apart from the condemned land value, the value of the TIDA's reversionary interest in the Improvements, Tenant's Leasehold Estate, or the value of the Improvements on the Premises for the remaining unexpired portion of the Term, will be paid to the TIDA or Tenant, as applicable, as so designated by the condemning authority or judgment.

28.08 Payment to Lenders. In the event the Improvements are subject to the lien of a Leasehold Mortgage on the date when any compensation resulting from a condemnation or threatened condemnation is to be paid to Tenant, the award will be disposed of as provided in the Leasehold Mortgages (in the order of relative priority, with the first lien Leasehold Mortgage satisfied first).

28.09 Temporary Condemnation. .If there is a condemnation of all or any portion of the Premises for a temporary period lasting less than the remaining Term, this Ground Lease will remain in full force and effect, there will be no abatement of Rent, and the entire award will be payable to Tenant.

28.10 Personal Property; Goodwill. Notwithstanding Section 28.07, the TIDA will not be entitled to any portion of any award payable in connection with the condemnation of the Personal Property of Tenant or any of its subtenants, or any moving expenses, loss of goodwill or business loss or interruption of Tenant, severance damages with respect to any portion of the Premises and Improvements remaining under this Ground Lease, or other damages suffered by Tenant.

ARTICLE 29 ESTOPPEL CERTIFICATE

The TIDA or Tenant, as the case may be, will execute, acknowledge, and deliver to the other and/or any Lender or a Permitted Limited Partner, promptly upon request, its certificate certifying (a) that this Ground Lease is unmodified and in full force and effect (or, if there have been modifications, that this Ground Lease is in full force and effect, as modified, and stating the modifications), (b) the dates, if any, to which rent has been paid, (c) whether there are then existing any charges, offsets, or defenses against the enforcement by the TIDA or Tenant to be performed or observed and, if so, specifying them, and (d) whether there are then existing any defaults by Tenant or the TIDA in the performance or observance by Tenant or the TIDA of any agreement, covenant, or condition on the part of Tenant or the TIDA to be performed or observed under this Ground Lease, and whether any notice has been given to Tenant or the TIDA of any default that has not been cured and, if so, specifying the uncured default. Tenant will use commercially reasonable efforts (by inserting a provision similar to this one into the leases of its Non-residential Occupants) to cause the Non-residential Occupants to execute and deliver to the TIDA a certificate as described above with respect to its sublease within thirty (30) days after request.

ARTICLE 30 SURRENDER AND QUITCLAIM

30.01 Surrender.

30.01(a) Upon expiration or earlier termination of this Ground Lease, Tenant will surrender to the TIDA the Premises in good order, condition, and repair (except for ordinary wear and tear occurring after the last necessary maintenance made by Tenant and except for Casualty or Condemnation as described in ARTICLE 21 and ARTICLE 28). Ordinary wear and tear will not include any damage or deterioration that would have been prevented by proper maintenance by Tenant, or Tenant otherwise performing all of its obligations under this Ground Lease. The Premises must be surrendered clean, free of debris, waste, and Hazardous Substances, and free and clear of all liens and encumbrances other than liens and encumbrances existing as of the date of this Ground Lease and any other encumbrances created or approved in writing by the TIDA. On or before the expiration or earlier termination of this Ground Lease, Tenant at its sole cost will remove from the Premises, and repair any damage caused by removal of, Personal Property, including any signage. Improvements and Changes will remain in the Premises as TIDA property and title to the Improvements and any Changes will be conveyed to the TIDA as provided in ARTICLE 13 above.

30.01(b) If the Premises is not surrendered at the end of the Term or sooner termination of this Ground Lease, and in accordance with the provisions of this ARTICLE 30, Tenant will continue to be responsible for the payment of Annual Rent until the Premises is surrendered in accordance with this ARTICLE 30. and Tenant will indemnify, defend and hold harmless the Indemnified Parties from and against any and all Claims resulting from delay by Tenant in so surrendering the Premises including, without limitation, any costs of the TIDA to obtain possession of the Premises; any loss or liability resulting from any Claim against the TIDA made by any succeeding tenant or prospective tenant founded on or resulting from such delay and losses to the TIDA due to lost opportunities to lease any portion of the Premises to any such succeeding tenant or prospective tenant, together with, in each instance, reasonable attorneys' fees and costs.

30.01(c) No act or conduct of the TIDA or MOHCD, including, but not limited to, the acceptance of the keys to the Premises, will constitute an acceptance of the surrender of the Premises by Tenant before the expiration of the Term. Only a written notice from the TIDA to Tenant confirming termination of this Ground Lease and surrender of the Premises by Tenant will constitute acceptance of the surrender of the Premises and accomplish a termination of this Ground Lease.

30.02 Quitclaim. Upon the expiration or earlier termination of this Ground Lease, the Premises will automatically, and without further act or conveyance on the part of Tenant or the TIDA, become the property of the TIDA, free and clear of all liens and without payment therefore by the TIDA, as provided in ARTICLE 13. Upon expiration or sooner termination of this Ground Lease, Tenant must surrender the Site to the TIDA and, at the TIDA's request, will execute, acknowledge, and deliver to the TIDA a good and sufficient quitclaim deed with respect to any interest of Tenant in the Premises.

30.03 Abandoned Property. Any items, including Personal Property, not removed by Tenant will be deemed abandoned. The TIDA may retain, store, remove, and sell or otherwise dispose of abandoned Personal Property, and Tenant waives all Claims against the TIDA for any damages resulting from the TIDA's retention, removal, and disposition of abandoned Personal Property; provided, however, that Tenant will be liable to the TIDA for all costs incurred in storing, removing, and disposing of abandoned Personal Property and repairing any damage to the Premises resulting from its removal. Tenant agrees that the TIDA may elect to sell abandoned Personal Property and offset against the sales proceeds the TIDA's storage, removal, and disposition costs without notice to Tenant or otherwise according to the procedures set forth in California Civil Code Section 1993, the benefits of which Tenant waives.

30.04 Survival. Tenant's obligation under this ARTICLE 30 will survive the expiration or earlier termination of this Ground Lease.

ARTICLE 31 EQUAL OPPORTUNITY

In the selection of all contractors and professional consultants for the Project, Tenant must comply with the City's procurement requirements and procedures as described in the Contracting Manual (2006 Amendment) for Federally Funded Construction Projects Financed by the Mayor's Office of Housing, issued by MOHCD on November 18, 2002, as amended on May 22, 2007, as the same may be further amended from time to time, and with the requirements of the Small Business Enterprise Program ("**SBE Program**") as set forth in that certain Small Business Enterprise Program manual dated July 1, 2015, as it may be amended from time to time, according to the procedures established by the City's Contract Monitoring Division. The Project must comply with the training, hiring, and contracting requirements of Section 3 of the Housing and Community Development Act of 1968 and of the San Francisco Section 3 program as administered by MOHCD. Federal Section 3 requirements state that contracts and opportunities for job training and employment be given, to the greatest extent feasible, to local low-income residents. Local residents for this project are San Francisco residents. In addition, this project will be required to comply with hiring requirements as incorporated into the local Section 3 program and in conjunction with the City's low-income hiring requirements under San Francisco's First Source Hiring Ordinance (San Francisco Administrative Code Chapter 83).

ARTICLE 32 TIDA AND CITY PREFERENCE PROGRAMS

To the extent permitted by applicable Law, Tenant agrees to comply with the requirements of the TIDA and City's current housing preference programs, as amended from time to time; provided, however, that Tenant will maintain a general preference for veterans in all units, and provided further, that such requirements will apply only to the extent permitted by the requirements of non-City funding of benefits (including, but not limited to, requirements for low-income housing tax credits under Sections 42 and 142 of the Internal Revenue Code of 1986, as amended, by any rules or restrictions promulgated in connection therewith or related thereto) approved by the TIDA for the Project.

ARTICLE 33 LABOR STANDARDS PROVISIONS

Although the Parties acknowledge that the development of the Project is a private work of improvement, Tenant agrees that any person performing labor in the construction of the Project and any Change to the Premises that Tenant performs or causes to be performed under this Ground Lease, will be paid not less than the highest prevailing rate of wages as required by Section 6.22(E) of the San Francisco Administrative Code, will be subject to the same hours and working conditions, and will receive the same benefits as in each case are provided for similar work performed in San Francisco, California. Tenant will include in any contract for construction or demolition of the Project a requirement that all persons performing labor under the contract will be paid not less than the highest prevailing rate of wages for the labor so performed. Tenant will require any contractor to provide, and will deliver to TIDA upon request, certified payroll reports for all persons performing labor in the construction of the Project or any Change to the Premises.

ARTICLE 34 CONFLICT OF INTEREST

No commissioner, official, or employee of the TIDA may have any personal or financial interest, direct or indirect, in this Ground Lease, and any such commissioner, official, or employee may not participate in any decision relating to this Ground Lease that affects his or her personal interests or the interests of any corporation, partnership, or association in which he or she is directly or indirectly interested.

ARTICLE 35 NO PERSONAL LIABILITY

No commissioner, official, or employee of the TIDA will be personally liable to Tenant or any successor in interest in the event of any default or breach by the TIDA or for any amount that may become due to Tenant or its successors or on any obligations under the terms of this Ground Lease.

ARTICLE 36 ENERGY CONSERVATION

Tenant agrees that it will use its best efforts to maximize provision of, and incorporation of, both energy conservation techniques and systems and improved waste-handling methodology in the construction of the Improvements.

ARTICLE 37 WAIVER

The waiver by the TIDA or Tenant of any term, covenant, agreement or condition in this Ground Lease will not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, agreement, or condition in this Ground Lease, and no custom or practice

that may grow up between the parties in the administration of this Ground Lease may be construed to waive or to lessen the right of the TIDA or Tenant to insist upon the performance by the other in strict accordance with the its terms. The subsequent acceptance of rent or any other sum by the TIDA will not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant, agreement, or condition of this Ground Lease, other than the failure of Tenant to pay the particular rent or other sum accepted, regardless of the TIDA's knowledge of the preceding breach at the time of acceptance of such rent or other sum. Any waiver by the TIDA of any term or provision of this Ground Lease must be in writing.

ARTICLE 38 TENANT RECORDS

Upon reasonable notice during normal business hours, and as often as the TIDA may deem necessary, Tenant will make available to the TIDA and its authorized representatives for examination all records, reports, data, and information made or kept by Tenant regarding its activities or operations on the Site. Nothing contained in this Ground Lease will entitle the TIDA to inspect personal histories of residents or lists of donors or supporters. To the extent that it is permitted by Law to do so, the TIDA will respect the confidentiality requirements of Tenant in regard to the lists above of the names of Residential Occupants of the Premises furnished by Tenant under to ARTICLE 7 above.

ARTICLE 39 NOTICES AND CONSENTS

All notices, demands, consents, or approvals that may be given or are required to be given by either party to the other under this Ground Lease must be in writing and will be deemed to have been fully given when delivered in person to such representatives of the Tenant and the TIDA, or when deposited in the United States mail, certified, postage prepaid, or by express delivery service with a delivery receipt and addressed

if to Tenant at: Maceo May Apts, L.P.
1525 Grant Avenue
San Francisco, CA 94133
Attn: Executive Director

With a copy to the Chinatown Community Development Corporation
1525 Grant Avenue
San Francisco, CA 94133
Attn: Executive Director

And with a copy to: Swords to Plowshares
401 Van Ness Avenue, Suite 313
San Francisco, CA 94102
Attn: Executive Director

If to Permitted Limited Partner at: Raymond James Tax Credit Funds
800 Carillon Parkway
St. Petersburg, FL 331716
Attn: _____

If to First Mortgage Lender at:
Prior to Conversion: Silicon Valley Bank
505 Howard Street, 3rd Floor
San Francisco, CA 94105
Attn: Community Development Finance
Following Conversion: California Community Reinvestment Corporation

100 West Broadway, Suite 1000
Glendale, CA 91210
Attn: President

if to the TIDA at: Treasure Island Development Authority
One Avenue of the Palms, Suite 241
San Francisco, CA 94130
Attn.: Director

or to such other address with respect to either party as that party may from time to time designate by notice to the other given under the provisions of this ARTICLE 399. Any notice given under this ARTICLE 399 will be effective on the date of delivery or the date delivery is refused as shown on the delivery receipt. Courtesy copies of notices may be delivered by email.

ARTICLE 40 HEADINGS

Any titles of the paragraphs, articles, and sections of this Ground Lease are inserted for convenience only and will be disregarded in construing or interpreting any of its provisions. "Paragraph," "article," and "section" may be used interchangeably.

ARTICLE 41 SUCCESSORS AND ASSIGNS

This Ground Lease will be binding upon and inure to the benefit of the successors and assigns of the TIDA and Tenant and where the term "Tenant" or "TIDA" is used in this Ground Lease, it means and includes their respective successors and assigns; provided, however, that the TIDA will have no obligation under this Ground Lease to, and no benefit of this Ground Lease will accrue to, any unapproved successor or assign of Tenant where TIDA approval of a successor or assign is required by this Ground Lease. If and when the TIDA sells the Site to any third party, TIDA will require such third party to assume all of the TIDA's obligations under this Ground Lease arising on and after the transfer in writing for the benefit Tenant and its successors and assigns.

ARTICLE 42 TIME

Time is of the essence in the enforcement of the terms and conditions of this Ground Lease.

ARTICLE 43 PARTIAL INVALIDITY

If any provisions of this Ground Lease are determined to be illegal or unenforceable, that determination will not affect any other provision of this Ground Lease and all the other provisions of this Ground Lease will remain in full force and effect.

ARTICLE 44 APPLICABLE LAW; NO THIRD PARTY BENEFICIARY

This Ground Lease is governed by and construed under the laws of the State of California. Other than the benefits and right expressly afforded to the Permitted Limited Partner and the Lenders, this Ground Lease is entered into solely among, between, and for the benefit of, and may be enforced only by, the parties hereto and does not create rights in any other third party.

ARTICLE 45 ATTORNEYS' FEES

If either the TIDA or Tenant fails to perform any of its obligations under this Ground Lease or in the event a dispute arises concerning the meaning or interpretation of any provision of this Ground Lease, the defaulting party or the non-prevailing party in such dispute, as the case may be, will pay the prevailing party reasonable attorneys' and experts' fees and costs, and all court costs and other costs of action incurred by the prevailing party in connection with the prosecution or defense of such action and enforcing or establishing its rights under this Ground Lease (whether or not such action is prosecuted to a judgment). For purposes of this Ground Lease, reasonable attorneys' fees of the City's Office of the City Attorney will 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 of San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney. The term "attorneys' fees" also includes, without limitation, all such fees 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 the fees were incurred .The term "costs" means the costs 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, and others not admitted to the bar but performing services under the supervision of an attorney.

ARTICLE 46 EXECUTION IN COUNTERPARTS

This Ground Lease and any memorandum hereof may be executed in counterparts, each of which will be considered an original, and all of which will constitute one and the same instrument.

ARTICLE 47 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 ground lease contemplated herein .If 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 will be responsible for such commission or fee and will indemnify, defend and hold harmless the other party from any and all Claims. The provisions of this Section shall survive any termination of this Ground Lease.

ARTICLE 48 RECORDATION OF MEMORANDUM OF GROUND LEASE

This Ground Lease may not be recorded, but a memorandum of this Ground Lease will be recorded in the form attached hereto as Attachment 5 ("**Memorandum of Ground Lease**"). The parties will execute the memorandum in form and substance as required by a title insurance company insuring Tenant's leasehold estate or the interest of any Leasehold Mortgagee, and sufficient to give constructive notice of the Ground Lease to subsequent purchasers and mortgagees.

ARTICLE 49 SURVIVAL

Termination or expiration of this Ground Lease will 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 Ground Lease, the ability to collect any damages or sums due, and it will not affect any provision of this Ground Lease that expressly states it will survive termination or expiration of this Ground Lease.

ARTICLE 50 TRANSFER OF PARTNERSHIP INTERESTS IN TENANT

Tenant may not cause or permit any voluntary transfer, assignment, or encumbrance of its interest in the Site or Project or of any ownership interests in Tenant, or lease or permit a sublease on all or any part of the Project, other than: (a) leases, subleases, or occupancy agreements to Residential Occupants; (b) security interests for the benefit of lenders securing loans for the Project as approved by the TIDA on terms and in amounts as approved by TIDA in its reasonable discretion; (c) transfers from Tenant to a limited partnership or limited liability company formed for the tax credit syndication of the Project, where Tenant or an affiliated nonprofit public benefit corporation is the sole general partner or manager of that entity; (d) transfers of the general partnership or manager's interest in Tenant to a nonprofit public benefit corporation approved in advance by the TIDA; (e) transfers of any limited partnership or membership interest in Tenant to an investor under the tax credit syndication of the Project and/or as otherwise permitted by the TIDA approved Agreement of Limited Partnership of Borrower (the "Partnership Agreement"); (f) the grant or exercise of an option agreement between Borrower and Borrower's general partner or manager or any of its affiliates in connection with the tax credit syndication of the Project where such agreement has been previously approved in writing by the TIDA; (g) to remove or replace the General Partner in accordance with the terms of the Partnership Agreement, a transfer of any general partnership interest to a new general partner approved in advance by the TIDA; or (h) transfers of the Project resulting from the foreclosure or deed in lieu of foreclosure pursuant to an approved leasehold mortgage and consistent with the provisions of Articlel 27 of this Ground Lease. Provided further, TIDA shall not unreasonably withhold or delay its approval of the removal or replacement of a General Partner by the Permitted Limited Partner, pursuant to the terms of the Partnership Agreement. Any other transfer, assignment, encumbrance, or lease without the TIDA's prior written consent will be voidable and, at the TIDA's election, constitute a default under this Agreement. The TIDA's consent to any specific assignment, encumbrance, lease, or other transfer will not constitute its consent to any subsequent transfer or a waiver of any of the TIDA's rights under this Ground Lease.

ARTICLE 51 CITY PROVISIONS

51.01 Non-Discrimination.

51.01(a) Covenant Not to Discriminate. In the performance of this Ground 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 and/or TIDA 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.

51.01(b) Subleases and Other Subcontracts. Tenant must include in all subleases and other subcontracts relating to the Premises a non-discrimination clause applicable to the subtenant or other subcontractor in substantially the form of Section 51.01(a) above. In addition, Tenant must 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 must require all subtenants and other subcontractors to comply with those provisions.

Tenant's failure to comply with the obligations in this subsection will constitute a material breach of this Ground Lease.

51.01(c) Non-Discrimination in Benefits. Tenant does not as of the date of this Ground Lease and will not during the Term, in any of its operations in San Francisco or with respect to its operations under this Ground 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 (collectively "**Core Benefits**"), as well as any benefits other than Core Benefits, 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 under state or local Law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

51.01(d) Condition to Lease. As a condition to this Ground Lease, Tenant must execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" (Form CMD-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Contract Monitoring Commission.

51.01(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 TIDA property are incorporated in this Section by reference and made a part of this Ground Lease as though fully set forth herein. Tenant must comply fully with and be bound by all of the provisions that apply to this Ground Lease under those Chapters of the Administrative Code, including, but not limited to, the remedies provided in such Chapters. Without limiting the foregoing, Tenant understands that under Section 12B.2(h) of the San Francisco Administrative Code, a penalty of $50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Ground Lease may be assessed against Tenant and/or deducted from any payments due Tenant.

51.02 MacBride Principles—Northern Ireland. The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages then 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.

51.03 Conflicts of Interest. Tenant states that it is familiar with the provisions of Section 15.103 of the San Francisco Charter, Article III, Chapter 2 of the 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, certifies that it knows of no facts that would constitute a violation of those provisions and agrees that if Tenant becomes aware of any such fact during the term of this Ground Lease Tenant will immediately notify the TIDA. Tenant further certifies that it has made a complete disclosure to the TIDA of all facts bearing on any possible interests, direct or indirect, that Tenant believes any officer or employee of the TIDA

presently has or will have in this Ground Lease or in the performance thereof or in any portion of the profits thereof. Willful failure by Tenant to make such disclosure, if any, will constitute grounds for TIDA's termination and cancellation of this Ground Lease.

51.04 Tropical Hardwood/Virgin Redwood Ban. Under Section 804(b) of the San Francisco Environment Code, the City and County of San Francisco urges companies not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood, or virgin redwood wood product. Except as permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, Tenant will not use any items in the rehabilitation, development, or operation of the Premises or otherwise in the performance of this Ground Lease that are tropical hardwoods, tropical hardwood wood products, virgin redwood, or virgin redwood wood products.

51.05 Tobacco Product Advertising Ban. Tenant acknowledges and agrees that no advertising of cigarettes or tobacco products will be allowed on the Premises. The foregoing 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, or on any sign. The foregoing prohibition will 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.

51.06 Pesticide Ordinance. Tenant must comply with the provisions of Section 308 of Chapter 3 of the San Francisco Environment Code (the "**Pesticide Ordinance**"), which (a) prohibit the use of certain pesticides on TDA property, (b) require the posting of certain notices and the maintenance of certain records regarding pesticide usage, and (c) require Tenant to submit to the City's Department of the Environment an integrated pest management ("**IPM**") plan that (i) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Tenant may need to apply to the Premises during the Term of this Ground Lease, (ii) describes the steps Tenant will take to meet the City's IPM Policy described in Section 39.1 of the Pesticide Ordinance, and (iii) identifies, by name, title, address, and telephone number, an individual to act as the Tenant's primary IPM contact person with City. In addition, Tenant must comply with the requirements of Sections 303(a) and 303(b) of the Pesticide Ordinance. Nothing in this Ground Lease will prevent Tenant, acting through the TIDA, from seeking a determination from the City's Commission on the Environment that Tenant is exempt from complying with certain portions of the Pesticide Ordinance as provided in Section 307 thereof.

51.07 Compliance with I's Sunshine Ordinance. Tenant understands and agrees that under the City's Sunshine Ordinance (S.F. Admin. Code, Chapter 67) and the State Public Records Law (Cal. Gov. Code §§ 6250 *et seq.*), this Ground Lease and any and all records, information and materials submitted to the TIDA hereunder are public records subject to public disclosure. Tenant hereby authorizes the TIDA to disclose any records, information, and materials submitted to the TIDA in connection with this Ground Lease as required by Law. Further, Tenant specifically agrees to conduct any meeting of its governing board that addresses any matter relating to the Project or to Tenant's performance under this Ground Lease as a passive meeting.

51.08 Notification of Limitations on Contributions. Through its execution of this Ground 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 TIDA for the selling or leasing any land or building to or from the TIDA whenever such transaction would require approval by a TIDA elective officer or the board on which that TIDA elective officer serves, from making any campaign contribution to the officer at any time from the commencement of negotiations for such contract until the termination of negotiations for such contract or three (3) months has elapsed from the date the contract is approved by the TIDA elective officer, or the board on which that TIDA elective officer serves.

51.09 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 (the "**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 in this Ground Lease by reference and made a part of this Ground Lease as though fully set forth. The text of the HCAO is available on the web at www.sfgov.org/oca/lwlh.htm. Capitalized terms used in this Section and not defined in this Ground Lease have the meanings assigned to them in Chapter 12Q. Notwithstanding this requirement, TIDA recognizes that the residential housing component of the Improvements is not subject to the HCAO.

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

51.09(b) If Tenant is a small business as defined in Section 12Q.3(d) of the HCAO, Tenant will have no obligation to comply with Section 51.09(a) above.

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

51.09(d) Reserved.

51.09(e) Tenant may not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying the TIDA 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.

51.09(f) 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.

51.09(g) Tenant must keep itself informed of the current requirements of the HCAO.

51.09(h) Tenant must provide reports to the TIDA in accordance with any reporting standards promulgated by the TIDA under the HCAO, including reports on subtenants, as applicable.

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

51.09(j) The TIDA may conduct random audits of Tenant to ascertain its compliance with HCAO. Tenant agrees to cooperate with the TIDA when it conducts audits.

51.09(k) If Tenant is exempt from the HCAO when this Ground Lease is executed because its amount is less than $25,000 ($50,000 for nonprofits), but Tenant later enters into an agreement or agreements that cause Tenant's aggregate amount of all agreements with the TIDA to reach $75,000, all the agreements will 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 MOHCD to be equal to or greater than $75,000 in the fiscal year.

51.10 Public Access to Meetings and Records. If Tenant receives a cumulative total per year of at least $250,000 in TIDA funds or TIDA-administered funds and is a non-profit organization as defined in Chapter 12L of the San Francisco Administrative Code, Tenant must comply with and will be bound by all the applicable provisions of that Chapter. By executing this Ground Lease, Tenant agrees to open its meetings and records to the public in the manner set forth in Sections 12L.4 and 12L.5 of the Administrative Code. Tenant further agrees to make good-faith efforts to promote community membership on its Board of Directors in the manner set forth in Section 12L.6 of the Administrative Code. Tenant acknowledges that its material failure to comply with any of the provisions of this paragraph will constitute a material breach of this Ground Lease. Tenant further acknowledges that such material breach of this Ground Lease will be grounds for TIDA to terminate and/or not renew this Ground Lease, partially or in its entirety.

51.11 Resource-Efficient Building Ordinance. Tenant acknowledges that the City and County of San Francisco has enacted San Francisco Environment Code Chapter 7 relating to resource-efficient City buildings and resource-efficient pilot projects. Tenant will comply with the applicable provisions of such code sections as those sections may apply to the Premises.

51.12 Drug Free Work Place. Tenant acknowledges that under the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, possession, or use of a controlled substance is prohibited on TIDA premises. Tenant agrees that any violation of this prohibition by Tenant, its agents, or assigns will be deemed a material breach of this Ground Lease.

51.13 Preservative Treated Wood Containing Arsenic. Tenant may not purchase preservative-treated wood products containing arsenic in the performance of this Ground Lease unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the Code. The term "preservative-treated wood containing arsenic" means wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal 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 the Environment. This provision does not preclude Tenant from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" means a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

51.14 Nondisclosure of Private Information. Tenant agrees to comply fully with and be bound by all of the provisions of Chapter 12M of the San Francisco Administrative Code (the "**Nondisclosure of Private Information Ordinance**"), including the remedies provided. The provisions of the Nondisclosure of Private Information Ordinance are incorporated and made a part of this Ground Lease as though fully set forth. Capitalized terms used in this section and not defined in this Ground Lease have the meanings assigned to those terms in the Nondisclosure of Private Information Ordinance. Consistent with the requirements of the Nondisclosure of Private Information Ordinance, Contractor agrees to all of the following:

51.14(a) Neither Tenant nor any of its subcontractors will disclose Private Information, unless one of the following is true:

(i) The disclosure is authorized by this Ground Lease;

(ii) Tenant received advance written approval from the Contracting Department to disclose the information; or

(iii) The disclosure is required by law or judicial order.

51.14(b) Any disclosure or use of Private Information authorized by this Ground Lease must be in accordance with any conditions or restrictions stated in this Ground Lease. Any disclosure or use of Private Information authorized by a Contracting Department must be in accordance with any conditions or restrictions stated in the approval.

51.14(c) Private Information means any information that: (1) could be used to identify an individual, including, without limitation, name, address, social security number, medical information, financial information, date and location of birth, and names of relatives; or (2) the law forbids any person from disclosing.

51.14(d) Any failure of Tenant to comply with the Nondisclosure of Private Information Ordinance will be a material breach of this Ground Lease. In such an event, in addition to any other remedies available to it under equity or law, TIDA may terminate this Ground Lease, debar Tenant, or bring a false claim action against Tenant.

51.15 Graffiti. Graffiti is detrimental to the health, safety, and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities, and the enjoyment of life; is inconsistent with TIDA's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the TIDA and its residents, and to prevent the further spread of graffiti.

Tenant will remove all graffiti from the Premises and any real property owned or leased by Tenant in the City and County of San Francisco within forty-eight (48) hours of the earlier of Tenant's (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This section is not intended to require Tenant to breach any lease or other agreement that it may have concerning its use of the real property. The term "graffiti" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn, or painted on any building, structure, fixture, or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards, and fencing surrounding construction Premises, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" does not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code section 987 *et seq.*) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 *et seq.*). Any failure of Tenant to comply with this section of this Ground Lease will constitute an event of default of this Ground Lease.

51.16 Incorporation. Each and every provision of the San Francisco Administrative Code described or referenced in this Ground Lease is hereby incorporated by reference as though fully set forth herein. Failure of Tenant to comply with any provision of this Ground Lease relating to any such code provision will be governed by ARTICLE 20 of this Ground Lease, unless (i) such failure is otherwise specifically addressed in this Ground Lease or (ii) such failure is specifically addressed by the applicable code section.

51.17 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 therein, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Ground Lease as though fully set forth herein. Accordingly, Tenant acknowledges that TIDA contractors and lessees may not use Disposable Food Service Ware that contains Polystyrene Foam in TIDA Facilities and while performing under a TIDA contract or lease, and shall instead use suitable Biodegradable/ Compostable or Recyclable Disposable Food Service Ware. This provision is a material term of this Ground Lease. By entering into this Ground Lease, Tenant agrees that if it breaches this provision, TIDA will suffer actual damages that will be impractical or extremely difficult to determine. Without limiting TIDA's other rights and remedies, 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 TIDA will incur based on the violation, established in light of the circumstances existing at the time this Ground Lease was made. Those amounts will not be considered a penalty, but rather agreed upon monetary damages sustained by TIDA because of Tenant's failure to comply with this provision.

51.18 Local Hire Requirements. Any undefined, initially-capitalized term used in this Section has the meaning given to that term in San Francisco Administrative Code Section 23.62 (the "**Local Hiring Requirements**"). Improvements and Changes (as defined in this Ground Lease) 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 will comply with the Local Hiring Requirements to the extent applicable. Before starting any Tenant Improvement Work or any Alteration, Tenant will contact City's Office of Economic Workforce and Development ("**OEWD**") to verify if the Local Hiring Requirements, which shall include One Treasure Island referral requirements, apply to the work (*i.e.*, whether the work is a "**Covered Project**").

Tenant will include, and will 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 contract must name the TIDA 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 will cooperate, and require its subtenants to cooperate, with the TIDA 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 will constitute a material breach of this Ground Lease. A contractor's or subcontractor's failure to comply with this Section will enable the TIDA to seek the remedies specified in San Francisco Administrative Code Section 23.62 against the breaching party.

51.19 Criminal History in Hiring and Employment Decisions.

51.19(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 12T**"), 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 Site.

51.19(b) Tenant will incorporate by reference the provisions of Chapter 12T in all subleases of a portion or all of the Site, if any, and will require all subtenants to comply with its provisions. Tenant's failure to comply with the obligations in this subsection will constitute a material breach of this Ground Lease.

51.19(c) Tenant and subtenants (if any) may not inquire about, require disclosure of, or if such information is received base an Adverse Action (as defined in Chapter 12T) on an applicant's or potential applicant for employment, or employee's: (1) Arrest (as defined in Chapter 12T) not leading to a Conviction (as defined in Chapter 12T), 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.

51.19(d) Tenant and subtenants (if any) may 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 Section 51.19(c) above. Tenant and subtenants (if any) may 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.

51.19(e) Tenant and subtenants (if any) will 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 Site, that the Tenant or subtenant will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.

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

51.19(g) Tenant and subtenants (if any) understand and agree that upon any failure to comply with the requirements of Chapter 12T, the TIDA will have the right to pursue any rights or remedies available under Chapter 12T or this Ground 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 Ground Lease.

51.19(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.

51.20 Prevailing Wages and Working Conditions. Any undefined, initially-capitalized term used in this Section has the meaning given to that term in San Francisco Administrative Code Section 23.61. Tenant will 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 the TIDA in any action or proceeding against a Contractor or Subcontractor that fails to comply with the Prevailing Wage Requirements.

Tenant will include, and will require its subtenants, and Contractors and Subcontractors (regardless of tier) to include, the Prevailing Wage Requirements and the agreement to cooperate in TIDA enforcement actions in any Construction Contract with specific reference to San Francisco Administrative Code Section 23.61. Each such Construction Contract must name the TIDA 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 will constitute a material breach of this Ground Lease. A Contractor's or Subcontractor's failure to comply with this Section will enable the TIDA to seek the remedies specified in San Francisco Administrative Code Section 23.61 against the breaching party. For the current Prevailing Rate of Wages, contact the City's Office of Labor Standards Enforcement.

51.21 Consideration of Salary History Tenant shall comply with San Francisco Administrative Code Chapter 12K, the Consideration of Salary History Ordinance or "Pay Parity Act." For each employment application to Tenant for work that relates to this Agreement or for work to be performed in the City or on TIDA property, Tenant is prohibited from considering current or past salary of an applicant in determining whether to hire the applicant or what salary to offer the applicant. Tenant shall not (1) ask such applicants about their current or past salary or (2) disclose a current or former employee's salary history without that employee's authorization unless the salary history is publicly available. Tenant is subject to the enforcement and penalty provisions in Chapter 12K. Information about Chapter 12K is available on the web at https://sfgov.org/olse/consideration-salary-history.

51.22 Sugar-Sweetened Beverage Prohibition. Tenant agrees that it will not sell, provide, or otherwise distribute Sugar-Sweetened Beverages, as defined by San Francisco Administrative Code Chapter 101, as part of its performance of this Ground Lease.

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

51.23(a) Tenant recognizes and understands that this Ground Lease may create a possessory interest subject to property taxation and that Tenant may be subject to the payment of property taxes levied on such interest.

51.23(b) Tenant agrees to pay taxes of any kind, including possessory interest taxes, that may be lawfully assessed on the Leasehold Estate created and to pay all other taxes, excises, licenses, permit charges, and assessments based on Tenant's usage of the Premises that may be imposed upon Tenant by law, all of which must be paid when the same become due and payable and before delinquency.

51.23(c) Tenant agrees not to allow or suffer a lien for any such taxes to be imposed upon the Premises or upon any equipment or property located thereon without promptly

discharging the same, provided that Tenant, if so desiring, may have reasonable opportunity to contest the validity of the same.

51.23(d) San Francisco Administrative Code Sections 23.38 and 23.39 require that certain information relating to the creation, renewal, extension, assignment, sublease, or other transfer of this Ground Lease be provided to the County Assessor within sixty (60) days after the transaction. Accordingly, Tenant must provide a copy of this Ground Lease to the County Assessor not later than sixty (60) days after the Effective Date, and any failure of Tenant to timely provide a copy of this Ground Lease to the County Assessor will be a default under this Ground Lease. Tenant will also timely provide any information that TIDA may request to ensure compliance with this or any other reporting requirement.

51.24 Vending Machines; Nutritional Standards. Tenant may not install or permit any vending machine on the Premises without the prior written consent of Landlord. Any permitted vending machine must comply with the food nutritional 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 51.24 will be deemed a material breach of this Ground Lease. Without limiting Landlord's other rights and remedies under this Ground Lease, Landlord will 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.

51.25 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 TIDA property unless Tenant obtains a waiver from the City's Department of the Environment. If Tenant violates this requirement, the TIDA 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.

ARTICLE 52 COMPLETE AGREEMENT

There are no oral agreements between Tenant and the TIDA affecting this Ground Lease, and this Ground Lease supersedes and cancels any and all previous negotiations, arrangements, agreements, and understandings between Tenant and the TIDA with respect to the lease of the Site.

ARTICLE 53 AMENDMENTS

Neither this Ground Lease nor any terms or provisions hereof may be changed, waived, discharged, or terminated, except by a written instrument signed by the party against which the enforcement of the change, waiver, discharge, or termination is sought. No waiver of any breach will affect or alter this Ground Lease, but each and every term, covenant, and condition of this Ground Lease will continue in full force and effect with respect to any other then-existing or subsequent breach thereof. Any amendments or modifications to this Ground Lease, including, without limitation, amendments to or modifications to the exhibits to this Ground Lease, will be

subject to the mutual written agreement of TIDA and Tenant, and TIDA's agreement may be made upon the sole approval of the City's Director of Property, or his or her designee; provided, however, material amendments, or modifications to this Ground Lease (a) changing the legal description of the Site, (b) increasing the Term, (c) increasing the Rent, (d) changing the general use of the Site from the use authorized under this Ground Lease, and (e) any other amendment or modification which materially increases the TIDA's liabilities or financial obligations under this Ground Lease will additionally require the approval of the TIDA's Commission.

ARTICLE 54 ATTACHMENTS

The following are attached to this Ground Lease and by this reference made a part hereof:

1. Legal Description of Site
2. Schedule of Performance
3. TIDA Consent of Leasehold Mortgage
4. Reserved
5. Memorandum of Ground Lease
6. Form of Income Certification Form

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS GROUND LEASE, TENANT ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF TIDA HAS AUTHORITY TO COMMIT TIDA TO THIS GROUND LEASE UNLESS AND UNTIL TIDA'S COMMISSION HAS DULY ADOPTED A RESOLUTION APPROVING THIS GROUND LEASE AND AUTHORIZING THE TRANSACTIONS CONTEMPLATED HEREBY. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF TIDA UNDER THIS GROUND LEASE ARE CONTINGENT UPON ADOPTION OF SUCH A RESOLUTION, AND THIS GROUND LEASE WILL BE NULL AND VOID IF TIDA'S COMMISSION DOES NOT APPROVE THIS GROUND LEASE, IN ITS RESPECTIVE SOLE DISCRETION. APPROVAL OF THIS GROUND LEASE BY ANY DEPARTMENT, COMMISSION, OR AGENCY OF TIDA WILL NOT BE DEEMED TO IMPLY THAT SUCH RESOLUTION WILL BE ENACTED, AND NO SUCH APPROVAL WILL CREATE ANY BINDING OBLIGATIONS ON TIDA.

IN WITNESS WHEREOF, the Tenant and the TIDA have executed this Ground Lease as of the day and year first above written.

TENANT:
Maceo May Apts, L.P.,
a California limited partnership

By: CCDC-Maceo May Apts LLC,
a California limited liability company,
its co-general partner

By: Chinatown Community Development Center, Inc.,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Malcom Yeung,
Executive Director

By: Swords-Maceo May Apts LLC,
a California limited liability company,
its co-general partner

By: Swords to Plowshares: Veterans Rights Organization,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Michael Blecker,
Executive Director

TIDA AS LANDLORD:
TREASURE ISLAND DEVELOPMENT AUTHORITY,
a public body, corporate and politic of the State of California

By: _____
Robert Beck
Executive Director

APPROVED AS TO FORM:
DENNIS J. HERRERA
City Attorney

By: _____
Heidi J. Gewertz
Deputy City Attorney

IN WITNESS WHEREOF, the Tenant and the TIDA have executed this Ground Lease as of the day and year first above written.

TENANT:
Maceo May Apts, L.P.,
a California limited partnership

By: CCDC-Maceo May Apts LLC,
a California limited liability company,
its co-general partner

By: Chinatown Community Development Center, Inc.,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Malcolm Yeung,
Executive Director

By: Swords-Maceo May Apts LLC,
a California limited liability company,
its co-general partner

By: Swords to Plowshares: Veterans Rights Organization,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Michael Blecker,
Executive Director

TIDA AS LANDLORD:
TREASURE ISLAND DEVELOPMENT AUTHORITY,
a public body, corporate and politic of the State of California

By: _____
Robert Beck
Executive Director

APPROVED AS TO FORM:
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its sole member/manager

By: _____
Malcolm Yeung,
Executive Director

By: Swords-Maceo May Apts LLC,
a California limited liability company,
its co-general partner

By: Swords to Plowshares: Veterans Rights Organization,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Michael Blecker,
Executive Director

TIDA AS LANDLORD:
TREASURE ISLAND DEVELOPMENT AUTHORITY,
a public body, corporate and politic of the State of California

By: _____
Robert Beck
Executive Director

APPROVED AS TO FORM:
DENNIS J. HERRERA
City Attorney

By: _____
Heidi J. Gewertz
Deputy City Attorney

ATTACHMENT 1

LEGAL DESCRIPTION OF THE SITE

(*Address*)

ATTACHMENT 2
SCHEDULE OF PERFORMANCE

ATTACHMENT 3
TIDA CONSENT OF LEASEHOLD MORTGAGE

Date:
TIDA

_____
Attn: Executive Director
San Francisco, CA 94103

RE: _____, San Francisco (LEASEHOLD MORTGAGE)

Dear Sir or Madam:

Under Section 26.01of the _____ Ground Lease, dated _____, 20__, between the Treasure Island Development Authority ("TIDA") and Maceo May Apts, L.P., a California limited partnership, we are formally requesting theTIDA's consent to our placing a leasehold mortgage upon the leasehold estate of the above referenced development. The following information is provided in order for the TIDA to provide its consent:
Lender:
Principal Amount:
Interest:
Term:

Attached hereto are unexecuted draft loan documents, including the loan agreement, promissory note, and all associated security agreements which we understand are subject to the review and approval by the TIDA. Furthermore, we are willing to supply any additional documentation related to the leasehold mortgage which the TIDA deems necessary.

Sincerely,

_____,
Maceo May Apts, L.P.
By: CCDC-Maceo May Apts LLC,
a California limited liability company
its co-general partner

By: Chinatown Community Development Center, Inc.,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Norman Fong,
Executive Director

By: Swords-Maceo May Apts LLC,
a California limited liability company,
its co-general partner

By: Swords to Plowshares: Veterans Rights Organization,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Michael Blecker,
Executive Director

By signing this letter, the TIDA consents to the leasehold mortgage, under the terms and conditions of Section 26.01 of the _____ Ground Lease, dated _____, 20___.

TIDA

_____
Robert Beck, Executive Director

ATTACHMENT 4

Reserved

ATTACHMENT 5
MEMORANDUM OF LEASE

Free Recording Requested under
Government Code Section 27383
When recorded, mail to:
TIDA
One Avenue of the Palms, Suite 241
San Francisco, California.94130
Attn: Director

MEMORANDUM OF GROUND LEASE

This Memorandum of Ground Lease ("Memorandum") is entered into as of _____, 2020, by and between the TIDA, a public body, corporate and politic of the State of California, and Maceo May Apts. L.P., a California limited partnership ("Tenant"), with respect to that certain Ground Lease (the "Lease") dated _____, 2020, between TIDA and Tenant.

Under the Lease, TIDA hereby leases to Tenant and Tenant leases from TIDA the real property more particularly described in Exhibit A, attached hereto and incorporated herein by this reference (the "Property"). The Lease will commence on the date that this Memorandum is recorded in the Official Records of the City and County of San Francisco (the "Effective Date") and will end on the date that is 99 years from the Effective Date, unless terminated earlier or extended pursuant to the terms of the Lease.

It is the intent of the parties to the Lease that the Lease creates a constructive notice of severance of the Improvements (as defined in the Lease), without the necessity of a deed from Lessor to Lessee, which Improvements are and will remain real property.

This Memorandum incorporates herein all of the terms and provisions of the Lease as though fully set forth herein.

This Memorandum is solely for recording purposes and will not be construed to alter, modify, amend, or supplement the Lease, of which this is a memorandum.

This Memorandum may be signed by the parties hereto in counterparts with the same effect as if the signatures to each counterpart were upon a single instrument. All counterparts will be deemed an original of this Memorandum.

Executed as of _____, 20__ in San Francisco, California.

TENANT:
Maceo May Apts, L.P.

By: CCDC-Maceo May Apts LLC,
a California limited liability company,
its co-general partner

By: Chinatown Community Development Center, Inc.,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Malcolm Yeung,

By: Swords-Maceo May Apts LLC,
a California limited liability company,
its co-general partner

By: Swords to Plowshares: Veterans Rights Organization,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Michael Blecker,
Executive Director

TIDA AS LANDLORD:

TREASURE ISLAND DEVELOPMENT AUTHORITY,
a public body corporate and politic of the State of California

By: _____
Robert Beck
Executive Director

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
Heidi J. Gewertz
Deputy City Attorney

By: Swords-Maceo May Apts LLC,
a California limited liability company,
its co-general partner

By: Swords to Plowshares: Veterans Rights Organization,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Michael Blecker,
Executive Director

TIDA AS LANDLORD:

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a public body corporate and politic of the State of California

By: _____
Robert Beck
Executive Director

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
Heidi J. Gewertz
Deputy City Attorney

Executive Director

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Michael Blecker,
Executive Director

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By: _____
Robert Beck
Executive Director

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
Heidi J. Gewertz
Deputy City Attorney

ATTACHMENT 6
FORM OF TENANT INCOME CERTIFICATION

ATTACHMENT 7
Omitted

ATTACHMENT 8

Omitted

Attachment 8

San Francisco Mayor's Office of Housing and Community Development
Department of Homelessness and Supportive Housing
Office of Community Investment and Infrastructure
Controller's Office of Public Finance

MEMORANDUM

DATE: November 4, 2022

TO: CITYWIDE AFFORDABLE HOUSING LOAN COMMITTEE

FROM: **CINDY HEAVENS, SENIOR PROJECT MANAGER**

RE: **MACEO MAY, TREASURE ISLAND PARCEL C3.2 - ADDITIONAL NOT TO EXCEED GAP LOAN IN THE AMOUNT OF $14,983,000 DUE TO RAINSTORM DAMAGE REPAIRS TO MODULAR UNITS**

PREVIOUS CITY FUNDS COMMITTED	**$24,255,000**
LMIHAF	$ 2,000,000
AHF – Condo Conversion	$ 2,200,000
AHF – Inclusionary	$ 7,951,128
ERAF	$ 11,000,000
Residential Hotel Preservation Fund	$ 1,103,872
NEW FUNDS REQUESTED	**$14,983,000**
2019 GO Bonds	$ 11,983,000
LMIHAF	$ 2,000,000
TIDA Developer Housing Subsidy	$ 1,000,000
TOTAL REVISED LOAN	**$39,238,000**

1. REQUEST SUMMARY

Chinatown Community Development Center (CCDC) and **Swords-to-Plowshares (STP)** (together "Sponsors"), co-general partners of **Maceo May Apts., L.P.**, a California limited partnership ("Borrower"), request additional gap financing in the not to exceed amount of $14,983,000 for a 105-unit affordable housing development located on Treasure Island on Parcel C3.2 at 401 Avenue of the Palms (old address)/55 Cravath Street (new address) (the "Project" or "Maceo May"). On November 15, 2019, the Affordable Housing Loan Committee recommended approval of the original loan of $24,255,000 that included a $1,040,000 Federal Home Loan Bank (FHLB) Affordable Housing Program (AHP) bridge loan.

The Sponsors anticipate receiving a Temporary Certificate of Occupancy (TCO) by January 31, 2023. Once completed, Maceo May Apartments will be the first new one hundred percent (100%)

affordable building completed as part of the redevelopment of Treasure Island. In recognition of the island's history as a Naval Station, all residents of Maceo May will be low-income and/or formerly homeless veterans. The newly completed building will contain 104 affordable residential units and 1 staff unit in a 6-story building. The residential units are a mix of 24 studios, 47 one-bedrooms, and 34 two-bedrooms. Of the 104 affordable units, 33 units will be occupied by formerly homeless veterans currently living on Treasure Island. These residents have been waiting to move to new units originally promised in July 2022 and now delayed to February 2023.

Due to a storm damaging several units that resulted in completion delays and increased financial costs (see Section 2 and 3) and operating subsidy rents not increasing while some expenses increased (See Section 4), the Project now requires an additional $14.98M, which is the remaining amount needed to cover project increases. The additional requested loan amount must be encumbered no later than February 1, 2023, to prevent subcontractors from halting work due to nonpayment, further delaying the Project, and meet the construction lender's requirement that the Sponsor make the additional loan request before it continues its re-underwriting. It is imperative that the project close out the construction contract so it can obtain lien-free title and convert to permanent financing as soon as possible to avoid additional construction loan interest costs.

To mitigate some of the Project's increases, the Sponsor successfully obtained a San Francisco FHLB AHP award in the amount of the $1,040,000 AHP bridge loan. The AHP bridge loan obligation and requirements are identified in Amended and Restated Loan Agreement dated January 28, 2020 (Loan Agreement) between the Borrower and the City and County of San Francisco (City), acting by and through the Mayor's Office of Housing and Community Development (MOHCD). In the Loan Agreement an AHP award pays off the AHP bridge loan. With this additional loan request, the Sponsors request a change to the AHP bridge loan repayment terms allowing the AHP award to cover projected budget shortfalls related to cost increases caused by the stormed damaged units and construction completion delays. The AHP bridge loan, as well as the rest of MOHCD loan, will be paid through residual receipts.

MOHCD staff have been working closely with the Sponsors and supports this request to allow the City AHP bridge loan to be paid in residual receipts and increase the loan by a not to exceed amount of $14,983,000, bringing the new total loan to $39,238,000. If Loan Committee recommends the loan increase, the loan increase of $14.98M requires Board of Supervisors' approval.

2. PROJECT OVERVIEW AND PROJECT STATUS

a. Project Overview

STP, a One Treasure Island ("One TI") founding member and housing services provider and grantee named on the Continuum of Care ("CoC") contract, selected CCDC as the housing developer to jointly develop the One TI replacement units and new construction units designated for veterans and formerly homeless veterans. Since being selected by STP to jointly develop Maceo May, CCDC has become a One TI member. Together CCDC and STP formed Maceo May Apts., L.P., a limited partnership. Both CCDC and STP are go-general partners of the limited partnership.

In 2011, Treasure Island Community Development (TICD) received approvals for the master development of Treasure Island (TI) that included approximately 8,000 new residential units of which 435 new units are for homeless households that are to be developed by One TI member organizations. In 2011, the Board of Supervisors approved a new agreement with One TI outlining its participation in the development project via housing, economic development and support components and reflects the updated land use plan, development program, housing plan and financing plan described in the TICD Disposition and Development Agreement. The 2011 One TI Agreement explicitly states that Treasure Island Development Authority (TIDA) will ground lease each One TI Lot to a selected One TI member organization approved by TIDA for the construction of One TI housing units. One TI has proposed and TIDA approved CCDC, as selected by STP. TIDA has provided a ground lease to Maceo May Apts., L.P, for Parcel C3.2, and CCDC and STP together are the developers of the improvements on the ground lease parcel. Please see Exhibit A Summary of Treasure Island, TICD, One-TI, and Development Agreement for more information about Treasure Island redevelopment.

1) Summary of MOHCD's initial Project expectations on November 15, 2019

When recommended for loan approval on November 15, 2019, Maceo May was one of three developments that was part of a pilot program to explore modular construction, as modular construction had not been used in affordable housing in San Francisco.

At the time that the Project was recommended for a City loan, MOHCD staff determined that building with modulars would save the Project approximately $4.6 million in hard costs and construction loan financing. Of the $4.6 million in total savings, $3.6 million is saving using modular construction rather than stick built. In addition, modular construction was also assumed to reduce construction by 4 months, which results in approximately $1 million in construction loan savings. However, the construction loan savings would only be realized if there were no delays to the Project.

On January 14, 2020, the Board approved the original loan. On January 28, 2020, the Mayor executed the loan. The Project closed its construction financing on April 27, 2020, forty-one (41) days after the City's Shelter-In-Place ordinance. Maceo May was financed with tax exempt bonds and 4% low-income housing tax credits, General Partner (GP) equity, State of California Department of Housing and Community Development (HCD) Veterans Housing and Homelessness Prevention Program (VHHP), deferred developer fee, and City permanent financing. The chart below shows the loan sources and amounts at the construction finance closing in April 2020.

Permanent Sources	**Construction Closing Budget**
City Loan (Combination of predevelopment and gap)	$24,255,000
CITY LOAN 3 – NEW LOAN	$0
Perm Loan - A Tranche	$10,108,000
HCD's VHHP	$10,000,000

FHLB-SF AHP	$0
Deferred Developer Fee	$830,816
Capital Contributions	
General Partner	$500,000
Limited Partner	$28,764,209
TOTAL:	**$ 74,458,025**

b. Project Completion Delays

Maceo May was extensively damaged during the "atmospheric river" rainstorm that hit the Bay Area on October 20, 2021. Almost all areas of the building sustained severe unexpected damage from the high volume of water driven by high winds. Under the direction and supervision of a third-party expert in water damage, the general contractor stripped virtually all drywall, insulation, cabinetry, flooring, and other fixtures that would hinder the ability of the wood framing to dry. In parallel, the general contractor completed the roof and building envelope that had been in progress at the time of the rainstorm. Once cleared to do so by the water damage expert, the contractor then began the process of rebuilding.

The demolition and rebuilding work has delayed the projected completion of the Project by six and a half (6½) months from July 20, 2022, to January 31, 2023. For tax credit projects like Maceo May, the financial consequences of a delay of this magnitude are severe. The Project will have a reduction in tax credit equity of over $1.2 million and will lose the rate-lock on both its construction loan and permanent loan interest rates. The original rates were locked in April 2020.

Note that the analysis, particularly in Section 3 and 4, discussing potential insurance coverage is based on conservative and preliminary estimates of the amount of recovery. The Sponsors have reserved their rights under the Project insurance policies and do not concede that any element of the insurance claim is not covered, except for the application of a deductible. Nothing in this Memorandum or other communications by or on behalf of the Sponsors is intended as or shall be construed as an admission by, or a declaration against the interest of, any of them. The builder's risk insurers have not issued a formal coverage position to date. The Sponsors will continue to work closely with their legal counsel to ensure that Maceo May receives all the insurance payments to which it is entitled. If the Project receives insurance payments more than what is projected below, that excess will directly reduce the amount that the Sponsors will draw from this City gap request. This paragraph applies to the entire Loan Evaluation Memorandum and modifies all statements herein.

3. DEVELOPMENT COST VARIANCE ANALYSIS

a. Revised Project Sources

With the funds secured by the Sponsors and estimated insurance proceeds potential, the Project needs an additional $14,983,000 to cover cost directly related to the stormed damaged unit repairs, increased financing costs including a reduction in the permanent loan due to

rising interest rates since the permanent loan was delayed due to the storm damaged unit repairs, and an increase in operating expenses. The chart below shows the Project sources required to convert to a permanent loan and assumes a conservative and preliminary estimate that may possibly be covered by the Project's insurance. (As of this loan request, as stated in Section 2b, the Sponsors have already been approved for up to $15 million in insurance payments).

Permanent Sources	Construction Closing Budget	Estimates to Convert Permanent Loan
City Loan (Combination of predevelopment and gap)	$24,255,000	$24,255,000
CITY LOAN 3 – NEW LOAN	**$0**	**$14,983,000**
Perm Loan - A Tranche	$10,108,000	$1,987,768
HCD's VHHP	$10,000,000	$10,000,000
FHLB-SF AHP	$0	$1,040,000
Deferred Developer Fee	$830,816	$800,000
Capital Contributions		
General Partner	$500,000	$1,100,000
Limited Partner	$28,764,209	$27,525,002
*Estimated Insurance Proceeds from Storm Damage	$ -	$28,587,290
TOTAL:	**$ 74,458,025**	**$110,278,060**

* Conservative and preliminary estimate that may possibly be covered by the Project's insurance.

b. Evaluation of Revised Sources: The Sponsors proposes to use the following revised sources to convert the Project to permanent loans. The sources discussed below are only the changed sources.

1) **Revised City Loan ($39,238,000).** The total revised City loan includes $24,255,000 of previously committed and disbursed funds and includes the additional loan requested funds of $14,983,000. The City loan includes $1 million from TIDA's Developer Housing Subsidy. The total loan is $373,695 per unit in City funds and exceeds the average subsidy of the more recent development in the MOHCD pipeline by $112,245.

The City loan includes approximately $7,750,255 related to the reduction in the permanent loan due to increase interest rates and changes in the operating expenses. (Please see Estimated Insurance Proceeds below in Section 3.b.8. and operating expenses discussion in Section 4.) The City loan also covers approximately $7,232,745 in additional storm damaged unit repair hard costs and soft costs related to the time while the stormed damaged units were being repaired based on the Sponsors' insurance policy definition of hard and soft costs.

2) **California Community Reinvestment Corporation (CCRC) Permanent Loan ($1,987,768).** When the Project closed its construction financing in April 2022, the loan totaled $10,108,000 and had locked interest rate of 3.28%. With this loan request, the permanent loan is now reduced by $8,120,232 due to the

delay to repair the storm damaged units the permanent loan will close nearly one year after the initial estimated closing date in a volatile interest rate environment. The new estimated loan interest rate is 5.9%, 2.62% higher than it was in April 2022. Another factor leading to the reduced permanent loan in this request is that the insurance during operations has increases by over 300% and a required Treasure Island Master Association Fee are added operating costs. However, with this request the operating income has not increased. (Please see Section 4 for a discussion of the operating budget.) However, if the rental income is increased to the maximum proposed rents, the permanent loan is estimated to increase to $4,778,000, which would reduce the City additional loan request by $2,238,000 for a revised loan totaling $12,745,000.

3) **FHLB of San Francisco (FHLB-SF) AHP ($1,040,000):** In August 2021, the Sponsors secured AHP in the amount shown. The AHP was originally intended to pay down the equivalent amount of the AHP bridge loan as outlined in the Amended and Restated Loan Agreement dated January 28, 2020. To reduce the amount of additional capital, with this additional loan request the Sponsors propose to have the AHP remain in the Project rather than repay the City's AHP bridge loan.

4) **Limited Partnership Equity ($27,525,002):** This is a loss of $1,239,207 due to late credit delivery. Credit delivery is the date that the tax credit investor may claim the credits and it is based on the date that one resident may occupy the building after receipt of TCO. Because the storm damage repair delayed the Project by 6½-months, the credit delivery date estimated at the time of the construction financial closing was also delayed by 6½-months.

5) **GP Equity ($1,100,000).** As stated in MOHCD's Developer Fee, Sponsors are required to contribute a minimum of $500,000 in GP Equity to the affordable housing development, and the Sponsors met this requirement at the time of construction financial closing. The Sponsors secured an additional combined total of $600,000 from the Home Depot Foundation and the National Equity Fund that they will contribute to the Project bringing the total GP Equity contribution to the amount shown.

6) **Deferred Developer Fee ($800,000).** Deferred developer fee has decreased by $30,816 from the construction loan closing. The $800K does not meet the MOHCD Underwriting Guidelines (MOHCD UG's) at this time because the actual deferred fee on the 20-year proforma presented with this loan request totals $736,413 and MOHCD requires that the deferred fee on the 20-year proforma and the deferred fee amount are the same. At the time of the construction closing, the deferred developer fee met MOHCD UG's. However, for the purposes of this loan request, the deferred fee is as shown as not meeting MOHCD UG's since the project will be re-underwritten again at permanent conversion, planned in February 2024, and at that time the Sponsors and MOHCD staff will ensure that the deferred developer fee meets the MOHCD UG's.

7) **Silicon Valley Bank (SVB) Construction Loan ($43,704,000):** While not a permanent source, the construction loan term is another factor in the additional loan request to the City. At the time of the construction financial closing, the construction term was 32 months with a loan maturity date of January 1, 2023. The Sponsors could extend the loan for 3 months to April 1, 2023 for no cost and extend for an additional month to May 1, 2023 for $5000.

As previously mentioned, TCO is anticipated on January 31, 2023. Because leasing up the property will take approximately 3 to 4 months and will not be complete until the extended loan maturity date of May 1, 2023, SVB is re-underwriting the construction loan to extend to the new permanent conversion date of February 2024. However, SVB re-underwriting is occurring concurrent with this loan request, and will not be complete until the Sponsors receive approval for the additional loan from MOHCD. The construction interest on the loan will increase from $1,791,469 at the construction closing to $3,425,650, an increase of $1,634,181. If there are insurance proceeds, this may pay a portion of the construction interest. See Section 3.d below for a discussion on estimated and possibly hard and softs cost covered by insurance proceeds.

8) ***Estimated Insurance Proceeds ($28,587,290):** The estimated insurance proceeds is a preliminary estimate that may possibly be covered by the Project's insurance. It should be noted that while the repairs are shown as part of the Project's budget for this request, it is presented in this manner for this request only. In addition, *the repair work is not eligible for tax credits because the initial units already received credits*. To count the repair work would be equivalent to receiving credits on the unit twice, which is not allowed under the tax credit program. For tax credit purposes, the Sponsors will complete a cost certification for the Project, but a separate cost audit may be conducted for verification that the insurance proceeds were expended as intended. As further discussed in Section 3.d, estimated insurance proceeds are covering approximately 85% of hard costs, as defined in the Sponsors' insurance policy, and approximately 41% of soft costs as also defined by insurance policy.

The Sponsors have submitted a builder's risk insurance claim, which may cover the majority of the cost impacts from the rainstorm. The Sponsors have already been approved for up to $20 million in insurance payments, with further increases pending submission of invoices. However, insurance payments are made only after costs are incurred and approved by the insurance claims adjuster, often after multiple rounds of review. This process is lengthy, and the total amount of the insurance recovery may not be known until months after the building is complete.

The Sponsors are requesting this gap loan increase and a change to the AHP bridge loan repayment to the City at this time because the Sponsors will need to make payments, particularly those necessary to close out the construction contract, in advance of when these final insurance payments will be received and in advance of the permanent conversion.

It is critical to be able to pay subcontractors in a timely manner, so they do not stop work in advance of completion, further delaying this housing for veterans and formerly homeless veterans. The Sponsors must also close out the construction contract quickly after the work is complete to prevent subcontractors from filing mechanics' liens against the property. Filing the Notice of Completion and obtaining lien-free title are both key milestones to convert the Project to its permanent financing.

Also noteworthy is that Cahill Contractors (Cahill), the Project's general contractor, has pre-paid subcontractors in advance of receiving reimbursements from insurance proceeds. The total advance through September 30, 2022, is $1,733,055. Cahill plans to advance an additional $351,653 before the next insurance proceed reimbursement is received, bringing the total advancement to $2,084,708. It is important to note that 63% of these advance payments have been to the electrical subcontractor who is a certified Small Business Enterprise (SBE) and cannot continue working without payments.

c. Revised Project Uses

Increases to the Project budget due to the storm damaged unit repairs and time delay while the units were being repaired totals $35,820,035. A portion of the total increase could be covered by insurance proceeds. The chart below shows the changes that have occurred since the construction loan closing in April 2020.

Uses Line Item	**Line Item Amount at Construction Loan Closing**	**Line Item Amount with this additional loan request**	**Variance between Construction Loan Closing and this additional loan request**
CONSTRUCTION (HARD COSTS)			
Total Construction Costs	$58,105,949	$89,659,309	$31,553,360
Subtotal			*$31,553,360*
SOFT COSTS			
Total Architect & Design -	$ 3,452,011	$ 3,547,711	$ 95,700
Total Engineering & Environmental Studies	$ 102,868	$ 102,868	$ -
Total Financing Costs	$ 2,576,574	$ 4,289,799	$ 1,713,225
Total Legal Costs	$ 389,600	$ 549,600	$ 160,000
Total Development Costs	$ 4,567,532	$ 6,737,628	$ 2,170,096
Soft Cost Contingency	$ 537,223	$ 645,600	$ 108,377
Total Reserves	$ 1,226,268	$ 1,245,545	$ 19,277
Developer Fee	$ 3,500,000	$ 3,500,000	$ -
Subtotal			*$ 4,266,675*
TOTAL:	**$74,458,025**	**$110,278,060**	**$35,820,035**

d. Evaluation of Revised Uses: The Sponsors proposes to use the revised source discussed in Section 3.a and 3.b above on the increased Project uses discussed below, and the discussion below only covers the changed uses.

1) **Total Construction Costs.** Hard costs have increased by $31,553,360. The construction repair costs are based on a rough order of magnitude (ROM) provided by Cahill on May 18, 2022. Cahill provided a ROM hard cost construction estimate totaling $30.1 million, inclusive of 5.87% overhead, profit, general contract insurance, and performance bonding as these charges are applied to all change order contractor amendments. This ROM includes the full demolition/abatement scope, including replacement of all fixtures and finishes that were in place and damaged, as well as PEX piping, Romex, heaters, and light fixtures. The Sponsors added a 5% contingency to the ROM.

