

1 Amendment to the John Stewart Company Sublease

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3 **Resolution approving and authorizing the execution of a Fifth Amendment to Sublease**
4 **with the John Stewart Company to discontinue Earthquake and Flood Insurance.**

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6 WHEREAS, Naval Station Treasure Island is a military base located on Treasure Island
7 and Yerba Buena Island (together, the "Base"), which is currently owned by the United States
8 of America; and,

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

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

18 WHEREAS, Under the Treasure Island Conversion Act of 1997, which amended
19 Section 33492.5 of the California Health and Safety Code and added Section 2.1 to Chapter
20 1333 of the Statutes of 1968 (the "Act"), the California legislature (i) designated the Authority
21 as a redevelopment agency under California redevelopment law with authority over the Base
22 upon approval of the City's Board of Supervisors, and, (ii) with respect to those portions of the
23 Base which are subject to the Tidelands Trust, vested in the Authority the authority to
24 administer the public trust for commerce, navigation and fisheries as to such property; and,

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1 WHEREAS, The Board of Supervisors approved the designation of the Authority as a
2 redevelopment agency for Treasure Island in 1997; and,

3 WHEREAS, On March 17, 1999, The John Stewart Company (“JSCO”) and the
4 Authority entered into a Sublease, Development, Marketing and Property Management
5 Agreement (the “Sublease”) for the development, marketing and property management of up
6 to 766 housing units, as shown on Exhibits B-1 and B-2 of the Sublease (the “Premises”) at
7 former Naval Station, Treasure Island, in San Francisco, California; and,

8 WHEREAS, The parties have entered into the following amendments to the Sublease
9 with the approval of the Authority's Board of Directors and the Board of Supervisors: a First
10 Amendment dated August 15, 2000, to amend the Premises; a Second Amendment dated
11 June 12, 2003, to amend the Phase 1 and 2 Premises and the Rent Schedule; a Third
12 Amendment dated March 22, 2006, to extend the term of the Sublease on a month-to-month
13 basis not to exceed the effective date of a disposition and development agreement between
14 the Authority and a master developer for Treasure Island and Yerba Buena Island; and a
15 Fourth Amendment dated August 8, 2006, to increase residential utilities rates; and,

16 WHEREAS, Under Section 25.1 (e) of the Sublease, JSCO is required to provide
17 Earthquake and Flood Insurance coverage totaling \$8,000,000 after a \$1,000,000 deductible
18 per occurrence costing JSCO approximately \$276,000 annually; and,

19 WHEREAS, The Risk Manager for the City and County of San Francisco has reviewed
20 the requirement that JSCO secure Earthquake and Flood Insurance for the Sublease
21 Premises and concluded the current coverage would not be of benefit to the Authority given
22 both the limited level of coverage and requirements under the policy to replace the structures
23 that may sustain major damage, which may not be allowed due to the existence of the
24 Tidelands Trust; now, therefore be it

1 RESOLVED, That the Board of Supervisors hereby approves and authorizes the
2 Director of Island Operations of the Authority to execute and enter into the Fifth Amendment
3 to the Sublease, Development, Marketing and Property Management Agreement between the
4 Authority and JSCO, in substantially the form filed with the Clerk of the Board of Supervisors
5 in File No. 090679, and any additions, amendments or other modifications to such Fifth
6 Amendment (including, without limitation, its exhibits) that the Director of Island Operations of
7 the Authority or her designee determines, in consultation with the City Attorney, are in the best
8 interests of the Authority and do not otherwise materially increase the obligations or liabilities
9 of the Authority, and are necessary or advisable to effectuate the purpose and intent of this
10 resolution.

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12 RECOMMENDED:

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14 Mirian Saez, Director of Island Operations
15 Treasure Island Development Authority

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