File No. 240207 **Committee Item No.** 1
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

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Prepared by: John Carroll **Date:** April 11, 2024
Prepared by: _____ **Date:** _____
Prepared by: _____ **Date:** _____

[Endorsing the Aspirational Statement for Treasure Island and Yerba Buena Island]

Resolution endorsing the joint aspirational statement of the public, nonprofit, and private entities known as the Treasure Island Development Authority (TIDA), One Treasure Island (OTI), and Treasure Island Community Development (TICD).

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

WHEREAS, The Base was selected for closure and disposition by the Base Realignment and Closure Commission in 1993; and,

WHEREAS, The Base was selected for closure and disposition by the Base Realignment and Closure Commission in 1993; and

WHEREAS, The Authority has supported TIHDI pursuant to the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 by contracting with TIHDI for the performance of services related to (i) the coordination and facilitation of community-based homeless service organizations in Treasure Island community activities; (ii) participation in the development process to support development plans which implement the proposed Homeless Assistance Agreement; (iii) development of housing units allocated to TIHDI under the Homeless Assistance Agreement; (iv) operation of a job broker system and economic self-sufficiency programs for Island residents; and (v) implement community serving and development components, Job Broker and First Source compliance and economic development opportunities as indicated in the Jobs and Equal Opportunity Program (“JEOP”) (collectively, the "Services"); and

WHEREAS, On November 26, 1996, the US Department of Housing and Urban Development approved the Base Closure Homeless Assistance Agreement and Option to

Lease Real Property (“Homeless Assistance Agreement”) between the City & County of San Francisco (the “City”) as the Local Reuse Authority for Treasure Island and the Treasure Island Homeless Development Initiative (“TIHDI”), which Homeless Assistance Agreement was drafted as an element of the City’s election to comply with the conditions of the Base Closure, Community Redevelopment and Homeless Assistance Act of 1994 (the “Act”) which requires the City to propose a plan for using base resources to assist homeless persons in the City; and

WHEREAS, On May 2, 1997, the Board of Supervisors passed Resolution No. 380-97, authorizing the Mayor's Treasure Island Project Office to establish a nonprofit public benefit corporation known as the Treasure Island Development Authority, a public body, corporate and politice of the State of California, to act as a single entity focused on the planning, redevelopment, reconstruction, rehabilitation, reuse and conversion of the Base for the public interest, convenience, welfare and common benefit of the inhabitants of the City and County of San Francisco (the “City”), which is on file with the Clerk of the Board of Supervisors and is incorporated herein by reference; and

WHEREAS, The Authority, acting by and through its Board of Directors (the "Authority Board"), has the power, subject to applicable laws, to sell, lease, exchange, transfer, convey or otherwise grant interests in or rights to use or occupy all or any portion of the Base; and

WHEREAS, In 2003, Treasure Island Community Development, LLC (the "Master Developer") was selected as master developer for the Base following a competitive process; and

WHEREAS, The Authority, the Authority Board, the Treasure Island Citizens Advisory Board, the City, TIHDI and the Master Developer worked 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, the Authority and Master Developer negotiated the Disposition and

Development Agreement ("DDA") to govern the disposition and subsequent development of the proposed development project (the "Project"); and

WHEREAS, On April 21, 2011, in a joint session with the Planning Commission, the Authority Board unanimously approved a series of entitlement and transaction documents relating to the redevelopment of the islands and the relative responsibilities of TIDA, TIHDI and TICD, including certain environmental findings under the California Environmental Quality Act ("CEQA"), Mitigation Monitoring and Reporting Program, and DDA and other transaction documents; and

WHEREAS, On June 7, 2011, the Board of Supervisors unanimously confirmed certification of the final environmental impact report and made certain environmental findings under CEQA (collectively, the "FEIR") by Resolution No. 246-11, which is on file with the Clerk of the Board of Supervisors and is incorporated herein by reference, and approved the DDA and other transaction documents; and

WHEREAS, On May 2, 2011 the Board of Supervisors amended the General Plan through Ordinance number 97-11 to adopt the Treasure Island and Yerba Buena Island Area Plan; and

WHEREAS, The General Plan speaks to the importance of supporting the diversity of residents and a unique built form with Objective 1: Realize the full potential of the underutilized Treasure Island/Yerba Buena islands by creating a complete new neighborhood that includes facilities and amenities necessary to support a diverse and thriving community, and Objective 2: Create a diverse urban neighborhood that responds to the island and waterfront setting and reflects San Francisco's built form and character in a sustainable and innovative way; and

WHEREAS, In 2018, TIHDI became One Treasure Island (One TI) to reflect its vision to create an inclusive mixed income community; and

WHEREAS, Now the development of the islands is significantly underway with nearly 1,000 new residential units complete or in construction along with new city infrastructure like new parks, roads, and public art; and

WHEREAS, Currently both Treasure Island and Yerba Buena Islands are designated as an Environmental Justice community due to higher pollution levels and predominately low-income income households; and

WHEREAS, Existing Treasure Island and Yerba Buena Island residents face unique challenges with transportation, electricity, and access to services; and

WHEREAS, The development of Treasure Island and Yerba Buena Island will yield 8,000 new units of housing, or 10% of San Francisco's Regional Housing Needs Allocation; and

WHEREAS, The future of TI/YBI will include 73% new, market-rate housing and 27% income protected affordable housing, there is an opportunity for Island stakeholders, government leadership and the development team to co-create a vision and values statement for equity, inclusion and belonging as the community grows through redevelopment. This statement reaffirms a shared commitment to this rare opportunity to develop a transformative example of mixed-income inclusion; and

WHEREAS, In planning for the development of a successful & inclusive mixed income community, TIDA, TICD and One TI contracted with the National Initiative on Mixed Income Communities (NIMC) to create plans that would foster a thriving and diverse mixed income community; and

WHEREAS, NIMC strongly urged that a unified statement shared by TIDA, TICD and One TI be developed and adopted to show a shared commitment to an inclusive community; the parties then:

- Created a work group comprised of a representative from each entity, TI residents and business owners to develop an island-wide aspirational statement
- Conducted a community wide survey and held community meetings to discuss elements to include in the statement
- Presented Draft Statements to the TIDA Board
- And after public input, a final draft was approved and adopted by each entity- TIDA, TICD and One TI respectively

WHEREAS, The statement envisions a thriving San Francisco neighborhood in the middle of the Bay celebrated for its inviting culture, outdoor experiences, and sustainable community; and

WHEREAS, The statement unites the public, nonprofit and private partners under a shared mission to create a welcoming, healthy, and vibrant community that honors the diversity of its past, present, and future residents, businesses, and visitors; and

WHEREAS, the statement reflects the community wide input that resulted in identifying the following shared core values of:

- Inclusion and Equity - Celebrating Treasure Island's uniqueness by actively cultivating a mixed income community that creates a sense of belonging.
- Sustainability - Implementing new and tested methods to balance economic growth, environmental stewardship, and personal and social well-being.
- Opportunity - Offering a range of opportunities that invite growth and innovation through continued collaboration.
- Connection - Fostering and embracing relationships throughout the greater San Francisco Bay Area; now, therefore, be it

RESOLVED, That the Board of Supervisors endorses and supports and endorses the Treasure Island / Yerba Buena Island Aspirational Statement as City policy.

Treasure Island Aspirational Statements

Developed through a community wide process and endorsed by One Treasure Island, Treasure Island Development Group and Treasure Island Development Authority.

VISION:

A thriving San Francisco neighborhood in the middle of the Bay celebrated for its inviting culture, outdoor experiences, and sustainable community.

MISSION:

To create a welcoming, healthy, and vibrant community that honors the diversity of its past, present, and future residents, businesses, and visitors.

CORE VALUES:

Inclusion and Equity – Celebrating Treasure Island's uniqueness by actively cultivating a mixed income community that creates a sense of belonging.

Sustainability – Implementing new and tested methods to balance economic growth, environmental stewardship, and personal and social well-being.

Opportunity – Offering a range of opportunities that invite growth and innovation through continued collaboration.

Connection – Fostering and embracing relationships throughout the greater San Francisco Bay Area.

EXHIBIT P

DISPOSITION AND DEVELOPMENT AGREEMENT

(TREASURE ISLAND/YERBA BUENA ISLAND)

JOBS AND EQUAL OPPORTUNITY PROGRAM

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INTRODUCTION

Plans for the development of Treasure Island provide for a variety of community benefits for residents of Treasure Island and San Francisco, visitors to the Island and the entire Bay Area region. Many of the benefits to be provided, such as rebuilding the infrastructure, creating affordable housing opportunities, and adding approximately 300 acres of parks and open space have been described in other documents. This Jobs and Equal Opportunity Program (this "***Program***" or "***Jobs EOP***") sets forth the employment and contracting requirements for the Project, including:

- Creating new construction and permanent employment opportunities in retail, maintenance, administrative, recreational, clerical and para-professional jobs, among others, developing programs to direct those jobs to priority groups, and establishing a framework for a job broker program to facilitate and prepare linking the priority groups to the jobs.

- Creating contracting opportunities for small business professional service firms and construction contractors and related small business contractors and their employees with priority opportunities for local San Francisco contractors and their employees.

- Creating economic development opportunities and related support for Treasure Island Homeless Development Initiative ("***TIHDI***") residents and member organizations.

BACKGROUND

A. 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 initially designated the City as the Local Reuse Authority ("***LRA***") responsible for the conversion of NSTI under the federal disposition process.

B. In 1997, the Board of Supervisors by Resolution No. 380-97 approved and authorized the incorporation of the Authority as a nonprofit public benefit corporation to promote the planning, redevelopment, reconstruction, rehabilitation, reuse and conversion of NSTI for the public interest, convenience, welfare and common benefit of the inhabitants of the City and County of San Francisco. Subsequently, the Department of Defense designated the Authority as the LRA for NSTI.

C. In 1996, the City concluded discussions with TIHDI regarding a binding agreement (the "***1996 TIHDI Agreement***") that would, among other things, give TIHDI certain rights to participate in economic development opportunities on Treasure Island, facilitate implementation of a permanent employment program related to activities occurring at Treasure Island and provide TIHDI with certain financial support. Because the California Environmental Quality Act review process had not yet been completed, the 1996 TIHDI Agreement was not executed at that time. Nevertheless, entry into the 1996 TIHDI Agreement was a condition precedent to the approval by the United States Department of Housing and Urban Development

of the 1996 Draft Reuse Plan for Naval Station Treasure Island. And in fact, the Authority and TIHDI have conducted their negotiations as if the 1996 TIHDI Agreement was enforceable today, have implemented substantial portions of the 1996 TIHDI Agreement and continue to act towards each other and exercise rights under the 1996 TIHDI Agreement as if it had been fully executed, including (i) subleasing 250 units of housing on Treasure Island to for use by TIHDI member organizations to provide housing to formerly homeless people, (ii) requiring Treasure Island employers to develop hiring plans to fulfill employment objectives, and (iii) referring employers to the TIHDI Job Broker to meet Project hiring goals, subleasing the existing childcare center to a TIHDI member agency, and contracting with TIHDI member agencies for janitorial and landscaping services. Moreover, the Authority and TIHDI have, concurrently with the DDA, entered into an amended and restated TIHDI Agreement that incorporates the same basic requirements as were originally set forth in the 1996 TIHDI Agreement (the "***TIHDI Agreement***").

D. The TIHDI Agreement has four components: Economic Development and Support Facilities; Employment; Housing; and Support. This Program includes provisions to implement the Economic Development and Support Facilities and Employment Components of the TIHDI Agreement. The Economic Development and Support Facilities Component serves to create revenue-generating opportunities for TIHDI's member organizations and work opportunities on Treasure Island for formerly Homeless and Economically Disadvantaged Persons. The Employment Component serves to establish a long-term employment policy for Treasure Island by requiring future private horizontal and vertical developers and construction employers and future long term lessees and employers to comply with First Source Hiring and other existing hiring goals and requirements and make good faith efforts to meet certain goals for employing formerly homeless and Economically Disadvantaged persons.

E. In 2006, the City established the CityBuild Program, an employment program under the OEWD. The purpose of CityBuild is to ensure equal employment opportunities for San Francisco residents of all backgrounds and genders in construction workforce activities provided under City-sponsored construction projects. CityBuild creates a single, responsible and accountable entity to direct construction employment and training efforts across projects and departments and develops trained, committed men and women to become the construction workforce of the future.

F. The Authority intends that the Project will be implemented by Developer or its assigns, Vertical Developers, and Construction Contractors and their subcontractors, as the case may be, and will consist of: (i) horizontal improvements implemented through the DDA, and (ii) vertical improvements implemented pursuant to Vertical DDAs and constructed on land that Developer has improved pursuant to the DDA. The vertical improvements will include market-rate residential, affordable residential (including opportunities for TIHDI, as described in the TIHDI Agreement and the Housing Plan attached to the DDA), commercial, community facilities, and other improvements, all as described more specifically in the DDA and related documents for the Project. The Authority further intends that the opportunities for long term employment will occur in projects undertaken by Permanent Employers. The Authority will contract separately for the redevelopment of the Marina and other ancillary development. The City and the Authority are subject to the San Francisco Local Hiring Policy for Construction

(Administrative Code Section 6.22(G), as amended from time to time), for all City or Authority contracts covered under the terms thereof.

G. A Term Sheet for the Project was endorsed by the Treasure Island/Yerba Buena Island Citizens Advisory Board and the Authority in October 2006 and by the San Francisco Board of Supervisors in December 2006. The Term Sheet was revised and subsequently endorsed by the Treasure Island/Yerba Buena Island Citizens Advisory Board, the Authority and Board of Supervisors endorsed an Updated Term Sheet in April and May 2010. The Term Sheet anticipated that Developer would enter into a Project Labor Agreement ("***PLA***") for construction work in the Project Area, and that the PLA would be consistent with this Program. The Term Sheet further anticipated that hotel uses and grocery store uses employing over 50 full time employees will be subject to the City's Card Check Ordinance.

H. After the endorsement of the Term Sheet, Developer began the process of negotiating a PLA with the San Francisco Building and Construction Trades craft unions. The Developer anticipates entering into a PLA that incorporates key elements of the TIHDI Agreement in the PLA's "composition of workforce" requirements and creates a mechanism to establish realistic and attainable standards for hiring to provide pathways to good union construction jobs and advancement for Economically Disadvantaged Persons. This Program requires that Construction Contractors, subcontractors, and the TIHDI Job Broker work cooperatively with the CityBuild Program on training, apprenticeship and job referral matters.

SUMMARY

This Program has been jointly prepared by the Authority and the Developer, in consultation with others including TIHDI, OEWD, and other relevant City Agencies, and sets forth the workforce and economic development requirements that will apply to the Project that is the subject of the Disposition and Development Agreement between the Authority and Developer and the Development Agreement between the City and County of San Francisco and Developer for the Treasure Island project (as described in the DDA, the "***Project***"). Any capitalized term used in this Program that is not defined in this Program shall have the meaning given to such term in the DDA.

The purpose of this Program is to ensure training, employment and economic development opportunities are part of the development of the Project. This Program creates a mechanism to provide employment and economic development opportunities for economically disadvantaged persons, San Francisco residents and TIHDI member organizations. The Authority and Developer agree that jobs creation and equal opportunity contracting opportunities in all areas of employment are an essential part of the redevelopment of Treasure Island. It is anticipated that, during the full term of the Project, approximately 2,000 new construction jobs annually and approximately 3,000 new permanent non-construction jobs will be created, and that the planning, design and construction work will provide substantial contracting opportunities for local contractors and professional services firms as well as for countless businesses, employers and organizations who continue to work on Treasure Island. The Authority and Developer agree that it is in the best interests of the Project and the City for a portion of the jobs and contracting opportunities to be directed, to the extent possible based on the type of work required, and

subject to collective bargaining agreements, to local, small and economically disadvantaged companies and individuals whenever there is a qualified candidate.

This Program identifies goals for achieving this objective and outlines certain measures that will be undertaken in order to help ensure that these goals and objectives are successfully met. This Program applies to all horizontal development work and all vertical development work carried out under the DDA, and to new jobs offered by Permanent Employers with respect to the Covered Commercial Operations, and incorporates provisions specific to the Project relating to CityBuild, TIHDI, and the TIHDI Job Broker. In recognition of the unique circumstances and requirements surrounding the Project, the Parties have agreed that this Program will constitute the exclusive workforce requirements for the Project. All Work will be subject to the provisions and requirements of First Source Hiring Ordinance. In addition, the Parties have agreed to additional Program requirements, including requirements to contract with small businesses and to provide opportunities to TIHDI member organization and residents, in accordance with the TIHDI Agreement and as further described below in this Program. All the Authority Projects (which are defined as projects constructed directly by or on behalf of the Authority or the City and County of San Francisco where the Authority or City enters into contracts with contractors and directly expends Authority or City funds, and do not include the Infrastructure and the Storm Water Management Controls, as those terms are defined in the DDA) will be subject to the San Francisco Local Hiring Ordinance, as it may be amended from time to time.

This Jobs EOP sets forth the exclusive employment and trainee requirements for the Project, including all construction undertaken in the Project under the DDA and the Vertical DDAs. This Jobs EOP requires:

- Developer and all Vertical Developers, Construction Contractors and Permanent Employers to enter into a First Source Hiring Agreement that will require good faith efforts to meet the hiring goals for San Francisco Residents and Economically Disadvantaged Persons.

- Developer and all Vertical Developers and Construction Contractors to make good faith efforts to meet the contracting goals for Small Business Enterprises set forth in this Program.

- Developer and the Authority to provide TIHDI Member Organizations with a Right of First Offer for certain service contracts.

- Developer and the Authority to make certain economic development opportunities available to TIHDI and TIHDI Member Organizations.

- Developer provide certain funding and technical assistance to implement this Program.

The foregoing summary is provided for convenience and for informational purposes only. In case of any conflict, the provisions of the Jobs and Equal Opportunity Program and the DDA shall control.

DEFINITIONS

"***1996 TIHDI Agreement***" shall have the meaning set forth in Background Paragraph C of this Jobs EOP.

"***AAA***" shall have the meaning set forth in Exhibit B of this Jobs EOP.

"***Administrative Code***" means the Administrative Code of the City and County of San Francisco as of the Effective Date, with such updates or amendments as permitted under the DA. All references to City codes or ordinances in this Jobs EOP shall mean such codes or ordinances as they exist of the Effective Date, with such updates or amendments as permitted under the DA.

"***AMI***" or ***"Area Median Income"*** means the 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.

"***CEQA***" means the California Environmental Quality Act.

"***City***" means the City and County of San Francisco.

"***CityBuild***" means the employment program known as CityBuild established by the City and administered by OEWD.

"***Construction Contractor***" means a construction contractor hired by or on behalf of Developer or a Vertical Developer who performs Construction Work on the Project Site.

"***Construction Work***" means construction of all Infrastructure and Storm Water Management Controls required or permitted to be made to the Project Site to be carried out by Developer under the DDA, and construction of all Vertical Improvements to be carried out by a Vertical Developer under a Vertical DDA or LDDA, including the initial tenant improvements, through issuance of the first certificate of occupancy.

"***Contracting Party***" shall have the meaning set forth in Section 6.1(a)(iii) of this Jobs EOP.

"***Covered Commercial Operations***" shall mean those commercial (non-construction) operations within the Project Site that must comply with the First Source Hiring Ordinance.

"***Covered Services***" means the services described in Section 6.3 of this Jobs EOP.

"***DA***" means the development agreement for the Project between the Authority and Developer and entered into concurrently with the DDA.

"***DDA***" means the disposition and development agreement for the Project between the Authority and Developer and to which this Jobs EOP is an attachment.

"***Demand for Arbitration***" shall have the meaning set forth in Exhibit B of this Jobs EOP.

"***Developer***" means Treasure Island Community Development, LLC and its Transferees under the DDA.

"***ECA***" shall have the meaning set forth in Section 1.2 of this Jobs EOP.

"***Economically Disadvantaged Persons or Individuals***" shall mean a San Francisco Resident who is any of the following: (i) homeless or formerly homeless; (ii) has an annual income that is not greater than 50% of AMI, (iii) "Economically disadvantaged individuals" as defined in Administrative Code Chapter 83; or (iv) persons who have been unable to secure employment in his or her trade for more than 20 working days during the preceding 6 months. For purposes of the foregoing, a "***homeless person***" means an individual who: (A) lacks a fixed, regular and adequate nighttime residence but spends days and nights in San Francisco; (B) has a primary nighttime residence that is (a) a supervised publicly or privately operated shelter designed to provide temporary living accommodations, including welfare hotels, congregate shelters and transition housing, (b) an institution that provides a temporary residence for individuals who are institutionalized, or (c) a public or private place not designed for, or ordinarily used for sleeping accommodation for human beings; or (C) meets such other definition of "homeless person" as may be adopted or approved by HUD. Examples of "economically disadvantaged individuals," for purposes of this subsection, may include, but not be limited to, the following individuals: individuals exiting the criminal justice system; individuals participating in or completing substance abuse treatment; individuals who receive financial aid for the purpose of obtaining an education or other vocational training program; survivors of domestic violence seeking employment; people with disabilities seeking employment; and veterans seeking employment.

"***First Source Hiring Agreement***" means a first source hiring agreement entered into in accordance with Section 2 of this Jobs EOP.

"***First Source Hiring Ordinance***" means Administrative Code Chapter 83, as updated or amended to the extent permitted under the DA.

"***FSHA***" means the City's First Source Hiring Administration.

"***Good Faith Efforts***" means (i) with respect to First Source Hiring, as set forth in Section 2 of this Jobs EOP and the applicable First Source Hiring Agreement, (ii) with respect to the SBE participation goals, as set forth in the program adopted by the Authority in accordance with Section 3.3 of this Jobs EOP, and (iii) with respect to Covered Services and the TIHDI Economic Development Opportunities, as set forth in the Sections 6.3(d) and 7.1(d) of this Jobs EOP.

"***Great Wilds***" shall have the meaning set forth in Section 6.3(a)(i) of this Jobs EOP.

"***Index"*** shall have the meaning set forth in the DDA.

"***Jobs EOP***" means this Program.

"***LBE Ordinance***" means Administrative Code Chapter 14B.3.

"***Local Hiring Ordinance***" means Administrative Code Section 6.22(G).

"***Non-Construction Work***" means all new jobs offered by Permanent Employers with respect to the Covered Commercial Operations.

"***OLSE***" shall have the meaning set forth in Section 4.1 of this Jobs EOP.

"***Parties***" means the Authority and Developer.

"***Pavilion***" shall have the meaning set forth in Section 7.3(b)(i) of this Jobs EOP.

"***Permanent Employer***" shall mean each employer in a Covered Commercial Operation.

"***Permit***" shall have the meaning set forth in Section 7.3(b)(i) of this Jobs EOP.

"***Permittee***" shall have the meaning set forth in Section 7.3(b)(i) of this Jobs EOP.

"***PLA***" shall have the meaning set forth in Section 8 of this Jobs EOP.

"***Program***" means this Jobs EOP.

"***Project***" shall have the meaning set forth in Summary of this Jobs EOP.

"Reference Date" shall have the meaning set forth in the DDA.

"***ROFO Process***" shall have the meaning set forth in Section 6.1(a) of this Jobs EOP.

"***San Francisco Resident***" shall mean individual who has domiciled, as defined by Section 3.49(b) of the California Election Code, within the City at least seven (7) days before commencing work on a project.

"***Small Business Enterprise***" or "***SBE***" shall have the meaning set forth in Section 3.2(d) of this Jobs EOP.

"***TIHDI"*** means the Treasure Island Homeless Development Initiative, Inc. a California nonprofit public benefit corporation.

"***TIHDI Agreement***" means the agreement entered into by and between the Authority and TIHDI concurrently with the DDA.

"***Toolworks***" shall have the meaning set forth in Section 7.3(b)(i) of this Jobs EOP.

"Vertical Developer" means for a particular Lot or Vertical Improvement (as those terms are defined in the DDA), the Person that is identified as the Vertical Developer in the applicable Vertical DDA related thereto.

"***Work***" means all Construction Work and Non-Construction Work.

"***WVC***" means Wine Valley Catering, a California corporation.

PROGRAM

1. Form of Agreements. Developer and all Vertical Developers, Construction Contractors (and their subcontractors regardless of tier) and Permanent Employers must comply with the applicable provisions of this Program. This Program will be administered through two separate forms of agreement as described in Sections 1.1 and 1.2 of this Jobs EOP, respectively:

1.1 First Source Hiring Agreement. The First Source Hiring requirements of this Jobs EOP will be administered through First Source Hiring Agreements, as described in Section 2 of this Jobs EOP. Developer and all Vertical Developers shall enter into a First Source Hiring Agreement with the FSHA. Developer and Vertical Developers shall also require their respective Construction Contractors and the Permanent Employers, in the applicable contracts with such entities, to enter into separate First Source Hiring Agreements with the FSHA.

1.2 Employment and Contracting Agreement. All provisions of this Program not set forth in the First Source Hiring Agreement shall be administered by the Authority or the Authority's designee (which may include OLSE and CityBuild). Developer and Vertical Developers shall enter into an Employment Contracting Agreement (an "***ECA***") with the Authority incorporating the provisions of this Program. Developer and Vertical Developers shall also require their respective Construction Contractors, in the applicable contracts with such entities, to enter into separate ECAs with the Authority. Each ECA shall require compliance with this Jobs EOP by the party and its respective subcontractors (regardless of tier), provided that subcontractors will not be required to enter into their own ECA. Each ECA shall attach and incorporate a copy of this Jobs EOP, and shall specifically reference the applicable City ordinances as set forth in Section 4.3 of this Jobs EOP.

1.3 Start of Work. No Work may begin until the applicable First Source Hiring Agreement and ECA has been duly executed and delivered by the parties to such agreements.

1.4 General Enforcement and Liability. Each Developer and Vertical Developer shall use good faith efforts, working with the Authority or its designee, to enforce this Program with respect to its Construction Contractors, and each Construction Contractor shall use good faith efforts, working with the Authority or its designee, to enforce this Program with respect to its subcontractors (regardless of tier). However, Developer and Vertical Developers shall not be liable for the failure of their respective Construction Contractors and Construction Contractors shall not be liable for the failure of their subcontractors (except as set forth in the

arbitration provisions attached to this Jobs EOP as Exhibit B). Developer and Vertical Developers shall have no obligations with respect to Permanent Employers other than to include the requirements of this Program in their purchase and sale or lease agreements (as applicable) for Covered Commercial Operations. The Authority, OEWD and OLSE staff agree to work cooperatively to create efficiencies and avoid redundancies, and to implement this Program in good faith, and to work with all of the Project's stakeholders, including TIHDI, the TIHDI Job Broker, Developer and Vertical Developers, Construction Contractors (and their subcontractors) and Permanent Employers, in a fair, nondiscriminatory and consistent manner.

1.5 Third Party Beneficiary. Each First Source Hiring Agreement and ECA shall require the contracting party to ensure that each subcontractor agree as a term of participation on this Project that the City and the Authority shall have third party beneficiary rights under all subcontracts for Work. Such third party beneficiary rights shall be limited to the right to enforce the requirements of the Jobs EOP applicable to such subcontractors directly against the subcontractors.

2. First Source Hiring Goals.

2.1 Covered Work. All Work will be subject to the provisions and requirements of the First Source Hiring Ordinance, with the understanding that (i) each Construction Contractor and Permanent Employer shall enter into a First Source Hiring Agreement with the FHSA, and (ii) if there is any conflict between the terms of this Program and the First Source Hiring Ordinance, the terms of this Program prevail.

2.2 Hiring Goals for Construction Work. Each First Source Agreement will require the Construction Contractor and its subcontractors (regardless of tier) to make good faith efforts to achieve the goals set forth below. The goals are based on cumulative work force hours, not individual trade or task, and are as follows:

(a) 25% of all construction workforce hours filled by qualified Economically Disadvantaged Persons.

(b) 50% of all construction workforce hours filled by qualified San Francisco Residents (including those qualifying under subparagraph (a) above).

2.3 Hiring Goals for Non-Construction Work. Developer and Vertical Developers will each cause each Permanent Employer (through its lease or purchase and sale agreements, as applicable, with the Permanent Employer) to enter into a First Source Hiring Agreement. Permanent Employers shall be required to use good faith efforts to achieve the following goals throughout the 10 year period starting when they begin Covered Commercial Operations and ending 10 years thereafter:

(i) 25% of all permanent non-managerial, non-supervisorial jobs filled by qualified Economically Disadvantaged Persons.

(ii) 50% of all permanent non-managerial, non-supervisorial jobs filled by San Francisco Residents (including those qualifying as part of the 25% referred to immediately above).

2.4 Priorities for Placement. Each First Source Hiring Agreement for both Construction Work and Non-Construction Work shall provide that, subject to any collective bargaining agreements in the building trades and applicable law, first consideration for hiring shall go to qualified Economically Disadvantaged Persons and second consideration to qualified San Francisco Residents with preference for residents of Treasure Island.

2.5 Credit; Flexibility.

(a) Parties to any First Source Hiring Agreement for both Construction Work and Non-Construction Work shall receive credit for meeting the goals set forth in their respective First Source Hiring Agreements by contracting with TIHDI member organizations for services such as grounds maintenance and landscaping, janitorial maintenance, deconstruction or other economic development activities as more fully described below. Any party to a First Source Hiring Agreement seeking to obtain credit for such TIHDI contracting under its respective First Source Hiring Agreement shall do so by providing written notice to both the Authority and the FSHA. The Authority, in consultation with the FSHA, shall make a reasonable determination of what (if any) credit shall be applied to the requesting party's obligations under its First Source Hiring Agreement. Any disputes regarding such credits shall be resolved pursuant to the arbitration provisions of this Program.

(b) Some jobs will be better suited to meeting or exceeding the hiring goals than others, hence all workforce hiring goals under a Construction Contract or by a Permanent Employer will be cumulative, not individual, goals for that Construction Contract or Permanent Employer.

(c) Developer and Vertical Developers shall have the right to reasonably spread the workforce goals, in different percentages, among separate Construction Contracts or Permanent Employers so long as the cumulative goals among all of the Construction Contracts or Permanent Employers at any given time meet the requirements of this Program. The parties shall make such modifications to the applicable First Source Hiring Agreements consistent with Developer and Vertical Developers' allocation. This acknowledgement does not alter in any way the requirement that Developer, Vertical Developers, Construction Contractors, and Permanent Employers comply with good faith effort obligations to meet the participation goals for all components of the Construction Work and Non-Construction Work. During all phases of the Project, sustained efforts will be made to meet the goals outlined in this Program.

(d) Each Construction Contractor and Permanent Employer shall work with CityBuild and/or the TIHDI Job Broker (as appropriate) to ensure that appropriate employment and contracting opportunities are provided to TIHDI Member organizations in accordance with this Jobs EOP.

2.6 Implementation for Construction Work and Non-Construction Work. In order to implement the hiring goals in this Policy, Developer and Vertical Developers, Construction Contractors and Permanent Employers will enter into a First Source Hiring Agreement with the First Source Hiring Administration generally in the forms attached hereto as Exhibit A, with such revisions as may be needed to coordinate and incorporate the provisions of this Jobs EOP. The Parties understand and agree that the final forms for Exhibit A shall be

agreed to by the Parties on or before the first Major Phase Approval, and upon such agreement shall be attached to this Jobs EOP. All the First Source Hiring Agreements shall require the employer to use good faith efforts to meet the hiring goals of this Program. Without limiting the other requirements set forth herein, the First Source Hiring Agreements shall include the following steps:

- Preparing one year job forecasts annually in order to prepare workforce for placement. Such forecasts shall include, without limitation, the types of jobs (trade, skill, industry) and the projected timeline or duration of the jobs.

- Preparing detailed written plans describing how the hiring plans will be implemented.

- Listing all available jobs on Treasure Island with the TIHDI Job Broker Program (for permanent jobs) and with CityBuild (for construction jobs) at least two weeks prior to advertising for applicants elsewhere.

- Providing good faith consideration to all qualified candidates who are screened, eligible and referred by City Build or the TIHDI Job Broker. Should an employer not hire referrals by City Build or the TIHDI Job Broker, the employer must provide a written explanation. However, this Policy shall not require any firm or entity to employ a worker not qualified for the position in question or to employ any particular worker, and that all final hiring decisions shall be made at the discretion of the employment firm or entity, acting in good faith consistent with this Policy.

- Establishing mutually acceptable means of communicating with City Build to give to the TIHDI Job Broker about job openings, information about jobs and providing information about job referral outcomes within a reasonable period of time following a request for such information, as well as when a problem arises at the worksite

- Utilizing the labor compliance programs established by CityBuild for weekly or other periodic payroll certification.

- Requiring participation in the dispute resolution mechanism set forth in Exhibit B attached to this Policy for disputes relating to compliance with the First Source Hiring Ordinance or a First Source Hiring Agreement in the event the FSHA so requires after following the procedures set forth in the First Source Hiring Ordinance.

Pursuant to the Job Broker provisions in the TIHDI Agreement, agencies referring workers to jobs as well as TIHDI Job Broker staff will provide ongoing support to workers and relevant employers. The respective First Source Hiring Agreements will require the employers to make good faith efforts to communicate employment issues where and as appropriate with the workers and with CityBuild. CityBuild will in turn work with the TIHDI Job Broker staff so that effective interventions may be made in certain cases to help maintain sustained employment of referred workers.

2.7 Hiring Plans. The First Source Hiring Agreement shall require the party to that Agreement to submit a hiring plan to FHSA for Approval not less than 60 days before the

date that hiring first commences. Such hiring plan shall contain a detailed description of how the employer intends to meets its hiring goals, which description should include community outreach and recruiting efforts, hiring procedures (e.g., phased hiring), a projected schedule for meeting the goals, and alternative courses of action if its appears that the goals will not be met, and such other matters as may reasonably be requested by FHSA. Each Hiring Plan shall also include an acknowledgment that if the hiring goals are not met, then the employer will have the burden of establishing that it made good faith efforts as required by the First Source Hiring Agreement. During the first 30 days after the hiring plan is submitted, the parties will negotiate in good faith solutions to any deficiencies in the hiring plan identified by FHSA. If FHSA fails to approve the hiring plan after such period, it shall state in writing the specific basis for the failure and the suggested cure(s).

3. Participation Goals for Small Business Enterprises.

3.1 Covered Work. The provisions of this section apply to all Construction Work entered into pursuant to the DDA.

3.2 Contracting SBE Participation Goals. It is a stated goal of the Authority and the City to support small, locally-owned and disadvantaged businesses and contractors. Based on that goal, the following participation goal is set for contracting for Construction Work:

(a) For construction contracts, 41% of the total dollar value of the Horizontal Development Work and Vertical Development Work shall be performed by subcontractors that are qualified Small Business Enterprises (SBEs) located in San Francisco or elsewhere, provided that First Consideration shall be given to SBEs located in San Francisco.

(b) For professional services contracts, 38% of the total dollar value of the professional service contracts shall be performed by qualified SBEs located in San Francisco or elsewhere, provided that first consideration shall be given to SBEs located in San Francisco.

(c) The Parties recognize that achieving these goals may be challenging for particular aspects of the Project and that the goals will therefore be cumulative rather than individual by specific task, provided the Construction Contractor has provided a plan acceptable to the Authority for how it intends to satisfy the cumulative goal.

(d) The Authority shall maintain a list of certified SBEs under this Program. For purposes of this Program, a "***Small Business Enterprise***" or "***SBE***" shall mean a firm that meets the definition of a Small-LBE as set forth in Administrative Code Chapter 14B.3 (Local Business Enterprise and Nondiscrimination in Contracting Ordinance; the "***LBE Ordinance***"), provided that (i) certification of status as an SBE shall be made by the Authority, (ii) each Small-LBE certified under the LBE Ordinance shall automatically qualify as an SBE under this Program and be placed on the Authority's list of certified SBEs, and (iii) businesses that are wholly-owned by a non-profit organization that is a TIHDI member organization shall be deemed an SBE and placed on the Authority's list of certified SBEs, subject to the approval of the Authority.