MOHCD Construction Representative statement about General Contractor's ROM Hard Costs

The storm damage that the Maceo May has been faced with is quite unlike anything MOHCD has seen before. Due largely to that the fact that the factory built modular units had many finish materials in place before the permanent roof was installed, and the "atmospheric river" rainstorm hit at the exact right time to cause the maximum amount of damage possible. As such, MOHCD lacks any comparable projects to compare these costs to, but all indications to-date support these ROMs as being reasonable projections of the final costs. Having completed the remediation work and having worked extensively with San Francisco Department of Building and Inspection (DBI) to understand any additional work needed to address discrepancies in code interpretation between the City (the Authority Having Jurisdiction (AHJ) for site-built work) and the State of California (the AHJ for factory work), the general contractor's ROMs are more solidly confirmed rather than initial estimates provided after and prior to storm damaged unit repairs, which leads to further confidence in the accuracy.

As discussed above in Sections 3.a and 3.b, to date the Sponsor have only received approval for $15 million in insurance proceeds and Cahill has advanced $1.7 million toward the storm damaged units. In addition, to date the Sponsors have only billed and received payment for $5.6 million of the approved $15 million in storm damaged unit repairs.

The Total Construction Costs increase includes the following:

- $12,225 for architect cost related to design.
- $3,847 for special inspections needed to inspect the rebuild of the 3-hour wall and other rainstorm damaged units being repaired by the general contractor.
- $58,822 for the water consultants monitoring and consulting of the remediation/water intrusion to the stormed damaged units. Cost increases include a projected cost for the final unit air sample clearance, which will occur around unit punch (October and/or November 2022).

Insurance allows soft cost work (architecture, special inspections, and water consultant) to be considered hard cost work for the purposes of an insurance claim. The chart below shows the details of the cost included in the Total Construction Costs and the estimate includes the amount possibly covered by insurance proceeds. In the chart below, insurance is estimated to possible

cover 85% or $26,857,756 of the hard cost for the rainstorm damaged units. The remaining 15% or $4,695,603 is anticipated to be covered by the additional City loan.

Construction (Hard Cost) – Unit Construction details of Storm Damage Increases	**Hard Cost ROM**	**Estimated as covered by insurance**	**Variance of Hard Cost ROM from Insurance Estimates**
Construction & Remediation	$30,138,060	$25,517,351	$ 4,620,709
Architecture/Engineering	$ 81,500	$ 69,275	$ 12,225
Special Inspections	$ 25,650	$ 21,803	$ 3,847
Water Consultant	$ 392,150	$ 333,328	$ 58,822
TIDA Storage Lease	$ 916,000	$ 916,000	$-
TOTAL:	**$31,553,360**	**$26,857,756**	**Total Hard Cost Variance: $4,695,603**

2) **Total Architect & Design.** This increase of $95,700 include costs defined as soft costs by insurance. The cost increase includes:

- $63,700 for additional construction administration due to the 6 1/2-months delay caused by the storm damage repair, rounded to 7-months delay.
- $32,000 for construction testing that has been delayed while the storm damaged repairs took place. The estimate assumes 20 full days at $200 per day.

3) **Total Financing Costs.** Financing has increased by $1,713,255. This increase is due to increases in the construction loan interest and bond issue fees.

- $1,634,181 for additional construction loan interest based on the new loan maturity date of February 2024, the new permanent conversion date. See Section 3.b.7 for a discussion about the construction loan maturity date.
- $79,044 for bond issuer fees for an additional year for both MOHCD and the trustee due to added time to complete the storm damaged unit repairs. The line item also includes the construction lender's construction management services for an additional 7 months of work caused by the storm damage delay. The total increase amount has been recalculated with the current permanent loan rates

4) **Total Legal Costs.** Legal costs have increased by $160,000 and include the following legal increases:

- $100,000 for a contracts/insurance attorney, who provides legal services related to the rainstorm damage. Please note that the contracts/insurance attorney costs are not eligible for insurance reimbursement.
- $20,000 for Sponsors' attorneys cost related to the transaction as the Sponsors' attorneys have reviewed all documents related to triggering a foreclosure and other provisions related to the magnitude of the storm damage unit repairs delay.

- $40,000 for the limited partner, bond counsel, construction lender, and permanent attorneys with each type of attorney receiving an estimated $10,000 each to draft, review, and approve new legal documents related to the delay and additional sources of funds being added to the project.

5) **Total Development Costs** have increased by $2,170,096 and includes the following development costs:

- $2,129,880 for builder's risk insurance that was renewed on March 1, 2022 after the previous policy expired on February 28, 2022. The previous policy that was included at the time of the construction closing was $1,122,793. The new policy is approximately a 189% increase. The renewed builder's insurance includes cost to extend the policy through duration of construction.
- $5,000 to complete an additional cost audit to document use of insurance proceeds for the storm damaged units and delays. This work is different from a cost audit required for bond financed developments.
- $216 for tax credit monitoring fees due to a slight increase of eligible basis since the construction closing.
- $35,000 for extension of Sponsors' construction management services due to the longer construction period due to the storm damaged units repair delay.

6) **Soft Cost Contingency** has increased by $108,377. The increase is 3% of all soft costs.

7) **Total Reserves** has increased by $19,277. The cost increase is for operating reserve costs related to the interest rate on the permanent loan as discussed in Section 3.b.2 above.

Total soft cost increases related to the delay caused by the storm damage totals $4,266,675. The chart below details the softs cost as defined in the insurance policy and estimates what insurance may possibly cover. Based on the chart below, insurance is estimated to cover approximately 41% or $1,729,534 of the total estimated soft cost repairs. The remaining 59% or $2,537,141 is anticipated to be covered by the additional City loan.

Soft Costs Line items	**Amount of Soft Cost increases due to rainstorm damages**	**Estimated as covered by insurance**	**Variance of Soft Cost Changes from Insurance Estimates**
Architect& Design - Architect Design Fees	$ 63,700	$ 54,600	$ 9,100
Architect& Design - Other Third-Party Design Consultants - Construction Testing	$ 32,000	$-	$ 32,000
Financing Costs - Construction Loan Interest	$1,634,181	$ 654,886	$ 979,295
Financing Costs - Bond Issuer Fees	$ 79,044	$-	$ 79,044
Legal Costs – Borrower Legal Fees	$ 160,000	$ 20,000	$ 140,000
Other Development Costs – Insurance during construction	$2,129,880	$ 831,952	$1,297,928

Other Development Costs – Accounting/Audit	$ 5,000	$-	$ 5,000
Other Development Costs – TCAC App / Alloc / Monitoring Fees	$ 216	$-	$ 216
Other Development Costs – Construction Management Fee / Owner Rep	$ 35,000	$30,000	$ 5,000
Soft Cost Contingency (reduction prior to storm)	($ 95,323)	$-	($ 95,323)
Soft Cost Contingency (increase due to storm)	$ 203,700	$ 138,096	$ 65,604
Reserves – Operating Reserves	$ 19,277	$-	$ 19,277
TOTAL:	**$4,266,675**	**$1,729,534**	**$2,537,141**

4. OPERATING INCOME AND EXPENSES

For this additional loan increase, the Sponsors have submitted two changes to the operating expenses on the first-year operating budget provided in Attachment C while no change to the operating income at this time. There are 65 units supported by federal Veterans Affairs Supportive Housing (VASH) operating subsidy and administered by San Francisco Housing Authority (SFHA) and 39 non-VASH units. Similar to a project-based voucher, the federal government acting through SFHA will provide a fair market rent (FMR) for the unit with VASH operating subsidy while the resident continues to pay an affordable rent at 30% of the resident's income. Operating income rents with this request are showing 2019 VASH FMRs for and 2019 rents for non-VASH units. FMRs have increased for 2022, and for this Project could result in approximation $1.59 million in additional income than the 2019 VASH FMR. However, before increasing all rents to 2022 rent levels, the Sponsors wants to receive a SFHA executed Housing Assistance Payment Contract (HAP). With all rents at 2019 levels, the operating rental income with this additional loan request represents the most conservative estimate for the permanent loan. If Sponsors receives a SFHA executed HAP showing the 2022 VASH FMRs, all rents, including non-VASH will be increased to 2022 levels, and the entire first-year budget will be updated, and the full operating budget will be re-evaluated by MOHCD prior to permanent loan conversion and the commercial permanent loan will be resized.

Because this additional gap loan is required to pay off the general contractor's construction contract and meet a condition of extending the SVB construction loan, the full operating expenses revisions are not provided with this request, with the two exceptions below:

1. The Project's operating expenses have also been updated to reflect a $317,000 increase in property insurance costs, based on rates that other large, wood-frame, affordable housing projects have recently faced. The budgeted amount for property insurance increased from $98,000 at closing in April 2020 to $415,000 based on an estimate from the Sponsors' insurance broker on October 4, 2022. This quote reflects that Maceo May is a wood-frame building with a large, estimated replacement cost of $80,000,000. The estimated replacement cost for this building makes it too large to be enrolled in the Sponsors' portfolio property insurance policy. The policy must be bid on the open insurance market, which has a low risk tolerance and high premiums for large, wood-frame buildings.

2. The operating budget now includes a Treasure Island Master Association Fee (Master Association Fee). Treasure Island Development Authority (TIDA) was still negotiating

the Master Association Fee with Treasure Island Community Development, LLC, a California limited liability company (TICD), at the time of closing, and for this reason the private commercial lenders would not allow the Master Association Fees to be a part of the assumed underwriting at the time of closing. However, this was an error as the Master Association Fees are a required fee of all new construction building on Treasure Island. The Master Association Fees are assumed to be $400 per unit per year or $42,000 annually.

Any increase to the permanent loan that results from future changes to the VASH FMRs, rents in units without operating subsidy, and operating expenses will be used to reduce the amount of the City loan.

5. STAFF RECOMMENDATIONS

a. Proposed Loan Terms

Financial Description of Proposed Loan	
Loan Amount:	$14,983,000
Loan Term:	55 years from the anniversary of the Conversion Date, and co-terminus with the Amended and Restated Loan dated January 28, 2020
Loan Maturity Date:	2077
Loan Repayment Type:	Residual Receipts
Loan Interest Rate:	0%
Date Loan Committee approves prior expenses can be paid:	Rainstorm damage related expenses incurred between October 1, 2021, to January 31, 2023 for hard costs and soft costs with a not to exceed amount of $7,232,745, the subtotal of source variances.

b. Recommended Loan Conditions

1. MOHCD will only disburse funds to pay off the Cahill contract and prevent construction lien releases and cover some soft costs in a not to exceed amount of $7,232,745, the subtotal of source variances. The remaining funds, if needed will be disbursed as part of the permanent loan conversion and through the permanent loan closing escrow. Sixty (60) days prior to permanent conversion, MOHCD will re-evaluate the operating expenses to determine that that the permanent loan supports the Project and leverages MOHCD final contribution through escrow. If the permanent loan is increased, MOHCD's contribution at permanent loan conversion will be decreased.

2. Once a SFHA-executed HAP showing SFHA approved VASH rents is received, the remaining 39 non-VASH rents will be increased to 2022 and the entire first-year operating budget and 20-year cash flow will be updated and finalized. The entire first-year operating budget and 20-year cash flow will be re-evaluated by MOHCD, and the commercial permanent loan will be resized. Any increases to the permanent loan will reduce the City loan by the equivalent amount. If the loan has been approved by the Mayor, unreimbursed amounts will be disencumbered by the City. If the loan has been fully disbursed, the Sponsor will return any savings to the City at the conversion and paid through conversion escrow.

3. Once 95% occupancy is achieved, Sponsors are required to provide the stabilized occupancy calculation to MOHCD.

4. Sponsors must allow MOHCD to verify all costs and sources prior to permanent loan conversion. All Project cost including insurance must be finalized with the MOHCD loan amounts finalized with all cost and sources verified before payment At Risk Developer Fee of $1,069,184.00, as defined in the Developer Fee Agreement between MOHCD and Sponsors dated February 1, 2020.

6. LOAN COMMITTEE MODIFICATIONS

7. LOAN COMMITTEE RECOMMENDATION

Approval indicates approval with modifications, when so determined by the Committee.

[ ] APPROVE. [ ] DISAPPROVE. [ ] TAKE NO ACTION.

_____ Date: _____
Eric D. Shaw, Director
Mayor's Office of Housing and Community Development

[ ] APPROVE. [ ] DISAPPROVE. [ ] TAKE NO ACTION.

_____ Date: _____
Salvador Menjivar, Director of Housing
Department of Homelessness and Supportive Housing

[ ] APPROVE. [ ] DISAPPROVE. [ ] TAKE NO ACTION.

_____ Date: _____
Thor Kaslofsky, Executive Director
Office of Community Investment and Infrastructure

[ ] APPROVE. [ ] DISAPPROVE. [ ] TAKE NO ACTION.

_____ Date: _____
Anna Van Degna, Director
Controller's Office of Public Finance

Attachments:
A. Summary of Treasure Island, TICD, One-TI, and Development Agreement
B. Permanent Sources and Uses
C. Operating Budget & Cash Flow with 2019 rents and 2019 VASH FMRs

Chavez, Rosanna (MYR)

From: Shaw, Eric (MYR)
Sent: Friday, November 4, 2022 11:56 AM
To: Chavez, Rosanna (MYR)
Subject: Request for Additional Gap Financing Treasure Island C3.2

Approve

Eric D. Shaw
Director/ Interim Director HopeSF

Mayor's Office of Housing and Community Development
City and County of San Francisco
1 South Van Ness Avenue, 5th Floor

Chavez, Rosanna (MYR)

From: Menjivar, Salvador (HOM)
Sent: Tuesday, November 8, 2022 10:20 AM
To: Shaw, Eric (MYR)
Cc: Chavez, Rosanna (MYR)
Subject: Treasure Island Parcel C3.2 ("Maceo May")

I approve the request by Maceo May Apt, L.P. (a partnership formed by Chinatown Community Development Center and Swords to Plowshares) for an additional gap loan funds in the amount of up to $14,983,000 for a revised loan totaling $39,238,000 for Treasure Island Parcel C3.2 ("Maceo May"), a 105-unit new affordable housing development that will include 39 replacement units available for current Treasure Island residents and 65 new units for formerly homeless veterans, plus one manager's unit and 19 parking spaces.

salvador

Salvador Menjivar
Director of Housing
Pronouns: He/Him
San Francisco Department of Homelessness and Supportive Housing
salvador.menjivar1**@sfgov.org** | 415-308-2843

Learn: hsh.sfgov.org | Follow: @SF_HSH | Like: @SanFranciscoHSH

Chavez, Rosanna (MYR)

From: Colomello, Elizabeth (CII)
Sent: Friday, November 4, 2022 11:56 AM
To: Chavez, Rosanna (MYR)
Cc: Shaw, Eric (MYR); Kaslofsky, Thor (CII)
Subject: Updated Request for Additional Financing for additional gap financing for Treasure Island Parcel C3.2

Hi Rosie-
I approve the subject request on behalf of OCII.
Thanks-
Elizabeth

office of COMMUNITY INVESTMENT and INFRASTRUCTURE
OCII

Elizabeth Colomello
Housing Program Manager

One South Van Ness Avenue, 5th Floor
San Francisco, CA 94103
415.749-2488, Cell 415.407-1908
www.sfocii.org

Chavez, Rosanna (MYR)

From: Katz, Bridget (CON)
Sent: Friday, November 4, 2022 11:56 AM
To: Chavez, Rosanna (MYR)
Cc: Shaw, Eric (MYR)
Subject: Request for Additional Gap Financing Treasure Island C3.2

Approve

Bridget Katz
Development Finance Specialist, Office of Public Finance
Controller's Office | City & County of San Francisco
Office Phone: (415) 554-6240
Cell Phone: (858) 442-7059
E-mail: bridget.katz@sfgov.org

Attachment A:
Summary of Treasure Island Development Authority, Treasure Island Development Corporation, LLC, One Treasure Island, Development Agreement and Existing Treasure Island Households

The purpose of this Attachment A is to summarize and contextualize the history of Treasure Island and Yerba Buena Island and its key stakeholders, specifically to contextualize certain underwriting assumptions in the MOHCD loan evaluation. This attachment is comprised of the following sections: Background, Vision/Equity, Public Private Partnership, Horizontal Development, Community Planning and Amenities, Authorizing Agreements, and Existing Treasure Island Households.

I. BACKGROUND

Treasure Island ("TI") was constructed as one of the most visible of President Franklin D. Roosevelt's Works Progress Administration projects and was host to the Golden Gate International Exposition in 1939 and 1940. Treasure Island was activated as a United States Naval Base in 1940 and played a substantial role in both World War Two and the Korean War. TI was used as a center for receiving, training and dispatching personnel. After the war, the Island was used as a training and administrative center.

In 1993 the Federal Government placed the Naval Station Treasure Island ("NSTI") on its Base Realignment and Closure list, and the United States Department of Defense subsequently designated the City and County of San Francisco (the City) as the Local Reuse Authority ("LRA") responsible for the conversion of the Base to civilian use under the federal disposition process per the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (the "Act"). In 1994, the City began to conduct hearings and community meetings which informed the redevelopment plan that would eventually result in a new San Francisco neighborhood incorporating residents of all socio-economic backgrounds. NSTI was formally decommissioned in 1997.

In 1997, the City formed the Treasure Island Development Authority ("TIDA") as a redevelopment agency under California law and designated it as the new Local Reuse Authority.

After formation in 1997, TIDA initiated formal negotiations with the Navy. The Navy contracted with the City (and subsequently TIDA) to manage the property pending negotiations for its transfer and redevelopment. As part of managing TI on behalf of the Navy, TIDA began subleasing at market rates a portion of the former military housing now known as The Villages at Treasure Island ("The Villages") through a master lease with The John Stewart Company, and directly leasing space to a variety of commercial tenants.

In 2003, TIDA selected Treasure Island Community Development LLC ("TICD") for exclusive negotiations for the master redevelopment of TI.

The Board of Supervisors approved the development plan in 2006 (and amended its approval in 2010), which was conditioned on completion of environmental review under the California Environmental Quality Act ("CEQA").

The Development Agreement ("DA"), dated June 28, 2011, vests the master plan's entitlements for thirty years and any vertical project is then approved by the Planning department under a process outlined in the DA. The DA, unanimously approved by the Board of Supervisors, forms the basis for the Disposition and Development Agreement ("DDA") between TIDA and TICD, and governs respective rights and obligations for the redevelopment of portions of TI and Year Buena Island (YBI) and calls for the development of up to 8,000 residential units in a series of Major Phases and Sub-Phases.

As of the signing of the DDA between TIDA and TICD there were approximately 600 existing former Navy housing units occupied by households living in both affordable units for formerly homeless households and market rate units. These households have certain rights and benefits and are described in detail below.

A CEQA lawsuit was filed against the project but was unsuccessful. It did serve to delay the project.

Portions of Treasure and Yerba Buena Islands were formally transferred from the Navy to TIDA in May 2015. Land for the first two sub phases of the redevelopment plan was transferred to TICD in February 2016.

Initial market rate home construction began on YBI in June 2019 and is scheduled for completion in Q2 2022. The first vertical construction on Treasure Island began in 2020 with Maceo May Apartments, an affordable housing development for homeless and low-income veterans by Swords to Plowshares in partnership with Chinatown CDC and is scheduled for completion in Q4 2022.

In 2019, TICD submitted its application and approvals to complete horizontal work for the second sub-phase. The Street Improvement Permit is expected later this year.

On March 1, 2021, MOHCD and TIDA executed an MOU defining roles and responsibilities for development, marketing, and compliance monitoring all affordable, inclusionary and Transition Units.

By 2025 it is projected that 1,171 units in 11 projects will be completed. This includes 243 affordable units in affordable housing developments ground leased by TIDA and 928 market rate units (including 64 inclusionary units) on Treasure Island and Yerba Buena Islands.

II. VISION/EQUITY

The overall development plan calls for approximately 8,000 homes (with 2,173 homes/27.2% affordable), 300 hotel rooms, 550,000 square feet of retail and commercial space, and 290 acres of public open space representing 75% of the geographic area.

Treasure Island will be a model for sustainability and is the largest and highest scoring project to target Platinum rating under the LEED Neighborhood Development program.

The Transportation Plan for Treasure Island promotes pedestrian and bicycle mobility, provides strong public transit options and de- emphasizes vehicle use. New privately subsidized ferry service is commencing Q1 2022 and is expected to be privately subsidized for 2-3 years when the WETA will assume operations. As additional residents move to TI and YBI, MUNI bus service will be enhanced, new AC Transit bus service to the East Bay will commence and an on-island shuttle from the transit hub to the new neighborhoods will begin service.

The island will have congestion-pricing to encourage transit usage and discourage peak-time auto travel. Subsidized transit passes and discounts to services like car- and bike-share will make transit affordable and accessible to longtime residents and people living in below market-rate housing.

The redevelopment of Treasure and Yerba Buena Islands creates a brand-new neighborhood for existing and new residents with equity principles baked into its core. From inception, the plan has included over 27% of housing units to be affordable, with units reserved for homeless households integrated into the affordable units and the affordable units integrated throughout the market rate units. All janitorial and landscaping in TIDA operated spaces, such as Building One and most of the public open space, are performed by One Treasure Island members Toolworks and Rubicon landscaping, which provide job training and work opportunities for economically disadvantaged people and/or people with disabilities. Twenty five percent of all new construction jobs and 25% of all new permanent jobs are set-aside for economically disadvantaged San Franciscans that face barriers to employment per the DDA. Parks, open space, community facilities and retail strategies are conscientiously being developed to foster inclusion and integration. From inception, equity has been at the heart of Treasure Island redevelopment planning and implementation.

III. PUBLIC PRIVATE PARTNERSHIP

There are three key entities leading the development process.

Treasure Island Development Authority

The Treasure Island Development Authority (“TIDA” or the “Authority”) was formed in 1997 as a non-profit, public benefit agency dedicated to the economic development of the former NSTI and the administration of municipal services thereon. It is governed by its own Board of Directors.

Treasure Island Community Development, LLC (principal developer)
The Treasure Island Development Corporation LLC ("TICD") is a joint venture between Lennar Urban and KSWM and is the principal developer. Members of KSWM include: Stockbridge Capital Group; Wilson Meany Sullivan LLC; and Kenwood Investments, LLC.

One Treasure Island
One Treasure Island (One TI) (formerly known as the Treasure Island Homeless Development Initiative or TIHDI), is a California nonprofit public benefit corporation that was formed in June 1994 for the purpose of utilizing the structural and economic development resources of the former NSTI to create a vibrant, inclusive community that provides pathways for economic advancement for lower-income and formerly homeless San Franciscans. One TI achieves its mission through affordable housing, jobs, community building, and advocacy. One Treasure Island is a membership organization committed to fostering an equitable, inclusive, and thriving community for all Treasure Island residents, employees, businesses, and visitors emphasizing inclusion by lower-income households and those who have experienced homelessness.

IV. HORIZONTAL DEVELOPMENT

Yerba Buena Island is a natural island and Treasure Island is man-made. Before vertical construction can begin significant infrastructure, improvements were needed and will continue.

TICD's application for Major Phase I development was submitted in 2014 and approved by TIDA in May 2015. TIDA oversees the delivery of infrastructure and geotech work, supported by the City's Public Works Task Force and construction inspections through the City's Department of Building and Inspection.

Demolition of the existing buildings in Stage 1 (the area including the affordable parcels) and infrastructure work for new water tanks that serve Treasure Island and Yerba Buena Island and Phase I geotechnical mitigation work has all been completed and street infrastructure is underway. The infrastructure and geotechnical scope is described below.

Infrastructure and Geotechnical Work
The Geotechnical Conceptual Design Report for Treasure Island, completed February 2, 2009, describes soils comprised of 30-50 ft of sand fill and 20-120 feet of young bay mud, underlain by firmer soils. It also states that the island perimeter could be destabilized by liquefaction. The geotechnical improvement program for Treasure Island has four primary components and each component will be completed within a phase of infrastructure improvements. The four primary components are:

- Reconstruction of the causeway connecting Treasure Island and Yerba Buena Island. The causeway is almost complete and has been reconstructed

in its entirety – excavated to near sea level, cement deep soil mixing ("CDSM") employed to strengthen soils below sea level and then reconstructed using appropriate engineered fill to the intended finished elevation.

- Improvement of Island Perimeter – the perimeter of the island will be strengthened employing a combination of stone columns and CDSM walls to mitigate lateral spread of the island following the subsidence of off-shore materials in a seismic event.
- Vibratory Compaction – Throughout the area of vertical development, including the street areas, the fill materials and underlying naturally deposited sands on which the island rests will be consolidated through vibratory compaction through their 50'-70' depth. This is intended to mitigate the potential for liquefaction during future seismic events by pre-consolidating these fill materials.
- Surcharging – following compaction of the materials from which the island was constructed, imported soil will be stockpiled on the development areas to simulate the dead weight of the future buildings and other improvements. This weight will induce the consolidation of the bay mud which underlies the sandy fill materials to mitigate settlement that would otherwise occur after the future buildings are constructed. After surcharging, the imported soil will be removed from the site to achieve the desired finished site elevation.
- Increasing the soil capacity also allows buildings up to 7-stories to be supported on conventional foundations. Taller buildings will require deep foundations.

<u>Seal Level Rise Mitigations</u>

The redevelopment of Treasure Island has been designed to account for sea level rise. Our adaptive management strategy includes:

- Raising the island to guard against sea level rise, including wave run-up.
- All streets will be at least 36 inches higher than the Base Flood Elevation. All ground floors will be 42 inches higher than the FEMA Base Flood Elevation.
- The perimeter of the island will be geotechnically improved. The crest elevation of shoreline structures will be 16-32 inches higher than currently required to mitigate any extreme events, such as tsunamis, high tides and storm surges.
- All residential buildings on the West and North side will be set back at least 350 feet from the shoreline so that the island buffer perimeter can be improved if sea levels continue to rise beyond current projections. This will be financed by a Community Facilities District that will raise $1.2 billion over 99 years for improvements to mitigate against future sea-level rise.

In June 2020, TIDA was awarded a $30 million State of California Housing and Community Development ("HCD") Infill Infrastructure Grant Program ("IIG") funds to conduct a portion of the infrastructure work. The grant is sitewide for Treasure Island

and requires affordable housing to be constructed, but none of the IIG funds will be applied to individual TI affordable housing developments.

V. COMMUNITY PLANNING AND ISLAND AMENITIES

When the Navy vacated Treasure Island in 1997, all community services such as childcare, recreation, and youth programming ceased to operate, and non-code compliant playgrounds were removed. One TI developed a Services Plan that included the reuse of existing facilities to provide community services. The Community Services and Facilities Plan is updated regularly, most recently in 2021. These services were and are seen as critical in both supporting island residents while building opportunities to create a new neighborhood through shared experiences and mutual needs. As part of actively planning for community services and facilities, One TI has also worked with Triple Aim/National Initiative on Mixed Income Communities for strategic guidance, is developing Equity Indicators research and monitoring and working with TIMMA/SFCTA to conduct a Supplemental Transportation Needs Assessment for current TI residents.

The purpose of this section is to describe current amenities on Treasure and Yerba Buena Islands as well as the amenities that are expected to be complete by the time that TI-C3.1 is projected for completion, with a focus on amenities and facilities that are family friendly.

Parks, Playgrounds, Open Space

Approximately ½ mile from the project site (across the street from the restaurant MerSea, at 9th street) is a public playground, picnic area, and dog park.

Residents also enjoy the Perimeter Path - a walking trail along the Bay and a beloved community feature for TI residents.

A portion of Waterfront Plaza in front the Ferry Terminal is expected to open in March 2022 with the entire park scheduled for completion by October 2022. The causeway stormwater garden and associated pedestrian facility including access to the Clipper Cove beach at the east Causeway is also near completion.

On Yerba Buena Island Hilltop Park, a new dog park, and Pier E-2 (at the end of Northgate Road at the east of YBI) are all scheduled to open in April 2022

In addition to the formal parks, pocket parks are planned all around the Shared Public Way which is a car-free bike and pedestrian corridor and many of these improvements will be close to completion by the time the Treasures Island Parcel C3.1 is occupied.

Today, residents have access to baseball, soccer and rugby fields. In addition, a new soccer / sports facility at 9th Street and Avenue M is underway by SF Glens and SF Little league is constructing a replacement baseball field at 8th Street and Avenue M.

Future parks include a Cultural Park by the Chapel and Cityside Park on the western shore, and The Wilds on the northern portion of Treasure Island but no timetable is available for these parks at this time.

Childcare
Catholic Charities runs the current childcare facility on the Island, with 18 enrolled students and a waitlist. The center has capacity for 100 children, but staff capacity currently constrains enrollment. The center will also be available to TI-C3.1 residents.

Schools
Currently, the Life Learning Academy operates a charter high school with 50 students and including 24 students living in the dorm. At this time SFUSD is not operating the existing school facility but SFUSD intends to open a school on Treasure Island in the future.

The YMCA
The Treasure Island Y offers recreation, integrated programs and partnerships throughout the community. The fitness center serves 1,000 members and is free to all Treasure Island residents. Programs and classes respond to community health and wellness needs. Youth programs operate 7 days per week and include a K-8 summer program with excursions. The YMCA currently operates out of the gymnasium facility's basketball courts, three built- out rooms and kitchen.

Ship Shape Community Center
The community center has been operated by One TI for over 20 years and is used for community events and meetings, trainings, a weekly food pantry (serving an average of 200 households a week with staples and fresh produce during COVID-19), a free tax preparation site and a free computer lab.

Library
The San Francisco Public Library operates a weekly bookmobile that parks in front of Ship Shape and YMCA 1-2 days per week. Planning is currently under way for a library kiosk that is projected to be in operation by the time Treasure Island C3.1 is occupied.

Sailing Center
The Sailing Center has been in operation since 1999. The center offers pro-bono programs and scholarships for underserved youth; it serves the Life Learning Academy students, among others. The facility provides services both for elite athletics programs and for local, low-income populations who may not have basic water safety skills.

Grocery Store
Island Cove Market, is a full service grocery store (excluding alcohol) totaling approximately 10,000 square feet in Building 201, 800 Avenue H. Island Market & Deli is a convenience store totaling approximately 410 sq. ft and is located in Building 1.

Community Clinic
The San Francisco Department of Public Health's (DPH) Treasure Island Community Clinic is administered by DPH's Maxine Hall Health Center and is located in a portion of the YMCA. The clinic is staffed by a nurse who provides advice, referrals and drop-in treatment of minor urgent issues. The service is intended for low-income families in order to refer and connect them to primary care if they are not already connected.

Treasure Island Museum
This is a small museum in Building 1 with plans underway for a new and bigger space in Building 1. It envisions having a responsibility to communicate Treasure Island's continuous role in innovation, arts and architecture and to help knit together the residential community. The Museum's place of prominence means it is in a position to introduce visitors to Treasure Island and can also build a sense of place and tell the story of Treasure Island.

VI. AUTHORIZING AGREEMENTS

The purpose of this section is to summarize the authorizing legislation that governs redevelopment. This section also describes enforcement mechanisms to ensure that the principal developer meets its obligations as well as describes revenue sources for affordable housing that are generated by the project. This section first focuses on the Disposition and Development Agreement and then The Amended and Restated Base Closure Homeless Assistance Agreement.

Disposition and Development Agreement
TIDA oversees the redevelopment of Treasure Island and Yerba Buena Island. The Disposition and Development Agreement (the "DDA") dated June 29, 2011 is central to the development of Treasure Island and Yerba Buena Island and guides the work of TIDA. The DDA addresses the obligations of the Treasure Island Community Development, LLC ("Principal Developer") and TIDA with regard to developing infrastructure, housing, commercial and open spaces on Treasure Island/Yerba Buena Island. The DDA also establishes that TIDA will sell or ground lease developable lots to vertical developers in accordance with land use documents including a General Plan Amendment, Development Agreement, and Design for Development. Salient features of the DDA with respect to affordable housing are described below.

> Housing Plan. The DDA contains a Housing Plan that specifies the opportunities and obligations for the development and construction of affordable housing units that have been agreed upon by TIDA and the Principal Developer. The Housing Plan in the DDA allows for the development and construction of up to 1,866 Authority Housing Units including 435 units reserved for homeless households and up to 307 Inclusionary Units, for a total of up to 2,173 Affordable Housing Units representing over 27% of all residential homes when Treasure Island and Yerba Buena Island are fully developed.
>
> The TIDA Housing Projects include affordable units that will be rented to low-income households spanning a wide range of affordability and may include

Transition Units. A detailed description of the rights and benefits of Legacy Households are described below in the next section of this Attachment.

TIDA Housing Projects will be developed by Qualified Housing Developers (as defined in the DDA), and minimally the 435 units for homeless households will be developed by One TI member organizations.

Approximately 21.7% of the acreage of the developable residential pads will be available in 20 parcels to be used for the development of these affordable housing units.

Treasure Island Investment and Principal Developer enforcement mechanisms. The DDA governs enforcement mechanisms to ensure development completion by the Principal Developer. TICD provided Payment and Performance Bonds to TIDA for the infrastructure, utilities, geotechnical improvements and other obligations under the DDA. Further assurances for performance are also provided through the DDA via a Right of Reversionary Quitclaim deed which is recorded on title in the event that TICD were to fail to make the improvements required in each sub phase.

While any undertaking of this infrastructure and geotechnical scope, depth and breadth carries risk, it's worth acknowledging the deep investments that have already been made by the City and TICD, the most significant being the City's approval of an equity and construction loan guarantee of Parcel 3.2 - Maceo May, a 100% affordable housing development for homeless and low-income veterans. While this loan guarantee will not be available to other commercial lenders of the affordable housing developments, the guarantee demonstrates the City's commitment to TI affordable housing development.

Other deep City and TICD investments are Treasure Island's creation of its own transportation management agency, the Treasure Island Mobility Management Agency (TIMMA), which has successfully achieved State legislation authorizing congestion toll pricing. TIDA has also created its Infrastructure Financing District in order to start accruing tax increment and the first tranche of IRFD proceeds for affordable housing is expected by Q3 2022.

TICD has invested well over $100 million into the approval process for the DDA and its Major Phase and Sub-phase plans. The Principal Developer continues to deliver Payment & Performance bonds totaling several million dollars for the various scope of work for which it its responsible. The Principal Developer has invested heavily and would lose the right to develop if it does not deliver on the horizontal and then the vertical improvements.

Treasure Island-specific revenue opportunities. Per the DDA, TICD is required to provide a payment of $17,500 per market-rate unit at the transfer of a market rate lot to a vertical developer to subsidize the affordable units. These funds, as well as tax increment financing generated by a new infrastructure financing district, and typical Jobs-Housing Linkage fees related to commercial space

development, will help finance the affordable units. However, these funds were not available for the first affordable housing development, Maceo May, which was funded by City affordable housing sources. It is anticipated that Treasure Island Parcel C3.1, developed by Mercy, will receive some of the first tax increment financing. Depending when the funds are available, the funding will either be an upfront commitment or made through an amendment allowing the funds to replace committed City funds.

TIDA intends to request a forward commitment from TICD if needed in order to accelerate the development of future projects. The ability to request a forward capital commitment from TICD was contemplated in the DDA Section 8.4(e) of the Housing Plan in order to help transition Legacy Households (described below).

The Amended and Restated Base Closure Homeless Assistance Agreement
One Treasure Island ("One TI") (formerly the Treasure Island Homeless Development Initiative ("TIHDI") was formed in 1994 and is a non-profit membership organization committed to developing the homeless component of the land use plan for redevelopment.

The Amended and Restated Base Closure Homeless Assistance Agreement ("Base Closure Agreement") dated June 28, 2011, outlines all TIDA obligations with respect to housing and services for current and formerly homeless individuals and families to be provided by One TI and also governs certain new housing, employment and economic development opportunities that are managed by One TI in four broad categories:

- **Housing for homeless households:** At least 435 units (total including replacement units)
- **Employment:** 25% hiring goal for construction and permanent jobs
- **Economic Development:** Service Contracts and social enterprises that hire and train people with barriers to employment
- **Services:** Spaces for community center, youth services and administrative offices

The Agreement also describes replacement unit obligations for current residents and is described in detail below.

VII. EXISTING TREASURE ISLAND RESIDENTS

As of the signing of the DDA between TIDA and TICD in 2011, there were 250 existing affordable housing units for formerly homeless households and approximately 350 existing market rate housing units on all of TI. There is no physical distinction between the market rate units and the affordable units. The former Navy housing is comprised of a scattered site of 2-to-4-bedroom units in predominantly 6-to-8-unit buildings. This section describes current Treasure Island demographics (no residents currently live on YBI) and the rights and benefits of both the market rate households and the formerly homeless households living in One Treasure Island units.

Demographics
In May 2020, an audit provided a count of residents currently residing within Treasure Island's housing units, including those who reside at the Job Corps Center. According to U.S. Census Bureau data since base closure, the age profile of Island residents has skewed younger (median age of 26.2 during the 2010 census) than San Francisco as a whole (median age of 36.3) and the greater San Francisco/Oakland/Hayward Metro area (median age of 38.8). The population on the Island has included 50% more children and a higher percentage of young adults than in greater San Francisco.

Also, according to 2010 census data, higher percentages of Treasure Island residents identified as Black, Native Hawaiian or Other Pacific Islander and American Indian or Alaska Native than in San Francisco as a whole and the Metro area. Much higher percentages of Treasure Island residents also selected the categories of "Other" and "Two or More Races", and twice as many Island residents identified as Hispanic or Latino than in San Francisco citywide.

The 2010 data set also showed that Island residents have lower incomes than the Metro area and significantly lower incomes than San Francisco as a whole. According to the data, median household income for Island residents was 44% lower than for the City as a whole, and more than 48% of Island residents were below the poverty level, compared to about 11% citywide.

At the time of the audit, Treasure Island had 117 businesses with approximately 888 employees, working in a variety of sectors: manufacturing, transportation, construction, real estate, healthcare, and public administration sectors. Employment was disrupted in 2020 with the COVID-19 pandemic. The effect of the pandemic on Island businesses is not yet known.

At buildout, Treasure Island overall compared to San Francisco as a whole is projected to be more diverse, with a smaller percentage of residents identifying as white, a higher percentage identifying as Black and a slightly higher percentage identifying as two or more races. The income levels expected on the island will also be different from San Francisco as a whole, with most residents at the higher and lower ends of the income spectrum and a small amount of moderate- and middle- income residents. This is a direct result of the commitment to inclusionary and affordable housing.

The Villages at Treasure Island Households and Transition to New Housing
Market rate housing on Treasure Island is operated by the John Stewart Company and the development is called The Villages at Treasure Island (The Villages). As of the signing of the DDA between TIDA and TICD in 2011, there were approximately 350 existing market rate housing units. As of January 2022, 167 households (or household members) were living at The Villages at the time the DDA was executed.

The DDA contains a Housing Plan that specifies the opportunities and obligations for the development and construction of affordable housing units that have been agreed

upon by TIDA and TICD. The Housing Plan also includes the Transition Housing Rules and Regulations (the "Transition Regulations"; Attachment C of the Housing Plan), which defines the replacement unit obligations and other benefits that apply to market rate tenants living at The Villages at the time the DDA was executed. TIDA is solely responsible for coordinating and providing benefits and services to eligible households and residents per the Transition Regulations, and TIDA will ensure that Transition Units are provided as needed within Authority Housing Projects in order to meet its replacement housing obligations under the Housing Plan. ("Authority Housing Project" is defined in the DDA and includes affordable units that will be rented to low-income households spanning a wide range of affordability and may include Transition Units.) Transition Units are apartments that are not income restricted at initial occupancy and are designated for Legacy Households only. Transition Units become income restricted after all Legacy Households have received a Transition Benefit. Rent for the Transition Unit is based on current rent adjusted annually per rent increases allowed by the Rent Board.

The Transition Regulations were modified as requested by Board of Supervisors Resolution No. 476-19 and as approved by the TIDA Board Resolution no. 19-28-1211 to provide an affordable housing preference for new Treasure Island affordable units to income qualifying market rate residents who moved into The Villages subsequent to June 30, 2011 and were still residents in good standing on December 11, 2019.

In sum, TIDA recognizes three categories of household and individual eligibility for new Authority Housing Units, Transition Units, and Inclusionary Units broadly summarized below:

1) **"Legacy Household"** (formerly referred to as "Pre-DDA Household") is a current household in good standing that has continuously rented and occupied an apartment at The Villages prior to the execution of the DDA. Only Legacy Households can occupy a **Transition Unit**.

2) **"Legacy Resident"** is a current resident in good standing living in a Legacy Household that has continuously rented and occupied an apartment at The Villages prior to the execution of the DDA.

3) **"Vested Resident"** (formerly referred to as "Post-DDA Household") is a current resident who has rented and occupied an apartment at The Villages whose tenancy began after June 29, 2011, and before December 11, 2019. All households that moved to TI after the DDA was approved in June 2011 were made aware of the temporary nature of their tenancy and that they are ineligible for transition benefits.

All existing residents living at The Villages will eventually be obligated to move as existing housing is demolished over time.

As of February 2022 TIDA, estimates that 310 households fall into the categories above representing approximately 820 individuals. Most notably, 164 households living at The Villages today are eligible for a Transition Unit.

The Legacy Households, regardless of income, will receive transition benefits from TIDA in the form of a Transition Unit and moving services or lump sum payment or down payment assistance. Legacy Residents and Vested Residents also receive a preference for affordable housing units if they income qualify via DAHLIA that can be used for new affordable units and inclusionary units. Vested Resident preferences are subordinate to Legacy Residents.

Significant collaboration has already occurred between MOHCD and TIDA to establish the Treasure Island Resident preference on DAHLIA. The first opportunity for Legacy and Vested Residents to use this preference is for 14 for-sale inclusionary units at the Bristol on Yerba Buena Island. The Bristol lottery occurred February 2022 and 9 applicants entered the lottery using their Treasure Island Resident preference number.

As mentioned, Legacy Households are entitled to replacement units per the conditions described as described in the Transition Regulations section of the DDA. MOHCD and TIDA will regularly monitor the delivery of development fees for the affordable projects throughout the build-out of Treasure Island.

One Treasure Island Households and Transition to New Housing

One TI member organizations currently operate 260 units of housing on Treasure Island. The specific member organizations and number of current units occupied by One TI members include: Catholic Charities (71 units), HomeRise (formerly Community Housing Partnership) (114 units), Swords to Plowshares (31 units) and HealthRIGHT 360 (44 units used to operate housing residential treatment and transitional housing beds).

One TI units are supported by Continuum of Care contracts or other federal, state, or local operating subsidy. Existing operating subsidy contracts of these units will be transferred to the owner of the affordable housing development directly or through a MOU and/or letter between the nonprofit who is the recipient of the operating grant agreement and owner of the new affordable development. Existing One TI households in good standing are guaranteed a new replacement unit in a new affordable building.

One TI Units are guided by the Base Closure Agreement. The Base Closure Agreement outlines all TIDA obligations with respect to housing and services for current and formerly homeless individuals and families to be provided by One TI and also governs certain new housing, employment and economic development opportunities that are managed by One TI. Replacement unit obligations are detailed in Exhibit E to the Base Closure Agreement, the One TI Transition Housing Plan.

The One TI Transition Housing Plan establishes the rights and benefits of One TI households to a new unit and to moving benefits and services. Households and residents who reside in One TI Units are not eligible for benefits under the Transition Regulations within the Housing Plan of the DDA.

One TI unit replacement is planned to be completed within the first five Authority Housing Projects in order to meet the terms of the Agreement. The first 5 affordable projects on Treasure Island assume replacement units for the existing 260 One TI units.

One TI worked with all its member housing service providers (Swords to Plowshares, Catholic Charities, HomeRise, Healthright 360) to determine the order of replacement units which is also informed by available funding sources at the time the land is available for construction.

Swords was the first project selected to proceed, with Chinatown Community Development Corporation as its development partner. Catholic Charities was the second project to proceed, with One TI member Mercy Housing California as its development partner. The third and fourth projects will include replacement of HR360 and HomeRise (formerly Community Housing Partnership) units. TIDA and MOHCD both approved the order and process. Below is a chart showing the One TI housing services providers, the selected housing development partner, estimated number of units and the percent of each existing pre-DDA household by unit type living on Treasure Island in comparison to the first five affordable housing developments on TI.

	EXISTING LEGACY UNITS		AFFORDABLE DEVELOPMENTS WITH DEVELOPMENT STATUS & LEGACY UNITS BY UNIT MIX FOR EACH AFFORDABLE DEVELOPMENT				
Unit Type by Bedroom	All Current Legacy Units by Unit Mix as of 12.29.20	% of Legacy Units to total Legacy Units	In Construction C3.2 Maceo May Sword + CCDC	In Construction C3.1 Star View Court Mercy + CC	Proposed E1.2 TBD HR360 + Mercy (a)	In Planning IC3.4 TBD CHP - TBD Developer (b)	In Planning IC3.4 TBD TBD Developer (c)
0	0	0%	24	0	50	TBD	TBD
1	0	0%	47	23	49	TBD	TBD
2	32	17%	33	60	0	TBD	TBD
3	85	45%	0	40	0	TBD	TBD
4	72	38%	0	14	0	TBD	TBD
Mgr's Unit	Unknown	N/A	1	1	1	TBD	TBD
Total	**189**	**100%**	**105**	**138**	**100**	**150**	**155**

Notes:

(a) 10% of units in MHC portion of parcel will be for Legacy Households and up to 20% will be for homeless households.

(b) No Legacy Units assumed on this parcel.

(c) It is anticipated that any Legacy Household that has not taken an in-liew payment, orn and inclusionary unit, or a Transition Unit in an Authority building will be housed in this development.

One TI Services Fee. Pursuant to the One TI Member Organization Policy dated January 1, 2019, participating Member Organizations must agree to provide any of the following services for activities for persons living or working on Treasure Island: affordable housing development, affordable housing operations, supportive services, community services, job referrals, job placements, or job training in furtherance of One TI's mission on Treasure Island and in accordance with One TI's Agreement with TIDA.

For Member Organizations that are housing developers, a One TI services fee of $3,000 per year in 2019 ("Housing Services Fee") is expected to be paid annually from project operations of new affordable housing developments. The Housing Services Fee will increase 3.5% per year. On January 29, 2021, MOHCD and TIDA agreed that the Housing Services Fee would be disbursed from the operating budget prior to reserves, ground lease rent, and bond fees. The obligation to pay the Housing Services Fee will commence once a housing developer's affordable housing property obtains its certificate of occupancy and is available for rent. The Housing Services Fee will support One TI's ongoing

efforts to foster a thriving, mixed-income community, including, by way of example these types of activities:

- One TI convenes and/or supports meetings by TIDA and other TI stakeholders operating on Treasure Island whose purpose is to troubleshoot practical issues, plan/coordinate joint activities (such as Back to School and Black History Month) and to communicate and implement policies in a consistent and coordinated manner to all Treasure Island tenants, regardless of housing provider;
- One TI facilitates bi-monthly community-wide meetings for tenants, clients and other Treasure Island residents hosted by One TI, TIDA and/or the Property Management Agent (currently, The John Stewart Company);
- Increase Treasure Island residents' opportunities for island-based job placement and participation in financial health programs;
- Plan, coordinate and ensure a range of social, educational and recreational opportunities for children and youth, such as, childcare spaces, after school and summer school programming;
- Coordinate community-wide events; and
- Develop and implement a community building plan

As of January 1, 2019, the Housing Services Fee specifically supports the One TI activities listed below.

- Access to weekly food pantry
- Job training and placement opportunities
- Access to free computer lab
- Access to free financial literacy & education services
- Access to free tax preparation site
- Community building events such a Halloween and Black History Month, community meetings and leadership trainings

For affordable housing developments not built by Member Organizations, One TI anticipates that those housing developers will join One TI.

Attachment B:
Permanent Sources & Uses

Application Date: **# Units:** 105
Project Name: Maceo May Apartments **# Bedrooms:** 138
Project Address: 55 CRAVATH **# Beds:**
Project Sponsor: Chinatown CDC, Swords to Plowshares

												Total Sources	Comments
SOURCES	**24,255,000**	**14,983,000**	**1,987,768**	**10,000,000**	**1,040,000**	**800,000**	**-**	**-**	**1,100,000**	**27,525,002**	**28,587,290**	**110,278,060**	
Name of Sources:	MOHCD/OCII	New City Loan #3	TE Perm Bond	HCD VHHP	AHP Loan	Deferred Dev Fee			GP Equity	LP Equity	Insurance Proceeds		
USES													
ACQUISITION													
Acquisition cost or value												0	
Legal / Closing costs / Broker's Fee												0	
Holding Costs												0	
Transfer Tax												0	
TOTAL ACQUISITION	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	
CONSTRUCTION (HARD COSTS)													
* Unit Construction/Rehab	17,843,607	12,350,542		5,431,809	1,040,000				0	18,952,128	26,857,756	82,475,842	Water instruion Damage Repairs (hard cost) $31.5MM
* Commercial Shell Construction												0	
* Demolition												0	
Environmental Remediation												0	
* Onsight Improvements/Landscaping												0	
* Offsite Improvements												0	
* Infrastructure Improvements												0	
Parking												0	
GC Bond Premium/GC Insurance/GC Taxes												0	0.0%
GC Overhead & Profit	1,612,832		356,855									1,969,687	2.3%
CG General Conditions			27,397	2,424,195								2,451,592	2.8%
Sub-total Construction Costs	*19,456,439*	*12,350,542*	*384,252*	*7,856,004*	*1,040,000*	*0*	*0*	*0*	*0*	*18,952,128*	*26,857,756*	*86,897,121*	
Design Contingency (remove at DD)												0	5% up to $30MM HC, 4% $30-$45MM, 3% $45MM+ 0.0%
Bid Contingency (remove at bid)												0	5% up to $30MM HC, 4% $30-$45MM, 3% $45MM+ 0.0%
Plan Check Contingency (remove/reduce during Plan Review)												0	4% up to $30MM HC, 3% $30-$45MM, 2% $45MM+ 0.0%
Hard Cost Construction Contingency										2,762,188		2,762,188	5% new construction / 15% rehab 3.2%
Sub-total Construction Contingencies	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*2,762,188*	*0*	*2,762,188*	
TOTAL CONSTRUCTION COSTS	**19,456,439**	**12,350,542**	**384,252**	**7,856,004**	**1,040,000**	**0**	**0**	**0**	**0**	**21,714,316**	**26,857,756**	**89,659,309**	

Construction line item costs as a % of hard costs

SOFT COSTS													
Architecture & Design													
Architect design fees	2,290,488	9,094	478,007								54,600	2,832,189	$63k arch design + subs soft cost water intrusion add
Design Subconsultants to the Architect (incl. Fees)	242,485											242,485	
Architect Construction Admin												0	
Reimbursables												0	
Additional Services	0											0	
Sub-total Architect Contract	*2,532,973*	*9,094*	*478,007*	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*54,600*	*3,074,674*	
Other Third Party design consultants (not included under Architect contract)	50,023	32,000	391,014									473,037	$32k Water intrusion testing/inspection soft cost add
Total Architecture & Design	**2,582,996**	**41,094**	**869,021**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**54,600**	**3,547,711**	
Engineering & Environmental Studies													
Survey	1,500									16,500		18,000	
Geotechnical studies	66,628											66,628	
Phase I & II Reports	18,240											18,240	
CEQA / Environmental Review consultants												0	
NEPA / 106 Review												0	
CNA/PNA (rehab only)												0	
Other environmental consultants												0	Name consultants & contract amounts
Total Engineering & Environmental Studies	**86,368**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**16,500**	**0**	**102,868**	
Financing Costs													
Construction Financing Costs													
Construction Loan Origination Fee	15,000		203,520									218,520	
Construction Loan Interest		979,295								1,791,469	654,886	3,425,650	$1.6MM add for water intrusion construction delay add
Title & Recording			100,000									100,000	
CDLAC & CDIAC fees			20,296									20,296	
Bond Issuer Fees		79,044								261,986		341,030	$79k increase cost for Issuer and Trustee fees
Other Bond Cost of Issuance	27,999									54,184		82,183	*Lender Expenses $18k, COI Contingency $22k, Trustee fee $13k*
Other: Owner's Rep, Misc. Syndication Cost, City FA	4,400											4,400	
Sub-total Const. Financing Costs	*47,399*	*1,058,339*	*323,816*	*0*	*0*	*0*	*0*	*0*	*0*	*2,107,639*	*654,886*	*4,192,079*	
Permanent Financing Costs													
Permanent Loan Origination Fee			87,720									87,720	
Credit Enhance. & Appl. Fee												0	
Title & Recording			10,000									10,000	
Sub-total Perm. Financing Costs	*0*	*0*	*97,720*	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*97,720*	
Total Financing Costs	**47,399**	**1,058,339**	**421,536**	**0**	**0**	**0**	**0**	**0**	**0**	**2,107,639**	**654,886**	**4,289,799**	
Legal Costs													
Borrower Legal fees	38,363	140,000								53,887	20,000	252,250	$160k legal water intrusion add
Land Use / CEQA Attorney fees												0	
Tax Credit Counsel										35,000		35,000	
Bond Counsel			92,350									92,350	
Construction Lender Counsel			150,000									150,000	
Permanent Lender Counsel												0	
* City Attorney/Issuer Counsel			20,000									20,000	
Total Legal Costs	**38,363**	**140,000**	**262,350**	**0**	**0**	**0**	**0**	**0**	**0**	**88,887**	**20,000**	**549,600**	
Other Development Costs													
Appraisal	6,500									8,500		15,000	
Market Study	6,000									1,500		7,500	
* Insurance	1,072,184	1,297,928	50,609								831,952	3,252,673	BDR policy extended after exp. 2/28/22 ($2.1MM)
* Property Taxes												0	
Accounting / Audit		5,000								50,000		55,000	$5K for add'l audit related to water intrusion
* Organizational Costs												0	
Entitlement / Permit Fees	425,770		0	1,529,146								1,954,916	
* Marketing / Rent-up										179,021		179,021	
* Furnishings			0	614,850								614,850	$2,000/unit; See MOHCD U/W Guidelines on: http://sfmohcd.org/documents-reports-and-forms
PGE / Utility Fees												0	
TCAC App / Alloc / Monitor Fees	33,333	216								35,187		68,736	$216 added TCAC fees
* Financial Consultant fees	46,300									59,300		105,600	
Construction Management fees / Owner's Rep	142,453	5,000								76,997	30,000	254,450	$35k water intrusion add
Security during Construction												0	
* Relocation												0	
Services Set-Up										68,987		68,987	
Other: Green (50% of Total) MEP Peer Refview	160,895											160,895	
Other (specify)												0	
Total Other Development Costs	**1,893,435**	**1,308,144**	**50,609**	**2,143,996**	**0**	**0**	**0**	**0**	**0**	**479,492**	**861,952**	**6,737,628**	
Soft Cost Contingency													
Contingency (Arch, Eng, Fin, Legal & Other Dev)		65,604		0	0	0	0	0	0	441,900	138,096	645,600	Soft cost contingency Water intrusion add $203k
TOTAL SOFT COSTS	**4,648,561**	**2,613,181**	**1,603,516**	**2,143,996**	**0**	**0**	**0**	**0**	**0**	**3,134,418**	**1,729,534**	**15,873,206**	

Total Soft Cost Contingency as % of Total Soft Costs 4.2%

RESERVES													
* Operating Reserves		19,277								546,268		565,545	$19.2k increase due to perm int. rate
Replacement Reserves												0	
* Tenant Improvements Reserves												0	
* Subsidy Transition Reserve										680,000		680,000	
* Other (specify)												0	
* Other (specify)												0	
TOTAL RESERVES	**0**	**19,277**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**1,226,268**	**0**	**1,245,545**	
DEVELOPER COSTS													
Developer Fee - Cash-out Paid at Milestones	150,000									500,000		650,000	
Developer Fee - Cash-out At Risk										950,000		950,000	
Commercial Developer Fee												0	
Developer Fee - GP Equity (also show as source)									1,100,000			1,100,000	
Developer Fee - Deferred (also show as source)						800,000						800,000	
Development Consultant Fees												0	Need MOHCD approval for this cost, N/A for most projects
Other (specify)												0	
TOTAL DEVELOPER COSTS	**150,000**	**0**	**0**	**0**	**0**	**800,000**	**0**	**0**	**1,100,000**	**1,450,000**	**0**	**3,500,000**	
TOTAL DEVELOPMENT COST	**24,255,000**	**14,983,000**	**1,987,768**	**10,000,000**	**1,040,000**	**800,000**	**0**	**0**	**1,100,000**	**27,525,002**	**28,587,290**	**110,278,060**	
Development Cost/Unit by Source	231,000	142,695	18,931	95,238	9,905	7,619	0	0	10,476	262,143	272,260	1,050,267	
Development Cost/Unit as % of TDC by Source	22.0%	13.6%	1.8%	9.1%	0.9%	0.7%	0.0%	0.0%	1.0%	25.0%	25.9%	100.0%	
Acquisition Cost/Unit by Source	0	0	0	0	0	0	0	0	0	0	0	0	
Construction Cost (inc Const Contingency)/Unit By Source	185,299	117,624	3,660	74,819	9,905	0	0	0	0	206,803	255,788	853,898	
Construction Cost (inc Const Contingency)/SF	167.04	106.03	3.30	67.45	8.93	0.00	0.00	0.00	0.00	186.43	230.58	769.76	

**Possible non-eligible GO Bond/COP Amount:* 18,962,091
City Subsidy/Unit 231,000

Tax Credit Equity Pricing: 0.996
Construction Bond Amount: 43,704,000
Construction Loan Term (in months): 48 months
Construction Loan Interest Rate (as %): 2.82%

Attachment C:
1st Year Operating Budget & 20-Year Cash Flow
With 2019 rents and 2019 VASH FMRs

Application Date: | **Project Name:** Maceo May Apartments
Total # Units: 105 | **Project Address:** 55 CRAVATH
First Year of Operations (provide data assuming that Year 1 is a full year, i.e. 12 months of operations): 2024 | **Project Sponsor:** Chinatown CDC, Swords to Plowshares

INCOME	Total	Comments
Residential - Tenant Rents	1,418,712	Links from 'New Proj - Rent & Unit Mix' Worksheet
Residential - Tenant Assistance Payments (Non-LOSP)	1,076,184	Links from 'New Proj - Rent & Unit Mix' Worksheet
Commercial Space	0	from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%
Residential Parking	0	Links from 'Utilities & Other Income' Worksheet
Miscellaneous Rent Income	0	Links from 'Utilities & Other Income' Worksheet
Supportive Services Income		
Interest Income - Project Operations	0	Links from 'Utilities & Other Income' Worksheet
Laundry and Vending	5,569	Links from 'Utilities & Other Income' Worksheet
Tenant Charges	0	Links from 'Utilities & Other Income' Worksheet
Miscellaneous Residential Income	0	Links from 'Utilities & Other Income' Worksheet
Other Commercial Income	0	from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%
Withdrawal from Capitalized Reserve (deposit to operating account)		
Gross Potential Income	**2,500,465**	
Vacancy Loss - Residential - Tenant Rents	(83,645)	Vacancy loss is 5.9% of Tenant Rents.
Vacancy Loss - Residential - Tenant Assistance Payments	(53,809)	Vacancy loss is 5% of Tenant Assistance Payments.
Vacancy Loss - Commercial	0	from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%
EFFECTIVE GROSS INCOME	**2,363,011**	***PUPA: 22,505***

OPERATING EXPENSES

Management		
Management Fee	81,900	1st Year to be set according to HUD schedule.
Asset Management Fee	22,670	
Sub-total Management Expenses	**104,570**	***PUPA: 996***
Salaries/Benefits		
Office Salaries	56,015	1 FTE Assistant Property Manager
Manager's Salary	64,200	1 FTE Property Manager
Health Insurance and Other Benefits	63,048	All staff except services and desk clerks; 24% Health Insurance & Benefits; 2.5% 403(b)
Other Salaries/Benefits		
Administrative Rent-Free Unit		
Sub-total Salaries/Benefits	**183,263**	***PUPA: 1,745***
Administration		
Advertising and Marketing	825	
Office Expenses	18,900	Office supplies, phone & computer services
Office Rent		
Legal Expense - Property	9,600	
Audit Expense	14,000	
Bookkeeping/Accounting Services	15,750	
Bad Debts	400	
Miscellaneous	54,250	$47,250 TIDG HOA fee
Sub-total Administration Expenses	**113,725**	***PUPA: 1,083***
Utilities		
Electricity	71,000	
Water	42,000	
Gas	0	All Electric
Sewer	54,600	
Sub-total Utilities	**167,600**	***PUPA: 1,596***
Taxes and Licenses		
Real Estate Taxes	0	
Payroll Taxes	19,033	All staff except services and desk clerks
Miscellaneous Taxes, Licenses and Permits	900	
Sub-total Taxes and Licenses	**19,933**	***PUPA: 190***
Insurance		
Property and Liability Insurance	415,000	Gallager quote updated 10/5/22
Fidelity Bond Insurance		
Worker's Compensation	14,275	
Director's & Officers' Liability Insurance		
Sub-total Insurance	**429,275**	***PUPA: 4,088***
Maintenance & Repair		
Payroll	117,700	2.0 FTE□
Supplies	13,200	$3k cleaning; $10k repairs & unit turns□
Contracts	126,400	$76k janitorial; $12k pest; $7k landscape; $27k elevator
Garbage and Trash Removal	33,600	
Security Payroll/Contract	264,746	lerks, includes benefits
HVAC Repairs and Maintenance	41,000	
Vehicle and Maintenance Equipment Operation and Repairs		
Miscellaneous Operating and Maintenance Expenses		
Sub-total Maintenance & Repair Expenses	**596,646**	***PUPA: 5,682***
Supportive Services	213,343	Per HCD-required services
Commercial Expenses	0	from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%
TOTAL OPERATING EXPENSES	***1,828,355***	***PUPA: 17,413***

Reserves/Ground Lease Base Rent/Bond Fees			
Ground Lease Base Rent	15,000	Ground lease with TIDA	Provide additional comments here, if needed.
Bond Monitoring Fee	16,465	$11k MOHCD; $3kTIHDI Annual Services Fee/ $2.5kTrustee Fee	
Replacement Reserve Deposit	52,500	500 PUPY, per HCD requirements	
Operating Reserve Deposit			
Other Required Reserve 1 Deposit			
Other Required Reserve 2 Deposit			
Required Reserve Deposit/s, Commercial	0	from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%	
Sub-total Reserves/Ground Lease Base Rent/Bond Fees	**83,965**	***PUPA: 800***	

TOTAL OPERATING EXPENSES (w/ Reserves/GL Base Rent/ Bond Fees)	**1,912,320**	***PUPA: 18,213***	Min DSCR: 1.15; Mortgage Rate: 5.90%; Term (Years): 25
NET OPERATING INCOME (INCOME minus OP EXPENSES)	**450,691**	***PUPA: 4,292***	Supportable 1st Mortgage Pmt: 391,905; Supportable 1st Mortgage Amt: $5,117,304; Proposed 1st Mortgage Amt: $1,987,768

DEBT SERVICE/MUST PAY PAYMENTS ("hard debt"/amortized loans)