3.3 Implementation of the SBE Goals. The Authority shall establish reporting, monitoring and other procedures for satisfaction of the SBE participation goals under this

Program that are generally modeled on the requirements of the LBE Ordinance, but shall not include bid discounts for SBEs, the bonding assistance program, or the penalties set forth in the LBE Ordinance as set forth in the Administrative Code Sections 14B.13, 14B.15, 14B.16 and 14B.17. Monitoring of compliance and enforcement of the SBE participation goals shall be performed by the Authority or its designee. For purposes of evidencing 'good faith efforts' to achieve SBE participation goals, the applicable employer shall document its efforts to meet the SBE goals and shall take: (i) the actions set forth below; (ii) additional reasonable actions consistent with Administrative Code Chapter 14B that have been included in the SBE procedures adopted by the Authority (not including bid discounts for SBEs or the bonding assistance program); and (iii) any other actions designed to encourage SBE participation that have been agreed upon by the Authority and Developer:

(a) Identifying and selecting contracting and subcontracting opportunities to solicit and to obtain bids, proposals, or qualifications, as applicable, from a broad range of SBEs and as needed to meet SBE goals;

(b) Advertising for SBE contractors and subcontractors in trade association publications and local business media, and by posting the contracting opportunity on the Authority's website or other centralized City website and in an accessible location, when the contracting opportunity becomes available but in no event less than fifteen (15) calendar days before the date that bids, proposals, qualifications or other submittal documents requested by the applicable Construction Contactor can first be submitted. The advertisement must include information where potential responders may obtain adequate information about the plans, specifications, and requirements for the work.

(c) When the contracting opportunity becomes available but in no event less than fifteen (15) calendar days before the date the responses can first be submitted, contacting at least the requisite number of SBEs by trade certified to perform the identified work as shown on the list maintained by the Authority in accordance with Section 3.2(d).

(d) Performing follow-up contact on the initial solicitation with interested contractors and subcontractors and negotiating in good faith with SBEs and not unjustifiably rejecting their bids.

(e) Encouraging SBEs to attend any prebid meetings that are held to inform potential bidders of contracting opportunities.

(f) Providing SBEs with adequate information about the plans, specifications, and requirements of the contract.

(g) Using the services of community and contractors' groups to assist in the recruitment of SBEs.

4. Other Contracting Requirements.

4.1 Prevailing Wages. All Construction Contractors (and their subcontractors) shall pay prevailing wages in accordance with Administrative Code section 6.22(E). The City's Office of Labor Standards Enforcement ("***OLSE***") enforces labor laws adopted by San Francisco

voters and the San Francisco Board of Supervisors. OLSE ensures that certain contractors comply with prevailing wage regulations, enforces the Minimum Compensation Ordinance and Health Care Accountability Ordinance, and administers the City's Sweatfree Contracting Ordinance (Administrative Code Chapter 12U). OLSE also enforces labor laws of general application, including the San Francisco Minimum Wage Ordinance, Paid Sick Leave Ordinance (Administrative Code Chapter 12W), and Health Care Accountability Ordinance. The Authority designates OLSE as the agency responsible for ensuring that prevailing wages are paid and other payroll requirements are met in connection with the Work.

4.2 Labor Representation ("Card Check") Ordinance. 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.

4.3 Applicability of City Ordinances. As set forth in Article 27 of the DDA, 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:

- Non-Discrimination in City Contracts and Benefits Ordinance (Administrative Code Chapter 12B)
- Prevailing Wages (Administrative Code Chapter 6, Section 6.22(E))
- Labor Representation ("Card Check") Ordinance (SF Administrative Code Chapter 23, Article VI)
- First Source Hiring Program (SF Administrative Code Chapter 83)
- Health Care Accountability Ordinance (Administrative Code Chapter 12Q)
- Prohibited Conflicts of Interest (SF Charter Section 15.103, City's Campaign and Governmental Conduct Code Chapter 2, Article III, and California Government Code Section 1090 et seq.)
- Prohibition of Political Activity with City Funds (Administrative Code Chapter 12.G)
- Notification of Limitations on Contributions (SF Campaign and Governmental Conduct Code Section 1.126)
- Sunshine Ordinance (Administrative Code Chapter 67)
- MacBride Principles - Northern Ireland (Administrative Code Chapter 12F)
- Tropical Hardwood and Virgin Redwood Ban (SF Environment Code Chapter 8)
- Resource-Efficient Facilities and Green Building Requirements (SF Environment Code Chapter 7)

- Preservative Treated Wood Containing Arsenic (SF Environment Code Chapter 13)
- Protection of Private Information (Administrative Code Chapter 12M)
- Food Service Waste Reduction Ordinance (SF Environment Code Chapter 16)

Additional provisions apply with respect to work done on property owned by the City and County of San Francisco, as set forth in the DDA. Each ECA and/or First Source Hiring Agreement shall specifically reference and require compliance with the City ordinances listed above. Monitoring, enforcement and remedies for each of the City ordinances shall be as set forth in the ordinance itself.

5. TIHDI Economic Development Opportunities. The TIHDI Agreement identifies various components, including a housing component, to support TIHDI's goals for supporting Economically Disadvantaged Individuals. Sections 6 and 7 of this Jobs EOP are designed to support the economic development component of the TIHDI Agreement; in particular, to create revenue-generating opportunities for TIHDI member organizations and to enhance work opportunities at Treasure Island for Economically Disadvantaged Individuals.

6. Service Contracts.

6.1 General Requirements. It is the intent of the Authority, Developer, and TIHDI to provide to TIHDI rights to negotiate for contracts for its member organizations to provide certain services pursuant to the TIHDI Agreement. It is expressly understood and agreed that TIHDI member organizations wishing to provide service contracts will be expected to present market rate proposals, and any such proposal shall be approved or rejected by the Authority, Developer, or other owners/lessees pursuant to the TIHDI Agreement and based on good faith negotiations between the Authority, Developer, or other owners/lessees and the TIHDI member organization.

(a) Right of First Offer Process. For purposes of this Jobs EOP, the right of first offer process ("***ROFO Process***") consists of the following steps:

(i) The Authority and TIHDI shall work cooperatively and in good faith to identify opportunities to propose service contracts and other economic development opportunities appropriate for TIHDI member organizations.

(ii) The Authority or Developer, as applicable, shall notify TIHDI in writing when such service contracts and other economic development opportunities are ready for bidding.

(iii) One or more TIHDI member organizations will present a market rate contract proposal to the Authority or the applicable contracting party (which is defined as an entity covered by this Program, the "***Contracting Party***") to perform the requested service. The proposal must demonstrate that the TIHDI member organization has sufficient experience and organizational capability, either on its own or in joint venture with another, to perform the required services, subject to subsection 6.1(a)(vi) below.

(iv) The Contracting Party shall thereafter negotiate in good faith exclusively with such TIHDI member organization(s) for a reasonable period of time of not less than two (2) months to attempt to finalize the terms of mutually acceptable service contract(s), which shall have a term of at least one (1) year, with renewals subject to negotiations. Each Contracting Party will have the right to ensure that the services are provided at reasonable market rates, are performed to a first-rate market quality standard, are subject to standard termination rights, and are performed upon other terms as shall be mutually agreed.

(v) If, despite such good faith efforts, the Contracting Party and the applicable TIHDI member organization(s) are unable to finalize the terms of a mutually acceptable service contract then the Contracting Party shall thereafter consider in good faith any proposals by other TIHDI member organizations, in addition to considering any bids by third party service providers for the requested service, subject to subsection 6.1(a)(vi) below.

(vi) All service contracts for which the Authority is the Contracting Party, regardless of whether the service contract is with a TIHDI member organization or a third party service provider, will (i) be subject to the City Ordinances described in Sections 4.1 and 4.3 above, and (ii) will include a requirement that the service provider provide employee training for job advancement. For Authority service contracts issued under Section 6.3(a), the service provider will be required to pay area standard wages as determined by the Authority or the prevailing rate of wages, if any, established by the Board of Supervisors for that category of work. For Authority service contracts issued under Section 6.3(b), the service provider will be required to pay the prevailing rate of wages as determined in accordance with Administrative Code Section 21C.2 or its successor.

6.2 Hiring Credit for Service Contracts. A Contracting Party shall receive credit for satisfaction of its hiring goals through contracting with TIHDI organizations for Covered Services as set forth in Section 6.3 of this Jobs EOP or for Economic Development Opportunities as set forth in Section 7.3 of this Jobs EOP, as well as through direct hires by the Contracting Party. The Contracting Party shall request such a credit in writing with a copy to the Authority and the FSHA. The FSHA, in consultation with the Authority, shall make a reasonable determination regarding such requested credit.

6.3 Covered Services.

(a) Grounds Maintenance and Landscaping. Currently, the Authority contracts for grounds maintenance services with Rubicon Enterprises, a TIHDI member organization. The provisions of this Section 6.3(a) shall apply to any contracts for grounds maintenance services after termination of the existing contract with Rubicon Enterprises.

(i) Subject to any collective bargaining agreements applicable to the performance of grounds maintenance or landscaping services, the Authority shall follow the ROFO Process for grounds maintenance or landscaping contracts for the portions of Treasure Island that are owned or operated by the Authority, and if contracted out by property management for rental housing developments owned or operated by the Authority. Areas within the Project Site that will be owned by the Authority could include the Marina Promenade, the Art

Park along the western shoreline and the area referred to as the "Great Wilds" in the northern portion of the Project.

(ii) Subject to any collective bargaining agreements applicable to the performance of grounds maintenance or landscaping services, Developer and TIHDI shall follow the ROFO Process for grounds maintenance or landscaping contracts that are contracted out for rental housing developments owned or operated by Developer and TIHDI, respectively. To the extent Developer controls the shared public ways (also known as the mews) (and subject to the approval of the City's Department of Public Works if required) Developer will provide TIHDI with a ROFO to present a market-based, competitive bid to perform maintenance on the shared public ways.

(iii) The Authority will require that any agreements transferring all or any portion of the Authority's interest in or rights to use any publicly-owned property will require the transferee to follow the ROFO Process for grounds maintenance or landscaping contracts for any such property. Such properties are expected to include, but are not limited to: Buildings 1, 2 and 3; the Nimitz House Historic District; the common exterior areas of Developer retail uses; neighborhood parks; the gymnasium; and other common exterior public spaces.

(b) Janitorial/Building Maintenance. Currently, the Authority contracts for janitorial and maintenance activities with Toolworks, Inc., a TIHDI member organization. The provisions of this Section 6.3(b) shall apply to any contracts for janitorial or building maintenance services after termination of the Toolworks, Inc. contract.

(i) Subject to any collective bargaining agreements applicable to the performance of janitorial or building maintenance services, the Authority shall follow the ROFO Process for janitorial or building maintenance contracts for the portions of Treasure Island that are owned or operated by the Authority, and if contracted by property management, for rental housing developments owned or operated by the Authority.

(ii) Subject to any collective bargaining agreements applicable to the performance of janitorial or building maintenance services, Developer and TIHDI shall follow the ROFO Process for janitorial or building maintenance contracts that are contracted out by property management for rental housing developments owned or operated by Developer and TIHDI, respectively.

(iii) The Authority will require that any agreements transferring all or any portion of the Authority's interest in or rights to use a property will require the transferee to follow the ROFO Process for janitorial or building maintenance services for any such property. Such properties are expected to include, but are not limited to, Buildings 1, 2 and 3, the Nimitz House Historic District, the interior common areas of Developer retail uses, the gymnasium and other interior public spaces.

(c) Temporary Property Management Services. The provisions of this Section 6.3(c) shall apply to any contracts for temporary property management services for residential projects, including but not limited to desk clerks, moving and cleaning services upon

unit vacancy, and pest remediation in the event regular staffing to otherwise provide the following services is not sufficient and a need for additional resources is required.

(i) Subject to any collective bargaining agreements applicable to the performance of temporary property management services, the Authority shall follow the ROFO Process for temporary property management contracts for the portions of Treasure Island that are owned or operated by the Authority, and if contracted out by property management for rental housing developments owned or operated by the Authority.

(ii) Subject to any collective bargaining agreements applicable to the performance of temporary property management services, Developer, Vertical Developer and TIHDI shall follow the ROFO Process for temporary property management contracts that are contracted out by property management for rental housing developments owned or operated by Developer and TIHDI, respectively.

(iii) The Authority will require that any agreements transferring all or any portion of the Authority's interest in or rights to use a residential property will require the transferee to follow the ROFO Process for temporary property management services for any such property.

(d) Good Faith Efforts Required. The implementation of the goals relating to the Covered Services set forth in this Section 6.3 is premised on the good faith negotiations by the Parties. For purposes of contracting for the Covered Services, "***good faith***" means, at a minimum, that the Contracting Party:

(i) shall have regular, ongoing negotiations with applicable TIHDI member organizations,

(ii) shall negotiate contract terms which are reasonable, market-based and customary for the applicable service; and

(iii) shall not enter into contracts with non-TIHDI member organizations on terms which are less favorable to the Contracting Party than those terms proposed by a TIHDI member organization, provided all other aspects of the proposal are comparable and market-based.

(e) Storage Space. The Authority or Developer will provide an appropriate and reasonable amount of storage space on Treasure Island to TIHDI member organizations performing services as described above in this Section 6.3, on terms to be jointly negotiated between the parties, for tools, supplies and work space needed to implement the contracts for Covered Services.

7. TIHDI Economic Development Opportunities.

7.1 General Requirements.

(a) Pursuant to the TIHDI Agreement, the Authority will provide TIHDI member organizations with the exclusive right to propose at least three (3) economic

development opportunities on properties owned or operated by the Authority, which may include opportunities for small businesses or operations that facilitate extensive job training, employment and comparable opportunities. Developer and the Authority will exercise good faith in negotiating sites or spaces for these development opportunities.

(b) It is the goal of the Authority and TIHDI that each of these opportunities will provide job training and/or regular employment for Economically Disadvantaged Persons. Based on the nature of these opportunities, the timing of the feasibility of their implementation will likely be predicated upon residential occupancy thresholds and development timelines.

(c) The Authority and Developer will each have the right to ensure that these services, contracts, or leases for the Economic Development Opportunities are provided at reasonable market rates, are performed to a first-rate market quality standard, are subject to standard termination rights, and are performed upon other terms as shall be mutually agreed.

(d) The Authority and Developer shall each negotiate in good faith exclusively with the applicable TIHDI member organization(s) for a reasonable period of time of up to six (6) months to attempt to finalize the terms of a mutually acceptable agreement. If, despite such good faith efforts, the Authority and the applicable TIHDI member organization(s) are unable to finalize the terms of a mutually acceptable agreement, then the Authority shall thereafter consider in good faith any proposals by other TIHDI member organizations, in addition to considering any bids by third party service providers for the applicable economic development activity.

(e) Any subcontractor performing services or work under an Economic Development Opportunities contract will be required to utilize the TIHDI Job Broker Program on an ongoing basis and will be subject to the participation goals as described herein.

7.2 Economic Development Opportunities Provided by the Authority.

(a) TIHDI participation in economic development opportunities provided by the Authority could include the following: (1) a multi-purpose conference center, wedding or meeting space, (2) a coffee shop or cafe, (3) catering services (4) operation of the On-Island bicycle lending library, (5) operation of a Crissy Field-like "warming hut," and (6) event recycling and residential recycling education, or other appropriate economic development opportunities that may arise in the future.

(b) The Authority will be solely responsible for informing TIHDI of these opportunities and making these opportunities available to TIHDI member organizations in a timely fashion following presentation by TIHDI of a market-based proposal. Specific procedures for proposing programs for economic development opportunities are set forth in the TIHDI Agreement. The TIHDI economic development opportunities must be financially feasible enterprises that provide job training and employment for TIHDI partner organizations.

7.3 Economic Development Opportunities Provided by Developer.

(a) The ECA between the Authority and Developer shall require that Developer provide TIHDI with a right of first offer to present a market-based, competitive bid to operate an approximate 1,000 square foot cafe in Building 2, a 3 to 5 acre space within the Urban Farm to be located on Treasure Island (as reasonably determined by the Authority), and a 800-1000 square foot retail space in Building 2 to sell, process or manufacture produce grown at the Urban Farm by TIHDI.

(b) Continuation of Existing Economic Development Opportunities (Event Services; Pavilion).

(i) The Authority, TIHDI, Toolworks, a California non-profit corporation ("***Toolworks***"), and Wine Valley Catering, a California corporation ("***WVC***") have entered into an Event Venues Management Agreement and Use Permit dated as of October 1, 2007 (the "***Permit***"). Pursuant to the Permit, the Authority granted to TIHDI, Toolworks, and WVC (collectively, the "***Permittee***") the right to use the Chapel, Casa de la Vista and the Lobby of the Main Administration Building (Building 1), and portions of the parking areas adjacent thereto for the management, operation, catering and marketing of the premises for special events. Those facilities include the "***Pavilion***." The Authority will negotiate with Permittee in good faith for the continued management of the Pavilion and the other premises covered by the Permit.

(ii) The Pavilion is expected to remain in its current location until infrastructure or permanent development on Treasure Island requires that it be moved, and it may be moved to an interim location. The Parties will negotiate in good faith to preserve the economic development opportunities associated with the Pavilion for as long as possible, consistent with the Project.

(iii) In the event the composition of the entities that make up the Permittee changes, the Authority will offer TIHDI the opportunity to propose a new Permittee, following the process described in Section 7.1 of this Jobs EOP.

8. Project Labor Agreement. It is expected that a large labor pool will be required to execute the work involved in the redevelopment of Treasure Island. Towards that end, Developer intends to enter into a Project Labor Agreement ("***PLA***") with the San Francisco Building and Construction Trades Council and its affiliates, as well as other relevant unions and referral agencies, to ensure that a sufficient supply of skilled craft workers are available at the Site throughout the Project, and that the Construction Work shall proceed continuously, without interruption, in a safe and efficient manner, economically, with due consideration for the protection of labor standards, wages and working conditions. In furtherance of these purposes and to secure optimum productivity, harmonious relations between the parties and the orderly performance of the work, the parties agree to establish adequate and fair wage levels and working conditions and to protect the Project against strikes and lockouts and other interference with the process of Construction Work.

9. Funding and Other Forms of Assistance

9.1 Funding. The Developer shall provide funding to Authority upon request for the exclusive purposes of funding the TIHDI Job Broker Program and the job training and

workforce development for all Construction Work and all for permanent workforce development (the "***Job Broker Program Subsidy***"). Starting with the Reference Date, the Authority shall be credited with a non-cash Job Broker Program Subsidy Account balance of Three Million Eight Hundred Thousand Dollars ($3,800,000). Commencing upon the first Sub-Phase Approval in the Initial Major Phase (as those terms are defined in the DDA) Developer shall pay an annual Job Broker Program Subsidy Payment to the Authority upon request in an amount not to exceed the amounts set forth in the following schedule:

(a) A maximum of Two Hundred Thousand Dollars ($200,000) per annum for years one and two;

(b) A maximum of Three Hundred Thousand Dollars ($300,000) per annum for years three through five; and

(c) A maximum of Five Hundred Thousand Dollars ($500,000) per annum for each year thereafter until the balance in the Job Broker Program Subsidy Account is exhausted.

Each Job Broker Program Subsidy Payment shall reduce the Job Broker Program Subsidy Account balance by an amount equal to the payment made by Developer. At the end of each Fiscal Year, commencing at the end of the Fiscal Year in which the Reference Date occurs, the Job Broker Program Subsidy Account balance remaining after the Annual Job Broker Program Subsidy Payment has been made shall increase by an amount equal to 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 Fiscal Year in which the Reference Date occurs). Developer's obligation to pay the Annual Job Broker Program Subsidy shall cease when the Job Broker Program Subsidy Account balance has been exhausted. Developer shall have no obligation to increase the available balance in the Job Broker Program Subsidy Account at any time after the account is first established (except for the interest increases as described above). Any failure by Developer to make a required Job Broker Program Subsidy Payment shall be an Event of Default as set forth in the DDA, and shall not be governed or limited by the default or arbitration provisions of this Jobs EOP.

9.2 TIHDI Job Broker Program. The TIHDI Job Broker program has responsibilities under the TIHDI Agreement to identify and refer qualified construction and permanent job candidates meeting the criteria for Economically Disadvantaged Persons under this Program, as further described in Exhibit C. Funding for the TIHDI Job Broker Program will be funded by the Authority with the funds provided by Developer as described above.

9.3 Job Training/Workforce Development. The First Source Hiring Agreements require utilization of the CityBuild program, which is intended to assure a job-ready, union level workforce. Additionally, job training programs will be identified or developed to prepare qualified Economically Disadvantaged Persons and other qualified San Francisco Residents and Treasure Island residents for the permanent/non-construction jobs anticipated to be generated by the Project. Funding for the job training activities will be a funded by the Authority, using the funds provided by Developer as described above.

(a) A particular goal of the Authority is to promote training opportunities for Economically Disadvantaged Persons in the field of building deconstruction. Subject to any collective bargaining agreements applicable to the performance of deconstruction services, the Authority, Developer and TIHDI agree to use good faith efforts to maximize opportunities for economically disadvantaged persons to obtain training in order to participate in deconstruction and the salvage and recycling of materials on properties within the Project Site.

(b) To the extent that these job training programs facilitate employment by San Francisco Residents and Economically Disadvantaged Individuals for construction and permanent/non-construction jobs outside of Treasure Island, such jobs shall be counted as a credit against the goals set forth in any First Source Hiring Agreement entered pursuant to this Program. The requesting party shall request such a credit in writing to the Authority. The Authority, in consultation with any appropriate party shall make a reasonable determination regarding such requested credit. Any disputes regarding such credits shall be resolved through arbitration, as provided herein.

9.4 Construction Contractor Assistance Program. Developer will participate in a Construction Assistance Program to ensure that local San Francisco construction contractors and other businesses/employers, including qualified SBEs as defined in this Program, are given an opportunity to obtain technical assistance in order to participate in portions of the Horizontal Development Work and portions of the Vertical Development Work and to create and sustain long term businesses and related jobs, all in accordance with this Program. Developer will work with the Authority and CityBuild to develop specific programs to assist and advise local contractors who wish to work on projects during the different phases of construction.

(a) Developer shall establish and maintain a Contractor Liaison Office on-site at Treasure Island and host workshops that cover a range of topics related to construction opportunities at Treasure Island, how to access those opportunities, financial incentives, and other programs as deemed appropriate for each phase of development.

(b) The Contractor Liaison Office will be situated on-site. It will house plans, applications and other useful information for contractors who are or who wish to perform work at Treasure Island. The office will be open during normal business hours, Monday through Friday, and will be staffed by a trained and qualified person who will act as the Contractor Liaison for the project.

(c) The Contractor Liaison will establish a series of workshops for the contractor community that will address the demolition and deconstruction, horizontal development and vertical development phases of the Project. Each workshop will cover a set of basic information including:

(i) Contractor opportunities and applications for bidding

(ii) Contractor pre-qualification process

(iii) SBE local hiring requirements

(iv) Labor Union apprenticeship program

(v) Overview of technical assistance program, including plan room overview, onsite office orientation and introductions of key personnel

(vi) Bid package review and, if applicable, bid package dissemination

(vii) Key date reviews

(viii) Safety requirements

(ix) Contractor expectations

(x) Financial education programs, covering, among other topics, meeting payroll needs, equipment purchasing and leasing programs, and other logistical support occurring from time to time.

(xi) Questions and answer sessions

(xii) Culturally competent management practices for working with a diverse workforce

9.5 SBE Mentorship Program. Before the first Major Phase Approval, the Authority will work with Developer to implement a model mentorship program that will foster emerging Small Business Enterprise firms who are capable of performing high quality construction at competitive prices. Two main goals of this program will be to increase the volume of work that these emerging firms compete for and broadening the base of their activity in the building industry. Developer will encourage all contractors who intend to bid on major projects during the horizontal construction phase to work with the Authority to identify opportunities to partner with local SBE firms and to develop mentorship programs that provide measurable results, such as survival rates for mentors, recognizable improvements to firm's financial strength and bonding capacity, increases to the number of employees employed and success in meeting the objectives of each firm's individual business plans.

10. Reporting, Monitoring, and Enforcement. With the exception of the provisions of Section 2 of this Jobs EOP, which shall be monitored and enforced as set forth in the First Source Hiring Ordinance and the First Source Hiring Agreement, and the City ordinances described in Section 4.3, which shall be monitored and enforced as set forth in each of the applicable City ordinances, the provisions of this Program shall be monitored and enforced by the Executive Director of the Authority.

10.1 Monitoring and Enforcement. The CityBuild Program and the Authority Compliance Officer, or his or her designee, shall both monitor and enforce the standards and requirements, including the good faith efforts, of this Program. CityBuild, the TIHDI Job Broker and the Authority Compliance Officer shall schedule meetings through the term of this Program to promote consistent communication and practice.

10.2 Annual Review. The Authority, working cooperatively and in good faith with Developer, shall review the effectiveness of the Program annually, commencing one (1)

year after the Effective Date, and agree to work in good faith to make adjustments to this Program in the event the review determines that the goals are not being satisfied or that adjustments should otherwise be made.

10.3 Records. Developer, Vertical Developers, Construction Contractors and Permanent Employers shall maintain, for a period of two years from the date of completion of the applicable Work, certified payroll and basic records, time cards, tax forms and superintendent and foreman daily logs for all employees performing Work covered by this Policy. Such records shall also include all of those records required by OLSE and the SBE program. All such records shall be submitted to the Authority or the City's CityBuild Program upon request, and all records shall be accompanied by a statement regarding compliance signed by the covered employer.

11. Dispute Resolution.

11.1 Meet and Confer. In the event of any dispute under this Jobs EOP (excluding Section 2 and Section 4.3 of this Jobs EOP as set forth above), the parties to such dispute shall meet and confer in an attempt to resolve the dispute. The parties shall negotiate in good faith for a period of 10 business days in an attempt to resolve the dispute; provided that the complaining party may proceed immediately to the Arbitration Provisions of Exhibit B hereto, without engaging in such a conference or negotiations, if the facts could reasonably be construed to support the issuance of a temporary restraining order or a preliminary injunction.

11.2 Arbitration. Disputes arising under this Agreement may be submitted to the provisions of Exhibit B hereof (Arbitration) if the meet and confer provision of Section 11.1 above does not result in resolution of the dispute.

Exhibit A

Forms of First Source Hiring Agreement

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("MOU") is entered into as of _____, 2011, by and between the City and County of San Francisco (the "City") through its First Source Hiring Administration ("FSHA") and Treasure Island Community Development, LLC ("Project Sponsor").

WHEREAS, Project Sponsor, as developer, proposes to acquire portions of that certain real property known as Treasure Island and Yerba Buena Island (the "Site") to, among other things, seismically stabilize Treasure Island, install backbone infrastructure and roads, create and sell developable pads for the construction of up to 8,000 units of housing and to rehabilitate and construct hotels and retail and office space (collectively the "Project"), as further described in that certain disposition and development agreement between Treasure Island Development Authority (the "Authority") and Project Sponsor and entered into concurrently with this MOU (the "DDA"); and

WHEREAS, the Authority has adopted a Jobs and Equal Opportunity Program (the "Jobs EOP"), which sets forth the employment and contracting benefits that are proposed for the Project, including: (i) creating new construction and permanent employment opportunities, (ii) setting goals for the hiring of San Francisco residents and formerly homeless and economically disadvantaged individuals; (iii) setting goals for participation by small business enterprises ("SBEs") under a program that is specific to the Project and that shall be administered by the Authority; and (iv) creating economic development opportunities and related support for the Treasure Island Homeless Development Initiative ("TIHDI") and member organizations; and

WHEREAS, the Jobs EOP requires compliance with San Francisco Administrative Code Chapter 83, the First Source Hiring Ordinance, and further requires that Project Sponsor enter into a First Source Hiring Agreement to create employment opportunities for San Francisco Residents and qualified Economically Disadvantaged Individuals as defined in Attachment A-1 (any capitalized term used in this MOU that is not defined shall have the meaning given to such term in the DDA). The Jobs EOP also requires Project Sponsor to enter into a separate Employment and Contracting Agreement to cover various elements of the Jobs EOP that are not specifically included as part of the First Source Hiring Program; and

WHEREAS, Project Sponsor has also entered into a Development Agreement ("DA") with the City under which Developer agrees, for the benefit of the City, to comply with the Jobs EOP, to enter into a First Source Hiring Agreement in accordance with the First Source Hiring

Ordinance, and to incorporate certain City contracting provisions in contracts relating to the Project as set forth in the Jobs EOP; and

WHEREAS, this MOU is based upon the First Source Hiring Ordinance and is entered into with the City's FSHA in order to establish obligations with respect to both horizontal and vertical construction of the Project, as well as permanent employment opportunities relating to the Commercial Space, as further described in the Jobs EOP; and

WHEREAS, the City and Project Sponsor agree that the City's Office of Economic and Workforce Development ("OEWD"), the TIHDI Job Broker and the FSHA CityBuild program ("CityBuild") will serve the roles set forth below; and

WHEREAS, Project Sponsor has not yet entered into a contract with a construction contractor ("Contractor") to construct the horizontal improvements of the Project;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Memorandum of Understanding agree as follows:

A. Project Sponsor, upon entering into a contract for the construction of the Project after the date of this MOU, will include in that contract a provision requiring the Contractor to execute a First Source Hiring Agreement in the form attached hereto as Attachment A-1 and the Form 1 CityBuild Workforce Projection Form attached hereto as Attachment A-2 (with such changes as may be agreed to by FSHA). It is the Project Sponsor's responsibility to provide a signed copy of the First Source Hiring Agreement to FSHA before work may begin under the construction contract.

B. Project Sponsor, upon entering into any Vertical DDA that permits the right to construct buildings comprising more than ten (10) residential units or more than 25,000 square feet of commercial uses, will include in the Vertical DDA a provision requiring the Vertical Developer or its general contractor to execute a First Source Hiring Agreement in the form attached hereto as Attachment A-1 and the Form 1 CityBuild Workforce Projection Form attached hereto as Attachment A-2 (with such changes as may be agreed to by FSHA). It is the Vertical Developer's responsibility to provide a signed copy of the First Source Hiring Agreement to FSHA before work may begin under the construction contract.

C. Project Sponsor, as the developer of the Project, will include in every purchase and sale agreement or lease that relates to land on which commercial space of more than 25,000 square feet (the "Premises") may be constructed, a provision requiring compliance with the First Source Hiring Ordinance and requiring that any tenant or operator of Premises to enter into a First Source Hiring Agreement for permanent jobs in the form attached hereto as Attachment A-3.

D. CityBuild shall represent the San Francisco Workforce Development System and will provide referrals of Qualified Economically Disadvantaged Individuals for employment on the construction phases of the Project. The TIHDI Job Broker will coordinate with CityBuild by referring qualified Economically Disadvantaged Individuals and San

Francisco Residents to CityBuild. OEWD and FSHA will coordinate and designate representatives of the San Francisco Workforce Development System to recruit, pre-screen, train and refer Qualified Economically Disadvantaged Individuals for the permanent jobs associated with the Premises.

E. Project Sponsor shall include provisions for all Contractors to adhere to the State of California's Department of Industrial Relations Apprenticeship Standards as required by State law. Unless otherwise permitted by law, Apprentices must be trained pursuant to training programs approved by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or the California Department of Industrial Relations, Division of Apprenticeship Standards.

F. Project Sponsor shall require Contractors to enter into First Source Hiring Agreements in accordance with the terms of this MOU, and shall not hire any Contractor that refuses to enter into a First Source Hiring Agreement as set forth in this MOU. FSHA shall advise Project Sponsor, in writing, of any alleged breach on the part of a Contractor or tenant with regard to participation in the First Source Hiring Program before seeking an assessment of liquidated damages against the Contractor or tenant.

G. For construction projects with projected construction value exceeding One Million Dollars ($1,000,000), Project Sponsor shall require Contractors to submit a Form 2: Workforce Hiring Plan to the FSHA and CityBuild as to the number of hiring opportunities per trade Contractor and its subcontractors have available for Entry Level or New Hire Positions prior to commencing construction.

H. The Agreement shall require Contractor to report First Source Hiring performances to FSHA utilizing the submittal of electronic certified payrolls for the purpose of tracking and reporting through the City's Project Reporting System.

I. If Project Sponsor fulfills its obligations as set forth in this MOU and the Jobs EOP, it shall not be held responsible for the failure of a Contractor, Vertical Developer or tenant to comply with the requirements of this MOU or the Jobs EOP.

J. This MOU is an approved "First Source Hiring Agreement" under the Jobs EOP. So long as Project Sponsor fulfills its obligations under this MOU, Project Sponsor shall be deemed to have fulfilled its obligations under the Jobs EOP with respect to the First Source Hiring Ordinance. The parties agree that this MOU may be executed in counterparts, each of which shall be considered an original and all of which taken together shall constitute one and the same instrument.

K. This MOU shall be binding on and inure to the benefit of all successors and assigns of Project Sponsor having an interest in the Project. Project Sponsor shall assign, and require any and all Transferees under the DDA to assume, its obligations under this DDA. Upon Project Sponsor's Transfer of obligations under the DDA, Project Sponsor shall be relieved of all obligations under this MOU arising from and after the date of Transfer with respect to the portions of the DDA that have been Transferred.

L. This MOU and its exhibits contains the entire agreement between the parties to this MOU and shall not be modified in any manner except by an instrument in writing executed by the parties of this MOU.

M. All notices to be given under this Agreement shall be in writing and sent by: (a) certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid in the United States Mail; (b) a nationally recognized overnight courier, in which case notice shall be deemed delivered one (1) business day after deposit with that courier; or (c) hand delivery, in which case notice shall be deemed delivered on the date received, all as follows:

If to the FSHA:	First Source Hiring Coordinator OEWD, 50 Van Ness Avenue San Francisco, CA 94102 Attn: Guillermo Rodriguez
If to Project sponsor:	
Copy to:	Gibson, Dunn & Crutcher 555 Mission Street, Suite 3000 San Francisco, CA 94105 Attn: Mary G. Murphy

"**Project Sponsor**"

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

"**FSHA**"

By:_____

Its: Director, Workforce Division
Office of Economic & Workforce
Development
Date:_____

Attachment A-1 to Exhibit A

Form of First Source Hiring Agreement
(CONSTRUCTION)

City and County of San Francisco First Source Hiring Program

Edwin Lee, Mayor

Office of Economic and Workforce Development

First Source Hiring Agreement

This First Source Hiring Agreement (this "Agreement"), is made as of , by and between the City and County of San Francisco (the "City") through its First Source Hiring Administration, (the "FSHA"), and the undersigned contractor ("Contractor"):

RECITALS

WHEREAS, Contractor has executed or will execute an agreement (the "Contract") to construct or oversee a portion of that certain project for the redevelopment of certain real property known as Treasure Island and Yerba Buena Island, to among other things, seismically stabilize Treasure Island, install backbone infrastructure and roads, create and sell developable pads for the construction of up to 8000 units of residential housing and to construct and rehabilitate hotels, retail and office space (collectively, the "Project"), and a copy of this Agreement is attached as an exhibit to, and incorporated in, the Contract; and

WHEREAS, as a material part of the consideration given by Contractor under the Contract, Contractor has agreed to execute this Agreement and participate in the San Francisco Workforce Development System established by the City in accordance with that certain Development Agreement (the "DA") by and between Treasure Island Community Developers, LLP (the "Project Sponsor") and the City and related agreements; and

WHEREAS, the Treasure Island Development Authority (the "Authority") has adopted a Jobs and Equal Opportunity Program (the "Jobs EOP") for the Project that, in addition to requiring compliance with the City's First Source Hiring Ordinance, also includes provisions for: (i) creating new construction and permanent employment opportunities, (ii) setting goals for the hiring of San Francisco residents and formerly homeless and economically disadvantaged individuals; (iii) setting goals for participation by small business enterprises ("SBEs") under a

program that is specific to the Project and that shall be administered by the Authority; and (iv) creating economic development opportunities and related support for the Treasure Island Homeless Development Initiative ("TIHDI") and member organizations; and

WHEREAS, this Agreement covers the First Source Hiring provisions of the Jobs EOP, and Contractor shall enter into a separate Employment and Contracting Agreement with the Authority pertaining to the remaining obligations of the Jobs EOP as set forth in the Jobs EOP; and

WHEREAS, the City and Contractor agree that the City of San Francisco Office of Economic and Workforce Development ("OEWD"), and the CityBuild program ("CityBuild") and the TIHDI Job Broker will serve the roles set forth below.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties covenant and agree as follows:

1. DEFINITIONS

For purposes of this Agreement, initially capitalized terms shall be defined as follows:

a. Area Median Income ("AMI") means the definition of AMI as set forth in the Housing Plan attached to the DDA.

b. Economically Disadvantaged Individual: A San Francisco Resident who is any of the following: (i) homeless or formerly homeless; (ii) has an annual income that is not greater than 50% of AMI, (iii) "Economically disadvantaged individuals" as defined in San Francisco Administrative Code Chapter 83; or (iv) persons who have been unable to secure employment in his or her trade for more than 20 working days during the preceding 6 months. For purposes of the foregoing, a "homeless person" means an individual who: (A) lacks a fixed, regular and adequate nighttime residence but spends days and nights in San Francisco; (B) has a primary nighttime residence that is (a) a supervised publicly or privately operated shelter designed to provide temporary living accommodations, including welfare hotels, congregate shelters and transition housing, (b) an institution that provides a temporary residence for individuals who are institutionalized, or (c) a public or private place not designed for, or ordinarily used for sleeping accommodation for human beings; or (C) meets such other definition of "homeless person" as may be adopted or approved by HUD. Examples of "economically disadvantaged individuals," for purposes of this subsection, may include, but not be limited to, the following individuals: individuals exiting the criminal justice system; individuals participating in or completing substance abuse treatment; individuals who receive financial aid for the purpose of obtaining an education or other vocational training program; survivors of domestic violence seeking employment; people with disabilities seeking employment; and veterans seeking employment. If Contractor has a question as

to whether an individual is Economically Disadvantaged under the above definition, it shall refer the question to FSHA for determination.

c. Apprentices: Any worker who is indentured to a construction apprenticeship program that maintains current registration with the State of California's Division of Apprenticeship Standards.

d. Core Employee or Core Worker: An apprentice or journey level employee, who possesses any license required by state or federal law for the project work to be performed, of a contractor or subcontractor who appears on that contractor or subcontractor's certified payroll sixty (60) of the previous one hundred calendar (100) days before date of award of a contract.

e. Good Faith Efforts: As defined in section 6, hereof.

f. New Hire: An employee of a contractor who is not listed on the contractor's quarterly tax statements for the tax period as a Core Employee or Core Worker and has been hired before the start of work.

g. Entry Level Position: A non-managerial position that requires no education above a high school diploma or certified equivalency, and less than two (2) years training or specific preparation, and shall include temporary and permanent jobs, and construction jobs related to the development of a commercial activity.

h. Hiring Opportunity: The opportunity created when Contractor adds workers to its existing Core workforce for the purpose of performing the Work under this Contract. For example, if the carpentry Subcontractor has an existing Core crew of five carpenters and needs seven carpenters to perform the work, then there are two hiring opportunities for carpentry on the Project.

i. First Opportunity or First Consideration: Consideration by Contractor of System Referrals for filling Entry Level or New Hire Positions before recruitment and hiring of non-System Referral job applicants.

j. Job Classification: Categorization of employment opportunity or position by craft, occupational title, skills, and experience required, if any.

k. Job Notification: Written notice, in accordance with Section 3(b) below, from Contractor to FSHA for any available Entry Level or New Hire Position during the term of the Contract.

l. Publicize: Advertise or post available employment information, including participation in job fairs or other forums.

m. Qualified: An Economically Disadvantaged Individual who meets the minimum bona fide occupational qualifications provided by Contractor to the System in the job availability notices required by this Agreement.

n. System: The San Francisco Workforce Development System established by the OEWD for maintaining (1) a pool of Qualified individuals, and (2) the mechanism by which such individuals are certified and referred to prospective employers covered by the First Source Hiring requirements under Chapter 83 of the San Francisco Administrative Code. Under this Agreement, CityBuild will act as the representative of the San Francisco Workforce Development System.

o. San Francisco Residents: An individual who has domiciled, as defined by Section 349(b) of the California Election Code, within the City at least seven (7) days before commencing work on a project.

p. System Referrals: Referrals by CityBuild of Qualified applicants for Entry Level or New Hire Positions with Contractor.

q. Subcontractor: A person or entity that has a direct contract with Contractor to perform a portion of the work under the Contract.