Hard Debt - First Lender	200,000	Tax-Exempt Perm Loan	Provide additional comments here, if needed.
Hard Debt - Second Lender (HCD Program 0.42% pymt, or other 2nd Len	42,000	HCD VHHP Program	Provide additional comments here, if needed.
Hard Debt - Third Lender (Other HCD Program, or other 3rd Lender)	0		Provide additional comments here, if needed.
Hard Debt - Fourth Lender	0		Provide additional comments here, if needed.
Commercial Hard Debt Service	0	from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%	
TOTAL HARD DEBT SERVICE	**242,000**	***PUPA: 2,305***	

CASH FLOW (NOI minus DEBT SERVICE)	**208,691**	
USES OF CASH FLOW BELOW (This row also shows DSCR.)	***1.86***	
USES THAT PRECEDE MOHCD DEBT SERVICE IN WATERFALL		
"Below-the-line" Asset Mgt fee (uncommon in new projects, see policy)		
Partnership Management Fee (see policy for limits)	22,650	2; MOHCD 2021 Amt.
Investor Service Fee (aka "LP Asset Mgt Fee") (see policy for limits)	5,000	1; Annual Amt
Other Payments		
Non-amortizing Loan Pmnt - Lender 1 (select lender in comments field)		Provide additional comments here, if needed.
Non-amortizing Loan Pmnt - Lender 2 (select lender in comments field)		Provide additional comments here, if needed.
Deferred Developer Fee (Enter amt <= Max Fee from cell I130)	90,520	Def. Develop. Fee split: 50% — Provide additional comments here, if needed.
TOTAL PAYMENTS PRECEDING MOHCD	**118,170**	***PUPA: 1,125***
RESIDUAL RECEIPTS (CASH FLOW minus PAYMENTS PRECEDING MOHCD)	**90,521**	

Residual Receipts Calculation

Does Project have a MOHCD Residual Receipt Obligation?	**Yes**	Project has MOHCD ground lease?	**No**
Will Project Defer Developer Fee?	**Yes**		
Max **Deferred Developer Fee/Borrower** % of Residual Receipts in Yr 1:	50%	Max Deferred Developer Fee Amt (Use for data entry above. Do not link.):	**90,520**
% of Residual Receipts available for distribution to **soft debt lenders** in	50%		

Soft Debt Lenders with Residual Receipts Obligations	*(Select lender name/program from drop down)*	**Total Principal Amt**	**Distrib. of Soft Debt Loans**
MOHCD/OCII - Soft Debt Loans	All MOHCD/OCII Loans payable from res. rects	$39,218,237	79.44%
MOHCD/OCII - Ground Lease Value or Land Acq Cost	Ground Lease Value	$150,000	0.30%
HCD (soft debt loan) - Lender 3	HCD VHHP Program	$10,000,000	20.26%
Other Soft Debt Lender - Lender 4			0.00%
Other Soft Debt Lender - Lender 5			0.00%

MOHCD RESIDUAL RECEIPTS DEBT SERVICE

MOHCD Residual Receipts Amount Due	72,185	50% of residual receipts, multiplied by 79.74% -- MOHCD's pro rata share of all soft debt
Proposed MOHCD Residual Receipts Amount to Loan Repayment	72,185	Enter/override amount of residual receipts proposed for loan repayment.
Proposed MOHCD Residual Receipts Amount to Residual Ground Lease	0	If applicable, MOHCD residual receipts amt due LESS amt proposed for loan repymt.
REMAINING BALANCE AFTER MOHCD RESIDUAL RECEIPTS DEBT SERVICE	**18,336**	

NON-MOHCD RESIDUAL RECEIPTS DEBT SERVICE

HCD Residual Receipts Amount Due	18,336	50% of residual receipts, multiplied by 20.26% -- HCD VHHP Program's pro rata share of all so
Lender 4 Residual Receipts Due	0	
Lender 5 Residual Receipts Due	0	
Total Non-MOHCD Residual Receipts Debt Service	**18,336**	
REMAINDER (Should be zero unless there are distributions below)	**(0)**	
Owner Distributions/Incentive Management Fee	0	
Other Distributions/Uses	0	
Final Balance (should be zero)	**0**	

Maceo May Apartments

Total # Units: *105*

INCOME	% annual increase	Comments (related to annual inc assumptions)	Year 1 2024 Total	Year 2 2025 Total	Year 3 2026 Total	Year 4 2027 Total	Year 5 2028 Total	Year 6 2029 Total	Year 7 2030 Total	Year 8 2031 Total	Year 9 2032 Total	Year 10 2033 Total
Residential - Tenant Rents	2.0%		1,418,712	1,447,086	1,476,028	1,505,549	1,535,659	1,566,373	1,597,700	1,629,654	1,662,247	1,695,492
Residential - Tenant Assistance Payments (Non-LOSP)	n/a		1,076,184	1,097,708	1,119,662	1,142,055	1,164,896	1,188,194	1,211,958	1,236,197	1,260,921	1,286,140
Commercial Space	2.5%	from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%	-	-	-	-	-	-	-	-	-	-
Residential Parking	2.0%		-	-	-	-	-	-	-	-	-	-
Miscellaneous Rent Income	2.0%		-	-	-	-	-	-	-	-	-	-
Supportive Services Income	2.0%		-	-	-	-	-	-	-	-	-	-
Interest Income - Project Operations	2.0%		-	-	-	-	-	-	-	-	-	-
Laundry and Vending	2.0%		5,569	5,681	5,794	5,910	6,028	6,149	6,272	6,397	6,525	6,656
Tenant Charges	2.0%		-	-	-	-	-	-	-	-	-	-
Miscellaneous Residential Income	2.0%		-	-	-	-	-	-	-	-	-	-
Other Commercial Income	2.5%	from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%	-	-	-	-	-	-	-	-	-	-
Withdrawal from Capitalized Reserve (deposit to operating account)	n/a	Link from Reserve Section below, as applicable	-									
Gross Potential Income			**2,500,465**	**2,550,475**	**2,601,484**	**2,653,514**	**2,706,584**	**2,760,716**	**2,815,930**	**2,872,249**	**2,929,694**	**2,988,287**
Vacancy Loss - Residential - Tenant Rents	n/a	Enter formulas manually per relevant MOH policy; annual incrementing usually not appropriate; increased % to include 10% vacancy loss on 15 unsubsidized units	(83,645)	(85,318)	(87,024)	(88,765)	(90,540)	(92,351)	(94,198)	(96,082)	(98,004)	(99,964)
Vacancy Loss - Residential - Tenant Assistance Payments	n/a		(53,809)	(54,885)	(55,983)	(57,103)	(58,245)	(59,410)	(60,598)	(61,810)	(63,046)	(64,307)
Vacancy Loss - Commercial	n/a		-	-	-	-	-	-	-	-	-	-
EFFECTIVE GROSS INCOME			**2,363,011**	**2,410,271**	**2,458,477**	**2,507,646**	**2,557,799**	**2,608,955**	**2,661,134**	**2,714,357**	**2,768,644**	**2,824,017**
OPERATING EXPENSES												
Management												
Management Fee	3.0%	1st Year to be set according to HUD schedule.	81,900	84,357	86,888	89,494	92,179	94,945	97,793	100,727	103,748	106,861
Asset Management Fee	3.0%	per MOHCD policy	22,670	23,350	24,051	24,772	25,515	26,281	27,069	27,881	28,718	29,579
Sub-total Management Expenses			**104,570**	**107,707**	**110,938**	**114,266**	**117,694**	**121,225**	**124,862**	**128,608**	**132,466**	**136,440**
Salaries/Benefits												
Office Salaries	3.0%		56,015	57,695	59,426	61,209	63,045	64,937	66,885	68,891	70,958	73,087
Manager's Salary	3.0%		64,200	66,126	68,110	70,153	72,258	74,425	76,658	78,958	81,327	83,766
Health Insurance and Other Benefits	3.0%		63,048	64,939	66,888	68,894	70,961	73,090	75,283	77,541	79,867	82,263
Other Salaries/Benefits	3.0%		-	-	-	-	-	-	-	-	-	-
Administrative Rent-Free Unit	3.0%		-	-	-	-	-	-	-	-	-	-
Sub-total Salaries/Benefits			**183,263**	**188,761**	**194,424**	**200,256**	**206,264**	**212,452**	**218,826**	**225,390**	**232,152**	**239,117**
Administration												
Advertising and Marketing	3.0%		825	850	875	901	929	956	985	1,015	1,045	1,076
Office Expenses	3.0%		18,900	19,467	20,051	20,653	21,272	21,910	22,568	23,245	23,942	24,660
Office Rent	3.0%		-	-	-	-	-	-	-	-	-	-
Legal Expense - Property	3.0%		9,600	9,888	10,185	10,490	10,805	11,129	11,463	11,807	12,161	12,526
Audit Expense	3.0%		14,000	14,420	14,853	15,298	15,757	16,230	16,717	17,218	17,735	18,267
Bookkeeping/Accounting Services	3.0%		15,750	16,223	16,709	17,210	17,727	18,259	18,806	19,371	19,952	20,550
Bad Debts	3.0%		400	412	424	437	450	464	478	492	507	522
Miscellaneous	3.0%		54,250	55,878	57,554	59,280	61,059	62,891	64,777	66,721	68,722	70,784
Sub-total Administration Expenses			**113,725**	**117,137**	**120,651**	**124,270**	**127,998**	**131,838**	**135,794**	**139,867**	**144,063**	**148,385**
Utilities												
Electricity	3.0%		71,000	73,130	75,324	77,584	79,911	82,308	84,778	87,321	89,941	92,639
Water	3.0%		42,000	43,260	44,558	45,895	47,271	48,690	50,150	51,655	53,204	54,800
Gas	3.0%		-	-	-	-	-	-	-	-	-	-
Sewer	3.0%		54,600	56,238	57,925	59,663	61,453	63,296	65,195	67,151	69,166	71,241
Sub-total Utilities			**167,600**	**172,628**	**177,807**	**183,141**	**188,635**	**194,294**	**200,123**	**206,127**	**212,311**	**218,680**
Taxes and Licenses												
Real Estate Taxes	3.0%		-	-	-	-	-	-	-	-	-	-
Payroll Taxes	3.0%		19,033	19,604	20,192	20,798	21,422	22,064	22,726	23,408	24,110	24,834
Miscellaneous Taxes, Licenses and Permits	3.0%		900	927	955	983	1,013	1,043	1,075	1,107	1,140	1,174
Sub-total Taxes and Licenses			**19,933**	**20,531**	**21,147**	**21,781**	**22,435**	**23,108**	**23,801**	**24,515**	**25,251**	**26,008**
Insurance												
Property and Liability Insurance	3.0%		415,000	427,450	440,274	453,482	467,086	481,099	495,532	510,398	525,710	541,481
Fidelity Bond Insurance	3.0%		-	-	-	-	-	-	-	-	-	-
Worker's Compensation	3.0%		14,275	14,703	15,144	15,599	16,067	16,549	17,045	17,556	18,083	18,626
Director's & Officers' Liability Insurance	3.0%		-	-	-	-	-	-	-	-	-	-
Sub-total Insurance			**429,275**	**442,153**	**455,418**	**469,080**	**483,153**	**497,647**	**512,577**	**527,954**	**543,793**	**560,107**
Maintenance & Repair												
Payroll	3.0%		117,700	121,231	124,868	128,614	132,472	136,447	140,540	144,756	149,099	153,572
Supplies	3.0%		13,200	13,596	14,004	14,424	14,857	15,302	15,761	16,234	16,721	17,223
Contracts	3.0%		126,400	130,192	134,098	138,121	142,264	146,532	150,928	155,456	160,120	164,923
Garbage and Trash Removal	3.0%		33,600	34,608	35,646	36,716	37,817	38,952	40,120	41,324	42,563	43,840
Security Payroll/Contract	3.0%		264,746	272,688	280,869	289,295	297,974	306,913	316,121	325,604	335,372	345,433
HVAC Repairs and Maintenance	3.0%		41,000	42,230	43,497	44,802	46,146	47,530	48,956	50,425	51,938	53,496
Vehicle and Maintenance Equipment Operation and Repairs	3.0%		-	-	-	-	-	-	-	-	-	-
Miscellaneous Operating and Maintenance Expenses	3.0%		-	-	-	-	-	-	-	-	-	-
Sub-total Maintenance & Repair Expenses			**596,646**	**614,545**	**632,982**	**651,971**	**671,530**	**691,676**	**712,427**	**733,799**	**755,813**	**778,488**
Supportive Services	3.0%		213,343	219,743	226,336	233,126	240,119	247,323	254,743	262,385	270,257	278,364
Commercial Expenses		from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%	-	-	-	-	-	-	-	-	-	-
TOTAL OPERATING EXPENSES			***1,828,355***	**1,883,206**	**1,939,702**	**1,997,893**	**2,057,830**	**2,119,565**	**2,183,151**	**2,248,646**	**2,316,105**	**2,385,589**
PUPA (w/o Reserves/GL Base Rent/Bond Fees)			***17,413***									
Reserves/Ground Lease Base Rent/Bond Fees			*Note: Hidden columns are in between total columns. To update/delete values in yellow cells, manipulate each cell rather than dragging across multiple*									
Ground Lease Base Rent			15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000
Bond Monitoring Fee			16,465	16,465	16,465	16,465	16,465	16,465	16,465	16,465	16,465	16,465
Replacement Reserve Deposit			52,500	52,500	52,500	52,500	52,500	52,500	52,500	52,500	52,500	52,500
Operating Reserve Deposit			-	-	-	-	-	-	-	-	-	-
Other Required Reserve 1 Deposit			-	-	-	-	-	-	-	-	-	-
Other Required Reserve 2 Deposit			-	-	-	-	-	-	-	-	-	-
Required Reserve Deposit/s, Commercial		from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%	-	-	-	-	-	-	-	-	-	-
Sub-total Reserves/Ground Lease Base Rent/Bond Fees			**83,965**	**83,965**	**83,965**	**83,965**	**83,965**	**83,965**	**83,965**	**83,965**	**83,965**	**83,965**
TOTAL OPERATING EXPENSES (w/ Reserves/GL Base Rent/ Bond Fees)			**1,912,320**	**1,967,171**	**2,023,667**	**2,081,858**	**2,141,795**	**2,203,530**	**2,267,116**	**2,332,611**	**2,400,070**	**2,469,554**
PUPA (w/ Reserves/GL Base Rent/Bond Fees)			***18,213***									
NET OPERATING INCOME (INCOME minus OP EXPENSES)			**450,691**	**443,100**	**434,810**	**425,788**	**416,004**	**405,425**	**394,018**	**381,746**	**368,573**	**354,463**
DEBT SERVICE/MUST PAY PAYMENTS ("hard debt"/amortized loans)			*Note: Hidden columns are in between total columns. To update/delete values in yellow cells, manipulate each cell rather than dragging across multiple*									
Hard Debt - First Lender		Enter comments re: annual increase, etc.	200,000	200,000	200,000	200,000	200,000	200,000	200,000	200,000	200,000	200,000
Hard Debt - Second Lender (HCD Program 0.42% pymt, or other 2nd Lender)		Enter comments re: annual increase, etc.	42,000	42,000	42,000	42,000	42,000	42,000	42,000	42,000	42,000	42,000
Hard Debt - Third Lender (Other HCD Program, or other 3rd Lender)		Enter comments re: annual increase, etc.	-	-	-	-	-	-	-	-	-	-
Hard Debt - Fourth Lender		Enter comments re: annual increase, etc.	-	-	-	-	-	-	-	-	-	-
Commercial Hard Debt Service		from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%	-	-	-	-	-	-	-	-	-	-
TOTAL HARD DEBT SERVICE			**242,000**	**242,000**	**242,000**	**242,000**	**242,000**	**242,000**	**242,000**	**242,000**	**242,000**	**242,000**
CASH FLOW (NOI minus DEBT SERVICE)			**208,691**	**201,100**	**192,810**	**183,788**	**174,004**	**163,425**	**152,018**	**139,746**	**126,573**	**112,463**
USES OF CASH FLOW BELOW (This row also shows DSCR.)		***DSCR:***	***1.862***	***1.831***	***1.797***	***1.759***	***1.719***	***1.675***	***1.628***	***1.577***	***1.523***	***1.465***
USES THAT PRECEDE MOHCD DEBT SERVICE IN WATERFALL			*Note: Hidden columns are in between total columns. To update/delete values in yellow cells, manipulate each cell rather than dragging across multiple*									
"Below-the-line" Asset Mgt fee (uncommon in new projects, see policy)	3.5%	per MOHCD policy	-									
Partnership Management Fee (see policy for limits)	3.5%	per MOHCD policy	22,650	23,443	24,263	25,112	25,991	26,901	27,843	28,817	29,826	30,870
Investor Service Fee (aka "LP Asset Mgt Fee") (see policy for limits)		per MOHCD policy no annual increase	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000
Other Payments			-									
Non-amortizing Loan Pmnt - Lender 1		Enter comments re: annual increase, etc.	-									
Non-amortizing Loan Pmnt - Lender 2		Enter comments re: annual increase, etc.	-									
Deferred Developer Fee (Enter amt <= Max Fee from row 131)			90,520	86,329	81,773	76,838	71,506	65,762	59,587	52,964	45,874	38,297
TOTAL PAYMENTS PRECEDING MOHCD			**118,170**	***114,772***	***111,036***	***106,950***	***102,497***	***97,663***	***92,430***	***86,781***	***80,700***	***74,167***
RESIDUAL RECEIPTS (CASH FLOW minus PAYMENTS PRECEDING MOHCD)			**90,521**	**86,329**	**81,773**	**76,838**	**71,507**	**65,762**	**59,588**	**52,965**	**45,874**	**38,297**
Does Project have a MOHCD Residual Receipt Obligation?	**Yes**	Year 15 is year indicated below:										
Will Project Defer Developer Fee?	**Yes**	2038										
1st Residual Receipts Split - Lender/Deferred Developer Fee	*50% / 50%*	2nd Residual Receipts Split Begins:										
2nd Residual Receipts Split - Lender/Owner	*67% / 33%*	2039										
Max Deferred Developer Fee Amt (Use for data entry above. Do not link.):			90,520	86,329	81,773	76,838	71,506	65,762	59,587	52,964	45,874	38,297
		Dist. Soft ative Deferred Developer Fee Earned	90,520	176,849	258,622	335,460	406,966	472,728	532,315	585,279	631,153	669,450
MOHCD RESIDUAL RECEIPTS DEBT SERVICE		*Debt Loans*										
MOHCD Residual Receipts Amount Due	*79.74%*	Allocation per pro rata share of all soft debt loans, and MOHCD residual receipts policy	72,185	68,842	65,209	61,274	57,023	52,442	47,518	42,236	36,582	30,539
Proposed MOHCD Residual Receipts Amount to Loan Repayment			72,185	27,412	28,136	28,710	29,125	29,374	29,448	29,337	29,033	28,527
Proposed MOHCD Residual Receipts Amount to Residual Ground Lease		Proposed Total MOHCD Amt Due less Loan Repayment	-	-	-	-	-	-	-	-	-	-
NON-MOHCD RESIDUAL RECEIPTS DEBT SERVICE												
HCD Residual Receipts Amount Due	*20.26%*	loans, and HCD residual receipt policy.	18,336	17,487	16,564	15,564	14,484	13,321	12,070	10,728	9,292	7,757
Lender 4 Residual Receipts Due	*0.00%*		-	-	-	-	-	-	-	-	-	-
Lender 5 Residual Receipts Due	*0.00%*		-	-	-	-	-	-	-	-	-	-
Total Non-MOHCD Residual Receipts Debt Service			**18,336**	**17,487**	**16,564**	**15,564**	**14,484**	**13,321**	**12,070**	**10,728**	**9,292**	**7,757**
REMAINDER (Should be zero unless there are distributions below)			**(0)**	**(0)**	**-**	**0**	**0**	**0**	**0**	**0**	**-**	**-**
Owner Distributions/Incentive Management Fee			-	-	-	-	-	-	-	-	-	-
Other Distributions/Uses			-									
Final Balance (should be zero)			-	-	-	-	-	-	-	-	-	-
REPLACEMENT RESERVE - RUNNING BALANCE												
Replacement Reserve Starting Balance			-	**52,500**	**105,000**	**157,500**	**210,000**	**262,500**	**315,000**	**367,500**	**420,000**	**472,500**
Replacement Reserve Deposits			**52,500**	**52,500**	**52,500**	**52,500**	**52,500**	**52,500**	**52,500**	**52,500**	**52,500**	**52,500**
Replacement Reserve Withdrawals (ideally tied to CNA)			-	-	-	-	-	-	-	-	-	-
Replacement Reserve Interest												
RR Running Balance			**52,500**	**105,000**	**157,500**	**210,000**	**262,500**	**315,000**	**367,500**	**420,000**	**472,500**	**525,000**
		RR Balance/Unit	*$500*	*$1,000*	*$1,500*	*$2,000*	*$2,500*	*$3,000*	*$3,500*	*$4,000*	*$4,500*	*$5,000*
OPERATING RESERVE - RUNNING BALANCE												
Operating Reserve Starting Balance			-	-	-	-	-	-	-	-	-	-
Operating Reserve Deposits			-	-	-	-	-	-	-	-	-	-
Operating Reserve Withdrawals												
Operating Reserve Interest												
OR Running Balance			-	-	-	-	-	-	-	-	-	-
		OR Balance as a % of Prior Yr Op Exps + Debt Service		*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*
OTHER REQUIRED RESERVE 1 - RUNNING BALANCE												
Other Reserve 1 Starting Balance				-	-	-	-	-	-	-	-	-
Other Reserve 1 Deposits			-	-	-	-	-	-	-	-	-	-
Other Reserve 1 Withdrawals												
Other Reserve 1 Interest												
Other Required Reserve 1 Running Balance			-	-	-	-	-	-	-	-	-	-
OTHER RESERVE 2 - RUNNING BALANCE												
Other Reserve 2 Starting Balance				-	-	-	-	-	-	-	-	-
Other Reserve 2 Deposits			-	-	-	-	-	-	-	-	-	-
Other Reserve 2 Withdrawals												
Other Reserve 2 Interest												
Other Required Reserve 2 Running Balance			-	-	-	-	-	-	-	-	-	-

Maceo May Apartments

Total # Units: *105*

	% annual increase	Comments (related to annual inc assumptions)	Year 11 2034 Total	Year 12 2035 Total	Year 13 2036 Total	Year 14 2037 Total	Year 15 2038 Total	Year 16 2039 Total	Year 17 2040 Total	Year 18 2041 Total	Year 19 2042 Total	Year 20 2043 Total
INCOME												
Residential - Tenant Rents	2.0%		1,729,402	1,763,990	1,799,270	1,835,255	1,871,960	1,909,400	1,947,588	1,986,539	2,026,270	2,066,795
Residential - Tenant Assistance Payments (Non-LOSP)	n/a		1,311,862	1,338,100	1,364,862	1,392,159	1,420,002	1,448,402	1,477,370	1,506,917	1,537,056	1,567,797
Commercial Space	2.5%	from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%	-	-	-	-	-	-	-	-	-	-
Residential Parking	2.0%		-	-	-	-	-	-	-	-	-	-
Miscellaneous Rent Income	2.0%		-	-	-	-	-	-	-	-	-	-
Supportive Services Income	2.0%		-	-	-	-	-	-	-	-	-	-
Interest Income - Project Operations	2.0%		-	-	-	-	-	-	-	-	-	-
Laundry and Vending	2.0%		6,789	6,925	7,063	7,204	7,348	7,495	7,645	7,798	7,954	8,113
Tenant Charges	2.0%		-	-	-	-	-	-	-	-	-	-
Miscellaneous Residential Income	2.0%		-	-	-	-	-	-	-	-	-	-
Other Commercial Income	2.5%	from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%	-	-	-	-	-	-	-	-	-	-
Withdrawal from Capitalized Reserve (deposit to operating account)	n/a	Link from Reserve Section below, as applicable										
Gross Potential Income			**3,048,053**	**3,109,014**	**3,171,194**	**3,234,618**	**3,299,311**	**3,365,297**	**3,432,603**	**3,501,255**	**3,571,280**	**3,642,706**
Vacancy Loss - Residential - Tenant Rents	n/a	Enter formulas manually per relevant MOH policy; annual incrementing usually not appropriate; increased % to include 10% vacancy loss on 15 unsubsidized units	(101,963)	(104,002)	(106,082)	(108,204)	(110,368)	(112,575)	(114,827)	(117,123)	(119,466)	(121,855)
Vacancy Loss - Residential - Tenant Assistance Payments	n/a		(65,593)	(66,905)	(68,243)	(69,608)	(71,000)	(72,420)	(73,869)	(75,346)	(76,853)	(78,390)
Vacancy Loss - Commercial	n/a		-	-	-	-	-	-	-	-	-	-
EFFECTIVE GROSS INCOME			**2,880,497**	**2,938,107**	**2,996,869**	**3,056,807**	**3,117,943**	**3,180,302**	**3,243,908**	**3,308,786**	**3,374,961**	**3,442,461**
OPERATING EXPENSES												
Management												
Management Fee	3.0%	1st Year to be set according to HUD schedule.	110,067	113,369	116,770	120,273	123,881	127,598	131,425	135,368	139,429	143,612
Asset Management Fee	3.0%	per MOHCD policy	30,467	31,381	32,322	33,292	34,290	35,319	36,379	37,470	38,594	39,752
Sub-total Management Expenses			**140,533**	**144,749**	**149,092**	**153,565**	**158,172**	**162,917**	**167,804**	**172,838**	**178,023**	**183,364**
Salaries/Benefits												
Office Salaries	3.0%		75,279	77,538	79,864	82,260	84,728	87,270	89,888	92,584	95,362	98,223
Manager's Salary	3.0%		86,279	88,868	91,534	94,280	97,108	100,022	103,022	106,113	109,296	112,575
Health Insurance and Other Benefits	3.0%		84,731	87,273	89,891	92,588	95,366	98,227	101,174	104,209	107,335	110,555
Other Salaries/Benefits	3.0%		-	-	-	-	-	-	-	-	-	-
Administrative Rent-Free Unit	3.0%		-	-	-	-	-	-	-	-	-	-
Sub-total Salaries/Benefits			**246,290**	**253,679**	**261,289**	**269,128**	**277,202**	**285,518**	**294,083**	**302,906**	**311,993**	**321,353**
Administration												
Advertising and Marketing	3.0%		1,109	1,142	1,176	1,212	1,248	1,285	1,324	1,364	1,405	1,447
Office Expenses	3.0%		25,400	26,162	26,947	27,755	28,588	29,446	30,329	31,239	32,176	33,141
Office Rent	3.0%		-	-	-	-	-	-	-	-	-	-
Legal Expense - Property	3.0%		12,902	13,289	13,687	14,098	14,521	14,956	15,405	15,867	16,343	16,834
Audit Expense	3.0%		18,815	19,379	19,961	20,559	21,176	21,812	22,466	23,140	23,834	24,549
Bookkeeping/Accounting Services	3.0%		21,167	21,802	22,456	23,129	23,823	24,538	25,274	26,032	26,813	27,618
Bad Debts	3.0%		538	554	570	587	605	623	642	661	681	701
Miscellaneous	3.0%		72,907	75,095	77,348	79,668	82,058	84,520	87,055	89,667	92,357	95,128
Sub-total Administration Expenses			**152,837**	**157,422**	**162,145**	**167,009**	**172,019**	**177,180**	**182,495**	**187,970**	**193,609**	**199,417**
Utilities												
Electricity	3.0%		95,418	98,281	101,229	104,266	107,394	110,616	113,934	117,352	120,873	124,499
Water	3.0%		56,444	58,138	59,882	61,678	63,529	65,435	67,398	69,420	71,502	73,647
Gas	3.0%		-	-	-	-	-	-	-	-	-	-
Sewer	3.0%		73,378	75,579	77,847	80,182	82,587	85,065	87,617	90,245	92,953	95,741
Sub-total Utilities			**225,240**	**231,998**	**238,958**	**246,126**	**253,510**	**261,115**	**268,949**	**277,017**	**285,328**	**293,888**
Taxes and Licenses												
Real Estate Taxes	3.0%		-	-	-	-	-	-	-	-	-	-
Payroll Taxes	3.0%		25,579	26,346	27,137	27,951	28,789	29,653	30,542	31,459	32,402	33,374
Miscellaneous Taxes, Licenses and Permits	3.0%		1,210	1,246	1,283	1,322	1,361	1,402	1,444	1,488	1,532	1,578
Sub-total Taxes and Licenses			**26,788**	**27,592**	**28,420**	**29,272**	**30,150**	**31,055**	**31,987**	**32,946**	**33,935**	**34,953**
Insurance												
Property and Liability Insurance	3.0%		557,725	574,457	591,691	609,441	627,725	646,556	665,953	685,932	706,510	727,705
Fidelity Bond Insurance	3.0%		-	-	-	-	-	-	-	-	-	-
Worker's Compensation	3.0%		19,184	19,760	20,353	20,963	21,592	22,240	22,907	23,594	24,302	25,031
Director's & Officers' Liability Insurance	3.0%		-	-	-	-	-	-	-	-	-	-
Sub-total Insurance			**576,910**	**594,217**	**612,044**	**630,405**	**649,317**	**668,796**	**688,860**	**709,526**	**730,812**	**752,736**
Maintenance & Repair												
Payroll	3.0%		158,179	162,924	167,812	172,846	178,032	183,373	188,874	194,540	200,376	206,388
Supplies	3.0%		17,740	18,272	18,820	19,385	19,966	20,565	21,182	21,818	22,472	23,146
Contracts	3.0%		169,871	174,967	180,216	185,623	191,191	196,927	202,835	208,920	215,188	221,643
Garbage and Trash Removal	3.0%		45,156	46,510	47,906	49,343	50,823	52,348	53,918	55,536	57,202	58,918
Security Payroll/Contract	3.0%		355,796	366,470	377,464	388,788	400,452	412,466	424,840	437,585	450,712	464,234
HVAC Repairs and Maintenance	3.0%		55,101	56,754	58,456	60,210	62,016	63,877	65,793	67,767	69,800	71,894
Vehicle and Maintenance Equipment Operation and Repairs	3.0%		-	-	-	-	-	-	-	-	-	-
Miscellaneous Operating and Maintenance Expenses	3.0%		-	-	-	-	-	-	-	-	-	-
Sub-total Maintenance & Repair Expenses			**801,842**	**825,898**	**850,675**	**876,195**	**902,481**	**929,555**	**957,442**	**986,165**	**1,015,750**	**1,046,222**
Supportive Services	3.0%		286,715	295,317	304,176	313,301	322,700	332,381	342,353	352,623	363,202	374,098
Commercial Expenses		from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%	-	-	-	-	-	-	-	-	-	-
TOTAL OPERATING EXPENSES			**2,457,156**	**2,530,871**	**2,606,797**	**2,685,001**	**2,765,551**	**2,848,518**	**2,933,973**	**3,021,992**	**3,112,652**	**3,206,032**
PUPA (w/o Reserves/GL Base Rent/Bond Fees)												
Reserves/Ground Lease Base Rent/Bond Fees			↑ cells.									
Ground Lease Base Rent			15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000
Bond Monitoring Fee			16,465	16,465	16,465	16,465	16,465	16,465	16,465	16,465	16,465	16,465
Replacement Reserve Deposit			52,500	52,500	52,500	52,500	52,500	52,500	52,500	52,500	52,500	52,500
Operating Reserve Deposit			-	-	-	-	-	-	-	-	-	-
Other Required Reserve 1 Deposit			-	-	-	-	-	-	-	-	-	-
Other Required Reserve 2 Deposit			-	-	-	-	-	-	-	-	-	-
Required Reserve Deposit/s, Commercial		from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%	-	-	-	-	-	-	-	-	-	-
Sub-total Reserves/Ground Lease Base Rent/Bond Fees			**83,965**	**83,965**	**83,965**	**83,965**	**83,965**	**83,965**	**83,965**	**83,965**	**83,965**	**83,965**
TOTAL OPERATING EXPENSES (w/ Reserves/GL Base Rent/ Bond Fees)			**2,541,121**	**2,614,836**	**2,690,762**	**2,768,966**	**2,849,516**	**2,932,483**	**3,017,938**	**3,105,957**	**3,196,617**	**3,289,997**
PUPA (w/ Reserves/GL Base Rent/Bond Fees)												
NET OPERATING INCOME (INCOME minus OP EXPENSES)			**339,376**	**323,271**	**306,107**	**287,841**	**268,427**	**247,819**	**225,969**	**202,828**	**178,344**	**152,464**
DEBT SERVICE/MUST PAY PAYMENTS ("hard debt"/amortized loans)			↑ cells.									
Hard Debt - First Lender		Enter comments re: annual increase, etc.	200,000	200,000	200,000	200,000	200,000					
Hard Debt - Second Lender (HCD Program 0.42% pymt, or other 2nd Lender)		Enter comments re: annual increase, etc.	42,000	42,000	42,000	42,000	42,000	42,000	42,000	42,000	42,000	42,000
Hard Debt - Third Lender (Other HCD Program, or other 3rd Lender)		Enter comments re: annual increase, etc.	-	-	-	-	-	-	-	-	-	-
Hard Debt - Fourth Lender		Enter comments re: annual increase, etc.	-	-	-	-	-	-	-	-	-	-
Commercial Hard Debt Service		from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%	-	-	-	-	-	-	-	-	-	-
TOTAL HARD DEBT SERVICE			**242,000**	**242,000**	**242,000**	**242,000**	**242,000**	**42,000**	**42,000**	**42,000**	**42,000**	**42,000**
CASH FLOW (NOI minus DEBT SERVICE)			**97,376**	**81,271**	**64,107**	**45,841**	**26,427**	**205,819**	**183,969**	**160,828**	**136,344**	**110,464**
USES OF CASH FLOW BELOW (This row also shows DSCR.)		*DSCR:*	***1.402***	***1.336***	***1.265***	***1.189***	***1.109***	***5.9***	***5.38***	***4.829***	***4.246***	***3.63***
USES THAT PRECEDE MOHCD DEBT SERVICE IN WATERFALL			↑ cells.									
"Below-the-line" Asset Mgt fee (uncommon in new projects, see policy)	3.5%	per MOHCD policy										
Partnership Management Fee (see policy for limits)	3.5%	per MOHCD policy	31,950	33,068	34,226	35,424	21,427	37,947	39,275	40,650	42,073	43,545
Investor Service Fee (aka "LP Asset Mgt Fee") (see policy for limits)		per MOHCD policy no annual increase	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000
Other Payments												
Non-amortizing Loan Pmnt - Lender 1		Enter comments re: annual increase, etc.										
Non-amortizing Loan Pmnt - Lender 2		Enter comments re: annual increase, etc.										
Deferred Developer Fee (Enter amt <= Max Fee from row 131)			30,213	21,601	12,441	2,708						
TOTAL PAYMENTS PRECEDING MOHCD			***67,163***	***59,669***	***51,667***	***43,132***	***26,427***	***42,947***	***44,275***	***45,650***	***47,073***	***48,545***
RESIDUAL RECEIPTS (CASH FLOW minus PAYMENTS PRECEDING MOHCD)			**30,213**	**21,602**	**12,440**	**2,709**	**(0)**	**162,872**	**139,694**	**115,179**	**89,272**	**61,919**

Does Project have a MOHCD Residual Receipt Obligation?	**Yes**	Year 15 is year indicated below:
Will Project Defer Developer Fee?	**Yes**	2038
1st Residual Receipts Split - Lender/Deferred Developer Fee	*50% / 50%*	2nd Residual Receipts Split Begins:
2nd Residual Receipts Split - Lender/Owner	*67% / 33%*	2039

Max Deferred Developer Fee Amt (Use for data entry above. Do not link.):			30,213	21,601	12,441	2,708						
	Dist. Soft Debt Loans	ative Deferred Developer Fee Earned	699,663	721,264	733,705	736,413	736,413					
MOHCD RESIDUAL RECEIPTS DEBT SERVICE												
MOHCD Residual Receipts Amount Due	*79.74%*	Allocation per pro rata share of all soft debt loans, and MOHCD residual receipts policy	24,093	17,226	9,920	2,160	-	86,587	74,265	61,232	47,459	32,918
Proposed MOHCD Residual Receipts Amount to Loan Repayment			27,808	26,867	25,692	24,273	-	86,587	74,265	61,232	47,459	32,918
Proposed MOHCD Residual Receipts Amount to Residual Ground Lease		Proposed Total MOHCD Amt Due less Loan Repayment	-	-	-	-	-	-	-	-	-	-
NON-MOHCD RESIDUAL RECEIPTS DEBT SERVICE												
HCD Residual Receipts Amount Due	*20.26%*	loans, and HCD residual receipt policy.	6,120	4,376	2,520	549	-	21,994	18,864	15,554	12,055	8,362
Lender 4 Residual Receipts Due	*0.00%*		-	-	-	-	-	-	-	-	-	-
Lender 5 Residual Receipts Due	*0.00%*		-	-	-	-	-	-	-	-	-	-
Total Non-MOHCD Residual Receipts Debt Service			**6,120**	**4,376**	**2,520**	**549**	**-**	**21,994**	**18,864**	**15,554**	**12,055**	**8,362**
REMAINDER (Should be zero unless there are distributions below)			**-**	**0**	**0**	**0**	**-**	**54,291**	**46,565**	**38,393**	**29,757**	**20,640**
Owner Distributions/Incentive Management Fee			-	-	-	-	-	54,291	46,565	38,393	29,757	20,640
Other Distributions/Uses												
Final Balance (should be zero)			-	-	-	-	-	-	-	-	-	-
REPLACEMENT RESERVE - RUNNING BALANCE												
Replacement Reserve Starting Balance			**525,000**	**577,500**	**630,000**	**682,500**	**735,000**	**787,500**	**840,000**	**892,500**	**945,000**	**997,500**
Replacement Reserve Deposits			**52,500**	**52,500**	**52,500**	**52,500**	**52,500**	**52,500**	**52,500**	**52,500**	**52,500**	**52,500**
Replacement Reserve Withdrawals (ideally tied to CNA)			-	-	-	-	-	-	-	-	-	-
Replacement Reserve Interest												
RR Running Balance			**577,500**	**630,000**	**682,500**	**735,000**	**787,500**	**840,000**	**892,500**	**945,000**	**997,500**	**1,050,000**
		RR Balance/Unit	*$5,500*	*$6,000*	*$6,500*	*$7,000*	*$7,500*	*$8,000*	*$8,500*	*$9,000*	*$9,500*	*$10,000*
OPERATING RESERVE - RUNNING BALANCE												
Operating Reserve Starting Balance			-	-	-	-	-	-	-	-	-	-
Operating Reserve Deposits			-	-	-	-	-	-	-	-	-	-
Operating Reserve Withdrawals												
Operating Reserve Interest												
OR Running Balance			-	-	-	-	-	-	-	-	-	-
		OR Balance as a % of Prior Yr Op Exps + Debt Service	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*
OTHER REQUIRED RESERVE 1 - RUNNING BALANCE												
Other Reserve 1 Starting Balance			-	-	-	-	-	-	-	-	-	-
Other Reserve 1 Deposits			-	-	-	-	-	-	-	-	-	-
Other Reserve 1 Withdrawals												
Other Reserve 1 Interest												
Other Required Reserve 1 Running Balance			-	-	-	-	-	-	-	-	-	-
OTHER RESERVE 2 - RUNNING BALANCE												
Other Reserve 2 Starting Balance			-	-	-	-	-	-	-	-	-	-
Other Reserve 2 Deposits			-	-	-	-	-	-	-	-	-	-
Other Reserve 2 Withdrawals												
Other Reserve 2 Interest												
Other Required Reserve 2 Running Balance			-	-	-	-	-	-	-	-	-	-

EXHIBIT E

DISPOSITION AND DEVELOPMENT AGREEMENT

(TREASURE ISLAND/YERBA BUENA ISLAND)

HOUSING PLAN

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ATTACHMENTS

Attachment A – Housing Data Table
Attachment B – Housing Map
Attachment C – Transition Housing Rules and Regulations (to be attached)
Attachment D – City and County San Francisco Affordable Housing Monitoring Procedures Manual

SUMMARY

The development plan for Naval Station Treasure Island ("NSTI") under the DDA calls for the development of up to 8,000 residential units. This housing plan (the "Housing Plan") provides that not less than 25% of the residential units that may be developed at the Project Site (2,000 units if the full 8,000 units are developed) will be below market rate units affordable to low and moderate income households or Transitioning Households, and provides that this percentage may increase to 30% if additional public funds for affordable housing becomes available. Of the 2,000 below market rate units, the parties anticipate that up 1,684 units will be developed by Qualified Housing Developers, including approximately 435 to be developed by TIHDI member organizations. And approximately 21.7% of the acreage of the developable residential pads will be available and used for the development of these 1,684 affordable housing units.

The remainder of the below market rate units will be inclusionary units built by Vertical Developers in concert with the private market-rate development projects. Five percent (5%) of the total Developer Residential Units shall be Inclusionary Units. Developer may sell land to Vertical Developers, including Developer and its Affiliates as permitted in the DDA, to develop up to Six Thousand (6,000) Market Rate Residential Units. If the maximum total number of Market Rate Units is built, then the total number of Inclusionary Units would be Three Hundred Sixteen (316), for a total number of Developer Residential Units of Six Thousand Three Hundred Sixteen (6,316) units. The Inclusionary Units will be constructed and sold or rented in accordance with this Housing Plan.

Developer will submit to the Authority Major Phase Applications and Sub-Phase Applications pursuant to the DDA and the DRDAP. Each Major Phase will include one or more Sub-Phases. Following each Sub-Phase Approval, the Authority will convey the Market Rate Lots within that Sub-Phase to Developer and Developer will prepare Developable Lots in Sub-Phases in accordance with the Phasing Plan and the Schedule of Performance. Developer will then convey the Market Rate Lots to Vertical Developers for residential development in accordance with an approved Vertical DDA and the Development Requirements. The Authority Housing Lots will be used for the development of Authority Housing Units in accordance with this Housing Plan. While the Developer will retain flexibility and discretion to respond to market conditions regarding the types, sizes and locations of Developer Residential Units consistent with the Development Requirements, the Project will phased so as to include a mix of Market Rate Lots and Authority Housing Lots as needed to meet the proportionality requirements of this Housing Plan.

Developer and the Authority have designated the general location of the Authority Housing Lots, which are distributed throughout the Project Site. The Authority and TIHDI will be responsible for causing the development of Affordable Housing Units and Transition Units on the Authority Housing Lots. The Affordable Housing Units are expected to include a range of unit types and tenures, including family housing units and senior units. The Authority shall retain the discretion to determine the type of Affordable Housing Units to be constructed so long as the Units are consistent with the Development Requirements. The Authority shall enter into a separate agreement with TIHDI for the development of the TIHDI Units on specified Authority Housing Lots.

In addition to the Affordable Housing Units, the Authority will also be responsible for causing the development of the Transition Units. The Transition Units are to provide housing for existing residents who qualify for benefits under the Transition Housing Rules and Regulations and who, when noticed that they must make a long term move, elect to rent a new unit on Treasure Island in accordance with the Transition Housing Rules and Regulations. The Transition Units will be deed restricted to require that upon vacancy of the Transitioning Household, subsequent households occupying the Transition Unit must meet Affordable income requirements and each such Transition Unit will become an Affordable Housing Unit. If a Transitioning Household does meet Affordable income requirements, then the applicable Transitions Unit will be a deed restricted Affordable Housing Unit from its inception. The Transition Housing Rules and Regulations provide certain benefit options to Transitioning Households, including moving assistance, down payment assistance, an in lieu payment and the opportunity to move to Transition Units at specified rents. The estimated costs of implementing the Transition Housing Rules and Regulations have been factored into the Developer Housing Subsidy to be paid by Developer to the Authority.

The DDA calls for the use of a variety of private and public funding sources to create the Authority Housing Units envisioned by this Housing Plan, including Developer Completion of Infrastructure and Stormwater Management Controls in accordance with this Housing Plan, the Developer Housing Subsidy, tax increment financing generated from one or more infrastructure financing districts, the jobs-housing linkage fees, low-income housing tax credit proceeds and various State and Federal sources of funding. Collectively, the Project is expected to contribute more than $460 million towards the creation of the Authority Housing Units, including the costs of needed infrastructure, site preparation and construction costs. The Project-generated funds will come from three sources:

- Net Available Increment and Developer contributions in an amount equal to the Housing Percentage, as defined in the Financing Plan, will be deposited into the Housing Fund in accordance with the Financing Plan and used by the Authority for the development of the Affordable Housing Units.

- Second, the commercial development on the Project Site is anticipated to generate Jobs-Housing Linkage fees paid by Vertical Developers in accordance with the DDA and the commercial Vertical DDAs/LDDAs. All Jobs-Housing Linkage fees payable under these DDAs from the commercial development on the Project Site will be used for the production of Authority Housing Units in accordance with this Housing Plan.

- Third, Developer shall pay a direct subsidy to the Authority to be used toward the costs of the Authority Housing Units and implementation of the Transition Housing Rules and Regulations. The Developer Housing Subsidy will equal Seventeen Thousand Five Hundred Dollars ($17,500) per Market Rate Unit. The actual amount of the Developer Housing Subsidy will be determined based on the maximum number of Market Rate Units allowed for development in each Vertical DDA (but subject to a minimum and maximum amount, as described below), and will become payable upon the transfer of each Market Rate Lot to a Vertical Developer (subject to an initial five (5) year period in which no Developer

Housing Subsidy will be payable, except as described below). The Developer Housing Subsidy will be $105 million if the maximum 6,000 Market Rate Residential Units are developed, and the minimum Developer Housing Subsidy will be $73.5 million as set forth in Section 6.1 below.

The Parties acknowledge that the Development Plan Update contemplated that the Project Site would be included within a Redevelopment Project Area and that tax increment financing under the Community Redevelopment Law would be available to the Parties to finance Project Costs, including affordable housing. As a result of potential changes to the Community Redevelopment Law, the Parties have determined to proceed with development of the Project Site using an Infrastructure Financing District model rather than a redevelopment model under the Community Redevelopment Law. Current laws on Infrastructure Financing Districts provide substantially reduced incremental tax revenue from that provided under the Community Redevelopment Law, and furthermore place different restrictions and limitations on the use of such funds. Accordingly, the Parties have reduced the percentage of Authority Housing Units to twenty five percent of the total number of Residential Units with a corresponding increase in the number of Market Rate Units (as compared to the Development Plan Update) to compensate for the reduced public financing available for the Project. If, as a result of changes to the current Infrastructure Financing District law or other public financing vehicles, the amount of public financing available for affordable housing in the Project is increased, the Parties agree to increase the percentage of Authority Housing Units as set forth in Article 9 of this Housing Plan.

The foregoing summary is provided for convenience and for informational purposes only. In case of any conflict, the provisions of the Housing Plan and the DDA shall control.

1. DEFINITIONS

Initially capitalized terms unless separately defined in this Housing Plan have the meanings and content set forth in the DDA. Terms defined in the DDA and also set forth in this Section are provided herein for convenience only.

1.1 Adequate Security shall have the meaning set forth in the DDA.

1.2 Affordable, Affordability, or Affordable Housing Cost means (a) with respect to a Rental Unit, a monthly rental charge (including the Utility Allowance applicable to the Household Size of such Rental Unit but excluding Parking Charges) that does not exceed thirty percent (30%) of the maximum Area Median Income percentage permitted for the applicable type of Residential Unit, based upon Household Size; and (b) with respect to a For-Sale Residential Unit, a purchase price based on a five percent (5%) down payment and a commercially reasonable thirty (30) year fixed mortgage with an interest rate as set forth below, points and fees and total annual payments for principal, interest, taxes and owner association dues, but excluding Parking Charges, not exceeding thirty three percent (33%) of the maximum Area Median Income percentage permitted for the applicable type of Residential Unit reduced by five percent (5%), based upon Household Size. With respect to the Inclusionary Units, Parking Charges to be paid by residents shall be in addition to the Affordable Housing Cost and shall not be included in rent or the purchase price in determining Affordable Housing Cost. With respect to Authority Housing Units, the Authority shall have the right to determine whether Parking

Charges will be included in the rent or purchase price for purposes of determining the Affordable Housing Cost in accordance with Section 7.1 of this Housing Plan and the Design for Development. The interest rate for the mortgage loan that is used to calculate the purchase price for a Sale Unit shall be the higher of (1) the ten (10) year rolling average interest rate, as calculated by the Authority based on data provided by Fannie Mae or Freddie Mac, or if such data is not provided by Fannie Mae or Freddie Mac, then based on data from an equivalent, nationally recognized mortgage financing institution approved by the Vertical Developer and the Authority, or (2) the current commercially reasonable rate available through the Authority approved lender, in either case as in effect on a date mutually agreed upon between the Authority and the Vertical Developer but before the date the Authority approves the marketing plan for the Sale Residential Unit.

1.3 Affordable Housing Loan Fund has the meaning set forth in Section 6.4 of this Housing Plan.

1.4 Affordable Housing Unit means a Residential Unit constructed by a Qualified Housing Developer (including Qualified Housing Developers selected by TIHDI) on an Authority Housing Lot that is available for lease or purchase at an Affordable Housing Cost for households with an annual income up to one hundred twenty percent (120%) of Area Median Income, but may be leased or sold to households with lower income levels as determined by the Authority. Inclusionary Units are not included in Affordable Housing Units. The Authority shall determine the affordability level and other relevant restrictions for each Authority Housing Project in conformance with the Development Requirements, shall comply with Government Code Section 53395.3(c) to the extent applicable, and, with respect to the Replacement Housing Units shall comply with Government Code Section 53395.5, provided that Transition Units shall initially meet the standards required under the Transition Housing Rules and Regulations.

1.5 Approved Sites has the meaning set forth in Section 2.5 of this Housing Plan.

1.6 Approval (Approve, Approved and any variation) is defined in the DDA.

1.7 Area Median Income means for the Inclusionary Units, unadjusted median income for the San Francisco area as published from time to time by the United States Department of Housing and Urban Development ("HUD") adjusted solely for household size. If data provided by HUD that is specific to the median income figures for San Francisco are unavailable or are not updated for a period of at least eighteen months, the Area Median Income may be calculated by the Authority using other publicly available and credible data as approved by Developer and the Authority. For the Authority Housing Units, Area Median Income shall be the higher of the above definition or the definition used by any federal, State or local funding source providing financing for the Authority Housing Units.

1.8 Authority Housing Lot shall mean the lots identified as Authority Housing Lots on the Housing Map, subject to any revisions as may be requested by Developer and approved by the Authority as part of the Major Phase and Sub-Phase Approval processes, or otherwise as set forth in the DRDAP.

1.9 Authority Housing Lot Completion Date means the date an Authority Housing Lot meets the requirements for a Developable Lot including Completion of all Infrastructure and Stormwater Management Controls except for the Transferable Infrastructure related to the Authority Housing Lot.

1.10 Authority Housing Project means a Residential Project constructed by a Qualified Housing Developer selected by the Authority or TIHDI, as applicable, containing Authority Housing Units and possibly also containing other uses permitted under the Design for Development and this Housing Plan.

1.11 Authority Housing Unit means a Residential Unit developed on an Authority Housing Lot, which shall be either an Affordable Housing Unit or a Transition Unit. Transition Units may be Affordable Housing Units at inception (for income-qualifying Transitioning Households) or, if not, shall become Affordable Housing Units upon the vacancy of the initial Transitioning Household.

1.12 Commence (Commenced, Commencement and any variation) has the meaning set forth in the DDA.

1.13 Complete (Completed, Completion and any variation) has the meaning set forth in the DDA.

1.14 Completed Authority Housing Lot means an Authority Housing Lot that meets the requirements for a Developable Lot including with all Infrastructure and Stormwater Management Controls except for the Transferrable Infrastructure Completed.

1.15 CRL Funding Amount has the meaning set forth in Section 9.1 of this Housing Plan.

1.16 Declaration of Restrictions means a document or documents recorded against an Inclusionary Unit requiring that the Unit remain Affordable in accordance with the terms of this Housing Plan. The Declaration of Restrictions for the Rental and For Sale Inclusionary Units shall be in a form Approved by the Developer and the Authority in accordance with Section 5.1(f) of this Housing Plan.

1.17 Developer Housing Subsidy means the subsidy to be paid by Developer to the Authority for the development of Authority Housing Units on the Authority Housing Lots and the implementation of the Transition Housing Rules and Regulations. The Developer Housing Subsidy shall be paid over time as set forth in this Housing Plan, and shall equal the total number of Market Rate Units allowed to be constructed on each Market Rate Lot as set forth in the Vertical DDA for such Lot multiplied by Seventeen Thousand Five Hundred Dollars ($17,500), subject to the true-up provision set forth in Section 6.1(b) of this Housing Plan.

1.18 Developable Lot has the meaning set forth in the DDA.

1.19 Developer Residential Units means the Market Rate Units and the Inclusionary Units.

1.20 Development Agreement has the meaning set forth in the DDA.

1.21 Development Requirements has the meaning set forth in the DDA.

1.22 Event of Default has the meaning set forth in the DDA.

1.23 Fair Market Value Price has the meaning set forth in Section 9.3 of this Housing Plan.

1.24 Financing Plan means the Financing Plan attached to the DDA.

1.25 For-Rent or Rental Unit means a Residential Unit which is not a For Sale Unit.

1.26 For-Sale or Sale Unit means a Residential Unit which is intended at the time of completion of construction to be offered for sale, e.g., as a condominium, for individual unit ownership.

1.27 Household Size means the total number of bedrooms in a Residential Unit plus one (1).

1.28 Housing Data Table means the table attached here to as Attachment A.

1.29 Housing Fund has the meaning set forth in the Financing Plan.

1.30 Housing Map means the map attached hereto as Attachment B.

1.31 Housing Percentage has the meaning set forth in the Financing Plan.

1.32 IFD has the meaning set forth in the Financing Plan.

1.33 IFD Act has the meaning set forth in the Financing Plan.

1.34 Inclusionary Milestone has the meaning set forth in Section 5.1(c) of this Housing Plan.

1.35 Inclusionary Obligation has the meaning set forth in Section 5.1(a) of this Housing Plan.

1.36 Inclusionary Units means (i) for a Rental Unit, a unit that is available to and occupied by a household with an income not exceeding sixty percent (60%) of Area Median Income and rented at an Affordable Housing Cost for households with incomes at or below sixty percent (60%) of Area Median Income, and (ii) for a For Sale Unit, a unit that is available to and occupied by households with incomes not exceeding One Hundred Twenty Percent (120%) of Area Median Income and sold at an Affordable Housing Cost for households with incomes from Eighty Percent (80%) to One Hundred Twenty Percent (120%) of Area Median Income. The mechanism for setting the maximum Affordable Housing Cost and income level for each Inclusionary Unit is set forth in Section 5 of this Housing Plan.

1.37 Infrastructure has the meaning set forth in the DDA.

1.38 Interim Move has the meaning set forth in the Transition Housing Rules and Regulations.

1.39 Major Phase has the meaning set forth in the DDA.

1.40 Market Rate or Market Rate Unit means a Residential Unit constructed on a Market Rate Lot that has no restrictions under this Housing Plan or the DDA with respect to Affordable Housing Cost levels or income restrictions for occupants.

1.41 Market Rate Lot shall mean a lot of the approximate size and location identified as a Market Rate Lot on the Housing Map at each Major Phase Approval, subject to any revisions as may be requested by Developer and Approved by the Authority as part of the Sub-Phase Approval process or otherwise as set forth in the DRDAP.

1.42 Market Rate Project means a Residential Project constructed by a Vertical Developer, including Developer and its Affiliates, and containing Market Rate Units, Inclusionary Units (if required), and possibly also containing other uses permitted under the Design for Development.

1.43 Marketing and Operations Guidelines has the meaning set forth in Section 5.1(h) of this Housing Plan.

1.44 Maximum Public Financing Revisions has the meaning set forth in Section 9.1 of this Housing Plan.

1.45 Minimum Affordable Percentage has the meaning set forth in Section 2.1 of this Housing Plan.

1.46 MOH shall mean the City of San Francisco's Mayor's Office of Housing or any successor agency.

1.47 Net Available Increment has the meaning set forth in the Financing Plan.

1.48 Non-Inclusionary Projects means the Residential Projects of the following types, on which Developer and Vertical Developers may, but are not required to, include any Inclusionary Housing: (i) any Residential Project of 19 or fewer units; (ii) townhomes; (iii) residential towers exceeding 240 feet in height; and (iv) residential condominiums with hotel services ("Condotel"). Notwithstanding the foregoing exclusions, not less than five percent (5%) of the total Developer Residential Units constructed on Treasure Island and not less than five percent (5%) of the total Developer Residential Units constructed on Yerba Buena Island must be Inclusionary Units.

1.49 Parking Charge means the rental rate or purchase price for a Parking Space, as determined in accordance with Section 7.2.

1.50 Parking Space means a parking space constructed in the Project Site by or on behalf of Vertical Developers or Qualified Housing Developers and accessory to one or more Residential Projects.

1.51 Partial Public Financing Revisions has the meaning set forth in Section 9.3 of this Housing Plan.

1.52 Premarketing Notice List has the meaning set forth in the Transition Rules and Regulations.

1.53 Proforma has the meaning set forth in the DDA.

1.54 Project Cost has the meaning set forth in the DDA.

1.55 Project Site has the meaning set forth in the DDA.

1.56 Qualified Housing Developer means non-profit or for-profit organizations selected by the Authority (or, for Authority Housing Lots to be developed by TIHDI member organizations, by TIHDI or the applicable TIHDI member organization with Authority Approval) with the financial and staffing capacity to develop affordable housing consistent with the character and quality of the Development Requirements and the Residential Projects, and a history of successful affordable housing development, demonstrated by the completion of not less than 75 affordable housing units and 2 affordable housing projects in the previous 7 years that are comparable to the Authority Housing Project the Qualified Housing Developer is selected to develop. If the Qualified Housing Developer is a joint venture, partnership or other type of entity consisting of two or more entities, then the joint venture managing partner, managing general partner or other entity primarily responsible for the development (but not necessarily the ownership or long-term management) of the Authority Housing Lot must meet the criteria of a Qualified Housing Developer.

1.57 Replacement Housing Obligation shall mean the obligation to construct or rehabilitate dwelling units as required under Government Code Section 53395.5.

1.58 Replacement Housing Units shall mean the Affordable Housing Units on the Project Site that satisfy the Replacement Housing Obligation, and any Inclusionary Units that are affordable under the standards set forth in Government Code Section 53395.3(c) that are designated as Replacement Housing Units pursuant to Section 3.1(a)(4). .

1.59 Residential Acreage means buildable net acres including applicable setback areas as required by the Design for Development, but not including adjacent easement areas, midblock alleys, neighborhood parks, community facilities and central parking facilities serving residential and/or commercial developments.

1.60 Residential Developable Lot means the Developable Lots that are designated primarily for residential use on the Housing Map, as may be revised in a Major Phase Approval or Sub-Phase Approval or otherwise in accordance with the DRDAP. Residential Developable Lots shall only include lots that are not subject to the Tidelands Trust and shall not

include adjacent easement areas, midblock alleys, neighborhood parks, community facilities and central parking facilities serving residential and/or commercial developments.

1.61 Residential Project has the meaning set forth in the DDA.

1.62 Residential Unit means a room or suite of two or more rooms that is designed for residential occupancy for 32 consecutive days or more, including provisions for sleeping, eating and sanitation, for not more than one family, and may include senior and assisted living facilities.

1.63 Section 415 means San Francisco Planning Code section 415.

1.64 Stormwater Management Controls has the meaning set forth in the DDA.

1.65 Sub-Phase has the meaning set forth in the DDA.

1.66 Term shall have the meaning set forth in the DDA.

1.68 Thirty Percent Minimum has the meaning set forth in Section 2.1 of this Housing Plan.

1.69 TIHDI means the Treasure Island Homeless Development Initiative, Inc., a California nonprofit public benefit corporation.

1.70 TIHDI Replacement Units shall have the meaning set forth in the Amended and Restated Base Closure Homeless Assistance Agreement between the Authority and TIHDI entered into concurrently with the DDA.

1.71 TIHDI Units means the Affordable Housing Units constructed by Qualified Housing Developers selected by TIHDI subject to Authority Approval on Authority Housing Lots in accordance with this Housing Plan.

1.72 Transferable Infrastructure has the meaning set forth in the DDA.

1.73 Transferable Infrastructure Liquidation Amount has the meaning set forth in Section 2.8(d) of this Housing Plan.

1.74 Transition Housing Rules and Regulations means the rules and regulations adopted by the Authority, as amended from time to time. The currently adopted Transition Housing Rules and Regulations are attached as Attachment C.

1.75 Transition Units has the meaning set forth in the Transition Housing Rules and Regulations.

1.76 Transitioning Households shall have the meaning set forth in the Transition Housing Rules and Regulations.

1.77 Twenty-Five Percent Minimum has the meaning set forth in Section 2.1 of this Housing Plan.

1.78 Utility Allowance means a dollar amount determined in a manner acceptable to the California Tax Credit Allocation Committee, which may include a dollar amount established periodically by the San Francisco Housing Authority based on standards established by HUD for the cost of basic utilities for households, adjusted for Household Size. If such dollar amount is not available from the San Francisco Housing Authority or HUD, then Developer or Vertical Developer, as applicable, may use another publicly available and credible dollar amount that is Approved by the Authority.

1.79 Vertical Approval has the meaning set forth in the DRDAP.

1.80 Vertical DDA shall have the meaning in the DDA. Each reference to a Vertical DDA in this Housing Plan shall include Vertical LDDAs, as applicable.

1.81 Vertical Developer shall have the meaning set forth in the DDA.

1.82 Vertical Improvement is defined in the DDA.

2. HOUSING DEVELOPMENT

2.1 Development Program. Vertical Developers and Qualified Housing Developers may develop up to 8,000 Residential Units on the Project Site, including 1,684 Authority Housing Units (of which up to 435 will be TIHDI Units), 316 Inclusionary Units, and 6,000 Market Rate Units. The number of Authority Housing Units and the Inclusionary Units allowed shall be equal to twenty-five percent (25%) of the total number of Residential Units that are allowed to be developed on the Project Site (the "Twenty-Five Percent Minimum"), provided, if certain conditions are satisfied as described in Article 9 of this Housing Plan, then the Parties will increase the percentage of Authority Housing Units and Inclusionary Units that are allowed to be developed to thirty percent of the total number of Residential Units allowed on the Project Site (the "Thirty Percent Minimum"). The minimum percentage of Affordable Housing Units, as it may be increased from the Twenty-Five Percent Minimum to the Thirty Percent Minimum in accordance with Article 9, shall be referred to as the "Minimum Affordable Percentage". The Parties understand and agree that the Authority's right to construct the number of Authority Units and Vertical Developers' right to construct the n umber of Developer Residential Units specified in this Housing Plan is absolute and is based on the total number of Residential Units entitled under this Housing Plan. The Authority's right and entitlement shall not decrease if Vertical Developers ultimately build less than the full entitlement of Developer Residential Units permitted on the Project Site, and Vertical Developers' right and entitlement shall not decrease if the Authority ultimately builds less than the full entitlement of Authority Housing Units on the Project Site. Any such decrease in the actual number of Developer Residential Units or Authority Housing Units constructed may, at Project completion, cause the actual affordable housing percentage (expressed as a comparison of Affordable Units to Market Rate Units) to vary from the Minimum Affordable Percentage.