2. CONTRACTOR'S HIRING GOALS

During the term of this Agreement, Contractor shall make Good Faith Efforts to ensure that at least fifty percent (50%) of the new hire person-hours (on a cumulative basis, not by trade) performed pursuant to the Contract be performed by San Francisco Residents, of which at least half (i.e., twenty-five percent (25%) of the new hire all cumulative person-hours) shall be performed by Economically Disadvantaged Individuals. Contractor shall include this requirement in all Subcontracts under the Contract.

Contractor will follow the State of California's Department of Industrial Relations Apprenticeship Standards, as required by state law. Unless otherwise permitted by law, Apprentices must be trained pursuant to training programs approved by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or the California Department of Industrial Relations, Division of Apprenticeship Standards.

3. PARTICIPATION OF CONTRACTOR IN THE SYSTEM

a. As soon as reasonably practicable after execution of this Agreement, Contractor shall provide CityBuild the following information about Contractor's employment needs under the Contract:

i. On Attachment A-2 to Exhibit A of the Jobs EOP (the CityBuild Workforce Projection Form), Contractor will provide a detailed numerical estimate of journey and apprentice level positions to be employed on the Project for each trade.

ii. Contractor will collaborate with CityBuild staff in completing the CityBuild Workforce Projection Form, to identify, by trade, the number of workers at project start and the number of workers at project peak; and the number of positions that will be required to fulfill the First Source local hiring goals.

iii. This Agreement will constitute the First Source Hiring Plan as required under the DA and the DDA.

b. Contractors must promptly deliver to FSHA, or its designee, a Job Notification for any available Entry Level or New Hire Positions as they become available during the term of the Contract. FSHA shall provide copies of the Job Notification to CityBuild and the TIHDI Job Broker.

c. Good Faith consideration:

i. Contractor must (A) give good faith consideration to all CityBuild System Referrals, and (B) review the resumes of all such referrals, and (C) conduct interviews for posted Entry Level Positions in accordance with the nondiscrimination provisions of this Agreement.

ii. Contractor must provide constructive feedback to CityBuild on all System Referrals in accordance with the following:

(A) If Contractor meets the criteria in Section 6(a) below that establishes "good faith efforts" of Contractor. Contractor must only respond orally to follow-up questions asked by the CityBuild account executive regarding each System Referral; and

(B) After Contractor has filled at least 5 Entry Level or New Hire Positions under this Agreement, if Contractor is unable to meet the criteria in Section 6(b) below that establishes "good faith efforts" of Contractor, Contractor will be required to provide written comments on all CityBuild Referrals.

d. Contractor must provide timely notification to CityBuild as soon as the job is filled, and identify by whom.

4. CONTRACTOR RETAINS DISCRETION REGARDING HIRING DECISIONS

Contractor agrees to offer the System the First Consideration to provide Qualified applicants for employment consideration in Entry Level or New Hire Positions, subject to any enforceable collective bargaining agreements. Contractor shall consider all applications of Qualified System Referrals for employment. Provided Contractor utilizes nondiscriminatory screening criteria, Contractor shall have the sole discretion to interview and hire any System Referrals.

5. COMPLIANCE WITH COLLECTIVE BARGAINING AGREEMENTS

Notwithstanding any other provision hereunder, if Contractor is subject to any collective bargaining agreement(s) requiring compliance with a pre-established applicant referral process, Contractor's only obligations with regards to any available Entry Level or New Hire Positions subject to such collective bargaining agreement(s) during the term of the Contract shall be the following:

a. Contractor shall notify the appropriate union(s) of the Contractor's obligations under this Agreement and request assistance from the union(s) in referring Qualified applicants for the available Entry Level or New Hire Position(s), to the extent such referral can conform to the requirements of the collective bargaining agreement(s).

b. Contractor shall use "name call" privileges, in accordance with the terms of the applicable collective bargaining agreement(s), to seek Qualified applicants from the System for the available Entry Level or New Hire Position(s).

c. Contractor shall sponsor Qualified apprenticeship applicants, referred through the System, for applicable union membership.

6. CONTRACTOR'S GOOD FAITH EFFORTS

Contractor will make Good Faith Efforts to hire San Francisco Residents and Economically Disadvantaged Individuals, and shall participate in the System, in accordance with the terms of this Agreement. Contractor's Good Faith Efforts shall be determined in accordance with the following:

a. Contractor shall be deemed to have made Good Faith Efforts if Contractor accurately completes and submits before the start of demolition and/or construction Attachment A-2 to Exhibit A of the Jobs EOP (the CityBuild Workforce Projection Form 1); and

b. Contractor makes a Good Faith Effort to ensure that at least fifty percent (50%) of the person hours performed pursuant to the Contract be performed by San Francisco Residents, of which at least half shall be Economically Disadvantaged Individuals, by taking the following actions:

- Preparing one year job forecasts annually in order to prepare workforce for placement

- Preparing detailed written plans describing how the hiring plans will be implemented

- Listing all available jobs on the Project with the CityBuild Program at least two weeks before advertising for applicants elsewhere

- Providing good faith consideration to all Qualified candidates who are screened, eligible and referred by CityBuild or the TIHDI Job Broker. Should an employer not hire referrals by CityBuild or the TIHDI Job Broker, the employer must provide a written explanation. However, this Policy shall not require any firm or entity to employ a worker not Qualified for the position in question or to employ any particular worker, and that all final hiring decisions shall be made at the discretion of the employment firm or entity, acting in good faith consistent with this Policy.

- Establishing mutually acceptable means of communicating with CityBuild to give to the TIHDI Job Broker about job openings, information about jobs and providing information about job referral outcomes within a reasonable period of time following a request for such information, as well as when a problem arises at the worksite.

- Participating in the dispute resolution procedures set forth in the First Source Hiring Ordinance, when required.

c. Contractor's failure to meet the criteria set forth in Section 6(b) does not impute "bad faith." FSHA may, in its discretion, review Contractor's efforts to comply with this Agreement. Failure to meet the criteria set forth in Section 6(b) shall, at FSHA's election, trigger a review of Contractor's Good Faith Efforts and the referral process. Such review shall be conducted by FSHA in accordance with Section 12(c) below.

7. ADDITIONAL OBLIGATIONS UNDER THIS AGREEMENT

In addition to the items listed above to satisfy Good Faith Efforts, Contractor has an ongoing, affirmative obligation and shall:

a. Contact a CityBuild representative to review all hiring projections and goals for the Project. Contractor shall take active steps to advise all of its Subcontractors of the local hiring obligations on the Project, including, but not limited to providing CityBuild access and presentation time at each pre-bid, each pre-construction, and if necessary, any progress meeting held throughout the life of the Project.

b. Submit to CityBuild a "Workforce Projection" form or other formal written notification specifying Contractor's expected hiring needs during the project's duration. It is the General Contractor's responsibility to collect from its subcontractors and submit the completed Form 1: "Workforce Projection" to specify its expected hiring needs during the project's duration to CityBuild at least 30 days after contract award.

c. For construction projects with projected construction value exceeding One Million Dollars ($1,000,000), Project Sponsor shall require Contractors to submit a Form 2: Workforce Hiring Plan to FSHA and CityBuild as to the number of hiring opportunities per trade Contractor and its subcontractors have available for Entry Level or New Hire Positions. It is the General Contractor's responsibility to collect from its subcontractors and submit the completed Form 2: "Workforce Hiring Plan" to CityBuild at least 15 days prior to mobilization.

d Notify respective union(s) regarding the local hiring obligations and request their assistance in referring Qualified San Francisco Residents for any available position(s). This step applies to the extent that such referral would not violate the union's collective bargaining agreement(s).

e Provide CityBuild with up-to-date list of all trade unions affiliated with any work on the Project in a timely matter in order to facilitate CityBuild's notification to these unions of the Project's workforce requirements.

f. Submit a "Job Notice" form to CityBuild for each apprentice level position that becomes available. Contractor should simultaneously contact applicable unions about the position as well, and let the unions know that CityBuild has also been contacted under the terms of this Agreement.

g. Advise each of its Subcontractors of their ongoing obligation to notify CityBuild of all apprentice level and New Hire openings that arise throughout the duration of the Project, including openings that arise from layoffs of original crew. Contractor shall not exercise discretion in informing CityBuild of any given position; rather, CityBuild is to be universally notified, and a discussion between Contractor and CityBuild can determine whether a CityBuild graduate would be an appropriate placement for any given apprentice level position.

h. Hire qualified candidate(s) referred through the CityBuild system. In the event of the firing/layoff of any CityBuild referrals, Contractor must notify CityBuild staff within two days of the decision and provide justification for the layoff; Contractor will make good faith efforts to request a meeting with the Project's employment liaison as promptly as possible when issues arise with a CityBuild placement in order to remedy the situation before termination becomes necessary.

8. COMPLIANCE WITH THIS AGREEMENT OF SUBCONTRACTORS

In the event that Contractor subcontracts a portion of the work under the Contract, Contractor shall determine how many, if any, of the Entry Level or New Hire Positions are to be employed by its Subcontractors using Form 1: the CityBuild Workforce Projection Form; provided, however, that Contractor shall retain the primary responsibility for meeting the requirements imposed under this Agreement. Contractor shall ensure that this Agreement is incorporated into and made applicable to such Subcontract, and shall require each Subcontractor to perform the items listed in Section 6 above to the extent applicable.

9. EXCEPTION FOR ESSENTIAL FUNCTIONS

Nothing in this Agreement precludes Contractor from using temporary or reassigned existing employees to perform essential functions of its operation; provided, however, the obligations of this Agreement to make Good Faith Efforts to fill such vacancies permanently with System Referrals remains in effect. For these purposes, "essential functions" means those functions absolutely necessary to remain open for business.

10. CONTRACTOR'S COMPLIANCE WITH EXISTING EMPLOYMENT AGREEMENTS

Nothing in this Agreement shall be interpreted to prohibit the continuation of existing workforce training agreements or to interfere with consent decrees, collective bargaining agreements, or existing employment contracts. In the event of a conflict between this Agreement

and an existing agreement, the terms of the existing agreement shall supersede this Agreement; provided, Contractor shall inform FSHA in writing of any conflicts between existing agreements and this Agreement on or before the date of this Agreement.

11. HIRING GOALS EXCEEDING OBLIGATIONS OF THIS AGREEMENT

Nothing in this Agreement shall be interpreted to prohibit the adoption of hiring and retention goals, first source hiring and interviewing requirements, notice and job availability requirements, monitoring, record keeping, and enforcement requirements and procedures which exceed the requirements or this Agreement.

12. OBLIGATIONS OF CITYBUILD

Under this Agreement, CityBuild shall:

a. Upon signing this Agreement, immediately initiate recruitment and pre-screening activities.

b. Recruit Qualified individuals to create a pool of applicants for jobs who match Contractor's Job Notification and to the extent appropriate train applicants for jobs that will become available through the First Source Program and coordinate with the TIHDI Job Broker in identifying such applicants.

c. Screen and refer applicants according to qualifications and specific selection criteria submitted by Contractor.

d. Coordinate funding for City-sponsored pre-employment, employment training, and support services programs.

e. Follow up with Contractor on outcomes of System Referrals and initiate corrective action as necessary to maintain an effective employment/training delivery system.

f. Provide Contractor with reporting forms for monitoring the requirements of this Agreement.

g. Monitor the performance of the Agreement by examination of records of Contractor as submitted in accordance with the requirements of this Agreement.

13. CONTRACTOR'S REPORTING AND RECORD KEEPING OBLIGATIONS

a. Subcontractor Compliance. Contractor shall ensure that Subcontractors of all tiers comply with applicable requirements of the Policy. Contractor shall ensure that all Subcontractors agree as a term of participation on this Project that the City shall have third party beneficiary rights under all subcontracts under which Subcontractors are performing project work. Such third party beneficiary rights shall be limited to the right to enforce the requirements of the Jobs EOP, including the First Source Hiring Ordinance, directly against the Subcontractors.

b. Reporting. Contractor shall submit certified payrolls for the purpose of tracking and reporting through the City's Project Reporting system and keep any other relevant workforce records and make available to CityBuild upon request. CityBuild will monitor compliance with this requirement electronically.

c. Recordkeeping. Contractor and each Subcontractor shall keep, or cause to be kept, for a period of four years from the date of Substantial Completion of work under the Contract, certified payroll and basic records, including time cards, tax forms, and superintendent and foreman daily logs, for all workers within each trade performing work on the Project. Contractor shall maintain accurate records of its Good Faith Efforts and the steps taken under this Agreement to fulfill its obligations hereunder. Such records must include the maintenance of an on-site First Source Hiring Compliance binder, as well as records of any new hire made by Contractor through a San Francisco CBO whom Contractor believes meets the First Source Hiring criteria.

1. Such records shall include the name, address and social security number of each worker who worked on the covered project, his or her classification, a general description of the work each worker performed each day, the apprentice or journey-level status of each worker, daily and weekly number of hours worked, the self-identified race, gender, and ethnicity of each worker, whether or not the worker was a San Francisco Resident or Economically Disadvantaged worker, and the referral source or method through which the contractor or subcontractor hired or retained that worker for work on the Project (e.g., core workforce, name call, union hiring hall, City-designated referral source, or recruitment or hiring method).

2. Contractor and Subcontractors may, among other methods, verify that a worker is a local resident through the worker's possession of a valid SF City ID Card or other government-issued identification.

3. All records described in this subsection shall at all reasonable business hours be open to inspection and examination by the duly authorized officers and agents of the City, including representatives of the Authority, OEWD, and CityBuild.

4. Maintain accurate records demonstrating Contractor's compliance with the First Source Hiring requirements of Chapter 83 of the San Francisco Administrative Code including, but not limited to, the following:

   (1) Applicants
   (2) Job offers
   (3) Hires
   (4) Rejections of applicants

d. Monitoring. From time to time and in its sole discretion, OEWD, CityBuild may monitor and investigate compliance of Contractor and Subcontractors working on the Project with the requirements of this Agreement. Contractor and all Subcontractors shall allow representatives of OEWD, CityBuild and the Authority, in the performance of their duties, to engage in random inspections of the work site provided such representatives observe all work safety rules and execute appropriate waiver of liability forms in advance of entering any active job site. Contractor and all Subcontractors shall also allow representatives of OEWD, CityBuild to have access to employees of Contractor and Subcontractors and the records required to be maintained under the FSHA.

e. Reporting. Contractor shall submit completed reporting forms based on Contractor's records to CityBuild quarterly, unless more frequent submittals are reasonably required by FSHA. In this regard, Contractor agrees that if a significant number of positions are to be filled during a given period or other circumstances warrant, CityBuild may require daily, weekly, or monthly reports containing all or some of the above information.

f. Complaints/Cause. If based on complaint, failure to report, or other cause, the FSHA has reason to question Contractor's Good Faith Efforts, Contractor shall demonstrate to the reasonable satisfaction or the City that it has made Good Faith Efforts as required by this Agreement.

14. ENFORCEMENT REMEDIES

a. The parties agree that monitoring and enforcement of the obligations hereunder shall be governed by the provisions of San Francisco Administrative Code Chapter 83 as in effect on the Effective Date of the Development Agreement and as amended or updated from time to time, to the extent permitted under the Development Agreement.

b. In addition to the remedies afforded the FSHA under Chapter 83 of the San Francisco Administrative Code, if the FSHA determines in its reasonable discretion, that such penalties are insufficient to incentivize the employer to meet its obligations hereunder, the FSHA may submit the determination of violation and penalties to arbitration pursuant to Exhibit C attached to the Jobs EOP.

c. If Contractor fulfills its obligations as set forth in this Agreement, Contractor shall not be held responsible for the failure of a Subcontractor to comply with the requirements of this Agreement (except (i) Contractors will establish goals for specific Subcontractors, taking into account the failures of any previous Subcontractor, as needed to fulfill the requirements of this Agreement, and (ii) for any payments that may be due under Section 13 of the arbitration provisions attached as Exhibit C to the Jobs EOP).

15. DURATION OF THIS AGREEMENT

This Agreement shall be in full force and effect throughout the term of the Contract. Upon expiration of the Contract, or its earlier termination, this Agreement shall terminate, provided such termination shall not limit or effect obligations under this Agreement that arose before the date of termination.

16. NOTICE

All notices to be given under this Agreement shall be in writing and sent by: certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid in the United States Mail, a nationally recognized overnight courier, in which case notice shall be deemed delivered one (1) business day after deposit with that courier, or hand delivery, in which case notice shall be deemed delivered on the date received, all as follows:

If to FSHA:	First Source Hiring Manager OEWD, 50 Van Ness Avenue San Francisco, CA 94102 Attn: Mr. Guillermo Rodriguez
If to CityBuild:	CityBuild Compliance Officer 50 Van Ness Avenue San Francisco, CA 94102 Attn: _____
If to Contractor:	
	Attn:

a. Any party may change its address for notice purposes by giving the other parties notice of its new address as provided herein. A "business day" is any day other than a Saturday, Sunday or a day in which banks in San Francisco, California are authorized to close.

b. Notwithstanding the foregoing, any Job Notification or any other reports required of Contractor under this Agreement (collectively, "Contractor Reports") shall he delivered to the address of FSHA pursuant to this Section via first class mail, postage paid, and such Contractor Reports shall he deemed delivered two (2) business days after deposit in the mail in accordance with this Subsection.

17. CITY CONTRACTING PROVISIONS

The City contracting provisions set forth in Schedule 1 are incorporated into this Agreement, and Contractor agrees to comply with such provisions, as applicable, in the performance of its work under this Agreement.

18. ENTIRE AGREEMENT

This Agreement contains the entire agreement between the parties to this Agreement and shall not be modified in any manner except by an instrument in writing executed by the parties or their respective successors in interest.

19. SEVERABILITY

If any term or provision of this Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement shall not be affected.

20. COUNTERPARTS

This Agreement may be executed in one or more counterparts. Each shall be deemed an original and all, taken together, shall constitute one and the same instrument.

21. SUCCESSORS

This Agreement shall inure to the benefit of and shall be binding upon the parties to this Agreement and their respective heirs, successors and assigns. If there is more than one person comprising Contractor, their obligations shall be joint and several.

22. HEADINGS

Section titles and captions contained in this Agreement are inserted as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of any of its provisions

23. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the following have executed this Agreement as of the date set forth above.

FIRST SOURCE HIRING ADMINISTRATION	**CONTRACTOR:**
City and County of San Francisco	
By:_____	By:_____
Name: _____	Name: _____
Its: _____	Its: _____

Schedule 1 to Attachment A-1

City Contracting Provisions

[*from DDA Section 27*]

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:

(i) 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.

(ii) 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.

(iii) "**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.

(iv) 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.

Attachment A-2 to Exhibit A

Form 1: CityBuild Workforce Projection Form

All Prime Contractors and Subcontractors with contracts in excess of $100,000 must complete the *CityBuild Workforce Projection* (Form 1) within thirty (30) days of award of contract and for contracts lasting for more than one (1) year, on an annual basis thereafter on the anniversary of the first submittal of this Form 1. It is the Prime Contractor's responsibility to ensure CityBuild receives completed Form l's from all subcontractors in the specified time and keep a record of these Forms in a compliance binder for evaluation.

Once all Form 1's have been submitted, all contractors are required to attend a preconstruction meeting convened by CityBuild staff to discuss the hiring goals for this project.

- *Contractor's "Core" or "Existing" workforce shall consist of any worker who appears on the Contractor's active payroll for at least 60 days of the 100 working days before the award of this Contract.*
- *For Construction Contracts: Use this form to indicate the TOTAL estimated number of Journey Level Positions and Entry Level/Apprentice Position that will be needed to perform the work.*
- *For Non-Construction Contracts: Use this form to indicate all entry-level positions that will be needed to perform the work.*
- *If company is on multiple projects, please submit one Workforce Projection per project.*

Contractor Name: _____

Project Name: _____ Main Contact: _____

City PM: _____ Contact Name: _____

Labor Trade, Position, or Title	Journey or Apprentice / Entry-Level (J/A)	Number of Core Employees	Estimated Number of Position(s) at Peak of Work	Est. Start Date	Est. End Date	Est. Total Number of Hours to Complete Work	Union?
	J ☐ A ☐						Yes ☐ No ☐
	J ☐ A ☐						Yes ☐ No ☐
	J ☐ A ☐						Yes ☐ No ☐
	J ☐ A ☐						Yes ☐ No ☐
	J ☐ A ☐						Yes ☐ No ☐

**Continue on separate sheet, if necessary. For assistance or questions in completing is form, contact the CityBuild Program of the Department of Economic and Workforce Development, (415) 581-2303.*

Successful Bidder/Company Name _____ Street Address _____

Name of Signer _____ Title _____ City _____ Zip _____ Email _____

Signature of Authorized Representative _____ Date _____ Office Telephone _____ Cell Phone _____ Fax _____

Attachment A-3

Form of First Source Hiring Agreement
(Permanent Jobs)

PLEASE FAX COMPLETED FORM ATTN: CITYBUILD AT (415)581-2368 OR
EMAIL: KEN.NIM@SFGOV.ORG OR IAN.FERNANDO@SFGOV.ORG
WEBSITE: HTTP://WWW.OEWD.ORG/CITYBUILD.ASPX
Main Line: (415) 581-2335

City and County of San Francisco — First Source Hiring Program

Edwin M. Lee, Mayor

Office of Economic
and Workforce Development

FIRST SOURCE HIRING AGREEMENT
COVERED COMMERCIAL SPACE

This First Source Hiring Agreement (this "Agreement") is made as of_____, by and between the City and County of San Francisco, State of California, by and through its First Source Hiring Administration (the "FSHA"), and _____ ("Employer").

RECITALS

WHEREAS, Employer intends to operate _____ (the "Covered Commercial Operation") within the City and County of San Francisco at _____ on Treasure Island (the "Premises");

WHEREAS, Employer expects that approximately _____ employees would work for the Covered Commercial Operation at the Premises;

WHEREAS, Employer expects to hire approximately ____ new employees to work at the Premises;

WHEREAS, Employer has agreed to use good faith efforts to hire San Francisco Residents to fill 50% of the new positions;

WHEREAS, Employer has agreed to use good faith efforts to hire Economically Disadvantaged Individuals to fill 25% of the new positions; and

WHEREAS, Employer and the FSHA desire to memorialize Employer's commitment to use good faith efforts to hire at least 50 percent of San Francisco Residents, including 25% Economically Disadvantaged Individuals, and to participate in the San Francisco Workforce Development System established by the City and County of San Francisco in accordance with the City's First Source Hiring Ordinance and the Jobs EOP agreed upon by Developer and the Treasure Island Development Authority (the "Authority") in connection with the Disposition and Development Agreement ("DDA") for the Treasure Island project. A copy of the Jobs EOP has been provided to Employer.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties covenant and agree as follows:

ARTICLE I

DEFINITIONS

For purposes of this Agreement, initially capitalized terms shall be defined as follow:

1.1 Available Entry Level or New Hire Position. An Entry Level or New Hire Position for which Employer's plans to hire a new employee. The term "Available Entry Level or New Hire Position" shall include both regular full-time and part-time jobs.

1.2 Applicant. An individual who has (a) completed and submitted an application via the approved Employer application process; (b) applied for a specific job; and (c) met the minimum qualifications established for the job applied for.

1.3 San Francisco Area. The San Francisco geographic area, which is attached hereto as Schedule 1.

1.4 Candidate. An individual who is interested in a position, but has not satisfied the definition of an "Applicant," as defined herein.

1.5 CBO. Any employment-training provider, including any private, non-profit organization that is representative of targeted communities or significant segments of targeted communities and that provides job training and referral services to members of such

communities. The term "CBO" may refer to a single CBO or a group of CBOs, as the context requires.

1.6 CBO Contract. An agreement pursuant to which the Designated CBO(s) shall agree and be required to perform the obligations set forth in Section 3.2, below.

1.7 Designated CBO. A CBO with which OEWD, directly or indirectly contracts to assist Employer in fulfilling the terms and conditions of this Agreement.

1.8 Economically Disadvantaged Individual. An Economically Disadvantaged Individual as defined in San Francisco Administrative Code Chapter 83 and the Jobs EOP.

1.9 Eligible Individual. An individual who is either (a) eligible to participate in a program authorized by the Workforce Investment Act of 1998, 1998 PL 105-220 (HR 1385), as determined by the San Francisco Workforce Investment Board (WISF) and the San Francisco Office of Economic and Workforce Development; (b) designated as "economically disadvantaged" by the FSHA, meaning an individual who is at risk or relying upon, or returning to, public assistance, or (c) meets the definition of Economically Disadvantaged Individual in the Jobs EOP. For the purposes of this Agreement, the term "Eligible Individual" shall include any individual who resides in San Francisco (and so identifies himself or herself) at the time such individual is hired. For purposes of this agreement, Eligible Individuals will not he considered Applicants or employees of tenant's.

1.10 Entry Level Position. A non-managerial or non-supervisory position at the Premises that requires neither education above a high school diploma or certified equivalency, nor more than two (2) years of training or specific preparation. The types of Entry Level Positions that are projected to be available at the Premises are as follows:

a. .

b. .

c. .

d. .

e. .

f. .

1.11 Initial Hiring Date. The date on which Employer commences unrestricted hiring efforts for the Covered Commercial Operation on a regular basis.

1.12 Job Notification. Written notice, in accordance with Section 4.2(a) below, from Employer to the FSHA and the designated CBO(s) (if applicable) for any Available Entry Level or New Hire Position during the term of the Agreement.

1.13 OEWD. The City and County of San Francisco Office of Economic and Workforce Development.

1.14 Pre-Hiring Period. The fourteen (14) day period immediately before the Initial Hiring Date.

1.15 Premises. The premises described in Schedule 2 attached hereto.

1.16 Qualified Pool. The pool of Applicants who have met the job qualifications and passed the applicable employment screening test, and are thus eligible to be interviewed by Employer for Available Entry Level Positions at the Premises. Candidates may apply for multiple job categories through a single application.

1.17 Premises Opening Date. The date on which the Covered Commercial Operation first opens for normal business operations.

1.18 San Francisco Resident. An individual who has domiciled, as defined by Section 349(b) of the California Election Code, within the City at least 7 days before commencing work at the Premises.

1.19 System. The San Francisco Workforce Development System established by the City and County of San Francisco, and managed by the OEWD, for maintaining (a) a pool of Eligible Individuals and (b) the mechanism by which such individuals are certified and referred to prospective employers who are subject to the First Source Hiring requirements that would otherwise be covered by Chapter 83 of the San Francisco Administrative Code. For the purposes of this Agreement, the certification and referral component of the System includes the activities of the Designated CBO(s).

1.20 System Referrals. Trainees referred by the System to Employers as Candidates for Available Entry Level or New Hire Positions.

1.21 Trainees. Eligible Individuals who are currently undertaking or have already completed the training programs provided by the Designated CBO(s) in connection with this Agreement.

ARTICLE II

HIRING GOALS

2.1 Hiring Goals. As long as this Agreement remain in full force and effect pursuant to Section 7.1, below, Employer's hiring goals shall be as follows:

a. To hire persons residing in San Francisco so that at least fifty percent (50%) of its Available Entry Level or New Hire Positions shall be filled by San Francisco Residents.

b. To hire Economically Disadvantaged Individuals so that at least twenty-five percent (25%) of its Available Entry Level or New Hire Positions shall be filled by Economically Disadvantaged Individuals.

2.2 Good Faith Efforts. Employer will make good faith efforts to meet the hiring goals set forth in Section 2.1 above. Determinations of Employer's good faith efforts shall be in accordance with the following:

a. Employer shall be deemed to have used good faith efforts to meet the hiring goals set forth in Section 2.1 if Employer satisfies each of its obligations under Articles III and IV below.

b. Employer's failure to meet the hiring goals set forth in Section 2.1 does not impute "bad faith." If the FSHA challenges Employer's good faith efforts, Employer shall use commercially reasonable efforts to provide information to the FSHA in an attempt to demonstrate to the reasonable satisfaction of the City that it has exercised good faith to satisfy its obligations under this Agreement (keeping in mind that Employer's compliance with Articles III and IV below shall deemed to constitute good faith efforts). Failure to meet the hiring goals set forth in Section 2.1 may also trigger a review of the recruitment and referral processes developed under this agreement for possible modification. Employer's proactive participation in such a review will also be a demonstration of good faith under this Agreement.

ARTICLE III

DESIGNATED CBO(S)

3.1 CBO Selection. OEWD has selected (and Employer has agreed) that the TIHDI Job Broker will act as the primary Designated CBO for the recruiting and training of Eligible Individuals. If the Authority reasonably determines that the TIHDI John Broker is not able to perform all of the recruiting and training responsibilities or other requirements of the

TIHDI Job Broker Program, OEWD may select (with Employer's approval, which approval will not be unreasonably withheld or delayed) additional CBOs if necessary to reach specific populations to be served by this JEOP.

3.2 CBO Contracts. OEWD shall contract, either directly or indirectly, with the Designated CBO(s) to implement a training program that will be aimed at assisting Employer to meet the hiring goals set forth in Section 2.1, above. OEWD shall maintain CBO Contracts (though the term of, and parties to, each such individual contract may vary over time) for the period commencing at least six (6) months before the expected Premises Opening Date, and terminating no earlier than the second (2nd) anniversary of the Premises Opening Date. The CBO Contract will require that the Designated CBO(s) undertake the following activities:

a. *Orientation Sessions*. Participate in an Employer orientation session as described in Section 4.1(d), below;

b. *Recruiting*. Recruit Eligible Individuals for job training, commencing six (6) months before the expected Premises Opening Date, including placement of ads and other publicity methods as needed;

c. *Pre-Screening*. Pre-screen Eligible Individuals to ensure that they meet certain standards before accepting them as Trainees. This pre-screening would include: (i) verification that the Eligible Individual resides in San Francisco; (ii) criminal and driving background checks; (iii) drug tests; and (iv) confirmation of the minimum reading and math skills necessary to apply for employment and function as a competent employee of Employer

d. *Life Skills Courses*. Provide life skills courses to Trainees so that Trainees acquire skills that will enable them to succeed as Employer employees and interact effectively with their supervisors, co-workers and customers;

e. *Employee Visits*. Work with Employer to arrange for current Employer's employees who reside in the San Francisco to meet with Trainee classes before the opening of the Covered Commercial Operation and discuss their experiences at Employer;

f. *Premises Visits.* Ensure that the Trainees have the opportunity to visit an operating Employer facility (if any), in the company of CBO representatives (but not necessarily Employer's employees), so that the Trainees may familiarize themselves with the typical environment and operations of an Employer facility;

g. *Application System Coaching*. Teach Trainees to participate in the job application system used by Employer at the relevant time;

h. *Interview Coaching*. Coach Trainees in appropriate conduct during interviews;

i. *Scheduling.* Arrange with Employer for System Referrals to apply for Available Entry Level or New Hire Jobs during the Pre-Hiring Period.

j. *Further Recruiting and Training*. After the Premises Opening Date through the end of the Term, maintain the recruiting and training program at a less intense level in order to fill upcoming hiring needs, in coordination with a designated Employer representative (e.g., the Human Resources Manager); and

k. *Monitoring and Reporting.* Monitor and report to OEWD and Employer or its designee, upon the Premises Opening Date and thereafter on a quarterly basis, the following numbers for the applicable time period, in each case showing subtotals for San Francisco :

i. The number of Eligible Individuals who become Trainees in the Designated CBO(s)' training program, and when they enter that training program;

ii. The number of Trainees who complete the training program and are qualified to be System Referrals, and when they complete it;

iii. The number of System Referrals who apply for a job at Employer and when they apply;

iv. The number of System Referrals who are invited to interview for an Available Entry-Level Position, and when the invitations are issued;

v. The number of System Referrals who are offered jobs by Employer and when the job offers are given; and

vi. The number of System Referrals who ultimately accept job offers from Employer, and when they accept.

ARTICLE IV

TENANT'S OBLIGATIONS

4.1 Activities Before Premises Opening Date. Employer shall undertake the following activities during that portion of the Term that is before the Premises Opening Date:

a. *Forecasting*. As soon as reasonably practical after execution of this Agreement, Employer shall provide to the OEWD notification of the Premises Opening Date, Pre-Hiring Period and Initial Hiring Date.

b. *Employer's Contact Person*. Employer shall designate a contact person who shall coordinate training and hiring activities with the OEWD.

c. *Tool Kit*. Before the commencement of the Designated CBO(s)' training activities, Employer shall prepare and supply to the Designated CBO(s) a "tool kit" describing the hiring process and benefits available to employees. The "tool kit" shall also include a clear, accurate description of each type of Available Entry Level or New Hire Position, including expectations, experience and/or educational requirements, and any special requirements (for example, language skills and/or possession of a valid California driver's license).

d. *Orientation Session*. Before the commencement of the Designated CBO(s)' training activities, Employer shall provide an orientation session for the Designated CBO(s) so that the Designated CBO(s) become familiar with Employer store operations, hiring practices and required job skills. This orientation session will include a tour at one of Employer's current facilities (if any). The orientation session shall not require Employer to share any proprietary information regarding the operation of its operations.

f. *Employee Visits*. Employer shall use reasonable efforts to identify current retail employees who reside in San Francisco to meet with Trainee classes and discuss their experiences at Employer.

g. *Targeted Hiring*. During the Pre-Hiring Period, Employer shall coordinate with the Designated CBO(s) to arrange for a pre-hiring location in a convenient, transit-accessible location. This pre-hiring location will only be open to Economically Disadvantaged Individuals. Employer will interview, and make hiring decisions regarding, Economically Disadvantaged Residents who apply during the Pre-Hiring Period before interviewing any other Candidates for Available Entry Level or New Hire Positions.

h. *Hiring Feedback*. Immediately following the Pre-Hiring Period, an Employer representative shall provide feedback to the Designated CBO(s) regarding hiring trends and why System Referrals are or are not being hired by Employer; provided, however, that this feedback shall be of a general nature such that individual Candidates and/or Applicants are not identified.

j. *Non-Discrimination*. Employer shall give due consideration to all System Referrals and shall not discriminate against any Applicant for an Available Entry Level or New Hire Position based on that Applicant's participation in the First Source Hiring Program.