2.2 Development Process.

(1) Subject to the terms of the DDA, Developer shall develop the Project Site in a series of Major Phases and, within each Major Phase, in a series of Sub-Phases. The DDA includes a process for Developer's submittal of Major Phase Applications and Sub-Phase Applications, and for the Authority's review and grant of Major Phase Approvals and Sub-Phase Approvals, in accordance with the DRDAP. The anticipated order of development of Major Phases, and Sub-Phases in each Major Phase, including the Completion of the Authority Housing Lots, is set forth in the Phasing Plan and the Schedule of Performance, subject to revision in accordance with the procedures set forth in the DDA and the DRDAP.

(2) Developer shall preliminarily identify the number and location of anticipated Inclusionary Units for each anticipated Market Rate Project in a Major Phase Application, and may revise such number in a Sub-Phase Application, subject to the requirements of this Housing Plan. The final number of Inclusionary Units for each Market Rate Project (if any) shall be specified in the applicable Vertical DDA.

(3) Subject to the terms of the DDA: (i) upon receipt of a Sub-Phase Approval, Developer shall construct Infrastructure and Stormwater Management Controls within such Sub-Phase in accordance with the Schedule of Performance, including Infrastructure and Stormwater Management Controls to serve the Authority Housing Lots; and (ii) at the close of conveyance of Market Rate Lots to Vertical Developers (including Developer and Affiliates of Developer) for the construction of Residential Projects, Developer shall transfer such Market Rate Lots consistent with the requirements of the DDA and this Housing Plan and shall pay to the Authority the Developer Housing Subsidy as set forth in this Housing Plan.

(4) Subject to the terms of the applicable Vertical DDA, following receipt of all Vertical Approvals, the Vertical Developer may construct the applicable Market Rate Project(s), and upon such construction, the Vertical Developer must include the number of Inclusionary Units for such Market Rate Project(s) as are set forth in the Vertical DDA.

2.3 Developer's Obligations Related to Authority Housing Units. Developer's obligations related to the Authority Housing Units are: (i) Completion of the Infrastructure and Stormwater Management Controls (or, with respect to Transferable Infrastructure, payment of the Transferable Infrastructure Liquidation Amount as set forth in Section 2.8(e) of this Housing Plan) on the Authority Housing Lots in accordance with the DDA; (ii) if the Authority retains the Authority Housing Lots as anticipated, to cooperate with the Authority in effectuating any post-closing boundary adjustments in accordance with Section 10.5 of the DDA; (iii) if the Authority transfers the Authority Housing Lots to Developer pursuant to Section 2.7(b), transfer of all Authority Housing Lots to the Authority upon Completion of all Infrastructure and Stormwater Management Controls serving that Lot except for the Transferable Infrastructure in accordance with the provisions of the DDA, including this Housing Plan as set forth in Section 2.7(b) at no cost to the Authority and without consideration to either Party; (iv) payment of the Developer Housing Subsidy in compliance with Section 6.1 of this Housing Plan; (v) recordation of Vertical DDAs on the Market Rate Lots specifying the number of Inclusionary Units to be built on the Market Rate Lots consistent with the applicable Sub-Phase Approval; and (vi) if applicable, completion of the Replacement Housing Units as set forth in Section 3.1(a) of this Housing Plan. Except as set forth in Section 3.1(a) of this Housing Plan, Developer shall have

no obligation to Complete the Replacement Housing Units or the Authority Housing Projects. Developer shall have no obligation to Complete the Transition Units except as may be agreed to by Developer in accordance with Section 8.4 of this Housing Plan.

2.4 Developer Land Conveyances.

(a) Authority Housing Lots. The Completed Authority Housing Lots shall comprise Residential Acreage equal to approximately twenty-one and seven-tenths percent (21.7%) of the total Residential Acreage of the Residential Developable Lots on Treasure Island. The total expected Residential Acreage of the Residential Developable Lots and the Completed Authority Housing Lots is set forth on the Housing Map.

(b) Major Phases. The approximate location and size of the Authority Housing Lots is set forth in the Housing Map , and may be revised as part of a Major Phase Approval or Sub-Phase Approval or otherwise as set forth in the DRDAP. The Housing Map has been designed and Approved so as to maintain general proportionality in location and phasing between the development of Market Rate Units and Authority Housing Units at all times. Without limiting the foregoing, the Parties agree that in order to provide flexibility in implementation: (i) within each Major Phase, the total Residential Acreage of the Authority Housing Lots on Treasure Island shall not be less than fifteen percent (15%) of the total Residential Acreage of the Market Rate Lots and Authority Housing Lots combined in that Major Phase, (ii) at the time of the Approval of the Major Phase that includes the 3,160th Developer Residential Unit, the Cumulative Total Authority Housing Acreage on Treasure Island shall not be less than twenty percent (20%) of the total Residential Acreage of the Market Rate Lots and Authority Housing Lots combined; and (iii) upon the Completion of all Major Phases, the Cumulative Total Authority Housing Acreage on Treasure Island shall not be less than twenty-one and seven-tenths percent (21.7%) of the total Residential Acreage of the Market Rate Lots and Authority Housing Lots combined. For purposes of this Section, the Percentage of Cumulative Total Authority Housing Acreage shall be calculated as follows: (i) the total Residential Acreage of the Authority Housing Lots on Treasure Island in a Major Phase Application plus the total Residential Acreage of all Authority Housing Lots on Treasure Island in all previously Approved Major Phases, divided by (ii) the total Residential Acreage of all Market Rate Lots and Authority Housing Lots on Treasure Island in that same Major Phase Application plus the total Residential Acreage of all Market Rate Lots and Authority Housing Lots on Treasure Island in all previously Approved Major Phases.

(c) Housing Data Table. In order to track Developer's compliance with this Housing Plan, Developer shall submit a Housing Data Table as part of each Major Phase Application and Sub-Phase Application that includes Residential Projects, in the form and containing the information set forth in Attachment A, subject to changes and modifications Approved by the Authority. The Authority shall review the Housing Data Table in connection with its consideration and Approval of each Major Phase or Sub-Phase Application in accordance with the procedures set forth in the DRDAP. Each Housing Data Table shall include the applicable information set forth in Attachment A, including:

(1) The location and Residential Acreage for each Authority Housing Lot and each Market Rate Lot in that Major Phase or Sub-Phase, as applicable, and whether there are any proposed changes from the Housing Map or previous Approvals;

(2) The percentage of Residential Acreage of Authority Housing Lot(s) to the Residential Acreage of Authority Housing Lot(s) and Market Rate Lot(s) in that Major Phase or Sub-Phase, as applicable, and the Cumulative Total Authority Housing Acreage to date;

(3) The cumulative number of Developer Residential Units (including the number of Inclusionary Units) permitted for development, or if construction is complete, actually developed, on Market Rate Lots previously conveyed to Vertical Developers, and the number of Developer Residential Units (including the number of Inclusionary Units) allocated for development in that Major Phase or Sub-Phase, as applicable; and

(4) the anticipated location of each anticipated Residential Project within the Major Phase or Sub-Phase, as applicable, and the anticipated Authority Housing Lot Completion Date, and for each such Market Rate Project, the anticipated acreage, height and density and the number of residential units, including the proposed number of Inclusionary Units.

(d) Upon conveyance of property within a Sub-Phase to the Developer in accordance with the DDA, the Authority shall retain the Authority Housing Lots, unless the Parties mutually agree to the transfer of the Authority Housing Lots to the Developer. In connection with development of each Sub-Phase, if the Authority Housing Lots are transferred to Developer, Developer shall convey to the Authority Developer's interest in the Authority Housing Lots without cost to the Authority upon Completion of all Infrastructure and Stormwater Management Controls except for the Transferable Infrastructure for such Authority Housing Lots in accordance with the procedures set forth below in the DDA and Section 2.7(b) of this Housing Plan. If the Authority Housing Lots are retained by the Authority, Developer shall Complete the Infrastructure and Stormwater Management Controls on the Authority Housing Lots in accordance with the procedures set forth below in Section 2.8 of this Housing Plan.

2.5 Selection of Approved Sites.

(a) Developer has selected and the Authority has Approved generally designated sites for the development of the Authority Housing Units as shown on the Housing Map (individually, an "Approved Site" and collectively, the "Approved Sites"), including additional sites if the Maximum Public Financing Revisions or the Partial Public Financing Revisions are made as set forth in Article 9 below.

(b) In each Major Phase Application and Sub-Phase Application, Developer will confirm the location and size of the Approved Sites, or propose any changes to the Approved Sites with an explanation for the proposed change. Any proposed change will be shown on a revised Housing Map in the form of Attachment B. The final Approved Sites shall be as set forth in each Sub-Phase Approval, and shall be the Authority Housing Lots in that Sub-

Phase. Notwithstanding a Sub-Phase Approval, Developer may subsequently seek a substitution or alteration as set forth in Section 2.6 of this Housing Plan.

(c) Within sixty (60) days following the Authority Housing Lot Completion Date, Developer shall (if applicable) convey to the Authority Developer's interest in the applicable Authority Housing Lot.

2.6 Site Alteration Process. Developer may request to substitute an alternate Authority Housing Lot for any of the Approved Sites or to make material changes to the size or boundaries of an Approved Site, with a brief explanation as to why Developer is requesting the substitution or change. Any substitution or material change shall be subject to the Authority's review and Approval, in its reasonable discretion if the request is made before or as part of a Sub-Phase Application, and in its sole discretion if the request is made at any time after receipt of a Sub-Phase Approval. In determining whether to approve a substitution or material change before or as part of a Sub-Phase Application, the Authority will consider, at a minimum, the following:

(1) Size. The alternative parcel should be approximately the same size as the parcel it is intended to replace (or, if it is different, then Developer shall show what other adjustment(s) are proposed to Approved Sites on the Housing Map to meet the required Percentage of Cumulative Total Authority Housing Acreage as required pursuant to Section 2.4(b)).

(2) Dimensions. Parcel dimensions shall be generally typical in shape as compared to Market Rate Lots, reflective of the block configuration.

(3) Frontages. Each parcel shall have a minimum of one (1) frontage that provides immediate vehicular access in a manner consistent with the Design for Development and immediate pedestrian access to a public walkway or right of way.

(4) Fiscal Impact. The alternative parcel or material change should not have a negative impact on the reasonably anticipated or proposed financing for the development of Affordable Housing Units on the site when compared to the original parcel.

(5) Dispersal of Affordable Units, Timing and Location. The alternative parcel, when compared to the site it is intended to replace, maintains the overall balance of providing Authority Housing Lots with access to transit, proximity to parks and other public amenities and that are dispersed throughout the Project Site, integrates the Affordable Housing Units and the Market Rate Units, and generally maintains the timing and proportionality of Market Rate Lots and Authority Housing Lots relative to the Phasing Plan and the Schedule of Performance.

(6) Site Conditions. The proposed substitution or change should not result in a parcel that is more difficult or expensive to develop (i.e., sites that include the need for extensive retaining walls, subsurface improvements, ongoing monitoring responsibilities, or that cannot accommodate the contemplated parking or common areas).

(7) TIHDI Approval. If the proposed substitution or change is to an Authority Housing Lot that the Authority has designated for development by TIHDI or a TIHDI member organization, then the Authority will consult with TIHDI and the TIHDI member organization and take into account any reasonable objections raised by TIHDI or the TIHDI member organization.

(8) Other Matters. The Authority may consider such additional or unique matters as may arise during the course of the development of the Project.

2.7 Transfer of Authority Housing Lots.

(a) Retention of Authority Housing Lots. The Parties anticipate that the Authority will retain the Authority Housing Lots in each Sub-Phase (although the Authority may transfer the Authority Housing Lots to Developer at Sub-Phase Approval upon mutual agreement of the parties, as set forth in the DDA). If boundary corrections to the Authority Housing Lots and the Market Rate Lots are required upon Completion of the Infrastructure and Stormwater Management Controls in a Sub-Phase or in connection with the conveyance of a Residential Developable Lot, the Parties agree to cooperate in effecting such boundary adjustments in accordance with the DDA.

(b) Transfer of Authority Housing Lots. In the event that the Authority transfers the Authority Housing Lots to Developer at the time of the Sub-Phase conveyance, Developer shall convey back to the Authority and the Authority shall accept Developer's interest in the Authority Housing Lots in accordance with Section 3.7 of the DDA. Any conveyance of the Authority Housing Lots from Developer to the Authority shall be at no cost to the Authority and without consideration to either Party. The Authority shall accept conveyance of the Authority Housing Lots no later than sixty (60) days following the Authority Housing Lot Completion Date.

2.8 Completion of Authority Housing Lots.

(a) Subject to the terms of the DDA, Developer shall Complete the Infrastructure and Stormwater Management Controls for the Authority Housing Lots as set forth in the Schedule of Performance and the applicable Sub-Phase Approval and Developer shall either Complete the Transferable Infrastructure or pay the Transferable Infrastructure Liquidation Amount as set forth in subsection (d) or (e) below. Each Completed Authority Housing Lot shall meet the standards for it to be a Developable Lot as set forth in the DDA. The Parties understand and agree that the Infrastructure and Stormwater Management Controls (excluding the Transferable Infrastructure) on the Authority Housing Lots and the Market Rate Lots within a Sub-Phase shall be Completed at or around the same time, subject to variations as set forth in the applicable Sub-Phase Approval and the Phasing Plan.

(b) Developer and the Authority agree to work together and keep the other informed as to the expected dates for the Completion of Infrastructure and Stormwater Management Controls within a Sub-Phase, the Authority Housing Lot Completion Date, the status of any pending tax credit applications, the closing date for the transfer of Market Rate Lots to Vertical Developers, the expected date for the Commencement of Market Rate Projects and

Authority Housing Projects, and the expected payment date for the Developer Housing Subsidy. Without limiting the foregoing, Developer shall use good faith efforts to notify the Authority approximately six (6) months before the anticipated date of the Authority Housing Lot Completion Date.

(c) Not less than ninety (90) days before the Authority Housing Lot Completion Date, Developer shall give the Authority notice of the availability of the Authority Housing Lot and include with such notice a parcel map showing the Authority Housing Lot.

(d) The Parties intend that Transferable Infrastructure related to an Authority Housing Lot will be completed by Developer in coordination with the development of the Authority Housing Project on the Authority Housing Lot. Developer's obligation to Complete the Transferable Infrastructure will be secured by Adequate Security as set forth in the DDA, and the Authority shall provide Developer with all access needed to Complete the Transferable Infrastructure on the Authority Housing Lots. Developer shall coordinate the construction of the Transferable Infrastructure with the construction of the Authority Housing Project to ensure that (i) the Transferable Infrastructure (other than utility laterals serving the applicable Authority Housing Lot) is Completed at or before Completion of the Authority Housing Project, (ii) the utility laterals serving the applicable Authority Housing Lot are Completed in coordination with the construction of the Authority Housing Project, and (iii) Developer's work does not interfere with or obstruct the Qualified Housing Developer's work during such construction to the maximum extent reasonably feasible and that the Qualified Housing Developer's work similarly does not interfere with Developer's work. Notwithstanding the foregoing, if Developer or Vertical Developer have Commenced the Transferable Infrastructure on all of the Lots adjacent to an Authority Housing Lot, then Developer shall have the right to Commence and Complete the Transferable Infrastructure related to that Authority Housing Lot (other than the utility laterals for that particular Authority Housing Lot) even though development of the applicable Authority Housing Project may not yet have Commenced. Developer may exercise such right by providing to the Authority not less than ninety (90) days notice of its intent to Commence the Transferable Infrastructure, and such right shall accrue unless (i) the Authority objects within thirty (30) days following the Authority's receipt of Developer's notice, and (ii) the Parties agree, within ninety (90) days following the Authority's objection, to a payment amount equal to Developer's anticipated cost of Completing some or all of the Transferable Infrastructure on the remaining Authority Housing Lots (the "Transferable Infrastructure Liquidation Amount"). The Parties shall meet and confer in good faith during the 90-day period (or such longer period as may be agreed to by the Parties) to reach agreement on the Transferable Infrastructure Liquidation Amount. Developer shall provide its estimate of such costs, together with reasonable backup documentation, based upon the Transferable Infrastructure Completed by Developer to date in that Sub-Phase. If the Parties are able to reach agreement on the Transferable Infrastructure Liquidation Amount, then Developer shall promptly pay this sum to the Authority and thereafter (i) Developer shall be released from the obligation to Complete that portion of the Transferable Infrastructure for which Developer has paid the Transferable Infrastructure Liquidation Amount, and (ii) the Authority shall release any associated Adequate Security in accordance with the DDA. Upon receipt, the Authority shall contribute the Transferable Infrastructure Liquidation Amount to the applicable Authority Housing Projects for Completion of the Transferable Infrastructure and for no other purpose. If the Parties are not able to reach agreement on the Transferable Infrastructure Liquidation

Amount within the time frame set forth above, then Developer shall have the right to Complete the Transferable Infrastructure related to the Authority Housing Lots notwithstanding the Authority's failure to Commence the applicable Authority Housing Projects. The Parties agree that Completion of the utility laterals on the Authority Housing Lots prior to commencement of construction of the Authority Housing Project on a particular Authority Housing Lot may result in the lateral being moved or replaced. Notwithstanding anything to the contrary above, to avoid unnecessary costs and duplication of work if Developer elects to Complete the Transferable Infrastructure on an Authority Housing Lot before Completion of the Authority Housing Project on that Authority Housing Lot, Developer shall complete all of the Transferable Infrastructure except for the utility laterals and Developer shall pay to the Authority a Transferable Infrastructure Liquidation Amount payment equal to the cost of Completing the utility lateral, as determined by Developer and Approved by the Authority. Developer shall pay this amount upon Completion of the remaining Transferable Infrastructure and upon such payment (i) Developer shall be released from any obligation to Complete the applicable utility lateral and (ii) the Authority shall release any associated Adequate Security in accordance with the DDA.

(e) Developer shall also have the right to request at any time following the Authority Housing Lot Completion Date to pay the Transferable Infrastructure Liquidation Amount in lieu of the obligation to Complete the Transferable Infrastructure for such Authority Housing Lot. If the Parties are able to agree upon the Transferable Infrastructure Liquidation Amount as set forth in subsection (d) above, then Developer shall pay this amount to the Authority at such time and thereafter (i) Developer shall be released from the obligation to Complete the Transferable Infrastructure for which the Transferable Infrastructure Liquidation Amount has been paid and (ii) the Authority shall release any associated Adequate Security as set forth in the DDA. The Authority shall use such funds for the Transferable Infrastructure, and for no other purpose, as set forth in subsection (d) above. If the Parties are not able to agree upon the Transferable Infrastructure Liquidation Amount, then there will be no action or payment on the Transferable Infrastructure unless and until Developer provides notice to the Authority pursuant to subsection (d) above of its intent to Commence the Transferable Infrastructure on a particular Authority Housing Lot or Developer is otherwise required to Commence and Complete the Transferable Infrastructure in accordance with this Section 2.8.

(f) If Developer has Completed all of the Infrastructure and Stormwater Management Controls except for the Transferable Infrastructure in a Sub-Phase and Developer or a Vertical Developer have Commenced the Transferable Infrastructure on all of the Market Rate Lots in the Sub-Phase, and Developer has not yet begun the Transferable Infrastructure or paid the Transferable Infrastructure Liquidation Amount for one or more of the Authority Housing Lots in that Sub-Phase, then the Authority shall have the right, by giving Developer written notice, to require Developer to Complete the Transferable Infrastructure related to the Authority Housing Lots in that Sub-Phase in accordance with the DDA and the Development Requirements. Developer shall Commence the Transferable Infrastructure within one hundred twenty (120) days following the Authority's notice and diligently prosecute the same to Completion, in accordance with the DDA and the Development Requirements (and in a time frame generally consistent with the Completion of the Transferable Infrastructure on the Market Rate Lots but in no event later than 12 months following the date of Commencement of the Transferable Infrastructure). Transferable Infrastructure shall be accepted in accordance with

the process and procedures set forth in the DDA and the Treasure Island Subdivision Code for the acceptance of public infrastructure.

(g) If the Authority transfers the Authority Housing Lots to Developer as part of a Sub-Phase conveyance, Developer shall take such actions as may be reasonably requested by the Authority (including the early transfer of the applicable real property or entering into binding agreements for the transfer of the real property) to provide evidence of site control for the Authority or a Qualified Housing Developer (including a Qualified Housing Developer selected by TIHDI) or as otherwise may be needed in connection with any financing application for an Authority Housing Lot, provided that Developer shall assume no liability relating to any such application or the failure to obtain financing.

2.9 Maintenance of Authority Housing Lots.

Following Completion and conveyance to the Authority, the Authority shall maintain or cause to be maintained the Authority Housing Lots in a safe and orderly condition free from debris and unsightly vegetation.

3. AFFORDABLE HOUSING DEVELOPMENT

3.1 Authority Development of Authority Housing Units.

(a) The Authority may cause to be constructed by Qualified Housing Developers, (including Qualified Housing Developers selected by TIHDI with Authority Approval) up to One Thousand Six Hundred Eighty Four (1,684) Authority Housing Units on the Authority Housing Lots (or 21.1% of the maximum build-out of the Project Site with Eight Thousand (8,000) Residential Units). The mix of For-Sale and For-Rent Residential Units, the size of the Authority Housing Units, whether the Authority Housing Units are senior or family units and the allocations of Authority Housing Units among affordability levels shall be determined by the Authority in the exercise of its sole and absolute discretion in accordance with applicable law, including the Replacement Housing Obligation, provided that the Authority shall ensure that the Transition Housing Rules and Regulations are properly and timely implemented. Notwithstanding anything to the contrary set forth above, the Parties have agreed to the following to ensure that the Replacement Housing Obligation are satisfied:

(1) Developer shall not demolish any housing units on YBI until Developer has (i) obtained a Sub-Phase Approval for the first Sub-Phase that includes an Authority Housing Lot large enough to build not fewer than 55 Affordable Housing Units, the Market Rate Lots in that Sub-Phase are conveyed to Developer, Developer has Commenced the construction of Infrastructure and Stormwater Management Controls in that Sub-Phase and provides evidence reasonably satisfactory to the Authority that the Authority Housing Lot Completion Date for the applicable Authority Housing Lot is scheduled to occur within twenty-four (24) months, or (ii) the Authority has approved an alternative means of meeting the Replacement Housing Obligation;

(2) Developer shall not have the right to rely on a Developer Extension or Economic Delay (as those terms are defined in the DDA) to extend the Authority

Housing Lot Completion Date for the Authority Housing Lot designated for satisfaction of the Replacement Housing Obligation related to the demolition of the YBI units;

(3) Notwithstanding the five (5) year deferral on the payment of the Developer Housing Subsidy as set forth in Section 6.1 of this Housing Plan, the Authority shall have the right to all of the accrued Developer Housing Subsidy during such five (5) year period as and when needed to Complete the first Authority Housing Project satisfying the Replacement Housing Obligation (including, at the Authority's sole discretion, a smaller number of Authority Housing Units than contemplated on the Housing Data Table if the Authority elects to develop a smaller project);

(4) Inclusionary Units that meet the Affordability requirements of the Replacement Housing Obligation may be counted for purposes of satisfying the Replacement Housing Obligation. Furthermore, if the Authority reasonably believes that the first Authority Housing Project will not be completed in time to satisfy the Replacement Housing Obligation for the demolished YBI housing units, the Parties shall designate additional Inclusionary Units as may be required to satisfy the Replacement Housing Obligation, and the cost to Developer of any required decrease in the Affordable Housing Cost for any Inclusionary Unit will be credited against the next Developer Housing Subsidy payable by Developer. Developer shall include in the Vertical DDAs entered into before satisfaction of the Replacement Housing Obligation related to the demolition of the YBI units the ability for Developer to adjust the Affordable Housing Cost level for Inclusionary Units required in such Vertical DDA (and not yet Completed or sold to occupying households) in order to meet this requirement. Upon any such adjustment in the Affordable Housing Cost level for an Inclusionary Unit, Developer (or Vertical Developer, if applicable) shall provide evidence of the increased cost to Developer (or Vertical Developer) and the parties shall meet and confer in good faith to reach agreement on the amount of such cost. If the Parties are not able to agree on the cost within sixty (60) days, then either Party shall have the right to initiate arbitration to determine the cost in accordance with section 15.3.2 of the DDA;

(5) If the Replacement Housing Obligation is not satisfied for the demolished YBI housing units notwithstanding the agreement in clauses (1) through (4) above, then Developer shall be required, upon the Authority's request, to Complete the first Authority Housing Project on the Authority Housing Lot as needed to satisfy the Replacement Housing Obligation, provided (i) Developer shall be permitted to develop the Authority Housing Project with only as many Affordable Housing Units as may be required to satisfy the Replacement Housing Obligation but Developer may increase the number of Affordable Housing Units to the extent there is available Developer Housing Subsidy to Complete such larger project, and (ii) the Authority and Developer shall meet and confer in good faith to reach agreement on the number of additional Affordable Housing Units to be built, the cost of building such Affordable Housing Units, and the building footprint of the Affordable Housing Project to be built recognizing the Authority's goal of maximizing land available for future development of Affordable Housing Projects. If the parties are not able to reach agreement on the number, cost or building footprint of additional Affordable Housing Units to be built within sixty (60) days, and the Authority still wants Developer to Complete the Affordable Housing Units to satisfy the Replacement Housing Obligation, then Developer shall only be obligated to build the number of Affordable Housing Units needed to satisfy the Replacement Housing Obligation for the

demolished YBI housing units and Developer shall retain and use existing or future Developer Housing Subsidy as needed to Complete the Authority Housing Project, and such Developer Housing Subsidy used by Developer shall no longer be due or payable to the Authority.

(b) The Authority shall have the sole discretion to determine the number of Authority Housing Units to be constructed on an Authority Housing Lot, provided that such construction is permitted by the Development Requirements and is supportable by the Infrastructure and Stormwater Management Controls applicable to such Authority Housing Lot.

(c) The Parties currently contemplate that the Authority will construct up to 1,684 Authority Housing Units on the Authority Housing Lots in order to meet the Twenty-Five Percent Minimum when combined with the Inclusionary Units. Notwithstanding the foregoing, the Authority shall have the right to construct or cause the construction of Affordable Housing Units in excess of the Twenty-Five Percent Minimum if construction will not (i) materially adversely affect Developer's development in the remaining portions of the Project Site, (ii) require any material changes in the Infrastructure and Stormwater Management Controls or the costs thereof, (iii) create any material adverse changes in traffic or other environmental considerations, including delays to Developer or Vertical Developer because of environmental review or compliance, (iv) decrease the number of Market Rate Units that can be developed by Developer and Vertical Developers below 6,000 Market Rate Units, or (v) otherwise materially increase the cost to Developer or any Vertical Developer of performing its obligations under the DDA; provided, however, in no event will the Authority have the right to construct or cause to be constructed more than the 2,105 Authority Housing Units allowed under the Thirty Percent Minimum, except as may occur pursuant to subsection (d) below.

(d) Upon the last Sub-Phase Approval in the last Major Phase, any difference between the cumulative total of Market Rate Units to be built by Vertical Developers at the Project Site (as set forth in all of the Sub-Phase Approvals) and the cumulative total number of Market Rate Units that were entitled under the Project Approvals shall be available for Affordable Housing on the Authority Lots. Any increase in the number of Authority Units under this Section 3.1(d) shall be made without cost to Developer and without any change to the Infrastructure and Stormwater Management Controls to be Completed by Developer.

3.2 Authority Housing Project Design. On or before submission to the Authority Board, the Authority or a Qualified Housing Developer (including a Qualified Housing Developer selected by TIHDI with Authority Approval), as applicable, shall submit proposed Schematic Design Drawings for each proposed Authority Housing Project to Developer for review and comment. Developer's review shall be reasonable and shall be limited to conformity with the Development Requirements. If Developer believes that any Design Drawings are not consistent with the Development Requirements, Developer shall provide a written statement of the inconsistencies and a statement of the changes needed in order to cause the Authority Housing Project to be consistent with the Development Requirements. Developer shall review and provide any comments within thirty (30) days of submission to Developer. Notwithstanding anything to the contrary above, the Authority shall have the right to approve or reject the Schematic Design Drawings notwithstanding any Developer objection, provided that the Schematic Design Drawings are consistent with the Development Requirements.

3.3 Uses of Authority Housing Lots. The Authority Housing Lots shall only be used for development of Authority Housing Units, provided that the Authority Housing Projects may contain Parking Spaces and ancillary uses such as child care, social services or related tenant-serving uses consistent with the Development Requirements. Ancillary neighborhood retail uses may only be developed on the Authority Housing Lots with the prior Approval of Developer. The Authority shall record restrictions on the Authority Housing Lots to ensure that the Affordable Housing Units remain affordable in accordance with the requirements of this Agreement. The Authority shall record covenants on Transition Units that do not initially qualify as Affordable Housing Units (based on the income level of the applicable Transitioning Household) to make them Affordable Housing Units immediately upon the vacancy or departure of the initial Transitioning Household. The Authority will not subordinate its fee interest in the Authority Housing Lots to any financing lien; provided, however, the affordability restrictions may in the Authority's sole discretion, be subordinated to construction and permanent financing related to the development of an Authority Housing Project.

3.4 Requirements for Authority Housing Projects. The Authority shall require all Qualified Housing Developers to comply with the applicable requirements of the DDA and this Housing Plan, including but not limited to the Development Requirements. Each Authority Housing Project will be developed under a lease disposition and development agreement Approved by the Authority and substantially similar in form to the Vertical DDA attached to the DDA.

4. VERTICAL HOUSING PROGRAM

4.1 Unit Count and Mix. Vertical Developers may develop up to Six Thousand (6,000) Market Rate Units on the Project Site. The Vertical DDAs for the Market Rate Projects will require a mix of For Sale and Rental Residential Units, provided that, at the time of Approval of each Major Phase, not less than ten percent (10%) of the Developer Residential Units designated to date shall be For Rent, subject to any deviations as may be agreed to by the Authority Director in his or her discretion. Units shall be considered designated For Rent (i) if located on a Lot that has not been transferred to a Vertical Developer, they are identified in the then current Approved Housing Data Table as For Rent (and, as a condition subsequent, such Units will be designated as For Rent in the applicable Vertical DDA), and (ii) if located on a Lot that has been transferred to a Vertical Developer, the Vertical DDA for that Lot requires the Units be For Rent. The Developer Residential Units required under this Section 4.1 to be Rental Residential Units shall remain For Rent for the useful life of the applicable building and such units will not be mapped for individual unit ownership, provided, however, this prohibition on condominium conversion shall only apply to the ten percent of the Rental Residential Units required pursuant to this Section 4.1 and shall not apply to any Developer Residential Units Developer elects to designate as Rental Residential Units that exceed the required ten percent (10%). The prohibition on condominium conversion on the required Rental Residential Units shall be included in the applicable Vertical DDAs.

The Housing Data Table submitted with each Major Phase and Sub-Phase Application will provide the maximum number of Developer Residential Units, including the number of Inclusionary Units, per Market Rate Lot. The Housing Data Table shall also provide the breakout between the number of For-Rent and For-Sale Units. Developer may revise these

numbers at any time before execution of a Vertical DDA and the corresponding transfer of a Market Rate Lot to a Vertical Developer, subject to the prior written Approval of the Authority in accordance with this Housing Plan and the DRDAP.

4.2 Vertical DDA. Each Vertical Developer of a Market Rate Lot shall enter into a Vertical DDA before or in connection with the conveyance of the applicable real property to a Vertical Developer and before the start of development of that Residential Developable Lot. The Vertical DDA will be substantially in the form required under section 4.1 of the DDA and shall specify, among other things (i) the maximum number of Market Rate Units allowed to be developed on the Residential Developable Lot, (ii) if applicable, the minimum number of Inclusionary Units to be constructed in connection with the development of the Residential Developable Lot (consistent with Section 5.1(a) of this Housing Plan), (iii) if applicable, the Affordability level of each Inclusionary Unit (consistent with Section 5.1(a) of this Housing Plan), (iv) the maximum number of Parking Spaces that can be developed on the Residential Developable Lot, and (v) the Authority's right to approve the location of the Inclusionary Units before recordation of the Declaration of Restrictions as set forth in Section 5.1(f) of this Housing Plan.

4.3 Vertical Developer Discretion. Vertical Developers will have the flexibility to select the size and type of Residential Units, subject to the Development Requirements and the approved Vertical DDA. Vertical Developers may also adjust the number of Market Rate Units so long as they do not exceed the maximum number of Market Rate Units permitted in the Vertical DDA, provided, any such adjustment shall not change the Developer Housing Subsidy payment obligations of Developer as set forth in this Housing Plan.

5. INCLUSIONARY HOUSING REQUIREMENTS

5.1 Inclusionary Housing Requirements.

(a) Development of Inclusionary Units. Five percent (5%) of all Developer Residential Units shall be Inclusionary Units, with an average Affordable Housing Cost for the For-Sale Inclusionary Units Affordable to households with incomes not exceeding one hundred percent (100%) of Area Median Income and an Affordable Housing Cost for the For-Rent Inclusionary Units Affordable to households with incomes not exceeding sixty percent (60%) of Area Median Income (the "Inclusionary Obligation").

(b) Developer Flexibility. Developers shall not be required to include any Inclusionary Units within the Non-Inclusionary Projects. Developer shall have discretion to determine the exact number of Inclusionary Units to be developed on each Market Rate Lot and the Affordability level of each Inclusionary Unit, provided that (i) the Housing Data Table to be provided with each Major Phase and Sub-Phase Application shall identify the location of the Market Rate Lots containing Inclusionary Units, the number of Inclusionary Units, and for Sub-Phase Applications only, the Affordability level and tenure (i.e., ownership or rental) for the Inclusionary Units, and the Inclusionary Unit allocation shall be in accordance with the Approved Housing Data Table subject to any subsequent revisions approved by the Authority in accordance with the DRDAP, (ii) the number of Inclusionary Units in each Market Rate Project, excluding the Non-Inclusionary Projects, shall range from five percent (5%) to no more than ten

percent (10%) of the total For-Sale Units and to no more than twenty percent (20%) of the total For-Rent Units within that Market Rate Project (subject to the Authority's right to require a higher number of Inclusionary Units in a Market Rate Project if required following Developer's failure to meet an Inclusionary Milestone as set forth in subsection (c) below); and (iii) Developer can demonstrate that the Inclusionary Obligation has been or will be satisfied at each Inclusionary Milestone as set forth in Section 5.1(c) of this Housing Plan.

(c) Inclusionary Milestones. Developer shall demonstrate compliance with the Inclusionary Obligation at each Inclusionary Milestone, which are the dates of the conveyance to Vertical Developers of Market Rate Lots allowing for the development of (i) two thousand two hundred ten (2,210) Developer Residential Units, (ii) three thousand one hundred sixty (3,160) Developer Residential Units, (iii) four thousand seven hundred forty (4,740) Developer Residential Units, and (iv) the last Residential Developable Lot (each, an "Inclusionary Milestone"). Developer shall demonstrate compliance with the Inclusionary Obligation at each Inclusionary Milestone by providing the Authority with executed Vertical DDAs stating the required number of Inclusionary Units and the required Affordability level for those units, as well as the maximum number of Developer Residential Units allowed in the Vertical DDAs. If for any reason, the number of Inclusionary Units is less than five percent (5%) or the average Affordable Housing Cost level is higher than one hundred percent (100%) of Area Median Income for the For Sale Units at any one of the Inclusionary Milestones, then the Authority may, in its discretion, delay Approval of the next Major Phase or Sub-Phase Application, as the case may be, until the Authority has Approved a plan prepared by Developer to achieve the required number of Inclusionary Units as soon as possible. As part of the Approved plan, the Authority may allow exceptions to the requirements or limitations in this Housing Plan, including, but not limited to an increase in the percentage of Inclusionary Units exceeding the maximum percentages set forth in Section 5.1(b) above, the inclusion of Inclusionary Units in Non-Inclusionary Projects and/or Affordable Housing Costs lower than the ranges set forth in Section 5.1(f). As part of an Approved plan, the Authority may also require Developer to record Notices of Special Restrictions on Lots that are Completed but not yet sold to a Vertical Developer setting forth the required number of Inclusionary Units for such Lots, but this shall not, by itself, count toward compliance with the Inclusionary Obligation unless the Approved plan expressly provides that it will count toward compliance. Developer's proposed plan for achieving the Inclusionary Housing obligation shall be presented to the Authority no later than thirty (30) days after the Inclusionary Milestone in which the Inclusionary Obligation was not met. Notwithstanding anything to the contrary above, if Developer has not satisfied the Inclusionary Obligation at an Inclusionary Milestone, and such failure is not remedied in accordance with the requirements and timing set forth in the Approved plan, then the failure to meet the requirements of the Approved plan shall be an Event of Default.

(d) Recordation of Inclusionary Restrictions. Developer shall impose the Inclusionary Obligation on each Vertical Developer of a Market Rate Lot excluding the Non-Inclusionary Projects. The obligation will be imposed in the Vertical DDA for the Market Rate Lot and shall include the following (i) the designated number and Affordable Housing Cost level of Inclusionary Units to be developed on that Market Rate Lot, (ii) whether the Market Rate Units (and thereby the Inclusionary Units) will be For Rent or For Sale and the minimum term of the Inclusionary Obligation, and (iii) specifying the Authority's right to Approve the location of each Inclusionary Unit.

(e) Financing Inclusionary Units. Vertical Developers are responsible for financing the development of the Inclusionary Units included within their Market Rate Residential Projects and may access financing sources such as Four Percent (4%) Low Income Housing Tax Credits, Tax Exempt Bond proceeds and other sources of below market rate housing financing, to the extent the Market Rate Residential Project qualifies for such financing and such financing is available. The Authority has no obligation to provide any funding to Vertical Developers for the construction of Inclusionary Units or otherwise. Units that are financed with Four Percent Low Income Housing Tax Credits shall count as Inclusionary Units but such Inclusionary Units shall not be subject to any restrictions or monitoring by MOH or the Authority except as set forth in Section 415.3(c)(4)(C) and (D). Upon recordation of the deed restriction required by the Four Percent Low Income Housing Tax Credits, any Notice of Special Restriction or other Declaration of Restriction recorded against the Inclusionary Units or the property for the benefit of the City or the Authority shall be removed.

(f) Continued Affordability of Inclusionary Units. No later than the first rental or sale of an Inclusionary Unit (except for those Inclusionary Units financed with Four Percent (4%) Low Income Housing Tax Credits), Vertical Developers will record against the Inclusionary Unit a Declaration of Restrictions appropriate for the Inclusionary Unit as required by MOH. The form of such restrictions or notices shall be consistent with the forms used by MOH under Section 415 as of the effective date of the DDA, with such modifications to conform to this Housing Plan and shall be Approved by the Developer and the Authority. Vertical Developers will, upon recordation, provide to the Authority a copy of the applicable Declaration of Restriction. Upon the sale of each For-Sale Inclusionary Unit, the Vertical Developer shall promptly provide to the Authority a copy of the recorded grant deed as well as the above recorded documents showing the date of recording and the document numbers. Sale Inclusionary Units shall be Affordable to households with incomes permitted by the specified Affordable Housing Cost for that Inclusionary Unit in accordance with this Housing Plan.

(g) Comparability. The Inclusionary Units shall be intermixed and dispersed throughout the Project Site in locations approved by the Authority, and will be indistinguishable in exterior appearance from the Market Rate Units in the same Residential Project. The Inclusionary Units and the Market Rate Units in the same Residential Project with the same Household Size shall be substantially similar in size, type, amenities and overall quality of construction, but interior features need not be the same as those of the Market Rate Units as long as such features are of good quality and are consistent with the Development Requirements.

(h) Marketing and Operations Guidelines for Inclusionary Units. A Vertical Developer may not market, rent or sell Inclusionary Units until MOH has Approved the following for such Inclusionary Units: (i) the marketing plan (that includes any preferences required by MOH pursuant to the MOH Manual following the pre-marketing set forth in Section 8.5 of this Housing Plan); (ii) conformity of the rental charges and purchase prices for such Inclusionary Units with this Housing Plan; (iii) conformity of purchase prices or rental charges for Parking Spaces with this Housing Plan; (iv) eligibility and income-qualifications of renters and purchasers (collectively "Marketing and Operations Guidelines"). The Marketing and Operating Guidelines shall conform to the City and County of San Francisco Residential Inclusionary Affordable Housing Program Monitoring and Procedures Manual, attached to this Housing Plan as Attachment D (the "MOH Manual") with such updates or changes as are

permitted under the Development Agreement. To the extent that the terms of the MOH Manual, either in its current form or as amended from time to time, are inconsistent with or conflict with this Housing Plan as amended from time to time, the terms of this Housing Plan shall prevail. Accordingly, the Parties agree to the following changes to the MOH Manual: (a) all Inclusionary Units shall be on the Project Site, and there will be no in-lieu payment, off-site, or land dedication option; (b) the income requirements for ownership units shall be 100% of Area Median Income on average and 60% of Area Median Income for rental units; (c) the pricing methodology for the Sale Inclusionary Units shall be calculated as provided in Section 1.2 of this Housing Plan; (d) there shall be no bundling of parking with an Inclusionary Unit as set forth in Section 7.1 of the Housing Plan; and (e) pre-marketing requirements as set forth in Section 8.5 of this Housing Plan shall prevail. Vertical Developers shall submit the Marketing and Operations Guidelines to the Authority not later than ninety (90) days before the date Vertical Developer expects to begin marketing the Market Rate Units. The Authority shall review and consider Approval of the Marketing and Operations Guidelines in accordance with the Vertical DDA and this Housing Plan.

(i) Homeowners' Association Assessments. The initial amount of contributions to a homeowners association required to be made by a purchaser of an Inclusionary Unit shall not be increased for a period of one year following the date that the first Inclusionary Unit in the Residential Project has been sold to an owner/occupant, provided, any such provisions are approved by the California Department of Real Estate. Neither Developer nor any Vertical Developer shall be required to make any contribution to any homeowners' association to cover any shortfall in the association budgets as a result of the above requirement.

(j) Planning Code Section 415. Due to the detail set forth in this Housing Plan, and the differences between the City's inclusionary program under San Francisco Planning Code section 415 and 415.1 through 415.11 (collectively "Section 415") and the Inclusionary Obligation as defined in this Housing Plan, the Parties have not imposed or incorporated the requirements of Section 415 into this Agreement. However, the Parties acknowledge and agree that (i) the location of the Inclusionary Units within a Market Rate Project shall be approved by the City's Planning Department in accordance with the standards and practices established by the Planning Department to comply with Section 415, (ii) the monitoring and enforcement of the Inclusionary Obligation shall be performed by MOH in accordance with Sections 415.9(b) and (c), except that all references therein to Section 415.1 *et seq.* shall instead refer to the requirements under this Housing Plan, (iii) the provisions of Section 415(c)(4)(C) and (D) shall apply, if applicable, as set forth in Section 5.1(e) of this Housing Plan, and (iv) if and to the extent there are Inclusionary Obligation implementation issues that have not been addressed in this Housing Plan, then the provisions of Section 415 and the MOH Manual (as updated from time and time, with such changes to the extent permitted under the Development Agreement) shall govern and control such issues.

6. FINANCING OF AFFORDABLE HOUSING UNITS

6.1 Developer Housing Subsidy.

(a) Payment of Developer Housing Subsidy. The Developer Housing Subsidy shall accrue and be payable by Developer to the Authority upon each transfer of a

Market Rate Lot to a Vertical Developer, including Developer and its Affiliates, provided that for transfers during the first five (5) years following the first Sub-Phase Approval, the Developer Housing Subsidy shall accrue but shall not be payable until the earlier of (i) the date that is five (5) years following the first Sub- Phase Approval, (ii) forty-five (45) days after the Authority provides notice that it requires all or a portion of the accrued Developer Housing Subsidy to fulfill the Replacement Housing Obligation, to develop TIHDI Units, or to implement the Transition Housing Rules and Regulations, including predevelopment and administrative expenses as needed or (iii) an Event of Default by Developer. If the Authority requests payment pursuant to subsection (ii) above, Developer shall pay to the Authority the amount of the funds requested up to the accrued balance of the Developer Housing Subsidy. Developer may, before making any payment pursuant to subsection (ii) above, request evidence from the Authority verifying the amount requested is necessary for the purposes set forth in the request and that no other affordable housing funds are reasonably available to the Authority from the Project for such requested activity. The amount of the Developer Housing Subsidy shall be calculated in accordance with Section 1.17 of this Housing Plan. Except as set forth above, the Developer Housing Subsidy shall be paid by Developer to the Authority at the closing for each transfer of a Market Rate Lot to a Vertical Developer.

(b) Housing Subsidy True-Up Requirements. As set forth in section 1.17 of this Housing Plan, each payment of the Developer Housing Subsidy will be equal to $17,500 times the total number of Market Rate Units allowed to be constructed on a Market Rate Lot as set forth in the applicable Vertical DDA. The Parties have further agreed (i) that the minimum total amount of the Developer Housing Subsidy shall not be less than $73,500,000 (the "Minimum Subsidy Amount"), which is based on a minimum number of Market Rate Units of 4,200 and (ii) to a mid-point and end-point true-up for payment of the Minimum Subsidy Amount. On the date that Developer transfers the Market Rate Lot to a Vertical Developer that causes fifty percent (50%) or more of the total Residential Acreage of Market Rate Lots on Treasure Island to have been transferred to Vertical Developers (the "Mid-Point Date"), Developer shall notify the Authority of the transfer and of the total Developer Housing Subsidy paid by Developer to the Authority as of such date. If Developer has not paid to the Authority a Developer Housing Subsidy equal to or greater than one-half of the Minimum Subsidy Amount or $36,750,000 as of the Mid-Point Date, then Developer shall pay to the Authority within sixty (60) days of the Mid-Point Date an amount equal to the difference between $36,750,000 and the amount of the Developer Housing Subsidy previously paid to the Authority ("Mid-Point True-Up Amount").

Subsequent to the payment of the Mid-Point True-Up Amount, if any, Developer will continue to pay the Developer Housing Subsidy upon each transfer of a Market Rate Lot to a Vertical Developer in accordance with Section 6.1(a) above, provided, however, after Developer has paid the Developer Housing Subsidy equal to the Minimum Subsidy Amount excluding the Mid-Point True-Up Amount, then the Mid-Point True-Up Amount shall be credited toward the Developer's Housing Subsidy payments owed by Developer on subsequent transfers of Market Rate Lots (including Market Rate Lots on Treasure Island and Yerba Buena Island) until the amount of the Developer Housing Subsidy paid by Developer to the Authority including the Mid-Point True-Up Amount is equal to the Minimum Subsidy Amount. Upon completion of the credit (i.e., when Developer has paid the Minimum Subsidy Amount including any Mid-Point True-Up Payment), Developer will thereafter continue to pay the Developer Housing Subsidy

upon each transfer of a Market Rate Lot to a Vertical Developer in accordance with Section 6.1(a).

In addition, not less than 15 days before the date that Developer transfers the last Market Rate Lot to a Vertical Developer, Developer shall notify the Authority of the proposed transfer and of the total Developer Housing Subsidy paid by Developer to the Authority as of such date. If Developer has not paid to the Authority a Developer Housing Subsidy equal to or greater than the Minimum Subsidy Amount as of such date, then Developer shall pay to the Authority on or before the transfer of the last Market Rate Lot an amount equal to the difference between Minimum Subsidy Amount and the amount of the Developer Housing Subsidy previously paid to the Authority.

(c) Use of Developer Housing Subsidy. The Authority shall use the Developer Housing Subsidy for predevelopment and development expenses and administrative costs associated with the construction of the Authority Housing Projects on the Authority Housing Lots and for implementation of the Transition Housing Rules and Regulations, and for no other purpose. The Authority shall maintain reasonable books and records to account for all expenditures of the Developer Housing Subsidy, and make such books and records available to Developer upon request. Developer shall maintain reasonable books and records to account for all payments of the Developer Housing Subsidy, and shall make such books and records available for inspection to the Authority upon request. The Parties shall coordinate and keep each other informed of all development timelines. The Authority shall prioritize the use of the Developer Housing Subsidy for predevelopment and development expenses associated with the construction of Transition Units and TIHDI Replacement Units before other Authority Housing Units, as may be necessary to prevent delays in the close of Escrow for failure to satisfy Section 10.3.3.(h) of the DDA.

6.2 Designated Tax Increment and Other Funds. Each year, the Housing Percentage shall be deposited into the Housing Fund in accordance with Section 3.6 of the Financing Plan. All funds deposited into the Housing Fund shall be used by the Authority for administrative, predevelopment and development costs associated with the construction of the Affordable Housing Units on the Authority Housing Lots, and shall not be used to reimburse Developer for any of Developer's costs in Completing Infrastructure and Stormwater Management Controls on the Authority Housing Lots.

6.3 Jobs-Housing Linkage Fees. The commercial development within the Project Site is anticipated to generate Jobs-Housing Linkage fees to be paid into a housing fund held by the Authority in accordance with the DDA. The Authority shall use all Jobs-Housing Linkage fees payable by Vertical Developers of commercial uses within the Project Site for the development of Authority Housing Projects on the Authority Housing Lots and the implementation of the Transition Housing Rules and Regulations in accordance with this Housing Plan. The Authority shall maintain at all times an accounting of the Jobs-Housing Linkage fees that have been paid and that have been used to date, and shall make that information available to the Developer upon request.

6.4 Affordable Housing Loan Fund. To facilitate the design and construction of the Affordable Housing Units and the implementation of the Transition Housing Rules and

Regulations, Developer shall provide and make available to the Authority within thirty (30) days following the first Sub-Phase Approval a revolving loan fund in the amount of Seven Hundred Fifty Thousand Dollars ($750,000) to be administered by the Authority or by a designee of the Authority Approved by Developer (the "Affordable Housing Loan Fund"). The Authority or its designee shall maintain the Affordable Housing Loan Fund in a segregated interest-bearing account, with interest earned to be retained in the account and added to the Affordable Housing Loan Fund. The Authority shall use the Affordable Housing Loan Fund for the Authority Housing Projects and for the implementation of the Transition Housing Rules and Regulations, including payment of administrative costs such as consultant costs and planning costs, to pay benefits to Transitioning Households and other related costs, and to pay construction costs for the Transition Housing Units. The Authority may also make loans to Qualified Housing Developers to aid their development activities, with such loans to be repaid when sufficient sources are available to finance the Authority Housing Projects. The Authority shall maintain books and records to account for all revenues and expenditures from the Affordable Housing Loan Fund and make all such records available to Developer upon request. The amounts deposited in the Affordable Housing Loan Fund by the Developer shall be credited against all future payments of the Developer Housing Subsidy without interest until the credit is exhausted. Developer shall not be responsible for any loan losses, write-offs or any other diminution in the balance of the Affordable Housing Loan Fund and has no obligation to replenish the Affordable Housing Loan Fund once established. The Authority may choose at any time to use amounts in the Affordable Housing Loan Fund to directly pay for construction costs relating to the Authority Housing Units, and any remaining balance shall be used by the Authority to fund the construction of the Authority Housing Units.

7. VERTICAL DEVELOPMENT PARKING REQUIREMENTS

7.1 Separation. For Market Rate Projects, all Parking Spaces shall be "unbundled" (i.e., purchased or rented separately from a Unit within such Residential Project). For the Authority Housing Projects, Parking Space can be bundled with an Authority Unit if such bundling is Approved by the Planning Director in accordance with the Design for Development. It is anticipated that such bundling may be necessary in connection with the financing of the Authority Housing Project. Vertical Developers shall have the sole discretion to determine whether Parking Spaces in a Market Rate Project are available for rent or purchase, if parking is offered.

7.2 Parking Charge.

(a) Market Rate and Inclusionary Units. The Vertical Developer of the Market Rate Lot will determine, in its sole discretion, the charge for Parking Spaces that are owned or developed by the Vertical Developer. The rental charge or purchase price for each Inclusionary Unit shall not include the Parking Charge, and the Parking Charge to a renter or purchaser of an Inclusionary Unit shall be the same as the Parking Charge charged to a renter or purchaser of a Market Rate Unit for a comparable Parking Space. Vertical Developers (and their successors) may not charge renters or purchasers of Inclusionary Units any fees, charges or costs, or impose rules, conditions or procedures on such renters or purchasers, that do not equally apply to all Market Rate renters or purchasers.

(b) Authority Housing Units. In the event a Qualified Housing Developer constructs Parking Spaces as part of or in connection with an Authority Housing Project, the Qualified Housing Developer may set and the Authority shall Approve in its sole discretion, the Parking Charge for such Parking Spaces.

7.3 Parking Allotments. The permitted parking allowance for each Authority Housing Lots shall be the same as the Island-wide ratio for residential parking set forth in the Design for Development, as it may be amended from time to time. As of the Effective Date, the permitted parking allowance for each Authority Housing Lot shall be one Parking Space per Authority Housing Unit. The Authority or a Qualified Housing Developer (including a Qualified Housing Developer selected by TIHDI with Authority Approval) may elect to build Parking Spaces on the Authority Housing Lots. To the extent that Developer or Vertical Developer construct or cause to be constructed Parking Spaces in a central garage for use by multiple Residential Projects, the Authority or the Qualified Housing Developer (including the Qualified Housing Developer selected by TIHDI with Authority Approval) may contract with the owner of such central garage to rent or purchase spaces in the garage for use by residents of the Authority Housing Projects; provided, however, that the number of spaces constructed on the Authority Housing Lots and the number of spaces constructed in a central garage and dedicated to the Authority Housing Projects cannot exceed the number of residential units constructed on the Authority Housing Lots. Within each Major Phase, if and to the extent the Authority or a Qualified Housing Developer (including a Qualified Housing Developer selected by TIHDI with Approval) does not wish to construct the full allotment of Parking Spaces permitted on an Authority Housing Lot and does not wish to use this permitted allotment on another Authority Housing Lot or on other Authority property in the Major Phase, then Developer shall have the right to use the unused parking allotment for a Market Rate Lot subject to terms and conditions agreed upon by the Parties.

7.4 Inclusionary Parking Allotment. For each Market Rate Project containing Inclusionary Units, the number of Parking Spaces first offered to renters or purchasers of Inclusionary Units shall be equal to the number of Inclusionary Units in the Market Rate Project, divided by the number of Residential Units in the Market Rate Project, times the total number of Parking Spaces associated with the Market Rate Project. Allotments yielding a fractional number of Parking Spaces shall be rounded down to the nearest whole number. The Parking Spaces reserved for Inclusionary Units must be first offered to Inclusionary Units. After all Inclusionary Units have been offered an opportunity to rent or purchase the Parking Spaces in the Inclusionary allotment as set forth above, the Vertical Developer may sell or rent any remaining Parking Spaces to the occupants of Market Rate Units, provided when new Parking Spaces become available, there shall be no discrimination between occupants of Market Rate Units and Inclusionary Units as set forth in Section 7.2 of this Housing Plan.

7.5 Transit Passes. Residents of Market Rate Units and Inclusionary Units shall be required to purchase a Prepaid Transit Voucher, the cost of which shall not be included in determining the Affordable Housing Cost for the Inclusionary Unit. Residents of the Authority Housing Units will not be charged for, nor will they receive, a Prepaid Transit Voucher, but they will have an opportunity to purchase a Transit Voucher at the same price as the price offered to other residents in the Project.

7.6 Congestion Pricing. As set forth in the Transportation Plan, all residents in the Project will be subject to Congestion Pricing and residents of Inclusionary Units and the Authority Housing Units will not receive any discount or reduction in the Congestion Pricing.

8. TRANSITION HOUSING

8.1 Transition Housing Plan. The Authority has adopted Transition Housing Rules and Regulations to govern the Authority's obligations regarding the Transitioning Households, which rules shall not be amended in a manner that materially impacts Developer without Developer's Approval. The Transition Housing Rules and Regulations provide certain benefits to Transitioning Households, including the opportunity to occupy Transition Units in the Project, moving benefits and down payment assistance. Developer and the Authority have estimated the costs of implementing the Transition Housing Rules and Regulations and have included those costs as part of the Developer Housing Subsidy.

8.2 Transition Benefits. Under the Transition Housing Rules and Regulations, the Authority shall offer all Transitioning Households Transition Benefits (as defined in the Transition Housing Rules and Regulations). Transition Benefits include the opportunity to rent a unit on Treasure Island, the opportunity to purchase a newly constructed unit within the Project, or the opportunity to select an in lieu payment, as more particularly described in the Transition Housing Rules and Regulations.

8.3 No Damages. Nothing in this Housing Plan, the Transition Housing Rules and Regulations or any rules or regulations subsequently Approved by the Authority regarding the transition of residents gives any person or tenant, including any member of any Transitioning Household, the right to sue the Authority, TIHDI or Developer for damages of any kind, including but not limited to actual, incidental, consequential, special or punitive damages. The Parties have determined and agreed that (i) monetary damages are inappropriate, (ii) equitable remedies and remedies at law, including specific performance but excluding damages, are particularly appropriate remedies for enforcement of tenant rights under the Transition Housing Rules and Regulations or any other rules or regulations Approved by the Authority regarding the transition of residents, (iii) the payment of damages would, if made, adversely impact the amount of Affordable Housing Units that could be developed on the Project Site, and (iv) the Authority, TIHDI and Developer would not have made the commitments to tenants set forth in the Transition Housing Rules and Regulations or any other rules or regulations Approved by the Authority regarding the transition of residents if it could subject them to liability for damages as a result thereof. Accordingly, notwithstanding anything to the contrary set forth in this Housing Plan, the Transition Housing Rules and Regulations or any other rules or regulations Approved by the Authority regarding the transition of residents, the Authority, TIHDI and the Developer shall not be liable in damages to any third party or tenant as a result of the failure to implement this Housing Plan, the Transition Housing Rules and Regulations or any other rules or regulations Approved by the Authority regarding the transition of residents in any manner. The foregoing shall not limit any rights or remedies available to persons or tenants under applicable law or any rights or remedies that the Parties may have with respect to other Parties pursuant to the DDA.

8.4 Implementation.

(a) Order; Costs. The Authority shall use good faith efforts to first transition households that are located on land to be transferred to the Developer as set forth in the Phasing Plan. Subject to the terms of this Housing Plan, the Authority shall be responsible for all costs associated with the implementation of the Transition Housing Rules and Regulations, including, to the extent applicable, payment of relocation benefits under the Uniform Relocation Act and California Government Code section 7260 et seq. and its implementing guidelines. The Parties understand and agree that all of the costs of implementing the Transition Housing Rules and Regulations shall be funded with the Developer Housing Subsidy or other Project-generated affordable housing funds, and implementation of the Transition Housing Rules and Regulations may be delayed until such time as there are sufficient Developer Housing Subsidy or other Project-generated affordable housing funds available.

(b) Construction. Except as set forth in this Housing Plan, the Authority shall be responsible for the construction of the units offered to Transitioning Households in accordance with the Transition Housing Rules and Regulations, including the obligation to construct sufficient units of the appropriate size based on the occupancy standards in the Transition Housing Rules and Regulations. To the extent Transitioning Households qualify for occupancy of Affordable Housing Units, Transition Units will be Affordable Housing Units as set forth in Section 3.3 of this Housing Plan. For any Transition Unit that is not an Affordable Housing Unit at inception, each such Transition Unit will be deed restricted so that it will become an Affordable Housing Unit immediately upon the vacancy of the Transitioning Household. Without limiting Developer's obligations under the DDA, Developer shall use good faith efforts to ensure that the Authority Housing Lots are Completed, and the Authority shall use good faith efforts thereafter to ensure that Authority Housing Projects are Completed for the Transitioning Households, at the times required for development of the Major Phases and Sub-Phases as contemplated in the DDA.

(c) Timing; Delay. The DDA provides that, as a mutual condition to close on any Sub-Phase, the Transition Housing Rules and Regulations must be implemented as to all units in that Sub-Phase. Accordingly, Developer shall not have the right to demolish any existing occupied residential units on YBI or Treasure Island until the Transition Requirements, as defined in Section 10.3.3.(h) of the DDA, have been satisfied. In the event that the failure to satisfy the Transition Requirements causes a delay in the closing of a Sub-Phase, the Parties agree to meet and confer in order to determine how best to proceed with the Project in the most efficient and cost-effective manner, provided that (i) the Authority and TIHDI shall have no liability to Developer for the failure to Complete any Transition Units on or before specified dates, (ii) Developer shall have the right, but not the obligation, to offer Market Rate Units, and for income-qualifying Transitioning Households, Inclusionary Units, as may be needed in order to implement the Transition Housing Rules and Regulations and permit Developer to close escrow for the Sub-Phase, (iii) the Parties shall consider Interim Moves for Transitioning Households if the Parties can reach agreement on the source of payment for such Interim Moves and (iv) Developer shall have the right, but not the obligation to satisfy the condition to closing by electing to construct Transition Units on Authority Housing Lots as provided in Section 8.4(d) below. Without limiting the foregoing, the Parties understand and agree that (A) Interim Moves for Transitioning Households from YBI to Treasure Island as contemplated by the Phasing Plan shall be paid for by the Authority as part of the implementation of the Transition Housing Rules and Regulations, (B) Interim Moves for TIHDI units shall be paid for by

Developer, as set forth in subsection (f) below, and (C) any additional Interim Moves shall not be required unless the Parties reach agreement on the payment source for such moves as set forth above.

(d) Potential Developer Construction. The Authority may request that Developer construct the Transition Units on Authority Housing Lots in order to facilitate the implementation of the Transition Housing Rules and Regulations, provided the Authority shall not request that Developer construct any such Transition Units if such construction is not required for the satisfaction of the Transition Requirements by the anticipated closing date of a Sub-Phase that would trigger the Transition Requirements. If all conditions to close a Sub-Phase have been met except for satisfaction of the Transition Requirements, then Developer may satisfy the Transition Requirements by electing to construct the Transition Units on one or more Authority Housing Lots. The Parties shall meet and confer in good faith to reach agreement on the location, density, funding and the terms for construction of the Transition Units to enable Developer to construct such Transition Units in accordance with this Agreement, provided, however, Developer agrees that any Transitions Units constructed by Developer shall have a density of at least fifty dwelling units per acre. The cost to construct the Transition Units shall be a Project Cost and either (i) an advance payment of the Developer Housing Subsidy in an amount agreed to by the Parties or (ii) subject to such alternative financial arrangement as agreed to by the Parties. If the Developer undertakes the obligation to construct the Transition Units, the Authority shall cooperate with Developer, including entering into necessary Permits to Enter and issuing approvals consistent with the Design for Development and the DRDAP.

(e) Potential Subsidy Advance. The Authority may also request from time to time that the Developer provide an advance of the Developer Housing Subsidy, in excess of the amounts deposited in the Affordable Housing Loan Fund and in excess of any payments required under Section 3.1 of this Housing Plan, if necessary to implement the Transition Housing Rules and Regulations, including the payment of reasonable administrative costs associated with the Transition Housing Rules and Regulations, the cost of providing benefits to Transitioning Households for either Interim Moves or Long Term Moves and costs associated with the construction of the Transition Units. Before requesting any advance of the Developer Housing Subsidy, the Authority shall first use any funds available in the Affordable Housing Loan Fund that have not been pledged for the construction of an Authority Housing Project that has already Commenced construction. Developer shall be required to advance the sums requested by the Authority for implementation of the Transition Housing Rules and Regulations if the funds are necessary to provide benefits to Transitioning Households required to move in order for Developer to proceed with residential or commercial development in an Approved Sub-Phase, unless (i) the Developer chooses to delay proceeding with that Sub-Phase if and as permitted by the Schedule of Performance and Excusable Delay provisions of the DDA and (ii) Transition Benefits have not yet accrued to Transitioning Households. Developer shall not be obligated to fund any such requested advance if the funds are requested for Transitioning Households who could remain in their existing housing without interfering with Developer or Vertical Developer's construction in an Approved Sub-Phase.