4.2 Activities After the Premises Opening Date. Commencing as of the Premises Opening Date:

a. *Hiring Procedures.* Employer shall process all Candidates and Applicants through Employer's standard hiring methods; however, Employer shall adhere to the following protocols: after the Premises Opening Date, Employer shall promptly deliver by mail, messenger or facsimile to OEWD or an OEWD Designee if requested by OEWD, a Job Notification for any Available Entry Level or New Hire Positions, as soon as they become available during the term of the Agreement. The Job Notification shall also be delivered to the Designated CBO(s) if the Available Entry Level or New Hire Position becomes available within the first two years after the Premises Opening Date. For each Available Entry Level or New Hire Position, the following requirements apply:

i. The Job Notification shall provide a clear, accurate job description, including expectations, whether the position is part time (less than 32 hours a week) or full time, minimum wages to be paid, and any special requirements.

ii. During the seventy-two (72) hour period following delivery of the Job Notification, Employer may only interview and/or hire Eligible Individuals for the Available Entry Level or New Hire Position but may publicize the upcoming position. Before interviewing and/or hiring any other applicants for the Available Entry Level or New Hire Position, Employer shall first review any (a) applications received from San Francisco Residents and Economically Disadvantaged Individuals during the 72-hour period following delivery or of the Job Notification, and (b) any applications from San Francisco Residents and Economically Disadvantaged Individuals that exist in the Qualified Pool on or before the end of such 72-hour period.

iii. Employer shall not be required to deliver a Job Notification or hire an Eligible Individual for an Available Entry Level or New Hire Position if Employer reasonably determines that there is an urgent need to fill that position immediately in order to perform essential functions of its operation. If Employer determines that there is an urgent need to fill a

position immediately in order to perform essential functions of its operations in reliance on this subsection, it shall provide OEWD notice of this fact as soon as possible.

b. *Scope of Qualified Pool*. Notwithstanding Section 4.2(a), above, Employer shall require that all Candidates for Available Entry Level or New Hire Positions at the Covered Commercial Operation apply at the Premises itself, instead of being able to apply at other existing stores. This is expected to increase the percentage of San Francisco Residents and Economically Disadvantaged Residents in the Qualified Pool for the Premises. Employer shall continue this practice so long as Employer is able to hire a sufficient number of qualified employees to undertake normal business operations; provided, however, that if isolated instances occur where Employer is unable to fill a specific position from Applicants in the Qualified Pool, the scope of the Qualified Pool shall remain restricted to Applicants at the Premises but Employer may recruit from Employer's other stores to fill that specific position. If Employer reasonably determines that it is not able to hire a sufficient number of qualified employees on an ongoing basis to undertake normal business operations, this Section 4.2(b) shall no longer be effective.

c. *Job Needs Communications*. A designated Employer representative (e.g., the Human Resources Manager) shall use reasonable efforts to coordinate with the Designated CBO(s) and OEWD in order to furnish information regarding the number of upcoming job openings for the Premises, to the extent that such job openings can be identified.

d. *Standard Retention Efforts*. In order to promote retention among the newly hired System Referrals, Employer shall implement retention efforts consistent with Employer company practices. These retention efforts currently include: an orientation / assimilation process; product knowledge classes; and an initial performance review after the first ninety (90) days of employment. Employer shall have the sole discretion to modify its retention efforts at any time.

e. *Additional Retention Efforts*. In addition to the standard retention efforts described in Section 4.2(d), above, an Employer representative shall communicate with the Designated CBO(s) and OEWD on a regular basis to provide feedback intended to enhance the hiring of, and satisfactory job performance by, the System Referrals. This feedback shall be general in nature and shall not be focused on specific individuals.

4.3 Record-Keeping Obligations. Employer shall create and maintain records of the number of San Francisco Residents and Economically Disadvantaged Residents who work at the Premises throughout the term of this Agreement and for 2 years following the expiration or termination of this Agreement.

4.4 Reporting Obligations. Employer shall cause the information gathered pursuant to Section 4.3, above, plus the information provided by the Designated CBO(s) pursuant to Section 3.2(1), above, to be reported to the OEWD every six (6) months for the term of this Agreement.

ARTICLE V

HIRING CONDITIONS

5.1 Employer Retains Discretion Regarding Hiring Decisions. Employer shall have the sole discretion to make all hiring decisions, including determining whether a System Referral shall be interviewed for an Available Entry Level or New Hire Position, or is qualified for that position. The parties agree and acknowledge that every individual considered by Employer for employment in a particular job category must pass an employment test to be placed into the Qualified Pool for that job category, and that Candidates who fail to pass a drug test, a background check, and/or any other nondiscriminatory pre-employment conditions that Employer establishes from time to time in its sole discretion, will not be hired by Employer. Any System Referral who is hired by Employer shall have the same rights and obligations as all other employees in similar positions. Employer shall not discriminate against any employees on the basis of participation in the First Source Hiring Program. Employment with Employer is not for a specified term and is at the mutual consent of the employee and Employer, and the employment relationship may be terminated with or without cause, and with or without prior notice, by either the employee or Employer. Nothing in this Agreement is intended to alter the "at-will" nature of an individual's employment with Employer.

5.2 No Modification of Employer Hiring Practices. Nothing in this Agreement shall require Employer to (a) modify in any manner its hiring practices including, without limitation, any computerized application system, background checks, drug tests, and skills tests; or (b) to violate any court order, consent decree, law or statute.

5.3 Exception for Essential Functions. Nothing in this Agreement shall preclude Employer from using temporary or reassigned existing employees to perform essential functions

of its operation; provided, however, Employer obligation to use good faith efforts to meet the hiring goals set forth in Section 2.1 shall remain in effect. For these purposes, "essential functions" means those functions necessary to meet business obligations.

ARTICLE VI

THE FSHA'S OBLIGATIONS

Pursuant to this Agreement, the FSHA (or its designee) shall:

a. Provide for City sponsored pre-employment screening, employment training, and support services programs.

b. Follow up with Employer and the Designated CBO(s) on the outcomes of System Referrals, and initiate corrective action as necessary to maintain an effective employment training and delivery system;

c. Provide Employer with reporting forms, consistent with the reporting obligations set forth in Section 4.3, above, for monitoring the requirements of this Agreement; and

d. Monitor the performance of the Agreement by examination of records of Employer's hiring activities as submitted in accordance with the requirements of this Agreement.

ARTICLE VII

DURATION AND SCOPE OF THIS AGREEMENT

7.1 Duration. This Agreement shall be in full force and effect until the tenth (10th) anniversary of the Premises Opening Date. Should the Covered Commercial Operation close permanently before such date, this Agreement shall terminate as of the date of such closing and shall be of no further force and effect on the parties hereto. Notwithstanding the foregoing as of the (2nd) anniversary of the Premises Opening Date, the terms and obligations of the following sections of this Agreement shall be void and of no further force or effect: Article III in its entirety, and the following sections from Article IV: Section 4.1, Section 4.2(b) and Section 4.2(e).

7.2 Scope. The provisions of this Agreement shall apply only to employees hired by Employer to be assigned on a primary basis to positions at the Premises. Employer's efforts to recruit and hire employees to be assigned to any positions at locations other than the Premises are not within the scope of this Agreement. Should Employer lease a portion of the space at the

Premises, Employer shall be required to include this Agreement in any lease or occupancy contract and require that the tenant/occupant comply with the requirements of this Agreement; provided, the parties may instead decide to have the tenant/occupant enter into a separate first source hiring agreement. If Employer fulfills its obligations under this Agreement, Employer shall not be held responsible for any failure of a tenant/occupant to comply with this Agreement or a separate first source hiring agreement.

7.3 Satisfaction of First Source Hiring Commitments. Employer's fulfillment of its obligations under this Agreement shall constitute fulfillment of the terms of the First Source Hiring Program under the Jobs EOP.

ARTICLE VIII

NOTICE

8.1 General Terms. All notices to be given under this Agreement shall be in writing and sent by: (a) certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid in the United States Mail; (b) a nationally recognized overnight courier, in which case notice shall be deemed delivered one (1) business day after deposit with that courier; or (c) hand delivery, in which case notice shall be deemed delivered on the date received, all as follows:

If to the FSHA: First Source Hiring Coordinator
OEWD
50 Van Ness Avenue
San Francisco, CA 94110
Attn: Guillermo Rodriguez

If to Employer:

Copy to:

Either party may change its address for notice purposes by giving the other party notice of its new address as provided herein. A "business day" is any day other than a Saturday, Sunday or a day in which banks in San Francisco, California are authorized to remain closed.

8.2 Employer's Reports. Notwithstanding the foregoing, any reports required by Employer under this Agreement (collectively, "Employer's Reports") shall be delivered to the address of the FSHA pursuant to this Section via first class mail, postage paid, and such

Employer's Reports shall be deemed delivered two (2) business days alter deposit in the mail in accordance with this Subsection.

ARTICLE IX

GENERAL PROVISIONS

9.1 Entire Agreement. This Agreement contains the entire agreement between the parties to this Agreement and shall not be modified in any manner except by an instrument in writing executed by the parties or their respective successors in interest.

9.2 Severability. If any term or provision of this Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement shall not be affected.

9.3 Counterparts. This Agreement may be executed in one or more counterparts. Each shall be deemed an original and all, taken together, shall constitute one and the same instrument.

9.4 Successors. This Agreement shall inure to the benefit of and shall be binding upon the parties to this Agreement and their respective heirs, successors and assigns.

9.5 Headings. Section titles and captions contained in this Agreement are inserted as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of any of its provisions.

9.6 Relationship of Parties. It is specifically understood and agreed by the parties that the development of the Premises is a private development. Nothing contained in this Agreement shall be deemed or construed, either by the parties hereto or by any third party, to create the relationship of principal and agent or create any partnership, joint venture or other association between Employer and the City and County of San Francisco.

9.7 No Obligations to Third Party. This Agreement is not intended and shall not be construed to create any third party beneficiary rights in any person or entity that is not a third party hereto, and no action to enforce the terms of this Agreement may be brought against either party by any person or entity that is not a party hereto.

9.8 Governing Law. This Agreement shall be governed and construed by the laws of the State of California.

9.9 No Implied Waivers. No failure by the City to insist upon the strict performance of any obligation of Employer under this Agreement or to exercise any right, power or remedy arising out of a breach thereof, irrespective of the length of time for which such failure continues,

shall constitute a waiver of such breach or of the City's right to demand strict compliance with such term, covenant or condition. No waiver of any of the provisions of this Agreement shall be effective unless in writing and signed by an authorized representative of the City, and only to the extent expressly provided in such written waiver. No express written waiver of any default or the performance of any provision hereof shall affect any other default or performance, or cover any other period of time, other than the default, performance or period of time specified in such express waiver. One or more written waivers of a default or the performance of any provision hereof shall not be deemed to be a waiver of a subsequent default or performance.

9.10 Violations. The failure by Employer to make Entry Level or New Hire Positions available to the FSHA for referral of economically disadvantaged individuals as required by this Agreement shall cause Employer to be subject to penalties as set forth in the First Source Hiring Ordinance (Section 83.12 of the City's Administrative Code).

9.11 City Contracting Provisions. The City contracting provisions set forth in Schedule 1 are incorporated into this Agreement, and Employer agrees to comply with such provisions, as applicable, in the performance of its work under this Agreement.

IN WITNESS WHEREOF, the following have executed this Agreement as of the date set forth above.

FSHA
First Source Hiring Administration
City and County of San Francisco

By:_____
Name: Rhonda Simmons
Its: DFR, Workforce DIV, OEWD
Date: 9/2/09

Schedule 1

San Francisco Geographic Area

[to be attached]

Schedule 2 to Attachment A-3

City Contracting Provisions

[from DDA Article 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:

(i) 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.

(ii) 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.

(iii) "**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.

(iv) 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.

Exhibit B

Dispute Resolution

I. ARBITRATION OF DISPUTES

1. Arbitration

Any dispute involving the alleged breach or enforcement of this Program (excluding disputes relating to the First Source Hiring Agreement and the applicable City ordinances) shall be submitted to arbitration in accordance with this Exhibit B. The FHSA may also require participation in this arbitration process after following the procedures set forth in the First Source Hiring Ordinance, as set forth in Section 2.6 of the Jobs EOP.

The arbitration shall be submitted to the American Arbitration Association, San Francisco, California office ("***AAA***") which will use the Commercial Rules of the AAA then applicable, but subject to the further revisions thereof. If there is a conflict between the Commercial Rules of the AAA and the arbitration provisions in this Program, the arbitration provisions of this Program shall govern. The arbitration shall take place in the City and County of San Francisco.

2. Demand for Arbitration

The party seeking arbitration shall make a written demand for arbitration ("***Demand for Arbitration***"). The Demand for Arbitration shall contain at a minimum: (1) a cover letter demanding arbitration under this provision and identifying the entities believed to be involved in the dispute; (2) a copy of the notice of default, if any, sent from one party to the other; (3) any written response to the notice of default; and (4) a brief statement of the nature of the alleged default.

3. Parties' Participation

All persons or entities affected by the dispute (including, as applicable, the Authority, Developer, Vertical Developers, Construction Contractor (and subcontractor) and Permanent Employer) and shall be made Arbitration Parties. Any such person or entity not made an Arbitration Party in the Demand for Arbitration may intervene as an Arbitration Party and in turn may name any other such affected person or entity as an Arbitration Party; provided that, upon request by any party, the arbiter may dismiss such party if it is not reasonably affected by the dispute.

4. Authority Request to AAA

Within seven (7) business days after service or receipt of a Demand for Arbitration, the Authority shall transmit to AAA a copy of the Demand for Arbitration and any written response thereto from an Arbitration Party. Such material shall be made part of the arbitration record.

5. Selection of Arbitrator

One arbitrator shall arbitrate the dispute. The arbitrator shall be selected from the panel of arbitrators from AAA by the Arbitration Parties in accordance with the AAA rules. The parties shall act diligently in this regard. If the Arbitration Parties fail to agree on an arbitrator within seven (7) business days from the receipt of the panel, AAA shall appoint the arbitrator. A condition to the selection of any arbitrator shall be the arbitrator's agreement to: (i) submit to all Arbitration Parties the disclosure statement required under California Code of Civil Procedure Section 1281.9; and (ii) render a decision within thirty (30) days from the date of the conclusion of the arbitration hearing.

6. Setting of Arbitration Hearing

A hearing shall be held within ninety (90) days of the date of the filing of the Demand for Arbitration with AAA, unless otherwise agreed by the Arbitration Parties. The arbitrator shall set the date, time and place for the arbitration hearing(s) within the prescribed time periods by giving notice by hand delivery or first class mail to each Arbitration Party.

7. Discovery

In arbitration proceedings hereunder, discovery shall be permitted in accordance with Code of Civil Procedure §1283.05 as it may be amended from time to time.

8. California Law Applies

California law, including the California Arbitration Act, Code of Civil Procedure §§ 1280 through 1294.2, shall govern all arbitration proceedings in any Employment and Contracting Agreement.

9. Arbitration Remedies and Sanctions

The arbitrator may impose only the remedies and sanctions set forth below:

a. Order specific, reasonable actions and procedures to mitigate the effects of the non-compliance and/or to bring any non-compliant Arbitration Party into compliance with the Program.

b. Require any Arbitration Party to refrain from entering into new contracts related to work covered by the Program or ECA, or from granting extensions or modifications to existing contracts related to services covered by the Program or ECA, other than those minor modifications or extensions necessary to enable completion of the work covered by the existing contract.

c. Direct any Arbitration Party to cancel, terminate, suspend or cause to be cancelled, terminated or suspended, any contract or portion(s) thereof for failure of any Arbitration Party to comply with any of the requirements in this Program or the ECA. Contracts may be continued upon the condition that a program for future compliance is approved by the Authority. If any Arbitration Party is found to be in willful breach of its obligations hereunder,

the arbitrator may impose a monetary sanction not to exceed Fifty Thousand Dollars ($50,000.00) or ten percent (10%) of the base amount of the breaching party's contract, whichever is less, provided that, in determining the amount of any monetary sanction to be assessed, the arbitrator shall consider the financial capacity of the breaching party. No monetary sanction shall be imposed pursuant to this paragraph for the first willful breach of the Employment and Contracting Program Agreement unless the breaching party has failed to cure after being provided written notice and a reasonable opportunity to cure. Monetary sanctions may be imposed for subsequent uncured willful breaches by any Arbitration Party whether or not the breach is subsequently cured. For purposes of this paragraph, "***willful breach***" means a knowing and intentional breach.

d. Direct any Arbitration Party to produce and provide to the Authority any records, data or reports which are necessary to determine if a violation has occurred and/or to monitor the performance of any Arbitration Party.

10. Arbitrator's Decision

The arbitrator will normally make his or her award within twenty (20) days after the date that the hearing is completed but in no event past thirty (30) days from the conclusion of the arbitration hearing; provided that where a temporary restraining order is sought, the arbitrator shall make his or her award not later than twenty-four (24) hours after the hearing on the motion. The arbitrator shall send the decision by certified or registered mail to each Arbitration Party and shall also copy all Arbitration Parties by email (if email addresses are provided).

11. Default Award; No Requirement to Seek an Order Compelling Arbitration

The arbitrator may enter a default award against any person or entity who fails to appear at the hearing, provided that: (1) the person or entity received actual written notice of the hearing; and (2) the complaining party has a proof of service for the absent person or entity. In order to obtain a default award, the complaining party need not first seek or obtain an order to arbitrate the controversy pursuant to Code of Civil Procedure §1281.2.

12. Arbitrator Lacks Power to Modify

Except as expressly provided above in this Exhibit B, the arbitrator shall have no power to add to, subtract from, disregard, modify or otherwise alter the terms of the Employment and Contracting Program Agreement or to negotiate new agreements or provisions between the parties.

13. Jurisdiction/Entry of Judgment

The inquiry of the arbitrator shall be restricted to the particular controversy which gave rise to the Demand for Arbitration. A decision of the arbitrator issued hereunder shall be final and binding upon all Arbitration Parties. The prevailing Arbitration Party(ies) shall be entitled to reimbursement for the arbitrator's fees and related costs of arbitration. If a subcontractor is the losing party and fails to pay the fees within 30 days, then the applicable Construction Contractor (for whom that subcontractor worked) shall pay the fees. Each Arbitration Party shall pay its own attorneys' fees, provided, however, those attorneys' fees may be awarded to the prevailing

party if the arbitrator finds that the arbitration action was instituted, litigated, or defended in bad faith. Judgment upon the arbitrator's decision may be entered in any court of competent jurisdiction.

14. Exculpation

Except as set forth in Section 13 above, each Arbitration Party shall expressly waive any and all claims against the Authority, TIHDI and the City for costs or damages, direct or indirect, relating to this Jobs EOP or the arbitration process in this Exhibit B, including but not limited to claims relating to the start, continuation and completion of construction.

Exhibit C

TIHDI Job Broker Responsibilities

It is anticipated that TIHDI will refine the Job Broker Program to ensure that appropriately screened, trained and qualified applicants are available to be referred to fill open construction and non-construction short-term and permanent jobs. The TIHDI Job Broker will work with CityBuild and the local construction and non-construction employment-training community, including organized labor's apprenticeship programs, to develop and expand outreach, training and employment retention programs that maximize the opportunity to meet the desired goals outlined in this Policy.

The TIHDI Agreement contemplates that a Memorandum of Understanding (MOU) between TIHDI and OEWD may be developed to clearly outline roles and responsibilities to formalize how this System will be managed. The Authority shall oversee this work, and develop appropriate monitoring systems in collaboration with other involved parties. The responsibility for the overall success of the Job Broker/Placement System, is shared by all parties – TIHDI, the Authority, OEWD, Developer, Vertical Developers, Construction Contractors, and Permanent Employers.

At a minimum, it is envisioned that the TIHDI Job Broker Program for the Project will perform the following duties:

- Coordinate with member agencies of TIHDI and city agencies to direct and coordinate outreach, soft skills training, barrier removal, and employment counselling, and refer qualified applicants to the project.

- Provide a central physical as well as electronic location for permanent job listings at Treasure Island, distribute listing information at least weekly, and coordinate systematically with existing CBOs and job collaboratives.

- Certify the status of applicants as qualified Economically Disadvantaged Persons as well as TIHDI/SF residents.

- In collaboration with CityBuild, ensure that all referrals for construction employment are job ready.

- Develop appropriate, ongoing relationships with relevant building trades and other unions. CityBuild will ultimately develop referral mechanisms and systems with these unions as appropriate employment opportunities are available.

- Be the sole screening and referral agent for applicants to firms and commercial tenants who are prospective permanent employers.

- Provide technical assistance to permanent firms and commercial tenants in utilizing other governmental employment development programs (e.g., enterprise zone, job

training subsidies, tax credits, effective strategies for managing a diverse workforce, etc.).

- Maintain qualifying income and other eligibility data on referrals.

- Coordinate and communicate with OEWD and community-based organizations to prepare training activities specific to projected work opportunities in this project; or to work directly with organizations that already provide such training.

The TIHDI Job Broker will have the following specific obligations:

- Organize and implement a Job Broker Program to ensure that screened, eligible, qualified and referred Economically Disadvantaged Persons are timely referred to CityBuild for referral to Developer, Vertical Developers and other employers.

- The TIHDI Job Broker may implement its referral system in conjunction with existing Community Based Organizations provided the TIHDI Job Broker Program provides a central job listing for Treasure Island, certifies the status of applicants as qualified, refers screened, eligible and qualified applicants to TIHDI or other parties to their respective ECAs and others, provides technical assistance to TIHDI or other parties to their respective ECAs and others in utilizing other governmental employment development programs and maintains income data on referrals and tracks hiring by TIHDI or other parties to their respective ECAs through data supplied by CityBuild.

- Develop specific relationships with community-based organizations that have the capacity to train and/or refer qualified applicants for specific jobs.

- Community Based Organizations may participate in the TIHDI Job Broker Program if they have experience in successful job placement programs, maintain good relationships with Developer, Vertical Developers and others, maintain an employability assessment screening program, retain staff with appropriate credentials to support program activity, agree to share information with others, have the financial capacity and technical expertise to participate in the TIHDI Job Broker Program as reasonably determined. This includes providing ongoing job retention support to workers on the Island.

- The TIHDI Job Broker Program is intended to ensure flexibility in TIHDI's and Developer and Vertical Developers' efforts to achieve goals in employment and contracting set out above. the Authority and TIHDI shall have the right to negotiate changes in the design and implementation of the TIHDI Job Broker Program pursuant to and consistent with the terms of the 1996 TIHDI Agreement.

- The TIHDI Job Broker Program, as well as the overall project, should be monitored annually for overall effectiveness, and to make necessary adaptations to the system. This will be done collaboratively by all involved parties, and will be facilitated by the Authority.

4/15/97 - As amended in Committee.
4/21/97 As amended in Board.

FILE NO. 244-97-3 RESOLUTION NO. 380-97

[Treasure Island Development Authority]

AUTHORIZING THE INCORPORATION OF THE TREASURE ISLAND DEVELOPMENT AUTHORITY AND APPROVING AND RATIFYING CERTAIN ACTIONS IN CONNECTION THEREWITH ; REQUESTING QUARTERLY PROGRESS REPORTS.

/15/97
lb

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

WHEREAS, Treasure Island 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,

WHEREAS, In 1995, the General Service Administration and the Bureau of Land Management determined that Yerba Buena Island was surplus to the Federal Government's needs and could be transferred to the administrative jurisdiction of the Department of Defense under the Base Closure and Realignment Act of 1990 and disposed of together with Treasure Island; and,

WHEREAS, The Federal Government plans to close the Base on or about October 1, 1997; and,

WHEREAS, The City and County of San Francisco is the Local Reuse Authority for the Base; and

WHEREAS, On July 25, 1996, the Board of Supervisors (the "Board") passed Resolution No.672-96 endorsing a draft reuse plan for the Base as the preferred alternative for the purposes of initiating

environmental analysis and meeting the requirements of federal base closure laws (the "Draft Reuse Plan"); and,

WHEREAS, The City desires to establish a nonprofit public benefit corporation (the "Authority") to promote the planning, redevelopment, reconstruction, rehabilitation, reuse and conversion of the Base for the public interest, convenience, welfare and common benefit of the inhabitants of the City and County of San Francisco; and

WHEREAS, The Board desires to approve and authorize the formation and organization of the Authority for such purposes; and

WHEREAS, The Board has been presented with the form of the Articles of Incorporation and the Bylaws of the Treasure Island Development Authority, and the Board has examined and approved such documents and desires to authorize the incorporation of such nonprofit public benefit corporation and direct the execution and filing of such articles; now, therefore, be it

4/15/97 jlb as amended on 4/15/97 by the Econ. Dev., Trans. & Tech. Cmte. to substitute a new page 6

RESOLVED, That, the Board hereby finds and determines that it is in the public interest, convenience and welfare and for the common benefit of the inhabitants of the City that a nonprofit public benefit corporation be organized under the laws of the State of California to promote the planning, redevelopment, reconstruction, rehabilitation, reuse and conversion of the Base; and be it

FURTHER RESOLVED, That the Mayor, or his designee, is hereby authorized to act as Incorporator and to cause the formation and organization of such nonprofit public benefit corporation, which

shall be designated as the "Treasure Island Development Authority"; and be it

FURTHER RESOLVED, That the form, terms and provisions of the Articles of Incorporation of the Authority (the "Articles of Incorporation") and Bylaws, in the form presented at this meeting and filed with the Clerk of the board in File No. 244-97-3 be, and they hereby are, approved, and the Mayor, or his designee, is hereby is authorized and empowered to execute by manual signature and file, or cause to be filed, with the office of the Secretary of State, the Articles of Incorporation, with such changes and insertions therein as may be necessary to cause the same to carry out the intent of this resolution or to comply with the California Nonprofit Public Benefit Corporation Law and as are approved by the Mayor, such approval to be conclusively evidenced by the filing of the Articles of Incorporation with the office of the Secretary of State; and be it

FURTHER RESOLVED, That the Authority shall be subject to the budget and fiscal provisions of the City's Charter; and be it

FURTHER RESOLVED, That all actions heretofore taken by the officers and agents of the City with respect to the formation and organization of the Corporation are hereby approved, confirmed, and ratified, and the officers of the City and their authorized deputies and agents are hereby authorized and urged, jointly and severally, to do any and all things and to execute and deliver any and all certificates and other documents in addition to the documents referred to in this resolution, which they or the City Attorney may

deem necessary or advisable in order to effectuate the purposes of this resolution; and, be it

FURTHER RESOLVED, That the Authority shall submit quarterly progress reports to the Economic Development, Transportation & Technology Committee of the Board of Supervisors; and, be it

FURTHER RESOLVED, That to the extent the Board, after the completion of all required environmental reviews, approved a Homeless Assistance Agreement for the Base with the Treasure Island Homeless Development Initiative (the "~~THIDI~~ TIHDI Agreement"), a draft of which the Board endorsed on July 25, 1996, in Resolution No. 672-96, the Authority, as the local reuse authority for the Base, shall be bound by and subject to all of the terms and conditions of the ~~THIDI~~ TIHDI Agreement, as such agreement may be finally approved by the Board.

(See File for Signature)
Director, Treasure Island Project Office

Adopted - Board of Supervisors, San Francisco April 21, 1997

Ayes: Supervisors Ammiano Bierman Brown Kaufman Leal Medina
Newsom Teng Yaki

Noes: Supervisor Yee

Absent: Supervisor Katz

I hereby certify that the foregoing resolution
was adopted by the Board of Supervisors
of the City and County of San Francisco

John L. Taylor
Clerk

File No.
244-97-3

MAY - 2 1997
Date Approved

Mayor

(1)

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

CTC Accom #20110909-TK
Treasure Island / Yerba Buena Island
APN Blk. 1939 Lots 1 and 2

San Francisco Assessor-Recorder
Phil Ting, Assessor-Recorder
DOC- 2011-J235239-00
Acct 25-NO CHARGE DOCUMENT
Wednesday, AUG 10, 2011 08:00:00
Ttl Pd $0.00 Rcpt # 0004205985
REEL K457 IMAGE 0142
ota/TD/1-747

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: _____
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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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 Dec 19, 2011, before me, Christine M. Silva, Notary Public, personally appeared Ben Mills, 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.

Notary Public

CHRISTINE M. SILVA
COMM. # 1856017
NOTARY PUBLIC - CALIFORNIA
CITY & COUNTY OF SAN FRANCISCO
MY COMM. EXP. JUN. 28, 2013

(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 Bunner (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

Item #5907

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

JANE LEE ROBERTSON
COMM. # 1794200
NOTARY PUBLIC - CALIFORNIA
SAN MATEO COUNTY
MY COMM. EXP. MAR. 23, 2012

(Seal)

File No. 110328 Committee Item No. 2
Board Item No. 26

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development **Date** May 2, 2011

Board of Supervisors Meeting **Date** May 17, 2011

Cmte	Board	
☐	☐	Motion
☒	☒	Resolution
☐	☐	Ordinance
☐	☐	Legislative Digest
☐	☐	Budget Analyst Report
☐	☐	Legislative Analyst Report
☐	☐	Youth Commission Report
☐	☐	Introduction Form (for hearings)
☒	☒	Department/Agency Cover Letter and/or Report
☐	☐	MOU
☐	☐	Grant Information Form
☐	☐	Grant Budget
☐	☐	Subcontract Budget
☐	☐	Contract/Agreement
☐	☐	Form 126 – Ethics Commission
☐	☐	Award Letter
☐	☐	Application
☒	☐	Public Correspondence

OTHER **(Use back side if additional space is needed)**

☒	☒	Planning Commission Motion Nos. 18325 and 18326
* ☒	* ☒	CEQA Findings
* ☒	* ☒	Mitigation Monitoring and Reporting Program
* ☒	* ☒	Planning Department Memo, dtd 4/12/11
☒	☒	Fire Department Memo, dtd 4/21/11
* ☒	* ☒	Draft Environmental Impact Report
☒	☒	TIDA Resolution Nos. 11-14-04/21 and 11-15-04/21

Completed by: Alisa Somera **Date** April 29, 2011
Completed by: Alisa Somera **Date** May 11, 2011

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file.

[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. _____. Copies of said Motions are on file with the

Clerk of the Board of Supervisors in File No. _____ 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.

[Environmental Impact Report Certification]

Resolution certifying a final Environmental Impact Report for the Treasure Island/Yerba Buena Island Project.

WHEREAS, The City and County of San Francisco, acting through the Planning Department and Treasure Island Development Authority staff (hereinafter "Department and Authority Staff") fulfilled all procedural requirements of the California Environmental Quality Act (Cal. Pub. Res. Code Sections 21000 *et seq.*, hereinafter "CEQA"), the State CEQA Guidelines (Cal. Admin. Code Title 14, Sections 15000 *et seq.*, (hereinafter "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code (hereinafter "Chapter 31") in regard to the Final Environmental Impact Report identified as Planning Department Case No. 2007.0903E (hereinafter "FEIR") for the proposed Treasure Island/Yerba Buena Island Project ("Project"); and,

WHEREAS, The Department and Authority Staff determined that an Environmental Impact Report (hereinafter "EIR") was required and provided public notice of that determination by publication in a newspaper of general circulation on January 26, 2008; and,

WHEREAS, On July 12, 2010, the Department and Authority Staff published the Draft Environmental Impact Report (hereinafter "DEIR") and provided public notice in a newspaper of general circulation of the availability of the DEIR for public review and comment and of the date and time of the Planning Commission public hearing on the DEIR; this notice was mailed to the Department's list of persons requesting such notice; and,

WHEREAS, Notices of availability of the DEIR and of the date and time of the public hearing were posted near the project site by Department and Authority Staff on July 12, 2010; and,

WHEREAS, On July 12, 2010, copies of the DEIR were mailed or otherwise delivered to a list of persons requesting it, to those noted on the distribution list in the DEIR, to adjacent

property owners, and to government agencies, the latter both directly and through the State Clearinghouse; and,

WHEREAS, The Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on July 12, 2010; and,

WHEREAS, The Treasure Island Development Authority Board of Directors (hereinafter "Authority Board") and Planning Commission held a duly advertised joint public hearing on said DEIR on August 12, 2010, at which time opportunity for public comment was given, and public comment was received on the DEIR. The period for acceptance of written comments ended on September 10, 2010; and,

WHEREAS, The Department and Authority Staff prepared responses to comments on environmental issues received at the public hearing and in writing during the 59-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the DEIR. This material was presented in a Comments and Responses document, published on March 10, 2011, distributed to the Authority Board and all parties who commented on the DEIR, and made available to others upon request at the Department; and,

WHEREAS, A Final Environmental Impact Report has been prepared by the Department and Authority Staff, consisting of the Draft Environmental Impact Report, any consultations and comments received during the review process, any additional information that became available, and the Comments and Responses document all as required by law ("FEIR"); and,

WHEREAS, Following publication of the Environmental Impact Report, the Project's structure and financing were changed from a Redevelopment Plan and financing mechanism to an Area Plan to be included within the San Francisco General Plan and partial financing

through an Infrastructure Financing District. These changes in turn result in the amount of affordable housing units to be reduced from approximately 2,400 units to 2,000 units. The Department and Authority Staff prepared a memorandum describing these changes and other minor Project changes since publication of the FEIR. The memorandum evaluates these changes and presents minor amendments to the text of the EIR to reflect the changes. The memorandum demonstrates and concludes that the revisions to the Project would not substantially change the analysis and conclusions of the EIR. No new significant impacts or substantial increase in the severity of already identified significant impacts, no new mitigation measures, and no new alternatives result from these changes. Thus, recirculation of the EIR for public review and comment is not required; and,

WHEREAS, The FIER and its related files have been made available for review by the Authority Board, the Commission, and the public. These files are available for public review at the Department at 1650 Mission Street, and are part of the record before the Authority Board; and,

WHEREAS, On April 21, 2011, the Authority Board at a joint hearing with the Planning Commission reviewed and considered the FEIR; and,

WHEREAS, The Authority Board hereby does find that the Project described in the Environmental Impact Report:

- Will result in the following significant and unavoidable project-specific environmental impacts:
    - Alteration of scenic vistas of San Francisco and San Francisco Bay from public vantage points along the eastern shoreline of San Francisco, Telegraph Hill, the East Bay shoreline, and from the Bay Bridge east span.

- Impairment of the significance of an historical resource by demolition of the Damage Control Trainer.
- Construction impacts on the transportation and circulation network, including increased delay and congestion on the Bay Bridge near the ramps during the peak periods, and disruption to transit, pedestrian, bicycle, and vehicular traffic on the Islands due to roadway closures.
- Significant contribution to existing LOS E operating conditions during the weekday PM peak hour and during the Saturday peak hour at the eastbound off-ramp on the west side of Yerba Buena Island.
- Under conditions without the TI/YBI Ramps Project, traffic impacts at the two westbound on-ramps.
- Under conditions with the Ramps Project, traffic impacts during the AM and PM peak hours at the ramp meter at the westbound on-ramp on the east side of Yerba Buena Island.
- Queuing at the Bay Bridge toll plaza during the weekday AM peak hour, with and without the TI/YBI Ramps Project.
- Queuing on San Francisco streets approaching Bay Bridge during the weekday PM peak hour with and without the TI/YBI Ramps Project.
- Traffic impact at the following nine intersections:
  - Intersection of First/Market;
  - Intersection of First/Mission;
  - Intersection of First/Folsom;
  - Intersection of First/Harrison/I-80 Eastbound On-Ramp;
  - Intersection of Bryant/Fifth/I-80 Eastbound On-Ramp; and
  - Intersection of Fifth/Harrison/I-80 Westbound Off-Ramp

- Intersection of Folsom/Essex;
- Intersection of Bryant/Sterling; and
- Intersection of Second/Folsom.

- Exceedance of the available transit capacity of Muni's 108-Treasure Island bus line serving the Islands during the AM, PM and Saturday peak hours.
- AC Transit operations on Hillcrest Road between Treasure Island and the eastbound on-ramp to the Bay Bridge without the Ramps Project.
- AC Transit operations on Treasure Island Road and Hillcrest Road between Treasure Island and the eastbound on-ramp to the Bay Bridge with the Ramps Project.
- Traffic congestion in downtown San Francisco, which would increase travel time and would impact operations of the following three bus lines:
  - Muni 27-Bryant;
  - Muni 30X-Marina Express; and
  - Muni 47-Van Ness bus line.
- Exceedance of the capacity utilization standard on Muni's 108-Treasure Island bus line serving the Islands from a shift from auto to transit modes, resulting from parking shortfall on the Islands and leading to an increase in transit travel demand during the peak hours.
- Construction noise levels above existing ambient conditions.
- Exposure of persons and structures to excessive ground-borne vibration or ground-borne noise levels during construction from on-shore pile "impact activities," such as pile driving and deep dynamic compaction, and vibro-compaction.

- Increase in ambient noise levels in the project vicinity above existing ambient noise levels from project-related traffic and ferry noise.
- Violation of air quality standards.
- Exposure of sensitive receptors to substantial levels of toxic air contaminants.
- Exposure of sensitive receptors to substantial levels of PM2.5.
- Violation of air quality standards during project operations.
- Exposure of sensitive receptors to substantial pollutant concentrations.
- Potential conflict with adopted plans related to air quality.
- Temporary wind hazard impacts during phased construction.
- Potential exposure of publicly accessible locations within the Project Site to wind hazards
- Potential adverse impacts on movement of rafting waterfowl from ferry operations; now, therefore be it

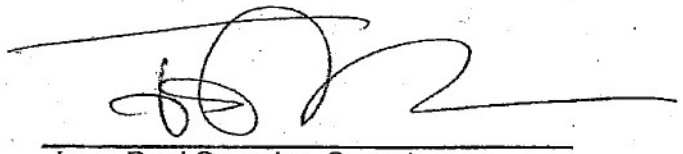
RESOLVED, The Authority Board hereby does find that the contents of the FEIR and the procedures through which the FEIR was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code; and, be it

FURTHER RESOLVED, The Authority Board hereby does find that the FEIR (Planning Department File No. 2007.0903E) reflects the independent judgment and analysis of the Authority Board, is adequate, accurate and objective, and that the Comments and Responses document contains no significant revisions to the DEIR; and, be it

FURTHER RESOLVED, The Authority Board hereby does CERTIFY THE COMPLETION of said FEIR in compliance with CEQA, the CEQA Guidelines, and Chapter 31.

CERTIFICATE OF SECRETARY

I hereby certify that I am the duly elected Secretary of the Treasure Island Development Authority, a California nonprofit public benefit corporation, and that the above Resolution was duly adopted and approved by the Board of Directors of the Authority at a properly noticed meeting on April 21, 2011.



Jean-Paul Samaha, Secretary

[CEQA Findings]

Resolution adopting environmental findings (and a statement of considerations) under the California Environmental Quality Act and State guidelines in connection with the adoption of the Treasure Island / Yerba Buena Island Project and related actions necessary to implement such plans.

WHEREAS, the Treasure Island Development Authority, together with the San Francisco Planning Department are the Lead Agencies responsible for the implementation of the California Environmental Quality Act ("CEQA") for this area and have undertaken a planning and environmental review process for the proposed Treasure Island/Yerba Buena Island Project ("Project") and provided for appropriate public hearings before the respective Commissions.

WHEREAS, A primary objective of the Project and the Term Sheet, endorsed by the Treasure Island Development Authority Board of Directors and the Board of Supervisors in 2006 and updated in 2010, is to create sustainable economic development, affordable housing, public parks and open space and other community benefits by development of the under-used lands within the project area.

WHEREAS, 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.

WHEREAS, 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 1,820 residents who currently reside on the site.

WHEREAS, The Project will include (a) approximately 8,000 new residential units, with at least 25 percent of which (2,000 units) will be made affordable to a broad range of very-low to moderate income households, (b) adaptive reuse of 311,000 square feet of historic structures, (c) 140,000 square feet of new retail uses and 100,000 square feet of commercial office space, (d) 300 acres of parks and open space, (e) 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, (f) 400-500 room hotel, (g) transportation infrastructure, including a ferry/quay intermodal transit center.

WHEREAS, 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.

WHEREAS, In 2006, the Board 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 Initative ("TIHDI").

WHEREAS, In planning for the redevelopment of former Naval Station Treasure Island, the City and the Treasure Island Development Authority worked closely with the Treasure Island Citizens Advisory Board ("CAB"). The CAB is a group of Treasure Island/Yerba Buena

Island community residents, business owners and individuals with expertise in specific areas, who are selected by the Mayor to oversee the redevelopment process for the islands. TIDA has worked with the CAB and the community throughout the process of implementing revitalization activities regarding Treasure Island and Yerba Buena Island.

WHEREAS, The proposed Treasure Island/Yerba Buena Island Area Plan and the Treasure Island/Yerba Buena Island Special Use District, as well as the Treasure Island/Yerba Buena Island Project implementing documents, including, without limitation, the Disposition and Development Agreement, its attached plans and documents, the Development Agreement, its attached plans and documents, and the Design for Development documents contain a wide range of the land use designations that could accommodate up to 8,000 residential units, of which at least 25% will be below market rate; approximately 300 acres of improved open space and recreational areas; approximately 140,000 square feet of new, neighborhood-serving retail space; approximately 100,000 square feet of office space; a 400 – 500 room hotel; and new transportation infrastructure and upgraded public facilities.

WHEREAS, To implement the Project, the Treasure Island Development Authority Board of Directors ("TIDA Board") must take several actions including approval of a Disposition and Development Agreement, Trust Exchange Agreement, Design for Development, Navy Conveyance Agreement, TIHDI Agreement, among other actions.

WHEREAS, On July 12, 2010, the Planning Department and TIDA released for public review and comment the Draft Environmental Impact Report for the Project, (Planning Department Case No. 2007.0903E).

WHEREAS, The Planning Commission and TIDA Board held a joint public 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 59 days of public review.

WHEREAS, The Planning 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, a copy of which is on file with the Planning Department under Case No. 2007.0903E, which is incorporated into this motion by this reference.

WHEREAS, Following publication of the Environmental Impact Report, the Project's structure and financing were changed from a Redevelopment Plan and financing mechanism to an Area Plan to be included within the San Francisco General Plan and partial financing through an Infrastructure Financing District. These changes in turn result in the amount of affordable housing units to be reduced from approximately 2,400 units to 2,000 units. A memorandum describing these changes and other minor Project changes since publication of the EIR has been prepared and distributed by the Department which describes and evaluates these changes and presents minor amendments to the text of the EIR to reflect the changes. The memorandum demonstrates and concludes that the revisions to the Project would not substantially change the analysis and conclusions of the EIR. No new significant impacts or substantial increase in the severity of already identified significant impacts, no new mitigation measures, and no new alternatives result from these changes. Thus recirculation of the EIR for public review and comment is not required.

WHEREAS, The FEIR files and other Project-related Department files have been available for review by the Planning Commission, TIDA Board and the public, and those files are a part of the record before this Commission.

WHEREAS, On April 21, 2011, the Planning Commission and the Authority Board reviewed and considered the FEIR and, by Motion No. 18325 and Resolution No. 11-14-

04/21, respectively, found that the contents of said report and the procedures through which the FEIR was prepared, publicized and reviewed complied with the provisions of the CEQA and the CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code.

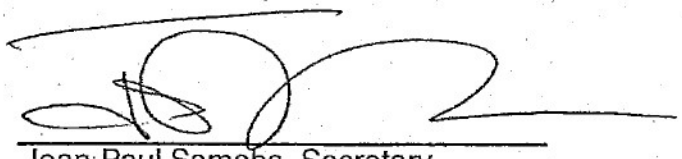
WHEREAS, By Motion No. 18325 and Resolution No. 11-14-04/21, the Planning Commission and the Authority Board, respectively, found that the FEIR was adequate, accurate and objective, reflected the independent judgment and analysis of each Commission and that the summary of Comments and Responses contained no significant revisions to the Draft Environmental Impact Report.

WHEREAS, The Planning Department and TIDA prepared proposed Findings, as required by CEQA, regarding the alternatives and variants, mitigation measures and significant environmental impacts analyzed in the FEIR, overriding considerations for approving the Project, denoted as Attachment A, a proposed mitigation monitoring and reporting program, denoted as Attachment B, and proposed Mitigation Measures within the Responsibility of TIDA for the Treasure Island/Yerba Buena Island Project, denoted as Attachment C, on file with the Treasure Island Development Authority Commission Secretary, at One Avenue of the Palms, which material was made available to the public, the Planning Commission and this Board of Directors for this Board's review, consideration and actions; now, therefore be it

RESOLVED, that the TIDA Board has reviewed and considered the FEIR and the actions associated with the Treasure Island/Yerba Buena Island Project and hereby adopts the Project Findings attached hereto as Attachment A including a statement of overriding considerations, and including as Attachment B the Mitigation Monitoring and Reporting Program and as Attachment C the Mitigation Measures within the Responsibility of TIDA for the Treasure Island/Yerba Buena Island Project.

CERTIFICATE OF SECRETARY

I hereby certify that I am the duly elected Secretary of the Treasure Island Development Authority, a California nonprofit public benefit corporation, and that the above Resolution was duly adopted and approved by the Board of Directors of the Authority at a properly noticed meeting on April 21, 2011.



Jean-Paul Samaha, Secretary

Files 110226, 110227, 110228, 110229, 110230, 110289, 110290, 110291
110328, 110[illegible]1, 110340

SAN FRANCISCO
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April 27, 2011

Ms. Angela Calvillo, Clerk
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: **Transmittal of Planning Department Case Number 2007.0903BEMRTUWZ to the Board of Supervisors:**
Treasure Island/Yerba Buena Island Project
Planning Commission Recommendation: ***Approval***

Dear Ms. Calvillo,

On April 21, 2011, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed joint hearing with the Treasure Island Development Authority Board of Directors on the Treasure Island/Yerba Buena Island Project. At the hearing, the Commission considered the proposed General Plan, Planning Code, and Zoning Map Ordinances which the Commission initiated on March 3, 2011. The proposed Ordinances are as follows:

- Amendments to the General Plan which would amend the Transportation Element, the Recreation and Open Space Element, the Commerce and Industry Element, the Community Facilities Element, the Housing Element, the Urban Design Element, the Land Use Index along with other minor General Plan map amendments; establish the Treasure Island/Yerba Buena Island Area Plan (referred to you separately by Mayor Lee under File No. 110228).

- Amendments to the San Francisco Planning Code Sections 102.5 and 201 to include the Treasure Island/Yerba Buena Island Special Use District, Section 104 relating to height and bulk limits for Treasure Island and Yerba Buena Island, add Section 249.52 to establish the Treasure Island/Yerba Buena Island Special Use District, add Section 263.26 to establish the Treasure Island/Yerba Buena Island Height and Bulk District, and amend Table 270 to recognize this District (referred to you separately by Mayor Lee under File No. 110229).

- Amendments to the San Francisco Zoning Maps which would add new sectional map ZN14 to show the zoning designations of Treasure Island and Yerba Buena Island, add new sectional map HT14 to establish the Height and Bulk District for Treasure Island and Yerba Buena Island, add new sectional map SU14 to establish the Treasure Island/Yerba Buena Island Special Use District (referred to you separately by Mayor Lee under File No. 110227).

At the April 21, 2011 hearing, the Planning Commission, along with the Treasure Island Development Authority certified the Final Environmental Impact Report (FEIR) under Motion No. 18325 and Resolution No. 11-14-04/21, respectively.

Also at the April 21, 2011 hearing, the Planning Commission and the Treasure Island Development Authority Board of Directors made CEQA findings including the adoption of a Mitigation Monitoring Reporting Program (MMRP).

Finally, at the April 21, 2011 hearing, the Commission voted to recommend approval of the proposed Ordinances described above. The Planning Commission took other actions related to the project including finding the Treasure Island/Yerba Buena Island Project consistent with the General Plan and Planning Code Section 101.1 and finding the office component of the Project consistent with Planning Code Sections 320-325. Other actions included approving the Design for Development document for the Project as well as a Development Agreement for the Project.

The Motions and Resolution and related information referred to here are being transmitted to you along with actions by the Treasure Island Development Authority Board of Directors in a comprehensive packet from the Office of Economic and Workforce Development. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

Kelley Amdur for

John Rahaim
Director of Planning

Files 110328

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Planning Commission Motion No 18325
ENVIRONMENTAL IMPACT REPORT CERTIFICATION

Hearing Date:	April 21, 2011
Case No.:	2007.0903E
Project Address:	Treasure Island and Yerba Buena Island
Zoning:	P (Public) 40-X Height and Bulk District
Block/Lot:	1939/001 and 002
Project Sponsors:	Treasure Island Development Authority Rich Hillis, Director of Development City Hall, Room 448 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94111 and Treasure Island Community Development, LLC Alexandra Galovich Wilson Meany Sullivan Four Embarcadero Center, Suite 3300 San Francisco, CA 94102
Staff Contact:	Rick Cooper – (415) 575-9027 Rick.cooper@sfgov.org

ADOPTING FINDINGS RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR THE PROPOSED TREASURE ISLAND/YERBA BUENA ISLAND PROJECT.

MOVED, that the San Francisco Planning Commission (hereinafter "Commission") hereby CERTIFIES the Final Environmental Impact Report identified as Case No. 2007.0903E (hereinafter "Project"), based upon the following findings:

1. The City and County of San Francisco, acting through the Planning Department (hereinafter "Department") fulfilled all procedural requirements of the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 *et seq.*, hereinafter "CEQA"), the State CEQA Guidelines (Cal. Admin. Code Title 14, Section 15000 *et seq.*, (hereinafter "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code (hereinafter "Chapter 31").

   A. The Department determined that an Environmental Impact Report (hereinafter "EIR") was required and provided public notice of that determination by publication in a newspaper of general circulation on January 26, 2008.

   B. On July 12, 2010, the Department published the Draft Environmental Impact Report (hereinafter "DEIR") and provided public notice in a newspaper of general circulation of

the availability of the DEIR for public review and comment and of the date and time of the Planning Commission public hearing on the DEIR; this notice was mailed to the Department's list of persons requesting such notice.

C. Notices of availability of the DEIR and of the date and time of the public hearing were posted near the project site by Department staff on July 12, 2010.

D. On July 12, 2010, copies of the DEIR were mailed or otherwise delivered to a list of persons requesting it, to those noted on the distribution list in the DEIR, to adjacent property owners, and to government agencies, the latter both directly and through the State Clearinghouse.

E. Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on July 12, 2010.

2. The Commission held a duly advertised public hearing on said DEIR on August 12, 2010, at which opportunity for public comment was given, and public comment was received on the DEIR. The period for acceptance of written comments ended on September 10, 2010.

3. The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the 59-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the DEIR. This material was presented in a Comments and Responses document, published on March 10, 2011, distributed to the Commission and all parties who commented on the DEIR, and made available to others upon request at the Department.

4. A Final Environmental Impact Report has been prepared by the Department, consisting of the Draft Environmental Impact Report, any consultations and comments received during the review process, any additional information that became available, and the Comments and Responses document all as required by law.

5. Following publication of the Environmental Impact Report, the Project's structure and financing were changed from a Redevelopment Plan and financing mechanism to an Area Plan to be included within the San Francisco General Plan and partial financing through an Infrastructure Financing District. These changes in turn result in the amount of affordable housing units to be reduced from approximately 2,400 units to 2,000 units. A memorandum describing these changes and other minor Project changes since publication of the EIR has been prepared and distributed by the Department which describes and evaluates these changes and presents minor amendments to the text of the EIR to reflect the changes. The memorandum demonstrates and concludes that the revisions to the Project would not substantially change the analysis and conclusions of the EIR. No new significant impacts or substantial increase in the severity of already identified significant impacts, no new mitigation measures, and no new alternatives result from these changes. Thus recirculation of the EIR for public review and comment is not required.

6. Project Environmental Impact Report files have been made available for review by the Commission and the public. These files are available for public review at the Department at 1650 Mission Street, and are part of the record before the Commission.

7. On April 21, 2011, the Commission reviewed and considered the Final Environmental Impact Report and hereby does find that the contents of said report and the procedures through which the Final Environmental Impact Report was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code.

8. The Planning Commission hereby does find that the Final Environmental Impact Report concerning File No. 2007.0903E reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the Comments and Responses document contains no significant revisions to the DEIR, and hereby does CERTIFY THE COMPLETION of said Final Environmental Impact Report in compliance with CEQA and the CEQA Guidelines.

9. The Commission, in certifying the completion of said Final Environmental Impact Report, hereby does find that the project described in the Environmental Impact Report:

   A. Will result in the following significant and unavoidable project-specific environmental impacts:

   1) Alteration of scenic vistas of San Francisco and San Francisco Bay from public vantage points along the eastern shoreline of San Francisco, Telegraph Hill, the East Bay shoreline, and from the Bay Bridge east span.

   2) Impairment of the significance of an historical resource by demolition of the Damage Control Trainer.

   3) Construction impacts on the transportation and circulation network, including increased delay and congestion on the Bay Bridge near the ramps during the peak periods, and disruption to transit, pedestrian, bicycle, and vehicular traffic on the Islands due to roadway closures.

   4) Significant contribution to existing LOS E operating conditions during the weekday PM peak hour and during the Saturday peak hour at the eastbound off-ramp on the west side of Yerba Buena Island.

   5) Under conditions without the TI/YBI Ramps Project, traffic impacts at the two westbound on-ramps.

   6) Under conditions with the Ramps Project, traffic impacts during the AM and PM peak hours at the ramp meter at the westbound on-ramp on the east side of Yerba Buena Island.

7) Queuing at the Bay Bridge toll plaza during the weekday AM peak hour, with and without the TI/YBI Ramps Project.

8) Queuing on San Francisco streets approaching Bay Bridge during the weekday PM peak hour with and without the TI/YBI Ramps Project.

9) Traffic impact at the following nine intersections:

- Intersection of First/Market;
- Intersection of First/Mission;
- Intersection of First/Folsom;
- Intersection of First/Harrison/I-80 Eastbound On-Ramp;
- Intersection of Bryant/Fifth/I-80 Eastbound On-Ramp; and
- Intersection of Fifth/Harrison/I-80 Westbound Off-Ramp
- Intersection of Folsom/Essex;
- Intersection of Bryant/Sterling; and
- Intersection of Second/Folsom.

10) Exceedance of the available transit capacity of Muni's 108-Treasure Island bus line serving the Islands during the AM, PM and Saturday peak hours.

11) AC Transit operations on Hillcrest Road between Treasure Island and the eastbound on-ramp to the Bay Bridge without the Ramps Project.

12) AC Transit operations on Treasure Island Road and Hillcrest Road between Treasure Island and the eastbound on-ramp to the Bay Bridge with the Ramps Project.

13) Traffic congestion in downtown San Francisco, which would increase travel time and would impact operations of the following three bus lines:

- Muni 27-Bryant;
- Muni 30X-Marina Express; and
- Muni 47-Van Ness bus line.

14) Exceedance of the capacity utilization standard on Muni's 108-Treasure Island bus line serving the Islands from a shift from auto to transit modes, resulting from parking

shortfall on the Islands and leading to an increase in transit travel demand during the peak hours.

15) Construction noise levels above existing ambient conditions.

16) Exposure of persons and structures to excessive ground-borne vibration or ground-borne noise levels during construction from on-shore pile "impact activities," such as pile driving and deep dynamic compaction, and vibro-compaction.

17) Increase in ambient noise levels in the project vicinity above existing ambient noise levels from project-related traffic and ferry noise.

18) Violation of air quality standards.

19) Exposure of sensitive receptors to substantial levels of toxic air contaminants.

20) Exposure of sensitive receptors to substantial levels of PM2.5.

21) Violation of air quality standards during project operations.

22) Exposure of sensitive receptors to substantial pollutant concentrations.

23) Potential conflict with adopted plans related to air quality.

24) Temporary wind hazard impacts during phased construction.

25) Potential exposure of publicly accessible locations within the Project Site to wind hazards

26) Potential adverse impacts on movement of rafting waterfowl from ferry operations.

B. Will contribute considerably to the following cumulative environmental impacts:

1) Potential cumulative construction-related traffic impacts in the project vicinity.

2) Cumulative traffic impacts at the eastbound off-ramp on the west side of Yerba Buena Island.

3) Under conditions without the Ramps Project, cumulative traffic impacts at the two westbound on-ramps.

4) Under conditions with the Ramps Project, cumulative traffic impacts during the AM and PM peak hours at the ramp meter at the westbound on-ramp on the east side of Yerba Buena Island.

5) Cumulative queuing impacts at the Bay Bridge toll plaza during the AM and PM peak hours.

6) Cumulative queuing impacts on San Francisco streets approaching the Bay Bridge during the weekday AM and PM and Saturday peak hours.

7) Traffic impact at the following nine intersections:

- Intersection of First/Market;
- Intersection of First/Mission;
- Intersection of First/Folsom;
- Intersection of First/Harrison/I-80 Eastbound On-Ramp;
- Intersection of Bryant/Fifth/I-80 Eastbound On-Ramp;
- Intersection of Fifth/Harrison/I-80 Westbound Off-Ramp
- Intersection of Folsom/Essex;
- Intersection of Bryant/Sterling; and
- Intersection of Second/Folsom.

8) Cumulative traffic congestion in downtown San Francisco, which would increase travel time and would impact operations of the following four bus lines:

- Muni 27-Bryant bus line;
- Muni 30X-Marina Express bus line;
- Muni 47-Van Ness bus line; and
- Muni 10-Townsend bus line.

9) Cumulative construction noise impacts from other cumulative development in the area, including the Clipper Cove Marina and the Yerba Buena Island Ramps Improvement Project, which could have construction activities that occur simultaneously with those of the Project.

10) Increases in traffic from the project in combination with other development would result in cumulative traffic noise impacts.

11) Cumulative air quality impacts.

11) The Project, when combined with other cumulative projects, could result in exposure of publicly accessible locations within the Project Site to wind hazards.

12) Potential cumulative impacts on rafting waterfowl.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of April 21, 2011.

Linda Avery
Commission Secretary

AYES:	Commissioners Antonini, Borden, Fong, Miguel
NOES:	Commissioners Olague, Moore, Sugaya
ABSENT:	None
ADOPTED:	April 21, 2011

File 110328

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PLANNING DEPARTMENT

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Planning Commission Motion No. 18326

HEARING DATE: APRIL 21, 2011

Case No.:	2007.0903BEMRTUWZ
Project:	**Treasure Island/Yerba Buena Island Project** **E Case: CEQA Findings**
Location:	Treasure Island and Yerba Buena Island
Staff Contacts:	Rick Cooper – (415) 575-9027 rick.cooper@sfgov.org Joshua Switzky – (415) 575-6815 joshua.switzky@sfgov.org
Recommendation:	**Adopt the Findings**

MOTION ADOPTING ENVIRONMENTAL FINDINGS (AND A STATEMENT OF OVERRIDING CONSIDERATIONS) UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND STATE GUIDELINES IN CONNECTION WITH THE ADOPTION OF THE TREASURE ISLAND/YERBA BUENA ISLAND PROJECT AND RELATED ACTIONS NECESSARY TO IMPLEMENT SUCH PROJECT.

RECITALS

WHEREAS, The San Francisco Planning Department ("Department"), together with the Treasure Island Development Authority ("TIDA") are the Lead Agencies responsible for the implementation of the California Environmental Quality Act ("CEQA") for this area and have undertaken a planning and environmental review process for the proposed Treasure Island/Yerba Buena Island Project ("Project") and provided for appropriate public hearings before the respective Commissions; and,

WHEREAS, A primary objective of the Project and the Term Sheet, endorsed by the Treasure Island Development Authority Board of Directors and the Board of Supervisors in 2006 and updated in 2010, is to create sustainable economic development, affordable housing, public parks and open space and other community benefits by development of the under-used lands within the project area; and,

WHEREAS, 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; and,

WHEREAS, 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 1,820 residents who currently reside on the site. This legislation creating the Treasure Island/Yerba Buena Island Special Use District, the Treasure Island/Yerba Buena Island Height and Bulk District, and the related zoning and General Plan amendments will implement the proposed Project; and,

WHEREAS, The Project will include (a) approximately 8,000 new residential units, with at least 25 percent (2,000 units) affordable to a broad range of very-low to moderate income households, (b) adaptive reuse of 311,000 square feet of historic structures, (c) 140,000 square feet of new retail uses and 100,000 square feet of commercial office space, (d) 300 acres of parks and open space, (e) 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, (f) 400-500 room hotel, and (g) transportation infrastructure, including a ferry/quay intermodal transit center; and,

WHEREAS, In 2003, TIDA selected through a competitive three year long process, Treasure Island Community Development, LLC ("TICD") to serve as the master developer for the Project; and,

WHEREAS, In 2006, the Board of Supervisors of the City and County of San Francisco ("Board") 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"); and,

WHEREAS, In planning for the development of former Naval Station Treasure Island, the City and the Treasure Island Development Authority worked closely with the Treasure Island Citizens Advisory Board ("CAB"). The CAB is a group of Treasure Island/Yerba Buena Island community residents, business owners and individuals with expertise in specific areas, who are selected by the Mayor to oversee the development process for the islands. TIDA has worked with the CAB and the community throughout the process of implementing revitalization activities regarding Treasure Island and Yerba Buena Island; and,

WHEREAS, To implement the Project, the Planning Commission ("Commission") must take several actions including adoption of General Plan amendments, Planning Code Text amendments, Planning Code Map amendments, approving the Design for Development document, approving and recommending to the Board of Supervisors approval of the Development Agreement, and adoption of findings under Planning Code Sections 320 – 325 regarding office development, among other actions; 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 Commission and TIDA Board of Directors held a joint public 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 59 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, a copy of which is on file with the Department under Case No. 2007.0903E, which is incorporated into this motion by this reference; and,

WHEREAS, Following publication of the Environmental Impact Report, the Project's structure and financing were changed from a Redevelopment Plan and financing mechanism to an Area Plan to be included within the San Francisco General Plan and partial financing through an Infrastructure Financing District. These changes in turn result in the amount of affordable housing units to be reduced from approximately 2,400 units to 2,000 units. A memorandum describing these changes and other minor Project changes since publication of the EIR has been prepared and distributed by the Department which describes and evaluates these changes and presents minor amendments to the text of the EIR to reflect the changes. The memorandum demonstrates and concludes that the revisions to the Project would not substantially change the analysis and conclusions of the EIR. No new significant impacts or substantial increase in the severity of already identified significant impacts, no new mitigation measures, and no new alternatives result from these changes. Thus recirculation of the EIR for public review and comment is not required; and,

WHEREAS, The FEIR files and other Project-related Department files have been available for review by the Commission and the public, and those files are a part of the record before this Commission; and,

WHEREAS, On April 21, 2011, the 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 the contents of said report and the procedures through which the FEIR was prepared, publicized and reviewed complied with the provisions of CEQA, the CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code; and,

WHEREAS, By Motion No. 18325 and Resolution No. 11-14-04/21, the Commission and the TIDA Board of Directors, respectively, found that 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,

WHEREAS, The Department and TIDA prepared proposed Findings, as required by CEQA, regarding the alternatives and variants, mitigation measures and significant environmental impacts analyzed in the FEIR, overriding considerations for approving the Project, denoted as Attachment A, and a proposed mitigation monitoring and reporting program, denoted as Attachment B, on file with the Department under Case No. 2007.0903E which material was made available to the public and this Commission for this Commissions' review, consideration and actions. Also attached is Attachment C, Mitigation Measures Within the Responsibility of the Planning Department, Treasure Island/Yerba Buena Island Project; and,

NOW, THEREFORE, BE IT RESOLVED, That the Commission has reviewed and considered the FEIR and the actions associated with the Treasure Island/Yerba Buena Island Development Project and hereby adopts the Project Findings attached hereto as Attachment A including a statement of overriding considerations, and including as Attachment B the Mitigation Monitoring and Reporting Program.

I hereby certify that the foregoing Resolution was ADOPTED by the San Francisco Planning Commission on April 21, 2011.

Linda D. Avery

Commission Secretary

AYES: Commissioners Antonini, Borden, Fong, Miguel

NOES: Commissioners Moore, Olague, Sugaya

ABSENT: None

Draft of April 27, 2011

File 110328

ATTACHMENT A

TREASURE ISLAND / YERBA BUENA ISLAND PROJECT

CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS:

FINDINGS OF FACT, EVALUATION OF MITIGATION MEASURES AND ALTERNATIVES, AND STATEMENT OF OVERRIDING CONSIDERATIONS

SAN FRANCISCO BOARD OF SUPERVISORS

In determining to approve the Treasure Island / Yerba Buena Island Project ("Project") the San Francisco Board of Supervisors ("Board" or "Board of Supervisors") makes and adopts the following findings of fact and decisions regarding mitigation measures and alternatives, and adopts the statement of overriding considerations, based on substantial evidence in the whole record of this proceeding and under the California Environmental Quality Act ("CEQA"), California Public Resources Code Sections 21000 et seq., particularly Sections 21081 and 21081.5, the Guidelines for Implementation of CEQA ("CEQA Guidelines"), 14 California Code of Regulations Sections 15000 et seq., particularly Sections 15091 through 15093, and the Board adopted CEQA guidelines.

This document is organized as follows:

Section I provides a description of the Project proposed for adoption, the environmental review process for the Project, the approval actions to be taken and the location of records;

Section II identifies the impacts found not to be significant that do not require mitigation;

Sections III and IIIA identify potentially significant impacts that can be avoided or reduced to less-than-significant levels through mitigation and describe the disposition of the mitigation measures;

Sections IV and IVA identify significant impacts that cannot be avoided or reduced to less-than significant levels and describe any applicable mitigation measures as well as the disposition of the mitigation measures;

Section V evaluates mitigation measures and project modifications proposed by commenters and the rejection of these mitigation measures and project modifications;

Attachment B:
MITIGATION MONITORING AND REPORTING PROGRAM FOR THE TREASURE ISLAND / YERBA BUENA ISLAND PROJECT
(Includes Text for Adopted Mitigation and Improvement Measures)

MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Reporting Responsibility	Status/Date Completed
MITIGATION MEASURES FOR THE TREASURE ISLAND/YERBA BUENA ISLAND PROJECT				
Cultural and Paleontological Resources (Archeological Resources) Mitigation Measures				
Mitigation Measure M-CP-1: Archaeological Testing, Monitoring, Data Recovery and Reporting. Based on a reasonable presumption that archaeological resources may be present within the Redevelopment Plan Project Area, the following measures shall be undertaken to avoid any potentially significant adverse effect from the proposed project on buried or submerged historical resources. The project sponsors shall retain the services of an archaeological consultant from the pool of qualified archaeological consultants maintained by the Planning Department archaeologist. The archaeological consultant shall undertake an archaeological testing program as specified herein. In addition, a professionally qualified geo-archaeologist shall undertake a geo-archaeological assessment of the project area. The archaeological consultant shall be available to conduct an archaeological monitoring and/or data recovery program if required pursuant to this measure. The archaeological consultant's work shall be conducted in accordance with this measure and the requirements of the ARDTP (Archeo-Tec, Archaeological Research Design and Treatment Plan, Treasure Island Redevelopment Plan Project, City and County of San Francisco, CA, October 2009) at the direction of the Environmental Review Officer ("ERO"). In instances of inconsistency between the requirements of the project ARDTP and the requirements of this mitigation measure, the requirements of this archaeological mitigation measure shall prevail. All plans and reports prepared by the consultant as specified herein shall be submitted first and directly to the ERO for review and comment, and shall be considered draft reports subject to revision until final approval by the ERO. Archaeological monitoring and/or data recovery programs required by this measure could suspend construction of the project for a maximum of four weeks. At the direction of the ERO, the suspension of construction can be extended beyond four weeks only if such a suspension is the only feasible means to reduce to a less-than-significant level of potential effects on a significant archaeological resource as defined in *CEQA Guidelines* Section 15064.5 (a)(c).	Project sponsors* to retain qualified professional consultants (archaeologist and geo-archaeologist) from the pool of consultants maintained by the Planning Department	Prior to commencement of soil-disturbing activities, submittal of reports for approval by Planning Department	(See below regarding archaeologist's reports.) Geo-archeological consultant to submit geo-archaeological assessment of the project area to Planning Department with a copy to TIDA	
Archaeological Testing Program The archaeological consultant shall prepare and submit to the ERO for review and approval an archaeological testing plan ("ATP"). The archaeological testing program shall be conducted in accordance with the approved ATP. The ATP shall identify the property types of the expected archaeological resource(s) that potentially could be adversely affected by the proposed project, the testing method to be used, and the locations	Archaeological consultant to undertake archaeological	Archaeological Testing Plan to be submitted to and approved by ERO prior to testing, which is	Consultant to prepare ATP in consultation with the ERO.	

Note: For purposes of this MMRP, unless otherwise indicated the term "project sponsors" shall mean the project sponsor or other persons assuming responsibility for implementation of the mitigation measure under the DDA, Vertical DDAs, or other transfer documents.

SAN FRANCISCO
PLANNING DEPARTMENT

Memo to the Planning Commission

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Date:	April 12, 2011
Case No.:	**2007.0903E**
Project Address:	**Treasure Island/Yerba Buena Island**
Project Sponsors:	Treasure Island Development Authority and Treasure Island Community Development, LLC
Staff Contact:	Rick Cooper, Senior Planner – 415-575-9027 Rick.Cooper@sfgov.org

Introduction

A number of revisions have occurred to the Proposed Treasure Island/Yerba Buena Island Redevelopment Project since publication and distribution of the Comments and Responses document for the Environmental Impact Report (EIR), scheduled for certification on April 21, 2011. The revisions relate to a change in the governing structure and documents under which the Proposed Project would be implemented, and to changes made in response to public comment in some standards in the proposed *Treasure Island/Yerba Buena Island Design for Development* since the March 5, 2010, public review draft was circulated. This memorandum summarizes the revisions to the Proposed Project and evaluates their effect on the analysis and conclusions in the EIR. Appendix 1 to this memorandum presents revisions to the text of the Draft EIR and Responses to Comments needed to reflect changes in the Proposed Project.

A Redevelopment Plan is no longer proposed for the Treasure Island/Yerba Buena Island Redevelopment Project; it would be replaced with a proposed new Treasure Island/Yerba Buena Island Area Plan (Area Plan) to be added to the *San Francisco General Plan*, which would no longer simply reference the provisions of the Redevelopment Plan. Instead the Area Plan would present objectives and policies that provide the foundation for land use and development of the Islands, and a Treasure Island/Yerba Buena Island Special Use District (SUD) would be added to the Planning Code along with Zoning Map amendments. The SUD references the proposed *Design for Development* and uses its Standards and Guidelines as a basis for development controls set out in the SUD. With this change, the "Treasure Island/Yerba Buena Island Redevelopment Project" is called the "Treasure Island/Yerba Buena Island Project" or the "Revised Project" for the remainder of this memorandum. The main financing mechanism also has been revised from use of tax increment financing under a Redevelopment Plan to an infrastructure financing district (IFD) mechanism. As an indirect result of this change, the number of affordable housing units would change from the approximately 2,400 units discussed in the EIR to approximately 2,000 units. The details of this change are provided below in the "Summary of Project Revisions."