(f) TIHDI Interim Moves. Notwithstanding anything to the contrary above, if the Developer's schedule for construction results in the need to move residents of existing TIHDI units before replacement units for the TIHDI units have been constructed, (i)

Developer shall pay for the costs associated with moving those TIHDI residents to other units currently existing on Treasure Island, including the costs associated with upgrading such existing units to meet any licensing requirements and to allow for continuation of the then existing programs and (ii) the costs of such moves and upgrades shall be in addition to the Developer Housing Subsidy.

8.5 Premarketing Requirement. The Vertical DDAs will require that all Vertical Developers of Market Rate Lots comply with the requirements of the Transition Housing Rules and Regulations to offer Transitioning Households and certain other Households that are former residents of NSTI, as more particularly described in the Transition Housing Rules and Regulations, an opportunity to make an offer to purchase a new unit during a premarketing window of not less than 30 days for any Sale Units in accordance with the requirements of the Transition Rules and Regulations. Each Vertical Developer will be required to offer only one premarketing opportunity per Market Rate Project. In the event that the Authority has not Approved the Marketing and Operations Guidelines for Inclusionary Units as set forth in Section 5.1(h) of this Housing Plan within 60 days following submittal, Vertical Developers may proceed with the premarketing and marketing of the Market Rate Units in that Residential Project and will offer a one-time, separate premarketing window of 30 days for the Inclusionary Units in that Residential Project following the Authority's Approval of the Marketing and Operations Guidelines.

The Authority will be responsible for maintaining the Premarketing Notice List and Transitioning Households and former residents of NSTI are exclusively responsible for updating their own contact information with the Authority. Vertical Developers will be obligated to provide the Authority with the required notice regarding the availability of new units and it shall be the Authority's responsibility to distribute such Notice to the Premarketing Notice List. Neither Developer nor Vertical Developers will be responsible for updating the Premarketing Notice List, verifying the accuracy of the information in the list, or for any errors or omissions in the list. The Authority's provision of notice to the address on the Premarketing Notice List will be conclusive evidence that the Households on the Premarketing Notice List were provided adequate and proper notice.

9. INCREASED AFFORDABLE HOUSING IF LAW AMENDED OR ADDITIONAL PUBLIC FUNDS BECOME AVAILABLE.

9.1 IFD Revisions. As described in the Summary of this Housing Plan, the Minimum Affordable Percentage for the Project was reduced from the Thirty Percent Minimum to the Twenty-Five Percent Minimum as a result of the Parties' reliance on available property tax increment from Infrastructure Financing Districts instead of Community Redevelopment Law for the public financing component of the Project. The Parties understand and agree that if the following revisions are made to the IFD Act, then the public funding available for the Project, including the funds available for Affordable Housing, will equate to the public funding that would have been available under the Community Redevelopment Law as of the Effective Date as estimated by the Parties (the "CRL Funding Amount"): (i) the incremental tax revenue available for Project Costs excluding the Housing Percentage is equal to sixty percent (60%) or more of the total incremental tax revenue from the property in the IFD; (ii) the life of an IFD is extended to forty-five (45) years or longer, and the ability to incur debt to fund Project Costs is at least

twenty years; (iii) subordination of taxing agencies' share of incremental tax revenues to debt issued by the IFD is authorized in a manner similar to the current provisions of Health and Safety Code Section 33607.5; and (iv) the public improvements eligible to be funded with the incremental tax revenues from the IFD are consistent with those allowed to be funded with tax increment revenue under the California Community Redevelopment Law (collectively, the "Maximum Public Financing Revisions").

9.2 Potential Future Changes to Housing Plan. If, on or before the later of (i) the date that is sixty (60) months after the Effective Date, and (ii) the Initial Closing under the Conveyance Agreement (the "Outside IFD Revision Date"), the Maximum Public Financing Revisions are made to the IFD Law or other public financing options become available so that the public funding available for the Project is the same as the CRL Funding Amount, then the Twenty-Five Percent Minimum shall become the Thirty Percent Minimum and:

(a) the Authority Housing Units shall be increased to a maximum of 2,105 units and the Developer Residential Units shall be decreased to a maximum of 5,895 unit and the Authority Housing Lots shall include the Additional Authority Housing Lots Under the Thirty Percent Minimum as shown on the Housing Map attached as Attachment B;

(b) this Housing Plan shall be amended to provide that Completed Authority Housing Lots shall comprise 27% of the total Residential Acreage of the Residential Developable Lots, the total Residential Acreage of the Authority Housing Lots on Treasure Island shall not be less than twenty percent (20%) in each Major Phase, and that the Cumulative Total Authority Housing Acreage on Treasure Island shall be twenty five percent (25%) at the time of Approval of the Major Phase that includes the 2,950 Developer Residential Unit;

(c) the Inclusionary Milestones set forth in Section 5.1(c) of this Housing Plan shall be amended to be the dates of conveyance to Vertical Developers of Market Rate Lots allowing for development of (i) 2,065 Developer Residential Units; (ii) 2,950 Developer Residential Units and (iii) 4,420 Developer Residential Units; and

(d) Developer shall submit a new or revised Housing Data Table that reflects the revised Authority and Market Rate Housing Units numbers.

If the Maximum Public Financing Revisions are not made on or before the Outside IFD Revision Date, then: (A) the Authority Housing Units shall be increased to a maximum of 1,866 units and the Developer Residential Units shall be decreased to a maximum of 6,134 units, although there will be no change to the number, acreage or location of Authority Housing Lots shown on Exhibit B; (B) the Inclusionary Milestones set forth in Section 5.1(c) of this Housing Plan shall be amended to be the dates of conveyance to Vertical Developers of Market Rate Lots allowing for development of (i) 2,150 Developer Residential Units; (ii) 3,065 Developer Residential Units and (iii) 4,600 Developer Residential Units; and (C) Developer shall submit a new or revised Housing Data Table that reflects the revised Authority and Market Rate Housing Units numbers.

9.3 Increases from the Twenty-Five Percent Minimum to the Thirty Percent Minimum. If some but not all of the Maximum Public Financing Revisions are made to the IFD

Act or other public funding for affordable housing is made available during the Term ("Partial Public Financing Revisions"), then the Authority shall have the right to acquire one or more of the Authority Housing Lots shown as Additional Authority Housing Lots Under the Thirty Percent Minimum on the Housing Map attached as Attachment B, together with an appropriate increase in the Minimum Affordable Percentage if requested, at the Fair Market Value Price. The Fair Market Value Price shall be fair market value of the land and the corresponding housing entitlement (if any), using the same methodology as used in the Proforma and taking into account all costs and savings to Developer resulting from the loss of the land and any increase in the Minimum Affordable Percentage, including all changes in estimated IFD and CFD revenues to Developer and the decrease in the Developer Housing Subsidy payable by Developer, but excluding estimated profits from the vertical development on the land. Upon the Authority's request following a Partial Public Financing Revision, the Parties agree to meet and confer in good faith for a period of not less than ninety (90) days to determine the Fair Market Value Price and any change in the Minimum Affordable Percentage (if applicable) and the corresponding adjustments to this Housing Plan. If the Parties are not able to agree on the Fair Market Value Price, the Minimum Affordable Percentage, or the corresponding adjustments to this Housing Plan within ninety (90) days, then either Party shall have the right to initiate the appraisal process set forth in Section 17.4 of the DDA.

9.4 Initial Applications. The Parties agree that before such time as the Maximum Public Financing Revisions or the Partial Public Financing Revisions occur, Developer may submit Major Phase Applications and Sub-Phase Applications based upon the terms of this Housing Plan without assuming that there will be any change to the IFD Law or the public financing available for Affordable Housing at the Project Site. However, the Parties agree to make the revisions set forth in Section 9.2 above as soon as the Maximum Public Financing Revisions occur and the revisions in Section 9.3 above as soon as the Partial Public Financing Revisions occur.

10. NON-APPLICABILITY OF COSTA HAWKINS ACT

The Parties understand and agree that the Costa-Hawkins Rental Housing Act (California Civil Code sections 1954.50 et seq.; the "Costa-Hawkins Act") does not and in no way shall limit or otherwise affect the restriction of rental charges for the Affordable Housing Units or the Inclusionary Units developed pursuant to the DDA and the Development Agreement (including this Housing Plan). This DDA falls within an express exception to the Costa-Hawkins Act because the DDA is a contract with a public entity in consideration for a direct financial contribution and other forms of assistance specified in Chapter 4.3 (commencing with section 65915) of Division 1 of Title 7 of the California Government Code. Accordingly, Developer, on behalf of itself and all of its successors and assigns, including all Vertical Developers, agrees not to challenge, and expressly waives, now and forever, any and all rights to challenge, Developer's obligations set forth in this Housing Plan related to Inclusionary Units, under the Costa-Hawkins Act, as the same may be amended or supplanted from time to time. Developer shall include the following language, in substantially the following form, in all Vertical DDAs:

> "The DDA (including the Housing Plan) implements the California Infrastructure Financing District Law, Cal. Government Code §§ 53395 et seq. and City of San

Francisco policies and includes regulatory concessions and significant public investment in the Project. The regulatory concessions and public investment include, without limitation, a direct financial contribution of net tax increment, the conveyance of real property without payment, and other forms of public assistance specified in California Government Code section 65915 et seq. These public contributions result in identifiable, financially sufficient and actual cost reductions for the benefit of Developer and Vertical Developers, as contemplated by California Government Code section 65915. In light of the Authority's authority under Government Code Section 53395.3 and in consideration of the direct financial contribution and other forms of public assistance described above, the parties understand and agree that the Costa-Hawkins Act does not and shall not apply to the Inclusionary Units developed at the Project under the DDA."

The Parties understand and agree that the Authority would not be willing to enter into the DDA, without the agreement and waivers as set forth in this Article 9.

11. MISCELLANEOUS

11.1 No Third Party Beneficiary. Except to the extent set forth in the DDA, there are no express or implied third party beneficiaries to this Housing Plan.

11.2 Severability. If any provision of this Housing Plan, 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 Housing Plan or the application of such provision to any other Person or circumstance, and the remaining portions of this Housing Plan shall continue in full force and effect. Without limiting the foregoing, in the event that any applicable law prevents or precludes compliance with any term of this Housing Plan, the Parties shall promptly modify this Housing Plan to the extent necessary to comply with such law in a manner that preserves, to the greatest extent possible, the benefits to each of the Parties. In connection with the foregoing, the Parties shall develop an alternative of substantially equal, but not greater, cost and benefit to Developer and any applicable Vertical Developer so as to realize from the Project substantially the same (i) overall benefit (from a cost perspective) to the public and (ii) overall benefit to Developer and any applicable Vertical Developer.

EXHIBIT E, ATTACHMENT A
HOUSING DATA TABLE

MAJOR PHASE AND SUB-PHASE (Cells that are shaded to be provided at Sub-Phase Only)

Major Phase:	
Sub-Phase:	
Block:	

	ALL LOTS		MARKET RATE LOTS ONLY														AUTHORITY LOTS	
Residential Project Lot Number & Location	Lot Type (Authority, Auction, Other)	Acres	Anticipated Product Type (TH, Flat, Tower, etc.)	Max Bldg Ht Allowed	Anticipated Bldg Ht	Density (in DUA)	Total Developer Unit Count	Number Mkt Rt Units	Number IndUnits (Total)	Rental or For Sale	Number IndUnits @ 60% (Rental)	Number InclUnits @ 80% (For Sale)	Number InclUnits @ 90% (For Sale)	Number InclUnits @ 100% (For Sale)	Number InclUnits @ 110% (For Sale)	Number InclUnits @ 120% (For Sale)	Change to Size or Location?	Target Infrastructure Completion Date
1																		
2																		
3																		
4																		
5																		
Block Subtotal		0.00				#DIV/0!	0	0	0									

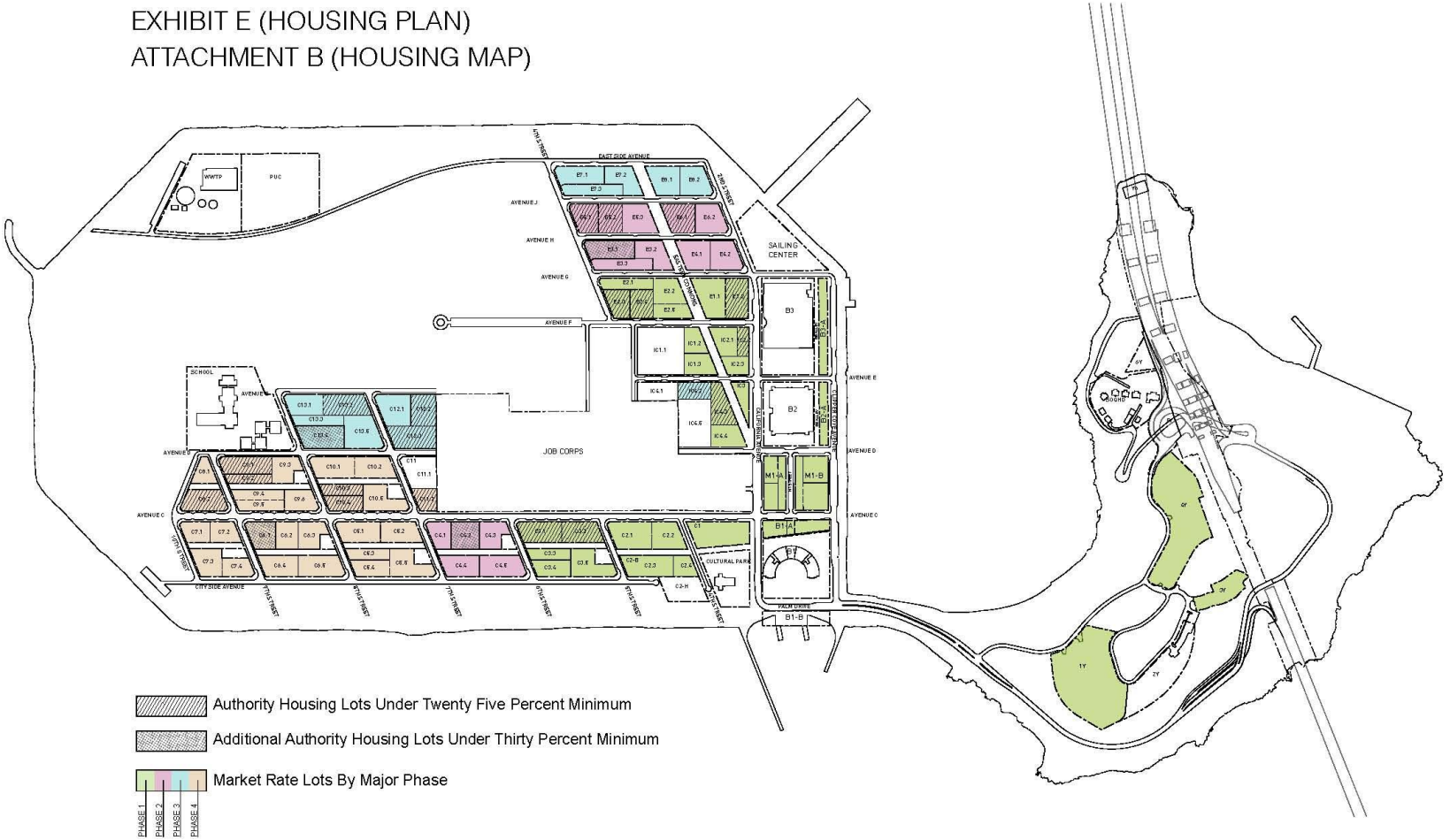
Major Phase:	
Sub-Phase:	
Block:	

	ALL LOTS		MARKET RATE LOTS ONLY														AUTHORITY LOTS	
Residential Project Lot Number & Location	Lot Type (Authority, Auction, Other)	Acres	Anticipated Product Type (TH, Flat, Tower, etc.)	Max Bldg Ht Allowed	Anticipated Bldg Ht	Density (in DUA)	Total Developer Unit Count	Number Mkt Rt Units	Number IndUnits (Total)	Rental or For Sale	Number IndUnits @ 60% (Rental)	Number InclUnits @ 80% (For Sale)	Number InclUnits @ 90% (For Sale)	Number InclUnits @ 100% (For Sale)	Number InclUnits @ 110% (For Sale)	Number InclUnits @ 120% (For Sale)	Change to Auth Lot Size or Location?	Target Infrastructure Completion Date
1																		
2																		
3																		
4																		
5																		
Block Subtotal:		0.00				#DIV/0!	0	0	0									

PROJECT SUMMARY

	Total Residential Acreage	Total Authority Residential Acreage	Total Market Rate Residential Acreage	Total Developer Residential Units	Number Mkt Rt Units (For Sale)	Number IndUnits (For Sale)	Number Mkt Rt Units (Rental)	Number IndUnits (Rental)	Number InclUnits @ 60%	Number InclUnits @ 80%	Number InclUnits @ 90%	Number InclUnits @ 100%	Number InclUnits @ 110%	Number InclUnits @ 120%
Total for all Prior Approved Major Phases / Sub-Phases														
Total for this Major Phase/Sub-Phase														
Total of Prior Approved plus Proposed Major Phase / Sub-Phase														
Percentage for this Major Phase/Sub-Phase	**% Auth Land:**	#DIV/0!												
Cumulative Percentage	**% Auth Land:**	#DIV/0!	**% Rental:**	#DIV/0!										

EXHIBIT E (HOUSING PLAN)
ATTACHMENT B (HOUSING MAP)



TREASURE ISLAND DEVELOPMENT AUTHORITY

TRANSITION HOUSING RULES AND REGULATIONS

FOR THE VILLAGES AT TREASURE ISLAND

ADOPTED BY

TREASURE ISLAND DEVELOPMENT AUTHORITY

BOARD OF DIRECTORS

Resolution No.

[date]

TRANSITION HOUSING RULES AND REGULATIONS

FOR THE VILLAGES AT TREASURE ISLAND

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TRANSITION HOUSING RULES AND REGULATIONS

FOR THE VILLAGES AT TREASURE ISLAND

I. GENERAL

A. Background

These Transition Housing Rules and Regulations for The Villages at Treasure Island ("**Transition Housing Rules and Regulations**") reflect the decision of the Treasure Island Development Authority Board of Directors ("**TIDA Board**") to implement certain recommendations made by the Board of Supervisors of the City and County of San Francisco ("**City**") in Resolution No. 699-06 (the "**Term Sheet Resolution**"). Definitions used in these Transition Housing Rules and Regulations are provided in **Appendix 4** for reference.

During World War II, Naval Station Treasure Island ("**NSTI**") was used as a center for receiving, training, and dispatching service personnel.

After the war, NSTI was used primarily as a naval training and administrative center. In 1993, Congress and the President selected NSTI for closure and disposition by the Base Realignment and Closure Commission acting under Public Law 101-510, 10 U.S.C. § 2687 and its subsequent amendments ("**BRAC**"). The Department of Defense subsequently designated the City as the Local Reuse Authority responsible for the conversion of NSTI to civilian use under the federal disposition process.

The City opted to negotiate for the transfer of NSTI under the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Pub. Law 103-421) (the "**Base Redevelopment Act**") amending BRAC, under which certain portions of NSTI would be set aside for homeless assistance programs in a manner that balances the economic development needs of the redevelopment process. A consortium of nonprofit organizations is providing a variety of services to the formerly homeless (currently, Catholic Charities, Community Housing Partnership, Rubicon Programs, Swords for Ploughshares, and Walden House), organized as the Treasure Island Homeless Development Initiative ("**TIHDI**"), to coordinate the homeless assistance programs to be provided under the Base Redevelopment Act.

In anticipation of base closure and following a public planning process, the Mayor, the Board of Supervisors, and the Planning Commission endorsed a Draft Base Reuse Plan for NSTI in 1996 outlining opportunities, constraints, policy goals, and recommendations for the redevelopment of NSTI. The City entered into an agreement with TIHDI in 1996 to develop and implement the homeless component under the Base Reuse Plan, which includes the right to temporary use of former military housing at NSTI and permanent housing through the base redevelopment process. The City formed Treasure Island Development Authority ("**TIDA**") as a redevelopment agency under California redevelopment law and designated TIDA as the City's

Local Reuse Authority for NSTI as authorized under the Treasure Island Conversion Act of 1997 (Assembly Bill No. 699, Stats. 1997, ch. 898).

TIDA initiated formal negotiations with the Navy in 1997, the same year the Navy formally closed base operations at NSTI. Also in 1997, the Navy contracted with the City (and subsequently, TIDA) to manage the property pending negotiations for its transfer and redevelopment. As part of managing NSTI on behalf of the Navy, TIDA began subleasing at market rates a portion of the former military housing now known as The Villages at Treasure Island ("**The Villages**") through a master lease with The John Stewart Company, and directly leasing space to a variety of commercial tenants. The master leases, the Residential Leases for Villages units, and commercial leases are interim pending the Navy's transfer of NSTI to TIDA for redevelopment and reuse.

TIDA selected Treasure Island Community Development, LLC ("**TICD**") in 2003 for exclusive negotiations for the master redevelopment of NSTI. The Board of Supervisors adopted the Term Sheet Resolution in 2006, endorsing the Development Plan and Term Sheet for the Redevelopment of Naval Station Treasure Island (as updated and endorsed by the TIDA Board of Directors and the Board of Supervisors in 2010, the "**Development Plan**"), conditioned on completion of environmental review under the California Environmental Quality Act ("**CEQA**"), an extensive community review process, and endorsement by the Treasure Island/Yerba Buena Island Citizen's Advisory Board and the TIDA Board. The Development Plan will serve as the basis for a Development and Disposition Agreement between TIDA and TICD (as amended, the "**DDA**"), which will govern their respective rights and obligations for the redevelopment of certain portions of NSTI if approved by the TIDA Board and the Board of Supervisors after completion of CEQA review. In the Term Sheet Resolution, the Board of Supervisors recommended that the TIDA Board create a transition program setting forth terms by which existing residents of NSTI could have the opportunity to rent at reduced rents or buy newly-constructed units on Treasure Island.

Consistent with Assembly Bill No. 699, the Development Plan specifies that all of the former military housing on the NSTI (except certain historic buildings) eventually will be demolished. As outlined in the Development Plan, TIDA and TICD intend to phase redevelopment so that new housing can be built on NSTI before demolishing most of the existing residential structures as follows.

- Redevelopment of Yerba Buena Island is planned as part of the first phase of the redevelopment project, requiring demolition of existing Yerba Buena Island housing to be among TICD's first development activities. Transitioning Households on Yerba Buena Island affected by the early phases of redevelopment will be offered Existing Units on Treasure Island through Interim Moves.

- Demolition of the housing on Treasure Island is proposed to occur in the later phases of the redevelopment project. But some Transitioning Households may be asked to make Long-Term Moves in earlier phases as new housing becomes available for occupancy.

B. Purpose

These Transition Housing Rules and Regulations:

- are designed to ensure that eligible Villages Households who satisfy all qualifications of Transitioning Households under **Section II.A** (Determination of Household Eligibility for Transition Benefits) receive housing opportunities consistent with the Term Sheet Resolution;

- describe benefits below ("**Transition Benefits**") that are available only to Transitioning Households;

- specify the eligibility criteria for Transitioning Households to receive Transition Benefits; and

- outline the procedures by which Transitioning Households will be offered Transition Benefits, including the opportunity to occupy new housing to be built on TI.

C. Limits of Applicability

The Transition Benefits under these Transition Rules and Regulations:

- apply only to Transitioning Households required to move to accommodate redevelopment of NSTI in accordance with the DDA;

- do not apply if TIDA must relocate Villages and TIHDI residents due to disaster or other declared emergency affecting living conditions on NSTI; and

- do not apply to:

  - Villages Households that do not satisfy all qualifications of Transitioning Households under **Section II.A** (Determination of Household Eligibility for Transition Benefits); or

  - residents in housing managed by TIHDI member organizations, who will have the opportunity to move to new supportive housing that TIHDI will develop under the proposed Amended and Restated Base Closure Homeless Assistance Agreement; or

  - TIDA's commercial tenants.

D. Overview and Program Framework

Two types of moves affecting Transitioning Households are anticipated as NSTI is redeveloped:

- **Interim Moves**, in which a Transitioning Household moves from one Existing Unit in The Villages to another Villages Existing Unit on Treasure Island following receipt of a Notice to Move. An example of this would be a move from an Existing Unit in an area proposed for redevelopment in an early phase to an Existing Unit on Treasure Island. *Most Transitioning Households will not be asked to make an Interim Move.*

- **Long-Term Moves**, in which a Transitioning Household moves from one of the Existing Units to a newly-constructed Dwelling on Treasure Island. All Transitioning Households (including those that previously made an Interim Move) will have the opportunity to make this move.

Key elements of these Transition Housing Rules and Regulations are:

- All Transitioning Households that receive a Notice to Move for either an Interim Move or a Long-Term Move will be eligible for Transition Benefits under these Transition Housing Rules and Regulations.

- NSTI residents who move off-Island before they receive a Notice to Move and an offer of Transition Benefits are not Transitioning Households and will not be eligible for Transition Benefits.

- All Transitioning Households will have the opportunity to remain on Treasure Island. No eligible Transitioning Household will be required to move before receiving an offer of Transition Benefits.

- Transitioning Households will have an opportunity to select one of the three Transition Benefit Options described in these Transition Housing Rules and Regulations:

    - the Transition Unit Option to move into rental housing on Treasure Island (See **Article V** (Description of Transition Unit Option));

    - the In-Lieu Payment Option for a lump sum payment upon moving off-Island (See **Article VI** (Description of In-Lieu Payment Option)); or

    - the Unit Purchase Assistance Option for down payment assistance in the purchase of a newly-constructed Dwelling on NSTI (See **Article VII** (Description of Unit Purchase Assistance Option)).

- Moving assistance will be provided to Transitioning Households that:
  - make Interim Moves to other Existing Units on Treasure Island; or
  - select the Transition Unit Option and make Long-Term Moves from their Existing Units to new Transition Units.
- A Premarketing Window to purchase newly-constructed Dwellings on NSTI will be available to:
  - all Transitioning Households in Existing Units before they have selected a Transition Benefit; and
  - Post-Transition Tenants that selected the In-Lieu Payment Option and received an In-Lieu Payment.
- Any resident of The Villages who moves onto NSTI after the DDA Effective Date will be a Post-DDA Tenant under these Transition Housing Rules and Regulations. Post-DDA Tenants who by definition do not qualify for an exception under **Section II.A.1** (Defined Terms for Determining Eligibility) are ineligible for Transition Benefits, but will be offered transition advisory services when required to move.

E. Effective Date

These Transition Housing Rules and Regulations will be effective on the date the DDA becomes effective (the "**DDA Effective Date**"), if the DDA is approved by the TIDA Board and the Board of Supervisors after completion of CEQA review.

II. ELIGIBILITY

A. Determination of Household Eligibility for Transition Benefits

The first step in determining whether a Villages Household is eligible for Transition Benefits is determining the status of the Household, based on the criteria below.

Only Transitioning Households are eligible for Transition Benefits. Transition Benefits are offered to each Transitioning Household as a Household and not to individual members of the Household.

1. Defined Terms for Determining Eligibility. TIDA will determine the members of a Transitioning Household based on the following definitions:

a. "**Existing Unit**" means a Dwelling located on NSTI that is occupied by a Transitioning Household as its primary Dwelling before receipt of a First Notice to Move or an Interim Notice to Move.

b. "**Good Standing**" means that TIDA does not have grounds for eviction as described in **Section XII.A** (Eviction).

c. "**Household**" means an individual, or two or more individuals, related or unrelated, who live together in an Existing Unit as their primary Dwelling, or one or more families occupying a single Existing Unit as their primary Dwelling, including: (i) all adult Household members who are named in the Residential Lease; (ii) minor children in the Household; and (iii) the spouse or registered domestic partner of a Household member. Under these Transition Housing Rules and Regulations, all occupants of a single Existing Unit constitute a single Household, and a Household may include both Post-DDA Tenants and members of a Transitioning Household.

d. "**Post-DDA Tenant**" means a resident who moves onto NSTI after the DDA Effective Date, except as follows: (i) a spouse or registered domestic partner of a member of a Transitioning Household; (ii) a minor child of a member of a Transitioning Household; and (iii) a live-in caregiver for a member of a Transitioning Household who has been approved by TIDA or its agent to reside in the Existing Unit. Persons in categories (i) and (ii) above will only be considered Post-DDA Tenants if the Household notified TIDA in writing of the new Household member, and requested that the Person's name be added to the Residential Lease at the time that the Household member joined the Household, or, if that Person became a member of the Household after TIDA's most recent notice of annual change in base rent under the Residential Lease.

e. "**Residential Lease**" means the lease agreement, including any addenda, under which a Transitioning Household or a Post-DDA Tenant lawfully occupies an Existing Unit, or under which an employer provides employee housing for employees working on NSTI.

f. "**Transitioning Household**" means a Villages Household consisting of residents who: (i) lawfully occupied an Existing Unit in The Villages as its primary Dwelling on the DDA Effective Date as evidenced by each adult resident's signature on the Residential Lease and each minor child identified as an occupant in the Residential Lease; (ii) continue to live in an Existing Unit until the Household receives a First Notice to Move for a Long-Term Move or accepts an In-Lieu Payment or Down Payment Assistance; and (iii) remain in Good Standing under its Residential Lease until the Household receives a First Notice to Move for a Long Term Move or accepts an In-Lieu Payment or Down Payment Assistance. A Transitioning Household specifically excludes the following: (A) any Person or Household in Unlawful Occupancy of the Existing Unit; (B) any Post-DDA Tenant in the Household; (C) any Person who occupies an Existing Unit under an arrangement with a business entity that has entered into a Residential Lease with TIDA; and (D) any Person who occupies the Existing Unit solely for the purpose of obtaining Transition Benefits.

g. "**Unlawful Occupancy**" means: (i) a Person or Household has been ordered to move by a valid court order; (ii) the Person's or Household's tenancy has been lawfully terminated, if the termination was not undertaken for the purpose of evading the obligations of these Transition Housing Rules and Regulations; or (iii) a Person is not listed on

the Residential Lease, except for a: (x) spouse or registered domestic partner of a member of a Transitioning Household; (y) minor child of a member of a Transitioning Household; or (z) live-in caregiver for a member of a Transitioning Household who has been approved by TIDA or TIDA's agent to reside in the unit, provided that Persons in categories (x) and (y) have met the requirements to be considered a Post-DDA Tenant.

2. TIDA Records of Eligibility. Based on information available to TIDA, including information provided by Villages Households during and in follow-up to interviews under **Section III.B** (Interview Households and Offer Advisory Services), TIDA will maintain records indicating which members of each Villages Household constitute an eligible Transitioning Household and which members are Post-DDA Tenants or otherwise not qualified for Transition Benefits.

B. Ineligible Residents

1. Post-DDA Tenants. Post-DDA Tenants are ineligible for Transition Benefits. A Post-DDA Tenant may be a resident in an Existing Unit in which other residents constitute a Transitioning Household. Post-DDA Tenants will be eligible only for transition advisory services under these Transition Housing Rules and Regulations.

2. Unlawful Occupancy. A resident in Unlawful Occupancy of an Existing Unit is ineligible for Transition Benefits or advisory services under these Transition Housing Rules and Regulations.

III. TRANSITION NOTICES AND PROCEDURES

A. First Notice to Move

1. Delivery of First Notice to Move. TIDA will deliver a First Notice to Move to each affected Household before the Household is required to move to facilitate the ongoing redevelopment of NSTI.

2. Time of Notice. The First Notice to Move will be delivered: (a) no less than 90 days before the date by which an Interim Move must occur; and (b) no less than 120 days before the date by which a Long-Term Move must occur.

3. Contents of Notice. The First Notice to Move will state:

a. whether the move will be an Interim Move or a Long-Term Move;

b. TIDA's intent to terminate the Residential Lease for the Existing Unit on a specified date, by which the Household will be required to move;

c. whether TIDA records: (i) list any or all of the members of the Household as an eligible Transitioning Household; or (ii) indicate that any members of the Household are Post-DDA Tenants or are otherwise ineligible for Transition Benefits;

d. if TIDA records indicate that any members of the Household are or may be a Transitioning Household: (i) additional information or verifications necessary to determine eligibility as a Transitioning Household; (ii) a general description of the Transition Benefits that a Transitioning Household may receive under these Transition Housing Rules and Regulations; (iii) additional steps a Transitioning Household must take to secure Transition Benefits, such as setting up an interview to provide TIDA with the information necessary to complete income certification requirements and determine the composition of the Transitioning Household; and (iv) the time-frame for setting up the informational interview to establish the Transitioning Household's housing needs and certify Household Income;

e. if TIDA records indicate that the entire Household (or any member of the Household) is not a Transitioning Household but is a Post-DDA Tenant, information regarding advisory services available to Post-DDA Tenants and on the Household's opportunity to present information demonstrating its eligibility as a Transitioning Household;

f. contact information for questions about the notice or process; and

g. that the notice and all future notices will be translated into a language understood by the Household if the Household notifies TIDA that the Household does not include an adult fluent in English.

B. Interview Household and Offer Advisory Services

1. Schedule Interview. After the First Notice to Move is delivered, TIDA will contact each Household to set up interviews. TIDA will provide sufficient advance notice and scheduling flexibility to enable each adult in the Household (except those in Unlawful Occupancy of the Existing Unit) to be interviewed, so that TIDA can obtain required information and provide advisory services described below.

2. Advisory Services for Transitioning Households:

a. The interviews will enable TIDA to: (i) describe and explain any applicable eligibility requirements for the specific Transition Benefits available to the Transitioning Household under these Transition Housing Rules and Regulations; (ii) advise and assist the Transitioning Household in evaluating its housing needs; (iii) identify any special needs for that Transitioning Household; (iv) assist each Transitioning Household to complete applications for Transition Benefits; and (v) ensure that no Transitioning Household will be required to move from an Existing Unit without an opportunity to relocate to a Transition Unit, except in the case of: (A) an Interim Move; (B) a major disaster as defined in § 102(2) of the federal Disaster Relief Act of 1974; (C) a state of emergency declared by the President of the United States or the Governor of the State of California; or (D) any other emergency that requires the Household to move immediately from the Existing Unit because continued occupancy of the Existing Unit by the Household constitutes a substantial danger to the health or safety, or both, of the Household.

b. For Long-Term Moves only: (i) the Transitioning Household must begin the process of determining Household Income; and (ii) to qualify for an income-restricted Transition Unit under **Sections V.E.1**, **V.E.2**, or **V.E.3** (Calculation of Base Monthly Rental Cost), Household Income of the entire Transitioning Household must be certified, subject to third-party verification. For all Households, TIDA will use the then-current Tenant Income Certification Form published by the California Tax Credit Allocation Committee to determine Household Income. A copy of the current form is attached as **Appendix 1**.

c. If all adult members of a Transitioning Household do not consent to be interviewed or do not provide all of the required information requested during or within 30 days after the interview, TIDA will be entitled to rely solely on the limited information provided in response to the interview and contained in its records relating to the Household when making its determination about eligibility for Transition Benefits.

3. Advisory Services for Post-DDA Tenants. The interviews will enable TIDA to offer the following advisory services to Post-DDA Tenants: (a) assist in evaluating their housing needs and any special needs; (b) provide references to providers of special needs services and other housing in San Francisco; and (c) provide a Household with the opportunity to present information to TIDA to support a claim of eligibility for Transition Benefits.

C. Second Notice to Move

1. Time and Contents of Second Notice to Move. No less than 60 days before a Household is required to move, TIDA will deliver a Second Notice to Move. The Second Notice to Move will state:

a. TIDA's determination of whether the Household is an eligible Transitioning Household;

b. which members of the Household, if any, are Post-DDA Tenants, in Unlawful Occupancy, or otherwise ineligible for Transition Benefits;

c. the actual date by which the move must be complete (the "**Move Date**"); and

d. the options available to the Transitioning Household under these Transition Rules and Regulations.

D. Selection of a Transition Benefit

After receipt of the Second Notice to Move, each Transitioning Household will be required to make certain decisions about Transition Benefits.

1. Transition Benefit Options for Long-Term Moves. For Long-Term Moves, the Second Notice to Move will offer each Transitioning Household a choice of:

a. the Transition Unit Option to move into a Transition Unit in a specifically identified new building on TI, with the number of bedrooms, initial rent, and long-term rent protection as described in **Article V** (Description of Transition Unit Option);

b. the In-Lieu Payment Option to receive an In-Lieu Payment, calculated in accordance with **Article VI** (Description of In-Lieu Payment Option); or

c. the Unit Purchase Assistance Option to receive Down Payment Assistance calculated in accordance with **Article VII** (Description Unit Purchase Assistance Option), but only if new for-sale units are then available for purchase and the Transitioning Household can demonstrate that it can close escrow on the purchase of and move into a new Dwelling on NSTI before the Move Date.

2. Options for Interim Moves. For Interim Moves, the Second Notice to Move will offer each Transitioning Household a choice of the following options:

a. the right to occupy an Existing Unit on Treasure Island with the number of bedrooms and initial rent calculated in accordance with **Article IV** (Interim Moves); or

b. the option to receive an In-Lieu Payment in accordance with **Article VI** (In-Lieu Payment Option).

3. Written Notice to TIDA of Selection. For both Long-Term Moves and Interim Moves, the Transitioning Household's selection may be made by delivering written notice to TIDA, signed by each adult member of the Transitioning Household at any time up to 45 days before the Move Date.

4. Transitioning Household Entitled to Single Transition Benefit. Each Transitioning Household receiving a Long Term Move Notice is entitled to only one of the Transition Benefits described in **Article V** (Transition Unit Option), **Article VI** (In-Lieu Payment Option), and **Article VII** (Unit Purchase Assistance Option). As a condition to receipt of the selected Transition Benefit, each member of the Transitioning Household will be required to waive all other Transition Benefits under these Transition Housing Rules and Regulations.

E. Complete the Move

1. Eligibility for Moving Assistance. Moving assistance to cover the costs of moving the Household will be provided to every Transitioning Household that makes an Interim Move from an Existing Unit on NSTI to another Existing Unit on TI and/or a Long-Term Move from an Existing Unit on NSTI to a Transition Unit. Moving assistance is not provided to: (a) Transitioning Households that receive the In-Lieu Payment Option or Down Payment Assistance; (b) Post-DDA Tenants; (c) Persons in Unlawful Occupancy of their Existing Unit; or (d) other Persons ineligible for Transition Benefits.

2. Actual Costs. A Transitioning Household will be compensated for Actual Reasonable Moving Expenses incurred in moving the Household for an Interim Move to an

Existing Unit or a Long-Term Move to a Transition Unit. Costs that may be included in a claim for Actual Reasonable Moving Expenses are listed in **Article VIII.B** (Moving Assistance).

3. Moving Allowance Alternative. A Transitioning Household that is eligible to be reimbursed for Actual Reasonable Moving Expenses may elect instead to receive a Moving Expense Allowance that will be determined according to a schedule established by TIDA, based on a moving expense allowance determined in accordance with established federal Highway Administration schedules maintained by the California Department of Transportation. The current schedule is shown in **Appendix 3**.

F. Early Transition Benefits

1. Limited Circumstances. Under certain circumstances, Transitioning Households may be eligible to receive certain Transition Benefits before receipt of a Notice to Move.

a. The In-Lieu Payment Option may be available earlier, if, and only if, TIDA provides written notice to Transitioning Households offering an early opportunity to receive an In-Lieu Payment, which may be conditioned on the Household moving out of its Existing Unit by a specified date ("**Notice of Early In-Lieu Payment Option**").

b. The Unit Purchase Assistance Option is available at any time a Transitioning Household completes the purchase of a new Dwelling on NSTI, unless the Transitioning Household has previously lost its status as a Transitioning Household by accepting an In-Lieu Payment or moving into a Transition Unit.

IV. INTERIM MOVES

A. Required Interim Moves

Some Transitioning Households will be required to make an Interim Move from one Existing Unit to another Existing Unit on TI.

An Interim Move will be required for those Transitioning Households that reside in areas proposed for redevelopment in an early phase of development. Although not currently anticipated, Interim Moves also may be required in later phases of development. Transitioning Households required to make an Interim Move will receive a First Notice to Move not less than 90 days before the Move Date and a Second Notice to Move not less than 60 days before the Move Date.

B. Benefits for Interim Moves

Transitioning Households required to make an Interim Move may elect to move to an Existing Unit on TI under the following terms:

1. Size. The offered Dwelling will have at least the same number of bedrooms as the Existing Unit unless the Transitioning Household elects to move to a smaller unit. The

Transitioning Household may be offered a Dwelling that has a greater number of bedrooms if the available Dwellings with the same number of bedrooms as the Existing Unit will result in a reduction in total square footage from the Existing Unit by 10% or more.

2. Rent. The initial monthly rent for Transitioning Households making an Interim Move to an Existing Unit on TI will be determined as set forth below. In each case, the initial monthly rent will be subject to annual increases calculated by the Rent Board Adjustment.

a. If the offered Dwelling has the same or a greater number of bedrooms as the Existing Unit, the initial monthly rent for the offered Dwelling will be the lesser of: (a) the rent the Transitioning Household is paying for its Existing Unit on the date of the First Notice to Move; or (b) the market rent that TIDA would otherwise charge for the offered Dwelling on the date of the First Notice to Move.

b. If Transitioning Household has elected to move to an offered Dwelling with fewer bedrooms than its Existing Unit, the initial monthly rent on the offered Dwelling will be the lesser of: (a) the monthly rent for the Existing Unit on the date of the First Notice to Move, reduced by 10% for each reduction in bedroom count, or (b) the market rent that TIDA would otherwise charge for the offered Dwelling on the date of the First Notice to Move. For example, if a Transitioning Household occupies an Existing Unit with four bedrooms on the DDA Effective Date, but elects in an Interim Move to move into an offered Dwelling with two bedrooms, the initial monthly rent under (a) would be 80% of the monthly rent on the Existing Unit on the date of the First Notice to Move.

3. Unit Selection. The Notice to Move for an Interim Move will provide information on the process for Transitioning Households electing to move to an Existing Unit on TI to select a Dwelling.

4. Status as Transitioning Household. The Transitioning Household will retain its status as a Transitioning Household following an Interim Move, and will continue to be eligible for Transition Benefits as long as the Household continues to meet the eligibility requirements stated in **Section II.A.1.d** (Determination of Household Eligibility for Transition Benefits).

C. Option to Elect In-Lieu Payment

Instead of making an Interim Move, Transitioning Households may elect the In-Lieu Payment Option in accordance with **Article VI** (Description of In-Lieu Payment Option).

V. DESCRIPTION OF TRANSITION UNIT OPTION

A. Transition Unit Option

1. Time of Option. The Transition Unit Option is available for Transitioning Households only after TIDA delivers a Notice to Move for a Long-Term Move.

2. Benefits. Transitioning Households will have the opportunity to rent a newly-constructed Transition Unit on Treasure Island. Transitioning Households that elect to move into the offered Transition Unit will be eligible for Actual Reasonable Moving Expenses or a Moving Expense Allowance.

3. Designated Unit. TIDA will designate at least one Transition Unit for each Transitioning Household selecting the Transition Unit Option.

4. Loss of Status. A Transition Unit will be offered to each Transitioning Household unless it has lost its status as a Transitioning Household by its prior receipt of Transition Benefits for a Long-Term Move or it no longer meets the eligibility requirements stated in **Section II.A** (Determination of Household Eligibility for Transition Benefits).

5. Leases for Income-Restricted Units. Leases for Households with Section 8 vouchers, Tax Credit Eligible Households and others occupying Transition Units assisted with state, federal, or local housing funds will be subject to applicable regulations and requirements of such funding programs.

6. Loss of Option. TIDA's obligation to provide a Transitioning Household selecting the Transition Unit Option with a Transition Unit will be deemed to be satisfied if the Transitioning Household is offered and refuses to accept the Transition Unit offered.

B. Standards Applicable to Transition Units

1. Size. Except as provided below, a Transition Unit offered to a Transitioning Household under the Transition Unit Option must contain the same number of bedrooms as in the Existing Unit. Exceptions include:

a. Program regulations of certain government housing programs (e.g. tenant-based Section 8) may limit the number of bedrooms that participating Transitioning Households can be offered.

b. In determining the size of a Transition Unit, Post-DDA Tenants, Persons in Unlawful Occupancy and other Persons ineligible for Transition Benefits are excluded as Persons in the Transitioning Household, but Post-DDA Tenants will be allowed to move into a Transitioning Household's Transition Unit.

c. If the Transitioning Household is smaller when it moves into the Transition Unit than it was when its eligibility was established, TIDA will offer a Transition Unit with one bedroom per Person remaining in the Transitioning Household up to a maximum of four bedrooms.

2. Decent, Safe and Sanitary. The Dwelling must be "**Decent, Safe and Sanitary**," which means it:

a. conforms with all applicable provisions for existing structures that have been constructed under state or local building, plumbing, electrical, housing and occupancy codes, and similar ordinances or regulations;

b. has a continuing and adequate supply of potable water;

c. has a kitchen or an area set aside for kitchen use that: (i) contains a sink in good working condition connected to hot and cold water and to an adequate sewage system; and (ii) has utility service connections and adequate space for the installation of a stove and a refrigerator;

d. has an adequate heating system in good working order that will maintain a minimum temperature of 70 degrees in all habitable rooms, and all rooms must be adequately ventilated;

e. has a bathroom, well lit and ventilated and affording privacy to a person within it, containing a lavatory basin and a bathtub or stall shower, properly connected to an adequate supply of hot and cold running water, and a flush closet, all in good working order and properly connected to a sewage disposal system;

f. has an adequate and safe wiring system for lighting and other electrical services;

g. is structurally sound, weather tight, in good repair, and adequately maintained;

h. has a safe unobstructed means of egress leading to safe open space at ground level that conforms to building and fire codes;

i. has at least one room that has not less than 150 square feet of floor area, and other habitable rooms, except kitchens, that have an area of not less than 70 square feet;

j. has sleeping room(s) that include at least 70 square feet of habitable floor space for the first occupant and 50 square feet of habitable floor space for each additional occupant; and

k. is available to the Transitioning Household regardless of race, color, sex, marital status, religion, or national origin in a manner consistent with Title VIII of the Civil Rights Act of 1968 and any other applicable local, state, or federal nondiscrimination laws.

C. **Required Information for Option**

1. Relevant Household Information. Transitioning Households must provide all of the following information to receive the Transition Unit Option:

a. Household Income;

b. Household composition and size, including: (i) the full names of all Household members and relationship of Household members to each other; (ii) age and number of any children and elderly members of the Household; (ii) whether any members of the Transitioning Household are disabled; (iii) whether any members of the Transitioning Household are Adult Students; and (iv) special needs (social and public services, special schools, and other services, need for in-home care); and

2. Time to Provide Information. To the extent all required information is not provided at the interview, Transitioning Households wishing to obtain Transition Benefits will have 30 days after the interview to provide all required information to TIDA.

D. Calculation of Household Income

A Transitioning Household's annual Household Income will be determined using the current Tenant Income Certification Form (see **Appendix 1**).

Households will be required to verify Household Income with third-party documentation such as W-2 forms, pay check stubs, tax returns or other forms of verification. Monthly Household Income will be determined based on the most recent 12 month period preceding the First Notice to Move.

E. Calculation of Base Monthly Rental Cost

The Transitioning Household will be offered a Transition Unit at an initial rent not exceeding the Base Monthly Rental Cost as determined below:

1. Adjustments for Changes in Bedroom Count. If the size of the Transitioning Household changed after the Effective Date, and the Transition Unit contains fewer bedrooms than the Household's Existing Unit as provided in **Section V.B(1)(c)** (Standards Applicable to Transition Units), for purposes of determining the Base Monthly Rental Cost the monthly rent for the Existing Unit will "**Adjusted for Changes in Bedroom Count**," according to the following calculation: (a) calculate the Existing Unit's monthly rent by adding any annual Rent Board Adjustments to the rent for the Existing Unit on the DDA Effective Date; (b) multiply (a) by the product of 10% times the reduction in bedroom count and (c) deduct the applicable Utility Adjustment. For example, if a Transitioning Household originally rented an Existing Unit with four bedrooms but due to changes in the Transitioning Household's size received a unit with two bedrooms, the monthly rent would be reduced by 20% and adjusted for the applicable Utility Allowance based on the new unit bedroom count.

2. Households Participating in Governmental Housing Programs

a. Tax Credit Eligible Households: Base Monthly Rental Cost for Tax Credit Eligible Households will be the lesser of: (i) the Existing Unit's monthly rent on the DDA Effective Date, plus annual Rent Board Adjustments, then Adjusted for Changes in the Bedroom Count (as defined below), if applicable, less Utility Adjustment; (ii) 30% of the Transitioning Household's Average Monthly Income; or (iii) the maximum allowable rent under applicable tax credit regulations less Utility Adjustment. Tax Credit Eligible Households will be offered a

Transition Unit in housing financed with low income housing tax credits and may be required to certify Household Income annually while occupying the rent-restricted unit.

b. Households with Section 8 Vouchers: Base Monthly Rental Cost for Households with Section 8 vouchers will be the fair market rent for a Dwelling for the Household size under Section 8 program regulations, less Utility Adjustments.

3. Low Income Household (defined in Calif. Health & Safety Code § 50079.5): Base Monthly Rental Cost for Low Income Households that do not include Adult Students will be the lesser of: (a) the Existing Unit's monthly rent on the DDA Effective Date, plus annual Rent Board Adjustments, then Adjusted for Changes in the Bedroom Count, if applicable, less Utility Adjustment; or (b) the maximum rent for a Low Income Household allowed by Health and Safety Code § 50053, less Utility Adjustment.

4. Moderate Income Household (defined in Calif. Health & Safety Code § 50079.5): Base Monthly Rental Cost for Moderate Income Households that do not include Adult Students will be the lesser of: (a) the Existing Unit's monthly rent on the DDA Effective Date, plus annual Rent Board Adjustments, then Adjusted for Changes in the Bedroom Count, if applicable, less Utility Adjustment; or (b) the maximum rent for a Moderate Income Household allowed by Health and Safety Code § 50053, less Utility Adjustment.

5. All Other Transitioning Households: Base Monthly Rental Costs for all other Households, consisting of: (i) Transitioning Households that are not Tax Credit Eligible Households, Households with Section 8 vouchers, Low Income Households, or Moderate Income Households; (ii) Transitioning Households that include an Adult Student; and (iii) Transitioning Households that do not provide the required Household information within 30 days after their interview under **Section III.B** (Interview Household and Offer Advisory Services) will be the lesser of: (a) the Existing Unit's monthly rent on the DDA Effective Date, plus annual Rent Board Adjustments, then Adjusted for Changes in the Bedroom Count, if applicable, less the Utility Adjustment; or (b) the market rent that would otherwise be charged for the Transition Unit.

F. Lease Terms for Transition Unit; Occupancy Verification

1. Lease Terms. The following will apply to each Transitioning Household accepting a Transition Unit, except for Tax Credit Eligible Households and Households with Section 8 vouchers (whose leases will comply with applicable federal regulations):

a. The Transitioning Household will enter into a lease containing the following key terms: (i) an initial period of 12 months, with automatic renewal on a month-to-month basis; (ii) a limitation on annual rent increases to the Rent Board Adjustment; (iii) a statement that the Transitioning Household may remain in the Transition Unit as long as the Household remains in Good Standing under its lease, and a description of the events that will cause the Household to be in default of its lease; and (iv) a prohibition against subleasing.

b. Each lease for a Transition Unit will require the Transitioning Household to: (i) identify each occupant of the Household by name; (ii) acknowledge that subleasing is not permitted and that subleasing will be a default under the lease; (iii) acknowledge that at least one member of the Transitioning Household must maintain the Transition Unit as his or her primary Dwelling; (iv) cooperate fully with any subsequent occupancy verification; and (v) comply with all other terms of the lease.

2. Right to Verify Occupancy by Transitioning Household. TIDA, or any subsequent owner or property management company for the Transition Unit, will have the right to verify occupancy of the Transition Unit at any time. If a Transitioning Household does not cooperate with an occupancy verification request or any member of the Household is discovered to have provided knowingly false responses: (a) the entire Transitioning Household will lose the right to continue to rent at the Base Monthly Rental Cost; (b) rent will be increased to the then-current market rate; and (c) future rent increases will not be limited to the Rent Board Adjustment. In addition, TIDA, or any subsequent owner or property management company for the Transition Unit will have the right to charge and collect the additional rent it would have charged, had the rents not been reduced under these Transition Rules and Regulations.

3. Termination of Lease for Transition Unit. If the Transition Unit is no longer occupied by any members of the Transitioning Household, the Transitioning Household's lease for the Transition Unit will terminate.

VI. DESCRIPTION OF IN-LIEU PAYMENT OPTION

A. In-Lieu Payment Option

1. Time. A Transitioning Household may elect to receive an In-Lieu Payment in response to a written offer from TIDA. TIDA currently anticipates offering the In-Lieu Payment Option at the following times:

a. when TIDA delivers a Notice to Move for an Interim Move to a Transitioning Household;

b. when TIDA delivers a Notice of Early In-Lieu Payment Option, currently anticipated to occur during a specified period between TIDA's approvals of Major Phase 2 and Major Phase 4; and

c. when TIDA delivers a Notice to Move for a Long-Term Move to a Transitioning Household.

2. Calculation of Payment. The amount of the In-Lieu Payment will be calculated using the schedule for Relocation Payments for No Fault Evictions published and updated annually by the San Francisco Rent Board (as of the date of the calculation, the "**Rent Board Schedule**"). The 2010 In-Lieu Payment Schedule, based on the 2010 Rent Board Schedule, adjusted for up to four adults, is attached as **Appendix 2**. The Transitioning Household's In-Lieu Payment will be the product of the payment per adult tenant in the Rent

Board Schedule times the number of adults in the Transitioning Household, up to a maximum of four, plus any of the following applicable adjustments:

a. if the Transitioning Household includes elderly or disabled Persons, the product of the payment per elderly or disabled Person under the Rent Board Schedule times the number of elderly or disabled persons in the Transitioning Household; and

b. if the Transitioning Household includes any minor children, an additional lump sum equal to the payment for minors under the Rent Board Schedule.

c. In determining the number of adults in a Transitioning Household, Post-DDA Tenants and, Persons in Unlawful Occupancy and other Persons ineligible for Transition Benefits are excluded as Persons in the Transitioning Household.

3. Effect of Election. Transitioning Households that elect to receive the In-Lieu Payment:

a. will no longer be eligible for the Transition Unit Option or the Unit Purchase Assistance Option

b. will not receive moving assistance;

c. will be required to vacate their Existing Units by the date specified in the Notice to Move or Notice of Early In-Lieu Payment Option to receive the In-Lieu Payment; and

d. upon written request to TIDA, will be placed on the Premarketing Notice List if not already listed.

VII. DESCRIPTION OF UNIT PURCHASE ASSISTANCE OPTION

Transitioning Households that elect to receive the Unit Purchase Assistance Option will be entitled to Down Payment Assistance.

A. Down Payment Assistance

1. Amount of Payment. A Transitioning Household electing the Unit Purchase Assistance Option will receive "**Down Payment Assistance**" described in this Section. The amount of Down Payment Assistance will be equal to the amount the Transitioning Household would have received had it chosen an In-Lieu Payment, based on the Rent Board Schedule and the number of eligible members in the Transitioning Household, up to four Persons, when the Household enters into the purchase contract for the new Dwelling on NSTI.

2. Conditions to Payment. A Transitioning Household electing to purchase a new Dwelling on NSTI will receive Down Payment Assistance only if: (a) the Household meets all applicable eligibility criteria to purchase the new Dwelling; (b) its purchase offer for the new

Dwelling is accepted; and (c) the purchase closes escrow. No Household is guaranteed that its offer to purchase a new Dwelling on NSTI will be accepted, and the purchased Dwelling need not be similar in size, bedroom count, and amenities to the Existing Unit previously occupied by the Household.

3. Escrow and Closing. Down Payment Assistance will be paid at closing into escrow. TIDA will verify the Transitioning Household's eligibility for and amount of the Down Payment Assistance to lenders and sellers of Dwellings during escrow upon request. If escrow does not close, the escrow officer will be instructed to return any Down Payment Assistance funds on deposit to TIDA.

4. Termination of Status. A Transitioning Household that elects to receive the Down Payment Assistance and closes its purchase on a new for-sale Dwelling on NSTI:

a. will no longer be eligible for the Transition Unit Option or the In-Lieu Payment Option

b. will not receive moving assistance;

c. will be required to vacate its Existing Unit by the date specified in the Notice to Move; and

d. will be removed from the Premarketing Notice List.

VIII. ADDITIONAL ASSISTANCE

A. Premarketing Assistance

1. Definitions. The following definitions will apply to the Assistance described in this **Section VIII.A** (Premarketing Assistance):

a. "**Post-Transition Household**" means a Transitioning Household that previously received an In-Lieu Payment.

b. "**Post-Transition Tenant**" means a Person who was a member of a Transitioning Household that previously received an In-Lieu Payment.

c. "**Premarketing Notice List**" means that email contact list that TIDA will maintain to provide notice of a Premarketing Window.

d. "**Premarketing Window**" means a specific and limited time period of no less than 30 days before the Dwellings in each new for-sale housing development on NSTI are offered for sale to the general public.

e. "**Sunset Date**" means the date that is seven years after the date that a Transitioning Household or a Post-Transition Tenant is placed on the Premarketing Notice List.

2. Early Notice. Transitioning Households, Post-Transition Households, and Post-Transition Tenants on the Premarketing Notice List will have the opportunity to make purchase offers on Dwellings in each new for-sale housing development on NSTI during the Premarketing Window.

a. If the purchase offer of a Transitioning Household that is not a Post-Transition Household is accepted: (i) the Transitioning Household also may select the Unit Purchase Assistance Option to receive Down Payment Assistance under **Section VII.A** (Down Payment Assistance); and (ii) TIDA will remove the Transitioning Household from the Premarketing Notice List after close of escrow. Post-Transition Households are not eligible for Down Payment Assistance.

b. If the purchase offer of a Post-Transition Tenant or Post Transition Household is accepted and escrow closes, TIDA will: (i) remove the Post-Transition Tenant or Post Transition Household from the Premarketing Notice List; and (ii) have no further obligation to the Post-Transition Tenant or Post Transition Household under these Transition Housing Rules and Regulations. Post-Transition Tenants are not eligible for Down Payment Assistance.

c. A Transitioning Household whose purchase offer is not accepted may stay on the Premarketing Notice List for subsequent notices of Premarketing Windows until the earliest of: (i) the date escrow closes on a subsequent purchase offer; (ii) the date the Transitioning Household moves into a Transition Unit; or (iii) the Sunset Date.

d. Post-Transition Households and Post-Transition Tenants whose purchase offers are not accepted may stay on the Premarketing Notice List for subsequent notices of Premarketing Windows until the earlier of: (i) the date escrow closes on a subsequent purchase offer; or (ii) the Sunset Date.

3. Notice List.

a. Each Transitioning Household and Post-Transition Household must: (i) provide TIDA with the names of Household members, the designated Household contact's name, and an email address for notices; and (ii) notify TIDA of any changes to Household information to remain on the Premarketing Notice List.

b. Each Post-Transition Tenant must: (i) provide TIDA with an email address for notices; and (ii) notify TIDA of any changes in the email notice address to remain on the Premarketing Notice List.

c. TIDA will have no obligation to: (i) verify that email notices that are sent are actually delivered; or (ii) update contact information of Transitioning Households, Post-Transition Households, or Post-Transition Tenants that do not notify TIDA that their email addresses have changed. TIDA will remove Transitioning Households, Post-Transition Households, and Post-Transition Tenants from the Premarketing Notice List on their respective Sunset Dates if they are then still on the list.

4. Required Acknowledgement. Before TIDA is obligated to add contact information to the Premarketing Notice List, each member of a Transitioning Household, Post Transition Household and Post-Transition Tenants will be required to sign an acknowledgment that neither TIDA nor any for-sale housing developer will be responsible for: (a) ensuring that the contact email address provided is current; (b) any inadvertent omission from the Premarketing Notice List, as long as the housing opportunity is marketed generally in the San Francisco area; or (c) guaranteeing that a Transitioning Household or a Post-Transition Tenant will qualify to purchase a new Dwelling.

5. Developer Notice Requirements. For-sale housing developers will be required to provide TIDA with advance notice of the Premarketing Window for each new for-sale housing development on NSTI, stating: (a) the start and end dates of the Premarketing Window; (ii) for each available Dwelling, the unit address, number of bedrooms, and initial offered price; (iii) the date(s) on which interested Transitioning Households, Post-Transition Households, and Post-Transition Tenants may tour the available Dwellings; and (iv) contact information for an authorized representative of the housing developer who can answer questions about the available Dwelling(s). TIDA will send email notices to all Transitioning Households, Post-Transition Households, and Post-Transition Tenants on the Premarketing Notice List before the Premarketing Window begins.

6. No Preferential Treatment. Transitioning Households, Post-Transition Households, and Post-Transition Tenants on the Premarketing Notice List will be offered the same purchase terms for the for-sale units as those offered to the general public.

a. Inclusionary units will be offered at a specified below-market-rate price to Transitioning Households, Post-Transition Households, and Post-Transition Tenants that meet all qualifying income and occupancy criteria for that Dwelling.

b. The purchase price of all other for-sale Dwellings will be the market-rate price.

c. Transitioning Households, Post-Transition Households, and Post-Transition Tenants will be required to qualify to purchase any Dwellings offered for sale during the Premarketing Window in the same manner as other members of the general public.

d. The Premarketing Window does not guarantee that a Transitioning Household, Post-Transition Household, or Post-Transition Tenant will qualify for the purchase or that its purchase offer will be accepted.

B. Moving Assistance

1. Covered Moving Expenses. All Transitioning Households that make Interim Moves and that select the Transition Unit Option for a Long-Term Move will receive either Actual Reasonable Moving Expenses or a Moving Expense Allowance. Actual Reasonable Moving Expenses will include:

a. transportation of persons and property upon NSTI;

b. packing, crating, unpacking, and uncrating Personal Property;

c. insurance covering Personal Property while in transit;

d. connection charges imposed by public utilities for starting utility service;

e. the reasonable replacement value of Personal Property lost, stolen, or damaged (unless caused by the Transitioning Household or its agent) in the process of moving, where insurance covering such loss, theft, or damage is not reasonably available; and

f. the removal of barriers to the disabled and installations in and modifications to a disabled Person's new Dwelling as needed to accommodate special needs.

2. Allowance Alternative. A Transitioning Household electing a self-move for an Interim Move or a Long-Term Move into a Transition Unit will be paid according to the Moving Allowance Schedule in **Appendix 3** promptly after filing a claim form provided by TIDA and vacating the Existing Unit, unless the Household seeks and is granted an advance payment to avoid hardship.

3. Advance Payment to Avoid Hardship. A Transitioning Household may be paid for anticipated moving expenses in advance of the actual move. TIDA will make an advance payment whenever the Household files a claim form provided by TIDA supported by documents and other evidence that later payment would result in financial hardship. Particular consideration will be given to the financial limitations and difficulties experienced by low and moderate income residents.