JOANNE HAYES-WHITE
CHIEF OF DEPARTMENT

EDWIN M. LEE
MAYOR

SAN FRANCISCO FIRE DEPARTMENT
CITY AND COUNTY OF SAN FRANCISCO

TO: Planning Commission

FROM: Joanne Hayes-White, Chief of Department

DATE: April 21, 2011

SUBJECT: Treasure Island Development Project

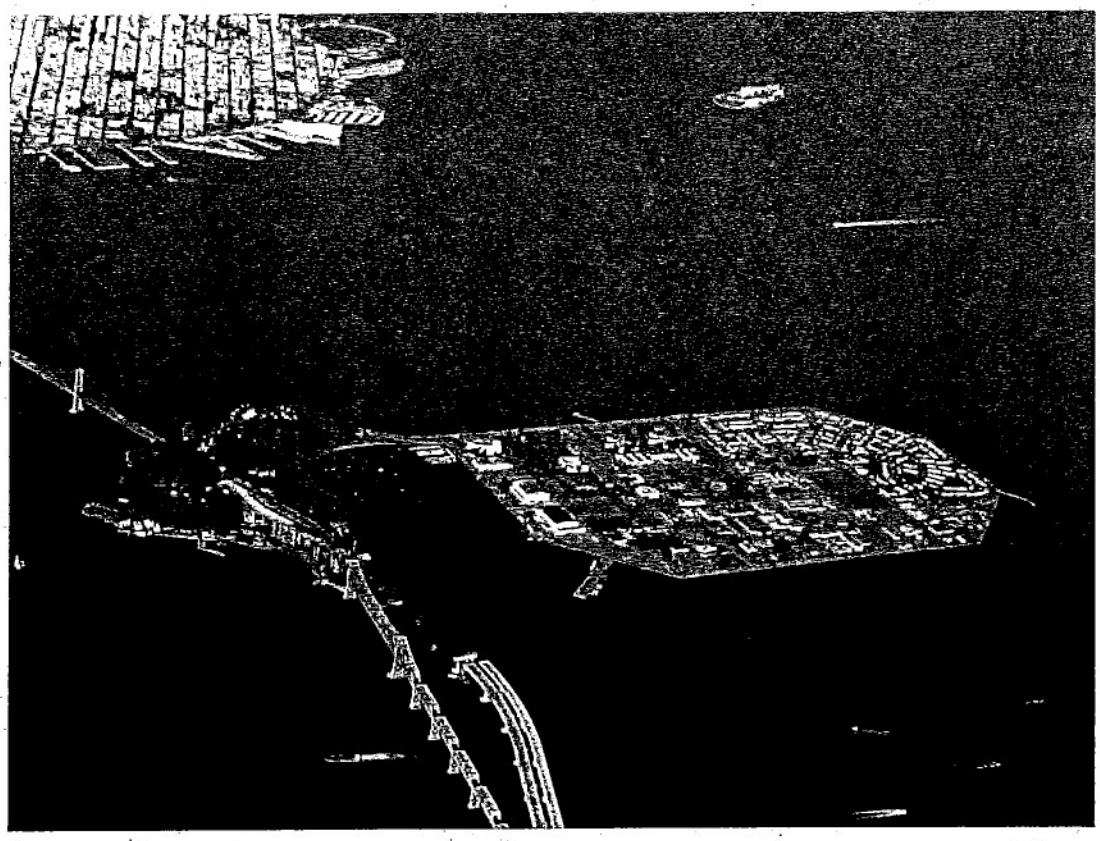
The San Francisco Fire Department has been briefed on the layout and infrastructure plan as it relates to the Treasure Island Development Project and has no objections to its movement forward. It is my understanding that as details of the plan are further refined, the San Francisco Fire Department will have the opportunity to review and approve all aspects that fall under its authority.

DRAFT ENVIRONMENTAL IMPACT REPORT

*

TREASURE ISLAND / YERBA BUENA ISLAND REDEVELOPMENT PROJECT

Volume 1 – Chapters I – IV.H



CITY AND COUNTY OF SAN FRANCISCO
PLANNING DEPARTMENT
CASE NO. 2007.0903E

STATE CLEARINGHOUSE NO. 2008012105

DRAFT EIR PUBLICATION DATE: JULY 12, 2010

DRAFT EIR PUBLIC HEARING DATE: AUGUST 12, 2010

DRAFT EIR PUBLIC COMMENT PERIOD: JULY 12, 2010 - AUGUST 26, 2010

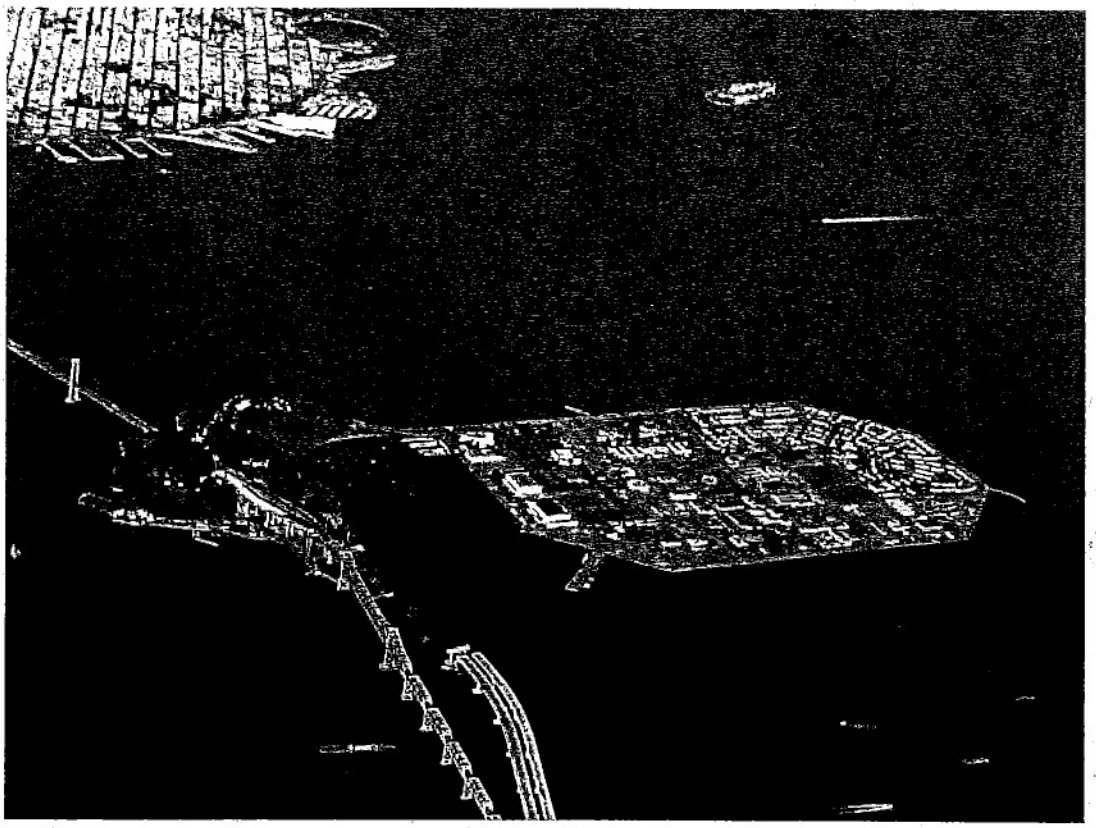
Written comments should be sent to:

Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

DRAFT ENVIRONMENTAL IMPACT REPORT

TREASURE ISLAND / YERBA BUENA ISLAND REDEVELOPMENT PROJECT

Volume 2 – Chapters IV.I – VIII



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1650 Mission Street, Suite 400
San Francisco, CA 94103

EXHIBIT C:
MITIGATION MONITORING AND REPORTING PROGRAM FOR THE TREASURE ISLAND / YERBA BUENA ISLAND PROJECT
(Includes Text for Adopted Mitigation and Improvement Measures)

MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Reporting Responsibility	Status/Date Completed
MITIGATION MEASURES FOR THE TREASURE ISLAND/YERBA BUENA ISLAND PROJECT				
Cultural and Paleontological Resources (Archeological Resources) Mitigation Measures				
Mitigation Measure M-CP-1: Archaeological Testing, Monitoring, Data Recovery and Reporting. Based on a reasonable presumption that archaeological resources may be present within the Redevelopment Plan Project Area, the following measures shall be undertaken to avoid any potentially significant adverse effect from the proposed project on buried or submerged historical resources. The project sponsors shall retain the services of an archaeological consultant from the pool of qualified archaeological consultants maintained by the Planning Department archaeologist. The archaeological consultant shall undertake an archaeological testing program as specified herein. In addition, a professionally qualified geo-archaeologist shall undertake a geo-archaeological assessment of the project area. The archaeological consultant shall be available to conduct an archaeological monitoring and/or data recovery program if required pursuant to this measure. The archaeological consultant's work shall be conducted in accordance with this measure and the requirements of the ARDTP (Archeo-Tec, Archaeological Research Design and Treatment Plan, Treasure Island Redevelopment Plan Project, City and County of San Francisco, CA, October 2009) at the direction of the Environmental Review Officer ("ERO"). In instances of inconsistency between the requirements of the project ARDTP and the requirements of this mitigation measure, the requirements of this archaeological mitigation measure shall prevail. All plans and reports prepared by the consultant as specified herein shall be submitted first and directly to the ERO for review and comment, and shall be considered draft reports subject to revision until final approval by the ERO. Archaeological monitoring and/or data recovery programs required by this measure could suspend construction of the project for a maximum of four weeks. At the direction of the ERO, the suspension of construction can be extended beyond four weeks only if such a suspension is the only feasible means to reduce to a less-than-significant level of potential effects on a significant archaeological resource as defined in *CEQA Guidelines* Section 15064.5 (a)(c).	Project sponsors* to retain qualified professional consultants (archaeologist and geo-archaeologist) from the pool of consultants maintained by the Planning Department	Prior to commencement of soil-disturbing activities, submittal of reports for approval by Planning Department	(See below regarding archaeologist's reports.) Geo-archeological consultant to submit geo-archaeological assessment of the project area to Planning Department with a copy to TIDA	
Archaeological Testing Program The archaeological consultant shall prepare and submit to the ERO for review and approval an archaeological testing plan ("ATP"). The archaeological testing program shall be conducted in accordance with the approved ATP. The ATP shall identify the property types of the expected archaeological resource(s) that potentially could be adversely	Archaeological consultant to undertake	Archaeological Testing Plan to be submitted to and approved by ERO	Consultant to prepare ATP in consultation with the ERO.	

**Note:* For purposes of this MMRP, unless otherwise indicated the term "project sponsors" shall mean the project sponsor or other persons assuming responsibility for implementation of the mitigation measure under the DDA, Vertical DDAs, or other transfer documents.

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affected by the proposed project, the testing method to be used, and the locations recommended for testing. The purpose of the archaeological testing program will be to determine, to the extent possible, the presence or absence of previously undiscovered archaeological resources and to identify and to evaluate whether any archaeological resource encountered on the site constitutes an historical resource under CEQA.	archaeological testing program	prior to testing, which is to be prior to any excavation for each phase of site preparation or construction		
At the completion of the archaeological testing program, the archaeological consultant shall submit a written report of the findings to the ERO. If based on the archaeological testing program the archaeological consultant finds that significant archaeological resources may be present, the ERO, in consultation with the archaeological consultant, shall determine if additional measures are warranted. Additional measures that may be undertaken include additional archaeological testing, archaeological monitoring, and/or an archaeological data recovery program. If the ERO determines that a significant archaeological resource is present and that the resource could be adversely affected by the proposed project, at the discretion of the project sponsors, either: (A) The proposed project shall be re-designed so as to avoid any adverse effect on the significant archaeological resource; or (B) A data recovery program shall be implemented, unless the ERO determines that the archaeological resource is of greater interpretive than research significance and that interpretive use of the resource is feasible, in which case interpretive reuse shall be required.	Archaeological consultant to submit results of testing, and in consultation with ERO, determine whether redesign or a data recovery program is warranted	At the completion of the archaeological testing program	Consultant to submit report of findings from testing program to Planning Department with a copy to TIDA	
Archaeological Monitoring Program (AMP) If the ERO in consultation with the archaeological consultant determines that an archaeological monitoring program shall be implemented, the archaeological monitoring program shall minimally include the following provisions: • The archaeological consultant, project sponsors, and ERO shall meet and consult on the scope of the AMP reasonably prior to any project-related soils-disturbing activities commencing. The ERO in consultation with the archaeological consultant shall determine what project activities shall be archaeologically monitored. In most cases, any soils-disturbing activities, such as demolition, foundation removal, excavation, grading, utilities installation, foundation work, driving of piles (foundation, shoring, etc.), site remediation, etc., shall require archaeological monitoring because of the risk these activities pose to potential archaeological resources and to their depositional context;	Project sponsors and their archaeologist(s), in consultation with ERO and	Prior to any demolition or removal activities, and during construction at any location	Consultant to prepare Archaeological Monitoring Program (AMP) in consultation with the ERO.	

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MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Reporting Responsibility	Status/Date Completed
• The archaeological consultant shall advise all project contractors to be on the alert for evidence of the presence of the expected resource(s), of how to identify the evidence of the expected resource(s), and of the appropriate protocol in the event of apparent discovery of an archaeological resource;	Archeological monitor and project sponsors' and their construction contractors	As construction contractors are retained, prior to any soils-disturbing activities	Archaeological consultant to advise all construction contractors	
• The archaeological monitor(s) shall be present on the project site according to a schedule agreed upon by the archaeological consultant and the ERO until the ERO has, in consultation with the project archaeological consultant, determined that project construction activities could have no effects on significant archaeological deposits;		Schedules for monitoring to be established in the AMP, in consultation with ERO	Archaeological monitor(s) to observe construction according to the schedules established in the AMP for each site	
• The archaeological monitor shall record and be authorized to collect soil samples and artifactual/ecofactual material as warranted for analysis;				
• If an intact archaeological deposit is encountered, all soils-disturbing activities in the vicinity of the deposit shall cease. The archaeological monitor shall be empowered to temporarily redirect demolition/excavation/pile driving/construction activities and equipment until the deposit is evaluated. If in the case of pile-driving activity (foundation, shoring, etc.), the archaeological monitor has cause to believe that the pile-driving activity may affect an archaeological resource, the pile-driving activity shall be terminated until an appropriate evaluation of the resource has been made in consultation with the ERO. The archaeological consultant shall immediately notify the ERO of the encountered archaeological deposit. The archaeological consultant shall make a reasonable effort to assess the identity, integrity, and significance of the encountered archaeological deposit, and present the findings of this assessment to the ERO.			Archaeological monitor(s) shall temporarily redirect construction activities as necessary and consult with ERO	
Whether or not significant archaeological resources are encountered, the archaeological consultant shall submit a written report of the findings of the monitoring program to the ERO.	Archaeological consultant	Upon completion of soil-disturbing activities on each site	Written report of findings of each monitoring program to be submitted to ERO with a copy to TIDA	
Archaeological Data Recovery Program				
The archaeological data recovery program shall be conducted in accord with an archaeological data recovery plan ("ADRP"). The archaeological consultant, project sponsors, and ERO shall meet and consult on the scope of the ADRP prior to preparation of a draft ADRP. The archaeological consultant shall submit a draft ADRP to the ERO.	Project sponsors and their archaeologist, in consultation with ERO			

Note: For purposes of this MMRP, unless otherwise indicated the term "project sponsors" shall mean the project sponsor or other persons assuming responsibility for implementation of the mitigation measure under the DDA, Vertical DDAs, or other transfer documents.

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MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Reporting Responsibility	Status/Date Completed
The ERO shall review the draft ARDP to ensure adherence to this mitigation measure and the standards and requirements set forth in the ARDTP. The ADRP shall identify how the proposed data recovery program will preserve the significant information the archaeological resource is expected to contain. That is, the ADRP will identify what scientific/historical research questions are applicable to the expected resource, what data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. Data recovery, in general, should be limited to the portions of the resource that could be adversely affected by the proposed project. Destructive data recovery methods shall not be applied to portions of the archaeological resources if non-destructive methods are practical. The scope of the ADRP shall include the following elements: • Field Methods and Procedures. Descriptions of proposed field strategies, procedures, and operations. • Cataloguing and Laboratory Analysis. Description of selected cataloguing system and artifact analysis procedures. • Discard and De-accession Policy. Description of and rationale for field and post-field discard and de-accession policies. • Interpretive Program. Consideration of an on-site/off-site public interpretive program during the course of the archaeological data recovery program. • Security Measures. Recommended security measures to protect the archaeological resource from vandalism, looting, and non-intentionally damaging activities. • Final Report. Description of proposed report format and distribution of results. • Curation. Description of the procedures and recommendations for the curation of any recovered data having potential research value, identification of appropriate curation facilities, and a summary of the accession policies of the curation facilities.		Prior to any demolition or removal activities, approval of interpretative materials to occur. Considered complete once verification of donation of occurs.	Consultant to prepare Archaeological Data Recovery Program in consultation with ERO. Final ADRP to be submitted to ERO with a copy to TIDA	
Human Remains and Associated or Unassociated Funerary Objects The treatment of human remains and of associated or unassociated funerary objects discovered during any soils-disturbing activity shall comply with applicable State and Federal laws. This shall include immediate notification of the Coroner of the City and County of San Francisco and in the event of the Coroner's determination that the human	Project sponsors and their archaeologist(s), in consultation with ERO	Ongoing throughout soils-disturbing activities	If applicable, upon discovery of human remains and/or associated or unassociated funerary objects, the consultant shall	

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MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Reporting Responsibility	Status/Date Completed
remains are Native American remains, notification of the California State NAHC who shall appoint a MLD (Pub. Res. Code Sec. 5097.98). The archaeological consultant, project sponsors, and MLD shall make all reasonable efforts to develop an agreement for the treatment of, with appropriate dignity, human remains and associated or unassociated funerary objects (CEQA Guidelines Sec. 15064.5(d)). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects.			notify the Coroner of the City and County of San Francisco, and in the event of the Coroner's determination that the human remains, notification of the California State Native American Heritage Commission who shall appoint a Most Likely Descendant (MLD) who shall make reasonable efforts to develop an agreement for the treatment of human remains and/or associated or unassociated funerary objects.	
Final Archaeological Resources Report				
The archaeological consultant shall submit a Draft Final Archaeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archaeological resource and describes the archaeological and historical research methods employed in the archaeological testing/monitoring/data recovery program(s) undertaken. Information that may put at risk any archaeological resource shall be provided in a separate removable insert within the final report.	Project sponsors and their archaeologist, in consultation with ERO	Upon completion of construction at a given site	Consultant to prepare draft and final Archeological Resources Report reports. The ERO to review and approve the Final Archeological Resources Report	
Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archaeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Major Environmental Analysis division of the Planning Department shall receive two copies (bound and unbound) of the FARR, and one unlocked, searchable PDF copy on a compact disk. MEA shall receive a copy of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest in or the high interpretive value of the resource, the ERO may require a different final report content, format, and distribution than that presented above.		Upon approval of Final Archaeological Resources Report by ERO	Consultant to transmit final, approved documentation to NWIC, the Planning Department., and TIDA	

Note: For purposes of this MMRP, unless otherwise indicated the term "project sponsors" shall mean the project sponsor or other persons assuming responsibility for implementation of the mitigation measure under the DDA, Vertical DDAs, or other transfer documents.

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Mitigation Measure M-CP-3: Paleontological Resources Monitoring and Mitigation Program. The project sponsor shall retain the services of a qualified paleontological consultant having expertise in California paleontology to design and implement a Paleontological Resources Monitoring and Mitigation Program. The PRMMP shall include a description of when and where construction monitoring would be required; emergency discovery procedures; sampling and data recovery procedures; procedure for the preparation, identification, analysis, and curation of fossil specimens and data recovered; preconstruction coordination procedures; and procedures for reporting the results of the monitoring program. The PRMMP shall be consistent with the Society for Vertebrate Paleontology Standard Guidelines for the mitigation of construction-related adverse impacts to paleontological resources and the requirements of the designated repository for any fossils collected. During construction, earth-moving activities shall be monitored by a qualified paleontological consultant having expertise in California paleontology in the areas where these activities have the potential to disturb previously undisturbed native sediment or sedimentary rocks. Monitoring need not be conducted in areas where the ground has been previously disturbed, in areas of artificial fill, in areas underlain by nonsedimentary rocks, or in areas where exposed sediment would be buried, but otherwise undisturbed. This, by definition, would exclude all of Treasure Island; accordingly, this mitigation measure would apply only to work on Yerba Buena Island. The consultant's work shall be conducted in accordance with this measure and at the direction of the City's ERO. Plans and reports prepared by the consultant shall be submitted first and directly to the ERO for review and comment, and shall be considered draft reports subject to revision until final approval by the ERO. Paleontological monitoring and/or data recovery programs required by this measure could suspend construction of the Proposed Project for as short a duration as reasonably possible and in no event for more than a maximum of four weeks. At the direction of the ERO, the suspension of construction can be extended beyond four weeks only if such a suspension is the only feasible means to reduce potential effects on a significant paleontological resource as previously defined to a less-than-significant level.	Project sponsors to retain appropriately qualified consultant to prepare PRMMP, carry out monitoring, and reporting for each excavation site on Yerba Buena Island	Prior to and during construction on each site involving excavation on Yerba Buena Island. The project paleontological consultant to consult with the ERO as indicated; completed when ERO accepts final report	ERO to approve final PRMMP. Consultant shall provide brief monthly reports to ERO during monitoring or as identified in the PRMMP, with copies to TIDA, and notify the ERO immediately if work should stop for data recovery during monitoring. The ERO to review and approve the final documentation as established in the PRMMP	
Cultural and Paleontological Resources (Historical Resources) Mitigation Measures				
Mitigation Measure M-CP-6: Review of Alterations to the Contributing Landscape of Building 1. During the design review process, TIDA is required, according to draft *Design for Development* Standard T5.10.1, to find that Building 1's rehabilitation is consistent with the Secretary's Standards. In making that finding, TIDA shall also consider any proposed alterations to and within the contributing	TIDA in consultation with qualified professional preservation architect,	During the design review process, prior to TIDA's approval of design for Building 1	TIDA	

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landscape areas identified by the HRE as contributing to the CRHR eligibility of Building 1. TIDA shall not approve a design proposal for Building 1 unless it makes a finding that any such alterations, when taken together with the alterations and additions to Building 1 itself, comply with the Secretary's Standards.	architectural historian, and/or planner experienced with applying Secretary's Standards to adaptive reuse projects			
Mitigation Measure M-CP-7: Review of New Construction within the Contributing Landscape West of Building 1. During the design review process, TIDA is required, according to the draft *Design for Development* (Standard T5.10.1), to find that Building 1's rehabilitation is consistent with the Secretary's Standards. In making that finding, TIDA shall also consider proposed new construction west of Building 1 within its associated contributing landscape areas. TIDA shall not approve a design proposal for Building 1 unless it makes a finding that any such new construction, when taken together with the alterations and additions to Building 1 itself, comply with the Secretary's Standards.	TIDA in consultation with qualified preservation specialist	During the design review process, prior to TIDA's approval of design for Building 1	TIDA	
Mitigation Measure M-CP-9: Documentation and Interpretation <u>*Documentation*</u> The project sponsors shall retain a professional who meets the Secretary of the Interior's Professional Qualifications Standards for Architectural History to prepare written and photographic documentation of the historical resource. The documentation for the property shall be prepared based on the National Park Service's Historic American Building Survey ("HABS") / Historic American Engineering Record ("HAER") Historical Report Guidelines. This type of documentation is based on a combination of both HABS/HAER standards (Levels II and III) and the National Park Service's policy for photographic documentation as outlined in the National Register of Historic Places and National Historic Landmarks ("NHL") Survey Photo Policy Expansion. The written historical data for this documentation shall follow HABS/HAER Level I standards. The written data shall be accompanied by a sketch plan of the property. Efforts should also be made to locate original construction drawings or plans of the property during the period of significance. If located, these drawings should be photographed, reproduced, and included in the dataset. If construction drawings or plans cannot be located, as-built drawings shall be produced. Either HABS/HAER standard large format or digital photography shall be used. If	Project sponsors to retain qualified professional consultant. Consultant to prepare documentation TIDA shall review, request revisions if appropriate, and ultimately approve documentation	Prior to any action to demolish or remove the Damage Control Trainer, Consultant to submit HABS/HAER/HALS Guidelines documentation for review by TIDA.	Consultant to submit draft and final documentation prepared pursuant to HABS/HAER/HALS Guidelines to TIDA for review and approval. Following approval of documentation, consultant to transmit documentation to the SF History Center in SF Library, TIDA, Planning Department, and NWIC.	

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digital photography is used, the ink and paper combinations for printing photographs must be in compliance with NRHP-NHL Photo Policy Expansion and have a permanency rating of approximately 115 years. Digital photographs will be taken as uncompressed, TIF file format. The size of each image will be 1600x1200 pixels at 330 pixels per inch or larger, color format, and printed in black and white. The file name for each electronic image shall correspond with the index of photographs and photograph label. Photograph views for the dataset shall include (1) contextual views; (2) views of each side of each building and interior views, where possible; (3) oblique views of buildings; and (4) detail views of character-defining features, including features of the interiors of some buildings. All views shall be referenced on a photographic key. This photographic key shall be on a map of the property and shall show the photograph number with an arrow to indicate the direction of the view. Historic photographs shall also be collected, reproduced, and included in the dataset. All written and photographic documentation of the historical resource shall be approved by TIDA prior to any demolition and removal activities. The project sponsors shall transmit such documentation to the San Francisco History Center of the San Francisco Public Library, and to the Northwest Information Center of the California Historical Information Resource System. *Interpretation* The project sponsors shall provide a permanent display of interpretive materials concerning the history and architectural features of the historical resource within public spaces of Treasure Island. The specific location, media, and other characteristics of such interpretive display shall be approved by TIDA prior to any demolition or removal activities.	TIDA to establish location(s), media, and characteristics of the display. Project sponsors and their architectural historian to prepare the display	Prior to demolition or removal activities	TIDA	

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Transportation Mitigation Measures				
Mitigation Measure M-TR-1: Construction Traffic Management Program. The project sponsors shall develop and implement a Construction Traffic Management Plan ("CTMP"), consistent with the standards and objectives stated below and approved by TIDA, designed to anticipate and minimize transportation impacts of various construction activities associated with the Proposed Project. The Plan shall disseminate appropriate information to contractors and affected agencies with respect to coordinating construction activities to minimize overall disruptions and ensure that overall circulation on the Islands is maintained to the extent possible, with particular focus on ensuring pedestrian, transit, and bicycle connectivity and access to the Bay and to recreational uses to the extent feasible. The CTMP shall supplement and expand, rather than modify or supersede, any manual, regulations, or provisions set forth by SFMTA, Department of Public Works ("DPW"), or other City departments and agencies. Specifically, the CTMP shall: • Identify construction traffic management best practices in San Francisco, as well as other jurisdictions that, although not being implemented in the City, could provide valuable information for a project of the size and characteristics of Treasure Island and Yerba Buena Island. • As applicable, describe procedures required by different departments and/or agencies in the City for implementation of a Construction Traffic Management Plan, such as reviewing agencies, approval processes, and estimated timelines. For example: – The construction contractor will need to coordinate temporary and permanent changes to the transportation network on Treasure Island and Yerba Buena Island with TIDA. Once Treasure Island streets are accepted as City streets, temporary traffic and transportation changes must be coordinated through the SFMTA's Interdepartmental Staff Committee on Traffic and Transportation ("ISCOTT") and will require a public meeting. As part of this process, the CTMP may be reviewed by SFMTA's Transportation Advisory Committee ("TASC") to resolve internal differences between different transportation modes. – For construction activities conducted within Caltrans right-of-way, Caltrans Deputy Directive 60 (DD-60) requires a separate Transportation Management	Project sponsors for each subphase, and their construction contractor(s) to prepare CTMP TIDA to coordinate with other City agencies and approve CTMP for each sub-development phase Construction contractors to disseminate appropriate information from the CTMP to employees and subcontractors. Project sponsors for each Sub-Phase and their construction contractor to implement approved CTMP, including each of the bulleted items	Prepare CTMP and submit for approval prior to construction of the first Sub-Phase of the first Major Phase, to be updated for each subsequent Sub-Phase In advance of construction activities in Caltrans	Construction contractors to report to TIDA, San Francisco Metropolitan Transportation Authority, and Department of Public Works, with copies to Planning Department, and TITMA Construction contractors and permit applicants to	

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Plan and contingency plans. These plans shall be part of the normal project development process and must be considered during the planning stage to allow for the proper cost, scope and scheduling of the TMP activities on Caltrans right-of-way. These plans should adhere to Caltrans standards and guidelines for stage construction, construction signage, traffic handling, lane and ramp closures and TMP documentation for all work within Caltrans right-of-way.		right-of-way	coordinate with Caltrans and submit Certification Checklist forms to Caltrans when appropriate	
• Changes to transit lines would be coordinated and approved, as appropriate, by SFMTA, AC Transit, and TITMA. The CTMP would set forth the process by which transit route changes would be requested and approved. Require consultation with other Island users, including the Job Corps and Coast Guard, to assist coordination of construction traffic management strategies. The project sponsors shall proactively coordinate with these groups prior to developing their CTMP to ensure the needs of the other users on the Islands are addressed within the Construction Traffic Management Plan.	Project sponsors and construction contractor(s)	Prior to completion of CTMP and during construction	Project sponsors to report to SFMTA, AC-Transit, and TITMA	
• Identify construction traffic management strategies and other elements for the Proposed Project, and present a cohesive program of operational and demand management strategies designed to maintain acceptable levels of traffic flow during periods of construction activities. These include, but are not limited to, construction strategies, demand management activities, alternative route strategies, and public information strategies. For example, the project sponsors may develop a circulation plan for the Island during construction to ensure that existing users can clearly navigate through the construction zones without substantial disruption.	Project sponsors and construction contractor(s)	Prior to completion of CTMP and during construction		
• Require contractors to notify vendors that STAA trucks larger than 65 feet exiting from the eastbound direction of the Bay Bridge may only use the off-ramp on the east side of Yerba Buena Island.	Construction contractor(s)	When contracting with vendors	Construction contractor(s) to report vendor notifications to TIDA	

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Mitigation Measure M-TR-24: Provide Transit Only Lane between First Street on Treasure Island and the transit and emergency vehicle-only westbound Bay Bridge on-ramp. Implementation of Mitigation Measure M-TR-24 would only be triggered if the extent of actual vehicle queuing impacts the proposed Muni line 108-Treasure Island on Treasure Island Road and creates delays for Muni buses accessing the westbound transit-only on-ramp. As such, throughout the life of the project, the TITMA, in consultation with SFMTA and using SFMTA's methodology, shall monitor the length and duration of potential queues on Treasure Island Road and the associated delays to Muni service. If the queues between First Street and the westbound on-ramp on the west side of Yerba Buena Island result in an operational delay to Muni service equal to or greater than the prevailing headway during the AM, PM or Saturday peak periods, SFMTA, in consultation with TITMA, shall implement a southbound transit-only lane between First Street on Treasure Island and the transit and emergency vehicle-only westbound Bay Bridge on-ramp. The implementation of a transit-only lane would be triggered if impacts are observed over the course of six months at least 50 percent of the time during the AM, PM, or Saturday peak periods. Implementation of this mitigation measure would entail the following: • Elimination or reduction of the proposed median on Treasure Island Road between First Street and just south of Macalla Road; and • Elimination of the proposed southbound Class II bicycle lane on Treasure Island Road and a small portion of Hillcrest Road south of the intersection with Macalla Road. The Class I facility on Treasure Island Road connecting Treasure Island and the proposed new lookout point, just south of the Macalla Road intersection, would remain. Bicyclists who use the Class I path to the lookout point and continue on Treasure Island Road toward Hillcrest Road would have to share the lane with traffic, similar to other roadways where bicycle lanes are not provided. Bicyclists would still be able to use Class I bicycle paths and Class II bicycle lanes proposed on Macalla Road to connect between the Islands and the bicycle path on the new east span of the Bay Bridge.	TITMA to carry out monitoring Project sponsors and sponsors' construction contractor to carry out restriping pursuant to SFMTA requirements and standards if/when determined necessary	TITMA, in consultation with SFMTA shall monitor the length and duration of potential queues on Treasure Island Road and the associated delays to Muni service on a quarterly (every 3 months) basis on a Saturday and three consecutive weekdays (Tuesday, Wednesday, and Thursday). Monitoring shall be increased to a monthly basis once delay to Muni is equal to or greater than the prevailing headway during the AM, PM, or Saturday peak periods. The monitoring shall begin upon installation of the metering light on the westbound on-ramp on the east side of YBI, or upon completion of 1,000 dwelling units, whichever occurs first. The measure shall be implemented when the queues between First Street and the westbound on-ramp on the west side of Yerba Buena Island result in an operational delay to Muni service	TITMA to report to SFMTA	

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		equal to or greater than the prevailing headway during the AM, PM or Saturday peak periods over the course of six months at least 50 percent of the time during the AM, PM, or Saturday peak periods.		
Noise Mitigation Measures				
Mitigation Measure M-NO-1a: Reduce Noise Levels During Construction. The following practices shall be incorporated into the construction contract agreement documents to be implemented by the construction contractor: • Provide enclosures and mufflers for stationary equipment, shroud or shield impact tools, and install barriers around particularly noisy activities at the construction sites so that the line of sight between the construction activities and nearby sensitive receptor locations is blocked; • Use construction equipment with lower noise emission ratings whenever feasible, particularly for air compressors; • Provide sound-control devices on equipment no less effective than those provided by the manufacturer; • Locate stationary equipment, material stockpiles, and vehicle staging areas as far as practicable from sensitive receptor locations; • Prohibit unnecessary idling of internal combustion engines; • Require applicable construction-related vehicles and equipment to use designated truck routes to access the project sites; • Implement noise attenuation measures to the extent feasible, which may include, but are not limited to, noise barriers or noise blankets. The placement of such attenuation measures shall be reviewed and approved by the Director of Public Works prior to issuance of development permits for construction activities; and • Designate a Noise Disturbance Coordinator who shall be responsible for	Project sponsors and their construction contractor(s) TIDA to designat Noise Disturbance Coordinator; all construction contractors shall	For each construction permit. Construction contractors to report on noise measures implemented on a monthly basis. Noise Disturbance Coordinator to be available throughout all construction phases until buildout is complete.	Construction contractors to report on implementation on a monthly basis to DPW if construction is permitted under a street permit, or DBI if construction is under a site or building permit, or SFPUC if construction is for a SFPUC-owned facility.	

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responding to complaints about noise during construction. The telephone number of the Noise Disturbance Coordinator shall be conspicuously posted at the construction site and shall be provided to the City. Copies of the construction schedule shall also be posted at nearby noise-sensitive areas.	work with Coordinator and post construction schedule			
Mitigation Measure M-NO-1b: Pile Driving Noise-Reducing Techniques and Muffling Devices. The project sponsors and developers of each structure (project applicant) shall require the construction contractor to use noise-reducing pile driving techniques if nearby structures are subject to pile driving noise and vibration. These techniques shall include pre-drilling pile holes (if feasible, based on soils; see Mitigation Measure M-NO-2) to the maximum feasible depth, installing intake and exhaust mufflers on pile driving equipment, vibrating piles into place when feasible, and installing shrouds around the pile driving hammer where feasible. Construction contractors shall be required to use construction equipment with state-of-the-art noise shielding and muffling devices. In addition, at least 48 hours prior to pile-driving activities, the Project Applicant shall notify building owners and occupants within 500 feet of the project site of the dates, hours, and expected duration of such activities.	Project sponsors and developers of each structure to require construction contractor(s) to identify the selected noise-reducing pile driving techniques and noise shielding and muffling devices	During construction of each phase, if pile driving is required. Notification of building owners and occupants within 500 feet of the project site of the dates, hours, and expected duration of such activities shall occur at least 48 hours prior to pile driving activities,.	Project sponsors shall report technique proposed to be used to DPW if construction is permitted under a street permit, or DBI if construction is under a site or building permit. Project sponsors shall report notifications to TIDA and Planning Department	
Mitigation Measure M-NO-2: Pre-Construction Assessment to Minimize Impact Activity and Vibro-compaction Vibration Levels. The project sponsors shall engage a qualified geotechnical engineer to conduct a pre-construction assessment of existing subsurface conditions and the structural integrity of nearby buildings subject to impact or vibrocompaction activity impacts before a building permit is issued. If recommended by the geotechnical engineer, for structures or facilities within 50 feet of impact or vibro-compaction activities, the Project Applicant shall require ground-borne vibration monitoring of nearby structures. Such methods and technologies shall be based on the specific conditions at the construction site such as, but not limited to, the pre-construction surveying of potentially affected structures and underpinning of foundations of potentially affected structures, as necessary. The pre-construction assessment shall include a monitoring program to detect ground settlement or lateral movement of structures in the vicinity of impact or vibro-compaction activities. Monitoring results shall be submitted to the Department of Building Inspection. In the event of unacceptable ground movement, as determined by the Department of Building Inspection, all impact and/or vibro-compaction work shall cease and corrective measures shall be implemented. The impact and vibro-compaction program and ground stabilization measures shall be reevaluated and approved by the Department of Building	Project sponsors and qualified geotechnical engineer(s) engaged by project sponsors	Pre-construction assessment shall occur prior to commencement of construction of each phase of site preparation or grading and prior to construction of each building, where use of impact or vibro-compaction methods are proposed. Monitoring shall occur, if recommended, during impact activities and vibro-compaction and during other ground stabilization measures as	Geotechnical engineer to submit pre-construction assessments to the Department of Building Inspection. Geotechnical engineer shall provide reports of results of monitoring programs to Department of Building Inspection for review and approval	

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Inspection.		recommended by geotechnical engineer		
Mitigation Measure M-NO-5: Residential, School, and Transient Lodging Land Use Plan Review by Qualified Acoustical Consultant. To ensure that automobile and ferry traffic induced interior L_{max} noise levels at nearby uses do not exceed an interior noise level standard of 45 dBA (L_{dn}), the developer of each new residential, scholastic, or hotel land uses planned for the Development Plan Area shall be required to engage a qualified acoustical consultant to prepare plans for the applicable development project, and to follow their recommendations to provide acoustical insulation or other equivalent measures to ensure that interior peak noise events would not exceed 45 dBA (L_{dn}). Similar to requirements of Title 24, this Plan shall include post-construction monitoring to verify adequacy of noise attenuation measures.	Project sponsor(s) for each new residential, educational or hotel building to retain qualified acoustical consultants to prepare plans for acoustical insulation, and following construction and occupancy to monitor for adequacy of measures	Prior to completion of design and issuance of the first building permit allowing commencement of construction of each new residential or hotel building, or new or upgraded educational facility Monitoring to be carried out at least one time within one year following completion and occupancy of each residential, hotel, or educational building	Consultant(s) to submit reports to Department of Building Inspection. Building designers to follow the recommendations of the acoustical consultant. DBI to review plans to ensure recommendations are included in plans. Monitoring report to be filed with DBI by acoustical consultant	
Mitigation Measure M-NO-6: Stationary Operational Noise Sources. All utility and industrial stationary noise sources (e.g., pump stations, electric substation equipment, etc.) shall be located away from noise sensitive receptors, be enclosed within structures with adequate setback and screening, be installed adjacent to noise reducing shields or constructed with some other adequate noise attenuating features to achieve acceptable regulatory noise standards for industrial uses as well as to achieve acceptable levels at the property lines of nearby residences or other sensitive uses, as determined by the San Francisco Land Use Compatibility Guidelines for Community Noise standards. Once the stationary noise sources have been installed, noise levels shall be monitored to ensure compliance with local noise standards. If project stationary noise sources exceed the applicable noise standards, an acoustical engineer shall by retained by the applicant to install additional noise attenuation measures in order to meet the applicable noise standards.	TIDA, in consultation with SFPUC if appropriate, to establish appropriate locations for utility and industrial facilities that could produce noise and project sponsors to require appropriate noise attenuating features in design Project sponsors to retain qualified expert to monitor	Site and noise attenuation features to be established during design of each utility or industrial stationary noise source Monitoring to be carried out within three months of installation of stationary noise sources, at each structure with stationary noise sources	Reports of monitoring results to be submitted to TIDA with copies to Planning Department	

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	sound from each stationary noises source, and retain qualified acoustical engineer if noise standards are exceeded.			
Air Quality Mitigation Measures				
Mitigation Measure M-AQ-1: Implementation of BAAQMD-Identified Basic Construction Mitigation Measures. The following eight BAAQMD-identified construction mitigation measures shall be incorporated into the required Construction Dust Control Plan for the Proposed Project: 1. All exposed surfaces shall be watered two times daily. 2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered. 3. All visible mud or dirt tracked-out onto adjacent public roads shall be removed using wet-power vacuum street sweepers at least once per day. 4. All vehicle speeds on unpaved roads shall be limited to 15 mph. 5. All roadways, driveways and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. 6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes. Clear signage shall be provided for construction workers at all access points. 7. All construction equipment shall be maintained and properly tuned in accordance with manufacturers specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. 8. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.	Project sponsors to prepare Construction Dust Control Plan, and project sponsors and their construction contractors to implement Construction Dust Control Plan Construction contractors to post contact person and telephone numbers	Department of Building Inspection (DBI) will not issue building permits until Department of Public Health (SFDPH) has approved Construction Dust Control Plan Dust Control Plans to be prepared and implemented during each phase of site preparation and building construction	SFDPH to review and approve Construction Dust Control Plan and notify DBI of the approval	
Mitigation Measure M-AQ-2: Construction Exhaust Emissions. TIDA shall require project sponsors to implement combustion emission reduction measures, during construction activities, including the following measures: • The contractor shall keep all off-road equipment well-tuned and regularly serviced to minimize exhaust emissions, and shall establish a regular and frequent check-up	TIDA shall require, and project sponsors and their construction	Project sponsors, with assistance from construction contractors, shall submit quarterly	TIDA and DBI in Tidelands Trust Overlay Zone Planning Department and	

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and service/maintenance program for equipment. • Off-road diesel equipment operators shall be required to shut down their engines rather than idle for more than five minutes, unless such idling is necessary for proper operation of the equipment. Clear signage shall be provided for construction workers at all access points. TIDA shall require that project sponsors also engage in early implementation of the following combustion emission reduction measures, during construction activities: • The project applicant shall utilize EPA Tier 3 engine standards or better at the start of construction for all off-road equipment, or utilize Retrofit Emission Control Devices which consist of diesel oxidation catalysts, diesel particulate filters or similar retrofit equipment control technology verified by the California Air Resources Board ("CARB") (http://www.arb.ca.gov/diesel/verdev/verdev.htm). • The project applicant shall utilize EPA Tier 4 engine standards or better for 50 percent of the fleet at construction initiation, increasing to 75 percent by 2015, and 100 percent by 2018, to the extent that EPA Tier 4 equipment is commercially available. • The project applicant shall utilize 2010 or newer model year haul trucks, to the extent that they are commercially available. • Diesel-powered generators for construction activity shall be prohibited as a condition of construction contracts for each Major Phase, unless TIDA has made a finding in writing in connection with the Major Phase that there are no other commercially available alternatives to providing localized power.	contractors, shall implement	reports regarding compliance with measures and implementation of emission reduction strategies and use of Tier 3 or Tier 4 or equivalent equipment during construction through 2018 and annually thereafter until buildout.	DBI outside of Trust Overlay Zones	
Mitigation Measure M-AQ-3: At the submission of any Major Phase application, TIDA shall require that an Air Quality consultant review the proposed development in that Major Phase along with existing uses and uses approved in prior Major Phases to determine whether the actual project phasing deviates materially from the representative phasing plan. If the Air Quality consultant determines the possible impact of the actual phasing could result in a significant impact on any group of receptors, then TIDA shall require that the applicant implement in connection with that Major Phase best management practices to the extent that TIDA determines feasible to reduce construction emissions in accordance with Mitigation Measures M-AQ-1, M-AQ-2, and M-AQ-4. TIDA shall also determine whether Tier 3 or Tier 4 engines, non-diesel powered generators, or year 2010 or newer haul trucks are commercially available for that phase, and, if so, require the use of such engines or haul trucks.	TIDA for horizontal construction or Planning Department for vertical construction outside Tidelands Trust Overlay Zone, and an air quality consultant	Review of phasing by air quality consultant to occur prior to approval of each Major Phase Application. If required, BMPs to be included prior to commencement of construction for each Sub-Phase within each Major Phase	TIDA and DBI or Planning Department and DBI as applicable	

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Mitigation Measure M-AQ-4: Implement Additional Construction Mitigation Measures Recommended for Projects with Construction Emissions Above Thresholds. TIDA shall require the project sponsors to implement all of the following mitigation measures identified by BAAQMD, to the extent feasible, for projects that exceed construction thresholds that would be applicable to reducing PM2.5 emissions. Although there may be some overlap, these mitigation measures are identified by BAAQMD as additional to those identified in Mitigation Measure AQ-1 which BAAQMD identifies as recommended for all projects regardless of whether thresholds are exceeded: 1. All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe. 2. All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph. 3. Wind breaks (e.g., trees, fences) shall be installed on the windward side(s) of actively disturbed areas of construction. Wind breaks should have at maximum 50 percent air porosity. 4. Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established. 5. The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. 6. Activities shall be phased to reduce the amount of disturbed surfaces at any one time. 7. All trucks and equipment, including their tires, shall be washed off prior to leaving the site. 8. Site accesses to a distance of 100 feet from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel. 9. Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent. 10. Minimizing the idling time of diesel-powered construction equipment to two minutes. 11. Same as Mitigation Measure AQ-2.	TIDA shall require, and project sponsors and their construction contractors, shall implement	Project sponsors, with assistance from construction contractors, shall submit quarterly reports regarding implementation	TIDA, Planning Department, and DBI	

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12. Requiring that all construction equipment, diesel trucks, and generators be equipped with Best Available Control Technology for emission reductions of NOx and PM. 13. Requiring all contractors use equipment that meets CARB's most recent certification standard for off-road heavy duty diesel engines.				
Wind and Shadow Mitigation Measures				
Mitigation Measure M-WS-3: Identification of Interim Hazardous Wind Impacts 1. To identify nearby locations where potentially hazardous winds might occur as a result of the new construction during the phased buildout of the Development Program, the project sponsors shall contract with a qualified wind consultant. At least once a year, throughout construction of the Proposed Project, the wind consultant shall visit the project site, shall carefully review and consider the designs of all buildings that are approved or under construction using plans that shall be provided by the project sponsors and TIDA, shall carefully review the status of site development and building construction to date, and shall identify locations where potentially hazardous winds are likely to occur in pedestrian areas (including temporary and permanent sidewalks, streets and construction roads, and public open spaces) as a result of the new construction that would occur as part of the Proposed Project. The qualified wind consultant shall work with the project sponsors to identify structural measures and precautions to be taken to reduce exposure of persons to potentially hazardous winds in publicly accessible areas. The structural measures and precautions identified by the wind consultant could include, but not be limited to, measures such as: warning pedestrians and bicyclists of hazardous winds by placing weighted warning signs; identifying alternative pedestrian and bicycle routes that avoid areas likely to be exposed to hazardous winds; installing semi-permanent windscreens or temporary landscaping features (such as shrubs in large planters) that provide some wind sheltering and also direct pedestrian and bicycle traffic around hazardous areas.	TIDA to retain (a) qualified wind consultant(s)	At least once a year throughout all phases of construction	TIDA and DBI with copy to Planning Department	
2. For the active construction areas, the wind consultant may identify those construction sites that would be especially exposed to strong winds and may recommend construction site safety precautions for those times when very strong winds occur on-site or when they may be expected, such as when high-wind watches or warnings are announced by the National Weather Service of the National Oceanic and Atmospheric Administration. The objective of construction site safety precautions shall be to	TIDA's wind consultant	At least once a year throughout all phases of construction	TIDA to report to DBI, with a copy to Planning Department.	

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minimize risks and prevent injuries to workers and to members of the public from stacked materials, such as shingles and sheets of plywood, that can be picked up and carried by very strong winds, as well as from temporary signage, siding or roofing, or light structures that could be detached and carried by wind. As part of construction site safety planning, the project sponsors shall require, as a condition of the contract, that contractors shall consider all such wind-related risks to the public that could result from their construction activities and shall develop a safety plan to address and control all such risks related to their work.	Project sponsors and their construction contractors	Prior to issuance of a building permit for each structure	TIDA and Department of Building Inspection	
3. TIDA shall ensure, by conditions of approval for horizontal work activity, and the Planning Department shall ensure by conditions of approval for building permits and site permits, that the project sponsors and the subsequent building developer(s) cooperate to implement and maintain all structural measures and precautions identified by the wind consultant.	TIDA and Planning Department	Prior to issuance of building permit for each structure and each site permit	TIDA	
4. TIDA shall document undertaking the actions described in this mitigation measure, including copies of all reports furnished for vertical development by the Planning Department. TIDA shall maintain records that include, among others: the technical memorandum from the EIR; all written recommendations and memoranda, including any reports of wind testing results, prepared by the wind consultant(s) in the conduct of the reviews and evaluations described in this mitigation measure; and memoranda or other written proof that all constructed buildings incorporate the requisite design mitigations that were specified by the wind consultant(s).	TIDA	Throughout all phases of construction	Planning Department shall provide to TIDA all reports prepared for vertical development. TIDA shall document undertaking the action and maintain records for horizontal improvements and maintain records for vertical development.	

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Mitigation Measure M-WS-4: Ongoing Review and Mitigation of Hazardous Wind Impacts 1. Prior to schematic design approval of the building(s) on any parcel within the Project, the Planning Department shall require that a qualified wind consultant shall review and compare the exposure, massing, and orientation of the proposed building(s) on the subject parcel to the building(s) on the same parcel in the representative massing model of the Proposed Project tested in the wind tunnel as part of this EIR and in any subsequent wind testing. The wind consultant shall identify and compare the potential impacts of the proposed building(s) relative to those described in this EIR. The wind consultant's analysis and evaluation shall consider the proposed building(s) in the context of the "Current Project," which, at any given time during construction of the Project, shall be defined as the building masses used in the representative massing model of the Proposed Project, as described in this EIR, except as modified to replace appropriate building massing models with the corresponding as-built designs of all previously-completed structures and the then-current designs of approved but yet unbuilt structures. Finally, the proposed building(s) shall be compared to its equivalent current setting (the Current Project scenario). a. If the qualified wind consultant concludes that the building design(s) would not create a new wind hazard and would not contribute to a wind hazard identified by prior wind testing, no further review would be required. b. If the qualified wind consultant concludes that the building design(s) could create a new wind hazard or could contribute to a wind hazard identified by prior wind testing, but in the consultant's professional judgment can be modified to prevent it from doing so, the consultant shall propose changes or supplements to the design of the proposed building(s) to achieve this result. The consultant may consider measures that include, but are not limited to, changes in design, building orientation, and/or the addition of street furniture, as well as consideration of the proposed landscaping. The wind consultant shall work with the project sponsors and/or architect to identify specific feasible changes to be incorporated into the Project. To the extent the consultant's findings depend on particular building or landscaping features, the consultant shall specifically identify those essential features. The project sponsors shall incorporate those features into the	Planning Department, project sponsors' wind consultant(s), and project sponsors' architects and engineers	Prior to schematic design approval of the building(s) on any parcel within the Project Development Area	Planning Department and DBI to review	

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building's/buildings' design and landscaping plans. If the wind consultant can then conclude that the modified building's/buildings' design and landscaping would not create a new wind hazard or contribute to a wind hazard identified in prior wind testing, no further review would be required. Although a goal of this effort is to limit the wind effects of the building(s) to (1) cause the same or fewer number of hours of wind hazard in the immediate vicinity compared to the building(s) on that parcel as identified by prior wind testing, and (2) subject no more area to hazardous winds than was identified by prior wind testing, it should not be expected that all of the wind hazard(s) identified in prior wind testing would be eliminated by this measure. c. If, at this point in the analysis, the consultant concludes that the building(s) would cause a new wind hazard or increase a wind hazard identified in prior wind testing, and if the consultant concludes that the new or additional wind hazard is not likely to be eliminated by measures such as those described above, the consultant may determine that additional wind tunnel testing would be required. Wind tunnel testing would also be required if the consultant, due to complexity of the design or the building context, is unable to determine whether likely wind hazards would be greater or lesser than those identified in prior wind testing. In the event the building's design would appear to increase the hours of wind hazard or extent of area subject to hazard winds, the wind consultant shall identify design alterations that could reduce the hours or extent of hazard. The wind consultant shall work with the developer and/or architect to identify specific alterations to be incorporated into the project. It is not expected that in all cases that the wind hazard(s) identified in this EIR would be completely eliminated. To the extent the wind consultant's findings depend on particular building design features or landscaping features in order to meet this standard, the consultant shall identify such features, and such features shall be incorporated into the design and landscaping. 2. If wind testing of an individual or group of buildings is required, the building(s) shall be wind tested in the context of a model (subject to the neighborhood group geographic extent described below) that represents the Current Project, as described in Item 1, above. Wind testing shall be performed for the building's/buildings' "Neighborhood" group, i.e. the surrounding blocks (at least three blocks wide and several blocks deep) within which the wind consultant determines wind hazards caused by or affected by the building(s) could occur.				

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The testing shall include all the test points in the vicinity of a proposed building or group of buildings that were tested in this EIR, as well as all additional points deemed appropriate by the consultant to determine the building's/buildings' wind performance. The wind testing shall test the proposed building design in the Current Project scenario, as well as test the existing Current Project scenario, in order to clearly identify those differences that would be due to the proposed new building. In the event that wind testing shows that the building's design would cause an increase in the hours of or extent of area subject to hazard winds in excess of that identified in prior wind testing, the wind consultant shall work with the project sponsors, architect and/or landscape architect to identify specific feasible alterations to be incorporated into the building(s). To the extent that avoiding an increase in wind hazard relies on particular building design or landscaping features, these building design or landscaping features shall be incorporated into the design by the project sponsors. The ability of the design alterations to reduce the wind hazard shall be demonstrated by wind tunnel testing of the modified design. Although a goal of this effort should be to limit the building's/buildings' wind effect to (1) cause the same or fewer number of hours of wind hazard in the immediate vicinity compared to the building(s) on that parcel as identified by prior wind testing, and (2) subject no more area to hazardous winds than was identified by prior wind testing, it should not be expected that all of the wind hazard(s) identified in the prior wind testing or in the current wind testing under this mitigation measure would be eliminated.				
3. TIDA shall document undertaking the actions described in this mitigation measure, including copies of all reports furnished for vertical development by the Planning Department. TIDA shall maintain records that include, among others: the technical memorandum from the EIR; all written recommendations and memoranda, including any reports of wind testing results, prepared by the wind consultant(s) in the conduct of the reviews and evaluations described in this mitigation measure; and memoranda or other written proofs that all constructed buildings incorporate the requisite design mitigations that were specified by the wind consultant(s).	TIDA to maintain documentation	Ongoing until full buildout	Planning Department to provide copies of documentation for vertical development to TIDA as they are prepared.	

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Biological Resources Mitigation Measures				
Mitigation Measure M-BI-1a: Surveys for Special-Status Plants. On Yerba Buena Island, presence/absence surveys for special-status plants shall be conducted by a qualified botanist prior to any ground disturbance. In the event that special-status plant populations are found during the surveys, the lead agency will avoid disturbance to the species by establishing a visible avoidance buffer zone of not less than 25 feet. If it is not feasible to avoid disturbance or mortality, then special-status plant populations will be restored on-site at a 1:1 ratio in areas that are to remain as post-development open space.	Project sponsors to retain qualified professional consultant to carry out and report on surveys TIDA to maintain copies of all reports	Prior to construction for each phase on YBI, a preconstruction survey shall be conducted within the construction area in the spring (May and June) by a qualified botanist.	TIDA to provide copies of all survey reports to Planning Department	
Mitigation Measure M-BI-1b: Pre-project Surveys for Nesting Birds. Pre-project surveys shall be conducted by a qualified biologist for nesting birds between February 1st and August 15th if ground disturbance or tree removal is scheduled to take place during that period. If bird species protected under the Migratory Bird Treaty Act ("MBTA") or the California Fish and Game Code are found to be nesting in or near any work area, an appropriate no-work buffer zone (e.g., 100 feet for songbirds) shall be designated by the biologist. Depending on the species involved, input from the California Department of Fish and Game ("CDFG") and/or the U.S. Fish and Wildlife Service ("USFWS") Division of Migratory Bird Management may be warranted. As recommended by the biologist, no activities shall be conducted within the no-work buffer zone that could disrupt bird breeding. Outside of the breeding season (August 16 – January 31), or after young birds have fledged, as determined by the biologist, work activities may proceed.	Project sponsors to retain qualified professional consultant to carry out preconstruction surveys in consultation with CDFG and/or USFWS, as appropriate. TIDA to maintain copies of all reports	Preconstruction surveys shall be conducted for work scheduled during the breeding season (February through August). The preconstruction survey shall be conducted within 15 days prior to the start of work from February through May, and within 30 days prior to the start of work from June through August. If active nests of protected birds are found in the work area, no work will be allowed within the buffer(s), until the young have successfully fledged.	Copies of all reports to be provided to TIDA and Planning Department	
Mitigation Measure M-BI-1c: Minimizing Disturbance to Bats. Removal of trees or demolition of buildings showing evidence of bat activity shall occur during the period least likely to impact the bats as determined by a qualified bat biologist (generally between February 15 and October 15 for winter hibernacula and between August 15 and April 15 for maternity roosts). If active day or night roosts are found, the bat biologist shall take actions to make such roosts unsuitable habitat prior to tree removal or building demolition. A no-disturbance buffer of 100 feet shall be created around active bat roosts being used for	Project sponsors to retain qualified bat biologist to carry out surveys, in consultation with CDFG if buffer is proposed to be	Throughout the construction phases, with particular attention prior to construction at each site and/or structure	Copies of all reports to be provided to TIDA and Planning Department	

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maternity or hibernation purposes. A reduced buffer could be provided for on a case-by-case basis by the bat biologist, in consultation with CDFG and based on site-specific conditions. Bat roosts initiated during construction are presumed to be unaffected, and no buffer would necessary.	reduced. TIDA to maintain copies of all reports			
Mitigation Measure M-BI-1d: Control of Domestic and Feral Animals. To avoid conflicts with wildlife on Yerba Buena Island and the remaining natural habitats on Yerba Buena Island, the Islands' Covenants, Conditions and Restrictions, TIDA Rules and Regulations, and/or other similar enforceable instruments or regulations, shall prohibit off-leash dogs outside of designated, enclosed, off-leash dog parks on Yerba Buena Island and the feeding of feral cats on both islands. Building tenants shall be provided with educational materials regarding these restrictions, rules, and/or regulations. Non-resident pet owners and the public using the Islands shall be alerted to these restrictions, rules, and/or regulations through appropriate signage in public areas.	Project sponsors to include in CCRs and/or TIDA to include in rules and regulations and post appropriate signage Project sponsors and individual site developers to provide information to building tenants	Preparation of rules, regulations, and convenants prior to each Major Phase; Communications to tenants and visitors, prior to occupation of new structures, and ongoing	TIDA	
Mitigation Measure M-BI-1e: Monitoring During Off-Shore Pile Driving. Site-specific conditions during all offshore pile driving shall be monitored by a qualified marine biologist to ensure that aquatic species within the project area would not be impacted, that harbor seals at nearby Yerba Buena Island, at occasional Treasure Island haul-outs, and while in transit along the western shoreline of Treasure Island during work on the Ferry Terminal and in Clipper Cove during work on the Sailing Center, are not disturbed, and that sound pressures outside the immediate project area do not exceed 160 dB at 500 meters from the source. If this threshold is exceeded or avoidance behavior by marine mammals or fish is observed by the on-site marine biologist, bubble curtains will be used to reduce sound/vibration to acceptable levels. In addition the following measures shall be employed to further reduce noise from pile-driving activities: • Use as few piles as necessary in the final terminal design; • Use vibratory hammers for all steel piles; • Use cushion blocks between the hammer and the pile; • Restrict pile driving to June 1 to November 30 work window as recommended by NOAA Fisheries to protect herring and salmonids;	Project sponsors and project sponsors' qualified marine biologist(s) and acoustical consultant(s)	During off-shore pile driving for each phase of in-water construction for Ferry Terminal and Sailing Center	TIDA and Dept. of Building Inspection	

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If marine mammals are observed within 1,000 feet of pile driving activities, allow them to completely exit the vicinity of the pile driving activities before pile driving resumes.				
Mitigation Measure M-BI-2a: Restriction of Construction Activities. Geotechnical stabilization, shoreline heightening and repair work, stormwater outfall improvements, and other Project activities conducted in and around the Islands' rocky shoreline shall be generally restricted to the terrestrial and upper intertidal zones. Activities in the lower intertidal and near subtidal zone shall be minimized to the maximum extent practicable, using the smallest area and footprint for disturbance as possible. Outside of planned dredging areas (Ferry Terminal and the Sailing Center) movement and disturbance of existing rocks in the lower intertidal zone shall be prohibited.	Project sponsors and project sponsors' qualified marine biologist(s), in consultation with CDFG as necessary, to establish limitations on construction activities	During any construction conducted in and around the Islands' rocky shoreline	Biologists to provide quarterly reports to TIDA	
Mitigation Measure M-BI-2b: Seasonal Limitations on Construction Work. Construction work on the Islands' shoreline shall be conducted between March 1 and November 30 to avoid any disturbance to herring spawning occurring in SAV surrounding Treasure Island.	Project sponsors and their qualified marine biologist(s)	During construction activities conducted on and around the Islands' shoreline, limited to March 1 to November 30	Project sponsors to report to TIDA re construction schedules for work on and near shoreline	
Mitigation Measure M-BI-2c*:* Eelgrass Bed Survey and Avoidance. Within three to six months of the initiation of construction activities that might affect SAV beds, and not less frequently than biennially (every two years) thereafter, all eelgrass beds shall be surveyed or otherwise identified, including their proximity to and potential impact from ongoing or pending onshore or offshore activities. All TIDA staff in charge of overseeing construction for the Proposed Project, and all construction contractors and subcontractors involved in Project construction activities in Bay waters that are within a quarter mile of Treasure Island and Yerba Buena Island, along Treasure Island's shoreline, or involved in transporting materials and supplies by water to either Island shall be required to undergo thorough environmental training. This training shall present information on the locations of all eelgrass beds, the kinds of construction and vessel transit activities that can impact eelgrass beds, all mitigation measures that contractors must adhere to so that any disturbance or damage to eelgrass beds may be avoided and the beds protected, and who to notify in the event of any disturbance. Any work barges or vessels engaged in construction activities shall avoid transiting through and anchoring in any eelgrass beds located around Treasure Island. TIDA personnel	Project sponsors and project sponsors' qualified marine biologist(s) and project sponsors and their construction contractors (including boat operators and crew)	First survey to occur 3 to 6 months prior to initiation of construction on eastern or southern shorelines or prior to initial delivery of construction materials by water. Regular surveys to occur every 2 years thereafter until construction and materials deliveries by water are completed. Training to occur prior to initiation of work by each construction contractor	Marine biologist(s) to report to TIDA on survey schedules and results of surveys. Marine biologist(s) to report to TIDA on each training session with copies to Planning Department	

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responsible for overseeing Project contractors, as well as all Project contractor and subcontractor management personnel, shall ensure that all boat operators and work crews are aware of eelgrass bed locations and the requirement to avoid disturbing them.				
Mitigation Measure M-BI-4a: Minimizing Bird Strikes. Prior to the issuance of the first building permit for each building in the Proposed Project, project applicants shall have a qualified biologist experienced with bird strikes review the design of the building to ensure that it sufficiently minimizes the potential for bird strikes and report to the Planning Department. The Planning Department may consult with resource agencies such as the California Department of Fish and Game or others, as it deems appropriate. The building developer shall provide to the Planning Department a written description of the measures and features of the building design that are intended to address potential impacts on birds, with a copy to TIDA of the final measures approved by the Planning Department or Commission. Building developers are encouraged to coordinate with the Planning Department early in the design process regarding design features intended to minimize bird strikes. The design shall include some of the following measures or measures that are equivalent to, but not necessarily identical to, those listed below, as new, more effective technology for addressing bird strikes may become available in the future: • Employ design techniques that create "visual noise" via cladding or other design features that make it easy for birds to identify buildings as such and not mistake buildings for open sky or trees; • Decrease continuity of reflective surfaces using "visual marker" design techniques, which techniques may include: – Patterned or fritted glass, with patterns at most 28 centimeters apart, – One-way films installed on glass, with any picture or pattern or arrangement that can be seen from the outside by birds but appear transparent from the inside, – Geometric fenestration patterns that effectively divide a window into smaller panes of at most 28 centimeters, and/or – Decals with patterned or abstract designs, with the maximum clear spaces at most 28 centimeters square. • Up to 40 feet high on building facades facing the shoreline, decrease reflectivity of glass, using design techniques such as plastic or metal screens, light-colored	Project sponsors to retain qualified biologist(s) experienced with bird strikes and Project sponsors and their architects and during operation, building managers to implement the building design features and measures.	Prior to the issuance of the first building or site permit for each building in the Proposed Project and ongoing as buildings are occupied	TIDA and Planning Department to maintain copies of biological reports for each building. Project sponsors to report to the Planning Department on implementation of building design measures for buildings on non-Trust property, and to TIDA for buildings on Trust property. Building managers to provide annual reports to TIDA on implementation of measures related to building operations, including lighting, education activities, and landscape maintenance.	

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blinds or curtains, frosting of glass, angling glass towards the ground, UV-A glass, or awnings and overhangs; • Eliminate the use of clear glass on opposing or immediately adjacent faces of the building without intervening interior obstacles such that a bird could perceive its flight path through the glass to be unobstructed; • Mute reflections in glass using strategies such as angled glass, shades, internal screens, and overhangs; and • Place new landscapes sufficiently away from glazed building facades so that no reflection occurs. Alternatively, if planting of landscapes near a glazed building façade is desirable, situate trees and shrubs immediately adjacent to the exterior glass walls, at a distance of less than 3 feet from the glass. Such close proximity will obscure habitat reflections and will minimize fatal collisions by reducing birds' flight momentum. *Lighting* The Planning Department shall similarly ensure that the design and specifications for buildings on non-Trust property, and TIDA shall ensure that the design and specifications for sports facilities/playing fields and buildings on Trust property, implement design elements to reduce lighting usage, change light direction, and contain light. These include, but are not limited to, the following considerations: • Avoid installation of lighting in areas where not required for public safety; • Examine and adopt alternatives to bright, all-night, floor-wide lighting when interior lights would be visible from the exterior or exterior lights must be left on at night, including: – Installing motion-sensitive lighting, – Installing task lighting, – Installing programmable timers, and – Installing fixtures that use lower-wattage, sodium, and blue-green lighting. • Install strobe or flashing lights in place of continuously burning lights for obstruction lighting. • Use rotating beams instead of continuous light; and • Where exterior lights are to be left on at night, install fully shielded lights to contain and direct light away from the sky, as illustrated in the City of Toronto's Bird Friendly Building Guidelines.				

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MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Reporting Responsibility	Status/Date Completed
Antennae, Monopole Structures, and Rooftop Elements The Planning Department shall ensure, as a condition of approval for every building permit, that buildings minimize the number of and co-locate rooftop-antennas and other rooftop equipment, and that monopole structures or antennas on buildings, in open areas, and at sports and playing fields and facilities do not include guy wires. *Educating Residents and Occupants* The Planning Department shall ensure, as a condition of approval for every building permit issued for non-Trust property, and TIDA shall ensure, as a condition of approval for every building permit for Trust property, that the permit applicant agrees to provide educational materials to building tenants and occupants, hotel guests, and residents encouraging them to minimize light transmission from windows, especially during peak spring and fall migratory periods, by turning off unnecessary lighting and/or closing window coverings at night. TIDA shall review and approve the educational materials prior to building occupancy. *Documentation* TIDA shall document undertaking the activities described in this mitigation measure and maintain records that include, among others, the written descriptions provided by the building developer of the measures and features of the design for each building that are intended to address potential impacts on birds, and the recommendations and memoranda prepared by the qualified biologist experienced with bird strikes who reviews and approves the design of the building or sports facilities / playing fields to ensure that it sufficiently minimizes the potential for bird strikes.	TIDA and Planning Department	ongoing	TIDA and Planning Department	
Mitigation Measure M-BI-8 (Variant B3): Minimize Disturbance to Newly Established Sensitive Species During Construction of Southern Breakwater. If Variant B3 is selected as the preferred ferry terminal breakwater approach, prior to initiation of any construction activities for the southern breakwater, a survey of the construction area shall be conducted by a qualified marine biologist to assess the presence of eelgrass (*Zostera spp.*) beds, green sturgeon or other protected fish species, and utilization by marine mammals, primarily harbor seals (*Phoca* vitulina) and California sea lions (*Zalophus californianus*. Survey results will be submitted to TIDA, and by TIDA to the ACOE, BCDC, NMFS, and CDFG. In the event the survey shows that eelgrass (*Zostera spp.*) has established beds within the proposed construction area of the southern breakwater or within close proximity, such that	Project sponsors and project sponsors' qualified marine biologist(s) to carry out surveys in consultation with ACOE, BCDC, NMFS, and CDFG, where necessary Project sponsors & construction	Prior to construction of the ferry terminal southern breakwater If eelgrass beds found, construction of the ferry	Marine biologists to supply reports of survey results and approaches to avoid or restore eelgrass beds, if found, and approaches to avoiding disturbing marine mammals or protected fish species to TIDA	

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EXHIBIT C:
MITIGATION MONITORING AND REPORTING PROGRAM FOR THE TREASURE ISLAND / YERBA BUENA ISLAND PROJECT
(Includes Text for Adopted Mitigation and Improvement Measures)

MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Reporting Responsibility	Status/Date Completed
planned construction activities could have an impact on the beds, then the restoration of offsite eelgrass beds or the transplantation and establishment of offsite or onsite eelgrass beds at a replacement ratio of 3:1 will be made.	contractors, in consultation w/ marine biologist(s)	terminal southern breakwater to be restricted to March 1 through November 30; restoration or offsite eelgrass beds to occur immediately following construction of breakwater		
In the event the survey shows that the planned establishment or construction of the southern breakwater would affect utilization of the area by protected fish species or by marine mammals as a haul-out area, construction and establishment of the southern breakwater will be done, under consultation with National Marine Fisheries, in a manner that does not adversely affect the protected fish species or prevent the continued utilization of the area by harbor seals or sea lions.	Project sponsors & construction contractors in consultation w/ marine biologist(s) and NMFS	During construction of the ferry terminal breakwater		
Mitigation Measure M-BI-9 (Variant C2): Impingement and/or Entrainment of Protected Fish and Invertebrates, if implemented. For Variant C2, the Bay water intake pipe for the supplemental firefighting water supply shall be designed and constructed in a manner that prevents impingement of fish and macroinvertebrates. This could include, but not be limited to, installing the intake pipe inside a screened subsea vault large enough to reduce water suction to acceptable levels wherein impingement of marine fauna would not occur. TIDA will submit the final design of the Bay water intake pipe to the National Marine Fisheries; CDFG; California Water Board, San Francisco Region; and BCDC for approval.	TIDA and project sponsors' qualified marine biologist(s) and engineering consultants in consultation with NMFS, CDFG, RWQCB and BCDC, where necessary	Prior to issuance of permits to construct the Bay water intake pipe, if Variant C2 is selected	Marine biologist(s) and engineering consultants to report to TIDA TIDA to maintain records of consultation with state and federal agencies	
Geology and Soils Mitigation Measures				
Mitigation Measure M-GE-5: Slope Stability. New improvements proposed for Yerba Buena Island shall be located at a minimum of 100 feet from the top of the existing slope along Macalla Road unless a site-specific geotechnical evaluation of slope stability indicates a static factor of safety of 1.5 and a seismic factor of safety of 1.1 are present or established geotechnical stabilization measures are implemented to provide that level of safety. Any geotechnical recommendations regarding slope stability made in site specific geotechnical investigations for the site shall be incorporated into the specifications for building on that site.	Project sponsors and their geotechnical consultant(s)	Prior to issuance of building permit for improvements or structures along Macalla Road	TIDA and Department of Building Inspection	

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MITIGATION MONITORING AND REPORTING PROGRAM FOR THE TREASURE ISLAND / YERBA BUENA ISLAND PROJECT
(Includes Text for Adopted Mitigation and Improvement Measures)

MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Reporting Responsibility	Status/Date Completed
Hazards and Hazardous Materials Mitigation Measures				
Mitigation Measure M-HZ-1: Soil and Groundwater Management Plan Prior to issuance of a building or grading permit for any one or more parcels, the applicant shall demonstrate that its construction specifications include implementation of a Soil and Groundwater Management Plan ("SGMP") prepared by a qualified environmental consulting firm and reviewed and agreed to by DTSC and RWQCB. For parcels transferred from the Navy under a Lease in Furtherance of Conveyance (LIFOC), or Early Transfer (FOSET) or parcels transferred under a FOST which specifies that additional remediation of petroleum contamination is necessary or additional remediation is necessary to meet the proposed land use, all additional or remaining remediation on those parcels shall be completed as directed by the responsible agency, DTSC or RWQCB, prior to commencement of construction activities unless (i) those construction activities are conducted in accordance with the requirements of any applicable land use convenant, lease restriction or deed restriction and in accordance with the Site Health and Safety requirements of the SGMP, or (ii) those construction activities are otherwise given written approval by either DTSC or RWQCB. The SGMP shall be present on site at all times and readily available to site workers. The SGMP shall specify protocols and requirements for excavation, stockpiling, and transport of soil and for disturbance of groundwater as well as a contingency plan to respond to the discovery of previously unknown areas of contamination (e.g., an underground storage tank unearthed during normal construction activities). Specifically, the SGMP shall include at least the following components: 1. <u>Soil management requirements</u>. Protocols for stockpiling, sampling, and transporting soil generated from on-site activities, and requirements for soil imported to the site for placement. The soil management requirements must include: • Soil stockpiling requirements such as placement of cover, application of moisture, erection of containment structures, and implementation of security measures. The soil stockpiling requirements must, at a minimum, meet the requirements of the San Francisco Dust Control Ordinance. • Protocols for assessing suitability of soil for on-site reuse through representative laboratory analysis of soils as approved by DTSC or RWQCB, taking into account the Treasure Island specific health-based remediation goals, other applicable health-based standards, and the proposed location, circumstances, and conditions for the intended soil reuse.	Project sponsors for first Sub-Phase of the first Major Phase to prepare and obtain DTSC/RWQCB approval of project-wide SGMP All subsequent project sponsors to follow SGMP and prepare/follow parcel-specific or sub-parcel-specific health and safety plan. Project sponsors and their remediation contractor(s)	Prior to the first Sub-Phase Application Approval Prior to issuance of a building or grading permit for any parcel or parcels	TIDA and DBI. TIDA shall ensure that Project sponsors obtain state agency approval of project-wide SGMP; DBI to confirm project applicants have site-specific health and safety plan prior to issuance of a permit. In the event of LIFOC or FOSET, TIDA to ensure completion of remediation, or other approval from DTSC/RWQCB, prior to construction activities.	