4. Moving Expense Claims. A claim for payment of Actual Reasonable Moving Expenses must be supported by a bill or other evidence of expenses incurred.

a. Each claim greater than $1,000 for the moving costs incurred by a Transitioning Household hiring a moving company must be supported by at least 2 competitive bids. If TIDA determines that compliance with the bid requirement is impractical, or if the claimant obtains estimates of less $1,000, a claim may be supported by estimates instead. TIDA may make payment directly to the moving company.

b. A Transitioning Household's Actual Reasonable Moving Expenses will be exempt from regulation by the State Public Utilities Commission. TIDA may effect the moves by directly soliciting competitive bids from qualified bidders for performance of the work. Bids submitted in response to such solicitations will be exempt from regulation by the State Public Utilities Commission.

IX. IMPLEMENTATION OF TRANSITION HOUSING RULES AND REGULATIONS

A. Administration

1. Information Program. TIDA will maintain an information program using meetings, newsletters, and other mechanisms, including local media, to keep Villages residents informed on a continuing basis about: (a) TIDA's transition housing program and other information about the redevelopment process; (b) the timing and scope of any anticipated Interim Moves; (c) the timing and scope of anticipated Long-Term Moves, (c) procedures for implementing and making claims under these Transition Rules and Regulations; and (d) other information relevant to these Transition Rules and Regulations.

2. Nondiscrimination. TIDA will administer these Transition Housing Rules and Regulations in a manner that will not result in different or separate treatment on account of race, color, religion, national origin, sex, sexual orientation, marital status, familial status, or any basis protected by local, state, or federal nondiscrimination laws.

3. Site Office. TIDA may establish a site office that is accessible to all Households to provide advisory assistance described in **Section III.B** (Interview Households and Offer Advisory Services). If TIDA establishes a site office, it will be staffed with trained and experienced personnel, who may be third-party housing specialists.

4. Amendments. These Transition Rules and Regulations may be amended by TIDA from time to time by a resolution of the TIDA Board adopting an amendment at a duly noticed public meeting.

B. Household Records

1. Contents. TIDA will maintain records for each Household containing information obtained during interviews, documents submitted by residents, and existing files of its property manager. The records will contain a description of the pertinent characteristics of the Persons in the Household, the assistance determined to be necessary, and the Household's decisions on Transition Benefits. Members of a Transitioning Household will have the right to inspect their own Transitioning Household records to the extent and in the manner provided by law.

2. Confidentiality. Household income information is confidential and will only be used for its intended purpose. Confidential information will not be disclosed to third parties outside of the Household unless all members of the Household provide their written consent to disclosure or a valid court order requires disclosure.

3. Publication of Aggregate Resident Data. TIDA will have the right to publish aggregate data about the resident population on NSTI, including information that is segmented according to aggregate Villages resident data and aggregate TIHDI resident data.

X. CLAIM AND PAYMENT PROCEDURES; TERMINATION OF TRANSITION HOUSING ASSISTANCE

A. Filing Claims; Tax Forms

1. Written Claims Required. TIDA will provide claim forms for payment under these Transition Rules and Regulations. All claims for In-Lieu Payments and Down Payment Assistance must be submitted to TIDA with the Household's notice of election of that specific Transition Benefit. All claims for moving expense payments must be submitted to TIDA within six months after the date on which the claimant makes an Interim Move or moves into a Transition Unit.

2. Tax Forms. TIDA: (a) makes no representations about the tax treatment of any payments or benefits of monetary value any Person receives under these Transition Housing Rules and Regulations; (b) will require all Persons who receive an In-Lieu Payment, Down Payment Assistance, moving assistance, or any other payment under these Transition Housing Rules and Regulations to provide TIDA with valid Social Security numbers for all recipients; and (c) will file W-9 forms for all payments and benefits of monetary value made or provided to any Person under these Transition Housing Rules and Regulations.

B. Treatment of Dependents

1. Allocation of Transition Benefits. The following will apply to any Person who derives 51% or more of his or her income from one or more Persons within the same Transitioning Household in an Existing Unit (the "**Supporting Household**") or otherwise meets his or her living expenses primarily through the monetary support of the Supporting Household (a "**Dependent**").

a. A Dependent who lives with the Transitioning Household will not be entitled to any Transition Benefit except as a part of the Household, and will be counted as a member of the Transitioning Household for determining Household size.

b. If the Dependent's primary Dwelling, as determined by voter registration, driver's license, or other forms of verification, is different from that of the Supporting Household when the Supporting Household selects and receives a Transition Benefit, the Dependent will not be counted as part of the Transitioning Household when determining: (i) the size of a Transition Unit; (ii) the amount of an In-Lieu Payment; or (iii) the amount of Down Payment Assistance.

2. Documentation of Dependent Status. Any Transitioning Household claiming a Dependent must provide third-party documentation that it is a Supporting Household. TIDA will have the right to require that the Supporting Household and Dependent, if applicable, provide copies of tax returns filed for tax years preceding the claim.

C. Adjustments for Multiple Claims; Nontransferability

1. Multiple Claimants. The amount of an In-Lieu Payment, Down Payment Assistance, or Moving Expense Allowance will be determined based on the total number of eligible members in the Transitioning Household. All adult members of a Household must sign the claim form and any other required documents as a condition to TIDA's obligation to pay Transition Benefits and moving assistance.

2. Multiple Claims. A single claim form for each payment claim by a Transitioning Household is preferred, but not required. Unless otherwise specified in a claim form, TIDA will issue separate checks to each adult in the Transitioning Household in equal shares, adjusted for Dependents and elderly or disabled members of the Household. If two or more eligible Persons in a single Transitioning Household submit more than one claim for any payment under these Transition Rules and Regulations, which in the aggregate exceed the payment limits to be made to the entire Transitioning Household, TIDA will pay each eligible claimant an equal share of the payment, up to the aggregate amount of the payment limits. As provided in **Section VII.A** (Down Payment Assistance), Transitioning Households that choose Down Payment Assistance will not receive direct payment; TIDA will deposit the entire amount of any Down Payment Assistance directly into escrow.

3. Nontransferability. The right to Transition Benefits and other assistance under these Transition Housing Rules and Regulations is personal to each member of a Transitioning Household and is not a property right. Therefore, a Transitioning Household's member's right to Transition Benefits and other assistance cannot be transferred by contract, inheritance, or any other means.

D. Termination of TIDA's Obligations

1. Termination of Right to Transition Benefits. TIDA's obligation to provide Transition Benefits to a Transitioning Household under these Transition Housing Rules and Regulations will terminate under the following circumstances:

a. The Transitioning Household moves off NSTI before receiving a Long-Term Notice to Move or a Notice of Early In-Lieu Payment Option.

b. The Transitioning Household moves to a Transition Unit and receives all moving assistance to which it is entitled.

c. The Transitioning Household moves off-NSTI after receiving a Notice to Move or a Notice of Early In-Lieu Payment Option and receives an In-Lieu Payment.

d. The Transitioning Household moves from an Existing Unit to a new for-sale Dwelling on NSTI and receives Down Payment Assistance.

e. The Transitioning Household refuses reasonable offers of assistance, payments, and a Transition Unit after receiving a Notice to Move.

f. TIDA determines a Household is not or has ceased to be a Transitioning Household or is otherwise not entitled to Transition Benefits.

2. Acknowledgement of Change in Status upon Receipt of Benefits. Each member of a Transitioning Household that receives Transition Benefits will be required to acknowledge in writing that he or she has received or is about to receive the Transition Benefits, and, upon receipt, the Household will cease to be a Transitioning Household entitled to any Transition Benefits, other assistance, and advisory services under these Transition Housing Rules and Regulations.

3. Records as Evidence. TIDA will be entitled to rely on and use its written offers of Transition Benefits to a Transitioning Household that refuses them, and all other information in the Transitioning Household's records, as evidence in any grievance proceeding or lawsuit.

4. Notice of Status. Except for a change in status after the Transitioning Household receives a Transition Benefit, TIDA will provide written notice of any determination that a Household is not or has ceased to be a Transitioning Household or is otherwise not entitled to Transition Benefits, delivered to the Transitioning Household's last known address.

5. Termination of Other Assistance. TIDA's obligations to provide moving assistance and to provide notices of Premarketing Windows will terminate as provided in **Article VIII** (Other Assistance).

XI. GRIEVANCE PROCEDURES

A. Administrative Remedies

1. Right to Appeal and Be Represented by Counsel. Any member of a Household, and any Household, that disagrees with a TIDA determination regarding eligibility for Transition Benefits, the proposed amount of payment, or the adequacy of the Transition Unit to which the Transitioning Household was referred may appeal the determination, but the Person or Household (individually, or as a Household, the "**Grievant**") must exhaust the prescribed administrative remedies before seeking judicial review. The Grievant will be entitled to be represented by an attorney at his or her, or the Household's, own expense at all stages of review under these Transition Housing Rules and Regulations.

2. Executive Director Review. The first step in administrative remedies available to a Grievant is the right to an appeal to the Executive Director of TIDA, as follows:

a. The Grievant must make a written request for review by the Executive Director no later than 12 months after the Grievant receives either a Long Term Notice to Move or an Interim Notice to Move. The Grievant's written request must state the basis for the claim and the relief sought.

b. The Grievant will be entitled to meet with the Executive Director and to present additional evidence and information that the Grievant has not presented previously through the interview process.

c. The Executive Director will make a determination based on the information the Grievant has provided to TIDA through the interview processes as well as any additional information presented by the Grievant.

d. The Executive Director must make a final determination in writing, stating the reasons for the determination within six weeks after conferring with the Grievant.

3. Hearing Before Relocation Appeals Board. If the Grievant is not satisfied with the Executive Director's determination, the second step in the administrative remedies available to a Grievant is an appeal to the Treasure Island Relocation Appeals Board (the "**RAB**"), which will be determined according the procedures below.

a. No later than 30 days after the TIDA Executive Director delivers his or her written determination under **Section XI.A.2** (Executive Director Review) to the Grievant, the Grievant must submit a written appeal to the RAB, with a copy to TIDA, stating the basis for his or her claim and the relief sought by the Grievant. If the Grievant wishes to submit information in addition to that previously provided to TIDA, the additional information must be submitted with the written appeal, and TIDA will have 30 days to provide a response to any new material.

b. The RAB will review and reconsider the Grievant's claim in light of: (i) all material upon which the Executive Director based his or her original determination, including these Transition Housing Rules and Regulations; (ii) the Grievant's written request for an appeal; (iii) any additional written or relevant documentary material submitted by the Grievant; (iv) any material submitted by TIDA in response to new information submitted by the Grievant with the appeal; and (v) any further information that the RAB, in its discretion, obtains by request to ensure fair and full review of the claim.

c. The RAB may choose to hold a hearing, and must hold a hearing if requested by the Grievant. All RAB hearings will be public meetings subject to state and local public meeting laws. The RAB's review will be limited to whether the Grievant is entitled to the claimed relief under these Transition Housing Rules and Regulations. Its determination must be based on the information presented during the appeal and these Transition Rules and Regulations. All members of the RAB shall be required to disclose in a public meeting any communications and contacts such member has had with the Grievant outside of the hearing. The RAB will not be authorized to make any monetary award (including attorneys' fees and costs of appeal) other than a payment authorized under these Transition Rules and Regulations.

d. The RAB must issue a written determination to the Grievant and TIDA no later than six weeks from receipt of the last material submitted by any party or the date of the hearing, whichever is later, stating: (i) the RAB's decision; (ii) the basis upon which the decision rests, including any pertinent explanation or rationale; and (iii) a statement that the Grievant may appeal the decision in accordance with the procedure set forth below.

e. The RAB may reject an appeal for untimeliness by a written statement to the Grievant.

4. Administrative Law Judge Review. The final step in administrative remedies available to a Grievant is an appeal to an administrative law judge ("**ALJ**") on the Rent Board staff who is assigned to hear appeals under these Transition Rules and Regulations, as follows:

a. No later than 30 days after the RAB delivers its written determination under **Section XI.A.3** (Hearing Before Relocation Appeals Board) to the Grievant, the Grievant must submit a written appeal to the ALJ, and deliver a copy of the appeal to TIDA at the same time, stating the basis for the claim and the relief sought.

b. TIDA will have 15 days after a signed appeal is filed with the ALJ to provide the ALJ with copies of information related to the Grievant's case, including all additional evidence or information submitted by the Grievant to the RAB and TIDA's records related to the Grievant.

c. The assigned ALJ may attempt to resolve the dispute without a hearing, but is not required to do so.

d. The ALJ will conduct a hearing unless the dispute has been resolved before the hearing date.

e. The ALJ must make a final determination in writing, stating the reasons for the determination, and deliver the determination to the Grievant, with a copy to TIDA at the same time. The ALJ determination must include a statement that the Grievant has exhausted administrative remedies under these Transition Rules and Regulations.

5. Right to Judicial Review. The Grievant may seek judicial review after the administrative remedies described above have been exhausted.

XII. PROPERTY MANAGEMENT PRACTICES

A. Eviction

1. Grounds for Eviction. In addition to all other grounds under the Residential Leases and California law, TIDA may initiate eviction proceedings to remove a Household from its Existing Unit:

a. after the date specified in a Notice to Move for an Interim Move or for a Long-Term Move has passed, and: (i) the Household is a Transitioning Household that has refused TIDA's offers of a Transition Benefit, including the right to relocate to a Transition Unit; or (ii) the Household is a Transitioning Household that has not vacated its Existing Unit after selecting and receiving a Transition Benefit; or (iii) the Household is a Post-DDA Household and has failed to vacate the Existing Unit after receipt of a Notice of Move.

b. after TIDA issues a notice to move due to: (i) a major disaster as defined in § 102(2) of the federal Disaster Relief Act of 1974; (ii) a state of emergency declared by the President of the United States or the Governor of the State of California; or (iii) any other emergency that requires the Household to move immediately from the Existing Unit because continued occupancy of the Existing Unit by the Household constitutes a substantial danger to the health or safety, or both, of the Household.

B. Post-DDA Tenants

1. Notice of Status. Before prospective Post-DDA Tenants move into any Existing Unit, TIDA will inform them:

a. that the Existing Unit will be available only for an interim period pending redevelopment of NSTI;

b. of the projected date that the Existing Unit is expected to be vacated and demolished for development, if known;

c. that, along with all other Villages residents, all Post-DDA Tenants will receive periodic notices from TIDA with updates about the progress of the project;

d. that TIDA will provide 90 days' notice of the date by which they must vacate their Existing Unit; and

e. that no Post-DDA Tenant is eligible for Transition Benefits under these Transition Rules and Regulations or relocation benefits under applicable relocation laws.

2. Advisory Services. Post-DDA Tenants are not eligible for Transition Benefits under these Transition Housing Rules and Regulations, unless an exception under **Section II.A.1** (Defined Terms for Determining Eligibility) applies, but are eligible for advisory services under **Section III.B** (Interview Households and Offer Advisory Services).

XIII. INTERPRETATION

A. Rules of Interpretation and Severability

1. The captions preceding the articles and sections of these Transition Housing Rules and Regulations and in the table of contents have been inserted for convenience of reference only and must be disregarded in interpreting these Transition Housing Rules and Regulations. Wherever reference is made to any provision, term, or matter in these Transition Housing Rules and Regulations, the term "in these Transition Housing Rules and Regulations " or "hereof" or words of similar import, the reference will be deemed to refer to any reasonably related provisions of these Transition Housing Rules and Regulations in the context of the reference, unless the reference refers solely to a specific numbered or lettered section, subdivision, or paragraph of these Transition Housing Rules and Regulations.

2. References to all laws, including specific statutes, relating to the rights and obligations of any person or entity mean the laws in effect on the effective date of these Transition Housing Rules and Regulations and as they are amended, replaced, supplemented, clarified, or superseded at any time while any obligations under these Transition Housing Rules and Regulations are outstanding, whether or not foreseen or contemplated.

3. The terms "include," "included," "including," and "such as" or words of similar import when following any general term, statement, or matter may not be construed to limit the term, statement, or matter to the specific items or matters, whether or not language of non-limitation is used, but will be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of the term, statement, or matter, and will be deemed to be followed by the phrase "without limitation" or "but not limited to."

4. Whenever required by the context, the singular includes the plural and vice versa, the masculine gender includes the feminine or neuter genders and vice versa, and defined terms encompass all correlating forms of the terms (e.g., the definition of "waive" applies to "waiver," waived," waiving").

5. The provisions of these Transition Housing Rules and Regulations are severable, and if any provision or its application to any person or circumstances is held invalid by a final order or judgment of a court with valid jurisdiction over the matter, the invalid provision will not affect the other provisions or the application of those Transition Housing Rules and Regulations that can be given effect without the invalid provision or application.

APPENDIX 1

Sample of Tenant Income Certification Form
(as published by the California Tax Credit Allocation Committee)

1529\02\929188.2
1/5/2011

TENANT INCOME CERTIFICATION

☐ Initial Certification ☐ 1st Recertification ☐ Other_____

Effective Date: _____
Move-in Date: _____
(YYYY-MM-DD)

PART I - DEVELOPMENT DATA

Property Name: _____ County: _____ BIN #: _____

Address: _____ Unit Number: _____ # Bedrooms: _____

PART II. HOUSEHOLD COMPOSITION

☐ Vacant

HH Mbr #	Last Name	First Name	Middle Initial	Relationship to Head of Household	Date of Birth (YYYY/MM//DD)	F/T Student (Y or N)	Last 4 digits of Social Security #
1				HEAD			
2							
3							
4							
5							
6							
7							

PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)

HH Mbr #	(A) Employment or Wages	(B) Soc. Security/Pensions	(C) Public Assistance	(D) Other Income
TOTALS	$	$	$	$

Add totals from (A) through (D), above TOTAL INCOME (E): $

PART IV. INCOME FROM ASSETS

Hshld Mbr #	(F) Type of Asset	(G) C/I	(H) Cash Value of Asset	(I) Annual Income from Asset
		TOTALS:	$	$

Enter Column (H) Total If over $5000 $_____ X Passbook Rate 2.00% = (J) Imputed Income $

Enter the greater of the total of column I, or J: imputed income **TOTAL INCOME FROM ASSETS (K)** $

(L) Total Annual Household Income from all Sources [Add (E) + (K)] $

Effective Date of Move-in Income Certification: _____

Household Size at Move-in Certification: _____

HOUSEHOLD CERTIFICATION & SIGNATURES

The information on this form will be used to determine maximum income eligibility. I/we have provided for each person(s) set forth in Part II acceptable verification of current anticipated annual income. I/we agree to notify the landlord immediately upon any member of the household moving out of the unit or any new member moving in. I/we agree to notify the landlord immediately upon any member becoming a full time student.

Under penalties of perjury, I/we certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.

_____ _____ _____ _____
Signature *(Date)* Signature *(Date)*

_____ _____ _____ _____
Signature *(Date)* Signature *(Date)*

PART V. DETERMINATION OF INCOME ELIGIBILITY

RECERTIFICATION ONLY:

TOTAL ANNUAL HOUSEHOLD INCOME FROM ALL SOURCES: From item (L) on page 1 $

Unit Meets Income Restriction at:
☐ 60% ☐ 50%
☐ 40% ☐ 30%
☐ ____%

Current Income Limit x 140%: $

Household Income exceeds 140% at recertification: ☐ Yes ☐ No

Current Income Limit per Family Size: $

Household Income at Move-in: $

Household Size at Move-in:

PART VI. RENT

Tenant Paid Rent $

Utility Allowance $

Rent Assistance: $

Other non-optional charges: $

GROSS RENT FOR UNIT: (Tenant paid rent plus Utility Allowance & other non-optional charges) $

Unit Meets Rent Restriction at:
☐ 60% ☐ 50% ☐ 40% ☐ 30% ☐ ____%

Maximum Rent Limit for this unit: $

PART VII. STUDENT STATUS

ARE ALL OCCUPANTS FULL TIME STUDENTS?

☐ yes ☐ no

If yes, Enter student explanation* (also attach documentation)

Enter 1-5

*Student Explanation:
1 AFDC / TANF Assistance
2 Job Training Program
3 Single Parent/Dependent Child
4 Married/Joint Return
5 Former Foster Care

PART VIII. PROGRAM TYPE

Mark the program(s) listed below (a. through e.) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification.

a. Tax Credit ☐	b. HOME ☐	c. Tax Exempt ☐	d. AHDP ☐	e. _____ ☐ (Name of Program)
See Part V above.	*Income Status* ☐ ≤ 50% AMGI ☐ ≤ 60% AMGI ☐ ≤ 80% AMGI ☐ OI**	*Income Status* ☐ 50% AMGI ☐ 60% AMGI ☐ 80% AMGI ☐ OI**	*Income Status* ☐ 50% AMGI ☐ 80% AMGI ☐ OI**	*Income Status* ☐ _____ ☐ _____ ☐ OI**

** Upon recertification, household was determined over-income (OI) according to eligibility requirements of the program(s) marked above.

SIGNATURE OF OWNER/REPRESENTATIVE

Based on the representations herein and upon the proof and documentation required to be submitted, the individual(s) named in Part II of this Tenant Income Certification is/are eligible under the provisions of Section 42 of the Internal Revenue Code, as amended, and the Land Use Restriction Agreement (if applicable), to live in a unit in this Project.

SIGNATURE OF OWNER/REPRESENTATIVE DATE

PART IX. SUPPLEMENTAL INFORMATION FORM FOR NEW MOVE-IN'S

(Part IX. Form to be completed only at Initial Move-in)

The California Tax Credit Allocation Committee (CTCAC) requests the following information in order to comply with the Housing and Economic Recovery Act (HERA) of 2008, which requires all Low Income Housing Tax Credit (LIHTC) properties to collect and submit to the U.S. Department of Housing and Urban Development (HUD), certain demographic and economic information on tenants residing in LIHTC financed properties. Although the CTCAC would appreciate receiving this information, you may choose not to furnish it. You will not be discriminated against on the basis of this information, or on whether or not you choose to furnish it. If you do not wish to furnish this information, please check the box at the bottom of the page and initial.

Enter both Ethnicity and Race codes for each household member (see below for codes).

TENANT DEMOGRAPHIC PROFILE						
HH Mbr #	Last Name	First Name	Middle Initial	Race	Ethnicity	Disabled (Y or N)
1						
2						
3						
4						
5						
6						
7						

The Following Race Codes should be used:

1 – White – A person having origins in any of the original people of Europe, the Middle East or North Africa.
2 – Black/African American – A person having origins in any of the black racial groups of Africa. Terms such as "Haitian" or "Negro" apply to this category.
3 – American Indian/Alaska Native – A person having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment.
4 – Asian – A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
5 – Native Hawaiian/Other Pacific Islander – A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

***Note:** Multiple racial categories may be indicated as such: 31 – American Indian/Alaska Native & White, 41 – Asian & White, etc.*

The Following Ethnicity Codes should be used:

1 – Hispanic – A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. Terms such as "Latino" or "Spanish Origin" apply to this category.
2 – Not Hispanic – A person not of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.

Disability Status:

Check "Y" if any member of the household is disabled according to Fair Housing Act definition for handicap (disability):

- A physical or mental impairment which substantially limits one or more major life activities: a record of such an impairment; or being regarded as having such an impairment. For a definition of "physical or mental impairment and other terms used, please see 24 CFR 100.201, available at http://www.fairhousing.com/index.cfm?method=page.display&pagename=regs_fhr_100=201.
- "Handicap" does not include current, illegal use of or addiction to a controlled substance.
- An individual shall not be considered to have a handicap solely because that individual is a transvestite.

☐ **Resident/Applicant:** I do not wish to furnish information regarding ethnicity, race and other household composition.

(Initials) _____ _____ _____ _____ _____ _____ _____
(HH#) 1. 2. 3. 4. 5. 6. 7.

INSTRUCTIONS FOR COMPLETING TENANT INCOME CERTIFICATION

This form is to be completed by the owner or an authorized representative.

Part I - Development Data

Check the appropriate box for Initial Certification (move-in), Recertification (annual recertification), or Other. If Other, designate the purpose of the recertification (i.e., a unit transfer, a change in household composition, or other state-required recertification).

*Move-in Date	Enter the date the tenant has or will take occupancy of the unit. (YYYY-MM-DD)
*Effective Date	Enter the effective date of the certification. For move-in, this should be the move-in date. For annual recertification, this effective date should be no later than one year from the effective date of the previous (re)certification. (YYYY-MM-DD)
Property Name	Enter the name of the development.
County	Enter the county (or equivalent) in which the building is located.
BIN #	Enter the Building Identification Number (BIN) assigned to the building (from IRS Form 8609).
Address	Enter the address of the building.
Unit Number	Enter the unit number.
# Bedrooms	Enter the number of bedrooms in the unit.
*Vacant Unit	Check if unit was vacant on December 31 of requesting year.

Part II - Household Composition

List all occupants of the unit. State each household member's relationship to the head of household by using one of the following coded definitions:

H	-	Head of Household	S	-	Spouse
A	-	Adult co-tenant	O	-	Other family member
C	-	Child	F	-	Foster child(ren)/adult(s)
L	-	Live-in caretaker	N	-	None of the above

Enter the date of birth, student status, and last four digits of social security number or alien registration number for each occupant. If tenant does not have a Social Security Number (SSN) or alien registration number, please enter the numerical birth month and last two digits of birth year (e.g. birthday January 1, 1970, enter "0170"). If tenant has no SSN number or date of birth, please enter the last 4 digits of the BIN.

If there are more than 7 occupants, use an additional sheet of paper to list the remaining household members and attach it to the certification.

Part III - Annual Income

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income, including acceptable forms of verification.

From the third party verification forms obtained from each income source, enter the gross amount anticipated to be received for the twelve months from the effective date of the (re)certification. Complete a separate line for each income-earning member. List **each** respective household member number from Part II. Include anticipated income only if documentation exists verifying pending employment. If any adult states zero-income, please note "zero" in the columns of Part III.

Column (A)	Enter the annual amount of wages, salaries, tips, commissions, bonuses, and other income from employment; distributed profits and/or net income from a business.
Column (B)	Enter the annual amount of Social Security, Supplemental Security Income, pensions, military retirement, etc.
Column (C)	Enter the annual amount of income received from public assistance (i.e., TANF, general assistance, disability, etc.).
Column (D)	Enter the annual amount of alimony, child support, unemployment benefits, or any other income regularly received by the household.
Row (E)	Add the totals from columns (A) through (D), above. Enter this amount.

Part IV - Income from Assets

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income from assets, including acceptable forms of verification.

From the third party verification forms obtained from each asset source, list the gross amount anticipated to be received during the twelve months from the effective date of the certification. List the respective household member number from Part II and complete a separate line for each member.

Column (F)	List the type of asset (i.e., checking account, savings account, etc.)
Column (G)	Enter C (for current, if the family currently owns or holds the asset), or I (for imputed, if the family has disposed of the asset for less than fair market value within two years of the effective date of (re)certification).
Column (H)	Enter the cash value of the respective asset.
Column (I)	Enter the anticipated annual income from the asset (i.e., savings account balance multiplied by the annual interest rate).
TOTALS	Add the total of Column (H) and Column (I), respectively.

If the total in Column (H) is greater than $5,000, you must do an imputed calculation of asset income. Enter the Total Cash Value, multiply by 2% and enter the amount in (J), Imputed Income.

Row (K)	Enter the greater of the total in Column (I) or (J)
Row (L)	Total Annual Household Income From all Sources Add (E) and (K) and enter the total
*Effective Date of Income Certification	Enter the effective date of the income certification corresponding to the total annual household income entered in Box L. If annual income certification is not required, this may be different from the effective date listed in Part I.
*Household Size at Certification	Enter the number of tenants corresponding to the total annual household income entered in Box L. If annual income certification is not required, this may be different from the number of tenants listed in Part II.

HOUSEHOLD CERTIFICATION AND SIGNATURES

After all verifications of income and/or assets have been received and calculated, each household member age 18 or older must sign and date the Tenant Income Certification. For move-in, it is recommended that the Tenant Income Certification be signed no earlier than 5 days prior to the effective date of the certification.

Part V – Determination of Income Eligibility

Total Annual Household Income from all Sources	Enter the number from item (L).
Current Income Limit per Family Size	Enter the Current Move-in Income Limit for the household size.
Household income at move-in Household size at move-in	For recertifications, only. Enter the household income from the move-in certification. On the adjacent line, enter the number of household members from the move-in certification.
Current Income Limit x 140%	For recertifications only. Multiply the Current Maximum Move-in Income Limit by 140% and enter the total. **140% is based on the Federal Set-Aside of 20/50 or 40/60, as elected by the owner for the property, not deeper targeting elections of 30%, 40%, 45%, 50%, etc.** Below, indicate whether the household income exceeds that total. If the Gross Annual Income at recertification is greater than 140% of the current income limit, then the available unit rule must be followed.
*Units Meets Income Restriction at	Check the appropriate box for the income restriction that the household meets according to what is required by the set-aside(s) for the project.

Part VI - Rent

Tenant Paid Rent	Enter the amount the tenant pays toward rent (not including rent assistance payments such as Section 8).

Rent Assistance	Enter the amount of rent assistance, if any.
Utility Allowance	Enter the utility allowance. If the owner pays all utilities, enter zero.
Other non-optional charges	Enter the amount of non-optional charges, such as mandatory garage rent, storage lockers, charges for services provided by the development, etc.
Gross Rent for Unit	Enter the total of Tenant Paid Rent plus Utility Allowance and other non-optional charges.
Maximum Rent Limit for this unit	Enter the maximum allowable gross rent for the unit.
Unit Meets Rent Restriction at	Check the appropriate rent restriction that the unit meets according to what is required by the set-aside(s) for the project.

Part VII - Student Status

If all household members are full time* students, check "yes". If at least one household member is not a full time student, check "no".

If "yes" is checked, the appropriate exemption must be listed in the box to the right. If none of the exemptions apply, the household is ineligible to rent the unit.

Full time is determined by the school the student attends.

Part VIII – Program Type

Mark the program(s) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification. If the property does not participate in the HOME, Tax-Exempt Bond, Affordable Housing Disposition, or other housing program, leave those sections blank.

Tax Credit	See Part V above.
HOME	If the property participates in the HOME program and the unit this household will occupy will count towards the HOME program set-asides, mark the appropriate box indicting the household's designation.
Tax Exempt	If the property participates in the Tax Exempt Bond program; mark the appropriate box indicating the household's designation.
AHDP	If the property participates in the Affordable Housing Disposition Program (AHDP), and this household's unit will count towards the set-aside requirements, mark the appropriate box indicting the household's designation.
Other	If the property participates in any other affordable housing program, complete the information as appropriate.

SIGNATURE OF OWNER/REPRESENTATIVE

It is the responsibility of the owner or the owner's representative to sign and date this document immediately following execution by the resident(s).

The responsibility of documenting and determining eligibility (including completing and signing the Tenant Income Certification form) and ensuring such documentation is kept in the tenant file is extremely important and should be conducted by someone well trained in tax credit compliance.

These instructions should not be considered a complete guide on tax credit compliance. The responsibility for compliance with federal program regulations lies with the owner of the building(s) for which the credit is allowable.

PART IX. SUPPLEMENTAL INFORMATION

Tenant Demographic Profile	Complete for each member of the household, including minors, for move-in. Use codes listed on supplemental form for Race, Ethnicity, and Disability Status.
Resident/Applicant Initials	All tenants who wish not to furnish supplemental information should initial this section. Parent/guardian may complete and initial for minor child(ren).

**Please note areas with asterisks are new or have been modified. Please ensure to note the changes or formats now being requested.*

APPENDIX 2

2011 In-Lieu Payment Schedule
Based on the 2010 San Francisco Rent Board Relocation Payments for No Fault Evictions
(Adjusted for maximum of four adults)

Date of Second Notice to Move	**In-Lieu Payment Amount Due Per Tenant**	**Maximum In-Lieu Payment Amount Due Per Unit** *(Maximum of 4 Adults)*	**PLUS Additional Amount Due for Each Elderly (60 years or older) or Disabled Tenant or Household with Minor Child(ren)**
3/01/11 – 2/29/12	$5,101.00	$20,404.00	$3,401.00

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APPENDIX 3

Sample Moving Expense Allowance Schedule
(as published by the California Department of Transportation)

Fixed Moving Schedule CALIFORNIA (Effective 2008)	
Occupant Owns Furniture:	
1 room	$625
2 rooms	$800
3 rooms	$1,000
4 rooms	$1,175
5 rooms	$1,425
6 rooms	$1,650
7 rooms	$1,900
8 rooms	$2,150
Each additional room	$225
Occupant does NOT Own Furniture:	
1 room	$400
Each additional room	$65

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APPENDIX 4

Definitions

The following terms used in these Transition Rules and Regulations are defined as follows:

"**Actual Reasonable Moving Expenses"** is defined in **Section VIII.E** (Moving Assistance).

"**Adjusted for Changes in Bedroom Count"** is defined in **Section V.E.1** (Adjustment for Changes in Bedroom Count).

"**adult**" means a Person 18 years old or older.

"**Adult Student**" means an adult who, during the previous 12 months, was enrolled in two or more courses concurrently at an accredited educational institution, unless the Person is: (1) receiving assistance under Title IV of the Social Security Act; (2) enrolled in a job-training program; or (3) in a Transitioning Household composed entirely of full-time Adult Students who are single parents and are not listed as Dependents on someone else's tax return or who are married and file a joint return.

"**ALJ"** is defined in **Section XI.A.4** (Administrative Law Judge Review).

"**Average Monthly Income**" when used in determining Base Monthly Rental Cost, means the Transitioning Household's Household Income divided by 12.

"**Base Monthly Rental Cost**" means the amount that a Transitioning Household will pay as its initial rent for a Transition Unit, calculated as explained in **Section V.E** (Calculation of Base Monthly Rental Cost).

"**Base Redevelopment Act**" is defined in **Section I.A** (Background).

"**BRAC**" is defined in **Section I.A** (Background).

"**CEQA**" is defined in **Section I.A** (Background).

"**City**" means the City and County of San Francisco, a municipal corporation organized and existing under the laws of the State of California, or, as the context requires, the area within the City's jurisdictional boundaries.

"**DDA**" is defined in **Section I.A** (Background).

"**DDA Effective Date**" is defined in **Section I.E** (Effective Date).

"**Decent, Safe, and Sanitary Housing**" means a Dwelling that meets the minimum requirements specified in **Section V.B** (Standards Applicable to Transition Units).

"**Dependent"** is defined in **Section X.B.1** (Treatment of Dependents).

"**Development Plan**" is defined in **Section I.A** (Background).

"**Down Payment Assistance"** means the Transition Benefit offered as part of the Unit Purchase Assistance Option, described in **Section VII.A** (Down Payment Assistance).

"**Dwelling**" means the primary Dwelling of a Household, including a single-family residence, a single-family residence in a two-family building, multi-family or multi-purpose building, or any other residence that either is considered to be real property under state law or cannot be moved without substantial damage or unreasonable cost.

"**elderly**" means a Person who is 60 years of age or older.

"**Existing Unit**" is defined in **Section II.A.1** (Defined Terms for Determining Eligibility).

"**First Notice to Move**" means a written notice to a Household, as described in **Section III.A** (First Notice to Move).

"**Good Standing**" is defined in **Section II.A.1** (Defined Terms for Determining Eligibility).

"**Grievant"** is defined in **Section XI.A** (Right to Appeal and Be Represented by Counsel).

"**Household**" is defined in **Section II.A.1** (Determination of Household Eligibility for Transition Benefits).

"**Household Income**" means the total annual income of a Household including the total annual income of all adults, determined according to the then-current Tenant Income Certification Form published by the Tax Credit Allocation Committee.

"**Households with Section 8 Vouchers**" means Transitioning Households that meet all of the criteria for occupying a Dwelling under Section 8 regulations and has been allocated a Section 8 Voucher..

"**HUD**" means the United States Department of Housing and Urban Development or any successor federal agency.

"**In-Lieu Payment**" means the Transition Benefit offered to Transitioning Households in the In-Lieu Payment Option, described in **Section VI.A** (In-Lieu Payment Option).

"**In-Lieu Payment Option**" means the Transition Benefit offered to Transitioning Households described in **Article VI** (Description of In-Lieu Payment Option).

"**Interim Move**" is defined in **Section I.D** (Overview and Program Framework).

"**Long-Term Move**" is defined in **Section I.D** (Overview and Program Framework).

"**Low Income Household**" means a Transitioning Household: (1) whose income does not exceed the qualifying limits for lower income Households as determined in accordance with Health and Safety Code Section 50079.5; and (2) that does not contain any Adult Students.

"**minor**" means a member of a Household who is under 18 years of age, excluding foster children, the head of Household, and a spouse of a member of the Household.

"**Moderate Income Household**" means a Household: (1) whose income exceeds the maximum income limitations for a Low Income Household, but does not exceed 120% of area median income as determined in accordance with Health and Safety Code Section 50093; and (2) that does not contain any Adult Students.

"**Move Date**" is defined in **Section III.C.1** (Second Notice to Move).

"**Moving Expense Allowance"** is defined in **Section III.E** (Complete the Move).

"**Notice of Early In-Lieu Payment Option**" is defined in **Section III.F** (Early Transition Benefits).

"**Notice to Move**" means a First Notice to Move or a Second Notice to Move, as appropriate in the context.

"**NSTI**" is defined in **Section I.A** (Background).

"**Person**" means an individual.

"**Personal Property**" means tangible property that is situated on real property vacated or to be vacated by a Transitioning Household and that is considered personal property under the state law, including fixtures, equipment, and other property that may be characterized as real property under state or local law, but that the tenant may lawfully and at his or her election may move.

"**Post-DDA Tenant**" is defined in **Section II.A1** (Determination of Household Eligibility for Transition Benefits).

"**Post-Transition Household**" is defined in **Section VIII.A** (Premarketing Assistance).

"**Post-Transition Tenant**" is defined in **Section VIII.A** (Premarketing Assistance).

"**Premarketing Notice List**" is defined in **Section VIII.A** (Premarketing Assistance).

"**Premarketing Window**" is defined in **Section VIII.A** (Premarketing Assistance).

"**RAB"** is defined in **Section XI.A.3** (Hearing before Relocation Appeals Board).

"**Rent Board Adjustment**" means the annual rent increases allowed by the San Francisco Residential Rent Stabilization and Arbitration Board under Chapter 37 of the Administrative Code.

"**Rent Board Schedule**" is defined in **Section VI.A.2** (Calculation of Payment).

"**Residential Lease**" is defined in **Section II.A.1** (Defined Terms for Determining Eligibility.

"**Second Notice to Move**" means a written notice to a Household, as described in **Section III.C** (Second Notice to Move).

"**Section 8**" means Section 8 of the United States Housing Act of 1937.

"**Sunset Date**" is defined in **Section VIII.A** (Premarketing Assistance).

"**Supporting Household**" is defined in **Section X.B.1** (Treatment of Dependents).

"**Tax Credit Eligible Household**" means a Transitioning Household that meets all of the criteria for occupying a Dwelling subject to a low income housing tax credit regulatory agreement, including maximum income limitations (generally not exceeding 60% of area median income).

"**Tenant**" means a Person who rents or is otherwise in lawful possession of a Dwelling, including a sleeping room, that is owned by another Person.

"**Term Sheet Resolution**" is defined in **Section I.A** (Background).

"**The Villages**" is defined in **Section I.A** (Background).

"**TICD**" is defined in **Section I.A** (Background).

"**TIDA**" is defined in **Section I.A** (Background).

"**TIDA Board**" is defined in **Section I.A** (Background).

"**TIHDI**" is defined in **Section I.A** (Background).

"**Transition Benefits**" is defined in **Section I.B** (Purpose).

"**Transition Housing Rules and Regulations**" is defined in **Section I.A** (Background).

"**Transition Unit**" is a newly-constructed Dwelling on Treasure Island that meets the standards of **Section V.B** (Standards Applicable to Transition Units).

"**Transition Unit Option**" means the benefit offered to Transitioning Households described in **Article V** (Description of Transition Unit Option).

"**Transitioning Household**" is defined in **Section II.A.** (Determination of Household Eligibility for Transition Benefits).

"**Unit Purchase Assistance Option**" means the Transition Benefit offered to Transitioning Households, described in **Article VII** (Description of Unit Purchase Assistance Option).

"**Unlawful Occupancy**" is defined in **Section II.A.1** (Determination of Household Eligibility for Transition Benefits).

"**Utility Adjustment**" means the amount by which rent for a Transition Unit will be adjusted downward to reflect any utilities that are not included in the rent of the Transition Unit, if the same utilities were included in the rent of the Existing Unit. The downward rent adjustment will be calculated according to the Utility Allowance Schedule.

"**Utility Allowance Schedule**" means the schedule published by the San Francisco Housing Authority to determine allowances for tenant-furnished utilities for Dwelling Units in the City. If the San Francisco Housing Authority publishes a Utility Allowance Schedule that includes allowances for energy efficient appliances or Dwelling Units, the energy efficient schedule will be used for the Utility Adjustment. For these Transition Housing Rules and Regulations, only allowances specifically allocated to electricity, natural gas, trash, water, and sewer, if applicable, will be considered.

CITY AND COUNTY OF SAN FRANCISCO

RESIDENTIAL INCLUSIONARY AFFORDABLE HOUSING PROGRAM MONITORING AND PROCEDURES MANUAL

Adopted 6/28/2007

PREFACE

The Residential Inclusionary Affordable Housing Program ("Program") requires developers to sell or rent a certain percentage of units in new developments at a "below market rate" price that is affordable to low-income, median-income and moderate-income households. The Program is governed by San Francisco Planning Code Section 315 *et seq.*, and is administered by the San Francisco Mayor's Office of Housing ("MOH"). Planning Code Section 315 requires that MOH and the San Francisco Planning Department publish a Procedures Manual containing procedures for monitoring and enforcement of the policies and procedures for implementation of the Program. This Monitoring and Procedures Manual ("Manual") contains information regarding the Program for potential buyers and renters of below market rate units, as well as for information for projects sponsors, owners and property managers of units developed under the Program. Updates to the Manual occur as needed.

This Manual should be read in conjunction with the applicable requirements of the Program, found in San Francisco Planning Code Section 315 *et seq.*, including prior versions of that section. Previous versions of Planning Code section 315 et seq. can be found on the MOH website at www.sfgov.org/moh. While every effort has been made to harmonize the information in this Manual with the requirements of the Planning Code and previous versions of the Code, should there be any conflict with the Manual and the Planning Code or previous versions of Section 315 *et seq* (whichever is applicable to a particular development), the terms of the Planning Code or those previous versions shall prevail over this Manual. The provisions of a Notice of Special Restrictions recorded on a property or unit developed under the Program shall prevail over any general requirements in the Manual or the Planning Code.

Users of this Manual are encouraged to seek their own legal counsel to aid in understanding of the requirements of the Program. If there are general questions regarding the Manual, users may call the Mayor's Office of Housing at (415) 701-5500, or visit their website at www.sfgov.org/moh.

Any request for the interpretation and applicability of the provisions of the Planning Code may be sought by contacting the Zoning Administrator, pursuant to Planning Code Section 307(a).

Any **BMR unit** entering the marketing stage on or after the effective date of this Manual is subject to the Manual in its entirety.

The effective date of this Manual is June 28, 2007.

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I. DEFINITIONS OF TERMS (Bold Face words are further defined in this subsection).

AFFORDABLE HOUSING PROJECT	A housing project or mixed use project, whether **new construction** or **conversion** of use, which contains units satisfying affordable housing requirements imposed by the Inclusionary Housing Ordinance, **planning approval**s or other **use restriction**s.
APPRAISED FAIR MARKET VALUE	The value of a **BMR unit** determined without regard to sales or rental restrictions on that unit pursuant to (1) an independent appraisal conducted by an appraiser acceptable to **MOH** and paid for by the prospective purchaser of such unit, or (2) mutual agreement as to value between **MOH** and the prospective purchaser. This appraisal may be required by **MOH** prior to any sale of a **BMR unit**.
BMR OWNERSHIP UNIT	Below Market Rate ("BMR") Ownership Unit. A **BMR unit** owned and occupied by a qualifying household.
BMR RENTAL UNIT	Below Market Rate ("BMR") Rental Unit. A **BMR unit** rented and occupied by a qualifying household.
BMR UNIT	Below Market Rate ("BMR") Unit. An affordable **dwelling unit** or other approved residential unit which is sold or rented at a price specified in the **planning approval**s or other **use restriction**s which may be lower than the **appraised fair market value** of **comparable unit**s. **BMR unit**s may be either ownership for **first time homebuyer household**s or rental. The sales or rental price limits on the **BMR unit** are as described in the **planning approval**s or other **use restriction**s as required by the City and County of San Francisco.
CAPITAL IMPROVEMENTS CAP	As referenced in section II (E) (5), the difference between the **resale price** and the final **resale price** of a **BMR unit** after the addition of approved **eligible capital improvements** and **eligible replacement and repair**. In order to maintain the affordability of the **BMR unit** for subsequent buyers, **MOH** will review and approve **eligible capital improvements** and **eligible replacement and repair** when submitted. However, at the time of sale, **MOH** will cap these improvements at 7% of the resale price. For example: Formula Calculated Resale Price

	+ **Eligible Capital Improvements** and/or **Eligible Replacement and Repair** (Cost of Approved CI's or 7% of Sale Price, whichever is less) + **Special assessment**s (dollar-for-dollar) + 5% of Original **resale price** if using MLS = Final resale price
CERTIFICATE OF FINAL COMPLETION AND OCCUPANCY	A certificate issued to a **Project Sponsor** by the Bureau of Building Inspection (**DBI**) that certifies that all Building Code provisions and building specifications for the development project have been satisfied.
CITY	The City and County of San Francisco
CLOSE OF ESCROW	The closing of the sale of a **BMR Ownership Unit** to a **qualifying household**.
COMPARABLE UNIT	A unit that is of good quality and that is consistent with the current standards for new housing.
CONDITIONS OF APPROVAL	A set of written conditions imposed by the City Planning Commission or another permit-issuing City agency or appellate body when it receives a Conditional Use Permit for the construction of a principal project or other housing project subject to this program.
CONVERSION	Change in use of a property.
DEPARTMENT OF BUILDING INSPECTIONS, or "DBI"	San Francisco Department of Building Inspections
DOMESTIC PARTNER	A legal or personal relationship between individuals who live together and share a common domestic life but are not joined in a traditional marriage or a civil union as formalized through a local or state registry.
DWELLING UNIT	A room or suite of two or more rooms that is designed for, or

	is occupied by, one family doing its own cooking therein and having only one kitchen.
EQUAL OPPORTUNITY HOUSING SYMBOL	The federal **fair housing** symbol used to identify the adherence to **fair housing** rules.
ESCROW CLOSING DOCUMENTS	Documents signed by a buyer to complete the sale of a **BMR unit.**
FAIR HOUSING	State or federal laws that govern the fair and unbiased treatment of buyers and renters when selling or renting a housing unit.
FIRST CERTIFICATE OF OCCUPANCY	Either a temporary certificate of occupancy or a Certificate of Final Completion and Occupancy as defined in San Francisco Building Code Section 109, whichever is issued first.
FIRST SITE OR BUILDING PERMIT	The first Department of Building Inspection (**DBI**) issued permit for the construction of land.
FIRST-TIME HOMEBUYER EDUCATION WORKSHOP	A course designed to provide basic education to first time homebuyers offered by a counseling agency certified by **MOH**.
GROSS INCOME	All income from whatever source derived as provided in the Internal Revenue Code (26 USC Section 61), whether or not exempt from federal income tax. Such income includes, but is not limited to, the following: Compensation for services, including fees, commissions, and similar items; Income from assets; **Gross income** derived from business; Gains derived from dealings in property; Interest; Rents; Royalties;

	Dividends; Alimony and separate maintenance payments; Annuities; Income from life insurance and endowment contracts; Pensions; Income from discharge of indebtedness; Distribution share of partnership **gross income**; Income in respect of a decedent; Income from an interest in an estate or trust; and Public benefits including but not limited to CalWorks, SSI, Disability income.
HUD AREA MEDIAN INCOME	Unadjusted income levels derived from the Department of Housing and Urban Development ("HUD") on an annual basis and used to calculate the income levels of **qualifying BMR household**s and to price **BMR units**.
HOME OWNERS ASSOCIATION, or "HOA"	A nonprofit association that manages the common areas of a condominium or planned unit development (PUD). Unit owners pay to the association a fee to maintain areas owned jointly.
HOME OWNERS ASSOCIATION DUES or "HOA" DUES	Monthly payments due to a homeowners association for the upkeep, maintenance and improvement of common areas in a residential building.
HOUSING PROJECT	A development that has residential units as defined in the Planning Code, including but not limited to dwellings, group housing, independent living units, and other forms of development which are intended to provide long-term housing to individuals and households. Housing project shall not include that portion of a development that qualifies as an Institutional Use under the planning code. Housing project for the purpose of the program shall also include the development of live/work units as defined by Planning Code Section 102.13. Housing project for the purpose of this Program shall mean all phases or elements of a multi-phase or multiple lot development.
HOUSING UNIT	"Housing Unit" or "unit" shall mean a dwelling unit as defined

	in San Francisco Housing Code Section 401.
IMPUTED INCOME	**Gross income** plus a percentage of the value of allowable assets. Ten percent (10%) of allowable assets between thirty thousand ($30,000) and one hundred thirty thousand ($130,000) dollars will be added to a household's **gross income**. Allowable assets over one hundred and thirty thousand ($130,000) dollars will be added to a household's **gross income** at a rate of thirty-five percent (35%).
INCLUSIONARY GUIDELINES	The Guidelines adopted by the Planning Commission on September 10, 1992, by Resolution 13405, setting forth inclusionary policies in effect as of that date.
INCLUSIONARY ORDINANCE	Sections 315-315.9 inclusive of the San Francisco Planning Code, as amended from time to time.
INCLUSIONARY PROGRAM	The Residential Inclusionary Affordable Housing Program.
INCOME TABLE	Income information that is based on a specific federal source and geographic area. Income tables in this **Manual** include the **HUD Area Median Income** table and the **San Francisco Median Income** table. The **income table** used to calculate the income level of a BMR household shall be determined by the date on which the principal project for which the household applies received its **first site or building permit**. Income levels for buyers in principal projects that received their **first site or site or building permit** before September 9, 2006 will be reviewed using the **HUD Area Median Income** as adjusted for household size. Income levels for buyers in principal projects that received their **first site or site or building permit** on or after September 9, 2006 will be reviewed using the **San Francisco Median Income** as adjusted for household size.
LIFE OF THE PROJECT	The time period during which a principal project or off-site project exists as a residential development regardless of change in principal project or off-site project ownership. The affordable housing requirement of a **principal project** or **off-site project** shall be in effect shall be for the **life of the project** for units marketed after the formal adoption of this Procedures Manual.

LOW-INCOME HOUSEHOLD	A household whose combined annual gross income for all members does not exceed sixty (60) percent of median income.
MANUAL	The City and County of San Francisco Residential Affordable Housing Program Procedures and Monitoring Manual.
MARKETING CONSULTANT	A person representing a development of **BMR units** who markets and sells the **BMR units** in accordance with the procedures set forth in this **Manual** and by **MOH**.
MARKETING PLAN	A compliance procedure, described in Section IV (C), (D) and (E) of this manual, which requires the **Project Sponsor** of a **principal project** that has an affordable housing requirements to undertake certain measures that are directed to advertise and sell available affordable housing units to **qualifying household**s.
MAYOR'S OFFICE OF HOUSING, or "MOH"	Mayor's Office of Housing ("MOH") or its successor.
MAXIMUM MONTHLY RENT	The monthly monetary consideration paid by a qualifying household for use of the designated **BMR rental unit** as the household's principal residence; it shall be determined at the time of first occupancy by a **qualifying household** based on either the income limit established for the percentage of **median income** specified in the **planning approvals** or other **use restrictions** for the **BMR unit**. Maximum monthly rent, together with a **utility allowance** in an amount determined by the San Francisco Housing Authority, shall not exceed thirty (30) percent of the percentage of the income limit required by the **planning approvals** or other use restrictions. The rent at first occupancy of a **BMR unit** shall not exceed the **maximum monthly rent**. Subsequent rents may be increased on each anniversary of a tenant's occupancy of a **BMR Rental Unit** according to the formula set forth in Section IV (D) (7) of this manual.
MAXIMUM SALES PRICE	The maximum initial or **resale price** of a Below Market Rate ownership unit as established by the Mayor's Office of Housing.

MEDIAN INCOME	The income that reflects the halfway point between all incomes for a certain-sized household based on a sample representation of the population. The **income table** used to determine the **median income** is determined by the date on which a housing development received its first site or building permit.
MEDIAN-INCOME HOUSEHOLD	A household whose combined annual gross income for all members does not exceed one hundred (100) percent of median income.
MODERATE-INCOME HOUSEHOLD	A household whose combined annual gross income for all members does not exceed one hundred twenty (120) percent of median income.
MINORITY COMMUNITIES	Minority communities or minority households shall include, as a guideline, members of the following racial, ethnic, gender or otherwise specially disadvantaged groups: African-American - defined as persons of African origin. Latino - defined as persons of Mexican, Caribbean, Central American or South American origin. Asian - defined as persons of Chinese, Japanese, Korean, Pacific Islander, Samoan, Filipino, Southeast Asian or Asian Indian origin. Native American - defined as persons whose origins are of indigenous peoples of North America. Women - defined as persons of female gender. Gay and Lesbian - defined as a male and female homosexual. Families with dependents - defined as a household with two or more persons in which the head of household is an adult and at least one other household member is an elderly or handicapped person who is financially dependent on the head of household or a person under the age of 18 years who is related to the head of the household by blood, marriage or adoption or related to the **domestic partner** by blood or adoption. Person with a disability - defined as a person who satisfied the definition of "handicapped" under Federal Fair Housing Law on the basis of presence of a long-term physical or mental impairment which substantially limits one or more of such person's major life activities including mobility, visual or

	hearing impairment, terminal illness or AIDS diagnosis. Elderly - defined as persons over the age of 65 years.
NEW CONSTRUCTION	The construction of new habitable living and accessory space, including additions to existing structures. It does not include **conversion** of use of existing building space or rehabilitation of existing building space.
NOTICE OF SPECIAL RESTICTIONS (NSR)	A document recorded with the City and County of San Francisco Recorder's Office for any unit subject to this Program detailing the sales and resale or rental restrictions and any restrictions on purchaser or tenant income levels included as a Conditional of Approval of the principal project relating to the unit.
OFF-SITE BMR UNIT	Shall mean unit affordable to a **qualifying household** constructed pursuant to the **Inclusionary Ordinance**, Section 315.4, on a site other than the **principal project**.
OFF-SITE PROJECT	A development constructed pursuant to the **Inclusionary Ordinance**, Section 315.4, on a site other than the **principal project**.
ON-SITE BMR UNIT	Shall mean a unit affordable to a **qualifying household** constructed pursuant to the **Inclusionary Ordinance**, Section 315.4, on the site of the **Principal project**.
ON-SITE PROJECT	Shall mean project constructed pursuant to the **Inclusionary Ordinance**, Section 315.4, with **on-site BMR units**.
PLANNING APPROVAL	A general term for the **Planning Motion**, **Conditions of Approval**, **Planning Permits**, **Zoning Administrator** determinations or other planning approvals issued for a specific housing development.
PLANNING CODE	The City and County of San Francisco Planning Code.
PLANNING MOTION	A planning approval issued by the San Francisco Planning Commission.
PLANNING PERMIT	A planning approval issued by the San Francisco Planning Departments.

PRINCIPAL PROJECT	A development on which a requirement to provide affordable housing units is imposed as a condition of planning approval, pursuant to other applicable use restrictions or any project that includes a certain number of residential units.
PROCEDURES MANUAL	The City and County of San Francisco Affordable Housing Monitoring Procedures Manual.
PROJECT SPONSOR	The applicant for a **site or building permit** and any other permit to allow construction of a **principal project** which, as a condition of approval or as a matter of the project being a certain number of units or greater, must provide affordable **BMR unit(s)**. "**Project Sponsor**" includes any successors in interest to ownership of all or part of the **principal project** or any **BMR unit**. The term "**Project Sponsor**" shall be the developer or owner for the purposes of this Procedures Manual.
QUALIFYING HOUSEHOLD	A household that satisfies the following criteria: Annual income at the time of initial occupancy of a **BMR unit**, adjusted for household size, does not exceed the percentage of **median income** limits specified in the **planning approvals** or other applicable **use restriction**s of the project; The household must occupy the unit as a principal residence; The size of the unit must be compatible with the household size, at a minimum of one person per bedroom; In the case of a **BMR Ownership Unit**, a **qualifying household** must be a first-time homebuyer household; In the case of ownership **BMR units**, a percentage of the value of allowable assets will be added to a household's **gross income**. This new income shall be referred to as a household's **imputed income**; One titleholder lives or works in the City and County of San Francisco. In the case of ownership **BMR units**, all titleholders must be the holder of a standard mortgage from a primary lending institution. In the case of ownership **BMR units**, all titleholders must have attended an approved **first-time homebuyer education workshop** before applying for the unit.

	Each household member must either be on the loan and title for the **BMR unit** or be claimed as a dependent as reflected in the most recent tax years.
RESALE PRICE	The purchase price to be paid by a buyer of a **BMR unit** previously purchased by a qualified first-time homebuyer household, as calculated according to Section II (D) (5) of this **Manual**.
SAN FRANCISCO MEDIAN INCOME	**Median income** adjusted for household size derived from the statistical relationship between the American Community Survey (ACS) income profile and the regional U.S. Department of Housing and Urban Development (HUD) AMI calculation used to calculate the income levels of **qualifying BMR household**s and to price **BMR units**. The index shall be updated every year or upon availability of an updated ACS.
SPECIAL ASSESSMENT	A proportional fee charged to the owner by the Homeowner's Association (**HOA**) to cover the cost of physical improvement to the entire building.
UNBUNDLED PARKING	A parking space that is not an amenity included in the price of a residential unit.
USE RESTRICTION	A restriction which is recorded in the official records of San Francisco County on the **principal project** and any linked off-site **affordable housing project**; (ii) restrictions contained in applicable provisions of San Francisco Codes, or (iii) restrictions contained in the Ordinance, any of which restricts the use of real property, either totally or partially as affordable housing.
UTILITY ALLOWANCE	A dollar amount established periodically by the San Francisco Housing Authority based on U.S. Department of Housing and Urban Development (HUD) standards for cost of basic utilities for households.
ZONING ADMINISTRATOR	The Zoning Administrator for the City and County of San Francisco

II. BUYER QUALIFICATIONS AND RESTRICTIONS ON BMR OWNERSHIP UNITS (Boldface words are defined in Section I)

A. Buyer Qualifications

1. Qualifying Household for **BMR Ownership Unit**s

A qualifying household meets the following standards:

a. The household is income qualified;

b. The household is a first-time homebuyer household;

c. The household must live in the unit as their primary residence within 60 days of the **close of escrow** on the unit;

d. The household includes one member who has lived or worked in San Francisco by the application deadline for the **BMR unit**;

e. The household includes all spouses or **domestic partners** of titleholders as joint titleholders;

f. The household must be of a size that is equal to or greater than the number of bedrooms in the **BMR unit**;

g. The household includes titleholders who have taken an approved **first-time homebuyer education** workshop;

h. The household is defined in terms of financial relationships and can include any owner partnerships as long as the combined household meets the eligibility requirements;

i. All titleholding household members must appear on the loan for the **BMR unit**.

2. Preferences for **BMR Ownership Unit**s

a. At least one applicant in each BMR household must live or work in San Francisco in order to apply for a **BMR unit** per Section 315.4 of the Planning Code. This household member must have lived or worked in San Francisco by the application deadline for a **BMR unit.**

b. Verification of Preference Qualification

i. **MOH** shall verify a person's residency by examining one document from the list below:

(a) One utility bill with a San Francisco address dated within the 45 days preceding the application deadline for the **BMR unit**. Utility bills can include gas, electric, garbage or water;
(b) Current paystubs with a San Francisco address; or
(c) A current, formal lease with a San Francisco address.

ii. **MOH** shall verify that a person works in San Francisco by reviewing an applicant's paystubs. If an applicant's employer is not based in San Francisco, or if a person's paystubs do not reflect a San Francisco work address, the applicant must supply a notarized letter from the employer stating that the person works primarily in San Francisco and demonstrate that at least 75% of their working hours are in San Francisco.

3. First-time Homebuyer Requirement for **BMR Ownership Unit**s

a. No member of the **qualifying household** must have owned any interest in a **dwelling unit**, any commercial real estate, or any land for a three-year period prior to applying to qualify for purchase of a **BMR unit**. The period shall be counted backwards from the application deadline for the **BMR unit**.

b. This definition is a legal requirement and includes, among other properties, those in which an applicant's name appears on title regardless of whether or not that interest results in a financial gain, is in another state or country, or if they have ever used the property as a primary residence. If any purchaser has had their name on title of a property but it was sold more than three years ago, the program considers them a first-time buyer.

c. **MOH** may verify first-time homebuyer status by (1) reviewing mortgage deductions on the three most recent years of federal tax returns for each person on title; (2) a signed statement on the application stating homeownership status; and (3) a title search.

4. **First-time Homebuyer Education Workshop** Requirement for **BMR Ownership Unit**s

Each BMR applicant who will hold title in a **BMR unit** must attend a qualified **first-time homebuyer education workshop** before applying for a **BMR Ownership Unit**. The workshop provider must

be approved by **MOH**. Applicants must provide a certificate of completion from the workshop with the BMR application package. For one year following the effective date of this Manual, MOH may allow applicants to provide certification of completion of a qualified workshop after the applicant's name is selected through a lottery.

5. Household Size Requirement for **BMR Ownership Unit**s

   The size of a household must be compatible with the size of the unit being purchased. A minimum of one person per bedroom is required. There is no restriction on purchasing a unit that has fewer bedrooms than the household size.

6. Income Requirement for **BMR Ownership Unit**s

   a. Unless stated otherwise in **planning approvals** or other **use restriction**s, **BMR Ownership Unit**s in one development will, on average, be available to households with a combined income of no more than 100% of **median income**. Income maximums are based on "gross" income derived from all sources as detailed in Internal Revenue Code (26 USC Section 61). The amounts are adjusted on an annual basis and are posted on the MOH website.

   b. The **income table** used to calculate the income level of a BMR household shall be determined by the date on which the principal project for which the household applies received its **first site or building permit**. Income levels for buyers in principal projects that received their **first site or site or building permit** before September 9, 2006 will be reviewed using the **HUD Area Median Income** as adjusted for household size. Income levels for buyers in principal projects that received their **first site or site or building permit** on or after September 9, 2006 will be reviewed using the **San Francisco Median Income** as adjusted for household size. All **off-site projects** will be held to the date on which the principal project received its first site or building permit.

   c. **MOH** calculates income based on the **gross income** on each applicant's past three pay stubs. The income is derived by dividing the year-to-date **gross income** by the current pay period count and then by annualizing an estimated pay period amount by the total pay period count over one year.

   d. In the case of a self-employed person, **MOH** reviews the person's last 2 years of tax returns; past, present and projected Profit and Loss Statements; and other relevant documents on a case-by-case basis.

e. **MOH** must review qualifying requirements for all household members 18 years and older, regardless of dependency status.

7. Asset Test for **BMR Ownership Units**

MOH will apply an asset test to all applicants 18 years or older, including all custodial accounts held for minors. Assets include all liquid asset accounts, including but not limited to savings accounts, checking accounts, Certificates of Deposit, stocks, and gifts. Assets also include any money that will be used toward a down payment on a **BMR unit**. MOH will not count qualified retirement income toward an applicant's asset. 10% of all assets between $30,001 and 130,000 will be added to the total household income; and 35% of assets above $130,000 will be added to the total household income.

B. Buyer Application Requirements for **BMR Ownership Units**

1. Households applying for **BMR ownership units** must supply the following documentation in order to apply for a **BMR unit**:

a. An application from the proposed purchaser on a form specified by **MOH**;

b. Supporting documentation from all members 18 years or older of the purchaser household, including:
i. Past three (3) years IRS returns;
ii. Past three (3) years W-2 forms;
iii. Three (3) current and consecutive pay stubs or equivalent;
iv. Three (3) current and consecutive statements from every liquid asset account or personal cash holdings, including all custodial accounts held for minors;
v. Verification of San Francisco residency or employment;
vi. Verification of completion of an approved **First-time Home Buyer Education** workshop.

2. To proceed with a **BMR unit** purchase post-lottery, the BMR buyer's lender or sales agent must supply the following documentation:

a. A completed sales agreement;
b. An appraisal showing the **Appraised Fair Market Value** of the **BMR unit**;
c. A mortgage loan application to an institutional lender;
d. A Preliminary Title Report for the **BMR unit**.

C. Financing Requirements

1. Loan Review for **BMR Ownership Unit**s

   MOH will review loans for reasonable interest rates and other factors important to sound lending.

2. Allowable Loan Types for **BMR Ownership Unit**s

   All BMR buyers must be able to secure a loan through a lending institution for a **BMR unit**. BMR buyers must use fully amortizing 30- or 40-year fixed-rate loans.

3. Loan Types Not Allowed for **BMR Ownership Unit**s

   Except for specifically approved loans programs, BMR buyers cannot use stated-income loans, negative amortizing loans, adjustable rate mortgages, "balloon payment" loans, or interest-only loans. **MOH** reserves the right to identify additionally prohibited loan characteristics.

4. Documentation Requirements for **BMR Ownership Unit**s

   Loan agreement documents must name all BMR titleholders and no other persons.

D. Restrictions on **BMR Ownership Units**

1. Term of Restriction on **BMR Ownership Units**

   Per Section 315.7 of the Planning Code, all **BMR ownership unit**s that entered the marketing process on or after the effective date of this **Manual** are restricted in their resale price and other applicable restrictions for the **life of the project** unless otherwise noted in the **planning approvals** or other **use restrictions** for the project. All **BMR ownership unit**s that entered the marketing process before the effective date of this **Manual** are restricted in their resale price and other applicable restrictions for 50 years unless otherwise stated in the **planning approvals** or other **use restrictions** for the project. The 50-year restriction period shall restart with each resale of a **BMR unit**.

2. Documents that Govern the **BMR Ownership Unit** and Owner

   All titleholders to **BMR Ownership Units** will sign documents provided by MOH that maintain restrictions on a **BMR unit**. These documents include but are not limited to the following:

a. Deed of Trust – A deed that is subordinate only to the primary deed, executed by the buyer as trustor, for the benefit of the City to secure the Promissory Note described as follows:

b. Promissory Note – A lien that is based upon the difference between **Appraised Fair Market Value** and the BMR **maximum sales price**, insuring compliance with the resale restrictions outlined in the **planning approvals** or other **use restrictions**. The lien will be reconveyed to the new **BMR unit** owner upon resale. BMR owners in units marketed before the effective date of this **Manual** may only repay the lien when the unit leaves its restricted period, generally no sooner than 50 years from date of purchase for one BMR owner household. BMR owners living in units that entered the marketing period on or after the effective date of this **Manual** may not repay the lien at any time.

c. Grant of Right of First Refusal – A document that requires the seller to notify **MOH** upon resale, giving the City the option to exercise their right to substitute a qualified buyer.

d. Acknowledgement of Special Restrictions – Verification that the buyer has been advised of the terms of the affordability restrictions contained in the **planning approval**s and other **use restrictions** for the **BMR unit.**

3. Occupancy Requirement for **BMR Ownership Units**

   BMR units are to be owner-occupied and never used as investment or rental property.

4. Restrictions on Renting **BMR Ownership Unit**s

   a. An owner of a **BMR unit** may not rent or sublease any part or the entire unit without prior written consent of **MOH**.

   b. **BMR Ownership Units** are to be owner-occupied and not used as rental property. However, **MOH** may grant consent to a BMR owner to rent in circumstances where the household is temporarily forced to temporarily relocate due to employment requirements, or for other reason deemed acceptable by **MOH** in its sole discretion, provided that:

      i. The total period for which the unit may be leased does not exceed six (6) months;

      ii. The tenant satisfies the income, household size and other **qualifying household** requirements placed

on the **BMR unit** by **planning approval**s or **other use restrictions**; and

iii. Initial rent does not exceed the **maximum monthly rent**, calculated according to the income percentages under subsection IV (D) (2) above.

5. Resale Restrictions and Procedures for **BMR Ownership Unit**s

A **BMR Ownership Unit** owner shall follow the ensuing policies and guidelines of **MOH** when reselling a **BMR ownership unit.**

a. The owner of a **BMR Ownership Unit** shall, at least thirty (30) days prior to marketing the **BMR unit**, advise **MOH** of his/her intent to sell the unit and shall request a determination of **resale price** from **MOH**. **MOH** shall price the unit only upon receipt of a signed intent to resell the unit and request for pricing; a statement of all approved capital improvements made to the unit; and a signed listing agreement with a certified realtor.

b. Within the 30-day period, **MOH** shall inform the owner of the permissible sales price of that unit and any other conditions of sale.

c. Pricing Methodology for **BMR Units** Upon Resale

i. A **BMR unit** will be repriced so that it remains affordable to a household sized one person larger than the bedroom count of the unit at a designated percentage of **median income**.

ii. Units in developments that were not sold under this **Manual** will be re-priced using the methodology dictated by **planning approval** for the specific development.

iii. Units in developments that are initially sold under this **Manual** will be re-priced using the percentage change in the designated percentage of **median income** from the date of the current owner's purchase to the date of the resale pricing.

iv. Owners of **BMR units** purchased before the effective date of this **Manual** may opt to have their units repriced according to the change in **median income** by signing a contract agreeing to abide by the current the current **Manual** in all aspects except for the **income table** requirements set forth for projects

receiving their **first site or building permit** on or after September 9, 2006.

v. The **income table** used to calculate the **resale price** of a **BMR unit** shall be determined by the date on which the **principal project** received its **first site or building permit.** Units in developments with corresponding **principal projects** that received their **first site or building permit** before September 9, 2006 will be repriced using the historical and current percentage of **HUD Area Median Income** for a household sized one person larger than the number of bedrooms in the unit. Per Section 315.1 of the Planning Code, units in developments with corresponding **principal projects** that received their **first site or building permit** on or after September 9, 2006 will be repriced using the historical and current percentage of **San Francisco Median Income** for a household sized one person larger than the number of bedrooms in the unit.

vi. The **resale price** shall be equal to the sum of (a) plus (b) plus (c) below. If the **resale price** as calculated above is lower than the original purchase price for the unit, **MOH** will give the seller the option between the **resale price** as calculated, or the original purchase price (b) plus (c) below. A purchase price is recalculated at the time of sale pursuant to the following formula:

(a) The formula outlined in sections i through v above; plus

(b) The cost of **approved capital improvements** and **special assessments** as defined in Section II (E) of this **Manual**; plus

(c) The fee to the owner and buyer's realtor for representation and for listing the unit on the Multiple Listing Service, equal to five (5) percent of the sum of the dollar amount calculated pursuant to subsections (a) and (b) above.

d. Appreciation gained from the sale of a **BMR Ownership Unit** belongs to the owner unless the owner has an additional loan from the **City** or other entity that requires an appreciation share. However, the price of a **BMR unit** at resale is not guaranteed to exceed the initial purchase price of the unit.

e. The owner must market the unit. Marketing must include listing of the unit on the Multiple Listing Service (MLS) by a certified realtor and listing of the unit on **MOH**'s website for at least 14 calendar days. All MLS listings must include information on the qualifications and restrictions of the **BMR unit** as supplied by MOH.

f. All potential buyers who are on the general BMR interest list shall be notified by **MOH** of units available for resale and invited to participate in the lottery, as will the general public.

g. A public lottery for the resale unit must be held by **MOH** for all **BMR unit** resales. **MOH** will record the results and the realtor will make the results available to all interested applicants or members of the public.

h. To enter a lottery for resale, a potential buyer must submit a BMR application and all supporting materials pursuant to section II (B) above as well as a loan pre-approval and a completed San Francisco purchase agreement. All applications and materials will be submitted directly to the buyer's realtor.

i. At least sixty (60) days prior to the anticipated date of the **close of escrow**, the buyer shall submit to **MOH** for approval the following documentation:

i. An application from the proposed purchaser on a form specified by **MOH**;

ii. Supporting documentation from all members 18 years and older of the purchaser household, including:

(a) Past three (3) years IRS returns;
(b) Past three (3) years W-2 forms;
(c) Three (3) current and consecutive pay stubs or equivalent;
(d) Three (3) current and consecutive statements from every liquid asset account and personal cash holdings, including all custodial accounts held for minors;
(e) Verification of San Francisco residency or employment;
(f) Verification of completion of an approved **First-time Homebuyer Education Workshop**;
(g) A loan pre-approval;
(h) A completed **San Francisco Purchase Agreement**.

j. To proceed with a **BMR unit** purchase post-lottery, the BMR buyer's lender must supply the following loan and sales agreement documentation at least thirty (30) days prior to the anticipated date of the **close of escrow**:

i. An appraisal showing the **Appraised Fair Market Value** of the **BMR unit**;
ii. A mortgage loan application to an institutional lender;
iii. A Preliminary Title Report for the **BMR unit**.

k. Timing of Buyer Approval by **MOH**

i. Upon receipt of a complete BMR homeownership application and all supporting materials, **MOH** shall verify the household qualification within 15 working days.
ii. Upon receipt of loan and sales agreement documentation, **MOH** shall draft **escrow closing documents** within five (5) working days.

l. No sale may proceed without the written approval of **MOH**.

m. Broker fees paid by the seller must be shared in a commission agreement with the buyer's representing agent.

n. Sales agreements with terms requiring the payment of seller's brokerage fees by the buyer will not be approved. No separate terms can be required within a sales agreement that requires the buyer to purchase appliances, furnishings, or other disallowed capital improvements.

o. BMR owners and realtors shall comply with the documentation and enforcement procedures set forth in Section IV (J) of this manual.

p. In cases where, despite the owner's good faith efforts, no **qualifying household** has contracted to purchase a **BMR Ownership Unit** within six (6) months after the lottery for the unit, the owner shall inform **MOH**, which may then increase the permissible income levels for prospective purchasers of that unit up to a maximum twenty (20) percent over the income percentage limit specified in the **planning approval**s or other **use restrictions**, but shall not increase any current or future permissible sale price of that unit as indicated in **planning approval**s or other **use restrictions**.

6. Restrictions on Title Transfer of **BMR Ownership Units**

a. Title transfers on **BMR unit**s are not allowed except as determined by **MOH** on a case-by-case basis. BMR owners must seek approval from **MOH** before adding or removing any person from title.

b. **MOH** may require that a spouse or registered **domestic partner** become a co-owner by assuming title and by executing an addendum to the Deed of Trust, Promissory Note, Acknowledgement of Special Restrictions, and Right of First Refusal.

7. Owner Refinancing of **BMR Ownership Units**

a. **MOH** must approve all refinancing agreements for **BMR ownership unit**s.

b. Owners may be permitted to refinance up to the original value of their first mortgage in order to obtain lower interest rates or lower monthly payments. The new loan must be approved under the guidelines set out in section II (C) of this **Manual**.

c. Owners may also refinance their units to withdraw cash only in an amount equal to the amount paid on the unit.

E. Capital Improvements for **BMR Ownership Units**

1. **BMR units** may begin claiming capital improvements made 10 years after the unit was originally occupied. Once the building becomes eligible for capital improvements credit, homeowners may begin submitting documentation of completed work.

2. **MOH** will review all capital improvements claims and categorize them into three distinct categories: **Eligible Capital Improvements**, **Eligible Replacement and Repair** and **Ineligible Costs**. Each category is defined below.

a. **Eligible Capital Improvements** include major structural system upgrades, **special assessment**s, new additions to the unit and improvements related to increasing the health, safety and energy efficiency of the property. Improvements that meet these criteria will be given 100% credit.

b. **Eligible Replacement and Repair** includes in-kind replacement of existing amenities, repairs and general maintenance that keeps the property in good working condition. Costs that meet these criteria will be given 50% credit.

c. **Ineligible costs** include cosmetic enhancements, installations with limited useful life spans and non-permanent fixtures. Homeowners may undertake these projects at their discretion, however they will not be given capital improvements credit.

3. Procedure for Submitting Capital Improvements

   a. Homeowners must submit capital improvements to **MOH** for review within 6-months of the completion of the project. In order to document the improvements, each homeowner must submit:

      i. List of Capital Improvements with Description
      ii. Receipt/Invoice for Each Eligible Improvement
      iii. Proof of Payment, such as a cancelled check, bank account statement or credit card bill
      iv. A Copy of **Site or Building Permit**s, if required
      v. Contractor's License Number for Projects Exceeding $500

   b. Upon receipt of a complete capital improvements claim, **MOH** staff will arrange a site visit to inspect the completed project. Once the improvements have been verified, **MOH** will send a written response to approve or deny the submitted capital improvements within 60 days of original receipt. This information will be placed in the property file at **MOH** for use when the property is being sold.

4. Special Assessments

   Homeowner's Association initiated **special assessment**s are considered capital improvements and will be added to the **resale price** of the home. In order to receive credit for **special assessment**s, homeowners must submit the following documentation within 6-months of payment:

   a. Invoice for Special assessment

   b. Proof of Payment, such as a cancelled check, bank account statement or credit card bill

5. Capital Improvements Cap

   In order to maintain the affordability of the **BMR unit** for subsequent buyers, **MOH** will approve all **eligible capital improvements, eligible replacement and repair**, and **special assessments** when submitted. At the time of sale, **MOH** will cap

all **eligible capital improvements** and **eligible replacement and repair** at 7% of the resale price.

6. List of Approved Capital Improvements

a. **Eligible Capital Improvements** include major structural system upgrades, new additions to the unit and improvements related to increasing the health, safety and energy efficiency of the property. Improvements that meet these criteria will be given 100% credit.

i. Major Electrical Wiring System Upgrade
ii. Major Plumbing System Upgrade
iii. Room Additions
iv. Installation of Additional Closets and Walls
v. Alarm System
vi. Smoke Detectors
vii. Removal of Toxic Substances, such as:
    (a) Asbestos
    (b) Lead
    (c) Mold/Mildew
    (d) Insulation
    (e) Upgrade to Double Paned Windows
    (f) Fireplace Glass Screen
viii. Upgrade to Energy Star Built-In Appliances, as follows:
    (a) Furnace
    (b) Water Heater
    (c) Stove/Range
    (d) Dishwasher
    (e) Microwave Hood

b. **Eligible Replacement and Repair** includes in-kind replacement of existing amenities, repairs and general maintenance that keeps the property in good working condition. Costs that meet these criteria will be given 50% credit for repairs.

i. Electrical Maintenance and Repair, such as:
    (a) Switches
    (b) Outlets
ii. Plumbing Maintenance and Repair, such as:
    (a) Faucets
    (b) Supply Line
    (c) Sinks
iii. Flooring
iv. Countertops
v. Cabinets
vi. Bathroom Tile

vii. Bathroom Vanity
viii. Replacement of Built-In Appliances, as follows:
(a) Furnace
(b) Water Heater
(c) Stove/Range
(d) Dishwasher
(e) Microwave Hood
(f) Garbage Disposal
ix. Window Sash
x. Fireplace Maintenance or In-kind Replacement (Gas)
xi. Heating System
xii. Lighting System (Recessed)

c. **Ineligible costs** include cosmetic enhancements, installations with limited useful life spans and non-permanent fixtures. Homeowners may undertake these projects at their discretion, however they will not be given capital improvements credit.

i. Cosmetic Enhancements, such as:
(a) Fireplace Tile and Mantel
(b) Decorative Wall Coverings or Hangings
(c) Window Treatments (Blinds, Shutters, Curtains, etc.)
(d) Installed Mirrors
(e) Shelving
(f) Refinishing of Existing Surfaces

ii. Non-Permanent Fixtures, such as:
(a) Track Lighting
(b) Door Knobs, Handles and Locks
(c) Portable Appliances (Refrigerator, Microwave, Stove/Oven, etc.)

iii. Installations with Limited Useful Life Spans, such as:
(a) Carpet
(b) Painting of Existing Surfaces
(c) Window Glass
(d) Light Bulbs

F. Monitoring of **BMR Ownership Units**

MOH shall monitor and require occupancy certification for **BMR ownership units** on an annual basis. Owner(s) of a **BMR unit** will be required to submit an annual monitoring and enforcement report on a form provided by **MOH** and submitted on a date and at a location determined by **MOH**. The report shall provide information regarding

occupancy status, changes in title, and any other information **MOH** may reasonably require to monitor compliance with the **BMR units** specific **planning approvals** or other **use restrictions**.

III. RENTER QUALIFICATIONS AND RESTRICTIONS ON BMR RENTAL UNITS

A. BMR Renter Qualifications

1. Qualifying Household for **BMR Rental Units**

A qualifying household meets the following standards:

a. The household is income qualified;

b. The household is a non-homeowner household;

c. The household must live in the unit as their primary residence within 60 days of the signing of the lease for the unit;

d. The household includes one member who has lived or worked in San Francisco by the application deadline for the **BMR unit**;

e. The household must be of a size that is equal to or greater than the number of bedrooms in the **BMR unit**;

f. The household is defined in terms of financial relationships and can include any rental partnerships as long as the combined household meets the eligibility requirements;

g. All non-dependents must appear on the lease for the unit.

2. Preferences for **BMR Rental Units**

a. A least one applicant in each BMR household must live or work in San Francisco in order to apply for a **BMR unit** per Section 315.4 of the Planning Code. This household member must have lived or worked in San Francisco by the application deadline for a **BMR unit**.

b. Verification of Preference Qualification

i. **MOH** shall verify a person's residency by examining one document from the list below. Each document must be in the applicant's name:

(a) One utility bill with a San Francisco address dated within the 45 days preceding the

application deadline for the **BMR unit**. Utility bills can include gas, electric, garbage or water;
(b) Current paystubs with a San Francisco address; or
(c) A current, formal lease with San Francisco address.

ii. MOH shall verify that a person works in San Francisco by reviewing an applicant's paystubs. If an applicant's employer is not based in San Francisco, or if an applicant's paystubs do not reflect a San Francisco work address, the applicant must supply a formal letter from the employer stating that the applicant works primarily in San Francisco and demonstrate that at least 75% of the applicant's working hours are in San Francisco.

3. Non-homeowner Requirement for **BMR Rental Unit**s

a. No member of the **qualifying household** must own any interest in a **dwelling unit**, any commercial real estate, or any land upon applying to qualify for the rental of a **BMR unit**.

b. This definition is a legal requirement and includes, among other properties, those in which an applicant's name appears on title regardless of whether or not that interest results in a financial gain, is in another state or country, or if they have ever used the property as a primary residence.

c. **MOH** may verify non-homeowner status by (1) a signed a statement on their application stating their homeownership status; and (2) a title search.

4. Household Size Requirement for **BMR Rental Unit**s

The size of a household must be compatible with the size of the unit being purchased. A minimum of one person per bedroom is required. There is no restriction on purchasing a unit that has fewer bedrooms than the household size.

5. Income Requirement for **BMR Rental Unit**s

a. Unless stated otherwise in the **planning approvals** or other **use restriction**s, **BMR Rental Units** in one development will be available to households with a combined income of no more than 60% of **median income**. Income maximums are based on "gross" income derived from all sources as detailed in Internal Revenue Code (26 USC Section 61). The amounts are adjusted on an annual basis.

b. The **income table** used to calculate the income level of a BMR household shall be determined by the date on which the principal project for which the household applies received its **first site or building permit**. Per Section 315.1 of the Planning Code, income levels for renters in principal projects that received their **first site or site or building permit** before September 9, 2006 will be reviewed using the **HUD Area Median Income** as adjusted for household size. Income levels for renters in principal projects that received their **first site or site or building permit** on or after September 9, 2006 will be reviewed using the **San Francisco Median Income** as adjusted for household size. All **off-site projects** will be held to the date on which the principal project received its first site or building permit.

c. **MOH** calculates income based on the **gross income** on each applicant's past three pay stubs. The income is derived by dividing the year-to-date **gross income** by the current pay period count and then by annualizing an estimated pay period amount by the total pay period count over one year.

d. In the case of a self-employed person, **MOH** reviews the person's last 2 years of tax returns; past, present and projected Profit and Loss Statements; and other relevant documents on a case-by-case basis.

e. **MOH** must review qualifying requirements for all household members 18 years and older, regardless of dependency status.

6. Asset Test for **BMR Rental Units**

MOH will apply an asset test to all applicants, including all custodial accounts held for minors. Assets include all liquid asset accounts, including but not limited to savings, checking accounts, Certificates of Deposit, stocks, and gifts. Assets also include any money that will be used toward a down payment on a **BMR unit**. MOH will not count qualified retirement income toward an applicant's asset. 10% of all assets between $30,001 and 130,000 will be added to the total household income; and 35% of assets above $130,000 will be added to the total household income.

B. BMR Renter Application Requirements

a. Households applying for **BMR rental units** must supply the following documentation in order to enter the lottery for a **BMR unit**:

i. An application from the proposed purchaser on a form specified by **MOH**;

ii. Supporting documentation from all members 18 years or older of the purchaser household, including:

(a) Past one (1) year IRS returns;
(b) Past one (1) year W-2 forms;
(c) Three (3) current and consecutive pay stubs or equivalent;
(d) Three (3) recent and consecutive statements from every liquid asset account and personal cash savings, including all custodial accounts held for minors;
(e) Verification of San Francisco residency or employment.

b. To proceed with a **BMR unit** rental post-lottery, the rental representative must supply a draft lease agreement to MOH before MOH will approve the rental household.

C. Restrictions on **BMR Rental Unit**s

1. Term of Restriction on **BMR Rental Unit**s

   Per Section 315.7 of the Planning Code all **BMR Rental Unit**s that entered the marketing process on or after the effective date of this **Manual** are restricted in their **rent levels** and other applicable restrictions for the life of the project unless otherwise stated in the **planning approvals** or other **use restrictions** for the project**.** All **BMR Rental Units** that entered the marketing process before the effective date of this **Manual** are restricted in their **rent levels** and other applicable restrictions for 50 years unless otherwise stated the **planning approvals** or other **use restrictions** for the project.

2. Documents that Govern the **BMR Rental Unit** and Renter

   MOH may require all leaseholders of **BMR Rental Unit**s to sign documents stating leaseholders' acknowledgement of the restrictions on the BMR rental unit and any monitoring procedures.

3. Occupancy Requirement for **BMR Rental Units**

   BMR units are intended to be renter-occupied and never used as investment or rental property.

4. Restrictions on Renting or Subleasing BMR Rental Units

i. A renter of a **BMR unit** may not rent or sublease any part or the entire unit without prior written consent of **MOH**.

ii. **BMR Rental Unit**s are to be occupied by the **qualifying household** and not used as rental property. However, **MOH** may grant consent to a BMR renter to rent in circumstances where the household is temporarily forced to temporarily relocate due to employment requirements, or for other reasons deemed acceptable by **MOH** in its sole discretion, provided that:

(a) The total period for which the unit may be leased does not exceed six (6) months;

(b) The sub-tenant satisfies the income, household size and other **qualifying household** requirements placed on the **BMR unit** by **planning approvals** or other **use restrictions**;

(c) The sublease complies with any requirements in the lease between the **Project Sponsor** and the tenant; and

(d) Initial sublease rent does not exceed the rent then payable by the current tenant.

5. Restrictions on Lease Changes for **BMR Rental Unit**s

BMR renters may not add or subtract any person from the lease for a **BMR Rental Unit** without consent from **MOH**. Should **MOH** consent to the addition or subtraction of a qualified household member in **BMR Rental Unit**, the new household must submit a new application for the unit and meet the current qualification standards for a **BMR Rental Unit**.

D. Permissible Rent Increases

The **Project Sponsor** may increase the **maximum monthly rent** for a **qualifying household** on each anniversary of a tenant's occupancy in an amount that does not exceed the amount determined by **MOH** based on the percent of **median income** established in **planning approval**s or other **use restrictions** and the then-existing **median income** amounts.

E. Monitoring of **BMR Rental Unit**s

BMR Rental Units shall be monitored by **MOH** on an annual basis to determine the continued eligibility of the BMR renter household. BMR rental households, owner(s) or those charged with the management of affordable BMR rental housing units satisfying the requirements of their **planning approvals** or other **use restrictions** may be required to submit an annual monitoring and enforcement report on a form provided by **MOH** and submitted on a date and at a location determined by **MOH**. The report shall provide information regarding rents, household and income characteristics of tenants of designated affordable units, services provided as part of the housing service such as security, parking, utilities, and any other information **MOH** may reasonably require to monitor compliance with the **BMR unit**'s specific **planning approvals** or other **use restrictions**.

IV. PROCEDURES FOR PROJECT SPONSORS, OWNERS AND PROPERTY MANAGERS

A. Monitoring and Reporting Procedure

1. Monitoring and Reporting Procedures for **BMR Ownership Units**

   MOH shall monitor and require occupancy certification for **BMR ownership units** on an annual basis. Owner(s) of a **BMR unit** will be required to submit an annual monitoring and enforcement report on a form provided by **MOH** and submitted on a date and at a location determined by **MOH**. The report shall provide information regarding **occupancy status**, changes in title, and any other information **MOH** may reasonably require to monitor compliance with the **BMR unit**s specific **planning approval**s or other **use restriction**s.

2. Monitoring and Reporting Procedures for **BMR Rental Units**

   Project Sponsors of **BMR Rental Unit**s shall retain initial rental application forms and household income documentation for the greater of (i) five (5) years from the date of a tenant's occupancy of a **BMR Rental Unit**, or (ii) the duration of the tenure of the tenant occupying the **BMR unit**. This data may be requested by **MOH**, along with an administrative fee if any is authorized at the time of the request.

   BMR Rental Units shall be monitored by **MOH** on an annual basis to determine the continued eligibility of the BMR renter household. BMR rental households, owner(s) or those charged with the management of affordable BMR rental housing units satisfying the requirements of their **planning approvals** or other **use restrictions** may be required to submit an annual monitoring and enforcement report on a form provided by **MOH** and submitted on

a date and at a location determined by **MOH**. The report shall provide information regarding rents, household and income characteristics of tenants of designated affordable units, services provided as part of the housing service such as security, parking, utilities, and any other information **MOH** may reasonably require to monitor compliance with the **BMR unit**'s specific **planning approvals** or other **use restrictions**.

3. Statistical Information for **BMR Units**

MOH may at any time require the **Project Sponsor** to collect information from the owners or tenants of all **BMR units** in the project regarding their ethnicity, gender, age, and such other information as may be requested to allow **MOH** to verify that there have been no discriminatory practices in the selection of such tenants or owners. The collection of such information shall be conducted in a manner and using a form acceptable to **MOH**, ensuring that the information is being collected after the tenant or owner selection process is complete, and is used solely for statistical reasons and not as the basis for making any decision regarding the qualification of a tenant or owner for occupancy of a **BMR unit**.

B. Compliance Procedures

1. Compliance Through **New Construction** On-Site

a. When required by **planning approvals** or other applicable **use restriction**s to adhere to the **Inclusionary Ordinance**, the **Project Sponsor** may provide the number and type of **BMR units** satisfying the **planning approvals** or other applicable **use restriction**s through the construction of said units on the site of the **principal project**.

b. **Project Sponsor**s who submitted a first application to the Planning Department prior to July 18, 2006 for the construction of a project containing ten (10) or more units are required to provide ten (10%) or twelve (12%) percent, (depending on the distinction between an As-of-Right or Conditional Use authorization) of all units as **BMR unit**s. If the total number of **BMR unit**s required is not a whole number, the obligation shall be rounded up to the nearest whole number for any portion of .5 or above.

c. **Project Sponsor**s who submitted a first application to the Planning Department on or after July 18, 2006 must provide fifteen (15%) of all units as **BMR unit**s for any project containing five (5) or more units or any project requiring rezoning, with exception to projects 120 feet in height or

higher. Projects 120 feet in height or higher which do not require a zoning map amendment or planning code text amendment that result in a net increase in the number of permissible residential units or in a material increase in the net permissible residential square footage are required to provide twelve percent (12%) of all units as **BMR unit**s. Unless amended by the Board of Supervisors, the exception of projects 120 feet in height or higher shall expire January 1, 2012.

d. If the total number of **BMR unit**s required is not a whole number, the obligation shall be rounded up to the nearest whole number for any portion of .5 or above.

e. Projects receiving Planning Commission or Planning Department approval on or after September 9, 2006, must make a **Declaration of Intent** stating the on-site, off-site and/or in-lieu fee option before receiving first planning approval. **Project Sponsor**s may only amend the **Declaration of Intent** if they choose to change from the in-lieu fee or off-site option to the on-site option.

f. **BMR unit**s must be constructed, completed, and ready for occupancy no later than the **principal project**'s market rate units. Additionally, **BMR unit**s must be a **comparable unit** to the market rate units.

g. The **Project Sponsor** shall construct and, when applicable, manage the **BMR unit**s. **BMR unit**s shall not remain vacant for more than sixty (60) days from the date of **first certificate of occupancy**.

h. Affordable housing units shall not have received development subsidies from any federal, state or local program established for the purpose of providing affordable housing. Any such units receiving such subsidies shall not be counted to satisfy any **affordable housing project** requirements for the on-site development, except as provided in Section IV (B) (1) (i).

i. A **Project Sponsor** may use California Debt Limit Allocation Committee (CDLAC) tax-exempt bonds to help fund its obligations per Section 325.4 and 315.5 of the Planning Code as long as it provides 20% of the units as affordable at 50% of **median income** for on-site housing or 25% of the units as affordable at 50% of **median income** for off-site housing. Except as provided in this subsection, all units provided under this section must meet all of the requirements of the **inclusionary Ordinance** and the **Manual** for either **on- or off-**

site projects. The **income tables** to be used for the CDLAC units are those used by **MOH** for **Inclusionary Housing** units and not those used by the Tax Credit Allocation Committee (TCAC) or CDLAC. Sponsors shall contact **MOH** for the applicable **income table**.

j. **On-site units** satisfying a **Project Sponsor**'s On-site **Inclusionary Ordinance** obligation must be offered as **BMR Rental Unit**s affordable to households earning up to sixty percent (60%) of **median income** on average or as BMR for-sale units affordable to households earning one hundred percent (100%) of **median income**, unless stated otherwise in **planning approval**s **or other use restriction**s. In the case of **BMR Ownership Units**, the **BMR unit**s in one development may range in price from 80% to 120% **median income** when the average **median income** for the building is 100%. **MOH** will work with **Project Sponsor**s on a case-by-case basis to determine the allowable range of income levels.

k. Projects must record a **Notice of Special Restrictions** (**NSR**) and provide a copy of the **NSR** to **MOH** prior to the issuance of the **first site or building permit**. The **NSR** must identify the restricted **BMR unit**s by unit name or number, the income level of the units, the final approved floor plans that identify the **BMR unit**s, and the portions of the **planning approval**s **or other use restriction**s that reference the **Inclusionary Program** requirements.

l. All **BMR units** that entered the marketing process on or after the effective date of this **Manual** are restricted in their **resale price** or **rental price** and other applicable restrictions for the **life of the project**. All **BMR units** that entered the marketing process before the final adoption date of this **Manual** are restricted in their **resale price** or **rental price** and other applicable restrictions for 50 years unless otherwise stated in the **planning approvals** or other **use restriction**s for the project.

2. Compliance Through **Conversion** of Use On-Site

The **Conditions of Approval** may provide that the **Project Sponsor** may partially or completely comply with its BMR obligation through the **conversion** of non-residential space to residential units, provided that the-following provision is satisfied:

a. The unit shall satisfy all **City** Codes and standards; or

b. If rear yard, parking, exposure or other residential zoning standards are not met and requirements for exceptions or

variances are met pursuant to the Code, additional **BMR unit**s or lower income limits on **qualifying household**s shall be imposed.

3. Compliance Through **New Construction** Off-Site

a. When required by **planning approvals** or other applicable **use restriction**s to adhere to the **Inclusionary Ordinance**, the **Project Sponsor** may provide the number and type of **BMR units** satisfying the **planning approvals** or other applicable **use restriction**s through the construction of said units off-site from the **principal project**.

b. **Project Sponsor**s who submitted a first application to the Planning Department prior to July 18, 2006 for the construction of a project containing ten (10) or more units must provide fifteen (15%) or seventeen (17%) percent, (depending on the distinction between an As-of-Right or Conditional Use authorization), of all units as **BMR unit**s. If the total number of **BMR unit**s required is not a whole number, the obligation shall be rounded up to the nearest whole number for any portion of .5 or above.

c. **Project Sponsor**s who submitted a first application to the Planning Department on or after July 18, 2006 must provide twenty percent (20%) of all units as **BMR unit**s for any project containing five (5) or more units or any project requiring rezoning. If the total number of **BMR unit**s required is not a whole number, the obligation shall be rounded up to the nearest whole number for any portion of .5 or above, with exception to projects 120 feet in height or higher. Projects 120 feet in height or higher which do not require a zoning map amendment or planning code text amendment that result in a net increase in the number of permissible residential units or in a material increase in the net permissible residential square footage are required to provide seventeen percent (17%) of all units as **BMR unit**s.

d. Projects receiving **Planning Commission** or Planning Department approval on or after September 9, 2006, must make **Declaration of Intent** stating the on-site, off-site and/or in-lieu fee option. **Project Sponsor**s may only amend the **Declaration of Intent** if they choose to change from the in-lieu fee or off-site option to the on-site option. Additionally, off-site **BMR unit**s must be located within a one (1) mile radius of the **principal project**. Off-site units satisfying a **Project Sponsor**'s Inclusionary obligation must be offered as **BMR Rental Unit**s for the **life of the project** or as BMR for-sale

units affordable to households earning up to eighty percent (80%) of **median income**.

e. **BMR unit**s must be constructed, completed, and ready for occupancy no later than the **principal project**'s market rate units.

f. The **Project Sponsor** shall construct and, when applicable, manage the **BMR unit**s. **BMR unit**s shall not remain vacant for more than sixty (60) days from the date of the **certificate of final completion and occupancy.**

g. Affordable housing units shall not have received development subsidies from any federal, state or local program established for the purpose of providing affordable housing. Any such units receiving such subsidies shall not be counted to satisfy any affordable housing requirements for the on-site development except as provided in Section IV (3) (h) below.

h. A **Project Sponsor** may use California Debt Limit Allocation Committee (CDLAC) tax-exempt bonds to help fund its obligations per Section 325.4 and 315.5 of the Planning Code as long as it provides 20% of the units as affordable at 50% of **median income** for on-site housing or 25% of the units as affordable at 50% of **median income** for off-site housing. Except as provided in this subsection, all units provided under this section must meet all of the requirements of the **inclusionary Ordinance** and the **Manual** for either **on- or off-site projects**. The **income tables** to be used for the CDLAC units are those used by **MOH** for **Inclusionary Housing** units and not those used by the Tax Credit Allocation Committee (TCAC) or CDLAC. Sponsors shall contact **MOH** for the applicable **income table**.

i. **On-site units** satisfying a **Project Sponsor**'s Off-site **Inclusionary Ordinance** obligation must be offered as **BMR Rental Unit**s affordable to households earning up to sixty percent (60%) of **median income** or as **BMR ownership units** affordable to households earning eighty percent (80%) of **median income** on average, unless stated otherwise in **planning approval**s or other **use restriction**s.

j. Projects must record a **Notice of Special Restrictions** (**NSR**) and provide a copy of the **NSR** to **MOH** prior to the issuance of the **first site or building permit**. The **NSR** must identify the restricted **BMR unit**s by unit name or number, the income level of the units, the final approved floor plans that identify the **BMR unit**s, and the portions of the **planning**

approvals or other use restrictions that reference the **Inclusionary Program** requirements.

k. All **BMR units** that entered the marketing process on or after the effective date of this **Manual** are restricted in their **resale price** or **rental price** and other applicable restrictions for the **life of the project**. All **BMR units** that entered the marketing process before the final adoption date of this **Manual** are restricted in their **resale price** or **rental price** and other applicable restrictions for 50 years unless otherwise stated in the **planning approvals** or other **use restrictions** for the project.

l. Quality Standards for Off-Site **BMR Units**

All BMR units constructed off-site under the provisions of Section 315.5 shall be of good quality and generally equivalent to current market rate housing standards commonplace in San Francisco as determined by the **Zoning Administrator** in accordance with official Planning Department policy. Off-site affordable units shall be comparable in number of bedrooms, number of bathrooms, exterior appearance and overall quality of construction to market rate units in the **principal project**, and shall meet at a minimum, or exceed, the following standards:

i. Individual Unit Sizes

Average individual unit square footages shall be no less than 70% of the average **principal project** unit square footage for corresponding unit types classified by number of bedrooms, and in no case shall individual unit square footages be less than the following for each unit type:

Studios:	250 square feet
1-Bedrooms:	500 square feet
2-Bedrooms:	800 square feet
3-Bedrooms:	1,000 square feet
4-Bedrooms:	1,250 square feet

Exceptions to these square footage minimums may be made at the **Zoning Administrator**'s discretion where the **principal projects** average unit size by corresponding unit type classification is less than these minimums. When using such discretion, the **Zoning Administrator** shall take into account any anticipated occupant needs of the **BMR units** for a particular development.

The average off-site **BMR unit** size for a given unit type may be permitted to be less than 70% of the average size of the corresponding unit type of the **principal project** at the discretion of the **Zoning Administrator** on a case-by-case basis, provided there is a corresponding increase in unit numbers and all other provisions of this section are met. No reduction in the required total minimum **BMR unit** square footage per Section 315.5(d) of the Planning Code shall be permitted.

ii. Design of Off-site **BMR units**

(a) Room sizes

(i) No required bedroom shall be smaller than 120 square feet, and at least one bedroom in every unit, except for studios shall be a minimum of 144 square feet. The minimum horizontal dimension for any bedroom, excluding alcoves not included in the minimum square foot calculation, shall be 10 feet.

(ii) Primary rooms in studios shall be no less than 165 square feet excluding any contiguous kitchen area. The minimum horizontal dimension for any such primary room, excluding alcoves not included in the minimum square foot calculation, shall be 11 feet.

(iii) No living room shall be smaller than 144 square feet, with a minimum dimension excluding alcoves not included in the minimum square foot calculation, of 11 feet.

(iv) At least one bathroom shall meet ADA size requirements, and all other full bathrooms required by this section must be at least 40 square feet in size.

(v) Smaller room size minimums may be permitted at the discretion of the **Zoning Administrator** on a case-by-case basis, if such smaller room sizes are typical of the principal market rate

project and are consistent with current **City** building and housing codes.

(b) Interior Heights

Prevailing floor-to-ceiling heights in each unit shall be no less than 8'-6". Lower ceiling heights in bathrooms, hallways, or small portions of other rooms may be permitted to allow for central heat and air ductwork where necessary, but in no case shall any ceiling height in such areas be less than 8'-0".

(c) Kitchen and Bathroom Amenities

(vi) At a minimum, all kitchens shall have a full size four-burner cook top and full size oven, with built-in exhaust hood/microwave oven unit (or an equivalent thereof), full size kitchen sink with in-drain electric disposal, full size dishwasher, full size refrigerator/freezer, good quality upper and lower level cabinets with doors, quality counter top surfaces, and a suitable good quality floor surface. While appliances and finishes need not match or be equivalent to those in the **principal project**, they should be new and of good quality in terms of performance, durability and appearance. At the discretion of the **Zoning Administrator**, appliance sizes may be scaled down for studio units if such downsizing is typical of the principal market rate project. For the purpose of preserving interior materials or character of older buildings or providing aesthetic compatibility therein, fully restored vintage appliances and finishes may be used as long as they are of good quality, durability, and in good working condition.

(vii) Bathrooms shall consist of a shower stall, toilet and lavatory. At least one bathroom in each unit shall have both a shower stall and standard size tub or a combination tub-shower unit.

(d) Closets

Each **dwelling unit** shall have a coat closet and a linen closet, plus a closet for each bedroom. Minimum dimensions for coat closet shall be 4'X 2'. Minimum closet dimensions for required linen closet shall be 36"X 18". Minimum closet size for the first/master bedroom shall be 16 square feet with a minimum depth of two feet. Minimum closet size for each additional bedroom shall be 12 square feet with a minimum depth of two feet.

(e) Laundry facilities

Off-site BMR projects shall provide laundry facilities comparable to the **principal project**. Each unit shall contain laundry facilities if such facilities are provided in the **principal project**. Each floor shall contain a laundry facility if such facilities are in the **principal project**, with one full-size washer and one-full size dryer for every four units per floor. There shall be a common laundry room for the entire building if such a facility is provided in the **principal project** with one washer and one dryer unit for every eight units. Individual laundry facilities within units shall consist of both a washer and dryer unit. Studios, one- and two-bedroom units may utilize stacker units; three bedroom units and larger shall have full size laundry machine units. Laundry machines shall be new and of good quality and durability.

(f) Finish qualities

(viii) Finish qualities throughout **dwelling unit**s and common areas including: doors; windows; wall and floor materials and finishes; bathroom finishes and fixtures; trim; hardware; lighting and other electric features, need not match or be equivalent to that of the **principal project**, but should be new and of good quality in terms of

performance, functionality, durability and appearance and should reflect current residential interior styles, except in cases where vintage styles are appropriate to the interior finish design of the building, or where it is desired to preserve historic features or finishes.

iii. Smaller room size minimums may be permitted at the discretion of the **Zoning Administrator** on a case-by-case basis, if such smaller room sizes are typical of the principal market rate project and are consistent with current **City** building and housing codes.

iv. The standards in this section may be reduced at the discretion of the **Zoning Administrator** on a case-by-case basis provided the intent of this section – that all affordable units shall be of good quality and generally equivalent to current market rate housing standards commonplace in San Francisco - is generally being met as determined by the **Zoning Administrator**. Absent timely amendments to this section, requirements may be added or eliminated at the discretion of the **Zoning Administrator** to allow for changes in market standards or in technology. In adding or eliminating such requirements, the **Zoning Administrator** shall take into account the likely occupancy of the **Off-site BMR unit**s in consultation with **MOH**.

4. Compliance Through In-Lieu Fee Payment

a. When permitted by **planning approvals** or other applicable **use restriction**s, the **Project Sponsor** may pay an in-lieu fee to satisfy the **Inclusionary Ordinance** requirements. The per-unit size fee shall be updated annually on July 1.

b. The fee is established as the amount of the affordability gap identified in the 2006 Planning Department Nexus Study for the Inclusionary Housing Program. Section 315.6 of the Planning Code calls for fees to be adjusted annually using the annual percentage change in the Construction Cost Index as published by Engineering News Report (ENR).

c. **MOH** shall conduct a comprehensive study of the in lieu fee structure every five years.

d. In lieu fees for developments that received their **first site or building permit** on or after September 9, 2006 will be reviewed using the **San Francisco Median Income** as adjusted for household size.

e. Projects receiving Planning Commission or Planning Department approval on or after September 9, 2006 must make a **Declaration of Intent** stating the on-site, off-site and/or in-lieu fee option prior to project approval. **Project Sponsor**s may only amend the **Declaration of Intent** if they choose to change from the in-lieu fee or off-site option to the on-site option. Projects must provide a complete in-lieu fee payment before the issuance of the **first site or building permit.**

f. The in lieu fee unit requirement shall be calculated by using the direct fractional result of the total number of units multiplied by the percentage of off-site housing required, rather than rounding up the resulting figure.

g. The **Project Sponsor** shall request an in-lieu fee determination from **MOH** in the form of a letter. **MOH** shall provide a fee determination letter within fifteen (15) business days of the receipt of the request and the letter shall expire in thirty (30) business days. In cases where the determination has expired, the **Project Sponsor** will be required to request an updated determination in order to make the payment to the Treasurer's Office. The in-lieu fee request letter shall contain the following:

i. **Project Sponsor** contact information
ii. The name and address of the project
iii. Copies of all applicable **planning approval**s
iv. The number of total units by unit size

h. MOH may require the completion of a standard form in order to request an in lieu fee determination.

i. Prior to issuance by **DBI** of the **first site or building permit** for the project applicant, the **Project Sponsor** must have paid in full the sum required to the San Francisco Treasurer's Office.

C. Initial Sales Procedures for **BMR Ownership Units**

1. Request for Pricing for **BMR Ownership Units**

a. Prior to marketing a **BMR ownership unit** for initial sale, the **Project Sponsor** shall transmit a copy of the **Notice of**

Special Restrictions ("**NSR**"), final **planning approval**, approved floor plans indicating the location of the **BMR unit**s in the building, and final **HOA dues** for each **BMR unit** to **MOH**, together with a request for determination of initial sales price. The request for prices shall be submitted no sooner than 60 days prior to the beginning of the marketing period for the **BMR units** and at no time sooner than 6 months before the issuance of the **First Certificate of Occupancy** for the development. The pricing shall be valid for thirty (30) days and shall serve as the final pricing for the **BMR units** only upon approval of the **Marketing Plan** for the **BMR units**.

b. MOH may require the completion of a standard form in order to request an in **BMR unit** pricing.

2. Methodology for Pricing Initial Sale **BMR Ownership Unit**s

a. **MOH** shall calculate the initial sales price of the **BMR unit** according to the following assumptions: (i) the income limits specified in **planning approvals** or other **use restriction** documents; (ii) total payments of no more than thirty-three (33) percent of the gross monthly income, based on the income limits required by **planning approvals** or other **use restriction**s and including an allowance for taxes, insurance, homeowner or association's fees and related costs; (iii) a mortgage interest rate as identified by **MOH** that is the higher of the ten-year rolling average of interest rate data, based on 30-year interest rate data provided by Fannie Mae, Freddie Mac or an equivalent, nationally recognized mortgage lending institution; and (iv) a ten (10) percent down payment assumption. **MOH** shall transmit this information to the **Project Sponsor** within ten (10) working days after receipt of the request for determination.

b. The **income table** used to calculate the income level of a BMR household shall be determined by the date on which the principal project for which the household applies received its **first site or building permit**. Income levels for buyers in principal projects that received their **first site or site or building permit** before September 9, 2006 will be reviewed using the **HUD Area Median Income** as adjusted for household size. Income levels for buyers in principal projects that received their **first site or site or building permit** on or after September 9, 2006 will be reviewed using the **San Francisco Median Income** as adjusted for household size. All **off-site projects** will be held to the date on which the principal project received its first site or building permit.

3. Parking Space Policy for **BMR Ownership Unit**s

a. In developments in which parking is sold or leased as a part of the sales price for market rate units, parking spaces shall be granted to BMR buyers (1) at the same ratio of parking spaces to residential units, as identified in the **planning approval**s or other **use restrictions** for the building overall and (2) within the maximum purchase price set by **MOH**. All parking spaces granted to BMR buyer households shall be resold or re-leased with the **BMR unit** upon resale.

b. In developments in which parking is "**unbundled**," or sold or leased separately from every residential unit in a development, parking spaces shall be made available to BMR buyers at the same ratio of parking spaces to residential units as identified in **planning approval**s or other **use restrictions** for the building overall. The sales price of each **BMR unit**, as determined by **MOH**, shall be reduced by the cost of constructing a parking space (as determined by **MOH**) multiplied by the ratio of parking spaces to units in the building overall. The sponsor may then charge the BMR buyer the lowest market rate price available for a parking space to any buyer in the building.

The details of this policy are as follows:

i. Sponsors must offer BMR buyers the opportunity to purchase or lease parking spaces according to the overall ratio of parking spaces to units in the building.

ii. In developments where 1:1 parking is available in the building, the price of each **BMR unit** will be lowered by a standardized amount equivalent to the cost of constructing either a structured, above-ground parking space or a below-grade parking space, exact amount to be established by **MOH** through cost analysis and adjusted annually.

iii. In developments with less than 1:1 parking availability, **MOH** will lower the price of each **BMR unit** by an amount equivalent to the cost of constructing either a structured, above-ground parking space or a below-grade parking space multiplied by the ratio of parking spaces to units in the building overall.

iv. The price of each **BMR unit** will be reduced regardless of the BMR buyer household's choice to purchase or lease a parking space.

v. BMR buyers must be offered the opportunity to purchase or lease parking at the lowest market rate price offered to any buyer in the **housing development**.

vi. This policy applies only to developments in which the parking is 100% **unbundled**, or sold or leased separately, from the all units in the development.

vii. **Project Sponsor**s cannot charge special fees for parking to BMR buyers that are not charged to all buyers.

viii. A first parking space that is purchased either (1) at the same time that the **BMR unit** is initially purchased or (2) purchased by BMR owner household anytime after the initial purchase of the **BMR unit** shall be re-sold with the **BMR unit** upon resale of the unit. The price of the parking space will be governed by the same limits as the overall **resale price** as outlined in Section II (D) (5).

ix. The price of a parking space must never exceed the maximum established during the initial marketing of the units, but it may fall below this price.

x. In buildings with less than 1:1 parking, the opportunity to purchase or lease a space will be allocated by lottery rank.

xi. BMR households may purchase or lease a second parking space at any time without any restrictions placed on the Project Sponsor or the BMR buyer household.

4. Marketing Procedures for **BMR Ownership Unit**s

   The **Project Sponsor** shall commence marketing of the **BMR unit** according to the procedures set forth in Section IV (E) of this manual.

5. Verification of Owner Qualification for **BMR Ownership Unit**s

   a. At least sixty (60) days prior to the anticipated **close of escrow**, the **Project Sponsor** shall submit to **MOH** for approval the following documentation:

      i. An application from the proposed purchaser on a form specified by **MOH**;

ii. Supporting documentation from all members 18 years and older of the purchaser household, including:

(a) Past three (3) years IRS returns;
(b) Past three (3) years W-2 forms;
(c) Three (3) current and consecutive pay stubs or equivalent;
(d) Three (3) current and consecutive statements from every liquid asset account or personal cash holdings, including all custodial accounts held for minors;
(e) Verification of San Francisco residency or employment;
(f) Verification of completion of an approved **First-time Home Buyer Education** workshop.

b. To proceed with a **BMR unit** purchase post-lottery, the BMR buyer's lender or sales agent must supply the following documentation:

i. A completed sales agreement;
ii. An appraisal showing the **Appraised Fair Market Value** of the **BMR unit**;
iii. A mortgage loan application to an institutional lender;
iv. A Preliminary Title Report for the **BMR unit**.

6. Buyer Approval for **BMR Ownership Unit**s

a. Upon receipt of a complete BMR homeownership application, **MOH** shall verify the household qualification within fifteen (15) working days.

b. **Upon receipt of** lender and sales contract documentation, **MOH** shall draft **escrow closing documents** within five (5) working days.

c. Buyer Time to Qualify

The **Project Sponsor** shall allow the proposed purchaser no less than thirty (30) days from the time of the signing of the sales contract to qualify for mortgage financing and no more than sixty (60) days.

7. Financing for **BMR Ownership Unit**s

The **Project Sponsor** shall not allow mortgage financing that includes unreasonable or predatory fees associated with the loan.

Specifically approved and disapproved loan types are outlined in Section II (C) of this **Manual**.

8. Restrictions on **BMR Ownership Unit**s

   The **Project Sponsor** must comply with the documentation and enforcement procedures contained in Section J of this manual. **MOH** shall prepare documentation to be placed into escrow, including (1) a Promissory Note, as applicable, for the difference in the appraised value and the **BMR unit** sales price as described in Section J; (2) a Deed of Trust securing the City's interest in the **BMR unit**, (3) a Grant of Right of First Refusal giving the **City** the right to find an eligible buyer should the **BMR unit** be sold; and (4) certification that the purchaser is aware of the special restrictions on the **BMR unit**.

9. Transaction Fees for **BMR Ownership Unit**s

   The **Project Sponsor** shall pay all usual, customary and reasonable transaction costs normally borne by the seller in a residential real estate transaction, including but not limited to broker fees and real estate transfer taxes.

10. Inability to Find a Buyer for a **BMR Ownership Unit**

    In cases where, despite the owners good faith efforts, no **first-time homebuyer household** purchaser of the required income level has contracted to purchase a **BMR Ownership Unit** within six (6) months after the lottery for the **BMR unit**s, the owner shall inform **MOH**, which may then increase the permissible income levels for prospective purchasers of that unit up to a maximum twenty (20) percent over the income percentage limit specified in **planning approvals** or other **use restrictions**, but shall not increase any current or future permissible sales price of that unit as indicated in **planning approvals** or other **use restrictions**.

D. Initial Rental Procedures of **BMR Rental Unit**s

1. Request for Initial Rental Rates for **BMR Rental Unit**s

   a. Prior to marketing a **BMR Ownership Unit** for initial rental, the **Project Sponsor** shall transmit (1) a copy of the **Notice of Special Restrictions** ("**NSR**"); (2) the final Planning Motion or planning approval for the development; and (3) approved floor plans indicating the location of the **BMR unit**s in the building, together with a request for determination of initial rent levels. The request for rent levels shall be submitted no sooner than 6 months before the issuance of the **First Certificate of Occupancy** for the development.

b. Within ten (10) working days after receipt of a complete request for determination, **MOH** shall calculate the **maximum monthly rent** for each **BMR unit**, adjusted for unit size, based on the percent of **median income** established in the **Conditions of Approval** or other **use restriction**s and the then-existing **median income** amounts and shall transmit this information to the **Project Sponsor**.

2. Methodology for Setting Initial Rent Levels for **BMR Rental Unit**s

a. **MOH** shall calculate initial rent levels of the **BMR Rental Unit** according to the following assumptions: (i) the income limits specified in the **Conditions of Approval** or other **use restriction** documents; (ii) total payments of no more than thirty (30) percent of the gross monthly income, based on the income limits required by the **Conditions of Approval** or other **use restriction**s.

b. The income table used to calculate the income level of a BMR household and the subsequent **BMR unit** rent shall be determined by the date on which the project received its **first site or building permit.** Initial rent levels for **BMR Rental Unit**s in developments that received their **first site or building permit** before September 9, 2006 will be calculated using the **HUD Area Median Income** as adjusted for household size. Initial rent levels for **BMR Rental Unit**s in developments that received their **first site or building permit** on or after September 9, 2006 will be calculated using the **San Francisco Median Income** as adjusted for household size.

3. Parking Space Policy for **BMR Rental Unit**s

a. In developments in which parking spaces are provided to renters within the rent for market rate units, parking spaces shall be granted to BMR renters (1) at the same ratio of parking spaces to residential units as identified in **planning approvals** or other **use restrictions** for the building overall and (2) BMR renters shall be granted the parking space within the **maximum monthly rent** set by **MOH**.

b. In developments in which parking is "**unbundled**," or rented separately from every residential unit in a development, parking spaces shall be made available to BMR renters at the same ratio of parking spaces to residential units as identified in **planning approvals** or other **use restrictions** for the building overall. The rental price of each **BMR unit**, as determined by **MOH**, shall be reduced by the cost of constructing the parking space, as determined by MOH, multiplied by the ratio of

parking spaces to units in the building. This amount will be amortized over a 30-year period. The sponsor may then charge the BMR renter the lowest market rate rent available to any renter in the building.

The details of this policy are as follows:

i. Sponsors must offer BMR renter the opportunity to rent parking spaces according to the ratio of parking spaces to overall units in the building.

ii. In developments where 1:1 parking is available in the building, the rent of each **BMR unit** will be lowered by a standardized amount equivalent to the cost of constructing either a structured, above-ground parking space or a below-grade parking space, exact amount to be established by **MOH** through cost analysis and adjusted annually.

iii. In developments with less than 1:1 parking availability, **MOH** will lower the price of each **BMR unit** by an amount equivalent to the cost constructing either a structured, above-ground parking space or a below-grade parking space and multiplied by the ratio of parking spaces to units.

iv. In developments where 1:1 parking is available in the building, **MOH** will lower the maximum rent of each **BMR unit** by a standardized amount equivalent to the cost of constructing either a structured parking space or a below-grade parking space amortized over a 30-year period, exact amount to be established by **MOH**.

v. This amount will be deducted from the monthly rent of each **BMR unit** regardless of the renter's decision to lease a parking space.

vi. In developments with less than 1:1 parking availability, **MOH** will lower the maximum rent of each **BMR unit** by an amount equivalent to the monthly cost of parking in either a structured parking space or a below-grade parking space amortized over a 30-year period and multiplied by the ratio of parking spaces to units.

vii. BMR buyers must be offered the opportunity to rent parking at the lowest market rate rent offered to any market rate renter in the development.

viii. This policy applies only to developments in which the parking is 100% **unbundled**, or rented separately, from the all units in the development.

ix. **Project Sponsor**s cannot charge special fees for parking to BMR renters that are not charged to all renters.

x. Parking spaces rented with rental **BMR unit**s must be offered to subsequent renters upon re-rental of the unit.

xi. In buildings with less than 1:1 parking, the opportunity to rent a space will be allocated by lottery rank.

4. Marketing Procedures for **BMR Rental Unit**s

   The **Project Sponsor** shall commence marketing the **BMR unit**(s) according to the procedures set forth in Section IV (E) of this manual.

5. Verification of Renter Qualification for **BMR Rental Unit**s

   At least thirty (30) days prior to the anticipated date of lease, the **Project Sponsor** shall submit to **MOH** for approval the following documentation:

   a. A complete MOH BMR rental application from the proposed renter household;

   b. Supporting documentation from all members of the BMR renter household, including:

      i. Past one (1) year IRS returns;
      ii. Past one (1) year W-2 forms;
      iii. Three (3) current and consecutive pay stubs or equivalent;
      iv. Three (3) recent and consecutive statements from every liquid asset account and personal cash holdings, including custodial account for all minors;
      v. Verification of San Francisco residency or employment.

   c. A sample lease agreement that clearly states the rent to be charged to the new tenant.

6. Renter Approval for **BMR Rental Unit**s

Upon receipt of a complete BMR rental application, supporting documentation, and a sample lease, **MOH** shall verify the household qualification within fifteen (15) working days.

7. Permissible Rent Increases for **BMR Rental Unit**s

The **Project Sponsor** may increase the **maximum monthly rent** for a **qualifying household** on each anniversary of a qualifying household's occupancy in an amount which does not exceed the amount determined by **MOH** based on the percent of **median income** established in the **planning approvals** or other **use restrictions** and the then-existing income amounts.

8. Rental Rate Upon Subsequent Occupancy by **Qualifying Household**s for **BMR Rental Unit**s

a. The **Project Sponsor** shall notify **MOH** of a vacancy of a **BMR unit** prior to offering the unit for rent and prior to marketing the unit according to the marketing procedures set forth in Sections IV (E) of this manual.

b. Rental rates for **qualifying household**s shall not exceed the applicable amounts published in accordance with the provisions of section IV (D) (2) and (3) above.

9. Documentation of Annual Rent Levels for **BMR Rental Unit**s

The **qualifying household** income limits and **maximum monthly rent** for **BMR unit**s shall be updated annually and will be available on the **MOH** website. Owner(s) or those charged with the management of affordable BMR rental housing units satisfying the requirements of their **planning approval**s or other **use restriction**s may be required to submit an annual monitoring and enforcement report on a form provided by **MOH** and submitted on a date and at a location determined by **MOH**. The report shall provide information regarding rents, household and income characteristics of tenants of designated affordable units, services provided as part of the housing service such as security, parking, utilities, and any other information **MOH** may reasonably require to monitor compliance with the **BMR unit**s specific **planning approval**s or other **use restriction**s.

E. Marketing Procedures for Initial Sale and Rental of **BMR Unit**s

1. General Requirements for Marketing of All Initial Sales and Rentals of **BMR Unit**s

a. The **Project Sponsor** shall use good faith and affirmative efforts to attract potential qualifying **households** from all

minority and **low income**, **median income** and **moderate income** communities through the marketing and advertising of the **BMR unit**s. Toward that goal, the **Project Sponsor** shall prepare and provide to **MOH** a copy of the **Marketing Plan** for the sale or rental of the **BMR unit**s prior to accepting applications or statements of interest for the purchase or lease of the units. No marketing or advertising material shall be distributed or published without the prior written approval of the **Marketing Plan** by **MOH** and all such materials shall be consistent with the approved **Marketing Plan**. Approval or disapproval of the **Marketing Plan** shall be made within ten (10) days of receipt of a complete marketing plan. In instances were the **Marketing Plan** has been disapproved; **MOH** will provide recommendations to remedy any deficiencies.

b. To insure access and outreach to **minority** and **low income**, **median income** and **moderate-income** communities, the **Project Sponsor** must hire as part of the marketing and outreach strategy a **Marketing Consultant** certified by **MOH** as having demonstrated capacity in reaching identified targeted populations. The targeted populations will be identified by **MOH** based on an analysis of the demographic characteristics of **minority** and **low income**, **median income** and **moderate-income** populations of San Francisco, and applicants to the BMR program. A list of certified **Marketing Consultant**s will be maintained by **MOH** and updated on at least an annual basis on June 15th.

c. The **Project Sponsor** shall submit the **Marketing Plan** to **MOH** at least thirty (30) days prior to the anticipated commencement of the project's marketing and outreach and at least one-hundred and twenty days prior to the anticipated **close of escrow** for BMR ownership units and lease origination dates for **BMR rental units**.

2. Contents of Marketing Plan

a. **MOH** shall prescribe the form of the **Marketing Plan** and shall provide the format to the **Project Sponsor** for completion and submittal. Unless determined by **MOH** to be inapplicable to a particular project, the **Marketing Plan** shall include:

b. The name, address, email address, and phone number of the **project sponsor**;

c. The name, address, email address, and phone number of the sales or rental agent(s);

d. The **planning approval** for the project;

e. The Notice of Special Restrictions for the project;

f. The name of the City Planner assigned to the **housing project**;

g. A description of the total number of units in the **principal project** or applicable **off-site project**;

h. A description of the total number of market rate or non-**BMR unit**s in the building;

i. A description of the total number of **BMR unit**s in the building;

j. The Home Association Dues (**HOA Dues**) for each **BMR unit**;

k. All amenities included in the sale of the **BMR unit;**

l. Parking available to all residential tenants in the building;

m. Buyer or renter qualifications;

n. Workshop and open house dates;

o. A media plan;

p. A strategy for marketing to residents of the immediate neighborhood;

q. A comprehensive strategy for reaching out to **low-income, median-income, moderate-income** and **minority** communities in San Francisco;

r. Dates and strategy for the application process;

s. Dates and strategy for the lottery selection process;

t. Dates and strategy for the process of working with lottery winners;

u. Marketing materials which clearly define rental or first time homebuyer household eligibility and which specify documentation and monitoring procedures;

v. Notices that buyers of **BMR unit**s are subject to special **use restriction**s, including an acknowledgement of these

restrictions and a sample packet of the City's **escrow closing documents** that each buyer will be expected to execute upon the purchase of a **BMR unit**;

w. On resale, listing of **BMR Ownership Unit**s with the San Francisco Multiple Listing Service (MLS);

x. A list of community housing organizations which are to receive written notification regarding the availability of the BMR units prior to commencement of advertising or marketing of such units;

y. A list of community housing organizations that the **Project Sponsor** or the **Project Sponsor**'s marketing representative must work with in order to meet language or cultural needs of **minority communities**;

z. An attached copy of all **planning approvals**, the **NSR** and approved floor plans associated with the **principal project** and any applicable **off-site project**.