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MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Reporting Responsibility	Status/Date Completed
• Requirements for offsite transportation and disposal of soil not determined to be suitable for on-site reuse. Any soil identified for off-site disposal must be packaged, handled, and transported in compliance with all applicable state, federal, and the disposal facility's requirements for waste handling, transportation and disposal. • Soil importation requirements for soil brought from offsite locations. 2. Groundwater management requirements. Protocols for conducting dewatering activities and sampling and analysis requirements for groundwater extracted during dewatering activities. The sampling and analysis requirements shall specify which groundwater contaminants must be analyzed or how they will be determined. The results of the groundwater sampling and analysis shall be used to determine which of the following reuse or disposal options is appropriate for such groundwater: • On-site reuse (e.g., as dust control); • Discharge under the general permit for stormwater discharge for construction sites; • Treatment (as necessary) before discharge to the sanitary sewer system under applicable San Francisco PUC waste discharge criteria; • Treatment (as necessary) before discharge under a site-specific NPDES permit; • Off-site transport to an approved offsite facility. For each of the options listed, the SGMP shall specify the particular criteria or protocol that would be considered appropriate for reuse or disposal option. The thresholds used must, at a minimum, be consistent with the applicable requirements of the RWQCB and the San Francisco Public Utilities Commission. 3. Unknown contaminant/hazard contingency plan. Procedures for implementing a contingency plan, including appropriate notification, site worker protections, and site control procedures, in the event unanticipated subsurface hazards or hazardous material releases are discovered during construction. Control procedures shall include: • Protocols for identifying potential contamination though visual or olfactory observation;				

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MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Reporting Responsibility	Status/Date Completed
• Protocols on what to do in the event an underground storage tank is encountered; • Emergency contact procedures; • Procedures for notifying regulatory agencies and other appropriate parties; • Site control and security procedures; • Sampling and analysis protocols; and • Interim removal work plan preparation and implementation procedures.				
Mitigation Measure M-HZ-8: Construction Best Management Practices The use of construction best management practices (BMPs) shall be incorporated into the construction specifications and implemented as part of project construction. The BMPs would minimize potential negative effects to groundwater and soils and shall include the following: • Follow manufacturer's recommendations on use, storage and disposal of chemical products used in construction; • All refueling and maintenance activities shall occur at a dedicated area that is equipped with containment improvements and readily available spill control equipment and products. Overtopping construction equipment fuel gas tanks shall be avoided; • During routine maintenance of construction equipment, properly contain and remove grease and oils; and • Properly dispose of discarded containers of fuels and other chemicals.	Project sponsors and their construction contractors	BMPs for each construction site or area to be prepared prior to initiation of construction activities. Relevant BMPs to be implemented during all construction phases	DBI to ensure that proposed BMPs for each construction site are submitted to San Francisco Dept. of Public Health for review and that they are incorporated into construction specifications for implementation	
Mitigation Measure M-HZ-10: Soil Vapor Barriers. Prior to obtaining a building permit for an enclosed structure within IR Sites 21 or 24 or within any area where the FOST or site closure documentation specifies that vapor barriers are necessary or that additional sampling must be conducted to determine if vapor barriers are necessary due to the presence of residual contamination that has volatile components (such as chlorinated solvents PCE and TCE or certain petroleum hydrocarbons), the applicant shall demonstrate either that the building plans include DTSC-approved vapor barriers to be installed beneath the foundation for the prevention of soil vapor intrusion, or that DTSC has determined that installation of vapor barriers is not necessary.	Project sponsors for buildings located within IR sites 21 or 24, and their construction contractor(s), in consultation with and approved by DTSC, if needed.	Prior to issuance of a building permit for construction in the areas specified	TIDA to ensure that sampling occurs where necessary; that the necessary DTSC approvals are obtained prior to construction, and that copies of reports are provided to DTSC, SFDPH and DBI. DBI to ensure appropriate vapor barriers	

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MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Reporting Responsibility	Status/Date Completed
			are included in building plans.	
Mitigation Measure M-HZ-13: Human Health Risk Assessment. Prior to reopening the presently closed elementary school for elementary school use, TIDA or the SFUSD shall enter into a Voluntary Clean-Up Agreement (VCA) with DTSC's School Property Evaluation and Cleanup Division for the school site, regardless of whether any physical construction or expansion activities that trigger the requirement to consult with DTSC under the Education Code are proposed. As part of the VCA, a Preliminary Endangerment Assessment (PEA) shall be prepared under the supervision of DTSC's School Property Evaluation and Cleanup Division. If the Preliminary Endangerment Assessment discloses the presence of a hazardous materials release, or threatened release, or the presence of naturally occurring hazardous materials, at or near the school site at concentrations that could pose a significant risk to children attending the school or adults working at the school, or discloses that ongoing or planned remediation activities to address such a release near the school could pose a significant risk to children attending the school or adults working at the school, then the school shall not reopen until all actions required by DTSC to reduce the increased cancer risk from exposure to such releases to less than one in a million (1x10-6) and reduce the increased risk of noncancerous toxic effects such that the Hazard Index for chronic and acute hazards is less than one. In the event DTSC declines to supervise the process required by this measure in circumstances where it is not required to do so under the California Education Code, the PEA shall be approved by the San Francisco Department of Public Health, applying the risk standards set forth above for cancer and non-cancer risks.	TIDA or the SFUSD to prepare and negotiate a Voluntary Clean-Up Agreement with DTSC	Prior to reopening the presently closed elementary school for elementary school use	DTSC's School Property Evaluation and Cleanup Division or SFDPH (if DTSC declines) DTSC or San Francisco Department of Public Health	
IMPROVEMENT MEASURES FOR THE TREASURE ISLAND / YERBA BUENA ISLAND PROJECT				
Improvement Measure I-GHG-1 While the Proposed Project would not result in a significant impact with regard to GHG emissions, BAAQMD Guidance encourages Lead Agencies to incorporate best management practices for the purposes of reducing construction-related GHG emissions. The following measures should be considered to be implemented by the project applicant and its contractors: • Use of alternatively fueled (e.g., biodiesel, electric) construction	Project sponsors and their construction contractor(s) to incorporate all feasible measures	During all construction phases	Project sponsors to report to TIDA on measures to be included and provide reasons why any not included have not been.	

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MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Reporting Responsibility	Status/Date Completed
equipment for at least 15 percent of the fleet; • Use local building materials for at least 10 percent of construction materials; and • Recycling or reusing at least 50 percent of construction and demolition wastes.				
Improvement Measure I-RE-3a Where artificial turf is proposed, the project sponsors are encouraged to work with the City Fields Foundation and City Recreation and Park Department staff to design and build artificial turf fields using the latest SFRPD criteria at the time of implementation, including the City's purchasing criteria.	Project sponsors for any fields proposing artificial turf, in consultation with City Fields Foundation and Recreation and Park Department	Prior to, and during, construction of recreational fields	Project sponsors to report to TIDA on latest SFRPC criteria TIDA to ensure appropriate materials are installed.	
Improvement Measure I-RE-3b The project sponsors are encouraged to work with the City Fields Foundation and Department of Public Health staff to develop signage that educates athletes and their families about the importance of washing hands before and after use of synthetic turf fields and the importance of proper wound care for turf-related injuries.	Project sponsors in consultation with City Fields Foundation and SF Department of Public Health	Signage to be installed prior to opening of recreational fields and maintained during operation	Project sponsors to review signage with TIDA and SF DPH TIDA to ensure signage is installed and maintained	
Improvement Measure I-RE-3c The project sponsors are encouraged to work with the City Fields Foundation and Department of Public Health staff to develop an air quality monitoring program for the proposed synthetic turf fields that would follow a methodology developed by the Office of Environmental Health Hazard Assessment or the U.S. EPA. The methodology would include, but is not limited to, capturing air quality samples at an outdoor field and upwind of the field; identifying the heights above the field where samples are captured; and recording weather data such as ambient and field temperatures, wind speed/direction, and humidity.	Project sponsors and air quality monitoring consultant, in consultation with City Fields Foundation and SF Department of Public Health	During operation of recreational fields	monitoring reports to be submitted to TIDA and SFDPH	

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MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Reporting Responsibility	Status/Date Completed
MITIGATON MEASURES OUTSIDE SAN FRANCISCO'S JURISDICTION FOR THE TREASURE ISLAND / YERBA BUENA ISLAND PROJECT				
Mitigation Measure M-NO-4: Ferry Terminal Noise Reduction Plan. To ensure that the noise levels from the proposed Ferry Terminal and its operations do not exceed the San Francisco Land Use Compatibility Guidelines for Community Noise standards, the developer of the Ferry Terminal shall be required to engage a qualified acoustical consultant to prepare a Ferry Terminal Noise Reduction Plan to be approved by TIDA. The operator would be required to follow the recommendations of the Plan to ensure compliance with the City's community noise guidelines, including but not limited to requiring ferry operators to reduce propulsion engine power to low when approaching and departing the terminal.	Operator of the ferry service to retain acoustical consultant	Prior to Ferry Terminal operation	WETA	
Mitigation Measure M-AQ-5: Ferry Particulate Emissions. All ferries providing service between Treasure Island and San Francisco shall meet applicable California Air Resources Board regulations. Additionally, all ferries shall be equipped with diesel particulate filters or an alternative equivalent technology to reduce diesel particulate emissions.	WETA and WETA's ferry operator(s)	Prior to vessel selection or award of ferry service contract for Treasure Island Ferry Terminal	TIDA and WETA, in consultation with the Bay Area Air Quality Management District	
Mitigation Measure M-BI-4b: Changes in Ferry Service to Protect Rafting Waterbirds. Waterfowl numbers generally peak in December, with reduced populations during January, and into the spring months. Ferries between San Francisco and Treasure Island shall operate in reduced numbers and slower speeds during December and January; alternatively, during this period ferries, to the extent practicable, shall maintain a buffer zone of 250 meters from areas of high-use by rafting waterbirds.	WETA's ferry operator(s)	During December and January of each year of operation	ferry operators to report to WETA and TIDA monthly during affected period	

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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

From:	Carroll, John (BOS)
To:	Sherry Williams
Cc:	Jalipa, Brent (BOS); Board of Supervisors (BOS)
Subject:	RE: Letter of Support for TI Amendments - BOS File Nos. 240198, 240199, 240202, and 240207
Date:	Wednesday, April 10, 2024 11:06:00 AM
Attachments:	image001.png BOS Letter of Support DDA Amendments One TI 04 09 2024 -edit (002).pdf

Thank you for your comment letter.

By copy of this message to the board.of.supervisors@sfgov.org email address, your comments will be forwarded to the full membership of the Board of Supervisors. We will include your comments in the file for these legislative matters.

I invite you to review the entire matter on our Legislative Research Center by following the links below:

-

Board of Supervisors File No. 240198 – [Development Agreement Amendment - Treasure Island Community Development, LLC - Treasure Island]

Board of Supervisors File No. 240199 – [Planning Code, Zoning Map - Treasure Island/Yerba Buena Island]

Board of Supervisors File No. 240202 – [Amended and Restated Disposition and Development Agreement - Treasure Island and Yerba Buena Island]

Board of Supervisors File No. 240207 – [Endorsing the Aspirational Statement for Treasure Island and Yerba Buena Island]

John Carroll
Assistant Clerk
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
(415)554-4445

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From: Sherry Williams <swilliams@onetreasureisland.org>
Sent: Wednesday, April 10, 2024 10:02 AM
To: Carroll, John (BOS) <john.carroll@sfgov.org>; Jalipa, Brent (BOS) <brent.jalipa@sfgov.org>
Subject: Letter of Support for TI Amendments

For Land Use (04/15) and Budget and Finance Committees (04/17)—

Please see attached. Thank You.

Sherry Williams (she,her)
Co-Executive Director
One Treasure Island
(415) 274-0311 x305
www.onetreasureisland.org

1 Avenue of the Palms, Room 166, San Francisco, CA 94130 • ph: 415.274.0311 • OneTreasureIsland.org

April 9, 2024

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, Ca. 94102-4689

Sent via email to Committee Clerks John.Carroll@sfgov.org and Brent.Jalipa@sfgov.org

Dear Chairs Myrna Melgar and Connie Chan:

We are writing in support of the amendments to the Disposition and Development Agreement, Development Agreement, the Design for Development, and the Planning Code and Zoning Map for Treasure Island being considered by the Board of Supervisors.

One Treasure Island (One TI) was formed in 1994 to develop the homeless assistance plan for the Treasure Island civilian reuse plan and has been a champion of developing a thriving, diverse, equitable, mixed income neighborhood on Treasure Island ever since. We are dedicated to creating housing, jobs and services to homeless and low-income San Franciscans as an integral part of Treasure Island's long-term development.

One TI is a collaboration of community-based organizations. Our housing member agencies include: Catholic Charities, HealthRIGHT360, Swords to Plowshares. Mercy Housing California, Chinatown Community Development Center and the John Stewart Company. *All of our members are in strong support of these amendments.*

One TI serves hundreds of additional low-income island residents, and our member agencies also include Rubicon Programs (landscape maintenance job training), Toolworks (janitorial job training for people with disabilities) and, the YMCA (programs for youth, fitness and general recreation).

We have been involved with the base reuse planning process for almost 30 years and have worked closely with the Treasure Island Development Authority and Treasure Island Community Development to both create plans such as the ones for affordable housing, jobs and community facilities and to implement them. Our members renovated and occupied 260 units of the original Navy units and now, after waiting almost 25 years, the replacement and expansion of these interim units are finally underway. The proposed amendments are crucial to keep this critically needed housing development moving forward.

Last year we saw the move in of 105 new affordable units for homeless veterans and this year we will see 135 units of affordable housing for families come online. In the pipeline are more units for homeless and low-income families, low-income seniors and an incredible opportunity to create a behavioral health building with substance abuse treatment and step-down beds. All of these units are at risk of not being developed if these amendments are not passed as proposed. And vitally needed development funding will be jeopardized and lost.

In addition to providing much needed housing, this project has also created hundreds of construction jobs. As part of the Jobs and Equal Opportunity Plan for the island, economically disadvantaged San Franciscans and those with significant barriers to employment have received training and placement in union, living wage jobs. If the project stalls, so will these opportunities for economic stability and advancement.

We have an opportunity to grow and create a real equitable and inclusive San Francisco neighborhood while providing greatly needed affordable homes and treatment beds. Without these amendments, this opportunity will be delayed indefinitely. We sincerely hope you will support the proposed amendments for the Treasure Island Development Agreement.

Sincerely,

Sherry Williams
Co-Executive Director
One Treasure Island

Nella Goncalves
Co-Executive Director
One Treasure Island

CC: Land Use and Budget and Finance Committee Members
President Aaron Peskin
Supervisor Dean Preston
Supervisor Rafael Mandelman

From:	Carroll, John (BOS)
To:	Elizabeth Kuwada; Board of Supervisors (BOS)
Cc:	Doug Shoemaker; Peskin, Aaron (BOS); Preston, Dean (BOS); Mandelman, Rafael (BOS); Jalipa, Brent (BOS)
Subject:	RE: Mercy Housing Letter of Support - Treasure Island Amendments - BOS File Nos. 240198, 240199, 240202, and 240207
Date:	Monday, April 8, 2024 1:00:00 PM
Attachments:	image009.png image010.png image015.png Mercy Housing_Treasure Island Letter of Support_BOS_Apr 2024.pdf

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Thank you for your comment letter.

By copy of this message to the board.of.supervisors@sfgov.org email address, your comments will be forwarded to the full membership of the Board of Supervisors. We will include your comments in the file for these legislative matters.

I invite you to review the entire matter on our Legislative Research Center by following the links below:

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Board of Supervisors File No. 240199 – [Planning Code, Zoning Map - Treasure Island/Yerba Buena Island]

Board of Supervisors File No. 240202 – [Amended and Restated Disposition and Development Agreement - Treasure Island and Yerba Buena Island]

Board of Supervisors File No. 240207 – [Endorsing the Aspirational Statement for Treasure Island and Yerba Buena Island]

John Carroll
Assistant Clerk
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
(415)554-4445

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a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.

From: Elizabeth Kuwada <Elizabeth.Kuwada@mercyhousing.org>
Sent: Monday, April 8, 2024 11:19 AM
To: Carroll, John (BOS) <john.carroll@sfgov.org>; Jalipa, Brent (BOS) <brent.jalipa@sfgov.org>
Cc: Doug Shoemaker <DShoemaker@mercyhousing.org>; Peskin, Aaron (BOS) <aaron.peskin@sfgov.org>; Preston, Dean (BOS) <dean.preston@sfgov.org>; Mandelman, Rafael (BOS) <rafael.mandelman@sfgov.org>
Subject: Mercy Housing Letter of Support - Treasure Island Amendments

Hello, Please see the attached letter of support from Mercy Housing for the Treasure Island Development Agreement amendments, the Design for Development amendments, and the Planning Code and Zoning Map amendments items being considered by the Board of Supervisors next week and in early May.

Thank you,
Elizabeth

Elizabeth Kuwada
DIRECTOR | Real Estate Development
she/her/hers

SINCE 1981

mercy HOUSING
Mercy Housing California
1256 Market Street | San Francisco, CA 94102
t|415.355.7133 | mercyhousing.org

**Please note that Mercy Housing offices close at 2 PM on Fridays.*

April 8, 2024

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, Ca. 94102-4689

Sent via email to Committee Clerks John.Carroll@sfgov.org and Brent.Jalipa@sfgov.org

To Chairs Myrna Melgar and Connie Chan,

We are writing in support of the amendments to the Disposition and Development Agreement, Development Agreement, the Design for Development, and the Planning Code and Zoning Map for Treasure Island being considered by the Board of Supervisors.

Mercy Housing is a leading affordable housing organization with many affordable housing communities completed and in development throughout San Francisco. We are proud to be a partner with the Mayor's Office of Housing and Community Development, Treasure Island Development Agency and Treasure Island Community Development in delivering much needed affordable housing to the City. We are particularly proud to participate in developing the first several hundred units on Treasure Island at Star View Court. Star View Court will complete construction next month and will provide homes for 138 households, the majority of which are for existing families currently living on the Island. We also have a funded project planned for Stage 2 to deliver another 120 units in partnership with the Department of Public Health and are working on a third project on the Island to provide over 100 units of affordable senior housing. In addition to using committed City funds for these projects, we are working to leverage state and federal funding sources and site readiness is crucial to our ability to receive these competitive fundings awards. The City's investment in Stage 2 will help ensure we can stay on schedule to build these units.

We continue to be excited by the future of Treasure Island as a vibrant, inclusive San Francisco community, and we hope you'll support these amendments to build on the project's momentum.

Sincerely,

Doug Shoemaker
President
Mercy Housing California

cc:

President Aaron Peskin
Supervisor Dean Preston
Supervisor Rafael Mandelman

Mercy Housing California
1256 Market Street, San Francisco, California 94102 o | 415-355-7100 f | 415-355-7101
mercyhousing.org
Mercy Housing is sponsored by communities of Catholic Sisters

From:	Carroll, John (BOS)
To:	Daniel Gregg; Board of Supervisors (BOS)
Cc:	Jalipa, Brent (BOS)
Subject:	RE: Letter of Support / Treasure Island-Yerba Buena Island Project Amendments - BOS File Nos. 240198, 240199, 240202, and 240207
Date:	Monday, April 8, 2024 1:00:00 PM
Attachments:	image001.png image002.png image003.png image004.png image005.png image006.png Executed_Letter of Support_BoS_Committees_Treasure Island_Yerba Buena Project_SF_4_3_2024.pdf

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Thank you for your comment letter.

By copy of this message to the board.of.supervisors@sfgov.org email address, your comments will be forwarded to the full membership of the Board of Supervisors. We will include your comments in the file for these legislative matters.

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John Carroll
Assistant Clerk
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San Francisco City Hall, Room 244
San Francisco, CA 94102
(415)554-4445

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From: Daniel Gregg <dgregg@nccrc.org>
Sent: Thursday, April 4, 2024 8:06 AM
To: Carroll, John (BOS) <john.carroll@sfgov.org>; Jalipa, Brent (BOS) <brent.jalipa@sfgov.org>
Subject: Letter of Support / Treasure Island-Yerba Buena Island Project Amendments

Please see attached a Letter of Support for the Treasure Island/Yerba Buena Island Project Amendments from Carpenters Union Local 22. Please add this to the packet for the Budget and Land Use committees, as well as the Board of Supervisors.

Thank you!

Regards,

Daniel Gregg
Senior Organizer
Nor Cal Carpenters Union

(510) 703-9018
dgregg@nccrc.org
https://norcalcarpenters.org

United Brotherhood of Carpenters and Joiners of America

LOCAL UNION NO. 22

April 3, 2024

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, Ca. 94102-4689

Sent via email to Committee Clerks John.Carroll@sfgov.org and Brent.Jalipa@sfgov.org

RE: Support of the amendments to the Disposition and Development Agreement, Development Agreement, the Design for Development, and the Planning Code and Zoning Map for Treasure Island being considered by the Board of Supervisors

Dear Chairs Myrna Melgar and Connie Chan,

The members of Nor Cal Carpenters Union Local 22 in San Francisco and the surrounding Bay Area strongly support the proposed amendments to the Treasure Island/Yerba Buena Island Project. Carpenters Local Union 22 was initially chartered in 1882 and has been an integral part of San Francisco culture, community, and the construction of this beautiful city for over a century. The Treasure Island/Yerba Buena Island Project has created severely needed Union construction jobs that pay living wages and benefits and provide opportunity for local apprentices, including women and minorities, to begin or continue their career in the construction industry. Approval of the proposed amendments will allow the development to continue and sustain these benefits to the community, the city and labor.

San Francisco has become increasingly unaffordable to newcomers and long-time residents alike through a long-term trend of creating insufficient quantities of housing. Stage 1 of the Treasure Island/Yerba Buena Island Project has already generated nearly 1,000 units with over 250 at below market rate. Once stage 1 is complete, the development will include 2,000 units with 300 at below market rate. Stage 2 will provide the infrastructure necessary to build the next phase of the development. Though completion of the Treasure Island/Yerba Buena development will not fully alleviate the current housing crisis, it is a very large step in the right direction.

Right now, we are emerging from a global pandemic and a significant downturn in the economy. Construction is the second largest industry in the world, behind healthcare. It is important that we support developments like the Treasure Island/Yerba Buena Project that in turn supports labor and the community. Nor Cal Carpenters Union Local 22 is excited by the future of Treasure Island as a vibrant San Francisco community and we ask that the Board support these proposed amendments today. Thank you for your time and service in moving this project forward.

Sincerely,

Daniel Gregg
Senior Field Representative

cc: President Aaron Peskin
Supervisor Dean Preston
Supervisor Rafael Mandelman

sko/opeiu29/afl-cio

2085 3RD STREET • SAN FRANCISCO, CA 94107
TELEPHONE: (415) 355-1322 • FAX: (415) 355-1422

From:	Carroll, John (BOS)
To:	Katherine Keicher Gillespie; Board of Supervisors (BOS)
Cc:	kath@sfll.org; Jalipa, Brent (BOS)
Subject:	RE: San Francisco Little League, Letter of Support for Treasure Island Development - BOS File Nos. 240198, 240199, 240202, and 240207
Date:	Wednesday, April 3, 2024 1:51:00 PM
Attachments:	image001.png SFLL-Treasue Island Letter of Support_Board of Supervisors_20240202.pdf

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Thank you for your comment letter.

By copy of this message to the board.of.supervisors@sfgov.org email address, your comments will be forwarded to the full membership of the Board of Supervisors. We will include your comments in the file for these legislative matters.

I invite you to review the entire matter on our Legislative Research Center by following the links below:

-

Board of Supervisors File No. 240198 – [Development Agreement Amendment - Treasure Island Community Development, LLC - Treasure Island]

Board of Supervisors File No. 240199 – [Planning Code, Zoning Map - Treasure Island/Yerba Buena Island]

Board of Supervisors File No. 240202 – [Amended and Restated Disposition and Development Agreement - Treasure Island and Yerba Buena Island]

Board of Supervisors File No. 240207 – [Endorsing the Aspirational Statement for Treasure Island and Yerba Buena Island]

John Carroll
Assistant Clerk
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
(415)554-4445

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hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.

From: Katherine Keicher Gillespie <kathkg415@gmail.com>
Sent: Tuesday, April 2, 2024 5:17 PM
To: Carroll, John (BOS) <john.carroll@sfgov.org>; Jalipa, Brent (BOS) <brent.jalipa@sfgov.org>
Cc: kath@sfll.org
Subject: San Francisco Little League, Letter of Support for Treasure Island Development

Good afternoon,

To the San Francisco Board of Supervisor Chairs Myrna Melgar and Connie Chan, care of Committee Clerks, John Carroll and Brent Jalipa:

I write to you on behalf of San Francisco Little League, and very much appreciate your time and consideration of the attached letter in support of the Treasure Island development amendments being considered by the Board of Supervisors.

Please do not hesitate to reach out if I may address any questions or otherwise serve the Board in any way.

With gratitude,

Katherine Gillespie
President, San Francisco Little League

Katherine Gillespie
President

San Francisco Little League
P.O. Box 16187
San Francisco, CA 94116-0187

415-812-7099 voice+sms

kathkg415@gmail.com | kath@sfll.org
Pronouns: she, her

www.sfll.org

SFLL is an all-volunteer, registered 501(c)3 non-profit organization serving the youth of San Francisco since 1996.

SAN FRANCISCO LITTLE LEAGUE

San Francisco Little League
P.O. Box 16187
San Francisco, CA 94116-0187
WWW.SFLL.ORG

April 2, 2024

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, Ca. 94102-4689

Sent via email to Committee Clerks, ***John.Carroll@sfgov.org*** *and* ***Brent.Jalipa@sfgov.org***

To Chairs Myrna Melgar and Connie Chan,

We are writing in support of the amendments to the Disposition and Development Agreement, Development Agreement, the Design for Development, and the Planning Code and Zoning Map for Treasure Island being considered by the Board of Supervisors.

San Francisco Little League (SFLL) is a registered nonprofit chartered by National Little League Baseball®. Since its founding in 1996, SFLL has impacted more than 25,000 players and their families through its baseball and softball programs. Today, our inclusive, year-round programming welcomes over 1,500 San Franciscan youth annually, from every demographic, of all abilities, and from all over the city to come and play in our league. Our programs are made possible through the hard work of over 300 volunteers, led by an all-volunteer Board of Directors; and with the financial support of our sponsors and partners including local small businesses, public and private corporations, as well as the many families who sign up for our programming year after year.

SFLL has a robust scholarship program and provides financial support to families in need with registration and equipment assistance. Our program offerings include a youth umpire program, and an adaptive baseball division that serves over 50 disabled youth and young adults every spring. Our unified coaching approach is rooted in the philosophy that kids learn best when they are taught through positive coaching methods and we partner closely with the Positive Coaching Alliance, a national youth sports organization to educate our players, coaches, parents and board on these principles. SFLL has seen alumni players achieve their goals of playing on elite high school, college and even Major League teams. A former SFLL player pitched in the 2023 World Series!

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
April 2, 2024

San Francisco Little League's decades of success have deep roots on Treasure Island. In 2001, after several years of failed attempts to develop fields in San Francisco, SFLL found a home on Treasure Island when it was granted permission to develop and operate four fields on an indefinite basis. While two fields were closed in 2018 to make way for the Treasure Island development, our remaining two fields, Tepper and Ketcham, continue to host hundreds of San Francisco's youth athletes for games and baseball activities year-round, including special events like SFLL Championship games, the Little League Baseball® All-Stars tournament, the T-Mobile Little League Home Run Derby, and the Major League Baseball Pitch Hit & Run competition.

SFLL is proud to be one of the existing field users included in the original Disposition and Development Agreement and we continue to be excited for the future of Treasure Island. With the addition of permanent baseball and softball fields, SFLL can continue our mission to serve and benefit the residents of San Francisco and contribute to the vision of a vibrant Treasure Island and San Francisco community for decades to come. Our active and engaged parent and donor base stands ready to be a part of the next phases of development, and we hope you'll support these amendments to build on the project's momentum.

Thank you for your consideration.

Sincerely,

Katherine Gillespie, President
San Francisco Little League

cc:
President Aaron Peskin
Supervisor Dean Preston
Supervisor Rafael Mandelman

From:	Carroll, John (BOS)
To:	Edwin Chen; Board of Supervisors (BOS)
Cc:	Jalipa, Brent (BOS)
Subject:	RE: Letter of support for Treasure Island amendments - BOS File Nos. 240198, 240199, 240202, and 240207
Date:	Wednesday, April 3, 2024 1:51:00 PM
Attachments:	Letter of Support.pdf image001.png

Thank you for your comment letter.

By copy of this message to the board.of.supervisors@sfgov.org email address, your comments will be forwarded to the full membership of the Board of Supervisors. We will include your comments in the file for these legislative matters.

I invite you to review the entire matter on our Legislative Research Center by following the links below:

-

Board of Supervisors File No. 240198 – [Development Agreement Amendment - Treasure Island Community Development, LLC - Treasure Island]

Board of Supervisors File No. 240199 – [Planning Code, Zoning Map - Treasure Island/Yerba Buena Island]

Board of Supervisors File No. 240202 – [Amended and Restated Disposition and Development Agreement - Treasure Island and Yerba Buena Island]

Board of Supervisors File No. 240207 – [Endorsing the Aspirational Statement for Treasure Island and Yerba Buena Island]

John Carroll
Assistant Clerk
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
(415)554-4445


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from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.

From: Edwin Chen <edwin.chen@chinatowncdc.org>
Sent: Tuesday, April 2, 2024 4:45 PM
To: Carroll, John (BOS) <john.carroll@sfgov.org>; Jalipa, Brent (BOS) <brent.jalipa@sfgov.org>
Subject: Letter of support for Treasure Island amendments

Hello John and Brent,

Please find attached a letter of support for the Treasure Island amendments being considered by the Board of Supervisors.

Thanks,

Edwin Chen

Executive Assistant | Executive

Pronouns: *he/him/his*

Chinatown Community Development Center
615 Grant Avenue | San Francisco, CA | 94108

Office: 415-984-1167

www.chinatowncdc.org | Join us: Careers at CCDC
Twitter | Facebook | LinkedIn

Chinatown Community Development Center
華協中心

615 Grant Avenue
San Francisco, CA 94108
TEL 415.984.1450
FAX 415.362.7992
TTY 415.984.9910
www.chinatowncdc.org

April 2, 2024

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, Ca. 94102-4689

To Chairs Myrna Melgar and Connie Chan,

We are writing in support of the amendments to the Disposition and Development Agreement, Development Agreement, the Design for Development, and the Planning Code and Zoning Map for Treasure Island being considered by the Board of Supervisors.

Chinatown Community Development Center is a community development organization with many roles - as neighborhood advocates, organizers, and planners, and as developers and managers of affordable housing. We believe in a comprehensive vision of community, a quality environment, a healthy neighborhood economy, and active voluntary associations.

We are proud to be a partner with the Mayors Office of Housing and Community Development, Treasure Island Development Agency and the Treasure Island Development Group in delivering much needed affordable housing to the City.

We developed Maceo May Apartments, 105 apartments for formerly homeless veterans, which was the first residential building to open on the island, in 2023. We have seen firsthand the transformative impact that living on Treasure Island can have on unhoused San Franciscans and appreciate that this plan maintains the critical affordable housing investments that will make this new neighborhood a success.

We continue to be excited by the future of Treasure Island as a vibrant San Francisco community, and we hope you'll support these amendments to build on the project's momentum.

Sincerely,

Malcolm Yeung
Executive Director
Chinatown Community Development Center

From:	Carroll, John (BOS)
To:	Board of Supervisors (BOS); elliott@goldbarwhiskey.com
Cc:	Jalipa, Brent (BOS)
Subject:	FW: Letter to the San Francisco Board of Supervisors - BOS File Nos. 240198, 240199, 240202, and 240207
Date:	Tuesday, April 2, 2024 11:42:00 AM
Attachments:	Letter John.Carroll@sfgov.org.pdf image001.png

Thank you for your comment letter.

By copy of this message to the board.of.supervisors@sfgov.org email address, your comments will be forwarded to the full membership of the Board of Supervisors. We will include your comments in the file for these legislative matters.

I invite you to review the entire matter on our Legislative Research Center by following the links below:

-

Board of Supervisors File No. 240198 – [Development Agreement Amendment - Treasure Island Community Development, LLC - Treasure Island]

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John Carroll
Assistant Clerk
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from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.

From: Elliott Gillespie <elliott@goldbarwhiskey.com>
Sent: Tuesday, April 2, 2024 11:32 AM
To: Carroll, John (BOS) <john.carroll@sfgov.org>; Jalipa, Brent (BOS) <brent.jalipa@sfgov.org>
Subject: Letter to the San Francisco Board of Supervisors

Dear John, Brent,

Please kindly find attached.

Thank you,
Elliott

Elliott Gillespie
President
The Gold Bar Spirits Company
San Francisco, California
415.234.0399
www.goldbarwhiskey.com

DOUBLE GOLD San Francisco World Spirits Competition
GOLD MEDAL SIP Awards International Consumer Tasting
GOLD MEDAL San Francisco World Spirits Competition
BEST IN SHOW Denver International Spirits Competition
93 Points New York International Spirits Competition
GOLD MEDAL San Diego Spirits Festival

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April 2, 2024

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, Ca. 94102-4689

Sent via email to Committee Clerks John.Carroll@sfgov.org and Brent.Jalipa@sfgov.org

To Chairs Myrna Melgar and Connie Chan,

We are writing in support of the amendments to the Disposition and Development Agreement, Development Agreement, the Design for Development, and the Planning Code and Zoning Map for Treasure Island being considered by the Board of Supervisors.

My company is The Gold Bar Spirits Company Inc. We have been doing business on Treasure Island since 2015. We are a craft distillery. From the island we export to over 25 countries around the world. We employ approximately 40 people and support a broad group of local suppliers. We recently opened our Visitor Center & Tasting Room on the island in Building 1, that welcomes residents and guests to the island seven days a week.

We have been long-term believers in the island's development. The development of the island and the continued growth in the residency base will be instrumental in supporting the growth of our local business. The new residents to the island, the opening of the ferry, the improved road infrastructure, the beautiful new park on Yerba Buena and the beautified waterfront area in front of the ferry terminal has already helped our business. We are encouraged and enthusiastic about the continued economic activity that the development will bring.

We continue to be excited by the future of Treasure Island as a vibrant San Francisco community, and we hope you'll support these amendments to build on the project's momentum.

Sincerely,

Elliott Gillespie

President, The Gold Bar Spirits Company

cc:

1 AVENUE OF THE PALMS
TREASURE ISLAND
SAN FRANCISCO, CA 94130
GOLDBARWHISKEY.COM

THE GOLD BAR SPIRITS COMPANY INC.

President Aaron Peskin
Supervisor Dean Preston
Supervisor Rafael Mandelman

1 AVENUE OF THE PALMS
TREASURE ISLAND
SAN FRANCISCO, CA 94130
GOLDBARWHISKEY.COM

Print Form

Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

☑ 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).

☐ 2. Request for next printed agenda Without Reference to Committee.

☐ 3. Request for hearing on a subject matter at Committee.

☐ 4. Request for letter beginning :"Supervisor _____ inquiries"

☐ 5. City Attorney Request.

☐ 6. Call File No. _____ from Committee.

☐ 7. Budget Analyst request (attached written motion).

☐ 8. Substitute Legislation File No. _____

☐ 9. Reactivate File No. _____

☐ 10. Topic submitted for Mayoral Appearance before the BOS on _____

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission

☐ Planning Commission ☐ Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Dorsey

Subject:

Resolution Endorsing the Aspirational Statement for Treasure Island and Yerba Buena Island

The text is listed:

Resolution endorsing the joint aspirational statement of the public, nonprofit, and private entities known as the Treasure Island Development Authority (TIDA), One Treasure Island (OTI), and Treasure Island Community Development (TICD)

Signature of Sponsoring Supervisor: Matt Dorsey

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