3. Conduct of Marketing Plan

a. No marketing of the **BMR unit**(s) shall begin until the **Project Sponsor** has received written approval of the **Marketing Plan** and confirmation from **MOH** of the number, type, location, and price or rent of the **BMR unit**s and permissible income limits of purchasers or tenants, pursuant to Sections II (A), III (A), IV (C), IV (D) of this manual.

b. The **Project Sponsor** or the **Project Sponsor**'s marketing and sales representative shall give adequate time, in no case less than twenty eight (28) days after first public notification or advertisement, for application submissions.

c. The **Project Sponsor** shall alert sales or rental staff to the **BMR unit**s and provide such staff with a copy of this **Manual** and the special **use restriction**s applicable to the **BMR unit**s.

d. The sales or rental programs and procedures shall not have the effect of excluding or discriminating against any person on the basis of race, religion, national origin, sex, sexual preferences, health status, source of income such as disability insurance, social security, TANF, or any other basis prohibited by federal, state or local law.

e. The **Equal Housing Opportunity symbol** shall be displayed in a visible location at any sales of rental office, and

shall be incorporated in all advertisements and printed materials.

f. Units must be advertised in at least five (5) local newspapers that reach **minority** and **low-income, median income and moderate-income** communities in San Francisco for a period of at least 3 weeks and at least one local newspaper of general San Francisco circulation for at least two Sundays prior to the established application deadlines for the **BMR units**.

g. All available BMR units must be listed on the **MOH** website of available BMR units for at least twenty-eight (28) days prior to the application deadline for the BMR unit(s).

F. Marketing Procedures for Resale of **BMR Ownership Unit**s

Marketing of resale of individual **BMR Ownership Unit**s shall be in compliance with all applicable federal, state and local laws related to fair housing. Owners and their agents may be asked to certify that the units have not been marketed in such a manner as to be discriminatory. The procedures for resales are more fully described in Section I of this Manual.

G. Marketing Procedures for Subsequent Rentals of **BMR Rental Unit**s

1. Marketing of re-rental of individual **BMR Rental Unit**s shall be in compliance with all applicable federal, state and local laws related to **fair housing** rules. Owners and their agents may be asked to certify that the units have not been marketed in such a manner as to be discriminatory.

The sales or rental programs and procedures shall not have the effect of excluding or discriminating against any person on the basis of race, religion, national origin, sex, sexual preferences, health status, source of income such as disability insurance, social security, TANF, or any other basis prohibited by federal, state or local law.

2. Upon re-rental, **BMR Rental Unit** managers must follow the process established by **MOH** for re-renting units. This process includes the following:

a. The **Project Sponsor** shall inform **MOH** at least thirty (30) days prior to the intended lease origination date of a new BMR renter of the availability of any such unit before beginning any general marketing;

b. Units must be listed on the **MOH** website list of available **BMR unit**s for at least a seven (7) working day period before

an established application review date. Applications must not be reviewed until the seven (7) working day application period has ended;

c. Applicants must complete a **MOH** BMR rental application and return the application and all supporting materials by the application deadline;

d. **Project Sponsor**s must follow all **fair housing** rules when choosing a new renter for a **BMR unit**;

e. Marketing of **BMR Rental Unit**s following the vacancy of any such unit must include advertisement of that unit in at least one print media for at least one Sunday prior to entering into any rental agreement for that unit.

H. Selection of BMR Buyers or Renters at Initial Sale or Rental of **BMR Units**

1. The **Project Sponsor** shall utilize a public lottery to select BMR buyers or renters. The following guidelines shall be applicable to the lottery process:

a. Lotteries for **BMR unit**s shall be held in a public, accessible location.

b. A non-prioritized list of interested buyers will be kept by **MOH** ("general BMR list"). At least twenty-one (21) days prior to a lottery, all those signed up on the list will be notified of the availability of units and invited to participate in the lottery by **MOH**. The general public will be invited to participate in the lottery, as well.

c. All applicants who have submitted a complete application by the application deadline shall be entered into the lottery.

d. Households submitting significantly incomplete applications may be deemed ineligible to enter the lottery for the purchase or rental of a **BMR unit** or to proceed with a purchase or rental of a **BMR unit** following the lottery.

e. Applicants shall be invited to attend lotteries, but attendance is not mandatory.

f. A representative of **MOH** shall conduct the lottery and record the order of lottery numbers drawn.

g. Within 5 business days, the **Project Sponsor** shall notify all applicants of their position in the lottery and inform **MOH** of the lottery winners' intent to purchase or rent the **BMR unit**.

h. The Project Sponsor shall deliver complete applications and supporting materials of interested lottery winners to **MOH** within 21 days of the lottery date.

i. The Project Sponsor shall adhere to the rank order of the lottery list when offering **BMR units** to lottery winners.

j. Only those household members listed on the BMR application may move in to the BMR unit unless MOH allows the addition of an additional person.

l. **Conversion** of **BMR Rental Unit**s to Ownership Units

When authorized by **planning approval**s or other **use restriction**s placed on a **principal project**, a **BMR Rental Unit** may be permitted to be converted for owner occupancy only upon satisfaction of all of the following additional conditions:

1. If the rental **BMR unit** is subject to **planning approval**s or other **use restrictions** specifying that the **BMR unit** be a rental unit, **conversion** shall be subject to the approval of the Planning Commission;

2. The **conversion** from rental to condominium ownership of the **BMR unit** shall be subject to any applicable **City** procedures, standards, fees and regulations in effect at the time of application;

3. The **BMR unit** must have been maintained in good physical condition as an affordable rental unit at all times since its initial construction;

4. If the **planning approval**s or other **use restrictions** for the **principal project** specified a minimum period during which the **BMR unit** must be rented, that period shall have elapsed;

5. The **Project Sponsor** shall prepare and submit a **Marketing Plan** and conduct sales of the **BMR unit**s in conformity with the Requirements of this **Manual** in force at the time of marketing and sale;

6. The **BMR ownership unit** shall be priced at the level of affordability dictated for the current **BMR rental unit** as stated in the **planning approval**s or other **use restrictions**.

7. The prospective purchaser must be a **first-time homebuyer household** whose combined gross annual household income does not exceed the percentage of **median income** specified in the **planning approval**s or other **use restriction**s for permissible occupancy of the **BMR unit** as a rental unit;

8. Existing tenants who meet the requirements to purchase the **BMR unit** shall be offered a right of first refusal to purchase the unit, which right of first refusal shall afford the tenant at least six (6) months to exercise the right to purchase;

9. Once converted, units shall be subject to all restrictions applicable to the marketing, sale and resale of **BMR Ownership Unit**s as set forth in this **Manual**.

J. Documentation and Enforcement of Sales Restrictions for **BMR Ownership Unit**s

1. At the request of **MOH**, and at the time of the initial or any subsequent sale of a **BMR unit**, the purchaser shall enter into such agreements or other documents as **MOH** may require to ensure that the unit will be subject to the affordability restrictions described in the **planning approval**s or other **use restrictions**.

2. These documents include the following:

a. Promissory Note

i. To secure the obligations contained in the Conditions of Approval, a purchaser of a **BMR unit** shall execute and deliver to the **City** a promissory note in a form prepared by **MOH** (a "BMR Note") in an original principal amount equal to the difference between (i) the **appraised fair market value** of the **BMR unit** at the time of such sale, determined without regard to the sales and rental restrictions on such unit, and (ii) the affordable purchase price owed by the purchaser of that unit at the time of the initial sale of such unit pursuant to the **planning approval**s or other **use restriction**s. All such BMR Notes shall contain the above restrictions on resale and rental of a **BMR unit**. The BMR Note shall provide for a stated rate of deferred interest and/or a stated share of any appreciation in the value of the applicable **BMR unit**.

ii. No BMR Note shall be required if **MOH** determines that the affordable purchase price of the applicable **BMR unit** is approximately equal to the **appraised fair market value** of that unit at the time of its initial sale,

determined without regard to sales or rental restrictions on that unit. In the event that no BMR Note is required for a **BMR unit**, **MOH** may require the recordation of an Acknowledgment of Special Restrictions by the owner of such unit that the unit is subject to the affordability restrictions contained in the **planning approval**s or other **use restriction**s.

iii. Subject to the provision of subparagraph IV (J) (5) below, the BMR Note shall be due and payable, in full, upon (i) the sale of the **BMR unit** to which it pertains, or (ii) in the event of a default of any of the conditions, obligations or covenants contained in the BMR Note (including without limitation the covenant to sell the applicable **BMR unit** in compliance with the **planning approval**s or other **use restriction**s). All funds received by the **City** from the repayment of BMR Notes shall be used to subsidize **low-income** to **moderate-income** housing in the City.

b. Deed of Trust

Repayment of the BMR Note shall be secured by a deed of trust encumbering the applicable **BMR unit** in a form prepared by **MOH**.

c. Grant of Right of First Refusal

BMR buyers shall execute and deliver to the **City** a Grant of Right of First Refusal, a document that requires the seller to notify **MOH** upon resale, giving the **City** the option to exercise their right to substitute a qualified buyer.

d. Buyer Acknowledgment of Special Restrictions

BMR buyers shall execute and deliver to the **City** an Acknowledgement that they have thoroughly reviewed this **Manual** and the recorded **NSR** on the **BMR unit**.

3. Function of Documents

a. Reconveyance of Note and Deed Upon Resale

Upon any resale of a **BMR unit**, assuming (i) that there has been no event of default that is continuing under the existing BMR Note, and (ii) that the resale of the **BMR unit** complies with this **Manual** and the **planning approval**s or other **use restriction**s, **MOH** shall accept a replacement BMR Note made to the order of the **City** by the new

purchaser of the unit, in form and substance acceptable to **MOH**, as full satisfaction of the existing BMR Note by the City, the deed of trust securing the existing BMR Note shall be reconveyed by the City, and the new purchaser of the **BMR unit** shall deliver to the **City** new BMR Note and a new deed of trust securing the new BMR Note and encumbering the applicable **BMR unit**. The principal amount of the new BMR Note shall equal the difference between the **appraised fair market value** of the **BMR unit** and the affordable purchase price owed by the purchaser of such unit at the time of the resale.

b. Term of Note and Deed

i. For **BMR unit**s marketed before the effective date of this **Manual**, the following process applies:

(a) **BMR Ownership Unit**s

Upon the expiration of the 50-year term of the affordability restrictions contained in **planning approval**s or other **use restriction**s for any ownership **BMR unit**, any deed of trust securing a BMR Note shall remain a valid, enforceable lien on the applicable **BMR unit** until the next resale of such unit, at which time the maker of such BMR Note shall pay to the **City** the full amount due under the BMR Note. At such time a BMR Note is repaid pursuant to this subparagraph, the lien of the deed of trust securing such BMR Note shall be released and the unit shall no longer be subject to the affordability restrictions.

(b) **BMR Rental Unit**s

Upon the expiration of the 50-year term of the affordability restrictions contained in the **Conditions of Approval** or by ordinance for any rental **BMR unit** that has remained a rental unit for the duration of the restriction, the unit shall be released from all restrictions and the current building owner may rent the unit at market rate.

ii. For all **BMR unit**s marketed on or after the effective date of this **Manual**, the following process applies:

The **BMR unit** will remain restricted for the **life of the project**. For ownership **BMR unit**s, the BMR note may not be repaid at any time. For rental **BMR unit**s, the rental unit will remain restricted for the **life of the project**.

4. Order of Liens

a. Any liens shall not be subordinated to any other liens or restrictions affecting the project or a **BMR unit** to which the **planning approval**s or other **use restrictions** apply except for the buyer's primary mortgage loan to which the BMR lien may take second place. The BMR lien can only be subordinated to the primary mortgage.

b. The restrictions imposed by **planning approval**s or other **use restrictions**, and any liens recorded pursuant thereto, shall not be subordinated to any other liens or restrictions affecting the project or a **BMR unit** to which the **planning approval**s or other **use restrictions** apply; provided, however, that **MOH** may approve a refinancing of a first-priority mortgage of the **BMR unit** to secure a lower interest rate, in an amount not to exceed the value of the original mortgage plus customary transaction costs.

5. Recordation of Restrictions

Before the issuance of the first site or building permit, a **Notice of Special Restrictions** and other appropriate documentation (including deeds of trust securing the obligations of the purchasers of **BMR unit**s) against the land record shall be filed with the Office of the Recorder of the City and County of San Francisco for the **BMR unit**s in order to implement the **planning approval**s or other **use restrictions**. Such deed restrictions and other recorded documents shall include language restricting the sale of the **BMR unit**s in accordance with **planning approval**s or other **use restrictions**.

K. Conflict of Interest

The **Project Sponsor** may not make an initial sale or rental of a **BMR unit** to the project architect, attorney, prime contractor, or to anyone of its or their employees, directors, officers or agents, or to any of their family members, as determined by **MOH**.

FILE NO. 110328 Amended in Committee 5/2/2011 RESOLUTION NO. 246-11

[CEQA Findings - Treasure Island/Yerba Buena Island Development Project]

Resolution adopting findings under the California Environmental Quality Act (CEQA), CEQA Guidelines and San Francisco Administrative Code Chapter 31, including the adoption of a mitigation monitoring and reporting program and a statement of overriding considerations in connection with the development of Treasure Island and Yerba Buena Island, as envisioned in the Development ~~Plan~~Agreement for the Treasure Island/Yerba Buena Island Project ~~Area~~.

WHEREAS, The Treasure Island / Yerba Buena Island Project ~~Area~~Site comprises 550 acres of property, which includes portions of both Treasure Island and Yerba Buena Island, excluding a 37 acre, federally owned U.S. Department of Labor Job Corps site and the eastern portion of Yerba Buena Island ("Project ~~Area~~Site"); and,

WHEREAS, The Planning Department ("Department") and TIDA have undertaken a planning and environmental review process for the proposed Project ~~Area~~Site and provided for appropriate public hearings before the Planning Commission and the TIDA Board of Directors; and,

WHEREAS, The actions listed in Attachment A ("Actions") are part of a series of considerations in connection with the ~~Development Plan for the~~ Treasure Island/Yerba Buena Island Project ~~Area~~ as defined in the Treasure Island/Yerba Buena Island Development Agreement (collectively, the "Project"), as ~~more particularly defined~~ discussed in additional detail in Attachment A; and,

WHEREAS, On July 12, 2010, the Department and TIDA released for public review and comment the Draft Environmental Impact Report for the Project, (Department Case No. 2007.0903E); and,

WHEREAS, The Planning Commission and TIDA held a special joint hearing on August 12, 2010 on the Draft Environmental Impact Report and received written public comments until 5:00 pm on September 10, 2010, for a total of 60 days of public review; and,

WHEREAS, The Department and TIDA prepared a Final Environmental Impact Report ("FEIR") for the Project consisting of the Draft Environmental Impact Report, the comments received during the review period, any additional information that became available after the publication of the Draft Environmental Impact Report, and the Draft Summary of Comments and Responses, all as required by law. Copies of said documents are on file with the Clerk of the Board in File No. 110328, and are incorporated herein by reference; and,

WHEREAS, The FEIR files and other Project-related Department and TIDA files have been available for review by this Board of Supervisors and the public, and those files are part of the record before this Board of Supervisors; and,

WHEREAS, On April 21, 2011, the Planning Commission and the TIDA Board of Directors reviewed and considered the FEIR and, by Motion No. 18325 and Resolution No. 11-14-04/21, respectively, found that: (1) the contents of said report and the procedures through which the FEIR was prepared, publicized and reviewed complied with the provisions of the California Environmental Quality Act ("CEQA") and the CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code; (2) the FEIR was adequate, accurate and objective, reflected the independent judgment and analysis of each Commission and that the summary of Comments and Responses contained no significant revisions to the Draft Environmental Impact Report; and (3) the Project will have significant and unavoidable project impacts and make a considerable contribution to cumulative impacts in the areas of transportation, noise, air quality and historic resources; and,

WHEREAS, By said Motion and Resolution, the Planning Commission and the TIDA Board of Directors, respectively, certified the completion of the Final Environmental Impact

Report for the Project in compliance with CEQA and the CEQA Guidelines. Said Motion and Resolution are on file with the Clerk of the Board in File No. 110328 and are incorporated herein by reference; and,

WHEREAS, The Department and TIDA ~~prepared proposed~~ in Motion No. 18326 and Resolution No. 11-15-04/21, respectively adopted environmental findings, as required by CEQA (the "CEQA Findings"), regarding the rejection of alternatives; mitigation measures; significant environmental impacts analyzed in the FEIR; and overriding considerations for approving the Project, including all of its Actions, among other topics. The CEQA Findings also include a proposed mitigation monitoring and reporting program, denoted as Attachment B. These CEQA findings, the Board of Supervisors' CEQA Findings, and related Project documents were made available to the public and this Board of Supervisors for the Board's review, consideration, and actions. Copies of the CEQA Findings of the Planning Commission, TIDA, and the Board are on file with the Clerk of the Board of Supervisors in File No. 110328, and are incorporated herein by reference; now, therefore, be it

RESOLVED, That the Board of Supervisors makes the following findings in compliance with the California Environmental Quality Act ("CEQA"), California Public Resources Code Sections 21000 et seq., the CEQA Guidelines, 14 Cal. Code Reg. Code Sections 15000 et seq. ("CEQA Guidelines"), and San Francisco Administrative Code Chapter 31 ("Chapter 31"); and,

FURTHER RESOLVED, That the Board of Supervisors has reviewed and considered Planning Commission Motion No. 18325 certifying the FEIR and finding the FEIR adequate, accurate and objective, and reflecting the independent judgment and analysis of the Planning Commission, and hereby affirms the Planning Commission's certification of the FEIR by Board of Supervisors Motion No. 18326. Copies of said Motions are on file with the

Clerk of the Board of Supervisors in File No. 110328 and are incorporated herein by reference; and, be it

FURTHER RESOLVED, That the Board of Supervisors finds that (1) modifications incorporated into the Project and reflected in the Actions will not require important revisions to the FEIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; (2) no substantial changes have occurred with respect to the circumstances under which the Project or the Actions are undertaken that would require major revisions to the FEIR due to the involvement of new significant environmental effects, or a substantial increase in the severity of effects identified in the FEIR; and (3) no new information of substantial importance to the Project or the Actions has become available that would indicate (a) the Project or the Actions will have significant effects not discussed in the FEIR; (b) significant environmental effects will be substantially more severe; (c) mitigation measures or alternatives found not feasible, which would reduce one or more significant effects, have become feasible; or (d) mitigation measures or alternatives, which are considerably different from those in the FEIR, would substantially reduce one or more significant effects on the environment; and, be it

FURTHER RESOLVED, That the Board of Supervisors has reviewed and considered the FEIR and hereby adopts its CEQA Findings, including the mitigation monitoring and reporting program, contained in Attachment B, and the statement of overriding considerations.

City and County of San Francisco
Tails
Resolution

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 110328 **Date Passed:** June 07, 2011

Resolution adopting findings under the California Environmental Quality Act (CEQA), CEQA Guidelines and San Francisco Administrative Code Chapter 31, including the adoption of a mitigation monitoring and reporting program and a statement of overriding considerations in connection with the development of Treasure Island/Yerba Buena Island, as envisioned in the Development Agreement for the Treasure Island/Yerba Buena Island Project Area.

May 02, 2011 Land Use and Economic Development Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

May 02, 2011 Land Use and Economic Development Committee - RECOMMENDED AS AMENDED

May 17, 2011 Board of Supervisors - CONTINUED

Ayes: 10 - Avalos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Mirkarimi and Wiener
Excused: 1 - Campos

June 07, 2011 Board of Supervisors - ADOPTED

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Mirkarimi and Wiener

File No. 110328

I hereby certify that the foregoing Resolution was ADOPTED on 6/7/2011 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor Edwin Lee

6/13/11
Date Approved

FILE NO. 110228 Amended in Committee 5/2/2011 ORDINANCE NO. 97-11

[General Plan Amendments – Treasure Island/Yerba Buena Island Development Project]

Ordinance amending the San Francisco General Plan by amending the Commerce and Industry Element, Community Facilities Element, Housing Element, Recreation and Open Space Element, Transportation Element, Urban Design Element, and Land Use Index, maps and figures in various elements, and by adopting and adding the Treasure Island/Yerba Buena Island Area Plan, in order to facilitate the development of Treasure Island and Yerba Buena Island as endorsed by the Board of Supervisors and the Mayor in 2006 and updated in 2010, ~~in order to facilitate the development of Treasure Island and Yerba Buena Island as~~ and envisioned in the Treasure Island/Yerba Buena Island ~~Redevelopment Plan~~Development Agreement, adopting findings, including environmental findings and findings of consistency with the General Plan and Planning Code Section 101.1.

NOTE: Additions are *single-underline italics Times New Roman*; deletions are ~~*strike-through italics Times New Roman*~~. Board amendment additions are double-underlined; Board amendment deletions are ~~strikethrough normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Findings.

(a) The proposed adoption of the Treasure Island / Yerba Buena Island Area Plan is necessary to facilitate the development of Treasure Island and Yerba Buena Island as envisioned in the Treasure Island/Yerba Buena Island Development ~~Plan~~ Agreement and Term Sheet endorsed by the Board of Supervisors ("Board") and the Mayor in 2006 and updated in 2010 as described below.

(b) A primary objective of both the Treasure Island/Yerba Buena Island Development ~~Plan~~ Agreement and the Term Sheet is to create sustainable economic

development, affordable housing, public parks and open space and other community benefits by development of the under-used lands on Treasure Island and Yerba Buena Island.

(c) Originally constructed in 1937 as a possible site for the San Francisco Airport, Treasure Island was first used to host the Golden Gate International Exposition from 1939-1940. Shortly thereafter in World War II, the United States Department of Defense converted the island into a naval station, which operated for more than five decades. Naval Station Treasure Island was subsequently closed in 1993 and ceased operations in 1997. Since the closure of the base, the City and the community have been planning for the reuse of former Naval Station Treasure Island and adjacent Yerba Buena Island.

(d) Former Naval Station Treasure Island consists of approximately 550 acres including Yerba Buena Island. Today the site is characterized by aging infrastructure, environmental contamination from former naval operations, deteriorated and vacant buildings, and asphalt and other impervious surfaces which cover approximately 65% of the site. The site has few public amenities for the approximately 1,850 residents who currently reside on the site. This legislation creating the Treasure Island/Yerba Buena Island Area Plan will implement the proposed Treasure Island/Yerba Buena Island Project ("the Project").

(e) The Project will include (1) approximately 8,000 new residential units, 30 percent of which (2,400 units) will be made affordable to a broad range of very-low to moderate income households, including 435 units to be developed by the Treasure Island Homeless Development Initiative's member organizations, (2) adaptive reuse of 311,000 square feet of historic structures, (3) 140,000 square feet of new retail uses and 100,000 square feet of commercial office space, (4) 300 acres of parks and open space, (5) new and or upgraded public facilities, including a joint police/fire station, a school, facilities for the Treasure Island Sailing Center and other community facilities, (6) 400-500 room hotel, and (7) ~~new 400 slip marina, and (8)~~ transportation infrastructure, including a ferry/quay intermodal transit center.

(f) In 2003, the Treasure Island Development Authority ("TIDA") selected through a competitive three year long process, Treasure Island Community Development, LLC ("TICD") to serve as the master developer for the Project.

(g) In 2006, the Board in Resolution No. 699-06 endorsed a Term Sheet and Development Plan for the Project, which set forth the terms of the Project including a provision for a Transition Plan for Existing Units on the site. In May of 2010, the Board endorsed a package of legislation that included an update to the ~~Development Plan and~~ Term Sheet, terms of an Economic Development Conveyance Memorandum of Agreement for the conveyance of the site from the Navy to the City, and a Term Sheet between TIDA and the Treasure Island Homeless Development Imitative ("TIHDI") in Resolution Nos. 242-10, 243-10, and 244-10. Copies of these Resolutions are on file with the Clerk of the Board of Supervisors in File Nos. 100428, 100429, and 100432 and are incorporated herein by reference.

(h) Pursuant to San Francisco Planning Code Section 340, any proposed amendments to the General Plan shall first be initiated by the Planning Commission. On March 3, 2011, by Resolution No. 18291, the Commission conducted a duly noticed public hearing to consider a Resolution of Intent to initiate General Plan Amendments concerning the Project. A copy of Planning Commission Resolution No. 18291 is on file with the Clerk of the Board of Supervisors in File No. 100228.

(i) Pursuant to San Francisco Charter Section 4.105 and Planning Code Section 340, any amendments to the General Plan shall first be considered by the Planning Commission and thereafter recommended for approval or rejection to the Board of Supervisors. On April 21, 2011, by ~~Resolution~~Motion Nos. 18327 and 18328, the Commission conducted a duly noticed public hearing on the General Plan Amendments, adopted the General Plan Amendments and recommended them for approval to the Board of Supervisors.

Said ~~Resolution~~ Motions also included findings of conformity with the Priority Policies of Section 101.1 of the Planning Code, consistency findings with the General Plan as it is proposed for amendment, and, pursuant to Section 340 of the Planning Code, findings that this Ordinance will serve the public necessity, convenience, and welfare. A copy of Planning Commission ~~Resolution~~Motion Nos. 18327 and 18328 are ~~is~~ on file with the Clerk of the Board of Supervisors in File No. 110228 and incorporated herein by reference.

(j) The Board of Supervisors finds that this Ordinance is in conformity with the Priority Policies of Section 101.1 of the Planning Code and, on balance, consistent with the General Plan as it is proposed for amendment herein, and hereby adopts the findings set forth in Planning Commission ~~Resolution~~Motion Nos. 18327 and 18328 as its own and incorporates such findings by reference as if fully set forth herein.

(k) California Environmental Quality Act Findings. (1) The Planning Department has determined that the actions contemplated in this Ordinance comply with the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.). A copy of said determination is on file with the Clerk of the Board of Supervisors in File No. 100328 and is incorporated herein by reference.

(2) Concurrent with this Ordinance and in accordance with the actions contemplated herein, this Board adopted Resolution No. 246-11 concerning findings pursuant to the California Environmental Quality Act. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. 110328 and is incorporated herein by reference.

Section 2. The Board of Supervisors hereby approves an amendment to the General Plan to adopt and add the Treasure Island/Yerba Buena Island (TI/YBI) Area Plan. The full text of the TI/YBI Area Plan is Exhibit A to this Ordinance. A copy of this Exhibit is on file with the Clerk of the Board of Supervisors in File No. 110228 and is incorporated by reference.

Section 3. The Board of Supervisors hereby approves the following amendments to the maps and figures in the Elements of the General Plan as follows:

Commerce and Industry

Amend Map 1- Generalized Commercial and Industrial Land Use Plan. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Map 2 - Generalized Commercial and Industrial Density Plan. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Map 4 - Residential Service Areas of Neighborhood Commercial Districts and Uses. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Map 5 - Generalized Neighborhood Commercial Land Use and Density Plan Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Community Facilities Element

Map 1 - Police Facilities Plan. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Map 2 - Fire Facilities Plan. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Map 3 - Library Location Plan. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Map 4 - Public Health Centers Plan. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Map 5 - Waste Water and Solid Waste Facilities Plan. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Map 6 - Public School Facilities Plan. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Map 7 - Institutional Facilities Plan Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Housing Element

Table I-56 and I-57 of 2009 Proposed Update. Change number of housing units for Treasure Island to 8,000.

Map 6 - Generalized Housing Densities by Zoning District. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Recreation and Open Space Element

Map 2 - Public Open Space Service Areas. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Map 4 - Citywide Recreation & Open Space Plan. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Map 9 - Neighborhood Recreation & Open Space Improvement Priority Plan. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Transportation Element

Map 6 - Vehicular Street Map. Amend the area for Treasure Island and Yerba Buena Island to reflect the street grid and street hierarchy of the TI/YBI Area Plan and applicable Design for Development. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Map 7 - Congestion Management Network. Amend the area for Treasure Island and Yerba Buena Island to reflect the street grid and street hierarchy of the TI/YBI Area Plan and applicable Design for Development. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Map 8 - Metropolitan Transportation System. Amend the area for Treasure Island and Yerba Buena Island to reflect the street grid and street hierarchy of the TI/YBI Area Plan and applicable Design for Development. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Map 9 -Transit Preferential Streets. Amend the area for Treasure Island and Yerba Buena Island to reflect the street grid and street hierarchy of the TI/YBI Area Plan and applicable Design for Development. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Map 11 - Citywide Pedestrian Network. Amend the area for Treasure Island and Yerba Buena Island to reflect the street grid and pedestrian network of the TI/YBI Area Plan and applicable Design for Development. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Map 12 - Neighborhood Pedestrian Streets. Amend the area for Treasure Island and Yerba Buena Island to reflect the street grid and pedestrian of the TI/YBI Area Plan and applicable Design for Development. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Map 13 - Bicycle Route Map. Amend the area for Treasure Island and Yerba Buena Island to reflect the street grid and bicycle path network of the TI/YBI Area Plan and applicable Design for Development. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Urban Design Element

Map 1 - Plan To Strengthen City Pattern Through Visually Prominent Landscaping. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Map 2 - Plan For Street Landscaping and Lighting. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Street Areas Important to Urban Design and Views map. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development

Quality of Street Views map. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Map 3 - Where Streets Are Most Important as Sources of Light, Air and Open Space. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Map 4 - Urban Design Guidelines for Height of Buildings. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Map 5 - Urban Design Guidelines for Bulk of Buildings. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Map 7 - Plan For Protected Residential Areas. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Section 3. The Board of Supervisors hereby approves the following amendment to the General Plan to amend the Land Use Index:

Figure II.1 - Generalized Commercial and Industrial Land Use Plan. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Figure II.2 - Generalized Commercial and Industrial Density Plan. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Figure II.3 - Residential Service Areas of Neighborhood Commercial Districts and Uses. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Figure III.2 - Public Open Space Service Areas. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Figure III.3 - Citywide Recreation & Open Space Plan. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Figure III.4 - Citywide Recreation & Open Space Plan. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Figure III.6 - Where Streets Are Most Important as Sources of Light, Air and Open Space. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Figure III.14 - Neighborhood Recreation & Open Space Improvement Priority Plan. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Figure IV.1 - Fire Facilities Plan. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Figure IV.2 - Institutional Facilities Plan. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Figure IV.3 - Library Location Plan. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Figure IV.4 - Police Facilities Plan. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Figure IV.6 - Public Health Centers Plan. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Figure IV.7 - Public School Facilities Plan. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Figure IV.8 - Waste Water and Solid Waste Facilities Plan. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Figure IV.9 - Public School Facilities Plan. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Figure VI.1 - Generalized Commercial and Industrial Land Use Plan. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Figure VI.2 - Generalized Commercial and Industrial Density Plan. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Figure VI.3 - Residential Service Areas of Neighborhood Commercial Districts and Uses. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Figure VI.4 - Urban Design Guidelines for Height of Buildings. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

Figure VI.5 - Urban Design Guidelines for Bulk of Buildings. Insert diagram to show Treasure Island and Yerba Buena Island. Add a boundary around Treasure Island and Yerba Buena Island and refer to the TI/YBI Area Plan and applicable Design for Development.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
John D. Malamut
Deputy City Attorney

City and County of San Francisco
Tails
Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 110228 **Date Passed:** June 14, 2011

Ordinance amending the San Francisco General Plan by amending the Commerce and Industry Element, Community Facilities Element, Housing Element, Recreation and Open Space Element, Transportation Element, Urban Design Element, and Land Use Index, maps and figures in various elements, and by adopting and adding the Treasure Island/Yerba Buena Island Area Plan, in order to facilitate the development of Treasure Island/Yerba Buena Island as endorsed by the Board of Supervisors and the Mayor in 2006 and updated in 2010, and envisioned in the Treasure Island/Yerba Buena Island Development Agreement, adopting findings, including environmental findings and findings of consistency with the General Plan and Planning Code Section 101.1.

May 02, 2011 Land Use and Economic Development Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

May 02, 2011 Land Use and Economic Development Committee - RECOMMENDED AS AMENDED

May 17, 2011 Board of Supervisors - CONTINUED ON FIRST READING

Ayes: 10 - Avalos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Mirkarimi and Wiener
Excused: 1 - Campos

June 07, 2011 Board of Supervisors - PASSED ON FIRST READING

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Mirkarimi and Wiener

June 14, 2011 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Mirkarimi and Wiener

File No. 110228

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 6/14/2011 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor Edwin Lee

June 15, 2011
Date Approved

[Loan Agreement - Maceo May Apts, L.P. - 100% Affordable Housing at 401 Avenue of the Palms - Not to Exceed $24,255,000]

Resolution approving and authorizing the execution of a Loan Agreement with Maceo May Apts, L.P., a California limited partnership, in an amount not to exceed $24,255,000 for a minimum term of 57 years, to finance the construction of a 100% affordable, 105-unit multifamily rental housing development (plus one staff unit) for low and moderate income veteran households at 401 Avenue of the Palms; and adopting findings that the Loan Agreement is consistent with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

WHEREAS, The City and County of San Francisco, acting through the Mayor's Office of Housing and Community Development ("MOHCD"), administers a variety of housing programs that provide financing for the development of new housing and the rehabilitation of single- and multi-family housing for low- and moderate-income households in San Francisco; and

WHEREAS, MOHCD enters into loan agreements with affordable housing developers and operators; administers loan agreements; reviews annual audits and monitoring reports; monitors compliance with affordable housing requirements in accordance with capital funding regulatory agreements; and if necessary, takes appropriate action to enforce compliance; and

WHEREAS, The Treasure Island Development Authority ("TIDA") acquired real property from the United States Navy at Treasure Island and Yerba Buena Island for the purpose of developing residential and commercial building, including the development of 435 units of affordable housing by members of the Treasure Island Homeless Development Initiative (the "Project"); and

WHEREAS, A Finding of Suitability was approved on February 15, 2006, and a Final Environmental Impact Report ("EIR") for the Treasure Island/Yerba Buena Island Redevelopment Project was certified on April 21, 2011, by the Board of Supervisors under Resolution 246-11, which Resolution is on file with the Clerk of the Board of Supervisors in File No. 110328, and incorporated herein by this reference; and

WHEREAS, Mitigation measures were identified in the Treasure Island and Yerba Buena Island Mitigation Monitoring and Reporting Program for the Project; and

WHEREAS, The Planning Commission determined that the Project, and the various actions being taken by the City and TIDA to approve and implement the Project, are consistent with the General Plan, and with the eight priority policies of Planning Code, Section 101.1, and made findings in connection therewith (the "General Plan Consistency Determination"), a copy of which is on file with the Clerk of the Board of Supervisors in File No. 110228 and is incorporated into this Resolution by reference; and

WHEREAS, The Board of Supervisors adopted findings contained in the General Plan Consistency Determination as its own under Resolution No. 241-11, and said findings of consistency with the General Plan, are on file with the Clerk of the Board of Supervisors in File No. 110228, and incorporated into this Resolution by reference; and

WHEREAS, TIDA and Treasure Island Community Development, LLC, entered into that certain Disposition and Development Agreement dated June 28, 2011 (the "DDA"), and pursuant to the Housing Plan (Exhibit E) of the DDA, TIDA is committed to the development of affordable housing; and

WHEREAS, TIDA is the fee owner of Assessor's Parcel C3.2, San Francisco, also known by its street address as "401 Avenue of the Palms" (the "Property"), a land parcel with approximately 32,203 square feet area; and

WHEREAS, Chinatown Community Development Corporation, a California nonprofit public benefit corporation ("CCDC) and Swords to Plowshares, a California nonprofit public benefit corporation ("STP") were selected by TIDA pursuant to the DDA to jointly develop a 100% affordable, supportive housing project with approximately 105 rental units for low-income veteran households on the Property (the "Maceo Project"); and

WHEREAS, STP and CCDC established a separate entity named Maceo May Apts, L.P., a California limited partnership ("Sponsor") under which to lease the Maceo May Property from TIDA and develop the Maceo Project; and

WHEREAS, On March 14, 2018, TIDA and Maceo May Apts, L.P. entered into an Option to Lease Agreement for the purpose of development and construction of the Maceo Project; and

WHEREAS, On November 15, 2019, the Citywide Affordable Housing Loan Committee, consisting of MOHCD, Department of Homeless and Supportive Housing, and the Office of Community Investment and Infrastructure, recommended approval to the Mayor of a loan for the Maceo Project in an amount not to exceed $24,255,000; and

WHEREAS, To leverage equity from an allocation of low-income housing tax credits, issuance of tax exempt bonds, and other funding sources in order for Sponsor to construct the Maceo Project, MOHCD desires to provide a loan in the amount not to exceed $24,255,000 to the Sponsor pursuant to a Loan Agreement ("Agreement") in substantially the form on file with the Clerk of the Board of Supervisors in File No. 191300, and in such final form as approved by the Acting Director of MOHCD and the City Attorney; and

WHEREAS, The material terms of the Agreement include: (i) a minimum term of 57 years; (ii) an interest rate of up to one percent (1%); (iii) annual repayment of the loan through residual receipts from the Maceo Project; (iv) the Maceo Property shall be restricted for the life of the Project as affordable housing to low- and moderate-income veteran households with

annual maximum rent and income established by MOHCD; (v) the loan shall be secured by a deed of trust recorded against the Sponsor's leasehold interest in the Maceo Property; now, therefore, be it

RESOLVED, That the Board of Supervisors hereby finds that the Maceo Project is consistent with the General Plan, and with the eight priority policies of Planning Code, Section 101.1 for the same reasons as set forth in the General Plan Consistency Determination; and, be it

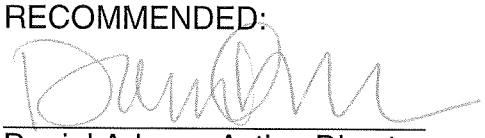
FURTHER RESOLVED, That the Board of Supervisors hereby approves the Agreement and authorizes the Mayor and the Acting Director of MOHCD or his designee to enter into any amendments or modifications to the Agreement (including, without limitation, preparation and attachment or, or changes to, any of all of the exhibits and ancillary agreements) and any other documents or instruments necessary in connection therewith that the Acting Director determines, in consultation with the City Attorney, are in the best interest of the City, do not materially increase the obligations or liabilities for the City or materially diminish the benefits of the City, are necessary or advisable to effectuate the purposes and intent of this Resolution and are in compliance with all applicable laws, including the City Charter; and, be it

FURTHER RESOLVED, That the Board of Supervisors hereby authorizes and delegates to the Mayor and Acting Director of MOHCD, and his designee, the authority to undertake any actions necessary to protect the City's financial security in the Maceo Property and enforce the affordable housing restrictions, which may include, curing the default under a senior loan; and, be it

FURTHER RESOLVED, That all actions authorized and directed by this Resolution and heretofore taken are hereby ratified, approved and confirmed by this Board of Supervisors; and, be it

FURTHER RESOLVED, That within thirty (30) days of the Agreement being fully executed by all parties, MOHCD shall provide the final Agreement to the Clerk of the Board for inclusion into the official file.

RECOMMENDED:



Daniel Adams, Acting Director
Mayor's Office of Housing and Community Development

City and County of San Francisco
Tails
Resolution

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 191300 **Date Passed:** January 14, 2020

Resolution approving and authorizing the execution of a Loan Agreement with Maceo May Apts, L.P., a California limited partnership, in an amount not to exceed $24,255,000 for a minimum term of 57 years, to finance the construction of a 100% affordable, 105-unit multifamily rental housing development (plus one staff unit) for low and moderate income veteran households ("Maceo Project") at 401 Avenue of the Palms; and adopting findings that the Loan Agreement is consistent with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

January 08, 2020 Budget and Finance Committee - RECOMMENDED

January 14, 2020 Board of Supervisors - ADOPTED

Ayes: 11 - Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee

File No. 191300

I hereby certify that the foregoing Resolution was ADOPTED on 1/14/2020 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Angela Calvillo
Clerk of the Board

London Breed
London N. Breed
Mayor

1/24/20
Date Approved

[Disposition and Development Agreement and Interagency Cooperation Agreement - Treasure Island/Yerba Buena Island]

Resolution approving a Disposition and Development Agreement between the Treasure Island Development Authority and Treasure Island Community Development, LLC, for certain real property located on Treasure Island and Yerba Buena Island; approving an Interagency Cooperation Agreement between the City and the Treasure Island Development Authority; and adopting findings, including findings that the agreements are consistent with the City's General Plan and Eight Priority Policies of City Planning Code Section 101.1 and findings under the California Environmental Quality Act.

WHEREAS, Former Naval Station Treasure Island (the "Base" or "Treasure Island") is a former military base consisting of approximately 550 acres on Treasure Island and Yerba Buena Island, and is currently owned by the United States of America, acting by and through the Department of the Navy (the "Navy"); and,

WHEREAS, The Base was selected for closure and disposition by the Base Realignment and Closure Commission in 1993, acting under Public Law 101-510, and its subsequent amendments, and the Base ceased operations in 1997; and,

WHEREAS, Under the Treasure Island Conversion Act of 1997 (AB 699), which amended Section 33492.5 of the California Health and Safety Code and added Section 2.1 to Chapter 1333 of the Statutes of 1968, the State Legislature (i) granted to the Board of Supervisors the authority to designate the Treasure Island Development Authority ("TIDA") as a redevelopment agency under California Community Redevelopment Law with authority over the Base; and (ii) with respect to those portions of the Base that are subject to the public trust for commerce, navigation and fisheries (the "Public Trust"), vested in TIDA the authority to administer the Public Trust as to such property; and,

WHEREAS, In 1994, the Treasure Island/Yerba Buena Island Citizens Advisory Board ("CAB") was formed to (1) review reuse planning efforts for Treasure Island by the San Francisco Planning Department and the San Francisco Redevelopment Agency, and (2) make recommendations to the City's Planning Commission and Board of Supervisors; and,

WHEREAS, After completion of a competitive master developer selection process, in 2003, TIDA and Treasure Island Community Development, LLC ("Developer") entered into an Exclusive Negotiating Agreement ("ENA") with respect to portions of Treasure Island and Yerba Buena Island to facilitate the planning for the reuse and development of the Base (the "Project"); and,

WHEREAS, The ENA and its subsequent amendments set forth the terms and conditions under which TIDA and the Developer have been negotiating a Disposition and Development Agreement and other transaction documents for the conveyance, management and reuse and redevelopment of portions of the Base ~~consisting of those portions of Assessor's Block 1939, Lots 1 and 2~~ described as the "Project Site" in the Disposition and Development Agreement, including a schedule of performance for major milestones; and,

WHEREAS, One of the key milestones in the ENA was the completion of a comprehensive Term Sheet summarizing the key policy goals, basic development guidelines, financial framework and other key terms and conditions that formed the basis for the negotiation and completion of the Disposition and Development Agreement and final transaction documents; and,

WHEREAS, In 2006, the Board of Supervisors by Resolution No. 699-06 endorsed a Development Plan and Term Sheet for the Project that set forth the proposed terms of the Project, a copy of which Resolution is on file with the Clerk of the Board of Supervisors in File No. 061498 and incorporated herein by reference; and,

WHEREAS, In May of 2010, the Board of Supervisors endorsed a package of legislation that included an update to the Development Plan and Term Sheet, terms of an Economic Development Conveyance Memorandum of Agreement for the conveyance of the site from the Navy to the TIDA, and a Term Sheet between TIDA and the Treasure Island Homeless Development Initiative ("TIHDI") in Resolution Nos. 242-10, 243-10 and 249-10, copies of which Resolutions are on file with the Clerk of the Board of Supervisors in File Nos. 100428, 100429 and 100432, and incorporated herein by reference; and,

WHEREAS, The Navy and TIDA have negotiated an Economic Development Conveyance Memorandum of Agreement (the "Conveyance Agreement") that governs the terms and conditions for the transfer of the Base from the Navy to TIDA, which is concurrently being considered by the Board of Supervisors, a copy of which is on file with the Clerk of the Board of Supervisors in File No. 110290, and incorporated herein by reference; and,

WHEREAS, The City, acting through the Board of Supervisors, is concurrently considering a General Plan Amendment, including adopting a Treasure Island/Yerba Buena Island Area Plan (the "General Plan Amendment"), Planning Code Amendments, including adoption of the Treasure Island/Yerba Buena Island Special Use District ("SUD"), and a Development Agreement~~the Treasure Island and Yerba Buena Island Design for Development (the "Design for Development"), which is referenced in the SUD~~; and,

WHEREAS, TIDA, the City and the CAB have been working for more than a decade to plan for the reuse and development of Treasure Island, and as a result of this community-based planning process, TIDA and the Developer have negotiated the Disposition and Development Agreement, the purpose of which is to govern the disposition and subsequent development of the Project after the Navy's transfer of Treasure Island to TIDA in accordance with the Conveyance Agreement; and,

WHEREAS, Under the Disposition and Development Agreement and other transaction documents, the Project is anticipated to include (1) up to 8,000 new residential units, at least 25 percent of which (2,000 units) will be made affordable to a broad range of very-low to moderate income households, including 435 units to be developed by TIHDI and its member organizations, (2) adaptive reuse of approximately 311,000 square feet of historic structures, (3) up to approximately 140,000 square feet of new retail uses and 100,000 square feet of commercial office space, (4) approximately 300 acres of parks and open space, (5) new and/or upgraded public facilities, including a joint police/fire station, a school, facilities for the Treasure Island Sailing Center and other community facilities, (6) a 400-500 room hotel, (7) landside improvements for a new 400 slip marina, and (8) transportation infrastructure, including a ferry/quay intermodal transit center; and,

WHEREAS, TIDA wishes to enter into the Disposition and Development Agreement with the Developer, substantially in the form on file with the Clerk of the Board in File No. 110291, and incorporated herein by reference; and,

WHEREAS, The Disposition and Development Agreement governs the Developer's right to develop the Project in a series of Major Phases and Sub-Phases and to sell or ground lease developable lots to vertical developers for development, all in accordance with all of the governing land use and entitlement documents, including the General Plan Amendment, the SUD, ~~and~~ the Development Agreement~~Design for Development~~ and the Mitigation Monitoring and Reporting Program; and,

WHEREAS, The Disposition and Development Agreement also governs the Developer's obligations with respect to the Project and requires the Developer to invest hundreds of millions of dollars of private capital in the initial construction of public infrastructure, affordable housing and community benefits and payment of the Navy payments under the Conveyance Agreement; and,

WHEREAS, The Housing Plan attached to the Disposition and Development Agreement includes the Transition Housing Rules and Regulations that the TIDA Board of Directors approved on April 21, 2011 by Resolution No. 11-16-04/21 to implement direction from the Board of Supervisors that existing residents be provided with the opportunity to remain on Treasure Island; and,

WHEREAS, The Financing Plan attached to the Disposition and Development Agreement provides that TIDA and the City will incur financial obligations to finance certain costs of the Project, including the formation of one or more infrastructure financing districts ("IFDs") under applicable provisions of the California Government Code (the "IFD Law") to finance acquisition and construction of certain public infrastructure facilities described in the Financing Plan and replacement housing to the extent required by the IFD Law; and,

WHEREAS, The Disposition and Development Agreement includes a Schedule of Performance that includes outside dates for the completion of public infrastructure, public parks and open space, community facilities, and payment of subsidies for affordable housing, transportation, communities facilities, and open space operations and maintenance; and,

WHEREAS, The Disposition and Development Agreement provides TIDA with remedies in the event that the Developer does not meet its obligations under the Schedule of Performance or other provisions of the Disposition and Development Agreement, these remedies include, but are not limited to, specific performance, liquidated damages, termination and a right of reverter; and,

WHEREAS, In order to promote development in accordance with objectives and purposes of the Disposition and Development Agreement, the City intends to undertake and complete proceedings and actions necessary to be carried out by the City to assist in implementation of the Disposition and Development Agreement; specifically, the City wishes to enter into an Interagency Cooperation Agreement with TIDA, substantially in the form on

file with the Clerk of the Board in File No. 110291 and incorporated herein by reference (the "Interagency Cooperation Agreement"), to provide for cooperation between the City and TIDA in administering the process for control and approval of subdivisions, and other applicable land use, development, construction, improvement, infrastructure, occupancy and use requirements, and in establishing the policies and procedures relating to such approvals and other actions as set forth in the Interagency Cooperation Agreement for the Project Site; and,

WHEREAS, On April 21, 2011, the Planning Commission by Motion No. 18325 and the TIDA Board of Directors by Resolution No. 11-14-04/21, as co-lead agencies, certified the completion of the Final Environmental Impact Report for the Project, of which the Disposition and Development Agreement and the Interagency Cooperation Agreement form a part; and,

~~WHEREAS, On _____, 2011, the TIDA Board of Directors, by Resolution No. _____, adopted environmental findings pursuant to the California Environmental Quality Act ("CEQA") with respect to approval of the Project, including the mitigation monitoring and reporting program and a statement of overriding considerations; and,~~

~~WHEREAS, On _____, 2011, the Planning Commission, by Motion No. _____, adopted environmental findings pursuant to CEQA with respect to approval of the Project, including a mitigation monitoring and reporting program and a statement of overriding considerations; and,~~

WHEREAS, The Planning Commission determined that the Project, and the various actions being taken by the City and TIDA to approve and implement the Project, are consistent with the General Plan and with the Eight Priority Policies of City Planning Code Section 101.1, and made findings in connection therewith (the "General Plan Consistency

Determination"), a copy of which is on file with the Clerk of the Board of Supervisors in File No. 110228 and is incorporated into this Resolution by reference; and,

WHEREAS, The Board of Supervisors has reviewed and considered the information contained in the General Plan Consistency Determination, and concurrently with this Resolution is adopting said findings as its own and said findings are on file with the Clerk of the Board of Supervisors in File No. 110228, and incorporated into this Resolution by reference; and,

WHEREAS, Concurrently with this Resolution, the Board of Supervisors has adopted Resolution No. 246-11, adopting findings under the California Environmental Quality Act~~CEQA~~, including the adoption of a mitigation monitoring and reporting program and a statement of overriding considerations in connection with the development of the Project, which Resolution is on file with the Clerk of the Board of Supervisors in File No. 110328, and incorporated herein by reference; and,

WHEREAS, The Interagency Cooperation Agreement was presented to the CAB at a duly noticed public meeting~~s~~ on January 18~~_____~~, 2011~~ and _____, 2011~~, and on April 19~~_____~~, 2011 the CAB voted to recommend~~endorse~~ the Interagency Cooperation Agreement; and,

WHEREAS, The Disposition and Development Agreement was presented to the CAB at a duly noticed public meeting~~s~~ on March 8~~_____~~, 2011~~ and _____, 2011~~, and on April 19~~_____~~, 2011 the CAB voted to recommend~~endorse~~ the Disposition and Development Agreement; and,

WHEREAS, The Interagency Cooperation Agreement was presented to the TIDA Board at a duly noticed public meeting~~s~~ on January 26~~_____~~, 2011~~ and _____, 2011~~, and on April 27~~_____~~, 2011 the TIDA Board voted to approve the Interagency Cooperation Agreement; and,

WHEREAS, The Disposition and Development Agreement was presented to the TIDA Board at a duly noticed public meetings on March 9, 2011 ~~and~~ ~~, 2011~~, and on April 21, 2011 the TIDA Board voted to approve the Disposition and Development Agreement; and,

WHEREAS, TIDA's organizational documents require TIDA to obtain approval from the Board of Supervisors prior to entering into contracts with a term of more than 10 years or $1 million or more in anticipated revenue; and,

WHEREAS, The Interagency Cooperation Agreement and the Disposition and Development Agreement are contracts with a term in excess of 10 years, provided that it is not terminated; now, therefore, be it,

RESOLVED, That the Board of Supervisors finds that the Disposition and Development Agreement and the Interagency Cooperation Agreement are consistent with the General Plan and the Eight Priority Policies of City Planning Code Section 101.1 for the reasons set forth in the General Plan Consistency Determination; and, be it

FURTHER RESOLVED, That the Board of Supervisors determines that the Project proposed under the Disposition and Development Agreement and the Interagency Cooperation Agreement is in the best interests of TIDA, the City, and the health, safety, morals and welfare of its residents, and is in accordance with the public purposes and provisions of applicable federal, state an local laws and requirements; and, be it

FURTHER RESOLVED, That the Board of Supervisors hereby approves and authorizes the Treasure Island Project Director ~~of Redevelopment for TIDA~~ ("Director") to execute the Disposition and Development Agreement between TIDA and the Developer, and approves and authorizes the Director and the appropriate City officers to execute the Interagency Cooperation Agreement between TIDA and the City, in substantially the forms filed with the Clerk of the Board in File No. 110291, and any additions, amendments or other

modifications to such agreements (including, without limitation, its exhibits) that the Director, on behalf of TIDA, and the applicable City officers, on behalf of the City with respect to the Interagency Cooperation Agreement, determine, in consultation with the City Attorney, are in the best interests of TIDA and the City, do not otherwise materially increase the obligations or liabilities of TIDA or the City or decrease the benefits to TIDA or the City, and are necessary or advisable to effectuate the purpose and intent of this Resolution; and, be it

FURTHER RESOLVED, That to the extent that implementation of the Disposition and Development Agreement involves the execution and delivery of additional agreements, notices, consents and other instruments or documents by TIDA that have a term in excess of 10 years or anticipated revenues of $1 million or more, including, without limitation, instruments conveying developable lots to vertical developers (including, without limitation, Vertical Disposition and Development Agreements, Ground Leases, Lease Disposition and Development Agreements, Assignment and Assumption Agreements and Permits to Enter) (collectively, "Subsidiary Agreements"), TIDA and the Director, as they or any of them deem necessary or appropriate, in consultation with the City Attorney, are hereby authorized to enter into all such Subsidiary Agreements so long as the transactions governed by such Subsidiary Agreements are contemplated in the Disposition and Development Agreement, do not otherwise materially increase the obligations or liabilities of TIDA, and are necessary and advisable to effectuate the purpose and intent of this Resolution, such determination to be conclusively evidenced by the execution and delivery by such person or persons of any such documents; and, be it

FURTHER RESOLVED, That the Board of Supervisors authorizes and urges the Mayor, Controller, and any other officers, agents, and employees of the City to take any and all steps (including the execution and delivery of any and all agreements, notices, consents and other instruments or documents) as they or any of them deem necessary or appropriate,

in consultation with the City Attorney, in order to consummate the Disposition and Development Agreement, the Interagency Cooperation Agreement and any Subsidiary Agreement in accordance with this Resolution, or to otherwise effectuate the purpose and intent of this Resolution, such determination to be conclusively evidenced by the execution and delivery by such person or persons of any such documents.

City and County of San Francisco
Tails
Resolution

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 110291 **Date Passed:** June 07, 2011

Resolution approving a Disposition and Development Agreement between the Treasure Island Development Authority and Treasure Island Community Development, LLC, for certain real property located on Treasure Island/Yerba Buena Island; approving an Interagency Cooperation Agreement between the City and the Treasure Island Development Authority; and adopting findings, including findings that the agreements are consistent with the City's General Plan and Eight Priority Policies of City Planning Code Section 101.1, and findings under the California Environmental Quality Act.

May 02, 2011 Land Use and Economic Development Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

May 02, 2011 Land Use and Economic Development Committee - REFERRED AS AMENDED

May 11, 2011 Budget and Finance Sub-Committee - REFERRED WITHOUT RECOMMENDATION

May 17, 2011 Board of Supervisors - CONTINUED

Ayes: 10 - Avalos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Mirkarimi and Wiener
Excused: 1 - Campos

June 07, 2011 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Mirkarimi and Wiener

June 07, 2011 Board of Supervisors - ADOPTED AS AMENDED

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Mirkarimi and Wiener

File No. 110291

I hereby certify that the foregoing Resolution was ADOPTED AS AMENDED on 6/7/2011 by the Board of Supervisors of the City and County of San Francisco.

for

Angela Calvillo
Clerk of the Board

Mayor Edwin Lee

6/13/11

Date Approved

San Francisco Ethics Commission
25 Van Ness Avenue, Suite 220, San Francisco, CA 94102
Phone: 415.252.3100 . Fax: 415.252.3112
ethics.commission@sfgov.org . www.sfethics.org

Received On:

File #: 221172

Bid/RFP #:

Notification of Contract Approval

SFEC Form 126(f)4
(S.F. Campaign and Governmental Conduct Code § 1.126(f)4)
A Public Document

Each City elective officer who approves a contract that has a total anticipated or actual value of $100,000 or more must file this form with the Ethics Commission within five business days of approval by: (a) the City elective officer, (b) any board on which the City elective officer serves, or (c) the board of any state agency on which an appointee of the City elective officer serves. For more information, see: https://sfethics.org/compliance/city-officers/contract-approval-city-officers

1. FILING INFORMATION

TYPE OF FILING	DATE OF ORIGINAL FILING (*for amendment only*)
Original	
AMENDMENT DESCRIPTION – Explain reason for amendment	

2. CITY ELECTIVE OFFICE OR BOARD

OFFICE OR BOARD	NAME OF CITY ELECTIVE OFFICER
Board of Supervisors	Members

3. FILER'S CONTACT

NAME OF FILER'S CONTACT	TELEPHONE NUMBER
Angela Calvillo	415-554-5184
FULL DEPARTMENT NAME	**EMAIL**
Office of the Clerk of the Board	Board.of.Supervisors@sfgov.org

4. CONTRACTING DEPARTMENT CONTACT

NAME OF DEPARTMENTAL CONTACT	DEPARTMENT CONTACT TELEPHONE NUMBER
Cindy Heavens	628-652-5831
FULL DEPARTMENT NAME	**DEPARTMENT CONTACT EMAIL**
MYR Mayor's Office of Housing & Comm. Dev	cindy.heavens@sfgov.org

5. CONTRACTOR	
NAME OF CONTRACTOR Maceo May Apts., L.P.	**TELEPHONE NUMBER** 415-929-0759
STREET ADDRESS (including City, State and Zip Code) 1525 Grant Avenue, San Francisco, CA 94133	**EMAIL** joanna.ladd@chinatowncdc.org

6. CONTRACT		
DATE CONTRACT WAS APPROVED BY THE CITY ELECTIVE OFFICER(S)	**ORIGINAL BID/RFP NUMBER**	**FILE NUMBER (*If applicable*)** 221172
DESCRIPTION OF AMOUNT OF CONTRACT $39,238,000		
NATURE OF THE CONTRACT *(Please describe)* The City, acting through MOHCD, has a permanent loan in the amount of $24,255,000 ("Original Loan") for Maceo May. The Original Loan was approved by the Board of Supervisors on January 14, 2020. This resolution is an amendment to increase the Original Loan by $14,983,000, for a new total loan amount not to exceed $39,238,000 to finance additional construction costs and loss of permanent financing to Maceo May, a 100% affordable development for veterans and formerly homeless veterans, located on Treasure Island.		

7. COMMENTS

8. CONTRACT APPROVAL	
This contract was approved by:	
☐	**THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM**
☒	**A BOARD ON WHICH THE CITY ELECTIVE OFFICER(S) SERVES** Board of Supervisors
☐	**THE BOARD OF A STATE AGENCY ON WHICH AN APPOINTEE OF THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM SITS**

9. AFFILIATES AND SUBCONTRACTORS

List the names of (A) members of the contractor's board of directors; (B) the contractor's principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
1	Chin	Jane	Other Principal Officer
2	Zoubi	Faby	Other Principal Officer
3	Nguyen	James	Other Principal Officer
4	Brookter	Dion-Jay	Board of Directors
5	Chang	Eric	Board of Directors
6	Chan	Tommy	Board of Directors
7	Cheng	Claudin	Board of Directors
8	Cordero	Terence	Board of Directors
9	Fagler	James	Board of Directors
10	Hilton	Irene	Board of Directors
11	Hollins	Guy	Board of Directors
12	Leadbetter	Julie	Board of Directors
13	Lee	Olson	Board of Directors
14	Lim	Aaron	Board of Directors
15	Lin	Barbara	Board of Directors
16	Lin	Wendell	Board of Directors
17	Ortiz	Kevin	Board of Directors
18	Poe	Irma	Board of Directors
19	Quock	Lindsey	Board of Directors

9. AFFILIATES AND SUBCONTRACTORS

List the names of (A) members of the contractor's board of directors; (B) the contractor's principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
20	Rosenquest	Nils	Board of Directors
21	Saini	Ramneek	Board of Directors
22	Wong	Susan	Board of Directors
23	Zhang	Mary	Board of Directors
24	Cane	Julie	CEO
25	Dekshenieks	Michael	Other Principal Officer
26	Fassler	Michael	Other Principal Officer
27	Cox	Paul	Board of Directors
28	Edwards	Erik	Board of Directors
29	Guy	Dottie	Board of Directors
30	Houlberg	Rick	Board of Directors
31	Marquez	Jon	Board of Directors
32	Ordona	Palcido "Joe"	Board of Directors
33	Plath	Stephen	Board of Directors
34	Richardson	Kate	Board of Directors
35	Saavedra	Barbara	Board of Directors
36	Seymour	Deleano "Del"	Board of Directors
37	Thiel	Michael	Board of Directors
38	Trevorrow	Robert	Board of Directors

9. AFFILIATES AND SUBCONTRACTORS

List the names of (A) members of the contractor's board of directors; (B) the contractor's principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
39	Blecker	Michael	Other Principal Officer
40	Yeung	Malcolm	Other Principal Officer
41			
42			
43			
44			
45			
46			
47			
48			
49			
50			

☐ Check this box if you need to include additional names. Please submit a separate form with complete information. Select "Supplemental" for filing type.

10. VERIFICATION

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information I have provided here is true and complete.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

SIGNATURE OF CITY ELECTIVE OFFICER OR BOARD SECRETARY OR CLERK	DATE SIGNED
BOS Clerk of the Board	

From:	Conine-Nakano, Susanna (MYR)
To:	BOS Legislation, (BOS)
Cc:	Paulino, Tom (MYR); Geithman, Kyra (MYR); Nickolopoulos, Sheila (MYR); Gluckstein, Lisa (MYR); Tam, Madison (BOS)
Subject:	Mayor -- Resolution -- Maceo May Loan Agreement
Date:	Tuesday, November 15, 2022 4:29:11 PM
Attachments:	Mayor -- Resolution -- Maceo May Loan Agreement Pt. 1.zip

Hello Clerks,

Attached for introduction to the Board of Supervisors is a Resolution approving and authorizing the execution of a First Amendment to the Amended and Restated Loan Agreement with Maceo May Apts, L.P., a California limited partnership, to increase the loan amount by $14,983,000, for a new total loan amount not to exceed $39,238,000 to finance additional construction costs and loss of permanent financing related to the 100% affordable, 105-unit multifamily rental housing development (plus 1 staff unit) for low and moderate income veteran households located at 55 Cravath Street (formerly 401 Avenue of the Palms) on Treasure Island ("Maceo Project"); and adopting findings that the First Amendment to the Amended and Restated Loan Agreement is consistent with the City's General Plan and the priority policies of Planning Code Section 101.1.

Please note that Supervisor Dorsey is a co-sponsor of this legislation.

I will send the packet in two emails due to the large file sizes.

Best,
Susanna

Susanna Conine-Nakano
Office of Mayor London N. Breed
City & County of San Francisco
1 Dr. Carlton B. Goodlett Place, Room 200
San Francisco, CA 94102
415-554-6147